

# AGENDA



## BERKELEY CITY COUNCIL MEETING

Tuesday, July 9, 2019

6:00 PM

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

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, 981-6900.*

*The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

### Preliminary Matters

#### Roll Call:

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

1. Adjourn in Memory of Diane Woolley-Bauer, Former Berkeley Councilmember

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

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

## Consent Calendar

*The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".*

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

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

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

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

## Consent Calendar

- 1. FY 2020 Annual Appropriations Ordinance**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,669-N.S. adopting the FY 2020 Annual Appropriations Ordinance (AAO) in the amount of \$525,856,809 (gross appropriations) and \$460,146,093 (net appropriations).  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See Report  
Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000
- 2. Contract No. 9691 Amendment: FileTrail, Inc. for Records Management Software System**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9691 with FileTrail, Inc. for an additional \$44,163 for software licensing, maintenance, and related services for a records management software system, for a total contract amount not to exceed \$127,799 and extending the term from July 1, 2019 to June 30, 2024.  
**Financial Implications:** General Fund - \$44,163  
Contact: Mark Numainville, City Clerk, 981-6900

## Consent Calendar

- 3. Purchase Order: Life Assist, Inc. for Emergency Medical Supplies**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a purchase order with Life Assist, Inc. to purchase emergency medical supplies and equipment for the Fire Department from July 1, 2019 to June 30, 2020, with an option to extend for an additional period up to a maximum of five years, in an amount not to exceed \$1,451,000.  
**Financial Implications:** See report  
Contact: David Brannigan, Fire, 981-3473
- 4. Approve Waiver of the Nuclear Free Berkeley Act (NFBA) per BMC Section 12.90.070(A) to Enter into an Expenditure Contract with the University of California, Berkeley**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution 1. waiving the contract requirements of the Nuclear Free Berkeley Act, pursuant to Resolution No. 60,840-N.S. and Chapter 12.90.070 of the Berkeley Municipal Code, in order to contract with the University of California Berkeley; and 2. authorizing the City Manager to execute a contract with the University of California, Berkeley for services evaluating the Sugar-Sweetened Beverage Tax Program.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, 981-5400
- 5. Contract: The Eikenberg Institute for Relationships for Cultural Humility Training Consultant, Specification Number 18-11230-C**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with The Eikenberg Institute for Relationships for the term of 2 years or 24 months from start of contract, with an expenditure of \$75,000 to fund the Cultural Humility Training Consultant position with Dr. Kenneth Hardy.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, 981-5400
- 6. Grant Application: The PCA Grant Program for the Marina Blvd Bay Trail Shoreline Vulnerability Public Access Improvement Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Authorizing the City Manager or her designee to submit a funding application to the Priority Conservation Area (PCA) grant program for \$2 million in federal funds for the Marina Blvd Bay Trail Shoreline Vulnerability and Public Access Improvement Project; 2. Committing local City matching funds in the amount of \$260,000; and 3. Stating the City's assurance as to its ability and intent to complete the project.  
**Financial Implications:** See report.  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700

## Consent Calendar

- 7. Contract: Kitchell for Construction Management Services for the Berkeley Tuolumne Camp Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Kitchell in an amount not to exceed \$3,800,000 to provide construction management services for the Berkeley Tuolumne Camp Project for the period July 1, 2019 through December 31, 2022.  
**Financial Implications:** Camps Fund - \$3,800,000  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700
- 8. Contract No. 9488C Amendment for Berry Brothers Towing for Towing Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9488C with Berry Brothers Towing, to provide towing services for Department of Public Works Equipment Maintenance Division; increasing the contract amount by \$70,000 for an amended total not to exceed \$180,000 and extending the contract term to June 30, 2021.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300
- 9. Gender Pay Equity Salary Negotiation Workshop**  
**From: Commission on the Status of Women**  
**Recommendation:** Adopt a Resolution authorizing the Commission on the Status of Women to sponsor a gender pay equity salary negotiation workshop, and provide \$900 in funding for the event.  
**Financial Implications:** \$900  
Contact: Shallon Allen, Commission Secretary, 981-7000

## Council Consent Items

- 10. City Sponsored Protest of Conditions for Children in Federal Detention Centers**  
**From: Councilmembers Kesarwani, Wengraf, and Harrison**  
**Recommendation:** Request Berkeley City Council support for a protest over conditions for children in federal detention centers at our southern borders. The protest will be held on Saturday, July 13th at noon in Civic Center Park.  
**Financial Implications:** None  
Contact: Rashi Kesarwani, Councilmember, District 1, 981-7110

## Council Consent Items

- 11. Resolution in Support of AB 392 California Act to Save Lives**  
**From: Councilmembers Davila, Harrison, and Mayor Arreguin**  
**Recommendation:** Adopt a resolution in support of AB 392 by Assemblymember Shirley Weber that would bring California Law in line with best policing practices by limiting and redefining the circumstances under which a homicide by a peace officer is deemed justifiable and direct the city clerk or designee to send a letter to our state representatives.  
**Financial Implications:** None  
Contact: Cheryl Davila, Councilmember, District 2, 981-7120
- 12. Local Construction Workforce Development Policy** *(Reviewed by the Land Use, Housing & Economic Development Committee)*  
**From: Councilmember Bartlett, Mayor Arreguin, and Councilmembers Harrison and Davila**  
**Recommendation:** Policy Recommendation: That the City Council refer to the Planning Commission to address the shortage of qualified local construction workers; worker retention, and elevated labor costs through the creation of a construction workforce development policy. This local workforce development policy will encourage housing and nonresidential development applicants to require contractors to utilize apprentices from state-approved, joint labor-management training programs, and to offer employees employer-paid health insurance plans. The policy will help stabilize regional construction markets; and enhance productivity of the construction workforce Berkeley needs to meet its General Plan's build-out goals.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, 981-7130
- 13. Resolution in Support of SB 347 – Sugar-Sweetened Beverages Safety Warning Act**  
**From: Councilmember Harrison, Mayor Arreguin, and Councilmembers Bartlett and Davila**  
**Recommendation:** Adopt a resolution in support of Senate Bill 347, which requires all sugary beverages to have an English-only health warning label IF an amendment is made to the bill requiring pictorial and multilingual health warning labels instead of the proposed English-only label. Send letters of support to Assemblymember Wicks, Senator Skinner, and Governor Newsom.  
**Financial Implications:** None  
Contact: Kate Harrison, Councilmember, District 4, 981-7140

## Council Consent Items

- 14. Opposition to SB 386 (California Renewables Portfolio Standard Program: irrigation districts)**  
**From: Councilmembers Robinson and Harrison**  
**Recommendation:** Send a letter to Senator Caballero, Senator Skinner, and Assemblymember Wicks opposing SB 386, which would allow certain irrigation districts to count specific large hydroelectric resources toward compliance requirements under the California Renewables Portfolio Standard Program, undermining the state's climate change prevention efforts.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170
- 15. Support for SB 14: Higher Education Facilities Bond**  
**From: Councilmembers Robinson and Bartlett**  
**Recommendation:** Adopt a resolution supporting SB 14, which places an \$8 billion bond on the March 2020 ballot for the construction, reconstruction, and remodeling of facilities at California's public universities.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170

## Action Calendar

*The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.*

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

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

## Action Calendar – Old Business

- 16. Mental Health Commission 2018 Annual Report (Continued from June 25, 2019)**  
**From: Mental Health Commission**  
Contact: Karen Klatt, Commission Secretary, 981-5400

## Action Calendar – New Business

- 17a. Equal Pay Independent Audit of City Employees**  
**From: Commission on the Status of Women**  
**Recommendation:** Adopt a Resolution providing \$12,500 from the General Fund to pay Dr. Martha Burk to conduct an independent audit of the pay of male and female employees in the City of Berkeley city employee workforce.  
**Financial Implications:** \$12,500.  
Contact: Shallon Allen, Commission Secretary, 981-7000
- 17b. Companion Report: Equal Pay Independent Audit of City Employees**  
**From: City Manager**  
**Recommendation:** Continue to implement the City's existing compensation system that addresses concerns raised by the Commission on the Status of Women.  
**Financial Implications:**  
Contact: Dave White, City Manager's Office, 981-7000
- 18a. Law Enforcement Use of Restraint Devices in the City of Berkeley**  
**From: Mental Health Commission**  
**Recommendation:** Adopt a resolution directing the Berkeley Police Department, and any other law enforcement providing mutual aid in Berkeley, to cease use of restraint devices (spit hoods, spit masks) and replace them with non-restraining safety equipment like N95 masks or an equivalent substitute. The use of spit hoods is traumatizing and escalating, risks asphyxiation and can be a violation of constitutional civil rights, particularly free speech. Stopping their use contributes to humanitarian and compassionate approach to those living with mental illness.  
**Financial Implications:** None  
Contact: Karen Klatt, Commission Secretary, 981-5400
- 18b. Companion Report: Law Enforcement Use of Restraint Devices in the City of Berkeley**  
**From: City Manager**  
**Recommendation:** Continue current policy to provide City of Berkeley Police and Fire personnel protection from individuals whose unlawful and assaultive spitting or biting actions may spread infectious diseases during a lawful detention or arrest.  
**Financial Implications:** None  
Contact: Kelly Wallace, Housing and Community Services, 981-5400; Andrew Greenwood, Police, 981-5900
- 19a. Resolution Assigning Socially Responsible Investment and Procurement advisory role to the Peace and Justice Commission**  
**From: City Manager**  
**Recommendation:** Adopt resolution assigning socially responsible investment and procurement advisory role to the Peace and Justice Commission.  
**Financial Implications:** None  
Contact: Bre Slimick, Commission Secretary, 981-7000

## Action Calendar – New Business

- 19b. Companion Report to Peace and Justice Commission’s Resolution Asking to be an Assigned Advisory Role in Consulting on Socially Responsible Investments and Procurement**  
**From: City Manager**  
**Recommendation:** Continue to allow the City Council Budget and Finance Committee to provide investment policy oversight.  
**Financial Implications:** See report  
Contact: Dave White, City Manager's Office, 981-7000

## Council Action Items

- 20. Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley’s Affordable Housing**  
**From: Mayor Arreguin, and Councilmembers Hahn, Harrison, and Robinson**  
**Recommendation:** Refer to the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts to consider the proposed Housing for a Diverse, Equitable and Creative Berkeley framework (the “Framework”) and return comments for consideration at a Special Meeting of the City Council in September, to inform a final version the City Council will adopt to govern Berkeley’s affordable housing policies, programs and projects through 2030.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, 981-7100
- 21. Adopt an Ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*  
**From: Councilmembers Harrison, Davila, Bartlett, and Hahn**  
**Recommendation:**  
1. Adopt an ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code (BMC) prohibiting natural gas infrastructure in new buildings with an effective date of January 1, 2020.  
2. Refer to the November 2019 budget process for consideration of up to \$273,341 per year to fund a new career position in the Building & Safety Division of the Department of Planning and Development. The staff person will assist with implementing the gas prohibition ordinance and reach codes, and perform other duties as specified in the Financial Implications section of this item.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, 981-7140

## Information Reports

- 22. 2019 Disaster and Fire Safety Commission Work Plan**  
**From: Disaster and Fire Safety Commission**  
Contact: Keith May, Commission Secretary, 981-3473



## Information Reports

23. **Fair Campaign Practices Commission 2019 - 2020 Work Plan**  
**From: Fair Campaign Practices Commission**  
Contact: Emma Soichet, Commission Secretary, 981-6950
24. **Open Government Commission 2019 - 2020 Work Plan**  
**From: Open Government Commission**  
Contact: Emma Soichet, Commission Secretary, 981-6950
25. **Annual Report – Open Government Commission**  
**From: Open Government Commission**  
Contact: Emma Soichet, Commission Secretary, 981-6950

## Public Comment – Items Not Listed on the Agenda

### Adjournment

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

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx> and KPFB Radio 89.3.

Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

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

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

Agendas and agenda reports may be accessed via the Internet at <http://www.cityofberkeley.info/citycouncil>

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

City Clerk Department  
2180 Milvia Street  
Tel: 510-981-6900  
TDD: 510-981-6903  
Fax: 510-981-6901  
Email: [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info)

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

**COMMUNICATION ACCESS INFORMATION:**

This meeting is being held in a wheelchair accessible location.

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

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



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

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on June 27, 2019.***

Mark Numainville, City Clerk

**Communications**

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

**Item #21: Adopt an Ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings**

- 1. John Gilman
- 2. Matt Gough, on behalf of the Sierra Club (2)
- 3. Tom Kelly

**Pilot Cannabis Event at Cesar Chavez Park**

- 4. Claudia Kawczynska

**5G**

- 5. Vivian Warkentin
- 6. Phoebe Anne Sorgen (2)
- 7. Stephanie Thomas
- 8. Lloyd Morgan (2)
- 9. Patricia Burke
- 10. Soula Culver
- 11. Doug Minkler

12. Galen Cranz
13. Margot Smith
14. M. Meade Glaser
15. Theresa
16. Arnold Passman
17. Sandra Decker
18. Cynthia Larson
19. Susan Nunes Fadley
20. B. Dudley

**Leonard Powell**

21. Patty Hirota

**Artificial Intelligence**

22. Fred Dodsworth
23. Cricket

**Climate Emergency**

24. Kelly Hammargren
25. Fred Dodsworth
26. Margy Wilkinson
27. Karl Knobler
28. Tom Lent
29. Donald Goldmacher
30. James McFadden

**Traffic Circle at 62<sup>nd</sup> and King**

31. Eric Perney
32. Tracey Brieger
33. Heather McWhinney
34. Brian LaFranchi
35. Emily Modde
36. Hillary Winters
37. Joe
38. Sarah Jo Zaharako
39. Joel

**Berkeley Marina**

40. Erwan Illian (2)

**Train Noise**

41. Edward Izett

**Anti-Displacement Funding**

42. Christine Schwartz

**McCaffrey Demand Letter**

43. Asher Waite-Jones, on behalf of the East Bay Community Law Center

**Berkeley Food and Housing Project (BFHP)**

44. Terrie Light, on behalf of BFHP

**RV's**

45. Diana Bohn

46. Fran Haselsteiner

**Homelessness**

47. Genevieve Wilson

**Yellow Pedestrian Crossing Light at Henry and Berryman**

48. Alexandra Ballard

**Hotel Construction at University and Sacramento**

49. Jesse Goldberg (2)

50. Roxana Andrade-Lizarzaburu of HHCS

51. Jordan Klein, on behalf of the Office of Economic Development.

**Correction of Errors in Resolution 68,941-N.S.**

52. Greenfire Law, PC

**Drug Dealing and Encampments**

53. Eric Friedman

**Affording a Rental Home**

54. Gerry Tierney

**Eviction Defense Center Endorsement**

55. Steven Smith

56. Floyd Toliver

57. Shun Suzuki

**Commission on Aging: Wildfire-Safety Related Power Outages**

58. George Porter, chair of Commission on Aging

**Terrible Refuse Service**

59. Paula Bradford

**Bankruptcy Court: Precision Technical Coatings**

60. Unknown

**Bumper Dialogue**

61. Russbumper (21)

## **Supplemental Communications and Reports**

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

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



ORDINANCE NO. 7,669-N.S.

ADOPTING THE ANNUAL APPROPRIATIONS ORDINANCE BASED ON THE ADOPTED BUDGET FOR FISCAL YEAR 2020 AS PROPOSED BY THE CITY MANAGER AND PASSED BY THE CITY COUNCIL

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

Section 1. That the Annual Appropriations Ordinance based on the budget for FY 2020 submitted by the City Manager and passed by the City Council be adopted as follows and as summarized in Exhibit A:

|                                                |                    |
|------------------------------------------------|--------------------|
| A. General Fund (Funds 001-099)                | 196,913,849        |
| B. Special Funds ( Funds 100-199)              | 86,869,063         |
| C. Grant Funds (Funds 300-399)                 | 30,103,715         |
| D. Capital Projects Funds (Funds 500-550)      | 29,608,750         |
| E. Debt Service Fund (Funds 551-599)           | 10,533,979         |
| F. Enterprise Funds (Funds 600-669)            | 122,530,609        |
| G. Internal Service Funds (Funds 146, 670-699) | 39,539,172         |
| H. Successor Agency (Funds 760-769)            | 56,960             |
| I. Agency Funds (Funds 771-799)                | 4,365,769          |
| J. Other Funds (Funds 800-899)                 | 5,334,943          |
| <u>K. Total</u>                                |                    |
| Total General Fund                             | 196,913,849        |
| Add: Total Other Than General Fund             | 328,942,960        |
| <b>Gross Revenue Appropriated</b>              | <b>525,856,809</b> |
| Less: Dual Appropriations                      | -26,171,544        |
| Less: Revolving/Internal Service Funds         | -39,539,172        |
| <b>Net Revenue Appropriated</b>                | <b>460,146,093</b> |

Section 2. The City Manager is hereby permitted, without further authority from the City Council, to make the following transfers by giving written notice to the Director of Finance:

- a. From the General Fund to the General Fund – Stability Reserve Fund; Catastrophic Reserve Fund; Health State Aid Realignment; Paramedic Tax Fund;

Capital Improvement Fund; Phone System Replacement; Equipment Replacement Fund; Public Liability Fund; Catastrophic Loss Fund; Police Employee Retiree Health Assistance Plan; Safety Members Pension Fund; and Sick Leave Entitlement Fund.

- b. To the General Fund from the Community Development Block Grant Fund; Street Lighting Assessment District Fund; Zero Waste Fund; Marina Operations and Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund; Unified Program (CUPA); and Health State Aid Realignment Fund.
- c. To the First Source Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.
- d. From UC Settlement Fund to General Fund and Clean Storm Water Fund.
- e. From Capital Improvement Fund to PERS Savings Fund; Berkeley Repertory Theater Fund; and 2010 COP (Animal Shelter) Fund.
- f. To the Public Art Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.
- g. To CFD#1 District Fire Protection Bond (Measure Q) from Special Tax Bonds CFD#1 ML-ROOS.
- h. To Private Sewer Lateral Fund from Sanitary Sewer Operation Fund.
- i. To Catastrophic Loss Fund from Permit Service Center Fund.
- j. To Catastrophic Loss Fund from Unified Program (CUPA) Fund.
- k. To the Building Purchases and Management Fund from General Fund; Health (General) Fund; Rental Housing Safety Program Fund; Measure B Local Streets & Road Fund; Employee Training Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Health State Aide Realignment Trust Fund.
- l. To Equipment Replacement Fund from General Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund; Paramedic Tax Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.



- m. To the Equipment Maintenance Fund from General Fund; Health (General) Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund; Paramedic Tax Fund; Library - Discretionary Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; FEMA Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.
- n. To the Building Maintenance Fund from the General Fund; Health (General) Fund; Health (Short/Doyle) Fund; Measure B Local Street & Road Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Mental Health State Aid Realignment Fund.
- o. To the Central Services Fund from the General Fund; First Source Fund; Health (Short/Doyle) Fund; Library-Discretionary Fund; Playground Camp Fund; Rent Stabilization Board Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Mental Health State Aid Realignment Fund.
- p. To Information Technology Cost Allocation Plan Fund from General Fund; Target Case Management/Linkages Fund; Health (Short/Doyle); Library Fund; Playground Camp Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Equipment Maintenance Fund; Building Maintenance Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; and Mental Health State Aid Realignment Fund.
- q. To the Workers' Compensation Self-Insurance Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program;

Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers’ Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

- r. To the Sick Leave and Vacation Leave Accrual Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment

Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

- s. To the Payroll Deduction Trust Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 25, 2019, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf and Arreguin.

Noes: None.

Absent: None.

**Attachment for Annual Appropriations Ordinance - Fiscal Year 2020****REVOLVING FUNDS/INTERNAL SERVICE FUNDS**

Appropriations are identified with revolving and internal service funds. Such funds derive revenue by virtue of payment from other fund sources as benefits are received by such funds, and the total is reflected in the "Less Revolving Funds and Internal Service Funds" in item I. The funds are:

**Revolving/Internal Service Funds**

|                                                  |                      |
|--------------------------------------------------|----------------------|
| Employee Training Fund                           | 780,629              |
| Equipment Replacement Fund                       | 4,618,500            |
| Equipment Maintenance Fund                       | 7,801,313            |
| Building Maintenance Fund                        | 4,460,082            |
| Central Services Fund                            | 382,999              |
| Workers' Compensation Fund                       | 6,534,671            |
| Public Liability Fund                            | 1,995,642            |
| Information Technology Fund                      | 12,965,336           |
| <b>Subtotal Revolving/Internal Service Funds</b> | <b>\$ 39,539,172</b> |

**DUAL APPROPRIATIONS - WORKING BUDGET**

Dual appropriations are identified with revenues generated by one fund and transferred to another fund. Both funds are credited with the applicable revenue, and the total is reflected in the "Less Dual Appropriations" in item I. The dual appropriations are:

## Transfers to the General Fund

|                                            |                     |
|--------------------------------------------|---------------------|
| <u>Indirect Cost Reimbursement</u>         |                     |
| CDBG Fund                                  | 154,260             |
| Street Light Assessment District Fund      | 112,971             |
| Zero Waste Fund                            | 2,195,402           |
| Marina Enterprise Fund                     | 438,683             |
| Sanitary Sewer Fund                        | 1,043,589           |
| Clean Storm Water Fund                     | 214,695             |
| Permit Service Center Fund                 | 1,734,781           |
| Unified Program (CUPA) Fund                | 90,763              |
| <b>Subtotal Transfers to General Fund:</b> | <b>\$ 5,985,144</b> |

|                                                                                                  |                      |
|--------------------------------------------------------------------------------------------------|----------------------|
| Transfer to Safety Members Pension Fund from General Fund                                        | 551,804              |
| Transfer to Health State Aid Realignment from General Fund                                       | 1,953,018            |
| Transfer to Paramedic Tax Fund from General Fund                                                 | 612,696              |
| Transfer to Capital Improvement Fund (CIP) from General Fund                                     | 4,950,905            |
| Transfer to Phone System Replacement - VOIP from General Fund                                    | 163,000              |
| Transfer to Equipment Replacement Fund from General Fund                                         | 1,336,699            |
| Transfer to Public Liability Fund from General Fund                                              | 1,695,888            |
| Transfer to Catastrophic Loss Fund from General Fund                                             | 1,351,564            |
| Transfer to Police Employee Retiree Health Assistance Plan from General Fund                     | 400,136              |
| Transfer to Sick Leave Entitlement Fund from General Fund                                        | 201,501              |
| Transfer to General Fund from UC Settlement Fund                                                 | 881,120              |
| Transfer to Clean Storm Water Fund from UC Settlement Fund                                       | 293,708              |
| Transfer to General Fund from Health State Aid Realignment Fund                                  | 2,643,280            |
| Transfer from CIP Fund to PERS Savings Fund                                                      | 151,632              |
| Transfer to Berkeley Repertory Theater Debt Service Fund from CIP Fund                           | 499,802              |
| Transfer from CIP Fund to 2010 COP (Animal Shelter) Fund                                         | 402,613              |
| Transfer to Private Sewer Lateral Fund from Sewer Fund                                           | 90,501               |
| Transfer to Catastrophic Loss Fund from Permit Service Center Fund                               | 50,555               |
| Transfer to Catastrophic Loss Fund from Unified Program (CUPA) Fund                              | 5,082                |
| Transfer to General Fund from Parking Meter Fund                                                 | 1,742,288            |
| Transfer from Special Tax Bonds CFD#1 ML-ROOS to CFD#1 District Fire<br>Protect Bond (Measure Q) | 100,000              |
| Transfer to First Source Fund from Parks Tax Fund                                                | 11,625               |
| Transfer to First Source Fund from Capital Improvement Fund                                      | 29,943               |
| Transfer to First Source Fund from Marina Fund                                                   | 1,875                |
| Transfer to Public Art Fund from Parks Tax Fund                                                  | 17,437               |
| Transfer to Public Art Fund from Capital Improvement Fund                                        | 44,915               |
| Transfer to Public Art Fund from Marina Fund                                                     | 2,813                |
| Subtotal Transfers to Other Funds:                                                               | <u>20,186,400</u>    |
| Sub-Total Dual Appropriations                                                                    | <u>\$ 26,171,544</u> |
| <b>Grand Total Dual Appropriations</b>                                                           | <b>\$ 65,710,716</b> |

## SUMMARY OF APPROPRIATIONS BY FUND

| ERMA<br>Fund # Fund                      | FY 2020<br>Adopted |
|------------------------------------------|--------------------|
| 11 General Fund Discretionary            | 196,913,849        |
| 101 Library - Tax                        | 25,834,485         |
| 103 Library - Grants                     | 64,089             |
| 104 Library - Friends & Gift             | 150,000            |
| 105 Library - Foundation                 | 100,000            |
| 106 Asset Forefeiture                    | 201,000            |
| 107 Special Tax Measure E                | 1,316,894          |
| 108 First Source Fund                    | 47,327             |
| 110 Sec 108 Loan Gty Asst.               | 546,979            |
| 111 Fund Raising Activities              | 71,408             |
| 113 Sports Field (Vendor Oper)           | 189,807            |
| 115 Animal Shelter                       | 52,480             |
| 116 Paramedic Tax                        | 3,872,044          |
| 119 Domestic Violence Prev - Vit Stat    | 25,646             |
| 120 Affordable Housing Mitigation        | 66,641             |
| 121 Affordable Child Care                | 13,275             |
| 122 Inclusionary Housing Program         | 147,145            |
| 125 Playground Camp                      | 1,956,129          |
| 126 State-Prop 172 Pub.Safety            | 462,481            |
| 127 State Transportation Tax             | 5,419,156          |
| 128 CDBG                                 | 2,513,991          |
| 129 Rental Housing Safety Program        | 1,553,079          |
| 130 Measure B - Local St & Road          | 3,029,395          |
| 131 Measure B - Bike and Pedestrian      | 415,769            |
| 132 Measure B - Paratransit              | 475,359            |
| 133 Measure F Alameda County VRF St & Rd | 523,325            |
| 134 Measure BB - Local St & Road         | 3,654,183          |
| 135 Meaure BB - Bike & Pedestrian        | 631,828            |
| 136 Measure BB - Paratransit             | 384,702            |
| 138 Parks Tax                            | 16,342,573         |
| 140 Measure GG - Fire Prep Tax           | 4,793,467          |
| 142 Streetlight Assesment District       | 2,620,883          |
| 143 Berkeley Bus Ec Dev                  | 156,387            |
| 145 Bayer (Miles Lab)                    | 8,500              |
| 146 Employee Training                    | 780,629            |
| 147 UC Settlement                        | 1,174,828          |
| 148 Private Percent - Art Fund           | 22,012             |
| 149 Private Party Sidewalks              | 100,000            |
| 150 Public Art Fund                      | 65,164             |
| 152 Vital & Health Statistics Trust Fund | 28,195             |
| 156 Hlth State Aid Realign Trust         | 4,125,651          |
| 157 Tobacco Cont.Trust                   | 350,227            |
| 158 Mental Health State Aid Realign      | 3,003,718          |
| 159 Citizens Option Public Safety Trust  | 258,921            |

## SUMMARY OF APPROPRIATIONS BY FUND

| ERMA<br>Fund # Fund                         | FY 2020<br>Adopted |
|---------------------------------------------|--------------------|
| 161 Alameda Cty Abandoned Vehicle Abatement | 99,920             |
| 309 OTS DUI Enforcement Education Prg.      | 129,500            |
| 310 HUD/Home                                | 831,094            |
| 311 ESGP                                    | 235,790            |
| 312 Health (General)                        | 2,190,908          |
| 313 Target Case Management Linkages         | 809,278            |
| 315 Mental Health Service Act               | 7,839,248          |
| 316 Health (Short/Doyle)                    | 4,196,856          |
| 317 EPSDT Expansion Proposal                | 377,855            |
| 318 Alcoholic Bev Ctr OTS/UC                | 52,804             |
| 319 Youth Lunch                             | 101,900            |
| 320 Sr. Nutrition Title III                 | 76,554             |
| 321 CFP Title X                             | 158,740            |
| 324 BUSD Grant                              | 307,624            |
| 325 Vector Control                          | 335,418            |
| 326 Alameda County Grants                   | 556,234            |
| 327 Senior Supportive Social Services       | 54,775             |
| 328 Family Care Support Program             | 72,128             |
| 329 CA Integrated Waste Management          | 5,244              |
| 333 CALHOME                                 | 363,100            |
| 334 Community Action                        | 264,258            |
| 336 One-Time Grant: No Cap Exp              | 1,966,893          |
| 338 Bay Area Air Quality Management         | 60,000             |
| 340 FEMA                                    | 1,238,295          |
| 341 Alameda Cty Waste Mgt.                  | 285,000            |
| 343 State Dept Conserv/Recylg               | 28,000             |
| 345 Measure WW Park Bond Grant              | 1,525,274          |
| 347 Shelter+Care HUD                        | 5,168,632          |
| 348 Shelter+Care County                     | 546,638            |
| 349 JAG Grant                               | 52,500             |
| 350 Bioterrorism Grant                      | 273,175            |
| 501 Capital Improvement Fund                | 7,399,464          |
| 502 Phone System Replacement                | 198,000            |
| 503 FUND\$ Replacement                      | 6,028,585          |
| 504 PEG-Public, Education & Government      | 100,000            |
| 511 Measure T1 - Infra & Facil.             | 15,882,701         |
| 552 09 Measure FF Debt Service              | 1,619,731          |
| 553 2015 GORBS                              | 2,612,468          |
| 554 2012 Lease Revenue Bonds BJPFA          | 502,402            |
| 555 2015 GORBS - 2002 G.O. Refunding Bonds  | 482,600            |
| 556 2015 GORBS (2007, Series A)             | 181,674            |
| 557 2015 GORBS (2008 Measure I)             | 612,562            |
| 558 2010 COP (Animal Shelter)               | 404,498            |
| 559 Measure M GO Street & Water Imps        | 1,647,738          |



## SUMMARY OF APPROPRIATIONS BY FUND

| <b>ERMA</b>                                   | <b>FY 2020</b> |
|-----------------------------------------------|----------------|
| <b>Fund # Fund</b>                            | <b>Adopted</b> |
| 560 Infrastructure & Facilities Measure T1    | 2,470,306      |
| 601 Zero Waste                                | 48,362,247     |
| 608 Marina Operation                          | 7,118,243      |
| 611 Sewer                                     | 23,524,301     |
| 612 Private Sewer Lateral FD                  | 197,441        |
| 616 Clean Storm Water                         | 4,171,366      |
| 621 Permit Service Center                     | 19,405,470     |
| 622 Unified Program (CUPA)                    | 918,190        |
| 627 Off Street Parking                        | 6,226,848      |
| 631 Parking Meter                             | 9,401,361      |
| 636 Building Purchases and Management         | 3,205,142      |
| 671 Equipment Replacement                     | 4,618,500      |
| 672 Equipment Maintenance                     | 7,801,313      |
| 673 Building Maintenance Fund                 | 4,460,082      |
| 674 Central Services                          | 382,999        |
| 676 Workers Compensation                      | 6,534,671      |
| 678 Public Liability                          | 1,995,642      |
| 680 Information Technology                    | 12,965,336     |
| 762 Successor Agency - Savo DSF               | 56,960         |
| 774 Sustainable Energy Fin District           | 28,748         |
| 776 Thousand Oaks Underground                 | 100,350        |
| 777 Measure H - School Tax                    | 500,000        |
| 778 Measure Q - CFD#1 Dis. Fire Protect Bond  | 175,844        |
| 779 Spl Tax Bds. CFD#1 ML-ROOS                | 875,783        |
| 781 Berkeley Tourism BID                      | 650,000        |
| 782 Elmwood Business Improvement District     | 30,000         |
| 783 Solano Ave BID                            | 25,000         |
| 784 Telegraph Avenue Bus. Imp. District       | 515,637        |
| 785 North Shattuck BID                        | 182,647        |
| 786 Downtown Berkeley Prop & Improv. District | 1,281,760      |
| 801 Rent Board                                | 5,334,943      |
| GROSS EXPENDITURE:                            | 525,856,809    |
| Dual Appropriations                           | (26,171,544)   |
| Revolving & Internal Service Funds            | (39,539,172)   |
| NET EXPENDITURE:                              | 460,146,093    |





Office of the City Manager

CONSENT CALENDAR  
July 9, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Mark Numainville, City Clerk  
 Subject: Contract No 9691 Amendment: FileTrail, Inc. for Records Management Software System

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9691 with FileTrail, Inc. for an additional \$44,163 for software licensing, maintenance, and related services for a records management software system, for a total contract amount not to exceed \$127,799 and extending the term from July 1, 2019 to June 30, 2024.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the contract will be available in the City Clerk's Department Fiscal Year 2020 General Fund and have been allocated in budget code 011-32-313-000-0000-000-411-613130. Allocations of funds for subsequent years will be subject to adoption of the Annual Appropriations Ordinance for that fiscal year.

CURRENT SITUATION AND ITS EFFECTS

The City has over 11,000 boxes of physical records in storage and the FileTrail, Inc. box tracking system is paramount to tracking inventory of the boxes at offsite storage. The FileTrail system allows users to view contents, request, and return offsite box inventory with ease for department needs and the fulfillment of public records requests.

The amendment will add funds and extend the term of the contract with FileTrail, Inc. for an additional five years.

BACKGROUND

On November 26, 2013, the City issued a Request for Proposals (RFP) No. 14-10809-C for ECMS / AGENDA / RECORDS MANAGEMENT. The City received fifteen responses to the RFP and FileTrail Inc. was selected as the box tracking vendor after a comprehensive evaluation process. In July 2014, the City entered into contract No. 9691 with FileTrail, Inc. for box tracking at offsite storage. The FileTrail system has increased the efficiency of administering the Records Management Program in all City departments.

ENVIRONMENTAL SUSTAINABILITY

Continuing the contract with FileTrail Inc. has several opportunities associated with environmental sustainability. FileTrail is a web-based digital platform that requires no printed materials. All documents uploaded to the system are stored and can be viewed digitally.

RATIONALE FOR RECOMMENDATION

Records Management Software and its annual maintenance is required to ensure a continued successful Citywide Records Management Program.

ALTERNATIVE ACTIONS CONSIDERED

As FileTrail, Inc. is the current box tracking software, no alternatives were considered.

CONTACT PERSON

April Richardson, Assistant City Clerk, City Clerk Department, 981-6905

Attachment:

1: Resolution

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

CONTRACT NO. 9691 AMENDMENT: FILETRAIL, INC. FOR RECORDS  
MANAGEMENT SOFTWARE SYSTEM

WHEREAS, the City Clerk Department is responsible for the Citywide Records Management program and box tracking software system; and

WHEREAS, in 2014, the City issued Request for Proposal No. 14-10809-C for a records management box tracking software system and a panel of staff selected FileTrail, Inc. based on their ability to meet the selection criteria, resulting in the execution of Contract No. 9691 with FileTrail, Inc.; and

WHEREAS, FileTrail Inc. continues to provide the City with a high level of customer service and competitive pricing; and

WHEREAS, funds totaling \$44,163 for this contract have been allocated in the General Fund, budget code 011-32-313-000-0000-000-411-613130.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute an amendment to Contract No. 9691 with FileTrail, Inc. for software licensing, maintenance, and related services for a records management software system, for an additional \$44,163 for a total contract amount not to exceed \$127,799 and extending the term from July 1, 2019 to June 30, 2024.





Office of the City Manager

CONSENT CALENDAR  
July 9, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: David Brannigan, Fire Chief  
 Subject: Purchase Order: Life Assist, Inc. for Emergency Medical Supplies

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a purchase order with Life Assist, Inc. to purchase emergency medical supplies and equipment for the Fire Department from July 1, 2019 to June 30, 2020, with an option to extend for an additional period up to a maximum of five years, in an amount not to exceed \$1,451,000.

FISCAL IMPACTS OF RECOMMENDATION

The financial impact is projected to be approximately \$1,451,000 over a five year period or an annual amount of \$290,200. Funding for the contract is included in the FY 2020 budget as follows

| Fund          | Annual Amount | Total Amount |
|---------------|---------------|--------------|
| Paramedic Tax | \$110,000     | \$550,000    |
| General Fund  | \$30,000      | \$150,000    |
| Measure GG    | \$60,000      | \$300,000    |
| Total         | \$200,000     | \$1,000,000  |

The addition of the Fourth Ambulance as well as increased cost for emergency medical supplies and equipment costs has resulted in additional costs of \$451,000 over a five year period. This increases the contract amount to \$1,451,000.

For FY 2020, the Fire Department will carry over \$90,200 in General Fund savings from FY 2019 to cover the costs. These funds will be appropriated as part of the First Amendment to the FY 2020 Annual Appropriations Ordinance. For the future years, the funds will be added to the baseline budget and subject to Council approval of the budget and the Annual Appropriations Ordinances.

CURRENT SITUATION AND ITS EFFECTS

The Berkeley Fire Department requires emergency medical supplies and equipment on hand to treat patients on emergency medical calls. The department currently has a purchase order with Life Assist that expires on June 30, 2019.

BACKGROUND

The Berkeley Fire Department purchases emergency medical supplies and equipment for the purpose of treating and caring for sick and injured patients on emergency medical calls.

The current purchase order expires on June 30, 2019. The Fire Department collaborated with the Purchasing Division to piggyback off competitively bid awards of the Dallas Fort Worth International Airport to ensure the best pricing. Life Assist Inc. was the successful bidder for the Dallas Fort Worth International Request for Proposal No. 7006639.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the action requested in this report.

RATIONALE FOR RECOMMENDATION

Emergency medical supplies and equipment are necessary to provide emergency medical service to the community.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Stacie Clarke, Administrative & Fiscal Service Manager, 981-5507  
David Sprague, Assistant Fire Chief, 981-5590

Attachments:

1: Resolution



RESOLUTION NO. -N.S.

PURCHASE ORDER: LIFE ASSIST INC. FOR EMERGENCY MEDICAL SUPPLIES  
AND EQUIPMENT

WHEREAS, emergency medical supplies and equipment are required to provide treatment for emergency medical calls; and

WHEREAS, the Dallas Fort Worth International Airport released a Request for Proposal No. 7006639 for the purchase of emergency medical supplies; and

WHEREAS, Life Assist Medical was awarded the contract.

NOW THEREFORE BE IT RESOLVED, by the Council of the City of Berkeley that the City Manager is hereby authorized to execute a purchase order with Life Assist Inc. for emergency medical supplies and equipment from July 1, 2019 through June 30, 2020, with an option to extend for an additional period up to a maximum of five years, in an amount not to exceed \$1,451,000 funded by the Paramedic Tax Fund, General Fund, and Measure GG.





Office of the City Manager

CONSENT CALENDAR  
July 9, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, HHCS

Subject: Approve Waiver of the Nuclear Free Berkeley Act (NFBA) per BMC Section 12.90.070(A) to Enter into an Expenditure Contract with the University of California, Berkeley

RECOMMENDATION

Adopt a Resolution 1) waiving the contract requirements of the Nuclear Free Berkeley Act, pursuant to Resolution No. 60,840-N.S. and Chapter 12.90.070 of the Berkeley Municipal Code, in order to contract with the University of California Berkeley; and 2) authorizing the City Manager to execute a contract with the University of California, Berkeley for services evaluating the Sugar-Sweetened Beverage Tax Program.

FISCAL IMPACTS OF RECOMMENDATION

Contract funding of \$40,000 under budget Project code HHPGHB1901 and adopted by the City Council Resolution No. 67,063-N.S. This contract with the University of California, Berkeley has been entered into the City's contract management database and assigned CMS No. MX1H3

CURRENT SITUATION AND ITS EFFECTS

The Health, Housing & Community Services/Public Health Division is requesting a waiver to the "no contract" provision of the Nuclear Free Berkeley Act (NFBA) in order to execute an expenditure contract, and any amendments thereto, with UC Berkeley to perform evaluation services related to the Sugar Sweetened Beverage Tax.

Consistent with Resolution No. 60,840-N.S., the Berkeley Peace & Justice Commission approved a motion (**M/S/C**: Meola, Morizawa **Ayes**: Askary, Gussmann, Lippman, Meola, Morizawa, Pancoast, Pierce, Rodriguez; **Noes**: Blake; **Abstain**: Maran; **Absent**: Chen, Han; **Excused**: al-Bazian; **Recused**: Tregub) recommending that City Council approve the waiver pursuant to findings consistent with the Nuclear Free Berkeley Act (NFBA) at their meeting on June 3, 2019, on the following motion:

"Recommend Council action on request for waiver of the Nuclear Free Berkeley Act to authorize the City to enter into a contract with UC Berkeley to conduct an evaluation of the Healthy Berkeley programs and the sugar sweetened beverage tax." The evaluation of the impact of the sugar sweetened beverage tax and the Healthy Berkeley Program is a Strategic Plan Priority Project, advancing our goal to:

- Champion and demonstrate social and racial equity.
- Be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

### BACKGROUND

The three factors set forth in B.M.C. 12.90.070 used in determining the appropriateness of a waiver are addressed as follows:

#### 1. The intent and purpose of the act

The scope of work for this contract conforms with the intent and purpose of the Nuclear Free Berkeley Act. The purpose of the expenditure contract is to evaluate the impact of the sugar-sweetened beverage tax.

#### 2. The availability of alternative services, goods and equipment, or other supplies substantially meeting required specifications of the proposed contract.

The alternative to entering into an agreement with UC Berkeley is to discontinue a significant portion of the evaluation of the impact of the sugar-sweetened beverage tax and the Healthy Berkeley Program, thereby limiting the availability of evidence about the effectiveness of the tax.

#### 3. Quantifiable additional costs resulting from use of available alternatives.

There is no available alternative since this component at this time.

### ENVIRONMENTAL SUSTAINABILITY

This recommended action has no adverse environmental effect.

### RATIONALE FOR RECOMMENDATION

On a select basis, the NFBA has been waived by Council for the purpose of executing a contract with UC Berkeley, designated under the NFBA as a "nuclear entity." The purpose of this expenditure contract is to engage the expertise within UC Berkeley to evaluate the impact of the sugar-sweetened beverage tax, which can also inform the impact of the City's tax and programs as well as the efforts to tax sugar sweetened beverages in other cities.

### ALTERNATIVE ACTIONS CONSIDERED

The alternative to entering into an agreement with UC Berkeley is to discontinue a significant portion of the evaluation of the impact of the sugar-sweetened beverage tax and the Healthy Berkeley Program.

### CONTACT PERSON

Janice Chin, Public Health Division Manager, HHCS, (510) 981-5121

### Attachments:

1: Resolution

Exhibit A – Scope of Work

2: Contract between COB and UCB - CMS No. MX1H3

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

APPROVAL OF WAIVER FOR THE "NO CONTRACT PROVISION" OF BERKELEY MUNICIPAL CODE SECTION 12.90.070 FOR CONTRACT WITH THE UNIVERSITY OF CALIFORNIA BERKELEY CMS No. MX1H3

WHEREAS, pursuant to Resolution No. 60,840 N.S. and Berkeley Municipal Code Section 12.90.070 The Nuclear Free Act of the Berkeley Municipal Code, in order to contract with the University of California Berkeley (UCB), the City Council must determine that no reasonable alternative exists based on consideration of three factors; and

WHEREAS, the three factors: the intent and purpose of the act, the availability of alternative service providers and quantifiable additional costs resulting from the use of alternative providers have all been considered; and

WHEREAS, the goal of the sugar sweetened beverage tax evaluation contract is to evaluate the impact of the sugar sweetened beverage tax; and

WHEREAS, by collecting and analyzing evaluation data the contract will result in an evaluation report that can inform efforts to tax sugar sweetened beverages in other cities; and

WHEREAS, the UCB evaluation team has a unique combination of expertise in evaluation, and public policy analytical understanding of the sugar sweetened tax implementation and report writing, such that it is uniquely qualified to undertake the multiple tasks that are required in this contract; and

WHEREAS, a failure to enter into a contract with UCB would significantly limit the availability of evidence about the effectiveness of the tax.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council approves a waiver to the "no-contract" provision of the BMC Section 12.90.070 because no reasonable alternative exists to the services that will be provided under contract with the University of California Berkeley.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager or her designee to execute a contract and any amendments with the University of California Berkeley in an amount not to exceed \$40,000 under budget code HHPGHB1901 and CMS No. MX1H3.

Exhibits

A: Scope of Work for UCB

## Exhibit A

### SCOPE OF SERVICES

On November 4, 2014, Berkeley passed a specific excise tax on sugar-sweetened beverages (SSBs), which was implemented in March, 2015. Measure D, which specified the tax, also established a Panel of Experts to make recommendations on how and to what extent the City should establish and/or fund programs to reduce the consumption of sugar-sweetened beverages in Berkeley and to address the effects of such consumption. The public health impact of Measure D on children has yet to be determined in Berkeley. To this end, in 2016, the consultant agency conducted a wave 1/baseline survey of SSB consumption as well as attitudes, knowledge and norms around SSBs among children in 9 BUSD schools. The consultant agency will work with the City of Berkeley to design and implement a wave 2 self-administered survey that determines children's:

1. **Beverage consumption.** This includes consumption of SSBs (regular soda, sports drinks, energy drinks, and fruit-flavored drinks, and sweetened coffee and tea) and non-SSBs (water, diet soda, milk, and juice).
2. **Attitudes, knowledge, and norms around SSB consumption.** Attitudes, knowledge and norms regarding SSBs that may be predictive of consumption and could change before actual behavior changes.
3. **Exposure to gardening and cooking program.** BUSD received a direct allocation of funding for the gardening and cooking program, and these questions will assess exposure to the program.

The contractor will negotiate the specific length and content of the final survey with the school district and Cooking and Gardening Program for effective survey administration.

Survey items will be repeated from the wave 1/baseline survey conducted by the contractor in 2016. Survey items on SSB consumption were adopted from the Youth Risk Behavior Survey (YRBS) and state versions of YRBS that assess additional beverages. YRBS was developed and used by the Centers for Disease Control and Prevention (CDC) since 1990 to biennially monitor health risk behaviors among adolescents across the United States<sup>1</sup> as part of the Youth Risk Behavior Surveillance System. Use of the YRBS items allows for Berkeley's data to be compared to data routinely collected at the national and state level. The contractor will obtain approval of final survey instrument from the City of Berkeley.

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<sup>1</sup> <https://www.cdc.gov/healthyyouth/data/yrbs/overview.htm>

The contractor will obtain student-level identifiers that would allow linking survey data with student demographics (age, gender, race/ethnicity, and free and reduced price meal eligibility) provided by BUSD. The contractor will also conduct matching by student-level identifiers to link wave 1/baseline survey responses with wave 2 survey responses. Collection of identifiers and demographics is dependent on BUSD continuing to allow an “opt-out” status exception for parental permission for this research and BUSD’s continued provision of student demographics without cost.

**Sample:** The contractor will seek to recruit the same schools that were included in the survey sample in fall of 2016. Surveys will be administered in grades 5, 7, and 9-12 in five elementary schools (Cragmont, Jefferson, John Muir, LeConte, and Thousand Oaks), two middle schools (Longfellow and Willard), and two high schools (Berkeley High—from which a sample of classes will be selected sampled—and Berkeley Tech). Provided all schools agree to participate, the contractor estimates a sample size of  $\geq 850$  completed surveys.

**Deliverables**

By May 31, 2020, the consultant will produce and forward to the City of Berkeley, a de-identified student-level dataset and prepare a presentation and brief report on wave 2 average responses to questions by school, grade-level, gender race/ethnicity, and free and reduced price meal eligibility.

Details of the project implementation will follow a mutually-agreed upon work plan.

**PERSONAL SERVICES CONTRACT**

**THIS CONTRACT** is between the CITY OF BERKELEY (“City”), a Charter City organized and existing under the laws of the State of California, and Regents of the University of California on behalf of its Berkeley campus (“Contractor”), doing business at 2150 Shattuck Ave., Suite 313, Berkeley, CA 94704, who agree as follows:

1. **SCOPE OF SERVICES**

Contractor agrees to perform all services described in Exhibit A, in accordance with its stated terms and conditions. Exhibit A is attached to and made a part of this Contract.

2. **PAYMENT**

For services referred to in Section 1, City will pay Contractor a total amount not to exceed \$40,000. City shall make payments to Contractor in accordance with the provisions described in Exhibit B, which is attached to and made a part of this Contract.

3. **TERM**

a. This Contract shall begin on M and end on June 30, 2020. The City Manager of the City may extend the term of this contract by giving written notice.

b. Either party may terminate this Contract for default upon five (5) days’ written notice to the other if the other party has substantially failed to fulfill any of its obligations under this Contract in a timely manner. City may terminate this Contract at its convenience and without cause upon thirty (30) days written notice to Contractor. Except as provided in this Contract, in no event shall City be liable for costs incurred by or on behalf of Contractor after the effective date of a notice of termination.

c. A written notice is deemed served when a party sends the notice in an envelope addressed to the other party to this Contract and deposits it with the U.S. Postal Service, first class mail, postage prepaid. For purposes of this Contract, all notices to City shall be addressed as follows:

City Manager  
City of Berkeley  
2180 Milvia Street  
Berkeley, California 94704

For purposes of this Contract, all notices to Contractor shall be addressed as follows:

Jyl Baldwin, Associate Director  
Sponsored Project Office  
University of California, Berkeley  
2150 Shattuck Ave., Suite 313  
Berkeley, CA



d. If City terminates this Contract for convenience before Contractor completes the services in Exhibit A, Contractor shall then be entitled to recover its costs expended up to that point plus a reasonable profit, but no other loss, cost, damage, expense or liability may be claimed, requested or recovered.

4. **INDEMNIFICATION**

Contractor, for itself and its heirs, successors and assigns, agrees to release, defend, indemnify and hold harmless City, its officers, agents, volunteers and employees from and against any and all claims, demands, liability, damages, lawsuits or other actions, including, but not limited to, personal injury or death or property damage arising out of or in any way connected with Contractor's operations under this Contract, or with the performance of this Contract by Contractor or its officers, employees, partners, directors, subcontractors or agents.

5. **INSURANCE**

a. Contractor shall maintain at all times during the performance of this Contract a commercial general liability insurance policy with a minimum occurrence coverage in the amount of \$2,000,000 (two-million dollars); an automobile liability insurance policy in the minimum amount of \$1,000,000 (one-million dollars); and, if any licensed professional performs services under this contract, a professional liability insurance policy in the minimum amount of \$0 to cover any claims arising out of Contractor's performance of services under this Contract. All insurance, except professional liability, shall name the City, its officers, agents, volunteers and employees as additional insureds and shall provide primary coverage with respect to the City.

All insurance policies shall: 1) provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said policies except upon thirty (30) days written notice to the City's Contract Administrator; 2) be evidenced by the original Certificate of Insurance, specifying the required coverage and the insurance carrier's standard additional insured form endorsement; and 3) be approved as to form and sufficiency by the City's Contract Administrator. **The original insurance certificates and all extensions to the insurance certificates should be sent to the address identified below and include the CMS#.**

b. If the commercial general liability insurance referred to above is written on a Claims Made Form then, following termination of this Contract, coverage shall survive for a period of not less than five years. Coverage shall also provide for a retroactive date of placement coinciding with the effective date of this Contract.

c. If Contractor employs any person, it shall carry workers' compensation and employer's liability insurance and shall provide a certificate of insurance to the City. The workers' compensation insurance shall: 1) provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said insurance except upon thirty (30) days written notice to the City's Contract Administrator; 2) provide for a waiver of any right of subrogation against City to the extent permitted by law; and 3) shall be approved as to form and sufficiency by the Contract Administrator.

d. Contractor shall forward all insurance documents to:

**Department Name:** HHCS/ Public Health Division

**CMS#** MX1H3

**Department Address:** City of Berkeley, 1947 Center Street, 2<sup>nd</sup> Floor,  
Berkeley, CA 94704, Attn: Jose Ducos

6. **CONFORMITY WITH LAW AND SAFETY**

a. Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies having jurisdiction over any or all of the scope of services, including all provisions of the Occupational Safety and Health Act of 1979 as amended, all California Occupational Safety and Health Regulations, and all other applicable federal, state, municipal and local safety regulations. All services performed by Contractor must be in accordance with these laws, ordinances, codes and regulations. Contractor shall release, defend, indemnify and hold harmless City, its officers, agents, volunteers and employees from any and all damages, liability, fines, penalties and consequences from any noncompliance or violation of any laws, ordinances, codes or regulations.

b. If a death, serious personal injury or substantial property damage occurs in connection with the performance of this Contract, Contractor shall immediately notify the City's Risk Manager by telephone. If any accident occurs in connection with this Contract, Contractor shall promptly submit a written report to City, in such form as the City may require. This report shall include the following information: 1) name and address of the injured or deceased person(s); 2) name and address of Contractor's subcontractor, if any; 3) name and address of Contractor's liability insurance carrier; and 4) a detailed description of the accident, including whether any of City's equipment, tools or materials were involved.

c. If a release of hazardous materials or hazardous waste that cannot be controlled occurs in connection with the performance of this Contract, Contractor shall immediately notify the Berkeley Police Department and the City's Health Protection office.

d. Contractor shall not store hazardous materials or hazardous waste within the City of Berkeley without a proper permit from the City.

7. **MATERIAL SAFETY DATA SHEETS**

a. To comply with the City's Hazard Communication Program, Contractor agrees to submit Material Safety Data Sheets (MSDS) for all "hazardous substances" Contractor intends to use in the performance of work under this Contract in any City facility. "Hazardous substances" are defined as those substances so designated by the Director of Industrial Relations pursuant to the Hazardous Substances Information and Training Act (Labor Code sec. 6360 *et seq.*). The MSDS for all products must be submitted to the City before commencing work. The MSDS for a particular product must be reviewed and approved by the City's Risk Manager before Contractor may use that product.

b. City will inform Contractor about hazardous substances to which it may be exposed while on the job site and protective measures that can be taken to reduce the possibility of exposure.

8. **OWNERSHIP OF DOCUMENTS**

a. When this Contract is terminated, Contractor agrees to return to City all documents, drawings, photographs and other written or graphic material, however produced, that it received from City, its contractors or agents, in connection with the performance of its services under this Contract. All materials shall be returned in the same condition as received.

b. Contractor grants City a royalty-free, exclusive and irrevocable license to reproduce, publish, use and to authorize others to do so, all original computer programs, writing, sound recordings, pictorial reproductions, diagrams, charts, computations, drawings

and other works of similar nature produced in the course of the performance of this Contract. Contractor shall not publish any such material without the prior written agreement of the City.

c. With the prior written approval of City's Project Manager, Contractor may retain and use copies of its work for reference and as documentation of its experience and capabilities.

9. **NON-DISCRIMINATION**

Contractor hereby agrees to comply with the provisions of Berkeley Municipal Code ("B.M.C.") Chapter 13.26 as amended from time to time. In the performance of this Contract, Contractor agrees as follows:

a. Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over 40), sex, pregnancy, marital status, disability, sexual orientation or AIDS.

b. Contractor shall permit the City access to records of employment, employment advertisements, application forms, EEO-1 forms, affirmative action plans and any other documents which, in the opinion of the City, are necessary to monitor compliance with this non-discrimination provision. In addition, Contractor shall fill-out, in a timely fashion, forms supplied by the City to monitor this non-discrimination provision.

10. **INDEPENDENT CONTRACTOR**

a. Contractor shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which Contractor performs the services required of Contractor by the terms of this Contract. Contractor shall be liable for its acts and omissions, and those of its employees and its agents. Nothing contained herein shall be construed as creating an employment, agency or partnership relationship between City and Contractor.

b. Direction from City regarding the subject of this Contract shall be construed as providing for direction as to policy and the result of Contractor's Work only and not as to the means or methods by which such a result is obtained.

c. Except as expressly provided in this Contract, nothing in this Contract shall operate to confer rights or benefits on persons or entities not party to this Contract.

d. Payment of any taxes, including California Sales and use Taxes, levied upon this Contract, the transaction, or the services or goods delivered pursuant hereto, shall be the obligation of Contractor.

11. **CONFLICT OF INTEREST PROHIBITED**

a. In accordance with Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64, neither Contractor nor any employee, officer, director, partner or member of Contractor, or immediate family member of any of the preceding, shall have served as an elected officer, an employee, or a City board, committee or commission member, who has directly or indirectly influenced the making of this Contract.

b. In accordance with Government Code section 1090 and the Political Reform Act, Government Code section 87100 *et seq.*, no person who is a director, officer, partner, trustee, employee or consultant of the Contractor, or immediate family member of any of the preceding, shall make or participate in a decision made by the City or a City board,

commission or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Contractor.

c. Interpretation of this section shall be governed by the definitions and provisions used in the Political Reform Act, Government Code section 87100 *et seq.*, its implementing regulations, manuals and codes, Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64.

12. **NUCLEAR FREE BERKELEY**

Contractor agrees to comply with B.M.C. Chapter 12.90, the Nuclear Free Berkeley Act, as amended from time to time.

13. **OPPRESSIVE STATES CONTRACTING PROHIBITION**

a. In accordance with Resolution No. 59,853-N.S., Contractor certifies that it has no contractual relations with, and agrees during the term of this Contract to forego contractual relations to provide personal services to, the following entities:

- (1) The governing regime in any Oppressive State.
- (2) Any business or corporation organized under the authority of the governing regime of any Oppressive State.
- (3) Any individual, firm, partnership, corporation, association, or any other commercial organization, and including parent-entities and wholly-owned subsidiaries (to the extent that their operations are related to the purpose of its contract with the City), for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

b. For purposes of this Contract, the Tibet Autonomous Region and the provinces of Amdo, Kham, and Ü-Tsang shall be deemed oppressive states.

c. Contractor's failure to comply with this section shall constitute a default of this Contract and City may terminate this Contract pursuant to Section 3. In the event that the City terminates Contractor due to a default under this provision, City may deem Contractor a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

14. **RECYCLED PAPER FOR WRITTEN REPORTS**

If Contractor is required by this Contract to prepare a written report or study, Contractor shall use recycled paper for said report or study when such paper is available at a cost of not more than ten percent more than the cost of virgin paper, and when such paper is available at the time it is needed. For the purposes of this Contract, recycled paper is paper that contains at least 50% recycled product. If recycled paper is not available, Contractor shall use white paper. Written reports or studies prepared under this Contract shall be printed on both sides of the page whenever practical.

15. **BERKELEY LIVING WAGE ORDINANCE**

a. Contractor hereby agrees to comply with the provisions of the Berkeley Living Wage Ordinance, B.M.C. Chapter 13.27. If Contractor is currently subject to the Berkeley Living Wage Ordinance, as indicated by the Living Wage Certification form, attached hereto, Contractor will be required to provide all eligible employees with City mandated minimum compensation during the term of this Contract, as defined in B.M.C. Chapter 13.27, as well as comply with the terms enumerated herein. Contractor expressly acknowledges that, even if Contractor is not currently subject to the Living Wage Ordinance, cumulative contracts with City may subject Contractor to the requirements under B.M.C. Chapter 13.27 in subsequent contracts.

b. If Contractor is currently subject to the Berkeley Living Wage Ordinance, Contractor shall be required to maintain monthly records of those employees providing service under the Contract. These records shall include the total number of hours worked, the number of hours spent providing service under this Contract, the hourly rate paid, and the amount paid by Contractor for health benefits, if any, for each of its employees providing services under the Contract. These records are expressly subject to the auditing terms described in Section 17.

c. If Contractor is currently subject to the Berkeley Living Wage Ordinance, Contractor shall include the requirements thereof, as defined in B.M.C. Chapter 13.27, in any and all subcontracts in which Contractor engages to execute its responsibilities under this Contract. All subcontractor employees who spend 25% or more of their compensated time engaged in work directly related to this Contract shall be entitled to a living wage, as described in B.M.C. Chapter 13.27 and herein.

d. If Contractor fails to comply with the requirements of this Section, the City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

Contractor's failure to comply with this Section shall constitute a material breach of the Contract, upon which City may terminate this Contract pursuant to Section 3. In the event that City terminates Contractor due to a default under this provision, City may deem Contractor a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

In addition, at City's sole discretion, Contractor may be responsible for liquidated damage in the amount of \$50 per employee per day for each and every instance of an underpayment to an employee. It is mutually understood and agreed that Contractor's failure to pay any of its eligible employees at least the applicable living wage rate will result in damages being sustained by the City; that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damage set forth herein is the nearest and most exact measure of damage for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Contractor's breach. City may deduct any assessed liquidated damages from any payments otherwise due Contractor.

16. **BERKELEY EQUAL BENEFITS ORDINANCE**

a. Contractor hereby agrees to comply with the provisions of the Berkeley Equal Benefits Ordinance, B.M.C. Chapter 13.29. If Contractor is currently subject to the Berkeley Equal Benefits Ordinance, as indicated by the Equal Benefits Certification form, attached hereto, Contractor will be required to provide all eligible employees with City

mandated equal benefits, as defined in B.M.C. Chapter 13.29, during the term of this contract, as well as comply with the terms enumerated herein.

b. If Contractor is currently or becomes subject to the Berkeley Equal Benefits Ordinance, Contractor agrees to provide the City with all records the City deems necessary to determine compliance with this provision. These records are expressly subject to the auditing terms described in Section 17 of this contract.

c. If Contractor fails to comply with the requirements of this Section, City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

Contractor's failure to comply with this Section shall constitute a material breach of the Contract, upon which City may terminate this contract pursuant to Section 3. In the event the City terminates this contract due to a default by Contractor under this provision, the City may deem Contractor a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

In addition, at City's sole discretion, Contractor may be responsible for liquidated damages in the amount of \$50.00 per employee per day for each and every instance of violation of this Section. It is mutually understood and agreed that Contractor's failure to provide its employees with equal benefits will result in damages being sustained by City; that the nature and amount of these damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein is the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Contractor's breach. City may deduct any assessed liquidated damages from any payments otherwise due Contractor.

17. **AUDIT**

Pursuant to Section 61 of the Berkeley City Charter, the City Auditor's Office may conduct an audit of Contractor's financial, performance and compliance records maintained in connection with the operations and services performed under this Contract. In the event of such audit, Contractor agrees to provide the City Auditor with reasonable access to Contractor's employees and make all such financial, performance and compliance records available to the Auditor's Office. City agrees to provide Contractor an opportunity to discuss and respond to any findings before a final audit report is filed.

18. **SETOFF AGAINST DEBTS**

Contractor agrees that City may deduct from any payments due to Contractor under this Contract any monies that contractor owes City under any ordinance, contract or resolution for any unpaid taxes, fees, licenses, unpaid checks or other amounts.

19. **CONFIDENTIALITY OF INFORMATION**

Contractor understands and agrees that, in the performance of the services under this Contract or in the contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in performance of the Contract. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent consultant would use to protect its own proprietary data.

20. **PREVAILING WAGES**

Certain labor categories under this contract may be subject to prevailing wages as identified in the State of California Labor Code commencing with Sections 1720 et. seq. and 1770 et. seq. These labor categories, when employed for any “work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work,” constitute a “Public Work” within the definition of Section 1720(a)(1) of the California Labor Code requiring payment of prevailing wages. In performing its obligations under this contract, Contractor is solely responsible to determine which, if any, of the work is governed by a labor category pursuant to California Labor Code sections 1720 et. seq. and 1770 et. seq. and pay the pertinent prevailing wage. Contractor shall defend, indemnify and hold harmless City concerning any liability arising out of Labor Code section 1720 et. seq. and 1770 et. seq.

21. **GOVERNING LAW**

This Contract shall be deemed to have been executed in Alameda County. The formation, interpretation and performance of this Contract shall be governed by the laws of the State of California, excluding its conflict of laws rules. Venue for all litigation relative to the formation, interpretation and performance of this Contract shall be in Alameda County, California.

22. **AMENDMENTS**

The terms and conditions of this Contract shall not be altered or otherwise modified except by a written amendment to this Contract executed by City and Contractor.

23. **ENTIRE CONTRACT**

a. The terms and conditions of this Contract, all exhibits attached and any documents expressly incorporated by reference represent the entire Contract between the parties with respect to the subject matter of this Contract. This Contract shall supersede any and all prior contracts, oral or written, regarding the subject matter between City and Contractor. No other contract, statement, or promise relating to the subject matter of this Contract shall be valid or binding except by a written amendment to this Contract.

b. If any conflicts arise between the terms and conditions of this Contract and the terms and conditions of the attached exhibits or any documents expressly incorporated, the terms and conditions of this Contract shall control.

24. **SEVERABILITY**

If any part of this Contract or the application thereof is declared invalid for any reason, such invalidity shall not affect the other provisions of this Contract which can be given effect without the invalid provision or application, and to this end the provisions of this Contract are declared to be severable.

25. **WAIVER**

Failure of City to insist on strict performance shall not constitute a waiver of any of the provisions of this Contract or a waiver of any other default of Contractor.

26. **ASSIGNMENT**

Contractor may not assign this Contract without the prior written consent of the City, except that Contractor may assign its right to any money due or to become due hereunder.

27. **EFFECT ON SUCCESSORS AND ASSIGNS**

This Contract shall be binding on and inure to the benefit of the heirs, executors, administrators, successors, and assigns of the parties hereto.

28. **CONSULTANTS TO SUBMIT STATEMENTS OF ECONOMIC INTEREST**

The City’s Conflict of Interest Code, Resolution No. 60,788-N.S., as amended, requires consultants who make a governmental decision or act in a staff capacity as defined in 2 Cal. Code of Regs. §18700, as amended from time to time, to disclose conflicts of interest by filing a Statement of Economic Interest (Form 700). Consultants agree to file such statements with the City Clerk at the beginning of the contract period and upon termination of the Contractor’s service.

29. **SECTION HEADINGS**

The sections and other headings of this Contract are for convenience of reference only and shall be disregarded in the interpretation of this Contract.

30. **CITY BUSINESS LICENSE, PAYMENT OF TAXES, TAX I.D. NUMBER**

Contractor has obtained a City business license as required by B.M.C. Chapter 9.04, and its license number is written below; or, Contractor is exempt from the provisions of B.M.C. Chapter 9.04 and has written below the specific B.M.C. section under which it is exempt. Contractor shall pay all state and federal income taxes and any other taxes due. **Contractor certifies under penalty of perjury that the taxpayer identification number written below is correct.**

Business License Number  
B.M.C. §  
Taxpayer ID Number



**IN WITNESS WHEREOF**, City and Contractor have executed this Contract as of the date first mentioned above.

**CITY OF BERKELEY**

By: \_\_\_\_\_  
CITY MANAGER

Registered by:

Pre-approved as to form:  
CITY ATTORNEY  
2/2015

\_\_\_\_\_  
CITY AUDITOR

Attest:

\_\_\_\_\_  
CITY CLERK

**CONTRACTOR**

Regents of the University of California

\_\_\_\_\_  
Contractor Name (print or type)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Tax Identification # \_\_\_\_\_

Berkeley Business License # \_\_\_\_\_

Incorporated: Yes  No

Certified Woman Business Enterprise: Yes  No

Certified Minority Business Enterprise: Yes  No

If yes, state ethnicity: \_\_\_\_\_

Certified Disadvantaged Business Enterprise: Yes  No

## Exhibit A

### SCOPE OF SERVICES

On November 4, 2014, Berkeley passed a specific excise tax on sugar-sweetened beverages (SSBs), which was implemented in March, 2015. Measure D, which specified the tax, also established a Panel of Experts to make recommendations on how and to what extent the City should establish and/or fund programs to reduce the consumption of sugar-sweetened beverages in Berkeley and to address the effects of such consumption. The public health impact of Measure D on children has yet to be determined in Berkeley. To this end, in 2016, the consultant agency conducted a wave 1/baseline survey of SSB consumption as well as attitudes, knowledge and norms around SSBs among children in 9 BUSD schools. The consultant agency will work with the City of Berkeley to design and implement a wave 2 self-administered survey that determines children's:

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Survey items will be repeated from the wave 1/baseline survey conducted by the contractor in 2016. Survey items on SSB consumption were adopted from the Youth Risk Behavior Survey (YRBS) and state versions of YRBS that assess additional beverages. YRBS was developed and used by the Centers for Disease Control and Prevention (CDC) since 1990 to biennially monitor health risk behaviors among adolescents across the United States<sup>1</sup> as part of the Youth Risk Behavior Surveillance System. Use of the YRBS items allows for Berkeley's data to be compared to data routinely collected at the national and state level. The contractor will obtain approval of final survey instrument from the City of Berkeley.

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<sup>1</sup> <https://www.cdc.gov/healthyyouth/data/yrbs/overview.htm>

The contractor will obtain student-level identifiers that would allow linking survey data with student demographics (age, gender, race/ethnicity, and free and reduced price meal eligibility) provided by BUSD. The contractor will also conduct matching by student-level identifiers to link wave 1/baseline survey responses with wave 2 survey responses. Collection of identifiers and demographics is dependent on BUSD continuing to allow an “opt-out” status exception for parental permission for this research and BUSD’s continued provision of student demographics without cost.

**Sample:** The contractor will seek to recruit the same schools that were included in the survey sample in fall of 2016. Surveys will be administered in grades 5, 7, and 9-12 in five elementary schools (Cragmont, Jefferson, John Muir, LeConte, and Thousand Oaks), two middle schools (Longfellow and Willard), and two high schools (Berkeley High—from which a sample of classes will be selected sampled—and Berkeley Tech). Provided all schools agree to participate, the contractor estimates a sample size of  $\geq 850$  completed surveys.

**Deliverables**

By May 31, 2020, the consultant will produce and forward to the City of Berkeley, a de-identified student-level dataset and prepare a presentation and brief report on wave 2 average responses to questions by school, grade-level, gender race/ethnicity, and free and reduced price meal eligibility.

Details of the project implementation will follow a mutually-agreed upon work plan.

**EXHIBIT B**

PAYMENT

**Payment**

Payments will be made by the Finance Accounting Division in arrears within thirty (30) days after receipt and acceptance of proper, itemized and correct invoices by the Finance Accounting Division.

**Expenses**

Allowable expenses are identified and itemized in the budget below, created by University of California, Berkeley, and approved by the Public Health Division, City of Berkeley, found as page 2 to this Exhibit B.

**Invoices**

Invoices shall be submitted quarterly, be fully itemized, and have sufficient description to permit audit. Contractor shall submit proper documentation for all expenditures made under this contract including receipts, invoices and time records. All invoices shall be in the Contractor's standard invoice, but at a minimum shall include: current and cumulative costs; contract number; project title; the period being covered by the invoice; and certification as to the truth and accuracy of the invoice. The invoice package will also include general ledger detail listing all expenses on a line by line basis for the invoicing period. If any invoice must be held pending revisions, corrections or amendments by the Contractor, including budget amendments (it is the contractor's responsibility to correct invoice documents, the supervising department shall not be required to give written notice of the withholding action; however, it may do so. In all cases, the Contractor shall be notified of the errors and corrective action needed. The withholding action shall be discussed with the Contractor at the time the errors are brought to the Contractor's attention. The City of Berkeley may, with Contractor's consent, make adjustments on invoices to correct mathematical and typographical errors to expedite processing.

Invoices should be submitted to:

Jose Ducos, Senior Health Management Analyst  
City of Berkeley Public Health Division  
1947 Center Street,  
Berkeley, CA 94704  
Phone (510) 981-5281  
Fax (510) 981-5315  
E-Mail: [jducos@cityofberkeley.info](mailto:jducos@cityofberkeley.info)

**Not-To-Exceed Amount**

The total amount of the allocation for this contract amendment shall not exceed \$40,000. The City will make payment to the vendor within thirty (30 days) of receipt of a correct, complete and approved invoice

**Budget**

The budget for the scope of services set forth in Exhibit A shall not exceed \$40,000.

**Budget for Scope of Services in Exhibit A**

| <b>Item</b>                                                                                                                                                                  | <b>Amount</b>   |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Personnel (salaries, fringe, and UCB GAEL liability fee of 0.95% of salaries). <b>Note:</b> Drs. Falbe and Madsen are providing their time in-kind (i.e., effort as needed). | \$28,165        |
| Scantron survey formatting and printing                                                                                                                                      | \$1600          |
| Incentives for schools and teachers                                                                                                                                          | \$1862          |
| Travel                                                                                                                                                                       | \$120           |
| <i>Subtotal Direct Costs</i>                                                                                                                                                 | \$31,746        |
| <i>Off Campus UCB Indirect Rate (26%)</i>                                                                                                                                    | \$8,254         |
| <b>Total</b>                                                                                                                                                                 | <b>\$40,000</b> |



Office of the City Manager

CONSENT CALENDAR  
July 9, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing & Community Services Department

Subject: Contract: The Eikenberg Institute for Relationships for Cultural Humility Training Consultant, Specification Number 18-11230-C

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with The Eikenberg Institute for Relationships for the term of 2 years or 24 months from start of contract, with an expenditure of \$75,000 to fund the Cultural Humility Training Consultant position with Dr. Kenneth Hardy.

FISCAL IMPACTS OF RECOMMENDATION

Berkeley Mental Health's (BMH) approved Mental Health Services Act (MHSA) FY 2019 annual update includes authorization for the use of \$75,000 from Community Services and Supports to fund this contract. Funds are in expenditure budget code 315-51-503-526-2017-000-451-612990.

CURRENT SITUATION AND ITS EFFECTS

The goal of the contract is to increase staff proficiency in delivering services using a cultural humility approach with consumers/clients, family members, and communities within the division's system of care; increase positive staff interactions and relationships; and assist BMH division in developing systems that support cultural humility practices and approaches.

The Mental Health Division currently has a staff of seventy-eight (78) employees that includes licensed and unlicensed Marriage and Family Therapists; Clinical Social Workers; Psychologists; Psychiatrists and other Professionals and Para-professionals, including staff that are self-identified consumers. The division provides programs and services at several sites for Adult Services, Family Youth and Children Services, Mobile Crisis, Homeless Outreach, Administration, and an Intern Training Program.

Mental Health staff have to navigate implications of diversity and culture in their clinical relationships and settings in ways that best support people; thereby making the necessity of ongoing staff training, supervisory support, and staff development paramount in the area of cultural humility/competence.

This contract will align with the City of Berkeley strategic goal to champion and demonstrate social and racial equity.

### BACKGROUND

Historically, mental health services have not effectively met the needs of many people of color and other marginalized populations in its service delivery system, including providing culturally relevant services related to race, ethnicity, sexual orientation, and/or religious practices. Often times, these issues were not addressed in the client's treatment plan. This is due, in part, to limited in-depth knowledge and/or comfortability of mental health professional's ability to discuss cultural, ethnic, and sexual orientation issues with consumers/clients.

The division's Cultural Competency Coordinator/Diversity and Multicultural Coordinator has provided ongoing multicultural and diversity trainings and conferences for mental health staff, community partners, and other stakeholders for more than a decade. However, except for the division's work with consultants from Visions, Inc.; which produced the Staff Assessment Report in 2010; the California Brief Multicultural Competence Scale (CBMCS), a 4-day certification training in 2012, and the two-part Cultural Humility training with Dr. Hardy in 2016-17; other staff trainings in this area have been one-time occurrences.

The City Council approved funding for a Cultural Humility Consultant for the mental health division within the MHSA Plan 2018-2019, Resolution # 68,639-N.S., and the release of the Request for Proposal (RFP) for a Cultural Humility Consultant was approved at the city council meeting on May 29, 2018. The proposal from The Eikenberg Institute for Relationships was deemed the most responsive to the RFP and was selected as the vendor for this service.

### ENVIRONMENTAL SUSTAINABILITY

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

### RATIONALE FOR RECOMMENDATION

Research indicates that mental health services have not successfully met the needs of most people of color and other marginalized populations. However, by investing in staff training in this area and embedding cultural humility as an important value in the division's service delivery system, this will increase positive outcomes for consumers, family members, and communities within its system of care.

The Eikenberg Institute for Relationships brings the desired knowledge, skills, and talent required to support the division's goal of continued education and staff development in the area of delivering cultural humility services and help staff to produce better service outcomes for consumers, family members, and communities in BMH's service delivery system of care.



ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Steven Grolnic-McClurg, Manager of Mental Health, (510) 981-5249

Barbara Ann White, Training and Diversity & Multicultural Coordinator, (510) 981-7646

Attachments:

1: Resolution

2: RFP for a Cultural Humility Training Consultant: Specification Number 18-11230-C.

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

CONTRACT: THE EIKENBERG INSTITUTE FOR RELATIONSHIPS FOR CULTURAL HUMILITY TRAINING CONSULTANT

WHEREAS, the mental health division would like to increase staff proficiency in delivering services using a cultural humility approach with consumers/clients, family members, and communities within the division's system of care; and

WHEREAS, the division would like to enhance positive staff interactions and relationships, as it relates to navigating differences in the work place; and

WHEREAS, approved annual funding for training in the mental health division is allocated in the Mental Health Services Act (MHSA), Community Services and Supports (CSS) funding stream; and

WHEREAS, MHSA funds received from the State of California has allocated \$75,000 in the MHSA FY 2019 budget code 315-51-503-526-2017-000-451-612990 for this contract.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to enter into a contract and make any amendments with The Eikenberg Institute for Relationships for the express purposes of consultation and training with the mental health division for the term of 2 years or 24 months from start of contract, with an expenditure of \$75,000.



Finance Department  
General Services Division

**REQUEST FOR PROPOSALS (RFP)  
Specification No. 18-11230-C (Re-Issued)  
FOR  
CULTURAL HUMILITY CONSULTANT  
PROPOSALS WILL NOT BE OPENED AND READ PUBLICLY**

Dear Proposer:

The City of Berkeley is soliciting written proposals from qualified firms or individuals experienced in the area of Cultural Humility. As a Request for Proposal (RFP) this is not an invitation to bid and although price is very important, other factors will be taken into consideration.

The project scope, content of proposal, and vendor selection process are summarized in the RFP (attached). **Proposals must be received no later than 5:00 pm, on Thursday, August 2, 2018.** All responses must be in a sealed envelope and have “**Cultural Humility Consultant**” and **Specification No. 18-11230-C** clearly marked on the **outer most mailing envelope**. Please submit one (1) unbound original and three (3) unbound copies of the proposal as follows:

**Mail or Hand Deliver To:**  
City of Berkeley  
Finance Department/General Services Division  
2180 Milvia Street, 3rd Floor  
Berkeley, CA 94704

Proposals will not be accepted after the date and time stated above. Incomplete proposal or proposals that do not conform to the requirements specified herein will not be considered. Issuance of the RFP does not obligate the City to award a contract, nor is the City liable for any costs incurred by the proposer in the preparation and submittal of proposals for the subject work. The City retains the right to award all or parts of this contract to several bidders, to not select any bidders, and/or to re-solicit proposals. The act of submitting a proposal is a declaration that the proposer has read the RFP and understands all the requirements and conditions.

**For questions** concerning the anticipated work, or scope of the project, please **contact Barbara Ann White Training and Diversity & Multicultural Coordinator**, via email at [bawhite@cityofberkeley.info](mailto:bawhite@cityofberkeley.info) no later than **July 20, 2018**. Answers to questions will **not** be provided by telephone or email. Rather, answers to all questions or any addenda will be **posted** on the City of Berkeley’s site at <http://www.cityofberkeley.info/ContentDisplay.aspx?id=7128>. It is the vendor’s responsibility to check this site. For general questions concerning the submittal process, contact purchasing at 510-981-7320.

We look forward to receiving and reviewing your proposal.

Sincerely,

Shari Hamilton  
General Services Manager

## **I. BACKGROUND & INTRODUCTION**

The City of Berkeley Mental Health Division is seeking a consultant with expertise in the areas of Cultural Humility and team building, along with a wealth of experience working with diverse racial and cultural populations, in order to support the division and help it embed Cultural Humility in all areas of the organization.

This RFP seeks an experienced consultant in the area of Cultural Humility to contract with the City of Berkeley Mental Health (BMH) Division for up to \$75,000 for a period of no more than 2-years or 24-months. The goal of this RFP is to enter into an agreement with a firm who will work with City staff to increase staff proficiency in delivering services using a cultural humility approach for all consumers, family members and communities within the division's system of care; increase positive staff interactions and relationships; and assist with supporting BMH in developing systems that support cultural humility practices and approaches.

The racial and ethnic diversity and marginalized groups of mental health consumers, family members and communities that are served within BMH's System of Care requires staff to be skillful and knowledgeable about these populations and groups, in order to navigate the implications of diversity in their clinical relationships and settings in ways that best help people.

Historically, mental health services have not effectively addressed the needs of people of color and marginalized populations and their families. BMH aims to improve the service delivery system by including cultural humility as an important value in BMH's systems of care and investing in staff training in this area. Numerous studies support evidence of cultural competence and humility infused and embedded in an organization increases the over-all effectiveness of services, increases consumer satisfaction and decrease rates of treatment dropout.

The use of cultural humility approaches and practices increases positive outcomes for consumers and enhances staff's ability to navigate differences. In the study, *Improving Cultural Competence to Reduce Health Disparities for Priority Populations*, it states "The most popular and most well studied type of cultural competence intervention is cultural competency training for healthcare providers." The US Department of Health and Human Services promotes the use of the National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health and Health Care, in order to help advance and sustain culturally and linguistically appropriate services.

## **II. SCOPE OF SERVICES**

The Consultant will:

1. Assess the division, teams, survey staff and hold focus groups with cohorts, in order to measure skills, knowledge and/or practices in delivering Cultural Humility services
2. Provide Technical Assistance to the management team, in order to embed cultural humility practices
3. Provide the appropriate level of staff training that will infuse Cultural Humility services into the day-to-day work of BMH staff
4. Provide staff training that will enhance their ability to utilize Cultural Humility in clinical and interpersonal interactions, with a focus on cohorts and division wide trainings
5. Provide consultation to the Management Team, and
6. Recommend and provide tools and/or processes that will help embed cultural humility processes in the division and provide measurable outcomes at the end of the two-year process.

## **III. SUBMISSION REQUIREMENTS**

All proposals shall include the following information, organized as separate sections of the proposal. The proposal should be concise and to the point.

1. Contractor Identification:

Provide the name of the firm, the firm's principal place of business, the name and telephone number of the contact person and company tax identification number.

2. Client References:

Provide a minimum of *three (3)* client references. References should be California cities or other large public sector entities. Provide the designated person's name, title, organization, address, telephone number, and the project(s) that were completed under that client's direction.

3. Training:

Responsiveness of proposal to training needs including, but not limited to:

- Trainings aimed at goals of RFP
- Proposed trainings that are impactful and support staff taking risks, and
- Supporting various learning styles and use of multiple modalities that enhance learning.

4. Experience:

Demonstrated history of providing training, consultation and technical assistance using Cultural Humility approaches, practices, models and services with governmental and/or community-based mental health or behavioral health agencies.

5. Assessment and Tools:

Administer assessments and provide recommendations of appropriate tools and/or processes that will help embed cultural humility practices and approaches in the division and provide measurable outcomes at the end of the two-year process.

6. Price Proposal:

The proposal shall include pricing for all services. Pricing shall be all inclusive unless indicated otherwise on a separate pricing sheet. The Proposal shall itemize all services, including hourly rates for all professional, technical and support personnel, and all other charges related to completion of the work shall be itemized.

7. Contract Terminations:

**If your organization has had a contract terminated in the last five (5) years, describe such incident.** Termination for default is defined as notice to stop performance due to the vendor's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the vendor, or (b) litigated and such litigation determined that the vendor was in default.

Submit full details of the terms for default including the other party's name, address, and phone number. Present the vendor's position on the matter. The City will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience.

If the firm has not experienced any such termination for default or early termination in the past five (5) years, so indicate.

**IV. SELECTION CRITERIA**

The following criteria will be considered, although not exclusively, in determining which firm is hired.

1. References - (5%)
2. Price Proposal - (15%)

3. Responsiveness of proposal to training needs identified in Section II of the RFP, including: - (25%)
  - Trainings are aimed at goals of RFP
  - Proposed trainings are impactful and able to support staff taking risks
  - Trainings support various learning styles and use multiple modalities to enhance learning
4. Demonstrated history of providing training and consultation with Cultural Humility approaches, practices, models and services - (15%)
5. Experience working with governmental and/or community-based mental health or behavioral health agencies - (10%)
6. Plan for providing assessments, technical assistance and recommending and providing tools and/or processes that will help embed cultural humility processes in the division - (20%)
7. Contractor will use baseline assessment data to measure outcomes at the end of the two-year process - (10%)

A selection panel will be convened of staff, Service Providers and Consumers.

## V. PAYMENT

Invoices: Invoices must be fully itemized, and provide sufficient information for approving payment and audit. Invoices must be accompanied by receipt for services in order for payment to be processed. Mail invoices to the Project Manager and reference the contract number.

City of Berkeley  
Mental Health Division  
3282 Adeline Street  
Berkeley, CA 94703  
Attn: **Barbara Ann White/HHCS**

Payments: The City will make payment to the vendor within 30- days of receipt of a correct and complete invoice.

## VI. CITY REQUIREMENTS

### A. Non-Discrimination Requirements:

Ordinance No. 5876-N.S. codified in B.M.C. Chapter 13.26 states that, for contracts worth more than \$3,000 bids for supplies or bids or proposals for services shall include a completed Workforce Composition Form. Businesses with fewer than five employees are exempt from submitting this form. (See B.M.C. 13.26.030)

Under B.M.C. section 13.26.060, the City may require any bidder or vendor it believes may have discriminated to submit a Non-Discrimination Program. The Contract Compliance Officer will make this determination. This applies to all contracts and all consultants (contractors). Berkeley Municipal Code section 13.26.070 requires that all contracts with the City contain a non-discrimination clause, in which the contractor agrees not to discriminate and allows the City access to records necessary to monitor compliance. This section also applies to all contracts and all consultants. **Bidders must submit the attached Non-Discrimination Disclosure Form with their proposal**

### B. Nuclear Free Berkeley Disclosure Form:

Berkeley Municipal Code section 12.90.070 prohibits the City from granting contracts to companies that knowingly engage in work for nuclear weapons. This contracting prohibition may be waived if the City Council determines that no reasonable alternative exists to doing business with a company that engages in nuclear weapons work. If your company engages in work for nuclear weapons, explain on the Disclosure Form the nature of such work. **Bidders must submit the attached Nuclear Free Disclosure Form with their proposal.**

### C. Oppressive States:

The City of Berkeley prohibits granting of contracts to firms that knowingly provide personal services to specified Countries. This contracting prohibition may be waived if the City Council determines that no reasonable alternative exists to doing business with a company that is covered by City Council Resolution No. 59,853-N.S. If your company or any subsidiary is covered, explain on the Disclosure Form the nature of such work. **Bidders must submit the attached Oppressive States Disclosure Form with their proposal.**

**D. Conflict of Interest:**

In the sole judgment of the City, any and all proposals are subject to disqualification on the basis of a conflict of interest. The City may not contract with a vendor if the vendor or an employee, officer or director of the proposer's firm, or any immediate family member of the preceding, has served as an elected official, employee, board or commission member of the City who influences the making of the contract or has a direct or indirect interest in the contract.

Furthermore, the City may not contract with any vendor whose income, investment, or real property interest may be affected by the contract. The City, at its sole option, may disqualify any proposal on the basis of such a conflict of interest. **Please identify any person associated with the firm that has a potential conflict of interest.**

**E. Berkeley Living Wage Ordinance:**

Chapter 13.27 of the Berkeley Municipal Code requires that contractors offer all eligible employees with City mandated minimum compensation during the term of any contract that may be awarded by the City. If the Contractor is not currently subject to the Living Wage Ordinance, cumulative contracts with the City within a one-year period may subject Contractor to the requirements under B.M.C. Chapter 13.27. A certification of compliance with this ordinance will be required upon execution of a contract. The Living Wage rate is currently \$14.97 (if medical benefits are provided) or \$17.45 (if medical benefits are not provided). The Living Wage rate is adjusted automatically effective June 30<sup>th</sup> of each year commensurate with the corresponding increase in the Consumer Price Index published in April of each year. If the Living Wage rate is adjusted during the term of your agreement, you must pay the new adjusted rate to all eligible employees, regardless of what the rate was when the contract was executed.

**F. Berkeley Equal Benefits Ordinance:**

Chapter 13.29 of the Berkeley Municipal Code requires that contractors offer domestic partners the same access to benefits that are available to spouses. A certification of compliance with this ordinance will be required upon execution of a contract.

**G. Statement of Economic Interest:**

The City's Conflict of Interest Code designates "consultants" as a category of persons who must complete Form 700, Statement of Economic Interest, at the beginning of the contract period and again at the termination of the contract. The selected contractor will be required to complete the Form 700 before work may begin.

**VII. OTHER REQUIREMENTS**

**A. Insurance**

The selected contractor will be required to maintain general liability insurance in the minimum amount of \$2,000,000, automobile liability insurance in the minimum amount of \$1,000,000 and a professional liability insurance policy in the amount of \$2,000,000 to cover any claims arising out of the performance of the contract. The general liability and automobile insurance must name the City, its officers, agents, volunteers and employees as additional insureds.

**B. Worker’s Compensation Insurance:**

A selected contractor who employs any person shall maintain workers' compensation insurance in accordance with state requirements. Sole proprietors with no employees are not required to carry Worker’s Compensation Insurance.

**C. Business License**

Virtually every contractor that does business with the City must obtain a City business license as mandated by B.M.C. Ch. 9.04. The business license requirement applies whether or not the contractor has an office within the City limits. However, a "casual" or "isolated" business transaction (B.M.C. section 9.04.010) does not subject the contractor to the license tax. Warehousing businesses and charitable organizations are the only entities specifically exempted in the code from the license requirement (see B.M.C. sections, 9.04.295 and 9.04.300). Non-profit organizations are granted partial exemptions (see B.M.C. section 9.04.305). Persons who, by reason of physical infirmity, unavoidable misfortune, or unavoidable poverty, may be granted an exemption of one annual free license at the discretion of the Director of Finance. (see B.M.C. sections 9.04.290).

Vendor must apply for a City business license and show proof of application to Purchasing Manager within seven days of being selected as intended contractor.

The Customer Service Division of the Finance Department located at 1947 Center Street, Berkeley, CA 94704, issues business licenses. Contractors should contact this division for questions and/or information on obtaining a City business license, in person, or by calling 510-981-7200.

**D. Recycled Paper**

**All reports to the City shall be on recycled paper that contains at least 50% recycled product** when such paper is available at a cost of not greater than ten percent more than the cost of virgin paper, and when such paper is available at the time it is required. If recycled paper is not available the Contractor shall use white paper. Written reports or studies shall be *printed on both sides of the page* whenever practical.

**E. State Prevailing Wage:**

Certain labor categories under this project may be subject to prevailing wages as identified in the State of California Labor Code commencing in Section 1770 et. seq. These labor categories, when employed for any “work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work,” constitute a “Public Work” within the definition of Section 1720(a)(1) of the California Labor Code requiring payment of prevailing wages.

Wage information is available through the California Division of Industrial Relations web site at: [http://www.dir.ca.gov/OPRL/statistics\\_and\\_databases.html](http://www.dir.ca.gov/OPRL/statistics_and_databases.html)

**VIII. SCHEDULE (dates are subject to change)**

- Issue RFP to potential bidders (Re-Issued) 8/30/18
- Questions Due 9/12/18
- Proposals due from potential bidders 9/19/18
- Complete Selection Process 9/26/18
- Council Approval of Contract (over \$50k) 11/27/18
- Award of Contract 11/28/18



- |                                                    |          |
|----------------------------------------------------|----------|
| <input type="checkbox"/> Sign and Process Contract | 12/14/18 |
| <input type="checkbox"/> Notice to proceed         | 11/15/18 |

Thank you for your interest in working with the City of Berkeley for this service. We look forward to receiving your proposal.

Attachments:

- |                                                 |              |
|-------------------------------------------------|--------------|
| • Check List of Required items for Submittal    | Attachment A |
| • Non-Discrimination/Workforce Composition Form | Attachment B |
| • Nuclear Free Disclosure Form                  | Attachment C |
| • Oppressive States Form                        | Attachment D |
| • Living Wage Form                              | Attachment E |
| • Equal Benefits Certification of Compliance    | Attachment F |
| • Right to Audit Form                           | Attachment G |
| • Insurance Endorsement                         | Attachment H |

## ATTACHMENT A

### **CHECKLIST**

- Proposal describing service (one (1) unbound original and three (3) additional unbound copies.
- Contractor Identification and Company Information
- Client References
- Costs proposal by task, type of service & personnel
- The following forms, completed and **signed in blue ink** (attached):
  - Non-Discrimination/Workforce Composition Form Attachment B
  - Nuclear Free Disclosure Form Attachment C
  - Oppressive States Form Attachment D
  - Living Wage Form (*may be optional*) Attachment E
  - Equal Benefits Ordinance Certification of Compliance (EBO-1) Attachment F

### **ADDITIONAL SUBMITTALS REQUIRED FROM SELECTED VENDOR AFTER COUNCIL APPROVAL TO AWARD CONTRACT.**

- Provide **original-signed in blue ink** Evidence of Insurance
  - Auto
  - Liability
  - Worker's Compensation
- Right to Audit Form Attachment G
- Commercial General & Automobile Liability Endorsement Form Attachment H
- Berkeley Business License

**For informational purposes only: Sample of Personal Services Contract can be found on the City's website on the current bid and proposal page at the top of the page.**

**NON-DISCRIMINATION/WORKFORCE COMPOSITION FORM FOR NON-CONSTRUCTION CONTRACTS**

To assist the City of Berkeley in implementing its Non-Discrimination policy, it is requested that you furnish information regarding your personnel as requested below and return it to the City Department handling your contract:

Organization: \_\_\_\_\_  
Address: \_\_\_\_\_  
Business Lic. #: \_\_\_\_\_

| Occupational Category:<br><br>(See reverse side for explanation of terms) | Total Employees         |      | White Employees |      | Black Employees |      | Asian Employees |      | Hispanic Employees |      | Other Employees |      |
|---------------------------------------------------------------------------|-------------------------|------|-----------------|------|-----------------|------|-----------------|------|--------------------|------|-----------------|------|
|                                                                           | Female                  | Male | Female          | Male | Female          | Male | Female          | Male | Female             | Male | Female          | Male |
|                                                                           | Official/Administrators |      |                 |      |                 |      |                 |      |                    |      |                 |      |
| Professionals                                                             |                         |      |                 |      |                 |      |                 |      |                    |      |                 |      |
| Technicians                                                               |                         |      |                 |      |                 |      |                 |      |                    |      |                 |      |
| Protective Service Workers                                                |                         |      |                 |      |                 |      |                 |      |                    |      |                 |      |
| Para-Professionals                                                        |                         |      |                 |      |                 |      |                 |      |                    |      |                 |      |
| Office/Clerical                                                           |                         |      |                 |      |                 |      |                 |      |                    |      |                 |      |
| Skilled Craft Workers                                                     |                         |      |                 |      |                 |      |                 |      |                    |      |                 |      |
| Service/Maintenance                                                       |                         |      |                 |      |                 |      |                 |      |                    |      |                 |      |
| Other (specify)                                                           |                         |      |                 |      |                 |      |                 |      |                    |      |                 |      |
| Totals:                                                                   |                         |      |                 |      |                 |      |                 |      |                    |      |                 |      |

Is your business MBE/WBE/DBE certified? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, by what agency? \_\_\_\_\_

If yes, please specify: Male: \_\_\_\_\_ Female: \_\_\_\_\_ Indicate ethnic identifications: \_\_\_\_\_

Do you have a Non-Discrimination policy? Yes: \_\_\_\_\_ No: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Verified by: \_\_\_\_\_ Date: \_\_\_\_\_

City of Berkeley Contract Compliance Officer

## Occupational Categories

**Officials and Administrators** - Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or provide specialized consultation on a regional, district or area basis. Includes: department heads, bureau chiefs, division chiefs, directors, deputy superintendents, unit supervisors and kindred workers.

**Professionals** - Occupations that require specialized and theoretical knowledge that is usually acquired through college training or through work experience and other training that provides comparable knowledge. Includes: personnel and labor relations workers, social workers, doctors, psychologists, registered nurses, economists, dietitians, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers or instructors, and kindred workers.

**Technicians** - Occupations that require a combination of basic scientific or technical knowledge and manual skill that can be obtained through specialized post-secondary school education or through equivalent on-the-job training. Includes: computer programmers and operators, technical illustrators, highway technicians, technicians (medical, dental, electronic, physical sciences) and kindred workers.

**Protective Service Workers** - Occupations in which workers are entrusted with public safety, security and protection from destructive forces. Includes: police officers, fire fighters, guards, sheriffs, bailiffs, correctional officers, detectives, marshals, harbor patrol officers, and kindred workers.

**Para-Professionals** - Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which usually requires less formal training and/or experience normally required for professional or technical status. Such positions may fall within an identified pattern of a staff development and promotion under a "New Transporters" concept. Includes: library assistants, research assistants, medical aides, child support workers, police auxiliary, welfare service aides, recreation assistants, homemaker aides, home health aides, and kindred workers.

**Office and Clerical** - Occupations in which workers are responsible for internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office. Includes: bookkeepers, messengers, office machine operators, clerk-typists, stenographers, court transcribers, hearings reporters, statistical clerks, dispatchers, license distributors, payroll clerks, and kindred workers.

**Skilled Craft Workers** - Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Includes: mechanics and repairpersons, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, compositors and typesetters, and kindred workers.

**Service/Maintenance** - Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of buildings, facilities or grounds of public property. Workers in this group may operate machinery. Includes: chauffeurs, laundry and dry cleaning operatives, truck drivers, bus drivers, garage laborers, custodial personnel, gardeners and groundskeepers, refuse collectors, and construction laborers.

**CITY OF BERKELEY**  
**Nuclear Free Zone Disclosure Form**

I (we) certify that:

1. I am (we are) fully cognizant of any and all contracts held, products made or otherwise handled by this business entity, and of any such that are anticipated to be entered into, produced or handled for the duration of its contract(s) with the City of Berkeley. (To this end, more than one individual may sign this disclosure form, if a description of which type of contracts each individual is cognizant is attached.)
2. I (we) understand that Section 12.90.070 of the Nuclear Free Berkeley Act (Berkeley Municipal Code Ch. 12.90; Ordinance No. 5784-N.S.) prohibits the City of Berkeley from contracting with any person or business that knowingly engages in work for nuclear weapons.
3. I (we) understand the meaning of the following terms as set forth in Berkeley Municipal Code Section 12.90.130:

"Work for nuclear weapons" is any work the purpose of which is the development, testing, production, maintenance or storage of nuclear weapons or the components of nuclear weapons; or any secret or classified research or evaluation of nuclear weapons; or any operation, management or administration of such work.

"Nuclear weapon" is any device, the intended explosion of which results from the energy released by reactions involving atomic nuclei, either fission or fusion or both. This definition of nuclear weapons includes the means of transporting, guiding, propelling or triggering the weapon if and only if such means is destroyed or rendered useless in the normal propelling, triggering, or detonation of the weapon.

"Component of a nuclear weapon" is any device, radioactive or non-radioactive, the primary intended function of which is to contribute to the operation of a nuclear weapon (or be a part of a nuclear weapon).

4. Neither this business entity nor its parent nor any of its subsidiaries engages in work for nuclear weapons or anticipates entering into such work for the duration of its contract(s) with the City of Berkeley.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Business Entity: \_\_\_\_\_

Contract Description/Specification No: 18-11230-C (Re-Issued)/Cultural Humility Consultant

**Attachment C**

**CITY OF BERKELEY**  
**Oppressive States Compliance Statement**

The undersigned, an authorized agent of \_\_\_\_\_ (hereafter "Vendor"), has had an opportunity to review the requirements of Berkeley City Council Resolution No. 59,853-N.S. (hereafter "Resolution"). Vendor understands and agrees that the City may choose with whom it will maintain business relations and may refrain from contracting with those Business Entities which maintain business relationships with morally repugnant regimes. Vendor understands the meaning of the following terms used in the Resolution:

"Business Entity" means "any individual, firm, partnership, corporation, association or any other commercial organization, including parent-entities and wholly-owned subsidiaries" (to the extent that their operations are related to the purpose of the contract with the City).

"Oppressive State" means: **Tibet Autonomous Region and the Provinces of Abo, Kham and U-Tsang**

"Personal Services" means "the performance of any work or labor and shall also include acting as an independent contractor or providing any consulting advice or assistance, or otherwise acting as an agent pursuant to a contractual relationship."

Contractor understands that it is not eligible to receive or retain a City contract if at the time the contract is executed, or at any time during the term of the contract it provides Personal Services to:

- a. The governing regime in any Oppressive State.
- b. Any business or corporation organized under the authority of the governing regime of any Oppressive State.
- c. Any person for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

Vendor further understands and agrees that Vendor's failure to comply with the Resolution shall constitute a default of the contract and the City Manager may terminate the contract and bar Vendor from bidding on future contracts with the City for five (5) years from the effective date of the contract termination.

The undersigned is familiar with, or has made a reasonable effort to become familiar with, Vendor's business structure and the geographic extent of its operations. By executing the Statement, Vendor certifies that it complies with the requirements of the Resolution and that if any time during the term of the contract it ceases to comply, Vendor will promptly notify the City Manager in writing.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Business Entity: \_\_\_\_\_

Contract Description/Specification No.: 18-11230-C (Re-Issued)/Cultural Humility Consultant

I am unable to execute this Statement; however, Vendor is exempt under Section VII of the Resolution. I have attached a separate statement explaining the reason(s) Vendor cannot comply and the basis for any requested exemption.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**CITY OF BERKELEY**  
**Living Wage Certification for Providers of Services**

**TO BE COMPLETED BY ALL PERSONS OR ENTITIES ENGAGING IN A CONTRACT FOR PERSONAL SERVICES WITH THE CITY OF BERKELEY.**

The Berkeley Municipal Code Chapter 13.27, Berkeley's Living Wage Ordinance (LWO), provides that contractors who engage in a specified amount of business with the City (except where specifically exempted) under contracts which furnish services to or for the City in any twelve (12) month period of time shall comply with all provisions of this Ordinance. The LWO requires a City contractor to provide City mandated minimum compensation to all eligible employees, as defined in the Ordinance. In order to determine whether this contract is subject to the terms of the LWO, please respond to the questions below. Please note that the LWO applies to those contracts where the contractor has achieved a cumulative dollar contracting amount with the City. Therefore, even if the LWO is inapplicable to this contract, subsequent contracts may be subject to compliance with the LWO. Furthermore, the contract may become subject to the LWO if the status of the Contractor's employees change (i.e. additional employees are hired) so that Contractor falls within the scope of the Ordinance.

**Section I.**

**1. IF YOU ARE A FOR-PROFIT BUSINESS, PLEASE ANSWER THE FOLLOWING QUESTIONS**

a. During the previous twelve (12) months, have you entered into contracts, including the present contract, bid, or proposal, with the City of Berkeley for a cumulative amount of \$25,000.00 or more?

YES \_\_\_\_\_ NO \_\_\_\_\_

If **no**, this contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If **yes**, please continue to question **1(b)**.

b. Do you have six (6) or more employees, including part-time and stipend workers?

YES \_\_\_\_\_ NO \_\_\_\_\_

If you have answered, "YES" to questions 1(a) and 1(b) this contract **IS** subject to the LWO. If you responded "NO" to 1(b) this contract **IS NOT** subject to the LWO. **Please continue to Section II.**

**2. IF YOU ARE A NON-PROFIT BUSINESS, AS DEFINED BY SECTION 501(C) OF THE INTERNAL REVENUE CODE OF 1954, PLEASE ANSWER THE FOLLOWING QUESTIONS.**

a. During the previous twelve (12) months, have you entered into contracts, including the present contract, bid or proposal, with the City of Berkeley for a cumulative amount of \$100,000.00 or more?

YES \_\_\_\_\_ NO \_\_\_\_\_

If no, this Contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If yes, please continue to question 2(b).

b. Do you have six (6) or more employees, including part-time and stipend workers?

YES \_\_\_\_\_ NO \_\_\_\_\_

If you have answered, "YES" to questions 2(a) and 2(b) this contract **IS** subject to the LWO. If you responded "NO" to 2(b) this contract **IS NOT** subject to the LWO. **Please continue to Section II.**

**Section II**

**Please read, complete, and sign the following:**

THIS CONTRACT **IS** SUBJECT TO THE LIVING WAGE ORDINANCE.

THIS CONTRACT **IS NOT** SUBJECT TO THE LIVING WAGE ORDINANCE.

**Attachment E**

The undersigned, on behalf of himself or herself individually and on behalf of his or her business or organization, hereby certifies that he or she is fully aware of Berkeley's Living Wage Ordinance, and the applicability of the Living Wage Ordinance, and the applicability of the subject contract, as determined herein. The undersigned further agrees to be bound by all of the terms of the Living Wage Ordinance, as mandated in the Berkeley Municipal Code, Chapter 13.27. If, at any time during the term of the contract, the answers to the questions posed herein change so that Contractor would be subject to the LWO, Contractor will promptly notify the City Manager in writing. Contractor further understands and agrees that the failure to comply with the LWO, this certification, or the terms of the Contract as it applies to the LWO, shall constitute a default of the Contract and the City Manager may terminate the contract and bar Contractor from future contracts with the City for five (5) years from the effective date of the Contract termination. If the contractor is a for-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees who spend 25% or more of their compensated time engaged in work directly related to the contract with the City. If the contractor is a non-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees who spend 50% or more of their compensated time engaged in work directly related to the contract with the City.

These statements are made under penalty of perjury under the laws of the state of California.

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Business Entity: \_\_\_\_\_

Contract Description/Specification No: 18-11230-C (Re-Issued)/Cultural Humility Consultant

**Section III**

- 
- **\*\* FOR ADMINISTRATIVE USE ONLY -- PLEASE PRINT CLEARLY \*\***

I have reviewed this Living Wage Certification form, in addition to verifying Contractor's total dollar amount contract commitments with the City in the past twelve (12) months, and determined that this Contract IS / IS NOT (circle one) subject to Berkeley's Living Wage Ordinance.

\_\_\_\_\_  
Department Name

\_\_\_\_\_  
Department Representative



To be completed by  
Contractor/Vendor



**Form EBO-1  
CITY OF BERKELEY**

**CERTIFICATION OF COMPLIANCE WITH EQUAL BENEFITS ORDINANCE**

If you are a **contractor**, return this form to the originating department/project manager. If you are a **vendor** (supplier of goods), return this form to the Purchasing Division of the Finance Dept.

**SECTION 1. CONTRACTOR/VENDOR INFORMATION**

|                 |       |             |      |
|-----------------|-------|-------------|------|
| Name:           |       | Vendor No.: |      |
| Address:        | City: | State:      | ZIP: |
| Contact Person: |       | Telephone:  |      |
| E-mail Address: |       | Fax No.:    |      |

**SECTION 2. COMPLIANCE QUESTIONS**

- A. The EBO is inapplicable to this contract because the contractor/vendor has no employees.  
 Yes  No (If "Yes," proceed to Section 5; if "No," continue to the next question.)
- B. Does your company provide (or make available at the employees' expense) any employee benefits?  
 Yes  No  
If "Yes," continue to Question C.  
If "No," proceed to Section 5. (The EBO is not applicable to you.)
- C. Does your company provide (or make available at the employees' expense) any benefits to the spouse of an employee? .....  Yes  No
- D. Does your company provide (or make available at the employees' expense) any benefits to the domestic partner of an employee? .....  Yes  No

**If you answered "No" to both Questions C and D, proceed to Section 5. (The EBO is not applicable to this contract.) If you answered "Yes" to both Questions C and D, please continue to Question E. If you answered "Yes" to Question C and "No" to Question D, please continue to Section 3.**

- E. Are the benefits that are available to the spouse of an employee identical to the benefits that are available to the domestic partner of the employee? .....  Yes  No

**If you answered "Yes,"** proceed to Section 4. (You are in compliance with the EBO.)  
**If you answered "No,"** continue to Section 3.

**SECTION 3. PROVISIONAL COMPLIANCE**

- A. Contractor/vendor is not in compliance with the EBO now but will comply by the following date:
  - By the first effective date after the first open enrollment process following the contract start date, not to exceed two years, if the Contractor submits evidence of taking reasonable measures to comply with the EBO; or
  - At such time that administrative steps can be taken to incorporate nondiscrimination in benefits in the Contractor's infrastructure, not to exceed three months; or
  - Upon expiration of the contractor's current collective bargaining agreement(s).

B. If you have taken all reasonable measures to comply with the EBO but are unable to do so, do you agree to provide employees with a cash equivalent?\* .....  Yes  No

\* The cash equivalent is the amount of money your company pays for spousal benefits that are unavailable for domestic partners.

**SECTION 4. REQUIRED DOCUMENTATION**

At time of issuance of purchase order or contract award, you may be required by the City to provide documentation (copy of employee handbook, eligibility statement from your plans, insurance provider statements, etc.) to verify that you do not discriminate in the provision of benefits.

**SECTION 5. CERTIFICATION**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I am authorized to bind this entity contractually. By signing this certification, I further agree to comply with all additional obligations of the Equal Benefits Ordinance that are set forth in the Berkeley Municipal Code and in the terms of the contract or purchase order with the City.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_  
(State) (City)

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Federal ID or Social Security Number

**FOR CITY OF BERKELEY USE ONLY**

- Non-Compliant (The City may not do business with this contractor/vendor)
- One-Person Contractor/Vendor       Full Compliance       Reasonable Measures
- Provisional Compliance Category, Full Compliance by Date: \_\_\_\_\_
- Staff Name(*Sign and Print*): \_\_\_\_\_ Date: \_\_\_\_\_

**Attachment F**

**CITY OF BERKELEY**  
**Right to Audit Form**

The contractor agrees that pursuant to Section 61 of the Berkeley City Charter, the City Auditor's office may conduct an audit of Contractor's financial, performance and compliance records maintained in connection with the operations and services performed under this contract.

In the event of such audit, Contractor agrees to provide the Auditor with reasonable access to Contractor's employees and make all such financial, performance and compliance records available to the Auditor's office. City agrees to provide Contractor an opportunity to discuss and respond to/any findings before a final audit report is filed.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name & Title: \_\_\_\_\_

Company: \_\_\_\_\_

Contract Description/Specification No: 18-11230-C (Re-Issued)/Cultural Humility Consultant

Please direct questions regarding this form to the Auditor's Office, at (510) 981-6750.

**Attachment G**

**CITY OF BERKELEY**  
**Commercial General and Automobile Liability Endorsement**

The attached Certificates of Insurance are hereby certified to be a part of the following policies having the following expiration dates:

| <b>Policy No.</b> | <b>Company Providing Policy</b> | <b>Expir. Date</b> |
|-------------------|---------------------------------|--------------------|
| _____             | _____                           | _____              |
| _____             | _____                           | _____              |
| _____             | _____                           | _____              |
| _____             | _____                           | _____              |

The scope of the insurance afforded by the policies designated in the attached certificates is not less than that which is afforded by the Insurance Service Organization's or other "Standard Provisions" forms in use by the insurance company in the territory in which coverage is afforded.

Such Policies provide for or are hereby amended to provide for the following:

1. The named insured is \_\_\_\_\_.
2. CITY OF BERKELEY ("City") is hereby included as an additional insured with respect to liability arising out of the hazards or operations under or in connection with the following agreement:  
\_\_\_\_\_.

The insurance provided applies as though separate policies are in effect for both the named insured and City, but does not increase the limits of liability set forth in said policies.

3. The limits of liability under the policies are not less than those shown on the certificate to which this endorsement is attached.
4. Cancellation or material reduction of this coverage will not be effective until thirty (30) days following written notice to \_\_\_\_\_, Department of \_\_\_\_\_, Berkeley, CA.
5. This insurance is primary and insurer is not entitled to any contribution from insurance in effect for City.

The term "City" includes successors and assigns of City and the officers, employees, agents and volunteers.

\_\_\_\_\_  
Insurance Company

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Signature of Underwriter's  
Authorized Representative

Contract Description/Specification No: 18-11230-C (Re-Issued)/Cultural Humility Consultant



Office of the City Manager

CONSENT CALENDAR  
July 9, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director of Parks, Recreation and Waterfront

Subject: Grant Application: The PCA Grant Program for the Marina Blvd Bay Trail Shoreline Vulnerability and Public Access Improvement Project

RECOMMENDATION

Adopt a Resolution:

1. Authorizing the City Manager or her designee to submit a funding application to the Priority Conservation Area (PCA) grant program for \$2 million in federal funds for the Marina Blvd Bay Trail Shoreline Vulnerability and Public Access Improvement Project;
2. Committing local City matching funds in the amount of \$260,000; and
3. Stating the City's assurance as to its ability and intent to complete the project.

FISCAL IMPACTS OF RECOMMENDATION

The total project budget is estimated at \$2,260,000 and funding is comprised of the following: a) a Priority Conservation Area (PCA) grant of \$2 million from the Metropolitan Transportation Commission (MTC); and \$260,000 in local City matching funds that will be budgeted for the project in FY 2021, and appropriated as part of the First Amendment to the FY 2021 Annual Appropriation Ordinance, subject to securing the grant.

CURRENT SITUATION AND ITS EFFECTS

On April 29, 2019, the City was invited to submit an application to the Priority Conservation Area (PCA) grant program of the State Coastal Conservancy and the Metropolitan Transportation Commission (MTC) by July 15, 2019. In order for the funding to be approved by the MTC board, the City is required to adopt a Resolution of Local Support.

BACKGROUND

The shoreline at the northern section of Marina Blvd at the Virginia Street Extension has experienced extensive erosion and is vulnerable to the impacts of sea level rise. The City proposes a project to improve the riprap rock protection at the shoreline, create a formal ADA accessible parking area, and upgrade the Bay Trail to Cesar Chavez Park.

On March 1, 2019, the City submitted a Letter of Interest to the PCA Grant program proposing the Marina Shoreline Public Access Improvement Project. On April 29, 2019, the City was invited to submit a formal application.

ENVIRONMENTAL SUSTAINABILITY

This project will improve the northern section of Marina Blvd at the Virginia Street Extension that is vulnerable to sea level rise and also will provide improved public access to Cesar Chavez Park. This area attracts up to 10,000 visitors to the area per year. This improvement will help foster environmental education and increased stewardship of the Bay.

RATIONALE FOR RECOMMENDATION

In order to receive federal funds from the Metropolitan Transportation Commission, the City is required to adopt a Resolution of Local Support.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Roger Miller, Senior Management Analyst, 981-6704

Attachments:

1: Resolution

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

AUTHORIZING THE FILING OF AN APPLICATION FOR FUNDING ASSIGNED TO MTC AND COMMITTING ANY NECESSARY MATCHING FUNDS AND STATING THE ASSURANCE TO COMPLETE THE PROJECT

WHEREAS, City of Berkeley (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$2 million in funding assigned to MTC for programming discretion, which includes federal funding administered by the Federal Highway Administration (FHWA) and federal or state funding administered by the California Transportation Commission (CTC) such as Surface Transportation Block Grant Program (STP) funding, Congestion Mitigation and Air Quality Improvement (CMAQ) funding, Transportation Alternatives (TA) set-aside/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the Marina Blvd Bay Trail Shoreline Vulnerability and Public Access Improvement Project (herein referred to as PROJECT) for the Priority Conservation Area Program (herein referred to as PROGRAM); and

WHEREAS, the United States Congress from time to time enacts and amends legislation to provide funding for various transportation needs and programs, (collectively, the FEDERAL TRANSPORTATION ACT) including, but not limited to the Surface Transportation Block Grant Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) and the Transportation Alternatives (TA) set-aside (23 U.S.C. § 133); and

WHEREAS, state statutes, including California Streets and Highways Code §182.6, §182.7, and §2381(a)(1), and California Government Code §14527, provide various funding programs for the programming discretion of the Metropolitan Planning Organization (MPO) and the Regional Transportation Planning Agency (RTPA); and

WHEREAS, pursuant to the FEDERAL TRANSPORTATION ACT, and any regulations promulgated thereunder, eligible project sponsors wishing to receive federal or state funds for a regionally-significant project shall submit an application first with the appropriate MPO, or RTPA, as applicable, for review and inclusion in the federal Transportation Improvement Program (TIP); and

WHEREAS, MTC is the MPO and RTPA for the nine counties of the San Francisco Bay region; and

WHEREAS, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of federal funds; and

WHEREAS, APPLICANT is an eligible sponsor for REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, as part of the application for REGIONAL DISCRETIONARY FUNDING, MTC requires a resolution adopted by the responsible implementing agency stating the following:

1. the commitment of any required matching funds; and
2. that the sponsor understands that the REGIONAL DISCRETIONARY FUNDING is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional REGIONAL DISCRETIONARY FUNDING; and
3. that the PROJECT will comply with the procedures, delivery milestones and funding deadlines specified in the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
4. the assurance of the sponsor to complete the project as described in the application, subject to environmental clearance, and if approved, as included in MTC's federal Transportation Improvement Program (TIP); and
5. that the PROJECT will comply with all project-specific requirements as set forth in the PROGRAM; and
6. that the PROJECT will comply with all project-specific requirements as set forth in the PROGRAM; and
7. that APPLICANT has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and
8. in the case of a transit project, the PROJECT will comply with MTC Resolution No. 3866, revised, which sets forth the requirements of MTC's Transit Coordination Implementation Plan to more efficiently deliver transit projects in the region; and
9. in the case of a highway project, the PROJECT will comply with MTC Resolution No. 4104, which sets forth MTC's Traffic Operations System (TOS) Policy to install and activate TOS elements on new major freeway projects; and
10. In the case of an RTIP project, state law requires PROJECT be included in a local congestion management plan, or be consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the countywide transportation agency; and

WHEREAS, that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and

WHEREAS, there is no legal impediment to APPLICANT making applications for the funds; and

WHEREAS, there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and

WHEREAS, APPLICANT authorizes its Executive Director, General Manager, or



designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and

WHEREAS, MTC requires that a copy of this resolution be transmitted to the MTC in conjunction with the filing of the application.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the APPLICANT is authorized to execute and file an application for funding for the PROJECT for REGIONAL DISCRETIONARY FUNDING under the FEDERAL TRANSPORTATION ACT for continued funding.

BE IT FURTHER RESOLVED that the APPLICANT by adopting this resolution does hereby state that:

1. APPLICANT will provide any required matching funds; and
2. APPLICANT understands that the REGIONAL DISCRETIONARY FUNDING for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING; and
3. APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and APPLICANT has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation projects, and has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation projects implemented by APPLICANT; and
4. PROJECT will be implemented as described in the complete application and in this resolution, subject to environmental clearance, and, if approved, for the amount approved by MTC and programmed in the federal TIP; and
5. APPLICANT has reviewed the PROJECT and has adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and
6. PROJECT will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM; and
7. In the case of a transit project, APPLICANT agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution No. 3866, revised; and
8. In the case of a highway project, APPLICANT agrees to comply with the requirements of MTC's Traffic Operations System (TOS) Policy as set forth in MTC Resolution No. 4104; and
9. In the case of an RTIP project, PROJECT is included in a local congestion management plan, or is consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the countywide transportation agency; and

BE IT FURTHER RESOLVED that APPLICANT is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects.

BE IT FURTHER RESOLVED that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT.

BE IT FURTHER RESOLVED that there is no legal impediment to APPLICANT making applications for the funds.

BE IT FURTHER RESOLVED that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT.

BE IT FURTHER RESOLVED that APPLICANT authorizes its Executive Director, General Manager, City Manager or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution.

BE IT FURTHER RESOLVED that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application.

BE IT FURTHER RESOLVED that the MTC is requested to support the application for the PROJECT described in the resolution and to include the PROJECT, if approved, in MTC's federal TIP.

BE IT FURTHER RESOLVED that the City Manager or her designee is authorized to 1) accept the grant; and 2) execute any resultant revenue agreements and amendments.

BE IT FURTHER RESOLVED that the APPLICANT authorizes the implementation of the projects and appropriation of funding for related expenses, and authorizes the expenditure of up to \$260,000 from local City funds as match, subject to securing the grant.

BE IT FURTHER RESOLVED that a record signature copy of said agreements and any amendments to be on file in the APPLICANT'S Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR  
July 9, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront

Subject: Contract: Kitchell for Construction Management Services for the Berkeley Tuolumne Camp Project

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Kitchell in an amount not to exceed \$3,800,000 to provide construction management services for the Berkeley Tuolumne Camp Project for the period July 1, 2019 through December 31, 2022.

FISCAL IMPACTS OF RECOMMENDATION

Funds for the contract are available in the Camps Fund. There is \$2,145,000 included in the FY19 Camps Fund budget (budget code 125-52-543-583-0000-000-461-612330 PRWCP19001). The remaining \$1,655,000 will be included in the first amendment to FY20 Annual Appropriations Ordinance and budgeted in the Camps Fund budget code 125-52-543-583-0000-000-461-612330 PRWCP19001.

The cost of this this contract is covered by a combination of expected insurance payments (partially received), expected FEMA/CalOES grant payments, and City Reserve Funds (authorized on April 4, 2017, Resolution No. 67,889-N.S.).

CURRENT SITUATION AND ITS EFFECTS

In August 2013, the California Rim Fire destroyed the Berkeley Tuolumne Camp (BTC), a 19-acre residential family camp located within the Stanislaus National Forest.

Since the Rim Fire, the City has working in partnership with the U.S. Forest Service and Tuolumne County to stabilize and remove debris and hazardous trees from the site, to develop conceptual plans for reconstruction, to complete public scoping (a required step in National Environmental Protection Act (NEPA) and California Environmental Quality Act (CEQA) compliance), and to develop Master Development Plans and apply for a Special Use Permit which authorizes the re-building of Berkeley Tuolumne Camp. The City has engaged a Planning Consultant (2M Associates) to complete the Project master plan, conceptual design, NEPA and CEQA compliance and permitting support services and a Design Consultant (Siegel & Strain Architects) to complete the detailed design and building permit submittals.

This contract will provide construction management services, including inspections and materials testing, to support the development of bid packages and the construction of the Berkeley Tuolumne Camp.

### BACKGROUND

Berkeley Tuolumne Camp, established in 1922, is a 15-acre property operated under a Special Use Permit with the US Forest Service (USFS). The camp has served primarily as a family camp, but also offered teen leadership programs, adult hiking camps, and private group rental opportunities. Prior to the fire, BTC had the capacity to host approximately 280 campers, 60 staff members, and 10 counselors-in-training at one time, and served over 4,000 campers each year. The major facilities at the Camp included a Dining Hall; a Recreation Hall, 77 small single-story wood-frame camper tent cabins; staff cabins; maintenance and storage structures; a bridge across the river; parking and loading areas, and electric, water supply, and wastewater utilities.

In August of 2013, the Rim Fire destroyed Berkeley Tuolumne Camp (BTC) and in December was declared a federal disaster. The majority of structures at BTC were destroyed by the fire. The property was covered by the City's insurance policy, and insurance proceeds will be the primary source of reconstruction funds. The City has also been awarded a Public Assistance Grant from the Federal Emergency Management Agency (FEMA) and California Office of Emergency Services (CalOES) to partially fund reconstruction.

Since the fire, the City has been working closely with the USFS to complete an updated master plan in order to rebuild Camp. On March 2, 2015, the City received a letter from the USFS formally accepting the City's conceptual proposal for Berkeley Tuolumne Camp rebuild.

The total cost estimate for the Berkeley Tuolumne Camp Rebuild Project is \$60M. This cost will be covered by insurance, FEMA and state grant funding, and City funds. On April 4, 2017, City Council allocated \$3.3M of City funds from the Catastrophic Reserve to fund the City cost share of the reconstruction project (Resolution No. 67,889-N.S.). The City currently anticipates beginning construction in 2019, with a goal to re-open camp in 2021.

On April 19, 2019 the City issued a Request for Proposals for construction management services for the Berkeley Tuolumne Camp Project (Spec No. 19-11300-C). After reviewing two proposals and conducting interviews and reference checks, the selection panel identified Kitchell as the consultant best-suited for the City's needs.

### ENVIRONMENTAL SUSTAINABILITY

The City approved the Project CEQA documents on January 22, 2019. The construction of the Berkeley Tuolumne facilities will demonstrate appropriate restoration of forest landscapes in order to achieve sustainable riverine and upland ecosystems that provide a broad range of benefits to humans and the ecosystem. All construction

activities will implement Best Management Practices (BMPs) to encourage biodiversity, preserve resources, and maintain riparian and other natural habitats. Revegetation and reforestation activities will emphasize enhancing native vegetative cover, minimizing exposed bare soil and erosion, and using Bay-Friendly landscape and irrigation practices to the maximum extent feasible. This project will comply with the City's Climate Action Plan in the following ways: increased energy efficiency in public buildings, and providing a public resource for community outreach and empowerment.

RATIONALE FOR RECOMMENDATION

After reviewing two proposals and conducting reference checks, the selection panel identified Kitchell as the best-suited for the City's needs. Staff therefore recommends Council approval of a contract with Kitchell for construction management services for the Berkeley Tuolumne Camp Reconstruction Project.

ALTERNATIVE ACTIONS CONSIDERED

The City does not have the expertise required to complete the tasks covered by this contract. Therefore no alternative actions were considered.

CONTACT PERSON

Scott Ferris, Director, PRW, 981-6700  
Liza McNulty, Project Manager, PRW, 981-6437

Attachments:  
1: Resolution

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

CONTRACT: KITCHELL FOR CONSTRUCTION MANAGEMENT SERVICES FOR  
THE BERKELEY TUOLUMNE CAMP

WHEREAS, the City has operated the Berkeley Tuolumne Camp, a residential family camp, since 1922 on United States Forest Service land pursuant to a special use permit; and

WHEREAS, in August 2013, the Berkeley Tuolumne Camp was destroyed by the California Rim Fire; and

WHEREAS, on March 2, 2015, the U.S. Forest Service formally accepted the City's conceptual proposal to rebuild Berkeley Tuolumne Camp; and

WHEREAS, on April 19, 2019 the City issued a Request for Proposals for construction management services for the Berkeley Tuolumne Camp Project (Spec No. 19-11300-C). After reviewing two proposals and conducting interviews and reference checks, the selection panel identified Kitchell as the consultant best-suited for the City's needs; and

WHEREAS, funds are available in the Camps Fund. There is \$2,145,000 included in the FY19 Camps Fund budget (budget code 125-52-543-583-0000-000-461-612330 PRWCP19001). The remaining \$1,655,000 will be included in the first amendment to FY20 Annual Appropriations Ordinance and budgeted in the Camps Fund (budget code 125-52-543-583-0000-000-461-612330 PRWCP19001).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute a contract and any amendments with Kitchell in an amount not to exceed \$3,800,000 for construction management services for the Berkeley Tuolumne Camp Project for the period July 1, 2019 through December 31, 2022. A record signature copy of said agreements and any amendments to be on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR  
July 9, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Phillip L. Harrington, Director, Public Works  
 Subject: Contract No. 9488C Amendment for Berry Brothers Towing for Towing Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9488C with Berry Brothers Towing, to provide towing services for Department of Public Works Equipment Maintenance Division; increasing the contract amount by \$70,000 for an amended total not to exceed \$180,000 and extending the contract term to June 30, 2021.

FISCAL IMPACTS OF RECOMMENDATION

Funding for Fiscal Years 2020 and 2021 is subject to appropriation in the FY 2020 and FY 2021 budgets in the Equipment Maintenance; Fund (672).

| Fiscal Year                                |        | Amount    |
|--------------------------------------------|--------|-----------|
| Original Contract NTE Amount FY2014        |        | \$30,000  |
| First Amended Amount January 2015 / FY2016 |        | \$10,000  |
| Second Amended Amount April 2015 / FY2016  |        | \$50,000  |
| Third Amended Amount July 2018 / FY2019    |        | \$20,000  |
| This Contract Amendment Amount             | FY2020 | \$35,000  |
|                                            | FY2021 | \$35,000  |
| Total Revised Contract NTE                 |        | \$180,000 |

This Contract Amendment is entered in the City's contract management system as CMS No. RWKK7.

CURRENT SITUATION AND ITS EFFECTS

The City Manager authorized a \$30,000 contract with Berry Brothers Towing for the period October 1, 2013 through September 30, 2015; Contract No. 9488.

On March 12, 2015, the City Manager authorized an amendment to Contract No. 9488, increasing the contract by \$10,000, for a revised contract total not-to-exceed amount of \$40,000.

Due to increased demands for towing and emergency services for the City's larger equipment and vehicles, on April 28, 2015, by Resolution No. 66,997-N.S., City Council authorized an amendment to Contract No. 9488, increasing the contract by \$50,000, for a

revised contract total not-to-exceed amount of \$90,000, and extending the contract term through June 30, 2017. The contract term was further extended through December 31, 2018 by authorization of the City Manager's letter dated June 15, 2017.

On July 11, 2017, by Resolution No. 68,083-N.S., City Council authorized an amendment to Contract No. 9488, increasing the contract by \$20,000, for a revised contract total not-to-exceed amount of \$110,000 and extending the contract term through June 30, 2019. The contract term was further extended through June 30, 2021 by authorization of the City Manager's letter dated May 31, 2019.

This current proposed contract amendment will increase the contract by \$70,000 for a new contract total not to exceed amount of \$180,000.

This contract supports the Strategic Plan Goal of providing a state-of-the-art, well-maintained infrastructure, amenities and facilities.

#### BACKGROUND

Berry Brothers Towing is one of four towing service companies selected through an competitive process with a request for proposals conducted in 2013 with Specification No. 13-10726-C. Berry Brothers Towing is equipped to tow the City's larger fleet equipment and vehicles such as Fire and Refuse trucks. Additionally they are available for On-Call Standard towing services twenty-four hours a day, seven days a week. They have provided reliable, consistently satisfactory towing services over the life of this contract.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report. This contract increase is needed for additional towing and emergency services of the City's large equipment and fleet vehicles anticipated in FY2020 and FY2021.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CONTACT PERSON

Greg Ellington, Equipment Maintenance Superintendent, Public Works (510) 981-6469

Attachments:

1: Resolution



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

CONTRACT NO. 9488C AMENDMENT BERRY BROTHERS TOWING TOWING SERVICES FOR CITY EQUIPMENT AND FLEET VEHICLES

WHEREAS, the services provided by Berry Brothers Towing are needed by the Department of Public Works Equipment Maintenance Division for towing of large fleet equipment and vehicles; and

WHEREAS, Berry Brothers Towing was selected through a request for proposals conducted by the City of Berkeley Police Department in 2013, (Specification No. 13-10726-C); and

WHEREAS, the City Manager authorized an amendment to Contract No. 9488 increasing the contract by \$10,000 to fund services for the period October 1, 2013 through September 30, 2015; and

WHEREAS, on April 28, 2015, by Resolution No. 66,997-N.S., City Council authorized amendment of Contract No. 9488A, increasing the contract by \$50,000 for a revised total not-to-exceed amount of \$90,000 and extending the contract term to June 30, 2017; further extended to December 31, 2018 by authorization of the City Manager's letter dated June 15, 2017; and

WHEREAS, on July 11, 2018, by Resolution No. 68,083-N.S., City Council authorized amendment of Contract No. 9488B, increasing the contract by \$20,000 for a revised total not-to-exceed amount of \$110,000 and extending the contract term to June 30, 2019; and

WHEREAS, by authorization of the City Manager's letter dated May 31, 2019, the contract term was extended to June 30, 2021; and

WHEREAS, funding for this contract amendment for FY2020 has been allocated in the FY2020 Equipment Maintenance Fund 672; and funding for FY2021 is subject to appropriation in the FY2021 budget for Equipment Maintenance Fund 672; and this contract amendment has been entered into the contract management database (CMS) with No. RWKK7.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 9488C with Berry Brothers Towing, to provide towing services for the City's Fleet equipment and vehicles; increasing the contract \$70,000 for a new total contract not-to-exceed amount of \$180,000 and extending the contract term to June 30, 2021. A record copy of the contract and amendment is to be on file with the City Clerk.





Commission on the  
Status of Women

CONSENT CALENDAR  
July 9, 2019

To: Honorable Mayor and Members of the City Council  
 From: Commission on the Status of Women  
 Submitted by: Juliet Leftwich, Chairperson, Commission on the Status of Women  
 Subject: Gender Pay Equity Salary Negotiation Workshop

RECOMMENDATION

Adopt a Resolution authorizing the Commission on the Status of Women to sponsor a gender pay equity salary negotiation workshop, and provide \$900 in funding for the event.

FISCAL IMPACTS OF RECOMMENDATION

\$900.

CURRENT SITUATION AND ITS EFFECTS

Women are consistently paid less than men in almost every occupation. The persistent disparity in pay between men and women is known as the gender wage gap. In California, women earn only 84 cents for every dollar earned by men, collectively losing over \$33.6 billion dollars each year to the gender wage gap. If the wage gap remains the same, the average woman in California could lose \$228,160 to pay inequity over the course of her lifetime.<sup>1</sup> In Berkeley, the pay gap is especially high; on average, women here earn only 71 cents for every dollar earned by men.<sup>2</sup>

At the May 22, 2019 meeting, the Commission took the following action:  
 M/S/C: (Lake/Howard) to approve the council item requesting funds for an Equal Pay Workshop.

Ayes: Campbell, Howard, Hughes, Lake, Leftwich, Verma

Absent: None

Excused: Freedman, Lu, Shanoski

BACKGROUND

The Commission on the Status of Women seeks to host a salary negotiation workshop for Berkeley women at the beginning of their careers. We have selected a curriculum created by the American Association of University Women, "Start Smart."<sup>3</sup> This two-hour

<sup>1</sup> <https://nwlc.org/resources/the-lifetime-wage-gap-by-state-for-women-overall/>

<sup>2</sup> U.S. Bureau of Labor Statistics, provided by the Department of Labor, Women's Bureau (2015).

<sup>3</sup> <https://salary.aauw.org/start-smart/>

workshop is designed to help students entering the job market learn the negotiation skills that they need. Similar workshops are being hosted this year in San Francisco through their Department on the Status of Women.

We plan to host our workshop at Berkeley City College's auditorium. We are aiming to host the workshop in the fall to maximize student participation. We will reach out to all local colleges and universities to advertise the workshop.

We request that you authorize the Commission on the Status of Women to hold the workshop, and provide \$900 in funding for the event. The American Association of University Women curriculum fee is \$750. We are requesting \$150 for publicity and incidentals.

ENVIRONMENTAL SUSTAINABILITY

No environmental impact.

RATIONALE FOR RECOMMENDATION

Gender wage gaps begin early - for many women, beginning with their first job. Over time, these gaps grow and compound, costing women hundreds of thousands of dollars of lost earnings over their lifetimes. By teaching negotiation skills to women early in their careers, we can help women to advocate for themselves and work to reduce the gender pay gap.

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered.

CITY MANAGER

The City Manager takes no position on the content and recommendations of the commission's report.

CONTACT PERSON

Shallon Allen, Secretary, Commission on the Status of Women, 510-981-7071

Attachments:

1: Resolution

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

Gender Pay Equity Salary Negotiation Workshop

WHEREAS, the City of Berkeley Commission on the Status of Women advocates for the rights of all employees to receive pay without discrimination;

WHEREAS, women in Berkeley earn an average of 71 cents for every dollar earned by men;

WHEREAS, gender pay inequities begin for women as early as their first job;

WHEREAS, negotiation skills may help to mitigate some gender wage gaps, though they are only one part of the solution to pay inequity;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that \$900.00 will be provided to fund a seminar on salary negotiation for women in Berkeley, to be organized by the City of Berkeley Commission on the Status of Women.





Rashi Kesarwani  
Councilmember District 1

CONSENT CALENDAR  
July 9th, 2019

To: Honorable Mayor and Members of the City Council

From: Council Member Rashi Kesarwani, Vice Mayor Susan Wengraf, and Councilmember Kate Harrison

Subject: City sponsored protest of conditions for children in federal detention centers.

RECOMMENDATION

Request Berkeley City Council support for a protest over conditions for children in federal detention centers at our southern borders. The protest will be held on Saturday, July 13<sup>th</sup> at noon in Civic Center Park.

FISCAL IMPACTS OF RECOMMENDATION

Staff time for additional police presence.

CURRENT SITUATION AND ITS EFFECTS

In alignment with our stated city goals of championing social and racial equity the Berkeley City Council should take a vocal stand against the Trump administration's policies that continue to have devastating physical and emotional effects on the immigrant children separated from their parents who have left their countries in search for better lives for their families.

BACKGROUND

Recent news reports indicate that the conditions for children at federal migration detention centers have only gotten worse. Children are suffering, becoming increasingly ill, and even dying. This is in addition to experiencing mental anguish from being separated from their parents. In the wake of the Trump administration's increased efforts to curtail migration into our country the Berkeley City Council needs to send a clear message that we find the current state of affairs unacceptable. We will not stand by silently while children suffer and immigrants are treated unfairly. The protest is planned for Saturday, July 13<sup>th</sup>, 2019 at noon in Civic Center Park

ENVIRONMENTAL SUSTAINABILITY

None.

CONTACT PERSON

Council Member Rashi Kesarwani, District 1 (510) 981-7110







Cheryl Davila  
Councilmember  
District 2

CONSENT CALENDAR  
July 9, 2019

**To:** Honorable Mayor and Members of the City Council  
**From:** Councilmembers Cheryl Davila, Kate Harrison, and Mayor Jesse Arreguin  
**Subject:** Resolution in Support of AB 392 California Act to Save Lives

RECOMMENDATION

Adopt a resolution in support of AB 392 by Assemblymember Shirley Weber that would bring California Law in line with best policing practices by limiting and redefining the circumstances under which a homicide by a peace officer is deemed justifiable and direct the city clerk or designee to send a letter to our state representatives.

BACKGROUND

State Assembly Bill 392 (AB 392) "California Act To Save Lives" by Assemblymember Weber, proposes to hold police officers accountable who use deadly force that is deemed not "necessary." AB 392 will update California's outdated use of force policies established in 1872, requiring that law enforcement officers use de-escalation tactics whenever possible and avoid using deadly force unless it is the only way to prevent escape, death or serious bodily injury. Existing law authorizes a peace officer to use reasonable force to effect the arrest, to prevent escape, or to overcome resistance.

Under existing law, a homicide committed by a peace officer is justifiable when necessarily committed in arresting a person who has committed a felony and the person is fleeing or resisting such arrest.

AB 392 would redefine the circumstances under which a homicide by a peace officer is deemed justifiable to require that the officer reasonably believes, based on the totality of the circumstances, that deadly force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another person, or to apprehend a fleeing person for a felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless the person is immediately apprehended.

AB 392 further updates and reforms California's use of force policies to decrease police violence by prioritizing de-escalation practices as opposed to lethal force, and changes California's existing law to mandate that lethal force only be used when there are no alternatives

remaining for the officer. Additionally, the new policy would take into account officers' actions leading up to the uses of deadly force, for instance, whether an officers' behaviors escalated the situation. Instituting these common-sense changes to training and use of force policies in jurisdictions such as San Francisco and Seattle, Washington reveals that this training and the elevated threshold for use of deadly force to "necessary" has resulted in fewer civilian deaths at the hands of police officers acting in the line of duty.

Finally, this resolution supports a proposed new state policy that includes the purpose of preventing police violence that disproportionately affects communities of color, specifically Black and Brown communities. In 2017, nearly 50 percent of those killed by police in California were Latino, and more than two-thirds were people of color.

#### FISCAL IMPACTS OF RECOMMENDATION

None

#### ENVIRONMENTAL SUSTAINABILITY

The protection of life under all circumstances is itself an act of environmental sustainability.

#### CONTACT PERSON

Cheryl Davila, Councilmember

District 2

510.981.7120

[cdavila@cityofberkeley.info](mailto:cdavila@cityofberkeley.info)

ATTACHMENT: 1: Resolution

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

A RESOLUTION OF THE COUNCIL OF THE CITY OF BERKELEY, CALIFORNIA, IN SUPPORT OF AB 392 THE CALIFORNIA ACT TO SAVE LIVES

WHEREAS, the Berkeley City Council is in support of State of California legislation that supports and values human life; and

WHEREAS, under California's current law, police officers can use deadly force when necessary to arrest someone who has committed a felony and is fleeing from police; and

WHEREAS, according to figures from the California Department of Justice, California police killed 172 people in 2017, half of whom were unarmed, and several of our state's municipal police departments have among the highest rates of killings in the nation; and

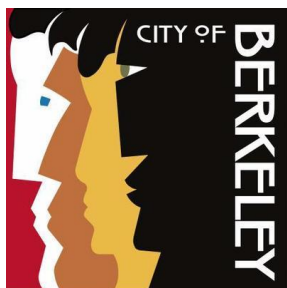
WHEREAS, current law fails to include best practices recommended by law enforcement organizations, including the U.S. Department of Justice under President Obama and most recently, by the California Department of Justice, as being effective in preserving life while also allowing police officers the latitude needed to ensure personal and public safety; and

WHEREAS, police shootings cause extraordinary harm to impacted communities, especially Black and Brown community members; of the 172 killed by California police in 2017, more than two-thirds were people of color, and of those who were completely unarmed, three quarters were people of color; and

WHEREAS California State Assembly Bill 392 (California Act to Save Lives) introduced by Assemblymember Shirley Weber would bring California law in line with best policing practices by limiting and redefining the circumstances under which a homicide by a peace officer is deemed justifiable and necessary to prevent escape, death or serious injury;

NOW, THEREFORE, BE IT RESOLVED that the Berkeley City Council supports AB 392 and directs the City Clerk or designee to convey a copy of this Resolution to Assemblymembers Shirley Weber and Buffy Wicks, Senator Nancy Skinner, members of the State Legislature and Governor Gavin Newsom.





## Councilmember Ben Bartlett

City of Berkeley, District 3  
 2180 Milvia Street, 5<sup>th</sup> Floor  
 Berkeley, CA 94704  
 PHONE 510-981-7130  
 EMAIL: [bbartlett@cityofberkeley.info](mailto:bbartlett@cityofberkeley.info)

### CONSENT CALENDAR

July 9, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Ben Bartlett, Mayor Jesse Arreguin,  
 Councilmember Kate Harrison, and Councilmember Cheryl Davila  
 Subject: Local Construction Workforce Development Policy

#### RECOMMENDATION:

##### Policy Recommendation:

That the City Council refer to the Planning Commission to address the shortage of qualified local construction workers; worker retention, and elevated labor costs through the creation of a construction workforce development policy. This local workforce development policy will encourage housing and nonresidential development applicants to require contractors to utilize apprentices from state-approved, joint labor-management training programs, and to offer employees employer-paid health insurance plans. The policy will help stabilize regional construction markets; and enhance productivity of the construction workforce Berkeley needs to meet its General Plan's build-out goals.

##### Program:

The City should require contractor prequalification for General Plan Area projects of 30,000 square feet or more.

##### Apprenticeship:

Each general contractor and subcontractor (at every tier for the project) will sign a statement stipulating that it participates in a Joint Apprenticeship Program approved by the State of California, Division of Apprenticeship Standards. For each apprenticeable craft a contractor or subcontractor employs on its workforce, the contractor will maintain the ratio of apprentices as required by California Labor Code section 1777.5 which apprentices are enrolled and participating in a Joint Apprenticeship Program approved by the State of California, Division of Apprenticeship Standards.

##### Health Care Coverage:

Each general contractor or subcontractor (at every tier for the project) will sign a statement stipulating to and providing documented proof that the contractor pays at least 75 percent of the cost of the premiums for health insurance at the silver level (as set forth by Covered California) for all its construction craft employees and the employees' dependents and that this coverage has been maintained for 180 consecutive days prior to the submission of the pre-qualification documents (a copy of the Declaration of Insurance Coverage showing the dates of continuous coverage or proof that the Contractor contributes to an Employee Benefit Plan shall qualify) OR

documentary proof that such medical coverage has been offered to employees within 180 days prior to the submission of pre-qualification documents. Any change in coverage must be immediately provided to the City of Berkeley.

#### POLICY COMMITTEE RECOMMENDATION

On May 16, 2019, the Land Use, Housing & Economic Development Committee adopted the following action: M/S/C (Hahn/Arreguin) to send the item to the full Council with a Positive Recommendation. Vote: All Ayes.

#### CURRENT SITUATION:

As the City of Berkeley plans to increase production of housing, commercial buildings, and public facilities, the need for a skilled construction workforce is vital. Shortages of skilled construction workers, particularly residential trades workers, threaten to delay or derail development plans.

The shortages are attributable to factors such as reduced utilization of state-approved apprenticeships, fewer young labor force entrants, dwindling contractor offerings of health and retirement plans, and the related trend of lagging construction productivity growth. These realities have been affecting the land use goals of local jurisdictions. For instance, in San Francisco, many entitled projects with thousands of units awaiting construction are stalled due to skilled labor shortages, diminished contractor productivity, and construction costs that spiked.

The creation and utilization of apprenticeship acts to both recruit and retain an adequate base of construction workers and to be a pipeline for future supervisors and licensed independent contractors. Requiring contractors on major projects in Berkeley to employ apprentices results in a higher volume of apprentice training, and thus, an increase in the construction labor force.

#### BACKGROUND:

In the 1960s, the introduction of a requirement to employ apprentices on public works projects dramatically increased the amount of apprentice training. Later, this allowed for higher amounts of apprentices to be employed in the private sector, helping builders produce over 4.1 million housing units between 1970 and 1989.

More than 96 percent of the 21,000 apprentices in the greater San Francisco Bay Area who were active or completed their state-approved programs between 2013 and 2018 were affiliated with joint apprenticeship programs.

According to the State of California's 2014 Affordable Housing Cost Study and Economic Census data specific to California's construction industry, construction labor wages and benefits account for only 15% of total project costs. Meanwhile, since 1992 the industry's basis for profitability has increased 50% more than either construction labor or materials.

Despite this increase in profitability, there is still a disconnect between construction workers to apprenticeship and health insurance plans, resulting in a shrinking supply of labor. This has constrained the construction industry's ability to expand in response to the rising construction needs of California and its many cities.

Thus, it is in the City of Berkeley's economic interest as a land use regulator to support a pipeline of skilled workers to accomplish the construction objectives and policies of the Berkeley General Plan. More specifically, the policy will promote the following Plan's goals:

1) Ensure that Berkeley has an adequate supply of decent housing, living wage jobs, and businesses providing basic goods and services.

2) New housing should be developed to expand housing opportunities in Berkeley to meet the needs of all income groups.

To increase the prospects for successful implementation and build-out goals of the Plan, it is advised that the City adopt the aforementioned local construction workforce development policy.

#### REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

Over 96 percent of the nearly 21,000 apprentices from the greater San Francisco Bay Area who were active or completed their state-approved programs between 2013 and 2018 were affiliated with joint apprenticeship programs.

#### OUTREACH OVERVIEW AND RESULTS

Counsel and recommendations were received from the Building and Construction Trades Council of Alameda County.

#### RATIONALE FOR RECOMMENDATION

The City of Berkeley, along with numerous neighboring cities, school districts, special districts and the state of California plans to increase production of housing, commercial buildings, and/or public facilities. Shortages of skilled construction workers, however, will likely prevent many cities from achieving these goals. Thus, it is vital for the City to enact this policy in order to increase the construction labor supply to adequate levels for Berkeley's goals.

#### IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

The Planning Commission will create the policy on local construction workforce development which will be enforced by the City.

#### FISCAL IMPACTS OF RECOMMENDATION

Costs associated with administering the prequalification compliance documentation.

#### ENVIRONMENTAL SUSTAINABILITY

No negative impact.

OUTCOMES AND EVALUATION

It is expected that the City Council will refer to the Planning Commission to create a policy requiring contractors to utilize apprentices from state-approved, joint labor-management training programs, and to offer employees employer-paid health insurance plans.

CONTACT PERSON

Councilmember Ben Bartlett  
James Chang

510-981-7130  
510-981-7131





Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
July 9<sup>th</sup>, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmember Kate Harrison, Mayor Jesse Arreguin, Councilmember Ben Bartlett, and Councilmember Cheryl Davila

Subject: Resolution in Support of SB 347 – Sugar-Sweetened Beverages Safety Warning Act

RECOMMENDATION

Adopt a resolution in support of Senate Bill 347, which requires all sugary beverages to have an English-only health warning label IF an amendment is made to the bill requiring pictorial and multilingual health warning labels instead of the proposed English-only label. Send letters of support to Assemblymember Wicks, Senator Skinner, and Governor Newsom.

BACKGROUND

A study by the UCLA Center for Health Policy Research found that sugary beverages are the largest source of added sugar in the diets of both children and adults in the U.S. Although levels have slowly started to decrease in recent years, children and adults consume roughly 150 calories from sugary beverages on any given day. In fact, between 2003 and 2009, the proportion of children consuming at least one sugary drink per day decreased from 49 percent to 26 percent. However, between 2009 and 2013-14, the number increased to 31 percent. These trends are consistent for adolescents as well. Furthermore, consumption of sugary beverages among minority groups, such as African Americans, Latinos, and multiracial youth was much higher compared to Caucasian youth, with 56 percent of African Americans, 50 percent of multiracial youth and 44 percent of Latino youth ages 2-17 drinking one or more sugary beverages per day compared to only 34 percent of Caucasian youth in 2013-14. However, high consumption of sugary beverages leads to several detrimental health consequences, such as higher rates of diabetes, obesity, and other heart problems.

Currently, the Federal Food, Drug, and Cosmetic Act, regulates the quality and packaging of foods introduced or delivered for introduction into interstate commerce and prohibits the misbranding of food. Additionally, the Nutrition Labeling and Education Act of 1990 regulates labeling laws for state and local governments. The state law, the Sherman Food, Drug, and Cosmetic Law regulates misbranded food and provides that any food is misbranded if its labeling does not conform with the requirements for nutrient content or health claims as set forth in the Federal Food, Drug, and Cosmetic

Act and the regulations adopted pursuant to that federal act. Existing law makes a violation of these requirements a crime.

SB 347 furthers these efforts by establishing the Sugar-Sweetened Beverages Safety Warning Act, which would prohibit a person from distributing, selling, or offering for sale a sugar-sweetened beverage in a sealed beverage container, a multipack of sugar-sweetened beverages, or a concentrate in California unless the sealed beverage container, multipack, or packaging of the concentrate has a health warning. The bill also would require every person who owns, leases, or otherwise legally controls the premises where a vending machine or beverage dispensing machine is located, or where a sugar-sweetened beverage is sold in an unsealed container, to place a specified safety warning in certain locations, including on the exterior of any vending machine that includes a sugar-sweetened beverage for sale. While existing law requires a violation of the Sherman Food, Drug, and Cosmetic Law to result in a civil penalty against the violator of less than \$1000 and authorizes the Attorney General to bring an action in a superior court to grant a temporary or permanent injunction restraining a person from the Sherman Food, Drug, and Cosmetic Law, the State Bill would make the first violation a notice violation that informs the recipient that they have an opportunity to remedy the violation without penalty, and a second violation with a civil penalty less than \$500, but greater than \$50. This bill would also create the Sugar-Sweetened Beverages Safety Warning Fund for the receipt of all moneys collected for violations of those and would allocate moneys in this fund, upon appropriation by the Legislature, to the department for the purpose of enforcing those provisions.

FISCAL IMPACTS OF RECOMMENDATION

No impact. Clerk time necessary to send letter.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Kate Harrison, Berkeley City Councilmember, (510) 981-7140

ATTACHMENTS

- 1: Resolution
- 2: Letters

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

RESOLUTION IN SUPPORT OF SB 347 – SUGAR-SWEETENED BEVERAGES  
SAFETY WARNING ACT

WHEREAS, children, adolescents, and adults of all races and ethnicities should be aware of the negative health consequences of sugary beverage consumption

WHEREAS, current federal law doesn't require health warning labels for drinks with added sugar

WHEREAS, the prevalence of obesity, diabetes and other heart problems is rapidly increasing throughout the country

WHEREAS, sugary drinks are the single largest source of added sugar in the U.S. diet

WHEREAS, despite the Federal Food, Drug, and Cosmetic Act and the Sherman Food, Drug, and Cosmetic Law, consumption of sugary beverages remains high

WHEREAS, violation of the current law result in large financial penalties, and focuses on punishment rather than reform

NOW THEREFORE, BE IT RESOLVED that the Berkeley City Council urges Senator Nancy Skinner and Assemblymember Buffy Wicks to support, the California Legislature to pass, and Governor Gavin Newsom to sign into law the California State Bills 347

BE IT FURTHER RESOLVED that copies of this Resolution will be sent to Governor Gavin Newsom, Senator Nancy Skinner, and Assemblymember Buffy Wicks.

The Honorable Bill Monning  
California State Senate  
State Capitol, Room 4040  
Sacramento, CA 95814

**RE: Support SB 347 (Monning) – Sugar-Sweetened Beverages Safety Warning Act  
SUPPORT from the Berkeley City Council IF warning letter is put in multiple  
languages**

Dear Senator Monning,

We, the Berkeley City Council, wish to express our support for SB 347 with one limitation. While the Council does support the concept of a health warning label for sugary beverages, it does not endorse the English-only label that is being proposed. Rather, the Council only supports a label that can be understood by all California residents to ensure equity among different ethnicities and cultures. An example of such a label can be demonstrated by Chile, where the label is shaped like a stop sign and bi-lingual.

California is currently facing a public health crisis due to high rates of diabetes, obesity, cardio-vascular and oral health diseases. Contributing to this crisis is the consumption of sugary drinks, the single leading source of added sugars in the American diet; daily consumption doubles the risk of tooth decay and increases the risk of obesity by 55 percent and diabetes by 26 percent. Public Health Advocates estimates that California will face 1.9 million new diagnoses of type-2 diabetes within five years and new annual health care costs of \$15 billion, if action is not taken.

In 2014, 76% of voters of Berkeley, California passed the first sugary drink tax in the country to deal with this crisis. Over the last four fiscal years, the Berkeley City Council has invested over \$5 million to school based garden programs, nutrition education for Head Start programs, oral health for low-income patients, and community education in an effort to promote healthier beverage choices among high school students, African American families, Latinx immigrants and the general population of Berkeley. In the next two fiscal years, the Council is emphasizing policy, systems and environmental (PSE) approaches that will support healthy beverage choices in Berkeley, including a local healthy checkout ordinance, policy changes in local institutions and increased access to clean drinking water.

From the Council's experience as the front runners in the California movement, we strongly support pictorial and multi-lingual warning labels that would advise consumers of various backgrounds of the health risks associated with consumption of sugary beverages. We believe that this first step to regulate sugary drinks would greatly benefit all California children, especially children of color who are disproportionately targeted by the beverage companies.

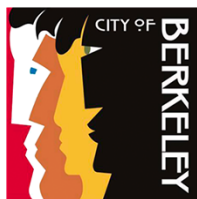
Thank you for your leadership on this reform to promote healthy consumption habits.

Sincerely,

Berkeley City Council  
Mayor Arreguin,  
Councilmembers

Cc: Assemblymember Wicks  
Senator Skinner  
Governor Newsom





CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

CONSENT CALENDAR  
 July 9, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmembers Rigel Robinson and Kate Harrison  
 Subject: Opposition to SB 386 (California Renewables Portfolio Standard Program: irrigation districts)

RECOMMENDATION

Send a letter to Senator Caballero, Senator Skinner, and Assemblymember Wicks opposing SB 386, which would allow certain irrigation districts to count specific large hydroelectric resources toward compliance requirements under the California Renewables Portfolio Standard Program, undermining the state's climate change prevention efforts.

BACKGROUND

The California Renewables Portfolio Standard Program requires all retail sellers of electricity to procure a minimum quantity of electric products from eligible renewable energy resources, increasing from 25% of retail sales by December 31, 2016 to 60% by December 31, 2030. Requiring local publicly owned electric utilities to procure a minimum quantity of electricity products from eligible renewable energy resources helps the state achieve long-term energy goals established by the passage of SB 100 last year.

Californians stand to benefit from further investments in renewable energy resources through low utility rates and revenue from "clean tech" investors. Additionally, there are two to four times more jobs in the renewable energy sector than any fossil fuel sector.<sup>1</sup> It is important that we continue to drive innovation in the renewable energy sector to not only avoid irreversible climate change effects but to protect the interests of Californians.

SB 386 would relax eligibility requirements for renewable energy resources and allow certain irrigation districts to avoid making investments in renewable energy resources, undercutting the effectiveness of SB 100 in achieving long-term energy goals. California is a national leader in energy efficiency,<sup>2</sup> and SB 386 would jeopardize these recent accomplishments by allowing certain irrigation districts to continue relying on natural gas and coal.

FINANCIAL IMPLICATIONS

None.

<sup>1</sup> <https://www.sfchronicle.com/opinion/article/Green-energy-is-gold-for-California-US-13164863.php>

<sup>2</sup> Ibid

ENVIRONMENTAL SUSTAINABILITY

SB 386 threatens progress towards achieving the long-term energy goals which were established to avoid climate change effects threatening California and ultimately Berkeley residents.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170  
Aoife Megaw, Intern

Attachments:

- 1: Letter of opposition
- 2: Bill Text - SB 386

([https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB386](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB386))



April 29, 2019

The Honorable Anna Caballero  
California State Senate  
State Capitol, Room 5052  
Sacramento, CA 95814

Re: SB 386 - California Renewables Portfolio Standard Program (Caballero)  
Opposition from the Berkeley City Council

Dear Senator Caballero:

The Berkeley City Council writes to you to express our opposition to SB 386. This bill sets a bad precedent and undermines our state's efforts to fight climate change.

Requiring local publicly owned electric utilities to procure a minimum quantity of electricity products from eligible renewable energy resources helps the state achieve long-term energy goals established by SB 100 just last year. SB 386 undercuts the effectiveness of SB 100 in achieving these goals by relaxing these requirements and allowing certain irrigation districts to avoid making investments in renewable energy resources. This opens the door for more agencies to request such exceptions in the future, thus creating the potential for far more damage to our environmental goals.

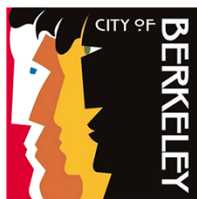
Californians pose to benefit from further investments in renewable energy resources through low utility rates, job generation, and revenue from "clean tech" investors. It is important that we continue to drive innovation in the renewable energy sector to not only avoid irreversible climate change effects but to protect the interests of Californians.

Currently, California is a national leader in energy efficiency, and SB 386 would jeopardize these recent accomplishments.

Respectfully,  
The Berkeley City Council

CC: Senator Nancy Skinner  
Assembly Member Buffy Wicks





CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

CONSENT CALENDAR  
 July 9, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmembers Rigel Robinson and Ben Bartlett  
 Subject: Support for SB 14: Higher Education Facilities Bond

RECOMMENDATION

Adopt a resolution supporting SB 14, which places an \$8 billion bond on the March 2020 ballot for the construction, reconstruction, and remodeling of facilities at California's public universities.

BACKGROUND

California's economic and social prosperity is reliant on a higher education system that keeps up with California's growth. Right now, many of California's universities are in need of facility renovations. The current capital needs of California's higher education facilities are estimated to be at \$16 billion.

SB 14 would place a \$8 billion general obligation bond on the March 2020 ballot for the construction, reconstruction, and remodeling of existing or new facilities at the University of California (UC) schools, the California State University (CSU) schools, and the Hastings College of the Law.

Between the late 1980s and 2006, voters approved bonds to support higher education every two to four years. However, since 2006, no higher education-specific bonds have been authorized, despite facilities deteriorating. Currently, the Universities can get funding through a different bond program, but they have to pay it back themselves. This can lead to increased costs for students and their families. Some buildings are in need of renovations to reduce seismic hazards, as those buildings are aging and deteriorating. Others have classrooms, labs, and libraries that need renovating. As a city that hosts a UC, Berkeley as a City and community would benefit from an increase in funding for University infrastructure.

The attached resolution states the City of Berkeley's endorsement of the bill and subsequent ballot measure. Copies of the resolution should be sent to Senator Nancy Skinner, Assemblymember Buffy Wicks, Senator Steven M. Glazer, and Senator Benjamin Allen.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

No impact.

[Title of Report]

CONSENT CALENDAR  
July 9, 2019

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Rachel Alper, Intern to Councilmember Rigel Robinson

Attachments:

1: Resolution

2: Bill Text-SB 14:

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200SB1](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB1)

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

RESOLUTION IN SUPPORT OF SB 14

WHEREAS, California's economic and social prosperity is reliant on a higher education system that keeps up with California's growth; and

WHEREAS, The current capital needs of California's higher education facilities are estimated to be at \$16 billion; and

WHEREAS, California has not authorized any higher education-specific bonds since 2006; and

WHEREAS, Many of California's university facilities are in need of renovations; and

WHEREAS, Renovated buildings will benefit the City of Berkeley as a whole because of the community's use of UC Berkeley buildings.

NOW THEREFORE, BE IT RESOLVED that the City of Berkeley hereby endorses SB 14 and the ballot measure that will result from its passage; and

BE IT FURTHER RESOLVED that the City of Berkeley may be listed as a supporter of said ballot measure by the official proponents of the measure; and

BE IT FURTHER RESOLVED that copies of this resolution will be sent to Senator Nancy Skinner, Assemblymember Buffy Wicks, Senator Steven M. Glazer, and Senator Benjamin Allen.





Mental Health Commission

### ACTION CALENDAR

July 9, 2019

*(Continued from June 25, 2019)*

To: Honorable Mayor and Members of the City Council  
 From: Mental Health Commission  
 Submitted by: boona cheema, Chairperson, Mental Health Commission  
 Subject: Mental Health Commission 2018 Annual Report

### INTRODUCTION

The 2018 Annual Report was adopted by the Mental Health Commission on April 25, 2019.

### CURRENT SITUATION AND ITS EFFECTS

Submitted for your information on behalf of the Mental Health Commission, is the 2018 Annual Report. The Mental Health Commission members are to be commended for working extremely hard in making progress towards meeting the goals which were set in our Work Plan created in early 2018. We are now positioned to be a valuable asset and a voice in the arena of community mental health in the Cities of Berkeley and Albany.

### BACKGROUND

In 2018 our first priority was to streamline the work of the commission and change its culture of work. Through creating subcommittees in the focus areas of accountability, diversity and site visits we were able to do extensive research, collect and review documentation and have discussions about our role in strengthening our community mental health approaches. Our focus on learning, informing ourselves and listening before acting became a strength.

This annual report is extensive and details our actions, accomplishments and outcomes in 2018 and sets priorities for 2019/20 in 9 goal areas.

This is the first comprehensive and detailed annual report to be submitted by this commission in a decade. The Mental Health Commission had a few weaknesses in its approach, how it functioned, its impact in the community and its value to Berkeley City Council. In 2018 we worked very hard to become a functioning commission with clarity of purpose.

It also became apparent to us that a more open and respectful relationship with Berkeley Mental Health needed to be fostered. Commissioners began to attend meetings within the division to listen, learn and participate.

At the April 25, 2019 meeting the Mental Health Commission adopted the 2018 Annual Report by the following motion:

M/S/C (Davila, Posey) Motion to approve the 2018 Annual Report and submit it to City Council with the Council Item that the Chair will write.  
Ayes: Castro, cheema, Davila, Fine, Heda, Kealoha-Blake, Ludke, Posey; Noes: None; Abstentions: None; Absent: None.

ENVIRONMENTAL SUSTAINABILITY

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

POSSIBLE FUTURE ACTION

When appropriate we will send recommendations to the City Council for action.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Unknown at this time.

CONTACT PERSON

Karen Klatt, Commission Secretary, HHCS, (510) 981-7644

Attachments:

- 1: Mental Health Commission 2018 Annual Report



Mental Health Commission for the Cities of Berkeley and Albany  
Annual Report 2018

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**The Mental Health Commission for the Cities of Berkeley and Albany**

The Mental Health Commission is proud to present its Annual Report 2018. This year we have taken bold steps to build the Commission as a robust advisory body to the Berkeley City Council, Division of Mental Health and in the community. As a Commission, we are committed to making meaningful contributions to accountable decision making impacting public mental health in our community.

In 2018, the Mental Health Commission set the stage for following our state law mandate to review and evaluate public mental health needs, services, facilities and special problems. The Commission began this year with notable feats. We elected new leadership, developed a Work Plan 2018 and submitted it to the Berkeley City Council—a first ever milestone.

Now we are thrilled to share our accomplishments which have fundamentally changed our culture to productively focus on achieving our Work Plan 2018 goals:

- We are focusing on a systems-integrated continuum of whole person care to serve diverse groups and individuals who engage with the public mental and related systems: housing, health, education, child welfare, juvenile and adult criminal justice and corrections.
- We are building relationships with a broad range of consumers and family members to understand the nature of their participation when interacting with multiple providers.
- We are working productively with Berkeley Mental Health (BMH), one of the city's service providers for people with mental illness and many with co-occurring substance use disorder, and community-based organizations to assess service delivery to groups and individuals.
- We are visiting public mental health clinics and other sites to assess their ability to consistently welcome and engage the public across the board.
- We are markedly increasing our knowledge about access to public mental health and related systems for diverse groups and individuals.
- We are initiating defining key indicators for evaluating public mental health and related systems using evidence-based best practices. We have reviewed World Health Organization (WHO) and other approaches to measure fiscal, program and technology accountability.

As the Mental Health Commission moves into this next year, we aim to build on our progress. We look forward to opening more conversations about mental health, continuing to address challenges and working towards a more equitable, responsive access to the public mental health and related systems.

Mental Health Commission for the Cities of Berkeley and Albany  
Annual Report 2018

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**Mental Health Commission—Mission, Vision and Operating Principles**

We aim to address the mental health crisis in our community where a large number of unsheltered people are unserved, underserved and/or inappropriately served by public government systems.

We aim to ensure that a diversity of people—including people of color, children, families, youth, the LGBTQ community, and seniors—receive mental health interventions and services that are respectful and tailored to their mental health needs.

Through our work, we aim to strengthen the core values and guiding principles of: 1) wellness, recovery and resilience-oriented models; 2) community collaboration; 3) systems development and integration among Berkeley Mental Health (BMH), community-based organizations (CBOs) and other entities; 4) cultural competency; and 5) consumer and family-driven services.

**Mental Health Commission Composition—State Requirements**

The Mental Health Commission (MHC) is comprised of residents with mental health and related expertise and experience who advise the Division of Mental Health for the Cities of Berkeley and Albany on policy, programming, implementation, evaluation, budget allocations, revenue and expenditures. Pursuant to the Welfare and Institutions Code § 5604 and City of Berkeley Resolution No. 65,945-N.S.:

- The Mental Health Commission comprises 13 members. There are 11 members from the City of Berkeley and 2 from the City of Albany. The Mayor’s Office for the City of Berkeley appoints one of its Councilmembers to the Commission.
- The Commission must further include Special and General Interest members. From the Cities of Berkeley and Albany, there must be 7 Special Interest members. At least 3 of these persons must have or be receiving mental health services. At least 3 must be parents, spouses, siblings or children of persons who have or are receiving these services.
- There are 5 General Interest members who have knowledge in a broad range of disciplines, professions, and fields of knowledge related to mental health.

**Mental Health Commission—State Statutory Powers and Duties**

The Mental Health Commission powers and duties are set forth under the Welfare and Institutions Code (WIC) § 5604. These statutorily mandated powers and duties include:

- Review and evaluate the community’s mental health needs, services, facilities and special problems;
- Advise the governing body and the local mental health director as to any aspect of the local mental health program;
- Review and approve the procedures used to ensure citizen and professional involvement at all stages of the planning process; and

Mental Health Commission for the Cities of Berkeley and Albany  
Annual Report 2018

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- Submit an annual report to the governing body.

### **Mental Health Commission Meetings**

The Mental Health Commission holds 10 regular monthly meetings at 7:00 pm, except in August and November, at public buildings. The Commission Secretary addresses reasonable accommodations.

#### **MENTAL HEALTH COMMISSIONERS as of MARCH 2019**

| <b>Commissioners:</b>       |                            |
|-----------------------------|----------------------------|
| boona cheema, Chair         | Erlinda Castro, Vice-Chair |
| Councilmember Cheryl Davila | Shirley Posey              |
| Margaret Fine               | Paul Kealoha-Blake         |
| Shelby Heda                 | Ben Ludke                  |

#### **MENTAL HEALTH COMMISSION SUBCOMMITTEES as of DECEMBER 2018**

| <b>Subcommittee</b>                                                                                   | <b>Date Formed</b> | <b>Current Subcommittee Members</b>     | <b>Meetings Held/or Scheduled</b>                            |
|-------------------------------------------------------------------------------------------------------|--------------------|-----------------------------------------|--------------------------------------------------------------|
| Accountability Subcommittee<br><br>(Originally named the Fiscal/Programmatic/Technology Subcommittee) | 10/26/17           | cheema, Davila, Fine                    | 11/30/17, 2/15/18,<br>4/13/18, 7/19/18,<br>10/17/18, 12/7/18 |
| Diversity Subcommittee                                                                                | 4/26/18            | Castro, Fine, Ludke                     | 5/15/18, 7/24/18,<br>8/21/18, 9/18/18,<br>10/18/18, 11/19/18 |
| Site Visit Subcommittee                                                                               | 4/26/18            | cheema, Castro,<br>Kealoha-Blake, Posey | 5/21/18, 7/19/18,<br>8/21/18, 11/19/18                       |
| Membership Subcommittee                                                                               | 12/13/18           | Fine, Posey, Heda                       |                                                              |

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**Mental Health Commission Work Plan 2018**  
**By Goals, Action Items, Accomplishments, Outcomes & Next Priorities**

**Work Plan Goal 1—Serving Unsheltered People with Mental Illness:**

- **Advocate for Innovative Solutions and Increased Capacity Based on Unmet Needs for Quality Outreach, Engagement and Services for Unsheltered People with Mental Illness (and substance use disorder).**

**Goal 1 Action Item 2018**

- Meet with, gather and request materials and report on public mental health and related staff, providers, stakeholders, consumers, volunteers and community members for the Cities of Berkeley and Albany. Unsheltered people living with mental illness (and substance use disorder) in encampments and other locations are included. Public mental health entities include Berkeley Mental Health (BMH), community-based organizations (CBOs) and other organizations.

**Goal 1 Accomplishments 2018**

- The Mental Health Commission requested and received monthly reports written by the City Manager for Mental Health and caseload statistics for clients living with mental illness (and substance use disorder) in the community.
- On April 24, 2018, the Berkeley Mental Health Program Supervisor made a presentation to the Mental Health Commission on Mobile Crisis; Transitional Outreach; Homeless Outreach & Treatment; and Crisis Triage. Commissioners asked questions and she answered.
- On May 28, 2018, the Berkeley Mental Health Program Supervisor for the Adult Service Teams presented to the Mental Health Commission. Commissioners ask questions and she answered.
- On July 26, 2018, the Executive Director of Bay Area Community Services (BACS) made a presentation about Pathways STAIR Center operations and answered Commissioners' questions.
- The Mental Health Commission passed a motion to create its Site Visit Subcommittee to inspect public accommodations providing a continuum of care—health and specialty mental health, substance use, housing and social support interventions and services—to unsheltered people.
- The Site Visit Subcommittee is implementing specific tasks needed conduct focus groups with consumers in June 2019. The focus groups are designed to include people, including unsheltered people, who are consumers at BMH and other providers. Also see Goal 6.

Mental Health Commission for the Cities of Berkeley and Albany  
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**Goal 1 Outcomes 2018**

- The Work Plan 2018 set forth expected outcomes to make recommendations to Berkeley Mental Health and the Berkeley City Council about the public mental health system and the status of unsheltered people with mental illness (and substance use disorder) and resources needed to address them. The Commission received caseload statistics from BMH.
- The Mental Health Commission communicated with other City of Berkeley Commissions and with the municipal government about unsheltered people with mental illness and substance use disorder in the community. Several Commissioners have expertise from long-term, ongoing front-line engagement with people who live on the streets, in vehicles and in encampments.

**Goal 1 Priorities for 2019—2020**

➤ **Review, evaluate and report on the following through Berkeley Mental Health:**

- Adopting Whole Person Care for the Cities of Berkeley and Albany. The City of Berkeley is an established partner with Alameda County Connect Whole Person Care Pilot, including Results-Based Accountability for evaluating the quality of service delivery.
- Access to basic hygiene supplies, housing and shelter referrals, nutritious food (such at breakfast and afternoon community meals) and safe water through the Homeless Outreach Treatment Team (HOTT) of Berkeley Mental Health.
- Access to safe, habitable and stable sleeping arrangements, transitional and permanent supportive housing and additional housing options for unsheltered individuals or people at risk.
- Access to systems integrated care—mental health, substance use (including harm reduction), medical, housing, support interventions and services—for unsheltered persons or those at risk.
- Access to prevention programs to assist people to maintain safe, habitable and stable homes and avoid homelessness. These programs include providing housing subsidies, landlord/tenant counseling and legal aid referrals to eviction defense clinics.
- Access to mobile crisis interventions and services to avoid arrest, detainment and criminal justice involvement of unsheltered people living with mental illness and substance use disorder.

**Work Plan Goal 2—Diversity and Inclusion**

- Ensure a diversity of people, including people of color, youth, LGBTQ and seniors, have access to culturally competent (respectful and tailored) mental health interventions and services from the public mental health system for the Cities of Berkeley and Albany.

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- Ensure BMH and CBOs bring awareness and visibility about mental health to a diversity of groups and the larger community to reduce stigma and discrimination

**Goal 2 Action Items 2018**

1. Request documentation, reports and evaluations including for diversity trainings and workshops
2. Meet with Diversity and Multicultural staff and review trainings and workshop materials
3. Work with BMH and CBOs to serve diverse people using best practices, including with CalMHSA
4. Query CalMHSA about using materials in client contexts
5. Ensure CalMHSA and other related materials are available in medical and mental health waiting rooms and visible locations—BMH, CBOs and other entities
6. Participate in implementing BMH Technology Suite Plan apps with CalMHSA and ensure using apps are culturally competent to meet the needs of diverse groups
7. Assess BMH and CBOs efforts in reducing stigma and discrimination

**Goal 2 Accomplishments 2018**

- On April 26, 2018, the Mental Health Commission passed a motion to create a Diversity Subcommittee to address this goal. The Mental Health Commission appointed a Commissioner to represent it on the internal Diversity Committee for Berkeley Mental Health.
- On September 27, 2018, the Mental Health Commission passed a motion that a comprehensive list contained under Mental Health Resources in the Berkeley Public Library be linked to the Mental Health website in an easily accessible place. A list was linked to the BMH website.
- The Mental Health Commission requested and received copies of finalized monthly minutes from the Health Equity Committee for Berkeley Mental Health.
- Among Materials Reviewed 2018:
  1. Non-Discrimination law at municipal, county, state and federal government levels
  2. National CLAS Standards on Cultural Competency issued by the federal government
  3. Disability Rights California: Definitions of Stigma and Discrimination
  4. Mental Health Services Act – Required General Demographic and Related Data
  5. Mental Health Services Act Prevention/Early Intervention Evaluations with Required Data
  6. Mental Health Services Act—Diversity and Multicultural Outreach and Engagement Coordinator Report on Goals, Trainings, Committees and Groups
  7. Mental Health Work Session PowerPoint Slides before the Berkeley City Council –3/20/18
  8. Berkeley Mental Health Caseload Statistics for MHSA Full Service Partnership consumers
  9. Berkeley Mental Health, Health Equity Committee monthly minutes
  10. Berkeley Mental Health Policy and Procedure Manual as available
  11. Clinical Documentation Requirements for Medi-Cal Specialty Mental Health Services

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- 12. Mental Health Services Act—Technology Suite Plan
- 13. Mental Health Services Act—Trauma Informed Care Plan

**Goal 2 Outcomes**

- The expected outcomes focused on increasing knowledge of Berkeley Mental Health capacity and identifying gaps in service delivery, particularly to ensure that a diversity of groups feel welcome and have a sense of belonging when interacting with BMH and CBOs.
- This past year the Mental Health Commission focused on data collection and methodology to gather information in order to analyze diversity and inclusion from a range of accumulated materials about the public mental health and related systems.

**Goal 2 Priorities for 2019 – 2020**

- Request the Berkeley Mental Health Diversity & Multicultural Coordinator to Present on Diversity and Multicultural Outreach and Engagement under the Mental Health Services Act.
- **Review, evaluation and report on the following:**
  - Compliance with city, county, state and federal non-discrimination law, including on the basis of race, ethnicity, national origin, gender identity and expression, sexual orientation, disability, age, additional protected classes and other groups.
  - Adoption of National CLAS standards for cultural competency issued by the federal government
  - Data collection and methodology to address diversity and inclusion among people living with mental health conditions and/or substance use disorder served by the public mental health and related systems (Berkeley Mental Health, community-based organizations and other entities). Alameda County further offers data collection and methodology trainings multiple times yearly.
  - Staff and related trainings to build capacity among Berkeley Mental Health and CBOs staff to serve a range of diverse groups, including related to public health epidemics. Alameda County also offers trainings to build capacity multiple times per year.
  - Access to language services and qualified interpreters to people whose primary language is not English throughout the public mental health and related systems, including BMH and CBOs
  - Overall reduction in stigma, stereotyping and discrimination for people with mental health conditions and substance use disorder who access public mental health and related systems

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**Work Plan Goal 3—Mental Health Commission Partnerships**

- **Build a Strong Partnership with BMH, the CBOs, the Community and Consumers.**

**Goal 3 Action Items 2018**

1. Build deep understanding among Mental Health Commissioners about the quality of programs serving people with mental illness and substance use disorder in the community and make recommendations to the Berkeley City Council (see expected outcome).
2. Appoint a Mental Health Commissioner to each of the internal Berkeley Mental Health Committees to attend meetings and provide reports to the Commission.
3. Invite Berkeley Mental Health staff to make presentations to the Mental Health Commission.

**Goal 3 Accomplishments 2018**

- **Culture & Communication**

The Mental Health Commission's major achievement this past year focused and continues to focus on changing its culture to carry out state law mandates, including evolving a productive relationship with the BHS leadership and staff. To achieve this effort, the MHC:

1. Elected new leadership.
  2. Developed a Work Plan 2018 and passed a motion for submission to the Berkeley City Council (BCC). The Chair submitted it as a consent item on the BCC's Agenda.
  3. Created Subcommittees designed to accomplish Work Plan goals.
- The Chair and Vice Chair met (and continue to meet) with the City Manager for the Division of Mental Health at least every other month. These meetings have and continue to be important in building trustworthy and respectful communication in order to accurately understand the public mental health system, particularly service delivery to consumers and the community at-large.
  - The City Manager for the Division of Mental Health provides a written report for inclusion in the Agenda Packet for each Commission meeting. Commissioners can request specific topics for the Manager to address in the written report. There is an Agenda Item for the Manager's report at each Commission meeting; Commissioners ask questions and receive replies from the Manager. This approach improves communication between the Commission and City Manager. Some topics:
    1. Crisis Treatment, Adult Clinic and other programs
    2. Request for proposals (RFPs) and grants such as SB 82 for Crisis Triage
    3. BMH fiscal revenues and expenditures
    4. Wellness Center and Adult Clinic Renovations



Mental Health Commission for the Cities of Berkeley and Albany  
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- The Mental Health Commission appointed a Commissioner to each of the following internal Berkeley Mental Committees. Commissioners began attending their meetings and receiving the finalized Health Equity Committee meeting minutes. These Committees are:
  1. Health Equity Committee
  2. Diversity Committee
  3. Safety Committee
  4. May is Mental Health Committee
- The Mental Health Commission invited BMH representatives to present at its monthly meetings.
- **Community**
  1. Both Subcommittee and full Mental Health Commission meetings have public comment periods and community members can record these meetings.
  2. The Commission Secretary includes written correspondence from community members in the Agenda Packets for full Commission meetings.
- **Consumers**
  1. The Mental Health Commission has initiated developing a formal mechanism to create a feedback loop between consumers and the Commission.
  2. Under Goal 6, the Site Visit Subcommittee is currently focused on conducting consumer focus groups for those who have had and/or do have involvement with BMH.

**Goal 3 Outcome**

- Mental Health Commissioners are developing a productive relationship with Berkeley Mental Health and service providers to improve public mental health and related systems for consumers and the community at-large. This relationship includes exchanging honest feedback on significant topics, asking difficult questions and making recommendations to improve the public mental health and related systems.

**Goal 3 Priorities 2019 - 2020**

- Continue building on work accomplishments
- Address Berkeley Mental Health challenges such as:
  1. Exponential organizational growth
  2. Work environment culture for serving consumers
  3. Diversity of staff and capacity to serve diverse groups
  4. Demographic data collection and methodology
  5. Fiscal and program management (including per evaluations)

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- Work with community-based organizations (CBOs):
  1. The Mental Health Commission initiated inviting CBOs to its full Commission meetings who are critical to providing a continuum of integrated care for consumers and community members at-large. Some CBOs have an established partnership with BMH and/or the Cities of Berkeley and Albany, including receiving MHSA funding from BMH.
  2. The Executive Directors for Bonita House and Bay Area Community Services (BACS) each made a presentation to the Mental Health Commission about their role serving people with mental illness (and substance use disorder) and community members at-large.
    - a. Bonita House is the nonprofit who will operate the Wellness Center under a contract with Alameda County Behavioral Health Services in the City of Berkeley.
    - b. BACS operates Pathways Stair Center for temporary short-term shelter in Berkeley.
  3. In 2019, the Social Services Director for LifeLong Medical Care gave a presentation to the Mental Health Commission. During the upcoming year the Commission plans to invite CBOs and other providers who receive Mental Health Services Act (MHSA) and related funding as follows:
    - a. Building Opportunities for Self-Sufficiency (BOSS)
    - b. Youth Engagement Advocacy Housing (YEAH)
    - c. Youth Spirit Artworks (YSA)
    - d. Berkeley Food & Housing Project (BFHP)
    - e. Dorothy Day House
- **Community**
  1. The Mental Health Commission is seeking to improve outreach, engagement and education to the community at-large in partnership with Berkeley Mental Health.
  2. During 2019, the Commission is planning a Listening Session for community members.
- **Consumers**
  1. The Mental Health Commission has partnered with Berkeley Mental Health to host a May is Mental Health Month event. See Goal 9.
  2. The Site Visit Committee will conduct focus groups and in-person interviews with consumers using evidence-based methodology to get valid, reliable information. The information gained from the focus group will inform service delivery in the public mental health and related systems for the Cities of Berkeley and Albany.

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**Work Plan Goal 4—Fiscal Accountability**

- **Assess the financial accountability of Berkeley Mental Health and related Community Based Organizations (CBOs)**

**Goal 4 Action Items 2018:**

1. Identify all existing BMH documents pertaining to financial accountability
2. Request, review and evaluate documents from BMH where needed
3. Gather financial evaluation research, including new MHSA accounting law

**Goal 4 Accomplishments 2018**

- Researched and reviewed new state legislation requiring adoption of uniform accounting standards and procedures by the Controller for the State of California for funding and oversight under the Mental Health Services Act (capital facilities and technology excluded).
- The Accountability Committee reported to the full Mental Health Commission and BMH representatives about the new state law and included its text in the Agenda Packet.
- The Accountability Committee tracked and updated the Mental Health Commission Excel Chart showing fiscal breakdown of MHSA monies from FY 13/14 through FY 18/19. The Commission relied on MHSA documents required by the State of California as posted on the BMH website.
- Among Materials Reviewed 2018:
  1. Mental Health Services Act (MHSA) Three Year Plan FY 17/18, 18/19, 19/20
  2. MHSA Annual Revenue and Expenditures Updates FY 17/18, 18/19
  3. California State Auditor Report, February 2018—requested by Joint Legislative Audit Committee to address funding and oversight of the Mental Health Services Act
  4. MHSA Reversion Expenditure Plan 2018
  5. Berkeley Mental Health Work Session materials submitted to Berkeley City Council, including the Management Partners' Fiscal Audit 2017 and Challenges
  6. Memorandum of Understanding between Alameda County Behavioral Health Services and the City of Berkeley regarding Medi-Cal reimbursement
  7. Berkeley Mental Health consulting contract (\$34,990) for developing Medi-Cal billing infrastructure, staff and evidence-based best practices for specialty mental health services
  8. Medi-Cal specialty mental health services documents from the Department of Health Care Services for the State of California
  9. Kilbourne, A., Beck, K., Spaeth-Rublee, B., Ramanuj, P., O'Brien, R., Tomoyasu, N. and Pincus, H. (2018). Measuring and improving the quality of mental health care: a global perspective (among other studies reviewed).

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**Goal 4 Outcome**

- The Accountability Subcommittee gathered a range of relevant documents to begin its review, evaluation and reporting on Berkeley Mental Health fiscal and program management.

**Goal 4 Priorities for 2019 – 2020**

➤ **Request the following for review and evaluation:**

- Management Partners' Report 2017 assessing the fiscal status and challenges presented at Berkeley Mental Health (cited at Berkeley City Council Work Session, 3/20/2018)
- A strategic business plan for financial, program and operations administration at Berkeley Mental Health that is accurate, transparent and understandable to the public
- Line-item budget to compare with actual revenues and expenditures for FY 19/20, including breakdown by job descriptions, classifications and salary (similar to Alameda County law).
- Documents showing development of an effective, efficient Medi-Cal billing department including infrastructure, staff and evidenced-based best practices under the contract (\$34.990)
- Documents showing development of electronic health records systems and costs for implementation and maintenance if any, including how Berkeley Mental Health connects (if at all) to primary care and other specialist providers, hospitals and corrections facilities
- Performance metrics to determine the effectiveness of MHSA programs, including but not limited to using Results-Based Accountability outcomes
- Total annual costs for highest frequency service users at Berkeley Mental Health, including expenditures for: 1) emergency room visits, 2) jail and prison stays, 3) primary and specialist care services, 4) police, mobile crisis and transport costs and other related expenditures.
- Total costs for criminal and civil liability when incurred by Berkeley Mental Health
- Total costs expended for cost settlements and construction for Wellness Center, and total costs for renovation of Adult Clinic of Berkeley Mental Health

**Work Plan Goal 5—Key Indicators for Evaluating the Public Mental Health System**

- **Review and evaluate program needs, services, facilities, including challenges and any problems and make recommendations.**

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**Goal 5 Action Items 2018**

1. Obtain documentation needed from BMH and CBOs to review and assess programs, including through outcomes data to assess program management
2. Confirm BMH and CBOs implement performance evaluations to measure program effectiveness
3. Gather research on mental health program evaluations, particularly regarding MHSA programs
4. Write report with recommendations to the Berkeley City Council

**Goal 5 Accomplishments 2018**

The Mental Health Commission is developing key indicators to assess the effectiveness of programs, including new developments. Some of these developments are:

- Access to safe, habitable housing, including reducing exposure to poor sanitation and disease outbreaks for homeless people with mental illness and substance use disorder.
- Increasing capacity to address overall systems integration among multiple providers to provide an integrated continuum of care and avoid gaps in service (such as ensuring Medi-Cal is active for people upon release from incarceration along with meaningful referrals for follow-up).
- Evaluating Berkeley Mental Health and CBO sites with BMH and Alameda County contracts, particularly through site visits to assess properties delivering a continuum of care to consumers.
- Assessing mobile crisis interventions and services to people with mental illness (and substance use disorder) through Berkeley Mental Health and the Berkeley Police Department
- Addressing suicide and substance use epidemics among diverse groups of people on the basis of race, ethnicity, religion, gender identity and expression, sexual orientation, disability, age and other groups.
- Integrating primary and specialist care, including reviewing World Health Organization (WHO) models for implementing psychiatric medication and therapeutic support, and harm reduction approaches for substance use disorder in multiple countries with scarce resources.
- Assessing wellness and recovery models including through upcoming Wellness Center operated by a nonprofit provider in the City of Berkeley.
- Assessing the role of technology to improve public mental health, substance use and related interventions and services, including through using integrated electronic records systems among multiple providers to deliver a continuum of care to consumers.
- Advancing access to integrated universal healthcare

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**Goal 5 Outcome**

- The outcome expectations focus on analysis and oversight to the Berkeley City Council about the use of government program resources for the public mental health system in the Cities of Berkeley and Albany. Throughout the year Commissioners researched public mental health and related topics in order to develop these key indicators for assessing multiple providers about an integrated continuum of care. The Mental Health Commission will be reporting to the BCC.

**Goal 5 Priorities for 2019 – 2020**

- Ongoing work to continue identifying key indicators to assess the status of multiple providers to deliver an effective, empathetic continuum of care for consumers in these municipalities, and writing a report to the Berkeley City Council.

**Work Plan Goal 6—Sites Visits to Public Mental Health and Related Program Facilities:**

- **Make site visits to Berkeley Mental Health programs, as well as to CBO programs which have contracts with BMH and ACBHCSA, to become more informed and familiar with the continuum of interventions and services. Meet with staff and consumers of these services.**

**Goal 6 Action Items 2018**

1. Create clear purpose and develop protocols for site visits.
2. Identify documentation needed and review it prior to site visits, including contracts.
3. Undertake site visits focused on public mental health and related environments serving consumers and the public.

**Goal 6 Accomplishments 2018**

1. On April 26, 2018, the Mental Health Commission passed a motion to create a Site Visit Subcommittee.
2. The Site Visit Subcommittee visited public mental health clinic waiting rooms and any displayed materials.

**Goal 6 Outcomes**

- The Site Visit Subcommittee visited and raised concerns about how these clinics and related facilities are designed and operated to provide a welcoming environment for consumers and other individuals. This Subcommittee has further raised concerns about displayed materials if any, particularly to inform and welcome diverse groups of people.

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- The full Mental Health Commission has further raised concerns about the use of physical barriers and uniformed security guards in waiting room areas as they may discourage individuals from using the clinics and facilities due to feeling threatened and unwelcome there.
- The Commission understands Berkeley Mental Health has experienced challenges due to clinic relocations, renovation and new construction and related safety issues.

### **Goal 6 Priorities for 2019 – 2020**

- The Commission provided BMH with a draft list about its expectations for developing welcoming environments at its facilities during the full Commission meeting dated March 28, 2019.
- This list includes displaying materials in waiting rooms for consumers and the public, particularly using CalMHSA materials. These materials are researched and designed for a range of diverse groups by a well-resourced organization. BMH is a member of CalMHSA and it funds this organization (\$44,000) along with other counties and one city. Materials are provided at no cost.
- The Site Visit Subcommittee and the full Commission will continue to review and evaluate BMH progress in designing and implementing modifications to improve public mental health clinic and related facility environments. This process is necessary for the new Wellness Center and the Adult Clinic Renovation properties.

### **Work Plan Goal 7—Annual Report**

- **Submit Annual Report 2017 to the Berkeley City Council.**

### **Goal 7 Action Items 2018**

1. Write Annual Report 2017 and submit to the Mental Health Commission
2. Obtain approval by Mental Health Commission to submit to the Berkeley City Council
3. Submit to Berkeley City Council

### **Goal 7 Accomplishments 2018**

- The Mental Health Commission passed a motion to create a 2017 Annual Report Subcommittee.
- The Subcommittee reviewed the Commission's adopted minutes in order to gather materials about the accomplishments for the Annual Report.
- On April 26, 2018, the Mental Health Commission passed a motion to approve and submit the 2017 Annual Report to the Berkeley City Council.

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- The Chair of the Commission submitted this 2017 Annual Report to the Berkeley City Council.

**Goal 7 Outcome**

- This achievement represented the first time the Mental Health Commission has submitted an annual report to the Berkeley City Council since its inception.

**Work Plan Goal 8—Using Evidence-Based Best Practices**

- **Stay current and disseminate information on evidence-based best practices and related developments regarding public mental health systems for interventions and services.**

**Goal 8 Action Item 2018**

- Research World Health Organization (WHO) and related public mental health organizations that set domestic and/or universal evidence-based best practices for delivery of public mental health systems

**Goal 8 Accomplishments 2018—researched the following standards**

1. WHO models for delivery of mental health and social services interventions and services
2. Non-discrimination law for equal access to public accommodations
3. MHSAsA statutory and regulatory requirements for demographic and diversity data collection
4. Medi-Cal requirements for specialty mental health services, including in the MOU
5. National CLAS Standards issued by federal government for evaluating cultural competency
6. Financial accounting standards for MHSAsA funding passed by the California legislature this year
7. Additional standards incorporated contained this and related documents.

**Goal 8 Outcome**

- The outcome expectation for this goal is to learn from and apply strategies on the basis of these and other related standards. The Mental Health Commission will continue to research standards and evidence-based best practices that underpin public mental health and related systems for a range of professionals.

**Work Plan Goal 9—Public Education and Special Events**

- **Increase Public Education on Mental Health and Wellness, particularly to reduce stigma and discrimination**



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**Goal 9 Action Item 2018**

- Hold signature Mental Health Commission event such as panel discussion with reception and film with directors

**Goal 9 Accomplishments 2018**

- The Mental Health Commission appointed two Commissioners to the May is Mental Health Month Event Planning Committee of Berkeley Mental Health. Commissioners attended these meetings and contributed to special event programming for the event.
- On March 29, 2018, the Mental Health Commission passed a motion to recommend the Berkeley City Council declare “May Is Mental Health Month.”

**Goal 9 Outcome**

- The Mental Health Commission and Berkeley Mental Health are hosting a community event from 5:45 pm to 8 pm on May 16, 2019. This event is designed to celebrate May is Mental Health Month, including a panel discussion, videos created by young people and a reception.

**Additional Mental Health Commission Accomplishments 2018**

- **Mental Health Commission By-Laws**

The Mental Health Commission passed a motion to create a By-Laws Subcommittee. On December 13, 2018, the Mental Health Commission passed a motion to adopt Bylaws submitted in the Agenda Packet for the Mental Health Commission meeting. The Commission passed a motion to submit the adopted Bylaws by the Mental Health Commission for review by the Berkeley City Clerk and further integrate recommended modifications by the City Clerk. Before this meeting, the Subcommittee reviewed the new Commissioners’ Manual and develop By-Laws in accordance with it and applicable law.

- **Mentorship for Mental Health Commissioners**

The Mental Health Commission passed a motion to create a system for new Commissioners coming onto the Commission for the first 6 months with the Chair of the Commission assigning a mentor to that new Commissioner upon joining it.

- **Mental Health Services Act (MHSA) Public Hearings before the MHC Commission**

The Mental Health Commission held public hearings on the MHSA Reversion Plan, Trauma Informed Care and the Annual Update FY 18/19. On July 26, 2018, the Mental Health Commission passed a motion to approve a modified MHSA Innovation Trauma Informed Care Modified Plan according to the public comments on non- discrimination. The City Attorney approved as required by the motion passed before submission to the Berkeley City Council.

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- **City Council Presentation by Chair of Mental Health Commission**

The Commission passed a motion to authorize the Chair to participate on the panel to report to the Berkeley City Council on behalf of the Mental Health Commission at the City Council Mental Health Work Session on March 20, 2018.



Commission on the  
Status of Women

ACTION CALENDAR  
July 9, 2019

To: Honorable Mayor and Members of the City Council  
 From: Commission on the Status of Women  
 Submitted by: Emmaline Campbell, Chairperson, Commission on the Status of Women  
 Subject: Equal Pay Independent Audit of City Employees

RECOMMENDATION

Adopt a Resolution providing \$12,500 from the General Fund to pay Dr. Martha Burk to conduct an independent audit of the pay of male and female employees in the City of Berkeley city employee workforce.

FISCAL IMPACTS OF RECOMMENDATION

\$12,500.

CURRENT SITUATION AND ITS EFFECTS

Women are consistently paid less than men in almost every occupation. The persistent disparity in pay between men and women is known as the gender wage gap. In California, women earn only 84 cents for every dollar earned by men, collectively losing over \$33.6 billion dollars each year to the gender wage gap. If the wage gap remains the same, the average woman in California could lose \$322,120 to pay inequity over the course of her lifetime. In Berkeley, the pay gap is especially high; on average, women here earn only 71 cents for every dollar earned by men.

The City has no data, report, or plan for a report on the pay gap between male and female employees employed by the City of Berkeley.

BACKGROUND

**The Equal Pay Recommendation of 2017**

The Commission on the Status of Women formed an Equal Pay Subcommittee in January 2016 based on a referral from Councilmember Worthington in 2015. The subcommittee spent 10 months developing the Equal Pay Recommendation, which was presented to City Council in April 2017.

The Commission's recommendation was the culmination of substantial work. First, the Commission completed a research phase, speaking with leaders on equal pay in Boston, San Francisco, and Albuquerque. The Commission developed a custom model for Berkeley based on the city's size and level of resources available for this program. The Commission then hosted a local business focus group session and an Equal Pay Town Hall.

As a result of this work, the Commission on the Status of Women created a three-part recommendation for City Council:

1. Direct staff to draft an ordinance related to an equal pay vendor preference for city contractors who demonstrate equal pay for male and female employees (gender based on self-identification),
2. Complete a **pay audit** on the salaries of City of Berkeley employees to investigate potential gender pay gaps within the city workforce, and
3. Develop an equal pay certification program for city contractors.

**In April 2017, the City Council unanimously passed the recommendation.**

### **After the Passage of the Recommendation**

The City Council prioritized each of the Recommendation's items as follows during the May 30, 2017 vote on the 2017 City Council Referral Prioritization Process Using Re-Weighted Range Voting:

1. Vendor Preference Ordinance - #8
2. **Audit - #2**
3. Equal Pay Certification Program - #22

The Commission on the Status of Women engaged in substantial follow-up on this recommendation. In November and December 2017, the Chair spoke extensively with City Auditor Ann-Marie Hogan, who advised that the Auditor could not fulfill this request. Ms. Hogan also spoke with Human Resources, who advised that they could not fulfill such an item.

The Chair emailed City Manager Dee Williams-Ridley in January 2018 and February 2018 and received no response or follow-up. The Chair emailed Interim Deputy City Manager Paul Buddenhagen in August 2018 and engaged in a series of back-and-forth emails with city staff over the course of two months that provided no substantive information on any progress on any of the three parts of the recommendation.

In October 2018, the Commission invited City Manager Dee Williams-Ridley to speak at its meeting. The Commission specifically requested briefing on the Equal Pay item. **Ms. Williams-Ridley stated there was no plan to ever begin the Equal Pay Audit.**

### **Moving Forward: This Subsequent Recommendation**

At this stage, it is clear that the only way to assess pay equity in the city workforce is through an independent audit. The Commission recommends contracting with Dr. Martha Burk for the audit. Dr. Burk is the unparalleled leader of the gender pay equity movement.

M/S/C (Howard/Sandoval)

Ayes: Campbell, Howard, Shanoski, Leftwich, Sandoval

Her biography is as follows:

Martha Burk is a political psychologist and women's issues expert specializing in gender pay equity, and co-founder of the Center for Advancement of Public Policy, a research and policy analysis organization in Washington, D.C. She serves as the Money Editor for Ms magazine, and she is a syndicated newspaper columnist and front-page blogger for Huffington Post and the Center for American Progress. From 2012-2015 she produced and hosted her national public radio show Equal Time with Martha Burk. Her latest book, *Your Voice, Your Vote: The Savvy Woman's Guide to Power, Politics, and the Change We Need* (2016-2018), is a Ms magazine book selection. Her work has been published in major U.S. newspapers and she has appeared on all major television networks in the United States.

From 2000-2005 Dr. Burk served as Chair of the National Council of Women's Organizations a network of over 200 national women's groups collectively representing ten million women. In that capacity she led the campaign to open Augusta National Golf Club to women, and she remains at the forefront of change for women in corporate America. She crafted the first-in-the-nation gender pay equity initiative at the state level in New Mexico in 2010 as a senior advisor to then-Governor Bill Richardson, and continues to advise business organizations and government entities at all levels on gender pay equity.

Burk is a frequent speaker on women's issues, civil society, and women's leadership. She is an active contributor to the Journalism and Women Symposium, and is a contributing speaker to SheSource, a Project of the Women's Media Center. Burk holds a Ph.D. in psychology from the University of Texas at Arlington. Her background includes experience as a university research director, management professor, and advisor to both non-government

organizations (NGOs) and political campaigns and organizations.

In addition to extensive work on domestic policy, Dr. Burk has conducted training workshops with women's NGOs internationally in Macedonia and Kuwait, under the sponsorship of USAID and the United Nations, and has conducted training in the U.S. for delegations from Russia, Botswana, Korea, Romania, Bulgaria, and the Middle East. She has recently been a member of official U.S. delegations to international conferences in Cuba, Iceland, Lithuania, Latvia, Estonia, and China. Dr. Burk has been asked by the U.S. Department of State to brief the foreign press on the U.S. presidential elections several times.

Dr. Burk has served on the Commission for Responsive Democracy, the Advisory Committee of Americans for Workplace Fairness, the Sex Equity Caucus of the National Association for the Education of Young Children, and the board of directors of the National Committee on Pay Equity. She has also served as an advisory board member to several other national organizations, including the U.S. Committee for UNIFEM, and Women for World Peace, a project of the Twenty First Century Foundation, and the PAX World Fund. Dr. Burk has been a key part of the Commission's work on equal pay. She has advised the Commission on all previous steps of the Equal Pay Recommendation at no cost and her expertise on pay equity was essential to the Commission's work. She has previously completed a similar audit for the State of New Mexico. (Attachment 3.)

She proposes an audit that would be completed in 45 working days with the following:

- Merging of relevant databases maintained by the city since all data needed for gender pay equity comparisons across departments is not maintained in a single database.
- Gender comparison of compensation within departments, either by job title or salary grade, depending on availability and reliability of data provided by the city.
- Analysis broken out by union/non union departments and/or employees.
- Job segregation by gender, department, and job title.
- Consultation via telephone and email with City of Berkeley officials as needed.
- Possible separate analysis of part-time or hourly employees depending on data available.

See Attachment 2 for more details.

#### ENVIRONMENTAL SUSTAINABILITY

No environmental impact.

RATIONALE FOR RECOMMENDATION

The Council already decided that an audit of the city's pay gap should be conducted and is a top priority; since the City is unable to complete the audit internally, an independent audit is the only option remaining. Without an audit, the City Council cannot get valuable information about the pay gap in the city workforce and cannot remedy any inequalities.

CITY MANAGER

See companion report.

CONTACT PERSON

Shallon Allen, Secretary to the Commission on the Status of Women, 510-981-7071

Attachments:

- 1: Resolution
- 2: Dr. Burk's Proposal for the Berkeley Pay Equity Audit
- 3: Dr. Burk's Previous Audit of the New Mexico State Workforce

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

**INDEPENDENT GENDER PAY EQUITY AUDIT FOR CITY EMPLOYEES**

WHEREAS, the City of Berkeley Commission on the Status of Women advocates for the rights of all employees to receive pay without discrimination;

WHEREAS, women in Berkeley earn an average of 71 cents for every dollar earned by men;

WHEREAS, an audit of the pay of City of Berkeley employees is the first step to determining where pay inequities lie;

WHEREAS, the City of Berkeley City Council passed the Equal Pay Recommendation, including a requirement of a city employee pay equity audit, in April 2017;

WHEREAS, the City cannot complete the audit internally;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that \$12,500 will be relinquished from the General Fund to pay Dr. Martha Burk to conduct an independent audit of the pay of male and female employees in the City of Berkeley.



Center for Advancement of Public Policy  
501(c)(3) Non Profit Organization EIN#: 521728313  
323 Morning Sun Trail  
Corrales, NM 87048  
202-247-1300

Proposal for Consulting Services, Martha Burk, Ph.D.

## BACKGROUND

The *City of Berkeley Commission on the Status of Women Referral Response: Gender Pay Equity* dated April 4, 2017, contains concrete recommendations that the city can implement to ensure gender pay equity in the city workforce, as well as by contractors doing business with the city. As the Referral Response points out, before contractors can reasonably be required to report pay statistics by gender, it is necessary for the City of Berkeley to analyze its own workforce in order to correct any gender disparities that may be found.

Dr. Martha Burk's unique and extensive experience can be of high value in implementing the recommendations contained in the Referral Response. She designed and directed the implementation of the first such initiative in the U.S. under New Mexico Governor Bill Richardson in 2009, which included a gender pay equity analysis of 19,811 state classified employees (final report attached) prior to designing and implementing a contractor reporting requirement.

Dr. Burk has been consulting with a number of government entities at state, county and city levels since 2010 on similar efforts in various stages of planning. She also designed the first-in-the-nation contractor reporting initiative on gender pay equity at the municipal level for the City of Albuquerque in 2015, and is currently overseeing the project on an ongoing consulting basis. Her work in this area has been presented by invitation to the EEOC, OFCCP, and the National Academy of Sciences, and featured on the U.S. Department of Labor website.

This proposal is for carrying out Referral Response Recommendation #2: City Pay Audit.

## WORK PLAN AND DELIVERABLES

The work plan assumes the timely provision of relevant documents and other records related to compensation of City of Berkeley employees by departments responsible for maintenance of such records. The work plan is further predicated on availability of key employees for consultation and answering questions that may arise in the course of the analysis.

Review and analysis includes :

Merging of relevant databases maintained by the city since all data needed for gender pay equity comparisons across departments is not maintained in a single database.

Gender comparison of compensation within departments, either by job title or salary grade, depending on availability and reliability of data provided by the city.

Analysis broken out by union/non union departments and/or employees.

Job segregation by gender, department, and job title.

Consultation via telephone and email with City of Berkeley officials as needed.

Possible separate analysis of part-time or hourly employees depending on data available.

Review and analysis will be followed by a comprehensive written report detailing the results. To ensure that the City of Berkeley goals for gender pay equity in its workforce are met with a minimum of problems, the report will include suggestions and recommendations for changes and/or enhancements along with rationale, advantages, and possible disadvantages of any recommended actions.

The report will also identify possible areas of concern, if any, regarding a smooth and successful implementation of Referral Response Recommendation #1: Contractor Bid Incentives.

#### ITEMS NOT INCLUDED

Analysis of fringe benefits  
Race/ethnicity data  
Data on employees in positions not budgeted  
Data on temporary employees  
Travel to Berkeley if needed

#### TIMELINE AND FEES

On receipt of signed agreement, consulting contract to be completed forty-five (45) working days from receipt of relevant data.

Fee: \$12,500

Travel (if required) and additional consulting by separate agreement.

#### NON- DISCLOSURE AGREEMENT

If this proposal is accepted, it will be governed by a Non-Disclosure Agreement.

Contact:

Martha Burk, Ph.D., President, Center for Advancement of Public Policy  
202-247-1300  
Email: [martha@marthaburk.org](mailto:martha@marthaburk.org)  
website: [genderpayequity.org](http://genderpayequity.org)

Attachment

Gender Wage Gaps in the New Mexico State Classified Workforce

by

Martha Burk, Ph.D., Senior Policy Advisor on Women's Issues

September 23, 2009

Special thanks is given to State Personnel Office Director Sandra Perez, State Director of Compensation Justin Najaka, and Compensation & Classification Analyst Vanessa Readwin for providing initial data analysis and staff support for this study.

## Executive Summary

This report is an examination of gender wage gaps and job segregation affecting the classified workforce in all departments of the New Mexico state government. It is a follow up to the pilot study conducted on six departments in state government in 2008, as requested by Governor Bill Richardson and carried out by Dr. Martha Burk, Senior Policy Advisor for Women's Issues, with substantial support from the New Mexico State Personnel Office.

A plan for gathering data for the pilot study was developed over several meetings with State Personnel Office Director Sandra Perez, State Director of Compensation Justin Najaka, and State Auditor Hector Balderas and his staff. The same procedures and methodology were used in gathering and analyzing the gender wage gap data on all departments addressed in the present study.

The analysis reported herein, comparing women and men in all departments by pay band, was conducted in August, 2009. A very stringent criterion was used for defining gender wage gaps, with any discrepancy over 3% being counted as a gap.

## Conclusions

The State of New Mexico can take pride in the fact fully one third of the 396 pay bands with both women and men show no gender pay gaps, and the state is far below national averages in gender wage disparity. Some departments, such as Tax and Revenue are very close to parity, with pay gaps that are extremely small (2 pay gaps, both under 5%, out of 14 pay bands analyzed).

- Those gender wage gaps found in the New Mexico classified workforce are moderate, and much lower than national averages. Nationally, females make 77cents to the male dollar for full-time, year-round work, resulting in a gender wage gap of 23% favoring males. Of the 396 pay bands analyzed for gender pay gaps, only 15 had gaps exceeding 20%, affecting a mere 76 individuals of 19,811 in the workforce (0.003%)
- Even though "glass ceilings" are a well-documented problem nationally, the State of New Mexico should be commended for the fact that there are no apparent "glass ceilings" in the classified workforce, though a very small number of trends affecting both women and men in selected departments should be analyzed.
- While job segregation in the national workforce is a recognized factor in producing gender wage gaps, and there is a great deal of job segregation (e.g. job titles that are totally or predominately held by one gender) in a majority of New Mexico departments, such job segregation does not generally result in gender wage disparities when analyzed by pay bands. However, gender segregation in jobs is a problem for diversity and should be addressed to produce a more balanced workforce.

- Gender wage gaps were found in most departments in this study, across the majority of pay bands. Overall, the gender wage gaps favored women, in both number and size.
- In all departments, most gaps were in the very low to moderate range, with a few larger exceptions on both sides.

#### Recommendations

- Even though the clear majority of gender wage gaps are low to moderate, they should be reviewed by management and goals and timetables for remedies put in place where needed.
- Managers should be charged with annual reviews of progress toward these goals.
- The level of job segregation reflects traditional sex roles (and sex role stereotyping) in many cases, and lopsided departments do not “cancel out” one another. A diverse workforce is a goal for the State of New Mexico, and managers with sex-segregated departments are encouraged to increase their efforts at diversification.
- Technical assistance in overcoming both job segregation and gender pay gaps should be provided by the State Personnel Office, as outlined by the Governor’s Task Force on Fair and Equal Pay.
- Race and ethnicity analysis should be undertaken on at least three departments identified by the State Personnel Office and the State Auditor, to identify barriers or potential problems in incorporating race and ethnicity with future gender pay gap analyses for all departments in state government.

# Gender Wage Gaps in the New Mexico State Classified Workforce

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## Gender Wage Gaps in the New Mexico State Classified Workforce

### Background

This report is an examination of gender wage gaps and job segregation in all departments of the New Mexico state government. It is a follow up to the pilot study conducted on six departments in state government in 2008, as requested by Governor Bill Richardson, and carried out by Dr. Martha Burk, Senior Policy Advisor for Women's Issues, with substantial support from the New Mexico State Personnel Office.<sup>1</sup>

A plan for gathering data for the pilot study was developed over several meetings with State Personnel Office Director Sandra Perez, State Director of Compensation Justin Najaka, and State Auditor Hector Balderas and his staff. The same procedures and methodology were used in gathering and analyzing the gender wage gap data on all departments addressed in the present study.

It is generally agreed that any analysis of wage gaps should not only include gender but race and ethnicity, since these factors often interact. Significant problems in gathering pay data by gender, job titles, and compensation were not anticipated. However, due to past procedures for gathering data on race/ethnicity, some reaching back as far as 25 years, there was concern that existing data were not reliable enough to put forward with an appropriate degree of confidence. As part of the preliminary reporting process for the pilot study, State Personnel Director Sandra Perez, in consultation with the State Auditor, instituted a process to update both race/ethnicity data and education throughout the state classified workforce.

While all agencies were successful in obtaining the data forms and completing the verification and data entry, the data were not integrated in a way that could be used in the present study. Therefore this analysis is of gender wage gaps only, without regard to race or ethnicity. The recommendations contained in the report to the Governor's Task Force on Fair and Equal Pay (Executive Order 2009-004) will include developing an appropriate methodology for including race and ethnicity data in future reports.

### Methodology and Results

#### Job Segregation

Job segregation was measured by a simple count of number of females and number of males in each department. Departments with more than 60% of one gender are considered segregated by gender. Job segregation is of less concern as department size decreases, since many pay bands may include only one individual in small departments. Accordingly, data are reported separately

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<sup>1</sup>Burk, Martha. "Gender Pay Gaps in Six Selected Departments in the New Mexico State Government," November, 2008. <http://www.governor.state.nm.us/htdocs/Pay%20Equity%20Report%20January%202009.pdf>

for departments with more than 50 employees and those with 50 or fewer employees. A summary table can be found in Appendix I.

Thirty-five departments have more than 50 employees, ranging from a low of 53 (Homeland Security & Emergency Management) to a high of 3692 (Department of Health). Sixteen departments (46%) are female dominated, six(17%) are male dominated, and twelve (35%) show no gender segregation according to the criterion used.<sup>2</sup> In the departments with more than 50 employees, the greatest job segregation was found in Game and Fish, with 83.78% males, and Human Services, with 81.79% females.

Thirty departments have fewer than 50 employees, ranging from a low of 2 (Juvenile Parole Board, Architectural Examiners Board, Border Development) to a high of 45 (Educational Retirement Board). Twenty departments (66%) are female dominated, two (6%) are male dominated, and four (13%) show no gender segregation according to the criterion used. The two departments that show male dominance are below 67% male, while a number of the female dominated departments fall in the 70-85% range. Four departments (all boards) are 100% female, though three of these have only two members. A greater concern is the New Mexico Medical Board, which has 10 women and no men.

While this level of job segregation reflects traditional sex roles (and sex role stereotyping) in many cases, it does not mean that one lopsided department is “canceled out” by another. Managers with highly sex-segregated departments are encouraged to increase their efforts at diversification.

### Gender Wage Gaps

Various measures have been employed for determining whether a given wage gap between groups (e.g. men and women) is significant. Factors include such variables as number of employees in a given classification, width of pay bands, experience, and turnover. Experts agree that gender wage gaps are expected to be smaller for public employers than for private corporations, because better safeguards (such as the Hay Guide-Chart Profile Method of Job Evaluation system used in New Mexico) are more often in place to minimize disparities due to factors not directly related to qualifications and performance. Accordingly, for purposes of this analysis, wage averages with differentials of less than 3% were treated as equal. Obviously as differentials increase, the seriousness of a given disparity increases (e.g. a gender wage gap of 3% is of much less concern than a gap of 30%).

The assumption built into the Hay system used in New Mexico to determine pay bands for different jobs is that the system captures experience, skill, effort, responsibility and working conditions to produce a pay band for a given job. These are "measured" though three quantifiable, job-related compensable factors; Know-How, Problem-Solving and Accountability.

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<sup>2</sup>Numbers do not add to 100% due to rounding error.



A fourth compensable factor of Additional Compensable Elements and Accountability may be used to measure areas such as physical effort, environment, hazards or sensory attention. Job content points for each job correlate to a particular pay band. This means that all jobs in a pay band in a given department can be compared on these variables, and an evaluation can be made as to whether gender pay gaps exist in a given pay band with dissimilar but equally rated jobs. All pay bands have a range, and pay band mid-points are included in this report for reference.

Due to uneven numbers of males and females in job categories, an overall “average pay gap” is not meaningful, so is not reported. (e.g. If overall the gender pay gap favors males in half the jobs and females in half, and the gaps are roughly equal in percentage, the average will be close to zero. This indicates there are no gender pay gaps, when in fact there could be substantial ones on both sides.)

Given that the work force is substantially segregated by job title in many departments, resulting in substantial numbers of job titles that would by necessity be left out of a job title analysis, a pay band analysis was used. Virtually all employees can be included in a pay band analysis in all but the smallest departments.

In the pay band analyses, all employees in a given pay band in a department were grouped, regardless of job title. For example, in the Department of Transportation, Training and Development Specialist-O, which is pay band 60, was grouped with Budget Analyst-O, which is also pay band 60, but a dissimilar job title. This grouping produces an analysis of gender wage gaps according to pay bands, giving a clearer picture of gender wage gaps at a given level of compensation overall.

### Results

A total 615 pay bands in 65 departments were analyzed for gender pay gaps. Two hundred and nineteen of these were gender segregated (90% of gender segregated pay bands had 3 or fewer employees, most with only one worker), so no gender comparison was possible.

|                                |                                                     |
|--------------------------------|-----------------------------------------------------|
| Pay Bands Examined             | 615                                                 |
| Pay Bands Segregated by Gender | 219 (over 90% of these contained 3 or fewer people) |
| Bands containing both genders  | 396                                                 |
| No gender wage gap             | 129                                                 |
| Gender wage gap                | 267                                                 |
| Gap favors females             | 141                                                 |
| Gap favors males               | 126                                                 |

Complete charts showing gender wage gaps by pay band by department are included in Appendix II of this report. Positive numbers indicate gender wage gaps favoring males, and negative numbers indicate gender wage gaps favoring females.

While this report and the discussion below includes all pay bands with at least one female and one male, caution must be used in comparing pay by gender when the number of individuals is extremely low. However, even if too low to draw conclusions about systemic problems, gender wage gap numbers in pay bands with few employees can still be indicative. For example, in the Educational Retirement Board, there are 5 pay bands where fewer than five individuals are employed.. In 4 of the 5 cases, the gender pay gap favors females, but in the one case favoring the male, the gap is substantially greater than those favoring females. It is recommended that management in all departments review such cases to determine whether remedial action is warranted.

As in the pilot study of six departments in 2008, gender pay gaps are scattered throughout all departments, though fully one third of the 396 pay bands with both women and men show no gender pay gaps. Some departments, such as Tax and Revenue are very close to parity, with pay gaps that are extremely small (2 pay gaps, both under 5%, out of 14 pay bands analyzed).

By far the majority of pay gaps in the New Mexico State classified workforce are moderate in size and do not approach the national average of 22% (though a very few appear to be much higher than expected). Of the 396 pay bands analyzed for gender pay gaps, only 15 had gaps exceeding 20%, affecting a mere 76 individuals of 19,811 in the workforce (0.003%).

Slightly more (52%) of the pay gaps favor women , and with a few notable exceptions, the pay gaps favoring women are generally of a greater magnitude than those favoring men.

It is tempting to review the results of this study and conclude that the gender wage gaps “even out.” For example, the gender wage gap in pay band 35 in the General Services Department favors females by 6.58%, and the gender wage gap in pay band 50 favors females by 6.27%. Viewing gender wage gaps as virtually equal and therefore canceling out is illogical and does nothing to remedy inequities for individuals or groups of workers on the wrong side of any given gap. (The old saying two wrongs don’t make a right applies here.) Every gender wage gap is a problem, and remedial steps should be taken, regardless of whether there is a countervailing gap on the other side.

Dismissing gender wage gaps as insignificant because they appear small or do not reach the level of national averages is also a disservice to employees. The gender wage gap of only 3.48% in pay band 70 in the Public Defender’s department translates to a shortfall of \$700 over a year’s time. Larger pay inequities produce larger losses for workers. The 6.93% gender wage gap in pay band 85 that is found in Aging and Long Term Services translates to \$5096 a year, and the 10.43% gap in this pay band in Transportation means a yearly loss of \$7155. It is doubtful that the workers disadvantaged by these gender pay gaps would view them as insignificant.

#### Glass Ceiling

Departments were also analyzed for “glass ceilings,” meaning either women or men are concentrated in lower paying jobs and their ranks thin as the pay band increases.

There does not appear to be a “glass ceiling” in the New Mexico system, as women and men are found in most paybands throughout the system. However, some trends should be examined. In the Department of Finance and Administration, all of the pay gaps in the lower levels favor women, and all of the gaps at higher levels favor men, though by smaller amounts. In both the State Treasurer’s office and Game and Fish, the pay gaps favor men in every pay band except one. The large majority of pay gaps in Military Affairs and the Department of Transportation favor women, even though these workforces are heavily male dominated. There are nine men and no women at the highest level in Transportation. The lowest pay band in Aging and Long Term Services has 19 women and no men. Management is encouraged to review these results.

## Conclusions

The State of New Mexico can take pride in the fact fully one third of the 396 pay bands with both women and men show no gender pay gaps, and the state is far below national averages in gender wage disparity. Some departments are very close to parity, with pay gaps that are extremely small.

- Those gender wage gaps found in the New Mexico classified workforce are moderate, and much lower than national averages. Nationally, females make 77cents to the male dollar for full-time, year-round work, resulting in a gender wage gap of 23% favoring males. Of the 396 pay bands analyzed for gender pay gaps, only 15 had gaps exceeding 20%, affecting a mere 76 individuals of 19,811 in the workforce (0.003%).
- Even though “glass ceilings” are a well-documented problem nationally, the State of New Mexico should be commended for the fact that there are no apparent “glass ceilings” in the classified workforce, though a very small number of trends affecting both women and men in selected departments should be analyzed.
- While job segregation in the national workforce is a recognized factor in producing gender wage gaps, and there is a great deal of job segregation (e.g. job titles that are totally or predominately held by one gender) in a majority of New Mexico departments, such job segregation does not generally result in gender wage disparities when analyzed by pay bands. However, gender segregation in jobs is a problem for diversity and should be addressed to produce a more balanced workforce.
- Gender wage gaps were found in most departments in this study, across the majority of pay bands. Overall, the gender wage gaps favored women, in both number and size.
- In all departments, most gaps were in the very low to moderate range, with a few larger exceptions on both sides.

### Recommendations

- Even though the clear majority of gender wage gaps are low to moderate, they should be reviewed by management and goals and timetables for remedies put in place where needed.
- Managers should be charged with annual reviews of progress toward these goals.
- The level of job segregation reflects traditional sex roles (and sex role stereotyping) in many cases, and lopsided departments do not “cancel out” one another. A diverse workforce is a goal for the State of New Mexico, and managers with sex-segregated departments are encouraged to increase their efforts at diversification.
- Technical assistance in overcoming both job segregation and gender pay gaps should be provided by the State Personnel Office, as outlined by the Governor’s Task Force on Fair and Equal Pay.
- Race and ethnicity analysis should be undertaken on at least three departments identified by the State Personnel Office and the State Auditor, to identify barriers or potential problems in incorporating race and ethnicity with future gender pay gap analyses for all departments in state government.

Appendix I

Gender Pay Gaps in the New Mexico State Workforce by Department

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| State Auditor      | 30800         | 40           | \$12.37           | 1           | \$15.35    | 0         | \$0.00   | (\$15.35)         |            |
|                    | 30800         | 60           | \$18.47           | 3           | \$17.38    | 1         | \$20.54  | \$3.15            | 15.35%     |
|                    | 30800         | 65           | \$20.40           | 3           | \$22.11    | 3         | \$21.72  | (\$0.39)          | -1.80%     |
|                    | 30800         | 70           | \$22.74           | 1           | \$28.33    | 0         | \$0.00   | (\$28.33)         |            |
|                    | 30800         | 75           | \$25.50           | 1           | \$29.33    | 0         | \$0.00   | (\$29.33)         |            |
|                    | 30800         | 85           | \$32.70           | 3           | \$28.28    | 2         | \$31.12  | \$2.84            | 9.14%      |
|                    | 30800         | 90           | \$37.35           | 1           | \$37.74    | 5         | \$36.82  | (\$0.92)          | -2.51%     |
| <b>Dept Totals</b> | 24            |              |                   | 13          |            | 11        |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 54.17%      |            | 45.83%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap/Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|-----------|
| Tax and Rev        | 33300         | 30           | \$10.44           | 13          | \$10.98    | 14        | \$10.69  | (\$0.29)          | -2.68%    |
|                    | 33300         | 35           | \$11.33           | 29          | \$11.25    | 7         | \$11.11  | (\$0.14)          | -1.29%    |
|                    | 33300         | 40           | \$12.37           | 27          | \$11.95    | 7         | \$11.92  | (\$0.03)          | -0.22%    |
|                    | 33300         | 45           | \$13.61           | 227         | \$13.44    | 50        | \$13.58  | \$0.14            | 1.03%     |
|                    | 33300         | 50           | \$15.11           | 37          | \$15.33    | 9         | \$14.94  | (\$0.38)          | -2.57%    |
|                    | 33300         | 55           | \$16.89           | 132         | \$17.14    | 62        | \$17.15  | \$0.02            | 0.09%     |
|                    | 33300         | 60           | \$18.47           | 99          | \$19.61    | 65        | \$19.70  | \$0.09            | 0.47%     |
|                    | 33300         | 65           | \$20.40           | 67          | \$24.23    | 36        | \$24.77  | \$0.54            | 2.18%     |
|                    | 33300         | 70           | \$22.74           | 3           | \$23.35    | 8         | \$22.42  | (\$0.93)          | -4.13%    |
|                    | 33300         | 75           | \$25.50           | 30          | \$28.35    | 26        | \$27.87  | (\$0.48)          | -1.71%    |
|                    | 33300         | 80           | \$28.76           | 8           | \$33.77    | 13        | \$32.56  | (\$1.20)          | -3.70%    |
|                    | 33300         | 85           | \$32.70           | 17          | \$34.53    | 32        | \$34.54  | \$0.01            | 0.03%     |
|                    | 33300         | 90           | \$37.35           | 3           | \$41.25    | 6         | \$40.14  | (\$1.11)          | -2.76%    |
|                    | 33300         | 95           | \$42.92           | 4           | \$40.52    | 4         | \$41.22  | \$0.70            | 1.71%     |
| <b>Dept Totals</b> | 1035          |              |                   | 696         |            | 339       |          |                   |           |
| <b>% of Total</b>  |               |              |                   | 67.25%      |            | 32.75%    |          |                   |           |

| Business Name            | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| State Investment Council | 33700         | 40           | \$12.37           | 1           | \$13.52    | 0         | \$0.00   | (\$13.52)         |            |
|                          | 33700         | 45           | \$13.61           | 1           | \$16.90    | 0         | \$0.00   | (\$16.90)         |            |
|                          | 33700         | 60           | \$18.47           | 2           | \$19.39    | 0         | \$0.00   | (\$19.39)         |            |
|                          | 33700         | 65           | \$20.40           | 1           | \$23.55    | 0         | \$0.00   | (\$23.55)         |            |
|                          | 33700         | 70           | \$22.74           | 3           | \$25.36    | 0         | \$0.00   | (\$25.36)         |            |
|                          | 33700         | 75           | \$25.50           | 1           | \$33.09    | 1         | \$28.24  | (\$4.85)          | -17.18%    |
|                          | 33700         | 80           | \$28.76           | 1           | \$28.75    | 0         | \$0.00   | (\$28.75)         |            |
|                          | 33700         | 85           | \$32.70           | 2           | \$29.78    | 1         | \$41.96  | \$12.19           | 29.04%     |
|                          | 33700         | 90           | \$37.35           | 1           | \$47.41    | 2         | \$43.31  | (\$4.10)          | -9.48%     |
| 33700                    | 95            | \$42.92      | 2                 | \$56.77     | 6          | \$50.83   | (\$5.94) | -11.69%           |            |
| <b>Dept Totals</b>       | 25            |              |                   | 15          |            | 10        |          |                   |            |
| <b>% of Total</b>        |               |              |                   | 60.00%      |            | 40.00%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| DFA                | 34100         | 40           | \$12.37           | 5           | \$14.17    | 1         | \$12.36  | (\$1.81)          | -14.62%    |
|                    | 34100         | 45           | \$13.61           | 1           | \$15.00    | 0         | \$0.00   | (\$15.00)         |            |
|                    | 34100         | 50           | \$15.11           | 2           | \$16.89    | 1         | \$14.44  | (\$2.46)          | -17.01%    |
|                    | 34100         | 55           | \$16.89           | 7           | \$17.21    | 1         | \$14.49  | (\$2.72)          | -18.78%    |
|                    | 34100         | 60           | \$18.47           | 11          | \$19.86    | 4         | \$16.62  | (\$3.25)          | -19.53%    |
|                    | 34100         | 65           | \$20.40           | 21          | \$22.40    | 16        | \$20.93  | (\$1.47)          | -7.02%     |
|                    | 34100         | 70           | \$22.74           | 5           | \$24.73    | 0         | \$0.00   | (\$24.73)         |            |
|                    | 34100         | 75           | \$25.50           | 23          | \$28.70    | 10        | \$30.30  | \$1.60            | 5.27%      |
|                    | 34100         | 80           | \$28.76           | 2           | \$30.73    | 3         | \$33.60  | \$2.87            | 8.53%      |
|                    | 34100         | 85           | \$32.70           | 11          | \$34.62    | 14        | \$35.16  | \$0.54            | 1.54%      |
|                    | 34100         | 90           | \$37.35           | 4           | \$41.03    | 6         | \$41.73  | \$0.69            | 1.66%      |
|                    | 34100         | 95           | \$42.92           | 1           | \$40.95    | 1         | \$44.34  | \$3.40            | 7.66%      |
| <b>Dept Totals</b> | 150           |              |                   | 93          |            | 57        |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 62.00%      |            | 38.00%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| NMPS Ins Authority | 34200         | 40           | \$12.37           | 1           | \$12.91    | 0         | \$0.00   | (\$12.91)         |            |
|                    | 34200         | 55           | \$16.89           | 1           | \$17.31    | 1         | \$19.02  | \$1.71            | 8.98%      |
|                    | 34200         | 65           | \$20.40           | 0           | \$0.00     | 1         | \$20.99  | \$20.99           |            |
|                    | 34200         | 75           | \$25.50           | 1           | \$28.18    | 2         | \$29.47  | \$1.29            | 4.38%      |
| <b>Dept Totals</b> | 7             |              |                   | 3           |            | 4         |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 42.86%      |            | 57.14%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| RHCA               | 34300         | 45           | \$13.61           | 3           | \$15.67    | 1         | \$17.79  | \$2.13            | 11.95%     |
|                    | 34300         | 55           | \$16.89           | 8           | \$16.41    | 1         | \$18.34  | \$1.93            | 10.54%     |
|                    | 34300         | 65           | \$20.40           | 0           | \$0.00     | 1         | \$20.40  | \$20.40           |            |
|                    | 34300         | 75           | \$25.50           | 2           | \$27.25    | 0         | \$0.00   | (\$27.25)         |            |
|                    | 34300         | 85           | \$32.70           | 1           | \$35.14    | 1         | \$36.98  | \$1.84            | 4.99%      |
|                    | 34300         | 95           | \$42.92           | 0           | \$0.00     | 1         | \$43.60  | \$43.60           |            |
| <b>Dept Totals</b> | 19            |              |                   | 14          |            | 5         |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 73.68%      |            | 26.32%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| <b>GSD</b>         | 35000         | 25           | \$9.71            | 20            | \$9.97     | 40            | \$9.97   | (\$0.00)          | -0.03%     |
|                    | 35000         | 30           | \$10.44           | 1             | \$12.00    | 0             | \$0.00   | (\$12.00)         |            |
|                    | 35000         | 35           | \$11.33           | 2             | \$12.58    | 13            | \$11.81  | (\$0.78)          | -6.58%     |
|                    | 35000         | 40           | \$12.37           | 2             | \$13.19    | 22            | \$13.34  | \$0.15            | 1.14%      |
|                    | 35000         | 45           | \$13.61           | 10            | \$14.41    | 18            | \$14.25  | (\$0.16)          | -1.15%     |
|                    | 35000         | 50           | \$15.11           | 8             | \$16.16    | 13            | \$16.33  | \$0.16            | 1.00%      |
|                    | 35000         | 55           | \$16.89           | 12            | \$18.10    | 7             | \$19.31  | \$1.21            | 6.27%      |
|                    | 35000         | 60           | \$18.47           | 15            | \$19.70    | 4             | \$19.13  | (\$0.57)          | -2.97%     |
|                    | 35000         | 65           | \$20.40           | 33            | \$22.76    | 14            | \$22.42  | (\$0.34)          | -1.51%     |
|                    | 35000         | 70           | \$22.74           | 3             | \$23.21    | 7             | \$25.30  | \$2.09            | 8.26%      |
|                    | 35000         | 75           | \$25.50           | 8             | \$28.33    | 11            | \$25.86  | (\$2.47)          | -9.53%     |
|                    | 35000         | 80           | \$28.76           | 1             | \$29.61    | 3             | \$32.27  | \$2.66            | 8.23%      |
|                    | 35000         | 85           | \$32.70           | 7             | \$34.74    | 9             | \$32.87  | (\$1.88)          | -5.71%     |
|                    | 35000         | 90           | \$37.35           | 0             | \$0.00     | 7             | \$39.29  | \$39.29           |            |
|                    | 35000         | 96           | \$35.68           | 2             | \$47.43    | 1             | \$41.18  | (\$6.24)          | -15.16%    |
| <b>Dept Totals</b> | 293           |              |                   | <b>124</b>    |            | <b>169</b>    |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>42.32%</b> |            | <b>57.68%</b> |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| <b>ERB</b>         | 35200         | 30           | \$10.44           | 1             | \$11.80    | 0             | \$0.00   | (\$11.80)         |            |
|                    | 35200         | 40           | \$12.37           | 3             | \$13.31    | 0             | \$0.00   | (\$13.31)         |            |
|                    | 35200         | 45           | \$13.61           | 2             | \$15.23    | 1             | \$13.61  | (\$1.62)          | -11.92%    |
|                    | 35200         | 50           | \$15.11           | 6             | \$15.70    | 0             | \$0.00   | (\$15.70)         |            |
|                    | 35200         | 55           | \$16.89           | 3             | \$19.89    | 0             | \$0.00   | (\$19.89)         |            |
|                    | 35200         | 60           | \$18.47           | 7             | \$21.38    | 3             | \$21.57  | \$0.19            | 0.88%      |
|                    | 35200         | 65           | \$20.40           | 3             | \$24.86    | 2             | \$22.04  | (\$2.83)          | -12.83%    |
|                    | 35200         | 70           | \$22.74           | 1             | \$23.17    | 2             | \$24.22  | \$1.05            | 4.33%      |
|                    | 35200         | 75           | \$25.50           | 1             | \$31.83    | 1             | \$27.78  | (\$4.04)          | -14.55%    |
|                    | 35200         | 80           | \$28.76           | 0             | \$0.00     | 1             | \$34.98  | \$34.98           |            |
|                    | 35200         | 85           | \$32.70           | 1             | \$35.55    | 2             | \$29.96  | (\$5.60)          | -18.68%    |
|                    | 35200         | 90           | \$37.35           | 1             | \$32.25    | 1             | \$42.90  | \$10.65           | 24.83%     |
|                    | 35200         | 95           | \$42.92           | 0             | \$0.00     | 3             | \$41.22  | \$41.22           |            |
| <b>Dept Totals</b> | 45            |              |                   | <b>29</b>     |            | <b>16</b>     |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>64.44%</b> |            | <b>35.56%</b> |          |                   |            |



| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| Public Defender    | 35500         | 35           | \$11.33           | 3             | \$10.53    | 0             | \$0.00   | (\$10.53)         |            |
|                    | 35500         | 40           | \$12.37           | 3             | \$11.80    | 1             | \$11.50  | (\$0.30)          | -2.59%     |
|                    | 35500         | 45           | \$13.61           | 20            | \$12.89    | 3             | \$12.94  | \$0.05            | 0.35%      |
|                    | 35500         | 50           | \$15.11           | 31            | \$14.10    | 1             | \$14.57  | \$0.46            | 3.16%      |
|                    | 35500         | 55           | \$16.89           | 29            | \$15.08    | 8             | \$16.06  | \$0.98            | 6.09%      |
|                    | 35500         | 60           | \$18.47           | 30            | \$18.04    | 12            | \$17.55  | (\$0.49)          | -2.78%     |
|                    | 35500         | 65           | \$20.40           | 15            | \$21.48    | 5             | \$19.43  | (\$2.05)          | -10.55%    |
|                    | 35500         | 70           | \$22.74           | 6             | \$20.93    | 6             | \$20.23  | (\$0.70)          | -3.48%     |
|                    | 35500         | 75           | \$25.50           | 51            | \$26.36    | 54            | \$26.26  | (\$0.10)          | -0.39%     |
|                    | 35500         | 80           | \$28.76           | 16            | \$32.63    | 27            | \$32.70  | \$0.07            | 0.22%      |
|                    | 35500         | 85           | \$32.70           | 2             | \$32.42    | 2             | \$35.70  | \$3.28            | 9.20%      |
|                    | 35500         | 90           | \$37.35           | 14            | \$42.56    | 10            | \$41.95  | (\$0.61)          | -1.46%     |
|                    | 35500         | 95           | \$42.92           | 0             | \$0.00     | 1             | \$36.82  | \$36.82           |            |
| <b>Dept Totals</b> | <b>350</b>    |              |                   | <b>220</b>    |            | <b>130</b>    |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>62.86%</b> |            | <b>37.14%</b> |          |                   |            |

| Business Name     | Business Unit      | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg   | Gap (Male-Female) | %Gap /Male |
|-------------------|--------------------|--------------|-------------------|---------------|------------|---------------|------------|-------------------|------------|
| DOIT              | 36100              | 35           | \$11.33           | 0             | \$0.00     | 1             | \$12.33    | \$12.33           |            |
|                   | 36100              | 45           | \$13.61           | 2             | \$16.61    | 9             | \$15.37    | (\$1.23)          | -8.00%     |
|                   | 36100              | 50           | \$15.11           | 5             | \$15.89    | 5             | \$16.43    | \$0.54            | 3.26%      |
|                   | 36100              | 55           | \$16.89           | 3             | \$18.37    | 1             | \$15.49    | (\$2.88)          | -18.60%    |
|                   | 36100              | 60           | \$18.47           | 2             | \$21.02    | 0             | \$0.00     | (\$21.02)         |            |
|                   | 36100              | 65           | \$20.40           | 6             | \$23.81    | 4             | \$23.28    | (\$0.53)          | -2.26%     |
|                   | 36100              | 70           | \$22.74           | 10            | \$26.10    | 2             | \$18.24    | (\$7.86)          | -43.08%    |
|                   | 36100              | 75           | \$25.50           | 6             | \$28.05    | 19            | \$24.55    | (\$3.50)          | -14.25%    |
|                   | 36100              | 80           | \$28.76           | 4             | \$31.46    | 27            | \$31.51    | \$0.05            | 0.16%      |
|                   | 36100              | 85           | \$32.70           | 17            | \$34.56    | 34            | \$36.12    | \$1.57            | 4.34%      |
|                   | 36100              | 90           | \$37.35           | 1             | \$42.25    | 0             | \$0.00     | (\$42.25)         |            |
|                   | 36100              | 95           | \$42.92           | 2             | \$38.04    | 6             | \$43.36    | \$5.32            | 12.27%     |
|                   | <b>Dept Totals</b> | <b>166</b>   |                   |               | <b>58</b>  |               | <b>108</b> |                   |            |
| <b>% of Total</b> |                    |              |                   | <b>34.94%</b> |            | <b>65.06%</b> |            |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| PERA               | 36600         | 30           | \$10.44           | 1           | \$11.52    | 0         | \$0.00   | (\$11.52)         |            |
|                    | 36600         | 40           | \$12.37           | 0           | \$0.00     | 1         | \$12.37  | \$12.37           |            |
|                    | 36600         | 45           | \$13.61           | 1           | \$17.50    | 0         | \$0.00   | (\$17.50)         |            |
|                    | 36600         | 50           | \$15.11           | 16          | \$17.70    | 4         | \$17.33  | (\$0.37)          | -2.11%     |
|                    | 36600         | 55           | \$16.89           | 11          | \$20.06    | 2         | \$20.36  | \$0.30            | 1.48%      |
|                    | 36600         | 60           | \$18.47           | 9           | \$20.03    | 2         | \$18.47  | (\$1.55)          | -8.40%     |
|                    | 36600         | 65           | \$20.40           | 2           | \$25.51    | 1         | \$26.70  | \$1.19            | 4.44%      |
|                    | 36600         | 70           | \$22.74           | 5           | \$25.42    | 0         | \$0.00   | (\$25.42)         |            |
|                    | 36600         | 75           | \$25.50           | 1           | \$32.68    | 6         | \$28.84  | (\$3.83)          | -13.29%    |
|                    | 36600         | 80           | \$28.76           | 0           | \$0.00     | 2         | \$31.16  | \$31.16           |            |
|                    | 36600         | 85           | \$32.70           | 0           | \$0.00     | 1         | \$39.90  | \$39.90           |            |
|                    | 36600         | 90           | \$37.35           | 0           | \$0.00     | 2         | \$37.84  | \$37.84           |            |
|                    | 36600         | 95           | \$42.92           | 1           | \$44.51    | 1         | \$44.71  | \$0.20            | 0.44%      |
| <b>Dept Totals</b> | 69            |              |                   | 47          |            | 22        |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 68.12%      |            | 31.88%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Records Comm.      | 36900         | 40           | \$12.37           | 1           | \$11.00    | 1         | \$11.36  | \$0.36            | 3.16%      |
|                    | 36900         | 45           | \$13.61           | 2           | \$13.67    | 1         | \$14.54  | \$0.87            | 5.97%      |
|                    | 36900         | 50           | \$15.11           | 2           | \$15.39    | 0         | \$0.00   | (\$15.39)         |            |
|                    | 36900         | 55           | \$16.89           | 0           | \$0.00     | 1         | \$21.61  | \$21.61           |            |
|                    | 36900         | 60           | \$18.47           | 2           | \$19.61    | 3         | \$18.82  | (\$0.79)          | -4.21%     |
|                    | 36900         | 65           | \$20.40           | 4           | \$20.90    | 4         | \$22.19  | \$1.29            | 5.79%      |
|                    | 36900         | 70           | \$22.74           | 0           | \$0.00     | 3         | \$21.18  | \$21.18           |            |
|                    | 36900         | 75           | \$25.50           | 0           | \$0.00     | 5         | \$24.80  | \$24.80           |            |
|                    | 36900         | 85           | \$32.70           | 3           | \$32.53    | 1         | \$31.48  | (\$1.05)          | -3.34%     |
|                    | 36900         | 90           | \$37.35           | 1           | \$39.93    | 0         | \$0.00   | (\$39.93)         |            |
| <b>Dept Totals</b> | 34            |              |                   | 15          |            | 19        |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 44.12%      |            | 55.88%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Secretary of State | 37000         | 35           | \$11.33           | 0           | \$0.00     | 1         | \$14.15  | \$14.15           |            |
|                    | 37000         | 40           | \$12.37           | 1           | \$12.36    | 0         | \$0.00   | (\$12.36)         |            |
|                    | 37000         | 50           | \$15.11           | 6           | \$15.02    | 2         | \$15.41  | \$0.39            | 2.51%      |
|                    | 37000         | 55           | \$16.89           | 2           | \$17.24    | 1         | \$19.22  | \$1.98            | 10.29%     |
|                    | 37000         | 60           | \$18.47           | 4           | \$19.17    | 0         | \$0.00   | (\$19.17)         |            |
|                    | 37000         | 65           | \$20.40           | 2           | \$26.62    | 0         | \$0.00   | (\$26.62)         |            |
|                    | 37000         | 75           | \$25.50           | 1           | \$29.34    | 2         | \$28.39  | (\$0.95)          | -3.36%     |
|                    | 37000         | 85           | \$32.70           | 4           | \$31.19    | 3         | \$31.80  | \$0.60            | 1.90%      |
| <b>Dept Totals</b> | 29            |              |                   | 20          |            | 9         |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 68.97%      |            | 31.03%    |          |                   |            |

| Business Name | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|---------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| SPO           | 37800         | 30           | \$10.44           | 1           | \$10.00    | 0         | \$0.00   | (\$10.00)         |            |
|               | 37800         | 35           | \$11.33           | 2           | \$13.20    | 1         | \$14.53  | \$1.33            | 9.15%      |
|               | 37800         | 45           | \$13.61           | 0           | \$0.00     | 1         | \$15.94  | \$15.94           |            |
|               | 37800         | 50           | \$15.11           | 2           | \$15.81    | 1         | \$19.52  | \$3.72            | 19.04%     |
|               | 37800         | 55           | \$16.89           | 1           | \$17.92    | 0         | \$0.00   | (\$17.92)         |            |
|               | 37800         | 60           | \$18.47           | 10          | \$18.49    | 0         | \$0.00   | (\$18.49)         |            |
|               | 37800         | 65           | \$20.40           | 5           | \$22.45    | 0         | \$0.00   | (\$22.45)         |            |
|               | 37800         | 70           | \$22.74           | 5           | \$26.08    | 3         | \$23.85  | (\$2.23)          | -9.35%     |
|               | 37800         | 75           | \$25.50           | 0           | \$0.00     | 4         | \$27.57  | \$27.57           |            |
|               | 37800         | 80           | \$28.76           | 3           | \$29.54    | 5         | \$32.87  | \$3.33            | 10.14%     |
|               | 37800         | 85           | \$32.70           | 3           | \$33.32    | 2         | \$37.45  | \$4.12            | 11.01%     |
|               | 37800         | 90           | \$37.35           | 0           | \$0.00     | 3         | \$40.69  | \$40.69           |            |

|                    |    |  |  |        |  |        |  |  |  |
|--------------------|----|--|--|--------|--|--------|--|--|--|
| <b>Dept Totals</b> | 52 |  |  | 32     |  | 20     |  |  |  |
| <b>% of Total</b>  |    |  |  | 61.54% |  | 38.46% |  |  |  |

| Business Name   | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|-----------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| State Treasurer | 39400         | 50           | \$15.11           | 0           | \$0.00     | 1         | \$18.31  | \$18.31           |            |
|                 | 39400         | 60           | \$18.47           | 8           | \$19.63    | 1         | \$19.66  | \$0.04            | 0.19%      |
|                 | 39400         | 65           | \$20.40           | 3           | \$24.76    | 1         | \$28.72  | \$3.97            | 13.81%     |
|                 | 39400         | 70           | \$22.74           | 4           | \$24.21    | 1         | \$21.54  | (\$2.67)          | -12.38%    |
|                 | 39400         | 75           | \$25.50           | 2           | \$28.56    | 2         | \$30.37  | \$1.81            | 5.96%      |
|                 | 39400         | 85           | \$32.70           | 2           | \$30.88    | 1         | \$39.12  | \$8.24            | 21.06%     |
|                 | 39400         | 90           | \$37.35           | 1           | \$34.41    | 2         | \$35.64  | \$1.23            | 3.45%      |
|                 | 39400         | 95           | \$42.92           | 1           | \$32.14    | 1         | \$42.12  | \$9.97            | 23.68%     |

|                    |    |  |  |        |  |        |  |  |  |
|--------------------|----|--|--|--------|--|--------|--|--|--|
| <b>Dept Totals</b> | 31 |  |  | 21     |  | 10     |  |  |  |
| <b>% of Total</b>  |    |  |  | 67.74% |  | 32.26% |  |  |  |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Archit Ex Board    | 40400         | 50           | \$15.11           | 1           | \$18.88    | 0         | \$0.00   | (\$18.88)         |            |
|                    | 40400         | 55           | \$16.89           | 1           | \$21.10    | 0         | \$0.00   | (\$21.10)         |            |
| <b>Dept Totals</b> | 2             |              |                   | 2           |            | 0         |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 100.00%     |            | 0.00%     |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Boarder Develop    | 41700         | 55           | \$16.89           | 1           | \$13.85    | 0         | \$0.00   | (\$13.85)         |            |
|                    | 41700         | 65           | \$20.40           | 0           | \$0.00     | 1         | \$19.08  | \$19.08           |            |
|                    | 41700         | 75           | \$25.50           | 0           | \$0.00     | 1         | \$29.04  | \$29.04           |            |
| <b>Dept Totals</b> | 3             |              |                   | 1           |            | 2         |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 33.33%      |            | 66.67%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Tourism            | 41800         | 30           | \$10.44           | 1           | \$10.97    | 0         | \$0.00   | (\$10.97)         |            |
|                    | 41800         | 40           | \$12.37           | 16          | \$11.32    | 6         | \$11.85  | \$0.53            | 4.46%      |
|                    | 41800         | 45           | \$13.61           | 5           | \$12.79    | 2         | \$15.00  | \$2.21            | 14.74%     |
|                    | 41800         | 50           | \$15.11           | 5           | \$18.38    | 0         | \$0.00   | (\$18.38)         |            |
|                    | 41800         | 55           | \$16.89           | 8           | \$19.09    | 0         | \$0.00   | (\$19.09)         |            |
|                    | 41800         | 65           | \$20.40           | 5           | \$22.09    | 3         | \$21.42  | (\$0.67)          | -3.12%     |
|                    | 41800         | 70           | \$22.74           | 3           | \$22.65    | 2         | \$22.20  | (\$0.44)          | -2.00%     |
|                    | 41800         | 75           | \$25.50           | 5           | \$28.02    | 8         | \$28.01  | (\$0.01)          | -0.03%     |
|                    | 41800         | 85           | \$32.70           | 1           | \$36.52    | 1         | \$35.98  | (\$0.54)          | -1.50%     |
| <b>Dept Totals</b> | 71            |              |                   | 49          |            | 22        |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 69.01%      |            | 30.99%    |          |                   |            |

| Business Name     | Business Unit      | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|-------------------|--------------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Economic Develop  | 41900              | 30           | \$10.44           | 0           | \$0.00     | 1         | \$13.83  | \$13.83           |            |
|                   | 41900              | 45           | \$13.61           | 3           | \$14.61    | 2         | \$15.00  | \$0.39            | 2.60%      |
|                   | 41900              | 50           | \$15.11           | 2           | \$18.16    | 1         | \$14.60  | (\$3.57)          | -24.43%    |
|                   | 41900              | 55           | \$16.89           | 1           | \$16.60    | 2         | \$17.93  | \$1.33            | 7.44%      |
|                   | 41900              | 60           | \$18.47           | 2           | \$21.94    | 1         | \$21.06  | (\$0.89)          | -4.21%     |
|                   | 41900              | 65           | \$20.40           | 3           | \$26.24    | 0         | \$0.00   | (\$26.24)         |            |
|                   | 41900              | 70           | \$22.74           | 11          | \$22.18    | 6         | \$23.96  | \$1.77            | 7.40%      |
|                   | 41900              | 75           | \$25.50           | 2           | \$33.84    | 3         | \$27.14  | (\$6.71)          | -24.71%    |
|                   | 41900              | 80           | \$28.76           | 1           | \$30.49    | 0         | \$0.00   | (\$30.49)         |            |
|                   | 41900              | 85           | \$32.70           | 8           | \$32.70    | 7         | \$29.99  | (\$2.71)          | -9.03%     |
|                   | <b>Dept Totals</b> | 56           |                   |             | 33         |           | 23       |                   |            |
| <b>% of Total</b> |                    |              |                   | 58.93%      |            | 41.07%    |          |                   |            |

| Business Name | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|---------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| RLD           | 42000         | 30           | \$10.44           | 1           | \$11.28    | 1         | \$11.66  | \$0.38            | 3.23%      |
|               | 42000         | 35           | \$11.33           | 1           | \$12.33    | 0         | \$0.00   | (\$12.33)         |            |
|               | 42000         | 40           | \$12.37           | 18          | \$12.52    | 3         | \$12.06  | (\$0.46)          | -3.79%     |
|               | 42000         | 45           | \$13.61           | 24          | \$14.15    | 2         | \$14.28  | \$0.14            | 0.95%      |
|               | 42000         | 50           | \$15.11           | 5           | \$15.57    | 0         | \$0.00   | (\$15.57)         |            |
|               | 42000         | 55           | \$16.89           | 20          | \$18.32    | 6         | \$18.67  | \$0.35            | 1.88%      |
|               | 42000         | 60           | \$18.47           | 25          | \$21.09    | 71        | \$20.17  | (\$0.92)          | -4.59%     |
|               | 42000         | 65           | \$20.40           | 9           | \$22.53    | 22        | \$22.81  | \$0.28            | 1.23%      |
|               | 42000         | 70           | \$22.74           | 8           | \$22.19    | 8         | \$24.71  | \$2.52            | 10.19%     |
|               | 42000         | 75           | \$25.50           | 9           | \$25.33    | 4         | \$26.12  | \$0.79            | 3.01%      |
|               | 42000         | 80           | \$28.76           | 2           | \$34.48    | 0         | \$0.00   | (\$34.48)         |            |
|               | 42000         | 85           | \$32.70           | 3           | \$33.69    | 11        | \$32.60  | (\$1.08)          | -3.31%     |
|               | 42000         | 90           | \$37.35           | 4           | \$37.91    | 7         | \$40.76  | \$2.86            | 7.00%      |
|               | 42000         | 95           | \$42.92           | 1           | \$41.78    | 0         | \$0.00   | (\$41.78)         |            |
|               | 42000         | 97           | \$57.47           | 0           | \$0.00     | 1         | \$50.39  | \$50.39           |            |

| Dept Totals   |               | 266          |                   |             | 130        |           | 136      |                   |            |
|---------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| % of Total    |               |              |                   |             | 48.87%     |           | 51.13%   |                   |            |
| Business Name | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
| PRC           | 43000         | 30           | \$10.44           | 3           | \$10.98    | 1         | \$10.44  | (\$0.54)          | -5.20%     |
|               | 43000         | 35           | \$11.33           | 1           | \$11.66    | 0         | \$0.00   | (\$11.66)         |            |
|               | 43000         | 40           | \$12.37           | 13          | \$13.55    | 11        | \$13.03  | (\$0.52)          | -3.99%     |
|               | 43000         | 45           | \$13.61           | 18          | \$15.28    | 2         | \$15.60  | \$0.31            | 2.01%      |
|               | 43000         | 50           | \$15.11           | 15          | \$16.83    | 2         | \$15.10  | (\$1.73)          | -11.46%    |
|               | 43000         | 55           | \$16.89           | 13          | \$18.25    | 5         | \$18.06  | (\$0.20)          | -1.10%     |
|               | 43000         | 60           | \$18.47           | 6           | \$20.12    | 17        | \$19.25  | (\$0.86)          | -4.47%     |
|               | 43000         | 65           | \$20.40           | 16          | \$22.13    | 21        | \$21.47  | (\$0.65)          | -3.04%     |
|               | 43000         | 70           | \$22.74           | 9           | \$23.96    | 8         | \$23.85  | (\$0.11)          | -0.44%     |
|               | 43000         | 75           | \$25.50           | 7           | \$27.93    | 13        | \$27.39  | (\$0.55)          | -1.99%     |
|               | 43000         | 80           | \$28.76           | 9           | \$32.60    | 18        | \$31.04  | (\$1.56)          | -5.03%     |
|               | 43000         | 85           | \$32.70           | 2           | \$27.41    | 7         | \$32.81  | \$5.40            | 16.45%     |
|               | 43000         | 90           | \$37.35           | 3           | \$39.02    | 10        | \$40.81  | \$1.79            | 4.38%      |
| 43000         | 95            | \$42.92      | 0                 | \$0.00      | 2          | \$40.15   | \$40.15  |                   |            |
| Dept Totals   |               | 232          |                   |             | 115        |           | 117      |                   |            |
| % of Total    |               |              |                   |             | 49.57%     |           | 50.43%   |                   |            |

| Business Name    | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| NM Medical Board | 44600         | 35           | \$11.33           | 1           | \$14.06    | 0         | \$0.00   | (\$14.06)         |            |
|                  | 44600         | 45           | \$13.61           | 2           | \$14.04    | 0         | \$0.00   | (\$14.04)         |            |
|                  | 44600         | 60           | \$18.47           | 3           | \$20.07    | 0         | \$0.00   | (\$20.07)         |            |
|                  | 44600         | 65           | \$20.40           | 1           | \$25.08    | 0         | \$0.00   | (\$25.08)         |            |
|                  | 44600         | 75           | \$25.50           | 3           | \$29.57    | 0         | \$0.00   | (\$29.57)         |            |
| Dept Totals      |               | 10           |                   |             | 10         |           | 0        |                   |            |
| % of Total       |               |              |                   |             | 100.00%    |           | 0.00%    |                   |            |

| Business Name | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|---------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Nursing BD    | 44900         | 30           | \$10.44           | 1           | \$11.50    | 0         | \$0.00   | (\$11.50)         |            |
|               | 44900         | 40           | \$12.37           | 5           | \$13.17    | 1         | \$11.50  | (\$1.67)          | -14.48%    |
|               | 44900         | 50           | \$15.11           | 1           | \$15.79    | 0         | \$0.00   | (\$15.79)         |            |
|               | 44900         | 55           | \$16.89           | 1           | \$19.58    | 0         | \$0.00   | (\$19.58)         |            |
|               | 44900         | 65           | \$20.40           | 1           | \$24.25    | 0         | \$0.00   | (\$24.25)         |            |
|               | 44900         | 75           | \$25.50           | 2           | \$28.95    | 1         | \$30.76  | \$1.81            | 5.87%      |
|               | 44900         | 85           | \$32.70           | 1           | \$32.21    | 0         | \$0.00   | (\$32.21)         |            |
|               | 44900         | 90           | \$37.35           | 3           | \$35.33    | 0         | \$0.00   | (\$35.33)         |            |
| Dept Totals   |               | 17           |                   |             | 15         |           | 2        |                   |            |
| % of Total    |               |              |                   |             | 88.24%     |           | 11.76%   |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Expo NM            | 46000         | 30           | \$10.44           | 0           | \$0.00     | 2         | \$11.48  | \$11.48           |            |
|                    | 46000         | 35           | \$11.33           | 0           | \$0.00     | 2         | \$11.11  | \$11.11           |            |
|                    | 46000         | 40           | \$12.37           | 1           | \$12.61    | 1         | \$15.37  | \$2.77            | 18.00%     |
|                    | 46000         | 45           | \$13.61           | 2           | \$15.31    | 7         | \$13.79  | (\$1.52)          | -11.04%    |
|                    | 46000         | 50           | \$15.11           | 3           | \$15.33    | 4         | \$15.46  | \$0.13            | 0.83%      |
|                    | 46000         | 55           | \$16.89           | 5           | \$17.32    | 1         | \$18.75  | \$1.43            | 7.63%      |
|                    | 46000         | 60           | \$18.47           | 9           | \$20.04    | 0         | \$0.00   | (\$20.04)         |            |
|                    | 46000         | 65           | \$20.40           | 2           | \$23.75    | 5         | \$20.76  | (\$3.00)          | -14.43%    |
|                    | 46000         | 70           | \$22.74           | 1           | \$28.17    | 0         | \$0.00   | (\$28.17)         |            |
|                    | 46000         | 75           | \$25.50           | 3           | \$27.64    | 0         | \$0.00   | (\$27.64)         |            |
|                    | 46000         | 85           | \$32.70           | 0           | \$0.00     | 4         | \$30.13  | \$30.13           |            |
|                    | 46000         | 90           | \$37.35           | 1           | \$34.12    | 2         | \$35.24  | \$1.12            | 3.17%      |
| <b>Dept Totals</b> | 55            |              |                   | 27          |            | 28        |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 49.09%      |            | 50.91%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Pro Engineers      | 46400         | 40           | \$12.37           | 2           | \$14.29    | 1         | \$14.54  | \$0.25            | 1.74%      |
|                    | 46400         | 45           | \$13.61           | 1           | \$15.59    | 0         | \$0.00   | (\$15.59)         |            |
|                    | 46400         | 60           | \$18.47           | 0           | \$0.00     | 1         | \$18.54  | \$18.54           |            |
|                    | 46400         | 70           | \$22.74           | 1           | \$24.63    | 0         | \$0.00   | (\$24.63)         |            |
| <b>Dept Totals</b> | 6             |              |                   | 4           |            | 2         |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 66.67%      |            | 33.33%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Gaming Control     | 46500         | 40           | \$12.37           | 3           | \$13.54    | 0         | \$0.00   | (\$13.54)         |            |
|                    | 46500         | 45           | \$13.61           | 4           | \$15.61    | 0         | \$0.00   | (\$15.61)         |            |
|                    | 46500         | 50           | \$15.11           | 2           | \$18.42    | 2         | \$17.33  | (\$1.09)          | -6.30%     |
|                    | 46500         | 55           | \$16.89           | 2           | \$18.99    | 1         | \$19.01  | \$0.02            | 0.09%      |
|                    | 46500         | 60           | \$18.47           | 5           | \$19.63    | 8         | \$19.03  | (\$0.61)          | -3.19%     |
|                    | 46500         | 65           | \$20.40           | 7           | \$24.95    | 4         | \$22.02  | (\$2.93)          | -13.29%    |
|                    | 46500         | 70           | \$22.74           | 1           | \$24.10    | 3         | \$28.70  | \$4.60            | 16.04%     |
|                    | 46500         | 75           | \$25.50           | 1           | \$31.27    | 1         | \$28.81  | (\$2.46)          | -8.55%     |
|                    | 46500         | 80           | \$28.76           | 1           | \$37.26    | 1         | \$37.53  | \$0.27            | 0.73%      |
|                    | 46500         | 85           | \$32.70           | 2           | \$31.62    | 3         | \$37.35  | \$5.73            | 15.33%     |
| <b>Dept Totals</b> | 51            |              |                   | 28          |            | 23        |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 54.90%      |            | 45.10%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Racing Comm.       | 46900         | 40           | \$12.37           | 1           | \$12.57    | 0         | \$0.00   | (\$12.57)         |            |
|                    | 46900         | 45           | \$13.61           | 1           | \$16.07    | 0         | \$0.00   | (\$16.07)         |            |
|                    | 46900         | 55           | \$16.89           | 1           | \$22.04    | 0         | \$0.00   | (\$22.04)         |            |
|                    | 46900         | 65           | \$20.40           | 1           | \$19.63    | 2         | \$18.84  | (\$0.79)          | -4.20%     |
|                    | 46900         | 75           | \$25.50           | 1           | \$26.97    | 1         | \$19.64  | (\$7.33)          | -37.31%    |
|                    | 46900         | 85           | \$32.70           | 1           | \$30.76    | 0         | \$0.00   | (\$30.76)         |            |
| <b>Dept Totals</b> | 9             |              |                   | 6           |            | 3         |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 66.67%      |            | 33.33%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Veterinary Board   | 47900         | 30           | \$10.44           | 1           | \$11.08    | 0         | \$0.00   | (\$11.08)         |            |
|                    | 47900         | 45           | \$13.61           | 1           | \$14.20    | 0         | \$0.00   | (\$14.20)         |            |
| <b>Dept Totals</b> | 2             |              |                   | 2           |            | 0         |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 100.00%     |            | 0.00%     |          |                   |            |

| Business Name        | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|----------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Space Port Authority | 49500         | 55           | \$16.89           | 1           | \$16.84    | 0         | \$0.00   | (\$16.84)         |            |
|                      | 49500         | 70           | \$22.74           | 1           | \$25.11    | 0         | \$0.00   | (\$25.11)         |            |
|                      | 49500         | 85           | \$32.70           | 0           | \$0.00     | 2         | \$28.86  | \$28.86           |            |
|                      | 49500         | 95           | \$42.92           | 0           | \$0.00     | 1         | \$32.45  | \$32.45           |            |
| <b>Dept Totals</b>   | 5             |              |                   | 2           |            | 3         |          |                   |            |
| <b>% of Total</b>    |               |              |                   | 40.00%      |            | 60.00%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Cultural Affairs   | 50500         | 25           | \$9.71            | 8           | \$8.67     | 8         | \$9.02   | \$0.34            | 3.81%      |
|                    | 50500         | 30           | \$10.44           | 9           | \$11.24    | 7         | \$10.59  | (\$0.65)          | -6.12%     |
|                    | 50500         | 35           | \$11.33           | 2           | \$12.39    | 5         | \$10.74  | (\$1.66)          | -15.42%    |
|                    | 50500         | 40           | \$12.37           | 12          | \$12.04    | 43        | \$10.98  | (\$1.06)          | -9.62%     |
|                    | 50500         | 45           | \$13.61           | 18          | \$13.63    | 30        | \$13.32  | (\$0.31)          | -2.32%     |
|                    | 50500         | 50           | \$15.11           | 19          | \$16.69    | 18        | \$16.62  | (\$0.07)          | -0.42%     |
|                    | 50500         | 55           | \$16.89           | 31          | \$17.80    | 34        | \$17.89  | \$0.09            | 0.52%      |
|                    | 50500         | 60           | \$18.47           | 40          | \$19.28    | 31        | \$19.93  | \$0.65            | 3.25%      |
|                    | 50500         | 65           | \$20.40           | 28          | \$21.47    | 21        | \$21.35  | (\$0.12)          | -0.58%     |
|                    | 50500         | 70           | \$22.74           | 39          | \$22.96    | 17        | \$23.06  | \$0.11            | 0.47%      |
|                    | 50500         | 75           | \$25.50           | 16          | \$26.53    | 17        | \$26.80  | \$0.27            | 0.99%      |
|                    | 50500         | 80           | \$28.76           | 4           | \$25.10    | 4         | \$30.90  | \$5.80            | 18.76%     |
|                    | 50500         | 85           | \$32.70           | 4           | \$26.75    | 7         | \$33.90  | \$7.15            | 21.10%     |
|                    | 50500         | 90           | \$37.35           | 3           | \$36.92    | 0         | \$0.00   | (\$36.92)         |            |
|                    | 50500         | 95           | \$42.92           | 0           | \$0.00     | 1         | \$40.20  | \$40.20           |            |
| <b>Dept Totals</b> | 476           |              |                   | 233         |            | 243       |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 48.95%      |            | 51.05%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| Livestock Board    | 50800         | 35           | \$11.33           | 1             | \$10.54    | 0             | \$0.00   | (\$10.54)         |            |
|                    | 50800         | 40           | \$12.37           | 0             | \$0.00     | 3             | \$17.47  | \$17.47           |            |
|                    | 50800         | 45           | \$13.61           | 1             | \$11.86    | 0             | \$0.00   | (\$11.86)         |            |
|                    | 50800         | 50           | \$15.11           | 1             | \$18.44    | 0             | \$0.00   | (\$18.44)         |            |
|                    | 50800         | 55           | \$16.89           | 2             | \$17.47    | 1             | \$13.30  | (\$4.16)          | -31.31%    |
|                    | 50800         | 60           | \$18.47           | 2             | \$13.84    | 18            | \$14.78  | \$0.94            | 6.37%      |
|                    | 50800         | 65           | \$20.40           | 2             | \$16.76    | 31            | \$17.70  | \$0.94            | 5.31%      |
|                    | 50800         | 70           | \$22.74           | 1             | \$24.81    | 0             | \$0.00   | (\$24.81)         |            |
|                    | 50800         | 75           | \$25.50           | 0             | \$0.00     | 4             | \$27.30  | \$27.30           |            |
|                    | 50800         | 85           | \$32.70           | 2             | \$34.09    | 3             | \$42.43  | \$8.34            | 19.66%     |
|                    | 50800         | 90           | \$37.35           | 0             | \$0.00     | 1             | \$50.36  | \$50.36           |            |
|                    | 50800         | 96           | \$35.68           | 0             | \$0.00     | 1             | \$42.52  | \$42.52           |            |
| <b>Dept Totals</b> | <b>74</b>     |              |                   | <b>12</b>     |            | <b>62</b>     |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>16.22%</b> |            | <b>83.78%</b> |          |                   |            |

| Business Name     | Business Unit      | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg   | Gap (Male-Female) | %Gap /Male |
|-------------------|--------------------|--------------|-------------------|---------------|------------|---------------|------------|-------------------|------------|
| Game & Fish       | 51600              | 25           | \$9.71            | 0             | \$0.00     | 1             | \$10.88    | \$10.88           |            |
|                   | 51600              | 40           | \$12.37           | 0             | \$0.00     | 1             | \$13.74    | \$13.74           |            |
|                   | 51600              | 45           | \$13.61           | 6             | \$13.79    | 2             | \$15.32    | \$1.54            | 10.02%     |
|                   | 51600              | 50           | \$15.11           | 11            | \$14.55    | 21            | \$15.68    | \$1.13            | 7.19%      |
|                   | 51600              | 55           | \$16.89           | 15            | \$18.76    | 22            | \$17.40    | (\$1.37)          | -7.85%     |
|                   | 51600              | 60           | \$18.47           | 10            | \$18.82    | 48            | \$19.16    | \$0.35            | 1.82%      |
|                   | 51600              | 65           | \$20.40           | 15            | \$22.14    | 59            | \$23.52    | \$1.38            | 5.85%      |
|                   | 51600              | 70           | \$22.74           | 1             | \$19.76    | 11            | \$23.45    | \$3.69            | 15.74%     |
|                   | 51600              | 75           | \$25.50           | 4             | \$24.90    | 9             | \$28.21    | \$3.31            | 11.74%     |
|                   | 51600              | 80           | \$28.76           | 0             | \$0.00     | 1             | \$26.42    | \$26.42           |            |
|                   | 51600              | 85           | \$32.70           | 3             | \$31.55    | 20            | \$32.99    | \$1.44            | 4.36%      |
|                   | 51600              | 90           | \$37.35           | 1             | \$35.11    | 8             | \$36.28    | \$1.17            | 3.24%      |
|                   | 51600              | 95           | \$42.92           | 0             | \$0.00     | 1             | \$42.42    | \$42.42           |            |
|                   | 51600              | 96           | \$35.68           | 0             | \$0.00     | 2             | \$43.15    | \$43.15           |            |
|                   | <b>Dept Totals</b> | <b>272</b>   |                   |               | <b>66</b>  |               | <b>206</b> |                   |            |
| <b>% of Total</b> |                    |              |                   | <b>24.26%</b> |            | <b>75.74%</b> |            |                   |            |



| Business Name                       | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|-------------------------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| Energy Minerals & Natural Resources | 52100         | 30           | \$10.44           | 1             | \$12.30    | 0             | \$0.00   | (\$12.30)         |            |
|                                     | 52100         | 40           | \$12.37           | 1             | \$12.61    | 0             | \$0.00   | (\$12.61)         |            |
|                                     | 52100         | 45           | \$13.61           | 14            | \$13.58    | 31            | \$12.99  | (\$0.60)          | -4.59%     |
|                                     | 52100         | 50           | \$15.11           | 14            | \$15.74    | 21            | \$15.34  | (\$0.41)          | -2.65%     |
|                                     | 52100         | 55           | \$16.89           | 24            | \$17.82    | 27            | \$16.47  | (\$1.34)          | -8.15%     |
|                                     | 52100         | 60           | \$18.47           | 19            | \$19.75    | 47            | \$18.17  | (\$1.58)          | -8.70%     |
|                                     | 52100         | 65           | \$20.40           | 20            | \$22.68    | 29            | \$21.73  | (\$0.95)          | -4.38%     |
|                                     | 52100         | 70           | \$22.74           | 17            | \$23.59    | 33            | \$22.06  | (\$1.53)          | -6.92%     |
|                                     | 52100         | 75           | \$25.50           | 11            | \$28.04    | 39            | \$27.95  | (\$0.09)          | -0.32%     |
|                                     | 52100         | 80           | \$28.76           | 4             | \$34.00    | 14            | \$34.20  | \$0.20            | 0.58%      |
|                                     | 52100         | 85           | \$32.70           | 13            | \$33.21    | 22            | \$32.02  | (\$1.18)          | -3.70%     |
|                                     | 52100         | 90           | \$37.35           | 4             | \$35.98    | 11            | \$36.27  | \$0.29            | 0.80%      |
|                                     | 52100         | 95           | \$42.92           | 0             | \$0.00     | 5             | \$42.13  | \$42.13           |            |
|                                     | 52100         | 96           | \$35.68           | 1             | \$47.65    | 3             | \$43.16  | (\$4.48)          | -10.39%    |
| <b>Dept Totals</b>                  | 425           |              |                   | <b>143</b>    |            | <b>282</b>    |          |                   |            |
| <b>% of Total</b>                   |               |              |                   | <b>33.65%</b> |            | <b>66.35%</b> |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females    | Female Avg | No. Males    | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|----------------|------------|--------------|----------|-------------------|------------|
| Youth Conserve     | 52200         | 55           | \$16.89           | 1              | \$19.42    | 0            | \$0.00   | (\$19.42)         |            |
|                    | 52200         | 90           | \$37.35           | 1              | \$32.05    | 0            | \$0.00   | (\$32.05)         |            |
| <b>Dept Totals</b> | 2             |              |                   | <b>2</b>       |            | <b>0</b>     |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>100.00%</b> |            | <b>0.00%</b> |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| State Land         | 53900         | 25           | \$9.71            | 3             | \$9.69     | 2             | \$10.05  | \$0.36            | 3.60%      |
|                    | 53900         | 35           | \$11.33           | 0             | \$0.00     | 2             | \$11.80  | \$11.80           |            |
|                    | 53900         | 40           | \$12.37           | 2             | \$12.83    | 2             | \$14.07  | \$1.24            | 8.81%      |
|                    | 53900         | 45           | \$13.61           | 2             | \$14.93    | 3             | \$13.76  | (\$1.17)          | -8.48%     |
|                    | 53900         | 50           | \$15.11           | 5             | \$16.02    | 3             | \$15.55  | (\$0.46)          | -2.97%     |
|                    | 53900         | 55           | \$16.89           | 4             | \$18.89    | 8             | \$16.87  | (\$2.03)          | -12.01%    |
|                    | 53900         | 60           | \$18.47           | 11            | \$20.51    | 9             | \$19.26  | (\$1.25)          | -6.48%     |
|                    | 53900         | 65           | \$20.40           | 13            | \$23.59    | 22            | \$22.05  | (\$1.54)          | -6.99%     |
|                    | 53900         | 70           | \$22.74           | 2             | \$25.16    | 5             | \$23.07  | (\$2.09)          | -9.05%     |
|                    | 53900         | 75           | \$25.50           | 4             | \$29.75    | 9             | \$29.14  | (\$0.61)          | -2.09%     |
|                    | 53900         | 80           | \$28.76           | 3             | \$32.92    | 8             | \$34.44  | \$1.52            | 4.41%      |
|                    | 53900         | 85           | \$32.70           | 4             | \$34.15    | 5             | \$34.00  | (\$0.15)          | -0.44%     |
|                    | 53900         | 90           | \$37.35           | 2             | \$32.76    | 4             | \$36.18  | \$3.41            | 9.44%      |
|                    | 53900         | 95           | \$42.92           | 0             | \$0.00     | 1             | \$45.39  | \$45.39           |            |
| <b>Dept Totals</b> | 138           |              |                   | <b>55</b>     |            | <b>83</b>     |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>39.86%</b> |            | <b>60.14%</b> |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| State Engineer     | 55000         | 25           | \$9.71            | 2           | \$10.22    | 0         | \$0.00   | (\$10.22)         |            |
|                    | 55000         | 45           | \$13.61           | 17          | \$14.02    | 2         | \$12.92  | (\$1.09)          | -8.47%     |
|                    | 55000         | 50           | \$15.11           | 15          | \$16.91    | 4         | \$17.30  | \$0.39            | 2.24%      |
|                    | 55000         | 55           | \$16.89           | 13          | \$17.75    | 1         | \$17.49  | (\$0.26)          | -1.46%     |
|                    | 55000         | 60           | \$18.47           | 10          | \$21.19    | 0         | \$0.00   | (\$21.19)         |            |
|                    | 55000         | 65           | \$20.40           | 14          | \$24.02    | 2         | \$24.17  | \$0.15            | 0.62%      |
|                    | 55000         | 70           | \$22.74           | 19          | \$21.40    | 37        | \$21.36  | (\$0.04)          | -0.17%     |
|                    | 55000         | 75           | \$25.50           | 24          | \$25.75    | 56        | \$25.68  | (\$0.07)          | -0.26%     |
|                    | 55000         | 80           | \$28.76           | 24          | \$31.71    | 44        | \$32.90  | \$1.19            | 3.61%      |
|                    | 55000         | 85           | \$32.70           | 7           | \$37.22    | 6         | \$36.40  | (\$0.82)          | -2.25%     |
|                    | 55000         | 90           | \$37.35           | 0           | \$0.00     | 5         | \$36.22  | \$36.22           |            |
|                    | 55000         | 95           | \$42.92           | 3           | \$42.62    | 13        | \$41.00  | (\$1.62)          | -3.94%     |
|                    | 55000         | 96           | \$35.68           | 0           | \$0.00     | 2         | \$51.00  | \$51.00           |            |
| <b>Dept Totals</b> | 320           |              |                   | 148         |            | 172       |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 46.25%      |            | 53.75%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Organic Commodity  | 56900         | 55           | \$16.89           | 1           | \$18.61    | 1         | \$19.05  | \$0.44            | 2.31%      |
|                    | 56900         | 65           | \$20.40           | 1           | \$20.94    | 0         | \$0.00   | (\$20.94)         |            |
| <b>Dept Totals</b> | 3             |              |                   | 2           |            | 1         |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 66.67%      |            | 33.33%    |          |                   |            |

| Business Name                | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|------------------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Comm. on the Status Of Women | 60100         | 30           | \$10.44           | 3           | \$9.53     | 0         | \$0.00   | (\$9.53)          |            |
|                              | 60100         | 50           | \$15.11           | 1           | \$20.71    | 0         | \$0.00   | (\$20.71)         |            |
|                              | 60100         | 55           | \$16.89           | 0           | \$0.00     | 1         | \$12.64  | \$12.64           |            |
|                              | 60100         | 60           | \$18.47           | 2           | \$19.80    | 0         | \$0.00   | (\$19.80)         |            |
|                              | 60100         | 65           | \$20.40           | 2           | \$22.07    | 0         | \$0.00   | (\$22.07)         |            |
|                              | 60100         | 70           | \$22.74           | 1           | \$21.93    | 0         | \$0.00   | (\$21.93)         |            |
|                              | 60100         | 75           | \$25.50           | 1           | \$22.70    | 0         | \$0.00   | (\$22.70)         |            |
|                              | 60100         | 85           | \$32.70           | 1           | \$25.96    | 0         | \$0.00   | (\$25.96)         |            |
| <b>Dept Totals</b>           | 12            |              |                   | 11          |            | 1         |          |                   |            |
| <b>% of Total</b>            |               |              |                   | 91.67%      |            | 8.33%     |          |                   |            |

| Business Name            | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| African American Affairs | 60300         | 60           | \$18.47           | 1           | \$15.23    | 0         | \$0.00   | (\$15.23)         |            |
|                          | 60300         | 65           | \$20.40           | 1           | \$14.68    | 1         | \$16.74  | \$2.06            | 12.30%     |
|                          | 60300         | 80           | \$28.76           | 0           | \$0.00     | 1         | \$33.96  | \$33.96           |            |
| <b>Dept Totals</b>       | 4             |              |                   | 2           |            | 2         |          |                   |            |
| <b>% of Total</b>        |               |              |                   | 50.00%      |            | 50.00%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Deaf/HH            | 60400         | 45           | \$13.61           | 1           | \$15.90    | 0         | \$0.00   | (\$15.90)         |            |
|                    | 60400         | 55           | \$16.89           | 4           | \$17.26    | 1         | \$17.66  | \$0.40            | 2.27%      |
|                    | 60400         | 60           | \$18.47           | 2           | \$20.63    | 1         | \$18.00  | (\$2.63)          | -14.59%    |
|                    | 60400         | 65           | \$20.40           | 1           | \$22.45    | 0         | \$0.00   | (\$22.45)         |            |
|                    | 60400         | 70           | \$22.74           | 2           | \$23.60    | 0         | \$0.00   | (\$23.60)         |            |
|                    | 60400         | 85           | \$32.70           | 1           | \$31.86    | 0         | \$0.00   | (\$31.86)         |            |
| <b>Dept Totals</b> | 13            |              |                   | 11          |            | 2         |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 84.62%      |            | 15.38%    |          |                   |            |

| Business Name       | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|---------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Comm. for the Blind | 60600         | 35           | \$11.33           | 8           | \$11.30    | 4         | \$11.71  | \$0.41            | 3.48%      |
|                     | 60600         | 45           | \$13.61           | 11          | \$14.43    | 2         | \$15.05  | \$0.62            | 4.11%      |
|                     | 60600         | 55           | \$16.89           | 0           | \$0.00     | 1         | \$16.70  | \$16.70           |            |
|                     | 60600         | 60           | \$18.47           | 3           | \$19.35    | 3         | \$19.43  | \$0.08            | 0.41%      |
|                     | 60600         | 65           | \$20.40           | 14          | \$21.20    | 8         | \$18.84  | (\$2.36)          | -12.54%    |
|                     | 60600         | 70           | \$22.74           | 1           | \$18.31    | 1         | \$19.16  | \$0.85            | 4.44%      |
|                     | 60600         | 75           | \$25.50           | 1           | \$27.14    | 2         | \$27.54  | \$0.41            | 1.47%      |
|                     | 60600         | 80           | \$28.76           | 1           | \$24.40    | 0         | \$0.00   | (\$24.40)         |            |
|                     | 60600         | 85           | \$32.70           | 1           | \$31.35    | 1         | \$37.22  | \$5.86            | 15.76%     |
|                     | 60600         | 90           | \$37.35           | 0           | \$0.00     | 1         | \$37.42  | \$37.42           |            |
| <b>Dept Totals</b>  | 63            |              |                   | 40          |            | 23        |          |                   |            |
| <b>% of Total</b>   |               |              |                   | 63.49%      |            | 36.51%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Indian Affairs     | 60900         | 45           | \$13.61           | 1           | \$14.00    | 0         | \$0.00   | (\$14.00)         |            |
|                    | 60900         | 50           | \$15.11           | 1           | \$18.05    | 0         | \$0.00   | (\$18.05)         |            |
|                    | 60900         | 65           | \$20.40           | 3           | \$23.68    | 1         | \$24.19  | \$0.51            | 2.09%      |
|                    | 60900         | 75           | \$25.50           | 1           | \$32.02    | 0         | \$0.00   | (\$32.02)         |            |
|                    | 60900         | 80           | \$28.76           | 1           | \$30.12    | 0         | \$0.00   | (\$30.12)         |            |
| <b>Dept Totals</b> | 8             |              |                   | 7           |            | 1         |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 87.50%      |            | 12.50%    |          |                   |            |

| Business Name              | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|----------------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| Aging & Long Term Services | 62400         | 35           | \$11.33           | 19            | \$11.28    | 0             | \$0.00   | (\$11.28)         |            |
|                            | 62400         | 40           | \$12.37           | 6             | \$12.72    | 1             | \$13.79  | \$1.07            | 7.75%      |
|                            | 62400         | 45           | \$13.61           | 7             | \$14.18    | 1             | \$14.00  | (\$0.18)          | -1.31%     |
|                            | 62400         | 50           | \$15.11           | 2             | \$18.32    | 0             | \$0.00   | (\$18.32)         |            |
|                            | 62400         | 55           | \$16.89           | 13            | \$17.78    | 5             | \$18.52  | \$0.74            | 4.00%      |
|                            | 62400         | 60           | \$18.47           | 26            | \$18.92    | 9             | \$20.02  | \$1.10            | 5.49%      |
|                            | 62400         | 65           | \$20.40           | 56            | \$22.25    | 25            | \$22.26  | \$0.01            | 0.05%      |
|                            | 62400         | 70           | \$22.74           | 31            | \$25.34    | 7             | \$28.17  | \$2.83            | 10.05%     |
|                            | 62400         | 75           | \$25.50           | 11            | \$28.50    | 10            | \$28.53  | \$0.03            | 0.10%      |
|                            | 62400         | 80           | \$28.76           | 7             | \$34.36    | 5             | \$33.38  | (\$0.98)          | -2.93%     |
|                            | 62400         | 85           | \$32.70           | 3             | \$37.79    | 10            | \$35.34  | (\$2.45)          | -6.93%     |
|                            | 62400         | 90           | \$37.35           | 2             | \$41.35    | 1             | \$44.96  | \$3.61            | 8.02%      |
|                            | 62400         | 95           | \$42.92           | 1             | \$44.82    | 0             | \$0.00   | (\$44.82)         |            |
|                            | 62400         | 96           | \$35.68           | 0             | \$0.00     | 1             | \$45.72  | \$45.72           |            |
| <b>Dept Totals</b>         | 259           |              |                   | <b>184</b>    |            | <b>75</b>     |          |                   |            |
| <b>% of Total</b>          |               |              |                   | <b>71.04%</b> |            | <b>28.96%</b> |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| Human Services     | 63000         | 25           | \$9.71            | 1             | \$9.53     | 0             | \$0.00   | (\$9.53)          |            |
|                    | 63000         | 30           | \$10.44           | 202           | \$10.64    | 11            | \$10.84  | \$0.20            | 1.83%      |
|                    | 63000         | 35           | \$11.33           | 1             | \$13.85    | 0             | \$0.00   | (\$13.85)         |            |
|                    | 63000         | 40           | \$12.37           | 25            | \$13.04    | 1             | \$16.19  | \$3.15            | 19.46%     |
|                    | 63000         | 45           | \$13.61           | 72            | \$14.28    | 9             | \$12.70  | (\$1.58)          | -12.42%    |
|                    | 63000         | 50           | \$15.11           | 47            | \$15.49    | 18            | \$15.91  | \$0.43            | 2.68%      |
|                    | 63000         | 55           | \$16.89           | 27            | \$18.82    | 4             | \$17.54  | (\$1.28)          | -7.29%     |
|                    | 63000         | 60           | \$18.47           | 523           | \$15.39    | 86            | \$15.67  | \$0.28            | 1.76%      |
|                    | 63000         | 65           | \$20.40           | 218           | \$20.38    | 55            | \$20.68  | \$0.30            | 1.43%      |
|                    | 63000         | 70           | \$22.74           | 186           | \$22.94    | 40            | \$23.72  | \$0.79            | 3.32%      |
|                    | 63000         | 75           | \$25.50           | 87            | \$28.09    | 33            | \$27.83  | (\$0.27)          | -0.96%     |
|                    | 63000         | 80           | \$28.76           | 24            | \$32.41    | 19            | \$33.44  | \$1.03            | 3.09%      |
|                    | 63000         | 85           | \$32.70           | 41            | \$34.81    | 31            | \$36.42  | \$1.61            | 4.43%      |
|                    | 63000         | 90           | \$37.35           | 16            | \$40.03    | 15            | \$39.30  | (\$0.74)          | -1.87%     |
|                    | 63000         | 95           | \$42.92           | 3             | \$43.29    | 5             | \$43.12  | (\$0.17)          | -0.38%     |
|                    | 63000         | 98           | \$66.89           | 0             | \$0.00     | 1             | \$77.15  | \$77.15           |            |
| <b>Dept Totals</b> | 1801          |              |                   | <b>1473</b>   |            | <b>328</b>    |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>81.79%</b> |            | <b>18.21%</b> |          |                   |            |

| Business Name              | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg  | Gap (Male-Female) | %Gap /Male |
|----------------------------|---------------|--------------|-------------------|---------------|------------|---------------|-----------|-------------------|------------|
| <b>Workforce Solutions</b> | 63100         | 25           | \$9.71            | 1             | \$8.78     | 1             | \$14.41   | \$5.62            | 39.04%     |
|                            | 63100         | 30           | \$10.44           | 4             | \$11.09    | 1             | \$8.80    | (\$2.29)          | -25.97%    |
|                            | 63100         | 35           | \$11.33           | 1             | \$9.81     | 0             | \$0.00    | (\$9.81)          |            |
|                            | 63100         | 40           | \$12.37           | 6             | \$12.14    | 1             | \$11.12   | (\$1.01)          | -9.11%     |
|                            | 63100         | 45           | \$13.61           | 18            | \$14.79    | 2             | \$12.39   | (\$2.41)          | -19.42%    |
|                            | 63100         | 50           | \$15.11           | 42            | \$13.41    | 10            | \$13.96   | \$0.55            | 3.93%      |
|                            | 63100         | 55           | \$16.89           | 78            | \$15.86    | 44            | \$15.58   | (\$0.28)          | -1.82%     |
|                            | 63100         | 60           | \$18.47           | 71            | \$17.86    | 50            | \$18.11   | \$0.25            | 1.39%      |
|                            | 63100         | 65           | \$20.40           | 23            | \$23.69    | 6             | \$22.33   | (\$1.36)          | -6.07%     |
|                            | 63100         | 70           | \$22.74           | 12            | \$21.48    | 10            | \$21.62   | \$0.14            | 0.65%      |
|                            | 63100         | 75           | \$25.50           | 9             | \$24.74    | 15            | \$26.13   | \$1.39            | 5.31%      |
|                            | 63100         | 80           | \$28.76           | 4             | \$30.32    | 6             | \$27.83   | (\$2.49)          | -8.96%     |
|                            | 63100         | 85           | \$32.70           | 8             | \$32.66    | 14            | \$32.70   | \$0.04            | 0.12%      |
|                            | 63100         | 90           | \$37.35           | 2             | \$36.20    | 2             | \$41.94   | \$5.74            | 13.68%     |
|                            | 63100         | 95           | \$42.92           | 0             | \$0.00     | 3             | \$37.93   | \$37.93           |            |
| 63100                      | 96            | \$35.68      | 1                 | \$45.67       | 0          | \$0.00        | (\$45.67) |                   |            |
| <b>Dept Totals</b>         | 445           |              |                   | <b>280</b>    |            | <b>165</b>    |           |                   |            |
| <b>% of Total</b>          |               |              |                   | <b>62.92%</b> |            | <b>37.08%</b> |           |                   |            |

| Business Name       | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg  | Gap (Male-Female) | %Gap /Male |
|---------------------|---------------|--------------|-------------------|---------------|------------|---------------|-----------|-------------------|------------|
| <b>Workers Comp</b> | 63200         | 30           | \$10.44           | 2             | \$10.90    | 0             | \$0.00    | (\$10.90)         |            |
|                     | 63200         | 35           | \$11.33           | 2             | \$12.00    | 0             | \$0.00    | (\$12.00)         |            |
|                     | 63200         | 40           | \$12.37           | 4             | \$14.55    | 1             | \$14.21   | (\$0.35)          | -2.44%     |
|                     | 63200         | 45           | \$13.61           | 9             | \$15.32    | 0             | \$0.00    | (\$15.32)         |            |
|                     | 63200         | 50           | \$15.11           | 13            | \$15.50    | 0             | \$0.00    | (\$15.50)         |            |
|                     | 63200         | 55           | \$16.89           | 11            | \$17.27    | 7             | \$17.49   | \$0.22            | 1.26%      |
|                     | 63200         | 60           | \$18.47           | 6             | \$18.81    | 0             | \$0.00    | (\$18.81)         |            |
|                     | 63200         | 65           | \$20.40           | 14            | \$20.88    | 9             | \$22.18   | \$1.30            | 5.87%      |
|                     | 63200         | 70           | \$22.74           | 4             | \$25.48    | 2             | \$25.71   | \$0.23            | 0.89%      |
|                     | 63200         | 75           | \$25.50           | 9             | \$28.70    | 6             | \$27.64   | (\$1.06)          | -3.84%     |
|                     | 63200         | 80           | \$28.76           | 5             | \$33.59    | 4             | \$32.21   | (\$1.37)          | -4.26%     |
|                     | 63200         | 85           | \$32.70           | 0             | \$0.00     | 1             | \$38.89   | \$38.89           |            |
| 63200               | 90            | \$37.35      | 2                 | \$37.10       | 0          | \$0.00        | (\$37.10) |                   |            |
| <b>Dept Totals</b>  | 111           |              |                   | <b>81</b>     |            | <b>30</b>     |           |                   |            |
| <b>% of Total</b>   |               |              |                   | <b>72.97%</b> |            | <b>27.03%</b> |           |                   |            |

| Business Name            | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Dept of Vocational Rehab | 64400         | 40           | \$12.37           | 0           | \$0.00     | 1         | \$12.37  | \$12.37           |            |
|                          | 64400         | 45           | \$13.61           | 19          | \$13.66    | 2         | \$12.64  | (\$1.03)          | -8.11%     |
|                          | 64400         | 50           | \$15.11           | 25          | \$16.33    | 1         | \$17.69  | \$1.36            | 7.68%      |
|                          | 64400         | 55           | \$16.89           | 40          | \$17.49    | 5         | \$17.10  | (\$0.39)          | -2.28%     |
|                          | 64400         | 60           | \$18.47           | 7           | \$19.12    | 6         | \$19.18  | \$0.06            | 0.31%      |
|                          | 64400         | 65           | \$20.40           | 47          | \$22.78    | 25        | \$23.61  | \$0.83            | 3.50%      |
|                          | 64400         | 70           | \$22.74           | 33          | \$23.81    | 17        | \$22.76  | (\$1.05)          | -4.63%     |
|                          | 64400         | 75           | \$25.50           | 8           | \$27.51    | 9         | \$28.32  | \$0.82            | 2.88%      |
|                          | 64400         | 80           | \$28.76           | 11          | \$28.13    | 9         | \$27.50  | (\$0.64)          | -2.31%     |
|                          | 64400         | 85           | \$32.70           | 7           | \$35.88    | 5         | \$36.72  | \$0.84            | 2.29%      |
|                          | 64400         | 90           | \$37.35           | 1           | \$40.84    | 1         | \$41.06  | \$0.21            | 0.52%      |
| 64400                    | 95            | \$42.92      | 0                 | \$0.00      | 1          | \$44.04   | \$44.04  |                   |            |
| <b>Dept Totals</b>       | 280           |              |                   | 198         |            | 82        |          |                   |            |
| <b>% of Total</b>        |               |              |                   | 70.71%      |            | 29.29%    |          |                   |            |

| Business Name           | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|-------------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Gov Comm. on Disability | 64500         | 50           | \$15.11           | 1           | \$16.66    | 0         | \$0.00   | (\$16.66)         |            |
|                         | 64500         | 60           | \$18.47           | 1           | \$20.38    | 0         | \$0.00   | (\$20.38)         |            |
|                         | 64500         | 75           | \$25.50           | 2           | \$25.16    | 1         | \$23.36  | (\$1.79)          | -7.67%     |
|                         | 64500         | 85           | \$32.70           | 0           | \$0.00     | 2         | \$29.73  | \$29.73           |            |
| <b>Dept Totals</b>      | 7             |              |                   | 4           |            | 3         |          |                   |            |
| <b>% of Total</b>       |               |              |                   | 57.14%      |            | 42.86%    |          |                   |            |

| Business Name                   | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|---------------------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Dev Disability Planning Council | 64700         | 25           | \$9.71            | 2           | \$7.64     | 0         | \$0.00   | (\$7.64)          |            |
|                                 | 64700         | 50           | \$15.11           | 1           | \$13.39    | 0         | \$0.00   | (\$13.39)         |            |
|                                 | 64700         | 55           | \$16.89           | 1           | \$16.50    | 1         | \$19.60  | \$3.10            | 15.83%     |
|                                 | 64700         | 60           | \$18.47           | 1           | \$19.14    | 0         | \$0.00   | (\$19.14)         |            |
|                                 | 64700         | 65           | \$20.40           | 5           | \$23.45    | 1         | \$21.79  | (\$1.66)          | -7.63%     |
|                                 | 64700         | 75           | \$25.50           | 2           | \$29.00    | 0         | \$0.00   | (\$29.00)         |            |
|                                 | 64700         | 80           | \$28.76           | 1           | \$35.07    | 1         | \$35.20  | \$0.12            | 0.35%      |
| <b>Dept Totals</b>              | 16            |              |                   | 13          |            | 3         |          |                   |            |
| <b>% of Total</b>               |               |              |                   | 81.25%      |            | 18.75%    |          |                   |            |

| Business Name                       | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|-------------------------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| <b>Minors Colfax Medical Center</b> | 66200         | 25           | \$9.71            | 20            | \$8.96     | 7             | \$8.77   | (\$0.19)          | -2.12%     |
|                                     | 66200         | 30           | \$10.44           | 12            | \$9.52     | 3             | \$10.89  | \$1.37            | 12.56%     |
|                                     | 66200         | 35           | \$11.33           | 10            | \$10.64    | 3             | \$10.78  | \$0.14            | 1.34%      |
|                                     | 66200         | 40           | \$12.37           | 33            | \$11.43    | 5             | \$11.76  | \$0.33            | 2.82%      |
|                                     | 66200         | 45           | \$13.61           | 12            | \$12.81    | 6             | \$13.09  | \$0.28            | 2.11%      |
|                                     | 66200         | 50           | \$15.11           | 11            | \$15.65    | 5             | \$14.90  | (\$0.75)          | -5.04%     |
|                                     | 66200         | 55           | \$16.89           | 6             | \$17.82    | 6             | \$19.67  | \$1.85            | 9.40%      |
|                                     | 66200         | 60           | \$18.47           | 5             | \$19.99    | 3             | \$21.31  | \$1.32            | 6.19%      |
|                                     | 66200         | 65           | \$20.40           | 5             | \$21.30    | 1             | \$30.30  | \$9.00            | 29.71%     |
|                                     | 66200         | 70           | \$22.74           | 18            | \$24.31    | 1             | \$23.65  | (\$0.66)          | -2.80%     |
|                                     | 66200         | 75           | \$25.50           | 16            | \$26.34    | 2             | \$27.42  | \$1.08            | 3.94%      |
|                                     | 66200         | 85           | \$32.70           | 1             | \$37.73    | 3             | \$35.70  | (\$2.03)          | -5.69%     |
|                                     | 66200         | 90           | \$37.35           | 1             | \$35.19    | 2             | \$40.21  | \$5.01            | 12.47%     |
|                                     | 66200         | 97           | \$57.47           | 0             | \$0.00     | 3             | \$57.95  | \$57.95           |            |
|                                     | 66200         | 98           | \$66.89           | 1             | \$90.00    | 0             | \$0.00   | (\$90.00)         |            |
| <b>Dept Totals</b>                  | 201           |              |                   | <b>151</b>    |            | <b>50</b>     |          |                   |            |
| <b>% of Total</b>                   |               |              |                   | <b>75.12%</b> |            | <b>24.88%</b> |          |                   |            |

| Business Name         | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|-----------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| <b>Dept of Health</b> | 66500         | 25           | \$9.71            | 99            | \$9.41     | 91            | \$8.68   | (\$0.73)          | -8.40%     |
|                       | 66500         | 30           | \$10.44           | 262           | \$10.52    | 62            | \$10.25  | (\$0.27)          | -2.66%     |
|                       | 66500         | 35           | \$11.33           | 216           | \$10.86    | 137           | \$10.36  | (\$0.50)          | -4.87%     |
|                       | 66500         | 40           | \$12.37           | 402           | \$12.69    | 238           | \$12.07  | (\$0.62)          | -5.12%     |
|                       | 66500         | 45           | \$13.61           | 175           | \$14.90    | 90            | \$14.16  | (\$0.74)          | -5.24%     |
|                       | 66500         | 50           | \$15.11           | 82            | \$15.17    | 42            | \$15.71  | \$0.55            | 3.50%      |
|                       | 66500         | 55           | \$16.89           | 154           | \$16.88    | 53            | \$16.84  | (\$0.05)          | -0.29%     |
|                       | 66500         | 60           | \$18.47           | 195           | \$19.51    | 78            | \$20.00  | \$0.49            | 2.46%      |
|                       | 66500         | 65           | \$20.40           | 286           | \$22.37    | 104           | \$22.38  | \$0.01            | 0.04%      |
|                       | 66500         | 70           | \$22.74           | 149           | \$24.69    | 67            | \$25.27  | \$0.58            | 2.29%      |
|                       | 66500         | 75           | \$25.50           | 352           | \$27.53    | 95            | \$27.69  | \$0.16            | 0.57%      |
|                       | 66500         | 80           | \$28.76           | 38            | \$31.38    | 9             | \$31.10  | (\$0.28)          | -0.90%     |
|                       | 66500         | 85           | \$32.70           | 69            | \$33.77    | 43            | \$33.89  | \$0.12            | 0.36%      |
|                       | 66500         | 90           | \$37.35           | 27            | \$38.29    | 17            | \$40.66  | \$2.37            | 5.82%      |
|                       | 66500         | 95           | \$42.92           | 5             | \$44.07    | 8             | \$41.91  | (\$2.17)          | -5.17%     |
|                       | 66500         | 96           | \$35.68           | 11            | \$58.16    | 14            | \$56.41  | (\$1.75)          | -3.09%     |
|                       | 66500         | 97           | \$57.47           | 8             | \$66.99    | 10            | \$64.42  | (\$2.56)          | -3.97%     |
|                       | 66500         | 98           | \$66.89           | 1             | \$71.05    | 3             | \$72.21  | \$1.16            | 1.60%      |
| <b>Dept Totals</b>    | 3692          |              |                   | <b>2531</b>   |            | <b>1161</b>   |          |                   |            |
| <b>% of Total</b>     |               |              |                   | <b>68.55%</b> |            | <b>31.45%</b> |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| Environment        | 66700         | 35           | \$11.33           | 1             | \$11.66    | 0             | \$0.00   | (\$11.66)         |            |
|                    | 66700         | 40           | \$12.37           | 7             | \$13.69    | 1             | \$13.99  | \$0.30            | 2.17%      |
|                    | 66700         | 45           | \$13.61           | 42            | \$14.67    | 4             | \$14.39  | (\$0.28)          | -1.92%     |
|                    | 66700         | 50           | \$15.11           | 13            | \$18.14    | 6             | \$16.54  | (\$1.60)          | -9.68%     |
|                    | 66700         | 55           | \$16.89           | 31            | \$19.39    | 2             | \$20.53  | \$1.14            | 5.55%      |
|                    | 66700         | 60           | \$18.47           | 15            | \$21.87    | 1             | \$22.47  | \$0.61            | 2.69%      |
|                    | 66700         | 65           | \$20.40           | 19            | \$24.11    | 11            | \$21.89  | (\$2.22)          | -10.15%    |
|                    | 66700         | 70           | \$22.74           | 75            | \$23.91    | 128           | \$23.62  | (\$0.29)          | -1.22%     |
|                    | 66700         | 75           | \$25.50           | 51            | \$28.16    | 94            | \$27.50  | (\$0.66)          | -2.39%     |
|                    | 66700         | 80           | \$28.76           | 14            | \$33.08    | 54            | \$32.02  | (\$1.06)          | -3.31%     |
|                    | 66700         | 85           | \$32.70           | 11            | \$34.98    | 14            | \$32.90  | (\$2.08)          | -6.32%     |
|                    | 66700         | 90           | \$37.35           | 6             | \$36.06    | 7             | \$37.67  | \$1.61            | 4.26%      |
| 66700              | 95            | \$42.92      | 6                 | \$37.99       | 12         | \$37.51       | (\$0.48) | -1.28%            |            |
| <b>Dept Totals</b> | 625           |              |                   | <b>291</b>    |            | <b>334</b>    |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>46.56%</b> |            | <b>53.44%</b> |          |                   |            |

| Business Name       | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|---------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| Health Policy Comm. | 66800         | 55           | \$16.89           | 1             | \$21.01    | 0             | \$0.00   | (\$21.01)         |            |
|                     | 66900         | 60           | \$18.47           | 1             | \$17.54    | 0             | \$0.00   | (\$17.54)         |            |
|                     | 66900         | 65           | \$20.40           | 3             | \$20.72    | 0             | \$0.00   | (\$20.72)         |            |
|                     | 66900         | 70           | \$22.74           | 0             | \$0.00     | 1             | \$21.00  | \$21.00           |            |
|                     | 66800         | 75           | \$25.50           | 0             | \$0.00     | 1             | \$30.85  | \$30.85           |            |
|                     | 66900         | 80           | \$28.76           | 1             | \$30.74    | 1             | \$30.00  | (\$0.74)          | -2.47%     |
|                     | 66900         | 85           | \$32.70           | 0             | \$0.00     | 1             | \$36.80  | \$36.80           |            |
|                     | 66800         | 96           | \$35.68           | 1             | \$43.01    | 0             | \$0.00   | (\$43.01)         |            |
| <b>Dept Totals</b>  | 11            |              |                   | <b>7</b>      |            | <b>4</b>      |          |                   |            |
| <b>% of Total</b>   |               |              |                   | <b>63.64%</b> |            | <b>36.36%</b> |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| Veteran Affairs    | 67000         | 40           | \$12.37           | 1             | \$13.86    | 0             | \$0.00   | (\$13.86)         |            |
|                    | 67000         | 50           | \$15.11           | 7             | \$15.81    | 14            | \$14.17  | (\$1.64)          | -11.57%    |
|                    | 67000         | 55           | \$16.89           | 0             | \$0.00     | 1             | \$19.72  | \$19.72           |            |
|                    | 67000         | 60           | \$18.47           | 3             | \$19.24    | 1             | \$18.47  | (\$0.77)          | -4.19%     |
|                    | 67000         | 65           | \$20.40           | 1             | \$20.99    | 1             | \$21.63  | \$0.64            | 2.96%      |
|                    | 67000         | 75           | \$25.50           | 0             | \$0.00     | 1             | \$24.00  | \$24.00           |            |
|                    | 67000         | 85           | \$32.70           | 0             | \$0.00     | 1             | \$31.20  | \$31.20           |            |
| <b>Dept Totals</b> | 31            |              |                   | <b>12</b>     |            | <b>19</b>     |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>38.71%</b> |            | <b>61.29%</b> |          |                   |            |



| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| CYFD               | 69000         | 25           | \$9.71            | 1             | \$9.93     | 3             | \$10.67  | \$0.74            | 6.95%      |
|                    | 69000         | 30           | \$10.44           | 14            | \$11.18    | 1             | \$10.74  | (\$0.44)          | -4.06%     |
|                    | 69000         | 35           | \$11.33           | 54            | \$11.49    | 5             | \$11.75  | \$0.26            | 2.22%      |
|                    | 69000         | 40           | \$12.37           | 93            | \$12.73    | 5             | \$14.31  | \$1.58            | 11.05%     |
|                    | 69000         | 45           | \$13.61           | 22            | \$14.55    | 1             | \$12.64  | (\$1.91)          | -15.12%    |
|                    | 69000         | 50           | \$15.11           | 101           | \$15.08    | 14            | \$15.43  | \$0.35            | 2.29%      |
|                    | 69000         | 55           | \$16.89           | 139           | \$15.74    | 140           | \$13.84  | (\$1.90)          | -13.74%    |
|                    | 69000         | 60           | \$18.47           | 285           | \$18.06    | 103           | \$17.47  | (\$0.59)          | -3.37%     |
|                    | 69000         | 65           | \$20.40           | 209           | \$21.72    | 107           | \$20.15  | (\$1.56)          | -7.76%     |
|                    | 69000         | 70           | \$22.74           | 261           | \$23.35    | 117           | \$22.78  | (\$0.57)          | -2.48%     |
|                    | 69000         | 75           | \$25.50           | 57            | \$29.06    | 28            | \$28.07  | (\$0.99)          | -3.53%     |
|                    | 69000         | 80           | \$28.76           | 13            | \$32.57    | 19            | \$32.33  | (\$0.24)          | -0.74%     |
|                    | 69000         | 85           | \$32.70           | 38            | \$31.65    | 25            | \$32.17  | \$0.52            | 1.61%      |
|                    | 69000         | 90           | \$37.35           | 25            | \$35.08    | 17            | \$36.91  | \$1.82            | 4.94%      |
|                    | 69000         | 95           | \$42.92           | 3             | \$40.01    | 2             | \$41.42  | \$1.41            | 3.40%      |
|                    | 69000         | 96           | \$35.68           | 4             | \$46.13    | 8             | \$43.08  | (\$3.05)          | -7.07%     |
| 69000              | 98            | \$66.89      | 1                 | \$61.27       | 1          | \$87.88       | \$26.62  | 30.29%            |            |
| <b>Dept Totals</b> | 1916          |              |                   | <b>1320</b>   |            | <b>596</b>    |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>68.89%</b> |            | <b>31.11%</b> |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| Military Affairs   | 70500         | 25           | \$9.71            | 1             | \$10.94    | 2             | \$10.85  | (\$0.09)          | -0.79%     |
|                    | 70500         | 35           | \$11.33           | 1             | \$13.36    | 1             | \$14.86  | \$1.50            | 10.11%     |
|                    | 70500         | 40           | \$12.37           | 4             | \$14.23    | 10            | \$13.18  | (\$1.05)          | -7.95%     |
|                    | 70500         | 45           | \$13.61           | 0             | \$0.00     | 6             | \$16.99  | \$16.99           |            |
|                    | 70500         | 50           | \$15.11           | 9             | \$16.88    | 9             | \$16.06  | (\$0.82)          | -5.10%     |
|                    | 70500         | 55           | \$16.89           | 15            | \$17.57    | 18            | \$14.96  | (\$2.60)          | -17.41%    |
|                    | 70500         | 60           | \$18.47           | 9             | \$21.91    | 7             | \$19.74  | (\$2.17)          | -10.97%    |
|                    | 70500         | 65           | \$20.40           | 6             | \$23.15    | 9             | \$20.26  | (\$2.89)          | -14.28%    |
|                    | 70500         | 70           | \$22.74           | 1             | \$23.00    | 9             | \$24.01  | \$1.01            | 4.22%      |
|                    | 70500         | 75           | \$25.50           | 4             | \$27.55    | 6             | \$26.18  | (\$1.37)          | -5.22%     |
|                    | 70500         | 80           | \$28.76           | 1             | \$29.50    | 0             | \$0.00   | (\$29.50)         |            |
|                    | 70500         | 85           | \$32.70           | 0             | \$0.00     | 2             | \$31.77  | \$31.77           |            |
| <b>Dept Totals</b> | 130           |              |                   | <b>51</b>     |            | <b>79</b>     |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>39.23%</b> |            | <b>60.77%</b> |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| Adult Parole       | 76000         | 40           | \$12.37           | 0             | \$0.00     | 1             | \$12.00  | \$12.00           |            |
|                    | 76000         | 45           | \$13.61           | 1             | \$11.75    | 0             | \$0.00   | (\$11.75)         |            |
|                    | 76000         | 50           | \$15.11           | 2             | \$15.49    | 0             | \$0.00   | (\$15.49)         |            |
|                    | 76000         | 85           | \$32.70           | 1             | \$29.39    | 0             | \$0.00   | (\$29.39)         |            |
| <b>Dept Totals</b> | 5             |              |                   | <b>4</b>      |            | <b>1</b>      |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>80.00%</b> |            | <b>20.00%</b> |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Juvenile Parole Bd | 76500         | 45           | \$13.61           | 1           | \$12.77    | 0         | \$0.00   | (\$12.77)         |            |
|                    | 76500         | 70           | \$22.74           | 0           | \$0.00     | 1         | \$22.65  | \$22.65           |            |
| <b>Dept Totals</b> | 2             |              |                   | 1           |            | 1         |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 50.00%      |            | 50.00%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Corrections        | 77000         | 30           | \$10.44           | 2           | \$10.95    | 1         | \$13.37  | \$2.42            | 18.12%     |
|                    | 77000         | 40           | \$12.37           | 82          | \$12.51    | 4         | \$14.30  | \$1.79            | 12.53%     |
|                    | 77000         | 45           | \$13.61           | 23          | \$14.16    | 3         | \$13.54  | (\$0.62)          | -4.57%     |
|                    | 77000         | 50           | \$15.11           | 22          | \$14.64    | 22        | \$12.86  | (\$1.79)          | -13.89%    |
|                    | 77000         | 55           | \$16.89           | 152         | \$14.73    | 782       | \$14.83  | \$0.10            | 0.68%      |
|                    | 77000         | 60           | \$18.47           | 102         | \$17.20    | 305       | \$17.89  | \$0.69            | 3.85%      |
|                    | 77000         | 65           | \$20.40           | 195         | \$18.53    | 147       | \$18.40  | (\$0.13)          | -0.72%     |
|                    | 77000         | 70           | \$22.74           | 49          | \$23.00    | 51        | \$22.42  | (\$0.58)          | -2.59%     |
|                    | 77000         | 75           | \$25.50           | 18          | \$25.30    | 68        | \$24.59  | (\$0.71)          | -2.88%     |
|                    | 77000         | 80           | \$28.76           | 5           | \$32.45    | 6         | \$28.44  | (\$4.01)          | -14.11%    |
|                    | 77000         | 85           | \$32.70           | 12          | \$30.35    | 32        | \$29.90  | (\$0.45)          | -1.51%     |
|                    | 77000         | 90           | \$37.35           | 8           | \$34.65    | 17        | \$33.85  | (\$0.80)          | -2.38%     |
|                    | 77000         | 95           | \$42.92           | 0           | \$0.00     | 4         | \$41.12  | \$41.12           |            |
|                    | 77000         | 96           | \$35.68           | 1           | \$42.52    | 5         | \$44.21  | \$1.69            | 3.82%      |
|                    | 77000         | 97           | \$57.47           | 0           | \$0.00     | 1         | \$63.74  | \$63.74           |            |
|                    | 77000         | 98           | \$66.89           | 0           | \$0.00     | 1         | \$82.05  | \$82.05           |            |
| <b>Dept Totals</b> | 2120          |              |                   | 671         |            | 1449      |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 31.65%      |            | 68.35%    |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| Crime Victims      | 78000         | 45           | \$13.61           | 1           | \$11.40    | 0         | \$0.00   | (\$11.40)         |            |
|                    | 78000         | 55           | \$16.89           | 1           | \$14.85    | 0         | \$0.00   | (\$14.85)         |            |
|                    | 78000         | 60           | \$18.47           | 8           | \$17.87    | 3         | \$16.82  | (\$1.05)          | -6.22%     |
|                    | 78000         | 65           | \$20.40           | 2           | \$20.37    | 1         | \$25.70  | \$5.33            | 20.75%     |
|                    | 78000         | 85           | \$32.70           | 2           | \$28.70    | 0         | \$0.00   | (\$28.70)         |            |
|                    | 78000         | 90           | \$37.35           | 1           | \$30.35    | 0         | \$0.00   | (\$30.35)         |            |
| <b>Dept Totals</b> | 19            |              |                   | 15          |            | 4         |          |                   |            |
| <b>% of Total</b>  |               |              |                   | 78.95%      |            | 21.05%    |          |                   |            |

| Business Name        | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|----------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| <b>Public Safety</b> | 79000         | 25           | \$9.71            | 5             | \$11.18    | 1             | \$10.43  | (\$0.75)          | -7.19%     |
|                      | 79000         | 30           | \$10.44           | 1             | \$10.50    | 3             | \$11.51  | \$1.01            | 8.79%      |
|                      | 79000         | 35           | \$11.33           | 3             | \$11.60    | 2             | \$11.86  | \$0.25            | 2.14%      |
|                      | 79000         | 40           | \$12.37           | 34            | \$13.11    | 0             | \$0.00   | (\$13.11)         |            |
|                      | 79000         | 45           | \$13.61           | 37            | \$12.85    | 20            | \$13.79  | \$0.93            | 6.75%      |
|                      | 79000         | 50           | \$15.11           | 77            | \$13.72    | 88            | \$13.99  | \$0.27            | 1.95%      |
|                      | 79000         | 55           | \$16.89           | 22            | \$18.07    | 1             | \$18.41  | \$0.34            | 1.86%      |
|                      | 79000         | 60           | \$18.47           | 12            | \$18.75    | 11            | \$18.35  | (\$0.40)          | -2.18%     |
|                      | 79000         | 65           | \$20.40           | 19            | \$21.38    | 12            | \$19.94  | (\$1.44)          | -7.20%     |
|                      | 79000         | 70           | \$22.74           | 15            | \$21.84    | 99            | \$20.27  | (\$1.57)          | -7.75%     |
|                      | 79000         | 75           | \$25.50           | 17            | \$28.24    | 32            | \$26.05  | (\$2.18)          | -8.38%     |
|                      | 79000         | 80           | \$28.76           | 15            | \$32.37    | 22            | \$31.26  | (\$1.11)          | -3.54%     |
|                      | 79000         | 85           | \$32.70           | 2             | \$33.83    | 12            | \$35.43  | \$1.60            | 4.52%      |
|                      | 79000         | 90           | \$37.35           | 0             | \$0.00     | 6             | \$38.68  | \$38.68           |            |
|                      | 79000         | 95           | \$42.92           | 0             | \$0.00     | 3             | \$42.91  | \$42.91           |            |
| <b>Dept Totals</b>   | 571           |              |                   | <b>259</b>    |            | <b>312</b>    |          |                   |            |
| <b>% of Total</b>    |               |              |                   | <b>45.36%</b> |            | <b>54.64%</b> |          |                   |            |

| Business Name                                          | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------------------------------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| <b>Homeland Security &amp; Office of Emergency Mgt</b> | 79500         | 45           | \$13.61           | 3             | \$16.04    | 0             | \$0.00   | (\$16.04)         |            |
|                                                        | 79500         | 50           | \$15.11           | 1             | \$15.55    | 2             | \$16.51  | \$0.96            | 5.81%      |
|                                                        | 79500         | 55           | \$16.89           | 6             | \$17.25    | 1             | \$18.55  | \$1.30            | 7.00%      |
|                                                        | 79500         | 60           | \$18.47           | 7             | \$18.92    | 7             | \$19.62  | \$0.70            | 3.57%      |
|                                                        | 79500         | 65           | \$20.40           | 3             | \$24.35    | 5             | \$21.56  | (\$2.79)          | -12.92%    |
|                                                        | 79500         | 70           | \$22.74           | 3             | \$26.74    | 2             | \$22.94  | (\$3.80)          | -16.56%    |
|                                                        | 79500         | 75           | \$25.50           | 2             | \$31.28    | 3             | \$27.49  | (\$3.80)          | -13.81%    |
|                                                        | 79500         | 80           | \$28.76           | 1             | \$29.75    | 1             | \$38.06  | \$8.31            | 21.83%     |
|                                                        | 79500         | 85           | \$32.70           | 2             | \$36.02    | 4             | \$34.74  | (\$1.28)          | -3.68%     |
| <b>Dept Totals</b>                                     | 53            |              |                   | <b>28</b>     |            | <b>25</b>     |          |                   |            |
| <b>% of Total</b>                                      |               |              |                   | <b>52.83%</b> |            | <b>47.17%</b> |          |                   |            |

| Business Name      | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| <b>DOT</b>         | 80500         | 25           | \$9.71            | 4             | \$10.46    | 7             | \$8.64   | (\$1.81)          | -20.97%    |
|                    | 80500         | 30           | \$10.44           | 8             | \$11.59    | 8             | \$11.74  | \$0.15            | 1.30%      |
|                    | 80500         | 35           | \$11.33           | 1             | \$11.30    | 14            | \$12.50  | \$1.21            | 9.64%      |
|                    | 80500         | 40           | \$12.37           | 25            | \$12.80    | 25            | \$13.70  | \$0.90            | 6.58%      |
|                    | 80500         | 45           | \$13.61           | 29            | \$14.43    | 134           | \$12.63  | (\$1.80)          | -14.25%    |
|                    | 80500         | 50           | \$15.11           | 66            | \$15.90    | 536           | \$13.86  | (\$2.04)          | -14.71%    |
|                    | 80500         | 55           | \$16.89           | 90            | \$17.66    | 514           | \$16.77  | (\$0.88)          | -5.28%     |
|                    | 80500         | 60           | \$18.47           | 93            | \$20.17    | 174           | \$19.14  | (\$1.03)          | -5.40%     |
|                    | 80500         | 65           | \$20.40           | 52            | \$24.44    | 124           | \$22.80  | (\$1.63)          | -7.16%     |
|                    | 80500         | 70           | \$22.74           | 21            | \$24.36    | 61            | \$24.15  | (\$0.20)          | -0.85%     |
|                    | 80500         | 75           | \$25.50           | 24            | \$29.18    | 100           | \$27.25  | (\$1.93)          | -7.07%     |
|                    | 80500         | 80           | \$28.76           | 13            | \$33.61    | 71            | \$34.32  | \$0.71            | 2.07%      |
|                    | 80500         | 85           | \$32.70           | 12            | \$36.41    | 44            | \$32.98  | (\$3.44)          | -10.43%    |
|                    | 80500         | 90           | \$37.35           | 4             | \$39.95    | 21            | \$39.56  | (\$0.39)          | -0.98%     |
|                    | 80500         | 95           | \$42.92           | 6             | \$43.13    | 25            | \$44.46  | \$1.32            | 2.98%      |
|                    | 80500         | 96           | \$35.68           | 0             | \$0.00     | 9             | \$47.11  | \$47.11           |            |
| <b>Dept Totals</b> | 2315          |              |                   | <b>448</b>    |            | <b>1867</b>   |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>19.35%</b> |            | <b>80.65%</b> |          |                   |            |

| Business Name         | Business Unit | Salary Grade | Midpoint / Hourly | No. Females   | Female Avg | No. Males     | Male Avg | Gap (Male-Female) | %Gap /Male |
|-----------------------|---------------|--------------|-------------------|---------------|------------|---------------|----------|-------------------|------------|
| <b>Public Ed Dept</b> | 92400         | 35           | \$11.33           | 0             | \$0.00     | 1             | \$12.35  | \$12.35           |            |
|                       | 92400         | 40           | \$12.37           | 4             | \$14.18    | 2             | \$14.74  | \$0.56            | 3.78%      |
|                       | 92400         | 45           | \$13.61           | 13            | \$15.75    | 3             | \$15.37  | (\$0.37)          | -2.43%     |
|                       | 92400         | 50           | \$15.11           | 25            | \$17.46    | 5             | \$16.96  | (\$0.50)          | -2.95%     |
|                       | 92400         | 55           | \$16.89           | 6             | \$20.21    | 2             | \$19.02  | (\$1.19)          | -6.24%     |
|                       | 92400         | 60           | \$18.47           | 5             | \$21.36    | 0             | \$0.00   | (\$21.36)         |            |
|                       | 92400         | 65           | \$20.40           | 16            | \$23.02    | 18            | \$23.31  | \$0.29            | 1.23%      |
|                       | 92400         | 70           | \$22.74           | 12            | \$27.71    | 8             | \$24.21  | (\$3.51)          | -14.49%    |
|                       | 92400         | 75           | \$25.50           | 48            | \$30.11    | 26            | \$29.19  | (\$0.92)          | -3.16%     |
|                       | 92400         | 80           | \$28.76           | 2             | \$30.11    | 7             | \$34.18  | \$4.07            | 11.91%     |
|                       | 92400         | 85           | \$32.70           | 13            | \$36.93    | 16            | \$37.22  | \$0.29            | 0.79%      |
| 92400                 | 90            | \$37.35      | 7                 | \$39.90       | 6          | \$42.36       | \$2.46   | 5.81%             |            |
| <b>Dept Totals</b>    | 245           |              |                   | <b>151</b>    |            | <b>94</b>     |          |                   |            |
| <b>% of Total</b>     |               |              |                   | <b>61.63%</b> |            | <b>38.37%</b> |          |                   |            |

| Business Name            | Business Unit | Salary Grade | Midpoint / Hourly | No. Females | Female Avg | No. Males | Male Avg | Gap (Male-Female) | %Gap /Male |
|--------------------------|---------------|--------------|-------------------|-------------|------------|-----------|----------|-------------------|------------|
| NM Higher Education Dept | 95000         | 45           | \$13.61           | 1           | \$12.10    | 0         | \$0.00   | (\$12.10)         |            |
|                          | 95000         | 50           | \$15.11           | 2           | \$17.31    | 0         | \$0.00   | (\$17.31)         |            |
|                          | 95000         | 55           | \$16.89           | 1           | \$19.72    | 0         | \$0.00   | (\$19.72)         |            |
|                          | 95000         | 60           | \$18.47           | 5           | \$20.79    | 1         | \$14.00  | (\$6.79)          | -48.53%    |
|                          | 95000         | 65           | \$20.40           | 2           | \$23.71    | 1         | \$24.63  | \$0.92            | 3.73%      |
|                          | 95000         | 70           | \$22.74           | 5           | \$25.22    | 4         | \$24.76  | (\$0.46)          | -1.85%     |
|                          | 95000         | 75           | \$25.50           | 4           | \$27.69    | 0         | \$0.00   | (\$27.69)         |            |
|                          | 95000         | 80           | \$28.76           | 4           | \$31.93    | 0         | \$0.00   | (\$31.93)         |            |
|                          | 95000         | 85           | \$32.70           | 1           | \$31.50    | 1         | \$36.25  | \$4.75            | 13.11%     |
| <b>Dept Totals</b>       | 32            |              |                   | 25          |            | 7         |          |                   |            |
| <b>% of Total</b>        |               |              |                   | 78.13%      |            | 21.88%    |          |                   |            |

Total Classified Employees : 19,811

## Appendix II

## Job Segregation in the New Mexico Workforce

**Job Segregation**

|                                             | <b>No. employees</b> | <b>% female</b> | <b>% male</b> |
|---------------------------------------------|----------------------|-----------------|---------------|
| <b>More than 50 employees</b>               |                      |                 |               |
| Tax and Rev                                 | 1035                 | 67.25%          | 32.75%        |
| DFA                                         | 150                  | 62.00%          | 38.00%        |
| GSD                                         | 293                  | 42.32%          | 57.68%        |
| Public Defender                             | 350                  | 62.86%          | 37.14%        |
| DOIT                                        | 166                  | 34.94%          | 65.06%        |
| PERA                                        | 69                   | 68.12%          | 31.88%        |
| SPO                                         | 52                   | 61.54%          | 38.46%        |
| Tourism                                     | 71                   | 69.01%          | 30.99%        |
| Economic Develop                            | 56                   | 58.93%          | 41.07%        |
| RLD                                         | 266                  | 48.87%          | 51.13%        |
| PRC                                         | 232                  | 49.57%          | 50.43%        |
| Expo NM                                     | 55                   | 49.09%          | 50.91%        |
| Gaming Control                              | 51                   | 54.90%          | 45.10%        |
| Cultural Affairs                            | 476                  | 48.95%          | 51.05%        |
| Livestock Board                             | 74                   | 16.22%          | 83.78%        |
| Game & Fish                                 | 272                  | 24.26%          | 75.74%        |
| Energy Minerals & Natural Resources         | 425                  | 33.65%          | 66.35%        |
| State Land                                  | 138                  | 39.86%          | 60.14%        |
| State Engineer                              | 320                  | 46.25%          | 53.75%        |
| Comm. for the Blind                         | 63                   | 63.49%          | 36.51%        |
| Aging & Long Term Services                  | 259                  | 71.04%          | 28.96%        |
| Human Services                              | 1801                 | 81.79%          | 18.21%        |
| Workforce Solutions                         | 445                  | 62.92%          | 37.08%        |
| Workers Comp                                | 111                  | 72.97%          | 27.03%        |
| % of Dept of Vocational RehabTotal          | 280                  | 70.71%          | 29.29%        |
| Minors Colfax Medical Center                | 201                  | 75.12%          | 24.88%        |
| Dept of Health                              | 3692                 | 68.55%          | 31.45%        |
| Environment                                 | 625                  | 46.56%          | 53.44%        |
| CYFD                                        | 1916                 | 68.89%          | 31.11%        |
| Military Affairs                            | 130                  | 39.23%          | 60.77%        |
| Corrections                                 | 2120                 | 31.65%          | 68.35%        |
| Public Safety                               | 571                  | 45.36%          | 54.64%        |
| Homeland Security & Office of Emergency Mgt | 53                   | 52.83%          | 47.17%        |
| DOT                                         | 2315                 | 19.35%          | 80.65%        |
| Public Ed Dept                              | 245                  | 61.63%          | 38.37%        |
| <b>Fewer than 50 employees</b>              |                      |                 |               |
| State Auditor                               | 24                   | 54.17%          | 45.83%        |
| State Investment Council                    | 25                   | 60.00%          | 40.00%        |
| NMPS Ins Authority                          | 7                    | 42.86%          | 57.14%        |
| RHCA                                        | 19                   | 73.68%          | 26.32%        |
| ERB                                         | 45                   | 64.44%          | 35.56%        |
| Records Comm.                               | 34                   | 44.12%          | 55.88%        |
| Secretary of State                          | 29                   | 68.97%          | 31.03%        |
| State Treasure                              | 31                   | 67.74%          | 32.26%        |
| Archit Ex Board                             | 2                    | 100.00%         | 0.00%         |
| Boarder Develop                             | 3                    | 33.33%          | 66.67%        |
| NM Medical Board                            | 10                   | 100.00%         | 0.00%         |
| Nursing BD                                  | 17                   | 88.24%          | 11.76%        |
| Pro Engineers                               | 6                    | 66.67%          | 33.33%        |
| Racing Comm.                                | 9                    | 66.67%          | 33.33%        |
| Veterinary Board                            | 2                    | 100.00%         | 0.00%         |

|                                 |    |         |        |
|---------------------------------|----|---------|--------|
| Space Port Authority            | 5  | 40.00%  | 60.00% |
| Youth Conserve                  | 2  | 100.00% | 0.00%  |
| Organic Commodity               | 3  | 66.67%  | 33.33% |
| Comm. on the Status Of Women    | 12 | 91.67%  | 8.33%  |
| African American Affairs        | 4  | 50.00%  | 50.00% |
| Deaf/HH                         | 13 | 84.62%  | 15.38% |
| Indian Affairs                  | 8  | 87.50%  | 12.50% |
| Gov Comm. on Disability         | 7  | 57.14%  | 42.86% |
| Dev Disability Planning Council | 16 | 81.25%  | 18.75% |
| Health Policy Comm.             | 11 | 63.64%  | 36.36% |
| Veteran Affairs                 | 31 | 38.71%  | 61.29% |
| Adult Parole                    | 5  | 80.00%  | 20.00% |
| Juvenile Parole Bd              | 2  | 50.00%  | 50.00% |
| Crime Victims                   | 19 | 78.95%  | 21.05% |
| NM Higher Education Dept        | 32 | 78.13%  | 21.88% |







Office of the City Manager

ACTION CALENDAR  
July 9, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: David White, Deputy City Manager  
 Subject: Companion Report: Equal Pay Independent Audit of City Employees

RECOMMENDATION

Continue to implement the City's existing compensation system that addresses concerns raised by the Commission on the Status of Women.

FISCAL IMPACTS OF RECOMMENDATION

No Fiscal Impact.

CURRENT SITUATION AND ITS EFFECTS

On January 22, 2019, the Commission on the Status of Women voted to recommend that City Council provide \$12,500 from the General Fund to pay Dr. Martha Burk to conduct an independent audit of the pay of male and female employees that work for the City of Berkeley (M/S/C (Howard/Sandoval). Ayes: Campbell, Howard, Shanoski, Leftwich, Sandoval. Noes: None. Abstentions: None).

City of Berkeley salary levels are defined by classification, approved by City Council, and are within the scope of representation by the labor groups. The City of Berkeley Personnel Rules (Chapter 4) have specific guidelines related to compensation. The Adoption of the Salary plan states:

“The City Council shall adopt, or amend and adopt, the compensation plan in accordance with the Personnel Ordinance and these Rules, and thereafter no position shall be assigned a salary higher than the maximum or lower than the minimum salary provided for that class unless the salary schedule for the class is amended in the same manner as provided herein for its adoption.” In addition the Memorandums of Understanding for each bargaining group establish language around the application of salary in that: employees occupying a position in the competitive service shall be paid a salary or wage within the range established for that positions' class as set forth ...”

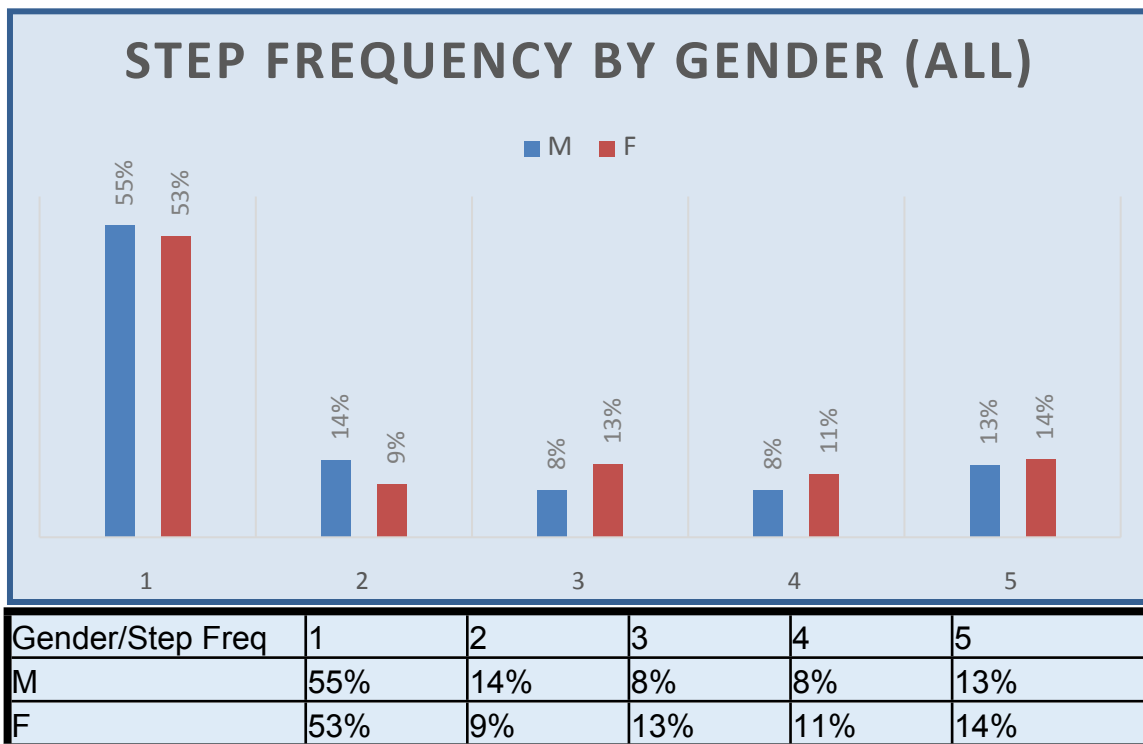
No employee shall be paid below or above the range of a job description, regardless of gender. In addition to the salary schedule being adopted by the Mayor and City Council at a regularly scheduled meeting of the City Council, the salary and total benefits paid

for each and every employee is annually published on a website maintained by the State of California, as well as Transparent California.

When hiring a new employee, Human Resources places an individual at a starting level that reflects an individual’s experience, education, special skills and department demand. As a result, starting salaries vary for new employees, however pay is bound by classification and given steps one through five. City salaries, regardless of gender are capped at step 5. Therefore, no matter where an employee starts, if an individual remains in a given classification long enough, that person will receive the highest level of compensation for that class.

The City is committed to achieving equal employment opportunity in all occupational levels of the City service, and shall continue to implement a robust training program around equity and inclusion, implicit bias and the ABC’s of hiring to maintain the City’s strategic plan goal of attracting and retaining a talented and diverse City government workforce.

An overview of the recruitment process and step frequency was conducted for recruitment activity during the 2018 calendar year which included internal and external candidates. This data was tracked and produced using City Neogov software. The summary data indicates most recruitments were new to the classification, and no significant differences were noted between males and females in any step.



## BACKGROUND

The City of Berkeley values equal employment opportunity such that all persons shall be afforded equal access to positions in the public service, limited only by their ability to do the job. Additionally, the City is committed to establishing and maintaining a diverse work force at all levels.

All personnel employment actions such as recruitment, hiring, placements, transfers, promotions, compensation, benefits, layoffs, returns from layoffs, family care leave, terminations, training, social and recreational programs are administered regardless of race, color, national origin, ancestry, religion, age, physical or mental disability or medical condition, sex, gender, gender identity, gender expression, sexual orientation, genetic information, marital status, pregnancy, political affiliation, or veterans' status and abide by applicable laws. No City employee or applicant for employment shall be subjected to unlawful discrimination, retaliation or harassment because of their membership in or their association with any of the above listed statutory protected classifications.

In order to determine whether or not there are inequities in compensation between males and females, City staff analyzed the pay of males and females in existing classifications and reviewed new hire data for calendar year 2018.

### **Analyzing the Pay of Females and Males in Existing Classifications**

At the time of this report, the Human Resources Department identified 1,928 (full-time and part-time) employees on payroll in 348 job classifications. City staff determined that there are 116 job classifications in which both genders are represented in a single classification. Attached to this report is a detailed analysis that shows the average hourly pay for all individuals in a classification in which there are females and males.

Further, the average hourly pay for females is compared to the average hourly pay of all employees in a classification and to the average hourly pay for males. The data indicates that average hourly pay is most influenced by the years of experience in a classification. To illustrate this point, what follows are two examples in which females earn less than males, and two examples of the data in which females earn more than males. Note, the "Hire Date" column header indicates the date the employee entered into the classification which may be different from the date hired into the organization.

#### Females Earn Less than Males

##### Example 1: Assistant Planner

The average pay for the Assistant Planner classification is \$38.97 per hour. The data shows females in the classification earn \$0.91 less than the average pay for the classification, and males earn \$3.65 more than the average pay for the classification. A review of the data shows that the four females are recent hires with pay scales commensurate with their time and experience in the classification, of which two were

internal promotions and therefore started at step 1. Additionally, the male is a single data point that has been in the classification for four years and is at the highest step.

| <b>ASSISTANT PLANNER</b> | <b>Average<br/>\$38.97</b> | <b>Average<br/>Differential</b> | <b>Gender Differential</b> |
|--------------------------|----------------------------|---------------------------------|----------------------------|
| <i>F</i>                 | \$38.06                    | -\$0.91                         | -\$4.56                    |
| <i>M</i>                 | \$42.62                    | \$3.65                          |                            |

| <b>ASSISTANT<br/>PLANNER ALL</b> | <b>HIRE DATE</b> | <b>GENDER</b>    | <b>STEP</b> | <b>HOURLY RATE</b> |
|----------------------------------|------------------|------------------|-------------|--------------------|
| ASSISTANT PLANNER                | 10/1/2018        | F                | 4           | 40.8521            |
| ASSISTANT PLANNER                | 3/12/2017        | F                | 3           | 39.1955            |
| ASSISTANT PLANNER                | 7/23/2018        | F                | 1           | 36.0892            |
| ASSISTANT PLANNER                | 7/23/2018        | F                | 1           | 36.0892            |
| <b>ASSISTANT PLANNER</b>         |                  | <b>F Average</b> |             | <b>38.0565</b>     |
| ASSISTANT PLANNER                | 6/17/2015        | M                | 5           | 42.6207            |
| <b>ASSISTANT PLANNER</b>         |                  | <b>M Average</b> |             | <b>42.6207</b>     |

#### Example 2: Applications Program/Analyst II

The average pay for the Applications Program/Analyst II is \$54.82 per hour. The data shows females in the classification earn \$2.78 less than the average pay for the classification, and males earn \$0.51 more than the average pay. A review of the data shows that the two females hire dates represent their time and experience in the classification. By comparison, there are 11 males in the classification of which 90% are at the highest steps (4 and 5) commensurate with their time and experience in the classification.

| <b>APPLICATIONS<br/>PROG/ANALYST II</b> | <b>Average<br/>\$54.82</b> | <b>Average<br/>Differential</b> | <b>Gender Differential</b> |
|-----------------------------------------|----------------------------|---------------------------------|----------------------------|
| <i>F</i>                                | \$52.04                    | -\$2.78                         | -\$3.29                    |
| <i>M</i>                                | \$55.32                    | \$0.51                          |                            |

| APPLICATIONS PROG/ANALYST II        | HIRE DATE  | GENDER           | STEP | HOURLY RATE    |
|-------------------------------------|------------|------------------|------|----------------|
| APPLICATIONS PROG/ANALYST II        | 11/9/2000  | F                | 5    | 56.5977        |
| APPLICATIONS PROG/ANALYST II        | 5/7/2018   | F                | 1    | 47.4781        |
| <b>APPLICATIONS PROG/ANALYST II</b> |            | <b>F Average</b> |      | <b>52.0379</b> |
| APPLICATIONS PROG/ANALYST II        | 2/14/2006  | M                | 5    | 56.5977        |
| APPLICATIONS PROG/ANALYST II        | 1/31/2005  | M                | 5    | 56.5977        |
| APPLICATIONS PROG/ANALYST II        | 10/30/1995 | M                | 5    | 56.5977        |
| APPLICATIONS PROG/ANALYST II        | 10/21/2002 | M                | 5    | 56.5977        |
| APPLICATIONS PROG/ANALYST II        | 9/21/2009  | M                | 5    | 56.5977        |
| APPLICATIONS PROG/ANALYST II        | 9/8/2014   | M                | 5    | 56.5977        |
| APPLICATIONS PROG/ANALYST II        | 1/3/2017   | M                | 5    | 56.5977        |
| APPLICATIONS PROG/ANALYST II        | 2/25/2019  | M                | 5    | 56.5977        |
| APPLICATIONS PROG/ANALYST II        | 7/5/2016   | M                | 4    | 54.1471        |
| APPLICATIONS PROG/ANALYST II        | 12/19/2016 | M                | 4    | 54.1471        |
| APPLICATIONS PROG/ANALYST II        | 1/14/2019  | M                | 1    | 47.4781        |
| <b>APPLICATIONS PROG/ANALYST II</b> |            | <b>M Average</b> |      | <b>55.3231</b> |

### Females Earn More than Males

#### Example 1: Assistant Management Analyst

The average pay for the Assistant Management Analyst is \$40.26 per hour. The data shows females in the classification earn \$0.23 more than the average pay for the classification. By comparison, males earn \$1.21 less than the average pay, and \$1.43 an hour less than females. A review of the data shows that average pay for the females is higher than the males because of the number that are at step 5. By comparison, there are only three males with the majority of their hire dates representing less time in the classification on average than females in the same classification.

| ASSISTANT MANGMNT<br>ANLST CSU | Average<br>\$40.26 | Average<br>Differential | Gender<br>Differential |
|--------------------------------|--------------------|-------------------------|------------------------|
| <i>F</i>                       | \$40.49            | \$0.23                  | \$1.43                 |
| <i>M</i>                       | \$39.06            | -\$1.21                 |                        |

| ASSISTANT MANGMNT ANLST CSU        | HIRE DATE  | GENDER           | STEP | HOURLY RATE    |
|------------------------------------|------------|------------------|------|----------------|
| ASSISTANT MANGMNT ANLST CSU        | 11/25/2013 | F                | 3    | 54.2521        |
| ASSISTANT MANGMNT ANLST CSU        | 6/19/2006  | F                | 5    | 42.3360        |
| ASSISTANT MANGMNT ANLST CSU        | 1/8/2007   | F                | 5    | 42.3360        |
| ASSISTANT MANGMNT ANLST CSU        | 3/7/1988   | F                | 5    | 42.3360        |
| ASSISTANT MANGMNT ANLST CSU        | 2/13/2008  | F                | 5    | 42.3360        |
| ASSISTANT MANGMNT ANLST CSU        | 11/6/2017  | F                | 5    | 42.3360        |
| ASSISTANT MANGMNT ANLST CSU        | 9/13/1999  | F                | 4    | 40.5412        |
| ASSISTANT MANGMNT ANLST CSU        | 8/26/2013  | F                | 4    | 40.5412        |
| ASSISTANT MANGMNT ANLST CSU        | 9/14/2008  | F                | 3    | 38.9364        |
| ASSISTANT MANGMNT ANLST CSU        | 1/17/2017  | F                | 3    | 38.9364        |
| ASSISTANT MANGMNT ANLST CSU        | 12/6/1999  | F                | 2    | 37.4183        |
| ASSISTANT MANGMNT ANLST CSU        | 2/9/2015   | F                | 2    | 37.4183        |
| ASSISTANT MANGMNT ANLST CSU        | 10/20/2015 | F                | 2    | 37.4183        |
| ASSISTANT MANGMNT ANLST CSU        | 10/3/2016  | F                | 2    | 37.4183        |
| ASSISTANT MANGMNT ANLST CSU        | 11/6/2017  | F                | 2    | 37.4183        |
| ASSISTANT MANGMNT ANLST CSU        | 10/16/2017 | F                | 1    | 35.8652        |
| <b>ASSISTANT MANGMNT ANLST CSU</b> |            | <b>F Average</b> |      | <b>40.4903</b> |
| ASSISTANT MANGMNT ANLST CSU        | 2/14/2005  | M                | 5    | 42.3360        |
| ASSISTANT MANGMNT ANLST CSU        | 11/6/2017  | M                | 2    | 37.4183        |
| ASSISTANT MANGMNT ANLST CSU        | 11/27/2017 | M                | 2    | 37.4183        |
| <b>ASSISTANT MANGMNT ANLST CSU</b> |            | <b>M Average</b> |      | <b>39.0575</b> |

## Example 2: Engineering Inspector

The average pay for the Engineering Inspector is \$47.19 per hour. The data shows females in the classification earn \$2.94 more than the average pay for the classification. By comparison, males earn \$0.98 less than the average pay, and \$3.92 an hour less than females. A review of the data show that the two females are at step 5 due to their significant time in the classification. By comparison, the average pay for the males is lower than females because the six male inspectors' time in the classification is split evenly from new to experienced.

| ENGINEERING INSPECTOR | Average<br>\$47.19 | Average<br>Differential | Gender Differential |
|-----------------------|--------------------|-------------------------|---------------------|
| <i>F</i>              | \$50.13            | \$2.94                  | \$3.92              |
| <i>M</i>              | \$46.21            | -\$0.98                 |                     |

| <b>ENGINEERING INSPECTOR</b> | <b>HIRE DATE</b> | <b>GENDER</b>    | <b>STEP</b> | <b>HOURLY RATE</b> |
|------------------------------|------------------|------------------|-------------|--------------------|
| ENGINEERING INSPECTOR        | 5/18/1999        | F                | 5           | 50.1331            |
| ENGINEERING INSPECTOR        | 4/30/2012        | F                | 5           | 50.1331            |
| <b>ENGINEERING INSPECTOR</b> |                  | <b>F Average</b> |             | <b>50.1331</b>     |
| ENGINEERING INSPECTOR        | 11/13/1989       | M                | 5           | 50.1331            |
| ENGINEERING INSPECTOR        | 1/29/2007        | M                | 5           | 50.1331            |
| ENGINEERING INSPECTOR        | 5/22/2006        | M                | 5           | 50.1331            |
| ENGINEERING INSPECTOR        | 9/25/2017        | M                | 2           | 43.5694            |
| ENGINEERING INSPECTOR        | 2/13/2019        | M                | 1           | 41.6529            |
| ENGINEERING INSPECTOR        | 3/4/2019         | M                | 1           | 41.6529            |
| <b>ENGINEERING INSPECTOR</b> |                  | <b>M Average</b> |             | <b>46.2124</b>     |

ENVIRONMENTAL SUSTAINABILITY

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

CONTACT PERSON

LaTanya Bellow, Director, Human Resources Department, (510) 981-6800

## Attachments:

1. Analysis of 116 classifications occupied by females and males

Comparison of Classifications  
with Both Genders Represented in a Classification  
Bold Text is Classification Average

| Position Title                         | Average<br>Classification<br>Hourly Rate | Above/Below<br>(BOLD)<br>Average<br>Hourly Rate | F - M<br>Rate  |
|----------------------------------------|------------------------------------------|-------------------------------------------------|----------------|
| <b>ACCOUNTING OFF SPEC II MC</b>       | <b>\$32.48</b>                           |                                                 |                |
| <i>F</i>                               | \$32.57                                  | \$0.10                                          | \$0.22         |
| <i>M</i>                               | \$32.35                                  | -\$0.12                                         |                |
| <b>ACCOUNTING OFF SPEC III MC</b>      | <b>\$37.79</b>                           |                                                 |                |
| <i>F</i>                               | \$37.85                                  | \$0.06                                          | \$0.40         |
| <i>M</i>                               | \$37.45                                  | <b>\$0.33</b>                                   |                |
| <b>ACCOUNTING TECHNICIAN</b>           | <b>\$41.40</b>                           |                                                 |                |
| <i>F</i>                               | \$41.45                                  | \$0.05                                          | \$0.27         |
| <i>M</i>                               | \$41.19                                  | <b>-\$0.21</b>                                  |                |
| <b>ADMIN &amp; FISCAL SVS MGR LCL1</b> | <b>\$65.47</b>                           |                                                 |                |
| <i>F</i>                               | \$65.47                                  | \$0.00                                          | \$0.00         |
| <i>M</i>                               | \$65.47                                  | \$0.00                                          |                |
| <b>ANIMAL CONTROL OFFICER</b>          | <b>\$33.98</b>                           |                                                 |                |
| <i>F</i>                               | \$33.82                                  | <b>-\$0.16</b>                                  | <b>-\$0.65</b> |
| <i>M</i>                               | \$34.47                                  | \$0.49                                          |                |
| <b>ANIMAL SERVICES ASSISTANT HRLY</b>  | <b>\$27.16</b>                           |                                                 |                |
| <i>F</i>                               | \$27.16                                  | \$0.00                                          | \$0.00         |
| <i>M</i>                               | \$27.16                                  | \$0.00                                          |                |
| <b>APPLICATIONS PROG/ANALYST II</b>    | <b>\$54.82</b>                           |                                                 |                |
| <i>F</i>                               | \$52.04                                  | <b>-\$2.78</b>                                  | <b>-\$3.29</b> |
| <i>M</i>                               | \$55.32                                  | \$0.51                                          |                |
| <b>AQUATICS SPECIALIST I HRLY</b>      | <b>\$15.00</b>                           |                                                 |                |
| <i>F</i>                               | \$15.00                                  | \$0.00                                          | \$0.00         |
| <i>M</i>                               | \$15.00                                  | \$0.00                                          |                |
| <b>AQUATICS SPECIALIST II HRLY</b>     | <b>\$19.11</b>                           |                                                 |                |
| <i>F</i>                               | \$18.54                                  | <b>-\$0.57</b>                                  | <b>-\$0.88</b> |
| <i>M</i>                               | \$19.42                                  | \$0.32                                          |                |
| <b>ASSISTANT CITY CLERK</b>            | <b>\$50.90</b>                           |                                                 |                |
| <i>F</i>                               | \$51.68                                  | \$0.78                                          | \$2.35         |
| <i>M</i>                               | \$49.33                                  | <b>-\$2.35</b>                                  |                |
| <b>ASSISTANT CIVIL ENGR (REG)</b>      | <b>\$60.85</b>                           |                                                 |                |
| <i>F</i>                               | \$58.52                                  | <b>-\$2.33</b>                                  | <b>-\$3.89</b> |
| <i>M</i>                               | \$62.41                                  | \$1.56                                          |                |



| Position Title                      | Average<br>Classification<br>Hourly Rate | Above/Below<br>(BOLD)<br>Average<br>Hourly Rate | F - M<br>Rate  |
|-------------------------------------|------------------------------------------|-------------------------------------------------|----------------|
| <b>ASSISTANT MANGMNT ANLST CSU</b>  | <b>\$40.26</b>                           |                                                 |                |
| <i>F</i>                            | \$40.49                                  | \$0.23                                          | \$1.43         |
| <i>M</i>                            | \$39.06                                  | <b>-\$1.21</b>                                  |                |
| <b>ASSISTANT MANGMNT ANLST UNRP</b> | <b>\$40.30</b>                           |                                                 |                |
| <i>F</i>                            | \$40.18                                  | <b>-\$0.12</b>                                  | <b>-\$0.50</b> |
| <i>M</i>                            | \$40.67                                  | \$0.37                                          |                |
| <b>ASSISTANT PLANNER</b>            | <b>\$38.97</b>                           |                                                 |                |
| <i>F</i>                            | \$38.06                                  | <b>-\$0.91</b>                                  | <b>-\$4.56</b> |
| <i>M</i>                            | \$42.62                                  | \$3.65                                          |                |
| <b>ASSISTANT PUBLIC WORKS ENGR</b>  | <b>\$58.43</b>                           |                                                 |                |
| <i>F</i>                            | \$58.43                                  | \$0.00                                          | \$0.00         |
| <i>M</i>                            | \$58.43                                  | \$0.00                                          |                |
| <b>ASSISTANT RECREATION COORD</b>   | <b>\$32.13</b>                           |                                                 |                |
| <i>F</i>                            | \$29.13                                  | <b>\$3.00</b>                                   | <b>-\$4.00</b> |
| <i>M</i>                            | \$33.13                                  | \$1.00                                          |                |
| <b>ASSISTANT TO THE CITY MGR</b>    | <b>\$71.63</b>                           |                                                 |                |
| <i>F</i>                            | \$73.18                                  | \$1.55                                          | \$4.64         |
| <i>M</i>                            | \$68.54                                  | <b>-\$3.09</b>                                  |                |
| <b>ASSOCIATE CIVIL ENGINEER</b>     | <b>\$65.10</b>                           |                                                 |                |
| <i>F</i>                            | \$64.43                                  | <b>\$0.68</b>                                   | <b>-\$0.87</b> |
| <i>M</i>                            | \$65.29                                  | \$0.19                                          |                |
| <b>ASSOCIATE HUMAN RESRCS ANLST</b> | <b>\$54.36</b>                           |                                                 |                |
| <i>F</i>                            | \$53.95                                  | <b>-\$0.41</b>                                  | <b>-\$1.62</b> |
| <i>M</i>                            | \$55.57                                  | \$1.22                                          |                |
| <b>ASSOCIATE MANGMT ANLST CSU</b>   | <b>\$52.13</b>                           |                                                 |                |
| <i>F</i>                            | \$51.90                                  | <b>-\$0.23</b>                                  | <b>-\$0.78</b> |
| <i>M</i>                            | \$52.68                                  | \$0.55                                          |                |
| <b>ASSOCIATE PLANNER</b>            | <b>\$49.13</b>                           |                                                 |                |
| <i>F</i>                            | \$48.26                                  | <b>-\$0.87</b>                                  | <b>-\$3.47</b> |
| <i>M</i>                            | \$51.73                                  | \$2.61                                          |                |
| <b>AUDITOR II</b>                   | <b>\$49.60</b>                           |                                                 |                |
| <i>F</i>                            | \$48.90                                  | <b>-\$0.70</b>                                  | <b>-\$2.10</b> |
| <i>M</i>                            | \$50.99                                  | \$1.40                                          |                |
| <b>BEHAVIORAL HEALTH CLINCIN II</b> | <b>\$47.18</b>                           |                                                 |                |
| <i>F</i>                            | \$47.74                                  | \$0.56                                          | \$1.44         |
| <i>M</i>                            | \$46.30                                  | <b>-\$0.88</b>                                  |                |
| <b>BUILDING INSPECTOR I (CERT)</b>  | <b>\$48.10</b>                           |                                                 |                |
| <i>F</i>                            | \$44.44                                  | <b>-\$3.65</b>                                  | <b>-\$4.57</b> |
| <i>M</i>                            | \$49.01                                  | \$0.91                                          |                |

| Position Title                      | Average Classification Hourly Rate | Above/Below (BOLD) Average Hourly Rate | F - M Rate |
|-------------------------------------|------------------------------------|----------------------------------------|------------|
| <b>BUILDING PLANS EXAMINER</b>      | <b>\$52.45</b>                     |                                        |            |
| <i>F</i>                            | \$53.02                            | \$0.57                                 | \$1.13     |
| <i>M</i>                            | \$51.89                            | -\$0.57                                |            |
| <b>CAMP STAFF LEADER H</b>          | <b>\$71.55</b>                     |                                        |            |
| <i>F</i>                            | \$69.60                            | -\$1.95                                | -\$5.20    |
| <i>M</i>                            | \$74.81                            | \$3.25                                 |            |
| <b>CAMP STAFF MEMBER H</b>          | <b>\$46.84</b>                     |                                        |            |
| <i>F</i>                            | \$45.79                            | -\$1.05                                | -\$1.94    |
| <i>M</i>                            | \$47.73                            | \$0.89                                 |            |
| <b>CAMP STAFF SUPERVISOR H</b>      | <b>\$107.97</b>                    |                                        |            |
| <i>F</i>                            | \$105.22                           | -\$2.75                                | -\$5.50    |
| <i>M</i>                            | \$110.73                           | \$2.75                                 |            |
| <b>CERT INSTRUCTOR</b>              | <b>\$31.68</b>                     |                                        |            |
| <i>F</i>                            | \$31.68                            | \$0.00                                 | \$0.00     |
| <i>M</i>                            | \$31.68                            | \$0.00                                 |            |
| <b>COMMUNITY DEVELOP PROJ COORD</b> | <b>\$54.23</b>                     |                                        |            |
| <i>F</i>                            | \$56.33                            | \$2.10                                 | \$4.20     |
| <i>M</i>                            | \$52.13                            | -\$2.10                                |            |
| <b>COMMUNITY HEALTH WORKER SPEC</b> | <b>\$33.99</b>                     |                                        |            |
| <i>F</i>                            | \$34.24                            | \$0.25                                 | \$1.99     |
| <i>M</i>                            | \$32.25                            | -\$1.74                                |            |
| <b>COMMUNITY SERVICE OFFICER</b>    | <b>\$36.85</b>                     |                                        |            |
| <i>F</i>                            | \$36.43                            | -\$0.42                                | -\$0.84    |
| <i>M</i>                            | \$37.26                            | \$0.42                                 |            |
| <b>COMMUNITY SERVICE OFFICR SUP</b> | <b>\$43.50</b>                     |                                        |            |
| <i>F</i>                            | \$43.50                            | \$0.00                                 | \$0.00     |
| <i>M</i>                            | \$43.50                            | \$0.00                                 |            |
| <b>COMMUNITY SERVICES SPEC I</b>    | <b>\$40.84</b>                     |                                        |            |
| <i>F</i>                            | \$40.41                            | -\$0.43                                | -\$1.95    |
| <i>M</i>                            | \$42.36                            | \$1.52                                 |            |
| <b>COMMUNITY SERVICES SPEC II</b>   | <b>\$49.05</b>                     |                                        |            |
| <i>F</i>                            | \$49.42                            | \$0.37                                 | \$1.12     |
| <i>M</i>                            | \$48.30                            | -\$0.75                                |            |
| <b>COUNCILMEMBER</b>                | <b>\$144.49</b>                    |                                        |            |
| <i>F</i>                            | \$144.49                           | \$0.00                                 | \$0.00     |
| <i>M</i>                            | \$144.49                           | \$0.00                                 |            |
| <b>CUSTOMER SERVICE SPEC III</b>    | <b>\$37.38</b>                     |                                        |            |
| <i>F</i>                            | \$37.31                            | -\$0.07                                | -\$0.59    |
| <i>M</i>                            | \$37.90                            | \$0.53                                 |            |

| Position Title                      | Average Classification Hourly Rate | Above/Below (BOLD) Average Hourly Rate | F - M Rate |
|-------------------------------------|------------------------------------|----------------------------------------|------------|
| <b>DEPUTY CITY ATTORNEY III</b>     | <b>\$85.06</b>                     |                                        |            |
| <i>F</i>                            | \$82.93                            | -\$2.13                                | -\$4.26    |
| <i>M</i>                            | \$87.20                            | \$2.13                                 |            |
| <b>ENGINEERING INSPECTOR</b>        | <b>\$47.19</b>                     |                                        |            |
| <i>F</i>                            | \$50.13                            | \$2.94                                 | \$3.92     |
| <i>M</i>                            | \$46.21                            | -\$0.98                                |            |
| <b>FIRE APPARATUS OPERATOR</b>      | <b>\$40.63</b>                     |                                        |            |
| <i>F</i>                            | \$40.67                            | \$0.04                                 | \$0.04     |
| <i>M</i>                            | \$40.62                            | \$0.00                                 |            |
| <b>FIRE CAPTAIN II</b>              | <b>\$47.86</b>                     |                                        |            |
| <i>F</i>                            | \$45.09                            | -\$2.77                                | -\$3.01    |
| <i>M</i>                            | \$48.10                            | \$0.23                                 |            |
| <b>FIREFIGHTER</b>                  | <b>\$35.07</b>                     |                                        |            |
| <i>F</i>                            | \$34.76                            | -\$0.30                                | -\$0.33    |
| <i>M</i>                            | \$35.10                            | \$0.03                                 |            |
| <b>GROUNDSKEEPER HRLY</b>           | <b>\$27.54</b>                     |                                        |            |
| <i>F</i>                            | \$27.16                            | -\$0.38                                | -\$0.44    |
| <i>M</i>                            | \$27.60                            | \$0.05                                 |            |
| <b>HAZARDOUS MAT SPECIALIST II</b>  | <b>\$58.03</b>                     |                                        |            |
| <i>F</i>                            | \$56.16                            | -\$1.87                                | -\$5.62    |
| <i>M</i>                            | \$61.78                            | \$3.75                                 |            |
| <b>HEALTH SERVICES PROGRAM SPEC</b> | <b>\$45.65</b>                     |                                        |            |
| <i>F</i>                            | \$46.22                            | \$0.58                                 | \$4.62     |
| <i>M</i>                            | \$41.61                            | -\$4.04                                |            |
| <b>HEARING EXAMINER</b>             | <b>\$62.23</b>                     |                                        |            |
| <i>F</i>                            | \$59.03                            | -\$3.20                                | -\$6.40    |
| <i>M</i>                            | \$65.43                            | \$3.20                                 |            |
| <b>HUMAN RESOURCES TECHNICIAN</b>   | <b>\$39.89</b>                     |                                        |            |
| <i>F</i>                            | \$38.71                            | -\$1.18                                | -\$2.35    |
| <i>M</i>                            | \$41.07                            | \$1.18                                 |            |
| <b>INFO SYSTEM SUPORT TECH CSU</b>  | <b>\$36.46</b>                     |                                        |            |
| <i>F</i>                            | \$33.79                            | -\$2.67                                | -\$5.34    |
| <i>M</i>                            | \$39.13                            | \$2.67                                 |            |
| <b>INFORMATION SYSTEMS SPEC</b>     | <b>\$46.61</b>                     |                                        |            |
| <i>F</i>                            | \$48.31                            | \$1.70                                 | \$1.94     |
| <i>M</i>                            | \$46.37                            | -\$0.24                                |            |

| Position Title                      | Average Classification Hourly Rate | Above/Below (BOLD) Average Hourly Rate | F - M Rate |
|-------------------------------------|------------------------------------|----------------------------------------|------------|
| <b>INTERN</b>                       | <b>\$19.64</b>                     |                                        |            |
| <i>F</i>                            | \$19.05                            | -\$0.59                                | -\$1.11    |
| <i>M</i>                            | \$20.15                            | \$0.52                                 |            |
| <b>JANITOR</b>                      | <b>\$27.29</b>                     |                                        |            |
| <i>F</i>                            | \$27.63                            | \$0.34                                 | \$0.48     |
| <i>M</i>                            | \$27.15                            | -\$0.14                                |            |
| <b>LANDSCAPE EQUIPMENT OPERATOR</b> | <b>\$38.25</b>                     |                                        |            |
| <i>F</i>                            | \$37.43                            | -\$0.82                                | -\$1.10    |
| <i>M</i>                            | \$38.53                            | \$0.27                                 |            |
| <b>LANDSCAPE GARDENER</b>           | <b>\$35.04</b>                     |                                        |            |
| <i>F</i>                            | \$35.29                            | \$0.24                                 | \$0.26     |
| <i>M</i>                            | \$35.02                            | -\$0.02                                |            |
| <b>LANDSCAPE GARDENER SUPV</b>      | <b>\$43.45</b>                     |                                        |            |
| <i>F</i>                            | \$44.69                            | \$1.24                                 | \$2.07     |
| <i>M</i>                            | \$42.62                            | -\$0.83                                |            |
| <b>LEGISLATIVE ASSISTANT</b>        | <b>\$29.36</b>                     |                                        |            |
| <i>F</i>                            | \$29.54                            | \$0.18                                 | \$0.30     |
| <i>M</i>                            | \$29.24                            | -\$0.11                                |            |
| <b>LEGISLATIVE ASSISTANT HRLY</b>   | <b>\$17.81</b>                     |                                        |            |
| <i>F</i>                            | \$18.50                            | \$0.69                                 | \$1.10     |
| <i>M</i>                            | \$17.40                            | -\$0.41                                |            |
| <b>LIBRARIAN I</b>                  | <b>\$39.45</b>                     |                                        |            |
| <i>F</i>                            | \$38.59                            | -\$0.86                                | -\$1.72    |
| <i>M</i>                            | \$40.31                            | \$0.86                                 |            |
| <b>LIBRARIAN I HRLY</b>             | <b>\$33.22</b>                     |                                        |            |
| <i>F</i>                            | \$33.22                            | \$0.00                                 | \$0.00     |
| <i>M</i>                            | \$33.22                            | \$0.00                                 |            |
| <b>LIBRARIAN II</b>                 | <b>\$45.66</b>                     |                                        |            |
| <i>F</i>                            | \$45.51                            | -\$0.14                                | -\$0.38    |
| <i>M</i>                            | \$45.90                            | \$0.24                                 |            |
| <b>LIBRARY AIDE</b>                 | <b>\$24.07</b>                     |                                        |            |
| <i>F</i>                            | \$23.93                            | -\$0.14                                | -\$0.37    |
| <i>M</i>                            | \$24.30                            | \$0.23                                 |            |
| <b>LIBRARY ASSISTANT</b>            | <b>\$29.92</b>                     |                                        |            |
| <i>F</i>                            | \$29.80                            | -\$0.12                                | -\$0.29    |
| <i>M</i>                            | \$30.09                            | \$0.17                                 |            |
| <b>LIBRARY ASSISTANT HRLY</b>       | <b>\$24.40</b>                     |                                        |            |
| <i>F</i>                            | \$24.58                            | \$0.18                                 | \$0.35     |
| <i>M</i>                            | \$24.23                            | -\$0.18                                |            |

| Position Title                       | Average<br>Classification<br>Hourly Rate | Above/Below<br>(BOLD)<br>Average<br>Hourly Rate | F - M<br>Rate  |
|--------------------------------------|------------------------------------------|-------------------------------------------------|----------------|
| <b>LIBRARY LITERACY INSTRUCTOR</b>   | <b>\$33.74</b>                           |                                                 |                |
| <i>F</i>                             | \$33.86                                  | \$0.13                                          | \$1.01         |
| <i>M</i>                             | \$32.85                                  | <b>-\$0.88</b>                                  |                |
| <b>LIBRARY PAGE</b>                  | <b>\$18.00</b>                           |                                                 |                |
| <i>F</i>                             | \$18.00                                  | \$0.00                                          | \$0.00         |
| <i>M</i>                             | \$18.00                                  | \$0.00                                          |                |
| <b>LIBRARY SPECIALIST I</b>          | <b>\$34.46</b>                           |                                                 |                |
| <i>F</i>                             | \$34.46                                  | \$0.00                                          | \$0.00         |
| <i>M</i>                             | \$34.46                                  | \$0.00                                          |                |
| <b>LIBRARY SPECIALIST II</b>         | <b>\$35.54</b>                           |                                                 |                |
| <i>F</i>                             | \$35.27                                  | <b>-\$0.27</b>                                  | <b>-\$1.25</b> |
| <i>M</i>                             | \$36.52                                  | \$0.98                                          |                |
| <b>LIBRARY SPECIALIST II HRLY</b>    | <b>\$28.80</b>                           |                                                 |                |
| <i>F</i>                             | \$28.80                                  | \$0.00                                          | \$0.00         |
| <i>M</i>                             | \$28.80                                  | \$0.00                                          |                |
| <b>MARINA ASSISTANT MC</b>           | <b>\$32.60</b>                           |                                                 |                |
| <i>F</i>                             | \$32.94                                  | \$0.33                                          | \$0.99         |
| <i>M</i>                             | \$31.94                                  | <b>-\$0.66</b>                                  |                |
| <b>MECHANICAL SWEEPER OPERATOR</b>   | <b>\$37.50</b>                           |                                                 |                |
| <i>F</i>                             | \$36.70                                  | <b>-\$0.80</b>                                  | <b>-\$1.00</b> |
| <i>M</i>                             | \$37.70                                  | \$0.20                                          |                |
| <b>MENTAL HEALTH CLINICAL SUPV</b>   | <b>\$56.00</b>                           |                                                 |                |
| <i>F</i>                             | \$55.32                                  | <b>-\$0.68</b>                                  | <b>-\$2.05</b> |
| <i>M</i>                             | \$57.37                                  | \$1.36                                          |                |
| <b>OFFICE SPECIALIST II M&amp;C</b>  | <b>\$31.29</b>                           |                                                 |                |
| <i>F</i>                             | \$31.29                                  | \$0.00                                          | \$0.04         |
| <i>M</i>                             | \$31.25                                  | <b>-\$0.03</b>                                  |                |
| <b>OFFICE SPECIALIST II UNREP</b>    | <b>\$31.95</b>                           |                                                 |                |
| <i>F</i>                             | \$31.92                                  | <b>-\$0.02</b>                                  | <b>-\$0.14</b> |
| <i>M</i>                             | \$32.06                                  | \$0.12                                          |                |
| <b>OFFICE SPECIALIST III M&amp;C</b> | <b>\$36.56</b>                           |                                                 |                |
| <i>F</i>                             | \$36.78                                  | \$0.22                                          | \$1.09         |
| <i>M</i>                             | \$35.69                                  | <b>-\$0.87</b>                                  |                |
| <b>PARALEGAL</b>                     | <b>\$40.85</b>                           |                                                 |                |
| <i>F</i>                             | \$42.63                                  | \$1.78                                          | \$3.56         |
| <i>M</i>                             | \$39.07                                  | <b>-\$1.78</b>                                  |                |
| <b>PARAMEDIC SUPERVISOR I</b>        | <b>\$48.07</b>                           |                                                 |                |
| <i>F</i>                             | \$48.32                                  | \$0.26                                          | \$0.31         |
| <i>M</i>                             | \$48.01                                  | <b>-\$0.05</b>                                  |                |

| Position Title                        | Average Classification Hourly Rate | Above/Below (BOLD) Average Hourly Rate | F - M Rate |
|---------------------------------------|------------------------------------|----------------------------------------|------------|
| <b>PARKING ENFORCEMENT OFFICER</b>    | <b>\$33.31</b>                     |                                        |            |
| <i>F</i>                              | \$33.41                            | \$0.10                                 | \$0.21     |
| <i>M</i>                              | \$33.19                            | -\$0.11                                |            |
| <b>PARKING METER MAINT WORKER</b>     | <b>\$30.01</b>                     |                                        |            |
| <i>F</i>                              | \$30.76                            | \$0.75                                 | \$1.12     |
| <i>M</i>                              | \$29.64                            | -\$0.37                                |            |
| <b>PERMIT SPECIALIST</b>              | <b>\$36.75</b>                     |                                        |            |
| <i>F</i>                              | \$36.20                            | -\$0.55                                | -\$2.19    |
| <i>M</i>                              | \$38.39                            | \$1.64                                 |            |
| <b>PLAYGROUND LEADER TRAINEE HRLY</b> | <b>\$15.11</b>                     |                                        |            |
| <i>F</i>                              | \$15.23                            | \$0.12                                 | \$0.19     |
| <i>M</i>                              | \$15.04                            | -\$0.07                                |            |
| <b>POLICE AIDE HRLY</b>               | <b>\$16.89</b>                     |                                        |            |
| <i>F</i>                              | \$16.52                            | -\$0.37                                | -\$1.11    |
| <i>M</i>                              | \$17.63                            | \$0.74                                 |            |
| <b>POLICE CAPTAIN</b>                 | <b>\$93.52</b>                     |                                        |            |
| <i>F</i>                              | \$93.52                            | \$0.00                                 | \$0.00     |
| <i>M</i>                              | \$93.52                            | \$0.00                                 |            |
| <b>POLICE LIEUTENANT</b>              | <b>\$81.58</b>                     |                                        |            |
| <i>F</i>                              | \$81.58                            | \$0.00                                 | \$0.00     |
| <i>M</i>                              | \$81.58                            | \$0.00                                 |            |
| <b>POLICE OFFICER</b>                 | <b>\$56.07</b>                     |                                        |            |
| <i>F</i>                              | \$55.40                            | -\$0.67                                | -\$0.75    |
| <i>M</i>                              | \$56.15                            | \$0.08                                 |            |
| <b>POLICE OFFICER RECRUIT</b>         | <b>\$39.52</b>                     |                                        |            |
| <i>F</i>                              | \$39.52                            | \$0.00                                 | \$0.00     |
| <i>M</i>                              | \$39.52                            | \$0.00                                 |            |
| <b>POLICE SERGEANT</b>                | <b>\$67.96</b>                     |                                        |            |
| <i>F</i>                              | \$67.96                            | \$0.00                                 | \$0.00     |
| <i>M</i>                              | \$67.96                            | \$0.00                                 |            |
| <b>PRINCIPAL PLANNER</b>              | <b>\$65.78</b>                     |                                        |            |
| <i>F</i>                              | \$65.36                            | -\$0.42                                | -\$2.08    |
| <i>M</i>                              | \$67.44                            | \$1.66                                 |            |
| <b>PUBLIC HEALTH NURSE</b>            | <b>\$54.94</b>                     |                                        |            |
| <i>F</i>                              | \$55.91                            | \$0.97                                 | \$4.83     |
| <i>M</i>                              | \$51.07                            | -\$3.87                                |            |

| Position Title                       | Average<br>Classification<br>Hourly Rate | Above/Below<br>(BOLD)<br>Average<br>Hourly Rate | F - M<br>Rate |
|--------------------------------------|------------------------------------------|-------------------------------------------------|---------------|
| <b>PUBLIC SAFETY DISPATCHER I</b>    | <b>\$30.34</b>                           |                                                 |               |
| <i>F</i>                             | \$30.34                                  | \$0.00                                          | \$0.00        |
| <i>M</i>                             | \$30.34                                  | \$0.00                                          |               |
| <b>PUBLIC SAFETY DISPATCHER II</b>   | <b>\$45.33</b>                           |                                                 |               |
| <i>F</i>                             | \$45.24                                  | -\$0.08                                         | -\$0.43       |
| <i>M</i>                             | \$45.67                                  | \$0.35                                          |               |
| <b>RECREATION ACTIVITY LEADER</b>    | <b>\$23.32</b>                           |                                                 |               |
| <i>F</i>                             | \$22.19                                  | -\$1.13                                         | -\$2.47       |
| <i>M</i>                             | \$24.66                                  | \$1.34                                          |               |
| <b>RECREATION COORDINATOR</b>        | <b>\$38.96</b>                           |                                                 |               |
| <i>F</i>                             | \$39.95                                  | \$0.99                                          | \$1.99        |
| <i>M</i>                             | \$37.96                                  | -\$0.99                                         |               |
| <b>RECREATION PROGRAM SUPRVISOR</b>  | <b>\$50.78</b>                           |                                                 |               |
| <i>F</i>                             | \$51.89                                  | \$1.11                                          | \$3.32        |
| <i>M</i>                             | \$48.57                                  | -\$2.22                                         |               |
| <b>REGISTERED NURSE</b>              | <b>\$52.94</b>                           |                                                 |               |
| <i>F</i>                             | \$52.94                                  | \$0.00                                          | \$0.00        |
| <i>M</i>                             | \$52.94                                  | \$0.00                                          |               |
| <b>RENT BOARD COMMISSIONER</b>       | <b>\$50.00</b>                           |                                                 |               |
| <i>F</i>                             | \$50.00                                  | \$0.00                                          | \$0.00        |
| <i>M</i>                             | \$50.00                                  | \$0.00                                          |               |
| <b>RESERVE POLICE OFFICER I HRLY</b> | <b>\$31.72</b>                           |                                                 |               |
| <i>F</i>                             | \$31.30                                  | -\$0.42                                         | -\$0.47       |
| <i>M</i>                             | \$31.76                                  | \$0.05                                          |               |
| <b>RETIRED ANNUITANT</b>             | <b>\$33.71</b>                           |                                                 |               |
| <i>F</i>                             | \$36.30                                  | \$2.59                                          | \$4.75        |
| <i>M</i>                             | \$31.55                                  | -\$2.16                                         |               |
| <b>SCHOOL BOARD DIRECTOR</b>         | <b>\$69.23</b>                           |                                                 |               |
| <i>F</i>                             | \$69.23                                  | \$0.00                                          | \$0.00        |
| <i>M</i>                             | \$69.23                                  | \$0.00                                          |               |
| <b>SCHOOL CROSSING GUARD</b>         | <b>\$24.17</b>                           |                                                 |               |
| <i>F</i>                             | \$24.17                                  | \$0.00                                          | \$0.00        |
| <i>M</i>                             | \$24.17                                  | \$0.00                                          |               |
| <b>SENIOR BEHAVIORAL HLTH CLINC</b>  | <b>\$51.89</b>                           |                                                 |               |
| <i>F</i>                             | \$52.83                                  | \$0.94                                          | \$1.88        |
| <i>M</i>                             | \$50.95                                  | -\$0.94                                         |               |
| <b>SENIOR BUYER</b>                  | <b>\$48.13</b>                           |                                                 |               |
| <i>F</i>                             | \$48.13                                  | \$0.00                                          | \$0.00        |
| <i>M</i>                             | \$48.13                                  | \$0.00                                          |               |

| Position Title                      | Average<br>Classification<br>Hourly Rate | Above/Below<br>(BOLD)<br>Average<br>Hourly Rate | F - M<br>Rate  |
|-------------------------------------|------------------------------------------|-------------------------------------------------|----------------|
| <b>SENIOR CITIZEN CENTER DIR</b>    | <b>\$45.41</b>                           |                                                 |                |
| <i>F</i>                            | \$47.44                                  | \$2.02                                          | \$4.05         |
| <i>M</i>                            | \$43.39                                  | <b>-\$2.02</b>                                  |                |
| <b>SENIOR COMMUNITY HEALTH SPEC</b> | <b>\$36.80</b>                           |                                                 |                |
| <i>F</i>                            | \$36.80                                  | \$0.00                                          | \$0.00         |
| <i>M</i>                            | \$36.80                                  | \$0.00                                          |                |
| <b>SENIOR INFORMATION SYST SPEC</b> | <b>\$53.48</b>                           |                                                 |                |
| <i>F</i>                            | \$53.48                                  | \$0.00                                          | \$0.00         |
| <i>M</i>                            | \$53.48                                  | \$0.00                                          |                |
| <b>SENIOR MANAGEMENT ANLST LCL1</b> | <b>\$56.41</b>                           |                                                 |                |
| <i>F</i>                            | \$55.79                                  | <b>-\$0.62</b>                                  | <b>-\$3.72</b> |
| <i>M</i>                            | \$59.51                                  | \$3.10                                          |                |
| <b>SENIOR MANAGEMENT ANLST UREP</b> | <b>\$58.72</b>                           |                                                 |                |
| <i>F</i>                            | \$58.27                                  | <b>-\$0.45</b>                                  | <b>-\$1.36</b> |
| <i>M</i>                            | \$59.63                                  | \$0.90                                          |                |
| <b>SENIOR PLANNER</b>               | <b>\$57.62</b>                           |                                                 |                |
| <i>F</i>                            | \$57.72                                  | \$0.09                                          | \$0.57         |
| <i>M</i>                            | \$57.15                                  | <b>-\$0.47</b>                                  |                |
| <b>SENIOR SERVICE AIDE HRLY</b>     | <b>\$24.21</b>                           |                                                 |                |
| <i>F</i>                            | \$24.70                                  | \$0.49                                          | \$0.83         |
| <i>M</i>                            | \$23.87                                  | <b>-\$0.35</b>                                  |                |
| <b>SENIOR SERVICE ASSISTANT</b>     | <b>\$32.48</b>                           |                                                 |                |
| <i>F</i>                            | \$32.60                                  | \$0.13                                          | \$0.77         |
| <i>M</i>                            | \$31.84                                  | <b>-\$0.64</b>                                  |                |
| <b>SENIOR SYSTEMS ANALYST</b>       | <b>\$65.26</b>                           |                                                 |                |
| <i>F</i>                            | \$65.26                                  | \$0.00                                          | \$0.00         |
| <i>M</i>                            | \$65.26                                  | \$0.00                                          |                |
| <b>SOCIAL SERVICES SPECIALIST</b>   | <b>\$40.38</b>                           |                                                 |                |
| <i>F</i>                            | \$40.09                                  | <b>-\$0.30</b>                                  | <b>-\$0.60</b> |
| <i>M</i>                            | \$40.68                                  | \$0.30                                          |                |
| <b>SPORTS OFFICIAL HRLY</b>         | <b>\$25.12</b>                           |                                                 |                |
| <i>F</i>                            | \$28.17                                  | \$3.05                                          | \$3.33         |
| <i>M</i>                            | \$24.84                                  | <b>-\$0.28</b>                                  |                |
| <b>SUPERVISING CIVIL ENGINEER</b>   | <b>\$76.42</b>                           |                                                 |                |
| <i>F</i>                            | \$76.42                                  | \$0.00                                          | \$0.00         |
| <i>M</i>                            | \$76.42                                  | \$0.00                                          |                |
| <b>SUPERVISING LIBRARIAN</b>        | <b>\$52.28</b>                           |                                                 |                |
| <i>F</i>                            | \$52.55                                  | \$0.27                                          | \$2.17         |
| <i>M</i>                            | \$50.38                                  | <b>-\$1.90</b>                                  |                |



| Position Title                      | Average Classification Hourly Rate | Above/Below (BOLD) Average Hourly Rate | F - M Rate |
|-------------------------------------|------------------------------------|----------------------------------------|------------|
| <b>SUPERVISING LIBRARY ASSIST</b>   | <b>\$37.06</b>                     |                                        |            |
| <i>F</i>                            | \$38.37                            | \$1.31                                 | \$1.97     |
| <i>M</i>                            | \$36.41                            | -\$0.66                                |            |
| <b>SUPERVISING PUBLIC HLTH NURS</b> | <b>\$68.71</b>                     |                                        |            |
| <i>F</i>                            | \$67.32                            | -\$1.39                                | -\$2.79    |
| <i>M</i>                            | \$70.10                            | \$1.39                                 |            |
| <b>YOUTH ENROLLEE INTERN</b>        | <b>\$13.26</b>                     |                                        |            |
| <i>F</i>                            | \$13.25                            | -\$0.01                                | -\$0.03    |
| <i>M</i>                            | \$13.28                            | \$0.01                                 |            |





Mental Health Commission

ACTION CALENDAR  
July 9, 2019

To: Honorable Mayor and Members of the City Council  
 From: Berkeley/Albany Mental Health Commission  
 Submitted by: boona cheema, Mental Health Commission Chair  
 Subject: Law Enforcement Use of Restraint Devices in the City of Berkeley

RECOMMENDATION:

Adopt a resolution directing the Berkeley Police Department, and any other law enforcement providing mutual aid in Berkeley, to cease use of restraint devices (spit hoods, spit masks) and replace them with non-restraining safety equipment like N95 masks or an equivalent substitute. The use of spit hoods is traumatizing and escalating, risks asphyxiation and can be a violation of constitutional civil rights, particularly free speech. Stopping their use contributes to humanitarian and compassionate approach to those living with mental illness.

FISCAL IMPACTS OF RECOMMENDATION:

None.

CURRENT SITUATION AND ITS EFFECTS

Currently the Berkeley Police Department uses spit hoods when detaining or arresting someone who they are concerned may transfer or transmit fluids (saliva and mucous) to others. According to BPD guidelines, "Spit masks may be placed upon persons in custody when the officer reasonably believes the person will spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport."<sup>1</sup>

Often these are applied in situations in which someone is having a mental health crisis and/or an interaction with a police officer escalates into a mental health episode. The experience of police covering the head of those suffering a mental health crisis or episode and/or drug reaction with a restraint device which is both traumatizing and devastating. It almost always creates alarming fear, distress, panic and humiliation. There is also risk of serious injuries or death (such as asphyxiation), particularly as there is limited visual ability to observe individual's face and head while in crisis.

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<sup>1</sup> Berkeley Police Department Law Enforcement Services Manual, Policy 302.5, Page 3.

As such, Amnesty International has publicly commented on how use of spit hoods can be “a cruel and dangerous form of restraint.”<sup>2</sup> The use of spit hoods may result in a wrongful death action, as well as constitute cruel and unusual punishment under the Eighth Amendment to the U.S. Constitution. In addition, its use may violate the United Nations Convention on Torture and Other Inhuman, Cruel and Degrading Treatment or Punishment (UNCAT), as well as the UN Convention on the Rights of People with Disabilities.

In Berkeley, the number of police calls for people having a mental health crisis is 35 percent or more (Dinkelspiel, Berkeleyside; 2015).<sup>3</sup> Over the past 5 years, police have seen a 43 percent increase in calls for 5150s or people who are a danger to themselves or others (Dinkelspiel, Berkeleyside, 2015).<sup>4</sup> Given that the Berkeley Police Department is often and increasingly called as a first responders to individuals who are experiencing severe mental illness and/or substance use disorder crises, it’s important that we not allow this cruel and dangerous practice to continue.

## BACKGROUND

Historically, spit hoods device have been used in perpetuating extreme human brutality, systemic oppression and monstrous human atrocities. Its use today can immediately traumatize individuals, as well as perpetuate and reinforce intergenerational trauma and horrifying symbolism, especially considering its use against minorities to degrade, torture and execute.

As documented in the UK, using restraint devices such as spit hoods can have a disproportionate and discriminatory impact on minorities.<sup>5</sup> Their use may violate the exercise of civil rights, particularly free speech, and/or result in discriminatory treatment towards them under civil rights law. Furthermore, human and civil rights have been violated when police use restraint devices in these types of crises to control or coerce people into police custody.

Police claim there is a need to protect their health from individuals who spit and the use of restraint devices like spit hoods will keep them safe. However, such a drastic overriding of human or civil rights violations and application of psychological and physical harms requires justification based on evidence and lack of alternatives. The evidence suggests that no real risk exists. A systematic review of studies concluded that

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<sup>2</sup> The Independent. (2018). Police could get 'a good kicking' if spit guards extended, Met chief says. [online] Available at: <https://www.independent.co.uk/news/uk/home-news/police-good-kickingspitguards-scotland-yard-cressida-dick-a8524176.html> [Accessed 2 Mar. 2019].

<sup>3</sup> Dinkelspiel, F. (2015). Mental health calls #1 drain on Berkeley police resources. [online] Berkeleyside. Available at: <https://www.berkeleyside.com/2015/04/16/mental-health-calls-are-1-drain-onberkeleypolice-resources> [Accessed 2 Mar. 2019].

<sup>4</sup> Ibid

<sup>5</sup> Gayle, D. (2017). Concern over Met police use of spit hoods on black detainees. [online] the Guardian. Available at: <https://www.theguardian.com/uk-news/2017/sep/02/concern-over-met-police-use-of-spithoods-on-black-detainees> [Accessed 2 Mar. 2019].

the risk of transmitting HIV through spitting as no risk, and further concluded that even the risk of transmission through biting to be negligible.<sup>6</sup> In addition, a systematic literature review of Hepatitis C and B transmission concluded the risk of acquiring Hepatitis C (HCV) through spitting as negligible and as very low for Hepatitis B (HBV), and also showed the risk as low for acquiring HBV and HCV through biting.<sup>7</sup>

Not only is the violation of civil and human rights and brutality of spit masks not justified by the evidence, well-documented and easily accessible alternatives exist including N95 masks, eye guards, and, when absolutely necessary, mouth guards.

At the February 28, 2019 Commission meeting, the Mental Health Commission passed the following motion:

M/S/C (Fine, Posey) Motion to pass the spithood resolution and to submit the resolution to the City Council for approval

Ayes: Castro, cheema, Fine, Heda, Ludke, Posey; Noes: None; Abstentions: None; Absent: Davila (attended City Council Work Session).

At the April 25, 2019 Commission meeting the Mental Health Commission passed the following motion:

M/S/C (Davila, Castro) Withdraw the resolution that was previously passed regarding spithoods and replace it with the Council Item including a new resolution that is before us today.

Ayes: Castro, cheema, Davila, Fine, Heda, Kealoha-Blake, Ludke, Posey; Noes: None; Abstentions: None; Absent: None.

#### ENVIRONMENTAL SUSTAINABILITY

Not applicable

#### RATIONALE FOR RECOMMENDATION

The harm, cruelty and potential violation of civil and human rights, as well as the likelihood of intensifying a mental health or substance use intervention rather than de-escalating one, suggests an immediate end to the use of spit hoods and the substitution of them for least harmful and equally effective substitutes.

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<sup>6</sup> Cresswell, F., Ellis, J., Hartley, J., Sabin, C., Orkin, C. and Churchill, D. (2018). A systematic review of risk of HIV transmission through biting or spitting: implications for policy. Available at: <https://onlinelibrary.wiley.com/doi/epdf/10.1111/hiv.12625> [Accessed 2 Mar. 2019].

<sup>7</sup> Pintilie, H. and Brook, G. (2018). Commentary: A review of risk of hepatitis B and C transmission through biting or spitting. Available at: <https://onlinelibrary.wiley.com/doi/pdf/10.1111/jvh.12976> [Accessed 2 Mar. 2019].

ALTERNATIVE ACTIONS CONSIDERED

The alternatives actions considered are the recommended less harmful, more humane use of N95 masks, eye guards and when absolutely necessary, mouth guards.

CITY MANAGER

See Companion Report

CONTACT PERSON

Karen Klatt, Mental Health Commission Secretary, HHCS, (510) 981-7644

ATTACHMENT

1. Resolution

Exhibit A: Background Information on Restraint Devices

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

LAW ENFORCEMENT USE OF RESTRAINT DEVICES IN THE CITY OF BERKELEY

WHEREAS, the use of restraint devices such as spit hoods may violate the United Nations Treaty on Torture, and Other Inhuman, Cruel and Degrading Treatment or Punishment (UNCAT); and

WHEREAS, Amnesty International has publicly commented on how use of spit hoods can be a cruel and dangerous form of restraint; and

WHEREAS, human and civil rights can be violated by law enforcement who use restraint devices such as spit hoods to arrest, detain, question, take into custody and/or incarcerate individuals; and

WHEREAS, law enforcement using restraint devices can have a disproportionate and discriminatory impact on minorities; and

WHEREAS, individuals can be traumatized by a devastating experience of law enforcement using restraint devices such as spit hoods and risk serious injury or death; and

WHEREAS, law enforcement is specially trained to use crisis intervention responses to assist individuals who are experiencing severe mental illness in public spaces; and

WHEREAS, law enforcement and Berkeley Mental Health are intended to work collaboratively to respond to mental health crises in the City of Berkeley.

NOW THEREFORE, BE IT RESOLVED, be it resolved that law enforcement shall not use restraint devices such as spit hoods in the line of duty.

BE IT FURTHER RESOLVED, be it resolved that law enforcement shall only use their own N95 masks or an equivalent substitute in the line of duty.

Proposed 2-Page Memo re: Police Use of Restraint Device, Spit Hoods, to Submit to the Berkeley City Council if Approved by Mental Health Commission<sup>1</sup>

Police Use of Restraint Devices—Spit Hoods—to Respond to People Experiencing Severe Mental Illness and/or Substance Use Disorder Crises

The Berkeley Police Department is often called as a first responder to individuals who are experiencing severe mental illness and/or substance use disorder crises in the community. In Berkeley, the number of police calls for people having a mental health crisis is 35 percent or more (Dinkelspiel, Berkeleyside; 2015).<sup>2</sup> Over the past 5 years, police have seen a 43 percent increase in calls for 5150s or people who are a danger to themselves or others (Dinkelspiel, Berkeleyside, 2015). As a result, the Berkeley Police Department has committed resources to address those individuals as first responders with crisis interventions and not force, coercion and punishment in the line of duty.

Specifically, the Berkeley Police Department (BPD) specially trains police officers to use crisis intervention responses; the Department has a Crisis Intervention Team. Further, the BPD has a formal partnership with the Division of Mental Health for the Cities of Berkeley and Albany to serve these individuals who need first responders to assist them during crises. Both the Police Department and this Division provide multiple details for coordinated crisis intervention response on their websites, as well as listing other resources.

It is evident the BPD and the Division of Mental Health are designed to work in tandem to respond in these types of crises. Overall BPD serves adults with severe mental illness and substance use disorder who are served by the Adult Clinic of the Division of Mental Health for the Cities of Berkeley and Albany—the public mental health system (“Berkeley Mental Health”).

Currently, however, the BPD is reconsidering the use of restraint devices—spit hoods—as an option to address people who engage in spitting and biting during a police encounter. For people needing crisis intervention services in the community, the use of this restraint device can create psychological and physical harms. Consequently, it may result in human and civil rights violations, especially if a crisis escalates. Additionally, some individuals living with severe mental illness and substance use disorder may also live primarily in public spaces so they are more exposed to policing than people who can afford to partly or entirely live in private.

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<sup>1</sup>The sole purpose of this memo is submission to the Mental Health Commission and the public in order for the Commission to consider passing a motion to submit it to the Berkeley City Council with the Resolution.

<sup>2</sup>Dinkelspiel, F. (2015). Mental health calls #1 drain on Berkeley police resources. [online] Berkeleyside. Available at: <https://www.berkeleyside.com/2015/04/16/mental-health-calls-are-1-drain-onberkeleypolice-resources> [Accessed 2 Mar. 2019].



Police Use of Restraint Devices—Spit Hoods—to Respond to People Experiencing Severe Mental Illness and/or Substance Use Disorder Crises

Most important, human and civil rights can be violated when police use restraint devices in these types of crises to control or coerce people into police custody. It may violate the United Nations Convention on Torture, and Other Inhuman, Cruel and Degrading Treatment or Punishment (UNCAT). Amnesty International has publicly commented on how use of spit hoods can be “a cruel and dangerous form of restraint.”<sup>3</sup> The use of spit hoods may further violate the United Nations Convention on the Rights of People with Disabilities.

Using restraint devices such as spit hoods can have a disproportionate and discriminatory impact on minorities.<sup>4</sup> Their use can possibly violate the exercise of civil rights and/or result in discriminatory treatment towards them under civil rights law. It is also notable that mental illness and substance use disorder can both manifest as psychosis to where the diagnoses are indistinguishable and thus, may invoke disability rights protections.

Third, there is the likelihood individuals will be traumatized by a devastating experience of police covering their head with a restraint device; it can create alarming fear, distress, panic and humiliation. There is also risk of serious injuries or death (such as asphyxiation), particularly as there is limited visual ability to observe individual’s face and head while in crisis. Using both restraint devices—spit hoods and hand cuffs—can further injure an individual.

Historically, this restraint device has been used in perpetuating extreme human brutality, systemic oppression and monstrous human atrocities. Its use today can immediately traumatize individuals, as well as perpetuate and reinforce generational trauma and horrifying symbolism, especially considering its use against minorities to degrade, torture and execute.

Police claim there is a need to protect their health from individuals who spit and bite and the use of restraint devices like spit hoods will keep them safe. In this regard, there must be an evidence-based approach by city government to justify overriding any human or civil rights violations and likely psychological and physical harms. People living with severe mental illness and substance use disorder are likely more vulnerable than others without disabilities.

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<sup>3</sup>The Independent. (2018). Police could get 'a good kicking' if spit guards extended, Met chief says. [online] Available at: <https://www.independent.co.uk/news/uk/home-news/police-good-kickingspitguards-scotland-yard-cressida-dick-a8524176.html> [Accessed 2 Mar. 2019].

<sup>4</sup>Gayle, D. (2017). Concern over Met police use of spit hoods on black detainees. [online] the Guardian. Available at: <https://www.theguardian.com/uk-news/2017/sep/02/concern-over-met-police-use-ofspithoods-on-black-detainees> [Accessed 2 Mar. 2019].

Police Use of Restraint Devices—Spit Hoods—to Respond to People Experiencing Severe Mental Illness and/or Substance Use Disorder Crises

The systematic literature review of scientific studies addressing transmission of HIV and Hepatitis B and C from spitting and biting can serve as an evidenced-based approach to determining the level of risk, if any, from these types of behaviors. First, a systematic review of studies concluded the risk of transmitting HIV through spitting as no risk, and further concluded the risk through biting as negligible (Cresswell, et al; 2018; 1).<sup>5</sup>

In addition, a systematic literature review of Hepatitis C and B transmission concluded the risk of acquiring Hepatitis C (HCV) through spitting as negligible and as very low for Hepatitis B (HBV)(Pintillie & Brooks, 2018; 1).<sup>6</sup> This review also showed the risk as low for acquiring HBV and HCV through biting (Pintillie & Brooks, 2018; 1). It is notable that the former study on HIV focused on police, while the later study addressed emergency workers.

Overall it is considerably more important to preserve human and civil rights when an evidence-based approach shows this result and there is likely an alternative to using these restraint devices against people experiencing severe mental illness and substance use disorder crises. There are face guards that police can choose to use. Emergency medical and mental health workers may use them in assisting people experiencing these crises and in other roles.

In some localities, mental health clinicians are first responders who accompany police to assist individuals experiencing a severe mental health and substance use disorder crises in the community. The aim again is not to use force, coercion and/or punishment. If anything, the use of restraint devices like spit hoods may result in more severe harms.

For these reasons, the Berkeley Police Department should not use restraint devices like spit hoods in the line of duty. Thank you for your time.

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<sup>5</sup> Cresswell, F., Ellis, J., Hartley, J., Sabin, C., Orkin, C. and Churchill, D. (2018). A systematic review of risk of HIV transmission through biting or spitting: implications for policy. Available at: <https://onlinelibrary.wiley.com/doi/epdf/10.1111/hiv.12625> [Accessed 2 Mar. 2019].

<sup>6</sup> Pintillie, H. and Brook, G. (2018). Commentary: A review of risk of hepatitis B and C transmission through biting or spitting. Available at: <https://onlinelibrary.wiley.com/doi/pdf/10.1111/jvh.12976> [Accessed 2 Mar. 2019].

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DECEMBER 27, 2018

# Should Berkeley Police Be Using 'Spit Hoods?'

Police have been placing sack-like hoods over detainees to prevent them from spitting on officers, but critics say the practice can be traumatizing and should be banned.

By Max Brimelow

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Photo by Tracie DeAngelis

Berkeley police controlling a detainee with a spit hood on March 13, 2013.

Four observers from a police reform group gathered around a screen at Grassroots House in downtown Berkeley in November. They watched footage of three officers detaining a suspect at Telegraph Avenue and Dwight Way. The footage shows police have the man on the ground, his arms bent up behind his back with an officer's knees pinning the suspect's calves to the floor. An officer has already placed a mesh "spit hood" on the suspect who is subdued and limp.

"This is hard to watch," said Jathan Gurr of Berkeley Copwatch, an activist watchdog group, referring to the footage from the 2009 incident.

Spit hoods are one of the Berkeley Police Department's least known, but most controversial tools. They're sack-like hoods that police place over the heads of non-compliant suspects to prevent them from spitting at officers. Spit hoods are intended to protect against the spread of communicable diseases and have long been used in Berkeley and are now widely used in other police departments around the country.

SEARCH:

Create Account

Berkeley PD is in the process of updating its policies on spit hoods, and the city's Police Review Commission is reviewing their use and whether BPD should discontinue them. The department's Policy 302, which governs handcuffs and restraints — and includes spit hoods — is under scrutiny, but BPD does not keep data on how frequently its officers deploy spit hoods.

"I think most people walking around in Berkeley have no idea there are spit hoods in use," Gurr said.

Spit hoods are one of several tactics being reviewed as the Berkeley Police Department transitions to using Lexipol, a centralized framework that offers departments a list of best practices guidelines that BPD can then "review and tweak" to meet its needs, said BPD spokesperson Byron White.

Other policies under review include the use of canines, but some say spit hoods may be the most controversial.

Police say spit hoods are an essential de-escalation tool, particularly for officers. "It's a real threat ... the reaction of any person who has someone spit in their face is to retaliate or react in some way," said Sgt. Spencer Fomby, a use-of-force instructor for the department and proponent of tactical de-escalation. "Officers clearly cannot use force, so to manage that we use the hood."

Police do not consider the hood to be a use of force. "Putting a mesh hood over somebody has a very low risk of injury," Fomby said. "It's not a forceful act."

However, BPD doesn't track its use of spit hoods, so it's difficult to know if officers have been misusing the tactic, especially on detainees who have mental or psychological issues.

BPD has narrow criteria for when to use the hoods — when a suspect is noncompliant, combative, resistant, and starting to spit, then the hood can justifiably be used, Fomby said. However, some witness evidence suggests officers sometimes overstep the mark.

Tracie DeAngelis is a former copwatcher, who on a coffee break on March 13, 2013, witnessed a detainee being controlled with a spit hood outside Berkeley Public Library. "I remember hearing some loud screaming," she said. "So, I walked across the street ... [the suspect] was apologetic, pleading, begging — you could tell he was scared."

Her footage shows six officers applying "the wrap" — a full-body restrictive tie. "I'm sorry! I'm sorry," the suspect cries through the hood as he is held face-down on the road surface.

"They don't see that as a use of force?" said DeAngelis, who now works in human resources for the East Bay Regional Park District. "To me it is — it's an act against someone's dignity, which to me is an act of violence."

DeAngelis would like to see an outright ban on the use of spit hoods. And she said that police should be responsible for protecting themselves.



## Should Berkeley Police Be Using 'Spit Hoods?'

from jschool student

02:34 |

Gurr conceded that police sometimes may need to use a spit hood — but only in rare circumstances. "There's probably an occasion to use something like that," he said. "I just don't trust Berkeley Police to know when that occasion is."

Fomby said detainees who are spit hooded often receive medical attention, and so, he argued, the masks are an important protection for paramedics, nurses, and other people with whom the suspects come into contact. "I want to emphasize it's not just officer safety," he added.

Spit hoods are not new. Fomby said he has seen them in use throughout his 18-year career. They are not just used by police — other agencies use them, and they are commonly issued to medical services. On Oct. 24, the Berkeley Fire Department used a spit hood on a detainee at Civic Center Park before he was taken for psychological evaluation, Fomby said.

"The main argument is about optics — the way it looks," Fomby added. "But the balance of public safety outweighs the optics in this situation."

Fomby also asserted that BPD's use of spit hoods is "very rare." He said he remembers them being used "a couple times" in the past few months, though did not want to speculate on how often they are used by the force at large.

"'Very rarely' might mean twice a week," Gurr countered. Without statistics available, the issue is a matter of one person's word versus another.

For its part, the Berkeley Police Commission plans to compare the new Lexipol policies to the general orders that BPD has used. Sahana Matthews, chair of the commission, said the group has not yet taken a specific stance on spit hoods. "The PRC will be reviewing this policy and deciding whether or not to recommend to the BPD to ban or change the use of spit hoods," she said.

Some on the nine-member commission have already made up their minds, including Andrea Prichett, who is also the co-founder of Copwatch. "I'm alarmed they use them at all," she said. She believes the

hoods can make it harder to monitor vital signs. For suspects who are affected by mental health issues, she said, the process can be especially traumatizing.

But George Perezvelez, chair of the Lexipol subcommittee within the Police Review Commission, believes police should have the power to use spit hoods. "No police officer in Berkeley should be subject to being bitten or spat on," he said.

However, Perezvelez said he wants to see "a clear dictate" given to local police on the exact parameters around using spit hoods. "Let's be clear on how they can be used, why they can be used, and when they can be used," he said.

"But at the same time, I understand the concern about how often they are used, what triggers their use, and if there's a possibility to track how often they're used," Perezvelez added. He would like to see more concrete data. "It would be a good idea for the department to supply statistics," he said. "It's accountability — right? And it's transparency."

Although the commission will turn over its recommendations to the police department, it has only an advisory role in the city. Matthews said BPD is working with the PRC on Lexipol, but she conceded that police have no obligation to listen.

Prichett is exasperated with the dynamic. "What would be really awesome would be if PRC could change the policy itself," she said. "They can change the policy, but the police don't have to listen to that."

Ultimately, with no available quantitative data and reliance on anecdotal accounts from a handful of sources, taking informed action is difficult.

Fomby said he would like to see a metric created to monitor the use of restraining equipment, including spit hoods. "We should know how many times we put people ... in the hoods," he said. "I would like to see more data."

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# Berkeley Police Department use of “Spit Hoods”



Spit hoods are used routinely by BPD officers. There has been no policy in place that regulates their use. Recently, the Police Review Commission has begun discussing a Lexipol policy that addresses the introduction of Spit “masks”. However, BPD is regularly using spit “hoods” which go over the head completely.





**January 14, 2010:** BPD Officers responded to a man who was screaming. In fact, the man had been attacked by someone but the police thought the man was just incoherent. The man was placed in a “spit mask” but his identity was not able to be known. A copwatcher was arrested for trying to document this situation



On March 10, 2013 BPD was recorded taking a homeless man into custody for a 5150 evaluation. People in the library called police because the man sprayed air freshener in side. When this man was taken, his community of support had no idea what had happened to him or any way to offer him care. Copwatch eventually learned that the man's name was Jeremy Carter but there was no way to contact him to find out if he had been further traumatized by his contact with police. The use of the "spit hood" clearly added to his distress and the blood coming from his mouth increases risk of asphyxiation, but officers seemed unconcerned about this.



# Video: Where is Jeremy Carter?



# Routine use of spit hoods



5150 hold with no mental health professionals and only cops and ambulance drivers.



The patient is clearly distressed as evidenced by his hands. Officers could have put surgical masks on their own faces for protection if they were concerned. This would represent the “patient centered” model of care.



# The Guardian

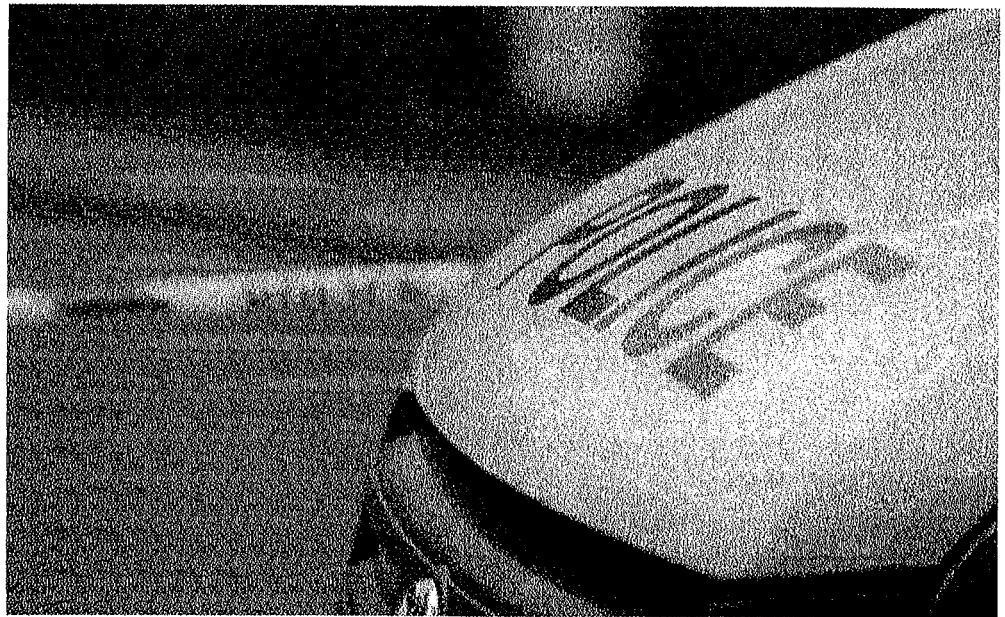
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## Inquest jury condemns Surrey police over death of man placed in spit hood

**Officers used handcuffs and leg restraints on Terry Smith, 33, after failing to recognise he suffered from excited delirium**

**Diane Taylor**

Thu 5 Jul 2018 14:17 EDT



Terry Smith stopped breathing after being placed in a police van. Photograph: NurPhoto/SIPA USA/PA Images

A jury has found that Surrey police seriously failed in its duty of care to a 33-year-old labourer who was handcuffed, placed in leg restraints and had a spit hood placed over his head in the hours before he died.

Terry Smith, a father of two from Stanwell in Surrey, told police he could not breathe on at least 13 occasions. He was restrained by police for more than two hours.

The jury condemned Surrey police and in a narrative verdict found “a serious failure of duty of care” and a failure to recognise that Smith suffered from the condition excited delirium. They



also found that he was subjected to “prolonged and excessive restraint” and that neglect was a contributory factor in his death. It said that police needed more training in identifying excited delirium and that Smith should have been treated as a medical emergency and taken to hospital more swiftly.

The inquest, which began on 12 February, is thought to be the longest individual inquest to have been held in the UK.

Smith was restrained by police on the evening of 12 November 2013 after his family called an ambulance because he was unwell. Family members said he was hallucinating and feared that someone wanted to kill him. They said he was not behaving aggressively.

PC Louise Merry, one of the first officers on the scene, said Smith was aggressive and a danger to himself and other people.

After being restrained on the ground outside his parents’ home by several police officers using handcuffs, leg restraints and a spit hood, he was taken to Staines police station, where restraint by five or six officers continued. He was then placed in a police van, where he stopped breathing and went into cardiac arrest. He was taken to hospital and pronounced dead the following evening.

More than 50 witnesses, including many police officers, gave evidence.

The jury heard expert evidence that excited delirium could be treated effectively by administering a sedative and that Smith’s life could have been saved if he had been taken to A&E before 11.30pm that night.

The forensic medical examiner at the police station did not ask for the spit hood to be removed from Smith even though the inquest heard evidence that these hoods can impede breathing. He said Smith should have been taken to hospital as he had a deep cut on his foot and was suffering from a suspected drug overdose.

A post-mortem report in February 2015 found that, although amphetamine was found in Smith’s blood, it was not at a level that constituted an overdose. Causes of death were amphetamine-induced excited delirium with the association of restraint, cardiac collapse and multiple hypoxic organ failure.

The family’s solicitor, Nia Williams of Saunders Law, condemned “a catalogue of failures” that led to Smith’s death.

Deborah Coles, director of the charity Inquest, said Smith should have been dealt with by the ambulance service rather than the police. She said: “The cruel and frightening ordeal inflicted on Terry while he was already in distress reaffirms what has been made clear in recent reviews as well as in police guidance: medical emergencies should not be treated as a criminal justice

issue.”

Jeremy Burton, assistant chief constable of Surrey police, said: “We deeply regret it when anyone comes to any harm during the course of police contact.

“There were lessons to be learned for the force following Mr Smith’s death and, I recognise that certain things could have been done differently.

“Mr Smith’s death was almost five years ago and I want to reassure people that we have seen vast changes since then, both in Surrey and nationally, in the way that people detained under the Mental Health Act are dealt with. We have also seen improvements ... regarding our understanding of excited delirium, or acute behavioural disturbance, and the training provided to officers and staff in recognising and dealing with this issue as a medical emergency.”

Burton added: “We will continue to ensure our policies and procedures are continually revised and refreshed to reflect national directive and best practice to safeguard the welfare of those within our care.”

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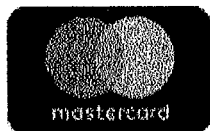
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## IMPROPER USE OF SPIT HOODS: A RECIPE FOR DISASTER

Posted on November 9, 2015 by Edwin Budge

Spit hoods (also known as "spit masks") have been increasingly used by police and other law enforcement officers in recent years. A spit hood, or spit mask, is a fabric covering or "hood" that can be placed over a person's head and secured at the neck with an elastic band. The idea is to prevent a combative suspect from biting or spitting at police officers.

Unfortunately, spit hoods or spit masks can be improperly used as well. And, when improperly used, spit hoods or spit masks can be a recipe for disaster.

What follows are two real-life examples of spit-hood use gone wrong. The cases were both handled by the lawyers at Budge & Heipt.

In the first case, sheriff's deputies encountered a man who was acting strangely. They took him into custody after pepper spraying him in the face. Naturally, pepper spray causes a person to spit involuntarily in an effort to eliminate the spray from the mouth, nose and throat. Pepper spray also clogs a person's nasal passages and can cause copious amounts of mucus. The man was also bleeding from the face following the police encounter. Despite all of this, the sheriff's deputies put a spit hood over the man's head.

This was a very poor decision. Because when the mesh or cloth of a spit hood becomes wet with saliva, mucus and/or blood, it can make it impossible for air

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to go through the fabric. In addition, by placing a spit hood over someone's head after they have been pepper-sprayed, the person continues to breathe the residue of the spray without adequate ventilation. Add it all up, and suffocation is a very real possibility. And, in this example, this is just what occurred. The man died of asphyxiation due to the improper use of the spit hood.

In the second case, police officers used a spit hood on a man who had been elbowed in the face and was bleeding copiously from the nose. In addition, the man was vomiting. Together, the blood and vomit coated the inside of the fabric hood. The man stopped breathing while the blood and vomit-soaked hood was on. Nevertheless, the police claimed that their use of the hood played no role in his lack of air. The lawyers at Budge & Heipt hired fabric experts test the permeability of the fabric when it was wet with simulated blood and vomit. The experts found that when the spit hood was saturated with these body fluids, no air could pass through. The spit hood, in other words, became a death trap. The man in this case survived, but not before suffering irreversible brain damage.

In both cases, the lawyers at Budge & Heipt were able to secure settlements of more than \$1.5 million each. Sometimes, it is only through litigation that police agencies and their officers "get the message."

*Edwin Budge has been representing clients in civil rights cases for more than 20 years. He focuses his energy and passion into seeking justice in cases involving restraint asphyxia or suffocation by police or in jail or prison. Contact Budge & Heipt for a free consultation.*

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## OTHER PRACTICE AREAS

LOCAL

# Medical examiner in SLO County inmate death also linked to wrongful death claim

Fresno Bee and Tribune reports



APRIL 20, 2017/08:00PM, UPDATED: APRIL 20, 2017/09:37PM



Diane Hill, center, holds a plaque given to her by co-workers of her son Donald "Donnie" Hill after his death. Attorneys Neil Gehlwat, left, and Thomas Seabaugh announced a pending lawsuit against the city of Lemoore. [LUWIS@CRISWOLD.LDRISWORLD@FRESNOBEE.COM](mailto:LUWIS@CRISWOLD.LDRISWORLD@FRESNOBEE.COM)

The medical examiner who recently ruled a San Luis Obispo County inmate's death

as “natural” despite the man dying after jail staff restrained him in a plastic chair for nearly two days straight also conducted an inmate autopsy in Lemoore that is the subject of a wrongful death claim.

In March, the mother of a man who died after police put a spit hood on him and he reportedly vomited filed a claim with the city of Lemoore for wrongful death, in advance of filing a lawsuit. The initial autopsy showed that the inmate, Donald “Donnie” Hill, had minor scrapes and bruising but no visible injuries that would have led to his death, the Kings County Sheriff’s Office said. There were no obvious signs of health issues, and toxicology tests revealed no drugs or other interactions.

The final autopsy report by a forensic pathologist, Dr. Gary Walter, was issued March 16 by the Kings County Coroner’s Office. Hill died of cardiac dysrhythmia with an unknown cause, and the manner of death was listed as undetermined, according to a news release from the Sheriff’s Office.



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Andrew Chayton Holland, pictured here in a 2015 family photograph, died Jan. 22, 2017, after a blood clot formed after he was restrained in a chair for nearly two days in San Luis Obispo County Jail. Courtesy photo

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Walter, who has been the San Luis Obispo County Sheriff's Office-contracted medical examiner since 2005, recently ruled the SLO County inmate's death as "natural" after he was restrained for more than 46 straight hours. The family of Andrew Chayton Holland disputes Walter's report and says it plans to sue the county after the State Medical Board initiated proceedings April 10 to revoke or suspend Walter's medical license following a DUI arrest last year. Walter was on his way to perform an autopsy when he was arrested, according to court records.

### THE LEMOORE CASE

At a news conference next to City Hall on March 23, Hill's mother, Diane Hill of Hanford, said the death of her son on New Year's Eve has been devastating.

"There's no words to say how much I miss him," she said. "He was the sweetest son I could ever have."

Attorney Neil Gehlawat of Bakersfield said there are many unanswered questions about Hill's death.





Donald "Donnie" Hill. Family of Donald Hill

"We suspect the conduct of the officers led to his heart to stop beating," Gehlawat said. The pending lawsuit will bring out more details, he said.

The city had 45 days to respond before attorneys could file a lawsuit in Kings County Superior Court and federal court.

Hill, 30, lived in San Diego where he had a civilian job with the Navy. On Dec. 31, 2016, he was in Lemoore, where he graduated from high school, and was visiting a brother and friends at home, his attorney said.

According to the Kings County Sheriff's Office, which is doing an investigation, Hill began having bizarre interactions with family and friends, an ambulance crew and the Lemoore Police Department.

"Many described Hill's actions as possibly being under the influence of drugs or of psychotic outbursts," a Sheriff's Office news release said. "Donald would appear to regain some form of composure and request no interaction with mental health or other medical services."

In the evening, family members of Hill called police to report that his behavior had become even more bizarre and that family members had to restrain him, the news release said.

Police handcuffed him and "placed a spit hood over his head to prevent him from further spitting incidents," the news release said.

He was placed onto the floor on his side and became unresponsive, the Sheriff's Office said.

The lawyer for Diane Hill said her son had vomited.

American Ambulance performed lifesaving measures and took him to Adventist Medical Center. He was pronounced dead at 8:50 p.m.

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# THE STAR

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CANADA

## Mentally ill man who died in Lindsay jail was pepper sprayed, held down with leg irons, subdued by officers, report says



By Fatima Syed Staff Reporter  
Tues., Feb. 6, 2018





In the hours before he died in a segregation cell at a Lindsay, Ont. jail, 20 to 30 officers were involved in subduing a man with schizophrenia. They pepper sprayed him twice; covered his face with a spit hood; and held his body down with leg irons.

ARTICLE CONTINUES BELOW

Documents obtained by the Star through a freedom of information request detail these occurrences as Soleiman Faqiri's last moments in the Central East Correctional Centre, as found by an internal investigation by the Kawartha Lakes Police Service.

The 30-year-old Ajax man died on Dec. 15, 2016, in what police described at the time as an "altercation" with correctional officers in the jail, where he was being held on remand, awaiting a mental health assessment.

Faqiri had been arrested on Dec. 4 for charges of aggravated assault, assault and uttering threats. He did not have a criminal record, said the report, but had been apprehended by the Durham Regional Police Service, using their authority under the Mental Health Act, approximately 10 times over the past 10 years.

#### Read more:

**'My beautiful son is dead': Family still searching for answers after Whitby man's 2016 death in prison**

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In Ontario, the act permits officers to apprehend individuals if they believe that person is at risk of causing harm to themselves or others

— officers take these individuals for a medical examination.

In June 2017, a coroner's report found Faqiri suffered more than 50 injuries, including a bruised laceration on his forehead, and multiple bruises and abrasions on his face, torso and limbs, from a three-hour confrontation with prison officers before dying in a segregation cell. The report said it was unknown what injuries were from his struggle with the officers, and couldn't ascertain the cause of death.

The Faqiri family's lawyers, Edward Marrocco and Nader Hasan, said in an email that police had provided the family "partial access" to documents obtained in the investigation into Soleiman's death late last week.



"We remain bewildered that an investigation revealing this evidence could lead to the conclusion that the Kawartha Lakes police had "no grounds" to pursue criminal charges against the officers involved in Soleiman's death," said the lawyers.

"The information we have received...is very troubling and raises a number of questions that will need to be answered by the Kawartha Lakes Police Service."

The family did not provide comment.

In the course of the five days Faqiri spent in segregation, reports obtained by the Star show he refused to wear anything besides his underwear, and he repeatedly covered himself in his own urine and feces.

He was seeing a ministry psychiatrist, but refused to take his medication. (According to the report, Faqiri had a history of non-compliance with his prescribed medications.)

From the onset, his fitness to face the charges against him was questioned because of his mental illness. The report states he had refused to leave his cell multiple times for both in-person and video

appearances at court.

On Dec. 6, Faqiri was moved to a segregation cell “due to concerns for his safety, the safety of other inmates, and the safety of [jail] staff,” said the report. The court was informed of his mental health issues and remanded him, indicating that three days of medical help may help improve his capacity to understand court proceedings.

Three days later, on Dec. 9, Faqiri refused to get dressed for his video court appearance. He had smeared his own feces on himself, said the report. The court was told the prosecutor made several attempts to contact Faqiri’s family for assistance, but had been unsuccessful.

Previously, Faqiri’s parents and his older brother, Yusuf, told the Star they tried to visit their son three times in prison and each time they were denied access. Yusuf and his brother, Sohrab, say they went to both court and jail, too.

On Dec. 12, Yusuf and a mental health nurse who had been dealing with Faqiri since his arrival at the jail appeared in court; Faqiri appeared via video. The nurse told the court Faqiri wasn’t speaking to anyone, refusing his medicine, not eating properly, and lying on the floor, making no eye contact. Yusuf said that Faqiri was much worse than he’d remembered.

After hearing their evidence, the justice ruled that Faqiri be assessed by a mental health facility in Whitby.

Faqiri died before the assessment was completed.

Documents show that at 1 p.m. on Dec. 15, Faqiri was taken out of his cell by three officers and a health-care manager; he was covered in his own urine and feces.

Faqiri was handcuffed and covered in blankets, and escorted in a wheelchair to a shower down the hall from his cell. The wheelchair was used for hygienic reasons.

At 1:15 p.m., Faqiri entered the shower area; his handcuffs were removed. He was in the shower for an hour and a half, and, according to the report, he refused, on four occasions, to leave.

What happens next wasn’t entirely captured on video — for the privacy of the inmates, there are no cameras in the cells or showers. Faqiri’s final hours are based on investigators’ interviews with officers involved, witnesses and forensic evidence.

During his shower, the report notes Faqiri was squirting water and shampoo at the correctional officers through the window of the barred shower door.

Unable to make him stop, officers called their supervisors requesting the assistance of the Institutional Crisis Intervention Team — a group of officers that calm any disturbances caused by inmates



Requests for a crisis team to assist were denied and correctional officers were advised to manage Faqiri themselves.

At 1:45 p.m., a welding shield — a clear plastic free standing shield — was placed just outside the shower door to protect the officers in the area where Faqiri was throwing water and shampoo.

The jail's superintendent called Faqiri's psychiatrist to assist, who came and offered him snacks — crackers and peanut butter. This calmed Faqiri down.

Around 2:50 p.m., the supervising officer was able to handcuff Faqiri through the shower door. Five officers walked Faqiri back to his cell. The report states he began to display aggressive behaviour when a sixth officer, who had no previous history with Faqiri, joined them.

Faqiri began to resist, said the report, spitting at the guards, while still in the hallway. A guard used pepper spray on him as they reached his cell.

Faqiri was pulled and pushed into the cell by all six officers. He continued to display "aggressive and assaultive behaviour," said the report. An officer delivered a knee strike; another forced his right lower leg on his back.

The struggle lasted for over 10 minutes, said the report. Faqiri tried to hit the officers with his hands, which are still handcuffed together, and also spat at and bit them. As Faqiri repeatedly tried to get up, officers delivered body strikes to his body to keep him grounded, "where they can better gain control of him," said the report.

Pepper spray is used on him again.

A “code blue” was called, indicating officers needed help, and 20 to 30 officers came to the cell area. According to corrections ministry policy, when a “code blue” is called, all officers who can attend are told to go and assist.

The report states that these new officers started to “tap out” the officers “who were exhausting themselves in the struggle.” One of the first to leave was the supervising officer who had begun the escort.

A second officer takes command, said the report, and requested that a spit hood be brought and placed on Faqiri. This officer also requested leg irons to be brought and placed on him. The officer directed other officers to start leaving the cell to ensure their safety and to calm Faqiri’s behaviour.

The report states Faqiri’s mental health began to improve, as the officers slowly backed out of the cell. At this point, he was lying on his stomach with his hands up above his head, still handcuffed. He was turned around so that his head was at the back of the cell, and away from the door.

The supervising officer told Faqiri that his handcuffs were going to be removed and he would be re-handcuffed with his hands behind him. Faqiri, said the report, acknowledged and responded to instruction.



The cell door was locked and closed from the outside.

The report says a short time later, officers looked into the cell window and observed Soleiman was “possibly not breathing.” The officers entered the cells and removed the handcuffs and began CPR. Nurses soon arrived with a defibrillator.

Paramedics were called at 3:14 p.m. by a nurse, who said “there’s nurses everywhere, officers and vital signs absent.” According to the



transcript of the 911 call, the nurse said they were still performing CPR on Faqiri.

According to a homicide/sudden death report, Faqiri was dead by the time paramedics arrived.

Members of the City of Kawartha Lakes Police Service (KLPS) were notified of the death “almost immediately,” at 3:45 p.m.

Faqiri’s family was informed that night.

In the hours that followed, a Kawartha Lakes police investigative team was created and the scene was secured and all disposable or time sensitive evidence was gathered and secured. All video was requested.

The shower, where Faqiri had been earlier, was still running, said the report; investigative officers were told it was broken and the water could not be turned off, said the report.


The interviews didn’t provide a lot of information, said the report, as jail guards had closed the “hatches” to the doors of each inmate’s cell, thus preventing them from looking out into the common hallway, or getting involved.

The investigative team reviewed all reports filed by officers involved and also examined video of the incident. The team interviewed most of the officers who were directly or indirectly involved in the incident. According to the report, those officers investigators believe were directly involved in use of force against Soleiman were advised of their Charter rights, and cautioned for the offence of murder.


“No correctional officer refused to speak to police,” said the report.


Based on all of this, in October 2017, “investigators did not form the belief that Soleiman’s death was as a result of criminal actions by the involved correctional officers.”

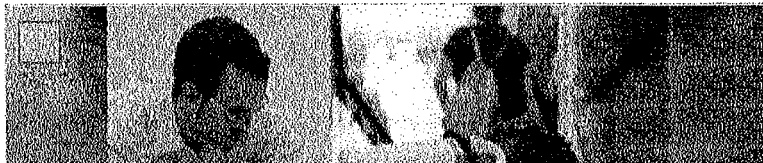
A coroner’s inquest into Faqiri’s death is pending.

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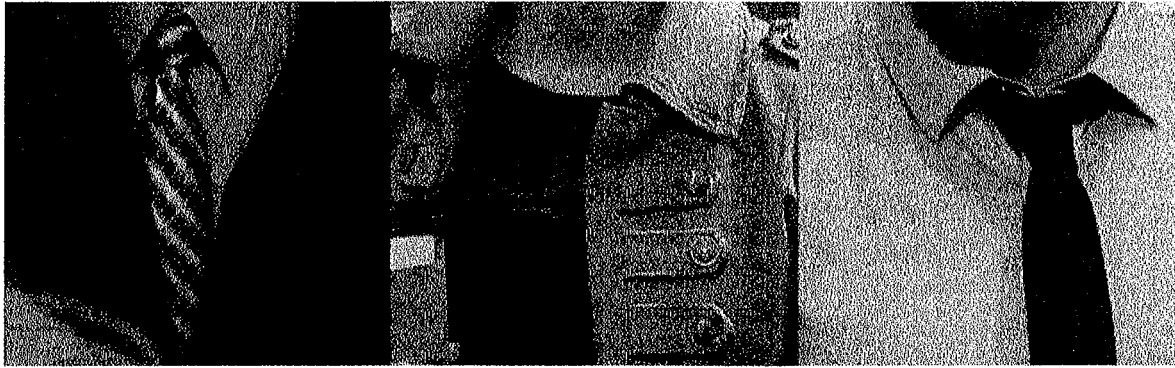
HALIFAX

## Hearing delayed for Halifax police officers involved in man's death in cell



By Zane Woodford Star Halifax  
Tues., April 23, 2019





HALIFAX—A review board hearing into the conduct of three officers involved in the death of a man in police custody has been adjourned pending the outcome of a criminal trial for two other officers.

ARTICLE CONTINUES BELOW

Corey Rogers, 41, died in police custody on June 16, 2016 after being arrested for public drunkenness outside a Halifax children's hospital. Rogers was taken to Halifax Regional Police headquarters and put in a cell at about 11 p.m. on June 15, according to the province's police watchdog, the Serious Incident Response Team (SIRT).

At 1:45 a.m. on June 16, he was found unresponsive in his cell. He was pronounced dead eight minutes later.

Rogers' mother, Jeannette Rogers, alleges police put a spit hood over her son's head and he died by asphyxiation. A spit hood is a device that stops someone from spitting or biting.

The two booking officers in the case, special constables Daniel Fraser and Cheryl Gardner, were charged with criminal negligence in November 2017 after an investigation by SIRT. Fraser and Gardner are scheduled to stand trial in October in front of a judge and jury in Nova Scotia Supreme Court.

The three arresting officers, constables Ryan Morris, Donna Lee Paris and Justin Murphy, were set for a police review board hearing on Tuesday. That hearing has now been adjourned until after Fraser and Gardner stand trial.

Nova Scotia's police review board hears appeals of disciplinary decisions rendered against police officers stemming from public complaints. Rogers complained about the three officers' conduct after her son's death but wasn't happy with the suspensions she said they received, so she appealed the decision.

"Justin Murphy received 10 days suspension, Donna Lee Paris received nine days and Ryan Morris received eight days," Rogers told reporters after the hearing was adjourned on Tuesday.

"And my son will be dead forever."

In a statement emailed to the Star, Halifax Regional Police spokesperson Const. John MacLeod said “there were no suspensions in relation to the death of (Corey) Rogers.”

MacLeod confirmed the three officers were still Halifax Regional Police constables. The Star also asked what had changed within the department since Rogers' death but did not receive an answer.

“We are unable to provide further comment on the police review board hearing as it is a private personnel matter,” MacLeod wrote.

Rogers said the three officers carried her son into the booking room at Halifax Regional Police headquarters and then dragged him into a cell. The specific nature of the allegations against them has yet to be revealed.

“To be perfectly honest, I would like to see them lose their badges,” she said.

Rogers supported the adjournment of the hearing because she wants video footage of her son in police custody released to the public, and that wouldn't have happened due to the pending criminal trial.

“That was exactly what I wanted because the video will be shown at the criminal trial, and I think the public needs to see that,” she said.

“I have been diagnosed with PTSD, and that was after I viewed the videos at SIRT. All in all, I'm hanging in there and I need to do that because I need to see changes made within the system.”

Rogers said Halifax Regional Police have adopted a new policy regarding the use of spit hoods. However, she wants to see spit hoods banned completely.

“It doesn't make sense to put a bag over an intoxicated person's head to begin with. If they're agitated then it's only going to make them more agitated, I would think,” she said.

Having worked as a psychiatric nurse, Rogers said she's seen alternatives to spit hoods, like masks for doctors and nurses, that police could use instead.

“I know nothing will bring Corey back, but if I can help to make a change for others, I don't ever want to see another mother or family go through this,” she said. “If I can make a change of some sort to alleviate that, that will be Corey's legacy.”

Lawyers for Fraser, Gardner and Morris, along with the lawyer representing the municipality and the police force, supported the adjournment.

Lawyer Brian Bailey, representing Paris and Murphy, was opposed to the adjournment because he had transported a witness to Halifax to testify in the hearing.

Former Supreme Court of Nova Scotia justice Simon MacDonald, the vice-chair of the review board, said if the hearing went ahead there'd have to be a publication ban imposed on the proceedings to protect the criminally charged officers' right to a fair trial. That process would stretch into the late summer, he said, and could even delay the criminal trial.



The trial is scheduled to begin on Oct. 28 and conclude in early November, according to the Nova Scotia Public Prosecution Service. MacDonald said there was no need to wait till sentencing was concluded to restart the hearing.

After the trial is over, Rogers also plans to petition the Nova Scotia Justice Department for a public inquiry into her son's death.

Zane Woodford is a Halifax-based reporter focusing on City Hall. Follow him on Twitter: @zwoodford

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Monday, Jun 10th 2019 10:44 AM

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## Strapped to the 'Devil's Chair' and 'pepper-sprayed to death': Horrific fate of mentally ill grandfather 'tortured by police until he died'



- Nick Christie, 62, was detained by Florida police in March 2009
- Had been suffering depression and had a 'mental breakdown'
- No-one has ever been charged following the incident
- Relatives now suing Lee County Sheriff's Department for 'wrongful death'

By LEE MORAN

UPDATED: 12:29 EDT, 12 January 2012

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A mentally ill grandfather died after police officers strapped him naked to a chair, smothered him with a 'spit hood' and pepper-sprayed him 10 times during a 43-hour ordeal, it has been claimed.

Nick Christie, 62, was allegedly tortured in the 'Devil's Chair' at Lee County jail after being detained by Florida police officers in March 2009 following a 'mental breakdown'.

The hood, designed to stop him from spitting at officers, meant he could not escape the noxious spray's fumes - and he was never allowed to clean the residue from his body.

His family is now suing Lee County Sheriff's Department for 'wrongful death'.

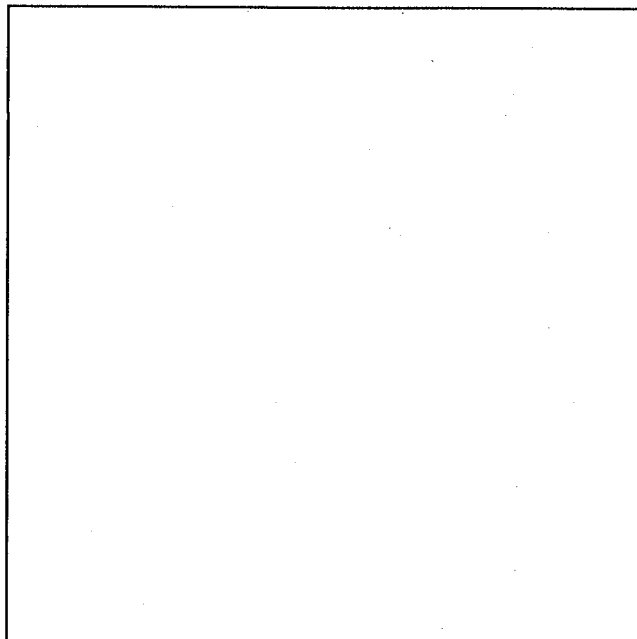
Scroll down for video...





**Tortured: Nick Christie was placed in a 'Devil's Chair' and repeatedly pepper-sprayed during a 43-hour ordeal, it has been claimed**

The incident has raised concern about the behaviour of U.S. police officers, especially as no-one has ever been charged in connection with the alleged crime.



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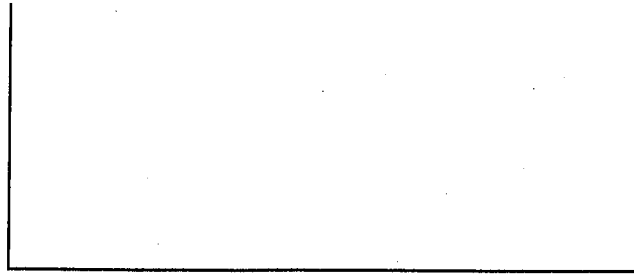
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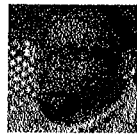




The retired boilermaker had suffered from heart disease and emphysema, put down to his years as a smoker and of continual exposure to asbestos

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It is not clear who exactly took the shocking photograph, which was later handed to FOX 13's news team, of Christie strapped into the chair with a hood over his face.

The retired boilermaker, from Ohio, had suffered from heart disease and emphysema, put down to his years as a smoker and of continual exposure to asbestos.

He was being treated for depression when he decided to take some time out and visit his brother in Fort Myers.

Prior to the trip, his doctor moved away, leaving no-one to manage his emotional state or possible side effects of his drugs.

His wife Joyce was so worried about his trip that she contacted Lee County police to ask them to keep an eye out for him.

She also asked a captain from the Girard, Ohio, police to urge his Florida counterparts to take him to hospital if they found him.

Christie was first arrested on March 25 for being drunk in a public place. This has subsequently been contested as he may merely have been in a severely confused state.

He was released after telling jail attendants of his various medical conditions. Two

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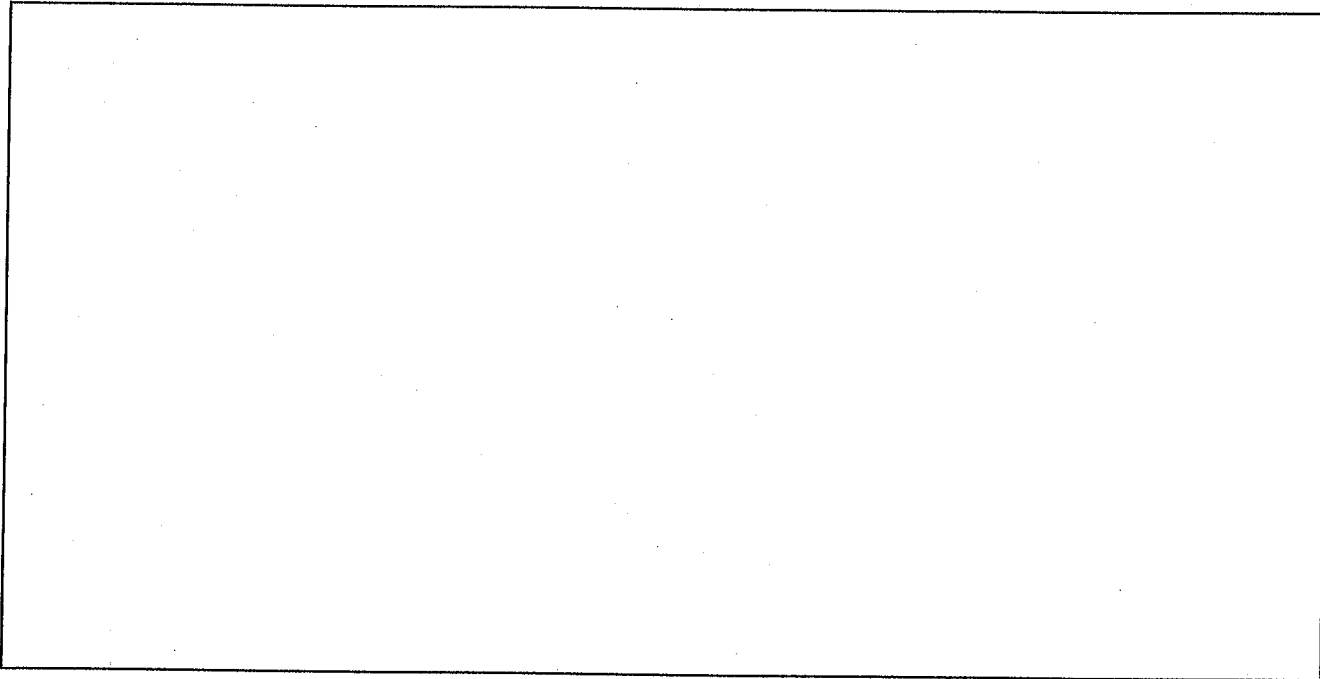
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► Reese W daughter / sweet sna night with Owen Mar fans think her dad R!

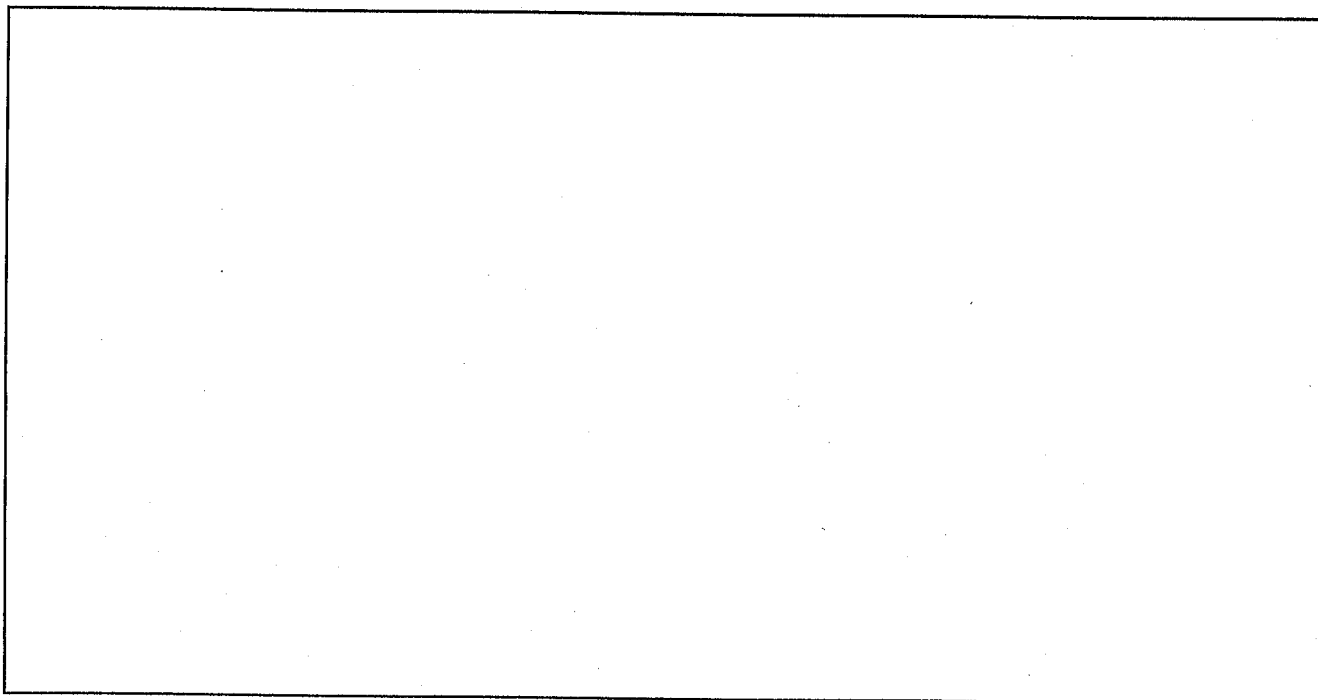
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He was released after telling jail attendants of his various medical conditions. Two days later, on March 27, he was arrested for trespassing at the hotel where he was staying.



**Shocking: Nick Christie, pictured in the restraining chair at Lee County jail**



**Moved: Nick Christie was eventually taken to hospital, after 43-hours of what has been claimed was 'torture' at the hands of deputies**

Nicholas DiCello, whose Cleveland firm Spangenberg Shibley & Liber has filed a civil rights lawsuit on behalf of his estate, said it was a 'minor' offence.

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He said: 'He was having another mental episode. He was bewildered, acting crazy, and so the hotel got fed up and asked him to leave. When he didn't go, they called the police.'

DiCello said jail staff did not screen Christie's mental health before he was jailed, even though they had the list of his conditions from his first arrest, and locked his medications in a truck.

He was never given any drugs during his 43 hours in custody, he also claimed. The trouble started when Christie, who was uncooperative from the time of his arrest, became angry.

Deputies responded by directly spraying him or fogging his cell with pepper spray at least 10 times. He was never allowed to wash the spray off.

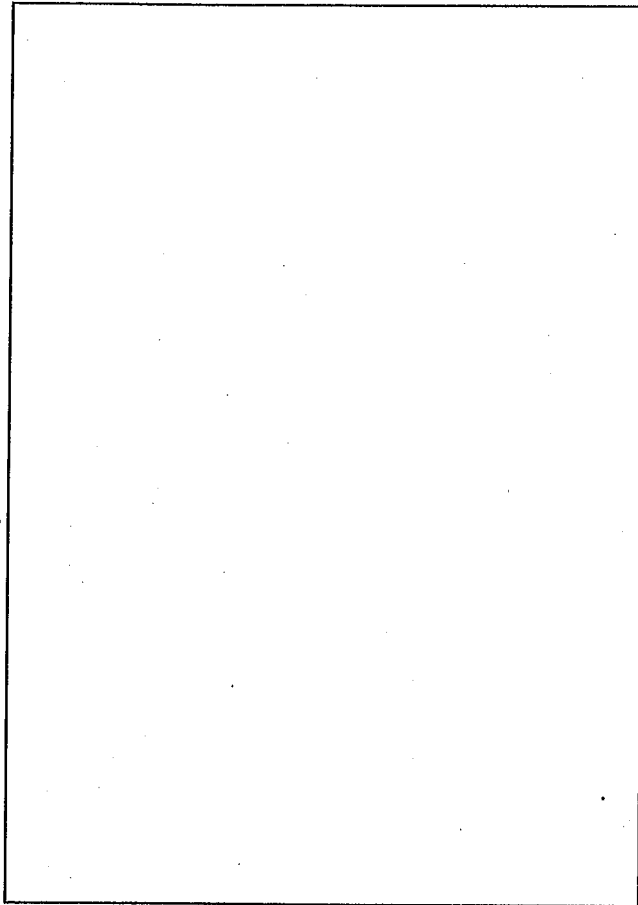
Other inmates in the jail told Fort Myers News-Press that the blasts were so strong the secondary effects caused them to gag.

Christie was then placed into a restraining chair to bind inmates at both wrists, both ankles, and across the chest.

Inmates, along with a deputy trainee named Monshay Gibbs, have already testified that Christie was sprayed at least two more times after he had been strapped to the chair.

He was also stripped naked, and outfitted with a spit mask, a hood designed to prevent inmates from spitting on jail personnel.

But the mask kept the pepper spray close to his nose and mouth, meaning he kept inhaling it for six hours. Christie, whose wife Joyce flew to Florida on hearing of his arrest; is said to have pleaded with officers by saying the mask made it difficult for



**Worried: Joyce Christie said she had been concerned about her husband's trip to Florida**

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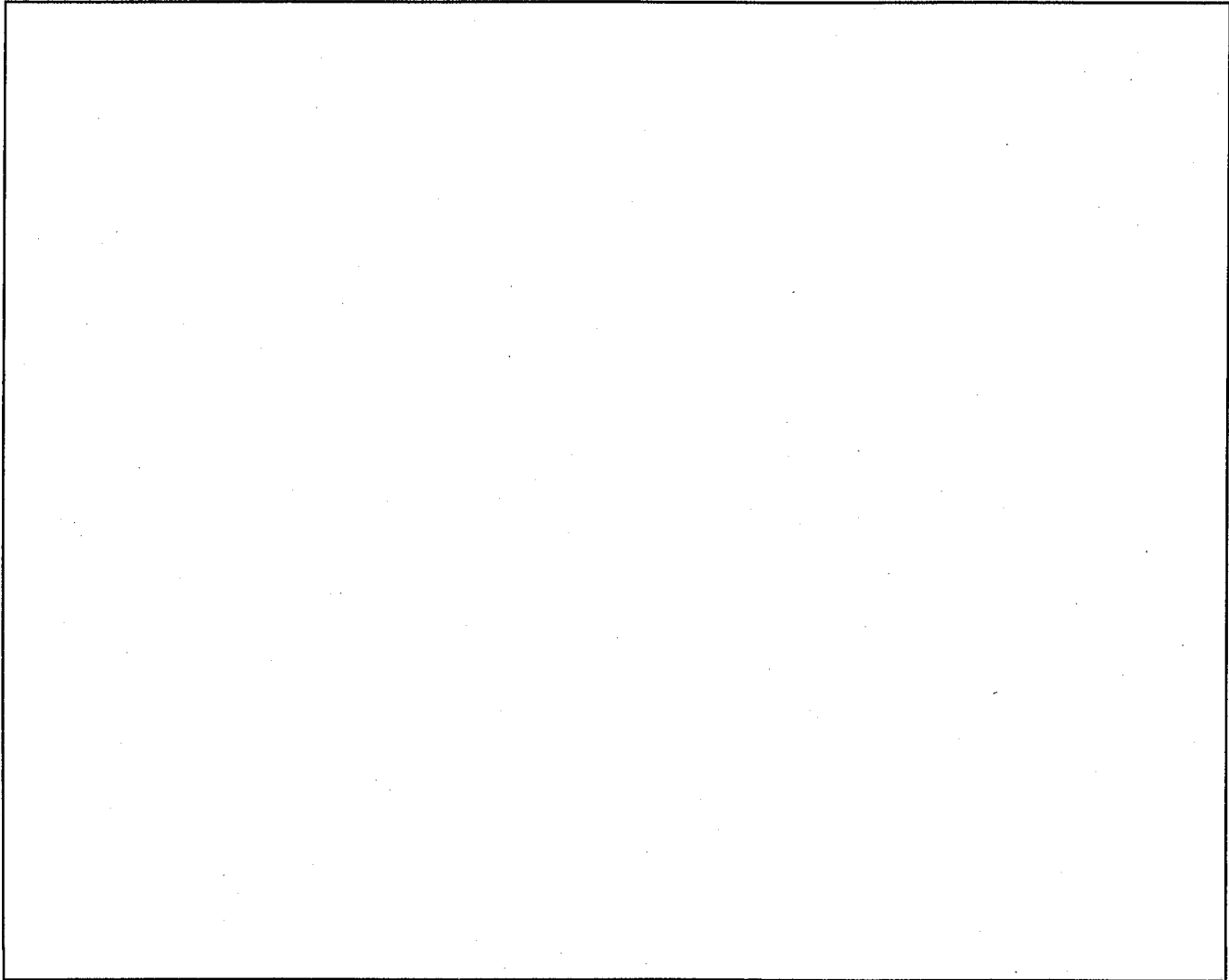
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him to breathe.

DiCello added: 'She was actually relieved to hear he had been arrested She thought they had responded to her pleas for help, that they would take him to a hospital to be treated.'



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**Unaccounted for: No one at Lee County Sheriff's Department has ever been charged over the horrific incident**

Mrs Christie was not allowed to see her husband who, on March 29, went into respiratory distress and was taken to the Gulf Coast Medical Centre in Fort Myers.

It was there that doctors had to repeatedly change their gloves because of the amount of pepper spray on his body, hospital staff said.

Christie suffered multiple heart attacks over the next two days before being declared brain dead and his life support switched off on March 31.

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Deputy Medical Examiner Dr Robert Pflanzgraf later noted in his autopsy report that, two days after his death, brown-orange liquid pepper spray was still all over Christie's body.

Pflanzgraf ruled the death a homicide, as Christie's heart gave out due to stress from his exposure to pepper spray. An internal investigation concluded there no wrongdoing on the part of any Lee County deputy.

None of the deputies involved were disciplined in any way and Florida State Attorney Stephen Russell declined to press criminal charges. The wrongful death case is expected to go before a judge later this year.

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Share or comment on this article: Nick Christie: Mentally ill prisoner strapped to 'Devil's Chair' and 'pepper-sprayed to death'





Office of the City Manager

ACTION CALENDAR

July 9, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Director, Health, Housing and Community Services  
Department

Andrew Greenwood, Police Chief, Berkeley Police Department

Subject: Companion Report: Law Enforcement Use of Restraint Devices in the City of  
Berkeley

RECOMMENDATION

Continue current policy to provide City of Berkeley Police and Fire personnel protection from individuals whose unlawful and assaultive spitting or biting actions may spread infectious diseases during a lawful detention or arrest.

FISCAL IMPACTS OF RECOMMENDATION

There is no fiscal impact to continue the existing policy.

A change in policy that prohibits the use of spit masks could result in increases in staff costs due to: (a) injuries and employee exposure to infectious disease and pathogens; (b) lost staff time; (c) overtime coverage costs; (d) Workers' Compensation claims; and (d) loss of police and city attorney staff time due to preparing and managing documentation supporting court orders to compel blood tests and report results to the affected officer.

CURRENT SITUATION AND ITS EFFECTS

At its February 28, 2019 meeting, the Mental Health Commission unanimously passed a motion "to pass the spithood resolution and submit the resolution to the City Council for approval." At its April 25, 2019 meeting, the commission passed a motion to withdraw the previous resolution and replace it with one that prohibits law enforcement from using restraint devices such as spit hoods in the line of duty, and resolving that law enforcement shall only use their own N95 masks or an equivalent substitute in the line of duty.

The Commission did not request or receive any information or input from the Police or Fire Department during their consideration of this matter.

## BACKGROUND

Individuals who spit at or bite first responders pose a threat to public health. Risks from Aerosol Transmissible Diseases and from blood borne pathogens endanger all personnel involved in an incident in which responders are spat at or upon. Personnel use a soft mask “spit mask” to provide protection from infection. Spit masks are temporary protective devices designed to prevent the wearer from transferring or transmitting fluids (saliva and mucous) to others. The mask is made of a translucent fabric mesh which allows air and light to pass through, but blocks spittle.

Aerosol Transmissible Diseases (ATD) include but are not limited to Chickenpox, Shingles, Measles, Meningitis, Pneumonia and Tuberculosis. See Attachment 1 for the Stanford Environmental Health and Safety program’s more comprehensive list of ATDs. Transmission of ATDs can occur when the pathogen leaves its reservoir (or host) through a portal of exit (mouth/nose), is conveyed by some mode of transmission (spit/droplet), and enters through an appropriate portal of entry to infect a susceptible host. This sequence is sometimes called the chain of infection (Center for Disease Control). If there is blood in the mouth, the saliva can also contain blood-borne pathogens. These include, but are not limited to, hepatitis B (HBV), hepatitis C (HCV) and human immunodeficiency virus (HIV). Attachment 2 provides further information from the Occupational Health and Safety Administration (OSHA).

It is an unfortunate fact that Police and Fire personnel at times encounter individuals who—for whatever reason—spit at, spit on, bite, or otherwise assault City personnel. These behaviors may occur for a variety of reasons: deliberate assaultive behavior, a loss of temper, drug and/or alcohol intoxication, an altered mental status due to a medical emergency, or a result of mental illness. Regardless of the underlying reason for the behavior, the behavior creates a risk for responding personnel, and the need to mitigate this risk and keep staff safe through the spit mask.

Masks provide the most effective method of managing the risk of exposure and safeguarding employee health. Donning N95 masks and eye protection as proposed by the Mental Health Commission does not provide adequate protection to staff from individuals spitting at or upon them. N-95 masks and eye protection cover only a portion of the face. Droplets from an individual actively spitting can easily make their way to an entry point like the eyes through gaps that exist between goggles and the face. N-95 masks and goggles are impractical to carry and unwieldy to put on, and are easily dislodged or knocked off when a person is combative. If there are any cuts, abrasions or punctures to the exposed skin of a first responder, pathogens can make entry. Spit and mucous on the skin, clothing and uniforms or other surfaces can spread disease at a later time. Droplets that contain pathogens remain on surfaces after the individual has been removed from the scene; these can spread disease for up to four days.



The use of masks allow first responders to humanely and safely break the chain of infection. The mask mitigates the spread of pathogens by containing them within the mask, and thereby disallowing them from infecting a susceptible host, e.g. first responder. The mask also prevents the collateral impact of spit and mucous on surfaces and clothing, where disease can spread to anyone who comes in contact with it for up to several days depending on the disease.

Masks have been in use by Berkeley Police and Fire Department personnel to protect themselves and the community for over a decade. Use of the mask is governed by Berkeley Police Policy #302, attached. Police use approved masks only “when the officer reasonably believes the person will spit, either on a person or in an inappropriate place.” When a mask is used, a first responder is present at all times to monitor airway and mental status. Policy requires the mask to be removed if the subject vomits, is bleeding profusely from the mouth, or has difficulty breathing.

### **Avoidance of Injury, Assault and Workers Compensation Claims**

It is a violation of California Penal Code to spit at, spit on, or bite anyone, including police, fire and EMS personnel. Additional criminal charges may be sought if someone knowingly and intentionally inflicts an infectious or communicable disease onto another person (California Health & Safety Code Section 120290). Preventing individuals from committing criminal acts, especially if they are in a mental crisis, is a legitimate function of law enforcement. Use of a mask prevents these acts.

An incident wherein an officer is exposed to disease or pathogens can trigger a considerable post-event administrative process. Every officer who is spat upon may complete an injury report, and their supervisor completes a supervisor’s report. These reports include a comments on injury prevention, and the application of a mask will likely be the first listed action that could have been taken to prevent injury. A separate City of Berkeley “Exposure” Report is completed. Employees may file a Worker’s Compensation Claim if a pathogen is transmitted. Officers may seek medical treatment and lose time from work due to treatment. Depending on the nature and seriousness of the exposure, the officer may also seek a court order compelling the subject to provide a blood sample for testing at a medical facility, to disclose the presence of infectious disease, so that the impacted employee and their physician can make informed decisions regarding treatment and care. These are significant and time-consuming processes, and can be impactful upon employees whose health the City is charged with protecting.

Staff agrees with the Mental Health Commission, in that Berkeley police officers are well-trained to deal with situations where people are in crisis. However, regardless of the reason for the behavior, when an individual spits at or upon officers, they are committing a crime and potentially spreading pathogens. The City has an obligation to enforce the law, provide working conditions for first responders that minimize the risk of

illness and injury, and reduce the chances of disease transmission to its staff and community members.

ENVIRONMENTAL SUSTAINABILITY

Not applicable

RATIONALE FOR RECOMMENDATION

The City's current use of masks is well-governed by existing policy. Masks are considered best practice by law enforcement, fire personnel and EMS for use when individuals spit at or bite them in the field. Masks are used in these situations by Berkeley Police Officers, Berkeley Firefighters, Berkeley Paramedics and EMS mutual aid providers from neighboring Cities and the county's private transport provider.

ALTERNATIVE ACTIONS CONSIDERED

N-95 masks and eye protection were considered but for reasons outlined in report, not recommended.

CONTACT PERSON

Kelly Wallace, Director, HHCS, 510.981.5400

Andrew Greenwood, Police Chief, Berkeley Police Department, 510.981.5900

Attachments:

- 1: Stanford Environmental Health and Safety – List of ATDs
- 2: OSHA – Blood-borne Pathogens
- 3: BPD's Policy 302 Handcuffing and Restraints
- 4: Human Resources Memorandum: Occupational Safety Perspectives; Consequences of Bites, Exposure

# 11.1

## Aerosol Transmissible Diseases/Pathogens

Below you'll find a list of diseases and pathogens which are to be considered aerosol transmissible pathogens or diseases for the purpose of 8 CCR 5199. Employers are required to provide the protections required by 8CCR 5199 according to whether the disease or pathogen requires airborne infection isolation or droplet precautions as indicated by the two lists below.

### Diseases/Pathogens Requiring Airborne Infection Isolation

- Aerosolizable spore-containing powder or other substance that is capable of causing serious human disease, e.g. Anthrax/Bacillus anthracis
- Avian influenza/Avian influenza A viruses (strains capable of causing serious disease in humans)
- Varicella disease (chickenpox, shingles)/Varicella zoster and Herpes zoster viruses, disseminated disease in any patient. Localized disease in immunocompromised patient until disseminated infection ruled out
- Measles (rubeola)/Measles virus
- Monkeypox/Monkeypox virus
- Novel or unknown pathogens
- Severe acute respiratory syndrome (SARS)
- Smallpox (variola)/Variola virus
- Tuberculosis (TB)/ Mycobacterium tuberculosis–Extrapulmonary, draining lesion; Pulmonary or laryngeal disease, confirmed; Pulmonary or laryngeal disease, suspected
- Any other disease for which public health guidelines recommend airborne infection isolation

### Diseases/Pathogens Requiring Droplet Precautions

- Diphtheria pharyngeal
- Epiglottitis, due to Haemophilus influenzae type b
- Haemophilus influenzae Serotype b (Hib) disease/Haemophilus influenzae serotype b–Infants and children
- Influenza, human (typical seasonal variations)/influenza viruses
- Meningitis
  - Haemophilus influenzae, type b known or suspected
  - Neisseria meningitidis (meningococcal) known or suspected
- Meningococcal disease sepsis, pneumonia (see also meningitis)
- Mumps (infectious parotitis)/Mumps virus
- Mycoplasmal pneumonia
- Parvovirus B19 infection (erythema infectiosum)
- Pertussis (whooping cough)
- Pharyngitis in infants and young children/Adenovirus, Orthomyxoviridae, Epstein-Barr virus, Herpes simplex virus
- Pneumonia
  - Adenovirus
  - Haemophilus influenzae Serotype b, infants and children

- Meningococcal
- Mycoplasma, primary atypical
- Streptococcus Group A
  
- Pneumonic plague/Yersinia pestis
- Rubella virus infection (German measles)/Rubella virus
- Severe acute respiratory syndrome (SARS)
- Streptococcal disease (group A streptococcus)
  - Skin, wound or burn, Major
  - Pharyngitis in infants and young children
  - Pneumonia
  - Scarlet fever in infants and young children
  - Serious invasive disease
  
- Viral hemorrhagic fevers due to Lassa, Ebola, Marburg, Crimean-Congo fever viruses (airborne infection isolation and respirator use may be required for aerosol-generating procedures)
- Any other disease for which public health guidelines recommend droplet precautions

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## CHAPTER LISTING

### Additional Resources

- |                                                                                                           |   |
|-----------------------------------------------------------------------------------------------------------|---|
| <b>11.1 Aerosol Transmissible Diseases/Pathogens</b>                                                      | > |
| <b>11.2 Aerosol Transmissible Pathogens – Laboratory</b>                                                  | > |
| <b>11.3 Aerosol Transmissible Disease Vaccination Recommendations for Susceptible Health Care Workers</b> | > |
| <b>11.4 Resources</b>                                                                                     | > |

Find it in OSHA



A TO Z INDEX

**OSHA** ▾ **WORKER** ▾ **EMPLOYER** ▾ **STANDARDS** ▾ **ENFORCEMENT** ▾ **CONSTRUCTION TOPIC** ▾ **NEWS/RESOURCES** ▾ **DATA** ▾ **TRAINING** ▾

Safety and Health Topics / Bloodborne Pathogens and Needlestick Prevention

# Bloodborne Pathogens and Needlestick Prevention

**Bloodborne Pathogens Menu**

## Overview

### What are bloodborne pathogens?

Bloodborne pathogens are infectious microorganisms in human blood that can cause disease in humans. These pathogens include, but are not limited to, hepatitis B (HBV), hepatitis C (HCV) and human immunodeficiency virus (HIV). Needlesticks and other sharps-related injuries may expose workers to bloodborne pathogens. Workers in many occupations, including first responders, housekeeping personnel in some industries, nurses and other healthcare personnel, all may be at risk for exposure to bloodborne pathogens.

### What can be done to control exposure to bloodborne pathogens?

In order to reduce or eliminate the hazards of occupational exposure to bloodborne pathogens, an employer must implement an exposure control plan for the worksite with details on employee protection measures. The plan must also describe how an employer will use engineering and work practice controls, personal protective clothing and equipment, employee training, medical surveillance, hepatitis B vaccinations, and other provisions as required by OSHA's Bloodborne Pathogens Standard (29 CFR 1910.1030). Engineering controls are the primary means of eliminating or minimizing employee exposure and include the use of safer medical devices, such as needleless devices, shielded needle devices, and plastic capillary tubes.

### General Guidance

Provides information on the revised standard.

[More »](#)

### Enforcement

Highlights directives and letters of interpretation related to bloodborne pathogens and needlestick prevention.

[More »](#)

### Hazard Recognition

Provides references that aid in recognizing workplace hazards associated with bloodborne pathogens.

[More »](#)

### Evaluating and Controlling Exposure

Provides information for evaluating and controlling bloodborne pathogens and needlestick hazards.

[More »](#)

### Standards

Bloodborne pathogens and needlesticks are addressed in specific OSHA standards for general industry.

[More »](#)

### Additional Resources

Provides links and references to additional resources related to bloodborne pathogens and needlestick prevention.

[More »](#)

- Working conditions that do not pose a risk of serious harm.
- Receive information and training (in a language and vocabulary the worker understands) about workplace hazards, methods to prevent them, and the OSHA standards that apply to their workplace.
- Review records of work-related injuries and illnesses.
- File a complaint asking OSHA to inspect their workplace if they believe there is a serious hazard or that their employer is not following OSHA's rules. OSHA will keep all identities confidential.
- Exercise their rights under the law without retaliation, including reporting an injury or raising health and safety concerns with their employer or OSHA. If a worker has been retaliated against for using their rights, they must file a complaint with OSHA as soon as possible, but no later than 30 days.

For additional information, see OSHA's Workers page.

### How to Contact OSHA

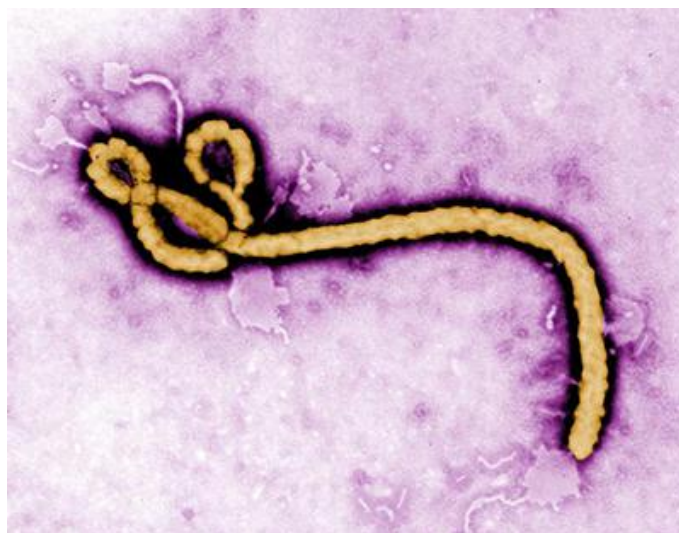
Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA's role is to ensure these conditions for America's working men and women by setting and enforcing standards, and providing training, education and assistance. For more information, visit [www.osha.gov](http://www.osha.gov) or call OSHA at 1-800-321-OSHA (6742), TTY 1-877-889-5627.

### CAUTION!

**If you are stuck by a needle or other sharp or get blood or other potentially infectious materials in your eyes, nose, mouth, or on broken skin, immediately flood the exposed area with water and clean any wound with soap and water or a skin disinfectant if available. Report this immediately to your employer and seek immediate medical attention.**

**CDC: Emergency Needlestick Information also provides immediate access to treatment protocols following blood exposures involving HIV, HBV and HCV, including the Clinicians' Post Exposure Prophylaxis Hotline (PEPline) at 1-888-448-4911.**

### In Focus: Ebola



Frederick A. Murphy/CDC

### Highlights

- Most Frequently Asked Questions Concerning the Bloodborne Pathogens Standard
- Quick Reference Guide to the Bloodborne Pathogens Standard
- Comparison of Universal Precautions, Standard Precautions, and Transmission-based Precautions
- FDA, NIOSH and OSHA Joint Safety Communication on Blunt-Tip Surgical Suture Needles. (May 30, 2012).

### Related Topics

- Dentistry
- Healthcare
- Medical and First Aid
- Nursing Homes and Personal Care Facilities

## UNITED STATES DEPARTMENT OF LABOR

Occupational Safety and Health Administration  
 200 Constitution Ave NW  
 Washington, DC 20210  
 ☎ 800-321-6742 (OSHA)  
 TTY  
 www.OSHA.gov

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 Disaster Recovery Assistance  
 DisasterAssistance.gov  
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 U.S. Office of Special Counsel

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## Handcuffing and Restraints

### 302.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs and other restraints during detentions and arrests.

### 302.2 POLICY

The Berkeley Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy and department training. Restraint devices shall not be used to punish, to display authority or as a show of force.

### 302.3 RESTRAINTS

#### 302.3.1 USE OF RESTRAINTS

Only members who have successfully completed Berkeley Police Department approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include, but are not limited to:

- (a) The circumstances or crime leading to the arrest.
- (b) The demeanor and behavior of the arrested person.
- (c) The age and health of the person.
- (d) Whether the person may be pregnant.
- (e) Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.
- (f) Whether the person has any other apparent disability.

#### 302.3.2 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain an individual who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to assure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

#### 302.3.3 ALTERNATIVE MEANS OF RESTRAINT

Alternative Means of Restraint include but are not limited to:

- (a) Handcuffing the person with their hands in front of their body
- (b) Handcuffing the person with multiple sets of linked handcuffs
- (c) Use of the entire WRAP system



## *Handcuffing and Restraints*

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- (d) Use of the WRAP's ankle strap
- (e) Use of plastic handcuffs, aka "flex cuffs"
- (f) Use of an ambulance gurney with five point straps

### 302.3.4 RESTRAINT OF PREGNANT PERSONS

If a person's hands cannot be restrained behind their back because of pregnancy, officers will attempt to accommodate the person's condition by using alternative means of restraint.

No person who is in labor, delivery or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the arrestee, officers or others (Penal Code § 3407; Penal Code § 6030).

### 302.3.5 RESTRAINT OF JUVENILES

A juvenile under 14 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer or damage property.

### 302.3.6 NOTIFICATIONS

Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during transportation to the jail.

## **302.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS**

Handcuffs, including temporary plastic flex cuffs, may be used only to restrain a person's hands to ensure officer safety.

Although recommended for most arrest situations, handcuffing is not an absolute requirement of the Department. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers should not conclude that regardless of the circumstances, every person should be handcuffed.

In most situations handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be applied between the base of the palm and the ulna bone of the wrist. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the individual or may cause unreasonable discomfort due to the person's size, officers should consider alternative means of restraint.

## *Handcuffing and Restraints*

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If the person being handcuffed is on the ground or in a prone position, then as soon as possible after being handcuffed, the person should be placed in an upright sitting position or on their side for respiratory recovery and to mitigate the potential for positional asphyxia.

Handcuffs should be removed as soon as it is reasonable to do so or after the person has been searched and is safely confined within a detention facility.

### **302.5 APPLICATION OF SPIT MASKS**

Spit masks are temporary protective devices designed to prevent the wearer from transferring or transmitting fluids (saliva and mucous) to others.

Spit masks may be placed upon persons in custody when the officer reasonably believes the person will spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.

Officers utilizing spit masks should ensure that the spit mask is applied properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers should provide assistance during the movement of restrained individuals due to the potential for impaired or distorted vision on the part of the individual. Officers should avoid co-mingling individuals wearing spit masks with other detainees.

Spit masks should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit mask, the spit mask should be promptly removed and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated, including hair, head and clothing prior to application of a spit mask.

Those who have been placed in a spit mask should be continually monitored and shall not be left unattended until the spit mask is removed. Spit masks shall be discarded after each use.

### **302.6 APPLICATION OF THE WRAP**

The WRAP is a temporary restraining device comprised of a velcro strapped leg panel, torso harness, ankle strap and backside handcuff carabiner. The device immobilizes the body into a straight-legged seated position. Used properly, it restricts a subject's ability to do harm to oneself or others. Officer safety is enhanced and the risk of injury to the subject is reduced.

In determining whether to use the WRAP, officers should consider:

- (a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a suspect.
- (b) Whether it is reasonably necessary to protect the suspect from his/her own actions (e.g., running away from the arresting officer while handcuffed, kicking at objects or officers).

## *Handcuffing and Restraints*

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- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol unit).
- (d) Whether conventional methods of restraint have failed.

### 302.6.1 GUIDELINES FOR USE OF THE WRAP

When applying the WRAP, the following guidelines should be followed:

- (a) If practicable, officers should notify a supervisor of the intent to apply the WRAP. In all cases, a supervisor shall be notified as soon as practicable after the application of the WRAP.
- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat. Restraint straps should be checked frequently for tightness, and adjusted as necessary, until the WRAP is removed. The harness straps should never be tightened to the point they interfere with the person's ability to breath.
- (c) The restrained person should be continually monitored by an officer while the WRAP is in use. The officer should ensure that the person does not roll onto and remain on his/her stomach.
- (d) The officer should look for signs of distress such as sudden quiet or inactivity, complaints of chest pain, change in facial color, complaint of extreme heat, vomiting, and/or labored breathing, and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (e) Movement of the person can be accomplished in three ways, depending on the level of their cooperation. The person can be carried, allowed to stand and shuffle walk or be transported in a vehicle.
- (f) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (g) If in custody and transported by ambulance/paramedic unit, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

### 302.6.2 DEVICE REMOVAL

Based on the prisoner's combativeness or level of aggression, officers should employ appropriate control techniques and tactics when removing restraint devices.

### 302.6.3 THE ANKLE STRAP

The ankle strap is one part of the WRAP restraint system. The ankle strap may be used alone, without the rest of the WRAP system to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest or transportation. Use of the ankle strap should follow the same considerations listed in 302.6 and guidelines listed in 302.6.1.

## *Handcuffing and Restraints*

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### **302.7 APPLICATION OF AUXILIARY RESTRAINT DEVICES**

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort and mobility.

Only department-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

### **302.8 REQUIRED DOCUMENTATION**

If an individual is restrained and released without an arrest, the officer shall document the details of the detention and the need for handcuffs or other restraints in an MDT, incident or case report.

If an individual is arrested, the use of restraints other than handcuffs shall be documented in the related report. The officer should include, as appropriate:

- (a) How the suspect was transported and the position of the suspect.
- (b) Observations of the suspect's behavior and any signs of physiological problems.
- (c) Any known or suspected drug use or other medical problems.



Human Resources Department

June 4, 2019

To: A. Greenwood, Chief of Police

From: Kevin Walker, Occupational Health and Safety Officer  
City of Berkeley Human Resources Department

Re: Occupational Safety Perspectives; Consequences of Bites, Exposure

The information presented below is from an occupational safety perspective for protection against human bites. It examines consequences of exposures to human bites and fluids and considers the potential outcomes and the use of protective measures.

Human saliva is known to contain as many as 50 species of bacteria with almost  $10^8$  microbes/ml. The reason these injuries are so prone to infection is that, for example, the extensor tendon and the Metacarpophalangeal (MCP) joints of the hands are relatively avascular structures and thus have a very limited ability to fight infection. This is one of the reasons why human bites are believed to have higher rates of infection than other injuries.<sup>1</sup> Medical attention for bite injury ranges in cost from the relatively low cost first aid, to the extremely high cost of surgical repair and recovery.

A search of medical literature revealed studies that document the seriousness of human bites and infection. In a multicenter study of infected human bites 50 patients were studied and four cultures, including one anaerobic culture, were obtained from each patient, it was discovered that aerobic species alone were isolated in 44% of the wounds, anaerobes alone were isolated in 2% and both aerobes and anaerobes were isolated in 54% of the wounds.<sup>2</sup> The most common aerobic isolates were *Streptococcus*, *Staphylococcus* and *Eikenella* species. *Streptococcus anginosus* was the most common pathogen isolated and was found to contaminate 52% of human bites. Exposure to saliva alone is not considered a risk factor for viral transmission, although HIV may be present in the saliva (infrequently and at low levels). Salivary inhibitors render the virus non-infective in a majority of the cases.<sup>3</sup> Therefore, transmission of HIV is a risk when there is blood in the mouth of the person who bites and there is a breach in the skin of the victim.<sup>4</sup> Also, it is not uncommon for individuals to bite the inside of their cheek, lips or tongue to create a mouth full of blood as a weapon against officers. While the infectious nature of saliva/spittle can be debated, the infectious potential of blood cannot be challenged.

Human bites generate sufficient force to damage subcutaneous tissues and structures including muscle, nerves and ligaments. Bite wounds are serious because of the

potential of infection and mechanical damage. The human bite has been measured to generate at a maximum of 265 psi which is enough to severely damage soft tissues. A bite that removes flesh creates a serious injury requiring surgery. One bite to the eye can easily result in blindness or other disabling injury.

We have to consider the cost of a bite. A human bite injury can be life-changing for an employee and can result in significant cost to the City. A City of Berkeley patrol officer sustained a severe bite injury that caused damaged nerves and severed tendons, required considerable surgery and infection control and even after medical intervention ultimately resulted in disability, including loss of dexterity and sensation to fingers and permanent loss of functional grip strength. As a result of that incident alone, the City paid over \$245,000.00 in workers compensation cost.

It is important that the City continue to provide officers with access to tools to safely carry out their job as well as protect lives.

Optimization and utilization of law enforcement tools is foundational in BPD's training program to protect the public and officers as well as control cost. Although the likelihood is small that a single exposure to bodily fluids or from spit will result in contracting a disease, we have to keep in mind that our officers are likely to experience multiple exposure to bodily fluids from spitting, saliva and blood throughout their career, so use of tools to minimize exposure during the multitude of interactions with the public is vital.

Unlike chemicals and hazardous materials, there are no time-weighted averages set by regulatory agencies (Cal OSHA, NIOSH, and ACGIH) on exposures to disease causing microorganisms. Thus, universal precautions are exercised, vaccinations are administered, sanitization methods are carried out and protective equipment are employed to prevent and reduce the potential of exposures. The Spit Hood is a pragmatic protective device that prevents exposures to pathogens and averts costly injuries. To discontinue its use will elevate the risk of catastrophic injuries among the City's emergency services personnel.



Human Resources Department

#### References:

1. A.Perron AD, Miller MD, Brady WJ. Orthopedic pitfalls in the ED: Fight bite. *Am J Emerg Med* 2002;20:114-7
2. Talan DA, Abrahamian FM, Moran GJ, Citron DM, Tan JO, Goldstein EJ, et al. Clinical presentation and bacteriologic analysis of infected human bites in patients presenting to emergency departments. *Clin Infect Dis*. 2003;37:1481–9
3. Richman KM, Rickman LS. The potential for transmission of human immunodeficiency virus through human bites. *J Acquir Immune Defic Syndr*. 1993;6:402–6
4. Smoot EC, Choucino CM, Smoot MZ. Assessing risks of human immunodeficiency virus transmission by human bite injuries. *Plast Reconstr Surg*. 2006;117:2538–9







Peace and Justice  
Commission

ACTION CALENDAR  
July 9, 2019

To: Honorable Mayor and Members of the City Council  
 From: Peace and Justice Commission  
 Submitted by: George Lippman, Chairperson, Peace and Justice Commission  
 Subject: Resolution Assigning Socially Responsible Investment and Procurement  
 advisory role to the Peace and Justice Commission

RECOMMENDATION

Adopt resolution assigning socially responsible investment and procurement advisory role to the Peace and Justice Commission.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

At its regular meeting November 19, 2018, the Peace and Justice Commission unanimously adopted the following recommendation: designate the Berkeley Peace and Justice Commission as the “Socially Responsible Investment and Procurement Advisory Body” for the City of Berkeley.

M/S/C: Lippman/Hariri  
 Ayes: al-Bazian, Hariri, Lippman, Maran, Meola, Morizawa, Rodriguez  
 Noes: None  
 Abstain: None  
 Absent: Bohn, Chen, Han, Pancoast

BACKGROUND

A community advisory role on socially responsible investing in Berkeley dates back to the anti-apartheid campaign in 1979, when the Citizens Committee on Responsible Investments was created by the City Council. In 1990, as the apartheid system began to unravel, the role was transferred to the Peace and Justice Commission by the Council. The City’s 1990 Statement of Investment Policy stated, “The Treasurer will

consult with the Peace and Justice Commission and the Government Operations Subcommittee in advance of making revisions to the Investment policy and in evaluation of new investment instruments.”

The Commission was created in 1986 in part to administer the voter-approved Nuclear Free Berkeley Act. For three decades, the Commission has reviewed waiver requests for procurement and other contracting between the City and entities involved in nuclear-related work, recommending approval or denial of the waiver requests for final decision by Council. The Commission has also played an advisory role in development and implementation of the Sweatshop-Free Berkeley Policy. In recent years the Commission has advised the Council, upon Council request, on abstention from contracting with companies involved with the border wall or other federal anti-immigrant activities.

This resolution affirms the 1990 assignment to the Commission of a consultative role with respect to social investment policy. The resolution refers to the Commission to create a Socially Responsible Investment and Procurement Subcommittee charged with evaluating businesses for social responsibility, including but not limited to inclusion, exclusion, or ranking businesses for City contracting based on such criteria. This Subcommittee will comprise members who are reflective of the diversity of the Berkeley community, including both Peace and Justice commissioners and outside experts. The Subcommittee will include and consult with individuals with expertise in socially responsible investment and procurement, other subject matter experts and City staff.

The Commission is to hold hearings on and propose to Council, within six months, an ordinance to govern the Commission’s advisory role on socially responsible investing and procurement of the City of Berkeley.

#### ENVIRONMENTAL SUSTAINABILITY

The Peace and Justice Commission, in its socially responsible investment and procurement advisory role, will assist the City staff in ensuring environmental concerns are reflected in the City’s investing and procurement decisions.

#### RATIONALE FOR RECOMMENDATION

The City’s Finance Department will continue as the lead agency for both investment and procurement decisions and implementation. This designation of the Peace and Justice Commission as the City’s Socially Responsible Investment and Procurement Advisory Body will bring an important social justice lens to these decisions.

The designation will officially add socially responsible procurement to the Commission’s mandate. Procurement decisions, including banking and other services as well as other contracts and purchases, can have even more significant impact than investment decisions, as a city’s investments in corporations are very limited.

Such decisions on how the City government invests its substantial funds, with whom it contracts, and how fairly its service providers treat their employees and their communities, are of deep concern to Berkeley's people. These issues have particular resonance for Berkeley's communities of color, immigrants, women, LGBTQI people, workers, the disabled, those concerned with the environment and religious freedom, and others. Involvement by these communities in decisions about investment and procurement will strengthen the City's process and foster social justice in its outcomes.

#### ALTERNATIVE ACTIONS CONSIDERED

The Commission considered incorporating all discussion on socially responsible investing and procurement into the full Commission meetings, but decided that a subcommittee including relevant expertise and greater community involvement would produce recommendations of higher quality.

Another alternative considered was to create an independent committee patterned on the 1979 Citizens Committee for Responsible Investment. The Commission felt that utilizing the existing commission structure would be preferable.

#### CITY MANAGER

See companion report.

#### CONTACT PERSON

George Lippman, Chairperson, Peace and Justice Commission

Breanne Slimick, Commission Secretary, (510) 981-7018

#### **Attachments: 1**

## RESOLUTION

Declaring the Berkeley Peace and Justice Commission be designated the City's Socially Responsible Investment and Procurement Advisory Body.

WHEREAS, the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code section 3.68.070, Function A); and

WHEREAS, the Peace and Justice Commission mandate, as amended in 1990, includes Function K of BMC section 3.68.070: "Assist the Director of Finance in the annual evaluation of financial institutions for qualification of City investments; complete development and assist in the implementation of a linked deposit program; encourage target investments; coordinate with City agencies, appropriate community organizations, public and private investors, and the Governor's Public Investment Task Force; and advise the City Council on matters relating to the responsible investment of public funds in accordance with the responsible investment policy established by Resolution No. 55,141A-NS;" and

WHEREAS, the Peace and Justice Commission mandate includes Function L of BMC section 3.68.070: "Perform such other functions and duties as may be directed by the City Council or prescribed or authorized by any ordinance of the City, and such other functions and duties not prohibited by City Council which the commission should decide are consistent with its overall function of promoting peace and social justice;" and

WHEREAS, the "Socially Responsible Investment Policy" was passed by the Council, January 16, 1990 as Resolution #55,141A-N.S., "Adopting the Statement of Investments Policy presented by the Director of Finance as amended to include the recommendations of Peace and Justice Commission"; and

WHEREAS, the UN Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights in 2011,<sup>1</sup> and this framework is the authoritative global standard on business and human rights, setting the expectations of states and companies about how to prevent and address negative impacts on human rights by business; and

WHEREAS, the City of Berkeley requires consistent overview of responsible investment and procurement policies, including policies relating to banking services;

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<sup>1</sup> [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf) and <https://www.unglobalcompact.org/> (Small businesses may be given a waiver from these requirements.) Note that in 2018, the U.S. government withdrew from the Human Rights Council.

THEREFORE BE IT RESOLVED that the Council of the City of Berkeley designates the Peace and Justice Commission as the Socially Responsible Investment and Procurement advisory body for the City of Berkeley, and requests the Peace and Justice Commission create a Socially Responsible Investment and Procurement Subcommittee charged with evaluating businesses for social responsibility, including but not limited to inclusion, exclusion, or ranking businesses for City contracting based on such criteria; and

BE IT FURTHER RESOLVED that the Socially Responsible Investment and Procurement Subcommittee will draft and the Peace and Justice Commission will hold hearings on and propose to Council an ordinance to govern the Commission's advisory role on socially responsible investing and procurement of the City of Berkeley; this proposed ordinance shall be submitted to the City Council within six months of the passage of this resolution; and

BE IT FURTHER RESOLVED that the Socially Responsible Investment and Procurement Subcommittee will consider "the goal of creating a world community in which the relations between people are based on equality, respect for human rights, and the abhorrence of exploitation and all forms of oppression [universal human rights]" [BMC section 3.68.030] for the evaluation of municipal investments and procurement, and community values for the evaluation of banking and other services.

A. Universal Human Rights include but are not limited to the rights listed in the International Bill of Human Rights, meaning the rights in the [Universal Declaration of Human Rights](#),<sup>2</sup> as codified in the [International Covenant on Civil and Political Rights](#)<sup>3</sup> and the [International Covenant on Economic, Social and Cultural Rights](#),<sup>4</sup> and the rights listed under International Humanitarian Law treaties and the rights in the International Labor Organizations' [Declaration on Fundamental Principles and Rights at Work](#).<sup>5</sup> These include but are not limited to concern for:

- 1) Social rights, including racial justice, the rights of indigenous people and LGBTQI people
- 2) Labor rights, including the prohibition of sweat labor and child labor
- 3) The rights of incarcerated people and people under a belligerent occupation
- 5) Rights of women and girls, including equal pay
- 6) Immigrant rights
- 7) Environmental justice
- 8) Civil and political rights
- 8) Rights of persons with disabilities
- 9) Rights of religious minorities

<sup>2</sup> <http://www.un.org/en/universal-declaration-human-rights/index.html>

<sup>3</sup> <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

<sup>4</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

<sup>5</sup> <http://www.ilo.org/declaration/lang--en/index.htm>

10) Health and safety

B. Corporate Responsibility includes, but is not limited to concerns about:

- 1) Local banking and presence
- 2) Underserved communities and neighborhoods
- 2) Corporate market behavior
- 3) Corporate good citizenship and tax avoidance
- 4) Corporate ethics and governance
- 5) Community investment; and

BE IT FURTHER RESOLVED that the Socially Responsible Investment and Procurement Subcommittee will comprise members who are reflective of the diversity of the Berkeley community, including both Peace and Justice commissioners and outside experts, and the number of members, the qualifications, and length of service will be established in the above ordinance;

BE IT FURTHER RESOLVED that the Socially Responsible Investments and Procurement Subcommittee has the authority and will endeavor to include or consult with individuals with expertise in socially responsible investment and procurement, other subject matter experts and City staff; and

BE IT FURTHER RESOLVED that while the Socially Responsible Investments and Procurement Subcommittee engages in development of the above ordinance, it will begin work immediately to review the City's investments and procurement strategy and processes, and to advise the City Council and the City Manager and Director of Finance.



Office of the City Manager

ACTION CALENDAR  
July 9, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: David White, Deputy City Manager

Subject: Companion Report to Peace and Justice Commission's Resolution Asking to be Assigned an Advisory Role in Consulting on Socially Responsible Investments and Procurement

RECOMMENDATION

Continue to allow the City Council Budget and Finance Committee to provide investment policy oversight.

FISCAL IMPACT OF RECOMMENDATION

Staff time from the Department of Finance.

CURRENT SITUATION AND ITS EFFECTS

At its regularly scheduled meeting on November 19, 2018, the Peace & Justice Commission took the following action of asking for a resolution to assign an advisory role in consulting on socially responsible investments and procurement for the City of Berkeley:

*M/S/C: Lippman/Hariri. Ayes: al-Bazian, Hariri, Lippman, Maran, Meola, Morizawa, Rodriguez. Noes: None Abstain: None. Absent: Bohn, Chen, Han, Pancoast*

This resolution seeks to affirm the November 1990 motion that was made by the City Council to assign a consulting role with respect to socially responsible investments. The resolution seeks to add this advisory role to the Commission's existing mandate.

This resolution also asks City Council to establish a Socially Responsible Investment and Procurement Subcommittee to be charged with evaluating businesses for social responsibility. The Commission proposes to hold hearings on and propose to Council, within six months, an ordinance to govern the Commission's advisory role on socially responsible investing and procurement.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

1. The City of Berkeley's Ordinance No. 5,705-N.S. was amended on November 27, 1990 to include an advisory role for the Peace & Justice Commission in the evaluation of City investments. The City replaced Peace & Justice Commission oversight over City investments several years ago with oversight by the Budget Review Commission. The Budget Review Commission conducted oversight until it was discontinued. Currently, the Budget and Finance Committee provides oversight over the City's investments.
2. During the period that the Peace & Justice Commission had oversight over responsible investing, communication was ineffectual and recommendations provided were overly complicated in terms of implementation and effectiveness. As a result, the advice given to staff was often counter-productive. For example, the Peace and Justice Commission developed a rather complex and unclear policy on purchasing Treasury securities that kept staff from purchasing these securities for over 20 years. (See Attachment 1.) Council eliminated this policy in FY 2019.
3. The City Council has established a Budget and Finance committee which is responsible for the following:
  - a. Investment Policy
  - b. Budget Development
  - c. Revenue Development
  - d. Expenditures
  - e. Fiscal Planning and Policy
  - f. Taxes and Fees
  - g. Large-scale Fiscal Investments

Additional Peace & Justice Commission oversight is duplicative to the work currently being performed by the Budget and Finance Committee.

4. The Council, as a body, has been engaged and on top of issues that deal with the values that its community espouses. The Council has passed and continues to advocate for socially responsible investments and some of these recommendations originated from several commissions including the Peace & Justice Commission. Some of the Council's recommendations include the following:
  - Nuclear-Free Berkeley Act
  - Oppressive States contract prohibition
  - Divestment from gun manufacturers and tobacco companies
  - Divestment from publicly traded fossil fuel companies and banks that finance pipelines and fossil fuel infrastructure
  - Divestment from prisons (Resolution No. 67,640-N.S.) and immigration detention companies



- Divestment from any company designing, building or financing the U.S.-Mexico border wall (Resolution No. 67,865-N.S.)
- No investment in any entity involved in the production and manufacturing of weapons (Resolution No. 68,766-N.S.)

In addition, the City Council reviews and acts on recommendations from other commissions which includes the Peace and Justice Commission.

If the Peace and Justice Commission's recommendation is adopted, Council's efforts would be duplicated; at the same time it would require substantial Finance staff time to respond to numerous issues and questions from the commission. Finance staff is especially concerned about the impacts to existing workload, as the department is in the midst of implementing time sensitive matters including complying with new debt disclosure requirements and accounting standards promulgated by the Governmental Accounting Standards Board. In addition to that, Finance staff is heavily involved and engaged in the implementation a new financial system (ERMA).

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Breanne Slimick, Commission Secretary (510) 981-7018  
Henry Oyekanmi, Director, Finance (510) 981-7326

Attachments:

1. Peace & Justice Commission policy on purchasing Treasury securities

*To the extent possible, without compromising the City's safety, liquidity and yield objectives, it is the City's policy to prefer investments in U.S. Agency securities. They are preferred because of their generally higher yields and generally socially preferable uses, such as housing loans or student loans, versus investments in Treasury securities with their association with nuclear weapons.*

*The following paragraphs outline a mechanism for choosing to invest in Treasury securities:*

- For each type of investment instrument being considered by the Finance Officer, a "normal spread range" which that instrument yields in excess of Treasury issues of comparable maturity shall be established. When the actual spread is less than the minimum of the normal range, the Finance Officer may choose to invest in Treasury issues, on the grounds that the City is not being compensated for the additional credit risk of non-Treasury investments. Conversely, when the spread is larger than the maximum of the normal range, the Finance Officer may choose to invest in Treasury issues, on the grounds that the financial markets are evaluating alternative instruments as having higher than normal risk. In either case, the Finance Officer shall continue to monitor spreads, and when they return to the "normal range", evaluate the feasibility of selling any Treasury holdings and reinvesting in non-Treasury instruments.*

*Treasury issues may also be purchased when six dealers are unable to provide non-Treasury investments of the desired maturity and dollar amounts.*

*In any event, whenever Treasury instruments are purchased, the next quarterly report shall include an explanation of the circumstances and reasons under which they were purchased. All financial institutions, which hold deposits or investments of the City, shall file a statement with the Director of Finance indicating the percentage of the bank's assets which are loaned to or invested in nuclear weapons agents as defined in Section 13 of the Nuclear-Free Berkeley Act. The Director of Finance shall use this information as a factor in selecting banks which have minimum involvement in the nuclear weapons industry. A summary of these reports shall be attached to the annual Statement of Investment Policies.*

- Investments in United States Treasury securities may be made by the City of Berkeley only when no other reasonable alternative exists under the procedure described above. Short-term investments in United States Treasury securities repurchase agreements of 14 days or more shall be authorized by a continuing resolution of the City Council with each resolution to expire within 60 days.*
- The City of Berkeley shall ensure that any City funds, or any funds controlled by the City, invested through trustees or other third parties, are invested according to the provisions of this section and, to this end, shall obtain written assurances to this effect from any such trustees or third parties.*



Office of the Mayor

ACTION CALENDAR

July 9, 2019

To: Honorable Members of the City Council  
 From: Mayor Jesse Arreguín and Councilmembers Sophie Hahn, Kate Harrison and Rigel Robinson  
 Subject: Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley's Affordable Housing

RECOMMENDATION

Refer to the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts to consider the proposed **Housing for a Diverse, Equitable and Creative Berkeley** framework (the "Framework") and return comments for consideration at a Special Meeting of the City Council in September, to inform a final version the City Council will adopt to govern Berkeley's affordable housing policies, programs and projects through 2030.

SUMMARY STATEMENT

With the public's generous support of 2018 Measures O and P and 2016 Measure U1, Berkeley has significant new local funds to support our affordable and homeless housing goals. Numerous advisory and decision-making entities, including the Measure O Bond Oversight Committee ("Measure O Committee"), Housing Advisory Commission (HAC), Planning Commission, Homeless Services Panel of Experts, City Staff - and the City Council as the final decision-making body - have a role in recommending, adopting or implementing policies, programs and projects using these and the City's other affordable and supportive housing resources. Several other entities may also play a role in recommendations or decisions affecting affordable and supportive housing including the Zoning Adjustments Board (ZAB) and the Mental Health and Homeless Commissions. *To support optimal coordination among these many bodies and cohesive action to realize Berkeley's affordable housing goals, it is imperative that the City Council provide a high-level roadmap for all to follow.*

There is a great deal of public process before us as we move forward to build an equitable housing future for Berkeley. We offer this Framework as a starting point for many future decisions, lighting a path for Berkeley to honor and maximize the powerful

opportunity presented by Measures O, P and U1, and the community's outstanding commitment to affordable and homeless housing.

This framework addresses *only* Berkeley's *affordable and supportive housing* strategies. Many strategies are already in place to support the creation of new market rate housing, and others are under consideration. Because the creation and preservation of affordable housing involves significant investments of City of Berkeley resources, a high-level, comprehensive framework, adopted by the City Council, is necessary to guide decision making by multiple entities over time.

## BACKGROUND

In the past, the City of Berkeley had limited financial resources to fund the development and management of affordable and supportive housing. Berkeley created a Housing Trust Fund in 1990<sup>1</sup> which may collect money from a number of sources including fees from market-rate rental or ownership developments (pursuant to BMC Chapter 23C.12 - Inclusionary Housing Requirements), demolitions, and the sale of City-owned properties.<sup>2</sup> Funds are often insufficient to support multiple projects simultaneously, or to fund single, large projects in their entirety. As of 2015, the HTF received approximately \$7.6 million from fee programs, which was the only source of funding at that time.<sup>3</sup> In December of 2018 (prior to the adoption of Measure O), the Housing Trust Fund had a balance of only \$3.5 million. In addition, that balance and other funds had been reserved for The Berkeley Way Project, which required at least \$13 million in City funds to move forward.<sup>4</sup>

*Recently, Berkeley voters overwhelmingly endorsed three measures that together create an unprecedented opportunity for the City to fulfill the community's highest priorities: addressing the dual crises of housing affordability and homelessness.*

Measure U1 (2016), which passed with 75% percent of the vote, increased the gross receipts tax on owners of five or more residential rental units, generating approximately \$5 million per year to increase affordable housing and protect Berkeley residents from

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<sup>1</sup> City of Berkeley Housing and Community Services Department, Housing Trust Fund, <https://www.cityofberkeley.info/ContentDisplay.aspx?id=6532>

<sup>2</sup> City of Berkeley Housing Trust Fund Guidelines, [https://www.cityofberkeley.info/uploadedFiles/Housing/Level\\_3\\_-\\_General/Revised%202016%20HTF%20GUIDELINES.pdf](https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/Revised%202016%20HTF%20GUIDELINES.pdf)

<sup>3</sup> Memo on Below Market Rate Housing and Housing Trust Fund Program Status, December 2015, [https://www.cityofberkeley.info/Clerk/City\\_Council/2015/12\\_Dec/Documents/2015-12-01\\_WS\\_Item\\_03\\_Below\\_Market\\_Rate\\_Housing.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2015/12_Dec/Documents/2015-12-01_WS_Item_03_Below_Market_Rate_Housing.aspx)

<sup>4</sup> Reserving Up to an Additional \$12.5M in Housing Trust Funds for the Berkeley Way Development, December 4, 2018, [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/12\\_Dec/Documents/2018-12-4\\_Item\\_03\\_Reserving\\_Up\\_to\\_an\\_Additional\\_12\\_5M\\_in\\_Housing\\_Trust\\_Funds.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/12_Dec/Documents/2018-12-4_Item_03_Reserving_Up_to_an_Additional_12_5M_in_Housing_Trust_Funds.aspx)

homelessness.<sup>5</sup> In November of 2018, Measures O and P were overwhelmingly passed by Berkeley voters.<sup>6,7</sup> Measure O, supported by 77%, is a \$135 million affordable housing bond to create and preserve affordable housing. Measure P, which received 72% support, increases the real estate transfer tax on the top one-third of real estate transactions by 1% to fund rehousing, mental health and other services for the homeless, likely yielding \$6 to \$8 million per year.

Over ten years, these three measures are projected to generate more than \$200 million to create and preserve affordable housing, to keep vulnerable residents housed, and to rehouse individuals and families experiencing homelessness. Not surprisingly, given the high levels of support for these measures, the provision of affordable housing and homeless services was ranked as extremely or very important by 84% of respondents to a 2018 community survey<sup>8</sup>.

*The message from Berkeley voters and residents is clear; it is now our responsibility to deliver maximum value for those who need help finding or sustaining housing, and for the entire community.*

Berkeley is poised to undertake a major expansion of our affordable housing programs, using the new monies provided by Measures U1, O and P. Combined with already-existing affordable housing resources (Housing Trust Funds, inclusionary requirements and public land, among others) and supplemented with possible changes to the zoning code that could improve the mix and yield of affordable units, the City is well-positioned to meaningfully address Berkeley's highest priorities.

Diversity is one of Berkeley's key strengths. With the rapid influx of new workers to the Bay Area and additional students to UC Berkeley, our community is challenged to meet a variety of housing needs; in particular the needs of low and moderate income households and the homeless. Berkeley is committed to housing for its teachers, artists and artisans, seniors and students, young people entering the work-force, and the many other working individuals and families who cannot afford market-rate housing. Berkeley is also deeply committed to housing individuals and families experiencing

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<sup>5</sup> Full text of Measure U1,

<https://www.cityofberkeley.info/uploadedFiles/Clerk/Elections/Measure%20U1.pdf>

<sup>6</sup> Full Text of Measure O, <https://drive.google.com/file/d/1qdA7jW6J5IHgFSllcwHcb20x-fcfW3Xv/view?usp=sharing>

<sup>7</sup> Full Text of Measure P,

<https://drive.google.com/file/d/1JbipUDMW62KqkI4szDoMEgAmN0lvZCLk/view?usp=sharing>

<sup>8</sup> Discussion and Direction Regarding Potential Ballot Measures for the November 6, 2018 General Municipal Election, [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/03\\_Mar/Documents/2018-03-27\\_Item\\_23\\_Discussion\\_and\\_Direction\\_Regarding\\_-\\_Supp.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/03_Mar/Documents/2018-03-27_Item_23_Discussion_and_Direction_Regarding_-_Supp.aspx)

homelessness, and ensuring that people with disabilities have accessible, supportive and affordable options.

Berkeley's new affordable housing monies enable us to expand successful housing strategies the City is already pursuing and to significantly expand important strategies that were more difficult to achieve in the absence of meaningful local funds. The plan proposes expanding Berkeley's major existing affordable housing programs and putting substantial resources into directions that reflect core Berkeley values such as cooperative ownership, democratic control and the empowerment of underserved communities. It also proposes a suite of policies that should be broadly applied to all existing, expanded and new affordable housing initiatives.

*This Framework is meant to serve as the "mission and goals" that will guide the next decade of action on affordable housing in Berkeley. Specific strategies, programs and projects will be developed in much more detail by the Measure O Committee (and, with respect to U1 funds, the HAC and to Measure P funds, the Homeless Services Panel of Experts); with input from other committees and commissions and from trusted community partners and the public; with the expertise and support of City Staff; and with refinement and approval by the Berkeley City Council.*

#### REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES & LAWS

The City of Berkeley has numerous programs, policies and laws in place that directly or indirectly support the creation and preservation of affordable and supportive housing. Many of these are discussed in the proposed Framework, including rent control and eviction protections<sup>9</sup>, affordable housing fees and inclusionary requirements for for-profit developments<sup>10</sup>, a Small Sites Program, and the Tenant Opportunity to Purchase Act<sup>11</sup>.

Housing affordability is the first objective of the Housing Element of the City of Berkeley General Plan. *Policy H-1 - Extremely Low, Very Low, Low and Moderate Income Housing* sets the goal of increasing housing affordable to residents with lower income, and outlines a number of actions to achieve this goal, including encouraging incentives for affordable housing development, utilizing the Housing Trust Fund to provide housing, and maintaining zoning requirements for the inclusion of affordable units in

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<sup>9</sup> Rent Stabilization and Eviction for Good Cause Ordinance, [https://www.cityofberkeley.info/Rent\\_Stabilization\\_Board/Home/Ordinance\\_Rent\\_Stabilization\\_and\\_Eviction\\_for\\_Good\\_Cause.aspx](https://www.cityofberkeley.info/Rent_Stabilization_Board/Home/Ordinance_Rent_Stabilization_and_Eviction_for_Good_Cause.aspx)

<sup>10</sup> BMC Chapter 23C.12, Inclusionary Housing Requirements, <https://www.codepublishing.com/CA/Berkeley/cgi/NewSmartCompile.pl?path=Berkeley23C/Berkeley23C12/Berkeley23C12.html>

<sup>11</sup> Small Sites Acquisition Program and Tenant Opportunity to Purchase, Feb 14, 2017, [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/02\\_Feb/Documents/2017-02-14\\_Item\\_18b\\_Small\\_Sites\\_Acquisition.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/02_Feb/Documents/2017-02-14_Item_18b_Small_Sites_Acquisition.aspx)

new housing developments<sup>12</sup>. Housing affordability is also the subject of Land Use Policies LU-18 (Downtown Affordable Housing Incentives) and LU-25 (Affordable Housing Development) of the Land Use Element of the General Plan<sup>13</sup> and of the City's affordable housing requirements in market rate buildings.<sup>14</sup> Many of Berkeley's area-specific plans, such as the Downtown Area Plan, Adeline Corridor Specific Plan, and West Berkeley Plan, also highlight the importance of affordable housing to specific areas and neighborhoods.<sup>15, 16, 17</sup>

2018's Measure O is the most recent affirmation of the community's desire to create and preserve housing affordable to serve populations not able to afford market rates. It sets a goal of achieving 10% reserved affordable housing by 2030.<sup>18</sup> The Framework seeks to coordinate existing and new efforts toward achieving this goal.

### ACTIONS/ALTERNATIVES CONSIDERED

While the City has made numerous commitments to affordable housing in the past and taken a variety of actions to encourage its development and preservation, many of these were made before Measure U1, O, and P's resources were contemplated or available. The need to allocate resources in a coordinated, efficient and rational manner is more urgent than ever as we set out to spend the significant new funds voters have generously provided.

Creating a clear roadmap for the many entities that will consider and decide on the use of both new and existing resources is the best way to ensure optimal allocations and maximum achievement of the community's goals. Looking at individual projects or programs absent a guiding plan and principals will not produce the optimization or

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<sup>12</sup> Housing Element, Policy H-1 Extremely Low, Very Low, Low and Moderate Income Housing  
[https://www.cityofberkeley.info/Planning\\_and\\_Development/Home/General\\_Plan\\_-\\_Housing\\_Element.aspx](https://www.cityofberkeley.info/Planning_and_Development/Home/General_Plan_-_Housing_Element.aspx)

<sup>13</sup> Land Use Element, City of Berkeley General Plan,  
[https://www.cityofberkeley.info/Planning\\_and\\_Development/Home/General\\_Plan\\_-\\_Land\\_Use\\_Element\\_Introduction.aspx](https://www.cityofberkeley.info/Planning_and_Development/Home/General_Plan_-_Land_Use_Element_Introduction.aspx)

<sup>14</sup> BMC 23C.12 Inclusionary Housing Requirements,  
<https://www.codepublishing.com/CA/Berkeley/cgi/NewSmartCompile.pl?path=Berkeley23C/Berkeley23C12/Berkeley23C12.html>

<sup>15</sup> Berkeley Downtown Area Plan,  
[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_DAP/FINAL\\_x-DAP%20document\\_120329.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_DAP/FINAL_x-DAP%20document_120329.pdf)

<sup>16</sup> Adeline Specific Area Plan  
[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Land\\_Use\\_Division/Adeline%20SP%20Public\\_4.%20Housing\\_5.15.19.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Land_Use_Division/Adeline%20SP%20Public_4.%20Housing_5.15.19.pdf)

<sup>17</sup> West Berkeley Plan, Housing and Social Services,  
[https://www.cityofberkeley.info/Planning\\_and\\_Development/Home/West\\_Berkeley\\_-\\_Housing\\_Social\\_Services.aspx](https://www.cityofberkeley.info/Planning_and_Development/Home/West_Berkeley_-_Housing_Social_Services.aspx)

<sup>18</sup> Full Text of Measure O, <https://drive.google.com/file/d/1qdA7jW6J5IHgFSllcwHcb20x-fcfW3Xv/view?usp=sharing>

coordination that is required to fulfill our mandates. Similarly, adopting a Framework without collecting input from the community and appropriate Commissions and Committees would not be appropriate. We see no alternatives that would ensure the work of many entities involved in forwarding affordable housing in Berkeley is harnessed towards commonly established, clearly stated and rationalized goals.

#### CONSULTATION/OUTREACH OVERVIEW & RESULTS

The intent of this referral is to launch a broad process of consultation to gather input from the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts and from community partners and the public. Because the Framework must be in place before other entities embark to fulfill their respective charges, consultation must be completed and the Framework adopted quickly.

This referral specifically requests feedback on *broad concepts, directions and goals*, not on *implementation strategies, programs or projects*. While Commissions, Committees, community partners and the public will no doubt be tempted to address these additional important elements at this time, specific strategies, programs and projects will not be addressed in the Framework itself. These will be developed and vetted over time by the Measure O Committee, the HAC and other appropriate entities, and will involve additional consultation with community partners and the public.

The attached draft Framework reflects consultation with the City Manager's Office and the Health, Housing, and Community Services Department, and with the item's four co-sponsors. The Framework was conceived and written with the support of Stephen Barton, PhD., former Executive Director of the City of Berkeley's Rent Board and former City of Berkeley Housing Director. The Framework, offered as a draft, now awaits input from the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts, community partners and, most importantly, the public.

#### RATIONALE FOR RECOMMENDATION

Traditionally, affordable housing has been the purview of the City Council, the Housing Advisory Commission and City Staff. Measure U1 further deputizes the HAC to make recommendations on the use of U1 funds and recommendations on expanding affordable housing in the City, and both Measures O and P established boards to provide recommendations on the use of their respective funds. Finally, the Planning Commission, the Land Use, Housing, and Economic Development Committee, the Zoning Adjustments Board and other City entities play important roles in supporting and producing affordable housing. It is important that all of these entities share a single



vision and, even when acting independently, are moving towards clearly articulated, Council-approved goals. A single cohesive Framework will help ensure that different funds, regulatory strategies and other resources available to be harnessed to the cause of affordable and supportive housing are each deployed for their optimal purpose within the broader ecosystem.

#### IMPLEMENTATION, ADMINISTRATION & ENFORCEMENT

The Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts are the most appropriate drivers of the public process. Each shall hold at least one publicly noticed meeting to take comments and review and discuss the proposed Framework. The Chair of each body shall prepare a set of comments, approved by the Commission and Committees, to present at the Special Meeting of the City Council in September. Given the urgency of this referral, lengthy reports are neither required nor feasible. Each body can choose its own preferred format for comments, and the Chair (or other chosen representative) will be provided 10 minutes at the September Special Meeting to present comments.

#### FISCAL IMPACTS

Costs for review of the proposed Framework by Commissions, Committees, and by the City Council at a Special Meeting are minimal and consist of staff time to notice and staff meetings, many of which are already regularly scheduled.

Ultimately, adoption of the Framework will provide the cohesion necessary to rationalize the use of the City's many affordable housing resources and allow the City to responsibly and efficiently allocate resources to best achieve community goals.

#### ENVIRONMENTAL SUSTAINABILITY

Carrying out the community process as proposed has no environmental impacts.

Creating and preserving affordable and homeless housing in Berkeley, a transit rich community, will allow lower income individuals and families to live closer to transit and to their workplaces, reducing greenhouse gas emissions by shortening commutes and decreasing reliance on personal vehicles. Building to high green standards, as required by the Framework, will ensure new and refurbished housing incorporates energy efficiency, electrification, water conservation and use of non-toxic materials, as well as other green building measures.

Preserving and refurbishing existing housing stock is an important environmental strategy, as reuse/repair/refurbishment of materials already in use maximizes the value of a building's embodied energy, and avoids expending additional embodied energy on

a new building, that can take decades or even a century to recapture.

Finally, increasing affordable housing in Berkeley will make the City more economically and racially equitable, which is a key factor of the City's sustainability and resilience goals, as outlined in Berkeley's Resilience Strategy.

#### OUTCOMES & EVALUATION

If robust input is received from diverse stakeholders and the Framework is adopted, the goals of this item will have been fully realized. The Framework will support achievement of Measure O's stated goal that 10% of Berkeley housing units be reserved affordable by the year 2030.

#### CONTACT

Mayor Jesse Arreguín, (510) 981-7100

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

#### Attachments:

1. Housing for a Diverse and Creative Berkeley: A Framework for Affordable Housing

# Housing for a Diverse, Equitable and Creative Berkeley

## *A Framework for Affordable Housing*

Councilmember Sophie Hahn and Mayor Jesse Arreguín

Written in collaboration with Stephen Barton, Ph.D.

### **EXECUTIVE SUMMARY**

*Berkeley is poised to undertake a major expansion of our housing affordability programs, using new monies provided by Measures U1, O and P. Combined with already-existing affordable housing resources and supplemented with possible changes to the zoning code that could improve the mix and yield of affordable units, the City is well-positioned to meaningfully address Berkeley citizens' highest priorities: to increase affordable housing and rehouse the homeless.*

Diversity is one of Berkeley's key strengths. With the rapid influx of new workers to the Bay Area and additional students to UC Berkeley, our community is challenged to meet a variety of housing needs; in particular the needs of low and moderate income households and the homeless. Berkeley is committed to housing for its teachers, artists and artisans; seniors and students; young people entering the work-force; and the many other working families and individuals who cannot afford market-rates. Berkeley is also deeply committed to housing the homeless, and ensuring that people with disabilities have accessible, supportive and affordable homes.

Berkeley's new housing monies enable us to expand successful affordable housing strategies we are already pursuing and to expand important strategies that were more difficult to achieve in the absence of significant local funds. We propose expanding Berkeley's major existing affordable housing programs and putting substantial resources into directions that reflect core Berkeley values such as cooperative ownership, democratic control and the empowerment of underserved communities. We also propose a suite of policies that should be broadly applied to all existing, expanded and new affordable housing initiatives.

### **Major Existing Programs - Recommend to Expand:**

Currently, the City of Berkeley works to maintain housing affordability through four primary strategies, each of which is backed by effective organizations within the City of Berkeley and by local non-profit affordable housing organizations. ***These four strategies should be strengthened and expanded:***

1. Constructing New Non-Profit Affordable Units
2. Rent and Eviction Protections
3. Affordable Housing Fees and Inclusionary Requirements for For-Profit Developments
4. Direct Subsidies to Renters

**Additional Important Programs - Recommend to Significantly Expand:**

There are several additional strategies that the City should expand substantially as they offer excellent opportunities to create and preserve affordable rental *and ownership* housing aligned with Berkeley values. Some of these strategies require capacity-building within City Departments and in non-profit partners. ***These programs should be significantly strengthened and expanded:***

1. House and Support the Homeless
2. Transition some of Berkeley's existing rental housing to permanently affordable social ownership by expanding the Small Sites Program, accompanied by a Tenant or Community Opportunity to Purchase Act.
3. Provide innovative homeownership opportunities for moderate and low income residents, including cooperative ownership using the Community Land Trust model.
4. Significantly increase the supply of affordable live-work housing for artists and artisans.
5. Encourage adding incremental units, such as accessory dwelling units (ADUs) or low-rise multiplex units that complement neighborhood character.
6. Partner with UC Berkeley to support creation of housing appropriate and affordable to students, faculty and staff.

**Policies to Ensure Equity and Sustainability:**

While pursuing these strategies, there are several principles of equity and sustainability the City should apply to all of its affordable housing programs:

1. Ensure equitable access to scarce affordable housing, including accessible units with universal design features.
2. Codify Deep Green Building standards for healthy and sustainable buildings, and other measures to increase environmental sustainability.
3. Prioritize the use of public land for the creation of affordable housing.
4. Ensure those who build and rehabilitate our housing are paid fair wages and have access to health insurance, and support local apprenticeship programs.
5. Make changes to the City of Berkeley Zoning Code and project approvals processes to incentivize, facilitate and reward the production of affordable housing.

Following these programs and principles, Berkeley will be able to preserve and expand its diverse and creative character, support equity and opportunity, and offer meaningful, stable housing solutions to families and individuals not able to afford market rates.

This Framework addresses only Berkeley's *affordable* housing goals. Many strategies are already in place to support the creation of new market rate housing, and others are under consideration. Because the creation and preservation of affordable housing involves significant investments of City and other resources, a comprehensive roadmap, adopted by the City Council, is necessary to guide decision making by multiple entities over time.

## I. INTRODUCTION

Many things make Berkeley a special and attractive place; nationally and internationally renowned for activism, intellect, innovation and the arts. We are lucky to be situated on the desirable West Coast of the United States and the Pacific Rim, bordering San Francisco Bay and adjacent to the largest Regional Parks network in America. But the core of what makes us a unique, important and engaging City is *the people of Berkeley, and our shared values of equity, opportunity and justice*. Our robust mix of backgrounds includes people of diverse ethnicities, religions, ages, gender identities, occupations and abilities. Without this mix, we lose the fundamental elements of our greatness and risk all that makes Berkeley one of the most uniquely desirable and impactful small cities in America.

Preserving and enhancing our diversity - and our humanity - in the face of unprecedented pressure on housing affordability is one of the greatest challenges we face. Rent control has long been a key strategy for Berkeley to provide stability and affordability to residents; our ability to keep it strong has been severely eroded by the State. Twenty years ago, working families could still afford to buy homes in Berkeley; with median home prices now topping \$1.3 million, that is no longer the case.<sup>1</sup> And with a dramatic rise in rents and evictions throughout the region and the State, the humanitarian disaster of homelessness accelerates.<sup>2, 3, 4</sup>

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<sup>1</sup> Oakland, Berkeley, Piedmont Real Estate, June 2019, <https://www.bayareamarketreports.com/trend/oakland-berkeley-real-estate-market-conditions-prices>

<sup>2</sup> New report underscores link between 'shocking' number of evictions, homelessness, Curbed LA, June 10, 2019, <https://la.curbed.com/2019/6/10/18659841/evictions-homelessness-rent-burden-los-angeles>

<sup>3</sup> Implementation of Resolution 68,312 (Council Funding for Additional Services Amending Contracts with Eviction Defense Center ("EDC") and East Bay Community Law Center ("EBCLC")) For the Period Ending June 30, 2018, April 2, 2019, [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/04\\_Apr/Documents/2019-04-02\\_Item\\_13\\_Implementation\\_of\\_Resolution.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/04_Apr/Documents/2019-04-02_Item_13_Implementation_of_Resolution.aspx)

<sup>4</sup> "Rising rents, home prices in Berkeley and the Bay Area displacing thousands", June 28, 2018, <https://www.berkeleyside.com/2018/06/28/rising-rents-home-prices-in-berkeley-and-the-bay-area-displacing-thousands>

Rising market rates for both rental and ownership housing in Berkeley is driven primarily by the huge increase in high paid workers flooding the Bay Area, and by UC Berkeley's addition of 35% more students over the last 20 years, bringing enrollment to over 41,000.<sup>56</sup> New Tech and other "white collar" workers pay well over \$1 million for the bungalows, duplexes and tract homes that used to house the Bay Area's middle income and poor residents, and are able to afford rents of \$3500 or more for a two bedroom apartment.<sup>7</sup> Students in Berkeley are packed 2, 3 and 4 to a bedroom, some paying \$1,500 per month - per person - for a bunk. Everyone else is left behind.

Who is "everyone else?" *Everyone else* includes the teachers who teach our children; the nurses and home-care workers who support us when we are sick; the activists and not-for-profit workers who forgo high salaries to promote and serve the public interest; the artists and artisans who delight, entertain, feed and provoke us; the firefighters who come to our rescue and police who work to keep us safe; seniors who have contributed for decades and are now on fixed incomes and students who struggle to pay tuition and rent; young people entering the workforce and starting families, who are building our future; the waiters, baristas and retail workers who serve us; public sector workers who make sure our cities and counties can deliver, and who make our public institutions work; and many more. *Everyone else* also includes the disabled, whose ability to generate income may be limited; those suffering from mental illness or substance abuse, which afflict people from all walks of life; and our lowest income community members, especially those who have been subject for generations to discrimination and physical, psychic and economic violence. *These are the people Berkeley's affordable and supportive housing programs are designed to help.* We want them in our community.

The voters of Berkeley recently established three important new sources of funding to support the creation and preservation of affordable housing, to keep vulnerable people housed, and to rehouse the homeless: Measure U1 (2016), Measure O (2018) and Measure P (2018). Thanks to the generosity and care of Berkeley citizens, Berkeley for the first time has substantial local funds to support these important community goals. In addition, the City collects funds and obtains affordable units from for-profit developments as mitigation for affordable housing impacts. Finally, the City of Berkeley is completing an inventory of land it owns that might be allocated to affordable housing development.

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<sup>5</sup> Student Enrollments, UC Berkeley Office of the Vice Chancellor of Finance, <https://pages.github.berkeley.edu/OPA/our-berkeley/student-enrollments.html>

<sup>6</sup> Common Data Set 1999-00, UC Berkeley Office of Planning and Analysis, <https://opa.berkeley.edu/sites/default/files/1999-2000.pdf>

<sup>7</sup> Berkeley Average Rent Trend Data, April 2019, <https://www.rentjungle.com/average-rent-in-berkeley-rent-trends/>

These Berkeley affordable housing resources can bring in matching Federal, State and/or County funds of as much as \$5 for every Berkeley dollar, significantly leveraging our investments. All of these resources together, allocated strategically, could yield well over 1,000 additional units of affordable housing. As stated in Measure O, the Berkeley City Council - and the voters - have adopted a goal of making 10% of Berkeley's housing reserved affordable by 2030. This means that ten years from now we intend to have 5,000 units available at below-market rates and set aside for people with diverse incomes, from extremely low- to middle-income, groups that are struggling to afford the cost of housing in our city.

*We believe that Berkeley should aspire to make at least 30% of its housing, around 15,000 units, permanently affordable, and eventually strive to achieve 50% protected or reserved affordable housing, to match the "social housing" mix of progressive European cities such as [Amsterdam](#) and [Vienna](#).*

Berkeley's [Measure O](#) provides for sale of \$135 million in bonds to fund capital expenditures for a variety of types of affordable housing. [Measure P](#) increased the real estate transfer tax on the most expensive one-third of real estate sales to rehouse the homeless and fund the services they need to remain housed. It is expected to bring in \$6 - \$8 million annually, depending on property sales. [Measure U1](#) increased the gross receipts tax on most residential rental properties to fund affordable housing and protect Berkeley residents from homelessness. In 2018 it realized \$5.1 million and will continue to increase as rents increase. Taken together, over the next ten years the City of Berkeley will likely have almost \$250 million in new revenue available for affordable housing and homelessness reduction. (For more detail on Berkeley's Affordable Housing resources see Appendix A - Funding Sources)

To allocate these and other affordable housing monies (such as developer impact fees) and allocate resources such as public land and inclusionary units, the City Council is advised by no fewer than three different advisory boards, as required under each measure, and receives input from the Planning Commission and numerous additional entities. This report is intended to help provide these advisory bodies, and the City Council, which has the ultimate responsibility to allocate all of these funds and resources, with a coherent framework. The goal is for our housing programs and expenditures to have a unifying sense of direction: to deploy the optimal mix of City resources for each purpose, to maximize the leveraging of local funds, and to meet the expressed needs and desires of the community.

Measure O funds are limited to traditional types of capital expenditures: buildings, grounds and other “hardscape” elements of projects. Measure P funds are available for programmatic as well as capital needs, including mental health and other supportive social services, and rent subsidies or operating cost subsidies necessary to rehouse the homeless and to support people who are at immediate risk of homelessness. U1 funding can be used for anything that is necessary for the creation of permanently affordable housing, and as such is the most flexible source of regular affordable housing funds. Because of this flexibility, at least some (and possibly all) U1 funds should likely be reserved for use where other more restricted funds are not available.

Affordable Housing fees paid by developers of market rate projects are deposited into Berkeley’s [Affordable Housing Trust Fund](#) (HTF), and can only be used for those fund purposes. In general, these include pre-development expenses and long-term loans to cover the capital costs of building or rehabilitating permanently affordable housing. Developers are allowed the alternative of providing “inclusionary housing” (where a market rate project includes affordable units within the development itself) and policy makers must consider what the best role for those units might be, as one component of a much larger set of affordable housing resources. With significant local, County, State and Federal funds now available to support Berkeley’s deeply subsidized units for very low and extremely low income people, inclusionary housing requirements for market rate developments could be redirected towards production of housing for low and moderate income families - at higher inclusionary percentages than are currently in place for more deeply affordable units.

This proposed framework is not intended as a comprehensive statement of all the City’s housing goals, which are provided in the [General Plan Housing Element](#). Our focus is on the creation and retention of affordable housing in concert with Berkeley’s goals and values, taking maximum advantage of the opportunities created by the passage of Measures U1, O and P, combined with the City’s pre-existing affordable housing resources: affordable housing mitigation fees, inclusionary housing and public land.

In addition to these Berkeley resources, there are a great number of Federal, State and County programs, some of which require local matching funds and others of which do not. The City also has the potential to revise its land use regulations to create housing opportunities; these require more systematic analysis.

When State and Federal funds are used, Berkeley is limited to supporting housing and services that meet their program criteria. Monies provided by Berkeley’s own generous voters are more flexible than State and Federal funds and can be strategically deployed to accomplish a broader spectrum of City priorities. Our job is to optimize each funding



source and adjust our land use policies to support the community's expressed goals, ensuring that Berkeley moves decisively to implement programs and policies that advance us towards 10% reserved affordable housing by 2030, and embody our values of equity, opportunity, health and environmental sustainability.

This report provides an overview of an approach to affordable housing that we believe reflects Berkeley's values and diversity. It looks at the loss of affordability that Berkeley has undergone over the past 20 years and the sources of that loss. It lists and briefly explains the broad range of housing policies and programs that Berkeley might pursue. It lists the resources Berkeley has available to meet the current crisis and the limitations placed on the use of each resource. It then matches policies and resources, explaining how each can best be used.

## **II. HOUSING AND BERKELEY VALUES**

Berkeley values diversity. Interaction among diverse people fosters important community values, including equity, opportunity, learning, creativity, neighborliness, and democracy. Berkeley was once affordable to everyone, from the high-income residents of large single-family homes to the extremely low-income residents of single-room occupancy residential hotels, and to everyone in between. Berkeley was a national leader in inclusion, redrawing school attendance lines to integrate its schools, eliminating barriers for those with mobility and other physical limitations, preserving the affordability of rental housing by limiting rent while allowing landlords to receive a fair return on their investment, and protecting lower and middle income neighborhoods from the displacement of so-called Urban Renewal.

Now rising rents and home prices threaten to turn Berkeley into an enclave of mostly the well-to-do and university students, with a small number of low-income residents in subsidized units. Rent control enables tenants to remain in place as long as they can afford modest annual rent increases, but State law mandates that landlords can increase rents - even on rent controlled units - to current market rates when units turn over. Even in "inclusionary" apartments, rents have increased faster than the rate of inflation because the rent-setting formula for these units is based on the "area median income," (AMI) which increases as more high-income people move into Alameda County and low-income people are forced out.

We must do what we can to preserve the diversity of our City. A community that excludes most low and moderate income people is no longer a source of opportunity. A community no longer affordable to those who work for the common good rather than for profit-

maximizing companies will no longer be equitable. A community in which only a few of the most successful writers, researchers, artists and artisans are able to live will no longer be a creative, learning community.

Preservation of a diverse, equitable and creative Berkeley requires many different types of housing compatible with different neighborhoods to meet the housing needs of people with a range of incomes, family sizes, abilities and ways of life. It requires that we mobilize and carefully coordinate the use of our affordable housing resources to get the maximum benefit from each source, so that we continue to have housing affordable to our diverse residents.

Berkeley must create and preserve affordable housing at all scales - from accessory dwelling units to small scale multi-family, live-work and large apartment buildings. We also need to create units of various sizes, including units large enough for families to live long term, and for children to grow up in.

We need to make more of our housing work for people with varied mobilities and for the elderly, and to make more of our housing environmentally efficient. We are studying the concept of expanding housing beyond the Downtown and transit corridors by adding more duplex, triplex and quadruplex units within existing low density neighborhoods.

We must ensure that an important share of our City's housing is subject to social ownership that will keep it affordable; held by non-profit housing corporations, community land trusts and limited and non-equity cooperatives, and subject to deed restrictions. And we must establish community priorities for access to this scarce resource so that the affordable housing we create and preserve helps keep low and moderate income residents from being displaced, enables children to remain in school and low-wage workers to live near their jobs, and maintains our historic diversity.

### **III. THE AFFORDABILITY CRISIS**

Across the Bay Area, almost 1 million jobs have been created since 1990.<sup>8</sup> From 2009 to April 2019, the overall Bay Area job market increased by about 30%, while the tech industry increased by 56%.<sup>9</sup> In Berkeley, there are more students and staff at the University of California, more private sector jobs within easy commute, and more people who appreciate the walkable, transit-oriented lifestyle provided by Berkeley's compact

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<sup>8</sup> Plan Bay Area 2040: Final Plan, <http://2040.planbayarea.org/the-bay-area-today>

<sup>9</sup> "Tech employment in Bay Area reaches record highs.", <https://www.mercurynews.com/2019/06/14/tech-employment-bay-area-reaches-record-highs-google-apple-facebook-adobe/>

development and the wide range of cultural and social amenities. The diverse, open and forward thinking people of Berkeley and the Bay Area have made Berkeley a place where more people want to live, many of them with higher incomes than those already here.

This reality tracked by looking at average rents in Berkeley over time. At the end of 1998, just before State-mandated vacancy decontrol took effect, the average rent in the 20,000 apartments built before 1980 was \$720 a month. Twenty years later, at the end of 2018, it was \$1,956. If rents had increased only by the rate of inflation, they would instead average \$1,150 a month.<sup>10</sup> As older units are vacated, average market rents rise ever higher, reaching \$2,200 for a one-bedroom and \$3,000 a month for older two-bedroom apartments in 2018, with increases of around 50 percent in just the last five years. Owners of older housing stock in Berkeley are able to increase their profits as they ride the exploding demand from high-paid professionals and the increases in UC Berkeley's student population - squeezing lower-income tenants who must pay most of their incomes to find housing near jobs or family, or end up homeless. Similarly, In 2000 the median home price was \$380,000. By 2013 it was \$704,000 and by 2019 it had reached \$1,300,000.

Housing is expensive to build, requires land to build on and lasts a long time if properly maintained. This has important implications for affordability. With few vacant sites available in Berkeley, the supply of housing can only increase by increasing the density of development, as is currently underway Downtown and along major transit corridors, and is being contemplated in other areas. However, only a minority of tenants can afford to pay enough rent to repay the cost of new construction, typically \$3,000 - \$4,000 monthly for a one bedroom apartment.<sup>11</sup> Theoretically, this new market-rate housing is helpful in diverting some of the increased demand from high-income tenants into new construction and away from older, more affordable buildings, thus reducing displacement; but it does not help meet the significantly increased demand from middle and lower-income tenants.

Most Berkeley tenants live in older housing, where the cost of construction was paid off long ago and the building can be operated and maintained for a lower rent. But the supply of older housing is fixed and, with rising demand, this is the housing sector that is undergoing huge rent increases and rapid gentrification.

Proponents of market solutions claim affordability is simply a matter of supply and demand, and the problem can be solved by building new housing. But while increased rents at the high end of the market encourage production of new housing that high-wage

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<sup>10</sup> Inflation as measured by the San Francisco-Oakland area Consumer Price Index for All Items except Shelter, "shelter" meaning rent and owners equivalent rent.

<sup>11</sup> New Apartments for Rent in Berkeley, CA. Apartments.com, <https://www.apartments.com/berkeley-ca/new/>

workers can afford, rent increases in older housing simply generate windfall profits for their owners and fuel displacement of middle and lower income tenants. State-mandated “vacancy decontrol” allows landlords to raise rents to market levels each time a unit turns over, even in cities like Berkeley with traditionally strong rent controls. Ultimately, owners of older housing with significantly lower costs are under no obligation to keep their rents low as well, and in the immediate, higher demand for older housing can never produce more of it.

It typically takes ten to fifteen years before rents in newly constructed buildings have the potential to level off as buildings age and the initial costs of construction are paid off. This is what is often called the process of “filtering down.” But this process is self-limiting. Once enough new housing is built to meet demand from higher-income tenants and high-end rent rates peak, or slightly decline, market-rate construction slows or stops, despite continued high demand among middle and lower income tenants who can’t afford even somewhat reduced market rents for new housing.<sup>12</sup> In plain terms, a family that can only afford \$1,200 or \$1,500 per month for a two-bedroom apartment will never benefit from a reduction in new-build market rents from \$4,000 to \$3,500, or even to \$2,000 - a very unlikely scenario. If rents at older units have also risen, middle and lower income tenants have no place to go.

The supply of new market-built housing will also always be limited by the need to cover construction and other development costs. For-profit developers simply will not build housing that doesn’t generate the returns they require - for banks and investors to provide the capital to build, and for their own need to generate profits. This is true even when significant demand for housing persists. If those who need housing can’t pay rents that will cover the cost of construction, capital and profits, *no amount of demand will generate new for-profit development.*

In the Bay Area’s exploding job market, with people coming to the region to take jobs at both higher and lower wages, new market-rate construction will at best absorb some of the demand from high wage workers and may reduce pressure to gentrify older neighborhoods. But it will not result in a flood of new market rate units and deeply reduced prices to meet the increased demand from the growing numbers of lower-wage workers who also need to be housed, or from those who have been displaced through gentrification.

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<sup>12</sup> The State of the Nation’s Housing. Joint Center for Housing Studies of Harvard University (2018), p. 19-21, [http://www.jchs.harvard.edu/sites/default/files/Harvard\\_JCHS\\_State\\_of\\_the\\_Nations\\_Housing\\_2018.pdf](http://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_State_of_the_Nations_Housing_2018.pdf)

High-wage jobs make up a majority of Bay Area jobs, but low-wage jobs are growing at a much faster rate. Approximately 90,000 low-wage jobs were added from 2016 to 2017 in the Bay Area, while the number of high-wage jobs decreased over the same time period.<sup>13</sup> This means that new market-rate construction will not result in lower rents for most tenants, and indeed market rents are likely to continue to increase in older housing as well. Only reserved affordable or subsidized housing can meet the needs of families and individuals with incomes at moderate and low levels.

*The question before us is whether we will let market forces decide who can reside in Berkeley, ultimately reserving it for those with high incomes and wealth, or whether we want to reshape the market so Berkeley can remain accessible to people of all backgrounds and incomes, who are essential to the life and vibrancy of our city.*

#### **IV. AFFORDABLE HOUSING IN BERKELEY - AN OVERVIEW**

Berkeley today has about 49,000 housing units. About 2,500 of these are required to be permanently affordable to low- and moderate-income people.

This is done either through

- Government subsidies to create affordable apartments reserved for low-income residents at below-market rates and
- Land use regulations that require developers to set aside a certain percentage of apartments at rents affordable to low- and moderate-income families or individuals.

A fortunate minority of about 2,100 tenant households live in newer or recently renovated rental housing, mostly owned by non-profit housing organizations or limited or non-equity cooperatives, where the government has paid all or part of the cost of construction and rents greatly reduced. The non-profit organizations that own this housing have affordability as their mission, and in many cases rents only need to cover the ongoing costs of operation and maintenance and a set-aside for future repairs, typically \$600 to \$800 a month. Many of Berkeley's lowest-income residents can't afford even the greatly reduced "operating cost" rents offered by non-profit housing where government has paid the costs of construction. They require additional subsidy, either to the individual family or as an operating cost subsidy to the building owner. The Federal Section 8 program enables a family to pay 30% of its income for rent, with the government paying an additional amount to reach a "fair market rent". Several hundred of the Berkeley Housing Authority's Section 8 vouchers are currently allocated to non-profit housing to make units affordable to very low-income people.

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<sup>13</sup> MTC, Jobs by Wage Level, <https://www.vitalsigns.mtc.ca.gov/jobs-wage-level>

There are another approximately 400 “inclusionary” units within newer for-profit buildings that are set aside for low- and moderate-income tenants pursuant to City zoning regulations.<sup>14</sup> Nearly half of these units are set aside for very low-income tenants receiving assistance through the Section 8 program. Most of these apartments are required to be kept affordable for the life of the building, but the rent-setting formula they are subject to is based on the “Area Median Income” (AMI), which does not fully guarantee affordability. The formula, determined by the U.S. Department of Housing and Urban Development, results in rents that increase faster than the incomes of many low-income people.<sup>15</sup> This is because AMI, based on an average of all regional wages, increases rapidly when more high-income people move into the area and displace lower-income people, rather than, for example, tracking increases in wages for low income workers, which rise much more slowly over time than the average of all wages - if at all.<sup>16</sup>

In addition to buildings with below-market rents, about 1,500 tenant households in Berkeley receive monthly rental assistance through the Federal Government’s Section 8 program, which is administered by the Berkeley Housing Authority (BHA). Over 200 authorized Section 8 vouchers go unused because the Federal government does not fund the BHA at an amount adequate to enable tenants to pay market rents and cover the cost of all of its vouchers. Instead, the BHA has to choose between paying a competitive rent but restricting the number of households it can support, or subsidizing more households but falling behind the market and risking having landlords leave the program. About one quarter of the units occupied by tenants assisted through the BHA are in non-profit or inclusionary housing as described above, but three quarters are in for-profit housing. When Federal subsidies fall behind the market, owners of these units often leave the program and rent to much higher income residents at market rate.

Many extremely low-income people need ongoing social and health services in order to live independently. The term used to describe housing with services formally tied to or operated from the building, unit or tenant is “supportive housing.”<sup>17</sup> The Federal “Shelter Plus Care” supportive housing program administered by the City of Berkeley assists about 260 formerly homeless households with a combination of rent subsidy and ongoing social services. About half of the tenants assisted through the Shelter Plus Care program are

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<sup>14</sup> Apartment Buildings with City of Berkeley BMR Program Units, [https://www.cityofberkeley.info/uploadedFiles/Housing/Level\\_3 - General/2017-07%20BMR%20list%20of%20properties.pdf](https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/2017-07%20BMR%20list%20of%20properties.pdf)

<sup>15</sup> U.S. Department of Housing and Urban Development, Income Limits, <https://www.huduser.gov/portal/datasets/il.html>

<sup>16</sup> Low-Wage Work in California Data Explorer, UC Berkeley Labor Center, <http://laborcenter.berkeley.edu/low-wage-work-in-california/>

<sup>17</sup> United States Interagency Council on Homelessness, Supportive Housing, <https://www.usich.gov/solutions/housing/supportive-housing/>

placed outside of Berkeley due to the difficulty of finding places in Berkeley, but still receive services from Berkeley.

Berkeley thus has approximately 4,000 tenants who live in housing which is reserved for low- and moderate-income people at affordable rents or are provided with on-going subsidies that enable them to pay market rents. With the additional funding provided by measures O, P and U1, the City should be able to increase this number to over 5,000 and reach its goal of having 10% of its housing reserved affordable for low- and moderate-income people.

This goal does not include the tenants covered by rent stabilization (“rent control”). Due to the extraordinary rent increases of the last several years, there are several thousand tenants with rents that are now significantly below current market rates, but these units are only kept affordable for the tenant who lives there now.<sup>18</sup> Once the tenant moves out, the rent is reset to current market rates, so that apartments in Berkeley are increasingly rented to higher-income tenants who can better afford our rapidly increasing rents.

Under the vacancy decontrol provisions imposed on Berkeley by the State legislature, as tenants in deeply affordable rent controlled units move out, rents can be, and usually are, increased to current market levels. These apartments thus experience huge rent increases - reset to market rates - resulting in a significant loss of affordable housing for Berkeley. Pressure for landlords to evict or otherwise incentivize these long term rent stabilized tenants to move is strong; these are the kinds of vulnerable tenants whose stories we hear when Berkeley’s housing retention service providers testify before the City Council.

As a result of these and other pressures, Berkeley will have to work hard to maintain its current level of economic diversity.

*Maintaining diversity requires Berkeley to both increase the supply of housing overall and to remove a substantial part of our housing, new and existing, from the speculative market. This protected affordable housing should be allocated on the basis of need, using techniques ranging from non-profit and community ownership to regulation of rents (through traditional rent control and dedicated affordable units), and creation of new forms of home ownership that ensure homes will remain affordable now, and for future generations.*

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<sup>18</sup> Bursell, Lief and Fabish, Jen. Market Medians: January 1999 through December 2018. Rent Stabilization Board. 21 March 2019, [https://www.cityofberkeley.info/uploadedFiles/Rent\\_Stabilization\\_Board/Level\\_3\\_-\\_General/INFO\\_Market%20Medians%20Report%20for%20Q3%20and%20Q4%20of%202018.pdf](https://www.cityofberkeley.info/uploadedFiles/Rent_Stabilization_Board/Level_3_-_General/INFO_Market%20Medians%20Report%20for%20Q3%20and%20Q4%20of%202018.pdf)

## V. EXISTING AFFORDABLE HOUSING PROGRAMS AND NEW OR EXPANDED OPPORTUNITIES

### **Introduction:**

The City of Berkeley has the opportunity to build on its current programs and to expand in new directions to better deal with its housing affordability crisis. This chapter begins with a brief listing of current programs and new opportunities and then examines each in more detail. These goals are intended to allow Berkeley to make the changes it needs in order to preserve its character as a diverse and creative community, and meet its 10% affordability goal. As we move forward it will be important to maintain a balance between all of them.

### **Major Existing Programs - Recommend to Expand:**

#### **1. Constructing New Non-Profit Affordable Units**

Through the Housing Trust Fund the City provides capital to non-profit housing developers to construct multi-family buildings, usually on or near major transit corridors and downtown. These projects qualify for additional State and Federal subsidies and offer maximum leverage for Berkeley dollars while increasing the supply of modern, accessible, energy efficient and green housing affordable to lower-income residents.

New non-profit developments are currently the main housing affordability strategy in the City of Berkeley, and primarily serve very low-income people with incomes ranging from 30% to 60% of Area Median Income. For one person in Alameda County, 30% of AMI is \$26,050 and 60% is \$52,080, while for a family of four, 30% of AMI is \$37,150 and 60% is \$74,340.<sup>19</sup> These are predominantly lower-wage working people or people with low retirement or disability incomes, but there are many people with incomes even lower. Serving people with incomes below 30% of AMI requires additional subsidy. Some non-profit housing developments include supportive services on site for the formerly homeless, people with disabilities and seniors.

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<sup>19</sup> HUD Income Guidelines, Effective April 24, 2019, [https://www.cityofberkeley.info/BHA/Home/Payment\\_Standards\\_Income\\_Limits\\_and\\_Utility\\_Allowance.aspx](https://www.cityofberkeley.info/BHA/Home/Payment_Standards_Income_Limits_and_Utility_Allowance.aspx)



**Opportunities for Expansion:**

This method of achieving housing affordability is the easiest to expand with new resources from Measure O. The City already has the knowledge and experience to successfully execute these projects and there are several large, trusted local non-profit housing developers to work with. While new construction is extremely expensive, local funding can draw matching dollars from the Federal government (mostly [Low-Income Housing Tax Credits](#)), the State (from cap and trade revenue, state housing bonds, and many [other sources](#)), and from the Alameda County Housing Bond ([Measure A1](#)). Together, outside sources of funding can leverage Berkeley dollars up to 5:1, allowing Berkeley's investment of local dollars to generate significantly more units than would otherwise be possible.

In general, County, State and Federal funding sources require that the residents of subsidized housing have incomes at or below 60% of AMI, meaning these developments serve mostly low and extremely low income residents. In today's Bay Area economy, teachers (average annual salary \$71,738), personal care providers (average annual salary \$33,332), and administrative assistants, (average salary of \$51,991) would be eligible for this type of housing, as well as individuals living on Social Security for the elderly or disabled.

**2. Rent and Eviction Protections**

Berkeley has extensive regulatory protections for tenants of rental housing through the Rent Stabilization and Eviction for Good Cause Ordinance ("Rent Control") and the Rent Stabilization Board, which provides legal assistance to tenants facing eviction. The City also protects rent controlled units through restrictions on demolition, conversion of rental properties to condominiums and short-term rentals, and other protections.

**Opportunities for Expansion:**

Without changes to State laws, Berkeley is limited in its ability to achieve stability for renters and to increase protections for rent controlled housing and tenants. The Ellis Act allows landlords to go out of the rental business by evicting all the tenants in a building rather than selling it to another owner who will maintain the property as a rental. It serves no legitimate purpose and should be repealed. The State of California's Costa-Hawkins Act, which instituted "vacancy decontrol," allows rents to be reset to market rates upon conclusion of each tenancy, denying Berkeley and other cities the power to limit increases to a fixed percentage when units turn over. It also prevents regulation of rents in buildings constructed after 1979 and

regulation of rents in single-unit properties, even when owned by large corporate landlords. These prohibitions should be revised or repealed.

### **3. Affordable Housing Fees and Inclusionary Requirements for For-Profit Developments**

The Downtown and major transit corridors have been rezoned to encourage private construction that adds to the supply of market-rate housing while also requiring new rental developments to either include a certain percentage of apartments at below-market rents (formerly 10% and now 20% of units)<sup>20</sup> or pay into the Housing Trust Fund (HTF) to support non-profit housing development (\$37,962 per market-rate unit built as of July 2018).<sup>21</sup> There are similar inclusionary requirements and fees for condominiums<sup>22</sup>. Currently, for market rate rental developments, the 20% inclusionary units required must be affordable to people with very low incomes, no greater than 50% of AMI, and half of them (10% of all units in the building) must first be offered to tenants receiving Section 8 housing assistance or in Berkeley's Shelter Plus Care Program.

#### **Opportunities for Expansion:**

At present, the City offers developers a choice between paying an affordable housing mitigation fee or providing below-market rate units as part of the project. When fees were one of Berkeley's most important sources of revenue for the Housing Trust Fund it made sense to have both alternatives, and opinions have differed (with worthy arguments made on both sides) as to whether it was better for the City to obtain money for the Affordable Housing Trust Fund or for affordable units to be built on site.

The traditional argument in favor of obtaining the affordable housing fee from a market rate development rather than on-site inclusionary units is that local affordable housing dollars can be significantly leveraged with other public dollars to net many more affordable units within an all-affordable project built at another location. The argument in favor of obtaining the on-site inclusionary units has been that it ensures low-income residents are integrated within mixed-income neighborhoods and buildings, that affordable units are built right away, not at some future unknown time and location. In neighborhoods with few opportunity sites for affordable housing such as the Downtown, including affordable units within market rate developments is often the only way to achieve affordability.

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<sup>20</sup> Berkeley Municipal Code Chapter 23C.12 Inclusionary Housing Requirements

<sup>21</sup> Berkeley Municipal Code Section 22.20.065 Affordable housing mitigation fee

<sup>22</sup> Berkeley Municipal Code Chapter 21.28 Condominiums and Other Common Interest Subdivisions

With \$135 million in Measure O funds available to be leveraged with other public monies to support the creation and preservation of deeply affordable units (serving individuals with incomes up to 60% of AMI), the relatively small sums that mitigation fees generate are less important to the overall success of Berkeley's affordable housing strategies. By requiring market rate developments to include affordable units on site rather than pay a mitigation fee, Berkeley can achieve the goals of integration and dispersal without significant impacts to our ability to fund all-affordable projects.

In addition, with inclusionary units now just one part of a multifaceted affordable housing strategy, the possibility of requiring a different mix and number of on-site affordable units should be considered. One alternative or supplemental formula for inclusionary unit requirements in market rate developments would be to offer developers the opportunity to produce low- and moderate-income units (affordable to people with incomes between 80% and 120% of AMI) rather than the currently required deeply affordable units (below 80% AMI), but at higher percentages of the project than the current 20%. It is likely that market rate developments could include 30%, 40% and possibly higher percentages of units at low and moderate rates and still return a reasonable profit. Because there are fewer County, State and Federal funds for low- and moderate-income units than very- and extremely-low, *asking market rate developers to subsidize low and moderate income units may be a good strategy to achieve a greater mix of affordability levels Citywide and gain more permanently affordable units overall.*

#### **4. Direct Subsidies to Renters**

Berkeley provides individual rent subsidies through the [Berkeley Housing Authority](#), which assists 1,600 Berkeley households with Federally funded [Section 8 housing vouchers](#), and the City operates a Federally funded [Shelter Plus Care](#) program that provides monthly rental assistance and social service support to around 200 formerly homeless Berkeley residents, about half of them having chosen housing outside of Berkeley due to the difficulty of finding places in Berkeley.

#### **Opportunities for Expansion:**

Measure P funds could be used for this purpose if recommended by the Homeless Services Panel of Experts, and other City funds might be applied to expand direct renter subsidies and "rapid rehousing," as is proposed in the City's [1,000 Person Plan to Address Homelessness](#).

### **Additional Important Programs - Recommend to Significantly Expand:**

There are several additional strategies that the City should expand substantially as they offer excellent opportunities to create and preserve affordable rental *and ownership* housing aligned with Berkeley values. Some of these strategies require capacity-building within City Departments and in non-profit partners. *These programs should be significantly strengthened and expanded:*

#### **1. House and Support the Homeless**

In response to the Pathways Project, staff prepared a 1000 Person Plan to Address Homelessness, which considered resources and interventions required to house the currently unhoused population of Berkeley and to prevent inflow of future homelessness. According to the Plan, ending homelessness will require targeted investments in various interventions to ensure that each individual experiencing homelessness receives an appropriate, timely response according to their needs, including targeted homelessness prevention, light-touch housing problem-solving, rapid rehousing, or permanent subsidies. In addition, the Homeless Services Panel of Experts will provide an essential source of guidance in developing effective strategies to prevent and end homelessness in Berkeley.

In general, people with extremely low incomes (at or below 30% of AMI), are unable to afford even the below-market rent that a non-profit housing provider needs in order to cover operating and maintenance expenses. People living on Social Security for the elderly or disabled have incomes of 14% to 20% of AMI (\$932 a month for an individual, \$1,564 a month for a couple). This means that under Federal standards they can “afford” only \$280 to \$470 a month for housing, and even that is a hardship considering how little income they start with.

The Housing Trust Fund Guidelines call for 20% of housing funded through the HTF to be affordable to people with incomes at or below 30% of AMI, but non-profit housing organizations have had difficulty obtaining ongoing subsidies to create housing at this level of affordability.<sup>23</sup> The City has been forced to rely on limited Federal funding - especially project-based Section 8 through the Berkeley Housing Authority.

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<sup>23</sup> City of Berkeley Housing Trust Fund Guidelines, April 5, 2016, [https://www.cityofberkeley.info/uploadedFiles/Housing/Level\\_3\\_-\\_General/Revised%202016%20HTF%20GUIDELINES.pdf](https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/Revised%202016%20HTF%20GUIDELINES.pdf)

**Opportunities for Expansion:**

Measure P funding has the potential to fill this gap and to encourage non-profit housing providers to increase their service to the homeless, as discussed in the 1,000 Person Plan to address homelessness.

Measure P funding will vary somewhat from year to year because it is based on the value of the top 1/3 of real estate transactions in a given year. For this reason, the City should allocate only a portion of initial Measure P receipts to ongoing subsidies and supportive services, so that it can be sure it can sustain those commitments from year to year. The amount that is likely to vary from year to year, perhaps one-quarter to one-third (Finance Department staff may be able to provide an accurate estimate, based on historical data regarding fluctuations), should then go to one-time expenditures such as capital subsidies to expand the supply of permanently affordable housing available to the homeless. For example, in the Berkeley Way project, the City has agreed to provide a capital fund that will cover 10 years of operating subsidies.

The 1000 Person Plan covers in detail strategies necessary to rehouse Berkeley's homeless. Creation of deeply affordable housing is one element of this Plan. The Homeless Services Panel of Experts will make recommendations regarding the use of Measure P funds, which may be used to fund the "support" in Supportive Housing, and for many other purposes.

**2. Transition some of Berkeley's existing rental housing to permanently affordable social ownership by expanding the Small Sites Program, accompanied by a Tenant or Community Opportunity to Purchase Act.**

Most of Berkeley's neighborhoods used to house people with diverse incomes, but the affordability crisis is reducing that diversity<sup>24</sup>. Preservation of neighborhood socioeconomic character will require transitioning some existing housing from the for-profit market to various forms of socially responsible ownership intended to maintain affordability. Last year the City Council allocated an initial one million dollars to start a Small Sites Program and begin the process of supporting acquisition and rehabilitation of properties with up to 25 units. The Small Sites Program will provide funds to non-profit developers to allow for the acquisition of small multi-unit properties vulnerable to real estate speculation, and reserve them

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<sup>24</sup> Romem, Issa and Elizabeth Kneebone, 2018. "Disparity in Departure: Who Leaves the Bay Area and Where Do They Go?" <https://terncenter.berkeley.edu/disparity-in-departure>

for low-income individuals and families. This process is also an opportunity to expand limited equity cooperative ownership.<sup>25</sup>

The Small Sites program requires a different approach from the City's current focus on partnership with large non-profit housing developers. Two-thirds of the rental housing covered by rent stabilization has less than 20 units. The large non-profit housing organizations avoid properties with less than 20 units because these buildings have higher management costs and are generally more costly to finance than larger developments. In addition, non-profit developers tend to prefer new construction to the uncertainties of acquisition and rehabilitation of existing buildings. Cost-effective management of smaller properties *can be provided* when residents take on significant responsibility for the property and receive appropriate education and support.

Another current barrier to the Small Sites Program is that residents of small buildings often have a mix of incomes, which reduces the available subsidies under Federal and State programs that limit assistance to units occupied by people with incomes no greater than 60% AMI. *Local funding can make an important contribution to the Small Sites Program.*

### **Opportunities for Expansion:**

Measure O and Measure U1 both offer funds that can be used for small sites with mixed-income residents. The City should substantially increase its efforts to transition existing small apartment buildings to permanent affordability. The Small Sites Program should be tied to a Tenant or Community Opportunity to Purchase Act (TOPA or COPA) to enable groups of existing tenants or non-profit partners to buy and maintain this naturally occurring affordable housing and prevent displacement. Through a TOPA, landlords must provide legal notice to tenants of their opportunity to purchase a property when it is placed on the market. If a tenant or tenants decide to purchase, they must form a tenant organization to manage the building, and take on other management responsibilities. This model has seen success in other communities, including Washington D.C.<sup>26</sup>

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<sup>25</sup> City of Berkeley, Referral to City Manager, Establishment of Affordable Housing Small Sites Fund, [https://www.cityofberkeley.info/Clerk/City\\_Council/2015/12\\_Dec/Documents/2015-12-15\\_Item\\_54\\_Referral\\_to\\_City\\_Manager\\_Establishment\\_-\\_Rev.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2015/12_Dec/Documents/2015-12-15_Item_54_Referral_to_City_Manager_Establishment_-_Rev.aspx)

<sup>26</sup> Small Sites Acquisition Program and Tenant Opportunity to Purchase, February 14, 2017, [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/02\\_Feb/Documents/2017-02-14\\_Item\\_18b\\_Small\\_Sites\\_Acquisition.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/02_Feb/Documents/2017-02-14_Item_18b_Small_Sites_Acquisition.aspx)

### **3. Provide innovative homeownership opportunities for moderate and low income residents, including cooperative ownership using the Community Land Trust model**

By taking on full or partial responsibility for management of a property, residents strengthen their community. In years past, Berkeley had programs to support both individual and cooperative homeownership. At a time when working families can no longer afford to buy homes in Berkeley, the City should give renewed attention to resident ownership and participation.

Berkeley currently has about 300 units in limited-equity and non-equity cooperatives, half of these established without City assistance at a time when real estate values were much lower. Encouraging residents to take ownership or responsibility for the operation and management of their housing, while keeping it permanently affordable, was an important part of Berkeley's housing programs in the 1970s through the 1990s. Unfortunately, since then this model has received little attention.<sup>27</sup> Current housing programs miss opportunities to build democratic organizations in which people learn organizational skills and collaborative problem solving, and have input into the management and physical condition of their homes, a model sometimes referred to as "social housing."

Berkeley has no currently active programs to create individual or cooperative homeownership opportunities, in part because it is difficult to combine the use of Low-Income Housing Tax Credits with resident ownership. Measure O and Measure U1 both provide funding that can be used to support cooperative homeownership and community land trusts.

**Individual homeownership opportunities:** Although they are few in number, Berkeley has some small parcels of publicly owned land embedded in neighborhoods that may be suitable for townhouse-style or other low-rise homes. In order to preserve affordability, the City should either retain ownership of the land or convey it to a community land trust, rather than selling it outright. Working with Habitat for Humanity or a similar organization could reduce the cost of construction and increase affordability for these units.

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<sup>27</sup> S. Barton, "From Community Control to Professionalism: Social Housing in Berkeley, California, 1976 – 2011", *Journal of Planning History*, May 2014, V.13:2, pp. 160 – 182.

**Cooperative homeownership opportunities:** Limited-equity and non-equity housing cooperatives provide an affordable, democratic version of homeownership in which a property is owned by a nonprofit cooperative corporation, made up of tenants of the property. Initial capital subsidy makes them permanently affordable to very low, low and moderate-income people. When the residents take responsibility for the management of their buildings they can keep costs down, which makes cooperatives suitable for small multi-family properties.

**Importance of affiliation with a Community Land Trust or larger cooperative:** Experience has shown that housing cooperatives need ongoing training, technical assistance and oversight from a larger organization. This larger organization can be a Community Land Trust, which owns the land under the cooperatively owned buildings or, in the case of the Berkeley Student Cooperative, a larger cooperative that maintains and renovates affiliated properties while supporting residents in operating their individual buildings. Measure U1 monies could be used to provide organizational support to strengthen the capacity of local land trusts, which at present are relatively small organizations. In 2018 the City Council used U1 funds to provide a small capacity-building grant to the Berkeley-based Bay Area Community Land Trust.

It will be necessary to expand the organizational capacity of Berkeley's land trust to support a larger program utilizing this model. Community Land Trusts receiving support from the City of Berkeley should be required to meet the Federal definition of a Community Land Trust (Housing and Community Development Act of 1992, Section 213, Housing Education and Organizational Support for Community Land Trusts), which ensures that residents of affiliated properties serve on the land trust governing board.<sup>28</sup>

**Other models - Challenges:** Berkeley has an inclusionary requirement for condominium developments and there are currently a small number of below-market condominiums reserved for low-income owners. *Caution is needed in creating low-income condominiums because rising monthly assessments and occasional special assessments for major renovations can become unaffordable for lower-income owners.*

In addition, residents can misunderstand the condominium form of ownership and underestimate the need to work cooperatively with other owners. Cooperatives are

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<sup>28</sup> HR 5334- Housing and Community Development Act of 1992, Section 213.  
<https://www.congress.gov/bill/102nd-congress/house-bill/5334/text>



less likely to have this problem. In the past, the City provided down-payment assistance on a shared-equity basis (meaning that the owners of the cooperatives had to repay a portion of the property's value at sale), but the cost of single-family homes has far surpassed the City's ability to provide effective down-payment assistance. As described above, several useful models exist to support homeownership without these challenges, and should be included in Berkeley's affordable housing mix.

**4. Significantly increase the supply of affordable live-work housing for artists and artisans.**

Berkeley has a long tradition of live-work housing, mostly located in West Berkeley, and much of it lacking legal recognition. There are only a few units of permanently affordable live-work housing citywide. In part this is because it is difficult to use State and Federal subsidies for this purpose. In addition, certain subsidy program regulations make it difficult to allocate live-work housing to the artists and artisans that it is intended for.

As an alternative, live-work housing can easily be organized to include resident ownership or resident participation in property management.

**Opportunities for Expansion:**

Live-work units are allowed in most of Berkeley's Commercial and Manufacturing districts. Measure O and Measure U1 both provide funding that can be used for affordable artists and artisan live-work housing using ownership or other participatory models. The City also has the potential to require affordable live-work units, or provision of land for such units, as part of development approvals throughout Berkeley.

**5. Encourage adding incremental units, such as accessory dwelling units (ADUs) or low-rise multiplex units, that complement neighborhood character.**

There are many opportunities to add one, two or more units to existing properties at relatively modest cost. When sold as condominiums such units can be affordable to middle-income families who have difficulty entering the current market for single-family homes. Accessory dwelling units (ADUs), even rented at market rate, can also be affordable to middle income individuals. In addition, low-rise multi-family housing such as duplexes, triplexes, courtyard apartments, and multiplexes can also be inserted into existing neighborhoods, and may provide additional opportunities for middle-income families to enter the housing market.

**Opportunities for Expansion:**

Where possible, the City should encourage addition of family-sized units as well as smaller ADUs. The City Council recently approved a referral to study the possibility of allowing up to four-plexes into areas currently zoned for a single family home and ADU. These housing types are already allowed in most other zones. Modest incentives such as expedited review of applications, low interest loans or small capital subsidies may be sufficient to persuade property owners who add such units to reserve them for lower-income families. These incentives should be explored, and a program developed to support the reservation of additional neighborhood units for affordable housing.

**6. Partner with UC Berkeley to support creation of housing appropriate and affordable to students, faculty and staff.**

Enrollment increases that far exceed UC Berkeley's Long Range Development Plan have resulted in an extreme shortage of student housing and a very high incidence of student housing insecurity and homelessness, while the general housing affordability crisis forces faculty and staff to live far from campus.

The University of California should take greater responsibility for housing its students. This will require the Regents to allocate more funding for student, faculty and staff housing and the State legislature to include this funding in the State budget. In addition, the Regents must stop the practice of increasing enrollment without regard for the carrying capacity of both UC Berkeley and the City of Berkeley.

**Opportunities for Expansion:**

The Berkeley Student Cooperative serves students in community college and the Cal State system as well as at U.C. Berkeley. It is eligible for funding through the Housing Trust Fund and some Measure O funding could be used to help purchase existing buildings near campus to make them permanently affordable to their student residents, who predominantly come from low-income families. While the City of Berkeley may choose to allocate some Housing Trust Funds to student housing, the University of California should provide the vast majority of funding for this important type of housing, as it is the University's responsibility to ensure their students are housed.

**Policies to Ensure Equity and Sustainability:**

Finally, while pursuing these strategies, there are several principles of equity and sustainability that the City should apply to all of its affordable housing programs:

**1. Ensure equitable access to scarce affordable housing, including accessible units with universal design features.**

Berkeley makes very limited use of City-established priorities in the allocation of affordable housing. In part this is due to the rules attached to State and Federal funding and in part to potential City administrative costs. A lack of State or local definitions of universal design also makes it difficult to adequately review projects for accessibility.

**Opportunities:**

Housing units with universal design elements that ensure access for those with mobility limitations should be included in all City-supported affordable housing. To support this, Berkeley should codify both baseline and enhanced universal design housing elements. In addition, to the extent legally allowable, Berkeley should establish a set of priorities for access to below-market rate housing. These priorities could include (but not be limited to):

- People at risk of displacement or who have been displaced from Berkeley, in particular those who have been subject to redlining or other discriminatory housing and lending practices in the past, including foreclosures;
- People who formerly experienced homelessness in Berkeley;
- Artists and artisans who need live-work spaces;
- Families with children in Berkeley schools; and
- People who work in Berkeley; in particular those who work for the Berkeley Unified School District or in emergency services (firefighters, doctors, police, nurses, etc.).

**2. Codify Deep Green Building standards for healthy and sustainable buildings, and emphasize other measures to increase environmental sustainability.**

Berkeley Deep Green Building is an ambitious program designed by building and clean energy professionals and environmentally-minded citizens as part of the Berkeley Zero Net Energy++ Working Group. It sets forward a detailed plan to incentivize these and other green and healthy building practices. The five goals of Berkeley Deep Green Building are to:

1. Support zero-net energy at the individual building and community scale;
2. Reduce embodied energy in building materials and practices;

3. Reduce toxicity in building materials;
4. Source sustainability produced materials from fair trade, fair wage and culturally and environmentally friendly suppliers; and
5. Conserve water.

Some of these goals are already addressed in City codes and policies; some require expansion or codification.

The City of Berkeley has a variety of programs and Building and Zoning Code provisions that seek to address green building. These include energy efficiency audits under the Building Energy Saving Ordinance (BESO), LEED gold standards for larger downtown buildings, Bay-friendly landscaping for projects over a certain size, and stormwater and waste management during construction.<sup>29</sup> In addition, a number of solar, energy efficiency and other green building proposals have been referred to the City Manager over time, but have not yet been implemented. Pending codification or implementation, affordable projects should strive to meet all Deep Green Building and other state of the art green building practices.

Building affordable units near transit is also an environmental strategy. This is especially true when parking is reduced or eliminated. Because lower-income people use transit at significantly higher rates than people with higher incomes, siting affordable housing near transit can yield increased ridership - and reduce the displacement of lower-income households. A UCLA study of the effects of Transit Oriented Development on transit use in Los Angeles found that allowing market-rate housing with parking near transit contributed to a significant reduction in transit use. , Lower income people who previously rode transit were displaced to the outer reaches of the region, and were forced to commute long distances, often by car. They were replaced in their previous transit-rich neighborhoods with more affluent people who can afford cars and use transit much less frequently, resulting in large reductions in transit use citywide, despite massive public transit investments and the creation of significant new transit-oriented housing.<sup>30</sup>

### **3. Prioritize the use of public land for the creation of affordable housing.**

Land is expensive in Berkeley and securing appropriate sites for affordable housing is costly and difficult. The City owns several sites which may be appropriate for affordable housing development. Other parcels may also be eligible for housing but

<sup>29</sup> Building Energy Saving Ordinance, <https://www.cityofberkeley.info/BESO/>.

<sup>30</sup> "Transit-oriented development? More like transit rider displacement," L.A. Times, Feb. 20, 2018, <https://www.latimes.com/opinion/op-ed/la-oe-rosenthal-transit-gentrification-metro-ridership-20180220-story.html>

would require remediation. In 2017, the City purchased a property at 1001 - 1011 University Avenue, with the express intention of converting the property for use as affordable housing.<sup>31</sup> The City should take steps to offer whatever public land is available, appropriate and safe to qualified affordable housing projects.

**4. Ensure those who build and rehabilitate our housing are paid fair wages and have access to health insurance, and support local apprenticeship programs.**

As in the entire Bay Area, there is a severe shortage of skilled construction workers in Berkeley, partly because their wages are often insufficient to allow them to live in the very buildings they help construct. Berkeley contributes to solving this problem by requiring builders of City-assisted housing to pay their workers prevailing wage (the hourly wage paid to the most workers in an area working on similar jobs) and through project labor agreements in areas of the City with community benefit requirements. Labor organizations are, for their part, supporting construction of modular, factory-built housing that can modestly reduce construction costs. Additional approaches should include stronger protections against wage theft, expanded apprenticeship programs that help local residents start careers in construction and policies ensuring that workers on large projects receive adequate benefits. Healthcare is particularly important for construction workers; by its nature construction work is physically demanding. Injuries and physical stress are frequent, even on well-managed sites.

**5. Make changes to the City of Berkeley Zoning Code and project approvals processes to incentivize, facilitate and reward the production of affordable housing.**

The City has taken a number of steps to incentivize and facilitate the production of affordable housing. Affordable projects receiving Housing Trust Fund monies are automatically expedited and prioritized for permits, inspections, and other City of Berkeley administrative processes.<sup>32</sup> Additional referrals have been made to reduce development fees for affordable projects, create additional density bonuses for affordable projects, and otherwise ease restrictions on affordable projects. The State Density Bonus program provides significant benefits to projects that build

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<sup>31</sup> Acquisition of Real Property at 1001 University Avenue, 1007 University Avenue, 1011 University Avenue, and 1925 Ninth Street, March 27, 2017  
[https://www.cityofberkeley.info/Clerk/City\\_Council/2017/03\\_Mar/Documents/2017-03-28\\_Item\\_32\\_Acquisition\\_of\\_Real\\_Property.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/03_Mar/Documents/2017-03-28_Item_32_Acquisition_of_Real_Property.aspx)

<sup>32</sup> Berkeley Municipal Code Chapter 19.62 Priority Permit Processing for Housing for Low and Moderate Income Persons

inclusionary units, and affordable projects meeting specific criteria are approved “by right” under SB 35.

In addition to these supports and incentives for affordable projects, the Berkeley City Council recently increased the affordable housing mitigation fee to \$37,962 per market-rate unit. The fee had been set at \$28,000 in 2012, “discounted” by the City Council to \$20,000 in 2013, raised to \$34,000 in 2016, and then to the current rate in 2017.<sup>333435</sup> The City also doubled its inclusionary requirement from 10 to 20% of units in all developments with five or more units.<sup>36</sup> The City should continue to develop and implement policies, programs and regulatory mechanisms to expedite, maximize, incentivize and reward the creation and preservation of affordable housing.

## VI. CONCLUSION

The **Framework for a Diverse, Equitable and Creative Berkeley** is a high-level roadmap to guide the many City entities involved in moving our affordable housing goals forward. As each navigates its own path, all must be headed to the same destination.

Berkeley has an unprecedented opportunity to significantly increase the City’s stock of affordable housing and to preserve the limited affordability that already exists. Housing is a human right, and the severity of the Bay Area’s housing crisis calls us to action. We must ensure that our homeless can be rehoused, our vulnerable seniors, youth and disabled neighbors remain housed, our dedicated public and not-for-profit workers can make homes in our community, and our artistic, activist and academic residents can thrive. We have a duty to ensure that people of all backgrounds, ethnicities, ages, religions, gender identities, occupations, and abilities can be, and are, housed in Berkeley.

We are embarking on a path to achieve 10% reserved affordable housing in Berkeley, and to lay the institutional and policy foundations for a future with 30% and eventually up to 50% affordable or “social” housing. It’s an exciting and demanding venture, but essential to preserve and expand all that makes Berkeley an exceptional place to live, work, learn, play and thrive.

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<sup>33</sup> Resolution No. 66,809, October 7, 2014

<sup>34</sup> Resolution No. 67,614-N.S., July 12, 2016

<sup>35</sup> Berkeley Municipal Code Section 22.20.065 Affordable Housing Mitigation Fee

<sup>36</sup> Berkeley Municipal Code Chapter 23C.12 inclusionary housing Requirements



Kate Harrison  
Councilmember District 4

ACTION CALENDAR  
July 9, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmembers Harrison, Davila, Bartlett and Hahn  
 Subject: Adopt an Ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings

RECOMMENDATION

1. Adopt an ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code (BMC) prohibiting natural gas infrastructure in new buildings with an effective date of January 1, 2020.
2. Refer to the November 2019 budget process for consideration of up to \$273,341 per year to fund a new career position in the Building & Safety Division of the Department of Planning and Development. The staff person will assist with implementing the gas prohibition ordinance and reach codes, and perform other duties as specified in the Financial Implications section of this item.

POLICY COMMITTEE RECOMMENDATION

On June 17, 2019, the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee adopted the following action: M/S/C (Harrison/Robinson) to send the item to the full Council with a Qualified Positive Recommendation. Vote: All Ayes.

BACKGROUND

**A. Previous Berkeley Efforts to Prohibit Natural Gas in New Construction**

Natural gas is a leading source of green-house gas emissions (GHGs) in Berkeley, responsible for 27% of the GHGs released in the city. The only source sector with more local GHG emissions is the transportation sector.

In 2016, the Community Environmental Advisory Commission (CEAC) unanimously recommended that the Council consider phasing out natural gas appliances in new in

buildings for climate, health and safety reasons.<sup>1</sup> That year, Council endorsed the recommendation and directed the CEAC and the Energy Commission to “develop and evaluate a proposal for requiring installations of new cooking, water heating, and/or building heating systems to use technologies which do not burn natural gas.”<sup>2</sup>

The Berkeley Energy Commission subsequently investigated adopting an ordinance to achieve at least one of Council’s goals—phasing out gas water heater systems in new buildings. Berkeley’s commission concluded that requiring new buildings to use all-electric heat pump hot water heaters would constitute an amendment to the state energy code under Title 24, Part 6. Amendments to the energy code require approval from the California Energy Commission (CEC). Such amendments are commonly known as a ‘reach’ energy codes.

Until very recently, the state’s efforts focused on increasing energy efficiency but did not consider the critical issue of reducing the GHGs that cause climate change. The models used by the state still vastly underestimate the cost of environmental and health impacts (discussed further below) caused by natural gas. At the time of the 2016 referral, the Berkeley Energy Commission concluded that CEC policies, particularly the lack of all-electric reference point and the laborious CEC requirement to demonstrate that electric systems are as cost-effective as gas designs under a regulatory environment that artificially favors fossil fuel by not considering externalities, convinced Berkeley commissioners to abandon the reach code strategy until the CEC reversed its policies.<sup>3</sup>

Berkeley’s Office of Energy and Sustainable Development (OESD) continues to take a leading role with other cities in the region to present energy code amendments to state authorities that facilitate electric designs, and signed on in support of comments before the California Public Utilities Commission (CPUC) regarding utility incentives for fuel-switching in existing buildings.<sup>4</sup>

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<sup>1</sup> Phasing Out Natural Gas for Heating and Cooking, Community Environmental Advisory Commission, November 1, 2016, [https://www.cityofberkeley.info/Clerk/City\\_Council/2016/11\\_Nov/Documents/2016-11-01\\_Item\\_10\\_Phasing\\_Out\\_Natural\\_Gas.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2016/11_Nov/Documents/2016-11-01_Item_10_Phasing_Out_Natural_Gas.aspx).

<sup>2</sup> Annotated Agenda Berkeley City Council Meeting, City Clerk’s Office, November 1, 2016, [http://www.cityofberkeley.info/Clerk/City\\_Council/2016/11\\_Nov/Documents/11-01\\_Annotated.aspx](http://www.cityofberkeley.info/Clerk/City_Council/2016/11_Nov/Documents/11-01_Annotated.aspx).

<sup>3</sup> See “Berkeley Support to Phase Out Fossil Fuels with Clean Electrification,” OESD, CEC Docket 18-IEPR-09, June 28, 2018, [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Commissions/Commission\\_for\\_Energy/EC2018-07-25\\_Item%207c-Combined\\_Comments%20to%20CEC%20and%20CPUC.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Energy/EC2018-07-25_Item%207c-Combined_Comments%20to%20CEC%20and%20CPUC.pdf); See also, “Comments of The Natural Resources Defense Council (NRDC) and Sierra Club On The Administrative Law Judge’s Ruling Seeking Comments On The Three-Prong Test.”

<sup>4</sup> “Berkeley Support to Phase Out Fossil Fuels with Clean Electrification,” OESD, CEC Docket 18-IEPR-09, June 28, 2018,



## B. Ordinance Overview: A New Approach

The state CEC is now beginning to model all-electric buildings. As of January, 2020, all-electric low-rise residential buildings (three and fewer stories) will be accepted under Title 24 and the CEC is hard at work modelling other building types and systems. Most of the building occurring in Berkeley is not low-rise residential. Instead of waiting for CEC policies model all-electric buildings for all building types to begin limiting natural gas, this ordinance provides the City with an immediate pathway to fossil free new buildings as building types and systems are approved by the CEC.

This ordinance differs from the reach code approach in that it leverages the City's authority under the California Constitution to prohibit installation of hazardous internal gas piping infrastructure when granting use permits for new buildings, and as a result avoids CEC regulations associated with asking permission to amend energy efficiency standards. It also does so without impinging on the CPUC's jurisdiction, whose gas regulatory authority ends at the building's gas meter, or point of delivery from within any given property.<sup>5</sup> The effect of this legislation will be that builders will be prohibited from applying for permits for land uses that include gas infrastructure—gas piping to heat water, space, food, etc.—as each building type and system is modelled for all-electric design by the CEC. Effective January, 2020, this restriction will apply to low-rise residential buildings and be implemented for each new building type or sub-system (e.g., water heating) as the CEC completes its work for that type.

This new approach would fulfil a key Berkeley Energy Commission climate action recommendation and has the endorsement of the current CEAC commission. In December 2018, the Energy Commission presented a draft response to the Council's proposed June 2018 Fossil Free Resolution. As part of a broader strategy to eschew fossil fuels from Berkeley, it recommended that the Council "[p]rohibit gas cooktops and dryers in new residences or a moratorium on new gas hook ups if possible."<sup>6</sup> On May 9,

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[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Commissions/Commission\\_for\\_Energy/EC2018-07-25\\_Item%207c-Combined\\_Comments%20to%20CEC%20and%20CPUC.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Energy/EC2018-07-25_Item%207c-Combined_Comments%20to%20CEC%20and%20CPUC.pdf). See also, "Comments of The Natural Resources Defense Council (NRDC) and Sierra Club On The Administrative Law Judge's Ruling Seeking Comments On The Three-Prong Test."

<sup>5</sup> Although the legislature empowered the Commission to "require each gas corporation to provide bundled basic gas service to all core customers in its service territory," it did not require customers to install fuel gas piping in or in connection with a building, structure or within the property lines of premises behind the gas meter. See California Code, Public Utilities Code - PUC § 963, [https://leginfo.ca.gov/faces/codes\\_displayText.xhtml?lawCode=PUC&division=1.&title=&part=1.&chapter=4.5.&article=2](https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PUC&division=1.&title=&part=1.&chapter=4.5.&article=2).

<sup>6</sup> Fossil Free Berkeley Subcommittee Draft Report for 12/5/2018 Commission Meeting, Berkeley Energy Commission, December, 5, 2018, [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_)

2019 the CEAC Commission unanimously approved a letter to Council endorsing this ordinance, calling it “a cutting-edge environmental policy.”<sup>7</sup>

Progress in Berkeley towards lowering emissions in new buildings has been encouraging but is still incremental. To date, the federal, state and local approach to energy use in new buildings has largely been to mandate greater building efficiency and energy conservation, which indirectly results in lower emissions, but does not directly phase out fossil fuel consumption in new buildings. Berkeley is in the process of adopting the ambitious, but voluntary, Deep Green Building Standards. The Deep Green Building Standards do not present a way to explicitly and directly limit constructing buildings with natural gas infrastructure, a potent and persistent source of greenhouse gas and other types of pollution.<sup>8</sup> The Green Building Standards regulations will also likely require additional energy reach codes to implement.

Gas-related emissions have increased because of regional population and job growth, leading to an 18% rise in Berkeley’s population since 2000, as well as the multi-decade useful life of natural gas appliances.<sup>9</sup> According to the November 2017 Planning Department Bi-Annual Housing Pipeline Report, the City approved building permits for 525 residential units between January 1, 2014 and November 2017. An additional 952 units received their certificate of occupancy during the same period.<sup>10</sup> The new Adeline Corridor Plan calls for construction of another 1,400 housing units. Without intervention, the vast majority of these units would feature natural gas infrastructure.

As a result, the city has ‘locked in’ decades of additional carbon pollution, and stands to continue doing so with each new use permit approval. The persistence of fossil fuel industry marketing, fossil-fuel favoring regulations, the regional housing affordability crisis, and the associated effort to expand the housing stock will continue to drive local

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[\\_Commissions/Commission\\_for\\_Energy/FFB%20Draft%20report%20for%20Dec%205%202018%20Commission%20Meeting%20Final.pdf](#)

<sup>7</sup> CEAC, Action Minutes Community Environmental Advisory Commission Regular Meeting of May 21, 2019, May 9, 2019, [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Commissions/Commission\\_for\\_Community\\_Environmental\\_Advisory/20190509\\_CEAC\\_Action%20Minutes.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Community_Environmental_Advisory/20190509_CEAC_Action%20Minutes.pdf); See *also*, CEAC, Community Environmental Advisory Commission Comments on Prohibiting Natural Gas Infrastructure in New Buildings, May 9, 2019, [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Commissions/Commission\\_for\\_Community\\_Environmental\\_Advisory/CEAC%20DRAFT%20Letter%20on%20Natural%20Gas%20042919.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Community_Environmental_Advisory/CEAC%20DRAFT%20Letter%20on%20Natural%20Gas%20042919.pdf).

<sup>8</sup> The forthcoming 2019 California Energy Code allows for significant natural gas usage.

<sup>9</sup> 2018 Berkeley Climate Action Plan Update, p. 1.

<sup>10</sup> Referral Response: Bi-Annual Housing Pipeline Report, Planning Department, November 11, 2017, [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/11\\_Nov/Documents/2017-11-28\\_Item\\_21\\_Referral\\_Response\\_Bi-Annual.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/11_Nov/Documents/2017-11-28_Item_21_Referral_Response_Bi-Annual.aspx)

and regional increases in natural gas infrastructure and consumption unless we act now.

This ordinance recognizes that all-electric heating technologies are cost-competitive substitutes to their natural gas counterparts (especially when installed during new construction) and seeks to halt the expansion of natural gas into new buildings to stave off the risk of locking in significant additional greenhouse emissions. In the interim, City staff has indicated it will continue to design and seek approval of all-electric codes to help guide home builders in constructing new buildings of a type not yet modelled by the CEC and in order to increase energy efficiency.<sup>11</sup>

This legislation will have the effect of ushering in all-electric new buildings, avoiding significant new greenhouse emissions and allowing the City to focus its climate fighting efforts and resources on other critical sources of emissions such as existing buildings and transportation.

### **C. The CEC: Cost-effective Energy Efficiency Measures vs. the Climate**

The California legislature established the CEC in the wake of the energy crisis of the 1970s “in order to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy.”<sup>12</sup> The aim of the CEC has been energy efficient building design at the lowest possible price. Its regulations set minimum efficiencies and cost-effectiveness standards for new buildings with which building developers must comply.

The CEC creates computer models for a range of energy systems that builders can use to demonstrate compliance with the minimum energy efficiency requirements. Before builders can receive their building permit from their local city building department, they must compare their proposed energy systems design against a typical building type established by the CEC, known as the baseline. A baseline can be thought of as a cost-effective maximum energy budget which builders cannot exceed. Every three years the CEC updates the energy codes through tightening the energy efficiency requirements for a range of building types, including low-high residential buildings and non-residential buildings such as commercial buildings.

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<sup>11</sup> OESD reported in December 2018 that “Berkeley has worked with other local governments to create a joint cost-effectiveness study request for the California Codes and Standards Program, seeking the maximum cost-effective efficiency for mixed-fuel and all-electric new construction over a representative sample of building sizes and uses...The findings from this cost-effectiveness study request are expected in early 2019 and will be [used] to evaluate options and opportunities for local amendments to promote deep energy savings and electrification.” See, 2018 Berkeley Climate Action Plan Update, p. 12.

<sup>12</sup> Pub. Res. Code 25402.

Within each baseline, the CEC creates a theoretical typical building with a range of efficient and cost-effective energy systems such as water heaters and space heaters. For example, in creating a baseline for a single-family home, the CEC builds its typical virtual house with efficient water heaters and space heaters along with windows, ventilation systems, etc. in order to establish a desired energy budget for a typical single-family home. In designing their buildings, developers can either go with the CEC's recommendation for each system type, known as the prescriptive method, or can opt for more flexibility in choosing alternative systems and technology allowing for energy efficiency tradeoffs across the building design (e.g., more wall insulation but less efficient windows), known as the performance method.<sup>13</sup>

Fortunately, in response to state law's expanding focus on climate change, the California Energy Commission is gradually broadening its energy standard regulations to also minimize carbon emissions alongside energy inefficiencies at the lowest possible cost. The CEC will offer builders all-electric baselines for low-rise residential buildings with the commencement of the new code cycle, known as the "2019 Building Energy Efficiency Standards," on January 1, 2020. The CEC has not yet provided a timeline for an all-electric baseline for mid- to high-rise residential buildings, and commercial buildings; however, CEC officials intend to release them as soon as possible.

As a result, on January 1, 2020 builders choosing electric water and space heaters in mid- to high-rise residential and commercial buildings must still compare their electric designs to a baseline that is based on natural gas, and which favors natural gas. This is despite the fact that modern electric heat pump technology outperforms their gas counterparts in terms of both carbon emissions and total energy usage. Therefore, builders often have to take a slight penalty within their total energy budget when choosing all-electric heaters. However, this penalty can often be made up by improving performance in other areas of the code. For example, a builder might opt for more building insulation to make up for the unfair penalty of choosing an electric water heater, which is the best choice for the climate, energy efficiency and lifecycle cost.

Cities pursuing reach codes that go beyond minimum CEC regulations, such as prohibiting specific gas energy systems, must engage in a cumbersome process to demonstrate that their design is both cost-effective and at least as efficient as the existing state standards. While the process has merit in that it prevents cities from adopting policies that could mandate poorly-designed, overly expensive and inefficient

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<sup>13</sup> For example, under the performance method, the CEC may choose a certain water heater in its baseline, but a builder may want a different model to achieve the specific design required by their clients.

energy systems within buildings, it does not easily facilitate cities in enacting emergency regulations halting the expansion of fossil fuel infrastructure in new buildings.

The reach codes currently being explored by the City would incentivize rather than require all-electric design, and as a result, would not outright prohibit natural gas infrastructure in new buildings. Complicating matters is that reach codes cannot disincentive the construction of buildings with hazardous gas stoves as the energy code does not regulate cooking equipment. Cities need another tool to decarbonize at an emergency pace.

Given the climate emergency, the City should not wait for the CEC to modify its policies so that cities may more easily adopt reach codes requiring all-electric infrastructure. Instead, the Council should shift its approach away from an *all-electric-favored systems* approach, requiring a complex approval from the CEC, and towards a *building code* approach utilizing the City's municipal police powers to regulate building standards.

#### **D. A Revolution in All-Electric Design**

Developers across the Bay Area and the state are already proving that all-electric design is feasible across all building types—even without an all-electric baseline. These projects are not only possible but profitable.

In 2018, the University of California implemented regulations prohibiting natural gas in new buildings. According to the university system, “[n]o new UC buildings or major renovations after June 2019, except in special circumstances, will use on-site fossil fuel combustion, such as natural gas, for space and water heating.” Stanford University is exploring a similar policy.<sup>14</sup> It should be noted that large universities develop every kind of building type imaginable from low- to high-rise dormitories, dining halls, classrooms, libraries, laboratories, sports facilities etc. The UC system is acting regardless of CEC policies across this wide range of building types.

Over the past decade, innovative engineers, architects and developers have paved the way by building the following residential and commercial buildings all-electric, despite CEC policies favoring fossil fuel. A list of just some of these projects can be found in Attachment A.

#### **F. The Climate Emergency**

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<sup>14</sup> Justin Gerdes, “California Universities Are Transitioning to All-Electric Buildings,” Green Tech Media, September 24, 2018, <https://www.greentechmedia.com/articles/read/california-universities-are-transitioning-to-all-electric-buildings#gs.j6pqs2>.

In June 2018 the Berkeley City Council declared a city-wide Climate Emergency (Resolution No. 68,486-N.S.), aimed at reviewing the City's greenhouse gas emission reduction strategies, commitments and progress in light of recent political, scientific and climatic developments.<sup>15</sup> A 2018 U.N. Intergovernmental Panel on Climate Change (IPCC) report suggested that in order to keep warming under 1.5 degrees Celsius, governments must initiate a dramatic 45% cut in global carbon emissions from 2010 levels by 2030 and reach global 'net zero' around 2050. The time for incremental emissions reduction strategies is over—policymakers must begin implementing “far-reaching and unprecedented changes in all aspects of society.”<sup>16</sup>

Berkeley became a climate leader when voters overwhelmingly passed Measure G (Resolution No. 63,518-N.S.) in 2006, calling for the City to reduce greenhouse gas emissions by 33% below 2000 levels by 2020, and 80% by 2050.<sup>17</sup> Measure G resulted in the City Council adopting the 2009 Berkeley Climate Action Plan (Resolution No. 64,480-N.S.), which was written through a community-wide process.<sup>18</sup> The plan identified buildings as major contributors to greenhouse gas emissions, representing 26% of community-wide emissions, and recommended the implementation of aggressive building codes favoring low carbon space and water heating appliances/infrastructure in new buildings.<sup>19</sup> A 2018 Climate Action Plan progress update presented by Berkeley's OESD reported that “[c]ombustion of natural gas within Berkeley buildings accounted for 27% of total GHG emissions in 2016 and 73% of building sector GHG emissions.”<sup>20</sup>

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<sup>15</sup> Resolution Endorsing a Climate Emergency, Berkeley City Council, June 12, 2018, [https://www.cityofberkeley.info/uploadedFiles/Council\\_2/Level\\_3\\_-\\_General/Climate%20Emergency%20Declaration%20-%20Adopted%2012%20June%202018%20-%20BCC.pdf](https://www.cityofberkeley.info/uploadedFiles/Council_2/Level_3_-_General/Climate%20Emergency%20Declaration%20-%20Adopted%2012%20June%202018%20-%20BCC.pdf)

<sup>16</sup> IPCC Press Release, Summary for Policymakers of IPCC Special Report on Global Warming of 1.5°C approved by Governments, 8 October 2018, [http://www.ipcc.ch/pdf/session48/pr\\_181008\\_P48\\_spm\\_en.pdf](http://www.ipcc.ch/pdf/session48/pr_181008_P48_spm_en.pdf)

<sup>17</sup> Resolution Submitting Measure G, Berkeley City Council, July 18, 2006, <https://www.cityofberkeley.info/citycouncil/resos/2006/63396.pdf>; Ballotpedia, Berkeley Greenhouse Gas Emissions, Measure G (November 2006), November 7, 2006, [https://ballotpedia.org/Berkeley\\_Greenhouse\\_Gas\\_Emissions,\\_Measure\\_G\\_\(November\\_2006\)#cite\\_note-quotedisclaimer-1](https://ballotpedia.org/Berkeley_Greenhouse_Gas_Emissions,_Measure_G_(November_2006)#cite_note-quotedisclaimer-1)

<sup>18</sup> Office of Energy & Sustainable Development, Berkeley Climate Action Plan Information Page, <https://www.cityofberkeley.info/climate/>.

<sup>19</sup> City of Berkeley, Berkeley Climate Action Plan, June 2009, [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Energy\\_and\\_Sustainable\\_Development/Berkeley%20Climate%20Action%20Plan.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Berkeley%20Climate%20Action%20Plan.pdf), p. 59.

<sup>20</sup> 2018 Berkeley Climate Action Plan Update, Office of Energy and Sustainable Development, December 6, 2018, [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/12\\_Dec/Documents/2018-12-06\\_WS\\_Item\\_01\\_Climate\\_Action\\_Plan\\_Update\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/12_Dec/Documents/2018-12-06_WS_Item_01_Climate_Action_Plan_Update_pdf.aspx), p. 10.

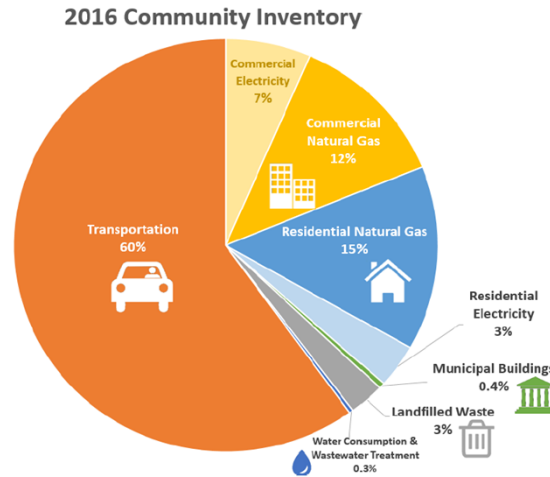
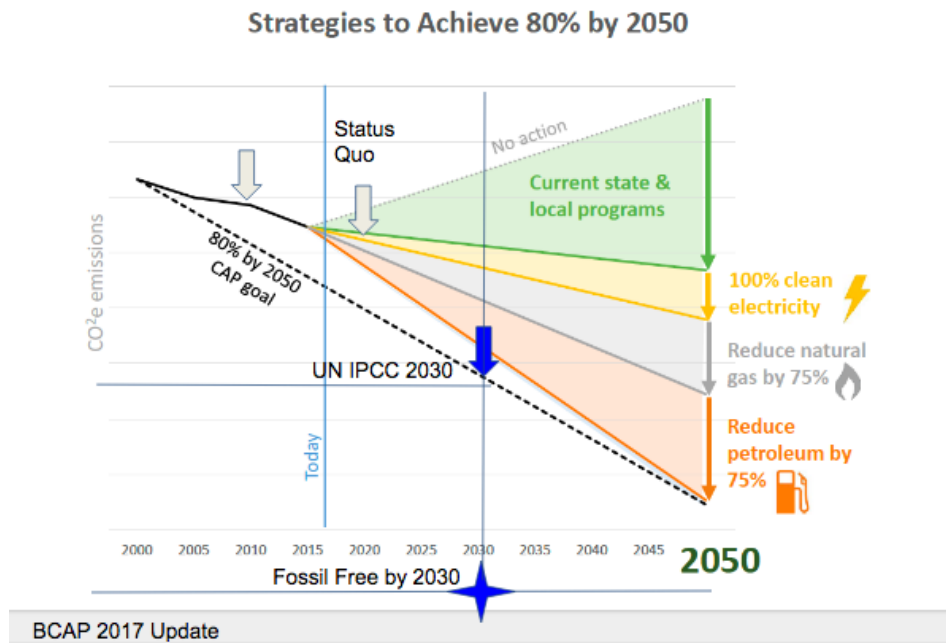


Figure 1: Pie chart of 2016 community-wide GHG emissions inventory, broken down by sector and fuel.

According to OESD, the latest and best available data suggest that Berkeley’s 2016 community-wide GHG emissions, including emissions from transportation, building energy use, and solid waste disposal, are approximately 15% below 2000 baseline levels, despite a population increase of approximately 18% in that same time period. The City is doing a good job in the face of population increases but remains approximately 18% behind its 2020 goal and will fall short of its ultimate goal of net zero emissions by 2050. The following chart from the Berkeley Energy Commission demonstrates that, without accelerated efforts, the City will continue to be below its target. To reach the 80% goal, 75% reductions in natural gas and petroleum usage are needed.<sup>21</sup>

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<sup>21</sup> *Id.*, p. 2.



## G. The Negative Externalities of Natural Gas in Buildings

### I. Catastrophic Methane Leaks

We have known for a long time that burning gas generates carbon dioxide, a greenhouse gas. New scientific studies suggest that in addition to combustion, there are significant additional carbon emissions stemming from gas leaks. When unburnt natural gas, known as methane (CH<sub>4</sub>), is leaked into the atmosphere, it becomes one of the most potent greenhouse gases despite its short lifespan. Methane leaks, from within the building sector and across the gas supply chain, e.g. drill wells, pipelines etc., are literally and figuratively cooking the planet.

According to the EPA, “[p]ound for pound, the comparative impact of CH<sub>4</sub> [methane] is more than 25 times greater than CO<sub>2</sub> [carbon dioxide] over a 100-year period.”<sup>22</sup> Methane is even more potent in the first two decades of its lifespan—20 years after it is released, methane has a global warming potential of 84 times that of carbon dioxide. Methane’s enhanced potency, particularly in the short term, results in more immediate

<sup>22</sup> “Overview of Greenhouse Gases,” U.S. Environmental Protection Agency, <https://www.epa.gov/ghgemissions/overview-greenhouse-gases#methane>



warming and thus warrants greater urgency. EDF estimates that “[a]bout 25% of the manmade global warming we’re experiencing is caused by methane emissions.”<sup>23</sup>

Substantial methane gas is released into the atmosphere through hydraulic fracking and other drilling methods.<sup>24</sup> A 2018 EDF study estimated that the equivalent of 2.3% of total annual domestic gas production leaks into the atmosphere each year from across the oil and gas supply chain.<sup>25</sup> These leaks do not include additional leaks at and behind the residential or commercial meter located on building premises. Leaks from natural gas infrastructure in the Bay Area are estimated at another 0.5%.<sup>26</sup> Given the global warming potential of methane over a 20-year period, from a purely climate change perspective, burning coal would produce less greenhouse gas emissions than natural gas.<sup>27</sup> This difference is even greater if you consider the global warming potential of methane over only a 10-year period.<sup>28</sup>

Cities cannot achieve their emissions reductions goals by expanding a building infrastructure system and upstream supply chain that is leaking massive amounts of methane. Consequently, the Rocky Mountain Institute calls upon cities to immediately “[s]top supporting the expansion of the natural gas distribution system, including for new homes.”<sup>29</sup> While governments can and should try to regulate leaks in the short term, ultimately there does not appear to be a cost-effective technical solution to end all leaks. To truly stop methane leaks from buildings and the oil and gas supply chain, governments will have to consider abandoning natural gas as a source of energy.

## II. Health Impacts

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<sup>23</sup> “Methane: The other important greenhouse gas,” Environmental Defense Fund, <https://www.edf.org/climate/methane-other-important-greenhouse-gas>.

<sup>24</sup> The Economics of Electrifying Buildings, p. 26.

<sup>25</sup> Ramon A. Alvarez et al., “Assessment of methane emissions from the U.S. oil and gas supply chain,” *Science Magazine*, July, 13 2018. <https://science.sciencemag.org/content/361/6398/186>; However, EDF’s study was probably too conservative; an earlier Cornell study found that between the drill well and the consumer delivery point, conventional natural gas results in a 3.8% leak rate, and fracked shale gas results in a whopping 12% leak rate. See Robert Howarth, “Methane emissions and climatic warming risk from hydraulic fracturing and shale gas development: implications for policy,” *Dovepress*, October 8, 2015, [http://www.eeb.cornell.edu/howarth/publications/f\\_EECT-61539-perspectives-on-air-emissions-of-methane-and-climatic-warmin\\_100815\\_27470.pdf](http://www.eeb.cornell.edu/howarth/publications/f_EECT-61539-perspectives-on-air-emissions-of-methane-and-climatic-warmin_100815_27470.pdf), p. 1 and p. 46.

<sup>26</sup> Julie Chao, “Bay Area methane emissions may be double what we thought,” *Phys.org*, January 17, 2017, <https://phys.org/news/2017-01-bay-area-methane-emissions-thought.html>.

<sup>27</sup> Environmental Defense Fund, “The climate impacts of methane emissions,” April 2012, <https://www.edf.org/climate-impacts-methane-emissions>.

<sup>28</sup> Save the EPA, “Oil and Gas Fields Leak Far More Methane than EPA Reports,” June 28, 2018, <http://saveepaalums.info/2018/06/22/oil-and-gas-fields-leak-far-more-methane-than-epa-reports/> at fn. 5.

<sup>29</sup> The Economics of Electrifying Buildings, p. 10.



induction cooking and commercial restaurants, and all restaurants in LAX airports latest terminal are all-electric. Induction cooking equipment reduces chef burns and grease fires and provides enhanced temperature control.

### III. Seismic/Fire Safety/Resiliency

The ordinance will help prevent deadly home fires that start from an open flame and are fueled by gas lines. For example, the City of Santa Rosa is actively reconsidering the role of natural gas in new buildings because of the destructive 2017 Tubbs firestorm.<sup>34</sup> The explosion of PG&E's gas lines in San Bruno and San Francisco further illustrate the inherent danger of pumping fossil free at high pressure through streets and homes.<sup>35</sup> Gas fires cannot easily be extinguished with traditional firefighting techniques; they require shutting off the source valve, which can be extremely difficult during times of disaster.<sup>36</sup>

Perhaps the ultimate fire risk associated with natural gas infrastructure is illustrated by the 2017 U.S. Geological Survey conducted *HayWired Scenario* simulating "a 7.0 quake on the Hayward fault line with the epicenter in Oakland." The agency's report predicted that "about 450 large fires could result in a loss of residential and commercial building floor area equivalent to more than 52,000 single-family homes and cause property (building and content) losses approaching \$30 billion."<sup>37</sup> The report identified ruptured gas lines as a key fire risk factor. This finding mirrors the reality of the destructive gas fires resulting from the Loma Prieta (1989) and Northridge (1994) earthquakes.

Gas negatively impacts the resiliency of cities because gas lines are more difficult to repair following disasters than electric infrastructure. In times of disaster, the fossil fuel supply chain will likely be disrupted. By comparison, electric appliances in conjunction

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featuring a "virtual" LED flame that mimics the visual response of a gas flame. See also, 36" Induction Cooktop with Virtual Flame™, Samsung US, <https://www.samsung.com/us/home-appliances/cooktops-and-hoods/induction-cooktops/36--built-in-induction-cooktop-with-flex-cookzone--nz36k7880ug-aa/>.

<sup>34</sup> Will Schmitt, Santa Rosa council considers requirement for new homes to be independent of natural gas, Press Democrat, November 10, 2018, <https://www.pressdemocrat.com/news/8899687-181/santa-rosa-council-considers-requirement>.

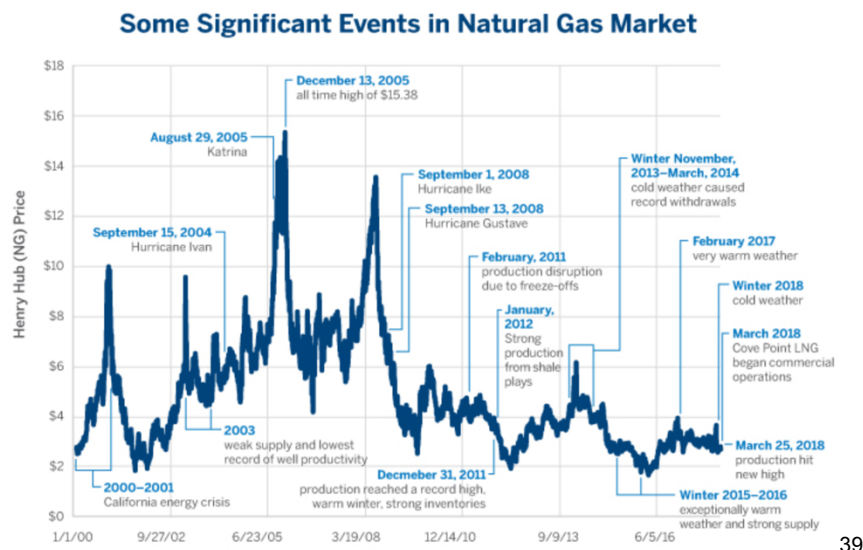
<sup>35</sup> See e.g., Rebecca Bowe, Lisa Pickoff-White, Five Years After Deadly San Bruno Explosion: Are We Safer?, KQED, September 8, 2015, <https://www.kqed.org/news/10667274/five-years-after-deadly-san-bruno-explosion-are-we-safer>; See also, David Siders, Jerry Brown declares emergency around Southern California gas leak, January 6, 2016, <https://www.sacbee.com/news/politics-government/capitol-alert/article53353615.html>.

<sup>36</sup> Ronald T. Eguchi and Hope A. Seligson, "Practical Lessons from the Loma Prieta Earthquake (1994)," The National Academic Press, <https://www.nap.edu/read/2269/chapter/7#141>.

<sup>37</sup> "The HayWired earthquake scenario—Engineering implications," U.S. Geological Survey, April 18, 2018, <https://pubs.er.usgs.gov/publication/sir20175013v2>.

with battery storage technology combined with renewable energy generation such as rooftop solar can operate absent the grid’s electric supply chain.

Critically, while gas prices have been relatively low in recent years, the gas market is always subject to significant volatility due to natural disasters.<sup>38</sup>



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By contrast, clean electricity from renewable generation is extremely cost effective and stable.

#### IV. Stranded Assets

A 2018 Rocky Mountain Institute report cautioned cities that natural gas “infrastructure will be obsolete in a highly electrified future, and gas ratepayers face significant stranded asset [financial] risk” by expanding the natural gas system.<sup>40</sup>

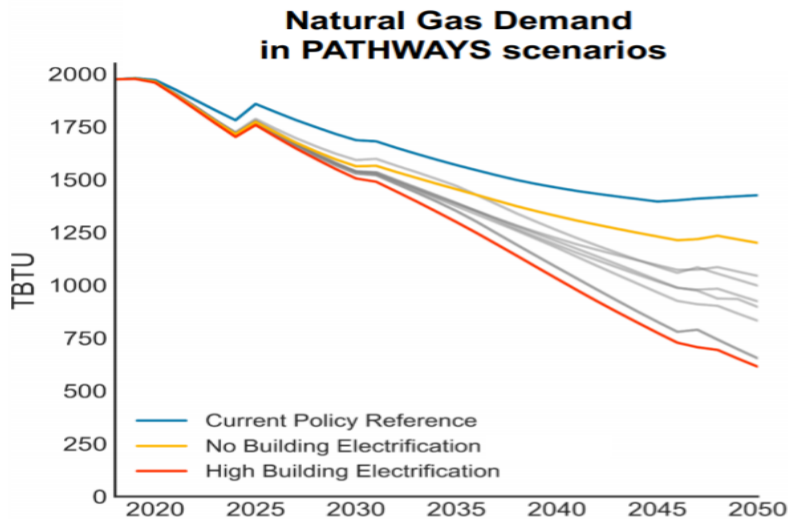
California Senate Bill 100 ensures that the California electric grid will be 100% greenhouse gas-free by 2045. Berkeley businesses and residents already have access to 100% carbon free electric plans through East Bay Community Energy at the same price as PG&E’s standard rate, and many Berkeley electricity customers are placing solar on their residences, which further undercuts the market for gas. A 2019 draft

<sup>38</sup> Adila Mchich, “Are Crude Oil & Natural Gas Prices Linked?” CME Group, May 9, 2018, <https://www.cmegroup.com/education/articles-and-reports/are-crude-oil-natural-gas-prices-linked.html>.

<sup>39</sup> *Id.*

<sup>40</sup> The Economics of Electrifying Buildings, p. 10.

report commissioned by the CEC shows plummeting demand for natural gas in coming years and precipitous cost increases for customers that remain on gas.



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In 2018, former Governor Jerry Brown issued executive order B-55-18, pledging that the California economy will be carbon neutral by 2045. Assembly Bill 3232 also requires the CEC to create a plan by 2021 to reduce building sector emissions by 40 percent below 1990 levels by 2030.<sup>42</sup> California’s extremely carbon-intensive natural gas system will have to be decommissioned, all new buildings will have to be emissions-free and existing buildings will need retrofiting. These political developments along with ever-increasingly of the climate emergency foreshadows the likelihood of future state and federal emissions regulations will impact the gas sector.

Therefore, as customers continue to abandon gas in favor of clean electricity, the percentage of ratepayers paying gas corporations for service, and indirectly to maintain the drill wells, pipelines and distribution systems, will shrink over time. Absent a bailout by the state, those ratepayers will be left with the burden of paying much higher rates to support the system with assets that are no longer productive. Developers and their investors will also likely suffer as their buildings will lose value given that prospective tenants will face exorbitant rates to use energy in their leased space. Separately,

<sup>41</sup> “Draft Results: Future of Natural Gas Distribution in California,” California Energy Commission Staff Workshop for CEC PIER-16-011, June 6, 2019, [https://www.energy.ca.gov/research/notices/2019-06-06\\_workshop/2019-06-06\\_Future\\_of\\_Gas\\_Distribution.pdf](https://www.energy.ca.gov/research/notices/2019-06-06_workshop/2019-06-06_Future_of_Gas_Distribution.pdf), p. 52-53.

<sup>42</sup> Pierre Delforge Merrian Borgeson, “Study: CA Needs a Safe, Managed Transition Away from Gas,” NRDC, June 06, 2019, <https://www.nrdc.org/experts/pierre-delforge/study-ca-needs-safe-managed-transition-away-gas>.

building owners will find when they go to electrify their gas building in the future, their electric infrastructure will be undersized, which will cost them significant funds to rectify.

In light of this reality, by preventing the unnecessary expansion of gas infrastructure into new buildings, this ordinance reduces the problem of future stranded assets.

## H. The Legal Case for Building Decarbonization

Under the California Constitution, Cities retain police powers to adopt building standards that provide for their community's health, safety and welfare.<sup>43</sup> This ordinance makes a series of climatic, geologic and health and safety findings.

The Berkeley City Attorney's office has reviewed the ordinance for legality with assistance from outside counsel. In addition, the City Attorney's office has reviewed the City's franchise agreements with the Pacific Gas & Electric Company.

## I. The Economic Case for Building Decarbonization

### I. Cost Effectiveness of Electrification

The decarbonization approach outlined in this ordinance is borne out by recent economic analysis:

A 2018 report by the Rocky Mountain Institute considered carbon emissions reductions and cost-effectiveness of all-electric space and water heating in new single-family homes in Oakland.<sup>44</sup> The report found that new single-family developments avoiding gas could "save \$1,000 to more than \$24,000 per single-family home, with a median value of \$8,800."<sup>45</sup> Due to their design, space heating heat pumps function as both heaters and air conditioners. Air conditioning will become more critical for health and safety as Berkeley's climate continues to warm due to global warming. For new single-family buildings in Oakland, "[electric] heat pumps are universally more cost-effective" than natural gas space and water heaters due to their superior energy efficiency, cost-

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<sup>43</sup> Article XI, Sec. 7. of the CA Constitution reads: "A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws."

<sup>44</sup> Sherri Billimoria, Mike Henchen, Leia Guccione, and Leah Louis-Prescott, "The Economics of Electrifying Buildings: How Electric Space and Water Heating Supports Decarbonization of Residential Buildings," Rocky Mountain Institute, June 14, 2018, [https://rmi.org/wp-content/uploads/2018/06/RMI\\_Economics\\_of\\_Electrifying\\_Buildings\\_2018.pdf](https://rmi.org/wp-content/uploads/2018/06/RMI_Economics_of_Electrifying_Buildings_2018.pdf). As a direct neighbor, the Oakland study is a useful reference point as Berkeley shares many of its characteristics, including its climate, architecture, the electric and natural gas utility, the Pacific Gas and Electric Company, and membership in East Bay Community Energy.

<sup>45</sup> *Id.*, p. 47.

competitiveness, and the avoided cost of connecting to the Pacific Gas & Electric Company's natural gas distribution system.<sup>46</sup>

- In 2017, Stone Energy Associates and Redwood Energy submitted letters to the CEC advising the commission of the significant net cost savings per unit in multi-family projects due to avoiding costly trenching and gas infrastructure.<sup>47</sup>
- A 2018 Natural Resources Defense Council-commissioned report found that all-electric new multi-family construction “sees upfront capital savings, partly [as] a result of not piping for gas.”<sup>48</sup>
- A 2019 Energy and Environmental Economics, Inc. (“E3”) report, jointly funded by Southern California Edison, Sacramento Municipal Utility District, and the Los Angeles Department of Water and Power found that all-electric low-rise construction results in lifecycle savings of \$130 to \$540/year. Furthermore, E3 found that “[a]s the carbon intensity of the grid decreases over time, these savings are estimated to increase to ~80% – 90% by 2050.”
- Green buildings are profitable because clients and customers are willing to pay more to live and work in them.

## II. Green Jobs

As new all-electric buildings come online as a result of this ordinance and broader trends in the economy, new jobs specializing in green building will continue emerge. In 2017, nationwide jobs in the clean energy sector eclipsed the fossil fuel industry, despite record fossil fuel exploration and recovery.<sup>49</sup>

While certain trades such as electricians and many other trades will see an expansion in demand for services as a result of prohibiting natural gas infrastructure in new buildings, other trades may see a decrease in work as gas infrastructure is phased out. It is

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<sup>46</sup> Id.

<sup>47</sup> CEC Docket No. 17-BSTD-01, Letter from Sean Armstrong, Redwood Energy, to CEC Re: 2019 Building Energy Efficiency Standards Pre-Rulemaking, October 11, 2017, <https://efiling.energy.ca.gov/GetDocument.aspx?tn=221464&DocumentContentId=27248>; CEC Docket No. 16-BSTD-06, Letter from Nehemiah Stone, Stone Energy Associates, to CEC Re: 2019 Building Energy Efficiency Standards Development, April 4, 2017.

<sup>48</sup> Asa S. Hopkins, PhD, Kenji Takahashi, Devi Glick, Melissa Whited, “Decarbonization of Heating Energy Use in California Buildings: Technology, Markets, Impacts, and Policy Solutions,” Synapse Energy Economics, Inc., October 16, 2018, <http://www.synapse-energy.com/sites/default/files/Decarbonization-Heating-CA-Buildings-17-092-1.pdf>.

<sup>49</sup> Lara Ettenson, “U.S. Clean Energy Jobs Surpass Fossil Fuel Employment,” NRDC, February 01, 2017, <https://www.nrdc.org/experts/lara-ettenson/us-clean-energy-jobs-surpass-fossil-fuel-employment>.

incumbent upon the City of Berkeley to continue do everything it can to support workers in securing a just climate transition and living wages.

### **J. The Imperative to Lead on Climate**

Emergency action and leadership is needed to prevent 'locking in' additional natural gas greenhouse gasses from new buildings. This ordinance may serve as model for other jurisdictions to decarbonize their new building stock and may help to further inspire state agencies to take emergency action on climate change.

By adopting this ordinance, the City of Berkeley has an opportunity to make further progress towards delivering upon its responsibilities under Measure G, the 2009 Climate Action Plan, Fossil Fuel Berkeley Resolution (as referred), and the Climate Emergency Declaration.

#### FINANCIAL IMPLICATIONS

Staff time will be necessary to implement the new permit regulations.

Staff estimates that the total annual staff cost for a career position to implement a gas prohibition ordinance and reach codes would be \$273,341 per year. The position would be in the Building & Safety Division of the Department of Planning and Development.

The staff person would also:

- assist the City of Berkeley in advancing its leadership in electrifying buildings;
- assist in development of future code amendments would be the lead staff for managing implementation of new energy-related ordinances and codes, including the Deep Green Building Standards;
- provide training to staff, and also assistance and consultation for permit applicants; and,
- assist property owners with incentives (e.g., anything offered under the Pathways to Green Buildings plan, the electrification transfer tax subsidy ordinance).

#### ENVIRONMENTAL SUSTAINABILITY

Prohibiting natural gas infrastructure in new buildings will prevent the release of significant additional natural gas-related greenhouse gasses from new buildings.

#### CONTACT PERSON

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

Attachments:

1. Attachment A: Bay Area and California All-Electric Design Projects
2. Proposed Ordinance Adding BMC Chapter 12.80



## Attachment A

Bay Area and California All-Electric Design Projects<sup>50</sup>

| Residential                                                                                    | Commercial                                                                                                        |
|------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| <b>UC Santa Cruz Student Housing West</b><br>750,000 square feet, 3,000 beds                   | <b>The David &amp; Lucile Packard Foundation Headquarters</b><br>49,200 square foot Office Building, San Jose, CA |
| <b>UC Riverside Dundee Residence Hall</b><br>600,000 square feet, Riverside, CA                | <b>IDeAs Z2 Design Facility</b><br>6,557 square foot Office Building, San Jose, CA                                |
| <b>UC Irvine Student Housing West</b><br>1,441 beds, Irvine, CA9                               | <b>The Exploratorium</b><br>200,000 square foot science museum, San Francisco, CA                                 |
| <b>UC Davis Student Housing, Webster Hall Replacement</b><br>371 beds, Davis, CA               | <b>Mark Day School</b><br>14,574 square feet, Marin, CA                                                           |
| <b>Casa Adelante, 2060 Folsom Affordable Housing</b><br>9-stories 127 Units, San Francisco, CA | <b>Golden Gate Park Tennis Center</b><br>San Francisco, CA                                                        |
| <b>Maceo May Veterans Apartments, Treasure Island</b><br>105 units, San Francisco, CA          | <b>Marin Country Day School</b><br>11,500 square feet, Marin, CA                                                  |
| <b>Balboa Upper Yard Family Apartments</b><br>120 units, San Francisco, CA                     | <b>Lick Wilmerding High School</b><br>55,000 square feet, San Francisco, CA                                       |
| <b>Hunters Point Shipyard Block 52,</b><br>136 units, San Francisco, CA                        | <b>Sonoma Academy</b><br>Dining Facility, Sonoma, CA                                                              |
| <b>Hunters Point Shipyard Block 54</b><br>136 units, San Francisco, CA                         | <b>UC Santa Cruz Cowell Ranch HayBarn</b><br>5,000 square feet Office and Event Building, Santa Cruz, CA          |
| <b>681 Florida,</b><br>136 units, San Francisco, CA                                            | <b>UC-Davis Jess Jackson Sustainable Winery Building</b><br>Davis, CA                                             |

<sup>50</sup> Scott Shell, Presentation, Berkeley Energy Commission, April, 24, 2019, [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Commissions/Commission\\_for\\_Energy/EC2019-04-24\\_Late%20Communication\\_Shell-Berkeley%20Electric%20Preso.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Energy/EC2019-04-24_Late%20Communication_Shell-Berkeley%20Electric%20Preso.pdf)

|                                                                       |                                                                                                                    |
|-----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| <b>Linda Vista, Mountain View</b><br>101 units, Mountain View, CA     | <b>UC-Merced Administration Building</b><br>Merced, CA                                                             |
| <b>Coliseum Place, 905 72nd Ave, Oakland</b><br>59 units, Oakland, CA | <b>Santana Row Lot 11</b><br>236,000 square feet of office and retail space,<br>San Jose, CA, US                   |
| <b>Edwina Benner Plaza</b><br>66 units, Sunnyvale, CA                 | <b>270 Brannan,</b><br>202,000 square feet of Class A office, San<br>Francisco, CA                                 |
| <b>Stoddard Housing</b><br>50 units, Napa, CA                         | <b>SFO Admin Office</b><br>San Francisco, CA                                                                       |
| <b>2437 Eagle Ave, Alameda Affordable</b><br>20 Units, Alameda, CA    | <b>SMUD Operations Office</b><br>Sacramento, CA                                                                    |
| <b>Station House</b><br>171 Units, Oakland, CA                        | <b>435 Indio Office Renovation,</b><br>31,000 square feet Office Renovation,<br>Sunnyvale, CA                      |
| <b>Ice House, Oakland</b><br>124 Units (destroyed in arson fire)      | <b>415 N. Mathilda Sunnyvale Office Renovation</b><br>33,750 square feet, Office, Sunnyvale, CA                    |
|                                                                       | <b>AP+I Office Office Renovation</b><br>14,300 square feet, Office Renovation, Mountain<br>View, CA                |
|                                                                       | <b>380 N. Pastoria Office Renovation</b><br>42,000 Square Feet Office Renovation, Mountain<br>View, CA             |
|                                                                       | <b>J. Craig Venter Institute Laboratory</b><br>44,600 square feet, Research Lab, San Diego,<br>CA                  |
|                                                                       | <b>Lawrence Berkeley National Lab Integrative<br/>Genomics Lab</b><br>81,000 square feet Lab, Berkeley, California |
|                                                                       | <b>BioEpic Laboratory, Lawrence Berkeley<br/>National Lab</b><br>70,000 square feet, Berkeley, California          |
|                                                                       | <b>Kaiser Santa Rosa Medical Office</b><br>87,300 square feet, Santa Rosa, CA                                      |
|                                                                       | <b>Bradley Terminal, LAX</b><br>Los Angeles, CA                                                                    |
|                                                                       | <b>All Electric Restaurants at LAX</b><br>Los Angeles, CA                                                          |

ORDINANCE NO. –N.S.

ADDING A NEW CHAPTER ~~12.80 19.84~~ TO THE BERKELEY MUNICIPAL CODE  
PROHIBITING NATURAL GAS INFRASTRUCTURE IN NEW BUILDINGS EFFECTIVE  
JANUARY 1, 2020

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

Section 1. That Chapter ~~12.80 19.84~~ of the Berkeley Municipal Code is added to read as follows:

Chapter ~~12.80~~19.84

PROHIBITION OF NATURAL GAS INFRASTRUCTURE IN NEW BUILDINGS

Sections:

~~12.80~~19.84.010 Findings and Purpose.

~~12.80~~19.84.020 Applicability.

~~12.80~~19.84.030 Definitions.

~~12.80~~19.84.040 Prohibited Natural Gas Infrastructure in Newly Constructed Buildings.

~~12.80~~19.84.050 Exception.

~~12.80~~060 Public Interest Exemption.

~~12.80~~070 Annual Review.

~~12.80~~19.84.0860 Severability.

~~12.80~~19.84.0970 Effective Date.

**12.8019.84.010 Findings and Purpose.**

The Council finds and expressly declares as follows:

- A. ~~SAvailable~~ scientific evidence ~~overwhelmingly suggests~~ has established that natural gas combustion, procurement and transportation produce significant greenhouse gas emissions that contribute to global warming and climate change.
- B. The following addition to the Berkeley Municipal Code is reasonably necessary because of local climatic, geologic and health and safety conditions as listed below:
  - (1) As a coastal city located on the San Francisco Bay, Berkeley is vulnerable to sea level rise, and human activities releasing greenhouse gases into the atmosphere cause increases in worldwide average temperature, which contribute to melting of glaciers and thermal expansion of ocean water –resulting in rising sea levels.
  - (2) Berkeley is already experiencing the repercussions of excessive greenhouse gas emissions as rising sea levels threaten the City’s shoreline and infrastructure, have caused significant erosion, have increased impacts to infrastructure during extreme tides, and have caused the City to expend funds to modify the sewer system.
  - (3) Berkeley is situated along a wildland-urban interface and is extremely vulnerable to wildfires and firestorms, and human activities releasing greenhouse gases into the atmosphere cause increases in worldwide average temperature, drought conditions, vegetative fuel, and length of fire seasons—all of which contribute to the likelihood and consequences of fire.
  - (4) Berkeley’s natural gas building infrastructure, a potentially significant source of fire during earthquakes and other fire events, is precariously situated along or near the Hayward fault, which is likely to produce a large earthquake in the Bay Area.
  - (5) Some subpopulations of Berkeley residents are especially vulnerable to heat events.
  - (6) Berkeley residents suffer from asthma and other health conditions associated with poor indoor and outdoor air quality exacerbated by the combustion of natural gas.
- C. The people of Berkeley, as codified through Measure G (Resolution No. 63,518-N.S.), the City of Berkeley Climate Action Plan (Resolution No. 64,480-N.S.), and Berkeley Climate Emergency Declaration (Resolution No. 68,486-N.S.) all recognize that rapid, far-reaching and unprecedented changes in all aspects of society are required to limit global warming and the resulting environmental threat posed by climate change, including the prompt phasing out of natural gas as a fuel for heating and cooling infrastructure in new buildings.
- D. Substitute electric heating and cooling infrastructure in new buildings fueled by less greenhouse gas intensive electricity is linked to significantly lower greenhouse gas emissions and is cost competitive because of the cost savings associated with all-electric designs that avoid new gas infrastructure.
- E. All-electric building design benefits the health, welfare, and resiliency of Berkeley and its residents.
- F. The most cost-effective time to integrate electrical infrastructure is in the design phase of a building project because building systems and spaces can be designed to optimize the performance of electrical systems and the project can take full advantage of avoided costs and space requirements from the elimination of natural gas piping and venting for combustion air safety.
- G. It is the intent of the council to eliminate obsolete natural gas infrastructure and associated greenhouse gas emissions in new buildings where all-electric infrastructure can be most practicably integrated, thereby reducing the environmental and health hazards produced by the consumption and transportation of natural gas.

**12.8019.84.020 Applicability.**

- A. The requirements of this Chapter shall apply to the entitlement of or the processing of development applications for all Newly Constructed Buildings proposed to be located in whole or in part within the City.
- B. The requirements of this Chapter shall not apply to the use of portable propane appliances for outdoor cooking and heating.
- C. This chapter shall in no way be construed as amending energy code requirements under Title 24, Part 6 or Part 1, nor as requiring the use or installation of any specific appliance or system as a condition of approval.
- D. The requirements of this Chapter shall be incorporated into conditions of approval for applications for permits under BMC Chapter 23.B.

**12.80.030 Definitions.**

- A. "Accessory Dwelling Unit" shall have the same meaning as specified in Section 65852.2 of the Government Code.
- B. "Greenhouse Gas Emissions" mean gases that trap heat in the atmosphere.
- C. "Natural Gas" shall have the same meaning as "Fuel Gas" as defined in section 208.0 of the 2016-California Plumbing Code and Mechanical Code.
- D. "Natural Gas Infrastructure" shall be defined as fuel gas piping, other than service pipe, in or in connection with a building, structure or within the property lines of premises, extending from the point of delivery at the gas meter as specified in sections 1301.0 and 1302.1 of the 2016-California Mechanical Code and Plumbing Code.
- E. "Newly Constructed Building" shall be defined as a building with a valid Use Permit or Zoning Certificate application approved on or after the effective date of this Chapter that has never before been used or occupied for any purpose.
- F. "Use Permit" shall have the same meaning as specified in Chapter 23B.32.
- E.G. "Zoning Certificate" shall have the same meaning as specified in Chapter 23B.12.

**12.80.040 Prohibited Natural Gas- Infrastructure in Newly Constructed Buildings.**

- A. Natural Gas Infrastructure shall be prohibited in Newly Constructed Buildings.
- B. Notwithstanding BMC 12.80.040.A, Natural Gas Infrastructure may be permitted in a Newly Constructed Building if the applicant for a Use Permit or Zoning Certificate required to construct the building establishes that it is not physically feasible to construct the building without Natural Gas Infrastructure.
- C. For purposes of this section, "feasible to construct the building" means either a prescriptive compliance approach is available for the building under BMC Chapter 19.36, or that the building is able to achieve the performance compliance standards for newly constructed buildings under BMC Chapter 19.36 using commercially available technology and an approved calculation method.
- D. Natural Gas Infrastructure shall not be extended to any system or device within a building for which an equivalent all-electric system or design is available.
- E. To the extent that a public interest exemption and installation of Natural Gas Infrastructure is granted, Newly Constructed Buildings shall be required to have sufficient electric capacity and conduit to facilitate full building electrification.
- A-F. The requirements of this section shall be deemed objective planning standards under Government Code section 65913.4 and objective development standards under Government Code section 65589.5.

**12.8019.84.050 Exception for Attached Accessory Dwelling Units.**

The requirements of this Chapter shall not apply to attached Accessory Dwelling Units.

**12.80.0650 Public Interest Exemption.**

- A. Notwithstanding the requirements of this Chapter and the Greenhouse Gas Emissions and other public health and safety hazards associated with Natural Gas Infrastructure, minimally necessary and specifically tailored Natural Gas Infrastructure may be allowed in a Newly Constructed Building provided that the entity responsible for entitling the project findsestablishes that the use serves the public interest.
- B. To the extent that stand-alone delivery systems are available, the exemption shall require that the entity responsible for entitling the project consider whether a stand-alone delivery system is physically feasible before granting an exemption.
- A-C. To the extent that a public interest exemption and installation of Natural Gas Infrastructure is granted, Newly Constructed Buildings shall be required to have sufficient electric capacity and conduit to facilitate full building electrification.

**12.80.070 Annual Review.**

The City shall review annually the requirements of this ordinance for ongoing consistency with California Energy Commission regulations under Title 24, Part 6 and the Commission's code adoption cycle.

**12.8019.84.0860 Severability.**

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase of this Chapter, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases is declared invalid or unconstitutional.

**12.80.090 Effective date.**

The provisions of this chapter shall become effective on January 1, 2020.

Section 2. This Ordinance shall be submitted to the California Building Standards Commission following adoption as consistent with state law.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Disaster and Fire Safety Commission

INFORMATION CALENDAR

July 9, 2019

To: Honorable Mayor and Members of the City Council  
 From: Disaster and Fire Safety Commission  
 Submitted by: Gradiva Couzin, Chairperson, Disaster and Fire Safety Commission  
 Subject: 2019 Disaster and Fire Safety Commission Work Plan

INTRODUCTION

As directed by the City Council, the Disaster and Fire Safety Commission (DFSC) hereby submits its workplan for Fiscal Year 2020.

CURRENT SITUATION AND ITS EFFECTS

On May 22, 2019, the Disaster and Fire Safety Commission passed a motion to submit the attached annual commission work plan. Motion: S. Dean Second: Flasher Vote: 8 Ayes: Degenkolb, Flasher, Simmons, Couzin, Grimes, Dean, Stein, Bailey; 0 Noes; 0 Absent; 0 Abstain

The proposed workplan focuses on five topics of concern: 1) Increasing fire safety and resilience in the wildland urban interface 2) Undergrounding of utilities 3) Improving community resilience and community preparedness; 4) Monitoring Measure GG Fund expenditures; and 5) Assisting other city entities with incorporating a disaster and fire safety perspective

BACKGROUND

On July 19, 2016, the City Council approved a consent item that directs Berkeley Commissions, with the exception of the Board of Library Trustees, the Zoning Adjustments Board, and the Design Review Committee, to submit a workplan to the City Council at the beginning of each fiscal year.

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

POSSIBLE FUTURE ACTION

Not applicable.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Not applicable.

CONTACT PERSON

Keith May, Assistant Fire Chief, Berkeley Fire Department, 510-981-5508

**Attachments:**

1: 2019 Disaster and Fire Safety Commission Work Plan



## Berkeley Disaster and Fire Safety Commission WORK PLAN – 2019

### Mission Statement

The Disaster and Fire Safety Commission serves as the public oversight group for Berkeley's Measure GG, charged with reviewing the budget on a regular basis to ensure that the funds are spent in accordance with the intent of the voter approved measure, recommending the appropriate annual increase to the tax rate, and recommending new programs and positions requiring Measure GG funding.

The Commission also focuses on ways to increase community safety and resilience, working on education, community disaster preparedness, and other strategies as appropriate, and making recommendations to the City Council for adoption and implementation.

Lastly, The Commission reviews and makes recommendations on items referred by the City Council or other Commissions.

### Summary of 2019 Work Plan Activities

|   | Topic                                                                             | Resources                                                               | Activities                                                                        | Outputs                                                                                                                                                        | Outcomes                                                                                                          |
|---|-----------------------------------------------------------------------------------|-------------------------------------------------------------------------|-----------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| 1 | Fire safety & community resilience in the face of a wildland-urban interface fire | Staff time, venue                                                       | Research, staff reports and information gathering                                 | Recommendations on alerting, parking restrictions, evacuation planning, vegetation management, structure hardening and other topics to improve wildfire safety | Fire prevention and pre-planning to save lives, reduce economic loss and mitigate spread through fuel management. |
| 2 | Undergrounding Subcommittee                                                       | Staff time, venue                                                       | Currently in Phase 3 of a 3 year plan. Meetings with PG&E, community, and others. | Recommendation to either underground along arterials or mitigate hazard in another manner.                                                                     | City Council to make a well informed decision on undergrounding efforts                                           |
| 3 | Improve community resilience throughout Berkeley with a whole community approach  | Community members' time (volunteer), Commissioner time, and staff time. | Organize and participate in a working group for community based disaster response | Recommendations to City Council to improve community resilience throughout Berkeley. May include Measure GG fund expenditures.                                 | Measurable improvement in community preparedness, especially previously underserved communities & neighborhoods   |

|   |                                                                                            |                                |                                                                                     |                                                                                                   |                                                                                                      |
|---|--------------------------------------------------------------------------------------------|--------------------------------|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|
| 4 | Ensure that Measure GG Funds are spent appropriately                                       | Commissioner time, staff time  | Measure GG spending report is reviewed by the Commission every 6 months             | Recommendations to City Council to ensure funds are spent in accordance with the measure.         | Fire stations remain open & disaster preparedness is improved by using Measure GG funds as intended. |
| 5 | Help other city entities incorporate a disaster and fire safety perspective into decisions | Commissioner time, staff time. | Respond to referrals seeking input on matters relating to disaster and fire safety. | Recommendations or other documentation to City Council and other Commissions that send referrals. | Incorporates disaster preparedness into City decisions, leading to a safer and more resilient city.  |

## Work Plan Details

### 1. FIRE SAFETY AND COMMUNITY RESILIENCE IN THE FACE OF A WILDLAND-URBAN INTERFACE FIRE

#### Resources

Specific resources include staff time to properly notice meetings and council submissions prepared by the Disaster Fire Safety Commission. A venue and staff time may be needed for community meetings.

#### Program Activities

##### COMMUNITY EMERGENCY ALERTING AND EVACUATION

- This Commission has recommended that the city install sirens as a component of the suite of available alerting tools. We will continue to follow up on the progress of this recommendation through the budgeting process.
- Review and provide feedback and recommendations on the city’s draft evacuation plan.
- Review and provide feedback and recommendations on the city’s emergency alerting protocol. This will include the city’s compliance with state guidelines on WEA alerting in wildfires, anticipated in July 2019.
- Commissioners will attend community events and integrate community feedback and concerns into alerting and evacuation recommendations. Observe and/or participate in any evacuation drills that the City or community groups run in 2019.
- Integrate the needs and contributions of seniors and people with mobility challenges or other access and functional needs in all of our emergency alerting and evacuation recommendations.

##### SAFE PASSAGES – ACCESS & EGRESS ON NARROW STREETS

- The Commission will review and provide recommendations on access and egress needs in a WUI fire, specifically the “Safe Passages” program that is part of the City’s Wildfire Safety Plan

- The Commission will work to monitor and recommend parking restrictions in the hills; for example, a simple approach such as painting curbs red on one side of all the streets narrower than 20 feet or at points within narrow streets that do not allow access by first responders and clear the way for successful evacuation.

#### REDUCE VEGETATION AND FIRE HARDEN<sup>1</sup> PROPERTIES

Scientists, State and local fire department officials, Wildfire responders, and forest management experts agree that the new California “norm” includes continued droughts and disastrous urban interface wildfires. Through studies and experience, there is agreement that individual property owners are essential component in the successful achievement of fire prevention goals that will increase life safety, reduce economic impact and preserve the environment. The Commission will take an active role to achieve these broad fire prevention goals through recommendations to the City Council in the following three areas:

- Policy declarations and advocacy in support of fire prevention activities at all levels of government;
- Public outreach regarding fire prevention planning, activities and responsibilities;
- Collection, analysis and distribution of financial information, including grants, fees, loans and insurance, related to fire prevention at both citywide and neighborhood levels.

#### *Additional Items*

Commissioners working independently in other capacities (such as in neighborhood groups in the hills, or as volunteers) may develop ideas to improve WUI safety in those environments and bring these to the Commission for consideration throughout the year.

#### **Outputs**

- Recommendations to City Council regarding parking restrictions on the hills, siren expenditures, vegetation management and other topics relevant to improving wildfire safety in the City.
- Feedback to city staff on the Draft Evacuation Plan and alerting tools and protocols.
- Recommendations to support testing and drills to ensure that both staff and residents are prepared to carry out emergency alerting and evacuations
- Support the City’s community outreach measures to improve vegetation management and slow the spread of a WUI fire in the hills.
- Seek any available data on use of the chipper program, and explore if changes to the program would increase adoption.
- Review and provide recommendations on new approaches to vegetation management, including employment of Youthworks (city youth jobs program) staff over the summer to reduce fire fuel in the hills.
- Ensure that vegetation management is compliant with sustainable best practices.

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<sup>1</sup> To fire harden a property is to take steps that make the home and property more fire-resistant.

**Outcomes**

Prevent loss of life by improving the City’s planning and available tools to create a safe and efficient evacuation of all endangered residents in the case of a major WUI fire. Improve and practice emergency alerting so that all residents are alerted adequately and in a timely manner of any life-threatening hazards such as an approaching fire. Reduce as much as is feasible, economic losses to property owners.

**2. UNDERGROUNDING SUBCOMMITTEE**

**Resources**

Specific resources include staff time to properly notice meetings and council submissions prepared by the Undergrounding Subcommittee. A venue and staff time may be needed for community meetings.

**Program Activities**

The Undergrounding Subcommittee is in Phase Three of a proposed three year plan to study and make recommendations on the feasibility of undergrounding utility lines along arterial and collector streets throughout the City of Berkeley.

- Berkeley has now assigned an employee to work with the Undergrounding Subcommittee through the process of finalizing the plan and determining the expense of undergrounding utility lines along 2-3 major arterials to be used for evacuation from disasters.
- Berkeley already has undergrounded utilities along north-south arterials such as Telegraph, Sacramento, University, and San Pablo. Our focus in this phase will be on west-east ones such as Dwight, Gilman, and Marin.
- This subcommittee currently has members from the Public Works Commission and two liaison representatives, one each from the Disaster & Fire Safety and Transportation Commissions. The Disaster & Fire Safety Commission has two observers on the sub-committee: Paul Degenkolb and Bob Flasher.

**Outputs**

- Recommendation to Council that main arterials be undergrounded

**Outcomes**

- 2-3 more east-west arterials will have undergrounded utility lines for safety in evacuations.
- Lives will be saved in the next WUI by enhancing evacuation routes.

**3. IMPROVE COMMUNITY RESILIENCE THROUGHOUT BERKELEY WITH A WHOLE COMMUNITY APPROACH**

**Resources**

Resources include community members’ time (volunteer), Commissioners’ and

staff time to participate in working group and/or subcommittee work, and staff time to present yearly Berkeley Ready presentations to Commission.

### **Program Activities**

Support accessible preparedness outreach and training, with a special focus on underserved and/or vulnerable members of our community, including residents of South and West Berkeley, seniors, persons with disabilities, families with children, Spanish-speakers, and renters. Consider ideas toward the goal of equitably and adequately serving all people who live, work, study or play in Berkeley.

#### *Community Based Disaster Response*

Commission member(s) will continue to participate in a working group to explore ways to support community-based post-disaster response, creating an inclusive, broad-based response that better meets the post-disaster needs of all people in Berkeley:

- explore options to help give the community a better structure or pathway to participate in disaster response.
- explore ways to improve and support social cohesion throughout the city that will naturally increase post-disaster assistance, information-sharing, and shared resources among neighbors.

This may include new directions such as developing a network of “communication hubs” that community members can self-deploy and staff in a disaster.

To stay apprised of CERT and Berkeley Ready activities in the City, the Commission will host presentations at Commission meetings by the following groups:

- CERT Advisory Committee presentation(s)
- Berkeley Ready staff presentation(s)
- Berkeley Disaster Preparedness Neighborhood Network (BDPNN)
- Disaster and Disability group

#### *Community Fire Risk Reduction*

Work towards ensuring that all people residing in or visiting Berkeley are in dwellings that adequately protect them from fire danger and that residents’ financial means are not associated with an increased fire danger:

- Explore options to ensure that renters who are concerned about the fire safety of their homes have a pathway to get their concerns addressed without putting their housing at risk
- Explore options to ensure that temporary rentals such as Airbnb and unpermitted and permitted second units and ADUs are fire safe
- Explore a Community Risk Reduction approach towards fire prevention, including on-request in-home fire risk inspections and fire escape planning, that does not include a code enforcement component
- Seek community-based approaches to reducing fire risk in homeless encampments
- Explore fire-safe inspections of properties used for group living purposes, including student Co-ops, fraternities, sororities and other identified group living accommodations

*Additional Items*

Commissioners working independently in other capacities (such as with schools and businesses) may develop ideas to improve community resilience in those environments and bring these to the Commission for consideration throughout the year.

**Output(s)**

- Develop recommendation(s) to City Council to enhance Berkeley Ready, CERT and other city programs to support community resilience. This may include scaling up current activities, or redirecting efforts towards new activities.

**Outcomes**

Measurable improvement to Berkeley's community preparedness. Measurement may be in number of people reached, or number of active volunteers, or new previously underserved populations reached.

**4. ENSURE THAT MEASURE GG FUNDS ARE SPENT APPROPRIATELY**

**Resources**

Commissioners' time and staff time to generate financial reports and present them to the Commission every 6 months

**Program Activities**

- Staff to generate a Measure GG spending report every 6 months
- Commission to review staff report every 6 months.
- Commission to provide recommendation on optional tax percentage increase

**Output(s)**

The Commission will create recommendations to Council if needed to ensure that Measure GG funds are used to enhance the safety of the Berkeley community and remain within the definition, scope, and intentions of the original law.

**Outcomes**

With funds correctly allocated, the goal of Measure GG is maintained: keeping all fire stations in the city open 24-7 as well as improving community resilience through programs such as Berkeley Ready.

**5: HELP OTHER CITY ENTITIES INCORPORATE A DISASTER AND FIRE SAFETY PERSPECTIVE INTO DECISIONS**

**Resources**

Commissioners' time for research and recommendation creation

**Program Activities**

Respond to requests for input on matters relating to disaster and fire safety. Requests may come from City Council, City Staff, other Commissions, or the public.

- Examples of recent referrals:

- City Council referral for feedback on Ordinance to Improve Fire Safety Standards for Rebuilt Fire Damaged Structures
- City Council referral for feedback on Local Hazard Mitigation Plan
- Staff request for feedback on Draft Evacuation plan
- Provide input into Council decisions when decisions will affect disaster resilience or fire safety in Berkeley

**Output(s)**

Recommendations to City Council or communications with other city entities, often in response to referrals.

**Outcomes**

City Council will incorporate disaster preparedness considerations into decisions, leading to a safer and more resilient city.







Fair Campaign Practices Commission

INFORMATION CALENDAR  
July 9, 2019

To: Honorable Mayor and Members of the City Council

From: Fair campaign Practices Commission

Submitted by: Dean Metzger, Chairperson, Fair campaign Practices Commission

Subject: Fair Campaign Practices Commission 2019 - 2020 Work Plan

INTRODUCTION

The Fair campaign Practices Commission (FCPC) has updated its work plan, which outlines Commission objectives for the upcoming fiscal year. This work plan includes researching and gathering information; reviewing BERA public financing amendments, streamlining and adjusting regulations for public financing, receive due process training for hearing complaints, review procedures for submitting proposals to the City Council, studying creation of an Ethics Commission that would combine the Open Government Commission and the Fair Campaign Practices Commission, Look into procedures that would reduce the number of pages printed in the commission packet, Review and revise procedures for reviewing and hearing complaints of BERA violations.

CURRENT SITUATION AND ITS EFFECTS

At the regular meeting on April 18, 2019, the Fair campaign Practices Commission unanimously approved the work plan, which will be used to guide the Commission's work throughout the year.

M/S/C (Blome/Smith) to accept work plan as submitted and to prepare and submit an Information Report to City Council.

Ayes: O'Donnell, Saver, Napoli, Smith, Blome, Tsui, Harper, Metzger

Noes: None

Absent: Mclean

BACKGROUND

See attached Work Plan.

ENVIRONMENTAL SUSTAINABILITY

No environmental impacts or opportunities were identified as a result of this recommendation.

POSSIBLE FUTURE ACTION

Based on Commission research and public hearings, new initiatives and recommendations to City Council may be submitted to City Council at such time deemed necessary.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

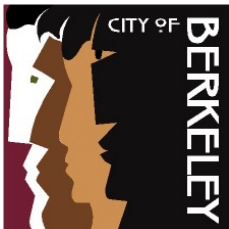
Rental of meeting rooms for subcommittee meetings - \$2000

CONTACT PERSON

Emmanuelle Soichet, Commission Secretary, City Attorney's Office  
(510) 981-6998

Dean Metzger, Chairperson, (510) 549-0379

Attachment: 1: Fair Campaign Practices Commission Work Plan



Fair campaign Practices Commission

Attachment 1

**Work Plan**  
**Approved April 18, 2019**

Research and gather information to report to City Council and support Commission's recommendations to City Council:

- a. Invite speakers to present relevant and current information regarding open government issues.
- b. Develop policies for recommendation to City Council to create additional ways to have a fair and open elections to encourage more candidates to run for city offices.
- c. Examine City's policies and practices regarding election issues.

Citizens participation in government:

Review and update the procedures that allow more participation.

Education:

Reach out to the community to encourage more participation in city government.

Subcommittees:

- a. Create subcommittees to examine ideas for streamlining the FCPC procedures.
- b. Create a robust forum for public participation in determining how election policy should be.
- c. Submit recommendations to Council based on information gathered from the public.





Open Government Commission

INFORMATION CALENDAR

July 9, 2019

To: Honorable Mayor and Members of the City Council

From: Open Government Commission

Submitted by: Dean Metzger, Chairperson, Open Government Commission

Subject: Open Government Commission 2019 - 2020 Work Plan

INTRODUCTION

The Open Government Commission has updated its work plan, which outlines Commission objectives for the upcoming fiscal year. This work plan includes researching and gathering information; reviewing council procedures, looking into the budgeting of an Ombudsman, reviewing Open Government legislation, studying creation of an Ethics Commission that would combine the Open Government Commission and the Fair Campaign Practices Commission and reviewing the procedures for communicating with the City Manager's Office.

CURRENT SITUATION AND ITS EFFECTS

At the regular meeting on April 18, 2019, the Open Government Commission unanimously approved the work plan, which will be used to guide the Commission's work throughout the year.

M/S/C (Harper/Blome) to accept work plan as submitted and to prepare and submit an Information Report to City Council.

Ayes: O'Donnell, Saver, Napoli, Smith, Blome, Tsui, Harper, Metzger

Noes: None

Absent: Mclean

BACKGROUND

See attached Work Plan.

ENVIRONMENTAL SUSTAINABILITY

No environmental impacts or opportunities were identified as a result of this recommendation.

POSSIBLE FUTURE ACTION

Based on Commission research and public hearings, new initiatives and recommendations to City Council may be submitted to City Council at such time deemed necessary.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Rental of meeting rooms for subcommittee meetings - \$2000

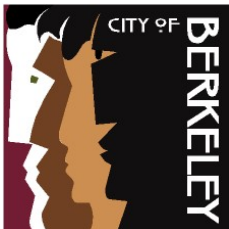
CONTACT PERSON

Emmanuelle Soichet, Commission Secretary, City Attorney's Office

(510) 981-6998

Dean Metzger, Chairperson, (510) 549-0379

Attachment: 1: Open Government Commission Work Plan



Open government Commission

Attachment 1

**Work Plan  
Approved April 18, 2019**

Research and gather information to report to City Council and support Commission's recommendations to City Council:

- a. Invite speakers to present relevant and current information regarding open government issues.
- b. Develop policies for recommendation to City Council to create additional ways to have a transparent and open government for all.
- c. Examine City's policies and practices regarding open government issues.

Citizens participation in government:

Review and update the procedures that allow more participation.

Education:

Reach out to the community to encourage more participation in city government.

Subcommittees:

- a. Create subcommittees to examine ideas for creating a more open government.
- b. Create a robust forum for public participation in determining what the open government policy should be.
- c. Submit recommendations to Council based on information gathered from the public.







Office of the City Manager

INFORMATION CALENDAR

July 9, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Emmanuelle Soichet, Secretary, Open Government Commission  
 Subject: Annual Report – Open Government Commission

INTRODUCTION

The Open Government Ordinance (“OGO”), Berkeley Municipal Code (“BMC”) Chapter 2.06, requires that the City Manager prepare an annual report to the Open Government Commission that contains at least the following information:

1. The number of Public Records Act (“PRA”) requests received by the City;
2. The average length of time taken to respond to those requests;
3. The approximate number of pages produced in response to those requests;
4. The number and resolution of all written complaints received by the City concerning its compliance with the PRA with respect to such requests;
5. The number and resolution of all complaints received by the City concerning its compliance with the Brown Act; and
6. Any other information the City Manager deems appropriate that relates to the City’s compliance with this Ordinance, the Brown Act, the PRA, or open and effective government in Berkeley.

BMC §2.06.190.C.

CURRENT SITUATION AND ITS EFFECTS

The annual report was presented to the Open Government Commission on May 16, 2019, at which time the Commission took the following action:

*Motion to approve document and send it to Council (M/S/C: Smith/Tsui; Ayes: Blome, Ching, McLean, Metzger, O’Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (leave of absence)).*

The annual report, as accepted by the Commission, is provided to the Council for its information.

BACKGROUND

This is the eighth report to the Commission. This report represents data from January 1, 2018 through December 31, 2018.

ENVIRONMENTAL SUSTAINABILITY

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

POSSIBLE FUTURE ACTION

None.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

None.

CONTACT PERSON

Farimah Brown, City Attorney, (510) 981-6998

Emmanuelle Soichet, Deputy City Attorney, (510) 981-6998

Attachment:

1. Report to Open Government Commission



Office of the City Manager

**DATE:** May 9, 2019

**TO:** OPEN GOVERNMENT COMMISSION

**FROM:** DEE WILLIAMS-RIDLEY, City Manager  
FARIMAH F. BROWN, City Attorney  
EMMANUELLE SOICHET, Commission Secretary

**SUBJECT:** 2018 ANNUAL REPORT UNDER BMC SECTION 2.06.190.C

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### **Introduction**

The Open Government Ordinance (“OGO”) (Berkeley Municipal Code (“BMC”) Chapter 2.06) requires that the City Manager prepare an annual report to the Open Government Commission that contains at least the following information:

1. The number of Public Records Act requests received by the City;
2. The average length of time taken to respond to those requests;
3. The approximate number of pages produced in response to those requests;
4. The number and resolution of all written complaints received by the City concerning its compliance with the Public Records Act with respect to such requests;
5. The number and resolution of all complaints received by the City concerning its compliance with the Brown Act; and
6. Any other information the City Manager deems appropriate that relates to the City’s compliance with this Ordinance, the Brown Act, the Public Records Act, or open and effective government in Berkeley.

(BMC §2.06.190.C.) This is the eighth annual report and covers the 2018 calendar year. Each topic specified in Berkeley Municipal Code section 2.06.190.C is addressed below.

2018 Annual Report to OGC

May 9, 2019

Page 2

As with past reports, in order to enable staff to capture and present the information required by Section 2.06.190.C, staff used the City's Customer Relations Management ("CRM") module software for PRA requests. Currently, there are 54 designated staff in 17 departments that use CRM to track PRA requests. For each entry, staff must complete 15 data fields, and update the entry several times based on the status of the request, including the date of the initial response, any documents obtained and paid for, as well as uploading the request or response letter when appropriate. This annual report is generated using the information inputted by these 54 City staff members.

## 1. Number of Public Records Act Requests Received by the City

The City received 5,526 PRA requests from January 1, 2018 to December 31, 2018. The 5,526 requests break down by department as follows: City Attorney (33), City Auditor (0), City Clerk (41), City Manager (16), Finance (50), Fire Department (16), Health, Housing & Community Services (6), Human Resources (12), Information Technology (14), Library (0), Parks (7), Planning (253), Police (4,721), Police Review Commission (0), Public Works (196), Rent Board (61), Multi-Department (100).<sup>1</sup>

## 2. Average Length of Time Taken to Respond to Public Records Act Requests

Of the 5,526 requests received, approximately 98.91 percent were fulfilled within the required time period (either 10 days or, with an extension, 24 days). Sixty (60) requests, or 1.09 percent, were fulfilled outside the required time frame. The average length of time taken to respond to the requesting party was 1.5 days.

The primary recipient of PRA requests was the Police Department, which received 85.4 percent of the City's PRA requests. Excluding the Police Department, all other City departments received 805 PRA requests in 2018, of which thirty (30) requests, or 3.73 percent were fulfilled outside the required time frame. Attached to this report as **Attachment A** is a list of the past due responses.

As detailed in Attachment A, the late responses break down by department as follows: City Attorney (0), City Auditor (0), City Clerk (0), City Manager (0), Finance (10), Fire Department (4), Health, Housing & Community Services (1), Human Resources (2), Information Technology (0), Library (0), Parks (2), Planning (6), Police (30), Police Review Commission (0), Public Works (2), Rent Board (0), Multi-Department (3). The majority of requests with late responses did not have enough case details to determine the contributing factors for why they were late. Other late responses were due to

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<sup>1</sup> These totals reflect the department where a PRA request originated or was initially assigned. Sometimes, however, a PRA request is reallocated to another department more appropriately suited to respond to the request. The breakdown of late responses (*infra*) does accurately reflect the final departments where requests were allocated, as City Attorney staff reviewed each of those database entries to compile this annual report.

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failures in determining the appropriate responding department, and failures in promptly creating cases in the CRM software.

On March 21, 2019, the Commission requested that staff consider providing a further break down, by department, of PRA requests that were responded to on the same day as the requests were made, and those that were responded to the following day or later. **Attachment B** is a table that presents this requested information. The Commission sought this information as a means of identifying (and removing from the statistical analysis) over-the-counter requests for reports from the Police Department, which are typically uploaded into the CRM in batches for convenience. The table in Attachment B shows why segregating by same-day responses is not a perfect means of achieving this goal, given that a number of City departments other than the Police Department responded to PRA requests on the same day. An alternative approach to segregating this data is to identify which PRA requests were “batch” uploads into the CRM and which PRA requests were individually entered into the system. Two departments uploaded PRAs into the CRM in batches – Police and Planning. The table in Attachment B provides this additional information.

As with past reports, the PRA numbers from the prior year are provided as a point of reference. The City received 5,783 PRA requests from January 1, 2017 to December 31, 2017. The 5,783 requests break down by department as follows: City Attorney (13), City Auditor (1), City Clerk (66), City Manager (16), Finance (50), Fire Department (63), Health, Housing & Community Services (8), Human Resources (22), Information Technology (4), Library (3), Parks (16), Planning (173), Police (4,933), Police Review Commission (1), Public Works (278), Rent Board (51), and Multi-Department (85).

Of the 5,783 requests received in 2017, approximately 98.73 percent were fulfilled within the required time period (either 10 days or, with an extension, 24 days). Seventy-three (73) requests, or 1.26 percent, were fulfilled outside the required time frame. Excluding PRA requests made to the Police Department, forty-six (46) requests, or 5.41 percent of requests to other City departments, were fulfilled outside the required time frame.

### **3. Approximate Number of Pages Produced in Response to Public Records Act Requests**

Approximately 67,318 pages of documents were produced in paper and electronic form. The City received \$16,663.80 in reimbursement during this period, primarily from charges of \$0.10 per page for printed copies. The City does not receive reimbursement for the many responsive documents provided in electronic format, as well as documents made available for review for which copies were not requested.

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**4. Number and Resolution of all Written Complaints Received by the City Concerning its Compliance with the Public Records Act**

No complaints were filed in 2018.

**5. Number and Resolution of all Written Complaints Received by the City Concerning its Compliance with the Brown Act**

No complaints were filed in 2018.

**6. Number and Resolution of all Written Complaints Received by the City Concerning its Compliance with the Open Government Ordinance**

No complaints were filed in 2018.

**7. Any Other Information the City Manager Deems Appropriate that Relates to the City's Compliance with the Open Government Ordinance, the Brown Act, or the Public Records Act**

Agenda Process

The agenda timelines required by the OGO have become standard procedure and are fully implemented and effective.

Council Meetings

The City Council scheduled 24 regular meetings, enough to meet the minimum number required in the OGO.

*Consent Items Rules.* On April 3, 2018, the City Council updated its Rules of Procedure and Order relating to items on the Council consent calendar. Previously, if a consent item had three or more public speakers, the item was automatically moved to the action calendar. At the April meeting, Council removed this limit on public speakers for consent items. As a result, consent items now can be moved to the action calendar only at the request of a Councilmember. The staff report on this Council item is available at:

[https://www.cityofberkeley.info/Clerk/City\\_Council/2018/04\\_Apr/Documents/2018-04-03\\_Item\\_19\\_Amending\\_the\\_Council\\_Rules\\_of\\_Procedure.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/04_Apr/Documents/2018-04-03_Item_19_Amending_the_Council_Rules_of_Procedure.aspx).

*New Meeting Location.* Beginning with the meeting on December 4, 2018, City Council meetings have permanently moved to the Berkeley Unified School District's board room at 1231 Addison Street. The new venue handles crowds double the size of the Council's previous meeting space in Old City Hall, while offering increased seismic safety and easier access for those with limited mobility. Zoning Adjustments Board meetings have also moved to the new location.

*Policy Committees.* On December 11, 2018, the City Council adopted a new "policy

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committee structure,” creating six standing committees to develop and review proposed legislation before it is considered by the full Council. Each policy committee is composed of three Councilmembers, must comply with the Brown Act, and is staffed by City departments. The committees are: Agenda; Budget and Finance; Facilities, Infrastructure, Transportation, Environment and Sustainability; Health, Life Enrichment, Equity, and Community; Land Use, Housing, and Economic Development; and Public Safety. The staff report on this Council item is available at:

[https://www.cityofberkeley.info/Clerk/City\\_Council/2018/12\\_Dec/Documents/2018-12-11\\_Item\\_C\\_Structure\\_for\\_City\\_Council.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/12_Dec/Documents/2018-12-11_Item_C_Structure_for_City_Council.aspx).

### OGC Referrals

*Lobbyist Registration and Revolving Door Ordinances.* On May 30, 2017, the City Council made a referral to the Open Government Commission regarding proposed amendments to modify the existing Revolving Door Restrictions in BMC 2.07.020, 2.07.030, 2.07.040, and 2.07.050 and language to add a Lobbyist Registration and Regulation ordinance as BMC Chapter 2.09. The Commission formed a subcommittee to examine this issue and present a report to the full Commission. At the January 18, 2018 meeting, the subcommittee presented a report to the Commission and the Commission discussed additional changes. At the June 21, 2018 meeting, the subcommittee presented a revised report to the Commission, which adopted the report with additional revisions. The Commission’s report was adopted by City Council with amendments on October 2, 2018.

*Timely Posting of Minutes.* At its September 21, 2017 meeting, the Commission received a complaint that the Loan Administration Board had not posted draft meeting minutes after its January meeting. At the Commission’s November 16, 2017 meeting, the Commission moved to make a recommendation to City Council regarding the timely posting of minutes. On April 22, 2018, Chair Metzger submitted a copy of the City Council item to the Commission Secretary. The City Council approved the recommendation at its July 24, 2018 meeting. (The change was also reflected in the updated Commissioners’ Manual approved in June 2018.)

*Supplemental/Revised Materials for Commission Meetings.* At its January 18, 2018 meeting, the Commission moved to propose changes to City processes to increase transparency around the late submission of agenda materials by commissioners. At its February 15, March 21, August 16, and September 20, 2018, meetings, the Commission discussed and refined possible recommendations to Council to adopt a resolution revising the Commissioners’ Manual. At its March 21, 2019, the Commission moved to adopt a report that make the recommendation that commissioners and board members be subject to the same requirements as members of the public when distributing written materials for City commission meetings. The Council report was submitted on May 7, 2019 for the June 11, 2019 Council meeting.

*Recommendation Regarding 2017 Annual Report.* On July 19, 2018, the Commission

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accepted and forwarded the 2017 Annual Report to City Council (M/S/C: Saver/Harper; Ayes: Smith, Metzger, Harper, O'Donnell, Saver, Soichet; Noes: None; Abstain: None; Absent: McLean (excused), Tsui (excused)). Council received and filed the report on September 25, 2018.

#### Public Records

All information required to be posted to the web pursuant to 2.06.140 has been posted and is regularly updated. The OGO web page was created as a single source of information for all the records and information required to be posted to the web under the OGO. It contains links to all the items required to be posted, communications to outside agencies, and the OGC Complaint Form. The Large document index is posted on the OGO web page and all items in the index have been catalogued at the Main Library.

The City Attorney's Office conducts trainings for City staff on the requirements of the California Public Records Act and how to properly respond to PRA requests. These trainings started in 2014 and are conducted on an as-needed basis. There were two trainings in 2018. The trainings are aimed at helping staff to properly identify a request for public records, fulfill the request in a legal and timely manner, and to track the requests in the City database.



|    | Department                           | Receipt Date | Due Date | 14 Day Ext. | Pri Fulfill Date | Sec Fulfill Date | Number of Days Late | Comments                               |  |
|----|--------------------------------------|--------------|----------|-------------|------------------|------------------|---------------------|----------------------------------------|--|
| 1  | Finance                              | 1/22/2018    | 02/01/18 | No          | 2/8/2018         |                  | 7                   | Response sent 2/8/18.                  |  |
| 2  | Finance                              | 3/5/2018     | 03/15/18 | No          | 3/23/2018        |                  | 8                   | Response sent 3/23/18.                 |  |
| 3  | Finance                              | 3/12/2018    | 03/22/18 | No          |                  |                  | 365+                | Case is still open as of 4/22/19.      |  |
| 4  | Finance                              | 4/5/2018     | 04/15/18 | No          | 4/19/2018        |                  | 4                   | Response sent 4/19/18.                 |  |
| 5  | Finance                              | 4/17/2018    | 04/27/18 | No          | 4/30/2018        |                  | 3                   | Response sent 4/30/18.                 |  |
| 6  | Finance                              | 5/18/2018    | 05/28/18 | No          | 5/30/2018        |                  | 2                   | Response sent 5/30/18.                 |  |
| 7  | Finance                              | 5/30/2018    | 06/11/18 | No          | 7/5/2018         |                  | 24                  | Response sent 7/5/18                   |  |
| 8  | Finance                              | 10/29/2018   | 11/08/18 | No          | 11/13/2018       |                  | 5                   | Request sent 11/13/18.                 |  |
| 9  | Finance                              | 12/4/2018    | 12/14/18 | No          | 12/17/2018       |                  | 3                   | Response sent 12/17/18.                |  |
| 10 | Finance                              | 12/13/2018   | 12/24/18 | No          |                  |                  | 119+                | Case is still open as of 4/22/19.      |  |
| 11 | Fire Department                      | 7/17/2018    | 07/27/18 | No          | 8/21/2018        |                  | 25                  | Response sent on 8/21/18.              |  |
| 12 | Fire Department                      | 8/17/2018    | 08/27/18 | No          | 9/11/2018        |                  | 15                  | Response sent 9/11/18.                 |  |
| 13 | Fire Department                      | 11/2/2018    | 11/12/18 | No          | 12/10/2018       |                  | 28                  | Response sent 12/10/18.                |  |
| 14 | Fire Department                      | 11/21/2018   | 12/02/18 | No          | 12/7/2018        |                  | 5                   | Response sent 12/7/18.                 |  |
| 15 | Health, Housing & Community Services | 4/25/2018    | 05/06/18 | No          | 5/11/2018        |                  | 5                   | Response sent 5/11/18.                 |  |
| 16 | Human Resources                      | 9/14/2018    | 09/24/18 | No          | 9/28/2018        |                  | 4                   | Response sent 9/28/18.                 |  |
| 17 | Human Resources                      | 4/23/2018    | 05/03/18 | No          | 5/4/2018         |                  | 1                   | Response sent 5/4/18.                  |  |
| 18 | Parks                                | 6/12/2018    | 06/25/18 | No          | 6/26/2018        |                  | 1                   | Response sent 6/26/18.                 |  |
| 19 | Parks                                | 8/31/2018    | 09/10/18 | No          | 9/13/2018        |                  | 3                   | Response sent 9/13/18.                 |  |
| 20 | Planning                             | 4/23/2018    | 05/03/18 | No          | 5/16/2018        |                  | 13                  | Response sent 5/16/18.                 |  |
| 21 | Planning                             | 9/5/2018     | 09/17/18 | No          | 9/18/2018        |                  | 1                   | Response sent 9/18/18.                 |  |
| 22 | Planning                             | 11/12/2018   | 11/22/18 | No          | 12/3/2018        |                  | 11                  | Response sent 12/3/18.                 |  |
| 23 | Planning                             | 12/19/2018   | 12/31/18 | No          | 1/2/2019         | 2/5/2019         | 2                   | Response sent 1/2/19.                  |  |
| 24 | Planning                             | 12/11/2018   | 12/21/18 | No          | 12/27/2018       | 1/16/2019        | 6                   | Response sent 12/27/18.                |  |
| 25 | Planning                             | 5/25/2018    | 06/03/18 | No          | 6/5/2018         |                  | 2                   | Response sent 6/5/18.                  |  |
| 26 | Police                               | 2/1/2018     | 02/13/18 | No          | 2/22/2018        |                  | 9                   | Response sent 2/22/18.                 |  |
| 27 | Police                               | 2/5/2018     | 02/15/18 | No          | 2/21/2018        |                  | 6                   | Response sent 2/21/18.                 |  |
| 28 | Police                               | 2/5/2018     | 02/15/18 | No          | 2/21/2018        |                  | 6                   | Response sent 2/21/18.                 |  |
| 29 | Police                               | 2/5/2018     | 02/15/18 | No          | 2/21/2018        |                  | 6                   | Response sent 2/21/18.                 |  |
| 30 | Police                               | 2/5/2018     | 02/15/18 | No          | 2/22/2018        |                  | 7                   | Response sent 2/22/18.                 |  |
| 31 | Police                               | 2/5/2018     | 02/15/18 | No          | 2/22/2018        |                  | 7                   | Response sent 2/22/18.                 |  |
| 32 | Police                               | 2/5/2018     | 02/15/18 | No          | 2/22/2018        |                  | 7                   | Response sent 2/22/18.                 |  |
| 33 | Police                               | 2/5/2018     | 02/15/18 | No          | 2/22/2018        |                  | 7                   | Response sent 2/22/18.                 |  |
| 34 | Police                               | 2/27/2018    | 03/09/18 | No          | 3/23/2018        |                  | 14                  | Response sent 3/23/18.                 |  |
| 35 | Police                               | 3/5/2018     | 03/29/18 | Yes         | 4/18/2018        |                  | 20                  | Response sent 4/18/18.                 |  |
| 36 | Police                               | 3/21/2018    | 04/02/18 | No          | 4/24/2018        |                  | 22                  | Response sent 4/24/18.                 |  |
| 37 | Police                               | 3/28/2018    | 04/09/18 | No          | 4/12/2018        |                  | 3                   | Response sent 4/12/18.                 |  |
| 38 | Police                               | 4/6/2018     | 04/16/18 | No          | 4/24/2018        |                  | 8                   | Response sent 4/24/18.                 |  |
| 39 | Police                               | 4/6/2018     | 04/16/18 | No          | 7/12/2018        |                  | 87                  | Awaited response from Department Head. |  |
| 40 | Police                               | 5/7/2018     | 05/19/18 | No          | 7/12/2018        |                  | 54                  | No response confirmed.                 |  |
| 41 | Police                               | 5/15/2018    | 05/25/18 | No          | 8/6/2018         |                  | 73                  | Response sent 8/6/18.                  |  |
| 42 | Police                               | 5/30/2018    | 06/11/18 | No          | 7/25/2018        |                  | 44                  | Response sent 7/25/18.                 |  |
| 43 | Police                               | 6/6/2018     | 06/18/18 | No          | 6/20/2018        |                  | 2                   | Response sent 6/20/18.                 |  |
| 44 | Police                               | 6/21/2018    | 07/02/18 | No          | 7/12/2018        |                  | 10                  | Response sent 7/12/18.                 |  |
| 45 | Police                               | 7/18/2018    | 07/30/18 | No          | 8/6/2018         |                  | 7                   | Response sent 8/6/18.                  |  |
| 46 | Police                               | 7/24/2018    | 08/03/18 | No          | 8/9/2018         |                  | 6                   | Response sent 8/9/18.                  |  |
| 47 | Police                               | 7/25/2018    | 08/06/18 | No          | 8/9/2018         |                  | 3                   | Response sent 8/9/18.                  |  |
| 48 | Police                               | 8/9/2018     | 08/20/18 | No          | 9/11/2018        |                  | 22                  | Response sent 9/11/18.                 |  |
| 49 | Police                               | 8/9/2018     | 08/20/18 | No          | 8/24/2018        |                  | 4                   | Response sent 8/24/18.                 |  |
| 50 | Police                               | 10/19/2018   | 10/29/18 | No          | 11/2/2018        |                  | 4                   | Response sent 11/2/18.                 |  |
| 51 | Police                               | 10/29/2018   | 11/08/18 | No          | 11/9/2018        |                  | 1                   | Response sent 12/14/18.                |  |

|    | Department       | Receipt Date | Due Date | 14 Day Ext. | Pri Fulfill Date | Sec Fulfill Date | Number of Days Late | Comments                                                                  |  |
|----|------------------|--------------|----------|-------------|------------------|------------------|---------------------|---------------------------------------------------------------------------|--|
| 52 | Police           | 10/26/2018   | 11/05/18 | No          | 11/9/2018        |                  | 4                   | Response sent 11/9/18.                                                    |  |
| 53 | Police           | 11/16/2018   | 11/26/18 | No          | 12/3/2018        |                  | 7                   | Response sent 12/3/18.                                                    |  |
| 54 | Police           | 11/19/2018   | 11/29/18 | No          | 12/3/2018        |                  | 4                   | Response sent 12/3/18.                                                    |  |
| 55 | Police           | 11/20/2018   | 11/30/18 | No          | 12/10/2018       |                  | 10                  | Response sent 12/10/18.                                                   |  |
| 56 | Public Works     | 1/11/2018    | 01/22/18 | No          | 6/14/2018        |                  | 143                 | Delay in reallocating to department queue.                                |  |
| 57 | Public Works     | 11/6/2018    | 11/16/18 | No          | 11/27/2018       |                  | 11                  | Response sent 11/27/18.                                                   |  |
| 58 | Multi-Department | 4/9/2018     | 07/09/18 | No          | 7/11/2018        |                  | 2                   | Staff was delayed in creating case in Lagan and/or forwarding to liaison. |  |
| 59 | Multi-Department | 8/10/2018    | 08/20/18 | Yes         | 9/4/2018         |                  | 15                  | Staff was delayed in creating case in Lagan and/or forwarding to liaison. |  |
| 60 | Multi-Department | 12/6/2018    | 12/16/18 | No          | 12/18/2018       | 12/19/2018       | 2                   | Response sent 12/18/18.                                                   |  |

## Public Record Act (PRA) Requests in 2018 by Department

|                                 | Two or more Days               |                                    |                                           |                        |                        |                          | Non-Batch PRAs                  |                                     |                        |                        |                          |
|---------------------------------|--------------------------------|------------------------------------|-------------------------------------------|------------------------|------------------------|--------------------------|---------------------------------|-------------------------------------|------------------------|------------------------|--------------------------|
|                                 | Total<br>Number of<br>Requests | Number of<br>Same Day<br>Responses | Number of<br>Non-Same<br>Day<br>Responses | # of Late<br>Responses | % of Late<br>Responses | Median # of<br>Days Late | Number of<br>Batch<br>Responses | Number of<br>Non-Batch<br>Responses | # of Late<br>Responses | % of Late<br>Responses | Median # of<br>Days Late |
| <b>TOTAL</b>                    | 5,526                          | 4,910                              | 616                                       | 60                     | 9.74%                  | 6                        | 4,828                           | 698                                 | 60                     | 8.60%                  | 6                        |
| City Attorney                   | 33                             | 8                                  | 25                                        | 0                      | 0%                     | 0                        | 0                               | 33                                  | 0                      | 0%                     | 0                        |
| City Auditor                    | 0                              | 0                                  | 0                                         | 0                      | 0%                     | 0                        | 0                               | 0                                   | 0                      | 0%                     | 0                        |
| City Clerk                      | 41                             | 7                                  | 34                                        | 0                      | 0%                     | 0                        | 0                               | 41                                  | 0                      | 0%                     | 0                        |
| City Manager                    | 16                             | 0                                  | 16                                        | 0                      | 0%                     | 0                        | 0                               | 16                                  | 0                      | 0%                     | 0                        |
| Finance                         | 50                             | 4                                  | 46                                        | 10                     | 21.74%                 | 6                        | 0                               | 50                                  | 10                     | 20%                    | 6                        |
| Fire Department                 | 16                             | 1                                  | 15                                        | 4                      | 26.67%                 | 20                       | 0                               | 16                                  | 4                      | 25%                    | 20                       |
| Health Housing & Comm. Services | 6                              | 1                                  | 5                                         | 1                      | 20%                    | 5                        | 0                               | 6                                   | 1                      | 16.67%                 | 5                        |
| Human Resources                 | 12                             | 0                                  | 12                                        | 2                      | 16.67%                 | 3                        | 0                               | 12                                  | 2                      | 16.67%                 | 3                        |
| Information Technology          | 14                             | 1                                  | 13                                        | 0                      | 0%                     | 0                        | 0                               | 14                                  | 0                      | 0%                     | 0                        |
| Library                         | 0                              | 0                                  | 0                                         | 0                      | 0%                     | 0                        | 0                               | 0                                   | 0                      | 0%                     | 0                        |
| Parks                           | 7                              | 0                                  | 7                                         | 2                      | 28.57%                 | 2                        | 0                               | 7                                   | 2                      | 28.57%                 | 2                        |
| Planning                        | 253                            | 201                                | 52                                        | 6                      | 11.54%                 | 4                        | 196                             | 57                                  | 6                      | 10.53%                 | 4                        |
| Police                          | 4721                           | 4641                               | 80                                        | 30                     | 37.50%                 | 7                        | 4632                            | 89                                  | 30                     | 33.71%                 | 7                        |
| Police Review Commission        | 0                              | 0                                  | 0                                         | 0                      | 0%                     | 0                        | 0                               | 0                                   | 0                      | 0%                     | 0                        |
| Public Works                    | 196                            | 39                                 | 157                                       | 2                      | 1.27%                  | 77                       | 0                               | 196                                 | 2                      | 1.02%                  | 77                       |
| Rent Board                      | 61                             | 2                                  | 59                                        | 0                      | 0%                     | 0                        | 0                               | 61                                  | 0                      | 0%                     | 0                        |
| Multi-Department                | 100                            | 5                                  | 95                                        | 3                      | 3.16%                  | 2                        | 0                               | 100                                 | 3                      | 3%                     | 2                        |

Source: Customer Relations Management module software.





# Communications

All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

## **City Clerk Department**

2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

## **Records Online**

<http://www.cityofberkeley.info/recordsonline>

To search for communications associated with a particular City Council meeting using Records Online:

1. Select Search Type = “Public – Communication Query (Keywords)”
2. From Date: Enter the date of the Council meeting
3. To Date: Enter the date of the Council meeting (this may match the From Date field)
4. Click the “Search” button
5. Communication packets matching the entered criteria will be returned
6. Click the desired file in the Results column to view the document as a PDF