



Office of the City Manager

February 20, 2024

To: Honorable Mayor and Members of the City Council  
From: *DWR* Dee Williams-Ridley, City Manager  
Re: Eighth St and Harrison St Encampment Efforts

The purpose of this memo is to inform the Council that the City's Homeless Response Team (HRT) will be temporarily suspending efforts to resolve the remaining encampments in and around the intersection of Eighth St and Harrison St in Northwest Berkeley until the Court proceedings in two pending cases against the City at this encampment (*Prado* and *Parnell*) give us more insight and direction.

The memo provides background and rationale behind this difficult decision.

The HRT strives to assist people who are homeless primarily through guiding them to housing (interim or permanent) and supportive services, while also ensuring the conditions of their encampments are as safe and clean as possible. The encampments in and around 8<sup>th</sup> and Harrison Streets in Northwest Berkeley have persistently posed serious health and safety concerns to the residents of the encampments as well as their neighbors, who include both residents and merchants. They have also contributed to public infrastructure damage (damaged and inoperable street lights, damaged sidewalks and street tree wells, dead or dying city trees, etc.) in the area. The HRT's strategy to resolve this challenging situation is laid out in greater detail below, and has included providing direct access to motels and other indoor solutions, cleaning the area regularly, and attempting to prevent re-encampment and a re-creation of the same problematic concerns and conditions so that infrastructure repairs and construction can commence.

The decision to temporarily pause this work will free up resources to more proactively address encampment concerns elsewhere in Berkeley. We will offer interim housing to those who are willing to accept it, and those areas can be more effectively be maintained for a complete resolution.

### BACKGROUND

The encampments in this corridor of the city have, for several years, posed both very dangerous living conditions for the people living in them, and serious impacts to the neighboring businesses, residents, and general public. For years, the City has offered a wide range of both service opportunities and enforcement attempts at this encampment

to foster safer and healthier conditions. (Both the persistent concerns and our efforts to mitigate them are documented in Attachment 1 to this memo.) However, a number of significant external challenges have consistently hindered the City's ability to permanently resolve this encampment, including an ever-shifting and uncertain legal landscape in the wake of Ninth Circuit's *Martin v. City of Boise* decision<sup>1</sup>; suspension of encampment enforcement pursuant to CDC guidance during the height of the global COVID-19 pandemic<sup>2</sup>; and federal Coordinated Entry guidance regulating the prioritization of limited permanent supportive housing that is silent on the impacts of encampments.<sup>3</sup> At the same time, and largely due to the presence of the encampment, the corridor has seen significant damage to public infrastructure, (including inoperable city streetlights; damaged city sidewalks; damaged tree wells and dead or dying city street trees) that have gone unrepaired.

In February 2023, the Neighborhood Services Division in the City Manager's Office applied for, and was awarded, a State of California Encampment Resolution Fund grant that enabled the City to master lease the Super 8 motel at 1619 University Avenue as a non-congregate shelter destination for individuals in this encampment. Over the spring and early summer, Neighborhood Services conducted an extensive survey of the encampments in the area, generating a census of 51 people living there, and between May and July 2023, the Homeless Response Team conducted three community meetings with the residents, advocates, and service providers in this encampment to explain our plans to target the new Super 8 motel to this encampment and eventually resolve the encampment to perform the infrastructure repairs. In August 2023, the program opened its doors and residents began moving into the shelter.

However, despite having non-congregate shelter beds dedicated to this encampment, nearly every effort that the City has made to resolve portions of the encampment have been met with significant opposition and/or legal challenges:

- On August 22, 2023, the City attempted to resolve the encampments in and along the northernmost part of 8<sup>th</sup> St and Codornices Creek from 8<sup>th</sup> St to 6<sup>th</sup> St, in accordance with pending construction in the area by the City of Albany; opponents pitched a "sit-in" and the closure was only partially completed (the Creek remains encamped to this day).

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<sup>1</sup> See: <https://cases.justia.com/federal/appellate-courts/ca9/15-35845/15-35845-2019-04-01.pdf?ts=1554138051>

<sup>2</sup> See: <https://stacks.cdc.gov/view/cdc/107838>

<sup>3</sup> See <https://files.hudexchange.info/resources/documents/Coordinated-Entry-Core-Elements.pdf>. In 2023, recognizing the insufficiency of this federal guidance with respect to dangerous encampments, the City of Berkeley sponsored a change in State law, [AB 1285](#) (Wicks), and pressed the Alameda County Continuum of Care (CoC) to prioritize the Harrison St encampments for permanent supportive housing, in a formal memo to the CoC (included here as Attachment 2). On November 8, a subcommittee of the CoC's Leadership Board voted 7-1 to deny Berkeley's recommendation to prioritize this encampment (see agenda item 7 in the [Nov 8, 2023 minutes of the Outreach, Access, and Coordination Committee](#)).

- On September 6, 2023, and in response to a formal declaration of the area as an imminent hazard and an order for summary abatement by the City Manager (see Attachment 1), the City attempted to abate the public health and safety hazards on Harrison St between 7<sup>th</sup> St and 8<sup>th</sup> St. In response, advocates and residents in the encampment, in collaboration with East Bay Community Law Center and Disability Rights Advocates, filed a lawsuit (*Prado v. City of Berkeley*) and were granted a temporary restraining order (TRO), enjoining the city from action. The TRO was eventually lifted on September 27, but the numerous conditions simultaneously imposed by the Judge posed significant implementation challenges for the city, such that this health and safety abatement could not be completed until November 7, 2023. Meanwhile, the *Prado* case is pending.
- On November 14, 2023, the City attempted to resolve the encampments along Harrison St from 7<sup>th</sup> to 8<sup>th</sup>, but was met with another TRO less than 24 hours before the planned operation. This had the effect of delaying the operation until December 5.
- On December 12, the City planned an operation to resolve the encampments along 8<sup>th</sup> St and along Harrison St from 8<sup>th</sup> to 9<sup>th</sup>, both to continue clearing the area for planned street construction as well as to enable adjacent parcel owners to construct a privately-financed fence. Hours into the operation, the City learned that another lawsuit (*Parnell v. City of Berkeley*) and order to cease and desist had been issued, forcing the City to suspend plans to fence the areas that had been closed that morning (which were re-encamped within minutes of the court's order).
- Between the November 7, 2023 abatement operation and the date of this memo, the temporary fencing designating the area as a pending construction zone has been breached, and the area behind the fencing re-encamped, on several occasions, sometimes within hours of the City's putting it up.

### DECISION AND RATIONALE

**The Homeless Response Team has made the decision to temporarily suspend future efforts to resolve the encampments in this area until the Court proceedings in the two pending cases against the City at this encampment (*Prado* and *Parnell*) give us more insight and direction.** Because the timing is ultimately in the hands of the Court, we are unable to offer a timeline for when closure, and ultimately the street construction efforts they will precede, can continue. We will continue to serve the people living in these encampments with outreach and service offers; move those who wish to move into shelter indoors, in accordance with available resources; and perform regular clean-ups in the area to manage the footprint of the encampment. These latter efforts are ongoing and they will not stop now.

The rationale for this difficult decision is as follows:

- Each of these resolution operations required numerous hours of intricate legal, operational, and tactical planning by staff across numerous city departments, and pursuant to numerous case laws, required advanced written notice and careful

planning on how to sort and store each person's belongings. Despite all this planning, staff have been met three times with Court orders to cease, hours before or even during the operation, effectively rendering planning efforts moot. If and when the operations do take place, each operation has been a physically and emotionally taxing endeavor for HRT staff, with many hours in the field amidst vehement protest opposition. However, sometimes within days or even hours of completing an operation, the area is re-encamped and/or fencing has been breached and destroyed, putting the City back at square one. We simply do not have the staffing resources to continue these efforts indefinitely.

- The City has, since the inception of the Homeless Response Team in September 2021, focused the majority of its time and efforts in the Gilman District. More specifically:
  - Since September 2021, the Homeless Response Team has performed **106** encampment operations, including closures, deep cleanings, and vehicular enforcement. **28%** of all interventions have occurred in the Gilman District.
  - Since September 2021, the Homeless Response Team has removed **998,060** pounds of debris from encampments around the City. **22%** has come from the Gilman District.
  - Since September 2021, the Homeless Response Team has made **657** offers of shelter/interim housing to people in encampments. **35%** of all offers have been given to people living in the Gilman District.

The amount of time, resources, and effort given to this area have been immense—frankly, they have exceeded what a City of our size, considered by the State too small to be eligible for direct State homelessness funding, could reasonably be expected to provide. But there are numerous other encampments around the city, including in other historically redlined areas of West and South Berkeley, that need our attention and resources as well.

- The District Court has repeatedly required that we hold non-congregate shelter beds open for any closure of these encampments, even though our offers of shelter have been continuously declined, and congregate housing is available. It is unethical to continue to withhold vacant beds from people in other areas of the City who might benefit from them now. (Of lesser importance, beds at the Super 8 motel are paid for by a State grant with aggressive expenditure deadlines, and continuing to keep the beds vacant jeopardizes compliance with the deadlines.)
- The Homeless Response Team is a multi-disciplinary, multi-departmental team comprised of staff from numerous departments, including Neighborhood Services; Police; Public Works; Health, Housing and Community Services; Parks, Recreation, and Waterfront; and others as needed. Notably, the HRT is not sufficiently budgeted to pay for dedicated encampment staff from each of these departments; to staff a major encampment operation, the HRT relies on the same Police officers who respond to violent calls for service across the City and the same Public Works staff who perform street construction work. With vacancies in each of these departments hovering at 1 in 5 positions, we do not have the staff

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Re: Harrison Street Corridor Encampments

to perform more than a handful of encampment operations every month, and other health and safety concerns elsewhere in the city need our attention as well.

Once again, we will not abandon the Gilman District nor the people living unsheltered in it, and will continue to make every effort to provide available services to those unsheltered here and provide clean-ups in the area as frequently as our resources allow. But we must be realistic about what a City of our size and capacity can accomplish in the wake of so much judicial risk and uncertainty, and the very real costs to limited staff time and budgetary resources this uncertainty poses.

If you should have any questions, please do not hesitate to contact Peter Radu, Assistant to the City Manager, at 510-981-7045 or [pradu@berkeleyca.gov](mailto:pradu@berkeleyca.gov).

cc:

Peter Radu, Assistant to the City Manager  
LaTanya Bellow, Deputy City Manager  
Anne Cardwell, Deputy City Manager  
Farimah Brown, City Attorney  
Andrew Murray, Interim Public Works Director  
Jennifer Louis, Chief of Police  
David Sprague, Chief of Fire  
Matthai Chakko, Assistant to the City Manager  
Jenny Wong, City Auditor  
Mark Numainville, City Clerk



Office of the City Manager

To: Dee Williams-Ridley, City Manager

From: Peter Radu, Assistant to the City Manager

Date: August 31, 2023

Re: Nuisance Declaration and Summary Abatement of Conditions on Harrison St

## INTRODUCTION AND HISTORY OF SERVICE EFFORTS

The encampments in and around Harrison Street, especially those between 8<sup>th</sup> and 7<sup>th</sup> Streets, in West Berkeley have presented ongoing challenges to the City. The City has provided a wide range of services for the residents in this area as well as full scale operations to reduce the debris and dangerous conditions. Since September 2021, when the City first resumed encampment operations after a COVID hiatus, these include:

- The placement of a dumpster on 8<sup>th</sup> St in April 2022, with service 4 times a week, and a second dumpster on 7<sup>th</sup> and Harrison in August 2023, as well as weekly illegal dumping removal service from the city's Public Works Department;
- The placement of two port-a-potties with wash station located at the corner of Eighth and Harrison St; both are serviced on a regular basis.
- Free mobile shower and laundry service to the residents of this encampment on a weekly basis since June 2022.
- A major effort to relocate RVs in the area in September and October 2021 to the City's Safe RV parking program; multiple offers of an off-street parking spot were offered to all 35 vehicles being used as shelter in the encampment, and 18 moved in or voluntarily relocated.
- One full closure of the encampment, in February 2022, and 3 partial closures since that time. The full closure in Feb 2022 included motel room offers for everyone living there, using Alameda County Winter Shelter motel vouchers and with an 83% uptake rate. Only two arrests and 0 criminal citations have been issued during these operations.
- Nine deep cleanings of the encampment, in which a total of 124.9 tons (249,800 pounds) of debris have been removed, and a major nuisance abatement of rodent harborage conditions in October 2022, in which a total of 32.1 tons (64,200 pounds, or nearly the weight of a humpback whale) of debris were removed.
- Multiple targeted treatments by the City's Environmental Health Division of the extensive network of rodent burrows in and around the encampment, and the provision on numerous occasions of new tents and Sterilite tubs to help maintain cleaner and more rodent-proof conditions.

- The provision of 107 shelter offers to the residents in this area, with an 53.3% uptake rate. Not including the major independent effort to resolve the People's Park encampment with UC Berkeley, this represents 23% of all shelter provisions the City's Homeless Response Team has made since September 2021. For lack of housing exits, many of those moved into shelter have returned back to this encampment over time.
- Weekly by-name case conferences, focusing heavily on this encampment, hosted by the Homeless Response Team and attended by Alameda County Healthcare for the Homeless, Berkeley's Health, Housing and Community Services Department, Homeless Action Center, Bay Area Community Services (BACS), LifeLong Medical Care, East Bay Community Law Center, Options Recovery Services, Berkeley Mental Health, and Building Opportunities for Self-Sufficiency (BOSS).
- Three community meetings (in May and July 2023) between city staff and residents and advocates of the encampment to discuss resources and how to improve safety.

All of these services are in addition to the intensive presence of the County's Street Medicine Teams in the encampment.

On June 14, 2023, the City of Berkeley was awarded \$4.9M from the State of California's Encampment Resolution Fund-2 grant program, which the City now uses to master lease the 23-room Super 8 motel on University Avenue and contract with Insight Housing to provide low-barrier, service-rich, noncongregate shelter to the residents of this encampment. Since August 1, the HRT has maintained a daily presence in the area to schedule move-ins and begin assisting people from the encampment into places of greater safety. So far, 14 people have moved into the Super 8 from this encampment, with an additional 4 scheduled; 3 people have been matched directly to permanent supportive housing, and one more has moved into the Berkeley Inn.

In addition, the HRT has attempted to foster a more transparent and collaborative working relationship with the residents and advocates of this encampment to maintain cleaner conditions. Since May of 2023, the HRT and the encampment have had three community meetings to discuss the City's concerns about the conditions, the encampment residents' stated needs, and how to better work together in maintaining cleaner conditions. These "Good Neighbor Guidelines" are 5 common sense standards which, if maintained, reduce the likelihood of a large city clean-up. Though these Guidelines have not been officially adopted,<sup>1</sup> they received a good deal of stated support and understanding from residents themselves in the encampment.

#### ASSESSMENT OF PRESENT ENCAMPMENT CONDITIONS

Nevertheless, and despite these numerous efforts, for months (and at present) the HRT continues to observe dead animals, open food sources and spoiled food, used uncapped drug needles, combustible materials like flammable gas containers inside unsafe wooden structures, bottles of urine, human feces, animal feces, soiled clothing and sheltering material, and other unidentifiable liquid and waste products. In addition, the large accumulation of debris and ad-hoc sheltering

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<sup>1</sup> Advocates in the encampment specifically recommended engaging businesses, housed residents, and other stakeholders for their input before adoption, and so Neighborhood Services will be bringing them to the October 4, 2023 meeting of the Homeless Services Panel of Experts for discussion and a possible referral to the Council or a Council policy subcommittee.

structures has completely blocked the sidewalk and extended into the roadway, creating numerous concerning fire and traffic safety hazards.

#### RECOMMENDATION

The HRT and City Manager's Office will continue to work to finalize the Good Neighbor Guidelines for future implementation at encampments around the City and will continue the ongoing process of moving residents inside the new Super 8 or other City shelter resources. The City has also formally engaged the Alameda County CoC with a recommendation to prioritize this encampment for permanent supportive housing referrals, with a memo dated July 20, 2023, and that recommendation is under discussion.

In the meanwhile, however, the Berkeley Fire Department and Environmental Health Divisions have observed alarming conditions that justify their declaring Harrison St between 7<sup>th</sup> and 8<sup>th</sup> Streets an imminent health hazard (see attached memos and reports). Therefore, **to resolve these dangerous nuisance conditions now as we work towards a fuller resolution of the entire encampment in the near future, we recommend a summary nuisance abatement of the encampment conditions Harrison St between 7<sup>th</sup> and 8<sup>th</sup> Streets.**

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter T. Radu". The signature is fluid and cursive, with a large initial "P" and a long horizontal stroke at the end.

Peter T Radu

Assistant to the City Manager – Neighborhood Services





Department of Fire and Emergency Services  
Division of Fire Prevention & Investigations

## MEMORANDUM

Date: August 30, 2023

To: Peter Radu, Assistant to the City Manager, City of Berkeley Neighborhood Services

From: Shannon Shaffer-Killey, Fire Prevention Inspector, Berkeley Fire Department

Subject: Fire Department Response and Inspection of Encampments at Harrison Street between Seventh and Eighth Streets

The Division of Fire Prevention & Investigations reviewed fire-related incidents on Harrison Street between Seventh and Eighth Street in Berkeley, CA. The time period reviewed was from January 2023 through August 28, 2023. The following are the twenty-nine incidents that occurred in the vicinity:

### Searched under "Harrison, Harrison & 7th, Harrison & 8th"

2023-000068 on 1/02/2023 at 11:08 AM - small fire in the roadway, initially dispatched as encampment fire

2023-000927 on 1/19/2023 at 04:56 PM - contained cooking fire, initially dispatched as a van on fire

2023-000979 on 1/20/2023 at 07:16 PM - pallet on fire

2023-001683 on 2/04/2023 at 04:58 PM - RV fire

2023-002343 on 2/18/2023 at 01:17 PM - trash burning in the middle of the roadway

2023-002665 on 2/25/2023 at 05:20 AM - small encampment fire

2023-004252 on 3/23/2023 at 10:16 PM - rubbish fire

2023-004471 on 3/28/2023 at 04:30 PM - individual burning garbage in the roadway

2023-005720 on 4/23/2023 at 10:30 AM - trash in a BBQ grill

2023-005856 on 4/26/2023 at 02:17 AM - large encampment fire

2023-005909 on 4/27/2023 at 08:15 AM - wood warming fire

2023-006403 on 5/07/2023 at 08:34 AM - multiple warming fires in metal containers next to encampments

2023-008467 on 6/23/2023 at 09:15 AM - cooking fire

2023-008595 on 6/27/2023 at 05:05 AM - mattress fire due to smoking

2023-008618 on 6/27/2023 at 02:46 PM - clothing and garbage burning in roadway

2023-008924 on 7/04/2023 at 07:32 PM - cooking fire in the creek area

2023-009110 on 7/09/2023 at 01:03 AM - dumpster fire

2023-009175 on 7/10/2023 at 12:43 PM - cooking and warming fires

2023-009202 on 7/10/2023 at 09:21 PM - Tent fire  
2023-009859 on 7/25/2023 at 10:43 AM - barrel fire in the middle of the roadway  
2023-010331 on 8/04/2023 at 12:46 PM - large cooking fire in the middle of roadway  
2023-010408 on 8/06/2023 at 12:21 PM - debris fire  
2023-010455 on 8/07/2023 at 05:55 AM - cooking fire  
2023-010609 on 8/10/2023 at 08:23 AM - debris fire in middle of roadway  
2023-010662 on 8/11/2023 at 06:54 AM - cooking fire  
2023-010800 on 8/14/2023 at 05:20 AM - burning leaves and cardboard in roadway  
2023-011051 on 8/19/2023 at 08:07 AM - warming and cooking fire  
2023-011078 on 8/19/2023 at 05:49 PM - cooking fire under the brush near creek  
2023-011238 on 8/22/2023 at 11:40 AM - tent and surrounding belongings on fire

Additionally, on August 23 2023, a joint inspection was completed with Fire Prevention, Homeless Response Team, and Environmental Health to assess the current situation on the north side Harrison St between Seventh and Eighth St. During this inspection, multiple fire and building code violations were identified, and include (but not limited to) the following:

1. Constructing and maintaining this structure constitutes an unlawful act - BFC 112.1
2. The structure does not have adequate fire separation distance and fire-resistive construction to separate it from adjacent property lines and structures - BBC 602
3. As constructed the design, materials, methods of construction, and the structure as a whole have not been approved and do not comply with important provisions of the Berkeley Building Code including Chapter 23, "Wood" of the Berkeley Building Code.
4. Accumulations of combustible waste materials are present in and around the structure and the adjacent encampment areas - BFC 304.1
5. Combustible materials are being stored within ten feet of the lot line - BFC 315.4

The volume of fire-related calls for service in this specific area is unusually high for the time period when compared to similar areas that do not have encampments. Based on the nature of the calls, the great majority of these calls appear to be directly related to human activity, specifically habitation in this area. The number and types of calls combined with the observed code violations are sufficiently concerning for the Berkeley Fire Department to recommend that the encampments on the north side of Harrison St. be abated summarily. This action will significantly reduce the likelihood of severe injury or death from fire, as well as reduce the likelihood of substantial damage to property and public infrastructure.

Cc: David Sprague, Fire Chief, Berkeley Fire Department  
Keith May, Deputy Fire Chief, Berkeley Fire Department  
Steve Riggs, Fire Marshal, Berkeley Fire Department

Attachment: August 23, 2023 Inspection Photos

## Harrison Street Encampments

Location: Northside of Harrison St. between Seventh St. and Eighth St. Berkeley CA

Date of Inspection: August 23, 2023




















Internal



Health, Housing &  
Community Services Department  
**Environmental Health Division**

Date: August 30, 2023

To: Peter Radu, Assistant to the City Manager

From: Ron Torres, Environmental Health Division Manager 

cc: Amy Davidson, HHCS Deputy Director

Subject: Declaration of Imminent Health Hazard for areas along Harrison St between Seventh and Eighth Street

Per your request, Environmental Health staff assessed the conditions of the subject area and found significant areas of concern with regard to the health and safety of the residents in this area and to the public in general. These concerns are included in the attached report which identifies several areas along the north side of Harrison St.

I believe that the conditions documented in attached report rise to the level of an imminent health hazard, particularly findings of used syringes, areas where raw sewage was observed and the proliferation of rat burrows all along the Harrison St corridor.

Per Section 11.40.030 of the Berkeley Municipal Code, I am recommending to the City Manager that those areas identified in the attached report be summarily abated to minimize the impact to the residents and general public.



August 23, 2023

Report of Findings on the Health and Safety Conditions of the Harrison St Corridor between Seventh and Eighth Street, Berkeley, CA



Areas inspected by Environmental Health staff are designated as Locations "1", "2" and "3" above and are detailed on the following pages.



Location 1:

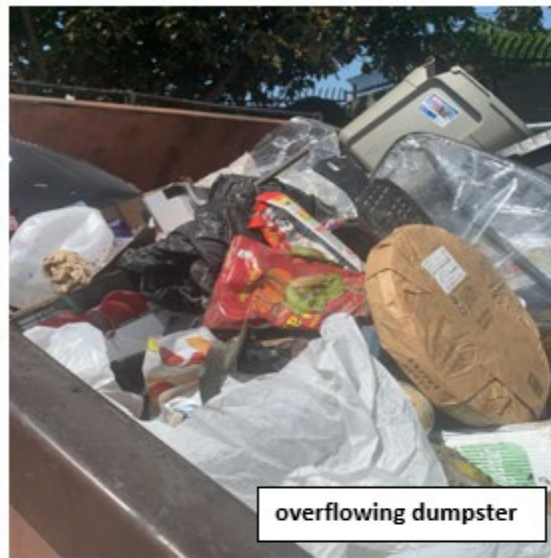


*Rodent Burrows*

Internal



birdseeds



overflowing dumpster

*Food Sources*



storm drain with birdseeds and odors indicative of human waste

*Storm Drain*



Internal



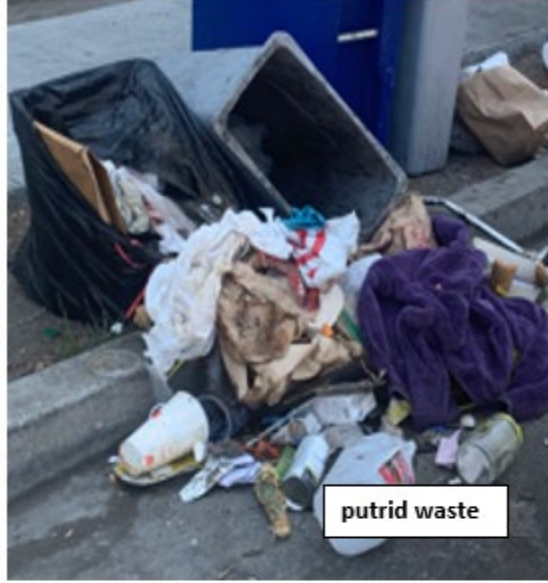
*Imminent Health Hazard - Storm Drain*



*Debris Harborage*

**Note:** The presence of raw sewage and the proliferation of rat burrows due to abundant food sources and harborage are of utmost concern in this area

Location 2:



*Food Sources*



*Debris Harborage*

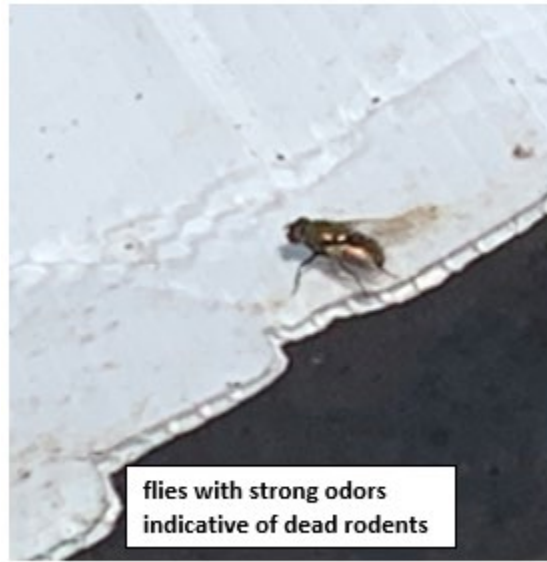




*Imminent Health Hazard*

**Note:** the presence of the used hypodermic needles are of utmost concern in this area of the Harrison St corridor

Internal



*Rodents*



*Rodent Burrows*

Internal



*Rodent Droppings*



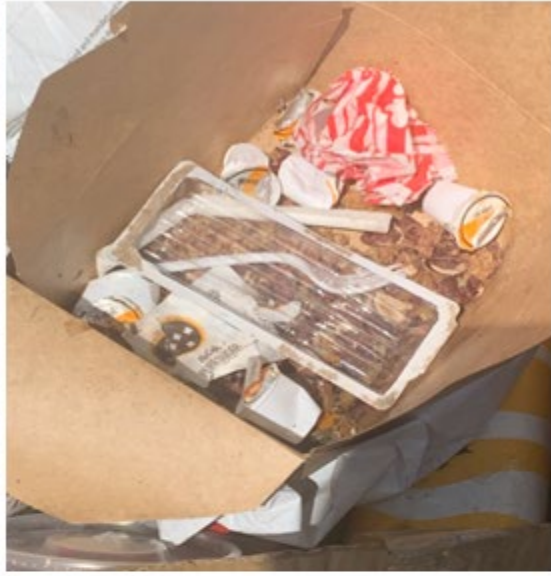
Internal



rubbish

Debris Harborage

Internal



putrid waste



*Food Sources*



Location 3:



dog feces



pasta & putrid produce



*Food Sources*



**Imminent Health Hazard - Storm Drain**

**Debris Harborage**

- a. VIOLATIONS:
- i. BMC 11.32.050. Rodent harborage--Maintenance prohibited.
  - ii. BMC 11.32.070. Accumulations creating rodent harborage prohibited.
  - iii. BMC 11.36.030. Imminent health hazards designated.
  - iv. BMC 17.20.030 No matter other than stormwater may be discharged into the storm drain system.
  - v. BMC 17.20.050 Affirmative duty to prevent contamination of stormwater by pollutants.
- b. PROPOSED REMEDY: PROPOSED REMEDY: Removal of all debris, food sources, and vehicles. Treat with CO2 where necessary.

**Glossary of Violations:**

- i. **BFC 315.4 Outside storage.** Outside storage of combustible materials shall not be located within 10 feet (3048 mm) of a lot line.
- ii. **NFPA 25 – Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (2023 Ed.) – Section 5.2.2 Pipe and Fittings, 5.2.2.2** Sprinkler piping shall not be used to support non-system components.
- iii. **NFPA 25 – Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (2023 Ed.) – Section 5.4.1 Sprinklers, 5.4.1.7** Sprinklers shall not be altered in any respect or have any type of ornamentation, paint, or coatings applied after shipment from the place of manufacture.
- iv. **California Code of Regulations, Title 19, Division 1, §3.07(a) Clearances.**
  - 1. (a) General. No combustible material shall be placed or stored within 10 feet of any building or structure.
  - 2. 304.1.1 Waste material. Accumulations of wastepaper, wood, hay, straw, weeds, litter or combustible or flammable waste or rubbish of any type shall not be permitted to remain on a roof or in any court, yard, vacant lot, alley,

3. parking lot, open space, or beneath a grandstand, bleacher, pier, wharf, manufactured home, recreational vehicle or other similar structure.
- v. **BFC 114.1.1 Unsafe conditions.** Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress, inadequate light and ventilation, or that constitute a fire hazard, are otherwise dangerous to human life or the public welfare, or involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the fire code official deems necessary and as provided for in this section. A vacant structure that is not secured against unauthorized entry shall be deemed unsafe.
- vi. **BFC 304.2 Storage.** Storage of combustible rubbish shall not produce conditions that will create a nuisance or a hazard to the public health, safety or welfare.
- vii. **BFC 307.4.3 Portable outdoor fireplaces.** Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material.
- viii. **BFC 315.4 Outside storage.** Outside storage of combustible materials shall not be located within 10 feet (3048 mm) of a lot line.
- ix. **BMC 11.32.050. Rodent harborage--Maintenance prohibited.** No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.
- x. **BMC Sec 11.32.070. Accumulations creating rodent harborage prohibited.** No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.
- xi. **BMC 11.36.030. Imminent health hazards designated.** For the purpose of this chapter, the existence of the following condition is declared to constitute an imminent health hazard: the discharge of sewage, garbage or any other organic filth into or upon any place in such a manner that transmission of infective material to human beings may result therefrom.
- xii. **BMC 14.48.020. Obstruction on Streets and Sidewalks.** It is unlawful for any person to place or cause to be placed anywhere upon any Sidewalk, Parklet or roadway, any object which obstructs, restricts, or prevents the use of any portion of such Sidewalk, Parklet or roadway, except as set forth in this Chapter or in a regulation promulgated by the City Manager and adopted by the City Council.
- xiii. **BMC 17.20.030.** No matter other than stormwater may be discharged into the storm drain system.
- xiv. **BMC 17.20.050.** Affirmative duty to prevent contamination of stormwater by pollutants--Manner of conducting specified activities. Any person engaged in activities which will or may result in pollutants entering the storm drain system shall undertake all practicable measures to reduce or prevent the contamination of stormwater by pollutants. Such measures shall include, but are not limited to, adherence to the following requirements: (A.) Littering prohibited. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned

objects, articles, or accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land in the City, so that the same might be or become a pollutant that enters the storm drain system; provided however, that nothing in this section shall be construed to prohibit the disposal of garbage, rubbish or other waste in a lawful manner as provided in Berkeley Municipal Code Chapter 11.16 (Waste Collection and Disposal) or Chapter 12.32 (Refuse Disposal), or the disposal of recycled materials in the manner provided for pursuant to Chapter 12.36 (Recycled Materials Collection Program), or the disposal of garbage, rubbish or other waste in lawfully established dumping grounds.





Office of the City Manager

To: Members of the Systems Coordination Committee, Alameda County Continuum of Care

From: Peter Radu, Assistant to the City Manager, City of Berkeley

Date: July 20, 2023

Re: Pilot Approach to Prioritizing Residents of the Harrison Street Encampments in Berkeley

### RECOMMENDATION

The encampments in and around Harrison Street from 10<sup>th</sup> St to 6<sup>th</sup>/7<sup>th</sup> in West Berkeley have presented ongoing challenges to the City of Berkeley, and pose acute threats to the health and safety of the residents living in them. With new State ERF-2 resources and the City Council's commitment of local resources, the City of Berkeley has an exciting opportunity to resolve one of the most persistently challenging encampments in all of Alameda County. To do so as rapidly and effectively as possible, **we respectfully request a partnership with the County and CoC to explicitly prioritize, on a pilot basis, the PSH-eligible residents of this encampment for all new upcoming permanent supportive housing vacancies in the CoC.** Beyond the obvious benefits of improved public health and decreased need for costly services in this encampment, we believe that this request is (1) permissible and justified under our CoC's current Coordinated Entry policies; (2) allowable under federal Fair Housing law; and (3) especially urgent because of the considerable fire and life safety hazards at the encampment. The remainder of this memo outlines the rationale for this recommendation.

### HISTORY OF SERVICES AND RESOURCES AT THE ENCAMPMENT

The City of Berkeley's Homeless Response Team (HRT) is the multi-departmental team, coordinated by the City Manager's Office, charged with responding to unsheltered homelessness with resource and shelter offers, and resolving dangerous encampments without the use of citation and arrest. The HRT is committed to the USICH 7 Principles of Encampment Resolution, and has provided countless hours and resources in an attempt to better the lives of those living in this encampment, and better the conditions of the encampment. Since September 2021, when the City first resumed encampment operations after a COVID hiatus, these include:

- The placement of a dumpster on 8<sup>th</sup> St in April 2022, with service 4 times a week, and weekly illegal dumping removal service from the city's Public Works Department;
- The placement of a port-a-potty located at the corner of Eighth and Harrison St. The residents here also have access to another port-a-potty located at Eighth St and the Creek. Both are serviced on a regular basis.

- Free mobile shower and laundry service to the residents of this encampment on a weekly basis since June 2022.
- A major effort to relocate RVs in the area in September and October 2021 to the City's Safe RV parking program; multiple offers of an off-street parking spot were offered to all 35 vehicles being used as shelter in the encampment, and 18 moved in or voluntarily relocated.
- One full closure of the encampment, in February 2022, and 3 partial closures since that time. The full closure in Feb 2022 included motel room offers for everyone living there, using Alameda County Winter Shelter motel vouchers and with an 83% uptake rate. Only two arrests and 0 criminal citations have been issued during these operations.
- Nine deep cleanings of the encampment, in which a total of 124.9 tons (249,800 pounds) of debris have been removed, and a major nuisance abatement of rodent harborage conditions in October 2022, in which a total of 32.1 tons (64,200 pounds, or nearly the weight of a humpback whale) of debris were removed.
- Multiple targeted treatments by the City's Environmental Health Division of the extensive network of rodent burrows in and around the encampment, and the provision on numerous occasions of new tents and Sterilite tubs to help maintain cleaner and more rodent-proof conditions.
- The provision of 107 shelter offers to the residents in this area, with an 53.3% uptake rate. Not including the major independent effort to resolve the People's Park encampment with UC Berkeley, this represents 23% of all shelter provisions the City's Homeless Response Team has made since September 2021. For lack of housing exits, many of those moved into shelter have returned back to this encampment over time.
- Weekly by-name case conferences, focusing heavily on this encampment, hosted by the Homeless Response Team and attended by Alameda County Healthcare for the Homeless, Berkeley's Health, Housing and Community Services Department, Homeless Action Center, Bay Area Community Services (BACS), LifeLong Medical Care, East Bay Community Law Center, Options Recovery Services, Berkeley Mental Health, and Building Opportunities for Self-Sufficiency (BOSS).
- Two community meetings (in May and July 2023) between city staff and residents and advocates of the encampment to discuss resources and how to improve safety.

All of these services are in addition to the intensive presence of the County's Street Medicine Teams in the encampment.

Nevertheless, and despite these numerous efforts, for months the HRT has repeatedly observed dead animals, open food sources and spoiled food, used uncapped drug needles, bottles of urine, human feces, animal feces, soiled clothing and sheltering material, and other unidentifiable liquid and waste products. In addition, the large accumulation of debris and ad-hoc sheltering structures has completely blocked the sidewalk and extended into the roadway, creating numerous concerning fire and traffic safety hazards.

On June 14, 2023, the City of Berkeley was awarded \$4.9M from the State of California's Encampment Resolution Fund-2 grant program, which the City will use to master lease the 23-room Super 8 motel on University Avenue and contract with Insight Housing to provide low-barrier, service-rich, noncongregate shelter to the residents of this encampment. On June 22, 2023, the Berkeley City Council's Budget and Finance Policy Committee voted unanimously to approve an additional \$5M in City general fund to match this State grant, and on July 11<sup>th</sup>, the City Council



approved the lease, contract, and funding. **Altogether, this means Berkeley has everything in place to open this new noncongregate shelter by August 1, and to keep it open for at least four years.** Because of the serious and persistent health and safety concerns at this encampment, we will prioritize this new resource to the residents there, with the goal of ultimately resolving the encampment to make way for long-overdue infrastructure repairs and other construction-related activity later this calendar year. We will also prioritize all North County Coordinated Entry resources, including City-funded housing navigation slots and other services, to this encampment, and we have recently approved an exception to our internal HIPAA Privacy Rule interpretations to allow for need-to-know information sharing with our Mental Health Division to better coordinate mental health resources for the encampment as well.

Put simply, the City has done--and with this new State grant, will be doing--everything within our power to prioritize these vulnerable residents for shelter and every other resource at our direct disposal that can improve their lives. However, we do not have the administrative authority to prioritize permanent supportive housing to these residents; by Federal regulation, only the CoC, through the Coordinated Entry process, can prioritize and match permanent supportive housing.

#### RATIONALE FOR RECOMMENDATION

Beyond the obvious benefits of improved public health and decreased need for services resources in this encampment, we believe that this request is (1) permissible and justified under our CoC's current Coordinated Entry policies; (2) allowable under federal Fair Housing law; and (3) especially urgent because of the considerable fire and life safety hazards at the encampment.

*(1) This request is permissible and justified under our CoC's current Coordinated Entry policies.*

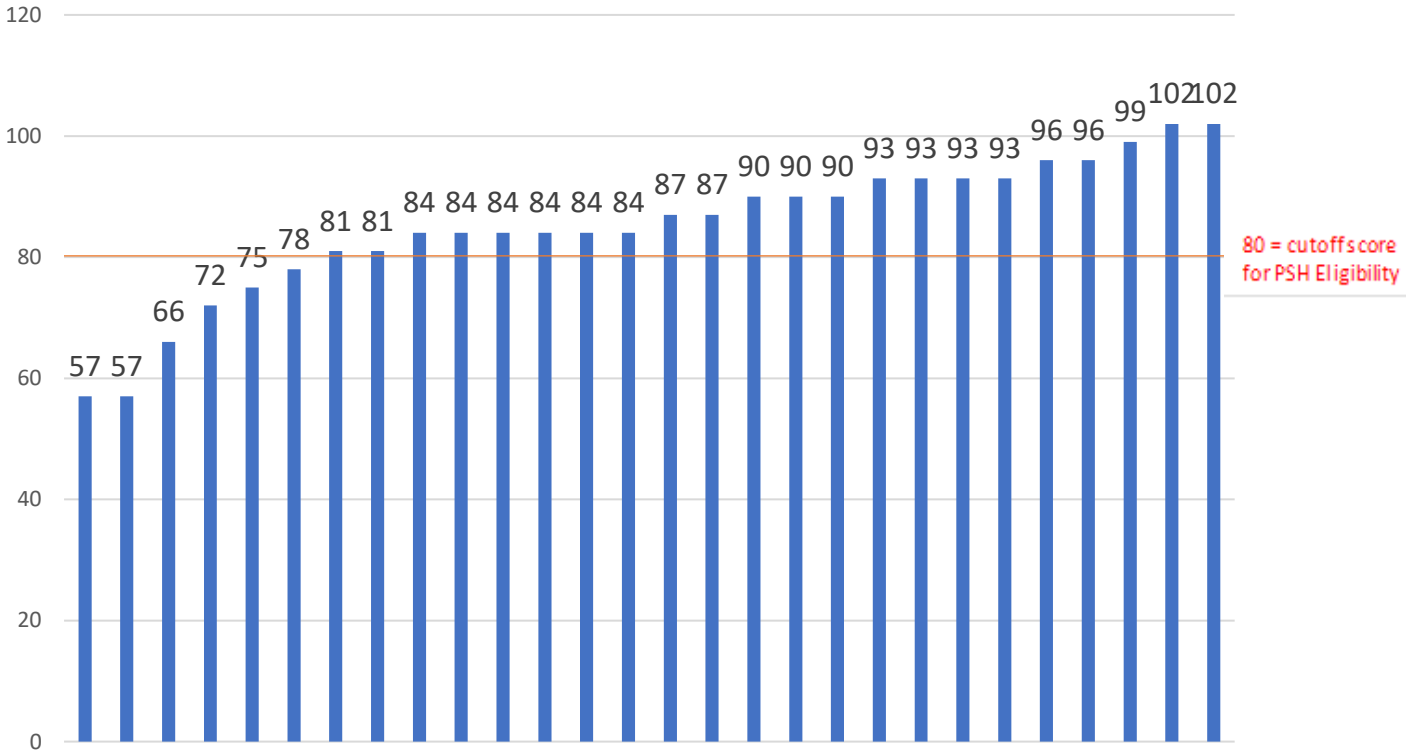
From April 19 – May 1 and again from June 14 - 30, 2023, the HRT performed daily outreach to the residents (both in tents and vehicles) at this encampment, with the purposes of building and refining an accurate by-name census of everyone known to be living in the encampment. In addition to allowing us to better serve these residents with tailored outreach, this effort has allowed us to collect both information on Coordinated Entry scores and vulnerabilities, as well as demographics on race, ethnicity and gender at the encampment.

Our analyses of these data found 47 total people known to us and our partner providers to be living in this encampment. Of those:

- 28 of the 47 residents (59.6%) staying in the Harrison Street encampment have been assessed for Coordinated Entry.
- 22 (78.6% of those assessed) qualify for Permanent Supportive Housing (PSH) – i.e., are already on the PSH Priority list. An additional 4 residents (14.3%) qualify for rapid rehousing.
- Only 2 residents (7.1%) do not score high enough to qualify for a traditional housing intervention.

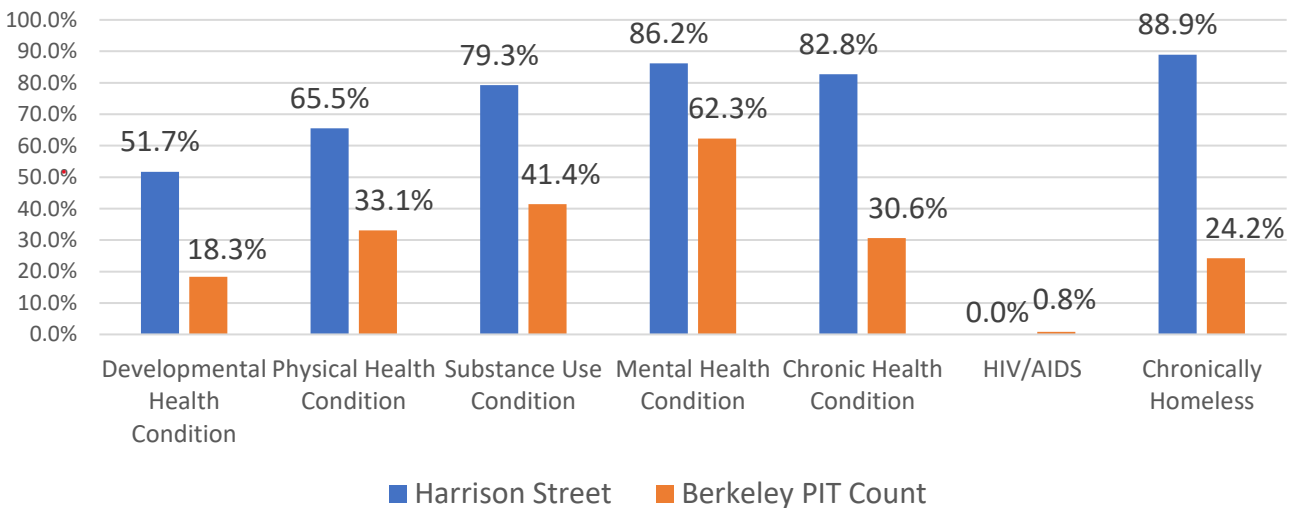
The chart immediately below provides a breakdown of the assessment scores of those who have been assessed: only five people assessed for Coordinated Entry do not meet the threshold score in our CoC for PSH:

### Harrison Street Encampment: Resident CES Assessment Scores



In addition, the chart below provides a breakdown of the self-reported vulnerabilities of those in the encampment, relative to the self-reported vulnerabilities in our overall homeless population, showing how disproportionately vulnerable the residents of this encampment are:

### Harrison Street Encampments: Resident Disabling Conditions



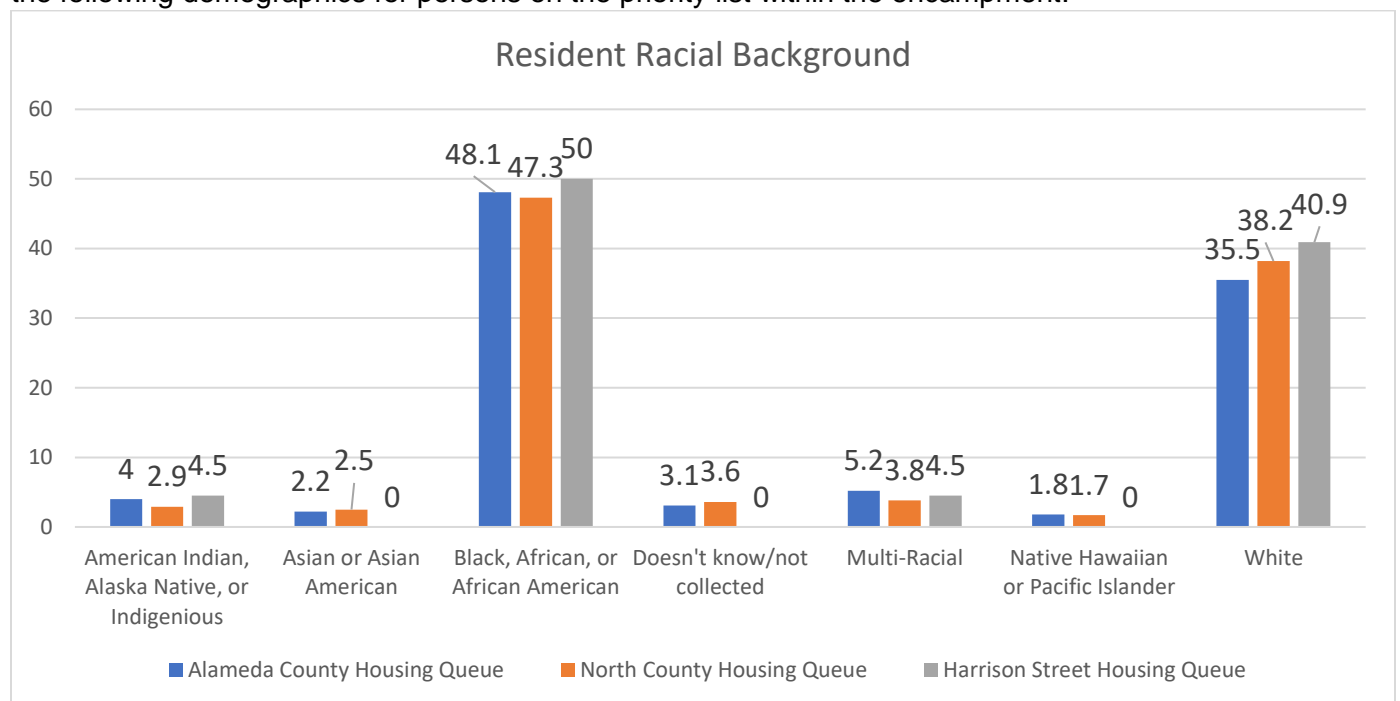
By all accounts, these are people who would already otherwise be eligible and prioritized for Permanent Supportive Housing in Alameda County. Importantly, *this proposal would not make anyone who is not already on the PSH Priority List eligible for permanent supportive housing.*

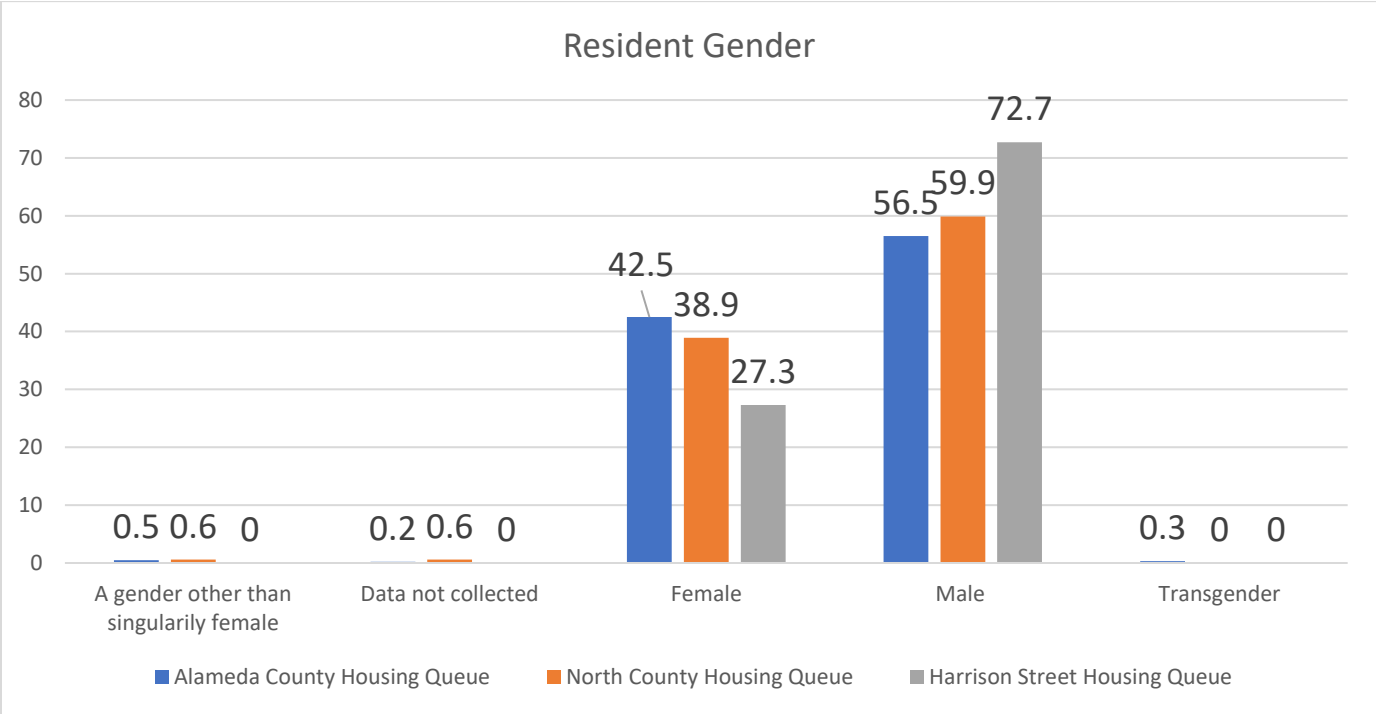
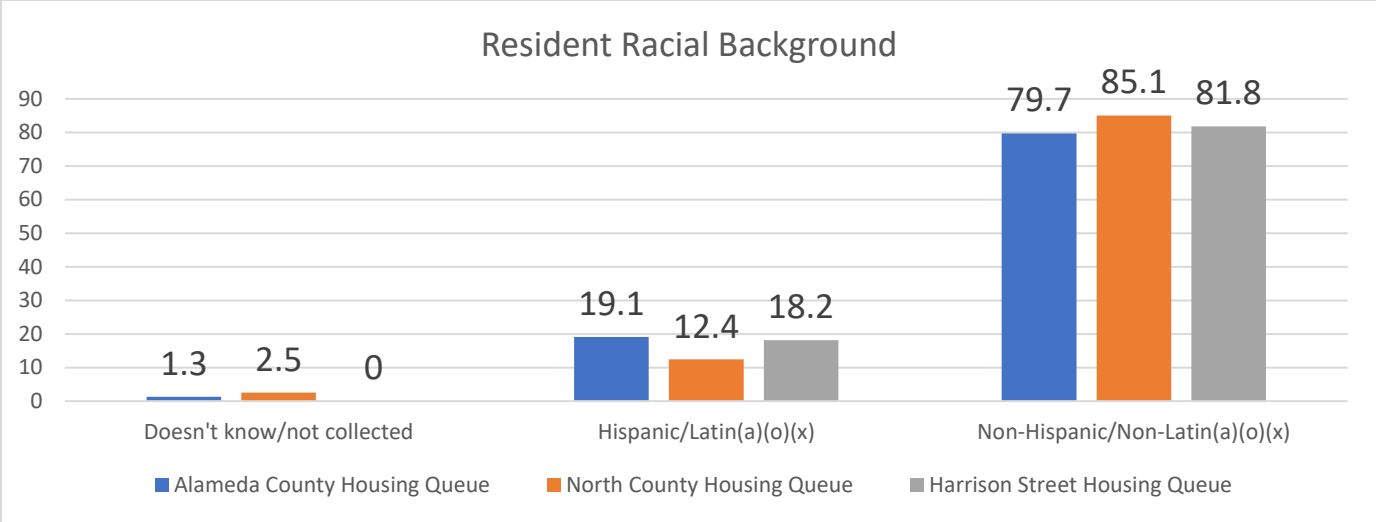
Instead, it would offer those residents in the encampment census *who otherwise are already on the priority list* the first referrals to any upcoming permanent housing vacancies. In other words, it would, temporarily and on a pilot basis, limit the County’s priority pool only to those in the encampment census who otherwise qualify for permanent supportive housing under the existing established Federal and CoC Coordinated Entry policies, and keep it that way until everyone has had a housing offer. It does not otherwise change the prioritization algorithm in any way.

(2) *This request is allowable under Federal Fair Housing law.*

The essence of Federal Fair Housing law is that housing access must not discriminate against, or cause disproportionate impacts on the basis of, a protected class status. To preempt any Fair Housing concerns associated with the targeting of this encampment for housing resources, the City of Berkeley contacted the HUD Region IX Program Compliance Division for guidance (see Attachment 1). We were advised that such an analysis can be performed by comparing the demographics (race, ethnicity, disability, and gender) of all residents currently living in encampments in the encampment and who are on the PSH priority list to their representation in the North County and Alameda County PSH priority lists, to determine if any protected class groups will be disproportionately impacted by giving a priority or preference to the encampment.

To this end, Berkeley staff and our nonprofit contractors spent weeks collecting and compiling into HMIS the demographic data of everyone known to be living in the encampment, and found the following demographics for persons on the priority list within the encampment:





From these analyses, we see no compelling evidence that this proposal would disproportionately impact any protected racial and ethnic classes; if anything, it would *better* serve Black/African American and Indigenous homeless residents, those races most disproportionately represented in Alameda County’s homeless population and the key focus of the County’s own stated racial equity goals for our homeless response system.<sup>1</sup>

While the gender distribution in our analyses do reveal a skew towards those identifying as male, we have evidence that this skew is not necessarily a result of the Harrison St demographic make-up *per se*, but could reflect systematic bias in Coordinated Entry access at this encampment: of

<sup>1</sup> See: [https://everyonehome.org/wp-content/uploads/2020/10/EveryoneHome\\_10.20\\_Summary\\_FINAL.pdf](https://everyonehome.org/wp-content/uploads/2020/10/EveryoneHome_10.20_Summary_FINAL.pdf)

the 12 residents identifying as female at this encampment, 6 have been assessed for CES and 6 have not (50% of females are assessed). Meanwhile, of the 25 residents identifying as male, 22 have been assessed and 3 have not (88% of males are assessed).<sup>2</sup> The overall distribution of females to males in the encampment is closer to 50%, but females are clearly not receiving assessments at the same rate as males—despite a recent sustained “assessment blitz” in early July by the City and its providers to all encampment residents here. Thus, we assert that the slight skew towards males in our analyses do not reflect a Fair Housing concern with the proposal *per se*, but rather a *deeper underlying equity problem in Coordinated Entry access at encampments by gender* that is worth further consideration from the CoC, and further underscores the validity of a pilot approach to prioritizing this encampment.

*(3) This request is especially urgent because of the considerable fire and life safety hazards at the encampment*

Aside from the fact that these residents are, by and large, already the very residents our Coordinated Entry system would prioritize for permanent supportive housing, they face an unusual exposure to additional health and safety threats simply by virtue of their living in this encampment setting: the area was recently declared an imminent health hazard, pursuant to Berkeley Municipal Code 11.36.030, by the City’s Environmental Health Manager, due primarily to the rodent harborage conditions and extensive network of rodent burrows in the encampment (see attachment 2), and according to the Berkeley Fire Marshal is experiencing an unusually high and concerning number of fires and fire-related calls (see attachment 3). In other words, aside from the documented *personal* vulnerabilities of the people living in this encampment, they are exposed to unusually intense *environmental* vulnerabilities.

Many years ago, our nation’s health experts realized that health is not simply a factor of personal vulnerabilities; the environment one lives in can expose people to additional health risk factors, and population level health requires the mitigation of environmental risk factors. Indeed, many of our County’s recent public health initiatives have explicitly prioritized communities for interventions on the basis of environmental or geographic risk: most recently, we explicitly prioritized COVID testing and vaccine resources to those ZIP codes most likely to experience socioeconomic conditions, such as crowded housing or employment in an essential service, that made them disproportionately vulnerable to the disease. Ironically, Alameda County homeless service providers often speak about homelessness not just as a housing crisis but a health crisis too, and speak of housing as a healthcare intervention—but we have taken few affirmative steps to explicitly prioritize the environmental factors that also dictate a homeless person’s health when making Coordinated Entry prioritization decisions.

**If a chief moral imperative of Coordinated Entry in our CoC is to assist those people who are most vulnerable to serious illness and death on the streets, then by any measure—personal or environmental—the residents of this encampment are as or more vulnerable than any in our County.** The urgency of their situation, in the opinion of the health and fire experts in our City, should increase their priority for housing.

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<sup>2</sup> The remaining 10 clients on the census have not provided us with any information as to their gender identity.

## CONCLUSION

The City of Berkeley has done—and with the recent State ERF-2 grant announcement, will do—everything within our power to serve and end the homelessness of those living in the deplorable conditions at the Harrison and 8<sup>th</sup> St encampments. But we cannot resolve this encampment on our own, which is why we respectfully request a pilot program that would offer these residents—assuming they otherwise qualify for PSH—the first offers for new PSH vacancies, until such time as everyone eligible has been made an offer.

Rationing scarce resources efficiently—which is the fundamental essence of Coordinated Entry—requires that we start *somewhere*. This memo has argued that starting with the residents of the Harrison and 8<sup>th</sup> Street encampment is justified, legal, and especially urgent. Necessarily, when rationing resources, there will always be “winners” and “losers.” In our current system, residents of entrenched and dangerous encampments have systematically been the “losers” for far too long—and it’s time we put them at the front of the line.

Respectfully submitted,

Peter T. Radu

Assistant to the City Manager - Neighborhood Services

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## ATTACHMENTS:

1. Correspondence with HUD Region IX Program Compliance Division on Fair Housing Law analysis guidance, Feb – May 2023
2. Memo from City of Berkeley Environmental Health Division Manager re: Conditions of Imminent Health and Safety Hazards at the Eighth St. and Harrison St. corridor, May 2023
3. Memo from City of Berkeley Deputy Fire Marshall re: Fire Department Incident Responses to Encampment at Harrison, Seventh and Eighth Streets, May 2023