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Office of the City Manager

<u>INFORMATION CALENDAR</u>
April 23, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Paul Buddenhagen, Deputy City Manager

Subject: Ethical Climate Audit Status Report

INTRODUCTION
On March 14, 2017, the City Auditor submitted an Ethical Climate audit report[1] with recommendations to strengthen the City's commitment to improving its progress in maintaining a transparent, equitable, and ethical workplace. The purpose of this information item is to update City Council on the status of implementing the audit recommendations. This is the second status report regarding this audit. The City Manager's Office issued its first response on September 13, 2018.[2]

CURRENT SITUATION AND ITS EFFECTS
As of the writing of this report, one recommendation has been implemented, three recommendations have been partially implemented and two have not been implemented, but are in progress. The Human Resources Department has convened an interdepartmental, citywide ethics committee, which has met twice. This committee is the lead body that will support the citywide implementation of initiatives to build a transparent, equitable, and ethical workplace.

Please see Attachment 1 for a detailed table of audit report recommendations, corrective action plans, and implementation progress. The next status report to Council is expected to be provided October 15, 2019.

BACKGROUND
To help the City provide employees with a positive and supportive workplace, and the public with effective and efficient service delivery, the Office of the City Auditor (City Auditor) did an audit of the City's ethical climate. The City Auditor determined that the best way to understand how employees view the City's ethical climate was with a confidential survey, asking how they perceive their work environment and whether they believe management supports an ethical workplace.

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[1] Audit Report: Berkeley's Ethical Climate Rated Strong Overall and Management Working to Make it Better, https://bit.ly/2yviSNY.
[2] Ethical Climate Audit Status Report, https://bit.ly/2EVUadr.

ENVIRONMENTAL SUSTAINABILITY
There are no identifiable environmental effects associated with the subject of this report.

POSSIBLE FUTURE ACTION
The City Manager's Office will continue to work with the Human Resources Department and the Ethics Committee to implement the audit recommendations.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION
None at this time.

CONTACT PERSON
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Attachments:
1: Audit Findings, Recommendations, and Management Response Summary table

City of Berkeley City Auditor's Office
Audit Findings and Recommendations Response Form

Audit Title: Berkeley's Ethical Climate Rated Strong Overall and Management Working to Make it Better				
Findings and Recommendations	**Lead Dept.**	**Agree, Partially Agree, or Do Not Agree**	**Expected or Actual Implementation Date**	**Status of Audit Recommendations, Corrective Action Plan, and Progress Summary**
Finding 1 The City can improve service delivery, employee morale, and public trust by further strengthening its ethical climate				
1.1 Establish a formal, public-sector-values based, ethics program by: 1) Adopting a code of ethics that identifies important ethical principles or values and how to integrate the code into day to day practices. 2) Designating high-level personnel (a specific individual or individuals) to ensure the organization has an effective ethics program 3) Identifying City staff member(s) or external resource to whom employees can turn for ethics advice 4) Providing staff with guidance on how to tackle ethical dilemmas	City Manager's Office	Agree	Various 1) Sept. 2017: Establishment of Code of Ethics Updated: Dec. 2018 2) Sept. 2017: Personnel designation Updated: Dec. 2018 3) Dec. 2017: Identification of staff or external resources Updated: Dec. 2018 4) June 2018: Staff guidance on tackling ethical dilemmas (while some components may come sooner, this recommendation will be fully implemented	In progress (Deputy City Manager is the lead with major support from Human Resources) **Status Update 9/11/18:** Partially Implemented. 1.1.1 The Deputy City Manager conducted brainstorming of principles and values and discussions with directors and managers on how ethical dilemmas have manifested during their careers. 1.1.2 The Deputy City Manager and the Director of the Human Resources Department are leading the effort. Additionally there is an ethic program workgroup has been established that consists of staff from the following departments: Attorney, Clerk, Information Technology, Human Resources and City Manager. 1.1.3 Staff can turn to supervisors and managers for ethics advice. This will be formally announced when the City's ethics program is completed. 1.1.4 This will be informed by the City's Ethics Code once complete. **Status Update 4/23/19:** Implemented.

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			with full program implementation) Actual Implementation March 2019	1.1.1 The new code of ethics for the City of Berkeley was revised and distributed citywide on February 15, 2019 via a Berkeley Matters newsletter and included as a part of a new hire orientation. The revised code identifies important ethical principles (e.g., fairness, equality, respect, etc) and contains language identifying ethical actions in daily practices (e.g., not wasting City property, not borrowing property for City use, contributing to a trustworthy team, etc). 1.1.2 A formal ethics committee led by the HR Director was created and began monthly meetings in December 2018. The aforementioned ethics committee was convened at the joint direction of the Deputy City Manager and Director of the Human Resources Department. Department Directors identified staff to serve on the committee and represent their respective departments. 1.1.3 The February 15, 2019 Berkeley Matters newsletter announced the Ethics Committee as "a resource to route different ethics issues appropriately" and noted that "when in doubt or feel concerned" staff "can speak to any of the Committee members or call a confidential ethics hotline. The newsletter also provided names, email address, and departments for all Ethics Committee member, as well as 1-800 number for the hotline. Additionally, staff may turn to supervisors for guidance.

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				1.1.4 The February 15, 2019 Berkeley Matters newsletter and the revised code of ethics provide a variety of ways to gain guidance on ethical dilemmas: attending 3Cs trainings, reading administrative regulations, contacting an Ethics Committee member, or call the ethics hotline. Additionally, staff may turn to supervisors for guidance.
1.2 Promote ethical standards to employees and the public by: 1) Including the City's ethics statement in the new employee packet and discussing the City's commitment to ethical standards in new employee orientation 2) Providing all employees with training covering the City's ethics-related policies and incorporating key aspects of the Fair Political Practices Commission ethics training 3) Providing a variety of ways to access ethics information and resources for employees, including those with no regular computer access at work, such as: • Posters and wallet cards • Centralized, intranet-based ethics resource center	City Manager's Office	Agree	<u>Various</u> 1) Sept. 2017: Ethics inclusion in employee orientation materials Updated: March 2019 2) June 2018: Establishment of ethics training for all employees Updated: March 2019 3) June 2018 or sooner: Providing access to ethical information for employees without regular computer access (portions of this	Work on this recommendation will begin in June 2017 (or sooner) when the Code of Ethics is established. (Deputy City Manager is the lead with major support from Human Resources) **Status Update 9/11/18:** Not Implemented. In progress. **Status Update 4/23/19:** Partially Implemented. 1.2.1 As of October 2018, the *New Hire Orientation* includes an ethics overview and a review of the City of Berkeley ethics statement. 1.2.2 As of October 2018, the Training Division has worked to incorporate ethics training modules citywide. 1.2.3 In December 2018, the ethics committee identified different communication channels, including posters, an 800 number, and messages in the citywide biweekly e-newsletter, *Berkeley Matters*. The committee plans to begin using these channels during the first half of 2019.

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• Periodic inclusion of ethics statement in Berkeley Matters 4) Emphasizing the City's commitment to workplace ethics during formal meetings, informal staff discussions, and regular communications with outside parties 5) Making the code of ethics available to the public, such as including the ethics code and related material in a centralized location on the City's public internet			will be completed with other recommendation, but completion will simultaneous with full ethics program implementation) Updated: March 2019 4) September 2017: emphasizing ethical commitment (started with 4-13-18 work plan meeting. To be formalized with full program implementation) Updated: April 2018, on-going 5) Sept. 2017: Code of Ethics on the public internet Updated: March 2019	1.2.4 See 9/11/18 update. 1.2.5 See 9/11/18 update.

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			Expected Implementation December 2019	
1.3 Provide supervisors and midlevel management with written guidance and training on how to: • Initiate and encourage discussions of ethical issues to help dispel misconceptions and alert management to actual problems • Report concerns or complaints to management or external resource, and conduct investigations of ethics related complaints according to the City's procedures	City Manager's Office	Agree	June 2018: Provide supervisors and midlevel management with written guidance and training (this will be combined with full program implementation) Updated: Dec. 2018 Expected Implementation Dec. 2019	Work on this recommendation will begin in June 2017 (or sooner) when the Code of Ethics is established. (Deputy City Manager is the lead with major support from Human Resources) **Status Update 9/11/18:** Not Implemented. In progress. The department directors and managers have identified key components to include in the City's ethical standards. These components will need to be further shaped and formalized into a Code of Ethics. Implementation was delayed due to staff workload. Going forward, development of the Code of Ethics and the ethics program will lead by the Deputy City Manager and Human Resources Director. **Status Update 4/23/19:** Partially Implemented. At the first ethics committee meeting, in December 2018, each committee member received written guidance (i.e., *Developing a Local Agency Ethics Code* by the Institute for Local Self Government and *Understanding the Basics of Public Service Ethics* by the Institute for Local Government). Also, the Leadership Development Program, a training for midlevel managers and supervisors, now incorporates an ethics section in the training. Additionally, the Human Resources department provides a New Supervisors training to all new supervisors/managers and supervisors/managers who are new-to-the-city. This training includes guidance on the ethical

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				expectations for public employees and city policies relating to ethics.
1.4 Develop a system for tracking, analyzing, and reporting on suspected misconduct, including written guidance and forms (or similar) to assist employees in making reports.	City Manager's Office	Agree	Dec. 2017 Updated: March 2019 Expected Implementation December 2019	In progress (Deputy City Manager is the lead with major support from Human Resources) **Status Update 9/11/18:** Not Implemented. In progress. The ethics program working group will assess current practices, develop enhancements to the current system for tracking, analyzing, and reporting on suspected ethics misconduct. **Status Update 4/23/19:** Not Implemented. In progress. In December 2018, the ethics committee identified different communication channels, including posters, an 800 number (i.e., for reporting), and messages in the citywide biweekly e-newsletter, *Berkeley Matters*. The committee plans to begin using these channels during the first half of 2019 for increasing staff awareness of how to report suspected misconduct. Currently, the City relies on Microsoft Excel to track reports of suspected misconduct. The Human Resources department is working with the IT department to identify and procure a modern case management system.
1.5 Provide employees and the City Council with summary reports about investigation and resolution of employee ethics complaints, such	City Manager's Office	Partially Agree	n/a	While providing summary information to employees and the City Council can be beneficial, at this time (without the full ethics program established), it is not possible to determine if a summary

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as the reports already provided about EEO complaints, taking care to protect confidential and identifying information.				report can be established in a manner that is detailed enough to be informative to employees and the City Council, and also non-specific enough to protect the confidentially of personnel issues. CMO will assess after implementation of the full ethics program. **Status Update 9/11/18:** Not Implemented. After the City has established a formal ethics program, the City Manager's Office will assess the feasibility of a summary report. **Status Update 4/23/19:** Not Implemented. See 9/11/18 update.
1.6 Monitor and regularly evaluate the effectiveness of the ethics program and make improvements based on results.	City Manager's Office	Agree	June 2018 (this will follow full program implementation) Updated: March 2019 Expected Implementation December 2019	Not started **Status Update 9/11/18:** Not Implemented. After the City has established a formal ethics program, the City Manager's Office will monitor and evaluate its effectiveness and make improvements based on results. **Status Update 4/23/19:** Partially Implemented. In an October memorandum to the Senior Executive Team, the Training Officer summarized the tasks of the ethics committee, including evaluation (i.e., metrics, analysis, and reporting), quality control, and continuous improvement. The Human Resources department is working with the IT department to identify and procure a modern case management system which will aide in analysis and evaluation efforts.