



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

**MONDAY, FEBRUARY 8, 2021**

**2:30 P.M.**

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf

Alternate: Councilmember Lori Droste

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council Agenda & Rules Committee will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL <https://us02web.zoom.us/j/89989073676>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

To join by phone: Dial **1-669-900-9128 or 1-877-853-5257 (Toll Free)** and Enter Meeting ID: **899 8907 3676**. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized by the Chair.

Written communications submitted by mail or e-mail to the Agenda & Rules Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record. City offices are currently closed and cannot accept written communications in person.

# AGENDA

**Roll Call**

**Public Comment**

## **Review of Agendas**

1. **Approval of Minutes: January 25, 2021 and February 1, 2021**
2. **Review and Approve Draft Agenda:**
  - a. 2/23/21 – 6:00 p.m. Regular City Council Meeting
3. **Selection of Item for the Berkeley Considers Online Engagement Portal**
4. **Adjournments In Memory**

## **Scheduling**

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

## **Referred Items for Review**

8. **Discussion Regarding Impact of COVID-19 (novel coronavirus) on Meetings of Legislative Bodies**
9. **Systems Realignment Proposal**  
**From: City Manager**  
**Recommendation:** Review and discuss the City Manager's proposal to create improvements to enhance the effectiveness of the City Council legislative and budget processes. Provide feedback for staff to develop a recommendation for full Council consideration.  
Contact: Dee Williams-Ridley, City Manager, (510) 981-7000

## Referred Items for Review

10. **Amendments to the Berkeley Election Reform Act (BERA) to Regulate Officeholder Accounts and Proposed Changes to City Council Office Budget Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)**

**From: Fair Campaign Practices Commission**

**Referred: January 11, 2021**

**Due: June 1, 2021**

**Recommendation:** Form a joint subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

**Financial Implications:** None

Contact: Sam Harvey, Commission Secretary, (510) 981-6950

## Unscheduled Items

*These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.*

11. **Commission Reorganization for Post-COVID19 Budget Recovery**  
**From: Councilmember Droste (Author), Councilmember Robinson (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor)**

**Referred: June 15, 2020**

**Due: March 1, 2021**

**Recommendation:** 1. Reorganize existing commissions with the goal of achieving 20 total commissions; 2. Reorganize existing commissions within various departments to ensure that no single department is responsible for more than five commissions; 3. Reorganize commissions within the Public Works Department to ensure Public Works oversees no more than three commissions; 4. Refer to the City Manager and every policy committee to agendaize at the next meeting available to discuss commissions that are in their purview and make recommendations to the full Council on how to reorganize and address the various policy areas. Commission members should be notified and chairs should be invited to participate. Policy committee members are encouraged to consider the renaming of some commissions in order to ensure that all policy areas are addressed.

**Financial Implications:** See report

Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

## Items for Future Agendas

- Discussion of items to be added to future agendas

### Adjournment – Next Meeting Monday, February 22, 2021

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### 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.*

*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.*

*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.*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Members of the City Council who are not members of the standing committee may attend a standing committee meeting even if it results in a quorum being present, provided that the non-members only act as observers and do not participate in the meeting. If only one member of the Council who is not a member of the committee is present for the meeting, the member may participate in the meeting because less than a quorum of the full Council is present. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900.*

#### COMMUNICATION ACCESS INFORMATION:



To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

\* \* \*

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 February 4, 2021.

A handwritten signature in black ink that reads "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, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or [policycommittee@cityofberkeley.info](mailto:policycommittee@cityofberkeley.info).*



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

**MONDAY, JANUARY 25, 2021**

**2:30 P.M.**

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf

Alternate: Councilmember Lori Droste

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

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To join by phone: Dial **1-669-900-9128 or 1-877-853-5257 (Toll Free)** and Enter Meeting ID: **849 9209 4173**. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized by the Chair.

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**Roll Call:** 2:32 p.m. All present.

**Public Comment** – 1 speaker.

## **Review of Agendas**

**1. Approval of Minutes: January 11, 2021**

**Action:** M/S/C (Wengraf/Hahn) to approve the minutes of 1/11/21.

**Vote:** All Ayes.

**2. Review and Approve Draft Agenda:**

a. 2/9/21 – 6:00 p.m. Regular City Council Meeting

**Action:** M/S/C (Arreguin/Wengraf) to refer Item 13 Measure P Allocations to the Homeless Services Panel of Experts and the Budget & Finance Committee and request that Councilmember Droste make revisions to the item to clarify that Measure P is not a “fund” and discussion of homeless services would be regarding General Fund sources.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Hahn) to approve the agenda of 2/9/21 with the changes noted below.

- Item Added: Housing Trust Fund (Arreguin) – added to 2/9 Consent Calendar
- Item Added: Black Lives Matter (Arreguin) – added to 2/9 Consent Calendar
- Item 7 Kala Bagai Way (Arreguin) – Councilmembers Hahn and Robinson added as co-sponsors
- Item 11 Right to Boycott (Davila) – Moved to Consent Calendar
- Item 12 Communications Services (Droste) – Moved to Consent Calendar
- Item 13 Measure P Allocations (Droste) – Referred to the Homeless Services Panel of Experts and the Budget & Finance Committee; requested amendments from the author

Order of Items on Action Calendar

Item 8 Consolidated Plan

Item 9 Home Occupations

Item 10 Police Chief

**Vote:** All Ayes.

**3. Selection of Item for the Berkeley Considers Online Engagement Portal**

- None Selected

**4. Adjournments In Memory – None**

## Scheduling

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

## Referred Items for Review

8. **Discussion Regarding Impact of COVID-19 (novel coronavirus) on Meetings of Legislative Bodies**

**Action:** 1 speaker. No action taken.

9. **Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12** *(Item contains supplemental material)*  
**From: Fair Campaign Practices Commission**

**Referred: July 28, 2020**

**Due: January 29, 2021**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to prohibit Officeholder Accounts (See Section 18531.62. Elected State Officeholder Bank Accounts, Regulations of the Fair Political Practices Commission).

**Financial Implications:** None

Contact: Sam Harvey, Commission Secretary, (510) 981-6950

**Action:** 0 speakers. M/S/C (Hahn/Arreguin) to refer the item to the Council with a qualified Positive Recommendation to take no action on the item, but to refer the concepts and materials to the Agenda & Rules Committee for discussion with representatives of the commission on Item 11.

**Vote:** All Ayes

## Referred Items for Review

**10. Relinquishments and grants from Councilmembers' office budgets**

**From: Open Government Commission**

**Referred: August 31, 2020**

**Due: February 15, 2021**

**Recommendation:** Adopt a Resolution creating a temporary advisory committee consisting of three (3) members each of the City Council and the Open Government Commission ("OGC") to enable discussion between the Council and the OGC to make recommendations governing relinquishments and grants from Councilmembers' office budgets.

**Financial Implications:** None

Contact: Sam Harvey, Commission Secretary, (510) 981-6950

**Action:** 0 speakers. M/S/C (Arreguin/Hahn) to refer the item to the Council with a qualified Positive Recommendation to take no action on the item, but to designate the Agenda & Rules Committee as the entity to engage with the commission on Item 11.

**Vote:** All Ayes

**11. Amendments to the Berkeley Election Reform Act (BERA) to Regulate Officeholder Accounts and Proposed Changes to City Council Office Budget Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)**

**From: Fair Campaign Practices Commission**

**Referred: January 11, 2021**

**Due: June 1, 2021**

**Recommendation:** Form a joint subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

**Financial Implications:** None

Contact: Sam Harvey, Commission Secretary, (510) 981-6950

**Action:** 0 speakers. No action taken. Scheduled for February 8, 2021 meeting.

## Unscheduled Items

*These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.*

**12. Commission Reorganization for Post-COVID19 Budget Recovery  
From: Councilmember Droste (Author), Councilmember Robinson (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor)**

**Referred: June 15, 2020**

**Due: March 1, 2021**

**Recommendation:** 1. Reorganize existing commissions with the goal of achieving 20 total commissions; 2. Reorganize existing commissions within various departments to ensure that no single department is responsible for more than five commissions; 3. Reorganize commissions within the Public Works Department to ensure Public Works oversees no more than three commissions; 4. Refer to the City Manager and every policy committee to agendaize at the next meeting available to discuss commissions that are in their purview and make recommendations to the full Council on how to reorganize and address the various policy areas. Commission members should be notified and chairs should be invited to participate. Policy committee members are encouraged to consider the renaming of some commissions in order to ensure that all policy areas are addressed.

**Financial Implications:** See report

Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

**Action:** No action taken. Scheduled for a special meeting of the committee on February 1, 2021 at 3:00 p.m.

## Items for Future Agendas

- None

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 3:29 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on January 25, 2021.



Mark Numainville  
City Clerk

## **Communications**

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

**MONDAY, FEBRUARY 1, 2021**

**3:00 P.M.**

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf

Alternate: Councilmember Lori Droste

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

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**Roll Call:** 3:05 p.m. All present.

**Public Comment - Limited to items on this agenda only - 23 speakers**

## **Referred Items for Review**

- 1. Commission Reorganization for Post-COVID19 Budget Recovery  
From: Councilmember Droste (Author), Councilmember Robinson (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor)**

**Referred: June 15, 2020**

**Due: March 1, 2021**

**Recommendation:** 1. Reorganize existing commissions with the goal of achieving 20 total commissions; 2. Reorganize existing commissions within various departments to ensure that no single department is responsible for more than five commissions; 3. Reorganize commissions within the Public Works Department to ensure Public Works oversees no more than three commissions; 4. Refer to the City Manager and every policy committee to agendaize at the next meeting available to discuss commissions that are in their purview and make recommendations to the full Council on how to reorganize and address the various policy areas. Commission members should be notified and chairs should be invited to participate. Policy committee members are encouraged to consider the renaming of some commissions in order to ensure that all policy areas are addressed.

**Financial Implications:** See report

Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

**Action:** Discussion held. No action taken. Item scheduled for the Action Calendar on the February 22 meeting agenda.

## **Items for Future Agendas**

- **None**

## **Adjournment**

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

**Vote:** All Ayes.

Adjourned at 5:08 p.m.



I hereby certify that the foregoing is a true and correct record of the Agenda & Rules Committee meeting held on February 1, 2021.

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Mark Numainville  
City Clerk

## **Communications**

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## DRAFT AGENDA



### BERKELEY CITY COUNCIL MEETING

**Tuesday, February 23, 2021  
6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

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

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

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

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <<INSERT URL HERE>>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free) and enter Meeting ID: <<INSERT MEETING ID HERE>>. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*To submit an e-mail comment during the meeting to be read aloud during public comment, email [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.*

*Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.*

*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, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. 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 to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, 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. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

## 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.” Three members of the City Council must agree to pull an item from the Consent Calendar for it to move 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. Minutes for Approval**

**From: City Manager**

**Recommendation:** Approve the minutes for the council meetings of January 19, 2021 (closed, special and regular), January 21, 2021 (special), January 25, 2021 (closed), January 26, 2021 (closed, special and regular) and January 28, 2021 (closed).

**Financial Implications:** None

Contact: Mark Numainville, City Clerk, (510) 981-6900

**2. Contract: Mildred Howard Sculpture Commission**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract for an amount not to exceed \$210,000, and any amendments thereto, with Mildred Howard for a public art commission of a sculpture for the preferred location at the triangular green space on the northern side of the intersection of Adeline Street and Martin Luther King Jr. Way.

**Financial Implications:** Cultural Trust Fund - \$210,000

Contact: Eleanor Hollander, Economic Development, (510) 981-7530

**3. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on February 23, 2021**

**From: City Manager**

**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

**Financial Implications:** Various Funds - \$400,000

Contact: Henry Oyekanmi, Finance, (510) 981-7300

**4. Contract No. 104289-1 Amendment: Jackson & Coker for Locums Tenens Psychiatrists**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 104289-1 with Jackson & Coker Locum Tenens, LLC to provide Locum Tenens Psychiatrists through June 30, 2024 in an amount not to exceed \$964,480. This amendment will add three years to the contract term and \$564,480 in funding.

**Financial Implications:** See report

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

## Consent Calendar

- 5. California Community Housing Agency (CalCHA) Middle Income Rental Housing Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City to become an Additional Member of the California Community Housing Agency (CalCHA), a Joint Powers Authority; supporting CalCHA's issuance of tax-exempt bonds for the production, preservation, and protection of essential middle-income rental housing; and authorizing the City Manager to enter into purchase option agreements with CalCHA for middle-income rental housing created within City limits.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 6. Contract No. 084534-1 Amendment: NextGen Health Care Information Systems Inc. for Electronic Health Records**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 084534-1 with NextGen Healthcare Information Systems, Inc., increasing the amount by \$118,610 for a total contract value not to exceed \$820,937 and extending the term from September 30, 2010 through June 30, 2022.  
**Financial Implications:** General Fund - \$118,610  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500
- 7. Contract No. 32100060 Amendment: RevolutionCyber, LLC for Professional Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No 32100060 with RevolutionCyber, LLC for additional professional services to develop the policies and procedures for the City's Data Safety program, for an amount not to exceed \$77,050 and a total contract value not to exceed \$102,025 from November 13, 2020 through June 30, 2022.  
**Financial Implications:** General Fund - \$77,050  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500
- 8. Presidio Network Solutions Group, LLC: Using California National Association of State Procurement Officials (NASPO) ValuePoint Cooperative Pricing Agreement for Networking Hardware, Software, and Service Purchase Orders**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to increase spending authority with Presidio Networked Solutions Group, LLC ("Presidio") for the purchase of network equipment hardware, software, and installation services, using NASPO ValuePoint's purchasing agreement number CA#7-14-70-04 for the period beginning March 1, 2021 to June 30, 2022 for an amount not-to-exceed (NTE) \$530,000.  
**Financial Implications:** IT Cost Allocation Fund - \$530,000  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500

## Consent Calendar

9. **License Agreement: Patpatia & Associates, Inc. for 125-127 University Ave. Office Space**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution to execute a license agreement with Patpatia & Associates, Inc. to license 2nd floor office space located at 125-127 University Ave. The license term is anticipated to begin March 1, 2021 and end April 30, 2021.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
10. **Lease Agreement: Patpatia & Associates, Inc. for 125-127 University Ave. Office Space**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance executing a lease agreement with Patpatia & Associates, Inc. to lease 2nd floor office space located at 125-127 University Ave. The lease term is anticipated to begin May 1, 2021 and end April 30, 2024.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
11. **Contracts: Interface Engineering, Inc. and Salas O'Brien Engineers, Inc. for On-Call Citywide Electrical Engineering Services**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions authorizing the City Manager to execute a contract and any amendments with the following firms for On-Call Electrical Engineering Services for City-owned facilities in support of the City's annual Facilities Capital Improvement Program, each for the period April 1, 2021 through December 31, 2024:  
1. Interface Engineering, Inc., for an amount not to exceed \$150,000.  
2. Salas O'Brien Engineers, Inc., for an amount not to exceed \$150,000.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300
12. **Contract No. 112783-1 Amendment: LAZ Parking LLC for Managing City-Owned Off-Street Parking Facilities**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 112783-1 (Contract No. 10413A in FUND\$) with LAZ Parking, LLC, a parking management company, to provide management services for the Telegraph Channing, Oxford, and Center Street Garages, extending the term to December 31, 2022 and increasing the contract amount by \$3,556,756 for a total not-to-exceed of \$11,089,951.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300

## Consent Calendar

- 13. Purchase Order: Pape Machinery, Inc. for One (1) John Deere 644L Hybrid Wheel Loader**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution satisfying the requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcwell Contract No.032119-JDC and authorizing the City Manager to execute a purchase order for one (1) John Deere 644L Hybrid Wheel Loader with Pape Machinery, Inc. in an amount not to exceed \$468,700.  
**Financial Implications:** Equipment Replacement Fund - \$468,700  
Contact: Liam Garland, Public Works, (510) 981-6300
- 14. Purchase Order: National Auto Fleet Group for Four (4) Tractor Trucks and Trailers**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcwell (formerly NJPA) bid procedures, and authorizing the City Manager to execute a purchase order for four (4) Tractors Trucks and Trailers with National Auto Fleet Group in an amount not to exceed \$1,200,000.  
**Financial Implications:** Equipment Replacement Fund - \$1,200,000  
Contact: Liam Garland, Public Works, (510) 981-6300
- 15. Prohibition on the Use of City Streets for Operating, Parking, or Idling Combustion Vehicles by 2045** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*  
**From: Community Environmental Advisory Commission**  
**Recommendation:** Review and refer to the City Attorney for finalization the attached ordinance prohibiting the use of City-owned streets for the operation, parking, or idling of combustion vehicles beginning in 2045, and establishing an offset-driven fee-based enforcement mechanism.  
*(On January 20, 2021, the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee made a positive recommendation to send the item to Council with the recommendation that the Council take no action on the item but to provide the item to staff as background for consideration, particularly as the Federal landscape changes under the new administration and to explore whether the City has the legal authority to pursue.)*  
**Financial Implications:** See report  
Contact: Viviana Garcia, Commission Secretary, (510) 981-7460



## Consent Calendar

- 16. Prohibition on the Sale of Gasoline, Diesel, and Other Carbon-Based Transportation Fuels by 2045** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*  
**From: Community Environmental Advisory Commission**  
**Recommendation:**  
Review and refer to the City Attorney for finalization the attached ordinance prohibiting the sale of gasoline, diesel, and other carbon-based transportation fuels effective January 1st, 2045.  
*(On January 20, 2021, the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee made a positive recommendation to send the item to Council with the recommendation that Council take no action on the item but to provide the item to staff as background for consideration, particularly as the Federal landscape changes under the new administration and to explore whether the City has the legal authority to pursue.)*  
**Financial Implications:** See report  
Contact: Viviana Garcia, Commission Secretary, (510) 981-7460
- 17. Opposition of New U.S. Base Construction in the Henoko-Oura Bay of Okinawa**  
**From: Peace and Justice Commission**  
**Recommendation:** Adopt a Resolution opposing new U.S. base construction in the Hemoko-Oura Bay of Okinawa.  
**Financial Implications:** Minimal  
Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000

## Council Consent Items

- 18. Initiate a Citywide, Regional and International Just Transition to a Regenerative Economy to Address the Climate Emergency** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee. Item contains revised and supplemental material.)*  
**From: Councilmember Davila (Author)**  
**Recommendation:** Adopt a resolution taking the following actions:  
1) The City of Berkeley shall initiate a citywide, regional and international Just Transition to a Regenerative Economy  
2) The City of Berkeley will work with cities, counties, and institutions such as the UC system to form a joint powers authority regional and statewide task force to oversee a justice and public safety-oriented - scientifically grounded - transition to a regenerative economy here in the Bay Area to be sustained until 2050; and  
3) The City of Berkeley commits to being regenerative, recognizing that attempting to be sustainable is not enough to protect residents from cumulative impacts of centuries of environmental and social degradation and instead will reorient its city planning, policy, governance culture, and resource allocation to improve public and environmental health, be participatory and will invest in a centuries long regenerative whole city culture, infrastructure, policy, development and design process; and  
4) The City of Berkeley shall adopt doughnut economics and implement it's associated methodology to assess sustainability which, by definition, recognizes the

## Council Consent Items

necessity of meeting the needs of residents within the carrying capacity of our planet Earth and the greater Bay Area bioregion; and

5) The City Council directs the City manager to develop a set of ordinances to ensure zero-waste, cradle to cradle, non-toxic, earth friendly non-essential consumer based products are sold within city limits by 2030 with special exception to non-replaceable items for which a sustainable alternative is either unavailable or too expensive for low income residents to afford, critical infrastructure, medical devices and other such life dependent items;

6) The City of Berkeley shall suspend any and all projects and policies that are incompatible with protecting the earth and people from further environmental degradation, social inequality, public health risks, and global warming; and

7) The City of Berkeley calls for regional agencies, cities, and counties to agree on a shared definition of the Bay Area's bioregion (s), to define the shared limits of our bio-region's carrying capacity and to organize our governance to be bio-regionally regenerative, sustainable, and to define a developmental trajectory that maximizes the health and vitality of the ecosystems, wildlife, and people for generations to come; and

8) The City of Berkeley identifies our current economy with its focus on near-term perpetual growth requiring resource extraction and wealth enclosure as defunct and incompatible with the needs of sustainability, human thriving, and dignity, and calls for a new economic system which in its design meets human needs within planetary and local environmental and social boundaries of wellbeing and furthers human and ecological flourishing, furthers a regenerative human presence on earth, achieves equitable distribution of resources throughout the planet, and achieves sustainability through a just and regenerative transition to restore a safe climate and adapt to further warming in the near and long term; and

9) The City of Berkeley recognizes the importance of Indigenous leadership in designing and implementing a regenerative economy in Berkeley, the greater Bay Area, and the World, and shall invite delegates from Indigenous communities to all stages of the planning and implementation process.

*(On January 20, 2021, the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee made a positive recommendation to send the item to Council with the recommendation that Council take no action on the item.)*

**Financial Implications:** See report

Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

## Council Consent Items

### 19. Virtual Holocaust Remembrance Day Event: Relinquishment of Council Office Budget Funds from General Funds and Grant of Such Funds

**From: Councilmember Wengraf (Author)**

**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember, including \$250 from Councilmember Wengraf, to support the City's Annual Holocaust Remembrance Day program with funds relinquished to the City's general fund. The relinquishment of funds from Councilmember Wengraf's discretionary Council Office Budget and all other Councilmembers who would like to contribute allows the City of Berkeley to invite the community to the City's Virtual 19th Annual Holocaust Remembrance Day program, put together by the community with Council support. This year's program will be held on April 8, 2021.

**Financial Implications:** Councilmember's Discretionary Funds - \$250

Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

## 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 use the "raise hand" function 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. 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 – Public Hearings

*Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak use the "raise hand" function to be recognized and 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. 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.*

*Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.*

## Action Calendar – Public Hearings

**20a. Public Hearing: ZAB Appeal: 1850 Arch Street, Use Permit #ZP2019-0212**

**From: City Manager**

**Recommendation:** Conduct a public hearing on the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2019-0212 to reconfigure the interior of the existing building to add 18 bedrooms to an existing 10-unit, 12-bedroom multi-family residential building at 1850 Arch Street.

**Financial Implications:** None

Contact: Jordan Klein, Planning and Development, (510) 981-7400

**20b. Public Hearing: ZAB Appeal: 1862 Arch Street, Use Permits #ZP2019-0213**

**From: City Manager**

**Recommendation:** Conduct a public hearing on the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2019-0213 to reconfigure the interior of the existing building to add 15 bedrooms to an existing 10-unit, 10-bedroom multi-family residential building at 1862 Arch Street.

**Financial Implications:** None

Contact: Jordan Klein, Planning and Development, (510) 981-7400

**20c. ZAB Appeals: 1850 and 1862 Arch Street, Use Permits #ZP2019-0212 and ZP2019-0213**

**From: City Manager**

**Recommendation:** Upon conclusion of the agendaized public hearings, adopt two Resolutions affirming the Zoning Adjustments Board (ZAB) decisions to approve Use Permits #ZP2019-0212 and ZP2019-0213 to reconfigure the interiors of the existing buildings to add 18 bedrooms to an existing 10-unit, 12-bedroom multi-family residential building at 1850 Arch Street, to add 15 bedrooms to an existing 10-unit, 10-bedroom multi-family residential building at 1862 Arch Street, and dismissing the appeals.

**Financial Implications:** None

Contact: Jordan Klein, Planning and Development, (510) 981-7400

## Action Calendar – New Business

**21. Service Animals Welcome Training** *(Reviewed by the Health, Life Enrichment, Equity and Community Committee)*

**From: Commission on Disability**

**Recommendation:** That the City Council refer to the City Manager a request to implement education and training provisions of the Service Animals Welcome Policy and Program:

a. Work with Business Improvement Districts and Commercial District Organizations to provide opportunities for businesses to learn about their responsibilities regarding service animals in their places of business.

b. Provide information on Service Animals and Access Rights of Persons with Disabilities accompanied by a Service Animal as required staff training on non-discrimination under applicable federal, state and local statutes, regulations and policies.

c. Provide necessary and adequate support to the Disability Compliance Program. *(On January 25, 2021, the Health, Life Enrichment, Equity and Community Policy Committee made a qualified positive recommendation to send the item to Council with the recommendation to take the following action: Refer to the City Manager to review existing information provided to businesses on the Service Animals Welcome Policy and Program as well as other information related to the rights of people with disabilities (pursuant to the Americans with Disabilities Act) and to continue efforts to create an online training.*

*Further, refer to the City Manager to: (a.) Work with Business Improvement Districts, the Chamber of Commerce, and other business organizations to provide opportunities for businesses to learn about their responsibilities regarding service animals in their places of business and the rights of people with disabilities, using, for example, the business license renewal as an opportunity to communicate to businesses; (b) Provide information on Service Animals and Access Rights of Persons with Disabilities accompanied by a Service Animal as required City staff training on nondiscrimination under applicable federal, state, and local statutes, regulations and policies. (c) Provide necessary and adequate support to the Disability Compliance Program.)*

**Financial Implications:** Staff time

Contact: Dominika Bednarska, Commission Secretary, (510) 981-6300

## Action Calendar – New Business

22. **Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12** *(Reviewed by the Agenda & Rules Committee. Item contains supplemental material.)*

**From: Fair Campaign Practices Commission**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to prohibit Officeholder Accounts (See Section 18531.62. Elected State Officeholder Bank Accounts, Regulations of the Fair Political Practices Commission).

*(On January 25, 2021, the Agenda and Rules Committee made a qualified positive recommendation to send the item to the City Council with the recommendation that the Council take no action on the item, but to refer the concepts and materials to the Agenda & Rules Committee for discussion with representatives of the commission on the item entitled "Amendments to the Berkeley Election Reform Act (BERA) to Regulate Officeholder Accounts and Proposed Changes to City Council Office Budget Expenditure and Reimbursement Policies (Resolution 67,992-N.S.).")*

**Financial Implications:** None

Contact: Sam Harvey, Commission Secretary, (510) 981-6950

23. **Relinquishments and grants from Councilmembers' office budgets** *(Reviewed by the Agenda & Rules Committee)*

**From: Open Government Commission**

**Recommendation:** Adopt a Resolution creating a temporary advisory committee consisting of three (3) members each of the City Council and the Open Government Commission ("OGC") to enable discussion between the Council and the OGC to make recommendations governing relinquishments and grants from Councilmembers' office budgets.

*(On January 25, 2021, the Agenda and Rules Committee made a qualified positive recommendation to send the item to the City Council with the recommendation that the Council take no action on the item, but to designate the Agenda & Rules Committee as the entity to engage with the commission on the item entitled "Amendments to the Berkeley Election Reform Act (BERA) to Regulate Officeholder Accounts and Proposed Changes to City Council Office Budget Expenditure and Reimbursement Policies (Resolution 67,992-N.S.).")*

**Financial Implications:** None

Contact: Sam Harvey, Commission Secretary, (510) 981-6950

## Council Action Items

24. **Create and Support an Adopt an Unhoused community program** *(Reviewed by the Health, Life Enrichment, Equity and Community Committee)*

**From: Councilmember Davila (Author)**

**Recommendation:**

1. Adopt a resolution to create and support neighborhood volunteers and community groups adopting an encampment, street campers, RV / Vehicle community, located along University Avenue/ Shattuck Avenue / Adeline corridor/ San Pablo Avenue and other areas throughout the City.

2. Short term referral to the City Manager and/or designee(s) to present to the City Council in 90 days: how to implement the program modeled after the City of Oakland Adopt a Spot Program, identify a community based organization to oversee the volunteers, know what is needed to adequately implement these efforts, including different organizational structure options.

*(On January 25, 2021, the Health, Life Enrichment, Equity and Community Committee made a qualified positive recommendation to send the item to Council to take the following action: Refer to the City Manager to consider inclusion of homeless encampments in the existing "Adopt a Spot" referral to the Public Works Commission and Parks, Recreation, and Waterfront Commission once the "Adopt a Spot" program has been established.)*

**Financial Implications:** See report

Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

## Council Action Items

**25. Amend Berkeley's Property Tax Measures and Restore Tax Equity by Changing the Square Footage Tax Imposition through a Comprehensive Verification Process** *(Reviewed by the Budget and Finance Policy Committee)*

**From: Councilmember Bartlett (Author)**

**Recommendation:** In order to correct inequitable and inconsistently applied rates of property tax assessments, and to ensure that outstanding revenues due to the City are paid, the Finance Department should conduct a comprehensive verification analysis. This process will update and bring the city's taxable square footage database into alignment with Planning's building area database. Through this verification, the City shall also reconcile with the Alameda County Assessor's Public Roll to ensure that the City's tax database is up-to-date and accurate. This reconciliation will restore tax equity, which has been desired by Berkeley voters, while also unifying standards, protocols and terminology between departments. The City should adopt the following habitability criteria for taxation purposes:

1. Taxable space must have manufactured flooring. If the understory has dirt base, it shall not be taxed (Uniform Building Code R502 – floor material requirement).

(Acceptable proof: photo)

2. Taxable basement space must be of required height clearance. If understory has proper flooring and is of limited height, 6' 8" or less, with 6'4" allowance for ducting, then it shall not be taxed (Uniform Building Code R305 – basement height requirement) (Acceptable proof: photo with measuring tape)

3. Taxable attic space must have required height clearance. If finished attic, only areas of 6'4" height or more is taxed for city assessments (Acceptable proof: photo with measuring tape)

4. City of Berkeley shall post the property's taxable square footage in at least 12 point font on the City's Parcel Viewer page. City of Berkeley shall disclose the potential increase to taxable square footage liability for the taxpayer when application for building addition is made.

5. City of Berkeley shall make public the taxable square footage liability of the proposed finished building to the community when a Zoning Adjustments Board application is made.

6. City of Berkeley shall disclose a property's taxable square footage in writing to a property owner or interested buyer, upon request.

7. If the taxpayer requests a correction on the square footage assessments, and the space in question does not align with the above taxability requirements, the taxpayer shall be entitled to a refund on all 9 city and schools assessments for the previous four full years of taxes (Civil Code 5097). Requests for correction shall be allowed at any time.

*(On January 28, 2021, the Budget and Finance Committee made a negative recommendation to send the item to Council with the recommendation that Council take no action and for Councilmember Harrison to work with Councilmember Bartlett on another item addressing the broader policy issues surrounding this item.)*

**Financial Implications:** See report

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130



## Council Action Items

**26. “Step Up Housing” Initiative: Allocation of Measure P Funds to Lease and Operate a New Permanent Supportive Housing Project at 1367 University Avenue** *(Reviewed by the Budget and Finance Committee)*

**From: Councilmember Bartlett (Author), Councilmember Kesarwani (Co-Sponsor), Councilmember Wengraf (Co-Sponsor), Mayor Arreguin (Co-Sponsor)**

**Recommendation:** Adopt a resolution allocating approximately \$900,000 per year for 10 years, as well as a one-time allocation of approximately \$32,975 from Measure P transfer tax receipts to support the lease and operation of a new permanent supportive housing project for the homeless at 1367 University Avenue. This resolution is put forward out of consideration that the City Council has already approved in its FY 2020-21 budget—on June 30, 2020—an allocation of \$2.5 million for permanent housing subsidy, a portion of which is available to be spent on the 1367 University Avenue project.

Refer to the next meeting of the Budget and Finance Policy Committee to confirm the availability of requested funding for the 1367 University project and to set priorities for other Measure P-funded programs and services as part of the mid-year budget process.

*(On January 28, 2021, the Budget and Finance Policy Committee made a qualified positive recommendation to send the item to Council with the recommendation to confirm the availability of revenues as approved by Council on October 13, 2020, for the 1367 University project and note that the Committee will discuss Measure P allocations in the FY 2022 budget development process.)*

**Financial Implications:** See report

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

## Action Calendar – Policy Committee Track Items

**27. Report and Recommendations From Mayor’s Fair Impartial Policing**  
**From: Mayor Arreguin (Author), Councilmember Harrison (Author)**

**Recommendation:**

1. Accept and acknowledge the report from the Fair and Impartial Working Group (Attachment 1)

2. Direct the City Manager to implement the following recommendations summarized below and detailed in full in Attachment 1, with at minimum, quarterly progress updates to the Police Accountability Board (PAB) and/or the Working Group

-Focus traffic stops on safety

-Use a clear, evidence-based definition for stops of criminal suspects

-Use race and ethnicity as determining factors in stops only when paired with clear, evidence-based criteria

-Eliminate stops for low-level offenses

-Implement an Early Intervention System (EIS) and a risk-management structure

-Immediately release stop, arrest, calls for service and use of force data from 2012 to present to the Working Group

-Limit warrantless searches of individuals on supervised release status such as Post Release Community Supervision (PRCS), probation, or parole

## Action Calendar – Policy Committee Track Items

- Require written consent for all consent searches
  - Address Profiling by Proxy (PAB Policy Development, Dispatcher Training)
  - Fire racist police officers identified through social media and other media screens
  - Address Profiling by Proxy (Council develop & pass CAREN policy)
  - Require regular analysis of BPD stop, search, and use of force data
  - Make resources on police-civilian encounters more publicly available such as RAHEEM.org
  - Adopt Compliance and Accountability Mechanisms; -Hire consultant to develop implementation plan
  - For any individual detained, BPD officers shall provide a business card with info on a website similar to RAHEEM and info on complaint process with PAB
3. Refer the following recommendations summarized below and detailed in full in Attachment 1 to be included in the process to reimagine public safety:
- Create a formalized feedback system to gauge community response to ongoing reforms and ensure this constructive input system is institutionalized with the Police Review Commission or its successor and includes a basic report card and quarterly neighborhood check-ins
  - Conduct a baseline community survey
4. Refer the following recommendations summarized below and detailed in full in Attachment 1 to the Police Review Commission, to be taken up by the Police Accountability Board when it is established
- Include a scenario-based training component in the existing officer training required by California Penal Code 13519.4
  - Require enhanced annual implicit bias training for police
  - Accelerate Crisis Intervention Team (CIT) activity
5. Acknowledge and reaffirm the following recommendations summarized below and detailed in full in Attachment 1 that are already underway:
- Fund and implement a specialized care unit for mental health crises
  - Conduct a Capacity Study of police calls and responses and use of officer time outside of case work
6. Refer \$50,000 to the FY 2022 budget process for a consultant to develop an implementation plan as described in Attachment 1 and other minor costs the Department may confer.

**Financial Implications:** See report

Contact: Jesse Arreguin, Mayor, (510) 981-7100

## Action Calendar – Policy Committee Track Items

**28. Resolution Recognizing Housing as Human Right; Referring City Manager to Study Financial Feasibility of Municipal Housing Development Pilot Program with Cooperative, Nonprofit, and Public Ownership Models, Administered as Automatic Stabilizers to Guarantee Adequate Housing**

**From: Councilmember Taplin (Author)**

**Recommendation:** Refer the City Manager’s office to study the financial feasibility of a municipal housing development pilot program administering automatic stabilizers to guarantee adequate housing security in Berkeley, with regular community input and periodic monitoring of socioeconomic indicators. Pilot program feasibility study shall include, but not be limited to:

1. Feasibility study of public lands suitable mixed-income transit-oriented housing development identified in 2017 Analysis of City-Owned Lands and zoning changes needed for affordable housing at listed sites to address all income categories in upcoming Regional Housing Needs Allocation (RHNA) cycle;
2. Pilot program to establish a Reparative Justice Revolving Loan Fund with affirmative racial justice and anti-displacement goals, providing low-interest loans for tenants, nonprofits, limited-equity co-operatives, and community land trusts to acquire, develop, and/or maintain permanently affordable housing.
3. Pilot program to establish publicly available, user-friendly data dashboard monitoring Housing Justice Indicators in the city including, but not limited to, (a) health and safety standards, (b) affordability, (c) stability, and (d) discrimination and disparate impacts under US Department of Housing and Urban Development’s Affirmatively Furthering Fair Housing (AFFH) rule; aligning Indicators with thresholds for corrective actions including land-use policy review and fiscal analysis.
4. State and regional partnerships with the California Department of Housing and Community Development, the Metropolitan Transportation Commission, UC Berkeley, and Bay Area Rapid Transit to develop fiscally resilient mixed-income housing and community reinvestment through land held in public trust and/or limited-equity cooperatives and community land trusts.

**Financial Implications:** See report

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

**29. Exploring CalCHA: Financing Affordable Housing for Teachers, Nurses, and other Working Families in Berkeley**

**From: Councilmember Hahn (Author)**

**Recommendation:** Refer to the City Manager to study the California Community Housing Agency (CalCHA) affordable housing financing program and return to Council a recommendation and/or action to opt-in to CalCHA to support issuance of tax-exempt bonds for affordable housing for low-, moderate-, and middle-income Berkeley families.

**Financial Implications:** See report

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

## Action Calendar – Policy Committee Track Items

30. **Budget Referral: Community Climate Solutions**  
**From: Councilmember Robinson (Author), Councilmember Harrison (Author)**  
**Recommendation:** Refer to the FY2021/2022 Budget Process at least \$11,000 to work with Community Climate Solutions on the creation of an online community engagement platform to support climate action. Refer to the City Manager to work with Community Climate Solutions in providing input into the design of the community engagement platform and in integrating the platform into existing community engagement work around climate and the environment.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
31. **Resolution to End Exclusionary Zoning in Berkeley**  
**From: Councilmember Droste (Author), Councilmember Taplin (Author), Councilmember Bartlett (Author), Councilmember Robinson (Author)**  
**Recommendation:** Adopt a resolution to state Berkeley City Council's intent to end exclusionary zoning in Berkeley by December of 2022.  
**Financial Implications:** None  
Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

## Action Calendar – Policy Committee Track Items

### 32. Quadplex Zoning

**From: Councilmember Droste (Author), Councilmember Taplin (Author), Councilmember Kesarwani (Author)**

**Recommendation:**

1. Refer to the City Manager and Planning Commission revisions to the zoning code and General Plan, to require proposed housing developments containing up to 4 residential units to be considered ministerially, if the proposed housing development meets certain requirements but not limited to:

-that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income,

-that the development is not located within a historic district, is not included in the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

-that the development is not located within particularly vulnerable high fire wildfire danger areas, as specified by Cal Fire.

Additional considerations:

-Consider a local affordable housing density bonus for deeper affordability in certain jobs-rich or transit-oriented areas if a certain percentage of the units are affordable to 80% of area median income.

-Conduct a displacement risk analysis and consider possible ways that zoning changes can be crafted to prevent and mitigate negative externalities which could affect tenants and low and moderate-income homeowners.

-Allow for the possibility of existing homes/footprints/zoning envelopes to be divided into up to four units, potentially scaling the floor area ratio (FAR) to increase as the number of units increase onsite, creating homes that are more affordable, saving and lightly modifying an older structure as part of internally dividing it into more than one unit.

Council directs that staff initiate this work immediately and the Planning Commission incorporate zoning reform into its 2021 and 2022 work plan to institute these changes in anticipation of the Housing Element update. Staff and the commission should examine how other cities have prepared for and implemented missing middle housing in Minneapolis, Portland, and Sacramento and conduct extensive community outreach during the course of this update.

**Financial Implications:** See report

Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

## Information Reports

### 33. City Council Short Term Referral Process – Quarterly Update

**From: City Manager**

Contact: Mark Numainville, City Clerk, (510) 981-6900

### 34. Partnership for the Bay's Future and Current Anti-Displacement Initiatives

**From: City Manager**

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

## Information Reports

35. **FY2021 Public Art Plan and Budgets**  
**From: Civic Arts Commission**  
Contact: Jennifer Lovvorn, Commission Secretary, (510) 981-7530
36. **Community Environmental Advisory Commission 2021 Work Plan**  
**From: Community Environmental Advisory Commission**  
Contact: Viviana Garcia, Commission Secretary, (510) 981-7460
37. **2021 Housing Advisory Commission Work Plan**  
**From: Housing Advisory Commission**  
Contact: Mike Uberti, Commission Secretary, (510) 981-7400

## 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.*

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Community Environmental  
Advisory Commission

CONSENT CALENDAR  
February 23, 2021

To: Honorable Mayor and Members of the City Council  
 From: Community Environmental Advisory Commission  
 Submitted by: Ben Gould, Chairperson, Community Environmental Advisory Commission  
 Subject: Prohibition on the Use of City Streets for Operating, Parking, or Idling  
 Combustion Vehicles by 2045

RECOMMENDATION

Review and refer to the City Attorney for finalization the attached ordinance prohibiting the use of City-owned streets for the operation, parking, or idling of combustion vehicles beginning in 2045, and establishing an offset-driven fee-based enforcement mechanism.

POLICY COMMITTEE RECOMMENDATION

On January 20, 2021, the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee moved to send the item with a positive recommendation for Council to take no action on the item but to provide the item to staff as background for consideration, particularly as the Federal landscape changes under the new administration and to explore whether the City has the legal authority to pursue. Vote: All Ayes

SUMMARY

Achieving carbon neutrality by 2045 and an 80% reduction in greenhouse gas emissions by 2050 will require aggressive policies to phase out the use of fossil fuels for transportation. This proposed ordinance would prohibit vehicles which rely on burning fossil fuels (or other carbon-based fuels) from operating, parking, or idling on local City-owned streets. Enforcement is proposed to be through a fee structure similar to a congestion pricing zone, with pricing set to cover the cost of enforcement and of purchasing carbon offsets in order to achieve carbon neutrality.

FISCAL IMPACTS OF RECOMMENDATION

Some staff time for review. Additional staff time may be required leading up to 2045 to develop and establish a carbon offset program for combustion vehicles, though any such program would also be required for offsetting any residual emissions present in the

city at such time. No ongoing net fiscal impacts, as any fiscal impacts associated with enforcement or program management are to be offset by levied fees.

Adoption of the ordinance may expose the City to other potential direct or indirect fiscal impacts, including a potential lawsuit, or impacts to sales, property, and other tax or fee revenues resulting from public behavior changes.

### CURRENT SITUATION AND ITS EFFECTS

Citywide, transportation is the single largest source of greenhouse gas (GHG) emissions, contributing 60% of the city's total emissions. The City of Berkeley has adopted goals of being a Fossil Fuel Free city and becoming a net carbon sink by 2030, achieving carbon neutrality by 2045, achieving an 80% reduction in GHG emissions by 2050, and has declared a Climate Emergency, calling for "a just citywide emergency mobilization effort to end citywide greenhouse gas emissions as quickly as possible." However, greenhouse gas emissions from transportation are currently expected to grow.

Berkeley's Strategic Plan sets the goal of being a global leader in addressing climate change, advancing environmental justice, and protecting the environment. In line with this, City staff are working aggressively to develop a comprehensive action-based Electric Vehicle (EV) roadmap to find opportunities to increase equitable access to EV's within Berkeley's diverse community. This roadmap – currently in draft form – identifies the key barriers to electric mobility adoption, analyzes equity challenges and opportunities, and provides a comprehensive set of strategies to expand access to electric mobility choices throughout the city, including approaches which specifically tackle equity concerns in electric mobility, work towards net zero carbon, expand alternatives to driving, and call for city leadership.

In preparing this roadmap, staff has found that in order to reach the goal of carbon neutrality by 2045, given current vehicle turnover rates, the rate of EV uptake would need to accelerate dramatically, reaching 100% of new vehicle registrations by 2030 in order to achieve roughly 100% electrification by 2045. To achieve the City's voter-ratified goal of an 80% reduction in greenhouse gas emissions by 2050, roughly 100% of new vehicle registrations would have to be EVs by 2035.

Berkeley's current rate of EV uptake is not high enough to achieve this without significant policy changes. In 2017, only 16% of new personal vehicle registrations in Berkeley were EVs. This is a significantly higher adoption rate than much of the rest of California, but achieving Berkeley's goals would require this to be accelerated further still. At the current rate of uptake growth, Berkeley's newly registered vehicles would be

100% EVs in 2055. Assuming an average vehicle lifespan of ~15 years<sup>1</sup>, there would still be combustion vehicles registered in Berkeley through at least 2070 – 25 years past the target date for carbon neutrality.

Expanding equitable access to electric mobility options for Berkeley residents is critical for driving uptake, including improving alternatives to driving and expanding public charging infrastructure. The EV roadmap currently being prepared will be effective in the 5-10 year timeline it considers, and will help to substantially move the needle on Berkeley residents' EV uptake.

While the EV roadmap's efforts are critical, they will still fall short in achieving overall carbon neutrality. Many people who work, shop, or study in Berkeley either cannot afford or choose not to live in Berkeley, and so are less likely to be directly impacted by the EV roadmap's initiatives. Most other Bay Area cities have EV uptake rates even lower than Berkeley's, and are often doing less to accelerate the transition to EVs. In addition, Berkeley is served by numerous freight and delivery trucks bringing goods to Berkeley's businesses and residents, and these trucks are unlikely to be impacted by the EV roadmap.

The limited scope of the EV roadmap means it is unable to address the entire picture of Berkeley's greenhouse gas emissions from transportation, and should not be considered as the only set of approaches Berkeley can take. Other policies which support and align with the EV roadmap can help add to its effectiveness.

Without significant action, including the proposals in the EV Roadmap and more, it is extremely unlikely that Berkeley will be able to achieve the dramatic reduction in greenhouse gas emissions called for by the voters and its carbon neutrality goal.

At a regular meeting on Thursday, November 14, 2019, the Community Environmental Advisory Commission unanimously approved a motion to send the *Prohibition on the Use of City Street for Operating, Parking, or Idling Combustion Vehicles by 2045* recommendation to City Council (M/S/C) Gould, Hetzel. Ayes: Simmons, Varnhagen, Hetzel, Goldhaber, Gould. Abstained: De Leon. Absent: Ticconi.

## BACKGROUND

In 2006, Berkeley voters overwhelmingly supported Measure G, calling to reduce greenhouse gas emissions by 80% below 1990 levels by 2050. Berkeley's original award-winning Climate Action Plan was built around this goal.

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<sup>1</sup> Based upon DMV data on roughly 30 million registered automobiles and light trucks (<https://www.dmv.ca.gov/portal/wcm/connect/5aa16cd3-39a5-402f-9453-0d353706cc9a/official.pdf?MOD=AJPERES>), and California New Car Dealers Association data on roughly 2 million new vehicle sales annually (<https://www.cncda.org/wp-content/uploads/Cal-Covering-2Q-19.pdf>), the lifespan of a typical vehicle in California is roughly 15 years.

Following this, on June 12, 2018, Berkeley City Council unanimously declared a Climate Emergency, calling for “a just citywide emergency mobilization effort to end citywide greenhouse gas emissions as quickly as possible.” Berkeley also set a goal of being a Fossil Fuel Free city, becoming a net carbon sink by 2030, and achieving carbon neutrality by 2045.

Citywide, transportation is the single largest source of greenhouse gas emissions, contributing 60% of the city’s total emissions. Berkeley is home to, and a route for, tens of thousands of combustion-powered automobiles, trucks, and other vehicles which annually emit roughly 360,000 metric tons of carbon dioxide and other greenhouse gases. Unfortunately, this share – and the total level of emissions – is currently expected to grow.

The generally accepted accounting methodology for greenhouse gas emissions, which was used to generate this estimate, only considers vehicle trips on public roads which either start or end within city limits as affecting the City’s overall greenhouse gas emissions. In order to achieve carbon neutrality under that accounting methodology, therefore, the City must ensure that vehicle trips which start or end within city limits, traveling upon City streets, are carbon neutral by 2045.

The proposed policy would prohibit the use of City-owned streets for operating, parking, or idling combustion vehicles<sup>2</sup> beginning in 2045. Under the policy, combustion vehicles found to be operating, parked, or idle would be levied a fee to cover the cost to the City of purchasing a carbon offset to neutralize the emissions (along with an administrative fee to cover the cost of enforcement). In effect, this policy creates a zero-emission zone covering all local surface streets in Berkeley (with exceptions for state and federal highways), similar to congestion pricing zones in other cities.

This would be a novel and unprecedented policy approach which relies upon the principle of local police power over city streets to regulate the operation of certain vehicles. While this policy is novel, it effectively works as a zero-emission pricing zone – similar to a congestion zone, where vehicles are charged for their use of limited streetscape, vehicles are instead charged to offset the impact of their emissions. Vehicle operators who choose to operate a combustion vehicle do *not* face criminal penalties.

This unusual policy raises numerous questions and special considerations, which are elaborated upon in Attachments 2 and 3.

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<sup>2</sup> A combustion vehicle is defined in the policy as any on-road land motor vehicle which relies upon the combustion or oxidation of any carbon-based fuel (such as gasoline, diesel, or compressed natural gas [CNG]) for power or propulsion. Combusting or oxidizing carbon-based fuels results in the creation of carbon dioxide, regardless of whether it is emitted.

### ENVIRONMENTAL SUSTAINABILITY

Prohibiting the use of City streets for the operation, parking, or idling of combustion vehicles within City limits will reduce fossil fuel use and prevent the release of greenhouse gases into the atmosphere. Requiring violators to cover the cost of carbon offsets would, if effective, ultimately bring the overall environmental impacts of combustion transportation down to effectively zero. Driving consumer shifts towards non-combustion vehicles, like electric vehicles, will reduce overall greenhouse gas emissions globally: on a life-cycle basis, electric vehicles have significantly lower overall greenhouse gas emissions<sup>3,4</sup>.

### CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The proposed policy is categorically exempt from CEQA under CEQA Guidelines Sections 15307 and 15308.

### RATIONALE FOR RECOMMENDATION

CEAC recommends adopting the attached ordinance to prohibit the use of City streets for the operation, parking, or idling of combustion vehicles beginning in 2045, with certain exemptions, in order to achieve the City's carbon reduction and fossil-fuel-free goals.

In order to reach carbon neutrality without a significant, dramatic, and costly annual expenditure in carbon offsets to neutralize emissions, Berkeley needs a long-term strategy to both drive behavior change among all who work, play, or frequent our city, and to raise any funds that may be required to procure the necessary offsets in 2045. This proposed policy achieves that without encountering insurmountable legal barriers.

Berkeley is extremely unlikely to meet its carbon reduction and fossil-free goals without aggressive action on transportation decarbonization. Expanding efforts to drive EV uptake is critical, and CEAC believes that setting a sunset date for combustion vehicles will dramatically improve the success of EV uptake efforts. It may ultimately be the only way to ensure a full citywide transition to decarbonized transportation.

Structuring enforcement of the prohibition as enforcement of an emissions-free zone throughout most streets in the city, with a fee to enter with a combustion vehicle, aligns the policy with existing domestic and international legal precedent for congestion and low-emission zones, and ensures it is not a de facto mandate or an undue burden. Depositing any excess fees collected into a restricted fund for sustainability projects and programs, and particularly zero-emission transportation initiatives, ensures the fees are used appropriately.

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<sup>3</sup> Cleaner Cars from Cradle to Grave, Union of Concerned Scientists: <https://www.ucsusa.org/clean-vehicles/electric-vehicles/life-cycle-ev-emissions> (accessed September 2019)

<sup>4</sup> Life Cycle Analysis of Electric Vehicles, University of British Columbia: [https://sustain.ubc.ca/sites/default/files/2018-63%20Lifecycle%20Analysis%20of%20Electric%20Vehicles\\_Kukreja.pdf](https://sustain.ubc.ca/sites/default/files/2018-63%20Lifecycle%20Analysis%20of%20Electric%20Vehicles_Kukreja.pdf) (accessed September 2019)

In order to ensure full compliance with all applicable state and federal law and precedents, CEAC recommends a limited set of exemptions to minimize undue burdens to interstate commerce, ensure ongoing public services and public safety, and comply with other state and federal preemptions.

#### ALTERNATIVE ACTIONS CONSIDERED

CEAC considered taking no immediate action and instead waiting to see the impacts of the City's planned EV roadmap. However, upon consideration and recognition of the roadmap's finding that consumers must begin planning for full decarbonization 15-20 years in advance, we determined that waiting 5-10 years to evaluate the impacts of the EV roadmap strategy would not ensure Berkeley is able to meet its carbon neutral target. Instead, CEAC believes that this policy would lend weight and import to the EV roadmap strategy, as it is short- to medium-term plans like the EV roadmap that will make this larger, full decarbonization effort feasible in 25 years – without both working together, neither are likely to be successful.

CEAC considered a gradual, phased approach that would restrict combustion vehicles on a narrower set of streets initially, and over time expand that to include more of the city. While the city can expect a gradual, phased increase in the use of electric vehicles, it is likely to be dispersed throughout the city as residents, apartments, and businesses install chargers or purchase vehicles over time. Other policies, such as those proposed in the EV roadmap, will help encourage and accelerate this gradual uptake; however, phasing certain streets into a combustion-free zone did not provide a clear benefit and could, ultimately, reduce in an *increase* in greenhouse gas emissions as combustion vehicles attempt to route around limited areas which are combustion-free.

CEAC also considered a less stringent enforcement mechanism, but determined that weaker enforcement would dramatically reduce the effectiveness of the policy. CEAC also recognizes the ability of Council to direct the City Manager on enforcement priorities.

CEAC considered leaving excess fees collected as unrestricted revenue, but determined that would potentially hamper the ability of the city to achieve a just citywide zero-emission mobility transition.

#### CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

#### CONTACT PERSON

Ben Gould, Chair, Community Environmental Advisory Commission, 510-725-9176

Attachments:

- 1: Ordinance
- 2: Frequently Asked Questions
- 3: Analysis of Legal Considerations

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE TITLE 14 TO PROHIBIT THE  
OPERATION OF COMBUSTION-POWERED VEHICLES

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

Section 1. That the Berkeley Municipal Code Chapter 14.94 is added to read as follows:

**Chapter 14.94**  
**OPERATION OF COMBUSTION VEHICLES**

**Sections:**

- 14.94.010 Findings**
- 14.94.020 Purpose**
- 14.94.030 Definitions**
- 14.94.040 Prohibition**
- 14.94.050 Enforcement**
- 14.94.060 Exemptions**
- 14.94.070 Severability**

14.94.010 Findings

A. Climate change, caused by the generation of carbon dioxide and other greenhouse gases, is harmful to human health and public safety, acting through increased risks of wildfire, drought, landslides, heat stress, sea level rise, disease, pests, environmental degradation, and other pathways.

B. The City of Berkeley has adopted a goal of carbon neutrality by 2045, becoming a fossil fuel free city, and reducing greenhouse gas emissions by 80% below 1990 levels by 2050.

C. The State of California has adopted the goal of carbon neutrality by 2045, and reducing greenhouse gas emissions by 80% below 1990 levels by 2050.

D. Combustion vehicles are responsible for over 60% of the greenhouse gas emissions attributable to the City of Berkeley.

E. At present, over 95% of all vehicles traveling through the City of Berkeley are combustion vehicles. In 2017, only 17% of new vehicles registered in the City of Berkeley were plug-in vehicles.

F. In order to reach carbon neutrality by 2045, projections show that there must be an aggressive and unprecedented transition to electric vehicles.



G. Berkeley's current rate of uptake is not projected to reach the goal of carbon neutrality before 2045.

H. The California Vehicle Code (CVC § 21101 (c)) grants cities the authority to regulate the use of certain roads by certain vehicles.

I. The City of Berkeley is a charter city with jurisdiction over municipal affairs, including the use of public right of way.

J. Due to improvements in battery technology and declining costs, the prices of electric vehicles are expected to decline, becoming cost-competitive with traditional combustion vehicles in under 10 years and likely subsequently declining further, while the available range continues to further increase.

K. Disadvantaged and low-income communities have traditionally shouldered the brunt of the impacts associated with combustion vehicles.

L. Combustion vehicles, by the mechanics of their engine operation, exacerbate noise and heat issues in already increasingly noisy, hot cities and neighborhoods.

M. Combustion vehicles, by necessity of their design, transport and store hazardous, polluting chemicals as fuel – such as gasoline – which pose risks of contamination to air and water.

N. Combustion vehicles, by necessity of their design, transport and store hazardous polluting chemicals as fuel which pose serious risks of fire and explosion, threatening health, property, and public safety.

O. Advancing the adoption of non-combustion vehicles helps make them more affordable and supports the expansion of supportive infrastructure.

P. The State of California, as well as Bay Area counties, cities, and community choice energy providers are working to increase equitable access to alternatives to combustion vehicles, such as by supporting electric vehicles and charging infrastructure.

Q. Achieving a transportation system which is nearly 100% decarbonized is feasible and viable by 2045.

R. Significant action at the local and state level is required to drive full decarbonization by 2045.

14.94.020 Purpose

The purpose of this chapter is to promote the health and safety of Berkeley residents and visitors, to address environmental impacts and prevent climate change from the emission of greenhouse gases resulting from the combustion of fossil fuels used for transportation, and to fulfill upon the intent of the voters as expressed in Berkeley's 2006 Measure G.

#### 14.94.030 Definitions

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

A. "Combustion vehicle" shall mean any on-road land motor vehicle which uses the combustion or oxidation of any carbon-based fuel to provide power or propulsion.

B. "Carbon offset" shall mean a competitively procured, third-party verified project or program which, with the funding provided through the purchase of the offset, results in the permanent, indefinite storage or sequestration of carbon dioxide.

C. "Greenhouse gas" shall mean any planet-warming chemical which is a gas at standard temperature and pressure, and for which anthropogenic sources are disproportionately responsible for their presence in the atmosphere including, but not limited to, carbon dioxide, methane, nitrous oxides, hydrocarbons, hydrofluorocarbons, hydrochlorofluorocarbons, and others.

D. "Combustion Vehicle Carbon Offset Program" shall be any program through which the City of Berkeley assesses its attributable share of emissions from any combustion vehicles passing through its city limits using a standard and widely accepted methodology, and acquires and retires carbon offsets equal to the attributable emissions from those combustion vehicles.

E. "Green Initiative Fund" shall be any program through which the City of Berkeley dedicates and allocates funding for programs and projects which improve environmental sustainability, including but not limited to reducing greenhouse gas emissions, improving energy efficiency, reducing or diverting waste, reducing or cleaning up pollution, reducing or cleaning stormwater runoff, improving resiliency, and reducing dependency on automobiles.

#### 14.94.040 Prohibition

Beginning January 1<sup>st</sup>, 2045, it shall be unlawful to operate any combustion vehicle upon any public streets or highways exclusively under the jurisdiction of the City of Berkeley.

Beginning January 1<sup>st</sup>, 2045, it shall be unlawful to park or idle any combustion vehicle upon any public street or highway exclusively under the jurisdiction of the City of Berkeley.

#### 14.94.050 Enforcement

A. Beginning January 1<sup>st</sup>, 2045, any combustion vehicle operating, parked, or idling upon any public street or highway exclusively under the jurisdiction of the City of Berkeley shall pay a fine for each calendar day in which it is found operating, parked, or idling.

B. The City of Berkeley shall set the fine amount annually based upon the cost of operating the Combustion Vehicle Carbon Offset Program and the cost of enforcing and collecting the fine.

C. Fines collected shall be used to pay for the Combustion Vehicle Carbon Offset Program and the staff time required to enforce and collect the fines.

D. At the end of each fiscal year, any fines collected in excess of those needed to cover the full cost of the Combustion Vehicle Carbon Offset Program and the staff time spent enforcing and collecting the fines, shall be deposited into the City's Green Initiative Fund, to support programs and projects which facilitate and encourage the use of zero-emission modes of transportation, including but not limited to pedestrian improvements, bicycle and scooter lanes, public transit infrastructure, public electric vehicle charging, and/or educational programs.

E. Fines shall be levied equally across all combustion vehicles, independent of vehicle make, manufacturer, type, class, model year, date of manufacture, date of sale, operator, place of registration, or other factor.

#### 14.94.060 Exemptions

This Section shall not apply to:

A. Combustion vehicles owned or operated by: government bodies, utilities or telecommunications providers, healthcare providers, emergency services, paratransit services, or passenger stage corporations (as defined in PUC § 1031).

B. Combustion vehicles operating, parked, or idling upon the I-80/I-580 corridor, State Route 123 (San Pablo Ave), State Route 13 (Ashby Ave, and Tunnel Road between Claremont Ave and Hiller Dr.), or other designated state or federal highways at the time of enforcement.

C. New motor vehicles, as defined in the Clean Air Act under 42 U.S. Code § 7550(3), where "the term 'new motor vehicle' means a motor vehicle the equitable or legal title to which has never been transferred to an ultimate purchaser." However, for imported vehicles, the term "new motor vehicle" means "mean a motor vehicle and engine, respectively, manufactured after the effective date of a regulation issued under [42 U.S. Code § 7521]... which is applicable to such vehicle or engine (or which would be

applicable to such vehicle or engine had it been manufactured for importation into the United States).”

#### 14.94.070 Severability

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. In addition, the City Council hereby declares that it would have passed the ordinance codified in this chapter, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of this chapter would be subsequently declared invalid or unconstitutional.

## Frequently Asked Questions

### *Is this even legal?*

In developing this approach, several potential legal barriers were considered and evaluated. None were found to expressly prohibit, and several actually reinforce the underlying legal principles behind this approach. See Appendix 2 (Attachment 3) for more information.

### *Why set policy so far in advance? Why not take a more incremental approach?*

Traditional policy approaches have worked on much narrower time horizons, such as 3-5 years. However, traditional policy approaches have never attempted a wholesale transformation as complete and thorough as that which we must achieve within the next 30 years to maintain a habitable planet. Nor have the stakes ever been this high.

Fundamentally, this policy is intended to help reshape public expectations and decision-making at a grand scale – while traditional policies have aimed to achieve incremental, progressive improvements, this one aims to achieve a world in which we truly achieve zero emissions. The types of decisions and planning which must be made to achieve that cannot be affected by implementing this policy one street at a time.

### *Electric vehicles are expensive. Won't this disproportionately impact low-income and disadvantaged communities?*

An additional concern raised by this proposed policy is equity concerns and access to electric vehicles by low-income and disadvantaged communities.

Electric vehicles across all on-road types are expected to be widely available and achieve cost parity, if not savings, within the next decade (by 2030). Both Bloomberg and the International Council for Clean Transportation expect price parity for passenger vehicles to be achieved between 2022<sup>5</sup> and 2028<sup>6</sup>, respectively. Bloomberg has already found that electric buses are cheaper today, in 2019, on a total cost of ownership basis across nearly all use cases, and will achieve unsubsidized parity by around 2030<sup>7</sup>. For trucks, McKinsey Energy Insights expects light- and medium-duty trucks running regional and urban trips to reach cost parity by roughly 2028. Long-haul trips and heavy-duty trucks may not achieve cost parity until after 2030, although they have economical use cases much sooner<sup>8</sup>.

Because EVs are anticipated to reach parity before 2030, there is almost certain to be a wide variety of options available, both new and used, at a mix of price points, by the

<sup>5</sup> <https://about.bnef.com/blog/bullard-electric-car-price-tag-shrinks-along-battery-cost/>

<sup>6</sup> <https://theicct.org/publications/update-US-2030-electric-vehicle-cost>

<sup>7</sup> <https://about.bnef.com/blog/electric-buses-cities-driving-towards-cleaner-air-lower-co2/>

<sup>8</sup> <https://www.mckinseyenergyinsights.com/insights/new-reality-electric-trucks-and-their-implications-on-energy-demand/>

time this policy takes effect in 2045. Furthermore, the availability of EVs for low-income communities in 2045 depends heavily on consumer and government choices over the next 25 years; a policy like this would likely only expand the availability of EVs compared to a business-as-usual scenario.

Low-income and disadvantaged communities today are disproportionately impacted by the effects of air pollution and climate change. Implementing this policy will result in significant benefits to these communities.

*How will this be enforced? Won't it disproportionately impact low-income and disadvantaged communities?*

As 2045 approaches, Berkeley could further ensure the policy will be enforced in an equitable fashion by adding flexibility through amendments or direction to the city Manager on enforcement approaches.

A variety of mechanisms exist for enforcement. Because any combustion vehicle has a tailpipe, it is relatively easy to spot a combustion vehicle during ordinary parking enforcement activities or on standard police patrols, minimizing surveillance concerns. If Berkeley chooses to invest in automated billing systems (such as for a congestion pricing zone), or if vehicle position information is shared on a network (such as for autonomous vehicles), billing could be done automatically.

Equity and affordability challenges could be addressed by setting a cap on fees levied annually based on a certain percentage of household income, or a permitting system could be established to grant exemptions to enforcement. Either of these approaches would work with a variety of enforcement mechanisms. Due to the likelihood of significant technological change in the intervening decades, and the uncertainty around non-combustion vehicle uptake and availability for low-income households, these issues would need to be evaluated at a future date.

Furthermore, low-income and disadvantaged communities today are disproportionately impacted by the effects of air pollution and climate change. Implementing this policy will result in significant benefits to these communities.

*Where will all these electric vehicles charge? What about people who can't charge at home?*

City staff are in the process of developing an EV Roadmap, which will include recommendations for expanding EV charging citywide, particularly to serve low-income and multi-unit building residents. These approaches will include expanded workplace and public charging (e.g., at grocery stores and parking garages), as well as curbside charging in neighborhoods and commercial districts. Over the next 25 years, Berkeley should have ample time to prepare for a dramatic increase in the usage of electric vehicles.

*Have other cities enacted similar policies?*

The City of London has enacted a low-emission zone<sup>9</sup> and, within it, an ultra-low emission zone<sup>10</sup>. These zones charge fees to drivers of polluting vehicles on a daily basis to drive within the zone, with a comprehensive program for enforcement across vehicle types and considering needs for discounts and exemptions. Numerous additional cities in Europe have created low-emission zones<sup>11</sup>, frequently targeting diesel vehicles (which are more prevalent due to the popularity of diesel automobiles). The city center of Paris prohibits larger and older vehicles<sup>12</sup>, while Barcelona is in the process of establishing a similar low-emission zone<sup>13</sup> for older vehicles which do not meet more modern emission standards.

No city has yet enacted a low-emission zone in the United States, though New York has discussed congestion pricing<sup>14</sup> and San Francisco has set forth the goal of achieving 100% of trips taken by sustainable modes by 2040<sup>15</sup>. Berkeley could be the first city in the world to pass a law establishing a future zero-emission zone, and play a leadership role in supporting other cities regionally, nationally, and globally in moving towards a clean and sustainable future for transportation. Berkeley's unique political environment empowers it to advance groundbreaking, socially conscious environmental policy, helping clear the way for other cities to follow suit.

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<sup>9</sup> Transport for London, "Low Emission Zone": <https://tfl.gov.uk/modes/driving/low-emission-zone>.

<sup>10</sup> Transport for London, "Ultra Low Emission Zone": <https://tfl.gov.uk/modes/driving/ultra-low-emission-zone>.

<sup>11</sup> Wikipedia, "Low-Emission Zone": [https://en.wikipedia.org/wiki/Low-emission\\_zone](https://en.wikipedia.org/wiki/Low-emission_zone).

<sup>12</sup> Environmental Badge, "Ecological zone Paris": <https://www.environmentalbadge.com/eco-zone-paris/>.

<sup>13</sup> Distintivo-Ambiental.es, "The LEZ Barcelona/City environmental zone": <https://www.distintivo-ambiental.es/en/info-menu/die-umweltzonen/barcelonacity-lez.html>

<sup>14</sup> The New York Times, "Confused about congestion pricing? Here's what we know": <https://www.nytimes.com/2019/04/24/nyregion/what-is-congestion-pricing.html>

<sup>15</sup> Mayor's Electric Vehicle Working Group Electric Mobility Subcommittee, "Proposed Electric Vehicle Roadmap for San Francisco": [https://www.sfmta.com/sites/default/files/reports-and-documents/2019/07/evroadmap\\_final\\_june2019.pdf](https://www.sfmta.com/sites/default/files/reports-and-documents/2019/07/evroadmap_final_june2019.pdf)

## **Analysis of Legal Considerations**

In reviewing the potential legal barriers to implementation, CEAC consulted with environmental lawyers with particular expertise in clean air and transportation issues from Coltura, EarthJustice, Sierra Club, and Environmental Defense Fund. The considerations identified are explained below.

### **Federal Preemption**

Federal laws which conflict with state or local laws trump those laws, under the Supremacy Clause of the U.S. Constitution. There are several federal laws which may potentially conflict with this proposed policy. Fortunately, in determining federal preemption, the courts generally start “with the assumption that the historic police powers of the States were not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress.” *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 485 (1996).

In passing the Clean Air Act, Congress found that “air pollution prevention (that is, the reduction or elimination, through any measures, of the amount of pollutants produced or created at the source) and air pollution control at its source is the primary responsibility of States and local governments” (42 USC § 7401(a)(3)). In *Huron Portland Cement Co. v. Detroit*, 362 U.S. 440, 442 (1960), the Supreme Court found that “Legislation designed to free from pollution the very air that people breathe clearly falls within the exercise of even the most traditional concept of what is compendiously known as the police power.”

As a result, local laws to regulate air pollution, such as the emission of carbon dioxide and other greenhouse gases, fall under the traditional scopes of local authorities. Federal laws which may conflict must demonstrate clear legislative intent to supersede this authority.

### **Relating To Consideration**

When federal laws are intended to preempt local regulations, they frequently prohibit states and cities from implementing laws “related to” the area under federal concern. For example, the Clean Air Act prohibits states and cities from adopting standards “relating to” the control of emissions; the Energy Policy Conservation Act prohibits states and cities from adopting laws “related to” fuel economy standards; and the Federal Aviation Administration Authorization Act (FAAAA) prohibits states and cities from enacting laws “related to” the price, route, or service of any motor carrier.

Under an extremely broad interpretation of “related to”, it is possible that just about any policy could be construed as “related to” a preempted area, as it could have indirect effects on that area. For instance, the recent increase in bridge tolls throughout the Bay Area to raise funds for public transportation could be construed as “related to” the price of motor carriers, as higher bridge tolls leads to higher prices, and thus it could be argued that it would be pre-empted under the FAAAA.



However, prior case law indicates that laws and regulations which are not directly related are not preempted. For example, in *Californians for Safe and Competitive Dump Truck Transportation v. AFL CIO*, the Ninth Circuit Court of Appeals found that while California's Prevailing Wage Law has effects on price, routes, and services of motor carriers, it is only an indirect, remote, and tenuous effect and thus not pre-empted by the FAAAA.

More broadly, the Supreme Court decision in *California Division of Labor Standards Enforcement et al. v. Dillingham Construction, N.A., Inc., et al* provides further precedent as to what laws are considered "related to" under federal preemption: the unanimous opinion finds that laws are preempted if they impose requirements by reference to, or a connection with, an area of preemption. In a concurring opinion, Justice Scalia, joined by Justice Ginsburg, wrote that "the 'relate to' clause of the preemption provision is meant, not to set forth a test for preemption, but rather to identify the field in which ordinary field preemption applies."

As a result, "related to" can broadly be understood to apply if the laws under question are within the field identified by the area of preemption, and if the laws also impose requirements by reference to, or in connection with, an area of preemption.

### **Potential Federal Preemption**

#### **Clean Air Act (CAA)**

The Clean Air Act grants the federal government authority to set emission standards for new vehicles (and provides California the opportunity to set its own, subject to findings by the EPA). Local jurisdictions are expressly prohibited from setting emission standards for, or otherwise regulating emissions of, new vehicles, as stated in 42 U.S. Code § 7543(a): "No state or any political subdivision thereof shall adopt or enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part."

Two key components of § 7543(a) must be further defined. Firstly, as used in this section, a "standard relating to the control of emissions" means an emission standard, as defined in 42 U.S. Code § 7602(k): "The [term]... 'emission standard' mean[s] a requirement established by the State or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction, and any design, equipment, work practice or operational standard promulgated under this chapter."

Secondly, 42 U.S. Code § 7550(3) defines "new motor vehicles" as "...a motor vehicle the equitable or legal title to which has never been transferred to an ultimate purchaser."

Ultimately, this means that states and cities are clearly preempted from setting standards that affect how vehicles are manufactured (with the exception that California may be granted a waiver from this preemption). Case law<sup>16,17</sup> has found that requirements to purchase certain vehicles based upon emissions is similarly subject to preemption.

This policy does not attempt to enforce standards for how vehicles are manufactured or sold based on emissions. Berkeley does not need to, and should not, make any attempt to set or enforce standards for emissions from new vehicles.

To achieve its goal of carbon neutrality under the standard greenhouse gas accounting methodology, Berkeley need only address the use of combustion vehicles for trips which start or end in Berkeley. However, combustion vehicles may be sold in Berkeley and stored or used on private property, or transported outside of the city and operated elsewhere, while having no impact on the city's overall emissions.

As a result, new vehicles (following the definition in § 7550(3)) are explicitly exempted from this policy (14.94.060.C).

As far as state and national emission standards for new motor vehicles are concerned, Berkeley's state and national elected leaders are champions for the environment and public health, and the city can reasonably rely upon them to advocate for the city's best interests in setting state and national policies on new vehicle emission standards.

Under the Clean Air Act, 42 U.S. Code § 7543(d) states that "Nothing in this part shall preclude or deny to any State or political subdivision thereof the right otherwise to control, regulate, or restrict the use, operation, or movement of registered or licensed motor vehicles."

While the Clean Air Act does preempt cities from regulating new vehicles, it largely defines those as unsold vehicles. Otherwise, it reinforces the principle that cities are permitted to use local police power to regulate the operation of vehicles.

#### Energy Policy and Conservation Act (EPCA)

The EPCA grants the federal government authority to set fuel economy standards for new vehicles, and subsequently prohibits local jurisdictions from "adopt[ing] or enforc[ing] a law or regulation related to fuel economy standards..." (49 U.S. Code § 32919(a)).

Berkeley is unconcerned with fuel economy (distance traveled per unit of energy), and this proposed policy has no relation to fuel economy standards.

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<sup>16</sup> *Engine Manufacturers Association v. South Coast Air Quality Management District*, 2004

<sup>17</sup> *Metropolitan Taxicab Board of Trade v. City of New York*, 2009

As with the Clean Air Act, Berkeley is concerned with the emission of greenhouse gases associated with the operation of combustion vehicles. The fuel economy of a new vehicle is not relevant. Furthermore, vehicles sold in Berkeley could be transported and operated outside of the city, or on private property, or pass through without stopping, without affecting the City's greenhouse gas emissions, and so Berkeley does not need to, and should not, make any attempt to regulate fuel economy of new vehicles.

This policy does not attempt to do so.

#### FAA Authorization Act (FAAAA)

The FAA Authorization Act (49 US Code § 14501) prohibits states and cities from enacting laws related to the price, route, or service of any motor carrier (a person providing motor vehicle transportation for compensation).

As previously discussed, under an extremely broad interpretation of "relating to", it is possible that this policy could be construed as "relating to" price, route, or service, as it could have indirect effects on prices or routes, or service (if the vehicle's method of propulsion is considered an element of a motor carrier's service).

However, this policy does not specifically reference or have a direct connection to motor carriers; nor does it directly affect prices, routes, or services; nor is it within the field of preemption intended under the FAAAA. As a result, under the precedent for areas of "related to" preemption, it is unlikely to be found to be in violation of the FAAAA.

#### Interstate Commerce

The "dormant commerce clause," derived from inferences of the Commerce Clause of the U.S. Constitution, requires that any local or state law which affects interstate commerce must not discriminate against out-of-state commerce, and must not be unduly burdensome, with exceptions available if there is no other way to achieve an important goal.

This policy may have impacts on interstate commerce, as either individuals or goods may travel across state lines to conduct business in Berkeley using a combustion vehicle. However, Berkeley's voters clearly consider reducing greenhouse gas emissions and achieving carbon neutrality to be an important goal, as evidenced by the overwhelming 82% support from voters for the 2006 Measure G. As Berkeley cannot physically prevent combustion vehicles from entering the city, there is no other way to achieve carbon neutrality without collecting the revenue necessary to offset the emissions associated with combustion vehicle trips.

The burden on interstate commerce is minimized by exempting the state and federal highways passing through Berkeley, and ensuring there are no criminal penalties associated with operating a combustion vehicle. Furthermore, Berkeley is a city well-

served by exceptional local and regional transit services, as well as bicyclist and pedestrian infrastructure, reducing the need to drive into or within the city. It is also in close proximity to ports, freight rail yards, and regional distribution centers, reducing the need for goods to be delivered by long-haul truck directly from the point of origin, and thereby reducing any burden from haulers which choose to switch to a zero-emission vehicle for final delivery within the city to avoid the carbon offset fee.

### **Potential State Preemption**

#### **Municipal Affairs**

Generally, local jurisdictions are preempted from regulating in areas which are subject to state control. Charter cities like Berkeley are granted authority over municipal affairs, but what exactly is considered a municipal affair is typically decided by the courts on a case-by-case basis. Frequently, courts will overturn arguments based upon municipal affairs if the state has already issued extensive regulations or legislation on the issue, or if there exists a paramount need for state control over the subject.

To date, the State of California has taken a mixed approach to achieving its statewide emissions reductions goals. In some areas, like energy, the State has taken a highly regulatory approach, setting renewable portfolio standards and implementing cap-and-trade. However, in areas relating to transportation, and in particular the strategies that local governments can deploy to reduce greenhouse gas emissions from transportation, the State has to date treated it as a municipal affair. SB 375, the Sustainable Communities and Climate Protection Act of 2008, has served as the cornerstone of the State's strategy for reducing vehicle miles traveled for over a decade. SB 375 directs the California Air Resources Board to set targets for regional emissions reductions from passenger vehicles, and subsequently wholly recognizes the right of regional and local governments to custom-tailor their approach to reducing VMT and transportation GHGs based upon local conditions and needs. Berkeley has traditionally set policies regulating the use of its local roads to achieve GHG and VMT reductions as though it is a municipal affair.

Berkeley's voters also clearly consider local reductions in greenhouse gas emissions to be a municipal affair. In 2006, an overwhelming 82% of Berkeley's voters supported Measure G, which proposed establishing a goal of 80% reduction in greenhouse gas emissions by 2050 and advising the Mayor to work on a Climate Action Plan. This direct mandate by Berkeley's voters calls for the city to take aggressive action, particularly if it finds the state's actions alone will not achieve the city's goals.

#### **California Vehicle Code**

The state's vehicle code generally sets the rules of the road and requirements for vehicles to ensure safety. In addition, CVC § 21101 (c) states "Local authorities, for those highways under their jurisdiction, may adopt rules and regulations by ordinance or resolution on the following matters... Prohibiting the use of particular highways by certain vehicles," except for passenger stage corporations, as provided in the Public

Utilities Code. Passenger stage corporations are granted an exemption from the proposed policy.

Based upon this section, it appears that the State considers regulating the use of local streets to be a municipal affair, and that prohibiting the use of local city streets by combustion vehicles is an application of local police power authorized under both state and federal law.

No other applicable laws, legal principles, examples from case law, or precedents were identified. As such, based upon review of the above considerations, there do not appear to be insurmountable existing federal or state legal barriers to implementing a policy of this type.





Community Environmental  
Advisory Commission

CONSENT CALENDAR  
February 23, 2021

To: Honorable Mayor and Members of the City Council  
 From: Community Environmental Advisory Commission  
 Submitted by: Ben Gould, Chairperson, Community Environmental Advisory Commission  
 Subject: Prohibition on the Sale of Gasoline, Diesel, and Other Carbon-Based  
 Transportation Fuels by 2045

RECOMMENDATION

Review and refer to the City Attorney for finalization the attached ordinance prohibiting the sale of gasoline, diesel, and other carbon-based transportation fuels effective January 1<sup>st</sup>, 2045.

POLICY COMMITTEE RECOMMENDATION

On January 20, 2021, the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee moved to send the item with a positive recommendation for Council to take no action on the item but to provide the item to staff as background for consideration, particularly as the Federal landscape changes under the new administration and to explore whether the City has the legal authority to pursue. Vote: All Ayes

FISCAL IMPACTS OF RECOMMENDATION

Some staff time for review and finalization of the ordinance. Adoption of the ordinance itself may expose the City to potential fiscal impacts, including risk of a lawsuit and, if ultimately enforced, additional fiscal impacts from impacts to sales, property, and other tax or fee revenues.

CURRENT SITUATION AND ITS EFFECTS

Numerous Berkeley businesses are fossil fuel dealers, promoting the sale and use of carbon-based transportation fuels which are known to pollute our air, water, and soil; pose major fire risks; contribute to the risk of cancer; and are either potent greenhouse gases or, upon combustion, leading contributors to climate change.

These carbon-based transportation fuel dealerships – colloquially known as gas stations – are known to cause significant traffic and congestion, generate elevated levels of carcinogenic air pollutants in their local neighborhoods, and are frequently found to have leaked toxic chemicals into the ground, contaminating our soil and groundwater.

In 2018 alone, according to California Energy Commission data, over 20 million gallons of gasoline was sold in Berkeley at roughly 15 gas stations throughout the city. Ten of these gas stations had unresolved CalEPA violations as of October 2019.

The transportation of these fuels is also extremely dangerous. Vehicles transporting or storing fossil fuels regularly collide, leading to fuel spills or leaks – further contaminating water and/or soil and/or air – and posing major risks of fire or explosion, with the potential for significant damage to property and harm to public safety. Alternatively, even if the vehicles themselves do not themselves have fuel leaks, the firefighting materials that must be used to prevent serious fires or explosions are themselves hazardous and difficult to clean up.

These fuels are typically used to power the operation of roughly 97% of all vehicles registered in the City of Berkeley. However, the City, County, and State are all working to dramatically increase the use and availability of vehicles which do not rely upon these hazardous chemicals. One such alternative – electric vehicles – are expected to reach price parity with traditional combustion-powered vehicles by roughly 2025. In addition, the City of Berkeley has adopted the goal of carbon neutrality by 2045, which – if successful – will require ending the use of these fuels.

There are also numerous other fossil fuel dealerships located outside of Berkeley, ensuring that these fuels are still accessible to anyone who is either unable or chooses not to switch to alternatives.

At a regular meeting on Thursday, November 14, 2019, the Community Environmental Advisory Commission unanimously approved a motion to send the *Prohibition on sales of Carbon-Based Transportation Fuels by 2045* recommendation to City Council (M/S/C) Gould, Hetzel. Ayes: Simmons, Varnhagen, Hetzel, Goldhaber, Gould. Abstained: De Leon. Absent: Ticconi.

### BACKGROUND

Berkeley has permitted and even encouraged the sale of transportation fuels for decades. In recent years the cumulative harmful impacts of these chemicals across environmental, health, and safety impacts has become clear, and recently the City Council adopted a Fossil Fuel Free Berkeley resolution, setting the goal of eliminating fossil fuels – the majority of which are carbon-based transportation fuels – in Berkeley.

Gasoline, diesel, and other carbon-based transportation fuels are known to be harmful chemicals, posing a variety of risks to human health, public safety, and the environment,



both of their own virtue and as a result of their combustion or oxidation for powering transportation<sup>1,2,3</sup>.

These chemicals have the same health and safety risks and environmental impacts regardless of the source or feedstock – benzene, found in gasoline, is a known carcinogen whether it is derived from petroleum or from corn, and biodiesel poses the same fire risks as regular diesel. As a result, truly addressing the health and safety impacts of these chemicals requires addressing the chemicals regardless of their origination source.

The hazards of these chemicals are significant and acute, and even if the chemicals themselves do not escape into the environment or catch fire, the risk of them doing so is so severe that efforts to control or prevent them from doing so is similarly damaging.

In one recent instance in Berkeley, the cargo of a recycling truck caught fire. This recycling truck was also carrying compressed natural gas (CNG), a type of carbon-based transportation fuel. In a memo by the city manager, this fire was described as “extremely dangerous,” a “highly explosive threat to nearby people and homes,” and a “potentially explosive, deadly disaster,” due to the risk of the CNG either catching fire or heating up to the point of explosion. According to the memo, a similar garbage truck fire in 2015 created “an explosion that sent shrapnel in 360 degrees, including one compressed natural gas tank that flew a quarter of a mile.”

To put out this fire fast enough to prevent this potentially deadly explosion, the firefighting team deployed special foams originally designed to fight wildfires. These foams spilled into a storm drain and polluted Berkeley’s natural waterways, leading to the death of 63 threatened Central Coast California Steelhead Trout.

Even if Berkeley’s trucks were fueled with a renewable, non-fossil CNG, this near-disaster – and the lesser disaster that resulted from it – would have happened regardless. The health and safety risk derives from the chemical nature and composition of the fuels, not the feedstock used to create them.

#### ENVIRONMENTAL SUSTAINABILITY

Banning the sale of gasoline, diesel, and other carbon-based transportation fuels will improve local air quality, protect our soil and waterways, and improve public health and safety.

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<sup>1</sup> Material Safety Data Sheet: Gasoline, All Grades, Vermillion County, IL: <https://www.vercounty.org/MSDS/EMA/9950allgradesgasoline.pdf> (accessed September 2019)

<sup>2</sup> Safety Data Sheet: Diesel Fuels, Valero: [https://www.valero.com/en-us/Documents/OSHA\\_GHS\\_SDS/SDS%20US%20-%20102-GHS%20DIESEL%20FUELS%20rev2%205-14.pdf](https://www.valero.com/en-us/Documents/OSHA_GHS_SDS/SDS%20US%20-%20102-GHS%20DIESEL%20FUELS%20rev2%205-14.pdf) (accessed September 2019)

<sup>3</sup> Safety Data Sheet: Natural Gas Odorized, Hess Corporation: <https://www.hess.com/docs/us-safety-data-sheets/natural-gas.pdf?sfvrsn=2> (accessed September 2019)

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The proposed policy is categorically exempt from CEQA under CEQA Guidelines Sections 15307 and 15308.

RATIONALE FOR RECOMMENDATION

Eliminating the sale of these carbon-based transportation fuels will reduce one of the major environmental, public health, and safety hazards currently prevalent in the City of Berkeley.

Providing a 25-year phaseout period will ensure a smooth transition that businesses and individuals can successfully plan for without unconstitutionally taking or eliminating economic uses of property.

ALTERNATIVE ACTIONS CONSIDERED

CEAC considered taking no action, but determined that continuing to permit the sale of carbon-based transportation fuels would not achieve a fossil fuel free Berkeley, as set forth in the Fossil Fuel Free Berkeley resolution.

CEAC considered providing a carve-out exemption for carbon-based transportation fuels that are derived from non-petroleum / fossil sources. CEAC determined that such an exemption would be prohibitively difficult to enforce, and would not achieve the desired goal of reducing health and safety risks.

CEAC considered prohibiting only certain carbon-based transportation fuels, but did not find substantial health and safety, or environmental reasons which would justify permitting gasoline, diesel, or compressed natural gas but not the others.

CEAC considered a shorter phase-out period (such as 2040 or 2030) or a more extended one (such as 2050 or 2055) but determined that 2045 best aligned with other policies and programs in place, proposed, or likely at the local, regional, state, and national level to ensure that an adequate supply of vehicles and infrastructure to support non-combustion vehicles. However, it is possible that all of Berkeley's fossil fuel dealerships could go out of business sooner than 2045, due to a transition away from combustion fuel usage, in which case this policy would have no significant effect.

CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

CONTACT PERSON

Ben Gould, Chair, Community Environmental Advisory Commission, 510-725-9176

Attachments:  
1: Ordinance

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE TITLE 9 TO PROHIBIT THE SALE AND  
TRANSPORTATION OF FOSSIL FUELS.

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

Section 1. That the Berkeley Municipal Code Chapter 9.98 is added to read as follows:

**Chapter 9.98**  
**SALE OF TRANSPORTATION FOSSIL FUELS**

**Sections:**

- 9.98.010 Findings**
- 9.98.020 Purpose**
- 9.98.030 Definitions**
- 9.98.040 Prohibition**
- 9.98.050 Severability**

9.98.010 Findings

A. Carbon-based transportation fuels, such as gasoline, diesel, and others, are known to be harmful and hazardous chemicals, contributing to cancer, climate change, and known to pollute our local air, water, and soil.

B. Carbon-based transportation fuels pose major fire and explosive hazards, with risk to public health and safety.

C. The transport, storage, and sale of transportation fuels exacerbates all risks associated with these chemicals.

9.98.020 Purpose

The purpose of this chapter is to promote the health and safety of Berkeley residents and visitors, and to address environmental impacts and public health and safety impacts from transportation fuels.

9.98.030 Definitions

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

A. "Transportation fuel" shall mean any gasoline, diesel, compressed natural gas, or other carbon-based fuel which is intended to provide power or propulsion to any land motor vehicle through its combustion or oxidation.

#### 9.98.040 Prohibition

Beginning January 1<sup>st</sup>, 2045, it shall be unlawful to sell, trade, or distribute any transportation fuel by any means anywhere within the City of Berkeley.

#### 9.98.050 Severability

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. In addition, the City Council hereby declares that it would have passed the ordinance codified in this chapter, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of this chapter would be subsequently declared invalid or unconstitutional.



Peace and Justice Commission

CONSENT CALENDAR  
February 23, 2021

To: Honorable Mayor and Members of the City Council  
 From: Peace and Justice Commission  
 Submitted by: Igor Tregub, Chairperson, Peace and Justice Commission  
 Subject: Opposition of New U.S. Base Construction in the Henoko-Oura Bay of Okinawa

RECOMMENDATION

Adopt a Resolution opposing new U.S. base construction in the Hemoko-Oura Bay of Okinawa.

FISCAL IMPACTS OF RECOMMENDATION

Minimal to negligible.

CURRENT SITUATION AND ITS EFFECTS

At its March 2, 2020 meeting, the Peace and Justice Commission took the following action:

**Recommend to the City Council a resolution opposing new U.S. base construction in the Hemoko-Oura Bay of Okinawa.**

M/S/C: Bohn/Meola  
 Ayes: al-Bazian, Askary, Bohn, Gussman, Lippman, Maran, Meola, Morizawa, Pancoast, Perry, Pierce, Rodriguez, Taplin, Tregub  
 Noes: None  
 Abstain: None  
 Absent: None

BACKGROUND

A new U.S. military base is being constructed in the Pacific Ocean, in Okinawa's Oura Bay<sup>1</sup> in the Henoko region of Okinawa. Oura Bay is one of the most biodiverse ecosystems on the planet with over 5,300 species and world-renowned coral reef systems. Fully 262 of the species in Oura Bay are endangered, including the dugong,<sup>2</sup> a medium-sized marine mammal, which has been closely monitored internationally by

<sup>1</sup> "We shall overcome (戦場ぬ止み Ikusaba Nu Tudumi)," Trailer, YouTube video, October 3, 2015, [https://www.youtube.com/watch?v=FEc\\_D\\_meOBY&list=PL55Jwk9JymqyuApWq7gi08uWQKyZhK3cH&index=20&t=0s](https://www.youtube.com/watch?v=FEc_D_meOBY&list=PL55Jwk9JymqyuApWq7gi08uWQKyZhK3cH&index=20&t=0s)

<sup>2</sup> <https://www.youtube.com/watch?v=jgJ46Gzkzfk&t=1s>

environmental groups due to its diminishing numbers as well as its status as a designated of indigenous historical value.<sup>3</sup>

On August 21, 2017, the 9th Circuit U.S. Court of Appeals affirmed the right of American and Japanese conservation groups and Okinawan citizens to sue to compel the U.S. military to fully consider the impacts of a new U.S. military base in Okinawa, Japan.<sup>4</sup> The base would pave over some of the last remaining habitat for endangered Okinawa dugongs, ancient cultural icons for the Okinawan people. The lawsuit is part of a long-running controversy over the expansion of a U.S. Marine air base at Okinawa's Henoko Bay. The court remanded the case to the district court for further proceedings.<sup>5</sup>

On January 9, 2020, American conservation groups and residents of Okinawa filed the opening brief in an appeal of a court ruling allowing construction of a US Marine Corps air base in the Japanese island's coastal waters. The brief, filed in the 9th Circuit Court of Appeals in San Francisco, highlights the base's threat to the Okinawa dugong, a critically endangered marine mammal related to manatees. Building the base will involve filling in and paving over hundreds of acres of rich coral and seagrass habitat crucial to the last surviving Okinawa dugongs. The Turtle Island Restoration Network, The Center for Biological Diversity, and the Japanese co-plaintiffs are represented in the case by Earthjustice, which filed the appeal. The 9th Circuit ruled in 2017 that Okinawa residents deserved a full hearing on their concerns. "The Okinawa dugong, sea turtles, coral reefs, humans and the ocean environment need the U.S. justice system to guard our genuine national security by rejecting this ecologically horrendous project," said Todd Steiner, founder and executive director of Turtle Island Restoration Network, at the time.<sup>6</sup>

It is noteworthy that Okinawa has been forced to host almost 70% of U.S. military facilities in Japan<sup>7</sup> despite consisting only 0.6% of national land mass. Still, the Japanese government, in partnership with the U.S. government, continues building this U.S. base in the ocean – dropping concrete blocks on top of precious coral and

<sup>3</sup> Expansion of US Military base puts endangered Henoko Bay Dugong at risk on Okinawa, Japan," May, 1, 2019 (last update), <https://ejatlas.org/conflict/henoko-bay-dugong-or-us-base-for-okinawa>

<sup>4</sup> Okinawa Dugong Lawsuit Judge asks why US govt did not consult with environmental experts and Okinawans about Landfill, Construction Impact on Okinawa Dugong Cultural Heritage," June 28, 2018, <https://tenthousandthingsfromkyoto.blogspot.com/2018/06/okinawa-dugong-lawsuit-judge-asks-why.html>

<sup>5</sup> Court Affirms Right to Sue U.S. Military Over New Base's Threats to Endangered Okinawa Dugong. *Rare Japanese Dugongs One Step Closer to Finally Getting Their Day in Court*, [https://www.biologicaldiversity.org/news/press\\_releases/2017/okinawa-dugong-08-21-2017.php](https://www.biologicaldiversity.org/news/press_releases/2017/okinawa-dugong-08-21-2017.php)

<sup>6</sup> Court Affirms Right to Sue U.S. Military Over New Base's Threats to Endangered Okinawa Dugong. *Rare Japanese Dugongs One Step Closer to Finally Getting Their Day in Court*, [https://www.biologicaldiversity.org/news/press\\_releases/2017/okinawa-dugong-08-21-2017.php](https://www.biologicaldiversity.org/news/press_releases/2017/okinawa-dugong-08-21-2017.php) and Dugong Defenders to Rally Today at S.F. Hearing on U.S. Airbase's Threat to Endangered Animals 2/3/2020)," <https://biologicaldiversity.org/w/news/press-releases/dugong-defenders-to-rally-today-at-sf-hearing-on-us-airbases-threat-to-endangered-animals-2020-02-03/>

<sup>7</sup><https://www.pref.okinawa.jp/site/chijiko/kichitai/documents/us%20military%20base%20issues%20in%20okinawa.pdf>

suffocating the marine habitat with dirt and concrete – causing irreversible harm to the ecosystem. It is already adversely impacting the region; contributing to species collapse and furthering environmental damage already sustained from rapid climate change.<sup>8</sup>

The Okinawan people have exhausted all legal and peaceful means of opposing this new base from being forced upon them – from elders staging nonviolent protests and sit-ins to Okinawan governors challenging the Japanese government through the legal system, only to be disregarded in Tokyo and Washington, D.C.<sup>9</sup> Okinawan Diaspora members of Global Uchinanchu Alliance (GUA)<sup>10</sup> have come together to reach out for support in this international crisis. Most recently, the City of Berkeley has expressed its solidarity with the Okinawan people by passing a resolution in support of the immediate halting of new U.S. military base construction at Henoko, Okinawa on September 9, 2015.

In addition to environmental concerns, there are significant financial uncertainties associated with this project. Construction of the replacement facility in Okinawa for U.S. Marine Corps Air Station Futenma will take nearly twice as long and cost three times as much as the initial estimates. This makes it certain that shutting down Futenma will now be delayed into the 2030s at the earliest due to additional work to improve the soft ground on the seafloor in the site's offshore areas — which was found in a boring survey three years ago. The entire cost of the project will be estimated to balloon from the initial forecast of \$350 billion to \$930 billion.<sup>11</sup> The opportunity costs of this enormous outlay of taxpayer dollars are even more acute in the wake of the COVID-19 pandemic than ever before.

The construction of this base has been repeatedly opposed by the Okinawan people.<sup>12</sup> Most recently on February 24, 2019, over 70% of Okinawans voted in opposition to the construction of this U.S. Marine Corps base.<sup>13</sup>

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<sup>8</sup> On A Firm Foundation of Mayonnaise: Human and Natural Threats to the Construction of a New U.S. Base at Henoko, Okinawa," 3/15/18, <https://apjif.org/2018/10/Lummis.html>

<sup>9</sup> Message to Obama from a Veteran in Okinawa," YouTube video, February 29, 2016, <https://www.youtube.com/watch?v=6p5kXBod1gg&list=PL55Jwk9JymqyuApWq7gi08uWQKyZhK3cH&index=4&t=11s>

<sup>10</sup> <https://uchinanchu.com/>

<sup>11</sup> Cost of Destructive U.S. Airbase Project in Japan Nearly Triples: Revised Estimate Sparks New Questions About Project That Threatens Okinawa Dugongs," <https://www.commondreams.org/newswire/2020/01/06/cost-destructive-us-airbase-project-japan-nearly-triples>

<sup>12</sup> [https://www.youtube.com/watch?v=FEc\\_D\\_meOBY&list=PL55Jwk9JymqyuApWq7gi08uWQKyZhK3cH&index=20&t=0s](https://www.youtube.com/watch?v=FEc_D_meOBY&list=PL55Jwk9JymqyuApWq7gi08uWQKyZhK3cH&index=20&t=0s)

<sup>13</sup> <https://www.reuters.com/article/us-japan-okinawa/japan-to-push-ahead-with-u-s-base-relocation-despite-okinawa-referendum-result-idUSKCN1QE06Q>

### ENVIRONMENTAL SUSTAINABILITY

While there may be no identifiable direct environmental impacts or opportunities associated with the subject of this report, this resolution is a statement against U.S. involvement in grave environmental destruction in the Pacific Ocean off the coast of Okinawa.

### RATIONALE FOR RECOMMENDATION

While the Peace and Justice Commission recommends adopting the resolution for a number of reasons, environmental reasons are at the core of this recommendation. On January 21, 2020, the City Council, by a 4-0-5 vote, took no action on a previous version of this resolution.<sup>14</sup> It was noted at the time by some members of the City Council who abstained that a stronger environmental nexus was needed for them to consider supporting this resolution. This resolution is responsive to these concerns by highlighting the destructive environmental impacts of this project.

### ALTERNATIVE ACTIONS CONSIDERED

The Peace and Justice Commission considered the alternative of not taking further action on this topic, but chose to address the concerns of these members by recommending a resolution with a more direct environmental nexus.

### CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

### CONTACT PERSON

Igor Tregub, Chairperson, Peace and Justice Commission  
Melissa McDonough, Senior Management Analyst, City Manager's Office, 510-981-7402

### Attachments:

1: Resolution

Exhibit A: Resolution Opposing New U.S. Base Construction in Henolo-Oura Bay of Okinawa

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<sup>14</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/01\\_Jan/Documents/01-21\\_Annotated\\_Agenda\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/01_Jan/Documents/01-21_Annotated_Agenda_pdf.aspx)



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

RESOLUTION OPPOSING NEW U.S. BASE CONSTRUCTION IN HENOKO-OURA BAY OF OKINAWA

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 Chapter 3.68.070); and

WHEREAS, [a new U.S. military base is being constructed in the ocean of Oura Bay](#). This bay is in the Henoko region of Okinawa. It is one of the most bio-diverse ecosystems on the planet with over 5,300 species and world-renown coral reef systems. 262 of the species in Oura Bay are endangered, including the [dugong](#) which have been closely monitored internationally by environmental groups due to its diminishing numbers as well as its status as a designated [cultural property](#) of indigenous historical value; and

WHEREAS, on August 21, 2017, the 9th Circuit U.S. Court of Appeals affirmed the right of American and Japanese conservation groups and Okinawan citizens to sue to compel the U.S. military to fully consider the impacts of a new U.S. military base in Okinawa, Japan. The base would pave over some of the last remaining habitat for endangered Okinawa dugongs, ancient cultural icons for the Okinawan people. The lawsuit is part of a long-running controversy over the expansion of a U.S. Marine air base at Okinawa's Henoko Bay. The court remanded the case to the district court for further proceedings; and

WHEREAS, on January 9, 2020, American conservation groups and residents of Okinawa filed the opening brief in an appeal of a court ruling allowing construction of a US Marine Corps air base in the Japanese island's coastal waters; and

WHEREAS, construction of the replacement facility in Okinawa for U.S. Marine Corps Air Station Futenma will take nearly twice as long and cost three times as much as the initial estimates. This makes it certain that shutting down Futenma will now be delayed into the 2030s at the earliest due to additional work to improve the soft ground on the seafloor in the site's offshore areas — which was found in a boring survey three years ago. The entire cost of the project will balloon from the initial forecast of \$350 billion to \$930 billion; and

WHEREAS, the construction of this [base has been opposed by the Okinawan people repeatedly](#). Most recently on February 24, 2019, over 70% of Okinawans voted in opposition to the construction of this particular U.S. Marine Corps base outside of Camp Schwab. Still, the Japanese government, in partnership with the U.S. government, continues building this U.S. base in the ocean – dropping concrete blocks on top of precious coral and suffocating the marine habitat with dirt and concrete – causing irreversible harm to the ecosystem. It is already adversely impacting the region;

contributing to species collapse and furthering environmental damage already sustained from rapid climate change; and

WHEREAS, already, [Okinawa has been forced to host almost 70% of U.S. military facilities in Japan](#) despite consisting only 0.6% of national landmass; and

WHEREAS, this treatment of Okinawa as a colonial military outpost has continued since the Japanese annexation of the once sovereign nation of the Ryūkyū Kingdom. Then during WWII, Okinawan land was destroyed in a war between U.S. and Japan, taking almost a third of the entire Okinawan population. From there, the U.S. construction of military bases began against the will of the Okinawan people and [continues today](#); and

WHEREAS, the Okinawan people have exhausted all legal and peaceful means of opposing this new base from being forced upon them – from elders staging nonviolent protests and sit-ins to Okinawan governors challenging the Japanese government through the legal system, only to be disregarded in Tokyo and Washington, D.C. Okinawan Diaspora members of Global Uchinanchu Alliance ([GUA](#)) have come together to reach out for support in this international crisis; and

WHEREAS, the City of Berkeley has expressed its solidarity with the Okinawan people by passing a resolution in support of the immediate halting of new U.S. military base construction at Henoko, Okinawa, passed through the Berkeley City Council on September 9, 2015.

THEREFORE BE IT RESOLVED that the Council of the City of Berkeley directs the City Clerk to send the following message to the U.S. House Armed Services Committee:  
The City of Berkeley, California stands in solidarity with the people of Okinawa in demanding the immediate and complete halt of the U.S. Marine Corps base construction in Henoko, Okinawa.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley asks the City Clerk to send a copy of this resolution to Representative Barbara Lee and Senator Dianne Feinstein.



Cheryl Davila  
Councilmember  
District 2

## REVISED AGENDA MATERIAL

**Meeting Date:** November 23, 2020

**Item:** Initiate a Citywide, Regional and International Just Transition to a Regenerative Economy to Address the Climate Emergency

**Subject:** Resolution furthering Climate action approaches by: creating a just transition commission, tasking all commissions for climate action

policies, forming a regional task force, forming an trans-national climate task force among governments who have declared a climate emergency, drafting ordinances to make products sold in Berkeley exclusively circular, advocating for bio-regional sustainability and governance in the bay area, the city will adopt the Doughnut Economics methodology for sustainability,

**Submitted by:** Councilmember Cheryl Davila

**Revisions:** Removed (5) Therefore Be It Resolved clauses: in regards to circular economy therefore clause changed the date from 2025 to 2030 and specified that this applies to non-critical infrastructure and consumer items; added contra costa county to list of governments who have declared a climate emergency; in therefor clause concerning regional collaboration added joint powers authority as focus of regional climate collaboration; added language “commit to be regenerative” and improve public and environmental health; changed language to shall from will in regards to adopting doughnut economics, changed the directive to the city manager to draft ordinances concerning products sold in Berkeley to allow more discretion in light of financial impact on residents and to exclude medical devices, and critical non-replaceable products“

Item updated to: 1. The terms Just Transition and Regenerative Economy refer to specific frameworks and definitions and are thus capitalized; 2. The city hosts a variety of businesses and services which sell products which contribute to environmental degradation and negative health impacts. Directing the city manager to develop a series of ordinances to remove such products from the city by a certain date allows the originally intended language of accelerating a transition to a circular economy more concrete; 3. Ideally a transition to sustainability is a given, unfortunately we cannot take this for granted. Further there are many transition scenarios that are not explicitly just by design. Only a just transition which explicitly and intentionally reverses existing inequities will improve the living conditions of marginalized people, ecosystems and wildlife to the maximal extent possible; 4. There are thousands of governments who have formally declared a climate emergency, in total these governments which include whole countries cover a significant portion of the world’s population, a significant portion of the world’s economy, and cumulatively can have a profoundly positive impact. Because 2050 is the

conventional date by which sustainability is to be achieved in many governments this date was selected as the length of time this trans-national network will be sustained; 5. The revision that the City of Berkeley will create a regional/statewide task force to be sustained by 2050 is for the purpose of organizing 25 cities and counties who have explicitly declared a climate emergency and responded to Berkeley's call for regional collaboration in the Bay Area. A regional/statewide task force will be necessary for navigating the shift to a more sophisticated ecosystem-resilience management of governance called bio-regional governance in the resolution; 6. The City of Berkeley will put forth to the trans-national and statewide task forces the framework of a Just Transition as an orienting ethos and a Regenerative Economy as a framework for the collective aim of the task forces; 7. Affording critical ecosystems in and around the Bay Area with rights will ensure their protection, thus a couple examples were added; 8. was added to emphasize that a citywide just transition in Berkeley requires a profound cultural shift in that citizen participation is required for success; 9. Numerous content edits were provided to clarify the original intent of the resolution.

Blue text and strikethroughs are track changes. Clean version at very end of document.



Cheryl Davila  
Councilmember  
District 2

CONSENT CALENDAR  
July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila

Subject: Initiate a Citywide, Regional and International Just Transition to a Regenerative Economy to Address the Climate Emergency

RECOMMENDATION

Adopt a resolution ~~to initiate a citywide, regional and international Just Transition to a Regenerative Economy to address the Climate Emergency, and~~ taking the following actions:

1. The City of Berkeley shall initiate a citywide, regional and international Just Transition to a Regenerative Economy; ~~The City of Berkeley recognizes sustainability is sustainability is not enough to protect residents from cumulative impacts of centuries of environmental and social degradation and instead will reorient its city planning, policy, and resource allocation to be socially and environmentally positive and will invest in a regenerative whole city infrastructure, policy, development and design process.~~
2. The City of Berkeley will work with cities, counties, and institutions such as the UC system to form a joint powers authority regional and statewide task force to oversee a justice and public safety-oriented - scientifically grounded - transition to a regenerative economy here in the Bay Area to be sustained until 2050; ~~and The City of Berkeley following the lead of Amsterdam and other cities will join in an attempt to embrace Doughnut Economics, which, by definition, recognizes the necessity of meeting the needs of residents within the carrying capacity of our planet Earth and the greater Bay Area bioregion.~~
3. The City of Berkeley commits to being regenerative, recognizing that attempting to be sustainable is not enough to protect residents from cumulative impacts of centuries of environmental and social degradation and instead will reorient its city planning, policy, governance culture, and resource allocation to improve public and environmental health, be participatory and will invest in a centuries long regenerative whole city culture, infrastructure, policy, development and design process; ~~and The City of Berkeley will accelerate the transition to a zero-waste cradle to cradle, circular economy by a developing a series of ordinances ensuring only earth friendly products are sold within city limits by 2025~~
4. The City of Berkeley shall adopt doughnut economics and implement it's associated methodology to assess sustainability which, by definition, recognizes the necessity of meeting the needs of residents within the carrying capacity of our planet Earth and the greater Bay Area bioregion; ~~and All City of Berkeley commissions shall propose city~~

~~policies, procedures and programs to enact a just transition that is socially, economically and ecologically regenerative by securing racial justice, bioregional restoration and sustainability, maximally reduces greenhouse gas emissions, increases public health, increases disaster preparedness and community resilience and reverses inequality and wealth extraction from Berkeley and Bay Area residents.~~

5. ~~The City Council directs the City manager to develop a set of ordinances to ensure zero-waste, cradle to cradle, non-toxic, earth friendly non-essential consumer based products are sold within city limits by 2030 with special exception to non-replaceable items for which a sustainable alternative is either unavailable or too expensive for low income residents to afford, critical infrastructure, medical devices and other such life dependent items; The City of Berkeley will create a city commission responsible for planning and implementing a Just Transition to a Regenerative Economy that is anti-racist, provides reparations and transformative support for those who are black, Indigenous, people of color, low income, and those struggling with mental health challenges, is community-driven and democratically funded, environmentally regenerative, and prioritizes local and independent businesses.~~
6. ~~The City of Berkeley shall suspend any and all projects and policies that are incompatible with protecting the earth and people from further environmental degradation, social inequality, public health risks, and global warming; and The City of Berkeley commits to suspend any and all projects and policies that are incompatible with protecting the Earth and people from further environmental degradation, social inequality, public health risks, and global warming and urges all neighboring agencies, statewide, national, and international, to do the same.~~
7. ~~The City of Berkeley calls for regional agencies, cities, and counties to agree on a shared definition of the Bay Area's bioregion (s), to define the shared limits of our bio-region's carrying capacity and to organize our governance to be bio-regionally regenerative, sustainable, and to define a developmental trajectory that maximizes the health and vitality of the ecosystems, wildlife, and people for generations to come; and The City of Berkeley will create a regional and statewide collaborative to ensure the maximal climate mitigation and adaptation scenarios to begin as soon as possible and formally requests all regional agencies, cities, and counties to a shared table to devise and execute a Just Transition plan to the Regenerative Economy here in the greater Bay Area through a regional Green New Deal.~~
8. ~~The City of Berkeley identifies our current economy with its focus on near-term perpetual growth requiring resource extraction and wealth enclosure as defunct and incompatible with the needs of sustainability, human thriving, and dignity, and calls for a new economic system which in its design meets human needs within planetary and local environmental and social boundaries of wellbeing and furthers human and ecological flourishing, furthers a regenerative human presence on earth, achieves equitable distribution of resources throughout the planet, and achieves sustainability through a just and regenerative transition to restore a safe climate and adapt to further warming in the near and long term; and The City of Berkeley within the first 90 days will invite all the cities, counties, and institutions such as the UC system to form a regional and statewide task force to oversee a justice-oriented evidence-based transition to a regenerative economy to be sustained until 2050;~~
9. ~~The City of Berkeley recognizes the importance of Indigenous leadership in designing and implementing a regenerative economy in Berkeley, the greater Bay Area, and the World, and shall invite delegates from Indigenous communities to all stages of the planning and implementation process.~~
10. ~~The City of Berkeley identifies our current economy with its focus on near-term perpetual growth requiring resource extraction and wealth enclosure as defunct and incompatible with the needs of sustainability, human thriving, and dignity, and calls for a new economic system which in its design meets human needs within planetary and local environmental and social boundaries, focuses on human and ecological flourishing,~~

~~further a regenerative human presence on earth, achieves equitable distribution of resources throughout the planet, and fosters an immediate transition to avert climate catastrophe in the near and long term.~~

11. ~~The City of Berkeley endorses the intention and vision behind a global Green New Deal that reverses centuries of colonization, and post-colonial imbalances of power, health, wealth, sovereignty, addresses the climate emergency at the speed and scale necessary, and protects the world from impending climate impacts.~~
12. ~~The City of Berkeley recognizes the importance of indigenous leadership in designing and implementing a Regenerative Economy in Berkeley, the greater Bay Area, and the world, and shall invite delegates from indigenous communities to all stages of the planning and implementation process.~~

## BACKGROUND

In addition to the massive worldwide health crisis, COVID-19 also caused a slow down to the global economy. Governments around the world have begun, and are planning, to invest trillions of dollars in economic recoveries. There is a time-sensitive need to prevent a carbon rebound and prevent a return to extractive overconsumption in order to avert climate catastrophe and secure a just future for humankind and wildlife. ~~As the sixth city in the world to recognize that we already face a Climate Emergency, Berkeley has an opportunity and responsibility to lead and collaborate the effort with over 1772 cities, counties, and countries that have formally recognized and declared a Climate Emergency. The Climate Emergency Declaration, the term climate emergency and the climate emergency movement are a subset of the larger climate movement which asserts "business as usual" climate action which defers carbon neutrality to 2050 is incompatible with global warming for the vast majority of the world and future generations. Over 102 municipalities in the United States, 25 of those within the Bay Area and more across the state of California have declared a Climate Emergency and called for a regional collaborative effort that has not yet begun. For the Bay Area to do its part for the world, it must have a regional plan to reverse to achieve the harmful environmental and social impacts of which brought us this societal-environmental-economic crisis to biodiversity and human societies by achieving regeneration of endangered life areas and sustainability,~~ the City of Berkeley ~~continues to have~~ has a role and responsibility in leading this effort.

~~In leading this effort,~~ Berkeley must recognize and address the following issues: (1) Climate change and its connection to public health (i.e., resurgence of diseases and pandemics, compounded effects on low income, people of color, and other groups systematically disenfranchised), (2) Injustice of the pre-COVID-19 economic and political system, and (3) a Just Transition to a sustainable and Regenerative Economy.

Climate change and harmful public health issues have a positive correlation. Even if reasonably curbed, global warming effects in the near future include increased danger from record breaking wildfires, increased oceanic storms potentially causing at least \$1 billion worth of damage to public infrastructure and coastal real estate in the U.S.,<sup>1</sup> forced migration for up to a billion climate refugees by 2050<sup>2</sup>, increased exposure to diseases, loss of arable farm land, increased deaths related to heat stress<sup>3</sup>, scarcity of freshwater, and further extinction of wildlife and biodiversity threatening the entire population of the world. More specific to the greater Bay Area,

<sup>1</sup> <https://www.ucsusa.org/resources/underwater>

<sup>2</sup> <https://unu.edu/media-relations/media-coverage/climate-migrants-might-reach-one-billion-by-2050.html>

<sup>3</sup> [https://www.nature.com/articles/nclimate3322.epdf?sharing\\_token=MuYgnDiD-ztxrwuEdc-3xtRgN0jAjWel9jnR3ZoTv0P1ZmqVLxKfxqQX-KqJzVRLBBVboAWW8gu7iH3qRbNOymWZ\\_WLKDYDK4-9wUkfwjoVC5-B45GtJEP2hxXrI49IGj-ukRYIR0z5H0Ps9kjtFARSUhBqgg4Q3sT1BsLgpXbQUGDQWRvtvQBvQRmVVAFq-OHUCsqHStoFZ0JZRaGO91BHNhojMkyy0ysY-TI9zjISCKsullIA9wdl3ohvm8mQMdWbyqk-9ol7o9g\\_2CJmFBeCsruaLcAY-UnopfVSumuidWbuAYOxifLoTWRbj2rCF\\_YwNh\\_INWwYrNDLcsrQoHUOyyPwf02XWGva7D8jQiREZU%3D&tracking\\_referrer=ww.w.theguardian.com](https://www.nature.com/articles/nclimate3322.epdf?sharing_token=MuYgnDiD-ztxrwuEdc-3xtRgN0jAjWel9jnR3ZoTv0P1ZmqVLxKfxqQX-KqJzVRLBBVboAWW8gu7iH3qRbNOymWZ_WLKDYDK4-9wUkfwjoVC5-B45GtJEP2hxXrI49IGj-ukRYIR0z5H0Ps9kjtFARSUhBqgg4Q3sT1BsLgpXbQUGDQWRvtvQBvQRmVVAFq-OHUCsqHStoFZ0JZRaGO91BHNhojMkyy0ysY-TI9zjISCKsullIA9wdl3ohvm8mQMdWbyqk-9ol7o9g_2CJmFBeCsruaLcAY-UnopfVSumuidWbuAYOxifLoTWRbj2rCF_YwNh_INWwYrNDLcsrQoHUOyyPwf02XWGva7D8jQiREZU%3D&tracking_referrer=ww.w.theguardian.com)



the increased air pollution results in higher vulnerability to infectious viral respiratory illnesses, [due to and](#) low income neighborhoods systematically located close to oil refineries are disproportionately and compactedly affected.<sup>4</sup>

Due to a history of imperial dominance the United States has forcibly positioned itself to consume an unsustainable and inequitable portion of the world's resources. We must recognize that the San Francisco Bay Area, California, and the United States are historic beneficiaries of hundreds of years of enslavement of African people, genocide of Indigenous peoples, economic exploitation of the Global South and numerous unjust wars [for oil etc](#), which has afforded it the ability to consume an unsustainable and inequitable portion of the world's resources at the expense of people of color worldwide, the earth and the American people.

A Just Transition to a Regenerative Economy as championed by Movement Generation and GrassRoots Global Justice is a framework for achieving a Regenerative Economy that: focuses on Indigenous and Tribal Sovereignty, Justice for Black and Immigrant Communities, Just Transitions for workers and communities impacted by extractive industries; reinvests in environmental sacrifice zones and communities and healthcare for all; ensures a home guarantee, greater democracy in energy, food and land sovereignty, equitable clean energy and emissions free transit, a just recovery in the face of diverse forms of disasters; and advances feminist economies, regenerative finance with an emphasis on bio-regional governance.

The City of Berkeley should become a model post-COVID-19 city by creating a regenerative economy that reverses a history of colonization, wealth extraction and globalization, de-incarcerates and de-militarizes community life, makes reparative investments in marginalized communities, makes reparations for the descendants of enslaved persons for providing generations of free labor [and restores their dignity and security against an onslaught of destabilizing forces such as gentrification and anti-black racism](#), supports Indigenous peoples and Tribal Nations in land reclamation and governance of their rightful lands, organizes workplaces and communities to collectively self govern, shifts means of production to works and communities, divests from fossil fuels and other extractive economies, invests in common access to energy, food, housing, and advances public dollars to build community wealth toward reversing inequality.

#### FINANCIAL IMPLICATIONS

To be determined.

#### ENVIRONMENTAL SUSTAINABILITY

Go beyond sustainability to embrace regenerative and restorative practices as necessary to achieve sustainability. Do a whole city community participatory design on how to shift the City into a net regenerative ecological and social impact.

#### CONTACT PERSONS

Cheryl Davila  
Councilmember District 2  
510.981.7120  
[cdavila@cityofberkeley.info](mailto:cdavila@cityofberkeley.info)

#### ATTACHMENTS:

1. Resolution

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<sup>4</sup> John Loike and Robert Pollack, "What We Can Do to Preserve Our Clean Air;" Bo Peiter Johannes Andree, "Incidence of Covid-19 Connections with Air Pollution Exposure: Evidence from the Netherlands." 4-7.



RESOLUTION NO. XXXX

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF BERKELEY TO INITIATE A CITYWIDE, REGIONAL AND INTERNATIONAL JUST TRANSITION TO A REGENERATIVE ECONOMY TO ADDRESS THE CLIMATE EMERGENCY

WHEREAS, the City of Berkeley was the sixth city in the world to have declared a Climate Emergency in June 2018, calling for a just transition and regional collaborative effort in the San Francisco Bay Area as well as a statewide, national and global effort to immediately end greenhouse gas emissions; and

WHEREAS, the University of California<sup>5</sup> and cities of Richmond, Oakland, Hayward, El Cerrito, Fairfax, Sebastopol, San Jose, Petaluma, Cupertino, Alameda, San Anselmo, Benicia, Cloverdale, Cotati, Healdsburg, Santa Rosa, Windsor, Menlo Park, Santa Cruz and the counties of San Francisco, Santa Cruz, Alameda, San Mateo, Santa Clara, Contra Costa and Sonoma have responded by declaring that we face a climate emergency and by joining the call for a regional collaborative effort in the San Francisco Bay Area; and

WHEREAS, there is not a focused collaborative implementation plan in sight, regionally or internationally, amongst the thousands of universities and governments across the globe that have declared a climate emergency; and

WHEREAS, 2020 - 2030 is a critical time frame wherein emissions must sharply and permanently fall to minimize climate catastrophe and meet internationally agreed upon targets which are insufficient to protect people from climate impacts; and

WHEREAS, governments are already spending or planning to spend \$9 trillion or more globally in the next few months on rescuing their economies,<sup>6</sup> during the same timeframe that addressing the root causes of global warming is required for meaningful impact; and

WHEREAS, returning to a pre-COVID-19 global economic system, which is designed for unlimited growth on a finite planet requiring more extraction, production and consumption of materials and labor than the earth or people can handle, is a recipe for destruction; and

WHEREAS, a transformative economic intervention specifically designed to address the climate emergency in all of its dimensions and deal with the COVID-19 economic impacts is fully justified by the imminent and time-sensitive existential threat both crises pose; and

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<sup>5</sup> <https://www.universityofcalifornia.edu/news/university-california-declares-climate-emergency>

<sup>6</sup> <https://www.theguardian.com/environment/2020/jun/18/world-has-six-months-to-avert-climate-crisis-says-energy-expert>

WHEREAS, the traditional land management and stewardship methods of Chochenyo, Muwekma, Karkin, Lisjan, Ohlone and other neighboring Indigenous peoples serve as the original design for a regenerative economy on the lands now occupied by the nine counties of the SF Bay Area; and

WHEREAS, legally recognizing the inherent rights of nature such as the Bay, the Pacific Ocean, Strawberry Creek, the Wetlands, Tilden, and other ecosystems, is necessary to establish precautionary and restrictive measures to prevent human activities from causing additional harms to water, air, soil, species, ecosystems or ecological cycles on both local and global scales; and

WHEREAS, for the greater Bay Area to fulfill its responsibility to address global warming without exacerbating a history of racial violence, wealth inequality, and ecological degradation, it must: implement a Just Transition to a Regenerative Economy; embrace a doughnut economics<sup>7</sup> wherein the Bay Area brings its overall footprint well within the earth's carrying capacity while meeting the social needs of its residents; phase out the refining, transport, and consumption of fossil fuels and other polluting industries, energies, and waste products; and define the bioregional boundaries upon which the Bay Area attempts to be regenerative and sustainable; and be an accelerator for a circular economic strategies such as cradle-to-cradle design<sup>8</sup> wherein the material streams of waste are designed to be nutrients for further ecological reproduction; lead a trans-national task force amongst the 1700+ cities, counties, states and countries who recognize we face a Climate Emergency; sustain focus and unity of purpose in successfully executing a Just Transition to a Regenerative Economy until such an economy is fully functioning; and

WHEREAS, a Regenerative Economy as defined by Movement Generation<sup>9</sup> and GrassRoots Global Justice<sup>10</sup> as a framework for achieving a regenerative economy that focuses on: Indigenous and Tribal Sovereignty, Justice for Black and Immigrant Communities, Just Transitions for Workers and communities impacted by extractive industries; reinvestment in environmental sacrifice zones and communities; Healthcare for All; ensures a home guarantee, energy democracy, food and land sovereignty; equitable clean energy; emissions-free transit; bioregional governance; a just recovery in the face of diverse forms of disasters; and advances feminist economies; and

WHEREAS, a Just Transition to a Regenerative Economy should, in practice: Transform a history of colonization, wealth extraction and imperialistic globalization; Transform patterns of mass incarceration and demilitarize community life; make reparative investments in marginalized communities; make reparations for the descendants of enslaved persons; support Indigenous peoples and Tribal Nations in land reclamation and governance of their rightful lands; organize workplaces and communities to be democratic, equitable and collectively self governing; shift to cooperative and public ownership of businesses; divest from fossil fuels and other extractive economic activities; invest in common access to renewable energy, food, and housing; advance public dollars to build community wealth reversing inequality; and

WHEREAS, for any transition plan to be successful, it must include: reducing consumption and production of the remaining GHG budget in order to extend our transition timeline; investing in research and innovation to transform major industries; creating an optimal psychological and cultural climate wherein the work of transition can be carried out free from the compounded

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<sup>7</sup> <https://www.amsterdam.nl/en/policy/sustainability/circular-economy/>  
<https://www.theguardian.com/world/2020/apr/08/amsterdam-doughnut-model-mend-post-coronavirus-economy>

<sup>8</sup> <https://mcdonough.com/cradle-to-cradle/>

<sup>9</sup> [https://movementgeneration.org/wp-content/uploads/2016/11/JT\\_booklet\\_English\\_SPREADs\\_web.pdf](https://movementgeneration.org/wp-content/uploads/2016/11/JT_booklet_English_SPREADs_web.pdf)

<sup>10</sup> <https://gqjalliance.org/programs/a-pathway-to-a-regenerative-economy/>

stress of racism, climate change impacts, income and wealth inequality, jobs loss, COVID-19, and political polarization are relieved; and training and preparation of our workforces for all the skilled labor required for a just transition; enacting regenerative and sustainable constraints for whole societies that are in balance with humans needs, ecosystems and wildlife; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Berkeley shall initiate a citywide, regional and international Just Transition to a Regenerative Economy

~~NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley will initiate a citywide community engaged Just Transition to a Regenerative Economy~~

~~BE IT FURTHER RESOLVED, the City of Berkeley within the first 90 days will create a city commission responsible for planning and implementing a Just Transition to a regenerative economy that is anti-racist, provides reparations and transformative support for those who are black, Indigenous, people of color, low income, and those struggling with mental health challenges, is community driven and democratically funded, environmentally regenerative, and prioritizes local and independent businesses; and~~

BE IT FURTHER RESOLVED, the City of Berkeley will work with cities, counties, and institutions such as the UC system to form a joint powers authority regional and statewide task force to oversee a justice and public safety-oriented - scientifically grounded - transition to a regenerative economy here in the Bay Area to be sustained until 2050; and

BE IT FURTHER RESOLVED, the City of Berkeley will invest city funds, staff time, to create a trans-national task force focused on coordinating with governments who have declared a climate emergency to be sustained until 2050;

~~BE IT FURTHER RESOLVED, the City of Berkeley will work with cities, counties, and institutions such as the UC system to form a joint powers authority regional and statewide task force to oversee a justice oriented - scientifically grounded - transition to a regenerative economy to be sustained until 2050; and~~

BE IT FURTHER RESOLVED, the City of Berkeley commits to being regenerative, recognizinges that attempting to be sustainable is not enough to protect residents from cumulative impacts of centuries of environmental and social degradation will reorient its city planning, policy, governance culture, and resource allocation to improve public and environmental health, be participatory and will invest in a centuries long regenerative whole city culture, infrastructure, policy, development and design process; and

BE IT FURTHER RESOLVED, the City of Berkeley shall will join the early adopt doughnut economics and implement it's associated methodology to assess its sustainability which, by definition, recognizes the necessity of meeting the needs of residents within the carrying capacity of our planet Earth and the greater Bay Area bioregion; and

BE IT FURTHER RESOLVED, The City Council directs the City manager to develop a set of ordinances to ensure zero-waste, cradle to cradle, non-toxic, earth friendly nonessential consumer based products are sold within city limits by 2030-25 with special exception to non-replaceable items for which a sustainable alternative is either unavailable or too expensive for low income residents to afford, critical infrastructure, medical devices and other such life dependent items ~~materials~~;

~~BE IT FURTHER RESOLVED, all city commissions shall propose city policies, procedures and programs to enact a Just Transition that is socially, economically and ecologically regenerative by securing racial justice, bioregional restoration and sustainability, maximally reduces~~

~~greenhouse gas emissions, increases public health, increases disaster preparedness and community resilience and reverses inequality and wealth extraction of Berkeley and Bay Area residents; and~~

BE IT FURTHER RESOLVED, the City of Berkeley ~~shall commits to~~ suspend any and all projects and policies that are incompatible with protecting the earth and people from further environmental degradation, social inequality, public health risks, and global warming; and

~~BE IT FURTHER RESOLVED, the City of Berkeley commits to the formation of a co-funded regional collaborative effort to begin and formally requests all regional agencies, cities, and counties to a shared table to devise and execute a just transition plan to the regenerative economy here in the Greater Bay Area through a regional green new deal; and~~

BE IT FURTHER RESOLVED, the City of Berkeley calls for a bio-regional governance wherein agencies and municipalities define a shared recognition ~~of~~ our bio-region, ~~define~~ its carrying capacity and bring the Bay Area as a whole within the regenerative zone of our local bio-region in order to prioritize the long term resilience and adaptive capacity to coming environmental changes; and

BE IT FURTHER RESOLVED, the City of Berkeley calls for a regional agencies, cities, and counties to agree on a shared definition of the Bay Area's bioregion(s), to define the shared limits of our bio-region's carrying capacity and to organize our governance to be bio-regionally regenerative, sustainable, and to define a developmental trajectory that maximizes the health and vitality of the ecosystems, wildlife, and people for generations to come; and

~~BE IT FURTHER RESOLVED, the City of Berkeley urges all neighboring governmental agencies (including local, state and federal) to suspend any and all projects and policies that are incompatible with protecting the earth and people from further environmental degradation, public health risks, and global warming; and~~

BE IT FURTHER RESOLVED, the City of Berkeley identifies our current economy with its focus on near-term perpetual growth requiring resource extraction and wealth enclosure as defunct and incompatible with the needs of sustainability, human thriving, and dignity, and calls for a new economic system which in its design meets human needs within planetary and local environmental and social boundaries of wellbeing and furthers human and ecological flourishing, furthers a regenerative human presence on earth, achieves equitable distribution of resources throughout the planet, and achieves sustainability through a just and regenerative transition to restore a safe climate and adapt to further warming in the near and long term; and

~~BE IT FURTHER RESOLVED, the City of Berkeley endorses the intention and vision behind a global Green New Deal that reverses centuries of colonization, and post-colonial imbalances of power, health, wealth, sovereignty, addresses the climate emergency at the speed and scale necessary, and protects the world from impending climate impacts; and~~

BE IT FURTHER RESOLVED, the City of Berkeley recognizes the importance of Indigenous leadership in designing and implementing a regenerative economy in Berkeley, the greater Bay Area, and the World, and shall invite delegates from Indigenous communities to all stages of the planning and implementation process.





Cheryl Davila  
Councilmember  
District 2

CONSENT CALENDAR  
February 23, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila

Subject: Initiate a Citywide, Regional and International Just Transition to a Regenerative Economy to Address the Climate Emergency

RECOMMENDATION

Adopt a resolution taking the following actions:

- 1) The City of Berkeley shall initiate a citywide, regional and international Just Transition to a Regenerative Economy
- 2) The City of Berkeley will work with cities, counties, and institutions such as the UC system to form a joint powers authority regional and statewide task force to oversee a justice and public safety-oriented - scientifically grounded - transition to a regenerative economy here in the Bay Area to be sustained until 2050; and
- 3) The City of Berkeley commits to being regenerative, recognizing that attempting to be sustainable is not enough to protect residents from cumulative impacts of centuries of environmental and social degradation and instead will reorient its city planning, policy, governance culture, and resource allocation to improve public and environmental health, be participatory and will invest in a centuries long regenerative whole city culture, infrastructure, policy, development and design process; and
- 4) The City of Berkeley shall adopt doughnut economics and implement it's associated methodology to assess sustainability which, by definition, recognizes the necessity of meeting the needs of residents within the carrying capacity of our planet Earth and the greater Bay Area bioregion; and
- 5) The City Council directs the City manager to develop a set of ordinances to ensure zero-waste, cradle to cradle, non-toxic, earth friendly non-essential consumer based products are sold within city limits by 2030 with special exception to non-replaceable items for which a sustainable alternative is either unavailable or too expensive for low income residents to afford, critical infrastructure, medical devices and other such life dependent items;
- 6) The City of Berkeley shall suspend any and all projects and policies that are incompatible with protecting the earth and people from further environmental degradation, social inequality, public health risks, and global warming; and

- 7) The City of Berkeley calls for regional agencies, cities, and counties to agree on a shared definition of the Bay Area's bioregion (s), to define the shared limits of our bio-region's carrying capacity and to organize our governance to be bio-regionally regenerative, sustainable, and to define a developmental trajectory that maximizes the health and vitality of the ecosystems, wildlife, and people for generations to come; and
- 8) The City of Berkeley identifies our current economy with its focus on near-term perpetual growth requiring resource extraction and wealth enclosure as defunct and incompatible with the needs of sustainability, human thriving, and dignity, and calls for a new economic system which in its design meets human needs within planetary and local environmental and social boundaries of wellbeing and furthers human and ecological flourishing, furthers a regenerative human presence on earth, achieves equitable distribution of resources throughout the planet, and achieves sustainability through a just and regenerative transition to restore a safe climate and adapt to further warming in the near and long term; and
- 9) The City of Berkeley recognizes the importance of Indigenous leadership in designing and implementing a regenerative economy in Berkeley, the greater Bay Area, and the World, and shall invite delegates from Indigenous communities to all stages of the planning and implementation process.

#### POLICY COMMITTEE RECOMMENDATION

On January 20, 2021, the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee moved to send the item with a positive recommendation that Council take no action on the item. Vote: All Ayes

#### BACKGROUND

In addition to the massive worldwide health crisis, COVID-19 also caused a slow down to the global economy. Governments around the world have begun, and are planning, to invest trillions of dollars in economic recoveries. There is a time-sensitive need to prevent a carbon rebound and prevent a return to extractive overconsumption in order to avert climate catastrophe and secure a just future for humankind and wildlife. As the sixth city in the world to recognize that we already face a Climate Emergency, Berkeley has an opportunity and responsibility to lead and collaborate the effort with over 1772 cities, counties, and countries that have formally recognized and declared a Climate Emergency. The Climate Emergency Declaration, the term climate emergency and the climate emergency movement are a subset of the larger climate movement which asserts "business as usual" climate action which defers carbon neutrality to 2050 is incompatible with global warming for the vast majority of the world and future generations. Over 102 municipalities in the United States, 25 of those within the Bay Area and more across the state of California have declared a Climate Emergency and called for a regional collaborative effort that has not yet begun. For the Bay Area to do its part for the world, it must have a regional plan to reverse the harmful environmental and social impacts of which brought us this societal-environmental-economic crisis to biodiversity and human societies by, the City of Berkeley continues to have a role and responsibility in leading this effort.

Berkeley must recognize and address the following issues: (1) Climate change and its connection to public health (i.e., resurgence of diseases and pandemics, compounded effects on low income, people of color, and other groups systematically disenfranchised), (2) Injustice of the pre-COVID-19 economic and political system, and (3) a Just Transition to a sustainable and Regenerative Economy.



Climate change and harmful public health issues have a positive correlation. Even if reasonably curbed, global warming effects in the near future include increased danger from record breaking wildfires, increased oceanic storms potentially causing at least \$1 billion worth of damage to public infrastructure and coastal real estate in the U.S.,<sup>11</sup> forced migration for up to a billion climate refugees by 2050<sup>12</sup>, increased exposure to diseases, loss of arable farm land, increased deaths related to heat stress<sup>13</sup>, scarcity of freshwater, and further extinction of wildlife and biodiversity threatening the entire population of the world. More specific to the greater Bay Area, the increased air pollution results in higher vulnerability to infectious viral respiratory illnesses, due to low income neighborhoods systematically located close to oil refineries are disproportionately and compactly affected.<sup>14</sup>

Due to a history of imperial dominance the United States has forcibly positioned itself to consume an unsustainable and inequitable portion of the world's resources. We must recognize that the San Francisco Bay Area, California, and the United States are historic beneficiaries of hundreds of years of enslavement of African people, genocide of Indigenous peoples, economic exploitation of the Global South and numerous unjust wars for oil etc, which has afforded it the ability to consume an unsustainable and inequitable portion of the world's resources at the expense of people of color worldwide, the earth and the American people.

A Just Transition to a Regenerative Economy as championed by Movement Generation and GrassRoots Global Justice is a framework for achieving a Regenerative Economy that: focuses on Indigenous and Tribal Sovereignty, Justice for Black and Immigrant Communities, Just Transitions for workers and communities impacted by extractive industries; reinvests in environmental sacrifice zones and communities and healthcare for all; ensures a home guarantee, greater democracy in energy, food and land sovereignty, equitable clean energy and emissions free transit, a just recovery in the face of diverse forms of disasters; and advances feminist economies, regenerative finance with an emphasis on bio-regional governance.

The City of Berkeley should become a model post-COVID-19 city by creating a regenerative economy that reverses a history of colonization, wealth extraction and globalization, de-incarcerates and de-militarizes community life, makes reparative investments in marginalized communities, makes reparations for the descendants of enslaved persons for providing generations of free labor and restores their dignity and security against an onslaught of destabilizing forces such as gentrification and anti-black racism, supports Indigenous peoples and Tribal Nations in land reclamation and governance of their rightful lands, organizes workplaces and communities to collectively self govern, shifts means of production to works and communities, divests from fossil fuels and other extractive economies, invests in common access to energy, food, housing, and advances public dollars to build community wealth toward reversing inequality.

## FINANCIAL IMPLICATIONS

To be determined.

## ENVIRONMENTAL SUSTAINABILITY

<sup>11</sup> <https://www.ucsusa.org/resources/underwater>

<sup>12</sup> <https://unu.edu/media-relations/media-coverage/climate-migrants-might-reach-one-billion-by-2050.html>

<sup>13</sup> [https://www.nature.com/articles/nclimate3322.epdf?sharing\\_token=MuygnDiD-ztxrwuEdc-3xtRgN0jAjWel9jnR3ZoTv0P1ZmqVLxKfxqQX-KqJzVRLBBVboAWW8gu7iH3qRbNOymWZ\\_WLKYDK4-9wUkfwjoVC5-B45GtJEP2hxXrI49IGj-ukRYIR0z5H0Ps9kJtFARSUhBqgg4Q3sT1BsLgpXbQUGDQWRvtvQBvQRmVVAfq-OHUCsqHStoFZ0JZRaGO91BHNhojMky0ysY-TI9zjISCKsulIA9wdl3ohvm8mQMdWbyqk-9ol7o9g\\_2CJmFBcSruaLcAY-UnopfvSUMuidWbuAYOXifLoTWRbj2rCF\\_YwNh\\_INWWYrNDLcsrQoHUOyyPwf02XWGVa7D8jQiREZU%3D&tracking\\_referrer=www.theguardian.com](https://www.nature.com/articles/nclimate3322.epdf?sharing_token=MuygnDiD-ztxrwuEdc-3xtRgN0jAjWel9jnR3ZoTv0P1ZmqVLxKfxqQX-KqJzVRLBBVboAWW8gu7iH3qRbNOymWZ_WLKYDK4-9wUkfwjoVC5-B45GtJEP2hxXrI49IGj-ukRYIR0z5H0Ps9kJtFARSUhBqgg4Q3sT1BsLgpXbQUGDQWRvtvQBvQRmVVAfq-OHUCsqHStoFZ0JZRaGO91BHNhojMky0ysY-TI9zjISCKsulIA9wdl3ohvm8mQMdWbyqk-9ol7o9g_2CJmFBcSruaLcAY-UnopfvSUMuidWbuAYOXifLoTWRbj2rCF_YwNh_INWWYrNDLcsrQoHUOyyPwf02XWGVa7D8jQiREZU%3D&tracking_referrer=www.theguardian.com)

<sup>14</sup> John Loike and Robert Pollack, "What We Can Do to Preserve Our Clean Air;" Bo Peiter Johannes Andree, "Incidence of Covid-19 Connections with Air Pollution Exposure: Evidence from the Netherlands." 4-7.



Go beyond sustainability to embrace regenerative and restorative practices as necessary to achieve sustainability. Do a whole city community participatory design on how to shift the City into a net regenerative ecological and social impact.

CONTACT PERSONS

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ATTACHMENTS:

1. Resolution

RESOLUTION NO. XXXX

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF BERKELEY TO INITIATE A CITYWIDE, REGIONAL AND INTERNATIONAL JUST TRANSITION TO A REGENERATIVE ECONOMY TO ADDRESS THE CLIMATE EMERGENCY

WHEREAS, the City of Berkeley was the sixth city in the world to have declared a Climate Emergency in June 2018, calling for a just transition and regional collaborative effort in the San Francisco Bay Area as well as a statewide, national and global effort to immediately end greenhouse gas emissions; and

WHEREAS, the University of California<sup>15</sup> and cities of Richmond, Oakland, Hayward, El Cerrito, Fairfax, Sebastopol, San Jose, Petaluma, Cupertino, Alameda, San Anselmo, Benicia, Cloverdale, Cotati, Healdsburg, Santa Rosa, Windsor, Menlo Park, Santa Cruz and the counties of San Francisco, Santa Cruz, Alameda, San Mateo, Santa Clara, Contra Costa and Sonoma have responded by declaring that we face a climate emergency and by joining the call for a regional collaborative effort in the San Francisco Bay Area; and

WHEREAS, there is not a focused collaborative implementation plan in sight, regionally or internationally, amongst the thousands of universities and governments across the globe that have declared a climate emergency; and

WHEREAS, 2020 - 2030 is a critical time frame wherein emissions must sharply and permanently fall to minimize climate catastrophe and meet internationally agreed upon targets which are insufficient to protect people from climate impacts; and

WHEREAS, governments are already spending or planning to spend \$9 trillion or more globally in the next few months on rescuing their economies,<sup>16</sup> during the same timeframe that addressing the root causes of global warming is required for meaningful impact; and

WHEREAS, returning to a pre-COVID-19 global economic system, which is designed for unlimited growth on a finite planet requiring more extraction, production and consumption of materials and labor than the earth or people can handle, is a recipe for destruction; and

WHEREAS, a transformative economic intervention specifically designed to address the climate emergency in all of it's dimensions and deal with the COVID-19 economic impacts is fully justified by the imminent and time-sensitive existential threat both crises pose; and

WHEREAS, the traditional land management and stewardship methods of Chochenyo, Muwekma, Karkin, Lisjan, Ohlone and other neighboring Indigenous peoples serve as the original design for a regenerative economy on the lands now occupied by the nine counties of the SF Bay Area; and

WHEREAS, legally recognizing the inherent rights of nature such as the Bay, the Pacific Ocean, Strawberry Creek, the Wetlands, Tilden, and other ecosystems, is necessary to establish precautionary and restrictive measures to prevent human activities from causing additional harms to water, air, soil, species, ecosystems or ecological cycles on both local and global scales; and

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<sup>15</sup> <https://www.universityofcalifornia.edu/news/university-california-declares-climate-emergency>

<sup>16</sup> <https://www.theguardian.com/environment/2020/jun/18/world-has-six-months-to-avert-climate-crisis-says-energy-expert>

WHEREAS, for the greater Bay Area to fulfill its responsibility to address global warming without exacerbating a history of racial violence, wealth inequality, and ecological degradation, it must: implement a Just Transition to a Regenerative Economy; embrace a doughnut economics<sup>17</sup> wherein the Bay Area brings its overall footprint well within the earth's carrying capacity while meeting the social needs of its residents; phase out the refining, transport, and consumption of fossil fuels and other polluting industries, energies, and waste products; and define the bioregional boundaries upon which the Bay Area attempts to be regenerative and sustainable; and be an accelerator for a circular economic strategies such as cradle-to-cradle design<sup>18</sup> wherein the material streams of waste are designed to be nutrients for further ecological reproduction; lead a trans-national task force amongst the 1700+ cities, counties, states and countries who recognize we face a Climate Emergency; sustain focus and unity of purpose in successfully executing a Just Transition to a Regenerative Economy until such an economy is fully functioning; and

WHEREAS, a Regenerative Economy as defined by Movement Generation<sup>19</sup> and GrassRoots Global Justice<sup>20</sup> as a framework for achieving a regenerative economy that focuses on: Indigenous and Tribal Sovereignty, Justice for Black and Immigrant Communities, Just Transitions for Workers and communities impacted by extractive industries; reinvestment in environmental sacrifice zones and communities; Healthcare for All; ensures a home guarantee, energy democracy, food and land sovereignty; equitable clean energy; emissions-free transit; bioregional governance; a just recovery in the face of diverse forms of disasters; and advances feminist economies; and

WHEREAS, a Just Transition to a Regenerative Economy should, in practice: Transform a history of colonization, wealth extraction and imperialistic globalization; Transform patterns of mass incarceration and demilitarize community life; make reparative investments in marginalized communities; make reparations for the descendants of enslaved persons; support Indigenous peoples and Tribal Nations in land reclamation and governance of their rightful lands; organize workplaces and communities to be democratic, equitable and collectively self governing; shift to cooperative and public ownership of businesses; divest from fossil fuels and other extractive economic activities; invest in common access to renewable energy, food, and housing; advance public dollars to build community wealth reversing inequality; and

WHEREAS, for any transition plan to be successful, it must include: reducing consumption and production of the remaining GHG budget in order to extend our transition timeline; investing in research and innovation to transform major industries; creating an optimal psychological and cultural climate wherein the work of transition can be carried out free from the compounded stress of racism, climate change impacts, income and wealth inequality, jobs loss, COVID-19, and political polarization are relieved; and training and preparation of our workforces for all the skilled labor required for a just transition; enacting regenerative and sustainable constraints for whole societies that are in balance with humans needs, ecosystems and wildlife; and

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley will initiate a citywide community engaged Just Transition to a Regenerative Economy;

BE IT FURTHER RESOLVED, the City of Berkeley will work with cities, counties, and institutions such as the UC system to form a joint powers authority to oversee a justice-oriented

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<sup>17</sup> <https://www.amsterdam.nl/en/policy/sustainability/circular-economy/>  
<https://www.theguardian.com/world/2020/apr/08/amsterdam-doughnut-model-mend-post-coronavirus-economy>

<sup>18</sup> <https://mcdonough.com/cradle-to-cradle/>

<sup>19</sup> [https://movementgeneration.org/wp-content/uploads/2016/11/JT\\_booklet\\_English\\_SPREADs\\_web.pdf](https://movementgeneration.org/wp-content/uploads/2016/11/JT_booklet_English_SPREADs_web.pdf)

<sup>20</sup> <https://gqjalliance.org/programs/a-pathway-to-a-regenerative-economy/>

- scientifically grounded - transition to a regenerative economy here in the Bay Area to be sustained until 2050; and

BE IT FURTHER RESOLVED, the City of Berkeley will invest city funds, staff time, to create a trans-national task force focused on coordinating with governments who have declared a climate emergency to be sustained until 2050;

BE IT FURTHER RESOLVED, the City of Berkeley recognizes that attempting to be sustainable is not enough to protect residents from cumulative impacts of centuries of environmental and social degradation and instead will reorient its city planning, policy, governance culture, and resource allocation to improve public and environmental health, be participatory and will invest in a centuries long regenerative whole city culture, infrastructure, policy, development and design process; and

BE IT FURTHER RESOLVED, the City of Berkeley shall adopt doughnut economics and implement its associated methodology to assess sustainability which, by definition, recognizes the necessity of meeting the needs of residents within the carrying capacity of our planet Earth and the greater Bay Area bioregion; and

BE IT FURTHER RESOLVED, The City Council directs the City manager to develop a set of ordinances to ensure zero-waste, cradle to cradle, non-toxic, earth friendly non-essential consumer based products are sold within city limits by 2030 where applicable with special exception to non-replaceable items for which a sustainable alternative is either unavailable or too expensive for low income residents to afford, critical infrastructure, medical devices and other such life dependent items;

BE IT FURTHER RESOLVED, the City of Berkeley shall suspend any and all projects and policies that are incompatible with protecting the earth and people from further environmental degradation, social inequality, public health risks, and global warming; and

BE IT FURTHER RESOLVED, the City of Berkeley calls for a regional agencies, cities, and counties to agree on a shared definition of the Bay Area's bioregion, to define the shared limits of our bio-region's carrying capacity and to organize our governance to be bio-regionally regenerative, sustainable, and to define a developmental trajectory that maximizes the health and vitality of the ecosystems, wildlife, and people for generations to come; and

BE IT FURTHER RESOLVED, the City of Berkeley identifies our current economy with its focus on near-term perpetual growth requiring resource extraction and wealth enclosure as defunct and incompatible with the needs of sustainability, human thriving, and dignity, and calls for a new economic system which in its design meets human needs within planetary and local environmental and social boundaries of wellbeing and furthers human and ecological flourishing, furthers a regenerative human presence on earth, achieves equitable distribution of resources throughout the planet, and achieves sustainability through a just and regenerative transition to restore a safe climate and adapt to further warming in the near and long term; and

BE IT FURTHER RESOLVED, the City of Berkeley recognizes the importance of Indigenous leadership in designing and implementing a regenerative economy in Berkeley, the greater Bay Area, and the World, and shall invite delegates from Indigenous communities to all stages of the planning and implementation process.



Cheryl Davila  
Councilmember  
District 2

## REVISED AGENDA MATERIAL

**Meeting Date:** September 16, 2020

**Item Description:** Initiate a Citywide, Regional and International Just Transition to a Regenerative Economy to Address the Climate Emergency

**Submitted by:** Councilmember Cheryl Davila

**Revisions:** 1. Changed the capitalization of certain terms; 2. Added the date 2025 by which the city will exclusively sell sustainable products and directed the city staff to develop a set of ordinances to make this so. 3. The City Adopts a Just Transition to a Regenerative Economy as an orienting framework for climate action; 4. City will create a trans-national task force among governments who have declared a climate emergency; 5. City will create a regional and California based task force to address the climate emergency; 6. Both task forces will have the purpose of co-executing a just transition to a regenerative economy and will function until 2050; 7. added more names of ecosystems to be recognized and afforded rights as examples; 8. The language community engaged was added to emphasize that a citywide just transition in Berkeley requires a profound cultural shift in that citizen participation is required for success. 9. Numerous edits to clarify the original intent of the resolution.

Item Subject updated to: 1. The terms Just Transition and Regenerative Economy refer to specific frameworks and definitions and are thus capitalized; 2. The city hosts a variety of businesses and services which sell products which contribute to environmental degradation and negative health impacts. Directing the city manager to develop a series of ordinances to remove such products from the city by a certain date allows the originally intended language of accelerating a transition to a circular economy more concrete; 3. Ideally a transition to sustainability is a given, unfortunately we cannot take this for granted. Further there are many transition scenarios that are not explicitly just by design. Only a just transition which explicitly and intentionally reverses existing inequities will improve the living conditions of marginalized people, ecosystems and wildlife to the maximal extent possible; 4. There are thousands of governments who have formally declared a climate emergency, in total these governments which include whole countries cover a significant portion of the world's population, a significant portion of the world's economy, and cumulatively can have a profoundly positive impact. Because 2050 is the conventional date by which sustainability is to be achieved in many governments this date was selected as the length of time this trans-national network will be sustained; 5. The revision that the City of Berkeley will create a regional/statewide task force to be sustained by 2050 is for the purpose of organizing 25 cities and counties who have explicitly declared a climate emergency and responded to Berkeley's call for regional collaboration in the Bay Area. A regional/statewide task force will be necessary for navigating the shift to a more sophisticated ecosystem-resilience management of governance called bio-regional governance in the resolution; 6. The City of Berkeley will put forth to the trans-national and statewide task forces the framework of a Just Transition as an orienting ethos and a Regenerative Economy as a framework for the collective aim of the task forces; 7. Affording critical ecosystems in and around the Bay Area with rights will ensure their protection, thus a couple examples were added; 8. was added to emphasize that a citywide just transition in Berkeley requires a profound cultural shift in that citizen participation is required for success; 9. Numerous content edits were provided to clarify the original intent of the resolution.



Cheryl Davila  
Councilmember  
District 2

CONSENT CALENDAR  
July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila

Subject: Initiate a Citywide, Regional and International Just Transition to a Regenerative Economy to Address the Climate Emergency

RECOMMENDATION

Adopt a resolution to initiate a Citywide, Regional and International Just Transition to a Regenerative Economy to Address the Climate Emergency, and taking the following actions:

1. The City of Berkeley recognizes that attempting to be sustainable is not enough to protect residents from cumulative impacts of centuries of environmental and social degradation and instead will reorient its city planning, policy, and resource allocation to be socially and environmentally positive and will invest in a regenerative whole city infrastructure, policy, development and design process.
2. The City of Berkeley following the lead of Amsterdam and other cities will join in an attempt to embrace doughnut economics, which, by definition, recognizes the necessity of meeting the needs of residents within the carrying capacity of our planet Earth and the greater Bay area bioregion.
3. The City of Berkeley will accelerate the transition to a zero-waste cradle to cradle circular economy.
4. All City of Berkeley commissions shall propose city policies, procedures and programs to enact a just transition that is socially, economically and ecologically regenerative by securing racial justice, bioregional restoration and sustainability, maximally reduces greenhouse gas emissions, increases public health, increases disaster preparedness and community resilience and reverses inequality and wealth extraction of Berkeley and Bay Area residents.
5. The City of Berkeley will create a city commission responsible for planning and implementing a just transition to a regenerative economy that is anti-racist, provides reparations and transformative support for those who are black, Indigenous, people of color, low income, and those struggling with mental health challenges, is community-driven and democratically-funded, environmentally-regenerative, and prioritizes local and independent businesses.
6. The City of Berkeley commits to suspend any and all projects and policies that are incompatible with protecting the earth and people from further environmental degradation, social inequality, public health risks, and global warming.
7. The City of Berkeley calls for a regional collaborative effort to begin as soon as possible and formally requests all regional agencies, cities, and counties to a shared table to devise and execute a just transition plan to the regenerative economy here in the Greater Bay Area through a regional green new deal.
8. The City of Berkeley urges all neighboring governmental agencies (including local, state and federal) to suspend any and all projects and policies that are incompatible with protecting the earth and people from further environmental degradation, public health risks, and global warming.
9. The City of Berkeley calls on governments who have declared a climate emergency and who broadly recognize the immense challenge facing humanity to join together in



- collaborative exchange and begin a shared transitional peace effort in moving their immediate societies and economies toward ethical and regenerative trajectories.
10. The City of Berkeley identifies our current economy with its focus on near-term perpetual growth requiring resource extraction and wealth enclosure as defunct and incompatible with the needs of sustainability, human thriving, and dignity, and calls for a new economic system which in its design meets human needs within planetary and local environmental and social boundaries, focuses on human and ecological flourishing, furthers a regenerative human presence on earth, achieves equitable distribution of resources throughout the planet, and achieves sustainable transition to avert climate catastrophe in the near and long term.
  11. The City of Berkeley endorses the intention and vision behind a global Green New Deal that reverses centuries of colonization, and post-colonial imbalances of power, health, wealth, sovereignty, addresses the climate emergency at the speed and scale necessary, and protects the world from impending climate impacts.
  12. The City of Berkeley recognizes the importance of Indigenous leadership in designing and implementing a regenerative economy in Berkeley, the Greater Bay Area, and the World, and shall invite delegates from Indigenous communities to all stages of the planning and implementation process.

## BACKGROUND

In addition to the massive worldwide health crisis, COVID-19 also caused a slow down to the global economy. Governments around the world have begun to and are planning to spend trillions to invest in economic recoveries. There is a time-sensitive need to prevent a carbon rebound and prevent a return to extractive overconsumption in order to avert climate catastrophe and secure a just future for humankind and wildlife. Berkeley as the third city to recognize we face a climate emergency has an opportunity and responsibility to lead and collaborate effort with over 1772 cities, counties, and countries who have formally recognized and declared a climate emergency. Over 102 municipalities in the United States, Bay Area have declared a climate emergency and called for a regional collaborative effort that has not yet begun. For the Bay Area to do its part for the world it must have a regional plan to achieve regeneration and sustainability, the City of Berkeley has a role and responsibility in leading this effort.

In leading this effort, Berkeley must recognize and address the following issues: (1) Climate change and its connection to public health (i.e., resurgence of diseases and pandemics, compounded effects on low income, people of color, and other groups systematically disenfranchised), (2) Injustice of the pre-COVID-19 economic and political system, and (3) a just transition to a sustainable and regenerative economy.

Climate change and harmful public health issues have a positive correlation. Even if reasonably curbed, global warming effects in the near future include increased danger from record breaking wildfires, increased oceanic storms potentially causing \$1 billion worth of damage to public infrastructure and coastal real estate in the U.S.<sup>1</sup>, forced migration for up to a billion climate refugees by 2050<sup>2</sup>, increased exposure to diseases, loss of arable farm land, increased death related to heat stress<sup>3</sup>, scarcity of freshwater, and further extinction of wildlife and biodiversity threatening the entire population of the world. More specific to the greater Bay area, the increased air pollution results in higher vulnerability to infectious viral respiratory illnesses, and

<sup>1</sup> <https://www.ucsusa.org/resources/underwater>

<sup>2</sup> <https://unu.edu/media-relations/media-coverage/climate-migrants-might-reach-one-billion-by-2050.html>

<sup>3</sup> [https://www.nature.com/articles/nclimate3322.epdf?sharing\\_token=MuYgnDiD-ztxrwuEdc-3xtRgN0jAjWel9jnR3ZoTv0P1ZmqVLxKfxqQX-KqJzVRLBBVboAWW8gu7iH3qRbNOymWZ\\_WLKDYDK4-9wUkfwjoVC5-B45GtJEP2hxXrl49lGj-ukRYIR0z5H0Ps9kJtFARSUhbqgg4Q3sT1BsLgpXbQUGDQWRvtvQBvQRmVVAfq-OHUCsqHStoFZ0JZRaGO91BHNhojMkyy0ysY-TI9zjISCKsullA9wdl3ohvm8mQMdWbyqk-9ol7o9g\\_2CJmFBeCsruaICAY-UnopfvSUmuudWbuAYOxifLoTWRbj2rCF\\_YwNh\\_INWWYrNDLcsrQoHUOyPwf02XWGva7D8jQiREZU%3D&tracking\\_referrer=www.theguardian.com](https://www.nature.com/articles/nclimate3322.epdf?sharing_token=MuYgnDiD-ztxrwuEdc-3xtRgN0jAjWel9jnR3ZoTv0P1ZmqVLxKfxqQX-KqJzVRLBBVboAWW8gu7iH3qRbNOymWZ_WLKDYDK4-9wUkfwjoVC5-B45GtJEP2hxXrl49lGj-ukRYIR0z5H0Ps9kJtFARSUhbqgg4Q3sT1BsLgpXbQUGDQWRvtvQBvQRmVVAfq-OHUCsqHStoFZ0JZRaGO91BHNhojMkyy0ysY-TI9zjISCKsullA9wdl3ohvm8mQMdWbyqk-9ol7o9g_2CJmFBeCsruaICAY-UnopfvSUmuudWbuAYOxifLoTWRbj2rCF_YwNh_INWWYrNDLcsrQoHUOyPwf02XWGva7D8jQiREZU%3D&tracking_referrer=www.theguardian.com)

low income neighborhoods systematically located close to oil refineries are disproportionately and compactly affected<sup>4</sup>.

Due to a history of imperial dominance the United States has forcibly positioned itself to consume an unsustainable and inequitable portion of the world's resources. We must recognize that San Francisco Bay Area, California, and the United States are historic beneficiaries of hundreds of years of enslavement of African people, genocide of Indigenous peoples, economic exploitation of the Global South and numerous unjust wars which has afforded it the ability to consume an unsustainable and inequitable portion of the world's resources at the expense of people of color worldwide, the earth and American people.

A Just Transition to a Regenerative Economy as championed by Movement Generation and GrassRoots Global Justice is a framework for achieving a regenerative economy that: focuses on Indigenous and Tribal Sovereignty, Justice for Black and Immigrant Communities, Just Transitions for Workers and communities impacted by extractive industries; reinvests in environmental sacrifice zones and communities and healthcare for all; ensures a home guarantee, further democracy in energy, food and land sovereignty, equitable clean energy and emissions free transit, a just recovery in the face of diverse forms of disasters; and advances feminist economies and regenerative finance.

The City of Berkeley should become a model post-COVID-19 city by creating a regenerative economy that reverses a history of colonization, wealth extraction and globalization, de-incarcerates and de-militarizes community life, makes reparative investments in marginalized communities, makes reparations for the descendants of enslaved persons for providing generations of free labor, supports Indigenous peoples and tribal nations in land reclamation and governance of their rightful lands, organizes workplaces and communities to collectively self govern, shifts means of production to works and communities, divests from fossil fuels and other extractive economies, invests in common access to energy, food, housing, and advances public dollars to build community wealth toward reversing inequality.

#### FINANCIAL IMPLICATIONS

To be determined.

#### ENVIRONMENTAL SUSTAINABILITY

Go beyond sustainability to embrace regenerative and restorative practices as necessary to achieve sustainability. Do a whole city community participatory design on how to shift the City into a net regenerative ecological and social impact.

#### CONTACT PERSONS

Cheryl Davila  
Councilmember District 2  
510.981.7120  
[cdavila@cityofberkeley.info](mailto:cdavila@cityofberkeley.info)

#### ATTACHMENTS:

1. Resolution

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<sup>4</sup> John Loike and Robert Pollack, "What We Can Do to Preserve Our Clean Air;" Bo Peiter Johannes Andree, "Incidence of Covid-19 Connections with Air Pollution Exposure: Evidence from the Netherlands." 4-7.



RESOLUTION NO. XXXX

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF BERKELEY TO INITIATE A CITYWIDE, REGIONAL AND INTERNATIONAL JUST TRANSITION TO A REGENERATIVE ECONOMY TO ADDRESS THE CLIMATE EMERGENCY

WHEREAS, the City of Berkeley was the third city in the world to have declared a climate emergency in June 2018, calling for a just transition and regional collaborative effort in the San Francisco Bay Area as well as a statewide, national and global effort to immediately end greenhouse gas emissions; and

WHEREAS, the University of California<sup>5</sup> and cities of Richmond, Oakland, Hayward, El Cerrito, Fairfax, Sebastopol, San Jose, Petaluma, Cupertino, Alameda, San Anselmo, Benicia, Cloverdale, Cotati, Healdsburg, Santa Rosa, Windsor, Menlo Park, Santa Cruz and the counties of San Francisco, Santa Cruz, San Mateo, Santa Clara and Sonoma have responded by declaring we face a climate emergency and joining the call for a regional collaborative effort in the San Francisco Bay Area; and

WHEREAS, there is not a focused collaborative implementation plan in sight regionally or internationally amongst the thousands of universities and governments across the globe that have declared a climate emergency; and

WHEREAS, emissions need to intentionally fall between 2020 - 2030 are a critical frame wherein emissions must sharply and permanently fall to minimize climate catastrophe and meet internationally agreed upon targets which are insufficient to protect people from climate impacts; and

WHEREAS, governments are already spending or planning to spend \$9 trillion or more globally in the next few months on rescuing their economies,<sup>6</sup> during the same timeframe that addressing the root causes of global warming is required for meaningful action; and

WHEREAS, returning to a pre-COVID-19 global economic system, which is designed for unlimited growth on a finite planet requiring more extraction, production and consumption of materials and labor than the earth or people can handle, is a recipe for destruction; and

WHEREAS, a transformative economic intervention specifically designed to address the climate emergency and deal with the COVID-19 economic impacts is fully justified by the imminent and time-sensitive existential threat both crises pose; and

WHEREAS, the traditional land management and stewardship methods of Chochenyo, Muwekma, Karkin, Lisjan, Ohlone and other neighboring Indigenous peoples serve as the original design for a regenerative economy on the lands now occupied by the nine counties of the SF Bay Area; and

WHEREAS, legally recognizing the inherent rights of nature such as the Bay, is necessary to establish precautionary and restrictive measures to prevent human activities from causing additional harms to water, air, soil, species, ecosystems or ecological cycles on both local and global scales; and

WHEREAS, for the Greater Bay Area to fulfill its responsibility to address global warming without exacerbating a history of racial violence, wealth inequality, and ecological degradation, it must: Implement a Just Transition to a Regenerative Economy; Embrace a doughnut

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<sup>5</sup> <https://www.universityofcalifornia.edu/news/university-california-declares-climate-emergency>

<sup>6</sup> <https://www.theguardian.com/environment/2020/jun/18/world-has-six-months-to-avert-climate-crisis-says-energy-expert>

economics<sup>7</sup> wherein the Bay Area brings its overall footprint well within the earth's carrying capacity while meeting the social needs of its residents; phase out the refining, transport, and consumption of fossil fuels and other polluting industries, energies, and waste products; and define the bioregional boundaries upon which the Bay Area attempts to be regenerative and sustainable; and be an accelerator for a circular economic strategies such as cradle-to-cradle design wherein the material streams of waste is designed to be feedstock; lead the world by collaboratively initiating a world-saving transitional effort; sustain focus and unity of purpose in successfully executing a just transition to a regenerative economy until such an economy is fully functioning; and

WHEREAS, a Regenerative Economy as defined by Movement Generation<sup>8</sup> and GrassRoots Global Justice<sup>9</sup> as a framework for achieving a regenerative economy that focuses on: Indigenous and Tribal Sovereignty, Justice for Black and Immigrant Communities, Just Transitions for Workers and communities impacted by extractive industries; Reinvestment in environmental sacrifice zones and communities; Healthcare for all; Ensures a home guarantee; Energy democracy; Food and land sovereignty; Equitable clean energy; Emissions-free transit; Bioregional governance; A just recovery in the face of diverse forms of disasters; and Advances feminist economies; and

WHEREAS, a just transition to a regenerative economy should in practice: Reverse a history of colonization, wealth extraction and imperialistic globalization; Reverse patterns of mass incarceration and demilitarize community life; Make reparative investments in marginalized communities; Make reparations for the descendants of enslaved persons; Support Indigenous peoples and tribal nations in land reclamation and governance of their rightful lands; Organize workplaces and communities to be democratic, equitable and collectively self governing; Shift to cooperative and public ownership of businesses; Divest from fossil fuels and other extractive economic activities; Invest in common access to renewable energy, food, and housing; Advance public dollars to build community wealth reversing inequality; and

WHEREAS, for any transition plan to be successful, it must include: reducing consumption and production of the remaining GHG budget in order to extend our transition timeline; investing in research and innovation to transform major industries; creating an optimal psychological and cultural climate wherein the work of transition can be carried out free from the compounded stress of racism, climate change impacts, income and wealth inequality, jobs loss, COVID-19, and political polarization are relieved; and training and preparation of our workforces for all the skilled labor required for a just transition; enacting regenerative and sustainable constraints for whole societies that are in balance with humans needs, ecosystems and wildlife; and

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley will initiate a Citywide Just Transition to a Regenerative Economy because this moment in history is our best and minimize climate catastrophe in an attempt to at least meet agreed upon international targets; and

BE IT FURTHER RESOLVED, the City of Berkeley will invest city funds, staff time, and To create a transnational task force focused on coordinating among on governments who have declared a climate emergency to be sustained until 2050;

BE IT FURTHER RESOLVED, the City of Berkeley within the first 90 days will invite all the cities, counties, and institutions such as the UC system to form a regional and statewide task force to oversee a justice oriented evidence based transition to a regenerative economy to be sustained until 2050.

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<sup>7</sup> <https://www.amsterdam.nl/en/policy/sustainability/circular-economy/>  
<https://www.theguardian.com/world/2020/apr/08/amsterdam-doughnut-model-mend-post-coronavirus-economy>

<sup>8</sup> [https://movementgeneration.org/wp-content/uploads/2016/11/JT\\_booklet\\_English\\_SPREADs\\_web.pdf](https://movementgeneration.org/wp-content/uploads/2016/11/JT_booklet_English_SPREADs_web.pdf)

<sup>9</sup> <https://ggjalliance.org/programs/a-pathway-to-a-regenerative-economy/>

BE IT FURTHER RESOLVED, the City of Berkeley recognizes that attempting to be sustainable is not enough to protect residents from cumulative impacts of centuries of environmental and social degradation and instead will reorient its city planning, policy, and resource allocation to be socially and environmentally positive and will invest in a regenerative whole city infrastructure, policy, development and design process; and

BE IT FURTHER RESOLVED, the City of Berkeley will join the early adoption of doughnut economics methodology, which, by definition, recognizes the necessity of meeting the needs of residents within the carrying capacity of our planet Earth and the greater Bay area bioregion; and

BE IT FURTHER RESOLVED, the City of Berkeley will accelerate the transition to a zero-waste cradle to cradle circular economy; and

BE IT FURTHER RESOLVED, all city commissions shall propose city policies, procedures and programs to enact a just transition that is socially, economically and ecologically regenerative by securing racial justice, bioregional restoration and sustainability, maximally reduces greenhouse gas emissions, increases public health, increases disaster preparedness and community resilience and reverses inequality and wealth extraction of Berkeley and Bay Area residents; and

BE IT FURTHER RESOLVED, the City of Berkeley will create a city commission responsible for planning and implementing a just transition to a regenerative economy that is anti-racist, provides reparations and transformative support for those who are black, Indigenous, people of color, low income, and those struggling with mental health challenges, is community-driven and democratically-funded, environmentally-regenerative, and prioritizes local and independent businesses; and

BE IT FURTHER RESOLVED, the City of Berkeley commits to suspend any and all projects and policies that are incompatible with protecting the earth and people from further environmental degradation, social inequality, public health risks, and global warming; and

BE IT FURTHER RESOLVED, the City of Berkeley commits to the formation of a co-funded regional collaborative effort to begin as soon as possible and formally requests all regional agencies, cities, and counties to a shared table to devise and execute a just transition plan to the regenerative economy here in the Greater Bay Area through a regional green new deal; and

BE IT FURTHER RESOLVED, the City of Berkeley calls for a regional agencies, cities, and counties to agree on a shared definition of the Bay Area's bioregion, to define the shared limits of our bio-region's carrying capacity and to organize our governance to be bio-regionally regenerative, sustainable, and to define a developmental trajectory that maximizes the health and vitality of the ecosystems, wildlife, and people for generations to come; and

BE IT FURTHER RESOLVED, the City of Berkeley urges all neighboring governmental agencies (including local, state and federal) to suspend any and all projects and policies that are incompatible with protecting the earth and people from further environmental degradation, public health risks, and global warming; and

BE IT FURTHER RESOLVED, the City of Berkeley identifies our current economy with its focus on near-term perpetual growth requiring resource extraction and wealth enclosure as defunct and incompatible with the needs of sustainability, human thriving, and dignity, and calls for a new economic system which in its design meets human needs within planetary and local environmental and social boundaries of wellbeing and furthers human and ecological flourishing, furthers a regenerative human presence on earth, achieves equitable distribution of resources throughout the planet, and achieves sustainability just a just and regenerative transition to bring emissions to zero and adapt to further warming in the near and long term; and

BE IT FURTHER RESOLVED, the City of Berkeley commits to enacting a deep decent emissions scenario radically reducing its environmental footprint aiming for zero in the next 10 years through a real time decadal city wide response network.

BE IT FURTHER RESOLVED, the City of Berkeley endorses the intention and vision behind a global Green New Deal that reverses centuries of colonization, and post-colonial imbalances of power, health, wealth, sovereignty, addresses the climate emergency at the speed and scale necessary, and protects the world from impending climate impacts; and

BE IT FURTHER RESOLVED, the City of Berkeley recognizes the importance of Indigenous leadership in designing and implementing a regenerative economy in Berkeley, the Greater Bay Area, and the World, and shall invite delegates from Indigenous communities to all stages of the planning and implementation process.

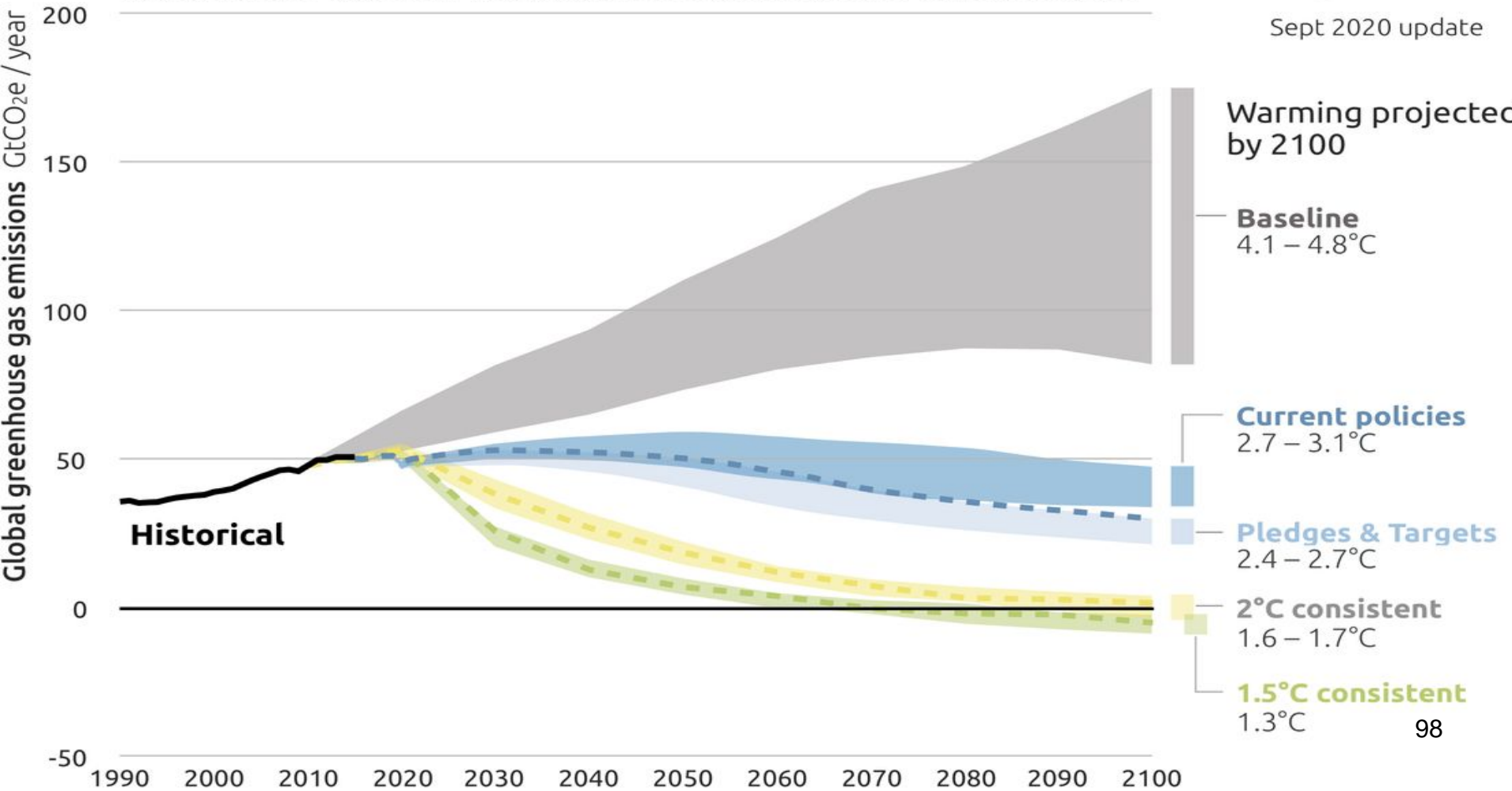
# Just Transition Resolution for the FITES Committee 10/21/2020

# 2100 WARMING PROJECTIONS

Emissions and expected warming based on pledges and current policies



Sept 2020 update



# The Climate Reality:

- These are the final years to transition off fossil fuels and recover dying ecosystems, secure ethical migration practices, and prevent climate apartheid
- A deep descent scenario is unavoidable to preserve life and has yet to be established

**We need to coordinate a safe and just transition to a one planet compatible global economy that equitable and renewably distributes abundance.**



**The City of Berkeley recognizes sustainability is not enough and will:**

- 1. Invest in a regenerative whole-city infrastructure, policy, development and design process**
- 2. Embrace Doughnut Economics meetings social needs within planetary boundaries**
- 3. Draft a set of ordinances ensuring only earth-friendly products are sold within city limits by 2025**
- 4. Focus the Commissions on a Just Transition**
- 5. Create a Just Transition Commission**

- 6. **Fund form and hold a regional and statewide collaborative through 2050 to plan a Just Transition to a Regenerative Economy here in the greater Bay Area.**
- 6. **Form a transnational task force to be sustained until 2050. to co-execute a shared transitional peace effort in moving their immediate societies and economies toward ethical and regenerative trajectories**
- 6. **Define the hard bio-regional boundaries by which Berkeley and the Bay Area governments will attempt to govern safely within**
- 6. **Suspend any and all projects and policies that are incompatible with protecting the Earth and people from further environmental degradation, social inequality, and public health risks**
- 6. **Center indigenous leadership in all of the above**

**9. Calls for a new economic system which in its design meets human needs within planetary and local environmental and social boundaries.**

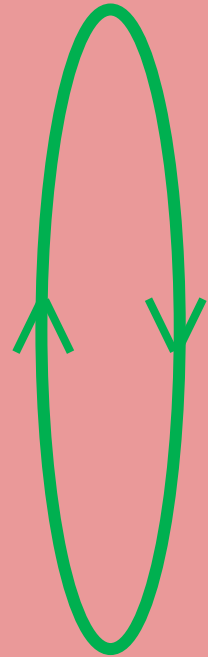
**10. Endorse a Global Green New Deal**

# The Big Ideas:

Formally organize the region, and governments globally who have declared a climate emergency, to form an international task force through 2050

# Action has to be taken on all levels in parallel

- Globally/internationally
- Nationally
- On state level
- Bio-regionally
- On **city** level/locally
- On neighborhood/community level
- On family level/individually



**The Big Ideas:  
Initiate a full-scale  
societal mobilization  
toward a regenerative  
economy**

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**This is what the world is waiting for, the moment when we enter full transition mode.**

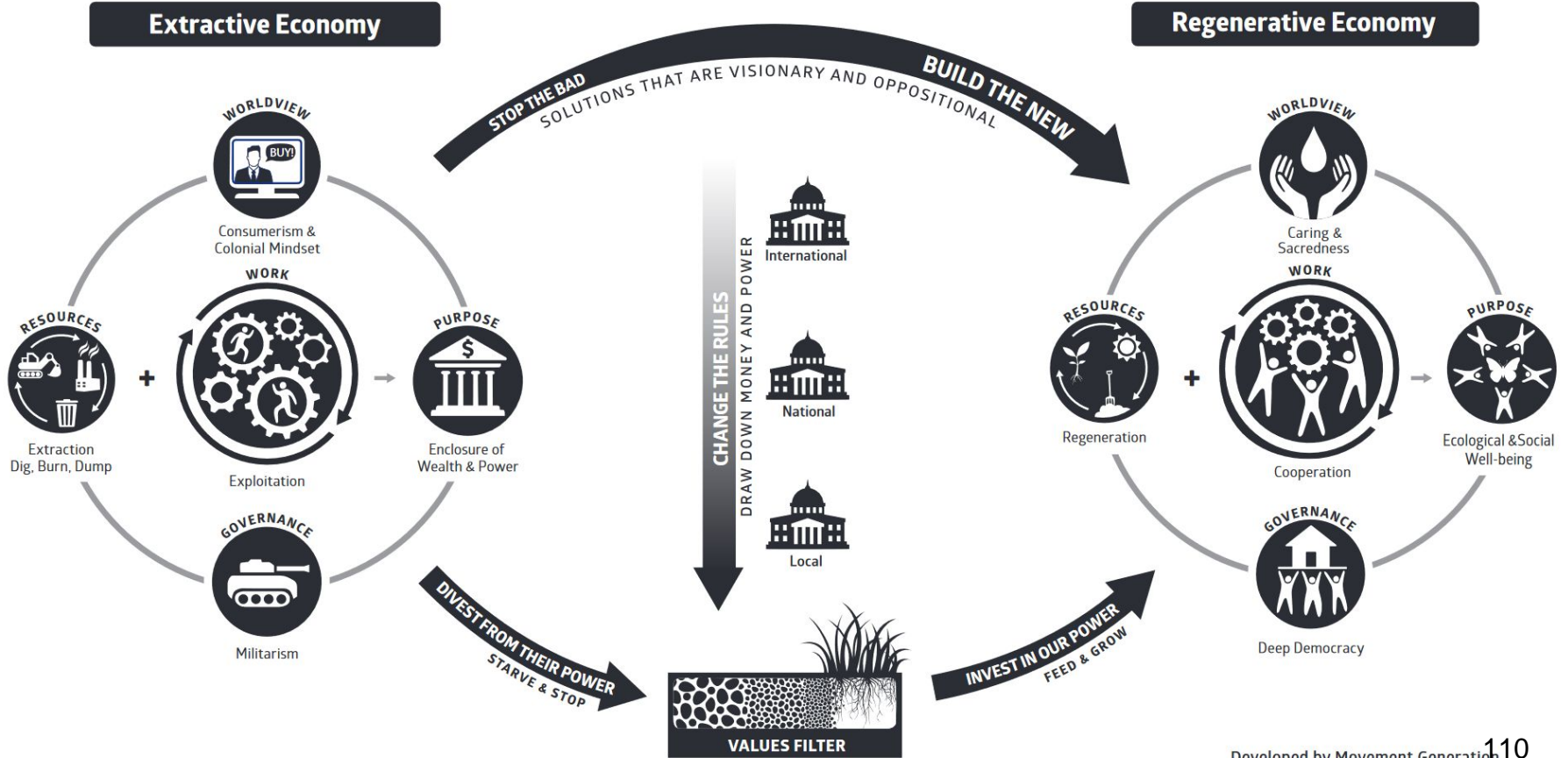
**Berkeley as a community is ready for this. Berkeley as a city is positioned to do this regionally and globally being the 6th city to declare a climate emergency**



# The Big Ideas:

Commit to a just transition ethos and framework developed by frontline environmental justice organizations for Berkeley's sustainability efforts

# A STRATEGY FRAMEWORK FOR JUST TRANSITION



**A JUST TRANSITION MUST:**

- ▶ Shift economic control to communities
- ▶ Democratize wealth and the workplace
- ▶ Advance ecological restoration
- ▶ Drive racial justice and social equity

Formalize these criteria and standards for projects with oversight:

**PROTECT: *Solutions must protect, not harm our communities.***

**REPAIR: *Solutions must repair the harms of our extractive economy.***

**INVEST: *Solutions must move non-extractive and equitable investments to our communities and workers.***

**TRANSFORM: *Solutions must provide the foundation to transform relationships and structures so that they are rooted in respect, equity, and justice.***

**How we govern or fail to govern a just transition will determine the strength and wellbeing of all of Berkeley's residents for generations to come worldwide.**

**Oakland has a race and equity department, a direction we should follow.**

**We cannot leave justice to chance. Formalizing the standards with appropriate oversight and data is the only ethical option we have.**

# The Big Ideas: Going beyond sustainability - Bay Area as a fully regenerative economy

**7 Counties: Sonoma, San Francisco, Contra Costa, Santa Clara, Alameda, Santa Cruz, San Mateo**

**18 Bay Area Cities:** Richmond, Oakland, Hayward, El Cerrito, Fairfax, Sebastopol, San Jose, Petaluma, Cupertino, Alameda, San Anselmo, Benicia, Cloverdale, Cotati, Healdsburg, Santa Rosa, Windsor, Menlo Park, Santa Cruz

## **Sustainability means**

- **Meeting our needs without interfering in future generations' ability to meet theirs**
- **Operating within planetary and bio-regional boundaries**

## **Regeneration means**

- **Reversing ecological overshoot, GHG emissions, public health impacts, and centuries of ecological and genocidal violence**
- **Replenishing depleted soils, fisheries, ecosystems**



**This will require a planning processes and design methodologies that are explicitly regenerative, justice-enacting, and resilient to shocks**

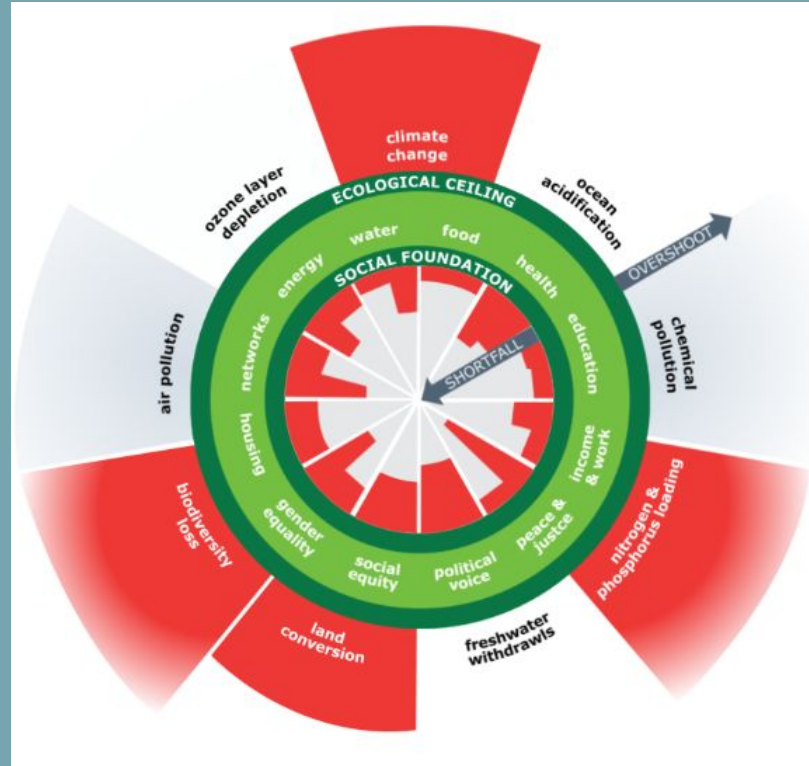
**The Big Ideas:  
Build Doughnut Economics  
methodology into Berkeley's  
Sustainability planning and the  
Bay Area's regional planning**

# The Doughnut offers a vision of what it means for humanity to thrive in the 21st century



- The **ecological ceiling** consists of nine planetary boundaries, beyond which lie unacceptable environmental degradation and potential tipping points in Earth systems.
- The twelve dimensions of the **social foundation** are derived from internationally agreed minimum social standards, as identified by the world's governments in the Sustainable Development Goals in 2015.
- Between social and planetary boundaries lies an **ecologically safe and socially just space** in which humanity can thrive.

# Doughnut Economics: The world is currently outside the safe and just space on alarmingly many dimensions



# Doughnut Economics at city level: 4 lenses



# The Big Ideas:

## Draft ordinances to accelerate the Circular Economy and the Cradle-to-Cradle standard for products and services sold in Berkeley

**“Everything is a resource for something else.** In nature, the “waste” of one system becomes food for another. Everything can be designed to be disassembled and safely returned to the soil as biological nutrients, or re-utilized as high quality materials for new products as technical nutrients without contamination.”

**Instead of tackling each product at time such as take out food, single use plastic, etc.**

**Set a standard for all products to be zero waste - biodegradable - food for ecosystems by a certain date**



# Big Ideas:

Lobby the region to shift to bioregional governance.

Bring the Bay Area's ecological footprint toward the planets and it's own carrying capacity

# Bay Area Bioregion:

The San Francisco Bay Bioregion encompasses the entire San Francisco Bay Area and Sacramento-San Joaquin River Delta

# Thank you





Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
February 23, 2021

To: Honorable Mayor and Members of the City Council  
From: Councilmember Susan Wengraf  
Subject: Virtual Holocaust Remembrance Day Event: Relinquishment of Council Office Budget Funds from General Funds and Grant of Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember, including \$250 from Councilmember Wengraf, to support the City's Annual Holocaust Remembrance Day program with funds relinquished to the City's general fund. The relinquishment of funds from Councilmember Wengraf's discretionary Council Office Budget and all other Councilmembers who would like to contribute allows the City of Berkeley to invite the community to the City's Virtual 19<sup>th</sup> Annual Holocaust Remembrance Day program, put together by the community with Council support. This year's program will be held on April 8, 2021.

FINANCIAL IMPLICATIONS

No General Fund impact: up to \$250 is available from contributing Councilmember's Council Office Budget discretionary accounts.

BACKGROUND

The City of Berkeley's Annual Holocaust Remembrance Day program has been supported by the City Council since its inception in 2002. The program typically includes a candle lighting ceremony, a Holocaust Survivor's story, an artist's presentation, a grandchild's story, a student contribution and live music. The community event invites attendees to honor those who survived and perished in the Holocaust and strengthen convictions to never let the Holocaust happen again.

The 2020 program (the 18<sup>th</sup> Annual) was canceled due to the COVID-19 pandemic. We are asking for Councilmember's generous support to continue the legacy of the City's Annual Holocaust Remembrance Day in 2021

ENVIRONMENTAL SUSTAINABILITY

No impact

CONTACT PERSON

Councilmember Wengraf                      Council District 6                      510-981-7160

Attachments: 1: Resolution

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Councilmember Susan Wengraf has surplus funds in her office expenditure account and will contribute \$250, and invite the Mayor and other Councilmembers to join her in contributing; and

WHEREAS, a California nonprofit tax-exempt corporation, The Jewish Community Center, serves as the fiscal sponsor of the Holocaust Remembrance Day event and will receive funds in an amount up to \$250 per contributing Councilmember's discretionary account; and

WHEREAS, the provision of such services would fulfill the municipal public purpose of providing a community program supporting Holocaust survivors, community recognition and education about the Holocaust, and unity among Berkeley residents. The grants will provide funds to produce the virtual event.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget, up to \$250 per office, shall be granted to the Jewish Community Center to fund the City of Berkeley's virtual 19<sup>th</sup> Annual Holocaust Remembrance Day program on April 8, 2021.



Commission on Disability

## ACTION CALENDAR

February 23, 2021

To: Honorable Mayor and Members of the City Council  
 From: Commission on Disability  
 Submitted by: Alex Ghenis, Chairperson, Commission on Disability  
 Subject: Service Animals Welcome Training

### RECOMMENDATION

That the City Council refer to the City Manager a request to implement education and training provisions of the Service Animals Welcome Policy and Program:

- a. Work with Business Improvement Districts and Commercial District Organizations to provide opportunities for businesses to learn about their responsibilities regarding service animals in their places of business.
- b. Provide information on Service Animals and Access Rights of Persons with Disabilities accompanied by a Service Animal as required staff training on non-discrimination under applicable federal, state and local statutes, regulations and policies.
- c. Provide necessary and adequate support to the Disability Compliance Program.  
 (Motion: Walsh, Second: Singer, Ghenis: Aye, Smith; Aye, Ramirez: LOA, Leeder: LOA, No: None)

### POLICY COMMITTEE RECOMMENDATION

On January 25, 2021, the Health, Life Enrichment, Equity and Community Policy Committee sent the item to Council with a qualified positive recommendation to take the following action:

Refer to the City Manager to review existing information provided to businesses on the Service Animals Welcome Policy and Program as well as other information related to the rights of people with disabilities (pursuant to the Americans with Disabilities Act) and to continue efforts to create an online training.

Further, refer to the City Manager to: (a.) Work with Business Improvement Districts, the Chamber of Commerce, and other business organizations to provide opportunities for businesses to learn about their responsibilities regarding service animals in their places of business and the rights of people with disabilities, using, for example, the business license renewal as an opportunity to communicate to businesses; (b) Provide information on Service Animals and Access Rights of Persons with Disabilities accompanied by a Service Animal as required City staff training on nondiscrimination under applicable federal, state,



and local statutes, regulations and policies. (c) Provide necessary and adequate support to the Disability Compliance Program. Vote: All Ayes.

### FISCAL IMPACTS OF RECOMMENDATION

Staff time.

### CURRENT SITUATION AND ITS EFFECTS

The 2019 Berkeley Business License Renewal Packet contained information on the Service Animals Welcome Policy and guidance from the U.S., Department of Justice Civil Rights Division on Service Animals in places of public accommodation.

Most Berkeley Business License holders received the 2019 packet but may not have seen or read the materials on Service Animals. As recently as October 2018, a case was documented of a Berkeley Business License holder who refused access and services to a person with a disability accompanied by a service animal (dog) trained to assist her relative to her specific disability and functional limitations. The License Holder stated that she was unaware of City policy or applicable law regarding Service Animals.

According to update information from staff as recently as September 2018, there has been no formal provision of training to City staff, especially for departments and positions with whom face-to-face contact with the public is required. This information is also important for staff in various City Departments who interact with businesses .e.g. Business Improvement District contract staff, the Berkeley Police Department, contracted health and community services providers. Such training can be most efficiently provided online to City staff.

Service Animals Welcome training is a Strategic Plan Priority Project, advancing our goal to champion and demonstrate social and racial equity.

### BACKGROUND

On May 12, 2012, the City Council adopted the Service Animals Welcome Policy and Program, Resolution Number 65,751-N.S. The City Manager was directed to take certain implementation steps including:

- a. Incorporate educational materials in the Business License Tax process to inform business owners of their responsibilities regarding service animals;
- b. Include content about service animals and the responsibilities of Berkeley Businesses on the City's website; also include the phone number for the Disability Services Specialist;
- c. Provide signs for businesses to voluntarily put in their windows regarding service animals; and
- d. Work with Business Improvement Districts (BIDs) and Commercial District Organizations (CDOs) to provide opportunities for businesses to learn about their responsibilities regarding service animals in their places of business

### ENVIRONMENTAL SUSTAINABILITY

Unknown.

### RATIONALE FOR RECOMMENDATION

As defined under the 2010 revision of the Americans with Disabilities ACT implemented in March 2012, denying a disabled person access to goods or services, in city and local



governments or places of public accommodation based on being accompanied by a service animal is unlawful.

The Disability Compliance Program only has authority to enforce Title II of the Americans with Disabilities Act as it relates to programs and services. However it can provide information and training to encourage compliance.

Implementation of training will significantly contribute to decreased incidences of discrimination in Berkeley based on a person's disability. It will significantly contribute to increasing and enhancing access for the persons with disabilities accompanied by a Service Animal who live, work and visit Berkeley.

ALTERNATIVE ACTIONS CONSIDERED

Do not provide Service Animals Welcome Training.

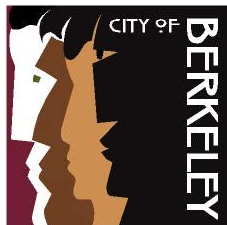
CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

CONTACT PERSON

Dominika Bednarska, Disability Services Specialist, Public Works, (510) 981-6418





[First Last name]  
Councilmember District [District No.]

## **SUPPLEMENTAL REVISED AGENDA MATERIAL for Supplemental Packet 2**

**Meeting Date:** February 4, 2020

**Item Number:** 2

**Item Description:** Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

**Submitted by:** Councilmember Hahn

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.



**SOPHIE HAHN**

Berkeley City Council, District 5  
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ACTION CALENDAR

February 4, 2020

To: Honorable Mayor and Members of the City Council  
From: Vice Mayor Sophie Hahn  
Subject: Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

RECOMMENDATION

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.

Officeholder accounts are accounts an elected official can open, and raise funds for, to pay for expenses related to the office they hold.<sup>1</sup> They are not campaign accounts, and cannot be used for campaign purposes. The types of expenses Officeholder Accounts can be used for include research, conferences, events attended in the performance of government duties, printed newsletters, office supplies, travel related to official duties, etc. Cities can place limits on Officeholder Accounts, as Oakland has done.<sup>2</sup> Officeholder Accounts must be registered as official "Committees" and adhere to strict public reporting requirements, like campaign accounts. They provide full transparency to the public about sources and uses of funds.

The FCPC bases its recommendation to prohibit Officeholder Accounts on arguments about "equity" and potential "corruption" in elections. The report refers repeatedly to "challengers" and "incumbents," suggesting that Officeholder Accounts are vehicles for unfairness in the election context.

I believe that the FCPC's recommendations reflect a misunderstanding of the purpose and uses of Officeholder Accounts, equating them with campaign accounts and suggesting that they create an imbalance between community members who apparently have already decided to run against an incumbent (so-called "challengers") and elected officials who are presumed to be

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<sup>1</sup> <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter5/18531.62.pdf>

<sup>2</sup> <http://www2.oaklandnet.com/w/OAK052051>

always running for office. The recommendations do not take into account some important framing: the question of what funds are otherwise available to pay for Officeholder-type expenses for Officeholders or members of the public. Contrary to the conclusions of the FCPC, I believe Officeholder accounts are an important vehicle to redress a significant disadvantage for elected officials, whose ability to exercise free speech in the community and participate in conferences and events related to their profession is constrained by virtue of holding public office, as compared to community members, whose speech rights are unrestricted in any manner whatsoever, and who can raise money to use for whatever purposes they desire.

Outlawing Officeholder Accounts is also posited as a means to create equity between more and less wealthy Officeholders, on the theory that less affluent Officeholders will have less access to fundraising for Officeholder Accounts than more affluent Officeholders. Because there are no prohibition on using personal funds for many of the purposes for which Officeholder Account funds can be used, prohibiting Officeholder Accounts I believe has the opposite effect; it leaves more affluent Officeholders with the ability to pay for Officeholder expenses from personal funds, without providing an avenue for less affluent Officeholders, who may not have available personal funds, to raise money from their supporters to pay for such Officeholder expenses.

The question of whether Officeholder Accounts should be allowed in Berkeley plays out in the context of a number of rules and realities that are important to framing any analysis.

First, by State Law, elected officials are prohibited from using public funds for a variety of communications that many constituents nevertheless expect. For example, an elected official may not use public funds to send a mailing announcing municipal information to constituents, “such as a newsletter or brochure, [...] delivered, by any means [...] to a person’s residence, place of employment or business, or post office box.”<sup>3</sup> Nor may an elected official mail an item using public funds that features a reference to the elected official affiliated with their public position.<sup>4</sup> Note that Electronic newsletters are not covered by these rules, and can and do include all of these features, even if the newsletter service is paid for by the public entity. That said, while technically not required, many elected officials prefer to use email newsletter distribution services (Constant Contact, MailChimp, Nationbuilder, etc.) paid for with personal (or “Officeholder”) funds, to operate in the spirit of the original rules against using public funds for communications that include a photo of, or references to, the elected official.

Without the ability to raise funds for an Officeholder Account, for an elected official to send a paper newsletter to constituents or to use an email newsletter service that is not paid for with public funds, they must use personal funds. A printed newsletter mailed to 5-6,000 households (a typical number of households in a Berkeley City Council District) can easily cost \$5,000+, and an electronic mail service subscription typically costs \$10 (for the most basic service) to \$45 per month, a cost of \$120.00 to over \$500 per year - in personal funds.

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<sup>3</sup> <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

<sup>4</sup> <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

Second, Berkeley City Councilmembers and the Mayor of Berkeley are not paid enough for there to be any reasonable expectation that personal funds should be used for these types of expenses.<sup>5</sup> For many Councilmembers and/or the Mayor, work hours are full time - or more - and there is no other source of income.

Finally, and most importantly, local elected officials are restricted from accepting money or gifts. An elected official cannot under any circumstances raise money to pay for Officeholder expenses such as printed communications, email newsletter services, travel and admission to industry conferences for which the elected official is not an official delegate (e.g., conferences on City Planning, Green Cities, Municipal Finance, etc.), and other expenses related to holding office that are not covered by public funds. Again, without the possibility of an Officeholder Account, an elected official generally must use personal funds for these expenses, allowing more affluent elected officials to participate while placing a hardship or in some cases a prohibition on the ability of less affluent elected officials to undertake these Officeholder-type activities - which support expected communications with constituents and participation in industry activities that improve the elected official's effectiveness.

The elected official's inability to raise funds from others must be contrasted with the ability of a community member - a potential "challenger" who has not yet declared themselves to be an actual candidate - or perhaps a neighborhood association, business or corporation (Chevron, for example) - to engage in similar activities. Nothing restricts any community member or organization from using their own funds - or funds obtained from anyone - a wealthy friend, a corporation, a local business, a community organization or their neighbors - for any purpose whatsoever.

Someone who doesn't like the job an elected official is doing could raise money from family or connections anywhere in the community - or the world - and mail a letter to every person in the District or City criticizing the elected official, or buy up every billboard or banner ad on Facebook or Berkeleyside to broadcast their point of view. By contrast, the elected official, without access to an Officeholder Account, could only use personal funds to "speak" with their own printed letter, billboard or advertisement. Community members (including future "challengers") can also attend any and all conferences they want, engage in travel to visit interesting cities and projects that might inform their thoughts on how a city should be run, and pay for those things with money raised from friends, colleagues, businesses, corporations, foreign governments - *anyone*. They are private citizens with full first amendment rights and have no limitations, no reporting requirements, no requirements of transparency or accountability whatsoever.

The imbalance is significant. Outside of the campaign setting, where all declared candidates can raise funds and must abide by the same rules of spending and communications, *elected officials cannot raise money for any expenses whatsoever, from any source, while community*

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<sup>5</sup> Councilmembers receive annual compensation of approximately \$36,000, while the Mayor receives annual compensation of approximately \$55,000.<sup>5</sup>

*members, including organizations and private companies, can raise as much money as they want from any sources, and use that money for anything they choose.*

Without the ability to establish and fund an Officeholder Account, the only option an elected official has is to use personal funds, which exacerbates the potential imbalance between elected officials with more and less personal funds to spend. Elected officials work within a highly regulated system, which can limit their ability to “speak” and engage in other activities members of the public are able to undertake without restriction. Officeholder Accounts restore some flexibility by allowing elected officials to raise money for expenses related to holding office, so long as the sources and uses of those funds is made transparent.

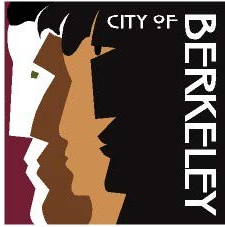
By allowing Officeholder Accounts and regulating them, Berkeley can place limits on amounts that can be raised, and on the individuals/entities from whom funds can be accepted, similar (or identical) to the limits Berkeley places on sources of campaign funds. Similarly, Berkeley can restrict uses of funds beyond the State’s restrictions, to ensure funds are not used for things like family members’ travel, as is currently allowed by the State. Oakland has taken this approach, and has a set of Officeholder Account regulations that provide a good starting point for Berkeley to consider.<sup>6</sup>

I respectfully ask for a vote to send the question of potential allowance for, and regulation of, Officeholder Accounts to the Agenda and Rules Committee for further consideration.

CONTACT: Sophie Hahn, District 5: (510) 981-7150

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<sup>6</sup> <http://www2.oaklandnet.com/w/OAK052051>



Fair Campaign Practices Commission

## **SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 2**

**Meeting Date:** February 4, 2020

**Item Number:** 2

**Item Description:** Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

**Submitted by:** Samuel Harvey; Deputy City Attorney / Secretary, Fair Campaign Practices Commission

Attachment 4 to the report (“Memorandum signed by City Attorney Manuela Albuquerque”) included an attachment which was erroneously omitted from the Council item. Attached is Attachment 4 (for context) along with the additional pages which should be included to appear as pages 16 -17 of the item.





Office of the  
City Attorney

**DATE:** December 28, 1999

**TO:** BARBARA GILBERT,  
Aide to Mayor Shirley Dean

**FROM:** MANUELA ALBUQUERQUE, City Attorney *MA*  
By: CAMILLE COUREY, Deputy City Attorney

**SUBJECT:** APPLICATION OF BERKELEY ELECTION REFORM ACT TO OFFICEHOLDER ACCOUNTS

ISSUE:

Does the Berkeley Election Reform Act (BERA) govern officeholder accounts?

CONCLUSION:

No. The BERA does not govern true officeholder accounts per se. However, the mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under the BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable local laws.

ANALYSIS:

Sarah Reynoso, former secretary and staff counsel to the Fair Campaign Practices Commission (FCPC), issued an opinion to the FCPC dated December 2, 1991, a copy of which is attached, stating that the BERA's contribution limit does not apply to contributions made to an officeholder account. The opinion reasons that the BERA's contribution limit applies only to "contributions" as defined in the BERA, i.e., which are made directly or indirectly in support of or in opposition to the nomination or election of one or more candidates to elective office. (See Berkeley Municipal Code (BMC) § 2.12.100.) Contributions to a true officeholder account are not made for the purpose of nominating or electing a candidate to office, but rather for the use of an officeholder in carrying out the duties of his or her office. Therefore, the contribution limit of the BERA is inapplicable to officeholder accounts.<sup>1</sup> For similar reasons, the BERA does not

<sup>1</sup> However, the opinion also provided that contributions to officeholder accounts still had to be reported on campaign statements because the State Fair Political Practices Commission (FPPC) Regulations broadly defined contributions as any contribution for "political purposes." Since officeholder expenses are for political purposes, they must be reported to the State.

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Barbara Gilbert  
Re: Application of Berkeley Election Reform Act To Officeholder Accounts  
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apply to true officeholder accounts.

The BERA requires the filing of statements to report the amounts received and expended in municipal elections. (See BMC §§ 2.12.015, 2.12.030 through 2.12.050) Specifically, a "campaign statement" required to be filed under the BERA is an itemized report which provides the information required by Sections 2.12.245 through 2.12.325 of the BERA. (BMC § 2.12.080.) Sections 2.12.245 through 2.12.325 govern the reporting of contributions and expenditures. "Contributions" and "expenditures" are defined by the BERA as any amounts received or expended, respectively, in aid of or in opposition to the nomination or election of one or more candidates to elective office. (See BMC §§ 2.12.100 and 2.12.130.) Contributions to or expenditures from a true officeholder account are not subject to the BERA's reporting requirements because they are made for the purpose of carrying out the duties of elective office, and not for the purpose of aiding or opposing the nomination or election of one or more candidates to elective office.<sup>2</sup> Therefore, the BERA does not apply to true officeholder accounts.

However, the fact that an account may be designated as an officeholder account will not shield it from scrutiny under the BERA if the officeholder account is, in fact, being used for the receipt of contributions or the making of expenditures in aid of the nomination or election of a candidate for local elective office. Nor will BERA requirements, such as the \$250 contribution limit or the prohibition against contributions from businesses to candidates, be held inapplicable if contributions made initially to an officeholder account are transferred subsequently to a campaign account. Where the actions taken with respect to an officeholder account implicate campaign contributions and expenditures in municipal elections, the officeholder account will be scrutinized under the BERA and other applicable local law.

Attachment

cc: Fair Campaign Practices Commission  
Sherry Kelly, City Clerk

City Attorney Opinion Index: ILE 1. and IILG.

CCM

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<sup>2</sup> Again, however, the State FPPC still requires the reporting of activity relating to an officeholder account. (See footnote 1.)

CITY OF BERKELEY

DATE: December 9, 1991

Memorandum

TO: FCPC COMMISSIONERS

FROM: Sarah Reynoso,  Secretary & Staff Counsel

SUBJECT: APPLICABILITY OF BERA'S CONTRIBUTION LIMIT TO FUNDS RAISED FOR OFFICEHOLDER EXPENSES

BACKGROUND AND ISSUE

I received the attached letter from Richard N. Lerner, treasurer of Friends of Loni Hancock Committee ("Committee"), regarding the applicability of BERA's (Berkeley Election Reform Act) \$250 contribution limit to funds raised to cover officeholder expenses. The Committee would like to raise money to cover activities by the Mayor for which the City has not allocated funds, for example, distribution of a newsletter and international travel to visit Berkeley Sister Cities.

Thus, the issue presented to the Commission is as follows: Is BERA's \$250 contribution limit applicable to funds raised for officeholder expenses?

CONCLUSION

No. The BERA's contribution limitation is only applicable to money raised "in aid of or in opposition to the nomination or election" of a candidate. Since the Committee intends to raise these funds for activities unrelated to the nomination or election of the Mayor, they are not subject to the BERA's \$250 contribution limitation. However, such funds must be reported as contributions under the State Political Reform Act and their expenditure itemized on the disclosure forms.

ANALYSIS

The BERA prohibits candidates for elective office from soliciting or accepting a contribution of more than \$250 from any one contributor. (BERA section 2.12.415.) Thus, funds which fall within BERA's definition of a contribution, are subject to the \$250 limit. In order to determine whether funds raised for officeholder expenses are subject to the contribution limitation, BERA's definition of contribution must be reviewed.

The BERA defines contribution, in part, as follows:

"Contribution" means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or

FCPC COMMISSIONERS  
December 9, 1991  
Page 2

in opposition to the nomination or election of one or more candidates . . . . (Emphasis added.)

Thus, the plain language of the BERA requires that a contribution be solicited for purposes related to the nomination or election of a candidate for office to be subject to its contribution limitation. Since the Committee intends to raise funds for purposes unrelated to the Mayor's nomination or election for elective office, such funds do not fall within the BERA's definition and are therefore not subject to its \$250 limitation.

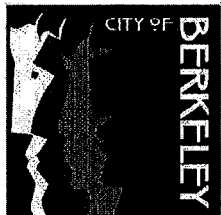
However, because the state Political Reform Act defines contribution to include any funds raised for political purposes, funds raised for officeholder expenses are considered contributions and must be reported on campaign disclosure forms.<sup>1/</sup> (Government Code section 82015.) Additionally, since the court's ruling in SEIU v. FPPC invalidated the state's \$1,000 contribution limit, funds raised for officeholder expenses are not subject to any limitation.

As a final precaution, the Committee should be advised that the FPPC has issued regulations concerning officeholder expenses and it should review them with respect to their interaction with the BERA.

Attachment

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<sup>1/</sup>I spoke with the FPPC's legal staff and confirmed that funds raised for officeholder expenses must be reported as contributions on the campaign disclosure forms.



Office of the City Auditor  
Ann-Marie Hogan, City Auditor

## MEMORANDUM

**Date:** March 14, 2017  
**To:** Councilmember Harrison  
**From:** Ann-Marie Hogan, City Auditor  
**Re:** Council Expense Reimbursement Guidance

The purpose of this memo is to provide you with forms for, links to, and general guidance on Council expense and reimbursement policies. In some cases, the restrictions on expenses for Council Members are more restrictive and more complex than those for City employees, because of state law. You must contact my office prior to incurring expenses for attendance at a conference, seminar, or training, or making travel arrangements. The purchase of routine office supplies should be made using the City's standard procurement procedures and vendors, using a purchase order, but on those occasions when you must pay for something personally and then request reimbursement, you will also need to submit the request to my office. For information regarding the City's procurement procedures, see Administrative Regulation 3.4<sup>1</sup>. Once your City email is active, we'll send this memo to you via email, so you can click on the links to the City's intranet. Please feel free to contact me if you or your staff have questions.

In July 2006, the Berkeley City Council passed Resolution No. 63,412–N.S. to comply with state bill AB1234, which requires all cities to adopt an expense reimbursement policy for legislators in local government, and sets specific requirements for that policy. In September 2013, at the recommendation of the City Attorney, Council rescinded Resolution No. 63,412–N.S. and replaced it with Resolution No. 66,295–N.S. (See attached.) Council adopted the new resolution to incorporate a budget relinquishment and grant policy, and also to clarify the criteria and spending limitations associated with reimbursements for the Mayor and Council Members. Some of the spending limitations include:

- **Mileage and Transit:** Mileage is reimbursed at the current year's IRS mileage rate and must be accompanied by supporting documentation, such as a Google Maps printout. Use the most economical mode of transportation practical.
- **Meals:** Meals are reimbursed at the per diem rates set forth in City Administrative Regulation 3.9, or the actual cost of the meal, whichever is *lower*.<sup>2</sup> The per diem rate covers the meal, tax,

<sup>1</sup> Administrative Regulation 3.4: <http://icobweb/AR/PDF/AR3-4.pdf>

<sup>2</sup> Administrative Regulation 3.9: [http://icobweb/AR/PDF/2016/Administrative Regulation 3.9.pdf](http://icobweb/AR/PDF/2016/Administrative%20Regulation%203.9.pdf)

tip, and nonalcoholic beverages (alcoholic beverages are not reimbursable). The per diem rate also applies when Council Members are requesting reimbursement for meals paid on behalf of individuals who are conducting city related business, such as Legislative Assistants. Council Members must submit original receipts, a list of attendees and the Statement of Municipal Purpose form (explaining how the expense benefits the City), as part of the reimbursement request. Any expense in excess of the individual meal allowance will not be reimbursed. The current per diem rates are:

- Breakfast \$10
  - Lunch \$15
  - Dinner \$26
- **Airfare:** Airfare is reimbursed based on the most economical mode and class of transportation reasonably consistent with scheduling needs. We suggest that you attach a printout of available fares with your request. Please note that the current language in Resolution No. 66,295–N.S. is out of date because it references a program that is no longer available. This will be corrected in Council’s next revision of that resolution.
  - **Lodging:** Lodging for conferences will be reimbursed at the available group rates. If lodging at the conference rate is not available, reimbursement will be based on either the published conference rate or the government rates published by the U.S. General Services Administration, whichever is greater. Where no conference rate is published, the reimbursement rate will be based on the government rate or the median rate listed on discount travel websites, whichever is greater. Trivago, Priceline, Kayak, Orbitz, Travelocity, and Expedia are examples of travel sites that provide discount rates and may be used to identify a reasonable median rate. Include a printout of the published conference rate, government rate, or travel site rates with the reimbursement request as applicable. Council Members can look up rates by using the U.S. General Services Administration’s Per Diem Rates Look-Up tool.<sup>3</sup> Council Members should select the specific location they are traveling to in the look-up tool.
  - **Registration:** Generally, Council Members should use a purchase order for conference, seminar, and training registrations as defined by Administrative Regulation 3.9. However, Council Members may use their credit card to register, if that is the vendor’s required form of payment. Council Members may not submit their reimbursement request until after the event has taken place, and must include proof of payment, and should include evidence of attendance with their request. Resolution No. 66,295–N.S. also requires that Council members provide a report to Council on training they attend, but we will be recommending that this requirement be deleted since it is not required by AB1234.

<sup>3</sup> Hotel fee tool: <http://www.gsa.gov/portal/category/100120>

When completing a reimbursement request, Council Members must complete and provide the following:

1. FN-024 payment voucher: available in Administration Regulation 3.14<sup>4</sup>, on the City's intranet<sup>5</sup>, or by contacting Accounts Payable at (510) 981-7310. All three sources provide guidance for completing this form.
2. Statement of municipal purpose form: available in City Auditor's Groupware section or by contacting the City Auditor's Office at (510) 981-6750 or auditor@cityofberkeley.info.
3. Supporting documentation: Council member original receipts, proof of payment, official per diem rates, etc.

Council Members must include account codes on the FN-024 payment voucher. The City's standard account codes are *14 digits* long and include both an element and an object code as the last four digits. The most commonly used element and object codes are:

- 4064: mileage/transportation (including taxi or ride-sharing service, such as Uber or Lyft)
- 4063: registration
- 4062: meals and lodging related to conferences, seminars, training, workshops, and similar
- 4061: airfare
- 5550: meals and food for city business, events, functions, and similar business meals

City Administrative Regulation (A.R.) 3.9 establishes the policies and procedures for reimbursing expenses incurred by City staff to attend conferences, meetings, seminars, trainings, and workshops. The regulation complements Resolution No. 66,295–N.S., which establishes the procedures for Council Members. A.R. 3.9 includes the following exceptions for Mayor and Council Members' expenses:

- **Attendance and travel request form:** The Mayor, Council Members, and Legislative Assistants are not required to submit an Attendance and Travel Request form. (A.R. 3.9, page two)
- **Paying for another employee's expenses:** The Mayor, Council Members, and Legislative Assistants may be reimbursed for paying for other legislative staff's or Council Members' expenses incurred for city related business. This is an exception to A.R. 3.9, noted on page three.
- **Business meals:** The Mayor and Council Members may be reimbursed for meals where the primary purpose of the meal is to conduct City-related business (other than simply meeting constituents). City Auditor review and approval is required. Council Members must describe the purpose of their business meal, e.g. issues discussed and how they relate to adopted priorities of Council, on the Statement of Municipal Purpose form and list the attendees. Meals are reimbursed at the per diem rates as listed above, or the actual cost of the meal, whichever is lower. (A.R. 3.9, page four) **Note that AB1234 requires that members of a legislative body shall**

<sup>4</sup> A.R. 3.14: <http://icobweb/AR/PDF/AR3-14.pdf>

<sup>5</sup> City Intranet: <http://icobweb/finance/GroupwareAP.FN-024&PettyCash.htm>

**provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.**

- **Receipts:** The Mayor, Council Members, and Legislative Assistants must submit meal receipts. Meals are reimbursed at the per diem rates as listed above, or the actual cost of the meal, whichever is lower. (A.R. 3.9, page four)

cc: Sheila Soo, Administrative Assistant, Auditor's Office



RESOLUTION NO. 66,295-N.S.

CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICIES

WHEREAS, each fiscal year, the City Council appropriates funds in the Mayor and Councilmember's departmental budgets to cover the costs of Mayor and Council staff and non-personnel expenditures which are reasonable and necessary for the performance of the duties of Mayor and Councilmember; and

WHEREAS, the Council needs to ensure that the expenditures are incurred and paid in conformity with the requirements of the City Charter; and

WHEREAS, AB 1234, adopted in 2005 and codified as Government Code Sections 53232, et. seq., requires that all cities adopt an expense reimbursement policy for Mayor and Council expenses; and

WHEREAS, on July 25, 2006, the City Council adopted Resolution No. 63,412-N.S. to establish the expenditure and reimbursement policy required by state law; and

WHEREAS, the Councilmember Office Budget Relinquishment and Grant Policy generally falls under the purview of the existing City Expenditures and Expense Reimbursement for Mayor and Council.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Councilmember Office Budget Relinquishment and Grant Policy enumerated in Exhibit A is incorporated by reference into the policy for City Expenditures and Expense Reimbursement for Mayor and Council.

BE IT FURTHER RESOLVED that Resolution No. 63,412-N.S. and any amendments thereto are hereby rescinded.

BE IT FURTHER RESOLVED that the policy concerning City Expenditures and Expense Reimbursement for Mayor and Council departments is hereby adopted to read as follows:

**CITY EXPENDITURES AND EXPENSE REIMBURSEMENT FOR MAYOR AND COUNCIL DEPARTMENTS**

**I. City Expenditures for Mayor and Council**

The Mayor and Council members shall purchase all office supplies, office equipment, furniture, computers, or any other product, good, or service for the actual and necessary expense of their office in the manner normally applicable to all other purchases of goods and services by the City. Such expenses may include membership in organizations of elected officials and the purchase of newspapers and periodicals that provide information needed for the performance of official duties.

## II. Reimbursement of Actual and Necessary Expense of Office

The Mayor and Council members and their staff may be reimbursed for the actual and necessary expenses for the categories of activities set forth below under "Authorized Activities."

### A. Authorized Activities.

Travel, meals and/or other food, incidentals, and lodging incurred in connection with the following types of activities set forth below constitute authorized expenses, as long as the other requirements of this Resolution are fulfilled:

1. Communicating with representatives of local, regional, state and national government on City policy positions;
2. Attending educational seminars designed to improve officials' skill and information levels, provided that a brief report of such seminar shall be made by the Mayor and Council at a subsequent Council meeting;
3. Participating in local, regional, state and national organizations of cities whose activities affect the City's interests;
4. Recognizing service to the City (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost);
5. Attending City events; or events sponsored by organizations or entities whose activities affect the City's interests where the primary purpose of the event is to discuss subjects which relate to City business;
6. Implementing City approved policies;
7. Meals where the primary purpose of the meal is to conduct City-related business (other than simply meeting constituents) as long as the amount of such meal does not exceed the daily maximum as set forth in this Resolution and meets applicable federal and state standards as to when meal reimbursement may be allowed; and
8. Expenditures for these purposes approved in advance by a Mayor or Council member and undertaken by that person's staff.

Expenditures for all other activities require prior approval by the City Council and must meet an articulated municipal purpose that must be recited in the report proposing the expenditure and the resolution authorizing the expenditure. The policy for relinquishments and grants from Councilmember office budgets is enumerated in Exhibit A.

### B. Unauthorized Expenses

The following personal expenditures incurred by City officials shall not be reimbursed:

1. The personal portion of any trip, such as where the official is on his/her own vacation activities;
2. Political contributions or attendance at political or charitable events;
3. Family expenses, including partner's expenses when accompanying official on agency-related business, as well as children or pet-related expenses;
4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related

- expenses), or other recreational and cultural events;
- 5. Alcoholic beverages;
- 6. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
- 7. Personal losses incurred while on City business.

Any questions regarding the propriety of a particular type of expense should be resolved by the City Council before the expense is incurred.

### C. Particular Types of Authorized Expenditures Defined

To conserve City resources and keep expenses within community standards for public officials, expenditures should adhere to the following guidelines. In the event that expenses are incurred which exceed these guidelines, the cost borne or reimbursed by the City will be limited to the costs that fall within the guidelines.

1. **Registration.** Registration fee charged for any authorized convention, conference, seminar or meeting is reimbursable.
2. **Transportation.** The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. Charges for rental-vehicles may be reimbursed under this provision if more than one City official is attending an out of town conference, and it is determined that sharing a rental vehicle is more economical than other forms of transportation. In making such determination, the cost of the rental vehicle, parking and gasoline will be compared to the combined cost of such other forms of transportation. Government and group rates must be used when available.
3. **Airfare.** Airfares that are equal to or less than those available through the Enhanced Local Government Airfare Program offered through the League of California Cities, the California State Association of Counties and the State of California are presumed to be the most economical and reasonable for purposes of reimbursement under this policy. Reimbursement for travel must not exceed the rates available through the League program as published by the California Department of General Services.
4. **Automobile.** Automobile mileage is reimbursed at Internal Revenue Service rates presently in effect. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable. The Internal Revenue Service rates will not be paid for rental vehicles; only receipted fuel expenses will be reimbursed.
5. **Car Rental.** Rental rates that are equal or less than those published by the California Department of General Services shall be considered the most economical and reasonable for purposes of reimbursement under this policy.
6. **Taxis/Shuttles.** Taxis or shuttles fares may be reimbursed, including a 15 percent gratuity per fare, when the cost of such fares is equal or less than

the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.

7. **Lodging.** Lodging expenses will be reimbursed or paid for when travel on official City business reasonably requires an overnight stay. If such lodging is in connection with a conference, lodging expenses must not exceed the group rates. If lodging at the conference rate is not available, reimbursement will be based on either the published conference rate or government rates as published by the Federal General Services Agency, whichever is greater. Where no conference rate is published, the reimbursement will be based on the government rate or the median rate listed on priceline.com or similar service, whichever is greater.
8. **Meals.** Meal expenses and associated gratuities will be reimbursed at the rate set forth in Administrative Regulation 3.9.
9. **Telephone/Fax/Cellular.** Council members will be reimbursed for actual telephone and fax expenses incurred on City business. Telephone bills should identify which calls were made on City business. For calls made on an official's personal cell phone, the official may obtain reimbursement for business calls based on the following formula: minutes used on public business divided by the total minutes allowed under a monthly plan, plus long-distances charges for those calls.
10. **Airport Parking.** Airport parking must be used for travel exceeding 24-hours.
11. **Other Travel Related Expenses.** Baggage handling fees of up to \$1 per bag and gratuities of up to 15 percent will be reimbursed. Expenses for which City officials receive reimbursement from another agency are not reimbursable.
12. **Miscellaneous Office Products.** Notwithstanding the requirement in Section I, occasionally an elected officer or officer's staff may need to make an immediate small out of pocket purchase of office supplies that are normally ordered by the City for which payment is paid directly to the vendor. The City in accordance with the applicable City Manager Administrative Regulation concerning petty cash refunds may reimburse such purchases.

**D. Cash Advance Policy for Airfare and Hotel Only (per A.R, 3.9)**

From time to time, it may be necessary for an official to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such request for an advance should be submitted to the City Auditor, and copied to the City Manager, ten (10) working days prior to the need for the advance with the following information:

1. The purpose of the expenditure(s);
2. Whether the expenditure is for an authorized activity
3. The benefit to the residents of the City.
4. The anticipated amount of the expenditure(s) (for example, hotel rates, meal costs, and transportation expenses); and
5. The dates of the expenditure(s).

Any unused advance must be returned to the City within five (5) working days of the official's return, along with an expense report and receipts documenting how the advance was used in compliance with this expense policy.

**E. Expense Report Content and Submission Deadline**

1. A Statement of Expense must be completed, signed and submitted to the City Auditor for review and forwarding to the Finance Department for payment. The Statement of Expense must document that the expense in question met the requirements of this Resolution. For example, if the meeting is with a legislator, the local agency official should explain whose meals were purchased, what issues were discussed and how those relate to the City's adopted legislative positions and priorities.
2. Officials must submit their Statement of Expense reports to the Auditor's Office within 60 days of an expense being incurred, accompanied by receipts documenting each expense. Restaurant receipts, in addition to any credit card receipts, are also part of the necessary documentation. Receipts for gratuities and tolls under \$5 are not required.
3. Inability to provide such documentation in a timely fashion may result in the expense being borne by the official.

**F. Audits of Expense Reports**

All expenses are subject to verification by the City Auditor of compliance with this policy.

**G. Reports**

At the following City Council meeting, each official shall briefly report on meetings attended at City expense. If multiple officials attended, a joint report may be made.

**H. Compliance with Laws**

City officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act.

**I. Violation of This Policy**

Use of public resources or falsifying expense reports in violation of this policy may result in any or all of the following:

1. loss of reimbursement privileges;
2. a demand for restitution to the City;
3. the City's reporting the expenses as income to the elected official to state and federal tax authorities;
4. civil penalties of up to \$1,000 per day and three times the value of the resources used; and
5. prosecution for misuse of public resources.

\*\*\*\*\*


The foregoing Resolution was adopted by the Berkeley City Council on September 10, 2013 by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Tom Bates, Mayor

Attest:   
\_\_\_\_\_  
Mark Numainville, CMC, City Clerk

## **Councilmember Office Budget Relinquishment and Grant Policy**

### Introduction – Limitations on the Expenditure of Public Funds

The basic purpose of the City as an entity is to exist and function as a *municipality*. This is also reflected in the Charter, which limits the Council's powers only to those "municipal affairs adequate to a complete system of local government". (Section 38.)

Exercises of this power may not be used solely to further the interests of particular individuals, although they may incidentally benefit private interests:

The exercise of the police power is available only for the purpose of promoting the general welfare, the interests of the public as distinguished from those of individuals or persons. It cannot be used to promote private gain or advantage, except so far as the same may also promote the public interest and welfare, and it is the latter, and not the former, effect which forms the basis of the power and warrants its exercise.  
(*Binford v. Boyd* (1918) 178 Cal. 458, 461.)

The Council's basic powers circumscribe its ability to spend public funds. In other words, the Council cannot spend public funds for purposes that are beyond its authority in the first place. Thus the City may only use its funds for municipal purposes. In any given case the crucial inquiry is whether an expenditure serves such a purpose.

The determination of what constitutes a public purpose is primarily a matter for the legislature, and its discretion will not be disturbed by the courts so long as that determination has a reasonable basis.  
(*County of Alameda v. Carlson* (1971) 5 Cal.3d 730, 745-746.)

If the courts find that there is a valid public purpose, they next examine whether the government's actions are reasonably related to effectuating this purpose. (*Tip Top Foods, Inc. v. Lyng* (1972) 28 Cal.App.3d 533, 541.) Public appropriations granted to private interests will not be considered unlawful diversions of public funds when the transaction serves the public interest, merely granting an incidental benefit to the private individual. (*Cane v. City and County of San Francisco* (1978) 78 Cal.App.3d 654, 660.)

### Criteria for Grants of City Funds from Councilmember Office Budgets

Relinquishments and grants for purposes and recipients that fall within the categories listed in Table 1 may be "pre-approved" each fiscal year by Council resolution.

Table 1.

| Recipient                                                                                                                                       | Purpose                                                                                                                                                                                                                                                                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The City (e.g., the Berkeley Public Library, the Berkeley Animal Shelter)                                                                       | Any purpose already being undertaken, because it already serves a public purpose. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.                                                                                              |
| BUSD and other public agencies operating in Berkeley                                                                                            | Any purpose already being undertaken, because it already serves a public purpose, assuming the activity is in Berkeley. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.                                                        |
| Entities with which the City is co-sponsoring a public event in Berkeley (e.g., Earth Day, Solano Stroll).                                      | City co-sponsorship suggests but is not conclusive of public purpose; public purpose would need to be stated, and all such events should be open to the public at no cost. Alternatively, a list of ongoing events that have been determined to serve a public purpose could be developed. |
| Entities in Berkeley to which the City already contributes funds for municipal purposes (e.g., affordable housing or social service nonprofits) | To advance the same public purposes for which the entities are funded. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.                                                                                                         |

Proposed relinquishments and grants that do not meet the criteria for pre-approval, but that meet an appropriate municipal purpose, may be approved by resolution with a majority vote of the City Council.



# CITY OF BERKELEY

## ADMINISTRATIVE REGULATIONS

|                       |              |
|-----------------------|--------------|
| <b>A.R. NUMBER:</b>   | <b>3.4</b>   |
| <b>ORIGINAL DATE:</b> | 07/94        |
| <b>POSTING DATE:</b>  | 4/14/2009    |
| <b>PAGE</b>           | 1 of 5 PAGES |

### **SUBJECT: Purchasing Policy & Purchasing Manual**

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#### **PURPOSE**

To ensure that the City receives the most favorable price, quality, and/or service available for all purchases, while adhering to City Council directives. The Precautionary Principle (PP) and Environmentally Preferable Purchasing Policies (EP3) should be considered whenever feasible, and in accordance with the adopted budget. Furthermore, the complete AR provides City employees with appropriate procedures to knowledgeably participate in the procurement process. This is the Executive Summary of AR 3.4, with an introduction to procedures for the City's Purchasing Policy. The Purchasing Manual is the full AR 3.4, and includes the complete policy and procedures. The City Purchasing Manual can be found online at [Groupware – Finance: Purchasing Manual](#).

#### **POLICY**

It is the policy of the City Manager that all City purchases, with only specified and approved exceptions, shall be made through a competitive process. Regardless of the value of the purchase, more than one documented quotation, bid, or proposal is strongly encouraged. The City Council periodically sets or adjusts cost levels of purchases for Council review and approval, and the parameters for the formally documented competitive processes.

Responsibility for City Purchases rests with designated positions for implementation of this policy:

1. The City maintains a centralized General Services office through which all purchases of goods and services are processed. Each Department originates requests for procurement.
2. Departments are responsible for requesting the type and quality of product or service required. Sole and single source contracts are discouraged, but may be utilized if approved as provided in the Purchasing Manual. The FUNDS system maintains lists of vendors cross-referenced to commodities and services.
3. The General Services Division is ultimately responsible for determining the means of purchase and the appropriate vendor. All purchases made will be of a quality consistent with the ultimate use intended and will be based on best value to the City of Berkeley, not necessarily on the lowest obtainable price.
4. Only the City Manager has the authority to enter into a contract/agreement, except purchase orders, with a vendor. The authority to enter into a Purchase Order has been delegated to the General Services Manager.
5. A comprehensive list of City restrictions on procurement are addressed in Section I of the manual. In addition to those restrictions prescribed by law the following are prohibitions requested by City Council.

- 
- A) On January 29, 2008 Council requested the City Manager prohibit purchases from Chevron Corporation whenever possible.
  - B) On October 28, 2008 Council requested the City Manager research limiting the purchase of bottled water. In response, the City Manager directed staff to eliminate as much as possible the purchasing of individual bottles of water. Bottled water can still be purchased for emergency preparedness and for field events where health and safety are a concern. For all other events, carafes and tap water should be used.

### PROCEDURE

See the current version of the City Purchasing Manual, available online at [Groupware – Finance: Purchasing Manual](#), for complete information and procedures. The following is the table of contents for the Purchasing Manual:

- I. General Procedures, Responsibilities and Requirements
- II. Purchasing Requirements by Price
- III. Purchasing Procedures
- IV. Glossary of Terms
- V. Frequently Asked Questions (FAQs)
- VI. Requirement on Contracting with Certain Entities (Forms & Council Actions)
- VII. Council Guidelines on Purchasing Services and Goods
- VIII. How to Guide
- IX. Reports (In Development)
- X. Forms

### DEFINITIONS

1. **Procurement:** Procurement refers to the process of managing activities associated with an organization's need to obtain the goods and services required for its operation. To ensure that the correct amount of the product or service is received at the appropriate time, specific steps are taken in the procurement process, including: value assurance; determining which commodities or services are best; choosing the right suppliers and vendors; negotiating the best prices; and awarding contracts. For General Services to conduct the procurement process responsibly, its functions include spend analysis, sourcing, supplier implementation, transaction management, category management, and supplier performance management.
2. **Purchasing:** The processing of a purchase order. The key steps in the process are: departments place and approve requisitions; General Services or departments find the item (sourcing); General Services issues the purchase order (PO); and General Services sends PO to vendor. Upon fulfillment of the order, the City is invoiced and the vendor is paid.

3. Purchasing Requisition (PR): A purchasing requisition is a document that instructs General Services to spend a designated and approved amount from a specific department/division budget account for needed goods or services.
4. Purchase Order (PO): A purchase order is used for the purchase of goods. The PO represents a contractual agreement that is enforceable under law. To have an enforceable contract there must be agreement of the parties, which consists of an offer by one party, acceptance of that offer by the other party, and mutual consideration.
5. Blue-Backed Contract: A blue backed contract is used for the purchase of services. A blue-backed contract represents a contractual agreement that is enforceable under law. To have an enforceable contract there must be agreement of the parties, which consists of an offer by one party, acceptance of that offer by the other party, and mutual consideration.

**Attachments:**

1. Purchasing Thresholds: Ordinance No. 6,875 – N.S.
2. Purchasing Thresholds: Ordinance No. 7,035 – N.S.

|                                                                                                                   |                                                                                                                                   |
|-------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| <p><b>RESPONSIBLE DEPARTMENT:</b><br/>Finance Department</p> <p><b>TO BE REVIEWED/REVISED:</b><br/>Every year</p> | <p>Approved by:</p> <p><i>[Signature]</i><br/>_____<br/>Finance Director</p> <p><i>[Signature]</i><br/>_____<br/>City Manager</p> |
|-------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|

ATTACHMENT 1

ORDINANCE NO. 6,875-N.S.

AMENDING BERKELEY MUNICIPAL CODE SECTION 7.18.010B REGARDING EXPENDITURES FOR SPECIFIC IMPROVEMENTS, INCLUDING PLAY AREA IMPROVEMENTS AND EQUIPMENT WHICH EXCEED \$200,000; AMENDING SECTION 7.18.010C REGARDING EXPENDITURES FOR THE PURCHASE OF SUPPLIES, EQUIPMENT, AND MATERIALS WHICH EXCEED \$100,000; AND AMENDING SECTION 7.18.020A REGARDING EXPENDITURE LIMITATIONS IN CASE OF EMERGENCY

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

Section 1. That Berkeley Municipal Code Section 7.18.010 is amended as follows:

**Section 7.18.010 Expenditures pursuant to Chapter Article XI, Sections 67 and 67.5.**

A. Except as otherwise provided in this Title, expenditures pursuant to Article XI, Sections 67 and 67.5 of the Charter of the City of Berkeley, which exceed the amount of \$25,000 shall require Council approval.

B. Expenditures for specific improvements (public projects), including play area improvements and equipment in public parks which exceed the amount of \$200,000 shall require Council approval pursuant to Article XI, Section 67 of the Charter of the City of Berkeley.

C. Expenditures for the purchase of supplies, equipment, and materials which exceed the amount of \$100,000 shall require Council approval.

Section 2. That Berkeley Municipal Code Section 7.18.020A is amended as follows:

**Section 7.18.020 Expenditures pursuant to Charter Article XI, Section 67.4 Emergencies.**

A. Expenditures pursuant to Article XI, Section 67.4 of the Charter of the City which exceed the amount of \$100,000 shall require Council approval; and expenditures for public construction projects and playground improvements and equipment which exceed the amount of \$200,000 shall require Council approval.

B. Notwithstanding subsection A of this section, in the event of a declared emergency under Chapter 2.88, the expenditure limitation under Article XI, Section 67.4 of the Charter of the City shall be an amount not exceeding the amount appropriated by the Council in the most recent appropriation ordinance for the fund from which an expenditure is made and for the purpose authorized for such fund.

C. Whenever purchases are made pursuant to this section, the City Manager shall promptly inform the Council as to the nature and amount.

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 Old City Hall, 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.

\*\*\*\*\*

ATTACHMENT 2

ORDINANCE NO: 7,035-N.S.

AMENDING BERKELEY MUNICIPAL CODE SECTION 7.18.010 REGARDING EXPENDITURES FOR SERVICE CONTRACTS TO INCREASE CITY MANAGER'S AUTHORITY

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

Section 1. That Berkeley Municipal Code Section 7.18.010 is amended to read as follows:

Section 7.18.010 Expenditures pursuant to Chapter Article XI, Sections 67 and 67.5.

A. Except as otherwise provided in this Title, expenditures pursuant to Article XI, Sections 67 and 67.5 of the Charter of the City of Berkeley, which exceed the amount of \$50,000 shall require Council approval.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on April 22, 2008, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Anderson, Capitelli, Maio, Moore, Olds, Wozniak and Bates.

Noes: Spring and Worthington.

Absent: None.

At a regular meeting of the Council of the City of Berkeley held on May 6, 2008, this Ordinance was adopted by the following vote:

Ayes: Anderson, Capitelli, Maio, Moore, Olds, Wozniak and Bates.

Noes: Spring and Worthington.

Absent: None.

ATTEST: [Signature] Deanna Despain, Deputy City Clerk

[Signature] Tom Bates, Mayor

Date signed: [Signature]

A.R. NUMBER: 3.9  
ORIGINAL DATE: 07/94  
POSTING DATE: 11/3/16  
PAGE 1 of 9 PAGES

# CITY OF BERKELEY ADMINISTRATIVE REGULATIONS

**SUBJECT: Attendance and Payment of Expenses Associated with  
Conferences, Meetings, Seminars, Trainings, and Workshops**

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## PURPOSE

To establish policies and procedures for City staff to obtain approval to attend conferences, meetings, seminars, trainings, and workshops; and to establish procedures for the City's direct payment of authorized expenses incurred by an individual for attendance at an approved event or meeting. Obtaining approval of an Attendance & Travel (A&T) Request for an event or meeting, along with associated expenses, ensures that appropriate supervisors and Department Directors have determined an employee's attendance at an event or meeting benefits the City, and that expenses are consistent and in line with the department's adopted budget.

This Administrative Regulation (AR) also complements **Resolution No. 66,295, City Council Expenditure and Reimbursement Policies** for the Mayor and Council (Attachment B); and **Resolution No. 63,413, Establishing Travel and Training Reimbursement Policy for Board and Commission Members** of the Rent Stabilization Board, Board of Library Trustees, and members of other boards or commissions (Attachment C).

## POLICY

It is the policy of the City Manager to authorize Department Directors and Supervisors to approve an employee's request to attend, and to receive payment for expenses associated with conferences, meetings, seminars, training, and workshops.

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## I. APPROVALS

**Note: Employee Must Submit and Obtain Approval for A&T Request before incurring any allowable expenses**

City Approval to attend and incur authorized expenses for an eligible event is based on the following factors:

- A. Expectation that the City will derive a specific benefit from staff attendance.
- B. Employee submission of the authorized A&T Request form (the current version in Groupware), and receipt of approval from her/his Supervisor &/or Department Director in advance of an authorized event, including approval for all associated expenses.
- C. All expenditures and reimbursements for the Mayor and Council must adhere to Resolution No. 66,295 and be approved by the City Auditor.
- D. For routine and, or, recurring meetings an A&T Request must be submitted, approved, and on file in the department in advance of the initial date, and must be renewed annually for each fiscal year.
- E. Department Directors are to complete and submit an A&T Request; no other signature is required for approval.
- F. Exceptions to use of the A&T Request form are: Mayor, Council, and Legislative Assistants (when allowed under Resolution No. 66,295); and members of the Rent Stabilization Board, and Board of Library Trustees. Resolution No. 66,295 or Resolution No. 63,413 governs their approvals, expenditures, and related matters.
- G. Expenditures are provided for in the adopted budget for the employee's department. For specific procedures, see item III. Allowable Expenses.

## II. EXPENDITURES BASICS

Expenditures must be documented in accordance with all related City ARs and other associated policies, using current forms (published in Groupware), including and not limited to:

- AR 3.4 Purchasing Manual: Employees and Mayor/Council must make full use of the City's Procurement procedures and submit purchase requisitions to generate payment for registration prior to travel. Note: Expenses for Board/Commission members and other non-staff or elected officials eligible to attend an event pursuant to the standards in Resolution No. 63,413 must have payments processed by the designated board or commission Secretary, using FN-024 Payment Vouchers through Accounts Payable.
- AR 3.14 FN-024 Voucher Processing
- AR 7.2 Use of Private Vehicles and Mileage Reimbursement
- Auto Record for Mileage Reimbursement: for further details, see AR 7.2 and Transportation: Private Vehicle, below.

- City Council Resolution No. 66,295 City Council Expenditure and Reimbursement Policies.
- City Council Resolution No. 63,413 Establishing Travel and Training Reimbursement Policy for Board and Commission Members.

In addition:

- Statement of Expense forms and receipts, for reconciliation of an advance &/or reimbursement of expenses incurred, must be submitted to Finance – Accounts Payable within 60 calendar days (30 days for Council/Commission, unless revised) after conclusion of the event. Statement of Expense forms and receipts submitted after this date may not be processed, and individuals assume full, personal responsibility for the costs they incurred.
- Advances or reimbursements to an employee are restricted to expenses for that employee only – they may not cover the expenses of any other employee. Exception to this restriction is for reimbursements only of expenses for Mayor and Council and their Legislative Assistants.

See item V. Advance Payments and Reconciliation.

### III. ALLOWABLE EXPENSES

Expenditures should adhere to the following guidelines. In the event that expenses are incurred that exceed these guidelines, the cost borne or reimbursed by the City will be limited to those that fall within these guidelines, unless approved by an appropriate, designated authority. Proof of payment for all expenses must be provided when reconciling the Statement of Expense form, except as indicated.

- A. **Registration:** Registration fee charged for an authorized conference, meeting, seminar, training or workshop is allowable. Employees should register in a timely manner to take advantage of registration discounts. Payments can be made by Purchase Orders (PO). See also: Payments by Check Using a Purchase Order, below.
- B. **Transportation:** Employees must use the most economical mode and class of transportation reasonably consistent with scheduling needs, coordination with other employees traveling together, and cargo space requirements, and following the most direct and time-efficient route incorporating these factors. If an employee chooses a more expensive mode of travel based on personal criteria, reimbursement will be for the lesser cost of transportation.
  1. **Public Transit** should be used for travel to events and meetings outside the City of Berkeley and in other locations, where accessible by transit. Receipts are not required for these expenses.
  2. **Fleet Vehicle:** see AR 7.1 Use of Fleet Vehicles for details.
  3. **Private Vehicle:** see AR 7.2 Use of Private Vehicles & Mileage Reimbursement for details. If use of a private vehicle is authorized, mileage is reimbursed at IRS



rates currently in effect, in addition to parking fees, bridge and road tolls, which are also reimbursable.

- Unless an alternative is proposed by a department and acceptable to Accounts Payable, expenses for approved use of a private vehicle should be submitted with other expenses associated with attendance at an authorized event or meeting on the Statement of Expense.
4. **Rental Vehicle** charges may be reimbursed under this provision with Department Director approval. Rental fees, receipted fuel expenses, and authorized parking fees, **bridge and road tolls will be reimbursed**.
  5. **Air/Train** fares for reimbursement under this policy should be the most economical and reasonable amount available after the Attendance and Travel Request is approved.
  6. **Travel to/from Airports: Employees will be reimbursed for the most economical and** appropriate means; if there's any question about this, obtain department approval before incurring the expense.
  7. **Taxi or Shuttle** fares may be reimbursed with receipts.
- C. **Lodging:** Cost of accommodations will be reimbursed or paid for when travel on official City business reasonably requires an overnight stay.
1. When travel status is more than twelve (12) hours; or when the location is more than 50 miles from the employee's worksite and residence based on odometer, MapQuest or other reliable documentation; or when an event begins before 8:00am or ends after 5:00pm and a documented evening event requires the employee's attendance.
  2. If lodging is associated with a conference, employees should register in a timely manner to take advantage of discounts or conference rates. Lodging expenses that exceed the group rate published by the conference sponsor must be approved by an appropriate, designated authority.
  3. For non-conference lodging, travelers must request government rates, when available and must be authorized by Department Director.
  4. Costs to upgrade rooms from the basic accommodations provided are not reimbursable, unless authorized by the Department Director.
- D. **Meals: Meals are reimbursable only if travel status is over twelve hours or requires overnight lodging.**
1. **Meal expenses**, including non-alcoholic beverages, tax, and tips, are reimbursable up to a total per diem of \$51: the amounts per meal are \$10 breakfast; \$15 lunch; \$26 dinner; and receipts are not required. Expenses above the authorized amounts are the responsibility of the employee.
  2. **Breakfast &/or evening meetings with meals**, which are scheduled before conferences or meetings commence, or after they adjourn, and that require the employee's attendance, will be considered for reimbursement when

documentation is submitted reflecting the requirement of the employee's attendance for the meeting and location.

3. **Meals included with registration or lodging that are taken at additional expense** will only be considered for reimbursement at the authorized per diem by approval of the Department Director when documentation is submitted reflecting the necessity of this expense, such as:
  4. **Meals during approved travel time** to/from an event or meeting destination may be reimbursable with approval by the employee's Department Director, at the authorized amount for the individual meal(s) (see Meal expenses, above).
  5. **NOTE:** Business meals with other employees, commissioners or elected officials of the City of Berkeley are specifically NOT reimbursable. Exceptions for Mayor and Council must be reviewed and approved by the City Auditor. City funds may also NOT be used for expenses related to holiday activities or other office parties or events, unless exempted by AR 3.3.
- E. **Other Travel Related Expenses:** Expenses for which City staff or officials receive reimbursement from another agency are not reimbursable.

#### IV. PAYMENTS BY CHECK USING A PURCHASE ORDER

Generally, General Services – Procurement will process a PO within three working days, and a check could be issued in the next AP check run. It is the department responsibility to notify Procurement staff when the requisition is approved to ensure timely processing of the PO in order to issue the check promptly. Departments may have internal procedures that require additional time, and employees are expected to familiarize themselves with these internal deadlines.

- A. Expenses for registration should be paid by check using a Purchase Order (PO). This includes online registration when "pay by check" is an option.
- B. Use of an employee's credit card or personal check for registration is only permitted and eligible for reimbursement when time does not permit issuing a City check for payment, and is approved by the Department Director.
- C. Resolution No. 66,295 or Resolution No. 63,413 governs any exceptions for Mayor and Council, or for the Rent Stabilization Board or Board of Library Trustees.
- D. Expenses for accommodations, if lodging is included in the event package, should be paid with the registration fee using a Purchase Order (PO).

#### V. ADVANCE PAYMENTS & RECONCILIATION

An approved A&T Request is required for any request for an advance. Advances are extended only to employees in classifications that are not included on the list of **Classifications NOT eligible for advances**. Advances are limited to approved air/train fare and lodging only.

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In addition:

- Registration or meals, and other transportation expenses may not be advanced to any employee.
- Advances to an employee are restricted to expenses for that employee only – they may not cover the expenses of another employee.
- Departments must maintain a Tracking Worksheet that documents employees' advance requests and reconciliations. These Worksheets must be submitted to the Auditor's Office by the 10<sup>th</sup> working day of each calendar quarter (January, April, July, October), along with copies of correspondence to those employees who have advance reconciliations outstanding. The Auditor's Office will review departmental travel advance worksheets on a sample basis.
- If an advance is issued to an employee and the employee does not attend the event, whether due to personal circumstances, the event being cancelled, or the City intervened to cancel the employee's attendance, the employee must seek recovery of charges and remit the full refunded amount to the City.

**A. Requesting an Advance**

1. Requests for an advance must be submitted to Finance – Accounts Payable at least 10 working days before the event start date. Employees are expected to familiarize themselves with any additional internal deadlines or procedures their departments may require.
2. Requests for an advance must include:
3. Approved Attendance and Travel Request, with documentation showing dates and time, and rates offered for travel and accommodations, including meals provided with the event.
4. Completed FN-024 Payment Voucher (current version on Groupware) with required signatures of approval and all specified back-up documentation. See AR 3.14 for details.

**B. Reconciling an Advance**

1. Each travel advance must be reconciled before an employee can request another; employees are not eligible for multiple advances.
2. Attendance must be documented in the form of a receipt, sign in sheet, or certificate of attendance.
3. Employees must submit a Statement of Expense and receipts to appropriate department staff within 60 calendar days of conclusion of the event (30 days for Council/Commission, unless revised). Statement of Expense forms and receipts submitted after this date may not be processed, and the employee assumes full, personal responsibility for the costs she/he incurred. If an employee fails to reconcile an advance within this timeframe, the City may take disciplinary action.

4. When an advance exceeds the expenses incurred, the employee is responsible for paying the difference by cash or check payable to the City of Berkeley for the balance at the time of reconciliation. Payment is submitted to the City Treasury and a copy of the CR edit report must be attached to the employee's Statement of Expense, in addition to all required original receipts.
5. When an advance is less than the expenses incurred, departments submit an FN-024 Payment Voucher payable to the employee for the difference, along with the employee's Statement of Expense and original receipts for expenses incurred.

## VI. EXPENSE REIMBURSEMENT

See Allowable Expenses, above, for expenses that qualify for reimbursement, and the acceptable rates and limitations for those expenses. To obtain reimbursement of approved expenses incurred:

- A. Employees must submit a completed FN-024 Payment Voucher, and Statement of Expense, and receipts to appropriate department staff within 60 calendar days after conclusion of the event. Statement of Expense forms and receipts submitted after this date may not be processed, and the employee assumes full, personal responsibility for the costs she/he incurred.
- B. Reimbursements to an employee are restricted to expenses for that employee only – they may not cover the expenses of another employee.
- C. Tips, except where documented, are not reimbursable.
- D. Reimbursements are processed by FN-024 Payment Voucher (see AR 3.14) and must include:
  1. Authorized signature/s (see AR 3.12).
  2. Attendance and Travel Request approved by Supervisor &/or Department Director.
  3. Documentation of attendance at the event or meeting (receipt, certificate, sign-in sheet).
  4. Statement of Expense, completed with all required original receipts.
  5. Auto Record for Mileage Reimbursement, if use of a private vehicle was authorized (see AR 7.2 for details and instructions) and these are the only expenses for reimbursement associated with the event.

## VII. OTHER EXCEPTIONS

Any exception not already identified within other sections of this AR must be submitted to, and approved by the employee's Department Director. For Mayor, Council, Legislative Assistants, Rent Stabilization Board or Board of Library Trustees, exceptions must be approved as set forth in the appropriate Resolution.

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Employees may request an exception to the reimbursement rules when original receipts, or other proof of payment such as a canceled check, cannot be provided to verify expenses. The Supervisor and Department Director (or designee) must approve requests for an exception that require the "Approval of Payment Exception" portion of the Statement of Expense and state the necessity for the exception. In addition, the Finance Director must also approve any payment exceptions.

**VIII. DEFINITIONS** (related to Attendance at Conferences, Workshops, Training, Seminars, Meetings)

**Advance**: Payment to an employee with an approved Attendance & Travel Request to purchase air/train travel and qualifying lodging reservations and incur expenses associated with attending the forthcoming event or meeting. See procedures for Requesting an Advance, and Reconciling an Advance.

**Event: Conference**: A gathering of persons associated with a professional, membership or support organization for discussing matters of common concern, which may include presentations, programs and exhibits related to municipal government &/or related functions.

**Event: Workshop, Training Session, or Seminar**: A usually brief intensive educational program for a relatively small group of people that focuses on techniques and skills in a particular field.

**Meeting: Non-Routine Meeting**: A formally arranged gathering for a common purpose that the City will derive a specific benefit from staff attendance.

**Meeting: Routine or Recurring Meeting**: A gathering that occurs in predictable intervals for a common purpose, where attendance is part of the employee's usual role and responsibilities.

**Overnight Stay**: Out-of-town accommodations (room and specified meals) required for an employee to attend an approved event or eligible meeting (see Allowable Expenses for details).

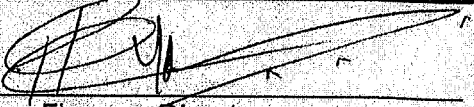
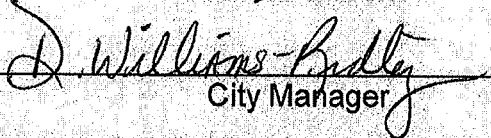
**Payment Documentation**: Documentation is required to provide tangible proof of payment for approved goods or services, and usually specifies: issuer and receiver of receipt; date; purpose or commodity; and dollar amount of the expense. Acceptable back-up for reimbursable expenses includes: original receipts, cancelled checks (copies of front and back), proof of credit card charge and payment (receipt and copy of statement), and printed online payment confirmation with name and amount. Photocopies of receipts are not acceptable.

**Point of Origin**: Location, if other than Worksite, from which authorized travel may originate or to which travel may conclude, related to attendance at an approved event and calculation of expenses for reimbursement.

**Worksite**: Main office or work location where an employee usually performs her/his regular job duties with the City of Berkeley.

**IX. ATTACHMENTS/LINKS**

- A. Classifications NOT eligible for advances
- B. Resolution 66,295 (Mayor/Council Departments)
- C. Resolution 63,413 (Rent Board/Library Trustees)
- D. Attendance & Travel Request
- E. Statement of Expense
- F. AR 7.2 Use of Private Vehicles & Mileage Reimbursement
- G. Auto Record for Mileage Reimbursement
- H. FN-024 Payment Voucher

|                                                      |                                                                                                               |
|------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| <b>RESPONSIBLE DEPARTMENT:</b><br>Finance Department | Approved by:              |
| <b>TO BE REVIEWED/REVISED:</b><br>Every year         | _____<br><br>City Manager |

## Attachment A

| JOB CODE | REP UNIT | CLASSIFICATION TITLES<br>INELIGIBLE FOR A TRAVEL<br>ADVANCE | JOB CODE | REP UNIT | CLASSIFICATION TITLES<br>INELIGIBLE FOR A TRAVEL<br>ADVANCE |
|----------|----------|-------------------------------------------------------------|----------|----------|-------------------------------------------------------------|
| 1350     | M        | Accounting Manager                                          | 1374     | Z1       | Economic Development Manager                                |
| 1317     | M        | Animal Services Manager                                     | 2923     | M        | Economic Development Project Mgr.                           |
| 1213     | Z1       | Assistant City Attorney                                     | 1417     | Z1       | Emergency Services Manager                                  |
| 1118     | Z1       | Assistant City Manager                                      | 1402     | Z1       | Employee Relations Officer                                  |
| 8174     | Z1       | Assistant Fire Chief                                        | 1426     | M        | Energy Officer                                              |
| 1801     | Z1       | Assistant to the City Manager                               | 1348     | M        | Equipment Superintendent                                    |
| 1301     | Z1       | Audit Manager                                               | 1121     | Z5       | Executive Director of Rent Board                            |
| 1323     | Z1       | Budget Manager                                              | 1344     | M        | Facilities Maintenance Superintendent                       |
| 1306     | M        | Building and Safety Manager                                 | 8155     | B        | Fire Apparatus Operator EMT                                 |
| 1320     | Z1       | Capital Improvement Programs Manager                        | 8167     | B        | Fire Captain EMT                                            |
| 1107     | Z1       | City Attorney                                               | 1105     | Z1       | Fire Chief                                                  |
| 1102     | Z1       | City Auditor                                                | 8158     | B        | Fire Lieutenant EMT                                         |
| 1120     | Z1       | City Clerk                                                  | 8164     | B        | Fire Lieutenant Training EMT                                |
| 1101     | Z1       | City Manager                                                | 8160     | B        | Fire Prevention Inspector I EMT                             |
| 1315     | M        | Customer Services Manager                                   | 8161     | B        | Fire Prevention Inspector II EMT                            |
| 2303     | Z2       | Deputy City Attorney II                                     | 1418     | Z1       | Fire Prevention Manager                                     |
| 2311     | Z2       | Deputy City Attorney III                                    | 1321     | M        | General Services Manager                                    |
| 1366     | Z1       | Deputy City Auditor for Payroll Mgmt.                       | 1377     | M        | Hazardous Materials Manager                                 |
| 1219     | Z1       | Deputy City Clerk                                           | 1223     | Z1       | Health Officer                                              |
| 1103     | Z1       | Deputy City Manager                                         | 1224     | Z1       | Health Officer (Cert)                                       |
| 1227     | Z1       | Deputy Director of Finance                                  | 1363     | M        | Housing Authority Manager                                   |
| 1229     | Z1       | Deputy Director of Health & Human Services                  | 1352     | M        | Housing Services Manager                                    |
| 1211     | Z1       | Deputy Director of Library Services                         | 1380     | Z1       | Human Resources Manager                                     |
| 1228     | Z1       | Deputy Director of Parks, Recreation & Waterfront           | 1221     | Z1       | Information Systems Manager                                 |
| 1230     | Z1       | Deputy Director of Planning                                 | 1354     | M        | Land Use Planning Manager                                   |
| 1205     | Z1       | Deputy Director of Public Works                             | 1803     | Z5       | Library Building Project Manager                            |
| 1209     | Z1       | Deputy Director of Public Works (Reg)                       | 1466     | Z2       | Library Financial Manager                                   |
| 1204     | Z1       | Deputy Fire Chief                                           | 1465     | Z5       | Library Network Administrator                               |
| 8182     | B        | Deputy Fire Marshal EMT                                     | 1373     | M        | Manager of Economic Development                             |
| 1203     | Z1       | Deputy Police Chief                                         | 1310     | M        | Manager of Engineering                                      |
| 1123     | Z1       | Director of Community Development                           | 1368     | M        | Manager of Environmental Health                             |
| 1104     | Z1       | Director of Finance                                         | 1360     | M        | Manager of Health Promotion                                 |
| 1125     | Z1       | Director of Health and Human Services                       | 1339     | M        | Manager of Mental Health Services                           |
| 1126     | Z1       | Director of Housing                                         | 1362     | M        | Manager of Program Planning and Administration              |
| 1108     | Z1       | Director of Human Resources                                 | 8186     | Z1       | Paramedic Program Supervisor                                |
| 1127     | Z1       | Director of Information Technology                          | 8111     | B        | Paramedic Supervisor I                                      |
| 1115     | Z1       | Director of Library Services                                | 8113     | B        | Paramedic Supervisor II                                     |
| 1112     | Z1       | Director of Parks, Recreation & Waterfront                  | 1327     | M        | Parking Services Manager                                    |
| 1124     | Z1       | Director of Planning                                        | 1332     | M        | Parks Superintendent                                        |
| 1111     | Z1       | Director of Public Works                                    | 1326     | M        | Planning Manager                                            |

| JOB CODE | REP UNIT | CLASSIFICATION TITLES INELIGIBLE FOR A TRAVEL ADVANCE | JOB CODE | REP UNIT | CLASSIFICATION TITLES INELIGIBLE FOR A TRAVEL ADVANCE |
|----------|----------|-------------------------------------------------------|----------|----------|-------------------------------------------------------|
| 1307     | M        | Disability Programs Manager                           |          |          |                                                       |
| 8148     | E        | Police Captain                                        | 1353     | M        | Revenue Collection Manager                            |
| 1110     | Z1       | Police Chief                                          | 2716     | Z2       | Senior Human Resources Analyst                        |
| 8145     | F        | Police Inspector                                      | 1325     | M        | Seniors Program Administrator                         |
| 8147     | F        | Police Lieutenant                                     | 1314     | M        | Solid Waste and Recycling Manager                     |
| 1473     | Z1       | Police Review Commission Officer                      | 2316     | Z2       | Staff Attorney II                                     |
| 8142     | F        | Police Sergeant                                       | 2317     | Z2       | Staff Attorney III                                    |
| 2458     | Z1       | Psychiatrist Supervisor                               | 1404     | M        | Supervising Civil Engineer                            |
| 1322     | M        | Public Safety Business Manager                        | 1476     | M        | Supervising Systems Analyst                           |
| 1312     | M        | Public Works Maintenance Superintendent               | 1340     | M        | Supervising Traffic Engineer                          |
| 1475     | M        | Real Property Administrator                           | 2712     | Z2       | Training Officer                                      |
| 2890     | M        | Recycling Program Manager                             | 1369     | M        | Waterfront Manager                                    |
|          |          |                                                       |          |          |                                                       |



**RESOLUTION NO. 66,295–N.S.**

**CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICIES**

WHEREAS, each fiscal year, the City Council appropriates funds in the Mayor and Councilmember’s departmental budgets to cover the costs of Mayor and Council staff and non-personnel expenditures which are reasonable and necessary for the performance of the duties of Mayor and Councilmember; and

WHEREAS, the Council needs to ensure that the expenditures are incurred and paid in conformity with the requirements of the City Charter; and

WHEREAS, AB 1234, adopted in 2005 and codified as Government Code Sections 53232, et. seq., requires that all cities adopt an expense reimbursement policy for Mayor and Council expenses; and

WHEREAS, on July 25, 2006, the City Council adopted Resolution No. 63,412-N.S. to establish the expenditure and reimbursement policy required by state law; and

WHEREAS, the Councilmember Office Budget Relinquishment and Grant Policy generally falls under the purview of the existing City Expenditures and Expense Reimbursement for Mayor and Council.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Councilmember Office Budget Relinquishment and Grant Policy enumerated in Exhibit A is incorporated by reference into the policy for City Expenditures and Expense Reimbursement for Mayor and Council.

BE IT FURTHER RESOLVED that Resolution No. 63,412–N.S. and any amendments thereto are hereby rescinded.

BE IT FURTHER RESOLVED that the policy concerning City Expenditures and Expense Reimbursement for Mayor and Council departments is hereby adopted to read as follows:

**CITY EXPENDITURES AND EXPENSE REIMBURSEMENT FOR MAYOR AND COUNCIL DEPARTMENTS**

**I. City Expenditures for Mayor and Council**

The Mayor and Council members shall purchase all office supplies, office equipment, furniture, computers, or any other product, good, or service for the actual and necessary expense of their office in the manner normally applicable to all other purchases of goods and services by the City. Such expenses may include membership in organizations of elected officials and the purchase of newspapers and periodicals that provide information needed for the performance of official duties.

## II. Reimbursement of Actual and Necessary Expense of Office

The Mayor and Council members and their staff may be reimbursed for the actual and necessary expenses for the categories of activities set forth below under "Authorized Activities."

### A. Authorized Activities.

Travel, meals and/or other food, incidentals, and lodging incurred in connection with the following types of activities set forth below constitute authorized expenses, as long as the other requirements of this Resolution are fulfilled:

1. Communicating with representatives of local, regional, state and national government on City policy positions;
2. Attending educational seminars designed to improve officials' skill and information levels, provided that a brief report of such seminar shall be made by the Mayor and Council at a subsequent Council meeting;
3. Participating in local, regional, state and national organizations of cities whose activities affect the City's interests;
4. Recognizing service to the City (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost);
5. Attending City events; or events sponsored by organizations or entities whose activities affect the City's interests where the primary purpose of the event is to discuss subjects which relate to City business;
6. Implementing City approved policies;
7. Meals where the primary purpose of the meal is to conduct City-related business (other than simply meeting constituents) as long as the amount of such meal does not exceed the daily maximum as set forth in this Resolution and meets applicable federal and state standards as to when meal reimbursement may be allowed; and
8. Expenditures for these purposes approved in advance by a Mayor or Council member and undertaken by that person's staff.

Expenditures for all other activities require prior approval by the City Council and must meet an articulated municipal purpose that must be recited in the report proposing the expenditure and the resolution authorizing the expenditure. The policy for relinquishments and grants from Councilmember office budgets is enumerated in Exhibit A.

### B. Unauthorized Expenses

The following personal expenditures incurred by City officials shall not be reimbursed:

1. The personal portion of any trip, such as where the official is on his/her own vacation activities;
2. Political contributions or attendance at political or charitable events;
3. Family expenses, including partner's expenses when accompanying official on agency-related business, as well as children or pet-related expenses;
4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related

- expenses), or other recreational and cultural events;
- 5. Alcoholic beverages;
- 6. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
- 7. Personal losses incurred while on City business.

Any questions regarding the propriety of a particular type of expense should be resolved by the City Council before the expense is incurred.

### C. Particular Types of Authorized Expenditures Defined

To conserve City resources and keep expenses within community standards for public officials, expenditures should adhere to the following guidelines. In the event that expenses are incurred which exceed these guidelines, the cost borne or reimbursed by the City will be limited to the costs that fall within the guidelines.

1. **Registration.** Registration fee charged for any authorized convention, conference, seminar or meeting is reimbursable.
2. **Transportation.** The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. Charges for rental-vehicles may be reimbursed under this provision if more than one City official is attending an out of town conference, and it is determined that sharing a rental vehicle is more economical than other forms of transportation. In making such determination, the cost of the rental vehicle, parking and gasoline will be compared to the combined cost of such other forms of transportation. Government and group rates must be used when available.
3. **Airfare.** Airfares that are equal to or less than those available through the Enhanced Local Government Airfare Program offered through the League of California Cities, the California State Association of Counties and the State of California are presumed to be the most economical and reasonable for purposes of reimbursement under this policy. Reimbursement for travel must not exceed the rates available through the League program as published by the California Department of General Services.
4. **Automobile.** Automobile mileage is reimbursed at Internal Revenue Service rates presently in effect. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable. The Internal Revenue Service rates will not be paid for rental vehicles; only receipted fuel expenses will be reimbursed.
5. **Car Rental.** Rental rates that are equal or less than those published by the California Department of General Services shall be considered the most economical and reasonable for purposes of reimbursement under this policy.
6. **Taxis/Shuttles.** Taxis or shuttles fares may be reimbursed, including a 15 percent gratuity per fare, when the cost of such fares is equal or less than

- the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.
7. **Lodging.** Lodging expenses will be reimbursed or paid for when travel on official City business reasonably requires an overnight stay. If such lodging is in connection with a conference, lodging expenses must not exceed the group rates. If lodging at the conference rate is not available, reimbursement will be based on either the published conference rate or government rates as published by the Federal General Services Agency, whichever is greater. Where no conference rate is published, the reimbursement will be based on the government rate or the median rate listed on priceline.com or similar service, whichever is greater.
  8. **Meals.** Meal expenses and associated gratuities will be reimbursed at the rate set forth in Administrative Regulation 3.9.
  9. **Telephone/Fax/Cellular.** Council members will be reimbursed for actual telephone and fax expenses incurred on City business. Telephone bills should identify which calls were made on City business. For calls made on an official's personal cell phone, the official may obtain reimbursement for business calls based on the following formula: minutes used on public business divided by the total minutes allowed under a monthly plan, plus long-distances charges for those calls.
  10. **Airport Parking.** Airport parking must be used for travel exceeding 24-hours.
  11. **Other Travel Related Expenses.** Baggage handling fees of up to \$1 per bag and gratuities of up to 15 percent will be reimbursed. Expenses for which City officials receive reimbursement from another agency are not reimbursable.
  12. **Miscellaneous Office Products.** Notwithstanding the requirement in Section I, occasionally an elected officer or officer's staff may need to make an immediate small out of pocket purchase of office supplies that are normally ordered by the City for which payment is paid directly to the vendor. The City in accordance with the applicable City Manager Administrative Regulation concerning petty cash refunds may reimburse such purchases.

**D. Cash Advance Policy for Airfare and Hotel Only (per A.R, 3.9)**

From time to time, it may be necessary for an official to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such request for an advance should be submitted to the City Auditor, and copied to the City Manager, ten (10) working days prior to the need for the advance with the following information:

1. The purpose of the expenditure(s);
2. Whether the expenditure is for an authorized activity
3. The benefit to the residents of the City.
4. The anticipated amount of the expenditure(s) (for example, hotel rates, meal costs, and transportation expenses); and
5. The dates of the expenditure(s).

Any unused advance must be returned to the City within five (5) working days of the official's return, along with an expense report and receipts documenting how the advance was used in compliance with this expense policy.

**E. Expense Report Content and Submission Deadline**

1. A Statement of Expense must be completed, signed and submitted to the City Auditor for review and forwarding to the Finance Department for payment. The Statement of Expense must document that the expense in question met the requirements of this Resolution. For example, if the meeting is with a legislator, the local agency official should explain whose meals were purchased, what issues were discussed and how those relate to the City's adopted legislative positions and priorities.
2. Officials must submit their Statement of Expense reports to the Auditor's Office within 60 days of an expense being incurred, accompanied by receipts documenting each expense. Restaurant receipts, in addition to any credit card receipts, are also part of the necessary documentation. Receipts for gratuities and tolls under \$5 are not required.
3. Inability to provide such documentation in a timely fashion may result in the expense being borne by the official.

**F. Audits of Expense Reports**

All expenses are subject to verification by the City Auditor of compliance with this policy.

**G. Reports**

At the following City Council meeting, each official shall briefly report on meetings attended at City expense. If multiple officials attended, a joint report may be made.

**H. Compliance with Laws**

City officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act.

**I. Violation of This Policy**

Use of public resources or falsifying expense reports in violation of this policy may result in any or all of the following:

1. loss of reimbursement privileges;
2. a demand for restitution to the City;
3. the City's reporting the expenses as income to the elected official to state and federal tax authorities;
4. civil penalties of up to \$1,000 per day and three times the value of the resources used; and
5. prosecution for misuse of public resources.

\*\*\*\*\*

The foregoing Resolution was adopted by the Berkeley City Council on September 10, 2013 by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Tom Bates, Mayor

Attest:   
\_\_\_\_\_  
Mark Numainville, CMC, City Clerk

## **Councilmember Office Budget Relinquishment and Grant Policy**

### Introduction – Limitations on the Expenditure of Public Funds

The basic purpose of the City as an entity is to exist and function as a *municipality*. This is also reflected in the Charter, which limits the Council's powers only to those "municipal affairs adequate to a complete system of local government". (Section 38.)

Exercises of this power may not be used solely to further the interests of particular individuals, although they may incidentally benefit private interests:

The exercise of the police power is available only for the purpose of promoting the general welfare, the interests of the public as distinguished from those of individuals or persons. It cannot be used to promote private gain or advantage, except so far as the same may also promote the public interest and welfare, and it is the latter, and not the former, effect which forms the basis of the power and warrants its exercise.  
(*Binford v. Boyd* (1918) 178 Cal. 458, 461.)

The Council's basic powers circumscribe its ability to spend public funds. In other words, the Council cannot spend public funds for purposes that are beyond its authority in the first place. Thus the City may only use its funds for municipal purposes. In any given case the crucial inquiry is whether an expenditure serves such a purpose.

The determination of what constitutes a public purpose is primarily a matter for the legislature, and its discretion will not be disturbed by the courts so long as that determination has a reasonable basis.  
(*County of Alameda v. Carlson* (1971) 5 Cal.3d 730, 745-746.)

If the courts find that there is a valid public purpose, they next examine whether the government's actions are reasonably related to effectuating this purpose. (*Tip Top Foods, Inc. v. Lyng* (1972) 28 Cal.App.3d 533, 541.) Public appropriations granted to private interests will not be considered unlawful diversions of public funds when the transaction serves the public interest, merely granting an incidental benefit to the private individual. (*Cane v. City and County of San Francisco* (1978) 78 Cal.App.3d 654, 660.)

### Criteria for Grants of City Funds from Councilmember Office Budgets

Relinquishments and grants for purposes and recipients that fall within the categories listed in Table 1 may be "pre-approved" each fiscal year by Council resolution.

Table 1.

| <b>Recipient</b>                                                                                                                                | <b>Purpose</b>                                                                                                                                                                                                                                                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The City (e.g., the Berkeley Public Library, the Berkeley Animal Shelter)                                                                       | Any purpose already being undertaken, because it already serves a public purpose. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.                                                                                              |
| BUSD and other public agencies operating in Berkeley                                                                                            | Any purpose already being undertaken, because it already serves a public purpose, assuming the activity is in Berkeley. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.                                                        |
| Entities with which the City is co-sponsoring a public event in Berkeley (e.g., Earth Day, Solano Stroll).                                      | City co-sponsorship suggests but is not conclusive of public purpose; public purpose would need to be stated, and all such events should be open to the public at no cost. Alternatively, a list of ongoing events that have been determined to serve a public purpose could be developed. |
| Entities in Berkeley to which the City already contributes funds for municipal purposes (e.g., affordable housing or social service nonprofits) | To advance the same public purposes for which the entities are funded. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.                                                                                                         |

Proposed relinquishments and grants that do not meet the criteria for pre-approval, but that meet an appropriate municipal purpose, may be approved by resolution with a majority vote of the City Council.



RESOLUTION NO. 63,413-N.S.

ESTABLISHING TRAVEL AND TRAINING REIMBURSEMENT POLICY FOR  
BOARD AND COMMISSION MEMBERS

WHEREAS, AB 1234, a new state law, requires that all cities adopt an expense reimbursement policy before a legislative body member may receive reimbursement for necessary expenses of office; and

WHEREAS, the Rent Stabilization Board and Board of Library Trustees occasionally authorize their Board members to attend specific training seminars and meetings which are designed to facilitate the Board members' performance of their duties; and

WHEREAS, the City Manager will occasionally authorize the use of City funds for a board or commission member from other boards or commissions to attend training programs or conferences designed to improve that official's skill and information level; and

WHEREAS, the Council has adopted an Expenditure and Reimbursement Policy for the Council and Mayor that sets forth those travel and training expenses for which Council will be reimbursed.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the following policy is adopted for reimbursement of board and commission members for travel and training expenses.

**TRAVEL AND TRAINING REIMBURSEMENT FOR BOARDS/COMMISSIONS**

**A. Authorized Activities.**

Travel, meals and lodging incurred in connection with attending educational seminars designed to improve officials' skill and information levels constitute authorized expenses, as long as the other requirements of this Resolution are fulfilled. For members of most of the City's boards and commission, other than the Board of Library Trustees and Rent Stabilization Board, such activities will occur only on rare occasions when approved by the City Manager and determined to be within the City's budget. The member of the body attending the educational event shall provide a brief report of the activity to the legislative body at a public meeting subsequent to the seminar. The Rent Stabilization Board may also receive travel meals and lodging incurred in connection with communicating with representatives of local, regional, state and national government on Board policy positions to the extent permitted by the Board.

**B. Unauthorized Expenses**

The following personal expenditures incurred by City officials shall not be reimbursed:

1. The personal portion of any trip, such as where the official is on his/her own vacation activities;
2. Political contributions or attendance at political or charitable events;

3. Family expenses, including partner's expenses when accompanying official on agency-related business, as well as children or pet-related expenses;
4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related expenses), or other recreational and cultural events;
5. Alcoholic beverages;
6. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
7. Personal losses incurred while on City business. Any questions regarding the propriety of a particular type of expense should be resolved by the City Council before the expense is incurred.

**C. Particular Types of Authorized Expenditures Defined**

To conserve City resources and keep expenses within community standards for public officials, expenditures should adhere to the following guidelines. In the event that expenses are incurred which exceed these guidelines, the cost borne or reimbursed by the City will be limited to the costs that fall within the guidelines.

1. **Registration.** Registration fee charged for any authorized convention, conference, seminar or meeting is reimbursable.
2. **Transportation.** The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. Charges for rental-vehicles may be reimbursed under this provision if more than one City official is attending an out of town conference, and it is determined that sharing a rental vehicle is more economical than other forms of transportation. In making such determination, the cost of the rental vehicle, parking and gasoline will be compared to the combined cost of such other forms of transportation. Government and group rates must be used when available.
3. **Airfare.** Airfares that are equal to or less than those available through the Enhanced Local Government Airfare Program offered through the League of California Cities, the California State Association of Counties and the State of California are presumed to be the most economical and reasonable for purposes of reimbursement under this policy.
4. **Automobile.** Automobile mileage is reimbursed at Internal Revenue Service rates presently in effect. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable. The Internal Revenue Service rates will not be paid for rental vehicles; only receipted fuel expenses will be reimbursed.
5. **Car Rental.** Rental rates that are equal or less than those available through the State of California's website (<http://www.catravelmart.com/default.htm>) shall be considered the most economical and reasonable for purposes of reimbursement under this policy.


6. **Taxis/Shuttles.** Taxis or shuttles fares may be reimbursed, including a 15 percent gratuity per fare, when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.
7. **Lodging.** Lodging expenses will be reimbursed or paid for when travel on official City business which reasonably requires an overnight stay. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question. Travelers must request government rates, when available. In the event that government rates are not available at a given time or in a given area, lodging rates that do not exceed the IRS per diem rates for a given area are presumed reasonable and hence reimbursable.
8. **Meals.** Meal expenses and associated gratuities should be moderate, taking into account community standards and the prevailing restaurant costs of the area. A helpful source of guidance is Internal Revenue Service per diem rates for meals and incidental expenses, which include adjustments for higher costs locations (*see* Publication 1542 at [www.irs.gov](http://www.irs.gov) or [www.policyworks.gov/perdiem](http://www.policyworks.gov/perdiem)).
9. **Telephone/Fax/Cellular.** Officials will be reimbursed for actual telephone and fax expenses incurred on City business. Telephone bills should identify which calls were made on City business. For calls made on an official's personal cell phone, the official may obtain reimbursement for business calls based on the following formula: minutes used on public business divided by the total minutes allowed under a monthly plan, plus long-distances charges for those calls.
10. **Airport Parking.** Airport parking must be used for travel exceeding 24-hours.
11. **Other Travel Related Expenses.** Baggage handling fees of up to \$1 per bag and gratuities of up to 15 percent will be reimbursed. Expenses for which City officials receive reimbursement from another agency are not reimbursable.

The foregoing Resolution was adopted by the Berkeley City Council on July 25, 2006 by the following vote:

Ayes: Councilmembers Anderson, Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak and Mayor Bates.

Noes: None.

Absent: None.

Attest:   
Sherry M. Kelly, City Clerk

  
\_\_\_\_\_  
Tom Bates, Mayor

**CITY OF BERKELEY  
ADMINISTRATIVE REGULATIONS**

**A.R. NUMBER: 3.14**  
**ORIGINAL DATE: 03/01/96**  
**POSTING DATE: 08/30/07**  
**PAGE 1 of 7 PAGES**

**SUBJECT: FN-024 Voucher Processing**

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**PURPOSE**

This AR establishes criteria and procedures for payments using an FN-024.

**POLICY**

It is the policy of the City Manager that an FN-024 Payment Vouchers (see Groupware – Finance) is limited to making payments for the following purposes.

- A. City Employees, Mayor and Councilmembers, Commissioners<sup>1</sup>, or Library Trustees:
1. Employee travel advances and reimbursements (see AR 3.9 and forms in Groupware – Finance)
  2. Employee reimbursements for authorized use of a private vehicle (see AR 7.2 &/or AR 3.19 in process and form Auto Record for Mileage Reimbursement published in Groupware – Finance)
  3. Mayor and Council reimbursement for authorized expenses<sup>2</sup> (see Resolution 63,412-NS)
  4. Commissioner and Library Trustee<sup>3</sup> payments <sup>Note</sup> (see AR 3.2 for eligibility criteria; and Resolution 63,413-NS)
- B. Refunds
- C. Other Designated Payments:
1. State and Federal taxes
  2. Loan repayment
  3. Various payments associated with payroll and employee benefits
  4. Certain 1-time miscellaneous items under \$5,000
  5. Police Department Special Enforcement Unit Cash Fund (Special Investigative Bureau/SIB)\*

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<sup>1</sup> “Commissioner” includes Rent Stabilization Board Commissioners for reimbursements or other approved payments.

<sup>2</sup> Requires review by the City Auditor; SIB reimbursement payment also requires approval by City Auditor.

<sup>3</sup> These payments to Commissioners (not including Rent Board) and Library Trustees, are for “... authorized payment in lieu of expenses to members of all Council-appointed boards, commissions, committees, task forces and joint subcommittees who meet certain criteria ...” See AR 3.2 for complete details.

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All other goods and services, including subscriptions and membership dues, must be paid by Purchase Order (see AR 3.4 and the online Purchasing Manual). The Director of Finance must approve any exceptions before purchases are made on behalf of the City.

See AR 3.3, Petty Cash Accounts and forms in Groupware – Finance, for reimbursement for purchases \$50 and under.

### **PROCEDURE**

These steps take you through how to make correct entries and complete an FN-024 Payment Voucher; note that WORDS PRINTED LIKE THIS designate a field for your entries on the Voucher form.

- FN-024 Payments
- Payments to City Employees, Elected Officials, or Qualifying Commissioners
- Payments for Refunds
- Other Designated Payments
- Additional Instructions for all FN-024 Payment Vouchers
- Check Printing & Disbursement
- Related items on Groupware – Finance

### **FN-024 Payments**

Use FUNDS\$ GMBA Master Inquiry [FUNDS\$ > 7 > 1 > 2] to confirm all vendor information, including the designated Name on Checks field displayed at the bottom of the FUNDS\$ screen.

1. For an existing vendor/payee: if there are any differences between the data in GMBA Vendor Master file and the remittance information: please notify Finance – General Services: go to Groupware > Finance > Procurement Materials & Forms: Vendor Information Application, and use this form to update/correct the vendor information, and submit it to General Services.
2. For any new vendor or payee: an original and signed Vendor Information Application and/or W-9 (as applicable for vendor/payment) must be on file with Finance – General Services. In the interim, fax a copy to General Services; then attach a copy of completed Vendor Application and/or W-9 to the FN-024; the signed original/s must be mailed within 3 days.
  - a. Vendor Information Application: go to Groupware > Finance > Procurement Materials & Forms: Vendor Information Application, and have the vendor/payee complete this form.
  - b. Tax Payer ID & Certification Form W-9, or go to <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.

### **Payments to City Employees, Elected Officials, Qualifying Commissioners, or Library Trustees**

#### **A. Vendor Information**

1. VENDOR NAME: enter the name of individual, followed by "EMPLOYEE," "MAYOR," "COUNCIL," "COMMISSIONER," "RENT BOARD" or "LIBRARY TRUSTEE," as applicable, and highlight the individual's designation.

- 
2. VENDOR NO.: enter the number for the individual, as found in FUNDS\$ GMBA Vendor Master Inquiry.
  3. ADDRESS: enter the department and division of payee or Commissioner's mailing address.
  4. Payments to employees, Mayor and Council must be picked up from AP: complete the line for Pick Up Check at AP as instructed under the section Check Printing & Disbursement, below.  
Payments to qualifying Commissioners<sup>4</sup> or Library trustees will be mailed. If payment will be picked up rather than mailed out, complete the line for Pick Up Check at AP as instructed under the section Check Printing & Disbursement, below.

NOTE: FN-024s for Mayor/Council official reimbursements, qualifying Commissioner stipends, and Library Trustees must be reviewed by the City Auditor prior to submitting to Accounts Payable for payment processing. SIB payments must be reviewed and approved by the City Auditor.

- B. Description & Purpose (FUNDS\$ limits this to approximately 25 characters per description field)
  1. DESCRIPTION 1: enter conference name, period/s of mileage reimbursement, or Board or Commission meeting date/s.
  2. DESCRIPTION 2: enter other applicable information, i.e., the reason a request for payment is being made on an FN-024, rather than a Purchase Order.
- C. Invoice Information
  1. INVOICE #: enter conference invoice # or date/s. (FUNDS\$ limit of approximately 15 characters)
  2. INVOICE DATE: for advances or reimbursements to an employee, Mayor, Councilmember or Commissioner\*, enter the date of the conference or the last date of the reimbursement period.

### Payments for Refunds

- A. Vendor Information
  1. VENDOR NAME: enter payee name followed by "MISC REFUND" and **highlight** it.
  2. VENDOR NO.: enter the assigned miscellaneous vendor number.
  3. ADDRESS: enter the payee mailing address.
  4. Requests for refunds that include deductions for fees should clearly state the original amount paid to the City, the reason for the deduction, and the balance for the refund owed to payee.
  5. Original receipts must be submitted for a refund. If an original receipt is not available, a completed and signed Customer Request for Refund Without Receipt must be attached.
- B. Description & Purpose (FUNDS\$ limits this to approximately 25 characters per description field)
  1. DESCRIPTION 1: enter nature of purchase or service.

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<sup>4</sup> Including members of the Rent Stabilization Board for reimbursements or other approved payments.

2. DESCRIPTION 2: enter other applicable information, i.e., the reason a request for refund is being made.

C. Invoice Information

1. INVOICE #: for refunds, use the receipt number. (FUND\$ limit of approximately 15 characters)
2. INVOICE Date: for refunds, enter the original payment date from the original receipt.

**Other Designated Payments** (see list under Policy on 1<sup>st</sup> page)

A. Vendor Information

**FIRST** – For all FN-024 Payments: follow instructions for the initial procedure, above. Then:

1. VENDOR NAME: enter the payee name as it appears in FUND\$ GMBA Master Inquiry.
2. VENDOR NO.: enter the vendor # as it appears in FUND\$ GMBA Master Inquiry.
3. ADDRESS: when correct information is confirmed or corrected in GMBA, this can be blank.

B. Description & Purpose (FUND\$ limits these to approximately 25 characters per description field)

1. DESCRIPTION 1: enter nature of purchase or service.
2. DESCRIPTION 2: enter other applicable information, i.e., the reason a request for payment is being made on an FN-024, rather than a Purchase Order.

C. Invoice Information

1. INVOICE #: enter exactly as it appears on the vendor invoice, with dashes, hyphens, etc; if there is no invoice number, use the statement date as the invoice number (FUND\$ has a limit of approximately 15 characters).
2. INVOICE Date: enter the invoice or statement date.

**Additional Instructions for all FN-024 Payment Vouchers**

A. Account Codes & Project Code

1. Prior to submitting an FN-024, departments must confirm the account codes and project code used are active, correct for the expenditure, and have sufficient, unencumbered balances.
2. If needed, departments must process any budget adjustments prior to submitting the FN-024.
3. Accounts Payable will return FN-024s to departments for inactive budget or project codes, and/or improper budget codes, or insufficient funds.

B. Authorized Signatures

Each department must complete an Authorized Signatures Card with the designated staff authorized to approve invoices and FN-024s (see AR 3.12 and the Authorized Signatures Card form on Groupware – Finance). When there are changes in personnel authorized to approve an FN-024, the Authorized Signatures Card must be updated with Accounts Payable. 1.

PREPARED BY: signature of the person responsible for completing the FN-024.

- 
2. **AUTHORIZED DEPT SIGNATURE:** must be signed by authorized personnel, as reflected by the Authorized Signatures Card currently on file with Accounts Payable. FN-024s signed by unauthorized personnel will be returned.
- C. Limitations & Justification for 1-time Miscellaneous Items
1. A 1-time request for payment made on an FN-024, which would otherwise be made using a Purchase Order, means 1-time ever – not once a year or once-in-awhile. 1-time requests are only allowed for payments less than \$5,000.
  2. If a request for payment is being made on an FN-024 that would otherwise be made using a Purchase Order, there must be a justification provided on, or attached to, the FN-024. The Finance Director must approve the justification for use of an FN-024 prior to it being submitted for payment.
- D. Compiling the FN-024 Package: Form & Attachments
1. Place the FN-024 on top, with all required documentation stapled to the upper left-hand corner.
  2. If there is documentation required to be included with payment to the vendor, you must provide copies of this documentation, along with an envelope or mailing label addressed to the vendor. This is in addition to documentation required for Accounts Payable. Attach the documentation (duplicate copies and/or mailing stubs) to the upper right-hand corner.
  3. For payment of two or more items on a single FN-024, list each item separately, with its corresponding amount and account codes, on the FN-024. Attach an adding machine tape that totals the original items, and balances to the total on the FN-024.
  4. Employee reimbursements for authorized use of a private vehicle require an attached corresponding Auto Record for Mileage Reimbursement, available in Groupware. In addition, attach an adding machine tape totaling and balancing to the FN-024 for the period submitted.

### **Check Printing & Disbursement**

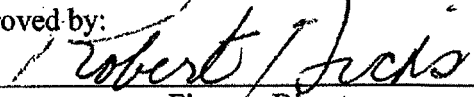

1. Checks are usually printed weekly on Thursdays. FN-024s received in Accounts Payable by 5:00pm Monday will be processed for printing that week. Changes to this schedule will be emailed to departmental AP processing personnel and/or posted on the City's intranet.
2. Vendor checks will be mailed; see Compiling the FN-024 Package: Form & Attachments for specific requirements. If payment will be picked up rather than mailed, see instructions below.
3. Employee, Mayor, and Council checks will be available to pick up at Accounts Payable after 4:00pm on Thursday.
4. Pick Up Check at Accounts Payable: If it's been indicated on the FN-024 that a designated person will pick up the check, a City employee may sign for and pick up vendor checks. However, vendors may not pick up checks themselves from Finance – Accounts Payable. If payment will be picked up by an employee, rather than mailed out, complete the line in the upper right hand side of the FN-024 for Pick Up Check at AP: enter and **highlight** the name of authorized person the payment may be released to. This employee will be notified by email when the check is available to be picked up from Finance – Accounts Payable.



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**EXCEPTIONS**

Any exceptions to this AR must be approved in writing by the Director of Finance.

|                                                      |                                                                                                                          |
|------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| <b>RESPONSIBLE DEPARTMENT:</b><br>Finance Department | Approved by:<br><br>Finance Director |
| <b>TO BE REVIEWED/REVISED:</b><br>Every year         | <br>City Manager                     |

**The following items are related to this AR, and can be found on Groupware – Finance:**

1. FN-024 Payment Voucher – Excel file
2. FN-024 Payment Voucher – PDF file
3. AR 3.12 Authorized Signatures for Invoices and FN-024 Payment Vouchers
4. Authorized Signatures Card
5. Vendor Information Application
6. Tax Payer ID & Certification Form W-9
7. Customer Request for Refund Without Receipt
8. Attendance & Travel Expense Forms – web page with links to individual forms



Fair Campaign Practices Commission

## ACTION CALENDAR

February 23, 2021

To: Honorable Mayor and Members of the City Council

From: Fair Campaign Practices Commission

Submitted by: Dean Metzger, Chairperson, Fair Campaign Practices Commission

Subject: Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

### RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to prohibit Officeholder Accounts (See [Section 18531.62. Elected State Officeholder Bank Accounts, Regulations of the Fair Political Practices Commission](#)).

### POLICY COMMITTEE RECOMMENDATION

On January 25, 2021, the Agenda and Rules Committee adopted the following action: M/S/C (Hahn/Arreguin) to refer the item to the Council with a qualified Positive Recommendation to take no action on the item, but to refer the concepts and materials to the Agenda & Rules Committee for discussion with representatives of the commission on the item entitled "Amendments to the Berkeley Election Reform Act (BERA) to Regulate Officeholder Accounts and Proposed Changes to City Council Office Budget Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)". Vote: All Ayes.

### SUMMARY

Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also a goal of the Fair Elections Act of 2016.

### FISCAL IMPACTS OF RECOMMENDATION

None.

### CURRENT SITUATION AND ITS EFFECTS

The proposed amendments to the Berkeley Election Reform Act (BERA) were adopted by the Fair Campaign Practices Commission (FCPC) at its regular meeting of November 21, 2019.

**Action:** M/S/C (Smith/Saver) to adopt the proposed amendments to BERA related to Officeholder Accounts.

**Vote:** Ayes: Metzger, Ching, Saver, Blome, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: O'Donnell (excused).

Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

ACTION CALENDAR  
February 23, 2021

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the “double green light” process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

### BACKGROUND

The Fair Campaign Practices Commission has supported creating the circumstances in which the incumbent and challengers during an election play on as level a playing field as possible and reducing the influence of private campaign contributions. For instance, the Berkeley Fair Elections Act of 2016, which was passed by voters and recommended to Council by the Commission, included the following express purposes:

- Eliminate the danger of actual corruption of Berkeley officials caused by the private financing of campaigns.
- Help reduce the influence of private campaign contributions on Berkeley government.
- Reduce the impact of wealth as a determinant of whether a person becomes a candidate.

(Section 2.12.490(B)-(D).)

A recent inquiry to the Commission Secretary regarding the regulation of Officeholder Accounts resulted in a request from a Commissioner to have discussion of these accounts placed on the May 16, 2019 agenda for possible action. The following motion was made and passed at that meeting:

Motion to request staff work with Commissioner Smith to bring to a future meeting background information and a proposal to eliminate officeholder accounts (M/S/C: O'Donnell/Blome; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

### **Definition of an Officeholder Account**

Under state law, an “officeholder account” refers to the funds held in a single bank account at a financial institution in the State of California separate from any other bank account held by the officeholder and that are used for “paying expenses associated with holding public office.” Officeholder Account funds cannot be used to pay “campaign expenses.” This definition is drawn from state law applicable to statewide elected officials: Government Code section 85316 (Attachment 2), and the accompanying regulation by the Fair Political Practices Commission (FPPC) codified at Title 2, Division 6, of the California Code of Regulations, [Section 18531.62](#) (Attachment 3).

Contributions to or expenditures from an Officeholder Account are not subject to BERA’s reporting requirements. (The FPPC still requires the reporting of activity relating to Officeholder Accounts, which is available to view on Berkeley’s [Public Access Portal](#).) If, however, a complaint is filed that an Officeholder Account is used for

campaign contributions or to pay “campaign expenses,” BERA can be used to respond to the complaint. The legal arguments for these statements are contained in a memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert, dated December 28, 1999 and a December 9, 1991 memorandum by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, that is attached to the December 28, 1999 memo. (Attachment 4.) Because the BERA provisions relied on in these memoranda have not been amended, and because no other BERA provisions have been added to regulate officeholder accounts, the memoranda’s conclusions remain valid and are still controlling guidance.

### **Contributions to Officeholder Accounts**

Funds raised for Officeholder Accounts in Berkeley are not subject to any limitations, either from the FPPC or BERA. Neither is there a limit on the total amount the Officeholder Account fund may receive in contributions per year. Contributions to an elected official’s Officeholder Account may put that contributor in a more favorable light with the elected official than might otherwise be the case.

### **Expenditures from Officeholder Accounts**

Except for the restriction that Officeholder Account funds cannot be used for “campaign expenses,” BERA does not restrict how funds from Officeholder Accounts can be used.

There are a number of permissible expenditures from Officeholder Accounts that could put an elected official in a favorable light with voters that are not available to a challenger for that office. A donation to a nonprofit organization, although technically not a “campaign expense,” would be seen favorably by those receiving the funds as well as individuals favorably disposed to the nonprofit organization receiving the funds. An individual running against this incumbent would have to draw on their own resources to make contributions to nonprofit organizations.

As long as political campaigns are not included, newsletters mailed to constituents related to events, information, or an officeholder’s position on matters before the Council are a permissible Officeholder Account expenditure. This keeps the incumbent’s name in front of the voter in a way unavailable to a challenger unless they pay for a newsletter and its distribution from their own resources.

Expenditures from Officeholder Account funds for flowers and other expressions of condolences, congratulations, or appreciation, while technically not “campaign expenses,” also increase the probability that the recipient will be favorably predisposed toward the elected official as a candidate for reelection or election to another office. Again, a challenger would have to draw on their own resources to express condolences, congratulations, or appreciation to their potential supporters.

Further, officeholder accounts can be used to pay for a broad range of office expenses, such as meals, travel, parking tickets, or contributions to other candidates or political parties.<sup>1</sup> Eliminating officeholder accounts would reduce reliance on and the influence of private contributions for these expenditures.

## Recommendation

To make elections more equitable between challengers and incumbent and for the reasons given above, the Fair Campaign Practices Commission recommends prohibiting Officeholder Accounts.

Berkeley will not be the first to prohibit Officeholder Accounts. The San Jose Municipal Code was amended to prohibit officeholder accounts in January 2008. ([Chapter 12.06 – ELECTIONS, San Jose, CA Code of Ordinances, p. 10](#))

### Part 8 - OFFICEHOLDER ACCOUNTS

#### 12.06.810 - Officeholder account prohibited.

No city officeholder, or any person or committee on behalf of a city officeholder may establish an officeholder account or an account established under the Political Reform Act, California Government Code Section 8100 et seq. as amended, for the solicitation or expenditure of officeholder funds. Nothing in this section shall prohibit an officeholder from spending personal funds on official or related business activities.

The following additions to BERA are proposed:

#### **2.12.157 Officeholder Account**

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

#### **2.12.441 Officeholder account prohibited**

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.

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<sup>1</sup> Under state law applicable to state elected officials, officeholders may use campaign contributions for “expenses that are associated with holding office.” (Govt. Code, § 89510.) To qualify, expenditures must be “reasonably related to a legislative or governmental purpose.” (*Id.*, § 89512.) “Expenditures which confer a substantial personal benefit shall be directly related to a political, legislative, or governmental purpose.” (*Ibid.*)

Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

PUBLIC HEARING  
January 21, 2020

- C. Anyone holding an active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account, in accordance with FPCC guidelines.

ENVIRONMENTAL SUSTAINABILITY

There are no identified environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

This proposed change to BERA will help to level the playing field between challengers and the incumbent running for elective office.

ALTERNATIVE ACTIONS CONSIDERED

A Subcommittee was formed to consider the options of (1) amending the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts, (2) amending BERA to mitigate possible advantages incumbents with an Officeholder Accounts have over challengers, or (3) doing nothing with regard to Officeholder Accounts. The four members of the Subcommittee recommended unanimously to the full Commission to amend the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts.

CITY MANAGER

The City Manager takes no position on the content and recommendations of this report.

CONTACT PERSON

Dean Metzger, Chair, Fair Campaign Practices Commission. 981-6998

Attachments:

- 1: Proposed Ordinance
- 2: Government Code section 85316
- 3: Section 18531.62 (Elected State Officeholder Bank Accounts), Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations
- 4: Memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert (including attached memorandum signed by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, to the FCPC)

ORDINANCE NO. ##,###-N.S.

OFFICEHOLDER ACCOUNT PROHIBITED; AMENDING BERKELEY MUNICIPAL CODE  
CHAPTER 2.12

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

Section 1. That Berkeley Municipal Code section 2.12.157 is added to read as follows:

**BMC 2.12.157 Officeholder account**

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

Section 2. That Berkeley Municipal Code section 2.12.441 is added to read as follows:

**BMC 2.12.441 Officeholder account prohibited**

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.
- C. This provision does not affect a candidate’s ability to establish a legal defense fund or the requirements for such a fund, as set forth in the Political Reform Act or by regulation.
- D. Any active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account.

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




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## GOVERNMENT CODE - GOV

**TITLE 9. POLITICAL REFORM [81000 - 91014]** ( Title 9 added June 4, 1974, by initiative Proposition 9. )

**CHAPTER 5. Limitations on Contributions [85100 - 85802]** ( Chapter 5 added June 7, 1988, by initiative Proposition 73. )

### ARTICLE 3. Contribution Limitations [85300 - 85321]

( Article 3 added June 7, 1988, by initiative Proposition 73. )

**85316.** (a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) No person shall make, and no elected state officer shall receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

(A) Three thousand dollars (\$3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars (\$5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars (\$20,000) in the case of the Governor.

(2) No elected state officer shall receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars (\$50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars (\$100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars (\$200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that he or she may seek during the term of office to which he or she is currently elected, including, but not limited to, reelection to the office he or she currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. None of the expenditures made by elected state officers pursuant to this subdivision shall be subject to the voluntary expenditure limitations in Section 85400.

(4) The commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100).

*(Amended by Stats. 2007, Ch. 130, Sec. 149. Effective January 1, 2008. Note: This section was added by Stats. 2000, Ch. 102, and approved in Prop. 34 on Nov. 7, 2000.)*

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

**§ 18531.62. Elected State Officeholder Bank Accounts.**

(a) Application and Definitions. For purposes of Section 85316(b) and this regulation, the following definitions apply:

(1) "Officeholder" means an elected state officer.

(2) "Officeholder controlled committee" means a committee formed pursuant to subdivision (c) of this regulation.

(3) "Officeholder account" means the bank account established at a financial institution located in the State of California pursuant to Section 85316(b).

(4) "Officeholder funds" means money in the officeholder account.

(b) Establishing the Officeholder Account: For purposes of Section 85316(b), an officeholder shall maintain officeholder funds in a single bank account separate from any other bank account held by the officeholder.

(c) Establishing the Officeholder Controlled Committee, Reporting and Recordkeeping:

(1) Formation: The officeholder shall establish a controlled committee by filing a statement of organization pursuant to Section 84101 if the officeholder receives \$2,000 or more in officeholder contributions in a calendar year.

(2) Committee Name: The controlled committee name shall include the officeholder's last name, the office held, the year the officeholder was elected to the current term of office, and the words "Officeholder Account." The statement of organization shall include the name, account number, and address of the financial institution where the committee established the officeholder account.

(3) Filing Requirements: The controlled committee shall file campaign statements and reports pursuant to Chapters 4 and 5, except Sections 85200 and 85201, of Title 9 of the Government Code at the same times and in the same places as it otherwise would be required to do for any other controlled committee formed by the officeholder for election to state office.

(4) Required Recordkeeping and Audits. The officeholder and treasurer shall be subject to recordkeeping requirements under Section 84104. The officeholder account and officeholder controlled committee shall be subject to audits under Chapter 10 of Title 9 of the Government Code. Any audit of the officeholder, or any of his or her controlled committees, under Section 90001 shall include all officeholder accounts and officeholder controlled committees maintained by the officeholder during the audit period as described in Regulation 18996(a)(1).

(d) Prohibitions:

(1) Officeholder funds may not be contributed or transferred to another state or local committee, including any other controlled committee of the officeholder, except as permitted in subdivisions (g) (2) and (g)(3).

(2) Officeholders may not use officeholder funds to pay "campaign expenses" as defined in Regulation 18525(a).

(3) The officeholder may not transfer or contribute funds from any other committee he or she controls to the officeholder account, except as permitted in subdivision (g)(2) and (g)(3).

(e) Contributions to the Officeholder Account:

(1)(A) Required Notices: In addition to the requirements of Regulation 18523.1, a written solicitation for contributions to the officeholder account shall include the following: "For purposes of the Political Reform Act's contribution limits, a contribution to an officeholder-



account is also considered to be a contribution to all campaign committees for future elective state office the officeholder seeks during his or her current term of office.

(B) In addition to the requirements of subparagraph (A) above, an officeholder who files a statement of intention to be a candidate for any elective state office during the officeholder's term of office shall provide notice of this filing to every person that has made a contribution to his or her officeholder account. The notice shall contain the language in subparagraph (A) and be transmitted or mailed within 10 days of filing the statement of intention to be a candidate.

(2) Cumulation: A contribution to the officeholder account shall also be deemed a contribution to the officeholder's controlled committee for election to elective state office for the purposes of Section 85316(b)(3) only under all of the following circumstances:

(A) The contributor makes the contribution between the day the election was held for the term of office for which the officeholder account was established and the end of that term of office;

(B) The officeholder maintains the controlled committee, established for a future term of elective state office, at any time during the period covered in subparagraph (A).

(3) Cumulation and Primary and General Elections: A person's contributions to the officeholder account, when combined with contributions from the same person for a primary and general election to the elective state office may not exceed the contribution limits applicable to the primary and general election.

(4) Multiple Officeholder Accounts: When an officeholder maintains more than one officeholder account in the same calendar year, he or she may not receive the following contributions to any of those accounts during that calendar year:

(A) Contributions from a single contributor that, when cumulated for all the accounts, exceed the maximum amount the contributor could give to the officeholder account having the highest per person contribution limit under Section 85316(b)(1).

(B) Contributions from all contributors that, when cumulated for all the accounts, exceed the maximum amount in total contributions the officeholder could receive in the officeholder account having the highest aggregate contribution limit under Section 85316(b)(2).

(f) Contributions Over the Limits:

(1) An officeholder shall return to the contributor the portion of any contribution to his or her officeholder account that exceeds the limits of Section 85301, 85302 (after cumulation) or 85316 (either alone or after cumulation) by the earlier of 14 days of receipt or 14 days of the date the officeholder files a statement of intention to be a candidate for elective state office pursuant to Section 85200.

(2) A contributor to the officeholder account does not violate the contribution limits applying to the officeholder's election to a future elective state office as otherwise provided under Section 85316(b)(3) if, when he or she makes the contribution, the officeholder has not filed a statement of organization to establish a controlled committee for election to a future elective state office.

(g) Terminating Officeholder Accounts and Committees.

(1) The officeholder may not accept contributions after the officeholder's term of office ends or the date he or she leaves that office, whichever is earlier.

(2) The officeholder may redesignate the officeholder account as an officeholder controlled committee for a future term of the same office by amending the statement of



organization for the committee to reflect the redesignation for the future term of office prior to the date the officer's term of office ends.

(3) An officeholder may redesignate officeholder funds in the redesignated officeholder account as officeholder funds for the new term of office, subject to the limitations in subdivision (e)(4).

(4) Once the officeholder's term of office ends or he or she leaves that office, whichever is earlier, the officeholder may only use his or her officeholder funds for the following purposes:

- (A) Paying outstanding officeholder expenses.
- (B) Repaying contributions to contributors to the officeholder account.
- (C) Making a donation to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, if no substantial part of the proceeds will have a material financial effect on the officeholder, a member of his or her immediate family, or his or her committee treasurer.

(D) Paying for professional services reasonably required by the officeholder controlled committee to assist in the performance of its administrative functions.

(5) The officeholder shall terminate the officeholder controlled committee within 90 days of the date the officer's term of office ends or he or she leaves that office, whichever is earlier. The Executive Director may for good cause extend the termination date or permit the candidate to reopen the account.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 84104, 85316 and 90000-90007, Government Code.

**HISTORY**

1. New section filed 7-3-2007; operative 8-2-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2007, No. 27). For prior history, see Register 2007, No. 26.
2. Change without regulatory effect amending section filed 3-22-2016; operative 4-21-2016 pursuant to 2 CCR 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 13).



Office of the  
City Attorney

**DATE:** December 28, 1999

**TO:** BARBARA GILBERT,  
Aide to Mayor Shirley Dean

**FROM:** MANUELA ALBUQUERQUE, City Attorney *MA*  
By: CAMILLE COUREY, Deputy City Attorney

**SUBJECT:** APPLICATION OF BERKELEY ELECTION REFORM ACT TO OFFICEHOLDER ACCOUNTS

ISSUE:

Does the Berkeley Election Reform Act (BERA) govern officeholder accounts?

CONCLUSION:

No. The BERA does not govern true officeholder accounts per se. However, the mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under the BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable local laws.

ANALYSIS:

Sarah Reynoso, former secretary and staff counsel to the Fair Campaign Practices Commission (FCPC), issued an opinion to the FCPC dated December 2, 1991, a copy of which is attached, stating that the BERA's contribution limit does not apply to contributions made to an officeholder account. The opinion reasons that the BERA's contribution limit applies only to "contributions" as defined in the BERA, i.e., which are made directly or indirectly in support of or in opposition to the nomination or election of one or more candidates to elective office. (See Berkeley Municipal Code (BMC) § 2.12.100.) Contributions to a true officeholder account are not made for the purpose of nominating or electing a candidate to office, but rather for the use of an officeholder in carrying out the duties of his or her office. Therefore, the contribution limit of the BERA is inapplicable to officeholder accounts.<sup>1</sup> For similar reasons, the BERA does not

<sup>1</sup> However, the opinion also provided that contributions to officeholder accounts still had to be reported on campaign statements because the State Fair Political Practices Commission (FPPC) Regulations broadly defined contributions as any contribution for "political purposes." Since officeholder expenses are for political purposes, they must be reported to the State.



Barbara Gilbert

Re: Application of Berkeley Election Reform Act To Officeholder Accounts

December 28, 1999

Page 2

apply to true officeholder accounts.

The BERA requires the filing of statements to report the amounts received and expended in municipal elections. (See BMC §§ 2.12.015, 2.12.030 through 2.12.050) Specifically, a "campaign statement" required to be filed under the BERA is an itemized report which provides the information required by Sections 2.12.245 through 2.12.325 of the BERA. (BMC § 2.12.080.) Sections 2.12.245 through 2.12.325 govern the reporting of contributions and expenditures. "Contributions" and "expenditures" are defined by the BERA as any amounts received or expended, respectively, in aid of or in opposition to the nomination or election of one or more candidates to elective office. (See BMC §§ 2.12.100 and 2.12.130.) Contributions to or expenditures from a true officeholder account are not subject to the BERA's reporting requirements because they are made for the purpose of carrying out the duties of elective office, and not for the purpose of aiding or opposing the nomination or election of one or more candidates to elective office.<sup>2</sup> Therefore, the BERA does not apply to true officeholder accounts.

However, the fact that an account may be designated as an officeholder account will not shield it from scrutiny under the BERA if the officeholder account is, in fact, being used for the receipt of contributions or the making of expenditures in aid of the nomination or election of a candidate for local elective office. Nor will BERA requirements, such as the \$250 contribution limit or the prohibition against contributions from businesses to candidates, be held inapplicable if contributions made initially to an officeholder account are transferred subsequently to a campaign account. Where the actions taken with respect to an officeholder account implicate campaign contributions and expenditures in municipal elections, the officeholder account will be scrutinized under the BERA and other applicable local law.

Attachment

cc: Fair Campaign Practices Commission  
Sherry Kelly, City Clerk

City Attorney Opinion Index: ILE.1. and IILG.

CCM

PAUSERSUBEL2\offhldr.mem.doc

<sup>2</sup> Again, however, the State FPPC still requires the reporting of activity relating to an officeholder account. (See footnote 1.)

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT**

The Fair Campaign Practices Commission is proposing amendments to the Berkeley Election Reform Act related to the prohibition of officeholder accounts.

The hearing will be held on, February 4, 2020, at 4:00 p.m. in the School District Board Room, 1231 Addison Street.

A copy of the agenda material for this hearing will be available on the City’s website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **January 30, 2020**.

For further information, please contact Samuel Harvey, Commission Secretary at 981-6998.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley 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. 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 at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** January 24, 2020 – The Berkeley Voice  
Pursuant to Berkeley Municipal Code Section 2.12.051

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I hereby certify that the Notice for this Public Hearing 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 January 30, 2020.

\_\_\_\_\_  
Mark Numainville, City Clerk



Open Government Commission

ACTION CALENDAR  
February 23, 2021

To: Honorable Mayor and Members of the City Council  
From: Open Government Commission  
Submitted by: Brad Smith, Chair, Open Government Commission  
Subject: Relinquishments and grants from Councilmembers' office budgets

RECOMMENDATION

Adopt a Resolution creating a temporary advisory committee consisting of three (3) members each of the City Council and the Open Government Commission (“OGC”) to enable discussion between the Council and the OGC to make recommendations governing relinquishments and grants from Councilmembers’ office budgets.

POLICY COMMITTEE RECOMMENDATION

On February 4, 2020, the Agenda and Rules Committee adopted the following action: M/S/C (Arreguin/Hahn) to refer the item to the Council with a qualified Positive Recommendation to take no action on the item, but to designate the Agenda & Rules Committee as the entity to engage with the commission on the item entitled “Amendments to the Berkeley Election Reform Act (BERA) to Regulate Officeholder Accounts and Proposed Changes to City Council Office Budget Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)”. Vote: All Ayes

FISCAL IMPACT OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The issue of D-13 accounts (Council Budget Funds) being used for purposes other than office expenses has been raised at the OGC. While commission members agree that it is admirable to donate to organizations that serve the City, some members feel the practice of using office budget funds for this purpose and attaching individual Councilmembers’ names to the donation may provide unfair advantage to an incumbent.

The two main concerns identified by some commissioners with the current practice are:

1. Councilmembers are able to initiate grants to organizations, at their discretion, which may raise their public profile.
2. Attaching the name of a Councilmember to a grant from the City of Berkeley may confer an advantage for the incumbent over would-be challengers.

The current practice was established in the early 2000's because councilmembers were granting public money to individuals and organizations, without approval of the Council. This led to a concern about the potential for corruption and favoritism. The City Attorney established the existing system, though because the councilmembers' names are attached to the grants, some concern remains.

From recent discussion at OGC, commissioners are in general agreement that ending the practice of attaching the name of a councilmember to a grant will help to alleviate the main concerns: 1 & 2 above. At the OGC's April 23, 2020 meeting, commissioners unanimously approved forwarding a recommendation to Council to not include the name of an individual councilmember attached to a discretionary grant.

A review of the grants and relinquishment of funds from city council members for 2019 amounts to \$30,130. These are funds that could have been used for office, travel (on city business) and other expenses.

Commission members have discussed recommending to Council for consideration options to address the issue:

1. An amendment requiring that all disbursements from the General Fund be designated as coming from the Council as a whole, without individual names attached to the donations.
2. Create another account specifically for discretionary grants, without reducing the D-13 account budget, to allow Councilmembers to continue recommending a grant or donation to a particular organization, without an individual name attached to the donation.
3. Eliminate discretionary grants.

#### BACKGROUND

On May 21, 2020, the OGC directed four of its members to draft a proposed recommendation to Council related to relinquishment of Councilmembers' office budget funds.

On June 18, 2020, the OGC voted to present this recommendation to Council.

#### ENVIRONMENTAL SUSTAINABILITY

Not applicable.

RATIONALE FOR RECOMMENDATION

An advisory committee will enable collaborative discussion between the Council and the OGC to make recommendations governing relinquishments and grants from Councilmembers' office budgets.

ALTERNATIVE ACTIONS CONSIDERED

The OGC has discussed recommending removal of councilmember names from office budget relinquishments, banning relinquishments for grants to organizations, and creating and funding a separate account for donations to organizations that Council would control, but which would not have councilmember names attached to it.

CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

CONTACT PERSON

Brad Smith, Chair, Open Government Commission

Attachments:

1: Resolution

RESOLUTION NO. –N.S.

RESOLUTION CREATING A TEMPORARY JOINT ADVISORY COMMITTEE TO  
REVIEW COUNCIL OFFICE BUDGET RELINQUISHMENTS AND GRANTS

WHEREAS, pursuant to Berkeley Municipal Code § 2.06.190.A.2, the Open Government Commission (“OGC” or “Commission”) may “advise the City Council as to any action or policy that it deems advisable to enhance open and effective government in Berkeley”; and

WHEREAS, while Commission members agree that it is admirable to donate to organizations that serve the City, some members feel the practice of using office budget funds for this purpose and attaching individual Councilmembers’ names to the donation may raise the public profile of a Councilmember and provide unfair advantage to an incumbent; and

WHEREAS, the Commission has expressed a desire to work collaboratively with the City Council to consider recommendations governing grants made from relinquishments of funds from Councilmembers’ office budgets.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that a temporary joint advisory committee consisting of three (3) members of the City Council and three (3) members of the Open Government Commission is hereby created to enable discussion between the Council and the OGC to make recommendations governing relinquishments and grants from Councilmembers’ office budgets.

BE IT FURTHER RESOLVED that the City Council and the Open Government Commission each shall, as soon as practicable and by majority vote, appoint three members to the committee created by this resolution.

BE IT FUTHER RESOLVED that the committee created by this resolution shall hold its first meeting within 60 days of passage of this resolution and at that first meeting shall determine the need for any subsequent meetings and shall adopt a schedule for any such subsequent meetings.



Cheryl Davila  
Councilmember  
District 2

ACTION CALENDAR  
February 23, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila (Author)

Subject: Create and Support an Adopt an Unhoused community program.

#### RECOMMENDATION

1. Adopt a resolution to create and support neighborhood volunteers and community groups adopting an encampment, street campers, RV / Vehicle community, located along University Avenue/ Shattuck Avenue / Adeline corridor/ San Pablo Avenue and other areas throughout the City.
2. Short term referral to the City Manager and/or designee(s) to present to the City Council in 90 days: how to implement the program modeled after the City of Oakland Adopt a Spot Program, identify a community based organization to oversee the volunteers, know what is needed to adequately implement these efforts, including different organizational structure options.

#### POLICY COMMITTEE RECOMENDATION

On January 25, 2021, the Health, Life Enrichment, Equity and Community Committee sent the item to Council with a qualified positive recommendation to take the following action:  
Refer to the City Manager to consider inclusion of homeless encampments in the existing "Adopt a Spot" referral to the Public Works Commission and Parks, Recreation, and Waterfront Commission once the "Adopt a Spot" program has been established. Vote: All Ayes.

#### BACKGROUND

On any given night, more than 1,000 Berkeley residents do not have shelter (i.e. living outdoors in tents, on sidewalks, or in vehicles) according to the [Alameda County 2019 Point-In-Time Count](#). A growing number of residents are housing insecure and at risk of becoming homeless. A majority of unhoused Berkeley residents are people of color, seniors, and the disabled.

The City of Berkeley spent close to \$20 million on providing homeless services. About \$6.5 million came from its general fund, about \$9.5 million came from regional, state, and federal funds and \$3.9 million were one-time funds from the state's Homeless Emergency Aid Program.

The City of Oakland currently has a Adopt a Spot program, where it allows volunteers and/or community groups to adopt a park, creek, shoreline, storm drain, street, trail, median or other public space you'd like to clean, green, or beautify on an ongoing basis. Participants adopt a public space and make a commitment to regularly clean and maintain the spot for no less than one year. The program allows volunteers to organize Community Cleanups and beautification events, joining with your neighbors and community. Volunteers have adopted hundreds of sites



around Oakland. The City of Oakland support for this program is through Tool loans, Debris pick-up, and Technical assistance.

In addition, the City of Oakland has an Adopt a Drain program, where hundreds of volunteers across Oakland have adopted storm drains to help their neighborhoods prepare for rainstorms. It doesn't take much to keep a storm drain clear. A little volunteer effort goes a long way in helping Public Works maintain over 12,000 storm drains to reduce flooding and prevent pollution of our waterways. When you sign up to Adopt a Drain, you become eligible to borrow City tools and supplies, and you will receive the City's rain alert notifications.

Thus, the City of Berkeley can learn from the City of Oakland and implement a similar program to help our unhoused community, i.e. adopting an encampment, street campers, RV / Vehicle community, and/or street intersections especially along University Avenue/ Shattuck Avenue / Adeline corridor/ San Pablo Avenue and others areas throughout the City.

Friends of Adeline, a diverse group of South Berkeley residents working in partnership with local businesses, nonprofits, and others to affect change has consistently supported the Here/There encampment when it was first formed. Friends of Adeline's member, Beloved, now deceased, Margy Wilkinson was able to get a port-a-potty and hand-washing station to be delivered at the encampment. Friends of Adeline supporting the Here/There encampment is a model of Adopting the Unhoused community, as well as the concepts of the City of Oakland's Adopt a Spot Program.

In order to get through the current crises we all face COVID-19, Shelter in Place (SIP), wildfires, smoke, etc), we need to allow, coordinate, enable and recognize volunteers from our neighborhoods and community groups to adopt our unhoused community. It truly does take a village.

#### FINANCIAL IMPLICATIONS

TBD, however, funds can possibly be identified with Measure O and P.

#### ENVIRONMENTAL SUSTAINABILITY

Allowing communities to have tools to prevent and stop fires furthers protects other communities and the environment.

#### CONTACT PERSONS

Cheryl Davila  
Councilmember District 2  
510.981.7120  
[cdavila@cityofberkeley.info](mailto:cdavila@cityofberkeley.info)

Sanjita Pamidimukkala  
Eshal Sandhu  
District 2 Interns

#### REFERENCES:

1. <http://www.oaklandadoptaspot.org>
2. <https://www.oaklandca.gov/services/sign-up-for-adopt-a-drain>
3. <https://thestreetspirit.org/2019/03/01/south-berkeleys-here-there-encampment-celebrates-two-years/>

#### ATTACHMENTS:

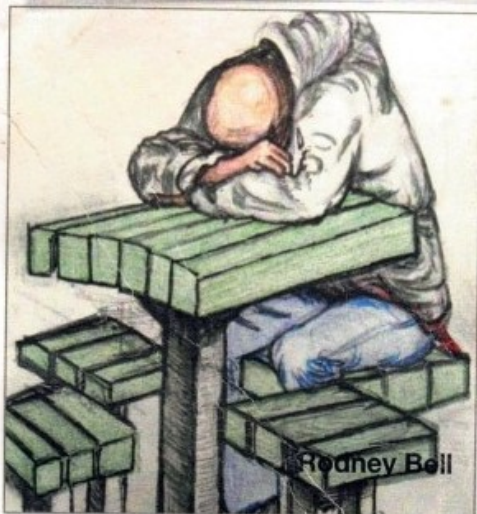
1. Adopt a Homeless Senior Neighborhood Project Flyer
2. City of Oakland Adopt a Spot and Adopt a Drain Maps



### 3. Resolution

Attachment 1: Adopt a Homeless Senior Neighborhood Project

## ADOPT A HOMELESS SENIOR NEIGHBORHOOD PROJECT



### Adopt a Homeless Senior Project

was started in 2018 with the ideas of 12 Berkeley neighbors who wanted to make a difference in our homeless community. We learned that over 1/2 of our homeless population were seniors and that over 85% of those seniors were homeless in the areas they were once housed. We agreed to support St. Mary's Center ([stmaryscenter.org](http://stmaryscenter.org)), a stellar (and secular) non-profit organization that provides a wide array of services to help get homeless seniors into housing. We would love other local neighborhoods to join us in our fund-raising efforts.

Contact: [barbara@barbarareiner.com](mailto:barbara@barbarareiner.com)

### THE ALAMEDA COUNTY

#### 2019 EVERYONE COUNTS HOMELESS POINT-IN-TIME COUNT & SURVEY

#### PRIMARY CAUSES OF HOMELESS:

13% Lost Job; 12% Mental Health; 10% Substance Use;  
9% Eviction/Foreclosure; 9% Rent Increase; 8% Incarceration

#### WHERE MOST HOMELESS ARE LIVING:

34% Tent; 23% Car/Van; 22% RV; 20% Street/Outside;  
1% Abandoned Building

#### PERCENTAGE OF HOMELESS POPULATION

#### WHO HAVE BEEN RESIDENTS OF

#### ALAMEDA COUNTY PRIOR TO

#### BECOMING HOMELESS:

78%

#### THE GERONTOLOGIST (FEBRUARY 2016)


#### BAY AREA AGE GROUP

#### WITH HIGHEST % OF

#### HOMELESSNESS:

50+

### Attachment 2: Oakland Adopt a Spot and Adopt a Drain Maps



## Adopt a Drain

Part of Oakland Adopt a Spot

Volunteer to keep a drain clear and report any problems!

Email address

I haven't signed up yet  
 I've already signed up

Name (visible to others)

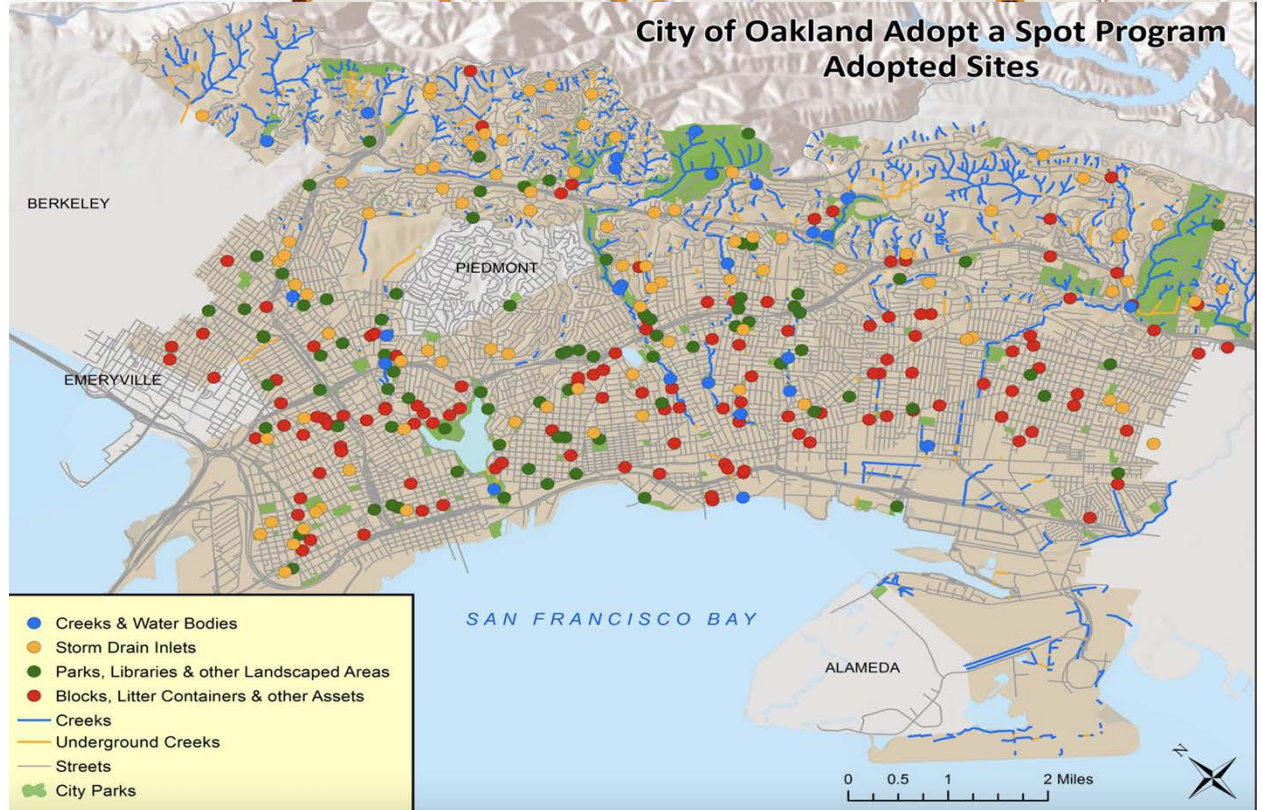
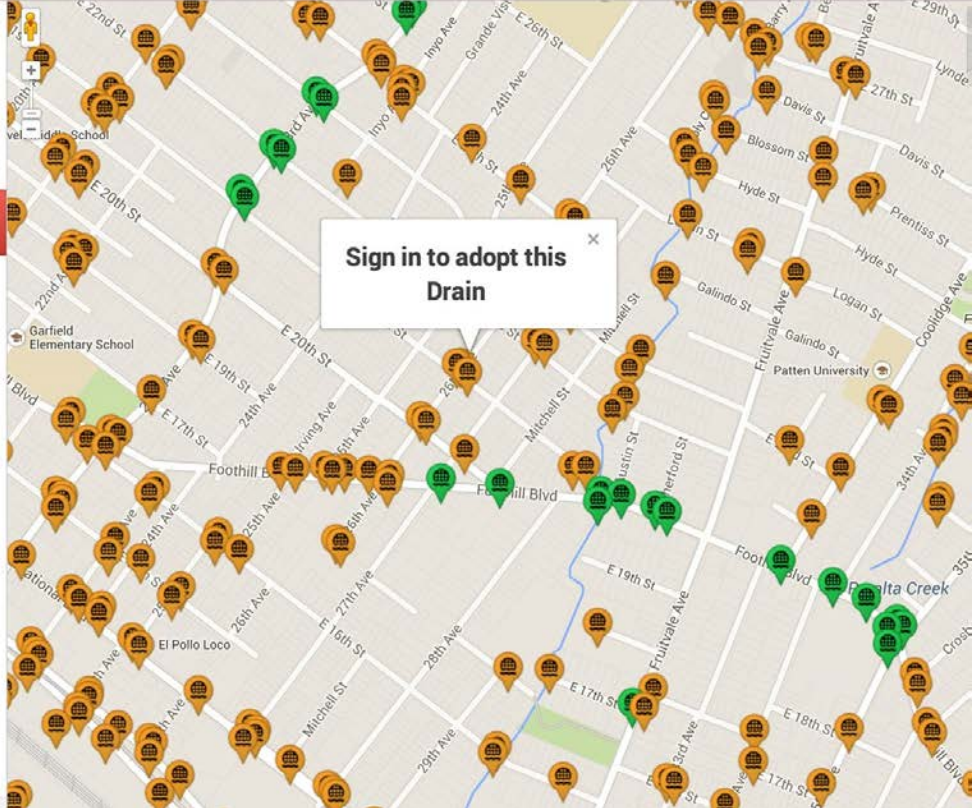
Organization (visible to others)

Home phone number

Mobile phone number

Choose a password

By signing up you agree to the [Terms of Service & Volunteer Guidelines](#)





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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY, CALIFORNIA,  
SUPPORTING THE CREATION AND SUPPORT AN ADOPT AN UNHOUSED COMMUNITY  
PROGRAM

WHEREAS, On any given night, more than 1,000 Berkeley residents do not have shelter (i.e. living outdoors in tents, on sidewalks, or in vehicles) according to the [Alameda County 2019 Point-In-Time Count](#). A growing number of residents are housing insecure and at risk of becoming homeless. A majority of unhoused Berkeley residents are people of color, seniors, and the disabled; and

WHEREAS, The City of Berkeley spent close to \$20 million on providing homeless services. About \$6.5 million came from its general fund, about \$9.5 million came from regional, state, and federal funds and \$3.9 million were one-time funds from the state's Homeless Emergency Aid Program; and

WHEREAS, The City of Oakland currently has a Adopt a Spot program, where it allows volunteers and/or community groups to adopt a park, creek, shoreline, storm drain, street, trail, median or other public space you'd like to clean, green, or beautify on an ongoing basis. Participants adopt a public space and make a commitment to regularly clean and maintain the spot for no less than one year. The program allows volunteers to organize Community Cleanups and beautification events, joining with your neighbors and community. Volunteers have adopted hundreds of sites around Oakland. The City of Oakland support for this program is through Tool loans, Debris pick-up, and Technical assistance; and

WHEREAS, In addition, the City of Oakland has an Adopt a Drain program, where hundreds of volunteers across Oakland have adopted storm drains to help their neighborhoods prepare for rainstorms. It doesn't take much to keep a storm drain clear. A little volunteer effort goes a long way in helping Public Works maintain over 12,000 storm drains to reduce flooding and prevent pollution of our waterways. When you sign up to Adopt a Drain, you become eligible to borrow City tools and supplies, and you will receive the City's rain alert notifications; and

WHEREAS, Thus, the City of Berkeley can learn from the City of Oakland and implement a similar program to help our unhoused community, i.e. adopting an encampment, street campers, RV / Vehicle community, and/or street intersections especially along University Avenue/ Shattuck Avenue / Adeline corridor/ San Pablo Avenue and others areas throughout the City; and

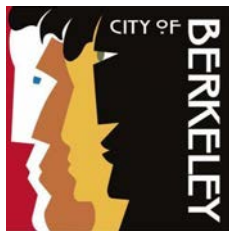
WHEREAS, Friends of Adeline, a diverse group of South Berkeley residents working in partnership with local businesses, nonprofits, and others to affect change has consistently supported the Here/There encampment when it was first formed. Friends of Adeline's member, Beloved, now deceased, Margy Wilkinson was able to get a port-a-potty and hand-washing station to be delivered at the encampment. Friends of Adeline supporting the Here/There encampment is a model of Adopting the Unhoused community, as well as the concepts of the City of Oakland's Adopt a Spot Program; and

WHEREAS, In order to get through the current crises we all face COVID-19, Shelter in Place (SIP), wildfires, smoke, etc), we need to allow, coordinate, enable and recognize volunteers from our neighborhoods and community groups to adopt our unhoused community. It truly does take a village; and

NOW THEREFORE BE IT RESOLVED that the City Council of Berkeley, hereby support the creation and support an Adopt an Unhoused community program, as well as provide support to neighborhood volunteers and community groups adopting an encampment, street campers, RV / Vehicle community, located along University Avenue/ Shattuck Avenue / Adeline corridor/ San Pablo Avenue and other areas throughout the City.

BE IT FURTHER RESOLVED, Short term referral to the City Manager and/or designee(s) to present to the City Council in 90 days: how to implement the program modeled after the City of Oakland Adopt a Spot Program, identify a community based organization to oversee the volunteers, know what is needed to adequately implement these efforts, including different organizational structure options.





Councilmember Ben Bartlett  
City of Berkeley, District 3

ACTION CALENDAR  
February 23, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Ben Bartlett

Subject: Amend Berkeley's Property Tax Measures and Restore Tax Equity by Changing the Square Footage Tax Imposition through a Comprehensive Verification Process

RECOMMENDATION

In order to correct inequitable and inconsistently applied rates of property tax assessments, and to ensure that outstanding revenues due to the City are paid, the Finance Department should conduct a comprehensive verification analysis. This process will update and bring the city's taxable square footage database into alignment with Planning's building area database. Through this verification, the City shall also reconcile with the Alameda County Assessor's Public Roll to ensure that the City's tax database is up-to-date and accurate. This reconciliation will restore tax equity, which has been desired by Berkeley voters, while also unifying standards, protocols and terminology between departments. The City should adopt the following habitability criteria for taxation purposes:

1. Taxable space must have manufactured flooring. If the understory has dirt base, it shall not be taxed (Uniform Building Code R502 – floor material requirement). (Acceptable proof: photo)
2. Taxable basement space must be of required height clearance. If understory has proper flooring and is of limited height, 6' 8" or less, with 6'4" allowance for ducting, then it shall not be taxed (Uniform Building Code R305 – basement height requirement) (Acceptable proof: photo with measuring tape)
3. Taxable attic space must have required height clearance. If finished attic, only areas of 6'4" height or more is taxed for city assessments (Acceptable proof: photo with measuring tape)
4. City of Berkeley shall post the property's taxable square footage in at least 12 point font on the City's Parcel Viewer page. City of Berkeley shall disclose the potential increase to taxable square footage liability for the taxpayer when application for building addition is made.
5. City of Berkeley shall make public the taxable square footage liability of the proposed finished building to the community when a Zoning Adjustments Board application is made.
6. City of Berkeley shall disclose a property's taxable square footage in writing to a property owner or interested buyer, upon request.

7. If the taxpayer requests a correction on the square footage assessments, and the space in question does not align with the above taxability requirements, the taxpayer shall be entitled to a refund on all 9 city and schools assessments for the previous four full years of taxes (Civil Code 5097). Requests for correction shall be allowed at any time.

#### POLICY COMMITTEE RECOMMENDATION

On January 28, 2021, the Budget and Finance Committee moved the item to Council with a negative recommendation to take no action and for Councilmember Harrison to work with Councilmember Bartlett on another item addressing the broader policy issues surrounding this item. Vote: All Ayes.

#### BACKGROUND

In 1965, the Berkeley Municipal Code was amended to state *“The following duties are hereby transferred to the appropriate officers and employees of the County of Alameda: (a) The assessment of City of Berkeley property for City of Berkeley taxes. (b) The equalization and correction of the assessment”* (BMC 7.24.010). Instead of using County standards and measures, however, the City has its own unique method of measuring taxes and assessing property within the City.

BMC 7.56.030A allows the Finance Department to impose taxes on the dwelling unit square feet. Specifically, BMC 7.56.020C defines dwelling as “designed for human occupancy.” However, the City has used an expansive interpretation of what shall be included in a dwelling area. For example, many Berkeley families have been charged for non-conforming spaces and areas not designed for human occupancy under their homes. The Berkeley for Assessment Tax Equity organization has sent the Finance Department a letter. See Attachment 1 and 2. The letter highlights examples of constituents who are currently and inequitably impacted by the City’s tax method.

The City’s expansive interpretation of the BMC has led to the taxation of unfinished understory areas, including spaces that are of a reduced height and are not of adequate height to be a basement according to the Uniform Building Code. Such spaces cannot be used for dwelling without substantially rebuilding the foundation, yet many of these areas continue to be improperly taxed. At the same time, dozens of properties with true basements (with floors and sufficient height to walk around in) are not taxed for those spaces.

At the same time, there are homeowners who experience windfall because they are not being taxed for new additions to their properties. According to the Berkeley for Assessment Tax Equity, hundreds of properties escape these assessments for their permitted additions each year because some Berkeley property owners who build onto



their property are often not reassessed in square footage by the City of Berkeley or in ad valorem value by Alameda County. The inconsistencies in taxation, along with the imposition of taxes on non-dwelling spaces, is an equity issue that must be addressed.

Incorrect dwelling space assessments place a huge burden on many Berkeley homeowners--several of whom are seniors, persons of color, and/or have fixed-income. These individuals experience economic hardship by paying hundreds of dollars more in taxes for unfinished understories on top of their already pricey assessments. All while other homeowners are experiencing windfall because they are not similarly taxed. As a result, those who pay taxes on their unfinished understory area subsidize those who do not pay for what should be their new additions' fair tax increase.

### CURRENT SITUATION

The voters of the City of Berkeley have approved various Tax Assessments to benefit the Berkeley Public Schools and City Programs and Districts. The intent of the voters was equitable taxation through calculation based on the size of the dwelling or business. Instead, the City's tax assessments have been calculated in a way that allows escaped assessments for those who have added on to their home with or without permits. In addition, the City's interpretation of 1950s and 1960s building cards has led the City to charge homeowners for non-conforming spaces, which are not part of their dwelling, at varying rates of tax assessments for similarly sized properties.

Community members, including individuals from Berkeley for Assessment Tax Equity (BATE), have asked the Council to rationalize this process of paying property taxes. BATE and past auditors have already identified problems with the tax records, including:

1. The failure of the city to capture square footage at the intersection of planning/building and finance/assessor
2. The inequitable imposition of taxes on non-conforming spaces for some properties, and not for others

In the past four decades, City auditors have identified assessment discrepancies many times and have made suggestions that echoes the recommendations of this proposal. For example, a 2005 City audit recommended the implementation of a comprehensive verification analysis, in which tax procedures should include a comparison of the building square footage (BSFT) and lot square footage (LSFT) to the County's assessed values. In 2012, another auditor recommended that the City Manager should consider aligning the tax definition of BSFT with the Planning Department's. In this case, the City's aim of using square footage for more equitable distribution of the special tax would not change. See Attachment 3.

However, the City's current method of taxation does not reflect these changes or recommendations made by past auditors. As a result, the flawed imposition of tax continues to broaden the tax burden of some and the total escaped taxes of others. In this respect, the tax equity problem results from a lack of internal controls between City Departments. .

Currently, BATE has identified 700 properties with square footage-related lost revenue errors. See Attachment 4. In addition, there are at least 40 properties with understories/basements that are not charged for these dwelling areas, while there are at least 11 confirmed homeowners who have been charged for non-conforming spaces. See Attachment 5. To effectively address the significant impacts of the City's special tax assessment method on all property owners in Berkeley, the Council should utilize the recommendations of past auditors and BATE's research to directly change the City's method of taxation.

#### ACTIONS/ALTERNATIVES CONSIDERED

The District 3 Office also considered hiring an outside consultant to conduct their own individual analysis and impact study on Berkeley's property tax measures and special assessments. This third-party consultant would analyze the impacts of the City's tax measures on homeowners and City revenues. In addition, the consultant would compare the impacts between the tax methodologies of (1) Alameda County, (2) Berkeley's Finance Department, and (3) Berkeley's Planning Department. The consultant would use this information to help the City determine the best method and practice for taxing property and ensuring tax equity. However, the City has already hired past auditors who have suggested some of the recommendations in this item. Rather than spend additional funds to hire a consultant to perform another analysis, the City should implement direct changes to the method of adherence to tax code when imposing taxes.

#### OUTREACH OVERVIEW AND RESULTS

The District 3 Office has consulted with the Berkeley for Assessment Tax Equity (BATE) and impacted constituents on the ways in which Berkeley's tax measures have significantly affected their lives and communities. The constituents have collected background materials, observed BATE community actions, and discovered findings from research on underassessed properties and experiences with City departments. The Office's communication with these constituents has informed this Council recommendation.

#### RATIONALE FOR RECOMMENDATION

This recommendation aims to restore tax equity by updating the tax records to align with habitability standards. Failing to tax habitable dwelling spaces while imposing taxes on inhabitable spaces places an economic burden on taxpayers due to the inconsistent and unequal practice of taxation assessments. Enforcing equitable taxation in the law and in practice is important to ensure homeowners are being fairly and accurately taxed based on reasonable legal standards regarding their dwelling units. Taxpayers should not be overcharged on units that are not designed for human occupancy, noting that legal considerations of “dwelling” do not always comply with the reality of these spaces.

To enforce tax equity, these recommendations outline a standard for taxable dwelling units and inform the taxpayer of the taxation assessment method. If there is a discrepancy in the assessment, the taxpayer may request a correction to ensure tax compliance. Former city auditors have recommended these guidelines in the past, but unfortunately, there has been no action to follow through with their recommendations. Not only would these code changes ensure that homeowners are not being overly taxed, but by modifying the tax code to align with the Planning Department’s square footage database, the City can gain money from the previously unassessed, untaxed dwelling spaces. These recommendations would ensure that tax equity is properly enforced to align with habitable standards.

#### FISCAL IMPACTS OF RECOMMENDATION

Staff time to check the tax records and update the tax database to ensure that tax assessments correctly match the relevant properties that must be charged. Past auditors have found that aligning the tax code with the Planning Department’s code would make these interdepartmental tasks and updates easier. The aim of levying tax with equity in mind would not change either. In addition, removing non-conforming, non-dwelling spaces from the taxable database will not have a significant impact on revenue. Instead, changing the tax code will allow the City to capture the hundreds of thousands of dollars of unassessed dwelling space, resulting in increased cash flow.

All true basements and other non-conforming, but developed, spaces would remain taxed upon implementation of this proposed policy. Most homes that are taxed by the City at a higher square footage level than the County's value would remain this way. As a result, the City would not face rampant future applications for refunds.

#### CONTACT PERSON

Councilmember Ben Bartlett  
Katie Ly

510-981-7130  
510-981-7131

#### ATTACHMENTS

1. Berkeley for Assessment Tax Equity Group Letter (BATE) to the Finance Department
2. Signatures on BATE’s Letter

3. 2005 and 2012 City Audit on Assessment Discrepancies
4. List of the 700 Properties with Square Footage-Related Lost Revenue
5. List of the 40 Basements/Understories Not Charged

## ATTACHMENT 1

Berkeley for Assessment Tax Equity

2215 Stuart St.

Berkeley, CA 94705

July 1, 2020

City of Berkeley Finance Department

1947 Center St.

Berkeley, CA 94704

Dear Finance Department,

We, the undersigned, saw the Finance Department's response to the Berkeley Neighborhood's Request for a public hearing about the numerous requests from the community for tax bill corrections. Despite your claim to the contrary, we know that the City's square footage database is rife with errors. We are urging you to take action now to correct the square footage value you use to bill us for City and Schools parcel taxes. Berkeley Municipal Code 7.56.030A (referenced in the Library and Schools taxes) allows Finance to impose tax on the dwelling unit square feet. BMC 7.56.020C defines dwelling as "designed for human occupancy". You are imposing tax on areas that are NOT designed for human occupancy, in our cases. This is unfair and burdens us with a greater liability for City Services than others who are not similarly taxed, as each instance will show.

Willa Willis Jacobs in the 1700 block of 62<sup>nd</sup> - I pay for 820 ft<sup>2</sup> of unfinished non-conforming space under my home. Near me, at 1823 62<sup>nd</sup>, a duplex owner pays 772 ft<sup>2</sup> less than they should. Also, the duplex at 1536 62<sup>nd</sup> pays 609 ft<sup>2</sup> less than they should after their 1993 basement renovation. I, Ms. Jacobs, pay \$820 a year more than I legally should pay, the landlords at 1823 and 1536 62<sup>nd</sup> pay \$800 and \$625 less a year than they should.

Roxanne Schwartz in the 1300 block of 66<sup>th</sup> – I pay assessment taxes for 1077 ft<sup>2</sup> of unfinished, non-dwelling space less than 6 ft in height. The unfinished understories at 1619 Julia and 1623 Tyler are not charged assessment taxes on their similar spaces. Near me, at 1406 66<sup>th</sup>, the landlord owner pays for 655 ft<sup>2</sup> less building area than that showing in the public record. Why should I, a retiree on fixed income pay more for city services than that landlord whose tenants should be paying adequately for city services through their rent?

Paul Gumpel in the 1100 block of Carleton – I pay for 733 ft<sup>2</sup> of sloped dirt understory. Near me, the landlord at 1115 Carleton, only pays for half the square footage (1118 ft<sup>2</sup>) they have available to rent to tenants (2524 ft<sup>2</sup>). The landlord at 1215 Carleton pays tax on 1175 ft<sup>2</sup> less than they should for their 2587 ft<sup>2</sup> building. I, Mr. Gumpel, pay extra \$750 a year and the landlords save \$1400 and \$1200 a year, respectively.

## ATTACHMENT 1

Mrs. Doris Smith in the 1700 block of Carleton – I pay for 384 ft<sup>2</sup> of unfinished, non-conforming space. The law says and voters approved a tax on dwelling space. A couple of blocks over at 1731 Channing, they don't pay for their cavernous non-conforming space. Neither do they pay for unfinished space at 1933 Yolo and 76 Codornices and 1136 Fresno. Also close by, the owners at 2319 California don't pay tax on their beautiful 2<sup>nd</sup> story they added. Why should they receive discounts on dwelling space for years, while I am penalized for non-dwelling space? I, Mrs. Doris Smith, pay an extra \$400/year and the other owners don't have to pay this illegal tax. Many, like the owners of 2319 California don't even have to pay for dwelling space when they add it on.

Merryl Dashiell in the 1700 block of Carleton – I pay for 525 ft<sup>2</sup> of unfinished attic. City of Berkeley councilmembers, Harrison and Droste do not pay for their finished and usable attics. I, Ms. Dashiell, pay an extra \$550 a year and Councilmembers Harrison and Droste save \$500 a year each.

Colleen Miller in the 2100 block of Essex - I pay extra for unfinished understory of 1024ft<sup>2</sup>. My neighbors at 2121 Essex don't pay for their understory of 1083 ft<sup>2</sup> and the landlord of the duplex at 2117 Essex underpays for rentable, dwelling space by 1485 ft<sup>2</sup> each year. I, Colleen Miller, pay an extra unlawful \$1025 a year and the others save \$1100 and \$1500 respectively on their tax bill.

Mrs. Berrigher in the 1900 block of Fairview - we pay for 1094 ft<sup>2</sup> of unfinished understory. My neighbor at 1930 Fairview does not pay for their basement or finished attic. Also nearby, the landlord owner of the duplex at 1631 Woolsey pays for 682 ft<sup>2</sup> less space than they actually have to rent to their tenants. The owner of the nearby house, 3107 Deakin, recently on the market avoids paying for a 1000 square foot finished apartment in their untaxed basement. Fairview Family pays \$1300 more than they lawfully should be forced to pay. The landlord at 1631 Woolsey saves \$700/year. The owners at 3107 Deakin save \$1000 a year.

Wolf and Amanda Arnold in the 1600 block of Josephine - We recently bought our home and were not told that the 686 ft<sup>2</sup> of non-conforming height understory would be taxed. Down the street, the owners at 1405 Josephine don't pay assessments on their basement, even after they developed it with permits in 1997. Also on our street, 1206 Josephine underpays for permitted dwelling space by 1245 ft<sup>2</sup> (around \$1300) a year. The home at 1410 Josephine underpays by 1686 ft<sup>2</sup> or around \$1700 a year. 1315 and 1226 underpay by around \$1000/year, all for dwelling space. We will be burdened even more unfairly when taxes increase soon.

Chris Catletts in the 1700 block of Parker – I pay extra for 1119 ft<sup>2</sup> understory not tall enough to walk in without hunching over. My neighbors at 1825 Parker don't pay for the space they created in 2002 when they did a \$200,000 house raise to increase their building area by 1141 ft<sup>2</sup>. The triplex landlord owner up the street at 2120 Parker doesn't pay for the 926 ft<sup>2</sup> area of a 2006 \$253,845 ft<sup>2</sup> 3<sup>rd</sup> story. 1736 Channing doesn't pay for their understory at all. I, a retiree, pay an extra unlawful \$1119 a year and the others save an unlawful \$1150 and \$950 a year.

The Tharp/Menard family in the 1600 block of Stuart St – we pay 916 ft<sup>2</sup> extra for unfinished, dirt, non-conforming space. Our backdoor neighbor at 1618 Ward doesn't pay for the 975 ft<sup>2</sup> area of the downstairs unit they developed in the 1990s. Another duplex owner at 1508 Ward doesn't pay for the 1006 ft<sup>2</sup> they renovated in 2002, before or after the renovation! We, the Tharp/Menard family, pay \$920 a year more than we should, while the duplex owners at 1508 and 1618 pay \$1000 and \$1050 less than their share a year for city services.

## ATTACHMENT 1

Ms. Dengler in the 2200 block of Stuart – I pay for 2286 ft2 of basement that I don't have. Meanwhile, the 4plex owner at 1939 Stuart pays for only 2700 ft2, even though it is a 3800 ft2 building. I, Mrs. Dengler, lose \$2300 a year in unlawful tax assessments while the landlord down the street saves \$1100 a year.

We beseech you to do the right thing and correct our dwelling space assessments before the new tax bills are mailed out.

Berkeley for Assessment Tax Equity

Cc: Mayor Jesse Arreguin, City Manager Dee Williams-Ridley, City Auditor Jenny Wong,  
Councilmembers Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste,  
Alameda County Tax Collector Henry Levy, Alameda County Assessor Phong La,  
Alameda County Board of Supervisor Keith Carson,  
Alameda County District Attorney Jeff Israel,  
Berkeley Neighborhood Council, Berkeley School Board  
Sharon Parker, Ca State Controller Office (Betty Yee)

*See Attachment 2 for signatures.*

Willa Willis Jacobs at ~~████~~ 62<sup>nd</sup> Willa Willis Jacobs

Roxanne Schwartz at ~~████~~ 66<sup>th</sup> Roxanne Schwartz

Paul Gumpel at ~~████~~ 6 Carleton Paul Gumpel

Mrs. Smith at ~~████~~ Carleton Doris M. Smith

Merryl Dashiell at ~~████~~ Carleton Merryl Dashiell

Colleen Miller ~~████~~ Essex Colleen Miller

~~1909 Fairview~~

Wolf Arnold at ~~████~~ Josephine Wolf Arnold

~~Steve Klucavich at 1689 Parker~~

Chris Catletts at ~~████~~ Parker Chris Catletts

~~Elgie Scott at 1514 Prince~~

Laura Menard at ~~████~~ Stuart Laura Menard

Barbara Dengler at ~~████~~ Stuart Barbara Dengler

~~1914 Ward~~

~~Mr. Julius at 2001 Woolsey~~

Mrs. Beatrice Barrigher at ~~████~~ Fairview Mrs. Beatrice Barrigher 228



## ATTACHMENT 3

### Parcel Based Special Taxes, Fees, and Assessments, Presented to Council March 15, 2005

Audit Prepared by: Ann-Marie Hogan, City Auditor, CIA, CGAP, Teresa Berkeley-Simmons, Audit Manager, CIA, CGAP, Jocelyn Nip, Auditor II, CPA

From Background: Our Landscape and Park Maintenance Assessment Fund Review report issued in November 1994 and our Clean Storm Water (CSW) Assessment Audit issued in October 1995 identified many internal control weaknesses in the assessment processes. One finding in the Landscape and Park audit stated, "Changes in improvement square footage are not always entered into the assessment data base timely." One finding in the CSW audit stated, "Due to internal control weaknesses, procedures do not provide a reasonable assurance that all parcels which can be assessed CSW Fees are properly assessed."

In late 2003, members of the public revealed that several properties, including the Gaia Building, were not billed for parcel taxes. Subsequently, Finance conducted investigations of 339 parcels with zero BSFT and identified properties that had escaped assessments.

2.2 Finding 3: There is likelihood that the taxable BSFT for some parcels might have been understated or overstated, resulting in improper assessments. There is no systematic plan in place to capture such parcels, forgoing the opportunities for recovering revenue related to underassessed properties.

The discovery of an underassessment is not a one-time windfall. Additional BSFT brings a future stream of revenues as long as the property remains

There was awareness that overassessments exist, which may include exempt areas such as garages, patios and balconies. Checking for these overcharged and undercharged discrepancies was called a **comprehensive verification exercise**

5.1 On a quarterly basis, the Revenue Collection Manager should on a sample basis review and verify that the BSFT posted to the Land Management System is supported and accurate. This review should be documented.

5.2 Formalize and document the review procedures performed by the Land Management Analyst. **Procedures should include a comparison of the BSFT and LSFT to the County's assessed values.** When a property of high assessed value is assigned a zero square footage or low square footage, it should trigger a concern that the property may not be properly taxed.

### July 24, 2012 Information Calendar: Audit Status Report: Improved workflow systems

Finding 3: Finance and Planning have not clearly assigned responsibilities for capturing taxable building square footage. Recommendation 3.5: City Manager should consider whether increased accuracy and efficiency of special tax calculations is worth the cost of a special election to simplify the Berkeley Municipal Code Definition of building square footage. The City Manager, with input from Planning, should consider aligning the definition with Planning's. The City's practice of using square footage for more equitable distribution of the special tax would not change.

## ATTACHMENT 4

Address	SqFt Escaped	City sqft	type	Year of Addn	Cost of Addn	Addition type	City Tax Loss-la Cnty	Loss-last 10 yr
5th	642	3028	4plx			error in sf2 tx	5259	
5th	418	1098				error in sf2 tx	3424	
6th	921	2334	triplx			error in sf2 tx	\$7,545	
6th	539	832				error in sf2 tx	\$4,415	
6th		1463		2007	\$80,000	562 ft2 addition		\$9,896
6th	547	1945	duplx			error in sf2 tx	\$4,481	
6th	421	1699		1995	\$22,960	remod lower flr	\$3,449	
6th	326	2442	triplx			error in sf2 tx	\$2,671	\$107K/yr ir
6th	2698	3322	8 unit			error in sf2 tx	\$22,101	only reass \$
6th	485	1360		2006/15	\$65,000	485 ft2 2nd str/bsmt	\$3,973	
6th	439	1108		2002	\$60,000	addn	\$3,596	
6th	2578	1340	duplx	1996	\$78,400	raise hse/add unit	\$21,118	
6th	477	1666	duplx			error on sf2 tax	\$3,907	
7th	496	1563		1999	\$43,966	fam room	\$4,063	
7th	644	604	duplx			error on sf2 tx	\$5,276	
7th	1405	2384	triplx	1997/07	\$90,000	addn/add meters	\$11,509	
7th	1200	1244		2007	\$39,000	develp bsmt	\$9,830	
7th	988	953		2011	\$80,000	add famrm/wkshp	\$8,093	\$9,896
7th	500	762				error on sf2 tax	\$4,096	
8th	413	1157		2000/08	\$51,000	239 ft2/kitchen	\$3,383	
8th	510	1563		1992/05	\$49,760	addition	\$4,178	
8th	322	884		1995	\$19,000	addition	\$2,638	\$2,350
8th	641	2290	triplx			error on sf2 tax	\$5,250	
8th	490	993		1999	\$47,000	bed/ba/study	\$4,014	
8th	500	1268	duplx			error on sf2 tax	\$4,096	
8th	544	1191	duplx	1999	\$90,000	544ftconv to duplx	\$4,456	
8th	726	1796				error on sf2 tax	\$5,947	
8th	694	450				error on sf2 tax	\$5,685	
8th	1490	882				error on sf2 tax	\$12,206	sold 2018
8th	4900	1612		2016	\$800,000	sfr to 4plex	\$4,900	\$54K done
9th	483	880		2003	\$80,000	addition 483 ft2	\$3,956	\$0 Done
9th	773	1436		2005	\$121,000	addn/fire repair	\$6,332	\$10K only
9th		2793		2003	\$214,370	addn 2 story		\$24,785

9th	500	1394			2 story addn	\$4,096	
9th	762	944	1994	\$152,190	manf hom1716 ft2	\$6,324	\$3,092
9th	610	1439	1994	\$61,000	attic/stair	\$4,997	
9th	653	1057			error on sf2 tax	\$5,349	bsmt not cl
9th	1247	991 duplx	1998	\$86,686	2 story cott/bsmt	\$10,215	
9th	690	1400 duplx			error on sf2 tax	\$5,652	
10th	426	916			error on sf2 tax	\$3,490	
10th	896	883 duplex			2 homes/1 lot	\$7,340	
10th	1318	1409	2003	\$15,000	permit 2 new furnc	\$10,797	
10th	465	1439			in-law downstairs	\$3,809	
10th	580	1234 duplx			error on sf2 tax	\$4,751	
10th	455	2983 triplex			error on sf2 tax	\$3,727	
62nd	609	1885 duplx	2003	\$6,000	renov bsmt	\$4,989	
62nd	1000	3148 duplx			cottage in rear	\$8,918	unknown
62nd	520	1967 duplx			error on sf2 tax	\$4,260	
63rd	403	2374 duplx			error on sf2 tax	\$3,301	
63rd	477	2119 duplx			error on sf2 tax	\$3,907	
63rd	497	1026	2004	\$52,791	addition	\$4,071	done at \$31K
63rd	620	1387	2017	91500	addn	\$5,078	unknown
66th	655	2009			error on sf2 tax	\$5,366	
Acton	467	2533	2003	45000	remodel/addit	\$3,826	\$ 5,565.00
Acton	508	2137			error on sf2 tax	\$4,161	
Acton	373	1746	2002	20000	garg convers	\$3,055	\$ 2,474.00
Acton	923	976			2nd story	\$7,561	unknown
Acton	847	1652 duplx			2nd unit not chg	\$6,938	unknown
Acton	680	1008 duplx		1999	gas meter unit2	\$5,570	
Acton	871	992			error on sf2 tax	\$7,135	
Acton	611	1066	2012	81000	addition 2 story	\$5,005	
Acton	629	1140			error on sf2 tax	\$5,153	
Adeline	464	1040			error on sf2 tax	\$3,801	?
Adeline	739	911 triplx	1961	unknown	addition	\$6,054	\$1,000
Addison	335	985	1994	40000	raise house	\$2,744	sold 2004
Addison	2150	3514	1992	unknown	new duplex	\$17,612	
Addison	493	2680			error on sf2 tax	\$4,039	
Allston Way		1890	2002	\$76,000	raised house addition		\$9,401

Allston Way	1162	1362	1993	\$78,140	2nd story	\$9,519	\$9,665
Allston Way	552	1098	1994	\$40,000	2nd story	\$4,522	
Alcatraz	1435	2235 triplex			error on sf2 tax	\$11,755	
Alcatraz	482	1836 duplx			error on sf2 tax	\$3,948	
Alcatraz	616	2786			error on sf2 tax	\$5,046	
Arch	417	2127	2011	\$204,041	kitch/ba remodel	\$3,416	
Arch	600	1289	1997		develp bsmt	\$4,915	
Arch	1200	540	1992	\$108,180	new 3 bd/2 ba hous	\$9,830	\$13,382
Arch	736	1176 duplx	2010	\$15,000	unit A repairs	\$6,029	
Arch	448	4012 triplx	2001	\$133,500	2nd story	\$3,670	\$16,514 no rnt bd re
Arch	2705	4588 multi			error on sf2 tax	\$22,159	
Arch	375	3475 duplx			error on sf2 tax	\$3,072	
Arch	493	1289 triplx	1998		3 meters install	\$4,039	
Arch	740	3603	2011/17	\$390,000	remodel/ADU	?	\$19,680
Arlington	1758	1652	1995		home rebuild	\$14,401	
Arlington	1397	2430	2002	\$150,000	home rebuild	\$11,444	
Arlington	1399	1650	1997/12		addn/sunrooms	\$11,460	
Arlington	145	1585	2000 ?		ADU size error	\$1,187	?
Arlington	541	1790	2006	\$322,000	new 2300 ft2 home	\$4,432	
Arlington	920	2228 duplx	1993	\$32,000	attic conversion	\$7,536	
Arlington	1079	1828	1999/02	\$102,500	bsmt remd/2nd stor	\$8,839	
Arlington	616	2144	1992	\$11,000	bsmt conv	\$5,046	
Arlington	883	2207	2002		error on sf2 tax	\$7,233	
Arlington	572	2181	2013	\$68,700	2nd stor addn	\$4,686	
Ashby	928	1810 4plx	2003		many upgrades		
Ashby	536	4525 5plx			error on sf2 tx	\$4,391	
Ashby	416	1143			several inspections	\$3,408	
Ashby	671	1501	2009	\$210,500	renov/addn	\$5,497	
Ashby	363	1690			few prmts 07-11	\$2,974	
Ashby	1055	1074 duplx	1980		Victrian hse lift	\$8,642	
Ashby	542	1086			error on sf2 tax	\$4,440	
Ashby	446	2311 duplx			error on sf2 tx		
Ashby	372	6540 8unts	2016		Hsng Rpt-06675		
Ashby	291	1880 duplx	1999	\$20,000	Rm addn/kit rmd		
Ashby	1000	2960 5plx	2001	\$100,000	conv bsmt to apt	\$8,192	

Bancroft	1430	1276			adu/downtairs	\$11,714	unknown	
Bancroft	468	1513			error on card	\$3,834	unknown	
Bancroft	644	1544	2002	\$3,220	gar conv to living	\$5,276	\$398	
Bay Tree	755	2300			ADU	\$6,184	?	
Benvenue	950	3463	4plex		residence/cotta	13 bdrms/7 bath	\$7,782	
Berkeley W	335	966			error on sf2 tax	\$2,744		
Berkeley W	210	888	2000	\$6,200	Sunroom	\$1,720	\$767	
Berkeley W	911	864	1994	\$71,000	2nd story addn	\$7,463	unknown	
Belvedere	206	801	1007	?	error on sf2 tax	\$1,687	?	
Berryman	480	1133	2009	\$35,000	ADU	\$3,932	\$2,066	
Blake	817	1105	1995	unknown	error on sf2 tax	\$6,693	unknown	
Blake	1740	1154	unknown	unknown	addition	\$14,253		
Blake	584	1216			error on sf2 tax	\$4,784		
Blake	600	1422			error on sf2 tax	\$4,915		
Blake	612	1319	2000	\$75,000	house raise	\$5,013		
Blake	889	1550	duplx	2012	raise bldg duplx	\$7,283		
Blake	968	2274			error on sf2 tax	\$7,930		
Blake	382	1831	2004	\$18,000	addition	\$0	\$2,227	
Blake	711	2842			error on sf2 tax	\$5,824		
Blake	216	1087			error on sf2 tax	\$1,769	?	
Bonita	693	2003	duplx	2003	\$66,759	addition	\$5,677	
Bonita	1445	2173	duplx	1992	\$47,406	addition	\$11,837	
Bonita	788	2352	triplx	1995/2017	20000/105000	conv bsmt/attic	\$6,455	\$13,057
Bridge	700	2709			\$25,000	addn:0810832712	\$5,734	\$3,092
Browning	498	1062				error on sf2 tax	\$4,080	
Browning	2647	720	2015	\$50,000	renovation	\$21,684	\$6,185	
Browning	433	1591				error on sf2 tax	\$3,547	
California	337	1454	duplx			addition	\$2,761	
California	516	1244	duplx			addition	\$4,227	
California	532	1078	2005	\$53,400	addn 2nd story	\$4,358	\$6,605	
California	1099	1444	duplx			error on sf2 tax	\$9,003	
California	658	2066	2002	\$189,000	2nd story addn		\$23,379	
California	536	2105	duplx	1995	\$8,000	conv SFR to duplx	\$4,391	
California	672	942				error on sf2 tax	\$5,505	
California	545	1208	duplx	1994	\$67,195	ADU	\$4,465	

California	843	4913 triplex	2002	\$245,013	add 2 units	\$6,906	
California	1062	1137	1997	\$40,000 plus	2nd story addn	\$8,699	unknown
California	674	966	2013	\$31,500	stor conversion	\$5,521	
California	504	1360	1994	\$35,000	attic conversion	\$4,128	unknown
California	370	944	2002	\$40,000	addition	\$3,031	\$4,948
California	808	2382 duplx			error on sf2 tax	\$6,619	
California	399	1625	1994	\$19,000	addition	\$3,268	unknown
California	827	1037	1993	\$48,793	872 ft2 addn	\$7,143	
Camelia	1114	1094	1998		bsmnt made usable	\$9,126	
Camelia	451	1224				\$3,695	
Camelia	495	1553 duplx				\$4,055	
Camelia	1005	1005	2002	\$97,365	2nd story addn	\$8,233	
Campus Dr.	949	2930			error on sf2 tax	\$7,774	?
Campus Dr.	1231	1769	2003	\$115,000	addition	\$10,084	
Capistrano	185	2603	2006	\$57,873	addition	\$1,516	
Carleton	1118	1336 duplx			error on sf2 tax	\$10,944	
Carleton	774	1446	2017	\$400,000	2nd story addn	\$6,340	reass \$93K
Carleton	253	1604 1857	2012	\$3,000	basement convers	\$2,074	\$371
Carleton	1175	1412 trplx			error on sf2 tax		96.6K income
Carleton	715	517			error on sf2 tax	\$5,857	
Carleton	1023	1504 duplx		\$2,002	inspect	\$8,380	
Carleton	1284	1614 duplx			error on sf2 tax	\$10,518	
Carleton	314	1348	1995	\$28,000	addition	\$2,572	unknown
Carleton	500	1087	1993	\$10,000	2nd story addn	\$4,095	\$1,237
Cedar	554	1092			error on sf2 tax	\$4,538	?
Cedar	480	844	1999		addition	\$3,932	?
Cedar	433	1466	2005	\$154,700	raised house additio	\$3,547	?
Cedar	984	1440			error on sf2 tax	\$8,060	?
Cedar	1186	1116			duplex added	\$9,715	?
Cedar	844	2209 duplx			error on sf2 tax	\$6,914	
Cedar	939	1231 duplx			error on sf2 tax	\$7,692	
Cedar	2789	2103 triplex	1999	\$75,000	reconstr to triplx	\$22,847	
Cedar	763	1948	1993	\$100,000	add cottage/remode	\$6,250	\$12,970
Channing	794	3194	1998/2014	\$103,620	2nd story addn		\$12,818
Channing	736	752	1996	\$67,000	addition	\$6,029	unknown

Channing	838	1377	duplx			error on sf2 tax	\$6,865	
Channing	831	1013		1996	\$84,000	addition	\$6,807	unknown
Channing	649	2263		2009	\$53,000	addition		\$6,556
Channing	810	1600		2002	\$125,000	2 bed/1 ba	\$6,635	\$15,462
Channing	621	1205		2010	\$8,500	remodel 2nd stor	\$5,087	\$1,051
Channing	1032	1371		2003	\$20,000	bsmt to liv space	\$8,454	\$2,474
Chestnut	408	960				erro on sf2 tax	\$3,342	
Chestnut	1014	1198				error on sf2 tax	\$8,306	
Chestnut	489	1705				error on sf2 tax	\$3,932	
Codornices	492	1875				sunroom	\$4,030	?
Contra Costa	480	2082		1997	75000	int/ext remdl	\$3,932	
Contra Costa	1903	2077				error on sf2 tax	\$15,600	
Contra Costa	620	2171		2002	208000	add master/ba	\$5,079	
Contra Costa	625	1669				error on sf2 tax	\$5,120	
Contra Costa	484	2058	2008/2015		175000	bsmt conv/bedr add	\$3,965	
Contra Costa	701	2198				error on sf2 tax	\$5,742	
College	902	3218	Bdg Hs	2000	\$9,360	build 17th bedrm	\$7,389	stdnt rooming hse
College	662	1860	condo			error on sf2 tx	\$5,423	Is bsmt chgd?
College	589	851	condo			error on sf2 tx	\$4,825	
College	545	3351	duplx			error on sf2 tax	\$4,465	comm'l too
Cornell	1072	648				2nd story	\$8,782	
Cornell	755	746				2 story	\$6,184	
Cornell	775	780				2 story	\$6,349	
Cornell	400	1062				back house addn	\$3,277	
Cornell	503	504				back addn	\$4,120	
Cornell	400	1003				rear 2nd story	\$3,277	
Cornell	640	1100			sf2 from zillow	2nd story	\$5,243	
Cornell	1240	811				2nd story	\$10,158	
Cornell	1224	552				2nd story	\$10,027	
Cornell	425	1080				2 story	\$3,482	
Cornell	655	1069				full walkable bsmt	\$5,366	
Cornell	613	1275				2nd story	\$5,022	
Cornell	1000	1326				2nd story	\$8,192	
Cornell	1580	1360		2009	\$270,000	second unit addn	\$12,943	\$33,399
Cornell	1000	1360				2nd story	\$8,192	

Curtis	1160	1415 duplx	1992	\$68,440	2nd story	\$9,502	
Curtis	336	1120			ADU	\$2,752	
Curtis	670	1317			error on sf2 tx	\$5,489	
Curtis	773	2135 triplx				\$6,332	
Curtis	803	969	2000	\$43,525	remodel	\$6,578	
Curtis	763	1559 duplx			error on sf2 tx	\$6,250	
Curtis	1420	1112			rear 2 styt addn	\$11,632	
Curtis	417	1971 duplx			legalize unit/attc	\$3,415	
Curtis	377	1500			error on sf2 tx	\$3,088	
Curtis	1804	828	1994	\$150,000	1300ft2 addn	\$14,778	
Curtis	492	1184	1993	\$40,000	2nd story addn	\$4,030	
Dana	472	2702 multi	2012	\$3,000	attic conversion	\$3,867	\$371
Dana	2154	1229	1998	\$12,000	bsmt conv	\$7,577	unknown
Dana	782	1208 duplx			error on sf2 tax	\$6,406	
Deakin	608	1252			error on sf2 tax	\$4,981	
Deakin	1331	1340	2002	\$75,000	bsmt to liv space	\$10,903	\$9,278
Delaware	2092	2800 4plex			error on sf2 tax	\$17,137	
Delaware	655	1740 duplx	1992		create duplex	\$5,366	
Delaware	1865	1359 duplx			error on sf2 tax	\$15,278	
Delaware	930	1062			error on sf2 tax	\$7,618	
Delaware	331	1551			error on sf2 tax	\$2,711	
Delaware	331	1551			error on sf2 tax	\$2,711	
Delaware	937	1933 triplex	1996	\$152,170	raise house/studio	\$7,676	unknown
Delaware	1146	1244	2004	\$130,000	bsmt to liv space	\$9,388	\$30K reass
Derby	560	1122	2007	\$150,000	2nd flr addition	\$4,587	
Derby	1675	739 duplx			error on sf2 tax	\$13,721	
Derby	771	987	2013/15	\$35,000	bsmt conv/addn	\$6,316	\$4,330
Derby	1148	1288	1941	unknown	2nd story addn	\$9,404	
Derby	449	1313	2002	\$90,000	addition	\$3,678	\$11,133
Derby	892	4033			error on sf2 tax	\$7,307	?
Derby		1774	2011	\$35,000	ADU		\$4,330
Dohr	1451	878			error on sf2 tax	\$11,886	unknown
Dohr	452	1506	2006	\$75,000	whole hse remod	\$3,703	
Dohr	673	1100	2018	\$139,160	gar conversion	\$673	\$3,479
Dwight	677	926			2nd story addn	\$5,546	



Dwight	418	2311 duplex			error on sf2 tax	\$3,425	
Dwight	275	1775 triplex	2007		add 4th meter	\$2,253	
Dwight	1504	4678 units	1992	\$125,546	add bldg	\$12,320	
Dwight	1806	5776 units	2009	\$60,000	bsmt conversion	\$14,794	
Edith	1000	1300			art warehouse	\$8,192	?
Edith	463	2179	2011		2nd story addn	\$3,793	
Edith	644	984			error on sf2 tax	\$5,276	
Edith	920	1990 duplex	1990	unknown	2nd story	\$7,536	bsmt/cottg not charged
Edith	1248	1878	1994	\$ 200,000.00	4 bed 2nd story	\$10,223	
Edith		2399	2005	\$ 137,800.00	2 story addn		\$ 17,045.00
Edith		3646	1998	\$ 49,000.00	bsmt addn		\$ 6,061.00 \$6K reassoi
Edith	480	1459	2000	\$ 51,000.00	garg conver ADU	\$3,932	\$ 2,802.00
Edith	540	1408			sunrm/gar conv	\$4,424	?
Edwards	687	1317	1994	\$65,328	2nd story addn	\$5,628	\$8,081
Ellis	577	888 duplex	1995	\$45,000	1 story addn	\$4,727	
Ellis	913	2092 duplex	1993		error on sf2 tax	\$7,479	
Ellis	962	993 duplex			error on sf2 tax	\$7,881	
Ellsworth	498	2420	2006/12	\$83,000	bsmt conv/addn	\$4,080	sold in '13
Ellsworth	1015	2957 triplex			error on sf2 tax	\$8,315	
Emerson	1282	1304			error on sf2 tax	\$10,502	
Essex	1831	1649 duplex	2002	\$127,626	remod bsmt	\$14,999	
Essex	1083	1428	1992	\$73,000	addition	\$8,872	
Euclid	913	1741	2000	\$75,000	fam rm addition	\$7,479	
Eunice	1346	1768	2005	\$120,000	2 story addition	\$11,026	
Eunice	1357	1767	2004	\$180,000	addition	\$11,116	
Fairlawn	1386	570			error on sf2 tax	\$11,354	
Fairlawn	724	1646	2004	\$350,000	addn 1212 ft2	\$5,931	
Fairlawn	728	876	2006	\$60,000	remodel/addn	\$5,964	
Fairlawn	1254	1117			error on sf2 tax	\$10,273	
Fairlawn	527	1105			error on sf2 tax	\$4,317	
Fairlawn	704	1154			error on sf2 tax	\$5,767	
Fairlawn	397	1248	1994/95/96	\$44,900	permits not final	\$3,252	very low txs
Fairlawn	413	1643			2019 AUP	\$3,383	
Fairview	400	3333 4plex	1997	\$95,481	renovate flat	\$3,277	advert 96K income
Forest	150	2780			error on sf2 tax	\$1,229	?

Forest	3076	3817 duplx	2015	\$276,972	remodel	\$25,197	
Francisco	621	1142			error on sf2 tax	\$5,087	
Francisco	344	1189	1999	\$12,200	addition	\$2,818	
Francisco	2060	1512	1997	\$260,000	raise house	\$16,875	
Francisco	1421	1183	2006	\$150,940	basement convers	\$5,825	\$3,151
Francisco	453	2016 triplex			error on sf2 tax	\$3,711	
Francisco	1373	1397	1998	\$30,000	2nd story	\$11,247	
Francisco	984	1415	2002	\$63,000	fire dmg exist triplx	\$8,061	
Francisco	658	2704 duplx	1994	\$210,000	new carriage hs	\$5,390	
Francisco	798	2453 triplex	1997	\$93,094	add 2nd unit	\$6,536	
Francisco	948	2743 4plex			error on sf2 tax	\$7,766	
Fresno	448	1728 no cty	2011 AUP		448ft2 2nd story	\$3,670	
Fulton	608	1843	2003	\$85,000	basement convers	\$4,981	reass. \$40K
Glen	512	1488	1995		ADU and Addtn	\$4,194	\$2,845
Grant	800	3750	2005	\$47,300	addtn	\$0	\$5,851
Grant	761	2716 duplx	2005	\$45,000	foundt work	\$6,234	
Grant	559	1854			error on sf2 tax	\$4,579	
Grant	1209	1343	1998	\$5,500	1st floor convers	\$9,904	
Grant	668	3629 duplx	1999		hsg viol - 3 H2O heat	\$5,472	
Grizzly Peak		2490	2014	\$300,000	663 ft2 addn		\$18,555 rent ad for \$
Grizzly Peak	868	1511			in law unit	\$7,110	
Grizzly Peak	792	1828	2013	\$55,000	792 ft2 bsmt remodel	\$6,488	
Grizzly Peak	898	2617	1998,06,10	\$60,000	bath/laundry crwl	\$7,356	
Grizzly Peak	925	2285			error on sf2 tax	\$7,577	
Grizzly Peak		2863	2011	\$125,000	364 ft2/remodel		\$15,463
Grizzly Peak	200	2234	2003/13	\$80K/\$37K	kitchen/sunroom	\$1,638	\$9,896
Grizzly Peak		9043	2005	\$190,000	remodel		\$23,503
Grizzly Peak	400	1636	2005/2011	\$80,000	Gar conv/kitch remd	\$3,277	\$9,896
Grizzly Peak		5191	2018	\$200,000	whole hse remodel		\$24,740
Grizzly Peak	1278	2012	1996	\$176,060	2nd story	\$10,469	
Grizzly Peak	1708	1938	1994	\$80,000	addition	\$13,992	
Grizzly Peak	888	3256	1986 unknown		major remodel	\$7,273	
Grizzly Peak	341	1972	1993	\$17,000	gar. Conv	\$2,793	
Grizzly Peak	1131	2032	1996	\$153,000	3rd story	\$9,265	
Grizzly Peak	632	1784	2006	\$173,000	2nd flr addition	\$5,177	

Grizzly Peak	1510	2215	2005	\$145,000	addn	\$12,370	
Grizzly Peak	250	1800	2018	23500	basement convers	\$488	\$588
Grizzly Peak	434	1999	2010	\$20,979	legalz bsmt unit	\$3,555	
Grizzly Peak	769	1413	2005	\$150,000	769ft2 addn	\$6,439	
Grizzly Peak	786	2494	2019	\$286,750	786 ft2 addn	\$786	
Grizzly Peak	1050	1076			error on sf2 tax	\$8,601	
Grizzly Peak	1136	4087	2000/06	\$336,429	1327/470 ft2 add	\$9,306	?
Harmon	600	1130	1723		error on sf2 tax	\$4,915	?
Haste	497	1524	triplex		1999 - 3 meters	\$4,071	
Haste	1100	1368	BrdgHse		2 story Board	\$9,011	
Haste	16929	2670	multi		error on sf2 tax	\$138,679	
Hearst	870	1176		unknown	error on sf2 tax	\$7,127	
Hearst	855	1569	duplx	2000	125000 duplex renov	\$12,853	
Hearst	1554	1241	2001/02	138000	addn/ADU	\$12,730	
Hearst	90	2246	1350	1995	\$30,000 basemt conv/add	\$0	\$3,711
Hearst	636	910		1949	unknown 2nd story addn	\$7,455	
Hearst	667	1208		1992	\$45,000 addition	\$5,464	
Hearst	819	1833		2002	\$105,000 addition	\$6,709	
Hearst	373	3709	triplex	1994	\$264,000 conv to triplex	\$3,056	
Hearst	897	1791	duplx		error on sf2 tax	\$7,348	
Henry	928	1134	condo	2001	\$19,000 bsmt excav/rnov	\$7,602	
Hilgard	2157	7176	multi	2015	18 bd, renov	\$17,670	
Hilgard	2435	2228	units		various pmts	\$19,947	
Hilgard	1934	1153	trplx	2000	\$140,000 renovations	\$15,843	
Hillcrest	446	2020		1995	\$39,400 addition	\$3,654	\$4,874
Hilldale	110	2589		2006	\$410,000 roof/attic/entry	\$901	\$50,717
Hilldale	225	1525		2003	\$100,000 2nd stry	\$1,843	
Hilldale	546	1446			error on sf2 tax	\$4,473	
Hilldale	849	1615		1997	bsmt conv dwllg	\$6,955	
Hilldale	406	2102		2010	\$20,000 remodel	\$3,326	
Hilldale	1131	1540		2000	\$30,000 addn/kitch rmdl	\$1,073	
Hilldale	1261	1889	2000/10	\$58,800	seism/renov	\$10,330	
Hilldale	319	1830		1998	\$80,000 addn	\$2,613	
Hilldale	330	2281		2013	\$100,000 kitchen/remdl	\$2,701	
Hilldale	845	2792		2014	\$45,000 basement remodel	\$4,499	\$0

Hillegass	2924	15492	multi			error on sf2 tax	\$23,953	
Hillegass	270	3409				error on sf2 tax	\$2,212	
Hillegass	348	4468	multi			error on sf2 tax	\$2,851	
Hillegass	186	1338				error ft2 tax	\$1,524	?
Hillegass	400	2290	duplx			ADU	\$3,277	
Hillegass	1850	2130	duplx			addn of duplx	\$15,155	
Hillegass	273	2577		2002	\$100,000	minor addtn	\$2,236	\$12,370
Hopkins	895	2010				ADU/2nd story	\$7,332	?
Hopkins	1022	868		2002	\$70,000	2nd story	\$8,372	
Hopkins	288	1544			\$100,000	Access struct	\$0	\$12,370
Hopkins	510	1683	duplx	2012	??		\$4,178	
Indian Rock	1121	2294		2003	\$150,000	addn	\$9,183	only reass. \$19K
Indian Rock	338	1938			\$60,000	bsmt renov	\$2,769	\$7,422
Indian Rock	633	4229		1995	\$30,000	patio walls/elect	\$5,185	\$3,711 unreass b4
Jaynes	1160	1344		1997	\$107,000	house raise	\$9,502	sold 2011
Jaynes	452	2872		2012	\$137,000	bsmt excav 452 ft2	\$3,702	\$0
Jones	536	1052				bsmt renov	\$4,391	
Jones	566	1141				2nd story	\$4,637	
Jones	951	841				2nd story addn	\$7,790	
Jones	220	862				gar. Conv	\$1,802	
Josephine	334	2355			\$230,000	addition	\$0	\$28,451
Josephine	1245	1432		1999/2002	\$35,000	addtn	\$10,199	
Josephine	592	1584		1998	\$78,204	addition	\$4,850	
Josephine	1038	2008		1995	\$100,000	2nd story addn	\$8,503	
Josephine				1998	\$9,000	basement renov		\$1,113
Josephine	1686	962		1999	\$163,000	addition	\$13,811	
Josephine	580	2234		2017	\$283,000	addition	\$4,751	
Josephine	345	1815		1995	\$40,000	2 story addn	\$2,826	
Julia	1599	1476	duplx			error on sf2 tax	\$13,099	
Kains	300	1092		2006	\$60,000	bsmt conv	\$2,458	
Kains	318	830		2002	\$67,000	addn/kitch/ba	\$2,605	
Kains	591	828		2007	\$200,000	2nd story addn	\$6,783	
Kains	704	1658				error on sf2 tax	\$5,767	
Kains	1426	1515		2018	\$250,000	raise house	\$1,426	
Kains	935	1824	triplx	2011	\$23,000	fire renovation	\$7,659	

Kains	87	1175	plus attic/basmt			\$713	?
Kains	1004	1716	duplx	2007/2013		\$8,225	bsmt renov/remod
Kains	363	1280		2004	\$25,500	\$2,974	addition
Kains	767	1224		1998/2003	\$65,000		bsmt(545)/ADU(767)
Keeler	559	1027		1998	\$17,000	\$4,579	basement remodel
Keith	502	1814				\$4,112	error on sf2 tax
Keith	2927	1088	triplx	2007	\$248,000	\$23,977	2 story added
Keith	596	1196		1994/2018	\$72,000	\$4,882	bsmt/ whole remode
Keith	823	2614		1998	\$20,000	\$6,742	raise hse/legalize
Keith	760	2009	duplx	1994	\$70,000	\$6,226	add 2nd unit
Keith	368	1560		2006/2008	\$75,000	\$3,015	remodels
Keith	922	2189		2002	\$92,200	\$7,553	bsmt remodel
Keith	761	1256		2002	\$58,000	\$6,234	addn
Keith	2127	1005		1994	\$26,000	\$17,424	addn
Keith	900	2301		1995/2005	\$15,000	\$7,372	bsmt/major remod
Keith	1166	1844		1993/1995	\$20,000	\$9,552	seismic/mstr addn
Keith	1311	2793		1995		\$10,739	work MAY req pmt
Keith	538	2356		1996	\$148,000	\$4,407	fam rm addition
Keith	568	1850		1997	\$45,000	\$4,653	2nd story addn
King	415	1689	duplx			\$3,400	error on sf2 tax
King	482	1684				\$3,948	error on sf2 tax
King	436	2285		2002	\$75,420	\$3,572	bsmt/2 story addn
King	806	4630	duplx	2016	\$105,000	\$2,201	lift house add 806
King	504	2131	duplx			\$4,129	error on sf2 tax
King	686	3380	4plx			\$5,620	see rent bd report
La Loma	662	1192	1854	2005	\$41,000	\$5,443	addition
La Loma	973	3240		1999	\$55,000	\$7,971	2 bed/fam rm
La Loma	1018	2790		2005	\$80,000	\$8,339	renovations
La Loma	667	3105		2007	\$35,000	\$5,464	seismic/other pmt
La Loma	480	1664	duplx	2002	\$6,000	\$3,932	seismc/error
Lewiston	908	3194		2008	\$307,000	\$7,438	addn/remdl
Lewiston	470	3181	duplx	2008	?	\$3,850	instl 2 meters
Lewiston	466	2316		1993	\$100,000	\$3,817	conv sunrm bkfst nk
Le Roy	660	2246		1993	\$25,000	\$5,407	bsmt renov
Le Roy	457	2557				\$3,744	error on sf2 tx

Le Roy	824	1353	1992	\$23,000	conv attc to dwllg	\$6,750	
Le Roy	1598	4340 5plx	1997	\$43,000	fncln upgrade	\$13,090	student minidorm
Lincoln	408	1696 4plx		\$23,000	basement convers	\$3,342	\$2,845
Linden	394	1893	2003	\$15,000	gar. Conv	\$3,228	
Linden	688	1843			error on sf2 tax	\$5,636	
Linden	400	1523			error on sf2 tax	\$3,277	
Lorina	1385	1599 duplx			error	\$11,346	
Marin	825	2109			error on sf2 tax	\$6,758	
Mariposa	548	2464 duplx			error on sf2 tax	\$4,489	
M L King	865	2764	1998	\$58,910	raise bldg, add room	\$0	\$7,287
M L King	1537	2298 duplx	2005	\$125,000	raise bldg, add room	\$12,590	sold 2009
M L King	500	1594 duplx	1996	\$20,000	bsmt renovation	\$4,096	
Mathews	765	1141 duplx			ADU	\$6,267	?
McGee	549	1009 duplx			ADU/basement conv	\$4,497	?
McGee	495	1754	2004	\$275,000	2nd story addn	\$4,055	reass. \$68K
McGee		1823	2009	\$130,000	basement convers	\$0	\$16,081
McGee	390	1571	2006	\$50,000	powder room	\$3,195	sold in 2006
McGee	763	1453	2016	\$175,000	basement convers	\$6,250	\$6,404
McGee	161	1350	2005	\$4,236	basement convers	\$1,318	\$535
McGee	1026	1026	unknown	unknown	attic conv/AccStruct	\$8,405	?
McGee	540	1742 duplx		\$1,998	bsmt raise ceiling	\$4,424	
McGee	1100	1881	2011	\$100,500	addition	\$9,018	\$12,432
McKinley	453	2621 triplx			error on sf2 tax	\$3,711	
McKinley	576	1635				\$4,718	
McKinley	689	2437	1997		convers habit space	\$5,644	
McKinley	360	1643	1998	\$85,272	garg convers	\$2,949	unknown
Michigan	332	2116	1993/1999	\$4,000	finish bsmt	\$2,720	
Michigan	395	2708	2005	\$300,000	remodel	\$3,236	also has bsmt
Michigan	532	3853	1991		major remodel zill	\$4,358	\$300K-\$29
Miller	806	4077	2002	\$300,000	addition		\$33,523
Milvia	805	1207			2nd story addn	\$6,594	
Milvia	860	2765 duplx			error on sf2 tax	\$7,045	
Milvia	1584	1050 triplx	1995	\$15,000	renovate flat	\$12,976	
Monterrey	966	2476	2011	\$75,000	addition	\$7,913	\$9,278
Oak Knoll	2608	4291			error on sf2 tax	\$21,364	

Ordway	920	864	1996	COB syst dwn	bsmt to liv space	\$7,536		
Ordway	644	1664	2006	?	addition	\$5,439		
Ordway	489	1139		?	error on sf2 tax	\$4,006		
Ordway	383	1192	1996	?	addition	\$3,137	unknown	
Oregon	557	1337	2001	\$30,000	addition	\$4,563		
Oregon	992	1182			duplx error on sf2 tax	\$8,126		
Otis	140	1168			error on tax	\$1,147	unknown	
Oxford	521	1514	2001	7500	conv garage	\$4,268		
Oxford	540	2707	2004	\$95,000	addition		\$11,751	more sf2
Oxford	417	926	1997		triplx bsmt conv	\$3,416		
Oxford			2009	\$23,300	bsmt conv		\$2,882	only 3k add
Oxford		2622	2009	\$205,000	add 550 ft2			
Oxford			2013	\$27,000	multi remod/addn		\$3,340	
Oxford	1263	1576	2000	\$35,000	finsh attc/stairs	\$10,346		
Oxford				\$55,000	lowr unt addn		\$6,804	
Oxford	720	2641	2019	50000	rebuild sunroom	\$5,898		7 units
Oxford	1110	3884			multi error on sf2 tax	\$9,093		
Page	301	1528			duplx	\$2,466		
Page	500	1341				\$4,096		
Page	442	1334				\$3,621		
Page		1780	2016	\$160,500	addition		\$7,827	
Parker		2447	2010	\$68,000	bsmt to liv space		\$7,422	
Parker	609	1733	2012	\$91,000	addition	4989	reass \$14K	
Parker	unknown	2123	2004	\$72,000	ADU	unknown	\$8,758	
Parker	329	1505	2000	unkown	duplx Access struct	\$2,695		
Parker	327	2751	1994	unknown	duplx cottage in rear	\$2,679		
Parker	613	1998			duplx ADU untaxed	\$5,022	?	
Parker	1989	1255	99/'04	\$33,500	gar conv/attic	\$6,013		sold 2007
Parker	1141	1160	2002	\$200,000	house raise	\$9,347		reass \$44K
Parker	687	2633	2009	\$68,000	duplx add 687 ft2cottage	\$5,628		
Parker	926	3588	2006	\$253,845	triplx 3rd flr addition	\$7,586	\$31,400	
Parker	565	2049	2009	\$38,750	duplx 2nd unit	\$4,628		
Parker	462	1274	2010	\$75,000	addition	\$3,785		reass \$8K
Parker	584	5896			5plex error on sf2 tax	\$4,784		
Parker		3140	2005	\$70,000	2nd floor addtn		\$8,659	

Parker	870	3387	2010	\$38,000	build ADU		\$4,700
Piedmont	1357	2956	5plx		error on sf2 tax	\$1,116	
Piedmont	717	6398	Bdg Hse		SFR conv bdgHse	\$5,874	
Piedmont	1369	2421	triplx		error on sf2 tax	\$11,215	
Piedmont	641	3068	1994		addition	\$5,251	?
Piedmont	1734	1589			error on sf2 tax	\$14,204	
Peralta	440	908	1993	\$13,000	addition	\$3,604	\$1,608
Peralta	480	860	1997	COB syst dwn	fam rm/bed/ba	\$3,932	
Peralta	800	857			2nd story	\$6,553	
Peralta	606	1038	2004		addition	\$4,964	
Peralta	318	1329	1995		2nd story addn	\$2,605	
Peralta	1043	1084	1995/03		studio/addn	\$8,544	
Peralta	505	1403	2004		addition	\$4,137	
Pine	386	1728			addition	\$3,162	
Pine	497	1592	2008	\$45,000	addition/porch	\$4,071	\$5,567
Prince	989	1421	duplx		error on sf2 tax	\$8,102	
Prince	836	2122	4plx		error on sf2 tax	\$6,848	
Prince	435	2461	triplx		error on sf2 tax	\$3,563	
Prince	618	3162		\$53,337	addition		\$6,598
Prince	603	1981	2001	\$45,000	addition	\$4,940	
Prince	670	1266	duplx		error on sf2 tax	\$5,489	
Prince	314	1210	duplx	1994	unknown	\$2,572	
Prince	744	1916	duplx		error on sf2 tax	\$6,095	
Queens	882	1454			error on sf2 tax	\$7,225	
Queens	407	1840	plus storage		error on sf2 tax	\$3,334	
Queens	600	1865	has workshp/util rm		error on sf2 tax	\$4,915	
Queens	555	2448			error on sf2 tax	\$4,546	
Roosevelt	352	1527			error on sf2 tax	\$2,662	
Roosevelt	398	1224			error on sf2 tax	\$3,260	
Roosevelt	724	1491	triplx		error on sf2 tax	\$5,931	
Rose	532	1499	1994	\$49,000	2nd stor/master	\$4,358	
Rose	324	1420	1994	\$23,548	addition	\$2,654	
Rose	1150	1720	1996	\$102,350	2nd story	\$9,421	
Rose	488	1551	1993	\$75,000	2nd story	\$3,998	
Rose	457	2803	2014		install 4 meters	\$3,744	



Rose	410	3696	2000/07	\$405,000	storage convers	\$3,359	\$30,925
Rose	197	2609			error on sf2 tax	\$1,613	\$0
Rose	105	1616	2005	\$100,000	error on sf2 tax	\$860	unknown
Russell	784	2001 duplx	2007	\$96,076	raise bldg/conv bst	\$6,422	
Russell	302	3478 duplx			2nd bldg not incl	\$2,474	
Russell	1000	1038 triplex	2009		convert util to 3	\$8,192	
Russell		2258 duplx	2003	\$8,000	sid. 3 flr dwell/cott	\$5,063	
Russell	545	3013			error on sf2 tax	\$4,465	
Russell	657	1773	1993	\$36,000	add guest/bath	\$5,382	
sacramento	709	1577	2007	\$90,000	add 2nd story	\$5,808	62K added
sacramento	900	1309			2nd story/addn	\$7,373	
sacramento	822	1228			2nd story addn	\$6,734	
sacramento	1000	1321			basement devel	\$8,192	
sacramento	1000	1225			basement devel	\$8,192	
sacramento			2017	\$170,000	2 story addn		\$4,205
sacramento	210	655 855	2003	\$14,340	gar conversion	\$1,720	\$1,774
sacramento	400	1379	1994	\$42,097	fam rm/bed/ba	\$3,277	
sacramento	427	1218	1993	\$19,116	2nd story	\$3,498	only \$16K r
sacramento	509	851	2008	\$80,000	din/fam rm addn	\$4,170	
sacramento	1152	843	1993	\$71,748	2nd story	\$9,437	
sacramento	1700	1904			triplex w/nonconf	\$13,926	
sacramento	468	908	1997	\$30,000	addition	\$3,834	
sacramento	906	1251	1994	\$56,366	906 ft2 2nd stry	\$7,422	
sacramento	910	4030			error on sf2 tax	\$7,455	?
san Luis	700	1537			ADU not charged	\$5,734	?
san Luis	1152	1473	1994	\$95,658	bed/ba addn	\$9,437	
Santa Barbara	325	2417			error on sf2 tax	\$2,662	?
Santa Barbara	1069	2969			error on sf2 tax	\$8,757	
Santa Barbara	1007	1495			error on sf2 tax	\$8,249	
Santa Barbara	368	2183			error on sf2 tax	\$3,015	
Santa Barbara	403	1757			error on sf2 tax	\$3,301	
Santa Barbara		2947	2015	\$ 87,000.00	kitch/ba		5381
Santa Barbara	1375	3390			error on sf2 tax	\$11,264	
Santa Barbara	900	1861	2016	\$ 53,000.00	kitch/ba/garconv	\$7,373	3278
Santa Barbara	372	2656			ADU	\$3,047	

Santa Barbara	484	2480	2013	\$ 50,000.00	bsmt au pair	\$3,965	4123
Scenic	802	2384	2006	\$ 23,500.00	bath/kitch	\$6,570	
Scenic	715	2188	2009/11	\$ 170,000.00	bsmt renov	\$5,857	\$21,029
Scenic	636	4465	1999	\$20,000	den/bath/bsmt	\$5,209	
Scenic	1014	2104	1994	\$7,500	convert garage/bath	\$8,306	
Shattuck	720	1711 duplx			error on sf2 tax	\$5,898	
Shattuck	1308	3843	1993/2000	\$45,000	Bsmt conv/ADU	\$10,715	\$115K adde
Shattuck	674	1618	2008	\$305,000	bsmt to master	\$5,521	
Shattuck	545	2567	2000/07	\$63,000	conv strg, sunrm	\$4,465	\$7,793
Shattuck	1208	3383	1993/6/2010	\$120,000	solarium/kitch/bath	\$9,896	\$14,844 list as SFR
Shattuck	9969	9969 multi			error on sf2 tax	\$81,664	zumpr ad
Shattuck	1197	1198 5unit			error on sf2 tax	\$9,806	
Sierra	228	2378 duplx	2012	\$9,500	ADU	\$1,868	
Sonoma	620	2757 duplx	2012	???	ADU	\$5,079	sold in 2000
Spaulding	364	1521		\$14,000	bsmt conversion	\$2,982	unknown
Spaulding	1221	1338		unknown	bsmt/2nd story	\$10,002	
Spaulding	1393	1221			duplex added	\$11,411	
Spruce	534	672	1995/97	\$44,000	addn/encls porch	\$4,374 ?	vry lw txs
Spruce	875	1892	2012	\$95,000	2 story addn	\$7,168	\$11,752
Spruce	750	2389	1995/96	\$75,000	additions	\$6,144	
Spruce	756	506			error on sf2 tax	\$6,193	
Spruce		2799	2008/12	\$112,300	kitch/ba/fin bsmt		\$11,257
Spruce	726	3699	2003	\$49,000	finish bsmt	\$5,947	
Spruce	152	3555			error on sf2 tax	\$1,245 ?	
Spruce	646	2212			error on sf2 tax	\$3,768	
Spruce	633	1746	2018	\$150,000	addition	\$633	
Spruce	794	2142	1992/2001	\$121,000	art studio/attic ren	\$6,504	
Spruce	493	1327			error on sf2 tax	\$4,039	fin bsmt/attic
Spruce	747	1357	1998	\$2,450	seismic foundn	\$6,119	
Spruce	1014	1224			error on sf2 tax	\$8,306	
Spruce	702	513			error on sf2 tax	\$5,751	
Stannage	295	930			error on sf2 tax	\$2,417	
Stannage	800	1043			2nd story added	\$6,553	
Stannage	252	874			2nd story added	\$2,064	
Stannage	502	886			addition	\$4,112	

Stannage	982	694			2 story	\$8,044		
Stannage	392	936			addition	\$3,211		
Stannage	416	1367			2nd story blt	\$3,408		
Stannage	653	1515 triplx			units developed	\$5,349		
Stannage	676	676			bsmt developed	\$5,538		
Stuart	655	1807 duplx			error on sf2 tax	\$5,366		
Stuart	373	1670			error on sf2 tax	\$3,055	?	
Stuart	1075	2686 duplx			error on sf2 tax	\$8,806		
Stuart	842	1009	1994	\$16,000	addtn	\$6,897		sold 2017
Tamalpais	1350	4353	2012	\$400,000	addition 3600ft2	\$11,059		
Talbot	160	2494			workshp fullhght	\$1,311	?	
The Alameda	1431	1869	1997	\$100,000	addition	\$11,722	\$12,370	
The Alameda	257	2250	2002	\$116,000	third floor add'n	\$2,105		
The Alameda	779	1510	1992	\$23,838	2 bd addition	\$6,381		
The Alameda	1025	1791			error on sf2 tax	\$8,421		nd to chg b:
The Alameda		3803	2016	\$36,000	breakfast nook		\$2,227	vry lw txs
The Alameda	510	1902	2012	\$110,000	ADU/garage	\$4,178	only \$11K	
The Alameda		2805	2002	\$100,000	kitchn/bsmt ren		\$12,370	
The Alameda	647	2545	2007	\$30,000	remod/addition	\$5,300		
The Alameda		3131	2014	\$160,000	2 bedrm addn		\$19,792	
The Alameda	868	2727	1998	\$45,000	bath/attic renov	\$7,110	\$5,567	
The Alameda	590	1238	2010	\$49,428	bsmt renovation	\$4,833	\$6,114	
The Alameda	421	2013	2004	\$160,000	attic convsn	\$3,448		
The Alameda	640	1530	1998	\$25,000	gar. Conv	\$5,243		
The Alameda	126	1698	2016	\$65,000	addn	\$504	\$4,020	
Tyler	1990	1992 4plex			error on sf2 tax	\$16,318		
Vassar	1030	3042	2011		AUP App 4270ft2	\$8,438		
Vallejo	1300	2770			finish bsmt	\$10,649		
Vallejo	874	2167			addn	\$7,160		
Vicente	4582	1264	2002	PRA 6/25	new home/pool	\$37,534		
Vicente	372	1960	2014	\$47,500	addn	\$2,271		
Vicente	1327	2824	2001	\$45,000	bsmt conv to dwll	\$10,871		
Vicente	374	2792	1998	\$300,000	new 3166ft SFR	\$3,064		
Vicente	1072	1698	1996	\$300,000	new SFR	\$8,782		
Vicente	1029	1617	1995	\$241,760	new SFR	\$8,429		

Vincente	570	1684	2011	\$78,400	addn/remod	\$4,669	only \$7500 rea inspc 2x 20
Vincente	1226	1436			seismic 2004	\$10,043	very low txs
Vincente	416	2559	2010	\$175,000	addn/remod	\$3,408	\$21,648
Vincente	867	1408	2001/2006/1	\$65,800	addn/seism/rmdl	\$7,102	\$2,474
Vincente	567	1469	1998	\$65,000	rmdl	\$4,645	
Vincente	362	2578			error on sf2 tax	\$2,965	
Vincente	463	1607	2002	\$150,000	whle hse rmdl	\$3,792	\$20K reass
Vincente	448	1287	1999	\$42,000	bsmt renov	\$3,670	
Vine	1000	1105			error on sf2 tax	\$8,192	reass. \$71K
Virginia	760	1272	2014	\$115,000	addtn	\$8,226	
Virginia	350	1218	2014	\$18,000	basement convers	\$1,434	\$1,080
Virginia	553	1857 duplx	1997	\$110,000	conversion duplx	\$4,530	
Virginia	385	1004	1993	\$21,394	addtn	\$3,154	\$2,646
Virginia	630	1408	1996	\$71,016	raise house	\$5,161	
Virginia	1080	2146	1992	\$68,000	3rd flr addition	\$8,847	\$8,412
Virginia	383	2385 duplx			error on sf2 tax	\$3,137	
Virginia	242	2812			error on sf2 tax	\$1,982	\$0
Virginia	638	3989 4plex	2009	\$108,966	2 story addn	\$5,226	
Virginia	775	2630	1999	\$35,300	bsmt/kitchen	\$6,349	sold 2013
wallace	525	1227	2013	\$100,000	addition	\$4,301	
wallace	525	1140	1988	\$30,000	addition	\$4,301	
Walnut	1055	1560	1997	\$44,411	2nd story	\$8,642	
Walnut	400	1392	2011		ADU	\$3,277	
Walnut	437	1759	2012	\$4,000	2nd story	\$3,580	
Walnut	682	1908			error on sf2 tax	\$5,586	
Walnut	437	1434			error on sf2 tax	\$3,580	
Walnut	1053	1444	2005	\$90,000	gar conv rec rm	\$8,626	
Walnut	716	1061	1996	\$45,000	attic conv/bath	\$5,865	
Walnut	655	1972			error on sf2 tax	\$5,366	
Walnut	905	2471 duplx			error on sf2 tax	\$7,414	unknown
Ward	492	1022	1997	\$43,788	addition	\$4,030	
Ward	700	1083			bsmt developed	\$5,734	
Ward	1173	2303 duplx			error on sf2 tax	\$9,609	\$0
Ward	1006	1216 duplx	2002	\$47,600	bsmt conversion	\$8,241	
Ward	643	1614 duplx			error on sf2 tax	\$5,267	unknown

Ward	975	1153	duplx 1990s		variance	raise bldg	\$7,987	unknown
Ward	695	1140		1993	84252	rebuilt/addition	\$5,693	
Ward	1290	2329		2004	\$137,024	new cottage	\$10,567	0 sold in 200
Ward	424	948		1998	\$28,000	bsmt/loft	\$3,473	
Ward	558	1558		2004	\$78,000	add mstr bdrm	\$4,571	
Ward	148	1803		2002	\$21,000	new sunroom	\$1,212	\$2,598
Ward	1150	3100	duplx 2003/12		\$142,000	convert attic/bsmt	\$9,421	\$0
Ward	986	1750		2010	\$123,000	addition	\$8,077	\$15,215
Ward	1080	2020	4plx	2017	\$60,500	bsmt renovation	\$8,847	
Warring	5106	11440	frat			error on sf2 tax		
warring	918	4980	Bdg Hse			error on sf2 tax	\$7,520	
Webster	848	1561				error on sf2 tax	\$6,947	
Webster	651	1966		1996/2007	\$116,000	remodel/ADU	\$5,332	
Webster	413	3357		2013	\$650,000	addition	\$3,383	\$9,892
Webster		2220		2015	\$140,000	new mstr bath		\$8,659 only \$60K r
Webster		2542		2006	\$340,000	sunrm/bsmt/ADU		\$40K done
Webster	444	2056		2012	\$35K permitted	major remodel	\$3,637	
West	341	900				error	\$2,793	sold 2019
West	409	1414		2019	\$151,000	space conversion	\$410	
Woodmont	1499	1181				error on sf2 tax	\$12,280	
Woodmont	544	1964		2019	\$207,000	add 544 ft2	\$544	
Woodmont	292	2502		2004		addn		2012 AUP s
Woodmont	1166	3461		2001		pmt 112890-41865	\$9,552	
Woodmont	604	1600				error on sf2 tax	\$4,948	
Woolsey	682	3397	duplx	2017	\$250,000	conver to duplx	\$5,587	
Woolsey	650	1629	triplx	1994		instll 3 meters	\$5,325	
Woolsey	314	1590		2007	\$80,000	addition	\$2,572	\$9,896
Woolsey	306	1749		2001	\$67,000	addition	\$2,507	
Woolsey	1000	551		2004	\$83,000	2nd story addn	\$8,199	\$10,267
Yolo	551	1872		2006	\$4,700	basement convers	\$4,514	\$581
Yosemite	179	2762		2012		addn 780ft2	\$1,466	
Yosemite	335	2625		1993	\$82,300	2nd/3rd flr remodel	\$2,744	
Yosemite	357	1765				untax unfin bsmt	\$2,924	
Yosemite	646	3764		1998/2003	\$89,000	add unit/738 ftaddn	\$6,046	
Yosemite	570	1597		2004	\$125,000	add ba crawlspc	\$4,669	

Yosemite	665	2788	1992	\$15,340	bsmt ba/seismic	\$5,448	
Yosemite	1206	2629			sferr/bsmt untx	\$9,879	
	549069					\$4,120,013	\$1,063,556

Key: County tax rate last 10 years

(Year 10/11) 1.2555%, (Y11/12) 1.2563%, (Y12/13) 1.2472%, (Y13/14) 1.2717%, (Y14/15) 1.2447%,  
 (Y15/16) 1.2218%, (Y16/17) 1.2168%, (Y17/18) 1.2136%, (Y18/19) 1.2279%, (Y19/20) 1.2184%

10 year Total 12.37%

City Rate for last 10 years

(Year 10/11) 0.642%, (Y11/12) 0.7211%, (Y12/13) 0.7412%, (Y13/14) 0.7617%, (Y14/15) 0.7752%,  
 (Y15/16) 0.81%, (Y16/17) 0.8325%, (Y17/18) 0.9365%, (Y18/19) 0.9666%, (Y19/20) 1.00558%

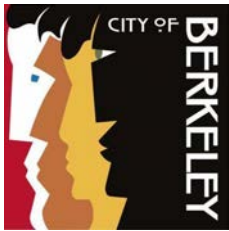
10 year Total multiplier 8.19179

## Basements/understories in Berkeley that are not charged

2125 6 <sup>th</sup>	2043 Lincoln
2337 9 <sup>th</sup>	459 Michigan
1019 Addison	2832 Milvia
30 Bay Tree	1344 McGee
1915 Berryman	1925 McGee
808 Camelia	1157 Oxford
1731 Channing	2909 Pine
76 Codornices	2565 Rose
620 Colusa	1147 Spruce
1440 Cornell	1609 Stannage
1448 Cornell	716 The Alameda
3107 Deakin	1623 Tyler
1637 Delaware	787 Vincente
1508 Edith	551 Woodmont
1930 Fairview	
1205 Francisco	
1136 Fresno	
1507 Grant	
2819 Grant	
1526 Henry	
2943 Hillegass	
1405 Josephine	
1619 Julia	
1175 Kains	
1209 Kains	
1414 Kains	







Councilmember Ben Bartlett  
City of Berkeley, District 3

## ACTION CALENDAR

February 23, 2021

**To:** Honorable Mayor and Members of the City Council

**From:** Councilmember Ben Bartlett (Author), Councilmember Rashi Kesarwani (Co-Sponsor), Councilmember Susan Wengraf (Co-Sponsor) and Mayor Jesse Arreguín (Co-Sponsor)

**Subject:** “Step Up Housing” Initiative: Allocation of Measure P Funds to Lease and Operate a New Permanent Supportive Housing Project at 1367 University Avenue

### RECOMMENDATION

Adopt a resolution allocating approximately \$900,000 per year for 10 years, as well as a one-time allocation of approximately \$32,975 from Measure P transfer tax receipts to support the lease and operation of a new permanent supportive housing project for the homeless at 1367 University Avenue. This resolution is put forward out of consideration that the City Council has already approved in its FY 2020-21 budget—on June 30, 2020—an allocation of \$2.5 million for permanent housing subsidy, a portion of which is available to be spent on the 1367 University Avenue project.

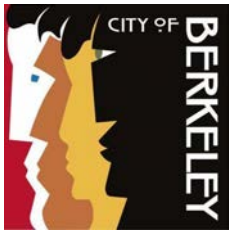
Refer to the next meeting of the Budget and Finance Policy Committee to confirm the availability of requested funding for the 1367 University project and to set priorities for other Measure P-funded programs and services as part of the mid-year budget process.

### POLICY COMMITTEE RECOMMENDATION

On January 28, 2021, the Budget and Finance Policy Committee voted to send the item to Council with a qualified positive recommendation to confirm the availability of revenues as approved by Council on October 13, 2020, for the 1367 University project and note that the Committee will discuss Measure P allocations in the FY 2022 budget development process. Vote: All Ayes.

### CURRENT SITUATION

Homelessness is increasing in the City of Berkeley and throughout the Bay Area. Berkeley currently has 1,108 homeless residents, of whom 813 were living on the street as of a point-in-time count in January 2019. This represents a 14% increase in two years.



Councilmember Ben Bartlett  
City of Berkeley, District 3

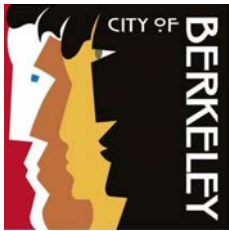
To help address the need for supportive housing, Building Opportunities for Self-Sufficiency (BOSS) has proposed to operate the Step Up Housing initiative, a new permanent supportive housing project for individuals experiencing homelessness. BOSS is a 501c3 nonprofit organization that will serve as the master tenant and provide supportive services to the residents of the project at 1367 University Avenue.

BOSS has partnered with Panoramic Interests to develop the new permanent housing project, which was unanimously approved by the Berkeley Zoning Adjustments Board on July 9, 2020 and can be built on an accelerated 16-week timeline. As a result, the project will result in huge savings both for costs of and time of development. While Panoramic Interests will be responsible for obtaining building permits, financing construction, and building the project, BOSS will be responsible for all operations and property management.

The project will include 39 fully furnished studio apartments, private bathrooms for each studio, a 400-square-foot community room, a community kitchen, two offices for support staff and services, permanent on-site property management, and 24/7 security. The building will be constructed with modular units built around an approximately 615-square-foot private central courtyard.

BOSS will provide services for Step-Up Supportive Housing including connecting residents to mental health resources, substance abuse recovery services, employment, education, and legal services and will accompany them to service providers when appropriate. The program will ensure participants obtain health insurance coverage and connect them to primary care providers. Opportunities for socialization and peer support will be provided through the organization of on-site support groups, learning workshops, social activities, community meals, and service visits by outside providers. BOSS will also manage an on-site food pantry in collaboration with Alameda County Community Food Bank. These services will help residents maintain stable housing, improve mental and physical health, and decrease social isolation. On-site service hours will be provided Monday-Friday, 9 am-5 pm, but the case manager or another designated staff member will be on-call as needed at all times.

The program will be staffed by a number of employees, including a program manager, housing manager, property manager, cook, maintenance worker, and overnight monitor.



Councilmember Ben Bartlett  
City of Berkeley, District 3

Roughly two-thirds of the expenses are related to program operations and delivering supportive services for the residents. The balance of the expense is for housing. The total operating budget is \$1,844,515 annually. This resolution would cover \$900,000 of the annual operating costs over a 10-year period and a one-time \$32,975 allocation for start-up costs, including purchasing household items for the units, kitchen supplies, groceries, office furniture, security cameras, etc.

The remaining \$944,515 is being requested from the County of Alameda. The City's commitment is contingent upon the funding of the balance of the project.

### BACKGROUND

California has the highest real world poverty rate of any state, 17.2% over the previous three years and much higher than the national rate.<sup>1</sup> A major contributing factor to the state's high poverty indices is that many California residents spend much of their income on housing due to high construction costs.<sup>2</sup> Throughout the state, many affordable housing development projects are stalled, burdened, and have incurred higher than the median costs for development.

For example, in Alameda, CA, Everett Commons, which is a low-income development that provides housing for only 20 families, costs \$947,000 per unit.<sup>3</sup> The notoriously high price of land and the rising cost of construction materials are contributing factors. On the other hand, the Step Up Housing Initiative uses an efficient and cost-effective modular construction model that provides 39 individuals with not only stable housing, but a safe and supportive environment where they can access critical employment, health, substance abuse, and community resources and services. Berkeley can help address the shortage of homes and effectively alleviate the City's homelessness crisis through this innovative and practical project.

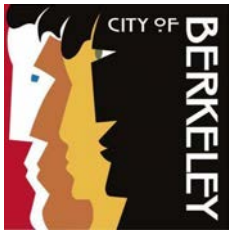
### REVIEW OF EXISTING POLICIES AND PLANS

Berkeley voters overwhelmingly passed Measure P in November 2018 with 72% of the vote. The Measure raised the transfer tax on property sales over \$1.5 million from 1.5% to 2%, which is expected to generate approximately \$6-8 million annually. These funds

<sup>1</sup> <https://www.census.gov/content/dam/Census/library/publications/2020/demo/p60-272.pdf>

<sup>2</sup> <https://www.sacbee.com/article245815115.html>

<sup>3</sup> <https://www.latimes.com/homeless-housing/story/2020-04-09/california-low-income-housing-expensive-apartment-coronavirus>



Councilmember Ben Bartlett  
City of Berkeley, District 3

were intended to be allocated towards various homeless services, including permanent housing, supportive services, and navigation centers.

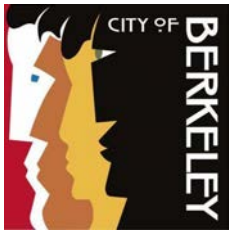
Measure P also created an independent commission, the Homeless Services Panel of Experts, to provide recommendations on funding allocations to the City Council. In December 2019, the Homeless Services Panel of Experts published its first set of recommendations for initial investments from the General Fund to address homelessness in Berkeley. The Panel's recommendations prioritized certain categories of activities and set forth a percentage of funding for each category. Permanent housing was listed as the top priority, with 30% of the funds recommended to be allocated towards such projects. The remainder was recommended to be allocated towards shelter and temporary accommodations, immediate street conditions and hygiene, supportive services, flexible housing subsidies, and infrastructure. The City Council approved on June 30, 2020 Measure P allocations for FY 2020-21 that included \$2.5 million for permanent housing subsidy.

In 2017, the City Council also referred staff to create a 1000 Person Plan, which seeks to end homelessness for 1000 people in Berkeley. In 2019, City staff responded to this referral and concluded that the Council needed to provide up-front investments in targeted homelessness prevention, light-touching housing problem-solving, rapid rehousing, and permanent subsidies. This proposal to lease and operate the Step Up Housing initiative at 1367 University would help move forward the 1000 Person Plan and also accomplish the Homeless Services Panel's top priority of providing stable and permanent supportive housing for individuals experiencing homelessness.

In addition, this project also fulfills the goals of Councilmember Bartlett's original Step Up Housing initiative, which passed unanimously on February 14, 2017. See Attachment 3 for the original item.

#### CONSULTATION/OUTREACH OVERVIEW

Councilmember Bartlett's office collaborated with BOSS and Panoramic Interests to ensure the long-term success of this new permanent supportive housing project, the Step Up Housing initiative. By bringing together BOSS's expertise in the field of supportive services and Panoramic's efficient modular construction model, this project can be operational and begin providing stable housing to 39 individuals within twelve months of receiving this funding commitment, resulting in dramatic savings in costs and delivery time.



Councilmember Ben Bartlett  
City of Berkeley, District 3

BOSS was founded in Berkeley in 1971 to serve severe and persistent mentally ill homeless individuals and their families, and has since expanded to serve over 3,000 families and individuals per year across Alameda County, including persons experiencing homelessness, mental illness, former incarceration/justice system involvement, domestic or community violence, unemployment, and other crises. BOSS has 49 years of experience serving the target population, and 45 years of experience operating emergency, transitional, and permanent housing programs.

Panoramic Interests has been building high density infill development projects in the Bay Area since 1990. Its work in downtown Berkeley and San Francisco includes 15 projects, adding more than 1,000 new units of housing, and 100,000 square feet of commercial space. From 1998-2004, Panoramic built seven new mixed-use apartment buildings in downtown Berkeley. During this time, Panoramic housed more than 80 Section 8 tenants, making it the largest private provider of Section 8 housing in the City.

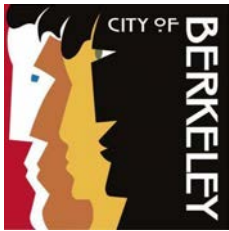
This collaborative effort between the City, the service provider, and the developer can serve as a regional model for future permanent supportive housing projects in Berkeley and throughout the Bay Area.

#### RATIONALE FOR RECOMMENDATION

The City's funding commitment will help address the homelessness crisis by allowing for the long-term and stable housing of 39 individuals experiencing homelessness as well as the provision of on-site services to help those individuals retain housing, improve their mental and physical health, connect with employment and education opportunities, and decrease social isolation. This Step Up Housing initiative not only will result in huge cost savings through its streamlined processes, but also it can be operational within twelve months of receiving this funding commitment. In addition, this project will serve as a regional model for other jurisdictions to consider when dealing with the homelessness crisis in their cities.

#### FISCAL IMPACTS

The new permanent supportive housing project, known as the Step Up Housing initiative, at 1367 University is requesting a one-time \$32,975 allocation for start-up costs and \$900,000 annually for 10 years from Measure P transfer tax receipts. The remaining \$944,515, to cover the annual \$1,844,515 operating budget, is being requested from the



Councilmember Ben Bartlett  
City of Berkeley, District 3

County of Alameda. The supportive housing model will have dramatic savings of cost and delivery time.

#### ENVIRONMENTAL SUSTAINABILITY

The project itself was determined by the Planning Department to be categorically exempt from the provisions of the California Environmental Quality Act pursuant to Section 15332 (In-Fill Development Projects) of the CEQA Guidelines.

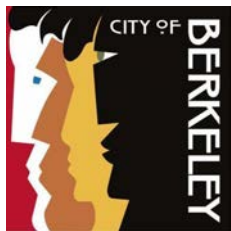
#### CONTACT PERSON

Councilmember Ben Bartlett:  
Katie Ly  
James Chang

510-981-7130  
[kly@cityofberkeley.info](mailto:kly@cityofberkeley.info)  
[jchang@cityofberkeley.info](mailto:jchang@cityofberkeley.info)

#### ATTACHMENTS AND MATERIALS

1. Resolution
2. Project Summary Sheet
3. Step Up Housing Council Item from February 14, 2017: “Direction to City Manager: “Step Up Housing” Initiative – Supportive Housing for Homeless and Very Low-Income People”



Councilmember Ben Bartlett  
City of Berkeley, District 3

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

ALLOCATING APPROXIMATELY \$900,000 ANNUALLY FOR 10 YEARS AND A ONE-TIME AMOUNT OF APPROXIMATELY \$32,975 OF MEASURE P FUNDS TO LEASE AND OPERATE THE NEW PERMANENT SUPPORTIVE HOUSING PROJECT FOR THE HOMELESS AT 1367 UNIVERSITY AVE.

WHEREAS, the City Council passed unanimously the original Step Up Housing Initiative introduced by Councilmember Bartlett on February 14, 2017; and

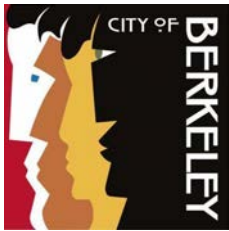
WHEREAS, Measure P was passed by Berkeley voters in November 2018 to raise the transfer tax on roughly the top-third of properties from 1.5% to 2% and allocate those funds towards various homeless services, including permanent housing, supportive services, and navigation centers; and

WHEREAS, Measure P designated the Homeless Services Panel of Experts to advise the Council on expenditures for homeless services; and

WHEREAS, in December 2019 the Homeless Services Panel of Experts published their recommendations for initial allocations under Measure P, including highlighting permanent housing as the City's top priority and recommending 30% of Measure P funds be allocated to permanent housing; and

WHEREAS, the City Council approved on June 30, 2020 Measure P allocations for FY 2020-21 that included \$2.5 million for permanent housing subsidy; and

WHEREAS, the Berkeley Zoning Adjustments Board approved the permanent supportive housing development project at 1367 University on July 9, 2020.



Councilmember Ben Bartlett  
City of Berkeley, District 3

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves the following for the project at 1367 University Ave:

- A reservation of approximately \$32,975 in Measure P funds for start-up costs associated with the project.
- A reservation of approximately \$900,000 in ongoing funds annually for 10 years for the leasing and operation of the proposed project, with funding adjusted annually based on the Consumer Price Index for Oakland-Hayward-Berkeley, CA.
- In the event BOSS is unable to perform its function as the service provider, an alternative qualified service provider may operate the project with the review and approval of the City Manager, or her designee.
- Further, the City's commitment is contingent upon the funding of the balance of the project.

BE IT FURTHER RESOLVED that the City Manager, or her designee, is hereby authorized to execute all original or amended documents or agreements to effectuate this action; a signed copy of said documents, agreements, and any amendments will be kept on file in the Office of the City Clerk.





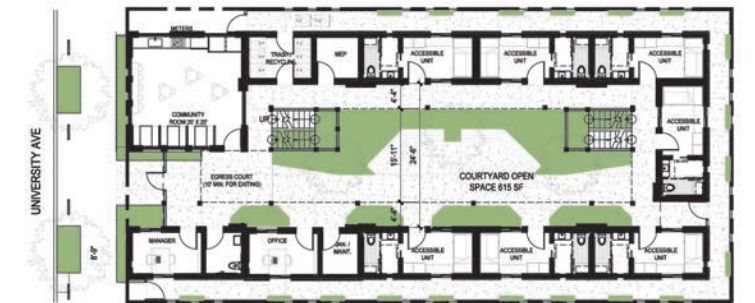
# Step-Up Housing, 1367 University Ave. Berkeley (39 studios, community room, two offices)



**1367 University Ave. entrance**



**Interior courtyard and community space**



**Ground floor plan, with offices and community room**



**Typical studio**

**PROJECT SUMMARY**

- Name & Location: Step-Up Housing, 1367 University Ave. (at Acton)
- Target Population: Homeless, low-income, single adults
- Number of Units: 39 studios, with community room, and mgmt. offices
- Service Provider: BOSS 24/7 presence on-site
- Services: Case management, health/mental health/employment referrals. On-site peer support/socialization and life-skills activities.

**GOALS/SERVICES**

- Get 39 individuals off the streets and into stable housing
- Provide safe and supportive environment for training & assistance
- Improve participants overall health by connecting them to primary care, mental health resources, substance abuse recovery services and socialization/peer support
- Reduce participant hospitalizations and use of emergency response systems
- Improve participant mental health status and daily functioning
- Support participants in increasing income and managing finances
- Support participants to obtain employment
- Increase meaningful activity and decrease social isolation among participants
- Organize on-site support groups, learning workshops, social activities, community meals and service visits by outside providers
- Manage an on-site food pantry in collaboration with Alameda County Community Food Bank

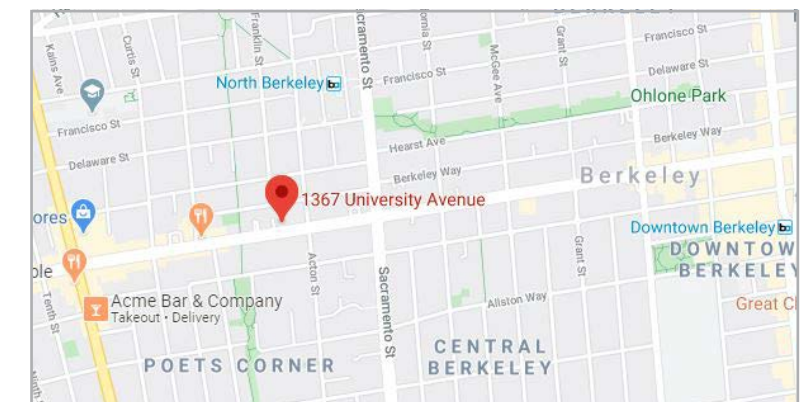
**LOCATION**

The Step-Up Housing project by BOSS is centrally located, close to stores, offices, and transit. It has a Walkscore of 90/100 (“Walker’s Paradise”) and a Bikescore of 98 (“Biker’s Paradise”). Residents will not need a car for daily errands, and will have easy access to BART and AC Transit.

**THE HOUSING**

The Step-Up Housing will consist individual studios, community space, outdoor areas, and management offices for BOSS. The project will include:

- 39 individual studios, fully furnished
- Private bath and showers for each studio
- Engineered soundproofing and HVAC for all spaces
- Direct access in each unit to outdoor space
- Private outdoor courtyard and community space
- Community kitchen, laundry, and social space
- Two private offices for support staff and client services
- Permanent on-site property management and support staff (BOSS)
- Secured entrance and 24/7 security
- Modular units. Construction time: 16 weeks



**Project Location: 1367 University Ave. Berkeley (at Acton)**

**FOR FURTHER INFORMATION**

**Donald Frazier**  
BOSS  
510.649.1930 x 1012  
dfrazier@self-sufficiency.org

**Patrick Kennedy**  
Panoramic Interests  
415.701.7001  
Patrick@panoramic.com



Councilmember Ben Bartlett  
District 3

CONSENT CALENDAR  
~~January 24~~ February 14, 2017

To: Honorable Mayor and Members of the City Council

From: Councilmember Ben Bartlett & Councilmember Linda Maio & Councilmember Lori Droste

Subject: ~~Referral Direction~~ to City Manager: “Step Up Housing” Initiative ~~–Micro Units to House–~~ Supportive Housing for Homeless and Very Low-Income People

RECOMMENDATION

~~Refer Direct to the City Manager~~ Ad-Hoc subcommittee to discuss and facilitate implementing the following actions:

1. Identify parcels of City owned land for siting assisted-living buildings.
2. Amend the permitting and approvals process to facilitate the rapid creation of below market housing.
3. Issue requests for proposals through a competitive bidding process for a development of up to 100 units of housing. ~~Expedite the process of inviting proposals through the competitive bidding process and begin the process as soon as possible in an expedited manner. For-profit and non-profit developers can be included in the bidding process. The proposal should demonstrate partnerships with a housing non-profit and a service provider.~~
- ~~4. Assist the selected developer with obtaining zoning approval and a building permit in an expedited manner.~~
- ~~4. Select a housing non-profit to partner with. Identify potential obstacles in creating prefabricated micro-units in a timely fashion. Recommend courses of action to remove those obstacles.~~
5. The housing non-profit ~~partner, in partnership with Federally Qualified Healthcare Centers,~~ will be responsible for managing and operating the building. ~~The tenants will be required~~ Request the non-profit to work with employ a cooperative model in managing the housing non-profit to maintain and operate the building property.
6. Establish criteria for selecting individuals and determining eligibility. These need-based criteria will take into account seniors, people with disabilities, and former Berkeley natives residents who have become homeless.
7. This project shall be ~~considered a public works project and be~~ subject to the terms of athe community workforce agreement with existing prevailing wage requirements.

8. Priority consideration will be given to: (i) Proposals that most quickly provide the maximum number of units for the least amount of cost, and (ii) proposals that include locally sourced materials and construction.

## FINANCIAL IMPLICATIONS

~~Minimal costs and staff~~ Staff time.

## BACKGROUND

On January 14, Laura Jadwin, a homeless resident of Berkeley, was found dead of exposure. ~~This was one of several deaths~~ Deaths of homeless individuals ~~in recent weeks are tragic and preventable.~~ Our City is experiencing a homelessness and housing affordability crisis. City staff estimates that there are currently between 900 and 1200 homeless people living in Berkeley. Due to high housing costs, numerous low-income members of the Berkeley community are at risk of homelessness. Furthermore, the Trump administration's anticipated funding cuts ~~will~~ may cause the City's homeless population to multiply exponentially. This is a health and safety emergency that has cost lives and degraded standards of living for all residents.

~~Councilmember Bartlett sees~~ We see this crisis as an opportunity for innovation. This item referral seeks to jumpstart innovative financing and development models for assisted and low-income housing that emphasize speed, durability, and cost efficiency.

~~Conventionally built buildings cost the City an average of \$429,400<sup>1</sup> per unit. This high price results from expensive land costs, costs associated with a slow and complex permitting system, and high costs of development and execution. This item~~ This referral will reduce costs by constructing the building above City owned land and by empowering the City to speed up its permitting and approvals process. Additionally, this item seeks to mitigate prohibitively high building costs by encouraging prospective. Prospective developers are encouraged to design present innovative financing and construction solutions which will result in a large number for the rapid creation of homeless individuals housed quickly for scalable assisted living models at reduced costs.

Step Up housing will foster human resiliency, leverage scarce resources, and rationalize the regulatory process. Given the urgency of the homeless crisis, the City must immediately ~~initiate the bidding process and begin exploring~~ identify and implement solutions.

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<sup>1</sup> City of Berkeley Affordable Housing Nexus Study  
[http://www.cityofberkeley.info/Clerk/City\\_Council/2015/07\\_Jul/City\\_Council\\_\\_07-14-2015\\_\\_Special\\_Meeting\\_Agenda.aspx](http://www.cityofberkeley.info/Clerk/City_Council/2015/07_Jul/City_Council__07-14-2015__Special_Meeting_Agenda.aspx)

The City Council, just like all local governments, has a duty to ensure the welfare of its people. Berkeley's Step Up Housing Initiative will provide a road map for future supportive housing developments that can be replicated in other affected communities.

ENVIRONMENTAL SUSTAINABILITY

This item will result in a positive environmental impact on the community. Increasing local access to low-income housing reduces automobile dependence and tailpipe emissions.

CONTACT PERSON

Councilmember Ben Bartlett, 510-981-7130

Councilmember Linda Maio, 510-981-7110

Councilmember Lori Droste, 510-981-7180





Councilmember Ben Bartlett  
District 3

CONSENT CALENDAR  
February 14, 2017

To: Honorable Mayor and Members of the City Council  
From: Councilmember Ben Bartlett & Councilmember Linda Maio & Councilmember Lori Droste  
Subject: Direction to City Manager: “Step Up Housing” Initiative – Supportive Housing for Homeless and Very Low-Income People

RECOMMENDATION

Direct the Ad-Hoc subcommittee to discuss and facilitate implementing the following actions:

1. Identify parcels of City owned land for siting assisted-living buildings.
2. Amend the permitting and approvals process to facilitate the rapid creation of below market housing.
3. Issue requests for proposals through a competitive bidding process for a development of up to 100 units of housing in an expedited manner. For-profit and non-profit developers can be included in the bidding process. The proposal should demonstrate partnerships with a housing non-profit and a service provider.
4. Identify potential obstacles in creating prefabricated micro-units in a timely fashion. Recommend courses of action to remove those obstacles.
5. The housing non-profit, in partnership with Federally Qualified Healthcare Centers, will be responsible for managing and operating the building. Request the non-profit to employ a cooperative model in managing the property.
6. Establish criteria for selecting individuals and determining eligibility. These need-based criteria will take into account seniors, people with disabilities, and former Berkeley residents who have become homeless.
7. This project shall be subject to the terms of the community workforce agreement with existing prevailing wage requirements.
8. Priority consideration will be given to: (i) Proposals that most quickly provide the maximum number of units for the least amount of cost, and (ii) proposals that include locally sourced materials and construction.

FINANCIAL IMPLICATIONS

Staff time.

## BACKGROUND

On January 14, Laura Jadwin, a homeless resident of Berkeley, was found dead of exposure. Deaths of homeless individuals are tragic and preventable. Our City is experiencing a homelessness and housing affordability crisis. City staff estimates that there are currently between 900 and 1200 homeless people living in Berkeley. Due to high housing costs, numerous low-income members of the Berkeley community are at risk of homelessness. Furthermore, the Trump administration's anticipated funding cuts may cause the City's homeless population to multiply exponentially. This is a health and safety emergency that has cost lives and degraded standards of living for all residents.

We see this crisis as an opportunity for innovation. This item referral seeks to jumpstart innovative financing and development models for assisted and low-income housing that emphasize speed, durability, and cost efficiency.

This referral will reduce costs by constructing the building above City owned land and by empowering the City to speed up its permitting and approvals process. Additionally, this item seeks to mitigate prohibitively high building costs. Prospective developers are encouraged to present innovative financing and construction solutions for the rapid creation of scalable assisted living models at reduced costs.

Step Up housing will foster human resiliency, leverage scarce resources, and rationalize the regulatory process. Given the urgency of the homeless crisis, the City must immediately identify and implement solutions.

The City Council, just like all local governments, has a duty to ensure the welfare of its people. Berkeley's Step Up Housing Initiative will provide a road map for future supportive housing developments that can be replicated in other affected communities.

## ENVIRONMENTAL SUSTAINABILITY

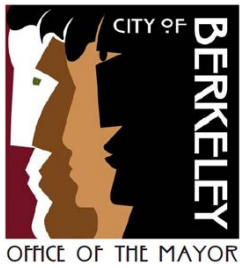
This item will result in a positive environmental impact on the community. Increasing local access to low-income housing reduces automobile dependence and tailpipe emissions.

## CONTACT PERSON

Councilmember Ben Bartlett, 510-981-7130

Councilmember Linda Maio, 510-981-7110

Councilmember Lori Droste, 510-981-7180



To: Members of the City Council

From: Mayor Jesse Arreguín and Councilmember Kate Harrison

Subject: Report and Recommendations From Mayor's Fair Impartial Policing Working Group

RECOMMENDATIONS

1. Accept and acknowledge the report from the Fair and Impartial Working Group (Attachment 1)
2. Direct the City Manager to implement the following recommendations summarized below and detailed in full in Attachment 1, with at minimum, quarterly progress updates to the Police Accountability Board (PAB) and/or the Working Group
  - Focus traffic stops on safety
  - Use a clear, evidence-based definition for stops of criminal suspects
  - Use race and ethnicity as determining factors in stops only when paired with clear, evidence-based criteria
  - Eliminate stops for low-level offenses
  - Implement an Early Intervention System (EIS) and a risk-management structure
  - Immediately release stop, arrest, calls for service and use of force data from 2012 to present to the Working Group
  - Limit warrantless searches of individuals on supervised release status such as Post Release Community Supervision (PRCS), probation, or parole
  - Require written consent for all consent searches
  - Address Profiling by Proxy (PAB Policy Development, Dispatcher Training)
  - Fire racist police officers identified through social media and other media screens
  - Address Profiling by Proxy (Council develop & pass CAREN policy)
  - Require regular analysis of BPD stop, search, and use of force data
  - Make resources on police-civilian encounters more publicly available such as RAHEEM.org

- Adopt Compliance and Accountability Mechanisms
    - Hire consultant to develop implementation plan
  - For any individual detained, BPD officers shall provide a business card with info on a website similar to RAHEEM and info on complaint process with PAB
3. Refer the following recommendations summarized below and detailed in full in Attachment 1 to be included in the process to reimagine public safety:
    - Create a formalized feedback system to gauge community response to ongoing reforms and ensure this constructive input system is institutionalized with the Police Review Commission or its successor and includes a basic report card and quarterly neighborhood check-ins
    - Conduct a baseline community survey
  4. Refer the following recommendations summarized below and detailed in full in Attachment 1 to the Police Review Commission, to be taken up by the Police Accountability Board when it is established
    - Include a scenario-based training component in the existing officer training required by California Penal Code 13519.4
    - Require enhanced annual implicit bias training for police
    - Accelerate Crisis Intervention Team (CIT) activity
  5. Acknowledge and reaffirm the following recommendations summarized below and detailed in full in Attachment 1 that are already underway:
    - Fund and implement a specialized care unit for mental health crises
    - Conduct a Capacity Study of police calls and responses and use of officer time outside of case work
  6. Refer \$50,000 to the FY 2022 budget process for a consultant to develop an implementation plan as described in Attachment 1 and other minor costs the Department may confer

## RATIONALE FOR RECOMMENDATIONS

The working group organized its policy proposals into five council actions to ensure swift action on the measures directly related to reducing racial disparities, to avoid duplicating



efforts in parallel processes on public safety, and to ensure sufficient follow-up and oversight to build public trust.

**Recommendation 2: Direct the City Manager to implement recommendations summarized above and detailed in full in Attachment 1, with at minimum, quarterly progress updates to the PAB and/or the Working Group (see list in recommendations above)**

These recommendations received consensus support from the working group and were identified as top priorities for action. Many of these proposals are drawn from the best practices and recommendations provided by experts that spoke to the working group throughout their process. Additionally, the working group recommended quarterly progress updates on the implementation of these recommendations. These progress updates will be valuable for oversight and will allow for the department to share the efficacy of these efforts in reducing disparities, which will be easier to track and evaluate with the new RIPA data collection system.

**Recommendation 3: Refer the recommendations summarized above and detailed in full in Attachment 1 to be included in the process to reimagine public safety**

These proposals extend beyond the working group's focus on racial disparities in policing and are appropriate to consider in the process the City has initiated to reimagine public safety where there will be robust community engagement efforts.

**Recommendation 4: Refer the following recommendations summarized above and detailed in full in Attachment 1 to the Police Review Commission, to be taken up by the Police Accountability Board when it is established**

These recommendations, which relate to additional training for BPD are supported by the working group but require further consideration by the city's police oversight body. Additional training will require more resources to either coordinate with outside entities or to build internal capacity, which the Council will need to balance against other priorities.

**Recommendation 5: Acknowledge and reaffirm the following recommendations summarized above and detailed in full in Attachment 1 that are already underway**

The working group believes that these efforts can have an impact on reducing racial disparities. However, since the working group began formulating their recommendations, efforts to implement a specialized care unit and to conduct a

capacity study are already underway in the city. The working group supports and reaffirms these efforts.

**Recommendation 6: Refer \$50,000 to the budget process for a consultant to develop an implementation plan as described in Attachment 1**

The working group was clear that efficient and effective implementation of these recommendations is critical to reducing disparities and meeting the City's goal of fair and impartial policing. The working group believes the process would be more effective if facilitated by a consultant at a cost of approximately \$50,000. To that end, pages 8-9 in the The Mayor's Working Group on Fair and Impartial Policing Policy Proposals (Attachment 1) outlines a compliance and accountability mechanism that includes the hiring of an experienced consultant to draft an implementation plan. The plan should include a timeline to monitor, assess, and report on the implementation of the items outlined in the Working Group's policy proposal. Regardless of allocation, all of these recommendations have already been agreed to and can move forward without significant new resources. The working group acknowledges and expects that long-term monitoring and assessment will be the responsibility of the police oversight body.

**BACKGROUND**

The Mayor along with Councilmembers Harrison and Robinson convened the Fair and Impartial Policing Working Group on Thursday, November 14, 2019. The purpose of the Working Group was to analyze relevant information and develop a report and departmental action plan with short-term and long-term steps to address disparities in police stops, searches, use of force, and yield rate from stops, and to build a foundation for a subsequent community processes to build trust between Berkeley Police and the community. The working group met twice monthly from January through March 2020 when it suspended its work temporarily due to the COVID-19 pandemic. The working group resumed in May and continued meeting regularly via Zoom video conferencing through December when it finalized its recommendations via a consensus decision making process.

**History of Council Action on Fair and Impartial Policing**

The concept of "Fair and Impartial" policing has a long history in Berkeley, arising from anecdotal and statistical data regarding racially disparate policing outcomes.

In June 2014, the Council voted unanimously to approve a policy prohibiting racial profiling,<sup>1</sup> and On December 31, 2014, BPD issued General Order B-4 prohibiting racial profiling by law enforcement officers, clarifying the circumstances in which officers can consider race, ethnicity and other demographics, and to reinforcing procedures that serve to assure the public that we are providing service and enforcing laws in an equitable way.<sup>2</sup> These new policies required officers to internally report demographic and other statistical data about vehicle and pedestrian stops.

In 2015, community advocates concerned with perceived disparities in policing, analyzed police stop data acquired through a Public Records Act request and found evidence for disparate policing outcomes in Berkeley.<sup>3</sup> BPD subsequently contracted with the Center for Policing Equity (CPE), an academic non-profit focused on providing police departments and communities with actionable stop data analysis, to better understand Berkeley's data. In June 2017, Council voted to release a draft version of the study, which BPD provided in July 2017 and detailed further statistical evidence of racially disparate outcomes across police use of force and vehicle and pedestrian stops.<sup>4</sup>

In response to the CPE report and community feedback, Council took various unanimous legislative actions to address disparities, including:

1. Direction to City Manager to overhaul BPD Use of Force Policy with various deadlines (10/31/17);<sup>5</sup>
2. Direction to City Manager to track and address racial disparities with various deadlines (11/14/17);<sup>6</sup>

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<sup>1</sup> Nico Correia, "Anti-racial profiling policy passes unanimously in Berkeley City Council," The Daily Californian, June 18, 2014, <https://www.dailycal.org/2014/06/18/anti-racial-profiling-policy-passes-unanimously-berkeley-city-council/>.

<sup>2</sup> "General Order B-4." *Berkeley Police Department General Order B-4*, December 31, 2014, [https://www.cityofberkeley.info/uploadedFiles/Police/Level\\_3\\_-\\_General/GO%20B-04\\_12-31-14.pdf](https://www.cityofberkeley.info/uploadedFiles/Police/Level_3_-_General/GO%20B-04_12-31-14.pdf).

<sup>3</sup> Trevor Greenan, "Civil rights leaders say Berkeley police disproportionately stop, search underrepresented minorities" The Daily Californian, September 30, 2015, <https://www.dailycal.org/2015/09/30/civil-rights-leaders-say-berkeley-police-disproportionately-stop-search-people-of-color/>.

<sup>4</sup> Draft Interim Center for Policing Equity Report, July 14, 2017, [https://www.cityofberkeley.info/uploadedFiles/Police/Level\\_3\\_-\\_General/CPE%20Draft%20Report%2007142017\(2\).pdf](https://www.cityofberkeley.info/uploadedFiles/Police/Level_3_-_General/CPE%20Draft%20Report%2007142017(2).pdf).

<sup>5</sup> Berkeley City Council Meeting Annotated Agenda, "Direct the City Manager and the Berkeley Police Department Regarding the Berkeley Police Department's Use of Force Policy" October 31, 2017, [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/10\\_Oct/Documents/10-31\\_Annotated.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/10_Oct/Documents/10-31_Annotated.aspx).

<sup>6</sup> The Council voted unanimously to "[d]irect the City Manager to track yield, stop, citation, search and arrest rates by race, develop training programs to address any disparities found, and implement policy and practice reforms that reflect cooperation between the Berkeley Police Department ('BPD'), the Police Review Commission ('PRC') and the broader Berkeley community" and that the "City Manager will report findings in September 2018 and annually thereafter, using anonymized data." Council followed up with additional legislation including legislation to update the department's use of force policies. See Berkeley

### 3. Appropriation of \$50,000 for BPD to hire a Data Analyst (12/5/17).<sup>7</sup>

In response to a lack of progress towards addressing referrals to the City Manager and a related Police Review Commission report entitled *To Achieve Fairness and Impartiality*, Council unanimously adopted legislation on April 24, 2018 requiring a written Departmental Action Plan to study and address disparate policing outcomes. Council also directed that the City Manager convene a task force/working group, including representatives of the BPD, Berkeley Police Association, PRC, interested community organizations (particularly of constituencies of color), and academic experts, to ensure that the final plan was “effective and broadly accepted.”<sup>8</sup> Council stipulated that the working group and action plan process would convene upon the issuance of the final CPE report, be run by a professional mediator/facilitator, and that the group would report back with an action plan within one year’s time.

Although the final CPE report was released in May 2018,<sup>9</sup> the City Manager neither convened the working group nor did the Department release an action plan. Councilmember Harrison also submitted a supplemental Council informational report on October 30, 2018 noting the absence of a City Manager report on racial disparities findings as required by November 14, 2017 Council motion.<sup>10</sup> The first report was to coincide with the 2018 Crime Report.

Ahead of the May deadline for the City Manager to present a Departmental Action Plan, the Police Chief on behalf of the City Manager submitted an April 30, 2019 referral

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City Council Meeting Annotated Agenda, “Direct the City Manager to analyze and address disparate racial outcomes in policing and implement policy and practice reforms,” November 14, 2017, [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/11\\_Nov/Documents/11-14\\_Annotated\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/11_Nov/Documents/11-14_Annotated_Agenda.aspx).

<sup>7</sup> “Mayor’s Recommendations for Allocation of Unassigned General Fund Excess Equity,” December 5, 2017, [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/12\\_Dec/Documents/2017-12-05\\_Item\\_B2\\_Mayor%E2%80%99s\\_Recommendations\\_-\\_Supp.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/12_Dec/Documents/2017-12-05_Item_B2_Mayor%E2%80%99s_Recommendations_-_Supp.aspx).

<sup>8</sup> Berkeley City Council Meeting Annotated Agenda, “Accept and Acknowledge Report from the Berkeley Police Review Commission, ‘To Achieve Fairness and Impartiality,’ and Refer Key Recommendations to the City Manager for Policy Development and Consideration in September 2018 Report to City Council,” April 24, 2018, [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/04\\_Apr/Documents/04-24\\_Annotated.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/04_Apr/Documents/04-24_Annotated.aspx).

<sup>9</sup> Final Center for Policing Equity Report, May 20, 2019, [https://www.cityofberkeley.info/uploadedFiles/Police\\_Review\\_Commission/Commissions/2018/Berkeley%20Report%20-%20May%202018.pdf](https://www.cityofberkeley.info/uploadedFiles/Police_Review_Commission/Commissions/2018/Berkeley%20Report%20-%20May%202018.pdf)

<sup>10</sup> “Informational Report about Absence of City Manager Report on Racial Disparities Findings as Required by November 14, 2017 Council Motion -2018 Mid-Year Crime Report,” Councilmember Harrison, October 30, 2018, [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/10\\_Oct/Documents/2018-10-30\\_Supp\\_1\\_Reports\\_Item\\_29\\_Supp\\_Harrison\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/10_Oct/Documents/2018-10-30_Supp_1_Reports_Item_29_Supp_Harrison_pdf.aspx).

response regarding the status of various Council disparate policing referrals.<sup>11</sup> The report briefly noted that the Department was still seeking a request for proposal to “support analysis of stop data, to create tools to facilitate data analysis, to foster community, and to create a community engagement strategy.” This update was provided more than year and a half from the first Council referral to address racial disparities, and after various other missed deadlines.

Council referred the Chief’s response to the Public Safety Committee, and on June 3, 2019 the Committee voted unanimously, in recognition of a lack of progress to date and the urgency of the matter at hand that the Mayor supplant the City Manager and convene the task force in “an expeditious manner” and as outlined in the April 2018 Council referral.<sup>12</sup>

### **Fair and Impartial Working Group Development and Process**

At the July 23, 2019 Council Meeting, Mayor Arreguín announced that he would independently convene a task force through his office on an ad hoc basis with assistance from the offices of Councilmember Harrison and Robinson.<sup>13</sup> Building from the council referral, the Mayor convened a group with the following community representatives: Elliot Halpern (ACLU Northern California), Mansour Id-Deen (NAACP), Héctor Malvido (Latinxs Unidos de Berkeley), Izzy Ramsey and Kitty Calavita (Police Review Commission), Nathan Mizell (UC Berkeley ASUC and PRC), Perfecta Oxholm (PhD candidate at UC Berkeley<sup>14</sup>, and Jim Chanin (Civil Rights Attorney). The Mayor met multiple times with the City Manager and Chief Greenwood in developing a framework for the working group and discussing a work plan. Chief Greenwood and his Staff were invited to all meetings, and the group had consistent participation from Chief Greenwood, Captain Rolleri, Lieutenant Montgomery, Lieutenant Tate, and Officer Matt Yee. Goldman Public Policy student Arlo Malmberg was brought on to the BPD team to

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<sup>11</sup> “Referral Response: Update on Various Referrals and Recommendations Regarding Stop Data Collection, Data Analysis and Community Engagement,” Berkeley Police Department, April 30, 2019, [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/04\\_Apr/Documents/2019-04-30\\_Item\\_29\\_Referral\\_Response\\_Update\\_on\\_Various.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/04_Apr/Documents/2019-04-30_Item_29_Referral_Response_Update_on_Various.aspx)

<sup>12</sup> Berkeley City Council Public Safety Committee Meeting Annotated Agenda, “Referral Response: Update on Various Referrals and Recommendations Regarding Stop Data Collection, Data Analysis and Community Engagement,” June 3, 2019, <https://www.cityofberkeley.info/uploadedFiles/Clerk/2019-6-3%20Annotated%20Agenda%20-%20Public%20Safety.pdf>

<sup>13</sup> Berkeley City Council Meeting Annotated Agenda, “Referral Response: Update on Various Referrals and Recommendations Regarding Stop Data Collection, Data Analysis and Community Engagement (Reviewed by the Public Safety Committee),” July 23, 2019, [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/07\\_Jul/Documents/07-23\\_Annotated\\_Agenda\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/07_Jul/Documents/07-23_Annotated_Agenda_pdf.aspx)

<sup>14</sup> Perfecta Oxholm, PhD Student, <https://gspp.berkeley.edu/directories/phd-students/perfecta-oxholm>

assist with data analysis. Leadership from the Berkeley Police Association were invited to all meetings but did not attend.

At its first meetings the working group chose Izzy Ramsey as the Chair, and developed a work plan. The working group organized their work into five phases and invited relevant subject matter experts locally and nationally to speak to the group to inform their research and recommendations. Key takeaways from the working group meetings and presentations for each phase are summarized below. For a more detailed meeting by meeting account, minutes, and in some cases full meeting recordings and presentations, are in the publicly accessible google drive.<sup>15</sup>

### Phase 1: Establishing Process and Information Gathering

- The working group focused on building a common understanding of past work surrounding this issue and progress that has been made in this field.
- The group reviewed the open data portal to understand how data is currently collected and presented.
- The group provided feedback on draft RFP language for BPD to hire a professional facilitator. Ultimately, it was determined that there was not a sufficient need and the money was reallocated to support Arlo Malmberg's data analysis for the department.
- Councilmember Harrison presented an overview of outstanding referrals related to fair and impartial policing.<sup>16</sup>
- The group reviewed a spreadsheet of relevant council referrals and received a progress update on each item from BPD.<sup>17</sup>

### Phase 2: Quantitative Analysis

- The group discussion included analysis of possible drivers of disparities, the disparity themselves, appropriate metrics to analyze disparities, and policies that can be implemented to ensure fair and impartial policing.
- Jack Glaser, Professor at UC Berkeley, an expert in the field of bias, stereotyping, and racial profiling provided the group with an overview on the

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<sup>15</sup> Mayor's Fair and Impartial Working Group Google Drive, <https://drive.google.com/drive/folders/19xsOXIJvYtXQZaeJZzmSg2Mk3pJT6JYq?usp=sharing>

<sup>16</sup> Kate Harrison, "Key Council Referrals" January 22, 2020, [https://drive.google.com/file/d/10EjYrd7EzExXlfmA2gVsX8-LtXrr2\\_-O/view?usp=sharing](https://drive.google.com/file/d/10EjYrd7EzExXlfmA2gVsX8-LtXrr2_-O/view?usp=sharing),

<sup>17</sup> Spreadsheet on Fair and Impartial Policing Items, January 24, 2020 <https://drive.google.com/file/d/18ofsjsFAE7r3k-3REmVYU5nncQtCrZxL/view?usp=sharing>

drivers of disparities in policing.<sup>18</sup> Key drivers of disparity include deployment patterns, crime category priorities, officer bias, complaint bias and the possibility of higher rates of offending among certain racial groups.

- Perfecta Oxholm, working group member, and PhD candidate at UC Berkeley working with Professor Glaser presented her analysis of stop data using the open data portal.<sup>19</sup> Her analysis reviewed all the available metrics from the time the CPE report was published to present day and found similar trends with the exception of 2018 when staffing levels were at a historic low.
- George Lippman presented his memo “Racial Disparities in Berkeley Policing” (Attachment 6).
- There was robust discussion about the challenges in using census data as a baseline measurement for analyzing disparities. Ultimately, the group acknowledged that using yield rates, the ratio between stops and arrests or contraband seized was among the key metrics to analyze disparities and bias until more refined data was available through the new RIPA system implemented in October 2020. The idea is that in the absence of discrimination or bias, officers should cite and arrest people of color at the same rates as white people.
- Arlo Malmberg and Officer Matt Yee presented BPD’s a beta version of a fair and impartial policing data dashboard, which included analysis of yield rates, a “veil of darkness test,” and a measurement of implicit bias in officer deployment. The presentation acknowledged that there are disparities according to yield rates, and there is evidence that officer decisions may be biased.<sup>20</sup>

### Phase 3: Qualitative Analysis

- Originally, the working group hoped to conduct surveys and listening sessions to gather qualitative input on experience with the Berkeley Police Department. With limited staff resources to support this effort, a subcommittee of working group members formed in February to do outreach through community based organizations. These efforts were complicated and ultimately postponed due to COVID-19, however some of the recommendations speak to the continued desire to gather qualitative input on the relationship of community members and the BPD.

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<sup>18</sup>Jack Glaser, “Understanding Disparities in Police Stops” February 5, 2020, <https://drive.google.com/file/d/1nJp1jIBKFVYHKtw633cwJQ5rjqWdjgOL/view?usp=sharing>

<sup>19</sup> Perfecta Oxholm, “Hit Rate Analysis, Berkeley Police Department Data February 2015-July 2019” February 2020, <https://drive.google.com/file/d/1xlg9uY7vGqAEnrjCHhzeC-wukCF6-DN9/view?usp=sharing>

<sup>20</sup> Arlo Malmberg and Matt Yee, BPD Data Dashboard Screenshots, June 2020, <https://drive.google.com/file/d/1AvUFZwLM0X6y1XksTJd0s1POCo5FPJ9R/view?usp=sharing>

## Phase 4: Formulating Recommendations

- The working group held several meetings in the summer of 2020 to listen to presentations on best practices to reduce disparities in stops and searches and improve police and community relations. Expert recommendations were incorporated into a list of high-level recommendations. A subcommittee of the civilian working group members developed these into a detailed report with rationales for each recommendation.
- BPD presented on piloting a new approach, called “Problem Oriented Policing” to address disparities with a data-driven focus.<sup>21</sup> The goal of this approach is to limit stops that provide low public safety value and enhance data-driven policing to deploy officers more appropriately.
- Dr. Frank Baumgartner, Professor of Political Science at University of North Carolina at Chapel Hill, author of the book *Suspect Citizen*, presented to the group. Dr. Baumgartner encouraged the group to consider whether current police policies generate enough public safety value to warrant the impact that a stop and search has on an individual and a community. He provided two concrete recommendations, which the group ultimately incorporated: (1) reduce the number of people pulled over for investigatory stops that are not safety-related, and (2) require people to sign a written consent form before officers search their vehicle.<sup>22</sup>
- Oakland Police Captain Chris Bolton gave a presentation to the group titled “Precision-Based Approaches to More Legitimate Policing.” Captain Bolton’s presentation provided an overview of how police under his command in North Oakland reduced stops of black people from 58% to 35% in two years without a corresponding increase in crime. He emphasized the importance of clear leadership, utilization of data, and a risk-management program to review trends in officer behavior and community crime.<sup>23</sup><sup>24</sup>
- Former Stockton Police Department Captain Scott Meadors, presented training on procedural justice, implicit bias and trust building, which he has been a leader in statewide. He emphasized teaching about the history of American policing, and that each trust-building workshop must be built on the unique community

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<sup>21</sup>Berkeley Police Department, “Addressing Racial Disparities in Enforcement Outcomes”, July 1, 2020, [https://drive.google.com/file/d/1x5NZzT9F6AZaArl\\_kEFyAYItB7q8Ka20/view?usp=sharing](https://drive.google.com/file/d/1x5NZzT9F6AZaArl_kEFyAYItB7q8Ka20/view?usp=sharing)

<sup>22</sup> Frank Baumgartner, *Suspect Citizens* Ch. 9 “Reforms that Reduce Alienation and Enhance Community Safety”, <https://drive.google.com/file/d/17I0vaDd1GOOxqV3zEvUu4eXxeWkT24Tn/view?usp=sharing>

<sup>23</sup> Captain Chris Bolton, “Precision Based Approaches to More Legitimate Policing” July 15, 2020, [https://drive.google.com/file/d/1XuRt3Qo\\_Ty5SL06Gh9rWK3s8zmlZ5Xl/view?usp=sharing](https://drive.google.com/file/d/1XuRt3Qo_Ty5SL06Gh9rWK3s8zmlZ5Xl/view?usp=sharing)

<sup>24</sup> Fair and Impartial Working Group Meeting Recording, July 15, 2020 <https://drive.google.com/file/d/1sbTwwY2EAMj9pFDythECFsXPTdnXZ0Ph/view?usp=sharing>



circumstances. There is no one-size fits all approach. Mr. Meador’s work has been featured in the New York Times, and Citylab.<sup>25</sup>

- Brandon Anderson presented to the group about his non-profit Raheem, an independent service for reporting police conduct in the United States. When people report to Raheem, they do three things: (a) file a complaint on their behalf, (b) connect them to local advocacy groups, and (c) connect them to free legal representation. Raheem has developed a widget to allow reporting from third-party websites to have true community-centered reporting. The working group ultimately recommended the City use Raheem or something similar, and also Anderson’s suggestion of requiring police to provide a business card that includes information on how to file a complaint.<sup>2627</sup>

#### Phase 5: Developing Final Report and Next Steps

- The subcommittee of the working group provided their draft recommendations to the whole group and requested written feedback by BPD. The working group spent several meetings discussing each recommendation in detail.
- After these discussions, the subcommittee developed a revised set of proposals and a full account (Appendix C) of how BPD feedback was incorporated into the recommendations. The working group meetings were extended and postponed several times to provide time for additional dialogue and feedback on revised recommendations.
- The working group finalized the report through a consensus process. They first identified the recommendations that had complete agreement. Then, they worked through the list of proposals and made revisions on the recommendation itself and/or the recommended Council action to achieve agreement.
- During this final phase, BPD implemented its new data collection system to comply with RIPA. The department provided the group a walkthrough on how the new custom data collection system will work and the group asked questions on the data categories and method of collection.<sup>2829</sup>

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<sup>25</sup>Michael Friedrich, “A Police Department’s Difficult Assignment: Atonement” Citylab, October 23, 2019, <https://www.citylab.com/equity/2019/10/police-violence-history-community-trust-reconciliation/600544/>  
Tina Rosenberg, “A Strategy to Build Police-Citizen Trust” New York Times Opinion, July 26, 2016, <https://www.nytimes.com/2016/07/26/opinion/a-strategy-to-build-police-citizen-trust.html>

<sup>26</sup> Fair and Impartial Working Group Meeting Minutes, August 5, 2020  
<https://docs.google.com/document/d/1Yg6x32rCaWa38z427608t9ttXB51oZBg9DUNEQ4U8Jo/edit>

<sup>27</sup> About Raheem, <https://www.raheem.ai/en/about>

<sup>28</sup> Berkeley Police Department, “AB 953 Racial and Identity Profiling Act of 2015 (RIPA)”, September 16, 2020 <https://drive.google.com/file/d/1yZ-9n4qJZQyM80tK1yTN6o1BRexF5WLz/view?usp=sharing>

<sup>29</sup>Berkeley Police Department, RIPA App Presentation Screenshots, September 16, 2020  
<https://drive.google.com/file/d/1PzwJrZjXAMJCNbQqB7-lIG2wOJtZal3G/view?usp=sharing>

### ENVIRONMENTAL IMPACT

There are no direct environmental impacts as a result of adopting the working group's recommendations.

### FINANCIAL IMPLICATIONS

\$50,000 to hire a consultant to develop an implementation plan. Additional costs include staff time to implement the recommendations and provide updates.

### CONTACT PERSON

Jesse Arreguín, Mayor, (510) 981-7100

#### Attachments:

1. The Mayor's Working Group on Fair and Impartial Policing Policy Proposals
2. Cover Letter, Members of Fair and Impartial Working Group, December 17 2020
3. Dissent Letter by Nathan Mizell, Perfecta Oxholm, Héctor Malvido, and Jim Chanin, December 23, 2020
4. Center for Policing Equity Report,
5. PRC Report
6. "Racial Disparities in Berkeley Policing, Explanation of Statistical Methodology", January 30, 2020 George Lippman
7. "Key Points - BPD Stop Data", December 6, 2019, George Lippman
8. "Racial Disparities in Berkeley Policing, Update on Pandemic Period, March 15 to June 12, 2020" George Lippman, June 19, 2020
9. "Berkeley Protest Curfew Resulted in More Racialized Policing, BPD Stop Disparities: May 31 through June 2, 2020" George Lippman, July 4, 2020
10. Spreadsheet of Outstanding Referrals, January 24, 2020
11. Berkeley Police Department Stop Data March 15- June 2020
12. Berkeley Police Department Stop Data March 15--June 12, Pt. 2

DRAFT

## **The Mayor's Working Group on Fair and Impartial Policing Policy Proposals**

Developing and implementing reforms that will effectively reduce existing racial disparities requires changes at several levels. The following recommendations include setting new policy, updating institutional structures, and mandating individual accountability. Their implementation and ongoing effectiveness require supportive leadership, transparency and police accountability.

**Executive Summary.** Mayor's Working Group on Fair and Impartial Policing (hereafter, "the working group") focused on reducing racial disparities in stops and searches and improving community relationships damaged by the racially disparate practices in stops and searches.

This report advances the following recommendations for BPD practices:

- Focus on public safety and eliminate stops for low-level offenses not directly impacting public safety.
- Use race and ethnicity as determining factors in stops only when paired with clear, evidence-based criteria.
- Institute annual implicit bias training and scenario-based training for California Penal Code 13519.4, prohibiting racial or identity profiling.
- Establish a truly effective Early Intervention System and risk management process to ensure department accountability and identify officers who are outliers in stops, searches, dispositions, and outcomes.
- Limit warrantless searches of individuals on supervised release status such as Post Release Community Supervision (PRCS), probation, or parole.
- Require written consent for consent searches.
- Include evaluations of cultural competence in hiring and promotion, and fire officers who have expressed racist attitudes and/or are identified as members of racist groups.

The report also advances these recommendations for the Berkeley City Council and/or the City of Berkeley:

- Hire a consultant to create a plan for monitoring and reporting on the implementation of these recommendations.
- Ensure the creation of a Specialized Care Unit with crisis-response field workers, as included in the recent contract for a community-process to establish an SCU.
- Ensure a robust community engagement process, including annual surveys and community forums
- Require quarterly analysis of stop, search, and use of force data by City Auditor and/or the PRC.
- Adopt and carry out the compliance and accountability system outlined in this document.

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## Proposed Actions

Table 1 provides a proposed action for each recommendation in the body and appendices of this draft report.

<u>Action</u>	<u>Recommendations</u>
Direct the City Manager to implement key recommendations, with at minimum, quarterly progress reports to the PAB and/or the Working Group	<ul style="list-style-type: none"> <li>• <a href="#">Focus traffic stops on safety</a></li> <li>• <a href="#">Use a clear, evidence-based definition for stops of criminal suspects</a></li> <li>• <a href="#">Use race and ethnicity as determining factors in stops only when paired with clear, evidence-based criteria</a></li> <li>• <a href="#">Eliminate stops for low-level offenses</a></li> <li>• <a href="#">Implement an Early Intervention System (EIS) and a risk-management structure</a></li> <li>• <a href="#">Immediately release stop, arrest, calls for service and use of force data from 2012 to present to the Working Group</a></li> <li>• <a href="#">Limit warrantless searches of individuals on supervised release status such as Post Release Community Supervision (PRCS), probation, or parole</a></li> <li>• <a href="#">Require written consent for all consent searches</a></li> <li>• <a href="#">Address Profiling by Proxy (PAB Policy Development, Dispatcher Training)</a></li> <li>• <a href="#">Fire racist police officers identified through social media and other media screens</a></li> <li>• <a href="#">Address Profiling by Proxy (Council develop &amp; pass CAREN policy)</a></li> <li>• <a href="#">Require regular analysis of BPD stop, search, and use of force data</a></li> <li>• <a href="#">Make resources on police-civilian encounters more publicly available such as RAHEEM.org</a></li> <li>• <a href="#">Adopt Compliance and Accountability Mechanisms</a> <ul style="list-style-type: none"> <li>a. Hire consultant to develop implementation plan</li> </ul> </li> <li>• <a href="#">For any individual detained, BPD officers shall provide a business card with info on a website similar to RAHEEM and info on complain process with PAB</a></li> </ul>
Refer to be included in the process to reimagine public safety	<ul style="list-style-type: none"> <li>• <a href="#">The City should create a formalized feedback system to gauge community response to ongoing reforms and ensure this constructive input system is institutionalized and includes a basic report card and quarterly neighborhood check-ins</a></li> <li>• <a href="#">Conduct a baseline community survey.</a></li> </ul>
Refer to the Police Accountability Board	<ul style="list-style-type: none"> <li>• <a href="#">Include a scenario-based training component in the existing officer training required by California Penal Code 13519.4</a></li> <li>• <a href="#">Require enhanced annual implicit bias training for police</a></li> <li>• <a href="#">Accelerate Crisis Intervention Team (CIT) activity</a></li> </ul>
Follow-up with PAB and/or Fair and Impartial Working Group	<ul style="list-style-type: none"> <li>• <a href="#">Evaluate the impact of these proposals on racial disparities in stops and searches, using regular updates to stop and search data</a></li> <li>• <a href="#">Conduct a regular community survey and annual community forums on Police and Public Safety</a></li> </ul>
Recommendations already underway	<ul style="list-style-type: none"> <li>• <a href="#">Fund and implement a specialized care unit for mental health crises</a></li> <li>• <a href="#">Conduct a Capacity Study of police calls and responses and use of officer time outside of case work</a></li> </ul>
Outstanding - No Action Recommended	<ul style="list-style-type: none"> <li>• <a href="#">Include community member participation and feedback in the hiring process</a></li> <li>• <a href="#">Include the following for Performance Appraisal Reports</a></li> </ul>

## **Reducing Disparities in Vehicle, Pedestrian, and Bicycle Stops & Searches:**

### **1. Focus traffic stops on safety**

According to Dr. Frank Baumgartner's 2018 book, *Suspect Citizens*, "Safety stops are those aimed at enforcing the rules of the road to decrease the likelihood of an accident" (pg. 191). The types of stops falling into this traffic safety category may include:

- Excessive speeding<sup>1</sup>
- Running a stop sign or stop light
- Unsafe movement
- Driving while intoxicated

### **2. Use a clear, evidence-based definition for stops of criminal suspects**

Dr. Baumgartner's analysis<sup>2</sup> reveals that "investigatory stops" (stops that use a minor infraction as a pretext for investigating rather than to prevent or reduce dangerous behavior pgs. 53-55) allow for the most officer discretion and open the possibility of implicit bias or "reliance on cultural heuristics" (pg. 191). Based on analyses of more than 9 million stops, Baumgartner's team found that 47% were investigatory and that they added substantially to the racial disparity statistics. Thus, investigatory stops and stops of criminal suspects shall be restricted to those made because the person and/or vehicle fits a description in relation to a specific crime.<sup>34</sup>

Since the Oakland Police Department (OPD) has implemented evidence-based methods, the number of African American civilians stopped by the OPD has declined. Since Oakland Police Department has implemented evidence-based methods, the number of African American civilians stopped has declined from 19,185 in 2017 to 7,346 in 2019, a drop of 62% and a stop disparity rate reduction of almost 60%,<sup>5</sup> with no corresponding increase in crime (Captain Chris Bolton presentation, 7/15/2020).

### **3. Use race and ethnicity as relevant factors when determining law enforcement action only when provided as part of a description of a crime and suspect that is credible and relevant to the locality and timeframe of the crime and only in combination with other specific descriptive and physical characteristics.<sup>6,7</sup>**

Specific descriptive and physical characteristics may include, for example: the gender, age, height, weight, clothing, tattoos and piercings of the suspect, the make and model of the car, and the time and location of the crime. Simple race and ethnicity alone are not

<sup>1</sup> <https://www.idrivesafely.com/dmv/california/laws/traffic-tickets-and-violations/>, <https://www.martenslawfirm.com/blog/2015/november/what-is-excessive-speeding/>

<sup>2</sup> *Suspect Citizens*, pp. 190-192

<sup>3</sup> Eberhardt, J. L. (2016). *Strategies for change: Research initiatives and recommendations to improve police-community relations in Oakland, Calif.* Stanford University

<sup>4</sup> This definition was created by Dr. Jennifer Eberhardt in collaboration with the Oakland Police Department.

<sup>5</sup> This is the percentage of African American stops within all discretionary non-intel led stops made by Police Area 2 officers fell from 76% in September 2017 to 31% in September 2018

<sup>6</sup> Southern Poverty Law Center, 10 Best Practices for Writing Policies Against Racial Profiling

<sup>7</sup> CA Penal Code

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satisfactory as bases for reasonable suspicion under the law, and amount to racial profiling.

#### 4. Eliminate stops for low-level offenses

According to the presentation to the Working Group by Captain Bolton of the OPD, Oakland significantly reduced stops for these low-level, non-public safety related offenses, resulting in a reduction in the number of African Americans being stopped and a reduced stop-disparity rate, with no effect on crime rates (homicides and injury shootings went down during the same period). There is often overlap between “investigatory stops” and “stops for low-level offenses,” as the latter may be used as a pretext for investigation. The types of stops falling into these categories may include:

- Equipment violations
- Not wearing a seat belt
- Improper use of high beams
- Violating a regulation (e.g. expired license tags)
- Stop purposes recorded as “other”

#### 5. Implement an Early Intervention System (EIS) and a risk-management structure

These measures to ensure individual accountability have operated successfully in Oakland and many other localities for some time. They involve identifying officer outliers in stops, searches, and use of force and their outcomes and examining the reasons for racial disparities. Existing software programs to assist BPD in implementing an EIS could be utilized or BPD can build its own system.

These programs operate to identify officers who are a danger either to themselves or to the public. They are referred to as “risk management” systems because they help limit the financial liability of the City and hence its taxpayers. They may address a broad range of concerns, but in this document, we only consider their use with regard to racial disparities. Elements of this process include the following steps:

- a. Evaluate and assess stop incidents for legality and enforcement yield.
- b. Analyze data to determine whether racial disparities are generalized across the force or are concentrated in a smaller subset of outlier officers or squads/groups of officers. To the extent that the problem is generalized across the department, supervisors as well as line officers should be re-trained and monitored, and department recruitment, training, and structure should be reviewed. In addition, department policy should be examined for their impacts.
- c. Where disparities are concentrated in an individual or a group of officers, with no race-neutral legitimate evidence for this behavior in specific cases, initiate an investigation to determine the cause for the disparity. Evaluate whether there are identifiable causes contributing to racially disparate stop rates and high or low rates of resulting enforcement actions exhibited by outlying officers. Determine and address any trends and patterns among officers with disparate stop rates. In the risk management process, the responsible personnel in the chain of

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- command reviews and discusses the available information about the subject officer and the officer's current behavior.
- d. Absent a satisfactory explanation for racially disparate behavior, monitor the officer.. Options for the supervisor in these cases include reviewing additional body-worn camera footage, supervisor ride-alongs, and other forms of monitoring. Further escalation to intervention, if necessary, may include a higher form of supervision, with even closer oversight. If performance fails to improve, command should consider other options including breaking up departmental units, transfer of officers to other responsibilities, etc. The goal of this process is to achieve trust and better community relations between the department as a whole and all the people in Berkeley. Formal discipline is always a last resort unless there are violations of Department General Orders, in which case this becomes an IAB matter.
  - e. Identify officers who may have problems affecting their ability to make appropriate judgments, and monitor and reduce time pressures, stress and fatigue on officers.
  - f. An outside observer from the PRC shall sit in on the risk management and/or EIS program. Reports from these meetings, or other accurate statistical summary, can be given to the commission without identifying any officers' names.
  - g. Report the results of this data analysis quarterly.

**6. Immediately release the following data to the Working Group:**

- a. All data given to the Center for Policing Equity (CPE) - This data includes:
  - i. Calls for Service (January 1, 2012 - December 2016)
  - ii. Use of Force Data (January 1, 2012 - December 31, 2016)
  - iii. Crime Report Data (January 1, 2012 - December 31, 2016)
- b. STOP DATA - this data shall include information on "call type," similar to the data used by the Center for Policing Equity. The timeframe would be January 1, 2012 to present.
- c. USE OF FORCE DATA - This data was used in the analysis presented in the CPE report. Along with the CPE data, it would be helpful to have more recent Use of Force data. The timeframe would be January 1, 2012 to present.
- d. DEIDENTIFIED STOP & ARREST DATA - To determine if there are any problematic patterns among certain officers, or perhaps pairs of officers, data that we can be attached to anonymized individuals. The timeframe for this data would be January 1, 2012 to present.
- e. ADDITIONAL ARREST DATA - Currently, the Open Data Portal posts arrest data from January 1, 2015. The timeframe for this data would be January 1, 2012 to present day.
- f. ADDITIONAL CALLS FOR SERVICE - Currently, Calls for Service data are posted for the last 180 days. The timeframe for this data would be January 1, 2012 to present.

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**7. Limit warrantless searches of individuals on supervised release status, including probation, Post Release Community Supervision (PRCS), and parole, absent evidence of imminent danger**

California is one of a handful of states that allow high-discretion, suspicionless searches of probationers and parolees. The following was passed by the Police Review Commission on 9/23/2020 and the Working Group endorses this approach:

*“In accordance with California law, individuals on probation, parole, Post Release Community Supervision, or other supervised release status may be subject to warrantless search as a condition of their probation. Officers shall only conduct probation or parole searches to further a legitimate law enforcement purpose. Searches shall not be conducted in an arbitrary, capricious, or harassing fashion. However, under Berkeley policy, officers shall not detain and search a person on probation or parole solely because the officer is aware of that person’s probation or parole status.*

*The decision to detain a person and conduct a probation or parole search, or otherwise enforce probation or parole conditions, should be made, at a minimum, in connection with articulable facts that create a reasonable suspicion that a person may have committed a crime, be committing a crime, or be about to commit a crime.”*

**8. Require written consent for all consent searches**

Baumgartner (pp. 195-209) and his team found that in cities requiring written consent to perform a consent search, these searches declined by 75%. Since people of color are disproportionately the subjects of these searches, it makes sense that a significant reduction would lead to fewer consent searches for people of color.

Examining three cities in North Carolina, Baumgartner found that in cities where there was resistance by leadership to the new written-consent policy, there was a substitution effect, such that as consent searches went down, probable cause searches went up. However, the substitution effect seemed to be directly correlated with leadership priorities. The chapter concludes, “We showed that a combination of leadership directives and simple initiatives can alter the relationship a department can have with their community” (pg. 213). *This speaks to the need for clear buy-in from BPD leadership.* The Working Group recommends that the BPD adopt the written consent form used in North Carolina, a copy of which can be found [here](#).

**9. For any individual detained, BPD officers shall provide a business card with the following information on the back**

- a) A website similar to RAHEEM that collects information on police-civilian encounters.<sup>8</sup>
- b) Contact information for filing a complaint with the PRC or its successor, the Police Accountability Board.

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<sup>8</sup> <https://www.raheem.ai/en/>



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**10. Address Profiling by Proxy<sup>9</sup>**

Police should not be dispatched to calls that are motivated by caller bias or malintent, e.g., a claim that someone is suspicious with no corroborating reason.<sup>10</sup> These types of calls harm police-community relationships and undermine the authority of the police. To protect against profiling by proxy the police department shall:

- a. work with PRC and other appropriate agencies to formulate a policy that defines and remedies profiling by proxy.
- b. enhance Dispatcher training to evaluate calls and add implicit bias training for 911 Dispatch.

An article on profiling by proxy by the Vera Institute of Justice recommends including 911 Dispatch in implicit bias training as a method for reducing issues with profiling by proxy. Anti-bias training will also help Dispatchers become aware of their own biases. For example, when they receive calls about behavior the complainant may dislike but is not illegal—e.g., “too many” black teenagers in the public park.<sup>11</sup>

**Hiring & Evaluation**

The successful hiring and evaluation of police officers is an important part of creating a healthy and high-functioning police department. The types of people the department hires, and the effective evaluation of police officers are important in determining police department culture. Researchers on policing have repeatedly found that organizational culture is the single most important determinant of officer behavior.<sup>12</sup> Human Resource Management research supports including the evaluation for cultural competency as important in improving agencies. The key components for a high degree of cultural competency are: awareness, attitude, knowledge, skills.

**11. Fire racist police officers identified through social media and other media screens**

A third-party agency, hired by the City of Berkeley, or agency outside the police department should screen police officers and potential new hires’ social media accounts for racist or violent comments, affiliations to racist groups whether public or private, including private groups expressing racist or violent rhetoric.

- a. BPD shall immediately fire all identified officers who have engaged in racist or violent actions or commentary online.
- b. A social media screen of officer online conduct shall be done annually.

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<sup>9</sup> Profiling by proxy may occur “when an individual calls the police and makes false or ill-informed claims of misconduct about persons they dislike or are biased against—e.g., ethnic and religious minorities, youth, homeless people” (retrieved from The Vera Institute of Justice).

<sup>10</sup> Captain Bolton of the Oakland Police Department made improvements on profiling by proxy using an approach that educated citizens on focusing on criminal behavior instead of suspicion when calling police.

<sup>11</sup> “[Avoiding 'profiling by proxy'](https://www.vera.org/blog/police-perspectives/avoiding-profiling-by-proxy),” Vera Institute of Justice, March 13, 2015, <https://www.vera.org/blog/police-perspectives/avoiding-profiling-by-proxy>

<sup>12</sup> [Organizational Culture and Police Misconduct](#)

## **Recommendations for Council**

**Community Engagement and Feedback** - When the City of Berkeley pledged to consider reducing funding for the police department by 50%, it also committed itself to shifting to new and alternative methods of community safety. To effectively understand and implement new and alternative safety practices and services, the City of Berkeley must look to its residents for ongoing insight and feedback. The City must collect and utilize regular community feedback to inform the city on community investment priorities including police department policies and practices and future direction. To that end:

### **12. Address Profiling by Proxy<sup>13</sup>**

To protect against profiling by proxy City Council should:

- a. Introduce profiling by proxy legislation similar to [CAREN Act](#) in SF, which would hold residents accountable for using police in a biased manner.
- b. Issue a quarterly review of data from 911 Dispatch, for the PRC or City Auditor to help understand the extent of calls from community members presenting ‘biased’ suspicions.”

### **13. Require regular analysis of BPD stop, search, and use of force data**

The City Auditor and/or PRC shall update the [analysis](#) of BPD data completed by the [Center for Policing Equity](#) and the PRC and publish the results on the BPD website every quarter. This report shall include stop, search, and use of force analysis. —

## **Ensuring Timely and Effective Implementation:**

Since the fall of 2017, the police department has received 37 separate policy or legislative directives to address the racially disparate treatment of City of Berkeley residents. Those directives are the result of extensive and on-going racial disparities in police department stops, searches, and use of force. As of the drafting of this report, at least 30 of those directives remain outstanding with **no plan** for implementation.

We respectfully recognize that the role of the Mayor’s Working Group on Fair and Impartial Policing is to advise the Berkeley City Council and staff. We recognize that we are not in a position to make final decisions; rather, our role is to offer advice and recommendations to the Council. The Mayor’s Working Group is committed to ensuring that the policy recommendations outlined in this proposal are not added to the long list of unaccomplished directives. Therefore, we have included an accountability system with our policy proposal. This accountability system

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<sup>13</sup> When an individual calls the police and makes false or ill-informed claims of misconduct about persons they dislike or are biased against—e.g., ethnic and religious minorities, youth, homeless people; retrieved from The Vera Institute of Justice

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will ensure that the changes necessary to establish fair and impartial policing and rebuild public trust occur.

**Compliance and Accountability Mechanisms:**

- A. Working in partnership with the Mayor's Working Group on Fair and Impartial Policing and within six months from approval of the proposal (extended for good cause), the City Manager hires an experienced consultant to help draft an implementation plan that includes a timeline to monitor, assess, and report on the implementation of the items outlined in the working group's policy proposal.
  - i. If a consultant is not hired within six months from approval of the proposal, the Council should move to item "E" below.
  - ii. If a consultant is not hired within six months (extended for good cause), the working group should remain formally organized by the Mayor until a consultant is hired and a plan is approved.
- B. The Working Group, Police Chief, and the consultant will create an implementation plan that includes a timeline to monitor, assess, and report on the implementation of the items outlined in the Working Group's policy proposal. Long-term monitoring and assessments will be the responsibility of the police oversight body (the PRC or its successor the Police Accountability Board).
- C. The implementation plan will be presented to the Berkeley City Council for approval. Once the plan is approved by the City Council, the consultant's work is finished. Long-term monitoring and assessment will be the responsibility of the police oversight body (the PRC or its successor the Police Accountability Board).
- D. The City Manager and the Berkeley Police Chief should do everything within their power to implement the items outlined in the plan and timeline set forth and approved by City Council.
- E. The City Council should set the implementation of this plan as a priority in the annual evaluation of the city manager.
- F. If the City Manager does not ensure that the Police Department implements the plan in accordance with the timeline, the City Manager should be held accountable.
  - i. In the event of a new Berkeley Police Department Chief: the Mayor's Working Group, on Fair and Impartial Policing, the new Police Chief and the City Manager shall meet and agree upon an updated timeline to monitor, assess, and report on the implementation of the items outlined in the plan approved by City Council.
  - ii. In the event of a new City Manager: the Working Group, the Berkeley Police Chief, and the new City Manager shall meet and agree upon an updated timeline to monitor, assess, and report on the implementation of the items outlined in the plan approved by City Council.

If these recommendations are adopted and implemented promptly, we expect that the disparate stop data can show significant improvement in the near future. We expect the City Manager and the Police Chief to implement these programs with enthusiasm and dedication, as they reflect the constitutional imperative of equal protection under the law.

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## Appendix A: Additional Recommendations

*The following recommendations are also supported by the working group, which suggests referring them to the reimagining process and/or follow-up with the Police Accountability Board and the Fair and Impartial working group. See table 1 for recommended actions.*

### **14. Include a scenario-based training component in the existing officer training required by California Penal Code 13519.4**

- a. The training must include specific, relevant examples of prohibited actions and how to conduct law enforcement activities in an unbiased manner.<sup>14</sup>
- b. MILO and VIRTRA are two such scenario-based training programs<sup>15</sup>
- c. An independent observer shall review the training and report back to the PRC or its successor on the quality of the training.

### **15. Require enhanced annual implicit bias training for police**

There is scant scientific evidence that implicit bias training works to change implicit biases over the long-term. However, agency-wide, enhanced, and well-executed training that occurs on a regular basis could have a positive effect on the cultural environment of the police department and on expectations for behavior. Regular, required implicit bias training provides an expression of institutional support for fairness, which is important in improving relationships across groups<sup>16</sup>and improving agency culture.

- a. Officers should receive intensive anti-racism and implicit bias training as part of their core instruction in the first 90 days of employment, and an annual 'refresher' course.
- b. An independent observer shall attend the training and report back to the PRC on the quality of the training.

### **16. Accelerate Crisis Intervention Team (CIT) activity**

- a) Require 40 hours of CIT training in the first year of employment.
- b) Collect data on CIT calls to allow BPD to make informed decisions about staffing and deployment so that a CIT officer is available for all shifts in all districts to respond to every CIT call.
- c) Develop a CIT reporting system so that each deployment of a CIT officer is well documented. CIT officers should submit narrative reports of their interactions with persons in crisis so the appropriateness of the response can be evaluated in an after-action analysis.
- d) Implement an assessment program to evaluate the efficacy of the CIT program as a whole and the performance of individual CIT officers. A portion of a CIT officer's performance review should address skill and effectiveness in CIT situations.

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<sup>14</sup> [CA Penal Code](#)

<sup>15</sup> MILO in an Oakland setting

<sup>16</sup> Allport, G. W., Clark, K., & Pettigrew, T. (1954). The nature of prejudice.

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**17. The City of Berkeley should conduct annual community forums on Police and Public Safety:**

- a. Identifying community-based leaders and impacted individuals for control of the envisioning process.
- b. Placing the process under the Office of the Mayor, not the City Manager. Upon establishment of the Police Accountability Board, place the process under the auspices of the Police Accountability Board.
- c. Including the creation of community-based measures of safety as part of the first round of the envisioning process.<sup>17</sup>
- d. Once community-based measures of safety are created, including these measures in the annual community survey (see item 17) and publishing the data as per item 17b.

**18. The City of Berkeley should conduct an annual community survey.**

Sample surveys include the [Milwaukee survey](#) and the [Dallas survey](#).

- a. Data collected should be shared publicly via the City of Berkeley website or an online community dashboard.

**19. The City should create a formalized feedback system to gauge community response to ongoing reforms and ensure this constructive input system is institutionalized and includes:**

- a. A basic “Report Card,” in collaboration with the PRC or its successor the Police Accountability Board, based on community feedback for each reform. This will enable the Department to take the ‘community’s temperature’ on how the implementation of the reforms are being perceived by the public.
- b. Quarterly neighborhood ‘check ins’ for relationship building .

**20. Conduct a Capacity Study**

- a. Release data including but not limited to 911 dispatch calls, BPD stops and interventions, written reports, and body-worn camera footage to the City Auditor and/or PRC for analysis.<sup>18</sup>
- b. Conduct an audit on officer down time to determine the percentage of police time spent outside of responding to calls for service and how police officers spend this time. Share this information with the City Auditor and/or PRC for analysis for use in the capacity study.
- c. Conduct an audit of police overtime to determine the factors that contribute to the use of overtime .

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<sup>17</sup> This process should follow or be modeled after the [Everyday Peace Indicators](#) process

<sup>18</sup> This study could be time-limited and would not have to be a comprehensive analysis of internal data; a random sample done correctly would suffice to determine how best to restructure the response to a variety of problematic situations.

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- d. Identify what percentage of calls for service require a unique police response and what percentage of calls could be better served by an alternative response with the goal to focus police response on issues that can best be responded to by police officers.
- e. These data can also assist in identifying calls suspected of profiling by proxy.

### **21. Fund and implement a specialized care unit for mental health crises**

Fully fund and implement the specialized care unit as swiftly as possible in order to remove mental health and homeless encounters from the responsibility of BPD.

Research has found that individuals with mental illness are at a higher risk of police stops, use of force,<sup>19</sup> and a fatal police encounter.<sup>20</sup> These disparities increase for Black and Latinx individuals. Specialized mental health crisis units are a safer option for those experiencing a mental health crisis than a police response and a more cost-effective use of public resources.<sup>21</sup> The Council's July 14, 2020 decision to create a Specialized Care Unit will better serve people in Berkeley experiencing a mental health crisis. The Working Group supports transitioning away from police as first responders to 911 calls related to mental health and towards trained, unarmed mental health first responders.

The Berkeley Community Safety Coalition in collaboration with Councilmember Bartlett are developing a proposal related to a pilot program transitioning away from sworn police as first responders to professional mental health first responders. The Working Group supports this effort.

### **22. Make resources on police-civilian encounters more publicly available, including:**

- a. A website similar to RAHEEM that collects information on police-civilian encounters.<sup>22</sup>
- b. Contact information for filing a complaint with the PRC or its successor.

### **23. Evaluate the impact of these proposals on racial disparities in stops and searches, using regular updates to stop and search data**

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<sup>19</sup> [Mental Illness, Police Use of Force, and Citizen Injury](#)

<sup>20</sup> [Deaths of people with mental illness during interactions with law enforcement](#)

<sup>21</sup> [CAHOOTS Media Guide, 2020](#)

<sup>22</sup> <https://www.raheem.ai/en/>

## Appendix B: No Action Recommended

*The following recommendations were proposed and discussed at the working group but no action is recommended by the Council.*

### 1. Include community member participation and feedback in the hiring process

For all potential sworn officer hires interviewed by BPD, Berkeley residents should be included in the hiring process. For example, citizens of Berkeley should be allowed, in an equitable manner, to participate in Berkeley Police Department orals boards for prospective police officers or some comparable interview process.

### 2. Include the following for Performance Appraisal Reports

As the current Performance Appraisal Reports General Order P-28 requires, objectives of the report are to provide for fair and impartial personnel decisions, and to provide an objective and fair method for the measurement and recognition of individual performance according to prescribed guidelines.<sup>23</sup>

- a. Officers should exhibit cultural competency and anti-racist conduct, and that should be included in their City of Berkeley Performance Appraisal Report (Police Sworn-Operations Division Personnel<sup>24</sup>)
- b. Add to standards 1 and 2 of the Performance Appraisal Report as follows:
  - i. Provides excellent customer service and represents the Department well as a culturally competent and anti-racist officer
  - ii. Is respectful of both the people they serve and the people they serve with, in a culturally competent and anti-racist manner
  - iii. All officers should aspire for an “Above Average” “Exceeds Expectations” or “Exemplary Performance” mark each year with “Meets Minimum Standards” as the basic floor (with expected increase in performance level in subsequent years)

### 3. Include community and peer input into the annual review of sworn police officers.

For all BPD sworn officers, Berkeley residents should be included in the annual review process. For example, citizens of Berkeley should be allowed, in an equitable manner, to provide feedback into the annual review of Berkeley police officers.

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<sup>23</sup> Previous language “a. An amendment to General Order P-28 would add a reference to 'cultural competency' and reassurances by the community that the officers are evaluated on their conduct in relationship to a person's gender, race, ethnicity, religion or gender identity/orientation. B. Performance Evaluation, Section B, page 2; #1 and #2 include language of cultural competency “

<sup>24</sup> [on p. 2 of 8 under Section “B” “Professionalism.”](#)



## Appendix C – Incorporation of BPD Feedback

Please note: quoted text in this section references written feedback on the working group draft proposal provided by Chief Greenwood of the Berkeley Police Department.

### **Focus traffic stops on safety.**

The BPD are in agreement with this item. In July 2020, representatives from BPD (Officer Matthew Ye and Arlo Malmberg) presented a “problem-oriented policing” strategy to the working group. Further, Captain Bolton of the Oakland Police Department presented an intelligence-led policing strategy to the working group. According to Captain Bolton, OPD was able to significantly reduce stops for low-level and non-public safety related offenses using an intelligence-led policing strategy, resulting in a 70% reduction in the number of African Americans being stopped with no effect on crime rates. BPD stated they plan to “establish a formal strategy focusing officers’ discretionary stops on intelligence-based and traffic safety stops.”

Additional updates include: the sample list of stops falling into the category of unsafe driving behavior was updated based on BPD feedback; the working group deleted a reference made to “misdemeanor” stops as BPD pointed out that most traffic violations are “infractions” and not misdemeanors.

### **Use a clear, evidence-based definition for stops of criminal suspects.**

BPD stated they plan to establish a formal strategy focusing officers’ discretionary stops on intelligence-based stops. Chief Greenwood stated that an “intelligence based stop strategy aligns with [use of a clear, evidence-based definition for stops of criminal suspects].”

The BPD strategy as described focuses on general “intelligence” related to crime patterns. The BPD strategy does not respond to specific descriptions of perpetrators, nor is it clear what types of intelligence BPD would be using for stops of criminal suspects. An intelligence-based stop strategy can and should be implemented in concurrence with the items outlined in the working group’s proposal. However, the working group is not convinced by Chief Greenwood’s response that the BPD strategy will effectively address this item. The Working Group is recommending a shift in stop policy to address issues with racial disparities in stops. The BPD response as well as the strategy they have offered has not provided evidence there will be any shift from the status quo.

### **Use race and ethnicity as relevant factors when determining law enforcement action only when provided as part of a description of a crime and suspect that is credible and**

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**relevant to the locality and timeframe of the crime and only in combination with other specific descriptive and physical characteristics.**

BPD stated “overall agreement” with this recommendation. BPD did not directly address the specific recommendation that race and ethnicity be used *only* in combination with other descriptive features of the individual or alleged offense. BPD wrote “[d]epending on circumstances, simple race and sex in a description can be sufficient for a terry [sic] stop.” It is the working group’s understanding that, absent other factors, race is insufficient to constitute the reasonable suspicion required for a Terry stop (i.e. detaining an individual based on reasonable suspicion of illegal activity, including the ability to handcuff and search the outer clothing of the individual detained). Furthermore, BPD’s feedback that “In a 1538 Motion to Suppress hearing, the court makes a determination if there [sic] factors associated with a detention are sufficient,” is inappropriate in this context. While the statement is factually accurate, the purpose of this recommendation is to establish a stop policy based on the Constitution, not to place the burden on civilians to go to court for relief.

**Eliminate stops for low-level offenses**

In response, BPD stated the plan to establish a formal strategy focusing officers’ discretionary stops on intelligence-based stops. Further, BPD stated, “We would support our Intelligence Based Stop Strategy through increasing our analysis capability, so that more information can be more efficiently provided to officers, Officers working in this manner would be more likely to have a higher yield even when making fewer stops, because of their focus on crime investigations.” It remains unclear to the working group how BPD plans to increase their analysis capacity or how that would impact racial disparities in stops.

In responses to items throughout the draft working group policy proposal, BPD referenced an early transition to the data collection methods required by the California Racial and Identity Profiling Act (RIPA). BPD announced an early transition to data collection methods in line with RIPA requirements at an October 2020 working group meeting. As of the writing of this report, data collected according to RIPA standards (hereafter “RIPA data”) has not been released on the BPD open data portal.

It is important to note: using the data currently available on the open data portal, a hit rate cannot be calculated. Hit rates are commonly used to measure the presence of racial bias in searches. A hit rate is calculated by dividing contraband found during a search (e.g. weapons, drugs, etc.) by the total numbers of searches, within racial categories (e.g. Black or white). The logic of the hit rate is straightforward: in the absence of discriminatory behavior, officers should find contraband on searched minorities at the same rate as on searched whites. A similar hit rate indicates a similar standard for searches is being used across different groups. If searches of racial minorities turn up contraband at lower rates than searches of whites, this suggests there is a double standard, where minorities are being stopped and searched on the basis of less evidence. BPD did not collect contraband information before the transition to RIPA. Therefore, there was no way to calculate a true hit rate during the period the working group met. Transitioning to RIPA will be helpful to determine racial bias in search decisions, but it does not

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provide information on racial bias in stop decisions. Most importantly, the collection of RIPA data does not directly address or work to mitigate existing racial disparities.

In a previous draft, this item included a reference to BerkDOT, but we removed it after BPD pointed out that inclusion was an unnecessary addition.

We also deleted a recommendation that officers provide those they stop with a reason for the stop, since BPD feedback cited section 14 of the T-3 Traffic Enforcement policy which requires officers to provide “explanation of the circumstances giving rise to the enforcement contact.”

**Include a scenario-based training component in the existing officer training required by California Penal Code 13519.4.**

BPD responded that it “conducts all mandated training.” However, the working group item recommends including scenario-based training with relevant examples of what is prohibited, and includes an independent observer. This addition of specific scenario-based training is not currently mandated by the state, and it is this specific scenario-based training that the working group is recommending. This recommendation for specific scenario-based training comes from the Southern Poverty Law Center, “10 Best Practices for Writing Policies Against Racial Profiling.”

**Require enhanced annual implicit bias training for police.**

BPD agrees with the importance of implicit bias training and stated officers currently get implicit bias training while in training academy. BPD also cited budget constraints would limit the department’s ability to provide annual implicit bias training. The working group understands the constraints of budget cuts, but anticipates that some of the recommendations proposed here (e.g. eliminating stops for many low-level infractions) may free up resources for this important training that has the potential to trigger the kind of cultural shifts that are necessary.

This item also includes a policy recommendation that an independent observer attend the training and report back to the police oversight body (the PRC or its successor). Chief Greenwood stated he was open to the idea of an outside observer but had concerns that difficult conversations might be chilled by outside observers. The working group understands and appreciates these concerns.

**Implement an Early Intervention System (EIS) and a risk-management structure.**

Chief Greenwood's feedback expressed interest in this approach and in learning how the Oakland program works, stating “Open to learning about how Oakland does this work. Learning how the analysis works will help us understand the resources needed to do this work.” In response, a member of the working group put Chief Greenwood in touch with the OPD official in charge of that program. To date he has not taken advantage of that opportunity.

Further, BPD feedback references RIPA data, stating “With the collection of RIPA data, we will have richer data to examine. This will help us focus on data on stops, searches, and yields.” According to the National Police Foundation, in their report, *Best Practices in Early Intervention*

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*System Implementation and Use in Law Enforcement Agencies*, an “early intervention system [EIS] is a personnel management tool designed to identify potential individual or group concerns at the earliest possible stage so that intervention and support can be offered in an effort to redirect performance and behaviors toward organizational goals. The ideal purpose of an EIS is to provide officers with resources and tools in order to prevent disciplinary action, and to promote officer safety, satisfaction and wellness.”

The collection and analysis of RIPA data could be helpful to identify *racial implications* related to identified individual or group red flag behavior. However, the collection of RIPA data does not meet two core components of an EIS system: 1) identify potential individual or group red flag behavior (as early as possible), and 2) intervene to redirect performance and behaviors toward organizational goals. In short, the collection of RIPA data does nothing to address this item.

The working group considers this recommendation for an EIS and risk management system to be among its top priorities.

**Immediately release the following data to the Working Group:**

All data given to the Center for Policing Equity (CPE) - This data includes:

- a. Calls for Service (January 1, 2012 - December 2016)
- b. Use of Force Data (January 1, 2012 - December 31, 2016)
- c. Crime Report Data (January 1, 2012 - December 31, 2016)

STOP DATA - this data shall include information on “call type,” similar to the data used by the Center for Policing Equity. The timeframe would be January 1, 2012 to present.

USE OF FORCE DATA - This data was used in the analysis presented in the CPE report. Along with the CPE data, it would be helpful to have more recent Use of Force data. The timeframe would be January 1, 2012 to present.

DEIDENTIFIED STOP & ARREST DATA - data that we can be attached to anonymized individuals. The timeframe for this data would be January 1, 2012 to present.

ADDITIONAL ARREST DATA - Currently, the Open Data Portal posts arrest data from January 1, 2015. The timeframe for this data would be January 1, 2012 to present day.

ADDITIONAL CALLS FOR SERVICE - Currently, Calls for Service data are posted for the last 180 days. The timeframe for this data would be January 1, 2012 to present.

The BPD responded by referring to RIPA data collection, stating “RIPA data and current BPD officers seems to be the best path forward.” BPD also states, “Approximately 50 officers have been hired since late 2016,” and, “BPD staff are working on a number of technical projects, and resources are limited, especially after recent budget deferrals.”

Based on conversations related to this item which occurred in formal working group sessions, the working group believes the BPD comment related to the hiring of 50 officers was intended to communicate that the BPD department before 2016 (reflected in the CPE data), is different from the BPD today. The working group believes this may be true. The best way to determine if this

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is true is to have access to the data we have requested so we can determine if there have been any measurable shifts in the racial disparities found by CPE.

It is important to note that a member of the working group used publicly available BPD stop data to redo a portion of the CPE analysis. This publicly available stop data was from 2015 to 2019. Therefore, this data included the two years of the CPE report (2015 - 2016) and two and a half years after the CPE report (2017-2019). This analysis was presented to the working group. This analysis found persistent racial disparities in stops and searches during this time. In other words, the pattern of racial disparities found in the CPE analysis persisted through 2019, over two years after the CPE report was released. It is also important to note that this analysis only includes stops and searches. It does not include an analysis of use of force. A complete CPE redo has not been possible because **BPD has never released any data to the working group.**

The working group understands budgetary constraints are impacting BPD. Further, the working group understands that it is possible BPD does not have some of the data we request, e.g. de-identified stop and arrest data. When BPD has made it clear they do not have the data, we have updated our data requests. For example, an early draft of the working group's policy proposal included a request for weapons and contraband data. BPD has made clear they do not have weapons and contraband data, so the working group removed this data request from our final proposal.

For the remaining data requests, BPD has not provided a compelling reason for why they have not released this data. At the very least, BPD should be able to turn over all the data that was shared with CPE as this data has already been put into a format which allowed it to be shared. Moreover, BPD feedback that, "BPD staff are working on a number of technical projects," seems to indicate that BPD has staff capable of providing and perhaps already working on the data we request.

The Working Group agrees that RIPA data will be useful going forward. However, this item speaks to data from the past, beginning in 2012, and includes data given to the CPE as well as additional data. For the City Council to determine if and how the policy shifts implemented in this proposal have been effective in reducing racial disparities, it must have data from before the implementation of RIPA and this data must be more extensive than stop and search data. The data the working group has requested in this proposal would allow City Council to properly measure the impacts of the policy changes outlined in this proposal. RIPA data will help create a richer picture but in isolation it cannot tell us any information about changes to racial disparities that result from the policy changes outlined in this proposal.

**Limit warrantless searches of individuals on supervised release status, including probation, Post Release Community Supervision (PRCS), and parole, absent evidence of imminent danger**

BPD agrees with this recommendation which has passed the PRC with BPD collaboration.

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**Require written consent for all consent searches**

BPD agreed with this item and cited the collection of RIPA data. Chief Greenwood's feedback states, "BPD will make it a policy that the department's existing consent search form shall be used when consent to search is sought by an officer. Existing body worn camera policy already captures the consent request interaction. RIPA data will specifically address this issue: Data will indicate when a consent search was performed, and what the outcome (yield) is providing specific data for analysis. The data will support understanding of how often it occurs, the circumstances under which it occurs, and the outcomes."

In mid-December, the Working Group received a copy of the consent form used by the BPD; however, as noted above in #8, the Working Group recommendation is that the BPD adopt the written consent used in North Carolina. It is imperative that any consent form be used consistently and include the printed name and signature of the person consenting to the search as well as clear indications of what property the person consents to search, rather than blanket statements that the consent includes all aspects of the person and their property.

Additionally, while the written feedback did not make this distinction, conversations with Chief Greenwood at Working Group meetings indicated that perhaps BPD focus for written consent was on car or traffic searches only. This policy item recommendation includes all searches-- traffic, pedestrian, bike, etc.

The Working Group acknowledges that body worn cameras may capture the consent process but does not support only the use of body worn cameras to capture this process. The intent of this item is to require written consent for any person, or their property, undergoing a consent search.

The Working Group agrees RIPA data collection will be helpful in determining if there are racial disparities in stops and searches. However, RIPA data collection is not a substitute for a written consent.

**Accelerate Crisis Intervention Team (CIT) activity**

BPD agrees with this response. However, Chief Greenwood states, "Class availability is limited. Budget and resource constraints may impact this as well, as overtime is restricted to backfill for officers' absence due to training." The working group considers that accelerating current CIT activity as critically important.

**For any individual detained, BPD officers shall provide a business card that displays with the following information on the back:**

- a. A website similar to RAHEEM that collects information on police-civilian encounters
- b. Contact information for filing a complaint with the PRC or its successor, the Police Accountability Board.

BPD feedback states, "Open to idea, but with balance: perhaps a link to an online survey, provide info on commendations as well as how to file complaints with PRC and IAB." The

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working group supports the collection of both positive and negative feedback on police civilian contacts.

### **Address Profiling by Proxy**

BPD supports this item.

### **Include community member participation and feedback in the hiring process**

BPD provided no written feedback on this item. However, in a formal working group session Chief Greenwood expressed concerns about including community participation in the hiring process for all BPD staff. The proposal was updated to include community member participation only in the hiring process related to sworn officers.

### **Include the following for Performance Appraisal Reports**

- a. Officers should exhibit cultural competency and anti-racist conduct, and that should be included in their City of Berkeley Performance Appraisal Report (Police Sworn-Operations Division Personnel), on p. 2 of 8 under Section “B” “Professionalism.”
- b. Add to standards 1 and 2 of the Performance Appraisal Report as follows:
  - i. Provides excellent customer service and represents the Department well as a culturally competent and anti-racist officer
  - ii. Is respectful of both the people they serve and the people they serve with, in a culturally competent and anti-racist manner
  - iii. *All officers should aspire for an “Above Average” “Exceeds Expectations” or “Exemplary Performance” mark each year with “Meets Minimum Standards” as the basic floor (with expected increase in performance level in subsequent years).*

BPD provided no written feedback to this item. This item was updated based on verbal feedback Chief Greenwood gave during a formal working group session.

### **Include community and peer input into the annual review of sworn police officers.**

Based on BPD feedback, this item was updated. Previous language was as follows: Include a “360 Degree Review Form” completed by December 30th each year after an Annual Community Forum. The working group updated the item to account for the lack of familiarity at BPD with a 360 review process as well as to incorporate peer review into the annual review process.

### **Fire racist police officers identified through social media and other media screens.**

- a. BPD shall immediately fire all identified officers who have engaged in racist or violent actions or commentary online.
- b. A social media screen of officer online conduct shall be done annually.

BPD agrees with this item. In response, BPD cited existing policies in place to discipline or terminate an employee. However, Chief Greenwood stated a need to check if or how these policies are related to racist behaviors. Further, Chief Greenwood pointed towards the existing

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screening process and background checks for hiring. Lastly, other members of BPD expressed concerns that social media screens might violate legal protections.

The working group has not received clarification on if or how existing disciplinary policies relate to racist behavior of officers. The working group would like clarity on this process. Further, if policies are in place to discipline an officer engaged in racist behavior this still does not address the issue of identifying officers engaged in racist behavior. This item is designed to identify if BPD officers are engaged in racist online activity and states clearly any officers so identified should be terminated. The working group does not recommend that Council accept any other action than termination for any officer found to have engaged or currently engage in racist behavior.

Additionally, this item is not requesting BPD violate privacy laws of potential or existing employees. Comments made on an electronic app, chat room, social media group, etc. are not protected by privacy laws or the constitution. A screen of social media platforms is routinely done by employers today. According to a 2018 CareerBuilder survey, "70% of employers use social media to screen candidates during the hiring process, and about 43% of employers use social media to check on current employees." Regular social media screens are a routine practice today. A third party that specialized in social media screens is well aware of legalities of the screening process, which is one reason why the FIP working group suggested a third party, not BPD, conduct the screening process.

**Of Note:**

The working group removed one item based on BPD feedback. The original item read: Officers shall prominently display identification. This item was updated with new language that read: Officers violating penal code (CA 830.10) shall be severely disciplined. Finally, the working group removed this item completed based on feedback from BPD.



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## Appendix D - Unfulfilled Council Mandates to BPD

Following on the publication by the CPE and the PRC of their respective reports on BPD stop, search, and use of force data, the Berkeley City Council gave specific policy direction to staff to address racial disparities apparent in that data.

At the onset of the Fair and Impartial Working Group in the fall of 2019, mayoral staff noted the following directions that had not been carried out by the City Manager or Chief of Police. Significantly, these directions remain unfulfilled as of August 2020:

I. Council referral from Nov. 14, 2017, to be completed by September 2018 and annually thereafter.

1. Direct the City Manager to track yield, stop, citation, search and arrest rates by race, develop training programs to address any disparities found, and implement policy and practice reforms that reflect cooperation between the Berkeley Police Department (“BPD”), the Police Review Commission (“PRC”) and the broader Berkeley community. The City Manager will report findings in September 2018 and annually thereafter, using anonymized data. [NOTE: BPD responded that they are addressing this via RIPA work, but it has still not been done.]
2. Tracking Yield rates
  - a. Analyze whether officer-initiated or in response to calls for service or warrants.
  - b. Focus on reasons for disparate racial treatment and to identify any outliers. [NOTE: BPD responded that they are addressing this via RIPA work, but it has still not been done.]
3. Consider any other criteria that would contribute to a better understanding of stops, searches, citations and arrests and the reasons for such actions. [NOTE: BPD responded that they are addressing this via RIPA work, but it has still not been done.]
4. Consulting and cooperating with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values. Work closely with the PRC, providing the commission all legally available information that may be helpful to designing reforms.
5. Once released, BPD should analyze the final Center for Policing Equity report and propose improvements as needed. [NOTE: CPE final report was released in May 2018.]

None of these items, which are now nearly three years old, were ever accomplished

II. Council referral from April 24, 2018

1. Create, Present and Execute a Departmental Action Plan **by April 30, 2019.**

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2. Officer Identification. Develop a policy requiring officers to identify themselves by their full name, rank and command and provide it writing (e.g. a business card) to individuals they have stopped, as in Oakland, New York, Providence, and San Jose.
3. Review and Update BPD Policy Surrounding Inquiries to Parole and Probation Status.
4. Enhance Search Consent Policies.
5. Collect Data on Terry Stops/Searches and Citations [NOTE: Remains undone. BPD responded that they are addressing this via RIPA work, but it has still not been done.]
6. BPD Data Dashboard.
7. Enhance Existing "Early Warning" Systems

None of these items, which are over two years old, were ever accomplished

### III. CPE recommendations from early 2018

1. We recommend that BPD monitor search and disposition outcomes across race, and arrest and disposition outcomes associated with use of force. In particular, BPD should collect and share data with respect to contraband (distinguishing among drugs, guns, non-gun weapons, and stolen property) found during vehicle or pedestrian searches, and that it analyze data about charges filed resulting from vehicle and pedestrian stops. [NOTE: BPD responded 4/2019 that they are addressing this via RIPA work but it has still not been done.]
2. We recommend that BPD more clearly track, analyze, and share data with respect to whether law enforcement actions are officer-initiated, or responses to calls for service. [NOTE: BPD responded 4/2019 that they are addressing this via RIPA work but it has still not been done.]
3. We recommend that BPD continue to affirm that the egalitarian values of the department be reflected in the work its officers and employees do. [NOTE: Chief responded in 4/2019 message, saying they address in ongoing training, but their own heavily disparate stop and force data suggests that more needs to be done and that the ongoing training may be insufficient.]
4. We recommend that BPD consult and cooperate with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values. [NOTE: See Council referrals above. Also referred to Working Group and to July 14 2020 community engagement process.]
5. We recommend BPD track yield rates (of contraband found at searches). [NOTE: BPD responded 4/2019 that they are addressing this via RIPA work but it has still not been done.]
6. We recommend that BPD monitor patrol deployments, using efficient and equitable deployment as a metric of supervisory success. One way to promote equitable contact rates is to monitor racial disparities (not attributable to non-police factors such as crime) and to adjust patrol deployments accordingly.
7. We recommend that BPD track crime trends with neighborhood demographics in order to ensure that response rates are proportional to crime rates.

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8. We recommend that BPD engage in scenario-based training on the importance of procedural justice and the psychological roots of disparate treatment in order to promote the adoption of procedural justice throughout the organization, and to protect officers from the negative consequences of concerns that they will appear racist. [NOTE: Chief responded in 4/2019 message to say the department completed procedural justice training, but their own heavily disparate stop and force data suggests that more needs to be done and that the procedural justice training may be insufficient.]
9. We recommend that values-based evaluations of supervisors be developed to curb the possible influence of social dominance orientation on the mission of the department. CPE research has found a significant relationship between social dominance orientation and negative policing outcomes in many police departments.
10. We recommend that BPD training include clear messaging that racial inequality and other invidious disparities are not consistent with the values of BPD. [NOTE Chief responded in 4/2019 message, said they address in ongoing training, but their own heavily disparate stop and force data suggests that more needs to be done and that the ongoing training may be insufficient.]
11. We recommend leveraging the Police Review Commission, as well as ensuring inclusion from all groups in the community, to help review relevant areas of the general orders manual and provide a more integrated set of policies with clear accountability and institutional resources. [NOTE: Chief responded in 4/2019 message, saying they address in ongoing PRC subcommittee work.]

The Fair and Impartial Policing Working Group has received three contemporaneous studies of the BPD's stops as published on the City's Open Data Portal. The following patterns emerge from this data as shown in these studies:

1. Berkeley's stop rate for African Americans is over three times greater than Oakland's. Annually, African Americans are stopped by police according to BPD records at a rate of 32.7% (3,083 stops of African Americans compared to 10,331 African American Berkeley residents). In Oakland, the corresponding stop rate is 10.4% (10,874 compared to a total of 104,310 African American Oakland residents).
2. During the first 13 weeks of the Covid-19 pandemic from March 15 to June 12, the disparity between stops of Black and White civilians in Berkeley skyrocketed. African American stops were exactly 50% of total 608 stops at 304, with White stops were 143 for 23.52% of all stops. Taking into account the low number of African Americans residing in Berkeley, the disparities are even starker: African American stops are about 42.7 per 1,000 of their population, where White stops are about 2.9 per 1,000, a disparity of 14.5 to 1, twice the disparity in 2018.
3. The discriminatory stops exploded under the Black Lives Matter curfew at the end of May. In three days from May 31 to June 2, 92 African Americans and 18 Latinx people were pulled over by Berkeley police, compared to just 18 White people. This is a disparity in raw numbers of five to one. Based on stops per 1,000 of ethnic population,

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Black civilians were nearly 35 times more likely to be stopped than Whites during the curfew.

There has been no meaningful response from the BPD to either confirm and account for the disparities, convincingly explain why the critical analysis is incorrect, or give some alternative interpretation of the data. Instead the department has simply ignored the data and the evidence that it discriminates in its treatment of Black, Latinx, and White civilians. BPD representatives quibble over side issues such as whether the data is skewed by stops of Black people coming into Berkeley from outside, or a theory that police are being nice to Black people by issuing them only warnings whereas they ticket White civilians in similar circumstances. The recommendations made in this document will uncover the true cause of the stark racial disparities, and indicate a path to correct them.

The Fair and Impartial Working Group does not want its recommendations to go the way of prior recommendations and directives from the City Council, CPE, and PRC. As shown above, the City Manager and Chief of Police have failed to execute the policies set by the elected officials. The City Council must ensure that staff act promptly to bring Berkeley policing into compliance with constitutional principles, particularly equal protection under the law.

Berkeley Mayor's Fair and Impartial Policing Working Group  
Recommendations  
Members' Cover Letter  
December 17, 2020

Hon. Mayor Arreguín, Berkeley City Council Members:

Our work in the Mayor's Fair and Impartial Policing working group has been guided by the April 2018 Council resolution calling for a written departmental action plan, created by a community-based task force, to study and address racial disparities. "The plan... would detail measures to address racial disparities, taking into account the action plan recommendations contained in the PRC and CPE reports." The Mayor's working group includes PRC leaders, police representatives, interested community organizations (including those of constituencies of color), and academic experts.

*Why our recommendations to address racial disparities are urgent*

The statistical evidence is clear that people of color, especially youth, are disproportionately being stopped and searched, creating mistrust and furthering the racial divide in Berkeley.

- The data released since 2015 show a consistent pattern of racial disparity in police stops; in 2018, for example, BPD stopped more Black drivers than White (3,390 vs. 2,716) even though Black people are only 7% to 8% of the population.
- African Americans are stopped almost twice as often as Whites in circumstances that do not result in any enforcement action (i.e. citation or arrest). Among civilians who are stopped, African Americans are searched more than twice as often as Whites.<sup>1</sup>
- In the first 13 weeks of the pandemic shutdown, from March 15 through June 12, the disparity between stops of African American and White civilians has skyrocketed, as is evident from the raw numbers: African American stops were exactly 50% of total 608 stops at 304, with White stops at 143 for 23.52% of all stops. Perhaps more critically, the citation rate for African American civilian stops is just over 7.5% and for Whites, over 15%, a disparity of two to one. That disparity indicates that only half as many African American stops as White stops are conducted with valid suspicion of a criminal act. The

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<sup>1</sup> Source: BPD data from 2015 through 2020.

citation rate of 7.5% for African Americans raises questions about why the other 92.5% were stopped.<sup>2</sup>

- Discriminatory stops exploded under the Black Lives Matter curfew at the end of May. In three days from May 31 to June 2, 92 African Americans and 18 Latinx people were pulled over by Berkeley police, compared to just 18 White people. This *five to one disparity* is all the more disturbing in light of the fact that African Americans make up just one-seventh of the population compared to Whites. This means that Black civilians were nearly 35 times more likely to be stopped than Whites.

*Our recommendations to address racial disparities are urgent and staff must be held accountable to comply with them*

It is our pleasure to present to you the attached set of recommendations on addressing racial disparities in Berkeley policing. It has been a long road to get here, but we believe that the recommendations constitute an appropriate approach to public safety that is truly fair and impartial.

Our 26 recommendations to you are organized into four sections. After an executive summary, we present 13 recommendations for action by the BPD to reduce disparities in vehicle, pedestrian, and bicycle stops and searches. The next four recommendations, also for the BPD, pertain to hiring and evaluation of police officers. Nine recommendations for the City Council round out the list; some of those bear on initiatives you began in the wake of the murder of George Floyd. *[NOTE: Update the number of recommendations when the finalized report is ready.]*

A fourth section proposes an implementation plan. The concern for timely and effective implementation arises from the nearly total lack of engagement by the department and from its supervisors in city management, in the crisis of racial disparity that is clearly documented in the BPD's data beginning in 2015.

City staff are obligated to embrace this program for change once City Council approves it. However, given that the BPD has failed to respond positively to both requests from the community and directives from the City Council, and remains unwilling to accept the implications of stark and continuing racial disparities, outside entities must actively monitor and evaluate their progress.

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<sup>2</sup> "Analysis of rise in racial disparities during first 13 weeks of pandemic (March 15-June 12 2020)," Lippman, June 19, 2020.

We must note the nearly complete failure of top Berkeley staff, led by the City Manager and the Berkeley Police Chief, to implement past recommendations on these issues, including resolutions by the City Council, the CPE Report, and recommendations by the Berkeley Police Review Commission. The Mayor's Legislative Aide, Tano Trachtenberg, presented a revealing three-page summary of these failures to an early meeting of the working group. See the spreadsheet attached directly after this letter.

Accordingly, we propose the following crucial accountability steps:

The City Manager, working in coordination with the police department, should implement the items outlined in the consultant's plan, in accordance with the timeline set forth in the plan and approved by City Council.

If the Police Department does not implement the plan in accordance with the agreed-upon timeline, the City Manager should replace the Police Chief.

If the City Manager does not ensure that the Police Department implements the plan in accordance with the timeline, the City Council should replace the City Manager.

The Working Group met from the fall of 2019 to the end of 2020. To underscore the City Manager's failure to prioritize this process, she rarely participated in the working group meetings. The City Manager never offered the Working Group an explanation for the stark *and increasing* racial disparities in stops, searches, and enforcement outcomes.

These meetings were marked by a complete failure by BPD and city management to provide the Working Group with any data whatsoever, much less any clarifying analysis of the data. The data on the Open Data Portal provides only a subset of the data made available years ago to the Department's academic partner, the Center for Policing Equity. Key omitted items include raw data on use of force, calls for service, and older stop and arrest data, which is useful for trend analysis. The Department has made no move to provide the requested anonymized stop records that will be critical to determine the breadth of the issue of disparate treatment. In November, the Chief finally agreed to the Working Group's Recommendation #6 to immediately release the requested data to the Working Group so that the Group could provide Council with the best analysis. However, the City Manager has not compelled the Chief to comply with his promise.

In addition, the BPD has never, in five years since first releasing stop data, analyzed its own data to give a cogent explanation for the racial disparities in their stop practice. Only members of the Working Group, and volunteer community advocates, doing their own analysis have provided any clarity into the meaning of these statistics. Instead of leading the response to revelation of a

pattern of racially disparate outcomes with a process of self-examination, the Chief and his staff have only provided excuses and attempted to undermine any criticism. All the recommendations that have been forwarded to you by the mayor are important. However, we are especially dismayed at the weak to non-existent measures of enforcing accountability for the chief and the City Manager to comply with these recommendations. There are no consequences for either the Chief or the City Manager if they fail to implement our recommendations. This is particularly disheartening given the years they have failed to comply with other recommendations and directives, including those of the City Council.

The City of Berkeley cannot expect, nor may it permit Black and Brown people to continue to receive anything less than “Fair and Impartial Policing”. City officials and staff must insist that BPD consent to 100% equity in policing. Every percentage point of unethical policing COSTS Black and Brown people and their families physically, psychologically, and financially. With increased police accountability, Berkeley will address structural inequalities, tackle unconscious bias, and bring an end to racially disparate policing.

This Working Group is at this time the strongest repository of knowledge on racial disparities in Berkeley policing and on an approach to addressing them. It needs to play a role in oversight of the implementation process. We urge the hiring of a consultant with experience overseeing police departments to work with both the BPD and the Working Group to create a detailed plan for implementation of the approved recommendations. Once an implementation plan has been developed and approved by Council, we recommend the Police Review Commission and its successor, the Police Accountability Board, be given the authority and resources to support the implementation of the plan as a top priority.

### *Now is the time*

Waiting for RIPA data is not necessary to decide whether to begin actions such as an Early Intervention System. The forthcoming reporting of RIPA data will be useful in the finer points of the action plan; however, the existence of disparate treatment has already been conclusively shown. The BPD must move now to take the first steps to address racial disparities in Berkeley policing.

In conclusion, we ask that you treat this issue as the racial justice emergency that it is. You have the opportunity to provide leadership on one of the most critical racial justice concerns in our city today. The time for delay is at an end.



We thank the Mayor and Council for your consistent support and stand ready to provide any information or clarification you may need.

Signed:

Jim Chanin  
Elliot Halpern  
Mansour Id-Deen  
Moni Law  
Héctor Malvido  
Nathan Mizell  
Pita Oxholm

Members, Mayor's Fair and Impartial Policing Working Group

December 23, 2020

The Honorable Jesse Arreguín, Mayor of Berkeley;  
Berkeley City Council Members:

White supremacy, in all of its forms and vestiges, is the greatest impediment to an equitable society. Its reach goes beyond overt acts, often taking form in more insidious ways. This tenet holds true in the City of Berkeley. Institutions have a well-documented history of denying the gravity of racial injustices and delaying changes needed to address such injustices. In this respect, Berkeley is not immune. I fear we have created another injustice in the working group's refusal to adopt a meaningful accountability mechanism. Other members of the working group and I advocated for a common-sense, accountability mechanism to best ensure implementation of the recommendations. This accountability mechanism would only become active following the development of an implementation plan with an outside consultant. It reads as follows: "If the City Manager does not ensure that the Police Department implements the plan in accordance with the timeline, the City Council should replace the City Manager." This mechanism was rejected by the majority of the working group, a move that was supported by the Mayor.

It is worth recalling how we got here. In 2015, mere weeks after BPD brutalized several protests during December 2014, the City of Berkeley adopted the Fair and Impartial Policing policy to begin a more comprehensive collection of the vehicle, pedestrian, and bicyclist stop data. In September 2015, Berkeley NAACP, UC Berkeley's Black Student Union, and other community groups released an initial analysis of the new data that displayed disparities in stops, searches, and yield rates. At the time, then-BPD Chief Michael Meehan disagreed with the coalition's conclusion stating "a more careful analysis...will produce a much more enlightened response." As you are aware, that "careful analysis" was the Center for Policing Equity's 2018 report, and its findings were similarly, if not more damning than the 2015 report. The CPE report, along with the companion 2017 PRC report established a clear pattern of disparate stops and searches. Since 2017, the city council has enacted dozens of referrals and directives to the City Manager to address racial disparities. Nearly four years later, the overwhelming majority of directives have not been implemented by the City Manager or the BPD Chief, and they have no plan for implementation. It is clear that the management of BPD, especially its senior leadership, is well within the job description of the City Manager. It is clear that the City Manager has an obligation to ensure the timely implementation of policy in all city departments, including the police. It is also clear the City Manager has failed in these essential responsibilities. This lack of implementation by the City Manager was one of the central reasons for the creation of this working group.

Nothing about our proposed accountability mechanism should be controversial. The primary argument against the accountability mechanism has been that such action would be unprecedented and that the process established by the council to evaluate the City Manager would suffice. In some respects, the former point is correct. Governmental entities failing to ensure the safety and civil liberties of Black Americans has so long been the precedent that measures attempting to change this pattern appear as an overstep. In regard to the city council's existing evaluation process, it is worth considering both the current structure and likely evaluation metrics. The City Manager, who has held her position since 2015, was not evaluated by any formal process from 2015-2018. The current evaluation process was created in 2019. As a resolution with no union implications, it can be changed at any time. While I do not know the exact evaluation criteria given evaluations are conducted in closed session, the International County/City Management Association (ICMA) criteria provide a damning guide. The ICMA criteria, which are placed in the item adopting an evaluation process, list 14 criteria to evaluate a City Manager. Even using their evaluation, it is clear that when it comes to BPD the City Manager has failed on no less than 9 of 14 criteria, including "Staff [Police] effectiveness", "Equity and Inclusion", and "policy facilitation and implementation".

This is not a failure on the scale of a single policy, but a failure of significant magnitude over a period of several years. It is a failure that disrespects the work of dedicated city staff whose departments are held to higher standards and cannot ignore directives from the council. It is a failure that placed the issuance of parking tickets above the protection and constitutional rights of Black Berkeleyans. The current reality where a City's highest-paid employee could fail so severely in regard to the City's most costly department, yet remain in her position without even the possibility of replacement, is remarkable. The potential of losing your job for failing to do it is not hostile, it is the standard every other city employee is held to. It is difficult to imagine that if the demographics of Berkeley were different, or if the harm most directly affected a different demographic group, that this failure, and the potential for future failures, would be permitted.

I write to you today because I believe that you are committed to addressing racial disparities. The revised accountability mechanism fails to honor your commitment. As you know, the City Charter gives you the sole power of deciding when to retain the City Manager and when to replace the City Manager. Our proposal simply asked the city council to strongly consider replacing the City Manager *if* they did not implement the recommendations *after* setting a timeline with the support of a consultant. The physical and psychological damages created by BPD's disparate policing will not stop, if the City Manager is allowed to delay, obfuscate, and ignore council directives. In this regard, you are the ones who must enforce the law. The status quo has failed Berkeley, none more than its Black residents and visitors. While it is possible the recommendations of the working group can be accomplished without the accountability mechanism, it leaves an already overlooked community with little recourse should implementation be stymied. Therefore, I respectfully submit my strong dissent to the changes in the accountability mechanism. I continue to support the accountability process as it was originally written.

Sincerely,

Nathan Mizell, Member, Mayor's Fair and Impartial Policing Working Group; Vice-Chair, Berkeley Police Review Commission\*  
Perfecta Oxholm, Member, Mayor's Fair and Impartial Policing Working Group  
Jim Chanin, Member, Mayor's Fair and Impartial Policing Working Group  
Héctor Malvido, Member, Mayor's Fair and Impartial Policing Working Group

\* Titles are for ID purposes, I write here solely in my capacity as a working group member



Center For  
**POLICING EQUITY**

## **The Science of Justice:**

Berkeley Police Department  
National Justice Database City Report

May 2018

[www.policingequity.org](http://www.policingequity.org)



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## Overview

How do you measure justice? Despite the philosophical, methodological, and logistical difficulty of this question, law enforcement executives are increasingly asked to turn over data with the aim of evaluating how fairly they are doing their jobs. At the same time, many community members perceive law enforcement activities to be targeted toward—and biased against—non-White people. Communities plagued by mass incarceration and highly publicized police shootings have called for greater transparency and accountability on the part of the police. And research shows that positive police-community relationships are crucial for safer communities: residents are more likely to engage as witnesses and as partners in crime reduction if they believe in the legitimacy of police as equitable and impartial agents of the law.<sup>2</sup>

Increasingly, then, courageous and forward-looking law enforcement executives seek hard metrics on current practices as a way to identify effective policy reforms aimed at reducing bias and improving police-community relations. They are seeking out partnerships with prominent researchers to solve this riddle, and to lead policing in the nation with respect to civil rights and public accountability.

Data collection and analysis can be essential tools that reveal empirical realities and illuminate options that might advance equity in public safety. Too often, law enforcement data have been captured with an eye toward accounting or litigation, without leveraging the data to optimize performance. But just as CompStat ushered in a new era where police could be accountable for crime rates, data on racial disparities—and the inferential analyses we pair with them here—can be used to identify opportunities to improve public trust and safety. Consequently, in addition to specific policies designed to address opportunities for improvement revealed by these analyses, we routinely recommend including better data accountability as part of the path forward.

The aim of this report is to begin to provide the Berkeley Police Department (BPD) a valuable resource toward that end. It is intended as a preliminary guide to illuminate options that might advance equity in public safety, providing straightforward statistical answers to some of the most pressing questions facing BPD and other law enforcement agencies.

The Center for Policing Equity (CPE) aims to address the needs of both law enforcement and communities, who can avail themselves of the CPE's National Justice Database (NJD). The NJD collects policing data to measure fairness and improve policing equity, and to make its findings transparent to law enforcement and to communities. The NJD offers a rigorous analytic framework to make sense of policing data, seeking to identify and understand the

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<sup>2</sup> See Tom R. Tyler, *Why People Obey the Law* (Princeton, NJ: Princeton University Press, 2006).



consequences of policing activities and the sources of racial disparity.<sup>3</sup> In this research brief, we present empirical documentation of the degree of racial disparity in BPD's policing practices, as well as analysis and interpretation of the factors that might contribute to such disparity. While the results are mixed, our analysis reveals encouraging findings and heartening trends. It also flags questions and disparities that warrant further investigation and reform.

Our purpose is to demonstrate what can be learned by thoroughly analyzing policing data. This report, like those produced for other NJD participants, aims to offer law enforcement officials a road map toward greater transparency and accountability in police practices, so they can transform agencies and adopt more just and equitable means of promoting public safety.

## National Justice Database Framework

The NJD analytic framework aims to distinguish among three broad types of explanations for racial disparities in policing, any or all of which can play a role in producing racial disparities in the City of Berkeley, as elsewhere:

1. Disparities that arise from **community characteristics**. For instance, high crime rates or poverty within a community may draw increased police attention. Individuals within a community may place disproportionately more calls for service to police.
2. Disparities that arise from **police characteristics**. For instance, police may patrol some neighborhoods with less commitment to the dignity of those who live there. Or, deploying more officers to high-crime neighborhoods may produce disproportionately more interactions between police and non-White communities.
3. Disparities that arise from the **relationships between communities and police**. For instance, mistrust of law enforcement may incite members of some communities to flee approaching officers or resist arrest more than members of other communities do. Similarly, a sense that communities do not trust or respect police may cause officers to feel unsafe or defensive in some neighborhoods.

While the whole story likely incorporates elements of each of these explanations, the comprehensive NJD framework allows departments to learn about how all three contribute to racial disparities. By combining police administrative data with population data (e.g., income, education, racial demographics), police department climate surveys, and community surveys,

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<sup>3</sup> In this report, "racial" is used as a shorthand for the demographic groups described in BPD records as Asian, Black, Hispanic, White and Other/unknown. When our analyses compare BPD policing statistics to census data, the first four of these categories are mapped onto the following census categories, respectively: non-Hispanic Asian, non-Hispanic Black, Hispanic (any race), and non-Hispanic White. All other ethnoracial census categories are mapped onto Other/Unknown. This simplified terminology does not represent a claim that such persons belong to monolithic "races," or indeed that the category of "race" has objective meaning independent of its social context. Furthermore, it should be noted that BPD racial categories describe the officer's perception of the individual's race or ethnicity. This perception may or may not match the individual's own racial or ethnic identity.



we can examine the role that each explanation plays in the disparities that both police departments and communities want to reduce.

This report carefully analyzes the role that community- and police-level factors (explanations 1 and 2) may contribute to racial disparities. The resulting analyses can be used to steer community engagement, relationship building, and continued departmental reform. It is important to emphasize that the persuasive power of analytics grows substantially the longer a department measures and analyzes important indicators. As a result, we encourage BPD, the people of Berkeley, and all law enforcement agencies involved in the NJD to see these analyses as an initial benchmark against which future progress can be measured. With many departments set to receive similar briefs in the coming months and years, we hope this analytic framework will serve as a road map for police and communities—establishing where they are now and charting a path toward a more just future.

It should be noted that no police department in the country currently collects all the data recommended by the NJD analytic framework (although several departments collect each element of non-survey data). BPD has been very forthcoming in response to CPE requests for data-sharing and information. We encourage BPD to continue its collection of vehicle stop analysis, and to include information on stops that do not lead to citations, including information on whether these stops lead to searches or seizures of passengers or searches of the vehicle. We also encourage BPD to continue its collection of use of force data, and to include comprehensive data on the use of firearms and on incidents of deadly force. In addition, we encourage BPD to indicate in field card data the basis for the stop, in order to enable similar analysis. This information will allow more powerful and comprehensive analyses to be conducted on a larger dataset that could identify trends and policy effects across multiple years of BPD practice. Expanded data collection and analysis will also afford a significant opportunity for greater clarity about fairness in policing that could be afforded by further collection and release of policing data. This will benefit not only BPD and the communities it serves, but law enforcement agencies and communities nationwide.





## Executive Summary

This report provides feedback on Berkeley Police Department (BPD) data on vehicle stops, pedestrian stops, and reported use of force. BPD shared these data with CPE as part of its National Justice Database (NJD). This report presents descriptive statistics and inferential analyses with respect to vehicle stops conducted from 2012 through 2016, pedestrian stops conducted from 2015 through 2016, and use of force reported from 2012 through 2016.

Our analysis of BPD vehicle and pedestrian stops found that Black and Hispanic persons were more likely than White persons to be stopped by BPD. Black persons in Berkeley were about 6.5 times more likely per capita than White persons to be stopped while driving, and 4.5 times more likely to be stopped on foot. Hispanic persons were about twice as likely, per capita, as White persons to be stopped while driving, and slightly less likely to be stopped on foot.

In addition to their much higher stop rates, Black and Hispanic drivers (and pedestrians) were also searched at much higher rates. Once stopped, Black drivers were searched at a rate four times higher than their White counterparts (20% compared to 5%), while Hispanic drivers were searched at three times the White rate (15%). Search-rate disparities were similar among White, Black, and Hispanic pedestrians. The higher rates at which Black and Hispanic drivers and pedestrians were stopped and searched are consistent with the possibility that Black and Hispanic persons were treated with greater suspicion by BPD officers.

Because they were stopped at higher rates and were more likely to be searched once stopped, Hispanic persons in Berkeley are, per capita, 4.5 times more likely to be searched by BPD officers than White persons are, and Black persons in Berkeley are 20 times more likely to be searched by BPD.

Nonetheless, Black and Hispanic persons who are searched are *less* likely to be found committing a criminal offense than their White counterparts are. Searches of Black individuals yield arrests only half as often as searches of White individuals do; searches of Hispanic individuals yield arrests 39% less often than searches of White individuals do. (Because BPD does not track data about whether contraband was found during searches, arrest was used as a proxy measure of whether a search uncovered criminal behavior.) Nonetheless, because they are stopped so much more often, Black and Hispanic persons are arrested at much higher per capita rates than Whites are.

Racial disparities in stops, searches, and arrests can be attributed to at least two competing, but not mutually exclusive, possible explanations: a community-level explanation (e.g., crime rates), and a policing-level explanation (e.g., officer discretion). The community-level explanation could posit that the higher stop, search, and arrest rates of Black and Hispanic drivers (compared to Whites) reflect higher levels of traffic violations and/or criminal behavior among such drivers. This hypothesis, however, cannot explain our findings with respect to Asian-American drivers: they are stopped less frequently than Whites, are searched at the same rate



once stopped, but are arrested at three times the rate of White drivers. BPD searches appear to be more effective at detecting criminal wrongdoing by White and Asian persons, yielding a higher proportion of arrests of White and Asian persons without searching as many innocent people in those groups.

Another finding that is inconsistent with the community-level explanation is that Black and Hispanic drivers are much more likely than White drivers to be stopped and searched, but much *less* likely to be arrested after a search. That is, Black and Hispanic drivers who are searched are more likely to be innocent than White (and Asian-American) drivers who are searched. It is unclear whether, if Black and Hispanic drivers were stopped and searched at the same high rate of suspicion that seems to be applied to their White and Asian-American counterparts (that is, if they were stopped and searched as infrequently as White or Asian-American drivers), searches of Black and Hispanic drivers might produce a yield rate as high as searches of White and Asian drivers do.

The policing-level explanation for these disparities might posit that stop, search, and arrest decisions could all reflect discretionary decision-making that operates differently on drivers of different races. The higher overall rates of stop, search, and arrest of Black and Hispanic drivers could reflect a pattern of policing discretion that is less forgiving of minor crime. Our findings are consistent with the possibility that Black and Hispanic drivers might face criminal charges in circumstances where a White driver might have received only a citation. Despite their lower rate of arrest *after a search*, Black drivers stopped by BPD are overall twice as likely as White drivers to be arrested, and they are half as likely as White drivers to receive a citation without being arrested. Without information about the charges that are filed at vehicle stops, neither the policing-level nor the community-level explanation should be uncritically accepted.

Unexplained disparities were also observed in BPD use of force. Black people, who comprise only 8% of the population of the City of Berkeley, made up 46% of individuals who were subjected to use of force by BPD. Compared to White individuals in Berkeley, Black individuals were nine times more likely per capita to have force used upon them. Our analyses found that these disparities are not explained by poverty, neighborhood crime rates, or neighborhood demographics, and are not attributable to chance. These disparities, like the disparities in BPD pedestrian and vehicle stops, are unexplained, and warrant further investigation.

It is likely that both community-level and policing-level factors may contribute to the racial disparities observed in BPD stops, searches, and use of force; the collection and analysis of data about the charges filed at vehicle stops and after use of force incidents might help to illuminate the relationship between the two.

Overall, our findings revealed reasons for optimism, as well as opportunities for improvement. Reasons for optimism included BPD's overall number of reported use of force incidents. BPD's rate of reported use of force incidents compares favorably to other departments of similar size, although BPD policy does not require comprehensive reporting of weaponless hands-on force. Despite a policy that does not appear to require that every weaponless hands-on force incident



be reported, a large majority of force incidents reported by BPD officers involved no weapon other than the officer's hands or body. Together, these findings may be consistent with a culture of restraint within BPD with respect to use of force. Racial disparities in arrests and citations at pedestrian stops are also fairly small, and the Black-White racial disparity in vehicle stops declined slightly between 2012 and 2016 (but it remained large, and was accompanied by a moderate increase in disparities affecting Hispanic, Asian-American, and Other groups).

Another notable finding could be read as reason for either optimism or concern. The percentage of BPD vehicle stops resulting in arrest increased nearly sixfold across the observation period, from 0.7% in January 2012 to 4.1% by November 2016. Most of this increase occurred in 2015 and 2016. This could be read as reason for optimism, in that BPD vehicle stops have become more effective at detecting crimes that warrant arrest. Or, if it indicates that BPD officers have begun making discretionary arrests in circumstances that might previously have been addressed by only a citation, it could be read as reason for concern. The increase in arrest rates warrants analysis to identify the causes and consequences of this increase. This analysis could be enhanced by collection and analysis of data about charges filed at vehicle stops.

The unexplained racial disparities in BPD stop and search rates and in use of force offer additional opportunities for improvement. The Black-White racial disparity in use of force is a matter of special concern, as it appears to have increased between 2012 and 2016, and is not explained by factors such as neighborhood poverty, crime rate, or demographics. These disparities warrant further analysis and attention.

The presentation and analysis of observed racial disparities in this report is limited by the data that BPD collects and shares with researchers. Several of our most important recommendations concern the importance of increased data collection and analysis, which will, in turn, enable more accurate and effective initiatives toward reform and accountability. The disparities identified in this report could be better understood and addressed by changes including the collection and analysis of data with respect to contraband found in searches at police stops; comprehensive data regarding BPD use of force; and charges filed against persons who are stopped by BPD or subjected to force.

In this report, we advance thirteen specific recommendations. While not an exhaustive list of possible solutions to the issues raised in this report, these thirteen recommendations represent straightforward first steps toward addressing each of them.

## Recommendations

1. We recommend changing the use of force data capture protocol to register every use of force by BPD officers, regardless of weapon use, injury, or complaint.
2. We recommend that BPD monitor search and disposition outcomes across race, and arrest and disposition outcomes associated with use of force. In particular, BPD should collect and share data with respect to contraband (distinguishing among drugs, guns,



- non-gun weapons, and stolen property) found during vehicle or pedestrian searches, and that it analyze data about charges filed resulting from vehicle and pedestrian stops.
3. We recommend that BPD collect and share more detailed data with respect to use of force. In particular, we recommend that it collect and analyze data about whether the and how the person resisted arrest, and about charges filed against persons involved in use of force incidents.
  4. We recommend that BPD more clearly track, analyze, and share data with respect to whether law enforcement actions are officer-initiated, or responses to calls for service.
  5. We recommend that BPD continue to affirm that the egalitarian values of the department be reflected in the work its officers and employees do.
  6. We recommend that BPD consult and cooperate with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values.
  7. We recommend BPD track yield rates (of contraband found at searches).
  8. We recommend that BPD monitor patrol deployments, using efficient and equitable deployment as a metric of supervisory success. One way to promote equitable contact rates is to monitor racial disparities (not attributable to non-police factors such as crime) and to adjust patrol deployments accordingly.
  9. We recommend that BPD track crime trends with neighborhood demographics in order to ensure that response rates are proportional to crime rates.
  10. We recommend that BPD engage in scenario-based training on the importance of procedural justice and the psychological roots of disparate treatment in order to promote the adoption of procedural justice throughout the organization, and to protect officers from the negative consequences of concerns that they will appear racist.
  11. We recommend that values-based evaluations of supervisors be developed to curb the possible influence of social dominance orientation on the mission of the department. CPE research has found a significant relationship between social dominance orientation and negative policing outcomes in many police departments.
  12. We recommend that BPD trainings include clear messaging that racial inequality and other invidious disparities are not consistent with the values of BPD.
  13. We recommend leveraging the Police Review Commission, as well as ensuring inclusion from all groups in the community, to help review relevant areas of the general orders manual and provide a more integrated set of policies with clear accountability and institutional resources.

While not an exhaustive list of possible solutions to the issues raised in this report, these thirteen recommendations represent straightforward first steps toward addressing each of them.



## History of City Involvement in the National Justice Database Project

In this section, we describe how the relationship between BPD and CPE began, and why BPD chose to participate in the National Justice Database.

The City of Berkeley is home to one of the nation's leading research universities, and is renowned as a bastion of liberal values and egalitarian culture. Over the past decade or so, the current and prior leadership of BPD have implemented their commitment to equitable policing by introducing multiple policy and training initiatives designed to reduce racial disparity and bias. These initiatives have included enhanced data collection, a "fair and impartial policing program," anti-racial-profiling training, and crisis intervention training to prepare officers to deal with people in mental health crisis, and the public posting of stop data on an open data portal. The current police Chief, Andrew Greenwood, has been leading the department since October 2016, and has committed to "building community trust" as one of the primary goals of his leadership.

Nonetheless, BPD has not been immune to allegations of racial inequity nor excessive force. Like many other urban police departments, BPD has faced litigation and experienced criticism from Berkeley residents who raise concerns about racial disparities, use of force in response to protests, and relationships with LGBTQ communities. CPE hopes that the empirical findings of this report can assist BPD and the people of Berkeley to analyze and address these and other police-community concerns.

In 2015, CPE began working with BPD on a comprehensive data analysis plan, but limited data were provided to the researchers. When Chief Greenwood was appointed Interim Chief, he vowed to provide more comprehensive data, asking to broaden the scope of the study to include analysis of BPD use of force data. Data-sharing efforts grew rapidly, and researchers completed their data collection in February 2017. Analysis continued from there, and an interim report was delivered in May 2017. Additional, more varied data has now been provided, and is included in this final report.

After reviewing the 2017 interim report, Chief Greenwood decided that, rather than publicizing the Interim Report, he would wait for CPE to produce a final report. Chief Greenwood has continually committed to CPE to provide the most current and comprehensive data possible, reflecting his stated interest in CPE's final report serving as a milestone from which community discussion about race and disparity in police interactions will flow. The Department has provided invaluable support to assist CPE with the review and interpretation of data from BPD systems. Despite the many other claims on the time of Departmental staff and leadership, BPD has remained responsive to CPE requests for data and interpretation throughout this study.



We note that the Department's formal mission statement was completely revised at the end of 2016. The new statement emphasizes treating diverse community members with dignity and respect, focuses on safe-guarding the community, and includes Diversity among the Department's five core values, along with Integrity, Respect, Safety, and Professionalism. Social Media use was expanded. As a result, in 2017, BPD actively focused on strategies for building trust and community engagement. The Chief held large-scale community forums and now holds regular community engagement activities such as Coffee-with-a-cop.

The Department also expressed its support of the LGBTQ community during Pride month 2017, including the Department's first-ever formal participation in the SF Pride Parade. The Department is also finalizing a body-worn camera program, and anticipates Department-wide implementation in mid-2018.

The current report now includes data from 2012 through 2016 and contains analysis of BPD stop and force data as well as a series of recommendations that, CPE hopes, can assist BPD in building on its strengths and addressing the concerns raised by our findings.

## Section 1: Data

In this report, we focus on two sets of BPD data made available through the NJD: vehicle stops between 2012 and 2016, pedestrian stops between 2015 and 2016, and reported incidents of police use of force between 2012 and 2016. This section sets out total counts for both sets of data as they affect persons of Asian-American, Black, Hispanic, White, and Other or unknown ethnicity.

The BPD employs approximately 170 sworn officers and another 100 civilian employees, serving a city of approximately 118,585 people. According to the American Community Survey population estimate for 2016, the racial distribution of the City of Berkeley is as follows:

- 55.5% of Berkeley residents are non-Hispanic White (“White”);
- 11.1% are Hispanic or Latino;
- 8.2% are non-Hispanic Black (“Black”);
- 19.1% are non-Hispanic Asian (“Asian-American”);
- 5.2% identify with multiple racial categories; and
- Less than 1% identify as non-Hispanic American Indian/Alaska Native, non-Hispanic Native Hawaiian/Pacific Islander, or non-Hispanic “Some other race.”

BPD is also home to the University of California Berkeley campus. During the time of this data collection, it was home to about 35,000 students (about 25,000 undergraduates and nearly 10,000 graduate students). Of these students—most but not all of whom live in the City of Berkeley—about 31% identify as White, 34% identify as Asian, 11% identify as Chicano/Latino, 3% identify as African-American, and less than 1% identify as each of Indigenous or Pacific Islander.<sup>4</sup> That is, the population of the campus is less African-American, less White, about as Hispanic, and more Asian-American than the population of the City of Berkeley itself.

BPD policing data must be understood in context: In Berkeley, as in any other police department, it cannot be assumed that all the persons with whom the department’s officers interact are necessarily residents of the jurisdiction served by BPD, nor of the neighborhood in which an encounter takes place. Nonetheless, jurisdiction-wide and neighborhood demographics provide the best available benchmarks for sketching the demographic outlines of the population from which people who interact with police are drawn.

Racial differences in policing data must also be contextualized with other contributing factors, including neighborhood characteristics, crime rates, and other factors modeled in the regression analyses presented in this report.

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<sup>4</sup> Source: University of California Berkeley Office of the Vice Chancellor for Equity and Inclusion, Diversity Snapshot (Fall 2013), Tables 1 and 2, at <https://diversity.berkeley.edu/sites/default/files/diversity-snapshot-web-final.pdf>.





## Data Provided

This section describes the data BPD provided to CPE for analysis. It also identifies a few sources of information that might have facilitated more rigorous analyses, but were not included in the datasets shared with CPE, or could not be analyzed in the time available to prepare this report, and recommends more comprehensive data collection practices in the future.

BPD provided data from the following categories:

- Call for service (374,849 cases from January 1, 2012 through December 31, 2016)
  - The data contained the following fields: incident number, id number, create date, year, call source, call type, priority, @1<sup>st</sup> unit dispatch time, address, address location type, latitude, longitude, stop disposition note, disposition code type, disposition codes for up to 7 persons, number of persons, pedestrian stop indicator, vehicle stop indicator, reason for stop code.
  - We used “call type” to determine which of these represented pedestrian or vehicle stops.
  - There was data for 40,594 vehicle stops.
  - There was data for 3,010 pedestrian stops, but only 32 during 2012, 27 during 2013, and 44 during 2014; we analyzed the more complete data from 2015-2016.
  
- Use of force data from January 1, 2012 through December 31, 2016 (174 incidents; one incident was dated as having occurred during 2010 and was removed); subject race data was missing for 2 incidents; 2 incidents occurred outside the city of Berkeley 10 incidents could not be geo-located to a census tract.
  - The data contained the following fields: unique id, date, time, day, nature of contact, disposition/subj arrest, force reason, officer injured, officer hospitalized, officer department years, officer age, officer race, officer sex, subject date of birth, subject race, subject sex, subject hospitalized, subject injured.
  
- Crime report data from January 1, 2012 through December 31, 2016 (416,649 crimes reported to BPD)
  - These data contained the following fields: case number, reported date, address, location type, latitude, longitude, officer id number, incident type, statute, statute type, crime code, statute description, UCR return a code, location/scene, bias motivation, case subject type victim, jacket type, age, race, sex.
  - We used crime data in multiple regression analyses predicting use of force incidents by race. For these analyses, we selected crimes that were in the Part 1 crime category using the “offense” indicator; we selected crimes from 2012 to 2016 to match the timeframe of use of force data. Because the overwhelming majority of use of force incidents involved persons who were Black (47%) OR White (35%), we analyzed those incidents to more directly assess the hypothesized relationship between racial differences in use of force and crime.





## Data Not Provided

Much of the racial analysis in this report focuses on results for Black and White individuals, who together account for the great majority of stops (69%) and use-of-force incidents (82%). Although Asian-Americans comprise nearly one fifth of the Berkeley population, they account for relatively few vehicle stops (9% of the total), pedestrian stops (4%), or recorded use-of-force incidents (3%). Statistics for groups with smaller numbers tend to be “noisier” (that is, they fluctuate more over time because of random chance) than statistics with larger groups of observations (e.g., stops or force incidents involving White or Black people).

## A Note on Racial Disparities in Berkeley

The charts and analyses in this report show evidence of racial disparities in policing. Two important caveats should be kept in mind when evaluating these statistics. The first urges caution about drawing conclusions based on local population data. The second involves the limitations of causal inference.

Firstly, our methodology for measuring racial disparities is based on an assumption about the size of the underlying population of each racial group. If a racial group comprised 10% of the city’s population but accounted for 30% of the traffic stops in the city, this difference could—but does not necessarily—indicate racial disparity in traffic law enforcement. The caveat is this: not all people who interact with BPD officers will be residents of Berkeley or of the neighborhood in which they were stopped. Data shared with CPE does not identify whether persons who were stopped were residents of Berkeley or not. Because people driving or walking in Berkeley at any given time may come from other neighborhoods, towns, states, or countries, their demographics may not precisely reflect the demographics of Berkeley. We cannot know, for example, whether miles driven or walked differ between racial groups. It is impossible to estimate with precision what the racial distribution of police encounters might be if race were not a factor.

At this time, census data provides the best available benchmark for analysis of police stops and use of force, as there is no other reliable way to benchmark the effective representation of each racial group among persons with whom BPD officers may interact. As a result, census-based comparisons are essential, but should be interpreted with caution.

The second caveat is that, even if all police encounters reported by BPD officers involved residents of Berkeley, observed disparities would not necessarily indicate that police officers have engaged in biased or discriminatory behavior. We cannot know, for example, the racial distribution of drivers or pedestrians who engage in behaviors (e.g., infractions) that might result in a police stop or in use of force. There is also no reason to believe that racial disparities observed in law enforcement are isolated from disparities in education, housing, employment, wealth, home ownership, healthcare, or any other factors that may influence the trajectory of



people before they ever come into contact with an officer. The statistical analyses presented in Parts II.C and III.B are designed to assess such complex relationships, but this caution should be kept in mind when interpreting the observed disparities presented in this section.



## Section II: Racial Disparities in Vehicle and Pedestrian Stops

In this section, we present a descriptive analysis of vehicle stop, pedestrian stop, and use of force data that BPD shared with CPE through the National Justice Database. This section presents counts of vehicle stops, pedestrian stops, and use of force, both for the department as a whole and by race/ethnicity. This section categorizes race/ethnicity using the categories used by BPD: Asian, Black, Hispanic, White and Other/unknown. Subjects in the Hispanic category could be of any race.

Section 2A presents the total number of vehicle stops, the number of vehicle stops at which a citation is issued or an arrest is made, the racial distribution of such stops and outcomes, and the “yield rate”—that is, the likelihood that a search yield an arrest—for different racial groups. Section 2B presents the total number of pedestrian stops, the number of pedestrian stops at which a citation is issued or an arrest is made, the racial distribution of such stops and outcomes, and the yield rate for pedestrian searches.

### Section 2A: Racial Disparities in Vehicle Stops

This section presents information extracted from BPD’s vehicle stop data for January 2012 through December 2016. It presents aggregate vehicle stop trends over time, noting the overall numbers of stops, citations, and arrests. It then presents stop and outcome data disaggregated by race, overall and as compared to the population of Berkeley, and analyzes the “yield rate” for BPD vehicle searches (using arrest rate as a rough proxy for contraband found).

It should be noted that 7% of all vehicle stops recorded by Berkeley officers occurred outside the City of Berkeley. These incidents are excluded from the inferential analyses presented in this report. A table showing the geographic and racial distribution of these incidents is attached to this report at Appendix A. Of the 2,728 out-of-jurisdiction BPD vehicle stops, 73% occurred in Oakland, 21% in Emeryville, 5% in Albany, and 1% in Kensington. The racial disparity in these stops was higher than that observed in stops within Berkeley: 58% of persons stopped outside Berkeley were Black, 21% were White, 10% were Hispanic, 7% were Other, and 4% were Asian-American. CPE has not received information about any enforcement agreements between Berkeley and the adjoining cities, and received no data indicating whether these incidents involved a pursuit.

#### Summary of findings:

Across the observation period (2012-2016), the number of vehicle stops by BPD increased moderately. Throughout the observation period, Black drivers were stopped by BPD at rates that could not be explained by reference to their share of the population: Black people comprise 8% of Berkeley residents, but made up the largest group (36%) of drivers stopped by



BPD. Using population as a benchmark, Black drivers were much more likely (6.5 times more) than White drivers to be stopped by BPD. Over the five-year observation period, the total number of Black drivers stopped by BPD was 14,441, which is nearly 150% of the entire non-Hispanic Black population of Berkeley (9,737 people, including children). By comparison, the total number of White drivers stopped was 13,166, which is 20% of the non-Hispanic White population (65,771, including children).<sup>5</sup> A Black adult driver would face a likelihood of being stopped more than once in Berkeley between 2012 and 2016, while it seems that most White drivers who reside in Berkeley would not have been stopped during this time.

Nearly half of White and Asian drivers who were stopped received a citation (without any arrest), compared to about a third of Hispanic drivers and a quarter of Black drivers.

Once stopped, Black and Hispanic drivers were much more likely than White drivers to be searched. Black drivers were four times more likely to be searched at a vehicle stop (20%) than White drivers were (5%); Hispanic drivers were three times more likely to be searched at a stop (15%). These disparities held true for Black, Hispanic, and White drivers in every age category. The least-stopped age group of Black drivers (those 40 years and older) was stopped more often than the most-stopped age group of White drivers (those under 18 years old). The collection, sharing, and analysis of data about whether contraband was found could help to determine whether drivers of different racial groups were searched at differing levels of suspicion.

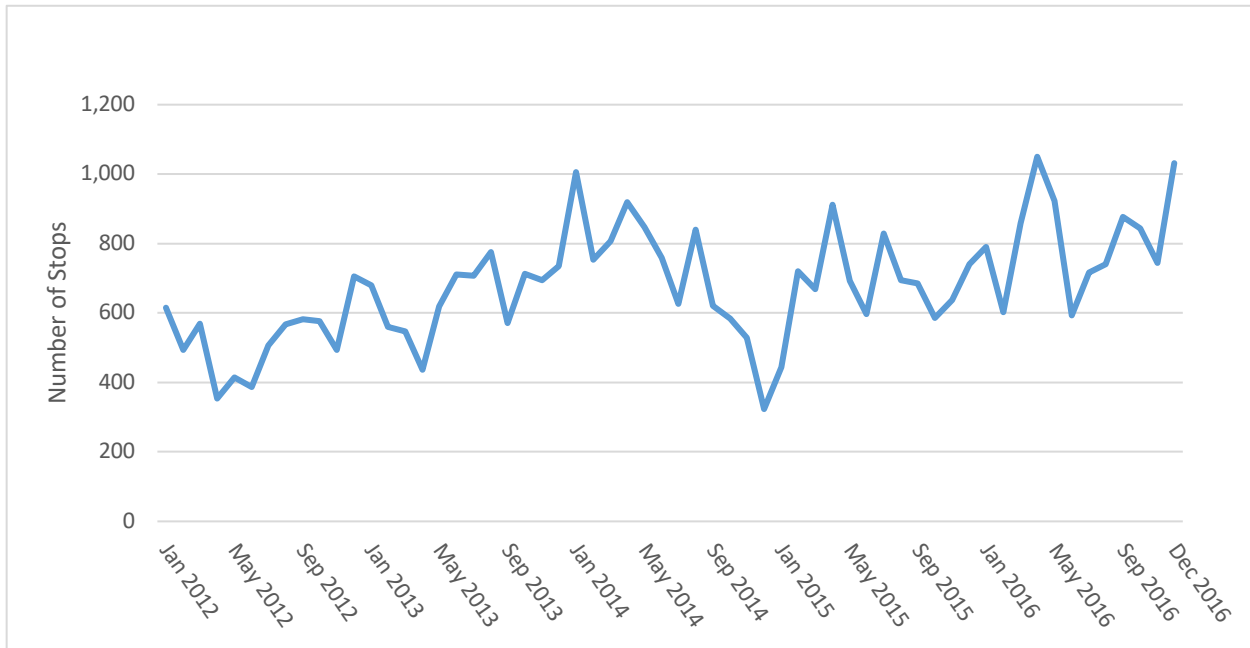
The percentage of stops resulting in arrest showed a large increase from January 2015 to the end of the study period. Overall, less than 2% of vehicle stops resulted in an arrest. Arrest rates at vehicle stops were much higher for drivers who were described as Asian (2.5 times higher), Hispanic (80% higher), or Black (70% higher) than for stopped drivers who were White.

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<sup>5</sup> Source: United States Census Bureau, American Community Survey Demographic and Housing Estimates, 2012-2016 American Community Survey 5-Year Estimates, Berkeley City, California.



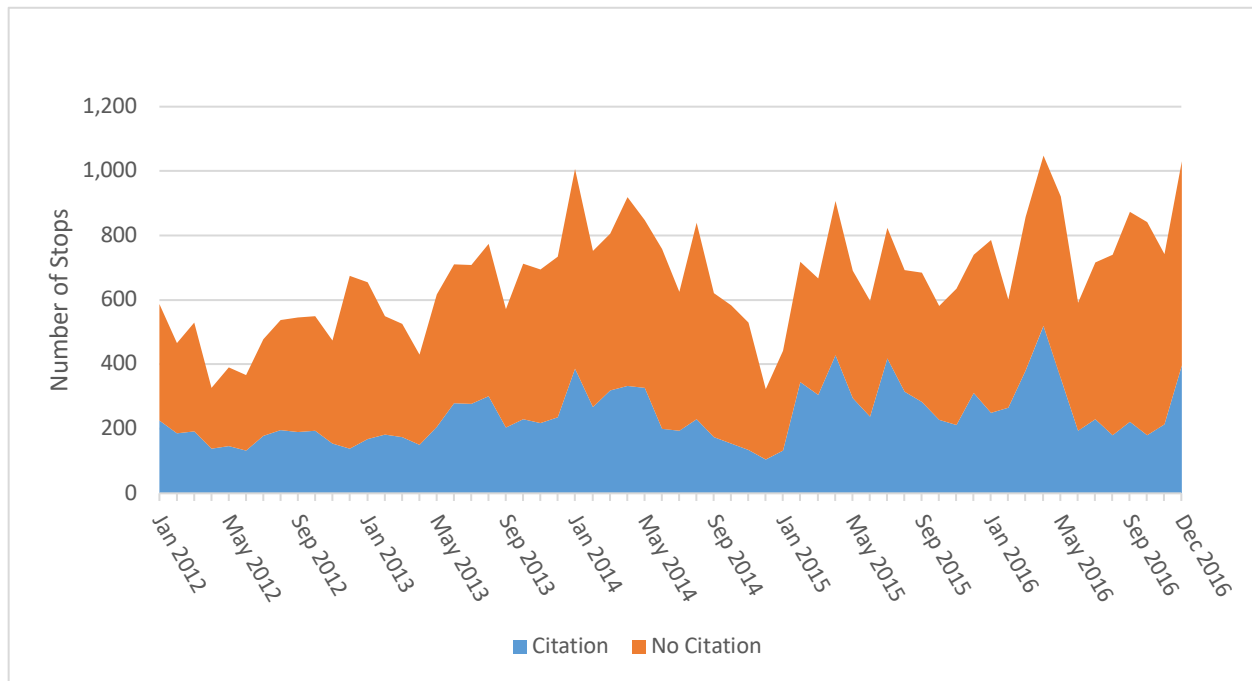
**Figure 1. Vehicle Stops per Month, 2012-2016**



**Figure 1.** This chart displays the number of vehicle stops recorded by BPD for each month of the observation period. The number of vehicle stops per month varied over time, with the fewest stops recorded in December 2014 and the largest number of stops recorded in April 2016. Overall, the trend line rose moderately upward, increasing 68% from the start to the end of the observation period.



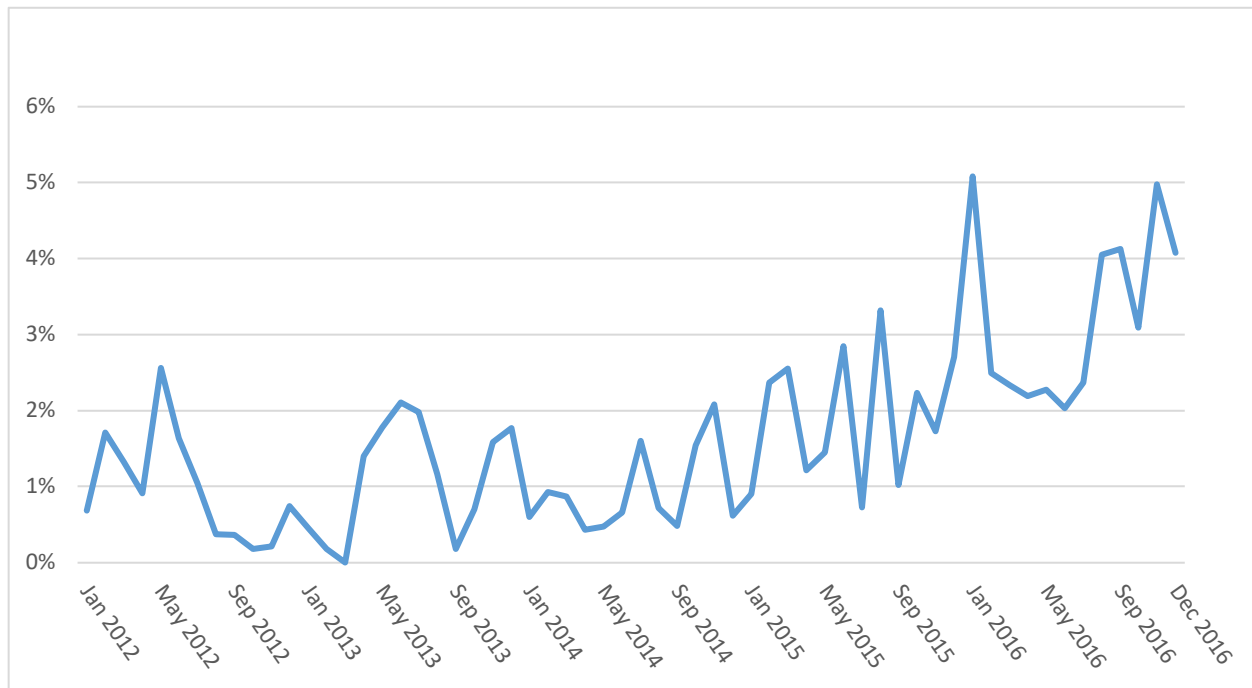
**Figure 2. Number of Stops with and without Citations per Month, 2012-2016**



**Figure 2.** This chart displays the number of vehicle stops by whether or not a citation was issued. The percentage of stops resulting in a citation ranged from 20.6% to 50.7% across the observation period, averaging 35.7% per month. Although the number of stops increased moderately over time (see **Figure 1**), the percentage of stops resulting in a citation was nearly the same for the first and last months of the observation period.



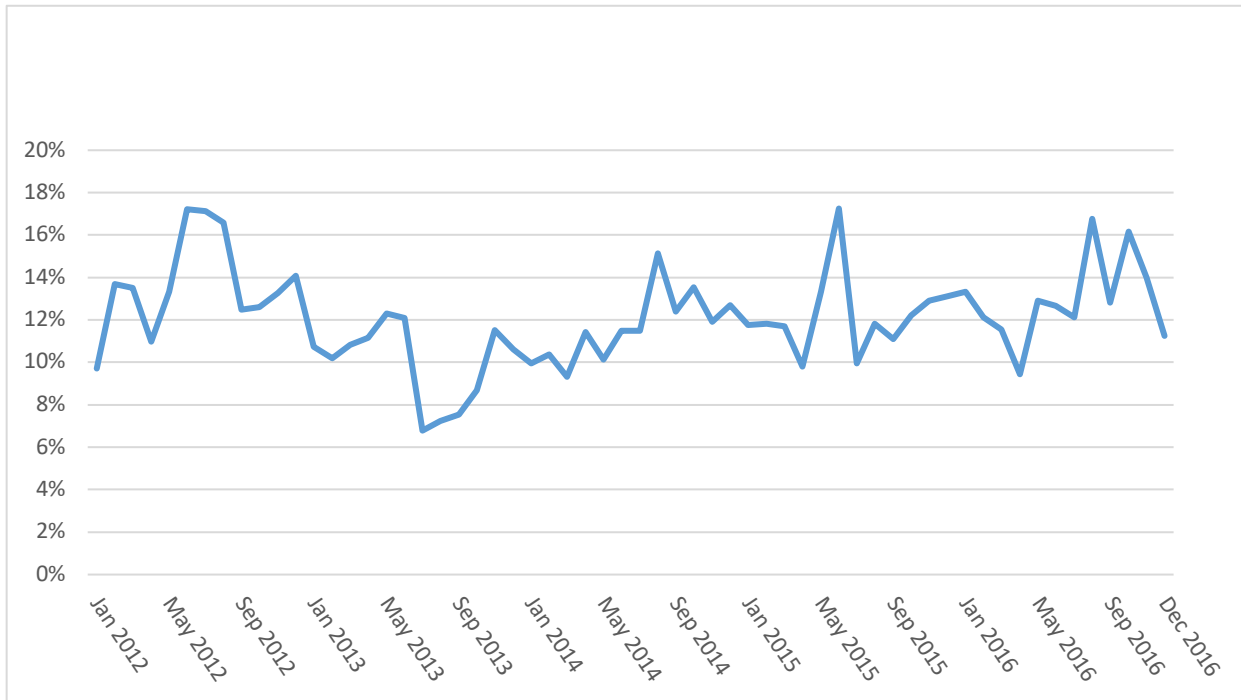
**Figure 3. Percentage of Vehicle Stops with an Arrest, by Month, 2012-2016**



**Figure 3.** This chart displays the percentage of vehicle stops at which an arrest was made. As is to be expected when the monthly number of arrests is low, the percentage varied considerably from month to month. A spike was observed in January 2016, when more than 1 in 20 vehicle stops (5.1%) resulted in arrest. The percentage of stops resulting in arrest averaged 1.6% across the observation period. From 2012 to 2014, the trend line was fairly flat, but a steep increase was observed from January 2015 to the end of the study period. The percentage of stops involving an arrest increased from 0.7% in January 2012 to 4.1% by November 2016.



**Figure 4. Percentage of Stops Involving Searches, per Month, 2012-2016**

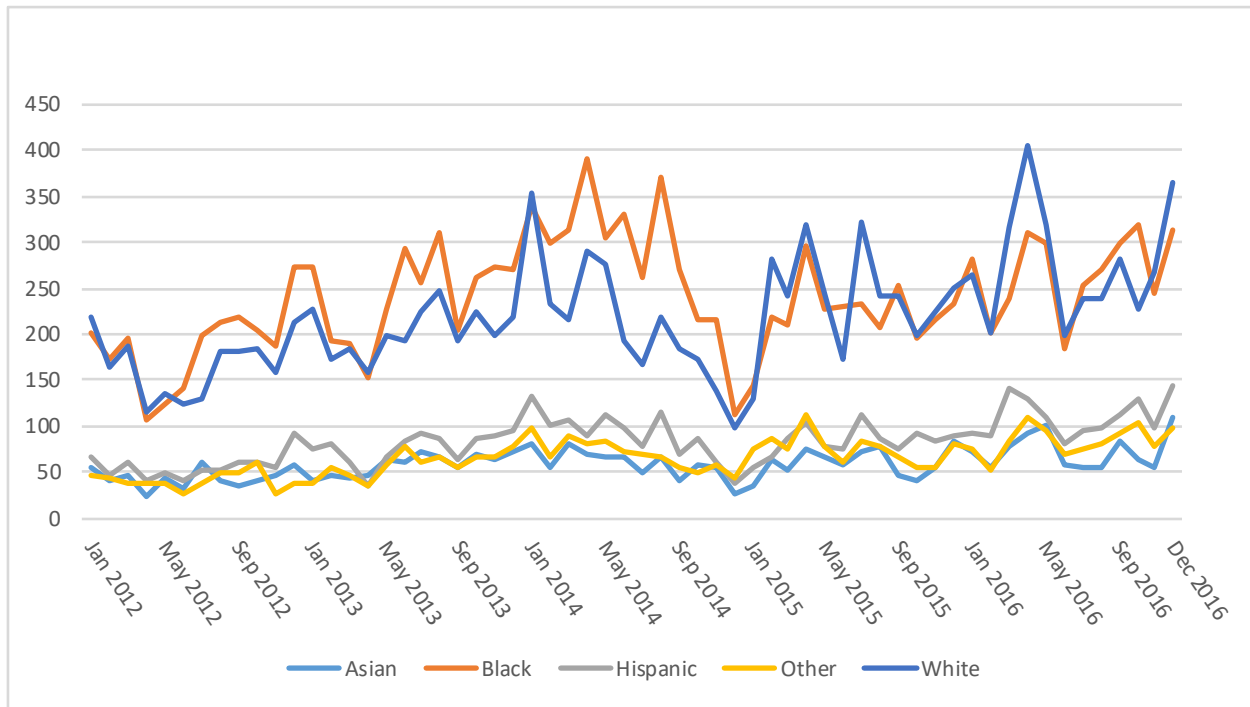


**Figure 4.** This chart displays the percentage of vehicle stops that involved a search. The search percentage varied over time, with the fewest searches per stop recorded in July 2013 (6.8%) and the most searches per stop in June 2015 (17.3%). Across the observation period, the percentage of stops involving a search increased slightly. Arrests were made in 12.1% of all stops.





**Figure 5. Number of Vehicle Stops per Month by Driver’s Race, 2012-2016**

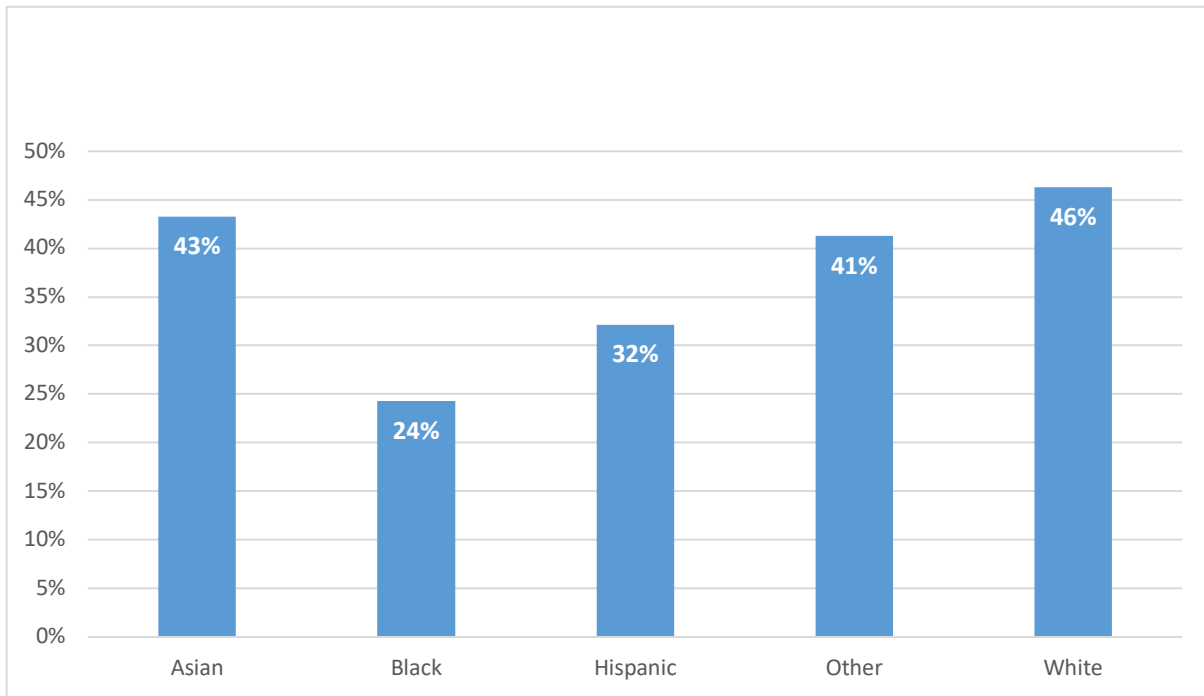


**Figure 5.** This chart displays the number of vehicle stops per month by race of the driver. More than two thirds of BPD vehicle stops (about 69%) involved either White or Black drivers. Stops of Hispanic (13%), Asian-American (9%) and Other (10%) drivers accounted for the balance of BPD stops. Although the Berkeley population is about 56% white and 8% Black, BPD stopped a greater number of Black drivers than White drivers. 33% of BPD stops involved White drivers, while 36% involved Black drivers.

The number of vehicle stops increased greatly across the observation period for every racial group. The percentage increase from the beginning to the end of the observation period was somewhat greater for White drivers (67%) than for Black drivers (56%). Greater increases were observed for other groups of drivers (stops of Asian-American drivers increased 98%, stops of Other drivers increased 104%, and stops of Hispanic drivers increased 120%), but these numbers should be viewed with caution as statistics are “noisier” for groups that experience smaller numbers of stops.



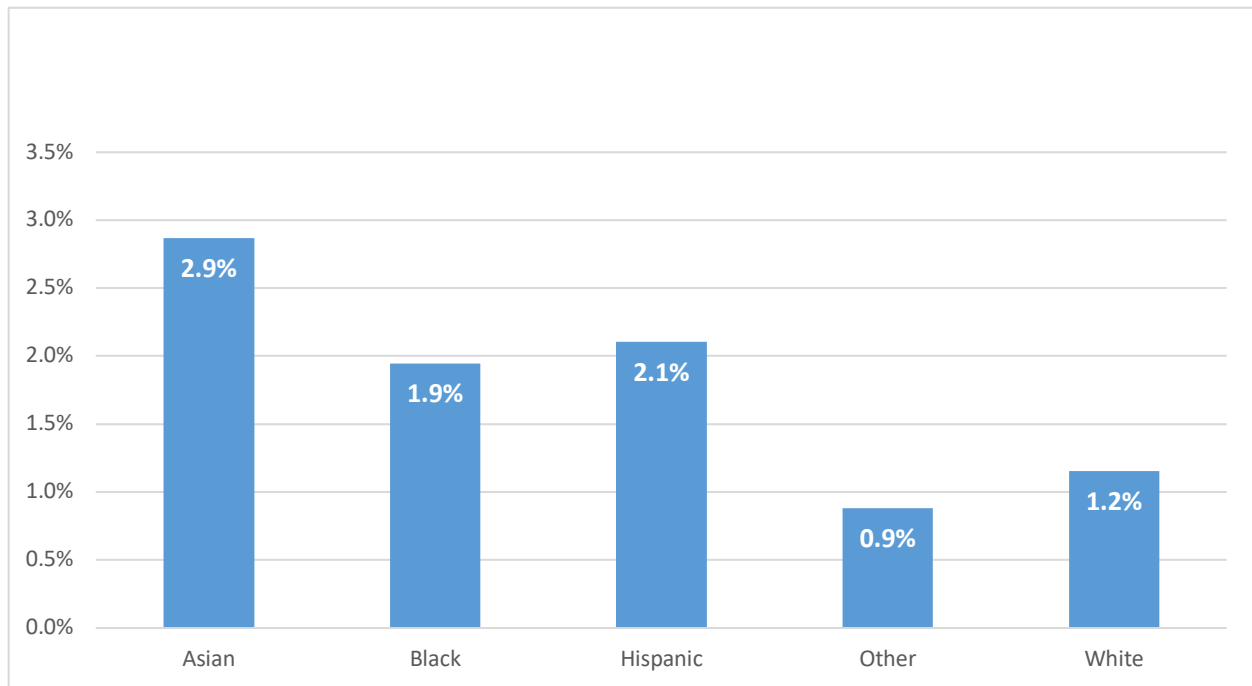
**Figure 6. Percentage of Stops Resulting in a Citation Without an Arrest, by Driver Race, 2012-2016**



**Figure 6.** This chart displays the percentage of stops that resulted in a citation without an arrest, by race of the driver. Compared to stopped White drivers (46% of whom received a citation without being arrested), stopped Black drivers were about half as likely to receive a citation without arrest (24%). Stopped drivers who were described as Asian (43%), Other (41%) or Hispanic (32%) were slightly less likely to receive a citation than stopped White drivers were.



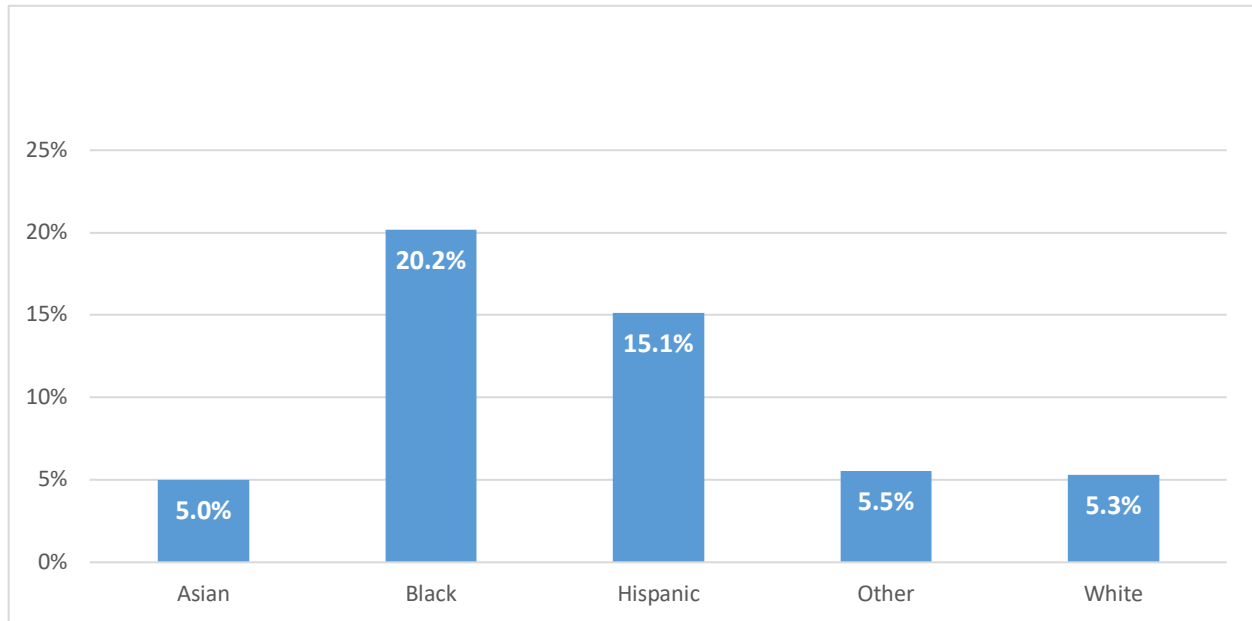
**Figure 7. Percentage of Stops Resulting in an Arrest, by Driver’s Race, 2012-2016**



**Figure 7.** This chart displays the percentage of stops that resulted in an arrest, by race. 1.2% of White drivers who were stopped by BPD were arrested. Compared to stopped White drivers, stopped Asian-American drivers were more than twice as likely to be arrested (2.9%). Arrest rate disparities were also moderately high for Hispanic (2.1%) and Black (1.9%) drivers. Drivers in the “Other” racial category (0.9%) were slightly less likely than Whites to be arrested at a vehicle stop.



**Figure 8. Percentage of Stops Resulting in a Search, by Driver Race, 2012-2016**

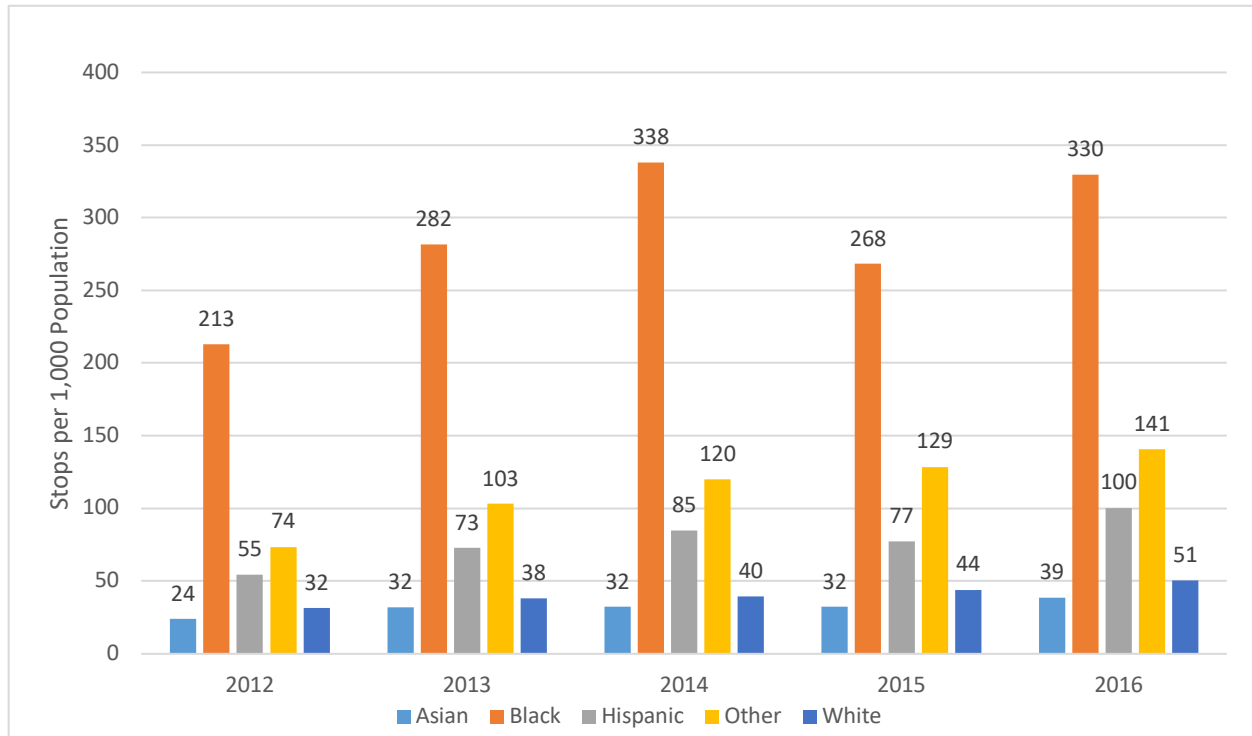


**Figure 8.** This chart displays the percentage of stops that involved a search, by race of the driver. Compared to White drivers (5.3% of whom were searched at a vehicle stop), Black and Hispanic drivers were much more likely to be searched at a vehicle stop. Stopped Black drivers were nearly four times more likely to be searched than stopped White drivers, and stopped Hispanic drivers were more than three times more likely to be searched. Put another way, one in five BPD stops of a Black driver resulted in a search; one in seven stops of a Hispanic driver did; and one in 20 stops of a White driver resulted in a search.

Search rates for stopped drivers who were Asian-American or Other were similar to those for stopped White drivers.



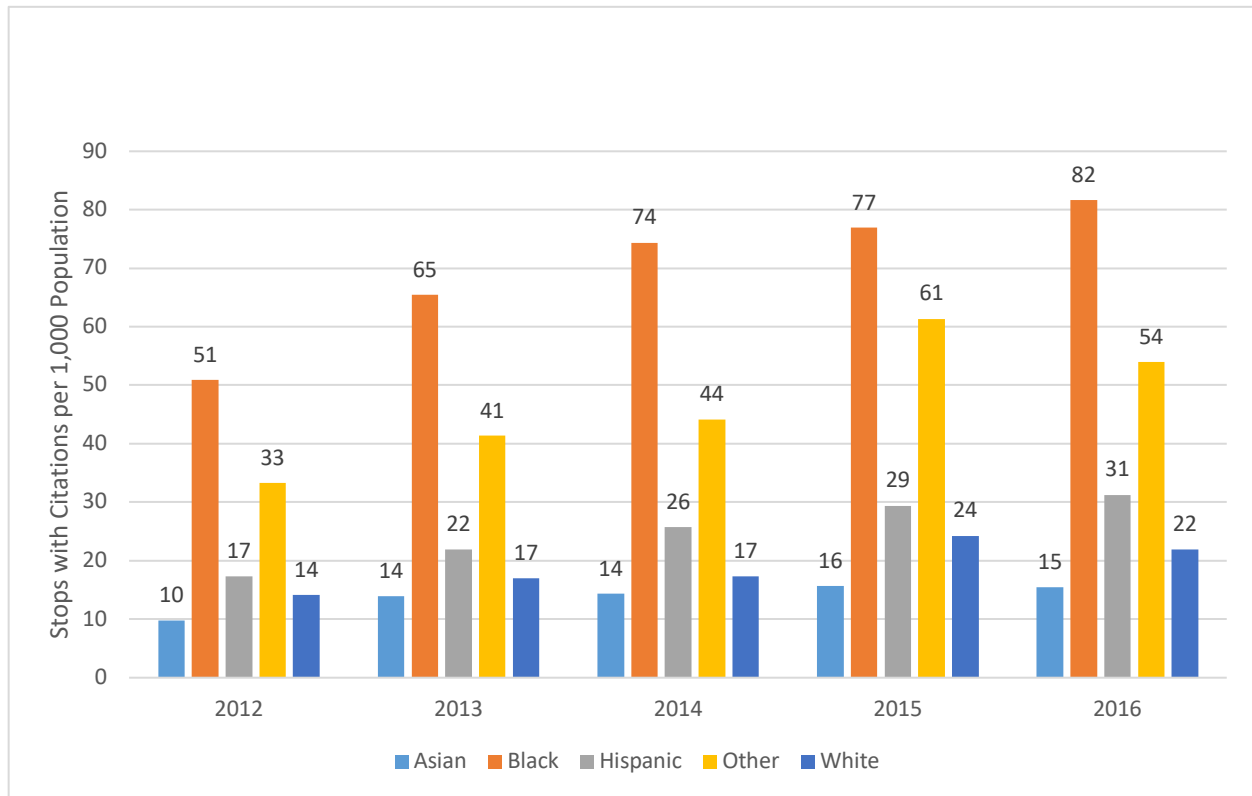
**Figure 9. Vehicle Stop Rate per 1,000 Population, by Race, 2012-2016**



**Figure 9.** This graph displays per-capita vehicle stop rates for each major racial group for each year of the study period. These rates were calculated by dividing the number of vehicle stops by census estimates of the number of Berkeley residents of the same racial group during this time period. (As noted above, the demographics of drivers in Berkeley may differ from the demographics of the City of Berkeley itself.) Per-capita vehicle stop rates showed wide disparities in every year of the study period. Compared to the per capita rate at which Whites were stopped while driving, Black drivers were 6.5 times more likely to be stopped, Hispanic drivers were twice as likely, and Other drivers were nearly three times as likely. Relative to population, Asian-American drivers were slightly less likely to be stopped than White drivers were.



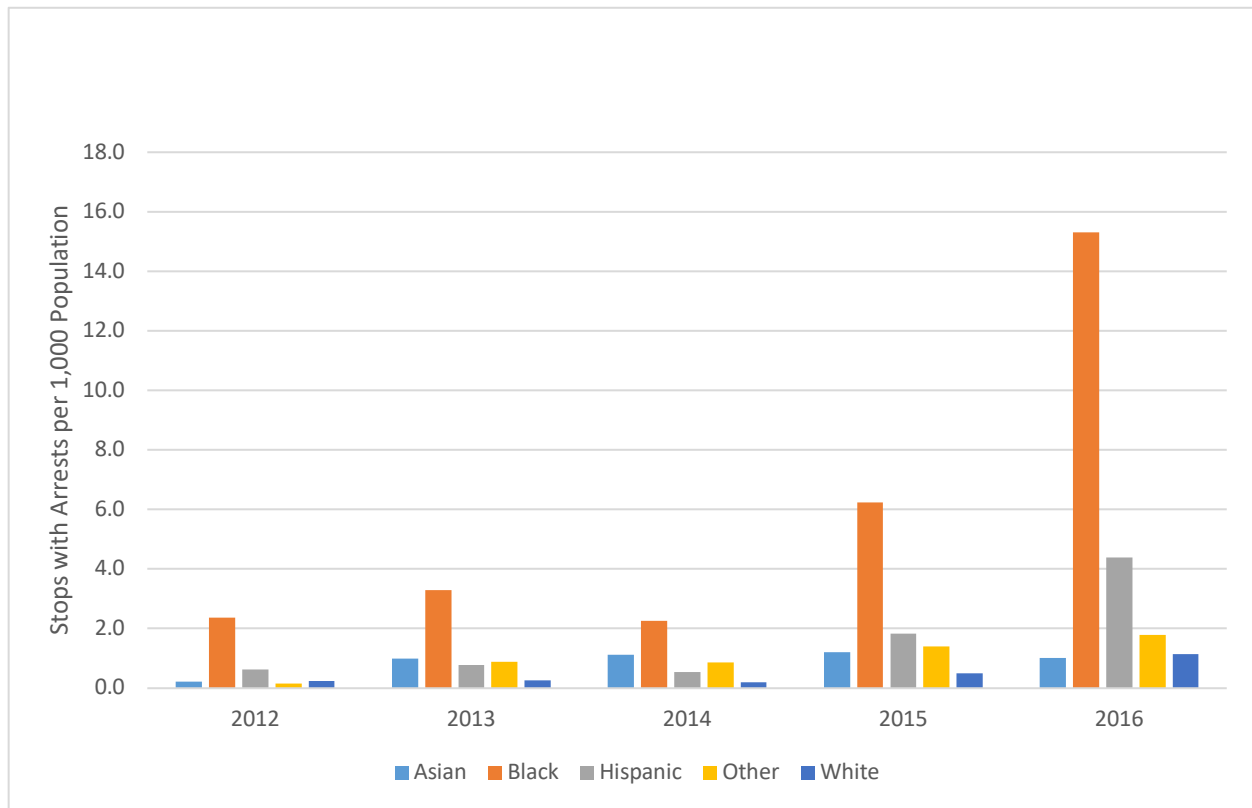
**Figure 10. Rate of Stops Resulting in a Citation without Arrest, by Race per 1,000 Population, 2012-2016**



**Figure 10.** This graph displays the number of stops resulting in a citation per 1,000 residents of the same racial category. These rates were calculated by dividing the number of vehicle stops by census estimates of the number of Berkeley residents of the same racial group during this time period. Even though Black drivers received citations at about half the rate of White drivers (**Figure 6**), Black persons were stopped so much more often (**Figure 5**), and represent such a small proportion of the Berkeley population, that the per capita rate of citations at vehicle stops is much higher for Black than White drivers. On a per capita basis, Black persons were more than three times more likely to receive a citation while driving in Berkeley than White persons were, and Hispanic persons were 50% more likely than Whites to receive a citation.



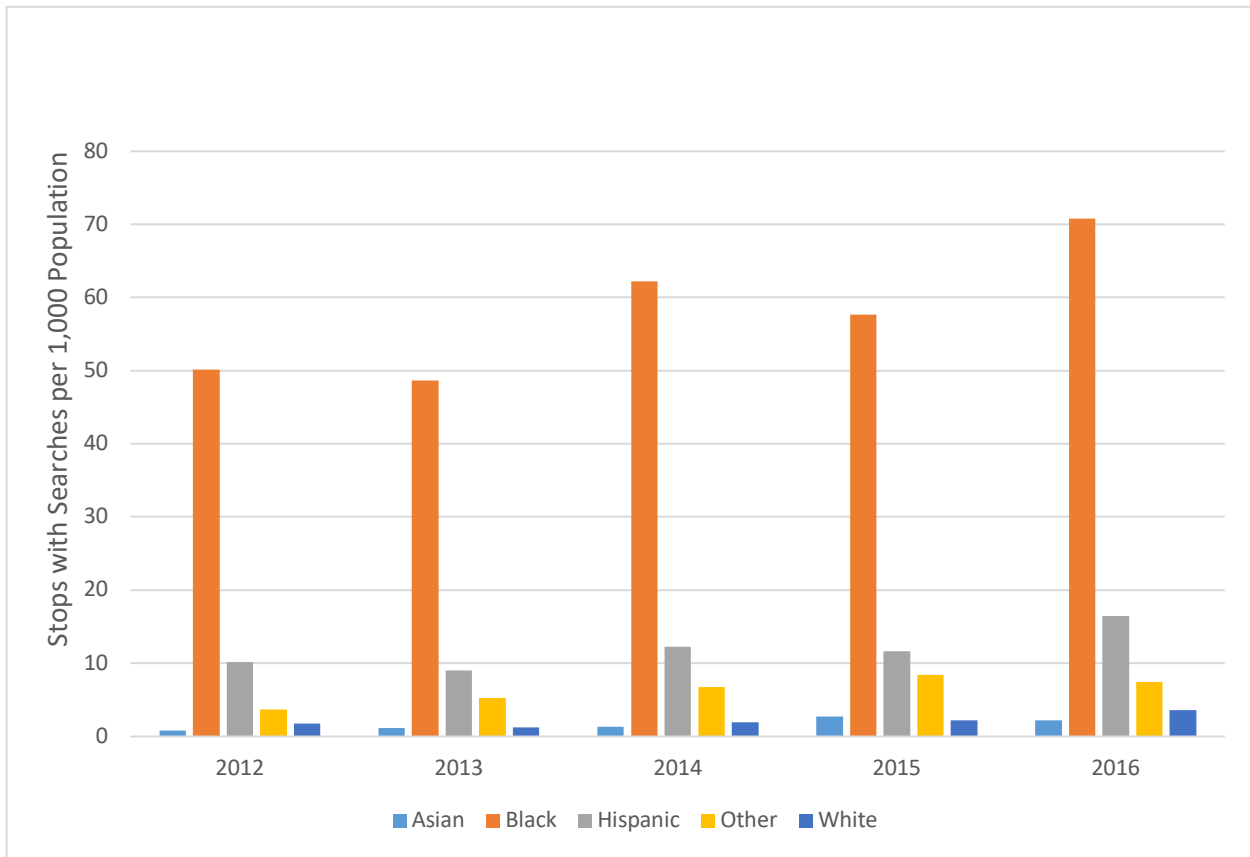
**Figure 11. Rate of Stops Resulting in an Arrest per 1,000 Population, by Race, 2012-2016**



**Figure 11.** This graph displays the number of stops resulting in an arrest per 1,000 residents of the same racial category. These rates were calculated by dividing the number of vehicle stops by census estimates of the number of Berkeley residents of the same racial group during this time period. On a per-capita basis, Black and Hispanic drivers were much more likely to be arrested at a vehicle stop than White drivers were. These disparities were evident in every year of the observation period, and they increased over time. By 2016, compared to their share of the Berkeley population, Black persons were more than 13 times more likely per capita than Whites to be arrested at a vehicle stop, and Hispanic drivers were nearly four times as likely.



**Figure 12. Rate of Vehicle Stops Resulting in a Search per 1,000 Population, by Race, 2012-2016**

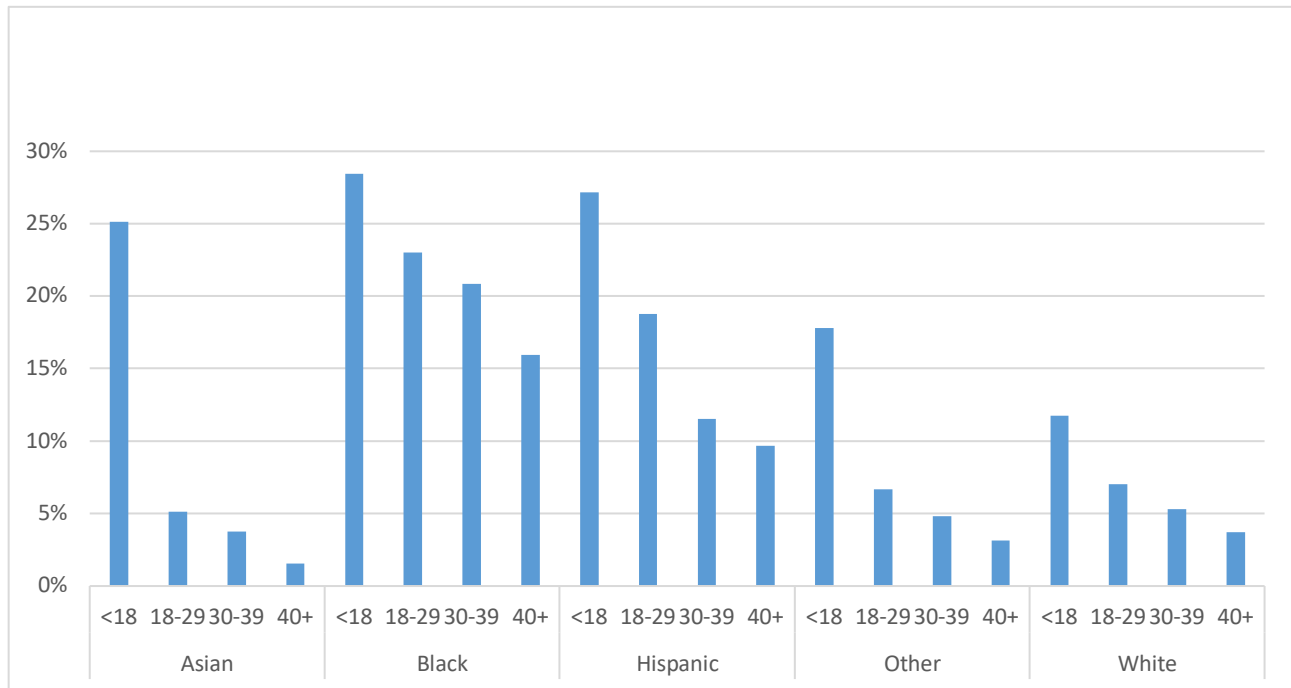


**Figure 12.** This graph displays the number of stops resulting in a search per 1,000 residents of the same racial category. These rates were calculated by dividing the number of vehicle stops by census estimates of the number of Berkeley residents of the same racial group during this time period. On a per-capita basis, Black and Hispanic drivers were much more likely to be searched at a vehicle stop than White drivers were: per capita, Hispanic drivers were searched at vehicle stops 4.5 times more often than Whites, and Black drivers were searched at nearly 20 times the per capita rate of Whites. These disparities were evident in every year of the observation period, and they increased over time.





**Figure 13. Percentage of Vehicle Stops Resulting in a Search, by Race and Age Group, 2012-2016**



**Figure 13.** This graph displays the number of stops resulting in a search by race and age group. Within every racial group, drivers under 18 years of age were more likely to be searched, and the likelihood of a search decreased with age. However, the Black-White disparity was so large that even the oldest Black drivers were more likely to be searched than any age group of White drivers. Once stopped, 16% of over-40 Black drivers were searched, compared to only 12% of under-18 White drivers.

Within each age group, Black and Hispanic drivers were much more likely to be searched at a vehicle stop than were their White counterparts. For example, Black drivers under age 18 were 2.4 times more likely to be searched than White drivers the same age. The Hispanic-White disparity for the youngest drivers was nearly identical: Hispanic drivers under 18 were 2.3 times more likely to be searched. In the oldest age category (over 40 years old), disparities were even greater: Black drivers were 4.3 times more likely to be searched than their White counterparts, and Hispanic drivers were 2.6 times more likely to be searched.



## Section 2B: Racial Disparities in Pedestrian Stops

This section presents information extracted from BPD's pedestrian stop data for January 2015 through December 2016. We begin by presenting aggregate pedestrian stop trends over time, noting the overall number of stops, citations, and arrests. This section then presents stop and outcome data disaggregated by race, then presents stop and outcome by race as compared to the population of the City of Berkeley.

It should be noted that 1% of all pedestrian stops recorded by Berkeley officers occurred outside the City of Berkeley. A table showing the geographic and racial distribution of these 36 incidents is attached to this section at Appendix A. CPE has not received information about any enforcement agreements between Berkeley and the adjoining municipalities, and received no data indicating whether these incidents involved a pursuit. These stops are not further analyzed in this report.

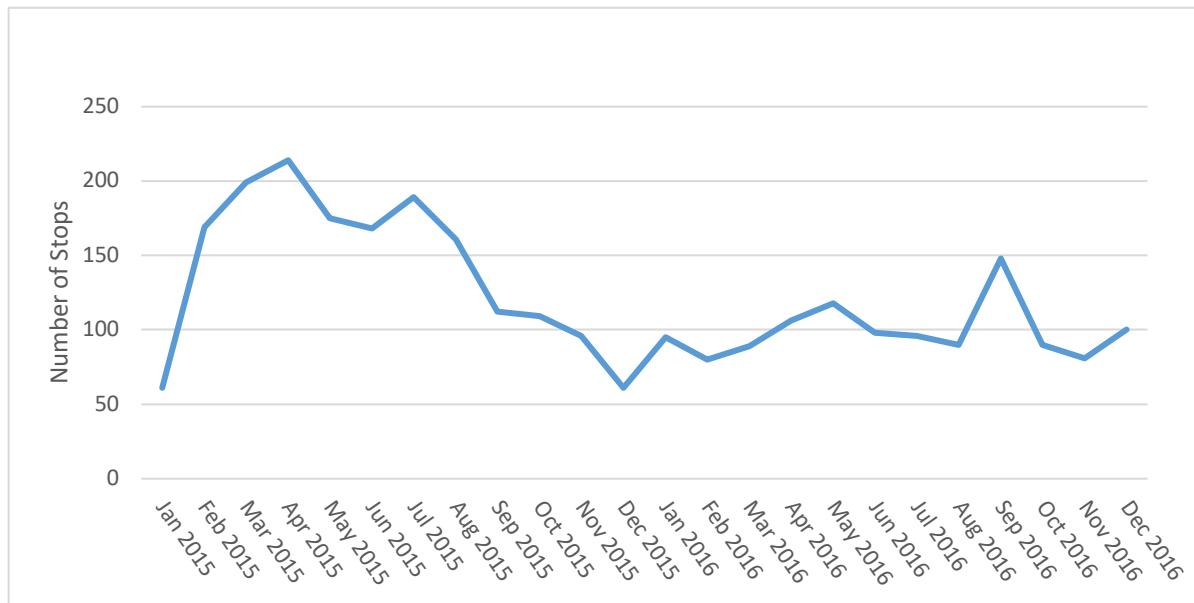
### Summary of findings:

The average number of pedestrian stops recorded by BPD declined moderately across the study period. Black citizens, who comprise 8% of the City population, accounted for 33% of pedestrian stops. If they were stopped, pedestrians of all races were about equally likely to receive citations or to be arrested. But, compared to their White counterparts, Black and Hispanic pedestrians who were stopped by BPD were much more likely to be searched. The finding that stopped Black and Hispanic pedestrians were more likely than their White counterparts to be searched without being arrested may raise doubt about the utility of the higher search rate in detecting criminal behavior. Because they were 4.5 times more likely (per capita) to be stopped, Black pedestrians represented a disproportionately large number of citations and arrests.

CPE did not receive data from BPD regarding whether contraband was found in these searches. The collection, sharing, and analysis of data on contraband found could help to determine whether drivers of different racial groups were searched at differing levels of suspicion.



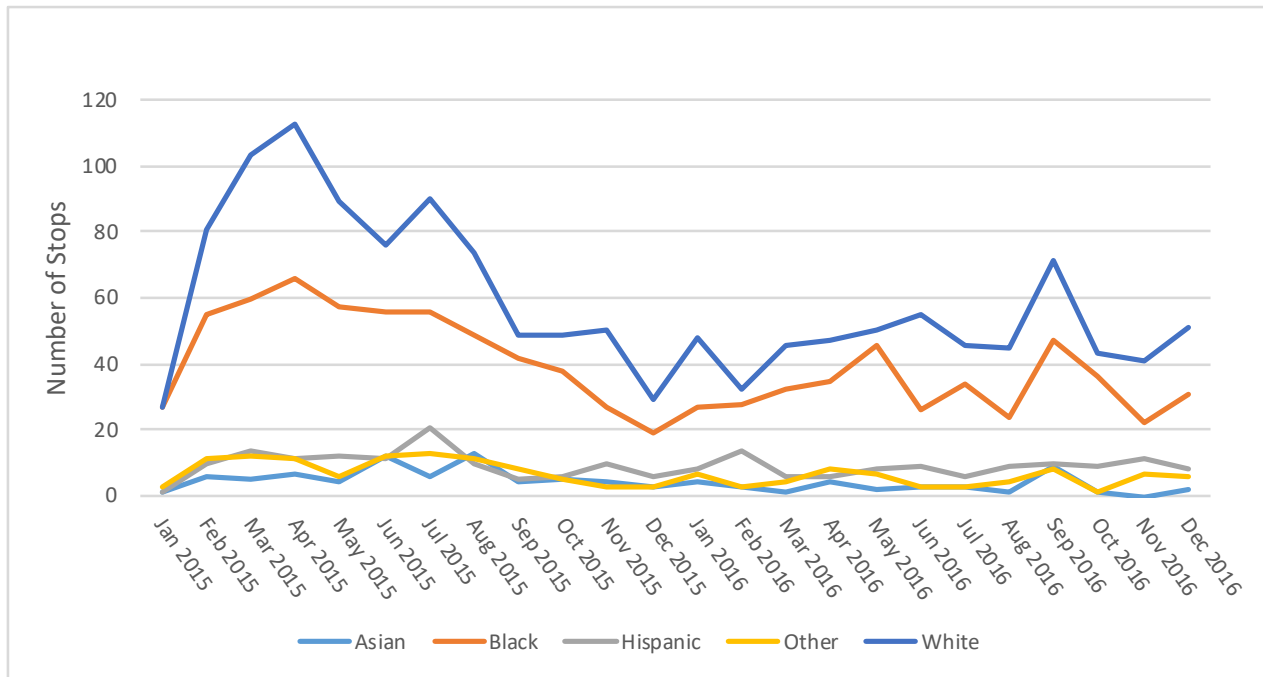
**Figure 14. Number of Pedestrian Stops per Month, 2015-2016**



**Figure 14.** This graph displays the number of pedestrian stops per month recorded by BPD during 2015 and 2016. After starting out at 61 per month in January 2015, the number peaked at 214 in April 2015. From the April 2015 peak, the number of pedestrian stops declined greatly (more than 50%) over the following seven months until it stabilized in December 2015 and held roughly steady through 2016 (with the exception of a smaller spike in September 2016).



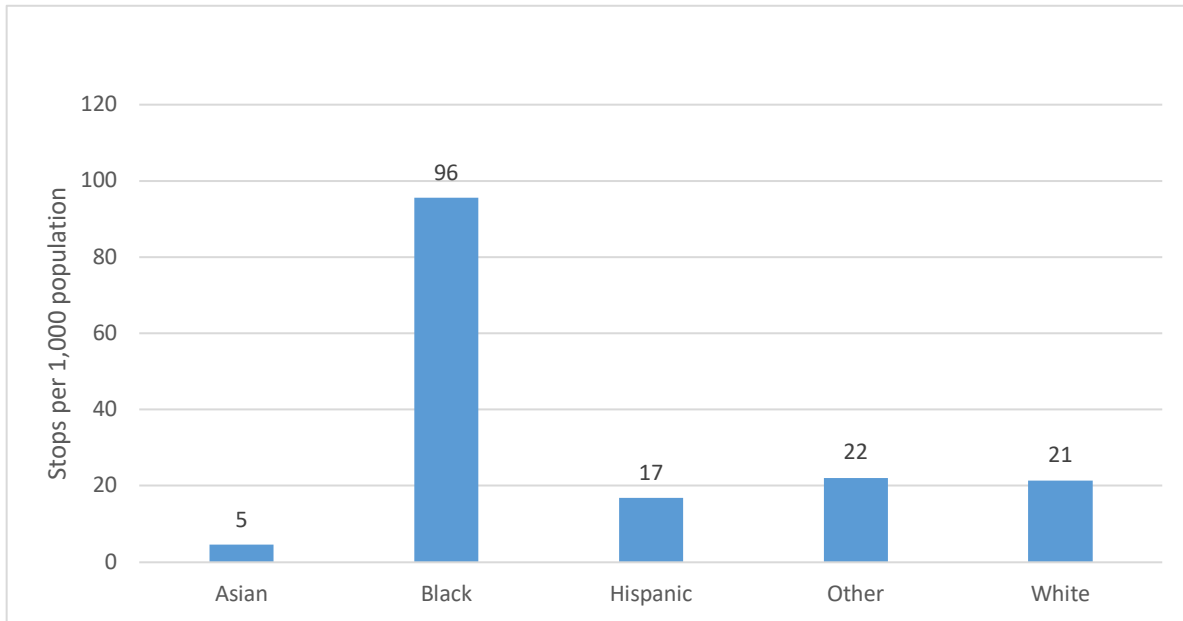
**Figure 15. Number of Pedestrian Stops by Race and Month, 2015-2016**



**Figure 15.** This graph shows the number of stops per month by racial group. As shown in Figure 14, the number of pedestrian stops was relatively low at the beginning of 2015, peaked during April 2015, dropped steeply, then stabilized (with a smaller peak in September 2016). White pedestrians were stopped more frequently than pedestrians of other racial groups. As with vehicle stops, however, stops of Black pedestrians were nearly as frequent as stops of White pedestrians, even though Black persons comprise only 8% of the Berkeley population, while White persons comprise 56%. Pedestrians described as Asian, Hispanic or Other were stopped at similar, low rates.



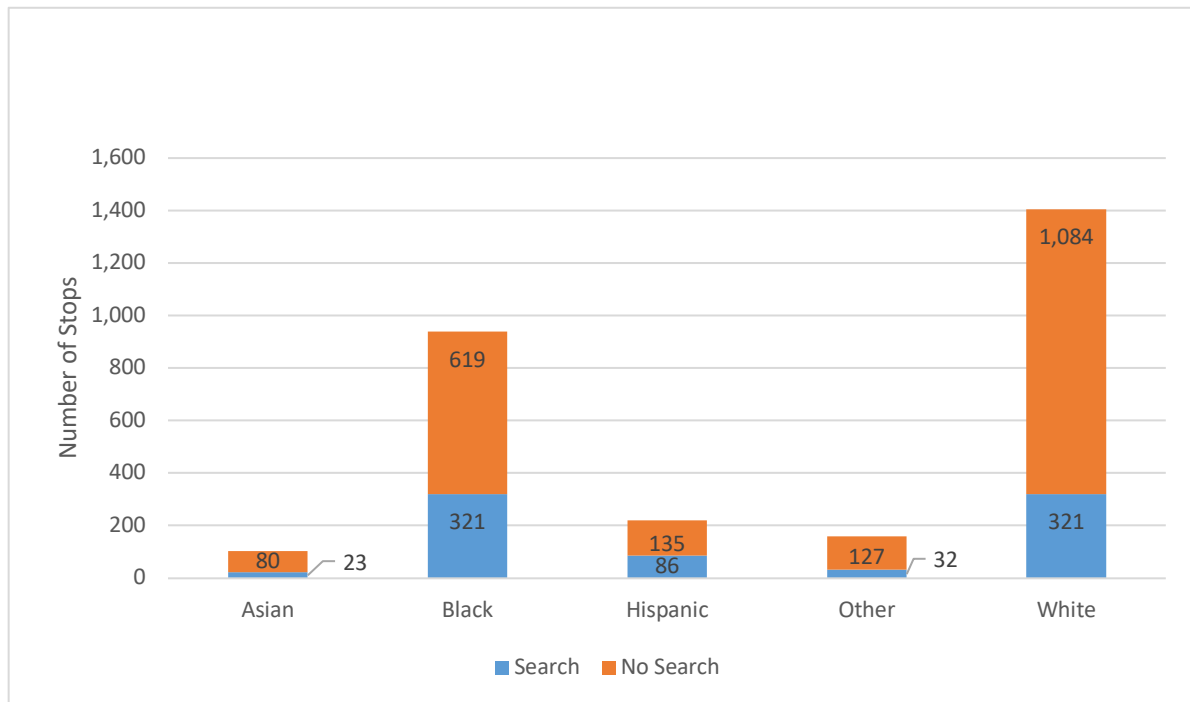
**Figure 16. Pedestrian Stops per Capita by Race, 2015-2016**



**Figure 16.** This graph displays per-capita pedestrian stop rates for each BPD racial classification, calculated by dividing the number of stops in each racial group by census estimates of the number of Berkeley residents of the same racial group during this time period. (As is noted above, the racial distribution of persons walking in Berkeley may differ from the population of the City of Berkeley itself.) Using this benchmark, Black pedestrians were much more likely to be stopped by BPD (4.5 times more likely) than White pedestrians were.



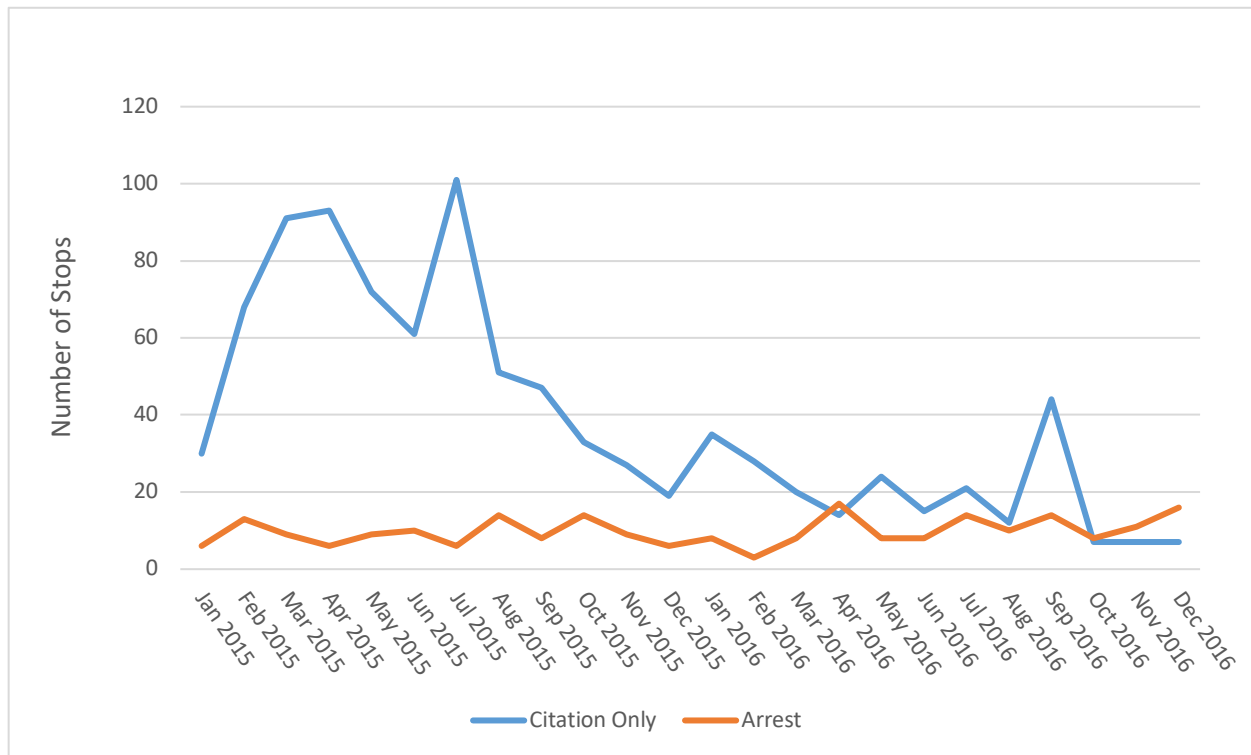
**Figure 17. Number of Pedestrian Stops With and Without a Search, by Race, 2015-2016**



**Figure 17.** This graph shows the number of pedestrian stops with and without a search, by racial group. The figure in the box above each bar indicates the percentage of stops that involved a search. More than one third of Hispanic and Black pedestrians who were stopped by BPD were searched, compared to less than a quarter of White pedestrians. Black pedestrians who were stopped were 49% more likely to be searched than White pedestrians. The number of Hispanic pedestrians who were stopped was much lower, but Hispanic pedestrians who were stopped were also much more likely—70% more likely—to be searched, compared to White pedestrians who were stopped. Search percentages for Asian and Other pedestrians were slightly lower than those recorded for White pedestrians.



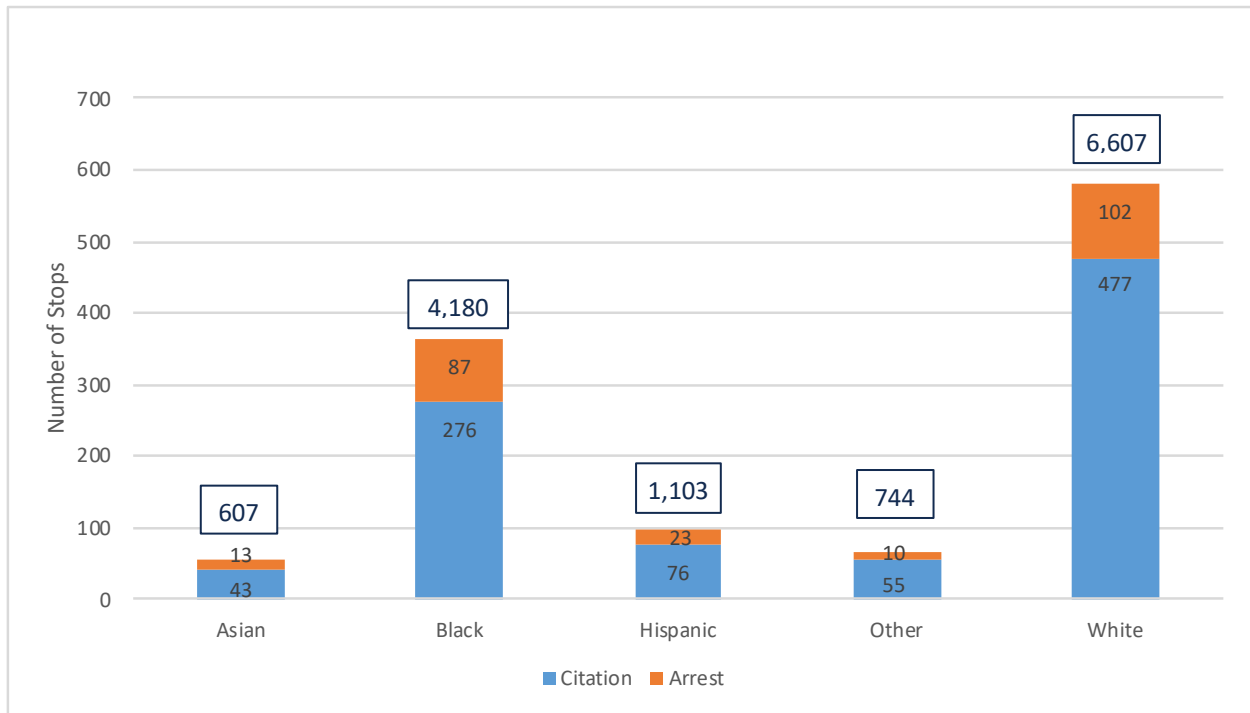
**Figure 18. Pedestrian Stop Outcomes, by Month, 2015-2016**



**Figure 18.** This graph displays the number of pedestrian stops that resulted in a citation (without arrest) or an arrest, by month. The number of arrests remained relatively constant over time, averaging 9.8 per month. The number of citations varied greatly across the observation period, ranging from peaks of 93 in April 2015 and 101 in July 2015 to fewer than 10 citations at pedestrian stops in October, November, and December 2016.



**Figure 19. Pedestrian Stop Outcomes by Race, 2015-2016**



**Figure 19.** This graph displays the number of stops that resulted in a citation only or an arrest by racial group. The number of stops that did not result in a citation or arrest is presented in the boxes above each bar. White pedestrians, who comprise 56% of the population, were cited and arrested more frequently than pedestrians of other racial groups. Rates of arrest (between 1.4% and 2%) and rates of citation only (6.1% to 6.8%) were similar across racial groups. The much higher stop rate for Black pedestrians (see **Figure 16**), though, resulted in a disproportionate number of citations and arrests of Black pedestrians relative to their share of the population.





## Section 2C: Interpretation of Racial Disparities in Vehicle and Pedestrian Stops

In this section, we assess racial disparities in vehicle and pedestrian stops by comparing arrest rates across racial groups. Because CPE received no data as to whether BPD searches uncovered contraband, the arrest rate (at stops involving searches) is used as a proxy for the yield rate. Ideally, the yield rate would be measured using the percentage of stops that revealed contraband. The aim of yield rate analysis is to identify how much of the racial disparity in search rates might be attributable to differential rates of criminal behavior. Racial disparities in the yield rate that are unexplained by differential rates of lawbreaking may be (but are not necessarily) attributable to racial bias, and warrant further investigation.

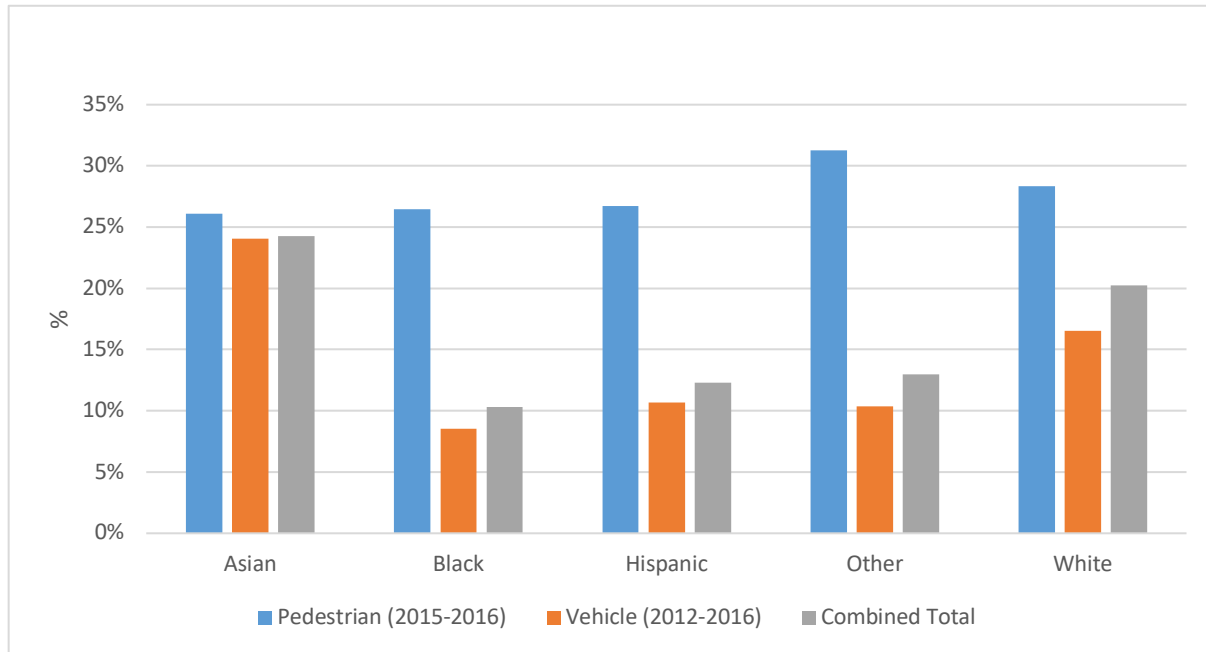
Yield rate analyses posit that if members of different racial groups are subjected to equal levels of suspicion and equivalent treatment, then stops of members of each group should be equally likely to uncover illegal activity. On the other hand, if one group is more likely to be stopped at lower levels of suspiciousness, “yield rates” (or in the case of this report, arrest rates) for this group are likely to be lower. The analyses below present and discuss the yield rates of pedestrian and vehicle stops, measured by arrests. Although equivalent search and yield rates across racial groups are not sufficient to conclude that a department is free of racial bias, observed differences in search and yield rates are an indicator of disparity that indicates the likely utility of further investigation.

Yield rate analysis examines the outcomes of stops once they occur. If officers stop and search all drivers at the same level of suspicion, regardless of race, then arrest rates—the rate at which stops and searches uncover illegal activity—should be similar for each racial group. Where the arrest rate resulting from a search is lower for one racial group than it is for another, that finding suggests that the group with the lower yield rate is being stopped and searched for lesser reason (i.e., at a lower level of suspicion) than a group with a higher yield rate: that is, members of the first group are more likely to be stopped while they are engaged in no unlawful conduct. Yield rates can also be used to assess the efficiency of policing resource allocation: to the extent that searches of a particular group are frequent but yield a low yield rate, officers’ time and attention is being spent on behavior that fails to detect or deter criminal activity.

Our use of arrest as a proxy for the “yield rate” assumes that, if an officer discovers evidence of any unlawful activity, s/he will arrest the driver. A limitation of this assumption is that officers almost certainly do not exercise their discretion in this mechanical way. An officer who discovers evidence of a minor crime—say, finds a marijuana cigarette in the car—might not invariably arrest the driver. The use of arrest as a proxy for unlawful behavior will necessarily miss any racial disparities in officers’ discretionary decision-making about whether or not to make an arrest. Conversely, a driver could be arrested without the car being searched, or for reasons unrelated to the search (e.g. an outstanding warrant). To more precisely assess the productivity of BPD searches, BPD should track and share information about whether its searches uncover contraband.



**Figure 20. Percent Arrested Among Individuals Searched**



**Figure 20.** This graph displays the percentage of persons who were arrested, among those stopped and searched by BPD. Overall, 20% of White persons who were searched by BPD were arrested. Substantial disparities in yield rates were observed with respect to Hispanic persons (12% of whom were arrested after a search) and Black persons (10% of whom were arrested after a search). That is, searches of Black and Hispanic individuals were less productive at uncovering criminal behavior. Searches of Black individuals were only half as likely as searches of Whites to yield an arrest, and searches of Hispanic individuals were 39% less likely to yield an arrest. Although Black and Hispanic drivers and pedestrians were more likely to be stopped and searched than their White counterparts were, Black and Hispanic persons were more likely to be found doing nothing wrong.

Arrest rates were much higher among Asian-Americans searched by BPD. Asian-American drivers and pedestrians were much less likely than other groups to be stopped or searched, but once searched, they were arrested at a higher than their White, Black, or Hispanic counterparts. 24% of Asian-Americans who were searched by BPD were charged with a criminal offense.

Overall, then, these data reveal considerable variation in stop, search and arrest rates among White, Black, Hispanic, and Asian-American drivers:

- once stopped by BPD, about one in 20 White drivers is searched, and about one fifth of these drivers are charged with a criminal offense.
- Hispanic drivers are about twice as likely as White drivers to be pulled over (Figure 9). Once stopped, Hispanic drivers are searched at 2.5 times the rate of Whites. But, once searched, they are charged with a criminal offense 36% less often than White drivers who are searched.



- Black drivers are about 6.5 times more likely than White drivers to be pulled over (Figure 9). Once stopped, Black drivers are searched at four times the rate of Whites. But, once searched, they are charged with a criminal offense half as often as White drivers who are searched.
- Asian-American drivers are less likely than White drivers to be pulled over. Once stopped, they are searched at the same rate as White drivers, but, once searched, they are criminally charged at a rate 55% higher than that of Whites.

These yield-rate disparities are not consistent with the application of similar, nonracial levels of suspicion to Black, Hispanic, Asian, and White drivers. The higher stop and search rates for Black and Hispanic drivers do not appear to reflect higher rates of unlawful conduct by Black and Hispanic drivers. They appear to be consistent with Black and Hispanic drivers being searched at a lower level of suspicion, so that more innocent persons in these groups experience searches by BPD.

It is unclear why higher search rates would be required to detect criminal behavior by stopped Black and Hispanic drivers as compared to stopped White or Asian drivers. It is unclear why Asian and White drivers' criminality can be more effectively detected with fewer searches of innocent persons in those groups. Put another way, these findings raise the question: if White drivers were stopped and searched at rates as high as those experienced by Black and Hispanic drivers, would their arrest rate increase? If Black and Hispanic drivers were searched at a level of suspicion as high (that is, as infrequently) as White and Asian drivers, would a higher percentage of those searches reveal criminal wrongdoing?

While BPD's Black-White and Hispanic-White disparities in stop and search rates may be partially attributable to higher rates of criminal behavior among those communities, the experience of many other US jurisdictions suggests that another explanation should also be considered: because stop, search and arrest are all discretionary decisions by the officer, it is possible that Black and Hispanic drivers might be subjected to a less forgiving exercise of discretion compared to White drivers. It is possible, for example, that Black or Hispanic drivers might be arrested for minor offenses for which a White driver might receive a citation or a warning. This would be consistent with the finding (**Figure 6**) that White drivers are more than twice as likely as Black drivers to receive a citation without an arrest. To confirm or rule out either the "best-case" or the "discretionary" explanation, BPD would need to share, and CPE would need to analyze, data about whether searches reveal contraband, and data about the charges that are filed against drivers who are arrested during vehicle stops.

By contrast, Asian-American individuals were less likely than White individuals to be stopped, and they were about equally likely to be searched. Nonetheless, the yield rate for Asian-Americans was 20% higher than for Whites (and double that for Hispanic individuals, and more than double the yield rate for Black individuals). The low stop rates of Asian-American drivers and the high percentage of arrests are unexplained, and warrant further investigation. Information about charges filed against drivers who are arrested at stops might help to illuminate the respective roles of community behavior and officer discretion in these results.

## Part III: Racial Disparities in Use of Force

This section presents data received from BPD about reported use-of-force incidents. BPD provided a dataset of force incidents reported by BPD officers between January 1, 2012 and December 31, 2016. Section III.A presents aggregate trends in use of force incident rates over time, then presents descriptive statistics on force type, BPD beat, and race/ethnicity. Section III.B presents multivariate regression analyses designed to assess how much of the observed racial disparity in BPD use of force can be explained by neighborhood characteristics, including poverty, crime rates, and neighborhood racial demographics.

Descriptive statistics presented in this section reflect data shared by BPD with respect to use of force reports filed by its officers across the 60-month observation period. This data must be viewed in the context of BPD departmental policy, which requires the completion of a use of force report whenever an officer uses lethal force, discharges a firearm, or uses a nonlethal weapon (e.g. oleoresin capicum spray or baton).<sup>6</sup> BPD departmental policy does not explicitly require that use of physical force be reported (in a Use of Force Report or Incident Report) unless the officer uses a weapon, the individual is injured, or the individual complains. As a result, incidents of hands-on force not involving a weapon may not be comprehensively reported or tracked by BPD, and may not be fully reflected in the data presented in this section.

Where multiple types of force were reportedly used on a person during the same incident, or when multiple officers reported using the same type of force during the same incident, our analysis counts the event as a single incident, classified according to the most severe force type used. A single incident, then, could include multiple force types, multiple applications of force, or multiple officers.

Most, but not all, people who were subjected to BPD force were arrested. Of persons subject to force for whom officers recorded a racial identity (only 1.2% of force incidents were missing racial data), arrest rates were similar: 84.8% of Black persons, 81.4% of White persons, 83.3.3% of Hispanic persons, and 88.9% of Other persons who were subjected to force were also arrested. Among Asian persons subjected to force, only 40% were arrested. CPE researchers did not receive information about the charges filed against persons subject to force, nor did we receive information about what happened to the approximately one in six persons subjected to BPD force who were not arrested.

Most arrests, of course, do not involve any reported use of force. Among persons arrested by BPD between 2012 and 2016, the percentage subjected to force was higher among White (1.7%) and “Other” persons arrested (1.6%) than among those described as Asian, Black or Hispanic (all 1.3%). These data also show that 50.5% of persons arrested by BPD are Black, and 29.7% are White.

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<sup>6</sup> BPD General Order U-2, ss.23 and 24.



CPE did not receive any information about whether or how persons involved in force incidents had resisted police officers.

**Summary of findings:**

Compared to other departments of similar size, BPD records show relatively few use-of-force incidents (2.9 per month, on average), a finding which may be partly attributable to the use-of-force reporting policy described above. Despite the fact that BPD policy does not appear to require reporting of every incident of hands-on force, hands-on force without use of any tool or weapon was by far the most frequent force type reported by BPD officers: 76% of incidents reported by BPD officers involved only hands-on force.

Although Black people comprise 8% of the Berkeley population, they comprised nearly half (46%) of all persons subjected to force by BPD officers. Per capita, controlling for other factors, the use of force incident rate was more than 12 times higher for Black persons than for White persons in Berkeley. This disparity was not explained by differences in crime rates, poverty, or neighborhood demographics. This large unexplained racial disparity warrants further investigation.

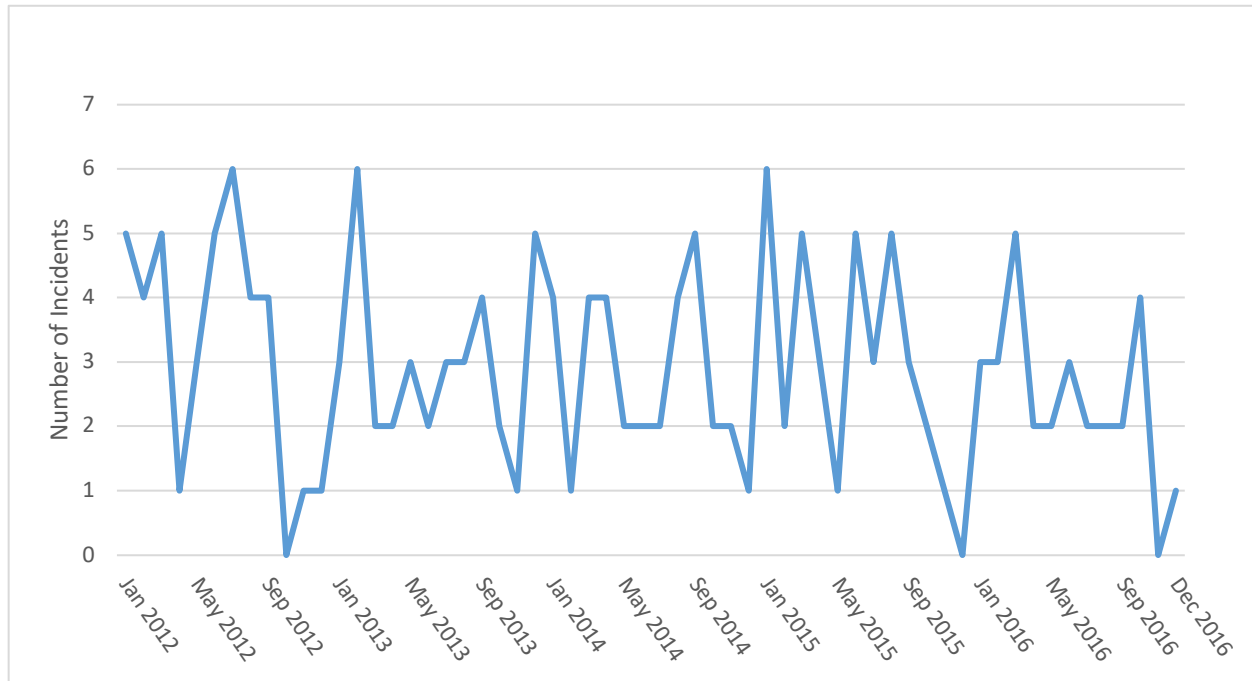
### Section 3A. Use of Force Counts and Racial Disparities

CPE received records of 173 discrete incidents of force being used upon a single individual. In 38% of cases, a single officer was involved. Most force incidents—62% of them—involved more than one BPD officer. 83% of reported incidents involved use of a single force type being used (as noted above, the most common reported force was hands-on); 17% of force reports indicated that more than one type of force was used in the incident.

Some of the data on incident locations were contradictory. For example, in 10 cases the “City” indicator located the incident in a city other than Berkeley; however, 6 of these were geo-located by address to a census tract within Berkeley. A total of 10 incidents could not be geo-located to a census tract, and 2 incidents occurred outside of Berkeley (one occurred in Hercules, in Contra Costa County, and one occurred in Dublin, in Alameda County).



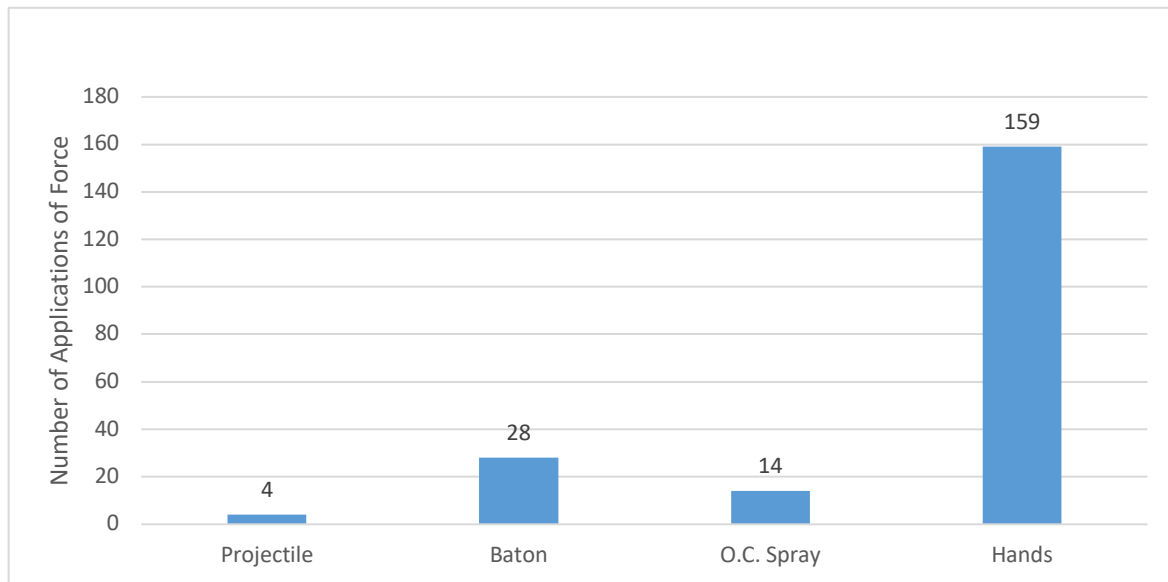
**Figure 21. Use of Force Incidents by Month, 2012-2016**



**Figure 21.** This graph displays the number of force incidents reported by BPD per month. The number of incidents reported monthly was low and variable, ranging from one to six incidents per month across the five-year study period, and averaging three incidents per month and holding fairly steady across the observation period. BPD also shared one report of discharge of a firearm, but it is not presented here because no demographic or location data was provided for it.



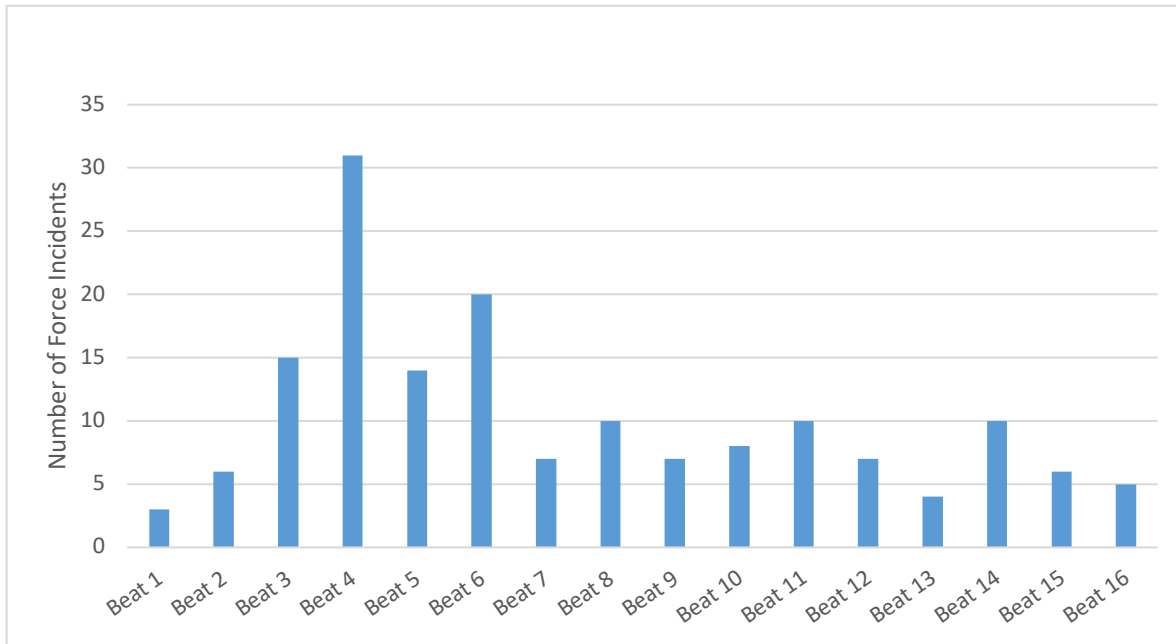
**Figure 22. Number of Force Types Reported, 2012-2016**



**Figure 22.** This graph displays the number of force types reported in force incidents reported by BPD officers. As noted above, a single incident may be counted multiple times in this graph if multiple force types were used. As can be seen, even though BPD policy does not require comprehensive reporting of hands-on weaponless force (see footnote 6, on p. 42), and accompanying text), hands-on force was by far the most frequent force type reported by BPD officers during the observation period. Most force incidents that reported use of a weapon (67%) also reported use of hands-on force.



**Figure 23. Number of Force Incidents by Beat, 2012-2016**

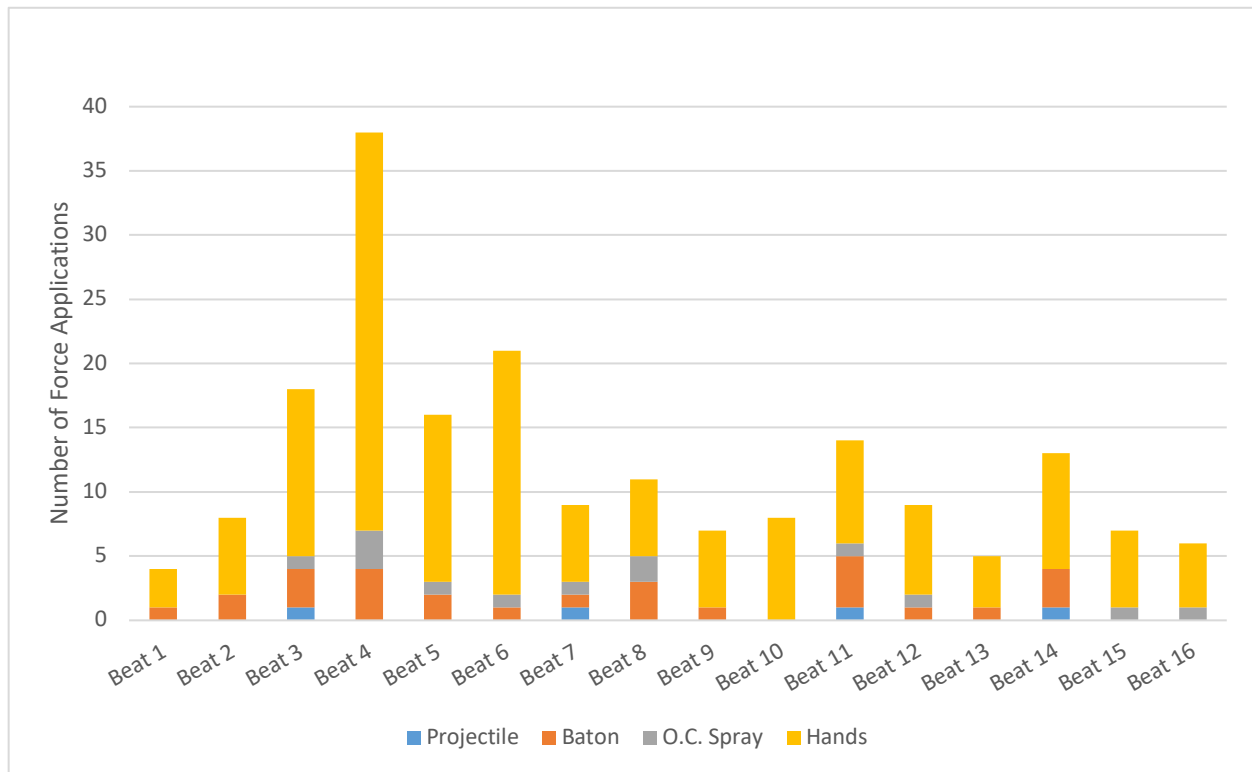


**Figure 23.** This graph displays the number of force incidents reported by each BPD beat. As can be seen, Beat 4 reported the most incidents (31), followed by Beat 6 (20) and Beat 3 (15). Beats 1 and 13 each reported fewer than five force incidents during the five-year study period.





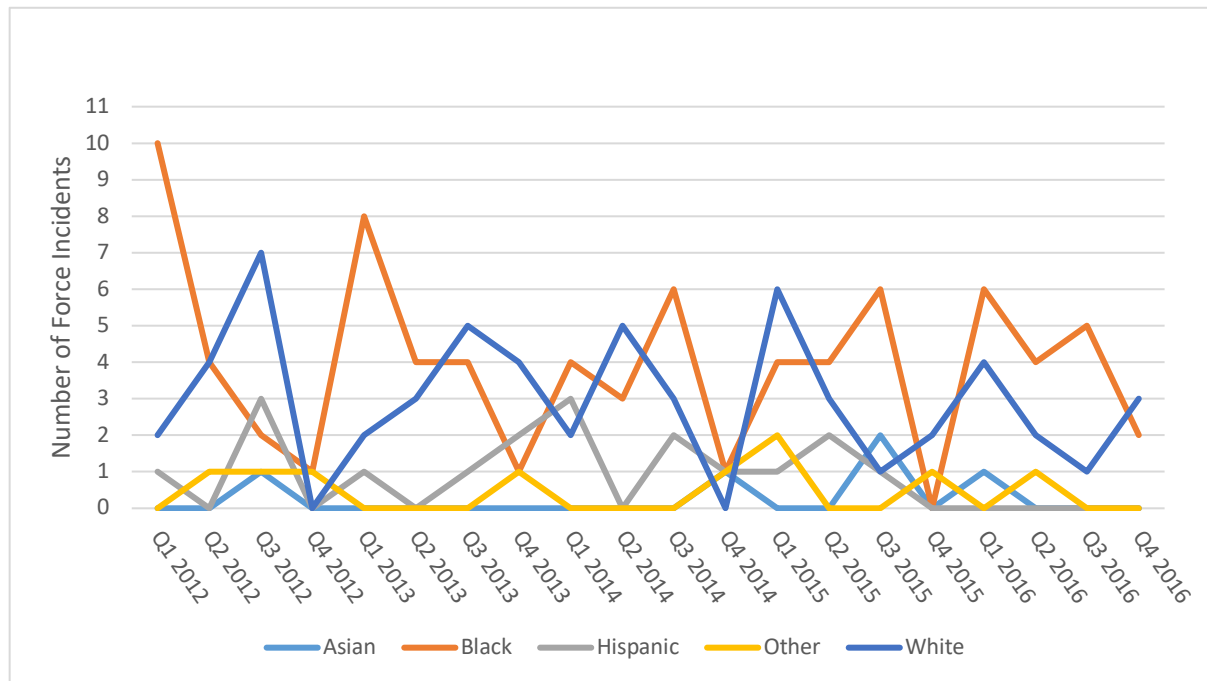
**Figure 24. Frequency of Force Types Reported, by Beat, 2012-2016**



**Figure 24.** This graph displays the number of force types reported in incidents reported by officers from each BPD beat. As noted above, a single incident may be counted multiple times in this graph if multiple force types were used. As can be seen, hands-on force accounts for most incidents, but most beats also reported incidents of baton use, and each of Beats 4 and 8 reported more than one O.C. spray incident.



**Figure 25. Number of Force Incidents by Race 2012-2016**

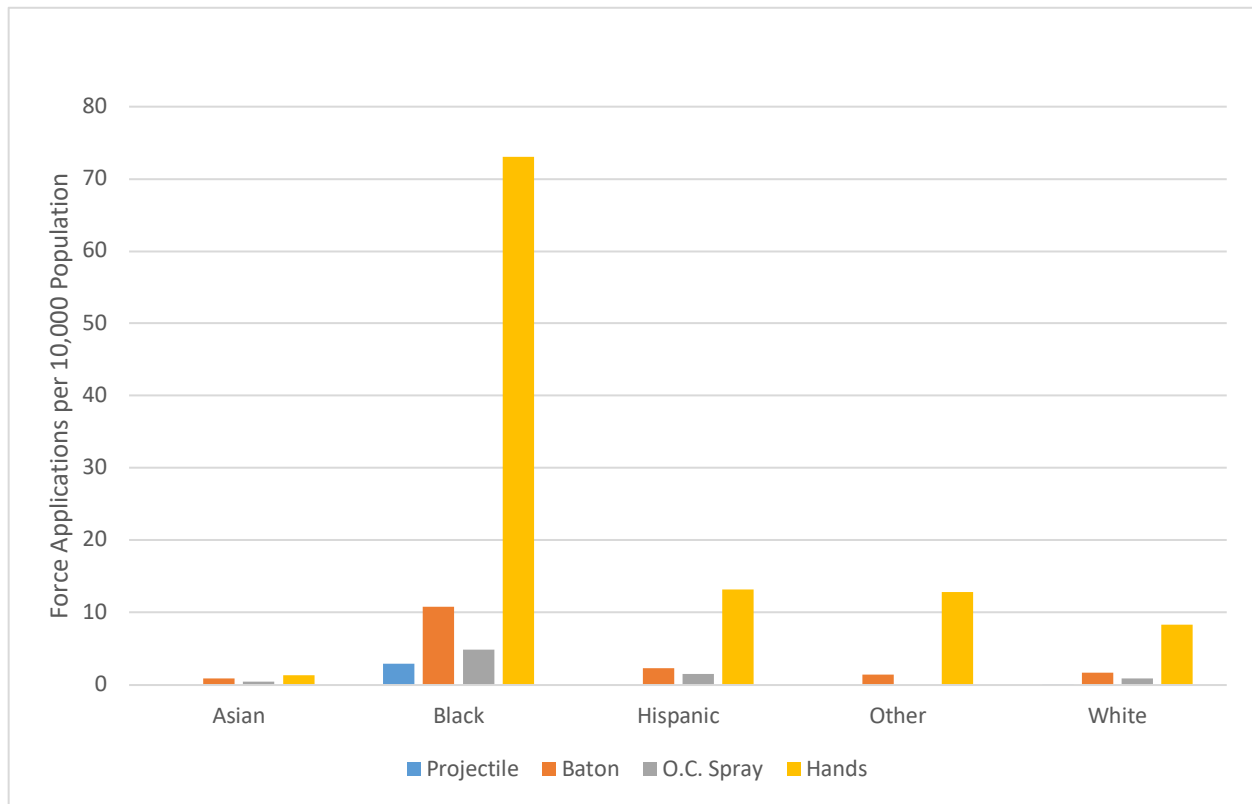


**Figure 25.** This graph displays the number of force incidents per quarter by race. As can be seen, in nearly every quarter, force incidents involving Black and White individuals were more frequent than force incidents involving Hispanic, Asian, or Other individuals. Although the White population of Berkeley is seven times larger than its Black population, BPD officers reported more incidents of use of force on Black individuals than on White individuals.

Black persons, who comprise 8% of the Berkeley population, were the subjects of 46% of reported force incidents. White persons, who comprise 56% of the Berkeley population, accounted for 35% of reported force incidents. 11% of reported force incidents involved Hispanic individuals, 5% involved Other individuals, and 3% involved Asian individuals.



**Figure 26. Force Types Used, per 10,000 Population, by Race 2012-2016**



**Figure 26.** This graph displays the number of force incidents reported by BPD officers, benchmarked against the resident population by race. The rate of hands-on force used against Black persons, per capita, was much greater than that for White persons. For every 10,000 White residents of Berkeley, BPD reported 8 uses of hands-on force on a White person. For every 10,000 Black residents of Berkeley, BPD reported 73 uses of hands-on force on a Black person—a rate 9.1 times higher than for White individuals.

Rates of baton use (6.4 times greater) and O.C. spray (5.3 times greater) were also much higher for Black persons than for White persons. Disparities were also visible with respect to Hispanic persons, who were moderately more likely than White persons to be subjected to use of hands-on force, baton, and O.C. spray.



## Section 3B. Interpreting Disparities in Use of Force

As the data in the graphs and tables above show, Black individuals in Berkeley are much more likely to be subjected to police use of force than White individuals are. As is mentioned above, not all observed disparities result from biased or unjust decision-making by police officers or executives. As is mentioned in the Introduction, above, our analysis seeks to distinguish, as much as possible, three possible explanations for disparate policing outcomes: (1) disparities that arise from community characteristics (such as poverty, high crime rates, and calls for service); (2) disparities that arise from police behavior (such as policing practices or individual officer biases); and (3) disparities that arise from the (trusting or wary) relationship between communities and police.

These factors cannot be precisely disaggregated using the limited dataset available to researchers for this report. To begin to quantify the effects of race on policing outcomes, we use statistical analysis techniques called “regression analysis.” Regression analyses allow for estimates of how much of the observed racial disparity is accounted for by racial or nonracial community-level factors that can influence law enforcement patterns, and how much of the racial disparity is unexplained (and possibly attributable to policing policy and practice).

In the data we have received from BPD, one major question to be investigated was the effect of race on the likelihood that a person would be subjected to police use of force in Berkeley. The BPD datasets provided information about use of force incidents. The BPD use of force report form contains a field for the location at which the force incident occurred. For the 161 reported incidents that contained geographic information and occurred within the Berkeley city limits, geocodes were developed using the longitude and latitude or street intersection information in the records. Using these geocodes, researchers were able to ascertain the Berkeley census tract in which each stop or incident took place. (Incidents for which geolocation data was unavailable, or which occurred outside Berkeley, were not included in this analysis.)

Using data from the decennial census and the American Community Survey (ACS), researchers were able to ascertain demographic information about the census tract in which each stop or incident took place. BPD shared data on all arrests made, including geographic location, which enabled us to match the number of Part 1 crimes reported in each census tract for the same time period. For each census tract, researchers were able to assess how much of the racial disparity in use of force was attributable to neighborhood factors such as poverty, racial demographics, or the Part I crime rate.<sup>7</sup> The existing research literature has found relationships between all of these factors and policing outcomes.

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<sup>7</sup> “Part I crime” refers to the categorization scheme used by the U.S. Federal Bureau of Investigation Uniform Crime Reporting Statistics. The FBI’s “Part I” category consists of the following eight types of crime: criminal homicide, forcible rape/sexual assault, robbery, aggravated assault, burglary, larceny-theft (except motor vehicle theft), motor vehicle theft, and arson.



**Table 1. Descriptive Statistics on Use of Force by Individual Race**

Hands-On	2012	2013	2014	2015	2016	Total
Asian	0	0	1	1	1	3
Black	15	17	13	14	15	74
Hispanic	4	4	5	4	0	17
Other	3	1	1	3	1	9
White	13	13	9	10	9	54
<b>Total</b>	<b>35</b>	<b>35</b>	<b>29</b>	<b>32</b>	<b>26</b>	<b>157</b>

Baton	2012	2013	2014	2015	2016	Total
Asian	1	0	0	1	0	2
Black	2	2	2	2	3	11
Hispanic	1	1	1	0	0	3
Other	0	1	0	0	0	1
White	3	0	2	4	2	11
<b>Total</b>	<b>7</b>	<b>4</b>	<b>5</b>	<b>7</b>	<b>5</b>	<b>28</b>

O.C. Spray	2012	2013	2014	2015	2016	Total
Asian	0	0	0	1	0	1
Black	3	0	0	1	1	5
Hispanic	1	0	1	0	0	2
Other	0	0	0	0	0	0
White	3	0	0	2	1	6
<b>Total</b>	<b>7</b>	<b>0</b>	<b>1</b>	<b>4</b>	<b>2</b>	<b>14</b>

Projectile	2012	2013	2014	2015	2016	Total
Asian	0	0	0	0	0	0
Black	0	0	0	1	2	3
Hispanic	0	0	0	0	0	0
Other	0	0	0	0	0	0
White	0	1	0	0	0	1
<b>Total</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>4</b>

NOTE: There was one firearm discharge reported in 2012, but race data was missing, so it is not shown in this table.



**Table 1.** This table displays the number of reported uses of each force type, by race of the person subjected to force. In this table, a single force incident may be counted more than once, if multiple force types were used. As can be seen, the most common force type reported by BPD officers was hands-on. The next most frequent type of force reported by BPD officers was the baton, followed by OC spray.

As noted above (Figure 25), the White population of Berkeley is seven times larger than its Black population, but BPD officers reported more force incidents involving Black individuals than White ones. This pattern held true for the most common force type reported (hands on) and for projectile use: each of these force types were reportedly used more frequently on Black than White individuals. The numbers of reported use of batons (11 each) and OC spray (6 White, 5 Black) were roughly equal for Black and White persons.



For the purpose of our regression analysis, we combined incidents for subjects in Asian, Hispanic and Other racial categories into a larger Other category in order to form a group of comparable size to those of White and Black racial categories.

In order to assess the probability that people of different racial groups in Berkeley were subjected to force at equal rates, we geocoded use of force incidents and other data at the census-tract-level. We use census tracts as a rough approximation of neighborhoods, and consider whether neighborhood-level effects may account for any apparent racial differences in the per-capita rate of use of force incidents. We use a type of regression analysis—multi-level negative binomial regression modelling—to compare racial groups with and without controlling for tract-level factors. Use of force data were aggregated at the incident level (sometimes multiple types of force were recorded for the same incident). Of the 173 use of force incidents recorded within the City of Berkeley from 2012-2016, 161 contained race data as well as geolocation data that allowed for the incident to be located within one of the 54 census tracts within the City of Berkeley.

Typically, statistical significance tests and confidence interval calculations incorporate the likelihood that differences found in the observed data could be due to chance, based on an assumption that the data are randomly selected from a larger population. However, since the data in these analyses arise from police administrative records, they violate that assumption, and thus sample-based significance tests and confidence intervals have an imprecise meaning. Nevertheless, we use these calculations heuristically as a way to guard against accepting all associations as meaningful.

The overall aim of the regression analyses was to identify the degree to which the Black-White disparity in BPD use of force might be attributable to chance, or to characteristics of a neighborhood such as its poverty rate, its racial demographics, or its Part I crimes.<sup>8</sup> The following table summarizes the census tract data that was used in the regression models:

**Table 2. Census-Tract-Level Summary Information**

<u>Variable</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Average</u>	<u>Std Deviation</u>	<u>Variance</u>
Number of use of force incidents	0	26	3	5	20
Total population	1,414	8,448	3,473	1,314	178,181
Non-Hispanic Black population	0	2,305	377	480	230,441
Percent non-Hispanic Black	0	40	11	12	151

<sup>8</sup> For these regression analyses, the measure of Part I crimes was the number of Part I crimes recorded by BPD as having occurred in each census tract.



Non-Hispanic White population	567	3,484	1,840	703	493,891
"Other" racial category population	316	5,373	1,255	834	695,127
Number of Part 1 crimes (2012-2016)	0	4,335	544	770	593,061
Percent living below federal poverty level	0	57	16	13	166

**Table 2.** Typically, statistical significance tests and confidence interval calculations incorporate the likelihood that differences found in the observed data could be due to chance, based on an assumption that the data are randomly selected from a larger population. However, since the data in these analyses arise from police administrative records, they violate that assumption, and thus sample-based significance tests and confidence intervals have an imprecise meaning. Nevertheless, we use these calculations heuristically as a way to safeguard against accepting all associations as meaningful.

The five regression analyses that we conducted assessed the relationship between the Black-White disparity in use of force and the census tract characteristics described above. We conducted five statistical calculations, or “models,” to assess whether and how much certain variables affected the Black-White racial disparity. For each of the models presented, use of force incident rates for those in the Other racial category were not meaningfully different from those in the White category. The discussion of these analyses will therefore address the Black-White disparity only.

In sum, after controlling for local levels of crime, poverty, and neighborhood demographics, Black persons in Berkeley experienced BPD use of force at a rate about 12 times greater than for their White counterparts. This difference is not attributable to random chance, and is not explained by local levels of crime, poverty or resident racial composition.

The table below presents the results of five regression models. Model 1 uses only individual race as a predictor. Model 2 controls for the number of Part 1 crimes reported (2012-2016). Model 3 controls for the percentage of the tract living below the federal poverty level. Model 4 controls for the percentage of the tract population that is non-Hispanic Black. Model 5 includes all these controls.





**Table 3. Regression Model Results**

	Model 1	Model 2	Model 3	Model 4	Model 5
Parameter	Use of Force Incident Ratio (95% CI)	Use of Force Incident Ratio (95% CI)	Use of Force Incident Ratio (95% CI)	Use of Force Incident Ratio (95% CI)	Use of Force Incident Ratio (95% CI)
Racial Category					
Black	10.8** (6.4, 18.2)	10.5** (6.3, 17.4)	10.5** (6.2, 17.7)	12.3** (7.3, 20.8)	12.6** (7.6, 21.0)
Other	0.7 (0.4, 1.4)	0.7 (0.4, 1.2)	0.7 (0.4, 1.3)	0.8 (0.4, 1.4)	0.7 (0.4, 1.3)
White	1.0	1.0	1.0	1.0	1.0
Number of Part 1 Crimes, + 1 SD		2.4** (1.8, 3.2)			2.2** (1.7, 3.0)
Percent living below federal poverty level, +1 SD			1.7** (1.2, 2.6)		1.0 (0.7, 1.4)
Percent of population that is Black, +1 SD				0.5** (0.3, 0.8)	0.6** (0.4, 0.8)

\*\*p <0.01

CI = confidence interval; SD = standard deviation

**Model 1** finds that, controlling for the variation in use of force incident rates that is accounted for by members of different racial groups residing in the same census tracts, the Black resident population experienced 10.8 times the use of force incident rate as that of the White resident population. The greater rate of use of force incidents for Blacks is not likely to be due to chance.

**Model 2** controls for reports of Part 1 crime. This analysis only slightly attenuates the use of force incident rate ratios: after controlling for the rate of [arrests for/reports of] Part I crime in each neighborhood—that is, taking into account that Black people are disproportionately represented among persons arrested for Part I crimes—Black people remain 10.5 times more likely to be subjected to force than their White counterparts. While high-crime neighborhoods (tracts with Part I crime counts one standard deviation higher than average (representing 770 additional crimes) experienced larger numbers of force incidents, local crime rates explain very little of the Black-White racial disparity in BPD use of force. This finding is not likely to be due to chance.

**Model 3** controls for the percentage of the tract population living under the federal poverty level. Controlling for the neighborhood poverty rate only slightly attenuates the racial disparity observed at Model 1. High-poverty neighborhoods (population living under federal poverty level one standard deviation higher, or 13 percentage points greater) experienced more use of force incidents, but the poverty rate explains very little of the Black-White racial disparity in BPD use of force. This finding is not likely to be due to chance.

**Model 4** controls for the percentage of the tract population that was non-Hispanic Black. Controlling for the percentage of Black residents in a neighborhood *increased* the disparity



predicted by this model. Census tracts with a Black population percentage one standard deviation higher (12 percentage points) experienced, on average, half as many force incidents per person. Black neighborhoods had fewer use of force incidents per person, but the Black-White racial disparity in use of force incident rates is greater when the racial composition of neighborhoods is factored into the analysis. Controlling for neighborhood percentage Black resulted in a rate ratio for Blacks that is 12.3 times greater than that for Whites. This finding is not likely to be due to chance.

**Model 5** includes all of the statistical controls from Models 1-4 in the same model simultaneously. In this combined model, crime and the population percentage Black remain important predictors of use of force incident rates, but the percentage living in poverty was no longer significant. (Other analyses (available from authors) showed that the poverty effect seen in Model 3 was explained by the number of Part 1 crimes. In other words, neighborhoods with higher poverty levels had more frequent use of force incidents, but only because they had more Part 1 crimes.) Controlling for all three factors, Black persons were 12.6 times more likely than Whites to be subjected to BPD use of force.



## Appendix A.

**Table 4. Vehicle Stops Outside Berkeley, 2012-2016**

City	Asian	Black	Hispanic	Other	White	Total
Albany	7	32	18	17	62	136
Emeryville	25	322	65	36	120	568
Kensington (Contra Costa)	4	5	2	2	17	30
Oakland	72	1220	192	138	372	1994
Total	108	1579	277	193	571	2728

**Table 5. Pedestrian Stops Outside Berkeley, 2015-2016**

City	Asian	Black	Hispanic	Other	White	Missing	Total
Albany	0	1	0	0	4	0	5
Emeryville	0	3	0	0	1	1	5
Oakland	1	19	0	0	5	0	25
Kensington (Contra Costa)	0	0	0	1	0	0	1
Total	1	23	0	1	10	1	36

***To Achieve Fairness and Impartiality:  
Report and Recommendations from the  
Berkeley Police Review Commission***

Approved at the PRC's November 15, 2017 meeting

**Section 1. Introduction**

In 2014, in response to an upsurge in reports of unwarranted police killings and discriminatory practice, President Obama appointed a Task Force on 21<sup>st</sup> Century Policing to help mend and strengthen police-community relations. The Task Force's Final Report stated:

Recent events...have exposed rifts in the relationships between local police and the communities they protect and serve.... In establishing the task force, the President spoke of the distrust that exists between too many police departments and too many communities—the sense that in a country where our basic principle is equality under the law, too many individuals, particularly young people of color, do not feel as if they are being treated fairly....

These remarks underpin the philosophical foundation for the Task Force on 21st Century Policing: to build trust between citizens and their peace officers so that all components of a community are treating one another fairly and justly and are invested in maintaining public safety in an atmosphere of mutual respect.<sup>1</sup>

The community and the city government in Berkeley were deeply affected by the national conversation about race and policing. In City Council and town hall meetings, and in our civic commissions, residents met to discuss its implications for our own city.

This report by the City of Berkeley, California Police Review Commission (PRC) is a beginning examination of our own disparate treatment of civilians on a racial basis. Our starting place is the data about police-civilian encounters, available online at the Berkeley Police Department (BPD) website for stops beginning January 2015.<sup>2</sup> Several independent agencies have reviewed the data and discovered significant racial disparities in stop, search, and “yield rates” (the percentage of enforcement actions stemming from police stops), particularly between White civilians and African American and Latino civilians. These conclusions, from the police department's own data, are corroborated by anecdotal testimony collected by the PRC from a number of civilians of color.

The BPD engaged the Center for Policing Equity (CPE) to review the stop data from the year 2015. CPE reported in its draft interim report that:

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<sup>1</sup> [https://cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf)

<sup>2</sup> [https://www.cityofberkeley.info/Police/Home/Berkeley\\_PD\\_s\\_Stop\\_Data\\_Now\\_on\\_City\\_s\\_Open\\_Data\\_Portal.aspx](https://www.cityofberkeley.info/Police/Home/Berkeley_PD_s_Stop_Data_Now_on_City_s_Open_Data_Portal.aspx)

Although disparities declined over the time period measured, Black and Hispanic drivers, and Black pedestrians, remain much more likely to be stopped by police than their White counterparts. Moreover, BPD data indicated wide and unexplained racial disparities in search rates. Black and Hispanic drivers, in particular, were disproportionately likely to be stopped and searched without being arrested.

Meanwhile, although Asian drivers were less likely than White drivers to be stopped, they were five times more likely to be searched, and four times more likely to be arrested, at a stop. Furthermore, data with respect to stops and searches revealed wide variation in racial disparity among BPD beats. Finally, Black people were subjected to reported use of force at about six times the rate of Whites.

These disparities are largely unexplained, and warrant further investigation, in particular with respect to the charges filed against drivers of these racial groups.<sup>3</sup>

It is the PRC's goal in making this report to the City Council, the city manager, and the Berkeley community, to promote the development of trust between the police and communities of color. This trust, as with all relationships, can be built only on the basis of honest self-assessment.

The Commission recognizes the hard work that police officers do to keep the community secure, and the inherent risk that they take every time they report for work. We present this report in a positive spirit. Our analysis and recommendations are intended to ensure that all segments of the community have the same experience of policing.

The Commission contends that these statistics and anecdotal reports together raise urgent concerns regarding the progress of the department toward its goal of fair and impartial policing. We urge a sustained examination and remediation plan be launched without delay by the BPD in coordination with the PRC and city leaders. Our summary recommendations include:

- A. Data Collection and Analysis Enhancements
  1. Add specific data elements to those already tracked. Maintain and analyze demographic data. Enhance the current web display for readability.
  2. Report trends regularly to PRC and City Council. Report stop data by officer (stripped of identifying information).
  3. Hire a data manager/analyst.
  4. Enhance ability to correctly identify ethnicity of individuals.
  5. Report every use of force.
- B. Address racial disparities shown in the data
  1. Monitor stop, search, and enforcement/disposition outcomes across race.

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<sup>3</sup> [https://www.cityofberkeley.info/uploadedFiles/Police/Level\\_3\\_-\\_General/CPE%20Draft%20Report%2007142017\(2\).pdf](https://www.cityofberkeley.info/uploadedFiles/Police/Level_3_-_General/CPE%20Draft%20Report%2007142017(2).pdf)

2. Determine if disparities are generalized or reside in a subset of the department and develop effective mitigations including policy reviews, staff support, counseling and training, or other as appropriate.
  3. Work closely with PRC to develop mitigations and track progress.
  4. Develop early warning systems to minimize future problems of biased policing.
- C. Body Worn Cameras
1. Accelerate full deployment of body cameras.
  2. Use camera footage to train officers and evaluate policies.
- D. Other departmental steps
1. Partner with academic institutions.
  2. Increase support for officer wellness and safety.
  3. Strengthen informed consent procedures for search.
  4. Strengthen requirements for officers to identify themselves.
- E. Community relations
1. Prepare detailed action plan to build trust in and accessibility to the department, focused on communities of color.
  2. Consult and cooperate with the broader community to develop and implement policy and practice reforms.
  3. Increase positive community contact.

These recommendations are shown in more detail in Section 7, “PRC Policy and Practice Recommendations.”

## Section 2. Background

In March 2014, the Police Review Commission recommended that the City Manager adopt the proposed General Order B-4, Fair and Impartial Policing Policy. The policy was the product of over a year of discussion by the Berkeley Police Department and community stakeholders including the ACLU, NAACP, National Lawyers Guild, and Coalition for a Safe Berkeley.

In 2013, the PRC had formed a subcommittee to develop the policy, working closely with the Berkeley Police Department. The policy that resulted from that effort not only makes it clear the Department explicitly prohibits racial profiling and other biased policing; it also clarifies procedures in the limited circumstances in which the department can consider race, gender and other demographic information of individuals. California Penal Code Section 13519.4(f) also prohibits racial profiling by law enforcement officers. This General Order helps to implement that state law.

This Fair and Impartial Policing Policy was passed by the Berkeley City Council in June 2014 and went into effect in January 2015. The collection of vehicle, pedestrian, and bicyclist stop data began January 26, 2015 and the data was published on the BPD website beginning that summer.

Community groups (Berkeley NAACP, Berkeley Copwatch, ACLU—Berkeley/Northeast Bay, National Lawyers Guild—San Francisco Bay and UC Berkeley Black Student Union) analyzed the demographics of this stop data and published an initial report on September 29, 2015. The BPD at this same time opted to contract with the Center for Policing Equity (CPE) to analyze their stop data, and has made no apparent effort to study its own data and draw its independent conclusions from them. Nearly two years later in July 2017, the BPD, at the direction of the City Council, released a draft interim report from the CPE.<sup>4</sup> Each analysis showed what the community coalition called “stark racial disparities” of a similar scale, with the CPE, having access to professional data analysis tools and a larger base of data, able to explore the subject in greater depth.

BPD Chief Greenwood accompanied the CPE draft report with a five-page introduction. The Chief stresses the department’s compliance with law and policy against racial profiling, details the relevant training given to the officers, and takes issue with several aspects of the draft, many of them methodological. The department has yet to take a position on the meaning of the data: whether

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<sup>4</sup> A third review has been conducted by the independent company Police Strategies. The company conducted a preliminary analysis of 24,800 stops made by Berkeley PD officers from 2015 to 2016 using data obtained from the City of Berkeley’s Open Data Portal. Access the 5 dashboards here:

<https://public.tableau.com/profile/policestrategies#!/vizhome/BerkeleyPoliceDepartment-StopsAnalysis2/LocationTime>

(Click on “Stops by Race” for Police Strategies’ visual depiction of “Berkeley PD - Stops, Enforcement Action and Searches by Race of Subject.”)

the data show a pattern of disparity, what would cause that disparity, how to remediate the root cause.

The Police Review Commission's mandate, passed by the voters in 1973, states that:

The Commission established by this Ordinance shall have the following powers and duties: to review and make recommendations concerning all written and unwritten policies, practices, and procedures of whatever kind and without limitations, in relation to the Berkeley Police Department, other law enforcement agencies and intelligence and military agencies operating within the City of Berkeley, and law enforcement generally.

In 2016, the Commission voted to establish a Fair and Impartial Policing Subcommittee to conduct our own evaluation of the demographic data. This Commission is mandated by the electorate to provide the public, the City Council, and the city manager with advice from a Berkeley perspective.

Three years after the establishment of the Fair and Impartial Policing Policy, and two years after the release of the first batch of stop data, it is time to move forward on the issue of race and policing. It is toward that end that we respectfully submit this report to City leaders and the community.



## Section 3. BPD Demographic Data on Police Stops, 2015

### A. Overview

The Berkeley Police Department posts stop data that it collects pursuant to General Order B-4 (Fair and Impartial Policing) on the City's Open Data Portal.

The BPD overview can be found at <http://ci.berkeley.ca.us/police/>. The department's home page states:

In our desire to be open and accountable to our community, the Berkeley Police Department voluntarily collects and publicly shares demographic stop data. Collection of data can assist and contribute to the national policing discussion, focus our attention internally on implicit bias and increase trust by making policing in Berkeley more transparent to the community.

On January 26, 2015 the Berkeley Police Department began collecting information for all vehicle (including bicycles) and pedestrian detentions (up to five persons). This stop data is now available for public viewing on the City of Berkeley's Open Data Portal, which can be accessed at <https://data.cityofberkeley.info/Public-Safety/Stop-Data/6e9j-pj9p>. The police detention categories on the Open Data Portal are traffic, suspicious vehicles, pedestrian and bicycle stops. You will also find information on the incident number, date, time, location, and the demographic disposition listed in this data.

This data contains information on police contacts between January 26, 2015 through the present. The Berkeley Police Department will be updating this information approximately every 60 days.

### B. Structure of the data

The following data items are reflected for each traffic, pedestrian, and bicycle stop. See Appendix 1 for more detailed description of each data item.

Line number

1. Incident number
2. Call date/time
3. Location
4. Incident type (traffic, pedestrian, etc.)
5. Dispositions (race, gender, age range, reason for stop, enforcement action, search/no search)

The data can be downloaded into MS-Excel or other formats for analysis.

### C. Race-related analysis of the data

1. Methodology: Technical information.

The Police Review Commission, along with several community organizations, spent significant time analyzing the data posted on the BPD website, and drafted

a report detailing the conclusions that we drew from it. In July 2017, when the Center for Policing Equity released its draft interim report, we found that it covered much of the same ground and came to generally the same conclusions as had the PRC. For the sake of clarity and simplicity, we decided to take the CPE report as our starting point. This means that this PRC report will focus primarily on stop data from 2015, and we will give our feedback on the analysis and recommendations contained in the CPE report.

We found the BPD database to be very difficult to navigate, and we will share what we learned so that others have an easier time learning from the data.

In order to produce useful results, certain rows of data must be set aside as they do not provide racial, gender, or age demographics.<sup>5</sup>

Of the 11,808 rows of data supplied by the BPD for 2015, 10,060 usable rows remain after rows without demographics are discarded, meaning that almost 15% of the data cannot be used for this analysis.

Also, in some cases, the standard six characters occur two to five times in one row. This occurs when more than one civilian is encountered in one stop. This occurrence is fairly rare, taking place in only 2.5% of the usable data rows (250). Up to this point we have analyzed only the first individual described in a row.

## 2. Methodology: the designation of “Race.”

- See Appendix 2 for a brief discussion of the methodological issues of race that the Commission considered. These include the reality that the lens through which race is viewed in the data is the police officer’s perception, and concerns raised in our discussion about opportunities for improvement in the racial categories used by the department.

## 3. Racial disaggregation of BPD stop data.

Disaggregation is defined as separation of a mass of data into its component parts, specifically into racial or ethnic categories.

The 2015 Agreement between the BPD and the CPE calls for data analysis on “12-months’ worth of pedestrian and vehicle stops using BPD’s current data collection practices.” This scope of study is reflected in this report from the PRC. The CPE report, however, adds several other areas of study including vehicle stops from 2012 through 2014, use of force data from 2012 through 2016, and crime data from 2012 through 2015.<sup>6</sup> This additional data cannot be analyzed by the PRC because the department has not shared it with the commission. The data given to the CPE should be given immediately to the PRC, as the civic commission responsible for advising the City on law enforcement and criminal

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<sup>5</sup> As indicated by the department’s explanation of Disposition data above, “additional dispositions may also appear,” such as P, M, AR, 000000, etc. In cases where only these additional characters are present, and there is no Race designator, the row cannot be used for racial demographics, and we discarded it for this purpose.

<sup>6</sup> [https://www.cityofberkeley.info/uploadedFiles/Police/Level\\_3\\_-\\_General/CPE%20Draft%20Report%2007142017\(2\).pdf](https://www.cityofberkeley.info/uploadedFiles/Police/Level_3_-_General/CPE%20Draft%20Report%2007142017(2).pdf), p. 10.

justice.

The BPD website provides raw, unanalyzed data, with racial designations provided for each civilian contact, but no breakdown giving subtotals by “race.” In order to look for patterns of racial treatment of various ethnicities, it is important to calculate the racial breakdown for the following aspects of the data.

- a) Percentages of civilians stopped, for each racial group, compared to the total of all stops.
- b) Percentage of civilians who are stopped from each racial group, whose stop results in arrest or citation, shown in the BPD data as enforcement. This ratio is known as the “yield rate” or “hit rate” of a stop, or of a search. In this report we will use the term “yield.”
- c) Percentages of civilians who are stopped from each racial group, who are then subject to a search.

The rest of this report section discusses the CPE report on these three aspects.

- a) Vehicle and pedestrian stops.

The CPE finds evidence for a strong racial disparity between vehicle stops of African American and white subjects:

Here, a strong disparity is evident. In an average quarter, 36% of traffic stops involve a Black subject, while only 34% involve a White subject. While these figures are not wildly different, 55% of the Berkeley population is White while only 10% is Black, meaning that a Black driver is nearly six times more likely to be pulled over than a White driver.

Disparities are also evident with respect to Hispanic drivers: they represent 12% of the stops performed by the department, while they make up approximately 11% of the population, a stop rate nearly double that of Whites.<sup>7</sup>

Similarly, for pedestrian stops:

Most pedestrian stops involved either White or Black pedestrians. In 2015, stops of White or Black pedestrians accounted for approximately 82% of all pedestrian stops: 50% were of White pedestrians and 32% were of Black pedestrians. This, however, is out of step with the demographic makeup of Berkeley: although only one in every 10 Berkeley residents is Black, nearly one third of pedestrian stops involved a Black subject.

Relative to population, Black pedestrians were about 3.5 times more likely than Whites to be stopped by police. Hispanics were slightly less likely than Whites and much less likely than Blacks to be stopped by police while on foot.<sup>8</sup>

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<sup>7</sup> CPE report, figures 1a and 1b, pp. 14-15.

<sup>8</sup> CPE report, figures 7b, 8, pp. 22-23.

A note on “residency”:

The Chief has raised concerns about certain assumptions in the CPE report regarding residency, including:

- Discussion of use of force relies on census data, rather than an examination of suspect demographics. Many arrestees are not Berkeley residents.
- The use of the word “resident” is used even though the data does not contain residency information. Berkeley is an active city, with non-residents—and very often non-resident offenders—coming through town at all times, day or night.
- In several instances, community demographics are relied upon in making predictions... this—like labelling everyone BPD contacts, “residents”—can be extremely misleading. (CPE report, Chief’s introduction, pp. 4-5)

PRC comment:

It is true that Berkeley has open borders and people go in and out of the city both day and night.

The PRC’s evaluation is that while CPE uses the word resident loosely, the report does examine the issue of residency extensively. For example:

It is important to recall, though, that the people present in Berkeley at any given time may come from other parts of the Bay Area (or of the state, or of the world), whose demographics may be different from those of Berkeley proper. Thus people who are stopped by police in Berkeley may not necessarily be residents of Berkeley. In the data we have, there is no way to ascertain whether the people who were stopped, searched, or upon whom force was used, were or were not Berkeley residents....

At this time, though, there is no way to control for this effect or to benchmark the effective representation of each racial group in the city. As a result, census-based comparisons are essential, but should be viewed with caution. (CPE report, pp. 13-14)

To be clear, the size of the Black or African American population of Berkeley has continued to decrease, to 7.4%. (Source: City of Berkeley Public Health Director, Office of Epidemiology and Vital Statistics, U.S Census Bureau) This trend is also clear in Alameda County as a whole, with a Black population of 11.6% in 2016, while Contra Costa’s Black population was 9.6% in 2016 , and in the Bay Area was 6% in 2013 (Sources: <https://www.census.gov/quickfacts/fact/table/alamedacountycalifornia/PST045216>, <https://www.census.gov/quickfacts/fact/table/contracostacountycalifornia/PST045216>, <http://reports.abag.ca.gov/sotr/2015/section3-changing-population.php>).

The idea, therefore, that the daytime population of Berkeley is skewed by an influx of African American outsiders, potentially explaining the plurality of stops being conducted on Black motorists, is without merit. This explanation could only be sustained if vastly larger numbers of Black people visit Berkeley compared to White people. Given employment and academic patterns in Berkeley, this is clearly not taking place. The commission remains concerned about this striking disparity in the race of those stopped by Berkeley police.

## b) Yield rate.

The most revealing statistic is not the stop rate by race, but the yield rate by race. Again, this is the percentage of civilians who are stopped from each racial group, whose stop results in arrest or citation. Too low a yield rate suggests that a population may be getting stopped without reasonable suspicion or searched without probable cause. The yield rate, when viewed on a large data base such as this one, is a truer test than the stop rate of whether stops are being made without racial bias. This is because focusing on the yield removes the variable of rates of crime in different population groups.

Here is how CPE explains the significance of the yield rate, which they call the “hit rate:”

This analysis examines the outcomes of stops once they occur. If officers stop and search all drivers at the same level of suspicion, regardless of race, then arrest rates—the rate at which stops and searches uncover illegal activity—should be similar for each racial group. Where the arrest rate for one racial group is lower than for another group, it suggests that the group with the lower hit rate is being stopped and searched for lesser reason (i.e., at a lower level of suspicion) than a group with a higher hit rate: that is, members of that group are more likely to be stopped while they engaged in no unlawful conduct.

Hit rates can also be used to assess the efficiency of policing resource allocation: to the extent that searches of a particular group are frequent but yield a low hit rate, officers’ time and attention is being spent on behavior that fails to detect or deter criminal activity.<sup>9</sup>

The CPE’s evaluation of the 2015 data shows that few of the African Americans stopped by police – less than a quarter (22%) – and only 30% of Latinos, were arrested or cited during a stop, while 44% of white civilians were arrested or cited. These statistics indicate a significant racial disparity in yield rate (a two-to-one gap between Black and White).

Unfortunately, the meaning of this disparity is not made clear in the CPE report. The problem is that the report’s analysis focuses entirely on the rate of arrests, which are admittedly few (256, or 5.6% of enforcement activity), and overlooks the rate of citations, the overwhelming majority of the enforcement activity (4306, or 94.4%). The only standout in the arrest data is the 4% rate for Asian-Americans; all other groups cluster around 1%. But the disparity in citations indicates that, in CPE’s words, African Americans and Latinos are “being stopped and searched for lesser reason (i.e., at a lower level of suspicion); that is, members of that group are more likely to be stopped while they engaged in no unlawful conduct.”

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<sup>9</sup> CPE report, pp. 31-32.

## c) Search rate.

The greatest disparities appear with regard to who is searched. CPE states:

While the overall percentage of stops resulting in a search remained steady at around 10% for the general population, this graph shows that Black and Hispanic drivers are much more likely to be searched than are drivers of other races. Once pulled over, Black drivers are about five times more likely to be searched than White drivers, while Hispanic drivers are about 2.5 times more likely.<sup>10</sup>

For pedestrians, the CPE reports that:

In 2015, 14% of Whites who were stopped on foot were searched. Pedestrian search rates for every minority group were close to double the White pedestrian search rate. 25% of Blacks and 26% of Asians were searched at pedestrian stops, while 30% of Hispanic pedestrians who were stopped were searched.<sup>11</sup>

PRC agrees with CPE [and BPD verbally] that BPD should capture and share data on seizure of contraband so that it can be included in calculation of search yield rate.

#### D. Conclusions

According to the CPE's analysis of data from 2013 and 2014, which the BPD has not shared with the PRC, some disparities have lessened in 2015 and 2016. If these indications are accurate, that is a positive development, and we would like to know if it was due to action by the department or was perhaps circumstantial. Since PRC does not have access to the older data, the use of force data, or the crime data, it is impossible for us to verify the improvement independently. And the disparities remain far too high, as the CPE points out: for example, even after a reported decline of 40% in search disparities from 2013 to 2015, "Hispanic drivers were searched at roughly double the White rate, and Black drivers were pulled over at more than three times the White rate."<sup>12</sup>

The following conclusion contained in the CPE report would be good for this community to absorb:

[A] major takeaway of this analysis is that the wide racial disparities observed in BPD stops, searches, arrests and use of force combine to create an experience of policing for Black and Hispanic individuals in Berkeley that is quantitatively different from the experience of Whites.

Compared to Whites and Asians in Berkeley, Black and Hispanic people are much more likely to be stopped and searched by BPD

<sup>10</sup> CPE report, figure 3b and Table 4, pp. 17-18.

<sup>11</sup> CPE report, figures 9b, 10 and 13b, and Tables 11 and 12, pp. 25-28.

<sup>12</sup> CPE report, p. 44.

officers without being charged with any criminal offense. Because they are stopped and searched at higher rates (but arrested at the same rate per stop), Black and Hispanic individuals are much more likely to be arrested than Whites. BPD use of force reports indicate that Black individuals are six times more likely than Whites to experience police use of force.<sup>13</sup>

Civil rights activists in Berkeley have long pointed to the existence of “two Berkeleys” in the realm of law enforcement. These statistics confirm the anecdotal stories told by many African Americans about over-policing and the perception of policing that is not “fair and impartial”—whether intentionally or not. The numbers tell a story that the majority community simply does not see.

A finding of systemic or institutional racial disparities does not necessarily presume bias on the part of any individual officer. This demographic analysis is simply a beginning point for our mission to address racial disparities. The intent of the Police Review Commission is to work together with the police department and city and community leaders toward truly fair and impartial policing.

#### E. Additional notes

BPD provided this explanation of the difference between an Enforcement Action of “Other” as opposed to “Warning.” According to the Berkeley police, “Other” could mean “proves not so,” meaning that there was a suspicion that, on investigation, turned out to be incorrect, with therefore no reason for a warning; or that the civilian fled, leaving no ability for the officer to deliver a warning.

Further data analysis could be conducted on the BPD-released data, including a demographic examination of yield from searches by racial group based on the enforcement data; stop and search disparity by gender and age; and the subject of multiple civilians stopped and searched in one incident.

Data points that should be considered for addition beyond those already provided by BPD include: use of handcuffs, contraband yield rate from searches; beat or neighborhood; BPD unit; and a marker for the reporting officer that does not lead to disclosure of his or her identity, but assists in tracking a pattern of disparate behavior.

Regarding use of force, PRC did not analyze this aspect because we were not provided the relevant data by BPD. CPE states:

There were more reported use of force incidents for Black residents of Berkeley than there were for White residents. The per-capita use-of-force rate for Black residents was 65.2 per 10,000, while that for White residents was only 11.0 per 10,000, suggesting that Black residents were about six times more likely to be subject to use of force.<sup>14</sup>

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<sup>13</sup> CPE report, p. 45.

<sup>14</sup> CPE report, figure 14b, p. 30.

CPE states further that since BPD does not require officers report use of physical force “unless the officer uses a weapon, the subject was injured, or the subject complains. As a result, incidents of physical force not involving a weapon are not comprehensively reported or tracked by BPD, and are not reflected” in the CPE tables showing quarterly use of force counts. The Chief’s statement that “in 2016, our officers handled over 78,000 incidents, conducted over 3,200 arrests, and issued over 5,600 citations... and reported only 32 uses of force (use of a weapon, leaving a visible injury, or where the arrestee complained of pain)” is therefore disingenuous. We agree with the CPE’s call to begin data collection of all use-of-force incidents, as other departments do both nationally and regionally.



## Section 4. Anecdotal Reports From Community Members

The incidents listed below give substance to the impersonal data reflected in the previous section. While these accounts have not been litigated, and reflect personal views of the incidents, they bring an important civilian perspective of law enforcement as experienced by communities of color in Berkeley. The issues reflected in this section include racial discrimination and insensitivity, failure to de-escalate, arrest without probable cause, discourtesy, and improper police procedure.

All mentions of “police” refer to BPD officers.

1. 2/2/2014 - 6:30 p.m. An African American vendor at Ashby Flea Market noted an officer on a bicycle outside a fence. The vendor approached the officer asking if there was a problem. The officer explained she was arresting another person for public intoxication. The vendor noted to the officer that he knew the man and verified that he was harmless. The intoxicated man had in the meantime put a backpack in the vendor’s truck. The officer approached the vendor in a loud voice that she needed to search his truck. As she was removing the backpack, other officers approached the vendor from behind and forcibly wrestled him to the ground. At no time did the officers explain their actions. The vendor was arrested, taken to the police station, booked and put into a holding cell. He was never read his rights and was eventually told he was arrested for raising his voice.
2. 5/2/2014 - 10:15 p.m. A group of 3-4 African Americans were stopped by police for jay-walking in front of the high school. The situation got heated as the detainees protested the stop and four police cars arrived on the scene. Two detainees were arrested. A Caucasian couple had crossed prior to this group and were not stopped by police.
3. 5/15/2014. A group of African American UC students were walking to UC down Dwight Way. They jaywalked across Dwight. A police car spotted them and approached the group to stop to talk to the students but the group continued on. The police then pursued the group. The testimony from witnesses and the group was that the police were unduly harsh and rough with them. One or two were arrested and some members of the group filed a suit against police for harsh treatment.
4. 9/28/2014. A racially-mixed family was having pizza at Bobby G’s on University. Another diner called police saying that the mixed couple were “abusing their child by drinking beer and wine in front of their child.” Two police cars arrived with lights flashing. The owner attested that the family were regulars, and were minding their own business watching a football game. Police interrogated the African American father for one hour in a hallway at the restaurant.
5. 11/2014. A mother came to an NAACP meeting to lodge a complaint. Her son takes BART to SF to attend school at CCSF. Many times on his way

- between home and Ashby BART, an unmarked police car rolls up and asks her son if he is on parole and other harassing questions such as “where are you going?” and “where do you live?” etc.
6. 11/1/2014, afternoon. In the 3200 block of Sacramento St. a Berkeley Copwatch member witnessed three BPD officers stop a vehicle with 3 African American men. All men were handcuffed and searched and the vehicle was searched but no arrest was made or citation issued.
  7. 1/2/2015. An African American minister was stopped for driving without headlights. Without issuing a ticket or warning the officer proceeded to question the minister with “where are you coming from?” and “did you take anything?” (repeatedly). Then the officer proceeded to administer a sobriety check. After all of this, they sent the minister on his way.
  8. 1/13/2015. ACLU received a statement from a witness who observed a low-speed car accident involving two vehicles at approximately 10 a.m. According to the witness, the African American driver of the vehicle that was hit was casually talking to a Caucasian officer when he was “slammed onto the police car” and placed under arrest. Also, a non-consent search was made of the arrestee’s vehicle. When the witness asked the arresting officer why the need for escalation she was told the African American driver was resisting arrest. When the driver of the other car involved in the accident and several other witnesses expressed concern how the young man was treated they received no clear answers. No statements were taken.
  9. 2/23/2015. An African American resident getting off his bicycle in front of his house in South Berkeley was approached by two officers and asked where he was going. Additionally, this person was stopped another evening and asked if he was a parolee.
  10. 7/23/2015. An African American retired city worker made a legal left turn on San Pablo onto Dwight Way eastward. A police car then followed the resident to his home a few blocks up Dwight. The police car pulled into his driveway behind him and asked where he had been and why did he stop here. His wife came out and asked why they were questioning her husband. The answer she received was “mistaken identity.” The officers got in their car and drove off.
  11. 9/19/2015. An African American man, a security guard in uniform with a licensed gun, was talking with a Caucasian female on the corner of Bonar and Allston Way after a ceremony at the Berkeley Youth Association. A Caucasian man drove by, parked the car, got out and started videotaping the couple. The African American man asked the driver to stop videotaping. The man answered that it was his right to do so and started making statements such as “don’t bring a gun into my neighborhood.” After a heated back-and-forth, the driver called the police. Eight cars arrived. The lead officer reviewed the credentials of the African-American man, was satisfied and departed. One of the remaining officers stayed and

- continue to ask the same questions for another 15 minutes. The African American security guard registered that he felt he was “unduly questioned” and was being “badgered.”
12. 9/20/2015. A vehicle was stopped on Sacramento at Fairview at 8:21p.m. for driving without headlights. Two officers approached the vehicle. There was one African American man and two African American women in the car. The driver was removed from the car and handcuffed. The two women were made to stand against the wall on the sidewalk. The vehicle was searched. Another police vehicle pulled up and talked to the officers. Shortly thereafter the persons were released without arrest or citation. A Public Records Act request was filed by NAACP on this incident and the response from BPD was that there was no information on this stop.
  13. 9/21/2015. A witness observed an auto parked on Sacramento Street with four under-30 African American men. A police vehicle drove up and stopped at the parked car. Two officers got out and one officer asked all four in the parked car to step out. Each African American man was searched and the parked car was searched. No police action was taken. The officer in charge issued this warning before driving off: “We are watching you.”
  14. Approximately 11/20/2015. A young Latino PRC member went on a ride-along with a BPD commander on his duty shift. He recounted “racially biased behavior from some officers” and “prejudiced comments about communities of color” during the ride and in the station.
  15. 2016. The owners of “44 Restaurant and Lounge” lodged a complaint with NAACP and police. During happy hour to 8 p.m. the guests that frequent the bar are a racially mixed crowd. After 8 p.m. the guests are predominantly African American. After a minor complaint to police from a resident, the police parked a car with lights off across the street from the establishment for a period of four months. “44” has no history of rowdiness or spillover from bar patrons onto the sidewalk or the street. The bar down the street, Nick’s Lounge, has spillover into the street almost every night. The owners of “44” and the NAACP observed there is no police presence at Nick’s.

## Section 5. Literature Review and Related Reports

This section of the report presents an overview of three recent reports on policing policies and practices along with some of the findings of each report. More detailed information about the reports and their findings is shown in Appendix 3 to this report. The three reports are:

- The President’s Task Force on 21<sup>st</sup> Century Policing completed in May 2015
- A study of Oakland Police Department’s (OPD) policies and practices by Stanford University completed in June 2016
- The Interim Report by the Center for Policing Equity (CPE) on the Berkeley Police Department (BPD) released in July 2017

These studies provide insight and recommendations on policing policies, practices and related stop and use of force data, and analysis by ethnic group. The information and insights from these studies were used, in part, by the PRC in developing its recommendations to the City Council.

### President’s Task Force on 21<sup>st</sup> Century Policing Report

This was a national study involving law enforcement, the community, and other diverse stakeholders done to advise the president of the United States on key issues that should be addressed to improve policing nationwide.

The members of the Task Force on 21<sup>st</sup> Century Policing set forth many recommendations designed to bring long-term improvements to the ways in which law enforcement agencies interact with and bring positive change to their communities.

### The Stanford Study on OPD

This study was a cooperative effort between Stanford researchers and OPD which initiated the study. It was an exhaustive and comprehensive two-year study undertaken commissioned by Oakland to analyze and improve its policing policies and practices. It was completed in June 2016.

The Stanford research on thousands of police interactions found significant racial differences in Oakland police conduct toward African Americans and other groups in traffic and pedestrian stops, and offers a data-driven approach to improving police-community relationships there and elsewhere.

The report makes 50 specific recommendations for police agencies to consider, such as more expansive data collection and more focused efforts to change the nature of mindsets, policies and systems in law enforcement that contribute to racial disparities.

### The Interim CPE Report on BPD

This interim report was released in July 2017. Further work will be needed over the next few months to provide a more comprehensive, final report. In the

meantime, the PRC has reviewed the CPE data and recommendations and included our analysis and recommendations in this report.

Some important points excerpted from the interim CPE report follow:

The report presents analyses of BPD traffic stops and searches for calendar years 2012 through 2015, pedestrian stops for calendar year 2015, and officers' use of force for calendar years 2012 through 2016. For all these analyses, we isolate race and ethnicity, exploring differences in practices and modeling outcomes of interest while controlling for competing factors, such as place specific crime rates. The raw data point to disparate treatment of Berkeley citizens based on race and ethnicity in vehicle stops and in use of force. While neighborhood variations in crime rates explain some of these disparities, some racial disparities remain after controlling for crime and other nonracial factors. After adjusting for community-level demographic differences, Black and Hispanic drivers remain exposed to higher stop rates than White drivers, and Black individuals remain much more likely to experience use of force.

BPD's data collection with respect to use of force is not comprehensive. When its officers use force, BPD does not necessarily require its officers to complete a Use of Force report. Unlike many other departments, BPD requires that use of force incidents be reported only if a weapon is used, the person is injured, or the person files a complaint. As a result, CPE was unable to report any findings with respect to racial disparities in unreported use of force incidents. CPE encouraged BPD to begin data collection of all use-of-force incidents.

Many questions about these disparities remain unanswered, but could be addressed through more complete data collection and by further empirical investigation using more detailed geolocation data and more nuanced statistical analysis than can be provided in this interim report. Several such opportunities are identified in this report and its recommendations.

The interim CPE report makes 11 recommendations, which are shown in Appendix 3 to this report.

### **BPD's Initial Response to the CPE Report**

BPD's initial response and comments on the CPE report, dated July 14, 2017, were included as a cover letter to the interim CPE report that was submitted to the City Council. The comments point out accomplishments by the BPD, BPD's history of commitment to policing without racial profiling, the need for more dialog with CPE to insure all the data is clear and correct in the CPE report, and outlines the significant training that has been done in the department around these issues and policies that have been adopted, some of which are noted in the section below.

## Section 6. BPD Initiatives to Address Impartial Policing Issues

BPD has been gathering more comprehensive stop, detention and arrest data since at least 2012, and since 2015 has given the community access to the data via BPD's website. This was a good first step, but it's clear from the interim CPE report that other data including additional use of force data should be added to the database.

In the last several years BPD indicates it has increased its training program related to impartial policing as follows:

- Leveraging Differences for a Competitive Advantage –This City-wide course was designed to understand a business case for diversity, how perception impacts team effectiveness, how differences in communication styles can impact the workplace, and tools for improving effectiveness. 2017
- Fair and Impartial Policing – BPD In-House training, Multiple Workshops spanning 2010-2016
- Tactical De-escalation – BPD In-House Training, 2016
- Crisis Intervention Training – 37-hour class (over 40% have attended thus far; we send officers whenever a class is offered) 2011-present
- Crisis Intervention Training – 8 Hour training 2016
- POST Biased-based Policing – 2014

BPD indicates it has also adopted several general orders and policies related to fair and impartial policing including those below.

- General Order B-4, Fair and Impartial Policing,

Reaffirms the commitment of the Berkeley Police Department to fair and impartial policing; to clarify the circumstances in which officers can consider race, ethnicity and other demographics; and to reinforce procedures that serve to assure the public that we are providing service and enforcing laws in an equitable way.

- Police Regulation 282 Non-discrimination/Equal Employment

Mandates employees to be fair and equitable in all their relations with citizens. Harassment on the basis of race, color, religion, ancestry, national origin, age, sex, et al. shall not be tolerated.

- Police Regulation 257 Enforcement of Laws – Impartiality

Mandates that employees shall enforce laws in a fair and impartial manner.

## Section 7. PRC Policy and Practice Recommendations

As indicated in this report, the PRC has reviewed fair and impartial policing reports and recommendations from: the Center for Policing Equity (CPE) draft report on BPD, the Stanford Study on Oakland policing, and 21<sup>st</sup> Century Policing (a Federal Dept. of Justice report). These four reports contain over 100 recommendations to improve policing. The PRC has also reviewed and analyzed the stop data that has been gathered by BPD over the last two years. Using all of this information, the PRC has agreed upon the following recommendations to the Berkeley City Council:

### A. Data Collection and Analysis.

1. BPD should add the additional data to that already being collected on traffic, bicycle, and pedestrian stops, within three months:
  - a. Police use of force in the encounter (firearm, weapon, physical, less-lethal, OC, other, None)?
  - b. Were handcuffs used in the encounter?
  - c. Were civilians frisked/pat-searched?
  - d. Was contraband found?
  - e. Beat/neighborhood, and BPD unit

BPD should collect, maintain, and analyze demographic data on all detentions (stops, frisks, searches, summons, and arrests) and provide public access to the information. (Also recommended in 21<sup>st</sup> Century Policing.)

Each column in the BPD spreadsheet should contain a separate and distinct field of data. Currently the "Dispositions" column contains multiple fields of data (race, gender, disposition, etc.). This makes the analysis and sorting of information very difficult. There should be a separate Race column, Gender column, etc.

2. BPD should prepare an initial report to the PRC and City Council within six months analyzing all stop data since January 2016, and quarterly thereafter. BPD should work with the PRC to aggregate and present all stop data in a way that can easily be understood by all stakeholders on an ongoing basis.
  - Make data accessible using a stop data dashboard; automate data analysis; hire a data manager/analyst. (Also recommended by Stanford OPD study.) In addition, the City should hire or engage a third party to review the data and report to the Council and PRC semiannually.

The department should provide basic graphs and charts on its website that summarize the data in a clear and meaningful way.

Such visual aids will provide much greater access to information on recent stop trends than would a database alone.<sup>15</sup>

BPD's report to PRC should include stop data by officer, including the number of years of BPD experience of the officer, stripped of identifying information, in a form that can be aggregated to show a historical pattern.

3. More work needs to be done to correctly identify the ethnicity of individuals during a stop so that stop data is accurately represented.<sup>16</sup>
4. Change the use of force data capture protocol to register every use of force by BPD officers, regardless of weapon use, injury or complaint. (Also recommended by CPE.)

#### B. Addressing racial disparities shown in the data.

BPD should develop a specific action plan to counteract the racial disparities addressed in this report. The action plan should be in writing, and be regularly updated with strategies, results and actions taken to remedy any inequities or problems, and be reported to the PRC and Council in the quarterly report referenced above. The report should indicate what the department found and what it did to address problems, along with any indication of policies or orders that drove any disparate behavior. The core of the action plan should be as follows:

1. BPD shall monitor search and disposition outcomes across race, and arrest and disposition outcomes associated with use of force. Review data evidence of racial disparities with regard to stops, searches, yield ratio between stops and citations/arrests, yield ratio between searches and contraband confiscated, use of force, use of excessive force. Analyze data about charges filed based on vehicle, bicycle, and pedestrian stops. (Also recommended by CPE.)

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<sup>15</sup> The following charts are examples to consider from the Richmond Police Department:  
<https://opendata.ci.richmond.ca.us/Public-Safety/Reasons-for-Use-of-Force-Pie-Chart-/9wzz-ghyd>

<https://opendata.ci.richmond.ca.us/Public-Safety/Use-of-Force-Incidents-Since-2013-by-Call-Type/dkxh-c5yr>

<https://opendata.ci.richmond.ca.us/Public-Safety/Type-of-Force-Used-by-Officers/2mmb-56w6>

See also the Police Strategies website cited above in the Background section.

<sup>16</sup> We suggest this list, drawn from the 2010 US Census and influenced by the projected 2020 Census questions.

1. Latino or Hispanic origin
2. Black, African-American, African, Afro-Caribbean, Afro-Latino
3. White or European origin
4. American Indian/Alaska Native
5. "AMEMSA" (Arab/Middle Eastern/Muslim/South Asian)
6. Other Asian/Pacific Islander origin
7. Other or unknown

<http://www.pewresearch.org/fact-tank/2014/03/14/u-s-census-looking-at-big-changes-in-how-it-asks-about-race-and-ethnicity/>



2. Analyze data to determine whether the disparities are generalized across the force, or are concentrated in a smaller subset of outlier officers or squads/groups of officers. (The Stanford study defines outlier officers as “officers who are at risk of developing problematic behaviors or who have already done so.”) With respect to individual officers, set thresholds to identify outliers, such as those with a yield rate below the mean.
  3. Where disparities are concentrated in a subset of officers, initiate investigation to determine the cause for the disparity. Evaluate and assess search incidents for legality. Evaluate whether there are identifiable causes contributing to high search rates and high or low recovery rates exhibited by outlying officers. Determine if there are any trends and patterns among officers with low and high recovery rates.<sup>17</sup>
  4. Where disparities are generalized across the force, review policies and practices to determine the institutional cause for the disparity.
    - Review policies on handcuffing people in searches, searching people who are on probation or parole, and asking people whether they are on probation or parole. (Also recommended by Stanford OPD study.)
  5. Intervention is initially non-disciplinary, focused on training and counseling.<sup>18</sup> If a yield or other problem is identified for a squad and/or beat, train the supervisor as well as the officer.
    - Identify officers who may have problems; monitor and reduce time pressures, stress and fatigue on officers. (Also recommended by Stanford OPD study.)
    - Also: Improve feedback channels. Give officers individualized feedback on their stop performance. Conduct customer-service audits after routine stops. Regularly administer community surveys.
  6. As part of the quarterly report, BPD should detail what steps it has taken to address problems, along with any indication of policies or orders that drove any disparate behavior.
  7. Develop an "early warning" systems to head off future problems of bias. (Also recommended by Stanford OPD study.)
- C. Body cameras.
1. Accelerate procurement and full rollout of body cameras to all BPD officers. Immediately provide a project plan with timeline for rollout.

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<sup>17</sup> For example, did searches that do not show an investigative nexus, or an additional reason for search other than probation or parole status, result in a different level of recovery?

<sup>18</sup> Per the 21<sup>st</sup> Century report, review of certain episodes including those that may be “within policy but disastrous in terms of community relations...will have a better chance of success if departments can abandon the process of adversarial/punitive-based discipline, adopting instead ‘education-based’ disciplinary procedures and policies.” Page 23.

- Use body camera footage to train officers and evaluate policies; require officers to self-audit racially charged footage. (Also recommended by Stanford OPD study.)

D. Other departmental steps.

1. BPD should engage/partner with academic institutions for advice in ongoing impartial policing studies and strategies, such as the African American Studies Department at UC Berkeley.
2. The wellness and safety of law enforcement officers is critical not only for the officers, their colleagues, and their agencies but also to public safety. Policies should be put in place to support and properly implement officer wellness and safety programs. (Also recommended in 21<sup>st</sup> Century Policing.)
3. Law enforcement officers should be required to seek consent before a search and explain that a person has the right to refuse consent when there is no warrant or probable cause. Furthermore, officers should ideally obtain written acknowledgement that they have sought consent to a search in these circumstances. (Also recommended by Stanford OPD study.)
4. Law enforcement officers should be required to identify themselves by their full name, rank, and command (as applicable) and provide that information in writing to individuals they have stopped. In addition, policies should require officers to state the reason for the stop and the reason for the search if one is conducted. (Also recommended by Stanford OPD study.)

E. Community relations.

1. BPD and PRC prepare within six months a detailed action plan to build community relationships, trust in and accessibility to the department, especially addressing communities of color and immigrant communities and high crime areas.
2. BPD consult and cooperate with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values. (Also recommended by CPE.)
3. Increase positive community contact. Hold monthly relationship-building meetings. Show more care in high-crime areas. Develop and track measures of community engagement. (Also recommended by Stanford OPD study.)

## Section 8. Conclusion

In the words of the National Institute of Justice,

Racial and ethnic minority perceptions that the police lack lawfulness and legitimacy, based largely on their interactions with the police, can lead to distrust of the police. Distrust of police has serious consequences. It undermines the legitimacy of law enforcement, and without legitimacy police lose their ability and authority to function effectively.<sup>19</sup>

On the other hand, law enforcement based on concepts of Procedural Justice,<sup>20</sup> Principled Policing,<sup>21</sup> and Reconciliation<sup>22</sup> can build legitimacy and trust in the police, directly enhancing public safety. Four pillars of procedural justice include:

- (1) *voice* (the perception that your side of the story has been heard);
- (2) *respect* (perception that system players treat you with dignity and respect);
- (3) *neutrality* (perception that the decision-making process is unbiased and trustworthy);
- (4) *understanding* (comprehension of the process and how decisions are made).

The recommendations that the Police Review Commission makes in this Report are designed to be positive, constructive, and non-judgmental. They are intended as an aid to the police department and the city leadership to understand the concerns arising from both the department's data and the anecdotal community testimony.

The Commission appreciates the willingness of the community members who served as members of the Fair and Impartial Policing Subcommittee, and others who gave testimony to the Subcommittee. We thank the PRC staff and community and academic partners, including the Center for Policing Equity and others, for your support for this initiative.

We also thank the Berkeley Police Department – both its management and officers – for their perspective and expertise in local policing policies and practices. The PRC intends to continue proactively cooperating with BPD to help effect positive change in policing practices in Berkeley and to support BPD to become a national leader in fair and impartial policing strategies and policies.

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<sup>19</sup> "Race, Trust and Police Legitimacy," National Institute of Justice, <https://www.nij.gov/topics/law-enforcement/legitimacy/Pages/welcome.aspx>

<sup>20</sup> T. R. Tyler, *Why People Obey the Law*. (New Haven, CT: Yale University Press, 1990). See also "The Case for Procedural Justice: Fairness as a Crime Prevention Tool," Community Policing Dispatch (COPS Newsletter), [https://cops.usdoj.gov/html/dispatch/09-2013/fairness\\_as\\_a\\_crime\\_prevention\\_tool.asp](https://cops.usdoj.gov/html/dispatch/09-2013/fairness_as_a_crime_prevention_tool.asp)

<sup>21</sup> <https://uploads.trustandjustice.org/misc/ChiefJOnesPrincipledArticle.pdf>

<sup>22</sup> <https://trustandjustice.org/resources/intervention/reconciliation>

## Appendix 1. Structure of BPD Demographic Data

Descriptions for each data item appear in the Information button at the top of each column on the web page.

Data Item	BPD description	Details
6. Line number	N/A	
7. Incident number	Created by BPD Computer Aided Dispatch system.	
8. Call date/time	Date and time of the incident	
9. Location	General location of the incident/stop	
10. Incident type	This is the occurred incident type created in the CAD program. A code signifies a:	
		Traffic stop (T)
		Suspicious vehicle stop (1196)
		Pedestrian stop (1194)
		Bicycle stop (1194B)
11. Dispositions	Ordered in the following sequence:	
		1st Character = Race, as follows: A (Asian) B (Black) H (Hispanic) O (Other) W (White)
		2nd Character = Gender, as follows: F (Female) M (Male)
		3rd Character = Age Range, as follows: 1 (Less than 18) 2 (18-29) 3 (30-39), 4 (Greater than 40)
		4th Character = Reason, as follows: I (Investigation) T (Traffic) R (Reasonable Suspicion) K (Probation/Parole) W (Wanted)
		5th Character = Enforcement, as follows: A (Arrest) C (Citation) O (Other) W (Warning)
		6th Character = Car Search, as follows: S (Search) N (No Search)

		<p>Additional dispositions may also appear. They are:</p> <ul style="list-style-type: none"><li>P - Primary case report</li><li>M - MDT narrative only</li><li>AR - Arrest report only (no case report submitted)</li><li>IN - Incident report</li><li>FC - Field Card</li><li>CO - Collision investigation report</li><li>MH - Emergency Psychiatric Evaluation</li><li>TOW - Impounded vehicle</li><li>0 or 00000 – Officer made a stop of more than five persons</li></ul>
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## Appendix 2. Concept and Methodology of the Designation of Race

- Social scientists understand the concept of race itself to be a social construct and to be scientifically invalid. We discuss race only to understand human attitudes and patterns of identity and discrimination and oppression. It stands in for other factors such as ethnicity, nationality, religion, color, etc.
- The designation of race in the stop-data refers to the officer's perception of the civilian's "race," not to the civilian's self-identity, nor even to the civilian's "true race." This is because the critical question in the encounter between the two is what is in the mind of the officer; that is, does the officer believe he or she is encountering a Black, White, Latino, Asian, or other person?
  - The officer is expected to give a true report on his or her perception of the civilian's "race."
- Subcommittee members raised other methodological questions about the racial designation, including:
  - A policy complaint was submitted in 2015 by an African gentleman whose race was denoted as "Other" by a BPD officer. The category of "Black" should include people of African and Afro-Caribbean descent. The concern is that the number of Black people stopped and searched may be under-counted.
  - "Asian" is so broad a term as to be useless and is somewhat offensive. The population of Asia itself is some 4.3 billion people, 60% of humanity. It should be possible for officers to determine a somewhat finer breakdown.
  - Add "AMEMSA" (Arab/Middle Eastern/Muslim/South Asian) or some variant.
  - The term "Latino" is arguably more appropriate than "Hispanic," which some Latinos perceive as offensive.

### **Appendix 3. Details of Literature Review and Related Reports**

This appendix presents a review of three recent reports on policing policies and practices along with some of the overview findings of each report. The three reports are:

- The President’s Task Force on 21<sup>st</sup> Century Policing completed in May 2015
- A study of Oakland Police Department’s (OPD) policies and practices by Stanford University completed in June 2016
- The Interim Report by the Center for Policing Equity (CPE) on the Berkeley Police Department (BPD) released in July 2017

These studies provide insight and recommendations on policing policies, practices and related stop and use of force data, and analysis by ethnic group.

#### President’s Task Force on 21<sup>st</sup> Century Policing Report

This was a national study involving law enforcement, the community, and other diverse stakeholders done to advise the president of the United States on key issues that should be addressed to improve policing nationwide. The report’s findings are summarized as follows:

- Building trust and nurturing legitimacy on both sides of the police/citizen divide is the foundational principle underlying the nature of relations between law enforcement agencies and the communities they serve.
- Police must carry out their responsibilities according to established policies and those policies must reflect community values. To achieve this end, law enforcement agencies should have clear and comprehensive policies on the use of force (including training on the importance of de-escalation), mass demonstrations (including the appropriate use of equipment, particularly rifles and armored personnel carriers), consent before searches, gender identification, racial profiling, and performance measures – among others such as external and independent investigations and prosecutions of officer-involved shootings and other use of force situations and in-custody deaths. These policies should also include provisions for the collection of demographic data on all parties involved. All policies and aggregate data should be made publicly available to ensure transparency.
- The use of technology can improve policing practices and build community trust and legitimacy, but its implementation must be built on a defined policy framework with its purposes and goals clearly delineated and must set expectations for transparency, accountability, and privacy.
- The report emphasizes the importance of community policing as a guiding philosophy for all stakeholders. Community policing emphasizes working

with neighborhood residents to co-produce public safety. Law enforcement agencies should, therefore, work with community residents to identify problems and collaborate on implementing solutions that produce meaningful results for the community.

- Today's line officers and leaders must be trained and capable to address a wide variety of challenges including international terrorism, evolving technologies, rising immigration, changing laws, new cultural mores, and a growing mental health crisis. To ensure the high quality and effectiveness of training and education, law enforcement agencies should engage community members, particularly those with special expertise, in the training process and provide leadership training to all personnel throughout their careers.
- The wellness and safety of law enforcement officers is critical not only for the officers, their colleagues, and their agencies but also to public safety. Policies should be put in place to support and properly implement officer wellness and safety programs.

The members of the Task Force on 21st Century Policing set forth many recommendations designed to bring long-term improvements to the ways in which law enforcement agencies interact with and bring positive change to their communities. These recommendations are used as insights for the PRC recommendations herein.

#### The Stanford Study on OPD

This study was a cooperative effort between Stanford researchers and Oakland's Police Department, which initiated the study. It was a comprehensive two-year study undertaken by Oakland to analyze and improve its policing policies and practices. It was completed in June 2016.

Across the United States, the report noted, police agencies are guided by the commitment to serve communities with fairness, respect and honor. Yet tensions between police and communities of color are documented to be at an all-time high.

The Stanford research examined data from body camera footage, police stops and reports, and community and resident surveys of thousands of Oakland police interactions. It found significant racial differences in Oakland police conduct toward African Americans and other groups in traffic and pedestrian stops, and offers a data-driven approach to improving police-community relationships there and elsewhere.

The report makes 50 specific recommendations for police agencies to consider, such as more expansive data collection and more focused efforts to change the nature of mindsets, policies and systems in law enforcement that contribute to racial disparities.



The study analyzed traffic stop data from police body cameras that occurred between April 1, 2013, and April 30, 2014. During this period, 28,119 traffic and pedestrian stops were recorded by 510 police officers. Police can legally stop people on the basis of traffic violations, probable cause, reasonable suspicion, or for being on probation or parole, among other reasons.

They found that 60 percent of police stops in Oakland, or nearly 17,000 stops, were made of African Americans. This rate is more than three times that of the next most common group, Hispanics (whites accounted for 13 percent). The research also showed that:

- When officers report being able to identify the race of the person before stopping them, the person stopped is much more likely to be African American (62 percent) than when officers couldn't tell the race (48 percent).
- African American men were more likely to be handcuffed during a stop (1 out of 4 times) than whites (1 out of 15 times), excluding arrests.
- African American men were also more likely to be searched (1 in 5 times vs. 1 in 20 times for whites), though officers were no more likely to make a recovery from those searches.
- African American men were more likely to be arrested after a stop by police –1 in every 6 vs. 1 in 14 for white men.

Also, 77 percent of Oakland police officers who made stops during the 13-month period never discretionarily searched a white person, but 65 percent did so with an African American person.

Likewise, 74 percent of these officers did not handcuff a white person who was not ultimately arrested, yet 72 percent did so with an African American person. Also, the degree of racial disparities in handcuffing and arrests was lower for more experienced officers than less experienced ones.

The researchers point out that racial disparities are not defined as overt racism – in fact, they found no such acts by Oakland police officers while conducting the study. It is not so much an individual as an institutional problem or pattern, they note. They found a consistent and persistent pattern of racial disparity, even when data was controlled for variables such as crime rate. They said that drilling deep into the data allowed the researchers to identify problem areas and evidence-based recommendations.

The researchers suggest that police departments in Oakland and elsewhere can overcome a subtle bias problem. Using better data, providing education and becoming informed are the first steps.

The report had many specific recommendations that are used herein by the PRC for BPD where applicable.

### The Interim CPE Report on BPD

This interim draft was released in July 2017. Further work will be needed over the next few months to provide a more comprehensive report. In the meantime, the PRC has reviewed the data and recommendations and included our analysis and recommendations in this report. A summary of the CPE report findings and recommendations are shown below.

According to CPE the aim of this interim report is to begin to provide the Berkeley Police Department a powerful tool toward identifying and reducing biases, and improving community-police relations. It is intended as a preliminary guide toward options for ensuring equity in public safety. Too often, law enforcement data have been captured with an eye towards accounting or litigation, without leveraging the data to optimize performance. This report is designed to help fill that gap, providing straightforward statistical answers to some of the most pressing questions facing BPD and other law enforcement agencies.

The Center for Policing Equity aims to address the needs of both law enforcement and communities, who can avail themselves of the CPE's National Justice Database (NJD). The NJD collects policing data to measure fairness and improve policing equity, and to make its findings transparent to law enforcement and to communities. NJD's analysis applies a rigorous analytic framework to make sense of policing data, seeking to identify and understand the consequences of policing activities and the sources of racial disparity. In this research brief, empirical documentation is presented of the degree of racial and ethnic disparities in BPD's policing practices, as well as possible interpretations of such differences. While the results are mixed, the NJD analysis reveals encouraging findings and heartening trends. It also flags questions and disparities that warrant further investigation and reform.

The BPD's collection of vehicle stop data has been quite comprehensive; researchers were able to analyze data from vehicle stops between January 2012 and October 2015. The BPD began documenting pedestrian stops in January 2015. As a result, this report was prepared with the only year of data that was available. We encourage the BPD to continue its collection of vehicle and pedestrian stop data so that more powerful analyses can be conducted on a larger dataset representing multiple years of BPD practice.

However, BPD's data collection with respect to use of force is not comprehensive. When its officers use force, BPD does not necessarily require its officers to complete a Use of Force report. Unlike many other departments, BPD requires that use of force incidents be reported only if a weapon is used, the person is injured, or the person files a complaint. As a result, CPE was unable to report any findings with respect to racial disparities in unreported use of force incidents. CPE encouraged BPD to begin data collection of all use-of-force incidents.

CPE's findings are summarized as follows:

The pages that follow present analyses of BPD traffic stops and searches for calendar years 2012 through 2015, pedestrian stops for calendar year 2015, and officers' use of force for calendar years 2012 through 2016. For all these analyses, we isolate race and ethnicity, exploring differences in practices and modeling outcomes of interest while controlling for competing factors, such as place specific crime rates. The raw data point to disparate treatment of Berkeley citizens based on race and ethnicity in vehicle stops and in use of force. While neighborhood variations in crime rates explain some of these disparities, some racial disparities remain after controlling for crime and other nonracial factors. After adjusting for community-level demographic differences, Black and Hispanic drivers remain exposed to higher stop rates than White drivers, and Black individuals remain much more likely to experience use of force.

Other results of this interim analysis offer reasons for concern and opportunities for further investigation and reform. Although disparities declined over the time period measured, Black and Hispanic drivers, and Black pedestrians, remain much more likely to be stopped by police than their White counterparts. Moreover, BPD data indicated wide and unexplained racial disparities in search rates. Black and Hispanic drivers, in particular, were disproportionately likely to be stopped and searched without being arrested. Meanwhile, although Asian drivers were less likely than White drivers to be stopped, they were five times more likely to be searched, and four times more likely to be arrested, at a stop. Furthermore, data with respect to stops and searches revealed wide variation in racial disparity among BPD beats. Finally, Black people were subjected to reported use of force at about six times the rate of Whites. These disparities are largely unexplained, and warrant further investigation, in particular with respect to the charges filed against drivers of these racial groups.

This report's analysis and explanation of observed racial disparities in BPD policing data is limited by the data BPD has shared with researchers, and by the time available for data analysis and reporting. Many questions about these disparities remain unanswered, but could be addressed through more complete data collection and by further empirical investigation using more detailed geolocation data and more nuanced statistical analysis than can be provided in this interim report. Several such opportunities are identified in this report and its recommendations.

CPE's report presented 11 specific recommendations as follows:

1. We recommend changing the use of force data capture protocol to register every use of force by BPD officers, regardless of weapon use, injury or complaint.
2. We recommend that BPD monitor search and disposition outcomes across race, and arrest and disposition outcomes associated with use of force. In particular, BPD should collect and share data with respect to contraband found during vehicle or pedestrian searches, and that it analyze data about charges filed at vehicle and pedestrian stops.

3. We recommend that BPD track and analyze whether law enforcement actions are officer-initiated, or respond to calls for service.
4. We recommend that BPD affirm that the egalitarian values of their officers are visible in the work they do.
5. We recommend that BPD consult and cooperate with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values.
6. We recommend BPD track hit rates and monitor patrol deployments, using efficient and equitable deployment as a metric of supervisory success.
7. We recommend that BPD track crime trends with neighborhood demographics in order to ensure that response rates are proportional to crime rates.
8. We recommend that BPD engage in scenario-based training on the importance of procedural justice and the psychological roots of disparate treatment in order to promote the adoption of procedural justice throughout the organization, and to protect officers from the negative consequences of concerns that they will appear racist.
9. We recommend that trainings include clear messaging that group-based hierarchy is not consistent with the values of BPD.
10. We recommend that value-based evaluations of supervisors be developed to curb the possible influence of social dominance orientation on the mission of the department.
11. We recommend leveraging the existing community advisory board to help review relevant areas of the general orders manual and provide a more integrated set of policies with clear accountability and institutional resources. While not an exhaustive list of possible solutions to the issues raised in this report, these 11 recommendations represent straightforward first steps towards addressing each of them.

The PRC's analysis of the CPE report and related recommendations are presented elsewhere in this report.

Racial Disparities in Berkeley Policing  
Explanation of Statistical Methodology  
George Lippman  
January 30, 2020

This note will explain the methodology behind the analysis that the PRC and other groups have conducted regarding racial disparities in Berkeley policing. It is my goal to clarify what are the conclusions that can be drawn from the data, and how we have come to these conclusions.

This note draws on the charts submitted by Pita Oxholm that describe the department's data from 2015 to 2018.

I. Disparities in stop rates by race.

The CPE report in early 2018, and Ms. Oxholm's recent update to it, raised the issue of a disparity between the racial breakdown of police stops and the racial demographics of the city. Ms. Oxholm's data in the chart marked "Stops per 1,000 by Race and Year" cover the four years from 2015 through 2018. They show an average disparity between the rate of Black and White stops, compared to their percentage in the population, of over 6 to 1. In the most recent year, 2018, the disparity rose to 7.5 to 1.

These figures are reliable as they are based on the data available on the department's data portal and the U.S. census data. They are similar to those in the CPE report<sup>1</sup> and the 2017 PRC report.<sup>2</sup>

Concerns have been raised about the relevance of this demographic metric. Chief Greenwood said in an earlier critique of the CPE report that "Berkeley is an active city, with non-residents—and very often non-resident offenders—coming through town at all times, day or night."

It is true that Berkeley is not a gated community. People come in and go out at will. There is, however, no evidence that African Americans in particular are coming into the City in disproportionate numbers. Furthermore, Alameda County figures show that the County's African American population was 10.1% at the end of 2018, not much higher than Berkeley's. For the Bay Area, the African American population is even lower than Berkeley's, about 6%. The argument that non-residents skew the numbers has very limited merit.<sup>3</sup> Comparison of

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<sup>1</sup> "The Science of Justice," Center for Policing Equity, May 2018, [https://www.cityofberkeley.info/uploadedFiles/Police\\_Review\\_Commission/Commissions/2018/Berkeley%20Report%20-%20May%202018.pdf](https://www.cityofberkeley.info/uploadedFiles/Police_Review_Commission/Commissions/2018/Berkeley%20Report%20-%20May%202018.pdf)

<sup>2</sup> "To Achieve Fairness and Impartiality," Berkeley Police Review Commission, November 2017, [https://www.cityofberkeley.info/uploadedFiles/Police\\_Review\\_Commission/Level\\_3\\_-\\_General/FAIR%20%20IMPARTIAL%20POLICING%20REPORT%20final.pdf](https://www.cityofberkeley.info/uploadedFiles/Police_Review_Commission/Level_3_-_General/FAIR%20%20IMPARTIAL%20POLICING%20REPORT%20final.pdf)

<sup>3</sup> For comparison purposes I ran a calculation using Berkeley stop numbers and Alameda County population numbers, and found that even though the County has 31% White residents and the City has 55%, there remains an

stop data to the demographics of the city is how racial disparity statistics are developed everywhere across the country. One can never tell, with any precision, how many people are in a city at any time.

The importance of the stop disparity does not lie in the exact ratios. It lies rather in the huge scale of the disparity. It is comparable to the figures that toppled the regime of stop-and-frisk in New York City for which Mike Bloomberg belatedly just apologized. According to the ACLU, under Mayor Bloomberg's tenure,

In 2011, New York City police officers stopped a record 685,724 civilians. A [report](#) published by the New York Civil Liberties Union (NYCLU) found that 87 percent of those stopped were African American and Latino. Arguably the most disturbing part of the NYCLU report was that NYPD officers stopped 168,126 Black men between the ages of 14 and 24, exceeding the total population of young Black men (158,406) living in New York City.<sup>4</sup>

This gross disparity was enough to open the eyes of New Yorkers to call for an end to the practice, and the six-to-one demographic disparity in Berkeley's African American stops should cause us to take seriously what the data on yield and search show, below.

a. Comparison to OPD data on stops

In my paper titled "Key things to understand about the BPD stop data," I stated:

Berkeley's stop rate for African Americans is over three times greater than Oakland's. Annually, African Americans are stopped by police according to BPD records at a rate of 32.7%. This calculation is based on a reported stop total of 3,083 stops of African Americans compared to a total of 10,331 African American Berkeley residents. In Oakland, the corresponding stop rate is 10.4%. This is based on a stop total of 10,874 compared to a total of 104,310 African American Oakland residents.

That data is published in a study by the OPD.<sup>5</sup> What's significant about the 3 to 1 disparity between Oakland and Berkeley is that Oakland was able, in just one year, to reduce the number of stops of African Americans by 43%, without an increase in crime. The OPD study explains how this reduction was accomplished:<sup>6</sup>

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almost 3 to 1 disparity in stop rates by race. Empirical evidence does not support the assumption of an average rate of 69% people of color in Berkeley at any time of the day.

<sup>4</sup> <https://civilrights.org/edfund/resource/does-overzealous-use-of-stop-frisk-in-nyc-explain-lower-crime-rates/>

<sup>5</sup> "2016-2018 Racial Impact Report," OPD, Table 1, page 8, <https://cao-94612.s3.amazonaws.com/documents/OPD-Racial-Impact-Report-2016-2018-Final-16Apr19.pdf>

<sup>6</sup> Ibid, page 3

Risk management meetings and their resulting discussions and deliverables have caused meaningful shifts toward precision-based policing and intelligence-led stops.

- Preliminary results show a reduction of stops which are commonly based upon vehicle violations near or within high crime areas.
- Preliminary results have shown that reductions in stop activity have caused the proportion of intelligence-led stops to increase. From 2017 to December 19, 2018, the overall percentage of intelligence-led stops increased from 27% to 31%)
- The reduction in footprint helps to reduce the overall number of minorities being stopped by police and can help reduce disparity in police contact. From 2017- December 19, 2018, there was a 43% reduction in the total number of African Americans stops from 19,185 to 10,874 stops and a 35% reduction in the total number of Hispanic stops from 6,855 to 4,483 stops.

## II. Disparities in “yield” data.

The data on yield, or outcomes, are the most critical of all. Note that the word “yield” may have multiple meanings. We are using the PRC’s definition of the word, which is the ratio between stops and enforcement actions, which are overwhelmingly citations. In Ms. Oxholm’s updated document, the data is reflected in “Stops with Citation, no Arrest by Race.” Such stops constitute 24% of African American stops, 33% of Latino stops, and 44% of White stops (similar to those of Asians and Other). Recall that a reasonable suspicion of involvement in criminal activity is required for a police stop.<sup>7</sup>

These figures are stable over the years studied. They are critical because they show the chances of civilians of different ethnic groups to be stopped by police in Berkeley with no ensuing need for enforcement action. The yield metric removes the need for consideration of residency. It also removes need for consideration of the demographics of crime. That is to say, those who argue for race to play a larger role in the decision to make police stops contend that people of color commit crime at higher rates than White people. Without delving into the merits of that contention, this disparity in yield shows that Black people are nearly twice as likely compared to Whites to be stopped under conditions where either a) there was no reasonable suspicion, or b) that suspicion was unfounded.

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<sup>7</sup> [https://en.wikipedia.org/wiki/Terry\\_stop](https://en.wikipedia.org/wiki/Terry_stop)

In numerical terms, of the 3,083 stops of African Americans in 2018, some 78% of them, or 2,426 people, were stopped with no enforcement required,. That is a huge number and a burden that demands serious investigation. In comparison, only 1,600 Whites were stopped with no enforcement.

These numbers are not the end of the discussion, but the beginning. Particularly the stop and the yield disparities require us to delve deeper. The City government should investigate how the decision to make a stop is made. Are the disparate stops being made by a subset of the street officers or across the board? Do stops that are officer-initiated versus dispatched result in different levels of disparity? Are there certain officers who make proportionately more stops of African Americans and Latinos than other officers do? How can those outlier officers be identified?

Answers to these questions will give the working group and the department the tools to ensure that policing is conducted fairly and impartially.

### III. Disparities in search data.

Black civilians who are stopped are searched at a much higher rate than Whites: 3 to 1. Latinos again are in between, with a 2 to 1 ratio compared to Whites. See Ms. Oxholm's chart "Percentage of stops Resulting in Search by Race." The department needs to explain why so many more people of color are searched during a stop than White people.

\*

In conclusion, the data described above compel the Working Group to develop an action plan that will achieve the following goals:

- Identify officers that are outliers in their practice of stopping, searching, and yield, and appropriate train and manage them.
- Adopt programs such as precision-based policing and intelligence-led stops to heavily reduce stops, particularly of African Americans and Latinos.
- Reduce racial disparities in yield rates as defined in this paper as close to zero as possible.
- Ensure that all use of force is reported.



## Key Points - BPD "Stop Data."

George Lippman

December 6, 2019

*Analytical process.*

The data comes from records that the BPD has published online since the beginning of 2015. Those records can be found, filtered, and downloaded at the BPD data portal:

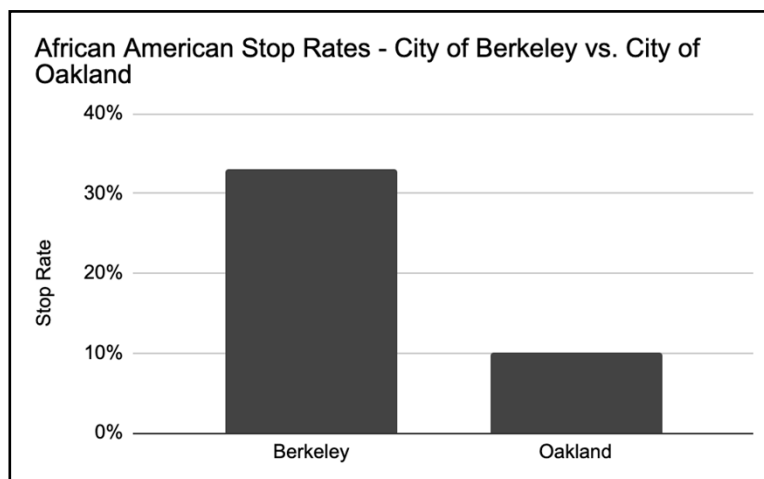
<https://data.cityofberkeley.info/Public-Safety/Berkeley-PD-Stop-Data/6e9j-pj9p>

Records are kept on stops of vehicles, pedestrians, and bicyclists. Use of force data is kept separately and is not reflected in this database. The source for use of force data is the report from the CPE, which received it from the BPD.

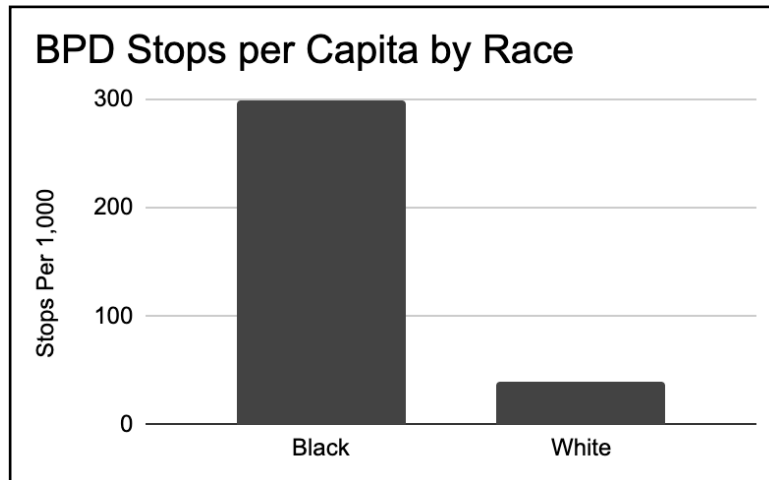
The process followed in this analysis was to examine a subset of the records. The analysis uses the last full year (2018) for simplicity. The number of raw records, or rows, was 9,500. About 10%, or 1,100 records were discarded for the analysis because they did not show the race of the civilian stopped. Where multiple civilians were affected by a stop, this analysis uses the race of the first civilian listed.

*Conclusions from the data.*

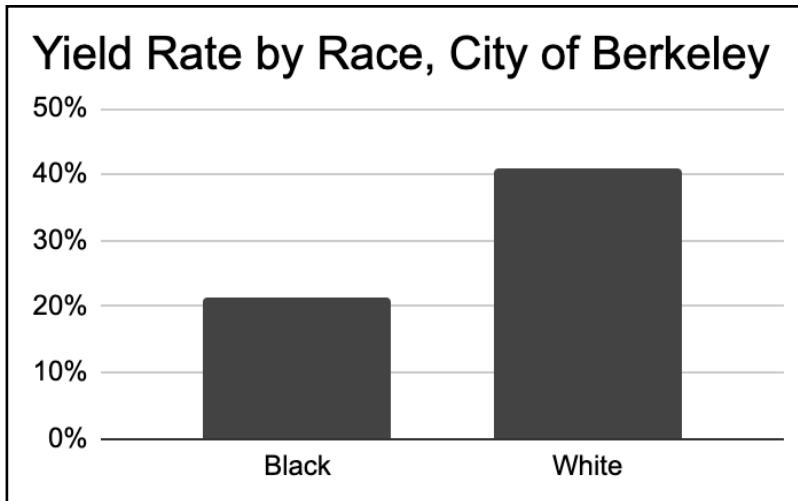
1. **Berkeley's stop rate for African Americans is over three times greater than Oakland's.** Annually, African Americans are stopped by police according to BPD records at a rate of 32.7%. This calculation is based on a reported stop total of 3,083 stops of African Americans compared to a total of 10,331 African American Berkeley residents. In Oakland, a comparable city in terms of stop data, the corresponding stop rate is 10.4%. This is based on a stop total of 10,784 compared to a total of 104,310 African American Oakland residents.



2. **The CPE report, commissioned by the BPD, concluded, “Although the Berkeley population is about 56% white and 8% Black, BPD stopped a greater number of Black drivers than White drivers.”** In 2018, 3,083 African Americans were stopped out of 8,390 reported BPD stops, or 40.3% of all stops. White civilians were stopped 2,716 times, or 32.4% of all stops. As the CPE report states, “Using population as a benchmark, Black drivers were much more likely than White drivers to be stopped by BPD.” Based on the 2018 data, Black people are fully 8.7 times more likely than Whites to be stopped.



3. **African Americans are stopped almost twice as often as Whites in circumstances that do not warrant enforcement action.** The PRC report used the word “yield” to refer to the ratio between stops and enforcement actions, either citations or arrests, not in the alternate meaning of contraband found in a search. In 2018, a total 3,083 African American stops yielded 657 enforcement actions. This equates to a yield rate of 21.3%. The same year, 2,716 White stops yielded 1,116 enforcement actions, a yield rate of 41.1%. This is a disparity of 1.9 times. The low yield rate for African Americans means that almost twice as often as Whites, they are stopped in circumstances that do not warrant enforcement action.



Other information can be extracted from the same database, including disparities in search rates, Latino-White disparities, and more. These topics are covered in depth in both the PRC and CPE reports.

Note this passage from the CPE report regarding stop data in particular.

BPD policing data must be understood in context: In Berkeley, as in any other police department, it cannot be assumed that all the persons with whom the department's officers interact are necessarily residents of the jurisdiction served by BPD, nor of the neighborhood in which an encounter takes place. Nonetheless, jurisdiction-wide and neighborhood demographics provide the best available benchmarks for sketching the demographic outlines of the population from which people who interact with police are drawn.

Racial Disparities in Berkeley Policing  
Update on Pandemic Period, March 15 to June 12, 2020  
George Lippman  
June 19, 2020

As of June 12, the BPD resumed publication of demographic stop data to the online open portal, after a break since July 31, 2019. See: <https://data.cityofberkeley.info/Public-Safety/Berkeley-PD-Stop-Data-NEW-/4tbf-3yt8>

The following conclusions can be drawn from the data representing the first 13 weeks of the pandemic shutdown, from March 15 through June 12.

1. Predictably, the number of police stops for all racial groups is down due to the stay-home order. The total number of stops, 608, is about a fourth of an average 13-week quarter in 2008.
2. *The disparity between stops of African American and White civilians has skyrocketed*, as is evident from the raw numbers: African American stops are exactly 50% of total 608 stops at **304**, with White stops at **143** for 23.52% of all stops. This compares to percentages of 3,083 and 2,706, or 28% and 32% respectively in the year 2018.
3. Taking into account the *low number of African Americans* residing in Berkeley, the *disparities come into sharp relief*. African American stops are about 42.7 per 1,000 of their population, where White stops are about 2.9 per 1,000, a disparity of **14.5 to 1**. This compares to a disparity of 7.6 to 1 in 2018, meaning that **the racial disparity in stops has almost doubled** between 2018 and the pandemic period.
4. The citations per stop are down by about two-thirds compared to that of 2018. While that might sound like good news, that is not necessarily the case. A reduced rate of writing citations likely means that civilians of all races are being stopped without the required reasonable suspicion of criminal activity. What's more, **the citation rate for African American civilian stops is 7.57% and for Whites, 15.38%, a disparity of over two to one**. That disparity indicates that only half as many African American stops as White stops are conducted with valid suspicion of a criminal act. The citation rate of 7.5% for African Americans raises questions about why the other 92.5% were stopped.

An overall risk in this pandemic is that the social and legal emergency undermines democratic norms such as transparency, civilian oversight, and adherence to constitutional principle and established process. The doubling of the already high disparity of Black and White stop rates is an indicator that equal treatment under the law (Fourteenth Amendment) has been shelved in practice.

Suspension of oversight bodies such as the PRC and the Fair and Impartial Policing Working Group--and proposals to permanently defund city commissions--and the failure to publish the required stop data, all while residents are not allowed to freely travel outdoors in the city, are also troubling; they bar the community from utilizing the "disinfectant effects of sunshine."

In the attached spreadsheet, see the first tab, or sheet (“BPD Raw Data\_3-16 to 6-12-20”) for the full listing of police encounters in that period. At the bottom of this tab please find a chart summarizing the calculations on numbers and percentages of stops, and numbers, percentages, and racial disparities in enforcement outcomes (citations and arrests). Contact me directly for calculations used to quantify disparities in stops based on the population by race in Berkeley.

<b>Ethnicity</b>	<b>Stopped</b>	<b>% of total</b>	<b>Cited</b>	<b>% of stops resulting in citation</b>	<b>Arrest</b>	<b>% of stops resulting in arrest</b>
Asian	29	4.77%	6	20.69%	0	0.00%
Black	304	<b>50.00%</b>	23	<b>7.57%</b>	8	<b>2.63%</b>
Hispanic/Latino	88	14.47%	9	10.23%	4	4.55%
White	143	<b>23.52%</b>	22	<b>15.38%</b>	7	<b>4.90%</b>
Bad data	1	0.16%	0	0.00%	0	0.00%
Other	43	7.07%	11	25.58%	0	0.00%
TOTALS:	608	100.00%	71	11.68%	19	3.13%

George Lippman  
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For context on the citation rate disparities, I refer to my presentation to the Mayor’s Fair and Impartial Policing Working Group from January 2020, “Key things to understand about the BPD stop data.” That presentation refers to data from the year 2012-2018.

The citation rate discrepancies are stable over the years studied. They are critical because they show the chances of civilians of different ethnic groups to be stopped by police in Berkeley with no ensuing need for enforcement action. The citation rate metric removes the need for consideration of residency. It also removes any need for consideration of the demographics of crime. Those who argue for allowing police officers to put more weight on a civilian’s race in their decision to stop them, contend that people of color commit crime at higher rates than White people. But this disparity in post-stop enforcement shows that Black people are twice more likely than Whites to be stopped where there either was no reasonable suspicion, or that suspicion was unfounded.

These numbers are not the end of the discussion, but the beginning. Particularly the stop and the citation rate disparities require us to delve deeper. The City government should investigate how the decision to make a stop is made. Are the disparate stops being made by a subset of the street officers or across the board? Do stops that are officer-initiated versus dispatched result in different levels of disparity? Are there certain officers who make proportionately more stops of African Americans and Latinos than other officers do? How can those outlier officers be identified?

Answers to these questions will give the Working Group and the department the tools to ensure that policing is conducted fairly and impartially.

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In conclusion, the data described above compel the Working Group to develop an action plan that will achieve the following goals:

- Identify officers that are outliers in their practice of stopping, searching, and citation-writing, and appropriately train and manage them.
- We cannot make poorly performing officers take the entire responsibility for the disparities. We have to also look at who their commanders are, what direction the officers are getting from those commanders, and what action these commanders are taking to address the performance of these officers.
- Adopt programs such as precision-based policing and intelligence-led stops to heavily reduce stops, particularly of African Americans and Latinos.
- Reduce racial disparities in citation rates as defined in this paper as close to zero as possible.
- Ensure that all use of force is reported.

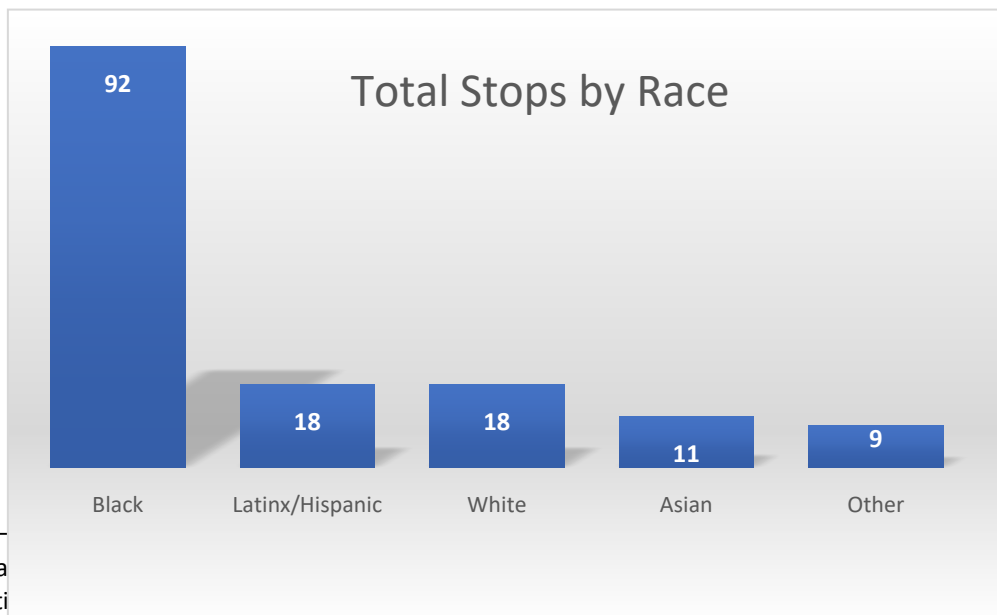
Berkeley Protest Curfew Resulted in More Racialized Policing  
 BPD Stop Disparities: May 31 through June 2, 2020  
 George Lippman  
 July 4, 2020

Analysis of the Berkeley Police Department’s Open Data Portal has previously shown that disparities between the number of Black and White civilians the department stops *doubled during the COVID-19 pandemic*.

A closer review shows that the discriminatory stops exploded under the Black Lives Matter curfew at the end of May. In three days from May 31 to June 2, 92 African Americans and 18 Latinx people were pulled over by Berkeley police, compared to just 18 White people. This *five to one disparity* is all the more disturbing in light of the fact that African Americans make up just one-seventh of the population compared to Whites. This means that Black civilians were nearly 35 times more likely to be stopped than Whites.<sup>1</sup>

*BPD stops during May 31-June 2 Curfew*

Ethnicity	Stops	Percent of total stops	Disparity compared to White stops
Black	92	62.16%	5.11
Latinx/Hispanic	18	12.16%	
White	18	12.16%	
Asian	11	7.43%	
Other	9	6.08%	
<b>TOTAL:</b>	148	100.00%	

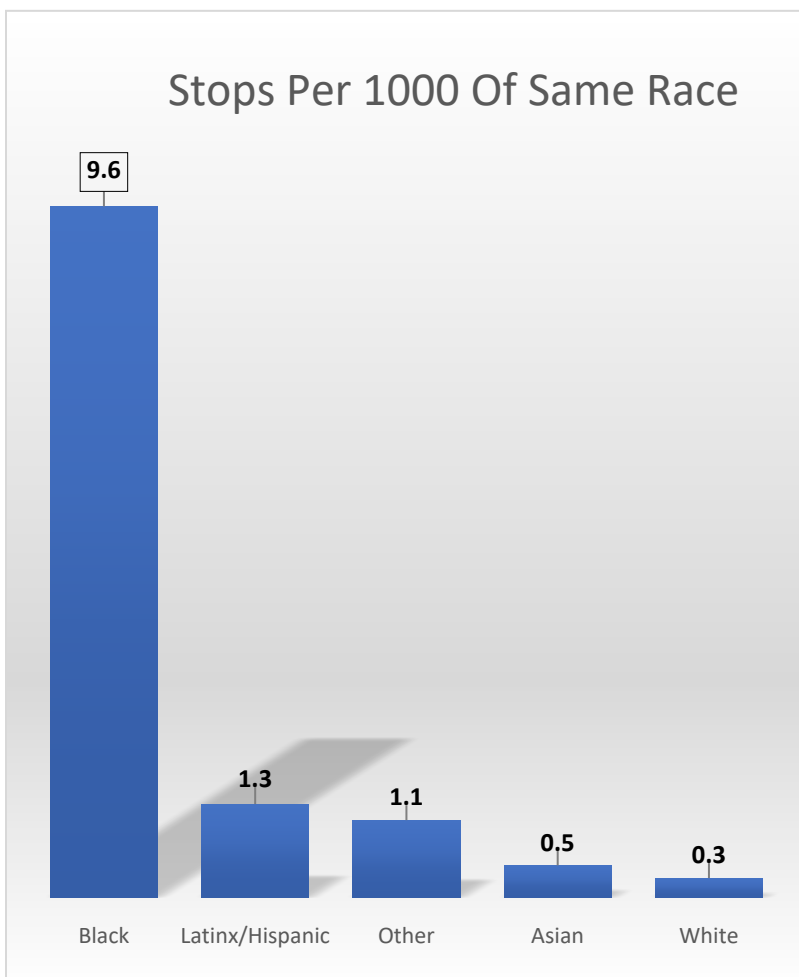


<sup>1</sup> For raw data  
 For calculation

[8.](#)

Stops Per 1,000 of Same Race

	Stops	Stops Per 1000	Number of civilians
<b>Black</b>	92	9.6	9,551
<b>Latinx/ Hispani c</b>	18	1.3	13,772
<b>Other</b>	9	1.1	8,309
<b>Asian</b>	11	0.5	24,238
<b>White</b>	18	0.3	65,056





At the July 1 meeting of the Mayor's Fair and Impartial Policing working group, BPD representatives pointed out that much of the extraordinary disparity in stops of African Americans during the first 13 weeks of the pandemic was centered on the three days of the curfew. It is true that 148 stops, or almost 25% of the 608 stops during the 13 weeks of the pandemic, were conducted during just these three days. However, this revelation does not remove, but actually strengthens the evidence of racial discrimination in police stops.

In looking at this disparity it is important to keep these points in mind:

1. During the three-day curfew, Black and Latinx stops totaled over 74% of all stops, compared to 12% for White civilians. These are raw numbers, meaning that they do not take into account the low number of African Americans living in Berkeley. As the White population of Berkeley is around seven times the Black population, the demographic disparity in stops is about 35 to 1. However it is calculated, the huge disparity cries out for an explanation.
2. Another takeaway from the curfew-era data is that the stops were almost all of automobiles (140 out of 148, with 15 of those described as "Suspicious Vehicle Stops"), with 7 pedestrian stops and 1 bicycle stop.

At the time, city management broadcast that drivers were permitted to proceed to a home or workplace. Under constitutional law, police need to have reasonable suspicion of criminal behavior to make a vehicle stop. The public is owed an explanation of why these vehicle stops were made, and why at the height of community concern over racially biased policing it was appropriate that the overwhelming number of stops were of African Americans and Latinx people.

Note also that only 11.5% of the stops resulted in any enforcement other than a warning.

3. The spike in racial disparities during the curfew only partially accounts for the overall two-to-one Black-White disparity in the 13 weeks of the pandemic study. Setting aside the three curfew days, the rest of the pandemic period still has the number of African American stops at 1.7 times the number of stops of the much larger White population. Now, both the skyrocketing rate during the pandemic overall and the massive spike during the curfew need to be examined and the root causes addressed.

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Berkeley\_PD\_-\_Stop\_Data\_NEW\_(3)

CreateDateTime	IncidentNumber	Address	City	Lat	Lon	CallType	Race	Gender	Age	Reason	Enforcement	Car Search	
05/01/2020 08:47:38 AM	2020-00021638	ADDISON ST /	BERKELEY	37.8714642	-122.2659737	1194							
03/17/2020 10:06:30 AM	2020-00015297	DURANT AVE	BERKELEY	37.86780904	-122.258976	T	Asian	Male	18-29	Traffic	Warning	No Search	
03/18/2020 08:37:28 PM	2020-00015519	HAROLD WAY	BERKELEY	37.86920123	-122.2692965	1194	Asian	Male	>40	Investigation	Warning	No Search	
03/22/2020 11:16:41 PM	2020-00016068	BANCROFT W	BERKELEY	37.86959496	-122.2522928	T	Asian	Male	30-39	Traffic	Warning	No Search	
03/30/2020 12:38:21 PM	2020-00017125	9TH ST / ASHE	BERKELEY	37.85161581	-122.2893693	T	Asian	Female	>40	Traffic	Citation	No Search	
04/05/2020 08:44:34 AM	2020-00017974	DWIGHT WAY	BERKELEY	37.86397148	-122.2673631	T	Asian	Male	18-29	Traffic	Citation	No Search	
04/11/2020 08:58:20 AM	2020-00018798	UNIVERSITY A	BERKELEY	37.8679939	-122.2976644	T	Asian	Male	>40	Traffic	Warning	No Search	
05/02/2020 07:18:53 AM	2020-00021777	UNIVERSITY A	BERKELEY	37.87011265	-122.2842489	1194B	Asian	Male	>40	Traffic	Warning	No Search	
05/05/2020 02:20:36 PM	2020-00022251	1998 SHATTUK	BERKELEY	37.87238962	-122.2687283	1194	Asian	Male	30-39	Investigation	Citation	Search	
05/23/2020 03:46:06 PM	2020-00025121	MARTIN LUTHI	BERKELEY	37.86697146	-122.2725054	T	Asian	Male	<18	Traffic	Warning	No Search	
05/25/2020 03:46:02 PM	2020-00025384	WALNUT ST /	BERKELEY	37.87234769	-122.2668645	1194	Asian	Male	30-39	Prob./Parole	Warning	Search	
06/27/2020 11:37:31 PM	2020-00025781	CAMELIA ST /	BERKELEY	37.87891991	-122.2943269	T	Asian	Male	>40	Traffic	Warning	No Search	
05/31/2020 09:32:47 PM	2020-00026336	6TH ST / VIRG	BERKELEY	37.8723318	-122.2990603	T	Asian	Male	>40	Traffic	Warning	Search	
05/31/2020 10:28:16 PM	2020-00026349	CHANNING W	BERKELEY	37.86661499	-122.2610872	T	Asian	Female	18-29	Traffic	Warning	No Search	
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06/05/2020 02:33:35 AM	2020-00027185	SAN PABLO A	BERKELEY	37.85620619	-122.2879782	T	White	Male	30-39	Traffic	Warning	No Search
06/06/2020 03:01:06 PM	2020-00027254	GILMAN ST /	BERKELEY	37.87936805	-122.3012894	T	White	Male	>40	Traffic	Citation	No Search
06/06/2020 05:37:28 PM	2020-00027282	DWIGHT WAY	BERKELEY	37.86232559	-122.2800582	T	White	Female	18-29	Traffic	Warning	No Search
06/06/2020 05:58:13 PM	2020-00027286	1283 2ND ST	BERKELEY	37.8788242	-122.3058452	T	White	Female	30-39	Traffic	Warning	No Search
06/06/2020 08:54:55 PM	2020-00027301	ADELINE ST /	BERKELEY	37.84875273	-122.2714519	T	White	Male	>40	Traffic	Warning	No Search
06/06/2020 07:16:44 PM	2020-00027304	HARRISON ST	BERKELEY	37.86091498	-122.3030563	T	White	Male	18-29	Traffic	Warning	No Search
06/06/2020 08:14:31 PM	2020-00027314	200 MARINA B	BERKELEY	37.86610405	-122.3123001	T	White	Male	18-29	Traffic	Warning	No Search
06/06/2020 08:24:57 PM	2020-00027315	SAN PABLO A	BERKELEY	37.85491873	-122.2875644	T	White	Male	18-29	Traffic	Warning	No Search
06/06/2020 08:46:54 PM	2020-00027322	DURANT AVE	BERKELEY	37.86839037	-122.2544282	T	White	Male	>40	Traffic	Citation	No Search
06/06/2020 10:09:01 PM	2020-00027329	SAN PABLO A	BERKELEY	37.85439732	-122.2873959	T	White	Male	30-39	Traffic	Warning	Search
06/06/2020 02:00:24 PM	2020-00027397	ADDISON ST /	BERKELEY	37.86986558	-122.2784599	T	White	Male	18-29	Traffic	Warning	No Search
06/06/2020 04:38:54 PM	2020-00027416	1894 UNIVERS	BERKELEY	37.87118684	-122.2733159	1196	White	Male	30-39	Investigation	Warning	No Search
06/06/2020 08:55:20 PM	2020-00027431	SACRAMENTO	BERKELEY	37.85602098	-122.2796056	T	White					



06/09/2020 03:15:36 PM	2020-00027835	SHATTUCK AV BERKELEY	37.86939197	-122.2679323	1194	White	Male	30-39	Investigation	Other	No Search
06/10/2020 08:56:53 PM	2020-00028056	DWIGHT WAY BERKELEY	37.86587024	-122.2516054	T	White	Female	18-29	Traffic	Warning	No Search
06/12/2020 01:28:41 AM	2020-00028242	OXFORD ST / BERKELEY	37.87058453	-122.2658835	1194	White	Male	30-39	Traffic	Warning	No Search

3-15 to 6-12-20

Ethnicity	Stopped	% of total	Cited	% of stops resulting in citation	Arrest	% of stops resulting in arrest	% of stops resulting in citation or arrest
Total stops	608						
Asian	29	4.77%	6	20.69%	0	0.00%	20.69%
Black	304	50.00%	23	7.57%	8	2.63%	10.20%
Hispanic/Latino	88	14.47%	9	10.23%	4	4.55%	14.77%
White	143	23.52%	22	15.38%	7	4.90%	20.28%
Bad data	1	0.16%	0	0.00%	0	0.00%	0.00%
Other	43	7.07%	11	25.58%	0	0.00%	25.58%
TOTALS:	608	100.00%	71	11.68%	19	3.13%	14.80%

Citation:	7.57%	Arrests:	2.63%	Combined Citation and Arrest	10.20%
Black yield rate	7.57%	Black yield rate	2.63%	Black yield rate	10.20%
White yield rate	15.38%	White yield rate	4.90%	White yield rate	20.28%
Percent of disparity	203.34%	Percent of disparity	186.01%	Percent of disparity	198.87%

CreateDatetime	IncidentNum	Address	City	Lat	Lon	CallType	Race	Gender	Age	Reason	Enforcement	Car Search
03/15/2020 02:52:51 AM	2020-000150	SHATTUCK A	BERKELEY	37.8648763	-122.26747	T	Black	Male	30-39	Traffic	Warning	No Search
03/15/2020 01:04:07 PM	2020-000150	UNIVERSITY	BERKELEY	37.8701126	-122.28425	T	Black	Female	18-29	Traffic	Warning	No Search
03/15/2020 10:32:50 PM	2020-000151	MARTIN LUT	BERKELEY	37.8561332	-122.27128	T	Black	Male	30-39	Traffic	Warning	No Search
03/16/2020 06:30:16 PM	2020-000152	SHATTUCK A	BERKELEY	37.8729787	-122.26848		1194 Black	Male	30-39	Investigation	Warning	No Search
03/17/2020 11:54:32 AM	2020-000153	2122 SHATT	BERKELEY	37.8705584	-122.26856		1194 Black	Female	30-39	Prob./Parole	Other	Search
03/17/2020 02:04:41 PM	2020-000153	MARTIN LUT	BERKELEY	37.8715553	-122.273		1194 Black	Male	>40	Reas. Susp.	Citation	No Search
03/21/2020 09:30:31 PM	2020-000159	SACRAMENT	BERKELEY	37.8704106	-122.28194	T	Black	Female	18-29	Traffic	Warning	No Search
03/24/2020 08:34:47 AM	2020-000162	65TH ST / TE	OAKLAND	37.8510671	-122.26038		1194 Black	Male	>40	Investigation	Warning	No Search
03/27/2020 08:44:25 PM	2020-000167	6TH ST / UNI	BERKELEY	37.8679939	-122.29766	T	Black	Male	18-29	Traffic	Citation	No Search
03/28/2020 08:07:29 AM	2020-000167	SAN PABLO /	BERKELEY	37.8681488	-122.29181	T	Black	Male	18-29	Traffic	Warning	No Search
03/28/2020 12:25:21 PM	2020-000168	CHANNING V	BERKELEY	37.8651712	-122.27231	T	Black	Male	>40	Traffic	Warning	Search
03/28/2020 02:42:24 PM	2020-000168	SACRAMENT	BERKELEY	37.862196	-122.28109	T	Black	Male	30-39	Traffic	Warning	No Search
03/28/2020 03:30:01 PM	2020-000168	SHATTUCK A	BERKELEY	37.8721514	-122.26841	T	Black	Male	30-39	Traffic	Warning	Search
03/28/2020 04:18:20 PM	2020-000168	UNIVERSITY	BERKELEY	37.8706843	-122.27977	T	Black	Female	<18	Traffic	Arrest	Search
03/28/2020 04:18:20 PM	2020-000168	UNIVERSITY	BERKELEY	37.8706843	-122.27977	T	Black	Male	>40	Traffic	Warning	Search
03/28/2020 08:31:49 PM	2020-000169	66TH ST / SA	OAKLAND	37.8490602	-122.28568	T	Black	Male	30-39	Traffic	Warning	No Search
03/28/2020 09:09:41 PM	2020-000169	MARTIN LUT	BERKELEY	37.8715553	-122.273		1194 Black	Male	18-29	Traffic	Warning	No Search
03/29/2020 12:18:55 PM	2020-000169	1300 SAN PA	BERKELEY	37.8800569	-122.29623		1196 Black	Male	>40	Investigation	Warning	No Search
03/29/2020 04:58:29 PM	2020-000170	BANCROFT V	BERKELEY	37.8686984	-122.25915	T	Black	Female	18-29	Traffic	Warning	No Search
03/30/2020 07:35:18 AM	2020-000170	PIEDMONT A	BERKELEY	37.8577245	-122.25069	T	Black	Male	>40	Traffic	Warning	No Search
03/31/2020 11:45:09 AM	2020-000172	SACRAMENT	BERKELEY	37.8604697	-122.2805	T	Black	Female	30-39	Traffic	Citation	No Search
04/03/2020 01:21:34 PM	2020-000177	SHATTUCK A	OAKLAND	37.8515826	-122.266		1194 Black	Male	30-39	Traffic	Warning	Search
04/03/2020 06:20:01 PM	2020-000177	BLAKE ST / M	BERKELEY	37.8627436	-122.26971	T	Black	Female	30-39	Traffic	Warning	No Search
04/04/2020 08:59:17 AM	2020-000178	GILMAN ST /	BERKELEY	37.8800241	-122.29808	T	Black	Female	30-39	Traffic	Warning	No Search
04/06/2020 12:42:55 PM	2020-000181	SAN PABLO /	BERKELEY	37.8521406	-122.28668	T	Black	Male	>40	Traffic	Warning	No Search
04/07/2020 10:25:31 AM	2020-000182	BANCROFT V	BERKELEY	37.8675938	-122.26777		1194 Black	Female	30-39	Investigation	Other	No Search
04/09/2020 05:34:47 PM	2020-000185	MARTIN LUT	BERKELEY	37.8642641	-122.27221	T	Black	Male	18-29	Traffic	Warning	No Search
04/10/2020 12:00:41 AM	2020-000186	ALLSTON WA	BERKELEY	37.8670842	-122.28389		1194 Black	Male	>40	Prob./Parole	Other	No Search
04/10/2020 08:00:17 AM	2020-000186	1035 SAN PA	ALBANY	37.8852987	-122.29711	T	Black	Male	>40	Traffic	Warning	No Search
04/10/2020 04:38:26 PM	2020-000187	SAN PABLO /	OAKLAND	37.8469349	-122.28499	T	Black	Female	18-29	Investigation	Warning	No Search
04/13/2020 05:28:19 PM	2020-000191	SAN PABLO /	BERKELEY	37.8690966	-122.29212		1194 Black	Female	>40	Reas. Susp.	Other	No Search
04/18/2020 05:01:18 PM	2020-000198	2655 TELEGR	BERKELEY	37.8620391	-122.25834		1194 Black	Male	>40	Investigation	Warning	Search
04/18/2020 05:09:49 PM	2020-000198	SHATTUCK A	BERKELEY	37.8675938	-122.26777	T	Black	Male	>40	Traffic	Warning	No Search
04/18/2020 06:35:05 PM	2020-000198	HASTE ST / C	BERKELEY	37.8666088	-122.25408		1194 Black	Male	30-39	Investigation	Warning	Search
04/20/2020 06:46:38 AM	2020-000200	SHATTUCK A	BERKELEY	37.8639715	-122.26736	T	Black	Male	>40	Traffic	Warning	No Search
04/21/2020 09:25:09 PM	2020-000202	HEARST AVE	BERKELEY	37.8727157	-122.27771		1194 Black	Male	30-39	Investigation	Warning	No Search
04/22/2020 01:58:57 PM	2020-000203	UNIVERSITY	BERKELEY	37.8709746	-122.2775	T	Black	Male	30-39	Traffic	Warning	No Search
04/23/2020 12:00:38 PM	2020-000204	OXFORD ST	BERKELEY	37.8714642	-122.26597	T	Black	Male	>40	Traffic	Warning	No Search
04/24/2020 09:15:30 AM	2020-000206	1325 ALLSTO	BERKELEY	37.8671822	-122.28466		1194 Black	Male	>40	Investigation	Warning	Search
04/24/2020 07:33:40 PM	2020-000206	MILVIA ST / A	BERKELEY	37.8708769	-122.27062		1194 Black	Male	>40	Investigation	Warning	Search
04/24/2020 11:51:40 PM	2020-000207	SACRAMENT	BERKELEY	37.8789055	-122.283	T	Black	Male	>40	Traffic	Warning	No Search
04/25/2020 06:43:44 AM	2020-000207	2204 SHATT	BERKELEY	37.8688316	-122.26864		1194 Black	Male	>40	Investigation	Other	No Search
04/25/2020 09:23:35 AM	2020-000207	BLAKE ST / S	BERKELEY	37.8630666	-122.26726		1194 Black	Male	30-39	Investigation	Warning	No Search
04/25/2020 11:33:58 PM	2020-000208	6TH ST / UNI	BERKELEY	37.8679939	-122.29766	T	Black	Female	18-29	Traffic	Warning	No Search
04/26/2020 04:26:14 AM	2020-000208	GILMAN ST /	BERKELEY	37.8814411	-122.29001	T	Black	Female	>40	Traffic	Warning	No Search
04/26/2020 06:44:14 PM	2020-000209	DELAWARE S	BERKELEY	37.8730732	-122.28224	T	Black	Female	18-29	Traffic	Warning	No Search
04/27/2020 12:20:23 AM	2020-000209	MARTIN LUT	OAKLAND	37.8427201	-122.27044	T	Black	Male	18-29	Traffic	Warning	Search
04/27/2020 09:28:42 PM	2020-000211	BLAKE ST / S	BERKELEY	37.8630666	-122.26726	T	Black	Female	18-29	Traffic	Citation	Search
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04/29/2020 08:01:41 PM	2020-000214	CAN/MILVIA		-361	-361	T	Black	Male	18-29	Traffic	Warning	No Search
04/29/2020 08:04:13 PM	2020-000214	MARKET ST	OAKLAND	37.8462151	-122.27673	T	Black	Male	>40	Traffic	Warning	No Search
04/30/2020 10:03:28 PM	2020-000216	FULTON ST /	BERKELEY	37.866035	-122.26562	T	Black	Male	18-29	Investigation	Warning	No Search
05/01/2020 01:28:39 PM	2020-000216	ASHBY AVE /	BERKELEY	37.8521406	-122.28668		1194 Black	Male	18-29	Traffic	Warning	No Search
05/01/2020 09:06:16 PM	2020-000217	OREGON ST	BERKELEY	37.8563085	-122.27744	T	Black	Male	>40	Traffic	Citation	No Search
05/03/2020 05:26:24 PM	2020-000219	CENTER ST /	BERKELEY	37.8696919	-122.2728	T	Black	Male	>40	Traffic	Warning	No Search
05/06/2020 07:38:08 PM	2020-000224	OREGON ST	BERKELEY	37.85763	-122.2668	T	Black	Male	>40	Traffic	Warning	No Search
05/07/2020 12:22:20 PM	2020-000225	10TH ST/UNI		-361	-361	T	Black	Male	18-29	Traffic	Warning	No Search
05/08/2020 01:42:18 PM	2020-000227	2100 SHATT	BERKELEY	37.8708675	-122.26857		1194 Black	Female	>40	Investigation	Warning	No Search
05/08/2020 09:31:52 PM	2020-000228	PAGE ST / 2N	BERKELEY	37.8755413	-122.30482		1196 Black	Female	30-39	Traffic	Warning	Search

05/09/2020 01:54:48 AM	2020-0002282	6TH ST / ADD	BERKELEY	37.8667099	-122.29725	T		Black	Male	30-39	Traffic	Warning	No Search
05/09/2020 02:00:48 AM	2020-0002282	BANCROFT V	BERKELEY	37.8641583	-122.29295	T		Black	Male	18-29	Traffic	Warning	No Search
05/09/2020 08:41:27 AM	2020-0002284			37.8494135	-122.29847	T		Black	Female	30-39	Traffic	Warning	No Search
05/09/2020 03:19:41 PM	2020-0002288	SAN PABLO	BERKELEY	37.8690966	-122.29212		1194	Black	Male	>40	Traffic	Warning	No Search
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05/13/2020 09:37:53 AM	2020-0002340	SHATTUCK A	BERKELEY	37.8657798	-122.26758		1194	Black	Male	>40	Traffic	Citation	No Search
05/15/2020 04:39:33 AM	2020-0002370	SAN PABLO	BERKELEY	37.8734425	-122.29353	T		Black	Male	>40	Traffic	Warning	No Search
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05/15/2020 12:20:23 PM	2020-0002370	KITTREDGE	BERKELEY	37.8684892	-122.26787	T		Black	Female	30-39	Traffic	Warning	No Search
05/15/2020 02:16:47 PM	2020-0002370	BLAKE ST / D	BERKELEY	37.8639362	-122.26053		1194B	Black	Male	>40	Prob./Parole	Warning	Search
05/16/2020 04:33:15 PM	2020-0002390	SACRAMENT	BERKELEY	37.8541776	-122.27921	T		Black	Male	>40	Traffic	Warning	No Search
05/17/2020 08:39:23 PM	2020-0002410	61ST ST / LO	OAKLAND	37.8452346	-122.27722	T		Black	Female	>40	Traffic	Warning	No Search
05/17/2020 11:31:16 PM	2020-0002410	180 WEST GILMAN OFFRAI		-361	-361	T		Black	Male	30-39	Traffic	Warning	No Search
05/17/2020 11:45:20 PM	2020-0002410	1799 4TH ST	BERKELEY	37.8704793	-122.30047		1196	Black	Male	>40	Investigation	Warning	No Search
05/18/2020 06:49:10 PM	2020-0002420	SACRAMENT	BERKELEY	37.8532811	-122.27901		1194	Black	Male	18-29	Investigation	Warning	Search
05/18/2020 06:55:15 PM	2020-0002420	SAN PABLO	BERKELEY	37.8521406	-122.28668	T		Black	Female	18-29	Traffic	Warning	No Search
05/18/2020 08:29:15 PM	2020-0002420	6TH ST / CED	BERKELEY	37.8740907	-122.29963	T		Black	Male	>40	Traffic	Warning	No Search
05/19/2020 11:13:24 AM	2020-0002430	UNIVERSITY	BERKELEY	37.8701126	-122.28425		1194	Black	Female	>40	Investigation	Warning	No Search
05/19/2020 08:30:13 PM	2020-0002440	SAN PABLO	OAKLAND	37.8447516	-122.28429	T		Black	Male	18-29	Traffic	Warning	Search
05/19/2020 08:38:07 PM	2020-0002440	TELEGRAPH	BERKELEY	-361	-361	T		Black	Male	18-29	Traffic	Warning	Search
05/19/2020 09:22:46 PM	2020-0002440	ADELINE ST	BERKELEY	37.8472612	-122.27173	T		Black	Male	18-29	Traffic	Warning	Search
05/20/2020 12:39:02 AM	2020-0002450	62ND ST / LO	OAKLAND	37.8461292	-122.27736	T		Black	Male	>40	Traffic	Warning	Search
05/20/2020 06:21:56 AM	2020-0002450	SACRAMENT	BERKELEY	37.875816	-122.28255	T		Black	Male	>40	Traffic	Citation	No Search
05/20/2020 05:25:22 PM	2020-0002460	SHATTUCK A	BERKELEY	37.869392	-122.26793	T		Black	Male	18-29	Traffic	Warning	Search
05/20/2020 08:17:27 PM	2020-0002460	ALLSTON WA	BERKELEY	37.8683488	-122.27608	T		Black	Male	18-29	Traffic	Warning	No Search
05/21/2020 07:53:59 AM	2020-0002470	GILMAN ST /	BERKELEY	37.8804742	-122.2958	T		Black	Female	>40	Traffic	Citation	No Search
05/21/2020 09:10:11 PM	2020-0002482			37.8474719	-122.29808	T		Black	Male	18-29	Traffic	Warning	No Search
05/22/2020 11:08:54 PM	2020-0002500	1787 4TH ST	BERKELEY	37.870446	-122.30075		1196	Black	Male	18-29	Investigation	Warning	No Search
05/23/2020 12:36:57 AM	2020-0002500	UNIVERSITY	BERKELEY	37.8664444	-122.30556	T		Black	Male	18-29	Traffic	Warning	No Search
05/23/2020 01:36:25 AM	2020-0002500	CALIFORNIA	BERKELEY	37.8624965	-122.2787	T		Black	Male	30-39	Traffic	Warning	No Search
05/23/2020 08:44:27 PM	2020-0002510	HASTE ST / N	BERKELEY	37.8645542	-122.2699	T		Black	Male	>40	Traffic	Warning	No Search
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05/24/2020 04:36:39 AM	2020-0002520	ADELINE ST	BERKELEY	37.8584209	-122.26773	T		Black	Male	>40	Traffic	Warning	No Search
05/24/2020 07:58:08 PM	2020-0002520	DURANT AVE	BERKELEY	37.867809	-122.25898	T		Black	Male	30-39	Traffic	Warning	No Search
05/24/2020 10:19:46 PM	2020-0002530	ADELINE ST	BERKELEY	37.8466882	-122.27243	T		Black	Male	>40	Traffic	Warning	No Search
05/25/2020 12:29:28 AM	2020-0002530	CALIFORNIA	BERKELEY	37.8508706	-122.27638	T		Black	Female	18-29	Traffic	Warning	No Search
05/25/2020 07:05:02 PM	2020-0002540	7TH ST / DWI	BERKELEY	37.8601964	-122.29405	T		Black	Male	30-39	Traffic	Warning	No Search
05/25/2020 08:16:22 PM	2020-0002540	ASHBY AVE	BERKELEY	37.8527392	-122.2837	T		Black	Male	30-39	Traffic	Warning	No Search
05/27/2020 02:36:44 AM	2020-0002560	62ND ST / SA	OAKLAND	37.8447516	-122.28429	T		Black	Male	30-39	Investigation	Warning	Search
05/27/2020 10:52:54 AM	2020-0002560	TELEGRAPH	BERKELEY	37.8632584	-122.25869		1194	Black	Male	>40	Reas. Susp.	Citation	No Search
05/27/2020 03:43:15 PM	2020-0002570	DURANT AVE	BERKELEY	37.8683904	-122.25443	T		Black	Male	>40	Traffic	Warning	No Search
05/27/2020 11:22:39 PM	2020-0002570	CHESTNUT S	BERKELEY	37.8758913	-122.28878	T		Black	Male	>40	Traffic	Warning	No Search
05/29/2020 09:21:01 PM	2020-0002600	TELEGRAPH	BERKELEY	37.8613958	-122.25894		1196	Black	Female	18-29	Traffic	Warning	No Search
05/29/2020 09:33:21 PM	2020-0002600	TELE/DURANT AVE		-361	-361		1194	Black	Male	18-29	Traffic	Warning	No Search
05/30/2020 05:16:39 AM	2020-0002600	DWIGHT WA	BERKELEY	37.8653799	-122.25651	T		Black	Male	30-39	Traffic	Warning	No Search
05/30/2020 05:22:25 AM	2020-0002600	UNIVERSITY	BERKELEY	37.8679939	-122.29766	T		Black	Male	30-39	Traffic	Warning	No Search
05/30/2020 11:56:46 PM	2020-0002620	SHATTUCK A	BERKELEY	37.8657798	-122.26758	T		Black	Male	18-29	Traffic	Warning	No Search
05/31/2020 03:51:24 AM	2020-0002620	SAN PABLO	BERKELEY	37.8610944	-122.28955		1196	Black	Male	18-29	Wanted	Citation	No Search
05/31/2020 03:39:31 PM	2020-0002620	SHATTUCK A	BERKELEY	37.8648763	-122.26747		1194	Black	Male	>40	Investigation	Other	No Search
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05/31/2020 09:30:04 PM	2020-0002630	SHATTUCK A	BERKELEY	37.8648763	-122.26747	T		Black	Female	<18	Traffic	Warning	No Search
05/31/2020 10:14:50 PM	2020-0002630	SHATTUCK A	BERKELEY	37.8721514	-122.26841	T		Black	Male	30-39	Traffic	Warning	No Search
05/31/2020 10:22:29 PM	2020-0002630	UNIVERSITY	BERKELEY	37.871702	-122.27187	T		Black	Male	30-39	Traffic	Warning	No Search
05/31/2020 10:44:34 PM	2020-0002630	UNIVERSITY	BERKELEY	37.8696961	-122.2875	T		Black	Female	<18	Traffic	Warning	No Search
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06/01/2020 12:31:10 AM	2020-0002630	SHATTUCK A	BERKELEY	37.8538153	-122.2663		1194	Black	Female	18-29	Prob./Parole	Warning	No Search
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06/05/2020 04:43:13 PM	2020-0002726	GILMAN ST /	BERKELEY	37.879368	-122.30129	T		Black	Male	30-39	Traffic	Warning	No Search
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06/05/2020 05:21:58 PM	2020-0002728	811 UNIVERSITY		-361	-361	T		Black	Female	18-29	Traffic	Warning	No Search
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06/05/2020 06:47:12 PM	2020-0002728	ALLSTON WA	BERKELEY	37.8663818	-122.29123	T		Black	Male	18-29	Traffic	Warning	Search
06/05/2020 07:08:48 PM	2020-0002730	ASHBY AVE /	BERKELEY	37.8545519	-122.26921	T		Black	Male	18-29	Traffic	Warning	No Search
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06/06/2020 10:22:41 PM	2020-0002747	SACRAMENT	BERKELEY	37.8704106	-122.28194	T		Black	Male	>40	Traffic	Arrest	Search
06/06/2020 10:48:58 PM	2020-00027474		BERKELEY	37.8532107	-122.29714		1196	Black	Female	<18	Traffic	Warning	No Search
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06/07/2020 04:10:13 AM	2020-0002750	3012 SAN PA	BERKELEY	37.8515418	-122.28678		1196	Black	Male	>40	Investigation	Warning	No Search
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06/07/2020 06:57:35 PM	2020-0002756	SAN PABLO /	BERKELEY	37.8521406	-122.28668	T		Black	Male	30-39	Traffic	Warning	No Search
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06/08/2020 10:18:24 PM	2020-0002777	STANFORD /	OAKLAND	37.8409227	-122.28305	T		Black	Male	18-29	Traffic	Warning	No Search
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06/09/2020 09:00:38 PM	2020-0002786	7TH ST / GRA	BERKELEY	37.8553037	-122.29247	T		Black	Male	>40	Traffic	Warning	Search
06/09/2020 09:44:31 PM	2020-0002786	2197 SAN PA	BERKELEY	37.8667339	-122.29103	T		Black	Female	>40	Traffic	Warning	No Search
06/10/2020 12:21:33 AM	2020-0002790	CALIFORNIA	BERKELEY	37.8535507	-122.27693	T		Black	Male	>40	Traffic	Warning	No Search
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06/10/2020 01:38:58 AM	2020-0002791	2ND ST / PAC	BERKELEY	37.8755413	-122.30482	T		Black	Female	18-29	Traffic	Warning	Search
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06/10/2020 08:59:48 PM	2020-0002800	SACRAMENT	BERKELEY	37.8532811	-122.27901	T		Black	Male	>40	Traffic	Warning	No Search
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06/11/2020 01:15:12 AM	2020-0002806	FAIRVIEW ST	BERKELEY	37.8496886	-122.27817	T		Black	Male	18-29	Traffic	Warning	Search
06/11/2020 10:16:18 AM	2020-00028117		BERKELEY	37.8684291	-122.2866	T		Black	Male	>40	Investigation	Warning	No Search
06/11/2020 10:54:59 AM	2020-0002812	FULTON ST /	BERKELEY	37.8669304	-122.26581	T		Black	Male	18-29	Traffic	Warning	No Search
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06/11/2020 10:55:49 PM	2020-000282	SAN PABLO AV/67TH ST		-361	-361	T	Black	Male	>40	Traffic	Warning	Search
06/12/2020 12:55:28 AM	2020-000282	VIRGINIA ST	BERKELEY	37.8734425	-122.29353	T	Black	Male	18-29	Traffic	Warning	No Search
06/12/2020 03:19:42 AM	2020-000282	ASHBY AVE	BERKELEY	37.8521406	-122.28668	T	Black	Male	30-39	Traffic	Warning	No Search
06/12/2020 03:26:51 AM	2020-000282	CARLETON S	BERKELEY	37.8572259	-122.29192	T	Black	Male	>40	Traffic	Warning	No Search

03/16/2020 12:17:09 PI	2020-000151	DURANT AVE	BERKELEY	37.8683904	-122.25443		1194	White	Male	30-39	Investigation	Warning	Search
03/16/2020 01:09:33 PI	2020-000151	7TH ST / ASH	BERKELEY	37.8510086	-122.2911	T		White	Female	30-39	Traffic	Citation	No Search
03/16/2020 01:25:12 PI	2020-000151	7TH ST / POT	BERKELEY	37.8515149	-122.29127	T		White	Male	30-39	Traffic	Citation	No Search
03/16/2020 04:27:59 PI	2020-000152	SACRAMENT	BERKELEY	37.875816	-122.28255	T		White	Female	>40	Traffic	Warning	No Search
03/18/2020 07:56:31 AI	2020-00015421		BERKELEY	37.8687638	-122.26024		1194	White	Male	>40	Investigation	Warning	No Search
03/19/2020 05:47:08 PI	2020-000156	GRIZZLY PE	BERKELEY	37.8899519	-122.2522	T		White	Female	18-29	Traffic	Citation	No Search
03/24/2020 10:32:23 AI	2020-000162	BANCROFT WY/FULTON S		-361	-361		1194	White	Male	>40	Reas. Susp.	Warning	No Search
03/24/2020 01:25:54 PI	2020-000162	4TH ST / CAN	BERKELEY	37.8771795	-122.30296		1194	White	Male	>40	Investigation	Warning	No Search
03/25/2020 07:09:54 PI	2020-000164	ELLSWORTH	BERKELEY	37.8645381	-122.26299	T		White	Male	30-39	Traffic	Warning	No Search
03/27/2020 12:06:55 PI	2020-000166	CEDAR ST /	BERKELEY	37.8758913	-122.28878	T		White	Male	>40	Traffic	Warning	No Search
03/27/2020 08:38:05 PI	2020-000167	SHATTUCK A	BERKELEY	37.8775071	-122.269	T		White	Male	>40	Traffic	Citation	No Search
03/27/2020 10:32:40 PI	2020-000167	80 BOLIVAR	BERKELEY	37.8645462	-122.30174	T		White	Male	30-39	Traffic	Warning	No Search
03/29/2020 01:48:42 PI	2020-00016970			37.870224	-122.27317		1194	White	Male	18-29	Investigation	Warning	No Search
03/29/2020 03:30:37 PI	2020-000169	1050 GILMAN	BERKELEY	37.879199	-122.29629		1196	White	Male	>40	Traffic	Warning	No Search
03/29/2020 03:50:47 PI	2020-000169	2ND ST / PAC	BERKELEY	37.8755413	-122.30482	T		White	Male	>40	Traffic	Warning	Search
03/29/2020 04:23:07 PI	2020-000169	SHATTUCK A	BERKELEY	37.8802222	-122.26933		1194	White	Male	30-39	Investigation	Other	Search
03/29/2020 06:03:40 PI	2020-000170	5TH ST / JON	BERKELEY	37.8750295	-122.30115	T		White	Male	<18	Traffic	Warning	No Search
03/29/2020 07:25:53 PI	2020-000170	UNIVERSITY	BERKELEY	37.8704106	-122.28194	T		White	Male	18-29	Traffic	Warning	No Search
03/29/2020 07:59:50 PI	2020-000170	SHATTUCK A	BERKELEY	37.8648763	-122.26747		1194	White	Male	>40	Investigation	Arrest	Search
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04/12/2020 01:49:18 AI	2020-000189	CARLETON S	BERKELEY	37.8572259	-122.29192	T		White	Male	>40	Traffic	Warning	No Search
04/13/2020 10:09:43 AI	2020-000190	2200 DWIGH	BERKELEY	37.8640794	-122.26503		1194B	White	Male	30-39	Reas. Susp.	Warning	No Search
04/13/2020 04:42:15 PI	2020-000191	SHATT/UNI		-361	-361		1194	White	Male	18-29	Investigation	Other	No Search
04/18/2020 11:52:30 AI	2020-000198	2300 SHATT	BERKELEY	37.8671384	-122.26823		1194	White	Male	>40	Prob./Parole	Warning	No Search
04/18/2020 06:17:13 PI	2020-000198	2601 TELEGR	BERKELEY	37.8629941	-122.25838		1194	White	Male	30-39	Investigation	Warning	No Search
04/21/2020 09:08:03 AI	2020-000201	2261 SHATT	BERKELEY	37.8683339	-122.26743		1194	White	Male	30-39	Investigation	Citation	Search
04/22/2020 10:03:08 AI	2020-000203	SAN PABLO	BERKELEY	37.8610944	-122.28955	T		White	Male	>40	Investigation	Citation	No Search
04/25/2020 12:57:52 PI	2020-000207	TELEGRAPH	BERKELEY	37.8613958	-122.25894		1194	White	Male	30-39	Investigation	Other	No Search
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04/29/2020 02:35:44 PI	2020-000213	SHATTUCK A	BERKELEY	37.8729787	-122.26848		1194	White	Male	>40	Investigation	Arrest	No Search
04/30/2020 10:47:15 AI	2020-000214	ADELIN ST	BERKELEY	37.8545519	-122.26921	T		White	Female	30-39	Traffic	Warning	No Search
04/30/2020 04:02:40 PI	2020-000215	SHATTUCK A	BERKELEY	37.8630666	-122.26726	T		White	Female	30-39	Traffic	Warning	No Search
05/01/2020 05:24:32 PI	2020-000217	CENTER ST	BERKELEY	37.8705845	-122.26588		1194	White	Male	18-29	Investigation	Warning	No Search
05/03/2020 08:17:48 PI	2020-000220	REGENT ST	BERKELEY	37.8652096	-122.2578	T		White	Female	>40	Traffic	Warning	No Search
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05/10/2020 03:28:24 PI	2020-000230	DWIGHT WA	BERKELEY	37.8653799	-122.25651		1194	White	Male	30-39	Investigation	Warning	No Search
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05/11/2020 03:31:15 PI	2020-000232	SHATTUCK A	BERKELEY	37.8721514	-122.26841	T		White	Female	18-29	Traffic	Warning	No Search
05/11/2020 10:39:25 PI	2020-000232	2222 BANCRO	BERKELEY	37.8676159	-122.26432	T		White	Female	18-29	Traffic	Warning	No Search
05/13/2020 09:55:54 PI	2020-000235	2ND ST / HAF	BERKELEY	37.8802481	-122.30634		1194	White	Male	30-39	Investigation	Warning	No Search
05/16/2020 08:24:43 AI	2020-000238	10TH ST / UN	BERKELEY	37.8688672	-122.2933	T		White	Male	18-29	Traffic	Warning	No Search
05/17/2020 03:07:29 AI	2020-000240	ADDISON ST	BERKELEY	37.8667099	-122.29725	T		White	Female	30-39	Traffic	Warning	Search
05/17/2020 10:19:20 PI	2020-000241	SACRAMENT	BERKELEY	37.8532811	-122.27901	T		White	Male	>40	Traffic	Warning	No Search
05/17/2020 10:37:33 PI	2020-000241	MARKET ST	OAKLAND	37.8443573	-122.27515	T		White	Female	>40	Traffic	Warning	No Search
05/17/2020 10:46:18 PI	2020-000241	HEARST AVE	BERKELEY	37.8740077	-122.26749	T		White	Male	>40	Traffic	Citation	No Search
05/18/2020 08:40:38 PI	2020-000242	HEARST AVE	BERKELEY	37.8695305	-122.29705	T		White	Female	>40	Traffic	Arrest	Search
05/19/2020 09:29:21 AI	2020-000243	ASHBY AVE	BERKELEY	37.8543164	-122.27108	T		White	Male	>40	Traffic	Citation	No Search
05/19/2020 08:17:50 PI	2020-000244	HEARST AVE	BERKELEY	37.8711304	-122.28671	T		White	Male	18-29	Traffic	Warning	No Search
05/21/2020 07:27:24 AI	2020-000247	PIEDMONT A	BERKELEY	37.867754	-122.2521	T		White	Female	18-29	Traffic	Warning	No Search
05/21/2020 08:46:57 AI	2020-000247	UNIVERSITY	BERKELEY	37.8694368	-122.28952	T		White	Male	>40	Traffic	Citation	No Search
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05/21/2020 09:10:57 AI	2020-000247	SHATTUCK A	BERKELEY	37.8784161	-122.2691		1194	White	Female	30-39	Investigation	Warning	Search
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05/22/2020 10:55:57 PI	2020-000250	TELEGRAPH	BERKELEY	37.8613958	-122.25894		1194	White	Male	18-29	Investigation	Warning	No Search
05/23/2020 12:50:50 AI	2020-000250	200 MARINA	BERKELEY	37.866104	-122.3123	T		White	Female	<18	Traffic	Warning	Search
05/23/2020 03:14:41 PI	2020-000251	ALCATRAZ A	BERKELEY	37.8478979	-122.27774	T		White	Male	30-39	Traffic	Citation	No Search
05/24/2020 06:50:24 PI	2020-000252	TELEGRAPH	BERKELEY	37.8613958	-122.25894	T		White	Male	30-39	Traffic	Warning	No Search
05/24/2020 11:53:10 PI	2020-000253	1100 FRANCI	BERKELEY	37.8725191	-122.29273		1196	White	Male	30-39	Traffic	Warning	Search
05/25/2020 08:52:52 PI	2020-000254	1700 9TH ST	BERKELEY	37.8729012	-122.29581	T		White	Female	>40	Traffic	Arrest	Search
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05/26/2020 02:06:31 PI	2020-000255	SHATTUCK A	BERKELEY	37.8666868	-122.26768	T		White	Female	>40	Traffic	Warning	No Search
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05/27/2020 07:10:14 PI	2020-000257	PARK ST / W	BERKELEY	37.8574694	-122.28342		1194	White	Male	18-29	Traffic	Warning	No Search
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05/29/2020 05:44:37 PI	2020-000260	CHANNING V	BERKELEY	37.8657798	-122.26758	T		White	Male	30-39	Traffic	Warning	No Search
05/29/2020 09:35:40 PI	2020-000260	PARKER ST	BERKELEY	37.8632584	-122.25869		1194	White	Male	30-39	Prob./Parole	Warning	Search
05/30/2020 12:51:54 PI	2020-000261	CEDAR ST /	BERKELEY	37.8762121	-122.28664	T		White	Male	18-29	Traffic	Warning	No Search
05/30/2020 02:15:56 PI	2020-000261	CHANNING V	BERKELEY	37.8613	-122.29784		1196	White	Female	30-39	Traffic	Warning	No Search
05/30/2020 02:56:40 PI	2020-000261	ROSE ST / S	BERKELEY	37.8789055	-122.283	T		White	Male	30-39	Traffic	Warning	No Search
06/01/2020 08:00:11 PI	2020-000264	UNIVERSITY	BERKELEY	37.8678667	-122.29885	T		White	Male	18-29	Traffic	Warning	No Search
06/01/2020 08:14:39 PI	2020-000265	SHATTUCK A	BERKELEY	37.8703037	-122.26804		1194B	White	Male	30-39	Traffic	Warning	No Search
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06/01/2020 08:51:58 PI	2020-000265	6TH ST / CAN	BERKELEY	37.8776249	-122.30073	T		White	Male	>40	Traffic	Warning	No Search
06/01/2020 09:33:25 PI	2020-000265	DWIGHT WA	BERKELEY	37.8648283	-122.26072	T		White	Male	30-39	Traffic	Warning	No Search
06/01/2020 10:17:37 PI	2020-000265	1338 SAN PA	BERKELEY	37.879199	-122.29629		1194	White	Male	30-39	Investigation	Warning	Search
06/01/2020 11:37:03 PI	2020-000265	HEARST AVE	BERKELEY	37.869977	-122.29483	T		White	Female	30-39	Traffic	Warning	No Search
06/01/2020 11:48:58 PI	2020-000265	SACRAMENT	BERKELEY	37.8673936	-122.28164	T		White	Female	18-29	Traffic	Warning	Search
06/02/2020 12:21:59 AI	2020-000265	BLAKE ST / M	BERKELEY	37.8627436	-122.26971	T		White	Male	30-39	Traffic	Citation	No Search
06/02/2020 12:23:30 AI	2020-000265	59TH ST / SH	OAKLAND	37.844507	-122.26507	T		White	Male	18-29	Traffic	Arrest	Search
06/02/2020 01:26:45 AI	2020-000266	7TH ST / FOL	BERKELEY	37.8500589	-122.29078	T		White	Male	>40	Traffic	Warning	Search
06/02/2020 09:44:44 PI	2020-000267	UNIVERSITY	BERKELEY	37.8704106	-122.28194	T		White	Male	>40	Traffic	Warning	No Search
06/02/2020 09:49:14 PI	2020-000267	BANC/MIL		-361	-361	T		White	Male	>40	Traffic	Warning	No Search
06/02/2020 10:02:50 PI	2020-000267	UNIVERSITY	BERKELEY	37.8701126	-122.28425	T		White	Male	30-39	Traffic	Warning	No Search
06/02/2020 10:04:19 PI	2020-000267	HEARST AVE	BERKELEY	37.8695305	-122.29705	T		White	Male	18-29	Traffic	Warning	No Search
06/02/2020 10:25:39 PI	2020-000267	SAN PABLO	BERKELEY	37.8804742	-122.2958	T		White	Male	18-29	Traffic	Warning	No Search
06/02/2020 11:14:46 PI	2020-000267	1373 SOLAN	ALBANY	37.8909198	-122.29067		1194	White	Male	30-39	Investigation	Warning	No Search
06/02/2020 11:34:06 PI	2020-000267	VIR/OXF		-361	-361	T		White	Male	>40	Traffic	Warning	No Search
06/03/2020 06:29:26 PI	2020-000268	ALLSTON W	BERKELEY	37.8686429	-122.27383	T		White	Male	30-39	Traffic	Citation	No Search
06/03/2020 06:34:40 PI	2020-000269	BANCROFT V	BERKELEY	37.8658235	-122.28148	T		White	Female	>40	Traffic	Citation	No Search
06/03/2020 06:51:32 PI	2020-000269	SHATTUCK A	BERKELEY	37.8666868	-122.26768	T		White	Male	18-29	Traffic	Warning	No Search
06/03/2020 07:57:48 PI	2020-000269	MARTIN LUT	BERKELEY	37.8543164	-122.27108	T		White	Female	>40	Traffic	Warning	No Search
06/03/2020 08:06:14 PI	2020-000269	SAN PABLO	BERKELEY	-361	-361	T		White	Female	18-29	Traffic	Warning	No Search
06/03/2020 08:25:41 PI	2020-000269	ELLSWORTH	BERKELEY	37.8627528	-122.26262	T		White	Male	18-29	Traffic	Warning	No Search
06/03/2020 09:34:48 PI	2020-000269	ASHBY AVE	BERKELEY	37.8561859	-122.25967	T		White	Male	30-39	Traffic	Warning	No Search
06/03/2020 09:49:35 PI	2020-000269	7TH ST / CAF	BERKELEY	37.8569449	-122.29301	T		White	Female	>40	Traffic	Warning	No Search
06/03/2020 09:51:52 PI	2020-000269	TELEGRAPH	BERKELEY	37.8623296	-122.25881	T		White	Male	30-39	Traffic	Warning	No Search
06/03/2020 10:05:12 PI	2020-000269	5TH ST / GIL	BERKELEY	37.8791283	-122.30247	T		White	Female	>40	Traffic	Warning	No Search
06/03/2020 10:19:30 PI	2020-000269	61ST ST / MA	OAKLAND	37.8453964	-122.27601	T		White	Male	30-39	Traffic	Warning	Search
06/03/2020 10:21:04 PI	2020-000269	CARLETON S	BERKELEY	37.861567	-122.26468	T		White	Male	>40	Traffic	Warning	No Search
06/03/2020 11:48:22 PI	2020-000270	HEARST AVE	BERKELEY	37.8721498	-122.28213	T		White	Male	18-29	Traffic	Warning	No Search
06/04/2020 12:03:34 AI	2020-000270	UNIVERSITY	BERKELEY	37.8684235	-122.29552	T		White	Male	18-29	Traffic	Warning	Search
06/04/2020 07:13:06 PI	2020-000271	TELEGRAPH	BERKELEY	37.8623296	-122.25881	T		White	Male	>40	Traffic	Warning	Search
06/04/2020 07:54:49 PI	2020-000271	SHATTUCK A	BERKELEY	37.8729787	-122.26848		1194	White	Male	>40	Investigation	Warning	No Search
06/04/2020 08:08:48 PI	2020-000271	ALLSTON W	BERKELEY	37.8669504	-122.28693	T		White	Female	18-29	Traffic	Citation	No Search
06/04/2020 08:33:39 PI	2020-000271	MARTIN LUT	OAKLAND	37.8451181	-122.27094	T		White	Male	18-29	Traffic	Warning	No Search
06/04/2020 08:37:46 PI	2020-000271	DWIGHT WA	BERKELEY	37.8645381	-122.26299	T		White	Male	18-29	Traffic	Warning	No Search
06/04/2020 09:36:59 PI	2020-000271	SAN PABLO	BERKELEY	37.8763829	-122.29448	T		White	Male	18-29	Traffic	Warning	No Search
06/04/2020 09:48:31 PI	2020-000271	SAN PABLO	BERKELEY	37.8690966	-122.29212	T		White	Male	18-29	Traffic	Citation	No Search

06/04/2020 10:12:42	PI	2020-0002716	SAN PABLO	BERKELEY	37.8734425	-122.29353	T		White	Male	>40	Investigation	Arrest	Search
06/05/2020 02:33:35	AI	2020-0002716	SAN PABLO	BERKELEY	37.8562062	-122.28798	T		White	Male	30-39	Traffic	Warning	No Search
06/05/2020 03:01:06	PI	2020-0002726	GILMAN ST /	BERKELEY	37.879368	-122.30129	T		White	Male	>40	Traffic	Citation	No Search
06/05/2020 05:37:26	PI	2020-0002726	DWIGHT WA	BERKELEY	37.8623256	-122.28006	T		White	Female	18-29	Traffic	Warning	No Search
06/05/2020 05:55:13	PI	2020-0002726	1283 2ND ST	BERKELEY	37.8788242	-122.30585	T		White	Female	30-39	Traffic	Warning	No Search
06/05/2020 06:54:55	PI	2020-0002736	ADELINE ST	BERKELEY	37.8487527	-122.27145	T		White	Male	>40	Traffic	Warning	No Search
06/05/2020 07:18:44	PI	2020-0002736	HARRISON S	BERKELEY	37.880915	-122.30306	T		White	Male	18-29	Traffic	Warning	No Search
06/05/2020 08:14:31	PI	2020-0002736	200 MARINA	BERKELEY	37.866104	-122.3123	T		White	Male	18-29	Traffic	Warning	No Search
06/05/2020 08:24:57	PI	2020-0002736	SAN PABLO	BERKELEY	37.8549187	-122.28756	T		White	Male	18-29	Traffic	Warning	No Search
06/05/2020 08:48:54	PI	2020-0002736	DURANT AVE	BERKELEY	37.8683904	-122.25443	T		White	Male	>40	Traffic	Citation	No Search
06/05/2020 10:09:01	PI	2020-0002736	SAN PABLO	BERKELEY	37.8543973	-122.2874	T		White	Male	30-39	Traffic	Warning	Search
06/06/2020 02:00:24	PI	2020-0002736	ADDISON ST	BERKELEY	37.8698656	-122.27846	T		White	Male	18-29	Traffic	Warning	No Search
06/06/2020 04:38:54	PI	2020-0002746	1894 UNIVER	BERKELEY	37.8711868	-122.27332		1196	White	Male	30-39	Investigation	Warning	No Search
06/06/2020 06:55:20	PI	2020-0002746	SACRAMENT	BERKELEY	37.856021	-122.27961	T		White	Male	30-39	Traffic	Warning	No Search
06/07/2020 01:08:11	AI	2020-0002746	BONITA AVE	BERKELEY	37.8734562	-122.27207		1194	White	Male	18-29	Investigation	Warning	No Search
06/07/2020 03:06:48	AI	2020-0002746	PARK ST / O	BERKELEY	37.8555744	-122.28303	T		White	Female	30-39	Traffic	Warning	No Search
06/07/2020 03:26:16	AI	2020-0002746	SAN PABLO	BERKELEY	37.8521406	-122.28668	T		White	Female	30-39	Traffic	Warning	No Search
06/07/2020 11:27:50	PI	2020-0002756	SAN PABLO	BERKELEY	37.8763829	-122.29448	T		White	Male	18-29	Traffic	Warning	No Search
06/08/2020 09:31:41	PI	2020-0002776	BANCROFT V	BERKELEY	37.8678347	-122.26595	T		White	Male	18-29	Traffic	Warning	No Search
06/08/2020 09:41:23	PI	2020-0002776	1600 62ND S	BERKELEY	37.8462308	-122.27522	T		White	Female	>40	Traffic	Warning	No Search
06/09/2020 12:49:20	AI	2020-0002776	62ND ST / M	BERKELEY	37.8469715	-122.27103	T		White	Female	>40	Traffic	Arrest	Search
06/09/2020 10:58:27	AI	2020-0002776	BANCROFT V	BERKELEY	37.8686984	-122.25915	T		White	Male	>40	Investigation	Warning	No Search
06/09/2020 12:09:49	PI	2020-0002776	DURANT AVE	BERKELEY	37.8669304	-122.26581	T		White	Male	30-39	Investigation	Warning	No Search
06/09/2020 03:15:36	PI	2020-0002786	SHATTUCK A	BERKELEY	37.869392	-122.26793		1194	White	Male	30-39	Investigation	Other	No Search
06/10/2020 08:55:53	PI	2020-0002806	DWIGHT WA	BERKELEY	37.8658702	-122.25161	T		White	Female	18-29	Traffic	Warning	No Search
06/12/2020 01:28:41	AI	2020-0002826	OXFORD ST	BERKELEY	37.8705845	-122.26588		1194	White	Male	30-39	Traffic	Warning	No Search

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03/17/2020	04	2020-000152	MARTIN LUT	BERKELEY	37.8597658	-122.2717	T		Hispanic	Male	18-29	Traffic	Citation	No Search
03/18/2020	04	2020-000154	24	BERKELEY	37.8687638	-122.26024	T		Hispanic	Male	18-29	Traffic	Warning	No Search
03/22/2020	1	2020-000159	7TH ST / CAN	BERKELEY	37.8778339	-122.29972	T		Hispanic	Male	>40	Traffic	Warning	No Search
03/23/2020	0	2020-000161	HEARST AVE	BERKELEY	37.8724284	-122.27996	T		Hispanic	Male	30-39	Traffic	Citation	No Search
03/24/2020	04	2020-000163	06	BERKELEY	37.8656779	-122.25727		1194	Hispanic	Female	18-29	Prob./Parole	Other	No Search
03/28/2020	1	2020-000168	GILMAN ST /	BERKELEY	37.879368	-122.30129	T		Hispanic	Male	18-29	Traffic	Warning	No Search
03/28/2020	04	2020-000168	SACRAMENT	BERKELEY	37.8587128	-122.28016	T		Hispanic	Female	18-29	Traffic	Warning	No Search
03/28/2020	04	2020-000169	199 SEAWAL	BERKELEY	37.86904	-122.31467		1196	Hispanic	Male	30-39	Traffic	Warning	No Search
03/30/2020	07	2020-000170	ALLSTON WA	BERKELEY	37.8673936	-122.28164	T		Hispanic	Female	18-29	Traffic	Warning	No Search
03/30/2020	1	2020-000171	MARTIN LUT	BERKELEY	37.8597658	-122.2717	T		Hispanic	Female	18-29	Traffic	Warning	No Search
04/02/2020	04	2020-000176	ALLSTON WA	BERKELEY	37.8652612	-122.29678		1196	Hispanic	Male	18-29	Investigation	Other	Search
04/04/2020	1	2020-000178	5TH ST / HEA	BERKELEY	37.8690886	-122.29924		1194	Hispanic	Male	30-39	Traffic	Warning	No Search
04/22/2020	04	2020-000203	TELEGRAPH	BERKELEY	37.8623296	-122.25881		1194	Hispanic	Male	>40	Reas. Susp.	Citation	No Search
05/01/2020	1	2020-000217	SAN PABLO	BERKELEY	37.8562062	-122.28798	T		Hispanic	Male	18-29	Traffic	Warning	No Search
05/03/2020	04	2020-000219	ASHBY AVE	BERKELEY	37.8558351	-122.26241	T		Hispanic	Male	18-29	Traffic	Arrest	Search
05/16/2020	1	2020-000239	PARKER ST	BERKELEY	37.8632584	-122.25869		1194	Hispanic	Male	>40	Investigation	Citation	No Search
05/18/2020	03	2020-000241	1057 EASTSH	ALBANY	37.8839297	-122.30809	T		Hispanic	Male	30-39	Traffic	Warning	No Search
05/20/2020	04	2020-000246	PIEDMONT A	BERKELEY	37.8686782	-122.25225	T		Hispanic	Male	18-29	Traffic	Warning	No Search
05/20/2020	07	2020-000246	CENTER ST/SHATTUCK A		-361	-361	T		Hispanic	Female	18-29	Traffic	Citation	No Search
05/21/2020	03	2020-00024698		BERKELEY	37.871231	-122.31607	T		Hispanic	Male	18-29	Traffic	Warning	Search
05/22/2020	04	2020-000248	7TH ST / ASH	BERKELEY	37.8510086	-122.2911	T		Hispanic	Male	<18	Traffic	Warning	No Search
05/23/2020	04	2020-000250	MARTIN LUT	BERKELEY	37.8579641	-122.2715	T		Hispanic	Male	18-29	Traffic	Warning	No Search
05/23/2020	04	2020-000251	HASTE ST / M	BERKELEY	37.8645542	-122.2699	T		Hispanic	Male	30-39	Traffic	Warning	No Search
05/24/2020	1	2020-000251	ADDISON ST	BERKELEY	37.8691481	-122.28409	T		Hispanic	Female	<18	Traffic	Warning	Search
05/25/2020	0	2020-000253	UNIVERSITY	BERKELEY	37.8664444	-122.30556	T		Hispanic	Male	18-29	Traffic	Warning	No Search
05/25/2020	0	2020-000253	BLAKE ST / S	BERKELEY	37.8613435	-122.28075	T		Hispanic	Male	<18	Traffic	Warning	Search
05/25/2020	0	2020-000253	SHATTUCK A	BERKELEY	37.8684892	-122.26787	T		Hispanic	Male	18-29	Investigation	Warning	No Search
05/25/2020	07	2020-000254	TELEGRAPH	BERKELEY	37.8604613	-122.25908	T		Hispanic	Male	18-29	Traffic	Warning	No Search
05/26/2020	04	2020-000254	ALLSTON WA	BERKELEY	37.8652612	-122.29678	T		Hispanic	Male	30-39	Traffic	Arrest	Search
05/28/2020	1	2020-000257	BANCROFT V	BERKELEY	37.8650342	-122.28759	T		Hispanic	Male	30-39	Investigation	Other	No Search
05/28/2020	07	2020-000258	SAN PABLO	BERKELEY	37.8704154	-122.29255	T		Hispanic	Male	30-39	Traffic	Citation	No Search
05/29/2020	04	2020-000260	OREGON ST	BERKELEY	37.8574637	-122.26809	T		Hispanic	Male	>40	Traffic	Warning	No Search
05/29/2020	04	2020-000260	WARRING ST	BERKELEY	37.8623108	-122.2501	T		Hispanic	Male	18-29	Traffic	Warning	Search
05/30/2020	04	2020-000260	291 ARLINGTON AVE		37.9029497	-122.27781	T		Hispanic	Male	18-29	Traffic	Warning	No Search
05/30/2020	04	2020-000260	ADDISON ST	BERKELEY	37.8667099	-122.29725	T		Hispanic	Male	18-29	Traffic	Warning	No Search
05/30/2020	04	2020-000260	UNIVERSITY	BERKELEY	37.8686437	-122.29441	T		Hispanic	Female	30-39	Traffic	Citation	Search
05/30/2020	04	2020-000260	UNIVERSITY	BERKELEY	37.8686437	-122.29441	T		Hispanic	Male	30-39	Traffic	Citation	Search
06/01/2020	04	2020-000265	SAN PABLO	BERKELEY	37.8681488	-122.29181	T		Hispanic	Female	30-39	Traffic	Arrest	Search
06/01/2020	04	2020-000265	UNIVERSITY	BERKELEY	37.8684235	-122.29552	T		Hispanic	Female	>40	Traffic	Warning	No Search
06/01/2020	04	2020-000265	TELEGRAPH	BERKELEY	37.8604613	-122.25908	T		Hispanic	Female	30-39	Traffic	Warning	No Search
06/01/2020	1	2020-000265	ADDISON ST	BERKELEY	37.8694321	-122.28184	T		Hispanic	Male	>40	Traffic	Warning	No Search
06/01/2020	1	2020-000265	6TH ST / GIL	BERKELEY	37.879368	-122.30129	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/01/2020	1	2020-000265	6 ADD		-361	-361	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/01/2020	1	2020-000265	ASHB/NEW		-361	-361	T		Hispanic	Female	>40	Traffic	Citation	No Search
06/01/2020	1	2020-000265	SAN PABLO	BERKELEY	37.8628548	-122.29011	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/01/2020	1	2020-000265	SAN PABLO	BERKELEY	37.8562062	-122.28798	T		Hispanic	Female	18-29	Traffic	Warning	No Search
06/01/2020	1	2020-000265	SAN PABLO	BERKELEY	37.8804742	-122.2958	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/01/2020	1	2020-000265	UNIVERSITY	BERKELEY	37.8690966	-122.29212	T		Hispanic	Female	18-29	Traffic	Warning	No Search
06/01/2020	1	2020-000265	SAN PABLO AVE/ASHBY A		-361	-361	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/02/2020	0	2020-000266	GRANT ST /	BERKELEY	37.870287	-122.27514	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/02/2020	03	2020-000266	15		37.8653508	-122.30299	T		Hispanic	Female	18-29	Traffic	Warning	No Search
06/02/2020	1	2020-000267	SHATTUCK A	BERKELEY	37.8538153	-122.2663	T		Hispanic	Male	30-39	Traffic	Warning	No Search
06/02/2020	1	2020-000267	1797 SHATTU	BERKELEY	37.8751909	-122.26842		1194	Hispanic	Male	18-29	Traffic	Warning	No Search
06/02/2020	1	2020-000267	1797 SHATTU	BERKELEY	37.8751909	-122.26842		1194	Hispanic	Male	18-29	Investigation	Warning	No Search
06/02/2020	1	2020-000267	ASH/EOF SAN P		-361	-361	T		Hispanic	Male	18-29	Traffic	Warning	Search

06/03/2020 04	2020-000269	4TH ST / ADC	BERKELEY	37.8662672	-122.29944	T		Hispanic	Male	30-39	Traffic	Warning	No Search
06/03/2020 07	2020-000269	SACRAMENT	BERKELEY	37.8549119	-122.27938	T		Hispanic	Male	30-39	Traffic	Warning	No Search
06/03/2020 07	2020-000269	1227 DERBY	BERKELEY	37.8582263	-122.28537	T		Hispanic	Male	30-39	Traffic	Warning	No Search
06/03/2020 04	2020-000269	ASHBY AVE /	BERKELEY	37.8577245	-122.25069	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/03/2020 04	2020-000269	DURANT AVE	BERKELEY	37.8681085	-122.25671	T		Hispanic	Male	30-39	Traffic	Warning	No Search
06/03/2020 04	2020-000269	CHANNING V	BERKELEY	37.866908	-122.2588		1196	Hispanic	Male	18-29	Investigation	Other	No Search
06/03/2020 04	2020-000269	UNIVERISTY AV/5TH ST		-361	-361	T		Hispanic	Male	>40	Traffic	Warning	No Search
06/03/2020 11	2020-000270	DWIGHT WA	BERKELEY	37.862196	-122.28109		1194	Hispanic	Male	30-39	Investigation	Warning	No Search
06/04/2020 11	2020-000270	ASH/9		-361	-361	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/04/2020 11	2020-000270	BLAKE ST / M	BERKELEY	37.8605225	-122.28713	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/04/2020 07	2020-000270	RUSSELL ST	BERKELEY	37.8537562	-122.28629	T		Hispanic	Female	18-29	Traffic	Warning	No Search
06/04/2020 04	2020-000271	SAN PABLO	OAKLAND	37.8425217	-122.28357	T		Hispanic	Male	30-39	Traffic	Warning	No Search
06/04/2020 04	2020-000271	COLLEGE AV	BERKELEY	37.8570448	-122.25304	T		Hispanic	Female	18-29	Traffic	Warning	No Search
06/04/2020 04	2020-000271	SHATTUCK A	BERKELEY	37.8657798	-122.26758	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/04/2020 04	2020-000271	SHATTUCK A	BERKELEY	37.8630666	-122.26726	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/04/2020 04	2020-000271	BOWDITCH S	BERKELEY	37.8681085	-122.25671	T		Hispanic	Female	30-39	Traffic	Warning	No Search
06/04/2020 04	2020-000271	SHATTUCK A	BERKELEY	37.8675938	-122.26777	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/05/2020 04	2020-000271	CENTER ST	BERKELEY	37.8703037	-122.26804	T		Hispanic	Male	30-39	Traffic	Warning	No Search
06/05/2020 04	2020-000272	GILMAN ST /	BERKELEY	37.8784681	-122.30577	T		Hispanic	Female	18-29	Traffic	Warning	No Search
06/05/2020 04	2020-000272	81	BERKELEY	37.8787045	-122.30464	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/05/2020 04	2020-000272	GILMAN ST /	BERKELEY	37.8783023	-122.30657	T		Hispanic	Female	18-29	Traffic	Warning	No Search
06/05/2020 07	2020-000273	ASHBY AVE	BERKELEY	37.8577245	-122.25069	T		Hispanic	Male	30-39	Traffic	Warning	No Search
06/05/2020 07	2020-000273	ASHBY AVE	BERKELEY	37.8577245	-122.25069	T		Hispanic	Female	30-39	Traffic	Warning	No Search
06/06/2020 07	2020-000273	UNIVERSITY	BERKELEY	37.8664444	-122.30556	T		Hispanic	Female	<18	Traffic	Warning	No Search
06/06/2020 07	2020-000273	SACRAMENT	BERKELEY	37.8532811	-122.27901	T		Hispanic	Male	30-39	Traffic	Warning	No Search
06/06/2020 04	2020-000274	SACRAMENT	BERKELEY	37.8523915	-122.2788	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/06/2020 04	2020-000274	UNIVERSITY	BERKELEY	37.8715553	-122.273	T		Hispanic	Female	18-29	Traffic	Warning	No Search
06/07/2020 07	2020-000275	6TH ST / UNI	BERKELEY	37.8679939	-122.29766	T		Hispanic	Female	>40	Traffic	Warning	No Search
06/10/2020 04	2020-000280	SAN PABLO	BERKELEY	37.8572026	-122.2883	T		Hispanic	Female	30-39	Traffic	Warning	No Search
06/11/2020 11	2020-000281	UNI/OXFORD		-361	-361		1194	Hispanic	Male	18-29	Reas. Susp.	Other	No Search
06/11/2020 11	2020-000281	MARTIN LUT	BERKELEY	37.8543164	-122.27108	T		Hispanic	Male	>40	Traffic	Warning	No Search
06/11/2020 07	2020-000281	MLK/UNI		-361	-361	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/12/2020 07	2020-000282	BANCROFT V	BERKELEY	37.8626079	-122.30052	T		Hispanic	Male	30-39	Traffic	Arrest	Search

<b>03/17/2020 10:09:30 AM</b>	2020-0001525	DURANT AVE	BERKELEY	37.867809	-122.25898	T	Asian	Male	18-29	Traffic	Warning	No Search
<b>03/30/2020 12:38:21 PM</b>	2020-0001712	9TH ST / ASH	BERKELEY	37.8516158	-122.28937	T	Asian	Female	>40	Traffic	Citation	No Search
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<b>05/05/2020 02:20:35 PM</b>	2020-0002224	1998 SHATTL	BERKELEY	37.8723896	-122.26873	1194	Asian	Male	30-39	Investigation	Citation	Search
<b>06/03/2020 09:57:48 PM</b>	2020-0002698	UNIVERSITY	BERKELEY	37.8679939	-122.29766	T	Asian	Male	30-39	Traffic	Citation	Search
<b>06/05/2020 03:38:47 PM</b>	2020-0002726	GILMAN ST /	BERKELEY	37.8783023	-122.30657	T	Asian	Male	18-29	Traffic	Citation	No Search
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03/21/2020 04	2020-000159	MARTIN LUT	BERKELEY	37.8561332	-122.27128	T		Other	Male	30-39	Traffic	Citation	No Search
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04/30/2020 11	2020-000214	MARTIN LUT	BERKELEY	37.8543164	-122.27108	T		Other	Male	30-39	Traffic	Citation	No Search
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05/28/2020 11	2020-000258	CEDAR ST / S	BERKELEY	37.875205	-122.29409	T		Other	Male	30-39	Traffic	Citation	No Search
05/30/2020 11	2020-000261	HOPKINS ST	BERKELEY	37.8760154	-122.2925	T		Other	Female	18-29	Traffic	Citation	No Search
06/02/2020 07	2020-000267	1836 4TH ST	BERKELEY	37.8693001	-122.30075	T		Other	Male	>40	Traffic	Citation	No Search
06/03/2020 04	2020-000269	1200 CARRIS	BERKELEY	37.8513516	-122.28535	T		Other	Male	30-39	Traffic	Citation	No Search
06/03/2020 04	2020-000269	SAN PABLO	BERKELEY	37.8521406	-122.28668	T		Other	Male	18-29	Traffic	Citation	No Search

Berkeley\_PD\_-\_Stop\_Data\_NEW\_(3)

CreateDateTime	IncidentNumber	Address	City	Lat	Lon	CallType	Race	Gender	Age	Reason	Enforcement	Car Search
03/15/2020 02:52:51 AM	2020-00015004	SHATTUCK AV	BERKELEY	37.86487625	-122.2674748	T	Black	Male	30-39	Traffic	Warning	No Search
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03/16/2020 12:17:09 PM	2020-00015175	DURANT AVE	BERKELEY	37.86839037	-122.2544282	1194	White	Male	30-39	Investigation	Warning	Search
03/16/2020 01:06:33 PM	2020-00015192	7TH ST / ASH	BERKELEY	37.85100855	-122.2911104	T	White	Female	30-39	Traffic	Citation	No Search
03/16/2020 01:25:12 PM	2020-00015195	7TH ST / POTT	BERKELEY	37.85151487	-122.2912704	T	White	Male	30-39	Traffic	Citation	No Search
03/16/2020 04:27:59 PM	2020-00015216	SACRAMENTO	BERKELEY	37.87581598	-122.2825461	T	White	Female	>40	Traffic	Warning	No Search
03/16/2020 06:30:18 PM	2020-00015232	SHATTUCK AV	BERKELEY	37.87297868	-122.2684752	1194	Black	Male	30-39	Investigation	Warning	No Search
03/17/2020 08:26:16 AM	2020-00015289	MARTIN LUTHI	BERKELEY	37.85976575	-122.2716958	T	Hispanic	Male	18-29	Traffic	Citation	No Search
03/17/2020 10:06:30 AM	2020-00015297	DURANT AVE	BERKELEY	37.86780904	-122.258976	T	Asian	Male	18-29	Traffic	Warning	No Search
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03/17/2020 02:04:41 PM	2020-00015340	MARTIN LUTHI	BERKELEY	37.87155526	-122.2730013	1194	Black	Male	>40	Reas. Susp.	Citation	No Search
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03/19/2020 06:47:08 PM	2020-00015639	GRIZZLY PEAK	BERKELEY	37.8895193	-122.2521985	T	White	Female	18-29	Traffic	Citation	No Search
03/21/2020 06:28:33 PM	2020-00015915	MARTIN LUTHI	BERKELEY	37.85613316	-122.2712817	T	Other	Male	30-39	Traffic	Citation	No Search
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06/03/2020 07:29:59 PM	2020-00026923	6TH ST / CAM	BERKELEY	37.87762485	-122.3007273	T	Black	Male	18-29	Traffic	Warning	No Search
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06/03/2020 08:28:25 PM	2020-00026949	ASHBY AVE / F	BERKELEY	37.85772454	-122.250689	T	Hispanic	Male	18-29	Traffic	Warning	No Search
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06/03/2020 08:43:49 PM	2020-00026954	DURANT AVE / BERKELEY	37.86810848	-122.2567136	T	Hispanic	Male	30-39	Traffic	Warning	No Search
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06/07/2020 03:28:16 AM	2020-00027498	SAN PABLO A	BERKELEY	37.85214064	-122.2866834	T	White	Female	30-39	Traffic	Warning	No Search
06/07/2020 04:10:13 AM	2020-00027500	3012 SAN PAB	BERKELEY	37.85154183	-122.2867753	1196	Black	Male	>40	Investigation	Warning	No Search
06/07/2020 07:51:14 AM	2020-00027504	6TH ST / UNIV	BERKELEY	37.8679939	-122.2976644	T	Hispanic	Female	>40	Traffic	Warning	No Search
06/07/2020 01:43:19 PM	2020-00027532	MARTIN LUTHI	BERKELEY	37.85976575	-122.2716958	T	Black	Male	30-39	Traffic	Warning	No Search
06/07/2020 02:02:37 PM	2020-00027535	SACRAMENT	BERKELEY	37.86943207	-122.2818435	1196	Black	Male	>40	Traffic	Citation	Search
06/07/2020 04:15:28 PM	2020-00027548	SACRAMENT	BERKELEY	37.85602098	-122.2796056	T	Black	Male	18-29	Traffic	Warning	No Search
06/07/2020 06:57:35 PM	2020-00027560	SAN PABLO A	BERKELEY	37.85214064	-122.2866834	T	Black	Male	30-39	Traffic	Warning	No Search
06/07/2020 10:34:53 PM	2020-00027582	HEARS/4		-361	-361	T	Other	Female	18-29	Traffic	Warning	No Search
06/07/2020 11:27:50 PM	2020-00027589	SAN PABLO A	BERKELEY	37.87638293	-122.2944838	T	White	Male	18-29	Traffic	Warning	No Search
06/08/2020 08:31:41 PM	2020-00027720	BANCROFT W	BERKELEY	37.86783467	-122.2659514	T	White	Male	18-29	Traffic	Warning	No Search
06/08/2020 08:41:23 PM	2020-00027724	1600 62ND ST	BERKELEY	37.8462308	-122.275222	T	White	Female	>40	Traffic	Warning	No Search
06/08/2020 08:51:55 PM	2020-00027728	OCCIDENTAL	OAKLAND	37.84548038	-122.2752602	T	Black	Male	30-39	Traffic	Warning	No Search
06/08/2020 10:18:24 PM	2020-00027735	STANFORD AV	OAKLAND	37.84092266	-122.2830535	T	Black	Male	18-29	Traffic	Warning	No Search
06/09/2020 12:49:20 AM	2020-00027750	62ND ST / MA	BERKELEY	37.84697153	-122.2710335	T	White	Female	>40	Traffic	Arrest	Search
06/09/2020 02:13:04 AM	2020-00027751	2974 SACRAM	BERKELEY	37.85368411	-122.2795825	T	Black	Male	>40	Traffic	Warning	No Search
06/09/2020 10:58:27 AM	2020-00027788	BANCROFT W	BERKELEY	37.86869844	-122.2591513	T	White	Male	>40	Investigation	Warning	No Search
06/09/2020 12:06:49 PM	2020-00027797	DURANT AVE	BERKELEY	37.86693037	-122.2658086	T	White	Male	30-39	Investigation	Warning	No Search
06/09/2020 03:15:36 PM	2020-00027835	SHATTUCK AV	BERKELEY	37.86939197	-122.2679323	1194	White	Male	30-39	Investigation	Other	No Search
06/09/2020 08:00:38 PM	2020-00027884	7TH ST / GRA	BERKELEY	37.85530369	-122.2924722	T	Black	Male	>40	Traffic	Warning	Search
06/09/2020 08:44:31 PM	2020-00027889	2197 SAN PAB	BERKELEY	37.86673386	-122.2910261	T	Black	Female	>40	Traffic	Warning	No Search
06/09/2020 11:42:58 PM	2020-00027903	7TH ST / ALLS	BERKELEY	37.86546725	-122.2957426	T	Other	Male	30-39	Traffic	Warning	No Search
06/10/2020 12:04:23 AM	2020-00027905	SAN PABLO A	BERKELEY	37.86909659	-122.2921194	T	Asian	Male	30-39	Traffic	Citation	No Search
06/10/2020 12:21:33 AM	2020-00027906	CALIFORNIA S	BERKELEY	37.85355072	-122.2769308	T	Black	Male	>40	Traffic	Warning	No Search
06/10/2020 12:33:33 AM	2020-00027909	COLLEGE AVE	BERKELEY	37.86572076	-122.2539025	T	Black	Male	30-39	Traffic	Warning	No Search
06/10/2020 12:38:46 AM	2020-00027910	UNIVERSITY A	BERKELEY	37.86909659	-122.2921194	T	Black	Male	>40	Traffic	Warning	Search
06/10/2020 01:38:58 AM	2020-00027913	2ND ST / PAGE	BERKELEY	37.87554134	-122.3048247	T	Black	Female	18-29	Traffic	Warning	Search
06/10/2020 02:38:14 AM	2020-00027917	9TH ST / HEIN	BERKELEY	37.85393505	-122.2896695	T	Black	Male	>40	Traffic	Warning	No Search
06/10/2020 03:36:57 AM	2020-00027920	62ND ST / KIN	BERKELEY	37.84666237	-122.2731928	T	Black	Male	>40	Traffic	Warning	No Search
06/10/2020 08:56:53 PM	2020-00028056	DWIGHT WAY	BERKELEY	37.86587024	-122.2516054	T	White	Female	18-29	Traffic	Warning	No Search
06/10/2020 08:58:48 PM	2020-00028058	SACRAMENT	BERKELEY	37.85328108	-122.2790116	T	Black	Male	>40	Traffic	Warning	No Search
06/10/2020 09:07:29 PM	2020-00028059	SAN PABLO A	BERKELEY	37.85720255	-122.2882984	T	Hispanic	Female	30-39	Traffic	Warning	No Search
06/10/2020 09:27:19 PM	2020-00028061	SHATTUCK AV	BERKELEY	37.85530055	-122.2664932	T	Other	Male	>40	Traffic	Warning	No Search
06/10/2020 09:40:27 PM	2020-00028066	SAN PABLO A	BERKELEY	37.85214064	-122.2866834	T	Black	Male	18-29	Traffic	Warning	No Search
06/10/2020 09:58:15 PM	2020-00028067	SAN PABLO A	BERKELEY	37.86461656	-122.2906721	T	Black	Female	>40	Traffic	Warning	No Search
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06/10/2020 11:21:37 PM	2020-00028074	ASHBY AVE / S	BERKELEY	37.85161581	-122.2893693	T	Black	Male	18-29	Traffic	Warning	No Search
06/11/2020 01:16:12 AM	2020-00028081	FAIRVIEW ST	BERKELEY	37.84968863	-122.2781685	T	Black	Male	18-29	Traffic	Warning	Search
06/11/2020 01:18:19 AM	2020-00028083	80 BOLIVAR DR	BERKELEY	37.86454622	-122.3017388	1196	Asian	Male	30-39	Traffic	Warning	No Search
06/11/2020 09:37:50 AM	2020-00028112	2036 UNIVERS	BERKELEY	37.87161747	-122.2699609	1194	Other	Male	>40	Investigation	Other	No Search
06/11/2020 10:16:18 AM	2020-00028117			37.86842909	-122.286603	T	Black	Male	>40	Investigation	Warning	No Search
06/11/2020 10:22:30 AM	2020-00028118	UNI/OXFORD		-361	-361	1194	Hispanic	Male	18-29	Reas. Susp.	Other	No Search
06/11/2020 10:54:59 AM	2020-00028121	FULTON ST / C	BERKELEY	37.86693037	-122.2658086	T	Black	Male	18-29	Traffic	Warning	No Search
06/11/2020 12:18:34 PM	2020-00028140	MARTIN LUTHI	BERKELEY	37.85431638	-122.2710841	T	Hispanic	Male	>40			

06/12/2020 01:41:22 AM	2020-00028243	BANCROFT WJ BERKELEY	37.86260789	-122.300517	T	Hispanic	Male	30-39	Traffic	Arrest	Search
06/12/2020 03:19:42 AM	2020-00028246	ASHBY AVE / S BERKELEY	37.85214064	-122.2866834	T	Black	Male	30-39	Traffic	Warning	No Search
06/12/2020 03:28:51 AM	2020-00028247	CARLETON ST BERKELEY	37.85722594	-122.2919176	T	Black	Male	>40	Traffic	Warning	No Search

3-15 to 6-12-20

Ethnicity	Stopped	% of total	Cited	% of stops resulting in citation	Arrest	% of stops resulting in arrest	% of stops resulting in citation or arrest
Total stops	608						
Asian	29	4.77%	6	20.69%	0	0.00%	20.69%
Black	304	50.00%	23	7.57%	8	2.63%	10.20%
Hispanic/Latinc	88	14.47%	9	10.23%	4	4.55%	14.77%
White	143	23.52%	22	15.38%	7	4.90%	20.28%
Bad data	1	0.16%	0	0.00%	0	0.00%	0.00%
Other	43	7.07%	11	25.58%	0	0.00%	25.58%
TOTALS:	608	100.00%	71	11.68%	19	3.13%	14.80%

Citation:	7.57%	Arrests:	2.63%	Combined Citation and Arrest	10.20%
Black yield rate	7.57%	Black yield rate	2.63%	Black yield rate	10.20%
White yield rate	15.38%	White yield rate	4.90%	White yield rate	20.28%
Percent of disparity	203.34%	Percent of disparity	186.01%	Percent of disparity	198.87%

CreateDatetime	IncidentNum	Address	City	Lat	Lon	CallType	Race	Gender	Age	Reason	Enforcement	Car Search
03/15/2020 02:52:51 AM	2020-000150	SHATTUCK	BERKELEY	37.864876	-122.2675	T	Black	Male	30-39	Traffic	Warning	No Search
03/15/2020 01:04:07 PM	2020-000150	UNIVERSITY	BERKELEY	37.870113	-122.2842	T	Black	Female	18-29	Traffic	Warning	No Search
03/15/2020 10:32:50 PM	2020-000151	MARTIN LUT	BERKELEY	37.856133	-122.2713	T	Black	Male	30-39	Traffic	Warning	No Search
03/16/2020 06:30:16 PM	2020-000152	SHATTUCK	BERKELEY	37.872979	-122.2685		1194 Black	Male	30-39	Investigation	Warning	No Search
03/17/2020 11:54:32 AM	2020-000153	2122 SHATT	BERKELEY	37.870558	-122.2686		1194 Black	Female	30-39	Prob./Parole	Other	Search
03/17/2020 02:04:41 PM	2020-000153	MARTIN LUT	BERKELEY	37.871555	-122.273		1194 Black	Male	>40	Reas. Susp.	Citation	No Search
03/21/2020 09:30:31 PM	2020-000159	SACRAMEN	BERKELEY	37.870411	-122.2819	T	Black	Female	18-29	Traffic	Warning	No Search
03/24/2020 08:34:47 AM	2020-000162	65TH ST / TE	OAKLAND	37.851067	-122.2604		1194 Black	Male	>40	Investigation	Warning	No Search
03/27/2020 08:44:25 PM	2020-000167	6TH ST / UN	BERKELEY	37.867994	-122.2977	T	Black	Male	18-29	Traffic	Citation	No Search
03/28/2020 08:07:29 AM	2020-000167	SAN PABLO	BERKELEY	37.868149	-122.2918	T	Black	Male	18-29	Traffic	Warning	No Search
03/28/2020 12:25:21 PM	2020-000168	CHANNING	BERKELEY	37.865171	-122.2723	T	Black	Male	>40	Traffic	Warning	Search
03/28/2020 02:42:24 PM	2020-000168	SACRAMEN	BERKELEY	37.862196	-122.2811	T	Black	Male	30-39	Traffic	Warning	No Search
03/28/2020 03:30:01 PM	2020-000168	SHATTUCK	BERKELEY	37.872151	-122.2684	T	Black	Male	30-39	Traffic	Warning	Search
03/28/2020 04:18:20 PM	2020-000168	UNIVERSITY	BERKELEY	37.870684	-122.2798	T	Black	Female	<18	Traffic	Arrest	Search
03/28/2020 04:18:20 PM	2020-000168	UNIVERSITY	BERKELEY	37.870684	-122.2798	T	Black	Male	>40	Traffic	Warning	Search
03/28/2020 08:31:49 PM	2020-000169	66TH ST / S	OAKLAND	37.84906	-122.2857	T	Black	Male	30-39	Traffic	Warning	No Search
03/28/2020 09:09:41 PM	2020-000169	MARTIN LUT	BERKELEY	37.871555	-122.273		1194 Black	Male	18-29	Traffic	Warning	No Search
03/29/2020 12:18:55 PM	2020-000169	1300 SAN P	BERKELEY	37.880057	-122.2962		1196 Black	Male	>40	Investigation	Warning	No Search
03/29/2020 04:58:29 PM	2020-000170	BANCROFT	BERKELEY	37.868698	-122.2592	T	Black	Female	18-29	Traffic	Warning	No Search
03/30/2020 07:35:18 AM	2020-000170	PIEDMONT	BERKELEY	37.857725	-122.2507	T	Black	Male	>40	Traffic	Warning	No Search
03/31/2020 11:45:09 AM	2020-000172	SACRAMEN	BERKELEY	37.86047	-122.2805	T	Black	Female	30-39	Traffic	Citation	No Search
04/03/2020 01:21:34 PM	2020-000177	SHATTUCK	OAKLAND	37.851583	-122.266		1194 Black	Male	30-39	Traffic	Warning	Search
04/03/2020 06:20:01 PM	2020-000177	BLAKE ST /	BERKELEY	37.862744	-122.2697	T	Black	Female	30-39	Traffic	Warning	No Search
04/04/2020 08:59:17 AM	2020-000178	GILMAN ST	BERKELEY	37.880024	-122.2981	T	Black	Female	30-39	Traffic	Warning	No Search
04/06/2020 12:42:55 PM	2020-000181	SAN PABLO	BERKELEY	37.852141	-122.2867	T	Black	Male	>40	Traffic	Warning	No Search
04/07/2020 10:25:31 AM	2020-000182	BANCROFT	BERKELEY	37.867594	-122.2678		1194 Black	Female	30-39	Investigation	Other	No Search
04/09/2020 05:34:47 PM	2020-000185	MARTIN LUT	BERKELEY	37.864264	-122.2722	T	Black	Male	18-29	Traffic	Warning	No Search
04/10/2020 12:00:41 AM	2020-000186	ALLSTON W	BERKELEY	37.867084	-122.2839		1194 Black	Male	>40	Prob./Parole	Other	No Search
04/10/2020 08:00:17 AM	2020-000186	1035 SAN P	ALBANY	37.885299	-122.2971	T	Black	Male	>40	Traffic	Warning	No Search
04/10/2020 04:38:26 PM	2020-000187	SAN PABLO	OAKLAND	37.846935	-122.285	T	Black	Female	18-29	Investigation	Warning	No Search
04/13/2020 05:28:19 PM	2020-000191	SAN PABLO	BERKELEY	37.869097	-122.2921		1194 Black	Female	>40	Reas. Susp.	Other	No Search
04/18/2020 05:01:18 PM	2020-000198	2655 TELEG	BERKELEY	37.862039	-122.2583		1194 Black	Male	>40	Investigation	Warning	Search
04/18/2020 05:09:49 PM	2020-000198	SHATTUCK	BERKELEY	37.867594	-122.2678	T	Black	Male	>40	Traffic	Warning	No Search
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04/20/2020 06:46:38 AM	2020-000200	SHATTUCK	BERKELEY	37.863971	-122.2674	T	Black	Male	>40	Traffic	Warning	No Search
04/21/2020 09:25:09 PM	2020-000202	HEARST AV	BERKELEY	37.872716	-122.2777		1194 Black	Male	30-39	Investigation	Warning	No Search
04/22/2020 01:58:57 PM	2020-000203	UNIVERSITY	BERKELEY	37.870975	-122.2775	T	Black	Male	30-39	Traffic	Warning	No Search
04/23/2020 12:00:38 PM	2020-000204	OXFORD ST	BERKELEY	37.871464	-122.266	T	Black	Male	>40	Traffic	Warning	No Search
04/24/2020 09:15:30 AM	2020-000206	1325 ALLST	BERKELEY	37.867182	-122.2847		1194 Black	Male	>40	Investigation	Warning	Search
04/24/2020 07:33:40 PM	2020-000206	MILVIA ST /	BERKELEY	37.870877	-122.2706		1194 Black	Male	>40	Investigation	Warning	Search
04/24/2020 11:51:40 PM	2020-000207	SACRAMEN	BERKELEY	37.878905	-122.283	T	Black	Male	>40	Traffic	Warning	No Search
04/25/2020 06:43:44 AM	2020-000207	2204 SHATT	BERKELEY	37.868832	-122.2686		1194 Black	Male	>40	Investigation	Other	No Search
04/25/2020 09:23:35 AM	2020-000207	BLAKE ST /	BERKELEY	37.863067	-122.2673		1194 Black	Male	30-39	Investigation	Warning	No Search
04/25/2020 11:33:58 PM	2020-000208	6TH ST / UN	BERKELEY	37.867994	-122.2977	T	Black	Female	18-29	Traffic	Warning	No Search
04/26/2020 04:26:14 AM	2020-000208	GILMAN ST	BERKELEY	37.881441	-122.29	T	Black	Female	>40	Traffic	Warning	No Search
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04/29/2020 01:46:57 AM	2020-000213	ADELINE ST	BERKELEY	37.858421	-122.2677		1196 Black	Male	>40	Investigation	Warning	Search
04/29/2020 08:01:41 PM	2020-000214	CAN/MILVIA		-361	-361	T	Black	Male	18-29	Traffic	Warning	No Search
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05/07/2020 12:22:20 PM	2020-000225	10TH ST/UNI		-361	-361	T		Black	Male	18-29	Traffic	Warning	No Search
05/08/2020 01:42:18 PM	2020-000227	2100 SHATT	BERKELEY	37.870867	-122.2686		1194	Black	Female	>40	Investigation	Warning	No Search
05/08/2020 09:31:52 PM	2020-000228	PAGE ST / 2	BERKELEY	37.875541	-122.3048		1196	Black	Female	30-39	Traffic	Warning	Search
05/09/2020 01:54:48 AM	2020-000228	6TH ST / AD	BERKELEY	37.866671	-122.2972	T		Black	Male	30-39	Traffic	Warning	No Search
05/09/2020 02:00:48 AM	2020-000228	BANCROFT	BERKELEY	37.864158	-122.293	T		Black	Male	18-29	Traffic	Warning	No Search
05/09/2020 08:41:27 AM	2020-000228	43		37.849414	-122.2985	T		Black	Female	30-39	Traffic	Warning	No Search
05/09/2020 03:19:41 PM	2020-000228	SAN PABLO	BERKELEY	37.869097	-122.2921		1194	Black	Male	>40	Traffic	Warning	No Search
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05/13/2020 09:37:53 AM	2020-000234	SHATTUCK	BERKELEY	37.86578	-122.2676		1194	Black	Male	>40	Traffic	Citation	No Search
05/15/2020 04:39:33 AM	2020-000237	SAN PABLO	BERKELEY	37.873443	-122.2935	T		Black	Male	>40	Traffic	Warning	No Search
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05/15/2020 12:20:23 PM	2020-000237	KITTREDGE	BERKELEY	37.868489	-122.2679	T		Black	Female	30-39	Traffic	Warning	No Search
05/15/2020 02:16:47 PM	2020-000237	BLAKE ST /	BERKELEY	37.863936	-122.2605		1194B	Black	Male	>40	Prob./Parole	Warning	Search
05/16/2020 04:33:15 PM	2020-000239	SACRAMEN	BERKELEY	37.854178	-122.2792	T		Black	Male	>40	Traffic	Warning	No Search
05/17/2020 08:39:23 PM	2020-00024	161ST ST / LC	OAKLAND	37.845235	-122.2772	T		Black	Female	>40	Traffic	Warning	No Search
05/17/2020 11:31:16 PM	2020-00024	180 WEST GILMAN OFFR		-361	-361	T		Black	Male	30-39	Traffic	Warning	No Search
05/17/2020 11:45:20 PM	2020-00024	11799 4TH ST	BERKELEY	37.870479	-122.3005		1196	Black	Male	>40	Investigation	Warning	No Search
05/18/2020 06:49:10 PM	2020-000242	SACRAMEN	BERKELEY	37.853281	-122.279		1194	Black	Male	18-29	Investigation	Warning	Search
05/18/2020 06:55:15 PM	2020-000242	SAN PABLO	BERKELEY	37.852141	-122.2867	T		Black	Female	18-29	Traffic	Warning	No Search
05/18/2020 08:29:15 PM	2020-000242	6TH ST / CE	BERKELEY	37.874091	-122.2996	T		Black	Male	>40	Traffic	Warning	No Search
05/19/2020 11:13:24 AM	2020-000243	UNIVERSITY	BERKELEY	37.870113	-122.2842		1194	Black	Female	>40	Investigation	Warning	No Search
05/19/2020 08:30:13 PM	2020-000244	SAN PABLO	OAKLAND	37.844752	-122.2843	T		Black	Male	18-29	Traffic	Warning	Search
05/19/2020 08:38:07 PM	2020-000244	TELEGRAPH	BERKELEY	-361	-361	T		Black	Male	18-29	Traffic	Warning	Search
05/19/2020 09:22:46 PM	2020-000244	ADELINE ST	BERKELEY	37.847261	-122.2717	T		Black	Male	18-29	Traffic	Warning	Search
05/20/2020 12:39:02 AM	2020-000245	62ND ST / LC	OAKLAND	37.846129	-122.2774	T		Black	Male	>40	Traffic	Warning	Search
05/20/2020 06:21:56 AM	2020-000245	SACRAMEN	BERKELEY	37.875816	-122.2825	T		Black	Male	>40	Traffic	Citation	No Search
05/20/2020 05:25:22 PM	2020-000246	SHATTUCK	BERKELEY	37.869392	-122.2679	T		Black	Male	18-29	Traffic	Warning	Search
05/20/2020 08:17:27 PM	2020-000246	ALLSTON W	BERKELEY	37.868349	-122.2761	T		Black	Male	18-29	Traffic	Warning	No Search
05/21/2020 07:53:59 AM	2020-000247	GILMAN ST	BERKELEY	37.880474	-122.2958	T		Black	Female	>40	Traffic	Citation	No Search
05/21/2020 09:10:11 PM	2020-000248	23		37.847472	-122.2981	T		Black	Male	18-29	Traffic	Warning	No Search
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05/23/2020 12:36:57 AM	2020-000250	UNIVERSITY	BERKELEY	37.866444	-122.3056	T		Black	Male	18-29	Traffic	Warning	No Search
05/23/2020 01:36:25 AM	2020-000250	CALIFORNIA	BERKELEY	37.862497	-122.2787	T		Black	Male	30-39	Traffic	Warning	No Search
05/23/2020 08:44:27 PM	2020-000251	HASTE ST /	BERKELEY	37.864554	-122.2699	T		Black	Male	>40	Traffic	Warning	No Search
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06/03/2020 10:10:24 PM	2020-000269	1520 FAIRVIEW	BERKELEY	37.849747	-122.2777		1196	Black	Female	30-39	Investigation	Warning	No Search
06/03/2020 10:16:10 PM	2020-000269	HEARST AV	BERKELEY	37.869315	-122.2981	T		Black	Female	18-29	Traffic	Warning	No Search
06/03/2020 10:16:54 PM	2020-000269	UNIVERSITY	BERKELEY	37.868424	-122.2955	T		Black	Male	18-29	Traffic	Warning	No Search
06/03/2020 10:17:56 PM	2020-000269	DERBY ST /	BERKELEY	37.858126	-122.2848	T		Black	Female	18-29	Traffic	Warning	No Search
06/03/2020 10:24:50 PM	2020-000269	UNI/8		-361	-361		1196	Black	Male	>40	Traffic	Warning	No Search
06/03/2020 10:32:29 PM	2020-000269	2001 DWIGHT	BERKELEY	37.864203	-122.269	T		Black	Male	>40	Traffic	Arrest	Search
06/03/2020 10:33:52 PM	2020-000269	ASHBY AVE	BERKELEY	37.855553	-122.2646	T		Black	Female	30-39	Traffic	Warning	No Search
06/03/2020 11:35:57 PM	2020-000270	CARRISON	BERKELEY	37.851941	-122.2835	T		Black	Female	18-29	Traffic	Warning	No Search
06/03/2020 11:40:48 PM	2020-000270	CADELINE ST	BERKELEY	37.857464	-122.2681	T		Black	Male	18-29	Traffic	Warning	No Search
06/03/2020 11:56:51 PM	2020-000270	CALLSTON W	BERKELEY	37.865261	-122.2968	T		Black	Female	18-29	Traffic	Warning	No Search
06/04/2020 12:03:34 AM	2020-000270	UNIVERSITY	BERKELEY	37.868424	-122.2955	T		Black	Male	>40	Traffic	Warning	Search
06/04/2020 01:20:28 AM	2020-000270	8TH ST / GIL	BERKELEY	37.879797	-122.2992	T		Black	Male	18-29	Traffic	Citation	No Search
06/04/2020 06:44:14 PM	2020-000271	KITTREDGE	BERKELEY	37.868489	-122.2679		1196	Black	Male	18-29	Traffic	Warning	No Search
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06/04/2020 06:58:29 PM	2020-000271	PARKER ST	BERKELEY	37.863364	-122.2576	T		Black	Male	18-29	Traffic	Warning	No Search
06/04/2020 07:12:14 PM	2020-000271	SACRAMEN	BERKELEY	37.853281	-122.279		1194	Black	Male	18-29	Traffic	Warning	Search
06/04/2020 07:21:02 PM	2020-000271	WARD ST / S	BERKELEY	37.859345	-122.2674	T		Black	Female	30-39	Traffic	Warning	No Search
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06/04/2020 07:31:17 PM	2020-000271	BANCROFT	BERKELEY	37.868698	-122.2592	T		Black	Male	18-29	Traffic	Warning	No Search
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06/04/2020 09:25:19 PM	2020-000271	DURANT AV	BERKELEY	37.867809	-122.259	T		Black	Male	18-29	Traffic	Citation	No Search
06/04/2020 09:35:50 PM	2020-000271	KING ST / S	OAKLAND	37.846013	-122.2731	T		Black	Female	18-29	Traffic	Arrest	No Search
06/04/2020 11:48:10 PM	2020-000271	DOHR ST / A	BERKELEY	37.853218	-122.2808	T		Black	Male	>40	Traffic	Warning	No Search
06/05/2020 03:13:51 PM	2020-00027255		BERKELEY	37.879085	-122.3079	T		Black	Male	>40	Traffic	Warning	No Search
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06/05/2020 04:33:05 PM	2020-0002726	26TH ST / JOI	BERKELEY	37.875266	-122.3	T		Black	Male	30-39	Traffic	Warning	No Search
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06/05/2020 07:08:48 PM	2020-000273	ASHBY AVE	BERKELEY	37.854552	-122.2692	T		Black	Male	18-29	Traffic	Warning	No Search
06/05/2020 07:49:11 PM	2020-000273	SACRAMEN	BERKELEY	37.859599	-122.2803	T		Black	Male	30-39	Traffic	Warning	No Search
06/06/2020 01:52:23 PM	2020-000273	ALCATRAZ /	BERKELEY	37.849052	-122.2691	T		Black	Male	30-39	Traffic	Warning	No Search
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06/06/2020 03:25:09 PM	2020-000274	SAN PABLO	BERKELEY	37.880474	-122.2958	T		Black	Female	>40	Traffic	Warning	No Search
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06/06/2020 09:55:56 PM	2020-000274	ALCATRAZ /	BERKELEY	37.848753	-122.2715	T		Black	Male	30-39	Traffic	Warning	No Search
06/06/2020 10:15:22 PM	2020-000274	SACRAMEN	BERKELEY	37.862196	-122.2811	T		Black	Male	18-29	Traffic	Warning	No Search
06/06/2020 10:22:41 PM	2020-000274	SACRAMEN	BERKELEY	37.870411	-122.2819	T		Black	Male	>40	Traffic	Arrest	Search
06/06/2020 10:48:58 PM	2020-00027474			37.853211	-122.2971		1196	Black	Female	<18	Traffic	Warning	No Search
06/07/2020 02:59:56 AM	2020-000274	WARD ST / I	BERKELEY	37.85835	-122.2756	T		Black	Male	18-29	Traffic	Warning	No Search
06/07/2020 04:10:13 AM	2020-000275	3012 SAN P	BERKELEY	37.851542	-122.2868		1196	Black	Male	>40	Investigation	Warning	No Search
06/07/2020 01:43:19 PM	2020-000275	MARTIN LUT	BERKELEY	37.859766	-122.2717	T		Black	Male	30-39	Traffic	Warning	No Search
06/07/2020 02:02:37 PM	2020-000275	SACRAMEN	BERKELEY	37.869432	-122.2818		1196	Black	Male	>40	Traffic	Citation	Search
06/07/2020 04:15:28 PM	2020-000275	SACRAMEN	BERKELEY	37.856021	-122.2796	T		Black	Male	18-29	Traffic	Warning	No Search
06/07/2020 06:57:35 PM	2020-000275	SAN PABLO	BERKELEY	37.852141	-122.2867	T		Black	Male	30-39	Traffic	Warning	No Search
06/08/2020 09:51:55 PM	2020-000277	OCCIDENTA	OAKLAND	37.84548	-122.2753	T		Black	Male	30-39	Traffic	Warning	No Search
06/08/2020 10:18:24 PM	2020-000277	STANFORD	OAKLAND	37.840923	-122.2831	T		Black	Male	18-29	Traffic	Warning	No Search
06/09/2020 02:13:04 AM	2020-000277	2974 SACRA	BERKELEY	37.853684	-122.2796	T		Black	Male	>40	Traffic	Warning	No Search
06/09/2020 09:00:38 PM	2020-000278	7TH ST / GR	BERKELEY	37.855304	-122.2925	T		Black	Male	>40	Traffic	Warning	Search
06/09/2020 09:44:31 PM	2020-000278	2197 SAN P	BERKELEY	37.866734	-122.291	T		Black	Female	>40	Traffic	Warning	No Search

06/10/2020 12:21:33 AM	2020-000279	CALIFORNIA	BERKELEY	37.853551	-122.2769	T	Black	Male	>40	Traffic	Warning	No Search
06/10/2020 12:33:33 AM	2020-000279	COLLEGE A	BERKELEY	37.865721	-122.2539	T	Black	Male	30-39	Traffic	Warning	No Search
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06/10/2020 01:38:58 AM	2020-000279	2ND ST / PA	BERKELEY	37.875541	-122.3048	T	Black	Female	18-29	Traffic	Warning	Search
06/10/2020 02:35:14 AM	2020-000279	9TH ST / HE	BERKELEY	37.853935	-122.2897	T	Black	Male	>40	Traffic	Warning	No Search
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06/10/2020 09:59:15 PM	2020-000280	SAN PABLO	BERKELEY	37.864617	-122.2907	T	Black	Female	>40	Traffic	Warning	No Search
06/10/2020 11:10:02 PM	2020-000280	BAKER ST /	BERKELEY	37.847657	-122.2795	T	Black	Female	18-29	Traffic	Warning	No Search
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06/11/2020 10:54:59 AM	2020-000281	FULTON ST	BERKELEY	37.86693	-122.2658	T	Black	Male	18-29	Traffic	Warning	No Search
06/11/2020 06:11:02 PM	2020-000281	BANCROFT	BERKELEY	37.868409	-122.2615	T	Black	Male	18-29	Traffic	Warning	No Search
06/11/2020 10:26:52 PM	2020-000282	ALCATRAZ /	BERKELEY	37.848753	-122.2715	T	Black	Male	18-29	Traffic	Warning	No Search
06/11/2020 10:41:46 PM	2020-000282	KING ST / P	BERKELEY	37.852083	-122.274	T	Black	Female	>40	Traffic	Warning	No Search
06/11/2020 10:55:49 PM	2020-000282	SAN PABLO AV/67TH ST		-361	-361	T	Black	Male	>40	Traffic	Warning	Search
06/12/2020 12:55:28 AM	2020-000282	VIRGINIA ST	BERKELEY	37.873443	-122.2935	T	Black	Male	18-29	Traffic	Warning	No Search
06/12/2020 03:19:42 AM	2020-000282	CASHBY AVE	BERKELEY	37.852141	-122.2867	T	Black	Male	30-39	Traffic	Warning	No Search
06/12/2020 03:26:51 AM	2020-000282	CARLETON	BERKELEY	37.857226	-122.2919	T	Black	Male	>40	Traffic	Warning	No Search

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03/16/2020 01:25:12 P	2020-00015	7TH ST / PO	BERKELEY	37.851515	-122.2913	T		White	Male	30-39	Traffic	Citation	No Search
03/16/2020 04:27:59 P	2020-00015	SACRAMEN	BERKELEY	37.875816	-122.2825	T		White	Female	>40	Traffic	Warning	No Search
03/18/2020 07:56:31 A	2020-00015	421	BERKELEY	37.868764	-122.2602		1194	White	Male	>40	Investigation	Warning	No Search
03/19/2020 05:47:08 P	2020-00015	GRIZZLY PE	BERKELEY	37.889952	-122.2522	T		White	Female	18-29	Traffic	Citation	No Search
03/24/2020 10:32:23 A	2020-00016	BANCROFT WY/FULTON		-361	-361		1194	White	Male	>40	Reas. Susp.	Warning	No Search
03/24/2020 01:25:54 P	2020-00016	4TH ST / CA	BERKELEY	37.877179	-122.303		1194	White	Male	>40	Investigation	Warning	No Search
03/25/2020 07:09:54 P	2020-00016	ELLSWORTH	BERKELEY	37.864538	-122.263	T		White	Male	30-39	Traffic	Warning	No Search
03/27/2020 12:06:55 P	2020-00016	CEDAR ST /	BERKELEY	37.875891	-122.2888	T		White	Male	>40	Traffic	Warning	No Search
03/27/2020 08:38:05 P	2020-00016	SHATTUCK	BERKELEY	37.877507	-122.269	T		White	Male	>40	Traffic	Citation	No Search
03/27/2020 10:32:40 P	2020-00016	780 BOLIVAR	BERKELEY	37.864546	-122.3017	T		White	Male	30-39	Traffic	Warning	No Search
03/29/2020 01:48:42 P	2020-00016	970		37.870224	-122.2732		1194	White	Male	18-29	Investigation	Warning	No Search
03/29/2020 03:30:37 P	2020-00016	1050 GILMA	BERKELEY	37.879199	-122.2963		1196	White	Male	>40	Traffic	Warning	No Search
03/29/2020 03:50:47 P	2020-00016	2ND ST / PA	BERKELEY	37.875541	-122.3048	T		White	Male	>40	Traffic	Warning	Search
03/29/2020 04:23:07 P	2020-00016	SHATTUCK	BERKELEY	37.880222	-122.2693		1194	White	Male	30-39	Investigation	Other	Search
03/29/2020 06:03:40 P	2020-00017	5TH ST / JOI	BERKELEY	37.87503	-122.3012	T		White	Male	<18	Traffic	Warning	No Search
03/29/2020 07:25:53 P	2020-00017	UNIVERSITY	BERKELEY	37.870411	-122.2819	T		White	Male	18-29	Traffic	Warning	No Search
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04/06/2020 11:36:28 A	2020-00018	SAN PABLO	BERKELEY	37.864617	-122.2907	T		White	Male	>40	Traffic	Citation	No Search
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04/12/2020 01:49:18 A	2020-00018	CARLETON	BERKELEY	37.857226	-122.2919	T		White	Male	>40	Traffic	Warning	No Search
04/13/2020 10:09:43 A	2020-00019	2200 DWIGH	BERKELEY	37.864079	-122.265		1194B	White	Male	30-39	Reas. Susp.	Warning	No Search
04/13/2020 04:42:15 P	2020-00019	SHATT/UNI		-361	-361		1194	White	Male	18-29	Investigation	Other	No Search
04/18/2020 11:52:30 A	2020-00019	2300 SHATT	BERKELEY	37.867138	-122.2682		1194	White	Male	>40	Prob./Parole	Warning	No Search
04/18/2020 06:17:13 P	2020-00019	2601 TELEG	BERKELEY	37.862994	-122.2584		1194	White	Male	30-39	Investigation	Warning	No Search
04/21/2020 09:08:03 A	2020-00020	12261 SHATT	BERKELEY	37.868334	-122.2674		1194	White	Male	30-39	Investigation	Citation	Search
04/22/2020 10:03:08 A	2020-00020	SAN PABLO	BERKELEY	37.861094	-122.2895	T		White	Male	>40	Investigation	Citation	No Search
04/25/2020 12:57:52 P	2020-00020	TELEGRAPH	BERKELEY	37.861396	-122.2589		1194	White	Male	30-39	Investigation	Other	No Search
04/27/2020 05:41:26 P	2020-00021	1998 SHATT	BERKELEY	37.87239	-122.2687		1194	White	Male	30-39	Investigation	Warning	No Search
04/27/2020 05:41:26 P	2020-00021	1998 SHATT	BERKELEY	37.87239	-122.2687		1194	White	Female	30-39	Investigation	Warning	No Search
04/29/2020 02:35:44 P	2020-00021	SHATTUCK	BERKELEY	37.872979	-122.2685		1194	White	Male	>40	Investigation	Arrest	No Search
04/30/2020 10:47:15 A	2020-00021	ADELINE ST	BERKELEY	37.854552	-122.2692	T		White	Female	30-39	Traffic	Warning	No Search
04/30/2020 04:02:40 P	2020-00021	SHATTUCK	BERKELEY	37.863067	-122.2673	T		White	Female	30-39	Traffic	Warning	No Search
05/01/2020 05:24:32 P	2020-00021	CENTER ST	BERKELEY	37.870585	-122.2659		1194	White	Male	18-29	Investigation	Warning	No Search
05/03/2020 08:17:48 P	2020-00022	REGENT ST	BERKELEY	37.86521	-122.2578	T		White	Female	>40	Traffic	Warning	No Search
05/05/2020 07:24:54 P	2020-00022	TELEGRAPH	BERKELEY	37.868698	-122.2592	T		White	Male	18-29	Traffic	Warning	No Search
05/05/2020 08:26:27 P	2020-00022	2900 BENVEN	BERKELEY	37.858162	-122.2547		1194B	White	Male	30-39	Traffic	Warning	No Search
05/10/2020 03:28:24 P	2020-00023	DWIGHT WA	BERKELEY	37.86538	-122.2565		1194	White	Male	30-39	Investigation	Warning	No Search
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05/11/2020 10:39:25 P	2020-00023	2222 BANCRO	BERKELEY	37.867616	-122.2643	T		White	Female	18-29	Traffic	Warning	No Search
05/13/2020 09:55:54 P	2020-00023	2ND ST / HA	BERKELEY	37.880248	-122.3063		1194	White	Male	30-39	Investigation	Warning	No Search
05/16/2020 08:24:43 A	2020-00023	10TH ST / UI	BERKELEY	37.868867	-122.2933	T		White	Male	18-29	Traffic	Warning	No Search
05/17/2020 03:07:29 A	2020-00024	ADDISON S	BERKELEY	37.86671	-122.2972	T		White	Female	30-39	Traffic	Warning	Search
05/17/2020 10:19:20 P	2020-00024	SACRAMEN	BERKELEY	37.853281	-122.279	T		White	Male	>40	Traffic	Warning	No Search
05/17/2020 10:37:33 P	2020-00024	MARKET ST	OAKLAND	37.844357	-122.2751	T		White	Female	>40	Traffic	Warning	No Search
05/17/2020 10:46:18 P	2020-00024	HEARST AV	BERKELEY	37.874008	-122.2675	T		White	Male	>40	Traffic	Citation	No Search
05/18/2020 08:40:38 P	2020-00024	HEARST AV	BERKELEY	37.86953	-122.2971	T		White	Female	>40	Traffic	Arrest	Search
05/19/2020 09:29:21 A	2020-00024	ASHBY AVE	BERKELEY	37.854316	-122.2711	T		White	Male	>40	Traffic	Citation	No Search
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05/21/2020 07:27:24 A	2020-000247	PIEDMONT	BERKELEY	37.867754	-122.2521	T		White	Female	18-29	Traffic	Warning	No Search
05/21/2020 08:46:57 A	2020-000247	UNIVERSITY	BERKELEY	37.869437	-122.2895	T		White	Male	>40	Traffic	Citation	No Search
05/21/2020 09:00:21 A	2020-000247	SAN PABLO	BERKELEY	37.875205	-122.2941	T		White	Female	30-39	Traffic	Citation	No Search
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05/22/2020 12:35:53 P	2020-000248	2121 BERKE	BERKELEY	37.873116	-122.268	T		White	Female	30-39	Traffic	Warning	No Search
05/22/2020 10:55:57 P	2020-000250	TELEGRAPH	BERKELEY	37.861396	-122.2589		1194	White	Male	18-29	Investigation	Warning	No Search
05/23/2020 12:50:50 A	2020-000250	200 MARINA	BERKELEY	37.866104	-122.3123	T		White	Female	<18	Traffic	Warning	Search
05/23/2020 03:14:41 P	2020-000251	ALCATRAZ	BERKELEY	37.847898	-122.2777	T		White	Male	30-39	Traffic	Citation	No Search
05/24/2020 06:50:24 P	2020-000252	TELEGRAPH	BERKELEY	37.861396	-122.2589	T		White	Male	30-39	Traffic	Warning	No Search
05/24/2020 11:53:10 P	2020-000253	1100 FRANC	BERKELEY	37.872519	-122.2927		1196	White	Male	30-39	Traffic	Warning	Search
05/25/2020 08:52:52 P	2020-000254	1700 9TH ST	BERKELEY	37.872901	-122.2958	T		White	Female	>40	Traffic	Arrest	Search
05/25/2020 11:33:13 P	2020-000254	SHATTUCK	BERKELEY	37.863067	-122.2673	T		White	Male	18-29	Traffic	Warning	No Search
05/26/2020 02:06:31 P	2020-000255	SHATTUCK	BERKELEY	37.866687	-122.2677	T		White	Female	>40	Traffic	Warning	No Search
05/26/2020 04:57:47 P	2020-000255	1998 SHATT	BERKELEY	37.87239	-122.2687		1194	White	Male	>40	Reas. Susp.	Warning	No Search
05/26/2020 06:47:31 P	2020-000255	BOWDITCH	BERKELEY	37.868108	-122.2567	T		White	Female	18-29	Traffic	Citation	No Search
05/27/2020 05:58:44 P	2020-000257	SACRAMEN	BERKELEY	37.867394	-122.2816	T		White	Female	18-29	Traffic	Warning	No Search
05/27/2020 07:10:14 P	2020-000257	PARK ST / V	BERKELEY	37.857469	-122.2834		1194	White	Male	18-29	Traffic	Warning	No Search
05/28/2020 10:59:57 A	2020-000258	ALLSTON W	BERKELEY	37.868774	-122.2727	T		White	Male	>40	Investigation	Warning	No Search
05/29/2020 05:44:37 P	2020-000260	CHANNING	BERKELEY	37.86578	-122.2676	T		White	Male	30-39	Traffic	Warning	No Search
05/29/2020 09:35:40 P	2020-000260	PARKER ST	BERKELEY	37.863258	-122.2587		1194	White	Male	30-39	Prob./Parole	Warning	Search
05/30/2020 12:51:54 P	2020-000261	CEDAR ST /	BERKELEY	37.876212	-122.2866	T		White	Male	18-29	Traffic	Warning	No Search
05/30/2020 02:15:56 P	2020-000261	CHANNING	BERKELEY	37.8613	-122.2978		1196	White	Female	30-39	Traffic	Warning	No Search
05/30/2020 02:56:40 P	2020-000261	ROSE ST / S	BERKELEY	37.878905	-122.283	T		White	Male	30-39	Traffic	Warning	No Search
06/01/2020 08:00:11 P	2020-000264	UNIVERSITY	BERKELEY	37.867867	-122.2988	T		White	Male	18-29	Traffic	Warning	No Search
06/01/2020 08:14:39 P	2020-000265	SHATTUCK	BERKELEY	37.870304	-122.268		1194B	White	Male	30-39	Traffic	Warning	No Search
06/01/2020 08:41:40 P	2020-000265	TELEGRAPH	BERKELEY	37.853695	-122.26	T		White	Male	>40	Traffic	Warning	No Search
06/01/2020 08:51:58 P	2020-000265	6TH ST / CA	BERKELEY	37.877625	-122.3007	T		White	Male	>40	Traffic	Warning	No Search
06/01/2020 09:33:25 P	2020-000265	DWIGHT WA	BERKELEY	37.864828	-122.2607	T		White	Male	30-39	Traffic	Warning	No Search
06/01/2020 10:17:37 P	2020-000265	1338 SAN P	BERKELEY	37.879199	-122.2963		1194	White	Male	30-39	Investigation	Warning	Search
06/01/2020 11:37:03 P	2020-000265	HEARST AV	BERKELEY	37.869977	-122.2948	T		White	Female	30-39	Traffic	Warning	No Search
06/01/2020 11:48:58 P	2020-000265	SACRAMEN	BERKELEY	37.867394	-122.2816	T		White	Female	18-29	Traffic	Warning	Search
06/02/2020 12:21:59 A	2020-000265	BLAKE ST /	BERKELEY	37.862744	-122.2697	T		White	Male	30-39	Traffic	Citation	No Search
06/02/2020 12:23:30 A	2020-000265	59TH ST / S	OAKLAND	37.844507	-122.2651	T		White	Male	18-29	Traffic	Arrest	Search
06/02/2020 01:26:45 A	2020-000266	7TH ST / FO	BERKELEY	37.850059	-122.2908	T		White	Male	>40	Traffic	Warning	Search
06/02/2020 09:44:44 P	2020-000267	UNIVERSITY	BERKELEY	37.870411	-122.2819	T		White	Male	>40	Traffic	Warning	No Search
06/02/2020 09:49:14 P	2020-000267	BANC/ML		-361	-361	T		White	Male	>40	Traffic	Warning	No Search
06/02/2020 10:02:50 P	2020-000267	UNIVERSITY	BERKELEY	37.870113	-122.2842	T		White	Male	30-39	Traffic	Warning	No Search
06/02/2020 10:04:19 P	2020-000267	HEARST AV	BERKELEY	37.86953	-122.2971	T		White	Male	18-29	Traffic	Warning	No Search
06/02/2020 10:25:39 P	2020-000267	SAN PABLO	BERKELEY	37.880474	-122.2958	T		White	Male	18-29	Traffic	Warning	No Search
06/02/2020 11:14:46 P	2020-000267	1373 SOLAN	ALBANY	37.89092	-122.2907		1194	White	Male	30-39	Investigation	Warning	No Search
06/02/2020 11:34:06 P	2020-000267	VIR/OXF		-361	-361	T		White	Male	>40	Traffic	Warning	No Search
06/03/2020 06:29:26 P	2020-000268	ALLSTON W	BERKELEY	37.868643	-122.2738	T		White	Male	30-39	Traffic	Citation	No Search
06/03/2020 06:34:40 P	2020-000268	BANCROFT	BERKELEY	37.865824	-122.2815	T		White	Female	>40	Traffic	Citation	No Search
06/03/2020 06:51:32 P	2020-000268	SHATTUCK	BERKELEY	37.866687	-122.2677	T		White	Male	18-29	Traffic	Warning	No Search
06/03/2020 07:57:48 P	2020-000268	MARTIN LUT	BERKELEY	37.854316	-122.2711	T		White	Female	>40	Traffic	Warning	No Search
06/03/2020 08:06:14 P	2020-000268	SAN PABLO	BERKELEY	-361	-361	T		White	Female	18-29	Traffic	Warning	No Search
06/03/2020 08:25:41 P	2020-000268	ELLSWORTH	BERKELEY	37.862753	-122.2626	T		White	Male	18-29	Traffic	Warning	No Search
06/03/2020 09:34:48 P	2020-000268	ASHBY AVE	BERKELEY	37.856186	-122.2597	T		White	Male	30-39	Traffic	Warning	No Search
06/03/2020 09:49:35 P	2020-000268	7TH ST / CA	BERKELEY	37.856945	-122.293	T		White	Female	>40	Traffic	Warning	No Search
06/03/2020 09:51:52 P	2020-000268	TELEGRAPH	BERKELEY	37.86233	-122.2588	T		White	Male	30-39	Traffic	Warning	No Search
06/03/2020 10:05:12 P	2020-000268	5TH ST / GIL	BERKELEY	37.879128	-122.3025	T		White	Female	>40	Traffic	Warning	No Search
06/03/2020 10:19:30 P	2020-000268	61ST ST / M	OAKLAND	37.845396	-122.276	T		White	Male	30-39	Traffic	Warning	Search
06/03/2020 10:21:04 P	2020-000268	CARLETON	BERKELEY	37.861567	-122.2647	T		White	Male	>40	Traffic	Warning	No Search
06/03/2020 11:48:22 P	2020-000270	HEARST AV	BERKELEY	37.87215	-122.2821	T		White	Male	18-29	Traffic	Warning	No Search
06/04/2020 12:03:34 A	2020-000270	UNIVERSITY	BERKELEY	37.868424	-122.2955	T		White	Male	18-29	Traffic	Warning	Search
06/04/2020 07:13:06 P	2020-000271	TELEGRAPH	BERKELEY	37.86233	-122.2588	T		White	Male	>40	Traffic	Warning	Search

06/04/2020 07:54:49 P	2020-000271	SHATTUCK	BERKELEY	37.872979	-122.2685		1194	White	Male	>40	Investigation	Warning	No Search
06/04/2020 08:08:48 P	2020-000271	ALLSTON W	BERKELEY	37.866695	-122.2869	T		White	Female	18-29	Traffic	Citation	No Search
06/04/2020 08:33:39 P	2020-000271	MARTIN LUT	OAKLAND	37.845118	-122.2709	T		White	Male	18-29	Traffic	Warning	No Search
06/04/2020 08:37:46 P	2020-000271	DWIGHT WA	BERKELEY	37.864538	-122.263	T		White	Male	18-29	Traffic	Warning	No Search
06/04/2020 09:36:59 P	2020-000271	SAN PABLO	BERKELEY	37.876383	-122.2945	T		White	Male	18-29	Traffic	Warning	No Search
06/04/2020 09:48:31 P	2020-000271	SAN PABLO	BERKELEY	37.869097	-122.2921	T		White	Male	18-29	Traffic	Citation	No Search
06/04/2020 10:12:42 P	2020-000271	SAN PABLO	BERKELEY	37.873443	-122.2935	T		White	Male	>40	Investigation	Arrest	Search
06/05/2020 02:33:35 A	2020-000271	SAN PABLO	BERKELEY	37.856206	-122.288	T		White	Male	30-39	Traffic	Warning	No Search
06/05/2020 03:01:06 P	2020-000272	GILMAN ST	BERKELEY	37.879368	-122.3013	T		White	Male	>40	Traffic	Citation	No Search
06/05/2020 05:37:26 P	2020-000272	DWIGHT WA	BERKELEY	37.862326	-122.2801	T		White	Female	18-29	Traffic	Warning	No Search
06/05/2020 05:55:13 P	2020-000272	1283 2ND S	BERKELEY	37.878824	-122.3058	T		White	Female	30-39	Traffic	Warning	No Search
06/05/2020 06:54:55 P	2020-000273	ADELINE ST	BERKELEY	37.848753	-122.2715	T		White	Male	>40	Traffic	Warning	No Search
06/05/2020 07:18:44 P	2020-000273	HARRISON	BERKELEY	37.880915	-122.3031	T		White	Male	18-29	Traffic	Warning	No Search
06/05/2020 08:14:31 P	2020-000273	200 MARINA	BERKELEY	37.866104	-122.3123	T		White	Male	18-29	Traffic	Warning	No Search
06/05/2020 08:24:57 P	2020-000273	SAN PABLO	BERKELEY	37.854919	-122.2876	T		White	Male	18-29	Traffic	Warning	No Search
06/05/2020 08:48:54 P	2020-000273	DURANT AV	BERKELEY	37.86839	-122.2544	T		White	Male	>40	Traffic	Citation	No Search
06/05/2020 10:09:01 P	2020-000273	SAN PABLO	BERKELEY	37.854397	-122.2874	T		White	Male	30-39	Traffic	Warning	Search
06/06/2020 02:00:24 P	2020-000273	ADDISON S	BERKELEY	37.869866	-122.2785	T		White	Male	18-29	Traffic	Warning	No Search
06/06/2020 04:38:54 P	2020-000274	1894 UNIVE	BERKELEY	37.871187	-122.2733		1196	White	Male	30-39	Investigation	Warning	No Search
06/06/2020 06:55:20 P	2020-000274	SACRAMEN	BERKELEY	37.856021	-122.2796	T		White	Male	30-39	Traffic	Warning	No Search
06/07/2020 01:08:11 A	2020-000274	BONITA AVE	BERKELEY	37.873456	-122.2721		1194	White	Male	18-29	Investigation	Warning	No Search
06/07/2020 03:06:48 A	2020-000274	PARK ST / C	BERKELEY	37.855574	-122.283	T		White	Female	30-39	Traffic	Warning	No Search
06/07/2020 03:26:16 A	2020-000274	SAN PABLO	BERKELEY	37.852141	-122.2867	T		White	Female	30-39	Traffic	Warning	No Search
06/07/2020 11:27:50 P	2020-000275	SAN PABLO	BERKELEY	37.876383	-122.2945	T		White	Male	18-29	Traffic	Warning	No Search
06/08/2020 09:31:41 P	2020-000277	BANCROFT	BERKELEY	37.867835	-122.266	T		White	Male	18-29	Traffic	Warning	No Search
06/08/2020 09:41:23 P	2020-000277	1600 62ND S	BERKELEY	37.846231	-122.2752	T		White	Female	>40	Traffic	Warning	No Search
06/09/2020 12:49:20 A	2020-000277	62ND ST / M	BERKELEY	37.846972	-122.271	T		White	Female	>40	Traffic	Arrest	Search
06/09/2020 10:58:27 A	2020-000277	BANCROFT	BERKELEY	37.868698	-122.2592	T		White	Male	>40	Investigation	Warning	No Search
06/09/2020 12:09:49 P	2020-000277	DURANT AV	BERKELEY	37.86693	-122.2658	T		White	Male	30-39	Investigation	Warning	No Search
06/09/2020 03:15:36 P	2020-000278	SHATTUCK	BERKELEY	37.869392	-122.2679		1194	White	Male	30-39	Investigation	Other	No Search
06/10/2020 08:55:53 P	2020-000280	DWIGHT WA	BERKELEY	37.86587	-122.2516	T		White	Female	18-29	Traffic	Warning	No Search
06/12/2020 01:28:41 A	2020-000280	OXFORD ST	BERKELEY	37.870585	-122.2659		1194	White	Male	30-39	Traffic	Warning	No Search

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03/17/2020	0	2020-000152	MARTIN LUT	BERKELEY	37.859766	-122.2717	T		Hispanic	Male	18-29	Traffic	Citation	No Search
03/18/2020	0	2020-00015424		BERKELEY	37.868764	-122.2602	T		Hispanic	Male	18-29	Traffic	Warning	No Search
03/22/2020	1	2020-000159	7TH ST / CA	BERKELEY	37.877834	-122.2997	T		Hispanic	Male	>40	Traffic	Warning	No Search
03/23/2020	0	2020-000161	HEARST AV	BERKELEY	37.872428	-122.28	T		Hispanic	Male	30-39	Traffic	Citation	No Search
03/24/2020	0	2020-00016306		BERKELEY	37.865678	-122.2573		1194	Hispanic	Female	18-29	Prob./Parole	Other	No Search
03/28/2020	1	2020-000168	GILMAN ST	BERKELEY	37.879368	-122.3013	T		Hispanic	Male	18-29	Traffic	Warning	No Search
03/28/2020	0	2020-000168	SACRAMEN	BERKELEY	37.858713	-122.2802	T		Hispanic	Female	18-29	Traffic	Warning	No Search
03/28/2020	0	2020-000169	199 SEAWA	BERKELEY	37.86904	-122.3147		1196	Hispanic	Male	30-39	Traffic	Warning	No Search
03/30/2020	0	2020-000170	ALLSTON W	BERKELEY	37.867394	-122.2816	T		Hispanic	Female	18-29	Traffic	Warning	No Search
03/30/2020	1	2020-000171	MARTIN LUT	BERKELEY	37.859766	-122.2717	T		Hispanic	Female	18-29	Traffic	Warning	No Search
04/02/2020	0	2020-000176	ALLSTON W	BERKELEY	37.865261	-122.2968		1196	Hispanic	Male	18-29	Investigation	Other	Search
04/04/2020	1	2020-000178	5TH ST / HE	BERKELEY	37.869089	-122.2992		1194	Hispanic	Male	30-39	Traffic	Warning	No Search
04/22/2020	0	2020-000203	TELEGRAPH	BERKELEY	37.86233	-122.2588		1194	Hispanic	Male	>40	Reas. Susp.	Citation	No Search
05/01/2020	1	2020-000217	SAN PABLO	BERKELEY	37.856206	-122.288	T		Hispanic	Male	18-29	Traffic	Warning	No Search
05/03/2020	0	2020-000219	ASHBY AVE	BERKELEY	37.855835	-122.2624	T		Hispanic	Male	18-29	Traffic	Arrest	Search
05/16/2020	1	2020-000239	PARKER ST	BERKELEY	37.863258	-122.2587		1194	Hispanic	Male	>40	Investigation	Citation	No Search
05/18/2020	0	2020-000241	1057 EASTS	ALBANY	37.88393	-122.3081	T		Hispanic	Male	30-39	Traffic	Warning	No Search
05/20/2020	0	2020-000246	PIEDMONT /	BERKELEY	37.868678	-122.2523	T		Hispanic	Male	18-29	Traffic	Warning	No Search
05/20/2020	0	2020-000246	CENTER ST/SHATTUCK		-361	-361	T		Hispanic	Female	18-29	Traffic	Citation	No Search
05/21/2020	0	2020-00024698		BERKELEY	37.871231	-122.3161	T		Hispanic	Male	18-29	Traffic	Warning	Search
05/22/2020	0	2020-000248	7TH ST / ASI	BERKELEY	37.851009	-122.2911	T		Hispanic	Male	<18	Traffic	Warning	No Search
05/23/2020	0	2020-000250	MARTIN LUT	BERKELEY	37.857964	-122.2715	T		Hispanic	Male	18-29	Traffic	Warning	No Search
05/23/2020	0	2020-000251	HASTE ST /	BERKELEY	37.864554	-122.2699	T		Hispanic	Male	30-39	Traffic	Warning	No Search
05/24/2020	1	2020-000251	ADDISON S	BERKELEY	37.869148	-122.2841	T		Hispanic	Female	<18	Traffic	Warning	Search
05/25/2020	0	2020-000253	UNIVERSITY	BERKELEY	37.866444	-122.3056	T		Hispanic	Male	18-29	Traffic	Warning	No Search
05/25/2020	0	2020-000253	BLAKE ST /	BERKELEY	37.861343	-122.2808	T		Hispanic	Male	<18	Traffic	Warning	Search
05/25/2020	0	2020-000253	SHATTUCK /	BERKELEY	37.868489	-122.2679	T		Hispanic	Male	18-29	Investigation	Warning	No Search
05/25/2020	0	2020-000254	TELEGRAPH	BERKELEY	37.860461	-122.2591	T		Hispanic	Male	18-29	Traffic	Warning	No Search
05/26/2020	0	2020-000254	ALLSTON W	BERKELEY	37.865261	-122.2968	T		Hispanic	Male	30-39	Traffic	Arrest	Search
05/28/2020	1	2020-000257	BANCROFT	BERKELEY	37.865034	-122.2876	T		Hispanic	Male	30-39	Investigation	Other	No Search
05/28/2020	0	2020-000258	SAN PABLO	BERKELEY	37.870415	-122.2926	T		Hispanic	Male	30-39	Traffic	Citation	No Search
05/29/2020	0	2020-000260	OREGON ST	BERKELEY	37.857464	-122.2681	T		Hispanic	Male	>40	Traffic	Warning	No Search
05/29/2020	0	2020-000260	WARRING S	BERKELEY	37.862311	-122.2501	T		Hispanic	Male	18-29	Traffic	Warning	Search
05/30/2020	0	2020-000260	291 ARLINGTON AVE		37.90295	-122.2778	T		Hispanic	Male	18-29	Traffic	Warning	No Search
05/30/2020	0	2020-000260	ADDISON S	BERKELEY	37.86671	-122.2972	T		Hispanic	Male	18-29	Traffic	Warning	No Search
05/30/2020	0	2020-000260	UNIVERSITY	BERKELEY	37.868644	-122.2944	T		Hispanic	Female	30-39	Traffic	Citation	Search
05/30/2020	0	2020-000260	UNIVERSITY	BERKELEY	37.868644	-122.2944	T		Hispanic	Male	30-39	Traffic	Citation	Search
06/01/2020	0	2020-000265	SAN PABLO	BERKELEY	37.868149	-122.2918	T		Hispanic	Female	30-39	Traffic	Arrest	Search
06/01/2020	0	2020-000265	UNIVERSITY	BERKELEY	37.868424	-122.2955	T		Hispanic	Female	>40	Traffic	Warning	No Search
06/01/2020	0	2020-000265	TELEGRAPH	BERKELEY	37.860461	-122.2591	T		Hispanic	Female	30-39	Traffic	Warning	No Search
06/01/2020	1	2020-000265	ADDISON S	BERKELEY	37.869432	-122.2818	T		Hispanic	Male	>40	Traffic	Warning	No Search
06/01/2020	1	2020-000265	6TH ST / GIL	BERKELEY	37.879368	-122.3013	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/01/2020	1	2020-000265	6 ADD		-361	-361	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/01/2020	1	2020-000265	ASHB/NEW		-361	-361	T		Hispanic	Female	>40	Traffic	Citation	No Search
06/01/2020	1	2020-000265	SAN PABLO	BERKELEY	37.862855	-122.2901	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/01/2020	1	2020-000265	SAN PABLO	BERKELEY	37.856206	-122.288	T		Hispanic	Female	18-29	Traffic	Warning	No Search
06/01/2020	1	2020-000265	SAN PABLO	BERKELEY	37.880474	-122.2958	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/01/2020	1	2020-000265	UNIVERSITY	BERKELEY	37.869097	-122.2921	T		Hispanic	Female	18-29	Traffic	Warning	No Search
06/01/2020	1	2020-000265	SAN PABLO AVE/ASHBY		-361	-361	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/02/2020	0	2020-000266	GRANT ST /	BERKELEY	37.870287	-122.2751	T		Hispanic	Male	18-29	Traffic	Warning	No Search
06/02/2020	0	2020-000266	15		37.865351	-122.303	T		Hispanic	Female	18-29	Traffic	Warning	No Search
06/02/2020	1	2020-000267	SHATTUCK /	BERKELEY	37.853815	-122.2663	T		Hispanic	Male	30-39	Traffic	Warning	No Search



06/02/2020	1	2020-000267	1797 SHATT	BERKELEY	37.875191	-122.2684	1194	Hispanic	Male	18-29	Traffic	Warning	No Search
06/02/2020	1	2020-000267	1797 SHATT	BERKELEY	37.875191	-122.2684	1194	Hispanic	Male	18-29	Investigation	Warning	No Search
06/02/2020	1	2020-000267	ASH/EOF SAN P		-361	-361	T	Hispanic	Male	18-29	Traffic	Warning	Search
06/03/2020	0	2020-000269	4TH ST / AD	BERKELEY	37.866267	-122.2994	T	Hispanic	Male	30-39	Traffic	Warning	No Search
06/03/2020	0	2020-000269	SACRAMEN	BERKELEY	37.854912	-122.2794	T	Hispanic	Male	30-39	Traffic	Warning	No Search
06/03/2020	0	2020-000269	1227 DERBY	BERKELEY	37.858226	-122.2854	T	Hispanic	Male	30-39	Traffic	Warning	No Search
06/03/2020	0	2020-000269	ASHBY AVE	BERKELEY	37.857725	-122.2507	T	Hispanic	Male	18-29	Traffic	Warning	No Search
06/03/2020	0	2020-000269	DURANT AV	BERKELEY	37.868108	-122.2567	T	Hispanic	Male	30-39	Traffic	Warning	No Search
06/03/2020	0	2020-000269	CHANNING	BERKELEY	37.866908	-122.2588	1196	Hispanic	Male	18-29	Investigation	Other	No Search
06/03/2020	0	2020-000269	UNIVERISTY AV/5TH ST		-361	-361	T	Hispanic	Male	>40	Traffic	Warning	No Search
06/03/2020	1	2020-000270	DWIGHT WA	BERKELEY	37.862196	-122.2811	1194	Hispanic	Male	30-39	Investigation	Warning	No Search
06/04/2020	1	2020-000270	ASH/9		-361	-361	T	Hispanic	Male	18-29	Traffic	Warning	No Search
06/04/2020	1	2020-000270	BLAKE ST /	BERKELEY	37.860523	-122.2871	T	Hispanic	Male	18-29	Traffic	Warning	No Search
06/04/2020	0	2020-000270	RUSSELL S	BERKELEY	37.853756	-122.2863	T	Hispanic	Female	18-29	Traffic	Warning	No Search
06/04/2020	0	2020-000271	SAN PABLO	OAKLAND	37.842522	-122.2836	T	Hispanic	Male	30-39	Traffic	Warning	No Search
06/04/2020	0	2020-000271	COLLEGE A	BERKELEY	37.857045	-122.253	T	Hispanic	Female	18-29	Traffic	Warning	No Search
06/04/2020	0	2020-000271	SHATTUCK	BERKELEY	37.86578	-122.2676	T	Hispanic	Male	18-29	Traffic	Warning	No Search
06/04/2020	0	2020-000271	SHATTUCK	BERKELEY	37.863067	-122.2673	T	Hispanic	Male	18-29	Traffic	Warning	No Search
06/04/2020	0	2020-000271	BOWDITCH	BERKELEY	37.868108	-122.2567	T	Hispanic	Female	30-39	Traffic	Warning	No Search
06/04/2020	0	2020-000271	SHATTUCK	BERKELEY	37.867594	-122.2678	T	Hispanic	Male	18-29	Traffic	Warning	No Search
06/05/2020	0	2020-000271	CENTER ST	BERKELEY	37.870304	-122.268	T	Hispanic	Male	30-39	Traffic	Warning	No Search
06/05/2020	0	2020-000272	GILMAN ST	BERKELEY	37.878468	-122.3058	T	Hispanic	Female	18-29	Traffic	Warning	No Search
06/05/2020	0	2020-00027281		BERKELEY	37.878704	-122.3046	T	Hispanic	Male	18-29	Traffic	Warning	No Search
06/05/2020	0	2020-000272	GILMAN ST	BERKELEY	37.878302	-122.3066	T	Hispanic	Female	18-29	Traffic	Warning	No Search
06/05/2020	0	2020-000273	ASHBY AVE	BERKELEY	37.857725	-122.2507	T	Hispanic	Male	30-39	Traffic	Warning	No Search
06/05/2020	0	2020-000273	ASHBY AVE	BERKELEY	37.857725	-122.2507	T	Hispanic	Female	30-39	Traffic	Warning	No Search
06/06/2020	0	2020-000273	UNIVERSITY	BERKELEY	37.866444	-122.3056	T	Hispanic	Female	<18	Traffic	Warning	No Search
06/06/2020	0	2020-000273	SACRAMEN	BERKELEY	37.853281	-122.279	T	Hispanic	Male	30-39	Traffic	Warning	No Search
06/06/2020	0	2020-000274	SACRAMEN	BERKELEY	37.852391	-122.2788	T	Hispanic	Male	18-29	Traffic	Warning	No Search
06/06/2020	0	2020-000274	UNIVERSITY	BERKELEY	37.871555	-122.273	T	Hispanic	Female	18-29	Traffic	Warning	No Search
06/07/2020	0	2020-000275	6TH ST / UN	BERKELEY	37.867994	-122.2977	T	Hispanic	Female	>40	Traffic	Warning	No Search
06/10/2020	0	2020-000280	SAN PABLO	BERKELEY	37.857203	-122.2883	T	Hispanic	Female	30-39	Traffic	Warning	No Search
06/11/2020	1	2020-000281	UNI/OXFORD		-361	-361	1194	Hispanic	Male	18-29	Reas. Susp.	Other	No Search
06/11/2020	1	2020-000281	MARTIN LUT	BERKELEY	37.854316	-122.2711	T	Hispanic	Male	>40	Traffic	Warning	No Search
06/11/2020	0	2020-000281	MLK/UNI		-361	-361	T	Hispanic	Male	18-29	Traffic	Warning	No Search
06/12/2020	0	2020-000282	BANCROFT	BERKELEY	37.862608	-122.3005	T	Hispanic	Male	30-39	Traffic	Arrest	Search

<b>03/17/2020 10:09:30 AM</b>	2020-000152	DURANT AV	BERKELEY	37.867809	-122.259	T	Asian	Male	18-29	Traffic	Warning	No Search
<b>03/30/2020 12:38:21 PM</b>	2020-000171	19TH ST / AS	BERKELEY	37.851616	-122.2894	T	Asian	Female	>40	Traffic	Citation	No Search
<b>04/05/2020 08:44:34 AM</b>	2020-000179	DWIGHT WA	BERKELEY	37.863971	-122.2674	T	Asian	Male	18-29	Traffic	Citation	No Search
<b>05/05/2020 02:20:35 PM</b>	2020-000222	1998 SHATT	BERKELEY	37.87239	-122.2687	1194	Asian	Male	30-39	Investigation	Citation	Search
<b>06/03/2020 09:57:48 PM</b>	2020-000269	UNIVERSITY	BERKELEY	37.867994	-122.2977	T	Asian	Male	30-39	Traffic	Citation	Search
<b>06/05/2020 03:38:47 PM</b>	2020-000272	GILMAN ST	BERKELEY	37.878302	-122.3066	T	Asian	Male	18-29	Traffic	Citation	No Search
<b>06/10/2020 12:04:23 AM</b>	2020-000279	SAN PABLO	BERKELEY	37.869097	-122.2921	T	Asian	Male	30-39	Traffic	Citation	No Search

03/21/2020	02020-000159	MARTIN LUT	BERKELEY	37.856133	-122.2713	T		Other	Male	30-39	Traffic	Citation	No Search
03/23/2020	02020-000161	HEARST AV	BERKELEY	37.87389	-122.2686		1194	Other	Male	>40	Reas. Susp.	Citation	No Search
04/24/2020	02020-000206	UNIVERSITY AVE/SHATT		-361	-361	T		Other	Male	30-39	Traffic	Citation	No Search
04/30/2020	12020-000214	MARTIN LUT	BERKELEY	37.854316	-122.2711	T		Other	Male	30-39	Traffic	Citation	No Search
05/22/2020	12020-000248	7TH ST / FO	BERKELEY	37.850059	-122.2908	T		Other	Male	18-29	Traffic	Citation	No Search
05/26/2020	02020-000256	DURANT/FUL		-361	-361	T		Other	Male	18-29	Traffic	Citation	No Search
05/28/2020	12020-000258	CEDAR ST /	BERKELEY	37.875205	-122.2941	T		Other	Male	30-39	Traffic	Citation	No Search
05/30/2020	12020-000261	HOPKINS ST	BERKELEY	37.876015	-122.2925	T		Other	Female	18-29	Traffic	Citation	No Search
06/02/2020	02020-000267	1836 4TH ST	BERKELEY	37.8693	-122.3007	T		Other	Male	>40	Traffic	Citation	No Search
06/03/2020	02020-000269	1200 CARRI	BERKELEY	37.851352	-122.2853	T		Other	Male	30-39	Traffic	Citation	No Search
06/03/2020	02020-000269	SAN PABLO	BERKELEY	37.852141	-122.2867	T		Other	Male	18-29	Traffic	Citation	No Search

CreateDate	time	IncidentNu	Address	City	Lat	Lon	CallType	Race	Gender	Age	Reason	Enforceme	Car Search
05/31/2020	03:39	2020-0002	SHATTUCK A	BERKELEY	37.8648763	-122.267	1194	Black	Male	>40	Investigati	Other	No Search
05/31/2020	03:51	2020-0002	SAN PABLO A	BERKELEY	37.8610944	-122.29	1196	Black	Male	18-29	Wanted	Citation	No Search
05/31/2020	09:30	2020-0002	SHATTUCK A	BERKELEY	37.8648763	-122.267	T	Black	Male	<18	Traffic	Warning	No Search
05/31/2020	09:30	2020-0002	SHATTUCK A	BERKELEY	37.8648763	-122.267	T	Black	Female	<18	Traffic	Warning	No Search
05/31/2020	09:32	2020-0002	6TH ST / VIRG	BERKELEY	37.8723318	-122.299	T	Asian	Male	>40	Traffic	Warning	Search
05/31/2020	10:14	2020-0002	SHATTUCK A	BERKELEY	37.8721514	-122.268	T	Black	Male	30-39	Traffic	Warning	No Search
05/31/2020	10:22	2020-0002	UNIVERSITY /	BERKELEY	37.871702	-122.272	T	Black	Male	30-39	Traffic	Warning	No Search
05/31/2020	10:28	2020-0002	CHANNING W	BERKELEY	37.866615	-122.261	T	Asian	Female	18-29	Traffic	Warning	No Search
05/31/2020	10:44	2020-0002	UNIVERSITY /	BERKELEY	37.8696961	-122.287	T	Black	Female	<18	Traffic	Warning	No Search
06/01/2020	02:28	2020-0002	MARTIN LUTH	BERKELEY	37.8733007	-122.273	T	Black	Male	>40	Traffic	Warning	No Search
06/01/2020	02:34	2020-0002	SACRAMENT	BERKELEY	37.8549119	-122.279	T	Black	Female	30-39	Traffic	Warning	No Search
06/01/2020	03:49	2020-0002	MARKET ST /	OAKLAND	37.8430548	-122.275	T	Black	Female	18-29	Traffic	Warning	Search
06/01/2020	03:49	2020-0002	MARKET ST /	OAKLAND	37.8430548	-122.275	T	Black	Male	18-29	Traffic	Warning	Search
06/01/2020	06:53	2020-0002	MILVIA ST / A	BERKELEY	37.8708769	-122.271	T	Black	Male	>40	Traffic	Warning	No Search
06/01/2020	07:23	2020-0002	MARKET ST /	OAKLAND	37.8443573	-122.275	T	Black	Male	18-29	Traffic	Warning	Search
06/01/2020	07:25	2020-0002	2233 SHATTU	BERKELEY	37.868719	-122.268	1194	Other	Male	>40	Investigati	Warning	No Search
06/01/2020	07:45	2020-0002	BANCROFT W	BERKELEY	37.8692935	-122.255	1196	Asian	Female	>40	Investigati	Warning	No Search
06/01/2020	08:00	2020-0002	UNIVERSITY /	BERKELEY	37.8678667	-122.299	T	White	Male	18-29	Traffic	Warning	No Search
06/01/2020	08:03	2020-0002	ALLSTON WA	BERKELEY	37.8690564	-122.27	T	Asian	Male	>40	Traffic	Warning	No Search
06/01/2020	08:11	2020-0002	BERRYMAN S	BERKELEY	37.8836813	-122.271	T	Black	Female	18-29	Traffic	Warning	No Search
06/01/2020	08:14	2020-0002	SHATTUCK A	BERKELEY	37.8703037	-122.268	1194B	White	Male	30-39	Traffic	Warning	No Search
06/01/2020	08:19	2020-0002	6TH ST / HEA	BERKELEY	37.8693148	-122.298	T	Black	Female	18-29	Traffic	Warning	No Search
06/01/2020	08:22	2020-0002	6TH ST / HARI	BERKELEY	37.8811451	-122.302	T	Black	Male	18-29	Traffic	Warning	Search
06/01/2020	08:29	2020-0002	ALLSTON WA	BERKELEY	37.8673936	-122.282	T	Black	Male	18-29	Investigati	Arrest	Search
06/01/2020	08:30	2020-0002	TELEGRAPH /	BERKELEY	37.8551895	-122.26	T	Black	Male	>40	Traffic	Warning	No Search
06/01/2020	08:37	2020-0002	SAN PABLO A	BERKELEY	37.8681488	-122.292	T	Hispanic	Female	30-39	Traffic	Arrest	Search
06/01/2020	08:41	2020-0002	TELEGRAPH /	BERKELEY	37.853695	-122.26	T	White	Male	>40	Traffic	Warning	No Search
06/01/2020	08:42	2020-0002	ALCATRAZ A	OAKLAND	37.849499	-122.266	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2020	08:50	2020-0002	SHATTUCK A	BERKELEY	37.8648763	-122.267	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2020	08:51	2020-0002	6TH ST / CAM	BERKELEY	37.8776249	-122.301	T	White	Male	>40	Traffic	Warning	No Search
06/01/2020	08:56	2020-0002	HEARST AVE	BERKELEY	37.8693148	-122.298	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2020	09:01	2020-0002	SAN PABLO A	BERKELEY	37.8646166	-122.291	T	Black	Female	30-39	Traffic	Warning	No Search
06/01/2020	09:07	2020-0002	UNIVERSITY /	BERKELEY	37.8684235	-122.296	T	Hispanic	Female	>40	Traffic	Warning	No Search
06/01/2020	09:11	2020-0002	TELEGRAPH /	BERKELEY	37.8604613	-122.259	T	Hispanic	Female	30-39	Traffic	Warning	No Search
06/01/2020	09:13	2020-0002	E SAC		-361	-361	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2020	09:15	2020-0002	SACRAMENT	BERKELEY	37.8496886	-122.278	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2020	09:19	2020-0002	TOUCHLESS		-361	-361	T	Black	Male	30-39	Traffic	Warning	No Search
06/01/2020	09:33	2020-0002	DWIGHT WAY	BERKELEY	37.8648283	-122.261	T	White	Male	30-39	Traffic	Warning	No Search
06/01/2020	10:00	2020-0002	DURANT AVE	BERKELEY	37.8666868	-122.268	T	Black	Female	30-39	Traffic	Warning	No Search
06/01/2020	10:00	2020-0002	ASHBY AVE /	BERKELEY	37.8553006	-122.266	T	Black	Male	30-39	Traffic	Warning	No Search
06/01/2020	10:04	2020-0002	KITTREDGE S	BERKELEY	37.8687167	-122.266	T	Asian	Male	18-29	Investigati	Warning	No Search
06/01/2020	10:05	2020-0002	ADDISON ST /	BERKELEY	37.8694321	-122.282	T	Hispanic	Male	>40	Traffic	Warning	No Search
06/01/2020	10:10	2020-0002	6TH ST / GILM	BERKELEY	37.879368	-122.301	T	Hispanic	Male	18-29	Traffic	Warning	No Search
06/01/2020	10:17	2020-0002	6 ADD		-361	-361	T	Hispanic	Male	18-29	Traffic	Warning	No Search
06/01/2020	10:17	2020-0002	1338 SAN PAE	BERKELEY	37.879199	-122.296	1194	White	Male	30-39	Investigati	Warning	Search
06/01/2020	10:28	2020-0002	COLLEGE AV	BERKELEY	-361	-361	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2020	10:32	2020-0002	ASHBY AVE /	BERKELEY	37.8553006	-122.266	1196	Black	Female	18-29	Traffic	Warning	No Search
06/01/2020	10:33	2020-0002	CHANN 7		-361	-361	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2020	10:34	2020-0002	MILVIA ST / C	BERKELEY	37.8699811	-122.271	T	Black	Male	30-39	Traffic	Warning	No Search
06/01/2020	10:36	2020-0002	ASHB/NEW		-361	-361	T	Hispanic	Female	>40	Traffic	Citation	No Search
06/01/2020	10:36	2020-0002	6TH ST / CHAI	BERKELEY	37.861744	-122.296	T	Other	Female	>40	Traffic	Warning	No Search
06/01/2020	10:37	2020-0002	ASHBY AVE /	BERKELEY	37.8510086	-122.291	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2020	10:37	2020-0002	SAN PABLO A	BERKELEY	37.8628548	-122.29	T	Hispanic	Male	18-29	Traffic	Warning	No Search
06/01/2020	10:44	2020-0002	SAN PABLO A	BERKELEY	37.8562062	-122.288	T	Hispanic	Female	18-29	Traffic	Warning	No Search
06/01/2020	10:52	2020-0002	65TH ST / WH	OAKLAND	37.8506298	-122.264	T	Black	Male	30-39	Traffic	Warning	No Search

06/01/2020 10:54	2020-0002	SAN PABLO A	BERKELEY	37.8804742	-122.296	T	Hispanic	Male	18-29	Traffic	Warning	No Search	
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06/01/2020 11:00	2020-0002	UNIVERSITY /	BERKELEY	37.8690966	-122.292	T	Hispanic	Female	18-29	Traffic	Warning	No Search	
06/01/2020 11:00	2020-0002	SAN PABLO AV/	BURNETT	-361	-361	T	Black	Female	18-29	Traffic	Warning	No Search	
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06/01/2020 11:10	2020-0002	TELEGRAPH /	BERKELEY	37.8660146	-122.259	T	Asian	Male	18-29	Traffic	Warning	No Search	
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06/01/2020 11:25	2020-0002	SAN PABLO AVE/	ASHBY AV	-361	-361	T	Hispanic	Male	18-29	Traffic	Warning	No Search	
06/01/2020 11:26	2020-0002	EMERSON ST	BERKELEY	37.8545474	-122.266	T	Black	Male	18-29	Traffic	Citation	No Search	
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06/01/2020 11:35	2020-0002	GILMAN ST /	BERKELEY	37.8783023	-122.307	T	Black	Male	30-39	Traffic	Warning	No Search	
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06/01/2020 11:48	2020-0002	SACRAMENTO	BERKELEY	37.8673936	-122.282	T	White	Female	18-29	Traffic	Warning	Search	
06/01/2020 11:51	2020-0002	UNIVERSITY /	BERKELEY	37.868202	-122.297	T	Black	Male	<18	Traffic	Warning	Search	
06/01/2020 11:51	2020-0002	6TH ST / UNIV	BERKELEY	37.8679939	-122.298	T	Black	Male	18-29	Traffic	Warning	No Search	
06/01/2020 12:16	2020-0002	SHATTUCK A	OAKLAND	37.8503276	-122.266	T	Black	Male	30-39	Traffic	Warning	Search	
06/01/2020 12:31	2020-0002	SHATTUCK A	BERKELEY	37.8538153	-122.266		1194	Black	Female	18-29	Prob./Paro	Warning	No Search
06/02/2020 01:01	2020-0002	GRANT ST / A	BERKELEY	37.870287	-122.275	T	Hispanic	Male	18-29	Traffic	Warning	No Search	
06/02/2020 01:05	2020-0002	901 ASHBY A	BERKELEY	37.8513629	-122.291	T	Black	Male	>40	Traffic	Warning	No Search	
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06/02/2020 01:19	2020-0002	ASHBY AVE /	BERKELEY	37.8521406	-122.287	T	Black	Female	30-39	Traffic	Warning	No Search	
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06/02/2020 01:26	2020-0002	7TH ST / FOLC	BERKELEY	37.8500589	-122.291	T	White	Male	>40	Traffic	Warning	Search	
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06/02/2020 03:36	2020-0002	7TH ST / UNIV	BERKELEY	37.868202	-122.297	T	Black	Male	>40	Traffic	Warning	No Search	
06/02/2020 06:53	2020-0002	6TH ST / ALLS	BERKELEY	37.8652612	-122.297	T	Black	Male	<18	Traffic	Citation	No Search	
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06/02/2020 07:55	2020-0002	2389 SHATTU	BERKELEY	37.8660688	-122.267		1196	Asian	Male	30-39	Traffic	Warning	No Search
06/02/2020 07:56	2020-0002	CHANNING W	BERKELEY	37.8628548	-122.29	T	Black	Female	18-29	Traffic	Warning	No Search	
06/02/2020 08:09	2020-0002	1800 6TH ST	BERKELEY	37.8701844	-122.299	T	Black	Male	18-29	Traffic	Warning	No Search	
06/02/2020 08:12	2020-0002	10TH ST / HEA	BERKELEY	37.8701957	-122.294		1196	Black	Male	30-39	Traffic	Warning	No Search
06/02/2020 08:18	2020-0002	SAN PABLO A	BERKELEY	37.8646166	-122.291	T	Black	Male	>40	Traffic	Warning	No Search	
06/02/2020 08:23	2020-0002	ADDISON ST /	BERKELEY	37.8658097	-122.302	T	Black	Male	18-29	Traffic	Citation	No Search	
06/02/2020 08:27	2020-0002	UNIVERSITY /	BERKELEY	37.8686437	-122.294	T	Black	Male	30-39	Traffic	Warning	No Search	
06/02/2020 08:36	2020-0002	CENTER ST /	BERKELEY	37.8703037	-122.268	T	Black	Female	18-29	Traffic	Citation	No Search	
06/02/2020 08:37	2020-0002	1578 ALLSTO	BERKELEY	37.8676048	-122.28	T	Black	Male	>40	Traffic	Citation	No Search	
06/02/2020 08:39	2020-0002	SACRAMENTO	BERKELEY	37.8532811	-122.279	T	Black	Male	30-39	Traffic	Warning	No Search	
06/02/2020 08:42	2020-0002	6732		37.8668204	-122.304	T	Other	Male	30-39	Traffic	Warning	No Search	
06/02/2020 08:43	2020-0002	SACRAMENTO	BERKELEY	37.8604697	-122.28	T	Asian	Female	30-39	Traffic	Warning	No Search	
06/02/2020 08:45	2020-0002	OXFORD ST /	BERKELEY	37.8705845	-122.266		1196	Asian	Male	>40	Traffic	Warning	No Search
06/02/2020 08:52	2020-0002	SAN PABLO A	BERKELEY	37.8602463	-122.289	T	Black	Male	>40	Traffic	Warning	No Search	
06/02/2020 08:53	2020-0002	UNIV/5		-361	-361	T	Black	Male	>40	Traffic	Warning	No Search	
06/02/2020 08:56	2020-0002	SAN PABLO A	OAKLAND	37.8469349	-122.285	T	Black	Male	>40	Traffic	Warning	No Search	
06/02/2020 09:07	2020-0002	ALCATRAZ AV	BERKELEY	-361	-361	T	Black	Male	30-39	Traffic	Warning	Search	
06/02/2020 09:07	2020-0002	SAN P/HEARST		-361	-361	T	Black	Male	30-39	Traffic	Warning	Search	
06/02/2020 09:13	2020-0002	CALIFORNIA S	BERKELEY	37.8517647	-122.277	T	Black	Female	30-39	Traffic	Warning	No Search	

06/02/2020 09:22	2020-0002	2601 TELEGR	BERKELEY	37.8629941	-122.258	T	Black	Female	30-39	Traffic	Warning	No Search
06/02/2020 09:26	2020-0002	SHATT/CED		-361	-361	T	Black	Male	30-39	Traffic	Warning	No Search
06/02/2020 09:36	2020-0002	1040 UNIVERS	BERKELEY	37.8685616	-122.293	T	Black	Male	18-29	Traffic	Warning	Search
06/02/2020 09:42	2020-0002	CHANNING W	BERKELEY	37.866615	-122.261	T	Black	Female	18-29	Traffic	Arrest	Search
06/02/2020 09:44	2020-0002	UNIVERSITY A	BERKELEY	37.8704106	-122.282	T	White	Male	>40	Traffic	Warning	No Search
06/02/2020 09:49	2020-0002	BANC/MIL		-361	-361	T	White	Male	>40	Traffic	Warning	No Search
06/02/2020 09:52	2020-0002	ASHBY AVE /	BERKELEY	37.8543164	-122.271	T	Black	Female	>40	Traffic	Warning	No Search
06/02/2020 09:55	2020-0002	1095 UNIVERS	BERKELEY	37.8693198	-122.292		1196 Black	Male	30-39	Traffic	Warning	No Search
06/02/2020 09:56	2020-0002	NEWBURY ST	BERKELEY	37.8551808	-122.267		1196 Black	Male	18-29	Traffic	Warning	No Search
06/02/2020 09:59	2020-0002	SHATTUCK A	BERKELEY	37.8553006	-122.266	T	Asian	Male	18-29	Traffic	Warning	No Search
06/02/2020 10:02	2020-0002	UNIVERSITY A	BERKELEY	37.8701126	-122.284	T	White	Male	30-39	Traffic	Warning	No Search
06/02/2020 10:04	2020-0002	HEARST AVE	BERKELEY	37.8695305	-122.297	T	White	Male	18-29	Traffic	Warning	No Search
06/02/2020 10:21	2020-0002	7TH ST / UNIV	BERKELEY	37.868202	-122.297	T	Black	Male	>40	Traffic	Warning	No Search
06/02/2020 10:21	2020-0002	GILMAN ST / S	BERKELEY	37.8791283	-122.302		1196 Other	Male	30-39	Investigati	Warning	No Search
06/02/2020 10:23	2020-0002	HARRISON ST	BERKELEY	37.880915	-122.303	T	Black	Male	30-39	Traffic	Warning	No Search
06/02/2020 10:24	2020-0002	SAN PABLO A	BERKELEY	37.8562062	-122.288	T	Black	Female	18-29	Traffic	Warning	Search
06/02/2020 10:25	2020-0002	SAN PABLO A	BERKELEY	37.8804742	-122.296	T	White	Male	18-29	Traffic	Warning	No Search
06/02/2020 10:49	2020-0002	SHATTUCK A	BERKELEY	37.8538153	-122.266	T	Hispanic	Male	30-39	Traffic	Warning	No Search
06/02/2020 10:52	2020-0002	1797 SHATTU	BERKELEY	37.8751909	-122.268		1194 Hispanic	Male	18-29	Traffic	Warning	No Search
06/02/2020 10:52	2020-0002	1797 SHATTU	BERKELEY	37.8751909	-122.268		1194 Hispanic	Male	18-29	Investigati	Warning	No Search
06/02/2020 10:53	2020-0002	UNIVERSITY A	BERKELEY	37.8679939	-122.298	T	Other	Male	>40	Traffic	Warning	No Search
06/02/2020 10:55	2020-0002	54/MARK		-361	-361	T	Black	Male	>40	Traffic	Warning	No Search
06/02/2020 11:01	2020-0002	TELEGRAPH /	BERKELEY	37.8561859	-122.26	T	Black	Male	18-29	Traffic	Warning	No Search
06/02/2020 11:14	2020-0002	1373 SOLANO	ALBANY	37.8909198	-122.291		1194 White	Male	30-39	Investigati	Warning	No Search
06/02/2020 11:24	2020-0002	ASH/EOF SAN P		-361	-361	T	Hispanic	Male	18-29	Traffic	Warning	Search
06/02/2020 11:34	2020-0002	VIR/OXF		-361	-361	T	White	Male	>40	Traffic	Warning	No Search
06/02/2020 11:43	2020-0002	KITTREDGE S	BERKELEY	37.8684892	-122.268		1196 Black	Male	18-29	Traffic	Citation	No Search
06/02/2020 11:48	2020-0002	EASTSHORE I	BERKELEY	37.8670189	-122.303		1196 Black	Female	30-39	Traffic	Warning	No Search
06/02/2020 11:57	2020-0002	OREGON ST /	BERKELEY	37.8563085	-122.277	T	Black	Female	30-39	Traffic	Warning	No Search
06/02/2020 12:06	2020-0002	920 HEINZ AV	BERKELEY	37.8533291	-122.29	T	Black	Female	>40	Traffic	Warning	No Search
06/02/2020 12:09	2020-0002	26591	ALBANY	37.88898	-122.29		1196 Black	Male	>40	Traffic	Warning	No Search
06/02/2020 12:10	2020-0002	4TH ST / HEA	BERKELEY	37.8688762	-122.3	T	Black	Female	<18	Traffic	Warning	Search
06/02/2020 12:12	2020-0002	BANCROFT W	BERKELEY	37.8684093	-122.261	T	Black	Male	30-39	Traffic	Warning	No Search
06/02/2020 12:21	2020-0002	BLAKE ST / M	BERKELEY	37.8627436	-122.27	T	White	Male	30-39	Traffic	Citation	No Search
06/02/2020 12:23	2020-0002	59TH ST / SH	OAKLAND	37.844507	-122.265	T	White	Male	18-29	Traffic	Arrest	Search
06/02/2020 12:37	2020-0002	SHATTUCK A	BERKELEY	37.8523795	-122.266	T	Black	Male	>40	Traffic	Warning	No Search
06/02/2020 12:57	2020-0002	BLAKE ST / M	BERKELEY	37.8627436	-122.27		1196 Black	Female	>40	Traffic	Warning	No Search

BPD stops during May 31-June 2 Curfew

Ethnicity	Stops	Percent of total stops	Disparity compared to White stops
Black	92	62.16%	5.11
Latinx/Hispanic	18	12.16%	
White	18	12.16%	
Asian	11	7.43%	
Other	9	6.08%	
<b>TOTAL:</b>	<b>148</b>	<b>100.00%</b>	

CreateDate	IncidentNu	Address	City	Lat	Lon	CallType	Race	Gender	Age	Reason	Enforceme	Car Search
06/01/2021	2020-0002	ALLSTON	BERKELE	37.86739	-122.282	T	Black	Male	18-29	Investigati	Arrest	Search
06/02/2021	2020-0002	CHANNIN	BERKELE	37.86661	-122.261	T	Black	Female	18-29	Traffic	Arrest	Search
05/31/2021	2020-0002	SAN PABL	BERKELE	37.86109	-122.29	1196	Black	Male	18-29	Wanted	Citation	No Search
06/01/2021	2020-0002	EMERSON	BERKELE	37.85455	-122.266	T	Black	Male	18-29	Traffic	Citation	No Search
06/02/2021	2020-0002	ALCATRA	BERKELE	37.84905	-122.269	T	Black	Male	30-39	Traffic	Citation	No Search
06/02/2021	2020-0002	6TH ST / A	BERKELE	37.86526	-122.297	T	Black	Male	<18	Traffic	Citation	No Search
06/02/2021	2020-0002	DWIGHT V	BERKELE	37.86291	-122.276	T	Black	Male	30-39	Traffic	Citation	No Search
06/02/2021	2020-0002	ADDISON	BERKELE	37.86581	-122.302	T	Black	Male	18-29	Traffic	Citation	No Search
06/02/2021	2020-0002	CENTER S	BERKELE	37.8703	-122.268	T	Black	Female	18-29	Traffic	Citation	No Search
06/02/2021	2020-0002	1578 ALL	BERKELE	37.8676	-122.28	T	Black	Male	>40	Traffic	Citation	No Search
06/02/2021	2020-0002	KITTRED	BERKELE	37.86849	-122.268	1196	Black	Male	18-29	Traffic	Citation	No Search
05/31/2021	2020-0002	SHATTUC	BERKELE	37.86488	-122.267	1194	Black	Male	>40	Investigati	Other	No Search
05/31/2021	2020-0002	SHATTUC	BERKELE	37.86488	-122.267	T	Black	Male	<18	Traffic	Warning	No Search
05/31/2021	2020-0002	SHATTUC	BERKELE	37.86488	-122.267	T	Black	Female	<18	Traffic	Warning	No Search
05/31/2021	2020-0002	SHATTUC	BERKELE	37.87215	-122.268	T	Black	Male	30-39	Traffic	Warning	No Search
05/31/2021	2020-0002	UNIVERSI	BERKELE	37.8717	-122.272	T	Black	Male	30-39	Traffic	Warning	No Search
05/31/2021	2020-0002	UNIVERSI	BERKELE	37.8697	-122.287	T	Black	Female	<18	Traffic	Warning	No Search
06/01/2021	2020-0002	MARTIN L	BERKELE	37.8733	-122.273	T	Black	Male	>40	Traffic	Warning	No Search
06/01/2021	2020-0002	SACRAM	BERKELE	37.85491	-122.279	T	Black	Female	30-39	Traffic	Warning	No Search
06/01/2021	2020-0002	MARKET S	OAKLAND	37.84305	-122.275	T	Black	Female	18-29	Traffic	Warning	Search
06/01/2021	2020-0002	MARKET S	OAKLAND	37.84305	-122.275	T	Black	Male	18-29	Traffic	Warning	Search
06/01/2021	2020-0002	MILVIA ST	BERKELE	37.87088	-122.271	T	Black	Male	>40	Traffic	Warning	No Search
06/01/2021	2020-0002	MARKET S	OAKLAND	37.84436	-122.275	T	Black	Male	18-29	Traffic	Warning	Search
06/01/2021	2020-0002	BERRYMA	BERKELE	37.88368	-122.271	T	Black	Female	18-29	Traffic	Warning	No Search
06/01/2021	2020-0002	6TH ST / F	BERKELE	37.86931	-122.298	T	Black	Female	18-29	Traffic	Warning	No Search
06/01/2021	2020-0002	6TH ST / F	BERKELE	37.88115	-122.302	T	Black	Male	18-29	Traffic	Warning	Search
06/01/2021	2020-0002	TELEGRA	BERKELE	37.85519	-122.26	T	Black	Male	>40	Traffic	Warning	No Search
06/01/2021	2020-0002	ALCATRA	OAKLAND	37.8495	-122.266	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2021	2020-0002	SHATTUC	BERKELE	37.86488	-122.267	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2021	2020-0002	HEARST A	BERKELE	37.86931	-122.298	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2021	2020-0002	SAN PABL	BERKELE	37.86462	-122.291	T	Black	Female	30-39	Traffic	Warning	No Search
06/01/2021	2020-0002	E SAC		-361	-361	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2021	2020-0002	SACRAM	BERKELE	37.84969	-122.278	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2021	2020-0002	TOUCHLESS		-361	-361	T	Black	Male	30-39	Traffic	Warning	No Search
06/01/2021	2020-0002	DURANT A	BERKELE	37.86669	-122.268	T	Black	Female	30-39	Traffic	Warning	No Search
06/01/2021	2020-0002	ASHBY A	BERKELE	37.8553	-122.266	T	Black	Male	30-39	Traffic	Warning	No Search
06/01/2021	2020-0002	COLLEGE	BERKELE	-361	-361	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2021	2020-0002	ASHBY A	BERKELE	37.8553	-122.266	1196	Black	Female	18-29	Traffic	Warning	No Search
06/01/2021	2020-0002	CHANN 7		-361	-361	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2021	2020-0002	MILVIA ST	BERKELE	37.86998	-122.271	T	Black	Male	30-39	Traffic	Warning	No Search
06/01/2021	2020-0002	ASHBY A	BERKELE	37.85101	-122.291	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2021	2020-0002	65TH ST /	OAKLAND	37.85063	-122.264	T	Black	Male	30-39	Traffic	Warning	No Search
06/01/2021	2020-0002	UNIVERSI	BERKELE	37.86787	-122.299	T	Black	Male	>40	Traffic	Warning	Search
06/01/2021	2020-0002	SAN PABLO AV/BUR		-361	-361	T	Black	Female	18-29	Traffic	Warning	No Search
06/01/2021	2020-0002	ASHBY A	BERKELE	37.85543	-122.265	T	Black	Female	18-29	Traffic	Warning	No Search
06/01/2021	2020-0002	UNIVERSI	BERKELE	37.86644	-122.306	T	Black	Male	>40	Traffic	Warning	No Search
06/01/2021	2020-0002	FULTON S	BERKELE	37.86783	-122.266	1196	Black	Male	30-39	Traffic	Warning	Search
06/01/2021	2020-0002	ADE/ORG		-361	-361	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2021	2020-0002	UNIVERSI	BERKELE	37.8682	-122.297	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2021	2020-0002	GILMAN S	BERKELE	37.8783	-122.307	T	Black	Male	30-39	Traffic	Warning	No Search
06/01/2021	2020-0002	TELEGRA	OAKLAND	37.85107	-122.26	1196	Black	Male	30-39	Traffic	Warning	No Search
06/01/2021	2020-0002	CEDAR S	BERKELE	37.87409	-122.3	T	Black	Male	>40	Traffic	Warning	No Search
06/01/2021	2020-0002	UNIVERSI	BERKELE	37.8682	-122.297	T	Black	Male	<18	Traffic	Warning	Search
06/01/2021	2020-0002	6TH ST / U	BERKELE	37.86799	-122.298	T	Black	Male	18-29	Traffic	Warning	No Search
06/01/2021	2020-0002	SHATTUC	OAKLAND	37.85033	-122.266	T	Black	Male	30-39	Traffic	Warning	Search
06/01/2021	2020-0002	SHATTUC	BERKELE	37.85382	-122.266	1194	Black	Female	18-29	Prob./Paro	Warning	No Search

12 enforcement actions

92 Black stops

0.130435

06/02/2021	2020-0002901 ASHB	BERKELE	37.85136	-122.291	T		Black	Male	>40	Traffic	Warning	No Search
06/02/2021	2020-00024TH ST / V	BERKELE	37.87188	-122.301	T		Black	Male	30-39	Traffic	Warning	Search
06/02/2021	2020-0002ASHBY A\	BERKELE	37.85214	-122.287	T		Black	Female	30-39	Traffic	Warning	No Search
06/02/2021	2020-00027TH ST / L	BERKELE	37.8682	-122.297	T		Black	Male	>40	Traffic	Warning	No Search
06/02/2021	2020-0002TELEGRA	BERKELE	37.86513	-122.258	T		Black	Male	30-39	Traffic	Warning	No Search
06/02/2021	2020-0002CHANNIN	BERKELE	37.86285	-122.29	T		Black	Female	18-29	Traffic	Warning	No Search
06/02/2021	2020-00021800 6TH	BERKELE	37.87018	-122.299	T		Black	Male	18-29	Traffic	Warning	No Search
06/02/2021	2020-000210TH ST /	BERKELE	37.8702	-122.294		1196	Black	Male	30-39	Traffic	Warning	No Search
06/02/2021	2020-0002SAN PABL	BERKELE	37.86462	-122.291	T		Black	Male	>40	Traffic	Warning	No Search
06/02/2021	2020-0002UNIVERSI	BERKELE	37.86864	-122.294	T		Black	Male	30-39	Traffic	Warning	No Search
06/02/2021	2020-0002SACRAME	BERKELE	37.85328	-122.279	T		Black	Male	30-39	Traffic	Warning	No Search
06/02/2021	2020-0002SAN PABL	BERKELE	37.86025	-122.289	T		Black	Male	>40	Traffic	Warning	No Search
06/02/2021	2020-0002UNIV/5		-361	-361	T		Black	Male	>40	Traffic	Warning	No Search
06/02/2021	2020-0002SAN PABL	OAKLAND	37.84693	-122.285	T		Black	Male	>40	Traffic	Warning	No Search
06/02/2021	2020-0002ALCATRA	BERKELE	-361	-361	T		Black	Male	30-39	Traffic	Warning	Search
06/02/2021	2020-0002SAN P/HEARST		-361	-361	T		Black	Male	30-39	Traffic	Warning	Search
06/02/2021	2020-0002CALIFORN	BERKELE	37.85176	-122.277	T		Black	Female	30-39	Traffic	Warning	No Search
06/02/2021	2020-00022601 TELE	BERKELE	37.86299	-122.258	T		Black	Female	30-39	Traffic	Warning	No Search
06/02/2021	2020-0002SHATT/CED		-361	-361	T		Black	Male	30-39	Traffic	Warning	No Search
06/02/2021	2020-00021040 UNIV	BERKELE	37.86856	-122.293	T		Black	Male	18-29	Traffic	Warning	Search
06/02/2021	2020-0002ASHBY A\	BERKELE	37.85432	-122.271	T		Black	Female	>40	Traffic	Warning	No Search
06/02/2021	2020-00021095 UNIV	BERKELE	37.86932	-122.292		1196	Black	Male	30-39	Traffic	Warning	No Search
06/02/2021	2020-0002NEWBUR	BERKELE	37.85518	-122.267		1196	Black	Male	18-29	Traffic	Warning	No Search
06/02/2021	2020-00027TH ST / L	BERKELE	37.8682	-122.297	T		Black	Male	>40	Traffic	Warning	No Search
06/02/2021	2020-0002HARRISO	BERKELE	37.88091	-122.303	T		Black	Male	30-39	Traffic	Warning	No Search
06/02/2021	2020-0002SAN PABL	BERKELE	37.85621	-122.288	T		Black	Female	18-29	Traffic	Warning	Search
06/02/2021	2020-000254/MARK		-361	-361	T		Black	Male	>40	Traffic	Warning	No Search
06/02/2021	2020-0002TELEGRA	BERKELE	37.85619	-122.26	T		Black	Male	18-29	Traffic	Warning	No Search
06/02/2021	2020-0002EASTSHO	BERKELE	37.86702	-122.303		1196	Black	Female	30-39	Traffic	Warning	No Search
06/02/2021	2020-0002OREGON	BERKELE	37.85631	-122.277	T		Black	Female	30-39	Traffic	Warning	No Search
06/02/2021	2020-0002920 HEINZ	BERKELE	37.85333	-122.29	T		Black	Female	>40	Traffic	Warning	No Search
06/02/2021	2020-00026591	ALBANY	37.88898	-122.29		1196	Black	Male	>40	Traffic	Warning	No Search
06/02/2021	2020-00024TH ST / H	BERKELE	37.86888	-122.3	T		Black	Female	<18	Traffic	Warning	Search
06/02/2021	2020-0002BANCROF	BERKELE	37.86841	-122.261	T		Black	Male	30-39	Traffic	Warning	No Search
06/02/2021	2020-0002SHATTUC	BERKELE	37.85238	-122.266	T		Black	Male	>40	Traffic	Warning	No Search
06/02/2021	2020-0002BLAKE ST	BERKELE	37.86274	-122.27		1196	Black	Female	>40	Traffic	Warning	No Search



ACTION CALENDAR

DATE: 2/23/20

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin

Subject: Resolution Recognizing Housing as Human Right; Referring City Manager to Study Financial Feasibility of Municipal Housing Development Pilot Program with Cooperative, Nonprofit, and Public Ownership Models, Administered as Automatic Stabilizers to Guarantee Adequate Housing.

RECOMMENDATION

Refer the City Manager's office to study the financial feasibility of a municipal housing development pilot program administering automatic stabilizers to guarantee adequate housing security in Berkeley, with regular community input and periodic monitoring of socioeconomic indicators. Pilot program feasibility study shall include, but not be limited to:

1. Feasibility study of public lands suitable mixed-income transit-oriented housing development identified in 2017 Analysis of City-Owned Lands and zoning changes needed for affordable housing at listed sites to address all income categories in upcoming Regional Housing Needs Allocation (RHNA) cycle;
2. Pilot program to establish a Reparative Justice Revolving Loan Fund with affirmative racial justice and anti-displacement goals, providing low-interest loans for tenants, nonprofits, limited-equity co-operatives, and community land trusts to acquire, develop, and/or maintain permanently affordable housing.
3. Pilot program to establish publicly available, user-friendly data dashboard monitoring Housing Justice Indicators in the city including, but not limited to, (a) health and safety standards, (b) affordability, (c) stability, and (d) discrimination and disparate impacts under US Department of Housing and Urban Development's Affirmatively Furthering Fair Housing (AFFH) rule; aligning Indicators with thresholds for corrective actions including land-use policy review and fiscal analysis.
4. State and regional partnerships with the California Department of Housing and Community Development, the Metropolitan Transportation Commission, UC Berkeley, and Bay Area Rapid Transit to develop fiscally resilient mixed-income housing and community reinvestment through land held in public trust and/or limited-equity cooperatives and community land trusts.

## BACKGROUND

### **Guaranteeing Adequate Housing: Global and Local Comparison**

International law has recognized a right to adequate housing since the 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Economic, Social and Cultural Rights, establishing freedoms and entitlements that include security of tenure, privacy, affordability, freedom of movement and non-discriminatory access.<sup>1</sup> By definition, the City of Berkeley has not affirmed this right for at least 1,000 homeless residents, with 813 unsheltered according to the 2019 Homeless Point-in-Time Count in Alameda County.<sup>2</sup> To obtain secure homeownership, the city's December 2020 median home price of \$1.39 million would require an income over three times as high as Berkeley's 2018 median household income of \$80,000.<sup>3</sup> Meanwhile, the state of California leads the nation in its share of the homeless population<sup>4</sup>; over half the state's renters and a third of its homeowners are excessively cost-burdened, paying over 30% of their income for housing; and more than two-thirds of Californians facing excessive housing costs are people of color.<sup>5</sup> According to the California Budget & Policy Center, "Poor housing quality, living in a low-income neighborhood, overcrowding, moving frequently, and homelessness are all associated with adverse health outcomes."<sup>6</sup>

In urban areas throughout the world, other nations with lower rates of homelessness and housing insecurity provide adequate housing for their citizens through various policies that address housing as public infrastructure. Housing systems are administered in varying degrees of "decommodification,"<sup>7</sup> ensuring a minimum standard of living through the welfare state above what individuals can obtain through the private market. Different governments approach decommodification of housing through strategies for subsidizing the supply channel by providing low-cost housing, or the demand channel by supporting consumer purchasing power.

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<sup>1</sup> Office of the United Nations High Commissioner for Human Rights. (2009). *Fact Sheet No. 21: The Right to Adequate Housing. (Rev. 1)*. United Nations: Geneva. Retrieved from [https://www.ohchr.org/documents/publications/fs21\\_rev\\_1\\_housing\\_en.pdf](https://www.ohchr.org/documents/publications/fs21_rev_1_housing_en.pdf)

<sup>2</sup> [https://everyonehome.org/wp-content/uploads/2019/07/ExecutiveSummary\\_Alameda2019-1.pdf](https://everyonehome.org/wp-content/uploads/2019/07/ExecutiveSummary_Alameda2019-1.pdf)

<sup>3</sup> <https://www.zillow.com/berkeley-ca/home-values/>

<sup>4</sup> Passy, J. (2019). Nearly half of the U.S.'s homeless population live in one state: California. *MarketWatch*. Retrieved from <https://www.marketwatch.com/story/this-state-is-home-to-nearly-half-of-all-people-living-on-the-streets-in-the-us-2019-09-18#>

<sup>5</sup> Kimberlin, S. (2017). Californians in All Parts of the State Pay More Than They Can Afford for Housing. *California Budget & Policy Center*. Retrieved from <https://calbudgetcenter.org/resources/californians-parts-state-pay-can-afford-housing/>

<sup>6</sup> Ramos-Yamamoto, A. (2019). Advancing Health Equity: How State Policymakers Can Increase Opportunities for All Californians to Be Healthy. *California Budget & Policy Center*. Retrieved from <https://calbudgetcenter.org/blog/advancing-health-equity-how-state-policymakers-can-increase-opportunities-for-all-californians-to-be-healthy/>

<sup>7</sup> Esping-Andersen, G. (1990). *The Three Worlds of Welfare Capitalism*. Princeton, NJ: Princeton University Press. p. 21-23.

In two case studies, the cities of Vienna and Singapore own and operate public housing development corporations that retain some amount of land title in the common trust in order to stabilize the housing market—either by restricting ownership to leases, or encouraging low-cost rentals and developing on public land holdings. Both also retain a “reserve supply” of land and/or development rights to stabilize housing affordability through recessionary demand shocks. These cities are able to provide housing to any citizen at an affordable cost regardless of their income, effectively reinvesting revenues from higher-income households to subsidize housing for lower incomes. In Tokyo, while housing is more commodified, Japanese federal land-use policy treats housing essentially as a non-durable consumer good, prioritizing its utility as shelter over its capacity to increase financial wealth.<sup>8</sup>

Vienna and Singapore rank 1<sup>st</sup> and 25<sup>th</sup> on the 2019 Mercer Quality of life ranking, respectively, above any city in the United States. Vienna has held the top position for the past ten years.<sup>9</sup>

The United States has tended toward the extreme opposite end in the spectrum of housing commodification. Modern economic policy and property rights have treated housing primarily as means to a guarantee for growing financial asset wealth and enforce a white supremacist caste system. Housing is commodified to an extreme degree that is incompatible with material needs of the general population. Subsidies for both supply and demand channels have been historically insufficient while support for American asset wealth primarily in white communities has been more robust and resilient. This has widened the racial wealth gap between white and Black households, and ultimately proved incompatible with universal housing security.

The Great Recession of 2008 effected an abjectly cruel transfer of wealth from lower-income Black homeowners<sup>10</sup> targeted with predatory subprime loans to private equity firms<sup>11</sup> buying up large portfolios of “distressed” properties before the economy recovered. This longstanding pattern of usury and community displacement further has further excluded people of color from the fruits of economic recovery and deepens the racial wealth gap. We risk repeating this process in the current COVID-19 depression, as renters and low-income homeowners face an unprecedented homelessness crisis due to job losses during the pandemic, while relatively affluent cities like Berkeley see median home prices continue to rise.

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<sup>8</sup> Karlinsky, S. et al. (2020). From Copenhagen to Tokyo: Learning from International Housing Delivery Systems. *SPUR Regional Strategy Briefing Paper*. Retrieved from <https://www.spur.org/publications/white-paper/2020-08-06/copenhagen-tokyo>.

<sup>9</sup> Mercer. (2019). Quality of life city ranking. Retrieved from <https://mobilityexchange.mercer.com/insights/quality-of-living-rankings>

<sup>10</sup> White, G.B. (2015). The Recession’s Racial Slant. *The Atlantic*. Retrieved from <https://www.theatlantic.com/business/archive/2015/06/black-recession-housing-race/396725/>

<sup>11</sup> Warren, E. & Fife, C. (2020). Families see a looming catastrophe. Private equity firms see dollar signs. *The Washington Post*. Retrieved from <https://www.washingtonpost.com/opinions/2020/08/06/nation-is-facing-housing-crisis-private-equity-firms-just-see-dollar-signs/>

Local, state and federal governments alike have made routine practice of devaluing or outright destroying black asset wealth for the benefit of more affluent, exclusively white communities, most visibly through usurious redlining and destructive “urban renewal.”<sup>12</sup> Fundamentally, the government has devoted more resources in absolute terms to protecting the right to capital gains of property owners, at the expense of adequate housing and any right to basic living standards for Black people. After a brief wartime period in which public housing was conceived to sustain middle-class households U.S. public housing developments in the mid-20<sup>th</sup> century were notoriously racially segregated poverty traps located far from public services and economic opportunity, starved of operational funds and “destined to fail.”<sup>13</sup>

The inequities of our current housing crisis are rooted in histories of Jim Crow segregation, mortgage guarantees of the New Deal era, and deflationary policy of the late 1970s. Where neighborhoods were once segregated explicitly by racial covenants and *de jure* statutes, government mortgage guarantees sublimated this segregation into self-reinforcing actuarial assessments promulgated by the Home Owners Loan Corporation (HOLC) and Federal Housing Administration (FHA), established under President Franklin Roosevelt. This practice known as “redlining” infamously denied mortgage credit to primarily Black and Latinx neighborhoods throughout the country, giving more affluent white neighborhoods exclusive access to risk-free mortgage credit while trapping communities of color in poverty. According to UC Berkeley’s Urban Displacement Project, neighborhoods that were once redlined are now at greater risk of gentrification and displacement.<sup>14</sup>

The United States and other anglophone countries further commodified housing in order to provide welfare through asset ownership to compensate for stagnation in real purchasing power.<sup>15</sup> In response to high inflation of the 1970s, the Federal Reserve drastically raised interest rates beginning in 1978, triggering a period of deflation that boosted asset prices while suppressing real wages and economic growth. With accompanying deregulation of the financial sector, housing became “financialized” as a special asset class attracting a rush of speculative capital, because it retained the imprimatur of government mortgage guarantees while enjoying fewer capital controls, practically guaranteeing that household asset wealth would outpace low inflation and stagnating wages.<sup>16</sup> A growing body of research strongly suggests that financialization of housing has intensified business cycle volatility and deepened periodic recessions, as “consumption became more correlated with housing wealth.”<sup>17</sup>

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<sup>12</sup> Baradaran, M. (2017). *The Color of Money: Black Banks and the Racial Wealth Gap*. Cambridge, MA: Harvard University Press. p. 141.

<sup>13</sup> Perry-Brown, N. (2020). *How public housing was destined to fail*. Greater Greater Washington. Retrieved from <https://ggwash.org/view/78164/how-public-housing-was-destined-to-fail>

<sup>14</sup> The Legacy of Redlining. (2018). Retrieved from <https://www.urbandisplacement.org/redlining>

<sup>15</sup> Adkins, L. et al. (2019). Class in the 21<sup>st</sup> century: Asset inflation and the new logic of inequality. *Environment and Planning A: Economy and Space*. doi.org/10.1177/0308518X19873673

<sup>16</sup> Feygin, Y. (2021). The Deflationary Bloc. *Phenomenal World*. Retrieved from <https://phenomenalworld.org/analysis/deflation-inflation>.

<sup>17</sup> Ryan-Collins, J., et al. (2017). *Rethinking the Economics of Land and Housing*. London, UK: New Economics Foundation.

Berkeley pioneered other methods of guaranteeing housing price inflation: single-family zoning was first established in the Elmwood and Claremont neighborhoods to sustain real estate values and exclude racial minorities. The Mason-McDuffie Company developed residential neighborhoods in Berkeley with racial covenants in property deeds preventing lease or sale to anyone of “African or Mongolian descent,” and lobbied for restrictive zoning in 1916 to protect against “disastrous effects of uncontrolled development”<sup>18</sup>—the implied “disastrous effects” being stable prices and an influx of Black and Chinese residents.

Restrictive zoning reduces multifamily development, constrains supply and enforces a high price floor on dwelling units in high-cost land<sup>19</sup>. A 2015 study by the nonpartisan Legislative Analyst Office found that growth control policies increased home prices by 3-5%.<sup>20</sup> Correspondingly, emerging research from UC Berkeley finds evidence that new market-rate development in San Francisco lowered rents by 2% on parcels within 100 meters and reduced displacement risk for renters in that area by 17%,<sup>21</sup> while a 2016 study by UC Berkeley’s Urban Displacement Project found that affordable housing has double the effect of mitigating displacement as market-rate housing.<sup>22</sup> According to a 2001 study on homelessness in California, “rather modest improvements in the affordability of rental housing or its availability can substantially reduce the incidence of homelessness in the United States.”<sup>23</sup>

Exclusionary zoning effectively limits where and to what extent these effects can occur, maintaining the spatial segregation of redlining after the latter practice was outlawed by the 1968 Fair Housing Act. In a study of 197 metropolitan areas in the United States, UC Merced political scientist Jessica Trounstone has found that restrictive land use policies predicted sustained racial segregation in cities between 1970 and 2006, while larger, sustained white minorities were predictive of cities’ resistance to new residential development.<sup>24</sup> Research from UC Berkeley’s Othering and Belonging Institute finds that single-family zoning in the Bay Area is strongly correlated with high-resource, high-

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<sup>18</sup> Lory, Maya Tulip. (2013). A History of Racial Segregation, 1878–1960. *The Concord Review*. Retrieved from <http://www.schoolinfosystem.org/pdf/2014/06/04SegregationinCA24-2.pdf>

<sup>19</sup> Murray, C. & Schuetz, J. (2019). Is California’s Apartment Market Broken? The Relationship Between Zoning, Rents, and Multifamily Development. *UC Berkeley Turner Center for Housing Innovation*. (2019).

<sup>20</sup> Legislative Analyst Office. (2015). California’s High Housing Costs: Causes and Consequences. Retrieved from <https://lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.pdf>

<sup>21</sup> Pennington, K. (2021). Does Building New Housing Cause Displacement?: The Supply and Demand Effects of Construction in San Francisco. *Working Paper*. Retrieved from [https://www.dropbox.com/s/oplls6utgf7z6ih/Pennington\\_JMP.pdf?dl=0](https://www.dropbox.com/s/oplls6utgf7z6ih/Pennington_JMP.pdf?dl=0).

<sup>22</sup> Zuk, M. & Chapple, K. (2016). Housing Production, Filtering and Displacement: Untangling the Relationships. *Institute of Governmental Studies Research Brief*. Berkeley, CA: UC Berkeley IGS. Retrieved from [https://www.urbandisplacement.org/sites/default/files/images/udp\\_research\\_brief\\_052316.pdf](https://www.urbandisplacement.org/sites/default/files/images/udp_research_brief_052316.pdf)

<sup>23</sup> Quigley, J.M. (2001). Homeless in America, Homeless in California. *The Review of Economics and Statistics*. 83(1): 37–51.

<sup>24</sup> Trounstone, J. (2020). The Geography of Inequality: How Land Use Regulation Produces Segregation. *American Political Science Review*. Cambridge: Cambridge University Press.



opportunity, and highly segregated communities.<sup>25</sup> Karen Chapple, Director of UC Berkeley's Urban Displacement Project, stated in a February 25, 2019 letter to the Berkeley City Council, "the Urban Displacement Project has established a direct connection between the neighborhood designations by the Home Owners Loan Corporation (HOLC), and 75% of today's exclusionary areas in the East Bay... Thus, this historic legacy, compounded by Berkeley's early exclusionary zoning practices, continues to shape housing opportunity and perpetuate inequities today." These inequitable distributions of access to housing and asset appreciation has historically perpetuated and remains a primary factor in country's the racial wealth gap.<sup>26</sup>

The highly commodified political economy in the United States is enforced by a doctrine of strong property rights for protecting capital gains from asset inflation (colloquially referred to as "financialization" or "commodification") over rights to material well-being, perpetuating a permanent affordability crisis for most workers who did not already own their homes. This fundamental conflict of moral values and economic rights came into stark display in early 2020, when the group Moms 4 Housing occupied a vacant home in West Oakland owned by Wedgewood Inc., a private equity firm that flipped houses nationwide. In the early hours of January 14, 2020, Alameda County sheriff's deputies enforced an eviction order with guns and armored cars on display, arresting four members of the group who had previously been homeless or housing insecure. On January 20, Oakland Mayor Libby Schaaf and Governor Newsom announced a deal with Wedgewood to sell the house to the Oakland Community Land Trust, and offer first right of refusal to the land trust for its property portfolio in Oakland for permanently affordable housing.<sup>27</sup>

This political value statement, backed by a real transfer of wealth and rights of secure tenure, does not need to be an *ad hoc* bartering between the sweat equity of community organizers, the bully pulpit of elected officials, and the real physical danger of tactical civil disobedience. These values can instead be operationalized as part of the baseline administration of public services. In response to the Moms 4 Housing success, the state legislature passed SB-1079 by Senator Nancy Skinner (D-Berkeley) in September of 2020, authorizing fines of from \$2,000 to \$5,000 per day on buyers of foreclosed homes left vacant for over 90 days; banning bundled sales of foreclosed houses; and giving tenants, nonprofits, and community land trusts 45 days to match the final highest bid for the property.

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<sup>25</sup> Menendian, S., et al. (2020). Single Family Zoning in the Bay Area: Characteristics of Exclusionary Communities. *UC Berkeley Othering & Belonging Institute*. Retrieved from <https://belonging.berkeley.edu/single-family-zoning-san-francisco-bay-area>

<sup>26</sup> Darity Jr, W. et al. (2018). What We Get Wrong About the Racial Wealth Gap. *Samuel DuBois Cook Center on Social Equity*. Durham, NC: Duke University. Retrieved from <https://socialequity.duke.edu/wp-content/uploads/2020/01/what-we-get-wrong.pdf>

<sup>27</sup> La Ganga, M. L. (2020). Evicted Oakland moms will get their house back after a deal with Redondo Beach company. *Los Angeles Times*. Retrieved from <https://www.latimes.com/california/story/2020-01-20/homeless-moms-4-housing-oakland-wedgewood-properties-deal>

Aligning public financing with more inclusive land-use regulations can offer a path to automating these sorts of progressive, reparative distributions of material well-being and housing security at a broader scale.

### **Automatic Stabilizers**

Economists have proposed “automatic stabilizers” to respond to recessions with increased urgency since Obama Administration’s stimulus efforts following the Great Recession were hamstrung by partisan gridlock in Congress. Federal Reserve economist Claudia Sahm developed the “Sahm rule” for defining the onset of a recession with a specific threshold of sustained unemployment, and a proposal in which this rule could trigger automatic stimulus payments “to broadly support aggregate demand in a recession.”<sup>28</sup> In her testimony on January 19, 2021 at a confirmation hearing for her appointment to Treasury Secretary, former Federal Reserve chair Janet Yellen stated: “Our current system needs both updating and expansion... Designing and implementing a modern and effective system of automatic stabilizers is an important step to take now, so that we can minimize the negative impacts of any future recessions.”<sup>29</sup>

Issuing stimulus payments automatically and universally to households rather than negotiating periodically in partisan politics could prevent widespread poverty among the least fortunate and also blunt a recession’s severity by sustaining consumer demand—stabilizing both material conditions for lower-income households, and consumption writ large. Analogous benchmarks can be operationalized to “stabilize” housing security in the city throughout business cycles and state planning certification periods. For example, urban planner Alain Bertaud has proposed automating updates to land-use policy as a function of land values to programmatically enforce widespread housing affordability.<sup>30</sup>

President Joseph R. Biden’s 2020 campaign platform included massive increases to federal funding for public housing and the Section 8 housing voucher program.<sup>31</sup> If the new presidential administration can increase housing subsidies through both supply and demand channels to more closely meet present and future needs, the City of Berkeley would have more resources to proactively ensure adequate, stable, and non-discriminatory housing is further guaranteed.

### **Municipal Housing Development**

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<sup>28</sup> Sahm, C. (2019). Direct Stimulus Payments to Individuals. *The Hamilton Project*. Retrieved from

[https://www.hamiltonproject.org/assets/files/Sahm\\_web\\_20190506.pdf](https://www.hamiltonproject.org/assets/files/Sahm_web_20190506.pdf)

<sup>29</sup> Yellen, J. (2021). Hearing to Consider the Anticipated Nomination of the Honorable Janet L. Yellen to Secretary of the Treasury. *U.S. Senate Committee on Finance*. Retrieved from

<https://www.finance.senate.gov/imo/media/doc/Dr%20Janet%20Yellen%20Senate%20Finance%20Committee%20QFRs%2001%2021%202021.pdf>

<sup>30</sup> Bertaud, A. (2018). *Order Without Design: How Markets Shape Cities*. Cambridge, MA: The MIT Press.

<sup>31</sup> Biden, J. (2020). The Biden Plan for Investing in our Communities Through Housing. Retrieved from <https://joebiden.com/housing/>

Mixed-income municipal housing development has distinct global variants, and is already currently being explored in the United States. The state legislature of Hawaii is considering a state-led housing development proposal known as ALOHA Homes, modeled after Singapore's Housing and Development Board (HDB). SB1 (2019) by State Senator Stanley Chang (D-Oahu) would establish a program within the state's housing finance agency to use existing and newly-acquired state lands near public transit to develop high-density housing. (See Attachment 2.) The state would sell housing units at-cost to residents on 99-year leases. The agency would establish a dedicated revolving fund to provide low-cost loans to support long-term affordability, property maintenance and development. By leasing public land for development while retaining title in the public trust, public agencies can ensure that a proportionate degree of real estate value increased by public investment can be recaptured for the public benefit.

In Singapore, the resale market for 99-year home leases are regulated to ensure long-term affordability with assistance to help households exchange their leasehold equity for larger or smaller units throughout the lease term to adapt to changing needs as family members age. Over 80% of Singaporeans live in HDB housing developments.

In Austria, over 60% of Vienna's residents live in social housing, consisting of roughly 200,000 municipally-owned housing units and 220,000 nonprofit-owned units. For non-citizens, a minimum of five years' residency is required to apply for a social housing unit, and subsidized units must be for a household's primary residence. Public investments for construction, property management, and preservation of the social housing stock are subsidized by a federal income tax and the state's general fund, as well as a revolving loan fund managed by the Vienna Housing Fund. The Vienna Housing Fund operates as a community-owned nonprofit land bank, established by Social Democrats in the 1920s with large investments in public land in response to a housing shortage following the First World War. The self-sustaining nonprofit entity acquires existing housing or develops new projects with the aim of long-term affordability.

The Vienna Housing Fund is a major entity developing thousands of new housing units every year, while buying and selling real property on the open market. It maintains a two-year reserve of land to stabilize its property portfolio throughout real estate market cycles. The Vienna Housing Fund collaborates with the municipal government and nonprofit housing developers to provide affordable housing on public land via low-interest loans for new developments<sup>32</sup>, with loan payments reinvested into a revolving loan fund for future loans and subsidies.

Vienna also indirectly subsidizes private development by arranging land transfers and low-interest loans with private firms through a competitive bidding process, in which a jury panel evaluates applicants' projects based on criteria for design, sustainability, and

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<sup>32</sup> Wohnpartner Wien. (2019). Vienna Social Housing – Tools of Success. Retrieved from [https://socialhousing.wien/fileadmin/user\\_upload/20190325\\_Einlagebla\\_\\_tter\\_Gesamt\\_Englisch.pdf](https://socialhousing.wien/fileadmin/user_upload/20190325_Einlagebla__tter_Gesamt_Englisch.pdf)



affordability. The city rents a portion of the units at affordable rents to lower-income residents, but means-testing is only applied at the initial move-in. Effectively, Vienna's social housing program subsidizes affordable housing through the supply channel rather than the demand channel (i.e. by subsidizing tenants themselves). Unlike Singapore, the city of Vienna's land-use planning promotes rentals over private homeownership, but similarly favors community longevity, recreational facilities, and supportive services. In 2016, the Social Democratic Party of Austria introduced the "wohnbauoffensive"<sup>33</sup>—an initiative to streamline construction and permitting to increase housing production by 30%.

There are also examples in present-day California of revolving funds for community land reinvestment that sustain communities across the state. In Palm Springs, the Agua Caliente Band of Cahuilla Indians own and lease land to nearly 20,000 people and businesses in a non-contiguous checkerboard arrangement, with up to 99-year leases for residential development.<sup>34</sup> At a larger scale, University of California and California State University systems develop and manage large portfolios of student housing across the state. The universities own tens of thousands of rental beds and dwelling units in urban, suburban and rural jurisdictions. Each UC campus prepares and implements a capital management plan to develop property for rental housing—plans which include revolving reinvestments in their existing portfolio.<sup>35</sup> In Berkeley and neighboring jurisdictions, BART is planning for housing development on BART property by leasing land to private and nonprofit developers, using the land-lease model as leverage to achieve the agency's goal of 35% Below Market-Rate housing systemwide.<sup>36</sup> The Berkeley Unified School District is also exploring the potential to develop workforce housing on its properties.<sup>37</sup>

In 2017, an analysis of city-owned property in Berkeley by the Department of Health, Housing and Community Services found several sites such as the Elmwood Parking Lot, which "would need to be rezoned to support multifamily housing development at a large enough scale to make affordable housing feasible."<sup>38</sup> Other properties identified would require zoning changes and further study at a minimum.

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<sup>33</sup> Stadt Wien Press service. (2016). "More, faster, cheaper and sustainable" – the City of Vienna is launching an additional housing offensive. Retrieved from <https://www.wien.gv.at/presse/2016/02/17/mehr-schneller-preiswert-und-nachhaltig-stadt-wien-startet-eine-zusaetzliche-wohnbau-offensive>

<sup>34</sup> Murphy, R. (2016). Half of Palm Springs sits on rented land. What happens if the leases end? *Desert Sun*. Retrieved from <https://www.desertsun.com/story/money/real-estate/2016/09/22/palm-springs-agua-caliente-land-lease/87944598/>.

<sup>35</sup> University of California. (2019). Capital Financial Plan 2019-25. Retrieved from <https://ucop.edu/capital-planning/files/capital/201925/2019-25-cfp.pdf>

<sup>36</sup> BART Board of Directors. (2016). Transit-Oriented Development Performance Measures and Targets. Retrieved from [https://www.bart.gov/sites/default/files/docs/B-%20TOD%20Performance%20Targets%202040%20Adopted%2012-1-16\\_0.pdf](https://www.bart.gov/sites/default/files/docs/B-%20TOD%20Performance%20Targets%202040%20Adopted%2012-1-16_0.pdf)

<sup>37</sup> Doocy, S. (2018). School District Employee Housing in California. *UC Berkeley Turner Center for Housing Innovation*. Retrieved from <https://turnercenter.berkeley.edu/research-and-policy/school-district-employee-housing-in-california/>

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## RATIONALE FOR RECOMMENDATION

Public housing development corporations in California could make both short-term and permanent impacts on housing affordability, construction sector employment, and other equity-based outcomes, while operating under standard land-use planning processes already being streamlined under state law.

Recent state legislation such as SB-35 (2017) and SB-330 (2019) already reform municipal land-use authority to support housing production within measurable benchmarks, limiting local discretion in permitting and zoning according to standards set by the Regional Housing Need Allocation (RHNA) process, the Housing Accountability Act (HAA), and the state Housing Element process.<sup>39</sup> The state legislature has also moved to increase affordable housing financing for municipalities by establishing the Bay Area Housing Finance Authority (BAHFA) in 2019; and in Senate Constitutional Amendment 2 (2021) by Sen. Ben Allen (D-Santa Monica), proposing removal of the state constitutional requirement for local referendum approval “low-rent” housing with more than 50% of its funding from the local jurisdiction. State law under AB-686 (2018) also requires cities to meet the goals of the Obama Administration’s Affirmatively Furthering Fair Housing rule under the 1968 Fair Housing Act in their housing elements and general plans. However, this policy framework is ultimately enforced by private right of action, on both sides of the issue: unsuccessful litigation attempted to overturn state-compliant by-right permits for housing development in Cupertino<sup>40</sup>, and nonprofit advocates successfully sued the cities of Pleasanton<sup>41</sup> after it failed to produce a state-compliant Housing Element. But rather than a positive guarantee to universal housing security, enforcement through private right of action puts the onus on the coordination of constituencies by definition with less housing security to assert their diffuse legal rights through state and local jurisdictions.

This adversarial legal environment is inconsistent with a public commitment to universal fair housing. Liability does not ultimately hinge on the public sector’s ability to guarantee adequate housing. To the extent that a municipal government chooses to take on such “liabilities” as a moral obligation, it must also devote its real assets to meet this obligation and balance the moral ledger. Local governments can coordinate and amplify their resources to improve housing outcomes through more inclusive land-use regulations, and an expanded authority as lender and lessor of last resort.

However, the United Nations Office of the High Commissioner for Human Rights (OHCHR) specifies that the right to adequate housing “clearly does not oblige the Government to construct a nation’s entire housing stock.”<sup>42</sup>

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<sup>39</sup> Elmendorf, C. et al. (2020). Superintending Local Constraints on Housing Development: How California Can Do It Better. *UC Davis Legal Studies Research Paper Series*.

<sup>40</sup> Friends of Cupertino v. City of Cupertino. No. 18CV330190. Superior Court of California, County of Santa Clara. (2020).

<sup>41</sup> Urban Habitat Program v. City of Pleasanton. No. A118327. Court of Appeal, First District, Division 2, California. (2008).

<sup>42</sup> See footnote 1.

*Rather, the right to adequate housing covers measures that are needed to prevent homelessness, prohibit forced evictions, address discrimination, focus on the most vulnerable and marginalized groups, ensure security of tenure to all, and guarantee that everyone's housing is adequate. These measures can require intervention from the Government at various levels: legislative, administrative, policy or spending priorities. It can be implemented through an enabling approach to shelter where the Government, rather than playing the role of housing provider, becomes the facilitator of the actions of all participants in the production and improvement of shelter.*

To that end, the City of Berkeley could proactively affirm housing as a human right according to measurable parameters of cost-burden and non-discriminatory access, as well as broader historical data and actionable moral commitments to restorative justice. Rather than *retroactive* enforcement of state housing mandates through private right of action, the City's administrative departments should continuously monitor the availability, adequacy, and equitable distribution of housing as publicly available Housing Justice Indicators, reevaluating policy tools including public investment and planning and development goals as needed to *proactively* guarantee housing as a basic right. A publicly available, user-friendly data dashboard of Housing Justice Indicators could maintain accountability of the City's civic institutions in meeting this mandate.

Vienna's 2016 "wohnbauoffensive" reforms, considered analogously with the Berkeley City Council's 2019 referral for a Missing Middle Report<sup>43</sup>, are both essentially *ad hoc* responses to an immediate crisis, recognizing that inequitable land-use planning should be reformed to actively promote economic justice. Regular administrative oversight could be implemented to more quickly intervene in these inequities and further prevent material harm to vulnerable communities. The City Manager's office has already recommended a strategic focus on streamlining and reforming land use policy to enable a greater scale of housing production in its 1000 Person Plan to Address Homelessness:<sup>44</sup>

*4. Continue to implement changes to Berkeley's Land Use, Zoning, and Development Review Requirements for new housing with an eye towards alleviating homelessness. If present economic trends continue, the pace with which new housing is currently being built in Berkeley will likely not allow for a declining annual homeless population. Berkeley should continue to streamline development approval processes and reform local policies to help increase the overall supply of housing available, including affordable housing mandated by inclusionary policies.*

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<sup>43</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/04\\_Apr/Documents/2019-04-23\\_Item\\_32\\_Missing\\_Middle\\_Report.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/04_Apr/Documents/2019-04-23_Item_32_Missing_Middle_Report.aspx)

<sup>44</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/02\\_Feb/Documents/2019-02-26\\_Item\\_20\\_Referral\\_Response\\_1000\\_Person\\_Plan.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/02_Feb/Documents/2019-02-26_Item_20_Referral_Response_1000_Person_Plan.aspx)

The calibration of housing stability policy should continuously operate within transparent parameters of community engagement and historical data, so that a pilot program can begin from the outset with a concretely-defined goal of affirmatively redressing racial inequities in wealth, opportunity, health and educational outcomes. State and regional entities such as the state's Tax Credit Allocation Committee (TCAC), the Metropolitan Transportation Commission (MTC), and UC Berkeley scholars already maintain active measures of economic opportunity, racial segregation, transit access, environmental health, and other positive outcomes for developing policy recommendations.

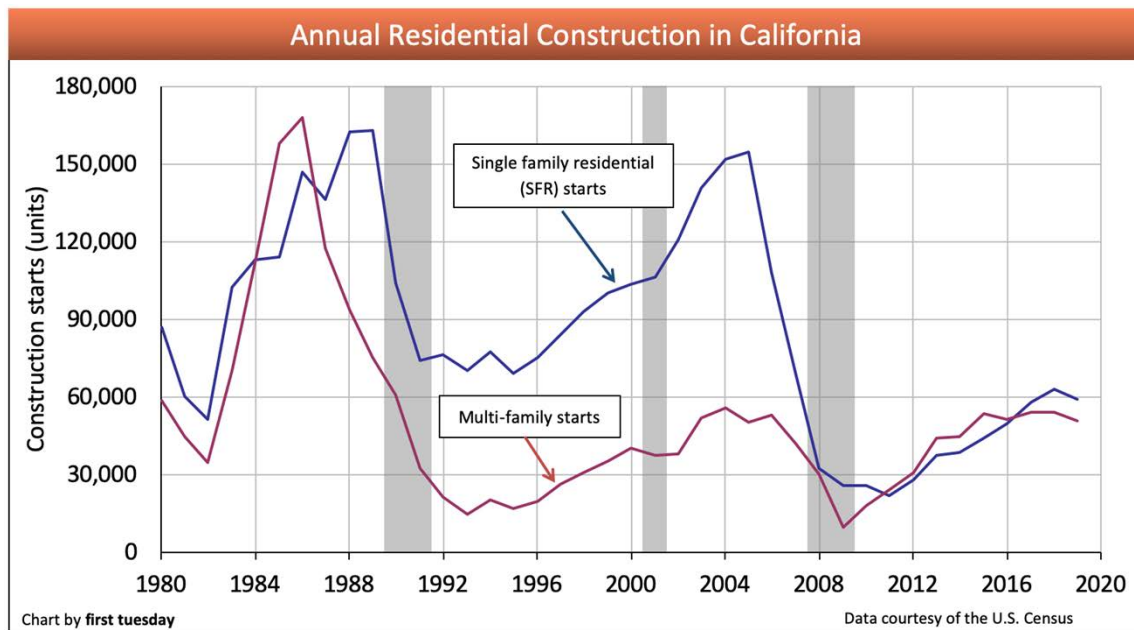
An "automatic stabilizer" paradigm with (a) a revolving land equity fund financing Reparative Housing Justice goals, and (b) periodic empirical review of land-use policy by the Planning Department, could quickly quantify unmet needs for housing security. Developing and implementing responses to needs in the community codified and expeditious administrative process, just as automated stimulus payments could quickly reduce material deprivation during business cycle downturns. Unlike stimulus payments, however, restorative housing justice should be a permanent goal of city service administration.

Public development entities enjoy the benefit of longer-term financial horizons that help produce more stable housing outcomes. Unhindered by the fiduciary duty to produce short-term positive returns for private investors, public housing development agencies are not obligated to cease production and layoff construction workers during recessions.

The private market has been incapable of meeting the need for shelter in California across business cycles. Private capital bids up the costs of inputs during upcycles, but financing dries up during recessions as investors flee the volatile market. Recovery in the construction sector is sluggish, but demand for shelter does not disappear. Construction rates collapsed after the Great Recession of 2008, but as of 2020, they had barely recovered to rates of the previous recession of 2001.<sup>45</sup>

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<sup>45</sup> The slowing trend in California construction costs. (2019). first tuesday Journal. Retrieved from <https://journal.firsttuesday.us/the-rising-trend-in-california-construction-starts/17939/>



In a crudely Keynesian paradigm, these downturns are precisely when the public sector should step in to compensate with housing development to meet the need for shelter, sustain employment, and boost aggregate demand. Unfortunately, California's housing market volatility limits the state and local government's resources when they are needed the most. For instance, California's construction workforce in 2017 lagged below its historic peak in 2006, equivalent to the size of the workforce at start of the economic recovery in 2011.<sup>46</sup> In contrast, Vienna's social housing program also stabilizes employment in the region by employing 20,000 workers in the building trades.

Compounding this structural deficit, state and local funding sources for affordable housing are pro-cyclical and likelier to see a decline in revenues during economic downturns. Berkeley's inclusionary zoning and Affordable Housing Mitigation Fee produce Below Market-Rate homes or revenues for the Housing Trust Fund contingent on "value capture" policies that rely on the willingness of private capital to invest in the value. The Low Income Housing Tax Credit program (LIHTC), the linchpin of affordable housing financing in the United States, relies on the incentive of corporate tax liability by providing tax credits to large corporations and financial institutions in exchange for equity in low-income housing projects within a finite time horizon. Reductions in corporate profits during recessions and cuts to the corporate tax rate have both reduced the value of these tax credits periodically.<sup>47</sup>

<sup>46</sup> Littlehale, S. (2019). Rebuilding California: The Golden State's Housing Workforce Reckoning. *Smart Cities Prevail*. Retrieved from [https://www.smartcitiesprevail.org/wp-content/uploads/2019/01/SCP\\_HousingReport.0118\\_2.pdf](https://www.smartcitiesprevail.org/wp-content/uploads/2019/01/SCP_HousingReport.0118_2.pdf)

<sup>47</sup> Scally, C. et al. (2018). The Low-Income Housing Tax Credits: Past Achievements, Future Challenges. *Urban Institute*. Retrieved from [https://www.urban.org/sites/default/files/publication/98761/lihtc\\_past\\_achievements\\_future\\_challenges\\_finalize\\_d\\_1.pdf](https://www.urban.org/sites/default/files/publication/98761/lihtc_past_achievements_future_challenges_finalize_d_1.pdf).

At the same time, highly leveraged private equity firms that specialize in liquidation of large portfolios or “asset stripping” benefit from volatile recessions that displace lower-income homeowners primarily in communities of color with less liquid capital to sustain riskier mortgage debt. Poorer households, primarily Black and Latinx residents, are more likely to end up trapped in cycles of poverty and homelessness, suffering for the benefit of wealthier and whiter financial institutions.

The Vienna Housing Fund offers a model for building wealth in the local community and affirmatively redressing the historic inequities intensified by cyclical volatility. By providing a revolving low-interest loan fund for tenants, nonprofits, limited equity cooperatives and Community Land Trusts, the City could plan for optimizing housing decommodification to meet concrete benchmarks in material outcomes: eliminating involuntary displacement, repairing wealth inequities in communities of color, and maintaining market price parity with regional incomes.

Rather than bearing 100% of project costs independently, a municipal fund could seek to partner with state and regional mechanisms for land value redistribution, such as Transit Value Capture Districts (TVCDs)<sup>48</sup> or Enhanced Infrastructure Finance Districts (EIFDs), which have been studied or proposed for financing affordable housing and other capital costs at BART stations.

As a countercyclical policy to sustain affordable housing financing across market cycles, a municipal revolving loan fund could provide loan guarantees or bridge loans to LIHTC developments to ensure their completion. As a reparative anti-displacement policy, a revolving loan fund could reinforce the city’s Local Preference policy for affordable housing included in the Adeline Corridor Specific Plan by providing favorable loan terms to community land trusts, tenant acquisitions, and nonprofit affordable housing developments that prioritize the return of formerly displaced residents from low-income communities of color. The loan fund can also seek matching funds from the newly-established Bay Area Housing Finance Authority (BAHFA), in direct partnership with the MTC and Association of Bay Area Governments (ABAG). In order to provide more housing security across the economic spectrum, a municipal revolving loan fund can consider more generous loan renegotiation terms or loan forgiveness, including the option of paying loans back to the fund in equity stakes.

The City of Berkeley is fortunate to not find itself in the same conditions as a bombed-out postwar Vienna, which made the consolidation of a large public land portfolio for the Vienna Housing Fund tragically inexpensive. However, Berkeley is blessed with a robust and growing tax base. Initially, such a loan fund may start small, with seed capital from the city’s Small Sites Program and/or bootstrapped with Berkeley’s existing real property portfolio, but over time it would be able to draw upon its growing portfolio of assets to self-finance operating costs while investing in new affordable housing

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<sup>48</sup> Sagehorn, D. & Hawn, J. (2020). Transit Value Capture for California. *Common Ground California*. Retrieved from [http://cacommonground.org/pdf/2020-12\\_Transit\\_Value\\_Capture.pdf](http://cacommonground.org/pdf/2020-12_Transit_Value_Capture.pdf)



projects.<sup>49</sup> A budget referral should only proceed following a feasibility study to identify policy and funding goals for monitoring and addressing Housing Justice Indicators.

Homelessness and housing insecurity are the result of deliberate but diffuse policy choices. The feasibility of permanently guaranteeing housing security in Berkeley remains unknown, but our community nevertheless recognizes the imperative to make different policy choices to that end. The City of Berkeley can build on the precedents and procedures established in state law, affirm housing as a human right, and enforce concrete goals toward reparative housing justice as a permanent mandate of our municipal public service.

## ALTERNATIVES CONSIDERED

The Berkeley City Council and the city's voters have taken clear steps to invest in housing security and affordable housing production. To the extent that the City is already developing and implementing affordable housing policies, the feasibility of these policy tools would not be mutually exclusive with other public investments and reforms currently underway.

## ENVIRONMENTAL IMPACTS

Mixed-income housing development adjacent to frequent, reliable public transit and walkable street infrastructure can further the goals of the City's 2017 Climate Action Plan Update<sup>50</sup>, which include:

***Goal 4. Increase compact development patterns (especially along transit corridors)***

*Encouraging sustainable modes of travel such as cycling, walking, and public transit, is fundamentally tied to compact development patterns and the mix of land uses near transit hubs and jobs. For example, evidence shows that people who live near transit drive between 20% and 40% less than those who do not.*

The City's 2018 Greenhouse Gas Inventory found that transportation accounted for 60% of Berkeley's greenhouse gas (GHG) emissions.<sup>51</sup> According to a 2018 Progress Report from the California Air Resources Board: "Even if the share of new car sales that are [zero-emission electric vehicles] grows nearly 10-fold from today, California would still need to reduce VMT [Vehicle Miles Traveled] per capita 25 percent to achieve the necessary reductions for 2030."<sup>52</sup> A 2019 report by the United Nations' International

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<sup>49</sup> Baxamusa, M. (2020). A New Model for Housing Finance: Public and Private Sectors Working Together to Build Affordability. *Routledge Focus*. p. 123.

<sup>50</sup> [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Energy\\_and\\_Sustainable\\_Development/2017-12-07%20WS%20Item%2001%20Climate%20Action%20Plan%20Update.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/2017-12-07%20WS%20Item%2001%20Climate%20Action%20Plan%20Update.pdf)

<sup>51</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/2020-07-21\\_Special\\_Item\\_05\\_Climate\\_Action\\_Plan\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Special_Item_05_Climate_Action_Plan_pdf.aspx)

<sup>52</sup> [https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report\\_SB150\\_112618\\_02\\_Report.pdf](https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report_SB150_112618_02_Report.pdf)

Resource Panel (IRP) emphasizes curbing suburban sprawl as a strategy to curb GHG emissions in urban areas that can also enhance the material outcomes provided by public services: “Optimizing densities and reducing sprawl also improves the sharing of resources (e.g. shared walls and roofs in apartment blocks) and reduces the distances that need to be covered by infrastructure networks (e.g. shorter pipes), allowing for savings in the materials and costs associated with service provision.”<sup>53</sup>

Critically, though, economic integration is vital to promoting an absolute reduction in per capita VMT. Mixed-income development providing transit-accessible housing security across the entire economic spectrum should maximize the potential for both reducing the carbon footprints of affluent, higher-emission households, and preventing the displacement of poorer, lower-emission households to higher-VMT suburban areas with larger per capita carbon footprints.

While research from UC Berkeley<sup>54</sup> has found that wealthier households see larger emissions reductions from living in denser urban areas, a recent study of displacement and gentrification in Seattle also found significant increases in GHG emissions when lower-income households were displaced to outer suburbs with higher VMT land-use patterns and longer commutes.<sup>55</sup> Notably, the same UC Berkeley study evaluates emission reduction potentials of a suite of municipal public policies in 700 California cities. Using the modeling from this study, the California Local Government Policy Tool from the Cool Climate Network shows that urban infill development offers the greatest potential for mitigating Berkeley’s GHG emissions.

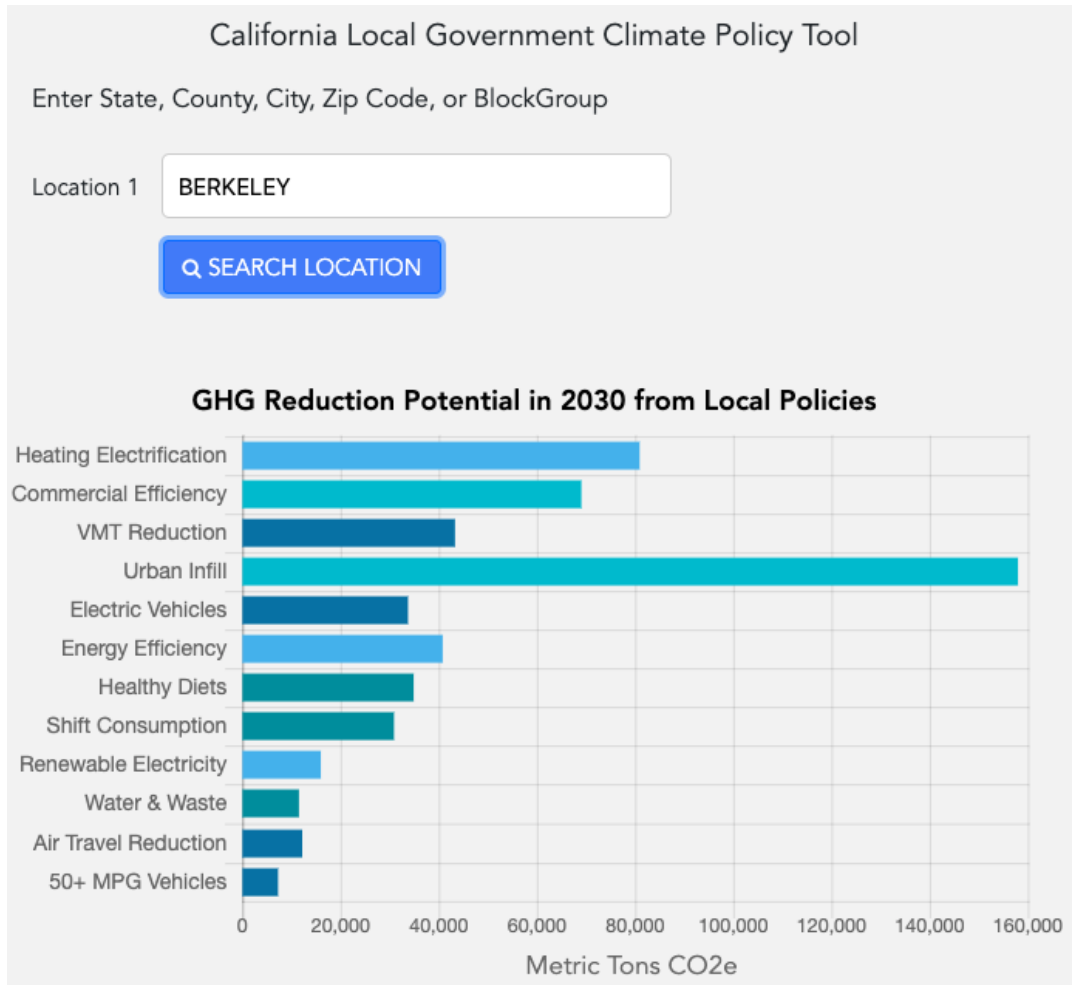
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<sup>53</sup> United Nations IRP. (2019). The Weight of Cities: Resource Requirements of Future Urbanization. Retrieved from <https://www.resourcepanel.org/reports/weight-cities>

<sup>54</sup> Jones et al. (2018). Carbon Footprint Planning: Quantifying Local and State Mitigation Opportunities for 700 California Cities. *Urban Planning*. 3(2). DOI: 10.17645/up.v3i2.1218

<sup>55</sup> Rice et al. (2020). Contradictions of the Climate-Friendly City: New Perspectives on Eco-Gentrification and Housing Justice. *International Journal of Urban and Regional Research*. 44(1):145-165.





## FISCAL IMPACTS

TBD.—Staff time on financial feasibility study. The City Manager’s office has projected a \$12.7 million annual cost to achieve strategic goals enumerated in the 1000 Person Plan to End Homelessness by 2023, but the costs of reforming land use to affirmatively further housing justice remains unquantified. Because such a pilot program would aim to include a broader range of income levels and larger projects, project costs may ultimately not be comparable to the Small Sites Program. Feasibility study should aim for a long-term self-sustaining fiscal structure for Reparative Justice Revolving Loan Fund and identify hard costs of gathering, monitoring and planning policy directives in response to Housing Justice Indicators.

## CONTACT

Councilmember Terry Taplin (District 2), 510-983-7120, [ttaplin@cityofberkeley.info](mailto:ttaplin@cityofberkeley.info)

## ATTACHMENTS/SUPPORTING MATERIALS

1. Resolution
2. Senate Bill 1 (2019), State of Hawaii

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

RECOGNIZING HOUSING AS HUMAN RIGHT, REFERRING CITY MANAGER TO STUDY FINANCIAL FEASIBILITY OF MUNICIPAL HOUSING DEVELOPMENT PILOT PROGRAM TO ADMINISTER AUTOMATIC STABILIZERS FOR GUARANTEEING ADEQUATE HOUSING

WHEREAS, the United Nations has recognized housing as a human right in the 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Economic, Social and Cultural Rights; and,

WHEREAS, the right to adequate housing includes freedoms such as protection against forced evictions and arbitrary destruction of housing; right to privacy; non-discriminatory choice of residence, and freedom of movement; and,

WHEREAS, the right to adequate housing includes entitlements such as security of tenure, restitution, equal and non-discriminatory access, and civic participation; and,

WHEREAS, the City of Berkeley has failed to affirm these freedoms and entitlements for its homeless residents, including 813 unsheltered identified in the 2019 Alameda County point-in-time count; and,

WHEREAS, the state of California and its local and regional governments have failed to affirm these freedoms and entitlements for at least 53% of renters who endure excessive cost-burdens, defined as paying over 30% of income for housing, according to the 2017 American Community Survey; and,

WHEREAS, cities around the world including Vienna and Singapore deliver better housing security and quality of life outcomes for their citizens with robust public housing development programs that reinvest revenues from mixed-income housing and real assets to fund operational costs and capital projects; and,

WHEREAS, histories of Jim Crow segregation endure in racial discrimination in mortgage credit and exclusionary land-use policies maintain disproportionate cost burdens and housing insecurity on Black people and low-income communities of color in the United States; and,

WHEREAS, the Berkeley City Council authorized a Missing Middle Report in 2019 on unanimous consent to study reforms to its land-use policies to enable more affordable times of housing construction, transit-oriented development, and racial and economic inclusion; and,

WHEREAS, the Berkeley City Council authorized a Local Preference policy for affordable housing when it passed the Adeline Corridor Specific Plan in 2020 to enable reparative housing security for low-income communities of color bearing the brunt of displacement and gentrification in Berkeley; and,

WHEREAS, the voters of the City of Berkeley authorized large increases in local funding for affordable housing in 2018 with the overwhelming passage of Measures O and P; and,

WHEREAS, a 2017 Analysis of City-Owned Property for Potential for Housing Development by Berkeley's Health, Housing and Community Services Department identified several publicly owned parcels that would require zoning changes and further study for affordable housing production;

NOW THEREFORE, BE IT RESOLVED, that the City of Berkeley recognizes adequate housing as a human right, with recognition of attendant freedoms and entitlements as enumerated by the United Nations;

BE IT FURTHER RESOLVED, that the Berkeley City Council refers the City Manager to study the financial feasibility of a municipal housing development pilot program administering automatic stabilizers to guarantee adequate housing security in Berkeley, with regular community input and periodic monitoring of socioeconomic indicators;

BE IT FURTHER RESOLVED, that the pilot program's feasibility study shall include, but not be limited to,

1. Feasibility study of public lands suitable mixed-income transit-oriented housing development identified in 2017 Analysis of City-Owned Lands and zoning changes needed for affordable housing at listed sites to address all income categories in upcoming Regional Housing Needs Allocation (RHNA) cycle;
2. Pilot program to establish a Reparative Justice Revolving Loan Fund with affirmative racial justice and anti-displacement goals, providing low-interest loans for tenants, nonprofits, limited-equity co-operatives, and community land trusts to acquire, develop, and/or maintain permanently affordable housing.
3. Pilot program to establish publicly available, user-friendly data dashboard monitoring Housing Justice Indicators in the city including, but not limited to, (a) health and safety standards, (b) affordability, (c) stability, and (d) discrimination and disparate impacts under US Department of Housing and Urban Development's Affirmatively Furthering Fair Housing (AFFH) rule; aligning Indicators with thresholds for corrective actions including land-use policy review and fiscal analysis.
4. State and regional partnerships with the California Department of Housing and Community Development, the Metropolitan Transportation Commission, UC Berkeley, and Bay Area Rapid Transit to develop fiscally resilient mixed-income housing and community reinvestment through land held in public trust and/or limited-equity cooperatives and community land trusts.

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# A BILL FOR AN ACT

RELATING TO HOUSING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the cost and  
2    availability of housing in the State are significant challenges  
3    facing Hawaii residents. Although Hawaii has the tenth highest  
4    median wage nationally, living expenses are two-thirds higher  
5    than the rest of the nation, with the cost of housing being a  
6    major contributing factor. In September 2018, the median price  
7    for a single-family home on Oahu rose to \$812,500, while the  
8    median price for condominiums on Oahu rose to \$428,000.  
9    According to a local news report, a household would need to earn  
10   almost \$160,000 annually to afford to buy a home on Oahu, making  
11   homeownership out of reach for many of Hawaii's residents,  
12   especially first-time buyers.

13           Because of the many barriers hindering the production of  
14    new housing, such as geographic limitations, lack of major  
15    infrastructure, construction costs, and government regulation,  
16    the State and housing developers have not been able to produce  
17    enough housing for Hawaii residents. According to a 2015 report



1 from the department of business, economic development, and  
2 tourism, the projected long-run estimate of demand for total new  
3 housing in Hawaii is between 64,700 to 66,000 for the 2015 to  
4 2025 period. The legislature has responded through the passage  
5 of various legislation. During the regular session of 2016, the  
6 legislature passed a bill enacted as Act 127, Session Laws of  
7 Hawaii 2016, that, among other things, establishes a goal of  
8 developing or vesting the development of at least 22,500  
9 affordable rental housing units ready for occupancy by the end  
10 of 2026. During the regular session of 2017, the legislature  
11 passed a bill enacted as Act 54, Session Laws of Hawaii 2017, to  
12 expand the types of rental housing projects that can be exempt  
13 from general excise tax, thereby encouraging the development of  
14 rental housing projects targeted for occupancy by households at  
15 or below the one hundred forty per cent and eighty per cent area  
16 median income levels. During the regular session of 2018, the  
17 legislature passed a bill enacted as Act 39, Session Laws of  
18 Hawaii 2018, that, among other things, provides an estimated  
19 total value of \$570,000,000 to address Hawaii's affordable  
20 rental housing crisis and is expected to generate more than  
21 25,000 affordable units by the year 2030.



1           Despite these efforts, the amount of new construction of  
2 housing, especially for low- to middle-income families,  
3 continues to be inadequate as the supply of housing remains  
4 constrained while demand for housing increases. This lack of  
5 supply leads to higher housing prices and rents for households  
6 of all income levels, leaving all tenants with less disposable  
7 income, increasing the personal stress on buyers and renters,  
8 and exacerbating overcrowding and homelessness. Given these  
9 consequences, the lack of affordable housing requires the  
10 concentrated attention of state government at the highest level.

11           The legislature further finds that Singapore faced a  
12 housing crisis in the 1940s through 1960s but was subsequently  
13 able to provide nearly one million residential units for its  
14 citizens. The housing and development board -- the government  
15 entity responsible for the rapid increase in housing development  
16 -- plans, develops, and constructs the housing units, including  
17 commercial, recreational, and social amenities. The result is  
18 that units built by the housing and development board house  
19 eighty per cent of the resident population and that, overall,  
20 ninety per cent of the resident population are owners of their  
21 units. Through government loans, subsidies, and grants and the



1 use of money saved through a government-run mandatory savings  
 2 program, residents are able to purchase residential units at an  
 3 affordable price, including options to upgrade to a better  
 4 living environment in the future.

5       The legislature further finds that with Honolulu's  
 6 construction of an elevated rail transit system, the State has  
 7 an opportunity to enhance Oahu's urban environment and increase  
 8 the quality of life for residents by increasing the affordable  
 9 housing inventory and eliminating the need for personal  
 10 automobiles, among other public benefits. As the largest  
 11 landowner of properties along the transit line, with  
 12 approximately two thousand acres under the jurisdiction of  
 13 various departments, the State must be proactive in establishing  
 14 a unified vision and approach toward redevelopment of its  
 15 properties to maximize the benefits of state lands available for  
 16 redevelopment.

17       The purpose of this Act is to:

- 18       (1) Establish the ALOHA homes program to facilitate the
- 19             creation of low-cost leasehold homes for sale to
- 20             Hawaii residents on state-owned land near public
- 21             transit stations; and



1           (2) Authorize the Hawaii housing finance and development  
 2                   corporation to sell the leasehold interest in  
 3                   residential condominium units located on state lands  
 4                   for lease terms of ninety-nine years.

5           SECTION 2. Chapter 201H, Hawaii Revised Statutes, is  
 6 amended by adding two new subparts to part II to be  
 7 appropriately designated and to read as follows:

8                               "B. ALOHA Homes Program

9           **§201H-A Definitions.** As used in this subpart, the  
 10 following terms have the following meanings, unless the context  
 11 indicates a different meaning or intent:

12           "ALOHA" means affordable, locally owned homes for all.

13           "ALOHA home" means a residential unit within the urban  
 14 redevelopment district.

15           "Commercial project" means an undertaking involving  
 16 commercial or light industrial development, which includes a  
 17 mixed-use development where commercial or light industrial  
 18 facilities may be built into, adjacent to, under, or above  
 19 residential units.

20           "High density" means a project or area that has at least  
 21 two hundred fifty units per acre.





1 "Multipurpose project" means a project consisting of any  
2 combination of a commercial project, redevelopment project, or  
3 residential project.

4 "Owner-occupied residential use" means any use currently  
5 permitted in existing residential zones consistent with owner  
6 occupancy, but shall not mean renting or leasing to any tenant  
7 or lessee of any kind.

8 "Project" means a specific work or improvement, including  
9 real and personal properties, or any interest therein, acquired,  
10 owned, constructed, reconstructed, rehabilitated, or improved by  
11 the corporation, including a commercial project, redevelopment  
12 project, or residential project.

13 "Public agency" means any office, department, board,  
14 commission, bureau, division, public corporation agency, or  
15 instrumentality of the federal, state, or county government.

16 "Public facilities" includes streets, utility and service  
17 corridors, and utility lines where applicable, sufficient to  
18 adequately service developable improvements in the district,  
19 sites for schools, parks, parking garages, sidewalks, pedestrian  
20 ways, and other community facilities. "Public facilities" also  
21 includes public highways, as defined in section 264-1, storm



1 drainage systems, water systems, street lighting systems, off-  
2 street parking facilities, and sanitary sewerage systems.

3 "Public transit station" means:

4 (1) A station connected to a locally preferred alternative  
5 for a mass transit project; or

6 (2) For the city and county of Honolulu, a station of the  
7 Honolulu rail transit system.

8 "Redevelopment project" means an undertaking for the  
9 acquisition, clearance, replanning, reconstruction, and  
10 rehabilitation, or a combination of these and other methods, of  
11 an area for a residential project, for an incidental commercial  
12 project, and for other facilities incidental or appurtenant  
13 thereto, pursuant to and in accordance with this subpart. The  
14 terms "acquisition, clearance, replanning, reconstruction, and  
15 rehabilitation" shall include renewal, redevelopment,  
16 conservation, restoration, or improvement, or any combination  
17 thereof.

18 "Residential project" means a project or that portion of a  
19 multipurpose project, including residential dwelling units,  
20 designed and intended for the purpose of providing housing and  
21 any facilities as may be incidental or appurtenant thereto.



1 "Small and medium vendor" means a commercial vendor that  
2 employs nine hundred ninety-nine employees or less.

3 §201H-B ALOHA homes program. There is established the  
4 ALOHA homes program for the purpose of providing low-cost, high  
5 density leasehold homes for sale to Hawaii residents on state-  
6 owned lands within a one-half mile radius of a public transit  
7 station.

8 §201H-C Community and public notice requirements; posting  
9 on the corporation's website; required. For the purposes of  
10 this subpart, the corporation shall adopt community and public  
11 notice procedures pursuant to chapter 91 that shall include at a  
12 minimum:

13 (1) A means to effectively engage the community in which  
14 the corporation is planning a development project  
15 under this subpart to ensure that community concerns  
16 are received and considered by the corporation;

17 (2) The posting of the corporation's proposed plans for  
18 any development project under this subpart, public  
19 hearing notices, and minutes of its proceedings on the  
20 corporation's website;



- 1           (3) The posting of every application for a development
- 2                   project on the corporation's website when the
- 3                   application is deemed complete;
- 4           (4) Notification by the applicant of any application for a
- 5                   development project valued at \$250,000 or more by
- 6                   first class United States mail, postage prepaid to
- 7                   owners and lessees of record of real property located
- 8                   within a three hundred foot radius of the perimeter of
- 9                   the proposed project identified from the most current
- 10                  list available from the real property assessment
- 11                  division of the department of budget and fiscal
- 12                  services of the city and county of Honolulu when the
- 13                  application is deemed complete; provided that notice
- 14                  mailed pursuant to this paragraph shall include but
- 15                  not be limited to notice of:
- 16                  (A) Project specifications;
- 17                  (B) Requests for exemptions from statutes,
- 18                          ordinances, charter provisions, and rules
- 19                          pursuant to section 201H-38; and
- 20                  (C) Procedures for intervention and a contested case
- 21                          hearing; and



1           (5) Any other information that the public may find useful  
 2           so that it may meaningfully participate in the  
 3           corporation's decision-making processes.

4           **§201H-D Urban redevelopment district; established;**  
 5 **boundaries.** The urban redevelopment district is established.  
 6 The urban redevelopment district shall include all state-owned  
 7 and county-owned land within county-designated transit-oriented  
 8 development areas or within a one-half-mile radius of a public  
 9 transit station in a county with a population greater than five  
 10 hundred thousand.

11           **§201H-E Rules; guidelines.** (a) The corporation shall  
 12 establish rules under chapter 91 on health, safety, building,  
 13 planning, zoning, and land use, which shall supersede all other  
 14 inconsistent ordinances and rules relating to the use, zoning,  
 15 planning, and development of land and construction thereon.  
 16 Rules adopted under this section shall follow existing law,  
 17 rules, ordinances, and regulations as closely as is consistent  
 18 with standards meeting minimum requirements of good design,  
 19 pleasant amenities, health, safety, and coordinated development.  
 20 The corporation may provide that lands within the urban  
 21 redevelopment district shall not be developed beyond existing



1 uses or that improvements thereon shall not be demolished or  
2 substantially reconstructed, or provide other restrictions on  
3 the use of the lands.

4 (b) The following shall be the principles generally  
5 governing the corporation's action in the urban redevelopment  
6 district:

7 (1) The corporation shall endeavor to produce enough  
8 housing supply to meet housing demand;

9 (2) Each development may include facilities to replace any  
10 facilities that must be removed for the development's  
11 construction;

12 (3) Development shall be revenue-neutral to the State, and  
13 all revenues generated shall be used for the purposes  
14 of this subpart;

15 (4) The corporation may build infrastructure beyond what  
16 exists in any development under this subpart and may  
17 sell the infrastructure capacity to other private  
18 sector developers;

19 (5) The corporation may build common area facilities for  
20 any development undertaken pursuant to this subpart,



S.B. NO. <sup>1</sup> S.D. 2

1           which shall be paid through the sales of ALOHA homes  
2           units;

3           (6) Development shall result in a community that permits  
4           an appropriate land mixture of residential,  
5           commercial, light industrial, and other uses. In view  
6           of the innovative nature of the mixed use approach,  
7           urban design policies shall be established for the  
8           public and private sectors in the proper development  
9           of the urban redevelopment district; provided that any  
10          of the corporation's proposed actions in the urban  
11          redevelopment district that are subject to chapter 343  
12          shall comply with chapter 343 and federal  
13          environmental requirements; provided further that the  
14          corporation may engage in any studies or coordinative  
15          activities permitted in this subpart which affect  
16          areas lying outside the district, where the  
17          corporation in its discretion decides that those  
18          activities are necessary to implement the intent of  
19          this subpart. The studies or coordinative activities  
20          shall be limited to facility systems, resident and  
21          industrial relocation, and other activities with the



S.B. NO. <sup>1</sup> S.D. 2

1           counties and appropriate state agencies. The  
 2           corporation may engage in construction activities  
 3           outside of the urban redevelopment district; provided  
 4           that the construction relates to infrastructure  
 5           development or residential or business relocation  
 6           activities; provided further that the construction  
 7           shall comply with the general plan, development plan,  
 8           ordinances, and rules of the county in which the urban  
 9           redevelopment district is located;

10           (7) Existing and future light industrial uses accessory to  
 11           shall be permitted and encouraged in appropriate  
 12           locations within the urban redevelopment district. No  
 13           plan or implementation strategy shall prevent  
 14           continued activity or redevelopment of light  
 15           industrial and commercial uses which meet reasonable  
 16           performance standards;

17           (8) Activities shall be located so as to provide primary  
 18           reliance on public transportation and pedestrian  
 19           facilities for internal circulation within the urban  
 20           redevelopment district or designated subareas;





S.B. NO. <sup>1</sup> S.D. 2

- 1           (9) Major view planes, view corridors, and other
- 2           environmental elements such as natural light and
- 3           prevailing winds, may be preserved through appropriate
- 4           regulation and design review;
- 5           (10) All projects shall comply with all applicable
- 6           statutes, rules, and ordinances related to historic
- 7           and cultural resource preservation;
- 8           (11) Where compatible, land use activities within the urban
- 9           redevelopment district shall to the greatest possible
- 10          extent be mixed horizontally within blocks or other
- 11          land areas, and vertically as integral units of multi-
- 12          purpose structures;
- 13          (12) Development shall prioritize maximizing density on
- 14          lands that are most urbanized and most suitable for
- 15          high density; provided that development may require a
- 16          mixture of densities, building types, and
- 17          configurations in accordance with appropriate urban
- 18          design guidelines and vertical and horizontal
- 19          integration of residents of varying incomes, ages, and
- 20          family groups that reflect the diversity of Hawaii.
- 21          Development shall provide necessary community



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1 facilities, such as parks, community meeting places,  
 2 child care centers, schools, educational facilities,  
 3 libraries, and other services, within and adjacent to  
 4 residential development; provided that any school that  
 5 is provided by the corporation as a necessary  
 6 community facility shall be exempt from school size  
 7 requirements as calculated by recent school site area  
 8 averages pursuant to section 302A-1602;

9 (13) Public facilities within the urban redevelopment  
 10 district shall be planned, located, and developed so  
 11 as to support the redevelopment policies for the  
 12 district established by this subpart and plans and  
 13 rules adopted pursuant to it;

14 (14) Development shall be achieved through the efficient  
 15 and cost-effective use of government and private-  
 16 sector workforces through public-private partnerships  
 17 and other mechanisms to incentivize development to be  
 18 on time and on budget;

19 (15) Development shall be designed, to the extent possible,  
 20 to minimize traffic, parking, the use of private  
 21 automobiles, and noise;



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1 (16) Development shall be subject to chapter 104; and

2 (17) Development shall incorporate universal design in  
3 compliance with the Americans with Disabilities Act of  
4 1990 and Uniform Federal Accessibility Standards, to  
5 the extent possible, and exceed accessibility  
6 requirements under those authorities.

7 (c) ALOHA homes within the urban redevelopment district  
8 shall not be advertised for rent, rented, or used for any  
9 purpose other than owner-occupied residential use; provided that  
10 the corporation, by rule, shall establish penalties for  
11 violations of this subsection up to and including forced sale of  
12 an ALOHA home.

13 (d) The corporation shall establish a competition process  
14 for selecting the design and development vendors of ALOHA homes  
15 with the appropriate number of units to accommodate small and  
16 medium vendors. The criteria of the competition process shall  
17 include preferences on the basis of prior experience in the  
18 State and an understanding of the State's unique culture;  
19 provided that the corporation may include an opportunity for  
20 community input through public vote. The corporation may



1 provide a stipend in a manner and an amount to be determined by  
2 the corporation to competitors pursuant to this subsection.

3 (e) The corporation may transfer ALOHA homes units to the  
4 office of Hawaiian affairs and department of Hawaiian home lands  
5 for use by their respective beneficiaries.

6 (f) The corporation shall recoup all expenses through the  
7 sales of the leasehold interest of ALOHA homes and other revenue  
8 sources, including the leasing of commercial projects.

9 **§201H-F Sale of the leasehold interest of ALOHA homes;**  
10 **rules; guidelines.** (a) The corporation shall adopt rules,  
11 pursuant to chapter 91, for the sale of the leasehold interest  
12 of ALOHA homes under its control within the urban redevelopment  
13 district; provided that each lease shall be for a term of  
14 ninety-nine years. The rules shall include the following  
15 requirements for an eligible buyer or owner of an ALOHA home  
16 within the district:

17 (1) The person shall be a resident of the State; provided  
18 that voting in the most recent primary or general  
19 election shall be an indication of residency in the  
20 State; provided further that not voting in any primary



1 or general election creates a rebuttable presumption  
2 of non-residency;

3 (2) The person shall not use the ALOHA home for any  
4 purpose other than owner-occupied residential use; and

5 (3) The person, or the person's spouse, shall not own any  
6 other real property, including any residential and  
7 non-residential property, beneficial ownership of  
8 trusts, and co-ownership or fractional ownership,  
9 while owning an ALOHA home in the district; provided  
10 that an eligible buyer may own real property up to six  
11 months after closing on the purchase of an ALOHA home;  
12 provided further that an owner of an ALOHA home in the  
13 process of selling the ALOHA home may own other real  
14 property up to six months prior to closing on the sale  
15 of the ALOHA home to an eligible buyer;

16 provided that the rules under this subsection shall not include  
17 any requirements or limitations related to an individual's  
18 income or any preferences to first-time home buyers. The rules  
19 shall include strict enforcement of owner-occupancy, including a  
20 prohibition on the renting or leasing of an ALOHA home to any  
21 tenant or lessee, and may include requirements for the use of



1 face recognition, verification of the presence of owner-  
2 occupants and prevention of access of all unauthorized persons  
3 through retina scan for a minimum number of days per year, or  
4 fingerprint scan technology.

5 (b) ALOHA homes within the urban redevelopment district  
6 shall be priced to be affordable, as determined by the United  
7 States Department of Housing and Urban Development, to an  
8 individual or family whose income does not exceed eighty per  
9 cent of the area median income, or \$300,000, whichever is less;  
10 provided that the price shall be adjusted for inflation.

11 (c) The corporation shall establish waitlists for each  
12 residential development for eligible buyers to determine the  
13 order in which ALOHA homes shall be sold. Waitlist priorities  
14 may include school, college, or university affiliation if the  
15 residential property is a redeveloped school, college, or  
16 university; proximity of an eligible buyer's existing residence  
17 to an ALOHA home within the urban redevelopment district; and  
18 other criteria based on the impact that the development has on  
19 the eligible buyer.

20 (d) ALOHA homes within the urban redevelopment district  
21 shall be sold only to other eligible buyers.



1 (e) An owner of an ALOHA home may sell the ALOHA home  
2 after five or more years of owner-occupancy; provided that the  
3 corporation shall have the right of first refusal to purchase  
4 the ALOHA home at a price that is determined by the corporation  
5 using the price at which the owner purchased the ALOHA home as  
6 the cost basis, adjusted for inflation, and may include a  
7 percentage of the appreciation in value of the unit. If the  
8 corporation does not exercise its right to purchase the ALOHA  
9 home, the ALOHA home may be sold by the owner to an eligible  
10 buyer; provided that the corporation shall retain seventy-five  
11 per cent of all profits from the sale net of closing and  
12 financing costs, using the price at which the owner purchased  
13 the ALOHA home as the cost basis. Upon the death of the owner  
14 of an ALOHA home, the ALOHA home may be transferred to the  
15 deceased's heir by devise or as any other real property under  
16 existing law; provided that if the heir is not an eligible  
17 buyer, the heir shall sell the ALOHA home to the corporation at  
18 a price that is determined by the corporation using the price at  
19 which the owner purchased the ALOHA home as the cost basis,  
20 adjusted for inflation, and may include a percentage of the  
21 appreciation in value of the unit.



1 (f) If an owner of an ALOHA home sells the ALOHA home  
 2 before five years of owner-occupation, the corporation shall  
 3 purchase the ALOHA home at a price that is determined by the  
 4 corporation using the price at which the owner purchased the  
 5 ALOHA home as the cost basis, adjusted for inflation.

6 (g) Any ALOHA home developed and sold under this subpart  
 7 shall not be subject to sections 201H-47, 201H-49, 201H-50, and  
 8 201H-51.

9 **§201H-G Use of public lands; acquisition of state lands.**

10 (a) If state lands under the control and management of other  
 11 public agencies are required by the corporation for the purposes  
 12 of this subpart, the agency having the control and management of  
 13 those required lands, upon request by the corporation and with  
 14 the approval of the governor, may convey or lease those lands to  
 15 the corporation upon terms and conditions as may be agreed to by  
 16 the parties.

17 (b) Notwithstanding the foregoing, no public lands shall  
 18 be conveyed or leased to the corporation pursuant to this  
 19 section if the conveyance or lease would impair any covenant  
 20 between the State or any county or any department or board





1 thereof and the holders of bonds issued by the State or that  
2 county, department, or board.

3       **§201H-H Acquisition of real property from a county.**

4 Notwithstanding the provision of any law or charter, any county,  
5 by resolution of its local governing body, may, without public  
6 auction, sealed bids, or public notice, sell, lease, grant, or  
7 convey to the corporation any real property owned by it that the  
8 corporation certifies to be necessary for the purposes of this  
9 subpart. The sale, lease, grant, or conveyance shall be made  
10 with or without consideration and upon terms and conditions as  
11 may be agreed upon by the county and the corporation.

12 Certification shall be evidenced by a formal request from the  
13 corporation. Before the sale, lease, grant, or conveyance may  
14 be made to the corporation, a public hearing shall be held by  
15 the local governing body to consider the same. Notice of the  
16 hearing shall be published at least six days before the date set  
17 for the hearing in the publication and in the manner as may be  
18 designated by the local governing body.

19       **§201H-I Condemnation of real property.** The corporation,  
20 upon making a finding that it is necessary to acquire any real  
21 property for its immediate or future use for the purposes of



1 this subpart, may acquire the property, including property  
2 already devoted to a public use, by condemnation pursuant to  
3 chapter 101. The property shall not thereafter be taken for any  
4 other public use without the consent of the corporation. No  
5 award of compensation shall be increased by reason of any  
6 increase in the value of real property caused by the designation  
7 of the urban redevelopment district or plan adopted pursuant to  
8 a designation, or the actual or proposed acquisition, use, or  
9 disposition of any other real property by the corporation.

10 **§201H-J Relocation.** The corporation shall adopt rules  
11 pursuant to chapter 91 in compliance with the Uniform Relocation  
12 Assistance and Real Property Acquisition Act of 1970 and chapter  
13 111 to ensure the appropriate relocation within or outside the  
14 district of persons, families, businesses, or services displaced  
15 by governmental action within the urban redevelopment district.

16 **§201H-K Construction contracts.** (a) The corporation  
17 shall award construction contracts for ALOHA homes in conformity  
18 with section 201H-E(d), without regard to chapter 103D.

19 (b) The corporation shall award construction contracts for  
20 commercial projects without regard to chapter 103D.



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1           **§201H-L Lease of projects.** Notwithstanding any law to the  
2 contrary, the corporation, without recourse to public auction or  
3 public notice for sealed bids, may lease for a term not  
4 exceeding sixty-five years all or any portion of the real or  
5 personal property constituting a commercial project to any  
6 person, upon terms and conditions as may be approved by the  
7 corporation; provided that all revenues generated from the lease  
8 shall be used to support the purpose of this subpart pursuant to  
9 section 201H-B.

10           **§201H-M Dedication for public facilities as condition to**  
11 **development.** The corporation shall establish rules requiring  
12 dedication for public facilities of land or facilities by  
13 developers as a condition of developing real property within the  
14 urban redevelopment district. Where state and county public  
15 facilities dedication laws, ordinances, or rules differ, the  
16 provision for greater dedication shall prevail.

17           **§201H-N ALOHA homes revolving fund.** There is created the  
18 ALOHA homes revolving fund into which all receipts and revenues  
19 of the corporation pursuant to this subpart shall be deposited.  
20 Proceeds from the fund shall be used for the purposes of this  
21 subpart.



**S.B. NO. <sup>1</sup> S.D. 2**

1           **§201H-O Expenditures of ALOHA homes revolving fund under**  
2 **the corporation exempt from appropriation and allotment. Except**  
3 **as to administrative expenditures, and except as otherwise**  
4 **provided by law, expenditures from the ALOHA homes revolving**  
5 **fund administered by the corporation may be made by the**  
6 **corporation without appropriation or allotment of the**  
7 **legislature; provided that no expenditure shall be made from and**  
8 **no obligation shall be incurred against the ALOHA homes**  
9 **revolving fund in excess of the amount standing to the credit of**  
10 **the fund or for any purpose for which the fund may not lawfully**  
11 **be expended. Nothing in sections 37-31 to 37-41 shall require**  
12 **the proceeds of the ALOHA homes revolving fund administered by**  
13 **the corporation to be reappropriated annually.**

14           **§201H-P Assistance by state and county agencies. Any**  
15 **state or county agency may render services for the purposes of**  
16 **this subpart upon request of the corporation.**

17           **§201H-Q Court proceedings; preferences; venue. (a) Any**  
18 **action or proceeding to which the corporation, the State, or the**  
19 **county may be a party, in which any question arises as to the**  
20 **validity of this subpart, shall be brought in the circuit court**  
21 **of the circuit where the case or controversy arises, and shall**



1 be heard and determined in preference to all other civil cases  
2 pending therein except election cases, irrespective of position  
3 on the calendar.

4 (b) Upon application of counsel to the corporation, the  
5 same preference shall be granted in any action or proceeding  
6 questioning the validity of this subpart in which the  
7 corporation may be allowed to intervene.

8 (c) Notwithstanding any provision of law to the contrary,  
9 declaratory relief may be obtained for the action.

10 (d) Any party aggrieved by the decision of the circuit  
11 court may appeal in accordance with part I of chapter 641 and  
12 the appeal shall be given priority.

13 **§201H-R Issuance of bonds.** The director of finance, from  
14 time to time, may issue general obligation bonds pursuant to  
15 chapter 39 in amounts as may be authorized by the legislature,  
16 for the purposes of this subpart.

17 **§201H-S Violations and penalty.** (a) The corporation may  
18 set, charge, and collect reasonable fines for violation of this  
19 subpart or any rule adopted pursuant to chapter 91.

20 Notwithstanding section 201H-E(c), any person violating any rule  
21 adopted pursuant to chapter 91, for which violation a penalty is



1 not otherwise provided, shall be fined not more than \$500 a day  
2 and shall be liable for administrative costs incurred by the  
3 corporation.

4 (b) The corporation may maintain an action for an  
5 injunction to restrain any violation of this subpart and may  
6 take any other lawful action to prevent or remedy any violation.

7 (c) Notwithstanding section 201H-E(c), any person  
8 violating this subpart shall, upon conviction, be punished by a  
9 fine not exceeding \$1,000 or by imprisonment not exceeding  
10 thirty days, or both. The continuance of a violation after  
11 conviction shall be deemed a new offense for each day of the  
12 continuance.

13 **§201H-T Additional powers.** The powers conferred upon the  
14 corporation by this subpart shall be in addition and  
15 supplemental to the powers conferred by any other law, and  
16 nothing in this subpart shall be construed as limiting any  
17 powers, rights, privileges, or immunities so conferred.

18 **§201H-U State lands no longer needed.** State lands that  
19 are no longer needed for affordable residential leasehold units  
20 by the Hawaii housing finance and development corporation shall  
21 be returned to the previous owner of those lands.



1           **§201H-V Rules.** The corporation may adopt rules, pursuant  
2 to chapter 91, necessary for the purposes of this subpart.

3                   C. Leasehold Condominiums on State Lands

4           **§201H-W Leasehold condominiums on state lands.** (a) The  
5 corporation may sell leasehold units in condominiums organized  
6 pursuant to chapter 514B and developed under this subpart on  
7 state land to a "qualified resident" as defined in section  
8 201H-32.

9           (b) The term of the lease may be for ninety-nine years,  
10 and the corporation may extend or modify the fixed rental period  
11 of the lease or extend the term of the lease.

12           (c) The sale of leasehold units shall be subject to  
13 sections 201H-47, 201H-49, and 201H-50, except for units sold at  
14 fair market value.

15           (d) State land set aside by the governor to the  
16 corporation and lands leased to the corporation by any  
17 department or agency of the State for a condominium described in  
18 this section shall be exempt from the definition of "public  
19 land" under section 171-2, except for the provision in section  
20 171-2(6) that subjects corporation lands to the accounting for



1 all receipts for lands subject to section 5(f) of the Admission  
2 Act.

3 (e) The powers conferred upon the corporation by this  
4 section shall be in addition and supplemental to the powers  
5 conferred by any other law, and nothing in this section shall be  
6 construed as limiting any powers, rights, privileges, or  
7 immunities so conferred."

8 SECTION 3. Chapter 237, Hawaii Revised Statutes, is  
9 amended by adding a new section to be appropriately designated  
10 and to read as follows:

11 "§237- Exemption of sale of leasehold interest for  
12 ALOHA home units. In addition to the amounts exempt under  
13 section 237-24, this chapter shall not apply to amounts received  
14 from the sale of a leasehold interest in an ALOHA homes unit  
15 under chapter 201H, subpart B."

16 SECTION 4. Section 171-2, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "§171-2 Definition of public lands. "Public lands" means  
19 all lands or interest therein in the State classed as government  
20 or crown lands previous to August 15, 1895, or acquired or  
21 reserved by the government upon or subsequent to that date by





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1 purchase, exchange, escheat, or the exercise of the right of  
 2 eminent domain, or in any other manner; including lands accreted  
 3 after May 20, 2003, and not otherwise awarded, submerged lands,  
 4 and lands beneath tidal waters that are suitable for  
 5 reclamation, together with reclaimed lands that have been given  
 6 the status of public lands under this chapter, except:

- 7 (1) Lands designated in section 203 of the Hawaiian Homes  
 8 Commission Act, 1920, as amended;
- 9 (2) Lands set aside pursuant to law for the use of the  
 10 United States;
- 11 (3) Lands being used for roads and streets;
- 12 (4) Lands to which the United States relinquished the  
 13 absolute fee and ownership under section 91 of the  
 14 Hawaiian Organic Act prior to the admission of Hawaii  
 15 as a state of the United States unless subsequently  
 16 placed under the control of the board of land and  
 17 natural resources and given the status of public lands  
 18 in accordance with the state constitution, the  
 19 Hawaiian Homes Commission Act, 1920, as amended, or  
 20 other laws;
- 21 (5) Lands to which the University of Hawaii holds title;



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1           (6)   Lands that are set aside by the governor to the Hawaii  
2                   housing finance and development corporation; lands  
3                   leased to the Hawaii housing finance and development  
4                   corporation by any department or agency of the State;  
5                   or lands to which the Hawaii housing finance and  
6                   development corporation in its corporate capacity  
7                   holds title; provided that lands described in this  
8                   paragraph shall be considered "public lands" for the  
9                   purpose of accounting for all receipts from lands  
10                  described in section 5(f) of the Admission Act for the  
11                  prior fiscal year, pursuant to section 5 of Act 178,  
12                  Session Laws of Hawaii 2006; provided further that  
13                  payment of receipts pursuant to this paragraph may be  
14                  made in a form of remuneration or consideration other  
15                  than cash;

16           (7)   Lands to which the Hawaii community development  
17                   authority in its corporate capacity holds title;

18           (8)   Lands to which the department of agriculture holds  
19                   title by way of foreclosure, voluntary surrender, or  
20                   otherwise, to recover moneys loaned or to recover  
21                   debts otherwise owed the department under chapter 167;



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- 1           (9)   Lands that are set aside by the governor to the Aloha
- 2                    Tower development corporation; lands leased to the
- 3                    Aloha Tower development corporation by any department
- 4                    or agency of the State; or lands to which the Aloha
- 5                    Tower development corporation holds title in its
- 6                    corporate capacity;
- 7           (10)   Lands that are set aside by the governor to the
- 8                    agribusiness development corporation; lands leased to
- 9                    the agribusiness development corporation by any
- 10                   department or agency of the State; or lands to which
- 11                   the agribusiness development corporation in its
- 12                   corporate capacity holds title;
- 13           (11)   Lands to which the Hawaii technology development
- 14                   corporation in its corporate capacity holds title; and
- 15           (12)   Lands to which the department of education holds
- 16                   title;
- 17   provided that, except as otherwise limited under federal law and
- 18   except for state land used as an airport as defined in section
- 19   262-1, public lands shall include the air rights over any
- 20   portion of state land upon which a county mass transit project
- 21   is developed after July 11, 2005."



1 SECTION 5. Chapter 201H, Hawaii Revised Statutes, is  
 2 amended by designating sections 201H-31 to 201H-70 as subpart A  
 3 and inserting a title before section 201H-31 to read as follows:

4 "A. General Provisions"

5 SECTION 6. Section 302A-1603, Hawaii Revised Statutes, is  
 6 amended by amending subsection (b) to read as follows:

7 "(b) The following shall be exempt from this section:

8 (1) Any form of housing permanently excluding school-aged  
 9 children, with the necessary covenants or declarations  
 10 of restrictions recorded on the property;

11 (2) Any form of housing that is or will be paying the  
 12 transient accommodations tax under chapter 237D;

13 (3) All nonresidential development; [and]

14 (4) Any development with an executed education  
 15 contribution agreement or other like document with the  
 16 department for the contribution of school sites or  
 17 payment of fees for school land or school  
 18 construction[-]; and

19 (5) Any form of development by the Hawaii housing finance  
 20 and development corporation pursuant to chapter 201H,  
 21 part II, subpart B."



S.B. NO. <sup>1</sup> S.D. 2

1 SECTION 7. There is appropriated out of the general  
 2 revenues of the State of Hawaii the sum of \$ or so much  
 3 thereof as may be necessary for fiscal year 2019-2020 to be  
 4 deposited into the ALOHA homes revolving fund established  
 5 pursuant to section 201H-N, Hawaii Revised Statutes.

6 SECTION 8. There is appropriated out of the ALOHA homes  
 7 revolving fund established pursuant to section 201H-N, Hawaii  
 8 Revised Statutes, the sum of \$ or so much thereof as may  
 9 be necessary for fiscal year 2019-2020 for the purposes for  
 10 which the revolving fund is established.

11 The sum appropriated shall be expended by the Hawaii  
 12 housing finance and development corporation for the purposes of  
 13 this Act.

14 SECTION 9. In codifying the new sections added by section  
 15 2 of this Act, the revisor of statutes shall substitute  
 16 appropriate section numbers for the letters used in designating  
 17 the new sections in this Act.

18 SECTION 10. Statutory material to be repealed is bracketed  
 19 and stricken. New statutory material is underscored.

20 SECTION 11. This Act shall take effect on July 1, 2050.



S.B. NO. <sup>1</sup> S.D. 2

**Report Title:**

ALOHA Homes Program; Housing; HHFDC; Urban Redevelopment District; Transit-oriented Development; Leasehold Condominiums on Lands Controlled by the State; Appropriation

**Description:**

Establishes the ALOHA homes program under the Hawaii Housing Finance and Development Corporation (HHFDC) to facilitate the development of low-cost homes for sale to Hawaii residents on state-owned and county-owned land near rail stations of the Honolulu rail transit system, to be known as the urban redevelopment district. Establishes guidelines within the urban redevelopment district and provisions related to the sale of leasehold interest of ALOHA homes. Exempts lands to which HHFDC holds title and land set aside or leased to HHFDC from the definition of public lands in section 171-2, HRS, except for purposes of accounting for receipts from ceded lands. Establishes and appropriates funds into and out of the ALOHA homes revolving fund. Authorizes HHFDC to sell the leasehold interest in residential condominium units located on state lands for lease terms of 99 years. Effective 7/1/2050. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



**SOPHIE HAHN**

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CONSENT CALENDAR  
 February 23, 2021

To: Honorable Members of the City Council  
 From: Councilmember Sophie Hahn  
 Subject: Exploring CalCHA: Financing Affordable Housing for Teachers, Nurses,  
 and other Working Families in Berkeley

RECOMMENDATION

Refer to the City Manager to study the California Community Housing Agency (CalCHA) affordable housing financing program and return to Council a recommendation and/or action to opt-in to CalCHA to support issuance of tax-exempt bonds for affordable housing for low-, moderate-, and middle-income Berkeley families.

BACKGROUND

Berkeley was once affordable to everyone, from high-income residents of large single-family homes to low-income residents of single-room occupancy residential hotels -- and everyone in between. In the 1960s and 70s, the City became a national leader for inclusion -- integrating schools, eliminating barriers for those with physical limitations, preserving affordable rental housing through rent control, and protecting lower and middle income neighborhoods from displacement.

Unfortunately, rising prices have put housing out of reach for low income residents as well as working families. As of January 2021, the typical Berkeley home cost nearly \$1.4 million, up 6.2% in the past year.<sup>1</sup> The average rent for a 700 square foot apartment was over \$3,000.<sup>2</sup> To afford a home at these levels, an average Berkeley household would need to earn at least \$7,500 in monthly, after-tax, income<sup>3</sup> -- well above the community median.<sup>4</sup>

Over the past five years, Berkeley has demonstrated a vigorous renewed commitment to affordable housing. In 2018, voters generously passed Measures O and P, which together provide approximately \$200 million to create and preserve housing for very low-, low- and moderate-income individuals and families and support programs to rehouse the homeless. Measure U1, approved in 2016, increased the gross receipts tax

<sup>1</sup> <https://www.zillow.com/berkeley-ca/home-values/>

<sup>2</sup> <https://www.rentcafe.com/average-rent-market-trends/us/ca/berkeley/>

<sup>3</sup> <https://www.zillow.com/rent-affordability-calculator/>

<sup>4</sup> <https://www.census.gov/quickfacts/berkeleycitycalifornia>

on most residential rental properties to fund affordable housing and support housing retention for individuals facing potential homelessness.

While these measures represent significant investments in housing retention, rehousing, and production of affordable housing at all levels, additional resources are required to meet Berkeley's growing housing needs. Because state and federal affordable housing funds primarily support the creation and preservation of very low- and low-income housing, Berkeley's ability to create and preserve moderate and middle-income housing is constrained. We must explore all financing options available to support production of housing for working families.

Created in 2019,<sup>5</sup> the California Community Housing Agency (CalCHA) issues governmental purpose bonds to finance projects that provide, preserve, and support affordable housing for low-income, moderate-income and middle-income families and individuals.<sup>6</sup> Unlike federal and state programs that support households earning between 60% and 80% of Area Median Income (AMI), CalCHA is designed to support housing for households earning between 80-120% of AMI -- our workforce population including professions such as teachers, computer technicians, dental hygienists, and social workers.<sup>7</sup>

CalCHA was established under the Joint Exercise of Powers Act as a political subdivision of the State of California.<sup>8</sup> Since CalCHA's inception in 2019, more than a dozen communities in California have joined as members including Hayward, Santa Rosa, Marin County, and others.<sup>9</sup>

In the City of Hayward, the proposed financing model uses Essential Housing Revenue Bonds to fund the development of rental housing or acquisition of existing housing.<sup>10</sup> The use of these bond funds reduces the project's financing costs and eliminates property tax burden. This enables the owner to charge lower rents and target middle income households. However, to utilize these bond funds, the owner must provide a public benefit.

Public benefit is achieved through the execution of a regulatory agreement that restricts the use of the property, and by granting all surplus project revenues to the city. The regulatory agreement that restricts use of the property:

- Restricts the occupancy to low-income, median-income, and moderate- income households;

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<sup>5</sup> <https://www.countyofkings.com/home/showpublisheddocument?id=19698>

<sup>6</sup> <https://www.calcha.org>

<sup>7</sup> <https://www.menlopark.org/DocumentCenter/View/22113/Staff-Report-19-005-HC---PACKET---CalCHA-Resolution>

<sup>8</sup> <https://www.countyofkings.com/home/showpublisheddocument?id=19698>

<sup>9</sup> <https://www.calcha.org/general-information/members/>

<sup>10</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=4544076&GUID=17EB8C13-9BB8-46C9-BF97-00B8B200E44B&Options=&Search=>



- Limits rent increases to the lesser of the applicable rent limits or 4% of tenants rent; and
- Prevents displacement of existing residents that do not meet the income eligibility requirements.

City of Hayward staff noted the potential for the program to include anti-displacement provisions, ensuring that there is a mechanism to prevent displacement of the existing tenants if the program is used to acquire occupied rental housing. In addition, Hayward is evaluating the possibility of transferring ownership to existing residents when the City exercises its option to purchase a property financed with this model.

While not taking a position on the merits of CalCHA's financing model, this item refers to the City Manager to examine CalCHA, assess the program's potential benefits for Berkeley, and return to Council a recommendation on whether the City should consider becoming a member. If advisable, the City Manager should provide Council with the appropriate resolutions and other actions necessary for Berkeley to opt-in. It is incumbent on our City to explore every potential opportunity to support the production, preservation, and protection of affordable housing in Berkeley.

#### ENVIRONMENTAL IMPACTS

None.

#### FISCAL IMPACTS

Staff time to study the program and prepare a recommendation and/or resolutions and other actions required to opt-in to CalCHA.

#### CONTACT INFORMATION

Councilmember Sophie Hahn, District 5, 510-682-5905 (cell)

#### ATTACHMENT

1. City of Hayward, Staff Report, Adopt a Resolution Approving a Financing Model that Supports the Development of Middle-Income Affordable Housing and Authorize the City Manager to Execute Purchase Option Agreements with CalCHA, May 26, 2020



**DATE:** May 26, 2020

**TO:** Mayor and City Council

**FROM:** City Manager

**SUBJECT:** Adopt a Resolution Approving a Financing Model that Supports the Development of Middle-Income Affordable Housing and Authorize the City Manager to Execute Purchase Option Agreements with CalCHA

**RECOMMENDATION**

That Council adopts a resolution (Attachment II) authorizing participation in a financing model to fund the acquisition and/or development of affordable housing for middle income households that will require the City to:

- 1) Become a member of the California Community Housing Agency (CalCHA);
- 2) Support CalCHA's issuance of tax-exempt bonds for the production, preservation, and protection of essential middle-income rental housing; and
- 3) Authorize the City Manager to execute purchase option agreements with CalCHA to acquire (or assign to a non-profit affordable housing provider) the middle-income housing as a public benefit.

**SUMMARY**

Catalyst Housing (Catalyst) has developed a financing model to create affordable housing for the essential middle-income workforce and proposes using Essential Housing Revenue Bonds issued by CalCHA to finance the acquisition or development of essential middle-income housing. This housing will be deed restricted for low-income and moderate-income households in the City of Hayward. To satisfy the public purposes for which the bonds will be authorized to be issued, the owner, CalCHA, commits, through the execution of a regulatory agreement, to support, preserve, and provide low-income, median-income, and moderate-income rental housing. Additionally, as a term of the regulatory agreement, Catalyst will not displace existing tenants that are over-income for the program. CalCHA will also satisfy the public purposes of the bonds by granting all surplus project revenues to the City as a term of the Purchase Option Agreement.

Staff recommends approval of a resolution that limits the City Manager's authority, requires verification of displacement prevention provisions in the regulatory agreement, excludes FPI from participating in the project, and evaluates the option of transferring ownership to tenants. The resolution will authorize the City to:

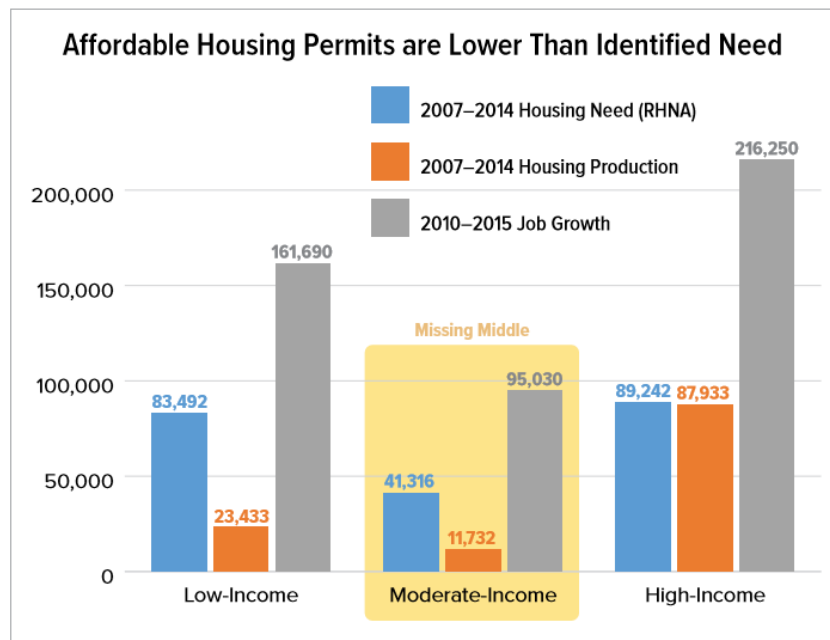
- Become a member of CalCHA;
- Support and approve CalCHA’s issuance of tax-exempt bonds for the acquisition of existing rental properties or development of new units as a means towards the production, preservation and protection of essential middle-income rental housing within the City limits; and
- Enter into a Purchase Option Agreement with CalCHA.

Considering current economic condition related to the COVID-19 pandemic, staff is anticipating even greater need for long-term housing stability for existing low-income and middle-income residents.

**BACKGROUND**

Hayward, like other cities in the Bay Area, is experiencing rising housing prices, severe housing instability for its most vulnerable populations, displacement of existing residents, and increasing homelessness. The increase in Hayward’s and the Bay Area’s population, absent a corresponding increase in housing units, has caused rents and prices to rise as supply has failed to meet demand. **Figure 1** illustrates the disparity between job growth in the region and housing production, which has increased demand for housing throughout the Bay Area and the low housing production rates for moderate-income households<sup>1</sup>.

**Figure 1.** Regional Housing Production Compared to Job Growth.



Source: Casa Compact<sup>1</sup>

<sup>1</sup> [Casa Compact](#)

The City has been actively pursuing policies and programs to help alleviate the issues facing the Hayward community due to the housing crisis. Over the past three years, the City Council has subsidized the development of 259 units of affordable housing, adopted a new Residential Rent Stabilization and Tenant Protection Ordinance, updated the Affordable Housing Ordinance, and approved numerous residential developments that include on-site affordable units or are exclusively affordable.

On February 25, 2020<sup>2</sup>, Council held a work session to discuss the proposed financing model that supports the development and/or preservation of middle-income housing. Council was generally supportive of the items, but identified topics for further review including:

- Add limitations to the City Manager’s authority to ensure periodic review of the program by Council.
- Ensure that there is a mechanism to prevent displacement of the existing tenants if the program is used to acquire occupied rental housing.
- Ensure that FPI Property Management will not be responsible for managing properties acquired utilizing the financing.
- Ensure that, when the City exercises its option to purchase, that it evaluates the possibility of transferring ownership to existing residents.

On March 3, 2020, Council approved a workplan to incentivize housing production in the City of Hayward, which included a proposal to pilot a moderate-income affordable housing financing model. This model would utilize tax-exempt bonds to finance the development and/or acquisition of essential middle income housing and would require that the City join the newly formed CalCHA, support CalCHA's issuance of tax-exempt bonds for the production, preservation and protection of essential middle-income housing, and authorize the City Manager to execute purchase option agreements with CalCHA for each housing project.

On March 17, 2020, Alameda County issued a legal order directing residents to shelter at home for three weeks. The order limits activity, travel, and business functions to only the most essential needs. The Shelter-in-Place Order has caused and will continue to cause a decrease in income for many Hayward businesses and residents, which will increase the risk of loss of jobs, displacement, and homelessness, making the provision and retention of low and middle income housing units even more imperative.

The purpose of this staff report is to discuss items posed by Council for further review and seek authorization to participate in the financing model.

### *Housing Element Compliance and Progress Reports.*

Local jurisdictions report their progress meeting their RHNA goals. **Table 1** (below) reflects the progress made towards meeting Hayward’s RHNA goal as of the last report year (2019),

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<sup>2</sup> February 25, 2020 Staff Report and Attachments:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=4340247&GUID=D32E99E0-08C8-4913-A32E-CB20520875F6&Options=&Search=>

estimated progress based on number of units entitled, and progress based on projects seeking approval, for the period between 2015-2023. **Table 2** provides the income limits associated with each income category for Alameda County. Permits to construct the units must be issued in order to count toward the City's RHNA goals.

**Table 1. 2015 -2023 RHNA Goal Progress in the City of Hayward**

Income Category	Unit Goal	Reported 2019		Approved		Pending Approval		Estimated Compliance		Estimated Deficiency	
		Units	% of goal	Units	% of goal	Units	% of goal	Units	% of goal	Units	% of goal
Very low	851	40	5%	339	40%	2	0.2%	381	45%	470	55%
Low	480	39	8%	228	48%	0	0.0%	267	56%	213	44%
Moderate	608	27	4%	61	10%	3	0.5%	91	15%	517	85%
Above Moderate	1981	1902	96%	1,588	80%	129	7%	3,619	183%	0	N/A

**Table 2. Income limits by Income Category and Household Size for Alameda County as Established by California Department of Housing and Community Development**

Income Category	Household Size							
	1	2	3	4	5	6	7	8
Extremely Low 30% AMI*	\$26,050	\$29,750	\$33,450	\$37,150	\$40,150	\$43,100	\$46,100	\$49,050
Very low 50% AMI*	\$43,400	\$49,600	\$55,800	\$61,950	\$66,950	\$71,900	\$76,850	\$81,800
Low 80% AMI*	\$69,000	\$78,850	\$88,700	\$98,550	\$106,450	\$114,350	\$122,250	\$130,100
Median 100% AMI	\$78,200	\$89,350	\$100,550	\$111,700	\$120,650	\$129,550	\$138,500	\$147,450
Moderate 120% AMI	\$93,850	\$107,250	\$120,650	\$134,050	\$144,750	\$155,500	\$166,200	\$176,950

\* Percent area median income (AMI) is used to identify income and rent levels; however, the method for calculating income limits involves assessment of multiple data points and is not necessarily a percent of the median income. For more information see <https://hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/Income-Limits-2019.pdf>

Hayward's progress towards meeting the current RHNA goals identifies the need to incentivize housing for very low-, low-, and moderate-income households. The City has the lowest compliance rate for moderate income households. Over the last Housing Element cycle, most cities did not meet their RHNA goals. In order to meet the RHNA goals, the City will have to approve a mix of 100% affordable housing properties and large mixed-income properties. Small mixed-income properties will not provide enough units to meet the goal. Additionally, the City needs to explore new financing mechanisms that can be used to fund moderate income housing to incentivize housing for the missing middle.

### **California Community Housing Authority (CalCHA)**

In January 2019, the County of Kings and the Housing Authority of Kings County formed the CalCHA under the Joint Exercise of Powers Act. The purpose of CalCHA is to issue tax exempt bonds to finance affordable housing developments. Specifically, CalCHA has the authority to acquire, construct, improve, operate, and dispose of real property. A copy of the original Joint Exercise of Powers Agreement can be found in Attachment III. To date, the cities of Burlingame, Fairfield, Larkspur, Menlo Park, Mountain View, Napa, and Santa Rosa, and the County of Marin, have joined as members of CalCHA.

### **DISCUSSION**

The purpose of this staff report is to address comments from the City Council from the February 25, 2020<sup>3</sup> work session about the proposed financing model and to seek authorization to participate in the financing model to support the development of middle-income housing. A brief summary of the proposed financing model follows. More information can be found in the February 25, 2020 staff report.

#### **Summary of Proposed Financing Model**

The proposed financing model will use Essential Housing Revenue Bonds to fund the development of rental housing or acquisition of existing housing. The use of these bond funds reduces the projects financing costs and eliminates property tax burden. This enables the owner to charge lower rents and target middle income households. However, to utilize these bond funds, the owner must provide a public benefit.

**Public Benefit.** Public benefit is achieved through the execution of a regulatory agreement that restricts the use of the property, and by granting all surplus project revenues to the City. The regulatory agreement that restricts use of the property will

- Restricts the occupancy to low-income, median-income, and moderate-income households,
- Limits rent increases to the lesser of the applicable rent limits or 4% of tenants rent, and
- Prevents displacement of existing residents that do not meet the income eligibility requirements.

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<sup>3</sup> February 25, 2020 Staff Report and Attachments:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=4340247&GUID=D32E99E0-08C8-4913-A32E-CB20520875F6&Options=&Search=>

City's Role. The City's participation in the project is required to create a public benefit. In order for Catalyst to use the proposed financing model in the City of Hayward, the City would need to:

- Become a member of CalCHA;
- Approve CalCHA's issuance of tax-exempt bonds for the acquisition of existing rental properties or development of new housing as a means towards the preservation and protection of essential middle-income rental housing within City limits;
- Enter into a Purchase Option Agreement with CalCHA; and
- Accept any surplus cash or sales proceeds generated by the property to ensure its use as a public benefit.

Terms of the Purchase Option Agreement. To formalize the City's participation in the project and ensure that these public funds will be used for public benefit, the City will need to enter into a Purchase Option Agreement for each property. The terms of the Purchase Option Agreement include:

- **Purchase Option:** Grants the City the right to purchase the property 15 years after the acquisition of a property or at any time thereafter for the remaining term of the 30-year bond. The City can transfer the option to an affordable housing provider with approval from the owner. Entering into this agreement does not obligate the City to purchase the property at any time.
- **Option Price:** The future acquisition price shall be the sum of the amount sufficient to pay all project debt, encumbrances, amounts due to other parties to the transaction, and transaction costs. The price can be reduced by assuming existing project debt or applying project revenue.
- **Surplus Cash:** Any surplus cash will be held by the trustee and then distributed to the City upon acquisition/transfer of ownership.
- **Terms of Conveyance:** City to purchase the property in as is condition with all faults.

Under the CalCHA arrangement, the City is not a direct party to the real estate transaction nor financial transaction. The bonds to be issued by the CalCHA for the project will be the sole responsibility of CalCHA, and the City will have no financial, legal, moral obligation, liability, or responsibility for the project or the repayment of the bonds. The City will have no responsibility for managing or maintaining the property unless it chooses to exercise its options and acquire the property.

#### Comments from City Council

The Council was generally supportive of the financing model but identified topics for further review. The items identified by Council are listed below and staff's response is provided in italics.

- **City Manager's Authority.** Add limitations to the City Manager's authority to ensure periodic review of the program by the Council.

*Staff has added language to the authorizing resolution that limits the City Manager's authority to enter into Purchase Option Agreements for up to four properties totaling no more than 1,000 units for essential middle-income housing during the next five years and excludes projects that received their certificate of occupancy after 2019. Additionally, the City Manager is to evaluate the location of the property to promote equitable access to affordable housing and community amenities. In the event that the financing model is successful, staff can request additional authority based on actual performance of the model.*

- **Anti-displacement.** Ensure that there is a mechanism to prevent displacement of the existing tenants if the program is used to acquire occupied rental housing.

*Catalyst provided sample recorded regulatory agreements that include language that states that at the time of admission to the project, no tenant shall be denied continued occupancy of a unit in the project because their income exceeds the qualifying limit. The authorizing resolution has been revised to require that prior to entering into a Purchase Option Agreement, the City Manager shall ensure that the corresponding regulatory agreement includes such language that enables existing residents to remain in the property even if their income exceeds the qualifying income limits.*

- **Exclusion of FPI Property Management.** Ensure that FPI property management will not be responsible for managing any properties acquired utilizing the proposed financing model.

*The authorizing resolution has been revised to require that prior to entering into a Purchase Option Agreement, the City Manager shall ensure that the corresponding regulatory agreement prohibits hiring FPI Property Management from managing the property.*

- **Ownership Opportunities for Existing Residents.** Evaluate the possibility of transferring ownership to existing residents when the City exercises its option to purchase a property financed with this model.

*The authorizing resolution has been revised to state that prior to exercising the option under the Purchase Option Agreement, Council will consider options to acquire the property, assign the City's option including transfer of ownership to the tenants, or to decline the option to purchase and determine use of any surplus revenues.*

## **FISCAL IMPACT**

While the project will stabilize much needed middle-income housing and has the potential for generating revenue from operating revenue or sales proceeds, the City will lose property tax revenue received from any existing rental properties acquired using this model. While the City does not wish to reduce its property tax base, it is the Council's goal to create housing units in the Hayward community. Staff feels that the benefit of being able to offer additional low- and moderate-income housing during the regional housing shortage and beyond is of greater value to the City. While there is no near-term fiscal impact for joining CalCHA or executing a



future Purchase Option Agreement, future fiscal impact may arise out of executing a purchase agreement, which may be mitigated via the excess revenue fund. During the 15-year option period, the City would have to evaluate its capacity to acquire the property or explore the option of assigning its option to a nonprofit housing provider or transferring ownership to the tenants. The agreement does not create an obligation on the part of the City to purchase or acquire the property, in the event the City chooses not to purchase the property.

### **STRATEGIC ROADMAP**

This agenda item supports the Strategic Priority of Preserve, Protect, & Produce Housing. Specifically, this item relates to the implementation of the following project(s):

Project 4, Part 4.a: Explore moderate-income financing model.

### **NEXT STEPS**

If Council adopts the resolution (Attachment II), Catalyst will begin to identify potential sites in the City to acquire. Once sites have been identified, staff will work with Catalyst to negotiate the Purchase Option Agreements for approval by the City Attorney's office. Staff will also verify that the corresponding regulatory agreements include all required language, and the City Manager will execute the Purchase Option Agreement consistent with the requirements established in the resolution.

*Prepared by:* Christina Morales, Housing Division Manager

*Recommended by:* Jennifer Ott, Deputy City Manager

Approved by:



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Kelly McAdoo, City Manager





CONSENT CALENDAR  
February 23, 2021

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Rigel Robinson and Councilmember Kate Harrison  
 Subject: Budget Referral: Community Climate Solutions

RECOMMENDATION

Refer to the FY2021/2022 Budget Process at least \$11,000 to work with Community Climate Solutions on the creation of an online community engagement platform to support climate action. Refer to the City Manager to work with Community Climate Solutions in providing input into the design of the community engagement platform and in integrating the platform into existing community engagement work around climate and the environment.

BACKGROUND

The City of Berkeley has long been a leader on climate action. In 2006, Berkeley residents voted to reduce the community's greenhouse gas (GHG) emissions by 80% below 2000 levels by 2050, and the resulting Climate Action Plan (CAP) was adopted by Berkeley City Council in 2009. In 2018, then-Governor Brown committed California to carbon neutrality by 2045, the Berkeley City Council resolved to become a "Fossil Fuel-Free City," and the Council declared a Climate Emergency, all steps to signal the urgency of these ambitious goals and the need to act on climate threats in an equitable manner. The City most recently updated its Climate Action Plan on July 21, 2020.

Although Berkeley has made significant progress towards its climate goals, additional work is required to achieve the City's ambitious goal to become a Fossil Fuel-Free City. A key barrier is that while the City can take direct action to modify its own emissions from municipal buildings and transportation, action within the community is required to reduce many significant sectors of our emissions, such as Residential Natural Gas emissions which made up 17% of Berkeley's emissions according to the 2018 Greenhouse Gas Inventory.

Community Climate Solutions is a non-profit which partners with cities and universities to create personalized online dashboards to engage residents in personal and community actions to reduce greenhouse gas emissions. Their websites focus on education and community empowerment and enable the community to engage at multiple levels of organization, from the household, to small community groups, all the way to large organizations such as neighborhood councils, faith organizations, and youth groups. Some of their projects include:

- Fort Collins, CO. 500+ households participating and a reduction of 500 tons of CO2e to date.
- Summit County, UT. 750 households participating and a reduced 450 tons of CO2e to date.
- Charlottesville, VA. 600 households participating and a reduction of 400 tons of CO2e to date.
- Fremont CA. Began in October, 800 households participating and a reduction of 250 tons of CO2e to date.

The kind of community engagement offered by Community Climate Solutions would closely align with the goals of Berkeley's Climate Action Plan.

#### FINANCIAL IMPLICATIONS

One time set up cost of \$3,000, with a recurring cost of \$8,000 per year. The initial budget request is for the start up cost and one year of use. Should the City wish to continue with the program after one year, an additional allocation would be required.

#### ENVIRONMENTAL SUSTAINABILITY

Engaging Berkeley residents in taking personal steps to reduce their own impact on the climate is essential to meeting the City's emissions targets. Refer to the Background section for more information on Environmental Sustainability.

#### CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

#### Attachments:

- 1: Community Climate Solutions 1-Pager
- 2: Community Climate Solutions Information Packet
- 3: City of Berkeley Climate Action Plan

**“The CCS Platform has everything our city needs to engage residents and make an impact.”**

*- Rachel DiFranco, Sustainability Manager, City of Fremont, CA*

## It’s time to empower residents on Climate Solutions

### CITIES ARE STEPPING UP.

Cities across the U.S. and beyond are looking for innovative ways to take action on climate change. Many initiatives focus on renewable energy, building codes, or city facilities. However, there is another opportunity for significant impact—engaging residents.

### YOUR RESIDENTS CARE.

According to Yale research, over 60% of Americans are worried about climate change and want to help, but don’t know what to do. In many cities, the percentage of concerned residents is even higher. The important news—they can now make a big difference.

**40-60%** of Climate Action Plan emissions come from just **4** basic household activities residents do every day—



ELECTRICITY



HOME HEATING



WASTE



TRANSPORTATION

**Where residents NOW have options to take action, lower their impact, save money - AND help your city meet climate goals.**

## Introducing Community Climate Solutions

### DRIVING RESIDENTIAL ENGAGEMENT ON CLIMATE SOLUTIONS

Community Climate Solutions provides a simple, easy, and fun engagement platform and program that empowers residents to take climate actions at home and beyond. There are many easy, affordable actions that everyone can take to make a difference. And the savings are tangible—most households will save between \$1,000 and \$3,000/year while reducing their household climate impact.



**Community Climate Solutions provides an easy, cost effective way to engage residents and accelerate emissions reductions.**

**with Community Climate Solutions:**

**YOUR RESIDENTS ARE EMPOWERED TO:**

- Learn about solutions
- Take action
- Save money

**YOUR SUSTAINABILITY TEAM HAS A LOW-COST, PLUG AND PLAY PLATFORM TO:**

- Include residents in your climate goals and initiatives
- Target a significant source of city emissions
- Build a more sustainable, resilient community

**What Makes Community Climate Solutions Unique**



**ROBUST CARBON ANALYTICS ENGINE**  
with data customized for each user so residents can see the true impact and savings from actions.



**SIMPLE, FUN PLATFORM**  
that makes it easy to learn to take climate actions, track progress, and save money



**SOCIAL ENGAGEMENT**  
with built-in features for residents to work in teams, share tips, and celebrate wins



**CUSTOM PROGRAMS AND SUPPORT**  
local branding and custom engagement programs with dashboards and data reporting to track progress

**“It’s a Fitbit for Sustainability”**

—James Keene, former City Manager, City of Palo Alto





## **COMMUNITY CLIMATE SOLUTIONS**

Driving Community Engagement on  
Climate and Sustainability

### **Cities are stepping up and setting bold goals on climate change**

All across the U.S. and beyond, cities are stepping up and setting bold goals on climate change and looking for new and innovative solutions to drive deep emissions reductions. With up to 50% or more of city emissions coming from choices that residents make, one of the biggest opportunities is through community education and engagement. In addition to emissions reductions, community engagement also brings community members together and builds community resilience.

### **Most residents want to help and can make a significant impact**

According to Yale research, over 60% of Americans are worried about climate change and want to help, but don't know what to do. In many cities the percent of concerned residents is much higher. With gridlock on national policy and increasing severe weather events, concern is growing, and people want to know how they can help and be part of the solution.

40% of U.S. GHG emissions come from 5 basic household activities we do every day – electricity use, home heating, transportation, food choices and waste generation. With recent tech advances, there are now affordable and accessible actions most people can take in these 5 basic areas to significantly lower their impact. From choosing green electricity or solar, to installing LED lights to choosing an electric vehicle or alternative transportation, residents can make a significant difference by taking actions. Aggregated, these actions can have a substantial impact.

Most importantly, there are also many co-benefits from actions. Residents can save money, up to a few thousand dollars a year per household. Actions also create healthier indoor and outdoor air quality and more local jobs. Residents can improve their quality of life in their home and in their community. Engaging residents on climate solutions is a valuable strategy for emissions reductions.

### **Empowering & motivation action – the key is social**

So how do we engage the community? What works? Many cities have created great rebate programs or free community services only to find participation limited. Despite traditional methods of providing information to residents, awareness and adoption is often low. Lesson learned - information is not enough to motivate participation. The key to motivation is social. When residents hear about a program from a neighbor or they are engaged to participate in a challenge through their children's school or a local community group, their likelihood of participation is greatly increased. Social networks and fun, friendly challenges are a powerful method for engaging and motivating action. Social engagement also creates a stronger and more resilient community.

“Climate change is such a huge problem. I want to help, but I don't know where to start.”

*Resident*

“Residents are interested in learning about solutions, but we don't have the tools for broad, effective, public engagement.”

*Sustainability Coordinator*



### Engaging the Community – Our Platform

Community Climate Solutions is providing the first comprehensive online community engagement platform for low cost, effective residential engagement on climate and sustainability. Traditional methods for community engagement are expensive and time consuming. However, if we leverage technology to help facilitate engagement and leverage existing social networks through a community-based model, we can create an opportunity for low cost, effective community engagement.

Our platform makes it simple, easy and fun for community members to learn about climate solutions and specific actions they can take to make a difference. At the core of our platform is a robust custom carbon and savings calculator that provides residents important information on impact, cost and savings to help them in making decisions on which actions to take. Users can see their impact and track progress for their household, neighborhood and the city. Our platform also provides robust resources to help residents complete actions including how-to guides and links to resources such as rebates and financing options.

Most importantly, the platform connects community members to work together – sharing ideas and resources, working in teams or community group and celebrating success to motivate action. These connections also build community resilience.. Our platform has a user friendly, accessible design and incorporates best practices in behavior change, gamification and community engagement.

The platform provides a custom solutions with local images and messaging that makes it look like it was built just for your city and tracks progress with robust data providing helpful data analytics for program planning. The platform includes following features:

- Custom branding and messaging
- User friendly information on actions including resources, rebates and how to guides
- Robust analytics with custom estimates on savings and impact based on local data
- Dashboards to track progress at the user, team, group, neighborhood and city level
- Utility data integration (available in some areas)
- Web application that works like an app on mobile

The platform is offered as a low-cost annual subscription service with a one-time set up fee. We include community engagement program tools, coaching and support. To schedule a demo, please contact Lisa Altieri, [laltieri@communityclimate.org](mailto:laltieri@communityclimate.org).

“The CCS Platform has everything our city needs to engage residents and make an impact.”

**Rachel DiFranco**  
Sustainability Manager, Fremont, CA

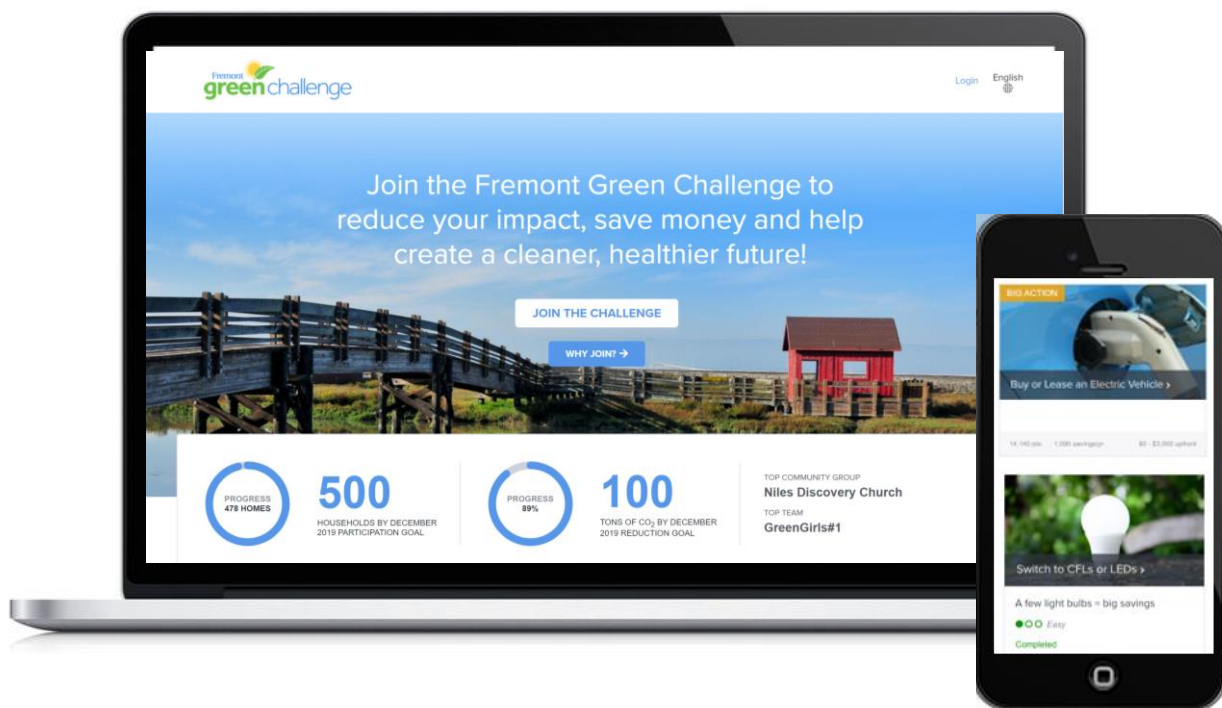
“It’s a Fitbit for Sustainability.”

**James Keene**  
Former City Manager, Palo Alto, CA

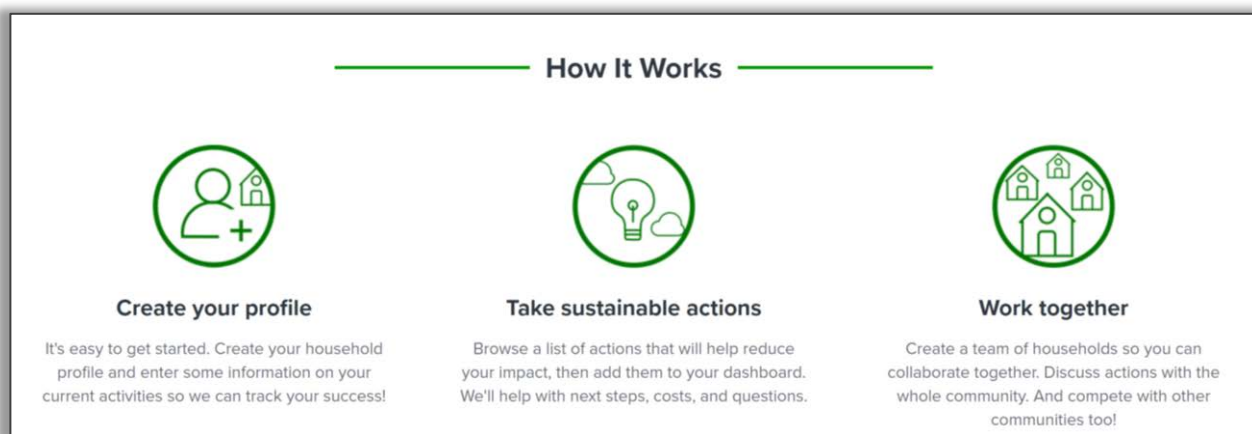
## Community engagement on climate solutions

### Platform Features

**Custom local branding and messaging, works like an app on smart phones**



### Making Climate Solutions Accessible, Easy & Fun

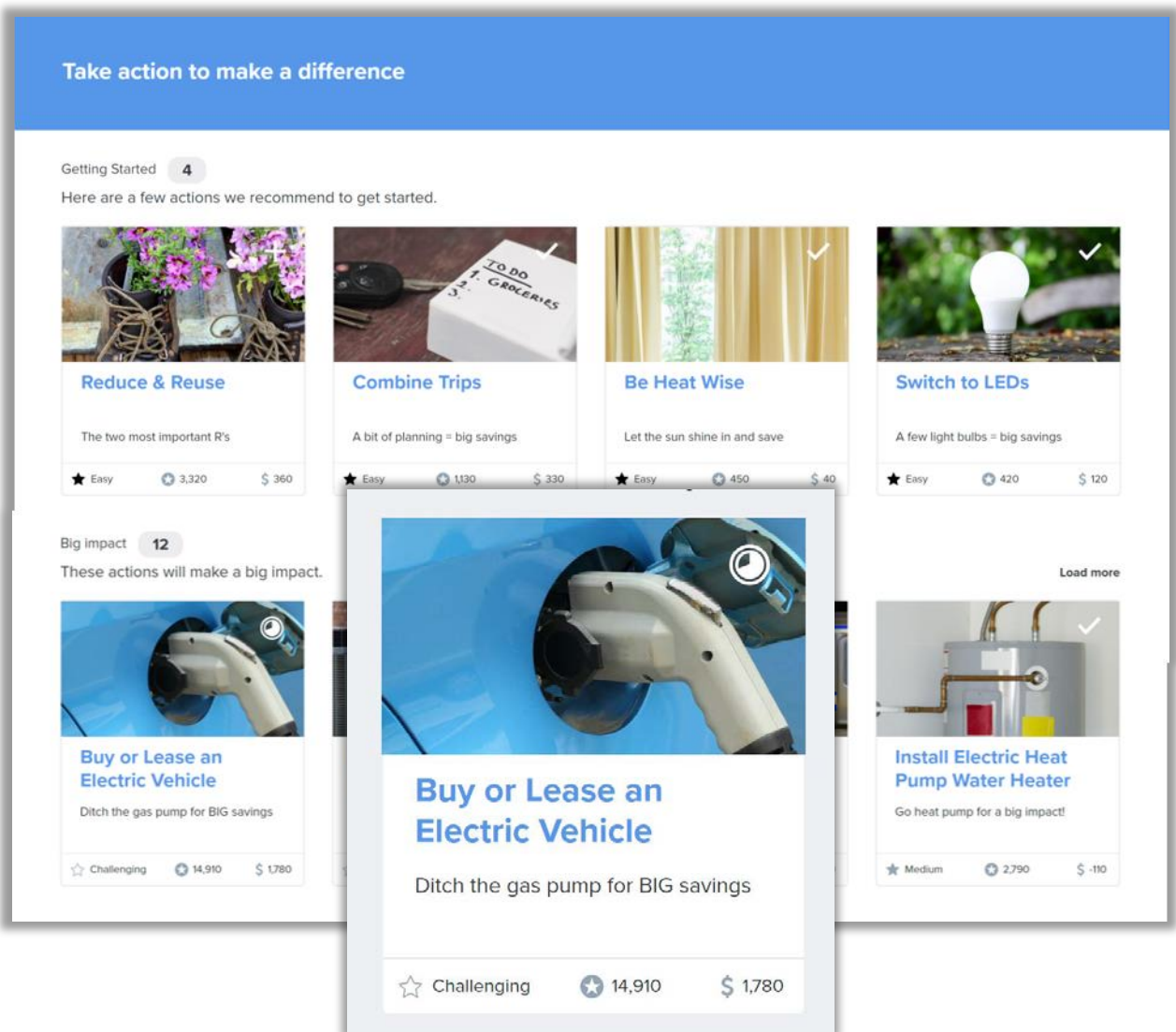


## Community engagement on climate solutions

### Robust Information on Actions

The platform includes just over 70 actions in the categories of Energy Efficiency, Home Energy, Transportation, Food & Waste, Water and Community actions.

Users have an opportunity to complete an Energy Profile, then for each action, we provide users custom estimates on savings and impact based on their household information and local data metrics including local energy pricing and climate data. Each action has a full page of information with step-by-step guides, tips and resources like rebates and financing options.



## Community engagement on climate solutions

### Tracking Progress & Working Together

We help users track progress from actions with instant feedback on how much they will save and lower their impact from taking actions. We also connect users to work together in small teams or larger groups (schools, faith communities, etc.). Each team or group has a custom page to work together, share and help each other succeed. We encourage teams to get together in person once or twice a year and talk about actions and build community resilience.

**My Progress**

- ✓ **12,720** TOTAL POINTS
- 💡 **13** ACTIONS COMPLETED
- 💰 **\$1,670** SAVINGS/YR

4.6 TONS (highlighted in orange)  
16.4 TONS (grey)  
**4.6** TONS  
10,141 LBS PER/YR.REDUCED

💡 CONGRATS! YOU'VE REACHED THE SMART HOME LEVEL!

RANK

- 5 TEAM **Cool Champs**
- 2 COMMUNITY GROUP **The Scooter Club**
- 4 NEIGHBORHOOD **Midtown**

**Cool Champs**  
The most awesome team!

Team Rank #4

**Team progress**

- ✓ **31,420** TOTAL POINTS
- 💡 **20** ACTIONS COMPLETED
- 💰 **\$3,220** DOLLARS SAVED

EV Ride and Drive event

Hi all, looking for volunteers for the upcoming EV Ride & Drive event! Please contact Joanne if you can make it.

National Drive Electric Week

DRIVE ELECTRIC

Comment 0 1

Write a comment...

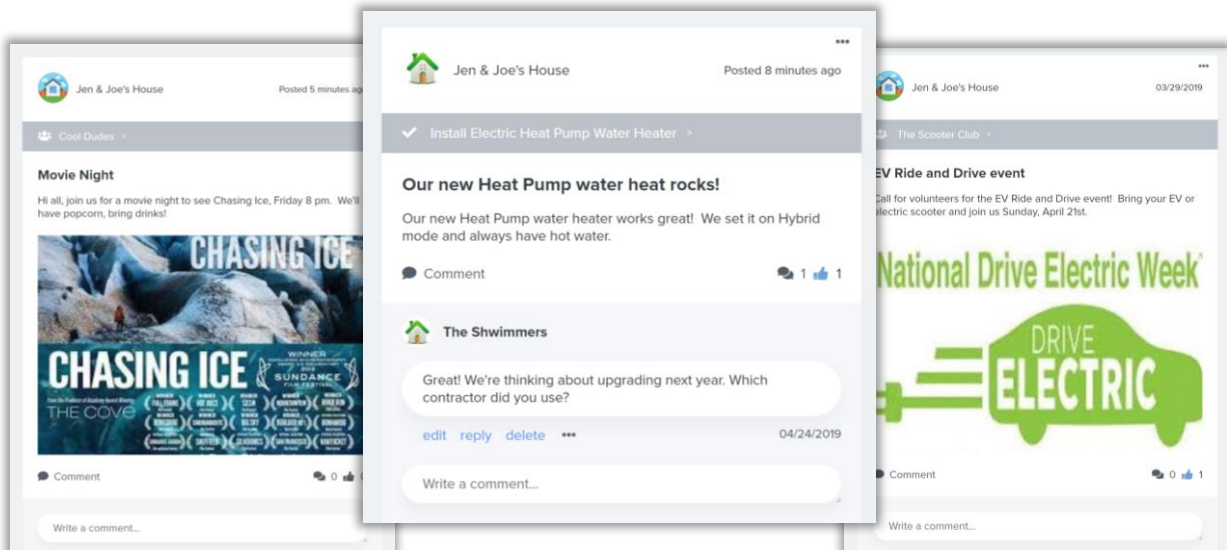
## Community engagement on climate solutions

### Motivating & Inspiring Action, Celebrating Success

We track progress for teams, community groups and neighborhoods/cities. We also track progress across cities at the national level to inspire and motivate action. We encourage users to share and celebrate success and recommendations on community wide celebrations and events.



Community Leaderboard		
<b>1</b>	CT	30,200
<b>2</b>	Floaters	7,030







Office of the City Manager

ACTION CALENDAR  
July 21, 2020

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Timothy Burroughs, Director, Department of Planning and Development  
Subject: Climate Action Plan and Resilience Update

SUMMARY

The City of Berkeley has long been a leader on climate action. In 2006, Berkeley residents voted to reduce the community's greenhouse gas (GHG) emissions by 80% below 2000 levels by 2050, and the resulting Climate Action Plan (CAP) was adopted by Berkeley City Council in 2009. In 2018, then-Governor Brown committed California to carbon neutrality by 2045, the Berkeley City Council resolved to become a "Fossil Fuel-Free City," and the Council declared a Climate Emergency, all steps to signal the urgency of these ambitious goals and the need to act on climate threats in an equitable manner.

The community is making notable progress in reducing GHG emissions. Based on the best currently available data from 2018, the community has reduced overall GHG emissions by 26% since 2000, despite population increasing by 18% and an expanding economy.<sup>1</sup> This achievement is largely due to reduced energy use in buildings and the transition to purchasing cleaner electricity provided by East Bay Community Energy (EBCE), Alameda County's community-based electricity provider, which started enrolling customers in 2018. EBCE currently offers product options to purchase electricity that are either emissions-free (Brilliant 100 or Renewable 100) or have half of the emissions compared to PG&E (Bright Choice). Further declines in emissions due to this change are anticipated in 2019. The leadership and commitment of the Berkeley community and City Council to create and join EBCE were critical in achieving this success.

Although Berkeley has made significant progress, additional work is required to achieve the City's ambitious goal to become a Fossil Fuel-Free City. Alongside GHG emission reductions, staff also remains committed to developing community resilience, adapting to the changing climate, and advancing racial equity. As the world faces unprecedented challenges in recovering from COVID-19 and addressing racial justice, the City can

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<sup>1</sup> Staff Report: Berkeley Economic Dashboards, March 26, 2019:  
[https://www.cityofberkeley.info/uploadedFiles/Manager/Economic\\_Development/2019-03-26%20Item%2026%20Berkeley%20Economic%20Dashboards.pdf](https://www.cityofberkeley.info/uploadedFiles/Manager/Economic_Development/2019-03-26%20Item%2026%20Berkeley%20Economic%20Dashboards.pdf)

rebuild as a stronger, more equitable, and more resilient community by prioritizing solutions that address climate change while advancing racial equity.

This report provides a summary of work being done throughout the City to meet Berkeley's ambitious climate goals.

### CURRENT SITUATION AND ITS EFFECTS

City staff annually calculates community greenhouse gas (GHG) emissions to understand which sectors and fuels contribute the most emissions in Berkeley, track progress toward the community's climate goals, and provide data that can be used for prioritizing programs and policies.

Figure 1 below shows the community emissions inventory for 2018, the most recent available data: emissions from transportation account for over half (59%) and emissions from buildings account for over a third (37%). Due to the purchase of clean electricity from East Bay Community Energy (EBCE) starting in 2018, emissions from the building electricity sector are substantially less than previous years.

### 2018 Greenhouse Gas Inventory

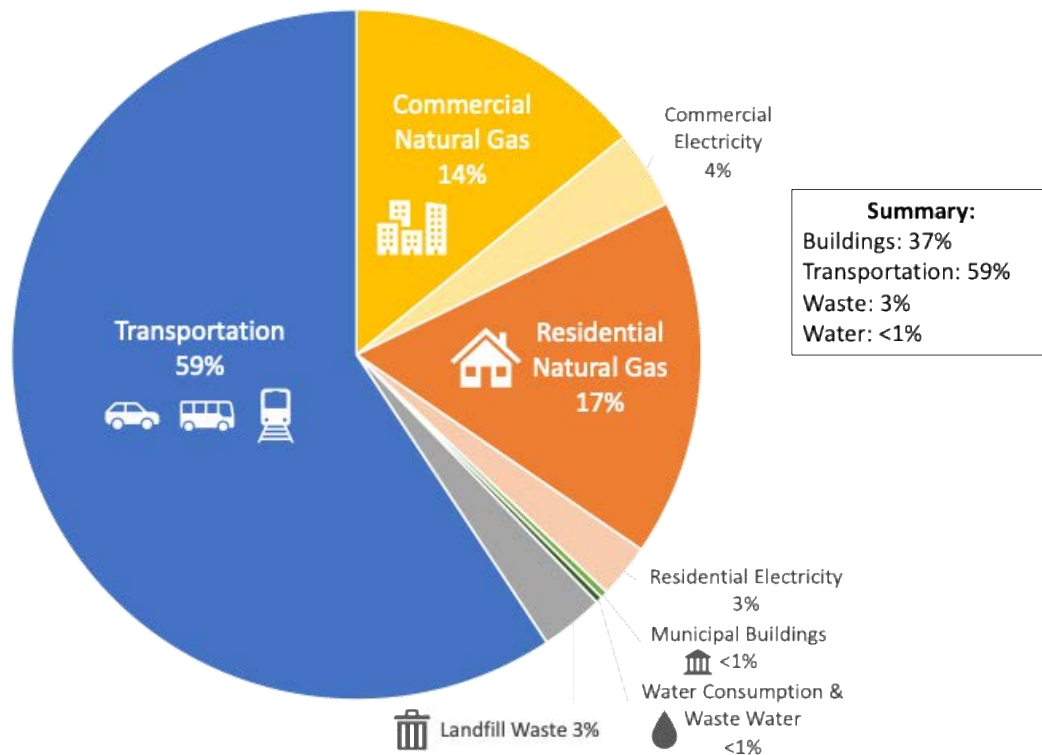


Figure 1 - Pie chart of 2018 community-wide GHG emissions inventory, broken down by sector and fuel.

According to 2018 data, Berkeley reduced GHG emissions by 26% below year 2000 levels, even as its population grew by 18% and Berkeley's economy expanded. This significant decrease in emissions can largely be attributed to Berkeley joining EBCE in 2018. Even though customers transitioned to EBCE over the course of 2018 and during a portion of the year were still using PG&E electricity, overall community emissions were significantly less because in 2018 EBCE's electricity was considerably cleaner than PG&E's (approximately half the amount of carbon dioxide equivalent [CO<sub>2</sub>e]). It is anticipated that building energy emissions will continue to drop for 2019—the first complete year of Berkeley's participation in EBCE—and going forward, as EBCE continues to reduce the carbon intensity of its electricity.

Energy usage also has declined since 2000. The residential sector decreased electricity usage by 20% and natural gas usage by 26%, and the commercial and industrial sectors decreased electricity usage by 32% and natural gas usage by 2%. Attachment 1 provides more detail on Berkeley's sector-based GHG inventory, as well as an overview of a 2013 consumption-based inventory which accounts for the GHGs released to produce, transport, sell, use, and dispose of goods consumed in Berkeley.

The community accomplishments to date are impressive, but more is needed to achieve Berkeley's ambitious goals. The City is actively working on analyses and strategic planning initiatives to identify how best to make Berkeley's buildings and transportation more efficient, and free of fossil fuels. These efforts will determine the most valuable and achievable programs and policies. This work aligns with the Strategic Plan priority of advancing the City's goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

In order to truly achieve a more sustainable and resilient future, especially as the City rebuilds from COVID-19, it is critical to prioritize and consider the impacts on **equity** (who benefits, who is burdened, who is left out), **resilience** (how to make the community stronger and better able to recover from challenges together), **climate change** (how to mitigate and adapt to the impacts of climate change), **health and well-being** (how to improve health and social outcomes for all), and **prosperity** (how to encourage workforce development and good quality, high-paying local jobs). These overarching values guide staff's work to achieve Berkeley's climate goals.

Key accomplishments and examples of work underway at the City to reduce GHG emissions and address the climate emergency are described below. Although the data for GHG emissions is for the calendar year of 2018, the progress on programs described in the following sections includes efforts since December 6, 2018, the last time that this report was updated for City Council.



## Equity



*Prioritizing the advancement of equity outcomes into policies and programs.*

Climate change affects everyone, but its impacts are not felt equally. Programs and policies that address climate change must prioritize communities that have been subject to structural and institutional racism and/or are disproportionately affected by climate change. City staff is committed to applying an equity approach to climate work to ensure that policies, plans, and programs are developed in a way that involves input and collaboration with community members and organizations representing underserved communities. This approach begins with an analysis of who benefits, who is burdened, and who is excluded from City sustainability programs and policies in order to prioritize policy solutions that advance equity, accessibility, and inclusion.

Examples of equity work underway in OESD include:

- **Existing Building Electrification Strategy:** Staff is working with a team of building electrification experts to develop a report with short and long-term equitable strategies to electrify all of Berkeley's existing buildings. To ensure that equity is at the center of this Strategy, equity expertise and deliverables were integrated into the procurement process and contract. The Ecology Center is serving as the consultant on equity and is facilitating discussions with community organizations on this topic. The team is using an equity analysis to understand the impacts of policy options on the most vulnerable and impacted communities, in order to identify solutions that advance equity.
- **Electric Mobility Roadmap:** Providing equity, both in the process of developing strategies, as well as in implementing equitable solutions that are meaningful and measurable, was a clear and consistent focus while creating the Electric Mobility Roadmap (Roadmap). Community organizations who work with underserved communities, including low-income populations, communities of color, and people with disabilities, were interviewed as part of the early needs assessment phase, became thought-partners as draft strategies and actions were developed, and remain potential partners for implementation. Greenlining Institute was a paid strategic advisor on this project and provided clear, thoughtful direction and language to ensure that equity was addressed in a meaningful way.
- **Proposed Resilient Homes Equity Pilot Program:** Concurrent to the referral to update the Transfer Tax Rebate Program, staff is recommending that Council consider supporting the development of a parallel equity program (the Resilient Homes Equity Pilot Program) that would provide funding for low-income residents who are not able to access the existing Seismic or future proposed Resilience

Transfer Tax Rebate Program. This program could support homeowners' ability to remain in their homes, improve resilience in an aging building stock, and serve as a replicable example of how City programs can operationalize equity and assure equitable distribution of City resources. If approved by Council, staff would design the program in collaboration with community stakeholders to meet the needs of frontline communities such as low-income communities, communities of color, and those most affected by the impacts of climate change.

## **Transportation**



*Biggest opportunity sector, advancing opportunities for people to safely walk, bike, take public transit, and electrify mobility options.*

Transportation accounts for 59% of Berkeley's total 2018 GHG inventory. This is the largest sector of GHG emissions and the most challenging to tackle. The City continues to work to get people out of cars by prioritizing walking and biking, and into less-polluting modes of transportation.

As the City and transportation agencies continue to respond to and recover from COVID-19, transportation services and emissions from this sector will be impacted. For example, with more people working from home, emissions from commutes have decreased, but as people begin to go back to work, those who have access to private vehicles may prefer to use their own vehicles over public transit. There are also many equity impacts related to travel options. Support will be needed to maintain momentum for positive travel behaviors, like walking, biking, and telecommuting; rebuilding trust in public transit will be critical.

### **Active Transportation and Reducing Vehicle Miles**

Active transportation refers to strategies encourage walking, biking, and public transit over single occupancy vehicles. Strategies in this area include: bike share and other shared micromobility options; transit infrastructure investments to increase ridership by reducing transit travel time and delay; safe, abundant pedestrian and bicycle infrastructure; and eliminating severe traffic crashes for all travelers. The City continues to focus new compact, mixed-use development along public transit corridors in designated Priority Development Areas, particularly in or near Downtown Berkeley, at BART stations, and along San Pablo Avenue. Additionally, in order to reduce the amount of time and miles driven in single occupancy vehicles, strategies include the goBerkeley parking management program, which reduces vehicle travel associated with searching for parking; and car sharing service options, including one-way car share.

Strategic work within this sector includes updating and implementing transportation plans. The Pedestrian Plan Update and the Transit-First Policy Implementation Plan are

scheduled for completion by the end of 2020. The Pedestrian Plan will propose programs, policies, and projects to make walking more comfortable and safe, with a particular focus on infrastructure to improve street crossings and reduce motor traffic speeds. The Transit-First Policy Implementation Plan is anticipated to establish protocols for bus stop location and transit signal priority, lay out a schedule for future transit corridor studies, and contain transit-supportive street design prototypes. Implementation of the Berkeley Strategic Transportation (BeST) Plan is also underway, including the adoption of the Berkeley Vision Zero Action Plan in March 2020, with the goal of ending traffic deaths and severe injuries on Berkeley streets by the year 2028. Traffic safety improvements and housing density near jobs have contributed to Berkeley having the highest walking commute rate in California (among cities with populations over 5,000), and the highest bicycling commute rate in the nation among cities of 100,000 residents or more.

Implementation of the Berkeley Bicycle Plan (2017) supports bicycle travel and commuting by reducing traffic stress experienced by existing and potential bicyclists. According to surveys completed for the Bicycle Plan, low stress bikeways could encourage up to 71% of Berkeley residents to try cycling or to cycle more. Nearly 10% of Berkeley residents bike to work, and approximately 14% of all trips in Berkeley are by bicycle. Following the successful rollout of regional bike share (Bay Wheels) in Berkeley in 2018, staff have continued to work with electric scooter share companies and other vendors to bring the next generation of micromobility to Berkeley in a safe, accessible way. In December 2019 the City Council approved the conceptual design for a new protected bikeway on Milvia Street between Hearst Avenue and Blake Street through Downtown Berkeley. The project is fully funded as part of the Affordable Housing and Sustainable Communities grant for the Berkeley Way project and is scheduled to be constructed in 2021. The Center Street Garage continues to serve as the permanent home for the Downtown Berkeley Bike Station, offering secure valet bike parking, rentals, and repairs.

Upcoming projects highlight Berkeley's Transit First, Complete Streets, Vision Zero, and economic development policies. Most notably, the City received a grant of over \$7 million in federal funding to design and construct the Southside Complete Streets project, including transit time reliability improvements, traffic safety projects, and better access to Southside businesses. The project will focus on adding bus only lanes, protected bikeways, pedestrian crossing safety improvements, and passenger and loading zone improvements at various locations on Telegraph Avenue, Bancroft Way, Dana Street, and Fulton Street. The project will kick off public engagement in fall 2020, with construction scheduled for 2023.

### **Electric Mobility Roadmap**

Staff began work with the community and Energy Commission in late 2018 to draft Berkeley's first Electric Mobility Roadmap (Roadmap). The Roadmap supports clean transportation, including walking, biking, public transportation, and a wide range of

electric vehicles, with a focus on equitable and affordable access. The Roadmap identifies strategies and actions to achieve these four goals:

- Ensure Equity in Access to Electric Mobility  
*Maximize electric mobility benefits in underserved communities*
- Improve Alternatives to Driving  
*Shift trips to walking, cycling, and shared electric modes*
- Achieve Zero Net Carbon Emissions  
*Eliminate emissions from private vehicles*
- Demonstrate City Leadership  
*Lead by example and guide the electric mobility transition*

The Roadmap includes scenario modeling of what is needed to reach carbon neutrality by 2045 and found that electric vehicle (EV) sales in Berkeley would need to reach about 90% of vehicle purchases by 2025 and nearly 100% by 2030 (up from 16% in 2017). This would translate to EVs being approximately 25% of vehicles in use within Berkeley by 2025, 55% by 2030, and 100% by 2045. However, these numbers could be offset by supporting clean alternatives to driving which could also reduce the total number of vehicles and provide co-benefits such as lower traffic congestion and healthy, active transportation, as well as reduced or eliminated GHG emissions.

### **Electric Vehicles & Charging Stations**

The City continues to install EV charging stations for public use, and promote the use of electric vehicles. As of October 2018, EVs were nearly 4% of registered personal vehicles in Berkeley. There were 105 total publicly-available EV charging ports listed on PlugShare and the Department of Energy's Alternative Fuels Data Center in Berkeley as of February 2019<sup>2</sup>. The City of Berkeley currently provides a total of 73 Level 2 EV charging ports for public and fleet charging, including 37 new EV charging ports that were installed in Center Street Garage at the end of 2019.

### **Fleet**

Tied to the Roadmap goal of demonstrating City leadership, staff worked with EBCE to conduct a municipal fleet electrification assessment. This assessment, also scheduled for City Council consideration on July 28, 2020, presents an EV deployment and associated charging infrastructure plan through 2030 including distributed energy resource (solar and battery storage) charging options. If investments can be made to transition the light duty municipal fleet to EVs over the next 10 years, it will reduce the associated lifecycle (well-to-wheels) GHG emissions of these vehicles from 56.6 to 2.1 metric tons, a 96% reduction by 2030.

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<sup>2</sup> These stations were located on municipal property and at Berkeley businesses including grocery stores, offices, and hotels. Residential home charging stations are not included.



*Reducing energy use, promoting cleaner energy, and transitioning all buildings to clean electricity.*

In the 2018 inventory, buildings account for 37% of GHG emissions in Berkeley, and of those emissions 83% are from natural gas. Natural gas use in buildings account for 31% of all community emissions. Key accomplishments have been made to reduce energy use in buildings, use cleaner electricity in buildings, as well as to transition buildings away from natural gas infrastructure to clean electricity.

Removing natural gas from buildings, or building electrification, not only reduces GHG emissions, but it also improves indoor air quality and safety by removing the potential for natural gas leaks. Furthermore, the elimination of gas in buildings will ultimately allow for the strategic decommissioning of natural gas distribution infrastructure and the associated leakage of methane leakage, the main component of natural gas. This is significant because methane traps 86 times more heat than carbon dioxide. Berkeley's building electrification strategy is based on the following three objectives:

1. **No new connections** to the natural gas distribution system,
2. Creating requirements or incentives to **promote electrification** in existing buildings throughout the City, and
3. Developing a plan for **strategic electrification by geographic area** that allows for the early retirement and decommissioning of the natural gas distribution infrastructure and elimination of associated methane emissions.

Berkeley is a leader in advancing electrification in new buildings, specifically through its Natural Gas Prohibition and 2019 Energy Reach Code. Progress is being made in each of the objectives, as reported below.

#### **1. No new connections to natural gas**

Berkeley is achieving this objective by eliminating gas in new construction through its landmark natural gas prohibition and electric-favored reach code.

- **Natural Gas Prohibition**

In July 2019, the City Council adopted the first ordinance in the nation to prohibit the use of natural gas in newly constructed buildings. The Natural Gas Prohibition became effective on January 1, 2020, and applies to new building applications for land use permits or zoning certificates. New buildings subject to the prohibition will use highly efficient heat pumps, for water heating and for heat and air conditioning, and electrically powered appliances. This policy supports

State and City efforts to decarbonize buildings, removing not only the GHGs produced by the combustion of natural gas (methane) within buildings, but new methane pipeline connections as well, and the leakage associated with this potent, and persistent, GHG.

- **2019 Electric-Favored Energy Reach Code**

In December 2019, Berkeley City Council adopted local amendments to the California Energy Code. This electric-favored “reach code,” approved by the California Energy Commission in February 2020, requires newly constructed buildings to include solar PV systems and feature either all-electric systems or mixed-fuel construction that exceeds the efficiency requirements of the Energy Code and includes electric-readiness. The reach code and prohibition work in tandem to support building electrification and its health, safety, and climate benefits.

## 2. Requirements and incentives to promote efficiency and electrification in existing buildings

Berkeley is making progress in this area, but additional work identifying and leveraging incentives to offset costs of electrification is needed.

- **Building Energy Saving Ordinance**

Berkeley’s Building Energy Savings Ordinance (BESO) requires building owners to complete and publicly report building-specific energy efficiency assessments and energy scores. The goal of BESO is to reduce both energy costs and GHG emissions in Berkeley’s existing buildings. To date, BESO has achieved many successes, including:

- Made Berkeley a national model for building energy labeling.
- Provided data on the energy use and energy efficiency opportunities of Berkeley’s existing building stock.
- 1,532 Energy assessments completed.
- 1,256 Home Energy Scores<sup>3</sup> completed, with an average of 4.3 out of 10.
- 92 Large building Energy Star Portfolio Manager Benchmarks completed.
- 33 large buildings (over 25,000 square feet) have achieved an ENERGY STAR Score of 80 or greater and qualified as High Performance Buildings exempted from the requirement for an energy improvement or assessment every 5 years.

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<sup>3</sup> Developed by the US Department of Energy and its national laboratories, the Home Energy Score provides home owners, buyers, and renters directly comparable and credible information about a home’s energy use. Each Home Energy Score is shown on a simple one-to-ten scale, where a ten represents the most efficient homes. More information can be found at: <https://www.energy.gov/eere/buildings/downloads/home-energy-score#:~:text=Developed%20by%20DOE%20and%20its,about%20a%20home's%20energy%20use.&text=Each%20Home%20Energy%20Score%20is,represents%20the%20most%20efficient%20homes.>

In February of 2020, a third-party evaluation of the BESO program was completed to assess whether BESO is meeting its goals of being easy, affordable and valuable. The evaluation recommended:

- Align with Berkeley’s electrification and community resilience goals;
- Identify and leverage incentives to encourage upgrades;
- Increase the number of energy upgrades that result from the energy assessment recommendations and improve tracking; and
- Streamline BESO administrative processes for both staff and the public.

Staff is providing a separate complete report to City Council on the BESO Evaluation and proposed recommendations.

- **Financial Incentives**

Incentives are critical to the advancement of energy efficiency and electrification. As electrification of buildings requires financial investments by owners, it is important to identify incentives to accelerate adoption of these newer technologies. For the first time, due to recent changes by the California Public Utilities Commission (CPUC) to allow publicly funded energy efficiency dollars to be spent on “fuel switching” (changing from gas to electric appliances), there are now incentives available to electrify residential and multifamily buildings:

- The [BayREN Home+](#) program<sup>4</sup> provides both energy efficiency and electrification incentives, a network of certified contractors, and free technical advice. Homeowners can access electrification rebates through the BayREN program for heat pump space heating and cooling (\$1,000), heat pump water heaters (\$1,000), induction electric ranges or cooktops (\$300) and heat pump clothes dryers (\$300). Additionally, BayREN offers up to \$1,000 for heat pump water heaters through an [installer incentive](#)<sup>5</sup>. Multifamily buildings can access incentives through the [Bay Area Multifamily Building Enhancements](#) (BAMBE) program<sup>6</sup> for both central and in-unit heat pump HVAC and water heaters, electric dryers, cooktops and heat pump pool heaters.

Figure 2 below shows the rebates provided in Berkeley through the Home+ program in 2019, when the program launched, and the BAMBE program for 2018 and 2019.

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<sup>4</sup> BayREN Home+: <https://bayrenresidential.org/>

<sup>5</sup> BayREN Heat Pump Water Heater Incentive for Contractors: <https://www.bayren.org/hpwh>

<sup>6</sup> Bay Area Multifamily Building Enhancements (BAMBE) program: <https://bayareamultifamily.org/programs>



2019 Home+:

Year	# of households	# of measures installed	kWh savings	Therms savings	Total rebate amount
2019	93	315	5,947	5,619	\$ 124,047

BAMBE:

Year	# of projects	# of units	kWh savings	Therms savings	Total rebate amount
2018	<5	100	13,155	4,138	\$ 75,000
2019	<5	103	32,149	3,715	\$ 77,250

Figure 2 - Berkeley Rebates from Home+ (2019) and BAMBE Programs (2018-2019)

• **Existing Building Electrification Strategy**

Achieving Berkeley’s GHG emission reductions goals will require phasing natural gas out of existing buildings. The City is working with a team of experts (including the Rocky Mountain Institute, Rincon Consultants, Inc., and the Ecology Center) on a Berkeley Existing Buildings Electrification Strategy to identify long and short-term strategies to make the buildings in Berkeley free of fossil fuels. This analysis will include costs and timelines, as well as identify the most effective policies and programs to achieve the Fossil Fuel-Free City goal. This Strategy is being developed with the Ecology Center as a dedicated equity consultant, to ensure that the policies and programs are evaluated with racial and social equity as a priority.

The team is currently conducting a technoeconomic analysis focused on Berkeley buildings and a review of strategies for accelerating an electrification transition. Over the next few months, City staff will be engaging community stakeholders and technical experts to evaluate policy options, with a final report expected for Council consideration in early 2021. Strategies being evaluated include piloting neighborhood electrification, financing for whole building electrification, and targeted electrification at specific leverage points like time of sale and/or time of replacement policies. An initial finding is that pairing solar PV with whole home electrification has a viable payback, therefore it is important to promote or subsidize solar, especially for low or moderate-income residents.

**3. Strategic electrification and early retirement of gas distribution infrastructure**

The City is working to identify geographic opportunity areas that could be considered for strategic electrification, with the goal of retiring the associated gas infrastructure serving adjacent buildings or a neighborhood. Identifying a potential pilot project in a low-income neighborhood could provide health and comfort benefits to households most impacted by climate change. The City is leading the way in exploring this innovative concept.



- ***eLab Accelerator on Strategic Electrification and Retirement of Gas Assets***

The City of Berkeley has been invited to participate in the Rocky Mountain Institute's eLab Accelerator Program on strategic electrification and gas distribution system retirement. This project brings together staff from Pacific Gas and Electric (PG&E), the CA Public Utilities Commission (CPUC), the Natural Resources Defense Council (NRDC), and other experts. The goal is to develop a proposal for a pilot project for specific location(s) that helps existing buildings switch from natural gas to electric for heating/cooling needs, and to also decommission natural gas infrastructure distribution pipelines. The project seeks to identify regulatory and financial barriers and safe and equitable solutions, though no implementation funding has yet been identified.

### **Municipal Facilities**

GHG emissions from municipal facilities account for less than 1% of overall community emissions, but it is important that the City leads by example in making its facilities as clean, efficient, safe, and healthy as possible. Since the City opted its buildings to purchase carbon-free electricity from EBCE, emissions have dropped significantly. The City has also shown leadership in energy efficiency and building electrification. Energy efficiency projects have been successfully completed at James Kenney Recreation Center and the Public Safety Building, and electrification measures have been included in upgrades to the North Berkeley Senior Center and Live Oak Park. The upgrade to the Mental Health Building will result in an all-electric building that is zero emissions.

For more information on progress made in municipal facilities, please see Attachment 2.

### **Waste**



*Leading the way towards zero waste in policy, planning and practice.*

Although waste is a small contributor to Berkeley's communitywide GHG emissions in comparison to transportation and buildings, reducing the amount of waste produced can directly save energy and emissions related to producing and transporting goods. In addition, reducing the amount of waste that ends up in a landfill reduces methane emissions, a powerful GHG released as organic materials decompose in a landfill.

The Zero Waste Division is strategically planning and implementing programs and services to bring the City closer to its zero landfilled waste goal. Some key efforts toward this goal include:

### **Zero Waste Transfer Station Rebuild Feasibility Study**

The Solid Waste & Recycling Transfer Station Feasibility Study was completed in late 2019 with two options for the replacement of all facilities currently operating at the Second and Gilman streets location. A CEQA Compliance Request for Proposals (RFP) for the project was issued on April 23, 2020 and a contract is scheduled to be awarded by late July 2020. This phase of the project may take up to three years to complete with a Mitigated Negative Declaration or, if necessary, a Final Environmental Impact Report issued and approved. The replacement Facility will serve as the hub for the City to transfer garbage, sorted recyclables, compost and other materials, at a state-of-the-art zero waste facility to meet current and future needs and achieve the City's goal of zero waste.

### **Senate Bill 1383**

On September 19, 2016, SB 1383 was signed into law. This State legislation is designed to reduce short-lived climate pollutants and requires 75% organic waste reduction by 2025 and a 20% increase in recovery of edible food that is currently disposed by 2025. California local jurisdictions have significant, new requirements to implement additional waste reduction programs and enhanced reporting and enforcement protocols to comply with the state legislation. City staff is participating in a regional task force convened by StopWaste to assess the impacts to current programs and policies. The new requirements must be implemented by January 1, 2022.

### **Single Use Foodware and Litter Reduction Ordinance**

On January 22, 2019, City Council unanimously passed the Single Use Foodware and Litter Reduction Ordinance designed to reduce single-use disposable foodware and promote reusable foodware. This ordinance was developed with community and stakeholder input gathered through online and in-person surveys and six public input sessions convened by the City's Zero Waste Commission. The final ordinance incorporated recommendations developed by the Zero Waste Commission that were based on the public and stakeholder input. Outreach material was sent to 840 Prepared Food Vendors in 2019 to inform them of the ordinance requirements and offer available resources, including onsite technical assistance provided by a contracted vendor. It will be necessary to allocate additional funding to provide onsite technical assistance and mini-grants to all Prepared Food Vendors. COVID-19 has impacted the implementation of this ordinance, including the March 31, 2020 Health Order that does not permit customers to bring their own bags, mugs, or other reusable items from home.

### **Zero Waste Strategic Plan**

Based on a Council-approved Zero Waste Commission recommendation, staff plans to release a Request for Proposals for a Zero Waste Strategic Plan by mid-2021 to improve existing programs and propose a roadmap of options and policies that will help the City reach its Zero Waste goal effectively.

## Community Outreach & Engagement



*Achieving equitable climate action together.*

Berkeley is committed to community engagement and education. Recent events and outreach topics have included green and healthy homes, electric vehicles, solar, access to clean energy, and electrification for both residents and building professionals. A summary of outreach events from February 2019-February 2020 can be found in Attachment 4. Outreach is also being conducted focused specifically on communities of color and those most impacted by climate change, as described above in this report.

As COVID-19 social distancing measures have severe impacts on the ability to do in-person outreach events, staff is exploring innovative, safe and accessible engagement strategies to reach impacted communities while limits on public gatherings persist, and will plan for opportunities for innovative, safe in-person community engagement when that approach can safely resume.

**Engagement for Marginalized and Front-line Communities:** City Council adopted a referral on January 21, 2020 to (1) improve and increase external community engagement, to engage the community and allow for input on new policies and programs which affect marginalized and front-line communities (2) identify the funding resources needed to adequately implement this engagement, and (3) include a Climate Impacts section in all City Council items and staff reports. In response, staff is proposing in a separate report steps to (1) continue engagement around community-driven, equitable climate solutions, and to seek external resources to enable meaningful community engagement of impacted communities around equitable climate solutions; and (2) refer to the Agenda Committee a revision to the Council Rules of Procedures to update the Environmental Sustainability section of City Council items and staff reports as “Environmental Sustainability and Climate Impacts.”

### **Outreach on clean energy**

The City highlights energy efficiency, clean energy and electrification strategies in outreach efforts. The City, in conjunction with StopWaste, hosted workshops about the BayREN Home+ and BAMBE programs to help homeowners and multifamily property owners access resources and incentives for energy and water saving upgrades to increase savings, improve indoor air quality and comfort, and decarbonize buildings.

The City promoted access to clean energy by educating the community about EBCE, and the option to opt up to EBCE’s Brilliant 100 (100% carbon-free) or Renewable 100 (100% solar and wind) electricity products. The City has increased access to rooftop solar by streamlining permitting and inspection, which was nationally recognized with a SolSmart Gold designation in 2018, and by participating in the seasonal Bay Area

SunShares program for the fourth consecutive year. SunShares provides time-limited group discounts, vetted providers, community workshops, and a streamlined process to remove barriers to solar adoption. Berkeley has been one of the top outreach partners every year (2016-2019), resulting in 77 rooftop solar installations (219 kilowatts).

The 2019 East Bay Electrification Expo, co-convened by the Ecology Center, StopWaste and the Berkeley Climate Action Coalition, showcased the benefits of all electric homes and was one of the highlights of the year. The Expo brought together community members, building professionals, and manufacturers to attend workshops, talk to local residents about electrifying their homes and apartments, watch induction cooktop demonstrations, see ultra-efficient heat pump technology, and meet local contractors experienced with this technology.

### **Outreach on clean transportation**

Staff conducts outreach on the climate, health and financial benefits of electric transportation, focusing on incentives and special programs for income-qualified drivers. Key events included a Berkeley Climate Action Coalition *Clean Transportation Convening* and the 2019 *3<sup>rd</sup> Annual Ride Electric at the Farmers' Market*, part of National Drive Electric Week. *Ride Electric* showcased the latest electric cars and bikes and local EV drivers and enthusiasts. The City also partnered with 350 Bay Area and the Ecology Center to deliver *Electric Cars 101* workshops. OESD's CivicSpark fellow also translated the presentation into Spanish to help reach underserved, non-English speaking communities.

### **Berkeley Climate Action Coalition (BCAC)**

Since 2012, the Berkeley Climate Action Coalition (BCAC), co-convened by the Ecology Center and the City, has been a vehicle for climate engagement. BCAC's membership has grown to nearly 1,000 people, which includes residents, nonprofits, neighborhood groups, faith-based organizations, schools, businesses and UC Berkeley. From 2012-2016, BCAC received funding from the San Francisco Foundation and the City of Berkeley that supported quarterly convenings on a variety of topics such as climate change and health, intergenerational climate change, clean transportation and energy, and climate justice. Over the years, BCAC has supported a variety of volunteer-led working groups on topics including land use, water, transportation, community choice energy, electrification, and environmental health, and BCAC members continue to play an active role in large public events such as Ride Electric and the East Bay Electrification Expo. BCAC has advocated for free youth bus passes, energy solutions for renters, limiting refinery expansion in frontline communities, community choice energy, and solar for all.

## **Climate Adaptation & Community Resilience**



*Strengthening and preparing the community for shocks and stresses, including adapting to the impacts of climate change.*

### **Solar + Storage for Critical Facilities**

The City of Berkeley is committed to pursuing resilient energy assurance solutions, like solar and battery storage systems at critical facilities that can operate both on the electricity grid, and separate from the grid to continue operating during a power outage (also called islandable solar + storage systems). These islandable solar + storage systems can bring multiple benefits to the community including reliable backup power in the event of a planned or unplanned power outage, clean, local distributed energy, and potential cost savings. The City is working with EBCE, which received a grant from the Bay Area Air Quality Management District to assess the potential for resilient solar + storage systems at critical municipal facilities throughout Alameda County. The City of Berkeley submitted a list of potential critical facilities to the EBCE project portfolio, which totals 300 buildings across Alameda County.

EBCE and its partners have conducted initial analysis of location and sizing potential for the sites and will launch a territory-wide procurement process that will reduce the cost and complexity of potential system deployment. EBCE recently released a Request for Information to solicit input from potential vendors on procurement options and plans to release a full Request for Proposals for vendors to bid on the various projects in Summer/Fall 2020. The City will have the opportunity to participate in the procurement and eventual implementation of solar + storage. If the City Council decides to move forward, additional funding may be needed to retrofit buildings in order to install the solar + storage at those sites.

### **Sea Level Rise**

The City's Parks, Recreation & Waterfront Department provided a one-time funding request to Council to provide resources to complete a Shoreline Stabilization Project and the Waterfront Master Plan, which will contain a sea level rise study.<sup>7</sup>

### **Local Hazard Mitigation Plan (LHMP)**

The recently updated LHMP, approved in 2019, identifies climate change as a man-made hazard that will affect the Berkeley community. The LHMP is the main document

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<sup>7</sup> City of Berkeley, "Shoreline Stabilization Project and the Berkeley Waterfront Sea-Level Rise Study" Staff Report, June 19, 2018: [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_General/Shoreline%20Stabilization%20Project%20061918.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/Shoreline%20Stabilization%20Project%20061918.pdf)

that houses the City's climate adaptation work. This includes hazards such as extreme heat, sea-level rise and flooding, and water security.

### **Bay Area Climate Adaptation Network (BayCAN)**

Berkeley is a founding member and participates in the Steering Committee of the Bay Area Climate Adaptation Network (BayCAN), a network of local government staff helping coordinate an effective and equitable response to the impacts of climate change. BayCAN works to share best practices, develop opportunities for collaboration and program implementation, and secure funding and resources for climate adaptation.

### **UC Berkeley and The Berkeley Lab**

UC Berkeley and the Berkeley Lab are not included in Berkeley's GHG emissions inventory since their campuses are outside of the City's jurisdiction. However, both institutions track their own emissions reduction goals and are engaged community partners in addressing climate change. The Berkeley Lab has partnered directly with the City on several innovative sustainability projects including building data management tools and zero-net energy analysis of municipal buildings. UC Berkeley has collaborated on the Berkeley Climate Action Coalition and has provided research and technical assistance on a variety of projects. Please see Attachment 3 for progress reports from both UC Berkeley and the Berkeley Lab on their individual climate goals, programs, and policies.

### **BACKGROUND**

In recognition of the climate crisis, the City has added additional climate goals to bolster the Climate Action Plan goal of reducing greenhouse gas emissions below 2000 levels by the year 2050. These local goals include:

- **Fossil Fuel Free Berkeley:** In June 2018, Berkeley City Council referred a [proposed resolution](#)<sup>8</sup> to the Energy Commission and Transportation Commission to further implement the Climate Action Plan and establish a goal of becoming a Fossil Fuel Free City.
- **Climate Emergency:** On June 12, 2018, the Berkeley City Council adopted a [Climate Emergency Declaration](#)<sup>9</sup>.

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<sup>8</sup> Fossil Fuel Free City proposed resolution: [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/06\\_June/Documents/06-12\\_Annotated\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/06_June/Documents/06-12_Annotated_Agenda.aspx)

<sup>9</sup> Climate Emergency Declaration: [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)

- **Net-Zero Carbon Emissions:** In 2018, Mayor Arreguin announced the City's intention to achieve zero net carbon emissions by 2045, in alignment with California state-wide goals.
- **Vision 2050:** Vision 2050, supported by Measure R in the November 2018 election, is an effort to develop a framework for a 30-year sustainable infrastructure plan. The goal of the Vision 2050 plan is to ensure that Berkeley is prepared for climate change by identifying and guiding the implementation of a climate smart, technologically advanced, integrated, and efficient infrastructure system.

In order to achieve these ambitious goals, ***Berkeley's path to a clean energy future*** is summarized below and described in more detail in the 2018 CAP Update Report to City Council<sup>10</sup>:

- Step 1 – Reduce energy use and waste
- Step 2 – Support clean electricity
- Step 3 - Electrify transportation and buildings

The framework and overarching values (equity, resilience, climate change, health and well-being, and prosperity) guide the work to achieve the City's climate goals.

#### ENVIRONMENTAL SUSTAINABILITY

The City's Climate Action Plan, Resilience Strategy, Local Hazard Mitigation Plan, and Strategic Plan all contribute to advancing the community towards a clean and resilient energy future that successfully meets Berkeley's climate goals. Mitigation of GHG emissions within Berkeley and planning for the impact of climate change are interrelated and, with careful strategic planning, can address environmental concerns and achieve a more sustainable, equitable, and resilient future.

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<sup>10</sup> Staff Report: Climate Action Plan Update, December 6, 2018:  
<https://www.cityofberkeley.info/recordsonline/api/Document/AS1qYEO88qcY6lps8nwbGgL4jGxxlSquza3ESIDOTS6DL2nW1jPxxzLJVhyvQgYDIIPuJDdT3oigVB31dHEfM%3D/>

### POSSIBLE FUTURE ACTION

This report provides the City Council with an update on GHG emission trends, an overview of associated current activities, and the planning efforts underway to develop strategies to accelerate the rate of GHG emission reductions to reach Berkeley's increasingly ambitious climate goals. The current strategic planning efforts for transportation, waste, and buildings will provide a pathway for concentrated reductions in energy use, clean electricity, and electrification of the building and transportation sectors. Staff will return to the City Council for direction on prioritization and funding based on the findings of these strategic plans. As the community responds to and recovers from the impacts of COVID-19, strategic prioritization will need to be applied to identify target areas of focus, and equity and resilience should continue to be central in recovery efforts.

### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Current climate action priorities are funded by existing grants, enterprise funds, and General Fund allocations. Staff continues to seek additional grants and other sources of funding to accelerate existing efforts. The fiscal impacts of accelerating CAP implementation are currently unknown, but are expected to be significant, and are dependent on City Council's policy choices. Some areas of future investment could include support for additional staff to implement the Mobility Roadmap, resources to incentivize electrification upgrades, funding to support pilot equity programs, and capital funding to make municipal building improvements for electrification, air quality and ventilation improvements, and resilience through solar + storage.

Strategic electrification is key to achieving Berkeley's ambitious climate goals. However, current rate structures and projected increases can impede electrification efforts, making electrification a costly option. Moving forward, close collaboration and cooperation with PG&E and EBCE will be necessary to create rates that are equitable and provide a pathway to fossil-free energy sources for Berkeley residents and businesses and ensure a resilient and safe electricity grid. An equitable transition to clean electricity will require strategic investment in buildings and people.

### CONTACT PERSON

Billi Romain, Manager, Office of Energy & Sustainable Development – Planning Department, 510-981-9732

### Attachments:

- 1: 2018 Berkeley Community-Wide Greenhouse Gas Inventory
- 2: Municipal Facilities Update
- 3: Progress Report from UC Berkeley & the Berkeley Lab
- 4: Summary of Community Outreach Events, February 2019-February 2020



## **Attachment 1: Berkeley’s Community-Wide Greenhouse Gas Emissions Inventory**

### Introduction

In order to understand the sources of community-wide greenhouse gas (GHG) emissions, City staff conducts an annual GHG emission inventory. Data is gathered from regional entities on sector-specific activities, and is then converted to metric tons of carbon dioxide equivalent (MT CO<sub>2e</sub>). The inventory utilizes the best available data (despite challenges regarding access to accurate, consistent datasets) and follows the Global Covenant of Mayors for Climate & Energy protocol which allows the City to report consistently to the community and to other agencies. This inventory focuses on emissions that are created within Berkeley’s border, considering sectors like transportation, the built environment, landfilled solid waste, water consumption, and wastewater usage. A separate inventory methodology called a “consumption-based inventory” accounts for the impacts of goods and services consumed by Berkeley residents and businesses, even if the related emissions were created elsewhere. These two approaches, compared side-by-side, can help paint a more holistic picture of Berkeley’s carbon footprint and how reduction strategies should be prioritized.

### Community-Wide GHG Emission Inventory

Creating and updating a consistent GHG emissions inventory helps to define the extent to which certain sectors and fuels contribute to GHG emissions, and helps to track progress toward the community’s climate goals over time. This type of inventory focuses on emissions that have occurred within Berkeley’s jurisdictional boundaries, which includes the following emissions sources: transportation modeled from traffic analysis, building electricity usage, building natural gas consumption, landfilled solid waste, as well as emissions from water consumption and wastewater treatment. The most recent full year of available data is from 2018. Although this inventory does not include UC Berkeley and The Berkeley Lab, as they are outside the City’s jurisdiction, they continue to be valued partners in efforts working to improve Berkeley’s shared community and combat climate change. See Attachment 3 of the Climate Action Plan Update for progress reports from UC Berkeley and the Berkeley Lab.

## 2018 Greenhouse Gas Inventory

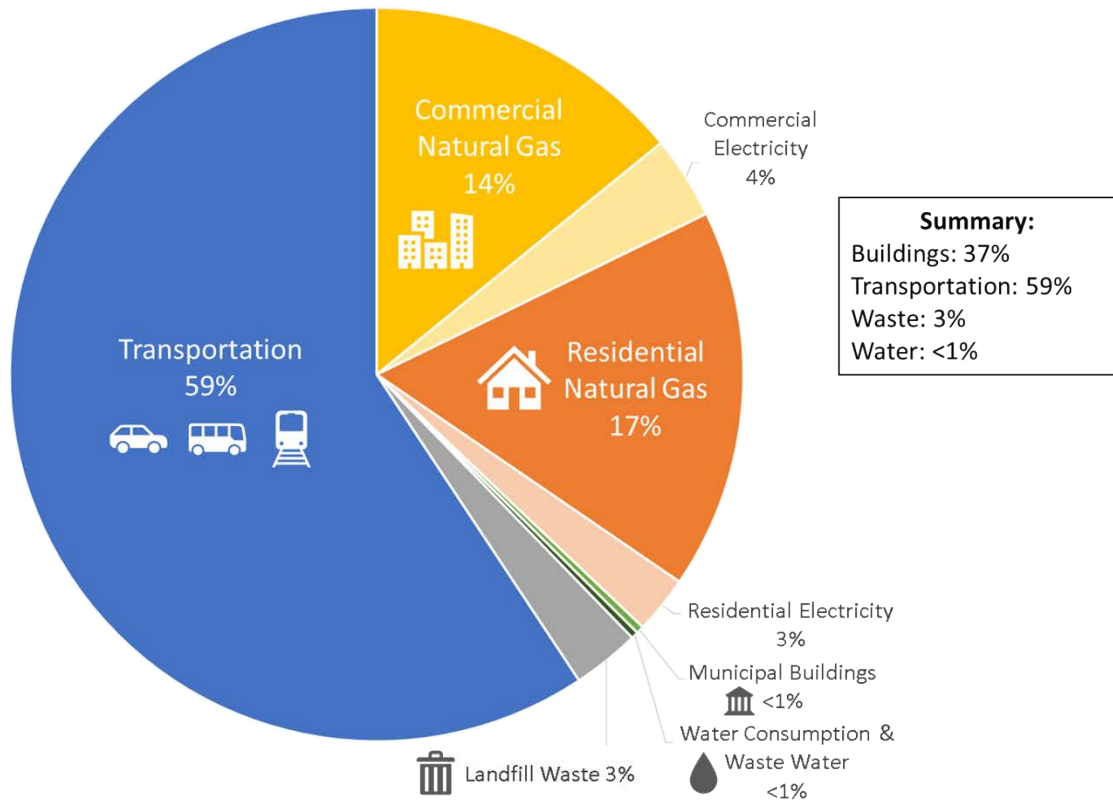


Figure 1: Pie chart of 2018 community-wide GHG emissions inventory, broken down by sector and fuel.

Creating an emissions inventory that tracks each sector and fuel individually informs policies and programs that may provide the biggest impact to achieving the Climate Action Plan (CAP) emission reduction goals. The distribution seen in Figure 1 is similar to inventories conducted in the past, with over half of emissions coming from the transportation sector, calculated from a regional traffic analysis model conducted by the Metropolitan Transportation Commission.

Energy usage data in Berkeley buildings is provided by East Bay Community Energy (EBCE) and PG&E, and is broken down into residential, municipal, and commercial (including industrial) buildings—for both electricity use and natural gas combustion. The built environment is the second largest source of emissions at 37%.

Other sectors include landfilled waste, water consumption, and wastewater treatment. These sectors, although seemingly small based on this inventory, represent much broader environmental concerns, such as the impact on water management systems as California experiences more frequent and intense droughts. Solid waste, particularly organic material, emits methane when landfilled, which is accounted for in this inventory. However, the impacts related to the production, transport, and consumption

of goods and services, long before reaching a landfill, must also be considered. Please see the section below on consumption-based inventories for more detail.

Current Community-Wide Sector-Based GHG Emission Trends

The most current community emissions are compared to the CAP baseline year of 2000, to identify reductions achieved thus far. A historic summary of Berkeley’s annual emissions inventories from 2000 to 2018 is provided in Figure 2. Please note that due to data access issues for accurate building energy use data between 2014-2017, years of inventory data developed with assumptions are represented in shaded coloring, and as no inventory was calculated for 2017 this year of data is omitted.

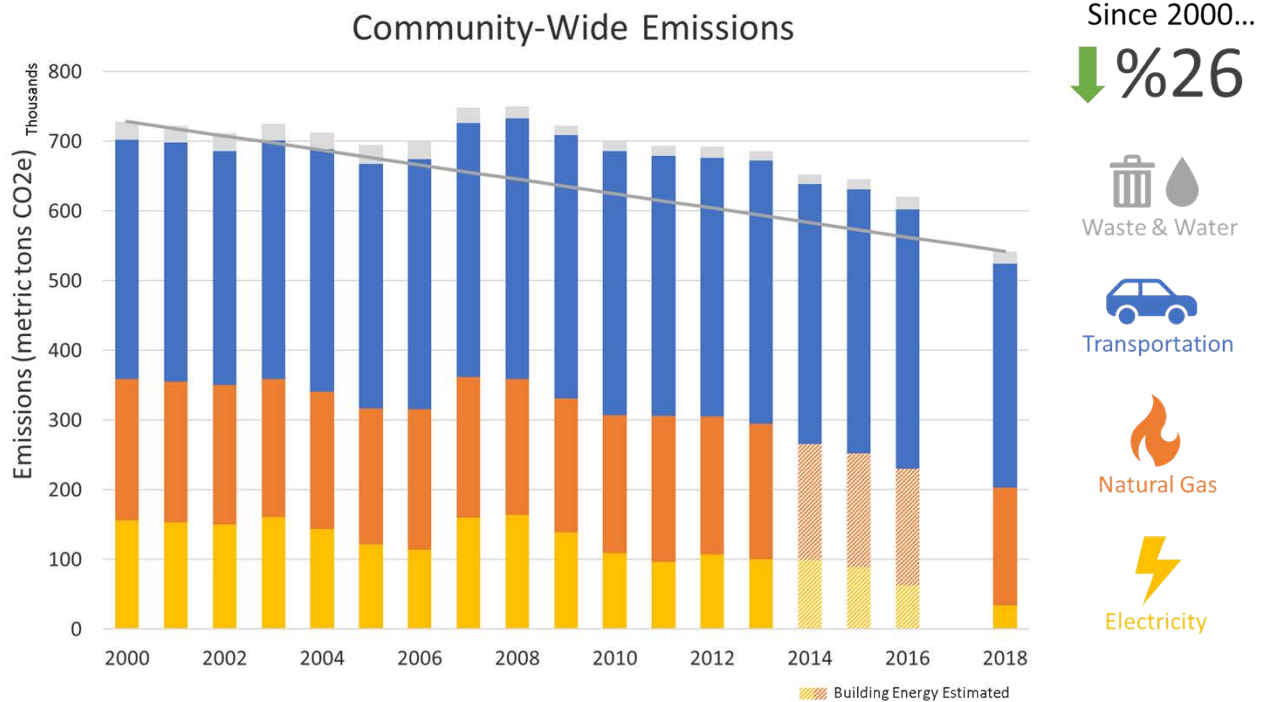


Figure 2: Historic Berkeley emissions inventories back to 2000, broken out into building natural gas and electricity, transportation, and other (water, wastewater treatment, and landfilled solid waste).

Community-wide emissions were 26% below 2000 levels in 2018 even though Berkeley’s population increased approximately 18% and the economy expanded<sup>1</sup> during that same time period.

<sup>1</sup> Staff Report: Berkeley Economic Dashboards, March 26, 2019: [https://www.cityofberkeley.info/uploadedFiles/Manager/Economic\\_Development/2019-03-26%20Item%2026%20Berkeley%20Economic%20Dashboards.pdf](https://www.cityofberkeley.info/uploadedFiles/Manager/Economic_Development/2019-03-26%20Item%2026%20Berkeley%20Economic%20Dashboards.pdf)

	Residential	Commercial / Industrial / Municipal	All Buildings
Electricity Usage	-20%	-31%	-28%
Electricity GHG Emissions	-73%	-81%	-78%
Natural Gas Usage	-26%	-2%	-17%
Natural Gas GHG Emissions	-26%	-4%	-17%

*Table 1: Summary of 2018 trend in electricity and natural gas usage within each building sector—compared to 2000 baseline year.*

This is a notable achievement, with reductions resulting from a combination of state, regional, and local efforts including:

- **Cleaner electricity mix:** As seen in Table 1 above, the GHG emissions from electricity have decreased by 78% in all buildings since 2000. This is largely due to the community joining EBCE, as well as State laws like the Renewables Portfolio Standard (RPS) which require utilities to increase the amount of renewable energy on the grid, causing the GHG emissions produced per kilowatt-hour of electricity consumed to decrease. Participation in EBCE, which has half as much carbon in its Bright Choice base product than PG&E’s base product, as well as offering its Brilliant 100 carbon-free and Renewable 100 fully renewable products, has had a significant impact in accelerating the Berkeley community toward emissions-free electricity.
- **Reduction in building energy use:** See Table 1 above for a breakdown of electricity and natural gas reductions in each building sector since 2000. Energy efficiency measures contribute to these savings, including those reached through rebate programs such as Energy Upgrade California, more efficient lighting and appliances, and improved building envelopes. Reducing the energy needs of a building first reduces the cost and feasibility of renewable energy and electrification efforts.
- **Increased rooftop solar:** According to data from the California Solar Initiative, Berkeley businesses and residents collectively installed over 2,618 solar photovoltaic (PV) systems from 2000 to 2018, increasing solar capacity to approximately 10,930 kW AC, providing renewable energy to power buildings and adding any excess clean electricity back into the grid.
- **Water consumption:** The community reduced its water consumption in buildings by 26% between 2000-2018, and a 2% decrease in consumption between 2017 and 2018. Water conservation continues to be critical as the Bay Area is expected to experience further drought in the coming years.
- **Reduction of landfilled waste:** The community has significantly reduced the amount of waste sent to landfills since 2000 through the expansion of recycling and composting services. Further reductions could be achieved through source reduction, preventing waste by reusing items or avoiding disposable, single-use products.

- **Transportation:** Transportation is the largest source of community-wide emissions, and modeled data shows a decrease of 6% from 2000 to 2018. The municipal vehicle fleet decreased emissions by 28% due to cleaner and more efficient vehicles.

In comparison, statewide emissions decreased approximately 10% from 2000<sup>2</sup> to 2017. This however cannot be directly compared to the 26% reduction achieved in Berkeley by 2018, as the City does not have a complete dataset available for 2017, and there were significant GHG reductions in 2018 when it joined EBCE. Statewide emissions reductions are expected to accelerate with the recent passing of SB 350, which sets a goal for 50% of the electricity in California to come from renewable energy by 2030, and doubling the energy efficiency of buildings in the next 15 years.

### **Considerations for tracking progress**

**Natural Gas Emissions:** It is important to note that emissions from natural gas may be much larger than what is depicted in this inventory. According to research conducted by San Francisco Department of the Environment, current emissions methodology may severely underestimate the impact of leakage throughout the entire natural gas system. Not only do natural gas leaks pose a health and safety threat to the community but they also release methane (the main component in natural gas) into the atmosphere, which traps 86 times more heat than carbon dioxide. Natural gas leakage is estimated to be approximately 1.4%, whereas new independent studies average that leakage could be 4.52%, with estimates seen up to 12%.<sup>3</sup> A methodology to integrate this into Berkeley's emissions inventory is not yet available.

**Data Access & Accuracy:** A CPUC ruling regarding data privacy has severely hindered staff's ability to attain accurate and consistent building energy usage data from PG&E for the GHG emissions inventory. The ruling dictates certain thresholds a dataset must meet in order to protect individual customer usage data from being disaggregated from the total. This ruling resulted in an incomplete dataset from PG&E between 2014-2017.

### **Consumption-Based GHG Emissions Inventory**

Although the more traditional emission inventory that Berkeley uses—known as a “production-based” or “sector-based” inventory, like the one described above—lays a foundation for key climate policy and program planning, taking a look at the emissions beyond Berkeley's borders can be beneficial to addressing the climate crisis as a regional or global issue. An individual's impact on the environment does not end at its city's boundaries, but extends to imported and exported goods consumed by that individual. Consumption-based inventories take into account the entire life cycle of a specific product to calculate its GHG emissions. Included are goods and services such as air travel (even if, as for Berkeley, the airport is located outside of a jurisdictional

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<sup>2</sup>California Air Resources Board, GHG Current California Emission Inventory Data: <https://www.arb.ca.gov/cc/inventory/data/data.htm>. Please note methodologies between state, regional, and local emissions inventories may vary slightly.

<sup>3</sup> Methane Math: How Cities Can Rethink Emissions from Natural Gas, San Francisco Department of the Environment (November 2017) <https://sfenvironment.org/download/methane-math-how-cities-can-rethink-emissions-from-natural-gas>

boundary), food, appliances, and construction of buildings. See Figure 3 for a diagram of the relationship between consumption- and sector-based approaches.

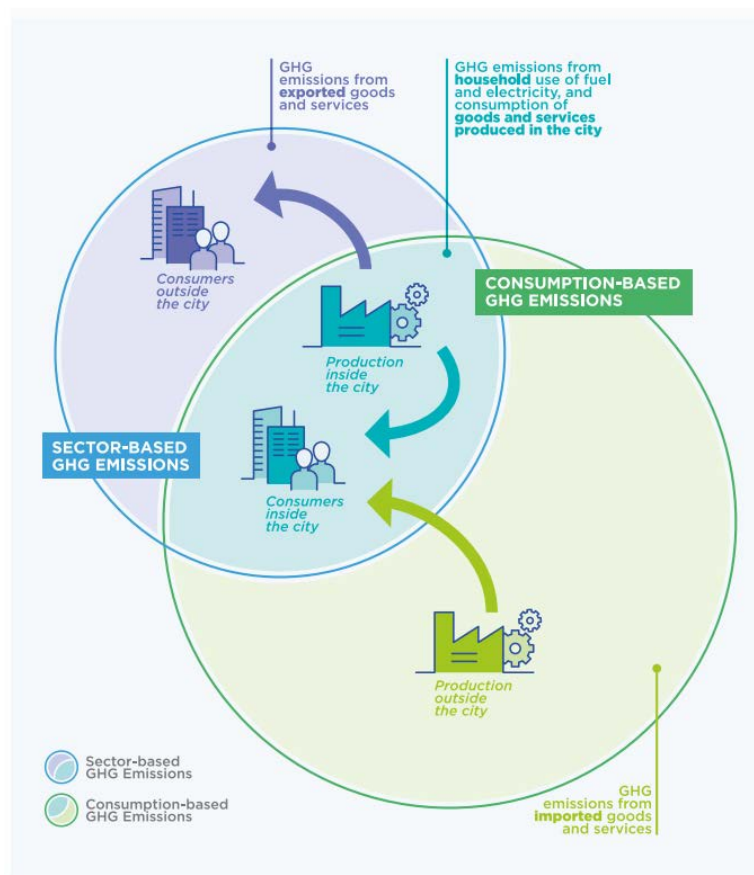


Figure 3: A diagram depicting the relationship between sector- and consumption-based approaches to GHG emissions tracking.<sup>4</sup>

Although this type of inventory would be helpful to track Berkeley’s complete carbon emission profile, capturing this data accurately has been proven very complex. Currently no standardized or accurate methodology across cities has yet been adopted. However, the CoolClimate Network, a research partnership including UC Berkeley, created a consumption-based inventory for every city in the Bay Area using 2013 data.<sup>5</sup> This inventory was presented to Council in December 2018<sup>6</sup>. Though it has not been updated, the 2013 data showed that Berkeley has a relatively low carbon footprint per household, in comparison with other Alameda County cities. This could be due to Berkeley’s denser housing, transit service, and biking and pedestrian infrastructure.

<sup>4</sup> C40 Cities, Consumption-Based GHG Emissions of C40 Cities. <https://www.c40.org/researches/consumption-based-emissions>

<sup>5</sup> Bay Area Air Quality Management District, Consumption-Based GHG Emissions Inventory: <https://www.baaqmd.gov/about-air-quality/research-and-data/emission-inventory/consumption-based-ghg-emissions-inventory>

<sup>6</sup> CAP Report Update to City Council, December 18, 2018: <https://www.cityofberkeley.info/recordsonline/api/Document/AS1qYE088qcY6ips8nwbGgL4jGxxlSquza3ESIDOTS6DL2nWl1jPxzLJVhyvQgYDIiKpuJdD3oigVB31dHEfM%3D/>

Due to overlapping categories with the sector-based approach (shown in Figure 3), this consumption-based inventory cannot be added directly into Berkeley’s sector-based inventory. However, analyzing both inventories separately paints a more complete picture of how Berkeley residents and businesses, as global consumers, can address their carbon footprint. The outcome of the consumption-based study can be found in the last CAP Update Report to Council, as well as on an interactive online SF Bay Area Carbon Footprint Map<sup>7</sup>, where specific sectors can be isolated and compared across Berkeley zip codes.

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<sup>7</sup> Bay Area Air Quality District, SF Bay Area Carbon Footprint Map.  
<https://baaqmd.maps.arcgis.com/apps/MapSeries/index.html?appid=94b9eff6547f459fba27a6853327e1a2>



## Attachment 2 – Municipal Facility Update

Staff continues to make improvements in municipal facilities to increase energy efficiency, lower energy costs, reduce greenhouse gas (GHG) emissions, and transition buildings toward being all-electric powered by clean electricity. Municipal buildings purchase emissions-free electricity, the Brilliant 100 product from East Bay Community Energy.

### Electrification Retrofits of Municipal Buildings

Several buildings undergoing construction include plans to advance electrification, including:

- **The Mental Health Clinic** is being retrofitted as a zero-emissions building and will have no gas meter on site. Using a grant from the Berkeley Lab, the historic building includes passive daylighting, saving on electric lighting, and will use high efficiency electric heat pumps for space heating, cooling and ventilation. Water heating and other appliances are all electric. This building will have a formal case study done, as the Berkeley Lab grant includes energy monitoring of all systems. The building is scheduled for completion in October 2020.
- **Live Oak Recreation Center** is also currently under construction. This will be a nearly all-electric building, with heat pumps providing space heating and cooling and water heating. Supplementing the heat pumps will be a number of ceiling fans in the social hall, art room, and other activity rooms, to facilitate cooling and help prevent air stagnation. The kitchen will have an electric induction range. The roof and electrical system will be solar PV-ready, but funding has not been identified for a solar installation. The gas furnace in the theater will be the only fossil-fuel component remaining. The building is scheduled for completion in October 2020.
- **North Berkeley Senior Center** is currently undergoing a major seismic improvement renovation, which has been expanded to include the electrification of a number of the building's energy systems. These will include replacing the three boilers which provided forced hot water heating, with new high efficiency electric heat pumps, and solar PV to help offset the additional electric load. The solar inverter is "battery-ready", so that if a future battery system can be installed, it could provide both emergency power and will be able to operate from the battery at times of day when energy is most expensive. The building also received high efficiency double paned insulated windows and new wall and attic insulation, which will reduce the overall heating and cooling loads. At this time, the building will still have a natural gas range and oven, and there is no funding identified for battery storage. The building is planned for completion in November 2020.

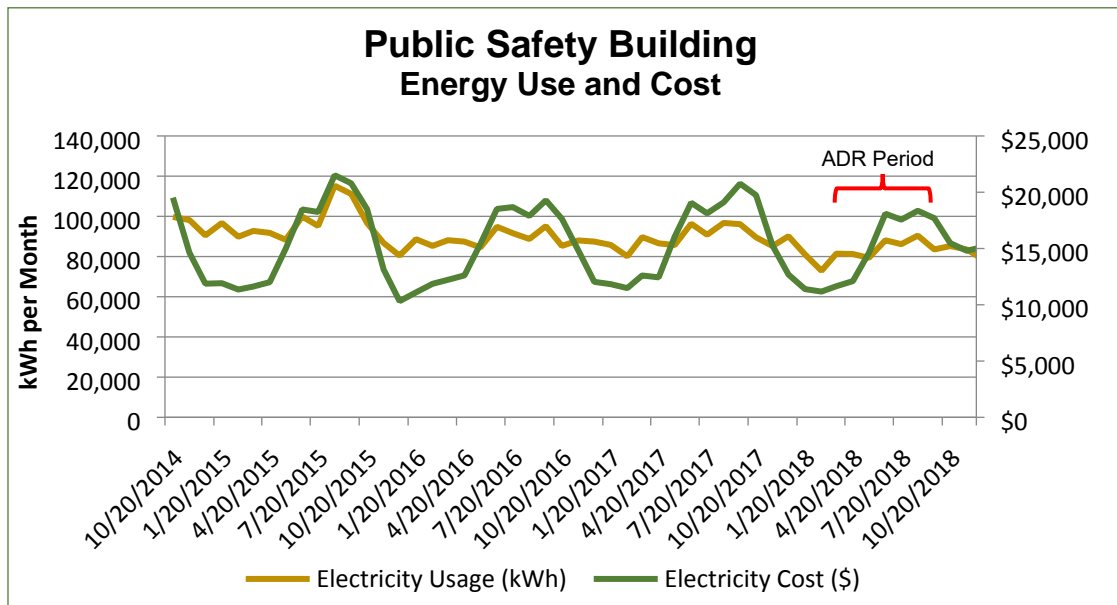
### Other Energy Efficiency, Emissions Reduction and Cost Savings Projects



In the past 2 years, the City implemented several projects to improve energy efficiency, reduce peak electricity use and reduce GHGs.

- **Automated Demand Response (ADR)** programs aim to reduce electricity during times of peak demand, when electricity has the highest cost and GHG emissions. These projects were implemented at the Public Safety Building and the James Kenney Recreation Center, because the energy management software at each site was compatible. The Public Safety Building saved 42,400 kWh, or about \$11,000 in air conditioning costs as shown below:

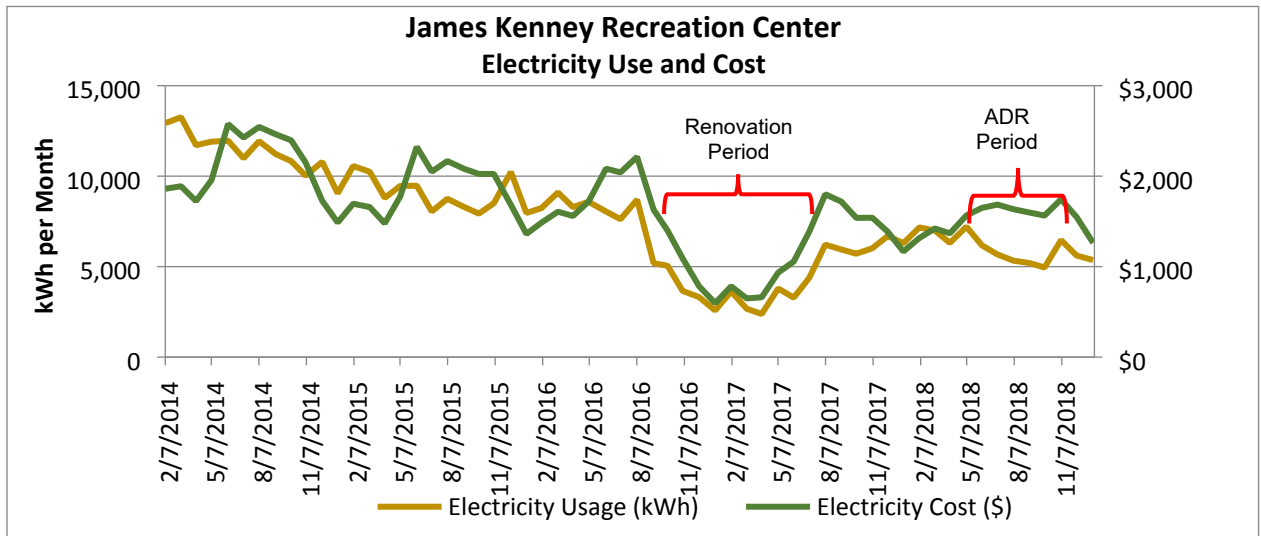
Figure 1- Public Safety Building Energy Use and Cost



The Public Safety Building also underwent a complete lighting upgrade to high efficiency LEDs. This project was completed in 2019 and was the City’s first On-Bill Financing project. The total cost was \$250,000, with zero up-front costs from the City of Berkeley. These projects were funded through a PG&E program that provides immediate payment to the energy contractors, and allow the City to repay the loan on its monthly utility bill. The loan payment is roughly equal to the energy cost savings, resulting in no cost increase for the City, while reducing energy use and GHG emissions.

James Kenney Recreation Center had proportionally similar results with its Automated Demand Response lighting project, saving nearly 4,500 kWh, and about \$4,000. Note that the energy and cost comparisons were made to 2016 energy use, since the building was under renovation in 2017.

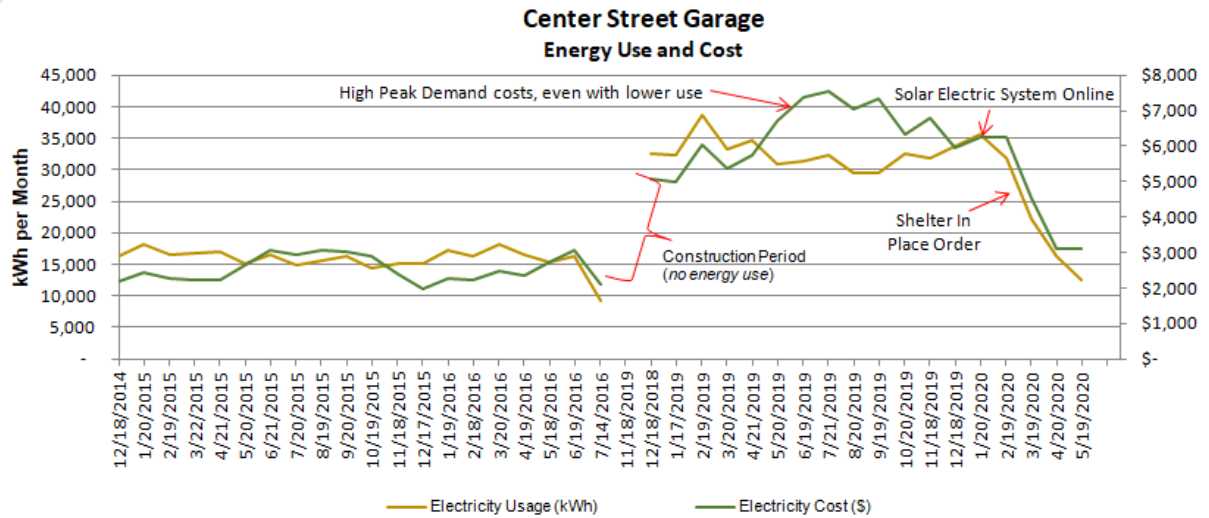
Figure 2 – James Kenney Recreation Center Electricity Use and Cost



- On-site Solar PV** at the Center Street Garage was completely rebuilt beginning mid-2016, re-opening in November 2018. The new garage is 300% larger, initially had 20 electric vehicle charging ports, and now has 57. This explains the significant jump in overall costs and use, but there is a similar gain in revenue to help offset this increased cost of operations. The solar PV system was installed last, and due to commissioning and testing, did not come online until January 2020. The effects were immediate, reducing energy costs and energy use.

Note that before the solar came online, the demand energy cost was comparatively high (green line, below), even though the actual energy consumed was low. High demand was due to the EV charging stations, which were in use at times of day when energy costs are the highest.

Figure 3 - Center Street Garage Energy Use and Cost



- Future Projects** will be developed as energy efficiency and electrification assessments are completed for buildings, including the Spring Animal Shelter, South Berkeley Senior Center, the Central Library, and the South Berkeley Branch Library. Once these assessments have been completed, the goal is to use On Bill Financing to make energy improvements, including LED lighting, heating, cooling or ventilation improvements. Efficiency in these systems is a fast and efficient way to reduce costs and GHG emissions.

## UC Berkeley: 2018-2019

UC Berkeley finished its first-ever complete submission for the Sustainability Tracking, Rating and Assessment System, or STARS, earning a high Gold rating with 78.5 points. That result placed UC Berkeley 11th out of 349 colleges and universities having completed a full STARS assessment. The campus's top-ranked environmental sciences programs helped UC Berkeley earn top-notch STARS scores for its sustainability-themed undergraduate and graduate programs and sustainability-focused research. UC Berkeley also earned perfect scores in fields that measure diversity and equity in the campus community. The STARS rating additionally earned UC Berkeley a coveted spot among the top 20 greenest universities, according to the Sierra Club and the Princeton Review.

The popular Cool Campus Challenge returned to UC in April 2019, and UC Berkeley took the overall honor as the Coolest UC, achieving the most carbon-saving points of any UC campus or medical center. Engaging more than 4,200 participants, or 7.5 percent of the campus, UC Berkeley is saving tons of carbon dioxide from participants' actions, equivalent to taking 500 cars off the road for an entire year. Also in support of carbon reduction action, UC Berkeley's chancellor, in coordination

with students, signed a memorandum of understanding committing the Berkeley campus to 100 percent clean, renewable energy by 2050.

Berkeley received five best practice awards at the annual California Higher Education Sustainability Conference. UC Berkeley's efforts on zero waste curriculum and operations, environmental justice, toxin reduction and climate action took the honors. The awards highlight the breadth, depth and leadership in sustainability the campus both values and excels in.

UC Berkeley's newest building, the Connie and Kevin Chou Hall at Haas School of Business, is now one of the greenest academic buildings ever. It has earned a trifecta of green building certifications. The building achieved TRUE Zero Waste certification at the highest possible level, along with LEED Platinum Certification for its architectural design, construction and energy efficiency. Most recently it became the campus's first WELL certified space at the Silver level. With no landfill bins in the building, a team of staff and students is working to phase out single-use, disposable materials in favor of reusable containers and supplies, and the building's on-site food vendor adheres to zero waste practices.

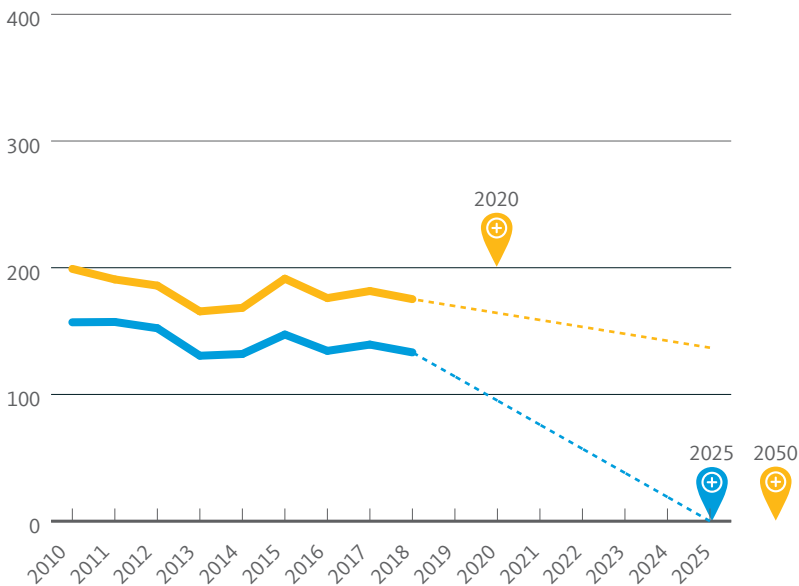


Credit: Elena Zhukova

# UC Berkeley, By the Numbers 2018

## GREENHOUSE GAS EMISSIONS

(1,000 metric tons CO<sub>2</sub>e)



- Scopes 1 (natural gas, campus fleet, fugitive) + 2 (purchased electricity)
- Scopes 1, 2 + 3 (campus commute, business air travel)

**Goals:**

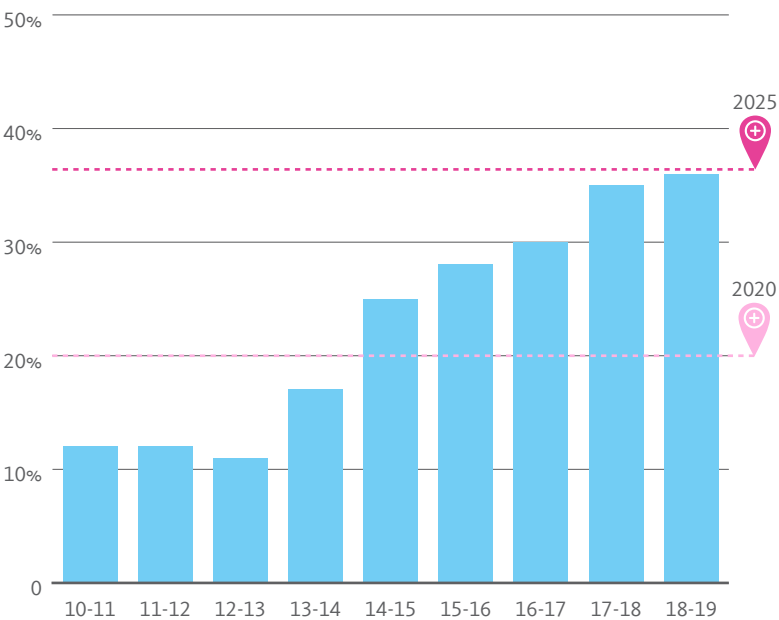
- 1990 levels by 2020 (scopes 1, 2 + 3)
- Carbon neutral by 2025 (scopes 1 + 2)
- Carbon neutral by 2050 (scopes 1, 2 + 3)

**Progress:**

- 2020 goal met

## WATER

(Percent reduction in per capita potable water consumption)



**Goal:**

- 20% reduction from baseline in per capita potable water use by 2020 and 36% reduction from baseline in per capita potable water use by 2025

**Progress:**

- 2020 goal met
- 2025 goal met

**2018-19 gallons per capita: 13,185**

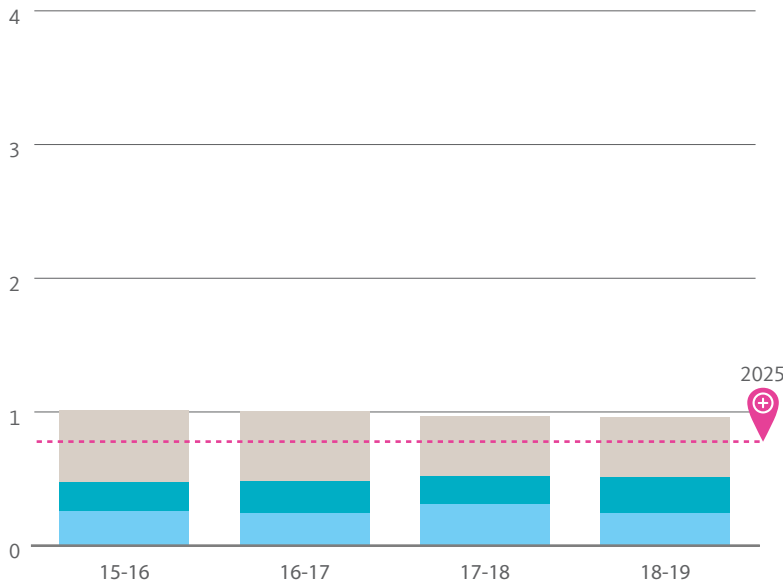
# UC Berkeley, By the Numbers 2018

## WASTE

(Daily per capita waste generation in pounds)



- Recycle
- Organics
- Landfill

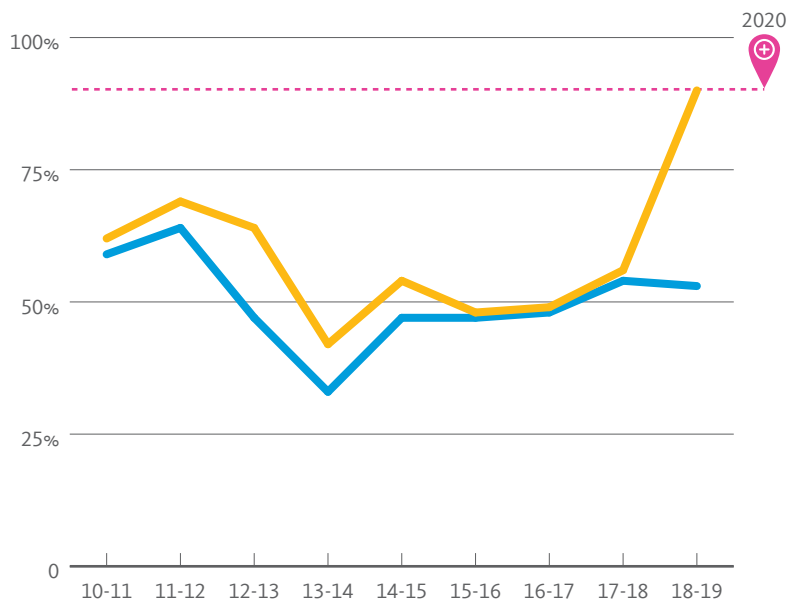


### Goals:

- Reduce waste generation per capita to FY 2015-16 levels by 2020, 25 percent below FY 2015-16 levels by 2025, and 50 percent below FY 2015-16 levels by 2030
- Zero waste by 2020

(Diversion rate)

- Diversion Rate (C&D + MSW)
- Diversion Rate (MSW)



# UC Berkeley, By the Numbers 2018

## FOOD



### Goal:

- 20% of food service spend to be from sustainable products by 2020

### Progress:

**Residential:** 28%

**Retail:** 14%

UC Berkeley has met the 2020 goal for residential sustainable food service spend.

## PROCUREMENT



### Goal:

- 25% green spend as a total percentage of spend per product category

### Progress:

**Cleaning supplies:** 85%

UC Berkeley has met the green spend goal for cleaning supplies.

## TRANSPORTATION



### Goals:

- 50% of all new light-duty fleet vehicles purchased at each campus will be zero-emission or hybrid by 2025
- Reduce SOV commute rate to no more than 40% of employees and no more than 30% of all employees and students by 2050. (In other words, 60% of employees and 70% of employees and students will use alternative commute modes to get to campus)

### Progress:

**Percent of all new light-duty fleet vehicles zero-emission or hybrid:** 25%

**Alternative commute rate:**

**Employee:** 62%

**Overall:** 83%

UC Berkeley has met the employee and overall alternate commute goal.

## GREEN BUILDING



### Goals:

- LEED Silver minimum for all new construction
- Certify at least one LEED EBOM project on each campus

### Progress:

**UC Berkeley added one new LEED Silver building in 2019 to total:**

**Platinum:** 2

**Gold:** 12

**Silver:** 7

**Certified:** 1

This list includes the Connie and Kevin Chou Hall (LEED Platinum in 2018) and the David Blackwell Residence Hall (LEED Gold in 2018).

**Number of LEED EBOM projects:** 0

## SUSTAINABLE BUILDING OPERATIONS AND LABS



### Goal:

- Assess three research labs

### Progress:

**Number of assessed research labs:** 18

UC Berkeley has met the sustainable research lab assessment.



# 2020 Berkeley Lab Greenhouse Gas Emissions Summary for the City of Berkeley

## Sustainability Goals

Berkeley Lab pursues three broad initiatives to reach sustainability goals. These initiatives, listed below, are described in greater detail at [sbl.lbl.gov](http://sbl.lbl.gov).

- Climate: Improving buildings, greening the energy grid, and low-carbon commutes
- Waste: Rethinking waste through composting, recycling, and smart purchasing
- Water: Upgrading fixtures, stopping leaks, and encouraging conservation

Our sustainability goals are driven by requirements of the federal government, California state law, and University of California policy. These goals are continuously updated and summarized [here](#). The primary sustainability goals include:

- **Efficiency and Climate**
  - Improve energy efficiency 2% annually
  - Reduce overall GHG emissions 30% by 2025 (2015 baseline)
  - Procure or produce at least 7.5% of electricity use from renewable sources
- **New Construction**
  - Limit new construction energy use to 35%-50% of an existing building baseline
  - Outperform energy code by 30%
  - Eliminate on-site fossil fuel use in new construction by 2020
  - Meet additional requirements in the [Berkeley Lab Sustainability Standards for New Construction](#)
- **Waste Minimization**
  - Achieve Zero Waste by 2020 (>90% waste diversion)
  - Reduce solid waste per capita 50% by 2030
- **Water Conservation**
  - Reduce per capita water consumption 36% by 2025 (2007 baseline)

## Strategies

The Lab's key current sustainability strategies include:

- **BUILDINGS**: Improve efficiency, enhance performance, and eliminate GHG impacts
- **RENEWABLE ENERGY**: Decarbonize our energy supply, develop local generation and storage
- **FOOD AND ORGANICS**: Minimize the impacts of our food choices
- **MATERIALS**: Create the building blocks of a circular materials economy
- **TRANSPORTATION**: Electrify and lower impacts from commute choices
- **WATER**: Waste less water
- **AIR QUALITY AND HEALTH**: Reduce pollution and improve health



## Greenhouse Gas Emissions

Total Berkeley Lab greenhouse gas emissions for fiscal year 2019 (ending September 2019) were 54,864 MTCO<sub>2</sub>e. These emissions are 29% below 2008 levels and 20% below 2015 levels. Emissions are updated annually in December and shared in the data section of the Sustainable Berkeley Lab website (see [sbl.lbl.gov/data](http://sbl.lbl.gov/data).) These emissions are reported according to a federal greenhouse gas reporting protocol and include Scope 1 direct emissions from onsite combustion of fuels and emissions of gases used for refrigeration and scientific research, Scope 2 indirect emissions from purchased electricity, as well as Scope 3 indirect emissions from employee commuting, business air and ground travel, electricity transmission and distribution, off-site wastewater treatment, and off-site municipal solid waste disposal.

## Sustainability Metrics

As of spring 2020, Berkeley Lab is maintaining an annual energy savings portfolio of 13.0 million kWh and water savings of 20 million gallons. This is equivalent to the energy generation from an 8.4 MW photovoltaic array, which would occupy 25 football fields or 33 acres. Other key sustainability performance metrics for the Lab, as of October 1, 2019 include:

- Lab-wide energy use intensity (weather-corrected energy consumption divided by square footage) has improved 14% since FY 2015. See Change in Energy Use Intensity and Consumption from Baseline at [sbl.lbl.gov/data](http://sbl.lbl.gov/data) for more detail.
- The Lab has made particular progress in reducing natural gas consumption. Lab-wide weather-corrected natural gas consumption as of October 2019 is 13% lower than in FY 2015.
- 21% of electricity use (and 16% of all energy use) is procured or generated from renewable sources (beyond the renewables included in the grid power mix).
- Waste diversion is at 75% (see [chart](#)), and diversion from construction and demolition projects is at 84%.
- Water use intensity is 16% below 2007 levels (see [chart](#)).

## Awards

The Lab's sustainability efforts were recognized by five awards since our last report to the Council.

- The Lab was awarded a 2020 Best Practice Award in Overall Sustainable Design for the newly completed Integrative Genomics Building. The award will be presented by the California Higher Education Sustainability Conference in July.
- The Lab won a [2019 Department of Energy Sustainability Award](#) - Outstanding Sustainability Program or Project for its policy on [Sustainability Standards for New Construction](#).
- The Lab received a [2019 Best Practice Award](#) from the California Higher Education Sustainability Conference for advanced use of SkySpark (a building analytics platform) to support the ongoing commissioning (OCx) process.



- The Lab received a 2019 “Accelerating Smart Labs” Project Award from the Department of Energy, on behalf of the Better Buildings Smart Lab Accelerator. The award recognizes the Lab’s innovative approach to generate energy and water savings through continual improvement in building operations, what the Lab calls an ongoing commissioning (OCx) process.
- The Lab received a [2019 EPEAT Purchaser Award](#) from the Green Electronics Council. The award recognizes the Lab’s efforts to purchase sustainable Information Technology (IT) products. Berkeley Lab is one of eight organizations that achieved the Five-Star level, and one of 59 organizations that received an EPEAT Purchaser Award.

## Highlights

Recent highlights are summarized below.

### CLIMATE

#### Energy Information and Management

- **Energy and Water Savings in High Performance Computing:** The Lab has continued work with its high-performance computing center (known as NERSC) to protect savings and strengthen monitoring capabilities. The Lab verified annual maintained savings of over 1.8 million kWh at NERSC - approximately 37% of the baseline “non-compute” electricity use - and over 500,000 gallons of water. See details on the NERSC Efficiency Optimization at [sbl.lbl.gov/progress](http://sbl.lbl.gov/progress).
- **Efficiency Improvements in Berkeley Labs Computing Center:** The power utilization effectiveness (or PUE, a measure of the non-compute load as a percentage of the total data center load) at the Lab’s Berkeley Research Computing Center has been reduced from an average of 1.45 to 1.37 in the last year. This means that the “overhead” energy use of the facility was reduced by 18%. These savings have been generated by decommissioning computer room air conditioning (CRAC) units in favor of rear door heat exchangers at each rack.
- **Site-Wide Exterior Lighting:** The Lab continues efforts to modernize exterior lighting on its Hill campus. See a Lighting Modernization project overview at [sbl.lbl.gov/progress](http://sbl.lbl.gov/progress). A retrofit of fixtures in the building 50 garage completed in early FY 2019 resulted in 95 percent energy savings and higher quality lighting.
- **ISO 50001 Implementation:** The Lab has completed a two-year project to align energy and water management



activities to ISO 50001, an international energy management standard. ISO 50001 alignment is a key strategy to ensure that energy and water management at the Lab is strategic, effective, and persistent. The primary project deliverable is an online [Energy and Water Management System Manual](#). A new energy and water management policy has also been finalized to support ISO 50001 certification. ISO 50001 efforts have been coordinated closely with the Lab’s Energy Technologies Area, which was instrumental in developing the standard.

## Green Building

- **Updated Sustainability Standards for New Construction:** The Lab updated its policy on [Sustainability Standards for New Construction](#) in April 2019.
- **High Performance New Construction:** The Integrated Genomics Building was occupied in November 2019 and is designed to meet deep energy efficiency targets (consuming 36% of the energy used by the prior facility in Walnut Creek), use no natural gas, and offset about 15% of its total energy use with rooftop photovoltaics. See more details about the Integrative Genomics Building (IGB) Design at [sbl.lbl.gov/progress](http://sbl.lbl.gov/progress). Photovoltaic panels are planned for future installation.

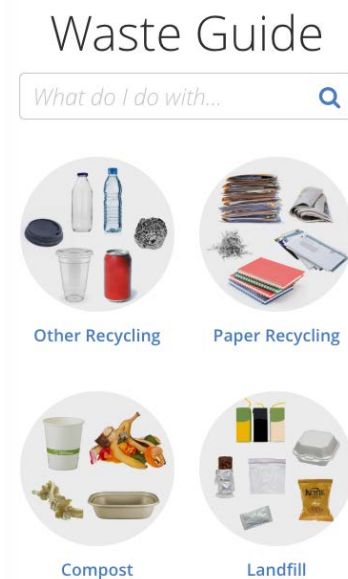


## Transportation

- **Increased Electric Vehicle Charging:** The Lab increased the size of its charging community by about 28% in FY 2019 to (from 145 to 171). Approximately 95 EV drivers are charging regularly each month at the Lab’s main site. Details about the Staff EV Charging Program are available at [sbl.lbl.gov/progress](http://sbl.lbl.gov/progress).
- **Improved Shuttle Routes:** In November 2018, the Lab introduced a new shuttle route serving north Berkeley, intended to reduce single-occupancy vehicle trips and avoid the need for 75 parking spaces at the Lab’s main site. The Lab continues to optimize shuttle routes from the Rockridge BART station, which were expanded in September 2018. As of October 2019, the Lab also updated its NextBus Alert system, which allows riders on all shuttle routes to be notified when the next shuttle is arriving at a stop.

## WASTE

- **Online Waste Guide:** The Lab has continued hosting an online Waste Guide ([wasteguide.lbl.gov](http://wasteguide.lbl.gov)) to educate the Lab community on how to reduce, reuse, and recycle more than 250 items. The Guide has been very useful and popular. It



indicates how to dispose of items and provides additional details about what happens after items are put in the bin.

- **Site-Wide Waste Audits:** The Lab has maintained its site-wide waste audit system to track building-level diversion and identify the composition of waste streams in order to better target diversion efforts. Explore Waste Diversion by Building at [sbl.lbl.gov/data](http://sbl.lbl.gov/data) and read about the Lab’s data-driven waste diversion efforts at [sbl.lbl.gov/progress](http://sbl.lbl.gov/progress).
- **IGB Pioneers as First Zero Waste Building:** IGB has demonstrated leadership by committing to be the Lab’s first building to go “zero waste,” with updated infrastructure to reach and sustain greater than 90% waste diversion.
- **New Policies for Zero Waste and Waste Reduction:** New policies were finalized this year to clarify roles and responsibilities related to achieving zero waste (greater than 90% diversion).

## WATER

- **New Water Policies:** Three policies were finalized this year intended to reduce water consumption. These include policies defining limitations for landscape watering, for water-conserving restroom fixtures, and to eliminate water waste associated with single-pass cooling. Single-pass cooling refers to the use of a cold water supply as a source of cooling in which water is run through a piece of laboratory or building cooling system equipment to a drain.

**ATTACHMENT 4: Sustainability Community Outreach Events  
February 2019 – February 2020**

DATE	EVENT	ATTENDEES*	PARTNERS**
2/1/19	<b>Equity &amp; Adaption Training</b>	48	Urban Sustainability Directors Network (USDN), Movement Strategy Center, Rami & Assoc.
2/7/19	<b>East Bay Electrification Expo</b>	280	Ecology Center, StopWaste
3/15/19	<b>Electric Mobility Stakeholder Workshop</b>	50	
3/19/19	<b>Senior Center East Bay Community Energy (EBCE) Outreach</b> (tabling)		
3/26/19	<b>Bay Area Multifamily Building Enhancements (BAMBE) Multi-Family Workshop - large properties</b>	34	StopWaste
3/26/19	<b>BAMBE Multi-Family Workshop - small properties</b>	25	StopWaste
4/8/19	<b>Senior Center EBCE Outreach</b> (tabling + presentation)	20	
5/4/19	<b>Energy Town Hall</b> (tabling + presentation)	40	Hosted by: Councilmembers Harrison & Bartlett
6/23/19	<b>Electric Cars 101 Workshop</b>	30	Ecology Center, 350 Bay Area
6/25/19	<b>Electric Cars 101 Workshop</b>	30	Ecology Center, 350 Bay Area
6/29/19	<b>Making a Healthier Home Workshop</b>	30	Ecology Center, StopWaste
8/22/19	<b>Clean Transportation Convening</b>	135	Berkeley Climate Action Coalition (BCAC), Ecology Center
9/14/19	<b>3rd Annual Ride Electric</b>	300-500	Ecology Center
10/15/19	<b>2019 SunShares Workshop</b>	50	Ecology Center
10/16/19	<b>Planning Department Open House</b> (tabling)	n/a	
10/20/19	<b>City of Berkeley Open House</b> (tabling)	n/a	Hosted by: City Manager
11/5/19	<b>Get Ready for 2020: Electrification for Home Builders &amp; Designers Workshop</b>	98	BCAC, Ecology Center, StopWaste
11/9/19	<b>Awakening the Dreamer Symposium</b> (tabling)		Hosted by: Unitarian Universalist Church, Pachamama Alliance
11/17/19	<b>Making a Healthier Home Workshop</b>	75	StopWaste, City of Albany
1/21/20	<b>Citizen's Climate Lobby (CCL): Climate Restoration - We Are Not Doomed!</b> (tabling)	n/a	Hosted by CCL: BCAC + multiple community partners
2/26/20	<b>Bridge Association of Realtors: Electrification 101 for Realtors Workshop</b>	63	Hosted by: Bridge Association of Realtors

\*Total attendees (participants, staff & presenters) for workshops only.

\*\*Unless noted, OESD was either the lead entity or a co-host of events. At events hosted by another organization or City department, OESD participated by tabling and/or presenting.







Lori Droste  
Vice Mayor, District 8

## CONSENT CALENDAR

February 23, 2021

**To:** Honorable Mayor and Members of the City Council

**From:** Vice Mayor Lori Droste, Councilmember Terry Taplin, Councilmember Ben Bartlett, and Councilmember Rigel Robinson

**Subject:** Resolution to End Exclusionary Zoning in Berkeley

### **Recommendation**

Adopt a resolution to state Berkeley City Council's intent to end exclusionary zoning in Berkeley by December of 2022.

### **Current Problem and Its Effects**

Single family residential zoning has its roots in racist exclusionary zoning policy and leads to racial and economic segregation.

### **Background**

#### ***History of Exclusionary Zoning, Racial and Economic Segregation, and Current Zoning***

Single family residential zoning was born in Berkeley in the Elmwood neighborhood in 1916. This zoning regulation forbade the construction of anything other than one home per lot. In 1915, Berkeley's City Attorney Frank V. Cornish wrote "Apartment houses are the bane of the owner of the single family dwelling" while the consultant who penned Berkeley's zoning ordinance stated, "[The] great principle of protecting the home

against the intrusion of the less desirable and floating renter class.”<sup>1</sup> Subsequently, the Mason McDuffie Company’s use of Berkeley’s zoning laws and racially-restrictive property deeds and covenants prevented Black, Indigenous, and People of Color from purchasing or leasing property in east Berkeley.<sup>2</sup>

Mason-McDuffie race-restrictive covenants stated, “if prior to the first day of January 1930 any person of African or Mongolian descent shall be allowed to purchase or lease said property or any part thereof, then this conveyance shall be and become void...”<sup>3</sup> In 1916, McDuffie began lobbying for the exclusionary zoning ordinances in Berkeley to protect against the “disastrous effects of uncontrolled development”<sup>4</sup> and restrict Chinese laundromats and African American dance halls, particularly in the Elmwood and Claremont neighborhoods.<sup>5</sup>

After *Buchanan v Wareley* in 1917, explicit racially restrictive zoning became illegal. However, consideration to maintaining the character of districts became paramount and Mason-McDuffie contracts still stipulated that property owners must be white.

In 1933, the federal government created a Home Owners Loan Corporation (HOLC), which produced residential maps of neighborhoods to identify mortgage lending risks for real estate agents, lenders, etc. These maps were based on racial composition, quality of housing stock, access to amenities, etc. and were color coded to identify best (green), still desirable (blue), definitely declining (yellow), and hazardous (red) neighborhoods. These maps enabled discriminatory lending practices (later called ‘redlining’) and allowed lenders to enforce local segregation standards.<sup>6</sup> These maps extensively referenced single-family zoning as on par with racial covenants in appreciating property values, unaffordability and excluding people of color. For example, when describing the Berkeley Hills: “Zoned first residential, single family, deed restrictions prohibit Asiatics and Negroes.”

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<sup>1</sup> Frank V. Cornish. “The Legal Status of Zone Ordinances” and Charles Cheney. “The Necessity for a Zone Ordinance in Berkeley.” *Berkeley Civic Bulletin*, May 18, 1915.

<sup>2</sup> Wollenberg, *Berkeley, A City in History*, 2008.

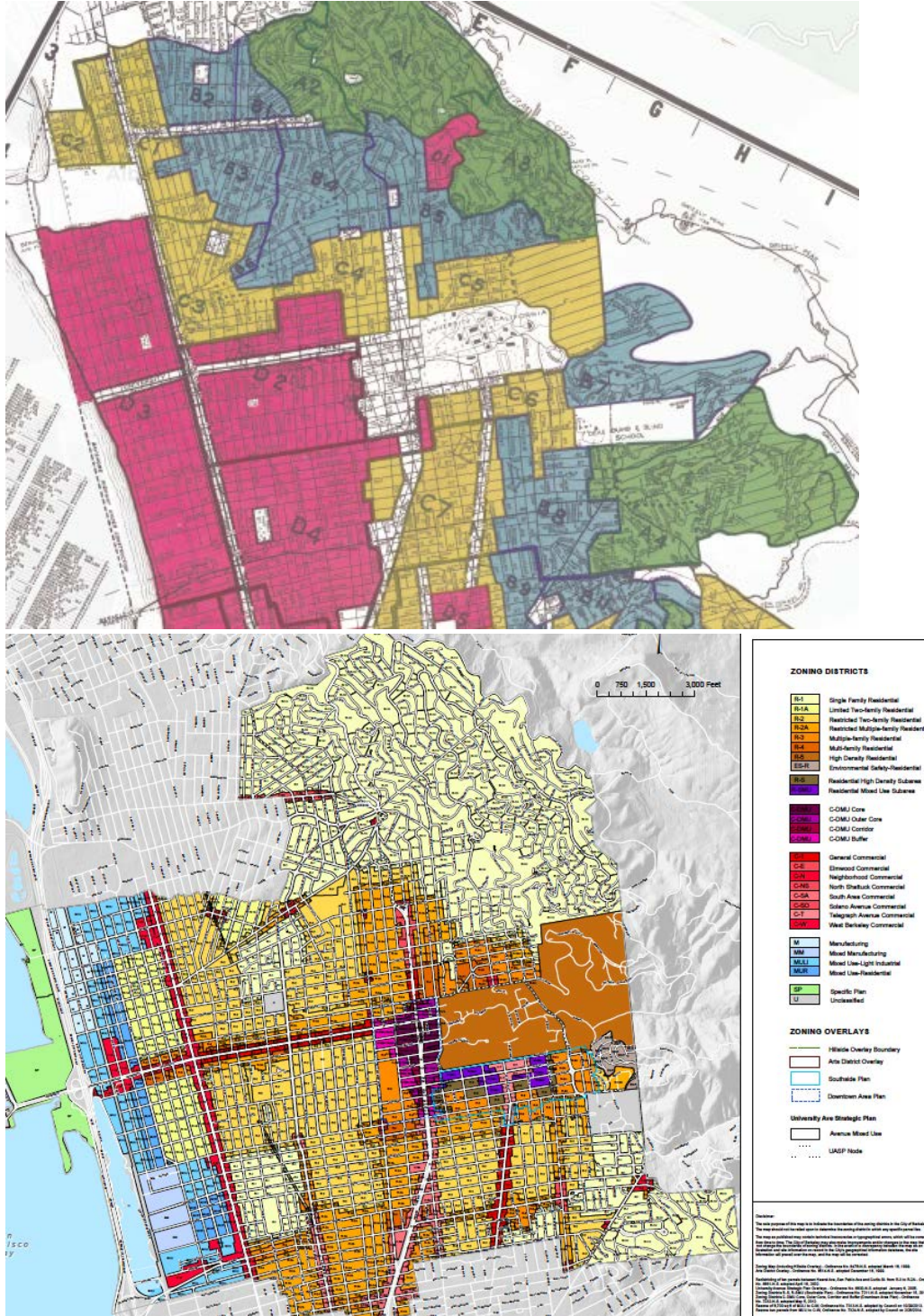
<sup>3</sup> Claremont Park Company Indenture, 1910

<sup>4</sup> Lory, Maya Tulip. “A History of Racial Segregation, 1878–1960.” *The Concord Review*, 2013. <http://www.schoolinfosystem.org/pdf/2014/06/04SegregationinCA24-2.pdf>

<sup>5</sup> Weiss, M. A. (1986). Urban Land Developers and the Origins of Zoning Laws: The Case of Berkeley. *Berkeley Planning Journal*, 3(1). Retrieved from <https://escholarship.org/uc/item/26b8d8zh>

<sup>6</sup> NCRC Opening Doors to Economic Opportunity, “HOLC “REDLINING” MAPS: The persistent structure of segregation and economic inequality.” Bruce Mitchell and Juan Franco. [https://ncrc.org/wp-content/uploads/dlm\\_uploads/2018/02/NCRC-Research-HOLC-10.pdf](https://ncrc.org/wp-content/uploads/dlm_uploads/2018/02/NCRC-Research-HOLC-10.pdf)





The images above compare a HOLC-era (Thomas Bros Map) map of Berkeley with a current zoning map. Neighborhoods identified as “best” in green on the HOLC-era map typically remain zoned as single family residential areas today. Red ‘hazardous’ neighborhoods in the first map are now largely zoned as manufacturing, mixed use, light industrial, or limited two family residential.<sup>7</sup>

<sup>7</sup> Robert K. Nelson, LaDale Winling, Richard Marciano, Nathan Connolly, et al., “Mapping Inequality,” American Panorama, ed. Robert K. Nelson and Edward L. Ayers, <https://dsl.richmond.edu/panorama/redlining/#loc=10/37.8201/-122.4399&opacity=0.8&sort=17&city=oakland-ca&adview=full>

Prior to the 1970s and the passage of the Neighborhood Preservation Ordinance, a variety of missing middle housing --duplexes, triplexes, and other smaller multi-unit building typologies-- was still being produced and made available to families throughout the Bay Area, particularly in Berkeley. In 1973, the residents of Berkeley passed the Neighborhood Preservation Ordinance which outlawed multi-unit housing in certain parts of Berkeley. As Councilmember Ben Bartlett and Yelda Bartlett wrote in their 2017 *Berkeleyside* op-ed, the neighborhood preservation ordinance “[the Neighborhood Preservation Ordinance] did not mention race, but instead tried to preserve ‘neighborhood character.’ As a result, from 1970 to 2000, fewer than 600 dwelling units were built in Berkeley. Areas zoned for single family residential (R-1), limited two-family residential (R-1A), and restricted two-family residential (R-2) are now some of the most expensive parts of our city—especially on a per-unit basis.”<sup>8</sup>

Until 1984, Martin Luther King Jr Way was known as Grove Street. For decades, Grove Street created a wall of segregation down the center of Berkeley. Asian-Americans and African-Americans could not live east of Grove Street due to race-restrictive covenants that barred them from purchasing or leasing property. While race-restrictive covenants no longer prohibit individuals from purchasing or leasing homes, most cities still retain the vestiges of exclusionary zoning practices.

The UC Othring and Belonging Institute recently released a study on racial segregation and zoning practices which revealed that 83% of residential land in the Bay Area is zoned for single family homes.<sup>9</sup> The authors found that the ramifications of such zoning practices leads to a greater percentage of white residents, as recounted in KQED’s “The Racist History of Single Family Zoning.”<sup>10</sup> By banning less expensive housing options, such as duplexes, tri-/four-plexes, courtyard apartments, bungalow courts, and townhouses, in low-density, “desirable” places in Berkeley, the current zoning map dictates that only wealthier families will be able to live or rent in certain parts of Berkeley, mainly in North and East Berkeley. Today, with the median home sale price at \$1.3 million<sup>11</sup> and the typical White family having eight times the wealth of the typical Black family,<sup>12</sup> this de-facto form of segregation is even more pronounced.

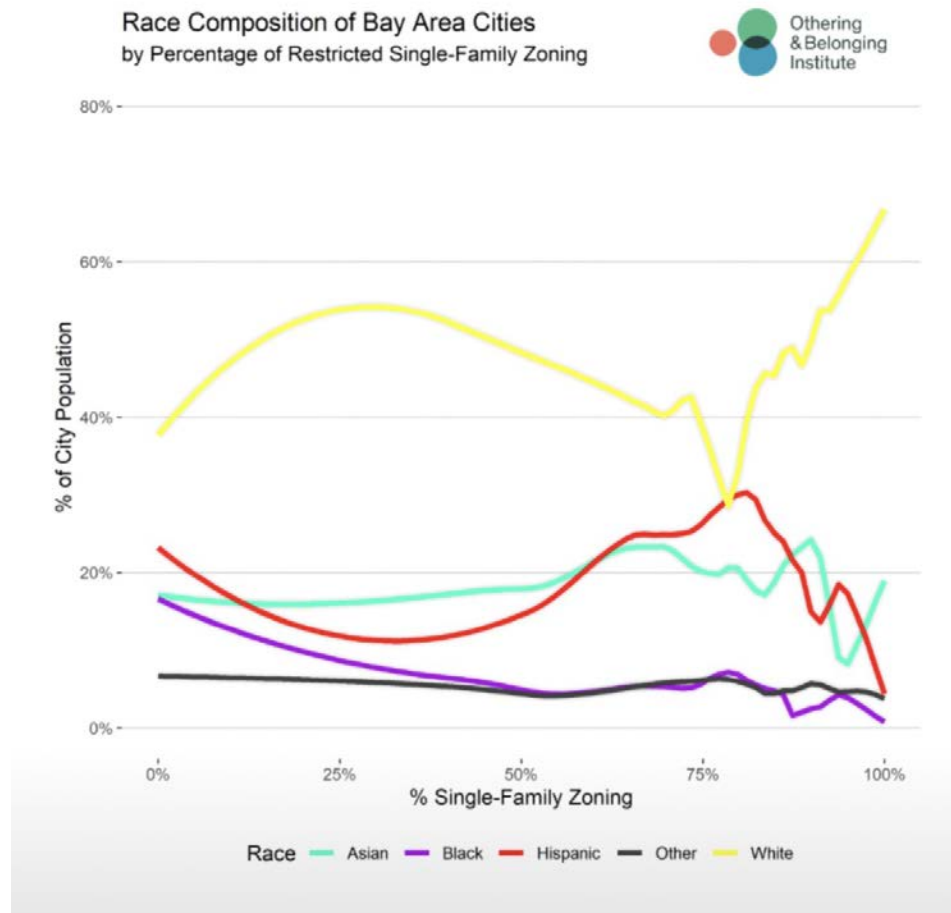
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<sup>8</sup>Ben Bartlett, Yelda Bartlett. "Berkeley's zoning laws wall off communities of color, seniors, low-income people and others." *Berkeleyside*, 13 June 2017. Op-ed. <https://www.berkeleyside.com/2017/06/13/opinion-berkeleys-zoning-laws-wall-off-communities-color-seniors-low-income-people-others>

<sup>9</sup>Racial Segregation in the San Francisco Bay Area (2020) UC Othring and Belonging Institute. <https://belonging.berkeley.edu/racial-segregation-san-francisco-bay-area-part-5>

<sup>10</sup> Baldassari, Erin and Molly Solomon (2020). “The Racist History of Single Family Zoning.” <https://www.kqed.org/news/11840548/the-racist-history-of-single-family-home-zoning>

<sup>11</sup> Berkeley, CA Real Estate Market (2021). [https://www.realtor.com/realestateandhomes-search/Berkeley\\_CA/overview](https://www.realtor.com/realestateandhomes-search/Berkeley_CA/overview)



According to the data mapped by UC Berkeley’s Urban Displacement Project, most of the low-income tracts in Berkeley are at-risk or have ongoing displacement and gentrification. Higher-income tracts in Berkeley are classified as ‘at-risk of exclusion’, currently feature ‘ongoing exclusion’, or are at stages of ‘advanced exclusion’. Degrees of exclusion are measured by a combination of data: the loss of low-income households over time, presence of high income households, being considered in a ‘hot housing market,’ and migration patterns. The Urban Displacement Project’s findings indicate that exclusion is more prevalent than gentrification in the Bay Area.<sup>13</sup> While Berkeley has created policies and designated funding to prevent gentrification, policies that focus on preventing exclusion have lagged.

University of California-Berkeley Professor Karen Chapple, anti-displacement expert and director of the Urban Displacement Project, stated that “the Urban Displacement

<sup>12</sup> Survey of Consumer Finances (2020). Federal Reserve.

<https://www.federalreserve.gov/econres/scfindex.htm>

<sup>13</sup> Zuk, M., & Chapple, K. (2015). Urban Displacement Project. <http://www.urbandisplacement.org/map/sf>



Project has established a direct connection between the neighborhood designations by the Home Owners Loan Corporation (HOLC), and 75% of today's exclusionary areas in the East Bay... Thus, this historic legacy, compounded by Berkeley's early exclusionary zoning practices, continues to shape housing opportunity and perpetuate inequities today."<sup>14</sup> Not surprisingly, Chapple has indicated that zoning reform "has the potential not just to address the housing crisis but also to become a form of restorative or even transformative justice. There is no more important issue for planners to tackle today."<sup>15</sup>

### ***Historic Redlining***

Redlining was a practice whereby certain neighborhoods or areas were designated as being high-risk for investment. These high-risk designations were literally marked on maps using red coloring or lines, hence "redlining." The designations were typically applied to areas with large non-white and/or economically disadvantaged populations, and resulted in people who lived in or wanted to move to these areas being denied loans, or only being provided loans on much worse terms than their counterparts who could access non-redlined areas, due to their ethnicity or higher economic status.

Because redlining practices were contemporaneous with segregationist race-restricted deeds that largely locked minorities out of non-redlined neighborhoods, most non-white households were effectively forced to live in areas where buying and/or improving residential property was extremely difficult. Consequently, low-income and minority families were often locked out of homeownership, and all the opportunities for stability and wealth-building that entails. Therefore redlining tended to reinforce the economic stagnation of the areas to which it was applied, further depressing property values and leading to disinvestment. Although redlining is no longer formally practiced in the fashion it was historically, its effects continued to be felt in wealth disparities, educational opportunity gaps, and other impacts.

One way in which the practice of redlining continues to be felt is through the continuation of exclusionary zoning. By ensuring that only those wealthy enough to afford a single family home with a relatively large plot of land could live in certain areas, exclusionary zoning worked hand in hand with redlining to keep low-income families out of desirable neighborhoods with good schools and better economic opportunity. Cities, including Berkeley, adopted zoning that effectively prohibited multi-family homes in the same areas that relied on race restrictive deeds to keep out non-whites, meaning that

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<sup>14</sup> Karen Chapple's February 25, 2019 letter to Berkeley City Council in support of this proposal. <https://www.berkeleyside.com/wp-content/uploads/2019/02/Letter-on-Council-Item-22-Chapple-2.25.19.pdf>

<sup>15</sup>Ibid.

other areas, including redlined areas, were more likely to continue allowing multi-family buildings.

Ironically, because these patterns of zoning have persisted, many areas that were historically redlined are now appealing areas for new housing development precisely because they have continued to allow multi-family homes. Any area which sees its potential housing capacity increase will become more appealing for new housing development. When these changes are made in historically redlined areas where lower-income and minority households tend to be more concentrated, it is especially important to ensure those policies do not result in displacement or the loss of rent-controlled or naturally affordable housing units.

### ***Current Discourse on Exclusionary Zoning Regulations***

In 2019, Councilmembers Lori Droste, Ben Bartlett, Rashi Kesarwani and Rigel Robinson introduced Missing Middle Housing legislation in order to facilitate the construction of naturally affordable missing middle housing. The final legislation passed by Council was an agreement to **study** how the City of Berkeley can incorporate varying building types throughout Berkeley and address exclusionary practices. While the entire City Council voted unanimously to study this, the COVID-19 pandemic led to budget cuts which would have funded such a study. In July of 2020, Berkeley City Council additionally supported Senate Bill 902, which allowed for missing middle housing in transit-oriented or jobs-rich areas.<sup>16</sup>

Exclusionary zoning laws also became a prevalent national topic during the 2020 Presidential campaign under the guise of “protect[ing] America’s suburbs.”<sup>17</sup> Celebrity Apprentice host and former President Donald Trump and his Housing and Urban Development Secretary Ben Carson expressed a concern that removing exclusionary zoning laws would prevent single family home ownership and “destroy suburbs” despite the fact that these reforms don’t bar single family home construction but allow the creation of duplexes, triplexes, and other multi-unit properties. Furthermore, exclusionary zoning practices were amplified with the termination of the 2015 Obama-era Fair Housing rule which outlawed discrimination in housing. In doing so, Trump stated that Democrats wanted to “eliminate single-family zoning, bringing who knows into your suburbs, so your communities will be unsafe and your housing values will go

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<sup>16</sup>[https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/07-28\\_Annotated\\_Agenda\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/07-28_Annotated_Agenda_pdf.aspx)

<sup>17</sup> Trump, Donald J and Ben Carson. “We’ll Protect America’s Suburbs.” Wall Street Journal. <https://www.wsj.com/articles/well-protect-americas-suburbs-11597608133>

down.”<sup>18</sup> On the other hand, Democratic Presidential candidates embraced zoning reform, most notably Elizabeth Warren and Cory Booker. President Biden has also indicated that he plans to invest \$300 million in local housing policy grants to give communities the planning support they need to eliminate exclusionary zoning.<sup>19</sup>

In January 2021, the Association of Bay Area Governments voted to approve the implementation of Senate Bill 828 which was designed to address the extreme housing shortage across California. As a result, Bay Area cities will have to zone for 441,000 new homes. Berkeley will see a 19% increase — approximately 8,900 — in the number of homes for which it must zone.

According to the U.S. Census American Community Survey, newly built missing middle housing like duplexes and quadplexes more often houses middle and lower income families in Berkeley, while single-family homes, no matter what year built, are exclusively higher income.

<b>Median household income, Berkeley &amp; Albany, by building age &amp; type</b>					
	Pre-1950	1950-1969	1970-1989	1990-2004	2005-
Single-family detached	148,590	139,295	107,081	131,004	148,835
Single-family attached	84,903	126,930	96,233	167,025	134,460
2-4 units	79,012	63,973	53,335	45,403	48,691
5-19 units	46,037	41,104	39,811	42,243	27,950
20+ units	25,628	42,319	41,387	23,585	40,518

Source: American Community Survey, 2014-18, Public Use Microdata Set, US Census.

## **ALTERNATIVE ACTIONS CONSIDERED**

Berkeley City Council previously authorized a study on missing middle housing. Due to the impending rezoning mandated by new Regional Housing Needs Allocations, Council wanted to ensure that there was a willingness on Council to address and acknowledge the implications of single family zoning on affordability and racial and economic segregation.

## **FINANCIAL IMPLICATIONS**

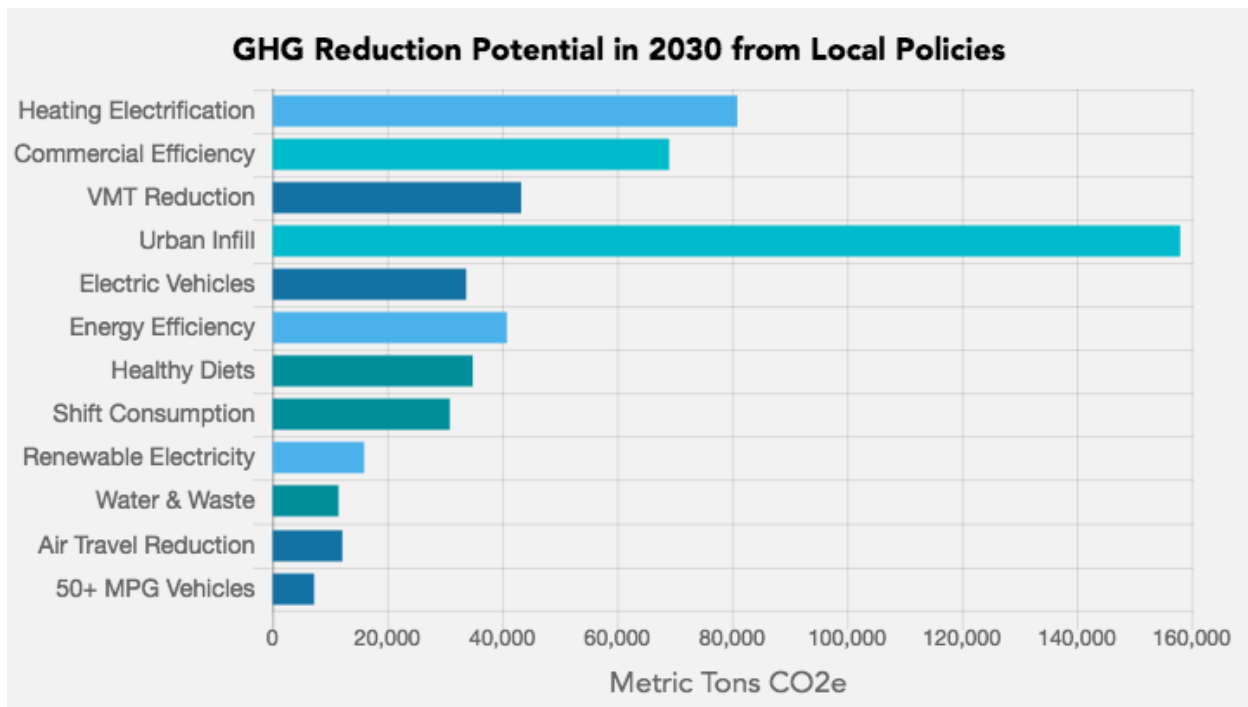
There are no financial implications in approving a resolution of intent.

<sup>18</sup> “Seeking Suburban Votes, Trump to Repeal Rule Combating Racial Bias in Housing.” (2020). NPR <https://www.npr.org/2020/07/21/893471887/seeking-suburban-votes-trump-targets-rule-to-combat-racial-bias-in-housing>

<sup>19</sup> “The Biden Plan for Investing in Our Communities Through Housing.” (2020) <https://joebiden.com/housing/>

## ENVIRONMENTAL SUSTAINABILITY

Berkeley declared a climate emergency in 2018. Among other concerns, wildfires and sea level rise are constant ecological threats to our community. The City of Berkeley needs to act urgently to address this imminent danger. Last year, climate researchers in Berkeley quantified local and state opportunities to reduce greenhouse gases from a “comprehensive consumption-based perspective.”<sup>20</sup> The most impactful local policy to potentially reduce greenhouse gas consumption by 2030 is urban infill. In short, Berkeley can meaningfully address climate change if we allow the production of more homes near job centers and transit.<sup>21</sup>



### CONTACT PERSON(S):

Lori Droste, 510-981-7180

<sup>20</sup> “Carbon Footprint Planning: Quantifying Local and State Mitigation Opportunities for 700 California Cities.” Christopher M. Jones, Stephen M. Wheeler, and Daniel M. Kammen. *Urban Planning* (ISSN: 2183–7635) 2018, Volume 3, Issue 2. <https://rael.berkeley.edu/wp-content/uploads/2018/04/Jones-Wheeler-Kammen-700-California-Cities-Carbon-Footprint-2018.pdf>

<sup>21</sup> “Why Housing Policy Is Climate Policy.” Scott Wiener and Daniel Kammen. *New York Times*. March 25, 2019. <https://www.nytimes.com/2019/03/25/opinion/california-home-prices-climate.html>

## RESOLUTION NO. XX

WHEREAS the City of Berkeley was the first city in the country to implement single-family zoning in 1916; and

WHEREAS the City of Berkeley's current zoning is still greatly influenced by maps developed by the federal government's Home Owners Loan Corporation which sought to maintain racial segregation through discriminatory lending practices; and

WHEREAS with the passage of the Neighborhood Preservation Ordinance in 1973, the City of Berkeley restricted the creation of multifamily units in residential zones;

WHEREAS the prohibition of apartments and multi-family homes in the City of Berkeley coincide with the most unaffordable neighborhoods and the origins of the City's affordability crisis starting in the late 1970s;<sup>22</sup>

WHEREAS there is deeply racist history to zoning practices all over the country, particularly as a proxy for overt racial restrictions, and inequities still exist today as a result of redlining; and

WHEREAS exclusionary zoning creates a system of de facto rather than de jure racial and economic segregation, which creates strong adverse effects in life outcomes for residents; and

WHEREAS zoning reform does not ban single family homes but allows for a greater mix of home types and home affordability levels in more Berkeley neighborhoods; and

WHEREAS zoning reform can reduce real housing cost-burdens for low- and middle-income households; and

WHEREAS the League of California Cities called for cities to allow up to fourplexes in single family zones in their *Blueprint for More Housing 2020*;

BE IT FURTHER RESOLVED that the City of Berkeley registers its intent to allow for more multifamily housing throughout Berkeley; and

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<sup>22</sup>[https://www.cityofberkeley.info/uploadedFiles/Rent\\_Stabilization\\_Board/Level\\_3\\_-\\_General/Berkeley\\_Rent\\_Control\\_1978-1994\\_1998\\_Planning\\_Dept\\_report.pdf](https://www.cityofberkeley.info/uploadedFiles/Rent_Stabilization_Board/Level_3_-_General/Berkeley_Rent_Control_1978-1994_1998_Planning_Dept_report.pdf)



BE IT FURTHER RESOLVED that City Council will pursue zoning reform that takes into account the public safety in all parts of Berkeley, including areas within CalFire's Very High Hazard Severity Zones; and

BE IT FURTHER RESOLVED that in neighborhood interiors that already contain a mix of housing types from single family homes to apartments, allow new housing within that existing range; and

BE IT FURTHER RESOLVED that the City of Berkeley encourage inclusion of homes that can accommodate families in new and rehabilitated multifamily housing developments; and

BE IT FURTHER RESOLVED that the City of Berkeley will no longer ban multi-family housing, and by extension, affordable housing in certain parts of Berkeley.





Lori Droste  
Vice Mayor, District 8

**ACTION CALENDAR**  
February 23, 2021

**To:** Honorable Mayor and Members of the City Council

**From:** Vice Mayor Lori Droste, Councilmember Terry Taplin, Councilmember Rashi Kesarwani

**Subject:** Quadplex Zoning

**RECOMMENDATION**

1. Refer to the City Manager and Planning Commission revisions to the zoning code and General Plan, to require proposed housing developments containing up to 4 residential units to be considered ministerially, if the proposed housing development meets certain requirements but not limited to:
  - that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income,
  - that the development is not located within a historic district, is not included in the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.
  - that the development is not located within particularly vulnerable high fire wildfire danger areas, as specified by Cal Fire.

Additional considerations:

- Consider a local affordable housing density bonus for deeper affordability in certain jobs-rich or transit-oriented areas if a certain percentage of the units are affordable to 80% of area median income.<sup>1</sup>
- Conduct a displacement risk analysis and consider possible ways that zoning changes can be crafted to prevent and mitigate negative externalities which could affect tenants and low and moderate-income homeowners.
- Allow for the possibility of existing homes/footprints/zoning envelopes to be divided into up to four units, potentially scaling the floor area ratio (FAR) to increase as the number of units increase onsite, creating homes that are more affordable, saving and lightly modifying an older structure as part of internally dividing it into more than one unit.<sup>2</sup>

Council directs that staff initiate this work immediately and the Planning Commission incorporate zoning reform into its 2021 and 2022 work plan to institute these changes in anticipation of the Housing Element update. Staff and the commission should examine how other cities have prepared for and implemented missing middle housing in Minneapolis, Portland, and Sacramento and conduct extensive community outreach during the course of this update.

### **CURRENT PROBLEM AND ITS EFFECTS**

The nine-county Bay Area region is facing an extreme shortage of homes that are affordable for working families. The Metropolitan Transportation Commission illustrates the job-housing imbalance in a report showing that only one home is added for every 3.5 jobs created in the Bay Area region.<sup>3</sup> Governor Gavin Newsom has called for a “Marshall Plan for affordable housing” and has pledged to create millions of more homes in California to tackle the state’s affordability and homelessness crisis.

In Berkeley, the median sale price of a home is \$1.4 million (as of December 2020)—an increase of 56% over the median sale price in December 2015 of \$895,000.<sup>4</sup> These escalating costs coincided with an increase of 14% in Berkeley’s homeless population from 2017 to 2019, and a 34% increase from 2015 to 2019 point-in-time counts.<sup>5</sup> These skyrocketing housing costs put extreme pressure on low-, moderate- and middle-income households, as they are forced to spend an increasing percentage share of their income on housing (leaving less for other necessities like food and medicine), live in

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<sup>1</sup> Jobs-rich and transit-oriented definitions should be defined by the Planning Commission in consultation with staff.

<sup>2</sup> City of Portland, <https://www.portlandoregon.gov/bps/article/711691>

<sup>3</sup> Metropolitan Transportation Commission, 2018. <http://www.vitalsigns.mtc.ca.gov/>

<sup>4</sup> Berkeley Home Prices and Values, <https://www.zillow.com/berkeley-ca/home-values/>

<sup>5</sup> [https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport\\_Berkeley\\_2019-Final.pdf](https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport_Berkeley_2019-Final.pdf)

overcrowded conditions, or endure super-commutes of 90 minutes or more in order to make ends meet.

### *Low-Income Households Cannot Afford to Live in Berkeley*

Recently, low-income households experienced the greatest increases in rent as a portion of their monthly income. The U.S. Department of Housing and Urban Development (HUD) defines "affordable" as housing that costs no more than 30 percent of a household's monthly income. Households are considered to be "rent burdened" when more than a third of their income goes toward housing costs. In Alameda County, "Although rent burden increased across all income groups, it rose most substantially for low- and very low-income households. In both 2000 and 2015, extremely low-income renters were by far the most likely to experience severe rent burden, with nearly three quarters spending more than half their income on rent."<sup>6</sup>

Although residents of Berkeley passed Measure O which will substantially increase funding for affordable housing, low-income units are increasingly expensive to create. Low-income housing units typically cost well over \$500,000 to create and the demand for this type of affordable/subsidized housing exceeds the supply.<sup>7</sup> Without a substantial additional increase in funding for affordable housing, the City will be increasingly challenged to create enough subsidized housing to meet the demand. For example, roughly 700 seniors applied for the 42 affordable/subsidized units at Harpers Crossings in Berkeley. This project cost \$18 million to build.<sup>8</sup> While Berkeley should continue to support subsidized housing, subsidized housing alone is insufficient to address the growing housing and homelessness crisis.

### *Middle-Income Households Can't Afford to Live in Berkeley*

In the Bay Area, those earning middle incomes are facing similar challenges in finding affordable homes. The Pew Research Center classifies middle income households as those with "adults whose annual household income is two-thirds to double the national median." In 2018, middle income households were those earning approximately \$48,500 to \$145,500 for a household of three.<sup>9</sup> According to the Pew Research Center, "The San Francisco-Oakland-Hayward metropolitan area in California is one of the most expensive areas, with a price level that was 31.6% higher than the national average. Thus, to step over the national middle-class

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<sup>6</sup> Zuk, M., & Chapple, K. (2015). Urban Displacement Project.

[http://www.urbandisplacement.org/sites/default/files/images/alameda\\_final.pdf](http://www.urbandisplacement.org/sites/default/files/images/alameda_final.pdf)

<sup>7</sup> "The Cost of Building Housing" *The Turner Center* <https://turnercenter.berkeley.edu/construction-costs-series>

<sup>8</sup> Flood, Lucy. (1/18/2018). "Berkeley low-income seniors get a fresh start at Harper Crossing."

<https://www.berkeleyside.com/2018/01/18/berkeley-low-income-seniors-get-fresh-start-harper-crossing>

<sup>9</sup> <https://www.pewresearch.org/fact-tank/2020/07/23/are-you-in-the-american-middle-class/>

threshold of \$48,500... a household in the San Francisco area needs a reported income of about \$63,800, or 31.6% more than the U.S. norm, to join the middle class.”<sup>10</sup>

In the Bay Area, a family currently has to earn \$200,000 annually to afford the principal, interest, taxes and insurance payments on a median-priced home in the Bay Area (assuming they can pay 20 percent of the median home price of \$1.4 million up front).<sup>11</sup> This means that many City of Berkeley employees couldn’t afford to live where they work: a fire captain (making \$144,000) with a stay at home spouse wouldn’t be able to afford a home. Even a firefighter (earning \$112,000 annually) and a groundskeeper (making \$64,000), or two librarians (making \$89,000 each) couldn’t buy a house.<sup>12</sup>

Berkeley Unified School District employees have recently been advocating for teacher housing. Unfortunately, the housing options for teachers are insufficient for the overwhelming need. According to a recent Berkeley Unified School District (BUSD) survey, 69% of teachers or staff who rent believe that high housing costs will impact their ability to retain their BUSD positions.<sup>13</sup> Since individual K-12 teacher salaries average ~\$75,962,<sup>14</sup> the majority of teachers are not classified as low-income (<\$62,750), according to Housing and Urban Development guidelines. As a result, many cannot qualify for affordable housing units. Since middle-income individuals and families can’t qualify for affordable housing units and very few subsidies are available to help, the vast majority have to rely on non-governmental subsidized methods and the private market to live in the Bay Area.

### *Families Are Struggling to Live in Berkeley*

Many families are fleeing the Bay Area due to the high cost of living. According to a study by the Turner Center for Housing Innovation, the income and racial patterns of out-migration and in-migration indicate that “the region risks backsliding on inclusion and diversity and displacing its economically vulnerable and minority residents to areas of more limited opportunity.”<sup>15</sup> Rent for a two-bedroom apartment in Berkeley costs approximately \$2,070/month<sup>16</sup> while the median child care cost in Alameda County is

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<sup>10</sup> <https://www.pewresearch.org/fact-tank/2020/07/23/are-you-in-the-american-middle-class/>

<sup>11</sup> “The salary you must earn to buy a home in the 50 largest metros” (10/14/2018). HSH.com <https://www.hsh.com/finance/mortgage/salary-home-buying-25-cities.html#>

<sup>12</sup> City of Berkeley Human Resources, “Job Descriptions” <http://agency.governmentjobs.com/berkeley/default.cfm?action=agencyspecs&agencyID=1568>

<sup>13</sup> Berkeley Unified School District, “Recommendation for District-Owned Rental Housing for Employees”, <https://documentcloud.adobe.com/link/track?uri=urn%3Aaaid%3Aascds%3AUS%3Adfd74865-9541-4ff8-b6a6-4dcbd30acdc3>

<sup>14</sup> Education Data Partnership, “Teacher Salaries” <http://www.ed-data.org/district/Alameda/Berkeley-Unified>

<sup>15</sup> Romem, Issa and Elizabeth Kneebone, 2018. “Disparity in Departure: Who Leaves the Bay Area and Where Do They Go?” <https://turnercenter.berkeley.edu/disparity-in-departure>

<sup>16</sup> Berkeley Rentals, <https://www.zumper.com/blog/san-francisco-bay-area-metro-report/>

\$1,824 a month, an increase of 36% in the past four years.<sup>17</sup> Consequently, many families are paying well over \$60,000 for living and childcare expenses alone.

### *Homelessness is on the Rise in the Bay Area*

High housing costs also lead to California having among the highest rates of poverty in the nation at 19%.<sup>18</sup> Consequently, homelessness is on the rise throughout California. The Bay Area has one of the largest and least-sheltered homeless populations in North America.<sup>19</sup> The proliferation of homeless encampments—from select urban neighborhoods to locations across the region—is the most visible manifestation of the Bay Area’s extreme housing affordability crisis. According to the 2019 point-in-time count, Berkeley had approximately 1,108 individuals experiencing homelessness on any given night.<sup>20</sup> In order to act in accordance with best practices research on alleviating homelessness and help homeless individuals get housed, the City needs to create more homes.<sup>21</sup> Tighter housing markets are associated with higher rates of homelessness, indicating that the creation of additional housing for all income levels is key to mitigating the crisis.<sup>22</sup> In the 1,000 Person Plan to Address Homelessness, Berkeley’s Health, Housing and Community Services staff also recommend that Council prioritizes “implementing changes to Berkeley’s Land Use, Zoning, Development Review Requirements for new housing with an eye toward alleviating homelessness.”

## **BACKGROUND**

In 2019, Councilmembers Lori Droste, Ben Bartlett, Rashi Kesarwani and Rigel Robinson introduced Missing Middle Housing legislation in order to facilitate the construction of naturally affordable missing middle housing. Missing middle housing refers to small multi-unit buildings that are compatible in scale with single-family neighborhoods. The final legislation passed by Council was an agreement to **study** how the City of Berkeley can incorporate varying building types throughout Berkeley and

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<sup>17</sup> D'Souza, Karen, 2/3/19. “You think Bay Area housing is expensive? Child care costs are rising, too.” <https://www.mercurynews.com/2019/02/03/you-think-bay-area-housing-is-expensive-childcare-costs-are-rising-too/amp/>

<sup>18</sup> The U.S. Census The Supplemental Poverty Measure adjusts thresholds based on cost of living indexes.

<sup>19</sup> SPUR: Ideas and Action for a Better City. “Homelessness in the Bay Area: Solving the problem of homelessness is arguably our region’s greatest challenge.” Molly Turner, Urbanist Article, October 23, 2017 <https://www.spur.org/publications/urbanist-article/2017-10-23/homelessness-bay-area>

<sup>20</sup> Berkeley Homeless Point-in-Time Count and Survey Data, 2019. [https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport\\_Berkeley\\_2019-Final.pdf](https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport_Berkeley_2019-Final.pdf)

<sup>21</sup> United States Interagency Council on Homelessness “The Evidence behind Approaches that Drive an End to Homelessness” December 2017, [https://www.usich.gov/resources/uploads/asset\\_library/evidence-behind-approaches-that-end-homelessness.pdf](https://www.usich.gov/resources/uploads/asset_library/evidence-behind-approaches-that-end-homelessness.pdf)

<sup>22</sup> *Homeless in America, Homeless in California*. John M. Quigley, Steven Raphael, and Eugene Smolensky. The Review of Economics and Statistics, February 2001, 83(1): 37–51 © 2001 by the President and Fellows of Harvard College and the Massachusetts Institute of Technology. [https://urbanpolicy.berkeley.edu/pdf/qrs\\_restat01pb.pdf](https://urbanpolicy.berkeley.edu/pdf/qrs_restat01pb.pdf)

address exclusionary zoning practices. While the entire City Council voted unanimously to study this, the COVID-19 pandemic led to budget cuts which would have funded such a study. In July of 2020, Berkeley City Council additionally supported Senate Bill 902, which would have allowed missing middle housing in transit-oriented or jobs-rich areas.<sup>23</sup>

### *Regional Housing Needs Goals*

In January of 2021, the Association of Bay Area Governments passed new Regional Housing Needs Allocations for the Bay Area. As a result, Berkeley will have to plan for approximately 8,900 homes. This is a significant increase over the previous years. As a result, Berkeley needs to zone for significantly more housing. One way Berkeley can address this proposed increase is to allow quadplexes throughout Berkeley and undo the legacy of exclusionary zoning.

### **Quadplexes**

*What are quadplexes?*

Quadplexes are:

1. A type of missing middle housing that has up to four units within a structure that is often similar in size, scale, and design to a large single-family home.
2. Housing types that are naturally affordable and less expensive than most housing options available within Berkeley.

The current housing market has led to “barbell” housing delivery. That is, new units tend to be highly-priced (market rate or luxury) or highly subsidized (affordable).

Consequently, the majority of the population can’t access quadplexes and other missing middle units because the dearth of funding, scarcity of land, and high construction costs impose challenges on viability. One study found that individuals trying to create missing middle housing cannot compete financially with larger projects in areas zoned for higher density, noting “many smaller developers have difficulty obtaining the necessary resources, including the competitive funding, required to offset the high initial per-unit development costs, and larger developers with deeper pockets and more experience navigating complex regulatory systems will almost always opt to build projects that are large enough to achieve the bulk per-unit development rate.”<sup>24</sup>

Additionally, missing middle housing is not permitted in areas zoned R1 (single family family and one accessory dwelling unit only), R1A (limited two family), and R2

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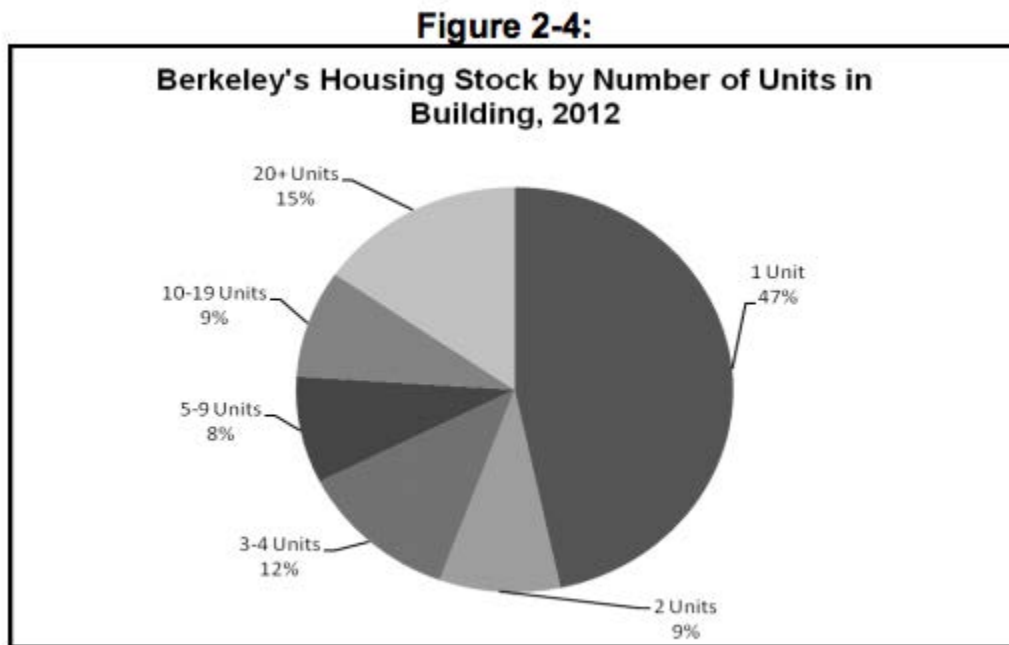
<sup>23</sup>[https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/07-28\\_Annotated\\_Agenda\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/07-28_Annotated_Agenda_pdf.aspx)

<sup>24</sup> The Montgomery Planning Dept., “The Missing Middle Housing Study,” September 2018. [http://montgomeryplanning.org/wp-content/uploads/2018/09/MissingMiddleHousingStudy\\_9-2018.pdf](http://montgomeryplanning.org/wp-content/uploads/2018/09/MissingMiddleHousingStudy_9-2018.pdf)



(restricted two family). Other factors that may prevent the creation of missing middle housing include lot coverage ratios and setback and parking requirements.<sup>25</sup>

One home within a quadplex is undeniably less expensive than comparable single family homes, leading to greater accessibility to those earning median, middle, or lower incomes. Currently, the median price of a single family home in Berkeley is \$1.4 million dollars, which is out of reach for the majority of working people.<sup>26</sup> While some may erroneously argue that the *only* way to address the needs of low- or moderate- income families is to provide subsidized housing, ample research indicates this is not the case because the distribution of land costs can be spread across multiple units and construction costs are lower. Approximately half of Berkeley's housing stock consists of single family units<sup>27</sup> and more than half of Berkeley's residential land is zoned in ways that preclude most quadplexes. As a result, today, only wealthy households can afford homes in Berkeley.



Source: US Census, ACS 2008-2012 5-Year Estimate., Table B25024

Quadplexes generally have small- to medium-sized footprints and are often two stories or less, allowing them to blend into the existing neighborhood while still encouraging greater socioeconomic diversity. These types of homes exist in every district of Berkeley, having been built before they were banned in districts only allowing single

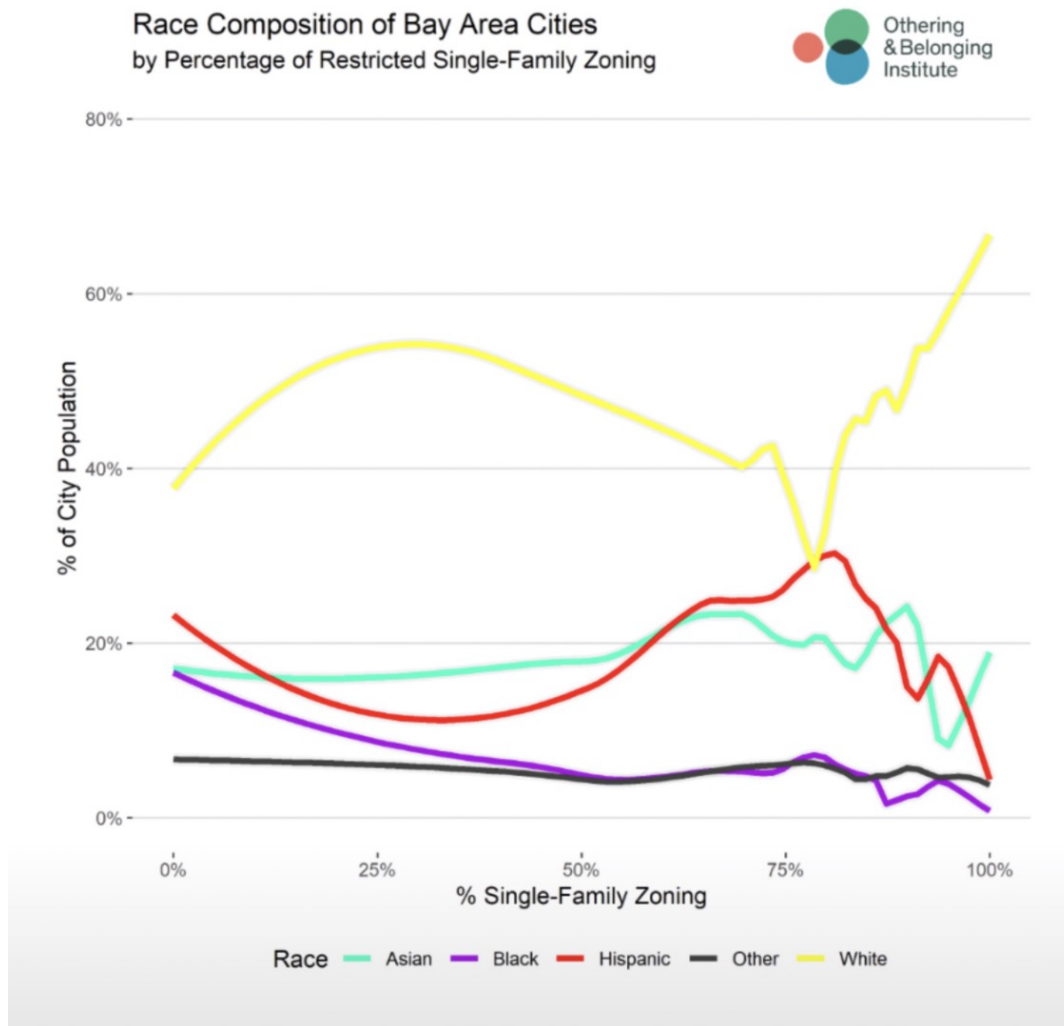
<sup>25</sup> Ibid.

<sup>26</sup> Berkeley Home Prices and Values, <https://www.zillow.com/berkeley-ca/home-values/>

<sup>27</sup> City of Berkeley 2015 -2023 Housing Element.

[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Commissions/Commission\\_for\\_Planning/2015-2023%20Berkeley%20Housing%20Element\\_FINAL.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2015-2023%20Berkeley%20Housing%20Element_FINAL.pdf)

family homes. Quadplexes were severely limited in other districts by zoning changes initiated in 1973 with the Neighborhood Preservation Ordinance. Regardless of the original intent of the Neighborhood Preservation Ordinance, the effect of this citizen-led measure was to downzone large swaths of Berkeley. Downzoning meant that fewer housing units were allowed to be built in Berkeley over the past 47 years. Many scholars have studied the effect of land use policies and have concluded that downzoning leads to higher housing costs and economic and racial segregation.<sup>28</sup>



<sup>28</sup> Lens, Michael and Paavo Monkonnen. (2015). "Do Strict Land Use Regulations Make Metropolitan Areas More Segregated by Income?" <https://www.tandfonline.com/doi/full/10.1080/01944363.2015.1111163#abstract>

### ***History of Exclusionary Zoning, Racial and Economic Segregation, and Current Zoning***

Single family residential zoning was born in Berkeley in the Elmwood neighborhood in 1916. This zoning regulation forbade the construction of anything other than one home per lot. In 1915, Berkeley's City Attorney Frank V. Cornish wrote, "Apartment houses are the bane of the owner of the single family dwelling" while the consultant who penned Berkeley's zoning ordinance stated, "[The] great principle of protecting the home against the intrusion of the less desirable and floating renter class."<sup>29</sup> Subsequently, the Mason McDuffie Company's use of Berkeley's zoning laws and racially-restrictive property deeds and covenants prevented Black, Indigenous, and People of Color from purchasing or leasing property in east Berkeley.<sup>30</sup>

Mason-McDuffie race-restrictive covenants stated, "if prior to the first day of January 1930 any person of African or Mongolian descent shall be allowed to purchase or lease said property or any part thereof, then this conveyance shall be and become void..."<sup>31</sup> In 1916, McDuffie began lobbying for the exclusionary zoning ordinances in Berkeley to protect against the "disastrous effects of uncontrolled development"<sup>32</sup> and restrict Chinese laundromats and African American dance halls, particularly in the Elmwood and Claremont neighborhoods.<sup>33</sup>

After *Buchanan v. Warley* in 1917, explicit racially restrictive zoning became illegal. However, consideration to maintaining the character of districts became paramount and Mason-McDuffie contracts still stipulated that property owners must be white.

In 1933, the federal government created a Home Owners Loan Corporation (HOLC), which produced residential maps of neighborhoods to identify mortgage lending risks for real estate agents, lenders, etc. These maps were based on racial composition, quality of housing stock, access to amenities, etc. and were color coded to identify best (green), still desirable (blue), definitely declining (yellow), and hazardous (red) neighborhoods. These maps enabled discriminatory lending practices (later called 'redlining') and allowed lenders to enforce local segregation standards.<sup>34</sup>

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<sup>29</sup> Frank V. Cornish. "The Legal Status of Zone Ordinances" and Charles Cheney. "The Necessity for a Zone Ordinance in Berkeley." Berkeley Civic Bulletin, May 18, 1915.

<sup>30</sup> Wollenberg, *Berkeley, A City in History*, 2008.

<sup>31</sup> Claremont Park Company Indenture, 1910

<sup>32</sup> Lory, Maya Tulip. "A History of Racial Segregation, 1878–1960." *The Concord Review*, 2013. <http://www.schoolinfosystem.org/pdf/2014/06/04SegregationinCA24-2.pdf>

<sup>33</sup> Weiss, M. A. (1986). Urban Land Developers and the Origins of Zoning Laws: The Case of Berkeley. Berkeley Planning Journal, 3(1). Retrieved from <https://escholarship.org/uc/item/26b8d8zh>

<sup>34</sup> NCRC Opening Doors to Economic Opportunity, "HOLC "REDLINING" MAPS: The persistent structure of segregation and economic inequality." Bruce Mitchell and Juan Franco. [https://ncrc.org/wp-content/uploads/dlm\\_uploads/2018/02/NCRC-Research-HOLC-10.pdf](https://ncrc.org/wp-content/uploads/dlm_uploads/2018/02/NCRC-Research-HOLC-10.pdf)





Prior to the 1970s and the passage of the Neighborhood Preservation Ordinance, a variety of missing middle housing --duplexes, triplexes, and other smaller multi-unit building typologies-- was still being produced and made available to families throughout the Bay Area, particularly in Berkeley. In 1973, the residents of Berkeley passed the Neighborhood Preservation Ordinance which outlawed multi-unit housing in certain parts of Berkeley. As Councilmember Ben Bartlett and Yelda Bartlett wrote in their 2017 *Berkeleyside* op-ed, the neighborhood preservation ordinance “[the Neighborhood Preservation Ordinance] did not mention race, but instead tried to preserve ‘neighborhood character.’ As a result, from 1970 to 2000, fewer than 600 dwelling units were built in Berkeley. Areas zoned for single family residential (R-1), limited two-family residential (R-1A), and restricted two-family residential (R-2) are now some of the most expensive parts of our city—especially on a per-unit basis.”<sup>36</sup>

Until 1984, Martin Luther King Jr Way was known as Grove Street. For decades, Grove Street created a wall of segregation down the center of Berkeley. Asian-Americans and African-Americans could not live east of Grove Street due to race-restrictive covenants that barred them from purchasing or leasing property. While race-restrictive covenants no longer prohibit individuals from purchasing or leasing homes, most cities still retain the vestiges of exclusionary zoning practices.

The UC Othring and Belonging Institute recently released a study on racial segregation and zoning practices which revealed that 83% of residential land in the Bay Area is zoned for single family homes.<sup>37</sup> The authors found that the ramifications of such zoning practices leads to a greater percentage of white residents, as recounted in KQED’s “The Racist History of Single Family Zoning.”<sup>38</sup> By banning less expensive housing options, such as duplexes, tri-/four-plexes, courtyard apartments, bungalow courts, and townhouses, in low-density, “desirable” places in Berkeley, the current zoning map dictates that only wealthier families will be able to live or rent in certain parts of Berkeley, mainly in North and East Berkeley. Today, with the median home sale price at \$1.3 million<sup>39</sup> and the typical White family having eight times the wealth of the typical Black family,<sup>40</sup> this de-facto form of segregation is even more pronounced. *Missing*

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<sup>36</sup><https://www.berkeleyside.com/2017/06/13/opinion-berkeleys-zoning-laws-wall-off-communities-color-seniors-low-income-people-others>

<sup>37</sup>Racial Segregation in the San Francisco Bay Area (2020) UC Othring and Belonging Institute. <https://belonging.berkeley.edu/racial-segregation-san-francisco-bay-area-part-5>

<sup>38</sup> <https://www.kqed.org/news/11840548/the-racist-history-of-single-family-home-zoning>

<sup>39</sup> Berkeley, CA Real Estate Market (2021). [https://www.realtor.com/realestateandhomes-search/Berkeley\\_CA/overview](https://www.realtor.com/realestateandhomes-search/Berkeley_CA/overview)

<sup>40</sup> Survey of Consumer Finances (2020). Federal Reserve. <https://www.federalreserve.gov/econres/scfindex.htm>

*middle housing can directly benefit those harmed by this modern-day exclusionary zoning practice that perpetuates socioeconomic and racial segregation.*

According to the data mapped by UC Berkeley's Urban Displacement Project, most of the low-income tracts in Berkeley are at-risk or have ongoing displacement and gentrification. Higher-income tracts in Berkeley are classified as 'at-risk of exclusion', currently feature 'ongoing exclusion', or are at stages of 'advanced exclusion'. Degrees of exclusion are measured by a combination of data: the loss of low-income households over time, presence of high income households, being considered in a 'hot housing market,' and migration patterns. The Urban Displacement Project's findings indicate that exclusion is more prevalent than gentrification in the Bay Area.<sup>41</sup> While Berkeley has created policies and designated funding to prevent gentrification, policies that focus on preventing exclusion have lagged.

University of California-Berkeley Professor Karen Chapple, anti-displacement expert and director of the Urban Displacement Project, stated that "the Urban Displacement Project has established a direct connection between the neighborhood designations by the Home Owners Loan Corporation (HOLC), and 75% of today's exclusionary areas in the East Bay... Thus, this historic legacy, compounded by Berkeley's early exclusionary zoning practices, continues to shape housing opportunity and perpetuate inequities today."<sup>42</sup> Not surprisingly, Chapple has indicated that zoning reform "has the potential not just to address the housing crisis but also to become a form of restorative or even transformative justice. There is no more important issue for planners to tackle today."<sup>43</sup>

### ***Historic Redlining***

Redlining was a practice whereby certain neighborhoods or areas were designated as being high-risk for investment. These high-risk designations were literally marked on maps using red coloring or lines, hence "redlining." The designations were typically applied to areas with large non-white and/or economically disadvantaged populations, and resulted in people who lived in or wanted to move to these areas being denied loans, or only being provided loans on much worse terms than their counterparts who could access non-redlined areas, due to their ethnicity or higher economic status.

Because redlining practices were contemporaneous with segregationist race-restricted deeds that largely locked minorities out of non-redlined neighborhoods, most non-white

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<sup>41</sup> Zuk, M., & Chapple, K. (2015). Urban Displacement Project. <http://www.urbandisplacement.org/map/sf>

<sup>42</sup> Karen Chapple's February 25, 2019 letter to Berkeley City Council in support of this proposal. <https://www.berkeley.com/wp-content/uploads/2019/02/Letter-on-Council-Item-22-Chapple-2.25.19.pdf>

<sup>43</sup>Ibid.



households were effectively forced to live in areas where buying and/or improving residential property was extremely difficult. Consequently, low-income and minority families were often locked out of homeownership, and all the opportunities for stability and wealth-building that entails. Therefore redlining tended to reinforce the economic stagnation of the areas to which it was applied, further depressing property values and leading to disinvestment. Although redlining is no longer formally practiced in the fashion it was historically, its effects continued to be felt in wealth disparities, educational opportunity gaps, and other impacts.

One way in which the practice of redlining continues to be felt is through the continuation of exclusionary zoning. By ensuring that only those wealthy enough to afford a single family home with a relatively large plot of land could live in certain areas, exclusionary zoning worked hand in hand with redlining to keep low-income families out of desirable neighborhoods with good schools and better economic opportunity. Cities, including Berkeley, adopted zoning that effectively prohibited multi-family homes in the same areas that relied on race restrictive deeds to keep out non-whites, meaning that other areas, including redlined areas, were more likely to continue allowing multi-family buildings.

Ironically, because these patterns of zoning have persisted, many areas that were historically redlined are now appealing areas for new housing development precisely because they have continued to allow multi-family homes. Any area which sees its potential housing capacity increase will become more appealing for new housing development. When these changes are made in historically redlined areas where lower-income and minority households tend to be more concentrated, it is especially important to ensure those policies do not result in displacement or the loss of rent-controlled or naturally affordable housing units.

### **ALTERNATIVE ACTIONS CONSIDERED**

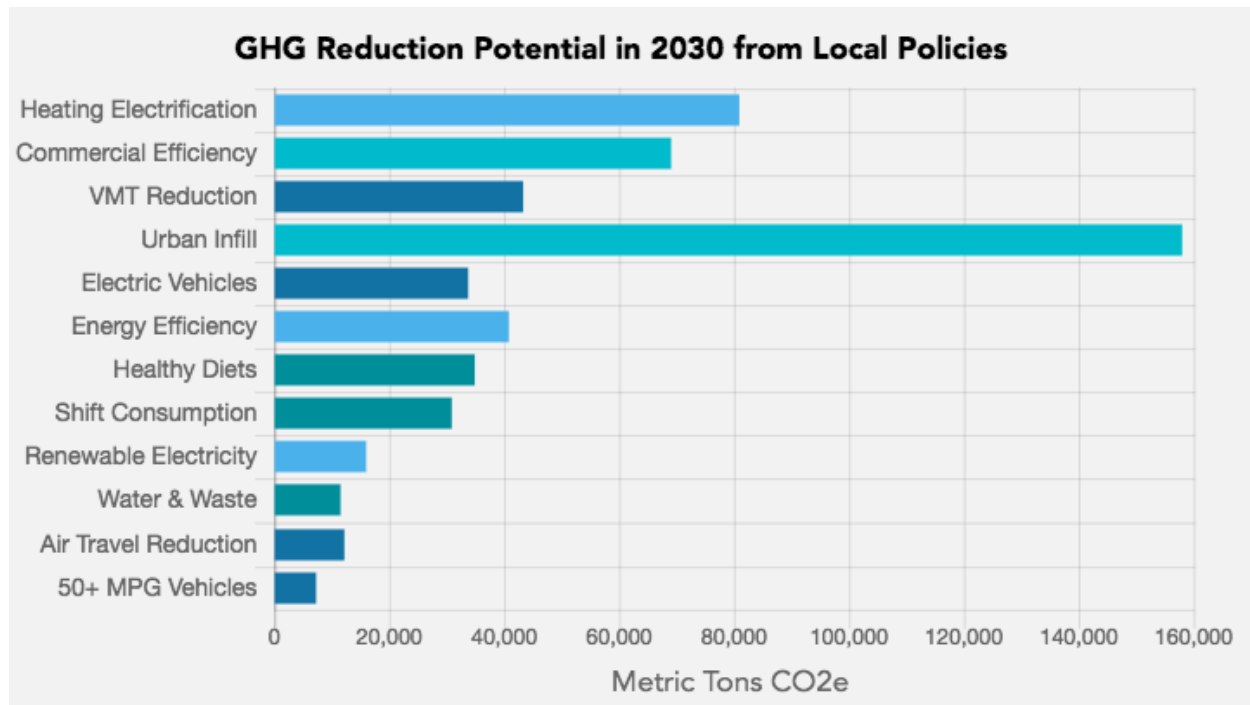
The authors considered passing a budget referral to fund another study for missing middle housing. However, given the new Regional Housing Needs Allocations and the scarcity of housing for individuals and families throughout the Bay Area, we felt the need to act immediately and not wait to study this issue.

### **FINANCIAL IMPLICATIONS**

Costs for consultants to provide additional analysis can range from \$25,000-\$100,000. Staff should also consider augmenting existing work on the Housing Element update and density standard study to align with the objectives of this legislation.

### **ENVIRONMENTAL SUSTAINABILITY**

Berkeley declared a climate emergency in 2018. Among other concerns, wildfires and sea level rise are constant ecological threats to our community. The City of Berkeley needs to act urgently to address this imminent danger. Last year, climate researchers in Berkeley quantified local and state opportunities to reduce greenhouse gases from a “comprehensive consumption-based perspective.”<sup>44</sup> The most impactful local policy to potentially reduce greenhouse gas consumption by 2030 is urban infill. In short, Berkeley can meaningfully address climate change if we allow the production of more homes near job centers and transit.



**CONTACT PERSON(S):**

Lori Droste, 510-981-7180

**ATTACHMENTS/LINKS:**

Minneapolis Plan:

[https://minneapolis2040.com/media/1428/pdf\\_minneapolis2040\\_with\\_appendices.pdf](https://minneapolis2040.com/media/1428/pdf_minneapolis2040_with_appendices.pdf)

Seattle Plan:

<sup>44</sup> “Carbon Footprint Planning: Quantifying Local and State Mitigation Opportunities for 700 California Cities.” Christopher M. Jones, Stephen M. Wheeler, and Daniel M. Kammen. *Urban Planning* (ISSN: 2183-7635) 2018, Volume 3, Issue 2. <https://rael.berkeley.edu/wp-content/uploads/2018/04/Jones-Wheeler-Kammen-700-California-Cities-Carbon-Footprint-2018.pdf>



<http://www.seattle.gov/Documents/Departments/SeattlePlanningCommission/SPCNeighborhoodsForAllFINAL121318digital.pdf>

Sacramento's Plan:

[https://sacramento.granicus.com/MetaViewer.php?view\\_id=22&clip\\_id=4822&meta\\_id=612624](https://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=4822&meta_id=612624)

## **Berkeleyside**

### **Opinion: We can design our way out of Berkeley's housing crisis with 'missing middle' buildings**

*A Berkeley architect argues that Berkeley should build more small-scale, multi-unit buildings such as duplexes, bungalow courts, fourplexes, and small mansion apartments.*

By Daniel Parolek

Dec. 19, 2017

Berkeley's housing problems have gone national recently, as The New York Times' Conor Dougherty highlighted in a thought-provoking article, "The Great American Single-Family Home Problem." Dougherty examines the conflicting interests and regulations that threatened to halt the development of one lot on Haskell Street, and shows how those conflicting forces are contributing to the affordable housing crisis we are seeing in our state – and across the country.

As an architect and urban designer based in Berkeley for the past 20 years, I agree that California municipalities have an urgent need to deliver more housing. That said, just delivering more housing is not enough. We need to think about how this housing reinforces a high quality built environment and how to provide a range of housing for all segments of the market, including moderate and low-income households. More small-scale, multi-unit buildings such as duplexes, bungalow courts, fourplexes, and small mansion apartments, or what I call "Missing Middle Housing," should be a key focus of that housing.

Unfortunately, the design proposed for the Haskell Street site in Berkeley does not deliver on reinforcing a high quality built environment or affordability and, as the NYT article makes clear, does not deliver on any level of affordability. There are better design solutions that deliver a more compatible form, that have more and a broader range of housing units, and that can be more effective at building local support for this and similar infill projects.

For example, the 50' x 150' lot at 310 Haskell Street is big enough to accommodate a traditional fourplex, with two units down and two units above in a building that is the scale of a house (see image attached from our Missing Middle research). The units would typically be between 750-900 square feet each. An important characteristic of this housing type is that they do not go deeper onto the lot than a traditional house, thus eliminating the concern about privacy and shading and providing high-quality outdoor

living spaces. These fourplex housing types exist all over Berkeley and are often successfully integrated onto blocks with single-family homes.

So how do we get there? Berkeley and most cities across the country need to sharpen their pencils on their outdated zoning codes, first to remove barriers for better solutions and secondly, to create a set of regulations that ensure that inappropriate design solutions like the one proposed for Haskell Street or even worse are not allowed on these sites. Lower densities do not equal better design solutions and higher densities do not need to mean larger or more buildings. This is a delicate balance that few zoning codes achieve and few code writers fully understand.

We also need to change the way we communicate about housing needs in our communities. If we are using George Lakoff's rules for effective communication we would never go into a housing conversation with a community and use terms like "increasing density, adding multi-family, or upzoning a neighborhood." I can think of few neighborhoods that would feel good about saying yes to any of those options if they were framed in that way, but which can mostly get on board with thinking about aging within a neighborhood, or ensuring their kids or grandkids can afford to move back to the city they grew up in. Beginning this conversation by simply showing photographic and/or local existing documented examples of good Missing Middle housing types often disarms this conversation and leads to more fruitful results.

Berkeley's challenges related to housing are not going to go away anytime soon. We need to thoughtfully remove barriers to enable a broad range of solutions like the fourplex that have been a core part of choices provided in our communities already and learn how to effectively build consensus and support for good design solutions such as Missing Middle housing types.

*Daniel Parolek is an architect and urban designer who co-authored the book "Form-Based Codes," coined the term Missing Middle Housing ([www.missingmiddlehousing.com](http://www.missingmiddlehousing.com)) and speaks and consults nationally on these topics.*



February 25, 2019

Honorable Mayor and City Council members:

I am writing to convey my strong support for the "Missing Middle Report" on your 2/26 Council meeting.

As the Council item co-authored by Councilmembers Droste, Bartlett, Kesarwani, and Robinson points out, Berkeley's housing crisis today is a legacy of its past racist and exclusionary practices. I commend their effort to push Berkeley to confront its history in order to build a more inclusive future.

Our research at the Urban Displacement Project has established a direct connection between the neighborhood designations by the Home Owners Loan Corporation (HOLC) and today's patterns of residential displacement and exclusion.<sup>1</sup> Overall, 83% of today's gentrifying areas in the East Bay were rated as "hazardous" (red) or "definitely declining" (yellow) by the HOLC, and 75% of today's exclusionary areas in the East Bay were rated as "best" (green) or "still desirable" (blue) by HOLC. Thus, this historic legacy, compounded by Berkeley's early exclusionary zoning practices, continues to shape housing opportunity and perpetuate inequities today.

Should Berkeley elect to proceed to study the potential for zoning reform, it will be in good company. As the item authors note, Minneapolis and Seattle are already experimenting with ways to open up single-family zones, and Berkeley should be leading the charge as well.<sup>2</sup> Zoning reform has the potential not just to address the housing crisis but also to become a form of restorative or even transformative justice. There is no more important issue for planners to tackle today.

I urge you to vote yes on Item 22 to request a Missing Middle report. Please do not hesitate to call on me if any research on zoning impacts or alternatives is needed.

Sincerely,

Karen Chapple  
Professor, City and Regional Planning  
Carmel P. Friesen Chair in Urban Studies  
Faculty Director, The Urban Displacement Project

<sup>1</sup> See <http://www.urbandisplacement.org/redlining>

<sup>2</sup> Interestingly, leading the charge in Minneapolis is City Council President Lisa Bender, a graduate of UC-Berkeley's Department of City and Regional Planning.



Civic Arts Commission

## INFORMATION CALENDAR

February 23, 2021

To: Honorable Mayor and Members of the City Council  
 From: Civic Arts Commission  
 Submitted by: Jennifer Lovvorn, Secretary, Civic Arts Commission  
 Subject: FY2021 Public Art Plan and Budgets

### INTRODUCTION

The City of Berkeley's Public Art Budgets for Fiscal Year (FY) 2021 were adopted by the Civic Arts Commission (M/S/C Passmore/Blecher; Ayes — Anno, Blecher, Bullwinkel, Covarrubias, Ozol, Passmore, Ross, Tamano; Nays — None; Abstain — None; Absent — Slattery) at its regularly scheduled commission meeting on December 9, 2020. These budgets are the financial plan that guide the City's public art investments and project management for the fiscal year, implemented through partnerships of the Commission, Civic Arts Program staff in the Office of Economic Development, other City departments, and consultant teams.

### CURRENT SITUATION AND ITS EFFECTS

The City has two annual budgets for public art, which are approved by the Civic Arts Commission every fiscal year. The approved Public Art Budgets for FY2021 are as follows:

1. The "Percent for Art" Budget for FY 2021 (Attachment 1) contains revenues totaling \$104,202 to be used for public art. These revenues are generated through the City's Percent for Art policy (Resolution No. 60,048-N.S., established in 1999), whereby a sum equal to 1.5% of eligible municipal capital project budgets is transferred to the Public Art Fund (Fund 150). FY 2021 revenues include committed and uncommitted rollover of the FY 2020 Public Art Fund balance and the annual 1.5% contribution for FY 2021 reflecting 1.5% of this fiscal year's baseline municipal capital projects.

The "Percent for Art" Budget contains projected expenditures totaling \$104,202 including: Commissioning of two original sound compositions for the Downtown Berkeley BART Plaza; Artwork purchases for the Civic Art Collection for display in Civic Center; City flag project; Conservation and installation of turtle sculptures and medallions in association with the future renovation of Civic Center Park; and a contingency amount for use during the implementation of the FY 2021 projects. Any unspent funds from the FY 2021 "Percent for Art" budget will be carried forward and available for public art in FY 2022.

2. The “Public Art in Private Development” Budget for FY 2021 (Attachment 2) contains revenues totaling \$916,097 to be used for public art. The City’s Public Art in Private Development Ordinance (Berkeley Municipal Code Chapter 23C.23, established in 2016) generates in-lieu fees from private development to the Cultural Trust Fund (Fund 148) valued at 0.8% of a private development’s construction costs of any of the following: new multifamily residential projects of five or more dwelling units; new commercial structures; new industrial structures; and all construction of building additions exceeding 10,000 square feet. FY 2021 revenues include committed and uncommitted rollover of the FY 2020 Cultural Trust Fund balance and the sum of any new 0.8% fees collected in the prior fiscal year after the FY 2020 budget was approved.

The “Public Art in Private Development” Budget contains projected expenditures totaling \$916,097 including: Artwork conservation contracts to maintain and repair public art owned by the City; Installation of restored of the “s-Hertogenbosch” sculpture; Removal of “Berkeley Big People” sculptures; Fabrication of plaque stand with artwork bell for the “Earth Song” sculpture; Restoration and fabrication of mosaics by Diana Maria Rossi for the Live Oak Community Center Playground; Commissioning of grinding rock and sculptural seating for Ohlone Park by Jean LaMarr; Artwork exhibitions in the City’s “Cube Space” gallery in the Center Street Garage; Sculpture by Mildred Howard for green space at Adeline Street and Martin Luther King Jr. Way; COVID-19 Community Recovery Temporary Public Art Projects; Set-aside for memorial to Irish students killed in the 2015 balcony collapse; Administration funds set-aside; and a contingency amount for use during the implementation of the FY 2021 projects. Any unspent funds from the FY 2021 budget will be carried forward and available for public art in FY 2022.

Note that the attached budgets do not include public art projects related to the Measure T1 bond, which is budgeted separately and totals \$350,000 through the first half of FY 2021.

### BACKGROUND

The City’s “Percent for Art” policy requires the Civic Arts Commission to develop an annual plan and budget for public art projects, to be presented informationally to the City Council. The “Public Art in Private Development” policy also requires a regular annual public process for deciding how the “Cultural Trust Funds” will be allocated in accordance with the priorities of the Arts and Cultural Plan, following the Guidelines for Public Art in the City of Berkeley. Each year, Civic Arts staff works with the Civic Arts Commission’s Public Art Committee and other City departments to develop these budgets simultaneously.

In FY 2020, the Civic Arts Program implemented a portfolio of public art projects valued at \$113,637 with funds allocated in the FY 2020 Public Art Program budgets. Those projects include:

- Completed Civic Art Collection Inventory and Condition Assessment for all the artwork owned by the City of Berkeley.
- Implemented public art database to catalogue artworks owned by the City. The new public art database includes a web integration feature allowing the artwork collection to be published to the City's upcoming new website (currently under development).
- Conservation and reinstallation of two prominent sculptures ("s-Hertogenbosch" by John Toki and "Earth Song" by Wang Po Shu) in the downtown which were relocated due to the Shattuck Realignment Project.
- Launched Downtown Berkeley BART Plaza Public Art and Cultural Programming including:
  - Commissioning and presentation of the two original sound compositions for the sound poles.
  - Prior to COVID-19, presentation of cultural performances on the plaza stage co-produced with the Downtown Berkeley Association.
- Exhibitions for Cube Space multimedia art installation venue on the ground floor of the Center Street Garage including:
  - Presentation of four site specific installations.
  - Selection and contract with new Cube Space curator.
- Planning and electrical engineering for lighting of Rumford statue on Sacramento Street (at Julia Street).
- Planning and installation of nine poetry plaques as part of the Addison Street Poetry Walk, half which had been displaced by construction and half found in storage.
- Routine waxing of Rumford statue, and vandalism abatement from the Rumford statue and Ohlone mural.
- Purchase of framed artwork for the Permit Center and Civic Center building and framing for previously unframed works on paper owned by the City.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### POSSIBLE FUTURE ACTION

The budgets include likely future expenditures on potential public art projects around the City. The Civic Arts Commission may make modifications to this budget over the course of the fiscal year as additional needs and funding opportunities arise.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

All future public art revenues and expenditures will be tracked and accounted for. If necessary, an additional Information Report will be submitted to the City Council.

CONTACT PERSON

Jennifer Lovvorn, Secretary, Civic Arts Commission, 981-7533

Attachments:

- 1: Percent for Art Budget for FY 2021
- 2: Public Art in Private Development Budget for FY 2021



<b>PRIVATE PERCENT FOR ART FUND BUDGET - FY21</b>		
<b>FUND 148</b>		
Date: 12/9/20 (Approved by Civic Arts Commission)		
<b>FY21 FUNDING</b>		
CARRY FORWARD BALANCE FROM PRIOR YEARS		\$294,326
Uncommitted Art Carryforward from FY19 & FY20	\$48,602	
Committed Art Carryforward from FY19 & FY20	\$210,885	
Admin Carryforward from FY19 & FY20	\$34,839	
IN-LIEU PAYMENTS IN FY20		\$616,585
2580 Bancroft	\$235,570	
2628 Shattuck	\$88,879	
999 Anthony	\$25,200	
2100 San Pablo	\$144,000	
2072 Addison	\$74,936	
2028 Bancroft	\$48,000	
ON-SITE ART ADMIN FEES IN FY20		\$5,186
2556 Telegraph	\$5,186	
<b>TOTAL FUNDS AVAILABLE FOR FY21</b>		<b>\$916,097</b>
<b>FY21 PRIVATE PERCENT FOR ART ADMINISTRATION FUNDING</b>		
Carryforward of balance from FY20		\$34,839
On-Site Art Administration Set Aside FY21 (5% of Art Cost)		\$5,186
In-Lieu Fee Administration Set Aside FY21 (20% per guidelines)		\$123,317
Admin Costs FY21		-\$22,380
<b>Subtotal (Carryforward to future fiscal year)</b>		<b>\$140,962</b>
<b>FY21 BUDGET PROJECTS</b>		
<b>CONSERVATION PROJECTS</b>		
Balance prior Conservation Set Asides	No carry forward from prior years	\$0
Conservation Set Aside (10%) FY21	Conservation Contracts for FY21 Conservation Projects	\$61,658
<b>Subtotal</b>		<b>\$61,658</b>
<b>FY21 PUBLIC ART PROJECTS</b>		
<b>Total Committed Public Art Projects from FY19 &amp; FY20</b>		
John Toki Sculpture Restoration	Conservation Cost - Install to be paid for by PW	\$6,006
Removal of Big People		\$60,366
Installation of Queen Sculpture		\$20,000
Contract with Wang Po Shu - Earthsong modifications	Rough Order of Magnitude Estimate	\$20,000
Install Diana Rossi Mosaic - Live Oak Community Center Playground	Commission approved other \$5K from T1 Contingency for wall	\$5,000
Second Rossi Mosaic for Back of Wall - Live Oak Playground		\$5,000
Ohlone Mural Project Additions	Carved Seating, Grinding Rock	\$34,000
Graphic Design (Exhibition Announcements + Signage)		\$5,000
BART Plaza Sound System	Repair of speaker and back up battery	\$2,045
Public Art Archive Database (Cloud-Based)	Annual cost	\$348
<b>CUBE SPACE</b>		
Cube Space Curator	Leila Weefur -- 4 Exhibitions	\$10,000
Cube Space Artist Fees	4 Exhibitions @ \$1,000 each	\$4,000
Vinyl Signage (4 Exhibitions)	4 Exhibitions @ \$200 each	\$800
Cube Space Contingency	For supplies & equipment	\$5,000
Photography of public art projects		\$5,000
Artwork Preparator to Install Purchased Works		\$3,000
Mildred Howard Sculpture	For installation in triangle at MLK and Adeline	\$210,000
Homeless Social Practice Project		\$15,000
Covid-19 Recovery Temporary Art Projects	Approximately 25-30 projects @ up to \$10,000/each (budgets vary)	\$200,000
Memorial for Irish Students Killed in Balcony Collapse (Contribution to support project)		\$30,000
FY21 Contingency + Unallocated Balance	If not needed, will roll over to next year's budget process	\$50,532
<b>Subtotal</b>		<b>\$691,097</b>
<b>Remaining Balance</b>		<b>\$0</b>

<b>PUBLIC ART FUND BUDGET - FY21</b>		
<b>Fund 150</b>		
<b>Date: 12/9/20 (Approved by Civic Arts Commission)</b>		
<b>FY21 FUNDING</b>	<b>Description</b>	<b>Amount</b>
Carryforward balance from FY20		\$ 52,708.65
FY21 Total 1.5% Allocation		\$ 64,367.00
Minus Administration Portion (.5% per Resolution)		\$ (12,873.40)
<b>TOTAL FUNDS AVAILABLE FOR FY21</b>		<b>\$ 104,202.25</b>
<b>FY21 PUBLIC ART FUND ADMINISTRATION FUNDING</b>		
Carryforward of balance from FY20		\$ -
Minus Administration Portion (.5% per Resolution)		\$ 12,873.40
Admin Costs FY21		\$ -
<b>Subtotal (Carryforward to future fiscal years)</b>		<b>\$ 12,873.40</b>
<b>FY21 PROJECTS</b>		<b>Amount</b>
BART Plaza Ambient Sound Installation Commissions	Commissioning 2 Artists @ \$4K ea. (Already Selected)	\$ 8,000.00
BART Plaza Artwork Plaques	4 signs at \$200 ea.	\$ 800.00
Civic Center Artwork Purchases		\$ 30,000.00
Artwork Purchase Civic Center Art Exhibition Cal Yr 2020	Artwork purchase from Current Exhibition	\$ 5,000.00
Council Referral for City Flag	Rough Order of Magnitude Estimate	\$ 25,000.00
Conservation and Installation of Turtles & Medallions	Rough Order of Magnitude Estimate	\$ 25,000.00
Contingency		\$ 10,402.25
<b>Subtotal</b>		<b>\$ 104,202.25</b>
<b>Remaining Balance</b>		<b>\$ -</b>
Removed from Budget by Council June 2020:		
Center Street Garage - Additional 1% Funds (does not include .5% for Admin)		\$ 54,620.67



Community Environmental Advisory Commission

## INFORMATION CALENDAR

February 23, 2021

To: Honorable Mayor and Members of the City Council  
 From: Community Environmental Advisory Commission (CEAC)  
 Submitted by: Ben Gould, Chairperson, CEAC  
 Subject: Community Environmental Advisory Commission 2021 Work Plan

### INTRODUCTION

The Community Environmental Advisory Commission (CEAC) is responsible for developing a plan, prioritizing strategies, and making recommendations for environmental protection, hazardous materials and reduction, with outreach to and education of the public, small businesses and industry.

The members of CEAC also consider climate adaptation and environmental justice to fall under the scope of the commission. A recommendation pending before City Council would officially incorporate this scope into the mission of CEAC.

CEAC has historically worked on a wide range of topics. Past projects include recommending a phase out of natural gas in new construction, a proposed ordinance requiring CO<sub>2</sub> warning labels on gas station pumps, a cigarette butt recycling receptacle pilot program in Downtown Berkeley, recommendations on mitigating stormwater and lead paint hazards, policies to address greenhouse gas emissions from transportation, and more.

CEAC commissioners bring a wide range of expertise in federal, state, and local government, as well as academia, nonprofit, and private sector environmental work. These backgrounds inform CEAC's work and help it to consider diverse and equitable approaches to addressing the City's environmental challenges.

On December 10, 2020 the Commission voted to adopt this as the CEAC workplan for 2021 by a unanimous vote (6-0-0-0; AYES Simmons, Varnhagen, Ticconi, Hetzel, De Leon, Gould; NOES none, ABSTAIN none, ABSENT none).

This work plan is intended to provide a guide to the work CEAC plans to take on in 2021. As additional items or issues arise, or are referred to the Commission from Council, CEAC will adjust this plan accordingly.

### BACKGROUND & 2019 WORK PLAN RESULTS

Currently, there are numerous City commissions dealing with a range of environmental issues. Because of the specialized expertise available on those commissions, and the

broad scope of its mission of “environmental protection”, CEAC frequently serves as a catch-all for environmental issues.

CEAC identified the following projects as goals for 2019. The results are indicated below:

<b>Project</b>	<b>Goal</b>	<b>Outputs</b>	<b>Target Date</b>	<b>Result / Status</b>
Cigarette Butt Receptacles	Evaluate pilot program and provide recommendations	Commission report and recommendation to Council	July 2019	Developing recommendations
Gas Station CO <sub>2</sub> Labeling	Request Council elevate priority of item	Letter to Council	July 2019	Held pending Supreme Court decision, which was resolved in December 2019
Green Stormwater Infrastructure	Work with Council and Staff to improve recommendations on GSI	Recommendation to Council	September 2019	Resolved through Council action
Community Reporting of Pollutants	Develop a booklet on community reporting of pollutants	Booklet for distribution	June 2019	Explored; did not advance
Vegetation & Fire Safety	Develop a booklet on fire-safe vegetation and plant management approaches	Booklet for distribution	September 2019	Did not advance
Environmental Legislation Literacy	Develop strategies and guidance for enhancing community understanding of environmental legislation	TBD	December 2019	Did not advance
Electric Vehicles	Request hotels and Airbnb to provide information on EV charging availability at time of booking	Draft letter for Council to send to hotels and Airbnb	June 2019	Did not advance; developed alternative recommendations
Green Open Space	Provide recommendations to Council on strategies to	Recommendation to Council	December 2019	Did not advance

	increase and enhance green open space in Berkeley			
Lead Paint	Support Council and Staff in developing a robust lead paint education and enforcement program	Staff produce an interim report	December 2019	Did not advance
Bee City	Provide recommendations to Council on strategies for supporting bee habitats in Berkeley	Recommendation to Council	July 2019	Maintained communication with key stakeholders
Bird Safety	Provide draft ordinance for Council to adopt to require bird safety practices for new construction	Recommendation to Council	May 2019	Recommendation sent to Council
Sustainable Built Environment	Provide recommendations to Council on strategies to enhance sustainability and reduce carbon footprints in the built environment	Recommendation to Council	December 2019	Explored; continuing forward
Departmental Coordination for Environmental Protection	Analyze City interdepartmental environmental coordination efforts, e.g. managing firefighting foam runoff, and provide an analysis and recommendations	Report for Council, the City Auditor, and the City Manager	December 2019	Recommendation sent to Council

Cigarette Butt Receptacles: CEAC is evaluating the Downtown Berkeley pilot project and providing recommendations on expanding, including to other parts of Berkeley.

Gas Station CO<sub>2</sub> Labeling: In 2015 a referral was passed to require gas stations to label pumps with a CO<sub>2</sub> warning.

Green Open Space: Working to identify and recommend strategies to increase and enhance green open space in Berkeley, ensure it is healthy and safe to use, and provide habitat and nourishment for desirable flora and fauna.

Bee City: CEAC is supporting and coordinating with UC Berkeley students through CalPIRG, and working with the Parks & Waterfront Commission. Parks Department staff are implementing the vision of Bee City.

Sustainable Built Environment: Researching and recommending strategies to ensure a sustainable built environment.

**CURRENT SITUATION AND ITS EFFECTS**

The global COVID-19 pandemic has led to an emergency declaration that has suspended all non-essential commission meetings indefinitely. Recently, at the October 12, 2020 Agenda & Rules Committee meeting, the City Manager presented a proposal, approved by the Committee, to allow all commissions to meet under limited circumstances.

The guidelines provided by the City Manager emphasize that commissions may be authorized to meet to work on statutorily, budgetary, or COVID-19 required items, as well as council-adopted or voter-adopted mission critical projects and programs. Anticipated staff demands above and beyond baseline are also to be taken into consideration, as many staff are tasked with additional responsibilities with the City Emergency Operations Center or other pandemic-related duties.

In line with this guidance, CEAC has prepared a limited work plan that focuses on addressing climate action goals in line with Council-adopted, voter-adopted, and strategic plan targets including becoming a fossil free city, achieving carbon neutrality, and reaching 100% sustainable trips by 2040.

**2021 WORK PLAN**

To the extent permitted, CEAC anticipates working on the following projects in 2021:

<b>Project</b>	<b>Goal</b>	<b>Commission Outputs</b>	<b>Target Date</b>	<b>Lead</b>
Cigarette Butt Receptacles	On hold until end of pandemic			Varnhagen
Gas Station CO <sub>2</sub> Labeling	Request City Attorney complete review and send to Council		June 2021	TBD
Sustainable Transportation	Provide recommendations to Council on strategies to encourage zero-emission transportation and eliminate fossil fuels	Recommendation(s) to Council	December 2020	Gould

Bee City	No Commission work needed before end of pandemic			Ticconi
Community Engagement & Outreach	Improve community awareness and garner greater engagement in environmental issues.	Webinars & community forums on environmental issues	December 2021	Simmons
Sustainable Built Environment	Track BESO update process and provide input to staff	N/A (provide comments as individuals)		N/A

**ENVIRONMENTAL SUSTAINABILITY**

The projects which CEAC is working on will improve environmental sustainability through a wide variety of methods.

**FISCAL IMPACTS OF POSSIBLE FUTURE ACTION**

Future action items that CEAC may send to City Council could require staff time to develop, finalize, and/or implement. CEAC strives to ensure proposals provide significant net triple bottom line benefits to the City when evaluating total costs and benefits across environmental, equity, and economic impacts.

**CONTACT PERSON**

Ben Gould, Chair, Community Environmental Advisory Commission, 510-725-9176  
Viviana Garcia, Commission Secretary, 510-981-7460







Housing Advisory Commission

## INFORMATION CALENDAR

February 23, 2021

To: Honorable Mayor and Members of the City Council  
 From: Housing Advisory Commission  
 Submitted by: Xavier Johnson, Chairperson, Housing Advisory Commission  
 Subject: 2021 Housing Advisory Commission Work Plan

### INTRODUCTION

On March 17, 2020, the City Council adopted Resolution No. 69,331-N.S. which placed limitations of the meetings of City legislative bodies, including all boards and commissions. On October 22, the City Manager authorized commissions to meet to adopt a Work Plan. The Housing Advisory Commission (HAC) held a special meeting on November 12, 2020 to create a Work Plan for Fiscal Year (FY) 2020-2021.

### CURRENT SITUATION AND ITS EFFECTS

In July 2016, the City Council directed all commissions (with certain exceptions) to submit a work plan detailing its goals and objectives for the year. Plans will be submitted at the start of the fiscal year, annually. The plan for FY 20/21 was halted due to the suspensions of regular commission meetings due to COVID-19.

At our November 12, 2020 meeting the Housing Advisory Commission provided updates to its annual Work Plan. The strategies in this Work Plan are intended to advance our goal to create affordable housing and housing support services for our most vulnerable community members. The strategies presented below are based on the 2020 Work Plan with some adjustments.

The adopted Work Plan for FY20/21 is as follows:

- Continue the process of developing a Fall U1 Report that the Vice Chair and Chair will draft and bring to the full HAC for review
- Develop additional strategies using affordable housing funds to expand the supply of permanent affordable housing with funding proposals to provide to the City Council
- Develop a program/structure for supporting low income homeowners and landlords to navigate/find funding that will facilitate the implementation of actual construction/repairs needed for them to keep their properties safe, livable, affordable and up to code

- Review agency applications for City funding
- Allocate funding to Community Land Trusts and other democratized forms of housing
- Explore COVID-19's impacts on housing
- Address Council Referral: Research and Recommend Policies to Prevent Displacement and Gentrification of Berkeley Residents of Color and African Americans
- Address Council Referral: Small Sites Loan Program Recommendations
- Identify additional revenue sources for local housing
- Receive an update from the City on temporary and permanent housing opportunities for people currently unhoused in City of Berkeley

Adopting a housing-focused Work Plan is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

#### BACKGROUND

This year's work plan reflects the Commission's engagement with housing affordability and ongoing responsibilities of the Commission. The Commission is contemplating non-traditional housing ownership, tenancy, and development models.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### POSSIBLE FUTURE ACTION

This Work Plan may result in future recommendations for policy, programs, and budget referrals to support local housing and anti-displacement initiatives.

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

It is possible that adoption of new programs, revised programs, or need for staff time could result in some fiscal impacts to the City. Additional discretionary funds may be necessary to fund activities in response to Council referrals including outreach, videography, and meeting space.

#### CONTACT PERSON

Mike Uberti, Commission Secretary, HHCS (510) 981-5114

Upcoming Worksessions – <i>start time is 6:00 p.m. unless otherwise noted</i>	
Scheduled Dates	
Feb. 16	<ol style="list-style-type: none"> <li>1. BMASP/Berkeley Pier-WETA Ferry</li> <li>2. Systems Realignment</li> <li>3. Presentation: Report on Homeless Outreach during COVID 19 Pandemic</li> </ol>
March 16	<ol style="list-style-type: none"> <li>1. Capital Improvement Plan (Parks &amp; Public Works)</li> <li>2. Digital Strategic Plan/FUND\$ Replacement/Website Update</li> <li>3. FY 2021 Mid-Year Report and the Unfunded Liabilities Report (tentative)</li> </ol>
May 18	<ol style="list-style-type: none"> <li>1. Bayer Development Agreement (tentative)</li> <li>2. Affordable Housing Policy Reform (tentative)</li> </ol>

Unscheduled Workshops
<ol style="list-style-type: none"> <li>1. Cannabis Health Considerations</li> <li>2. Berkeley Police Department Hiring Practices (referred by the Public Safety Committee)</li> </ol>

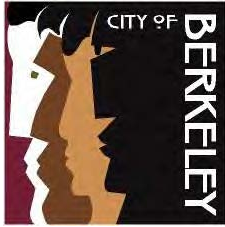
Unscheduled Presentations (City Manager)
<ol style="list-style-type: none"> <li>1. Update: Zero Waste Priorities</li> <li>2. Civic Arts Grantmaking Process &amp; Capital Grant Program</li> </ol>

	<b>City Council Referrals to the Agenda &amp; Rules Committee and Unfinished Business for Scheduling</b>
1.	<p><b>47. Amending Chapter 19.32 of the Berkeley Municipal Code to Require Kitchen Exhaust Hood Ventilation in Residential and Condominium Units Prior to Execution of a Contract for Sale or Close of Escrow</b> <i>(Reviewed by Facilities, Infrastructure, Transportation, Environment, and Sustainability Committee) (Referred from the January 21, 2020 agenda)</i></p> <p><b>From: Councilmember Harrison</b></p> <p><b>Recommendation:</b></p> <ol style="list-style-type: none"> <li>1. Adopt an ordinance amending Berkeley Municipal Code (BMC) 19.32 to require kitchen exhaust ventilation in residential and condominium units prior to execution of a contract for sale or close of escrow.</li> <li>2. Refer to the City Manager to develop a process for informing owners and tenants of the proper use of exhaust hoods.</li> </ol> <p><b>Financial Implications:</b> See report  Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  <i>Note: Referred to Agenda &amp; Rules for future scheduling.</i></p>
2.	<p><b>25. Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Automatic License Plate Readers</b> <i>(Continued from February 25, 2020. Item contains revised and supplemental materials) (Referred from the May 12, 2020 agenda.)</i></p> <p><b>From: City Manager</b></p> <p><b>Recommendation:</b> Adopt a Resolution accepting the Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Automatic License Plate Readers submitted pursuant to Chapter 2.99 of the Berkeley Municipal Code.</p> <p><b>Financial Implications:</b> None  Contact: Andrew Greenwood, Police, (510) 981-5900; Dave White, City Manager's Office, (510) 981-7000  <i>Note: Referred to Agenda &amp; Rules for future scheduling.</i></p>

CITY CLERK DEPARTMENT				
WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS BEFORE THE CITY COUNCIL				
Address	Board/ Commission	Appeal Period Ends	Determination on Appeal Submitted	Public Hearing
<b>NOD – Notices of Decision</b>				
1 Orchard Ln (The Steilberg House and Cottages)	LPC	2/9/2021		
2740 & 2744 Telegraph Ave, and 2348 Ward St (The Marshall - hotel)	ZAB	2/16/2021		
1720 Delaware St (eliminate dwelling unit, add bedrooms)	ZAB	2/16/2021		
2113 Vine St (Vintage Berkeley - increase existing use)	ZAB	2/16/2021		
<b>Public Hearings Scheduled</b>				
1850 Arch St (add bedrooms to multi-family residential building)	ZAB			2/23/2021
1862 Arch St (add bedrooms to multi-family residential building)	ZAB			2/23/2021
1200-1214 San Pablo Ave (construct mixed-use building)	ZAB			3/23/2021
<b>Remanded to ZAB or LPC</b>				
<b>Notes</b>				

2/4/2021





Office of the City Manager

## **SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 2**

**Meeting Date:** November 10, 2020

**Item Number:** 20

**Item Description:** Annual Commission Attendance and Meeting Frequency Report

**Submitted by:** Mark Numainville, City Clerk

The attached memo responds to issues and questions raised at the October 26 Agenda & Rules Committee Meeting and the October 27 City Council Meeting regarding the ability of city boards and commissions to resume regular meeting schedules.



Office of the City Manager

November 9, 2020, 2020

To: Mayor and Council  
From: Dee Williams-Ridley, City Manager  
Subject: Commission Meetings Under COVID-19 Emergency (Item 20)

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This memo provides supplemental information for the discussion on Item 20 on the November 10, 2020 Council agenda. Below is a summary and update of the status of meetings of Berkeley Boards and Commissions during the COVID-19 emergency declaration and the data collected by the City Manager on the ability of commissions to resume meetings in 2021.

On March 10, 2020 the City Council ratified the proclamation of the Director of Emergency Services for a state of local emergency related to the COVID-19 pandemic. The emergency proclamation has been renewed twice by the Council and remains in effect.

On March 17, 2020 the City Council adopted Resolution No. 69,331-N.S. which placed limitations of the meetings of City legislative bodies, including all boards and commissions. The resolution allows for commissions to meet to conduct time-sensitive, legally mandated business with the authorization of the City Manager. Since that time, several commissions have obtained this approval and held meetings; many other commissions have not met at all since March.

The City Manager has periodically reviewed the status of commission meetings with the City Council Agenda & Rules Committee. Recently, at the October 12, 2020 Agenda & Rules Committee meeting, the City Manager presented a proposal to allow all commissions to meet under limited circumstances. The Committee voted to endorse the City Manager's recommendation.

Effective October 12, 2020, all City boards and commissions may meet once to develop and finalize their work plan for 2021 and to complete any Council referrals directly related to the COVID-19 pandemic response. A second meeting may be held to



complete this work with specific authorization by the City Manager. It is recommended that the meeting(s) occur by the end of February 2021.

Commissions that have been granted permission to meet under Resolution No. 69,331-N.S. may continue to meet pursuant to their existing authorization, and may also meet to develop their 2021 work plan.

Commissions that have not requested meetings pursuant to the Resolution No. 69,331-N.S. may meet pursuant to the limitations listed above.

In response to questions from the Agenda & Rules Committee and the Council, the City Manager polled all departments that support commissions to obtain information on their capacity to support the resumption of regular commission meetings. The information in Attachment 1 shows the information received from the departments and notes each commission's ability to resume a regular, or semi-regular, meeting schedule in 2021.

In summary, there are 24 commissions that have staff resources available to support a regular meeting schedule in 2021. Seven of these 24 commissions have been meeting regularly during the pandemic. There are five commissions that have staff resources available to support a limited meeting schedule in 2021. There are seven commissions that currently do not have staff resources available to start meeting regularly at the beginning of 2021. Some of these seven commissions will have staff resources available later in 2021 to support regular meetings. Please see Attachment 1 for the full list of commissions and their status.

With regards to commission subcommittees, there has been significant discussion regarding the ability of staff to support these meetings in a virtual environment. Under normal circumstances, the secretary's responsibilities regarding subcommittees is limited to posting the agenda and reserving the meeting space (if in a city building). With the necessity to hold the meetings in a virtual environment and be open to the public, it is likely that subcommittee meetings will require significantly more staff resources to schedule, train, manage, and support the work of subcommittees on Zoom or a similar platform. This additional demand on staff resources to support commission subcommittees is not feasible for any commission at this time.

One possible option for subcommittees is to temporarily suspend the requirement for ad hoc subcommittees of city commissions to notice their meetings and require public participation. Ad hoc subcommittees are not legislative bodies under the Brown Act and are not required to post agendas or allow for public participation. These requirements are specific to Berkeley and are adopted by resolution in the Commissioners' Manual. If it is the will of the Council, staff could introduce an item to temporarily suspend these

requirements which will allow subcommittees of all commissions to meet as needed to develop recommendations that will be presented to the full commission.

The limitations on the meetings of certain commissions are due to the need to direct staff resources and the resources of city legislative bodies to the pandemic response. Some of the staff assigned as commission secretaries are engaged in work with the City Emergency Operations Center or have been assigned new duties specifically related to the impacts of the pandemic.

Meeting frequency for boards and commissions will continue to be evaluated on a regular basis by the City Manager and the Health Officer in consultation with Department Heads and the City Council.

Attachments:

1. List of Commissions with Meeting Status
2. Resolution 69,331-N.S.

**November 10, 2020 - Item 20  
Supplemental Information**

<b><u>Boards and Commissions</u></b>	<b><u>Meetings Held Under COVID March - Oct</u></b>	<b><u>Regular Mtg. Date</u></b>	<b><u>Secretary</u></b>	<b><u>Dept.</u></b>	<b><u>Resume Regular Schedule in January 2021?</u></b>	<b><u>Note</u></b>
Fair Campaign Practices Commission	9	3rd Thur.	Sam Harvey	CA	YES	Have been meeting regularly under COVID Emergency
Open Government Commission	6	3rd Thur.	Sam Harvey	CA	YES	Have been meeting regularly under COVID Emergency
Animal Care Commission	0	3rd Wed.	Amelia Funghi	CM	YES	
Police Review Commission	10	2nd & 4th Wed.	Katherine Lee	CM	YES	Have been meeting regularly under COVID Emergency
Disaster and Fire Safety Commission	4	4th Wed.	Keith May	FES	YES	
Community Health Commission	0	4th Thur.	Roberto Terrones	HHCS	YES	
Homeless Commission	0	2nd Wed.	Josh Jacobs	HHCS	YES	
Homeless Services Panel of Experts	5	1st Wed	Josh Jacobs	HHCS	YES	
Human Welfare & Community Action Commission	0	3rd Wed.	Mary-Claire Katz	HHCS	YES	
Mental Health Commission	1	4th Thur.	Jamie Works-Wright	HHCS	YES	
Sugar-Sweetened Beverage Product Panel of Experts	0	3rd Thur.	Dechen Tsering	HHCS	YES	
Civic Arts Commission	2	4th Wed.	Jennifer Lovvorn	OED	YES	
Elmwood BID Advisory Board	1	Contact Secretary	Kieron Slaughter	OED	YES	
Loan Administration Board	0	Contact Secretary	Kieron Slaughter	OED	YES	
Solano Avenue BID Advisory Board	2	Contact Secretary	Eleanor Hollander	OED	YES	
Design Review Committee	6	3rd Thur.	Anne Burns	PLD	YES	Have been meeting regularly under COVID Emergency
Energy Commission	0	4th Wed.	Billi Romain	PLD	YES	
Landmarks Preservation Commission	6	1st Thur.	Fatema Crane	PLD	YES	Have been meeting regularly under COVID Emergency
Planning Commission	3	1st Wed.	Alene Pearson	PLD	YES	Have been meeting regularly under COVID Emergency
Zoning Adjustments Board	11	2nd & 4th Thur.	Shannon Allen	PLD	YES	Have been meeting regularly under COVID Emergency
Parks and Waterfront Commission	4	2nd Wed.	Roger Miller	PRW	YES	
Commission on Disability	0	1st Wed.	Dominika Bednarska	PW	YES	
Public Works Commission	4	1st Thur.	Joe Enke	PW	YES	
Zero Waste Commission	0	4th Mon.	Heidi Obermeit	PW	YES	
Commission on the Status of Women	0	4th Wed.	Shallon Allen	CM	YES - LIMITED	Secretary has intermittent COVID assignments

November 10, 2020 - Item 20  
Supplemental Information

<u>Boards and Commissions</u>	<u>Meetings Held Under COVID March - Oct</u>	<u>Regular Mtg. Date</u>	<u>Secretary</u>	<u>Dept.</u>	<u>Resume Regular Schedule in January 2021?</u>	<u>Note</u>
Commission on Aging	0	3rd Wed.	Richard Castrillon	HHCS	REDUCED FREQUENCY	Significant Dept. resources assigned to COVID response
Housing Advisory Commission	0	1st Thur.	Mike Uberti	HHCS	REDUCED FREQUENCY	Significant Dept. resources assigned to COVID response
Measure O Bond Oversight Committee	0	3rd Monday	Amy Davidson	HHCS	REDUCED FREQUENCY	Significant Dept. resources assigned to COVID response
Transportation Commission	2	3rd Thur.	Farid Javandel	PW	REDUCED FREQUENCY	Staff assigned to COVID response
Children, Youth, and Recreation Commission	0	4th Monday	Stephanie Chu	PRW	NO - SEPT 2021	Staff assigned to COVID response
Youth Commission	0	2nd Mon.	Ginsi Bryant	PRW	NO - SEPT 2021	Staff assigned to COVID response
Community Environmental Advisory Commission	0	2nd Thur.	Viviana Garcia	PLD	NO - JUNE 2021	Staff assigned to COVID response
Cannabis Commission	0	1st Thur.	VACANT	PLD	NO - JAN. 2022	Staff vacancy
Peace and Justice Commission	0	1st Mon.	VACANT	CM	NO	Staff vacancy
Commission on Labor	0	3rd Wed., alternate mon	Kristen Lee	HHCS	NO	Staff assigned to COVID response
Personnel Board	1	1st Mon.	La Tanya Bellow	HR	NO	Staff assigned to COVID response

## RESOLUTION NO. 69,331-N.S.

RATIFYING THE RECOMMENDATIONS ISSUED BY THE DIRECTOR OF EMERGENCY SERVICES AND THE PUBLIC HEALTH OFFICER REGARDING MEETINGS OF BERKELEY LEGISLATIVE BODIES IN RESPONSE TO THE COVID-19 (NOVEL CORONAVIRUS) PANDEMIC

WHEREAS, on March 3, 2020, pursuant to Berkeley Municipal Code section 2.88.040, the City Manager, serving as the Director of Emergency Services, proclaimed the existence of a local emergency; and

WHEREAS, the proclamation was warranted by virtue of the extreme peril to the safety of persons and property in the City caused by pandemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus ("COVID-19"), including confirmed cases in California and the San Francisco Bay Area, and presumed cases in Alameda County prompting the County to declare a local health emergency; and

WHEREAS, the proclamation of the Director of Emergency Services was ratified by the City Council on March 10, 2020; and

WHEREAS, the continued spread of COVID-19 and increase in community transmission cases in surrounding counties warrant further measures be taken by the City to protect the community; and

WHEREAS, the Public Health Officer has issued guidelines for limiting mass gatherings; and

WHEREAS, certain limitations on the meetings of legislative bodies in the City of Berkeley is warranted; and

WHEREAS, the continued essential functions of the City and certain legislative bodies must continue for time-sensitive, legally mandated actions; and

WHEREAS, the Director of Emergency Services presented recommendations to the Agenda & Rules Committee on March 12, 2020 regarding the meetings of legislative bodies; and

WHEREAS, the Agenda & Rules Committee recommended that said recommendations be forwarded to the City Council for acknowledgement and ratification.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following recommendations issued by the Director of Emergency Services and the Public Health Officer regarding limitations and practices for legislative bodies of the City of Berkeley are hereby acknowledged and ratified:

## Section 1. Boards and Commissions

Commissions listed below may continue to meet only if they have time-sensitive, legally mandated business to complete, as determined by the Director of Emergency Services. The City may consider teleconferencing for these commissions, if feasible.

Design Review Committee  
Fair Campaign Practices Commission  
Housing Advisory Commission (limited to quasi-judicial activities)  
Joint Subcommittee on the Implementation of State Housing Laws  
Landmarks Preservation Commission  
Open Government Commission  
Personnel Board  
Planning Commission  
Police Review Commission  
Zoning Adjustments Board

Commissions in Category B shall not meet for a period of 60 days. This will be re-evaluated at the Agenda & Rules Committee meeting on April 13, 2020. A Commission in Category B may convene a meeting if it has time-sensitive, legally-mandated business to complete, as determined by the Director of Emergency Services.

### Category B

Animal Care Commission  
Cannabis Commission  
Civic Arts Commission  
Children, Youth, and Recreation Commission  
Commission on Aging  
Commission on Disability  
Commission on Labor  
Commission on the Status of Women  
Community Environmental Advisory Commission  
Community Health Commission  
Disaster and Fire Safety Commission  
Elmwood Business Improvement District Advisory Board  
Energy Commission  
Homeless Commission  
Homeless Services Panel of Experts  
Housing Advisory Commission  
Human Welfare and Community Action Commission  
Measure O Bond Oversight Committee  
Mental Health Commission  
Parks and Waterfront Commission  
Peace and Justice Commission  
Public Works Commission  
Solano Avenue Business Improvement District Advisory Board  
Sugar-Sweetened Beverage Product Panel of Experts

Transportation Commission  
Youth Commission  
Zero Waste Commission  
Loan Administration Board

Section 2. City Council Policy Committees

The Agenda & Rules Committee and the Budget & Finance Committee may continue to meet to fulfill their legislative and advisory responsibilities. All other Policy Committees (Facilities, Infrastructure, Transportation, Environment & Sustainability, Public Safety, Land Use, Housing & Economic Development, and Health, Life Enrichment Equity & Community) are suspended indefinitely. The 120-day deadline to consider an item will be tolled during the suspension of business.

Section 3. City Council


For City Council meetings, the City will continue to advise and implement social distancing by limiting the capacity of the Council Chambers, providing an overflow room, attempting to limit the duration of the meeting, only conducting essential business, and limiting or suspending ceremonial items. The City will adhere to and implement the provisions of the Governor's Executive Order #N-25-20 related to the Brown Act and the utilization of technology to facilitate participation.

The foregoing Resolution was adopted by the Berkeley City Council on March 17, 2020 by the following vote:

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

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:   
\_\_\_\_\_  
Mark Numalville, City Clerk







Office of the City Manager

October 22, 2020

To: Berkeley Boards and Commissions

From: *Dee* Dee Williams-Ridley, City Manager

Subject: Commission Meetings During COVID-19 Emergency

This memo serves to provide a summary and update of the status of meetings of Berkeley Boards and Commissions during the COVID-19 emergency declaration.

On March 10, 2020, the City Council ratified the proclamation of the Director of Emergency Services for a state of local emergency related to the COVID-19 pandemic. The emergency proclamation has been renewed twice by the Council and remains in effect.

On March 17, 2020, the City Council adopted Resolution No. 69,331-N.S. which placed limitations of the meetings of City legislative bodies, including all boards and commissions. The resolution allows for commissions to meet to conduct time-sensitive, legally mandated business with the authorization of the City Manager. Since that time, several commissions have obtained this approval and held meetings; many other commissions have not met at all since March.

The City Manager has periodically reviewed the status of commission meetings with the City Council Agenda & Rules Committee. Recently, at the October 12, 2020, Agenda & Rules Committee meeting, the City Manager presented a proposal to allow all commissions to meet under limited circumstances. The Committee voted to endorse the City Manager's recommendation.

Effective October 12, 2020, all City boards and commissions may meet once to develop and finalize their work plan for 2021 and to complete any Council referrals directly related to the COVID-19 pandemic response. A second meeting may be held to complete this work with specific authorization by the City Manager. It is recommended that the meeting(s) occur by the end of February 2021.

Commissions that have been granted permission to meet under Resolution No. 69,331-N.S. may continue to meet pursuant to their existing authorization, and may also meet to develop their 2021 work plan.

Commissions that have not requested meetings pursuant to the Resolution No. 69,331-N.S. may meet pursuant to the limitations listed above.

To assist commissions with the development of their work plan and to provide the City Council with a consistent framework to review the work plans, the City Manager has developed the following items to consider in developing the work plan that is submitted to the City Council agenda.

Prompts for Commissions to use in work plan:

- What commission items for 2021 have a direct nexus with the COVID-19 response or are the result of a City Council referral pertaining to COVID-19?
- What commission items for 2021 are required for statutory reasons?
- What commission items for 2021 are required for budgetary or fund allocation reasons?
- What commission items for 2021 support council-adopted or voter-adopted mission critical projects or programs?
- What are the anticipated staff demands (above and beyond baseline) for analysis, data, etc., to support commission work in 2021 (baseline duties = posting agendas, creating packets, attend meetings, minutes, etc.)?

The limitations on commission meetings are due to the need to direct staff resources and the resources of city legislative bodies to the pandemic response. Many of the staff assigned as commission secretaries are engaged in work with the City Emergency Operations Center or have been assigned new specific duties related to the impacts of the pandemic.

Meeting frequency for boards and commissions will continue to be evaluated on a regular basis by the City Manager in consultation with Department Heads and the City Council. More frequent meetings by commissions will be permitted as the conditions under COVID-19 dictate.

Thank you for your service on our boards and commissions. The City values the work of our commissions and we appreciate your partnership and understanding as we address this pandemic as a resilient and vibrant community.

Attachments:

1. Resolution 69,331-N.S.
2. List of Commissions with Meeting Data

cc: Mayor and City Councilmembers  
Senior Leadership Team

RESOLUTION NO. 69,331-N.S.

RATIFYING THE RECOMMENDATIONS ISSUED BY THE DIRECTOR OF EMERGENCY SERVICES AND THE PUBLIC HEALTH OFFICER REGARDING MEETINGS OF BERKELEY LEGISLATIVE BODIES IN RESPONSE TO THE COVID-19 (NOVEL CORONAVIRUS) PANDEMIC

WHEREAS, on March 3, 2020, pursuant to Berkeley Municipal Code section 2.88.040, the City Manager, serving as the Director of Emergency Services, proclaimed the existence of a local emergency; and

WHEREAS, the proclamation was warranted by virtue of the extreme peril to the safety of persons and property in the City caused by pandemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus ("COVID-19"), including confirmed cases in California and the San Francisco Bay Area, and presumed cases in Alameda County prompting the County to declare a local health emergency; and

WHEREAS, the proclamation of the Director of Emergency Services was ratified by the City Council on March 10, 2020; and

WHEREAS, the continued spread of COVID-19 and increase in community transmission cases in surrounding counties warrant further measures be taken by the City to protect the community; and

WHEREAS, the Public Health Officer has issued guidelines for limiting mass gatherings; and

WHEREAS, certain limitations on the meetings of legislative bodies in the City of Berkeley is warranted; and

WHEREAS, the continued essential functions of the City and certain legislative bodies must continue for time-sensitive, legally mandated actions; and

WHEREAS, the Director of Emergency Services presented recommendations to the Agenda & Rules Committee on March 12, 2020 regarding the meetings of legislative bodies; and

WHEREAS, the Agenda & Rules Committee recommended that said recommendations be forwarded to the City Council for acknowledgement and ratification.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following recommendations issued by the Director of Emergency Services and the Public Health Officer regarding limitations and practices for legislative bodies of the City of Berkeley are hereby acknowledged and ratified:

## Section 1. Boards and Commissions

Commissions listed below may continue to meet only if they have time-sensitive, legally mandated business to complete, as determined by the Director of Emergency Services. The City may consider teleconferencing for these commissions, if feasible.

Design Review Committee  
Fair Campaign Practices Commission  
Housing Advisory Commission (limited to quasi-judicial activities)  
Joint Subcommittee on the Implementation of State Housing Laws  
Landmarks Preservation Commission  
Open Government Commission  
Personnel Board  
Planning Commission  
Police Review Commission  
Zoning Adjustments Board

Commissions in Category B shall not meet for a period of 60 days. This will be re-evaluated at the Agenda & Rules Committee meeting on April 13, 2020. A Commission in Category B may convene a meeting if it has time-sensitive, legally-mandated business to complete, as determined by the Director of Emergency Services.

### Category B

Animal Care Commission  
Cannabis Commission  
Civic Arts Commission  
Children, Youth, and Recreation Commission  
Commission on Aging  
Commission on Disability  
Commission on Labor  
Commission on the Status of Women  
Community Environmental Advisory Commission  
Community Health Commission  
Disaster and Fire Safety Commission  
Elmwood Business Improvement District Advisory Board  
Energy Commission  
Homeless Commission  
Homeless Services Panel of Experts  
Housing Advisory Commission  
Human Welfare and Community Action Commission  
Measure O Bond Oversight Committee  
Mental Health Commission  
Parks and Waterfront Commission  
Peace and Justice Commission  
Public Works Commission  
Solano Avenue Business Improvement District Advisory Board  
Sugar-Sweetened Beverage Product Panel of Experts

Transportation Commission  
Youth Commission  
Zero Waste Commission  
Loan Administration Board

Section 2. City Council Policy Committees

The Agenda & Rules Committee and the Budget & Finance Committee may continue to meet to fulfill their legislative and advisory responsibilities. All other Policy Committees (Facilities, Infrastructure, Transportation, Environment & Sustainability, Public Safety, Land Use, Housing & Economic Development, and Health, Life Enrichment Equity & Community) are suspended indefinitely. The 120-day deadline to consider an item will be tolled during the suspension of business.

Section 3. City Council


For City Council meetings, the City will continue to advise and implement social distancing by limiting the capacity of the Council Chambers, providing an overflow room, attempting to limit the duration of the meeting, only conducting essential business, and limiting or suspending ceremonial items. The City will adhere to and implement the provisions of the Governor's Executive Order #N-25-20 related to the Brown Act and the utilization of technology to facilitate participation.

The foregoing Resolution was adopted by the Berkeley City Council on March 17, 2020 by the following vote:

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

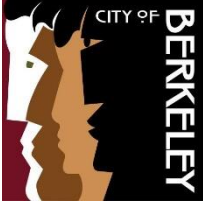
Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:   
\_\_\_\_\_  
Mark Numalville, City Clerk





Office of the City Manager

February 8, 2021

To: Agenda and Rules Committee  
 From: Dee Williams-Ridley, City Manager  
 Re: **Systems Alignment Proposal**

The purpose of this memorandum is to propose a process to integrate various systems (e.g, budget, Strategic Plan, prioritization of referrals, etc.) to ensure that resources are appropriately allocated, to focus the organization and employees on those priorities established by the City Council and City Manager, and to enhance legislative and budget processes. In light of the economic and financial impacts of COVID-19 and resource constraints, it is imperative to improve vetting and costing of new projects and legislative initiatives to ensure success. In addition, the purpose of this proposal will align our work with the budget process.

### **EXECUTIVE SUMMARY**

The proposed changes outlined in this memorandum will better guide and inform budget development, clarify tradeoffs by identifying operational impacts, and develop a more effective and time-efficient path to implementation. The major features of the proposal are:

- Changing the order of the legislative process to ensure that Major Items (defined below) passed by Council are funded, as well as folded into staff workplans and staffing capacity,
- Ensuring that Major Items that are adopted by City Council are vetted and clearly identify the resources needed for implementation,
- Consolidating and simplifying reporting and tracking of Major Items, and
- Creating a deadline for each year's Major Items that allows for alignment with prioritization, the Strategic Plan, and the budget process.



## **PROPOSED PROCESS**

The proposed process outlined in this memorandum replaces the current system of referrals (short and long term, as well as Commission referrals), directives, and new proposed ordinances, that is, all Major Items, regardless of “type” or origin will be subject to this process.

### **Step 1: Major Item Determination**

The systems alignment proposal outlines a process for Major Items, defined as meeting one or more of the below conditions:

- Item cannot be operationalized over time with existing resources.
- Item displaces an existing prioritized item.
- Item is not implementable with existing resources.
- Item is unable to sustain enforcement activities.
- Item is subject to legal challenge and/or pre-emption.
- Item requires additional or new full time equivalent (FTE) staff on either a temporary or permanent basis.
- Item requires additional or new infrastructure or technology costs.

The Agenda & Rules Committee, in consultation with the City Manager, will make the initial determination of whether something is a Major Item. At any time in the process, if evidence demonstrates that the initial determination of the proposal as a Major Item proves incorrect, then it is no longer subject to this process.

Special exemptions from this process, due to exigent circumstances, will allow a Major Item to be considered on its own schedule and not subject to the required steps and deadlines in this proposed process. Consideration of exempted Major Items must include trade off considerations to address impacts and/or delays to work already approved and/or underway. Exemptions may be granted for the following:

- grant deadline requirements
- public safety issues
- declared local emergencies

A Major Item must be submitted in time to appear on an agenda of the Agenda & Rules Committee meeting occurring no later than April 30 of every year. Any item submitted after that deadline, that does not meet an exemption, will be continued to the following year’s legislative process.

Major Items will be referred by the Agenda & Rules committee on a rolling basis. Major Items can move through the process on their own schedule provided that they meet the “no later than” deadlines.

### **Step 2: Policy Committee Review**

A Major Item, once introduced, will be referred to one of City Council’s Policy Committees (i.e., Health, Life Enrichment, Equity and Community, Public Safety, etc.) by the Agenda and Rules Committee, for review, recommendation, and high-level discussion of implementation (i.e., ideas, rough cost estimates, benefits, etc.). Per the [Council Rules of Procedure and Order](#), Section III, Subsection 4, the Policy Committee will review for completeness and alignment with



Strategic Plan goals to ensure the Major Item report adequately includes budget implications, administrative feasibility, basic legal concerns, and staff resource demands. If the Major Item receives a positive or qualified positive recommendation, then it will go to an Implementation Conference (See step 3, Vetting and Costing).

If the Major Item receives a negative or qualified negative recommendation, then it will be returned to the Agenda and Rules Committee to be placed on a City Council Agenda. When heard at a City Council meeting, the author can advocate for the Major Item to be sent to an Implementation Conference. If the Major Item does not receive a vote by the majority of City Council at this step, it becomes inactive for that year's legislative calendar but may be reintroduced for the next year's calendar.

City Council Policy Committees must complete review of all Major Items assigned to them no later than July 31 of each year.

### **Step 3: Implementation Conference (Vetting and Costing)**

At an Implementation Conference, the primary author will meet with the City Manager or designee, City Manager-selected staff subject matter experts, and where appropriate, the City Attorney or designee. The Implementation Conference is an informal meeting where the primary author can collaborate with the City Manager and staff to better define the Major Item and identify more detailed fiscal and operational impacts, such as:

- Are there staff in-house with the appropriate skill set?
- Can this be absorbed by existing staff, staff time, and workload? If not, what is the estimated additional staffing need (e.g., percent FTE, average fully loaded cost for requisite classification, etc.)?
- Are the costs (staff and any other) one-time or ongoing?
- What is the tradeoff? Would the project/item(s) being "traded off" be delayed? If so, how long?
- Operationally, what services would be impacted? How?
- What are the short term impacts on services and/or staff?
- What are the longer term or domino effect impacts on services and/or staff?
- What are the benefits to the organization (e.g., products, services, and/or staff efficiencies)?
- What legal issues or risks are raised by the Major Item and Options to Mitigate?
- What risk management issues are raised by the Major Item and Options to Mitigate?

The information discussed during the Implementation Conference will be summarized in the Council Report as part of a new fiscal impacts section, revised to be more robust as a fiscal and operational impacts section.

After the Major Item's author revises the original Council Report, including fiscal and operational impacts, based on information from the Implementation Conference, the Major Item will be submitted to the Council agenda process.

Implementation Conferences must be completed no later than August 31 of each year.

#### **Step 4: Initial Prioritization**

By July 31 of each year, the City Council Policy Committees will make a recommendation to Council on prioritization of the Major Items they have reviewed. The Policy Committee priority rankings will be submitted to the City Council when the Council is considering items to move forward in the budget and strategic plan process.

#### **Step 5: City Council Approval and Final Prioritization**

Under this proposal, all Major Items that the City Council considers for approved prioritization must have (1) received a City Council Policy Committee review and recommendation, (2) received a City Council Policy Committee prioritization, (3) completed the Implementation Conference, and (4) been placed on the Agenda at a Council meeting in October for approval and prioritization. The full City Council will make four determinations: (1) whether to approve each Major Item, (2) overall prioritization of the item, (3) assignment of fiscal year for each Major Item, and (4) identification of projects or items to remove from existing workload to accommodate new Major Items.

If a Major Item does not receive the endorsement of City Council at this step, it becomes inactive for that year's legislative calendar and may be reintroduced for the next year's calendar.

City Council must complete its review, approval, and prioritization process no later than November 30 of each year.

#### ***Step 6: Budget & Strategic Plan Process***

During December and January, city staff will prepare budget proposals that incorporate the ranked City Council Major Item priorities, Strategic Plan, and work plan development. In the late winter/early spring, the City Manager and Budget Office will present the draft budget to Council. This will be followed by department presentations to the Budget and Finance Policy Committee. From late March and through early May, Council and staff will refine the budget. Council will hold budget hearings in May and June, with adoption of the budget by June 30. Although the legislative process (i.e., Policy Committee review, Implementation Conference, Prioritization) is annual, staff recommends the budget process remain bi-annual. A significant mid-cycle budget update can easily accommodate additions to or changes in priorities arising through the legislative process.

The proposed process is depicted in Figure 1 below.

**Figure 1**

<b>Agenda &amp; Rules Committee</b>	Is this a Major Item?	Yes	No. Place on full Council Agenda.
<b>Policy Committee</b>	Positive recommendation?	Yes	
<b>Implementation Conf. Vetting and Costing</b>	Completed Fiscal & Operational impacts?	Yes	No. Continue vetting or withdraw.
<b>Policy Committee Initial Prioritization</b>	Received initial prioritization recommendation?	Yes	No. Becomes inactive for year.
<b>Full Council</b>	Majority approve and prioritize?	Yes	
<b>Budget &amp; Strategic Plan Process</b>	Major Items incorporated into Budget and Strategic Plan.		

**Next Steps**

Staff is in the process of reviewing existing referrals and projects for incorporation as Strategic Plan projects in the proposed budget based on staffing and resources (see Attachment 1). City Council may wish to review this backlog of work and consider whether any items should be deferred or cancelled, given the events of 2020, budgetary constraints, and the need to fit the work of the organization to its capacity and current Council priorities. The immediate next steps depend on the timing of systems alignment adoption. The key decision points will be

- What happens with adopted, open referrals?
- What do we do with those items Council has under consideration?

This could result in submitting open items and items under consideration to implementation conference or perhaps directly to prioritization, depending on timing and the existing budget and legislative cycles.

**Benefits**

Since the proposed process places the City Council prioritization of Major Items immediately before budget preparation, the Prioritization will guide and inform budget development, including components such as the Strategic Plan and work plans. Fixing the sequencing of the process is a key benefit. Currently, with prioritization occurring in May and June, the budget process is nearing completion when City Council’s priorities are finally decided. This leads to inconsistencies between adopted priorities and budgeting for those priorities.

Under the current process, an idea may go into prioritization, proceed to the short term referral list or referred to the budget process. However, the resulting Major Item may not have addressed operational considerations. Adding such items to a department’s work at any given time of the year may lead to staff stopping or slowing work on other prioritized projects in order to develop and implement new Major Items. Also, it may be difficult for staff to prioritize their

projects: is stopping/slowing of work that is already underway in order to address new items the preference of the full Council?

Also, because consideration of implementation currently occurs after the adoption of a Major Item, features of the adopted language may unintentionally constrain effective implementation, complicating and slowing progress on the Major Item and hindering the effectiveness of the new program or regulation.

With the proposed process, a Major Item does not go through prioritization until there is an opportunity for staff to identify operational considerations. The time when staff and City Council are asked to attend City Council Policy Committees and Implementation Conferences is limited to the first half of the calendar year, allowing both staff and City Council to efficiently calendar and plan accordingly. Finally, since implementation only occurs after operational considerations are reported, and funds are allocated, the resulting Major Item should move more quickly from idea to successful completion.

Attachment 1: Disposition of Referrals, Projects and Audits



Office of the City Manager

January 28, 2021

To: Budget and Finance Policy Committee  
From: Dee Williams-Ridley, City Manager  
Submitted by: Melissa McDonough, Senior Management Analyst  
Subject: Disposition of Referrals, Projects, and Audits – No Action Required

Staff is in the process of reviewing existing referrals and projects for incorporation as Strategic Plan projects in the proposed FY 22 budget based on staffing and resources (see Attachment). During this time of pandemic and economic constraint, the existing backlog of approximately 509 items: 249 referrals, 75 open audit recommendations, and 185 Strategic Plan projects will need to be carefully considered, alongside other important current work such as:

- Administering the COVID-19 vaccine,
- Implementing recently approved ballot measures,
- Reimagining public safety,
- Measure T1 implementation,
- Vision 2050,
- Addressing homelessness,
- Upcoming labor negotiations, and
- Continuing to address COVID-19 impacts on public health, people's housing stability and livelihood, as well as the local economy.

The attached list summarizes the disposition of open referrals, projects, and audit recommendations, including wherever possible, indication of available budget and staffing resources. The Policy Committee may wish to review this backlog of work and consider whether any items should be deferred, or cancelled, given the events of 2020, budgetary constraints, the need to fit the work of the organization to its capacity and current Council priorities, and the age of some items (e.g., the oldest referral dates to a 2011 City Council meeting).

Please see the attached document and contact me with any questions, including requests for more information regarding any particular referral(s), project(s), or audit recommendation(s).

Attachment:

Disposition of Referrals, Projects and Audits



**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
1	Council and Budget Referrals - Demand	Adopt a resolution in support of the Good Food Purchasing Program's core values and join San Francisco, Oakland, Los Angeles and Chicago as one of the first five cities nationwide to become a Good Food Purchasing partner, and refer to the City Manager to incorporate over time the vision and standards of the Good Food Purchasing Program (GFPP) into City of Berkeley food purchasing practices.	Adopt a resolution in support of the Good Food Purchasing Program's core values and join 28 public institutions across 14 U.S. cities, including San Francisco, Oakland, Los Angeles, Chicago, and Washington, D.C. to endorse Good Food Purchasing values, and refer to the City Manager to incorporate over time the vision and standards of the Good Food Purchasing Program (GFPP) into City of Berkeley food purchasing practices.	N/A	Draft	City Manager's Office	N	N	N	N	N	N	N
2	Council and Budget Referrals - Demand	Budget Referral: Youth Listening Campaign & Citywide Master Plan	Amended to include Youth Commission. In support of the 2020 Vision process and as part of the larger commitment of the City of Berkeley to its young people, we are proposing a planning process that centers the voices and needs of young people, their families and the people who support them day-in and day-out. The process would include: 1) A Listening Campaign that would include focus groups, surveys and one-on-one interviews to identify the experiences of, perspectives of, needs of and barriers for young people, ages 13-24, in securing and maintaining safety and well-being, achieving their goals and dreams, and having positive and supportive relationships with adults in their lives, including the schools and programs they participate in; 2) Use the results of the Listening Campaign to organize assemblies of young people, their families and the programs and providers they are connected to in order to collectively reflect on the results and identify potential services, programs, resources and policies that could respond to their needs, reduce barriers and harms and broaden what is available to support young people; and 3) Use the outcomes from the assembly process and Listening Campaign to partner with city staff in creating a Youth Master Plan.	N/A	Draft	City Manager's Office	Y	N	N	Pursuing grant funding for a similar initiative (Prop 64)	N	Y (if grant funding acquired)	Y (if grant funding acquired)

Note: All referrals are entered into the database as a "Demand" draft. If it is a short term referral, it is immediately converted into a "Project". For long term referrals, typically, once work has begun, they are converted from Demands to Projects.



**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
3	Council and Budget Referrals - Demand	Changes to the Berkeley Municipal Code and City of Berkeley Policies with Respect to Local Emergency Declarations and First Amendment Curfews - Item A	1. Direct the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify the following concepts with respect to the declaration of a Local Emergency: a. A Local Emergency can only be declared by the Director of Emergency Services if a regular or special meeting and session of the City Council cannot be called due to physical impossibility of holding a meeting, because a quorum cannot be established, or because the urgency of the Local Emergency is such that waiting 24 hours for the City Council to convene a session and/or Special Meeting would endanger the community; b. Should the Director declare a Local Emergency without action of the City Council (due to one of the reasons stated at (a), above), the City Manager should inform councilmembers immediately and Council ratification of such action should occur at the first possible opportunity, even if it requires calling a Special Meeting and/or session of the Council; and c. The applicable statutory and legal standards (Federal, State and Local) for calling a Local Emergency shall be presented to the City Council when seeking declaration or ratification of a Local Emergency, along with facts to support meeting those standards, so that the City Council, likely acting under rushed and exigent circumstances, is able to make a carefully considered and fact-based determination that declaration of such Local Emergency conforms with the legal standards presented to it.	N/A	Draft	City Manager's Office	N	N	Y	N	N	Y (part of post-COVID work)	N
4	Council and Budget Referrals - Demand	Construct Additional Taxi Stands and Relocate One Stand Within the City	That the Council refer to the City Manager the construction of seven taxi stands in total and the relocation of one stand in the City to improve accessibility for pedestrians, create visibility, and increase profits for taxi drivers. These taxi stands should be constructed at the following sites: Two stands at Hotel Shattuck; Two stands at the Doubletree Hotel; Two stands at Telegraph & Bancroft or Durant & Telegraph; and One stand at Bancroft Hotel. In addition, the Ashby BART taxi stand shall be relocated closer to the station entrance on MLK Jr. Way.	N/A	Draft	City Manager's Office	N	N	N	N	N	N	N
5	Council and Budget Referrals - Demand	Create and Implement Additional Sensitivity Training Options for Taxi Drivers	That the Council refer to the City Manager the creation and implementation of one of the following two additional options for sensitivity trainings to allow for more accessibility for new and continuous taxi drivers. Firstly, an online sensitivity training course should be created and implemented in the City's current taxi checklist. Secondly, there should be a designated sensitivity training site readily accessible within the City.	N/A	Draft	City Manager's Office	N	N	N	N	N	N	N

**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
6	Council and Budget Referrals - Demand	Freedom from Domestic Violence as a Human Right Resolution	Adopt the Freedom from Domestic Violence as a Human Right Resolution. City Manager shall prepare a report within the next six (6) months on the policy and practice of City departments on domestic violence, including but not limited to, the Berkeley Police, the Berkeley Fire Department, and Health, Housing & Community Services, with respect to the status of domestic violence and the City's work to overcome domestic violence and support survivors. BE IT FURTHER RESOLVED that City departments shall work to incorporate this Resolution into their work.	N/A	Draft	City Manager's Office	N	N	N	N	N	Y	N
7	Council and Budget Referrals - Demand	Personal Delivery Service Franchise Agreements	Referral to the City Manager's Office to develop a program that would enable the City to consider franchise applications for personal delivery service companies involving personal delivery devices.	N/A	Draft	City Manager's Office	N	N	N	N	N	N	N
8	Council and Budget Referrals - Demand	Referral to City Manager to address the conversion of Not Available To Rent rental units to unregistered short term rentals and unregistered medium term rentals from 15 to 30 days	Referral to City Manager to address the apparent conversion of Not Available To Rent rental units to unregistered Short Term Rentals and unregistered medium term rentals from 15 to 30 days. Refer to Planning Permit Service Center, Code Enforcement, Finance Department, Rent Stabilization Board, and Host Compliance, to comprehensively review whether units that are not available for rent (NAR) are compliant with Rent Board Regulations, and short-term rental (STR) regulations.	N/A	Draft	City Manager's Office	N	Y	Y	N	N	Y	Y
9	Council and Budget Referrals - Demand	Referral to the Community Environmental Advisory Commission: Cigarette Butt Pollution Prevention Program in South Berkeley	Refer to the Community Environmental Commission (CEAC) AND THE CITY MANAGER to consider developing a Cigarette Butt Pollution Prevention Program for South Berkeley. Explore the following items: a) Location. Work with the local business associations, business owners, as well as other neighborhood and community organizations to identify key locations for cigarette butt receptacles. b) Operation. Work with local businesses to develop a system for cleanup and disposal of the contents of the receptacles. c) Cost. Identify any one-time costs associated with the program, including purchasing and installation of the receptacles. Identify any costs that should be set aside for maintenance. There should not be regular ongoing costs. CEAC should work with the businesses and neighborhoods to develop a community-based system to facilitate daily operations.	N/A	Draft	City Manager's Office	Y	N	N	N	N	Y	Y

**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
10	Council and Budget Referrals - Demand	Siting the African American Holistic Resource Center and Affordable Housing at 1890 Alcatraz	That the City Council refers to the City Manager to study the feasibility of using the city-owned property located at 1890 Alcatraz Avenue (currently temporary Mental Health Division offices) for the African American Holistic Resource Center (AAHRC) and also developing affordable housing on the site. The City Manager should report back on the costs and implementation steps to repurpose the property for the AAHRC using the AAHRC Feasibility study as a guide, including what physical improvements would need to be made, and cost for ongoing operations by a non-profit. The City Manager and Planning should also conduct an analysis of potential site capacity looking at site context and yield and report on how much housing could be developed on the site under current zoning, including the AAHRC on the ground floor. Additionally, the City Manager and Planning Commission should incorporate the Community Preference policy in selecting applicants for the affordable housing units created by this project. AAHRC Steering Committee to be consulted during implementation.	N/A	Draft	City Manager's Office	N	Y	Partial	Pursuing grant funding	N	N	N
11	Council and Budget Referrals - Demand	Urgent Item: Create an Interjurisdictional Group Violence Intervention Program "GVI," or "Operation Ceasefire," to Reduce Gun Violence	Refer to the Community Engagement Process for Reimagining Public Safety creation of a Group Violence Intervention Program (GVI), or "Operation Ceasefire," that will assemble a Berkeley-centered interjurisdictional working group of community members, law enforcement personnel, and supportive services providers to address gun violence.	N/A	Draft	City Manager's Office	N	Y	Y	N	N	Y	Y
12	Council and Budget Referrals - Demand	City Manager Referral to Update City's Municipal Code To Increase Competitiveness of Taxi Industry	That the Council refer to the City Manager to update the City's municipal code sections 9.52.020, 9.52.070, 9.04.020, and 9.04.035 to reflect the following items, in order to increase the competitiveness of our local taxi industry: 3. Allow the annual vehicle inspection to be conducted by either a city employee or an ASI-certified mechanic.; 4. Construct a general policy that would allow taxi stands to operate near newly constructed and existing hotels in the city of Berkeley.; 5. Move the Ashby BART Taxi Stand outside of the BART station to neighboring M.L.K. Jr. Way, in order to increase visibility for taxis.; 6. Extend the exemption of the Low Emission Requirements for vans to taxis due to the unavailability of similarly sized hybrid vehicles.; 7. Extend the validity period of taxi driver ID permits to three years, replacing the current policy of yearly renewals. In addition, all existing permits to January 1, 2018 should perform a net renewal on January 1, 2021.; 8. Waive insurance payments for taxi drivers who must take a leave of absence in case of emergency.; 9. Evaluate the Taxi Driver Association's proposal that the city of Berkeley should change the entire renewal process, including renewal of both physical and mechanical inspections, business licenses, and taxi driver IDs, from one year to three years.	N/A	Draft	City Manager's Office	N	N	N	N	N	N	N

**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
13	Council and Budget Referrals - Demand	Use of Gender Neutral Language in City Documents	Refer to the City Manager to: 1. Develop and return to Council with a procedural and financial plan to modify all appropriate City forms to include an optional field for personal gender pronouns (she/her, he/him, they/them, and space to specify other). 2. Develop and return to Council with a procedural and financial plan to revise the Berkeley Municipal Code to replace all instances of gendered pronouns with the singular "they," and amend Sections 1.04.020, 4.36.110, 4.38.110, 4.39.110, and 11.08.050 regarding grammatical interpretation to indicate that whenever a gender neutral personal pronoun is used, it shall be deemed to include the feminine and masculine also.	N/A	Draft	City Manager's Office	N	N	N	N	N	N	N
14	Council and Budget Referrals - Demand	Companion Report: Ban on Receipts Made with Bisphenol A (BPA) and Other Phenols	Take no action on the Community Health Commission recommendation to adopt an ordinance to ban the use of thermal paper by 2020 and instead implement a community education effort about methods for reducing exposure to BPA-treated thermal paper. Approved the recommendation with the amendment requesting that staff conduct a survey to determine how many businesses are using receipts with BPA.	N/A	Draft	City Manager's Office/Health, Housing & Community Services	N	N	N	N	N	Data Pending	Data Pending
15	Council and Budget Referrals - Demand	Revitalization of the Civic Center Park Fountain	Refer to the City Manager to work with the Turtle Island Fountain Project in developing a plan to revitalize the fountain at Martin Luther King Jr. Civic Center Park and consider this referral as part of the Civic Center Park visioning RFP.	N/A	Draft	City Manager's Office/Office of Economic Development/Parks, Recreation & Waterfront	N	Y	Partial	N	N	Y	Y
16	Council and Budget Referrals - Demand	Ronald V. Dellums Fair Chance Access to Housing Ordinance; Adding BMC Chapter 13.106	1. Adopt a first reading of the Ronald V. Dellums Fair Chance Access to Housing Ordinance and; 2. Direct the City Manager to take all necessary steps to implement this chapter including but not limited to developing administrative regulations in consultation with all relevant City Departments including the Rent Stabilization Board, preparing an annual implementation budget, designating hearing officers and other necessary staffing for administrative complaint, exploring the development of a compliance testing program similar to that used by the Seattle Office of Civil Rights, developing timelines and procedures for complaints, conducting outreach and education in partnership with the Alameda County Fair Chance Housing Coalition, and referring program costs to the June budget process.	N/A	Draft	City Manager's Office/Rent Board/Health, Housing & Community Services	N	Y	N	N	N	Y	N
17	Council and Budget Referrals - Demand	6. City Manager Referral: Standardize Finance Categories of Software and Exclusively Internet Companies	Refer to the City Manager creating one simple clear standard for categorizing software companies and exclusively internet companies that do business in Berkeley	N/A	Approved	Finance	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
18	Council and Budget Referrals - Demand	Ban-the-Box for Employers Doing Business with the City of Berkeley	Request that the City Manager draft language requiring businesses doing business with the City of Berkeley to eliminate disclosure of conviction history prior to receiving a conditional offer of employment.	N/A	Approved	Finance	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
19	Council and Budget Referrals - Demand	City Manager Referral: Improvements to Berkeley's Very Low Income Tax Relief Refund Program	Refer to the City Manager to make improvements to Berkeley's Very Low Income Refund Program.	N/A	Approved	Finance	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
20	Council and Budget Referrals - Demand	Comprehensive Investment Policy based on ESG Principles	Refer to the City Manager to consider the integration of ESG (environmental, social and governance) principles into the current City of Berkeley Investment Policy framework and return to Council with a recommendation.	N/A	Approved	Finance	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
21	Council and Budget Referrals - Demand	Referral Response: Gender Pay Equity	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) 3. Develop an equal pay certification program for city contractors.	N/A	Draft	Finance	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
22	Council and Budget Referrals - Demand	Socially Responsible Banking Services for the City of Berkeley	Request that the City Manager initiate a process for proposals from providers of banking services that uses criteria articulated in the 2013 process, but adds and emphasizes criteria related to ethical business practices. Ask for an extension of the existing contract with Wells Fargo should additional time be needed. Also, include consideration of provisions of a socially responsible banking policy such as elements of social and environmental justice, requirement for a code of fair treatment, low pay inequity between executives and rank and file, and support for human rights.	N/A	Approved	Finance	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
23	Council and Budget Referrals - Demand	City Manager Referral to Improve Fire Safety Standards for Rebuilt Fire-Damaged Structures	Refer to the City Manager to require repair and replacement of fire damaged buildings to be brought up to current fire safety standards.	N/A	Submitted	Fire & Emergency Services	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

**Disposition of  
Referrals, Projects, and Audits**

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24	Council and Budget Referrals - Demand	Companion Report: Smoke-Free Multi-Unit Housing Ordinance Policy and Enforcement Modifications	On September 29, 2020, the Health, Life Enrichment, Equity & Community Committee made a qualified positive recommendation to send the item to Council including the following referrals: 1. Refer to staff to explore expanding the Ordinance to buildings with one unit; 2. Refer to staff to explore and consider improvements in the interface between the residential and commercial non-smoking Ordinances in mixed-use buildings; 3. Refer to staff to create a web-based complaint filing mechanism/service; 4. Refer to staff to create special protocols for chronic situations and to consider including requirements for better air filtration and purification as well as other measures to effectively manage chronic cases; 5. Refer to staff to study the infraction and enforcement mechanisms and determine if they have any benefits and to consider other potential enforcement end points; 6. Refer to staff to look for opportunities for bias in enforcement and mechanisms to better guard against bias while still allowing for maximum action to resolve legitimate complaints; 7. Refer to staff to propose funding sources for enforcement; 8. Refer to staff to collect demographic data around complaints and targets of complaints (as much as possible); and 9. To return to Council with Ordinance amendments to accomplish the following: (a) amend or remove the 10-day language element (b) modify or remove the 2-complainant rule if warranted (c) adjust for the medical cannabis state law changes, (d) propose any and all other improvements beneficial to the Ordinance.	N/A	Draft	Health, Housing & Community Services	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
25	Council and Budget Referrals - Demand	Companion Report: The SSBPPE Commission's Proposed Policy to Refrain from Procuring, Selling, and Serving Sugar-Sweetened Beverages	Refer both Item 26a and 26b to the City Manager and request that the City Manager draft an ordinance for consideration by the City Council. Original Comm Recommendation: "...adopt an Ordinance amending the Administrative Code to direct the City of Berkeley departments and City food services contractors to refrain from: 1. Procuring sugar-sweetened beverages with City funds; 2. Selling sugar-sweetened beverages on City property, including in vending machines; and 3. Serving sugar-sweetened beverages at City meetings and events on City property."	N/A	Draft	Health, Housing & Community Services	N	Y	N	N	N	Y	N
26	Council and Budget Referrals - Demand	Developing a Mechanism to Facilitate an Improved Homeless Point-In-Time Count	The Homeless Commission recommends to Council that Council refer to staff to assign an intern or seek a volunteer affiliation, through an educational institution, to conduct outreach to, and engage with, community stakeholders including homeless advocates and persons who are experiencing or have experienced homelessness, to identify how homeless persons can be more thoroughly counted during the upcoming 2021 Berkeley Homeless Point-In-Time count.	N/A	Draft	Health, Housing & Community Services	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

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Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
27	Council and Budget Referrals - Demand	Development of the West Berkeley Service Center, 1900 6th Street, for Senior Housing with Supportive Services [Part c]	<p>State the intent of the City Council that the West Berkeley Service Center property, 1900 6th Street, will be used for senior housing with on-site services consistent with Age Friendly Berkeley Plan recommendations, maximizing the number of affordable units.</p> <p>The Berkeley Way Project, 2012 Berkeley Way, is the City's top affordable housing priority. The West Berkeley Service Center, as a City-owned property, to be developed for affordable housing falls under the "High Priority" on the list of housing initiatives passed by Council on November 28, 2017. In light of the above, refer to the City Manager to take the following actions to initiate the process of developing senior housing at the West Berkeley Service Center:</p> <p>c. Based on recommendations from the Health, Housing and Community Services Department, the Housing Advisory Commission, Measure O Bond Oversight Committee, Commission on Aging, and taking into consideration requirements and restrictions associated with potential funding sources, create recommendations to Council regarding levels of affordability, unit sizes, on-site services and other features to be included in a senior housing and social services development, including senior living housing types. These recommendations will be presented to the City Council to inform the issuance of an RFP.</p>	N/A	Draft	Health, Housing & Community Services	N	N	N	N	N	N	N
28	Council and Budget Referrals - Demand	Home Share Pilot Program Recommendation	Item 26a moved to the Consent Calendar to refer to the City Manager the possibility of working within existing similar programs such as Safe Home and Ashby Village.	N/A	Draft	Health, Housing & Community Services	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
29	Council and Budget Referrals - Demand	Referral to the City Manager and the Housing Commission to Consider Creating a Dedicated Revenue Stream from Campus Area Projects to Fund Housing for Homeless and Extremely Low Income Students, and Drafting a Letter Encouraging Exploration of University Funding streams for student housing	Refer to the City Manager and Housing Commission to consider in partnership with the proposed density bonus in the campus area and other policies directed at increasing student housing, creating a dedicated revenue stream to fund housing for homeless and extremely low income students using methods of identifying eligible students based on one or more of the following criteria: EOP, FAFSA, Pell Grant, Work Study qualified, family income or other verifiable status as well as similar categories applicable to graduate students.	N/A	Draft	Health, Housing & Community Services	Y	N	N	N	N	N	N

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Referrals, Projects, and Audits**

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30	Council and Budget Referrals - Demand	Budget Referral: Transportation to Support Mobility-Impaired Individuals Experiencing Homelessness who are Engaged in Rehousing and other Services	"Refer to the budget process to allocate funds to provide transportation for mobility-impaired individuals experiencing homelessness who are engaged with rehousing and other services through the STAIR Center, The Hub, or other City of Berkeley-funded homeless services. Refer to staff to determine needs and establish the best method for providing transit services to mobility-impaired individuals, and to also consider potential transit needs of other individuals engaged with rehousing and homeless services. For the mobility-impaired, options include, but are not limited to, helping one or more service providers to purchase or lease wheelchair-accessible vehicle(s), or to repair or retrofit currently owned vehicle(s), providing additional vouchers for existing Paratransit services, providing additional taxi scripts (as recommended by the Homeless Commission), or contracting with a suitable transportation service. Also consider making mobility services and transportation available during enforcement activities, both for people and belongings. Consistent with the Americans with Disabilities Act (ADA), vehicles purchased, leased, or otherwise procured for the mobility-impaired should include the option of/access to a boarding device (e.g. lift or ramp) so that a passenger who uses a wheelchair or mobility device can reach a securement location onboard."	N/A	Draft	Health, Housing & Community Services	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
31	Council and Budget Referrals - Demand	Paid Family Leave Policy in Berkeley to Supplement California Paid Family Leave Program	That the City Council adopt this policy and refer to the City Manager and City Attorney to amend the proposed ordinance based on the recommendations of the Paid Family Leave (PFL) Subcommittee and to conform to legal and code consistency requirements.	N/A	Draft	Human Resources	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending



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32	Council and Budget Referrals - Demand	Whistleblower Ordinance - Revised materials (Supp 2)	The purpose of this proposal is to protect the whistleblowers from many forms of retaliation, including but not limited to discrimination, harassment, intimidation, alienation, and in some cases even termination. The following recommended actions can be considered to comply with the aforementioned purpose: 1. Adopt the attached ordinance that provides legal safeguards which protect whistleblowers from retaliation. 2.a. Assign the responsibilities to a current city department to accept and investigate such reports/complaints from whistleblowers within the existing resources. Or b. Create a separate unit within the department or establish a contract with an independent contractor to be managed by the city department to accept and investigate such reports/complaints from current employees and the public. Or c. Establish a contract with an independent contractor to provide a "hotline" that would then turn the complaint over to the city unit for further investigation.	N/A	Approved	Human Resources	N	Y	N	N	Y	Y	N
33	Council and Budget Referrals - Demand	Referral to the City Manager to consider the videotaping of Planning Commission meetings	That the City Council refer to the City Manager to consider ways of videotaping the Planning Commission meetings in the same manner as Zoning Adjustment Board meetings.	N/A	Draft	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
34	Council and Budget Referrals - Demand	City Manager Referral: Consider Mitigations for Minimum Wage Increases to Support Small Businesses and Non-Profits by Addressing Parking, Permit and High Rents Issues	Refer to the City Manager to consider mitigations for minimum wage increases to support small businesses and non-profits by attempting to address parking and permits. Request that the Office of Economic Development report on other methods to mitigate the impacts of minimum wage increases on small businesses.	N/A	Approved	Office of Economic Development	N	N	N	N	N	Data Pending	Data Pending
35	Council and Budget Referrals - Demand	Solano Avenue Economic Development Study	Refer to the City Manager to undertake a comprehensive study of the Solano Avenue Commercial District, to provide baseline information for future strategic planning and business development and initiatives that will result in increased tax revenues for the City of Berkeley, and to report to the Council on a priority basis, at an upcoming worksession.	N/A	Draft	Office of Economic Development	N	N	N	N	N	Y	N
36	Council and Budget Referrals - Demand	Vitality of University Avenue	Refer to the City Manager and Economic Development to analyze storefront vacancies on University Avenue and make recommendations on how to create a more vibrant streetscape on our main boulevard.	N/A	Draft	Office of Economic Development	N	N	N	N	N	N	N

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Referrals, Projects, and Audits**

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37	Council and Budget Referrals - Demand	Budget Referral: Increasing Safety at San Pablo Park	3. Re-initiate classes for daycare providers who use San Pablo Park out of the Frances Albrier Community Center: Historically, the City provided a variety of classes on safety and recreation for daycare providers who use San Pablo Park. This referral includes re-establishing a series of courses that daycare providers find useful based on gathering their input. One such course requested was sheltering in place in the situation of an active shooter.	N/A	Draft	Parks, Recreation & N Waterfront		Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
38	Council and Budget Referrals - Demand	Consider Fire Safety Options for Fire Pit at Codornices Park	Referral to the Parks & Waterfront Commission to consider safety options regarding the future of the fire pit at Codornices Park. Please consider 1) Complete removal of fire pit or 2) Manufacture of a cover that can be secured and locked.	N/A	Approved	Parks, Recreation & Y Waterfront		Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
39	Council and Budget Referrals - Demand	Evaluation of Possible Ban on New Planting of Certain Tree Species	Take action to either: a) Direct the City Manager to proceed with Option 1, and continue the City's current practice regarding tree plantings on City property, which currently do not include Eucalyptus, and Monterey Pine (except at the Marina).-OR- b) Adopt a Resolution as described in Option 2 that would ban the new planting of certain tree species on City property. -OR-c) Direct the City Manager to develop an ordinance for Council adoption that bans the new planting of certain tree species on both public and private property, and includes enforcement mechanisms.	N/A	Approved	Parks, Recreation & N Waterfront		Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
40	Council and Budget Referrals - Demand	Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley	1. Refer to the City Manager to incorporate relevant elements of the Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley, submitted to the City Council by the Commission on Disability, into the Berkeley Pedestrian Master Plan currently being updated, and any other planning processes for which the report would provide relevant information. 2. Refer to the Public Works and Parks and Waterfront Commissions to return to Council reports on ways that elements of the Navigable Cities Framework can be incorporated into the work, projects, contracts, and policies of the Public Works and the Parks, Recreation & Waterfront Departments.	N/A	Draft	Parks, Recreation & Y Waterfront		Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
41	Council and Budget Referrals - Demand	Refer the City Manager to Improve the Current Tree Ordinance and Seek Funding Opportunities to Plant More Trees in the City	That the Council refer the City Manager to improve the current tree ordinance to protect more trees, develop policy on street tree/hardscape conflicts, encourage more community initiative and participation in the maintenance and care of our street trees and seek potential funding opportunities to plant more trees in Berkeley and funds to maintain new and existing trees on public property.	N/A	Draft	Parks, Recreation & N Waterfront		Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

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Referrals, Projects, and Audits**

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42	Council and Budget Referrals - Demand	2-Lane Option on Adeline St. between MLK Way and Ward St.	Refer to the City Manager to analyze the potential for a major redesign of the section of Adeline St. between MLK Way and Ward St., to improve the public space to increase safety for pedestrians, cyclists, and people living with disabilities, while also meeting the needs of public transit and emergency vehicles and to also consider potential use of portions of the redesign area for use as a shared community plaza. The analysis should prioritize a 2-lane option that reduces the width of the street and creates many benefits for our community and include exploration of demonstration projects for study. Specific project designs should be reviewed by the Transportation Commission. Refer \$250,000 to the budget process to fund this important project.	N/A	Draft	Planning	N	N	Y	Y	N	Y	Y
43	Council and Budget Referrals - Demand	Amendments to Berkeley Municipal Code 23C.22: Short Term Rentals	1. Refer to the City Manager to come up with a program to clarify existing short term rental regulations in areas that have proven confusing to hosts, guests and tenants. 2. Refer ordinance considering Short Term Rental regulations including host platform responsibilities and possible remedies for violating the ordinance simultaneously to the Land Use, Housing and Economic Development Committee and the Planning Commission.	N/A	Draft	Planning	Y	N	N	N	N	Y	N
44	Council and Budget Referrals - Demand	Berkeley Electric Mobility Roadmap - Electric Mobility Implementation Working Group	Adopt a Resolution approving the Berkeley Electric Mobility Roadmap and refer to the City Manager to form an Electric Mobility Implementation Working Group, including community stakeholders, relevant commissions, to prioritize, support, and track implementation of the other actions of this plan, including identification of funding sources for implementation.	10.00	Draft	Planning	N	Y	N	N	N	Y	N
45	Council and Budget Referrals - Demand	Berkeley Opportunity Zone Displacement Mitigation Zoning Overlay	Direct the City Manager and refer to the Planning Commission to create one or several zoning overlays, and/or recommend any mechanism, which protects Berkeley residents living in one or all of Berkeley's Federal Opportunity Zones from gentrification and displacement. Overlays and/or recommendations may also confer community benefits, including but not limited to: affordable housing, supportive social services, green features, open space, transportation demand management features, job training, and/or employment opportunities.	N/A	Draft	Planning	Involves Planning Commission	N	N	N	N	N	N
46	Council and Budget Referrals - Demand	Bird Safe Berkeley Requirements	Refer to the Planning Commission and the City Manager to consider the attached ordinance amending Berkeley Municipal Code Title 23C, adding a new Chapter 23C.27 establishing bird safety requirements for new construction and significant renovations and a new Chapter 23C.28 establishing a dark skies ordinance, for review and approval.	N/A	Draft	Planning	Involves Planning Commission	N	N	N	N	Y	Y

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47	Council and Budget Referrals - Demand	City Manager and Planning Commission Referral: Facilitate Primarily Student Housing by a Twenty Feet Height Increase and Adjust Floor Area Ratio in the R-SMU, R-S and R-3 Areas Only From Dwight to Bancroft and From College to Fulton	Refer to the City Manager and Planning Commission to facilitate primarily Student Housing by amending the Zoning Ordinance to add a twenty feet height increase and adjust Floor Area Ratio in the R-SMU, R-S and R-3 areas only from Dwight to Bancroft and from College to Fulton.	50.00	Approved	Planning	Y	Y	Y	N	N	Y	Y
48	Council and Budget Referrals - Demand	City Manager and Planning Commission's Referral: Enable Implementation of Council Approved Floor Area Ratio in the Telegraph Commercial District between Dwight and Bancroft by Amending the Zoning Ordinance	Refer to the City Manager and Planning Commission an immediate implementation strategy to bring the City Zoning Ordinance in compliance with the policy adopted by City Council to increase Floor Area Ratio (FAR) in the Telegraph Commercial District between Dwight and Bancroft - COUNCIL DIRECTION ON COMMUNITY BENEFITS NEEDS FOLLOW UP WORK AND REPORT TO COUNCIL	50.00	Approved	Planning	Y	Y	Y	N	N	Y	Y
49	Council and Budget Referrals - Demand	Companion Report: Conducting an Analysis of Increasing Inclusionary Housing over Affordable Housing Mitigation Fee	Refer to the City Manager to conduct a feasibility analysis for the recommendations by the Homeless Commission as part of the existing referral to examine potential reforms to the Affordable Housing Mitigation Fee.	N/A	Draft	Planning	Involves Planning Commission	Y	Y	N	N	Y	N
50	Council and Budget Referrals - Demand	Creating Additional Administrative Powers of Zoning Officer to Grant or Recommend New Permits as Related to Code Enforcement	Refer to the City Manager and Berkeley Planning Commission to explore the creation of a mechanism that would explicitly allow staff new discretionary powers to prevent applicants from being granted new residential permits until they have abated outstanding noncompliance issues or code violations in other buildings they own in Berkeley within a reasonable time frame or taken good faith measures to commence doing so.	N/A	Draft	Planning	N	N	N	N	N	Y	N
51	Council and Budget Referrals - Demand	Creating Additional Administrative Powers of Zoning Officer to Grant or Recommend New Permits as Related to Code Enforcement DMND0002545	Refer to the City Manager and Berkeley Planning Commission to explore the creation of a mechanism that would explicitly allow staff new discretionary powers to prevent applicants from being granted new residential permits until they have abated outstanding noncompliance issues or code violations in other buildings they own in Berkeley within a reasonable time frame or taken good faith measures to commence doing so.	N/A	Draft	Planning	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
52	Council and Budget Referrals - Demand	Customer Service Improvements to Land Use Permit Process	Direct staff to make structural improvements to the Zoning Ordinance, communication improvements to better explain complex technical and procedural elements to the public, and organizational improvements to the Land Use Planning Division; and authorize the issuance of a request for proposals (RFP) for the selection of consultants to make structural improvements to the Zoning Ordinance and develop graphic communication elements in an amount not to exceed \$300,000.	N/A	Approved	Planning	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

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53	Council and Budget Referrals - Demand	Development of the West Berkeley Service Center, 1900 6th Street, for Senior Housing with Supportive Services. [Parts a and b]	State the intent of the City Council that the West Berkeley Service Center property, 1900 6th Street, will be used for senior housing with on-site services consistent with Age Friendly Berkeley Plan recommendations, maximizing the number of affordable units. The Berkeley Way Project, 2012 Berkeley Way, is the City's top affordable housing priority. The West Berkeley Service Center, as a City-owned property, to be developed for affordable housing falls under the "High Priority" on the list of housing initiatives passed by Council on November 28, 2017. In light of the above, refer to the City Manager to take the following actions to initiate the process of developing senior housing at the West Berkeley Service Center: a. Refer to the City Manager to conduct a basic analysis of the development potential for the West Berkeley Service Center site including build-out scenarios for a three-, four-, five-, six- and seven-story building at the site, using Mixed-Use Residential (MUR), West Berkeley Commercial (C-W), and Multiple-Family Residential (R-3) Development Standards. Each buildout scenario should reflect base project conditions, and conditions if a Density Bonus is granted including waivers and concessions, or if Use Permits are used to modify standards. The scenarios should also incorporate space on the ground floor for resident amenities, supportive social services, and community space. The results of the development scenarios will be presented to the City Council and Planning Commission.	N/A	Draft	Planning	N	N	N	N	N	N	N
54	Council and Budget Referrals - Demand	Direct the City Manager to Draft an Ordinance to Waive Certain Fees for Berkeley Housing Trust Fund Projects and Send a Letter to BUSD Board of Education Requesting Consideration of a Waiver of School Facility Fees for Berkeley Housing Trust Fund Projects	1. Direct the City Manager to draft an ordinance establishing automatic waiver of certain administrative, permit, impact and other fees for projects receiving City of Berkeley Housing Trust Fund (HTF) monies and submit a draft within 90 days for Council approval. Fee waivers shall apply to all HTF projects that have not yet been issued a building permit, and should include, but not be limited to: a. Waiver of internal, staff-time-related permit, inspection, and other fees; and c. Notwithstanding the above, fees to cover City "out of pocket" costs, fees passed-through to other agencies, and fees necessitated by CEQA should not be waived.	N/A	Approved	Planning	N	N	Y	N	N	Y	Y
55	Council and Budget Referrals - Demand	Enable Internal Renovation of a Residence That Does Not Increase the Footprint As an AUP if the Building is an Historic Non-Conforming Use in the Percent of Lot Coverage	Refer to the Planning Commission to enable an AUP for the renovation of an existing residence, rather than a Use Permit, in the following circumstances: 1. The renovation does not increase the percentage of lot coverage; 2. The residence is an pre-existing non-conforming use in the percentage of lot coverage; 3. The renovation does not appear to create an intensification of use; 4. No change to the building envelope.	N/A	Draft	Planning	Y	N	N	N	N	Y	N

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56	Council and Budget Referrals - Demand	Encouraging Long-Term Tenant Stability	Facilitate the ability of long-term tenants to purchase their residence by referring to the City Manager to amend BMC 21.28.080 as it pertains to the Affordable Housing Mitigation fee as follows: If the property contains 4 units or fewer, the affordable housing mitigation fee for a unit that is and has been occupied by an owner as his or her principal place of residence for at least 5 consecutive years immediately prior to the date of conversion or sale, including as a tenant in that unit immediately prior to ownership, shall be reduced by 50 percent.	N/A	Draft	Planning	N	N	N	N	N	N	N
57	Council and Budget Referrals - Demand	Fossil Fuel Free Berkeley	Refer to the Energy Commission and Transportation Commission consideration of the proposed resolution or similar action to further implement the Climate Action Plan and establish the goal of becoming a Fossil Fuel Free Berkeley, and further consider: <ul style="list-style-type: none"> <li>Establishing a date by which we are committed to being a Fossil Fuel Free City.</li> <li>Opposing further transportation of oil, gas, and coal.</li> <li>Fully implementing Berkeley Deep Green Building, raising the citywide LEED certification requirement above the current LEED Silver, and applying the same requirements to newly constructed city facilities, and major renovations.</li> <li>Requiring all future City government procurements of vehicles to minimize emissions, and establishing a goal and plan for transitioning the city's vehicle fleet to all electric vehicles</li> <li>Establishing a goal and plan for transitioning to 100% renewable energy for municipal operations and a community wide goal of 100% reductions by 2030.</li> <li>Formally opposing the recent expansion of offshore drilling by the Trump Administration.</li> <li>Calling for region-wide solutions to carbon emissions, including rapid adoption of renewable energy sources, affordable densification of cities and low-emissions public transportation infrastructure.</li> </ul>	N/A	Approved	Planning	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
58	Council and Budget Referrals - Demand	Item E - Short-Term Referral to the Planning Commission and Design Review Committee to Research and Draft an Urban Forestry Ordinance Requiring Tree Planting Upon Completion of New Residential Construction and Certain Alterations	Six-month referral to the Planning Commission to research and draft an Urban Forestry Ordinance requiring tree planting upon completion of new construction, excluding single-family homes and ADUs, as well as construction in High Hazard Fire Zones. The Planning Commission should consider the following: <ul style="list-style-type: none"> <li>Appropriate tree planting requirements for new construction, with the goal of increasing the tree canopy in Berkeley.</li> <li>Appropriate species requirements.</li> <li>Establishing a Tree Planting Fund to support increased tree planting throughout Berkeley.</li> </ul>	N/A	Draft	Planning	N	N	N	N	N	N	N

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59	Council and Budget Referrals - Demand	Missing Middle Housing Report	Refer to the City Manager to prepare a report to the Council of examining methods, including potential revisions to the zoning code, that may foster a broader range housing types across Berkeley, particularly missing middle housing types (duplexes, triplexes/fourplexes, courtyard apartments, bungalow courts, townhouses, etc.), in areas with access to essential components of livability like parks, schools, employment, transit, and other services. Given the range of requests included in this referral, it is expected that responding to the referral will require a combination of field research, consultation with design professionals and other cities and agencies, and community outreach and engagement. Council requests that staff initiate this work as soon as possible.	N/A	Draft	Planning	N	N	Deferred	N	N	Y	N
60	Council and Budget Referrals - Demand	Mitigating Impacts of Outdoor Air Quality on Indoor Air Quality in Berkeley	Refer the item to the Planning Commission to consider the analyses presented here, and the draft provided in Appendix II, to create new Standard Conditions of Approval (SCA) for new building construction near major sources of air pollution, to achieve an acceptable level of indoor air quality (IAQ) for sensitive receptors.	N/A	Draft	Planning	N	N	N	N	N	N	N
61	Council and Budget Referrals - Demand	Rectify Discrepancy Regarding Inclusionary Units in Live/Work Housing	Refer amendments to the Berkeley Municipal code (Sections 23C.12 and 23E.20.080) to rectify discrepancies over how Live/Work Unit inclusionary requirements are governed, both for rental and owner occupied units, to the Planning Commission.	50.00	Draft	Planning	Involves Planning Commission	Y	Y	N	N	Y	N
62	Council and Budget Referrals - Demand	Refer the Civic Arts Commission's recommended language to the Planning Commission on protecting Live Work spaces from conversion to cannabis uses.	Refer the Civic Arts Commission's recommended language to the Planning Commission on protecting Live Work spaces from conversion to cannabis uses. This action was adopted as part of the Cannabis Ordinance amendments.	N/A	Draft	Planning	Y	N	N	N	N	Y	N
63	Council and Budget Referrals - Demand	Refer to the City Manager the design of a companion Resilient Homes Equity Pilot Program that would provide funding for home retrofit improvements to low-income residents	Refer to the City Manager the design of a Companion Resilient Homes Equity Pilot Program that would provide funding for home retrofit improvements for low income residents	10.00	Draft	Planning	N	Y	N	Y	N	N	Y
64	Council and Budget Referrals - Demand	Refer to the City Manager to add a condition to Zoning Board Approved permits to bring attention to the Pay Transparency policy to project applicants, and consider these Pay Transparency Ordinance amendments	That the Council refer to the City Manager to add a condition to Zoning Board Approved permits in order to bring attention to the Pay Transparency policy to project applicants, and consideration of amendments to the Pay Transparency Ordinance.	N/A	Draft	Planning	N	N	N	N	N	Y	N

**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
65	Council and Budget Referrals - Demand	Refer to the Planning Commission an amendment to BMC Chapter 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) and the Affordable Housing Mitigation Fee Resolution to Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation	1) Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements – Applicability of Regulations) and BMC Section 22.20.065 (Affordable Housing Mitigation Fee) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for projects by modifying property lines so that no lot is large enough to construct five or more units; the Commission should return to Council with a report by April 30, 2019. 2) Refer to the Planning Commission to consider modifying the structure of in-lieu fees for owner-occupied developments to a flat per-unit fee, as with rental developments, or a per square foot fee; the Commission should return to Council with a report. 3) Refer to the Housing Advisory Commission to assess the appropriateness of the fee level as suggested in the proposed amendments to BMC 23C.12. 4) The Planning Commission is to consider the following language from the item submitted at the meeting: It is possible that the new fee structure will be adopted prior to the Housing Advisory Commission approving the level of the fee. In this instance, those projects that opt to pay the in-lieu fee and are permitted after the new fee structure is adopted but before the new fee level is adopted shall be given the choice of paying the current fee level, or the one that is adopted.	50.00	Approved	Planning	Y	Y	Y	N	N	Y	N
66	Council and Budget Referrals - Demand	Refer to the Planning Commission and Housing Advisory Commission to Research and Recommend Policies to Prevent Displacement and Gentrification of Berkeley Residents of Color and African Americans	Refer to the Planning Commission and Housing Advisory Commission to research and recommend policies to prevent displacement and gentrification of Berkeley residents of color. Recommended policies should include real solutions. The Commission should do the following: - Develop a policy to address the erosion of People of Color (POC), including the African American sector of our Berkeley society. - Develop rules and regulations to halt the loss of People of Color including the African American communities. - Develop a "right to return" for Berkeley's People of Color including the African American communities who have been displaced by these economic and social developments, especially those who continue to be employed in our City, even after having to relocate beyond our boundaries. - Solicit expert and lived experience testimonies regarding displacement and gentrification. - Recommend alternatives to prevent displacement and gentrification of our valued Berkeley citizens of color and African Americans. Hold public workshops on the subject.	10.00	Draft	Planning	Y	Y	N	N	N	N	N
67	Council and Budget Referrals - Demand	Referral Response: Expanding community engagement within work to address Climate Impacts	Refer to the City Manager to continually advance engagement around community-driven, equitable climate solutions, and to seek external resources to enable increased community engagement of impacted communities around equitable climate solutions	20.00	Draft	Planning	N	Y	N	N	N	N	N



**Disposition of  
Referrals, Projects, and Audits**

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68	Council and Budget Referrals - Demand	Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses	Refer to the Planning Commission modifications to the Zoning Ordinance that are designed to streamline the zoning review process for new or expanding small businesses in Berkeley.	N/A	Draft	Planning	Y	N	N	N	N	Y	Y
69	Council and Budget Referrals - Demand	Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses (Beer/Wine in M Dist)	Refer to staff and the Planning Commission to consider amendments related to beer and wine sales in the M District.	N/A	Draft	Planning	Involves Planning Commission	N	N	N	N	Y	N
70	Council and Budget Referrals - Demand	Referral to City Manager to Return to Council with an Amnesty Program for Undocumented Secondary Units	Referral to City Manager to Return to Council with an Amnesty Program for Undocumented Secondary Units using the guiding framework presented in the Background.	N/A	Draft	Planning	N	N	N	N	Y	N	N
71	Council and Budget Referrals - Demand	Referral to Planning Commission: City-Wide Green Development Requirements	Refer to the Planning Commission, Energy Commission, and the Community Environmental Advisory Commission to consider requiring the same Green Building and Transportation Demand Management (TDM) measures required in the Commercial Downtown Mixed Use District (C-DMU) for projects of 75 units or more throughout the City of Berkeley's commercial zoning districts. The commissions are to consider the standards as outlined in the report which would apply to larger projects city-wide and pertain to: bicycle parking spaces, vehicle sharing spaces, Residential Parking Permits, required parking spaces, LEED rating, Stopwaste Small Commercial Checklist standards, and transportation benefits. In addition, the commissions are to also consider the following 1. that transit passes would only be required for projects within a quarter of a mile of a bus stop; 2. a square-footage threshold, in addition to the unit threshold, for projects to which the requirements would apply, 3. the validity of the LEED certification; and 4. the impact on the financial feasibility of proposed requirements on the development of housing and affordable housing in particular.	N/A	Approved	Planning	Y	Y	Y	N	N	Y	Y
72	Council and Budget Referrals - Demand	Referral to Planning Commission: Guiding Development on San Pablo Avenue	Refer to the Planning Commission the development of a Plan to guide development on San Pablo Avenue.	N/A	Draft	Planning	Y	N	N	Y	Y	N	N
73	Council and Budget Referrals - Demand	Referral to the City Manager and Planning Commission: Update BMC Chapter 22.16 Development Agreement Procedures	Refer to the City Manager and Planning Commission to review and update the Berkeley Municipal Code Chapter 22.16 Development Agreement Procedures to create a streamlined process that maximizes community benefits and conforms to State law.	N/A	Draft	Planning	N	Y	N	N	N	Y	Y

**Disposition of  
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74	Council and Budget Referrals - Demand	Referral to the Community Environmental Advisory Commission and the City Manager: Anti-Idling Ordinance	Refer to the Community Environmental Advisory Commission and the City Manager to explore developing an anti-idling ordinance. The ordinance should limit vehicle engine idling when a vehicle is parked, stopped, or standing, including for the purpose of operating air conditioning equipment; and prohibit all unattended private passenger motor vehicles from idling. The ordinance should outline enforcement and citation procedures. The Commission and the City Manager should develop appropriate exceptions for commercial vehicles. Any funds received through enforcement of the ordinance should accrue to the General Fund to provide additional funding for sustainability efforts. The Community Environmental Advisory Commission and the City Manager should review the District of Columbia's anti-idling regulations (attached to report) to aide in the development of the ordinance.	N/A	Approved	Planning	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
75	Council and Budget Referrals - Demand	Referral to the Energy Commission to Hold a Series of Public Outreach and Educational Meetings Regarding Electrification	Refer to Berkeley's Energy Commission to hold two separate special public outreach and educational meetings regarding electrification in new buildings by July 31, 2019: 1. A meeting regarding multi-family, mid/high-rise buildings, including those with ground floor commercial; 2. A meeting regarding commercial buildings (without housing), including manufacturing.	N/A	Approved	Planning	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
76	Council and Budget Referrals - Demand	Referral to the Planning Commission to Allow 4 Temporary Zoning Amendments to Increase Student Housing in the Southside Area	Refer to the City Manager and the Planning Commission to consider conversion of existing commercial space for residential use between College Avenue and Fulton Street and Bancroft Way to Dwight Way.	N/A	Approved	Planning	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
77	Council and Budget Referrals - Demand	Referral to the Planning Commission to Allow Non-commercial Use on Ground Floor	Refer to the Planning Commission an amendment to the Zoning Ordinance to create a use permit process to allow non-commercial use on the ground floor in appropriate locations, where commercial might otherwise be required.	N/A	Approved	Planning	Y	Y	Y	N	N	Y	Y
78	Council and Budget Referrals - Demand	Referral to the Planning Commission to Consider Amendments to the Zoning Ordinance and "Mini-Dorm" Ordinance	Referral to the Planning Commission to: 1. Amend the mini-dorm ordinance to enable the conversion of an accessory structure into an office (which is also considered a bedroom) without the required public hearing process under the mini-dorm regulations, as long as there are no other alterations to the subject property, and 2. Consider amendments to the Zoning Ordinance and "Mini-Dorm" Ordinance to provide more flexibility for accessory buildings on properties that are developed with single-family residences. ADD: Issues raised in supplemental memo.	N/A	Draft	Planning	Involves Planning Commission	N	N	N	N	Y	N
79	Council and Budget Referrals - Demand	Wildland Urban Interface Fire Safety and Fire Safety Education	Commission Referral #5 revised to read: 5. Refer to the Planning Commission to consider Accessory Dwelling Units (ADUs) in the Very High Hazard Fire Zone to review public safety issues especially relevant to the risk of WUI fires. Amend Section 23D.10 to incorporate greater public safety considerations to be met before issuing an Administrative Use Permit (AUP);	N/A	Submitted	Planning	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

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Referrals, Projects, and Audits**

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80	Council and Budget Referrals - Demand	Zoning Ordinance Modification for Elmwood Commercial District	Refer to the Planning Commission to amend Chapter 23E.44, C-E Elmwood Commercial District Provisions to allow for amusement device arcades with a Tier 2 Administrative Use Permit (for spaces >3,000 Sq. Ft.) and a Zoning Certificate (for spaces < 3,000 Sq. Ft.). Proposed ordinance language for changes to Table 23E.44.030 are attached to the report.	75.00	Draft	Planning	Y	Y	N	N	N	Y	Y
81	Council and Budget Referrals - Demand	100% Sustainable Trips by 2040	Adopt the attached Resolution, setting a goal of achieving 50% increase in trips taken by sustainable modes by 2030 and 100% by 2040, and refer to the Community Environmental Advisory Commission, the Energy Commission, and the Transportation Commission to develop relevant proposals and recommendations for accomplishing that goal.	N/A	Draft	Planning & Public Works	Y	Y	N	Y	N	N	N
82	Council and Budget Referrals - Demand	Campus-City National Night Out. Revised to be a Referral with no specific date - Revised materials (Supp 1)	Adopting a Resolution to refer the campus-city National Night Out event to the City Manager to help reduce crime in the campus area.	N/A	Draft	Police	N	N	N	N	N	N	N
83	Council and Budget Referrals - Demand	Extend the Berkeley Police Drone Moratorium for One Additional Year	Extend the moratorium on the use of unmanned aircraft systems, or "drones," by the Berkeley Police for one additional year. REFERRAL: Approved recommendation amended to request that the City Manager return to Council with a policy on the use of drones by Berkeley Police.	N/A	Approved	Police	N	N	N	N	N	N	N
84	Council and Budget Referrals - Demand	Improving Hate Crimes Reporting and Response	Refer to the City Manager to review the following proposals and implement new systems for reporting and response to hate incidents and crimes: -Develop a Hate Crimes Reporting Hotline (modeled after the San Francisco District Attorney's hotline) to be staffed by the Berkeley Mental Health Division or a non-profit community partner. The Hotline will provide support for victims and those reporting hate crimes/incidents, and direct victims to resources and how to report hate crimes or incidents. Consider existing internal and external resources including the City's 311 Customer Service line and the County's Hate Crimes Reporting Hotline. -Explore adding hate crimes to the BPD Online Crime Reporting System to allow individuals to report specific hate related criminal acts or incidents. - Launch a public information campaign including the production of informational videos, posters, and ads in different languages about what is a hate crime and how to report it to Berkeley Police. -Conduct proactive outreach and develop partnerships with religious leaders, community service providers and organizations that work with groups which have historically been the target of hate crimes/incidents. -Refer to the Police Review Commission to review existing BPD policy on hate crimes (BPD Policy 319), request a report from BPD on hate crimes statistics and its implementation of BPD Policy 319, and review: privacy policies/procedures for reporting; culturally appropriate personnel structures to respond to incidents that will encourage reporting, reduce fear and provide support. The creation of accessible and multilingual	N/A	Draft	Police	N	N	N	N	N	N	N

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85	Council and Budget Referrals - Demand	Referral: Measures to Address Traffic Enforcement and Bicycle Safety	2. Refer to the City Manager to establish the opportunity for bicyclists to participate in a ticket diversion program that would provide safety education as an alternative to monetary fines related to other infractions, and to ensure integration of Vision Zero principles in implementation of state Office of Traffic Safety grants. Staff should consider either the creation of a City of Berkeley-operated ticket diversion program or cooperation with ticket diversion programs operated by neighboring jurisdictions.	N/A	Draft	Police	N	Y	Y	Y	N	Y	Y
86	Council and Budget Referrals - Demand	31. City Manager Referral: Refer CPTED Streetscape for Action and Exploration of Grant or Other Funding Opportunities to Find the Funds to Construct the Proposed Improvements	Refer the Crime Prevention Through Environmental Design (CPTED) streetscape to the City Manager for action and exploration of grant or other funding opportunities to find the funds to construct the proposed improvements.	N/A	Approved	Public Works	N	N	N (However, some components of the Telegraph CPTED proposal might be incorporated into the federally funded Southside Complete Streets project as funding allows)	N	N	N	N
87	Council and Budget Referrals - Demand	48. City Manager Referral: Preparations to Apply for Telegraph Pedestrian Safety Funds (Continued from December 3, 2013)	Refer to the City Manager to apply for Telegraph Ave pedestrian safety funds and to produce a preliminary plan for Telegraph pedestrian safety improvements as requested by the Telegraph Merchants Association.	N/A	Approved	Public Works	N	N	N (However, pedestrian safety improvements between Bancroft and Dwight are included in the federally funded Southside Complete streets project)	Y	N	N	N
88	Council and Budget Referrals - Demand	9. Portable Sign Pilot Program	Refer to the City Manager, the Commission on Disability, and the Transportation Commission for consideration the expansion of the existing portable sign program that enables businesses to place portable signs on sidewalks and medians.	N/A	Approved	Public Works	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
89	Council and Budget Referrals - Demand	City Manager Referral: Updating Graffiti Ordinance and Policies Based on a Review of San Francisco's New Ordinance	Refer to the City Manager and the Public Works and Parks and Recreation Commissions to create an ordinance that revises Berkeley's policies regarding graffiti, focusing on prevention and enforcement of regulations.	N/A	Submitted	Public Works	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

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Referrals, Projects, and Audits**

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90	Council and Budget Referrals - Demand	City Manager Short-Term Referral: To Change Telegraph Avenue Parking Signs to Allow Parking All Times	That the Council refer to the City Manager to eliminate the no parking signs on Telegraph Avenue between Bancroft and Dwight.	N/A	Draft	Public Works	N	Y	N	N	N	Y	
91	Council and Budget Referrals - Demand	Conceptual Study for Undergrounding Utility Wires in Berkeley From: Public Works Commission, Disaster and Fire Safety Commission, and Transportation Commission	That Council approve the following items: 1. Conceptual Study for undergrounding utility wires in Berkeley (the "Undergrounding Plan"). 2. Proceed with Phase 3 of the Undergrounding Plan. We want to emphasize the importance for Berkeley to actively participate in the current California Public Utilities Commission review of the Rule 20 program.	N/A	Draft	Public Works	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
92	Council and Budget Referrals - Demand	Consideration of Universal Design Standards in City Projects	Refer to the City Manager to make the consideration of Universal Design features an explicit and listed criteria for all projects undertaken by the city, including the many upcoming projects to be funded through Measure T1.	N/A	Approved	Public Works	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
93	Council and Budget Referrals - Demand	Considering Multi-year Bidding Processes for Street Paving	1. Restate the recommendation approved at the December 11, 2018 Council meeting to create a two-year bidding process for street paving to realize savings by (a) reducing by 50% City staff time devoted to bidding and contracting processes over each two year period and (b) benefitting from reduced pricing which may be available for larger contracts that offer greater economies of scale and reduce contractors' bidding and contracting costs. 2. Short-term referral to the City Manager to explore the possibility, feasibility, costs, and benefits of bidding in increments of up to 5 years to encompass entire 5-year paving plans, or other ideas to more rationally and cost-effectively align the paving plan with budget cycles and reduce costs associated with frequent bid cycles for relatively small contracts.	N/A	Approved	Public Works	N	N	N	N	N	Y	Y
94	Council and Budget Referrals - Demand	Creation and Adoption of a Transit Streets Cooperative Agreement with the Alameda-Contra Costa (AC) Transit District	Refer to the City Manager the Creation and Adoption of a Transit Streets Cooperative Agreement with the Alameda-Contra Costa (AC) Transit District.	N/A	Draft	Public Works	N	N	N	N	N	Y	Y
95	Council and Budget Referrals - Demand	Electric Vehicles for the City Fleet	Request that the City Manager return to the Council with a Fleet Climate Action Plan for transition to all-electric vehicles (EVs) or plug-hybrids for the City fleet. The plan could: 1. set annual targets for greenhouse gas (GHG) reductions from City fleet operations in support of the City's Climate Action Plan; 2. require replacing all non-emergency vehicles and all possible emergency vehicles with EVs or plug-in hybrids by April 1, 2025, with an interim goal of a certain percent by April 1, 2018; 3. require conversion wherever possible to hybrid vehicles in cases where EVs or plug-in hybrids are not yet feasible; and 4. consider the Additional Measures as described in the report.	N/A	Approved	Public Works	N	Y	N	Y	Y	N	Y

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96	Council and Budget Referrals - Demand	Farmers' Markets Investments	Refer to the City Manager to initiate improvements and changes to support the Berkeley Farmers' Markets that would address growing public safety and access concerns while enhancing the shopping experience and benefit the markets.	N/A	Draft	Public Works	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
97	Council and Budget Referrals - Demand	Installation of Solar Panels at the Donna Spring Animal Shelter Parking Area	Request that the City Manager pursue grant funding for a solar installation at the Donna Spring Animal Shelter parking area.	N/A	Approved	Public Works	N	N	N	N	N	Y	N
98	Council and Budget Referrals - Demand	Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley	1. Refer to the City Manager to incorporate relevant elements of the Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley, submitted to the City Council by the Commission on Disability, into the Berkeley Pedestrian Master Plan currently being updated, and any other planning processes for which the report would provide relevant information. 2. Refer to the Public Works and Parks and Waterfront Commissions to return to Council reports on ways that elements of the Navigable Cities Framework can be incorporated into the work, projects, contracts, and policies of the Public Works and the Parks, Recreation & Waterfront Departments.	N/A	Draft	Public Works	N	N	N	N	N	N	N
99	Council and Budget Referrals - Demand	Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley	1. Refer to the City Manager to incorporate relevant elements of the Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley, submitted to the City Council by the Commission on Disability, into the Berkeley Pedestrian Master Plan currently being updated, and any other planning processes for which the report would provide relevant information. 2. Refer to the Public Works and Parks and Waterfront Commissions to return to Council reports on ways that elements of the Navigable Cities Framework can be incorporated into the work, projects, contracts, and policies of the Public Works and the Parks, Recreation & Waterfront Departments.	N/A	Draft	Public Works	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
100	Council and Budget Referrals - Demand	Prioritizing Pedestrians at Intersections	Refer to the City Manager and the Transportation Commission the development of policies to improve the pedestrian crossing experience and reduce pedestrian wait times at intersections with "beg buttons," potentially by activating pedestrian crossing signaling with every cycle (as opposed to the current situation, which only activates crossing signals when a button is pushed). Consider the development of a pedestrian-driven intersection improvement process to address signaling and timing inadequacies.	N/A	Draft	Public Works	N	Y	N	N	N	N	Y

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101	Council and Budget Referrals - Demand	Providing Wheelchair Charging Opportunities for Homeless Individuals	Refer to the City Manager to develop policies which will provide accessible, reliable opportunities for homeless individuals with disabilities to charge power wheelchairs. Refer to the City Manager to research existing conditions of homeless individuals with disabilities; barriers to charging power wheelchairs; related consequences; and potential City actions to provide accessible, reliable wheelchair charging. Refer to the City Manager to assemble a policy to be reviewed and implemented.	50.00	Work in Progress	Public Works	Y	Y	N	N	N	N	N
102	Council and Budget Referrals - Demand	Referral: Develop a Bicycle Lane and Pedestrian Street Improvements Policy	1) Refer to the City Manager to develop a comprehensive ordinance with input from the Public Works & Transportation Commissions governing a Bicycle Lane and Pedestrian Street Improvements Policy that would: <ul style="list-style-type: none"> <li>• Require simultaneous implementation of recommendations in the City's Bicycle and Pedestrian Plans when City streets are repaved, if one or more of the following conditions are met: <ul style="list-style-type: none"> <li>• Bicycle Plan recommendations can be implemented using quick-build strategies that accommodate transit operations.</li> <li>• Pedestrian Plan recommendations can be implemented using quick-build strategies that accommodate transit operations.</li> <li>• The Bicycle Plan recommends studying protected bike lanes as part of a Complete Street Corridor Study in the Tier 1 Priority list.</li> <li>• Improvements are necessary to comply with the Americans with Disabilities Act.</li> <li>• Encourage the use of quick builds by expediting quick-build projects under \$1 million.</li> <li>• "Quick-build" is defined as projects that a) require non-permanent features such as bollards/paint/bus boarding islands, b) make up less than 25 percent of the total repaving cost for that street segment, and c) can be a component of a Complete Street Corridor Study that includes evaluation after installation.</li> <li>• Require staff to report progress back to Council every two years.</li> </ul> </li> </ul>	N/A	Draft	Public Works	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
103	Council and Budget Referrals - Demand	Referral: Electric Moped Ride-Share Franchise Agreement	Refer to the City Manager to rename the existing One-Way Car Share Program as the One-Way Vehicle Share Program and to amend the Program to include administrative requirements and parking permit fees for motorized bicycles that are affixed with license plates and require a driver's license for individuals to operate them (mopeds), in coordination with the City of Oakland.	N/A	Draft	Public Works	N	Y	Y	N	N	Y	Y
104	Council and Budget Referrals - Demand	Referral: Measures to Address Traffic Enforcement and Bicycle Safety	3. Refer to the City Manager to develop a plan to calm and divert motor vehicle traffic on bicycle boulevards to provide people who bicycle and walk a safe, comfortable and convenient mobility experience by adding or reconfiguring stop signage and other traffic calming measures, per the recommendations of the 2017 Bicycle Plan.	N/A	Draft	Public Works	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

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105	Council and Budget Referrals - Demand	Referral: Measures to Address Traffic Enforcement and Bicycle Safety DMND0003830	3. Refer to the City Manager to develop a plan to calm and divert motor vehicle traffic on bicycle boulevards to provide people who bicycle and walk a safe, comfortable and convenient mobility experience by adding or reconfiguring stop signage and other traffic calming measures, per the recommendations of the 2017 Bicycle Plan.	N/A	Draft	Public Works	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
106	Council and Budget Referrals - Demand	Referral: Report on Public Realm Pedestrianization Opportunities [Transportation Commission]	Refer to the Transportation Commission to generate a report on potential public realm pedestrianization opportunities in Berkeley.	N/A	Draft	Public Works	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
107	Council and Budget Referrals - Demand	Referral: Telegraph Shared Streets	Refer to the City Manager to develop and return to Council with a plan to implement the shared streets proposal outlined in the Telegraph Public Realm Plan, including identification of potential regional funding sources for the project, in consultation with appropriate transportation agencies.	N/A	Draft	Public Works	N	N	N (May be able to partially fund some components as part of Southside Complete Streets)	N	N	N	N
108	Council and Budget Referrals - Demand	Zero Emission Vehicle Requirements for City Fleet	Refer to the City Manager the finalization of a policy which would require all new purchases of light-duty passenger vehicles to be electric vehicles or plug-in hybrids, and require the City-owned light-duty passenger vehicle fleet to be 100% electric vehicles or plug-in hybrids by the mid-2020s. This policy would be based on the City & County of San Francisco's zero-emission light-duty passenger vehicle policy, and the report to Council should identify any additional costs associated with electric vehicles or plug-in hybrids, potentially accelerated fleet turnover, and necessary charging infrastructure on City lots.	N/A	Submitted	Public Works	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
109	Council and Budget Referrals - Project	Cannabis Ordinance Revisions; Amending Berkeley Municipal Code Chapters 12.21, 12.22, 20.40, 23C.25, and Sub-Titles 23E and 23F	1) determine if the City can require businesses to post notices on their website	0.00	Not Started	City Attorney	N	N	N	N	N	Y	N
110	Council and Budget Referrals - Project	Dynamex Decision Impact and Compliance on Minimum Wage Ordinance and Paid Sick Leave Ordinance	That the City Council refers to the City Manager and the Labor Commission to ensure the Berkeley Minimum Wage Ordinance (MWO) and Paid Sick Leave Ordinance are interpreted and enforced in a manner consistent with the holdings in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903.	67.00	Work in Progress	City Attorney	N	Y	N	N	N	Y	Y



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Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
111	Council and Budget Referrals - Project	Personal Liability Protection for Small Businesses	1. Direct the City Manager and City Attorney to draft and submit to the City Council for consideration an emergency ordinance to prohibit the enforcement of personal liability provisions in commercial leases and commercial rental agreements in the City of Berkeley for lessees/renters who have experienced financial impacts related to the Covid-19 pandemic. 2. Direct the City Manager to conduct outreach to all commercial tenants regarding any protections enacted by the City Council, with a particular focus on businesses that were required to stop serving food or beverages (e.g., restaurants, bars); close to the public (e.g., hair salons, barbershops, tattoo parlors); cease operations (e.g., gyms, fitness centers); or sharply limit operations (e.g., schools, retail shops, nurseries) due to the COVID-19 crisis.	33.00	Work in Progress	City Attorney	N	N	N	N	N	Y	Y
112	Council and Budget Referrals - Project	Private Parking Lot Regulations	Refer to the City Manager the development of an ordinance that would allow parking lot operators to manage their parking facilities so as to meet the needs of local businesses and their customers.	0.00	Deferred	City Attorney	N	N	N	N	N	Y	N
113	Council and Budget Referrals - Project	Prohibition on the Resale of Used Combustion Vehicles in 2040	On November 18, 2020 the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee made a positive recommendation to refer to the City Manager for review of the attached ordinance prohibiting the resale of used, existing combustion-powered vehicles beginning in 2040, to the extent legally possible.	0.00	Not Started	City Attorney	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
114	Council and Budget Referrals - Project	Supplemental Paid Family Leave	2) refer to the City Manager to draft an ordinance regarding retaliation against employees using state family leave, including a private right of action provision.	50.00	Work in Progress	City Attorney	N	Y	N	N	N	Y	Y
115	Council and Budget Referrals - Project	Referral Response: Including Climate Impacts in City Council Reports	Request that the City Manager update the templates and associated training materials to add "Climate Impacts" in the "Environmental Sustainability" section of reports to the City Council, and codify the changes in Appendix B in the next update to the Berkeley City Council Rules of Procedure. This recommendation is a partial response to a January 21, 2020 referral, sponsored by Councilmembers Davila and Bartlett, to require that all City Council items and staff reports include "climate impacts" in addition to environmental sustainability.	25.00	Work in Progress	City Clerk	N	Y	N	N	N	Y	Y

**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
116	Council and Budget Referrals - Project	Referral: Commission Low-Income Stipend Reform	Refer to the City Manager to develop and return to Council with a plan to improve equity, accessibility, and representation in City of Berkeley commissions by modernizing the low-income stipend program, and in doing so consider: 1. Increasing the annual household income cap for stipend eligibility from \$20,000 to align with the 50% Area Median Income (AMI) guidelines for Alameda County and reflect household size, and updating it annually with the latest HUD data. 2. Increasing the low-income stipend from \$40 to \$78 per meeting, and updating it annually with the City of Berkeley minimum wage to correspond to compensation for 2.5 hours of work.	0.00	Not Started	City Clerk	N	Y	N	N	N	Y	Y
117	Council and Budget Referrals - Project	Administrative Changes Related to Taxicabs	Request the City Manager consider the following administrative changes, in order to increase the competitiveness of the taxi industry: 1. Reduce the annual vehicle inspection fee from \$88 to \$45 and the re-inspection fee from \$45 to \$25.; 2. Increase the maximum amount of free taxi scrip that drivers are able to redeem each week from the current limit of \$400 to \$800 (if taxi scrip is redeemed twice per week, the maximum amount redeemed at once should be raised to \$400 from \$200).; 3. Consolidate all taxi-related undertakings, including customer service and taxi scrip redemption, to one office located at 1947 Center Street, Berkeley, CA 94704.; 4. Reduce the burden of the current mandatory sensitivity training course for taxi drivers, by exploring an option to complete the course online instead of in San Francisco, which costs \$50 and imposes onerous logistical costs. For example, available courses can be found at <a href="http://www.equo.co.uk/11-Taxi-Drivers">http://www.equo.co.uk/11-Taxi-Drivers</a> .; 5. Clarify in writing that taxi-drivers may purchase collective insurance instead of individual insurance. This will allow drivers to accumulate a more substantial fund to cover individual crashes, pay less per person, and reap similar benefits as rideshare drivers (who are insured by Transportation Network Companies) do.	0.00	Work in Progress	City Manager's Office	N	N	N	N	N	N	N

**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
118	Council and Budget Referrals - Project	City of Berkeley Neighborhood Services and Outreach Program (formerly "Amend April 26, 2018 Referral Regarding Sidewalks Policies ")	In light of the 9th Circuit Court of Appeal's September 4, 2018 ruling in Martin v. City of Boise, refer to the City Manager further analysis of Council's April 26, 2018 proposed "Regulations for Sitting, Lying, Dogs and Objects on Sidewalks and in Parklets" and analysis of Berkeley's existing regulations and practices, including but not limited to ordinances, administrative regulations, training protocols and other policies and practices, related to use and limits to use of sidewalks, parklets, streets, parks and other City property. Refer to the City Manager to collaborate with the offices of the Mayor and Councilmember Hahn to amend existing and, as necessary, draft new policies and procedures compliant with the above analysis, and report back to Council with recommendations for compliant policies.	50.00	Work in Progress	City Manager's Office	N	N	N	N	N	N	N
119	Council and Budget Referrals - Project	Denouncing Presidential Executive Order to Build a Border Wall and Urging the City of Berkeley to Divest from Companies Supporting or Participating in the Construction of a Border Wall; Revised materials	Adopt a Resolution denouncing the presidential executive order to build a wall along the U.S.-Mexico border and recommend that the City of Berkeley divest from any companies involved in the construction of a border wall.	0.00	Not Started	City Manager's Office	N	N	N	N	N	N	N
120	Council and Budget Referrals - Project	Enforce Bi-Weekly (Once Every Two Weeks) Residential Cleaning Measures to Address Encampments and Promote Clean Streets in Berkeley	Refer to the City Manager to promote equitable street cleaning practices and require biweekly (once every two weeks), cleanings of populated encampment sites in Berkeley and adjacent residential neighborhoods. In order to determine where City Staff should prioritize residential cleaning services, the City Manager should establish a radius around the campsites. When encampments are on non-City owned property, such as Caltrans, the City should bill the appropriate agency for the cost of staff and materials.	50.00	Work in Progress	City Manager's Office	Y	Y	Y	N	N	Y	Y
121	Council and Budget Referrals - Project	Non-Criminal Options for Enforcement of Sidewalk Regulations	Refer to the City Manager the development of non-criminal options for the enforcement of Berkeley laws and regulations related to use of public space that: Reduce, delay or, if possible, eliminate criminal penalties; Offer positive alternatives; and Ensure that the City has effective tools for enforcement of laws and regulations. While ensuring effective enforcement, options should delay or avoid pursuing infractions and misdemeanors and provide options to cure violations through positive actions such as mandated and verified community service, education, or participation in social service programs.	10.00	Work in Progress	City Manager's Office	N	N	N	N	N	N	N

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Referrals, Projects, and Audits**

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122	Council and Budget Referrals - Project	Public Toilet Policy	Refer to the City Manager to develop the following "Neighborhood Public Toilet Policy": Develop a process in which residents can obtain a permit for a neighborhood public toilet via an official petition; Residents should contact the City via 311 to obtain an official petition form to apply for a permit; In order to obtain the permit, the petition should be signed by at least 51% of residential addresses and business owners within the nearest two block radius of the proposed public toilet site; The City shall not fund or contribute to the financing of the public toilets or their maintenance.	85.00	Past Due	City Manager's Office	N	Y	N	N	N	Y	N
123	Council and Budget Referrals - Project	Recommendations Related to Code Enforcement and Receivership Actions	On November 25, 2019, the Health, Life Enrichment, Equity & Community Committee took action to send an item to Council with a positive recommendation that for purposes of understanding the issues and identifying potential changes to the City's codes, policies, and procedures the committee recommends the following: a. That the City Manager provide an information session to the City Council regarding the various ways in which code enforcement issues have been brought to the attention of the City over the last 5 years; b. How various code enforcement issues at residential properties are currently handled; c. Timeframe and mechanisms for achieving code compliance at residential properties; d. Any existing assistance programs available to support property owners found to have code violations; e. Specific learnings/changes in City practices resulting from the Leonard Powell receivership case; f. Other information deemed relevant and appropriate to understand the City's current code enforcement practices for residential properties Additionally, the Policy Committee requests that the Mayor call a special meeting of the City Council for purposes of a forum based on the recommendations provided by Councilmember Bartlett as the draft plan for a public meeting on receivership. And third, the Committee requests from the City Manager a specific reply on creating a mechanism to provide legal and technical assistance to independent third parties for	25.00	Work in Progress	City Manager's Office	N	Y	N	N	N	Y	N

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124	Council and Budget Referrals - Project	Referral Responses: Managing Recreational Vehicle (RV) Parking	<p>The City of Berkeley seeks to implement all laws and ordinances in a fair and humane manner.</p> <p>To that end, we refer to the City Manager for consideration the following guidelines to help ensure enforcement of revised RV parking restrictions allowed under Ordinance No. 7,643-N.S. (BMC Section 14.40.120) is conducted with outreach, including information and resource guides and written notice.</p> <p>Further, we refer to the City Manager to quickly establish a three-month permit program (with possibility for renewal), to be offered on a one-time basis to existing priority populations and we refer to the Health, Life Enrichment, Equity &amp; Community Policy Committee to establish basic criteria for a standard two-week permitting process.</p> <p>The City Council reiterates its February 28, 2019 referral to identify and develop a temporary RV site to serve highly vulnerable populations, as well as a regional non-profit RV site, and to develop a program to allow private entities to host RVs on their property.</p>	0.00	Work in Progress	City Manager's Office	N	Y	N	N	N	Data Pending	N
125	Council and Budget Referrals - Project	Referral to City Manager to establish Recreational Vehicle Waste Discharge Facility on City Property and Referral to FY 2020/21 Budget Process	1. Refer to the City Manager to establish a recreational vehicle waste discharge facility on City property and equitable administrative fee program, and 2. Refer costs associated with the facility to the FY 2020/21 Budget Process. Include consideration of 1) method of pump out; 2) cost; 3) locations; and 4) capacity.	0.00	Pending	City Manager's Office	N	N	Partial	N	N	Y	Y
126	Council and Budget Referrals - Project	Supporting Worker Cooperatives and Referral to City Manager to Develop a Worker Cooperative Ordinance (Continued from January 12, 2016 – Item includes revised materials.)	<p>Adopt a Resolution to support worker cooperatives, and refer to the City Manager to develop a Worker Cooperative Ordinance, which includes:</p> <p>1. Revising the existing Buy Local contracting preference and adding a worker cooperative preference; 2. Revising the business permit application; 3. Incentivizing existing businesses to convert to cooperatives; 4. Creating business tax and land use incentives, and 5. Developing educational materials.</p>	75.00	Work in Progress	City Manager's Office	N	Y	Y	N	N	Y	Y
127	Council and Budget Referrals - Project	Urgency Item: Safety for All: The George Floyd Community Safety Act - City Attorney and Manager Analysis of Contractual and Legal Barriers to Public Safety Reform	Direct the City Manager and City Attorney to analyze contractual and legal barriers to public safety reform including police union contracts, vendor contracts, state and federal laws, to determine barriers to accountability and substantive reform. In addition, direct the City Manager and City Attorney to evaluate elements in the proposed police review commission charter amendment, that can be implemented by the City Council.	10.00	On Hold	City Manager's Office	N	N (On hold, pending Reimaging Police)	N	N	N	N	N

**Disposition of  
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128	Council and Budget Referrals - Project	Companion Report: Effective Enforcement of Safe Lead-Paint Practices - Update on Amendments	Based on the intent of the recommendation from the Community Environmental Advisory Commission (CEAC) for the City to expand enforcement of unsafe lead paint practices, refer to the City Manager to: - Coordinate with the Alameda County Healthy Homes Program to clearly identify roles and responsibilities for expanding enforcement of unsafe lead practices, and to explore options for sharing resources that can support expanded local enforcement; - Identify what resources, staff capacity, and program structure would be required to expand City enforcement of unsafe lead practices; - Continue current work to educate building permit applicants and contractors about safe lead paint practices; train and certify all City of Berkeley Building and Housing Inspectors in lead paint safety; respond to, investigate, and enforce safe lead paint practices as needed; and administer the Public Health Division's Childhood Lead Poisoning Prevention Program; and - Provide an update to City Council within one-year that identifies progress and next steps for expanding enforcement of unsafe lead practices. Additions: Request that the City Manager return to Council as soon as possible with recommendations on staffing for robust enforcement and internal restructuring for inspections. Options for noticing and distributing disclosure information. Enforcement by the City or the County, if feasible.	0.00	Pending Not On Schedule	City Manager's Office/Health, Housing & Community Services/Planning	N	N	N	N	N	N	N
129	Council and Budget Referrals - Project	Funding Streetlight Near South East Corner of Otis Street	Approved recommendation revised to change the item to a budget referral and refer an assessment of feasibility to fund construction of a streetlight on the corner of Otis near Ashby to the City Manager.	0.00	Not Started	City Manager's Office/Public Works	N	N	Data Pending	N	N	Data Pending	Data Pending
130	Council and Budget Referrals - Project	Community Microbond Initiative. Revised materials (Supp 2)	Refer to the 2018 prioritization process to direct the City Manager to produce a report outlining steps required if the City were to implement a Pilot Project for the Community Microbond Initiative within 90 days. Consider including a community engagement component (such as a survey) to identify a project for the pilot, identify City staff who would be involved in the Pilot Project, analyze the cost structure to the City, clarify the process to identify, select and collaborate with relevant vendors, and outline any and all other necessary steps to achieve a Pilot Microbond offering. Consider including the following requirements for a proposed RFP: Vendor(s) selected should have municipal bond underwriting capabilities; Vendor(s) selected should have experience with blockchain technology	90.00	Work in Progress	Finance	N	Y	Y	N	N	Y	Y
131	Council and Budget Referrals - Project	Develop Ordinance Prohibiting Companies Participating in the Construction of a Border Wall from Contracting with the City of Berkeley	Direct the City Manager to develop an ordinance prohibiting companies involved in the construction of a border wall from contracting with the City of Berkeley. Return to Council with the proposed ordinance within 90 days.	25.00	Pending Not On Schedule	Finance	N	Y	Y	N	N	Y	Y

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132	Council and Budget Referrals - Project	Accessory Dwelling Unit Ordinance Updates	Action: M/S/Carried (Hahn/Wengraf) to adopt the item as written in Supplemental Reports Packet #1 and including the following changes. <ul style="list-style-type: none"> <li>• Remove the language regarding view protections.</li> <li>• Add new #9 on hillside heights measurements where no previous structure exists.</li> <li>• Add "and any other solutions" to #5 regarding parking.</li> <li>• Include the referral from Item 15 with this referral.</li> </ul> 01/14/21 (SM for DB) Restricted allowances due to state law. Solution may be incorporated into Safe Passages.	90.00	Work in Progress	Fire & Emergency Services	N	Y	Y	N	Y	Y	N
133	Council and Budget Referrals - Project	Commission Referral: Recommendation to Install an Outdoor Public Warning System (Sirens) and Incorporate It Into a Holistic Emergency Alerting Plan	Recommend that City of Berkeley explore evaluating locations to install and maintain an outdoor public warning system (sirens) as a supplement to other alert and warning technologies within our boundaries and coordinated with abutting jurisdictions and Alameda County, and refer the item to the November budget discussion. 01/14/21 (SM for DB). Funding identified in Measure FF	10.00	Work in Progress	Fire & Emergency Services	Y	Y	Y	N	N	Y	Y
134	Council and Budget Referrals - Project	Immediate Measures to Address Fire Safety and Prevention [Non-RRV Prioritization Process]	Refer to the City Manager to study and evaluate, in consultation with relevant Commissions, the following fire safety and prevention measures on a priority basis. After study and evaluation, implement or, where additional resources may be required, recommend implementation and sources of funding. 1. Complete the Berkeley Fire Department's comprehensive Evacuation Plan and publicize evacuation routes and protocols on a priority basis. 2. Increase outreach efforts to sign up residents for the Alameda County Emergency Alert program. 3. Review and update the City's existing Fire Safety ordinances, including BMC 12.50 Fire Inspection Program. 4. Consider implementation of a siren warning system, similar to Oakland's Emergency Siren system. 5. Review and, as necessary, strengthen coordination and communication with Oakland, East Bay Regional Parks (EBRP), Alameda County, Contra Costa and other neighboring Fire Department and emergency response service providers. 6. Expand programs and practices to reduce fire hazards and fuel loads and ensure clearance for utility lines on both public and private property as outlined in the report. 01/14/21 - Programs to be funded by FF (SM for DB).	10.00	Not Started	Fire & Emergency Services	Y	Y	Y	N	N	Y	N

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135	Council and Budget Referrals - Project	Referral to Develop Comprehensive Plan for Disaster Preparedness and Post-Disaster Rebuilding with Respect to Multi-Family Housing [Non-RRV Prioritization Process]	Refer to applicable City departments and commissions the development of a comprehensive plan for both disaster preparedness and post-disaster rebuilding with respect to multi-family housing. As part of the plan, applicable departments and commissions should explore how applicable ordinances (e.g., Demolition Ordinance, Relocation Ordinance, Rent Stabilization Ordinance) may interface with rebuilding efforts in the event of a major disaster and make recommendations to amend or clarify them as appropriate. The referral can be added to existing referrals concerning disaster preparedness item and prioritized as appropriate.	0.00	Not Started	Fire & Emergency Services	Y	N	N	N	N	N	N
136	Council and Budget Referrals - Project	Referral to the Disaster and Fire Safety Commission and the City Manager: Five Year Plan for Expanded Disaster Preparedness Services [Non-RRV Prioritization Process]	Refer to the Disaster and Fire Safety Commission and the City Manager's office to explore developing a five year plan for expanded disaster preparedness services.	0.00	Work in Progress	Fire & Emergency Services	Y	N	N	N	N	N	N
137	Council and Budget Referrals - Project	Adding Threat of Displacement of a Berkeley Resident to the Current Income Qualification Guidelines Which Would Place an Applicant in Priority Status for BMR (Below Market Rate) Units [Housing Action Plan]	Refer to the City Manager adding to income qualification the status of pending displacement of a Berkeley resident or family, for priority eligibility for BMR units.	0.00	Not Started	Health, Housing & Community Services	N	Y	Y	Y	N	Y	Y
138	Council and Budget Referrals - Project	Cigarette and Tobacco Litter Ordinance; Referral to Community Health Commission	Referral to the Community Health Commission to establish an ordinance that would diminish pollution from cigarettes waste similarly to San Francisco's Cigarette Abatement Fee Ordinance.	0.00	Work in Progress	Health, Housing & Community Services	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
139	Council and Budget Referrals - Project	Community Impact of Future Changes to Services at Sutter Health Alta Bates Ashby Campus	Refer to the Community Health and Disaster and Fire Safety Commissions to evaluate potential community impacts of changes to services at the Sutter Health Alta Bates Ashby campus in the coming years.	0.00	Work in Progress	Health, Housing & Community Services	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
140	Council and Budget Referrals - Project	Companion Report and Referral Response: Creation of a Small Sites Program	4) Request that the Council and Housing Advisory Commission receive copies of small sites loan applications along with staff's corresponding analysis and decision. 6) Refer further consideration of a long-term small sites program to the City Manager and the Housing Advisory Commission. 7) Refer the small sites program to the November budget update and next biannual budget planning cycle in 2019.	0.00	Work in Progress	Health, Housing & Community Services	Y	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending



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141	Council and Budget Referrals - Project	Companion Report: Support for Oregon Park Senior Apartments - [Housing Action Plan]	Refer the Housing Advisory Commission's recommendation that staff work with Oregon Park Senior Apartments (OPSA) to the Council prioritization process so that the Council can evaluate this recommendation in the context of other recommendations for the use of Housing & Community Services staffing resources. Adopted with the following conditions: 1. Oregon Street Park Apartments will conduct a financial audit. 2. Oregon Street Park Apartments will conduct a full assessment of the structure of the building and the facility needs. 3. Oregon Street Park Apartments will hire a property manager to oversee the financials and the property. 4. The City will commit to holding the fines in abeyance until such time that conditions 1-3 are completed.	0.00	Not Started	Health, Housing & Community Services	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
142	Council and Budget Referrals - Project	Disposition of City-Owned, Former Redevelopment Agency Property at 1631 Fifth Street	Refer the item to the City Manager to explore City uses of the property for housing and homelessness services and needs, or other uses, and review the remediation needs of the property.	0.00	Pending	Health, Housing & Community Services	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
143	Council and Budget Referrals - Project	Health Equity & Innovation District	Referral to the Planning Commission, the Community Health Commission, the Commission on Aging, and the City Manager to establish a Health Equity & Innovation District (HID). The goal of the HID is to reduce chronic racial health disparities and improve the overall public health strategy of Berkeley by fostering innovations in healthcare delivery, improving resiliency, and strengthening the integration of health services and systems. The HID is intended to draw investment and grant opportunities, as well as to explore the expansion of scope of practice for medical providers.	0.00	Work in Progress	Health, Housing & Community Services	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
144	Council and Budget Referrals - Project	Healthy Checkout Ordinance	2. Refer to the City Manager to determine funding and staffing needs to implement and enforce the ordinance and sources of funding to support this program.	25.00	Work in Progress	Health, Housing & Community Services	N	Y	N	N	Y	Y	
145	Council and Budget Referrals - Project	Providing our Unhoused Community in the City of Berkeley with Menstrual Products	3. Direct the City Manager to use existing homeless services funding to develop and deploy a program to provide a broad spectrum of menstrual products, including but not limited to, feminine hygiene, pads, tampons, underwear, and other related products, both through the City's outreach direct services, as well as through the community based homeless services providers. Additionally, require some elements of this program be deployed immediately, with a full program deployment within six months.	10.00	Work in Progress	Health, Housing & Community Services	N	Y	N	N	N		Y
146	Council and Budget Referrals - Project	Refer to the City Manager's Office and Budget Referral: Second Dwelling Unit/Accessory Dwelling Unit Pilot Program to House the Homeless	Refer to the City Manager's office and the HAC to develop a second dwelling unit/accessory dwelling unit Pilot Project as an additional strategy to provide housing for homeless persons and families.	0.00	Not Started	Health, Housing & Community Services	Y	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

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147	Council and Budget Referrals - Project	Referral to Commission on Labor: Amendments to Living Wage Ordinance (BMC 13.27)	Refer to the Commission on Labor the following suggested amendments to the Living Wage Ordinance, Berkeley Municipal Code Chapter 13.27: 1. Amend Section 13.27.050.A to allow an employee the right to opt out of an employer provided medical benefit plan and still receive the higher compensation amount (currently \$15.99 per hour) as cash in lieu if they provide proof of alternative coverage under a medical benefit plan. 2. Amend the posting requirements, retaliation, complaint process, and enforcement sections to conform to the language in the recently adopted Minimum Wage Ordinance.	0.00	Work in Progress	Health, Housing & Community Services	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
148	Council and Budget Referrals - Project	Referral to the City Manager: Adopt Section 8 Landlord Incentives [Housing Action Plan]	Refer to the City Manager the adoption of the following measures to encourage landlords to accept Section 8 and Shelter + Care vouchers: 1. Create a list of qualified, efficient and affordable contractors vetted by the City, and a discount or waiver of permit fees, to support bringing their unit(s) to code; 2. Provide legal and/or mediation support, offered either through the City or a partner, in negotiating Landlord/Tenant disputes out-of-court; 3. Allow parcel and/or property tax reductions based on the percentage of property or units that are currently Section 8 and/or decided during annual Section 8 inspection; and 4. Identify organizations who can support financial literacy and management for Section 8 tenants, including establishing bank accounts with direct deposit to Landlords. We ask City staff to research and develop a proposal of options for implementing these within the next six months.	0.00	Not Started	Health, Housing & Community Services	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
149	Council and Budget Referrals - Project	Referral to the Labor Commission and the Commission on the Status of Women: Paid Family Leave Ordinance Revised materials	Refer the attached ordinance for consideration by to the Labor Commission and the Commission on the Status of Women to help in the development of a Paid Family Leave Ordinance for the City of Berkeley. The Labor Commission shall be responsible for conducting a public hearing to collect community input on the attached draft legislation. The Labor Commission shall conduct outreach and invite relevant stakeholders to attend, including representatives from small business associations, chambers of commerce, Berkeley employers, and Berkeley employees. The Commission on the Status of Women shall be responsible for research and overall project management. The Commissions shall jointly prepare a report for submission to Council summarizing both commissions' suggestions and the community's suggestions for changes that should be made to the attached legislation.	0.00	Work in Progress	Health, Housing & Community Services	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

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150	Council and Budget Referrals - Project	Small Sites Acquisition Program and Tenant Opportunity to Purchase [Housing Action Plan]	Refer to the City Manager the implementation of the following strategies to preserve existing affordable housing and prevent displacement: 1. Create a Small Sites Program to assist non-profits in acquiring existing properties that considers the following criteria: a. Targets 5-25 unit multi-family buildings, particularly properties with strong potential for conversion to resident ownership, those in which no-fault evictions have been filed, or those at high risk of speculative purchase. b. Allocates \$1-2 million from multiple funding sources. Such sources could include Measure A1 and U1 funds, Section 8 vouchers, and the MTC NOAH program. c. Includes administrative guidelines for a streamlined allocation process that will ensure an expedited commitment and funding process. Such commitments could include a letter of commitment from the City when non-profit organizations are placing an option on a property, or a small grant to make a down payment. 2. Review and develop an ordinance modeled after Washington D.C.'s Tenant Opportunity to Purchase Act that offers existing tenants the first right of refusal when property owners place rental property on the sale market, which can be transferred to a qualifying affordable housing provider.	50.00	Work in Progress	Health, Housing & Community Services	N	Y	N	N	N	N	N
151	Council and Budget Referrals - Project	Workforce Housing Affordability Plan [Housing Action Plan]	Refer to the City Manager the addition of a new workforce housing option to the inclusionary housing law that raises the percentage of inclusionary units by allowing the production of more subsidized units at a reduced subsidy per unit. Additionally, request that the City Manager return with "affordable by design" suggestions to help address the underproduction of middle-income units in Berkeley.	0.00	Not Started	Health, Housing & Community Services	N	Y	Y	N	N	Y	Y
152	Council and Budget Referrals - Project	Workforce Housing for Berkeley Unified School District Personnel [Housing Action Plan]	Request the City Manager to direct staff to investigate the feasibility of developing workforce housing, in conjunction with Berkeley Unified School District, for teachers and employees. This investigation should include research into what other California cities (such as San Francisco, Oakland, Santa Clara and San Mateo County) are considering as part of their pursuit of school district workforce housing.	0.00	Not Started	Health, Housing & Community Services	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
153	Council and Budget Referrals - Project	Budget Referral: Remediation of Lawn Bowling, North Green and Santa Fe Right-of-Way, FY2020-2021	Refer to the November 2019 AAO consideration of at least \$150,000 and up to remediate the Lawn Bowlers, North Green and Santa Fe Right-of-Way in advance of Request for Proposal (RFP) for these areas that potentially could provide much needed affordable alternative housing. Refer to the Homeless Services Panel of Experts to consider Measure P funds for remediation purposes for these properties.	0.00	Not Started	Health, Housing & Community Services	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
154	Council and Budget Referrals - Project	Cannabis Ordinance Revisions; Amending Berkeley Municipal Code Chapters 12.21, 12.22, 20.40, 23C.25, and Sub-Titles 23E and 23F	2) analyze the impacts of artificial flavorings/additives and advise if any further regulations are necessary	0.00	Pending	Health, Housing & Community Services	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
155	Council and Budget Referrals - Project	Cannabis Ordinance Revisions; Amending Berkeley Municipal Code Chapters 12.21, 12.22, 20.40, 23C.25, and Sub-Titles 23E and 23F	2) direct the Berkeley Public Health Department to review the issue of flavored cannabis products for combustion or inhalation, and cannabis products whose names imply that they are flavored, and review any additional ingredients that may be hazardous, whether natural or artificial, including vitamin E acetate in inhalation products, and make recommendations for action.	0.00	Pending	Health, Housing & Community Services	Y	Y	Y	N	Y	Y	Y
156	Council and Budget Referrals - Project	Companion Report: Health Study to be Conducted by the Public Health Division to Gather Data on Health Conditions, Health Disparities and Mortality Rates of Berkeley's homeless	Send a letter to Alameda County requesting data on deaths of identified homeless individuals.  Contact Alameda County request that they explore the feasibility of recording homelessness as a data point in death records and/or making investments to begin tracking this information locally.	50.00	Work in Progress	Health, Housing & Community Services	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
157	Council and Budget Referrals - Project	Open Doors Initiative: City Worker and First Time Affordable Homebuyer Program	That the City Council refer the City Manager and Housing Advisory Committee to explore mechanisms to support homeownership by City of Berkeley employees and further refer to City Manager to prepare a report detailing available first-time homeownership and low-income homeowner programs that might be available for implementation in the City of Berkeley. Analysis to include the new Self-Help Housing Program and the provisions of AB 101.	0.00	Not Started	Health, Housing & Community Services	Y	N	N	N	N	Y	Y
158	Council and Budget Referrals - Project	Voluntary Time Off on Statewide Election Days for City Employees	Refer to the City Manager to designate Statewide Election Days as VTO days, and refer to the 2x2 Committee to discuss coordinating City and District policy on holidays, in particular Election Day.	80.00	Work in Progress	Human Resources	N	Y	Y	N	Y	Y	N
159	Council and Budget Referrals - Project	Expanding the Downtown Arts District	1. Request the Planning Commission examine expanding the boundaries of the current Downtown Arts District Overlay as well as the allowable active ground-floor uses. 2. Request the City Manager consider the Downtown Arts District as part of the update to the Berkeley Arts and Culture Plan.	95.00	Work in Progress	Office of Economic Development	N	Y	N	N	N	Y	Y

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160	Council and Budget Referrals - Project	Path to Permanence for Outdoor Dining and Commerce Permits Granted Under COVID-19 Public Health Emergency Declaration	On November 2, 2020 the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee made a positive recommendation to send the item to the City Council with the recommendation language as amended by the committee. The revised recommendation language includes: Refer to the City Manager to develop a program and, if necessary, ordinance language to facilitate the transition of temporary outdoor dining and commerce permits that were obtained under the City's declaration of emergency to permanent status. - Consider criteria for transitioning spaces for Public vs. Private outdoor use. - Consider the structural, materials, safety and other criteria for temporary vs. permanent outdoor spaces. - Consider costs and benefits of private outdoor spaces adjacent to specific businesses on customer access, parking availability, parking revenues, and all other factors. - Consider Merchant opt-out vs. opt-in: To encourage and support the use of outdoor commerce, upon the conclusion of the City declaration of emergency, outdoor commerce permit holders might automatically be transitioned to permanent permit status unless the permit holder chooses to remove the installation, or the City might reach out to temporary permit holders and offer an opt-in or quick transition program. - Consider Fees and potential Fee waivers for temporary spaces transitioning to permanent status: Fees associated with the minor encroachment permits or sidewalk seating typically necessary for outdoor dining and commerce permits could be waived for all temporary permits. Consider Postponing	10.00	Work in Progress	Office of Economic Development	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
161	Council and Budget Referrals - Project	Referral to the Civic Arts Commission to Consider the Creation and Selection of a Flag for the City of Berkeley	Refer to the Civic Arts Commission to select a flag for the City of Berkeley from submissions from the public.	0.00	Work in Progress	Office of Economic Development	Y	N	Y	N	N	Y	Y
162	Council and Budget Referrals - Project	Referral to the Civic Arts Commission to create interactive family-friendly art attractions	Refer to the Civic Arts Commission to create interactive family-friendly art attractions in the City of Berkeley.	0.00	Work in Progress	Office of Economic Development	Y	Y	Y	N	N	Y	Y
163	Council and Budget Referrals - Project	Referral to the Civic Arts Commission to develop a grant program available for arts and cultural organizations to support retaining and improving creative spaces for artists	Referral to the Civic Arts Commission to prioritize within their current Work Plan creating a process for awarding competitive grants to Berkeley-based arts and cultural organizations that will help support their ability to stay in Berkeley.	11.00	Work in Progress	Office of Economic Development	Y	Y	Y	N	N	Y	Y
164	Council and Budget Referrals - Project	Evaluation of Possible Ban on New Planting of Certain Tree Species	Take action to either: a) Direct the City Manager to proceed with Option 1, and continue the City's current practice regarding tree plantings on City property, which currently do not include Eucalyptus, and Monterey Pine (except at the Marina).-OR- b) Adopt a Resolution as described in Option 2 that would ban the new planting of certain tree species on City property. -OR-c) Direct the City Manager to develop an ordinance for Council adoption that bans the new planting of certain tree species on both public and private property, and includes enforcement mechanisms.	0.00	Work in Progress	Parks, Recreation & Waterfront	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

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165	Council and Budget Referrals - Project	Referral to the City Manager: Equitable Access to Greenspace	Refer to the City Manager to explore developing a plan for increasing Equitable Access to Greenspace in Berkeley. Future parks and greenspace investments should be targeted at reducing disparities in access to greenspace. Criteria to consider should include: ☐ Geographical distance and square footage of available greenspace ☐ Income levels of area residents, which may impact their ability to afford non-public facilities and/or transportation to green spaces ☐ The proportion of youth, seniors and disabled people unable to travel to more distant facilities The City may utilize recommendations from the report "Berkeley Parks Planning for an Equitable Future" produced by the Parks and Waterfront Commission's Subcommittee on Planning. The City should also consider the work of San Francisco's Green Connections (see <a href="http://sf-planning.org/green-connections">http://sf-planning.org/green-connections</a> ) which promotes the presence and attractiveness of walking and bike paths to green spaces in order to encourage their use. The City should investigate strategies for expanding park capacity including assessing prime areas for developing new parks and greenspaces, such as in the Adeline Corridor and Santa Fe ROW. The Adeline Corridor Plan must consider and account for increasing greenspace in the Southeast Quadrant of Berkeley, and explore innovative ways for integrating greenspace into our urban environment. To implement these recommendations, the City should explore public private funding partnerships as well as community partnerships with Berkeley residents, community	0.00	Work in Progress	Parks, Recreation & N Waterfront		Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
166	Council and Budget Referrals - Project	Authorize Installation of Security Cameras at the Marina and Request an Environmental Safety Assessment	Adopt the following recommendations in order to address the recent dramatic uptick in reported crime incidents at the Berkeley marina: -Request that the City Manager install security cameras and signage as expeditiously as possible as a long-term safety measure; -Refer to the City Manager to perform an environmental safety assessment of the Berkeley marina with particular attention to the berther parking areas. Cameras will not use facial recognition or biometric software.	90.00	Work in Progress	Parks, Recreation & N Waterfront		Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
167	Council and Budget Referrals - Project	27. Green Affordable Housing Package (Continued from October 6, 2015)	Refer that the Planning Commission and City Manager investigate the following two policies as ways to reduce barriers for the creation of affordable housing. City Council requests that commissions and staff address and propose solutions and/or an implementation plan using the recommendations in the report by September 1, 2016. Policy 1: Designate units and funding for affordable housing by prioritizing housing over parking spaces in new developments. Policy 2: Remove the structural and procedural barriers to creating more housing.	90.00	Work in Progress	Planning	Involves Planning Commission	Y	Y	N	N	Y	Y
168	Council and Budget Referrals - Project	City Manager Referral: Facilitate the Local Implementation of Senate Bill 1413 and Expedite the Development of Teacher and School Employee Housing [Housing Action Plan]	Refer to the City Manager to work with the Planning to facilitate the local implementation of Senate Bill 1413 in an effort to expedite the development of housing for teacher and school employees in Berkeley.	0.00	Not Started	Planning	N	N	N	N	N	Y	N

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169	Council and Budget Referrals - Project	Classify Home Occupation Activities Receiving Five or Fewer Visits as Moderate Impact Home Operation (PDF)	Refer to the City Manager that the zoning code for Moderate Impact Home Operation (Moderate Impact HO) be amended to include home occupation activities receiving five or fewer visits weekly, requiring an AUP rather than a Use Permit with public hearing.	90.00	Work in Progress	Planning	Involves Planning Commission	Y	N	N	N	Y	Y
170	Council and Budget Referrals - Project	Deferral of Remaining Permit Fees for 2009 Addison Street	Refer to the City Manager to conduct a feasibility analysis and develop an MOU with the Berkeley Repertory Theater to defer \$720,000 in remaining permit and inspection fees for Berkeley Repertory Theater's housing project at 2009 Addison Street (leaving flexibility for timing, setting of interest, schedule of payments, and fund sources).	0.00	Not Started	Planning	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
171	Council and Budget Referrals - Project	Partial Response to Council Referral on Deep Green Building Initiative - Recommendation for Dedicated Revenue Stream to Incentivize Residential Energy Efficiency and Electrification	City Council refers to staff a request to conduct an analysis to identify and develop a set of programs and policies consistent with the Climate Action Plan to incentivize residential energy efficiency and electrification investments, based on a cost benefit analysis to determine highest value energy-saving measures. This recommendation supports the Deep Green Building Initiative referral from the Council to the Energy Commission. Council further refers \$50,000 to the budget process for the staff work and analysis.	20.00	Work in Progress	Planning	N	Y	Y	Y	N	Y	Y
172	Council and Budget Referrals - Project	Permit Service Center Improvements	Refer to the City Manager to include in current efforts to improve the Land Use Permitting process the following proposals to increase the efficiency and outreach of the Permit Service Center, making the permitting process easier for staff and applicants alike. Specific proposals to consider include: 1. Website improvements for tracking of permits, calculating permit fees, and applying online; 2. Case Managers for coordinated intake of permit applications and materials; 3. Informational materials including an improved user guide and infographics modeled after BizGrid; 4. Customer service improvements at the Center including a fast track line, kiosks, and an online appointment booking system.	50.00	Work in Progress	Planning	N	Y	Y	N	N	Y	Y
173	Council and Budget Referrals - Project	Planning Commission Referral for a Pilot Density Bonus Program for the Telegraph Avenue Commercial District to Generate Revenue to House the Homeless and Extremely Low-Income Individuals	Refer a City Density Bonus policy for the Telegraph Avenue Commercial District to the Planning Commission to generate in-lieu fees that could be used to build housing for homeless and extremely low-income residents.	25.00	Work in Progress	Planning	Involves Planning Commission	Y	Y	N	N	Y	Y
174	Council and Budget Referrals - Project	Providing Requested Direction to the City Manager and Planning on the Number of Cannabis Retail Establishments and the Creation of an Equity Program	That the Council provides requested direction to the Planning on how to proceed with the Equity Program recommended by the Cannabis Commission in the October 9, 2018 staff report; with the following specifications: Recommendation of creating 1 new dispensary license for equity applicants. It is envisioned as new licenses are created, such as, delivery, manufacturing, and micro-business, permits will be reserved for equity applicants for each new category.	25.00	Work in Progress	Planning	Involves Planning Commission, Cannabis Commission	N	N	N	N	Y	N

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175	Council and Budget Referrals - Project	Referral to the Planning Commission to Allow 4 Temporary Zoning Amendments to Increase Student Housing in the Southside Area	Refer to the City Manager and the Planning Commission to consider conversion of existing commercial space for residential use between College Avenue and Fulton Street and Bancroft Way to Dwight Way.	50.00	Work in Progress	Planning	Y	Y	Y	N	N	Y	Y
176	Council and Budget Referrals - Project	Short Term Referral to Expedite Components of the More Student Housing Now Resolution, and budget referral to the annual appropriation ordinance adoption	Short term referral to the City Manager and the Planning to promptly move forward with components of the More Student Housing Now Resolution that do not require additional CEQA review, amend existing City ordinances and policies that prevent the implementation of SB 1227, and provide a budget referral to the annual appropriation ordinance adoption that would allocate the necessary resources as determined by the Planning Staff.	50.00	Work in Progress	Planning	Involves Planning Commission	Y	Y	N	N	Y	Y
177	Council and Budget Referrals - Project	Tiny Homes and Tiny Home Communities as Homeless Housing Options [Housing Action Plan]	2. Refer the item to the City Manager for further research and analysis. The creation of Tiny Homes on public or private property for long-term use and/or as habitable dwellings with facilities intended as a homeless program would require modifications to the existing zoning and building codes and additional program requirements to ensure such developments are moving clients out of homelessness.	0.00	Not Started	Planning	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
178	Council and Budget Referrals - Project	Zoning Ordinance Amendments to Increase the Floor Area Ration (FAR) and Building Heights in Portions of the Telegraph Avenue Commercial (C-T) District; Amending BMC Chapter 23E.56; REFERRAL: refer to the City Manager to develop community benefit requirements, with a focus on labor practices and affordable housing	Adopt first reading of an Ordinance amending the Zoning Ordinance, Berkeley Municipal Code Chapter 23E.56, Telegraph Commercial District (C-T) to increase the floor area ration and building heights in portions of the Telegraph Avenue Commercial (C-T) District.	50.00	Work in Progress	Planning	Involves Planning Commission	Y	Y	N	N	Y	Y
179	Council and Budget Referrals - Project	ZORP   Customer Service Improvements to Land Use Permit Process	Direct staff to make structural improvements to the Zoning Ordinance, communication improvements to better explain complex technical and procedural elements to the public, and organizational improvements to the Land Use Planning Division; and authorize the issuance of a request for proposals (RFP) for the selection of consultants to make structural improvements to the Zoning Ordinance and develop graphic communication elements in an amount not to exceed \$300,000.	30.00	Work in Progress	Planning	Involves Planning Commission	Y	Y	N	N	Y	Y
180	Council and Budget Referrals - Project	City Manager Referral: Expanding Gun Safety Measures in Berkeley	Refer to the City Manager to consider the following ordinances: 1. Banning Unsecured Firearms And Ammunition Located In Unattended Vehicles In The Public Right Of Way And "Public Places" As Defined In The Ordinance; and 2. Requiring That City-Issued Firearms In Unattended Vehicles Be Secured.	30.00	Work in Progress	Police	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
181	Council and Budget Referrals - Project	City Manager Referral: Plan for Lighting and Signage at the Ohlone Greenway at Cedar, Rose, and Hopkins	Refer to the City Manager to develop a plan to improve the lighting and signage (e.g. stop signs) at the Ohlone Greenway crossing at Cedar, Rose, and Hopkins, particularly for bicycle transit.	0.00	Work in Progress	Public Works	N	Y	N	Y	N	Y	Y
182	Council and Budget Referrals - Project	Four Way Stop Signs on Eighth Street at Carleton Street and Pardee Street	Refer to the City Manager a proposal to install stop signs at the intersections of Eighth Street and Carleton Street and Eighth Street and Pardee Street.	2.00	Work in Progress	Public Works	N	N	N	N	N		N



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183	Council and Budget Referrals - Project	Refer to City Manager to look into adopting an ordinance requiring a permit process for scooter sharing companies to operate on public streets	Refer to the City manager to look into adopting an ordinance establishing a pilot Powered Scooter Share Permit Program for 24 months, requiring a permit issued by the Director of Public Works, establishing a fee for the issuance of the permit, establishing administrative penalties for failure to obtain a permit or violation of permit requirements, providing a procedure for the assessment and collection of administrative penalties for permit violations or parking or leaving standing an unpermitted powered scooter subject to the pilot Powered Scooter Share Permit Program on a sidewalk, street, or other public right-of-way.	50.00	Work in Progress	Public Works	N	Y	Y	N	N	Y	Y
184	Council and Budget Referrals - Project	Referral to Consider Caregiver Parking in Residential Shared Parking Pilot	Refer to the City Manager and Transportation Commission to consider a pilot program for caregiver parking permits in RPP zones in the goBerkeley Residential Shared Parking Pilot.	25.00	Pending On Schedule	Public Works	Y	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
185	Council and Budget Referrals - Project	Referral to the City Manager: Prioritize Climate Action Plan's Policy to Redesign/Rebuild the Berkeley Transfer Station and Material Recovery Facility into a State of the Art Zero Waste Facility	Referral to the City Manager: Prioritize the City of Berkeley's Climate Action Plan's policy to redesign/rebuild the Berkeley Transfer Station and the material recovery facility into a state of the art Zero Waste facility.	0.00	Work in Progress	Public Works	N	Y	Y	N	N	Y	Y
186	Council and Budget Referrals - Project	Referral to the Public Works Department and the City Manager: Finishing the installation of Sculpture Lighting into Adjacent Street Lights for the William Byron Rumford Statue on Sacramento and Julia St.	Refer to the City Manager a request to finish the installation of sculpture lighting into adjacent street lights for the William Byron Rumford statue on Sacramento and Julia Street. Refer to the Public Works Department for its installation.	25.00	Work in Progress	Public Works	N	Y	Y	N	N	Y	Y
187	Council and Budget Referrals - Project	Request for Information Regarding Current Status and Progress on Traffic Mitigations at Dwight Way and California Street	Refer to the City Manager a request for information regarding the current status and progress on traffic mitigations and pedestrian safety improvements at the intersection of Dwight Way and California Street.	0.00	Not Started	Public Works	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	N
188	Council and Budget Referrals - Project	Residential Preferential Parking (RPP) Program Reform and Expansion	2. Refer to the City Manager to explore options to amendments to the ordinance related to the cap on permits for situations such as caregivers, child care, and others.	25.00	Work in Progress	Public Works	N	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
189	Council and Budget Referrals - Project	Restrict Parking in the Hills Hazardous Fire Area (Continued from January 12, 2016)	Refer to staff the design of a parking restriction program in the Hills Fire Zone to ensure access for emergency vehicles and to allow for safe evacuations in an emergency and to hold public meetings to get community input in the design of such a program.	10.00	Work in Progress	Public Works	N	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
190	Council and Budget Referrals - Project	Special RPP Designation, Grant Street between Ohlone Park and Delaware Street	Request the City Manager to designate a special "no 2-hour parking grace period" residential permit parking zone for the one cul-de-sac block of Grant Street between Ohlone Park and Delaware Street. Also, request to provide Council with an Info Report on the process and perform increased enforcement.	0.00	Work in Progress	Public Works	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

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191	Council and Budget Referrals - Project	Adopt a Spot Initiative for Volunteer Stewardship of Public Spaces	Refer to the Public Works Commission and Parks and Waterfront Commission to develop an Adopt A Spot initiative; specifically outlining potential environmental benefits, program costs, staffing. Rationale: -Adopt a Spot programs enable a network of volunteer residents to assist in city maintenance and clean up efforts which have great impact using minimal City staff/funding. -Vision 2050 will include stormwater and watershed management goals, both of which this program would support.	75.00	Work in Progress	Public Works/Parks, Recreation & Waterfront	Y	Y	Y	N	N	Y	N
192	Council and Budget Referrals - Project	Wildland Urban Interface Fire Safety and Fire Safety Education	To address long term fire, earthquake and disaster preparedness, response, and safety: Refer all of the Proposed Measures from the Commission's report to the City Manager for review by the Fire Department, Public Works, Parks, Recreation & Waterfront and other affected departments to be considered and prioritized along with: Councilmember Bartlett's November 28, 2017 referrals, Councilmember Hahn's January 30, 2018 referrals, and The January 2018 Conceptual Study to Underground Utility Wires. All of these measures should be reviewed, evaluated and prioritized by the City Manager. Report the City Manager's prioritization to Council.	0.00	Work in Progress	Fire & Emergency Services	Y	Y	Y	N	N	Y	N
193	Council and Budget Referrals - Project	Treatment of women in custody at Santa Rita Jail	Refer to the Commission on the Status of Women the alleged offensive treatment of women in custody at Santa Rita Jail, as reported below with the aim of ensuring that searches of women not be conducted in the presence of men (be they male officers or inmates) and any other changes in protocol that might be needed to ensure appropriate policies are followed during searches of women in custody.	0.00	Work in Progress	City Manager's Office	Y	Data Pending	N	N	N	Data Pending	N
194	Council and Budget Referrals - Project	Traffic Circle Vegetation Maintenance Policy	Refer to Parks and Waterfront Commission and the Transportation Commission to establish a city/community task force to: a) Evaluate the City's current traffic circle vegetation policy and b) Conduct a community led process to update that policy to ensure pedestrian/bicycle/vehicle safety and preserve community efforts to beautify traffic circles.	0.00	Not Started	Parks, Recreation & Waterfront	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
195	Council and Budget Referrals - Project	Non-Citizen Voting in Berkeley Elections Refer to Peace and Justice Commission	Refer to the Peace and Justice Commission to consider preparation of an amendment to the Berkeley City Charter to be presented to the voters in Berkeley that would allow a non-citizen resident the right to vote in Berkeley city elections.	0.00	Not Started	City Manager's Office	Y	N	N	N	N	Data Pending	N
196	Council and Budget Referrals - Project	Referral to Peace and Justice Commission to Further Protections for Immigrants and Religious Minorities	Adopt a Resolution referring to the Peace and Justice Commission to: 1. Identify entities involved in attempts to create databases and registries used to target immigrants and religious minorities, and make recommendations to the City Council on divesting from such entities; and 2. Identify all service providers to US Immigration and Customs Enforcement, and make recommendations to the City Council on prohibiting city investment in such service providers.	0.00	Not Started	City Manager's Office	Y	N	N	N	N	N	N

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197	Council and Budget Referrals - Project	Referral to the Peace & Justice Commission: Examine Internet Communications Platforms Servicing Berkeley	Referral to the Peace & Justice Commission to examine the internet communications platforms servicing Berkeley to assess whether they are propagating or promoting racism and/or discrimination.	0.00	Not Started	City Manager's Office	Y	N	N	N	N	Data Pending	N
198	Council and Budget Referrals - Project	Accessory Dwelling Unit Ordinance Updates	Refer to the Planning Commission to consider additional elements for Berkeley's Accessory Dwelling Unit Ordinance (BMC 23C.24), on an expedited basis, and refer to the Disaster and Fire Safety Commission bullet point #5, relating to potential obstruction of emergency vehicles, and request that their recommendations be sent directly to the Planning Commission to inform the Planning Commission's review and recommendations. Amendments: Remove the language regarding view protections; Add new #9 on hillside heights measurements where no previous structure exists; Add "and any other solutions" to #5 regarding parking; Include the referral from Item 15 with this referral.	0.00	Not Started	Fire & Emergency Services	Y	Y	Y	N	Y	Y	Y
199	Council and Budget Referrals - Project	Amending Chapter 19.34 of the Berkeley Municipal Code to Expand Automatic Gas Shut-Off Valve Requirements in Multifamily, Condominium and Commercial Buildings Undergoing Renovations and to All Existing Buildings Prior to Execution of a Contract for Sale or Close of Escrow	Refer to the Disaster and Fire Safety Commission to consider an ordinance amending Berkeley Municipal Code (BMC) 19.34.040 to expand requirements for automatic natural gas shut-off valves or excess flow valves in multifamily, condominium and commercial buildings undergoing renovations and in all existing buildings prior to execution of a contract for sale or close of escrow. Ask the Commission to consider other triggers as appropriate. 01/14/21 (SM for DB) DFSC recommendation to be reviewed by Planning prior to going to Council.	90.00	Work in Progress	Fire & Emergency Services	Y	Y	N	N	N	Y	N
200	Council and Budget Referrals - Project	Comprehensive Study of Emergency Services Call Center, Staffing and Development Systems  Revised Materials	Refer to the City Manager and the Disaster and Fire Safety Commission to work with the Berkeley Fire Department and Berkeley Firefighters Association to investigate the Department's current practices and determine the feasibility of implementing a criteria-based dispatching system that allocates staffing based on need and risk, ensures that calls are prioritized based on acuity, and more efficiently delivers the appropriate allocation of resources to every 911 call. Include Alta Bates ER closure in analysis.	0.00	Work in Progress	Fire & Emergency Services	Y	Y	Y	N	N	Y	Y
201	Council and Budget Referrals - Project	Referral to the Disaster and Fire Safety Commission and the City Manager: Five Year Plan for Expanded Disaster Preparedness Services	Refer to the Disaster and Fire Safety Commission and the City Manager's office to explore developing a five year plan for expanded disaster preparedness services.	0.00	On Hold	Fire & Emergency Services	Y	N	N	N	N	N	N
202	Council and Budget Referrals - Project	Amending BMC Chapter 9.04: Tax Rate for Non-Medical Cannabis Businesses	2) refer to the Community Health Commission to study the health effects of cannabis and possible funding recommendations for allocating the tax revenue;	0.00	Not Started	Health, Housing & Community Services	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
203	Council and Budget Referrals - Project	First They Came for the Homeless Encampment	to refer Item 38a back to the Homeless Commission with the chart of questions provided by Council and request that the commission develop a more specific policy that is broadly applicable.	0.00	Not Started	Health, Housing & Community Services	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

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Referrals, Projects, and Audits**

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204	Council and Budget Referrals - Project	Homeless Youth Policy	Refer to the City Manager, the Homelessness Commission, and the Labor Commission to develop a Homeless Youth Policy for the City of Berkeley.	0.00	Not Started	Health, Housing & Community Services	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
205	Council and Budget Referrals - Project	Homeless Youth Policy	Refer to the City Manager, the Homelessness Commission, and the Labor Commission to develop a Homeless Youth Policy for the City of Berkeley.	0.00	Work in Progress	Health, Housing & Community Services	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
206	Council and Budget Referrals - Project	Mobile Shower Referral	Refer to the Homeless Commission and City Manager the establishment of a mobile shower unit in Berkeley and assess the feasibility/cost of such a project in comparison to existing programs.	50.00	Work in Progress	Health, Housing & Community Services	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
207	Council and Budget Referrals - Project	Moderate-Income Housing Strategies [Housing Action Plan]	Forward these strategies to the Housing Advisory Commission (HAC) and staff for follow-up as appropriate: 1. Renter Strategies: Encourage homeowners to rent out unused rooms. Encourage homeowners to build Accessory Dwelling Units (ADU's) that could be rented to tenants. 2. Owner/Renter Strategies: Continue to study the use of a small sites strategy to maintain affordability in existing housing. Commit to securing one site as a small sites case study that could be replicated. Encourage and support new development that is owned and financed in less traditional ways, including expanded use of land trusts, cooperative form of ownership, and other approaches, such as co-housing and collaborative housing. Promote construction of affordable housing on surplus public land, particularly for BUSD teachers and staff. 3. Allocation of New Funding Sources: Inform Berkeley residents of the new Measure A1 funds that will be available from the County to assist moderate-income homeowners. Allocate a portion of the Measure U1 funds for moderate-income housing development.	0.00	Not Started	Health, Housing & Community Services	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
208	Council and Budget Referrals - Project	Neighborhood Preference in Affordable Housing to Reduce the Impact of Displacement and Ellis Act Evictions (Continued from March 29, 2016) [Housing Action Plan]	Refer to the City Manager and Planning Commission an ordinance to clarify existing preferences in allocating City affordable housing units to Berkeley residents living within ½ mile of any new development and tenants evicted under the Ellis Act, expand the second category of preference for eligible tenants displaced under the Ellis Act to include certain tenants displaced through an Owner Move-In or (Measure Y) eviction.	0.00	Work in Progress	Health, Housing & Community Services	Y	Y	Y	Y	N	Y	Y
209	Council and Budget Referrals - Project	Referral to the Health Commission to Consider a "Deemed Approved Ordinance"	Refer to the Health Commission to consider a Concurrent Sales of Gasoline and Alcoholic Beverages Law regulating the concurrent sales of gasoline and alcoholic beverages. Deem such establishments approved, subject to their adherence to certain standards of behavior.	0.00	Not Started	Health, Housing & Community Services	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

**Disposition of  
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210	Council and Budget Referrals - Project	Decriminalizing Entheogenic Plants	Refer to the Community Health Commission to consider the possibility of de-prioritizing enforcement of laws relating to entheogenic plants and fungi by persons over 21 years of age. Consider potential health and community benefits and concerns, as well as possible policy variations with regard to possession, use, growing/production, and sales; quantities involved; use while driving; use during pregnancy and other possible "special circumstances considerations."	0.00	Not Started	Health, Housing & Community Services	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
211	Council and Budget Referrals - Project	Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley's Affordable Housing	Refer to the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts to consider the proposed Housing for a Diverse, Equitable and Creative Berkeley framework (the "Framework") and return comments for consideration at a Special Meeting of the City Council in the early fall, to inform a final version the City Council will adopt to guide Berkeley's affordable housing policies, programs and projects through 2030. The item is further amended to add a "Draft" notation, remove the phrase "rather than for profit-maximizing companies" from Section II, and remove reference to the 50% goal.	0.00	Not Started	Health, Housing & Community Services	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
212	Council and Budget Referrals - Project	Local Construction Workforce Development Policy	Policy Recommendation: That the City Council refer to the Commission on Labor 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.	0.00	Not Started	Health, Housing & Community Services	Y	N	N	N	N		N
213	Council and Budget Referrals - Project	Local Construction Workforce Development Policy	Policy Recommendation: That the City Council refer to the Commission on Labor 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.	0.00	Not Started	Health, Housing & Community Services	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

**Disposition of  
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214	Council and Budget Referrals - Project	Refer on a Short Term Basis to the Planning Commission Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation and to Consider Modifying the In Lieu Fee Structure for Owner Occupied Units; Refer to the Housing Advisor Commission to Assess the Rate of a Fixed Per-Unit Fee for Owner-Occupied Developments	1. Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements – Applicability of Regulations) and BMC Section 22.20.065 (Affordable Housing Mitigation Fee) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for projects by modifying property lines so that no lot is large enough to construct five or more units; the Commission should return to Council with a report by April 30, 2019. 2. Refer to the Planning Commission to consider modifying the structure of in-lieu fees for owner-occupied developments to a flat per-unit fee, as with rental developments, or a per square foot fee; the Commission should return to Council with a report. 3. Refer to the Housing Advisory Commission to assess the appropriateness of the fee level as suggested in the proposed amendments to BMC 23C.12. 4. The Planning Commission is to consider the following language from the item submitted at the meeting: It is possible that the new fee structure will be adopted prior to the Housing Advisory Commission approving the level of the fee. In this instance, those projects that opt to pay the in-lieu fee and are permitted after the new fee structure is adopted but before the new fee level is adopted shall be given the choice of paying the current fee level, or the one that is adopted.	0.00	Not Started	Health, Housing & Community Services	Y	N	Y	N	N	Y	Y
215	Council and Budget Referrals - Project	Refer to the City Manager and the Housing Advisory Commission to Consider Reforming the Affordable Housing Mitigation Fee	Refer to the City Manager, the Planning Commission, and the Housing Advisory Commission to consider possible reforms to the Affordable Housing Mitigation Fee, including adopting a per-square-foot fee structure, potentially on a geographic basis.	0.00	Not Started	Health, Housing & Community Services	Y	Y	Y	N	N	Y	Y
216	Council and Budget Referrals - Project	Refer to the Planning Commission and Housing Advisory Commission to Research and Recommend Policies to Prevent Displacement and Gentrification of Berkeley Residents of Color and African Americans	Refer to the Planning Commission and Housing Advisory Commission to research and recommend policies to prevent displacement and gentrification of Berkeley residents of color. Recommended policies should include real solutions. The Commission should do the following: - Develop a policy to address the erosion of People of Color (POC), including the African American sector of our Berkeley society. - Develop rules and regulations to halt the loss of People of Color including the African American communities. - Develop a "right to return" for Berkeleyans, including the African American communities who have been displaced by these economic and social developments, and those who continue to be employed in our City, even after having to relocate beyond our boundaries. - Solicit expert and lived experience testimonies regarding displacement and gentrification. - Recommend alternatives to prevent displacement and gentrification of our valued Berkeley residents of color and African Americans. Recommendation includes a request for public workshops.	0.00	Not Started	Health, Housing & Community Services	Y	N	Y	Y	N	Y	Y

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217	Council and Budget Referrals - Project	Small Sites Loan Program Recommendations	4. Request that the Council and Housing Advisory Commission receive copies of small sites loan applications along with staff's corresponding analysis and decision. 6. Refer further consideration of a long-term small sites program to the City Manager and the Housing Advisory Commission. 7. Refer the small sites program to the November budget update and next biannual budget planning cycle in 2019.	0.00	Not Started	Health, Housing & Community Services	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
218	Council and Budget Referrals - Project	Referral: Telegraph Crosswalk Art Installations	Refer to the Civic Arts Commission to develop and return to Council with a plan to: 1. Create a public contest to design new crosswalk art on Telegraph at the intersections of Bancroft, Durant, Channing, Haste, and Dwight Streets. 2. Build the winning design on the intersections.	0.00	Not Started	Office of Economic Development	Y	N	Y	N	N	Data Pending	Y
219	Council and Budget Referrals - Project	Replacement Mural for Center for Independent Living (CIL)	Request the Arts Commission to consider, with CIL representatives, potential locations and suggestions for a new mural to replace that which was at the CIL Telegraph site.	0.00	Not Started	Office of Economic Development	Y	N	Y	N	N	Data Pending	Y
220	Council and Budget Referrals - Project	Consider Fire Safety Options for Fire Pit at Codornices Park	Referral to the Parks & Waterfront Commission to consider safety options regarding the future of the fire pit at Codornices Park. Please consider 1) Complete removal of fire pit or 2) Manufacture of a cover that can be secured and locked.	0.00	Not Started	Parks, Recreation & Waterfront	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
221	Council and Budget Referrals - Project	Direction to the Children, Youth, and Recreation Commission: Tackle the Summer Learning Loss for Elementary School Children	Direct the Children, Youth, and Recreation Commission to tackle the summer learning loss for low-income elementary children through: 1. Consolidation, Education, & Outreach as outlined in the report; and 2. Assessment & Policy Recommendations as outlined in the report.	0.00	Not Started	Parks, Recreation & Waterfront	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
222	Council and Budget Referrals - Project	Pollinators and Habitat (Commission Referral)	Adopt three referrals that will deepen Berkeley's commitment to protecting pollinator plants and establishing habitats that will protect pollinators and our environment: 2. Refer to Public Works Commission and Parks and Waterfront Commission consideration of how to incorporate pollinators and habitat into the Adopt-A-Spot initiative referred on April 2, 2019. (COMMISSION REFERRAL) Parts 1 and 3 referred to City Manager	0.00	Not Started	Parks, Recreation & Waterfront	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
223	Council and Budget Referrals - Project	Potential Recreational Opportunities at Willard Park and Pool	Refer the issue of recreational opportunities in the vicinity of Willard Park to the City Manager, Parks and Waterfront Commission and the 2X2 Committee of the City Council and the Board of Education to determine the best course of action for increased recreational equity in South Berkeley, including but not limited to the re-opening of Willard Pool. Authorize staff to develop cost estimates for a minimal level of repairs to get Willard Pool operational.	0.00	Work in Progress	Parks, Recreation & Waterfront	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

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224	Council and Budget Referrals - Project	Referral to the City Manager and Parks and Waterfront Commission to Create a Policy to Establish a Commemorative Tree Program	Refer to the City Manager and the Parks and Waterfront Commission the creation of a policy establishing a Commemorative Tree Program, similar to the City's Park Bench Donation Policy.	0.00	Not Started	Parks, Recreation & Waterfront	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
225	Council and Budget Referrals - Project	Referral to the Parks and Waterfront Commission: Greg Brown Park	Recommend that the Parks and Waterfront Commission consider initiating a community process regarding the reopening of Greg Brown Park. Conduct a public hearing and invite relevant stakeholders – including neighbors, representatives from the Berkeley Police and the Parks, Recreation, and Waterfront Department. Include an assessment of any funding requirements and/or public safety concerns. Prepare a report for submission to Council summarizing feedback from the public hearing and the commission's recommendations.	0.00	Not Started	Parks, Recreation & Waterfront		Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
226	Council and Budget Referrals - Project	Ban on Receipts Made with BPA and Other Phenols	Refer to the Health Commission and the Community Environmental Advisory Commission to consider an Ordinance to ban the manufacture, distribution, sale, or use of receipt paper that contains BPA or other phenols, and request that the commissions conduct at least one public hearing that includes invitations to local business associations.	0.00	Not Started	Planning	Y	N	N	N	N	Y	N
227	Council and Budget Referrals - Project	COUNCIL DIRECTION ON COMMUNITY BENEFITS NEEDS FOLLOW UP WORK AND REPORT TO COUNCIL   City Manager and Planning Commission Referral: Facilitate Primarily Student Housing by a Twenty Feet Height Increase and Adjust Floor Area Ratio in the R-SMU, R-S and R-3 Areas Only From Dwight to Bancroft and From College to Fulton	Refer to the City Manager and Planning Commission to facilitate primarily Student Housing by amending the Zoning Ordinance to add a twenty feet height increase and adjust Floor Area Ratio in the R-SMU, R-S and R-3 areas only from Dwight to Bancroft and from College to Fulton.	50.00	Work in Progress	Planning	Involves Planning Commission	Y	Y	N	N	Y	Y
228	Council and Budget Referrals - Project	Housing Accountability Act	Refer to the City Manager, Planning Commission, Zoning Adjustments Board, and Design Review Committee to consider the following actions, and others they may find appropriate, to address the potential impacts of the Housing Accountability Act and to preserve local land use discretion: 1. Amend the General Plan and Zoning Ordinance to adopt numerical density and/or building intensity standards that can be applied on a parcel-by-parcel basis in an easy and predictable manner. These would constitute reliable and understandable "objective general plan and zoning standards" that would establish known maximum densities. This could be done across the board or for specified districts. 2. Devise and adopt "objective, identified written public health or safety standards" applicable to new housing development projects. 3. Adopt "design review standards that are part of 'applicable, objective general plan and zoning standards and criteria". 4. Quantify and set objective zoning standards and criteria under the first sentence of Government Code Section 65589.5(j) for views, shadows, and other impacts that often underlie detriment findings.	25.00	Work in Progress	Planning	Involves Joint Subcommittee for the Implementation of State Housing Laws	N	Y	Y	Y	N	N



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229	Council and Budget Referrals - Project	Referral to Planning Commission to Amend Zoning Ordinance (non-commercial ground floor)	Refer to the Planning Commission an amendment to the Zoning Ordinance to create a use permit process to allow non-commercial use on the ground floor where commercial might otherwise be required.	25.00	Work in Progress	Planning	Y	Y	Y	N	N	Y	Y
230	Council and Budget Referrals - Project	Referral to the Community Environmental Advisory Commission and the City Manager: Anti-Idling Ordinance	Refer to the Community Environmental Advisory Commission and the City Manager to explore developing an anti-idling ordinance. The ordinance should limit vehicle engine idling when a vehicle is parked, stopped, or standing, including for the purpose of operating air conditioning equipment; and prohibit all unattended private passenger motor vehicles from idling. The ordinance should outline enforcement and citation procedures. The Commission and the City Manager should develop appropriate exceptions for commercial vehicles. Any funds received through enforcement of the ordinance should accrue to the General Fund to provide additional funding for sustainability efforts. The Community Environmental Advisory Commission and the City Manager should review the District of Columbia's anti-idling regulations (attached to report) to aide in the development of the ordinance.	0.00	Not Started	Planning	Y	N	N	N	N	Y	N
231	Council and Budget Referrals - Project	Referral to the Community Environmental Advisory Commission and the City Manager: Anti-Idling Ordinance	Refer to the Community Environmental Advisory Commission and the City Manager to explore developing an anti-idling ordinance. The ordinance should limit vehicle engine idling when a vehicle is parked, stopped, or standing, including for the purpose of operating air conditioning equipment; and prohibit all unattended private passenger motor vehicles from idling. The ordinance should outline enforcement and citation procedures. The Commission and the City Manager should develop appropriate exceptions for commercial vehicles. Any funds received through enforcement of the ordinance should accrue to the General Fund to provide additional funding for sustainability efforts. The Community Environmental Advisory Commission and the City Manager should review the District of Columbia's anti-idling regulations (attached to report) to aide in the development of the ordinance.	50.00	Work in Progress	Planning	Y	N	N	N	N	Y	N
232	Council and Budget Referrals - Project	Referral: Update the definition of "Research and Development"	Refer to the Planning Commission to update the definition of "Research and Development."	0.00	Not Started	Planning	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
233	Council and Budget Referrals - Project	Removing Plastic Microfibers From The Water Supply: A Referral to the Community Environmental Advisory Commission	Refer to the Community Environmental Advisory Commission to assess the City's capacity to participate in an outreach program informing residents of the harmful nature of microfibers. Revised to add that the Council will send a letter to EBMUD requesting a report on EBMUD's water sourcing measures in drought years; and that the letter will be submitted to Council as an information item.	0.00	Not Started	Planning	N	N	N	N	N	Y	N

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234	Council and Budget Referrals - Project	Refer the Police Review Commission to create training requirements for Police Review Commissioners	Request that the Police Review Commission establishes mandatory training requirements for Police Review Commissioners, with input from the Police Review Commission Officer and Chief of Police. Recommendation amended to request that the commission consult with the City Manager regarding the training.	0.00	Not Started	Police Review Commission	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
235	Council and Budget Referrals - Project	Refer the Police Review Commission to extend time period to impose discipline on Berkeley Police officers pursuant to Police Review Commission findings	Recommend that the Council refer to the Police Review Commission to extend the time limit for Police Review Commission investigations and notification of discipline from the current limit to one calendar year.	0.00	Not Started	Police Review Commission	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
236	Council and Budget Referrals - Project	City Manager Referral: Improving the City's Elevator Ordinance	Referral to the City Manager and Commission on Disability to improve the City's Elevator Ordinance by addressing the concerns of the disabled community.	0.00	Not Started	Public Works	Y	N	N	N	N	Y	N
237	Council and Budget Referrals - Project	Oversized Vehicle Restrictions on Bicycle Boulevards	Refer to the Transportation Commission a draft ordinance amending Berkeley Municipal Code Chapter (BMC) 14.56.050 to prohibit commercial trucks exceeding five tons gross vehicle weight from utilizing streets comprising the bicycle boulevards network. Request that the commission work with business associations, the size limitations, the streets subject to the restrictions, and the clarifications added by Councilmember Wengraf related to emergency vehicles.	0.00	Not Started	Public Works	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
238	Council and Budget Referrals - Project	Pavement of Derby Street and Ward Street between Telegraph Ave and Shattuck Ave	That the Council refers consideration of the paving of Derby St. and Ward St. between Shattuck Ave and Telegraph Ave to the Public Works Commission in order to repair these deteriorating streets that serve as a part of a major commuter corridor which both individual drivers and buses use in their daily commute.	0.00	Not Started	Public Works	Y	N	N	N	N	N	Y
239	Council and Budget Referrals - Project	Protected Pedestrian Walkways	Refer to the City Manager and request that the Transportation Commission review and craft potential policy solutions—including but not limited to open or covered protected walkways—to improve pedestrian accessibility immediately surrounding construction or sidewalk upgrades.	0.00	Not Started	Public Works	Y	N	N	N	N		
240	Council and Budget Referrals - Project	Reassessing Traffic Calming Policy	Refer to the Transportation Commission to re-evaluate the City's qualifying criteria and ranking and prioritization process for traffic calming, by considering the following possibilities, among other changes that would promote safe residential streets and maximize the public health benefit of the traffic calming program: -Lowering the speed limit criteria to read "where the 85th percentile speed profile is greater than the speed limit" instead of "greater than 5 mph over the speed limit." -Taking alignment with the City's bicycle and pedestrian plans into account.	0.00	Not Started	Public Works	Y	N	N	N	N		
241	Council and Budget Referrals - Project	Refer the Transportation Commission to consider incentives for the public to use sustainable modes of transportation similar to Bologna, Italy	Refer to the Transportation Commission to create incentives for members of the public to cycle, walk and take public transport as opposed to driving.	0.00	Not Started	Public Works	Y	N	N	N	N	N	N

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242	Council and Budget Referrals - Project	Refer to the City Manager, Disability Commission, and Planning Commission to Develop an Ordinance Requiring New Residential Buildings to Provide Auto-door Openers and Roll-in Showers	Refer to the City Manager, Disability Commission, and Planning Commission to require new residential buildings in Berkeley to include essential wheelchair-accessible modifications such as auto door openers and roll-in showers.	0.00	Work in Progress	Public Works	Y	N	N	N	N	N	N
243	Council and Budget Referrals - Project	Refer to the Commission on Disability to examine the impacts that the parking citation system may have on persons with low income and disabilities	Refer to the Commission on Disability to examine the impacts that the parking citation system may have on people with low income and disabilities.	0.00	Not Started	Public Works	Y	N	N	N	N	N	N
244	Council and Budget Referrals - Project	Refer to the Commission on Disability to examine the impacts that the parking citation system may have on persons with low income and disabilities	Refer to the Commission on Disability to examine the impacts that the parking citation system may have on people with low income and disabilities.	0.00	Not Started	Public Works	Y	N	N	N	N	N	N
245	Council and Budget Referrals - Project	Referral: Measures to Address Traffic Enforcement and Bicycle Safety	1. Refer to the Transportation Commission to consider a Resolution deprioritizing enforcement against the Idaho Stop convention for persons operating a bicycle, in an empty intersection after the operator has yielded to any other road users with the right of way, by limiting the use of any City funds or resources in assisting in the enforcement or issuance of citations for bicyclist violations of California Vehicle Code Section 22450(a), and to develop a process for evaluating the before and after effects on safety.	0.00	Not Started	Public Works	Y	N	N	N	N	Y	N
246	Council and Budget Referrals - Project	Referral: Street Lighting Near Campus	Refer to the Public Works Commission to include the following in the Street Lighting Subcommittee Work Plan, for the purposes of seeking input from key stakeholders and bringing together work that happens through parallel processes. The Subcommittee should: 1. Invite input from representatives from the UC Berkeley administration, UC Berkeley undergraduate and graduate students, UCPD and BPD, the Department of Public Works, and other relevant groups. 2. Develop a streamlined and accessible process for requesting street lights that includes neighborhood and campus input, while recognizing the overriding public safety concern posed by substandard lighting. 3. Develop a plan for expeditiously installing new streetlights near campus that prioritizes high-crime areas, high-injury pedestrian corridors, and student-priority areas as determined by student input.	0.00	Work in Progress	Public Works	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
247	Council and Budget Referrals - Project	Report on Public Realm Pedestrianization Opportunities	Refer to the Transportation Commission to generate a report on potential public realm pedestrianization opportunities in Berkeley.	0.00	Not Started	Public Works	Y	N	N	N	N	N	N
248	Council and Budget Referrals - Project	Restricting the Number of Vehicles Being Parked on Our Streets	Refer to the Transportation Commission to establish an ordinance that would prevent the parking of many multiples of vehicles on any given Berkeley street, or contiguous streets, by an individual owner.	0.00	Not Started	Public Works	Y	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

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249	Council and Budget Referrals - Project / Strategic Plan - Project	Street Sweeping Improvement Plan	Refer to the City Manager, Public Works commission, and Zero Waste commission to develop a new strategy to ensure that street sweeping is not obstructed by waste/recycling pick-up. In addition to being unsightly, without proper street sweeping, trash and debris are more likely to go into the stormwater drains. Specifically 1. Staff should provide a map of streets in which sweeping days and waste/recycling pickup coincide to better understand where and when this problem occurs; and 2. Staff and Commissions should return to Council with a proposed solution including, but not limited to, rescheduling street sweeping and waste/recycling pickups to ensure that both services do not occur on the same day.	0.00	Not Started	Public Works	Y	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
250	Open Audit Recommendation	City at Crossroads as Long-Standing Need for Structured Approach to Line of Business Experts Function Intersects with ERP Implementation- Recommendation 1.1	Clearly define the purpose, responsibilities, minimum qualifications, and training requirements for the line of business experts function.	Data Pending	Partly Implemented	City Manager's Office	N	Y	N	N	N	Data Pending	Data Pending
251	Open Audit Recommendation	City at Crossroads as Long-Standing Need for Structured Approach to Line of Business Experts Function Intersects with ERP Implementation- Recommendation 1.2	Work with Information Technology to establish written policies and procedures for the line of business experts function at the appropriate organizational level based on the guiding principles established in Recommendation 1.1.	Data Pending	Partly Implemented	City Manager's Office	N	Y	N	N	N	Data Pending	Data Pending
252	Open Audit Recommendation	Citywide Grants Management (formerly PW Grants Follow-up Audit FY16) - Recommendation 6.6	Use the information learned from surveying project managers and administrative staff (Recommendation 6.5) to identify critical business needs for the purchase of a comprehensive grants management system. Provide this information to the Department of Information Technology to use as part of Enterprise Resource Planning.	0.00	Not Started	City Manager's Office	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
253	Open Audit Recommendation	Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 1.1	Issue an internal policy assigning the division responsible for overall grants accounting (e.g., billing and monitoring receivables) and reporting. Make it clear to project managers that they are responsible for providing information on the grants they manage to the appointed division to assist with grants accounting.	0.00	Not Started	City Manager's Office	N	N	N	N	N	Data Pending	N
254	Open Audit Recommendation	Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 1.2	Create a work team of Public Works staff who administer and manage grants. Team members should include the position responsible for overall grants accounting and reporting, and staff from the divisions that manage grants (e.g., Engineering and Transportation). The team should work collectively to evaluate their respective functions and their interrelated roles and responsibilities for grants management, billing, and accounting; and work towards developing an effective workflow that provides for accurate and timely grants accounting and reporting.	0.00	Not Started	City Manager's Office	N	N	N	N	N	Data Pending	Data Pending

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Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
255	Open Audit Recommendation	Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 1.3	<p>Require the grants team to work collectively to develop a written procedures manual that clearly explains roles, responsibilities, and workflows. The manual should:</p> <ul style="list-style-type: none"> <li>▪ provide guidance on the overall grant application, approval, and monitoring process within the department</li> <li>▪ refer to other applicable policies and procedures such as City Administrative Regulation 1.17 and Contracts Online</li> <li>▪ describe the specific tasks performed within divisions and/or by job classification</li> <li>▪ identify the forms and data sheets that staff are to use for recording, tracking, and monitoring grants (also see Recommendations 5.1 and 6.2)</li> <li>▪ describe coordinating efforts needed between divisions and with the grant coordinator in Finance</li> <li>▪ identify timelines and requirements for reporting, performing reconciliations, and providing information to the Finance grant coordinator (also see Recommendation 2.2)</li> <li>▪ provide enough detail to more easily train new hires or staff with new responsibilities</li> </ul> <p>As with all procedures, the work team should consider the manual a living document that they review and update regularly to reflect changes in practices, procedures, and assignments.</p>	0.00	Not Started	City Manager's Office	N	N	N	N	N	Data Pending	N
256	Open Audit Recommendation	Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 1.4	<p>Require the grants work team to have regular meetings to share information and discuss workflows between their divisions. These meetings may need to be more frequent at first, e.g., quarterly, and less frequent over time, e.g., annually. The team should invite the Finance grant coordinator to their meetings to ensure the coordinator is receiving the necessary information for recording grants to the central repository and issuing grants receivables reports.</p>	0.00	Not Started	City Manager's Office	N	N	N	N	N	Data Pending	N
257	Open Audit Recommendation	Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 2.1	<p>Provide the Finance grant coordinator with a list of personnel who are responsible for grants management, accounting, and reporting so that they can be notified when the grant coordinator posts the grants reports to the City's shared drive.</p>	0.00	Not Started	City Manager's Office	N	N	N	N	N	Data Pending	N
258	Open Audit Recommendation	Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 2.2	<p>Require the division responsible for grants accounting and reporting to use Finance's grant reports to:</p> <ul style="list-style-type: none"> <li>▪ reconcile Public Works' grant financial records with FUND\$ to ensure that the department is recording expenditures and payments to the correct accounts</li> <li>▪ work with Finance to make any necessary corrections to FUND\$ financial data when they identify discrepancies and errors</li> <li>▪ track grants receivables and follow up with grantors on outstanding receivables</li> </ul>	0.00	Not Started	City Manager's Office	N	N	N	N	N	Data Pending	Data Pending

**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
259	Open Audit Recommendation	Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 3.1	Take ownership of City Administrative Regulation 1.16 and: <ul style="list-style-type: none"> <li>▪ review and update the regulation so that it is consistent with City practices and procedures, and cross reference the regulation to other guidance and policies, e.g., Contracts Online and City Administrative Regulation 1.17</li> <li>▪ reissue the updated guidance to all City staff with emphasis on ensuring that project managers and those responsible for identifying and applying for grant funding are notified of the update</li> </ul>	Data Pending	Started	City Manager's Office	N	N	N	N	N	Data Pending	N
260	Open Audit Recommendation	Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 4.1	Request that all department directors notify their grant management and accounting staff of City Administrative Regulation 1.17, and their expectations that staff adhere to the guidance.	Data Pending	Started	City Manager's Office	N	N	N	N	N	Data Pending	N
261	Open Audit Recommendation	Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 5.1	Require those responsible for grant accounting use the summary of charges sheet and work with project managers and the Finance grant coordinator to obtain the data they need to populate the sheet (also see Recommendations 1.3 and 1.4).	0.00	Not Started	City Manager's Office	N	N	N	N	N	Data Pending	N
262	Open Audit Recommendation	Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 6.1	Require that all department directors ensure that their staff with grants management and fiscal responsibilities receive the following training: <ul style="list-style-type: none"> <li>▪ City Administrative Regulation 1.17: Pre-Award Authorization and Post-Award Grant Requirements</li> <li>▪ Contracts Online, in particular, the revenue contract requirements</li> </ul>	0.00	Not Started	City Manager's Office	N	N	N	N	N	Data Pending	N
263	Open Audit Recommendation	Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 6.2	Require all departments that receive financial assistance from a third-party to ensure that their written procedures clarify that all such awards are consider grants and must be packaged in accordance with Contracts Online, and to follow City Administrative Regulation 1.17 to ensure that the grant coordinator receives the grant accounting data sheet (also see Recommendation 1.3).	0.00	Not Started	City Manager's Office	N	N	N	N	N	Data Pending	Data Pending
264	Open Audit Recommendation	Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 6.3	Notify department directors when the grant coordinator finds that project managers and administrative staff are not providing grant information in accordance with City policy. Request that the department directors refer their staff to City Administrative Regulation 1.17, Contracts Online, and departmental procedures for guidance on ensuring they adhere to required grant policies and procedures.	0.00	Not Started	City Manager's Office	N	N	N	N	N	Data Pending	Data Pending
265	Open Audit Recommendation	Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 6.5	Survey project managers and administrative staff who are responsible for grants management, reporting, and accounting to identify ways to improve the current grant database and reporting so that data are current and accurate, and reports are more user-friendly.	0.00	Not Started	City Manager's Office	N	N	N	N	N	Data Pending	N

**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
266	Open Audit Recommendation	Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight-Recommendation 1.3	Conduct a staffing analysis to determine the appropriate staffing level needed for the Code Enforcement Unit to effectively enforce City codes. In conducting the analysis, include an assessment of the workload impact created by the codes for which the CEU is solely responsible as well as those created by the codes for which CEU shares responsibility with other enforcement units.	0.00	Not Started	City Manager's Office	N	N	N	N	N	Data Pending	N
267	Open Audit Recommendation	Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight-Recommendation 1.4	Use the staffing analysis performed in response to Recommendation 1.3 to: <ul style="list-style-type: none"> <li>• Quantify the full burden cost of additional staff</li> <li>• Determine if sufficient budgetary funding is available for additional staff</li> <li>• Request additional staffing from Council during the annual appropriations process</li> </ul>	0.00	Not Started	City Manager's Office	N	N	N	N	N	Data Pending	N
268	Open Audit Recommendation	Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight-Recommendation 1.7	Implement code enforcement software that: <ul style="list-style-type: none"> <li>• Identifies case assignment to CEU officers and other work units</li> <li>• Prioritizes cases, in particular high-risk cases posing health and safety risks</li> <li>• Captures pertinent case dates, e.g., opened, notice of violation, citation issuance, and closed</li> <li>• Tracks enforcement actions taken within the CEU and other work units</li> <li>• Quantifies citations issued and collected</li> <li>• Allows for readily identifying repeat offenders</li> <li>• Includes performance measurement tools, e.g., turnaround times within defined specifications (see Recommendation 2.2)</li> <li>• Allows for uploading information from mobile technologies (see Recommendation 1.8)</li> <li>• Includes reporting tool to showcase workload trends and capacity restrictions (i.e., backlogs)</li> </ul>	Data Pending	Partly Implemented	City Manager's Office	N	N	N	N	N	Data Pending	N
269	Open Audit Recommendation	Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight-Recommendation 2.2	Implement performance metrics and goals to: <ul style="list-style-type: none"> <li>• Assess the effectiveness of code enforcement operations and goal achievement</li> <li>• Identify constraints preventing goal attainability.</li> <li>• Submit regular reports, e.g., biannually, to City management on performance.</li> </ul> <p>Include a metric to provide at least some proactive code enforcement activities. Develop this metric after implementing the process and system improvement recommendations made in this report.</p>	Data Pending	Partly Implemented	City Manager's Office	N	N	N	N	N	Data Pending	N

**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
270	Open Audit Recommendation	Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight- Recommendation 5	If budgetary constraints prevent additional staffing or if Council does not approve the budget needed to fund additional staffing, report to Council the restrictions placed on the Code Enforcement Unit's ability to effectively enforce City codes. Include information explaining the hindrance this will cause for any new ordinances the City Council may want to pass in the future. Provide this information regularly, for example, annually as part of the budget process, to keep Council informed of the CEU's capacity restrictions. See also Recommendation 1.7.	Data Pending	Partly Implemented	City Manager's Office	N	N	N	N	N	Data Pending	N
271	Open Audit Recommendation	Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight- Recommendation 8	Implement mobile computers and printers to allow Code Enforcement Officers to complete more work in the field, thus improving their time spent in the community and reducing time in the office. Mobile computers should have the capacity to interface with the code enforcement case management software implemented in response to Recommendation 1.7.	Data Pending	Partly Implemented	City Manager's Office	N	N	N	N	N	Data Pending	N
272	Open Audit Recommendation	Leases Audit: Conflicting Directives Hinder Contract Oversight- Recommendation 1.1	The City Manager should formalize and approve the division of responsibilities between the Public Works department and other departments regarding lease management.	0.00	Not Started	City Manager's Office	N	N	N	N	N	Data Pending	N
273	Open Audit Recommendation	Leases Audit: Conflicting Directives Hinder Contract Oversight- Recommendation 1.2	The Public Works department should determine and formally define the role of the real property administration staff given available resources.	0.00	Not Started	City Manager's Office	N	N	N	N	N	Data Pending	N
274	Open Audit Recommendation	Leases Audit: Conflicting Directives Hinder Contract Oversight- Recommendation 1.5	Formally communicate the plan with all affected City departments.	0.00	Not Started	City Manager's Office	N	N	N	N	N	Data Pending	N
275	Open Audit Recommendation	Most Contracts Executed Timely but Contract Project Managers Could Use Better Tools and Guidance- Recommendation 5	Require departments to document their specific procedures for contract preparation, oversight, and management. Procedures should include: <ul style="list-style-type: none"> <li>• planning for department specific actions, e.g., obtaining management's approval</li> <li>• tracking contract status and funding needs</li> <li>• attending City training courses when offered, e.g., contract preparation and FUND\$ 101</li> <li>• describing shared contract management responsibilities between project managers and support staff</li> <li>• requiring projects managers to coordinate with and respond to support staff's needs for contract administration</li> <li>• requesting contract extensions</li> <li>• aligning contract needs with department work plans</li> <li>• using Finance's contract process timelines and On Demand report of expiring contracts for contract planning (also see recommendations 1.1 and 1.2)</li> <li>• minimum level of documentation needed to effectively manage contracts</li> </ul>	Data Pending	Started	City Manager's Office	N	N	N	N	N	Data Pending	N
276	Open Audit Recommendation	Berkeley's Ethical Climate Rated Strong Overall and Management Working to Make it Better - Recommendation 4	Develop a system for tracking, analyzing, and reporting on suspected misconduct, including written guidance and forms (or similar) to assist employees in making reports.	Data Pending	Started	City Manager's Office/Human Resources	N	Y	Y	N	N	Data Pending	Data Pending



**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
277	Open Audit Recommendation	Berkeley's Ethical Climate Rated Strong Overall and Management Working to Make it Better- Recommendation 1.2	Promote ethical standards to employees and the public by:  1) Including the City's ethics statement in the new employee packet and discussing the City's commitment to ethical standards in new employee orientation  2) Providing all employees with training covering the City's ethics related policies and incorporating key aspects of the Fair Political Practices Commission ethics training  3) Providing a variety of ways to access ethics information and resources for employees, including those with no regular computer access at work, such as: • Posters and wallet cards • Centralized, intranet based ethics resource center • Periodic inclusion of ethics statement in Berkeley Matters  4) Emphasizing the City's commitment to workplace ethics during formal meetings, informal staff discussions, and regular communications with outside parties  5) Making the code of ethics available to the public, such as including the ethics code and related material in a centralized location on the City's public internet	Data Pending	Partly Implemented	City Manager's Office/Human Resources	N	Y	N	N	N	Y	Data Pending
278	Open Audit Recommendation	Berkeley's Ethical Climate Rated Strong Overall and Management Working to Make it Better- Recommendation 1.3	Provide supervisors and midlevel management with written guidance and training on how to:  • Initiate and encourage discussions of ethical issues to help dispel misconceptions and alert management to actual problems  • Report concerns or complaints to management or an external resource, and conduct investigations of ethics related complaints according to the City's procedures	Data Pending	Partly Implemented	City Manager's Office/Human Resources	N	Y	N	N	N	Data Pending	Data Pending
279	Open Audit Recommendation	Berkeley's Ethical Climate Rated Strong Overall and Management Working to Make it Better- Recommendation 1.5	Provide employees and the City Council with summary reports about investigation and resolution of employee ethics complaints, such as the reports already provided about EEO complaints, taking care to protect confidential and identifying information.	0.00	Not Started	City Manager's Office/Human Resources	N	N	N	N	N	Data Pending	Data Pending
280	Open Audit Recommendation	Berkeley's Ethical Climate Rated Strong Overall and Management Working to Make it Better- Recommendation 1.6	Monitor and regularly evaluate the effectiveness of the ethics program and make improvements based on results.	Data Pending	Partly Implemented	City Manager's Office/Human Resources	N	Y	N	N	N	Y	Data Pending
281	Open Audit Recommendation	Credit Card Use: Clearer Guidance Needed- Recommendation 3	Align City policies and procedures reflecting purchasing requirements and restrictions: purchasing; travel and attendance; petty cash; credit card use; food purchases; and any others that, if not updated, would create disconnect regarding the City's expectations and create confusion for City staff expected to adhere to City policy.	Data Pending	Started	Finance	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending

**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
282	Open Audit Recommendation	Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 1.1	Analyze the short- and long-term impact of putting forth a change to the Berkeley Municipal Code to reduce the types or frequency of fire prevention inspections.	60.00	Work in Progress	Fire & Emergency Services	N	Y	Data Pending	N	Data Pending	Data Pending	Data Pending
283	Open Audit Recommendation	Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 1.2	Perform a workload analysis to quantify the staff needed now and in the future to comply with the local fire prevention inspection requirements.	60.00	Work in Progress	Fire & Emergency Services	N	N	Data Pending	N	Data Pending	Data Pending	Data Pending
284	Open Audit Recommendation	Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 2.1	Develop a process, in consultation with the Information Technology Department, for sharing information on property changes and additions between Fire and other City database platforms.	Data Pending	Started	Fire & Emergency Services	N	Y	Data Pending	N	Data Pending	Data Pending	Data Pending
285	Open Audit Recommendation	Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 2.2	Work with both the database's software vendor and the Information Technology Department to strengthen controls over the database, including:  · Assessing the needs for required fields for processing an inspection, such as unit, shift, inspector name, address, violation details, and violation location.  · Formatting drop-down menus for inspection status, inspection type, and violation status. Formatting the options available for the violation code numbers and violation description fields.	0.00	Not Started	Fire & Emergency Services	N	N	Data Pending	N	Data Pending	Data Pending	Data Pending
286	Open Audit Recommendation	Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 3.1	Coordinate work plans with Suppression for all mandated fire prevention inspections. These should take into consideration the volume and nature of the other work Suppression performs.	0.00	Not Started	Fire & Emergency Services	N	N	Data Pending	N	Data Pending	Data Pending	Data Pending
287	Open Audit Recommendation	Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 3.2	Create a risk-assessment plan to identify those properties that are most at risk of a fire.	60.00	Started	Fire & Emergency Services	N	Y	Data Pending	N	Data Pending	Data Pending	Data Pending
288	Open Audit Recommendation	Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 3.5	Revise the fire prevention inspection training to provide hands-on training, using experienced Suppression staff, on how to conduct inspections and interact with residents and community members during inspections.	25.00	On Hold	Fire & Emergency Services	N	Y	Data Pending	N	Data Pending	Data Pending	Data Pending
289	Open Audit Recommendation	Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 3.6	Develop and distribute educational information to property owners prior to the beginning of the inspection cycle to provide information on the fire prevention inspection program, common violations, and any upcoming inspections for that area of the City.	0.00	Not Started	Fire & Emergency Services	N	N	Data Pending	N	Data Pending	Data Pending	Data Pending
290	Open Audit Recommendation	Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 3.7	Create a process for issuing, tracking, and following up on administrative citations for properties with repeat or high-risk violations, including revenue collections and tracking. That process should collaborate with other City work units that perform enforcement activities to provide consistency.	0.00	Not Started	Fire & Emergency Services	N	N	Data Pending	N	Data Pending	Data Pending	Data Pending
291	Open Audit Recommendation	Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees- Recommendation 1.1	Define and include sexual assault, stalking, and witnesses' rights.	0.00	Not Started	Human Resources	N	Y	Y	N	N	Y	Y
292	Open Audit Recommendation	Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees- Recommendation 1.3	Revise the policy title to reflect the comprehensive scope of the policy.	0.00	Not Started	Human Resources	N	Y	Y	N	N	Y	Y

**Disposition of  
Referrals, Projects, and Audits**

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293	Open Audit Recommendation	Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees- Recommendation 1.4	Clarify that requirements for employees to document their use of leave or request for accommodations are at the discretion of Human Resources and may include self-certification when appropriate. We also recommend that Human Resources clarify that employees are encouraged to come to Human Resources for assistance even if they do not initially have the documentation that may be requested.	0.00	Not Started	Human Resources	N	Y	Y	N	N	Y	Y
294	Open Audit Recommendation	Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees- Recommendation 13.1	Implement best practices, including: - Training supervisors and Human Resources staff about their role in responding to employees experiencing domestic violence and providing information for employees about the domestic violence response policy; - Conducting periodic outreach to employees to inform them about the policy, encourage them to come forward, and provide general information about domestic violence; - Facilitating collaboration among city staff who have a role in implementing the policy, and convening a domestic violence response team to advise on policies, ongoing outreach and education, and Human Resources' implementation of recommendations from this audit; and - Adopting a trauma-informed and inclusive approach.	0.00	Not Started	Human Resources	N	Y	Y	N	N	Y	Y
295	Open Audit Recommendation	Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees- Recommendation 2	State that when assessing safety accommodations, Human Resources takes into consideration danger to the employee and undue burden to the employer.	0.00	Not Started	Human Resources	N	Y	Y	N	N	Y	Y
296	Open Audit Recommendation	Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees- Recommendation 2.1	Incorporate the model policy and all best practice elements described in this finding, and communicate this guidance to city staff.	0.00	Not Started	Human Resources	N	Y	Y	N	N	Y	Y
297	Open Audit Recommendation	City at Crossroads as Long-Standing Need for Structured Approach to Line of Business Experts Function Intersects with ERP Implementation- Recommendation 5	Work with Human Resources to revise the job classification used for the portfolio coordinator position. Minimum qualification factors might include, but are not limited to: - IT Governance/Portfolio Management experience; - Project Management Professional certification; - Project coordination experience; and - Excellent verbal and written communication skills.	Data Pending	On Hold	Information Technology	N	Y	N/A	N	N	N	N
298	Open Audit Recommendation	Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal- Recommendation 8	Create a method for community members to track the status of their cases online, which will reduce the call volume to the 311 Call Center.	0.00	Not Started	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
299	Open Audit Recommendation	911 Dispatchers: Understaffing Leads to Excessive Overtime and Low Morale - Recommendation 2	Use the staffing analysis performed in response to recommendation 1.1, to determine future resource needs of the Communications Center, including staffing, equipment, and physical space. Take into account planned changes to services and factors that may influence call volume.	Data Pending	Partly Implemented	Police	N	Y	N	Y	N	N	N

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Referrals, Projects, and Audits**

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300	Open Audit Recommendation	911 Dispatchers: Understaffing Leads to Excessive Overtime and Low Morale - Recommendation 6	Implement an automated scheduling software that has built-in decision-making capabilities to automatically fill shifts based on specified qualifications and staff availability.	25.00	Partly Implemented	Police	N	Y	N	N	N	Y	N
301	Open Audit Recommendation	911 Dispatchers: Understaffing Leads to Excessive Overtime and Low Morale - Recommendation 7	Decrease the concentration of overtime among dispatchers.	75.00	Partly Implemented	Police	N	Y	N	N	N	Y	Y
302	Open Audit Recommendation	Leases Audit: Conflicting Directives Hinder Contract Oversight - Recommendation 1.3	Develop and finalize a property management plan that documents the specific responsibilities of Public Works and of other departments for lease management.	0.00	Not Started	Public Works	N	N	N	N	N	Y	N
303	Open Audit Recommendation	Leases Audit: Conflicting Directives Hinder Contract Oversight - Recommendation 1.4	The property management plan should be coordinated with affected City departments, including the Contract Administrator in Finance/Purchasing, before finalizing.	0.00	Not Started	Public Works	N	N	N	N	N	Y	N
304	Open Audit Recommendation	Leases Audit: Conflicting Directives Hinder Contract Oversight - Recommendation 2.1	Administrative Regulation 6.6 and Contracts Online should be updated to give clear direction to City staff regarding administration and execution of lease agreements.	0.00	Not Started	Public Works	N	N	N	N	N	Y	N
305	Open Audit Recommendation	Leases Audit: Conflicting Directives Hinder Contract Oversight - Recommendation 3.3	Public Works should update the City's real property administration policies and procedures to align with management's expectations.	0.00	Not Started	Public Works	N	N	N	N	N	Y	N
306	Open Audit Recommendation	Rocky Road: Berkeley Streets at Risk and Significantly Underfunded - Recommendation 1	Update the Street Rehabilitation and Repair Policy annually and define who is responsible for ensuring the Policy is updated, as stated in the Policy.	50.00	Work in Progress	Public Works	N	Y	N	N	N	Y	Y
307	Open Audit Recommendation	Rocky Road: Berkeley Streets at Risk and Significantly Underfunded - Recommendation 1.1	Annually, conduct a budget analysis, based on the deferred maintenance needs at that point in time, to determine what level of funding is necessary to achieve the desired goals of the Street Rehabilitation Program. Report findings to City Council. This information will be helpful during updates to the Five-Year Street Rehabilitation Plan and during the budgeting process.	50.00	Work in Progress	Public Works	Y	Y	N	N	N	Y	Y
308	Open Audit Recommendation	Rocky Road: Berkeley Streets at Risk and Significantly Underfunded - Recommendation 1.2	Identify funding sources to achieve and maintain the goals of the Street Rehabilitation Program.	0.00	Work in Progress	Public Works	N	Y	N	N	N	N	N
309	Open Audit Recommendation	Rocky Road: Berkeley Streets at Risk and Significantly Underfunded - Recommendation 2.2	When updating the Street Rehabilitation and Repair Policy, incorporate equity to align with Vision 2050 and clearly define how it will be applied to the street maintenance and rehabilitation planning process.	50.00	Work in Progress	Public Works	N	Y	N	N	N	Y	Y
310	Open Audit Recommendation	Rocky Road: Berkeley Streets at Risk and Significantly Underfunded - Recommendation 2.3	Define goals and performance measures to guide the Street Rehabilitation and Repair Policy and Street Rehabilitation Program that align with other plans and policies relevant to street paving (e.g., Complete Streets Policy, Vision 2050, etc.). Regularly report to Council on performance measures.	25.00	Work in Progress	Public Works	N	Y	N	N	N	Y	Y
311	Open Audit Recommendation	Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 1.1	Request the City Council to redefine and then reaffirm its commitment to zero waste (i.e., the percentage that the Council considers to be success), and to ensure sufficient resources to fund appropriate staffing and the necessary infrastructure to achieve stated goals by 2020.	Data Pending	Partly Implemented	Public Works	N	Y	N	N	N	N	N

**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
312	Open Audit Recommendation	Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 1.2	Draft and obtain Council approval of a written strategic plan to achieve zero waste by 2020, including annual or biennial interim waste diversion goals. Topics that the strategic plan should discuss include: <ul style="list-style-type: none"> <li>• Objectives and long-term and interim goals</li> <li>• Actions to be taken</li> <li>• Responsible parties</li> <li>• Expected cost and impact of implementation</li> <li>• Performance measures</li> <li>• External factors affecting performance and progress</li> </ul>	Data Pending	Partly Implemented	Public Works	N	Y	N	N	N	N	N
313	Open Audit Recommendation	Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 1.3	Prepare detailed annual work plans that contain: <ul style="list-style-type: none"> <li>• Objectives</li> <li>• Annual/biennial (short-term) goals</li> <li>• Actions to be taken</li> <li>• Budget allocated for the actions</li> <li>• Timeline for completion</li> <li>• Lead staff responsible for task completion</li> <li>• Full-time equivalent employees assigned to the tasks</li> <li>• Performance measures</li> </ul>	Data Pending	Partly Implemented	Public Works	N	Y	N	N	N	N	N
314	Open Audit Recommendation	Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 1.4	Regularly communicate zero-waste goals and achievements to City staff and the Council, and offer training to staff on how they can help Berkeley achieve zero waste. This includes sharing strategic and annual work plan goals and regular updates regarding progress and completion.	Data Pending	Partly Implemented	Public Works	N	Y	Data Pending	Data Pending	N	Y	Data Pending
315	Open Audit Recommendation	Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 1.5	Determine if additional funds are needed for the education, outreach, compliance, and enforcement necessary to reach zero-waste goals. If sufficient funds are not available, propose to Council a separate fee to cover those costs for the City's zero-waste program, such as a regulatory fee as allowed under Proposition 218.	Data Pending	Partly Implemented	Public Works	N	Y	N	N	N	N	N
316	Open Audit Recommendation	Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 2.1	Work with the Department of Information Technology to configure the CRM system with a required field that auto populates valid route information based on address and service delivery type so that route-specific data can be collected on a going-forward basis.	0.00	Not Started	Public Works	N	Y	N	N	N	N	N
317	Open Audit Recommendation	Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 2.2	Work with the Department of Information Technology to create a link between RouteSmart and the CRM system (or the software implementation of Recommendation 2.5 below).	0.00	Not Started	Public Works	N	Y	N	N	N	N	N
318	Open Audit Recommendation	Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 2.4	Designate a business-line expert within the Zero Waste Division and require that expert to develop internal capacity to configure optimal collection routes and produce standardized reports for route-specific reporting using existing software (or the software implementation of Recommendation 2.5 below). The reports developed should allow measurement of the performance metrics developed in Recommendation 1.2 and 1.3 above.	Data Pending	Partly Implemented	Public Works	N	Y	N	N	N	N	N

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No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
319	Open Audit Recommendation	Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 2.5	Assess the benefits of using mobile technologies that would allow drivers to enter information directly into the CRM system while on their routes, take pictures of why pickups were skipped, and implement electronic route books and other mobile field reporting. Include in the assessment changes to job responsibilities that might require a meet and confer with union representatives. Purchase the software and hardware if cost beneficial.	Data Pending	Partly Implemented	Public Works	N	Y	N	N	N	N	N
320	Open Audit Recommendation	Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 2.7	Use the reports developed from implementing recommendation 2.4 to monitor customer complaints and determine what impact the annual bid process has on customer service. If the information demonstrates the annual bid process significantly affects customer service, meet and confer with union representatives to discuss the elimination the annual route bidding process to help reduce customer complaints and improve service delivery. Implement change if agreement is reached.	0.00	Not Started	Public Works	N	Y	N	N	N	N	N
321	Open Audit Recommendation	Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity - Recommendation 1.3	Require the zero waste team formed in response to recommendation 1.2 to develop written procedures that clearly support cross-departmental strategies and help staff perform their work, as well as understand how their work contributes to success. Include information that helps promote the unified view of zero waste operations, while also explaining the individual tasks that take place within the departments and how those connect. Examples include, but are not limited to, describing the process for routing customer cases from 311 calls, and detailing in layman's terms the monthly updates that take place to align the CX and RouteSmart systems. Also see recommendation 1.2.	Data Pending	Partly Implemented	Public Works	N	Y	N	N	N	N	N
322	Open Audit Recommendation	Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity - Recommendation 1.5	In collaboration with Information Technology and as part of Enterprise Resource Planning, budget for, select, and install an account management system designed for zero waste activities. Use information from the zero waste team evaluation (recommendation 1.2) and zero waste strategy analysis (recommendation 1.8) to identify the critical business needs that should be included in the purchase of new zero waste account management system, or that should be considered when determining whether sufficient middleware options exist to fully integrate existing systems with the new account management software. Also see recommendations 1.2 and 1.8.	Data Pending	Partly Implemented	Public Works	N	Y	N	N	N	N	N
323	Open Audit Recommendation	Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity - Recommendation 1.8	Request that Information Technology use the CX module data extracts, such as the one used for this audit, to provide Public Works staff with the data they need to analyze zero waste strategies. Use the data extracts to further identify the critical business needs for new zero waste account management software. Also see recommendation 1.5.	Data Pending	Partly Implemented	Public Works	N	Y	Data Pending	Data Pending	N	Data Pending	Data Pending

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No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
324	Open Audit Recommendation	Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity - Recommendation 1.9	Perform, or contract for, a fully comprehensive route audit to align service delivery with billing rates. Use the route audit to: <ul style="list-style-type: none"> <li>▪ Make CX module and/or RouteSmart system updates to ensure customers are billed correctly for their City provided services.</li> <li>▪ Ensure that all residential accounts are receiving required services.</li> <li>▪ Ensure that the commercial accounts that the City is responsible for receive and pay for the zero waste services required by City policy.</li> <li>▪ Verify that roll-off bin customers serviced by the Zero Waste Division are accurately billed.</li> </ul>	Data Pending	Partly Implemented	Public Works	N	Y	Data Pending	Data Pending	N	Data Pending	Data Pending
325	Strategic Plan - Project	City Council Redistricting Process and Citizens' Redistricting Commission	After each decennial census the City is required to adjust the city council district boundaries so that each district has equal population. In 2016 voters adopted a charter amendment to conduct the redistricting process by using a Citizens' Redistricting Commission.	10.00	Work in Progress	City Clerk	N	Y	Y	N	Y	Y	Y
326	Strategic Plan - Project	2020 Vision Milestone	PLACEHOLDER: Recognize the significance of the Year 2020 in Berkeley's 2020 Vision. Source: 2018 CC Berkeley's 2020 Vision Update report	0.00	On Hold	City Manager's Office	N	N	N	N	N	Data Pending	N
327	Strategic Plan - Project	African American Holistic Resource Center	In partnership with many in the community, plan for the development of a holistic African American Resource Center in South Berkeley, which will serve as a place of support and strength for the Berkeley community.	30.00	Work in Progress	City Manager's Office	N	Y	Y	Data Pending	N	Data Pending	Data Pending
328	Strategic Plan - Project	Annual Survey	Implementing an Annual Survey to better understand the needs of the community.	0.00	On Hold	City Manager's Office	N	N	N	N	N	Data Pending	N
329	Strategic Plan - Project	Bayer HealthCare, Inc Development Agreement	Engage with Bayer HealthCare, Inc re: the extension of their existing development agreement.	25.00	Proposed Budget Reduction	City Manager's Office	N	Y	Y	N	N	Y	Y
330	Strategic Plan - Project	Communications Staffing	Introducing new positions of communications specialists to improve the City's communications.	20.00	Work in Progress	City Manager's Office	N	Y	Y	N	N	Y	Data Pending
331	Strategic Plan - Project	Data Analysis	PLACEHOLDER: Explore and identify possible additional data sources to supplement the City's existing measure of outcomes for Berkeley's 2020 Vision. Source: 2018 CC Berkeley's 2020 Vision Update report	70.00	Work in Progress	City Manager's Office	N	N	Data Pending	N	N	Data Pending	N
332	Strategic Plan - Project	Equity Toolkit	Operationalizing equity lens in service delivery and project planning (e.g., toolkit deliverable from Racial Equity Action Plan including things like adding an equity item to agenda reports, requiring an equity checklist as part of project work plans, etc).	0.00	On Hold	City Manager's Office	N	N	N	N	N	Data Pending	N

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No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
333	Strategic Plan - Project	Establishing an Outdoor Emergency Shelter	<p>1. Refer to the City Manager to establish an outdoor emergency shelter in Berkeley. Such a shelter should consider the following amenities to be provided but not required: A. Climate-controlled, wind-resistant durable tents with wooden pallets for support. B. Seeking an agency to manage and oversee the emergency shelter. C. Portable toilet service and handwashing service. D. Shower and sanitation services E. Garbage pickup and safe needle disposal.</p> <p>2. Refer to the November budget process \$615,000 to be considered alongside other Measure P recommendations.</p> <p>3. Temporarily waive BMC Article 9 Section 19.28.100 Section N106, to allow for the installation of tents and membrane structures that may be erected for longer than 180 days even if they do not meet all physical requirements.</p> <p>4. Refer to the City Manager protocol for selecting residents that mirror other shelter selection criteria and are less restrictive than HUD protocols.</p> <p>Action: 28 speakers. M/S/C (Harrison/Davila) to adopt the item as written in Supplemental Communications Packet #1 and #2, amended as follows:</p> <ul style="list-style-type: none"> <li>• Remove "November" from "November budget process"</li> <li>• Refer to the City Manager to analyze what elements, if any, of the municipal code need to be amended to implement program; any suggested locations to be presented to Council prior to implementation; provide an updated budget to include estimated installation costs.</li> </ul>	25.00	Work in Progress	City Manager's Office	N	Y	Y	Data Pending	N	Data Pending	N
334	Strategic Plan - Project	Fleet-Related Initiatives	<p>A series of initiatives to:</p> <ul style="list-style-type: none"> <li>• increase alternative fuel vehicles,</li> <li>• standardize fleet,</li> <li>• reduce backlog,</li> <li>• implement fleet/system upgrades, and</li> <li>• conduct a City Vehicle Fleet Assessment.</li> </ul>	8.32	Proposed Budget Reduction	City Manager's Office	N	N	Partial	N	N	Data Pending	Data Pending
335	Strategic Plan - Project	Legislative Platform	Creating a formal structure and process to communicate policy and policy support to and from local, regional, and State legislative bodies.	50.00	On Hold	City Manager's Office	N	N	Y	N	N	Data Pending	N
336	Strategic Plan - Project	New City of Berkeley Website	<p>Create a new design, look and information architecture for the City website so that it is interactive and serves and prioritizes the needs of the community, including a focus on increasing the number and types of transactions and services available online.</p> <p>Redesign the City website to improve the information and services available to community members online, to create web server redundancy in case of emergencies</p>	70.00	Work in Progress	City Manager's Office	N	Y	Y	N	N	Y	N
337	Strategic Plan - Project	Performance Management	Implementing results-based accountability citywide and provide a dashboard to better communicate results	0.00	Proposed Budget Reduction	City Manager's Office	N	Y	N	N	N	Data Pending	N



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338	Strategic Plan - Project	Racial Equity Action Plan	With assistance from the Government Alliance on Race and Equity and researchers from UC Berkeley, develop a Racial Equity Action Plan designed to integrate equity considerations throughout City operations and services and to influence change within the community.	83.40	Work in Progress	City Manager's Office	N	Y	N	N	N	Y	N
339	Strategic Plan - Project	UC Long-Range Development Plan	Participate in UC's Long Range Development Plan process	25.00	Work in Progress	City Manager's Office	N	Y	Y	N	N	Data Pending	Y
340	Strategic Plan - Project	Web Content Training	Create and develop a governance structure and a training program so that all departments have the appropriate tools and skills to build effective web content.	50.00	Work in Progress	City Manager's Office	N	Y	Y	N	N	Y	N
341	Strategic Plan - Project	Equal Pay Vendor Preference	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).	0.00	Pending Not On Schedule	Finance	N	N	Y	N	N	Y	N
342	Strategic Plan - Project	Fire Department Communications	Increase and improve communication to the community by updating the Fire Department web page and creating social media policy and procedures	0.00	On Hold	Fire & Emergency Services	N	N	N	N	N	Y	N
343	Strategic Plan - Project	Fire Department Reserve Truck	Enhance the City's firefighting capacity by replacing a 20-year old ladder truck that has exceeded its user life.	85.29	Work in Progress	Fire & Emergency Services	N	Y	Y	N	N	Y	Y
344	Strategic Plan - Project	Fire Prevention	Increase fire/life safety capacity and resources to effectively maintain community safety.	51.36	Work in Progress	Fire & Emergency Services	N	Y	Y	N	Y	Y	N
345	Strategic Plan - Project	Outdoor Emergency Public Alerting Systems	(part of Rescue and Disaster Response Capabilities Program) Exploring options for system and then procuring and implementing system.	0.00	On Hold	Fire & Emergency Services	Y	N	Y	N	N	Y	N
346	Strategic Plan - Project	Safe Passages	(part of Wildfire Safety Program) Develop standards, update code, develop enforcement; identify narrow streets that need parking restrictions to keep areas clear.	0.00	Proposed Budget Reduction	Fire & Emergency Services	Y	Y	Y	N	Y	Y	Y
347	Strategic Plan - Project	Wildfire Vegetation Management	(part of Wildfire Safety Program) Hand Crews	59.68	Proposed Budget Reduction	Fire & Emergency Services	Y	Y	Y	N	N	Y	Y
348	Strategic Plan - Project	Adult Mental Health Clinic Renovation	The Adult Mental Health Clinic at 2640 MLK is currently uninhabitable and in need of significant repairs to be open to help people in Berkeley with severe and persistent mental illness.	99.98	Work in Progress	Health, Housing & Community Services	N	Y	Y	Y	N	Y	Y
349	Strategic Plan - Project	Age Friendly Plan Implementation	Establish infrastructure for implementation of Aging-Friendly Plan	93.04	Work in Progress	Health, Housing & Community Services	Y	Y	N	N	N	Y	Y
350	Strategic Plan - Project	Cannabis Dispensary/ Production	Develop, propose and implement responsive education and enforcement strategies	54.44	Work in Progress	Health, Housing & Community Services	N	Y	Y	N	Y	Y	Y
351	Strategic Plan - Project	Community Agency Funding Information	Develop and publish comprehensive report on outcomes of community agencies funded by City of Berkeley.	1.35	Work in Progress	Health, Housing & Community Services	N	N	Y	N	N	Y	N
352	Strategic Plan - Project	Home-cook Food Industry	Develop, propose and implement responsive education and enforcement strategies.	76.88	Work in Progress	Health, Housing & Community Services	N	Y	N	N	N	Y	
353	Strategic Plan - Project	Homeless Services Expansion	Implement plan to expand homeless services with Measure P funding as defined by Council.	73.70	Work in Progress	Health, Housing & Community Services	N	Y	Y	N	N	Y	N

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354	Strategic Plan - Project	Increase Affordable Housing: Measure O Implementation	Implement plan to expand affordable housing options with Measure O funding as defined by Council.	30.50	Work in Progress	Health, Housing & Community Services	N	Y	Y				Y
355	Strategic Plan - Project	Landlord Participation in Affordable Housing Programs	Increase the supply of landlords who provide units for Shelter Plus Care and Section 8 programs. Provide other incentives to landlords to participate in these programs.	49.23	Work in Progress	Health, Housing & Community Services	N	Y	Y	N			
356	Strategic Plan - Project	Paid Family Leave Ordinance	Explore an ordinance that guarantees paid leave for new parents.	0.00	On Hold	Health, Housing & Community Services	N	Y	N	N	N	Y	N
357	Strategic Plan - Project	Public Health Strategic Plan Implementation	Implement a tracking and reporting system for Division program performance measures	25.72	Work in Progress	Health, Housing & Community Services	N	Y	N	N	N	Y	N
358	Strategic Plan - Project	Results-Based Accountability Framework for Health, Housing & Community Services Programs	Implement a results-based accountability performance management framework to better account for and improve the work that the Department of Health, Housing & Community Services undertakes, and to maximize impact. Develop and publish outcomes data on selected programs.	19.61	Work in Progress	Health, Housing & Community Services	N	Y	Y	N	N	N	Y
359	Strategic Plan - Project	Shelter Plus Care Expansion	Expand Shelter Plus Care through addition of 53 new housing vouchers	43.33	Work in Progress	Health, Housing & Community Services	N	Y	Y	Y			
360	Strategic Plan - Project	Sugar Sweetened Beverage Policy Development	Develop a City of Berkeley healthy beverage policy	42.62	Work in Progress	Health, Housing & Community Services	N	Y	N	N	Y	N	
361	Strategic Plan - Project	Develop Labor Relations Strategy Plan	In preparation for contract negotiations in 2020. Prepare a plan	80.00	Work in Progress	Human Resources	N	Y	Y	N	Y	Y	N
362	Strategic Plan - Project	Revision of Personnel Rules and Regulations and the Employer-Employee Relations Resolution	Update and revise both sets of Rules and Regulations to comply with current federal and state laws; reflect best practices; and ensure the established rules are comprehensive and consistent.	40.00	Work in Progress	Human Resources	N	Y	N	N	Y	Y	N
363	Strategic Plan - Project	Succession Planning	In advance of a large amount of expected retirements in fiscal year 2018, develop and provide guidance to all City departments to improve succession planning and minimize disruption to the City government and the community it serves.	0.10	Work in Progress	Human Resources	N	Y	Y	N	N	N	N
364	Strategic Plan - Project	360 Street Level Imagery		22.22	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
365	Strategic Plan - Project	Accela Implementation - Phase 5	Modules to Implement: Utility Permits: almost complete Fire Permits Enhancements Public Works Permits Online Code Enforcement - HOLD Right of Way Management - HOLD	0.00	Proposed Budget Reduction	Information Technology	N	Y	Y	N	N	Y	Y
366	Strategic Plan - Project	Active Directory Upgrade	Version upgrade for Active Directory.	0.00	Not Started	Information Technology	N	N	Y	N	N	Y	Y
367	Strategic Plan - Project	AD Cleanup (Prep for future Projects)	AD CleanUP (Prep for future Projects)	6.67	Work in Progress	Information Technology	N	Y	Y	N	N	Y	N

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368	Strategic Plan - Project	Avaya Phone System (VoIP) Support Transition	Avaya Support Transition	79.78	Work in Progress	Information Technology	N	Y	Y	N	Y	Y	Y
369	Strategic Plan - Project	BIA (Business Impact Assessment)	BIA (Business Impact Assessment)	10.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
370	Strategic Plan - Project	Broadband Infrastructure Master Plan	Develop a master plan to improve infrastructure for high-speed internet access in Berkeley. Release the RFP to develop a Broadband Infrastructure Master Plan that provides a roadmap for implementing the broadband infrastructure to increasing internet access and addressing the digital divide	80.00	Work in Progress	Information Technology	N	Y	N	N	N	N	N
371	Strategic Plan - Project	California Public Health Info Exchange Electronic Case Reporting (eCR)	Implement Electronic Case Reporting (eCR) which will automate public health case reporting by automatically generating and transmitting case reports from Electronic Health Records (EHRs) to public health agencies for review and action. The California Reportable Disease Information Exchange - Electronic Case Reporting (CalREDIE eCR) module will allow health care providers and organizations to more easily comply with the California Department of Public Health (CDPH) requirement for the reporting of certain diseases and conditions per the California Code of Regulations (CCR) Title 17 Section 2500.	0.00	On Hold	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
372	Strategic Plan - Project	Capital Project Management Software	Implement a Capital Improvement Project (CIP) tracking tool to better document and manage project implementation	0.00	On Hold	Information Technology	N	N	N	N	N	N	N
373	Strategic Plan - Project	City Data Services System Replacement	Project to replace hosted Grants and Loan Data Management for Health, Housing & Community Services. Community Agency Allocations & Contract Management, Rehab Programs, Housing Trust Fund, Mental Health Division Contracts, etc.	0.00	On Hold	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
374	Strategic Plan - Project	Citywide Backup Solution Replacement	Barracuda Backup Upgrade	79.36	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
375	Strategic Plan - Project	Citywide Windows 10 Upgrade	Pilot and then fully launch the Windows 10 operating system for City computers, including all necessary staff training and application compatibility testing	93.13	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
376	Strategic Plan - Project	Clinical Intake Workflow Improvements: Develop and Integrate Clinic Reproductive and Sexual Health (RSH) Intake Template	Clinical Intake Workflow Improvements: Develop and Integrate Clinic Reproductive and Sexual Health (RSH) Intake Template	40.00	On Hold	Information Technology	N	Y	Y	N	N	Y, if funded	Y, if funded
377	Strategic Plan - Project	Compliance with Data Security Standards	Continue to implement Payment Card Industry (PCI), Department of Justice (DOJ), and Health Insurance Portability and Accountability Act (HIPAA) compliance requirements to maintain data security	10.00	Work in Progress	Information Technology	N	Y	Partial	N	Y	Y	Y, if funded
378	Strategic Plan - Project	Configure Remote Software installations for Off Network Laptops	Configure SCCM IBCM (Internet Based Configuration Management)	51.02	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
379	Strategic Plan - Project	Crime forum transition to new vendor (XenForo)	Migrate police crime forum data away from vBulletin to Xenforo. They use AWS for hosting. internal crime information sharing	80.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y

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380	Strategic Plan - Project	Customer Relationship Management (CRM) Database	Implement a 311 CRM solution and a mobile app to better track and manage community member queries	0.00	Proposed Budget Reduction	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
381	Strategic Plan - Project	Customer Relationship Management of Economic Development	Implement a customer and communications management platform to assist the Office of Economic Development in their business attraction and retention efforts	0.00	Not Started	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
382	Strategic Plan - Project	Cyber Resilience Strategy	Develop a Cyber Resilience Plan in alignment with the City's Resilience Strategy, including software upgrade needs, policies and cyber security training for staff	85.00	Work in Progress	Information Technology	N	Y	Y	N	N	N	Y
383	Strategic Plan - Project	Data Exchange for TCM Program (Alameda Alliance / Medi-Cal Managed Care)	Data Exchange for TCM Program (Alameda Alliance / Medi-Cal Managed Care)	0.00	On Hold	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
384	Strategic Plan - Project	Data Exchange for TCM Program (Blue Cross / Medi-Cal Managed Care)	Data Exchange for TCM Program (Blue Cross / Medi-Cal Managed Care)	0.00	On Hold	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
385	Strategic Plan - Project	Digital Permitting System	Conduct a needs assessment, issue an RFP, and procure a new permitting software	0.00	Proposed Budget Reduction	Information Technology	N	N	N	N	N	N	N
386	Strategic Plan - Project	Disaster Recovery/Business Continuity Plan	Develop a Information Technology infrastructure Disaster Recovery and Business Continuity Plan	50.00	Not Started	Information Technology	N	Y	Partial	N	N	Y, if funded	Y, if funded
387	Strategic Plan - Project	Emergency Operations Center (EOC) Management Software	Implement a software solution to assist with enhanced preparedness, disaster recovery and track emergency management efforts during EOC activations	0.00	On Hold	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
388	Strategic Plan - Project	Emphasys Elite System Replacement	Assess business needs and review feasibility of utilizing ERMA modules. Replace software to manage Shelter Plus Care housing subsidy program for the chronically homeless. (Also used by Berkeley Housing Authority with separate databases.)	0.00	Not Started	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
389	Strategic Plan - Project	Environmental Health Field Operations Improvements	Assess and implement tools to enhance capacity and efficiency of Environmental Health field operations.	0.00	On Hold	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
390	Strategic Plan - Project	EnvisionConnect System Replacement	Develop options, costs and timelines for replacing Decade (Accela) software to manage Environmental Health inspections, work processes, and to produce regular local and State required reports. (System also used by Toxics Management, with separate database).	0.00	Not Started	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
391	Strategic Plan - Project	Extracts/Interfaces for data to Munis from (1) NextGen and (2) Persimmony	Extracts/Interfaces for data to Munis from (1) NextGen and (2) Persimmony	0.00	Not Started	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
392	Strategic Plan - Project	FUND\$ Replacement - Fleet Management System	Replacing the 28-year-old FUND\$ Fleet module for vehicle fleet asset and parts management system	23.06	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
393	Strategic Plan - Project	FUND\$ Replacement - Work Order Application	Replace the Work Order module of FUND\$ with a Commercial Off the Shelf (COTS) software that will enable management of customer requests and work orders, preventive maintenance, resources and inventory, best practices and regulatory compliance.	48.51	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
394	Strategic Plan - Project	FUND\$ Replacement - Zero Waste Solution	Replace the Refuse Billing module of FUND\$ with a Commercial Off the Shelf (COTS) software that will enable billing, routing, and operations software for the public works operations.	25.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y

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395	Strategic Plan - Project	FUND\$ Replacement: Core Financial and HR/Payroll	"To replace City's Enterprise Resource Management Application to improve access to services and information for community members and create more efficient financial and information management processes for City staff, replace the City's core data management system.  To improve access to services and information for community members and create more efficient financial, human resources, and information management processes for staff, replace the City's core 28-year old financial and data management system"	84.33	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
396	Strategic Plan - Project	Fund\$ Software Upgrades	SunGard Software Upgrade Project for Fund\$	20.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
397	Strategic Plan - Project	Green City GIS Inventory	Create a database for PRW for Park Assets. Databases design and field inventory of all infrastructure, buildings, such as bathrooms, benches and newly planted trees in the city parks system	95.00	Work in Progress	Information Technology	N	N	Y	N	N	Y	Y
398	Strategic Plan - Project	Help Desk Metrics Expansion	PURPOSE: This project addresses both processes/procedures and various tools that focus on the delivery of customer service across City departments by the HelpDesk and to measure and adjust team productivity to demand.	0.00	Proposed Budget Reduction	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
399	Strategic Plan - Project	Help Desk Process Improvements	Help Desk Process Improvements Year 1 (2019)	0.00	Proposed Budget Reduction	Information Technology	N	N	N	N	N	Y	N
400	Strategic Plan - Project	Help Desk Standard Operating Procedures	Help Desk Standard Operating Procedures	25.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
401	Strategic Plan - Project	HIPAA Security Risk Assessment Audits Calendar Year 2019	HIPAA Security Risk Assessment Audits Calendar Year 2019	0.00	Not Started	Information Technology	N	Y	Y	N	Y	Y	Y
402	Strategic Plan - Project	HR Onboarding	Purchase a software system for HR to streamline the new hire onboarding process. The onboard software will provide new hire access to forms, documents, videos, and checklist.	22.06	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
403	Strategic Plan - Project	Human Resources Case Management	Software to manage and track Human Resources Employee Relations and Equal Employment Opportunity cases.	65.76	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
404	Strategic Plan - Project	Infrastructure and Security Project Metrics	Infrastructure and Security Project Metrics	0.00	Proposed Budget Reduction	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
405	Strategic Plan - Project	IT Classification Study	Conduct an IT Classification Study	0.00	Proposed Budget Reduction	Information Technology	N	Y	Y	N	Y	Y	Y
406	Strategic Plan - Project	IT Service Management/Enterprise PM Tool	Replace Help Desk software, implement project portfolio management software	69.58	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
407	Strategic Plan - Project	Learning Management System (ERP)	To deploy a learning management system for the administration, documentation, tracking, reporting and delivery of training programs	10.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y

**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
408	Strategic Plan - Project	Legal Case Management Tool	Software to track and manage cases for City Attorneys	0.00	On Hold	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
409	Strategic Plan - Project	Medication Inventory software	Identify business requirements and software that will also integrate with the NextGen EPM-EHR System.	10.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
410	Strategic Plan - Project	Microfiche Digitizing for Berkley Police	Digitize remaining Police microfiche data to improve data management and accessibility	70.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
411	Strategic Plan - Project	Microsoft Office Upgrade	(Formerly "ProofPoint & MS EA FY20 roll-out")	0.00	Not Started	Information Technology	N	N	Y	N	N	Y	Y
412	Strategic Plan - Project	Migrate Veripic Data to Axon Capture (evidence.com)	Migrate evidence data from Veripic (legacy system) to evidence.com (current system from Axon). This is a two step process: 1) export evidence and metadata from VeriPic, and 2) import evidence and metadata to evidence.com. This will allow officers to have one source of evidence and will remove a legacy system. Veripic is currently read only and has no new evidence as of 9-1-18.	75.76	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
413	Strategic Plan - Project	Mobile Device Management (MDM) Software Replacement	Transition from Meraki to Intune	25.00	Work in Progress	Information Technology	N	Y	Y	N	Y	Y	Y
414	Strategic Plan - Project	MS Enterprise O365 Exchange Migration and OneDrive Implementation	Migrate Exchange (Email) to the cloud, and implement OneDrive for cloud-based file storage and file sharing.	87.78	Work in Progress	Information Technology	N	Y	Y	N	N	Y	N
415	Strategic Plan - Project	MS Rights Management (& AIP)	MS Rights Management (& AIP)	25.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
416	Strategic Plan - Project	Network Architecture	Network Architecture (roadmap of capabilities, connections, capacities means, & devices)	0.00	Pending On Schedule	Information Technology	N	N	Y	N	N	Y	Y
417	Strategic Plan - Project	Network Device Replacement for FY18	Network Device Replacement for FY18	87.50	Work in Progress	Information Technology	N	Y	Y	N	N	Y	N
418	Strategic Plan - Project	Network Device Replacement FY20	Network Device Replacement FY20	0.00	Not Started	Information Technology	N	Y	Y, pending Council approval	N	N	Y, if funded	Y, if funded
419	Strategic Plan - Project	New Fire Records Management System	Prepare a new fire records management system that will be compliant with the National Fire Information System and improve data collection and response information.	0.00	On Hold	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
420	Strategic Plan - Project	NextGen eSignatures	NextGen eSignatures	90.00	On Hold	Information Technology	N	N	Y	N	N	N	N
421	Strategic Plan - Project	Online Business Registration Permitting	Implement software program to help entrepreneurs get their businesses up and running more quickly and easily by providing an online interface to the permitting process at City Hall	0.00	Proposed Budget Reduction	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
422	Strategic Plan - Project	Performance Evaluations (ERP)	To deploy a performance evaluation software	10.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y

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Referrals, Projects, and Audits**

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423	Strategic Plan - Project	Public Records Act (PRA) Request Management	Implement a solution to track and manage PRA requests and provide visibility and transparency for PRA compliance	92.51	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
424	Strategic Plan - Project	RLSS Loan/Grants Management System Replacement	Project to replace the Revolving Loan Servicing Software (Loan Profile Data, Loan Transactions, and Reporting for State & Federal Programs) Used for Senior Disabled Loan Program.	5.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
425	Strategic Plan - Project	ServiceNow: Asset Management Implementation	Implement SNOW Asset Management Module & create Software & Hardware inventory dashboard	80.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
426	Strategic Plan - Project	SharePoint Intranet	Implement SharePoint based TeamSites and Project sites	45.54	Work in Progress	Information Technology	N	Y	Y	N	N	N	Y
427	Strategic Plan - Project	SIEM/MSSP	SIEM/MSSP	50.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
428	Strategic Plan - Project	SimsUshare	SimsUshare CTC is a training system for emergency responders to develop and enhance knowledge, skills and abilities in safely and efficiently managing all types of incidents.	90.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
429	Strategic Plan - Project	Smart Rooms	Improve IT systems in the City's conference rooms, including conference call, videoconference, and star phone capabilities.	99.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
430	Strategic Plan - Project	Software for Managing Leased Properties (ERP)	Implement a software solution to track and manage properties that the City leases to other entities	0.00	On Hold	Information Technology	N	N	N	N	N	N	N
431	Strategic Plan - Project	SQL Server 2008 Upgrade/Migration CityWide	SQL Server 2008 Upgrade/Migration CityWide	80.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y, if funded	Y, if funded
432	Strategic Plan - Project	Tiburon/CRIMES Data warehousing	needed enterprise license for phones (close to completion)	70.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
433	Strategic Plan - Project	Time Management Application for Police	Time Management Application for Police (Telestaff)	0.00	On Hold	Information Technology	N	N	N	N	N	Y, if funded	Y, if funded
434	Strategic Plan - Project	Upgrade Youth Lab computers	Upgrade Youth Lab computers	0.00	On Hold	Information Technology	N	N	Y	N	N	Y	Y
435	Strategic Plan - Project	Vendor Remote Access Improvements	Improvements to vendor's remote access capabilities.	80.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
436	Strategic Plan - Project	Virtual Desktop Pilot Program	Virtual Desktop Infrastructure (VDI) pilot program with Citrix and Nutanix	10.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
437	Strategic Plan - Project	Virtualize Firewalls	(Formerly "Microsoft Windows Security Patch Deployment", Configure Windows updates for all desktops and Laptops)	0.00	Not Started	Information Technology	N	N	Y	N	N	Y	Y
438	Strategic Plan - Project	VoIP Emergency Announcement Service	PURPOSE: Enhance Voice-over-IP (VoIP) technical capabilities to introduce an Emergency Announcement Service within City buildings and office spaces.	0.00	Proposed Budget Reduction	Information Technology	N	N	Y	N	N	Y	Y

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Referrals, Projects, and Audits**

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439	Strategic Plan - Project	Windows Security Patch Deployment Upgrade	Re-Configure Windows Updates	53.75	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
440	Strategic Plan - Project	Windows Server Operating System Upgrades	Windows Server Operating System Upgrades	90.00	Work in Progress	Information Technology	N	Y	Y	N	N	Y	Y
441	Strategic Plan - Project	Berkeley Business Marketing & Communications Project (i.e., Berkeley Branding & Marketing Project)		95.00	Work in Progress	Office of Economic Development	N	Y	Y	N	N	Y	Y
442	Strategic Plan - Project	Berkeley Ventures, Berkeley Values	Develop and implement a "Berkeley Tech, Berkeley Values", a campaign to leverage local tech sector skills, wealth, and other resources to support equitable and inclusive growth.	75.00	Work in Progress	Office of Economic Development	N	Y	Y	N	N	Y	Y
443	Strategic Plan - Project	Expand and Modify the Downtown Arts District Overlay	Examine and develop recommendations for expanding the boundaries of the current Downtown Arts District Overlay as well as the allowable active ground-floor uses. Related to PRJ0013155 and DMND0002497	95.00	Work in Progress	Office of Economic Development	N	Y	N	N	N	Y	Y
444	Strategic Plan - Project	Interactive Digital Kiosks	Facilitate the installation of interactive digital kiosks to share information about civic resources; market local businesses, arts organizations, and commercial districts; and generate revenue for the City of Berkeley	95.00	Work in Progress	Office of Economic Development	N	Y	Y	N	N	Y	N
445	Strategic Plan - Project	Measure T1 Public Art Projects	Implement new public art commissions associated with T1 Bond Projects at North Berkeley Senior Center and San Pablo Park, which will be integrated into the planned improvements in order to beautify these spaces and enhance their unique character	90.00	Work in Progress	Office of Economic Development	N	Y	Y	N	N	Y	Y
446	Strategic Plan - Project	Aquatic Park Tide Tubes Renovation Project	Design, permitting, and environmental documents.	0.00	Not Started	Parks, Recreation & Waterfront	N	N	N	Y	N	N	Y
447	Strategic Plan - Project	Berkeley Municipal Pier Conceptual Design	Feasibility study for potential repairs to Pier.	75.00	Work in Progress	Parks, Recreation & Waterfront	N	Y	Y	N	N	Y	Y
448	Strategic Plan - Project	Berkeley Rose Garden Pathways, Tennis Courts, Pergola	Reconstruction of the pergola, ADA paths, and retaining Walls - Design and Construction.	75.00	Work in Progress	Parks, Recreation & Waterfront	N	Y	Y	N	N	Y	Y
449	Strategic Plan - Project	Berkeley Tuolumne Camp Rebuild	Rebuild Berkeley Tuolumne Camp. Permitting, Environmental, Design, and Construction.	75.00	Work in Progress	Parks, Recreation & Waterfront	N	Y	Y	Y	N	Y	Y
450	Strategic Plan - Project	Cazadero Camp Landslide Fix and Dormitory Replacement	Repair significant damage to the City's Cazadero Camp caused by a landslide that occurred in 2016.	60.00	Work in Progress	Parks, Recreation & Waterfront	N	Y	Y	N	N	Y	Y
451	Strategic Plan - Project	Grove Park Field backstop, dugout, lights, and irrigation	Renovation of existing ballfield backstop, dugout, lights, and irrigation - Construction.	30.00	Work in Progress	Parks, Recreation & Waterfront	N	Y	Y	N	N	Y	Y
452	Strategic Plan - Project	Live Oak Community Center Seismic Upgrade and Renovations	Seismic upgrades and building renovations - Construction.	95.00	Work in Progress	Parks, Recreation & Waterfront	N	Y	Y	N	N	Y	Y
453	Strategic Plan - Project	San Pablo Park Tennis Courts and Play Equipment Upgrade (Ages 5-12 Play Areas)	Renovation of existing play equipment (ages 2-5 and 5-12) and tennis courts - Construction.	70.00	Work in Progress	Parks, Recreation & Waterfront	N	Y	Y	N	N	Y	Y



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Referrals, Projects, and Audits**

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454	Strategic Plan - Project	Training and Certification for Sports Coaches and Officials	Start to implement a new program to provide the latest training and certifications all staff who serve as sports officials and coaches for the City's many sports programs, including softball, baseball, and tennis leagues, skateboarding, and more.	35.00	Work in Progress	Parks, Recreation & Waterfront	N	Y	N	Y	N	Y	Y
455	Strategic Plan - Project	Tree Planting Project in South and West Berkeley	Plant 500 trees in South and West Berkeley	50.00	Work in Progress	Parks, Recreation & Waterfront	N	Y	Y	Y	N	Y	Y
456	Strategic Plan - Project	University Avenue (West Frontage Rd to Marina Blvd), Marina Blvd, and Spinnaker Way Renovation	Renovate three roads at the Berkeley Marina (University Ave, Marina Blvd, and Spinnaker Way) - Construction - Design and Construction.	30.00	Work in Progress	Parks, Recreation & Waterfront	N	Y	Y	N	N	Y	Y
457	Strategic Plan - Project	WETA MOU and Ferry Feasibility Study	Develop an MOU with WETA and conduct an engineering feasibility study for potential WETA ferry service and recreation at the existing or a new Berkeley Pier.	80.00	Work in Progress	Parks, Recreation & Waterfront	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
458	Strategic Plan - Project	Ashby and North Berkeley and Development Parameters (formerly station area plan)	State-mandated zoning study and updates at the North Berkeley and Ashby BART stations	25.00	Work in Progress	Planning	Involves Planning Commission	Y	Y	Y	Y	Y	Y
459	Strategic Plan - Project	Clean energy (i.e., Fuel switching)	Promote strategies and make available resources for residents to convert to cleaner fuel use in buildings.	50.00	Work in Progress	Planning	N	Y	N	Y	N	N	Y
460	Strategic Plan - Project	Climate Adaptation Work	New climate adaptation work	5.00	Work in Progress	Planning	Y	Y	N	Y	N	N	N
461	Strategic Plan - Project	Demolition Ordinance and Affordable Housing	Study issues pertaining to demolition and replacement of existing rent controlled and affordable housing. Depending on outcomes of study, may result in a revised fee and/or ordinance	25.00	Work in Progress	Planning	Involves Planning Commission, Rent Stabilization Board	Y	N	N	Y	Y	N
462	Strategic Plan - Project	Development/Density Standards Project	Study options and proposed comprehensive density standards	25.00	Work in Progress	Planning	Involves Joint Subcommittee for the Implementation of State Housing Laws	Y	Y	Y	Y	N	F
463	Strategic Plan - Project	Expanded and streamlined rental housing safety program	Expand and streamline the Rental Housing Safety Program to enable proactive inspections and other actions to maintain Berkeley's aging rental housing stock.	65.00	Work in Progress	Planning	N	Y	Y	N	Y	N	N
464	Strategic Plan - Project	Increased EV infrastructure	Provide better facilities and infrastructure for Electrical Vehicle charging, with an emphasis on electric mobility strategies to make cleaner transportation available to all across income lines.	80.00	Work in Progress	Planning	N	Y	N	Y	N	N	N
465	Strategic Plan - Project	Increased Student Housing	Identify opportunities to enable additional student housing, such as through Zoning Ordinance amendments focused on increasing student housing capacity in the Telegraph Avenue Commercial District.	50.00	Work in Progress	Planning	Involves Planning Commission	Y	Y	N	N	Y	Y
466	Strategic Plan - Project	Local density bonus policy	Develop and pilot a local Density Bonus program that enables payment of housing in-lieu fees to be used and leveraged to create additional affordable housing.	50.00	Work in Progress	Planning	Involves Planning Commission	Y	Y	N	N	Y	N

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Referrals, Projects, and Audits**

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467	Strategic Plan - Project	Missing Middle Housing Study / Housing Element Update	Refer to the City Manager to prepare a report to the Council of examining methods, including potential revisions to the zoning code, that may foster a broader range housing types across Berkeley, particularly missing middle housing types (duplexes, triplexes/fourplexes, courtyard apartments, bungalow courts, townhouses, etc.), in areas with access to essential components of livability like parks, schools, employment, transit, and other services. Given the range of requests included in this referral, it is expected that responding to the referral will require a combination of field research, consultation with design professionals and other cities and agencies, and community outreach and engagement. Council requests that staff initiate this work as soon as possible. (Text from 4/23/19 Council Referral)	1.00	Work in Progress	Planning	Involves Planning Commission	Y	Deferred	N	Y	Y	N
468	Strategic Plan - Project	New Municipal Building Energy Policy	Develop options for a new Municipal Building Energy Policy	5.00	Work in Progress	Planning	N	N	N	N	N	Y	N
469	Strategic Plan - Project	Objective Development Standards	Consultant work with community and commissions to describe, define, and revise objective development standards in corridors.	25.00	Work in Progress	Planning	Involves Joint Subcommittee for the Implementation of State Housing Laws	Y	Y	Y	Y	N	N
470	Strategic Plan - Project	Parking Reform	Strategies to unbundle parking requirements from development requirements to facilitate housing production and car-free modes of transit	90.00	Work in Progress	Planning	Involves Planning Commission	Y	Y	N	N	Y	Y
471	Strategic Plan - Project	Permit Conditions Enforcement Process	Review process/approach to monitoring and enforcing agreed-to conditions on Land Use permits	50.00	Work in Progress	Planning	N	Y	N	N	N	Y	N
472	Strategic Plan - Project	Permit Service Center and Land Use Planning Survey	Develop and administer a customer service survey relating to permitting services and land use planning processes	33.00	Work in Progress	Planning	N	Y	Y	N	N	Y	Y
473	Strategic Plan - Project	Planning DOC	Planning Operations Center (DOC) and Emergency Operations Plan (EOP)	0.00	Not Started	Planning	N	N	N	N	N	Y	N
474	Strategic Plan - Project	Seismic safety programs	Continue implementation of the City's Soft Story and Unreinforced Masonry Ordinances and administer a \$3 million Hazard Mitigation Grant from FEMA, which will provide design and construction grants to owners of the most seismically vulnerable buildings in Berkeley.	70.00	Work in Progress	Planning	N	Y	Y	Y	Y	N	Y
475	Strategic Plan - Project	Sign Policy	Evaluate and update design review processes/policies and Sign Ordinance	50.00	Work in Progress	Planning	Involves Planning Commission, Design Review Committee	Y	N	N	N	Y	N
476	Strategic Plan - Project	Solar + Storage Project	Latest strategy from previous Microgrid pilot program to co-locate solar and storage capacity, especially for emergency backup uses	30.00	Work in Progress	Planning	N	Y	N	Y	N	Y	N
477	Strategic Plan - Project	ZORP (Zoning Ordinance Revision Project)	Revise the City of Berkeley Zoning Ordinance in order to clarify zoning rules and procedures for community members and improve the implementation process for City staff.	50.00	Work in Progress	Planning	Involves Planning Commission	Y	Y	N	N	Y	Y

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Referrals, Projects, and Audits**

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478	Strategic Plan - Project	Community Safety During Demonstrations	Increase Police capacity, resources, tools and training, including training a bike-officer response unit, to effectively protect and facilitate free speech and maintain community safety when demonstrations and protests occur.	80.00	Work in Progress	Police	N	Y	N	N	N	Y	Y
479	Strategic Plan - Project	Comprehensive Police Policy Review	Fully implement and update Police policies to Lexipol format, ensuring full compliance with current law, case law, and incorporate best practices.	85.00	Work in Progress	Police	N	Y	Y	N	N	Y	Y
480	Strategic Plan - Project	Develop resources and programs for employee resiliency	Expand Police employee wellness and resiliency programs, including mental health, fitness, and nutrition resources.	75.00	Work in Progress	Police	N	Y	Y	N	N	Y	Y
481	Strategic Plan - Project	Hire, Train, and Retain Excellent Police Personnel	In order to continue to provide excellent service to the community, expediently fill any position vacancies while maintaining a highly qualified, well educated work force.	80.00	Work in Progress	Police	N	Y	Y	N	N	Y	N
482	Strategic Plan - Project	Implementation of new public safety technology. (Comprehensive Review of Police Equipment and Technology Needs)	Conduct a needs assessment and prioritization of tools and technology that would better enable the Police to safeguard the community. Implement new technology.	80.00	Work in Progress	Police	N	Y	N	N	N	N	Y
483	Strategic Plan - Project	Police Community Engagement Strategy	Enhance the Police's existing efforts to engage and inform community members about public safety by developing a Police Community Engagement Strategy.	70.00	Work in Progress	Police	N	Y	N	N	N	Y	Y
484	Strategic Plan - Project	Revise use-of-force policy and implement software	Implement software enhancements used to report and review department commendations and uses of force, in conjunction with a revised use of force policy. This will enable the BPD ability to report aggregate information internally and externally.	95.00	Work in Progress	Police	N	Y	Y	N	N	Y	Y
485	Strategic Plan - Project	2nd Street, Monterey Avenue, Ward Street, Hopkins Street and Bancroft Way	Pavement rehabilitation of 1,600 linear feet (0.3 miles) on Ward Street from San Pablo Avenue to Action Street with full-depth reclamation including sidewalk, driveway, and curb ramp replacement. The street will also include green infrastructure improvements, pervious concrete in the parking lane (8 feet wide) to infiltrate storm water into the native soil. Pavement rehabilitation of 1,600 linear feet (0.3 miles) on 2nd Street from Addison Street to Delaware Street, including installation of sidewalk, curb and gutter, crosswalks along University Avenue underpass, and removal of Railroad tracks on project area. Pavement rehabilitation of 3,100 linear feet (0.6 miles) on Monterey Avenue from Hopkins Street to The Alameda, including installation of sidewalk, curb & gutter, curb ramps, and striping of bike lanes and crosswalks. Pavement rehabilitation of 6,600 linear feet (1.25 miles) on Hopkins Street from San Pablo to The Alameda, including installation of sidewalk, curb & gutter, curb ramps, and striping of bike lanes and crosswalks. Pavement rehabilitation of 350 linear feet (0.06 miles) on Bancroft Way from Shattuck Avenue to Milvia Street, including installation of sidewalk, curb & gutter, curb ramps, and a protected bike lane from Fulton Street to Milvia Street.	50.00	Work in Progress	Public Works	N	Y	Y	N	Y	Y	Y

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486	Strategic Plan - Project	50/50 Sidewalk Program	Reduce 50/50 sidewalk backlog	70.00	Work in Progress	Public Works	N	Y	Y	N	N	N	N
487	Strategic Plan - Project	American Disabilities Act Transition Plan	Work with DAC consultants to survey accessibility and ADA compliance for City facilities, public right of way, and parks, as well as programs and services.	72.00	Work in Progress	Public Works	N	Y	Y	N	Y	Y	Y
488	Strategic Plan - Project	Berkeley Rose Garden Drainage	Repair creek channel to protect channel and contain creek flows.	35.00	On Hold	Public Works	N	N	N	N	N	N	Y
489	Strategic Plan - Project	Bicycle and Pedestrian Infrastructure Improvements (Ongoing Program)	Implement protected bicycle lanes on Milvia and Dana Streets and currently-funded Safe Routes to Schools and Active Transportation Program projects, including the 9th Street path crossing at Ashby Avenue. Implement BeST and Bicycle and Pedestrian Plan improvements during repaving projects. Identify funding sources for implementing all Tier 1 Bicycle Boulevard crossing recommendations from the Bicycle Plan.	25.00	Work in Progress	Public Works	N	Y	Y	Y		Y	Y
490	Strategic Plan - Project	Bicycle Plan FY 2022 Update	Construct bikeway projects and implement encouragement, education, enforcement, and evaluation programs to make Berkeley a model bicycle-friendly city where bicycling is a safe, comfortable, and convenient form of transportation and recreation for people of all ages and abilities	0.00	Not Started	Public Works	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
491	Strategic Plan - Project	Compostable or Recyclable Foodware	Implementation: Phase 2 - All foodware certified compostable & vendor charges \$0.25 per disposal cup Phase 3 - Only onsite foodware provided by vendor.	5.00	Work in Progress	Public Works	N	Y	N	N	Y	Y	N
492	Strategic Plan - Project	Corporation Yard Roof and Electrical Upgrades	This facility requires general upgrades of the electrical system including panelboards, switchboard, and electrical feeders.	75.00	Work in Progress	Public Works	N	Y	Y	N	N	Y	Y
493	Strategic Plan - Project	Gilman Street Interchange Project	Improve the mobility and safety of the Gilman Street Corridor by reconstructing the Gilman Street Interchange and creating a new gateway into North Berkeley. In FY 2018-2019, complete the environmental documents and begin final design for the I-80 Gilman Interchange and pedestrian overcrossing projects.	90.00	Work in Progress	Public Works	N	Y	Y	Y		Data Pending	Data Pending
494	Strategic Plan - Project	Long-Term Waste Operations Strategy	RFP to develop long term Zero Waste Strategic Plan	10.00	Work in Progress	Public Works	N	N	N	N	Y	N	N
495	Strategic Plan - Project	Major Improvements to Downtown Berkeley Infrastructure and Amenities (Milvia Bikeway Project)	The project is currently in the grant funded planning phase for a protected bikeway between Hearst Ave and Channing Way, with a protected bikeway or traffic calming to upgrade the bikeway between Channing and Blake Street. Conceptual design will be complete in October 2019. Engineering design will start January 2020 and end October 2020. If additional grant funds are secured, construction would begin May 2021 and end January 2022.	45.00	Work in Progress	Public Works	N	Y	Y	Y	N	Y	Y

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No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
496	Strategic Plan - Project	Major Improvements to Downtown Berkeley Infrastructure and Amenities (Center Street Plaza)	Convert Center Street between Shattuck and Oxford to a slow street with enhanced streetscape treatments emphasizing use by pedestrians and cyclists while retaining access for transit and deliveries. Project is on hold because anticipated SOSIP funds from hotel development were deferred for up to 10 years.	0.00	On Hold	Public Works	N	N	N	N	N	N	N
497	Strategic Plan - Project	Major Improvements to Downtown Berkeley Infrastructure and Amenities (Shattuck Reconfiguration)	Improve pedestrian safety by changing traffic flow and turning patterns at the Shattuck/University intersection. Put all through traffic in both directions on the newly two-way west leg of Shattuck between Center and University. Improve parking capacity and shorten pedestrian crossings on the east leg of Shattuck. Provide enhanced transit plaza on the east side of Shattuck between Alston and Center. Contract award by Council is scheduled for October 2018 and Construction is scheduled to commence January 2019.	95.00	Work in Progress	Public Works	N	Y	Y	Y	N	Y	Y
498	Strategic Plan - Project	Marina Corporation Yard Electrical Upgrades	Electrical upgrades to the maintenance building.	75.00	Work in Progress	Public Works	N	Y	Y	N	N	Y	Y
499	Strategic Plan - Project	North Berkeley Senior Center Seismic Upgrades and Renovations	Seismic and general upgrades to meet immediate occupancy rating.	75.00	Work in Progress	Public Works	N	Y	Y	Y		Y	Y
500	Strategic Plan - Project	Pedestrian Plan Update	Update the 2010 Pedestrian Master Plan to guide City efforts to make walking in Berkeley safe, attractive, easy, and convenient for people of all ages and abilities.	97.00	Work in Progress	Public Works	Y	Y	Y	Y	Y	Y	Y
501	Strategic Plan - Project	Public Safety Building Improvements	Renovate the Public Safety Building lobby to improve service to community members and enhance the safety of Fire Department personnel. Install new carpet. Fix water leak on south side of building.	95.00	Work in Progress	Public Works	N	Y	Y	N	N	Y	Y
502	Strategic Plan - Project	Residential Preferential Parking (RPP) Program	Assess the potential for and interest in expansion of RPP in additional commercial districts.	60.00	Work in Progress	Public Works	N	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
503	Strategic Plan - Project	Sewer Master Plan	The plan will provide flow monitoring, hydraulic modeling and capacity assessment, and condition assessment of the sewer system. These services will allow for identification of areas of high inflow and infiltration and capacity deficiency in the sewer system. In addition, they will provide prioritization of capital sewer improvements and a sanitary sewer rate study	70.00	Work in Progress	Public Works	N	Y	Y	N	N	Y	Y
504	Strategic Plan - Project	Solano Avenue Revitalization Plan	Conceptual design	0.00	Not Started	Public Works	N	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending	Data Pending
505	Strategic Plan - Project	Substation relocation project	Relocation of the BPD Traffic Substation to a City of Berkeley-owned facility.	75.00	Work in Progress	Public Works	N	Y	Y	N	N	Y	Y
506	Strategic Plan - Project	Transfer Station - Master Plan	Re-construct the nearly 8-acre West Berkeley site where waste materials are sorted. The eventual goal of a new site is simple: if we recover more of what can be re-used or recycled, we slash what Berkeley trucks to the mountains of garbage that fill landfills.	50.00	Work in Progress	Public Works	N	Y	Y	N	N	Y	Y

**Disposition of  
Referrals, Projects, and Audits**

No.	Type	Name	Description	Percent Complete	State	Lead City Department	Commission?	Underway?	Funded?	Grant funding likely?	Required by legislative mandate?	Achievable in ~2 years?	Have adequate staff resources for?
507	Strategic Plan - Project	Undergrounding Utility Wires	Finalize design and begin construction of Underground Utility District #48 (Grizzly Peak). The City is responsible for installation of decorative solar street lighting in support of this Undergrounding District.	80.00	Work in Progress	Public Works	N	Y	Y	N	N	Y	N
508	Strategic Plan - Project	Update Watershed Management and Storm Drain Master Plans	Undertaking a necessary update to citywide watershed management and storm drain master plans	90.00	Work in Progress	Public Works	N	N	Y	N	N	Y	
509	Strategic Plan - Project	Zero Waste Rate Evaluation	Develop a study that provides for a new five year rate structure that sets rates through the Proposition 218 process.	50.00	Work in Progress	Public Works	N	N	Y	N	Y	Y	Y



Fair Campaign Practices Commission

Date: September 17, 2020

To: Fair Campaign Practices Commission and Open Government Commission

From: Commissioner Patrick O'Donnell

Subject: Amendments to the Berkeley Election Reform Act (BERA) to Regulate Officeholder Accounts and Proposed Changes to City Council Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)

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This memorandum to the Fair Campaign Practices Commission (FCPC) and the Open Government Commission (OGC) substitutes for the one previously posted, mailed to members of the FCPC, and appearing as Item 7 on the agenda of the FCPC. The key difference is that this memorandum addresses not only officeholder accounts, but also proposed changes to City Council Expenditure and Reimbursement Policies (so-called D-13 Accounts). These two proposals are closely linked and should be considered together. Because the proposal relating to officeholder accounts falls under the jurisdiction of the FCPC and that relating to D-13 accounts falls under the jurisdiction of the OGC, the FCPC and OGC should act jointly in considering the proposed changes to BERA and the Reimbursement Policies.

The memorandum also makes the following recommendation:

Form a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

The preceding recommendations are consistent with previous discussions and the annual workplans of the FCPC and the OGC.

To implement the recommendations in this memorandum, a revised report to the Council is attached.

At this stage, the Council has referred both the issues relating to officeholder accounts and those relating to D-13 accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee had an initial discussion of these topics. It agreed that the Council Committee would work collaboratively with the FCPC and OGC on matters relating to officeholder accounts and D-13 accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

Consistent with the prior actions of the Council and the FCPC/OGC, I propose that the Commissions recommend the establishment of a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts, and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.



PUBLIC HEARING  
XXXXX XX, XXXX

To: Honorable Mayor and Members of the City Council

From: Brad Smith, Chair, Fair Campaign Practices and Open Government Commissions

Submitted by: Samuel Harvey, Secretary, Fair Campaign Practices and Open Government Commissions

Subject: Amendments to the Berkeley Election Reform Act (BERA) and Change to City Council Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)

RECOMMENDATION

Form a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Officeholder accounts are not expressly regulated by BERA. However, under existing law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and may trigger various local and state legal requirements.

Donations to nonprofit organizations from Councilmember's discretionary council budgets (D-13 accounts) are allowed by the authority of City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.).

Action:

Vote:

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the “double green light” process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

Changes to the City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) can be made by a majority vote of the Council.

## BACKGROUND

### ***Officeholder Accounts***

During 2019, the Fair Campaign Practices Commission (FCPC) discussed whether there is a need to amend the law relating to these accounts. These accounts are not expressly regulated by BERA, but under current law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and trigger various local and state legal requirements. A 1999 legal opinion from the City Attorney stated: “[t]he mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable laws.”

In the course of its review of the issue of officeholder accounts, the FPPC considered three options: (1) leaving the law on officeholder accounts unchanged; (2) prohibiting officeholder accounts entirely (an approach used by the City of San Jose), or (3) authorizing officeholder accounts but limiting their use and imposing various restrictions and requirements on them (an approach used by the City of Oakland).

The Commission referred the issue of officeholder accounts to a subcommittee, which met several times in the fall of 2019 and considered the options. The subcommittee unanimously recommended prohibiting officeholder accounts entirely. At its regular meeting on November 21, 2019 the Commission voted without opposition to recommend amendments to the BERA that would prohibit officeholder accounts.

The Commission’s proposal was presented to the City Council at a February 4, 2020 special meeting. (Report to the Council, with Attachments, is attached.) The FCPC report summarized its proposal: “Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also the goal of the Fair Elections Act of 2016.” (Report, page 1.)

At the February 4, 2020 meeting, the Council had a lengthy discussion about their D-13 accounts and the lack of discretionary funds that members have to spend. They also decided not to approve the FCPC recommendation to prohibit officeholder accounts. The City Council referred the issues relating to officeholder and D-13 accounts to its Agenda and Rules Committee for further consideration.

***Proposed Changes to City Council Expenditure and Reimbursement Policies***

At the April 23, 2020 meeting of the Open Government Committee (OGC), a motion to direct staff to develop a proposal recommending Council change City policy to remove councilmember names from donations to nonprofit organizations from D-13 accounts was approved unanimously.

Donations to nonprofit organizations from the Councilmember's discretionary council budget (D-13 accounts) puts that elected official in a favorable light with Berkeley citizens at no cost to the Councilmember, an option not available to a challenger for that office. A look at the Consent Calendar of City Council Meeting Agendas will often contain one or more items from one or more Councilmembers making a donation to a nonprofit organization "from the discretionary council budget" of the Councilmember. This line item ("Services and Materials") from the General Fund was increased from \$50,938 in FY 2017 to \$113,526 in FY 2018 (approximately \$40,000 for the Mayor, the balance evenly divided among the Councilmembers; see Attachment 1 – Council Office Budget Summaries). While not technically a "campaign contribution," those individuals in the organization as well as individuals favorably disposed to the nonprofit organization receiving the funds would certainly see it favorably. A person running against this incumbent would have to draw on their own resources to match a Councilmember's contribution from public funds and without the public notice of the contribution the Councilmember receives.

In addition to favoring incumbents, the use of public moneys for contributions to nonprofit organizations from the discretionary council budgets of individual Council members is arguably improper and certainly bad optics. The commissioners of the OGC have no argument with contributions being made to nonprofit organizations from the City of Berkeley, but believe they should be made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley, not from individual Council members. Perhaps a nonprofit fund could be set up from which the donations could be made from recommendations made to one of the Council's Policy Commissions. This would free funds for other purposes now being directed to nonprofit organizations from individual Councilmember's D-13 accounts.

**Proposed Action:**

At this stage, the Council has referred both the issues relating to officeholder accounts and those relating to D-13 accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee agreed to work collaboratively with the FCPC and OGC on matters relating to officeholder

accounts and D-13 accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

Consistent with the prior actions of the Council and the FCPC/OGC, the Commissions recommend the establishment of a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to:

(1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts, and

(2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects related to the recommendation in this report.

#### RATIONALE FOR RECOMMENDATION

The “double green light” process requires that the FCPC adopt an amendment by a two-thirds vote, and that the City Council hold a public hearing and also adopt an amendment by a two-thirds vote. Evidence to date suggests there are differences of perspective regarding this matter between the City Council and the FCPC regarding the D-13 accounts. It would seem to be a rational step to discuss and come to agreement and possibly compromise prior to the “double green light” process.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CITY MANAGER

#### CONTACT PERSON

Brad Smith, Chair, Fair Campaign Practices and Open Government Commissions,  
(510) 981-6998

Samuel Harvey, Commission Secretary, Fair Campaign Practices and Open  
Government Commissions, (510) 981-6998



Fair Campaign Practices Commission

Date: September 17, 2020

To: Fair Campaign Practices Commission

From: Commissioner Patrick O'Donnell

Subject: Amendments to the Berkeley Election Reform Act to regulate officeholder accounts

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In 2019, the FCPC approved an amendment to the Berkeley Election Reform Act (“BERA”) prohibiting officeholder accounts. That proposal was submitted to Council. However, some councilmembers have expressed opposition to an outright ban on officeholder accounts and a preference for developing regulations for those accounts. This report contains a new alternative proposal to regulate – rather than prohibit – officeholder accounts. At its July 16, 2020 meeting, the Commission voted to direct Commissioner O’Donnell to return at the Commission’s September 17, 2020 meeting with a version of the proposal drafted as an amendment to BERA that can be voted on and presented to Council.

## Background

During 2019, the Commission discussed whether there is a need to amend the law relating to the use of officeholder accounts. These accounts are not expressly regulated by BERA. But under current law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and may trigger various local and state legal requirements. A 1999 legal opinion from the City Attorney stated: “[t]he mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable laws.” (Report, page 14.)

In the course of its review of the issue of officeholder accounts, the Commission considered three options: (1) leaving the law on officeholder accounts unchanged; (2) prohibiting officeholder accounts entirely (an approach used by the City of San Jose), or

(3) authorizing officeholder accounts but limiting their use and imposing various restrictions and requirements on them (an approach used by the City of Oakland).

The Commission referred the issue of officeholder accounts to a subcommittee, which met in the fall of 2019 and considered the options. The subcommittee unanimously recommended prohibiting officeholder accounts entirely. At its regular meeting on November 21, 2019 the Commission voted without opposition to recommend amendments to the BERA that would prohibit officeholder accounts.

The Commission's proposal was presented to the City Council at a February 4, 2020 special meeting. (Report to the Council, with Attachments, is attached.) The FCPC report summarized its proposal: "Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also the goal of the Fair Elections Act of 2016." (Report, page 1.) At the February 4 meeting, the Council had a lengthy discussion about their D13 accounts and the lack of discretionary funds that members have to spend. They also decided not to approve the FCPC recommendation to prohibit officeholder Accounts. (See Memorandum to FCPC dated February 12, 2020, a copy of which is attached.)

The City Council, however, referred both the issues relating to D13 accounts and those relating to officeholder accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee had an initial discussion of these topics. At that meeting, it was agreed that the Council Committee would work collaboratively with the FCPC on matters relating to D13 accounts and officeholder accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

### **Alternative Proposal for Legislation on Officeholder Accounts**

Given the Council's opposition to accepting an outright prohibition of officeholder accounts, the FCPC should at least explore some alternatives, including the option of amending the BERA to allow for officeholder accounts that would be subject to limitations, as the City of Oakland has done. The subcommittee which examined officeholder accounts briefly discussed this option but, given that there was unanimous support for prohibiting officeholder accounts entirely, it never developed a detailed proposal for this kind of alternative. However, now that the FCPC/OGC will be in conversation with the council about the options going forward, it seems to make good sense to examine in more detail what the alternative might look like.

For discussion purposes, a draft proposal to amend the BERA is attached (Attachment 1). It is based generally on the Oakland ordinance but differs in important ways from that statute. The basic concept behind this alternative is to allow officeholders to have *true* officeholder accounts, but to insure that the funds in these accounts are

used *strictly* for officeholder purposes and may not be used for political campaigns or other non-officeholder purposes. The proposal would also include limitations on the amount each donor may contribute and the total amount of donations to each officeholder account permitted annually. The amendments would require disclosures of the sources and amounts of all donations and expenditures. And they would specify how officeholder accounts are to be terminated.

Although not as fully effective as the complete prohibition of officeholder accounts previously recommended by the FCPC, this approach would allow officeholders to create regulated accounts for proper officeholder purposes. At the same time, these true officeholder accounts would be subject to public scrutiny and express limitations that would prevent serious abuses. Finally, the strict prohibitions in the proposed legislation against using any funds from officeholder accounts for campaign purposes would greatly simplify the management and oversight of these accounts. Current state law, which permits certain officeholder funds to be redesignated for campaign purposes under certain circumstances and subject to various disclosure and notice requirements, creates a nightmare of administrative and reporting requirements. It has made it difficult for officeholders to comply with the law and has established traps for the unwary. Thus, it is hardly surprising that most candidates elected to public office do not even attempt to set up officeholder accounts.

In the end, it may well be that the alternative presented here—or any other—may be unable to carry the day. Because of the double-green light requirements of BERA, no proposal may be able to garner the 2/3 votes of both the Council and Commission required to change the law. But for the purposes of collaborating with the Council on ways of improving the officeholder account process, the Commission should review the attached proposal which offers at least one possible scenario for addressing the problems and pitfalls involved with officeholder accounts.

Prior to approving this item, the Commission will need to make a determination regarding the dollar amounts for limits on donations to officeholder accounts. These amounts are highlighted in the attached Proposal in Section 2.12.600.E & F.

Attachments:

1. New draft proposed amendments to BERA to allow for officeholder accounts, to limit such accounts to being used strictly for officeholder purposes, and to subject these accounts to various other limitations and disclosure requirements (“Proposal”)
2. Report to the City Council from the Fair Campaign Practices Commission entitled “Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts: Amending BMC Chapter 2.12” (for Public Hearing on February 4, 2020) (with Attachments) (“Report”)
3. Memorandum from Dean Metzger, Chair, to FCPC dated February 12, 2020 (with Attachments) (“Memorandum”)





Fair Campaign Practices Commission

PUBLIC HEARING  
XXXXX XX, XXXX

To: Honorable Mayor and Members of the City Council  
From: Brad Smith, Chair, Open Government Commission  
Submitted by: Samuel Harvey, Secretary, Fair Campaign Practices Commission  
Subject: Amendments to the Berkeley Election Reform Act

RECOMMENDATION

Adopt an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to regulate officeholder accounts.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

These recommended amendments to the Berkeley Lobbyist Registration Act were approved by the Open Government Commission at its regular meeting of XXXXX XX, XXXX.

**Action:**

**Vote:**

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the “double green light” process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

BACKGROUND

In 2019, the FCPC approved an amendment to the Berkeley Election Reform Act (“BERA”) prohibiting officeholder accounts. That proposal was submitted to Council. However, some councilmembers have expressed opposition to an outright ban on officeholder accounts and a preference for developing regulations for those accounts. This report contains a new alternative proposal to regulate – rather than prohibit – officeholder accounts.

During 2019, the Commission discussed whether there is a need to amend the law relating to the use of officeholder accounts. These accounts are not expressly regulated



by BERA. But under current law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and may trigger various local and state legal requirements. A 1999 legal opinion from the City Attorney stated: “[t]he mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable laws.” (Report, page 14.)

In the course of its review of the issue of officeholder accounts, the Commission considered three options: (1) leaving the law on officeholder accounts unchanged; (2) prohibiting officeholder accounts entirely (an approach used by the City of San Jose), or (3) authorizing officeholder accounts but limiting their use and imposing various restrictions and requirements on them (an approach used by the City of Oakland).

The Commission referred the issue of officeholder accounts to a subcommittee, which met in the fall of 2019 and considered the options. The subcommittee unanimously recommended prohibiting officeholder accounts entirely. At its regular meeting on November 21, 2019 the Commission voted without opposition to recommend amendments to the BERA that would prohibit officeholder accounts.

The Commission’s proposal was presented to the City Council at a February 4, 2020 special meeting. (Report to the Council, with Attachments, is attached.) The FCPC report summarized its proposal: “Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also the goal of the Fair Elections Act of 2016.” (Report, page 1.) At the February 4 meeting, the Council had a lengthy discussion about their D13 accounts and the lack of discretionary funds that members have to spend. They also decided not to approve the FCPC recommendation to prohibit officeholder Accounts. (See Memorandum to FCPC dated February 12, 2020, a copy of which is attached.)

The City Council, however, referred both the issues relating to D13 accounts and those relating to officeholder accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee had an initial discussion of these topics. At that meeting, it was agreed that the Council Committee would work collaboratively with the FCPC on matters relating to D13 accounts and officeholder accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

### **Alternative Proposal for Legislation on Officeholder Accounts**

At its September 17, 2020 meeting, the FCPC passed the attached proposal to amend the BERA (Attachment 1). It is based generally on the Oakland ordinance but differs in important ways from that statute. The basic concept behind this alternative is to allow officeholders to have *true* officeholder accounts, but to insure that the funds in these accounts are used *strictly* for officeholder purposes and may not be used for political

campaigns or other non-officeholder purposes. The proposal also includes limitations on the amount each donor may contribute and the total amount of donations to each officeholder account permitted annually. The amendments would require disclosures of the sources and amounts of all donations and expenditures, and specify how officeholder accounts are to be terminated.

This approach would allow officeholders to create regulated accounts for proper officeholder purposes. At the same time, these true officeholder accounts would be subject to public scrutiny and express limitations that would prevent serious abuses. Finally, the strict prohibitions in the proposed legislation against using any funds from officeholder accounts for campaign purposes would greatly simplify the management and oversight of these accounts. Current state law, which permits certain officeholder funds to be redesignated for campaign purposes under certain circumstances and subject to various disclosure and notice requirements, creates a nightmare of administrative and reporting requirements. It has made it difficult for officeholders to comply with the law and has established traps for the unwary. Thus, it is hardly surprising that most candidates elected to public office do not even attempt to set up officeholder accounts.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects related to the recommendation in this report.

#### RATIONALE FOR RECOMMENDATION

This proposal is offered as an alternative to the proposed ban on officeholder accounts previously submitted to Council by the FCPC. This proposal would regulate – rather than prohibit – officeholder accounts.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CITY MANAGER

#### CONTACT PERSON

Brad Smith, Chair, Open Government Commission, (510) 981-6998

Samuel Harvey, Commission Secretary, Open Government Commission (510) 981-6998

#### Attachments:

1. Proposed ordinance amending BERA to allow and regulate officeholder accounts
2. Report to the City Council from the Fair Campaign Practices Commission entitled “Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts: Amending BMC Chapter 2.12” (for Public Hearing on February 4, 2020) (with Attachments) (“Report”)
3. Memorandum from Dean Metzger, Chair, to FCPC dated February 12, 2020 (with Attachments) (“Memorandum”)

ORDINANCE NO. -N.S.

AMENDING THE BERKELEY ELECTION REFORM ACT TO REGULATE  
OFFICEHOLDER ACCOUNTS

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

Section 1. That the Berkeley Municipal Code section 2.12.157 is added to read as follows:

**Section 2.12.157 Officeholder account.**

“Officeholder account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

Section 2. That Article 9 of Chapter 2.12 of the Berkeley Municipal Code is added to read as follows

Article 9. Officeholder Accounts

**Section. 2.12.600 Regulation of officeholder accounts.**

A. The mayor and council members (the “officeholder” or “office holders”) shall each be permitted to establish one officeholder account, as defined in section 2.12.157.

B. All donations deposited into an officeholder account shall be deemed to be held in trust solely for expenses associated with holding the office currently held by the elected city officer. For the purpose of this section, “donation” means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, in support of the office currently held by an elected official.

C. Only a natural person who is a resident of the City may make a donation to an officeholder account.

D. Donations to an officeholder account must be made by a separate check or other separate written instrument. Single donations may not be divided between the officeholder account and any candidate committee or other entity.

E. No donor shall make, and no elected officer shall receive from a donor, a donation or donations under this section totaling more than fifty [or two-hundred and fifty] dollars (\$50.00 [or \$250.00]) per person for the calendar year. “Donor” means a natural person who is a resident of the City who makes a donation as defined in paragraph B.

F. For the office of mayor, total donations to an officeholder account from all donors shall not exceed ten thousand dollars (\$10,000.00) in the aggregate per calendar year. For each member of the city council, total donations to an officeholder account from all donors shall not exceed five thousand dollars (\$5,000.00) in the aggregate per calendar year.

G. All donations received for, and expenditures made from, an officeholder account during a calendar year shall be reported at least annually on the date or dates prescribed by the commission and the report shall be made available to the public promptly thereafter. The commission shall adopt or designate a form or forms for the purpose of reporting the information about each elected officer's officeholder account. The forms shall be filed electronically. The information on the form or forms shall be verified by the officeholder. The information that shall be included in the officeholder account report shall include the following:

1. The name of the officeholder and the office held;
2. The reporting period covered by the report;
3. A description of all receipts and expenditures.
4. The full name of each donor from whom a donation or donations has been received together with his or her street address, occupation, and the name of his or her employer, if any, or the principal place of business if he or she is self-employed; the amount which he or she donated; the date on which the each donation was received during the period covered by the report; and the cumulative amount that the donor donated. Loans received shall be set forth in a separate schedule and the foregoing information shall be stated with regard to each lender, together with the date and amount of the loan, and if the loan has been repaid, the date of the payment and by whom paid;
5. The full name and street address of each person to whom an expenditure or expenditures have been made, together with the amount of each separate expenditure to each person during the period covered by the report; a description of the purpose for which the expenditure was made; and the full name and street address of the person receiving the expenditure.
6. Under the heading "receipts," the total amount of donations received, and under the heading "expenditures," the total amount of expenditures made during the reporting period and cumulative amount of such totals;
7. The balance of cash and cash equivalents, including the amounts in the officeholder bank account, at the beginning and end of each period covered by the report.

H. Expenditures from an officeholder account may be made only for-lawful officeholder purposes, and may not be used for any of the purposes prohibited in subsections J. and K. of this section.

I. Allowable expenditures from an officeholder account include the following:

1. Expenditures for fundraising (including solicitations by mail) for the officeholder account;
2. Expenditures for office equipment, furnishings and office supplies;

3. Expenditures for office rent;

4. Expenditures for salaries of part-time or full-time staff employed by the officeholder for officeholder activities;

5. Expenditures for consulting, research, polling, photographic or similar services except for campaign expenditures for any city, county, regional, state or federal elective office;

6. Expenditures for conferences, meetings, receptions, and events attended in the performance of government duties by (1) the officeholder (2) a member of the officeholder's staff; or (3) such other person designated by the officeholder who is authorized to perform such government duties;

7. Expenditures for travel, including lodging, meals and other related disbursements, incurred in the performance of governmental duties by (1) the officeholder, (2) a member of the officeholder's staff, (3) or such other person designated by the officeholder who is authorized to perform such government duties;

8. Expenditures for memberships to civic, service or professional organizations, if such membership bears a reasonable relationship to a governmental, legislative or political purpose;

9. Expenditures for an educational course or educational seminar if the course or seminar maintains or improves skills which are employed by the officeholder or a member of the officeholder's staff in the performance of his or her governmental responsibilities;

10. Expenditures for mailing to persons within the city which provide information related to city-sponsored events, an official's governmental duties or an official's position on a particular matter pending before the Council or Mayor;

11. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the officeholder communicates in his or her official capacity;

12. Expenditures for payment of tax liabilities incurred as a result of authorized officeholder expense fund transactions; and

13. Expenditures for accounting, professional and administrative services provided to the officeholder account.

J. Officeholder expense funds shall not be used for the following:

1. Expenditures in connection with a future election for any city, county, regional, state or federal elective office or in connection with a ballot measure;

2. Expenditures for campaign consulting, research, polling, photographic or similar services for election to city, county, regional, state or federal elective office;

3. Membership in any athletic, social, fraternal, veteran or religious organization;

4. Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course or hours of his or her duties as a city official or employee;

5. Any expenditure that would violate the provisions the California State Political Reform Act, including Government Code Sections 89506 and 89512 through 89519, and any provisions of the BERA.

K. Prohibitions:

1. No funds may be contributed or transferred from an officeholder account to any candidate or committee, as defined in sections 2.12.085 and 2.12.095 of this chapter, including to any committee in which the officeholder is a candidate. An officeholder may not redesignate his or her officeholder account as a committee for a future term of the same office or redesignate his or her officeholder funds to be used as campaign funds by his or her committee for a future term of the same office.

2. No funds may be used from an officeholder account to pay any campaign expenses.

3. An officeholder may not transfer or contribute funds from any other committee he or she controls to the officeholder account.

L. Once an officeholder's term of office ends or she or he leaves that office, whichever is earlier, the former officeholder may use his or her officeholder funds only for the following purposes:

1. Paying for legitimate, outstanding officeholder expenses.

2. Repaying contributions to contributors to the officeholder accounts.

3. Making a donation to a bona fide charitable, educational, civic, religious or similar tax-exempt, non-profit organization if no substantial part of the proceeds will have a material financial effect on the officeholder, a member of his or her immediate family, or his or her committee treasurer.

M. The officeholder shall terminate the officeholder account within 90 days of the date that the officeholder's term of office ends or he or she leaves that office, whichever is earlier. The Commission may for good cause extend the termination date. The disposition of all funds from the closed officeholder account, including the identification of all persons and entities that have received funds from the account and the amounts distributed, shall be described on a form prescribed by the Commission. The officeholder must verify and file the form electronically no later the date prescribed for the termination of the officeholder account or an approved extension thereof.

N. All funds from a closed officeholder account not properly disposed of within the 90 day period prescribed above, or an approved extension thereof, shall be deposited in the City's general fund.

O. Violations of this article involving the unlawful use of officeholder accounts are subject to the procedures of, and the penalties in, Article 7 of this chapter.

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT**

The Fair Campaign Practices Commission is proposing amendments to the Berkeley Election Reform Act related to the regulation of officeholder accounts.

The hearing will be held on, [date of hearing] at [6:00 p.m.] in the School District Board Room, 1231 Addison Street.

A copy of the agenda material for this hearing will be available on the City’s website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of [date of agenda posting].

For further information, please contact Samuel Harvey, Commission Secretary at 981-6998.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley 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. 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 at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

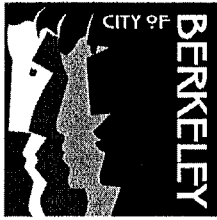
**Published:** [Publication Date in Newspaper]

Pursuant to Berkeley Municipal Code section 2.12.051

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I hereby certify that the Notice for this Public Hearing 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 [Enter Date].

\_\_\_\_\_  
Mark Numainville, City Clerk





Fair Campaign Practices Commission

PUBLIC HEARING  
February 4, 2020

To: Honorable Mayor and Members of the City Council  
From: Fair Campaign Practices Commission  
Submitted by: Dean Metzger, Chairperson, Fair Campaign Practices Commission  
Subject: Amendments to the Berkeley Election Reform Act to prohibit  
Officeholder Accounts; Amending BMC Chapter 2.12

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to prohibit Officeholder Accounts (See Section 18531.62. Elected State Officeholder Bank Accounts, Regulations of the Fair Political Practices Commission).

SUMMARY

Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also a goal of the Fair Elections Act of 2016.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The proposed amendments to the Berkeley Election Reform Act (BERA) were adopted by the Fair Campaign Practices Commission (FCPC) at its regular meeting of November 21, 2019.

**Action:** M/S/C (Smith/Saver) to adopt the proposed amendments to BERA related to Officeholder Accounts.

**Vote:** Ayes: Metzger, Ching, Saver, Blome, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: O'Donnell (excused).

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the "double green light" process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

PUBLIC HEARING  
February 4, 2020

BACKGROUND

The Fair Campaign Practices Commission has supported creating the circumstances in which the incumbent and challengers during an election play on as level a playing field as possible and reducing the influence of private campaign contributions. For instance, the Berkeley Fair Elections Act of 2016, which was passed by voters and recommended to Council by the Commission, included the following express purposes:

- Eliminate the danger of actual corruption of Berkeley officials caused by the private financing of campaigns.
- Help reduce the influence of private campaign contributions on Berkeley government.
- Reduce the impact of wealth as a determinant of whether a person becomes a candidate.

(Section 2.12.490(B)-(D).)

A recent inquiry to the Commission Secretary regarding the regulation of Officeholder Accounts resulted in a request from a Commissioner to have discussion of these accounts placed on the May 16, 2019 agenda for possible action. The following motion was made and passed at that meeting:

Motion to request staff work with Commissioner Smith to bring to a future meeting background information and a proposal to eliminate officeholder accounts (M/S/C: O'Donnell/Blome; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

**Definition of an Officeholder Account**

Under state law, an "officeholder account" refers to the funds held in a single bank account at a financial institution in the State of California separate from any other bank account held by the officeholder and that are used for "paying expenses associated with holding public office." Officeholder Account funds cannot be used to pay "campaign expenses." This definition is drawn from state law applicable to statewide elected officials: Government Code section 85316 (Attachment 2), and the accompanying regulation by the Fair Political Practices Commission (FPPC) codified at Title 2, Division 6, of the California Code of Regulations, Section 18531.62 (Attachment 3).

Contributions to or expenditures from an Officeholder Account are not subject to BERA's reporting requirements. (The FPPC still requires the reporting of activity relating to Officeholder Accounts, which is available to view on Berkeley's Public Access Portal.) If, however, a complaint is filed that an Officeholder Account is used for

Amendments to the Berkeley Election Reform Act  
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PUBLIC HEARING  
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campaign contributions or to pay "campaign expenses," BERA can be used to respond to the complaint. The legal arguments for these statements are contained in a memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert, dated December 28, 1999 and a December 9, 1991 memorandum by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, that is attached to the December 28, 1999 memo. (Attachment 4.) Because the BERA provisions relied on in these memoranda have not been amended, and because no other BERA provisions have been added to regulate officeholder accounts, the memoranda's conclusions remain valid and are still controlling guidance.

### **Contributions to Officeholder Accounts**

Funds raised for Officeholder Accounts in Berkeley are not subject to any limitations, either from the FPPC or BERA. Neither is there a limit on the total amount the Officeholder Account fund may receive in contributions per year. Contributions to an elected official's Officeholder Account may put that contributor in a more favorable light with the elected official than might otherwise be the case.

### **Expenditures from Officeholder Accounts**

Except for the restriction that Officeholder Account funds cannot be used for "campaign expenses," BERA does not restrict how funds from Officeholder Accounts can be used.

There are a number of permissible expenditures from Officeholder Accounts that could put an elected official in a favorable light with voters that are not available to a challenger for that office. A donation to a nonprofit organization, although technically not a "campaign expense," would be seen favorably by those receiving the funds as well as individuals favorably disposed to the nonprofit organization receiving the funds. An individual running against this incumbent would have to draw on their own resources to make contributions to nonprofit organizations.

As long as political campaigns are not included, newsletters mailed to constituents related to events, information, or an officeholder's position on matters before the Council are a permissible Officeholder Account expenditure. This keeps the incumbent's name in front of the voter in a way unavailable to a challenger unless they pay for a newsletter and its distribution from their own resources.

Expenditures from Officeholder Account funds for flowers and other expressions of condolences, congratulations, or appreciation, while technically not "campaign expenses," also increase the probability that the recipient will be favorably predisposed toward the elected official as a candidate for reelection or election to another office. Again, a challenger would have to draw on their own resources to express condolences, congratulations, or appreciation to their potential supporters.

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February 4, 2020

Further, officeholder accounts can be used to pay for a broad range of office expenses, such as meals, travel, parking tickets, or contributions to other candidates or political parties.<sup>1</sup> Eliminating officeholder accounts would reduce reliance on and the influence of private contributions for these expenditures.

### Recommendation

To make elections more equitable between challengers and incumbent and for the reasons given above, the Fair Campaign Practices Commission recommends prohibiting Officeholder Accounts.

Berkeley will not be the first to prohibit Officeholder Accounts. The San Jose Municipal Code was amended to prohibit officeholder accounts in January 2008. (Chapter 12.06 – ELECTIONS, San Jose, CA Code of Ordinances, p. 10)

#### Part 8 - OFFICEHOLDER ACCOUNTS

##### 12.06.810 - Officeholder account prohibited.

No city officeholder, or any person or committee on behalf of a city officeholder may establish an officeholder account or an account established under the Political Reform Act, California Government Code Section 8100 et seq. as amended, for the solicitation or expenditure of officeholder funds. Nothing in this section shall prohibit an officeholder from spending personal funds on official or related business activities.

The following additions to BERA are proposed:

#### 2.12.157 Officeholder Account

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

#### 2.12.441 Officeholder account prohibited

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.

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<sup>1</sup>Under state law applicable to state elected officials, officeholders may use campaign contributions for “expenses that are associated with holding office.” (Govt. Code, § 89510.) To qualify, expenditures must be “reasonably related to a legislative or governmental purpose.” (*Id.*, § 89512.) “Expenditures which confer a substantial personal benefit shall be directly related to a political, legislative, or governmental purpose.” (*Ibid.*)

Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

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- C. Anyone holding an active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account, in accordance with FPPC guidelines.

ENVIRONMENTAL SUSTAINABILITY

There are no identified environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

This proposed change to BERA will help to level the playing field between challengers and the incumbent running for elective office.

ALTERNATIVE ACTIONS CONSIDERED

A Subcommittee was formed to consider the options of (1) amending the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts, (2) amending BERA to mitigate possible advantages incumbents with an Officeholder Accounts have over challengers, or (3) doing nothing with regard to Officeholder Accounts. The four members of the Subcommittee recommended unanimously to the full Commission to amend the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts.

CITY MANAGER

The City Manager takes no position on the content and recommendations of this report.

CONTACT PERSON

Dean Metzger, Chair, Fair Campaign Practices Commission. 981-6998

Attachments:

- 1: Proposed Ordinance
- 2: Government Code section 85316
- 3: Section 18531.62 (Elected State Officeholder Bank Accounts), Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations
- 4: Memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert (including attached memorandum signed by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, to the FCPC)

ORDINANCE NO. ##,###-N.S.

OFFICEHOLDER ACCOUNT PROHIBITED; AMENDING BERKELEY MUNICIPAL CODE  
CHAPTER 2.12

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

Section 1. That Berkeley Municipal Code section 2.12.157 is added to read as follows:

**BMC 2.12.157 Officeholder account**

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

Section 2. That Berkeley Municipal Code section 2.12.441 is added to read as follows:

**BMC 2.12.441 Officeholder account prohibited**

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.
- C. This provision does not affect a candidate’s ability to establish a legal defense fund or the requirements for such a fund, as set forth in the Political Reform Act or by regulation.
- D. Any active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account.

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



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**GOVERNMENT CODE - GOV**

**TITLE 9. POLITICAL REFORM [81000 - 91014]** ( Title 9 added June 4, 1974, by initiative Proposition 9. )

**CHAPTER 5. Limitations on Contributions [85100 - 85802]** ( Chapter 5 added June 7, 1988, by initiative Proposition 73. )

**ARTICLE 3. Contribution Limitations [85300 - 85321]** ( Article 3 added June 7, 1988, by initiative Proposition 73. )

**85316.** (a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) No person shall make, and no elected state officer shall receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

- (A) Three thousand dollars (\$3,000) in the case of an elected state officer of the Assembly or Senate.
- (B) Five thousand dollars (\$5,000) in the case of a statewide elected state officer other than the Governor.
- (C) Twenty thousand dollars (\$20,000) in the case of the Governor.

(2) No elected state officer shall receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

- (A) Fifty thousand dollars (\$50,000) in the case of an elected state officer of the Assembly or Senate.
- (B) One hundred thousand dollars (\$100,000) in the case of a statewide elected state officer other than the Governor.
- (C) Two hundred thousand dollars (\$200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that he or she may seek during the term of office to which he or she is currently elected, including, but not limited to, reelection to the office he or she currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. None of the expenditures made by elected state officers pursuant to this subdivision shall be subject to the voluntary expenditure limitations in Section 85400.

(4) The commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100).

(Amended by Stats. 2007, Ch. 130, Sec. 149. Effective January 1, 2008. Note: This section was added by Stats. 2000, Ch. 102, and approved in Prop. 34 on Nov. 7, 2000.)

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

**§ 18531.62. Elected State Officeholder Bank Accounts.**

(a) Application and Definitions. For purposes of Section 85316(b) and this regulation, the following definitions apply:

(1) "Officeholder" means an elected state officer.

(2) "Officeholder controlled committee" means a committee formed pursuant to subdivision (c) of this regulation.

(3) "Officeholder account" means the bank account established at a financial institution located in the State of California pursuant to Section 85316(b).

(4) "Officeholder funds" means money in the officeholder account.

(b) Establishing the Officeholder Account: For purposes of Section 85316(b), an officeholder shall maintain officeholder funds in a single bank account separate from any other bank account held by the officeholder.

(c) Establishing the Officeholder Controlled Committee, Reporting and Recordkeeping:

(1) Formation: The officeholder shall establish a controlled committee by filing a statement of organization pursuant to Section 84101 if the officeholder receives \$2,000 or more in officeholder contributions in a calendar year.

(2) Committee Name: The controlled committee name shall include the officeholder's last name, the office held, the year the officeholder was elected to the current term of office, and the words "Officeholder Account." The statement of organization shall include the name, account number, and address of the financial institution where the committee established the officeholder account.



(3) Filing Requirements: The controlled committee shall file campaign statements and reports pursuant to Chapters 4 and 5, except Sections 85200 and 85201, of Title 9 of the Government Code at the same times and in the same places as it otherwise would be required to do for any other controlled committee formed by the officeholder for election to state office.

(4) Required Recordkeeping and Audits. The officeholder and treasurer shall be subject to recordkeeping requirements under Section 84104. The officeholder account and officeholder controlled committee shall be subject to audits under Chapter 10 of Title 9 of the Government Code. Any audit of the officeholder, or any of his or her controlled committees, under Section 90001 shall include all officeholder accounts and officeholder controlled committees maintained by the officeholder during the audit period as described in Regulation 18996(a)(1).

(d) Prohibitions:

(1) Officeholder funds may not be contributed or transferred to another state or local committee, including any other controlled committee of the officeholder, except as permitted in subdivisions (g) (2) and (g)(3).

(2) Officeholders may not use officeholder funds to pay "campaign expenses" as defined in Regulation 18525(a).

(3) The officeholder may not transfer or contribute funds from any other committee he or she controls to the officeholder account, except as permitted in subdivision (g)(2) and (g)(3).

(e) Contributions to the Officeholder Account:

(1)(A) Required Notices: In addition to the requirements of Regulation 18523.1, a written solicitation for contributions to the officeholder account shall include the following: "For purposes of the Political Reform Act's contribution limits, a contribution to an officeholder

account is also considered to be a contribution to all campaign committees for future elective state office the officeholder seeks during his or her current term of office.”

(B) In addition to the requirements of subparagraph (A) above, an officeholder who files a statement of intention to be a candidate for any elective state office during the officeholder's term of office shall provide notice of this filing to every person that has made a contribution to his or her officeholder account. The notice shall contain the language in subparagraph (A) and be transmitted or mailed within 10 days of filing the statement of intention to be a candidate.

(2) Cumulation: A contribution to the officeholder account shall also be deemed a contribution to the officeholder's controlled committee for election to elective state office for the purposes of Section 85316(b)(3) only under all of the following circumstances:

(A) The contributor makes the contribution between the day the election was held for the term of office for which the officeholder account was established and the end of that term of office;

(B) The officeholder maintains the controlled committee, established for a future term of elective state office, at any time during the period covered in subparagraph (A).

(3) Cumulation and Primary and General Elections: A person's contributions to the officeholder account, when combined with contributions from the same person for a primary and general election to the elective state office may not exceed the contribution limits applicable to the primary and general election.

(4) Multiple Officeholder Accounts: When an officeholder maintains more than one officeholder account in the same calendar year, he or she may not receive the following contributions to any of those accounts during that calendar year:

(A) Contributions from a single contributor that, when cumulated for all the accounts, exceed the maximum amount the contributor could give to the officeholder account having the highest per person contribution limit under Section 85316(b)(1).

(B) Contributions from all contributors that, when cumulated for all the accounts, exceed the maximum amount in total contributions the officeholder could receive in the officeholder account having the highest aggregate contribution limit under Section 85316(b)(2).

(f) Contributions Over the Limits:

(1) An officeholder shall return to the contributor the portion of any contribution to his or her officeholder account that exceeds the limits of Section 85301, 85302 (after cumulation) or 85316 (either alone or after cumulation) by the earlier of 14 days of receipt or 14 days of the date the officeholder files a statement of intention to be a candidate for elective state office pursuant to Section 85200.

(2) A contributor to the officeholder account does not violate the contribution limits applying to the officeholder's election to a future elective state office as otherwise provided under Section 85316(b)(3) if, when he or she makes the contribution, the officeholder has not filed a statement of organization to establish a controlled committee for election to a future elective state office.

(g) Terminating Officeholder Accounts and Committees:

(1) The officeholder may not accept contributions after the officeholder's term of office ends or the date he or she leaves that office, whichever is earlier.

(2) The officeholder may redesignate the officeholder account as an officeholder controlled committee for a future term of the same office by amending the statement of

organization for the committee to reflect the redesignation for the future term of office prior to the date the officer's term of office ends.

(3) An officeholder may redesignate officeholder funds in the redesignated officeholder account as officeholder funds for the new term of office, subject to the limitations in subdivision

(e)(4).

(4) Once the officeholder's term of office ends or he or she leaves that office, whichever is earlier, the officeholder may only use his or her officeholder funds for the following purposes:

(A) Paying outstanding officeholder expenses.

(B) Repaying contributions to contributors to the officeholder account.

(C) Making a donation to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, if no substantial part of the proceeds will have a material financial effect on the officeholder, a member of his or her immediate family, or his or her committee treasurer.

(D) Paying for professional services reasonably required by the officeholder controlled committee to assist in the performance of its administrative functions.

(5) The officeholder shall terminate the officeholder controlled committee within 90 days of the date the officer's term of office ends or he or she leaves that office, whichever is earlier. The Executive Director may for good cause extend the termination date or permit the candidate to reopen the account.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 84104, 85316 and 90000-90007, Government Code.

**HISTORY**

1. New section filed 7-3-2007; operative 8-2-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2007, No. 27). For prior history, see Register 2007, No. 26.
2. Change without regulatory effect amending section filed 3-22-2016; operative 4-21-2016 pursuant to 2 CCR 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 13).



Office of the  
City Attorney

**DATE:** December 28, 1999

**TO:** BARBARA GILBERT,  
Aide to Mayor Shirley Dean

**FROM:** MANUELA ALBUQUERQUE, City Attorney *MA*  
By: CAMILLE COUREY, Deputy City Attorney

**SUBJECT:** APPLICATION OF BERKELEY ELECTION REFORM ACT TO OFFICEHOLDER ACCOUNTS

**ISSUE:**

Does the Berkeley Election Reform Act (BERA) govern officeholder accounts?

**CONCLUSION:**

No. The BERA does not govern true officeholder accounts per se. However, the mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under the BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable local laws.

**ANALYSIS:**

Sarah Reynoso, former secretary and staff counsel to the Fair Campaign Practices Commission (FCPC), issued an opinion to the FCPC dated December 2, 1991, a copy of which is attached, stating that the BERA's contribution limit does not apply to contributions made to an officeholder account. The opinion reasons that the BERA's contribution limit applies only to "contributions" as defined in the BERA, i.e., which are made directly or indirectly in support of or in opposition to the nomination or election of one or more candidates to elective office. (See Berkeley Municipal Code (BMC) § 2.12.100.) Contributions to a true officeholder account are not made for the purpose of nominating or electing a candidate to office, but rather for the use of an officeholder in carrying out the duties of his or her office. Therefore, the contribution limit of the BERA is inapplicable to officeholder accounts.<sup>1</sup> For similar reasons, the BERA does not

<sup>1</sup> However, the opinion also provided that contributions to officeholder accounts still had to be reported on campaign statements because the State Fair Political Practices Commission (FPPC) Regulations broadly defined contributions as any contribution for "political purposes." Since officeholder expenses are for political purposes, they must be reported to the State.

Barbara Gilbert  
Re: Application of Berkeley Election Reform Act To Officeholder Accounts  
December 28, 1999  
Page 2

apply to true officeholder accounts.

The BERA requires the filing of statements to report the amounts received and expended in municipal elections. (See BMC §§ 2.12.015, 2.12.030 through 2.12.050) Specifically, a "campaign statement" required to be filed under the BERA is an itemized report which provides the information required by Sections 2.12.245 through 2.12.325 of the BERA. (BMC § 2.12.080.) Sections 2.12.245 through 2.12.325 govern the reporting of contributions and expenditures. "Contributions" and "expenditures" are defined by the BERA as any amounts received or expended, respectively, in aid of or in opposition to the nomination or election of one or more candidates to elective office. (See BMC §§ 2.12.100 and 2.12.130.) Contributions to or expenditures from a true officeholder account are not subject to the BERA's reporting requirements because they are made for the purpose of carrying out the duties of elective office, and not for the purpose of aiding or opposing the nomination or election of one or more candidates to elective office.<sup>2</sup> Therefore, the BERA does not apply to true officeholder accounts.

However, the fact that an account may be designated as an officeholder account will not shield it from scrutiny under the BERA if the officeholder account is, in fact, being used for the receipt of contributions or the making of expenditures in aid of the nomination or election of a candidate for local elective office. Nor will BERA requirements, such as the \$250 contribution limit or the prohibition against contributions from businesses to candidates, be held inapplicable if contributions made initially to an officeholder account are transferred subsequently to a campaign account. Where the actions taken with respect to an officeholder account implicate campaign contributions and expenditures in municipal elections, the officeholder account will be scrutinized under the BERA and other applicable local law.

Attachment

cc: Fair Campaign Practices Commission  
Sherry Kelly, City Clerk

City Attorney Opinions Index: H.E.I. and H.L.G.

CCM

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<sup>2</sup> Again, however, the State FPPC still requires the reporting of activity relating to an officeholder account. (See footnote 1.)

CITY OF BERKELEY

DATE: December 9, 1991

Memorandum

TO: FCPC COMMISSIONERS

FROM: Sarah Reynoso,  Secretary & Staff Counsel

SUBJECT: APPLICABILITY OF BERA'S CONTRIBUTION LIMIT TO FUNDS RAISED FOR OFFICEHOLDER EXPENSES

BACKGROUND AND ISSUE

I received the attached letter from Richard N. Lerner, treasurer of Friends of Ioni Hancock Committee ("Committee"), regarding the applicability of BERA's (Berkeley Election Reform Act) \$250 contribution limit to funds raised to cover officeholder expenses. The Committee would like to raise money to cover activities by the Mayor for which the City has not allocated funds, for example, distribution of a newsletter and international travel to visit Berkeley Sister Cities.

Thus, the issue presented to the Commission is as follows: Is BERA's \$250 contribution limit applicable to funds raised for officeholder expenses?

CONCLUSION

No. The BERA's contribution limitation is only applicable to money raised "in aid of or in opposition to the nomination or election" of a candidate. Since the Committee intends to raise these funds for activities unrelated to the nomination or election of the Mayor, they are not subject to the BERA's \$250 contribution limitation. However, such funds must be reported as contributions under the State Political Reform Act and their expenditure itemized on the disclosure forms.

ANALYSIS

The BERA prohibits candidates for elective office from soliciting or accepting a contribution of more than \$250 from any one contributor. (BERA section 2.12.415.) Thus, funds which fall within BERA's definition of a contribution, are subject to the \$250 limit. In order to determine whether funds raised for officeholder expenses are subject to the contribution limitation, BERA's definition of contribution must be reviewed.

The BERA defines contribution, in part, as follows:

"Contribution" means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or



FCPC COMMISSIONERS  
December 9, 1991  
Page 2

in opposition to the nomination or election of one or more candidates . . . . (Emphasis added.)

Thus, the plain language of the BERA requires that a contribution be solicited for purposes related to the nomination or election of a candidate for office to be subject to its contribution limitation. Since the Committee intends to raise funds for purposes unrelated to the Mayor's nomination or election for elective office, such funds do not fall within the BERA's definition and are therefore not subject to its \$250 limitation.

However, because the state Political Reform Act defines contribution to include any funds raised for political purposes, funds raised for officeholder expenses are considered contributions and must be reported on campaign disclosure forms.<sup>1/</sup> (Government Code section 82015.) Additionally, since the court's ruling in SEIU v. FPPC invalidated the state's \$1,000 contribution limit, funds raised for officeholder expenses are not subject to any limitation.

As a final precaution, the Committee should be advised that the FPPC has issued regulations concerning officeholder expenses and it should review them with respect to their interaction with the BERA.

Attachment

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<sup>1/</sup>I spoke with the FPPC's legal staff and confirmed that funds raised for officeholder expenses must be reported as contributions on the campaign disclosure forms.

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT**

The Fair Campaign Practices Commission is proposing amendments to the Berkeley Election Reform Act related to the prohibition of officeholder accounts.

The hearing will be held on, February 4, 2020, at 4:00 p.m. in the School District Board Room, 1231 Addison Street.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **January 30, 2020**.

For further information, please contact Samuel Harvey, Commission Secretary at 981-6998.

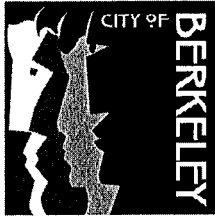
Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley 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. 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 at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** January 24, 2020 – The Berkeley Voice  
Pursuant to Berkeley Municipal Code Section 2.12.051

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I hereby certify that the Notice for this Public Hearing 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 January 30, 2020.

\_\_\_\_\_  
Mark Numainville, City Clerk



[First Last name]  
Councilmember District [District No.]

## SUPPLEMENTAL REVISED AGENDA MATERIAL for Supplemental Packet 2

**Meeting Date:** February 4, 2020

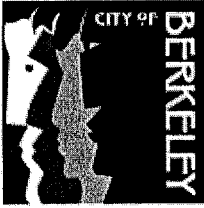
**Item Number:** 2

**Item Description:** Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

**Submitted by:** Councilmember Hahn

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.



**SOPHIE HAHN**

Berkeley City Council, District 5  
2180 Milvia Street, 5th Floor  
Berkeley, CA 94704  
(510) 981-7150  
shahn@cityofberkeley.info

ACTION CALENDAR

February 4, 2020

To: Honorable Mayor and Members of the City Council  
From: Vice Mayor Sophie Hahn  
Subject: Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

RECOMMENDATION

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.

Officeholder accounts are accounts an elected official can open, and raise funds for, to pay for expenses related to the office they hold.<sup>1</sup> They are not campaign accounts, and cannot be used for campaign purposes. The types of expenses Officeholder Accounts can be used for include research, conferences, events attended in the performance of government duties, printed newsletters, office supplies, travel related to official duties, etc. Cities can place limits on Officeholder Accounts, as Oakland has done.<sup>2</sup> Officeholder Accounts must be registered as official "Committees" and adhere to strict public reporting requirements, like campaign accounts. They provide full transparency to the public about sources and uses of funds.

The FCPC bases its recommendation to prohibit Officeholder Accounts on arguments about "equity" and potential "corruption" in elections. The report refers repeatedly to "challengers" and "incumbents," suggesting that Officeholder Accounts are vehicles for unfairness in the election context.

I believe that the FCPC's recommendations reflect a misunderstanding of the purpose and uses of Officeholder Accounts, equating them with campaign accounts and suggesting that they create an imbalance between community members who apparently have already decided to run against an incumbent (so-called "challengers") and elected officials who are presumed to be

<sup>1</sup> <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter5/18531.62.pdf>

<sup>2</sup> <http://www2.oaklandnet.com/w/OAK052051>

always running for office. The recommendations do not take into account some important framing: the question of what funds are otherwise available to pay for Officeholder-type expenses for Officeholders or members of the public. Contrary to the conclusions of the FCPC, I believe Officeholder accounts are an important vehicle to redress a significant disadvantage for elected officials, whose ability to exercise free speech in the community and participate in conferences and events related to their profession is constrained by virtue of holding public office, as compared to community members, whose speech rights are unrestricted in any manner whatsoever, and who can raise money to use for whatever purposes they desire.

Outlawing Officeholder Accounts is also posited as a means to create equity between more and less wealthy Officeholders, on the theory that less affluent Officeholders will have less access to fundraising for Officeholder Accounts than more affluent Officeholders. Because there are no prohibition on using personal funds for many of the purposes for which Officeholder Account funds can be used, prohibiting Officeholder Accounts I believe has the opposite effect; it leaves more affluent Officeholders with the ability to pay for Officeholder expenses from personal funds, without providing an avenue for less affluent Officeholders, who may not have available personal funds, to raise money from their supporters to pay for such Officeholder expenses.

The question of whether Officeholder Accounts should be allowed in Berkeley plays out in the context of a number of rules and realities that are important to framing any analysis.

First, by State Law, elected officials are prohibited from using public funds for a variety of communications that many constituents nevertheless expect. For example, an elected official may not use public funds to send a mailing announcing municipal information to constituents, "such as a newsletter or brochure, [ ] delivered, by any means [ ] to a person's residence, place of employment or business, or post office box."<sup>3</sup> Nor may an elected official mail an item using public funds that features a reference to the elected official affiliated with their public position.<sup>4</sup> Note that Electronic newsletters are not covered by these rules, and can and do include all of these features, even if the newsletter service is paid for by the public entity. That said, while technically not required, many elected officials prefer to use email newsletter distribution services (Constant Contact, MailChimp, Nationbuilder, etc.) paid for with personal (or "Officeholder") funds, to operate in the spirit of the original rules against using public funds for communications that include a photo of, or references to, the elected official.

Without the ability to raise funds for an Officeholder Account, for an elected official to send a paper newsletter to constituents or to use an email newsletter service that is not paid for with public funds, they must use personal funds. A printed newsletter mailed to 5-6,000 households (a typical number of households in a Berkeley City Council District) can easily cost \$5,000+, and an electronic mail service subscription typically costs \$10 (for the most basic service) to \$45 per month, a cost of \$120.00 to over \$500 per year - in personal funds.

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<sup>3</sup> <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

<sup>4</sup> <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

Second, Berkeley City Councilmembers and the Mayor of Berkeley are not paid enough for there to be any reasonable expectation that personal funds should be used for these types of expenses.<sup>5</sup> For many Councilmembers and/or the Mayor, work hours are full time - or more - and there is no other source of income.

Finally, and most importantly, local elected officials are restricted from accepting money or gifts. An elected official cannot under any circumstances raise money to pay for Officeholder expenses such as printed communications, email newsletter services, travel and admission to industry conferences for which the elected official is not an official delegate (e.g., conferences on City Planning, Green Cities, Municipal Finance, etc.), and other expenses related to holding office that are not covered by public funds. Again, without the possibility of an Officeholder Account, an elected official generally must use personal funds for these expenses, allowing more affluent elected officials to participate while placing a hardship or in some cases a prohibition on the ability of less affluent elected officials to undertake these Officeholder-type activities - which support expected communications with constituents and participation in industry activities that improve the elected official's effectiveness.

The elected official's inability to raise funds from others must be contrasted with the ability of a community member - a potential "challenger" who has not yet declared themselves to be an actual candidate - or perhaps a neighborhood association, business or corporation (Chevron, for example) - to engage in similar activities. Nothing restricts any community member or organization from using their own funds - or funds obtained from anyone - a wealthy friend, a corporation, a local business, a community organization or their neighbors - for any purpose whatsoever.

Someone who doesn't like the job an elected official is doing could raise money from family or connections anywhere in the community - or the world - and mail a letter to every person in the District or City criticizing the elected official, or buy up every billboard or banner ad on Facebook or Berkeleyside to broadcast their point of view. By contrast, the elected official, without access to an Officeholder Account, could only use personal funds to "speak" with their own printed letter, billboard or advertisement. Community members (including future "challengers") can also attend any and all conferences they want, engage in travel to visit interesting cities and projects that might inform their thoughts on how a city should be run, and pay for those things with money raised from friends, colleagues, businesses, corporations, foreign governments - *anyone*. They are private citizens with full first amendment rights and have no limitations, no reporting requirements, no requirements of transparency or accountability whatsoever.

The imbalance is significant. Outside of the campaign setting, where all declared candidates can raise funds and must abide by the same rules of spending and communications, *elected officials cannot raise money for any expenses whatsoever, from any source, while community*

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<sup>5</sup> Councilmembers receive annual compensation of approximately \$36,000, while the Mayor receives annual compensation of approximately \$55,000.<sup>5</sup>

*members, including organizations and private companies, can raise as much money as they want from any sources, and use that money for anything they choose.*

Without the ability to establish and fund an Officeholder Account, the only option an elected official has is to use personal funds, which exacerbates the potential imbalance between elected officials with more and less personal funds to spend. Elected officials work within a highly regulated system, which can limit their ability to “speak” and engage in other activities members of the public are able to undertake without restriction. Officeholder Accounts restore some flexibility by allowing elected officials to raise money for expenses related to holding office, so long as the sources and uses of those funds is made transparent.

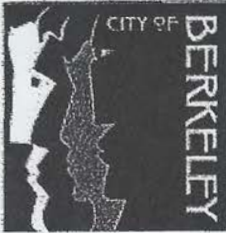
By allowing Officeholder Accounts and regulating them, Berkeley can place limits on amounts that can be raised, and on the individuals/entities from whom funds can be accepted, similar (or identical) to the limits Berkeley places on sources of campaign funds. Similarly, Berkeley can restrict uses of funds beyond the State’s restrictions, to ensure funds are not used for things like family members’ travel, as is currently allowed by the State. Oakland has taken this approach, and has a set of Officeholder Account regulations that provide a good starting point for Berkeley to consider.<sup>6</sup>

I respectfully ask for a vote to send the question of potential allowance for, and regulation of, Officeholder Accounts to the Agenda and Rules Committee for further consideration.

CONTACT: Sophie Hahn, District 5: (510) 981-7150

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<sup>6</sup> <http://www2.oaklandnet.com/w/OAK052051>



Fair Campaign Practices Commission

**Date:** February 12, 2020  
**To:** FAIR CAMPAIGN PRACTICES COMMISSION  
**From:** Dean Metzger, Commission Chair  
**Subject:** Council discussion and action with regards to the Officeholder Accounts FCPC proposal.

---

At the Special City Council meeting of Tuesday February 4, 2020, the City Council had a lengthy discussion about their D13 accounts, and the lack of discretionary funds Council Members have to spend. They then decided not to approve the FCPC recommendation to prohibit Officeholder Accounts.

To remedy this concern the FCPC should request from the City Manager the amount each Council Member receives in their D13 accounts and after some discussion make a recommendation to Council. If the D13 account is large enough to allow Council members to make the expenditures they feel will keep their constituents informed of their activities, travel to local meetings, provide transportation expenses and meals - there would be no need for Officeholders Accounts.

A search of the City's Budget documents did not reveal the amounts allocated to the Council D13 accounts. Once the information is available the FCPC can make its recommendations to City Council.

**Attachments:**

1. Mayor and City Council Financial Summary
2. Draft request to City Manager for budget details of the Mayor and each individual Council Member



**MAYOR AND CITY COUNCIL FINA**

	FY 2015 Actual	FY 2016 Actual	FY 2017 Adopted	FY 2018 Proposed	FY 2019 Proposed
<b>EXPENDITURES</b>					
<b>By Type:</b>					
Salaries and Benefits	1,660,661	1,760,619	1,723,617	1,833,734	1,880,031
Services and Materials	36,942	43,407	113,526	113,526	113,526
Capital Outlay	1,953	7,674			
Internal Services	89,100	81,181	81,181	81,181	81,181
Indirect Cost Transfer					
	<b>1,788,656</b>	<b>1,892,881</b>	<b>1,918,324</b>	<b>2,028,441</b>	<b>2,074,738</b>
<b>By Division:</b>					
Mayor's Office	515,095	558,137	584,877	554,389	566,917
Council Offices	1,273,561	1,334,744	1,333,447	1,474,052	1,507,821
Exiting Officials					
	<b>1,788,656</b>	<b>1,892,881</b>	<b>1,918,324</b>	<b>2,028,441</b>	<b>2,074,738</b>
<b>By Fund:</b>					
General Fund	1,788,656	1,892,881	1,918,324	2,028,441	2,074,738
	<b>1,788,656</b>	<b>1,892,881</b>	<b>1,918,324</b>	<b>2,028,441</b>	<b>2,074,738</b>

<b>General Fund FTE</b>	12.00	12.00	12.00	12.00	12.00
<b>Total FTE</b>	12.00	12.00	12.00	12.00	12.00

**DRAFT**

**DRAFT**

**DRAFT**

**Date:** February 20, 2020  
**To:** Dee Williams-Riley  
City Manager  
**From:** Fair Campaign Practices Commission  
**Subject:** Request for budget details of the Mayor and each individual Council Member.

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At the Special Council meeting of Tuesday, February 4, 2020 the Council heard and took action on the FCPC recommendation to amend the Berkeley Municipal Code to prohibit Officeholder Accounts. The Council discussion went to great lengths about why they needed the Officeholder Account before declining to approve the FCPC recommendation.

The FCPC needs to understand why the Council took the action it did.

To help the Commission determine if any further action on its part would be helpful, the Commission requests that your office provide the FCPC with the detailed budgets of the Mayor and each Council Member. The Commission has the budget summaries of the Mayor and City Council but it is of little use for the discussion.

Please provide the requested information in time for the FCPC meeting on March 19, 2020.

Thank you,

**Fair Campaign Practices Commission**



Fair Campaign Practices Commission  
Open Government Commission

ACTION CALENDAR  
January 26, 2021

To: Honorable Mayor and Members of the City Council

From: Brad Smith, Chair, Fair Campaign Practices and Open Government Commissions

Submitted by: Samuel Harvey, Secretary, Fair Campaign Practices and Open Government Commissions

Subject: Amendments to the Berkeley Election Reform Act (BERA) and Change to City Council Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)

RECOMMENDATION

Form a joint subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Officeholder accounts are not expressly regulated by BERA. However, under existing law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and may trigger various local and state legal requirements.

Donations to nonprofit organizations from Councilmember's discretionary council budgets (D-13 accounts) are allowed by the authority of City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.).

*Action: Motion to submit report to City Council recommending creation of a subcommittee of members of the Council, FCPC and OGC to (1) prepare an ordinance prohibiting or regulating officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies*

Vote: M/S/C: Blome/Metzger; Ayes: O'Donnell, Ching, Blome, Tsang, Smith; Noes: Metzger, Sheahan; Abstain: none; Absent: McLean.

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the "double green light" process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

Changes to the City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) can be made by a majority vote of the Council.

## BACKGROUND

### ***Officeholder Accounts***

During 2019, the Fair Campaign Practices Commission (FCPC) discussed whether there is a need to amend the law relating to these accounts. These accounts are not expressly regulated by BERA, but under current law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and trigger various local and state legal requirements. A 1999 legal opinion from the City Attorney stated: "[t]he mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable laws."

In the course of its review of the issue of officeholder accounts, the FCPC considered three options:

- (1) leaving the law on officeholder accounts unchanged;
- (2) prohibiting officeholder accounts entirely (an approach used by the City of San Jose), or
- (3) authorizing officeholder accounts but limiting their use and imposing various restrictions and requirements on them (an approach used by the City of Oakland).

The Commission referred the issue of officeholder accounts to a subcommittee, which met several times in the fall of 2019 and considered the options. The subcommittee unanimously recommended prohibiting officeholder accounts entirely. At its regular meeting on November 21, 2019 the Commission voted without opposition to recommend amendments to the BERA that would prohibit officeholder accounts.

The Commission's proposal was presented to the City Council at a February 4, 2020 special meeting. (Report to the Council, with Attachments, is attached.) The FCPC report summarized its proposal: "Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also the goal of the Fair Elections Act of 2016." (Report, page 1.)



At the February 4, 2020 meeting, the Council had a lengthy discussion about their D- 13 accounts and the lack of discretionary funds that members have to spend. They also decided not to approve the FCPC recommendation to prohibit officeholder accounts. The City Council referred the issues relating to officeholder and D-13 accounts to its Agenda and Rules Committee for further consideration.

***Proposed Changes to City Council Expenditure and Reimbursement Policies***

At the April 23, 2020 meeting of the Open Government Committee (OGC), a motion to direct staff to develop a proposal recommending Council change City policy to remove councilmember names from donations to nonprofit organizations from D- 13 accounts was approved unanimously.

Donations to nonprofit organizations from the Councilmember’s discretionary council budget (D-13 accounts) puts that elected official in a favorable light with Berkeley citizens at no cost to the Councilmember, an option not available to a challenger for that office. A look at the Consent Calendar of City Council Meeting Agendas will often contain one or more items from one or more Councilmembers making a donation to a nonprofit organization “from the discretionary council budget” of the Councilmember. This line item (“Services and Materials”) from the General Fund was increased from \$50,938 in FY 2017 to \$113,526 in FY 2018 (approximately \$40,000 for the Mayor, the balance evenly divided among the Councilmembers; see Attachment – Council Office Budget Summaries). While not technically a “campaign contribution,” those individuals in the organization as well as individuals favorably disposed to the nonprofit organization receiving the funds would certainly see it favorably. A person running against this incumbent would have to draw on their own resources to match a Councilmember’s contribution from public funds and without the public notice of the contribution the Councilmember receives.

In addition to favoring incumbents, the use of public moneys for contributions to nonprofit organizations from the discretionary council budgets of individual Council members is arguably improper and certainly bad optics. The commissioners of the OGC have no argument with contributions being made to nonprofit organizations from the City of Berkeley, but believe they should be made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley, not from individual Council members. Perhaps a nonprofit fund could be set up from which the donations could be made from recommendations made to one of the Council’s Policy Commissions. This would free funds for other purposes now being directed to nonprofit organizations from individual Councilmember’s D-13 accounts.

Proposed Action:

At this stage, the Council has referred both the issues relating to officeholder accounts and those relating to D-13 accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee agreed to work collaboratively with the FCPC and OGC on matters relating to officeholder accounts and D-13 accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

Consistent with the prior actions of the Council and the FCPC/OGC, the Commissions recommend the establishment of a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to:

(1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts, and

(2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects related to the recommendation in this report.

#### RATIONALE FOR RECOMMENDATION

The “double green light” process requires that the FCPC adopt an amendment by a two-thirds vote, and that the City Council hold a public hearing and also adopt an amendment by a two-thirds vote. Evidence to date suggests there are differences of perspective regarding this matter between the City Council and the FCPC regarding the D-13 accounts. It would seem to be a rational step to discuss and come to agreement and possibly compromise prior to the “double green light” process.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CITY MANAGER

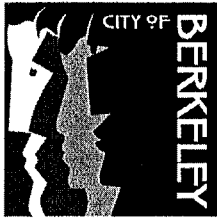
#### CONTACT PERSON

Brad Smith, Chair, Fair Campaign Practices and Open Government Commissions, (510) 981-6998

Samuel Harvey, Commission Secretary, Fair Campaign Practices and Open Government Commissions, (510) 981-6998

#### Attachments:

1. FCPC February 4, 2020 report to Council and attachments
2. Mayor and City Council Financial Summary



Fair Campaign Practices Commission

PUBLIC HEARING  
February 4, 2020

To: Honorable Mayor and Members of the City Council  
From: Fair Campaign Practices Commission  
Submitted by: Dean Metzger, Chairperson, Fair Campaign Practices Commission  
Subject: Amendments to the Berkeley Election Reform Act to prohibit  
Officeholder Accounts; Amending BMC Chapter 2.12

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to prohibit Officeholder Accounts (See Section 18531.62. Elected State Officeholder Bank Accounts, Regulations of the Fair Political Practices Commission).

SUMMARY

Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also a goal of the Fair Elections Act of 2016.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The proposed amendments to the Berkeley Election Reform Act (BERA) were adopted by the Fair Campaign Practices Commission (FCPC) at its regular meeting of November 21, 2019.

**Action:** M/S/C (Smith/Saver) to adopt the proposed amendments to BERA related to Officeholder Accounts.

**Vote:** Ayes: Metzger, Ching, Saver, Blome, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: O'Donnell (excused).

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the "double green light" process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

PUBLIC HEARING  
February 4, 2020

BACKGROUND

The Fair Campaign Practices Commission has supported creating the circumstances in which the incumbent and challengers during an election play on as level a playing field as possible and reducing the influence of private campaign contributions. For instance, the Berkeley Fair Elections Act of 2016, which was passed by voters and recommended to Council by the Commission, included the following express purposes:

- Eliminate the danger of actual corruption of Berkeley officials caused by the private financing of campaigns.
- Help reduce the influence of private campaign contributions on Berkeley government.
- Reduce the impact of wealth as a determinant of whether a person becomes a candidate.

(Section 2.12.490(B)-(D).)

A recent inquiry to the Commission Secretary regarding the regulation of Officeholder Accounts resulted in a request from a Commissioner to have discussion of these accounts placed on the May 16, 2019 agenda for possible action. The following motion was made and passed at that meeting:

Motion to request staff work with Commissioner Smith to bring to a future meeting background information and a proposal to eliminate officeholder accounts (M/S/C: O'Donnell/Blome; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

**Definition of an Officeholder Account**

Under state law, an "officeholder account" refers to the funds held in a single bank account at a financial institution in the State of California separate from any other bank account held by the officeholder and that are used for "paying expenses associated with holding public office." Officeholder Account funds cannot be used to pay "campaign expenses." This definition is drawn from state law applicable to statewide elected officials: Government Code section 85316 (Attachment 2), and the accompanying regulation by the Fair Political Practices Commission (FPPC) codified at Title 2, Division 6, of the California Code of Regulations, Section 18531.62 (Attachment 3).

Contributions to or expenditures from an Officeholder Account are not subject to BERA's reporting requirements. (The FPPC still requires the reporting of activity relating to Officeholder Accounts, which is available to view on Berkeley's Public Access Portal.) If, however, a complaint is filed that an Officeholder Account is used for



**Page 3 of 16****Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts**PUBLIC HEARING  
February 4, 2020

campaign contributions or to pay "campaign expenses," BERA can be used to respond to the complaint. The legal arguments for these statements are contained in a memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert, dated December 28, 1999 and a December 9, 1991 memorandum by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, that is attached to the December 28, 1999 memo. (Attachment 4.) Because the BERA provisions relied on in these memoranda have not been amended, and because no other BERA provisions have been added to regulate officeholder accounts, the memoranda's conclusions remain valid and are still controlling guidance.

**Contributions to Officeholder Accounts**

Funds raised for Officeholder Accounts in Berkeley are not subject to any limitations, either from the FPPC or BERA. Neither is there a limit on the total amount the Officeholder Account fund may receive in contributions per year. Contributions to an elected official's Officeholder Account may put that contributor in a more favorable light with the elected official than might otherwise be the case.

**Expenditures from Officeholder Accounts**

Except for the restriction that Officeholder Account funds cannot be used for "campaign expenses," BERA does not restrict how funds from Officeholder Accounts can be used.

There are a number of permissible expenditures from Officeholder Accounts that could put an elected official in a favorable light with voters that are not available to a challenger for that office. A donation to a nonprofit organization, although technically not a "campaign expense," would be seen favorably by those receiving the funds as well as individuals favorably disposed to the nonprofit organization receiving the funds. An individual running against this incumbent would have to draw on their own resources to make contributions to nonprofit organizations.

As long as political campaigns are not included, newsletters mailed to constituents related to events, information, or an officeholder's position on matters before the Council are a permissible Officeholder Account expenditure. This keeps the incumbent's name in front of the voter in a way unavailable to a challenger unless they pay for a newsletter and its distribution from their own resources.

Expenditures from Officeholder Account funds for flowers and other expressions of condolences, congratulations, or appreciation, while technically not "campaign expenses," also increase the probability that the recipient will be favorably predisposed toward the elected official as a candidate for reelection or election to another office. Again, a challenger would have to draw on their own resources to express condolences, congratulations, or appreciation to their potential supporters.

Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

PUBLIC HEARING  
February 4, 2020

Further, officeholder accounts can be used to pay for a broad range of office expenses, such as meals, travel, parking tickets, or contributions to other candidates or political parties.<sup>1</sup> Eliminating officeholder accounts would reduce reliance on and the influence of private contributions for these expenditures.

**Recommendation**

To make elections more equitable between challengers and incumbent and for the reasons given above, the Fair Campaign Practices Commission recommends prohibiting Officeholder Accounts.

Berkeley will not be the first to prohibit Officeholder Accounts. The San Jose Municipal Code was amended to prohibit officeholder accounts in January 2008. (Chapter 12.06 – ELECTIONS, San Jose, CA Code of Ordinances, p. 10)

**Part 8 - OFFICEHOLDER ACCOUNTS**

**12.06.810 - Officeholder account prohibited.**

No city officeholder, or any person or committee on behalf of a city officeholder may establish an officeholder account or an account established under the Political Reform Act, California Government Code Section 8100 et seq. as amended, for the solicitation or expenditure of officeholder funds. Nothing in this section shall prohibit an officeholder from spending personal funds on official or related business activities.

The following additions to BERA are proposed:

**2.12.157 Officeholder Account**

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

**2.12.441 Officeholder account prohibited**

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.

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<sup>1</sup>Under state law applicable to state elected officials, officeholders may use campaign contributions for “expenses that are associated with holding office.” (Govt. Code, § 89510.) To qualify, expenditures must be “reasonably related to a legislative or governmental purpose.” (*Id.*, § 89512.) “Expenditures which confer a substantial personal benefit shall be directly related to a political, legislative, or governmental purpose.” (*Ibid.*)

**Page 5 of 16**

Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

PUBLIC HEARING  
January 21, 2020

- C. Anyone holding an active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account, in accordance with FPPC guidelines.

ENVIRONMENTAL SUSTAINABILITY

There are no identified environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

This proposed change to BERA will help to level the playing field between challengers and the incumbent running for elective office.

ALTERNATIVE ACTIONS CONSIDERED

A Subcommittee was formed to consider the options of (1) amending the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts, (2) amending BERA to mitigate possible advantages incumbents with an Officeholder Accounts have over challengers, or (3) doing nothing with regard to Officeholder Accounts. The four members of the Subcommittee recommended unanimously to the full Commission to amend the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts.

CITY MANAGER

The City Manager takes no position on the content and recommendations of this report.

CONTACT PERSON

Dean Metzger, Chair, Fair Campaign Practices Commission. 981-6998

Attachments:

- 1: Proposed Ordinance
- 2: Government Code section 85316
- 3: Section 18531.62 (Elected State Officeholder Bank Accounts), Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations
- 4: Memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert (including attached memorandum signed by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, to the FCPC)

ORDINANCE NO. ##,###-N.S.

OFFICEHOLDER ACCOUNT PROHIBITED; AMENDING BERKELEY MUNICIPAL CODE  
CHAPTER 2.12

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

Section 1. That Berkeley Municipal Code section 2.12.157 is added to read as follows:

**BMC 2.12.157 Officeholder account**

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

Section 2. That Berkeley Municipal Code section 2.12.441 is added to read as follows:

**BMC 2.12.441 Officeholder account prohibited**

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.
- C. This provision does not affect a candidate’s ability to establish a legal defense fund or the requirements for such a fund, as set forth in the Political Reform Act or by regulation.
- D. Any active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account.

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


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**GOVERNMENT CODE - GOV**
**TITLE 9. POLITICAL REFORM [81000 - 91014]** ( Title 9 added June 4, 1974, by initiative Proposition 9. )

**CHAPTER 5. Limitations on Contributions [85100 - 85802]** ( Chapter 5 added June 7, 1988, by initiative Proposition 73. )
**ARTICLE 3. Contribution Limitations [85300 - 85321]** ( Article 3 added June 7, 1988, by initiative Proposition 73. )

**85316.** (a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) No person shall make, and no elected state officer shall receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

(A) Three thousand dollars (\$3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars (\$5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars (\$20,000) in the case of the Governor.

(2) No elected state officer shall receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars (\$50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars (\$100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars (\$200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that he or she may seek during the term of office to which he or she is currently elected, including, but not limited to, reelection to the office he or she currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. None of the expenditures made by elected state officers pursuant to this subdivision shall be subject to the voluntary expenditure limitations in Section 85400.

(4) The commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100).

(Amended by Stats. 2007, Ch. 130, Sec. 149. Effective January 1, 2008. Note: This section was added by Stats. 2000, Ch. 102, and approved in Prop. 34 on Nov. 7, 2000.)

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

**§ 18531.62. Elected State Officeholder Bank Accounts.**

(a) Application and Definitions. For purposes of Section 85316(b) and this regulation, the following definitions apply:

(1) "Officeholder" means an elected state officer.

(2) "Officeholder controlled committee" means a committee formed pursuant to subdivision (c) of this regulation.

(3) "Officeholder account" means the bank account established at a financial institution located in the State of California pursuant to Section 85316(b).

(4) "Officeholder funds" means money in the officeholder account.

(b) Establishing the Officeholder Account: For purposes of Section 85316(b), an officeholder shall maintain officeholder funds in a single bank account separate from any other bank account held by the officeholder.

(c) Establishing the Officeholder Controlled Committee, Reporting and Recordkeeping:

(1) Formation: The officeholder shall establish a controlled committee by filing a statement of organization pursuant to Section 84101 if the officeholder receives \$2,000 or more in officeholder contributions in a calendar year.

(2) Committee Name: The controlled committee name shall include the officeholder's last name, the office held, the year the officeholder was elected to the current term of office, and the words "Officeholder Account." The statement of organization shall include the name, account number, and address of the financial institution where the committee established the officeholder account.

(3) Filing Requirements: The controlled committee shall file campaign statements and reports pursuant to Chapters 4 and 5, except Sections 85200 and 85201, of Title 9 of the Government Code at the same times and in the same places as it otherwise would be required to do for any other controlled committee formed by the officeholder for election to state office.

(4) Required Recordkeeping and Audits. The officeholder and treasurer shall be subject to recordkeeping requirements under Section 84104. The officeholder account and officeholder controlled committee shall be subject to audits under Chapter 10 of Title 9 of the Government Code. Any audit of the officeholder, or any of his or her controlled committees, under Section 90001 shall include all officeholder accounts and officeholder controlled committees maintained by the officeholder during the audit period as described in Regulation 18996(a)(1).

(d) Prohibitions:

(1) Officeholder funds may not be contributed or transferred to another state or local committee, including any other controlled committee of the officeholder, except as permitted in subdivisions (g) (2) and (g)(3).

(2) Officeholders may not use officeholder funds to pay "campaign expenses" as defined in Regulation 18525(a).

(3) The officeholder may not transfer or contribute funds from any other committee he or she controls to the officeholder account, except as permitted in subdivision (g)(2) and (g)(3).

(e) Contributions to the Officeholder Account:

(1)(A) Required Notices: In addition to the requirements of Regulation 18523.1, a written solicitation for contributions to the officeholder account shall include the following: "For purposes of the Political Reform Act's contribution limits, a contribution to an officeholder

account is also considered to be a contribution to all campaign committees for future elective state office the officeholder seeks during his or her current term of office.”

(B) In addition to the requirements of subparagraph (A) above, an officeholder who files a statement of intention to be a candidate for any elective state office during the officeholder's term of office shall provide notice of this filing to every person that has made a contribution to his or her officeholder account. The notice shall contain the language in subparagraph (A) and be transmitted or mailed within 10 days of filing the statement of intention to be a candidate.

(2) Cumulation: A contribution to the officeholder account shall also be deemed a contribution to the officeholder's controlled committee for election to elective state office for the purposes of Section 85316(b)(3) only under all of the following circumstances:

(A) The contributor makes the contribution between the day the election was held for the term of office for which the officeholder account was established and the end of that term of office;

(B) The officeholder maintains the controlled committee, established for a future term of elective state office, at any time during the period covered in subparagraph (A).

(3) Cumulation and Primary and General Elections: A person's contributions to the officeholder account, when combined with contributions from the same person for a primary and general election to the elective state office may not exceed the contribution limits applicable to the primary and general election.

(4) Multiple Officeholder Accounts: When an officeholder maintains more than one officeholder account in the same calendar year, he or she may not receive the following contributions to any of those accounts during that calendar year:



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(A) Contributions from a single contributor that, when cumulated for all the accounts, exceed the maximum amount the contributor could give to the officeholder account having the highest per person contribution limit under Section 85316(b)(1).

(B) Contributions from all contributors that, when cumulated for all the accounts, exceed the maximum amount in total contributions the officeholder could receive in the officeholder account having the highest aggregate contribution limit under Section 85316(b)(2).

**(f) Contributions Over the Limits:**

(1) An officeholder shall return to the contributor the portion of any contribution to his or her officeholder account that exceeds the limits of Section 85301, 85302 (after cumulation) or 85316 (either alone or after cumulation) by the earlier of 14 days of receipt or 14 days of the date the officeholder files a statement of intention to be a candidate for elective state office pursuant to Section 85200.

(2) A contributor to the officeholder account does not violate the contribution limits applying to the officeholder's election to a future elective state office as otherwise provided under Section 85316(b)(3) if, when he or she makes the contribution, the officeholder has not filed a statement of organization to establish a controlled committee for election to a future elective state office.

**(g) Terminating Officeholder Accounts and Committees:**

(1) The officeholder may not accept contributions after the officeholder's term of office ends or the date he or she leaves that office, whichever is earlier.

(2) The officeholder may redesignate the officeholder account as an officeholder controlled committee for a future term of the same office by amending the statement of

organization for the committee to reflect the redesignation for the future term of office prior to the date the officer's term of office ends.

(3) An officeholder may redesignate officeholder funds in the redesignated officeholder account as officeholder funds for the new term of office, subject to the limitations in subdivision

(e)(4).

(4) Once the officeholder's term of office ends or he or she leaves that office, whichever is earlier, the officeholder may only use his or her officeholder funds for the following purposes:

(A) Paying outstanding officeholder expenses.

(B) Repaying contributions to contributors to the officeholder account.

(C) Making a donation to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, if no substantial part of the proceeds will have a material financial effect on the officeholder, a member of his or her immediate family, or his or her committee treasurer.

(D) Paying for professional services reasonably required by the officeholder controlled committee to assist in the performance of its administrative functions.

(5) The officeholder shall terminate the officeholder controlled committee within 90 days of the date the officer's term of office ends or he or she leaves that office, whichever is earlier. The Executive Director may for good cause extend the termination date or permit the candidate to reopen the account.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 84104, 85316 and 90000-90007, Government Code.

**Page 13 of 16**

**HISTORY**

1. New section filed 7-3-2007; operative 8-2-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2007, No. 27). For prior history, see Register 2007, No. 26.

2. Change without regulatory effect amending section filed 3-22-2016; operative 4-21-2016 pursuant to 2 CCR 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 13).



Office of the  
City Attorney

**DATE:** December 28, 1999

**TO:** BARBARA GILBERT,  
Aide to Mayor Shirley Dean

**FROM:** MANUELA ALBUQUERQUE, City Attorney *MA*  
By: CAMILLE COUREY, Deputy City Attorney

**SUBJECT:** APPLICATION OF BERKELEY ELECTION REFORM ACT TO OFFICEHOLDER ACCOUNTS

ISSUE:

Does the Berkeley Election Reform Act (BERA) govern officeholder accounts?

CONCLUSION:

No. The BERA does not govern true officeholder accounts per se. However, the mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under the BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable local laws.

ANALYSIS:

Sarah Reynoso, former secretary and staff counsel to the Fair Campaign Practices Commission (FCPC), issued an opinion to the FCPC dated December 2, 1991, a copy of which is attached, stating that the BERA's contribution limit does not apply to contributions made to an officeholder account. The opinion reasons that the BERA's contribution limit applies only to "contributions" as defined in the BERA, i.e., which are made directly or indirectly in support of or in opposition to the nomination or election of one or more candidates to elective office. (See Berkeley Municipal Code (BMC) § 2.12.100.) Contributions to a true officeholder account are not made for the purpose of nominating or electing a candidate to office, but rather for the use of an officeholder in carrying out the duties of his or her office. Therefore, the contribution limit of the BERA is inapplicable to officeholder accounts.<sup>1</sup> For similar reasons, the BERA does not

<sup>1</sup> However, the opinion also provided that contributions to officeholder accounts still had to be reported on campaign statements because the State Fair Political Practices Commission (FPPC) Regulations broadly defined contributions as any contribution for "political purposes." Since officeholder expenses are for political purposes, they must be reported to the State.

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Barbara Gilbert  
Re: Application of Berkeley Election Reform Act To Officeholder Accounts  
December 28, 1999  
Page 2

apply to true officeholder accounts.

The BERA requires the filing of statements to report the amounts received and expended in municipal elections. (See BMC §§ 2.12.015, 2.12.030 through 2.12.050) Specifically, a "campaign statement" required to be filed under the BERA is an itemized report which provides the information required by Sections 2.12.245 through 2.12.325 of the BERA. (BMC § 2.12.080.) Sections 2.12.245 through 2.12.325 govern the reporting of contributions and expenditures. "Contributions" and "expenditures" are defined by the BERA as any amounts received or expended, respectively, in aid of or in opposition to the nomination or election of one or more candidates to elective office. (See BMC §§ 2.12.100 and 2.12.130.) Contributions to or expenditures from a true officeholder account are not subject to the BERA's reporting requirements because they are made for the purpose of carrying out the duties of elective office, and not for the purpose of aiding or opposing the nomination or election of one or more candidates to elective office.<sup>2</sup> Therefore, the BERA does not apply to true officeholder accounts.

However, the fact that an account may be designated as an officeholder account will not shield it from scrutiny under the BERA if the officeholder account is, in fact, being used for the receipt of contributions or the making of expenditures in aid of the nomination or election of a candidate for local elective office. Nor will BERA requirements, such as the \$250 contribution limit or the prohibition against contributions from businesses to candidates, be held inapplicable if contributions made initially to an officeholder account are transferred subsequently to a campaign account. Where the actions taken with respect to an officeholder account implicate campaign contributions and expenditures in municipal elections, the officeholder account will be scrutinized under the BERA and other applicable local law.

Attachment

cc: Fair Campaign Practices Commission  
Sherry Kelly, City Clerk

City Attorney Opinions Index: H.E.I. and H.L.G.

CCM

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<sup>2</sup> Again, however, the State FPPC still requires the reporting of activity relating to an officeholder account. (See footnote 1.)

CITY OF BERKELEY

DATE: December 9, 1991 Memorandum

TO: FCPC COMMISSIONERS

FROM: Sarah Reynoso, Secretary & Staff Counsel

SUBJECT: APPLICABILITY OF BERA'S CONTRIBUTION LIMIT TO FUNDS RAISED FOR OFFICEHOLDER EXPENSES

BACKGROUND AND ISSUE

I received the attached letter from Richard N. Lerner, treasurer of Friends of Ioni Hancock Committee ("Committee"), regarding the applicability of BERA's (Berkeley Election Reform Act) \$250 contribution limit to funds raised to cover officeholder expenses. The Committee would like to raise money to cover activities by the Mayor for which the City has not allocated funds, for example, distribution of a newsletter and international travel to visit Berkeley Sister Cities.

Thus, the issue presented to the Commission is as follows: Is BERA's \$250 contribution limit applicable to funds raised for officeholder expenses?

CONCLUSION

No. The BERA's contribution limitation is only applicable to money raised "in aid of or in opposition to the nomination or election" of a candidate. Since the Committee intends to raise these funds for activities unrelated to the nomination or election of the Mayor, they are not subject to the BERA's \$250 contribution limitation. However, such funds must be reported as contributions under the State Political Reform Act and their expenditure itemized on the disclosure forms.

ANALYSIS

The BERA prohibits candidates for elective office from soliciting or accepting a contribution of more than \$250 from any one contributor. (BERA section 2.12.415.) Thus, funds which fall within BERA's definition of a contribution, are subject to the \$250 limit. In order to determine whether funds raised for officeholder expenses are subject to the contribution limitation, BERA's definition of contribution must be reviewed.

The BERA defines contribution, in part, as follows:

"Contribution" means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or

FCPC COMMISSIONERS  
December 9, 1991  
Page 2

in opposition to the nomination or election of one or more candidates . . . . (Emphasis added.)

Thus, the plain language of the BERA requires that a contribution be solicited for purposes related to the nomination or election of a candidate for office to be subject to its contribution limitation. Since the Committee intends to raise funds for purposes unrelated to the Mayor's nomination or election for elective office, such funds do not fall within the BERA's definition and are therefore not subject to its \$250 limitation.

However, because the state Political Reform Act defines contribution to include any funds raised for political purposes, funds raised for officeholder expenses are considered contributions and must be reported on campaign disclosure forms.<sup>1/</sup> (Government Code section 82015.) Additionally, since the court's ruling in SEIU v. FPPC invalidated the state's \$1,000 contribution limit, funds raised for officeholder expenses are not subject to any limitation.

As a final precaution, the Committee should be advised that the FPPC has issued regulations concerning officeholder expenses and it should review them with respect to their interaction with the BERA.

Attachment

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<sup>1/</sup>I spoke with the FPPC's legal staff and confirmed that funds raised for officeholder expenses must be reported as contributions on the campaign disclosure forms.

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT**

The Fair Campaign Practices Commission is proposing amendments to the Berkeley Election Reform Act related to the prohibition of officeholder accounts.

The hearing will be held on, February 4, 2020, at 4:00 p.m. in the School District Board Room, 1231 Addison Street.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **January 30, 2020**.

For further information, please contact Samuel Harvey, Commission Secretary at 981-6998.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

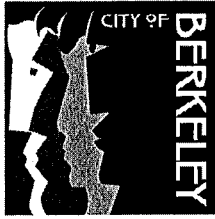
Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication 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. 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 at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** January 24, 2020 – The Berkeley Voice  
Pursuant to Berkeley Municipal Code Section 2.12.051

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I hereby certify that the Notice for this Public Hearing 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 January 30, 2020.

\_\_\_\_\_  
Mark Numainville, City Clerk





[First Last name]  
Councilmember District [District No.]

## **SUPPLEMENTAL REVISED AGENDA MATERIAL for Supplemental Packet 2**

**Meeting Date:** February 4, 2020

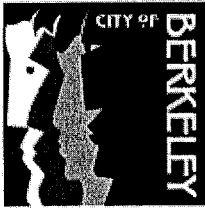
**Item Number:** 2

**Item Description:** Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

**Submitted by:** Councilmember Hahn

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.



**SOPHIE HAHN**

Berkeley City Council, District 5  
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Berkeley, CA 94704  
(510) 981-7150  
shahn@cityofberkeley.info

**ACTION CALENDAR**

February 4, 2020

To: Honorable Mayor and Members of the City Council  
From: Vice Mayor Sophie Hahn  
Subject: Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

**RECOMMENDATION**

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.

Officeholder accounts are accounts an elected official can open, and raise funds for, to pay for expenses related to the office they hold.<sup>1</sup> They are not campaign accounts, and cannot be used for campaign purposes. The types of expenses Officeholder Accounts can be used for include research, conferences, events attended in the performance of government duties, printed newsletters, office supplies, travel related to official duties, etc. Cities can place limits on Officeholder Accounts, as Oakland has done.<sup>2</sup> Officeholder Accounts must be registered as official "Committees" and adhere to strict public reporting requirements, like campaign accounts. They provide full transparency to the public about sources and uses of funds.

The FCPC bases its recommendation to prohibit Officeholder Accounts on arguments about "equity" and potential "corruption" in elections. The report refers repeatedly to "challengers" and "incumbents," suggesting that Officeholder Accounts are vehicles for unfairness in the election context.

I believe that the FCPC's recommendations reflect a misunderstanding of the purpose and uses of Officeholder Accounts, equating them with campaign accounts and suggesting that they create an imbalance between community members who apparently have already decided to run against an incumbent (so-called "challengers") and elected officials who are presumed to be

<sup>1</sup> <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter5/18531.62.pdf>

<sup>2</sup> <http://www2.oaklandnet.com/w/OAK052051>

always running for office. The recommendations do not take into account some important framing: the question of what funds are otherwise available to pay for Officeholder-type expenses for Officeholders or members of the public. Contrary to the conclusions of the FCPC, I believe Officeholder accounts are an important vehicle to redress a significant disadvantage for elected officials, whose ability to exercise free speech in the community and participate in conferences and events related to their profession is constrained by virtue of holding public office, as compared to community members, whose speech rights are unrestricted in any manner whatsoever, and who can raise money to use for whatever purposes they desire.

Outlawing Officeholder Accounts is also posited as a means to create equity between more and less wealthy Officeholders, on the theory that less affluent Officeholders will have less access to fundraising for Officeholder Accounts than more affluent Officeholders. Because there are no prohibition on using personal funds for many of the purposes for which Officeholder Account funds can be used, prohibiting Officeholder Accounts I believe has the opposite effect; it leaves more affluent Officeholders with the ability to pay for Officeholder expenses from personal funds, without providing an avenue for less affluent Officeholders, who may not have available personal funds, to raise money from their supporters to pay for such Officeholder expenses.

The question of whether Officeholder Accounts should be allowed in Berkeley plays out in the context of a number of rules and realities that are important to framing any analysis.

First, by State Law, elected officials are prohibited from using public funds for a variety of communications that many constituents nevertheless expect. For example, an elected official may not use public funds to send a mailing announcing municipal information to constituents, "such as a newsletter or brochure, [ ] delivered, by any means [ ] to a person's residence, place of employment or business, or post office box."<sup>3</sup> Nor may an elected official mail an item using public funds that features a reference to the elected official affiliated with their public position.<sup>4</sup> Note that Electronic newsletters are not covered by these rules, and can and do include all of these features, even if the newsletter service is paid for by the public entity. That said, while technically not required, many elected officials prefer to use email newsletter distribution services (Constant Contact, MailChimp, Nationbuilder, etc.) paid for with personal (or "Officeholder") funds, to operate in the spirit of the original rules against using public funds for communications that include a photo of, or references to, the elected official.

Without the ability to raise funds for an Officeholder Account, for an elected official to send a paper newsletter to constituents or to use an email newsletter service that is not paid for with public funds, they must use personal funds. A printed newsletter mailed to 5-6,000 households (a typical number of households in a Berkeley City Council District) can easily cost \$5,000+, and an electronic mail service subscription typically costs \$10 (for the most basic service) to \$45 per month, a cost of \$120.00 to over \$500 per year - in personal funds.

<sup>3</sup> <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

<sup>4</sup> <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

Second, Berkeley City Councilmembers and the Mayor of Berkeley are not paid enough for there to be any reasonable expectation that personal funds should be used for these types of expenses.<sup>5</sup> For many Councilmembers and/or the Mayor, work hours are full time - or more - and there is no other source of income.

Finally, and most importantly, local elected officials are restricted from accepting money or gifts. An elected official cannot under any circumstances raise money to pay for Officeholder expenses such as printed communications, email newsletter services, travel and admission to industry conferences for which the elected official is not an official delegate (e.g., conferences on City Planning, Green Cities, Municipal Finance, etc.), and other expenses related to holding office that are not covered by public funds. Again, without the possibility of an Officeholder Account, an elected official generally must use personal funds for these expenses, allowing more affluent elected officials to participate while placing a hardship or in some cases a prohibition on the ability of less affluent elected officials to undertake these Officeholder-type activities - which support expected communications with constituents and participation in industry activities that improve the elected official's effectiveness.

The elected official's inability to raise funds from others must be contrasted with the ability of a community member - a potential "challenger" who has not yet declared themselves to be an actual candidate - or perhaps a neighborhood association, business or corporation (Chevron, for example) - to engage in similar activities. Nothing restricts any community member or organization from using their own funds - or funds obtained from anyone - a wealthy friend, a corporation, a local business, a community organization or their neighbors - for any purpose whatsoever.

Someone who doesn't like the job an elected official is doing could raise money from family or connections anywhere in the community - or the world - and mail a letter to every person in the District or City criticizing the elected official, or buy up every billboard or banner ad on Facebook or Berkeleyside to broadcast their point of view. By contrast, the elected official, without access to an Officeholder Account, could only use personal funds to "speak" with their own printed letter, billboard or advertisement. Community members (including future "challengers") can also attend any and all conferences they want, engage in travel to visit interesting cities and projects that might inform their thoughts on how a city should be run, and pay for those things with money raised from friends, colleagues, businesses, corporations, foreign governments - *anyone*. They are private citizens with full first amendment rights and have no limitations, no reporting requirements, no requirements of transparency or accountability whatsoever.

The imbalance is significant. Outside of the campaign setting, where all declared candidates can raise funds and must abide by the same rules of spending and communications, *elected officials cannot raise money for any expenses whatsoever, from any source, while community*

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<sup>5</sup> Councilmembers receive annual compensation of approximately \$36,000, while the Mayor receives annual compensation of approximately \$55,000.<sup>5</sup>

*members, including organizations and private companies, can raise as much money as they want from any sources, and use that money for anything they choose.*

Without the ability to establish and fund an Officeholder Account, the only option an elected official has is to use personal funds, which exacerbates the potential imbalance between elected officials with more and less personal funds to spend. Elected officials work within a highly regulated system, which can limit their ability to “speak” and engage in other activities members of the public are able to undertake without restriction. Officeholder Accounts restore some flexibility by allowing elected officials to raise money for expenses related to holding office, so long as the sources and uses of those funds is made transparent.

By allowing Officeholder Accounts and regulating them, Berkeley can place limits on amounts that can be raised, and on the individuals/entities from whom funds can be accepted, similar (or identical) to the limits Berkeley places on sources of campaign funds. Similarly, Berkeley can restrict uses of funds beyond the State’s restrictions, to ensure funds are not used for things like family members’ travel, as is currently allowed by the State. Oakland has taken this approach, and has a set of Officeholder Account regulations that provide a good starting point for Berkeley to consider.<sup>6</sup>

I respectfully ask for a vote to send the question of potential allowance for, and regulation of, Officeholder Accounts to the Agenda and Rules Committee for further consideration.

CONTACT: Sophie Hahn, District 5: (510) 981-7150

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<sup>6</sup> <http://www2.oaklandnet.com/w/OAK052051>

**MAYOR AND CITY COUNCIL FINANCIAL SUMMARY**

|                         | <b>FY 2015<br/>Actual</b> | <b>FY 2016<br/>Actual</b> | <b>FY 2017<br/>Adopted</b> | <b>FY 2018<br/>Proposed</b> | <b>FY 2019<br/>Proposed</b> |
|-------------------------|---------------------------|---------------------------|----------------------------|-----------------------------|-----------------------------|
| <b>EXPENDITURES</b>     |                           |                           |                            |                             |                             |
| <b>By Type:</b>         |                           |                           |                            |                             |                             |
| Salaries and Benefits   | 1,660,661                 | 1,760,619                 | 1,723,617                  | 1,833,734                   | 1,880,031                   |
| Services and Materials  | 36,942                    | 43,407                    | 113,526                    | 113,526                     | 113,526                     |
| Capital Outlay          | 1,953                     | 7,674                     |                            |                             |                             |
| Internal Services       | 89,100                    | 81,181                    | 81,181                     | 81,181                      | 81,181                      |
| Indirect Cost Transfer  |                           |                           |                            |                             |                             |
|                         | <u>1,788,656</u>          | <u>1,892,881</u>          | <u>1,918,324</u>           | <u>2,028,441</u>            | <u>2,074,738</u>            |
| <b>By Division:</b>     |                           |                           |                            |                             |                             |
| Mayor's Office          | 515,095                   | 558,137                   | 584,877                    | 554,389                     | 566,917                     |
| Council Offices         | 1,273,561                 | 1,334,744                 | 1,333,447                  | 1,474,052                   | 1,507,821                   |
| Exiting Officials       |                           |                           |                            |                             |                             |
|                         | <u>1,788,656</u>          | <u>1,892,881</u>          | <u>1,918,324</u>           | <u>2,028,441</u>            | <u>2,074,738</u>            |
| <b>By Fund:</b>         |                           |                           |                            |                             |                             |
| General Fund            | 1,788,656                 | 1,892,881                 | 1,918,324                  | 2,028,441                   | 2,074,738                   |
|                         | <u>1,788,656</u>          | <u>1,892,881</u>          | <u>1,918,324</u>           | <u>2,028,441</u>            | <u>2,074,738</u>            |
| <b>General Fund FTE</b> | 12.00                     | 12.00                     | 12.00                      | 12.00                       | 12.00                       |
| <b>Total FTE</b>        | 12.00                     | 12.00                     | 12.00                      | 12.00                       | 12.00                       |



Lori Droste  
Vice Mayor, District 8

February 1, 2021

**To:** Agenda and Rules Committee

**From:** Vice Mayor Lori Droste

**Subject:** Supplemental Item for Commission Reorganization in Light of COVID-19

This item is in response to Councilmember Hahn’s request that the Agenda and Rules committee provide specific recommendations on how to proceed with commission reorganization in light of COVID-19. The original legislation recommended to *“refer to the City Manager and every policy committee to agendaize at the next meeting available to discuss commissions that are in their purview and make recommendations to the full Council on how to reorganize and address the various policy areas. Commission members should be notified and chairs should be invited to participate. Policy committee members are encouraged to consider the renaming of some commissions in order to ensure that all policy areas are addressed.”*

After consultation with many staff members and commissioners, an initial draft of recommendations are listed below to advise and align with Council’s policy committees.

To be clear, there is no proposal to eliminate the participation of commissions in Berkeley. Many commissions cover the same content area and this proposal is to ensure that commissions are heard in an effective manner and their charges aren’t redundant.

## **Public Safety**

1. Disaster and Fire Safety Commission
2. Police Accountability Board
3. Reimagining Public Safety Task Force (NICJR contract ends on June 30, 2022)

## **Facilities, Infrastructure, Transportation and the Environment**

1. Environmental Commission--combines CEAC, Zero Waste and Energy
2. Parks, Recreation and Waterfront--combines Children, Youth and Recreation with Parks and Waterfront--Marina subcommittee
3. Public Works and Transportation (combine the two? Ensure this commission can address concerns around traffic circles)

X sunset the Traffic Circle Task Force

## **Land Use and Economic Development**

1. Labor and Economic Development (combines Labor, Loan Administration Board and BID boards. Alternatively, BIDs can transition to boards so they don't have to be staffed. Legal question around BIDS...)
2. Housing Advisory and Measure O oversight (combines two commissions dealing with housing. Can we combine HAC and Measure O because the latter was a ballot initiative?)
3. figure out how to combine Design Review and Landmarks with qualified individuals
4. figure out with Planning staff how to best deal with Planning and ZAB given workloads

Civic Arts Commission (charter)--would civic arts better advise land use committee?

X sunset the Cannabis Commission

X sunset Joint Subcommittee on the Implementation of State Laws

## **Health, Life, and Equity**

1. Civil Rights Commission with a focused on intersectionality with non-staffed subcommittees (two appointees per councilmember, with youth mandate)
  - a. (will conduct HWCAC's state and federal mandate)
2. Community Health Commission and SSB Oversight--(Can we combine Health and SSB because the latter was a ballot initiative)?
3. Homeless Panel of Experts (folds in Homeless Commission--can we combine Homeless Panel of Experts and Homeless Commission because the former was a ballot initiative?)
4. Mental Health Commission (state/federal mandate)

X sunset Animal Care Commission



### **Agenda and Rules**

1. Fair Campaign Practices/Open Government Commission (ballot initiative)
2. Personnel Board (charter)
3. BOLT--(doesn't generally advise policy committees)

### **Budget and Finance**

Referrals must have budgetary impact and be referred to budget and finance.

# Conversation on Commissions

The following are preliminary thoughts to contribute to a discussion.  
This is not a “proposal.”

Conversation Points reflect a quick review of Commission charters/purposes/enabling legislation and not a deep dive into the work of each Commission.

# Framework

- Commissions play important role for community to have a voice
- Democracy is facing a crisis of confidence. Meaningful community participation promotes confidence, along with transparency and respect
- Commissions should be organized and supported to contribute meaningfully to Berkeley's wellbeing and to Council policy formation and review
- Commissions that are well organized/do meaningful work will always be a good use of time for Commissioners and Secretaries/Staff
- Good to periodically review the organization of our Commissions and their "charters" (charges, purposes, enabling legislation, etc.) to optimize for the Community, City and Commissioners, as well as for staff who support Commissions.

# Suggestion:

Consider baking-in a process for Council to review Commissions every 10 years to ensure Commissions and their charters remain vital and responsive to the community.

# Possible ways to Strengthen Commissions

(reflects input at last meeting)

- Strengthen/update charters
- Combine similar Commissions and expand/update a consolidated charter
- Increase # of people on a merged Commission (9/18)
- Create Standing Subcommittees so that important areas of emphasis are retained, and/or add Standing Subcommittees for other areas of emphasis.
- Consider requiring certain lived experience or qualifications for service on some commissions
- Consider adding non-voting members and/or official delegates from one Commission to another.
- Consider training for chairs and vice chairs

# Conversation points organized as follows:

- **SUGGESTED ADDS**
- **SUGGEST KEEPING AS STAND-ALONE + REVIEW & UPDATE CHARTERS**
- **CONSIDER TO MERGE/REWORK**

*Did not start with any numerical goals in mind. At end, counted up and it's 24.5+*

# SUGGESTED ADD (1)

**Commission on a Sustainable  
Locally-Based Economy**

# SUGGEST KEEPING AS IS + REVIEW & UPDATE CHARTER (16+ total)

- BIDS
- Status of Women
- Peace & Justice
- Disability
- Disaster & Fire (Resilience)
- Labor
- Mental Health
- Personnel
- ZAB
- Civic Arts
- Loan Admin Board
- PRC/Police Accountability Board
- CYRC – Children Youth and Recreation
- Parks & Waterfront
- Landmarks (LPC)
- Planning



# CONSIDER TO MERGE/REWORK (2)

- Create a “universal” HEALTH-focused commission (possibly still named Community Health Commission) and fold in
  - Sugar Sweetened Bev Panel of Experts
  - Health Considerations of CEAC
  - Broaden scope/lens on health
- Create a universal EQUITY & HUMAN WELFARE-focused commission (possibly named Commission on Equity & Human Welfare) and fold in
  - Aging
  - Homeless
  - Broaden scope/lens on EQUITY and ANTI- POVERTY
  - Consolidate more/all Community Grants Review into one Commission

# CONSIDER TO MERGE/REWORK (1)

Create global **Climate and Environmental Action** Commission focused on all elements of COB Climate Action Plan and other environmental and climate issues, and fold in:

- Energy
- Zero Waste
- Some elements of CEAC
- Animal Care (expanded - urban habitat, bees, birds, meat, etc.)
- Consider sending official non-voting delegates to Disaster & Emergency (Resilience) and Public Works/Transportation
- Consider doubling size of Commission and creating Standing Subcommittees

# CONSIDER TO MERGE/REWORK (1)

- Public Works + Transportation
  - Includes hardscape and funding elements of Transportation; environmental considerations at Climate & Environmental Action Commission + Delegate to bridge the two
  - Double size of PW/Transportation and manage with Standing Subcommittees?

# CONSIDER TO MERGE/REWORK (3)

- Measure P Panel of Experts + Homeless Commission
- Measure O Oversight + Housing Advisory Commission (HAC)
- FCPC – Fair Campaign Practices + Open Government (OGC)

# CONSIDER TO MERGE/REWORK (.5)

## Rework:

- Design Review – Maintain a separate Board of design experts, as currently configured, but have DRC and ZAB meeting simultaneously on major projects subject to Design Review
- Cannabis – Fold permitting elements into ZAB or Planning, and planning elements into Planning, and close out elements that are no longer relevant – major work of legalization is done. Require Mayor to establish a task force if major State, Local or Federal changes in view

# CONSIDER TO MERGE/REWORK

## Rework:

- Youth Commission
  - Consider adding a youth representative to every commission, appointed by Council, non-voting
  - Consider creating more direct and meaningful opportunities for participation in Government for High School aged youth (and possibly for BCC and CAL Students as well).
  - Consider creating a formal internship program for students to shadow CMs/Mayor/City Manager/City Attorney/City Auditor and Department heads, as well as other City Staff, and to do projects/internships with them.



Lori Droste  
Councilmember, District 8

**ACTION CALENDAR**  
June 30, 2020

**To:** Honorable Mayor and Members of the City Council

**From:** Councilmember Lori Droste (Author) and Councilmembers Rigel Robinson (Co-Sponsor) and Rashi Kesarwani (Co-Sponsor)

**Subject:** Commission Reorganization for Post-COVID19 Budget Recovery

**RECOMMENDATION**

- 1) Reorganize existing commissions with the goal of achieving 20 total commissions.
- 2) Reorganize existing commissions within various departments to ensure that no single department is responsible for more than five commissions.
- 3) Reorganize commissions within the Public Works Department to ensure Public Works oversees no more than three commissions.
- 4) Refer to the City Manager and every policy committee to agendaize at the next meeting available to discuss commissions that are in their purview and make recommendations to the full Council on how to reorganize and address the various policy areas. Commission members should be notified and chairs should be invited to participate. Policy committee members are encouraged to consider the renaming of some commissions in order to ensure that all policy areas are addressed.

## **PROBLEM/SUMMARY STATEMENT**

Demand for city workers staffing commissions is larger than the City's ability to supply it at an acceptable financial and public health cost. Thirty-seven commissions require valuable city staff time and funding that could be better spent providing essential services. The COVID-19 pandemic has impacted the City of Berkeley in a myriad of ways, resulting in enormous once-in-a-lifetime socioeconomic and public health impacts. While the City Manager and department heads are addressing how to best prepare and protect our residents, particularly our most vulnerable, they are also required to oversee an inordinate amount of commissions for a medium-sized city at a significant cost.

The City of Berkeley faces many challenges, including the COVID-19 pandemic and its resultant budget and staffing impacts. Prior to the onset of COVID-19, the City Council and staff spent significant Council time on items originating with the City's advisory commissions. As the Shelter in Place is gradually lifted, critical city staff will resume staffing these 37 commissions. As a result, too much valuable staff time will continue to be spent on supporting an excessive amount of commissions in Berkeley rather than addressing the basic needs of the City.

## **BACKGROUND**

### **Review of Existing Plans, Programs, Policies, and Laws**

The City of Berkeley has approximately thirty-seven commissions overseen by city administration, most of which have at least nine members and who are appointed by individual councilmembers. These commissions were intended to be a forum for public participation beyond what is feasible at the City Council, so that issues that come before the City Council can be adequately vetted.

Some commissions are required by charter or mandated by voter approval or state/federal mandate. Those commissions are the following:

1. Board of Library Trustees (charter)
2. Business Improvement Districts (state mandate)
3. Civic Arts Commission (charter)
4. Community Environmental Advisory Commission (state/federal mandate--CUPA)
5. Fair Campaign Practices Commission/Open Government (ballot measure)
6. Homeless Services Panel of Experts (ballot measure)
7. Housing Advisory Commission (state/federal mandate)
8. Human Welfare and Community Action (state/federal mandate)
9. Measure O Bond Oversight Committee (ballot measure)
10. Mental Health Commission (state/federal mandate)
11. Personnel (charter)



12. Police Review Commission (ballot measure)
13. Sugar-Sweetened Beverages (ballot measure)

Berkeley must have its own mental health commission because of its independent Mental Health Division. In order to receive services, the City needs to have to have an advisory board. Additionally, Berkeley's Community Environmental Advisory Commission is a required commission in order to oversee Certified Unified Program Agency (CUPA) under California's Environmental Protection Agency. Additionally, some commissions serve other purposes beyond policy advisories. The Children, Youth and Recreation Commission, Housing Advisory Commission, and the Human Welfare and Community Action Commission advise Council on community agency funding. However, some of the aforementioned quasi-judicial and state/federal mandated commissions do not need to stand independently and can be combined to meet mandated goals.

In comparison to neighboring jurisdictions of similar size, Berkeley has significantly more commissions. The median number of commissions for these cities is 12 and the average is 15.

| Comparable Bay Area City | Population (est.) | Number of Commissions | Links                                                                                                                                                                                                         |
|--------------------------|-------------------|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Berkeley                 | 121,000           | 37                    | <a href="https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_Commissions/External%20Roster.pdf">https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3 - Commissions/External%20Roster.pdf</a> |
| Antioch                  | 112,000           | 6                     | <a href="https://www.antiochca.gov/government/boards-commissions/">https://www.antiochca.gov/government/boards-commissions/</a>                                                                               |
| Concord                  | 130,000           | 14                    | <a href="https://www.cityofconcord.org/264/Applications-for-Boards-Committees-Comm">https://www.cityofconcord.org/264/Applications-for-Boards-Committees-Comm</a>                                             |
| Daly City                | 107,000           | 7                     | <a href="http://www.dalycity.org/City_Hall/Departments/city_clerk/Commissions_Information/boards.htm">http://www.dalycity.org/City_Hall/Departments/city_clerk/Commissions_Information/boards.htm</a>         |
| Fairfield                | 117,000           | 7                     | <a href="https://www.fairfield.ca.gov/gov/comms/default.asp">https://www.fairfield.ca.gov/gov/comms/default.asp</a>                                                                                           |
| Fremont                  | 238,000           | 15                    | <a href="https://www.fremont.gov/76/Boards-Commissions-Committees">https://www.fremont.gov/76/Boards-Commissions-Committees</a>                                                                               |
| Hayward                  | 160,000           | 12                    | <a href="https://www.hayward-ca.gov/your-government/boards-commissions">https://www.hayward-ca.gov/your-government/boards-commissions</a>                                                                     |
| Richmond                 | 110,000           | 29                    | <a href="https://www.ci.richmond.ca.us/256/Boards-and-Commissions">https://www.ci.richmond.ca.us/256/Boards-and-Commissions</a>                                                                               |
| San Mateo                | 105,000           | 7                     | <a href="https://www.cityofsanmateo.org/60/Commissions-Boards">https://www.cityofsanmateo.org/60/Commissions-Boards</a>                                                                                       |

|           |         |    |                                                                                                                                                           |
|-----------|---------|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Sunnyvale | 153,000 | 10 | <a href="https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?blobid=22804">https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?blobid=22804</a> |
| Vallejo   | 122,000 | 17 | <a href="http://www.ci.vallejo.ca.us/cms/one.aspx?pageId=22192">http://www.ci.vallejo.ca.us/cms/one.aspx?pageId=22192</a>                                 |

### Consultation and Outreach

To understand the impact on various departments and staffing capacity, the following table shows which departments are responsible for overseeing various commissions.

| Commission Name                                                | Overseeing Department<br>(Total Commissions in<br>Department) |
|----------------------------------------------------------------|---------------------------------------------------------------|
| Animal Care Commission                                         | City Manager (7)                                              |
| Civic Arts Commission                                          | City Manager (7)                                              |
| Commission on the Status of Women                              | City Manager (7)                                              |
| Elmwood BID Advisory Board                                     | City Manager (7)                                              |
| Loan Administration Board                                      | City Manager (7)                                              |
| Peace and Justice Commission                                   | City Manager (7)                                              |
| Solano Ave BID Advisory Board                                  | City Manager (7)                                              |
|                                                                |                                                               |
| Cannabis Commission                                            | Planning (8)                                                  |
| Community Environmental Advisory Commission                    | Planning (8)                                                  |
| Design Review Committee                                        | Planning (8)                                                  |
| Energy Commission                                              | Planning (8)                                                  |
| Joint Subcommittee on the Implementation of State Housing Laws | Planning (8)                                                  |
| Landmarks Preservation Commission                              | Planning (8)                                                  |
| Planning Commission                                            | Planning (8)                                                  |
| Zoning Adjustments Board                                       | Planning (8)                                                  |
|                                                                |                                                               |
| Children, Youth, and Recreation Commission                     | Parks (3)                                                     |
| Parks and Waterfront Commission                                | Parks (3)                                                     |
| Youth Commission                                               | Parks (3)                                                     |
|                                                                |                                                               |
| Commission on Aging                                            | Health, Housing, and<br>Community Services<br>(HHCS) (10)     |
| Commission on Labor                                            | HHCS (10)                                                     |
| Community Health Commission                                    | HHCS (10)                                                     |

|                                                               |                     |
|---------------------------------------------------------------|---------------------|
| Homeless Commission                                           | HHCS (10)           |
| Homeless Services Panel of Experts                            | HHCS(10)            |
| Housing Advisory Commission                                   | HHCS (10)           |
| Human Welfare & Community Action Commission                   | HHCS (10)           |
| Measure O Bond Oversight Committee                            | HHCS (10)           |
| Mental Health Commission                                      | HHCS (10)           |
| Sugar-Sweetened Beverage Product Panel of Experts             | HHCS (10)           |
|                                                               |                     |
| Disaster and Fire Safety Commission                           | Fire (1)            |
|                                                               |                     |
| Commission on Disability                                      | Public Works (5)    |
| Public Works Commission                                       | Public Works (5)    |
| Traffic Circle Task Force                                     | Public Works (5)    |
| Transportation Commission                                     | Public Works (5)    |
| Zero Waste Commission                                         | Public Works (5)    |
|                                                               |                     |
| Fair Campaign Practices Commission/Open Government Commission | City Attorney (1)   |
|                                                               |                     |
| Personnel Board                                               | Human Resources (1) |
|                                                               |                     |
| Police Review Commission                                      | Police (1)          |
|                                                               |                     |
| Board of Library Trustees                                     | Library (1)         |

Gray=charter

Red=state/federal mandate

Yellow=quasi-judicial

Blue=ballot initiative

Orange=state/federal mandate and quasi-judicial

Green=quasi-judicial and ballot initiative

The departments that staff more than five commissions are Health, Housing, and Community Services (10 commissions), Planning (8 commissions), and the City Manager's department (7 commissions). At the same time, some smaller departments (e.g. the City Attorney's office) may be impacted just as meaningfully if they have fewer staff and larger individual commission workloads.

With the recent addition of policy committees, proposed legislation is now vetted by councilmembers in these forums. Each policy committee is focused on a particular

content area aligned with the City of Berkeley's strategic plan and is staffed and an advisory policy body to certain city departments. Members of the public are able to provide input at these committees as well. The policy committees currently have the following department alignment:

### **Department and Policy Committee alignment**

1. **Agenda and Rules**—all departments
2. **Budget and Finance**—City Manager, Clerk, Budget, and Finance
3. **Land Use and Economic Development**—Clerk, Planning, HHCS, City Attorney, and City Manager (OED)
4. **Public Safety**—Clerk, City Manager, Police, and Fire
5. **Facilities, Infrastructure, Transportation, Environment and Sustainability** (Clerk, City Manager, Planning, Public Works, and Parks)
6. **Health, Equity, Life Enrichment, and Community** (Clerk, City Manager, HHCS)

### **CRITERIA CONSIDERED**

#### **Effectiveness**

*How does this proposal maximize public interest?* For this analysis, the effectiveness criterion includes analysis of the *benefits* to the entire community equitably with specific emphasis on public health, racial justice and safety.

#### **Fiscal Impacts/Staffing Costs**

*What are the costs?* The fiscal impact of the proposed recommendation and various alternatives considered includes direct costs of commissions.

#### **Administrative Burden/Productivity Loss**

*What are the operational requirements or productivity gains or losses from this proposal?*

The administrative burden criterion guides the analysis in considering operational considerations and productivity gains and losses. While operational considerations and tradeoffs are difficult to quantify in dollar amounts, productivity losses were considered in its absence.

#### **Environmental Sustainability**

The environmental sustainability criterion guides legislation in order to avoid depletion or degradation of the natural resources and allow for long-term environmental quality.

## **ALTERNATIVES**

### **Alternative #1–The Current Situation**

The current situation is the status quo. The City of Berkeley would retain all commissions and no changes would be made.

### **Alternative #2–Collaborative Approach with Quantity Parameters**

This approach would specify a specific number (20) of commissions the City of Berkeley should manage and set parameters around individual department responsibilities. Furthermore, it requires a collaborative approach and outreach to address specific policy areas by referring it to the Council policy committees for further analysis and specific recommendations.

### **Alternative #3–Committee Alignment, Mandated and Quasi-Judicial Commissions**

This alternative would consist of five commissions aligned directly with the policy committees in addition to quasi-judicial bodies and ones required by charter, ballot measure or law.

- *Budget and Finance Commission*
- *Facilities, Infrastructure, Transportation, Environment and Sustainability Commission (state/federal mandate--CUPA)*
- *Health, Equity, and Life Enrichment*
- *Land Use and Economic Development*
- *Public Safety*
- Board of Library Trustees (charter)
- Civic Arts Commission (charter)
- Community Environmental Advisory Commission (state/federal mandate--CUPA)
- Fair Campaign Practices Commission/Open Government (ballot measure)
- Homeless Services Panel of Experts (ballot measure)
- Housing Advisory Commission (state/federal mandate)
- Human Welfare and Community Action (state/federal mandate)
- Landmarks Commission (quasi-judicial)
- Measure O Bond Oversight Committee (ballot measure)
- Mental Health Commission (state/federal mandate)
- Planning (quasi-judicial)
- Personnel (charter)
- Police Review Commission (ballot measure)
- Sugar-Sweetened Beverages (ballot measure)
- Zoning Adjustments Board (quasi-judicial)

#### **Alternative #4: Extreme Consolidation**

This alternative represents a prescriptive approach with maximum consolidation in content area and mandated commissions, absent charter amendments.

- Board of Library Trustees (charter)
- Business Improvement District (state/federal mandate)
- Civic Arts Commission (charter)
- Community Environmental Advisory Commission/Energy/Zero Waste (state/federal--CUPA)
- Fair Campaign Practices Commission/Open Government (ballot measure)
- Homeless Services Panel of Experts (ballot measure)
- Human Welfare and Community Action (state/federal mandate)
- Measure O Bond Oversight Committee (ballot measure)/Housing Advisory Commission (state/federal mandate)
- Mental Health Commission (state/federal mandate)
- Personnel (charter)
- Planning Commission (quasi-judicial and appeals)
- Board of Appeals (land use appeals)
- Police Review Commission (ballot measure)
- Health and Sugar-Sweetened Beverages (ballot measure)

#### **PROJECTED OUTCOMES (CRITERIA X ALTERNATIVES)**

|                                       | <b>Current Situation</b> | <b>Collaborative Approach</b> | <b>Policy Committee Alignment</b> | <b>Extreme Consolidation</b> |
|---------------------------------------|--------------------------|-------------------------------|-----------------------------------|------------------------------|
| <b>Benefit/ Effectiveness</b>         | medium                   | high                          | medium                            | low                          |
| <b>Cost</b>                           | high                     | medium                        | low                               | low                          |
| <b>Administrative Burden</b>          | high                     | low                           | low                               | medium                       |
| <b>Relative Environmental Benefit</b> | low                      | medium                        | medium                            | high                         |

#### **Current Situation and Its Effects (Alternative #1)**

##### *Effectiveness of the Current Situation*

Commissions serve a vital role in the City of Berkeley's rich process of resident engagement. An analysis of agendas over the past several years shows that the

commissions have created policy that have benefited the community in meaningful and important ways. In 2019, approximately two-thirds of commission items submitted to Council passed. From 2016-2019, an average of 39 items were submitted by commissions to Council for consideration. Every year roughly 15-18 (~40-45%) commissions do not submit any items for Council policy consideration in any given year. The reason for this varies. Some commissions don't submit policy recommendations (BIDs) and some commissions recommendations may not rise to Council level at all or come to Council as a staff recommendation (e.g. ZAB and DRC). Additionally, a few commissions struggle to reach monthly quorum as there are currently 64 vacancies on the various commissions, excluding alternative commissioners.

It is also important to consider equitable outcomes and the beneficiaries as well. For example, the City's Health, Housing and Community Development department serves an important role in addressing COVID-19, racial disparities, inequitable health outcomes, affordable housing, and other important community programs. Additionally, Health, Housing, and Community Development also staffs ten commissions, more than many cities of Berkeley's size. Council needs to wrestle with these tradeoffs to ensure that we seek the maximum benefit for *all* of the Berkeley community, particularly our most vulnerable.

### *Staffing Costs*

Based upon preliminary calculations of staff titles and salary classifications, the average staff secretary makes roughly \$60-\$65/hour. Based upon recent interviews with secretaries and department heads, individual commission secretaries work anywhere from 8-80 hours a month staffing and preparing for commission meetings. To illustrate this example, a few examples are listed below.

| Commission                        | Step 5 Rate of Pay | Reported Hours a Month | Total <b>Direct</b> Cost of Commission <b>per Month</b> |
|-----------------------------------|--------------------|------------------------|---------------------------------------------------------|
| Animal Care                       | \$70.90            | 8                      | \$567.20                                                |
| Landmarks Preservation Commission | \$57.96            | 80                     | \$4,636.80                                              |
| Design Review Commission          | \$52.76            | 60                     | \$3,165.60                                              |
| Peace and Justice                 | \$60.82            | 32                     | \$1946.24                                               |

It is extremely challenging to estimate a specific cost of commissions in the aggregate because of the varying workload but a safe estimate of salary costs dedicated to commissions would be in the six-figure range.

Many commissions--particularly quasi-judicial and land use commissions-- require more than one staff member to be present and prepare reports for commissions. For example, Zoning Adjustment Board meetings often last five hours or more and multiple staff members spend hours preparing for hearings. The Planning Department indicates that *in addition* to direct hours, additional commission-related staff time adds an extra 33% staff time. Using the previous examples, this means that the Landmarks Preservation Commission would cost the city over \$6,000 in productivity while the Design Review Commission would cost the City over \$4,000 a month.

#### *Productivity Losses and Administrative Burden*

Current productivity losses are stark because of the sheer amount of hours of staffing time dedicated to commissions. As an example, in 2019 one of the City of Berkeley's main homeless outreach workers staffed a commission within the City Manager's department. She spent approximately 32 hours a month working directly on commission work. While this is not a commentary on a particular commission, this work directly impacted her ability to conduct homeless outreach. The Joint Subcommittee on the Interpretation of State Housing Laws is another example. Planners dedicate 50 hours a month to that commission. Meanwhile, this commission has limited ability in affecting state law and the City Attorney's office is responsible for interpreting state law. While this commission does important work on other issues, there is little nexus in interpreting state housing laws and could be disbanded and consolidated with an existing commission. If this commission were disbanded, the current planner could dedicate significant hours to Council's top priorities in Planning. This year's top Council priority is the displacement of Berkeley's residents of color and African Americans (Davila).

#### *Environmental Sustainability*

The current commission structure doesn't have a large impact on the environment but, in relative terms, is the most burdensome because of the potential vehicle miles travelled by hundreds of commissioners (VMT) and printing costs associated with a large number of commissions.



## **ALTERNATIVES CONSIDERED**

### **Effectiveness**

#### *Alternative #2--Collaborative approach*

While the outcome is unknown, a collaborative approach with a specified target quantity of commissions and departmental responsibility would likely yield significant benefit to the community. Due to the projected budget cuts, city staff will need to have more bandwidth to deliver baseline services and priority projects. Civic engagement will still be retained due to a myriad of ways to provide public input but more importantly, current commissioners and civic partners are invited to provide feedback to the policy committees for consideration. Additionally, this approach is a less prescriptive approach which allows Council to acknowledge that the current number of commissions is unsustainable and impacts baseline services. Instead of recommending specific commission cuts at this moment, this approach simply allows Council to state an appropriate number of commissions (20) and acknowledge the severe staffing impacts of the current configuration. Furthermore, twenty commissions is a reasonable starting point, especially when considering that most area cities that are approximately Berkeley's size have seven commissions.

#### *Alternative 3--Policy Committee Alignment*

This approach would yield some benefit in that commissions would reflect current policy committees and would directly advise those bodies. This is beneficial because commissions directly aligned with policy committees would be an independent civic replica of the appointed policy committee bodies. It further retains mandated commissions. However, this prescriptive approach doesn't allow for flexibility in retaining historically important commissions and it does not address the benefit of potentially consolidating two commissions that address the same policy content area. For instance, it may be possible to combine the sugar-sweetened beverage oversight panel with the Health, Life, and Equity commission or the CEAC with the Facilities, Infrastructure, Transportation, Environment and Sustainability.

#### *Alternative 4--Extreme Consolidation--*

This approach is the most drastic alternative and the overall effectiveness is likely low, mainly due to potential community backlash due to Berkeley's long history of civic engagement. Furthermore, the Planning Commission would likely become overburdened and less effective because land use appeals would have to be routed through the Planning Commission.

## **Costs/Fiscal Impact**

### *Alternative 2--Collaborative Approach*

The fiscal impact of the Collaborative Approach is unknown at this time because this recommendation does not prescribe specific commission consolidations or cuts. However, if commissions are reorganized such that Berkeley will have 20 instead of 38, there will be significant direct cost savings. One can reasonably assume that the direct financial cost could reduce to almost half the current amount.

### *Alternative 3--Policy Committee Alignment*

The fiscal impact of Policy Committee Alignment would yield significant savings due to commission consolidation. One can reasonably assume that the direct financial cost could reduce to more than half the current amount.

### *Alternative 4--Extreme Consolidation*

Extreme Consolidation would yield the most savings due to commission consolidation. One can reasonably assume that the direct financial cost would reduce to 25%-30% of the current amount spent on commission work.

## **Productivity**

### *Alternative 2--Collaborative Approach*

The most glaring impact on the current commission structure is administrative impacts and productivity. Whether City Council consolidates commissions or not, attributable salary costs will still exist. The primary benefit of pursuing the Collaborative Approach would center on productivity. The City of Berkeley is likely to garner significant productivity gains by specifying a target number of commissions overall and within departments. Using the Peace and Justice and Joint Subcommittee on the Interpretation of State Housing Laws examples above, more staff will be able to focus on core services and priority programs. Thousands of hours may be regained by dedicated staff to tackle the tough issues our community faces, especially in light of COVID-19 and concerns around racial equity.

### *Alternative 3--Policy Committee Alignment*

This alternative likely will yield the same productivity benefits as the collaborative approach, if not more. The City of Berkeley would likely garner significant productivity gains by specifying less than twenty commissions. Thousands of hours may be regained by dedicated staff to tackle the tough issues our community faces, especially in light of COVID-19 and concerns around racial equity.

#### *Alternative 4–Extreme Consolidation*

This alternative would likely provide the most productivity gains and lessen administrative burdens overall. However, there could be unintended consequences of productivity within the planning department absent additional policy changes. For example, the quasi-judicial Zoning Adjustments Board and Planning Commission agendas are packed year round. It is unclear whether eliminating one of these commissions would lessen the administrative burden and increase productivity in the Planning Department or whether those responsibilities would merely shift commissions. At the same time, the Planning Department could benefit from reducing commissions to increase productivity within the planning department.

### **Environmental Sustainability**

#### *Alternative 2–Collaborative approach*

This alternative doesn't have a large impact on the environment other than potential vehicle miles travelled by hundreds of commissioners (VMT) and printing costs. However, these environmental impacts could be cut in half with commission reorganization.

#### *Alternative 3--Policy Committee Alignment*

This alternative doesn't have a large impact on the environment other than potential vehicle miles travelled by hundreds of commissioners (VMT) and printing costs. However, these environmental impacts could be cut in half with commission reorganization.

#### *Alternative 4–Extreme Consolidation*

This alternative would have negligible impacts on the environment other than potential vehicle miles travelled by hundreds of commissioners (VMT) and printing costs.

### **RATIONALE FOR RECOMMENDATION**

The Collaborative Approach is the best path forward in order to pursue Berkeley's commitment to

- Create affordable housing and housing support services for our most vulnerable community members
- Be a global leader in addressing climate change, advancing environmental justice, and protecting the environment
- Champion and demonstrate social and racial equity
- Provide an efficient and financially-healthy City government
- Provide state-of-the-art, well-maintained infrastructure, amenities, and facilities
- Foster a dynamic, sustainable, and locally-based economy
- Create a resilient, safe, connected, and prepared City

- Be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community
- Attract and retain a talented and diverse City government workforce

The status quo—37 commissions— is too costly and unproductive. At the same time, civic engagement and commission work absolutely deserve an important role in Berkeley. Consequently, this legislation retains commissions but centers on overall community benefit, staff productivity, and associated costs. This is imperative to address, especially in light of COVID-19 and community demands for reinvestment in important social services.