



CITY COUNCIL  
Linda Maio

CONSENT CALENDAR  
May 30, 2017

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Linda Maio, Mayor Jesse Arreguin, and  
Councilmembers Sophie Hahn and Ben Bartlett

SUBJECT: Establish Socially Responsible Investment Policies

RECOMMENDATION:

Adopt a Resolution establishing City of Berkeley policies that ensure investments and service contracts are with socially responsible entities. The City Council and the Mayor's Responsible Banking Task Force will work with the City Manager to develop a comprehensive list of criteria defining socially responsible banking, which will be included in a banking services RFP, to be published by December 2017. The City of Berkeley will extend the current banking services contract with Wells Fargo Bank only through May 2018 and the City Manager will return to Council with semi-annual progress reports on establishing new banking services contracts from institutions that reflect responsible banking policies.

BACKGROUND:

In 2016 it was widely reported that Wells Fargo opened bank and credit card accounts for unsuspecting clients without their knowledge. Wells was placed under a Consent Order finding that it had opened 1,534,280 potentially fraudulent deposit accounts or transferred funds from existing accounts without clients' knowledge and consent. In addition, Wells Fargo has been engaged in financing the private prison industrial complex and the Dakota Access Pipeline. These practices are of great concern. Since we learned of these practices our banking services contract with Wells Fargo was reduced markedly, at Council request, and we are assured we will terminate as soon as possible. Wells Fargo will have to compete with other banks as we seek new services and our criteria for selection must be clear and consistent with the City's articulated values. This item emphasizes the need for clear and coherent policies that ensure the City's investments reside with ethical institutions and those with socially responsible values, and expresses its intent to disengage from Wells Fargo Bank as soon as possible. A request for a report back to Council on disengagement is included.

ENVIRONMENTAL SUSTAINABILITY:

Directs Berkeley toward more environmentally sustainable and ethical banking.

FINANCIAL IMPLICATIONS:

None.

CONTACT:

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Mayor Jesse Arreguin 510-981-7100

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

DECLARING THE CITY OF BERKELEY'S POLICY NOT TO DO BUSINESS WITH FINANCIAL INSTITUTIONS THAT EMPLOY UNETHICAL PRACTICES, INVEST IN ENVIRONMENTALLY UNSUSTAINABLE ENDEAVORS AND PRACTICES THAT UNDERMINE THE HEALTH AND RIGHTS OF INDIGENOUS PEOPLE AND THOSE OF DISADVANTAGED POPULATIONS, AND TO END ALL FINANCIAL RELATIONSHIPS WITH WELLS FARGO

WHEREAS, the City of Berkeley passed a fossil fuel divestment policy enacted July 1, 2013<sup>1</sup>, making Berkeley the first city in the nation to formally adopt an official policy to divest current and future funds from 200 fossil fuel-producing companies; and

WHEREAS, in September of 2016, the City of Berkeley passed a Resolution in support of Standing Rock Sioux Tribe's opposition to the construction of the Dakota Access Pipeline<sup>2</sup>; and

WHEREAS, in January 2012<sup>3</sup> and January 2017<sup>4</sup> the City of Berkeley approved two statements on responsible banking policies calling for the city manager and staff to look into the process of moving the City's funds out of Wells Fargo Bank; and

WHEREAS, the Berkeley City Council also passed Resolution 65,436-N.S. in 2011, adopting the Statement of Investment Policies for the City of Berkeley, including Item 4 of Investment Objectives, entitled "Responsible Investing". This item stipulates the prohibition of doing business with oppressive states, of investment in nuclear arms, and divestment from gun manufacturers, tobacco companies, and publicly traded fossil fuel companies<sup>5</sup>; and

WHEREAS, in September 2015 the City of Oakland sued Wells Fargo over allegations of predatory lending when Wells Fargo targeted Oakland's African-American and Hispanic residents, along with minority churches and congregations, for loans that were more expensive and higher risk than those regularly made to white borrowers<sup>6</sup>; and

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<sup>1</sup> [http://www.ci.berkeley.ca.us/.../2013-04-30\\_Item\\_20\\_Divesting\\_from\\_Publicly.aspx](http://www.ci.berkeley.ca.us/.../2013-04-30_Item_20_Divesting_from_Publicly.aspx)

<sup>2</sup> [http://www.cityofberkeley.info/Clerk/City\\_Council/2016/09\\_Sep/City\\_Council\\_09-27-2016\\_-\\_Regular\\_Meeting\\_Agenda.aspx](http://www.cityofberkeley.info/Clerk/City_Council/2016/09_Sep/City_Council_09-27-2016_-_Regular_Meeting_Agenda.aspx)

<sup>3</sup> [http://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_City\\_Council/2012/01Jan/Item%2011\(1\).pdf](http://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/2012/01Jan/Item%2011(1).pdf)

<sup>4</sup> [http://www.cityofberkeley.info/Clerk/City\\_Council/2017/01\\_Jan/City\\_Council\\_\\_01-24-2017\\_-\\_Regular\\_Meeting\\_Agenda.aspx](http://www.cityofberkeley.info/Clerk/City_Council/2017/01_Jan/City_Council__01-24-2017_-_Regular_Meeting_Agenda.aspx)

<sup>5</sup> Annual Investment Report, Revisions to Investment Policies and ...Jul 8, 2014 ... Adopt a Resolution accepting the Annual Investment Report, accepting .... 65,436 -N.S. dated September 20, 2011, the City Council ..... Purchases of such corporate notes as mortgage pass through, collateralized mortgage. [www.cityofberkeley.info/.../2014-07-08\\_Item\\_03\\_Annual\\_Investment\\_Report.aspx](http://www.cityofberkeley.info/.../2014-07-08_Item_03_Annual_Investment_Report.aspx)

Annual Investment Report, Revisions to Investment ... - City of Berkeley Jul 2, 2013 ... Adopt a Resolution accepting the Annual Investment Report, accepting the changes to .... 65,436-N.S. dated September 20, 2011, the City Council adopted the ..... For example, although Mortgage Pass through securities are. [https://www.cityofberkeley.info/.../2013-07-02\\_Item\\_02\\_Annual\\_Investment\\_Report.aspx](https://www.cityofberkeley.info/.../2013-07-02_Item_02_Annual_Investment_Report.aspx)

<sup>6</sup> <http://www.bizjournals.com/sanfrancisco/blog/2015/09/wells-fargo-oakland-lawsuit-predatory-lending-wfc.html>

WHEREAS, since 2011, Wells Fargo Bank has created more than two million unauthorized bank and credit accounts. These actions were the subject of Congressional Hearings in the U.S. Senate and in the House of Representatives. On September 4, 2016, the Consumer Financial Protection Bureau (CFPB) placed Wells Fargo under a Consent Order related to its unfair consumer practices<sup>7</sup>. People of color, indigenous people, the elderly, the poor and the undocumented were among the targets of these schemes, adversely affecting the credit ratings of many victims. Because of the controversy surrounding this scandal, Wells Fargo Bank terminated 5,300 lower paid workers, while not one executive was held responsible<sup>8</sup>; and

WHEREAS, Wells Fargo acted as the issuing lender for a \$900 million credit line to Correction Corporation of America (now known as CoreCivic Inc.) a private prison industry leader, and as a syndication agent to the GEO group's \$900 million credit line, hence playing a crucial role in the mass incarceration of immigrants and people of color; and

WHEREAS, the City of Berkeley passed a resolution on July of 2016, to divest from private prisons because it is well-documented that private prison companies have a history of human rights abuses<sup>9</sup>. The AFSC<sup>10</sup>, the Marshall Project, In the Public Interest (ITPI) and other independent investigators have documented extensive human rights violations inside these prisons and practices that exploit prisoners for profits; and

WHEREAS, Wells Fargo Bank has \$120 million invested directly in the Dakota Access Pipeline project in North Dakota<sup>11</sup>. The Dakota Access Pipeline is another egregious example of the U.S. government and corporations violating treaty obligations and tribal sovereignty, allowing hazardous, environmentally destructive activities on tribal lands with irreversible impacts on cultural places, the health and wellbeing of all people, and the environment; and

WHEREAS, the City of Berkeley has already, in 2017, reduced banking services from Wells Fargo.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Berkeley will extend its banking contract and any other financial instruments it holds with Wells Fargo only through May 2018 and will include criteria in new Requests for Banking Proposals (RFP) requiring bidders to adhere to fair, socially, and environmentally responsible banking. Criteria for socially responsible banking in the RFP that is developed by the Mayor's Responsible Banking Task Force will be considered and incorporated into the RFP; and

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City of Oakland sues Wells Fargo over allegations of predatory lending

<sup>7</sup> [http://files.consumerfinance.gov/f/documents/092016\\_cfpb\\_WFBconsentorder.pdf](http://files.consumerfinance.gov/f/documents/092016_cfpb_WFBconsentorder.pdf)

<sup>8</sup> <http://chdirt.com/articles/20160908/17582535469/holy-crap-wells-fargo-has-to-fire-5300-employees-scam-billing.shtml>

<sup>9</sup> <http://records.cityofberkeley.info/Agenda/Meetings/ViewMeeting?id=193&doctype=1>

<sup>10</sup> <http://investigate.afsc.org/>

<sup>11</sup> <https://stories.wf.com/wells-fargos-involvement-funding-dakota-access-pipeline/>

BE IT FURTHER RESOLVED that the responsible banking criteria for the RFP will include explicit exclusion from bidding of any financial institution that has engaged in:

- Supporting, servicing, or constructing fossil fuel infrastructure projects and other environmentally extractive practices
- Supporting, servicing, or constructing privately owned prisons
- Discriminatory consumer and small business lending and servicing based on the federally protected classes established under the Civil Rights Act of 1964
- Fraudulent misconduct against clients, investors, debt holders, transactional counterparties, or the broader public.

This includes providing financial support to or investing in the above practices as well as serving as financial conduit or counterparty (swap agreements, escrow) to engaging in these practices.

BE IT FURTHER RESOLVED that The City finds it a priority to protect the City's interests and the public's trust by conducting City business with partners that are committed to and consistently demonstrate engaging in fair and responsible business practices.

BE IT FURTHER RESOLVED that the general purpose and intent of this action is to ensure that the City of Berkeley's contracting practices support partners who are engaging in fair and responsible business practices and avoid conducting City business with partners that engage in criminal or systematic deceptive, fraudulent, or abusive business practices.