

**BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE
SPECIAL MEETING**

BERKELEY CITY COUNCIL SPECIAL MEETING

MONDAY, JUNE 24, 2019

2:30 P.M.

2180 Milvia Street, 6th Floor – Redwood Room

Committee Members:

Mayor Jesse Arreguin, Councilmembers Kate Harrison and Susan Wengraf

AGENDA

Roll Call

Public Comment

Review of Agendas

1. **Approval of Minutes: June 10, 2019**
2. **Review and Approve Draft Agendas:**
 - a. 7/9/19 – 6:00 p.m. Regular City Council Meeting
3. **Selection of Item for the Berkeley Considers Online Engagement Portal**
4. **Adjournments In Memory Of**

Scheduling

5. **Council Worksessions Schedule**
6. **Council Referrals to Agenda Committee for Scheduling**
7. **Land Use Calendar**

Referred Items for Review

Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

- None

Items for Future Agendas

- Discussion of items to be added to future agendas

Adjournment – Next Meeting Monday, July 1, 2019

Additional items may be added to the draft agenda per Council Rules of Procedure.

Rules of Procedure as adopted by Council resolution, Article III, C3c - Agenda - Submission of Time Critical Items

Time Critical Items. A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or council member is received by the City Clerk after established deadlines and is not included on the Agenda Committee's published agenda.

The City Clerk shall bring any reports submitted as Time Critical to the meeting of the Agenda Committee. If the Agenda Committee finds the matter to meet the definition of Time Critical, the Agenda Committee may place the matter on the Agenda on either the Consent or Action Calendar.

The City Clerk shall not accept any item past the adjournment of the Agenda Committee meeting for which the agenda that the item is requested to appear on has been approved.

This is a meeting of the Berkeley City Council Agenda Committee. Since a quorum of the Berkeley City Council may actually be present to discuss matters with the Council Agenda Committee, this meeting is being noticed as a special meeting of the Berkeley City Council as well as a Council Agenda Committee meeting.

Written communications addressed to the Agenda Committee and submitted to the City Clerk Department by 5:00 p.m. the Friday before the Committee meeting, will be distributed to the Committee prior to the meeting. After the deadline for submission, residents must provide 10 copies of written communications to the City Clerk at the time of the meeting.

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.



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.

* * *

I hereby certify that the agenda for this special 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 20, 2019.

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville, City Clerk

Communications

Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA.

BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE SPECIAL MEETING MINUTES

BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

MONDAY, JUNE 10, 2019

2:30 P.M.

2180 Milvia Street, 6th Floor – Redwood Room

Committee Members:

Mayor Jesse Arreguin, Councilmembers Kate Harrison and Susan Wengraf

Roll Call: 2:31 p.m. All present.

Public Comment – 0 speakers.

Review of Agendas

1. Approval of Minutes: May 28, 2019

Action: M/S/C (Harrison/Wengraf) to approve the Minutes of May 28, 2019.

Vote: All Ayes.

2. Review and Approve Draft Agendas:

a. 6/25/19 – 6:00 p.m. Regular City Council Meeting

Action: M/S/C (Wengraf/Harrison) to approve the agenda of 6/25/19 with the changes noted below.

Vote: All Ayes.

- *Ceremonial Item – Elder Abuse Awareness Month*
- *Ceremonial Item – Alpha Kappa Alpha 90th Anniversary*
- *Item Added – Zoning Ordinance Modification (Droste); Councilmembers Harrison and Wengraf added as co-sponsors*
- *Item 17 Contract for Tuolumne Camp Project (City Manager) – scheduled for July 9, 2019*

Policy Committee Track Items

- Item 27 Legal Rights for Legal Tender (Harrison) – Councilmembers Hahn and Davila added as co-sponsors; referred to the Land Use, Housing and Economic Development Committee;
- Item 28 Zero-Emission Vehicle Policy (Harrison) – item removed from the agenda by the author
- Item 29 Greening Fleet of Vehicles (Wengraf) – revised item submitted; scheduled for 6/25/19 Consent Calendar
- Item 30 Waiver of Fees – revised item submitted; scheduled for 6/25/19 Action Calendar

Order of Action Items

- Item 24 Budget Adoption
- Item 25 Annual Appropriations Ordinance
- Item 26 Borrowing of Funds
- Item 30 Waiver of Fees

3. **Selection of Item for the Berkeley Considers Online Engagement Portal**
- No item selected
4. **Adjournments In Memory Of – None**

Scheduling

5. **Council Worksessions Schedule – received and filed**
6. **Council Referrals to Agenda Committee for Scheduling**
- M/S/C (Arreguin/Harrison) to determine that no further action is required on referred item #5 Land Use Planning Permit Fee Amendments. All Ayes.
- Item #6 Residential Preferential Parking (RPP) scheduled for July 16, 2019
7. **Land Use Calendar – received and filed**

Referred Items for Review

- **None**

Items for Future Agendas

- **Discussion of items to be added to future agendas – None**

Adjournment

Action: M/S/C (Wengraf/Harrison) to adjourn the meeting.

Vote: All Ayes.

Adjourned at 2:57 p.m.

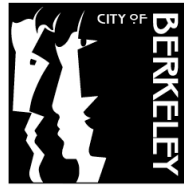
I hereby certify that the foregoing is a true and correct record of the Agenda and Rules Committee meeting held on June 10, 2019.

Rose Thomsen, Deputy City Clerk

Communications

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DRAFT 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.*

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. 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
- 2. 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 \$1,000,000.
Financial Implications: See report
Contact: David Brannigan, Fire, 981-3473

Consent Calendar

3. **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

4. **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

5. **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/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 Public Access Improvement Project; 2. Committing 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

6. **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

Consent Calendar

- 7. 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
- 8. Gender Pay Equity Salary Negotiation Workshop**
From: Commission on the Status of Women
Recommendation: Authorize 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
- 9. 1281 University Avenue Request for Proposals**
From: Housing Advisory Commission
Recommendation: Direct the City Manager to issue a Request for Proposals (RFP) for residential development at the City-owned site at 1281 University Avenue with a requirement that at least 50% of the on-site units to be restricted to 50% AMI or below households, with consideration given to accommodations that serve unhoused or homeless households including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes.
Financial Implications: See report
Contact: Mike Uberti, Commission Secretary, 981-7400

Council Consent Items

- 10. Resolution in Support of AB 392 California Act to Save Lives**
From: Councilmember Davila
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

Council Consent Items

- 11. Local Construction Workforce Development Policy** *(Reviewed by the Land Use, Housing & Economic Development Committee)*
From: Councilmember Bartlett and Mayor Arreguin
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
- 12. Resolution in Support of SB 347 – Sugar-Sweetened Beverages Safety Warning Act**
From: Councilmember Harrison
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
- 13. Opposition to SB 386 (California Renewables Portfolio Standard Program: irrigation districts)**
From: Councilmember Robinson
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
- 14. Support for SB 14: Higher Education Facilities Bond**
From: Councilmember Robinson
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 – New Business

15a. 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

15b. 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

16a. 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

Action Calendar – New Business

- 16b. 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
- 17a. 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
- 17b. 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

- 18. 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

Action Calendar – Policy Committee Track Items

19. **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 on July 23, 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

20. **Pilot Cannabis Event at Cesar Chavez Park**
From: Councilmembers Bartlett and Davila
Recommendation: That the City Council permit a pilot cannabis event at Cesar Chavez Park. Adopt an ordinance amending BMC Chapter 12.22 to permit temporary cannabis events for a period of one-year after the effective date of the ordinance.
Financial Implications: Staff time
Contact: Ben Bartlett, Councilmember, District 3, 981-7130

Information Reports

21. **2019 Disaster and Fire Safety Commission Work Plan**
From: Disaster and Fire Safety Commission
Contact: Keith May, Commission Secretary, 981-3473

22. **Fair Campaign Practices Commission 2019 - 2020 Work Plan**
From: Fair Campaign Practices Commission
Contact: Emma Soichet, Commission Secretary, 981-6950

23. **Open Government Commission 2019 - 2020 Work Plan**
From: Open Government Commission
Contact: Emma Soichet, Commission Secretary, 981-6950

24. **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

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:

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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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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

Authorize 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>

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 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.

<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/>

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.





Housing Advisory Commission

CONSENT CALENDAR

July 9, 2019

To: Honorable Mayor and Members of the City Council  
 From: Housing Advisory Commission  
 Submitted by: Xavier Johnson, Chairperson, Housing Advisory Commission  
 Subject: 1281 University Avenue Request for Proposals

RECOMMENDATION

Direct the City Manager to issue a Request for Proposals (RFP) for residential development at the City-owned site at 1281 University Avenue with a requirement that at least 50% of the on-site units to be restricted to 50% AMI or below households, with consideration given to accommodations that serve unhoused or homeless households including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes.

FISCAL IMPACTS OF RECOMMENDATION

This site is already owned by the City and is currently vacant. Housing staff time will be required to issue, review, and select a qualified development group. This group may apply to the City for additional funding.

CURRENT SITUATION AND ITS EFFECTS

At its May 2, 2019 meeting, the Housing Advisory Commission took the following action:

Action: M/S/C (Tregub/Lewis) to recommend issuing a Request for Proposals for residential development at the City-owned site at 1281 University Avenue with a requirement that at least 50% of the on-site units be restricted to 50% AMI or below households, with consideration given to accommodations that serve unhoused or homeless households including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes.

Vote: Ayes: Johnson, Lewis, Lord, Tregub, and Wright. Noes: Sargent, Sharenko and Wolfe. Abstain: None. Absent: Owens (unexcused) and Simon-Weisberg (excused).

BACKGROUND

On March 28, 2017, Council directed staff to develop an RFP to “create small residential units, with appropriate on-site common spaces and services, affordable to extremely low-income persons, with incomes below 30% of Area Median Income (AMI)” at the City-owned site at 1281 University Avenue. On February 8, 2018, the City released an RFP seeking proposals to acquire and develop the site as housing for people with

extremely low-incomes with a preference for homeless services. The RFP also met City and State requirements, including the Surplus Lands Act (AB 2135).

The parcel at 1281 University Avenue is vacant lot consisting of approximately 3,600 sq ft and is adjacent to the Berkeley Way Mini-Park. City records indicate that while the park and lot are on a single legal parcel, the lot has never been included in the park and is therefore not subject to park-related land restrictions. Staff is concurrently coordinating the subdivision of the University Avenue-facing parcel from the Berkeley Way Mini-Park. Subdividing the parcel is necessary for the sale of the non-park portion.

The site previously hosted the Kenney Cottage, a historic house that has been designated as a Berkeley Structure of Merit, since 2003. The cottage was relocated in August 2018 at the direction of the City Council to facilitate the development of the parcel in coordination with the RFP for development proposals.

The City received two proposals in response to the RFP:

- *OpenDoor Group's University Avenue Co-Living*

OpenDoor proposed a "co-living" model that provides small, private bedrooms and baths with shared kitchen and living space. Their development model emphasizes shared communal spaces and activities. Their proposal featured 28 units (two studios and 26 co-living bedrooms), with seven units (25%) set aside for 50% AMI.

- *Resources for Community Development's (RCD) UA Permanent Supportive Housing*

RCD proposed a residential development specifically targeting the homeless, with 16 studios targeting 20-30% AMI and providing on-site homeless services.

On July 11, 2018, the Housing Advisory Commission (HAC) adopted a 1281 University RFP subcommittee's recommendation to select RCD's proposal with specific reservations. The subcommittee considered the RFP, Surplus Lands Act, the proposals, and staff's technical analysis as part of their analysis for the HAC.

On September 25, 2018, the City Council authorized to staff to negotiate and enter in a Memorandum of Understanding (MOU) with RCD based on the HAC's recommendation. Staff drafted an MOU as a starting point for negotiations with RCD. In December 2018, RCD informed the City they did not believe the financial resources needed for the proposed project would be available in a timely way, and formally withdrew from the negotiation process. When asked by staff in April 2019, OpenDoor informed the City they are no longer interested in having their proposal considered for the site. Therefore, the City no longer has proposals to consider from the RFP.



At the April 4, 2019 meeting, the HAC appointed a subcommittee to develop a recommendation to Council for the future use of 1281 University Avenue. The subcommittee met on April 19, 2019 to create a recommendation that was presented to the HAC at its May 2, 2019 meeting. The major change to the subcommittee's recommendation was to recommend that the Council also consider nontraditional living arrangements, including interim use of the site for housing purposes

#### ENVIRONMENTAL SUSTAINABILITY

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

#### RATIONALE FOR RECOMMENDATION

The City had already issued an RFP for this site and received two proposals, both of which have been withdrawn. This is a very small site and so only a limited number of traditional housing units can be built. This complicates planning and financing units for the site and may take several years before units could be completed. Since the City has many unhoused homeless individuals and households, the HAC also recommends that the City consider other approaches to house the homeless more quickly. Building tiny homes is one option to consider.

#### ALTERNATIVE ACTIONS CONSIDERED

The HAC recognizes that there are limited options for this site if it is to be developed in residential use. By issuing an RFP that includes interim uses, it is possible to identify other organizations that could recommend creative options for the City's consideration.

#### CITY MANAGER

The City Manager concurs with the content of this report and the recommendation to reissue an RFP at with a requirement that at least 50% of the on-site units be restricted to 50% AMI or below households. The RFP previously developed and issued by the City was very similar to what the HAC recommends and it could be re-purposed. Given that the City already issued this RFP once, a second attempt may not yield different responses. Housing staff time will be required to manage the RFP process and work with the selected developer.

The City can consider housing opportunities prioritizing the homeless or nontraditional arrangements. With the HAC's recommendation, Council would determine whether to award a disposition and development agreement to any applicant. Staff recommend that project milestones such as securing required permits and assembling necessary financing be part of such an agreement and required prior to the sale of the property.

Staff issued a report on nontraditional living arrangements including tiny homes in October 2016 noting research and amendments to the City's zoning and housing/building codes would be needed to allow permanent tiny homes on public property such as 1281 University Avenue. This would be noted in the RFP to ensure

transparency for any firm with plans to submit a proposal for nontraditional housing models.

Staff do not have a position on the HAC's recommendation to consider the use the site for temporary short term housing. If Council refers finding an interim use for the site to staff, this referral would need to be prioritized within the Council referral system to enable the staff time and resources for this type of project.

CONTACT PERSON

Mike Uberti, Acting Commission Secretary, Health, Housing & Community Services,  
(510) 981-5114



Cheryl Davila  
Councilmember  
District 2

CONSENT CALENDAR

July 9, 2019

**To:** Honorable Mayor and Members of the City Council  
**From:** Councilmember Cheryl Davila  
**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

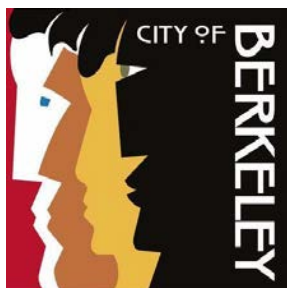
WHEREAS, current law fails to include best practices recommended by law enforcement organizations, including the U.S. Department of Justice under President Obama and most recently, by the California Department of Justice, as being effective in preserving life while also allowing police officers the latitude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

510-981-7130

James Chang

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: Councilmembers Kate Harrison  
 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







CONSENT CALENDAR  
July 9, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Rigel Robinson  
 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.

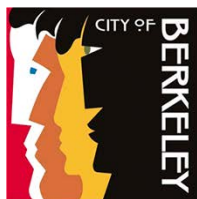
Californians pose to benefit from further investments in renewable energy resources through low utility rates, job generation, and revenue from "clean tech" investors. It is important that we continue to drive innovation in the renewable energy sector to not only avoid irreversible climate change effects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







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            |              |                   | <b>27</b>     |            | <b>28</b>     |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>49.09%</b> |            | <b>50.91%</b> |          |                   |            |

| 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             |              |                   | <b>4</b>      |            | <b>2</b>      |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>66.67%</b> |            | <b>33.33%</b> |          |                   |            |

| 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            |              |                   | <b>28</b>     |            | <b>23</b>     |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>54.90%</b> |            | <b>45.10%</b> |          |                   |            |

| 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           |              |                   | <b>148</b>    |            | <b>172</b>    |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>46.25%</b> |            | <b>53.75%</b> |          |                   |            |

| 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             |              |                   | <b>2</b>      |            | <b>1</b>      |          |                   |            |
| <b>% of Total</b>  |               |              |                   | <b>66.67%</b> |            | <b>33.33%</b> |          |                   |            |

| 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            |              |                   | <b>11</b>     |            | <b>1</b>     |          |                   |            |
| <b>% of Total</b>            |               |              |                   | <b>91.67%</b> |            | <b>8.33%</b> |          |                   |            |

| 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             |              |                   | <b>2</b>      |            | <b>2</b>      |          |                   |            |
| <b>% of Total</b>        |               |              |                   | <b>50.00%</b> |            | <b>50.00%</b> |          |                   |            |



| 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% |





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

SEARCH:

# 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.

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”



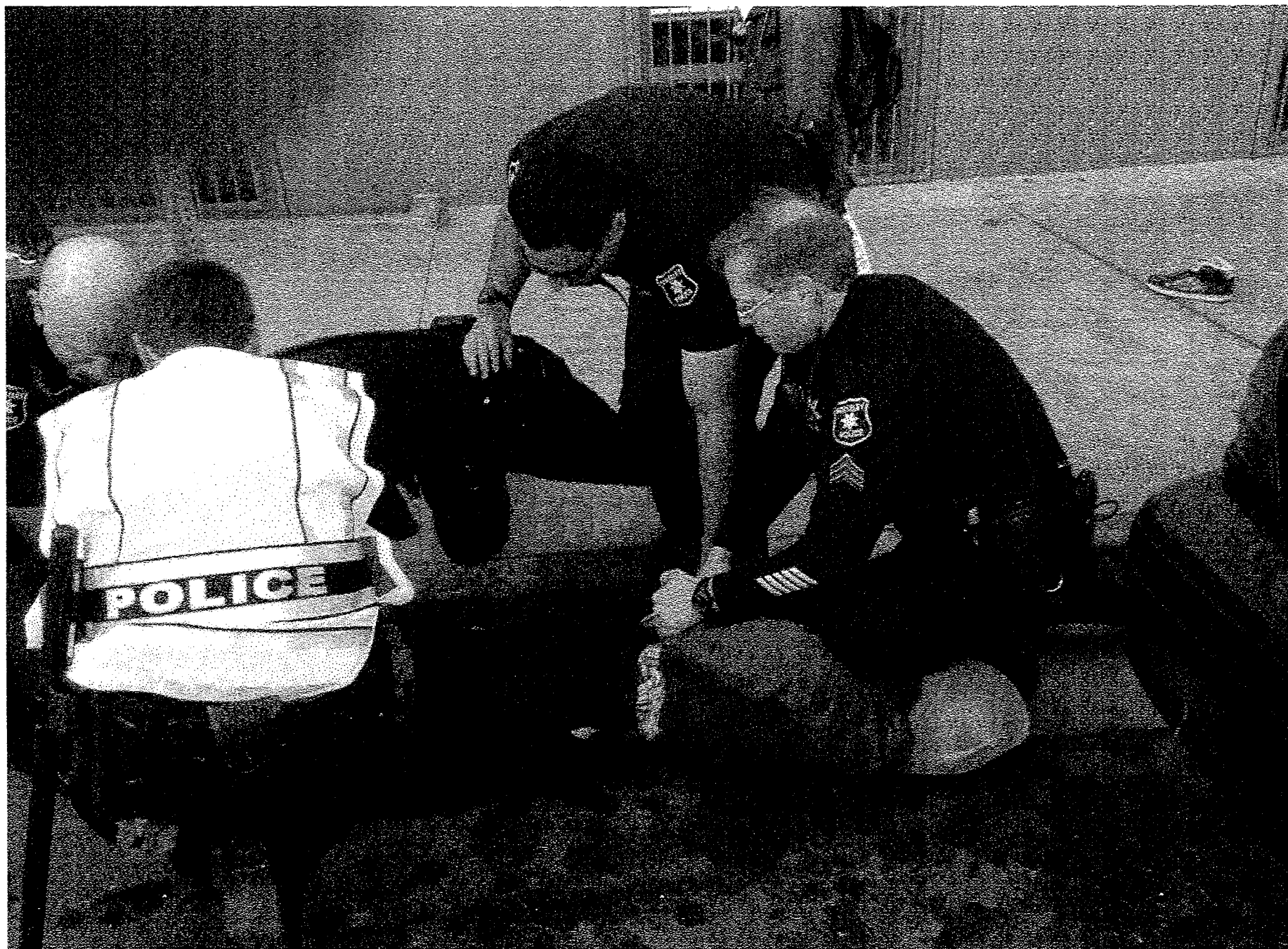
Spit hoods are used routinely by BPD officers. There has been no policy in place that regulates their use. Recently, the Police Review Commission has begun discussing a Lexipol policy that addresses the introduction of Spit “masks”. However, BPD is regularly using spit “hoods” which go over the head 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.

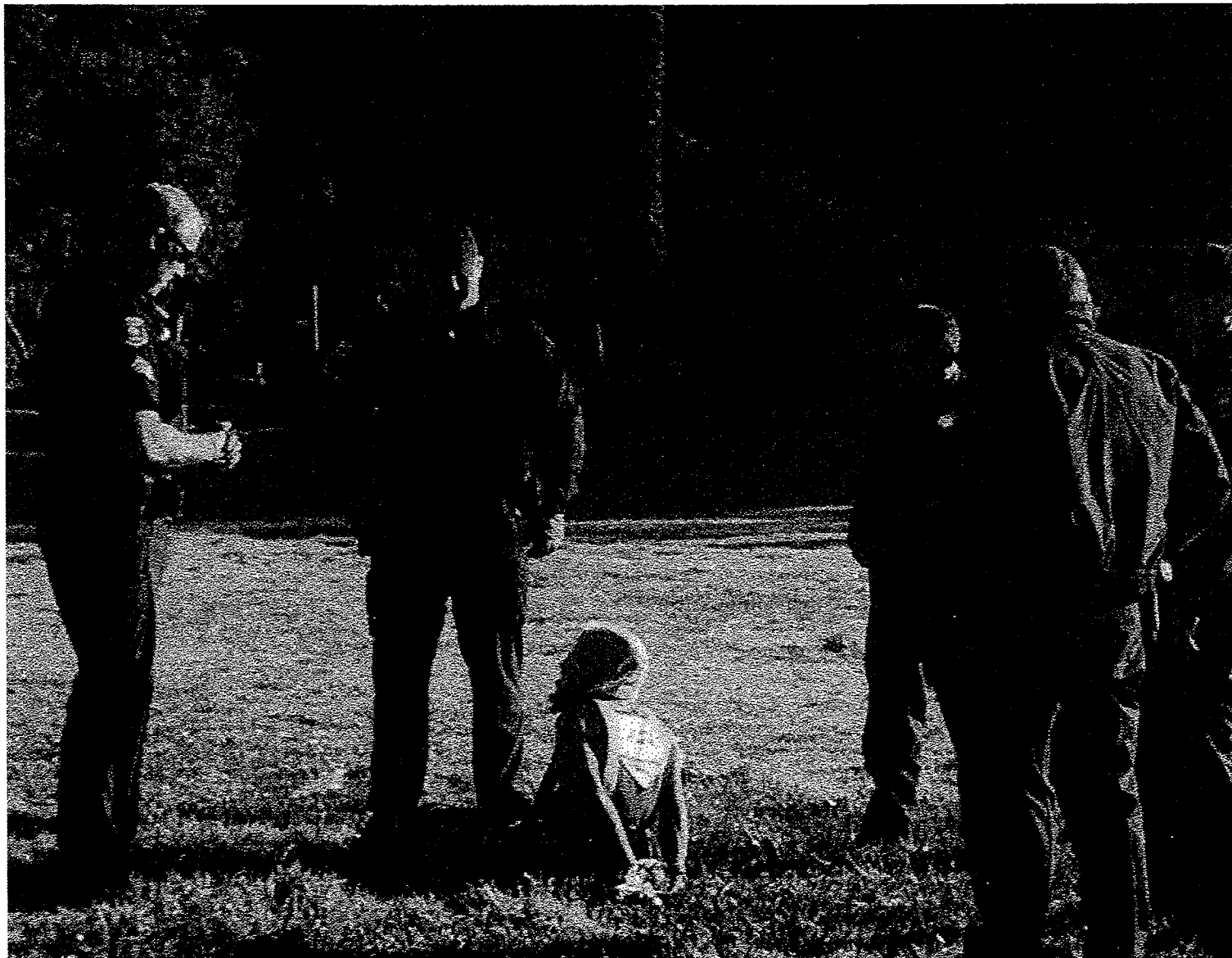


# Video: Where is Jeremy Carter?





# 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

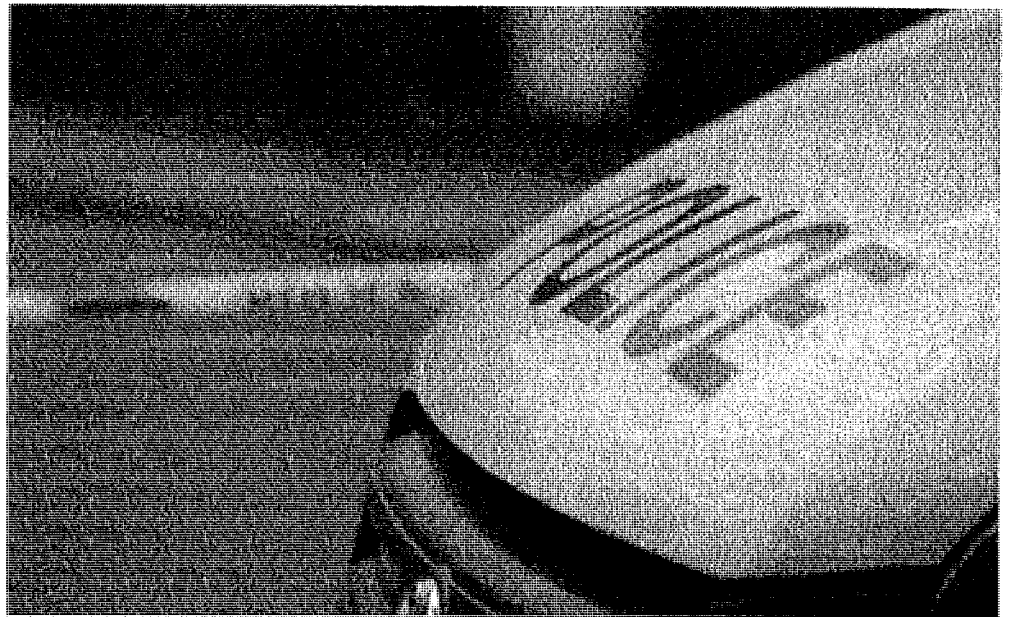
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## Inquest jury condemns Surrey police over death of man placed in spit hood

**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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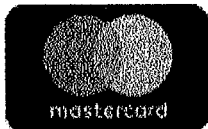
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ATTORNEYS FOCUSING ON WRONGFUL DEATH AND SERIOUS INJURY DUE TO POLICE BRUTALITY AND JAIL/PRISON MISCONDUCT

## 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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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. LWIS@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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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.

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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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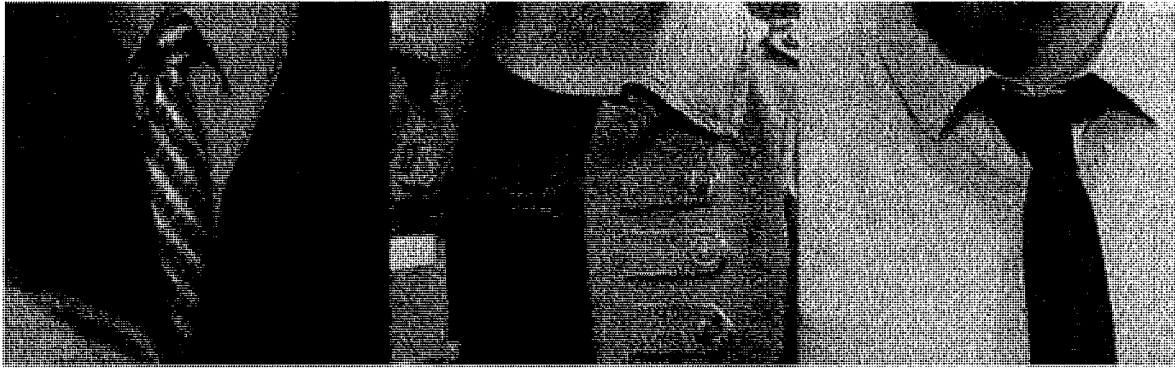
HALIFAX

## 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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## 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'.

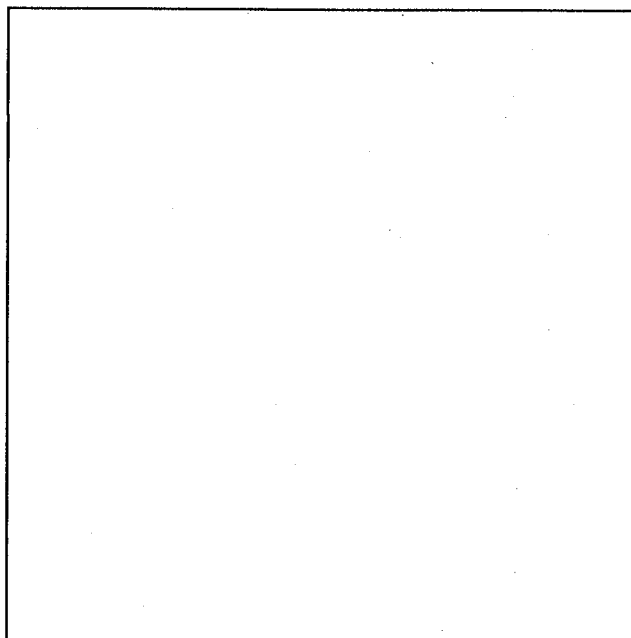
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**Tortured: Nick Christie was placed in a 'Devil's Chair' and repeatedly pepper-sprayed during a 43-hour ordeal, it has been claimed**

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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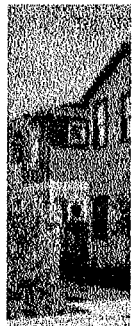
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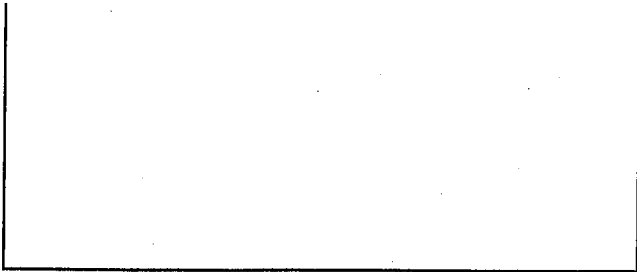
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**The retired boilermaker had suffered from heart disease and emphysema, put down to his years as a smoker and of continual exposure to asbestos**

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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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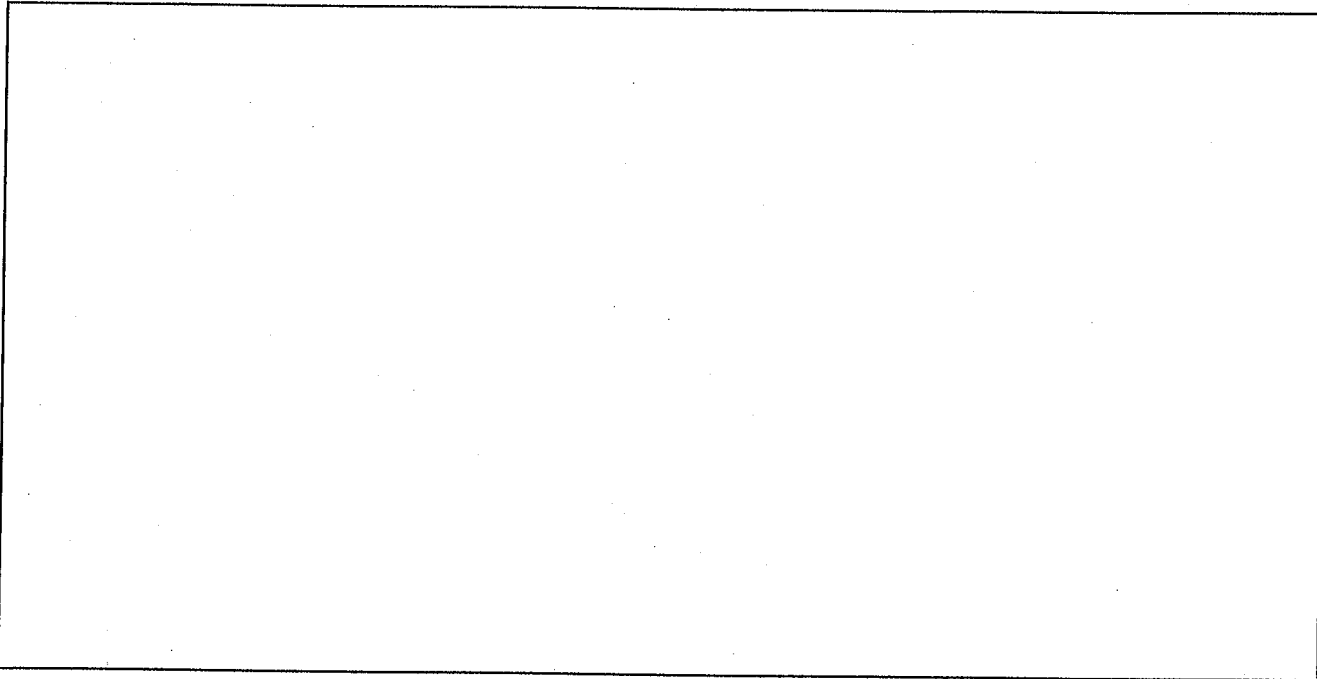
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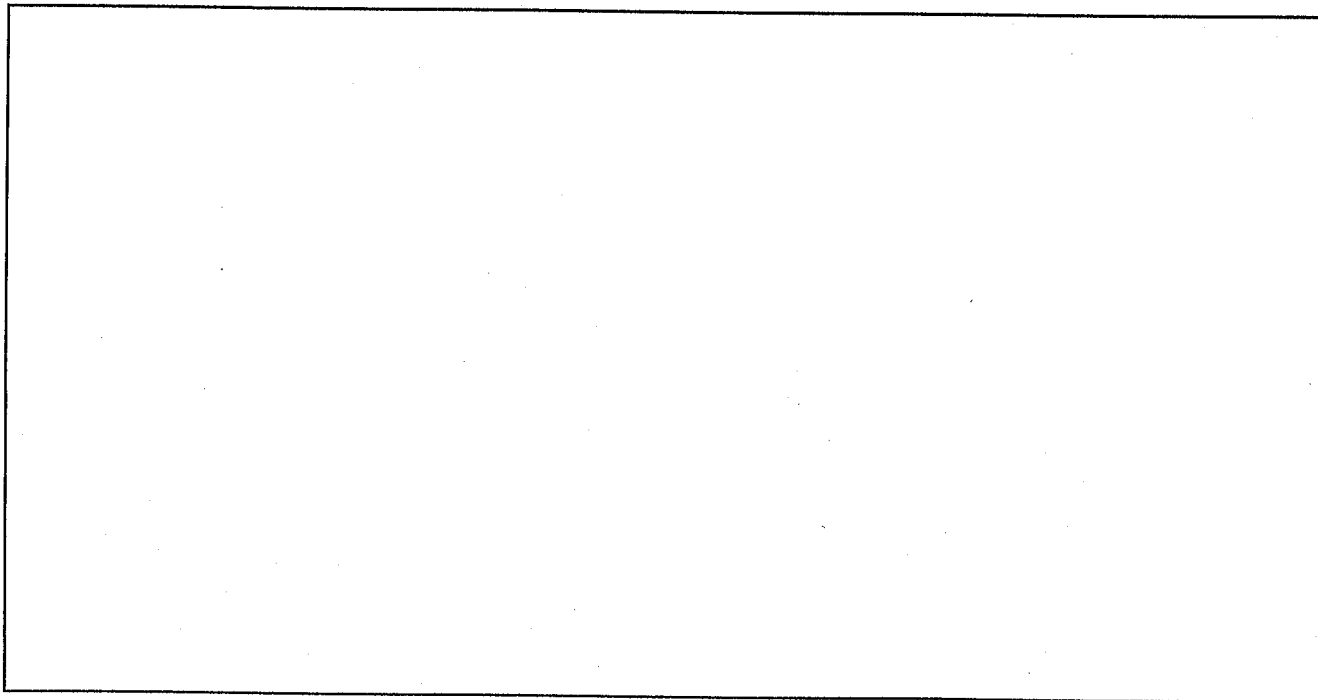
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He was released after telling jail attendants of his various medical conditions. Two days later, on March 27, he was arrested for trespassing at the hotel where he was staying.



**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.

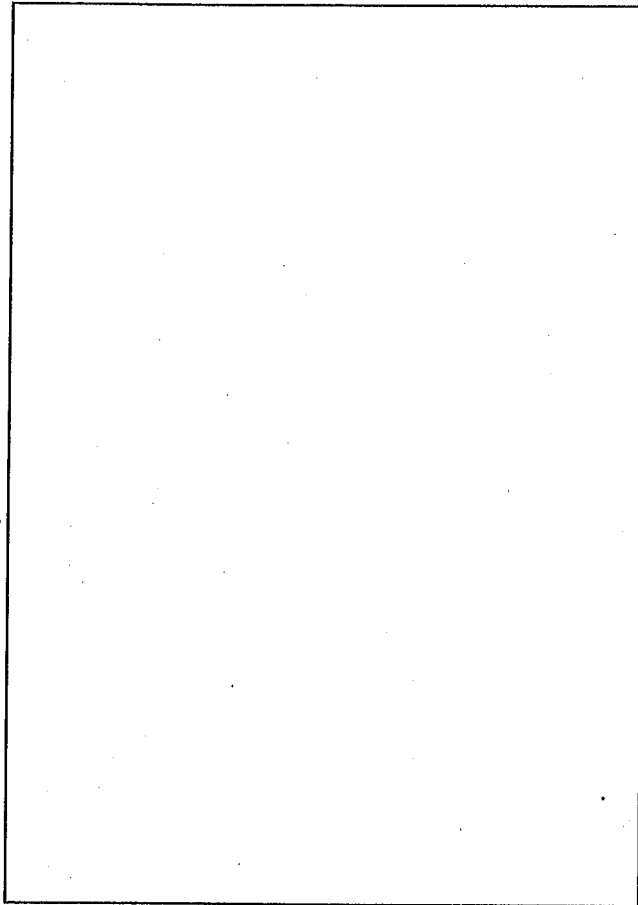
Other inmates in the jail told Fort Myers News-Press that the blasts were so strong the secondary effects caused them to gag.

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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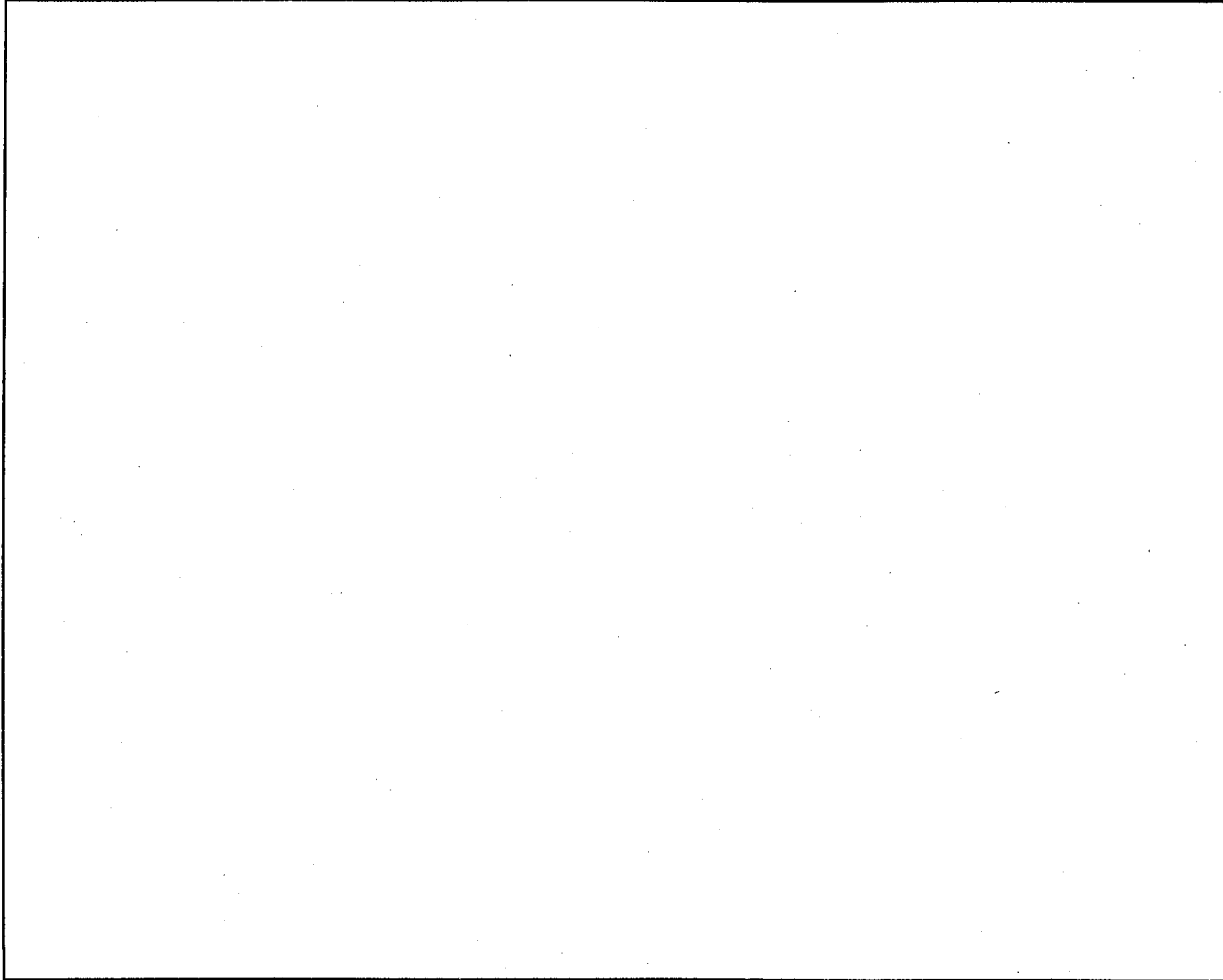
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DiCello added: 'She was actually relieved to hear he had been arrested She thought they had responded to her pleas for help, that they would take him to a hospital to be treated.'



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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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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.





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.



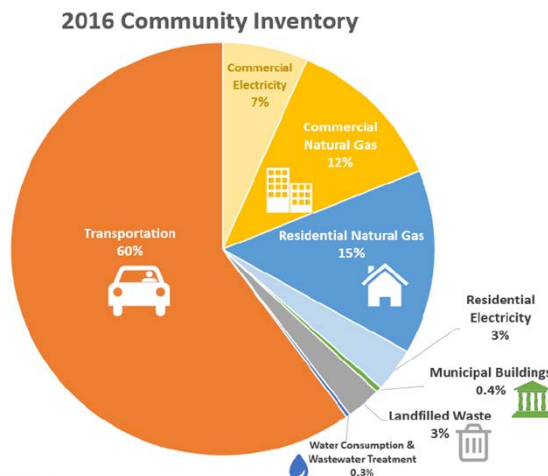
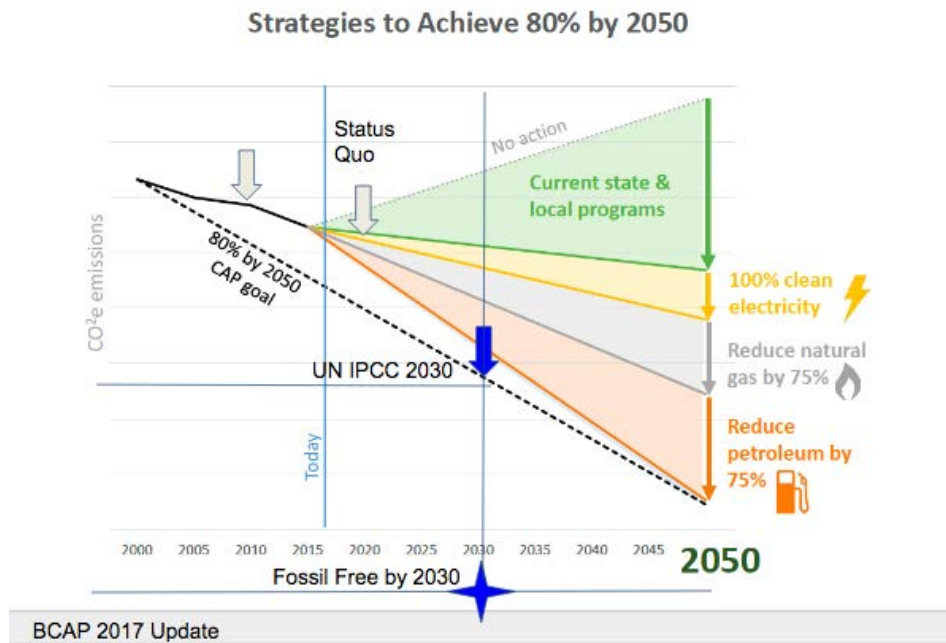


Figure 1: Pie chart of 2016 community-wide GHG emissions inventory, broken down by sector and fuel.

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>.

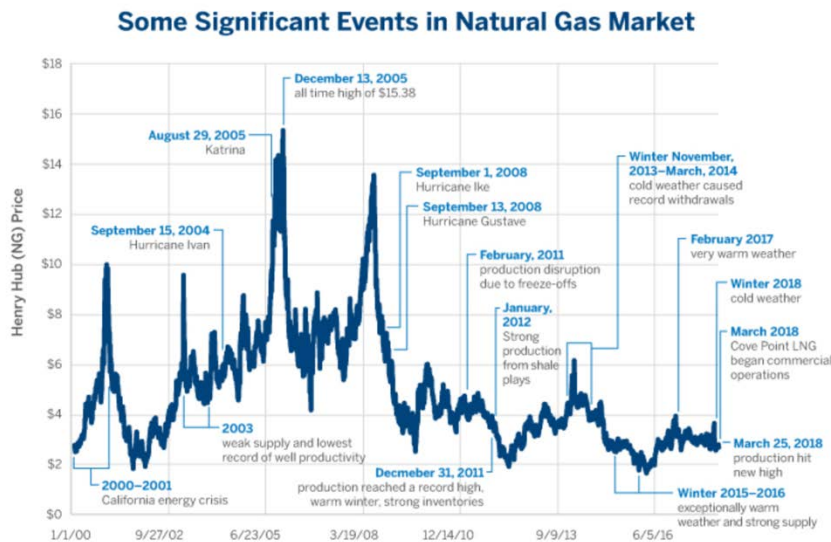
<sup>35</sup> See e.g., Rebecca Bowe, Lisa Pickoff-White, Five Years After Deadly San Bruno Explosion: Are We Safer?, KQED, September 8, 2015, <https://www.kqed.org/news/10667274/five-years-after-deadly-san-bruno-explosion-are-we-safer>; See also, David Siders, Jerry Brown declares emergency around Southern 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>

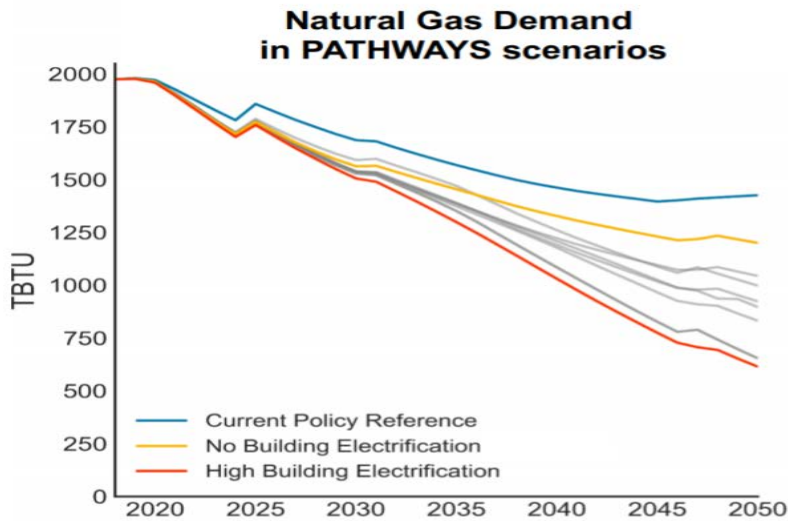
California Senate Bill 100 ensures that the California electric grid will be 100% greenhouse gas-free by 2045. Berkeley businesses and residents already have access to 100% carbon free electric plans through East Bay Community Energy at the same price as PG&E’s standard rate, and many Berkeley electricity 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 retrofitting. 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.





Office of the Mayor

CONSENT 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 on July 23, 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 prior to the start of the 2019 City Council summer recess.

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 on July 23. 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 July 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 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 Create Berkeley: A Framework for Affordable Housing



## **Housing for a Diverse, Equitable and Creative Berkeley**

### *A Framework for Affordable Housing*

June 17, 2019

**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 the 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 who cannot afford market-rate housing. 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, and prioritize units for those who have been displaced from housing or who currently live or work in Berkeley.
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 our buildings 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 public and City 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 on the Pacific Rim, bordering San Francisco Bay and boasting 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 and non-religious creeds, ages, 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

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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>

evictions throughout the region and the State, the humanitarian disaster of homelessness accelerates.<sup>2,3,4</sup>

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 (the approximate average rent for a 2 bedroom apartment in Berkeley) 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.

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<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>

<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 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 that are required to provide support for affordable housing as a community benefit. Finally, the City of Berkeley is completing an inventory of land it owns that might be allocated to affordable housing development.

These Berkeley affordable housing funds and resources can bring in matching funds of as much as \$5 for every local dollar, significantly leveraging Berkeley's 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 affordable by 2030. This means that in another ten years 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 a total of about \$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 may receive input from 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 developer 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 and 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 school system, eliminating barriers for those with mobility and other physical limitations, preserving the affordability of rental housing by limiting rent increases to the level necessary for 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 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 and to meet the housing needs of people with a range of incomes, family sizes 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 low-rise/small scale multi-family to live-work spaces to 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, 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 people 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 - an increase of 33% over just 30 years.<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 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 can be directly seen in the average rents in Berkeley. 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 2018 it had reached \$1,200,000.

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, the supply of housing can only increase by increasing the density of development, as is currently underway in Berkeley's 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

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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/>

<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/>

and away from older, more affordable buildings, thus reducing displacement; but it does not help meet the 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 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

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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)

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, as well as those who have been displaced through gentrification. 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 “social” 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

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<sup>13</sup> MTC, Jobs by Wage Level, <https://www.vitalsigns.mtc.ca.gov/jobs-wage-level>

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.

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 Government's Housing Department, 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 and restricting the number of households it can support, or subsidizing more households but falling behind the market and risk 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

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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/>

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 placed outside of Berkeley due to the difficulty of finding places in Berkeley, but still receive services from Berkeley.

In total, then, Berkeley 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 affordable reserved 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.

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<sup>17</sup> United States Interagency Council on Homelessness, Supportive Housing, <https://www.usich.gov/solutions/housing/supportive-housing/>

<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)

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.*

## **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. 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

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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)

many people with incomes even lower. Serving people with “extremely low” 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.

**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 and 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-rent 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 (formerly \$34,000, and as of July 2018, \$37,962 per market-rate unit built).<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%) 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, and in neighborhoods such as the Downtown,

<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 few “opportunity sites” for affordable housing, that the only way to achieve affordable units is if they are included within market rate developments.

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 incomes categorized as extremely low, up to 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. The City has been forced to rely on limited Federal funding - especially project-based Section 8 through the Berkeley Housing Authority.

**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 transaction 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>23</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 for low-income individuals and families. This process is also an opportunity to expand limited equity cooperative ownership.<sup>24</sup>

<sup>23</sup> Romem, Issa and Elizabeth Kneebone, 2018. "Disparity in Departure: Who Leaves the Bay Area and Where Do They Go?" <https://ternercenter.berkeley.edu/disparity-in-departure>

<sup>24</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)

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 a property is placed on the market. If a tenant or tenants decide to purchase, they must form a tenant organization for the building to manage the building. This model has seen success in other communities, including Washington D.C.<sup>25</sup>

**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 build a stronger community. In years past, Berkeley had programs to support both individual and cooperative homeownership. At a time when working families can

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<sup>25</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)

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>26</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 this is 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.

**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 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

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<sup>26</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.

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. Last year 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. When Community Land Trusts are supported by the City of Berkeley they 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.

**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 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 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 an ownership/participatory model. 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 getting into 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 of the possibility of allowing up to quadplexes into areas currently zoned for a single family home + 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, and prioritize units for those who have been displaced from housing or who currently live or work in Berkeley.**

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
- 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 BESO, LEED gold standards for larger downtown buildings, Bay-friendly landscaping for projects over a certain size, and storm water and waste management during construction. In addition, a number of solar, energy efficiency and other green building proposals have been referred to the City Manager over 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 low income units near transit is also an important environmental strategy. This is especially true when parking is reduced or eliminated. Locating high densities of housing near or on transit corridors and reducing parking requirements at such developments can yield increased public transit use and greater incidence of people living closer to their workplaces, both of which can significantly reduce greenhouse gas emissions. Low income housing is particularly important in achieving these goals of TOD, as low income people are more likely to ride transit. A recent study in LA showed that market rate housing near transit had the opposite effect, displacing lower income people who rode transit and replacing them with others who take transit less.<sup>27</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 would require remediation. For example 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>28</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 our buildings 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” 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,

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<sup>27</sup> “Transit-oriented development? More like transit rider displacement,” L.A. Times, Feb. 20, 2018, <https://www.latimes.com/opinion/op-ed/la-oe-roenthal-transit-gentrification-metro-ridership-20180220-story.html>

<sup>28</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)

expanded apprenticeship programs that help local, disadvantaged residents start careers in construction and policies ensuring that workers on large projects receive adequate benefits.

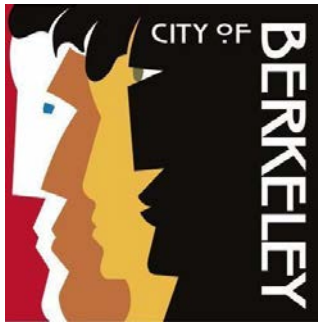
5. **Make changes to the City of Berkeley Zoning Code and project approvals processes to incentivize, facilitate and reward the production of affordable housing.**

The City has taken a number of steps to incentivize and facilitate the production of affordable housing. Density bonuses, streamlining of permits, fee waivers, revised inclusionary requirements, amnesty for non-conforming units and other strategies can make it possible to produce units affordable to some moderate- and low-income people without the need for subsidies and to reduce the time and cost of making affordable housing available to very low-income residents. Many of these strategies have already been implemented, or are being considered by the Planning Commission. There are likely other ways to facilitate or otherwise reward the production of affordable housing, which should be considered and implemented to provide systemic change.

*Special thanks to Bradan Litzinger, District 5 Legislative Director*

**Attachment A: Housing Resources**

**Attachment B: Income Levels and Affordable Monthly Housing Costs**



## Councilmember Ben Bartlett

City of Berkeley, District  
 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: Councilmembers Ben Bartlett and Cheryl Davila

Subject: Pilot Cannabis Event at Cesar Chavez Park.

### RECOMMENDATION

That the City Council permit a pilot cannabis event at Cesar Chavez Park. Adopt an ordinance amending BMC Chapter 12.22 to permit temporary cannabis events for a period of one-year after the effective date of the ordinance.

### CURRENT SITUATION

This would be a pilot event that addresses the Cannabis event request that was removed from the previously approved Cannabis Ordinance. This pilot event acts as a model to revisit the possibility of three cannabis events per year in the future. This event would allow on-site sales and consumption of cannabis, and would be required to apply for a special event permit from the City as well as a permit from the State of California. Such event would be organized and licensed as required by the State of California. The ordinance shall: 1) reference Resolution No. 68,326-N.S., declaring that Berkeley is a sanctuary for adult use cannabis, 2) specify procedures for such events that replicate similar alcohol-related event protocols.

### FINANCIAL IMPLICATIONS

Staff time.

### BACKGROUND

The Berkeley Marijuana Initiative was passed in 1979, this called for more support towards reform of Marijuana laws and prevented further persecution of Marijuana use. The city recognized the negative impacts of this persecution and the Berkeley Police Department agreed to make enforcement of Marijuana laws the lowest priority.

Berkeley has also permitted medical cannabis dispensaries, authorized under state Proposition 215 and local law, to safely deliver medicine to patients, for over 20 years. This has had a positive impact on the community, and encouraged further support, which led to the City Council adopting Resolution No. 63,966-N.S. in 2008, declaring the City of Berkeley a sanctuary for medical cannabis patients and providers. This also helped to combat attempts by the U.S. Drug Enforcement Administration (DEA) to close medical marijuana dispensaries.

In the 2016 statewide ballot, 83% of Berkeley residents voted in favor of Proposition 64, the initiative to legalize adult recreational cannabis for persons over 21 years old. In addition, in June 2017, Governor Brown signed SB94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). This bill created the framework for state regulations and enforcement of the cannabis industry.

The City Council has been developing ordinance modifications to allow Berkeley businesses to operate in accordance with state law. These documents were reviewed by the Cannabis Commission, Planning Commission, and Community Health Commission in early 2018. In compliance with the objective to create safe access to and decriminalized cannabis, on February 13, 2018, the City Council passed Resolution No. 68,326-N.S., declaring that Berkeley will be a sanctuary city for adult-use cannabis customers, businesses, providers, and landlords.

In 2018 the California legislature passed AB 2020, which expanded locations where cannabis related events can occur beyond county fairgrounds. It requires that the event organizer obtain a cannabis event organizer permit from the state of California and acquire a temporary event permit from the State for each event, in addition to any needed local permits.

A previous request for allowing Cannabis events at Cesar Chavez Park was made in Cannabis Ordinance Revisions submitted to City Council March 2019. All Ordinances passed except the allowance for temporary Cannabis events, which previously requested up to three events per calendar year. Most recently, as of February 2019, the Berkeley City Council approved a recommendation for a Short-Term Referral to the City Manager. This would develop ordinance amendments permitting up to three cannabis events per year in Berkeley and designating Cesar Chavez Park as the sole approved location for cannabis events.

#### RATIONALE FOR RECOMMENDATION

Amending our Municipal Code to permit this pilot event as authorized by state law will provide a safe and regulated location for these types of events and provide significant economic benefits to the City of Berkeley. There will be no alcohol, and only state licensed approved vendors. The event will only permit those 21 and over. It would serve as a model for similar future events, helping to identify further regulation needed for such events to occur and issues that may arise from these events. Since the city already allows alcohol-related events in city parks, permitting this event would further the progressive cannabis direction that Berkeley and California have been promoting. It would be another step forward in the process of decriminalization. Oakland has also recently permitted the allowance for cannabis events, and allows cannabis event organizers to apply for temporary permits on their website.

ENVIRONMENTAL SUSTAINABILITY

Complies with City of Berkeley sustainability goals

CONTACT PERSON

Councilmember Ben Bartlett

510-981-7130







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 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

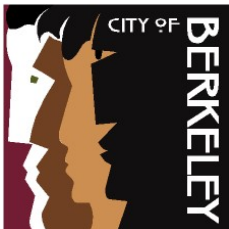
Rental of meeting rooms for subcommittee meetings - \$2000

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.

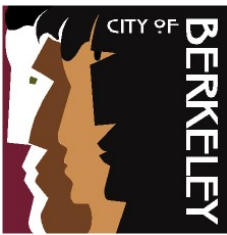
Education:

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 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

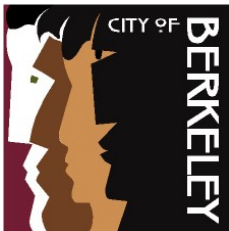
Emmanuelle Soichet, Commission Secretary, City Attorney's Office

(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

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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.

2018 Annual Report to OGC

May 9, 2019

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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.

2018 Annual Report to OGC  
May 9, 2019  
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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



2018 Annual Report to OGC

May 9, 2019

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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

2018 Annual Report to OGC

May 9, 2019

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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

|                                 | Total<br>Number of<br>Requests | Two or more Days                   |                                           |                        |                        |                          | Non-Batch PRAs                  |                                     |                        |                        |                          |
|---------------------------------|--------------------------------|------------------------------------|-------------------------------------------|------------------------|------------------------|--------------------------|---------------------------------|-------------------------------------|------------------------|------------------------|--------------------------|
|                                 |                                | 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.



| Upcoming Workshops – <i>start time is 6:00 p.m. unless otherwise noted</i> |                                                                                                                                                  |
|----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| Scheduled Dates                                                            |                                                                                                                                                  |
| Sept. 17                                                                   | <ol style="list-style-type: none"> <li>1. Arts and Culture Plan</li> <li>2. Zero Waste Rate Review</li> <li>3. Adeline Corridor Plan</li> </ol>  |
| Oct. 22                                                                    | <ol style="list-style-type: none"> <li>1. Berkeley’s 2020 Vision Update</li> <li>2. Census 2020 Update</li> <li>3. Short Term Rentals</li> </ol> |
| Nov. 5                                                                     | <ol style="list-style-type: none"> <li>1. Transfer Station Feasibility Study</li> <li>2. Vision Zero Action Plan</li> </ol>                      |
| Dec. 5                                                                     | Cancelled – no worksession meeting in December                                                                                                   |

| Unscheduled Workshops                                                               |
|-------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Cannabis Health Considerations</li> </ol> |

| Unscheduled Presentations                                                                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Referral Response: Issue a Request for Information to Explore Grant Writing Services from Specialized Municipal Grant-Writing Firms, and Report Back to Council</li> </ol> |

|    | <b>City Council Referrals to the Agenda Committee and Unfinished Business for Scheduling</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | <p><b>61a. Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley</b> (<i>Referred from the July 24, 2018 agenda</i>)<br/> <b>From: Housing Advisory Commission</b><br/> <b>Recommendation:</b> That the City Council not use U1 funds to backfill the Workers' Compensation Fund for the acquisition of the properties located at 1001, 1007, and 1011 University Avenue, and 1925 Ninth Street, City of Berkeley.<br/> <b>Financial Implications:</b> See report<br/> Contact: Amy Davidson, Commission Secretary, 981-5400</p> <p><b>61b. Companion Report: Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley</b> (<i>Referred from the July 24, 2018 agenda</i>)<br/> <b>From: City Manager</b><br/> <b>Recommendation:</b> Accept staff's recommendation to use \$4,730,815 of Measure U1 revenue over a 5 year period (\$946,163 annually) to repay the Workers' Compensation Fund for the acquisition of the properties located at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley.<br/> <b>Financial Implications:</b> See report<br/> Contact: Dee Williams-Ridley, City Manager, 981-7000</p> |
| 2. | <p><b>68. Revisions to Ordinance No. 7,521--N.S. in the Berkeley Municipal Code to increase compliance with the city's short-term rental ordinance</b> (<i>Referred from the July 24, 2018 agenda. Agenda Committee to revisit in April 2019.</i>) <b>March 18, 2019 Action:</b> <i>Item to be agendized at future Agenda and Rules Committee Meeting pending scheduling confirmation from City Manager.</i><br/> <b>From: Councilmember Worthington</b><br/> <b>Recommendation:</b> Refer the City Manager to look into adopting revisions to Ordinance No. 7,521--N.S by modeling after the Home-Sharing Ordinance of the City of Santa Monica and the Residential Unit Conversion Ordinance of the City of San Francisco in order to increase compliance with city regulations on short-term rentals of unlicensed properties.<br/> <b>Financial Implications:</b> Minimal<br/> Contact: Kriss Worthington, Councilmember, District 7, 981-7170</p>                                                                                                                                                                                                                                                                                                      |
| 3. | <p><b>4. Disposition of City-Owned, Former Redevelopment Agency Properties at 1631 Fifth Street and 1654 Fifth Street</b> (<i>Referred from the September 25, 2018 agenda</i>)<br/> <b>From: City Manager</b><br/> <b>Recommendation:</b><br/> 1. Adopt first reading of an Ordinance authorizing the sale of two City-owned, former Redevelopment Agency properties at 1631 Fifth Street and 1654 Fifth Street at market rate and deposit the proceeds in the City's Housing Trust Fund (HTF).<br/> 2. Direct the City Manager to issue a Request for Proposals to select a real estate broker to manage the sale.<br/> <b>Financial Implications:</b> See report<br/> Contact: Kelly Wallace, Housing and Community Services, 981-5400</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |



|           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>4.</p> | <p><b>17. Short-term referral to City Manager and budget referral for creation of a “vehicle dweller program” in Berkeley</b> <i>(Referred from the April 2, 2019 agenda.)</i><br/> <b>From: Councilmember Davila</b><br/> <b>Recommendation:</b> Create a comprehensive program to support those living in their vehicles, including but not limited to RVs, to stay in Berkeley without fear of being criminalized, harassed, displaced, fined or having their vehicles confiscated, and with the support needed to have minimal impact on the neighborhoods in which they reside. The program could include: -Issuing 3-6 month permits for vehicles in running order with an option to renew if no validated complaints have been filed. -Creating a registration process that identifies any additional support needed. -Specifying a consistent, clear and transparent process for investigating complaints to determine validity and issuing warnings. -Distributing permits equally across all parking permit districts and identifying any restrictions on parking (i.e. near schools given bus access, etc.). -Creating an affordable sliding scale permit structure based on size of vehicle, weight, number of wheels, etc. -Providing pump-out services, waste disposal and social services as needed. -Creating a pump-out station for use by RVs within the City of Berkeley. -Creating a program for up to \$3,000 per a vehicle for mechanical and sanitation repairs as well as registration and offering a grace period to get vehicles into compliance for a permit. -Piloting a Safe Parking program modeled after Oakland’s pilot: 4-8 sites with 6-10 vehicles parked at business, school, community or faith-based site parking lots, including support and sanitation services.<br/> Vehicles with permits are exempt from Berkeley Municipal Code (BMC) Chapter 12.76 and BMC Section 14.40.120.<br/> <b>Financial Implications:</b> See report<br/> Contact: Cheryl Davila, Councilmember, District 2, 981-7120</p> |
| <p>5.</p> | <p><b>50. Referral Response: Tenant Opportunity to Purchase Act (TOPA) Ordinance</b> <i>(Referred from the June 11, 2019 agenda.)</i><br/> <b>From: City Manager</b><br/> Contact: Kelly Wallace, Housing and Community Services, 981-5400</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

| CITY CLERK DEPARTMENT                                                       |                      |                       |                                         |                   |
|-----------------------------------------------------------------------------|----------------------|-----------------------|-----------------------------------------|-------------------|
| WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS<br>BEFORE THE CITY COUNCIL |                      |                       |                                         |                   |
| Address                                                                     | Board/<br>Commission | Appeal Period<br>Ends | Determination<br>on Appeal<br>Submitted | Public<br>Hearing |
| <b>NOD – Notices of Decision</b>                                            |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
| <b>Public Hearings Scheduled</b>                                            |                      |                       |                                         |                   |
| 2325 Sixth St (single-family residence)                                     | ZAB                  |                       |                                         | TBD               |
|                                                                             |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
| <b>Remanded to ZAB or LPC</b>                                               |                      |                       |                                         |                   |
| 1155-73 Hearst Ave (develop two parcels)                                    | ZAB                  |                       |                                         |                   |
| 90-Day Deadline: May 19, 2019                                               |                      |                       |                                         |                   |
| 2701 Shattuck Ave (construct 5-story mixed-use building)                    | ZAB                  |                       |                                         |                   |
| 90-Day Deadline: June 30, 2019                                              |                      |                       |                                         |                   |
| <b>Notes</b>                                                                |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |

Last Updated: 6/19/19