

RECEIVED AT
COUNCIL MEETING OF:

JUL 16 2019

OFFICE OF THE CITY CLERK
CITY OF BERKELEY

RESOLUTION

Including edits proposed by Mayor in track changes format

~~REAFFIRMING THE ADVISORY ROLE OF DECLARING~~ THE BERKELEY PEACE AND JUSTICE COMMISSION ON SOCIALLY RESPONSIBLE INVESTMENT AND IN SOCIALLY RESPONSIBLE PROCUREMENT POLICY

~~BE DESIGNATED THE CITY'S SOCIALLY RESPONSIBLE INVESTMENT AND PROCUREMENT ADVISORY BODY.~~ WHEREAS, the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code section 3.68.070, Function A); and

WHEREAS, the Peace and Justice Commission mandate, as amended in 1990, includes Function K of BMC section 3.68.070: "Assist the Director of Finance in the annual evaluation of financial institutions for qualification of City investments; complete development and assist in the implementation of a linked deposit program; encourage target investments; coordinate with City agencies, appropriate community organizations, public and private investors, and the Governor's Public Investment Task Force; and advise the City Council on matters relating to the responsible investment of public funds in accordance with the responsible investment policy established by Resolution No. 55,141A-NS;" and

WHEREAS, the Peace and Justice Commission mandate includes Function L of BMC section 3.68.070: "Perform such other functions and duties as may be directed by the City Council or prescribed or authorized by any ordinance of the City, and such other functions and duties not prohibited by City Council which the commission should decide are consistent with its overall function of promoting peace and social justice;" and

WHEREAS, the "Socially Responsible Investment Policy" was passed by the Council, January 16, 1990 as Resolution #55,141A-N.S., "Adopting the Statement of Investments Policy presented by the Director of Finance as amended to include the recommendations of Peace and Justice Commission"; and

WHEREAS, the Nuclear Free Berkeley Act adopted by voters in 1986, prohibited the City of Berkeley from executing new contracts with a person or business who knowingly engages in work for nuclear weapons, unless a waiver is granted. Since the implementation of the Act, the Peace and Justice Commission has reviewed waiver requests for city contracts to ensure alignment with its socially responsible investment goals;

WHEREAS, Resolution No. 59,583-N.S. "Oppressive States Contract Prohibition" designates the Peace and Justice Commission to provide oversight on implementation of the policy; and

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WHEREAS, over the years, the Peace and Justice Commission has initiated, or the City Council has referred for its consideration, policies to promote socially responsible investment and procurement, including but not limited to:

- Resolution No. 59,853-N.S.-Oppressive States Contract prohibition
- Divestment from Publicly Traded Fossil Fuel Companies and Banks that Finance Pipelines and Fossil Fuel Infrastructure
- Divestment from Prisons Resolution No. 67,640-N.S. and Immigration Detention Companies
- Divest from Any Companies Designing, Building or Financing the U.S. - Mexico Border Wall Resolution No. 67,865-N.S.
- No Investment in Any Entity Involve in the Production and Manufacturing of Weapons-Resolution No. 68,766-N.S
- Integrate Environmental, Social, and Governance Principles (ESG) for All Investment Decision Making Process

WHEREAS, the UN Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights in 2011,¹ and this framework is the authoritative global standard on business and human rights, setting the expectations of states and companies about how to prevent and address negative impacts on human rights by business; and

WHEREAS, the ~~City of Berkeley~~City Council ~~requests~~ requires ongoing policy advice on consistent overview of responsible investment and procurement policies, including policies relating to banking services;

THEREFORE BE IT RESOLVED that the Council of the City of Berkeley hereby reaffirms the advisory role of designates the Peace and Justice Commission on as the Socially Responsible Investment and Procurement advisory body for the City of Berkeley as prescribed in B.M.C. Section 3.68.070.K, and its advisory role to the City Council including around socially responsible procurement policy and requests the Peace and Justice Commission create a Socially Responsible Investment and Procurement Policy Subcommittee ~~charged with evaluating businesses for social responsibility, including but not limited to inclusion, exclusion, or ranking businesses for City contracting based on such criteria;~~ and

BE IT FURTHER RESOLVED that the Socially Responsible Investment and Procurement Policy Subcommittee will draft and the Peace and Justice Commission will hold hearings on and propose to Council an ordinance policy to govern the Commission's advisory role in on socially responsible investing and socially responsible procurement of the City of Berkeley; this proposed ordinance policy shall be submitted to the City Council within six months of the passage of this resolution; and

¹ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf and <https://www.unglobalcompact.org/> (Small businesses may be given a waiver from these requirements.) Note that in 2018, the U.S. government withdrew from the Human Rights Council.

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BE IT FURTHER RESOLVED that the Socially Responsible Investment and Procurement Policy Subcommittee will consider “the goal of creating a world community in which the relations between people are based on equality, respect for human rights, and the abhorrence of exploitation and all forms of oppression [universal human rights]” [BMC section 3.68.030] in its development and recommendation of policies on socially responsible investment and procurement for the evaluation of municipal investments and procurement, and community values for the evaluation of banking and other services.

A. Universal Human Rights include but are not limited to the rights listed in the International Bill of Human Rights, meaning the rights in the Universal Declaration of Human Rights², as codified in the International Covenant on Civil and Political Rights³ and the International Covenant on Economic, Social and Cultural Rights⁴; and the rights listed under International Humanitarian Law treaties and the rights in the International Labor Organizations' Declaration on Fundamental Principles and Rights at Work⁵. These include but are not limited to concern for:

- 1) Social rights, including racial justice, the rights of indigenous people and LGBTQI people
- 2) Labor rights, including the prohibition of sweat labor and child labor
- 3) The rights of incarcerated people and people under a belligerent occupation
- 5) Rights of women and girls, including equal pay
- 6) Immigrant rights
- 7) Environmental justice
- 8) Civil and political rights
- 8) Rights of persons with disabilities
- 9) Rights of religious minorities
- 10) Health and safety

B. Corporate Responsibility includes, but is not limited to concerns about:

- 1) Local banking and presence
- 2) Underserved communities and neighborhoods
- 2) Corporate market behavior
- 3) Corporate good citizenship and tax avoidance
- 4) Corporate ethics and governance
- 5) Community investment; and

BE IT FURTHER RESOLVED that the Socially Responsible Investment and Procurement Policy Subcommittee will comprise members who are reflective of the diversity of the Berkeley community, including both Peace and Justice commissioners

² <http://www.un.org/en/universal-declaration-human-rights/index.html>

³ <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

⁴ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

⁵ <http://www.ilo.org/declaration/lang--en/index.htm>

and outside experts, and the number of members, the qualifications, and length of service will be established in the above ordinance;

BE IT FURTHER RESOLVED that the Socially Responsible Investments and Procurement Policy Subcommittee has the authority and will endeavor to include or consult with individuals with expertise in socially responsible investment and procurement policies, other subject matter experts and City staff; and

BE IT FURTHER RESOLVED that while the Socially Responsible Investments and Procurement Subcommittee engages in development of the above ordinance, it will may begin work immediately to review the City's investments policy and procurement strategy and processes, and make any necessary recommendations to to advise the City Council. In addition, this resolution does not limit the authority of the Peace and Justice Commission to make recommendations to the City Council on socially responsible investment policies, and the City Manager and Director of Finance.