AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, June 4, 2024
6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – VACANT
DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – CECILIA LUNAPARRA
DISTRICT 8 – MARK HUMBERT

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. If you are feeling sick, please do not attend the meeting in person.

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244.

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device Please use this URL: https://cityofberkeley-info.zoomgov.com/j/1607556641. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter Meeting ID: **160 755 6641**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair. Please be mindful that the meeting will be recorded.*

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@berkeleyca.gov.

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. Any member of the public may attend this meeting. Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900. The City Council may take action related to any subject listed on the Agenda.

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. "Disrupting" means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

Preliminary Matters

Roll Call:

Land Acknowledgement Statement: *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

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. Persons attending the meeting in-person and wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

Public Comment by Employee Unions (first regular meeting of the month): *This period of public comment is reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.*

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 or Information 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. Repeal of Berkeley Municipal Code Chapter 12.80
From: City Attorney
Recommendation: Adopt second reading of Ordinance No. 7,907-N.S. repealing Chapter 12.80 to the Berkeley Municipal Code (BMC), which bans natural gas infrastructure in new construction. In California Restaurant Association v. City of Berkeley, the 9th Circuit Court of Appeals found this ordinance unlawful. Repeal is required by the parties' settlement agreement and would resolve the litigation.
First Reading Vote: All Ayes.
Financial Implications: None
Contact: Farimah Brown, City Attorney, (510) 981-6950

2. Amendment: FY 2024 Annual Appropriations Ordinance
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,908-N.S. amending the FY 2024 Annual Appropriations Ordinance No. 7,892–N.S. for fiscal year 2024 based upon recommended re-appropriation of committed FY 2023 funding and other adjustments in the amount of $64,638,405 (gross) and $52,765,663 (net).
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000

3. Revised Fees for Public Use of City-Owned Electric Vehicle Charging Ports; Amending Berkeley Municipal Code Section 6.24.137
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,909-N.S. amending Berkeley Municipal Code (BMC) Section 6.24.137, Designation of and Restrictions for Electric Vehicle Parking Spaces, to: -Establish a schedule of rates for electric vehicle charging stations, and -Authorize the City Manager or her Designee to adjust the rates in accordance with the California Public Utility Commission’s electricity rate increases.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300

Consent Calendar

4. Amendment to Commissioner Leave of Absence Process
From: Mayor Arreguin (Author)
Recommendation: Adopt second reading of Ordinance No. 7,911-N.S. amending Berkeley Municipal Code (BMC) Section 3.02 to allow the Mayor to approve a Leave of Absence for a Commissioner appointed by the Council as a whole.
First Reading Vote: Ayes – Bartlett, Hahn, Humbert, Kesarwani, Lunaparra, Wengraf, Arreguin; Absent – Taplin.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100

5. Contract: Amira Jackmon Attorney at Law, for Lorin and Gilman Parking Benefit District Formation Services
From: City Attorney, City Manager
Recommendation: Adopt a Resolution authorizing the City Attorney, acting on behalf of the Office of Economic Development to execute a contract and any necessary amendments with Amira Jackmon, Attorney at Law, for an amount not to exceed $70,000 for the development of parking benefit districts in the Lorin business district of South Berkeley and the Gilman district in West Berkeley.
Financial Implications: See report
Contact: Farimah Brown, City Attorney, (510) 981-6950, Eleanor Hollander, Economic Development, (510) 981-7530

6. Assessments: Berkeley Tourism Business Improvement District
From: City Manager
Recommendation: Adopt a Resolution approving the Annual Planning Report and preliminary budget for Fiscal Year 2025 (FY25) for the Berkeley Tourism Business Improvement District (BTBID) as recommended by the BTBID Owners' Association.
Financial Implications: See report
Contact: Eleanor Hollander, Economic Development, (510) 981-7530

7. Assessments: North Shattuck Property Based Business Improvement District
From: City Manager
Recommendation: Adopt a Resolution approving the North Shattuck Property Based Business Improvement District (NSBID) Annual Report of Fiscal Year (FY) 2024 and proposed budget for FY 2025, and declaring Council's intention to levy an annual assessment for the NSBID for FY 2025.
Financial Implications: See report
Contact: Eleanor Hollander, Economic Development, (510) 981-7530

Consent Calendar

8. Assessments: Telegraph Property Based Business Improvement District
From: City Manager
Recommendation: Adopt a Resolution approving the Telegraph Property Based Business Improvement District (TBID) Annual Report of Fiscal Year (FY) 2024 and proposed budget for FY 2025, and declaring Council's intention to levy an annual assessment for the TBID for FY 2025.
Financial Implications: See report
Contact: Eleanor Hollander, Economic Development, (510) 981-7530

9. Assessments: Downtown Berkeley Property Based Business Improvement District
From: City Manager
Recommendation: Adopt a Resolution approving the Downtown Berkeley Property Based Business Improvement District (DPBID) Annual Report of Fiscal Year (FY) 2024 and proposed budget for FY 2025, and declaring Council's intention to levy an annual assessment for the DPBID for FY 2025.
Financial Implications: See report
Contact: Eleanor Hollander, Economic Development, (510) 981-7530

10. Contracts: Fine Art Services Providers for the Public Art Collection
From: City Manager
Recommendation: Adopt three Resolutions authorizing the City Manager to execute three contracts and any associated amendments with the following companies for on-call fine art services for the City of Berkeley's Public Art Collection, for a contract period through June 30, 2026.
-Gizmo Art Production, Inc., for an amount not to exceed $200,000.
-ARG Conservation Services for an amount not to exceed $150,000.
-Modify the existing Atthowe Fine Art Service for amount not to exceed $400,000 (thereby increasing Contract Number 32300137 by $200,000).
Financial Implications: See report
Contact: Eleanor Hollander, Economic Development, (510) 981-7530

11. FY 2025 Tax Rate: Fund Debt Service on Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election)
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2025 tax rate for funding the debt service on the Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election) at 0.0048%.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300

Consent Calendar

12. FY 2025 Tax Rate: Fund the Debt Service on the Street and Watershed Improvements General Obligation Bonds (Measure M, November 2012 Election)
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2025 tax rate funding the debt service on the Street and Integrated Watershed Improvements General Obligation Bonds (Measure M, November 2012) at 0.0064%.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300

13. FY 2025 Tax Rate: Fund Debt Service on 2015 Refunding General Obligation Bonds (Measures G, S & I)
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2025 tax rate funding the debt service on the 2015 consolidation of Measures G, S and I (General Obligation Bonds - Elections of 1992, 1996 and 2002) at 0.0111%.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300

14. FY 2025 Tax Rate: Fund the Debt Service on the Infrastructure and Facilities General Obligation Bonds (Measure T1, November 2016 Election)
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2025 tax rate funding the debt service on the Infrastructure and Facilities Improvements General Obligation Bonds (Measure T1, November 2016) at 0.0136%.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300

15. FY 2025 Tax Rate: Fund the Debt Service on the Affordable Housing General Obligation Bonds (Measure O, November 2018 Election)
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2025 tax rate funding the debt service on the Affordable Housing General Obligation Bonds (Measure O, November 2018) at 0.0250%.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300

16. FY 2025 Tax Rate: Business License Tax on Large Non-Profits
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2025 tax rate for Business License Tax on large non-profits at $0.8207 (82.07 cents) per square foot of improvements.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300

Consent Calendar

17. FY 2025 Tax Rate: Fund the Maintenance of Parks, City Trees and Landscaping
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2025 tax rate for funding all improvements for the maintenance of parks, City trees, and landscaping in the City of Berkeley at $0.2210 (22.10 cents) per square foot of improvements.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300

18. FY 2025 Tax Rate: Fund the Provision of Emergency Medical Services (Paramedic Tax)
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2025 tax rate for funding the provision of emergency medical services to Berkeley residents at $0.0468 (4.68 cents) per square foot of improvements.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300

19. FY 2025 Tax Rate: Fund Emergency Services for the Severely Disabled (Measure E)
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2025 tax rate for funding the provision of emergency services for the disabled at $0.02094 (2.094 cents) per square foot of improvements.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300

20. FY 2025 Tax Rate: Fund Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF)
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2025 tax rate for funding Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF) in the City of Berkeley at the annual tax rate of $0.1220 (12.20 cents) per square foot of improvements.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300

21. Temporary Appropriations FY 2025
From: City Manager
Recommendation: Adopt a Resolution authorizing a temporary appropriation in the sum of $50,000,000 to cover payroll and other expenses from July 1, 2024, until the effective date of the FY 2025 Annual Appropriations Ordinance.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300

Consent Calendar

22. Contract No. 32300165 Amendment: KLD Associates: Evacuation and Emergency Response Analysis
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend to Contract No. 32300165 with KLD Engineering, P.C. for evacuation and response time modeling to reassign to KLD Associates through June 30, 2026, and to provide an option to extend for an additional five (5) years and add $200,000, making initial term plus extension NTE $600,000 through June 30, 2031.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473

23. Contract: Pinnacle for Pilot Fire Department Alternative Medical Response Unit
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Pinnacle Training Systems, LLC (Contractor) to provide nurse practitioner services for a pilot alternative medical response unit from June 17, 2024 to January 31, 2025 in an amount not to exceed $510,000 with an option to extend for three additional one-year terms in a total not to exceed $2,700,000.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473

24. Contract: Tablet Command for Mobile CAD and Incident Command
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee(s) to enter into a contract and any amendments with Tablet Command for Mobile Computer Assisted Dispatch (Mobile CAD) and Incident Command by piggybacking on a contract with the Orange County Fire Authority (OCFA). The Berkeley contract will be effective July 1, 2024 and end on September 30, 2024 in an amount not to exceed $77,250. Following an extension approved by the OCFA, the contract may be extended for up to four additional one-year renewal terms at a cost not to exceed an additional $65,000 per year.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473

25. Amending the Five-Year Plan and Submitting Application for Permanent Local Housing Allocation Program
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or the City Manager's designee to amend the five-year Permanent Local Housing Allocation plan and apply for and accept funds from the State of California's Permanent Local Housing Allocation Program, in an amount not to exceed $3,321,617.
Financial Implications: See report
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

26. Contract No. 32300134 Amendment: Bonita House for Specialized Care Unit Provider
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to amend Contract No. 32300134 with Bonita House to add $500,000 of funding from the American Rescue Plan Act grant for a total not-to-exceed contract amount of $5,345,500.
Financial Implications: See report
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

27. Contract No. 32400236 Amendment: Creative Educational Consultants, Inc.
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to amend existing Contract No. 32400236 with Creative Educational Consultants, Inc., for the period beginning June 1, 2024, and ending June 30, 2025, as follows: 1) expand the scope to include additional positive youth development opportunities for African American/Black and Latinx Berkeley youth; 2) increase the contract limit by $25,300 (from $49,700 to $75,000); and 3) extend the contract end date to June 30, 2025.
Financial Implications: See report
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

28. Contract No.32300197 Amendment: Resource Development Associates for Results Based Accountability Consulting Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 32300197 for $160,000 and any additional amendments or extensions, with Resource Development Associates (RDA) for Results Based Accountability consulting services. The contract amendment's not-to-exceed amount will be increased to a total of $539,830 for the period July 1, 2023 through June 30, 2026.
Financial Implications: See report
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

29. Revenue Grant Agreements: Funding Support from Essential Access Health to Conduct Public Health Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to submit a grant application to Essential Access Health, to accept the grant, execute any resultant revenue agreement and amendment, and implement the projects and appropriation of funding for related expenses to conduct public health promotion, protection, and prevention services for the Essential Access Health revenue agreement in the projected amount of $120,000 for April 1, 2024 to March 30, 2025. Grant funds will support clinical reproductive health services, as well as individual and community health education and outreach activities at the Berkeley High School Health Center and the Berkeley Technology Academy Health Center (the High School Health Centers).
Financial Implications: See report
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

30. Shelter Plus Care Program Renewal Grants
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to receive up to the maximum grant award for the following Shelter Plus Care grants and to execute any resultant agreements and amendments. a. A Shelter Plus Care grant from U.S. Department of Housing and Urban Development (HUD) in the amount of $2,327,914 for COACH Project (COACH) for the period of January 1, 2024 through December 31, 2024; and b. A federal Shelter Plus Care grant received via Alameda County in a not-to-exceed amount of $927,164 to provide tenant-based rental assistance to individuals who are chronically homeless and disabled from March 1, 2024 through February 28, 2025; and c. Two Shelter Plus Care grants from U.S. Department of Housing and Urban Development (HUD) that are estimated to be: 1.$4,165,069 for Supportive Housing Collaborative Project (SHC) for the period June 1, 2024 through May 31, 2025; and 2. $2,438,926 for COACH Project (COACH) for the period of January 1, 2025 through December 31, 2025.
Financial Implications: See report
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

31. 2023 Police Equipment & Community Safety Ordinance Annual Report
From: City Manager
Recommendation: Adopt a Resolution approving the 2023 Equipment Ordinance Annual Report.
Financial Implications: See report
Contact: Jennifer Louis, Police, (510) 981-5900

Consent Calendar

32. Active Transportation Program Cycle 7 Grant Funding Applications
From: City Manager
Recommendation: Adopt four Resolutions authorizing the City Manager to submit grant applications to the Caltrans Active Transportation Program (ATP) for the following projects: Southwest Berkeley Bike Boulevards for up to $4 million; Adeline Street Quick-Build for up to $1.05 million; accept the grants if awarded, and execute any resulting agreements and amendments. Two of these Resolutions are for applications to the Caltrans-administered ATP Statewide grant program, and two are applications to a regional sub-program, administered by the Metropolitan Transportation Commission (MTC).
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300

33. Authorize Purchase Order with National Auto Fleet Group for Twenty Ford Police Interceptor Utility (K8A) AWD Vehicles
From: City Manager
Recommendation: Adopt a Resolution satisfying the requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell contract bid procedures and authorizing the City Manager to execute a purchase order for twenty (20) Ford Police Interceptor Utility (K8A) AWD vehicles with the National Auto Fleet Group in an amount not to exceed $1,269,808.20.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300

34. Contract: Edgeworth Integration, LLC for Installation of Security Cameras at Council-Approved Intersections; and Authorizing Additional External Fixed Video Surveillance Cameras
From: City Manager
Recommendation:
1. Adopt a Resolution authorizing the City Manager to execute a contract with Edgeworth Integration, LLC for purchase and installation of External Fixed Video Surveillance Cameras at fifteen council-approved locations, for an amount not to exceed $850,000.
2. Adopt a Resolution to authorize the installation of additional External Fixed Video Surveillance Cameras under this contract scope should they be approved by City Council, included in the Surveillance Policy and funding appropriated.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300

Consent Calendar

35. FY 2024/2025 Transportation Development Act Article 3 Fund Allocation
From: City Manager
Recommendation: Adopt two Resolutions:
1. Authorizing the City Manager to: submit an allocation request to the Metropolitan Transportation Commission (MTC) prior to the June 14, 2024 deadline for $151,950 of FY 24/25 Transportation Development Act (TDA) Article 3 funding to complete the Berkeley Bicycle Plan update.
2. Declaring that: the City of Berkeley is eligible to request an allocation of TDA Article 3 funds pursuant to Section 99234 of the Public Utilities Code; there is no pending or threatened litigation that might adversely affect the project or projects described in Attachment B to this resolution, or that might impair the ability of the City of Berkeley to carry out the project; the project has been reviewed and supported by the Transportation and Infrastructure Commission (TIC) of the City of Berkeley; the City of Berkeley attests to the accuracy of and approves the statements in Attachment A to this resolution; and a certified copy of this resolution and its attachments, and any accompanying supporting materials, shall be forwarded to the Congestion Management Agency, countywide transportation planning agency, or County Association of Governments, as the case may be, of Alameda County for submission to MTC as part of the countywide coordinated TDA Article 3 claim.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300

36. Reappointment of Monica Renee Jones to the Mental Health Commission
From: Mental Health Commission
Recommendation: Adopt a Resolution approving the reappointing of Monica Renee Jones to the Mental Health Commission, as a representative of the General Public Interest Category for a second 3-year term beginning June 4, 2024 and ending June 3, 2027. During her first term she was a member of the youth subcommittee and was the Chair for the last year.
Financial Implications: None
Contact: Jamie Works-Wright, Commission Secretary, (510) 981-5400

37. Contract: GPP Analytics Inc. for Independent Third-Party Audit of Payroll Audit Division
From: Auditor
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments, extensions, or other change orders with GPP Analytics Inc. in an amount not to exceed $120,000 to conduct an independent performance audit of the City Auditor's Office's Payroll Division activities.
Financial Implications: See report
Contact: Jenny Wong, Auditor, (510) 981-6750

Consent Calendar

38. Amendments to Berkeley's Municipal Code Chapter 2.24 to Establish Whistleblower Program Authority
From: Auditor
Recommendation: Adopt first reading of an ordinance amending City Auditor's Office (BMC Chapter 2.24) authority and scope of work to formally establish the City Auditor's authority to receive and refer reports of fraud, waste, or abuse as well as investigate those reports and any reports of retaliation against whistleblowers.
Financial Implications: See report
Contact: Jenny Wong, Auditor, (510) 981-6750

Council Consent Items

39. Appointment of Interim City Manager
From: Mayor Arreguin
Recommendation: Adopt a Resolution approving the appointment of LaTanya Bellow as the Interim City Manager to be effective July 11, 2024 to September 15, 2024 at a prorated rate of pay based upon an annualized salary of $401,722.10 for the period of service in this role, in addition to employee benefits, and approving an employment agreement.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100

40. Appointment of City Manager
From: Mayor Arreguin
Recommendation: Adopt a Resolution approving the appointment of Paul Buddenhagen as the City Manager of the City of Berkeley to be effective September 16, 2024 at an annual salary of $401,722.10 and additional employee benefits, and approving an employment agreement.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100

41. Berkeley Humane: Bark (& Meow) Around the Block: Relinquishment of Council Office Budget Funds from General Funds and Grant of Such Funds
From: Councilmember Taplin (Author)
Recommendation: Adopt a Resolution approving the expenditure of council office budget funds, including $500 from Councilmember Taplin, to support the Back (& Meow) Around the Block adoption event hosted by Berkeley Humane, with funds relinquished to the City's general fund.
Financial Implications: See report
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Council Consent Items

42. Support for H.R. 7849 (Thompson and LaMalfa)
From: Councilmember Wengraf (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a letter of support for the Disaster Resiliency and Coverage Act of 2024 (H.R. 7849, Thompson and LaMalfa) and send it to Representatives Mike Thompson, Doug LaMalfa, Barbara Lee and Senators Alex Padilla and Laphonza Butler.
Financial Implications: None
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

Action Calendar

The public may comment on each item listed on the agenda for action. 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 during one of the Action Calendar public comment periods on the item. Public comment will occur for each Action item (excluding public hearings, appeals, and/or quasi-judicial matters) in one of two comment periods, either 1) before the Action Calendar is discussed; or 2) when the item is taken up by the Council.

A member of the public may only speak at one of the two public comment periods for any single Action item.

The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action items may be reordered at the discretion of the Chair with the consent of Council.

Action Calendar – Scheduled Public Comment Period

During this public comment period, the Presiding Officer will open and close a comment period for each Action item on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters). The public may speak on each item. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. For certain hearings, this is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, 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. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

When applicable, 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

43. Modification and Adoption of Berkeley Fire Code Local Amendments and Incorporation of California Intervening Code Adoption Cycle Amendments Based on the 2022 California Fire Code
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt the second reading of Ordinance No. 7,903-N.S. which proposes to amend certain portions of Section 19.48.020 of the Berkeley Municipal Code ("Amendments to the California Fire Code").
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473

44. Re-Adoption of the Berkeley Building Codes, including Local Amendments to the 2022 California Building Standards Code
From: City Manager
Recommendation: Conduct a public hearing, and upon conclusion adopt the second reading of Ordinance No. 7,906-N.S. repealing and reenacting the Berkeley Building, Residential, Electrical, Mechanical, Plumbing, Energy, and Green Building Standards Codes in BMC Chapters 19.28, 19.29, 19.30, 19.32, 19.34, 19.36 and 19.37, and adopting related procedural and stricter provisions.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400

45. ZAB Appeal: 2113-15 Kittredge Street, Use Permit #ZP2022-0144
From: City Manager
Recommendation: Conduct a public hearing, and upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board decision to approve Use Permit #ZP2022-0144 to demolish the commercial building on a landmarked site (preserving the front façade), and construct an 18-story (203 feet, with 8-foot, 4-inch parapet), 160,734-square-foot, mixed-use building with 211 dwelling units (including 22 Very Low-Income Density Bonus qualifying units), and a 24,273-square-foot live theater space, and dismiss the appeal.
Financial Implications: None
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action Calendar – New Business

46. Fiscal Years 2025 and 2026 Proposed Budget and Fiscal Years 2025-2029 Capital Improvement Program
From: City Manager
Recommendation: Receive the Proposed Fiscal Years 2025-2029 Capital Improvement Program and provide comments on the Capital Improvement Program and the Fiscal Years 2025 and 2026 Proposed Biennial Operating Budget.
Financial Implications: See report
Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000

Council Action Items

47. Amend Berkeley Municipal Code Chapter 3.78 To Expand Eligibility Requirements for Representatives of The Poor to Serve on The Human Welfare and Community Action Commission *(Reviewed by the Agenda & Rules Committee)*
From: Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor)
Recommendation: Amend Berkeley Municipal Code Chapter 3.78 to expand eligibility requirements for Representatives of the Poor to serve on the Human Welfare and Community Action Commission, or any successor commission, to consider the current geographic formation of poverty in Berkeley.
Policy Committee Recommendation: To send the item to the City Council with a negative recommendation.
Financial Implications: None
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

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.*

Archived indexed video streams are available at:
https://berkeleyca.gov/your-government/city-council/city-council-agendas.
Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.
Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at https://berkeleyca.gov/.

Agendas and agenda reports may be accessed via the Internet at:
https://berkeleyca.gov/your-government/city-council/city-council-agendas
and may be read at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor

Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: clerk@berkeleyca.gov
Libraries: Main – 2090 Kittredge Street,
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,
North Branch – 1170 The Alameda, Tarea Hall Pittman South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:
This meeting is being held in a wheelchair accessible location.
To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.

Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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I hereby certify that the agenda for this 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 May 23, 2024.

Mark Numainville, City Clerk

Communications

Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

Item #45: ZAB Appeal: 2113-15 Kittredge Street, Use Permit #ZP2022-0144
1. Law Offices of HansonBridgett

Utility Undergrounding District #48 Project (UUD48)
2. Richard Pettler, Attorney for Gary and Anita Ingram

Retaining Wall and Transformer Installation at 1407 Grizzly Peak
3. Law Offices of Richard Pettler, on behalf of clients Gary and Anita Ingram

Rent Board Offices Closed
4. Robert Hagedorn
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Narrow and Crowded Streets
5. Janet Huseby

Parking Lot at University and San Pablo
6. Ryan and Karin

Traffic Deaths
7. Charlotte Daniels

3031 Adeline Street Proposed Building
8. Lynn Cooper

District 7 Website
9. Erik Bigglestone

Merchants Advisement of Street Closures
10. Erik Bigglestone, on behalf of Games of Berkeley
11. Wahid Amiri, Deputy Director of Public Works/Engineering and Transportation (2)

Bay City Paving No Parking Signs
12. Daniel Auten

Support Waterside Workshops
13. Amir Bahman

No International Resolutions
14. Todd Andrew
15. Councilmember Hahn

Solano Stroll Safety
16. Todd Andrew, Chair Solano Avenue Business Improvement District

Berkeley Bike Park
17. Dan Leaverton

Stop Sign and Traffic Light Visibility
18. Cecelia Mautner

Public Nuisance Abatement Complaint for Barkmont
19. Greenfire Law

2274 Shattuck Development
20. Mark Federico Moreno
21. Laura Fujii

Councilmember Assistance
22. Sally Torrez

Kala Art Institute Thank You
23. Ellen Lake

Soliciting on Fourth Street
24. Brian Donahue

Trouble with World Government
25. Vivian Warkentin

Excessive Solar Permit Fees
26. Mathew Hirsch

26-Story Apartment Tower
27. David Lerman

Youth Walkout at King Middle School
28. Sarah Lefton

Cesar Chavez Park Methane Control & Radioactivity
29. Virginia Browning (2)
30. Rain Sussman

Memorial to Irish Students – Graffiti
31. Moni Law

Yom Haatzmaut (Israeli Independence Day)
32. Jewish Coalition of Berkeley

2023 Bayer Annual Report
33. Jennifer Cogley, on behalf of Bayer

2024 Police Accountability Report
34. Office of the Director of Police Accountability

1701 Hopkins
35. Keith Bayne (4)

Middle East Conflict
36. Kyra Ginsburg
37. Sholeh Asgary
38. Jon Jackson
39. Angelina Chen
40. Dorothea Dorenz

41. Aaron Katler
42. Erwan Illian
43. Russel Bates (5)

Supplemental Communications and Reports
Items received by the deadlines for submission will be compiled and distributed as follows. If no items are received by the deadline, no supplemental packet will be compiled for said deadline.

- **Supplemental Communications and Reports 1**
  Available by 5:00 p.m. five days prior to the meeting.

- **Supplemental Communications and Reports 2**
  Available by 5:00 p.m. the day before the meeting.

- **Supplemental Communications and Reports 3**
  Available by 5:00 p.m. two days following the meeting.

01

ORDINANCE NO 7,907-N.S.

ORDINANCE REPEALING BERKELEY MUNICIPAL CODE CHAPTER 12.80
(PROHIBITON ON NATURAL GAS INFRASTRUCTURE IN NEW BUILDINGS)

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

Section 1. That Berkeley Municipal Code Chapter 12.80 is hereby repealed.

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 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.

At a regular meeting of the Council of the City of Berkeley held on May 14, 2024, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Hahn, Humbert, Kesarwani, Lunaparra, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

02

ORDINANCE NO. 7,908-N.S.

AMENDING THE ANNUAL APPROPRIATIONS ORDINANCE NO. 7,892–N.S. FOR FISCAL YEAR 2024

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

Section 1. That the Annual Appropriations Ordinance based on the budget for FY 2024 submitted by the City Manager and passed by the City Council be amended as follows and as summarized in Exhibit A:

A. General Fund (Funds 001-099)	372,294,282
B. Special Funds (Funds 100-199)	179,899,171
C. Grant Funds (Funds 300-399)	105,434,647
D. Capital Projects Funds (Funds 500-550)	107,315,056
E. Debt Service Fund (Funds 551-599)	13,363,356
F. Enterprise Funds (Funds 600-669)	199,994,922
G. Internal Service Funds (Funds 146, 670-699)	71,411,668
H. Successor Agency (Funds 760-769)	57,120
I. Agency Funds (Funds 771-799)	5,832,143
J. Other Funds (Funds 800-899)	8,023,092
K. Total	
Total General Fund	372,294,282
Add: Total Other Than General Fund	691,331,174
Gross Revenue Appropriated	**1,063,625,456**
Less: Dual Appropriations	-61,391,491
Less: Revolving/Internal Service Funds	-71,411,668
Net Revenue Appropriated	**930,822,297**

Section 2. The City Manager is hereby permitted, without further authority from the City Council, to make the following transfers by giving written notice to the Director of Finance:

a. From the General Fund to the General Fund – Stability Reserve Fund; Catastrophic Reserve Fund; Paramedic Tax Fund; Health State Aid Realignment; Fair Election Fund; Capital Improvement Fund; Phone System Replacement; Equipment Replacement Fund; Public Liability Fund; Catastrophic Loss Fund; Police Employee Retiree Health Assistance Plan; Safety Members Pension Fund; and Sick Leave Entitlement Fund.

b. To the General Fund from the General Fund – Stability Reserves Fund; Catastrophic Reserves Fund; Community Development Block Grant Fund; Street Lighting Assessment District Fund; Zero Waste Fund; Marina Operations and Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund; Unified Program (CUPA); IT Cost Allocation Fund; and Health State Aid Realignment Fund.

c. To the First Source Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.

d. From Gilman Sports Field Fund to Gilman Field Reserve Fund

e. From Measure FF Fund to Paramedic Tax Fund.

f. From the American Rescue Plan Fund to the General Fund; Sports Field Fund; Playground Camp Fund; Marina Fund; Off-Street Parking Fund; and Parking Meter Fund.

g. From Capital Improvement Fund to PERS Savings Fund; Berkeley Repertory Theater Fund; and 2010 COP (Animal Shelter) Fund.

h. To the Public Art Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.

i. To CFD#1 District Fire Protection Bond (Measure Q) from Special Tax Bonds CFD#1 ML-ROOS.

j. To Private Sewer Lateral Fund from Sanitary Sewer Operation Fund.

k. To Catastrophic Loss Fund from Permit Service Center Fund.

l. To Catastrophic Loss Fund from Unified Program (CUPA) Fund.

m. To the Building Purchases and Management Fund from General Fund; Health (General) Fund; Rental Housing Safety Program Fund; Measure B Local Streets & Road Fund; Employee Training Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building

Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Health State Aide Realignment Trust Fund.

n. To Equipment Replacement Fund from General Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund; Paramedic Tax Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.

o. To the Equipment Maintenance Fund from General Fund; Health (General) Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund; Paramedic Tax Fund; Library - Discretionary Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Rent Stabilization Board Fund; Parks Ta Fund; Street Light Assessment District Fund; FEMA Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.

p. To the Building Maintenance Fund from the General Fund; Health (General) Fund; Health (Short/Doyle) Fund; Measure B Local Street & Road Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Mental Health State Aid Realignment Fund.

q. To the Central Services Fund from the General Fund; First Source Fund; Health (Short/Doyle) Fund; Library-Discretionary Fund; Playground Camp Fund; Rent Stabilization Board Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Mental Health State Aid Realignment Fund.

r. To Information Technology Cost Allocation Plan Fund from General Fund; Target Case Management/Linkages Fund; Health (Short/Doyle); Library Fund; Playground Camp Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Equipment Maintenance Fund; Building Maintenance Fund; Information Technology Cost Allocation Plan Fund; Health

State Aid Realignment Trust Fund; and Mental Health State Aid Realignment Fund.

s. To the Workers' Compensation Self-Insurance Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

t. To the Sick Leave and Vacation Leave Accrual Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road

Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

u. To the Payroll Deduction Trust Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation

Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

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 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.

Attachment for Annual Appropriations Ordinance - Fiscal Year 2024

REVOLVING FUNDS/INTERNAL SERVICE FUNDS

Appropriations are identified with revolving and internal service funds. Such funds derive revenue by virtue of payment from other fund sources as benefits are received by such funds, and the total is reflected in the "Less Revolving Funds and Internal Service Funds" in item I. The funds are:

Revolving/Internal Service Funds	
Employee Training Fund	965,714
Equipment Replacement Fund	13,441,342
Equipment Maintenance Fund	11,002,972
Building Maintenance Fund	5,147,045
Central Services Fund	418,963
Workers' Compensation Fund	12,334,961
Public Liability Fund	5,852,080
Information Technology Fund	22,248,591
Subtotal Revolving/Internal Service Funds	$ 71,411,668
Dual Appropriations	
Transfers to the General Fund	
Indirect Cost Reimbursement	
CDBG Fund	176,194
Street Light Assessment District Fund	181,591
One-Time Grant: No Cap Exp	95,000
Zero Waste Fund	2,826,020
Marina Enterprise Fund	423,813
Sanitary Sewer Fund	1,391,256
Clean Storm Water Fund	245,033
Permit Service Center Fund	2,204,064
Unified Program (CUPA) Fund	86,575
Subtotal Transfers to General Fund:	$ 7,629,546

Transfer to Safety Members Pension Fund from General Fund	551,804
Transfer to Measure U1 Fund from General Fund	5,900,000
Transfer to PERS Savings Fund from General Fund	2,000,000
Transfer to Health State Aid Realignment from General Fund	1,953,018
Transfer to Fair Election Fund from General Fund	612,210
Transfer to Capital Improvement Fund (CIP) from General Fund	18,370,905
Transfer to Phone System Replacement - VOIP from General Fund	449,408
Transfer to Equipment Replacement Fund from General Fund	1,081,699
Transfer to Worker's Compensation Fund	813,779
Transfer to Public Liability Fund from General Fund	3,895,888
Transfer to Catastrophic Loss Fund from General Fund	6,278,457
Transfer to IT Cost Allocation Fund from General Fund	71,335
Transfer to Police Employee Retiree Health Assistance Plan from General Fund	400,136
Transfer to Sick Leave Entitlement Fund from General Fund	201,501
Transfer to Employee Training Fund from GF - Payroll Deduction Trust Fund	750,000
Transfer to General Fund from Health State Aid Realignment Fund	2,643,280
Transfer to Paramedic Tax Fund from Measure FF - Public Safety Fund	757,925
Transfer to General Fund from Amercian Rescue Plan Fund	3,255,743
Transfer from CIP Fund to PERS Savings Fund	151,632
Transfer to Berkeley Repertory Theater Debt Service Fund from CIP Fund	499,802
Transfer from CIP Fund to 2010 COP (Animal Shelter) Fund	402,613
Transfer to Private Sewer Lateral Fund from Sewer Fund	90,501
Transfer to Catastrophic Loss Fund from Permit Service Center Fund	50,555
Transfer to Catastrophic Loss Fund from Unified Program (CUPA) Fund	5,082
Transfer to General Fund from Parking Meter Fund	1,742,288
Transfer to General Fund from IT Cost Allocation Fund	450,613
Transfer to GF - Payroll Deduction Trust from Sick Leave Entitlement Fund	273,854
Transfer to First Source Fund from Parks Tax Fund	6,675
Transfer to First Source Fund from Capital Improvement Fund	29,943
Transfer to First Source Fund from Marina Fund	2,625
Transfer to Public Art Fund from Parks Tax Fund	11,681
Transfer to Public Art Fund from Capital Improvement Fund	52,400
Transfer to Public Art Fund from Marina Fund	4,594
Subtotal Transfers to Other Funds:	53,761,946
Sub-Total Dual Appropriations	61,391,491
Grand Total Dual Appropriations	**132,803,159**

At a regular meeting of the Council of the City of Berkeley held on May 14, 2024, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Hahn, Humbert, Kesarwani, Lunaparra, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

EXHIBIT A

SUMMARY OF APPROPRIATIONS BY FUND

ERMA Fund #	Fund	FY 2024 Revised #1	2nd AAO Reappropriations	2nd AAO Other Adjustments	2nd AAO Total Amend.	FY 2024 Revised #2
11	General Fund Discretionary	326,589,356	-	23,589,645	23,589,645	350,179,001
16	Measure U1 - Housing	9,106,627	-	12,600,000	12,600,000	21,706,627
17	Climate Equity	408,653.90	-	-	-	408,654
101	Library - Tax	25,950,014	-	-	-	25,950,014
103	Library - Grants	106,554	-	42,598	42,598	149,151
104	Library - Friends & Gift	178,588	-	-	-	178,588
105	Library - Foundation	209,157	-	199,880	199,880	409,037
106	Asset Forefeiture	201,000	-	95,000	95,000	296,000
107	Special Tax Measure E	1,673,845	-	-	-	1,673,845
108	First Source Fund	57,676	-	-	-	57,676
110	Sec 108 Loan Gty Asst.	587,612	-	-	-	587,612
111	Fund Raising Activities	103,348	-	2,200	2,200	105,548
113	Gilman Sports Field	344,001	-	-	-	344,001
115	Animal Shelter	63,939	-	-	-	63,939
116	Paramedic Tax	4,982,370	-	-	-	4,982,370
117	CA Energy Commission	44,249.13	-	-	-	44,249
119	Domestic Violence Prev - Vit Stat	26,635	-	-	-	26,635
120	Affordable Housing Mitigation	16,525,729	-	1,551,690	1,551,690	18,077,419
121	Affordable Child Care	29,868	-	-	-	29,868
122	Inclusionary Housing Program	610,316	-	-	-	610,316
123	Condo Conversion	122,348	-	-	-	122,348
125	Playground Camp	5,639,916	-	-	-	5,639,916
126	State-Prop 172 Pub.Safety	1,995,881	-	-	-	1,995,881
127	State Transportation Tax	10,171,278	-	360,201	360,201	10,531,479
128	CDBG	8,305,812	-	-	-	8,305,812
129	Rental Housing Safety Program	2,397,557	-	-	-	2,397,557
130	Measure B - Local St & Road	2,669,128	-	534,518	534,518	3,203,646
131	Measure B - Bike & Pedestrian	20,911	-	790,193	790,193	811,104
132	Measure B - Paratransit	51,168	-	-	-	51,168
133	Measure F Alameda County VRF St & Rd	2,389,637	-	-	-	2,389,637
134	Measure BB - Local St & Road	20,202,424	73,249	-	73,249	20,275,673
135	Meaure BB - Bike & Pedestrian	2,749,297	-	(602,068)	(602,068)	2,147,229
136	Measure BB - Paratransit	1,118,461	-	184,000	184,000	1,302,461
137	One Time Funding	69,080	-	-	-	69,080
138	Parks Tax	20,267,736	-	203,000	203,000	20,470,736
139	Streets and Open Space Improvement (SOSIP)	200,000	-	-	-	200,000
140	Measure GG - Fire Prep Tax	6,893,477	-	-	-	6,893,477
142	Streetlight Assesment District	4,678,931	-	-	-	4,678,931
143	Berkeley Bus Ec Dev	179,313	-	-	-	179,313
145	Bayer	163,943	-	-	-	163,943
146	Employee Training	965,714	-	-	-	965,714
147	UC Settlement	7,738,861	-	-	-	7,738,861
148	Cultural Trust	1,804,927	-	-	-	1,804,927
149	Private Party Sidewalks	1,500,000	-	-	-	1,500,000
150	Public Art Fund	124,218	-	-	-	124,218
152	Vital & Health Statistics Trust Fund	55,921	-	-	-	55,921
156	Hlth State Aid Realign Trust	4,116,677	-	-	-	4,116,677
157	Tobacco Cont.Trust	392,108	-	-	-	392,108
158	Mental Health State Aid Realign	4,911,547	-	-	-	4,911,547
159	Citizens Option Public Safety Trust	422,292	-	-	-	422,292
161	Alameda Cty Abandoned Vehicle Abatement	131,567	-	-	-	131,567
164	Measure FF	10,626,130	-	1,982,502	1,982,502	12,608,632
165	Fair Elections	612,210	-	-	-	612,210
301	Operating Grants - Federal	130,186	-	-	-	130,186
302	Operating Grants - State	3,391,652	-	-	-	3,391,652
305	Capital Grants - Federal	7,699,411	(168,984)	-	(168,984)	7,530,427
306	Capital Grants - State	2,824,293	-	312,926	312,926	3,137,219
307	Capital Grants - Local	7,565,115	-	(4,685)	(4,685)	7,560,430
309	OTS DUI Enforcement Education Prg.	406,060	-	-	-	406,060
310	HUD/Home	1,075,128	-	-	-	1,075,128
311	ESGP	784,321	-	-	-	784,321
312	Health (General)	3,584,763	-	10,614	10,614	3,595,377
313	Target Case Management Linkages	1,394,442	-	168,282	168,282	1,562,724

EXHIBIT A

SUMMARY OF APPROPRIATIONS BY FUND

ERMA Fund #	Fund	FY 2024 Revised #1	2nd AAO Reappropriations	2nd AAO Other Adjustments	2nd AAO Total Amend.	FY 2024 Revised #2
314	Alameda County Tay Tip	35,812	-	-	-	35,812
315	Mental Health Service Act	15,524,162	-	600,000	600,000	16,124,162
316	Health (Short/Doyle)	8,444,500	-	-	-	8,444,500
317	EPSDT Expansion Proposal	459,456	-	-	-	459,456
318	Alcoholic Bev Ctr OTS/UC	55,639	-	-	-	55,639
319	Youth Lunch	228,714	-	-	-	228,714
320	Sr. Nutrition Title III	238,820	-	-	-	238,820
321	CFP Title X	161,757	-	-	-	161,757
324	BUSD Grant	363,548	-	59,828	59,828	423,376
325	Vector Control	388,041	-	-	-	388,041
326	Alameda County Grants	932,475	-	43,962	43,962	976,437
327	Senior Supportive Social Services	203,198	-	-	-	203,198
328	Family Care Support Program	188,184	-	-	-	188,184
329	CA Integrated Waste Management	6,023	19,025	-	19,025	25,048
331	Housing Mitigation	1,446,642	-	-	-	1,446,642
333	CALHOME	363,100	-	-	-	363,100
334	Community Action	323,894	-	-	-	323,894
336	One-Time Grant: No Cap Exp	23,200,207	-	775,042	775,042	23,975,249
339	MTC	946,949	-	-	-	946,949
340	FEMA	1,266,717	-	763,636	763,636	2,030,354
341	Alameda Cty Waste Mgt.	377,773	-	-	-	377,773
343	State Dept Conserv/Recylg	32,000	-	31,270	31,270	63,270
344	Caltrans Grant	57,501	-	-	-	57,501
347	Shelter+Care HUD	6,541,883	-	-	-	6,541,883
348	Shelter+Care County	906,212	-	-	-	906,212
349	JAG Grant	55,650	-	20,000	20,000	75,650
350	Bioterrorism Grant	716,036	-	-	-	716,036
354	ARPA - Local Fiscal Recovery Fund	10,374,744	-	12,500	12,500	10,387,244
501	Capital Improvement Fund	48,496,742	-	-	-	48,496,742
502	Phone System Replacement	677,722	-	-	-	677,722
503	FUND$ Replacement	4,326,547	-	-	-	4,326,547
504	PEG-Public, Education & Government	100,000	-	-	-	100,000
506	Measure M - St and Watershed Improvement	922,759	-	-	-	922,759
511	Measure T1 - Infra & Facil.	40,004,725	-	900,000	900,000	40,904,725
512	Measure O	11,886,561	-	-	-	11,886,561
552	09 Measure FF Debt Service	1,337,638	-	-	-	1,337,638
553	2015 GORBS	2,047,259	-	-	-	2,047,259
554	2012 Lease Revenue Bonds BJPFA	499,820	-	-	-	499,820
555	2015 GORBS - 2002 G.O. Refunding Bonds	378,696	-	-	-	378,696
556	2015 GORBS (2007, Series A)	142,540	-	-	-	142,540
557	2015 GORBS (2008 Measure I)	480,184	-	-	-	480,184
558	2010 COP (Animal Shelter)	140,085	-	-	-	140,085
559	Measure M GO Street & Water Imps	1,630,863	-	-	-	1,630,863
560	Infrastucture & Facilities Measure T1	4,699,006	-	-	-	4,699,006
561	Measure O - Housing Bonds	2,007,265	-	-	-	2,007,265
601	Zero Waste	63,084,566	-	460,739	460,739	63,545,305
606	Marina - Coastal Conservancy	6,009,900	-	8,768,267	8,768,267	14,778,167
607	Marina - Dept of Boating & Waterway	78,500	-	60,000	60,000	138,500
608	Marina Operation	10,880,282	-	13,600	13,600	10,893,882
611	Sewer	50,095,588	-	-	-	50,095,588
612	Private Sewer Lateral FD	80,417	-	-	-	80,417
616	Clean Storm Water	9,085,765	-	-	-	9,085,765
621	Permit Service Center	27,606,859	-	-	-	27,606,859
622	Unified Program (CUPA)	882,429	-	-	-	882,429
627	Off Street Parking	7,915,719	-	-	-	7,915,719
631	Parking Meter	11,164,794	-	-	-	11,164,794
636	Building Purchases and Management	3,807,499	-	-	-	3,807,499
671	Equipment Replacement	10,941,342	-	2,500,000	2,500,000	13,441,342
672	Equipment Maintenance	10,002,972	-	1,000,000	1,000,000	11,002,972
673	Building Maintenance Fund	5,147,045	-	-	-	5,147,045
674	Central Services	418,963	-	-	-	418,963
676	Workers Compensation	6,809,961	-	5,525,000	5,525,000	12,334,961
678	Public Liability	4,852,080	-	1,000,000	1,000,000	5,852,080

EXHIBIT A

SUMMARY OF APPROPRIATIONS BY FUND

ERMA Fund #	Fund	FY 2024 Revised #1	2nd AAO Reappropriations	2nd AAO Other Adjustments	2nd AAO Total Amend.	FY 2024 Revised #2
680	Information Technology	22,248,591	-	-	-	22,248,591
762	Successor Agency - Savo DSF	57,120	-	-	-	57,120
776	Thousand Oaks Underground	98,448	-	-	-	98,448
777	Measure H - School Tax	500,002	-	-	-	500,002
778	Measure Q - CFD#1 Dis. Fire Protect Bond	1,000,403	-	-	-	1,000,403
779	Spl Tax Bds. CFD#1 ML-ROOS	775,623	-	-	-	775,623
781	Berkeley Tourism BID	893,979	-	-	-	893,979
782	Elmwood Business Improvement District	60,151	-	-	-	60,151
783	Solano Ave BID	38,852	-	-	-	38,852
784	Telegraph Avenue Bus. Imp. District	753,872	-	-	-	753,872
785	North Shattuck BID	307,823	-	-	-	307,823
786	Downtown Berkeley Prop & Improv. District	1,402,991	-	-	-	1,402,991
801	Rent Board	8,023,092	-	-	-	8,023,092
	GROSS EXPENDITURE:	998,987,051	(76,710)	64,554,340	64,477,630	1,063,464,681
	Dual Appropriations	(59,543,749)	-	(1,847,742)	(1,847,742)	(61,391,491)
	Revolving & Internal Service Funds	(61,386,668)	-	(10,025,000)	(10,025,000)	(71,411,668)
	NET EXPENDITURE:	878,056,634	(76,710)	52,681,598	52,604,888	930,661,522

03

ORDINANCE NO. 7,909-N.S.

AMEND BERKELEY MUNICIPAL CODE SECTION 6.24.137, DESIGNATION OF AND RESTRICTIONS FOR ELECTRIC VEHICLE PARKING SPACES, TO ESTABLISH A SCHEDULE OF RATES FOR ELECTRIC VEHICLE CHARGING STATIONS, AND AUTHORIZE THE CITY MANAGER TO ADJUST THE RATES IN ACCORDANCE WITH THE CALIFORNIA PUBLIC UTILITY COMMISSION'S ELECTRICITY RATE INCREASES

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

Section 1. That Berkeley Municipal Code Section 6.24.137 is amended to read as follows:

A. *Designation of Parking Spaces.* The City Traffic Engineer is authorized in accordance with the purposes of this chapter to designate spaces in off-street public parking facilities for the exclusive parking of electric vehicles that are connected to electric vehicle charging stations for the purpose of transfer of electricity to the battery or other energy storage device of an electric vehicle.

B. *Signs or Markings.* Upon designation of a parking space or spaces for the exclusive use of electric vehicles pursuant to Subsection A of this section, the Public Works department shall place signs or markings giving adequate notice that the parking space or spaces are restricted and to be used only for such electric vehicles. The signs or markings shall be in compliance with California Vehicle Code § 22511 indicating that vehicles left standing in violation of the restriction may be removed. The parking restriction shall not apply to the designated parking spaces until the sign or markings have been placed.

C. In parking stalls designated by the use of markings and/or posting as electric vehicle charging stations, only electric vehicles are allowed to park for charging events during designated hours.

D. It is unlawful for the operator of any vehicle to allow a vehicle to park or stand in a designated electric vehicle charging station longer than the posted time limit.

E. It is unlawful for the operator of an electric vehicle to allow that vehicle to park or stand in a designated electric vehicle charging station unless the vehicle is actively conducting a charging event.

F. The police department is authorized to cite and/or remove or cause the removal of vehicles parked in violation of this section in accordance with California Vehicle Code § 22511.

G. Fees for use of electric vehicle charging stations at electric vehicle parking spaces hereinabove set forth in 6.24.137 shall be as follows:

1. Baseline energy fee of $0.30 per kilowatt-hour, effective from 12:00 a.m. to 4:00 p.m. and from 9:00 p.m. to 12:00 a.m. everyday.

2. Time-of-Use energy fee of $0.40 per kilowatt-hour, effective from 4:00 p.m. to 9:00 p.m. everyday.

3. Ancillary fee of $1.50 per charging session.

4. Overstay fee of $1.00 per minute up to 30 minutes, effective after 4 hours and 15 minutes of charging from 5:00 a.m. to 10:00 p.m. everyday.

5. The City Manager may adjust the energy fees by increments no smaller than one cent ($0.01).

6. The maximum allowable annual percentage increase in energy fees shall not exceed the annual percentage increase in PG&E's average electric rate, published in Table 1.8 of the California Public Utility Commission's most current Assembly Bill 67 Annual Report on electric and gas utility costs.

7. Adjustments to the energy fees associated with the use of electric vehicle charging stations shall be posted to the City's website no later than 30 days prior to the adjustment.

8. Energy fees may be adjusted no more than once per fiscal year.

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 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.

At a regular meeting of the Council of the City of Berkeley held on May 14, 2024, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Hahn, Humbert, Kesarwani, Lunaparra, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

04

ORDINANCE NO. 7,911-N.S.

AMENDING BMC SECTION 3.02.030 – LEAVES OF ABSENCE

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

Section 1. That Berkeley Municipal Code 3.02.030 is amended to read as follows:

3.02.030 Leaves of absence.

The following circumstances shall not count as absences for the purposes of Section 3.02.020:

A. A member of a board, commission or committee may be granted a leave of absence not to exceed three months by the appointing Councilmember, the appointing Commission, or the Mayor , when the appointment is made by the Council as a whole, and a temporary vacancy shall thereupon exist for the period of such leave of absence. Notice of the leave of absence must be filed with the City Clerk prior to the absence.

1. During the period of such temporary vacancy, the appointing Councilmember, the appointing Commission, or the Mayor, when the appointment is made by the Council as a whole, may fill such vacancy by a temporary appointment to said commission; provided, however, that the period of such temporary appointment shall not exceed the period of the temporary vacancy. At the expiration of a leave of absence so granted, the member shall automatically resume full membership on the board, commission or committee.

2. Alternatively, the appointing Councilmember or Mayor may select one of their Alternate Commissioners to serve temporarily as provided for in Section 3.02.030.A.1 when a leave of absence is granted for one of their appointees.

B. Commissioners may request that an absence be excused due to a conflict between the date of a scheduled commission meeting on which the commissioner sits and a religious or cultural holiday. Such a request shall be made in writing on a form provided by the City and submitted to the secretary prior to the meeting for which the commissioner's absence is to be excused. The request shall not be subject to the approval of the commission but shall be accepted upon request. The secretary shall then excuse that absence and exclude it from the attendance report sent semi-annually to the City Clerk.

The definition of a religious or cultural holiday shall be left to the individual commissioner. However, the following list may be considered illustrative of the religious and cultural holidays for which a commissioner may seek an excused absence: Al Hijrah New Year, Ash Wednesday, Chinese New Year, Diwali, Easter Sunday, Eid Al Fitr, Eid Al Adha, Good Friday, Hanukkah, Holi, Kwanzaa, Palm Sunday, Passover, Rosh Hashanah, St. Patrick's Day and Yom Kippur.

C. Members of the Police Accountability Board may be granted a leave of absence upon the filing of a notice for leave of absence with the City Clerk by the nominating Councilmember or the Mayor for their nominee. All other conditions and regulations for leaves of absence in this Code and adopted by resolution, that are not inconsistent with the City Charter, shall apply.

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 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.

At a regular meeting of the Council of the City of Berkeley held on May 21, 2024, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Hahn, Humbert, Kesarwani, Lunaparra, Wengraf, and Arreguin.

Noes: None.

Absent: Taplin.

05

Office of City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager
Farimah Faiz Brown, City Attorney

Submitted by: Eleanor Hollander, Economic Development Manager

Subject: Contract: Amira Jackmon Attorney at Law, for Lorin and Gilman Parking Benefit District Formation Services

RECOMMENDATION

Adopt a Resolution authorizing the City Attorney, acting on behalf of the Office of Economic Development to execute a contract and any necessary amendments with Amira Jackmon, Attorney at Law, for an amount not to exceed $70,000 for the development of parking benefit districts in the Lorin business district of South Berkeley and the Gilman district in West Berkeley.

FISCAL IMPACTS OF RECOMMENDATION

The $70,000 contract will be funded through the General Fund (Fund Code 011-21-208-251-0000-000-446-612990-).

CURRENT SITUATION AND ITS EFFECTS

Staff has completed a procurement process to engage professional consultant services to develop the required documents and framework to create two parking benefit business improvement districts in Berkeley. A Request for Proposals (RFP Specification No. 24-11650-C) for *Lorin and Gilman Parking Benefit District Formation Services* was released on January 24, 2024 and was open through February 22, 2024 (Attachment 1). A selection panel, comprised of two economic development professionals and a Senior Transportation Planner from the Department of Public Works reviewed the proposal responses and recommended Amira Jackmon for an interview. The selection panel evaluated the respondent's professional references and recommends that the City Council authorize a contract with Amira Jackmon, Attorney at Law, for an amount not to exceed $70,000 to complete this work. Although the funds would not come from the City Attorney's Budget, the contract would be executed by the City Attorney, because Amira Jackmon is a licensed attorney and contracts for legal services must be made through the City Attorney's Office.

BACKGROUND

On March 23, 2021, Councilmembers Bartlett (D3) and Kesarwani (D1) advanced *Agenda Item Number 9: Establish a Parking Benefits District (PBD) in the Adeline Corridor Fiscal Year 2022 Budget Referral, Supplemental 1* which was amended to include the Gilman District and updated to reflect the cost of consulting services for the formation of two parking business improvement districts, passed unanimously was funded in the FY 2022 budget process. In preparation for drafting an effective RFP (Attachment 2) and bringing a consultant on board to form the parking benefit districts, Office of Economic Development (OED) staff with the assistance of a UC Berkeley graduate student intern developed existing conditions reports for both districts, engaged in preliminary research evaluating regional parking benefit district (PBD) policies, and put forth recommended best practices compatible with Berkeley's local context (Attachment 3). It is anticipated that by establishing Parking Benefit Districts in both areas, the City will be able to help support both the Lorin and Gilman Districts by funding supplemental commercial district improvements, providing expanded programing, and increased safety protections with the parking revenue generated through the PBDs. A likely future step in this process, after the establishment of the PBDs, will be the establishment, purchase and installation of additional district parking pay stations and/or meters and increased parking enforcement in these areas.

The Lorin District of South Berkeley is a diverse, artistic, and transit accessible commercial district in the City of Berkeley. The Lorin is home to the South Berkeley Farmers' Market and Berkeley Flea Market, two live theater companies, and a thriving arts and antiques scene. The Lorin Business Association includes businesses, nonprofits, artists, and property owners located along Adeline Street from Ashby Avenue to the Oakland border. The Association seeks to promote economic vitality by promotion of positive business and commercial activity, streetscape improvements and the arts. Outlined in the adopted Adeline Corridor Specific Plan (2020) and in Lorin Business Association's *Vision for South Berkeley* is the goal to establish a Business Improvement District (BID).

The Gilman District of West Berkeley is home to a wide range of businesses, services and amenities that attract visitors from across the Bay Area. The Gilman District, situated in the northwest section of Berkeley, is a dynamic mix of manufacturing, light industry, art studio space, retail, and food establishments. It is also home to recreational sports fields, and an urban farm, that hosts various family and community programs. District events including the annual Gilman Street Fair are supported by the volunteer members of the Gilman District Association.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

The proposal by Amira Jackmon, Attorney at Law, was selected based upon the following criteria: project approach, expertise, references, cost, and sustainable business practices.

ALTERNATIVE ACTIONS CONSIDERED
None.

CONTACT PERSON
Kieron Slaughter, Office of Economic Development, (510) 981-2490

Attachments:
1: Resolution
2: Selected Pages: *Request for Proposals (RFP) for Lorin & Gilman Parking Benefit District(s) Formation Services*, January 2024
3: Client Report: *Adeline Corridor Parking Benefit District, prepared for the City of Berkeley*, Pierce Abrahamson, UC Berkeley Masters in City Planning, September 2021

Attachment 1

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

CONTRACT WITH AMIRA JACKMON FOR LORIN AND GILMAN PARKING BENEFIT DISTRICT FORMATION SERVICES

WHEREAS, the Adeline Corridor Specific Plan (2020) calls for the establishment of a Business Improvement district (BID); and

WHEREAS, the Lorin Business Association's *Vision for South Berkeley* includes the establishment of a BID; and

WHEREAS, the Adeline Corridor Specific Plan (2020) seeks to ensure private and public realm improvements and programming enhance the identity of the Adeline Corridor and the pedestrian and retail environment; and

WHEREAS, the Council Item: *Establish a Parking Benefit District (PBD) in the Adeline Corridor and Fiscal Year 2022 Budget Referral* (March 23, 2021) called for the establishment of a Parking BID for the Lorin District to support the Lorin Business Association to implement a goal of the Adeline Corridor Specific Plan and to finance and support neighborhood improvements in South Berkeley; and

WHEREAS, the same Council Item, revised: *Establish Parking Benefit Districts in the Adeline Corridor and Gilman District and Refer Funding to the Fiscal Year 2022 Budget Process* (March 23, 2021) called for the establishment of a similar Parking BID for Gilman district in Northwest Berkeley in order to finance and support neighborhood improvements including but not limited to landscaping, cleaning, events, marketing and promotion of the commercial areas, and other potential enhancements in South and West Berkeley; and

WHERES, a Request for Proposals (RFP) for Lorin and Gilman Parking Benefit District Formation Services was released on January 24, 2024 and was open through February 22, 2024; and

WHEREAS, a selection panel, reviewed the qualifications and references for the RFP respondents and recommends Amira Jackmon, Attorney at Law to complete the formation of two parking BIDs in both the Gilman and Lorin Districts; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments thereto with Amira Jackmon, Attorney at Law, for *Lorin and Gilman Parking Benefit District Formation Services* for amount not to exceed $70,000. A record signature copy of said contract and any amendments are to be on file in the Office of the City Clerk.

REQUEST FOR PROPOSALS (RFP)
Specification No. 24-11650-C
FOR
LORIN & GILMAN PARKING BENEFIT DISTRICT(S) FORMATION SERVICES
PROPOSALS WILL NOT BE OPENED AND READ PUBLICLY

Dear Proposer:

The City of Berkeley is soliciting written proposals from qualified firms and or individuals specializing in the formation of Parking Benefit Districts (PBDs) for the Lorin and Gilman business districts pursuant to Section 36600 et seq. of the California Streets and Highways Code, also known as the Property and Business Improvement District (PBID) Law of 1994 (the "Act"). The City seeks to contract with a consultant that reflects, understands and values the diversity of the City's constituency and values. The study area is inclusive of commercial, mixed-use residential, residential, industrial, transit and municipal parcels including and adjacent to the Ashby BART Station in the Adeline Corridor Specific Plan area and in the Gilman District near I-80 and San Pablo Avenue (see Reference Exhibits A&B, *Proposed District Map*). As a Request for Proposal (RFP), this is not an invitation to bid and although price is very important, other factors will be taken into consideration.

I. INTRODUCTION

The City of Berkeley is considering proposals from firms specializing in the formation of Parking Benefit Districts (PBDs) for the Lorin Business District and Gilman Business District ("the Districts") pursuant to Section 36600 et seq. of the California Streets and Highways Code, also known as the Property and Business Improvement District (PBID) Law of 1994 (the "Act"). Parking Benefits Districts (PBDs) are defined geographic areas, typically in commercial areas or along commercial corridors in which a majority of the revenue generated from on and off-street City owned parking facilities within the district is returned to the district to finance neighborhood improvements, programing and activities. In Parking Benefit Districts, a Parking District Board or Advisory Committee can utilize a percentage of parking revenues generated within the district to make neighborhood improvements that improve quality of life, implement or maintain infrastructure and increase neighborhood safety. The study areas consist of various commercial, residential and light industrial parcels as outlined in the attached Lorin Business District map (Exhibit A) and Gilman Business District map (Exhibit B). In December 2020, the Berkeley City Council adopted the Adeline Corridor Plan which includes the goal to "…*explore the potential to establish Business Improvement District(s) [in the study area]*".

The purpose of this request for proposal document is to work with the City of Berkeley to establish two separate Parking Benefit Districts (PBDs). Tasks will include:

a. Development of detailed PBD boundary maps, in both PDF, GIS shapefiles and other formats required by the city Engineering Department.
b. Accompanying preparation of an "Engineering Report" for each district produced in accordance with Section 36600 et seq. of the California Streets and Highways Code, also known as the Property and Business Improvement District (PBID) Law of 1994 (the "Act").
c. Estimate of Revenue (annual) for each district, based on current and projected parking capacity and revenues
d. Recommendation of initial establishment term (5 or 10 years), management structure, and organizational implementation plan and relevant by law creation for each PBD's governing body.
e. Production of two separate Management District Plans (one for Gilman and one for the Lorin), with the method and basis of assessment for each articulated in accordance with Section 36600 et seq. of the California Streets and Highways Code, also known as the Property and Business Improvement District (PBID) Law of 1994 (the "Act").
f. Accompanying drafting of PBD establishment documents, including council resolutions, and public hearing materials including public notification documents (including mailing lists) in accordance with relevant regulations.

II. SCOPE OF SERVICES

The goal of this contract is to retain professional services to assist in the research, document preparation, and legislative efforts required to establish two new parking benefit districts in Berkeley starting in calendar year 2025.

Tasks & Preparation:
The specific tasks may include (but are not limited to, and may not necessarily include all of) the following phases and activities:
Phase I:

- Phase I reflects the initial assessment of creating the PBD. This will include, but is not limited to, reviewing meeting materials, touring site areas, developing a project timeline with tasks and associated costs.

Phase II:

- Phase II reflects the analytical work, reviewing and understanding the services, budget development, parking areas to be assessed, and quantifying the general and special benefits, drafting the management district plan for review and consideration by the Lorin Business Association and Gilman District Association respectively.

Phase III:

- Phase III reflects the legal process to establish the PBD. This will include, but is not limited to, the development of ordinances, the Management Plan, the Engineer's Report, and then concluding with the City Council Agenda Report and associated public hearing documents.

Preparation

- Proposers are encouraged to review relevant reports, plans and policies, both those in process and adopted.
- Proposers are encouraged to propose any additional phasing, or project elements they believe will improve the desired project outcome.
    - Phasing in the Lorin District should be closely aligned with the development of the Ashby BART station and the closure of the two existing BART owned public parking lots at the Ashby BART station (anticipated Fall 2025).
- Proposers shall analyze a strategy that retains revenue from Residential Parking Permits and long-term parking passes within the plan areas.
- Proposers are expected to prepare for and attend public hearings and make presentations as needed (not to exceed 8 public meetings).
- Provide final relevant documents, including native file formats including the Management Plan, Engineer's Report, revenue projections, mailing lists, etc. All documents relevant to the establishment of each district should also be packaged in a binder (one per district) and provided in a packaged PDF (print digital format).

In order to promote competition and increase the number of eligible bidders, the RFP should avoid imposing unnecessary requirements or qualifications that unfairly restrict the competition.

Term:
The contract term shall be for a period of 12 months with an option to extend for an additional 12 months at the sole discretion of the City of Berkeley.

Funding Availability:
Up to $70,000 for the creation of both parking benefit districts.

2021

Client Report: Adeline-Corridor Parking Benefit District

PREPARED FOR THE CITY OF BERKELEY, SEPTEMBER 2021

PIERCE ABRAHAMSON, MCP CANDIDATE, UC BERKELEY 2022

TABLE OF CONTENTS

CHAPTER 1: INTRODUCTION 3
1.1 OVERVIEW OF PROJECT 3
1.2 OBJECTIVES 3
1.3 RESEARCH APPROACH 3
CHAPTER 2: BACKGROUND 4
2.1 BUSINESS IMPROVEMENT DISTRICTS (BID) 4
2.2 BIDS IN BERKELEY 4
2.3 PARKING BENEFIT DISTRICT (PBD) 5
CHAPTER 3: CURRENT CONDITIONS 6
3.1 COMMUNITY CONTEXTS AND NEEDS 6
3.2 PARKING MANAGEMENT 6
3.3 FUTURE PLANS 7
CHAPTER 4: CASE STUDIES 8
4.1 REDWOOD CITY 8
4.2 VENTURA 9
4.3 PASADENA 11
4.4 AUSTIN 12
CHAPTER 5: RECOMMENDATIONS 13
5.1 PRIORITIZE GOBERKELEY IMPLEMENTATION IN THE ADELINE CORRIDOR 13
5.2 IDENTIFY FORMATION COST OF THE PBD AND CITY STAFF ENGAGEMENT LEVEL 13
5.3 CREATE A PARKING BENEFIT DISTRICT 13
5.4 ESTABLISH A NINE-PERSON ADVISORY BOARD THAT IS REFLECTIVE OF THE DIVERSE COMMUNITY IT REPRESENTS 14
5.5 STIPULATE FINANCIAL, GOVERNANCE, AND EQUITY ACCOUNTABILITY MEASURES 14
5.6 INSTITUTE A 70-30 PROFIT-SHARING MODEL 15
5.7 EXPLORE ALTERNATIVE FINANCING OPPORTUNITIES 15
5.8 EARN COMMUNITY TRUST THROUGH FREQUENT ENGAGEMENT, EDUCATION, AND EXPECTATION MANAGEMENT 15
5.9 PROHIBIT DISCRIMINATORY AND EXCLUSIONARY PRACTICES AND POLICY ADVOCACY 16
5.10 EXPLORE MORE INTUITIVE WAYFINDING STRATEGIES 16
CHAPTER 6: CONCLUSION 17
ACKNOWLEDGEMENTS 18

APPENDIX *19*
SOURCES *20*

CHAPTER 1: INTRODUCTION

1.1 OVERVIEW OF PROJECT

As part of the City of Berkeley *Adeline Corridor Specific Plan* (adopted 2020) and by recommendation of the Lorin Business Association (LBA) and other community members, the Berkeley City Council has directed the City Manager to:

"Establish a Parking Benefits District (PBD) in the Adeline Corridor to finance and support neighborhood improvements--such as landscaping, lighting, cleaning, pedestrian, and transit infrastructure, and more--in South Berkeley and refer to the Fiscal Year 2022 budget process $50,000 for city staff to hire and manage a consultant to assist in the formation and establishment of the PBD (City of Berkeley, 2021)."

In addition to undertaking the above action, another district (Gilman) was added to the referral along with $25,000 additional dollars to fund the exploration of the development of a companion PBD in the Gilman commercial area, located in Council District 1.

As a first step to satisfy City Council's direction, the City of Berkeley's Office of Economic Development (OED) has collaborated with UC Berkeley to enlist the help of a graduate student to research relevant case studies and best practices in establishing a PBD. The findings provided by the student are intended to offer recommendations to the Office of Economic Development and do not express the views of the city of Berkeley.

1.2 OBJECTIVES

The objectives of the student's research and resulting report are as follows:

- Provide educational background on Business Improvement Districts, Parking Benefit Districts, and the creation of a proposal for the Adeline and Gilman Business districts.
- Propose PBD boundaries based upon recommendations by the LBA and the *Adeline Corridor Specific Plan* of 2020 and the Gilman District council referral of March 23, 2021.
- Present a composite map that includes all existing BID boundaries in the city of Berkeley as well as the proposed PBD boundaries for the Adeline Corridor and Gilman District.
- Consult primary and secondary documentation on the local context of the Lorin neighborhood and Gilman District.
- Research case studies, academic literature, and other sources to acquire a comprehensive understanding of best practices of PBDs in communities comparable to Berkeley.
- Propose preliminary recommendations to the Office of Economic Development to review and consider for their own recommendations to City Council.

1.3 RESEARCH APPROACH

The research for this report was conducted between June 2021 and September 2021. Sources such as academic literature, informational interviews, and primary government documents were prioritized in establishing the factual foundation for this report. Sources such as business improvement district (BID) and business association websites, relevant blogs, social media, local publications were also consulted to provide a nuanced understanding of the socio-political climate surrounding PBDs. While community engagement was not conducted as a part of this research, extensive engagement efforts have been pursued prior by the City of Berkeley on this subject during the drafting (2014-2020) of the *Adeline Corridor Specific Plan* of 2020. The findings of these engagement efforts were heavily drawn upon in the writing of this report's community context and recommendation chapters.

CHAPTER 2: BACKGROUND

2.1 BUSINESS IMPROVEMENT DISTRICTS (BIDs)

Since the 1970s, business improvement districts have become popular public-private organizations leveraged by city and local businesses to promote economic development within a designated geographical zone (Elmedni, 2018). These districts are often funded by property assessment fees or a mix of public and private revenues streams to support business improvement services such as street beautification and area marketing. Cities such as New York City have over 75 BIDs, underscoring the popularity and success of the concept. These organizations already exist in Berkeley, such as the Downtown BID managed by the Downtown Business Association (DBA), Telegraph Business Improvement District (TBID), and the Elmwood Business Improvement District. Residents and visitors alike often recognize their services in venues such as festival sponsors, frequent sidewalk power washing, holiday decorations, or the presence of street ambassadors within these districts.

Policy experts and academics have argued that BIDs are often successful in increasing property values and business sales, beautifying spaces, and creating economic benefits for the community at large (Campagna, 2016). Notwithstanding, some have also noted that BIDs may adversely affect area affordability for low-income residents and small businesses absent appropriate anti-displacement measures and other policy interventions pursued by the city. Moreover, the Policy Advocacy Clinic at Berkeley Law published a report in 2018 that documented BIDs across California often "enact, maintain, and strengthen anti-homelessness laws" in a manner that excludes homeless people from public space (Selbin et al., 2018). Consequently, one of the primary objectives of this report is to provide recommendations for establishing a benefit district that is both responsive and accountable to community needs and disadvantaged groups.

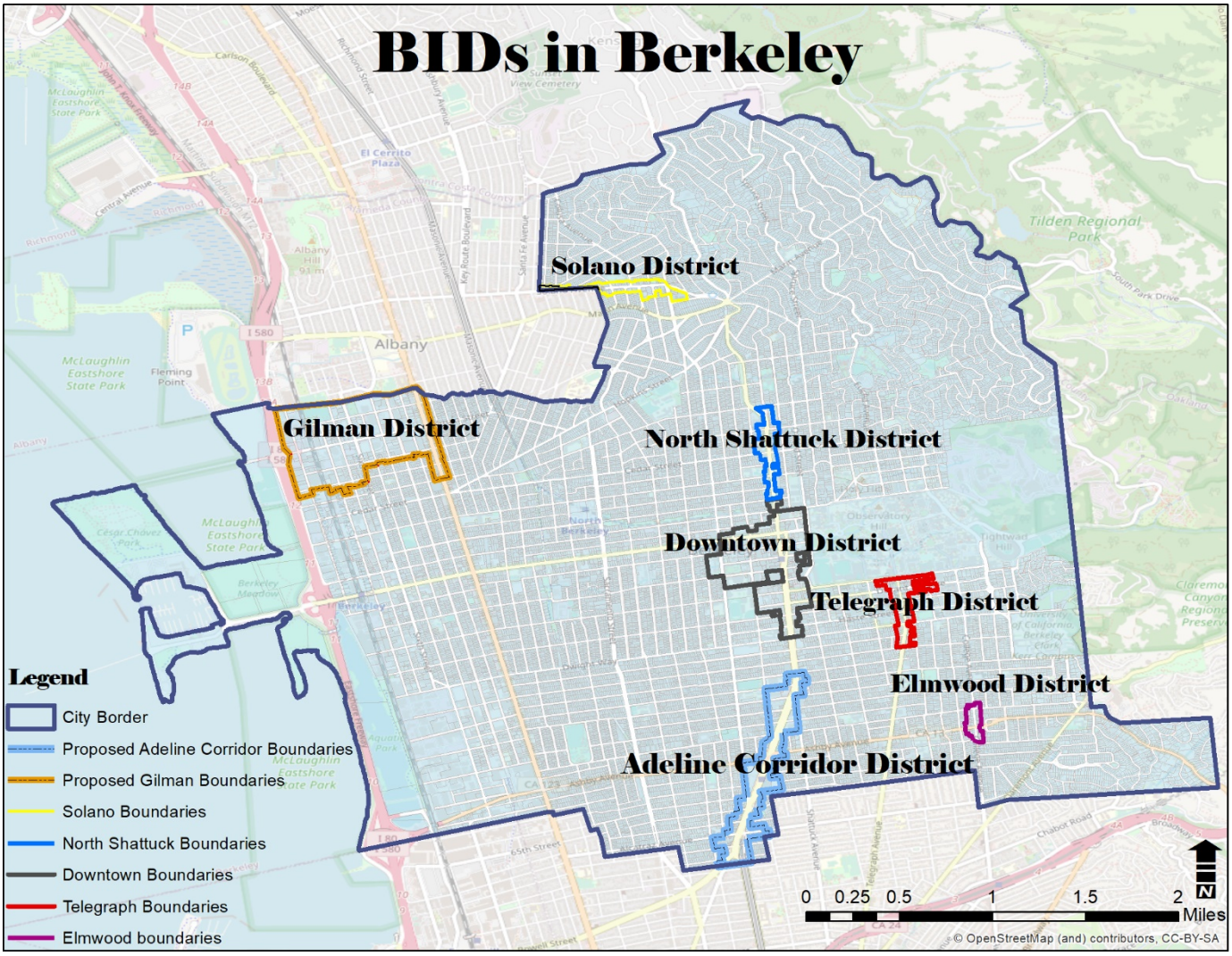
2.2 BIDS IN BERKELEY

There are currently five BIDs in the City of Berkeley. These BIDs are listed below with their corresponding business association (if appropriate):

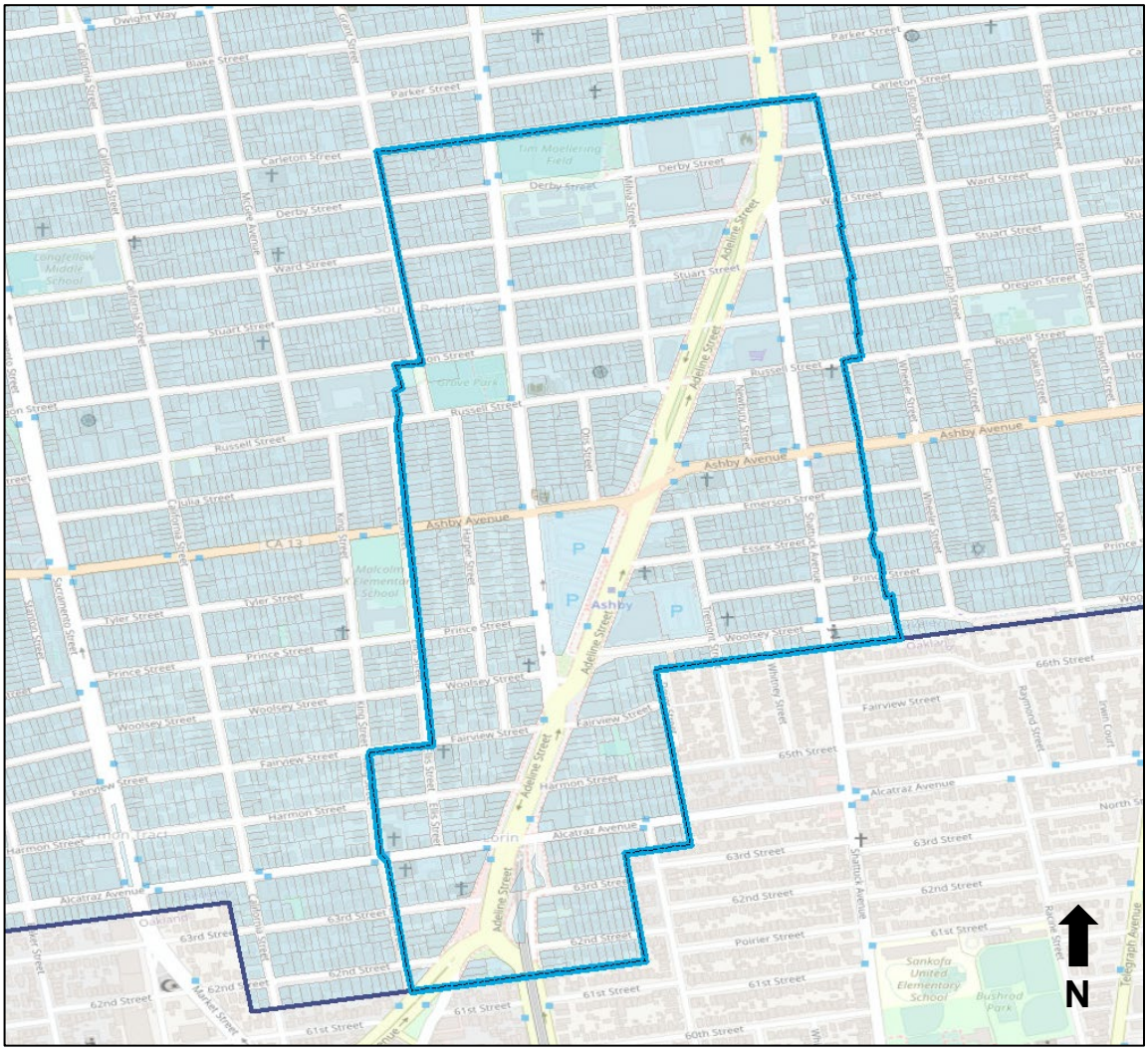
- Downtown Business Improvement District / Downtown Berkeley Association (DBA)
- Telegraph Business Improvement District (TBID)/Telegraph Property and Business Management Corporation (TPBMC)
- North Shattuck Business Improvement District (NSBID)/ North Shattuck Association
- Elmwood Business Improvement District / Elmwood Merchants Association Solano Avenue Business Improvement District / (Solano BID Advisory Board (fiscal agent is TPBMC)
- Tourism Business Improvement District (Citywide)/ Visit Berkeley

The DBA, NSBID, and TBID are the largest and most well-known BIDs in Berkeley, representing some of the densest and heavily trafficked commercial corridors near UC Berkeley. All five BIDs have played influential roles in shaping the marketing and beautification of their districts and contributed to their areas' success. The map below indicates their locations, as well as the proposed boundaries of the Lorin and Gilman Parking Benefit Districts.

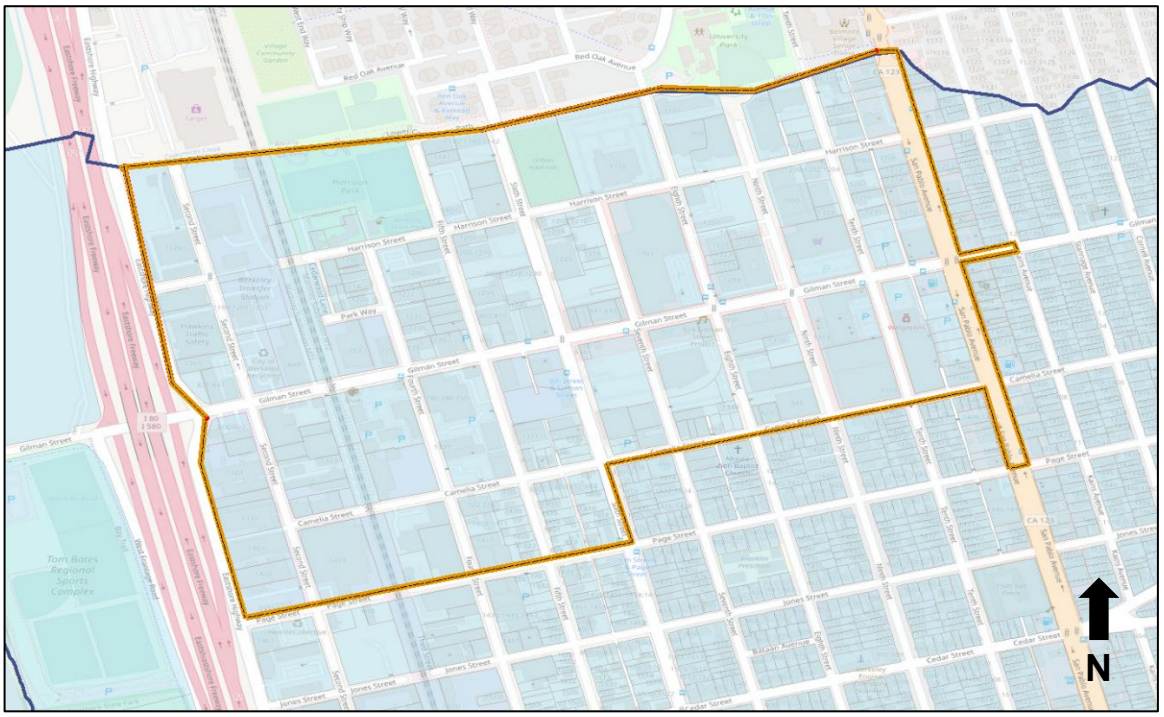
Map of Business Improvement Districts in the City of Berkeley



Proposed Lorin Parking Benefit District Boundary



Proposed Gilman Parking Benefit District Boundary



All BIDs in Berkeley are funded by either business license fees (Elmwood/Solano) or property assessment fees (North Shattuck, Downtown, Telegraph) or lodging tariffs on properties with five or more rooms for nightly rental (Toursim), which means that property owners, business license holders, or lodging establishments within the district parameters pay a supplemental fee to support the operations of the business improvement district. This configuration is the most popular across cities in the United States for districts that operate independently from the city. Since the 1990s, however, some cities have implemented and found success with alternate or hybrid BID configurations that provide numerous advantages over the traditional form.

2.3 PARKING BENEFIT DISTRICT (PBD)

One alternative benefit district structure that has become increasingly popular in the last fifteen years is the Parking Benefit District (PBD). PBDs are a flexible tool that combine the benefits of a traditional BID with parking congestion management and revenue generation typical of a parking management district. The initial start-up costs are significantly less that a business license or property-based BID. A PBD often retains the organizational structure and economic development objectives of a BID while administrating and collecting a percentage of metered parking revenue in a designated geographical area (Shoup, 2016). This allows PBDs to fund in-demand district projects through parking meter revenues while promoting parking turnover and efficient parking management. For these two primary benefits, the PBD variant of a BID is recommended for both the Gilman and Lorin districts.

The most well-known PBD in California is in Old Pasadena, which has since 1993 been celebrated for its success in revitalizing a once unattractive commercial district into one of the premier shopping and recreational destinations in Southern California. The case study of Old Pasadena is described in detail in chapter 4, alongside other successful examples of PBDs from cities such as Austin, TX and Redwood City, CA.

One of the great advantages of PBDs is that they are flexible and responsive to the local context. Not surprising then, many PBDs look quite different in organizational structure and scale as they are not one-size-fits-all. Most PBDs, such as Old Pasadena and West Campus in Austin, are largely independent non-profit organizations that take a collaborative approach to governance with the city. Others, however, such as Ventura, CA, limit the decision- making authority and governing power of the PBD board to an advisory role.

Likewise, some PBDs are authorized to collect the total revenue generated by parking meters, while some are required to split the revenue with the city or with a capital reinvestment fund. These differences are useful for investigating which elements from each of these case studies would be most appropriate for a future PBD in the Lorin and Gilman district in Berkeley.

CHAPTER 3: CURRENT CONDITIONS

3.1 COMMUNITY CONTEXTS AND NEEDS

The Lorin neighborhood, and its broader urban context, commonly referred to as South Berkeley, is bounded by Sacramento Street to the west, Martin Luther King

Jr. (MLK) Way and Adeline Street to the east, Ashby Avenue to the North, and the Berkeley-Oakland city border to the south on 62nd street. The community is well-known for its diversity, history of activism, and a flourishing arts and theater scene. It is also commonly frequented by visitors due to a thriving food scene, the Berkeley Flea Market, and an annual Juneteenth Festival. With the Ashby BART Station at its center, it is very accessible via mass transit to the greater Bay Area.

The Adeline Corridor, which extends 1.3 miles from the Oakland-Berkeley border on Adeline Street to a portion of Shattuck Avenue, is considered the commercial core of the Lorin District. For over five years, the volunteer Lorin Business Association (LBA) has advocated for establishing a BID for this corridor. The LBA argues that a BID would help bring equitable economic and community development for a neighborhood whose community has been historically neglected and marginalized. LBA members have expressed that a BID could be an opportunity to bridge the gap between the Lorin District and areas of the city with pre-existing BIDs such as neighboring Downtown Berkeley. Furthermore, they indicated it could fund street and neighborhood festivals, beautification efforts, street cleaning, placemaking projects, unhoused outreach, marketing, technical assistance for local businesses, and transit and pedestrian infrastructure enhancements.

Lorin residents during the community outreach processes for the Adeline Corridor Specific Plan have expressed similar sentiments in surveys conducted by city staff. The top three areas survey respondents indicated needing improvement in the Adeline Corridor area are as follows (City of Berkeley, 2017):

1. Enhanced opportunities for affordable housing (37%)
2. Retail, restaurant, and entertainment opportunities (35%)
3. Enhanced public spaces (30%)

During community workshops, residents expanded upon points 1 and 3 above to voice concerns about street cleanliness and additional services for unsheltered residents. Residents expressed support for establishing a BID to meet these needs on the condition that it aligns with community values of equity and compassion for unsheltered/unhoused residents and draws from a representative group of stakeholders such as black business owners and local non-profits.

3.2 PARKING MANAGEMENT

The City of Berkeley operates both a traditional metered parking program and a data-driven, demand-responsive program known as goBerkeley in five commercial districts. The Lorin district is presently in a non-goBerkeley program area, in which parking rates are a flat rate irrespective of localized demand. Furthermore, time limits are short and highly variable, ranging from 30-120 minutes. A sizeable portion of the Adeline Corridor area is unmetered, which provides no incentive for parking turnover nor revenue collection opportunity. Moreover, parking meter revenue that is generated in the area simply goes to solely fund parking enforcement operations.

The Adeline Corridor lacks many of the efficiencies and benefits obtained in goBerkeley areas. In goBerkeley program areas, parking is easier to find, rules are easier to understand, and vehicle cruising and congestion emissions reduced. This is made possible by implementing data-driven, demand-responsive parking rates for an intended 80-85% parking occupancy rate. Parking prices are raised or lowered

according to parking availability patterns by block face such that prices are adjusted until an optimal 10-15% space vacancy rate is achieved. Time limits are simplified by creating uniform two zones (premium and value) and lengthening limits to 2-8 hours to accommodate a variety of users.

The result of such a program is that parking is regularly available at a variety of different price points according to needs, visit purpose, and willingness to walk. This is highly desirable for a commercial district, for those who are shopping or dining can easily find proximate parking at higher-turnover but more expensive spaces. At the same time, workers and commuters can secure long-term, lower-cost parking further out on the off-streets. This contrasts to the typical problem that plagues commercial districts: parking is free but often in frustratingly short supply due to confusing time limits rules or high-occupancy rates by long-term parkers who are successful at playing the "90-minute shuffle (Shoup, 2016)."

The Berkeley City Council has recently approved the authorization of goBerkeley to be expanded to the rest of Berkeley with implementation to follow an incremental, neighborhood-by-neighborhood approach to establish reliable parking demand data and community consultation. As of the time of this report, no such process has yet been conducted for the Adeline Corridor.

3.3 FUTURE PLANS

In December 2020 the city of Berkeley adopted the final *Adeline Corridor Specific Plan* that establishes a new vision for the community over the next twenty years. The plan was developed in collaboration with community stakeholders to work towards creating affordable housing, preventing displacement, facilitating equitable economic opportunity, and improve public spaces. The plan projects a net gain of 1,450 housing units with a target goal of making 50% of these affordable. New housing development in the corridor is expected to be aligned with the city's mixed-use, transit-oriented goals and thus is likely to be sited near existing local businesses in the Adeline Corridor.

These adopted changes outlined in the Adeline Corridor Specific Plan are pertinent to address as they speak to the necessity of a BID for the district. Projected increases in population and visitor traffic to the neighborhood will require proactive efforts to ensure parking and traffic congestion impacts are mitigated and existing businesses have the resources they need to thrive. In fact, the plan explicitly proposes a "Business Improvement District(s) or similar entity" for such a task. Furthermore, as development at the Ashby BART station gets closer to reality, and demands for parking increase, it's an opportune time to implement additional parking regulations around the station area to minimize impacts to residents and business owners. Given the neighborhood context, expressed needs, and lessons learned from case studies documented in the next chapter, the Adeline Corridor would greatly benefit from a Parking Benefit District.

CHAPTER 4: CASE STUDIES

4.1 REDWOOD CITY, CA

Downtown Redwood City is a popular location to work, eat, shop, and attend events in Silicon Valley. The city also has been a long-time leader in cutting-edge

parking management, with paid parking meters dating back to the 1950s. In the early 2000s, Redwood City became one of the first to implement a parking benefits district. Their Redwood City Improvement Association (RCIA) and Downtown Redwood City Parking Management Plan are notable for introducing demand-responsive parking rates, eliminating time limits, and continually innovating with advanced wayfinding systems.

The RCIA is an example of a parking benefit district with considerable independent governance. RCIA advisory board has the authority to make expenditure decisions, vote on projects, and manage their own budget. The board consists of business owners, property managers, and city staffers. The district is required to hold public meetings, conduct public outreach during project proposals, and produce annual and financial reports for city council.

The parking district project originated from the conclusions drawn from occupancy surveys carried out by city staff to understand parking patterns, problems, and future impacts and trends in the downtown area (Redwood City, 2005). The city conducted three community engagement workshops with downtown stakeholders during the planning process. The first workshop informed stakeholders about current conditions and the need for a solution and provided a Q&A opportunity. The following workshop introduced a handful of potential proposals to the attendees and discussed the benefits and disadvantages. This workshop included a “game” involving members forming groups and plotting ideas they thought would be best regarding time limits, meter location, pricing, employee permits, etc. In the last workshop, city staff presented their project recommendations and provided an opportunity for idea refinements and suggestions.

The benefit district boundaries grew out of a study conducted during the Downtown Precise Plan, which guides all the development and business activities downtown.

The downtown business association, the chamber of commerce, and other local organizations provided input into this process.

Over the past fifteen years, the RCIA has become recognized as a model parking benefits district, realizing financial success and widespread approval. During the 2018 fiscal year, the RCIA had an operating budget of approximately $900,000 and collected property assessment revenue in addition to metered parking revenue (RCIA, 2019). With the funds generated, the district has been able to pay for sidewalk operations and beautification (54% of annual budget), district identity and signage (20%), parking management (7%), administrative functions (15%), and other fees (4%). Specific examples of improvements made in the district include LED tree lighting, art installations, a new cutting-edge wayfinding system, bike rakes, and more.

When asked about best practices, city staff stressed the importance of managing money/fiscal expectations with stakeholders. When stating return on investment (ROI) figures over a long-term period, it is vital to remind stakeholders that the first few years of operation will not generate ample revenue for major projects. Moreover, they caution against committing money based on projections, as this could create unnecessary tension and distrust if the funds end up not becoming available.

Regarding homelessness programs, city staff recommend “striking a balance”

between business' needs to conduct business and customers' safety with that of the needs of the unsheltered population in the neighborhood. On the one hand, it is necessary to provide outreach solutions that connect unsheltered individuals with social services and build trustful relationships. On the other hand, they state that there will be pressure by businesses to take immediate action on the issue that some in the city may not agree with. They thus advise managing expectations in this regard to find workable solutions for everyone.

Concerning current and future projects, The RCIA and Redwood City are currently implementing a new on-street parking guidance system called Clevercity, following a successful pilot for their parking garages (Clevercity, 2021). This parking guidance system leverages smart sensors and digital signs to provide real-time parking guidance for vehicle travelers. During the pilot study, the city has found that the wayfinding system has effectively distributed occupancy rates across the downtown parking garages. Previously, the most impacted garage would be near max capacity during peak hours, while garages merely a block away would be at 20% occupancy, contributing to visitor complaints of parking space shortage. Both garages now average a 60%-70% occupancy rate. The city expects similar results for their on-street parking occupancy rates once the new system goes live by late august.

4.2 VENTURA, CA

Downtown Ventura is a lively beachside neighborhood with a variety of local retailers, restaurants, and breweries. Its parking benefit district has been live for over a decade. As in Redwood City, parking is mandated by city ordinance to be market rate with an 85% target occupancy rate, and profits generated are required to be utilized only for expenditure within the district's boundaries. Improvement projects funded by the program include street beautification, downtown security, parking lot and alley improvements, sidewalk cleaning, landscape lighting, and area marketing.

The Ventura program is an example of a parking benefit district that is largely operated by the city itself. City council retains final approval over expenditures, advisory board appointments, and decision-making. Furthermore, the district's finances are managed within the city's budget ledgers. However, the Ventura program does feature a Downtown Parking Advisory Committee (DPAC) that provides policy, management, and expenditure recommendations. The board includes seven members from within the district (Ventura, 2008):

- One city resident
- Two business owners or managers
- One commercial proprietor
- One resident recommended by a downtown organization
- Two city residents at large

There are no term limits for board members. However, they are appointed for four years in a staggered fashion.

In the district's formation, the city conducted two community outreach workshops and has made over ten presentations to over a hundred stakeholders. In the beginning, there was a sizeable opposition block to metering the downtown area out of fear of driving away business. The city took the following actions to gain

public buy-in:

1. Marketed the program as a city effort to find money for neighborhood investment and emphasizing that all profits generated will be used within the district boundaries. One example includes printing a list of improvements the revenues fund on the back of each paid parking ticket.
2. Launched a kick-off campaign during launch week. City employees and officials were stationed downtown to guide visitors and businesses and hand out free parking vouchers and brochures.
3. Set initial parking rates below market rate; pricing was gradually increased to market rate over time. The city made this choice believing that it would help get the public habituated to paying for parking.

The program as a result has been broadly popular and accepted by neighborhood residents and businesses.

Initially, the district borrowed $875,000 from other city programs to pay for parking meters and wayfinding signage (Ventura, 2008). This number was determined by a fiscal impact analysis that considered fixed and variable costs such as meter installation, operating expenses, and estimated annual revenue. According to city reports, it took five years for the district to pay off this loan. For the next five years, the parking district has been profitable, generating on average $50,000 per month. Since the COVID-19 pandemic, however, the district has lost money, generating only $80,000 for the entire fiscal year (Ventura, 2021).

Although revenues have somewhat recovered in recent months, city staff have indicated that forecasting remains a difficult task. They state that besides the volatile nature of the pandemic, questions that have a significant bearing on the profitability and availability of premium parking space, such as the future role and place of street closures and parklets remain unanswered. As a result, the parking district is deliberating whether to push the premium price map outwards towards additional side streets and parking structures to stabilize revenues and afford a new parking structure.

4.3 PASADENA, CA

Old Pasadena is one of the most successful and well-known parking benefit districts. Since the founding of its PBD in 1993, it has transformed into a cherished public space and regional shopping destination thanks to metered parking. The Old Pasadena Business Improvement District (OPMD) of 21 square blocks has been able to increase sales tax revenues for the city, increase foot traffic for businesses, and fund street beautification and marketing projects such as tree plantings, historic lights, and special events (Streeter, 2004).

During the 2015 fiscal year, the OMPD brought in $1.7 million in revenue and had a budget of $1.3 million. 71.2% of overall spending went towards beautification and safety features, 13.6% on marketing, and 15.2% on administration (OMPD, 2016). Over half of the revenue collected came from property assessments (over $1 million), though contract revenue from the city and parking management fees were also considerable revenue sources. The district sets aside around 12% of its operating revenue for emergency reserves.

Like the Redwood City RCIA, The OMPD operates as a non-profit organization with independent decision-making and budgetary authority. The OMPD must produce annual reports, financial statements and be renewed by ballot measure every ten

years. The OMPD also has a 17-representative advisory board that includes property owners, business owners, and residents within the district boundaries (Pasadena, 2015). The BID boundaries are subdivided into separate districts according to each area's specific characteristics and needs, which affect how much assessment is collected and which services are provided. Some of the higher-need services include more frequent power washing of streets and trash collection, the number of street ambassadors, and additional security. The district currently employees five staff members.

Relative to other PBDs and BIDs, the OMPD invests a considerable amount in programs for unsheltered persons. In addition to holding numerous fundraising drives for unsheltered persons, the OMPD contracts with Block by Block to provide outreach services. According to one training brochure, the organization has the following goals: relationship building, earning trust, and connecting persons to social service providers. Block by Block (BBB) outreach specialists are expected to attend community meetings and follow through with service providers to ensure the persons they've connected with receive the support they need. They also provide immediate support through referral guides, hygiene kits, and transportation assistance. Notwithstanding, BBB has a mixed history on delivering long-term beneficial services according to homeless feedback surveys (Selbin et al., 2018). Likewise, BBB is often criticized for violating privacy rights and aggressive reporting of panhandling and instances of sidewalk blocking to the police.

4.4 AUSTIN, TX

The city of Austin has experienced remarkable success with parking districts, with over four in total to date. During year one, the city's first PBD pilot program in West Campus was able to measurably reduce traffic congestion, generate over $163,000 in revenue, fund over $40,000 in street and beautification enhancements. After five years as a pilot program and earning substantial popularity and dollars, city council passed ordinances to render the parking district permanent and allow other neighborhoods to apply for their own program (Austin, 2015).

The city utilizes two different parking management programs: Parking Benefit Districts (PBD), and Parking and Transportation Management Districts (PTMDs). Per city ordinance, PBDs have a 96-parking space minimum requirement and must be operated by an independent non-profit. Additionally, they have a limited selection of what money can be spent on. PTMDs, in contrast, have less stringent parking space minimum requirements, provide more flexibility to earmark money for transportation services, but must be managed by the city. There is currently one PBD In Austin and three PTMDs.

Parking districts in Austin take a collaborative governance approach with the city and are permitted a certain degree of independence in decision making and reporting. Parking district advisory boards are led by local businesses and residents and can make budgetary decisions up to a $61,000 threshold without council approval. Furthermore, annual reports are not required unless requested by council. Notwithstanding, finances are still managed within the city's books, and the parking districts gain only 51% of parking meter revenues after operating expenses.

The city typically reaches out to neighborhood associations, local business organizations, and core establishments to solicit feedback to establish BID

boundaries. City staff often leverage GIS services to determine who they should reach before engaging in such discussions. In the downtown Austin program, the local business association submitted a BID boundary application that, with a few adjustments, became the official BID boundary for the district.

Austin parking districts feature a split profit model, where 51% of the revenue goes to the parking benefit district and 49% goes into a capital investment fund. While an "all profits remain in the district" model is more often pursued, city staff has expressed that the Austin model provides additional financial stability and the capacity to fund essential parking programs that aren't profitable. Through the capital investment fund, the city has been able to appropriate over 2 million dollarsworth of new sidewalk for the West Campus district, 3 million dollars in "Great Street" funds, and pay for essential staff and services such as engineers and rentals. The West Campus PBD currently employs two part-time staffers and one full-time.

During the pilot program for the west campus PBD program, the city successfully applied for a $43,000 grant from the EPA's Mobile Source Outreach Assistance Program for reducing car emissions in 2005. While the EPA no longer offers this specific grant, it serves as a reminder to never discount shopping around for grant funding to help offset initial program startup costs.

When asked about best practices, city staff provided similar advice to that of Redwood City, underscoring the importance of managing the financial expectations of stakeholders. Important lessons include, "the bank account needs building time; the need for city staff during the first few years will be minimal." Furthermore, big projects on the scale of what is being accomplished by more established districts will not be possible in the first few years, and thus it is critical to communicate this with the public clearly.

CHAPTER 5: RECOMMENDATIONS

5.1 PRIORITIZE GoBERKELEY IMPLEMENTATION IN THE ADELINE CORRIDOR AND THE GILMAN DISTRICT

Implementing a sophisticated parking management strategy such as goBerkeley that would include sufficient metered parking with a demand-responsive pricing structure is a prerequisite for establishing a PBD. Without the installation of additional meters and flexible dynamic market-rate pricing, the financial health of the proposed PBD will be compromised. This report recommends prioritizing an expedited timeline for incorporating the Adeline Corridor including the Lorin District and Gilman District into the goBerkeley program prior to a go-live date for the proposed PBD.

5.2 IDENTIFY FORMATION COST OF THE PBD AND ONGOING CITY STAFF ENGAGEMENT LEVEL

Identifying how much and where the initial seed money will be sourced is a crucial preliminary step for establishing a PBD. This should include conducting a fiscal impact analysis that includes considerations such as procurement and installation

of additional parking meters, signs, administrative costs, ongoing maintenance costs and lifecycle management, and revenue forecasting. Likewise, determining where money will be appropriated from and in what form (i.e. loan) is an important decision likely to involve considerable deliberation. The city should also consider how many city employees and hours to allocate as a liaison to the PBD, once it is established.

5.3 CREATE A PARKING BENEFIT DISTRICT

This report recommends establishing a parking benefit district (PBD) in the Adeline Corridor and Gilman District. PBD suggested boundaries are indicated in the map below:

5.4 ESTABLISH A NINE-PERSON EXECUTIVE BOARD THAT IS REFLECTIVE OF THE DIVERSE COMMUNITY IT REPRESENTS

The PBD in the Adeline Corridor and Gilman District is recommended to be governed by a nine-person executive board that reflects the diverse community it represents. Prior community engagement efforts indicate that Lorin residents believe voices from black business owners, local non-profits, and non-business or property-owning residents should be particularly elevated. The same approach and goals are suggested for the Gilman District as well. The city and PBD should strive to make every effort possible to ensure diversity in governance is achieved. Moreover, the 9-person board seating is recommended as follows:

- One city staff member
- Two business owners or managers from the district
- One commercial proprietor from the district
- One non-managerial worker from a local business
- One person employed by or recommended by a PBD district non-profit
- Two residents from the Lorin and Gilman District neighborhood (up to ½ mile from the PBD boundary)
- One city resident at large

The city should additionally consider whether term limits shall be implemented as well as term duration. Term limits are not universally common; board appointments tend to range from four to five years at a time for BIDs.

5.5 STIPULATE FINANCIAL, GOVERNANCE, AND EQUITY ACCOUNTABILITY MEASURES

Given that PBDs and other BID-like entities receive and provide similar benefits as ones, they should be held to comparable standards of a public agency. Scholars such as Briffault (1999) and Becker (2012) have argued that it is possible to hold BIDs politically accountable when their host city stipulates appropriate requirements to ensure democratic and transparent outcomes. As such, this report recommends the following criteria for the Adeline-Corridor and Gilman District PBD:

- Hold open meetings that are accessible to the public with reasonable notice Meeting agendas and minutes must be made readily available online
- Board members must be appointed by a City Councilmember. Exception for the city employee member, who is instead appointed by the City

Manager
- The PBD must include board members from underrepresented communities comparable to what is mandated by SB 826 and AB 979
- Publish annual budget and financial statement
- Follow civil service rules and public purchasing regulations
- Publicly post jobs, pay scales, and public notice of procurements
- Disclosure of pay levels for employees and public procurement processes
- The PBD is prohibited from financing public advocacy. This includes the financing or endorsing of public candidates and ballot measures.
- Contract with the city of Berkeley must be renewed every ten years

5.6 INSTITUTE A 70-30 PROFIT-SHARING MODEL

This report recommends instituting a 70-30 profit-sharing model, in which 70% of total revenues after accounting for maintenance costs are left to the discretionary spending of the PBD for local district improvements. The other 30% should be split two ways: 20% for a capital reinvestment fund administered by the city, and the remainder 10% for emergency reserves. This allocation scheme is informed by substantial research and informational interviews regarding long-term sustainability of PBDs and common financial liabilities for host cities. The 20% capital reinvestment fund allows the city to recuperate costs on critical infrastructure investments, including the lifecycle management of the parking meters. Meanwhile, the 10% emergency fund, as modeled by the city of Pasadena, protects the financial health of the PBD during emergencies such as natural disasters or global pandemics. This is especially critical given metered parking revenues are highly variable.

5.7 EXPLORE ALTERNATIVE FINANCING OPPORTUNITIES

Metered parking fees and the possibility of collecting property assessment fees are not the only two avenues for revenue generation. Some cities such as Austin have successfully secured EPA grant money for their PBDs because of their emission reduction objectives. While the specific grant program they applied to is no longer active, other federal and state funding sources likely exist as potential revenue sources for the city to explore.

Another potential avenue for PBD funding in the future could be paid EV charging stations. EV charging stations on parking spaces seldom charge a user fee for such a service, despite using city utility resources. The city of Berkeley and the proposed PBD could pioneer such a shift as a source of revenue generation for ongoing PBD revenue. While conversations with hypothetical vendors indicate that such a technology is still conceptual, it may be an opportunity worth exploring in the years to come.

5.8 EARN COMMUNITY TRUST THROUGH FREQUENT ENGAGEMENT, EDUCATION, AND EXPECTATION MANAGEMENT

The City of Berkeley and the proposed PBD leadership should make every effort to earn community trust through frequent educational efforts, stakeholder engagement, and transparent dialogue that manages expectations. The advantage of a PBD, after all, is to provide hyper-local governance opportunities and targeted service

delivery to district stakeholders who understand the on-the-ground needs, so community members must be offered frequent input opportunities to shape the vision of the program. Likewise, many residents and some businesses may not become aware of the formation and objectives of a PBD. Educational efforts should be made to ensure engagement efforts are fruitful.

One particular point stressed by all the case study interviewees is that the city needs to manage stakeholders' expectations of what a PBD can and can't do. For example, city staff should clearly outline the difference between initial and long-range ROI projections with the public to avoid misunderstandings about financially feasible projects during the initial years. Such misunderstandings can prove fatal for public opinion and trust in the PBD.

5.9 PROHIBIT DISCRIMINATORY AND EXCLUSIONARY PRACTICES AND POLICY ADVOCACY

Feedback provided by residents during the Adeline Corridor community engagement sessions signaled that diversity, inclusion, and compassion are treasured values of the Lorin District and greater Adeline Corridor community. Concerns about discrimination and exclusionary practices of marginalized peoples, especially those who are unsheltered, were especially elevated during talks of a potential BID for the Adeline Corridor. City council, staff members, and future BID board members should take such concerns seriously.

This report recommends the city to deny PBD proposals that include provisions for policy advocacy and policing activity. Such activities not only create legal liabilities if the PBD decides to pursue property assessment fees (Golden Hill Neighborhood Assn. v. City of San Diego, 2011), but often contribute to the exclusion and harassment of unsheltered persons from public spaces. State law allows cities to disestablish BIDs if a "misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district" is to be found (AB944, 1994). The city should establish expectations within contracts with the PBD's non-profit entity and restrict inter-agency collaboration with the PBD that would result in discriminatory and exclusionary practices.

5.10 EXPLORE MORE INTUITIVE WAYFINDING STRATEGIES FOR PARKING

The City of Berkeley has a long-standing reputation as a challenging place to secure parking. This reputation has endured irrelevant of actual parking availability figures and investments in additional parking spaces and garages. While a significant contributor of this is the result of the slow adoption of a demand-responsive parking management program such a goBerkeley program citywide, a confusing wayfinding system for drivers is also a sizeable part of the story. This report recommends the city and proposed PBD to explore wayfinding strategies such as those modeled by Redwood City to assist drivers in locating some of the less obvious available parking spaces. This will more evenly distribute parking occupancy across zones and parking infrastructure and reduce congestion and the emissions resulting from vehicle cruising.

CHAPTER 6: CONCLUSION

A Business Improvement District in the Adeline Corridor has been long-awaited by Lorin businesses and residents alike. Not as long in the making, but still very much desired, the Gilman district could also benefit from a PBD. Considering the economic opportunities and general benefits generated by BIDs in neighboring commercial corridors such as Downtown Berkeley, it is not hard to see why. This report advocates for the PBD variant of a BID as it can fund district projects without financial burden to small businesses and provide parking management to accommodate the neighborhood's projected growth.

This report would not be complete without restating that a PBD is a relatively recent tool that has been criticized in some pioneering cities for falling short on financial, governance, and equity accountability. Substantial effort has been made to investigate both the causes and potential mitigating solutions documented in the academic literature and case studies. The recommendations in chapter five are therefore shaped by this engagement to provide a blueprint for a PBD that better satisfies the shared values and objectives of the Lorin and Gilman District communities. While a first step, these recommendations are expected to be continually refined with active engagement of community stakeholders over time as each district's needs adapt and evolve.

ACKNOWLEDGEMENTS

I want to thank Eleanor Hollander and Kieron Slaughter of the Office of Economic Development at the City of Berkeley for their guidance and support during this project. I want to also express appreciation to Christian Hammack (Redwood City), Rick Gallegos and Estelle Bussa (Ventura), Jason Redfern (Austin), and Niki Svara (Pasadena) for their willingness to share valuable insights that shaped the case study chapter of this report. Likewise, I thank Gordon Hansen of the City of Berkeley for sharing extensive background knowledge on parking management in Berkeley. Lastly, I would like to thank the Department of City and Regional Planning at UC Berkeley and donors from the Passmore Fellowship for their financial support to make this project possible.

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06

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Eleanor Hollander, Economic Development Manager

Subject: Assessments: Berkeley Tourism Business Improvement District

RECOMMENDATION

Adopt a Resolution approving the Annual Planning Report and preliminary budget for Fiscal Year 2025 (FY25) for the Berkeley Tourism Business Improvement District (BTBID) as recommended by the BTBID Owners' Association.

FISCAL IMPACTS OF RECOMMENDATION

The BTBID levies an annual assessment of one percent (1%) of gross short-term room rental revenue for lodging establishments. Annual assessment funds will be deposited and expended from the Tourism BID Fund. Based on City of Berkeley proposed budget revenue projections of $8,237,549 in Transient Occupancy Tax (TOT) collections for FY 2025 (shared in April 2024), the BTBID is budgeted to receive $686,462.42 in funding for FY 2025.

Both parties understand that the actual amount may change in the coming months, reflecting the ever-evolving state of the Berkeley economy and local, regional, and national tourism trends. The City retains a fee equal to one percent (1%) of the amount of assessment collected to cover its costs of collection and administration associated with the Tourism BID. The exact amount of any FY 2024 BTBID fund balance will only be known with certainty in August 2024. This is because the City collects BTBID assessments on a monthly basis along with Transient Occupancy Taxes (TOT). As a result, the finance department will only know the receipts for June 2024 after those assessments are collected at the beginning of July 2024. If revenues come in higher than anticipated, the Office of Economic Development will determine the amount and make a one-time "true up" payment for FY2024 during FY 2025. The appropriation of these additional funds will be included as a one-time "true up" payment with the amount articulated and authorized in the First Amendment to the FY 2025 Annual Appropriations Ordinance (November 2024).

CURRENT SITUATION AND ITS EFFECTS

The Berkeley Convention and Visitors Bureau, known as Visit Berkeley, has an active contract with the City to implement the Management District Plan for the Tourism Business Improvement District through FY 2027 to support tourism marketing and promotion.

Under the Property and Business Improvement District Law of 1994 (California Streets and Highways Code section 36600 et.seq.) the City Council may approve an Annual Planning Report prepared by the Tourism Business Improvement District Owners' Association with a proposed budget for the next year. Accordingly, at its virtual meeting on April 16, 2024, the BTBID Owners Association voted to approve the Tourism BID's Annual Planning Report and budget for BTBID's Fiscal Year 2025. Council can now adopt the recommended resolution which will confirm the Tourism BID assessment and thus enable continuous BID operations for another year.

The Management District Plan was adopted by Council in 2017 as part of the reestablishment of the Tourism Business Improvement District; the plan provides a framework and budget for the Tourism BID's activities. In FY 2025, the Tourism BID will work with local hotel managers and hospitality industry leaders, the City of Berkeley, and other relevant tourism industry stakeholders to do strategic destination marketing and sales work that drives visitors to Berkeley's lodging establishments and supports Berkeley's hospitality industry. Additionally, the Tourism BID will continue to develop digital marketing and promotions utilizing the power of Visit Berkeley's website and social media strengths to push positive messaging to the visitor, event planning, and meetings industry and continue to develop and manage constructive relationships with local, regional and statewide marketing and hospitality partners to create local overnight room demand and to ensure the organization has the resources and support needed to successfully execute the BTBID mission.

BACKGROUND

The Berkeley Tourism Business Improvement District includes all lodging businesses with five (5) rooms or more, available for public occupancy within the boundaries of the City of Berkeley. The City is responsible for collecting the assessment on a monthly basis from each lodging business with five (5) rooms or more located in the District boundaries. The City forwards the assessments to Visit Berkeley, which has the responsibility of managing District programs as provided in the Management District Plan.

The Berkeley Tourism BID was first established for a period of five years on September 18, 2012 to raise revenues to finance marketing and sales promotions, increase tourism, and promote Berkeley hotels as tourist, meeting, and event destinations. The Berkeley Municipal Code was amended on November 27, 2012 to modify its definition of room rent that so that BTBID assessments passed through to guests are exempt from the Transient Occupancy Tax (TOT) which is also applied to room rent. A portion

of TOT revenue also funds the Berkeley Convention and Visitors Bureau, but under a separate contract. On April 25, 2017, Council approved Resolution No. 67,926-N.S. reestablishing the Tourism BID starting on July 1, 2017 for an additional 10 years, expiring in 2027. The Tourism BID is authorized through June 30, 2027 unless action is taken to disestablish it. In October of 2019, the City Council authorized the City Manager to execute a contract and any amendments (Contract # 32000101) with Visit Berkeley, not to exceed $7,966,000 of BTBID revenues, to support tourism marketing and promotion for the period through June 30, 2027.

ENVIRONMENTAL SUSTAINABILITY

The BTBID works to promote the Bay Area Green Business certification program with Berkeley's hotel owners, thereby encouraging the local lodging industry to take actions to meet environmental sustainability objectives.

RATIONALE FOR RECOMMENDATION

The State Property and Business Improvement District Law of 1994 requires that the City Council accept an annual report from the Owners' Association for each fiscal year in which assessments are to be levied. The report shall include any proposed changes in the boundaries of the district, the activities proposed for the year, and an estimate of the cost for providing them. Council action is required to approve the Tourism BID's Annual Report. This will, in turn, confirm disbursement of Tourism BID assessment revenue to Visit Berkeley. This private/public partnership generates significant resources for the City, indirectly enhancing sales tax, business license tax, and other business-related City revenue sources such as transit occupancy tax.

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered.

CONTACT PERSON

Elizabeth Redman Cleveland, Office of Economic Development, (510) 981-7532

Attachments:
1: Resolution: Annual Planning Report and Proposed Budget Tourism BID

Exhibit A: Annual Planning Report and Proposed FY 2025 Budget of the Berkeley Tourism Business Improvement District

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

APPROVING THE 2024 ANNUAL REPORT AND PROPOSED FY 2025 BUDGET OF THE BERKELEY TOURISM BUSINESS IMPROVEMENT DISTRICT

WHEREAS, Property and Business Improvement District Law of 1994 (California Streets and Highways Code section 36600 et.seq.) authorizes cities to establish business improvement districts for the purpose of imposing assessments on businesses for certain purposes; and

WHEREAS, on April 25, 2017, the Berkeley City Council re-established such a district known as the Berkeley Tourism Business Improvement District (the "District"); and

WHEREAS, the City Council designated the Berkeley Tourism Business Improvement District Owners' Association (Owners' Association) to oversee the activities of the District; and

WHEREAS, the Owners' Association has submitted an Annual Report to the Berkeley City Council that outlines the activities of the District proposed for fiscal year (FY) 2025 and a budget for providing them, as required by the California Streets and Highways Code Section 36650; and

WHEREAS, the Annual Planning Report is clear and complete and found to comply with the interests of the District assesses; and

WHEREAS, the Annual Planning Report proposes no changes to rates, boundaries or services to the Business Improvement District.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council of the City of Berkeley hereby approves the Berkeley Tourism Business Improvement District Annual Planning Report budget for FY2025 (Exhibit A) as submitted to the City Clerk by the Berkeley Tourism Business Improvement District Owners' Association.

Exhibit A: Berkeley Tourism Business Improvement District (BTBID) Marketing Plan

FY2025 Annual Planning Report

District Name: This report is for the Berkeley Tourism Business Improvement District

Fiscal Year of Report: This report applies to the FY 2025 (July 1, 2024 – June 30, 2025) and proposes a budget and plan for FY2025 (July 1, 2024 – June 30, 2025).

Background: The Berkeley TBID is a benefit assessment district created in 2012 by a group of hoteliers to fund marketing and promotional efforts for Berkeley lodging businesses. The first 5-year agreement with the City of Berkeley was from November 1, 2012, through October 31, 2017. On November 18, 2014, the Berkeley City Council approved the transition of the BTBID to a fiscal year contract cycle effective 2015-16. On April 25, 2017, City Council adopted the renewal of the Berkeley Tourism Business Improvement District for a ten (10) year term to maintain a revenue source devoted to marketing and promoting specific hotel-serving activities, beginning July 1, 2017, through June 30, 2027 (FYs18-27).

Boundaries: The Berkeley TBID includes all hotels with five or more rooms, existing and in the future, available for public occupancy within the boundaries of the City of Berkeley (Appendix II). The boundary is estimated to include approximately 17 hotel businesses (Appendix III).

There are no proposed changes to the boundaries for fiscal year 2025.

Improvements and Activities for FY2025: This planning report is provided for informational purposes. Actual projects are subject to approval by the BTBID Committee and the Visit Berkeley board. Below are the improvements and activities planned for fiscal year 2025. The ideas presented below are subject to change during the course of the year depending on circumstances and availability of funds. The estimated budget is $686,462.42 (Appendix I).

Market Summary Report: Comparing FY23 and FY24 (July-March), the City of Berkeley lodging industry has experienced minimal fluctuation YoY. Hotel occupancy is averaging 68.6% in FY24 compared to 69.3% in FY23. ADR is averaging $178.38 in FY24 compared to $174.53 in FY23. The first 6 months of FY24 started out much slower than FY23, however we see increases in both Occupancy and ADR from January 2024 on. We have seen positive increases in the meeting industry and leisure travel remains steady, while business travel still lags behind. Informational note: City of Berkeley has removed 2 motels (52 rooms) from our inventory this fiscal year and 5 properties (230 rooms) over the past two years. Three were for the Home Key program and two have closed for public occupancy.

UC Berkeley has fully reopened, however it has not produced the meetings and conferences as expected. We will continue to build our partnerships and outreach to all departments encouraging utilization of Berkeley hotels and event space as their preferred choice for conferences and visitors. Visit Berkeley will partner with our local Business Improvement Districts (BIDs), the City of Berkeley's Office of Economic Development (OED) and Chamber of Commerce by supporting their events with social media campaigns targeting Berkeley residents and attracting local and regional visitors to Berkeley.

We anticipate TOT revenues to increase, providing there are no additional pandemics or surges. Visit Berkeley will increase our marketing efforts to target Corporate and Association meeting planners, as well as individual Corporate and Leisure travelers. We will also design and implement a strong campaign between Cal Athletics and the Atlantic Coast Conference to attract visiting teams and visitors.

FY 2025 PROPOSED BUDGET ALLOCATION

1) SALES AND MARKETING (99%)

Sales and Marketing shall be 99% of the assessment that is estimated to be $679,597.80 for FY25.

1. OVERALL DESTINATION MARKETING STRATEGY

Strategy: Work with Stakeholders, City of Berkeley, and Community Leaders to develop strategies and initiatives to support the hospitality businesses citywide.

a. **Lodging:** develop multiple campaigns to increase occupancy, increase meeting/conference outreach, host familiarization or FAM Trips, and attend Trade Shows.
b. **Restaurants/Libations:** Continue on the success of Berkeley Restaurant Week and Berkeley Bucks programs. Host Content Creators/Travel Media and walking tours.
c. **Arts & Culture Venues:** maintain a robust events calendar on VisitBerkeley.com, promote venues on our website and on IKE kiosks. Partner with Berkeley Cultural Trust and the City of Berkeley's Civic Arts Program.
d. **Merchant Districts:** meet regularly with BIDs to support their events through our website and IKE kiosks.

2. DEVELOP INTERNAL MARKETING STRATEGIES

Strategy: Develop digital marketing and promotions utilizing the power of Visit Berkeley's website and social media strengths to push positive messaging to the visitor and meetings industry.

a. **Website:** maintain a robust website that promotes all tourism and meeting related businesses
b. **Partner Development:** work with tourism marketing partners to create visitor packages and campaigns
c. **Outdoor Adventure:** promote outdoor activities, such as district shopping, parks, outdoor dining, and special events
d. **Digital and In-Person Familiarization Tours ("fam" tours) and Meetings:** Maintain contact with meeting planners and content creators with individual and group meetings, selectively host in-person fam tours and introduce hotel promotions and packages.

3. LOCAL, REGIONAL AND STATEWIDE MARKETING OUTREACH

Strategy: Create, develop, and manage positive relationships with local, regional, and statewide marketing and hospitality partners to create overnight room demand and to ensure Visit Berkeley has the resources and support needed to successfully execute the BTBID mission.

a. **Local:** maintain and build positive relationships with UC Berkeley, Lawrence Berkeley Lab and other local businesses that produce lodging overnight stays and conferences
b. **Regional:** (9 Bay Area Counties) strategize opportunities to attract leisure and family visitations to patronize Berkeley's merchant districts, attractions, and outdoor activities
c. **Statewide: I**everage our ongoing relationships with Visit California and Oakland International Airport to participate in cooperative programs and marketing opportunities to attract Regional and Statewide visitation to Berkeley

2) CITY COLLECTION COSTS (1%)

The City of Berkeley shall be paid a fee equal to 1% of the amount of assessment collected to cover its costs of collection and administration. The estimated costs for fiscal year 2025 are $6,864.62

3) TOTAL ESTIMATE OF COSTS FOR FY2025 (100%)

A breakdown of the total estimated $686,462.42 budget for fiscal year 2025 is attached to this report as Appendix I: Total Estimated Costs and Revenue for the Berkeley Tourism Business Improvement District (BTBID) Fiscal Year 2025 (July 1, 2024, to June 30, 2025).

Method and Basis of Assessment: The annual assessment rate is one percent (1%) of gross short term (stays less than 30 days) room rental revenue for hotels. Based on the benefit received, assessments will not be collected: on stays of more than thirty
(30) consecutive days; on stays by any officer or employee of government who is exempt by express provisions of federal international treaty; or on stays by any customer of a bed and breakfast establishment as defined in Section 23F.94.010 of the Berkeley Municipal Code, which is located in a residential zoning district, has been in consistent operation as of January 1, 2003, and the continued operation of which is permitted under Chapter 23C.06 of the Berkeley Municipal Code. (See Appendix II: Map of the Berkeley Tourism Business Improvement District (BTBID)).

Amount of Surplus/Deficit from previous Fiscal Year: The BTBID assessment was originally estimated to bring in approximately $686,462.42 in revenues in FY25. As Berkeley TOT has experienced an increase in revenues in FY24, Visit Berkeley does expect a corresponding surplus in revenues from FY24 to be generated (though the final amount will not be known until the first quarter of FY25) and carried forward for use in FY25.

Amount of Contributions from other sources: There are no plans to apply for funding from other sources.

Thank you for the opportunity to present our Annual Planning Report. If you have any questions regarding this report, please contact Barbara Hillman, President/CEO of Visit Berkeley at (510) 549-7040 / Cell# (925) 876-4825.

Appendix I: *Total Estimated Costs and Revenue for the Berkeley Tourism Business Improvement District (BTBID) Fiscal Year 2025 (July 1, 2024, to June 30, 2025)*

Revenues

2024-25 Assessments (FY25)	$686,462.42
2023-24 Carryover (FY24)	TBD
Total Estimated Revenues	$686.462.42

Expenditures

Sales & Marketing	$679,597.80
City of Berkeley Collection Costs	$ 6,864.62
2023-24 Carryover (estimated, FY24)	TBD
Total Estimated Expenditures	$686,462.42
Total FY2025 BTBID Budget	**$686,462.42**

Appendix II: *Map of the Berkeley Tourism Business Improvement District (BTBID)*

Note: The BTBID will include all hotels with five or more rooms, existing and in the future, available for public occupancy within the boundaries of the City of Berkeley. The boundary currently includes 17 hotels. Please see the map below.

Source: Berkeley Tourism Business Improvement District Management Plan (2017).

Appendix III – *Assessed Businesses*

Business Name	Address	City, State	ZIP
Bancroft Hotel	2680 Bancroft Way	Berkeley, CA	94704
Berkeley City Club	2315 Durant Ave.	Berkeley, CA	94704
Sather Berkeley, Best Western	1820 University Ave.	Berkeley, CA	94703
Doubletree Berkeley Marina	200 Marina Blvd.	Berkeley, CA	94710
Downtown Berkeley Inn	2001 Bancroft Way	Berkeley, CA	94704
Holiday Inn Express	1175 University Ave.	Berkeley, CA	94702
Graduate Berkeley	2600 Durant Ave.	Berkeley, CA	94704
Hotel Shattuck Plaza	2086 Allston Way	Berkeley, CA	94704
Howard Johnson	1512 University Ave.	Berkeley, CA	94702
La Quinta University Inn	920 University Ave.	Berkeley, CA	94710
Marina Lodge	975 University Ave.	Berkeley, CA	94710
Nash Hotel	2045 University Ave.	Berkeley, CA	94704
Aiden Best Western	1499 University Ave	Berkeley, CA	94702
Urban Adamah	1151 Sixth St.	Berkeley, CA	94710
Sens Hotel & Bistro	1540 Shattuck Ave	Berkeley, CA	94709
YMCA	2001 Alston Way	Berkeley, CA	94704
Residence Inn by Marriott	2121 Center St.	Berkeley, CA	94704

07

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Eleanor Hollander, Economic Development Manager

Subject: Assessments: North Shattuck Property Based Business Improvement District

RECOMMENDATION

Adopt a Resolution approving the North Shattuck Property Based Business Improvement District (NSBID) Annual Report of Fiscal Year (FY) 2024 and proposed budget for FY 2025, and declaring Council's intention to levy an annual assessment for the NSBID for FY 2025.

FISCAL IMPACTS OF RECOMMENDATION

Assessments levied in the North Shattuck Business Improvement District (NSBID) support a package of improvements and activities approved by the property owners and the City Council when the District was renewed for a ten-year period on June 16, 2020 (Resolution No. 69,454–N.S.). Assessment funds are collected by Alameda County, relayed to the City of Berkeley, and disbursed through a contract with the North Shattuck Association (NSA), a private owners' association that was established to implement the NSBID's Management District Plan.

In June of 2020, the City Council authorized the City Manager to execute a contract and any amendments with the North Shattuck Association, not to exceed $2,652,778 of BID revenues, to implement the North Shattuck Management District Plan for the period July 1, 2020 to June 30, 2031 (Contract No. 32100055). The contract covers the years remaining in the current term of the NSBID establishment.

NSBID assessments are projected and budgeted at approximately $228,135 in FY 2025. Assessment funds are deposited into NSBID Fund 785-21-208-251-0000-000-000-412110 and expended from fund 785-21-208-251-0000-000-446-636110. The NSBID's adopted Management District plan allows for an annual 5% assessment increase for inflation, and the majority of the North Shattuck Association's Board of Directors met on April 18, 2024 and determined a five percent (5%) increase was warranted in FY25. Project funds not spent in any given fiscal year are carried over into future years.

By financing improvements, maintenance and marketing activities for the North Shattuck business district, the NSBID indirectly enhances sales tax, business license

tax and other business-related City revenue sources. No City properties have been or will be assessed in the NSBID.

CURRENT SITUATION AND ITS EFFECTS

State legislation that authorizes formation of property-based BIDs (*California Streets and Highways Code*, Sections 36600 et. seq.) requires that the BID governing body submit an Annual Report on operations and a budget proposal to the City Council each year. The City Council may approve the report with a Resolution to reauthorize the annual assessments.

The Board of Directors of the NSA met in a publicly noticed meeting on April 18, 2024 to review and approve the attached Annual Report for the NSBID for FY 2024 (Exhibit A). The report includes a budget for improvements and activities for FY 2025 and an estimated cost for providing them. The report also recommends that the assessments for FY 2025 be levied on the same basis and method, and within the same boundaries, as they were levied for FY 2024 *with* the allowable annual 5% fee increase. See Exhibit B: North Shattuck BID FY25 Assessment Roll. Council can adopt the recommended resolution which will confirm the NSBID assessment, thus enabling continuous BID operations in the North Shattuck district for another year.

BACKGROUND

The NSBID was first established by Resolution of the Berkeley City Council in 2001 (Resolution No. 61,168-N.S.) to implement a Management District Plan that had been developed by a steering committee of merchants and property owners. In accordance with the Management District Plan adopted in Resolution No. 61,168-N.S., the NSBID had a lifetime of ten years, expiring in 2011. On May 3, 2011, Council approved Resolution No. 65,265-N.S. reestablishing the NSBID for 10 more years, ending in Fiscal Year 2021. Further, on June 16, 2020, Council approved Resolution No. 69,454–N.S. reestablishing the NSBID for an additional 10 years (starting in FY21). Thus, the NSBID is authorized through FY 2031 unless action is taken to dis-establish it.

The NSBID finances special improvement, maintenance and marketing activities that benefit commercial properties and businesses in the North Shattuck District. NSBID activities are performed above and beyond baseline services provided by the City. The Management District Plan for the North Shattuck BID that was adopted by Council in 2020 as part of the reestablishment of the District and provides a framework for the NSBID's activities.

In FY 2025, the NSBID will continue its ongoing services including District maintenance, public improvements, holiday lighting, and marketing/promotional activities. The NSBID will continue to provide cleaning and outreach services in the public right of way. Events and activities promoting the District will continue throughout the year, including winter holiday promotions and safe group outdoor commerce installations. Regular arts and events newsletters will be shared, and ongoing marketing efforts will continue via the North Shattuck Association (NSA) website and other social media. The NSBID will also continue to liaise and

coordinate with other business district organizations, Visit Berkeley, the Chamber of Commerce, and the Berkeley Business District Network (BBDN) to promote local business and economic development opportunities in Berkeley.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

By maintaining and enhancing the District, the NSA creates shopping opportunities for residents and visitors alike while encouraging alternative forms of transportation. The District is walking distance from the North Berkeley and Downtown Berkeley BART Stations. Several AC transit lines provide easy accessibility to visitors coming to this popular regional destination. Because the District is well served by public transportation and biking infrastructure, these services support environmental sustainability goals of encouraging alternative transportation choices and reducing vehicle miles traveled.

RATIONALE FOR RECOMMENDATION

Property and Business Improvement District Law of 1994 requires that the BID Board prepare an Annual Report for each fiscal year in which assessments are to be levied. Council action is required to approve the BID's Annual Report, and declare its intent to levy assessments. This private/public partnership generates significant resources for revitalization of the North Shattuck District has a positive effect on the physical and economic health of the City of Berkeley.

ALTERNATIVE ACTIONS CONSIDERED

The Board of the NSBID considered opting for less than the allowable 5% increase in assessment rates but instead decided increase in the assessment rate, to keep up with the pace of inflation.

CONTACT PERSON

Vincent McCoy, Office of Economic Development, (510) 981-7043

Attachments:

1: Resolution: Confirm Annual Report and Levy Annual Assessment
- Exhibit A: NSBID Report for FY 2024 and Proposed Budget for FY 2025
- Exhibit B: North Shattuck BID FY 2025 Assessment Roll

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

APPROVING THE ANNUAL REPORT OF THE NORTH SHATTUCK BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2024 AND DECLARING INTENT TO LEVY ASSESSMENTS FOR FISCAL YEAR 2025.

WHEREAS, the Property and Business Improvement District Law of 1994 as amended (California Streets and Highways Code Section 36600 et. seq.) authorizes cities, with the consent of property owners, to fund property-related improvements, maintenance and activities through the levy of assessments upon the real property that benefit from the improvements, maintenance and activities; and

WHEREAS, after ten years of successful operation, on June 16, 2020 the Berkeley City Council reestablished the North Shattuck Business Improvement District (hereafter, "the District") for an additional ten-year period by Resolution No. 69,454-N.S.; and

WHEREAS, on April 18, 2024 the Board of Directors of the North Shattuck BID adopted the *Annual Report to the City of Berkeley FY 2024* (hereafter "Annual Report") that describes the operations of the District in FY 2024, recommends services for FY 2025 and proposes a budget for FY 2025 (Exhibit A).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that pursuant to provisions of Section 36600 et. seq. of the California Streets and Highways Code, the City Council approves the Annual Report of the North Shattuck Association (Exhibit A) and declares its intent to levy special assessments on property within the boundaries of the District for FY 2025.

BE IT FURTHER RESOLVED that that the boundaries of the District and the method and basis for the assessment remain the same as those set forth and approved in the Management District Plan (Plan) that was adopted on June 16, 2020, when Council renewed the North Shattuck BID through Resolution No. 69,454-N.S.

BE IT FURTHER RESOLVED that the improvements and activities to be provided are those described in the Plan and the Annual Report.

BE IT FURTHER RESOLVED that the cost of providing the improvements and activities is as described in the budget that accompanies the Annual Report.

BE IT FURTHER RESOLVED that the Assessment Rate for FY 2025 shall increase 5% from the rates established in FY 2024 (an increase of 5% is allowed annually by the District Management Plan). Following adoption of this resolution, the City Council may confirm the Annual Report and levy assessments for FY 2025 and confirm disbursement of NSBID assessment revenue to the North Shattuck Association provided for in Contract No.32100055, authorized in Resolution No. 69,455–N.S. (2020).

Exhibit:
A: North Shattuck Annual Report for FY 2024 and Proposed Budget for FY 2025
B: NSBID Assessment Roll FY 2025

NORTH SHATTUCK ASSOCIATION
ANNUAL REPORT TO THE CITY OF BERKELEY
FISCAL YEAR 2024

Introduction

The North Shattuck Business Improvement District (NSBID) was reestablished for a new 10-year period by the Berkeley City Council on June 16, 2020 (Resolution No. 69,454-N.S.) under provisions of the State of California Property and Business Improvement District Law of 1994. The NSBID was formed in 2001, renewed in 2011 and again in 2020 to implement a Management District Plan developed and revised in 2020 to address the specific needs of the District and which sets forth the projected activities of the NSBID and the allocation of BID assessment revenues to each activity.

The renewed North Shattuck BID consists of 54 parcels (owned by 52 property owners) along Shattuck between Rose and Delaware, and also one block of Vine east of Shattuck Ave. The assessments fund special benefits within the District, enhancing the North Shattuck area's streetscape environment with infrastructure improvements, ongoing maintenance, and special events to new customers and visitors, increase business sales, and attract and retain businesses.

The NSBID is managed by the non-profit North Shattuck Association (NSA), whose Board of district business and property owners and Executive Director coordinate implementation of the Management Plan. The Property and Business Improvement District Law of 1994 requires that the owners' association that is responsible for administering a BID prepare an annual report for each fiscal year for which assessments are to be levied.

This report reviews Fiscal Year 2024 operations, and states goals and objectives for Fiscal Year 2025 of the NSBID, which begins July 1, 2024 and ends June 30, 2025. This report includes the improvements and activities for the year, an estimate of the cost of the improvements and activities, the amount of any surplus or deficit revenues are to be carried over from the previous fiscal year and the amount of any contributions from other sources are named in the annual report and budget. There are no proposed changes in the boundaries of the district, however there is a proposed 5% increase in the assessment basis.

FY 2024 Annual Report and FY25 Budget

Summary of FY24

The budget for Fiscal Year 2024 included BID assessments which resulted in new revenue of **$202,641.50, carryforwards of $0 from** FY 2023, which resulted in a FY 2024 budget **of $202,641.50**. The following table shows the Budget Allocations by category and percentages as well as the estimated expenditures to the end of the fiscal year on June 30, 2024. Total expenditures for the year are estimated to be **$182,376** with any remaining funds to carry forward in each category to FY 2025.

NORTH SHATTUCK ASSOCIATION Service/Expense Category	*Allowable % of Annual Budget*	*Carry Forward from Fiscal Year 2023 (Actual)*	*Fiscal Year 2024 Assessment Revenue*	*Fiscal Year 2024 Expenditures (Estimated to 6/30/24)*
Maintenance/Civil Sidewalks	40%	$0	$81,056	$72,950
District Identity & Placemaking	25%	$0	$50,660	$45,594
Administration/Management	30%	$0	$60,792	$54,712
Contingency	5%	$0	$10,132	$ 0
Total Budget	100%	$0	$202,641	$182,376

Accomplishments

During Fiscal Year 2024, the North Shattuck Association continued implementation of the activities and services outlined in the Management District Plan under a renewed annual contract between the City of Berkeley and the North Shattuck Association (NSA). Activities of the district are organized into Administration/ Program Management, District Identity and Placemaking, and Maintenance/Civil Sidewalks. Accomplishments in each area are summarized below.

Administration/Program Management

- The Executive Director held regular meetings of the Board of Directors and General Association meetings available to merchants, property owners, City staff and elected officials, held in person when possible and via Zoom regularly during the year to further the goals and objectives of the Association, focusing on business assistance, resumption of special events, and addressing safety and maintenance concerns in the district.
- The Association coordinated meetings of merchants, property owners, BPD, and the City's Homeless outreach and mental health teams to deal with safety and security issues at various locations.
- The Association Board voted to reallocate funds to extend the pilot Safety Ambassador Program for the district for an additional 6 months in the contract with Peralta Service Corporation to provide on-street hospitality and coordination on city maintenance and safety issues.
- The Association worked with the Berkeley Business District Network (BBDN) to address and provide input on citywide issues.
- The Executive Director assisted businesses to plan and upgrade outdoor commerce areas in anticipation of new City of Berkeley terms of use beginning in May of 2024 through the City's Pathways to Permanence program. The Association assisted Victory Point Café to address the challenges of the new fee structure and continued to coordinate the City's Outdoor Commerce Grant program which provides grants to businesses citywide to build parklets.
- The Association coordinated with the Berkeley Chamber and Visit Berkeley on citywide events and marketing programs including Restaurant Week, the Berkeley

Holidays campaign, the Berkeley Bucks program, and the City's "Discovered in Berkeley" series.

- The Executive Director worked with the Ecology Center on the Farmers Market Thursday operations, vendors, and marketing, and attended Community Advisory meetings to plan for more music and activities in the market area, including reviving the weekly series of "Thirsty Thursday" events during the fall of 2023, and a Food Waste Cooking demonstration series at the market in August and October 2023.
- The Association maintained an inventory of all businesses and vacant retail and office space in the district and provided updates to the City's Economic Development office. This year, the Walnut Tavern opened in Walnut Square and Farmhouse Kitchen restaurant opened at Cedar and Shattuck. Three new businesses opened in the rehabbed storefronts BMO in the former Bank of the West location. A 7-story mixed use development is now designed and permitted with initial groundwork underway at the former Shell gas station at Francisco St. and Shattuck, and Epicurious Garden welcomed Eggys. iScream and Poulet closed in the district this year. The Poulet property has plans for a mixed-use development.
- The Association spoke with Cushman Wakefield now representing the listing for the Bank of America site and parking lot regarding the attraction of the highest and best use. The NSA is working with the City of Berkeley to determine what zoning accommodations can be made.
- The Executive Director assisted with city health, noise and street event permits and coordination for Saul's annual latke party, ACCI Gallery's Spring and Holiday Art Fair, the return of the Vine Street Block Party.

Civil Sidewalks/Maintenance

- The Association continued funding for cleaning and regular maintenance for sidewalks, public spaces, and public property including sidewalk and gutter sweeping, weeding of tree wells, graffiti abatement and maintenance of the newly replanted landscaped ceramic planters throughout the district.
- The Executive Director coordinated with the City of Berkeley and Berkeley Police Department to address maintenance issues including street tree replacements, and sidewalk steam cleaning and repair, trash receptacle maintenance, etc. as well as street behavior and vandalism, trespassing and illegal dumping issues on private property and sleeping during the day in the public right of way. Merchants were informed of available services and appropriate numbers for reporting incidents and requesting assistance for mental health issues.
- In response to ongoing issues, the Association Board voted to extend the Safety Ambassador Program for the district with Peralta Service Corporation through June of 2024, to provide a welcoming presence for tenants, visitors, shoppers, and employees, to be additional "Eyes and Ears" for local community and law enforcement and develop and maintain active relationships with City Officials, Beat Officers, Fire Department and Public Works Department to assist in the intervention and prevention of crime.

- The Association installed the annual holiday lighting for the entire length of the district for the winter holiday season in the sidewalk street trees as well as in median tree locations with electricity access. The lighting provides ambience as well as security and pedestrian lighting in the darker winter evenings.

District Identity/Placemaking

- District marketing includes the monthly Constant Contact e-newsletter with updates on business operations and hours, specials, events, and classes, regular social media posts and boosts for businesses and special events, and print and digital ads on local media and in the Berkeley Visitors Guide to promote the district. The Association website has been updated to reflect current businesses in the online directory and links to ongoing in-person and hybrid classes and events, including the reinvigorating the weekly North Berkeley Food Tour and Farmers' Market, monthly art openings, wine tasting, and cooking, yoga and barre classes.
- The Association coordinated with the Chamber, Visit Berkeley and the City on the Berkeley Holidays, Berkeley Bucks, Restaurant Week, and Discovered in Berkeley campaigns, promoting business participation and the programs and offerings through our social media outlets, and the participated in Shop Local social media campaigns through AMIBA promoting support for small independently-owned businesses.
- In 2023 the Vine Street Block Party was reestablished as a recurring event. The Vine Street Block Party was held on July 30. The event included vendors from North Shattuck area shops and artisan vendors.
- The Executive Director worked with the Ecology Center to organize and present a weekly series of "Thirsty Thursdays" events in October and November 2023 at the North Berkeley Farmers Market with live music from the Berkeley High Jazz Band and other local acts, sustainable beer and wine, an Ecology Center pop-up shop and program booths, kid's art projects and an Association marketing table with business information and giveaways.
- The Association funded a Halloween Trick-or-Treat event involving approximately 20 participating businesses and farmers' market vendors, live music, and kids' arts, crafts, and games.
- The Holidays were celebrated with festive events held throughout December: The Annual Saul's Latke Party on Dec 9th, the ACCI Holiday Art Fair on Dec. 9, makers market at the Farmers' Market Nov. 30, Dec. 7, and Dec 14. The events were complimented by a North Shattuck Holiday Shopping Guide spotlighting businesses throughout the district and reinforcing the buy Berkeley mantra.

Budget - Fiscal Year 2025

Work Plan

The North Shattuck Association will continue implementation of the activities initiated in previous fiscal years and in accordance with the Management District Plan. Funds not expended in the previous year will be carried forward in addition to estimated Fiscal Year 2025 revenues. The work of the Association will continue to be guided by the Board of Directors and

its committees. The goals and objectives for Fiscal Year 2025 are organized as outlined in the Management District Plan adopted in 2020.

Administration/Program Management

Goals: General oversight and direction of district activities; development of relations and coordination with outside groups and agencies, coordination of projects and programs, management of sponsorships and volunteers.

Objectives:

1) Oversee development of annual District work plan and detailed budgets, financial records and annual tax returns.
2) Conduct property owner outreach, property owner and business input to the Management Plan and various programs and activities.
3) Attend needed City of Berkeley Council and Commission meetings and prepare all required reports related to the annual City of Berkeley contract with the Association.
4) Prepare correspondence, letters of support, and grant applications with the City of Berkeley and other agencies.
5) Coordinate Board elections in July 2024 including nominations and property owner balloting.
6) Maintain working relationships with property owners, merchants, City of Berkeley, Chamber of Commerce, Visit Berkeley, and elected officials.
7) Continue to participate in the Berkeley Business District Network (BBDN) to review and evaluate proposed City policy changes, public improvement projects, planning changes and zoning amendments relevant to the commercial district. Coordinate with district businesses and property owners to develop appropriate responses and present to City Council and Commissions.
8) Identify and act on any business education/assistance needs for business retention and inform businesses and property owners on how to access all available business support financial and technical services.
9) Develop and distribute regular e-mail newsletter updates to business and property owners with service accomplishments, event information, issue updates, and new business contacts.
10) Maintain inventory and lease information for vacant retail and office space in the district, current information for zoning regulations/amendments, and liaison with City and commercial brokers to attract and assist new businesses.
11) Prepare funding applications for public art and events through the City and State grant programs and administer projects and reporting.
12) Coordinate the City's Outdoor Commerce Grant Program and assist businesses with creating outdoor areas, upgrading structures and extending permits beyond the pandemic.
13) Continue to work on parking issues in the district with the GoBerkeley Parking Program and investigate of improved usage of existing private parking resources for paid employee parking.
14) Work with the Berkeley Public Education Foundation, local schools and the

Berkeley Business District Network to strategize on additional fundraising events to provide additional funding for classroom grants, for theater, science, art and gardening programs.

District Identity & Placemaking

Goals: Create a unified, quality image for the district and implement promotion strategies that capitalize on the unique aspects of the area, including advertising, social media, brochures, special events, holiday promotions etc. Strengthen the physical environment and sense of place with public art, landscaping improvements and parklets, and other initiatives as developed.

Objectives:

1) Oversee implementation of the marketing and promotions strategy including designer/consultant selections, design processes, budgeting, and advertising placements.
2) Manage and promote the special events calendar and institute new events to further the image and various market segments of the district, including apparel, culinary, artisan production, and arts.
3) Integrate existing businesses into special events and marketing campaigns through various means, including sponsorship, participation, promotional tie-ins, etc.
4) Coordinate public relations for the district and special events as needed. Generate press releases and promote editorial pieces on commercial and retail developments in the area.
5) Continue regular updates of the district website with business information and upcoming classes, special events, etc., produce a monthly Constant Contact e-newsletter, and maintain regular Facebook and other social media entries promoting business activities and press coverage.
6) Promote events at nearby venues such as Live Oak Park, the Jewish Community Center, Berkeley Arts Center, Theatre First and the Hillside Club. Work with producers to tie in district businesses through advertising and promotions.
7) Work with the City and Ecology Center on issues related to the Farmers Market operations and marketing. Assist on the coordination of Thirsty Thursday events during the summer of 2024 (FY25), and other special events and business tie-ins to the market.
8) Assist businesses to produce smaller street events including ACCI Gallery's Seconds Sale and Art Market, Saul's Latke Party, Vine St. block parties with Vintage Berkeley, etc. and to involve other businesses as partners and participants.
9) Oversee installation of annual winter holiday street tree lighting throughout the district.
10) Organize a Winter holiday marketing plan and events calendar with holiday themed festivities and promotion of business events.
11) Produce the "Taste of North Berkeley" restaurant walk and wine walk to highlight neighborhood shops and restaurants.
12) Organize Association booths/tables at the weekly Farmers' Market and other fairs

and festivals with activities to promote the district and gain newsletter and social media subscribers.

13) Investigate grant funding opportunities and provide coordination between area businesses and property owners, City Departments, and outside agencies towards implementation of district- initiated projects and programs towards median improvement, pedestrian safety, improved bike facilities, and parking.
14) Investigate design and finding possibilities for a median landscaping improvement project to coincide with the Shattuck Ave. roadway repair project, including possible City funding and a UC Berkeley design class and Chancellor's Grant application/award.
15) Investigate opportunities for public art projects with ACCI Gallery, local artists, and local schools, including rotating storefront exhibits, art projects, temporary mural projects, Street pole banners, etc.

Maintenance and Civil Sidewalks

Goals: Address issues related to cleaning and maintenance of the district; design and implement landscaping and other streetscape beautification improvements; provide input on development projects.

Objectives:

1) Provide ongoing area maintenance monitoring, needs assessment, and coordination with appropriate city departments on projects including street tree replacements, curb repairs, median landscaping, trash receptacle cleaning, sidewalk repairs, bicycle facilities etc.
2) Oversee service contract with Peralta Service Corporation for regular sidewalk cleaning and landscaping including sidewalk planters and tree well maintenance and special projects as needed.
3) Manage the work of the district's Safety Ambassadors to provide hospitality functions, connect with maintenance staff and area businesses, and address security and safety issues working with the Berkeley Police Department and Mental Health Teams.
4) Organize meetings of district businesses, property owners, Ambassadors, current BPD patrol officers and the City's Mental Health team to identify and respond to street behavior issues, trespassing and illegal dumping issues, vandalism, and blocking of the public right of way.
5) Coordinate work of the City-funded Streets Team to assist with area clean-up for the district's allotment of one afternoon per week and arrange for gift cards or other compensation for team members.
6) Work with property owners and appropriate city departments to address signage conditions and the appearance of empty storefronts and vacant properties in the district.
7) Work with appropriate City departments, business and property owners, and designers to assist businesses to create and upgrade Outdoor Commerce areas in the district.

FY 2025 Budget

The North Shattuck Association approved a 5% increase to assessments for BID collections for Fiscal Year 2025. Assessments are projected to be $228,134, including the 5% annual increase in assessments from Fiscal Year 2024. Services and expenditures will be made in accordance with the Management District Plan categories as follows:

NORH SHATTUCK ASSOCIATION Service/Expense Category under the Management District Plan (2020)	*% of Annual Budget*	*Estimated Carryforward from 2024 Fiscal Year*	*Fiscal Year 2025 Projected New Revenues*
Maintenance & Civil Sidewalks	40%	$72,950	$91,254
District Identity & Placemaking	25%	$45,594	$57,034
Administration/Program Management	30%	$54,712	$68,440
Contingency	5%	$0	$11,407
Total Estimated Budget	100%	$182,376	$228,134

The above budget is based upon the maximum amount of BID assessment revenues that could be collected in the District. Actual BID revenues may be lower if some assessments are not paid within the Fiscal Year. No changes to the boundaries of the district and the method and basis for levying the BID assessments were taken this year.

A listing of Fiscal Year 2025 assessments is attached separately as Exhibit B.

Approved by:

Approved by the Board of Directors
Kirk McCarthy, President,
North Shattuck Association

On April 18, 2024

Prepared by: Daniel Swafford, Executive Director, North Shattuck Association

North Shattuck Business Improvement District

FY 2025 Assessment Roll

			FY 2025 Assessment		
APN	**Owner Name**	**Site Address**	**Private Parcels**	**Public / Exempt**	**Utilities**
058 -2173-002-03	1600 SHATTUCK ASSOCIATES L P	1600 SHATTUCK AVE #1010	$ 9,701.45		
058 -2173-004-00	IRA SERVICES TRUST	1620 SHATTUCK AVE	$ 1,010.82		
058 -2173-005-00	KIM SAMIL & YOUNGJUNG	1650 SHATTUCK AVE	$ 2,169.72		
058 -2174-001-00	ARTS & CRAFT COOPERATIVE INC	1652 SHATTUCK AVE	$ 1,751.06		
058 -2174-002-00	NEIL JOE R & CAROL L	1654 SHATTUCK AVE	$ 1,332.83		
058 -2174-003-00	SATAKE 1 LLC	1662 SHATTUCK AVE	$ 1,229.84		
058 -2174-004-01	1995 KAM Y LAM & SHUN FMLY LTD PARTNERSHIP	1670 SHATTUCK AVE	$ 1,289.40		
058 -2174-006-02	ERDMAN JOHN C & ANNE M TRS	1690 SHATTUCK AVE	$ 5,445.75		
058 -2175-001-01	SCHWARTZ MICHELL J	1700 SHATTUCK AVE	$ 4,243.70		
058 -2175-003-00	BLUME JAMES B & FRANK KATHRYN W TRS	1708 SHATTUCK AVE	$ 1,605.04		
058 -2175-004-00	ROBINSON SCOTT & CHRISTINA C	1720 SHATTUCK AVE	$ 812.92		
058 -2175-005-00	PIERACKI ANDRZEJ TR	1730 SHATTUCK AVE	$ 1,208.67		
058 -2175-006-00	YI CHONG S	1748 SHATTUCK AVE	$ 1,391.91		
058 -2176-001-01	1752 SHATTUCK LLC	1752 SHATTUCK AVE	$ 2,867.16		
058 -2176-003-01	SHATTUCK INVESTMENT GROUP LLC	2083 DELAWARE	$ 9,974.82		
058 -2177-015-01	GEDR HILLSIDE LLC	1797 SHATTUCK AVE	$ 14,820.86		
058 -2178-018-00	AMERICAN COMMONWEALTH ASSOC.	2109 VIRGINIA ST	$ 6,790.63		
058 -2178-023-00	DELANDA PAUL A & SUSAN K TRS	1619 SHATTUCK AVE	$ 1,492.23		
058 -2178-024-01	SHATTUCK CONNECTIONS LP	1607 SHATTUCK AVE	$ 9,695.94		
058 -2178-026-00	SHATTUCK OFFICE LLC	1625 SHATTUCK AVE	$ 1,746.47		
058 -2178-027-00	SHATTUCK OFFICE LLC	1625 SHATTUCK AVE	$ 2,926.59		
058 -2178-028-00	SHATTUCK OFFICE LLC	1625 SHATTUCK AVE	$ 2,926.59		
059 -2260-001-00	CONNOLLY ALLEN & CHRISTINE	2100 VINE ST	$ 4,090.50		
059 -2260-002-01	WALNUT SQUARE CENTER LP	2110 VINE ST	$ 9,187.35		
059 -2260-015-01	SWEET BOMBAY INC	1549 SHATTUCK AVE	$ 1,441.98		
059 -2260-015-02	MANN MELVIN M TR	1543 SHATTUCK AVE	$ 2,248.20		
059 -2260-016-00	GOODMAN CAROL E TRS ETAL	1537 SHATTUCK AVE	$ 2,486.53		
059 -2260-017-00	GACH MICHAEL R	1533 SHATTUCK AVE	$ 1,852.53		
059 -2260-018-00	LAM KELVIN S & JACKIE S & GRACE S & ALICE S TRS	1531 SHATTUCK AVE	$ 3,887.50		
059 -2260-019-00	WARD DAWN D CUST FOR MEYER N G & C J & J C & ETAL	1525 SHATTUCK AVE	$ 2,500.73		
059 -2260-020-03	APTE ROBERT Z & EVELYN L FAMILY PARTNERSHIP LP	1519 SHATTUCK AVE	$ 3,192.53		
059 -2260-021-00	PAGNOL ET CIE INC	1517 SHATTUCK AVE	$ 1,234.45		
059 -2260-022-01	WONG PUI & HOSANNA H	1515 SHATTUCK AVE	$ 1,152.07		
059 -2260-022-02	ELITE PROPERTIES LLC	1511 SHATTUCK AVE	$ 3,537.50		
059 -2261-001-02	RUE ELL ENTERPRISES INC	1451 SHATTUCK AVE	$ 11,871.85		
059 -2261-004-03	JC ARUM LLC	1444 WALNUT ST	$ 2,522.17		
059 -2261-005-00	RUEGG & ELLSWORTH	2113 VINE ST	$ 1,240.86		
059 -2261-006-00	RUEGG & ELLSWORTH	2111 VINE ST	$ 2,198.12		
059 -2261-007-00	RUEGG & ELLSWORTH LLC	1495 SHATTUCK AVE	$ 2,927.14		
059 -2261-008-00	TARVER DEWEY G & CARMEL A TRS	1481 SHATTUCK AVE	$ 1,261.04		
059 -2261-009-00	LATKE ENTERPRISES LLC	1475 SHATTUCK AVE	$ 1,524.76		
059 -2261-010-00	WONG HENRY F TR & WONG PUI T E	1463 SHATTUCK AVE	$ 2,659.49		
059 -2262-001-00	SHATTUCK ROSE L P	1400 SHATTUCK AVE	$ 6,359.97		
059 -2262-005-00	HIRAHARA BRIAN & TAMURA RAYMOND TRS & HIRAHAR ETAL	1480 SHATTUCK AVE	$ 3,317.47		
059 -2262-006-00	RIPSTEEN RYAN TR & ARLINGTON INVESTMENT CO LP	2085 VINE ST	$ 1,471.35		
059 -2262-021-02	SAFEWAY INC	1425 HENRY ST	$ 25,131.13		
059 -2262-021-03	SAFEWAY INC	1425 HENRY ST	$ 1,942.38		
059 -2263-003-01	HEFTER & MURPHY LLC	2044 VINE ST	$ 5,013.66		
059 -2263-006-01	BANK OF AMERICA NATIONAL TRUST & SAVINGS ASSN	1516 SHATTUCK AVE	$ 4,769.50		
059 -2263-009-00	PHO LLC	1540 SHATTUCK AVE	$ 1,816.26		
059 -2263-010-01	BERKELEY BAZAAR PARTNERS	1550 SHATTUCK AVE	$ 19,929.54		
059 -2263-024-01	BANK OF AMERICA NATIONAL TRUST & SAVINGS ASSN	1536 SHATTUCK AVE	$ 2,663.53		
060- 2455-064-01	CALTHORPE PETER & DRISCOLL JEAN TRS	2095 ROSE ST	$ 7,840.98		
060- 2455-067-00	GORDON JOHN K & MITCHELL JANIS L TRS & GORDON ETAL	2091 ROSE ST	$ 2,372.38		

Totals	**Private Parcels '25**	**Public / Exempt**	**Utilities**	**Totals**
Revenues	**$232,079.87**	**$0.00**	**$0.00**	**$232,079.87**
Count of Properties	**54**	**0**	**0**	**54**
County Collection Fee @ 1.7%:	***$ 3,945.36***	***Net Assessment Revenue:***		***$228,134.51***

Note: Data for APN, Owner and Land Use from the City's Land Management System is current as of April 2, 2024.

08

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Eleanor Hollander, Economic Development Manager

Subject: Assessments: Telegraph Property Based Business Improvement District

RECOMMENDATION

Adopt a Resolution approving the Telegraph Property Based Business Improvement District (TBID) Annual Report of Fiscal Year (FY) 2024 and proposed budget for FY 2025, and declaring Council's intention to levy an annual assessment for the TBID for FY 2025.

SUMMARY

The Telegraph Property Based Business Improvement District (TBID or "the District") provides cleaning, hospitality and marketing services for Berkeley's Telegraph Avenue commercial district. In May of 2017 the TBID was geographically expanded and renewed for a ten-year period, authorizing operations through December 31, 2027, and designating the Telegraph Property and Business Management Corporation (TPBMC) as the District's Owners' Association. Annually, Council must approve the TBID's annual report and proposed budget and declare its intention to levy an annual assessment.

The City of Berkeley owns one parcel (the Telegraph Channing Parking Garage at 2431 Channing Way) within the boundaries of the TBID and is required by state law to pay the associated assessments. The assessment payment will be $52,093.48 in FY 2025; in addition, the City will pay the General Benefit portion of the TBID costs, or roughly $29,816. The City already makes an annual grant to TBID, through the Public Commons for Everyone Initiative (PCEI), which exceeds this general benefit amount, so there will be no new fiscal impacts related to funding the general benefit.

FISCAL IMPACTS OF RECOMMENDATION

Assessments levied in the Telegraph Property Based Business Improvement District (TBID or "the District") support a package of improvements and activities approved by the property owners and the City Council when the District was renewed for a ten-year period on May 2, 2017 (Resolution No. 67,940-N.S.). Assessment funds are collected by the Alameda County Assessor's Office, relayed to the City of Berkeley, and disbursed through a contract with the Telegraph Property and Business Management Corporation (TPBMC), a private owners' association that was established to implement

the Management District Plan. TPBMC has an active contract with the City, not to exceed $7,410,024 of BID revenues, to implement the Telegraph Management District Plan for the period January 1, 2018 to December 31, 2027 (Contract No. 10835).

Collections from private parcel assessments (less the county's collection fee of 1.7%) are projected and budgeted at approximately $616,664 in FY 2025. Collections from tax exempt parcels (owned by the Regents of the University of California and the City of Berkeley) are projected and budgeted at approximately $187,736 in FY 2025. Annual and accrued private parcel assessment funds are deposited into Telegraph BID Fund 784-33-324-342-0000-000-000-412110 and expended from fund 784-21-208-251-0000-000-446-612990. An annual increase of up to 3% to account for inflation is allowed by the Management District Plan and must be approved by a majority of the TPBMC's Board of Directors. On April 9, 2024 the TPBMC board met and voted to raise assessments by 3% from the FY24 level due to a variety of factors including the modest increase in previous years. Project funds not spent in any given fiscal year are carried over into future years. TPBMC collects assessments directly from the University of California with no involvement from the City.

Under the provisions of Proposition 218 in the California Constitution, government agencies must pay assessments on properties they own in property-based BIDs, just like private property owners, unless they receive no benefit. Payment is collected from private property owners through property tax bills. Payments are due from non-property tax-paying entities concurrently. The City's assessment payment in FY 2025 would be $52,093 (increased by $1,517) from the FY2024 assessment of $50,576). The City's assessment is paid annually directly to the TPBMC through the Off-Street Parking Fund (627-54-622-665-3002-000-474-639990).

The City also pays for the "general benefit" portion of the TBID budget. "General benefits" represent that small portion of the overall benefits generated by a property-based business improvement district which are found to accrue to the general public who are not assessed and do not participate in the economic or social activities of the district. The engineer's report commissioned for the reestablishment of the TBID in 2017 calculated that the baseline general benefit for the district would be approximately $29,816 annually (adjusted for yearly assessment increases, if any). The City already makes annual grants to the TBID which exceed this amount, so there will be no new fiscal impacts related to funding the general benefit.

By financing improvements, maintenance and welcoming activities for the City's campus-adjacent business district, the TBID indirectly enhances sales tax, business license tax and other business-related City revenue sources.

CURRENT SITUATION AND ITS EFFECTS

State legislation that authorizes formation of property-based business improvement districts (BID) (*California Streets and Highways Code*, Sections 36600 et. seq.) requires that the BID governing body submit an Annual Report on operations and a budget

proposal to the City Council each year. The City Council may approve the report with a Resolution to reauthorize the annual assessments.

The Board of Directors of the Telegraph Property and Business Management Corporation (TPBMC), the non-profit that manages the TBID, met in a publicly noticed meeting on April 9, 2024 to review and approve the attached Annual Report for the TBID and Budget for FY 2025 (Exhibit A). The report includes a budget for improvements and activities for FY 2025 and an estimated cost for providing them. The report also recommends that the assessments for FY 2025 be levied on the same basis and method, and within the same boundaries, as they were levied for FY 2024, with a 3% increase (Exhibit B: Telegraph BID FY 2025 Assessment Roll). Council can adopt the recommended Resolution which will confirm the TBID assessment, and thus enable continuous BID operations for another year.

BACKGROUND

The TBID is a benefit assessment district that provides cleaning, hospitality and marketing services for Berkeley's Telegraph Avenue commercial district. The TBID was created in 1998 pursuant to California's "Property and Business Improvement District Law of 1994" to provide needed improvements and activities to assessed property owners. Since the initial five-year term, the TBID has been renewed for a second five-year term in 2003, a ten-year term in 2008, and underwent an expansion and ten-year renewal in 2017. As such, the TBID is authorized through 2027 unless action is taken to disestablish it.

In FY 2025, the District has budgeted for approximately $642,385 for the provision of "Clean, Safe, and Beautification" services, communications and economic development, and related management and administration. The FY25 revenue of the TBID is budgeted for approximately $982,135 inclusive of taxable and non-taxable parcels, grants, and private donations, and net of the County 1.7% collection fee on private parcels (Exhibit A).

The Management District Plan that was adopted by Council in 2017 as part of the reestablishment of the District provides a framework and budget for the TBID's activities, assessment method, and illustrates the TBID boundary and benefit zones. The Management District Plan provides for services above and beyond those provided by the City of Berkeley. Under "The Right to Vote on Taxes Act" (also known as Proposition 218) all public agencies are required to pay the same assessments for public property that apply to private property. The City owns one property within the district, the Telegraph Channing parking garage at 2431 Channing Way. The FY25 assessment for that property will be $52,093 a $1,517 increase (approximately 3%) from the FY2024 assessment.

In FY 2025, the TBID will continue its ongoing "clean safe and beautification" activities, including ambassador services, graffiti removal, manual sidewalk cleaning and sidewalk pressure washing, hazardous waste cleanup, gutter and storm drain cleaning, street

sweeping, litter removal, enhanced landscaping and landscape maintenance, and small infrastructure improvements including place-making activities, seasonal promotions, and other special projects. The TBID will also continue its program of communications and community development activities to provide a unified voice to represent the best interests of the assessed parcels, and fulfill a slate of stakeholder communications that support the District's agenda to attract visitors. The TBID will also continue to liaison and coordinate with other business district organizations, including Visit Berkeley, the Chamber, Bay Area Organization of Black Owned Businesses and the Berkeley Business District Network members to promote local business and commercial development opportunities in Berkeley.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
By maintaining and enhancing the district, the TBID creates shopping opportunities for residents and visitors while encouraging alternative forms of transportation. The District is also served by several AC Transit lines, BART, Bear Transit and micro mobility providers which provide access to regional visitors. Because the District is well served by public transportation and biking infrastructure, these services support environmental sustainability goals of encouraging alternative transportation choices.

RATIONALE FOR RECOMMENDATION
The Property and Business Improvement District Law of 1994 requires that the BID Board prepare an Annual Report for each fiscal year in which assessments are to be levied. Council action is required to approve the BID's Annual Report, and declare its intent to levy assessments. This private/public partnership will continue to provide significant resources for Telegraph area revitalization, which has had a positive effect on the physical and economic health of the district.

ALTERNATIVE ACTIONS CONSIDERED
The Board of the TBID considered a range between 1.5% and 3% increase in assessment rates but instead decided to opt for a 3% increase (the maximum allowable is 3%) to its existing assessment rate, in order to make adequate investments in expanded capacity of the Ambassador Program, deliver robust events and increase marketing efforts to promote district businesses.

CONTACT PERSON
Kieron Slaughter, Office of Economic Development, (510) 981-2490

Attachments:
1: Resolution Approving the Annual Report and Levy of Assessments for the Telegraph Property and Business Improvement District
2: Exhibit A: Telegraph Property and Business Improvement District: Annual Report 2024 and Budget FY 2025
3: Exhibit B: Telegraph Property and Business Improvement District FY2025 Assessments

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

APPROVING THE ANNUAL REPORT OF THE TELEGRAPH BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2024 AND DECLARING INTENT TO LEVY ASSESSMENTS FOR FISCAL YEAR 2025

WHEREAS, the Property and Business Improvement District Law of 1994 (California Streets and Highways Code section 36600 et Seq., hereafter the "Act") authorizes cities to fund property related improvements, maintenance and activities through the levy of assessments upon the real property that benefits from those assessments; and

WHEREAS, after ten years of successful operation, on May 2, 2017 the Berkeley City Council reestablished the Telegraph Business Improvement District (hereafter, "the District") for an additional ten-year period by Resolution No. 67,940-N.S.; and

WHEREAS, on April 9, 2024 the Board of Directors of the Telegraph BID adopted the *Annual Report to the City of Berkeley FY 2024* (hereafter "Annual Report") that describes the operations of the District in FY 2024, recommends services for FY 2025 and proposes a budget for FY 2025 (Exhibit A); and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that pursuant to provisions of Section 36600 et. seq. of the California Streets and Highways Code, the City Council approves the Annual Report (Exhibit A) and declares its intent to levy special assessments on property within the boundaries of the District for FY 2025.

BE IT FURTHER RESOLVED that that the boundaries of the District and the method and basis for the assessment remain the same as those set forth and approved in the Management District Plan that was adopted on May 2, 2017, when Council renewed the Telegraph BID through Resolution No. 67,940-N.S.

BE IT FURTHER RESOLVED that the improvements and activities to be provided are those described in the Management District Plan and the Annual Report.

BE IT FURTHER RESOLVED that the cost of providing the improvements and activities is as described in the budget that accompanies the Annual Report.

BE IT FURTHER RESOLVED that to finance these improvements and activities, the Annual Report and Budget includes a 3% increase to the assessment rate for FY 2025. Following adoption of this resolution, the City Council may confirm the Annual Report and levy assessments for FY2025 and confirm disbursement of TBID assessment revenue to the Telegraph Property and Business Management Corporation provided for in Contract No.10835.

Exhibits:
A: TBID Annual Report for FY 2024 and Proposed Budget for FY 2025
B: TBID Assessment Roll FY 2025

EXHIBIT A
Annual Report of the Telegraph Property and Business Improvement District

The Telegraph Property and Business Improvement District (TBID), managed by the Telegraph Property and Business Management Corporation (TPBMC), was renewed for a ten-year period by an affirmative vote of the property owners of the Telegraph commercial district by mail-in ballot in the spring of 2017. This vote was affirmed without protest by the City Council on May 2, 2017. This report is for the fiscal year starting July 1, 2023 and ending June 30, 2024 of this ten-year period (FY24).

In accordance with 36650 (b) of the Streets and Highway Code for the State of California, the TPBMC affirms the following:

1. The TPBMC proposes no changes in TBID boundaries for the 2024-25 fiscal year (abbreviated "FY" and known as FY25).
2. The TPBMC will continue to provide the same services as has been outlined in the Management District Plan of September 21, 2016. These services include street and sidewalk cleaning and beautification, marketing and promotions, decoration, and maintenance of a district office.
3. The budget for FY 2024-2025 approved by the TPBMC Board of Directors on April 9, 2024 provides for $948,183 in expenditures and $982,135 in revenues. An estimated $43,557 of net revenue from FY 2024 will carry over to FY 2025.
4. On April 9, 2024, the TPBMC Board of Directors approved a 3% assessment rate increase for FY 2024-25, as allowed in the Management District Plan.
5. In addition to assessments levied on real property, including the City-owned Telegraph Channing Garage, FY 2024 income will be derived from the following sources: (1) an annual contribution from University of California of $139,576; (2) a maintenance contract for the 24/7 public restroom from the City of Berkeley of $100,000 (3) PCEI (Public Commons for Everyone Initiative) grant funds from the City of Berkeley of $49,139; (4) the fiscal sponsorship fee of $1,250 from the Solano Business Improvement District; and (4) anticipated grants and private donations, for special programs.

Based on the TBID Strategic Plan that was developed in 2016 and updated in 2018, the TBID has six strategic goals.

1. Improve the pedestrian environment
2. Support businesses, non-profits, and residents within the District
3. Make the District more accessible (bicycling, parking, and transit)
4. Improve the Telegraph brand through marketing, events, and promotions
5. Better serve District stakeholders as a convener and advocate on issues that impact the success of the District
6. Develop and foster a vibrant destination and experience (including nightlife; diversity of programs, venues, and activities)

EXHIBIT A
Annual Report of the Telegraph Property and Business Improvement District

FY 2024 - 2025 Budget of the Telegraph Property and Business Improvement District

Revenue	
Tax Assessments TBID Members	$634,997
Tax Assessments -COB Property	$52,093
Tax Assessment - UC Berkeley	$139,576
City of Berkeley - Maint. Contract	$100,000
City of Berkeley - PCEI Grant	$49,139
City of Berkeley Events Contribution	$5,000
Solano BID Fiscal Sponsorship	$1,250
Interest	$80
Total Revenue	**$982,135**
Expenses	
Administration	$246,668
Maintenance	$642,385
Marketing	$26,130
Events	$33,000
Total Expenses	**$948,183**

The TBID board of directors established a Capital Improvements Fund in FY22 with a starting balance of $45,000. The fund is part of the organization's Clean, Safe & Beautification budget and is used for the purchase, maintenance, and replacement of art and special projects in the public realm. Anticipated projects that will be supported by the fund in FY25 include: decorative wrap for the new 24/7 public restroom, Durant parklet and placemaking improvements, future peace symbol bike rack installations, public art restoration, and sidewalk planter improvements.

FY24 Accomplishments and FY25 Planned Activities

The following is a summary of the activities that the TBID undertook in Fiscal Year 2024 to further their strategic goals, and the planned activities for Fiscal Year 2025:

1. **Improve the pedestrian environment**

- Coordinated with Berkeley Public Works to advance the 24/7 public restroom project. The new restroom is being installed on Channing Way near the corner of Telegraph in the Summer of 2024. Developed a maintenance and staffing plan and executed agreements to provide janitorial services for the new restroom. We are commissioning a decorative vinyl wrap for the restroom working with Forrest Kell, the artist who painted the Mars Mural.
- Expanded the annual holiday pole light decorations and year-round banner program. Decorated six street trees along Telegraph with holiday lights and preparing to double the installation for the 2024 season. Reviewing options for new light pole banners with artistic local themes and university messaging.

EXHIBIT A
Annual Report of the Telegraph Property and Business Improvement District

- Partnering with the City of Berkeley Civic Arts program to implement the utility box art project which will bring several new murals to high visibility locations along Telegraph. The project will address a significant source of blight, reduce vandalism, and enhance the sense of place and visual appeal of the public realm.
- Completed substantial restoration of three murals. Working with artists to restore additional artworks and identify new mural opportunities.
- Provided advice and guidance to merchants and property owners navigating quality of life, crime and public safety issues. Continuing to facilitate routine coordination between Telegraph Ambassadors and social and public safety services from the City and University.
- Enhanced merchant and visitor safety with dedicated prevention efforts and active incident response by Telegraph Ambassadors.

2. Support businesses, non-profits, and residents within the District

- Continued our partnership with UC Berkeley New Student Services on the New Student Dine-Around for the Fall ’23 and Spring ‘24 Golden Bear Orientation. Over $100,000 of program funds were paid directly to 20 participating restaurants in the district that served 5,400 meals to incoming students.
- Provided individualized social media support/consultation to merchants. Audited social media presence for business accounts, provided tutorials for tips and tricks to boost engagement and created content for several businesses in the district.
- Spotlight on grand openings of new businesses. Highlighted Purple Kow, Panda Express, Insomnia Cookies, Crumbl, and Wingstop. Creating a playbook for future openings.
- Utilized various outdoor casements to advertise events and promotions supporting district businesses including Telegraph Turn Up, Mosaic Boulders climbing competition, Visit Berkeley Restaurant Week highlighting our six participating restaurants, Telegraph Boba Day and Second Sundays.
- Facilitated engagement between community members and the Berkeley Police Department to assist in incident response, problem solving and crime prevention. Hosted a business safety meeting to provide merchants and property managers with security resources and evaluate safety issues.
- Maintained direct lines of communication with merchants and property owners to navigate safety concerns, connect with public services, and respond to concerns on a range of issues from permits, utility/infrastructure projects, maintenance requests, access constraints, and more.

3. Make the District more accessible

- Worked to advance the Telegraph Plaza vision for the Dwight Triangle traffic median. Engaging with agency partners to complete the feasibility study of redirecting vehicle traffic. The project seeks to activate the area with the development of a public plaza that will serve as a core attraction in the district.

EXHIBIT A
Annual Report of the Telegraph Property and Business Improvement District

- Engaged with City and University officials to review the Cal Football Gameday Parking restrictions which negatively impact visitors, businesses, and employees in the District. Ongoing work is aimed at easing the restrictions to be more equitable and improve accessibility to the area on game days.
- Developing placemaking proposals to elevate the identity of the vibrant restaurant scene and develop public realm improvements on the 2500 block of Durant Ave. We are working to secure the development of a large public parklet that will serve as an anchor for social and entertainment opportunities, and facilitate streetscape enhancements including lighting, planters, and public art.
- Engaged with City and AC Transit staff to refine plans for the Durant Quick Build Transit Lane project. Gathered merchant and property owner input and advocated for a curb management strategy to address major traffic safety and access issues on Durant Ave. We are preparing to support the next steps with implementation in the summer of 2024.
- Invested in expanded bike parking through our Peace Symbol bike rack program. Worked with City staff and developers of new construction projects to identify new bike rack locations.

4. Improve the Telegraph brand through marketing, events, and promotions

- Produced and organized the Second Sundays event series with an expanded schedule of four dates from June to September. The events featured live music, street performers, outdoor seating areas, and free activities. Partnered with SoSo Market, a Telegraph business, to host a vintage clothing vendor market and provided free vending opportunities for district merchants. Each event drew thousands of visitors and customers shopping for apparel and gifts.
- Partnered with 510 Skateboarding to host their 25th Anniversary Jam in September which drew hundreds of spectators and featured a full-scale skate course. The event attracted prominent participants from the skateboarding community and event sponsorship from Vans.
- Achieved significant growth for the @TelegraphBerkeley Instagram account which serves as a major outreach and promotion platform for the district. This year the account reached 7,000 followers - increasing by 100%. The monthly reach increased by 75% to 36K from 20k+. The platform directed increased engagement and provided major promotional support for a wide range of businesses in the district.
- Implemented a year-round content creation program working with district partners and social media influencers. The program produced a regular stream of original video content that highlighted the district's businesses, attractions, events, and culture. We are developing new partnerships with events in and around the district to reach new audiences.
- Shined a musical spotlight on Telegraph Avenue restaurants that participated in the annual Visit Berkeley, Restaurant Week. We filmed a trailer and highlight reel showcasing all the participating restaurants, and commissioned a music video with a local artist that greatly increased the district's visibility and was shared by Visit Berkeley, apartments and hotels in Berkeley, AC Transit, SF Bartable and more.

EXHIBIT A
Annual Report of the Telegraph Property and Business Improvement District

- Invested in print and online ads in the Visit Berkeley's Bi-Annual Visitors Guide 2024-26 that is distributed amongst their partners including various hotels and the Oakland airport.
- Organized and sponsored the 4th annual Telegraph Boba Day: a yearly celebration gaining attention throughout the Bay Area. As the self-proclaimed Boba Capital of the Bay, with 15 boba shops in a 3 block radius, we celebrated the 4th Telegraph Boba Day bigger than ever. The event featured giveaways, photo-ops, collectable custom stickers, and live performances by UC Berkeley's CAL Band and the Intermission Orchestra. The event reinforces a positive and attractive perception of the district as a destination for families and young people.
- Worked to update and refresh the Telegraph Berkeley website. The website provides useful information to community stakeholders and helps promote the district to attract customers and visitors. We are investing in repairs and upgrades to improve functionality, ensure ADA compliance, and increase the website's reach and performance.

5. Better serve District stakeholders as a convener and advocate on issues

- Facilitated stakeholder feedback and organized support for significant upzoning and streamlining proposals in the Southside Zoning Amendments project. Actively advocated in favor of the proposals which were approved by the City Council in late 2023.
- Facilitated district stakeholder engagement in local elections for Mayor and City Council. Partnered with business organizations to organize a Mayoral Candidate Forum and hosted a candidate forum for the D7 City Council special election.
- Represented the district in the local business community. Maintained active engagement as a member of the Berkeley Alliance of Business Organizations, Berkeley Business Development Network, and routine collaboration with the Downtown Berkeley Association, Berkeley Chamber, and Visit Berkeley.
- Coordinated and advanced advocacy around key local economic development policy initiatives: the Small Business Zoning Amendments project, revision of the Natural Gas Ban ordinance, LRDP settlement funding recommendations, and improved Business Licensing processes.
- Participated in the International Downtown Association 2023 Annual Conference and the 2024 West Coast Urban District Forum. Engaged with other place-management industry professionals on current affairs and topics including: marketing and communications, district branding, public plazas, and nightlife.
- Engaged with developers of new housing and mixed-use projects in the district to provide stakeholder feedback and provide support for moving the projects forward.

Telegraph Clean & Safe Ambassador Program

The single most significant element of the TBID's ongoing work is the ambassador program which is provided through a contract with Block by Block. In keeping with the Management District Plan, the program provides 240 hours per week of cleaning and hospitality services year-round, seven days a week. The program comprises roughly 65% of the TBID's budget.

EXHIBIT A
Annual Report of the Telegraph Property and Business Improvement District

The program also works collaboratively with UC Berkeley's Homeless Outreach Coordinator and City staff to address the needs of unhoused community members in the District. The Ambassadors are trained in de-escalation and conflict resolution strategies; and respond to help unhoused community members, businesses, students, and local agencies to peacefully navigate conflicts and disruptive behaviors (often the result of substance abuse or a mental health crisis). Finally, the organization facilitates weekly coordination/case management meetings with local service agency staff and law enforcement resulting in a more thoughtful and humane approach to problems involving the unhoused community.

In FY23-24 the Ambassador team exceeded cleaning and maintenance service level goals with their routine services shown in the table below. Additional accomplishments include:

- Performed the installation and planting of several new sidewalk planters. Provided regular care and maintenance of dozens of hanging basket planters and sidewalk planters.
- Provided frontline response to mitigate impacts of large public demonstrations: cleared leftover debris, managed disruptions to waste collection, and moderated community concerns.
- Partnered with Public Works to repair, replace and relocate dozens of public trash cans greatly improving cleanliness and sidewalk aesthetics.
- Addressed dozens of pedestrian health and safety hazards from major debris, vegetation, and other obstructions.
- Provided swift and routine assistance daily in response to distressed individuals experiencing social and mental health crises. Successfully de-escalated situations and provided direct support through conflict resolution and compassionate care.
- Performed weed abatement and applied mulch to 5+ blocks of tree wells and planting strips on areas of Bowditch, Haste, and Telegraph.
- Refreshed paint on dozens of public fixtures, utility boxes, and light poles.
- Staffed and supported 8 public events and street fairs.

311 Requests	Graffiti Tags Removed	Handbills Removed	Hazardous Waste Clean-ups	Power Washing Hours	Trashcans Leveled	Lbs of Trash Removed
265	4,776	7,103	2,321	431	2,217	119,164

Exhibit B:

Telegraph Business Improvment Districtct (TBID) FY2025 Assessments

APN	OWNER NAME	STREET NUMBER	STREET NAME	UNIT #	Tax Exempt	Private Parcel
055 188600300	2312 ELLSWORTH LLC	2312	ELLSWORTH ST			$ 997.08
055 187800300	2340 TELEGRAPH PROPERTY LLC	2328	TELEGRAPH AVE			$ 11,715.48
055 187601200	2369 TELEGRAPH LLC	2369	TELEGRAPH AVE			$ 1,778.96
055 188300500	2414 DANA ST L P	2414	DANA ST			$ 876.74
055 186801100	2415COLLEGE LLC	2415	COLLEGE AVE			$ 3,470.54
055 187800701	2425 DURANT AVENUE LLC	2425	DURANT AVE			$ 1,761.86
055 188101800	2442 HASTE STREET LLC	2442	HASTE ST			$ 2,132.88
055 184600101	2501 BENVENUE LLC	2501	BENVENUE AVE			$ 3,730.48
055 187504300	2503 HASTE STREET OWNER LLC	2429	TELEGRAPH AVE			$ 2,968.06
055 187504400	2503 HASTE STREET OWNER LLC	2509	HASTE ST			$ 742.02
055 187504500	2503 HASTE STREET OWNER LLC	2503	HASTE ST			$ 16,723.08
055 187503001	2506 HASTE STREET PARTNERS LLC	2506	HASTE ST			$ 2,030.12
055 187701100	2509 DURANT LLC	2347	TELEGRAPH AVE			$ 4,750.52
055 187701400	2522 BANCROFT WAY LLC	2522	BANCROFT WAY			$ 1,565.96
055 187602101	2538 DURANT LP	2538	DURANT AVE			$ 4,261.54
055 183902000	2539 TELEGRAPH LLC	2539	TELEGRAPH AVE			$ 14,360.64
055 183901901	2565 2589 TELEGRAPH BLAKE LLC	2587	TELEGRAPH AVE			$ 7,805.18
055 183700300	2588 TELEGRAPH AVENUE LLC	2590	TELEGRAPH AVE			$ 3,852.14
055 183603100	2616 TELEGRAPH AVENUE LLC	2616	TELEGRAPH AVE			$ 2,705.56
055 184600300	2644 BERKELEY LLC	2644	DWIGHT WAY			$ 2,876.48
055 183500901	2650 TELEGRAPH LP	2650	TELEGRAPH AVE			$ 1,274.06
055 187000800	2701 DURANT LP	2701	DURANT AVE			$ 2,261.80
055 188600100	820 MACARTHUR LLC	2300	ELLSWORTH ST			$ 1,478.42
055 183802300	A & A BERKELEY PARTNERS LLC	2501	DANA ST	2		$ 173.54
055 187602200	ALLEN HYE K & KIM JOE TR	2511	CHANNING WAY			$ 2,111.34
055 186901100	ALPHA BETA HALL	2345	COLLEGE AVE			$ 1,810.40
055 187100103	AMI LLC &	2680	BANCROFT WAY			$ 3,110.96
055 187100203	AMI LLC &	2310	COLLEGE AVE			$ 1,577.20
055 187102000	AMI LLC &	2680	BANCROFT WAY			$ 836.82
055 183503300	ANANTHARAM VENKATACHALAM	2628	TELEGRAPH AVE	502		$ 145.28
055 188200200	ANDREONI THOMAS L & STANTON KAREN J TRS	2440	DANA ST			$ 878.84
055 183600802	AVENUE T PROPERTY LLC	2614	TELEGRAPH AVE			$ 865.50
055 188303000	AYSOY SUKRAN TR	2406	DANA ST	A		$ 176.42
055 187800200	AYYAD FUAD & MUNA I	2312	TELEGRAPH AVE			$ 3,253.62
055 187000900	BALAJI EQUITY MANAGEMENT LLC	2319	COLLEGE AVE			$ 1,598.38
055 186801300	BEAR HAVEN LLC	2409	COLLEGE AVE			$ 2,451.06
055 188401500	BERKELEY ARCHITECTURAL HERITAGE ASSOCIATION	2318	DURANT AVE			$ 1,594.02
055 188500800	BERKELEY CANTERBURY FOUNDATION INC	2334	BANCROFT WAY			$ 1,523.60
055 188500201	BERKELEY CITY CLUB	2315	DURANT AVE			$ 1,521.48
055 188500202	BERKELEY CITY CLUB	2315	DURANT AVE			$ 9,058.76
055 187601302	BERKELEY MULTIFAMILY I PROPERTY OWNER LLC	2500	DURANT AVE			$ 10,963.80
055 187701300	BERKELEY MULTIFAMILY I PROPERTY OWNER LLC	2301	TELEGRAPH AVE			$ 12,555.54
055 183801300	BERKELEY MULTIFAMILY II PROPERTY OWNER LLC	2410	DWIGHT WAY			$ 1,428.02
055 187301400	BERKELEY MULTIFAMILY II PROPERTY OWNER LLC	2605	HASTE ST			$ 3,024.74
055 184302603	BERKELEY SCHOOL THEOLOGY	2511	HILLEGASS AVE			$ 6,899.68
055 183500700	BERKELEY TELEGRAPH LLC & 2640 TELEGRAPH AVE LLC	2640	TELEGRAPH AVE			$ 1,234.98
055 183502100	BOLT DIANNA	2628	TELEGRAPH AVE	203		$ 145.28
055 187001000	BREIT SH BERKELEY LLC	2700	BANCROFT WAY			$ 6,084.16
055 184002401	CALIF ANN CONF METH CH	2655	TELEGRAPH AVE			$ 8,657.44
055 187900400	CAMOU TELEGRAPH AVENUE PROPERTIES LLC	2386	TELEGRAPH AVE			$ 1,053.34
055 183502800	CHEN ZIXIN	2628	TELEGRAPH AVE	402		$ 145.28
055 188303200	CHIEN CHARLES & SHERI I	2406	DANA ST	C		$ 176.42
055 183802200	CHIN JACKSON & FAYE TRS	2501	DANA ST	1		$ 166.36
055 184200500	CHIU EDMUND S & BONNETTE S TRS	2532	DWIGHT WAY			$ 862.92

Exhibit B:

Telegraph Business Improvment Districtct (TBID) FY2025 Assessments

APN	OWNER NAME	STREET NUMBER	STREET NAME	UNIT #	Tax Exempt	Private Parcel
055 183900400	CHU FAMILY LLC	2517	TELEGRAPH AVE			$ 6,401.90
055 183502400	CHUANG PATRICK C & HSIUNG YINGSHENG	2628	TELEGRAPH AVE	303		$ 145.28
055 188200100	CHURCH IN BERKELEY	2430	DANA ST			$ 2,136.60
055 187900601	CITY OF BERKELEY	2431	CHANNING WAY		$ 52,093.48	
055 183901502	CLARA&SONIA LLC	2529	TELEGRAPH AVE			$ 2,751.78
055 188300100	COLLIER PAMELA & BATTI GREG TRS	2400	DANA ST			$ 742.56
055 187700100	CORE BERKELEY BANCROFT LLC	2590	BANCROFT WAY			$ 17,091.54
055 188000400	CREATIVE PROPERTY TELEGRAPH LLC	2426	TELEGRAPH AVE			$ 1,046.08
055 187900500	DABEL GREGORY J & KAREN L TRS & DABEL JEREMY ETAL	2392	TELEGRAPH AVE			$ 1,202.68
055 183802900	DAI GEORGE S. & LUNA Y TRS & DAI CORNELIA	2501	DANA ST	8		$ 207.56
055 184005200	DELENGOCKY TAYSON	2615	TELEGRAPH AVE	404		$ 138.90
055 187100300	DELTA DEUTERON BLDG ASN	2647	DURANT AVE			$ 2,219.12
055 186701300	DISANO JOSEPH R TR & DISANO JOSEPH R TR	2435	COLLEGE AVE			$ 1,199.48
055 184200100	DONG PING	2503	REGENT ST			$ 616.00
055 184200401	DOTP 2530 LLC	2526	DWIGHT WAY			$ 2,225.14
055 187800100	DOWNEY HUGH J IV TR & ROUSH VIRGINIA B TR	2310	TELEGRAPH AVE			$ 4,773.92
055 187700200	DOYLE ELAINE M TR	2310	BOWDITCH ST			$ 957.02
055 183502300	DU LIMING	2628	TELEGRAPH AVE	302		$ 145.28
055 187700900	DURANT PLACE	2517	DURANT AVE			$ 3,490.74
055 183801600	DWIGHT BLAKE APARTMENTS	2420	DWIGHT WAY			$ 1,069.94
055 184004300	ELA PROPERTIES LLC	2615	TELEGRAPH AVE	302		$ 133.30
055 188000501	ENT KENNETH E & GREGORY W TRS	2441	HASTE ST			$ 10,885.64
055 188000700	ENT KENNETH E & GREGORY W TRS	2435	HASTE ST			$ 1,051.14
055 183503200	EPSTEIN LYNN & BASSEIN SUSAN	2628	TELEGRAPH AVE	501		$ 145.28
055 187101300	ESLAMI AHMAD A	2311	BOWDITCH ST			$ 379.76
055 183802800	FENG SAMUEL & HUANG HSINYI C TRS	2501	DANA ST	7		$ 198.20
055 184600400	FERGUSON JAMES I & ARLENE M TRS	2646	DWIGHT WAY			$ 1,043.18
055 187401200	FIRST CHURCH CHRIST SCIENTIST	2619	DWIGHT WAY			$ 1,918.02
055 188001100	FIRST CHURCH FOUNDATION	2423	HASTE ST			$ 641.64
055 188400100	FIRST CONG CH OF BERK	2345	CHANNING WAY			$ 4,886.12
055 188401600	FIRST CONGREGATIONAL CHURCH OF BERKELEY	2326	DURANT AVE			$ 760.74
055 188401700	FIRST CONGREGATIONAL CHURCH OF BERKELEY	2330	DURANT AVE			$ 1,073.24
055 188401800	FIRST CONGREGATIONAL CHURCH OF BERKELEY	2334	DURANT AVE			$ 284.26
055 188001502	FIRST PRESBYTERIAN CHURCH OF BERKELEY	2407	DANA ST			$ 10,170.38
055 183500402	FITZER TIMOTHY A	2636	TELEGRAPH AVE			$ 1,514.34
055 187800400	FORTUNEWORLD INC	2439	DURANT AVE			$ 3,764.14
055 187601100	FUENTES TOMAS R TR	2375	TELEGRAPH AVE			$ 7,353.66
055 183503000	GAMPEL IRINA & YURY	2628	TELEGRAPH AVE	404		$ 145.28
055 187502500	GEE JEW Y TR	2509	DWIGHT WAY			$ 1,471.84
055 187502900	GILLMAN SCOTT C TR & GILLMAN LINDA ETAL	2455	TELEGRAPH AVE			$ 3,553.24
055 184003200	GIORDANO ARLENE A	2435	CARLETON ST			$ 1,350.84
055 183800201	GLENN BUILDING	2430	DWIGHT WAY			$ 12,679.80
055 184003800	GOFF EDWARD TR	2615	TELEGRAPH AVE	204		$ 91.58
055 183502000	GOLD BONNIE & PAYNE DAVID E TRS	2628	TELEGRAPH AVE	202		$ 145.28
055 187701003	GOODHUE NEIL B & DIANE C TRS	2513	DURANT AVE			$ 1,224.20
055 187701006	GOODHUE NEIL B & DIANE C TRS	2515-B	DURANT AVE			$ 1,894.82
055 183900102	GORDON JOHN K & MITCHELL JANIS L TRS & GORDON ETAL	2502	DWIGHT WAY			$ 2,704.96
055 183900303	GORDON JOHN K & MITCHELL JANIS L TRS & GORDON ETAL	2508	REGENT ST			$ 1,958.82
055 183901601	GORDON JOHN K & MITCHELL JANIS L TRS & GORDON ETAL	2513	TELEGRAPH AVE			$ 2,240.78
055 188100200	GORDON JOHN K & MITCHELL JANIS L TRS & RIPSTE ETAL	2470	TELEGRAPH AVE			$ 4,605.40

Exhibit B:

Telegraph Business Improvment Districtct (TBID) FY2025 Assessments

APN	OWNER NAME	STREET NUMBER	STREET NAME	UNIT #	Tax Exempt	Private Parcel
055 187700600	GROWERS PROPERTIES NO 52	2533	DURANT AVE			$ 4,823.24
055 188300200	GUERARD JACQUES H TR	2402	DANA ST			$ 706.00
055 184600500	HAKAM ALAEDDIN & FOUDEH SAEED TR	2504	COLLEGE AVE			$ 868.86
055 184004100	HAROUN ANSAR M & NASRA TRS	2615	TELEGRAPH AVE	207		$ 126.56
055 188200300	HASHEMI HOMAYOUN & GOVASHIRI HOMA TRS	2446	DANA ST			$ 903.24
055 183802600	HOANG VY T & LYNH T	2501	DANA ST	5		$ 214.12
055 188300600	HON HENRY D & SYLVIA TRS	2418	DANA ST			$ -
055 183802400	HONG JAMIE J & JIN ETAL	2501	DANA ST	3		$ 170.48
055 184003600	HSIA SAMSON & ALICIA TRS	2615	TELEGRAPH AVE	202		$ 133.30
055 184004700	HU HANG L & TYNG J	2615	TELEGRAPH AVE	306		$ 129.72
055 184004800	HU TYNG J & HANG L	2615	TELEGRAPH AVE	307		$ 126.56
055 183501900	HUANG ISABELLA	2628	TELEGRAPH AVE	201		$ 145.28
055 184004200	HUANG LI L	2615	TELEGRAPH AVE	301		$ 122.02
055 187701201	JANGMI LLC	2327	TELEGRAPH AVE			$ 2,352.44
055 187900100	KICK-AXE PROPERTIES	2350	TELEGRAPH AVE			$ 4,845.08
055 184004600	KPARTNERS LLC	2615	TELEGRAPH AVE	305		$ 143.18
055 187801900	KUANG DIANA Q ETAL	2456	BANCROFT WAY			$ 2,705.18
055 187700500	KURDYS DOUGLAS & SHAWVER LOIS TRS	2539	DURANT AVE			$ 3,022.90
055 184003900	KWOK VICTOR Y	2615	TELEGRAPH AVE	205		$ 143.18
055 187700700	LANDIS FAMILY LLC	2525	DURANT AVE			$ 5,312.84
055 187801000	LANDIS FAMILY LLC	2419	DURANT AVE			$ 2,566.16
055 187801200	LANDIS FAMILY LLC	2411	DURANT AVE			$ 1,125.04
055 184005300	LEUNG VELIA N	2615	TELEGRAPH AVE	101		$ 121.96
055 184005400	LEUNG VELIA N	2615	TELEGRAPH AVE	102		$ 87.20
055 188401300	LEWIS DEMITRIA M & PAULOS ANDRIANA E TRS	2310	DURANT AVE			$ 1,457.32
055 188100500	LI ZHAOYANG & WAN KE	2437	DWIGHT WAY			$ 2,486.56
055 184000101	LIEBERT BRUCE E TR & CARLYN M TR	2601	TELEGRAPH AVE			$ 1,384.54
055 183502900	LIM ING Y & KANWIT ELIZABETH D TRS	2628	TELEGRAPH AVE	403		$ 145.28
055 188100300	LIPPETT PETER E TR	2476	TELEGRAPH AVE			$ 3,779.82
055 183801700	LUNDIN JANE TR	2424	DWIGHT WAY			$ 1,017.88
055 183801800	LUNDIN JANE TR	2428	DWIGHT WAY	1-11		$ 1,037.76
055 188303100	MA KENNETH & JANICE L TRS	2406	DANA ST	B		$ 176.42
055 183800102	MAJIDI SHAHLA TR	2500	TELEGRAPH AVE			$ 5,903.80
055 184004500	MAKHIJANI MEENA S	2615	TELEGRAPH AVE	304		$ 91.58
055 188600200	MANDELA LLC	2306	ELLSWORTH ST			$ 1,710.26
055 187701902	MARK AT BERKELEY LLC	2580	BANCROFT WAY			$ 32,531.44
055 183802500	MASON ELIZABETH F & JAMES W ETAL	2501	DANA ST	4		$ 172.22
055 184005100	MAUS MARLON TR	2615	TELEGRAPH AVE	403		$ 167.58
055 183502600	MEYYAPPAN MURUGAPPAN & RAMANATHAN SIVAKAMI TRS	2628	TELEGRAPH AVE	305		$ 145.28
055 183801400	MGH MANAGEMENT LLC	2414	DWIGHT WAY			$ 1,029.44
055 187502700	MILANO PROPERTIES LTD LLC	2475	TELEGRAPH AVE			$ 1,348.26
055 186801400	MIN ROY & EDWARD ETAL	2700	CHANNING WAY			$ 620.56
055 187701601	MIOTTEL W J JR TR	2530	BANCROFT WAY			$ 9,463.58
055 183802700	MITINA SOFIA TR	2501	DANA ST	6		$ 215.08
055 186701400	NATEGHIAN FARAMARZ TRUST	2431	COLLEGE AVE			$ 1,014.48
055 184003700	NAVARROCACERES LILIANA	2615	TELEGRAPH AVE	203		$ 92.10
055 184200200	NCR PROPERTIES LLC	2524	DWIGHT WAY			$ -
055 183802100	P G & E CO 135-1-12-2	2540	TELEGRAPH AVE			$ 1,704.76
055 187802400	PAIGE ROGER & NORMA TRS & HERBERT JOSEPH & CA ETAL	2415	DURANT AVE			$ 268.86
055 187802300	PAIGE ROGER & NORMA TRS ETAL	2415	DURANT AVE			$ 271.76
055 187802500	PAIGE ROGER & NORMA TRS ETAL	2417	DURANT AVE			$ 180.62
055 187802600	PAIGE ROGER & NORMA TRS ETAL	2417	DURANT AVE			$ 180.62

Exhibit B:

Telegraph Business Improvment Districtct (TBID) FY2025 Assessments

APN	OWNER NAME	STREET NUMBER	STREET NAME	UNIT #	Tax Exempt	Private Parcel
055 187502802	PELLEGRINO PASQUALE TR	2461	TELEGRAPH AVE			$ 2,435.30
055 187201100	RAAJ BERKELEY OWNER LLC	2613	CHANNING WAY			$ 815.76
055 187201300	RAAJ BERKELEY OWNER LLC	2323	BOWDITCH ST			$ 1,053.34
055 187201400	RAAJ BERKELEY OWNER LLC	2600	DURANT AVE			$ 20,096.14
055 188500900	RECTORS ETC OF ST MARKS	2300	BANCROFT WAY			$ 1,636.82
055 188501000	RECTORS ETC OF ST MARKS	2301	DURANT AVE			$ 6,405.26
055 187100600	REGENCY DURANT LLC	2637	DURANT AVE			$ 3,611.34
055 183902100	REGENT TERRACE LLC	2593	TELEGRAPH AVE			$ 9,567.16
055 186901301	REGENTS OF THE UNIVERSITY OF CALIFORNIA	2333	COLLEGE AVE		$ 2,942.52	
055 187101901	REGENTS OF THE UNIVERSITY OF CALIFORNIA	2630	BANCROFT WAY		$ 7,521.20	
055 187202101	REGENTS OF THE UNIVERSITY OF CALIFORNIA		COLLEGE AVE		$ 19,351.64	
055 187300101	REGENTS OF THE UNIVERSITY OF CALIFORNIA		CHANNING WAY		$ 9,408.74	
055 187301500	REGENTS OF THE UNIVERSITY OF CALIFORNIA	2411	BOWDITCH ST		$ 341.68	
055 187301600	REGENTS OF THE UNIVERSITY OF CALIFORNIA	2409	BOWDITCH ST		$ 265.58	
055 187301700	REGENTS OF THE UNIVERSITY OF CALIFORNIA	2405	BOWDITCH ST		$ 267.42	
055 187301800	REGENTS OF THE UNIVERSITY OF CALIFORNIA	2550	CHANNING WAY		$ 170.38	
055 187301900	REGENTS OF THE UNIVERSITY OF CALIFORNIA	2612	CHANNING WAY		$ 72.52	
055 187402301	REGENTS OF THE UNIVERSITY OF CALIFORNIA	2612	HASTE ST		$ 19,463.12	
055 187500901	REGENTS OF THE UNIVERSITY OF CALIFORNIA	2538	CHANNING WAY		$ 14,183.20	
055 187504001	REGENTS OF THE UNIVERSITY OF CALIFORNIA	2556	HASTE ST		$ 5,313.38	
055 187600901	REGENTS OF THE UNIVERSITY OF CALIFORNIA	2535	CHANNING WAY		$ 7,463.60	
055 187902203	REGENTS OF THE UNIVERSITY OF CALIFORNIA	2436	DURANT AVE		$ 13,968.22	
055 188002103	REGENTS OF THE UNIVERSITY OF CALIFORNIA		HASTE ST		$ 3,074.36	
055 188002104	REGENTS OF THE UNIVERSITY OF CALIFORNIA	2433	HASTE ST		$ 418.52	
055 188100700	REGENTS OF THE UNIVERSITY OF CALIFORNIA	2427	DWIGHT WAY		$ 789.76	
055 188101701	REGENTS OF THE UNIVERSITY OF CALIFORNIA	2400	HASTE ST		$ 4,599.20	
055 188601703	REGENTS OF THE UNIVERSITY OF CALIFORNIA	2200	BANCROFT WAY		$ 1,473.32	
055 188602501	REGENTS OF THE UNIVERSITY OF CALIFORNIA	2214	BANCROFT WAY		$ 4,556.52	
055 187803000	REGENTS OF THE UNIVERSITY OF CALIFORNIA STILES HALL	2400	BANCROFT WAY		$ 8,056.90	
055 187802900	REGENTS OF THE UNIVERSITY OF CALIFORNIA STILES HALL	2400	BANCROFT WAY		$ 1,386.98	
055 187801800	REGENTS UNIVERSITY CALIFORNIA	2436	BANCROFT WAY		$ 10,553.90	
055 186701200	ROMAN CATHOLIC WELFARE CORPORATION OF OAKLAND		DWIGHT WAY			$ 1,185.00
055 187201200	ROYSTON APARTMENTS LP	2601	CHANNING WAY			$ 3,401.78
055 187500600	RUE ELL ENTERPRISES INC	2411	TELEGRAPH AVE			$ 2,036.44
055 187601600	RUE ELL ENTERPRISES INC	2520	DURANT AVE			$ 3,783.34
055 187700800	RUE ELL ENTERPRISES INC	2519	DURANT AVE			$ 4,612.66
055 187800501	RUE ELL ENTERPRISES INC	2433	DURANT AVE			$ 8,638.94
055 187802200	RUE ELL ENTERPRISES INC	2480	BANCROFT WAY			$ 2,902.52
055 187900300	RUE ELL ENTERPRISES INC	2380	TELEGRAPH AVE			$ 1,053.34
055 183802000	RUEELL ENTERPRISES INC	2434	DWIGHT WAY			$ 1,514.46
055 187601901	RUEELL ENTERPRISES INC	2534	DURANT AVE			$ 4,535.18
055 187802100	RUEELL ENTERPRISES INC	2470	BANCROFT WAY			$ 4,535.38
055 187601500	RUEGG & ELLSWORTH	2516	DURANT AVE			$ 8,704.02
055 187602300	RUEGG & ELLSWORTH	2510	DURANT AVE			$ 3,920.74
055 187601700	RUEGG & ELLSWORTH LLC	2526	DURANT AVE			$ 1,160.12
055 187100401	RUSHTON RICHARD P & WITT S R & LAVELLE P ETAL TRS	2639	DURANT AVE			$ 1,160.12
055 187500700	SARACHAN KENNETH	2409	TELEGRAPH AVE			$ 6,245.08
055 187900200	SARACHAN KENNETH	2360	TELEGRAPH AVE			$ 3,726.46
055 188100100	SARACHAN KENNETH & BROWN LAURIE	2464	TELEGRAPH AVE			$ 4,218.24
055 184200600	SATELLITE AFFORDABLE HOUSING ASSOCIATES	2500	HILLEGASS AVE			$ 1,856.84
055 183502500	SHARMA VINEET & SHUCHI	2628	TELEGRAPH AVE	304		$ 145.28
055 188401400	SHI ZHOUZHENG & LI JIA TRS	2312	DURANT AVE			$ 941.46
055 183803000	SHYR JURIYAN & HOU DANIEL	2501	DANA ST	9		$ 214.64

Exhibit B:

Telegraph Business Improvment Districtct (TBID) FY2025 Assessments

APN	OWNER NAME	STREET NUMBER	STREET NAME	UNIT #	Tax Exempt	Private Parcel
055 188000100	SPECTRUM TELEGRAPH COMMONS LLC & POINT V APPL ETAL	2486	CHANNING WAY			$ 6,656.32
055 187700300	ST JOSEPH ARIM FOUND	2316	BOWDITCH ST			$ 1,607.40
055 187700400	ST JOSEPH ARIM FOUND	2543	DURANT AVE			$ 738.72
055 184005000	SU VINCENT P & INGRID ETAL	2615	TELEGRAPH AVE	402		$ 133.30
055 187502400	SUM YUN C & NGAN C TRS	2511	DWIGHT WAY			$ 5,121.52
055 183502200	SUN CHII YUN & KAREN K	2628	TELEGRAPH AVE	301		$ 145.28
055 184004900	SUNKU RAVINDRA & ROOPA R ETAL	2615	TELEGRAPH AVE	401		$ 160.84
055 183501800	TAM RICHARD W & ZHANG TAO T ETAL	2628	TELEGRAPH AVE	1		$ 191.36
055 188002201	TAYLOR SPRINGS MANAGEMENT LLC	2414	TELEGRAPH AVE			$ 9,380.60
055 183700100	TELEGRAPH BLAKE ST LLC	2556	TELEGRAPH AVE			$ 9,832.02
055 187502600	TELEGRAPH PARTNERS LLC	2499	TELEGRAPH AVE			$ 2,324.36
055 183900500	TELEGRAPH REGENT LLC	2512	REGENT ST			$ 3,499.64
055 187500800	THELMA & LOUISE NO 2 LLC	2508	CHANNING WAY			$ 11,578.58
055 188101200	TOWN & GOWN CLUB	2401	DWIGHT WAY			$ 1,441.78
055 187600100	TREVOR JAMES II	2328	BOWDITCH ST			$ 1,732.14
055 188500102	TRINITY UNITED METHODIST CHURCH OF BERKELEY	2362	BANCROFT WAY			$ 1,369.34
055 188500104	TRINITY UNITED METHODIST CHURCH OF BERKELEY	2362	BANCROFT WAY			$ 5,210.94
055 187101200	TRUST BENEFIT CHRISTIAN SCIENCE ORGANIZATION UC BE	2601	DURANT AVE			$ 738.96
055 188401200	TWENTY THREE HUNDRED DURANT PARTNERSHIP	2300	DURANT AVE			$ 2,293.46
055 186801000	UNIVERSITY LUTHERAN CHAPEL OF BERKELEY CALIF	2425	COLLEGE AVE			$ 756.22
055 187101501	UNIVERSITY Y W C A	2600	BANCROFT WAY			$ 2,667.18
055 187801700	VALHAUS LP	2430	BANCROFT WAY			$ 3,799.02
055 183801500	VALUES INC INVESTMENT CO	2418	DWIGHT WAY			$ 1,758.36
055 187401300	VEDANTA SOCIETY BERKELEY	2455	BOWDITCH ST			$ 1,016.28
055 188600400	VERO PROPERTIES LLC	2241	DURANT AVE			$ 1,739.12
055 188100400	VIRGINIA COLLEGE ASSOCIATES LP	2482	TELEGRAPH AVE			$ 7,087.98
055 183502700	WANG HAOLIN	2628	TELEGRAPH AVE	401		$ 145.28
055 188300400	WEN WILLIAM K TR	2410	DANA ST			$ 931.30
055 188500103	WESLEY HOUSE BERKELEY LLC	2398	BANCROFT WAY			$ 2,660.80
055 184003500	WHANG WILLIAM W & ALICE J TRS	2615	TELEGRAPH AVE	201		$ 122.02
055 183600603	WONG FRANKLIN C & WONG HENRY F TR ETAL	2600	TELEGRAPH AVE			$ 1,742.32
055 184600200	WU SEN T & SUE H & CHUANG MARIE W TRS	2640	DWIGHT WAY			$ 2,162.62
055 183503100	XIA JING	2628	TELEGRAPH AVE	405		$ 145.28
055 187101100	YEE DAVID	2605	DURANT AVE			$ 1,028.48
055 184004000	YU JULIA & YU JEAN J TR	2615	TELEGRAPH AVE	206		$ 129.72
055 187802000	ZENGS BERKELEY LLC	2462	BANCROFT WAY			$ 4,776.26
055 184004400	ZHANG YINGQUN & WANG NAIRU	2615	TELEGRAPH AVE	303		$ 92.10
055 183700200	ZION PROPERTIES LLC	2566	TELEGRAPH AVE	D		$ 3,770.92
		Totals	**247**		**$187,736.14**	**$627,329.56**
			Parcels		24	223

	Tax Exempt	Private Parcels
Total Count of Parcels: **247**	24	223
County Fee @1.7% (on Private Parcels):		$ 10,664.60
Net Assessment Revenue (Private Parcels):		$ 616,664.96
Total Assessment Revenue:		**$ 804,401.10**

Note: Data for APN, Owner, and Land Use from the City's Land Management System is current as of April 3, 2024.
Updated data from Alameda County including APN, Owners and Land Use will be available on July 1, 2024.

09

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Eleanor Hollander, Economic Development Manager

Subject: Assessments: Downtown Berkeley Property Based Business Improvement District

RECOMMENDATION

Adopt a Resolution approving the Downtown Berkeley Property Based Business Improvement District (DPBID) Annual Report of Fiscal Year (FY) 2024 and proposed budget for FY 2025, and declaring Council's intention to levy an annual assessment for the DPBID for FY 2025.

SUMMARY

The Downtown Berkeley Property Based Business Improvement District (DPBID, "Downtown BID" or "the District") provides cleaning, hospitality and marketing services for Berkeley's central business district. In May of 2016 the DPBID was geographically expanded and renewed for a ten-year period, authorizing operations through December 31, 2026, and designating the Downtown Berkeley Association (DBA) as the District's Owners' Association. Annually, Council must approve the DPBID's annual report and proposed budget and declare its intention to levy an annual assessment.

The City of Berkeley owns parcels within the boundaries of the DPBID and is required by state law to pay the associated assessments. In FY25, the assessment payment will be $158,986, for 14 parcels; and $12,517 for a parcel owned by the City of Berkeley Joint Powers Authority at 2015 Addison Street. The total for fifteen parcels in FY25 is $171,503. In addition, the City will pay the General Benefit portion of the DPBID costs. The engineer's report commissioned for the reestablishment of the Downtown BID in 2016 calculated that the general benefit for the district is $18,828 annually. In 2011, the City increased parking meter rates (see Ordinance No. 7,183-N.S.) in the Downtown area to fund payment of the general benefit fees. This amount is billed directly to the City and paid through the Off-Street Parking Fund (627-54-622-665-3002-000-474-639990).

FISCAL IMPACTS OF RECOMMENDATION

Assessments levied in the Downtown Berkeley Property Based Business Improvement District (DPBID) support a package of improvements and activities approved by the

property owners and the City Council when the District was renewed for a ten-year period on May 31, 2016 (Resolution No. 67,520-N.S.). Assessment funds are collected by Alameda County, relayed to the City of Berkeley, and disbursed through a contract with the Downtown Berkeley Association (DBA), a private owners' association that was established to implement the Management District Plan. In May of 2021, the City Council authorized the City Manager to execute a contract and any amendments with the DBA, not to exceed $7,285,257 of DPBID revenues, to implement the Downtown Berkeley Management District Plan for the period July 1, 2021 to December 31, 2026 (Contract No. 32200032).

In addition, the University of California has agreed to a contribution to the DPBID of $134,101 for FY 2025. Overall the budget of the DPBID for FY 2025 (Exhibit A) is approximately $2,052,006 inclusive of taxable and non-taxable parcels and private donations, and net of the County 1.7% collection fee on private parcels. The DPBID Assessment Revenue amount articulated in Exhibit A – Annual Report ($1,818,699) is slightly different ($233,307) to account for uncollectable property tax and funds that will be carried forward from the prior year.

The assessment billing for private commercial property, including properties billed on the utility roll, less the county collection fee (approximately $27,752), is expected to be $1,604,760 in FY 2025. Annual and accrued assessment funds are deposited in the Downtown Property Based Business Improvement District (DPBID) Fund (786-21-208-251-0000-000-000-412110) and expended from fund number 786-21-208-251-0000-000-446-636110. These totals reflect a 4.5% assessment increase, as determined at the DBA Board of Directors meeting on April 25, 2024. Per the Management District Plan, an annual increase of 5% is allowable to cover inflation costs if approved by a majority of the Owners' Association Board of Directors.

Under the provisions of Proposition 218 in the California Constitution, government agencies must pay assessments on properties they own in property-based business improvement districts, just like private property owners, unless they receive no benefit. Payment is collected from private property owners through property tax bills near the end of the calendar year. Payments are due from non-property tax-paying entities concurrently. The City of Berkeley owns eleven parcels within the DBPID boundaries; the City's assessment payment in FY 2025 would be $158,986 and $12,517 for a parcel owned by the City of Berkeley Joint Powers Authority at 2015 Addison Street, which is increased slightly from the FY 2024 assessment amount. The total for fifteen parcels in FY25 is $171,503.

The City also pays the "general benefit" portion of the PBID budget, or roughly $18,828 for fiscal year 2025. "General benefits" represent that small portion of the overall benefits generated by a PBID which are found to accrue to the general public who are not assessed and do not participate in the economic or social activities of the district. In total, the City is responsible for a contribution of $190,331 to the DPBID in FY 2025.

This amount is billed directly to the City and paid through the Off-Street Parking Fund (627-54-622-665-3002-000-474-639990). On June 14, 2011, Council adopted Ordinance No. 7,183-N.S. increasing parking meter rates in the Downtown to fund payment of these fees.

By financing improvements, maintenance and welcoming activities for the City's central business district, the DPBID indirectly enhances sales tax, business license tax and other business-related City revenue sources.

CURRENT SITUATION AND ITS EFFECTS

State legislation that authorizes formation of property-based BIDs (*California Streets and Highways Code*, Sections 36600 et. seq.) requires that the BID governing body submit an Annual Report on operations and a budget proposal to the City Council each year. The City Council may approve the report with a Resolution to reauthorize the annual assessments.

The Board of Directors of the Downtown Berkeley Association met in a publicly noticed meeting on April 25, 2024 to review the Annual Report for the DPBID for FY 2024 and budget for FY 2025 (Exhibit A). The Board of Directors voted to recommend an increase of 4.5% in the assessment for FY25, and to approve the proposed budget for FY 2025 and the Annual Report for FY 2024. The Board recommended that the FY 2024 Annual Report and Proposed Budget for FY 2025 be approved by the City Council. There were no recommended changes to the DPBID boundaries nor changes to the assessment formula as established during the district renewal in 2016. Council can adopt the recommended Resolution which will confirm the DPBID assessment, and thus enable continuous BID operations for another year. Any funds in the existing DPBID contract (Contract No. 32200032) as of June 30, 2023 are to be carried forward.

BACKGROUND

The DPBID is a benefit assessment district that provides cleaning, hospitality and marketing services for Downtown Berkeley. The DPBID was created in 2011 pursuant to California's "Property and Business Improvement District Law of 1994" to provide needed improvements and activities to assessed property owners. The DPBID was re-established and expanded by Resolution of the Berkeley City Council on May 31, 2016 (Resolution No. 67,520-N.S.) for the ten-year term beginning July 1, 2016 and ending June 30, 2026, with operations to occur over the ten-year calendar year period beginning January 1, 2017 and ending December 31, 2026.

The DPBID finances services and improvements that maintain and improve the district's streetscape and public areas, improve the pedestrian experience for workers, visitors and residents, and attract new businesses and development. Key services include hospitality and cleaning ambassador teams, beautification projects, business attraction and retention, marketing and events. The improvements and activities that the DPBID

finances to enhance Downtown Berkeley's environment for property owners, residents, workers and visitors include:

Environmental Enhancements:

- Maintenance teams sweep, scrub, and pressure wash sidewalks, remove litter and graffiti, and increase the frequency of trash removal and maintain landscaping throughout the District.
- Hospitality Ambassadors provide visitor information, safety escorts, merchant outreach, liaison activities with city services, event support, homeless services outreach and referrals, and coordinate work with local police, businesses and property owners to prevent crime and address quality of life issues.
- Beautification and place-making improvements that make Downtown Berkeley more attractive, including enhanced landscaping, holiday décor, way-finding signage, trash receptacles, planters, urban design plans, bike racks, programming of BART Plaza and other public spaces.

Economic Enhancements:

- Promote and support local business through providing liaison services with City staff, and attracting new businesses and investment that further the strategic goals of the Downtown.
- Advance Downtown Berkeley's evolution as a regional destination for arts, culture and entertainment.
- Marketing and communications to support DPBID activities and improvements
- Strategies to improve the parking and transit experience to support local businesses, residents, and arts/culture/civic destinations.
- Leadership through research and community education to represent the Downtown community with one voice.

Due to high levels of pedestrian traffic in the core of the Downtown and the attendant need for higher levels of service there, the DPBID has three benefit zones as delineated in the 2016 District Management Plan. There is a two-tiered core service zone (known as "Premium" and "Standard") and a third zone "South Shattuck Benefit Zone" which covers the 2016 expansion area along the southern portion of Shattuck Avenue.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

By maintaining and enhancing the DPBID, the DBA creates shopping opportunities for residents and visitors alike while encouraging alternative forms of transportation. The District encompasses the area surrounding the Downtown BART Station and several AC Transit lines that provide easy accessibility for visitors coming to and from this popular regional destination. Because the District is well served by public transportation and biking infrastructure, these services indirectly support environmental sustainability goals of encouraging alternative transportation choices.

RATIONALE FOR RECOMMENDATION

Property and Business Improvement District Law of 1994 requires that the BID Board prepare an Annual Report for each fiscal year in which assessments are to be levied. Council action is required to approve the BID's Annual Report and declare its intent to levy assessments. This private/public partnership will continue to provide significant resources for revitalization of the Downtown Core Commercial District, which has had a transformational effect on the physical and economic health of the City of Berkeley.

ALTERNATIVE ACTIONS CONSIDERED

The DBA Board of Directors considered an increase in assessment rates, up to the allowable 5%, and as low as 0%, but instead decided on a 4.5% increase, determining that the increased rate would sufficiently cover the slate of services outlined in the FY2025 budget and work plan and better keep up with the pace of inflation.

CONTACTS

Eleanor Hollander, Office of Economic Development, (510) 981-7536

Attachments:

1: Resolution: Confirm Downtown Property Based Business Improvement District (DPBID) Annual Report and Levy Annual Assessment

Exhibit A: DPBID Annual Report for FY 2024 and Proposed Budget for FY 2025

Exhibit B: DPBID FY 2025 Assessment Roll

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

APPROVING THE ANNUAL REPORT OF THE DOWNTOWN PROPERTY BASED BUSINESS IMPROVEMENT DISTRICT AND LEVYING ASSESSMENTS FOR FY 2025

WHEREAS, the Property and Business Improvement District Law of 1994 as amended (California Streets and Highways Code Section 36600 et.seq.) authorizes cities, with the consent of property owners, to fund property-related improvements, maintenance and activities through the levy of assessments upon the real property that benefits from the improvements, maintenance and activities; and

WHEREAS, the City Council renewed the Downtown Property Based Business Improvement District (hereafter, "the District") by Resolution No. 67,520 -N.S. on May 31, 2016; and

WHEREAS, the City Council has now received the *Annual Report of the Downtown Property Based Business Improvement District for FY 2024* (Annual Report, attached as Exhibit A) from the Downtown Business Association, the governing body for the District, that describes the operations of the District in FY 2024, recommends services for FY 2025 and proposes a budget for FY 2025.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that pursuant to provisions of Section 36600 et. seq. of the California Streets and Highways Code, the City Council approves the Annual Report for FY 2024 and declares its intent to levy special assessments on property within the boundaries of the District for FY2025.

BE IT FURTHER RESOLVED that that the boundaries of the District and the method and basis for the assessment remain the same as those set forth and approved in the *Downtown Business Improvement District Management Plan* (Plan) which was made part of Resolution No. 67,520 -N.S., renewing the District.

BE IT FURTHER RESOLVED that the improvements and activities to be provided are those described in the Plan and the Annual Report and that the cost of providing the improvements and activities is as described in the budget attached to the Annual Report.

BE IT FURTHER RESOLVED that to finance these improvements and activities, the Annual Report and Budget includes a 4.5% increase in assessment rates. Following adoption of this resolution, the City Council may confirm the Annual Report and levy assessments for FY 2025 and confirm disbursement of DPBID assessment revenue.

Exhibits
A: DPBID Annual Report for FY 2024 and Proposed Budget for FY 2025
B: DPBID Assessment Roll FY 2025

EXHIBIT A
2024 ANNUAL REPORT OF THE DOWNTOWN BERKELEY PROPERTY-BASED BUSINESS IMPROVEMENT DISTRICT (PBID)
By the Downtown Berkeley Association

The Downtown Berkeley Property-Based Business Improvement District (DBPBID), managed by the Downtown Berkeley Association (DBA) was approved for a ten-year period by an affirmative vote of the property owners of the Downtown Berkeley commercial district by mail-in ballot during the spring 2016. This vote was affirmed without protest by City Council on May 31, 2016. The DBPID commenced operations on January 1, 2017. In accordance with 36650 (b) of the Streets and Highway Code for the State of California, the DBA affirms the following:

1. The DBA proposes no changes in PBID boundaries for the 2025 fiscal and calendar year.
2. The DBA will continue with the same services as has been outlined in the Management District Plan Final Plan of May 30, 2016. These services include Environmental Enhancements such as Ambassador hospitality services, cleaning services, beautification, and landscaping; as well as Economic Enhancements such as district marketing, promotion, event, and business attraction and retention.
3. The budget approved on February 1, 2024 the DBA Board of Directors calls for expenditures in the FY 2025 to be $2,156,055.
4. On April 25, 2024, the DBA Board approved a 4.5% assessment rate increase for FY2025.
5. The 2024-25 budget (FY25) approved to the DBA Board of Directors includes a carry forward of approximately $671,780 in unrestricted net assets.
6. The approved FY2025 budget envisions a loss of ($249,255) to be incurred to the carry forward funds of $671,780, resulting in a year-end balance of $422,525.
7. In addition to assessments levied on real property, the 2024-25 budget (FY25) budget envisions $16,100 additional revenue will be derived from contract services for ambassador hospitality and cleaning services, $20,00 in event sponsorship revenue, $40,000 from City Measure P to co-fund Downtown Social Service Outreach position, well as, $12,000 interest earned paid by financial institutions.

Fiscal Year 2025 (FY25)
BUDGET OF THE DOWNTOWN BERKELEY PROPERTY-BASED BUSINESS IMPROVEMENT DISTRICT (PBID)
By the Downtown Berkeley Association

REVENUE	
PBID Assessment Revenue	$1,818,699
Contract Services	$16,100
Interest Income and Other Revenue	$72,000
Total Revenue	$1,906,799
EXPENSES	
Environmental Enhancement Services*	$1,600,435
Marketing & Economic Enhancement Services	$368,509
General Administrative and Operating Expenses	$187,110
Total Expenses	$2,156,054

*Environmental enhancements include cleaning, hospitality, landscaping, and homeless outreach.

Exhibit B: DOWNTOWN BERKELEY PBID ASSESSMENT ROLL FY 2025

Prepared April 2024 for Fiscal Year 2025

			FY 2025 Assessment		
APN	Owner	Site Address	Private Parcels	Tax Exempt	Utility Roll
055- -1894-016-00	BANCROFT WAY PROPERTIES LLC	2030 BANCROFT WAY	$ 1,232.46		
057- -2059-009-00	1915 UNIVERSITY AVENUE PARTNER	1915 UNIVERSITY AVE	$ 1,582.84		
055- -1893-005-03	DWF VI VMG STADIUM LLC	2310 FULTON ST	$ 10,686.02		
057- -2022-019-01	1950 ADDISON APARTMENT JOINT VENT	1950 ADDISON ST	$ 15,479.28		
055- -1823-011-01	SUTTER BAY HOSPITALS	2104 DWIGHT WAY	$ 6,930.30		
057- -2016-021-01	1812 University Ave LLC	1812 UNIVERSITY AVE	$ 6,023.26		
057- -2024-007-01	1935 ADDISON STREET LLC	1935 ADDISON ST	$ 4,277.38		
057- -2060-001-00	1950 MLK LLC	1988 M L KING JR WAY	$ 21,609.66		
057- -2029-009-00	2015 BANCROFT FEE OWNER CA LLC	2105 BANCROFT WAY	$ 12,208.08		
057- -2046-001-00	1951 SHATTUCK LLC	2108 BERKELEY WAY	$ 9,352.12		
057- -2053-002-00	1974 SHATTUCK AVENUE LLC	1974 SHATTUCK AVE	$ 2,376.60		
057- -2026-007-02	2000 CENTER STREET LLC	2175 MILVIA ST	$ 16,408.50		
057- -2026-004-12	DUN SHERMAN S & KATHERINE Y ETAL	2068 CENTER ST	$ 2,279.96		
057- -2023-013-00	2001 CENTER STREET LLC	2001 CENTER ST	$ 11,464.64		
057- -2025-002-00	2008 SHATTUCK AVENUE LLC	2008 SHATTUCK AVE	$ 5,204.86		
055- -1894-014-03	2025 DURANT AVENUE LLC	2025 DURANT AVE	$ 15,105.54		
055- -1894-015-01	2028 BANCROFT WAY LLC	2028 BANCROFT WAY	$ 4,592.38		
057- -2025-017-03	2054 UNIVERSITY LLC	2054 UNIVERSITY AVE	$ 9,323.18		
057- -2031-011-00	2130 CENTER LLC	2130 CENTER ST	$ 6,457.40		
057- -2029-016-01	2176 KITTREDGE OWNER LLC	2150 KITTREDGE ST	$ 7,563.20		
057- -2023-001-00	2100 SHATTUCK AVE LP	2104 SHATTUCK AVE	$ 14,082.04		
057- -2030-001-00	2108 ALLSTON LLC	2108 ALLSTON WAY	$ 11,544.74		
057- -2029-013-00	2110 KITTREDGE LLC	2110 KITTREDGE ST	$ 9,878.08		
055- -1893-007-01	2124 BANCROFT WAY LLC	2124 BANCROFT WAY	$ 7,472.08		
057- -2024-010-02	384 PROMENADE LLC & WPG PROMENAD	1936 UNIVERSITY AVE	$ 10,670.32		
057- -2023-014-00	440 JACKSON STREET LLC	2115 MILVIA ST	$ 5,174.68		
057- -2060-022-00	LIN DIANA M TR	1801 UNIVERSITY AVE 301	$ 190.68		
057- -2060-046-00	ACAMPORA ROSE TR	1801 UNIVERSITY AVE 309	$ 190.68		
057- -2033-004-00	ADDISON BUILDING LLC	2044 KALA BAGAI WAY	$ 6,352.48		
057- -2022-014-01	ADDISON LLC	1912 ADDISON ST	$ 1,018.06		
055- -1893-006-01	2125 DURANT AVENUE LLC	2125 DURANT AVE	$ 394.10		
055- -1894-017-04	2322 SHATTUCK AVENUE LLC	2300 SHATTUCK AVE	$ 20,449.98		
055- -1896-004-00	2420 SHATTUCK AVENUE LLC	2428 SHATTUCK AVE	$ 1,358.36		
055- -1896-003-00	2420 SHATTUCK LLC	2420 SHATTUCK AVE	$ 1,746.48		
055- -1822-005-00	2524 SHATTUCK BLAKE LLC	2524 SHATTUCK AVE	$ 1,808.02		
057- -2024-013-00	2099 MLK OWNER LLC	2099 M L KING JR WAY	$ 2,795.30		
057- -2060-041-00	ALBANESE ANDRES & CELINA	1801 UNIVERSITY AVE 407	$ 190.68		
055- -1893-019-00	P T & T CO 279-1-12-6	0 DURANT AVE			$ 18,143.28
055- -1893-020-00	P T & T CO 279-1-1-4	0 BANCROFT WAY			$ 1,095.86
057- -2060-050-03	AREFI EHSAN & AREFY KATRIN TR	1809 UNIVERSITY AVE	$ 109.10		
057- -2030-010-00	AMHERST VENTURES LLC	2231 SHATTUCK AVE	$ 7,052.12		
057- -2049-024-00	SHARMA GAURI TR	1849 SHATTUCK AVE 404	$ 96.28		
057- -2050-031-01	AMISTAD HOUSE LLC	1810 SHATTUCK AVE	$ 5,247.58		
055- -1893-013-00	BAKER EDWARD TR	2327 SHATTUCK AVE	$ 335.74		
055- -1821-026-00	AMPRI INVESTMENTS INC	2030 BLAKE STC	$ 245.82		
055- -1821-025-00	BELGROVE ANGELA M & SWINDERMAN E	2030 BLAKE STD	$ 658.62		
055- -1892-001-01	BUDDHIST CHURCHES OF AMERICA	2140 DURANT AVE	$ 4,170.60		
055- -1821-027-00	AMPRI INVESTMENTS INC	2030 BLAKE STB	$ 245.32		
057- -2032-021-00	BERKELEY DOWNTOWN HOTEL OWNER	2121 CENTER ST	$ 82,706.08		
057- -2032-022-00	BANK OF AMERICA	2129 CENTER ST	$ 1,975.72		
057- -2028-013-00	AOCHI FUSAKO J TR	2000 KITTREDGE ST	$ 3,737.16		
057- -2032-018-00	ARLINGTON INVESTMENT CO	134BERKELEY SQ	$ 1,150.76		
057- -2025-024-00	BERKELEY JOINT POWERS FINANCIN	2015 ADDISON ST		$ 12,517.38	
057- -2059-007-00	AYYAD FRED & MONA	1929 UNIVERSITY AVE	$ 1,493.18		
057- -2016-025-01	BERKELEY CHAMBER OF COM	1834 UNIVERSITY AVE	$ 1,007.60		
055- -1824-015-00	BERKELEY FREE MARKET LLC	2567 SHATTUCK AVE	$ 5,559.50		
057- -2028-011-00	BERKELEY INN LLC	2001 BANCROFT WAY	$ 3,884.42		
057- -2029-004-00	BERKELEY LODGE NO 270 I O O F	2288 FULTON ST	$ 4,836.68		
057- -2049-037-00	BERKELEY LOFTS LLC	1803 UNIVERSITY AVE	$ 113.82		

Exhibit B: DOWNTOWN BERKELEY PBID ASSESSMENT ROLL FY 2025

Prepared April 2024 for Fiscal Year 2025

			FY 2025 Assessment		
APN	Owner	Site Address	Private Parcels	Tax Exempt	Utility Roll
057- -2049-038-00	BERKELEY LOFTS LLC	1849 SHATTUCK AVE C2	$ 322.90		
057- -2023-021-02	BERKELEY TRADITIONAL MUSIC FOU	2026 ADDISON ST	$ 2,240.04		
057- -2023-021-03	BERKELEY TRADITIONAL MUSIC FOU	2020 ADDISON ST	$ 2,455.40		
057- -2025-005-03	BERKELEY REPERTORY THEATRE	2071 ADDISON ST	$ 1,408.04		
057- -2025-008-00	BERKELEY REPERTORY THEATRE	2025 ADDISON ST	$ 4,395.76		
057- -2025-023-00	BERKELEY REPERTORY THEATRE	2009 ADDISON ST	$ 12,456.42		
057- -2046-002-00	REGENCY 2120 BERKELEY WAY LLC	2120 BERKELEY WAY	$ 9,100.90		
057- -2026-015-00	YOUNG MENS CHRISTIAN ASSOCIATION	2001 ALLSTON WAY	$ 20,216.42		
057- -2032-010-00	BETTENCOURT CHARLES A & JEANNE K	2109 KALA BAGAI WAY	$ 7,178.98		
057- -2032-017-00	BERKELEY STATION PARTNERS LLC	130BERKELEY SQ	$ 1,384.50		
057- -2020-004-00	BERKELEY UNIFIED SCHOOL DISTRICT	1980 ALLSTON WAY		$ 3,527.30	
057- -2020-005-03	BERKELEY UNIFIED SCHOOL DISTRICT	2223 M L KING JR WAY		$ 20,898.78	
055- -1894-007-02	BERKELEY UNIFIED SCHOOL DISTRICT	2000 BANCROFT WAY		$ 6,255.86	
057- -2060-050-01	BROWNING ROBERT P & MAIO LINDA R T	1801 UNIVERSITY AVE A	$ 106.44		
057- -2060-023-00	BIGGS RALPH E	1801 UNIVERSITY AVE 401	$ 190.68		
057- -2023-004-00	BOLLIBOKKA SHATTUCK LLC	2144 SHATTUCK AVE	$ 24,861.80		
057- -2027-012-00	BPR PROPERTIES BERKELEY LLC	2060 ALLSTON WAY C	$ 33,884.72		
055- -1895-041-00	CA AG LOGAN PARK PROPERTY OWNER	2352 SHATTUCK AVE	$ 25,985.88		
055- -1895-042-00	CA AG LOGAN PARK PROPERTY OWNER	2370 SHATTUCK AVE	$ 2,797.66		
057- -2049-030-00	BROOKS JODY & WIGGIN ANNETTE	1849 SHATTUCK AVE 406	$ 96.28		
057- -2022-008-00	BUTLER LARRY TR	1907 CENTER ST	$ 1,508.20		
057- -2023-003-00	C & V SHATTUCK LLC	2120 SHATTUCK AVE	$ 1,728.50		
057- -2060-030-00	CALOCA ROSA N TR	1801 UNIVERSITY AVE 204	$ 190.68		
057- -2031-009-00	C S COMPANY	2161 SHATTUCK AVE	$ 11,398.46		
057- -2023-016-01	CENTURY PROPERTIES LLC & SILVEIRA I	0 MILVIA ST	$ 1,906.82		
057- -2034-007-00	CALIF STATE EMPL CR UN	2033 KALA BAGAI WAY	$ 1,651.02		
055- -1891-012-00	CHAN KUM L & ANDREW TRS & CHAN KU	2429 SHATTUCK AVE	$ 4,777.98		
055- -1893-011-00	CALIFORNIA FIRST BANK	2107 DURANT AVE	$ 1,069.14		
055- -1893-012-00	CALIFORNIA FIRST BANK	2333 SHATTUCK AVE	$ 4,505.50		
057- -2029-015-00	CARLSON SUSAN TR	2138 KITTREDGE ST	$ 2,929.68		
057- -2030-003-00	CERFAM LLC	2134 ALLSTON WAY	$ 2,555.70		
057- -2060-040-00	CHANG ANDY T & TERRY L ETAL	1801 UNIVERSITY AVE 307	$ 190.68		
057- -2032-012-00	CHENG FRANK & DOROTHY	2112 ADDISON ST	$ 4,837.22		
057- -2016-003-00	CHENG TE C TR	2070 M L KING JR WAY	$ 812.56		
057- -2060-028-00	CHUA SHIRLEY C & SUISUILYN	1801 UNIVERSITY AVE 303	$ 190.68		
057- -2017-016-01	CITY OF BERKELEY	2100 M L KING JR WAY		$ 19,684.54	
057- -2021-001-00	CITY OF BERKELEY	2180 MILVIA ST		$ 17,066.78	
057- -2021-002-00	CITY OF BERKELEY	0 CENTER ST		$ 17,890.30	
057- -2022-006-00	CITY OF BERKELEY	1947 CENTER ST		$ 9,935.12	
057- -2022-020-00	CITY OF BERKELEY	0 CENTER ST		$ 4,277.22	
057- -2023-020-03	CITY OF BERKELEY	2025 CENTER ST		$ 47,588.62	
057- -2028-005-00	CITY OF BERKELEY	2031 BANCROFT WAY		$ 3,250.52	
057- -2028-017-01	CITY OF BERKELEY	2090 KITTREDGE ST		$ 14,739.46	
057- -2053-022-01	CITY OF BERKELEY	0 BERKELEY WAY		$ 3,015.70	
057- -2118-001-00	CITY OF BERKELEY	2200 FULTON ST		$ -	
057- -2119-001-00	CITY OF BERKELEY	2200 FULTON STA		$ 8,352.00	
057- -2122-001-00	CITY OF BERKELEY	2012 BERKELEY WAY		$ 11,199.02	
057- -2122-002-00	CITY OF BERKELEY	BERKELEY WAY		$ 493.88	
057- -2060-026-00	CORR JAMES C & MICHAELS MARY F TRS	1801 UNIVERSITY AVE 402	$ 190.68		
057- -2122-003-00	CITY OF BERKELEY	2020 BERKELEY WAY		$ 1,493.64	
057- -2031-001-01	CORE BERKELEY OXFORD LLC	2128 OXFORD ST	$ 5,360.02		
057- -2031-013-00	CORE BERKELEY OXFORD LLC	2142 CENTER ST	$ 9,254.40		
057- -2031-014-00	CORE BERKELEY OXFORD LLC	2136 CENTER ST	$ 3,105.98		
055- -1895-019-01	CPF BERKELEY VARSITY LLC	2024 DURANT AVE	$ 11,432.56		
057- -2049-021-00	DANG DENNIS H	1849 SHATTUCK AVE 403	$ 96.28		
055- -1822-003-02	CRESTON DEVELOPMENTS LLC	2514 SHATTUCK AVE	$ 1,865.40		
057- -2049-020-00	DELBONTA MATTHEW A & BELL JENNIFE	1849 SHATTUCK AVE 303	$ 96.28		
057- -2026-013-00	CSQ FEE OWNER CA LLC	2168 SHATTUCK AVE	$ 14,245.66		
057- -2023-026-00	CVBAF ACQ LLC	2055 CENTER ST	$ 43,465.64		

Exhibit B: DOWNTOWN BERKELEY PBID ASSESSMENT ROLL FY 2025

Prepared April 2024 for Fiscal Year 2025

			FY 2025 Assessment		
APN	Owner	Site Address	Private Parcels	Tax Exempt	Utility Roll
055- -1821-024-02	CYH COMPANY INC	2034 BLAKE ST	$ 3,980.98		
057- -2120-001-00	DAVID BROWER CENTER	2150 ALLSTON WAY	$ 6,961.78		
055- -1890-012-01	DWIGHT WAY RESIDENTIAL PROPERTY (	2107 DWIGHT WAY	$ 13,124.58		
055- -1892-015-00	DURANT BERKELEY PARTNERS LP	2367 SHATTUCK AVE	$ 1,824.12		
055- -1892-016-00	DURANT BERKELEY PARTNERS LP	2349 SHATTUCK AVE	$ 3,079.12		
057- -2031-003-00	DWF VI VMG ALLSTON LLC	2161 ALLSTON WAY	$ 11,695.64		
057- -2030-009-00	WISE STANLEY & WISE ADDINGTON L JR	2115 KITTREDGE ST	$ 7,254.74		
057- -2024-004-00	EAST BAY MEDIA CENTER	1939 ADDISON ST	$ 622.44		
057- -2024-008-01	EAST END INVESTORS GROUP INC	1950 UNIVERSITY AVE	$ 4,283.14		
055- -1894-006-00	FIGUEROA JOSEFINA D & XAVIER M	2017 DURANT AVE	$ 1,017.96		
055- -1892-013-01	EASTBOROUGH PROPERTIES LP	2399 SHATTUCK AVE	$ 5,517.40		
057- -2053-003-01	FIFTH KEIL CO	1998 SHATTUCK AVE	$ 5,392.38		
057- -2053-003-02	FIFTH KEIL CO	1984 SHATTUCK AVE	$ 1,167.04		
057- -2022-003-01	FIRST MILVIA LLC	2108 MILVIA ST	$ 1,143.18		
057- -2022-017-01	FIRST MILVIA LLC	2100 MILVIA ST	$ 14,613.12		
057- -2026-002-01	FIRST SHATTUCK LLC	2150 SHATTUCK AVE	$ 48,672.10		
055- -1896-002-00	FUJIKAWA MARK A & GEORGIA TRS & CH	2414 SHATTUCK AVE	$ 382.10		
057- -2026-005-01	FIRST SHATTUCK LLC	2043 ALLSTON WAY	$ 5,846.42		
055- -1822-009-01	BERKELEY VQOF II SPE LLC	2035 BLAKE ST	$ 11,884.18		
057- -2026-012-03	FIRST SHATTUCK LLC	2052 CENTER ST	$ 60,382.02		
057- -2028-002-00	FU JIHWA & JI H TRS	2270 SHATTUCK AVE	$ 2,269.20		
057- -2049-040-00	GEDR HILLSIDE LLC	2102 DELAWARE ST	$ 5,773.02		
055- -1896-004-00	2420 SHATTUCK AVENUE LLC	2428 SHATTUCK AVE	$ 1,325.26		
055- -1895-015-01	GENIRBERG SIBLINGS LLC	2000 DURANT AVE	$ 4,928.62		
057- -2049-022-00	GIEBELER PERSIS A	1849 SHATTUCK AVE 204	$ 96.28		
057- -2049-026-00	GILMOUR SUSAN R & THOMAS S	1849 SHATTUCK AVE 305	$ 96.28		
055- -1892-014-00	GORDON JOHN K & MITCHELL JANIS L TF	2375 SHATTUCK AVE	$ 893.66		
055- -1897-006-00	GORDON JOHN K & MITCHELL JANIS L TF	2450 SHATTUCK AVE	$ 4,613.74		
057- -2024-021-01	GORDON JOHN K & MITCHELL JANIS L TF	1952 UNIVERSITY AVE	$ 4,690.56		
057- -2025-005-02	GORDON JOHN K & MITCHELL JANIS L TF	2024 SHATTUCK AVE	$ 6,174.94		
057- -2025-006-00	GORDON JOHN K & MITCHELL JANIS L TF	2036 SHATTUCK AVE	$ 9,060.88		
057- -2025-019-00	GORDON JOHN K & MITCHELL JANIS L TF	2058 UNIVERSITY AVE	$ 2,484.10		
057- -2025-022-00	GORDON JOHN K & MITCHELL JANIS L TF	2014 SHATTUCK AVE	$ 1,728.50		
057- -2029-011-00	GORDON JOHN K & MITCHELL JANIS L TF	2277 SHATTUCK AVE	$ 2,430.18		
057- -2030-011-00	GORDON JOHN K & MITCHELL JANIS TRS	2225 SHATTUCK AVE	$ 1,124.76		
057- -2025-004-00	GLYNN EDITH W TR	2020 SHATTUCK AVE	$ 3,137.90		
057- -2028-014-02	CALIFORNIA COMMUNITY HOUSING AGE	2022 KITTREDGE ST		$ 47,442.24	
057- -2053-004-02	GLYNN EDITH W TR	2071 UNIVERSITY AVE	$ 2,784.18		
057- -2034-009-00	GOLDEN CA PROPERTY 1 LLC	2017 KALA BAGAI WAY	$ 1,868.74		
057- -2049-029-00	GOTTLIEB SHARONA D	1849 SHATTUCK AVE 306	$ 96.28		
057- -2024-015-03	GREENLINING INSTITUTE	1916 UNIVERSITY AVE	$ 2,544.20		
057- -2060-036-00	HAMMOND LUCIA TR	1801 UNIVERSITY AVE 206	$ 190.68		
057- -2059-006-00	HAN CHANG S & YOON J	1941 UNIVERSITY AVE	$ 1,967.40		
057- -2029-012-00	H DRAKE CORPORATION	2271 SHATTUCK AVE	$ 2,683.84		
057- -2027-002-02	HEAD LAMA TIBETAN NYINGMA MEDITAT	2210 HAROLD WAY	$ 1,838.38		
057- -2027-002-03	HEAD LAMA TIBETAN NYINGMA MEDITAT	2018 ALLSTON WAY	$ 6,156.54		
057- -2027-004-00	HEAD LAMA TIBETAN NYINGMAPA MEDIT	2222 HAROLD WAY	$ 14,707.24		
055- -1821-028-00	HA YANGWON K	2030 BLAKE STA	$ 266.42		
057- -2034-006-00	OKADA BROS INC	2037 KALA BAGAI WAY	$ 7,825.94		
057- -2031-006-00	HIRAHARA FAMILY LIMITED PARTNERSH	2187 SHATTUCK AVE	$ 5,919.18		
057- -2016-027-02	HADJIAN SIMIN & PAYVAND ETAL	1840 UNIVERSITY AVE	$ 3,512.70		
057- -2027-011-00	CA STUDENT LIVING BERKELEY LLC	2070 ALLSTON WAY	$ 12,001.04		
057- -2060-043-00	HART ELIZABETH	1801 UNIVERSITY AVE 308	$ 190.68		
057- -2059-010-00	HULTGREN ROBERT P & SUSAN S TRS	1909 UNIVERSITY AVE	$ 1,589.24		
057- -2049-019-00	HUYNH MATTHEW & REGINA TRS	1849 SHATTUCK AVE 203	$ 96.28		
057- -2032-015-00	JANTA REALTY INC & BATRA MANJUL TR	2100 KALA BAGAI WAY	$ 1,635.28		
057- -2060-037-00	HERNANDEZ KARYN L	1801 UNIVERSITY AVE 306	$ 190.68		
057- -2027-010-00	HSR BERKELEY INVESTMENTS LLC	2060 ALLSTON WAY A	$ 33,962.78		
057- -2049-015-00	HU VICTORIA L	1849 SHATTUCK AVE 401	$ 96.28		

Exhibit B: DOWNTOWN BERKELEY PBID ASSESSMENT ROLL FY 2025

Prepared April 2024 for Fiscal Year 2025

			FY 2025 Assessment		
APN	Owner	Site Address	Private Parcels	Tax Exempt	Utility Roll
055- -1894-002-00	JINDO VENTURES LLC	2037 DURANT AVE	$ 4,224.90		
057- -2053-001-00	JLLJAR LLC	1950 SHATTUCK AVE	$ 3,563.86		
057- -2025-016-00	KAM YIU LAM & SHUN TO LO LAM LP	2042 UNIVERSITY AVE	$ 3,812.10		
055- -1821-003-00	JOHNSTON STEWART L	2558 SHATTUCK AVE	$ 1,972.64		
057- -2060-006-00	KAMI BARRY G & CATHY J TRS	1813 UNIVERSITY AVE	$ 2,223.64		
057- -2060-004-00	KANG BU U & JEONG H TRS & KANG PHIL	1823 UNIVERSITY AVE	$ 1,728.22		
057- -2060-005-00	KANG BU U & JEONG H TRS & KANG PHIL	1821 UNIVERSITY AVE	$ 1,375.92		
055- -1821-004-00	JOHNSTON STEWART L	2576 SHATTUCK AVE	$ 1,134.28		
057- -2049-023-00	KALOFONOS ANGELIKI & MARIA S	1849 SHATTUCK AVE 304	$ 96.28		
057- -2032-011-00	KAMENY HARVEY TR	2101 KALA BAGAI WAY	$ 4,315.46		
057- -2030-008-00	KAO ROGER Y	2117 KITTREDGE ST	$ 2,647.60		
057- -2032-019-00	KAPLAN EDUCATIONAL CENTERS INC	2144 KALA BAGAI WAY	$ 4,060.44		
057- -2031-002-00	KASHANI NASSER & PAMELA L TRS	2171 ALLSTON WAY	$ 10,227.82		
057- -2060-031-00	KEAS MABEL E	1801 UNIVERSITY AVE 304	$ 190.68		
057- -2060-050-05	KENNEDY PATRICK C & JULIE M TRS	1809 UNIVERSITY AVE	$ 104.48		
057- -2060-050-06	KENNEDY PATRICK C & JULIE M TRS	1807 UNIVERSITY AVE	$ 111.52		
057- -2060-050-07	KENNEDY PATRICK C & JULIE TRS	1807 UNIVERSITY AVE A	$ 33.06		
057- -2060-044-00	KEHRET JOSEPH G	1801 UNIVERSITY AVE 408	$ 190.68		
057- -2049-034-00	KHO ERIC L	1849 SHATTUCK AVE 208	$ 96.28		
057- -2053-005-00	KL2067 UNIVERSITY LLC	2067 UNIVERSITY AVE	$ 7,582.62		
057- -2030-012-00	KOOYMAN STEVEN P& SUSAN J TRS	2219 SHATTUCK AVE	$ 2,628.20		
057- -2060-003-00	KLATT PETER & JOAN C TRS	1849 UNIVERSITY AVE	$ 2,062.64		
057- -2049-016-00	LAI ROGER Y	1849 SHATTUCK AVE 202	$ 96.28		
055- -1896-005-00	LAIR QOZB LLC	2440 SHATTUCK AVE	$ 1,448.56		
055- -1893-015-01	LAKIREDDY PRASAD R & SANTI	2323 SHATTUCK AVE	$ 3,308.88		
055- -1897-002-00	LAKIREDDY PRASAD R & SANTI & HANIM	2484 SHATTUCK AVE	$ 9,468.94		
057- -2024-018-01	LAKIREDDY PRASAD R & SANTI	1942 UNIVERSITY AVE	$ 5,811.68		
057- -2059-008-00	LAM PAULINE P ETAL	1921 UNIVERSITY AVE	$ 1,310.14		
057- -2023-012-00	LANGUAGE STUDIES INC	2015 CENTER ST	$ 4,592.22		
057- -2025-001-00	LAUSON LLC	2000 SHATTUCK AVE	$ 7,147.90		
057- -2024-011-00	LEE SANG H & CHUNG EUNJUNG	1915 ADDISON ST	$ 2,171.02		
057- -2049-017-00	LHAKEY PEMA	1849 SHATTUCK AVE 302	$ 96.28		
057- -2060-024-00	LIN DIANA M TR	1801 UNIVERSITY AVE 202	$ 190.68		
057- -2049-014-00	MAMIN ADRIENNE & MAMIN HARRY J & M	1849 SHATTUCK AVE 301	$ 96.28		
057- -2034-010-00	LORE BCA 2120 L P	2015 KALA BAGAI WAY	$ 16,533.50		
057- -2034-011-00	LIU JIM K	2138 UNIVERSITY AVE	$ 2,888.18		
057- -2060-032-00	LYON DAVID	1801 UNIVERSITY AVE 404	$ 190.68		
057- -2053-012-00	MAHRAT ABDUL & REEM TRS	1949 MILVIA ST	$ 2,854.18		
057- -2025-010-01	MAIA HOLDINGS LLC	2001 ADDISON ST	$ 11,619.60		
057- -2031-004-00	MAGNES MUSEUM FOUNDATION	2121 ALLSTON WAY	$ 12,032.54		
057- -2060-034-00	MAK KWAN & LISHAN	1801 UNIVERSITY AVE 305	$ 190.68		
057- -2050-005-00	MALIN ROBERT O INC	1848 SHATTUCK AVE	$ 1,336.96		
057- -2031-005-00	MARTIN DAVID J & MARILYN R TRS ETAL	2115 ALLSTON WAY	$ 2,361.90		
057- -2031-007-00	MARTIN DAVID J & MARILYN R TRS ETAL	2181 SHATTUCK AVE	$ 2,683.60		
057- -2031-008-00	MARTIN DAVID J & MARILYN R TRS E & M	2171 SHATTUCK AVE	$ 4,645.26		
057- -2051-004-00	MARTIN DAVID J & MARILYN R TRS ETAL	1920 SHATTUCK AVE	$ 1,036.42		
057- -2060-025-00	MAO YULI	1801 UNIVERSITY AVE 302	$ 190.68		
057- -2046-008-04	MCREF ACHENSON LLC	2125 UNIVERSITY AVE	$ 40,520.76		
057- -2046-011-01	MCREF ACHENSON LLC	1987 SHATTUCK AVE	$ 18,157.52		
057- -2051-053-00	MARTIN REID & JOHN	1912SHATTUCK AVE	$ 806.72		
057- -2046-009-00	MCREF BACHENHEIMER LLC	2119 UNIVERSITY AVE	$ 12,180.80		
057- -2049-036-00	MEJIA CESAR A	1849 SHATTUCK AVE 408	$ 96.28		
057- -2034-008-00	MEVLANARUMI LLC	2025 KALA BAGAI WAY	$ 1,910.48		
057- -2033-001-01	MO SHATTUCK LLC	2000 KALA BAGAI WAY	$ 9,057.60		
057- -2016-002-00	MOAVEN SAGHI TR	2054 M L KING JR WAY	$ 369.94		
057- -2051-006-01	MORAN EVERETT S JR & CATHARINE TR	1936 SHATTUCK AVE	$ 2,455.74		
055- -1822-002-01	MMP CHESTNUT LLC	2506 SHATTUCK AVE	$ 1,330.52		
057- -2051-005-00	NINETEEN HUNDRED TWENTY SIX SHAT	1926 SHATTUCK AVE	$ 1,000.56		
055- -1821-001-01	NATURAL GREEN CORPORATION	2550 SHATTUCK AVE	$ 4,615.06		

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			FY 2025 Assessment		
APN	Owner	Site Address	Private Parcels	Tax Exempt	Utility Roll
057- -2049-031-00	NIRAMOL CHITRCHARATN 2016 LIVING T	1849 SHATTUCK AVE 207	$ 96.28		
057- -2049-032-00	NISEN FREDERICK P	1849 SHATTUCK AVE 307	$ 96.28		
057- -2024-014-00	NORCAL PROPERTIES LLC	1900 UNIVERSITY AVE	$ 4,083.84		
057- -2060-047-00	VAJJRAVEL MURALLI & RAJALAKSHMI HE	1801 UNIVERSITY AVE 409	$ 190.68		
057- -2016-024-01	OHAY PHILIP L & BARBARA L TRS	1824 UNIVERSITY AVE	$ 3,417.96		
057- -2120-002-00	OXFORD COMMERCIAL LLC	2200 OXFORD ST	$ 4,059.84		
057- -2121-001-00	OXFORD PLAZA LP	2175 KITTREDGE ST	$ 17,926.00		
057- -2016-018-01	P P M&B BERKELEY LLC	1800 UNIVERSITY AVE	$ 2,794.74		
055- -1820-001-01	PARKERSHATTUCK OWNER LLC	2600 SHATTUCK AVE	$ 14,477.40		
055- -1821-005-00	PARKERSHATTUCK OWNER LLC	2598 SHATTUCK AVE	$ 1,274.76		
057- -2028-004-00	PASAND COURTYARD LLC	2276 SHATTUCK AVE	$ 12,223.58		
057- -2029-014-00	PELEG YORAM & BARBARA L TRS & WEI	2124 KITTREDGE ST	$ 3,240.30		
057- -2022-005-01	PERALTA COMMUNITY COLLEGE DISTRI	2118 MILVIA ST		$ 2,811.68	
057- -2026-010-00	PERALTA COMMUNITY COLLEGE DISTRI	2016 CENTER ST		$ 1,435.10	
057- -2026-014-00	PERALTA COMMUNITY COLLEGE DISTRI	2048 CENTER ST		$ 27,220.76	
057- -2060-048-00	PATHMARAJAH CANAGARATNAM TR	1801 UNIVERSITY AVE 210	$ 190.68		
057- -2026-004-05	LMP SHATTUCK PROPERTY OWNER LLC	2190 SHATTUCK AVE	$ 19,525.10		
057- -2053-006-00	REDDY HANUMANDLA J & HANUMANDLA	2057 UNIVERSITY AVE	$ 6,454.48		
057- -2025-021-00	REDDY HANUMANDLA J & HANUMANDLA	2066 UNIVERSITY AVE	$ 6,673.24		
055- -1891-014-01	REGENTS OF THE UNIVERSITY OF CALIF	2401 SHATTUCK AVE		$ 6,880.16	
057- -2029-007-02	REGENTS OF THE UNIVERSITY OF CALIF	2113 BANCROFT WAY		$ 4,795.08	
057- -2032-014-01	REGENTS OF THE UNIVERSITY OF CALIF	2120 OXFORD ST		$ 14,990.70	
057- -2034-003-00	REGENTS OF THE UNIVERSITY OF CALIF	0 ADDISON ST		$ 812.50	
057- -2034-004-00	REGENTS OF THE UNIVERSITY OF CALIF	2123 ADDISON ST		$ 269.06	
057- -2034-012-00	REGENTS OF THE UNIVERSITY OF CALIF	2154 UNIVERSITY AVE		$ 4,466.12	
057- -2034-014-02	REGENTS OF THE UNIVERSITY OF CALIF	2199 ADDISON ST		$ 73.76	
057- -2034-014-03	REGENTS OF THE UNIVERSITY OF CALIF	2199 ADDISON ST		$ 29,610.80	
055- -1894-003-01	PERSIAN CENTER	2029 DURANT AVE	$ 1,039.40		
057- -2045-002-00	REGENTS OF THE UNIVERSITY OF CALIF	1952 OXFORD ST		$ 2,179.18	
057- -2045-003-00	REGENTS OF THE UNIVERSITY OF CALIF	1990 OXFORD ST		$ 939.22	
057- -2047-004-00	REGENTS OF THE UNIVERSITY OF CALIF	1900 OXFORD ST		$ 47,179.14	
057- -2045-006-00	REGENTS OF THE UNIVERSITY OF CALIF	1925 WALNUT ST		$ 424.38	
057- -2045-001-00	REGENTS OF THE UNIVERSITY OF CALIF	1921 WALNUT ST		$ 683.82	
057- -2054-012-01	REGENTS OF UNIVERSITY CALIFORNIA	1995 UNIVERSITY AVE		$ 17,877.88	
057- -2045-005-00	REGENTS OF THE UNIVERSITY OF CALIF	1933 WALNUT ST		$ 169.86	
057- -2045-004-00	REGENTS UNIVERSITY OF CALIFORN	2161 UNIVERSITY AVE		$ 2,750.08	
057- -2023-023-00	RILCO ADDISON LLC	2030 ADDISON ST	$ 11,927.08		
057- -2023-024-00	RILCO ADDISON LLC	2040 ADDISON ST	$ 5,115.60		
057- -2049-033-00	RYU DAVID J & WU CHRISTINA L TRS	1849 SHATTUCK AVE 407	$ 96.28		
055- -1895-018-01	SATELLITE FIRST COMMUNITIES L P	2020 DURANT AVE	$ 2,969.10		
055- -1896-003-00	2420 SHATTUCK LLC	2420 SHATTUCK AVE	$ 1,533.98		
057- -2049-028-00	SCHIRLE ANN M TR	1849 SHATTUCK AVE 206	$ 96.28		
055- -1893-016-00	SEGERBERG KENNETH TR	2301 SHATTUCK AVE	$ 2,499.48		
057- -2024-016-02	SEVERY MICHELLE A TR & AARONIA MIC	1926 UNIVERSITY AVE	$ 638.24		
057- -2022-009-02	SHAMSZAD SASHA G & MERIDETH B TRS	2105 M L KING JR WAY	$ 2,780.58		
057- -2022-013-04	SHAMSZAD SASHA G & MERIDETH B TRS	1900 ADDISON ST	$ 4,212.56		
057- -2024-002-02	SHAMSZAD SASHA G & MERIDETH B TRS	2020 MILVIA ST	$ 9,390.62		
057- -2033-003-00	SHAMSZAD SASHA G & MERIDETH B TRS	2021 SHATTUCK AVE	$ 7,523.90		
055- -1891-013-01	SHATTUCK SENIOR HOMES ASSOCIATES	2421 SHATTUCK AVE	$ 1,513.20		
057- -2023-025-00	RUEGG & ELLSWORTH	2072 ADDISON ST	$ 13,699.50		
055- -1897-001-03	SHATTUCK WICKS PARTNERSHIP LTD	2480 SHATTUCK AVE	$ 2,929.60		
055- -1822-006-00	SHEN TSUI Y & WU YEU B	2530 SHATTUCK AVE	$ 1,710.46		
057- -2060-038-00	SHOJI JOSEPH	1801 UNIVERSITY AVE 406	$ 190.68		
057- -2016-022-00	SHREE LAXMI LLC	1822 UNIVERSITY AVE	$ 3,766.32		
057- -2053-014-02	SHRIMATIS LIMITED INC	2011 UNIVERSITY AVE	$ 2,361.64		
057- -2060-045-00	SIKAFFY AMAL	1801 UNIVERSITY AVE 209	$ 190.68		
055- -1824-016-00	SOUTHWICK TIMOTHY K & SUSAN E TRS	2555 SHATTUCK AVE	$ 1,408.98		
055- -1892-018-01	SOUTHWICK TIMOTHY K & SUSAN E TRS	2110 DURANT AVE	$ 3,207.42		
055- -1896-001-00	SOUTHWICK TIMOTHY K & SUSAN E TRS	2410 SHATTUCK AVE	$ 3,655.64		

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Prepared April 2024 for Fiscal Year 2025

			FY 2025 Assessment		
APN	Owner	Site Address	Private Parcels	Tax Exempt	Utility Roll
057- -2060-002-00	SOUTHWICK TIMOTHY SR & SUSAN TRS	1865 UNIVERSITY AVE	$ 3,090.62		
057- -2032-016-00	SPITZER NORMAN S & MARY J TRS	2115 SHATTUCK AVE	$ 1,591.68		
057- -2049-013-00	SONG JIA Y	1849 SHATTUCK AVE 201	$ 96.28		
057- -2023-017-01	STERLING BERKELEY ADDISON L P	2101 MILVIA ST	$ 3,959.64		
057- -2030-002-00	STERLING BERKELEY ALLSTON LP	2116 ALLSTON WAY	$ 20,425.84		
055- -1890-013-02	STERLING BERKELEY HASTE LP	2451 SHATTUCK AVE	$ 13,787.04		
057- -2025-013-01	BUILDING OWNER	2000 UNIVERSITY	$ 1,298.76		
057- -2025-014-00	STERLING BERKELEY UNIVERSITY AVE L	2004 UNIVERSITY AVE	$ 7,771.10		
057- -2047-002-01	STERLING BERKELEY OXFORD LP	1910 OXFORD ST	$ 11,180.20		
057- -2024-001-02	STONEFIRE PARTNERS LLC	1974 UNIVERSITY AVE	$ 16,624.34		
057- -2049-035-00	SU FU & CHUANG C ETAL	1849 SHATTUCK AVE 308	$ 96.28		
055- -1823-011-01	SUTTER BAY HOSPITALS	2104 DWIGHT WAY	$ 7,103.56		
057- -2060-035-00	SWANSON LINDA L	1801 UNIVERSITY AVE 405	$ 190.68		
057- -2049-025-00	SWEENEY ZEPHYR & DENNIS A	1849 SHATTUCK AVE 205	$ 96.28		
057- -2060-042-00	SZABO MARSHIKA L	1801 UNIVERSITY AVE 208	$ 190.68		
057- -2053-008-01	TALAI MOHAMMAD E & KOKAB S TRS & K	2035 UNIVERSITY AVE	$ 5,788.92		
057- -2060-033-00	TAVAKOLIZADEH MEHDI	1801 UNIVERSITY AVE 205	$ 190.68		
055- -1824-014-00	THALLAUG KIRSTEN TR & THALLAUG HA	2105 PARKER ST	$ 4,259.10		
057- -2060-027-00	THEVANAYAGAM SABANAYAGAM & VASU	1801 UNIVERSITY AVE 203	$ 190.68		
057- -2060-049-00	THOMAS HERB TR	1801 UNIVERSITY AVE 310	$ 190.68		
057- -2049-018-00	TIPHANE GUY TR	1849 SHATTUCK AVE 402	$ 96.28		
057- -2051-051- 00	TIPPING STEVEN B & ZENIADA L T	1900 SHATTUCK AVE	$ 2,052.30		
057- -2051-052-00	TIPPING ZENIADA L TR	1908 SHATTUCK AVE	$ 1,040.58		
057- -2053-007-00	TRILINK REAL ESTATE INVESTMENT & DE	2041 UNIVERSITY AVE	$ 7,990.62		
057- -2025-015-00	U C STUDIOS LP	2018 UNIVERSITY AVE	$ 13,429.60		
057- -20270-05-00	UNITED STATES POSTAL SERVICE	0 MILVIA ST		$ 12,809.64	
055- -1825-015-02	GLOBAL ALLIANCE FOR PROGRESS LLC	2621 SHATTUCK AVE	$ 7,948.14		
055- -1825-019-00	GLOBAL ALLIANCE FOR PROGRESS LLC	2609 SHATTUCK AVE	$ 3,535.38		
057- -2024-012-00	VEDENSKY PROPERTIES LLC	1911 ADDISON ST	$ 2,783.70		
055- -1893-018-00	VERO PROPERTIES LLC	2126 BANCROFT WAY	$ 1,048.50		
057- -2051-007-00	VINLAND PROPERTY INVETMENT LLC	2053 BERKELEY WAY	$ 1,308.68		
057- -2028-003-00	2274 SHATTUCK QOZB LLC	2274 SHATTUCK AVE	$ 15,109.38		
057- -2060-039-00	WAGELE NICHOLAS	1801 UNIVERSITY AVE 207	$ 190.68		
057- -2028-012-00	WANDER ROBERT H & INGRID	2235 MILVIA ST	$ 692.32		
055- -1822-001-00	WONG FRANKLIN & PUI T ETAL	2500 SHATTUCK AVE	$ 1,831.08		
057- -2060-029-00	WONG MEI L & KUOCHEN	1801 UNIVERSITY AVE 403	$ 190.68		
057- -2031-010-00	WU SHU F TR	2124 CENTER ST	$ 3,664.44		
057- -2049-027-00	YANG JUDY C TR & YANG LUCINDA ETAL	1849 SHATTUCK AVE 405	$ 96.28		
057- -2034-005-00	YANIV GERSHON TR & NEVO DALIA TR	2119 ADDISON ST	$ 5,653.38		
057- -2059-011-00	YEARWOOD INES L & KAHLIL & RODRIGU	1901 UNIVERSITY AVE	$ 1,637.96		
057- -2053-011-00	YEE DAVID	2017 UNIVERSITY AVE	$ 2,342.96		
057- -2060-021-00	YEH JENG R & YANG CHINGMEI TRS	1801 UNIVERSITY AVE 201	$ 190.68		
057- -2029-010-02	YOUNG JAMES C & EDDIE JR	2281 SHATTUCK AVE	$ 1,023.14		
057- -2029-010-01	YOUNG JAMES C & YOUNG EDDIE JR	2283 SHATTUCK AVE	$ 766.30		
057- -2022-018-00	YOUNG MENS CHRISTIAN ASSOCIATION	2109 M L KING JR WAY	$ 2,000.34		
055- -1893-001-00	YU INN N TR	2190 BANCROFT WAY	$ 2,216.00		
055- -1822-004-00	YU WAH Y & RUI C TRS	2520 SHATTUCK AVE	$ 789.54		
057- -2023-002-00	ZAC ENTERPRISE LLC	2116 SHATTUCK AVE	$ 2,044.98		
TOTAL:			**$ 1,632,513.04**	**$ 428,007.28**	**$ 19,239.14**
	Total Count of Properties	343	302	39	2
	County Fee @1.7% (on Private Parcels):		$ 27,752.72		
	Net Assessment Revenue (Private Parcels):		$ 1,604,760.32		
	Total Assessment Revenue:				**$2,052,007**

Note: Data for APN, Owner, and Land Use from the City's Land Management System is current as of April 10, 2024.

10

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Eleanor Hollander, Economic Development Manager

Subject: Contracts: Fine Art Services Providers for the Public Art Collection

RECOMMENDATION

Adopt three Resolutions authorizing the City Manager to execute three contracts and any associated amendments with the following companies for on-call fine art services for the City of Berkeley's Public Art Collection, for a contract period through June 30, 2026.

- Gizmo Art Production, Inc., for an amount not to exceed $200,000.
- ARG Conservation Services for an amount not to exceed $150,000.
- Modify the existing Atthowe Fine Art Service for amount not to exceed $400,000 (thereby increasing Contract Number 32300137 by $200,000).

FISCAL IMPACTS OF RECOMMENDATION

Funding ($550,000) for Fine Art Service Provider contracts is available in the Fiscal Year 2024 budget, from the Cultural Trust Fund, fund number: 148-21-208-252-0000-000-446-612990.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley's Public Art Collection comprises approximately 50 outdoor, permanently-sited artworks including sculpture, architectural design elements, mosaics, tile artworks, and murals. It also includes over 50 portable artworks such as etchings, paintings, textiles and prints displayed in City buildings. The City is charged with the maintenance and conservation of the existing collection, as well as the acquisition of new artworks through the public art commissioning process.

Many consulting services are needed to carry out this work on an ongoing basis. This includes specialized artwork conservation, storage, fabrication, framing, transportation, installation, audio/visual services, and documentation. It also includes curatorial, project management and registrar services specific to the field of public art. As the Civic Arts Program continues to expand its capacity to deliver more public artwork to the City while continuing to care for the existing collection, the demand for these contracted services has increased.

BACKGROUND

On February 24, 2021, Civic Arts Program staff issued Request for Qualifications (RFQ) Specification No. 21-11438-C, for a Prequalified Pool of Fine Art Services Providers.

The following services were included in the RFQ:

A. Contractors to install and de-install large-scale works of public art

B. Fine Art Conservators

C. Art Care Technicians, Audio Visual Technicians, and Artwork Preparators

D. Fine Art Transportation and Storage

E. Art Photography, Videography, Graphic Design, Computer Aided Design (CAD) for Artwork Placement Renderings, Digital Imaging, and Sign Makers

F. Fine Art Framing Services

G. Fine Art Fabrication

H. Public Art Curation and Project Management

I. Art Collection Registrar Services

A panel comprised of City staff and an outside arts professional evaluated and scored 30 applicants to establish a prequalified pool of contractors that met the requirements for each service category. On May 23, 2023, Council authorized contract amounts for the following prequalified service providers:

- Atthowe Fine Art Services, for an amount not to exceed $200,000.
- Kala Art Institute, for an amount not to exceed $100,000.
- Preservation Arts LLC, for an amount not to exceed $200,000.
- ShipArt International (DBA UOVO), for an amount not to exceed $100,000.

Over the next two fiscal years (FY2025 and FY2026), the Civic Arts Program anticipates it will require a range of the additional services listed in the RFQ. Based up analysis of upcoming project needs, new contracts will be needed with Gizmo Art Production, Inc., for an amount not to exceed $200,000 and ARG Conservation Services for an amount not to exceed $150,000. Finally, the existing contract with Atthowe Fine Art Services must be increased by $200,000 for a new total contract amount not to exceed $400,000.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

The teams assembled by Gizmo Art Production, Inc, ARG Conservation Services, and Atthowe Fine Art Services are highly qualified to perform the work needed to care for

the City's Public Art Collection. They have particular expertise in artwork conservation; artwork storage; artwork fabrication; artwork framing; artwork transportation; artwork installation; audio/visual services; artwork documentation; curatorial services; project management; and registrar services.

ALTERNATIVE ACTIONS CONSIDERED
There were no alternative actions considered.

CONTACT PERSON
Mark Salinas, Civic Arts, Office of Economic Development, (510) 981-7538

Attachments:
1: Resolution for contract with Gizmo Art Production, Inc
2: Resolution for contract with ARG Conservation Services
3: Resolution for contract amendment with Atthowe Fine Art Services

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

CONTRACT WITH GIZMO ART PRODUCTION, INC. FOR FINE ART SERVICES

WHEREAS, The City of Berkeley's Arts and Culture Plan calls for the enhancement of Berkeley's environment by placing temporary and permanent public art in public spaces throughout the city; and

WHEREAS, The City of Berkeley's Civic Arts Program issued Request for Qualifications Specification No. 21-11438-C, and established a Prequalified Pool of Fine Art Service Providers that includes Gizmo Art Production, Inc; and

WHEREAS, Funding for specific tasks will be identified and work requested as public art collection projects arise; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments thereto with Gizmo Art Production, Inc. for on-call fine art services for the contract period through June 30, 2026 in an amount not to exceed $200,000. A record signature copy of said contract and any amendments are to be on file in the Office of the City Clerk.

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

CONTRACT WITH ARG CONSERVATION SERVICES FOR FINE ART SERVICES

WHEREAS, The City of Berkeley's Arts and Culture Plan calls for the enhancement of Berkeley's environment by placing temporary and permanent public art in public spaces throughout the city; and

WHEREAS, The City of Berkeley's Civic Arts Program issued Request for Qualifications Specification No. 21-11438-C, and established a Prequalified Pool of Fine Art Service Providers that includes ARG Conservation Services; and

WHEREAS, Funding for specific tasks will be identified and work requested as public art collection projects arise; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments thereto with ARG Conservation Services for on-call fine art services for the contract period through June 30, 2026 in an amount not to exceed $150,000. A record signature copy of said contract and any amendments are to be on file in the Office of the City Clerk.

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

AMEND CONTRACT WITH ATTHOWE FINE ART SERVICES FOR ON-CALL FINE ART SERVICES

WHEREAS, The City of Berkeley's Arts and Culture Plan calls for the enhancement of Berkeley's environment by placing temporary and permanent public art in public spaces throughout the city; and

WHEREAS, The City of Berkeley's Civic Arts Program issued Request for Qualifications Specification No. 21-11438-C, and established a Prequalified Pool of Fine Art Service Providers that includes Atthowe Fine Art Services; and

WHEREAS, The City of Berkeley previously entered into Contract Number 32300137 with Atthowe Fine Art Services, dated January 15, 2023; and

WHEREAS, The City of Berkeley anticipates that over the next two fiscal years (FY25 and FY26) it will require additional services listed in the RFQ; and

WHEREAS, Funding for specific tasks will be identified and work requested as public art collection projects arise; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract amendment of $200,000 thereto with Atthowe Fine Art Services for on-call fine art services for the contract period through June 30, 2026 for a revised not-to-exceed amount of $400,000. A record signature copy of said contract and any amendments are to be on file in the Office of the City Clerk.

11

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: FY 2025 Tax Rate: Fund Debt Service on Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election)

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2025 tax rate for funding the debt service on the Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election) at 0.0048%.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy of the recommended 0.0048% will result in estimated collections of $1,350,000. This amount (along with existing funds on hand) is sufficient to make the debt service payments on March 1, 2025 and September 1, 2025.

CURRENT SITUATION AND ITS EFFECTS

The 0.0048% tax rate for FY 2025 being set by the City Council is based on the debt service, the estimated FY 2025 assessed values for all rolls (secured, unsecured and utility), a delinquency reserve of 5%, and the surplus remaining in the fund. Since Alameda County does not release final assessed value figures until early August, the City is using preliminary values. Staff is confident that the preliminary values will not be materially different from the County's final figure. The City must establish a tax rate that will be sufficient to make debt service payments even if there are unusual levels of delinquency. The tax rate in FY 2025 is a decrease in the rate charged in FY 2024.

Because all taxes collected from the general obligation levy will be deposited in a special fund, and collections not used to pay debt service for the FY 2025 bond year will be retained in the fund to pay future obligations, the tax impact of any over-collection will be credited against future debt service payments and the required levy.

It is recommended that the City Council authorize a FY 2025 tax rate of 0.0048% which will result in the following cost to the average homeowner during FY 2025:

Annual Tax		
Assessed Value	**FY 2024 Tax**	**FY 2025 Tax**
$150,000	$7.50	$7.20
250,000	12.50	12.00
300,000	15.00	14.40
400,000	20.00	19.20
500,000	25.00	24.00
600,000	30.00	28.80
700,000	35.00	33.60
800,000	40.00	38.40
900,000	45.00	43.20
1,000,000	50.00	48.00

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

BACKGROUND

In November 2008, the residents of Berkeley voted for and approved Ballot Measure FF, in the sum of $26,000,000 of General Obligation Bonds to renovate, expand, and make seismic and access improvements at the four neighborhood branch libraries (excluding the Central Library).

The indebtedness on the total bonds issued of $26,000,000 is payable solely from the levy of an ad valorem tax against taxable property in the City. The proceeds of the bonds were used to renovate, expand, and make seismic and access improvements at the four neighborhood branch libraries (excluding the Central Library).

$10,000,000 of the $26,000,000 in authorized bonds were issued in 2009, and the remaining $16,000,000 of bonds were issued in 2010. The tax rate above reflects the debt service payments for the fiscal year.

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 510-981-7301

Attachments:
1: Ordinance

ORDINANCE NO. -N.S.

SETTING THE FY 2025 TAX RATE FOR FUNDING THE DEBT SERVICE ON THE NEIGHBORHOOD BRANCH LIBRARY IMPROVEMENTS PROJECT GENERAL OBLIGATION BONDS (MEASURE FF, NOVEMBER 2008 ELECTION) IN THE CITY OF BERKELEY

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

Section 1. The FY 2025 tax rate for the debt service on the General Obligation Bonds is set at 0.0048%.

Section 2. The Tax Rate will be based on the estimated assessed values for all rolls (secured, unsecured, and utility) and will become a part of the FY 2025 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of $1,350,000 needed to make the March 1, 2025 and September 1, 2025 debt service payments on the outstanding General Obligation Bonds.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: FY 2025 Tax Rate: Fund the Debt Service on the Street and Watershed Improvements General Obligation Bonds (Measure M, November 2012 Election)

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2025 tax rate funding the debt service on the Street and Integrated Watershed Improvements General Obligation Bonds (Measure M, November 2012) at 0.0064%.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy of the recommended 0.0064% will result in estimated collections of $1,800,000. This amount (along with existing funds on hand) is sufficient to make the debt service payments on March 1, 2025 and September 1, 2025.

CURRENT SITUATION AND ITS EFFECTS

The 0.0064% tax rate for FY 2025 being set by the City Council is based on the current debt service, the estimated FY 2025 assessed values for all rolls (secured, unsecured and utility), a delinquency reserve of 5%, and the surplus remaining in the fund. Since Alameda County does not release final assessed value figures until early August, the City is using preliminary values. Staff is confident that the preliminary values will not be materially different from the County's final figure. The City must establish a tax rate that will be sufficient to make debt service payments even if there are unusual levels of delinquency. The tax rate in FY 2025 is a decrease in the rate charged in FY 2024.

Because all taxes collected from the general obligation levy will be deposited in a special fund, and collections not used to pay debt service for the FY 2025 bond year will be retained in the fund to pay future obligations, the tax impact of any over-collection will be credited against future debt service payments and the required levy.

It is recommended that the City Council authorize a FY 2025 tax rate of 0.0064% which will result in the following cost to the average homeowner during FY 2025:

Annual Tax		
Assessed Value	**FY 2024 Tax**	**FY 2025 Tax**
$150,000	$9.75	$9.60
250,000	16.25	16.00
300,000	19.50	19.20
400,000	26.00	25.60
500,000	32.50	32.00
600,000	39.00	38.40
700,000	45.50	44.80
800,000	52.00	51.20
900,000	58.50	57.60
1,000,000	65.00	64.00

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

BACKGROUND

In November 2012, the residents of Berkeley voted for and approved Ballot Measure M, for the sum of $30,000,000 of General Obligation Bonds to accelerate street repaving and rehabilitation consistent with the 5-Year Street Rehabilitation Plan, integrating green infrastructure to the extent feasible. Green infrastructure includes but is not limited to: (a) surface level bio-retention measures (rain gardens, swales, bio-retention cells, permeable paving, etc.) within the parking strip, planter area of sidewalks, red zone curb-extensions, and in street medians as feasible; and (b) large underground storage pipes, which would fill during storm events and then discharge metered flows into the existing storm drain pipelines.

$15,000,000 of the $30,000,000 in authorized bonds were issued in 2014, and the remaining $15,000,000 of bonds were issued in 2016. The tax rate above reflects the debt service payments for the fiscal year.

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 510-981-7301

Attachments:
1: Ordinance

ORDINANCE NO. -N.S.

SETTING THE FISCAL YEAR 2025 TAX RATE FOR FUNDING THE DEBT SERVICE ON THE STREET AND WATERSHED IMPROVEMENTS GENERAL OBLIGATION BONDS (MEASURE M, NOVEMBER 2012 ELECTION) IN THE CITY OF BERKELEY

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

Section 1. The FY 2025 tax rate for debt service on the General Obligation Bonds is set at 0.0064%.

Section 2. The Tax Rate will be based on the estimated assessed values for all rolls (secured, unsecured, and utility) and will become a part of the FY 2025 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of $1,800,000 needed to make the March 1, 2025 and September 1, 2025 debt service payments on the outstanding General Obligation Bonds.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: FY 2025 Tax Rate: Fund Debt Service on 2015 Refunding General Obligation Bonds (Measures G, S & I)

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2025 tax rate funding the debt service on the 2015 consolidation of Measures G, S and I (General Obligation Bonds - Elections of 1992, 1996 and 2002) at 0.0111%.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy of the recommended 0.0111% will result in estimated collections of $3,100,000. This amount (along with existing funds on hand) is sufficient to make the debt service payments on March 1, 2025 and September 1, 2025.

CURRENT SITUATION AND ITS EFFECTS

The 0.0111% tax rate for FY 2025 being set by the City Council is based on the current debt service, the estimated FY 2025 assessed values for all rolls (secured, unsecured, and utility), a delinquency reserve of 5%, and the surplus remaining in the fund. Since Alameda County does not release final assessed value figures until early August, the City is using preliminary values. Staff is confident that the preliminary values will not be materially different from the County's final figure. The City must establish a tax rate that will be sufficient to make debt service payments even if there are unusual levels of delinquency. The tax rate in FY 2025 is a decrease in the rate charged in FY 2024.

Because all taxes collected from the general obligation levy will be deposited in a special fund, and collections not used to pay debt service for the FY 2025 bond year will be retained in the fund to pay future obligations, the tax impact of any over-collection will be credited against future debt service payments and the required levy.

It is recommended that the City Council authorize a FY 2025 tax rate of 0.0111% which will result in the following cost to the average homeowner during FY 2025:

Annual Tax		
Assessed Value	**FY 2024 Tax**	**FY 2025 Tax**
$150,000	$17.25	$16.65
250,000	28.75	27.75
300,000	34.50	33.30
400,000	46.00	44.40
500,000	57.50	55.50
600,000	69.00	66.60
700,000	80.50	77.70
800,000	92.00	88.80
900,000	103.50	99.90
1,000,000	115.00	111.00

ENVIRONMENTAL SUSTAINABILITYAND CLIMATE IMPACTS

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

BACKGROUND

Measure G

On November 3, 1992, the voters of the City of Berkeley approved the incurring of bonded indebtedness for fire safety and seismic improvements to emergency facilities (Measure G). This indebtedness was not to exceed an aggregate principal amount of $55,000,000. The Series A Bonds in the amount of $8,000,000 were issued on June 1, 1993; Series B Bonds in the amount of $14,000,000 were issued on July 25, 1995; and Series C bonds in the amount of $10,500,000 were issued on July 1, 1997.

The indebtedness on the total bonds issued of $32,500,000 is payable solely from the levy of an ad valorem tax against taxable property in the City. The proceeds of the bonds were used to pay for, among other things, “repairing and seismic retrofitting of existing fire stations, the Public Safety Building, which contains the City communication center, and the Emergency Operations Center (EOC).”

On November 1, 2002, the City issued $17,865,000 in General Obligation refunding bonds to refund the 1993 Measure G (Series A) and 1995 Measure G (Series B) General Obligation bonds. In May 2007, the City issued $4,340,000 in refunding bonds to refund the 1997 Measure G, (Series C) General Obligation bonds.

Measure S

On November 5, 1996, the voters of the City of Berkeley approved incurring a total of $49,000,000 bonded indebtedness to ensure the safety of its public and employees and to revitalize downtown.

The indebtedness is payable solely from the levy of an *ad valorem* tax against taxable property in the City. The proceeds were used to restore, expand and make the Main Library earthquake-safe and improve disabled access to it; to internally retrofit and increase disabled accessibility to Martin Luther King Jr., Civic Center Building; and to install landscaping, street improvements, street lighting, and other related capital improvements within the downtown area of Berkeley.

On June 4, 1997 Series A Bonds in the amount of $10,000,000 were issued; on December 1, 1998 Series B Bonds in the amount of $25,000,000 were issued; and on August 1, 1999 Series C Bonds in the amount of $14,000,000 were issued. In May 2007, the City issued $41,245,000 in refunding bonds to refund the 1997, 1998, and 1999 Measure S (Series A, B, and C) General Obligation bonds.

Measure I

In November 2002, the residents of Berkeley voted for and approved Ballot Measure I, in the sum of $7,200,000 of General Obligation Bonds to acquire property, if necessary, and to construct or rehabilitate a building for an animal shelter that meets the requirements of state law.

The indebtedness on the total bonds issued of $7,200,000 is payable solely from the levy of an ad valorem tax against taxable property in the City. The proceeds of the bonds were used to acquire property, and to construct a building for an animal shelter that meets the requirements of state law.

The General Obligation Bonds in the amount of $7,200,000 were issued on January 9, 2008.

All bonds were consolidated in a refinancing completed on July 15, 2015, including the issuance of $36,680,000 in general obligation refunding bonds.

The tax rate above reflects the debt service payments for the fiscal year.

CONTACT PERSON
Henry Oyekanmi, Director, Finance Department, 510-981-7301

Attachments:
1: Ordinance

ORDINANCE NO. -N.S.

SETTING THE FY 2025 TAX RATE FOR FUNDING THE DEBT SERVICE ON THE 2015 REFUNDING GENERAL OBLIGATION BONDS

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

Section 1. The FY 2025 tax rate for the debt service on the 2015 Refunding General Obligation Bonds - Measures G, S and I (General Obligation Bonds - Elections of 1992, 1996 and 2002) at 0.0111%.

Section 2. The Tax Rate will be based on estimated assessed values for all rolls (secured, unsecured, and utility) and will become a part of the FY 2025 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of $3,100,000 needed to make the March 1, 2025 and September 1, 2025 debt service payments on Refunding General Obligation Bonds.

Section 4. 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.

14

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: FY 2025 Tax Rate: Fund the Debt Service on the Infrastructure and Facilities General Obligation Bonds (Measure T1, November 2016 Election)

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2025 tax rate funding the debt service on the Infrastructure and Facilities Improvements General Obligation Bonds (Measure T1, November 2016) at 0.0136%.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy of the recommended 0.0136% will result in estimated collections of $3,800,000. This amount will be sufficient to make the debt service payments on the 2017 Series A and 2021 Series B Bonds with debt service on March 1, 2025 and September 1, 2025.

CURRENT SITUATION AND ITS EFFECTS

The 0.0136% tax rate for FY 2025 being set by the City Council is based on the current debt service of the Series A and Series B Bonds, the estimated FY 2025 assessed values for all rolls (secured, unsecured and utility), a delinquency reserve of 5%, and the surplus remaining in the fund. Since Alameda County does not release final assessed value figures until early August, the City is using preliminary values. Staff is confident that the preliminary values will not be materially different from the County's final figure. The City must establish a tax rate that will be sufficient to make debt service payments even if there are unusual levels of delinquency. The tax rate in FY 2025 is a decrease in the rate charged in FY 2024.

Because all taxes collected from the general obligation levy will be deposited in a special fund, and collections not used to pay debt service for the FY 2025 bond year will be retained in the fund to pay future obligations, the tax impact of any over-collection will be credited against future debt service payments and the required levy.

It is recommended that the City Council authorize a FY 2025 tax rate of 0.0136% which will result in the following cost to the average homeowner during FY 2025:

Annual Tax		
Assessed Value	**FY 2024 Tax**	**FY 2025 Tax**
$150,000	$21.00	$20.40
250,000	35.00	34.00
300,000	42.00	40.80
400,000	56.00	54.40
500,000	70.00	68.00
600,000	84.00	81.60
700,000	98.00	95.20
800,000	112.00	108.80
900,000	126.00	122.40
1,000,000	140.00	136.00

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

BACKGROUND

In November 2016, the residents of Berkeley voted for and approved Ballot Measure T1, for the sum of $100,000,000 of General Obligation Bonds to make infrastructure and facility improvements. The pace of financing and tax rate will be determined based on the overall growth of the City's assessed value and the total outstanding general obligation bond debt service such that the total combined tax rate (for general obligation bond repayment will not exceed 0.0492% which represents the 10-year historical tax rate as of June 2016).

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 510-981-7301

Attachments:
1: Ordinance

ORDINANCE NO. -N.S.

SETTING THE FISCAL YEAR 2025 TAX RATE FOR FUNDING THE DEBT SERVICE ON THE INFRASTRUCTURE AND FACILITIES IMPROVEMENTS GENERAL OBLIGATION BONDS (MEASURE T1, NOVEMBER 2016 ELECTION) IN THE CITY OF BERKELEY

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

Section 1. The FY 2025 tax rate for debt service on the General Obligation Bonds is set at 0.0136%.

Section 2. The Tax Rate will be based on the estimated assessed values for all rolls (secured, unsecured, and utility) and will become a part of the FY 2025 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of $3,800,000 needed to make the March 1, 2025 and September 1, 2025 debt service payments on the proposed General Obligation Bonds.

Section 4. 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.

15

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: FY 2025 Tax Rate: Fund the Debt Service on the Affordable Housing General Obligation Bonds (Measure O, November 2018 Election)

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2025 tax rate funding the debt service on the Affordable Housing General Obligation Bonds (Measure O, November 2018) at 0.0250%.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy of the recommended 0.0250% will result in estimated collections of $6,900,000. This amount will be sufficient to make the debt service payments on the 2020 Series A, and 2022 Series B Bonds with debt service due March 1, 2025 and September 1, 2025.

CURRENT SITUATION AND ITS EFFECTS

The 0.0250% tax rate for FY 2025 being set by the City Council is based on the debt service of the Series A and Series B Bonds, the estimated FY 2025 assessed values for all rolls (secured, unsecured and utility), a delinquency reserve of 5%, and the surplus remaining in the fund. Since Alameda County does not release final assessed value figures until early August, the City is using preliminary values. Staff is confident that the preliminary values will not be materially different from the County's final figure. The City must establish a tax rate that will be sufficient to make debt service payments even if there are unusual levels of delinquency.

Because all taxes collected from the general obligation levy will be deposited in a special fund, and collections not used to pay debt service for the FY 2025 bond year will be retained in the fund to pay future obligations, the tax impact of any over-collection will be credited against future debt service payments and the required levy.

It is recommended that the City Council authorize a FY 2025 tax rate of 0.0250% which will result in the following cost to the average homeowner during FY 2025:

Annual Tax		
Assessed Value	**FY 2024 Tax**	**FY 2025 Tax**
$150,000	$37.50	$37.50
250,000	62.50	62.50
300,000	75.00	75.00
400,000	100.00	100.00
500,000	125.00	125.00
600,000	150.00	150.00
700,000	175.00	175.00
800,000	200.00	200.00
900,000	225.00	225.00
1,000,000	250.00	250.00

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

BACKGROUND

In November 2018, the residents of Berkeley voted for and approved Ballot Measure O, for the sum of $135,000,000 of General Obligation Bonds to create and preserve affordable housing for low-income households, working families, and individuals including teachers, seniors, veterans, the homeless, and persons with disabilities.

The first series of bonds was issued in April 2020. The second series was issued in May 2022.

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 510-981-7301

Attachments:
1: Ordinance

ORDINANCE NO. -N.S.

SETTING THE FISCAL YEAR 2025 TAX RATE FOR FUNDING THE DEBT SERVICE ON THE AFFORDABLE HOUSING GENERAL OBLIGATION BONDS (MEASURE O, NOVEMBER 2018 ELECTION) IN THE CITY OF BERKELEY

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

Section 1. The FY 2025 tax rate for debt service on the General Obligation Bonds is set at 0.0250%.

Section 2. The Tax Rate will be based on the estimated assessed values for all rolls (secured, unsecured, and utility) and will become a part of the FY 2025 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of $6,900,000 needed to make the March 1, 2025 and September 1, 2025 debt service payments on the proposed General Obligation Bonds.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: FY 2025 Tax Rate: Business License Tax on Large Non-Profits

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2025 tax rate for Business License Tax on large non-profits at $0.8207 (82.07 cents) per square foot of improvements.

FISCAL IMPACTS OF RECOMMENDATION

The increase in the tax rate from $0.7909 (79.09 cents) per square foot of improvements in FY 2024 to $0.8207 (82.07 cents) per square foot of improvements in FY 2025, based on the Consumer Price Index (CPI) of 3.767% will result in estimated total collections of approximately $597,829 from $576,121 in FY 2024.

CURRENT SITUATION AND ITS EFFECTS

The non-profit organizations with over 120,000 square feet of business improvements were taxed at a rate of $0.7909 (79.09 cents) in FY 2024, as approved by the voters with Measure S on November 2, 2010. That measure also approved the indexing of tax for inflation, based on the higher of Personal Income Growth or the Consumer Price Index in May. The PIG reported on April 30, 2024 was 3.62% while the CPI reported on May 15, 2024 by the U.S. Department of Labor's Bureau of Labor Statistics was 3.767%.

BACKGROUND

In 1994, the voters of California adopted Article XIII, Section 26 of the California Constitution, which prohibits local governments from taxing non-profit organizations based on their gross receipts. Prior to this date, the City's business license tax ordinance had imposed a gross receipts tax on non-profit organizations, which raised approximately $250,000 per year. Article XIII, Section 26 does not prohibit local agencies from taxing non-profit organizations on bases other than gross receipts. On November 3, 1998, the voters approved Measure G with over 61% of the votes cast. Measure G amended the City's business license tax ordinance to impose a charge of $0.51 (51 cents) on the square footage of business improvements over the first 120,000 square feet, and would be indexed for inflation annually for the following year in May, by the greater of the increase in the cost of living in the immediate San Francisco Bay Area

or per capita personal income growth in the state, as verified by official United States Bureau of Labor Statistics.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 981-7301

Attachments:
1: Ordinance

ORDINANCE NO. - N.S.

SETTING THE FY 2025 MUNICIPAL TAX RATE FOR THE CITY OF BERKELEY FOR BUSINESS LICENSE TAX ON LARGE NON-PROFITS

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

Section 1. The rate of tax for the FY 2025 business license tax on large non-profits is as follows:

$0.8207 per square foot of improvements over 120,000 square feet

Section 2. This tax rate will result in estimated total collections of $597,829.

Section 3. This Ordinance shall take effect and be in full force from and after its final passage.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: FY 2025 Tax Rate: Fund the Maintenance of Parks, City Trees and Landscaping

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2025 tax rate for funding all improvements for the maintenance of parks, City trees, and landscaping in the City of Berkeley at $0.2210 (22.10 cents) per square foot of improvements.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy of the recommended $0.2210 per square footage will result in estimated collections of $18,297,945 for the Park Tax Fund. The increase in the tax rate of $0.0080 per square foot will result in a $15.20 annual increase for the citywide average 1900 square foot home.

CURRENT SITUATION AND ITS EFFECTS

The FY 2024 tax of $0.2130 is being adjusted by the Consumer Price Index of 3.767% as authorized on November 3, 2020, by voter approved Measure LL as the voters approved the greater of the Consumer Price Index in the immediate San Francisco Bay Area of 3.767% or Personal Income Growth increase in California of 3.620%.

It is recommended that City Council authorize the levy of a special tax of $0.2210 per square foot of all improvements in the City of Berkeley. The tax will result in a cost to taxpayers in the following average amounts during FY 2025, as compared with the amounts for FY 2024:

	Annual Tax	
Square Feet	FY 2024	FY 2025
1,200	$255.60	$265.20
1,500	319.50	331.50
1,900	404.70	419.90
3,000	639.00	663.00
3,900	830.70	861.90
10,000	2130.00	2210.00

BACKGROUND

On May 6, 1997, the voters of the City of Berkeley approved a special tax solely to provide funding for the direct cost of acquisition and maintenance of improvements related to parks and landscaping in the City of Berkeley. As a result of the requirements of State Proposition 218, this special tax replaced the annual revenue previously generated by the Citywide Landscape Assessment District.

The tax may be increased or decreased annually in May, according to the greater of the increase or decrease in the cost of living in the immediate San Francisco Bay Area or personal income growth in the state of California, as verified by official United States economic reports.

On November 3, 2020, over 81% of Berkeley voters approved Measure LL to re-authorize the City, for a period of four (4) years through FY 2024, to spend the Parks Maintenance tax as approved by the voters.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 981-7301

Attachments:
1: Ordinance

ORDINANCE NO. -N.S.

SETTING THE FISCAL YEAR 2025 SPECIAL TAX RATE TO FUND MAINTENANCE OF PARKS, CITY TREES AND LANDSCAPING IN THE CITY OF BERKELEY

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

Section 1. The FY 2025 Tax Rate for the maintenance of parks, City trees and landscaping is set at $0.2210 per square foot of taxable improvements.

Section 2. The cost to the taxpayer during FY 2025 will be $265.20 for a 1,200 square foot home and $663.00 for a 3,000 square foot home.

Section 3. This Tax Rate will result in estimated total collections of $18,297,945.

Section 4. The tax imposed by this ordinance does not apply to any property owner whose total personal income, from all sources for the previous calendar year, does not exceed that level which shall constitute a very low income, as established by resolution of City Council.

Section 5. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: FY 2025 Tax Rate: Fund the Provision of Emergency Medical Services (Paramedic Tax)

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2025 tax rate for funding the provision of emergency medical services to Berkeley residents at $0.0468 (4.68 cents) per square foot of improvements.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy of the recommended $0.0468 per square footage will result in estimated total collections of $3,874,480 for the Emergency Medical Services fund. The increase in the tax rate of $0.0017 per square foot will result in a $3.23 annual increase for the citywide average 1900 square foot home.

CURRENT SITUATION AND ITS EFFECTS

The FY 2024 tax of $.0451 is being adjusted by the increase in the Consumer Price Index in the immediate San Francisco Bay Area of 3.767%, as authorized by the voters on May 6, 1997.

It is recommended that the City Council authorize the levy of a special tax of $0.0468 per square foot of all improvements in the City of Berkeley. The tax will result in a cost to taxpayers in the following average amounts during Fiscal Year 2025, as compared with amounts for FY 2024:

	Annual Tax	
Square Feet	FY 2024	FY 2025
1,200	$54.12	$56.16
1,500	67.65	70.20
1,900	85.69	88.92
3,000	135.30	140.40
3,900	175.89	182.52
10,000	451.00	468.00

BACKGROUND

On May 6, 1997, the voters authorized the City to replace the Emergency Medical Services Assessment District, with an Emergency Medical Services Tax. On November 3, 2020, over 81% of Berkeley voters approved Measure LL to re-authorize the City, for a period of four (4) years through FY 2024, to spend the Emergency Medical Services tax.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 981-7301

Attachments:
1: Ordinance

ORDINANCE NO. -N.S.

SETTING THE FISCAL YEAR 2025 SPECIAL TAX RATE TO FUND THE PROVISION OF EMERGENCY MEDICAL SERVICES FOR THE CITY OF BERKELEY

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

Section 1. The FY 2025 Tax Rate for Emergency Medical Services is set at $0.0468 per square foot of taxable improvements.

Section 2. The cost to taxpayers during FY 2025 will be $56.16 for a 1,200 square foot home and $140.40 for a 3,000 square foot home.

Section 3. This tax rate will result in estimated total collections of $3,874,480.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: FY 2025 Tax Rate: Fund Emergency Services for the Severely Disabled (Measure E)

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2025 tax rate for funding the provision of emergency services for the disabled at $0.02094 (2.094 cents) per square foot of improvements.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy of the recommended $0.02094 will result in estimated collections of $1,773,706 for the fund. The increase in the tax rate of $0.00076 per square foot will result in a $1.45 annual increase for the citywide average 1900 square foot home.

CURRENT SITUATION AND ITS EFFECTS

The FY 2024 tax of $0.02018 is being adjusted by the Consumer Price Index in the immediate San Francisco Bay Area of 3.767% (or $0.03767) as the voters approved the greater of the of the Consumer Price Index in the immediate San Francisco Bay Area of 3.767% or Personal Income Growth increase in California of 3.620%.

It is recommended that the City Council authorize the levy of a special tax of $0.02094 per square foot of all improvements in the City of Berkeley. The tax will result in a cost to taxpayers in the following average amounts during Fiscal Year 2025, as compared with amounts for FY 2024:

Square Feet	Annual Tax FY 2024	FY 2025
1,200	$24.22	$25.13
1,500	30.27	31.41
1,900	38.34	39.79
3,000	60.54	62.82
3,900	78.70	81.67
10,000	201.80	209.40

BACKGROUND

The Emergency Services for the Severely Disabled Tax (Measure E) was passed by the voters in November 1998. The tax is used to provide emergency services and incidental case management for severely physically disabled persons. The City Council is authorized to increase the tax rate by the greater of the Consumer Price Index in the immediate San Francisco Bay Area or Personal Income Growth in California.

On November 3, 2020, over 81% of Berkeley voters approved Measure LL to re-authorize the City, for a period of four (4) years through FY 2024, to spend the emergency services for the severely disabled tax.

ALTERNATIVE ACTIONS CONSIDERED

The City Council may consider maintaining the current tax rate of $0.02018 with projected revenue of $1,673,845 and no increase to property owners. Or, the City Council may consider increasing the tax rate by the Personal Income Growth increase in California of 3.620%. This would result in projected revenue of $1,731,250 and an increase of $1.39 for the citywide average 1900 square foot home.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 981-7301

Attachments:
1: Ordinance

ORDINANCE NO. -N.S.

SETTING THE FISCAL YEAR 2025 SPECIAL TAX RATE TO FUND EMERGENCY SERVICES FOR THE SEVERELY DISABLED IN THE CITY OF BERKELEY

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

Section 1. The FY 2025 Tax Rate to fund emergency services for severely disabled persons is set at $0.02094 per square feet of improvements.

Section 2. The cost to taxpayers during FY 2025 will be $25.13 for a 1,200 square foot home and $62.82 for a 3,000 square foot home.

Section 3. This tax rate will result in estimated total collections of $1,733,706.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department
David Sprague, Fire Chief, Fire Department

Subject: FY 2025 Tax Rate: Fund Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF)

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2025 tax rate for funding Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF) in the City of Berkeley at the annual tax rate of $0.1220 (12.20 cents) per square foot of improvements.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy rate of the recommended $0.1220 per square foot of improvements is projected to yield approximately $10,102,578 in revenues.

CURRENT SITUATION AND ITS EFFECTS

The FY 2024 tax rate of $0.1176 is being adjusted by the Consumer Price Index of 3.767% based on Berkeley Municipal Code 7.83.020 as adopted by the City Council under Ordinance No. 7,745-N.S. on June 16, 2020. Measure FF is a special parcel tax for firefighting, emergency medical response and wildfire prevention that limits the annual tax rate based on the greater of the increase in the cost of living in the immediate San Francisco Bay Area or per capita personal income growth in California. It is estimated that the tax will cost taxpayers the following amounts for FY 2025, as compared with FY 2024:

Square Feet	FY 2024	FY 2025
1,200	$ 141.12	$ 146.40
1,500	176.40	183.00
1,900	223.44	231.80
3,000	352.80	366.00
3,900	458.64	475.80
10,000	1,176.00	1,220.00

BACKGROUND

Measure FF authorized a special parcel tax for the purpose of funding firefighter and emergency medical response, upgrades to the 9-1-1 dispatch system, hazard mitigation, and wildfire prevention and preparedness activities.

In 2008, voters passed Measure GG to stop fire stations from being closed and services from being reduced, in the context of a major economic downturn. Measure GG designated the Disaster and Fire Safety Commission a formal oversight role, the duties of which are replicated, with respect to Measure FF, through the passage of this Council item.

Now, with rising challenges from climate change and fires, bigger demands on our emergency services, and the worst economic downturn since the Great Depression, Measure FF was placed on the November 2020 ballot by a unanimous vote of the City Council and it was approved by voters, to provide funds to modernize the City's 9-1-1 dispatch system, upgrade equipment, hire additional paramedics, improve emergency alert systems and continue to clear fire fuels, among other things.

The effective date for this tax was January 1, 2021. The City will raise approximately $10,102,578 for FY 2025.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, (510) 981-7301
David Sprague, Fire Chief, (510) 981-5500

Attachments:
1: Ordinance

ORDINANCE NO. #,###-N.S.

SETTING THE FISCAL YEAR 2025 SPECIAL TAX RATE TO FUND FIREFIGHTING, EMERGENCY MEDICAL RESPONSE AND WILDFIRE PREVENTION (MEASURE FF) IN THE CITY OF BERKELEY

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

Section 1. The FY 2025 tax rate to provide for the costs incurred for the firefighting, emergency medical response and wildfire prevention (Measure FF) is set at 0.1220 per square foot of improvements.

Section 2. The cost to taxpayers during FY 2025 will be $146.40 for a 1,200 square foot dwelling and $366.00 for a 3,000 square foot dwelling.

Section 3. This tax rate will result in estimated total collections of $10,102,578.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: Temporary Appropriations FY 2025

RECOMMENDATION
Adopt a Resolution authorizing a temporary appropriation in the sum of $50,000,000 to cover payroll and other expenses from July 1, 2024, until the effective date of the FY 2025 Annual Appropriations Ordinance.

FISCAL IMPACTS OF RECOMMENDATION
The financial implications are already stated in the Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS
A temporary appropriation of funds is required to permit expenditures until the effective date of the Annual Appropriation Ordinance, which occurs 30 days after the second reading. Section 54, Article X of the Charter of the City of Berkeley authorizes such temporary appropriations.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
There are no identifiable environmental effects or opportunities associated with the subject of this report.

BACKGROUND
The budget is scheduled for adoption on June 25, 2024, and the Annual Appropriations Ordinance is to be passed on the same day with a required second reading on July 9 2024. A temporary appropriation of funds is required to permit expenditures until the effective date of the Annual Appropriations Ordinance, which occurs approximately 30 days after the second reading (i.e., August 12). The sum appropriated, when expended, shall be chargeable to the Annual Appropriations Ordinance for FY 2025 when the budget has been adopted, and said Ordinance has been passed.

CONTACT PERSON
Henry Oyekanmi, Director, Finance Department, 981-7300

Attachments:
1: Resolution

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

AUTHORIZING A TEMPORARY APPROPRIATION FOR PAYROLL AND OTHER EXPENSES FROM JULY 1, 2024 UNTIL THE EFFECTIVE DATE OF THE FISCAL YEAR 2025 ANNUAL APPROPRIATIONS ORDINANCE

WHEREAS, the City Charter of the City of Berkeley grants authority to the City Council to annually adopt an appropriations ordinance, to pay the expenses of conducting the business of City government for the next ensuing fiscal year; and

WHEREAS, the Annual Appropriations Ordinance to be passed on June 25, 2024 will not be effective earlier than August 10, 2024.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that $50,000,000 be appropriated from available funds for payroll and other expenses from July 1, 2024 until the effective date of the FY 2025 Annual Appropriations Ordinance, chargeable to the appropriations for FY 2025.

BE IT FURTHER RESOLVED that it is the purpose and intent of this Resolution to make available funds as provided by Section 54, Article X, of the Charter of the City of Berkeley pending final adoption of the Annual Appropriations Ordinance for FY 2025.

BE IT FURTHER RESOLVED that the sum hereby appropriated shall, when expended, be chargeable to the appropriations of said fiscal year, when said Ordinance has been finally passed and adopted.

BE IT FURTHER RESOLVED that temporary inter-fund transfers be made as necessary to make funds available to carry out said purposes and intent of this resolution pending final adoption of said Ordinance.

22

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: David Sprague, Fire Chief

Subject: Contract No. 32300165 Amendment: KLD Associates: Evacuation and Emergency Response Analysis

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend to Contract No. 32300165 with KLD Engineering, P.C. for evacuation and response time modeling to reassign to KLD Associates through June 30, 2026, and to provide an option to extend for an additional five (5) years and add $200,000, making initial term plus extension NTE $600,000 through June 30, 2031.

FISCAL IMPACTS OF RECOMMENDATION

This resolution authorizes an additional $200,000 in expenditures beyond what the Council approved on March 14, 2023 in Resolution 70,712-N.S. All funds required to pay for this contract are in the Department's baseline operating budget. Funding sources may include but are not limited to: Measure FF, UC Settlement, and the General Fund.

CURRENT SITUATION AND ITS EFFECTS

The City is partway through work with a contractor to perform a novel evacuation and response time analysis. During the course of the contract work, five key changes occurred:

1. The original contract was executed in March 2023 with KLD Engineering, P.C. In July 2023, KLD Engineering, P.C. reached a strategic agreement to transfer its evacuation and emergency planning business line to KLD Associates. As part of this transfer, the professional staff working on the project with the City also transferred to KLD Associates;
2. Staff from the Planning & Development Department identified a need to use this contract to assess impacts to evacuation and response times from other projects that would increase infill development;
3. Draft reports to help meet State evacuation planning requirements required additional analysis beyond what was originally envisioned;

4. Staff determined that ongoing as-needed analysis would be required beyond the contract's original extended expiration date; and
5. The County of Santa Barbara is not extending its contract (on which the City of Berkeley piggybacked) with KLD Engineering, P.E.

BACKGROUND

On May 18, 2023, the City executed a contract with KLD Engineering, P.E. for traffic evacuation and evacuation modeling services. This contract piggybacked on a County of Santa Barbara contract which expires on June 30, 2024.

This work is required by the State of California within SB 99, AB 747, and AB 1409. The City also requires related professional services in the areas of traffic and evacuation modeling and planning to help the community make informed decisions about the impacts of future transportation projects on evacuations, responder ingress during evacuations, and daily responder response times to emergencies of various types.

This contract is designed to achieve three objectives: (1) to analyze the City's primary evacuation routes to understand their capacity, safety, and viability under emergency scenarios; (2) to provide an analysis of any public safety impacts resulting from projected development of new accessory dwelling units (ADUs), junior accessory dwelling units (JADUs), and their associated extra vehicles in the Very High Fire Hazard Severity Zone (VHFHSZ); and (3) to analyze the impact of some recently completed, planned, and proposed (as needed) roadway projects have on evacuation capacity, responder ingress during evacuation, and to daily emergency apparatus response times.

Thus far, KLD Engineering, P.E. staff has been working with City staff to create the underlying architecture necessary for these analyses: they have conducted a road survey, created a link-node analysis network, completed a demographic survey, gathered and analyzed data for evacuation scenarios, and conducted analysis to assist with compliance with State evacuation laws (SB 99, AB 747, and AB1409).
The team at KLD Associates has significant experience in evacuation and response time modeling and since 2023 has been providing the City with evacuation services.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identified environmental sustainability or climate related impacts to this work.

RATIONALE FOR RECOMMENDATION

Staff from KLD Associates has performed this work for the first year of the contract with KLD Engineering, P.E. This team has already developed a detailed traffic model that will underly any evacuation time studies. This team has collected and begun analysis on voluminous data from response apparatus. This team has deep familiarity with the Berkeley community, key sites, hazards, and other data that will inform evacuation and

response times. Due to this and the specific experience with the City of Berkeley listed above, competing for this service is not amenable.

ALTERNATIVE ACTIONS CONSIDERED
Competing for the service was considered, however, the specific experience with the City outweighs market competition for this contract period.

CONTACT PERSON
David Sprague, Fire Chief, (510) 981-3473

Attachments:
1: Resolution

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

CONTRACT NO. 32300165AMENDMENT: KLD ENGINEERING, P.C. FOR EVACUATION AND RESPONSE ANALYSIS

WHEREAS, on May 18, 2023, the City executed Contract No. 32300165 with KLD Engineering, P.E. for traffic evacuation and evacuation modeling services; and

WHEREAS, this contract piggybacked on a County of Santa Barbara contract which expires on June 30, 2024; and

WHEREAS, the County of Santa Barbara is not extending its contract (on which the City of Berkeley piggybacked) with KLD Engineering, P.E.; and

WHEREAS, this work is required by the State of California within SB 99, AB 747, and AB 1409; and

WHEREAS, in July 2023, KLD Engineering, P.C. reached a strategic agreement to transfer its evacuation and emergency planning business line to KLD Associates; and

WHEREAS, Staff from KLD Associates has already developed a detailed traffic model that will underly any evacuation time studies, has collected and begun analysis on voluminous data from response apparatus, and has developed deep familiarity with the Berkeley community, key sites, hazards, and other data that will inform evacuation and response times; and

WHEREAS, due to this and the specific experience with the City of Berkeley listed above, competing for this service is not amenable performed this work for the first year of the contract with KLD Engineering, P.E.; and

WHEREAS, staff determined that ongoing as-needed analysis would be required beyond the contract's original extended expiration date.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend to Contract No. 32300165 with KLD Engineering, P.C. for evacuation and response time modeling to reassign to KLD Associates through June 30, 2026, and to provide an option to extend for an additional five (5) years and add $200,000, making initial term plus extension NTE $600,000 through June 30, 2031.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: David Sprague, Fire Chief

Subject: Contract: Pinnacle for Pilot Fire Department Alternative Medical Response Unit

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Pinnacle Training Systems, LLC (Contractor) to provide nurse practitioner services for a pilot alternative medical response unit from June 17, 2024 to January 31, 2025 in an amount not to exceed $510,000 with an option to extend for three additional one-year terms in a total not to exceed $2,700,000.

FISCAL IMPACTS OF RECOMMENDATION

The term of this contract is from June 17, 2024 to January 31, 2025 in an amount not to exceed $510,000 for the base term. There is an option to extend for three additional one-year terms in a total not to exceed $2,700,000. This contract will be funded through a variety of funding sources including Measure FF, General Fund and future grant funds.

CURRENT SITUATION AND ITS EFFECTS

The Department worked with General Services to release RFP Specification No. 24-11647-C for Fire Department Partnership for Alternative Medical Response Unit on January 31 with proposals due on March 21, 2024. The City did not receive any responses despite advertising and direct outreach to over twenty-five local organizations inviting them to submit a proposal. Because of the scope and timelines associated with the Department and City's needs, and due to a lack of proposals from the RFP process, the Department is proposing to award to a qualified contractor that did not originally respond to the RFP. The vendor that was selected has a 15-year history of providing comprehensive National Fire Protection Association (NFPA) compliant physical examinations to 27 agencies using a combination of Nurse Practitioners and Physicians Assistants. The vendor has been working with the Department for two years and has proven to be reliable, communicative, and adaptable – all qualities that will be critical to successfully navigate this novel program.

Further, the proposed clinician that will be assigned to this unit comes with a plethora of experience working with underserved communities. From 2017-2019, she gained street

medicine experience as a Physicians Assistant student clinician with Crimson Care Collaborative in Boston. As part of that project, she worked with the Harvard Medical School faculty to provide medical evaluations and follow up care at a homeless shelter in downtown Boston during evening hours where she was able to build a therapeutic alliance and develop a trusting relationship with patients.

The clinician has also had the opportunity to shadow community led public health programs including alcohol and methamphetamine rehabilitation facility, jail health services for incarcerated patients, and participated in traditional healing practices on Rosebud Indian Reservation in South Dakota.

Finally, the clinician has EMT experience on ALS ambulances in the 911 system in Napa County with Napa City Fire Department and CalFire from 2014-2016. There, she responded to emergency medical calls, provided medical care and transported patients to hospitals. All this makes the proposed clinician experienced and culturally competent which well prepares her to provide the service the Department is seeking.

The services to be provided include, but are not limited to:

- Staff an alternative 911 emergency medical response unit
- Respond to reports of non-life-threatening medical incidents and fire department referrals
- Connect 911 users with healthcare and social services resources appropriate for their needs
- Absorb low acuity medical calls for service from the 911 system
- Provide comprehensive in-home medical care for patients with non-emergent medical complaints
- Offer patients an in-home option to receive convenient medical follow-up to a 911 call
- Prevent habitual use of the 911 system for routine medical care
- Coordinate and connect patients to allied networks of providers through referrals and warm hand-offs when appropriate

Berkeley Fire Emergency Alternative Response is a Strategic Plan Priority Project, advancing our goal to:

- create a resilient, safe, connected, and prepared city.
- champion and demonstrate social and racial equity.
- be a customer-focused organization that provides excellent, timely, easily accessible service and information to the community.

BACKGROUND

In the first months of the pandemic, the Department identified a need to divert non-critical patients from 911 ambulance transport, and the hospital systems to support an anticipated surge in high acuity COVID-19 patients. The Mobile Integrated Paramedic (MIP) pilot was created and deployed.

The traditional low acuity medical calls for service requires a fire engine / truck and an ambulance to respond. It was identified that assigning the MIP to low acuity medicals would reduce resource drain for this type of call for service. The program provided a relief valve not just for fire resources, but also alleviated congestion of our local hospitals. The MIP improved public health education, connected patients with healthcare resources, and social services that were more likely to bring sustained relief or resolution to a patient's needs.

During the eight (8) week pilot period when the MIP was assigned to a call for service, there was a 75% drop in the rate of ambulance transport. This reduced the fire engine / truck and ambulance Unit Hour Utilization (UHU) which is the percentage of time that a unit is assigned to 911 calls. In addition to dropping UHUs, the MIP was also connecting patients with the resources they needed more effectively. The program allowed providers to follow up with those patients they had contacted to better support their ongoing health care needs.

Since the end of the MIP pilot the regulatory landscape has changed. Changes that directly relate to the MIP include an end of the emergency order by President Biden and Governor Newsom, as well as limitations to the paramedic scope of practice under CCR Title 22 and Assembly Bill 1544. Current scope of practice for 911 paramedics in Alameda County leaves paramedics with two courses of action, they can transport a patient to an emergency department, or they can leave them at the emergency scene. This provides little flexibility to divert patients to the most appropriate resource for their needs.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
There were no identified environmental or climate impacts.

RATIONALE FOR RECOMMENDATION
In order to address the high UHUs and to adapt to a changing regulatory environment, it was determined that launching a unit with a Physician's Assistant (PA) will provide a substantially better and more effective service to the community including the added benefit of being able to deliver primary health care to patients without having to transport them to the emergency department. The PA will be able to dedicate time to low acuity medical complaints and investigate the social determinants of health that lead to the activation of the 911 response.

ALTERNATIVE ACTIONS CONSIDERED
An alternative to this unit, as noted in the Standards of Coverage and Community Risk Assessment would be to deploy additional Fire/EMS response units. This option would have an exponentially higher annual recurring cost (3m per fire engine, 1.5m per

ambulance) and would require additional facility space, for which there is no funding. Finally, this alternative action would increase the number of deployed response units thereby reducing UHUs but it would not address social determinates of health, or the underlying cause of overuse of the 911 system.

CONTACT PERSON
David McPartland, Assistant Chief of EMS, (510) 981-3473
Julie Haslam, EMS Quality Assurance. (510) 981-3473

Attachments:
1: Resolution

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

Contract: Pinnacle for Pilot Fire Department Alternative Medical Response Unit

WHEREAS, during the pandemic, the Department identified a need to divert non-critical patients from 911 ambulance transport, and the hospital systems to support an anticipated surge in high acuity COVID-19 patients, and

WHEREAS, Mobile Integrated Paramedic (MIP) pilot was created and deployed in response to the need for call diversion and; proved that responding to low acuity medical calls would reduce resource drain for this type of call for service.; and

WHEREAS, the MIP proved that responding to low acuity medical calls provided relief on the 911 system and BFD staff; and

WHEREAS, Title 22 and Assembly Bill 1544 requires providers to institute a community paramedicine program to transport patients to behavioral health facilities; and

WHEREAS, the Department released RFP Specification No. 24-11647-C for Fire Department Partnership for Alternative Medical Response Unit on January 31 with proposals due on March 21, 2024, and

WHEREAS, the City did not receive any responses despite advertising and direct outreach to over twenty-five local organizations inviting them to submit a proposal, and

WHEREAS, the City and Department have an urgent need to deploy alternative resources that can help reduce the use of the 911 system for low acuity, non-emergency patients and reduce the number of habitual system users.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments with Pinnacle Training Systems, LLC (Contractor) to provide nurse practitioner services for a pilot alternative medical response unit from June 17, 2024 to January 31, 2025 in an amount not to exceed $510,000 with an option to extend for three additional one-year terms in a total not to exceed $2,700,000.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: David Sprague, Fire Chief

Subject: Contract: Tablet Command for Mobile CAD and Incident Command

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee(s) to enter into a contract and any amendments with Tablet Command for Mobile Computer Assisted Dispatch (Mobile CAD) and Incident Command by piggybacking on a contract with the Orange County Fire Authority (OCFA). The Berkeley contract will be effective July 1, 2024 and end on September 30, 2024 in an amount not to exceed $77,250. Following an extension approved by the OCFA, the contract may be extended for up to four additional one-year renewal terms at a cost not to exceed an additional $65,000 per year.

FISCAL IMPACTS OF RECOMMENDATION

All funds required to pay for this contract are in the Department's baseline operating budget. Funding sources include but are not limited to Measure FF and the General Fund.

CURRENT SITUATION AND ITS EFFECTS

The Department is seeking a Mobile Computer Assisted Dispatch (Mobile CAD) computer program that will provide a real-time interface and two-way mobile communication capability for responders with the City's CAD system. The system will also provide enhanced GIS mapping, integrate with existing GIS mapping software to provide enhanced mapping to responders, and provide incident commanders a mobile solution to run and coordinate emergency incidents. Tablet Command is the Mobile CAD product used by fire departments in Alameda and Contra Costa Counties.

BACKGROUND

The OCFA conducted a competitive Request for Proposal (RFP) No. RO2596 that solicited bids for a Mobile Computer Assisted Dispatch solution which opened on

January 4, 2023. Tablet Command submitted a final and best offer on August 2, 2023 and was awarded the contract on September 28, 2023.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
There is no identified impact.

RATIONALE FOR RECOMMENDATION
Tablet Command will provide better communication between the dispatch center and responders operating in the field. It will also provide a tool that incident commanders can use to better track and account for emergency apparatus and responders on the scene of an emergency. All of this enhances the Department's ability to provide service and keep employees safe.

ALTERNATIVE ACTIONS CONSIDERED
None.

CONTACT PERSON
David Sprague, Fire Chief, 510-981-3473

Attachments:
1: Resolution

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

CONTRACT: TABLET COMMAND FOR MOBILE CAD AND INCIDENT COMMAND

WHEREAS, the Fire Department is seeking a Mobile Computer Assisted Dispatch (Mobile CAD) computer program that will provide a real-time interface and two-way mobile communication capability for responders with the City's CAD system, provide enhanced GIS mapping, integrate with existing GIS mapping software to provide enhanced mapping to responders, and provide incident commanders a mobile solution to run and coordinate emergency incidents, and

WHEREAS, Tablet Command is the Mobile CAD product used by fire departments in Alameda and Contra Costa Counties, and

WHEREAS, the Orange County Fire Authority conducted a competitive Request for Proposal No. RO2596 that solicited bids for a Mobile Computer Assisted Dispatch solution which opened on January 4, 2023, and

WHEREAS, Tablet Command submitted a final and best offer on August 2, 2023 and was awarded the contract on September 28, 2023.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee(s) is authorized to execute a contract and any amendments with Tablet Command for Mobile CAD and Incident Command by piggybacking on a contract with the Orange County Fire Authority (OCFA). The Berkeley contract will be effective July 1, 2024 and end on September 30, 2024 in an amount not to exceed $77,250. Following an extension approved by the OCFA, the contract may be extended for up to four additional one-year renewal terms at a cost not to exceed an additional $65,000 per year.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Gilman, Interim Director, Health, Housing, and Community Services

Subject: Amending the Five-Year Plan and Submitting Application for Permanent Local Housing Allocation Program

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or the City Manager's designee to amend the five-year Permanent Local Housing Allocation plan and apply for and accept funds from the State of California's Permanent Local Housing Allocation Program, in an amount not to exceed $3,321,617.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley is currently eligible to apply for two years of funds through the State's Permanent Local Housing Allocation (PLHA) program, not to exceed $3,321,617, fund #302. The funding would be used for Housing and Community Services (HCS) programs in support of lower income and/or unhoused residents.

CURRENT SITUATION AND ITS EFFECTS

The City will apply for up to $ $3,321,617 in PLHA funds through California Department of Housing and Community Development's (HCD) Notice of Funding Availability (NOFA). This funding represents Years 3 ($2,212,637) and 4 ($1,108,980) of the City's five-year PLHA Plan, which was submitted in 2020 and amended in 2021. The application includes an amendment to the five-year PLHA Plan to allow for a broader application of funds to support existing HCS programs, including the Housing Trust Fund program and homeless services. Adjustments to the funding plan in excess of 10% require Council and HCD approval and must be submitted with the application.

PLHA funds can be used to support a variety of planning or implementation activities related to housing and community development carried out by HCS within the Department of Health, Housing, and Community Services. HCS staff anticipate using the funds for the following eligible activity categories: 1) The predevelopment, development, acquisition, rehabilitation, and preservation of multifamily, residential live-work, or rental housing that is affordable to extremely low-, very low-, low-, and moderate-income households, including necessary operating subsidies; and/ or 2) Assisting persons who are experiencing or at risk of homelessness, including providing

rapid rehousing, rental assistance, navigation centers, emergency shelters, and the new construction, rehabilitation, and preservation of permanent and transitional housing, along with grant administration (within the established limit of funds).

The City will allocate an estimated 25 to 50% of funds (equal to at least $500,000 per year) to operating subsidies for homeless households such as shelter operations and navigation services. This will allow existing homeless shelters in Berkeley to continue to operate 24/7 and provide housing navigation services to assist participants in accessing permanent housing. Up to 5% is available to the City for admin to support program implementation. The remaining 45 to 70% of funds will be applied to the Housing Trust Fund program to increase and/or preserve Berkeley's affordable housing inventory through rehabilitation, new construction, and necessary operational subsidies. Funds will be leveraged with other local, state and federal revenue sources as needed as part of the City's Housing Trust Fund program to support this work.

BACKGROUND

PLHA is intended to provide a permanent, on-going source of funding to local governments for eligible housing-related activities and programs that assist in increasing the supply of affordable homes in California and addressing the unmet housing needs of their local communities. Funds are generated from a $75 recording fee on certain real estate transaction documents, so the amount allocated through the program varies year to year. PLHA is noncompetitive, with funds allocated to cities based on the Community Development Block Grant (CDBG) distribution formula.

HCD estimated a total allocation of $7,761,504 to the City during the five-year period. To access the funds, the City is required to have a five-year PLHA Plan, amend it when needed, and submit streamlined applications for each year of funding. The City used funds from Years 1 and 2 to support the operating of the navigation center (STAIR) and for the Golden Bear Homes – a Homekey project.

The City is required to use HCD's resolution template for the application and the plan amendment for this Council item.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental sustainability and climate impacts directly associated with the recommendations in this report.

RATIONALE FOR RECOMMENDATION

If approved, an application for PLHA funds will make up to $3,321,617 available for Berkeley to support City programs that serve lower income or unhoused populations.

ALTERNATIVE ACTIONS CONSIDERED

The City could decline to participate in the PLHA Program. Since that would not be consistent with the City's Strategic Plan to increase affordable housing opportunities, staff are recommending participation as described above.

CONTACT PERSON

Asavari Devadiga, Community Development Project Coordinator, HHCS, (510) 981-5426

Attachment:
1: Resolution

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY AUTHORIZING APPLICATION AND AMENDING THE PERMANENT LOCAL HOUSING ALLOCATION PLAN FOR THE PERMANENT LOCAL HOUSING ALLOCATION PROGRAM

WHEREAS, the California Department of Housing and Development ("Department") is authorized to provide up to $296 million under the SB2 Permanent Local Housing Allocation Program Formula Component from the Building Homes and Jobs Trust Fund for assistance to Cities and Counties (as described in Health and Safety Code section 50470 et seq. (Chapter 364, Statutes of 2017 (SB 2)); and

WHEREAS, the State of California (the "State"), the Department issued a Notice of Funding Availability ("NOFA") dated 12/29/2023 under the Permanent Local Housing Allocation (PLHA) Program; and

WHEREAS, the City of Berkeley (the "Applicant"), an eligible Local government who has applied for program funds to administer one or more eligible activities, or a Local or Regional Housing Trust Fund to whom an eligible Local government delegated its PLHA formula allocation; and

WHEREAS, the Department may approve funding allocations for PLHA program, subject to the terms and conditions of the Guidelines, NOFA, Program requirements, the Standard Agreement, and other contracts between the Department and PLHA grant recipients;

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley THAT:

SECTION 1. If Applicant receives a grant of PLHA funds from the Department pursuant to the above referenced PLHA NOFA, it represents and certifies that it will use all such funds in a manner consistent and in compliance with all applicable state and federal statutes, rules, regulations, and laws, including without limitation all rules and laws regarding the PLHA Program, as well as any and all contracts Applicant may have with the Department;

SECTION 2. Applicant is hereby authorized and directed to receive a PLHA grant, in an amount not to exceed the five-year estimate of the PLHA formula allocations, as stated in Appendix B of the current NOFA $7,761,504 in accordance with all applicable rules and laws; and

SECTION 3. Applicant hereby agrees to use the PLHA funds for eligible activities as approved by the Department and in accordance with all Program requirements, Guidelines, other rules, and laws, as well as in a manner consistent and in compliance with the Standard Agreement and other contracts between the Applicant and the Department; and

SECTION 4. Pursuant to Sections 302(c)(4) and 302(c)(5) of the Guidelines, Applicant's PLHA Plan Amendment for the 2020-2023 Allocations is attached to this resolution, and Applicant hereby adopts this PLHA Plan Amendment and certifies compliance with all public notice, public comment, and public hearing requirements in accordance with the Guidelines; and

SECTION 5. If applicable, Applicant certifies that it was delegated by the City Council to submit an application on its behalf and administer the PLHA grant award for the formula allocation of PLHA funds, pursuant to Guidelines Section 300(c) and 300(d), and the legally binding agreement between the recipient of the PLHA funds and the Applicant is submitted with the PLHA application; and

SECTION 6. If applicable, Applicant certifies that it has or will subgrant some or all of its PLHA funds to another entity or entities. Pursuant to Guidelines Section 302(c)(3), "entity" means a housing developer or program operator, but does not mean an administering Local government to whom a Local government may delegate its PLHA allocation; and

SECTION 7. If applicable, Applicant certifies that its selection process of these subgrantees was or will be accessible to the public and avoided or shall avoid any conflicts of interest; and

SECTION 8. If applicable, pursuant to Applicant's certification in this resolution, the PLHA funds will be expended only for eligible Activities and consistent with all program requirements; and

SECTION 9. If applicable, Applicant certifies that, if funds are used for the acquisition, construction or rehabilitation of for-sale housing projects or units within for-sale housing projects, the grantee shall record a deed restriction against the property that will ensure compliance with one of the requirements stated in Guidelines Section 302(c)(6)(A), (B) and (C); and

SECTION 10. If applicable, Applicant certifies that, if funds are used for the development of an Affordable Rental Housing Development, the Local government shall make PLHA assistance in the form of a low-interest, deferred loan to the Sponsor of the Project, and such loan shall be evidenced through a Promissory Note secured by a Deed of Trust and a Regulatory Agreement shall restrict occupancy and rents in accordance with a Local government-approved underwriting of the Project for a term of at least 55 years; and

SECTION 11. Applicant shall be subject to the terms and conditions as specified in the Standard Agreement, the PLHA Program Guidelines and any other applicable SB 2 Guidelines published by the Department; and

SECTION 12. The City Manager or the City Manager's designee is authorized to execute the PLHA Program Application, the PLHA Standard Agreement and any subsequent amendments or modifications thereto, as well as any other documents which are related

to the Program or the PLHA grant awarded to Applicant, as the Department may deem appropriate.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Gilman, Interim Director, Health, Housing, and Community Services

Subject: Contract No. 32300134 Amendment: Bonita House for Specialized Care Unit Provider

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to amend Contract No. 32300134 with Bonita House to add $500,000 of funding from the American Rescue Plan Act grant for a total not-to-exceed contract amount of $5,345,500.

FISCAL IMPACTS OF RECOMMENDATION

This amendment will add $500,000 of funding from the State of California for a total not-to-exceed contract amount of $5,345,500. Funding for the Bonita House contract for the Specialized Care Unit (SCU) will be available in the Fiscal Year 2025 budget in the American Rescue Plan Act (ARPA) One-Time Grant Fund (Fund 354). These ARPA funds were previously allocated to HHCS for implementation of the Specialized Care Unit as a part of the broader initiative to Reimagine Public Safety, and this recommendation is consistent with that allocation.

CURRENT SITUATION AND ITS EFFECTS

The SCU is a Strategic Plan Priority Project, advancing our goal to champion and demonstrate social and racial equity. City Council approved the selection of Bonita House as the SCU service provider on December 13, 2022. Throughout 2023, Bonita House has hired and trained staff for the SCU. The SCU began providing crisis response services to the Berkeley community on September 5, 2023. Bonita House continues to recruit, hire, and train staff to serve on the SCU, expanding hours into the evening and ramp up to operate 24/7 as staffing allows. This additional funding will support ongoing program implementation costs including, but not limited to recruitment, hiring, training, infrastructure, and salary costs for staff providing direct response services for Berkeley community members experiencing a behavioral health crisis.

BACKGROUND

As part of the Re-Imagining Public Safety process, the City engaged in research and planning to implement a 24/7 SCU to respond to and support people who are experiencing a mental health or substance use crisis without direct involvement of the

police. The SCU is different than the City's current Mobile Crisis Team, which is a partnership of Health, Housing, and Community Services Department, Mental Health Division (HHCS/MH) and the Police Department.

Design for the SCU began in Fall 2020 with contracted consultant, Resource Development Associates (RDA), and the establishment of the SCU Steering Committee, an advisory group of HHCS and Berkeley Fire Department staff and representatives of the Berkeley Mental Health Commission and Berkeley Community Safety Coalition. After extensive work with the community, the City selected Bonita House as the provider for the SCU and services began in September 2023.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION
These additional funds will support Bonita House's ability to continue to implement the SCU pilot program in the City of Berkeley as it expands to a 24/7 crisis services model without law enforcement.

ALTERNATIVE ACTIONS CONSIDERED
No alternative actions were considered because these funds are meant to be used to support the implementation of the Specialized Care Unit as allocated as a part of the broader Reimagining Public Safety process.

CONTACT PERSON
Katherine Hawn, Senior Management Analyst, HHCS, (510) 981-5411

Attachments:
1: Resolution

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

CONTRACT NO. 32300134 AMENDMENT: BONITA HOUSE FOR SPECIALIZED CARE UNIT PROVIDER

WHEREAS, Contract #32300134 was awarded to Bonita House, Incorporated to implement the City of Berkeley's new Specialized Care Unit (SCU); and

WHEREAS, through Contract #32300134 Bonita House has hired and trained staff to provide daily crisis response services to Berkeley community members; and

WHEREAS, $500,000 was allocated through the American Rescue Plan Act grant to support direct services costs of the SCU and reimburse for team equipment purchases; and

WHEREAS, this grant funding has been awarded to support direct services costs incurred by SCU staff providing behavioral health crisis response services in Berkeley as well as necessary equipment purchases.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to amend the SCU Contract No. 32300134 with Bonita House by adding $500,000 for a not-to-exceed amount of $5,354,500. Funding will be available in the FY2025 budget in the American Rescue Plan Act One-Time Grant Fund (Fund 354), which was specifically allocated for SCU implementation as a part of the broader initiative to Reimagine Public Safety.

27

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Gilman, Interim Director, Health, Housing and Community Services

Subject: Contract No. 32400236 Amendment: Creative Educational Consultants, Inc.

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to amend existing Contract No. 32400236 with Creative Educational Consultants, Inc., for the period beginning June 1, 2024, and ending June 30, 2025, as follows: 1) expand the scope to include additional positive youth development opportunities for African American/Black and Latinx Berkeley youth; 2) increase the contract limit by $25,300 (from $49,700 to $75,000); and 3) extend the contract end date to June 30, 2025.

FISCAL IMPACTS OF RECOMMENDATION

This recommendation is to allocate an additional $25,300 from the Youth Equity Partnership (YEP) in Fund 011 General Fund to expand and extend its youth development work with Creative Educational Consultants, Inc., through Fiscal Year 2025 (FY25). This recommendation is fiscally neutral since the funding is already available in the existing YEP Fiscal Year 2024 (FY24) budget.

CURRENT SITUATION AND ITS EFFECTS

The Youth Equity Partnership is a Strategic Plan Priority Project, advancing our goal to champion and demonstrate social and racial equity. African American/Black and Latinx young people have limited opportunities to have a meaningful voice in community issues and decision-making. The proposed amendment will enable YEP to engage a cohort of approximately 20 African American/Black and Latinx high school and community college students who will receive extensive training and coaching on how to identify, research, analyze and present equity-related issues in their community. For the culmination of this project, students will conduct Community Equity Projects. Students will conduct research and present their findings in community settings. This project will help African American/Black and Latinx young people to gain skills and will provide opportunities for the Berkeley community to hear their perspectives on issues that matter to them.

BACKGROUND
In FY24, YEP piloted a Youth Review Panel, to explore a different approach to youth engagement in Berkeley. YEP hired a team of 20 African American/Black and Latinx high school and community college students to develop funding recommendations to City Council for the FY25 - 28 community agency contracting cycle. For this project, YEP contracted with Creative Educational Consultants, Inc., to design and deliver training and facilitation, with a lens on racial equity in the Berkeley community. Up to three students from the Youth Review Panel will be hired to co-facilitate and mentor the new cohort of students who will participate in this project.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
No anticipated environmental sustainability or climate impacts are associated with this project.

RATIONALE FOR RECOMMENDATION
The proposed amendment supports the City of Berkeley's core value of advancing social and racial equity. Racial equity lies at the center of this project and all of YEP's efforts. Student evaluations indicate that the Youth Review Panel had a strong, positive impact on participants. In addition, the City benefited from the diverse insights, cultures and perspectives that the Youth Review Panel brought to the community agency contracting process. The next phase of this work will provide leadership opportunities to past participants, while extending learning and growth opportunities to a new cohort of African American/Black and Latinx young people. This work will be designed to enrich both participants and the larger Berkeley community.

ALTERNATIVE ACTIONS CONSIDERED
YEP staff explored conducting this project without a consultant. However, with a staff of only two people, YEP cannot execute this project independently. Creative Educational Consultants, Inc., also brings added expertise in youth development, facilitation, restorative justice and other areas that complement YEP's contributions. The other alternative would be not to move forward with the project -- a missed opportunity to the City and to the many Black and Brown students in Berkeley who could benefit.

CONTACT PERSON
Nina Goldman, Youth Equity Partnership Manager, HHCS, 510.981.5420

Attachments:
1: Resolution

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

CONTRACT NO. 32400236 AMENDMENT: CREATIVE EDUCATIONAL CONSULTANTS, INC.

WHEREAS, Contract No. 32400236 was awarded to Creative Educational Consultants, Inc., to help design and implement the Berkeley Youth Equity Partnership's Youth Review Panel; and

WHEREAS, through Contract No. 32400236, Creative Educational Consultants, Inc. facilitated and supported 20 African American/Black and Latinx high school and community college students through a structured training and coaching process; and

WHEREAS, students used their new skills and knowledge on YEP's Youth Review Panel to successfully develop recommendations to City Council for Youth Equity Partnership funding through the FY 2025 - 28 community agency funding process; and

WHEREAS, YEP plans to build upon the work of the Youth Review Panel by engaging a new cohort of African American/Black and Latinx students in conducting Community Equity Projects; and

WHEREAS, Creative Educational Consultants, Inc., is the most qualified consultant to receive the additional funding to add the additional work to its scope; and

WHEREAS, funds in the amount of $25,300 are available for FY 2024 in Fund 011 General Fund;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to amend Contract No. 32400236 with Creative Educational Consultants, Inc., by adding $25,300 for a not-to-exceed amount of $75,000, expanding the scope of work as designated in Exhibit A to the contract, and extending the contract term through June 30, 2025. A record signature copy of said contract and any amendments shall be on file in the Office of the City Clerk.

28

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Gilman, Interim Director, Health, Housing, and Community Services

Subject: Contract No.32300197 Amendment: Resource Development Associates for Results Based Accountability Consulting Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 32300197 for $160,000 and any additional amendments or extensions, with Resource Development Associates (RDA) for Results Based Accountability consulting services. The contract amendment's not-to-exceed amount will be increased to a total of $539,830 for the period July 1, 2023 through June 30, 2026.

FISCAL IMPACTS OF RECOMMENDATION

RDA, a consulting firm, was selected to provide planning and implementation supports for the Results Based Accountability framework for the Health, Housing, and Community Services Department (HHCS). The current contract has a not-to-exceed amount of $379,830. Funding is available in the FY2024 budget in General Fund (011) and State Operating Grants (302). The contract amendment will add more services and will increase the not-to-exceed amount by $160,000 resulting in an amended total not-to-exceed amount of $539,830.

CURRENT SITUATION AND ITS EFFECTS

The Health, Housing, and Community Services Department's Public Health Division (HHCS/PH) is implementing the Results Based Accountability framework across the department in an effort to measure all programmatic efforts, quality of services, and impact of those efforts for our clients and community. This framework will also support the measurement of our progress in the City's upcoming Community Health Improvement Plan.

The RDA contract scope of work and associated budget will be amended to include the planning and implementation activities for the Housing and Community Services Division and the Environmental Health Division. The inclusion of these two Divisions will greatly enhance the ability for the Divisions and the Department to fulfill reporting requirements.

BACKGROUND
The City released a Request for Proposals (RFP) under Specification No. 23-11563, and convened a panel of stakeholders, which selected RDA as the most responsive and responsible bidder for this contract.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION
RDA is a well-respected consulting firm with demonstrated subject matter expertise on Results Based Accountability as well as public health programs. Their proposal includes high quality services that align with the intended goals of maximizing program objectives and reimbursement for eligible services.

ALTERNATIVE ACTIONS CONSIDERED
HHCS does not have the capacity to take on the Results Based Accountability initiative without technical support. Therefore, staff did not identify an alternative action consistent with the City's goals of advancing efficient and financially-healthy City government and public health and social and racial equity.

CONTACT PERSON
Janice Chin, Public Health Division Manager, HHCS, (510) 981-5121

Attachments:
1: Resolution

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

CONTRACT No. 32300197 AMENDMENT: RESOURCE DEVELOPMENT ASSOCIATES AND CONSULTING SERVICES FOR RESULTS BASED ACCOUNTABILITY FRAMEWORK

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services (HHCS), is committed to providing high quality comprehensive public health services, and

WHEREAS, HHCS seeks to eliminate health and educational inequities; and

WHEREAS, HHCS seeks to monitor the progress and impact of the services it provides

WHEREAS, Resource Development Associates was selected by the City's RFP process which includes bidding from vendors, draft proposals, and pricing; and

WHEREAS, funds are available in the Fiscal Year 2024 budget.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute an amendment to Contract No. 32300197, for an additional $160,000 and any additional amendments or extensions, with Resource Development Associates (RDA) for Results Based Accountability consulting services. The contract amendment's not-to-exceed amount will be increased to a total of $539,830 for the period July 1, 2023 through June 30, 2026. A record signature copy of said contract and any amendments to be on file in the City Clerk Department.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Gilman, Interim Director, Health, Housing and Community Services

Subject: Revenue Grant Agreements: Funding Support from Essential Access Health to Conduct Public Health Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to submit a grant application to Essential Access Health, to accept the grant, execute any resultant revenue agreement and amendment, and implement the projects and appropriation of funding for related expenses to conduct public health promotion, protection, and prevention services for the Essential Access Health revenue agreement in the projected amount of $120,000 for April 1, 2024 to March 30, 2025. Grant funds will support clinical reproductive health services, as well as individual and community health education and outreach activities at the Berkeley High School Health Center and the Berkeley Technology Academy Health Center (the High School Health Centers).

FISCAL IMPACTS OF RECOMMENDATION

The City will receive funds in the estimated amount of $120,000 from the Essential Access Health for the period April 1, 2024 – March 30, 2025. The $120,000 allocation will be deposited and expensed from the C.F.P Title X Fund. There are no matching funds required by the funder.

Spending of the referenced grant funds is subject to Council approval of the budget and the Annual Appropriations Ordinances. Depending on the timing of when grants are officially awarded and the amounts are determined, the grant budgets will be adjusted as part of the First Amendment to the FY 2024 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

Services rendered through Essential Access Title X funding is a Strategic Plan Project, advancing our goal to champion and demonstrate social and racial equity and to be a customer-focused organization that provides excellent, timely, and easily-accessible services and information to the community. As a local health jurisdiction, the City of Berkeley provides a broad range of public health programs and services to the

community; with the goals of addressing health inequities, promoting healthy environments and behaviors, protecting residents from disease, and preventing illness, disability, and premature death.

Essential Access Health is the administrator for California's Title X federal family planning funds to provide clinical reproductive health services and education at the High School Health Centers. Federal Title X Funds are given to a non-profit agency, Essential Access Health, and are then dispersed to local health jurisdictions throughout the State through a competitive grant process. The funds are used to support clinical reproductive health services, as well as individual and community health education and outreach activities at the aforementioned sites.

BACKGROUND

The City of Berkeley receives funding from many sources annually to complete work related to improving the health of the community. As a local health jurisdiction, the City is committed to exploring opportunities for funding to support key initiatives to augment base funding resources. The Public Health Division in the Health, Housing, and Community Services Department (PHD/HHCS) is committed to providing essential services to the community, including clinical reproductive health services and education and outreach for family planning and the prevention and treatment of sexually transmitted infections.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

These funds support vital services related to our mandates as a public health jurisdiction and local initiatives designed to address health inequities in Berkeley and improve the health of Berkeley residents. This grant supports the mission of HHCS/PHD and provides the City with funding to continue working to protect and improve the health of the community.

ALTERNATIVE ACTIONS CONSIDERED

Staff did not identify an alternative action consistent with the City's goals of advancing public health and social and racial equity.

CONTACT PERSON

Janice Chin, Manager, Public Health Division, HHCS, (510) 981-5121

Attachments:

1: Resolution

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

REVENUE GRANT: ESSENTIAL ACCESS HEALTH FOR CLINICAL REPRODUCTIVE HEALTH SERVICES AND HEALTH EDUCATION AND OUTREACH

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division (HHCS/PHD), is committed to providing comprehensive clinical reproductive health services to individuals of reproductive age to plan their pregnancies and prevent and reduce sexually transmitted infections; and

WHEREAS, preconception/inter-conception care and education is a key part of family planning services; and

WHEREAS, adolescents benefit from teen specific counseling and education; and

WHEREAS, HHCS through Title X funds, will provide reproductive health services and education at the Berkeley High School Health Center and Berkeley Technology Academy Health Center; and

WHEREAS, HHCS seeks to eliminate health and educational inequities; and

WHEREAS, the projected amount of the grant is $120,000; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant application to Essential Access Health for April 1, 2024 – March 30, 2025 to support clinical reproductive health services, as well as individual and community health education and outreach activities; to accept the grant funds; execute any resultant revenue agreements and amendments in line with the grant award, which may be larger or smaller than the projected award of $120,000; and implement the projects and appropriation of funding for related expenses, subject to securing the grant. Funds will be deposited and expensed from the C.F.P Title X Fund. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Gilman, Interim Director, Health, Housing & Community Services

Subject: Shelter Plus Care Program Renewal Grants

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to receive up to the maximum grant award for the following Shelter Plus Care grants and to execute any resultant agreements and amendments.

a. A Shelter Plus Care grant from U.S. Department of Housing and Urban Development (HUD) in the amount of $2,327,914 for COACH Project (COACH) for the period of January 1, 2024 through December 31, 2024; and
b. A federal Shelter Plus Care grant received via Alameda County in a not-to-exceed amount of $927,164 to provide tenant-based rental assistance to individuals who are chronically homeless and disabled from March 1, 2024 through February 28, 2025; and
c. Two Shelter Plus Care grants from U.S. Department of Housing and Urban Development (HUD) that are estimated to be:
    1. $4,165,069 for Supportive Housing Collaborative Project (SHC) for the period June 1, 2024 through May 31, 2025; and
    2. $2,438,926 for COACH Project (COACH) for the period of January 1, 2025 through December 31, 2025.

FISCAL IMPACTS OF RECOMMENDATION

The Department of Health, Housing, and Community Services' Housing and Community Service Division (HHCS/HCS) has administered Shelter Plus Care grants for many years as part of the City's strategy to end homelessness. Each of the Shelter Plus Care grants and the grant from Alameda County provides funds for rental subsidies from the Federal Department of Housing and Urban Development (HUD). Grant revenues are deposited and expensed out of Funds 347 (Shelter+Care HUD), and 348 (Shelter+Care County), respectively. With the exception of the required 25% service match, these grants fund 100% of the program costs. HUD allows up to 10% of each grant to be used to administer the rental subsidies, which supports HHCS/HCS's grant-related administrative activities.

CURRENT SITUATION AND ITS EFFECTS

Based on a national competition, HUD and Alameda County awarded funding to the City of Berkeley to renew four Shelter Plus Care grants that provide rental assistance to a minimum of 220 households annually. The City's Shelter Plus Care Program provides federal rental subsidies that are matched by locally provided services to transition formerly homeless, disabled individuals and families into permanent, supportive housing. These grants currently provide tenant-based rental subsidies for approximately 300 households to rent from private property owners in Berkeley, Albany, Alameda, Oakland, and Emeryville.

Each of the participants in the program receives case management and other supportive services provided by local agencies, such as Bay Area Community Services (BACS), Insight Housing (IH Formerly Berkeley Food and Housing Project BFHP); City of Berkeley Mental Health Division (BMH); City of Berkeley Aging Services Division (Aging); Building Opportunities for Self-Sufficiency (BOSS); East Bay AIDS Center (EBAC); Lifelong Medical Care (LLMC); and the Women's Daytime Drop-In Center (WDDC).

BACKGROUND

Since 1995, the City of Berkeley Shelter Plus Care Program has been an important component of the continuum of housing available to disabled homeless families and individuals. The Shelter Plus Care Program is funded by HUD and the County of Alameda to provide housing subsidies for people who are homeless with a disability. The program combines a rental subsidy with ongoing supportive services to assist chronically homeless individuals and families to obtain and maintain housing.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

Acceptance of the four Shelter Plus Care renewal grants will assure that approximately 290 homeless and disabled individuals and families in Berkeley continue to benefit from receiving ongoing rental assistance and the supportive services necessary to retain stable housing.

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were identified that would be consistent with the City's goal to house the most vulnerable members of the community.

CONTACT PERSON

Yesenia Lopez, Interim Community Services Specialist III, HHCS, 510-981-5120

Attachments:
1: Resolution

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

SHELTER PLUS CARE PROGRAM RENEWAL GRANTS

WHEREAS, the U.S. Department of Housing and Urban Development and the County of Alameda have awarded the City of Berkeley Health, Housing & Community Services Department the following four Shelter Plus Care grants:

1. $2,327,914 for COACH Project (COACH) for the period of January 1, 2024 through December 31, 2024; and
2. $927,163 for County of Alameda Collaborative (AC Collaborative) for the period March 1, 2024 through February 28, 2025; and
3. $4,165,069 (estimated) for Supportive Housing Collaborative Project (SHC) for the period June 1, 2024 through May 31, 2025; and
4. $2,438,926 (estimated) for COACH Project (COACH) for the period of January 1, 2025 through December 31, 2025.

WHEREAS, the combined total for the four grants is an estimated $9,859,072 to provide direct rental assistance, and of this amount approximately 10% is available to support the Health, Housing, and Community Services Department's grant-related administrative activities (For the HUD grants budget, Fund 347 (Shelter+Care). For the contract with Alameda County, Fund 348 (Shelter+Care); and

WHEREAS, these Shelter Plus Care grants are an annual renewal of an existing program that provides rental subsidies and ongoing support services for more than 290 homeless and disabled individuals and families in Berkeley; and

WHEREAS, the rent subsidies provided through the City's Shelter Plus Care Program are matched by services provided by the City's Mental Health Division and Aging Services Division and seven community-based agencies that assist formerly homeless, disabled individuals and families to retain stable housing.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to receive funds up to the maximum grant award, and execute any agreements and amendments resulting from the grants awarded from the U.S. Department of Housing and Urban Development and the County of Alameda for the City's Shelter Plus Care Program estimated to be as follows: 1) $2,327,914 for COACH Project (COACH) for the period of January 1, 2024 through December 31, 2024; 2) $927,163 for County of Alameda Collaborative (AC Collaborative) for the period March 1, 2024 through February 28, 2025; 3) $4,165,069 or an amount more or less than this estimated amount for Supportive Housing Collaborative Project (SHC) for the period June 1, 2024 through May 31, 2025; and 4) $2,438,926 or an amount more or less than this estimated amount for COACH Project (COACH) for the period of January 1, 2025 through December 31, 2025.

A signed copy of said documents, agreements and any amendments will be kept on file in the Office of the City Clerk.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jennifer Louis, Chief of Police

Subject: 2023 Police Equipment & Community Safety Ordinance Annual Report

RECOMMENDATION
Adopt a Resolution approving the 2023 Equipment Ordinance Annual Report.

FISCAL IMPACTS OF RECOMMENDATION
The fiscal impacts are limited to staff time for reporting and continuous training.

CURRENT SITUATION AND ITS EFFECTS
On May 11th, 2021 the City of Berkeley adopted the Police Equipment and Community Safety Ordinance, Ordinance NO. 7,760-N.S. The Police Equipment and Community Safety Ordinance requires the Police Department submit to Council for approval an annual report for the usage of specified equipment "for as long as the Controlled Equipment is available for use." Pursuant to the ordinance, this annual report shall be provided to the Police Accountability Board for review. After review by the Police Accountability Board, the Berkeley Police Department must submit the Annual Report to the City Council indicating the Police Accountability Board's approval or lack of compliance.

BACKGROUND
On February 23rd, 2024 the 2023 Equipment Ordinance Annual Report was provided to the Office of the Director of Police Accountability (ODPA). On February 26th, 2024 the ODPA submitted a written Recommendation to the Police Accountability Board regarding the annual report that was discussed at the regular PAB meeting on February 28, 2024. The Analysis section of the Recommendation states that "the reporting requirement as articulated in BMC Section 2.100.050(A)(1)(a) – 2.100.050(A)(1)(e) appeared to be complied with in this annual report." Three recommendations were also made by the ODPA:

#1 The PAB should consider conducting a systematic review of the incidents referenced in the 2023 report.

#2 The BPD should consider affixing, linking, and or attaching incident reports, BWC footage, and or any other relevant records related to the deployment and use of the incidents in a way that is consistent with federal, state and local law.

#3 The BPD should consider utilizing the ArcGIS StoryMaps feature to map out the incident in the Transparency Hub. (For more information on this tool visit: https//storymaps.com/)

On April 23rd, 2024 the ODPA communicated to the Police Department, via the attached memo, that the Police Accountability Board unanimously recommend City Council vote to approve the BPD's Police Equipment and Community Safety Ordinance 2023 Annual Report at the April 17th, 2024 regular meeting. In the memo the PAB also expressed a desire for a more qualitative review of the uses of equipment to ensure compliance with the ordinance and further promote transparency but did not take any action towards additional review.

The Berkeley Police Department appreciates the recommendations of the ODPA and PAB and will continue to explore opportunities to share legally permissible and appropriate information in real time with the public on the Transparency Hub.

Additionally, pursuant to the ordinance the Department shall also make each annual report publicly available on its website for as long as the Controlled Equipment is available for use. The 2023 Equipment Ordinance Annual Report will be posted on the Berkeley Police Department website.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION
The Police Equipment and Community Safety Ordinance Annual Report requires the approval of the City Council.

ALTERNATIVE ACTIONS CONSIDERED
None.

CONTACT PERSON
Jennifer Louis, Chief of Police, (510) 981-5700

Attachments:
1: Resolution
2: 2023 Equipment Ordinance Annual Report
3: Director of Police Accountability Recommendation
4. Police Accountability Board Memorandum

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

ANNUAL REPORTING AND IMPACT STATEMENTS: POLICE EQUIPMENT AND COMMUNITY SAFETY ORDINANCE

WHEREAS, the Berkeley City Council adopted Ordinance No. 7,760-N.S., the Police Equipment and Community Safety Ordinance on May 11, 2021; and

WHEREAS, Section 2.100.050 of the ordinance mandates an annual report for the deployment of military equipment that the Berkeley Police Department possesses; and

WHEREAS, per city ordinance, the Berkeley Police Department shall submit the annual report to the Police Accountability Board for review; and

WHEREAS, the Director of the Police Accountability Board has communicated Recommendations and the Analysis section of the Recommendation states that “the reporting requirement as articulated in BMC Section 2.100.050(A)(1)(a) – 2.100.050(A)(1)(e) appeared to be complied with in this annual report.”; and

WHEREAS, the Police Accountability Board has communicated their approval of the Annual Report

WHEREAS, Section 2.100.050 (3) of the ordinance requires the Berkeley Police Department to submit the Annual Report to the City Council for approval indicating the Police Accountability Board’s approval or lack thereof; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves the Berkeley Police Department’s 2023 Equipment Ordinance Annual Report.

Police Equipment and Community Safety Ordinance 2023 Annual Report

INTRODUCTION

On May 11, 2021 the Berkeley City Council passed Ordinance NO. 7,760-N.S., the Police Equipment and Community Safety Ordinance. Section 2.100.050 of the ordinance mandates an annual report for the deployment of specific equipment the Berkeley Police Department possesses. Below is a list and inventory of the reportable equipment under the city ordinance:

- Patrol Rifle (96)
  - Associated .223 duty and training rounds (93,128)
- Less Lethal single 40MM launcher (20)
- Less Lethal Milkor LTL 40 MM multi-launcher (2)
  - Associated 40mm rounds (637)
- Less Lethal FN 303 Launcher (8)
  - Associated FN rounds (5,813)
  - Associated FN Pava rounds (181)
- Oleoresin capsicum (handheld OC spray) (182)
- Chlorobenzylidene Malononitrile and Oleoresin capsicum/ tear gas (300)
- Remington 700 Precision Rifle (6)
  - Associated .308 rounds (2400)
- Light/sound distraction device (110)
- Long Range Acoustic Device (LRAD) (2)
- 36" batons (195)
- Barret Model 99 Precision Rifle (1)
  - Associated .50 rounds (50)

The annual report on the controlled equipment shall contain the following information per Ordinance NO. 7,760N.S.:

(a) Production descriptions for Controlled Equipment and inventory numbers of each product in the Police Department's possession.

(b) A summary of how Controlled Equipment was used. For the purposes of annual reports, "use" of equipment shall refer to equipment that is

Deployed, not to transfers of location or placement of equipment inside Department vehicles.

(c) If applicable, a breakdown of where Controlled Equipment was used geographically by individual police areas. For each police area, the Police Department shall report the number of days or instances in which Controlled Equipment was used and what percentage of those daily reported uses were authorized by warrant and by non-warrant forms of court authorization.

(d) A summary of any complaints or concerns received concerning Controlled Equipment.

(e) The results of any internal audits, any information about violations of Controlled Equipment Use Policies, and any actions taken in response.

There have been no additional internal audits beyond those conducted to gather and confirm data for this report. There were no identified violations of equipment use, or any complaints submitted to the department concerning the above-listed equipment.

Section 2.100.020 (D) defines deployment as “to utilize or employ Controlled Equipment for a deliberate purpose in the presence of members of the public during management or control of crowds, during any Special Response Team deployment or to affect some response from members of the public during any other operation or critical response. “Deployed” shall not mean an officer merely wearing a piece of Controlled Equipment on their belt or elsewhere on their person.” Deployment means the display of the equipment to affect some response from members of the public. The equipment does not have to be used (I.E. less lethal projectile actually launched and struck a suspect); simply having it and in view of a person to specifically affect a response would be considered a deployment. Deployments are to be reported per the ordinance and the table on page 5 of this report reflects both deployments and utilization of equipment.

The Blue Team system and Equipment Ordinance system are the two systems that capture all utilizations and deployments of equipment enabling the Police Department to fulfill the obligations set forth by the ordinance. The Blue Team

system documents all uses of force which includes patrol rifle deployments and utilization of less-lethal systems (I.E. less lethal projectile launched and struck a suspect). This system is maintained by the Internal Affairs Bureau. The Equipment Ordinance system captures deployments of all equipment outlined in the ordinance.

The Police Department responded to 63,691 calls from the community in 2023. Of the 63,691 calls received, 64 of them resulted in the deployment of military equipment. For details on these systems and other military equipment refer to page 19 or the Impact Statements located on the Berkeley Police Department website.

The table on page 5 details each of the 64 equipment deployment incidents extracted from the Blue Team and Equipment Ordinance systems. Each row within the table represents an incident where a specified equipment was deployed or utilized. The number of specified equipment deployed per incident is not represented. The table includes the service of 2 arrest warrants and 10 search warrants; 5 of which were served by the Special Response Team in cases involving a violent suspect. Equipment that is not outlined in the table was not deployed or used in 2023.

It should be noted that all military equipment deployments in 2023 were made during incidents where the Berkeley Police Department responded to a call for service made by community members or in the service of search warrants. There was one instance of a military equipment deployment made during a sex registrant compliance check on a violent offender with a history of firearm violations.

Additionally, 5,306 stops were conducted by the Berkeley Police Department in 2023. These 5,306 total stops break down to 3,665 vehicle stops, 1,554 pedestrian stops, and 87 bicycle stops. Five of the 5,306 stops resulted in the use (less lethal projectile launched towards a suspect) of the Penn Arms 40MM, also known as “less lethal.” These statistics illustrate the extremely rare percentage (0.00094%) of the time less lethal munitions are used in relation to overall contacts.

The table summarizing each incident on the next page (page 5) contains violence and details of crimes that can be unsettling to read. Reader discretion is advised.

There were 12 incidents where military equipment was used (less lethal projectile launched at a suspect, OC spray sprayed, patrol rifle used, or light and sound distraction device used). These incidents are highlighted in yellow.

It is important to note that information provided to police dispatchers by victims, witnesses, and community members guides police responses. Officers and supervisors make decisions on the deployment of equipment based, in part, on community members' observations and reports.

Each incident is listed in chronological order, and instances where the equipment was used are highlighted in yellow.

#	Equipment Deployed	Summary of Deployment	Beat
1.	Patrol rifle, 40MM launcher	Officers responded to a disturbance call from a neighbor. Officers knew the subject they were to contact had felony warrants for his arrest for firearm violations. Additionally, officers had previously recovered a bulletproof vest during a visit to this apartment, and on another day the subject had barricaded himself in his apartment when officers attempted to contact him. On this night, Officers contacted the subject who shined a flashlight at an officer's eyes, blinding the officer on purpose. The suspect had a power drill and refused multiple requests and orders for him to put the power drill down. Patrol rifle and 40MM launcher were deployed. A trained negotiator took over communication with the subject and utilized de-escalation techniques. The subject placed the power drill down but lifted his jacket to reveal a 7" fixed-blade dagger on his belt. The subject was agitated, verbally aggressive, and cursed at officers. He was also incoherent and rambled about telepathy. The subject needed to be detained before the situation became any more dangerous. Officers launched 40MM rounds at the subject. Other officers grabbed the subject before he could go for the dagger. The subject was immediately provided medical attention. He was arrested for the warrants and for violating an elder abuse restraining order by being at that apartment.	14
2.	Patrol rifle	Officers responded to a burglary in progress at a business after the alarm company called the police and reported seeing the burglars live on surveillance cameras. The suspects fled in a vehicle but crashed. Officers conducted a high-risk vehicle stop. Patrol rifle deployed as officers ordered the occupants out of the vehicle. Four suspects were arrested for burglary and a large number of stolen items were located in the car. The stolen property was returned to the business.	5
3.	40MM launcher	Officers were flagged down at midnight by a business owner regarding a possible burglary in progress. The business owner had surveillance cameras on	6

		the property and advised that the suspect was hiding in the back. This suspect had previously burglarized this business two other times. 40MM launcher deployed as officers entered the business. The suspect was located and taken into custody. He was arrested for burglary and possession of methamphetamine.	
4.	40MM launcher, Patrol rifle	BART Police requested assistance with reports of a man on a BART train with a gun. Berkeley Police responded and deployed patrol rifle and 40MM launcher. Berkeley and BART officers located the suspect on the train. This man was armed with a gun and was wearing body armor underneath his rain jacket. The subject was uncooperative and cursed at the officers. He was ultimately detained and BART police took custody of the man.	5
5.	40MM launcher	A father called the police on his daughter after she attempted to stab him with a knife. He barricaded himself in a bedroom. She tried to break down the door with a metal pole and stabbed at the door with her knife while also threatening to stab him. She fled the residence before police arrived. The father requested that his daughter be arrested and advised that his daughter was still in possession of the knife. Officers located the daughter who ignored officers' commands to stop. 40MM launcher was deployed. She walked dangerously into the street and traffic. Officers had to follow her and were able to pull her off the street onto a grassy area where she continued to resist. Officers were able to handcuff her, but she spat at officers and attempted to kick them. She was arrested for assault with a deadly weapon and other charges. The knife was later located hidden in her undergarment.	5
6.	FN303 launcher, Light/sound distraction device, LRAD, Patrol rifle, 40MM launcher, Remington 700 rifle	The Special Response Team conducted two search warrants at two residences in connection to a violent robbery of a Berkeley business where an elderly victim was pistol-whipped multiple times. A firearm and evidence were recovered during the service of these high-risk search warrants and several individuals were arrested. The LRAD and light sound distraction devices were used during the service of both warrants.	Outside of Berkeley
7.	FN303 launcher, Light sound distraction device, LRAD, Patrol rifle, 40MM launcher, Remington 700 rifle	The Special Response Team conducted two search warrants at two residences in connection to a violent robbery of a Berkeley business where an elderly victim was pistol-whipped multiple times. A firearm and evidence were recovered during the service of these high-risk search warrants and several individuals were arrested. The LRAD and light sound distraction devices were used during the service of both warrants.	Outside of Berkeley
8.	40MM launcher	A partially naked suspect under the influence of narcotics entered a restaurant that had a stay-away court order against him. The subject violated the stay-away court order when he walked in and then climbed into the ceiling. The employees called the police as the suspect climbed back down and started throwing things. 40mm launcher deployed as officers arrived on the scene. Officers tried to talk to him, but he was yelling nonsensically as he retreated into the kitchen area and armed himself with a fire extinguisher. Officers ordered the subject to drop the fire extinguisher, but he did not comply and started spraying the fire extinguisher at the officers. He raised the fire extinguisher while moving towards an officer as if to assault the officer with it.	5

		Another officer saw this and launched a 40MM launcher round at the suspect. The subject continued to threaten officers with the fire extinguisher. The officer launched another 40MM launcher round at the suspect who then ran upstairs and barricaded himself in the bathroom. Many attempts to de-escalate the subject through the locked bathroom door were made but to no avail. The subject continued to spray the fire extinguisher at officers from under the closed door. Ultimately, officers had to force entry into the bathroom and detain the subject who was in the process of hanging himself. He was admitted to the hospital and placed on a psychiatric evaluation hold. A criminal case was sent to the District Attorney's Office for review. An employee of the business was injured in this incident and the subject caused close to $20,000 in damages to the business.	
9.	40MM launcher	BART Police requested code 3 cover (emergency assistance) after community members reported a subject brandishing a knife and attacking BART riders on the platform. Officers arrived and deployed 40MM launcher. BART Police contacted the subject and took him into custody.	5
10	40MM launcher	A community member called the police after finding a burglar in her residence. Officers arrived and deployed 40MM launcher as they contacted the suspect. He was detained and arrested for burglary and for an outstanding warrant from another county.	6
11	Patrol rifle	A victim called the police and reported being a victim of an armed (firearm) home invasion robbery with four suspects involved. Officers located the suspect vehicle occupied by all four suspects and conducted a high-risk vehicle stop. Patrol rifle deployed as the suspects were ordered out of the vehicle and taken into custody. A firearm and evidence from the home invasion robbery were located inside the vehicle. All four suspects were arrested for the home invasion robbery and one was additionally charged with firearm violations.	12
12	40MM launcher, Patrol rifle, LRAD, Light sound distraction device, FN303 launcher	A victim called the police and reported being a victim of an armed robbery. The victim memorized the suspect's license plate and provided it to the police. This vehicle was involved in numerous other Berkeley crimes. Officers located the armed robbery suspect's vehicle and initiated a vehicle stop, but the vehicle failed to yield. A pursuit was initiated. Officers lost sight of the vehicle on the freeway but located the vehicle at a residence outside of Berkeley. A high-risk search warrant was served by the Special Response Team at this residence. Light/sound distraction device and the LRAD were used during the service of this warrant. Evidence was recovered from the search warrant and the suspect was apprehended at a later time.	Outside of Berkeley
13	FN303 launcher	A construction worker called the police after someone approached him and tried to stab him with a knife. The victim did not know the suspect and the suspect said nothing to the victim prior to trying to stab him. Shortly later, a worker from a nearby restaurant called the police and reported a person pacing around the restaurant armed with a knife. FN303 launcher deployed as officers arrived at the restaurant. The suspect was located and the knife was recovered in the restaurant. He was arrested for assault with a deadly weapon.	5
14	Patrol rifle	A community member called the police and reported a home invasion robbery in progress in his house. He reported that he armed himself with a gun and was trapped in his residence. Patrol rifle deployed as officers arrived on the scene.	5

		They contacted someone at the front door of this residence. This person had a firearm in plain sight within his reach. He reached for the firearm but was detained before he grabbed the gun. This person turned out to be the community member who called the police. He was intoxicated and according to a friend, the caller had been exhibiting paranoid delusional ideations. The caller was placed on a psychiatric evaluation hold. The judge approved a firearm emergency protective order to allow the seizure of the caller's firearm.	
15	40MM launcher	A victim called the police and reported that her neighbor threatened her with a large knife. 40MM launcher deployed as officers arrived on the scene. As Officers were talking to the victim the suspect emerged from his residence. Officers detained the suspect and located the large knife. The suspect was arrested for threatening the victim with a knife.	10
16	Patrol rifle	A caller reported that her grandson had shot at and "hurt" her husband, the suspect's grandfather. The caller reported the suspect dragged his elderly grandfather down a flight of steps and then fired a gun at him. Patrol rifle deployed as officers arrived at the scene. Officers located the suspect and detained him. He was still in possession of the gun. The grandfather was not shot and was medically assessed by the fire department. The bullet entered and exited the grandfather's pants, but did not hit him. The suspect was arrested for possession of a loaded firearm in public, felon in possession of a firearm, possession of narcotics (crack cocaine), and a domestic violence warrant.	3
17	40MM launcher	A neighbor called the police and reported hearing an argument between a husband and wife. The caller reported that he heard the husband yelling "Put the knife down" and children crying in the background. 40MM launcher deployed as officers responded to this domestic violence call. Upon arrival, they located and detained the suspect (girlfriend) outside of the residence. The victim (boyfriend) was inside the residence with their child. The boyfriend was stabbed in the neck with keys by the girlfriend and was injured. The suspect was arrested for domestic violence and medical attention was provided to the victim.	4
18	FN303 launcher, 40MM launcher	Employees at a restaurant called the police and reported someone bleeding from the neck. Officers responded and located the subject in front of the restaurant bleeding profusely from his neck and wrist. The subject held a broken glass bottle against his neck and refused to put the glass bottle down. 40MM launcher and FN303 were deployed. The fire department was staged nearby as Berkeley Police negotiators tried to de-escalate the situation. The subject rambled incoherently about tattoos and eyes watching him. Eventually, the subject lost consciousness due to blood loss. Berkeley Fire Medics immediately rendered aid. He was transported to the hospital and placed on a psychiatric evaluation hold.	3
19	FN303 launcher	A Berkeley City employee reported hearing a man screaming and hitting things with what sounded like a metal object. The man repeatedly screamed expletives. This man walked towards her with a metal pipe in hand and brandished her with it. He was foaming at the mouth and walked away. Officers familiar with this subject located him at a park swinging the metal pipe and hitting objects on the street. FN303 launcher deployed as officers detained this subject armed with the metal pipe. He was placed on a psychiatric evaluation	5

		hold. The Berkeley City employee requested no prosecution for the misdemeanor so the case was not forwarded to the District Attorney's Office.	
20	Patrol Rifle	A victim witnessed her vehicle being burglarized and confronted the suspects. One suspect pointed a gun at the victim and turned this auto burglary into an armed robbery. Investigators served a search and arrest warrant at the suspect's residence at a later time. Patrol rifle deployed as investigators served the warrants. Evidence was recovered in the residence that included cocaine, a large amount of ammunition, and a firearm. The suspect was also located and arrested for narcotic violations, robbery, firearm violations, and being a felon in possession of a firearm.	Outside of Berkeley
21	40MM launcher	A community member called the police and reported hearing a subject yell, "I'll kill you b****!" 40MM launcher deployed when officers arrived on the scene and saw the subject holding a metal bat. The subject was cooperative and was detained. After further investigation and after speaking with the caller, it was determined that no crime had occurred. The subject volunteering surrendered the bat to the officers and was released at the scene.	4
22	Patrol rifle, FN303 launcher	Investigators conducted a sex registrant compliance check on a known violent offender and pimp. Patrol rifle and FN303 launcher were deployed during this compliance check. In a previous compliance check, this sex registrant ran and dropped a gun. The sex registrant was not in compliance and a case has been forwarded to the District Attorney's Office for review.	9
23	40MM launcher	A Berkeley resident called regarding a trespasser who was loitering on her front porch. She reported that the subject was agitated and had attempted to enter her residence. She was scared. The porch where the trespasser was located is atop a flight of 17 steps (second floor). Officers contacted the subject who refused to come down. The subject was uncooperative and threw paper at the officers who were standing at the ground level. The subject was unintelligible. He was agitated at times and screamed. It was unknown if the subject had weapons. 40MM launcher deployed. Officers engaged in de-escalation tactics and negotiated with him from the ground floor for approximately an hour. The subject requested a cup of coffee. He left once officers gave him a cup of coffee. The Berkeley resident did not wish to press charges and the subject did not fit the criteria for a psychiatric evaluation hold.	9
24	40MM launcher	A victim called the police and reported being injured after a suspect had thrown rocks at him and then hit him with a golf club. The suspect was located by officers and was still holding a golf club. He was hitting random objects with the golf club and was agitated and on the verge of tears. 40MM launcher deployed as officers contacted the suspect. He was detained and positively identified by the victim. He was arrested for assault with a deadly weapon. At the Berkeley Jail, officers noticed the suspect's eyes were dilated and he started dozing off. The fire department was summoned for a medical evaluation. They transported the suspect to the hospital. This case was forwarded to the District Attorney's Office for review.	13
25	Patrol rifle	A victim called the police after her neighbor, whom she'd been disputing with, brandished a gun at the victim and her young daughter. The suspect fled in his vehicle and the victim provided the suspect's license plate to the police. Officers located this vehicle and initiated a high-risk vehicle stop. Patrol rifle deployed as	11

		the driver was ordered out of the vehicle and to walk backwards towards the officers. The driver/suspect was detained and admitted that there was a gun in the car. Officers located the firearm. The victim identified the driver as the suspect and he was arrested for firearm violations and brandishing a weapon.	
26	Patrol rifle	An elderly victim called the police after two suspects robbed her of her purse. Officers located the suspect vehicle, but it fled the area. The car was located a second time and officers attempted a vehicle stop, but the suspects fled on foot. Patrol rifle deployed as officers searched for the robbery suspects. Four suspects were located and arrested for robbery. The victim's stolen purse was located in the suspect's vehicle and returned to her. Further investigation showed the suspect's vehicle as a stolen car.	4
27	40MM launcher	A community member was shopping at a business when she saw a man swinging an axe around and talking to himself in the store. She called the police and reported what she saw. Officers arrived on the scene and saw the man in the store with the axe still in hand. 40MM deployed as officers entered the business and contacted the suspect. He was ordered to lay on the ground which he complied with. He was detained and lied about his name. Further investigations revealed his true identity and a parole violation warrant for his arrest. He was arrested for the warrant. The man never brandished the axe.	9
28	40MM, FN303 launcher	The Berkley Fire Department reported a person who attempted to run into the fire station as the garage door was closing. This subject then fled from the fire station and onto the roof of a large warehouse. Officers arrived on the scene and saw the suspect on the roof. The suspect was running back and forth from one side of the roof to the other. The subject ripped cable wires from the roof and used them to climb into the warehouse where he started a fire. Officers entered the warehouse to put the fire out as the suspect climbed back onto the roof. The subject threw items from the roof at officers. Attempts to de-escalate and negotiate with the subject were not effective. Officers suspected the subject to be under the influence of narcotics. One officer launched two 40MM launcher rounds at the subject that caused him to run away from the officer to the parking lot where he was detained. The suspect was transported to the hospital by the fire department and later to jail for burglary, vandalism, arson, and probation violation.	5
29	OC spray	A victim called the police and reported a man kicking down her fence. An officer arrived on scene and contacted the subject who refused to speak to the officer. The officer followed the suspect on foot as he gave commands for him to stop. The suspect yelled and cursed at the officer and refused to stop. A second officer arrived and immediately recognized the suspect from prior police contacts as someone violent with the police. This officer ordered the suspect to stop but was ignored. He attempted to grab the suspect's arms, but the suspect pulled his arms away and ran. The suspect physically resisted the officer as he continued his attempts to detain him. This officer sprayed the suspect with OC spray as the suspect continued to resist. When the second officer arrived, they were able to detain him. Medical aid was provided and he was placed on a psychiatric evaluation hold. The suspect is on probation for robbery. The criminal case was forwarded to the District Attorney's Office for review.	8

30	40MM launcher	A community member called the police after she looked outside of her house and saw a man waving a large knife at her residence. The community member did not know this man. 40MM launcher deployed when officers arrived on the scene. They located the subject and detained him. The subject had a large knife and a bag. Further investigation revealed that the knife and bag were stolen from a residence nearby. The stolen property was returned and the subject was arrested for concealing a dirk or dagger.	10
31	40MM launcher	A downtown business security guard called and reported a theft in progress. When officers arrived on the scene, they saw the suspect inside the store with a knife in his hand. 40MM launcher deployed as officers entered the business to detain the suspect. The suspect had drug paraphernalia and credit cards that did not belong to him. He was arrested for grand theft, identity theft, and possession of drug paraphernalia.	4
32	40MM launcher	The Berkeley Fire Department requested the Police for assistance for a subject who was becoming aggressive. The subject is known to the police as an individual with a violent history. Officers arrived to assist the fire department. The subject was uncooperative with the Berkeley Fire Department medics and was yelling. At one point the subject stood up and lunged at the officers and medics. He sat back down and continued to yell incoherently. 40MM deployed as another officer de-escalated and calmed the subject. The subject was placed on a psychiatric evaluation hold.	4
33	40MM launcher	A known subject called the police and reported people following her. She told dispatch she "doesn't want to have to kill someone." Officers know this subject as someone who has experienced several mental health crises in the past, has a history of violence involving weapons, and has previously assaulted officers. Officers located this subject and she was holding a metal pole and knife. 40MM launcher deployed as officers engaged in de-escalation tactics. The subject complied with officers and was safely detained. The subject was placed on a psychiatric evaluation hold.	4
34	40MM launcher	Employees at an office called the police and reported a suspect barged his way into the office and told the employees that he was waiting for troops. He started taking off his clothes and was aggressive. The subject tried to punch one of the employees. 40MM launcher deployed as officers arrived on the scene. The subject was located and detained. He was placed on a psychiatric evaluation hold.	4
35	40MM launcher	An employee called the police and reported a robbery. An officer responded and located the suspect holding a metal rod who refused to comply with the officer’s orders to drop the metal rod. The suspect walked approximately two blocks as the officer followed and attempted to de-escalate the situation. 40MM was deployed as more officers arrived on the scene. The suspect was safely detained and arrested for robbery and parole violation.	4
36	40MM launcher	A community member called the police and reported that an acquaintance was standing in front of his house holding an axe. He reported that the subject has mental health issues. A second community member called and reported the subject asked him if he needed wood to be chopped. 40MM launcher deployed as officers arrived on the scene. The subject was located and complied with the officer's commands. After talking to both callers, the subject did not threaten	5

		anyone and did not fit the criteria for a psychiatric evaluation hold. The staff at this housing were contacted and advised of the incident.	
37	Patrol rifle	A community member called the police and reported a fight between 6-8 individuals. The community member also reported seeing a gun. Officers arrived on the scene and attempted to detain several subjects. They fled from officers and one of them discarded a "ghost gun" that officers recovered. The subject who discarded the firearm was arrested for firearm violations. He also had two warrants for his arrest for robbery and reckless evasion of peace officers. Patrol rifle deployed as officers continued searching the area for the remaining suspects. In the same vicinity, officers tried to stop a car attempting to flee the area. He failed to stop and rammed a police vehicle while an officer was inside, crashed into a parked vehicle, and drove onto the sidewalk before crashing into a fence and becoming immobilized. Officers arrested this suspect for numerous crimes including reckless evasion, assault with a deadly weapon, and hit and run.	5
38	Patrol rifle, 40MM launcher	An elderly mother called and reported that her son was actively violating a restraining order. Officers arrived on the scene and located the suspect in front of the mother's house. The suspect immediately placed his hand in the front pocket of his baggy hooded sweater as if he had a weapon. He yelled, "I have something for you" and "Go ahead, shoot me. I want you to shoot me. I'm ready to die right now!" He walked away from officers and continued to tell officers to shoot him. He kept his hand in his pocket as if he had a weapon. There was a standoff for approximately an hour where the suspect stood on the sidewalk with his hand in his pocket and refused to comply with simple orders. Patrol rifle and 40MM were deployed as officers spent over an hour negotiating with the potentially armed suspect. When he finally took his hand out of his pocket and allowed officers to handcuff him, officers discovered he was holding onto a flare the entire time and had no weapon. He was arrested for violating the restraining order from his mom, elder abuse, and vandalism.	12
39	Patrol rifle	A community member called and reported being a victim of an attempted vehicle theft while she was sitting in the back of her car. The suspect fled the area in another vehicle and the victim chased after him in her car. The suspect reversed and rammed the victim, so the victim rammed the suspect back. Ultimately, the suspect got away from the victim. Officers conducted an area check and located the suspect vehicle parked and occupied. Officers conducted a high-risk vehicle stop. Patrol rifle deployed as the suspects were detained. The driver had a knife that fell onto the ground as he was detained and a window punch tool was located in his pocket. Records check showed he was on parole. He was arrested for vehicle theft, assault with a deadly weapon, possession of burglary tools, possession of stolen property, petty theft, and parole violation.	6
40	40MM launcher	A grandmother called the police and reported that her grandson was trying to kill her daughter, his mother. The grandmother reported that he was armed with a knife and pleaded for the police to respond immediately. She was scared for her life. Officers arrived at the apartment complex and noted that items had been thrown from the grandmother's 4th-floor apartment onto the ground floor. Officers knocked and asked the grandmother to open the door but she was too afraid to come out from her room. The suspect had barricaded items	4

		against the front door. 40MM launcher deployed as officers forced the door open to protect the grandmother and mother. They located the suspect hiding. He was arrested for numerous crimes including robbery and probation violation. The grandmother and mother were located safe in the residence. Adult Protective Services was advised of the incident.	
41	40MM launcher	A community member called the police and reported that his son was vandalizing their home. The son is known to officers as someone who uses narcotics and is extremely violent towards police officers. The father advised that his son had just left the residence and was vandalizing cars in front. 40MM launcher deployed as a group of officers approached the suspect and ordered him to the ground. Officers noted the suspect had vandalized a neighbor's vehicle next to where he was standing. The suspect did not comply with the officer's orders and charged at a police vehicle. He jumped onto the hood of the police vehicle, smashed the windshield, and stomped on the light bar on the vehicle's roof. While on top of the police vehicle, the suspect ripped out an antenna. While the suspect was stomping on the roof of the police vehicle, an officer launched a 40MM round at the suspect, but it missed. The suspect then sat on the roof of the police vehicle as officers attempted to talk to the suspect. Officers were able to safely pull the suspect off the roof of the vehicle and detain him. He was placed on a psychiatric evaluation hold and the criminal case was forwarded to the District Attorney's office for review.	10
42	40MM launcher	Multiple community members called the police and reported a subject throwing items out the window of a vacant multi-unit building. The property manager advised that no one should be in the building and requested the subject be arrested. Officers gave multiple commands outside and inside the building for the suspect to surrender, but he failed to exit. The suspect barricaded himself in one of the units. 40MM launcher deployed as officers forced entry into the unit. The suspect was located and had burglary tools and drug (methamphetamine) paraphernalia. He was arrested for burglary, possession of burglary tools, possession of narcotics paraphernalia, and other crimes.	5
43	40MM launcher	A caller reported a suspect was actively violating a domestic violence restraining order and that he was concerned for the protected person. Officers responded to the location and were allowed entry into the residence. 40MM launcher deployed as officers looked for the suspect. He was located and arrested for violating a restraining order and possession of methamphetamine.	3
44	Patrol rifle, 40MM launcher	An officer contacted two teenagers who were drinking alcohol on the corner of a residential neighborhood. During the detention, one of the teenagers told the officer he had a gun. The officer located the gun and arrested him. Records show the suspect had previously been arrested for armed robbery. A search warrant was authorized by a judge for the suspect's residence. Patrol rifle and 40MM launcher deployed as officers cleared the residence. Multiple rifle rounds and other bullets were located.	9

45	Patrol rifle	Numerous robberies occurred in Berkeley and other cities where the robbers targeted mostly elderly persons leaving specific businesses. Investigators served a search warrant at one of the suspect's residence. Patrol rifle deployed as they cleared the house. Evidence was recovered during this warrant service. Suspects in this robbery series were located and arrested at a later time and a firearm was recovered.	Outside of Berkeley
46	FN303 launcher	An employee at a business called and reported a man breaking windows and furniture with a metal pole. Staff and customers were frightened. FN303 deployed as officers entered the business to detain the man reportedly armed with a metal pole. The suspect was detained and arrested for vandalism. He caused $90,000 worth of damages to this business.	5
47	FN303 launcher	A caller reported that a suspect had possibly broken into a residence and was trespassing. Officers confirmed this and ordered the suspect to exit, but he refused to come out and barricaded himself. Officers negotiated with the suspect as the homeowner arranged for a house key brought to the officers. FN303 deployed as officers made entry into the residence and detained the suspect. He was placed on a psychiatric evaluation hold.	5
48	Patrol rifle	Officers responded to an active shooter in another city. Witnesses reported multiple shots fired with an employee shot. Patrol rifle deployed as officers made entry into the business and contacted a suspect who was armed with a firearm. Officers shot the suspect and located the victim employee deceased.	Outside of Berkeley
49	Patrol rifle, 40MM launcher	A community member flagged down a police officer and reported being a victim of an armed robbery. Officers responded and attempted to detain two suspects nearby. The suspects ran into the rear yards of a residential neighborhood. Patrol rifle and 40MM launcher were deployed as officers conducted an extensive search for the armed suspects. Both suspects were located and positively identified by the victim as the ones who robbed him. They were arrested for robbery.	5
50	40MM launcher	Investigators served an arrest warrant on a white supremacist prison gang member who is a sex registrant. This suspect was trying to contact a 10-year-old child against a court order. 40MM launcher deployed as the arrest warrant was served. He was located and arrested.	Outside of Berkeley

51	FN303 launcher, Light/sound distraction device, LRAD, Patrol rifle, 40MM launcher, Remington 700 rifle	Several robberies occurred outside of Berkeley where the suspects evaded CHP in a stolen vehicle. Police officers from another agency located the suspect vehicle parked in Berkeley and surveilled it and requested Berkeley Police for assistance. Berkeley officers successfully detained the violent suspects after they attempted to flee. Several officers were hurt during the detention and a firearm with an extended magazine was located in the stolen vehicle the suspects were in. Property from armed robbery victims were located in the stolen vehicle. One of the suspects detained had a warrant stemming from a Berkeley robbery. Further investigations connected these suspects and their associates to 16 different Bay Area criminal cases that included shootings, robberies, burglaries, and other crimes. The suspects were arrested. At a later time, The Special Response Team served a high-risk search warrant on the suspects' residence in another city. The LRAD and light/sound diversion device were used during the service of the search warrant. Two suspects were arrested for robbery and firearm violations. Evidence that included two handguns and two assault rifles was recovered from this search warrant.	Outside of Berkeley
52	Patrol rifle	A robbery victim called the police to report her boyfriend was being robbed by a suspect armed with a gun. There was a struggle between the suspect and the boyfriend for the gun. The suspect fired a round in the air as officers arrived. Officers chased after the suspect as he fled on foot. Patrol rifle deployed as other officers arrived. Officers caught up to the suspect and gave orders which the suspect refused to follow. A brief struggle ensued where the suspect and officers were all on the ground. The suspect kept reaching for his waistband which was concealed since he was laying on his stomach. Officers struggled to pull the suspect's hands out from his waistband but were ultimately successful. They handcuffed the suspect and discovered he was reaching for a gun at his waistband. The suspect was arrested for armed robbery and firearm violations.	10
53	OC spray	A community member called and reported a subject doing martial arts moves near pedestrians. People moved out of his way, but he attacked a random person. Officers responded and contacted the shirtless suspect. He appeared compliant initially, but without warning, he attempted to grab an officer's leg. Officers struggled with the suspect in their attempts to handcuff him. The suspect grabbed onto the officer's vest where other equipment was located and attempted to pull him onto the ground. The officer managed to unholster his OC spray and sprayed the suspect. It should be noted that this suspect is 6'3" and approximately 250lbs and was significantly bigger than both officers. A third officer arrived at the scene and they were able to handcuff the suspect who continued to resist. Medical aid was provided to the suspect. He was placed on a psychiatric evaluation hold and the criminal case was forwarded to the District Attorney's Office.	4
54	40MM launcher	Employees at an apartment complex called the police and reported domestic violence where the victim was dragged down the hallway and her hair pulled by the suspect. The suspect and victim were not located, but surveillance cameras recorded the violent crime. 40MM launcher deployed as investigators served an arrest warrant for the suspect. He was located and arrested for domestic violence.	4

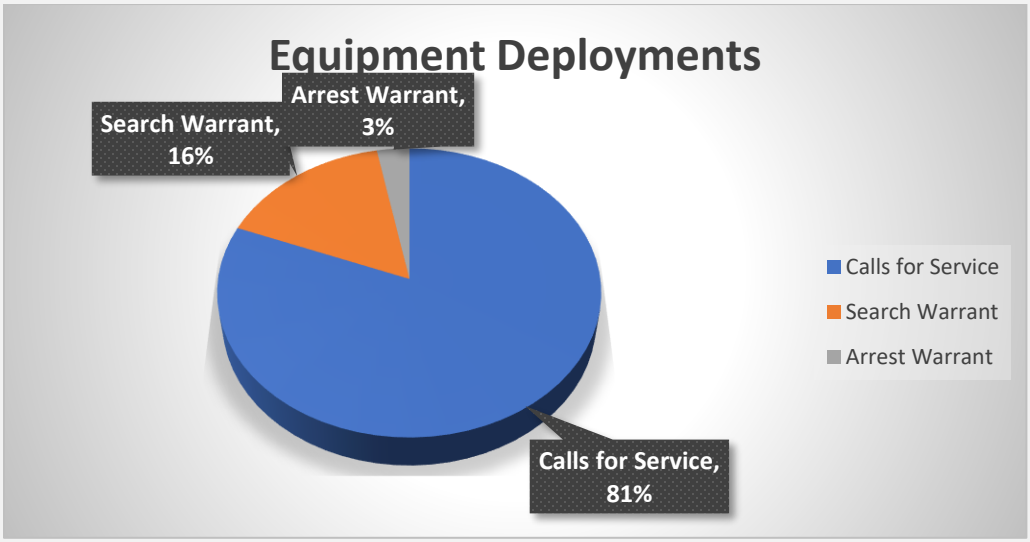
55	FN303 launcher	A front desk employee at an apartment complex called the police and reported someone screaming for help. The employee reported that the screaming subject was holding a gun. She later said it was a knife. FN 303 launcher deployed as officers knocked on the front door of the subject's apartment. The subject complied with officers and displayed signs of a mental crisis. He was placed on a psychiatric evaluation hold.	12
56	40MM launcher	A community member called the police and reported someone screaming in front of her apartment complex at 2:00am. The community member reported hearing the subject scream that he had a gun and was throwing objects at the building. Officers knew this subject from prior contacts as someone violent with the police. Officers deployed 40MM launcher as they communicated with the subject from a distance. The subject was screaming and yelling at officers, but eventually complied and was detained. He was placed on a psychiatric evaluation hold.	2
57	40MM launcher, Patrol rifle	Several robberies occurred outside of Berkeley where the suspects evaded CHP in a stolen vehicle. Police officers from another agency located the suspect vehicle parked in Berkeley and requested Berkeley Police for assistance. Berkeley officers successfully detained the violent suspects after they attempted to flee. Several officers were hurt during the detention and a firearm with an extended magazine was located in the stolen vehicle the suspects were in. Property from armed robbery victims were located in the stolen vehicle. One of the suspects detained had a warrant stemming from a Berkeley robbery. Further investigations connected these suspects and their associates to 16 different Bay Area cases that included shootings, robberies, burglaries, and other crimes. The suspects were arrested. At a later time, Detectives served a warrant at a Berkeley residence that is connected to one of the suspects. Patrol rifle and 40MM launcher were deployed as Detectives served the warrant. Evidence relating to shootings and robberies was located.	11
58	40MM launcher	A community member called the police and reported a friend ingested an entire bottle of pills in his attempt to commit suicide. Officers arrived on the scene and contacted the man through the window of an RV he was inside of. The subject was screaming for officers to leave and expressed his desire to die. He also threatened to burn the RV down if officers approached. The subject passed out so officers entered the RV to save him. 40MM deployed as officers contacted the man. The fire department took the man to the hospital where he was placed on a psychiatric evaluation hold.	13
59	FN303 launcher, 40MM launcher	A community member called the police and reported being the victim of domestic violence. She reported that her boyfriend strangled her and punched her in the head multiple times. She fled their apartment to call the police. Further investigations showed three warrants for the subject's arrest and a stay-away order protecting the victim. Officers attempted to contact the subject at the apartment, but the subject refused to come to the door. FN303 and 40MM launchers were deployed as officers continued to negotiate with the subject to surrender. He surrendered after 20 minutes and was arrested for domestic violence and violating a restraining order.	5

60	36" batons, FN303 launcher, 40MM launcher	The Special Response Team (SRT) assisted the San Francisco Police Department during the 2023 APEC Conference. SRT members were not utilized and were in San Francisco in a standby capacity. No contact was made with any community members.	Outside of Berkeley
61	Patrol rifle	A community member called the police and reported seeing a man with a gun. Officers arrived on the scene and contacted the community member. He pointed out the vehicle that the subject with the gun entered. Patrol rifle deployed as officers conducted a high-risk vehicle stop on the vehicle and contacted the driver. A firearm was located but turned out to be a BB gun. No brandishing of the BB gun was ever made by the subject. No arrest was made.	14
62	Patrol rifle	Detectives served a search warrant on a prolific burglary suspect who has an extensive arrest history including sexual assault, firearm violations, and assault with a deadly weapon. Patrol rifle deployed as Detectives entered the residence and served the warrant. Evidence was recovered and the investigation is ongoing.	5
63	Light sound distraction device, Patrol rifle, 40MM launcher	A community member called and reported her upstairs neighbor fired a gun and the bullet traveled down into her apartment. Officers were familiar with the apartment where the gunshot came from because of previous domestic violence and child abuse investigations from that unit. Officers confirmed that a bullet was shot through the ceiling from the upstairs unit into the downstairs unit. Officers negotiated with the suspect to surrender, but he refused. Patrol rifle and 40MM launcher were deployed. Officers continued to negotiate with the suspect to surrender. After a 5-hour police standoff, the suspect surrendered. A search warrant at the house was served and evidence was recovered that included an assault rifle and many rifle rounds. The suspect was arrested for firearm violations, probation violation, child endangerment, narcotics, and a stay-away order violation.	11
64	FN303 launcher, Patrol rifle 40MM launcher	A community member requested a Police officer conduct a welfare check on a subject who was banging his head against a van. When the officer arrived at the scene, a shirtless man ran up to the police vehicle with a large knife and stabbed at the police vehicle several times. The officer sped away to gain distance from the subject. After gaining distance from the subject, the officer exited his police vehicle and employed de-escalation techniques. The subject refused the drop the knife and pointed the knife at the officer on several occasions in a threatening manner. More officers arrived to assist. Patrol Rifle, 40MM launcher, and FN 303 launchers were deployed. Officers continued to speak to the subject and attempted to de-escalate, but the man rambled about the FBI ruining his life and was yelling at officers. This was an extremely dangerous situation as the man refused to drop the knife. Officers launched 40MM and FN303 rounds at the man causing him to drop the knife. Officers immediately detained the man and medical attention was provided. He was placed on a psychiatric evaluation hold. The criminal case was forwarded to the District Attorney's Office.	2

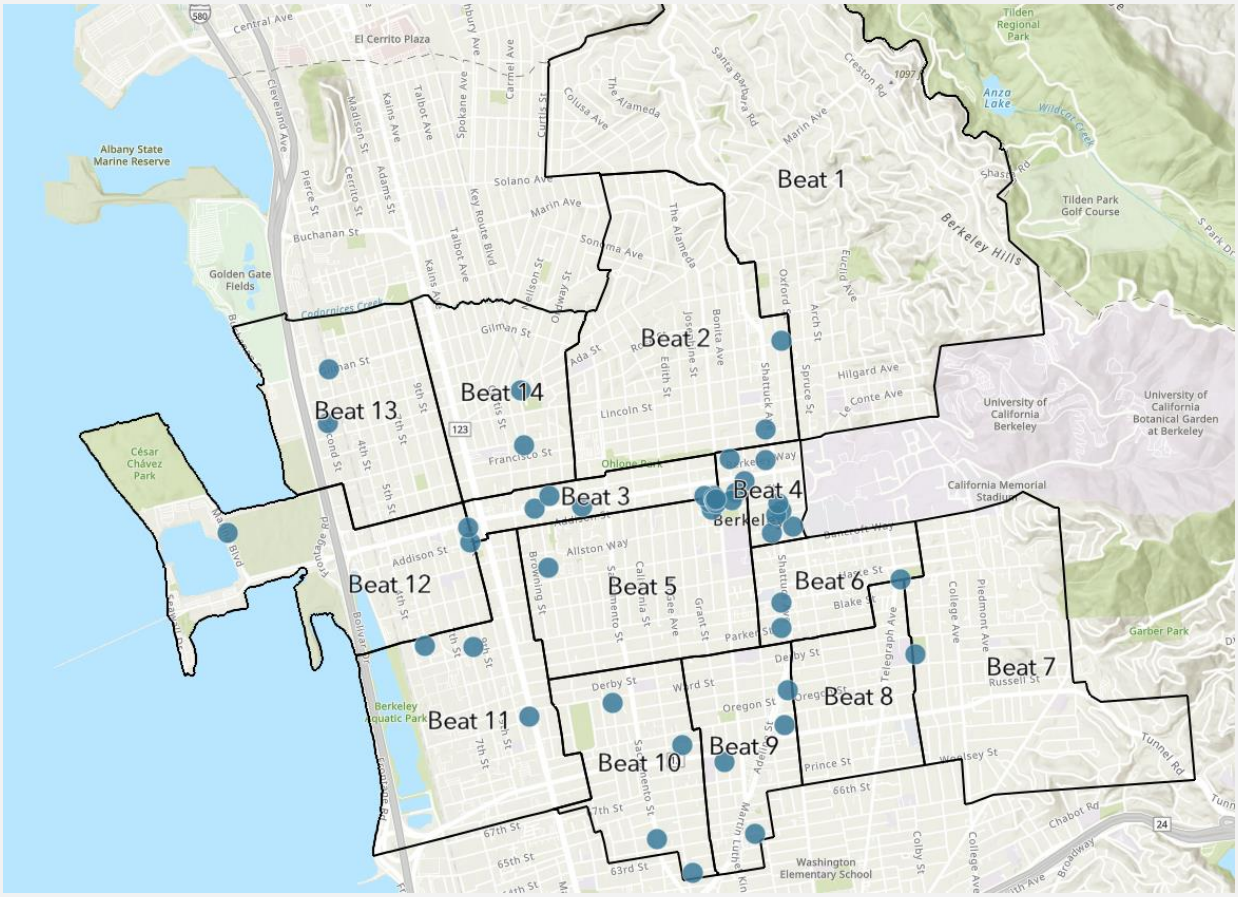
Below is a table that shows the total number of times a specified equipment was deployed in 2023. It should be noted that different types of equipment may be deployed in one incident and the same equipment may be deployed by multiple officers within a single incident.

EQUIPMENT	Number of Deployments
Patrol Rifle	27
40MM Single Launcher	41
40MM LTL Multi-Launcher	0
FN 303 Launcher	16
FN Pava Impact Projectile	0
Oleoresin Capsicum Spray	2
Chlorobenzylidene Malononitrile and Oleoresin capsicum	0
Remington 700 Rifle	3
Light/Sound Diversionary Device	5
Long Range Acoustic Device	4
36" Batons	1
Barret Model 99	0

Below is a pie chart that represents in percentage the equipment deployments that were in response to 2 arrest warrants, 10 search warrants, and 52 calls for services.



Below is a map showing where each of the above 55 equipment deployments occurred in Berkeley. 9 occurred in other Bay Area cities.



The following are product descriptions of the military equipment the Berkeley Police Department possesses:

Patrol Rifle:

The “M4” was developed and produced for the United States government by Colt Firearms and was based off of the original Armalite Rifle (AR) patent purchased by Colt in 1959. Although Colt owned the trademarked name of “M4”, a number of other manufacturers offer M4-like firearms under various model names. The M4 and its variants fire 5.56×45mm NATO (and .223 Remington) ammunition, and are a gas-operated, magazine-fed firearm with a barrel length ranging from 11.5” to 16”.

The current Berkeley Police Department (BPD) rifle ammunition used is the .223 Remington, a rimless, bottlenecked rifle cartridge. The round was developed in 1957 by Remington Arms and Fairchild Industries. The .223 Remington is considered one of the most popular cartridges and is currently used by a wide range of semi-automatic and manual-action rifles as well as handguns. While the military uses the similar 5.56x45 NATO cartridge, BPD uses the more common and often regarded civilian cartridge of .223 Remington for all training and duty uses.

Penn Arms 40MM Single Launcher & Milkor LTL Multi-Launcher

The 40mm impact projectile was developed as an alternative to the 12-gauge bean bag round and other more indiscriminate less lethal options. Early 12-gauge bean bag round designs had somewhat unpredictable flight patterns and could cause significant unwanted injury. The 40mm foam baton round was developed as a direct-fire projectile designed to minimize the risk of unintended injuries. Currently, the Berkeley Police Department utilizes the CTS 4557 foam baton projectile and the Penn Arms L-140 single-shot launcher.

FN 303

The FN 303 was developed in 2003 by Fabrique Nationale de Herstal as a less lethal option. The FN 303 is based on a concept developed by Monterey Bay Corporation. The development team consisted of designers and researchers from two paintball related companies. The FN 303 uses compressed air to propel a .68 caliber projectile similar to that of most manufactured paintball guns.

Oleoresin capsicum (OC spray)

First Defense manufactures different sizes of OC sprays. OC is the chemical agent that is most widely used amongst Law Enforcement (LE) and the general public. OC has a pungent and irritating pepper odor. It is classified as an inflammatory agent. Besides being effective on humans, OC-based chemical agents usually work on animals as well. In a liquid form, OC can appear as a clear, amber, or heavy dark red solution depending on the manufacturer. It is mixed with several types of solutions which act as carriers.

Chlorobenzylidene Malononitrile (CS) & (OC)

Chlorobenzylidene malononitrile (CS) is one of the most commonly used "tear gases" in the world. It can be liquid, gaseous, or solid substance intended to produce temporary discomfort through being vaporized or otherwise dispersed in the air. Law enforcement (LE) agencies have found this agent invaluable when faced with combative suspects, for crowd/riot control, and for alleviating barricaded subject situations. LE use it to help control individuals or groups without the need for a higher level of force. There are four different deployment methods of chemical agents (Aerosol - most commonly used by police departments, Fogging, Pyrotechnics, and blast expulsion). All methods of deployment can be affected by certain environmental and physical conditions (wind, rain, temperature, distance, and proximity to others). At standard daily temperatures and pressures, CS forms a white crystal with a low vapor pressure and poor solubility in water.

OC is a chemical agent that has a pungent and irritating pepper odor. It is classified as an inflammatory agent. OC is mixed with several types of solutions which act as carriers.

Remington 700 Precision Rifle

The Remington 700 is a series of bolt-action rifles designed in 1962 by the Remington Arms Company. The "700" designator is the generic name for multiple models of rifles with various parts, barrel lengths, stocks, etc. The Remington 700 rifle has long been used by law enforcement agencies and continues to be an industry standard for issued equipment. The Berkeley Police Department utilizes a custom Remington 700 action, chambered in the common .308-caliber round, with a 20" barrel and an Accuracy International chassis/stock. The rifle also includes a Nightforce 3-15x magnified optic and bipod.

Light/Sound Diversionary Device

Light/Sound Diversionary devices also known as distraction devices, flashbang, light/sound and noise/flash devices have been available for approximately 40 years and are a safe and effective tool for Law Enforcement (LE) to use during challenging tactical incidents. When a

diversionary device is deployed it creates a loud noise, heat and brilliant light and creates an effective diversion.

Long Range Acoustic Device (LRAD)

The Long-Range Acoustic Device (LRAD) is a high-intensity directional acoustical array for a long-range, crystal-clear notification system. The use of the LRAD is for communications. It is essentially a powerful loud speaker.

36” Baton

The Berkeley Police Department issues a knurled grip, polycarbonate, fixed-length straight baton for crowd control purposes. The baton is 36” long and 1.25” in diameter and weighs about 1.64 pounds. Polycarbonate is a thermoplastic, which means it is durable and resistant to splintering and heat.

Barrett Model 99 Precision Rifle

The Barrett Model 99 rifle is a single-shot bolt-action 50-caliber rifle first introduced in 1999. It is intended to be used in emergencies where there is a high potential for violence.

Appendix:

Applicable Lexipol Policies Respective to Each Equipment

Patrol Rifle
- Policy 300 (Use of Force)
- Policy 349 (Tactical Rifle Operator Program)

40MM single launcher
- Policy 300 (Use of Force)
- Policy 303 (Control Devices and Techniques)

40MM LTL multi-launcher
- Policy 300 (Use of Force)
- Policy 303 (Control Devices and Techniques)

FN 303 Launcher & FN Pava rounds
- Policy 300 (Use of Force)
- Policy 303 (Control Devices and Techniques)

Chlorobenzylidene Malononitrile and Oleoresin Capsicum (canister and spray)
- Policy 300 (Use of Force)
- Policy 303 (Control Devices and Techniques)

Remington 700 Rifle
- Policy 300 (Use of Force)
- Policy 354 (Precision Rifle)

Light/Sound Diversionary Device
- Policy 353 (Diversionary Device)

Long Range Acoustic Device
- Policy 707 (Long Range Acoustical Device)

36” batons
- Policy 300 (Use of Force)
- Policy 303 (Control Devices and Techniques)
- Policy 428 (First Amendment Assemblies)

Barret Model 99
- Policy 300 (Use of Force)
- Policy 354 (Precision Rifle)

POLICE ACCOUNTABILITY BOARD
SUPPLEMENTAL PACKET
Wednesday, February 28, 2024
6:30 P.M.

Board Members

John Moore III (Chair)
Kitty Calavita
Julie Leftwich
Joshua Cayetano
Leah Wilson (Vice-Chair)
Regina Harris
Brent Blackaby
Alexander Mozes

MEETING LOCATION

North Berkeley Senior Center
1901 Hearst Avenue
Berkeley, CA 94709
(Click here for Directions)

Item Number	Description	Page
11.d.	ODPA Memorandum titled "Berkeley Police Department's Police Equipment and Community Safety Ordinance 2023 Annual Report"	1

Item 11.d.- ODPA Memorandum titled “Berkeley Police Department’s Police Equipment and Community Safety Ordinance 2023 Annual Report”

CITY OF BERKELEY
OFFICE OF THE DIRECTOR OF POLICE ACCOUNTABILITY

RECOMMENDATION

Date: Monday, February 26, 2024

To: Honorable Members of the Police Accountability Board (PAB)

From: Hansel Aguilar, Director of Police Accountability (DPA)
Keegan Horton, Investigator
Jose Murillo, Program Analyst
Michelle Verger, Policy Analyst

Subject: Berkeley Police Department's Police Equipment and Community Safety Ordinance 2023 Annual Report

Background:

In May 2021, the Berkeley City Council approved the Police Equipment and Community Safety Ordinance (Ordinance No. 7,760-N.S.), which requires the Berkeley Police Department to provide an annual report on the deployment of specific equipment. The report is to be reviewed by the Police Accountability Board (PAB), which will assess compliance with the relevant approval standards set forth by BMC Section 2.100.040. If any equipment is found to be non-compliant with the standards set forth by BMC 2.100.040, the PAB "shall recommend revocation of the authorization for that piece of Controlled Equipment or modify the Controlled Equipment Use Policy in a manner that will resolve the lack of compliance. Recommendations for revocations shall be forwarded to City Council in accordance with the approval process in Section 2.100.040." The PAB shall make these determinations based on the content of the report.

BMC Section 2.100.050(A)(1)(a) – 2.100.050(A)(1)(e) provides minimum reporting requirements for the use of Controlled Equipment. Those reporting requirements are the following:

a. Production descriptions for Controlled Equipment and inventory numbers of each product in the Police Department's possession.

b. A summary of how Controlled Equipment was used. For the purposes of annual reports, "use" of equipment shall refer to equipment that is Deployed, not to transfers of location or placement of equipment inside Department vehicles.

c. If applicable, a breakdown of where Controlled Equipment was used geographically by individual police area. For each police area, the Police Department shall report the number of days or instances in which Controlled Equipment was used and what percentage of those daily reported uses were authorized by warrant and by non-warrant forms of court authorization.

d. A summary of any complaints or concerns received concerning Controlled Equipment.

e. The results of any internal audits, any information about violations of Controlled Equipment Use Policies, and any actions taken in response.

The PAB shall make recommendations based on compliance with the standards outlined in this ordinance.

The Office of the Director of Police Accountability (ODPA) received the Police Equipment and Community Safety Ordinance 2023 Annual Report (hereafter '2023 Report') from Interim Chief Jennifer Louis on February 23, 2024. Given the limited time before the next regular PAB meeting (February 28, 2024) the ODPA staff has conducted an initial review of the report to ensure compliance with the relevant sections of the Berkeley Municipal Code. This memorandum provides recommendations to assist the PAB in determining, based on the report, whether each piece of Controlled Equipment reported on has complied with the standards for approval set forth in Section 2.100.040.

Analysis:

Minimum Reporting Requirements:

In summary, the reporting requirements as articulated in BMC Section 2.100.050(A)(1)(a) – 2.100.050(A)(1)(e) appeared to be complied with in this annual report. Of special note, the ODPA highlights that the BPD has implemented the 2022 recommendation to include the percentage of equipment deployments as illustrated in the visualization on pg. 18 of the 2023 Report.

Enhancing Depth in Oversight: Beyond Preliminary Analysis

Upon the ODPA review of the 2022 report, the DPA remarked that the ODPA and PAB only conducted a superficial review of the annual report since no additional exhibits (i.e. BPD incident reports, BWC footage, etc.) were considered. It appears by the language of the ordinance, that the legislative intent also contemplated a more qualitative review[1] of the incidents where the equipment was deployed and or used[2]. To this end, the ODPA makes the below recommendations on potential avenues for conducting a review of the incidents in question:

Recommendations:

#1 The PAB should consider conducting a systematic review of the incidents referenced in the 2023 Report:

The PAB should consider adopting a methodology for the review of the incidents in the 2023 Report that considers:

- How to systematically review the compliance of the reported equipment;
- Balancing the current workload of the PAB/ODPA,
- Ensuring a timely review that does not impede with BPD's intended presentation of the report to the Council

Specifically, the ODPA recommends three potential methodological approaches:

[1] Section 2.100.040 (C)(2) states: " If the submitted Controlled Equipment Impact Report identifies a risk of potential adverse effects on the public's welfare, safety, civil rights, or civil liberties, the Police Accountability Board's recommendation for approval for the funding, acquisition, or use of the Controlled Equipment shall not be deemed an acquiescence to those effects, but instead an acknowledgment of the risk of those effects and the need for the Police Department to take proactive steps to minimize those effects."

[2] For a distinction of this terminology see pg. 3 of the report: "Section 2.100.020 (D) defines deployment as "to utilize or employ Controlled Equipment for a deliberate purpose in the presence of members of the public during management or control of crowds, during any Special Response Team deployment or to affect some response from members of the public during any other operation or critical response. "Deployed" shall not mean an officer merely wearing a piece of Controlled Equipment on their belt or elsewhere on their person." Deployment means the display of the equipment to affect some response from members of the public. The equipment does not have to be used (I.E. less lethal projectile actually launched and struck a suspect); simply having it and in view of a person to specifically affect a response would be considered a deployment. Deployments are to be reported per the ordinance and the table on page 5 of this report reflects both deployments and utilization of equipment."

APPROACH/ METHOD	PROS	CONS
Full Review of Each Incident (deployed/used) =64 cases	• Can assist with a more thorough assessment of compliance beyond the summary narrative for all incidents • External/independent review can augment the validity of the BPD review	• Time-consuming • Resource extensive
Full Review of Each Incident where equipment was "used" = 12 cases	• A focused review can ensure resources/time are maximized • External/independent review can augment the validity of the BPD review	• (Depending on exhibits) Time-consuming • (Depending on exhibits) Resource extensive
Random and or purposive sampling/ selection of Deployed/Use Cases (1/4) = 16 cases	• Ensures review of both deployed and used cases • A focused review can ensure resources/time are maximized • External/independent review can augment the validity of the BPD review	• (Depending on exhibits) Time-consuming • (Depending on exhibits) Resource extensive

#2 The BPD should consider affixing, linking, and or attaching incident reports, BWC footage, and or any other relevant records related to the deployment and use of the incidents in a way that is consistent with federal, state, and local law.

Affixing, linking, or attaching these documents directly to the report not only facilitates a deeper, more accessible review process for all stakeholders but also ensures that the evaluation of police equipment use is comprehensive and grounded in real-world contexts. This approach should be carefully designed to align with federal, state, and local privacy and disclosure laws, safeguarding both the integrity of the review process and the privacy rights of individuals involved. Implementing this recommendation would significantly improve the quality of oversight and public trust in the BPD's operations, fostering a more informed and engaged community discourse around police practices and equipment use.

 # 3 The BPD should consider utilizing the ArcGIS StoryMaps[3] feature to map out the incidents in the Transparency Hub

It is recommended that the BPD leverages the ArcGIS StoryMaps feature to dynamically map out incidents within their Transparency Hub. This innovative approach not only provides a visual and geographic context to the incidents involving police equipment deployment and use but also enhances public engagement and understanding. By utilizing StoryMaps, the BPD can offer an interactive platform that allows citizens to explore the data through maps, images, and narratives, making the information more accessible and comprehensible. This tool will not only aid in promoting transparency but also in building trust between the community and the police department by providing a clear, engaging, and informative overview of incidents in a geospatial context.

[3] For more information on this tool visit: https://storymaps.com/

Public

John "Chip" Moore
Chair of the Police Accountability Board
JoMoore@berkeleyca.gov

April 23, 2024

Via Electronic Delivery

JLouis@berkeleyca.gov
Jennifer Louis, Chief of Police
Berkeley Police Department 2100
Martin Luther King Jr. Way
Berkeley, CA 94704

Re: Berkeley Police Department's Police Equipment and Community Safety Ordinance 2023 Annual Report

Dear Honorable Mayor and Members of the City Council,

The Police Accountability Board (PAB) held its regular meeting on April 17th, 2024, during which they concluded their review of the Berkeley Police Department's Police Equipment and Community Safety Ordinance 2023 Annual Report. The PAB unanimously voted[1] to approve the report as it met the minimum reporting requirements.

However, the PAB would like to note that no additional exhibits were considered in their review of the various incidents summarized within the report that would allow for a more qualitative review (i.e. BPD Incident reports, Body-Worn Camera Footage, etc.). It appears by the language of the ordinance, that the legislative intent was to empower the PAB to conduct a more qualitative review[2] of the incidents where the equipment was deployed and or used[3] to

[1] The Board currently consists of 7 out of 9 possible members. Board Member Calavita was absent for this meeting. The six (6) Board members present –Chair Moore, Vice Chair Wilson, Blackaby, Cayetano, Leftwich, and Mozes all voted to approve the report.

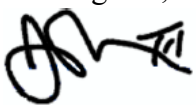
[2] Section 2.100.040 (C)(2) states: " If the submitted Controlled Equipment Impact Report identifies a risk of potential adverse effects on the public's welfare, safety, civil rights, or civil liberties, the Police Accountability Board's recommendation for approval for the funding, acquisition, or use of the Controlled Equipment shall not be deemed an acquiescence to those effects, but instead an acknowledgment of the risk of those effects and the need for the Police Department to take proactive steps to minimize those effects."

[3] For a distinction of this terminology see pg. 3 of the report: "Section 2.100.020 (D) defines deployment as "to utilize or employ Controlled Equipment for a deliberate purpose in the presence of members of the public during management or control of crowds, during any Special Response Team deployment or to affect some response from members of the public during any other operation or critical response. "Deployed" shall not mean an officer merely wearing a piece of Controlled Equipment on their belt

appropriately evaluate any adverse effects on the public's welfare, safety, civil rights, or civil liberties. To that end, the PAB is actively working on implementing a systematic review process to facilitate such assessments and further promote transparency. The Office of the Director of Police Accountability has presented the Board with a proposed methodology[4] for compliance review that is being considered by our body.

As part of the ongoing commitment to improvement, an additional suggestion for the BPD is to enhance their transparency efforts by exploring the incorporation of an interactive ArcGIS StoryMap focused on Controlled Equipment usage, akin to the approach used for documenting instances of Use of Force, allowing for greater community engagement and understanding. The PAB is more than willing to support the BPD in its efforts and is open to further discussion on this recommendation. The PAB thanks the BPD for considering this recommendation and for their efforts in incorporating the feedback provided by the PAB in last year's report into the current report.

Best regards,



John "Chip" Moore
Chair of the Police Accountability Board

Cc: Honorable Mayor and Members of the City Council
Bedwendolyn Deshawn Williams-Ridley, City Manager
Farimah Brown, City Attorney

or elsewhere on their person." Deployment means the display of the equipment to affect some response from members of the public. The equipment does not have to be used (I.E. less lethal projectile actually launched and struck a suspect); simply having it and in view of a person to specifically affect a response would be considered a deployment. Deployments are to be reported per the ordinance and the table on page 5 of this report reflects both deployments and utilization of equipment."

[4] Please see Page 20 of the PAB's March 27th, 2024 Regular Meeting Packet:
https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2024-03-27 PAB Regular Meeting Packet.pdf

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Terrance Davis, Director, Public Works

Subject: Active Transportation Program Cycle 7 Grant Funding Applications

RECOMMENDATION

Adopt four Resolutions authorizing the City Manager to submit grant applications to the Caltrans Active Transportation Program (ATP) for the following projects: Southwest Berkeley Bike Boulevards for up to $4 million; Adeline Street Quick-Build for up to $1.05 million; accept the grants if awarded, and execute any resulting agreements and amendments. Two of these Resolutions are for applications to the Caltrans-administered ATP Statewide grant program, and two are applications to a regional sub-program, administered by the Metropolitan Transportation Commission (MTC).

FISCAL IMPACTS OF RECOMMENDATION

If the City wins these grant awards, Caltrans will provide a total of up to $4,916,100 to the City's State Transportation Grants Fund (Fund 344) for improvements to several major corridors and local streets. The ATP funding request for the Southwest Berkeley Bike Boulevards project is $3,875,100. The ATP funding request for the Adeline Street Quick-Build improvements is $1,041,000. The ATP requires that applicants provide at least 11.47% of the total funding amount in matching funds. Required matching funds in the amount of $563,900 are available starting in fiscal year 2029 from Measure BB Fund 134 (Bicycle and Pedestrian) and Fund 134 (Local Streets and Roads). The total estimated ATP funding request for both projects is $4,916,000.

ATP Cycle 7 Grant Funding Requests and Matching Funds	
Southwest Berkeley Bike Boulevards	$3,875,100
Adeline Street Quick-Build	$1,041,000
Total ATP Grant Funding Request	$4,916,100
City Matching Funds Available	$563,900
TOTAL ATP Grant and City Match	$5,480,000

CURRENT SITUATION AND ITS EFFECTS

The safety countermeasures and traffic calming improvements in these projects were identified in the following Council approved plans: 2017 Berkeley Bike Plan, 2020 Berkeley Vision Zero Plan, 2020 Berkeley Pedestrian Plan, and the 2020 Adeline

Corridor Specific Plan. These projects will connect people to key destinations in Southwest Berkeley, including the Ashby BART station, Ed Roberts Campus, Malcolm X Elementary School and businesses in the Lorin District. Both projects will close gaps between existing and planned low-stress bike infrastructure in South and Southwest Berkeley. The Southwest Berkeley Bike Boulevards project will be submitted in the "Capital Projects" ATP grant category, and the Adeline Street Quick-Build project will be submitted in the "Quick-Build" grant category.

Southwest Berkeley Bike Boulevards

The Southwest Berkeley Bike Boulevards project will install bicycle boulevard treatments along the following routes:

- Mabel Street from Russell Street to 66th Avenue
- 66th Avenue from Mabel Street to Idaho Street
- Idaho Street from 66th Street to Harmon Street
- Harmon Street from Idaho Street to King Street
- King Street from Prince Street to Alcatraz Avenue
- Prince Street from King Street to MLK Jr Way, and
- Alcatraz Avenue from Sacramento Street to Adeline Street.

Bicycle Boulevard treatments on Mabel Street, 66th Avenue, Idaho Street, Harmon Street and Prince Street will include traffic circles, new signage, roadway stencils, a hybrid-beacon crossing at Sacramento Street and additional traffic calming safety measures. Bike lanes will be added on Alcatraz Avenue from Adeline Street to King Street with additional traffic calming safety measures along the existing Bicycle Boulevard on King Street. Pedestrian safety will be improved throughout the project area by implementing ADA-compliant curb ramps, median refuges, hardened centerlines, curb extensions and raised and high visibility crosswalks where feasible.

Adeline Quick-Build Project

This project runs on Adeline Street from Ashby Avenue to the Berkeley city limit at approximately 61st Street. There are currently six lanes of traffic on Adeline Street (three lanes in each direction). This project would reduce the number of through lanes from six to four lanes (two in each direction) and accommodate construction of a one-way protected bike lane ("cycle track") on each side of Adeline Street. This will make an important connection in the regional bike network, bridging the gap from where the Adeline Street cycle track ends at Ashby Avenue in Berkeley to where it resumes on Adeline at the Oakland border. It will also connect to the cycle track that the City of Oakland is planning for Martin Luther King Jr Way. The low cost of project materials will create a cost-effective means of constructing safe infrastructure while offering the Public Works design flexibility to respond to community input. If awarded, Public Works will coordinate with Oakland's Department of Transportation to align our project delivery schedules and design as much as possible to provide a safe connection between jurisdictions. Transit operation impacts will be considered, and this project will include bus boarding islands at several stops along Adeline Street to minimize conflicts between bicyclists, buses and pedestrians.

BACKGROUND

The ATP is a State program managed by Caltrans, which consolidates previous federal and state transportation funding programs, including the Transportation Alternatives Program, Bicycle Transportation Account and State Safe Routes to School, into a single program with a focus to make California a national leader in active transportation. The current ATP Cycle 7 includes about $568M of available grant funding made up of Federal, State SB1 and State Highway Account (SHA) funding. The funding/programming years include the 25/26, 26/27, 27/28 and 28/29 fiscal years. The ATP accepts applications in three different categories: conventional capital projects; Safe Routes to School projects; and Quick Build projects.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The projects in these grant applications are designed to promote sustainable transportation and climate resilience by improving traffic safety for people walking and riding bicycles. This is consistent with the 2009 Climate Action Plan (Plan) Policy 5.A, which calls for expanding and improving the City's bicycle and pedestrian infrastructure. The Plan's target is to reduce transportation emissions 80% below year 2000 levels by 2050. The Plan further states that transportation modes, such as public transit, walking and bicycling, must become the primary means of fulfilling the City's mobility needs in order to meet these targets.

RATIONALE FOR RECOMMENDATION

The ATP funding allows the City to address traffic safety issues along major transportation corridors and promote environmentally-friendly mobility. The need for the projects in these applications has been identified in the Council-approved 2017 Bicycle Plan (Resolution No. 67,945-N.S.), 2019 Vision Zero Action Plan (Resolution No. 69,324-N.S.) and 2020 Pedestrian Plan (Resolution No. 69,711–N.S). These documents were the result of robust public engagement processes involving members of the public, Transportation Commissioners and numerous stakeholders throughout Berkeley. Not applying would mean foregoing up to $4,916,000 in potential grant funding and leaving traffic safety issues on these streets unaddressed.

ALTERNATIVE ACTIONS CONSIDERED

The City could choose not to apply for these funds. However, no alternative funding source has been identified to complete these key traffic safety and sustainability projects.

CONTACT PERSON

Wahid Amiri, Deputy Director, 510-981-6396
Hamid Mostowfi, Transportation Manager, 510-981-6403
Eric Anderson, Principal Planner, 510-981-7062
Dani Dynes, Associate Planner, 510-981-7053

Attachments:
1: Resolution - California Active Transportation Program for Southwest Berkeley Bike Boulevards
2: Resolution - California Active Transportation Program for Adeline Street Quick-Build
3: Resolution - Resolution of Local Support
4: Resolution - Application for Funding Assigned to MTC

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

GRANT APPLICATION: ACTIVE TRANSPORTATION PROGRAM FOR SOUTHWEST BERKELEY BIKE BOULEVARDS

WHEREAS, residents experience difficulty finding safe bicycling routes in the project area; and

WHEREAS, traffic safety were identified in previous planning efforts and new bike boulevards were recommended as part of the 2017 Bike Plan (Resolution no . 67,945-N.S); and

WHEREAS, promoting bicycling and walking as a form of transportation supports the goals of the Berkeley Climate Action Plan and Berkeley Strategic Plan; and

WHEREAS, traffic circles, new signage, roadway stencils, a hybrid-beacon crossing, curb ramps, median refuges, hardened centerlines, and curb extensions are among the potential safety improvement measures proposed in the 2017 Bicycle Plan; and

WHEREAS, California Active Transportation Program statewide component funds can be used for projects that encourage increased use of active modes of transportation such as walking and biking.; and

WHEREAS, the City has identified $444,500 in matching funds available in FY 2028 from Measure BB Fund 134 (Bicycle and Pedestrian) and Fund 134 (Local Streets and Roads) to complete this project; and

WHEREAS, if awarded, the grant funds will be placed in the City's State Transportation Grants Fund (Fund 344) starting in FY 2026.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that City Manager is authorized to submit a grant application to the California Active Transportation Program for Southwest Berkeley Bike Boulevards safety improvements for the amount of up to $4 million; and accept the grants if awarded, and execute any resultant agreements and amendments.

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

GRANT APPLICATION: ACTIVE TRANSPORTATION PROGRAM FOR ADELINE STREET QUICK-BUILD

WHEREAS, residents experience difficulty finding safe bicycling routes in the project area and Adeline Street has been identified as a high-injury street for severe and fatal traffic crashes involving pedestrians in the 2020 Berkeley Vision Zero Action Plan (Resolution no 69,324-N.S.) and the 2020 Berkeley Pedestrian Plan (Resolution no 69,711–N.S); and and

WHEREAS, traffic safety issues were identified and low-stress bikeways, including cycle tracks where feasible, were recommended on Adeline Street in the 2017 Berkeley Bike Plan (Resolution no. 67,945-N.S) and the Adeline Corridor Specific Plan (Resolution no.69,642-N.S.); and

WHEREAS, promoting bicycling and walking as a form of transportation supports the goals of the Berkeley Climate Action Plan and Berkeley Strategic Plan; and

WHEREAS, reduced travel lanes, cycle tracks, and shortened pedestrian crossings are among the potential safety improvement measures proposed in the Adeline Corridor Specific Plan (Resolution no. 69,642-N.S.); and

WHEREAS, California Active Transportation Program statewide component funds can be used for projects that encourage increased use of active modes of transportation such as walking and biking; and

WHEREAS, the City of Berkeley has identified $119,400 in matching funds available in FY 2028 from Measure BB Fund 134 (Bicycle and Pedestrian) and Fund 134 (Local Streets and Roads) to complete this project; and

WHEREAS, if awarded, the grant funds will be placed in the City’s State Transportation Grants Fund (Fund 344) starting in FY 2026.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that City Manager is authorized to submit a grant application to the California Active Transportation Program for Adeline Street Quick-Build safety improvements for the amount of up to $1.05 million; and accept the grants awarded, and execute any resultant agreements and amendments.

Resolution of Local Support

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

AUTHORIZING THE FILING OF AN APPLICATION FOR FUNDING ASSIGNED TO MTC AND COMMITTING ANY NECESSARY MATCHING FUNDS AND STATING ASSURANCE TO COMPLETE THE PROJECT

WHEREAS, CITY OF BERKELEY (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for $3,875,045 in funding assigned to MTC for programming discretion, which includes federal funding administered by the Federal Highway Administration (FHWA) and federal or state funding administered by the California Transportation Commission (CTC) such as Surface Transportation Block Grant Program (STP) funding, Congestion Mitigation and Air Quality Improvement Program (CMAQ) funding, Carbon Reduction Program (CRP) funding, Transportation Alternatives (TA) set-aside/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the Southwest Berkeley Bike Boulevards (herein referred to as PROJECT) for the ATP Cycle 7 Medium Infrastructure (herein referred to as PROGRAM); and

WHEREAS, the United States Congress from time to time enacts and amends legislation to provide funding for various transportation needs and programs, (collectively, the FEDERAL TRANSPORTATION ACT) including, but not limited to the Surface Transportation Block Grant Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149), the Carbon Reduction Program (CRP) (23 U.S.C. § 175), and the Transportation Alternatives (TA) set-aside (23 U.S.C. § 133); and

WHEREAS, state statutes, including California Streets and Highways Code §182.6, §182.7, and §2381(a)(1), and California Government Code §14527, provide various funding programs for the programming discretion of the Metropolitan Planning Organization (MPO) and the Regional Transportation Planning Agency (RTPA); and

WHEREAS, pursuant to the FEDERAL TRANSPORTATION ACT, and any regulations promulgated thereunder, eligible project sponsors wishing to receive federal or state funds for a regionally-significant project shall submit an application first with the appropriate MPO, or RTPA, as applicable, for review and inclusion in the federal Transportation Improvement Program (TIP); and

WHEREAS, MTC is the MPO and RTPA for the nine counties of the San Francisco Bay region; and

WHEREAS, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, APPLICANT is an eligible sponsor for REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, as part of the application for REGIONAL DISCRETIONARY FUNDING, MTC requires a resolution adopted by the responsible implementing agency stating the following:

• the commitment of any required matching funds; and

• that the sponsor understands that the REGIONAL DISCRETIONARY FUNDING is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional REGIONAL DISCRETIONARY FUNDING; and

• that the PROJECT will comply with the procedures, delivery milestones and funding deadlines specified in the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and

• the assurance of the sponsor to complete the PROJECT as described in the application, subject to environmental clearance, and if approved, as included in MTC's federal Transportation Improvement Program (TIP); and

• that the PROJECT will have adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and

• that the PROJECT will comply with all project-specific requirements as set forth in the PROGRAM; and

• that APPLICANT has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective County Transportation Agency (CTA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and

• in the case of a transit project, the PROJECT will comply with MTC Resolution No. 3866, revised, which sets forth the requirements of MTC's Transit Coordination Implementation Plan to more efficiently deliver transit projects in the region; and

• in the case of a highway project, the PROJECT will comply with MTC Resolution No. 4104, which sets forth MTC's Traffic Operations System (TOS) Policy to install and activate TOS elements on new major freeway projects; and

• in the case of an RTIP project, state law requires PROJECT be included in a local congestion management plan, or be consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the County Transportation Agency (CTA); and

WHEREAS, that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and

WHEREAS, there is no legal impediment to APPLICANT making applications for the funds; and

WHEREAS, there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and

WHEREAS, APPLICANT authorizes its Executive Director, General Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and

WHEREAS, MTC requires that a copy of this resolution be transmitted to the MTC in conjunction with the filing of the application.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the APPLICANT is authorized to execute and file an application for funding for the PROJECT for REGIONAL DISCRETIONARY FUNDING under the FEDERAL TRANSPORTATION ACT or continued funding; and

BE IT FURTHER RESOLVED that APPLICANT will provide any required matching funds; and

BE IT FURTHER RESOLVED that APPLICANT understands that the REGIONAL DISCRETIONARY FUNDING for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING; and

BE IT FURTHER RESOLVED that APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and APPLICANT has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation and transit projects, and has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective County Transportation Agency (CTA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and

BE IT FURTHER RESOLVED that PROJECT will be implemented as described in the complete application and in this resolution, subject to environmental clearance, and, if approved, for the amount approved by MTC and programmed in the federal TIP; and

BE IT FURTHER RESOLVED that APPLICANT has reviewed the PROJECT and has adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and

BE IT FURTHER RESOLVED that PROJECT will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM; and

BE IT FURTHER RESOLVED that, in the case of a transit project, APPLICANT agrees

to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution No. 3866, revised; and

BE IT FURTHER RESOLVED that, in the case of a highway project, APPLICANT agrees to comply with the requirements of MTC's Traffic Operations System (TOS) Policy as set forth in MTC Resolution No. 4104; and

BE IT FURTHER RESOLVED that, in the case of an RTIP project, PROJECT is included in a local congestion management plan, or is consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the County Transportation Agency (CTA); and

BE IT FURTHER RESOLVED that APPLICANT is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects; and

BE IT FURTHER RESOLVED that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and

BE IT FURTHER RESOLVED that there is no legal impediment to APPLICANT making applications for the funds; and

BE IT FURTHER RESOLVED that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and

BE IT FURTHER RESOLVED that APPLICANT authorizes its Executive Director, General Manager, City Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and

BE IT FURTHER RESOLVED that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and

BE IT FURTHER RESOLVED that the MTC is requested to support the application for the PROJECT described in the resolution, and if approved, to include the PROJECT in MTC's federal TIP upon submittal by the project sponsor for TIP programming.

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

AUTHORIZING THE FILING OF AN APPLICATION FOR FUNDING ASSIGNED TO MTC AND COMMITTING ANY NECESSARY MATCHING FUNDS AND STATING ASSURANCE TO COMPLETE THE PROJECT

WHEREAS, CITY OF BERKELEY (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for $1,041,000 in funding assigned to MTC for programming discretion, which includes federal funding administered by the Federal Highway Administration (FHWA) and federal or state funding administered by the California Transportation Commission (CTC) such as Surface Transportation Block Grant Program (STP) funding, Congestion Mitigation and Air Quality Improvement Program (CMAQ) funding, Carbon Reduction Program (CRP) funding, Transportation Alternatives (TA) set-aside/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the Adeline Street Quick-Build (herein referred to as PROJECT) for the ATP Cycle 7 Quick-Build (herein referred to as PROGRAM); and

WHEREAS, the United States Congress from time to time enacts and amends legislation to provide funding for various transportation needs and programs, (collectively, the FEDERAL TRANSPORTATION ACT) including, but not limited to the Surface Transportation Block Grant Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149), the Carbon Reduction Program (CRP) (23 U.S.C. § 175), and the Transportation Alternatives (TA) set-aside (23 U.S.C. § 133); and

WHEREAS, state statutes, including California Streets and Highways Code §182.6, §182.7, and §2381(a)(1), and California Government Code §14527, provide various funding programs for the programming discretion of the Metropolitan Planning Organization (MPO) and the Regional Transportation Planning Agency (RTPA); and

WHEREAS, pursuant to the FEDERAL TRANSPORTATION ACT, and any regulations promulgated thereunder, eligible project sponsors wishing to receive federal or state funds for a regionally-significant project shall submit an application first with the appropriate MPO, or RTPA, as applicable, for review and inclusion in the federal Transportation Improvement Program (TIP); and

WHEREAS, MTC is the MPO and RTPA for the nine counties of the San Francisco Bay region; and

WHEREAS, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, APPLICANT is an eligible sponsor for REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, as part of the application for REGIONAL DISCRETIONARY FUNDING, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- the commitment of any required matching funds; and
- that the sponsor understands that the REGIONAL DISCRETIONARY FUNDING is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional REGIONAL DISCRETIONARY FUNDING; and
- that the PROJECT will comply with the procedures, delivery milestones and funding deadlines specified in the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
- the assurance of the sponsor to complete the PROJECT as described in the application, subject to environmental clearance, and if approved, as included in MTC's federal Transportation Improvement Program (TIP); and
- that the PROJECT will have adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and
- that the PROJECT will comply with all project-specific requirements as set forth in the PROGRAM; and
- that APPLICANT has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective County Transportation Agency (CTA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and
- in the case of a transit project, the PROJECT will comply with MTC Resolution No. 3866, revised, which sets forth the requirements of MTC's Transit Coordination Implementation Plan to more efficiently deliver transit projects in the region; and
- in the case of a highway project, the PROJECT will comply with MTC Resolution No. 4104, which sets forth MTC's Traffic Operations System (TOS) Policy to install and activate TOS elements on new major freeway projects; and
- in the case of an RTIP project, state law requires PROJECT be included in a local congestion management plan, or be consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the County Transportation Agency (CTA); and

WHEREAS, that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and

WHEREAS, there is no legal impediment to APPLICANT making applications for the funds; and

WHEREAS, there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and

WHEREAS, APPLICANT authorizes its Executive Director, General Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and

WHEREAS, MTC requires that a copy of this resolution be transmitted to the MTC in conjunction with the filing of the application.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the APPLICANT is authorized to execute and file an application for funding for the PROJECT for REGIONAL DISCRETIONARY FUNDING under the FEDERAL TRANSPORTATION ACT or continued funding; and

BE IT FURTHER RESOLVED that APPLICANT will provide any required matching funds; and

BE IT FURTHER RESOLVED that APPLICANT understands that the REGIONAL DISCRETIONARY FUNDING for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING; and

BE IT FURTHER RESOLVED that APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and APPLICANT has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation and transit projects, and has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective County Transportation Agency (CTA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and

BE IT FURTHER RESOLVED that PROJECT will be implemented as described in the complete application and in this resolution, subject to environmental clearance, and, if approved, for the amount approved by MTC and programmed in the federal TIP; and

BE IT FURTHER RESOLVED that APPLICANT has reviewed the PROJECT and has

adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and

BE IT FURTHER RESOLVED that PROJECT will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM; and

BE IT FURTHER RESOLVED that, in the case of a transit project, APPLICANT agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution No. 3866, revised; and

BE IT FURTHER RESOLVED that, in the case of a highway project, APPLICANT agrees to comply with the requirements of MTC's Traffic Operations System (TOS) Policy as set forth in MTC Resolution No. 4104; and

BE IT FURTHER RESOLVED that, in the case of an RTIP project, PROJECT is included in a local congestion management plan, or is consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the County Transportation Agency (CTA); and

BE IT FURTHER RESOLVED that APPLICANT is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects; and

BE IT FURTHER RESOLVED that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and

BE IT FURTHER RESOLVED that there is no legal impediment to APPLICANT making applications for the funds; and

BE IT FURTHER RESOLVED that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and

BE IT FURTHER RESOLVED that APPLICANT authorizes its Executive Director, General Manager, City Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and

BE IT FURTHER RESOLVED that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and

BE IT FURTHER RESOLVED that the MTC is requested to support the application for the PROJECT described in the resolution, and if approved, to include the PROJECT in MTC's federal TIP upon submittal by the project sponsor for TIP programming.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Terrance Davis, Director, Public Works

Subject: Authorize Purchase Order with National Auto Fleet Group for Twenty Ford Police Interceptor Utility (K8A) AWD Vehicles

RECOMMENDATION

Adopt a Resolution satisfying the requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell contract bid procedures and authorizing the City Manager to execute a purchase order for twenty (20) Ford Police Interceptor Utility (K8A) AWD vehicles with the National Auto Fleet Group in an amount not to exceed $1,269,808.20.

FISCAL IMPACTS OF RECOMMENDATION

The purchase of twenty (20) Ford Police Interceptor Utility (K8A) AWD vehicles will not exceed $1,269,808.20 and includes CA tire fees, delivery to City of Berkeley, and sales tax. Funding for the purchase of these vehicles is available in the FY 2024 Budget Fund for Equipment Replacement.

CURRENT SITUATION AND ITS EFFECTS

This purchase will replace twenty existing vehicles that have exceeded the end of their useful life. The replacement vehicles are needed by the City's Police Department Patrol Division in their work to provide public safety services in Berkeley. The twenty vehicles being replaced are primarily gas model sedans from 2014 or earlier. There have been multiple years of delay in the delivery of police vehicles from the manufacturer.

This purchase will support the City's Strategic Plan Goal of creating a resilient, safe, connected, and prepared City.

BACKGROUND

City Charter XI Section 67.2 allows the City to purchase goods without undergoing a competitive bid process if the City utilizes pricing obtained by another entity through a competitive process.

Throughout the year, the Department of Public Works purchases vehicles and equipment for the City's operating departments. These are paid for through the

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E-Mail: manager@CityofBerkeley.info Website: http://www.CityofBerkeley.info/Manager

Equipment Replacement Fund. If a purchase will exceed $25,000, the Department of Finance, General Services Division solicits bids or “piggybacks” off competitively bid contracts to ensure the City’s departments receive the best pricing.

The City of Berkeley is a no-cost member of Sourcewell (formerly National Joint Powers Alliance (NJPA)), a municipal contracting agency operation under the legislative authority of Minnesota Statue 123A.21. Sourcewell allows participating municipal agencies to leverage the benefits of cooperative purchasing and reduces procurement costs. Sourcewell serves all educational, government, and non-profit agencies nationwide, and offers cooperatively contracted products, equipment, and service opportunities to government entities throughout the U.S.

All Sourcewell contracts have been competitively solicited nationwide. On July 28, 2021, Sourcewell released Request for Proposal No. 091521 for automobiles, sport utility vehicles, vans, and light trucks with related equipment and accessories. The solicitation was released for approximately fifty days and thirteen proposals were submitted and received. Upon review, the Sourcewell proposal evaluation committee selected 72 Hour, LLC dba National Auto Fleet Group as the best most responsive proposer to meet the specifications thusly awarding Contract No. 091521-NAF.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Public Works Equipment Maintenance endeavors to procure the most fuel-efficient vehicles and equipment that are suitable for the required tasks. Equipment Maintenance also researches the feasibility and availability of fully electric vehicles and hybrid-electric powertrains to support the City’s transition away from fossil fuels towards an all-electric fleet, where technically feasible.

At present, the Police Department is working to replace all patrol vehicles that reach the end of their useful life with hybrid vehicles. All twenty vehicles will be powered by a 3.3L V6 Direct-Injection Hybrid System, which supports the Police Department’s goal of replacing its entire patrol fleet with hybrid vehicles.

RATIONALE FOR RECOMMENDATION

Police patrol vehicles are overdue for replacement and with the long manufacturing time of over a year, they need to be purchased as soon as Equipment Maintenance has the opportunity. The order boards for Ford opened in March and the City has provided a letter of intent to National Auto Fleet Group. A purchase order is needed to secure the vehicles for the City. Ordering through a cooperative purchasing agreement ensures that the City is receiving the most competitive pricing.

ALTERNATIVE ACTIONS CONSIDERED

None. Listed vehicles have reached the end of their useful life.

CONTACT PERSON
Greg Ellington, Superintendent, Public Works Maintenance, (510) 981-6469
Joy Brown, Operations Manager, (510) 981-6629

Attachment:
1: Resolution: Purchase Order: National Auto Fleet Group for Twenty Ford Police Interceptor Utility (K8A) AWD

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

PURCHASE ORDER: NATIONAL AUTO FLEET GROUP FOR TWENTY FORD POLICE INTERCEPTOR UTILITY (K8A) AWD

WHEREAS, twenty Ford Police Interceptor Utility are needed by the City Police Department in their work to provide public safety services in Berkeley; and

WHEREAS, twenty police vehicles being replaced have reached the end of their useful life; and

WHEREAS, City Charter XI Section 67.2 allows the City to purchase goods without undergoing a competitive bid process if the City uses pricing obtained by another entity through a competitive bid process; and

WHEREAS, vehicles must be replaced based upon a reasonable schedule that allows city employees to efficiently and effectively carry out their duties; and

WHEREAS, on October 21, 2016 Sourcewell released Request for Proposal No. 091521for Automobiles, SUVs, Vans, and Light Trucks with Related Equipment and Accessories. The solicitation was released for approximately forty-nine days and thirteen proposals were submitted. Upon their review Sourcewell selected National Auto Fleet Group as the best most responsive proposer to meet the specifications, thusly awarding Contract No. 091521-NAF; and

WHEREAS, Sourcewell contract bid procedures satisfy the procurement requirements of the City of Berkeley; and

WHEREAS, funds in the amount of $1,269,808.20 will be appropriated as part of the Second Annual Appropriations Ordinance in the FY 2024 Equipment Replacement Fund 671.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order for twenty Ford Police Interceptor Utility (K8A) AWD with the National Auto Fleet Group in an amount not to exceed $1,269,808.20.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Terrance Davis, Director of Public Works

Subject: Contract: Edgeworth Integration, LLC for Installation of Security Cameras at Council-Approved Intersections; and Authorizing Additional External Fixed Video Surveillance Cameras

RECOMMENDATION

1. Adopt a Resolution authorizing the City Manager to execute a contract with Edgeworth Integration, LLC for purchase and installation of External Fixed Video Surveillance Cameras at fifteen council-approved locations, for an amount not to exceed $850,000.

2. Adopt a Resolution authorizing the installation of additional External Fixed Video Surveillance Cameras under this contract scope should they be approved by City Council, included in the Surveillance Policy and funding appropriated.

FISCAL IMPACTS OF RECOMMENDATION

Estimated one-time costs to purchase and install cameras are estimated between $44,000 to $55,000 per intersection. Total costs would vary based on the number of intersections selected. Specifically, total one-time costs for the fifteen previously selected intersections already selected by Council would cost approximately $750,000.

Funding in the amount of $600,000 is available in the FY 2024 baseline Public Works budget General Fund 011. (budget code: 011-54-624-694-0000-000-412-612990). Additional funds will be appropriated through the FY 2025 budget process.

CURRENT SITUATION AND ITS EFFECTS

On October 12, 2021, council approved a budget referral for the installation of External Fixed Video Surveillance Cameras, prominent signage, and increased lighting in public right-of-way intersections experiencing a rise in violent crime. The referral approved installation of security cameras at the following intersections:

- University & 6th
- Ashby & 7th
- Ashby & Claremont

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- Ashby & College
- Ashby & Sacramento
- Ashby & San Pablo
- Dwight & San Pablo
- Dwight & 7th
- University & San Pablo
- King & 62nd

Public Works executed contract No. 32400010 on July 18, 2023 for the purchase and installation of a surveillance camera at the University & 6th intersection. Approval of these Resolutions will allow for the purchase and installation of approved cameras at all other Council-approved locations. Cameras for this project will be compatible with those already in use at San Pablo Park under Contract Nos. 31900080 and 31900205 along with those deployed at University and 6th under Contract No. 32400010. Edgeworth Integration, LLC was the contractor for these projects. Public Works estimates that remaining cameras will be purchased and installed by June 30, 2024 if the Resolutions are approved. Beyond the initial purchase and installation, City of Berkeley's Public Works Department will be in charge of maintenance for the installed cameras.

On January 30th, 2024, Council approved of a budget referral for the installation of additional External Fixed Video Surveillance Cameras at the following intersections:

- Alcatraz & Adeline
- Alcatraz & College
- Alcatraz & Sacramento
- San Pablo & Gilman
- Woolsey & Telegraph
- Woolsey & Shattuck

Council at this January 30th meeting also approved these additional locations to be considered for potential future installations:

- Telegraph and Dwight
- 5th Street and Gilman
- 4th Street and Hearst
- Cedar St. and East shore Hwy
- 4th Street and Virginia
- 8th Street and Harrison
- 2nd Street and Page
- University and San Pablo

The additional sites approved on the January 30th Council meeting are currently factored into the proposed Edgeworth contract scope and would be installed sometime

in FY 2025 if the previously requested funding is provided. This contract will allow Public Works to install additional cameras quickly if any of those sites are approved by Council.

Security camera footage would be used solely for the purpose of solving criminal investigations. The cameras are not intended and would not be used for continuous surveillance purposes nor will contain License Plate Reader technology or software.

This supports the Strategic Plan Goal of creating a resilient, safe, connected, and prepared City

BACKGROUND

A 2011 report[1] from The Urban Institute's Justice Policy Center noted that cameras can be an effective tool for preventing crimes and supporting investigations. These tools appear fiscally prudent both as tools for investigations, and with the installation and maintenance of security cameras being less costly than the costs associated with crimes that may take place without them. Moreover, an experiment conducted at the University of Twente in the Netherlands finds evidence that the presence of security cameras can encourage "prosocial" and "helping behavior" among bystanders.[2]

Berkeley's Police Department has been conducting Crime Prevention Through Environmental Design (CPTED) assessments for neighborhoods throughout the City over the past several years. These assessments include recommendations such as: increased lighting, maintenance of properties, landscaping and signage that can be used to deter criminal behavior.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identified environmental or climate impacts associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

These Resolutions will allow Public Works to start installation at the fourteen Council-approved intersections. The installation of security cameras at select intersections has been a Council Directive since 2021. The initial ten locations selected for installation of cameras were approved in October 2021 and an additional six locations were selected in January 2024.

On December 13th, 2021, Council approved an Amendment to FY 2022 Annual Appropriations Ordinance, which allocated $1.3 million in funds towards the

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[1] La Vigne, N. G., et al. (2011). Evaluating the use of public surveillance cameras for crime control and prevention. *Washington, DC: US Department of Justice, Office of Community Oriented Policing Services. Urban Institute*, Justice Policy Center, 1-152.

[2] Van Rompay, T. J., et al. (2009). The eye of the camera: Effects of security cameras on prosocial behavior. Environment and Behavior, 41(1), 60-74.

Surveillance Camera project. However, Public Works could not start fully on this project as the City had to develop and approve a Surveillance Camera Policy before work could begin. On June 13, 2023, Council approved Acquisition and Use Policies for External Fixed Video Surveillance Cameras and Unmanned Aerial System, which now allows Public Works to begin work on these installations.

ALTERNATIVE ACTIONS CONSIDERED
None

CONTACT PERSON
Joy Brown, Operations Manager, Public Works, 510-981-6629
Michael Durbin, Police Lieutenant, 510-981-5760
Jen Tate, Police Lieutenant, 510-981-5810
Peni Basalusalu, Deputy Director, Public Works, 510-981-6485

Attachments:
1: Resolution – Contract: Edgeworth Integration, LLC for Purchase and Installation of External Fixed Video Surveillance Cameras at Fifteen Council-Approved Locations
2: Resolution - Approving Installation of Future Security Cameras at Select Intersections as Approved by Council

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

CONTRACT: EDGEWORTH INTEGRATION, LLC FOR PURCHASE AND INSTALLATION OF EXTERNAL FIXED VIDEO SURVEILLANCE CAMERAS AT FIFTEEN COUNCIL-APPROVED LOCATIONS

WHEREAS, on March 13, 2018, City Council adopted Ordinance NO. 7,592-N.S., the Surveillance Technology Use and Community Safety Ordinance; and

WHEREAS, on October 16, 2018, City Council approved the installation of cameras in San Pablo Park, and

WHEREAS, on January 28, 2019, the City and Edgeworth Integration, LLC entered into Contract No. 31900080 for the purchase and installation of a video surveillance system at San Pablo Park; and

WHEREAS, on October 12, 2021, City Council adopted a budget referral for the purchase and installation of External Fixed Video Surveillance Cameras at ten City of Berkeley intersections; and

WHEREAS, on December 13th, 2021, Council approved Ordinance NO. 7,795-N.S. which amended the FY 2022 Annual Appropriations Ordinance NO. 7,779-N.S. and allocated $1.3 million in funds towards the purchase and installation of Public Safety Surveillance Cameras at City Council approved locations; and

WHEREAS, on June 13, 2023, City Council adopted Resolution NO. 70,895-N.S., which approved the Acquisition and Use Policies for External Fixed Video Surveillance Cameras and Unmanned Aerial System; and

WHEREAS, on January 30, 2024, City Council adopted a budget referral for the purchase and installation of External Fixed Video Surveillance Cameras at six additional City of Berkeley intersections and additional camera locations to be considered for installation for eight other intersections; and

WHEREAS, $600,000 in funding is available in the amount of $600,000 is available in the FY 2024 baseline Public Works budget General Fund 011; and

WHEREAS, additional funding will be procured through the FY 2025 budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Council authorizes the City Manager to execute a contract with Edgeworth Integration, LLC for installation of External Fixed Video Surveillance Cameras at fifteen council-approved locations, for an amount not to exceed $850,000.

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

APPROVING INSTALLATION OF FUTURE SECURITY CAMERAS AT SELECT INTERSECTIONS AS APPROVED BY COUNCIL

WHEREAS, on March 13, 2018, City Council adopted Ordinance NO. 7,592-N.S., the Surveillance Technology Use and Community Safety Ordinance; and

WHEREAS, on October 16, 2018, City Council approved the installation of cameras in San Pablo Park, and

WHEREAS, on January 28, 2019, the City and Edgeworth Integration, LLC entered into Contract No. 31900080 for the purchase and installation of a video surveillance system at San Pablo Park; and

WHEREAS, on October 12, 2021, City Council adopted a budget referral for the purchase and installation of External Fixed Video Surveillance Cameras at ten City of Berkeley intersections; and

WHEREAS, on June 13, 2023, City Council adopted Resolution NO. 70,895-N.S., which approved the Acquisition and Use Policies for External Fixed Video Surveillance Cameras and Unmanned Aerial System; and

WHEREAS, on January 30, 2024, City Council adopted a budget referral for the purchase and installation of External Fixed Video Surveillance Cameras at six additional City of Berkeley intersections and additional security cameras to be considered for installation for eight other intersections.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Council authorizes the City Manager to approve the installation of External Fixed Video Surveillance Cameras at future to-be-determined intersections if approved by City Council.

Office of the City Manager

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Terrance Davis, Director, Pubic Works

Subject: FY 2024/2025 Transportation Development Act Article 3 Fund Allocation

RECOMMENDATION

Adopt two Resolutions:

- Authorizing the City Manager to: submit an allocation request to the Metropolitan Transportation Commission (MTC) prior to the June 14, 2024 deadline for $151,950 of FY 24/25 Transportation Development Act (TDA) Article 3 funding to complete the Berkeley Bicycle Plan update.

- Declaring that: the City of Berkeley is eligible to request an allocation of TDA Article 3 funds pursuant to Section 99234 of the Public Utilities Code; there is no pending or threatened litigation that might adversely affect the project or projects described in Attachment B to this resolution, or that might impair the ability of the City of Berkeley to carry out the project; the project has been reviewed and supported by the Transportation and Infrastructure Commission (TIC) of the City of Berkeley; the City of Berkeley attests to the accuracy of and approves the statements in Attachment A to this resolution; and a certified copy of this resolution and its attachments, and any accompanying supporting materials, shall be forwarded to the Congestion Management Agency, countywide transportation planning agency, or County Association of Governments, as the case may be, of Alameda County for submission to MTC as part of the countywide coordinated TDA Article 3 claim.

FISCAL IMPACTS OF RECOMMENDATION

In 2021, the Metropolitan Transportation Commission awarded the City $200,000 to update the Bicycle Plan. To date, $78,626 has been spent on this effort. The City is requesting that the MTC allow the remaining balance of $121,374 be reallocated to be available for FY 24-25. In addition, the City is requesting an additional $151,950 to be allocated, increasing the FY 24-25 funding amount to a total of $273,324. The funding increase reflects the additional level of effort that will be required of the project consultant, as well as rising rates for the consultant over the past three years since the

Bicycle Plan update was initiated. No matching funds are required for this funding allocation.

Reallocation request	$121,374
Funding increase request	$151,950
Total Bicycle Plan update cost	$273,324

CURRENT SITUATION AND ITS EFFECTS

FY 2024/2025 Transportation Development Act Article 3 Fund Allocation will support updating the City's Bicycle Plan, which is a Strategic Plan Priority Project, advancing our goals to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities and to create a resilient, safe, connected, and prepared city.

The Bicycle Plan update was launched in 2021 and put on hold in 2022 due to staffing vacancies within Public Works. Before it was suspended in 2022, several tasks and deliverables were initiated, including public outreach and high injury corridor research. The City of Berkeley is submitting a FY 2024-25 TDA Article 3 allocation request to complete a comprehensive Bicycle Plan update. This project will analyze the City's existing bicycle network, engage the public and City stakeholders, make new recommendations for a low-stress bikeway network, update bike boulevard design guidelines, identify key projects for priority corridors and create an implementation strategy to be presented as a final plan for adoption by City Council. MTC, Alameda County Transportation Commission (CTC) and the State of California all require that cities update their bicycle, pedestrian and active transportation plans every five years to maintain eligibility for County, regional and State competitive transportation grant funding. The City is apportioned approximately $100,000 to $120,000 annually under TDA Article 3 for qualified bicycle and pedestrian projects. The City's currently available TDA fund balance is $377,173.

BACKGROUND

The State Legislature passed the Transportation Development Act in 1971, implementing a statewide quarter-cent sales tax. TDA is one of the major funding sources for public transportation in California, and under Article 3, funds are to be used by local jurisdictions for qualified bicycle and pedestrian projects. Writing and updating bicycle, pedestrian and active transportation plans are considered eligible TDA expenses.

Local jurisdictions obtain these funds in a three-step process: apportionment, allocation and payment through reimbursement. Apportionment in the San Francisco Bay Area follows the MTC formula based upon population. The City submits TDA allocation requests to MTC on an annual basis, and unused TDA funds allocated to any project are rolled over from one fiscal year to the next. No matching funds are required, but the project must meet the funding objectives and be developed in cooperation with the

community. The basic funding objectives are to increase the safety, security and efficiency of bicycle and pedestrian travel and to provide for a coordinated system. The City receives payment of allocated grant funds upon submission of claims for reimbursement.

MTC requires both a supporting resolution from the City Council and a review of TDA allocations by a pedestrian and/or bicycle advisory committee. The City's Transportation and Infrastructure Commission functions as the City's Bicycle and Pedestrian Advisory Committee. At the April 15, 2021 Commission meeting, it was motioned and seconded (Ghosh/Gosselin) and unanimously approved that the "Commission recommends that City Council authorize the City Manager to submit an allocation request to the Metropolitan Transportation Commission (MTC) for $450,000 of FY2021-22 Transportation Development Act (TDA) Article 3 funds for the Bicycle Plan Update ($200,000)."

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The primary goal of the Bicycle Plan update is to improve traffic safety for people riding bicycles. This is consistent with the 2009 Climate Action Plan Policy 5.a that calls for expanding and improving Berkeley's bicycle and pedestrian infrastructure. The Bicycle Plan sets targets of reducing transportation emissions 33% below year 2000 levels by 2020 and 80% below year 2000 levels by 2050. The Bicycle Plan further states that transportation modes, such as public transit, walking, and bicycling, must become the primary means of fulfilling the City's mobility needs in order to meet these targets.

RATIONALE FOR RECOMMENDATION

The City's most recent update to the Bicycle Plan was adopted in 2017 (Resolution No.67,945-N.S.). Since then, the City's bicycle network has changed as several capital projects in the plan have been designed and constructed. Existing conditions need to be evaluated and public outreach must be conducted to determine the current priorities for the bicycle network. An implementation strategy will need to be developed as well so that the City can pursue available funding to complete prioritized projects. Bicycle Boulevard design guidelines also need to be updated. All of these needs will be addressed within the scope of this Bicycle Plan update.

ALTERNATIVE ACTIONS CONSIDERED

The City could choose not to apply for and accept for these funds. However, no alternative funding source has been identified to update the Bicycle Plan.

CONTACT PERSON

Wahid Amiri, Deputy Director, 510-981-6396
Hamid Mostowfi, Transportation Manager, 510-981-6403
Eric Anderson, Principal Planner, 510-981-7062
Dani Dynes, Associate Planner, 510-981-7053

Attachments:
1: Resolution
    Exhibit A: Findings
    Exhibit B: TDA Article 3 Project Application Form
2: Resolution
    Exhibit A: Findings
    Exhibit B: TDA Article 3 Project Application Form

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

REQUEST TO THE METROPOLITAN TRANSPORTATION COMMISSION FOR THE ALLOCATION OF FISCAL YEAR 2024-2025 TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 PEDESTRIAN/BICYCLE PROJECT FUNDING

WHEREAS, Article 3 of the Transportation Development Act (TDA), Public Utilities Code (PUC) Section 99200 et seq., authorizes the submission of claims to a regional transportation planning agency for the funding of projects exclusively for the benefit and/or use of pedestrians and bicyclists; and

WHEREAS, the Metropolitan Transportation Commission (MTC), as the regional transportation planning agency for the San Francisco Bay region, has adopted MTC Resolution No. 4108, Revised, entitled "Transportation Development Act, Article 3, Pedestrian/Bicycle Projects," which delineates procedures and criteria for submission of requests for the allocation of "TDA Article 3" funding; and

WHEREAS, MTC Resolution No. 4108, Revised requires that requests for the allocation of TDA Article 3 funding be submitted as part of a single, countywide coordinated claim from each county in the San Francisco Bay region; and

WHEREAS, the City of Berkeley desires to submit a request to MTC for the allocation of TDA Article 3 funds to support the projects described in Attachment B to this resolution, which are for the exclusive benefit and/or use of pedestrians and/or bicyclists; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Manager is authorized to submit a request to the Metropolitan Transportation Commission prior to the June 14, 2024 deadline for the allocation of FY 2024-25 Transportation Development Act Article 3 pedestrian/bicycle project funding in the amount of $151,950 for the Berkeley Bicycle Plan Update; and that the City Manager is authorized to accept the allocation; execute any resultant agreements and amendments; and authorize the implementation of the project, subject to securing the allocation.

BE IT FURTHER RESOLVED that the City of Berkeley declares it is eligible to request an allocation of TDA Article 3 funds pursuant to Section 99234 of the Public Utilities Code.

BE IT FURTHER RESOLVED that there is no pending or threatened litigation that might adversely affect the project or projects described in Attachment B to this resolution, or that might impair the ability of the City of Berkeley to carry out the project.

RESOLUTION NO. ##,###-N.S.
Attachment A
RE: REQUEST TO THE METROPOLITAN TRANSPORTATION COMMISSION FOR THE ALLOCATION OF FISCAL YEAR 2024-2025 TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 PEDESTRIAN/BICYCLE PROJECT FUNDING

Findings

1. That the City of Berkeley is not legally impeded from submitting a request to the Metropolitan Transportation Commission for the allocation of Transportation Development Act (TDA) Article 3 funds, nor is the City of Berkeley legally impeded from undertaking the project(s) described in “Attachment B” of this resolution.
2. That the City of Berkeley has committed adequate staffing resources to complete the project(s) described in Attachment B.
3. A review of the project(s) described in Attachment B has resulted in the consideration of all pertinent matters, including those related to environmental and right-of-way permits and clearances, attendant to the successful completion of the project(s).
4. Issues attendant to securing environmental and right-of-way permits and clearances for the projects described in Attachment B have been reviewed and will be concluded in a manner and on a schedule that will not jeopardize the deadline for the use of the TDA funds being requested.
5. That the project(s) described in Attachment B comply with the requirements of the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 et seq.).
6. That as portrayed in the budgetary description(s) of the project(s) in Attachment B, the sources of funding other than TDA are assured and adequate for completion of the project(s).
7. That the project(s) described in Attachment B are for capital construction and/or final design and engineering or quick build project; and/or for the maintenance of a Class I bikeway which is closed to motorized traffic and/or Class IV separated bikeway; and/or for the purposes of restriping Class II bicycle lanes; and/or for the development or support of a bicycle safety education program; and/or for the development of a comprehensive bicycle and/or pedestrian facilities plan, and an allocation of TDA Article 3 funding for such a plan has not been received by the City of Berkeley within the prior five fiscal years.
8. That the project(s) described in Attachment B which are bicycle projects have been included in a detailed bicycle circulation element included in an adopted general plan, or included in an adopted comprehensive bikeway plan (such as outlined in Section 2377 of the California Bikeways Act, Streets and Highways Code section 2370 et seq.) or responds to an immediate community need, such as a quick-build project.
9. That any project described in Attachment B bicycle project meets the mandatory minimum safety design criteria published in the California Highway Design Manual or is in a National Association of City and Transportation Officials (NACTO) guidance or similar best practices document.
10. That the project(s) described in Attachment B will be completed in the allocated time (fiscal year of allocation plus two additional fiscal years).

11. That the City of Berkeley agrees to maintain, or provide for the maintenance of, the project(s) and facilities described in Attachment B, for the benefit of and use by the public.

Resolution No. _____ page ___ of ___

TDA Article 3 Project Application Form

Fiscal Year of this Claim: 2024-2025 Applicant: City of Berkeley
Contact person: Dani Dynes
Mailing Address: 1947 Center St. 4th Floor Berkeley, CA 94704
E-Mail Address: danidynes@berkeleyca.gov Telephone: 510-981-7053

Secondary Contact (in event primary not available) Eric Anderson

E-Mail Address: eanderson@berkeleyca.gov Telephone: 510-981-7062
Project Title (Short Description)**: Berkeley Bicycle Plan Update**
Amount of claim: $151,950

Description of Overall Project:

The project is a comprehensive update to the City of Berkeley's Bicycle Plan, last updated in 2017. The project will fulfill the requirements of Section 2377 of the California Bikeways Act, Streets and Highways Code section 2370 et seq.

Project Scope Proposed for Funding: (Project level environmental, preliminary planning, and ROW are ineligible uses of TDA funds.)

Project scope will include outreach and engagement, analysis, drafting proposed updates to Bicycle Plan chapters and appendices, and adoption of the final comprehensive update to the Bicycle Plan.

Project Budget and Schedule
Project Budget is $151,950. Schedule is: Consultant procurement and kickoff Spring 2024, Outreach and Engagement Summer 2024, Input from internal stakeholders and Commissions Spring-Fall 2024, Final Draft outreach and comment Fall 2024, Plan adoption December 10th 2024.

Project Phase	TDA 3	Other Funds	Total Cost	Estimated Completion (month/year)
Bike/Ped Plan	$151,950			12/10/24
ENV				
PA&ED				
PS&E				
ROW				
CON				
Total Cost	$151,950			12/10/24

Project Eligibility:	**YES?/NO?**
A. Has the project been approved by the claimant's governing body? (If "NO," provide the approximate date approval is anticipated).	YES
B. Has this project previously received TDA Article 3 funding? If "YES," provide an explanation on a separate page.	YES
C. For "bikeways," does the project meet Caltrans minimum safety design criteria pursuant to Chapter 1000 of the California Highway Design Manual? (Available on the internet via: http://www.dot.ca.gov).	N/A
D. Has the project been reviewed by the Bicycle and Pedestrian Advisory Committee? (If "NO," provide an explanation).	YES
E. Has the public availability of the environmental compliance documentation for the project (pursuant to CEQA) been evidenced by the dated stamping of the document by the county clerk or county recorder? (required only for projects that include construction).	N/A
F. Will the project be completed before the allocation expires? Enter the anticipated completion date of project (month and year) December 10, 2024	YES
G. Have provisions been made by the claimant to maintain the project or facility, or has the claimant arranged for such maintenance by another agency? (If an agency other than the Claimant is to maintain the facility provide its name: _____)	N/A

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

RE: REQUEST TO THE METROPOLITAN TRANSPORTATION COMMISSION FOR THE ALLOCATION OF FISCAL YEAR 2024-2025 TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 PEDESTRIAN/BICYCLE PROJECT FUNDING

WHEREAS, Article 3 of the Transportation Development Act (TDA), Public Utilities Code (PUC) Section 99200 et seq., authorizes the submission of claims to a regional transportation planning agency for the funding of projects exclusively for the benefit and/or use of pedestrians and bicyclists; and

WHEREAS, the Metropolitan Transportation Commission (MTC), as the regional transportation planning agency for the San Francisco Bay region, has adopted MTC Resolution No. 4108, Revised, entitled “Transportation Development Act, Article 3, Pedestrian/Bicycle Projects,” which delineates procedures and criteria for submission of requests for the allocation of “TDA Article 3” funding; and

WHEREAS, MTC Resolution No. 4108, Revised requires that requests for the allocation of TDA Article 3 funding be submitted as part of a single, countywide coordinated claim from each county in the San Francisco Bay region; and

WHEREAS, the City of Berkeley desires to submit a request to MTC for the allocation of TDA Article 3 funds to support the projects described in Attachment B to this resolution, which are for the exclusive benefit and/or use of pedestrians and/or bicyclists; now, therefore,

BE IT RESOLVED, that the City of Berkeley declares it is eligible to request an allocation of TDA Article 3 funds pursuant to Section 99234 of the Public Utilities Code, and furthermore,

BE IT RESOLVED, that there is no pending or threatened litigation that might adversely affect the project or projects described in Attachment B to this resolution, or that might impair the ability of the City of Berkeley to carry out the project; and furthermore,

BE IT RESOLVED, that the City of Berkeley attests to the accuracy of and approves the statements in Attachment A to this resolution; and furthermore,

BE IT RESOLVED, that a certified copy of this resolution and its attachments, and any accompanying supporting materials shall be forwarded to the congestion management agency, countywide transportation planning agency, or county association of governments, as the case may be, of Alameda for submission to MTC as part of the countywide coordinated TDA Article 3 claim.

The City of Berkeley adopted this resolution on June 4, 2024.

AYES:

NAYS:
Certified to by (signature):
TYPE NAME OF CERTIFYING INDIVIDUAL HERE

RESOLUTION NO. ##,###-N.S.
Attachment A
RE: REQUEST TO THE METROPOLITAN TRANSPORTATION COMMISSION FOR THE ALLOCATION OF FISCAL YEAR 2024-2025 TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 PEDESTRIAN/BICYCLE PROJECT FUNDING

Findings

1. That the City of Berkeley is not legally impeded from submitting a request to the Metropolitan Transportation Commission for the allocation of Transportation Development Act (TDA) Article 3 funds, nor is the City of Berkeley legally impeded from undertaking the project(s) described in “Attachment B” of this resolution.
2. That the City of Berkeley has committed adequate staffing resources to complete the project(s) described in Attachment B.
3. A review of the project(s) described in Attachment B has resulted in the consideration of all pertinent matters, including those related to environmental and right-of-way permits and clearances, attendant to the successful completion of the project(s).
4. Issues attendant to securing environmental and right-of-way permits and clearances for the projects described in Attachment B have been reviewed and will be concluded in a manner and on a schedule that will not jeopardize the deadline for the use of the TDA funds being requested.
5. That the project(s) described in Attachment B comply with the requirements of the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 et seq.).
6. That as portrayed in the budgetary description(s) of the project(s) in Attachment B, the sources of funding other than TDA are assured and adequate for completion of the project(s).
7. That the project(s) described in Attachment B are for capital construction and/or final design and engineering or quick build project; and/or for the maintenance of a Class I bikeway which is closed to motorized traffic and/or Class IV separated bikeway; and/or for the purposes of restriping Class II bicycle lanes; and/or for the development or support of a bicycle safety education program; and/or for the development of a comprehensive bicycle and/or pedestrian facilities plan, and an allocation of TDA Article 3 funding for such a plan has not been received by the City of Berkeley within the prior five fiscal years.
8. That the project(s) described in Attachment B which are bicycle projects have been included in a detailed bicycle circulation element included in an adopted general plan, or included in an adopted comprehensive bikeway plan (such as outlined in Section 2377 of the California Bikeways Act, Streets and Highways Code section 2370 et seq.) or responds to an immediate community need, such as a quick-build project.
9. That any project described in Attachment B bicycle project meets the mandatory minimum safety design criteria published in the California Highway Design Manual or is in a National Association of City and Transportation Officials (NACTO) guidance or similar best practices document.
10. That the project(s) described in Attachment B will be completed in the allocated time (fiscal year of allocation plus two additional fiscal years).

11. That the City of Berkeley agrees to maintain, or provide for the maintenance of, the project(s) and facilities described in Attachment B, for the benefit of and use by the public.

Resolution No. _____ page ___ of ___

TDA Article 3 Project Application Form

Fiscal Year of this Claim: 2024-2025 Applicant: City of Berkeley

Contact person: Dani Dynes

Mailing Address: 1947 Center St. 4th Floor Berkeley, CA 94704

E-Mail Address: danidynes@berkeleyca.gov Telephone: 510-981-7053

Secondary Contact (in event primary not available) Eric Anderson

E-Mail Address: eanderson@berkeleyca.gov Telephone: 510-981-7062

Project Title (Short Description)**: Berkeley Bicycle Plan Update**

Amount of claim: $151,950

Description of Overall Project:

The project is a comprehensive update to the City of Berkeley's Bicycle Plan, last updated in 2017. The project will fulfill the requirements of Section 2377 of the California Bikeways Act, Streets and Highways Code section 2370 et seq.

Project Scope Proposed for Funding: (Project level environmental, preliminary planning, and ROW are ineligible uses of TDA funds.)

Project scope will include outreach and engagement, analysis, drafting proposed updates to Bicycle Plan chapters and appendices, and adoption of the final comprehensive update to the Bicycle Plan.

Project Budget and Schedule

Project Budget is $151,950. Schedule is: Consultant procurement and kickoff Spring 2024, Outreach and Engagement Summer 2024, Input from internal stakeholders and Commissions Spring-Fall 2024, Final Draft outreach and comment Fall 2024, Plan adoption December 10th 2024.

Project Phase	TDA 3	Other Funds	Total Cost	Estimated Completion (month/year)
Bike/Ped Plan	$151,950			12/10/24
ENV				
PA&ED				
PS&E				
ROW				
CON				
Total Cost	$151,950			12/10/24

Project Eligibility:	**YES?/NO?**
A. Has the project been approved by the claimant's governing body? (If "NO," provide the approximate date approval is anticipated).	YES
B. Has this project previously received TDA Article 3 funding? If "YES," provide an explanation on a separate page.	YES
C. For "bikeways," does the project meet Caltrans minimum safety design criteria pursuant to Chapter 1000 of the California Highway Design Manual? (Available on the internet via: http://www.dot.ca.gov).	N/A
D. Has the project been reviewed by the Bicycle and Pedestrian Advisory Committee? (If "NO," provide an explanation).	YES
E. Has the public availability of the environmental compliance documentation for the project (pursuant to CEQA) been evidenced by the dated stamping of the document by the county clerk or county recorder? (required only for projects that include construction).	N/A
F. Will the project be completed before the allocation expires? Enter the anticipated completion date of project (month and year) December 10, 2024	YES
G. Have provisions been made by the claimant to maintain the project or facility, or has the claimant arranged for such maintenance by another agency? (If an agency other than the Claimant is to maintain the facility provide its name: _____)	N/A

Mental Health Commission

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Mental Health Commission

Submitted by: Jamie Works-Wright, Secretary Mental Health Commission

Subject: Reappointment of Monica Renee Jones to the Mental Health Commission

RECOMMENDATION

Adopt a Resolution approving the reappointing of Monica Renee Jones to the Mental Health Commission, as a representative of the General Public Interest Category for a second 3-year term beginning June 4, 2024 and ending June 3, 2027. During her first term she was a member of the youth subcommittee and was the Chair for the last year.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Monica Renee Jones served her first term from May 26, 2021 to May 25, 2024. The Mental Health Commission is authorized to be composed of thirteen members. However, there are presently eight vacancies on the Commission. These vacancies impair the Commission's ability to adequately review and evaluate the community's mental health needs, resources, and programs.

Approval of the recommended action will keep the Chair position filled, and allow the Commission to be closer to having a full and diverse complement of commissioners to review and evaluate the community's mental health needs, resources, and programs.

BACKGROUND

California State law requires that appointments to the Mental Health Commission meet specific categories, who may serve up to nine years consecutively. Monica Jones meets the category of general public interest. The general public interest category may include anyone who has an interest in and some knowledge of mental health services. The special public interest category includes direct consumers of public mental health services and family members of consumers, which together must constitute at least fifty percent or nine of the commission seats. Direct consumers and family members shall each constitute at least 20% of the commission membership.

2180 Milvia Street, Berkeley, CA 94704 ● Tel: (510) 981-7000 ● TDD: (510) 981-6903 ● Fax: (510) 981-7099
E-Mail: manager@berkeleyca.gov Website: https://berkeleyca.gov/

Monica Renee Jones is a resident of Berkeley and previously worked in the area of Corrections for 25 years. She has the compassion to help others and passion to serve the marginalized population by staying involved in the community by attending commission and council meetings. She would like to re-join the Mental Health Commission to be part of the solution and address issues around housing and medication evaluations for mental health consumers. During her first term Ms. Jones held the Chair position and was elected to be the Chair for the 2024 year as well. This would be her second term participating on the Mental Health Commission.

The Mental Health Commission passed the following motions at the March 28, 2024 meeting:

Re- appoint Monica Jones to the Mental Health Commission

M/S/C (Prichett, Turner) So moved to re-appoint Monica Jones to the Mental Health Commission -
PASSED
Ayes: Jones, Opton, Prichett, Turner Noes: None; Abstentions: None; Absent: Kimber-Smith

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION
Approval of the recommended action will allow the Mental Health Commission to be closer to having a full and diverse complement of commissioners to review and evaluate the community's mental health needs, resources, and programs.

ALTERNATIVE ACTIONS CONSIDERED
None.

CITY MANAGER
The City Manager concurs with the content and recommendations of the Commission's Report.

CONTACT PERSON
Jamie Works-Wright, Commission Secretary, HHCS, 510-981-7721

Attachments:
1: Resolution

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

REAPPOINTMENT OF MONICA RENEE JONES TO THE MENTAL HEALTH COMMISSION

WHEREAS, membership of the Mental Health Commission is composed of thirteen appointments by the City Council as a whole, including one appointment by the Mayor (*or designee),* six special public interest appointments, and four general public interest appointments; and

WHEREAS, with the ongoing implementation of the Mental Health Services Act, the City of Berkeley will need to have a full complement of diverse appointees to the Commission to review and evaluate the community's mental health needs, resources, and programs and to fulfill its mandate; and

WHEREAS, Ms. Jones has investment in the community, trained in post trauma and conflict management and is prepared to contribute to helping others.

WHEREAS, the Mental Health Commission at its March 28, 2024 meeting recommended the re-appointment of Monica Renee Jones.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council appoints Monica Renee Jones as a representative of the General Public Interest category, to complete her second term ending June 3, 2027.

BERKELEY CITY AUDITOR

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Jenny Wong, City Auditor

Subject: Contract: GPP Analytics Inc. for Independent Third-Party Audit of Payroll Audit Division

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments, extensions, or other change orders with GPP Analytics Inc. in an amount not to exceed $120,000 to conduct an independent performance audit of the City Auditor's Office's Payroll Division activities.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract comes from salary savings and is in the City Auditor's Office fiscal year 2024 budget, General Fund budget code 011-12-122-000-0000-000-411-612-990.

CURRENT SITUATION AND ITS EFFECTS

By City Charter, the City Auditor's Office is responsible for management and oversight of the Payroll Audit Division. Because of this structure, the City Auditor's Office cannot complete an independent audit of payroll operations in accordance with generally accepted government auditing standards, which the City Charter requires that we comply with. Performing an audit of the Payroll Audit division would be considered "auditing our own work" by those standards. To do so could create an independence impairment in both mind and appearance, compromising the public trust in our professional judgment, integrity, objectivity, and professional skepticism. However, the City Auditor recognizes that payroll operations is a high-risk area that warrants regular, independent audits. Therefore, in keeping with the City Auditor's Office's commitment to the Berkeley community to ensure assessment of high-risk City operations, the City Auditor is seeking to contract with an independent third-party to audit its payroll services. The City Auditor's Office will present to City Council the third-party's- report, including findings and recommendations, and then continue to report to City Council on progress with implementing the recommendations until they have all been implemented.

2180 Milvia Street, Berkeley, CA 94704 ● Tel: (510) 981-7000 ● TDD: (510) 981-6903 ● Fax: (510) 981-7099

BACKGROUND

The City Auditor is an elected official who serves the residents of Berkeley and whose mission is to be a catalyst for improving City government. The City Auditor's Office is comprised of two divisions:

- Performance Audit Division: Conducts performance, financial, and compliance audits in accordance with generally accepted government auditing standards to promote efficiency, effectiveness, and accountability; provide objective, timely, and accurate information about City program performance to the public, Council, management, and staff; and make recommendations for improvement that help Berkeley residents hold City government accountable for stewardship of public resources.
- Payroll Audit Division: Examines and monitors City payroll for accuracy, accountability, and compliance with federal and state regulations, City policies, procedures, and memorandums of understanding (i.e., labor agreements); processes City payroll; issues pay checks and related reports; and performs other payroll-related activities.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

The City Charter requires that the City Auditor's Office perform audits in accordance with generally accepted government auditing standards. Those standards state, "In all matters relating to the audit work, the audit organization and the individual auditor, whether government or public, must be independent." By that standard, the City Auditor's Office cannot independently perform an audit of its Payroll Audit Division. Recent resignations and underfilled positions have provided the City Auditor's Office with salary savings to use towards the recommended contract.

ALTERNATIVE ACTIONS CONSIDERED

No alternative was considered. The City Auditor's Office cannot independently perform an audit of its Payroll Audit Division and, therefore, a third-party contractor is needed to complete the work.

CONTACT PERSON

Jenny Wong, City Auditor, 510-981-6750

Attachments:
1: Resolution – Contract: GPP Analytics Inc. for Independent Third-Party Audit of Payroll Audit Division

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

CONTRACT: GPP ANALYTICS INC. FOR INDEPENDENT THIRD-PARTY AUDIT OF PAYROLL AUDIT DIVISION

WHEREAS, payroll operations is a high-risk area that warrants regular, independent audits; and

WHEREAS, the Payroll Audit Division is a division of the City Auditor's Office; and

WHEREAS, the City Charter requires that the City Auditor's Office perform audits in accordance with generally accepted government auditing standards; and

WHEREAS, the generally accepted government auditing standards state that "In all matters relating to the audit work, the audit organization and the individual auditor, whether government or public, must be independent"; and

WHEREAS, a request for proposal, Specification No. #24-11660-C, was released in March 2024 with two firms responding, and GPP Analytics Inc. was selected as one of the firms best meeting the City Auditor's needs to perform an independent audit of payroll activities within the City Auditor's Office Payroll Audit Division; and

WHEREAS, funding for this contract comes from salary savings and is in the City Auditor's Office fiscal year 2024 budget, General Fund budget code 011-12-122-000-0000-000-411-612-990.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments, extensions, or other change orders with GPP Analytics Inc. to perform an independent internal controls and performance audit of the City Auditor's Office Payroll Audit Division.

BERKELEY CITY AUDITOR

ACTION CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Jenny Wong, City Auditor

Subject: Amendments to Berkeley's Municipal Code Chapter 2.24

RECOMMENDATION

Adopt first reading of an ordinance amending City Auditor's Office (BMC Chapter 2.24) authority and scope of work to formally establish the City Auditor's authority to receive and refer reports of fraud, waste, or abuse as well as investigate those reports and any reports of retaliation against whistleblowers.

FISCAL IMPACTS OF RECOMMENDATION

While there are no direct fiscal impacts associated with the amendments and additions suggested, a whistleblower program could reduce the impacts to city finances associated with undetected fraud in the City. Additionally, providing adequate whistleblower protections can increase the likelihood of whistleblowers coming forward with reports of fraud, waste, or abuse, and therefore increasing the likelihood of detecting and deterring fraud, waste, or abuse.

CURRENT SITUATION AND ITS EFFECTS

These recommended amendments will formally establish the City Auditor's authority to receive and refer reports of fraud, waste, or abuse as well as investigate those reports and any reports of retaliation against whistleblowers. The amendments also provide the City Auditor with the authority to recommend corrective actions in response to investigations and follow up on those recommendations. The City Council previously adopted a resolution on June 6th, 2023 to support and endorse the City Auditor's plan to implement a Whistleblower Program.[1]

BACKGROUND

State legislation encourages Cities to specifically focus on fraud, waste, or abuse of city resources through whistleblower programs led by City Auditors. In 2009, California Government Code Section 53087.6[2] went into effect, which enabled local government auditors to establish whistleblower programs and to provide whistleblower protections. Local auditors are authorized under Section 53087.6 to create whistleblower programs with the approval of their respective legislative bodies, and have discretion in how to operate their programs.

California cities with established whistleblower programs within auditor's offices include Oakland, San Francisco, Sacramento, San Diego, and Long Beach, with information publicly available. Each program was formally established through updates to charter and/or municipal

[1] City Council Meeting, June 3rd, 2023
[2] California Government Code Section 53087.6

code language, and contain the right to receive, refer, and investigate reports of fraud, waste and abuse. Additionally, all of these jurisdictions protect whistleblowers from retaliation in line with best practices, and have mechanisms in place to investigate reports of whistleblower AMENDMENTS TO BERKELEY'S MUNICIPAL CODE CHAPTER 2.24 TO ESTABLISH WHISTLEBLOWER PROGRAM AUTHORITYretaliation.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

The Auditor's Office is uniquely positioned to manage a whistleblower program. The Berkeley City Auditor maintains a level of structural independence well-suited for a whistleblower program, as they are elected by the public and do not report to the City Manager or Council. The City Auditor is well-positioned due to their role in providing objective information, like audits, on the operations of government programs and helping ensure full accountability to the public, among other reasons. By amending the BMC, this will formally provide the Auditor with the authority to commence this important work to detect and deter fraud, waste, or abuse of city resources. The proposed amendments will also update the BMC to align with California Government Code Section 53087.6 that establishes local auditors' authority to manage whistleblower programs and provide whistleblower protections.

CONTACT PERSON

Jenny Wong, City Auditor, City Auditor's Office, 510-981-6750

Attachments:

1: Amendments to BMC Chapter 2.24 Ordinance

ORDINANACE NO. X,XXX-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 2.24: CITY AUDITOR'S OFFICE

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

Section 1. That Berkeley Municipal Code Section 2.24.010 A is amended to read as follows:

2.24.010 Findings.

A. Public officials, government managers, and private citizens want and need to know not only whether government funds are handled properly and in compliance with laws and regulations, but also whether public programs are achieving the purposes for which they were authorized and funded, and whether they are doing so efficiently, effectively and equitably ~~economically~~.

Section 2. That Berkeley Municipal Code Section 2.24.010 C is amended to read as follows:

C. An independent auditing function can provide objective information, like audits, on the operations of government programs, assist managers in carrying out their responsibilities, and help ensure full accountability to the public.

Section 3. That Berkeley Municipal Code Section 2.24.010 N is amended to read as follows:

N. It is vital to the effectiveness of audit work that it be performed by staff who collectively possess sufficient professional proficiency, qualifications and skills, which may be demonstrated by obtaining relevant certifications such as a CIA (Certified Internal Auditor), CPA (Certified Public Accountant), CFE (Certified Fraud Examiner), degrees in relevant fields such as public policy, public administration, accounting, business administration, political science or related fields, or years of auditing experience, and the City Council may wish to consider taking such competencies and certifications into account in setting the salary for the Auditor and other audit staff.

Section 4. That Berkeley Municipal Code Section 2.24.050 A is amended to read as follows:

2.24.050 Scope of audits.

A. The Auditor may conduct financial, performance, and other audits of all agencies, offices, boards, activities, and functions of the City of Berkeley to include but not be limited to the objectives of independently determining whether:

1. Activities and programs being implemented have been authorized by government charter or code, state law or applicable federal law or regulations;

2. Activities and programs are being conducted as prescribed by management/governing body to accomplish the objectives intended by government charter or code, state law or applicable federal law or regulations;

3. Activities or programs efficiently ~~and~~ , effectively, and equitably serve the purpose intended by government charter, code, state law or applicable federal law or regulations;

4. Activities and programs are being conducted and funds expended in compliance with applicable laws;

5. Payers of City taxes and fees are submitting accurate information and correct amounts; revenues are being properly collected, deposited and accounted for;

6. City contractors are providing ~~efficient and effective~~ services efficiently, effectively, and equitably to the City in compliance with the terms of their contracts;

7. City resources, including funds, property and personnel, are adequately safeguarded, controlled and used in a faithful, effective and efficient manner;

8. City financial and other reports are being provided that disclose fairly and fully all information that is required by law, that is necessary to ascertain the nature and scope of programs and activities and that is necessary to establish a proper basis for evaluating City programs and activities;

9. The City has adequate operating and administrative procedures and practices, systems of accounting, internal control systems, and internal management controls;

10. There are indications of fraud, abuse or illegal acts which need further investigation.

Section 5. That Berkeley Municipal Code Section 2.24.050 C is amended to read as follows:

C. Non-audit and Similar Services, Charter mandated non-audit services:

Government Auditing Standards make a distinction between audit services and non-audit services that auditors may perform. These are generally services that auditors are typically well qualified to perform, but which often do not result in a written audit report. Non-audit services work may be initiated by the Auditor or performed by the Auditor at the request of the City Manager and shall be

performed to the extent mandated by the City Charter and consistent with the professional standards applicable to such non-audit work by auditors except where such work is expressly required by the City Charter. In order to continue to maintain independence, and in particular to avoid a situation in which auditors may in appearance or in fact be auditing their own work or making management decisions, Government Auditing Standards currently include requirements for careful consideration regarding when and how to conduct non audit services.

The Auditor shall perform any other non audit services required by the City Charter under Sections 61 and 65. ~~In compliance with these sections, the Auditor reviews, countersigns, numbers, and registers all city agreements (contracts) after the City Manager or designee has signed.~~ The Auditor is authorized to examine or review all City payments and payrolls before issuance and no payment may be made against any City contract until that contract is registered by the Auditor; the Auditor and the City Manager are co-signers on all City checks. Responsibility for reviewing, countersigning, numbering, and registering all city agreements (contracts) as well as performing municipal accounting and non-payroll payment (accounts payable) functions have been delegated to the Finance Department; however, the Auditor may review selected items before payment is approved. The Auditor also directs a Payroll Audit division, responsible for certain centralized payroll functions of the City's decentralized payroll system. (Ord. 6910-NS § 2 (part), 2006)

Section 6. That Berkeley Municipal Code Section 2.24.050 D is added to read as follows:

D. Whistleblower Program:

The Auditor shall administer a whistleblower program for the reporting of fraud, waste, or abuse of City resources. Subject to subsection (3), the Auditor may investigate and otherwise attempt to resolve reports submitted to the whistleblower program.

1) DEFINITIONS.

   a) For purposes of this section, "fraud, waste, or abuse" means any activity by a local agency or employee that is undertaken in the performance of the employee's official duties, including activities deemed to be outside the scope of their employment, that is in violation of any local, state, or federal law or regulation relating to corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, is economically wasteful, or involves gross misconduct.

b) "Whistleblower" is defined as an officer or employee who reports or otherwise brings to the attention of the City Auditor any information which, if true, would constitute fraud, waste, or abuse of City resources.

c) "Retaliation" is any adverse employment action, including discharge, discipline, or demotion.

d) "Adverse employment action" is defined as any employment action that has a detrimental and substantial effect on the terms, conditions, or privileges of a complainant's employment or requires the complainant to work in a discriminatorily hostile or abusive work environment. A change that is merely contrary to a complainant's interests or liking is insufficient.

e) "City" is defined as the City of Berkeley, its agencies, departments, boards, and commissions.

2) REPORTS. Any person may file a report for investigation with the City Auditor's whistleblower program alleging that a City officer or employee has engaged in fraud, waste, or abuse. Any City officer or employee who has received a report of fraud, waste, or abuse of city resources shall refer the report to the City Auditor's Office.

3) REFERRAL OF CERTAIN REPORTS. The Auditor shall refer the following reports to the appropriate government agency for review and possible investigation, including without limitation:

a) Those which another government agency is required by federal, state, or local law to adjudicate: To that agency;

b) Those which may be resolved through a grievance mechanism established by collective bargaining agreement or contract: To the official or agency designated in the agreement or contract;

c) Those which involve allegations of conduct which may constitute a violation of criminal law: To the District Attorney or other appropriate law enforcement agency;

d) Those which allege misconduct by a Berkeley police officer: The reporter will be provided information about how to file a complaint with the Office of the Director of Police Accountability and Berkeley Police Department;

e) Those which are subject to an existing, ongoing investigation by the District Attorney or City Attorney, where the applicable official or Commission states in writing that

investigation by the Auditor would substantially impede or delay its own investigation of the matter: To the investigating office; and

f) Those which allege conduct that may constitute a violation of local campaign finance laws: To the Fair Campaign Practices Commission.

4) CONTRACTING OUT INVESTIGATIONS. The City Auditor has the authority to enter into contracts for investigative services when appropriate due to conflicts of interest or need for specialized expertise, as determined by the City Auditor. In such cases, the City Auditor may refer investigation work in whole or in part to a contractor under the management of the City Auditor.

5) TRACKING AND INVESTIGATING. The Auditor shall receive, track, and review reports made or referred to the whistleblower program. An investigation may include all steps that the Auditor deems appropriate, including the review of the report and any documentary or other evidence provided with it, the gathering of any other relevant documents from any City department or other source, and interviews of the complainant and other persons with relevant information.

6) FURNISHING FALSE OR MISLEADING INFORMATION; DUTY TO COOPERATE. When making or filing a report pursuant to this Chapter or participating in an investigation conducted by the City Auditor, or an agent of the Auditor, as authorized under this Chapter, City officers and employees may not knowingly and intentionally furnish false or fraudulent evidence, documents, or information, misrepresent any material facts, or conceal any evidence, documents, or information for the purpose of misleading any officer or employees or any of their agents. In conducting investigations pursuant to this Chapter, pursuant to the Auditor's authority under Charter Section 61, the Auditor shall have unrestricted access to employees, officials, records, and reports, and as necessary, require all branches, departments, and officials of government to produce documents, files, and other records and information. INFORMATION PROVIDED UNDER PENALTY OF PERJURY. In those instances, in which the Auditor deems it appropriate, the Auditor may require that persons making reports or providing information swear to the truth of their statements by taking an oath administered by the Auditor, or an agent of the Auditor, or through written declarations made under penalty of perjury under the laws of the State of California.

7) REFERRAL AND RECOMMENDATION BY AUDITOR. The Auditor may refer the fraud, waste, or abuse report to a City department for investigation, either before conducting an initial investigation or after doing so and may recommend that a City department take specific action based on the Auditor's initial investigation. Within such time as the Auditor shall

specify, the City department shall report to the Auditor in writing the results of the department's investigation and any action that the department has taken in response to a recommendation by the Auditor that the department take specific action.

8) RETALIATION. Any officer or employee who believes that they have been subject to an adverse employment action as a result of being a whistleblower or participating in a whistleblower investigation may file a complaint of retaliation with the City Auditor within one hundred and eighty (180) days of the alleged retaliation. The City Auditor shall thereupon investigate the complaint. If the Office of the City Auditor is named in the complaint, the complaint shall be directed to the City Attorney for investigation. Any officer or employee who receive a complaint alleging retaliation under this chapter must keep the complaint confidential and immediately assist the complainant by referring the complainant to the City Auditor and documenting the referral in writing. Documentation must include the date and time of the referral and that the report was about retaliation. Any reports regarding retaliation are confidential and not subject to disclosure.

9) CONFIDENTIALITY.

   a) Any investigative audit conducted pursuant to this section shall be kept confidential, except to issue any report of an investigation that has been substantiated, or to release any findings resulting from a completed investigation that are deemed necessary to serve the interests of the public. In any event, the identity of the individual or individuals reporting the improper government activity, and the subject employee or employees shall be kept confidential, unless the disclosure is to a law enforcement agency that is conducting a criminal investigation.

   b) Notwithstanding paragraph (a), the Auditor may provide a copy of a substantiated report that includes the identities of the subject employee or employees and other pertinent information concerning the investigation to the appropriate appointing authority for disciplinary purposes. The substantiated report, any subsequent investigatory materials or information, and the disposition of any resulting disciplinary proceedings are subject to the confidentiality provisions of applicable local, state, and federal statutes, rules, and regulations.

Section 7. That Berkeley Municipal Code Section 2.24.110 is amended to read as follows:

2.24.110 Right to retain contract auditors, investigators, consultants and experts; Cooperation with City Manager.

A. The Auditor may obtain the services of Certified Public Accountants, qualified management consultants, investigators, or other professional experts necessary to perform the Auditor's duties within the Auditor's budget approved by the City Council. These expenses may be included in the Auditor's annual budget as part of the published annual audit plan, or may be substituted in case of position vacancies if needed to complete the audit plan on schedule. An audit that is performed by contract must be conducted by persons who have no financial interests in the affairs of the governmental unit or its officers. The use of such contracts will follow the City's normal contracting procedures.

B. The City Manager ~~is urged to~~ shall provide the Auditor with timely information about contemplated and ongoing ~~required or elective~~ audits, investigations, or similar consulting engagements to be performed by other external auditors or investigators, so that all auditors may comply with Government Auditing Standards concerning the coordination of audit work, and sharing of information regarding internal control concerns, and to avoid duplication of effort and ensure effective audit coverage. The Mayor is also urged to provide such information and opportunities for coordination with the public accounting firm selected for the City's annual financial statement audits. The Auditor may assist with the selection or oversight of this audit if requested to do so. (Ord. 6910-NS § 2 (part), 2006)

MEETING DATE: June 4, 2024

SUBJECT: Resolution Approving Employment Agreement Between the City of Berkeley and LaTanya Bellow for the position of Interim City Manager

CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

1. Motion to adopt Resolution approving Employment Agreement between the City of Berkeley and LaTanya Bellow for the position of Interim City Manager.

2. Alternative action based on the direction of the City Council related to this subject matter.

DISCUSSION

On May 10, 2024, the City Council appointed Mayor Jesse Arreguin as the Labor Negotiator, with duties to engage in negotiation with an Interim City Manager candidate.

Following a diligent negotiation, the City Council will discuss and consider for potential Council action a decision to appoint current Deputy City Manager LaTanya Bellow as the Interim City Manager for the City of Berkeley, subject to the parties' execution of an Employment Agreement and approval of a related Resolution.

The proposed Resolution approving such Employment Agreement and related Employment Agreement are provided as Attachment 1.

The Employment Agreement provides, among other material terms and subject to certain terms and conditions, that Ms. Bellow will receive the same rate of pay as the current City Manager Dee Williams-Ridley, who presently receives an annualized salary of $401,722.10, that Ms. Bellow's employee benefits shall remain the same as her present benefits as Deputy City Manager, that she will commence such role effective July 11, 2024, that her role in such position shall conclude the day before the next City Manager's first day of City employment, and that upon such conclusion, she will return to her role as Deputy City Manager.

OPTIONS

1. Adopt the proposed Resolution.

2. Do not adopt the proposed Resolution.

3. Some other action or inaction related to this subject matter at the direction of the City Council.

FINANCIAL IMPACT

Ms. Bellow's compensation is a pro-rated rate of pay based on an annual rate of $401,722.10, with additional employee benefits as stated in the Employment Agreement.

Attachments

Written Public comments.

1. Resolution Approving City Manager Employment Agreement Between City and LaTanya Bellow.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY APPROVING INTERIM CITY MANAGER EMPLOYMENT AGREEMENT

WHEREAS, on May 6, 2024, the City Council for the City of Berkeley announced its receipt of notice from existing City Manager Dee Williams-Ridley of her intent to resign her City employment effective July 10, 2024; and

WHEREAS, the City currently employs LaTanya Bellow as Deputy City Manager ("Employee"); and

WHEREAS, to ensure continuity in leadership and management of the City during this period of transition, the City Council desires to appoint an Interim City Manager to serve in such role between Ms. Williams-Ridley's resignation date through the date of commencement of employment for next City Manager; and

WHEREAS, Employee has agreed to serve as the Interim City Manager during said period, subject to the terms and conditions of a related Employment Agreement; and

WHEREAS, said Employment Agreement provides, without limitation, terms pertaining to Employee's reversion to her role as Deputy City Manager once the City Manager commences employment; and

WHEREAS, the City Council hereby takes action to adopt said Employment Agreement, attached hereto as Attachment A, to codify such terms and conditions.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that:

Section 1. The City Council determines that the above findings are true and correct, and by reference incorporates those findings as an integral part of this Resolution.

Section 2. Employee is hereby appointed to the position of Interim City Manager effective July 11, 2024, at a prorated rate of pay based on an annualized salary of $401,722.10 for the period of service in this role.

Section 2. All other benefits for the position of Interim City Manager shall be as provided for in the Interim City Manager Employment Agreement.

Section 3. The Interim City Manager Employment Agreement, attached hereto as Attachment A, is hereby approved.

Section 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the Office of the City Clerk.

ATTACHMENT A: Interim City Manager Employment Agreement

INTERIM CITY MANAGER
EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF BERKELEY AND LATANYA BELLOW

This Interim City Manager Employment Agreement ("Agreement") is made by and between the City of Berkeley ("City") and LaTanya Bellow ("Employee"). City and Employee are hereinafter collectively referred to as the "Parties."

RECITALS

A. Employee is currently employed with the City as a Deputy City Manager, and the City and Employee have the mutual desire to temporarily appoint Employee as Interim City Manager during the appointment process to hire a full-time City Manager.

B. On June 4, 2024, the Berkeley City Council ("Council") appointed Employee as the Interim City Manager, with the expectation that she will begin such service on July 11, 2024 or as otherwise directed by the Council (hereinafter referred to as "Start Date").

C. Employee has specialized skills to perform the work of the City's Interim City Manager for a limited duration during the pendency of the appointment process for a new City Manager. Employee desires to accept the position of Interim City Manager consistent with certain terms and conditions of said employment as set forth in this agreement.

D. The Council and Employee desire to memorialize in this Agreement certain benefits, terms, and conditions of employment of Employee.

OPERATIVE PROVISIONS

1. Position and Duties.

1.1 Position. Employee agrees to serve as the City's Interim City Manager and shall perform all functions, duties, and services set forth in Section 1.2 of this Agreement. Employee shall provide services at the direction and under the supervision of the City Council. Employee's employment as Interim City Manager of the City shall commence on July 11, 2024, to serve at the pleasure of the City Council subject to the terms and conditions set forth in this Agreement.

1.2 Duties. Employee shall serve as the Interim City Manager and shall for the Term of the Agreement be vested with the powers, duties, and responsibilities of the City Manager as set forth in Section 28 of the Berkeley City Charter, the terms of which are incorporated herein by reference. Employee shall provide services at the direction and under the supervision of the City Council. It is the intent of the parties that the Interim City Manager shall keep the City Council fully apprised of all significant ongoing operations of the City. Toward that end, Employee shall report directly to the City Council and will periodically, or as maybe otherwise specifically requested by the City Council, provide status reports to the City Council on her activities and those of the City. It is the intent of the City Council for the Interim City Manager to function as the chief executive officer of the City's organization. Without additional

compensation, Employee shall provide such other services as are customary and appropriate to the position of City Manager, including assisting with a smooth transition of City Manager duties to the next City Manager, together with such additional services assigned from time to time by the City Council as may be consistent with California law, the City Charter, Municipal Code, any other source of local law, memorandums of understanding, collective bargaining agreements and other contracts to which the City may be bound, and City policy, as determined in the Council's discretion. Employee shall devote her best efforts and attention to the performance of these duties.

1.3 Hours of Work. Employee shall devote the time necessary to adequately perform her duties as Interim City Manager. The parties anticipate that Employee will work a sufficient number of hours per week allocated between regular business hours and hours outside of regular business hours including, without limitation, attendance at regular and special City Council meetings. Toward that end, Employee shall be allowed reasonable flexibility in setting her own office hours, provided the schedule of such hours provides a significant presence at City Hall and other City facilities, reasonable availability to the City Council, City staff, and members of the community during regular City business hours and for the performance of her duties and of City business. Employee may perform work off site as appropriate. For purposes of this Agreement, regular City business hours are 8:00 a.m. to 5:00 p.m. Employee agrees to be reachable by telephone for consultation and advice when she is not physically working in the City. Employee also agrees to respond to the City for emergency situations.

2. Term. This Agreement shall become and remain effective on July 11, 2024 subject to the following conditions: (1) the City Council's approval of the Agreement; (2) transition by current City Manager Dee Williams-Ridley from active status as a full time City employee to inactive status while she exhausts her administrative leave benefits in accordance with the terms of her separation agreement on July 1, 2024; (3) Employee's agreement to serve as the Acting City Manager, while maintaining her official position as Deputy City Manager, between July 2, 2024 and July 10, 2024, and the City's agreement to provide Employee acting pay for such service in accordance with existing City policy; (4) Williams-Ridley's resignation from City employment as of July 10, 2024 and her and the City's complete execution of her separation agreement; and (5) lack of revocation of Williams-Ridley's separation agreement on or before July 17, 2024. Should any of these conditions not come to fruition, then the City Council reserves its right to nullify this Agreement, notwithstanding the City's right to terminate this Agreement in accordance with Section 8 below. Employee shall commence work as Interim City Manager on July 11, 2024 ("Commencement Date") or such date and time as directed by the City Council. This Agreement shall expire when a new City Manager assumes office or as otherwise provided in this Agreement.

3. At-Will. Employee acknowledges that she is an at-will employee of the City who shall serve at the pleasure of the City Council at all times during the period of her service hereunder. Employee expressly acknowledges and agrees that this appointment to Interim City Manager does not confer upon Employee any right to any property interest in continued employment, or any due process right to a hearing before or after a decision by the City Council or City generally to terminate her employment, in this position or otherwise. Employee expressly acknowledges and agrees that nothing in this Agreement is intended to, or does, confer upon Employee any right to any property interest in continued employment, or any due process right to a hearing before or after a decision by the City Council to remove her from this position or to terminate her City employment generally, except as is expressly provided in Section 2 or Section

8 of this Agreement. Nothing contained in this Agreement shall in any way prevent, limit, or otherwise interfere with the right of the City to terminate the services of Employee, as provided in Section 2 or Section 8. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of Employee to resign at any time from her role as Interim City Manager or as a Deputy City Manager, subject only to the provisions set forth in Section 2 or Section 8 of this Agreement. This at-will employment shall be expressly subject to the rights and obligations of the City and Employee, as set forth in Section 2 or Section 8 below.

4. Return Rights to Previous Position. Employee will return to the position of Deputy City Manager, subject to the provisions in Section 3, if this Agreement is terminated or expires pursuant to Sections 2 or 8 of this Agreement, notwithstanding the otherwise at-will nature of her City employment generally. The Council retains discretion to return Employee to her prior position before appointment of a permanent City Manager. If/when Employee returns to the Deputy City Manager classification, Employee shall earn her previous annual salary, including any eligible cost-of-living adjustments provided by the Council for all City management employees under any successor Management Compensation Resolutions. The Council agrees that her position of Deputy City Manager will not be filled with a permanent replacement during Employee's service as the Interim City Manager under this Agreement. This paragraph will survive the termination of this Agreement.

5. Compensation.

5.1 Rate of Pay. For all services performed by Employee as the Interim City Manager under this Agreement, the City shall pay Employee compensation, on a bi-weekly basis, at an hourly rate of $193.136 based upon a pro-rated annualized salary of $401,722.10. The Interim City Manager position is exempt from the overtime provision of the Fair Labor Standards Act and is not eligible for overtime pay.

5.2 Benefits. In addition to the salary set forth in Section 5.1 of this Agreement, Employee shall be entitled to at least the same employment benefits she receives as Deputy City Manager.

6. Reimbursement. The City shall reimburse Employee for authorized, reasonable, and necessary travel expenses incurred by Employee in the performance of her duties as Interim City Manager pursuant to this Agreement. Employee shall document and claim said reimbursement for such travel in the manner and forms required by the City and subject to approval of the City Council, the Mayor, or other designee as appointed by the Council. All reimbursements shall be for actual expenses and shall be subject to and in accordance with California and federal law and the City's adopted reimbursement policies. Such reimbursements shall not be reported to CalPERS. Other than as specifically provided herein, Employee shall receive no other compensation or reimbursements for expenses incurred by her in performance of this Agreement.

7. Professional Development. Employee shall be entitled to the same degree of reimbursement that she currently receives as Deputy City Manager in connection with participation in any professional development activities that may take place during her period of service as Interim City Manager.

8. Termination of Agreement.

8.1 By City. This Agreement may be terminated by the City for any reason after providing written notice to Employee of such termination. The City's only obligation in the event of such termination will be payment to Employee of all compensation then due and owing in her role as Interim City Manager as set forth in Section 5.1 up to and including the effective date of termination of the Agreement.

8.2 By Employee. This Agreement may be terminated by Employee for any reason fourteen (14) calendar days after providing written notice to the City of such termination, absent extenuating personal circumstances. The City shall have the option, in its complete discretion, to make Employee's termination effective at any time prior to the end of such period, provided the City pays Employee all compensation owed as Interim City Manager as set forth in Section 5.1 then due and owing her through the last day actually worked.

8.3 No Notice for Expiration. Nothing in this Section 8 shall be construed to require either party to give advance written notice in order for the Agreement to expire as set forth in Section 2. When the Council hires a permanent City Manager, this Agreement shall naturally expire at 11:59 p.m. the day prior to the permanent City Manager's start date.

8.4 City Property. Employee agrees that all property, including, without limitation, all equipment, tangible Proprietary Information (as defined in Section 10), documents, records, notes, contracts, and computer-generated materials furnished to or prepared by Employee incident to her service as Interim City Manager, belongs to the City and shall be returned promptly to the City upon cessation of her service as Interim City Manager to the extent she would not otherwise have a City-business related reason to maintain such property in connection with her duties as Deputy City Manager. Employee's obligations under this subsection shall survive the termination of her employment and the expiration of this Agreement.

9. Conflicts of Interest. Employee represents and warrants to the City that she presently has no interest, and represents that she will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or interfere in any way with performance of her services under this Agreement.

10. Proprietary Information. "Proprietary Information" is all information and any ideas pertaining in any manner to the business of the City (or any City affiliate), its employees, clients, consultants, or business associates, which was produced by any employee of the City in the course of their employment or otherwise produced or acquired by or on behalf of the City. Proprietary Information shall include, without limitation, trade secrets, product ideas, inventions, processes, formulae, data, know-how, software and other computer programs, copyrightable material, marketing plans, strategies, sales, financial reports, forecasts, and customer lists. All Proprietary Information not generally known outside of the City's organization, and all Proprietary Information so known only through improper means, shall be deemed "Confidential Information." During her employment with the City, Employee shall use Proprietary Information, and shall disclose Confidential Information, only for the benefit of the City and as is, or may be, necessary to perform her job responsibilities under this Agreement. Employee shall not use any Proprietary Information for any non-City-business related reason and shall not disclose any Confidential

Information, except with the express written consent of the City. Employee's obligations under this Section shall survive the termination of her employment and the expiration of this Agreement.

11. Indemnification. Subject to, in accordance with, and to the extent permitted by the California Government Claims Act, Government Code Section 810 et seq., the City will indemnify, defend, and hold Employee harmless from and against any action, demand, suit, monetary judgment, or other legal or administrative proceeding, and any liability, injury, loss, or other damages, arising out of any act or omission occurring during Employee's tenure as Interim City Manager, except that this provision shall not apply with respect to any intentional tort or crime committed by Employee, or any actions outside the course and scope of her employment as Interim City Manager.

12. General Provisions.

12.1 Entire Agreement. This Agreement contains the final, complete, and exclusive agreement and understanding between the parties. Any amendment, modifications, or variations from the terms of this agreement shall be in writing and shall be effective only upon approval of such amendment, modification, or variation by the City Council and Employee.

12.2 Interpretation. This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not in limitation, this Agreement shall not be construed in favor of the party receiving a benefit nor against the party responsible for any particular language in this Agreement. Captions are used for reference purposes only and should be ignored in the interpretation of the Agreement. This Agreement may be altered, amended, or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, cancelled, superseded, or changed by any oral agreement, course of conduct, waiver, or estoppel. It is the intent of the Council that this Agreement and the appointment of Employee as Interim City Manager are in accordance with the requirements and provisions of the City Charter. Wherever possible, the provisions of this Agreement shall be construed in a manner consistent with the Charter. If any provision of this Agreement conflicts with the Charter, the Charter shall control to the fullest extent permitted by law.

12.3 Severability. The terms of this Agreement are contractual and not a mere recital. Should any provision or part of any provision or application thereof be held invalid, the invalidity shall not affect any other provisions or applications of the Agreement which can be given effect without the invalid provision or application, and to this end, the provisions of this Agreement are declared to be severable.

12.4 Attorneys' Fees. In any legal action, brought to enforce or interpret the terms of this Agreement, reasonable parties shall bear their own attorneys' fees and costs.

12.5 Governing Law. This Agreement, and the rights and obligations of the parties, shall be construed and enforced in accordance with the laws of the State of California. Venue shall be in the Alameda County Superior Court.

12.6 Amendment. This Agreement may not be amended except in a written

document signed by Employee, approved by the City Council and signed by the City's Mayor with the approval and delegation from the Council.

12.7 Acknowledgment. Employee acknowledges that she has had the opportunity to consult legal counsel regarding this Agreement, that she has read and understands this Agreement, that she is fully aware of its legal effect, and that she has entered into it freely and voluntarily and based on her own judgment and not on any representations or promises other than those contained in this Agreement.

12.8 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together one and the same instrument.

12.9 Electronic Signatures. The parties may execute this Agreement by electronic signature, subject to the terms and conditions set forth in Government Code section 16.5.

[SIGNATURES TO FOLLOW]

ON BEHALF OF THE CITY:

_____ _____
Mayor Jesse Arreguín _____, 2024

EMPLOYEE:

_____ _____
LaTanya Bellow _____, 2024

APPROVED AS TO FORM:

_____ _____
Farimah F. Brown _____, 2024
City Attorney

MEETING DATE: June 4, 2024

SUBJECT: Resolution Approving Employment Agreement Between the City of Berkeley and Paul Buddenhagen for the position of City Manager

CEQA: Does not constitute a Project per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

1. Motion to adopt Resolution approving Employment Agreement between the City of Berkeley and Paul Buddenhagen for the position of City Manager.

2. Alternative action based on the direction of the City Council related to this subject matter.

DISCUSSION

On May 10, 2024, the City Council appointed Mayor Jesse Arreguin as the Labor Negotiator, with duties to engage in negotiation with a City Manager candidate.

Following a diligent negotiation, the City Council will discuss and consider for potential Council action a decision to appoint Paul Buddenhagen as the City Manager for the City of Berkeley, subject to the execution of an Employment Agreement and approval of a related Resolution.

The proposed Resolution approving such Employment Agreement and related Employment Agreement are provided as Attachment 1.

The Employment Agreement provides, among other material terms and subject to certain terms and conditions, that Mr. Buddenhagen will receive compensation in an annual amount of $401,722.10, that Mr. Buddenhagen will receive employee benefits as explained further in the Employee Agreement, and that Mr. Buddenhagen would commence work for the City on September 16, 2024.

OPTIONS

1. Adopt the proposed Resolution.

2. Do not adopt the proposed Resolution.

3. Some other action or inaction related to this subject matter at the direction of the City Council.

FINANCIAL IMPACT

Mr. Buddenhagen's compensation is an annual rate of $401,722.10, with additional employee benefits as stated in the Employment Agreement. The actual benefit amount will depend on his selection of health benefits.

Attachments

Written Public comments.

1. Resolution Approving City Manager Employment Agreement Between City and Paul Buddenhagen

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY APPOINTING PAUL BUDDENHAGEN TO THE POSITION OF CITY MANAGER AND APPROVING AN EMPLOYMENT AGREEMENT IN CONNECTION WITH SAID APPOINTMENT

WHEREAS, the City Council now desires to appoint Paul Buddenhagen ("Employee") as the City Manager for the City of Berkeley; and

WHEREAS the functions, duties, powers, and prerogatives of the City Manager are specified in Berkeley City Charter Sections 27 and 28, as well as in the Berkeley Municipal Code. These provisions shall control should any conflict exist pertaining to this Resolution or the City Manager Employment Agreement that it authorizes; and

WHEREAS, the City Council desires to set the salary and benefits as well as other terms and conditions of employment for Employee and to approve an Employment Agreement; and

WHEREAS, Employee is willing and qualified to provide City Manager services to the City of Berkeley.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that:

Section 1. The City Council determines that the above findings are true and correct, and by reference incorporates those findings as an integral part of this Resolution.

Section 2. The City Council hereby adopts this Resolution approving the Employment Agreement between the City of Berkeley and Paul Buddenhagen for the position of City Manager, attached hereto as Attachment A.

Section 3. Paul Buddenhagen is hereby appointed to the position of City Manager effective September 16, 2024.

Section 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the Office of the City Clerk.

ATTACHMENT A: City Manager Employment Agreement

EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF BERKELEY AND PAUL BUDDENHAGEN

This Employment Agreement ("Agreement") is made by and between the City of Berkeley ("City") and Paul Buddenhagen ("Employee"). City and Employee are hereinafter collectively referred to as the "Parties."

RECITALS

WHEREAS, the City desires to retain the services of Employee as City Manager of the City; and

WHEREAS, the City Council of the City desires to provide certain benefits, establish certain conditions of employment, and establish working conditions for Employee; and

WHEREAS, Employee desires to provide said services as City Manager to the City under the terms and conditions hereinafter set forth; and

WHEREAS, Employee represents that Employee is willing and qualified to provide such services to the City; and

WHEREFORE, in consideration of the respective mutual covenants and promises hereinafter contained and made subject to all of the terms and conditions hereof, the Parties hereto do agree as follows:

OPERATIVE PROVISIONS

1. **Effective Date.** This Agreement shall become effective on the date that the Agreement is signed by the Mayor ("Effective Date").

2. **Position and Duties.** Employee shall serve as the City Manager and shall perform the functions, services, and duties specified in Section 28 of the Berkeley City Charter, and perform other legally permissible and proper duties and functions as designated by the City Council from time to time. Employee shall provide services at the direction and under the supervision of the City Council. It is the intent of the Parties that Employee shall keep the City Council fully apprised of all significant ongoing operations of the City. Toward that end, Employee shall report directly to the City Council and will periodically, or as may be otherwise specifically requested by the City Council, provide status reports to the City Council on Employee's activities and those of the City. Without additional compensation, Employee shall provide such other services as are customary and appropriate to the position of City Manager, together with such additional services assigned from time to time by the City Council as may be consistent with California law, the City's Charter and the City's Municipal Code. Employee shall devote best efforts and attention to the performance of these duties. Employee agrees to remain in the exclusive employ of the City while employed

.

3. **At-Will.** Employee acknowledges that Employee is an at-will employee of the City who shall serve at the pleasure of the City Council at all times during the period of Employee's service hereunder, pursuant to City Charter Section 27. Employee expressly acknowledges and agrees that nothing in this Agreement is intended to, or does, confer upon Employee any right to any property interest in continued employment, or any right to a hearing before or after a decision by the City Council to terminate Employee's employment, except as is expressly provided by law, including but not limited to under the Brown Act (Gov. Code sec. 54950 et seq.). Employee understands that notwithstanding any other applicable laws, resolutions, and policies, they have no right to pre-or-post-disciplinary due process. Nothing contained in this Agreement shall in any way prevent, limit, or otherwise interfere with the right of the City to terminate the services of Employee. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employee to resign at any time from this position with the City, subject only to the provisions set forth in Section 11 of this Agreement. This at-will employment relationship shall be expressly subject to the rights and obligations of the City and Employee, as set forth in Section 11 below.

4. **Term.** The term of this Agreement shall commence on Employee's first day of City employment, which shall be September 16, 2024 ("Commencement Date"). This Agreement shall remain in effect until terminated by either party hereto as provided herein ("Term"), consistent with the nature of Employee's at-will employment status.

5. **Hours of Work.** Employee is an exempt employee but is expected to engage in those hours of work that are necessary to fulfill the obligations of the City Manager's position. Employee does not have set hours of work as Employee is expected to be available at all times. Employee shall maintain regular office hours at City Hall between the hours of 8:30 a.m. and 5:30 p.m., Monday through Friday, excepting holidays or furlough days, except when absent in the proper performance of Employee's duties and responsibilities as City Manager, or when utilizing leave. Employee may, with Council's express written approval, flex their working hours from something other than 8:30 a.m. to 5:30 p.m. on specific days of the week and/or change their work location from City Hall to a permissible remote work location for a specified period time.

6. **Evaluation of Performance.** The City Council shall conduct performance evaluations of the City Manager in a manner consistent with the terms in this Section 6 and other relevant City policies. While the City Council shall consult with the City Manager over the format and process of any evaluation, the ultimate format and process shall be at the City Council's discretion. The City shall conduct an initial performance evaluation following the first six (6) months of employment and again at the twelve (12) month mark, then annually thereafter or as Council otherwise deems necessary. Annual performance evaluations shall be provided to the City Manager within sixty days of the anniversary of the Commencement Date. Nothing in this section shall prohibit the City Council from evaluating the City Manager's performance at any other interval or time. City Council shall review base salary and/or benefits of the Employee at the time of the Employee's annual performance review, taking into account factors such as Employee's performance, available City budget, and any recent or anticipated cost of living adjustments that have or will be given to other

managerial employees for the City. Such evaluations will become part of Employee's personnel file.

7. **Compensation.** Employee shall receive, as starting base salary for performance of the duties of City Manager, the sum of Four Hundred and One Thousand, Seven Hundred Twenty-Two Dollars and Ten Cents ($401,722.10) per year. To the extent the salary amount prescribed by this Agreement deviates from the City's existing salary schedule for the City Manager position, the Council will adopt an amended salary schedule as required by California Code Regulations tit. 2 section 570.5. Any such adjustments shall be made in open session during a regularly scheduled meeting of the City Council, with a record of said City Council action being subsequently attached to this Agreement as an automatic amendment thereto.

8. **Benefits.** City shall provide benefits to Employee as specified for City Department Head employees by the Municipal Code, ordinance, resolution or a Memorandum of Understanding or policy to the extent expressly approved by the City Council, including without limitation the Unrepresented Employees Manual. To the extent a term concerning the benefits specifically identified below conflicts with this Agreement, this Agreement controls.

A. Vacation Leave. Vacation must be approved in advance by the Mayor or their designee, as determined by a majority of the Council ("Designee"). Employee shall earn five weeks of vacation leave annually. After two (2) years of service, Employee may take up to two (2) weeks of vacation in advance of actual earning upon approval of the City Council or the Council's Designee. Vacation leave can accrue up to three hundred and twenty (320) hours. After that threshold is reached, an employee may be required to take vacation at the option of the City. All employees must reduce their accrued vacation leave to 320 hours by the last pay period in February of each year. Upon termination, an employee or their estate shall be paid for all accrued unused vacation leave at the employee's base rate at the time of his or her termination, and such employee or his or her estate shall reimburse the City for any vacation leave taken before it had accrued. If an observed City holiday occurs during an employee's scheduled vacation, no deduction from accrued vacation will be made for the holiday period.

B. Sick Leave. Employee is eligible for one (1) sick leave day (eight [8] hours) per month of service. To qualify for sick leave, Employee shall notify Mayor or the Council's Designee prior to or within two hours of Employee's start time for daily duties. For every six (6) months of perfect attendance, Employee will receive eight (8) hours of bonus time. "Perfect attendance" means the employee has not received sick leave or salary continuation benefits and has not taken or been placed on leave without pay. Sick leave bonus time can be used for any leave purpose authorized by the Unrepresented Employees' Manual. Employee may accumulate sick leave up to a maximum of two hundred (200) days (1600 hours). Sick leave will not accrue during any period of absence without pay. Sick leave credits are accrued on the basis of actual straight time hours worked or paid, based on a forty-hour workweek. Except as otherwise provided under

the CalPERS conversion of sick leave retirement credit benefit (California Government Code Section 20965) and the other exceptions set forth below, all accrued sick leave shall be canceled upon termination of Employee.

C. Administrative Leave. The Employee may be approved by the Mayor or Designee to receive up to an 50 hours of compensated administrative leave per January 1, or prorated for the course of the year when employed for less than a full year. This administrative leave is granted to employees whose job responsibilities cause them to work numerous hours in excess of the normal City work week. If administrative leave is abused or misused, the City Council or its Designee may rescind administrative leave. Administrative leave must be approved in advance by the Mayor or Designee. Unused administrative leave may be carried over to the next calendar year, providing the total of excess vacation and unused administrative leave does not exceed three hundred and twenty (320) hours. Otherwise, the excess administrative leave must be taken within the calendar year in which it was earned, or it may be forfeited. Upon termination or retirement, no monetary award will be authorized for unused accumulated administrative leave.

D. Tenure Date. All tenure-related benefits shall be calculated using the Commencement Date or as otherwise determined by the City's Human Resources Department to facilitate the terms of this Agreement.

E. Automobile Allowance. The City shall reimburse the use of Employee's vehicle on authorized City business equal to the amount established by the Internal Revenue Service. This automobile allowance is intended to reimburse Employee for local travel, defined as travel within fifty (50) miles of the City. All travel outside of local travel shall be paid at the same rate as other City employees.

F. Holidays and Floating Personal Days Off. Employee may observe the holidays specified in section 5.1 of the Unrepresented Employees Manual. These holidays shall be taken in the same manner as the City management employees. Employee shall accrue three (3) floating personal days off to be used at Employee's option, subject to approval of the Mayor or Designee. Employees shall have the number of floating holidays for the months before the January of their first calendar year prorated based upon their date of hire. All use of floating holidays must be approved in advance. If the City Council cannot permit Employee's use of a floating holiday during the relevant calendar year, employee may add the floating holiday time to their accrued vacation time, subject to the maximum vacation accumulation.

G. Retirement. The City's CalPERS plan includes a two-tiered retirement system for members as required by the California Public Employees' Pension Reform Act (PEPRA) of 2013. Employee shall be enrolled in the Classic member tier, as defined by CalPERS law and regulations, since Employee is not a "New Member" under CalPERS. Employee shall receive and make contributions to

CalPERS retirement as specified for Classic members and in compliance with PEPRA requirements.

H. Health, Dental, and Vision. City shall provide Employee with health, dental and vision insurance benefits in the same manner as the City provides for Department Head employees and their dependents.

I. Life Insurance. City shall provide term life insurance for Employee, with a payable death benefit of twenty-five thousand ($25,000). Employee has the option to purchase additional coverage offered by the City's insurance carrier.

J. Fitness Subsidy. Employee may take advantage of the City's partially subsidized membership to the Berkeley YMCA. Neither the City nor its Claims Administrator shall be liable for any injury that may arise out of Employee's participation in and use of a YMCA membership. The amount that the City contributes towards Employee's monthly membership fee is subject to federal and state income tax withholding.

9. Fidelity Bond. City shall bear the full cost of any fidelity or other bonds required of Employee relating to Employee's service as City Manager under any law or ordinance.

10. Expenses.

A. City-Related Expenses. City agrees to pay for City-related expenses incurred by Employee in accordance with City policy, provided that approval of such expenses must be by the Mayor or Designee.

B. Phone. Employee shall receive a city cell phone.

C. Travel. Travel expenses for the City Manager shall be subject to approval in writing by the Mayor or Designee.

D. Development Expenses. City agrees to budget for and pay reasonable professional dues, subscriptions to professional publications, and travel and subsistence expenses for Employee for professional participation and travel, meetings, and occasions adequate to continue professional development. Professional development expenses shall be subject to approval in writing by the Mayor or Designee.

11. Termination of Agreement.

A. By City. This Agreement may be terminated by the City for any reason by a simple majority vote of the City Council in a regular council meeting, with written notice provided to Employee.

1. *No Cause Termination.* In the event that Employee's employment as City Manager is terminated for no reason or for any reason other than as set forth below in Section 11(A)(2) or Section 11(A)(3), and Employee signs, does

not revoke, and delivers to the City Council a general and full release of all claims substantially in the form attached as Exhibit A (General Release Agreement), which may be amended as required by law to effectuate a full and complete release, on or after Employee's termination date but no later than the date set by the City Council at the time of termination in accordance with applicable law, City shall provide the following severance benefits ("Severance"):

a. If Employee is Terminated before nine months following the Commencement Date, then City shall pay Employee a severance amount equal to six (6) months' base salary and shall pay for continued health benefits (medical, dental, and vision) for Employee and any dependents enrolled during employment for six (6) months or until Employee secures health benefits through another source, whichever comes first.

b. If Employee is Terminated between nine months-and-one-day and eleventh months following Commencement Date, City shall pay Employee a severance amount equal to eight (8) months' base salary and shall pay for continued health benefits (medical, dental, and vision) for Employee and any dependents enrolled during employment for eight (8) months or until Employee secures health benefits through another source, whichever comes first.

c. If Employee is Terminated after eleven months-and-one-day following the Commencement Date, City shall pay Employee a severance amount equal to 12 (12) months' base salary and shall pay for continued health benefits (medical, dental, and vision) for Employee and any dependents enrolled during employment for 12 (12) months or until Employee secures health benefits through another source, whichever comes first.

d. The Parties understand and agree that any severance-related payments through the City's payroll system and/or on its payroll schedule shall not constitute continued employment for any purpose, nor shall they entitle Employee to any benefits beyond those set forth in this Section 11(A).

e. Severance shall include only the cash payments and health benefits described in this Section 11(A)(1).

f. For the purposes of this Section 11(A)(1), "Terminated" shall mean either of the following:

   (1) The City Council ends the employment relationship; or

   (2) Employee resigns after the City Council or Designee makes a written request for the Employee's resignation.

g. The City shall, in its discretion, decide whether to issue the severance amount and the continued health benefits as either a lump-sum cash payment and direct payment of Employee's COBRA costs for the continued health benefits period, or to issue the severance-related payments through the City's payroll system and/or its payroll schedule and maintain the Employee and eligible dependents on the City's health insurance plan during the continued health benefits period. For purposes of this subsection, "continued health benefits period" refers to the duration for which the Employee and eligible dependents shall receive health insurance benefits pursuant to this Section 11(A)(1). If the City decides to issue severance-related payments through the City's payroll system, the City shall convert the remaining non-health related payments to a lump-sum cash payment if requested by the Employee and necessary for the Employee to obtain employment elsewhere.

2. *For Cause Termination.* Notwithstanding Section 11(A)(1) above, the City shall not be obligated to pay, and shall not pay, any amounts or continue any benefits under the provisions of Section 11(A)(1) if Employee is terminated for Cause. Cause shall be defined as any of the following:

a. Conviction of or a plea of nolo contendere to a felony or a misdemeanor involving moral turpitude, dishonesty, breach of trust, abuse of position, or unethical conduct; or

b. Material willful misconduct, material or willful gross neglect, fraud, misappropriation, embezzlement, theft, or dishonesty; or

c. Willful or repeated failure, for reasons other than disability, to devote substantially all of Employee's business time and effort to the City or abandonment of duties; or

d. Harassment, discrimination, retaliation, or "Abusive Conduct". For the purposes of this Section, "Abusive Conduct" shall mean "conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. A single act shall not constitute abusive conduct, unless especially severe and egregious"; or

e. Abuse of office or position. For the purposes of this Section, "abuse of office or position" means conduct that meets the criteria of a crime involving abuse of their office or position or moral turpitude,

including abuse of public authority, waste, fraud, misappropriation of funds, or other illegal fiscal practices, violation of the law under color of authority, or a crime against public justice.

3. *Employee Conviction.* If an Employee is convicted of a crime involving an abuse of their office or position, or moral turpitude, all of the following shall apply as per Government Code, Section 53243 et seq. For the purposes of this Section, "abuse of office or position" means either an abuse of public authority, including waste, fraud, misappropriation of funds, or other illegal fiscal practices, violation of the law under color of authority, or a crime against public justice.

    a. If Employee is provided with paid administrative leave pending an investigation, then Employee shall be required to fully reimburse City such amounts paid; and

    b. If City pays for the legal defense of Employee, then Employee shall be required to fully reimburse City such amounts paid to the extent permitted by law; and

    c. If the City paid a cash settlement to the Employee related to the termination of Employee, then Employee shall be required to fully reimburse City such amounts paid; and

    d. Any severance benefits not yet paid to Employee shall be forfeited.

4. *Death of Employee.* If, during the Term or any extended Term, Employee dies, Employee's estate shall receive outstanding wages and accruals subject to payout upon separation but shall not be entitled to any additional compensation or payment, including Severance.

5. *Disability or Inability to Perform.* If, as the result of long-term or permanent disability, sickness, accident, injury, mental incapacity or other personal health-related reason, the City determines that Employee is unable to perform the essential duties and functions of the City Manager role, with or without reasonable accommodation, after exhausting all authorized use of accruals or other authorized paid/unpaid leave available under City policies or state or federal law, the City Council may terminate Employee. If the City Council does elect to terminate Employee due to incapacity, Employee shall receive severance benefits provided in Section 11(A)(1) above. In exercising this option, the City will comply with its obligations under applicable state and federal disability and public retirement laws.

B. **By Employee.** Employee shall provide at least sixty (60) days' written notice to City in the event Employee voluntarily resigns or retires. This notice requirement may be waived by the City in its sole discretion. In the event Employee voluntarily retires or resigns their position (unless asked to do so in writing by the City Council pursuant to Section 11(A)(1)(f)(2)), Employee shall

be entitled only to earned but unpaid base salary, accrued but unpaid expenses required to be reimbursed, and any accruals subject to payout upon separation, through the date of separation from employment.

12. **Workplace Investigations.** The City Council has authority, acting as a majority, to place the City Manager on paid administrative leave during the pendency of a workplace investigation in which the City Manager is an actual or potential target or respondent. During such leave of absence, the Council shall designate an Acting City Manager to exercise the responsibilities of the City Manager or as otherwise dictated by City Charter or the City's Municipal Code.

13. **Conflicts of Interest.**

A. Employee represents and warrants to the City that Employee presently has no interest and represents that the Employee will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or interfere in any way with the performance of services under this Agreement.

B. Employee shall not, during the Term of this Agreement, individually, as a partner, joint venture, officer or shareholder, invest or participate in any business venture conducting business in corporate limits in the City, except for stock ownership in any company whose capital stock is publicly held and regularly traded, without prior approval of the Council. For and during the Term of the Agreement, Employee further agrees, except for a personal residence or residential property acquired or held for future use as Employee's personal residence, not to invest in any other real estate or property improvements within the corporate limits of the City of Berkeley, without the prior written consent of the Council.

C. None of Employee's immediate family members shall have interests, business ventures, or investments that would create a conflict of interest for Employee under Section 13 (A) or (B) above, per California Government Code, Section 87103. Immediate family is defined as Employee's spouse and dependent children under Government Code Section 82029.

14. **City Property.**

A. "Proprietary Information" is all information and any idea pertaining in any manner to the business of the City (or any City affiliate), its employees, clients, consultants, or business associates, which was produced by any employee of the City in the course of employment or otherwise produced or acquired by or on behalf of the City. Proprietary Information shall include, without limitation, trade secrets, product ideas, inventions, processes, formulae, data, know-how, software and other computer programs, copyrightable material, marketing plans, strategies, sales, financial reports, banking information, audit reports, forecasts, customer lists, electronic logins, usernames, and passwords. All Proprietary Information not generally known outside of the City's organization,

and all Proprietary Information so known only through improper means, shall be deemed "Confidential Information."

B. During Employee's employment by the City, Employee shall use Proprietary Information, and shall disclose Confidential Information, only for the benefit of the City and as is, or may be, necessary to perform the job responsibilities under this Agreement.

C. At the outset of employment, City shall provide Employee with the following equipment: laptop, credit card, parking pass, and keys. Depending on Employee's choice, a city cell phone may be provided. If the City switches to requiring an ID or swipe pass, such will be provided. Employee acknowledges that any and all property provided to Employee will be and remain the sole property of the City.

D. Employee shall return all of the property listed in this Section and any additional City property in Employee's possession at the conclusion of employment. Employee shall delete and destroy all physical files and copies and all files and copies which may reside on personal electronic devices or in any electronic or virtual location that includes Proprietary Information of the City. Employee shall furnish to the City Attorney all login and password information for programs, services, subscriptions, apps, databases and other electronic, web-based or cloud-based locations that Employee has created or had access to in connection with Employee's City employment. Employee must comply with this Section by no later than the close of business on Employee's separation date, or as otherwise directed by the Mayor or Designee.

E. Following termination, Employee shall not use any Proprietary Information and shall not disclose any Confidential Information, except with the express written consent of the City.

F. Employee's obligations under this Section shall survive the termination of employment and the expiration of this Agreement.

15. **Indemnification.** Subject to, in accordance with, and to the extent permitted by the California Government Claims Act, Government Code Section 810 et seq. and Government Code Section 995 et seq., the City will indemnify, defend, and hold Employee harmless from and against any action, demand, suit, monetary judgment or other legal or administrative proceeding, and any liability, injury, loss or other damages, arising out of any act or omission occurring during Employee's tenure as City Manager, except that this provision shall not apply with respect to any intentional tort or crime committed by Employee, or any actions outside the course and scope of employment as City Manager.

16. **General Provisions.**

A. Entire Agreement. This Agreement contains the final, complete, and exclusive agreement and understanding between the Parties. Any amendments, modifications, or variations from the terms of this agreement shall be in writing

and shall be effective only upon approval of such amendment, modification or variation by the City Council and Employee.

B. Interpretation. This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not in limitation, this Agreement shall not be construed in favor of the party receiving a benefit nor against the party responsible for any particular language in this Agreement. Captions are used for reference purposes only and should be ignored in the interpretation of the Agreement. This Agreement may be altered, amended, or modified only by an instrument in writing, executed by the Parties to this Agreement and by no other means. Each party waives their future right to claim, contest, or assert that this Agreement was modified, cancelled superseded, or changed by any oral agreement, course of conduct, waiver, or estoppel.

C. Severability. The terms of this Agreement are contractual and not a mere recital. Should any provision or part of any provision or application thereof be held invalid, the invalidity shall not affect any other provisions or applications of the Agreement which can be given effect without the invalid provision or application, and to this end, the provisions of this Agreement are declared to be severable.

D. Attorneys' Fees. In any legal action, brought to enforce or interpret the terms of this Agreement, the parties shall bear their own attorneys' fees and costs.

E. Notices. Notices given under this Agreement shall be in writing and shall be either:

1. Served personally; or

2. Delivered via first-class U.S. Mail, certified, with postage prepaid and a return receipt requested; or

3. Sent via Federal Express, or some other equivalent private mail delivery service.

Notices shall be deemed received at the earlier of actual receipt or three (3) days following deposit in the United States mail, postage prepaid. Notices shall be directed to the addresses shown below, provided that a party may change such party's address for notice by giving written notice to the other party in accordance with this subsection.

CITY:
Attn: Mayor of the City of Berkeley
City Hall, 2180 Milvia St.
Berkeley, CA, 94704
Phone: (510) 981-2489

EMPLOYEE:
As on File with City in Employee's Personnel File

F. Governing Law. This Agreement, and the rights and obligations of the Parties, shall be construed and enforced in accordance with the laws of the State of California. Venue shall be in the Alameda County Superior Court.

G. Amendment. This Agreement may not be amended except in a written document signed by Employee, approved by the City Council and signed by the City's Mayor.

H. Acknowledgment. Employee acknowledges that Employee had the opportunity to consult legal counsel regarding this Agreement, that Employee has read and understands this Agreement, that Employee is fully aware of its legal effect, and has entered into it freely and voluntarily and based on Employee's own judgment and not on any representations or promises other than those contained in this Agreement.

I. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together one and the same instrument.

J. Electronic Signatures. The Parties may execute this Agreement by electronic signature, subject to the terms and conditions set forth in Government Code, Section 16.5.

IN WITNESS THEREOF, the City of Berkeley has caused this Agreement to be signed and executed on its behalf by its Mayor and duly attested by its City Clerk on this ____ day of _____, 2024.

ON BEHALF OF THE CITY:

_____ _____
Mayor Jesse Arreguín Date

EMPLOYEE

_____ _____
PAUL BUDDENHAGEN Date

APPROVED AS TO FORM

_____ _____
Name: Farimah Brown
City Attorney Date

"EXHIBIT A"

GENERAL RELEASE AGREEMENT

This General Release Agreement ("Agreement") is entered into by and Between PAUL BUDDENHAGEN ("Manager") and CITY OF BERKELEY ("City") (individually "Party" and collectively, "Parties"), in light of the following facts:

WHEREAS, Manager's employment with the City concluded on [DATE];

WHEREAS, Certain disputes have arisen between the City and Manager;

WHEREAS, the City and Manager each deny any liability whatsoever to the other;

WHEREAS, the City and Manager wish to fully and finally resolve any and all disputes they may have with each other;

WHEREAS, Manager is hereby informed that Manger has twenty-one (21) days from receipt of this Agreement to consider it. The City hereby advises Manager to consult with legal counsel before signing this Agreement;

WHEREAS, Manager acknowledges that for a period of seven (7) days following the signing of this Agreement ("Revocation Period"), Manager may revoke the Agreement, and that this Agreement shall not become effective or enforceable until the day the Revocation Period has expired;

WHEREAS, Manager acknowledges that the salary payment referenced in Section 7 of this Agreement represents all compensation, including salary, accrued benefit balances and reimbursed expenses, due and payable to Manager through the date of employment separation. Manager also acknowledges that City has made this salary payment without regard to whether Manager signs this Agreement. The salary payment does not constitute consideration for this Agreement.

WHEREFORE, in consideration of the respective mutual covenants and promises hereinafter contained and made subject to all of the terms and conditions hereof, the Parties hereto do hereby agree as follows:

TERMS AND CONDITIONS

1. **Effective Date.** The effective date of this Agreement shall be the date of the signature of the last of the Parties to sign this Agreement.

2. **Purpose of Agreement; Separation Date.** The intent of this Agreement is, in furtherance of the Parties' mutual desire to conclude their employment relationship, in exchange for Manager's resignation from City employment and full release and waiver of claims against the City and commitment to the other material terms set forth in this Agreement, the City

shall provide Manager with the fair and adequate consideration pursuant to Section 4 of this Agreement. The Parties acknowledge and agree that Manager will resign City employment effective close of business on [DATE] (the "Separation Date").

3. **Receipt of Salary Payment.** Manager hereby acknowledges receipt of a check or checks for all compensation owing to Manager, including salary, accrued benefit balances and reimbursed expenses ("Salary Payment") from the City.

4. **Severance.** Within five (5) business days following Manager's signing, delivering to the City, and not revoking this Agreement, the City shall pay Manager the gross amount provided for in Section 11 of the attached Employment Agreement, less applicable deductions, and shall provide the months of medical benefits as provided in that same Section 11. Manager acknowledges that the severance is in excess of all amounts due and owing to Manager as a result of Manager's employment by the City.

5. **Release of Claims.** In further exchange for the consideration and compromises set forth in this Agreement, except as set forth herein, Manager, on behalf of themselves, their heirs, estate, executors, administrators, successors and assigns, irrevocably and unconditionally releases, acquits and forever discharges the City, and its affiliates, partners, joint venturers, successors and assigns, and its officers, employees, volunteers, interns, attorneys, agents and insurers, and all persons acting by, through, under or in concert with any of them, individually and jointly ("Released Parties") from all charges, complaints, promises, agreements, controversies, suits, rights, demands, costs, losses, debts, actions, causes of action, claims, judgments, obligations, damages, liabilities and expenses, including any claims for attorneys' fees and costs, of any kind or character whatsoever, known and unknown, suspected, unsuspected, anticipated and unanticipated ("Released Claim" or "Released Claims"), which Manager now has, owns or holds, or claims to have, own or hold, against each or any of the Released Parties on or before Effective Date of this Agreement.

A. This release of all known or unknown, suspected or unsuspected, anticipated and unanticipated Released Claims specifically includes, without limitation:

i. any Released Claims alleged or referred to, directly or indirectly, or in any way connected with, or arising out of, or which may hereafter be claimed to arise out of Manager's employment with the City or actions taken during Employee's tenure as City Manager;

ii. any Released Claims or causes of action arising out of, in connection with or relating to Manager's employment with the City in any position, including, but not limited to, claims or causes of action based on: federal, state, or local employment discrimination, harassment, or retaliation statutes, laws, regulations or ordinances, based on any category protected by law, including without limitation age,

sex, gender identity or expression, race, religion, national origin, marital status, sexual orientation, ancestry, parental status, or disability arising under Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §§ 2000 *et seq.* ("Title VII"), the Age Discrimination in Employment Act of 1967 (29 U.S.C. §§ 621 *et seq.* ("ADEA"), the California Fair Employment and Housing Act (California Government Code §§ 12900 *et seq.*); the Federal Americans With Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 *et seq.* ("ADA") ; the Federal Occupational Safety and Health Act of 1970 (29 U.S.C. §§ 651 *et seq.*); the California Occupational Safety and Health Act of 1973 (California Labor Code §§ 6300 *et seq.*); the Family Medical Leave Act (29 U.S. § 2601); the California Family Rights Act (Cal. Gov. Code § 12950 et seq.); the Unruh and George Civil Rights Acts; the Genetic Information and Non-Discrimination Act; the Rehabilitation Act of 1973; the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1001 et seq.); the Equal Pay Act; the Fair Labor Standards Act (29 U.S.C. § 203); qui tam claims under Federal False Claim Act (31 U.S.C. §§ 3730 *et seq.*); 42 U.S.C. Section 1981; the California Constitution; the California Labor Code; the California Government Code; the Federal Equal Pay Act of 1963 (29 U.S.C. §§ 201 *et seq.* ("EPA"); the Meyers-Milias-Brown Act (California Government Code §§ 3500 et seq.); any other federal, state or municipal constitution, statute, regulation and/or ordinance affecting or relating to the claims and rights of the Manager; or claims for attorneys' fees and costs;

iii. any claim (i) sounding in tort, specifically including, but not limited to, any torts related to constructive and/or wrongful discharge in violation of public policy, defamation, invasion of privacy, intentional and negligent interference with contract and/or prospective economic advantage, fraud and any misrepresentation, and intentional and negligent infliction of emotional distress; (ii) any breach of contract of employment or collective bargaining agreement (expressed or implied) or any grievance initiated by an employee under a collective bargaining agreement; or (iii) any covenant of good faith and fair dealing (express or implied); or

iv. Any administrative claim or charge that may be submitted to a local, state, or federal agency, including without limitation the California Civil Rights Department, the

California Department of Labor Standards and Enforcement, the California Public Employment Relations Board, the U.S. Department of Labor, but excluding the U.S. Equal Employment Opportunity Commission ("EEOC").

B. The Released Claims subject to release under this Agreement do not include: any rights that cannot be waived as a matter of law; any rights Manager has to file or pursue a claim for workers' compensation or unemployment insurance; any rights or claims for indemnification the City may have according to any written indemnification agreement with the City to which Manager is a party or under applicable law; or any claims for breach of this Agreement.

C. Notwithstanding the foregoing, this Agreement and the releases contained within, do not limit Manager's ability to bring an administrative charge with an administrative agency, but Manager expressly waives and releases any right to recover any type of personal relief from the City, including but not limited to monetary damages or reinstatement, in any administrative action or proceeding, whether California or federal, and whether brought by Manager or on Manager's behalf by an administrative agency, related in any way to the matters released herein. Furthermore, nothing in this Agreement prohibits the Parties from reporting possible violations of law or regulation to any government agency or entity, including but not limited to the Equal Employment Opportunity Commission and/or the California Civil Rights Department, or making other disclosures that are protected under the whistleblower provisions of law.

6. Waiver of Unknown Claims/Specific Waiver of Section 1542. Manager specifically and expressly waives all rights under the provisions of Section 1542 of the Civil Code of California ("Section 1542 Waiver") with respect to the Released Claims. Section 1542 Waiver provides as follows:

> ***GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN [EMPLOYEE'S] FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY [EMPLOYEE], WOULD HAVE MATERIALLY AFFECTED [EMPLOYEE'S] SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.***

Thus, for the purposes of making a complete settlement of the Released Claims which Manager may have or claims to have against the Released Parties, Manager waives and releases any and all Released Claims against the Released Parties, including Released Claims which are unknown and unsuspected as of the Effective Date of this Agreement. Manager warrants that they have read this Agreement, including the Section 1542 Waiver,

and have had an opportunity to consult with counsel of their own choosing about this Agreement and specifically about the Section 1542 Waiver, and that they understand this Agreement and the Section 1542 Waiver. Manager acknowledges that they may later discover facts different from or in addition to those now known or believed to be true regarding the matters released or described in this Agreement, and even so they agree that the releases and agreements contained in this Agreement shall remain effective in all respects notwithstanding any later discovery of any different or additional facts. Manager assumes any and all risk of any mistake in connection with the facts involved in the matters, disputes, or controversies released or described in this Agreement or with regard to any facts now known to them relating thereto. Manager agrees, to the fullest extent permitted by law, that they will not initiate or file a lawsuit or internal City proceeding to assert any Released Claims. If any such action is brought, this Agreement will constitute an Affirmative Defense thereto, and the City shall be entitled to recover reasonable costs and attorneys' fees incurred in defending against any Released Claim.

7. **Return of Documents.** Manager agrees and represents that no later than [DATE] they will return to the City all City property of which they have possession, custody or control, including, but not limited to, computer, electronic and telephonic equipment, as well as all City data (including logins and passwords) and documents whether in hard copy or maintained on any electronic media.

8. **Non-Disclosure of Confidential and Proprietary Information.** The Parties acknowledge that as City Manager is a high-ranking official and an officer of the City; in that capacity they were and are responsible for, among other things, executing and enforcing all laws, and policies of the City and administering the City's affairs, controlling and administering the City's financial affairs and supervising purchasing, contracting, and confidential information. Consistent with their Employment Agreement and the City Charter, Manager represents and agrees that they have not and shall not at any time or in any manner, either directly or indirectly, whether or not for compensation use, divulge, disclose or communicate to any person, firm, corporation or any other entity in any manner whatsoever any confidential information concerning any matters affecting or relating to the business of the City or any Proprietary Information as defined in the Employment Agreement except with the express written permission of the City or as required by court order or properly-issued subpoena. Such information includes but is not limited to, any attorney-client communications and attorney work product, or any of the information concerning the business of the City, its manner of operation, its plans, or other proprietary data where such information is not publicly known and is not otherwise subject to public inspection or disclosure.

9. **Information Regarding Employment**. Subject to any applicable law, the City agrees that all inquiries with respect to Manager's separation will be referred to the Mayor or the Mayor's delegee who will provide only the following information: (a) the date of hire and date of separation; (b) that this is a mutual and amicable separation based on a mutual desire to separate Manager from employment and provide a smooth leadership transition.

10. Personnel File Documents. No documents shall be entered into Manager's personnel file after the Effective Date of this agreement without both Parties approving the entry of the document.

11. Age Discrimination Waiver. THIS AGREEMENT CONTAINS A WAIVER OF AGE DISCRIMINATION CLAIMS, AND MANAGER HAS CAREFULLY READ AND ACKNOWLEDGES THE FOLLOWING:

A. In connection with the Older Workers' Benefits Protection Act ("OWBPA") which prohibits discrimination against older workers in a variety of different contexts, Manager acknowledges that the City has advised Manager to consult with an attorney prior to signing this Agreement. As set forth in the OWBPA, 29 U.S.C. § 626(f)(1), Manager hereby acknowledges the following:

i. that this Agreement is written in a manner calculated to be understood by Manager and that Manager in fact understands the Agreement;

ii. that this Agreement specifically refers to and waives rights or claims arising under the OWBPA;

iii. that this Agreement applies only to claims arising up to and including the Effective Date of this Agreement;

iv. that in exchange for this Agreement, Manager received value beyond that to which Manager is already entitled;

v. that the City has advised Manager in writing to consult with an attorney before executing the Agreement and the Manager has done so; and

vi. that Manager has been provided with an adequate period of time to review this Agreement.

B. Manager further acknowledges that Manager is entitled to consider this Agreement for up to twenty-one (21) calendar days before signing it. Manager may waive the twenty-one (21) calendar day notice period; if the Manager chooses to do so, they may initial below, indicating they have made a knowing and voluntary decision to sign the Agreement prior to expiration of the twenty-one (21) calendar day period with informed consent and after consultation with legal counsel.

INITIALS: ___

C. Manager may revoke this Agreement for a period of seven (7) calendar days after executing the Agreement. Any such revocation must be communicated in writing to the City Attorney at [EMAIL ADDRESS] within the seven (7) calendar day revocation period. This Agreement shall

not become effective or enforceable until the revocation period has expired. No payments shall be made pursuant to this Agreement prior to expiration of this revocation period.

12. Complete and Voluntary Agreement.

A. Manager acknowledges that Manager has read and understands this Agreement; that Manager has had the opportunity to seek legal counsel of Manager's choosing and to have the terms of the Agreement fully explained to Manager; that Manager is not executing this Agreement in reliance on any promises, representations or inducements other than those contained herein; and that Manager is executing this Agreement voluntarily, free of any duress or coercion. Manager specifically understands that by entering into this Agreement Manager is forever foreclosed from pursuing any of the claims waived herein.

B. Manager acknowledges that Manager has at least five (5) business days to seek legal counsel of Manager's choosing before signing this Agreement. This five (5) business day period runs **concurrently** with the twenty-one (21) day period referenced in Section 11.B. above. Manager may waive the five (5) business day review period; if the Manager chooses to do so, Manager shall initial below, thus providing written confirmation that Manager has made a knowing and voluntary decision to sign the Agreement prior to the expiration of the five (5) business day period with informed consent and after consultation with legal counsel.

INITIALS:____

13. Settlement Privilege. The Parties agree that if this Agreement does not become effective for any reason, this Agreement shall be deemed negotiation for settlement purposes only and will not be admissible in evidence or used for any purpose whatsoever, and will not be admissible in any trial or appeal under California Evidence Code § 1152 and Federal Rules of Evidence 408.

14. No Admissions. By entering into this Agreement, the Released Parties do not admit that they have engaged in, or are now engaging in, any unlawful conduct or employment practice. It is understood and agreed that this Agreement is not an admission of liability, and that the City specifically denies liability related in any manner to Manager's employment. The Parties agree that it is their mutual intention that neither this Agreement nor any terms hereof shall be admissible in any other or future proceedings against the City, except a proceeding to enforce this Agreement.

15. Tax Consequences. The City has made no representation about and takes no position on the tax consequences of this Agreement. A dispute regarding the tax status of this Agreement shall not affect the validity of this Agreement. Manager has had an opportunity to discuss the potential tax consequences of this Agreement with their own counsel and agrees to indemnify and hold harmless the City from any and all costs and assessments

including, but not limited to delinquent taxes, penalties and/or assessments levied against the City in connection with this Agreement.

16. **Assignment.** Manager acknowledges that they have not heretofore assigned or transferred to or purported to assign or transfer to any person or entity the Released claims or any part or portion thereof, and agrees to indemnify and hold harmless the Released Parties from and against any claim, demand, controversy, damage, debt, liability, account, reckoning, obligation, cost, expense, lien, action or cause of action (including the payment of attorneys' fees and costs actually incurred whether or not litigation commenced) based on, in connection with, or arising out of any assignment or transfer or claimed assignment or transfer thereof.

17. **Entire Agreement.** This Agreement supersedes any and all agreements, either oral or written, between the Parties with respect to the separation of Manager's employment relationship with the City. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party that are not contained in this Agreement. No agreement, statement, or promise not contained in this Agreement shall be valid or binding.

18. **Applicable Law and Venue.** This Agreement shall be interpreted according to the laws of the State of California. Venue of any action regarding this Agreement shall be in the Alameda County Superior Court.

19. **Modification.** Any modification of this Agreement shall be effective only if it is in writing and signing by all Parties to this Agreement.

20. **Severability.** If any part of this Agreement is determined to be invalid, unlawful, or unenforceable, that part shall not be deemed to be part of this Agreement.

21. **Full Execution Authority.** Each Party executing this Agreement warrants and represents that it or they have full authority to bind the corresponding Party to this Agreement.

22. **Attorneys' Fees and Costs.** Each Party shall bear its own attorneys' fees and costs arising from and/or in any way related to this Agreement and the claims covered by this Agreement. Manager expressly waives any and all rights and claims Manager might otherwise have against City for reimbursement of attorneys' fees and costs associated with any legal representation related to this Agreement and the claims covered by this Agreement.

23. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall, for all purposes, be deemed an original, and all such counterparts, taken together, shall constitute the same instrument.

24. **Electronic Signatures.** The Parties may execute this Agreement by electronic signature, subject to the terms and conditions set forth in Government Code section 16.5.

THE UNDERSIGNED HAVE READ THE FOREGOING AGREEMENT AND ACCEPT AND AGREE TO THE PROVISIONS CONTAINED HEREIN, AND HEREBY EXECUTE IT, KNOWINGLY AND VOLUNTARILY AND WITH FULL UNDERSTANDING OF ITS CONSEQUENCES.

_____
Name:
Title:
City of BERKELEY
Date: _____

_____
City Manager
Date: _____

Approved as to Form and Legality:

_____
Name:
City Attorney
Date: _____

_____
Name:
Attorney for City Manager

Date: _____

41

BERKELEY CITY COUNCILMEMBER
TERRY TAPLIN
DISTRICT 2

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin

Subject: Berkeley Humane: Bark (& Meow) Around the Block: Relinquishment of Council Office Budget Funds from General Funds and Grant of Such Funds

RECOMMENDATION
Adopt a Resolution approving the expenditure of council office budget funds, including $500 from Councilmember Taplin, to support the Back (& Meow) Around the Block adoption event hosted by Berkeley Humane, with funds relinquished to the City's general fund.

FINANCIAL IMPLICATIONS
No General Fund impact. $500 is available from contributing Councilmember's Council Office Budget discretionary accounts.

BACKGROUND
The 12th Annual Bark (& Meow) Around the Block adoption event and family street fair will take place on Saturday, September 7, 2024, in West Berkeley. This annual pet adoption event, free to the public, is a large community based, family friendly street fair and adopt-a-thon complete with great food, live entertainment, vendors (pet and non-pet) and fun activities for all ages.

Last year, Bark (& Meow) Around the Block stretched over four city blocks, attracted at least 2,500 attendees, over 40 diverse vendors, and 26 local partner animal rescue organizations. Over 175 shelter and rescue animals were adopted into loving homes in just a few hours.

To be held on Ninth Street between Parker and Pardee Streets, and Carleton Street, between 8th and 10th Street, the festival will draw a substantial number of families and potential pet adopters out to engage with a pet friendly event that includes local food trucks, live music, and a variety of vendors.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
None.

CONTACT PERSON
Councilmember Taplin Council District 2 510-981-7120

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 Taplin has surplus funds in his office expenditure account (budget code 011-11-102-100-0000-000-411); and

WHEREAS, a California non-profit tax exempt corporation Berkeley-East Bay Humane Society seeks funds to provide the following public services: Bark (& Meow) Around the Block adoption drive; and

WHEREAS, the provision of such services would fulfill the following municipal public purpose: pet adoption drive;

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 $1000 shall be granted to Berkeley-East Bay Humane Society to fund the following services: Bark (& Meow) Around the Block adoption drive.

Susan Wengraf
Vice Mayor and Councilmember District 6

CONSENT CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Vice Mayor Wengraf (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Hahn (Co-Sponsor)

Subject: Support for H.R. 7849 (Thompson and LaMalfa)

RECOMMENDATION

Adopt a letter of support for the Disaster Resiliency and Coverage Act of 2024 (H.R. 7849, Thompson and LaMalfa) and send it to Representatives Mike Thompson, Doug LaMalfa, Barbara Lee and Senators Alex Padilla and Laphonza Butler.

FINANCIAL IMPLICATIONS

None

CURRENT SITUATION AND ITS EFFECTS

The *Disaster Resiliency and Coverage Act of 2024* (H.R. 7849), is legislation providing homeowners in disaster-prone regions with broad incentives to harden their properties against wildfires and other risks. The legislation is intended to help address the ongoing insurance crisis in California as the rising frequency and intensity of natural disasters has led insurers to raise rates and, in several cases, exit certain markets entirely. By incentivizing homeowners to mitigate disaster risks on their property, the legislation will help bring insurers back into the market and lower rates.

The legislation includes four main provisions: The first creates a grant program, administered through State governments, through which individual households in designated disaster-prone regions (with certain limitations) are eligible for up to $10,000 for specified disaster resiliency work on their homes. The second and third provisions (Sections 3 and 4 of the legislation) mirror existing legislation (H.R. 4070) stipulating that payments from State-run disaster resiliency programs and payments from various federal emergency agricultural programs are not considered income for federal tax purposes. The final section provides a 30 percent tax credit for qualified disaster risk mitigation activities conducted by individuals or businesses. The credit is meant to complement the grant program by providing meaningful assistance to larger property owners for whom mitigation activity costs would far exceed $10,000.

BACKGROUND
Natural disasters fueled by climate change are threatening the insurance industry's ability to serve California's homeowners. Many insurers have responded to climate related financial risks by withdrawing their services from high-risk markets.

In 2023, State Farm, one of the US' biggest insurance providers, announced it would stop selling new home insurance policies in California. "[We] made this decision due to historic increases in construction costs outpacing inflation, rapidly growing catastrophe exposure, and a challenging reinsurance market," a statement from the company read. Many other insurance companies followed State Farm's lead and withdrew from California.

Since then, Berkeley homeowners have been reporting receiving notices of non-renewal, despite efforts at creating defensible space and home hardening their properties. Insurers base their decisions on proprietary data and modeling but provide little public insight into how these assessments are made or how they affect outcomes for customers. As a result, homeowners are left resorting to the FAIR Plan, the insurance of last resort, which is far more expensive and covers much less than previous policies.

The current insurance crisis puts what is often a homeowner's largest asset at risk; it threatens to reduce the value of their home, and it could ultimately damage the City's financial stability.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
Extreme weather is causing wildfires to burn hotter and spread faster than ever before due to climate change. This bill, if passed, will support the resiliency of families and communities to implement wildfire disaster mitigations and to rebuild should they need to.

CONTACT PERSON
Vice Mayor Susan Wengraf Council District 6 510-981-7160

Attachments:
1: Letter
2: Co-Sponsors of Bill
3: Bill – H.R. 7849

Berkeley City Council

June 4, 2024

The Honorable Mike Thompson
United States Congressmember
268 Cannon Office Building
Washington, DC 20515

The Honorable Doug LaMalfa
United States Congressmember
408 Cannon House Office Building
Washington, DC 20515

RE: H.R. 7849, Disaster Resiliency and Coverage Act of 2024
Support from the Berkeley City Council

Dear Honorable Representative Mike Thompson and Representative Doug LaMalfa,

We write in support of your efforts and applaud you for bringing H.R. 7849 to Congress for consideration.

Property owners in Berkeley have been reporting notices of non-renewal of their insurance policies with increased frequency in the last several months. Many major insurers have pulled out of California and are no longer offering policies here, claiming that the risk is too high.

Providing incentives to homeowners who mitigate wildfire risks on their property will hopefully encourage insurers to return to California to provide insurance policies to those who take steps to create defensible space and harden their homes.

Building community resilience to wildfire is a top priority for our city. We are working hard to educate our constituents and to help Berkeley's homeowners implement actions to achieve that goal.

H.R. 7849 is a critical step to stabilizing California's Insurance Market. I hope you will continue your good work to not only incentivize insurance companies to return to California but also encourage them to provide insurance to those who engage in qualified disaster risk mitigation activities.

Sincerely,

Jesse Arreguín
Vice Mayor
City of Berkeley

Cc: Representative Barbara Lee and Senators Alex Padilla and Laphonza Butler

CONGRESS.GOV

H.R. 7849 - Disaster Resiliency and Coverage Act of 2024

118th Congress (2023-2024) | Get alerts

Summary(0) Text(1) Actions(3) Titles(2) Amendments(0) **Cosponsors(12)** Committees(2) Related Bills(0)

Sponsor: Rep. Thompson, Mike [D-CA-4] | Cosponsor statistics: 12 current - includes 1 original

* = Original cosponsor

View Expanded

Cosponsor	Date Cosponsored
Rep. LaMalfa, Doug [R-CA-1]*	03/29/2024
Rep. Lee, Barbara [D-CA-12]	04/05/2024
Rep. Barragán, Nanette Diaz [D-CA-44]	04/09/2024
Rep. Brownley, Julia [D-CA-26]	04/10/2024
Rep. Moskowitz, Jared [D-FL-23]	04/10/2024
Rep. Lofgren, Zoe [D-CA-18]	04/11/2024
Rep. Carbajal, Salud O. [D-CA-24]	04/12/2024
Rep. Correa, J. Luis [D-CA-46]	04/17/2024
Rep. Huffman, Jared [D-CA-2]	04/20/2024
Rep. Costa, Jim [D-CA-21]	04/26/2024
Rep. Schiff, Adam B. [D-CA-30]	05/01/2024
Rep. Panetta, Jimmy [D-CA-19]	05/07/2024

Party of Cosponsor

☐ Democratic [11] ☐ Republican [1]

Cosponsors by U.S. State or Territory

California [11] Florida [1]

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.....
(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to require the President to establish an individual household disaster mitigation program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. THOMPSON of California introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to require the President to establish an individual household disaster mitigation program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disaster Resiliency and Coverage Act of 2024".

SEC. 2. INDIVIDUAL HOUSEHOLD DISASTER MITIGATION PROGRAM.

Title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.) is amended by adding at the end the following:

"SEC. 206. INDIVIDUAL HOUSEHOLD DISASTER MITIGATION PROGRAM.

"(a) ESTABLISHMENT.—The President shall establish a program to provide grants to States and Indian tribal governments for qualifying pre-disaster mitigation activities on individual residential households that are at risk of being damaged by a major disaster.

"(b) ESTABLISHMENT OF ELIGIBLE DISASTER AREAS.—In carrying out the program under this section, the President shall—

"(1) establish eligible disaster areas, in consultation with States, that the President determines to be at risk of a natural hazard, including—

"(A) a description of the type, likelihood, and severity of each potential natural hazard affecting each such risk area; and

"(B) by taking into account previously declared major disasters impacting such areas; and

"(2) provide technical assistance to the States or Indian tribal governments in developing the plan

described in subsection (c) and administering grants provided for individual households under the program.

"(c) PLAN FOR ELIGIBLE ACTIVITIES.—To be eligible for a grant under this section, a State or Indian tribal government shall submit to the President a plan that includes—

"(1) each disaster risk area established by the President under subsection (b) in which the State or Indian tribal government proposes to provide funds under the program;

"(2) an assessment of the status of the availability and affordability of homeowner insurance coverage in each such risk area;

"(3) a list of each qualifying mitigation activity that is eligible for funds in each such risk area;

"(4) the criteria by which a State or Indian tribal government will evaluate applicants, which shall include consideration of the household income of the applicant and whether the residence is located in a Community Disaster Resilience Zone; and

"(5) a financial plan that includes maximum amounts available to a household for each qualifying mitigation activity.

"(d) CONSULTATION.—In establishing the program under this section, the President shall consult with the Director of the Federal Insurance Office to determine what qualifying mitigation activities are likely to incentivize homeowner insurance companies to offer, or increase coverage of, homeowners insurance to households located in eligible disaster areas.

"(e) LIMITATIONS.—

"(1) HIGH-RISK AREAS.—Funds provided under this section may only be used in eligible disaster areas that the State or Indian tribal government determines are at a high risk of experiencing a major disaster for the major disaster that presents such a risk.

"(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—An individual shall not be eligible to receive a grant under this section if the adjusted gross income of such individual exceeds $250,000 ($500,000 in the case of a joint tax return) for the taxable year ending in the calendar year immediately preceding the calendar year with respect to which a grant application is filed.

"(3) DEFINITION OF ADJUSTED GROSS INCOME.—In this section, the term 'adjusted gross in-

come' has the meaning given such term in section 62(a) of the Internal Revenue Code of 1986.

"(f) MULTI-TIERED MITIGATION STANDARDS.—

"(1) IN GENERAL.—The President, acting through the Administrator of the Federal Emergency Management Agency, shall establish mitigation standards for individual households that carry out each type of qualifying mitigation activity eligible for funds under the program, which may include a multi-tiered standard.

"(2) CONSIDERATION.—In establishing the mitigation standards under paragraph (1), the President, acting through the Administrator—

"(A) may consider any standards established by—

"(i) Insurance Institute for Business and Home Safety; and

"(ii) any other standard-issuing entity determined appropriate; and

"(B) may—

"(i) adopt a standard considered under subparagraph (A); or

"(ii) establish alternative standards.

"(g) GUIDANCE TO INSURANCE PROVIDERS.—To be eligible for a grant under the program under this section,

a State or Indian tribal government shall establish, and make available to the public, guidance to insurance providers that includes suggested incentives for households that carry out disaster mitigation activities under the program, including—

"(1) the mitigation standards established under subsection (f);

"(2) increased eligibility for insurance coverage; and

"(3) discounts for households that carry out such mitigation activities.

"(h) MAXIMUM AMOUNTS.—A State or Indian tribal government may not provide more than an amount of $10,000, not to exceed the actual cost of mitigation activities, to any individual household under the program. Such amount shall be increased yearly to reflect any increase in the Consumer Price Index.

"(i) GROSS INCOME.—For purposes of the Internal Revenue Code of 1986, gross income shall not include amounts provided under this section.

"(j) DEFINITION OF QUALIFYING MITIGATION ACTIVITY.—In this section, the term 'qualifying mitigation activity' means an activity relating to a housing unit—

"(1) for property to—

"(A) improve the strength of a roof deck attachment;

"(B) create a secondary water barrier to prevent water intrusion or mitigate against potential water intrusion from wind-driven rain;

"(C) improve the durability, impact resistance (not less than class 3 or 4 rating), or fire resistance (not less than class A rating) of a roof covering;

"(D) brace gable-end walls;

"(E) reinforce the connection between a roof and supporting wall;

"(F) protect openings from penetration by wind-borne debris;

"(G) protect exterior doors and garages from natural hazards;

"(H) complete measures contained in the publication of the Federal Emergency Management Agency entitled 'Wind Retrofit Guide for Residential Buildings' (P–804);

"(I) elevate the qualified dwelling unit, as well as utilities, machinery, or equipment, above the base flood elevation or other applicable minimum elevation requirement;

"(J) seal walls in the basement of the qualified dwelling unit using waterproofing compounds; or

"(K) protect propane tanks or other external fuel sources;

"(2) to install—

"(A) check valves to prevent flood water from backing up into drains;

"(B) flood vents, breakaway walls or open lattice for homes located in V zones;

"(C) a stormwater drainage system or improve an existing system;

"(D) natural or nature-based features for flood control, including living shorelines;

"(E) roof coverings, sheathing, flashing, roof and attic vents, eaves, or gutters that conform to ignition-resistant construction standards;

"(F) wall components for wall assemblies that conform to ignition-resistant construction standards;

"(G) a wall-to-foundation anchor or connector, or a shear transfer anchor or connector;

"(H) wood structural panel sheathing for strengthening cripple walls;

"(I) anchorage of the masonry chimney to the framing;

"(J) prefabricated lateral resisting systems;

"(K) a standby generator system consisting of a standby generator and an automatic transfer switch;

"(L) a storm shelter that meets the design and construction standards established by the International Code Council and the National Storm Shelter Association (ICC–500), or a safe room that satisfies the criteria contained in—

"(i) the publication of the Federal Emergency Management Agency entitled 'Safe Rooms for Tornadoes and Hurricanes' (P–361); or

"(ii) the publication of the Federal Emergency Management Agency entitled 'Taking Shelter from the Storm' (P–320);

"(M) a lightning protection system;

"(N) exterior walls, doors, windows, or other exterior dwelling unit elements that conform to ignition-resistant construction standards;

"(O) exterior deck or fence components that conform to ignition-resistant construction standards;

"(P) structure-specific water hydration systems, including fire mitigation systems such as interior and exterior sprinkler systems;

"(Q) flood openings for fully enclosed areas below the lowest floor of the dwelling unit;

"(R) lateral bracing for wall elements, foundation elements, and garage doors or other large openings to resist seismic loads; or

"(S) automatic shutoff valves for water and gas lines; or

"(3) for services or equipment to—

"(A) create buffers around the qualified dwelling unit through the removal or reduction of flammable vegetation, including vertical clearance of tree branches;

"(B) create buffers around the dwelling unit through—

"(i) the removal of exterior deck or fence components or ignition-prone landscape features; or

"(ii) replacement of the components or features described in clause (i) with components or features that conform to ignition-resistant construction standards;

"(C) perform fire maintenance procedures identified by the Federal Emergency Management Agency or the United States Forest Service, including fuel management techniques such as creating fuel and fire breaks; or

"(D) replace flammable vegetation with less flammable species.

"(4) for property relating to satisfying the standards required for receipt of a FORTIFIED designation from the Insurance Institute for Business and Home Safety, provided that the qualified dwelling unit receives such designation following installation of such property; or

"(5) for any other hazard mitigation activity which has been identified by the President, in consultation with the Administrator of the Federal Emergency Management Agency, for mitigation of a natural hazard.".

SEC. 3. EXCLUSION OF AMOUNTS RECEIVED FROM STATE-BASED CATASTROPHE LOSS MITIGATION PROGRAMS.

(a) IN GENERAL.—Section 139 of the Internal Revenue Code of 1986 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) STATE-BASED CATASTROPHE LOSS MITIGATION PROGRAMS.—

"(1) IN GENERAL.—Gross income shall not include any amount received by an individual as a qualified catastrophe loss mitigation payment under a program established or administered by a State, or a political subdivision or instrumentality thereof, for the purpose of making such payments.

"(2) QUALIFIED CATASTROPHE LOSS MITIGATION PAYMENT.—For purposes of this section, the term 'qualified catastrophe loss mitigation payment' means any amount which is received by an individual to make improvements to such individual's residence for the sole purpose of hazard mitigation with respect to such residence.

"(3) NO INCREASE IN BASIS.—Rules similar to the rules of subsection (g)(3) shall apply in the case of this subsection.".

(b) CONFORMING AMENDMENTS.—

(1) Section 139(d) is amended by striking "and qualified" and inserting ", qualified catastrophe mitigation payments, and qualified".

(2) Section 139(i) (as redesignated by subsection (a)) is amended by striking "or qualified" and inserting ", qualified catastrophe mitigation payment, or qualified".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2024.

SEC. 4. EXCLUSION FROM GROSS INCOME OF CERTAIN EMERGENCY AGRICULTURAL ASSISTANCE.

(a) IN GENERAL.—Section 139 of the Internal Revenue Code of 1986, as amended by the preceding provisions of this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) CERTAIN AGRICULTURAL ASSISTANCE.—For purposes of this section, the term 'qualified disaster relief payment' shall include any assistance received under any of the following:

"(1) Assistance received under the Wildfires and Hurricanes Indemnity Program Plus under subpart O of part 760 of title 7, Code of Federal Regulations.

"(2) Assistance received under section 1501 of the Agricultural Act of 2014 (7 U.S.C. 9081).

"(3) Noninsured crop assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

"(4) Assistance under a food assistance program under part 9 of title 7, Code of Federal Regulations.

"(5) Assistance under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.).

"(6) Assistance under the Quality Loss Assistance Program.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2024.

SEC. 5. CREDIT FOR DISASTER MITIGATION EXPENDITURES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 27 the following new section:

"SEC. 28. DISASTER MITIGATION EXPENDITURES.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the expenditures

paid for qualifying mitigation activities paid or incurred by the taxpayer during such taxable year with respect to real property owned or leased by the taxpayer.

"(b) QUALIFIED DISASTER MITIGATION ACTIVITIES.—For purposes of this section—

"(1) QUALIFYING MITIGATION ACTIVITY.—The term 'qualifying mitigation activity' has the meaning given such term in section 206(j) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

"(2) TREATMENT OF REIMBURSEMENTS.—Any amount originally paid or incurred by the taxpayer which is reimbursed by a State under a qualified State disaster mitigation program shall be treated as paid by such State (and not by such taxpayer).

"(c) APPLICATION WITH OTHER CREDITS.—

"(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to expenditures made in the ordinary course of the taxpayer's trade or business (or, in the case of expenditures made by a State, would have been expenditures made in the ordinary course of the taxpayer's trade or business if

made by the taxpayer) shall be treated as a credit listed in section 38(b) for taxable year (and not allowed under subsection (a)).

"(2) PERSONAL CREDIT.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

"(d) REDUCTION OF CREDIT PERCENTAGE WHERE TAXPAYER EXPENDITURES LESS THAN 30 PERCENT.—

"(1) IN GENERAL.—If the expenditure percentage with respect to any item of expenditure described under subsection (a) is less than 30 percent, subsection (a) shall be applied by substituting 'the expenditure percentage' for '30 percent' with respect to such item of expenditure.

"(2) EXPENDITURE PERCENTAGE.—For purposes of this section, the term 'expenditure percentage' means, with respect to any item of expenditure described under subsection (a) any portion of which is paid or incurred by a State, the ratio (expressed as a percentage) of—

"(A) the taxpayer's expenditure for such item, divided by

"(B) the sum of the taxpayer's and such State's expenditures for such item.

"(e) SPECIAL RULES.—

"(1) TREATMENT OF EXPENDITURES RELATED TO MARKETABLE TIMBER.—An expenditure shall not be taken into account for purposes of this section (whether made by the taxpayer or a State) if such expenditure is properly allocable to timber which is sold or exchanged by the taxpayer. The preceding sentence shall not apply to the extent that such amount exceeds the gain on such sale or exchange.

"(2) BASIS REDUCTION.—For purposes of this subtitle, if the basis of any property would (but for this paragraph) be determined by taking into account any expenditure described under subsection (a), the basis of such property shall be reduced by the amount of the credit allowed under subsection (a) with respect to such expenditure (determined without regard to subsection (c)).

"(3) DENIAL OF DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any expenditure for which a credit is allowable under subsection (a) shall be reduced by the amount of credit allowed under such

subsection for such expenditure (determined without regard to subsection (e)).".

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of such Code is amended by striking "plus" at the end of paragraph (40), by striking the period at the end of paragraph (41) and inserting ", plus", and by adding at the end the following new paragraph:

"(42) the portion of the disaster mitigation expenditures credit to which section 28(e)(1) applies.".

(2) Section 1016(a) of such Code is amended by redesignating paragraphs (35) through (38) as paragraphs (36) through (39), respectively, and by inserting after paragraph (34) the following new paragraph:

"(35) to the extent provided in section 28(e)(2),".

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 27 the following new item:

"Sec. 28. Qualified disaster mitigation expenditures.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

Office of the City Manager

PUBLIC HEARING
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: David Sprague, Fire Chief, Berkeley Fire Department

Subject: Modification and Adoption of Berkeley Fire Code Local Amendments and Incorporation of California Intervening Code Adoption Cycle Amendments Based on the 2022 California Fire Code

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt the second reading of Ordinance No. 7,903-N.S. (Attachment 1) which proposes to amend certain portions of Section 19.48.020 of the Berkeley Municipal Code ("Amendments to the California Fire Code").

SUMMARY

On December 6, 2022 the Berkeley City Council adopted the current edition of the Berkeley Fire Code (BFC), which was based on the State of California adoption of the 2022 California Fire Code. The current Berkeley Fire Code contains appropriate local amendments and additions as adopted by Council. This code went into effect on January 1, 2023.

The State of California has issued new amendments and additions ("amendments") to the 2022 California Fire Code. These new amendments will take effect on July 1, 2024. If the City of Berkeley wishes to continue enforcement of our existing local fire code amendments without interruption, any local amendments which have been affected by the new state amendments must be revised, and the revised local amendments adopted by City Council on June 4, 2024, and shall be effective on July 4, 2024.

As part of the recurring, triennial cycle of building standards adoption, the California Building Standards Commission and allied State code development agencies (including the Office of the State Fire Marshal) develop and issue supplemental building standards. The process of developing supplemental building standards is formally referred to as the Intervening Code Adoption Cycle. These standards are normally issued and become effective approximately eighteen months into a three-year triennial code cycle, and are often referred to as "mid-cycle amendments".

The mid-cycle amendments will override locally adopted building and fire code amendments if the language or section numbering of the state revisions conflicts with local amendments to the codes. Local jurisdictions may adopt local amendments to the California Fire Code (CFC), and to any supplemental building standards which may subsequently amend the CFC, including the mid-cycle amendments.

In the current situation, mid-cycle amendments to the fire code that have been adopted by the state have modified some language within fire code sections that are the subject of local Berkeley amendments. Additionally, the state's changes have renumbered some code sections. This change in language and renumbering will overwrite important provisions of local Berkeley fire code amendments unless the local amendments are revised to avoid conflict with the state code. As previously stated, If Berkeley wishes to continue to apply our local fire code amendments without interruption, the Berkeley City Council must act to amend the Berkeley Fire Code adoption to conform with the new California Fire Code language and numbering before July 1, 2024.

These local Berkeley fire code amendments address local conditions specific to our community that effect our local fire and life safety. The City has adopted multiple fire code amendments in the past that are designed to address these concerns. Staff recommends that the City Council revise and adopt the effected local amendments to the California Fire Code that have been modified in the state's Intervening Code Adoption Cycle as set forth in the attached documents. This action will maintain the current local level of fire and life safety as intended by Council's original adoption action.

FISCAL IMPACTS

The fiscal impact to the City will be negligible. The publisher of the California Fire Code prints and distributes mid-cycle amendments to the state codes at no charge to existing code subscribers. No new fire code books, inspection guides, inspection forms or training is required.

Updating the local fire code amendments to continue them in-force simply maintains the current status quo. It does not create cost increases for homeowners, builders or developers beyond those costs already mandated by current Berkeley codes and statutes.

CURRENT STATUS AND EFFECTS

As part of a regular three-year cycle, the Office of the California State Fire Marshal and the California Building Standards Commission promulgated the 2022 California Fire Code. The California Fire Code (Title 24, Part 9 of the California Code of Regulations), and Berkeley's local adoption of the fire code in the form of the Berkeley Fire Code (B.M.C. section 19.48) took effect on January 1, 2023. The Berkeley Fire Code provides minimum standards for fire and life safety.

Berkeley has long elected to establish more restrictive building standards as reasonably necessary because of local climatic, geological or topographical conditions in accordance with Calif. Health & Safety Code Sections 18941, 17958, 17958.5, 17958.7

and other statutes. Findings of the local condition(s) and the adopted local building standard(s) must be filed with the California Building Standards Commission.

California's mid-cycle amendments effect local fire code adoptions to varying degrees. The current body of mid-cycle amendments effects the language and numbering of code sections throughout the entire body of the California Fire Code, and effects over 190 pages of the current code in total. In the present case, the majority of these California mid-cycle amendments do not affect our local fire code adoption. The impact to Berkeley's local amendments requires relatively minor changes in language to, or renumbering of, local fire code amendments in order to maintain consistency with the language, structure and organization of the California Fire Code as amended by the Intervening Cycle Code Adoption process. In the current situation, the state mid-cycle amendments that conflict with local Berkeley amendments occur within Berkeley's wildfire safety amendments (Chapter 49 of the Berkeley Fire Code).

Staff's recommendations on modifications to local amendments required to harmonize the Berkeley Fire Code with the California Fire Code as amended by the California Intervening Code Adoption Cycle, include:

1) Amend Paragraph DDD of Section 19.48.020 of the Berkeley Municipal Code ("Amendments to the California Fire Code"). Paragraph DDD currently implements local amendments to Section 4902.1 ("General"), of the California Fire Code (CFC). Our current local amendments to CFC Section 4902.1 add important local definitions related to the regulation, control and abatement of wildfire hazards within Berkeley.

   This paragraph and the amended CFC section define our Local Agency Very High Fire Hazard Severity Zone and Wildland Urban Interface area, as they are currently recognized in local law, and as that recognition effects current and future requirements as established in state law. These definitions relate the local definitions of "Fire Zone 1", "Fire Zone 2" and "Fire Zone 3" to the Local Agency Very-High Fire Hazard Severity Zone and Wildland-Urban Interface area. The existing locally amended BFC Section also modifies the definition of "Fire Protection Plan" so that it can apply to both proposed and existing properties, projects and developments.

   While the bulk of Paragraph DDD of Section 19.48.020 of the B.M.C. is not directly impacted by the mid-cycle amendments, as of July 4, 2024, the CFC amendments will slightly modify the code's usage of the term "Wildland-Urban Interface". The amendments being proposed to Paragraph DDD will implement those same changes in language while preserving our local amendments, and will ensure continued compatibility between the BFC adoption and the CFC.

   2) Amend Paragraphs UUU through PPPP of Section 19.48.020 of the Berkeley Municipal Code ("Amendments to the California Fire Code"). The twenty-two Paragraphs embodied by UUU through PPPP currently occupy Section 4911 of the Berkeley Fire Code and create an additional fire code section and subsections within our local adoption that do not exist within the current CFC. These additional sections define and regulate activity and hazards within Berkeley's Wildland-Urban Interface

area, and provide important tools for regulating and mitigating related hazards, such as providing appropriate ignition controls in hazardous wildfire areas.

The controls established by these Paragraphs of B.M.C. 19.48.020 regulate such mundane but important topics as prohibiting the placing, depositing or disposing of ashes or coals in wildland areas. The state's mid-cycle amendments have now adopted Section 4911 for purposes unrelated to these local controls, so these controls must be moved to a newly created code section, which is proposed as Section 4912. In addition to the conflict caused by renumbering, the local hazard controls will also be affected by the same changes in Wildland-Urban Interface terminology that was previously discussed related to Paragraph DDD above. The proposed changes in the language used in these Berkley amendments will also ensure compatibility between the California and State fire codes, as well as consistency within our own code adoption.

BACKGROUND

The City of Berkeley has unique climatic, geological, and topographical conditions, which require local amendments to mitigate potential hazards, and to reduce loss of life caused by fires or natural disasters. To address local fire and life safety impacts, the City of Berkeley has adopted local amendments to address local conditions which make CFC requirements inadequate. Without the adoption of local amendments, needed fire and life safety enhancements cannot be enforced.

In the current case where state amendments to the CFC effect Berkeley's local fire code amendments, an ordinance modifying the existing local amendments and a findings-of-fact resolution are proposed in order to ensure successful adoption of local amendment modifications and the maintenance of our local standards. These local amendments, or other building or fire code requirements triggered by these amendments, may qualify as building standards in accordance with state law. In the current case, no new permits, fees, or fee adjustments are proposed at this time, so no changes to the current fee schedule are required or proposed.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Unwanted fires have a significant, detrimental effect on the environment, climate, and the sustainability of our society. Air emissions from fires include soot/carbon particulate as well as carbon-dioxide and many un-desirable fire byproducts. The water used to extinguish fires not only becomes runoff and may transport pollutants into waterways and other portions of the environment, but is often treated, potable water that must be processed and transported into the City via a water utility service at some financial expense and expense to the City's overall carbon-footprint. Fires also damage structures and other built-environment infrastructure that ultimately must be removed and replaced, generally with an associated financial and carbon-footprint cost to remove, manufacture, transport and reinstall the infrastructure. The adoption of a strong fire code ultimately serves to reduce the frequency, severity and cost of fires to society, environment, and the climate.

RATIONALE FOR RECOMMENDATION
When the state adopts a new fire code, or as in the current case makes amendments to the California Fire Code that impact locally adopted amendments to the California Fire Code, the affected local amendments must be modified to remain compatible with the new state code language. In the case of Intervening Code Adoption Cycle mid-cycle amendments, these amendments do not always trigger the need for modification of local code adoptions. In the current case of the 2024 mid-cycle amendments, modifications of local amendments and findings are needed to preserve our local fire code amendments that account for Berkeley's particular topographic, geologic and climatic conditions. The fire and seismic danger and other local conditions, as described in detail in the attached resolution justify the proposed local amendments that are stricter than the California Fire Code.

ALTERNATIVE ACTIONS CONSIDERED
None

CONTACT PERSON
Steven Riggs, Fire Marshal, Berkeley Fire Department, 981-5585.

Attachments

1 Ordinance – "AMENDMENT OF SECTION 19.48.020 OF THE BERKELEY MUNICIPAL CODE ("AMENDMENTS TO THE CALIFORNIA FIRE CODE") TO MAINTAIN LOCAL AMENDMENTS TO, AND COMPATIBILITY WITH, RECENT CHANGES TO CALIFORNIA FIRE CODE LANGUAGE AND NUMBERING AS ENACTED BY THE STATE OF CALIFORNIA"

2 Public Hearing Notice – June 4, 2024

ORDINANCE NO. 7,903-N.S.

AMENDMENT OF SECTION 19.48.020 OF THE BERKELEY MUNICIPAL CODE ("AMENDMENTS TO THE CALIFORNIA FIRE CODE") TO MAINTAIN LOCAL AMENDMENTS TO, AND COMPATIBILITY WITH, RECENT CHANGES TO CALIFORNIA FIRE CODE AS ENACTED BY THE STATE OF CALIFORNIA

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

Section 1. That Paragraph DDD. of Section 19.48.020 of the Berkeley Municipal Code ("Amendments to the California Fire Code") is amended to read as follows:

DDD. **Section *4902.1 General [Amended subsection].*** *For the purpose of this chapter, certain terms are defined as follows:*

DIRECTOR. *Director of the California Department of Forestry and Fire Protection (CAL FIRE).*

FIRE PROTECTION PLAN [Amended definition]. *A document prepared for a specific premises, project or development, either existing or proposed for a Wildland-Urban Interface (WUI) area. It describes ways to minimize and mitigate potential for loss from wildfire exposure.*

FIRE HAZARD SEVERITY ZONES. *Geographical areas designated pursuant to California Public Resources Codes, Sections 4201 through 4204 and classified as Very High, High, or Moderate in State Responsibility Area or as Local Agency Very High Fire Hazard Severity Zones designated pursuant to California Government Code, Sections 51175 through 51189.*

The California Code of Regulations, Title 14, Section 1280 entitles the maps of these geographical areas as "Maps of the Fire Hazard Severity Zones in the State Responsibility Area of California."

FIRE ZONE ONE [Additional definition] shall encompass the entire City of Berkeley except for Fire Zones Two and Three.

FIRE ZONE TWO [Additional definition] encompasses those areas designated as Combined Hillside District in the Official Zoning map of the City of Berkeley and those areas designated as Very High in the official Fire Hazard Severity Zones (FHSZ) map of the California Department of Forestry and Fire Protection (CAL FIRE), as they may be amended from time to time. The following properties, not part of the Combined Hillside District, are included in Fire Zone Two under the Very High designation of the FHSZ map: the eastern section of the University of California, Berkeley main campus, block number 2042 (Alameda County Assessor's parcel numbering (APN) system), to the east city line; all of the Clark-Kerr campus, block number 7690, to the east city line; all of block number 7680 in the City of Berkeley; portions of block number 1702 in the City of Berkeley. These additional parcels and their assigned street address are established in Section 19.28.030 of the Berkeley Municipal Code, Berkeley Building Code and are specified in Table 4902.1.

Table 4902.1

Parcels Added to the Berkeley Combined Hillside District	
Parcel Number (APN)	**Address**
048-7680-001-02	3 Tanglewood Road
048-7680-002-01	5 Tanglewood Road
048-7680-031-00	7 Tanglewood Road
048-7680-019-00	11 Tanglewood Road
048-7680-014-00	19 Tanglewood Road
048-7680-032-01	25 Tanglewood Road
048-7680-027-00	29 Tanglewood Road
054-1702-067-00	10 Tanglewood Road
054-1702-068-00	18 Tanglewood Road
054-1702-069-00	22 Tanglewood Road
054-1702-070-00	28 Tanglewood Road
054-1702-063-00	2701 Belrose Avenue
054-1702-076-00	2715 Belrose Avenue
054-1702-075-00	2721 Belrose Avenue
054-1702-074-00	2729 Belrose Avenue
054-1702-073-00	2737 Belrose Avenue
054-1702-112-00	2801 Claremont Boulevard
054-1702-123-01	2811 Claremont Boulevard
054-1702-122-00	2815 Claremont Boulevard
054-1702-120-01	2821 Claremont Boulevard
054-1702-114-01	2816 Claremont Avenue
054-1702-115-00	2820 Claremont Avenue
054-1702-072-00	3005 Garber Street
054-1702-071-00	3015 Garber Street
054-1702-113-00	3020 Garber Street
054-1702-116-00	3017 Avalon Avenue

Fire Zone Two is declared as a Very-High Fire Hazard Severity Zone and Wildland-Urban Interface area.

FIRE ZONE 3 [Additional definition] encompasses those areas designated as Environmental Safety - Residential Districts on the Official Zoning Map of the City of Berkeley, as it may be amended from time to time. Fire Zone Three is declared as a Very-High Fire Hazard Severity Zone and Wildland-Urban Interface area.

FIRE-RESISTANT VEGETATION. *Plants, shrubs, trees and other vegetation that exhibit properties, such as high moisture content, little accumulation of dead vegetation, and low sap or resin content, that make them less likely to ignite or contribute heat or spread flame in a fire than native vegetation typically found in the region.*

[Note: The following sources contain examples of types of vegetation that can be considered fire-resistant vegetation (Fire-resistant Plants for Home Landscapes, A Pacific Northwest Extension publication; Home Landscaping for Fire, University of California Division of Agriculture and

Natural Resources; Sunset Western Garden Book)].

IGNITION-RESISTANT MATERIAL. **[Amended definition]** *A type of building material that complies with the requirements in Section 704A.2 in the ~~California~~ Berkeley Building Code.*

LOCAL RESPONSIBILITY AREAS (LRA). *Areas of the state in which the financial responsibility of preventing and suppressing fires is the primary responsibility of a city, county, city and county, or district.*

STATE RESPONSIBILITY AREA (SRA). *Lands that are classified by the Board of Forestry pursuant to Public Resources Code Section 4125 where the financial responsibility of preventing and suppressing wildfires is primarily the responsibility of the state.*

WILDFIRE. *Any uncontrolled fire spreading through vegetative fuels that threatens to destroy life, property, or resources as defined in Public Resources Code, Sections 4103 and 4104.*

WILDFIRE EXPOSURE. *One or a combination of radiant heat, convective heat, direct flame contact and burning embers being projected by vegetation fire to a structure and its immediate environment.*

WILDLAND-URBAN INTERFACE (WUI).**[Amended definition]** *A geographical area identified by the state as a "Fire Hazard Severity Zone" in accordance with the Public Resources Code, Sections 4201 through 4204, and Government Code, Sections 51175 through 51189, or other areas designated by the enforcing agency to be at a significant risk from wildfires*. Berkeley Fire Zones 2 and 3 are designated as Wildland-Urban Interface areas. See Government Code Chapter 6.8 Very High Fire Hazard Severity Zones and Public Resources Code Article 9 Fire Hazard Severity Area for the applicable referenced sections.

Section 2. That Paragraphs UUU. through PPPP. of Section 19.48.020 of the Berkeley Municipal Code (“Amendments to the California Fire Code”) are renumbered and amended to read as follows:

UUU. **Section 4912 SUPPRESSION AND CONTROL OF HAZARDS IN WILDLAND-URBAN INTERFACE AREAS [Additional section]**

VVV. **Section 4912.1 Permit [Additional subsection].** The fire code official is authorized to stipulate conditions for permits. Permits shall not be issued when public safety would be at risk, as determined by the fire code official.

WWW. **Section 4912.2 Restricted Entry [Additional subsection].** The fire code official shall determine and publicly announce when Wildland-Urban Interface areas shall be closed to entry and when such areas shall again be opened to entry. Entry on and occupation of Wildland-Urban Interface areas, except public roadways, inhabited areas or established trails and camp sites which have not been closed during such time when the Wildland-Urban Interface areas are closed to entry, is prohibited.

Exceptions:

1) Residents and owners of private property within Wildland-Urban Interface areas and their invitees and guests going to or being upon their lands;
2) Entry, in the course of duty, by peace officers, and other duly authorized public officers, members of a fire department and members of the United States Forest Service

XXX. **Section 4912.3 Trespassing on Posted Property [Additional subsection]**

YYY. **Section 4912.3.1 General [Additional subsection].** When the fire code official determines that a specific area within a Wildland-Urban Interface Areas presents an exceptional and continuing fire danger because of the density of natural growth, difficulty of terrain, proximity to structures or accessibility to the public, such areas shall be closed until changed conditions warrant termination of closure. Such areas shall be posted as hereinafter provided.

ZZZ. **Section 4912.3.2 Signs [Additional subsection].** Approved signs prohibiting entry by unauthorized persons and referring to this section shall be placed on every closed area.

AAAA. **Section 4912.3.3 Trespassing [Additional subsection].** Entering and remaining within areas closed and posted is prohibited.

Exception: Owners and occupiers of private or public property within closed and posted areas, their guests or invitees, and local, state and federal public officers and their authorized agents acting in the course of duty.

BBBB. **Section 4912.4 Smoking [Additional subsection].** Lighting, igniting or otherwise setting fire to or smoking tobacco, cigarettes, pipes or cigars in Wildland-Urban Interface areas are prohibited.

Exception: Places of habitation or within the boundaries of established smoking areas or campsites as designated by the fire code official.

CCCC. **Section 4912.5 Spark Arresters [Additional subsection].** Chimneys used in conjunction with fireplaces, barbecues, incinerators or heating appliances in which solid or liquid fuel is used, upon buildings, structures or premises located within Wildland-Urban Interface areas shall be provided with a spark arrester. See Berkeley Building Code Section 705A.5 for specifications.

DDDD. **Section 4912.6 Tracer Bullets, Tracer Charges, Rockets and Model Aircraft [Additional subsection].** Tracer bullets and tracer charges shall not be possessed, fired or caused to be fired into or across Wildland-Urban Interface areas. Rockets, model planes, gliders and balloons powered with an engine, propellant or other feature liable to start or cause fire shall not be fired or projected into or across Wildland-Urban Interface Areas.

EEEE. **Section 4912.7 Explosives and Blasting [Additional subsection].** Explosives shall not be possessed, kept, stored, sold, offered for sale, given away, used, discharged, transported or disposed of within Wildland-Urban Interface areas except by permit from the fire code official.

FFFF. **Section 4912.8 Fireworks [Additional subsection].** Fireworks shall not be used or possessed in Wildland-Urban Interface areas. The fire code official is authorized to seize, take, remove or cause to be removed fireworks in violation of this section.

Exception: Fireworks allowed by the fire code official under permit when not prohibited by applicable local or state laws, ordinances and regulations.

GGGG. **Section 4912.9 Apiaries [Additional subsection].** Lighted and smoldering material shall not be used in connection with smoking bees in or upon Wildland-Urban Interface areas except by permit from the fire code official.

HHHH. **Section 4912.10 Open-Flame Devices [Additional subsection].** See Berkeley Fire Code Sections 308.1.6 Open Flame Devices and 308.1.6.1 Signals and Markers.

IIII. **Section 4912.11 Outdoor Fires [Additional subsection].** Outdoor fires shall not be built, ignited or maintained in or upon Wildland-Urban Interface areas, except by permit from the fire code official.

Exception: Outdoor fires within habited premises or designated campsites, where such fires are built in a permanent barbecue, portable barbecue, outdoor fireplace, incinerator or grill and are a minimum of 30 feet (9144 mm) from a grass-, grain-, brush or forest-covered area.

Permits shall incorporate such terms and conditions, which will reasonably safeguard public safety and property.

Outdoor fires shall not be built, ignited or maintained in or upon Wildland-Urban Interface areas under the following conditions:

1. When high winds are blowing,
2. When a person age 17 or over is not present at all times to watch and tend such fire, or
3. When public announcement is made that open burning is prohibited.

Permanent barbecues, portable barbecues, outdoor fireplaces, fire pits or grills shall not be used if solid or liquid fueled.

JJJJ. **Section 4912.12 Incinerators and Fireplaces [Additional subsection].** Incinerators, outdoor fireplaces, fire pits, permanent barbecues and grills shall not be built, installed or maintained in Wildland-Urban Interface areas without prior approval of the fire code official. Existing incinerators, outdoor fireplaces, fire pits,

permanent barbecues and grills shall be maintained in good repair and in a safe condition at all times. Openings in such appliances shall be provided with an approved spark arrester, screen or door.

Exception: When approved, unprotected openings in barbecues and grills necessary for proper functioning shall be allowed.

KKKK. **Section 4912.13 Dumping [Additional subsection].** Garbage, cans, bottles, papers, ashes, refuse, trash, rubbish or combustible waste material shall **not** be placed, deposited or dumped in or upon Wildland-Urban Interface areas or in, upon or along trails, roadways or highways in Wildland-Urban Interface areas.

Exception: Approved public and private dumping areas.

LLLL. **Section 4912.14 Disposal of Ashes [Additional subsection].** Ashes and coals shall not be placed, deposited or dumped in or upon Wildland-Urban Interface areas.

Exceptions:
1. In the hearth of an established fire pit, camp stove or fireplace;
2. In a noncombustible container with a tight-fitting lid, which is kept or maintained in a safe location not less than 10 feet (3048mm) from combustible vegetation or structures;
3. Where such ashes or coals are buried and covered with 1 foot (304.8mm) of mineral earth not less than 25 feet (7620 mm) from combustible vegetation or structures.

MMMM. **Section 4912.15 Use of Fire Roads and Firebreaks [Additional subsection].** Motorcycles, motor scooters and motor vehicles shall not be driven or parked upon, and trespassing is prohibited upon, fire roads or firebreaks beyond the point where travel is restricted by a cable, gate or sign, without the permission of the property owner(s). Vehicles shall not be parked in a manner, which obstructs the entrance to a fire road or firebreak.

Exception: Public officers acting within their scope of duty. Radio and television aerials, guy wires thereto, and other obstructions shall not be installed or maintained on fire roads or fire breaks unless located 16 feet (4877 mm) or more above such fire road or firebreak.

NNNN. **Section 4912.16 Use of Motorcycles, Motor Scooters and Motor Vehicles [Additional subsection].** Motorcycles, motor scooters and motor vehicles shall not be operated within Wildland-Urban Interface areas, without a permit by the fire code official, except upon clearly established public or private roads. Permission from the property owner(s) shall be presented when requesting a permit.

OOOO. **Section 4912.17 Tampering with Fire Department Locks, Barricades and Signs [Additional subsection].** Locks, barricades, seals, cables, signs and markers installed within Wildland-Urban Interface areas, by or under the control of the fire code official, shall not be tampered with, mutilated, destroyed or removed. Gates, doors, barriers and locks installed by or under the control of the fire code official shall not be unlocked.

PPPP. **Section 4912.18 Liability for Damage [Additional subsection].** The expenses of fighting fires and securing emergencies, which result from a violation of this code, Chapter 6.15.030 of the Berkeley Municipal Code ("Unauthorized barbecues and fire on public property"), Sections 13000-13011 of the California Health and Safety Code, Sections 4421-4446 of the California Public Resources Code, or Sections 451, 451.5, 452 or 455 of the California Penal Code is a charge against the person(s) whose violation of the code section(s) caused the fire. Damages caused by such fires shall constitute a debt of such person(s) and shall be collectable by the fire code official in accordance with Section 107.7 of this code.

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 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.

At a regular meeting of the Council of the City of Berkeley held on May 7, 2024, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Hahn, Humbert, Kesarwani, Lunaparra, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL

ADOPTION OF LOCAL AMENDMENTS TO THE BERKELEY FIRE CODE - BASED ON THE CALIFORNIA INTERVENING CODE ADOPTION CYCLE FOR THE 2022 CALIFORNIA FIRE CODE

Notice is hereby given that on **June 4, 2024 at 6:00 P.M.** the City Council will conduct a public hearing to consider the adoption of amendments to Section 19.48.020 ("Amendments to the California Fire Code") as proposed by the Berkeley Fire Department.

A copy of the agenda material for this hearing will be available on the City's website at https://berkeleyca.gov/ as of May 23, 2024. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact **Dori Tieu**, Deputy Fire Marshal, Berkeley Fire Department at (510) 981-5585.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to council@berkeleyca.gov 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. 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 (510) 981-6900 or clerk@berkeleyca.gov for further information.

Published: May 17 and May 24, 2024 – The Berkeley Voice

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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 May 23, 2024.

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Mark Numainville, City Clerk
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Office of the City Manager

PUBLIC HEARING
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department

Subject: Re-Adoption of the Berkeley Building Codes, including Local Amendments to the 2022 California Building Standards Code

RECOMMENDATION

Conduct a public hearing, and upon conclusion, adopt the second reading of Ordinance No. 7,906-N.S. repealing and reenacting the Berkeley Building, Residential, Electrical, Mechanical, Plumbing, Energy, and Green Building Standards Codes in BMC Chapters 19.28, 19.29, 19.30, 19.32, 19.34, 19.36 and 19.37, and adopting related procedural and stricter provisions.

FISCAL IMPACTS OF RECOMMENDATION

See report from first reading of Ordinance, at Council May 7, 2024 (Attachment 2).

CURRENT SITUATION AND ITS EFFECTS

At its meeting May 7, 2024 the City Council considered the first reading of the proposed Ordinance and a Resolution making related findings. Council revised the Ordinance and passed it on first reading, and adopted a revised version of the Resolution. The Ordinance included here for second reading reflects the revisions from May 7, action which also referred consideration of future requirements for Zero NOx emission buildings to the Health, Life Enrichment, Equity & Community Policy Committee, while adopting all other local reach codes recommended by staff.

CONTACT PERSON

David Lopez, Chief Building Official, Building and Safety Division Manager, Planning and Development Department, 510-981-7441

Attachments:

1. Ordinance for second reading
2. Staff report to City Council May 7, 2024
3. Public Hearing notice

Attachment 1

ORDINANCE NO. 7,906–N.S.

REPEALING AND REENACTING BERKELEY MUNICIPAL CODE CHAPTERS 19.28 (BERKELEY BUILDING CODE), 19.29 (BERKELEY RESIDENTIAL CODE), 19.30 (BERKELEY ELECTRICAL CODE), 19.32 (BERKELEY MECHANICAL CODE), 19.34 (BERKELEY PLUMBING CODE), 19.36 (BERKELEY ENERGY CODE), AND 19.37 (BERKELEY GREEN CODE)

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

Section 1. That Berkeley Municipal Code Chapter 19.28 is hereby repealed and reenacted to read as follows:

Chapter 19.28

BERKELEY BUILDING CODE*

Sections:

19.28.010 Adoption of the California Building Code

Article 1. Scope and Administrative Provisions
19.28.020 Adoption of Chapter 1 Scope and Administration

Article 2. Restrictions in Fire Zones
19.28.030 Chapter 7A Materials and Construction Methods for Exterior Wildlife Exposure

Article 3. Wood Burning Appliances
19.28.040 Wood Burning Appliances

Article 4. Projection into Public Right of Way
19.28.050 Encroachment into the Public Right of Way - Revocation and Removal Indemnification and Hold Harmless

Article 5. Existing Buildings
19.28.060 Adoption of 2022 California Existing Building Code with Mid-Cycle Supplement and certain Chapters of the 2021 International Existing Building Code by Reference

Article 6. Repairs to Existing Buildings and Structures
19.28.070 Adoption of Regulations for the Repairs of Existing Structures

Article 7. Amendments to Structural Standards
19.28.080 Technical Amendments to Structural Standards

Article 8. Construction of Exterior Appurtenances

19.28.090 Technical Amendments for Construction of Exterior Projecting Elements and Appurtenances

Article 9. Emergency Housing
19.28.100 Emergency Housing and Emergency Housing Facilities

Notes:
* See Chapter 1.24 for abatement of nuisances by City.

19.28.010 Adoption of the California Building Code.

A. The California Building Code with Mid-Cycle Supplement, 2022 edition, as adopted in Title 24 Part 2 of the California Code of Regulations, including Appendices I, J and P, is hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this Chapter. One copy of this Code is on file in the office of the City Clerk of the City of Berkeley.

B. The California Historical Building Code, 2022 edition, as adopted in Title 24 Part 8 of the California Code of Regulations, is hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this Chapter. One copy of this Code is on file in the office of the City Clerk of the City of Berkeley.

C. The California Existing Building Code with Mid-Cycle Supplement, 2022 edition, as adopted in Title 24 Part 10 of the California Code of Regulations, including Appendix A, is hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this Chapter. One copy of this Code is on file in the office of the City Clerk of the City of Berkeley.

D. This Chapter shall be known as the "Berkeley Building Code" and shall be referred to in this Chapter as "this Code."

E. This Chapter will become effective on July 5, 2024, and shall not apply to any building permit submitted by June 30, 2024.

Article 1. Scope and Administrative Provisions

19.28.020 Adoption of Chapter 1 Scope and Administration

Chapter 1 of the 2022 California Building Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below.

CHAPTER 1 SCOPE AND ADMINISTRATION
SECTION 101 – GENERAL

101.1 Title. These regulations shall be known as the Berkeley Building Code, hereinafter referred to as “this Code”.

101.4 Referenced codes. The other codes specified in Sections 101.4.1 through 101.4.9, and referenced elsewhere in this Code, shall be considered part of the requirements of this Code to the extent prescribed in each such reference.

101.4.1 Gas. The provisions of the Berkeley Mechanical Code, based on the 2022 California Mechanical Code with Mid-Cycle Supplement, and the Berkeley Plumbing Code, based on the 2022 California Plumbing Code with Mid-Cycle Supplement, as amended herein, shall apply to the installation of gas piping from the point of delivery, gas appliances and related accessories as covered in this Code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories.

101.4.2 Mechanical. The provisions of the Berkeley Mechanical Code, based on the 2022 California Mechanical Code with Mid-Cycle Supplement, as amended herein, shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems.

101.4.3 Plumbing. The provisions of the Berkeley Plumbing Code, based on the 2022 California Plumbing Code with Mid-Cycle Supplement, as amended herein, shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. The provisions of the Berkeley Plumbing Code shall apply to private sewage disposal systems.

101.4.4 Residential property maintenance. The provisions of the Berkeley Housing Code, as adopted in Chapter 19.40, shall apply to existing residential buildings and premises; equipment and facilities; light, ventilation, space heating, sanitation, life and fire safety hazards; responsibilities of owners, operators and occupants; and occupancy of existing premises and structures.

Notwithstanding any provisions contrary in this Chapter, any building or portion thereof constructed in compliance with the Berkeley Building Code shall not be deemed to be in violation of the Housing Code provisions that may conflict.

101.4.5 Fire prevention. The provisions of the Berkeley Fire Code based on the 2022 California Fire Code with Mid-Cycle Supplement, as adopted in Chapter 19.48, shall apply to matters affecting or relating to structures, processes and premises from the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration or removal of fire suppression and alarm systems or fire hazards in the structure or on the premises from occupancy or operation.

101.4.6 Energy. The provisions of the Berkeley Energy Code, based on the 2022 California Energy Code with Mid-Cycle Supplement, as amended herein, shall

apply to all matters governing the design and construction of buildings for energy efficiency.

101.4.7 Existing buildings. The provisions of the Berkeley Existing Building Code, based on the 2022 California Existing Building Code with Mid-Cycle Supplement, as amended herein, shall apply to matters governing the repair, alteration, change of occupancy, addition to and relocation of existing buildings.

101.4.8 Electrical. The provisions of the Berkeley Electrical Code, based on the 2022 California Electrical Code, as amended herein, shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

101.4.9 Green. The provisions of the Berkeley Green Code, based on the 2022 California Green Building Standards Code with Mid-Cycle Supplement, as amended herein, shall apply to enhanced design and construction of buildings through the use building concepts having a reduced negative impact or the positive environmental impact and encouraging sustainable construction practices.

101.5 References to prior codes. Unless superseded and expressly repealed, references in City forms, documents and regulations to the chapters and sections of former Berkeley Building Code editions, shall be construed to apply to the corresponding provisions contained within the 2022 Berkeley Building Code Ordinance No. X,XXX–N.S. and all ordinances amendatory thereof. Any ordinances or parts of ordinances in conflict herewith are hereby superseded and expressly repealed.

SECTION 103 – DIVISION OF BUILDING AND SAFETY

103.1 Creation of enforcement agency. The Division of Building and Safety is hereby created and the official in charge thereof shall be known as the building official. The function of the agency shall be the implementation, administration and enforcement of the provisions of this code.

103.2 Appointment. The building official shall be appointed by the City Manager.

103.3 Deputies. The building official shall have the authority to appoint an assistant building official, building inspectors, plans examiners, housing inspectors, other technical officers and employees. Such employees shall have powers as delegated by the building official.

SECTION 104 – DUTIES AND POWERS OF BUILDING OFFICIAL

104.7 Division records. The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, notices of violations, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

Add a new Subsection 104.12 to read:

104.12 Unpermitted dwelling units. When a building permit record for a residential unit does not exist, the building official is authorized to make a determination of when the residential unit was constructed and then apply the building standards in effect when the residential unit was determined to be constructed or the current building standards, whichever is the least restrictive, provided the building or portion thereof does not become or continue to be a substandard or unsafe building. The Building Official is authorized to accept reasonable alternatives to the requirements of the prior or current code editions when dealing with unpermitted dwelling units.

SECTION 105 – PERMITS

105.3.2 Expiration of application. An application for a permit for any proposed work shall expire one year after the date of filing, unless it can be demonstrated by the applicant that such application has been pursued in good faith or a permit has been issued. The building official or the permit service center coordinator are authorized to grant one or more extensions of time for additional periods not exceeding a 180 days per extension. The extension shall be requested in writing and justifiable cause demonstrated. Requests for time extensions shall be accompanied by the payment of a fee set by resolution of the City Council.

If a project is associated with a code enforcement case, the dates specified in the code enforcement notices take precedence over the timelines specified in this section.

105.5 Expiration of permit. Permits issued by the building official shall expire one year from the date of issuance. The building official or the supervising building inspector are authorized to grant one or more extensions of time to complete the work for additional periods not exceeding one year per extension. The extension shall be requested in writing and justifiable cause demonstrated. Requests for time extensions shall be accompanied by the payment of a fee set by resolution of the City Council.

The issuance of a building permit shall not excuse the permittee or any other person from compliance with any notice and/or order to correct a code violation issued by the City.

When a permit is expired and a new permit is required to complete the work, a new permit application and plans shall be filed describing the remaining work to be done. If a site visit or other review is required to determine the extent of the remaining work, a fee may be charged to make such determination.

SECTION 109 – FEES

109.1 Payment of fees. Except when fees are deferred, a permit shall not be valid until the fees as set forth by resolution of City Council have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

109.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the fee as set forth by resolution of the City Council. Fees for permits and inspections and other related services under this Code shall be assessed and paid as set forth by resolution of the City Council. Unless waived or deferred as provided by local regulations, a plan review fee and other fees as specified in the resolution shall be paid at the time of submitting any documents for review and additional fees as specified in the resolution shall be paid at issuance of the permit.

109.4 Work commencing before permit issuance. Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permit shall be subject to a fee as set forth by resolution of the City Council equal to and in addition to the permit fees for the portion of the scope of work performed without the permit.

109.7 Re-inspection fees. A re-inspection fee, as set forth by resolution of the City Council, may be assessed for each re-inspection when such portion of work for which an inspection is scheduled is not complete or when corrections previously called for are not made.

Re-inspection fees shall not be required each time a job is disapproved for failure to comply with the requirements of this Code. Rather this section shall be used to control the practice of calling for inspections before the job is ready for such inspection, or when the approved plans are not readily available to the inspector, or for failure to provide access on the date for which the inspection is requested, or when work deviates from the approved plans but no revision is submitted to the City.

To obtain a re-inspection, the applicant shall pay the re-inspection fee as set forth by resolution of the City Council. In instances where re-inspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

SECTION 112 – SERVICE UTILITIES

112.4 Authority to connect utilities. Clearance for connection of one utility, either gas or electrical, will be withheld until final building, electrical, plumbing, and/or mechanical inspections are made and approval has been given for any new building or change in occupancy classification to an existing building for which connection to such utilities is sought, unless approval has been first obtained from the building official, as provided by a Temporary Certificate of Occupancy or Final Certificate of Occupancy.

112.5 Unsafe service utilities. Unsafe service utilities are hereby declared to be public nuisances and shall be abated, repaired, rehabilitated, demolished or removed in accordance with the procedures set forth in Chapter 19.40 of the Berkeley Municipal Code (BMC) for residential buildings and Berkeley Building Code for all other buildings, or any alternate procedure that may be adopted by the City of Berkeley. In addition, the City

Attorney may pursue other appropriate action to prevent, restrain, correct or abate the violation as provided for in the BMC. Remedies under this section are cumulative. When service utilities are maintained in violation of this Code and in violation of a notice issued pursuant to the provisions of this section, the building official shall institute appropriate action to prevent, restrain, correct or abate the violation.

112.6 Authority to disconnect utilities in emergencies. The building official or building official's authorized representative shall have the authority to disconnect electrical power or other energy service supplied to the building, structure or building service equipment therein regulated by this Code in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official or building official's authorized representative shall, whenever possible, notify the serving utility, and the owner of the building, structure or electrical system or equipment and any building occupants of the decision to disconnect prior to taking such action and shall notify them, in writing, of the disconnection as soon as possible thereafter.

112.7 Authority to condemn electrical system and equipment. Whenever the building official determines that an electrical system or electrical equipment regulated by this Code is hazardous to life, health or property, the building official may order in writing that such electrical system or equipment either be removed or restored to a safe condition. The written notice shall fix a reasonable time limit for compliance with such order. Persons shall not use or maintain defective electrical systems or equipment after receiving such notice except as may be provided therein.

When equipment or an installation is to be disconnected, a written notice of such disconnection and the reasons therefore shall be given within 24-hours of the order to disconnect to the serving utility, the owner and occupants of the building, structure or premises.

When equipment or an installation is maintained in violation of this Code and in violation of a notice issued pursuant to the provisions of this section, the building official shall institute appropriate action to prevent, restrain, correct or abate the violation.

Unsafe electrical systems or equipment are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in Chapter 19.40 of the BMC for residential buildings and Berkeley Building Code for all other buildings, or any alternate procedure that may be adopted by the City of Berkeley. In addition, the City Attorney may pursue other appropriate action to prevent, restrain, correct or abate the violation as provided for in the BMC. Remedies under this section are cumulative.

112.8 Connection after order to disconnect. Persons shall not make connections to a service utility system or equipment that has been disconnected or ordered to be disconnected by the building official, or the use of which has been ordered to be discontinued by the building official, until the building official authorizes the reconnection and use of the electrical system or equipment.

SECTION 113 – BOARD OF APPEALS

113.1 General. In order to hear and decide appeals of orders, decisions, or determinations made by the building official relative to the application and interpretation of this Code, there shall be and is hereby created a board of appeals consisting of the Housing Advisory Commission pursuant to Section 19.44.020 of the Berkeley Municipal Code. The building official may convene and consult with an advisory panel of qualified individuals. This advisory panel is intended to help the building official in formulating and making staff recommendations to the Housing Advisory Commission. The advisory panel may provide written and/or oral presentations to the Housing Advisory Commission as needed.

113.3 Qualifications. The board of appeals shall consist of members meeting the qualifications required for the Housing Advisory Commission. The advisory panel shall consist of individuals found by the building official to be qualified by experience and training in the specific area of the appeal who are not employees of the jurisdiction.

SECTION 114 – VIOLATIONS

114.4 Violation penalties. Any person who violates a provision of this Code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this Code, shall be subject to penalties as prescribed by law. Violations of this Code are misdemeanors, but may be cited or charged, at the election of the enforcing officer, building official, or City Attorney, as infractions, subject to an election by the defendant under Penal Code Subsection 17(d). Nothing in this Section shall prevent any other remedy afforded by law.

SECTION 116 - UNSAFE STRUCTURES AND EQUIPMENT

116.1 Conditions. Structures or existing equipment that are or hereafter become structurally unsafe, insanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the building official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

All such unsafe buildings, equipment, structures or appendages are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in Chapters 1.24, 19.28, 19.40 and/or 19.44 of the BMC as applicable. As an alternative, the building official, or other employee or official of this jurisdiction as designated by the City Council, may institute any other appropriate action to prevent, restrain, correct or abate the violation.

116.6 Safety Assessment Placards.

116.6.1 Intent. This section establishes standard placards to be used to indicate the condition of a structure for occupancy after a natural or human-caused disaster and a rapid evaluation by authorized personnel. The building official or authorized representatives shall post the appropriate placard at each entry point to a building or structure upon completion of a safety assessment.

116.6.2 Application of provisions. The provisions of this section are applicable to all buildings and structures of all occupancies regulated by the City of Berkeley. The City Council may extend the provisions as necessary.

116.6.3 Definitions.

116.6.3.1 "Safety Assessment" is a visual, non-destructive examination of a building or structure for the purpose of determining the condition for continued occupancy.

116.6.3.2 Placards. Following are titles and descriptions of the official jurisdiction placards to be used to designate the condition of a building structure for continued occupancy, partial or conditional occupancy, or unsafe to enter. Copies of placards are on file in the Building and Safety Division of the Planning and Development Department.

INSPECTED – Lawful Occupancy Permitted is to be posted on any building or structure wherein no apparent hazard has been found. This placard is not intended to mean there is no damage to the building or structure, but that any damage that occurred does not present a hazard to occupants.

RESTRICTED USE is to be posted on each building or structure that has been damaged wherein the damage has resulted in some form of restriction to the continued occupancy. The individual who posts this placard will note in general terms the type of damage encountered and will clearly and concisely note the restrictions on continued occupancy.

UNSAFE – Do Not Enter or Occupy is to be posted on each building or structure that has been damaged such that continued occupancy poses a threat to life safety. Building or structures posted with this placard shall not be entered under any circumstances except as authorized in writing by the building official, or the building official's authorized representative. Safety assessment teams shall be authorized to enter these building at any time. This placard is not to be used or considered as a demolition order. The individual who posts this placard will note in general terms the type of damage encountered.

116.6.4 Content of placard. The BMC Section number and the words "City of Berkeley" shall be permanently affixed to each placard.

116.6.5 Unlawful to remove. Once a placard has been attached to a building or structure, it is not to be removed, altered or covered until done so by an authorized representative

of the Building Official. It shall be unlawful for any person, firm or corporation to alter, remove, cover or deface a placard unless authorized pursuant to this section.

Article 2. Restrictions in Fire Zones

19.28.030 CBC Chapter 7A Materials and Construction Methods for Exterior Wildlife Exposure.

Chapter 7A of the 2022 California Building Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below.

701A – SCOPE, PURPOSE AND APPLICATION

701A.1 Scope. This chapter applies to building materials, systems and/or assemblies used in the exterior design and construction of new buildings and structures, additions, alterations, repairs and re-roofs located within a Wildland-Urban Interface (WUI) area as defined in Section 702A.

701A.2 Purpose. The purpose of this chapter is to establish minimum standards for the protection of life and property by increasing the ability of a building located in any Fire Hazard Severity Zone within a State Responsibility Area (SRA) or Local Responsibility Areas (LRA) or any building or structure in the Wildland-Urban Interface (WUI) areas as specified in Section 701A.3.1 to resist the intrusion of flames or burning embers projected by a vegetation fire and contributes to a systematic reduction in conflagration losses.

701A.3 Application. New buildings located in any Fire Hazard Severity Zone or new buildings and structures, additions, alterations, repairs and re-roofs located in any Wildland-Urban Interface (WUI) area designated by the enforcing agency constructed after the application date shall comply with the provisions of this chapter. This shall include all new buildings and structures, additions, alterations, repairs and re-roofs with residential, commercial, educational, institutional or similar occupancy type uses, which shall be referred to in this chapter as “applicable building(s)” (see definition in Section 702A), as well as new buildings and structures, additions, alterations, repairs and re-roofs accessory to those applicable buildings (see Exceptions 1 and 4).

Exceptions:

1. Group U occupancy accessory buildings or structures, of any size located at least 50 feet (15 240 mm) from an applicable building on the same lot.
2. Group U occupancy agricultural buildings or structures, as defined in Section 202 of this code of any size located at least 50 feet (15 240 mm) from an applicable building.
3. Group C occupancy special buildings or structures conforming to the limitations specified in Section 450.4.1.
4. New accessory buildings and miscellaneous structures specified in Section 710A shall comply only with the requirements of that section.

5. ~~Additions to and remodels of buildings originally constructed prior to July 1, 2008.~~

701A.3.1 Application date and where required. New buildings for which an application for a building permit is submitted on or after July 1, 2008, located in any Fire Hazard Severity Zone or buildings and structures, additions, alterations, repairs and re-roofs for which an application for a building permit is submitted on or after July 1, 2008 located in the Wildland-Urban Interface area shall comply with all sections of this chapter.~~, including all the following areas:~~

1. ~~All unincorporated lands designated by the State Board of Forestry and Fire Protection as State Responsibility Area (SRA) including:~~

   1.1. ~~Moderate Fire Hazard Severity Zones.~~

   1.2. ~~High Fire Hazard Severity Zones.~~

   1.3. ~~Very-High Fire Hazard Severity Zones.~~

2. ~~Land designated as Very-High Fire Hazard Severity Zone by cities and other local agencies.~~

3. ~~Land designated as Wildland Interface area by cities and other local agencies.~~

   ~~Exceptions:~~

   1. ~~New buildings located in any Fire Hazard Severity Zone within State Responsibility Area, for which an application for a building permit is submitted on or after January 1, 2008, shall comply with all sections of this chapter.~~

   2. ~~New buildings located in any Fire Hazard Severity Zone within State Responsibility Areas or any Wildland Interface area designated by cities and other local agencies for which an application for a building permit is submitted on or after December 1, 2005 but prior to July 1, 2008, shall only comply with the following sections of this chapter:~~

      2.1. ~~Section 705A — Roofing.~~

      2.2. ~~Section 706A — Attic Ventilation.~~

702A – DEFINITIONS

APPLICABLE BUILDING. A building or structure that has residential, commercial, educational, institutional or similar occupancy type use.

FIRE ZONE ONE shall encompass the entire City of Berkeley except for Fire Zones Two and Three.

FIRE ZONE TWO encompasses those areas designated as Combined Hillside District in the Official Zoning map of the City of Berkeley and those areas designated as Very High in the official Fire Hazard Severity Zones (FHSZ) map of The Department of Forestry and Fire Protection (CAL FIRE), as they may be amended from time to time. The following properties, not part of the Combined Hillside District, are included in Fire Zone Two under the Very High designation of the FHSZ map: the eastern section of the University of California, Berkeley main campus, block number 2042 (Alameda County Assessor's parcel numbering (APN) system), to the east city line; all of the Clark-Kerr campus, block number 7690, to the east city line; all of block number 7680 in the City of Berkeley; portions of block number 1702 in the City of Berkeley. See Exhibit A for the specific parcels by APN and address.

FIRE ZONE 3 encompasses those areas designated as Environmental Safety – Residential Districts on the Official Zoning Map of the City of Berkeley, as it may be amended from time to time.

LOCAL RESPONSIBILITY AREA (LRA). Areas of the state in which the financial responsibility of preventing and suppressing fires is the primary responsibility of a city, county, city and county, or district. Fire Zones 2 and 3 are designated as Local Responsibility Area.

WILDLAND-URBAN INTERFACE (WUI). A geographical area identified by the state as a "Fire Hazard Severity Zone" in accordance with the Public Resources Code Sections 4201 through 4204 and Government Code Sections 51175 through 51189, or other areas designated by the enforcing agency to be at a significant risk from wildfires. Fire Zones 2 and 3 are designated as Wildland-Urban Interface (WUI) area.

705A – ROOFING

705A.1 General. Roofs shall comply with the requirements of Chapter 7A and Chapter 15. Roof assemblies in Fire Hazard Severity Zones shall be tested in accordance with ASTM E108 or UL 790 and meet a Class A fire classification. For additional compliance see Chapter 15, Section 1505.2 for Class A roof assemblies. The roof assembly shall be installed in accordance with its listing and the manufacturer's installation instructions. The entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any ~~1~~ 5-year period; the entire roof covering of every new structure; and any roof covering applied in the alteration, repair, or replacement of the roof of every existing structure shall be a fire-retardant roof covering that meets a Class A fire classification.

Wooden shakes and shingles are prohibited roof coverings regardless of the assembly rating of the roof system

705A.5 Spark Arrestors. All chimneys of fireplaces, stoves, barbecues or heating appliances using solid fuel shall be provided with an approved spark arrestor whenever modification has been made to any of these appliances, or whenever a structure is re-roofed. The net free area of the spark arrestor shall be not less than four times the net free area of the outlet of the chimney. The spark arrestor shall have heat and corrosion resistance equivalent to twelve-gauge wire, nineteen-gauge galvanized wire, or twenty-four-gauge stainless steel. Openings shall not permit the passage of spheres having a diameter larger than one-half inch and shall not block the passage of spheres having a diameter of less than three-eighths inch. The arrestor shall be securely attached to the chimney or stovepipe and shall be adequately supported. The use of bands, mollies, masonry anchors or mortar ties are recommended depending upon the individual need.

707A – EXTERIOR COVERING

707A.3.2 Replacement of Exterior Wall Covering. Materials for replacement of existing exterior wall covering shall meet or exceed the standards set forth in this Chapter.

> **Exception:** Where less than 50% of any wall surface is being replaced or repaired, and the matching of the new plane to the existing plane on that wall is not possible.

~~711A~~ 712A – UNDERGROUND UTILITY CONNECTIONS

~~711A.1~~ 712A.1 Underground utility connections. For new construction, provisions shall be made for the undergrounding of all utilities serving the property, including but not limited to electrical, telephone and cable television, by the installation of appropriately sized underground conduits extending from the street property.

~~712A~~ 713A – ADDITIONAL REQUIREMENTS IN FIRE ZONE THREE

~~712A.1~~ 713A.1 General. In addition to meeting the other requirements of this Chapter, buildings or structures hereinafter erected, constructed, moved, altered, added, or repaired within Fire Zone Three shall comply with the following requirements for buildings and structures.

~~712A.2~~ 713A.2 Fire warning system. All residential units shall be equipped with a Fire Warning System as specified by the residential smoke detector requirements of the current edition of the California Building Code and with an audible exterior alarm. The exterior alarm must meet the requirements of NFPA 72 or equivalent and generate 45 decibels ten feet from the alarm, or more.

~~712A.3~~ 713A.3 Automatic fire sprinkler systems. Automatic fire sprinkler system requirements shall be as set forth in Berkeley Fire Code Section 903.2.24.

~~712A.4~~ **713A.4 Utilities.** Utilities, pipes, furnaces, water heaters or other mechanical devices located in an exposed underfloor area of a building or structure shall be enclosed with material as required for exterior one hour fire resistive construction. Adequate covered access openings for servicing and ventilation of such facilities shall be provided as required by appropriate codes.

~~712A.5~~ **713A.5 Control of brush or vegetation.** Brush and vegetation shall be controlled as required in the Berkeley Fire Code.

~~712A.6~~ **713A.6 Special Conditions.** The following additional conditions must be met:

1. Public access roads and fire trails. No person(s) shall use any public access road or fire trail for the storage of any construction material, stationary construction equipment, construction office, portable refuse container, or earth from any grading or excavating.
2. Water Service. The water service to the site shall be installed with a ¾" hose bib connection prior to beginning any wood framing. The person responsible for the construction shall have at the site a 75 ft ¾" hose available.

Exhibit A
Parcels in Addition to the Combined Hillside District

The following additional parcels by Assessor's Parcel Number and address are included in Fire Zone Two:

Parcel Number (APN)	Address
048-7680-001-02	3 Tanglewood Road
048-7680-002-01	5 Tanglewood Road
048-7680-031-00	7 Tanglewood Road
048-7680-019-00	11 Tanglewood Road
048-7680-014-00	19 Tanglewood Road
048-7680-032-01	25 Tanglewood Road
048-7680-027-00	29 Tanglewood Road
054-1702-067-00	10 Tanglewood Road
054-1702-068-00	18 Tanglewood Road
054-1702-069-00	22 Tanglewood Road
054-1702-070-00	28 Tanglewood Road
054-1702-063-00	2701 Belrose Avenue
054-1702-076-00	2715 Belrose Avenue
054-1702-075-00	2721 Belrose Avenue
054-1702-074-00	2729 Belrose Avenue
054-1702-073-00	2737 Belrose Avenue
054-1702-112-00	2801 Claremont Boulevard
054-1702-123-01	2811 Claremont Boulevard
054-1702-122-00	2815 Claremont Boulevard
054-1702-120-01	2821 Claremont Boulevard

054-1702-114-01	2816 Claremont Avenue
054-1702-115-00	2820 Claremont Avenue
054-1702-072-00	3005 Garber Street
054-1702-071-00	3015 Garber Street
054-1702-113-00	3020 Garber Street
054-1702-116-00	3017 Avalon Avenue

Article 3. Wood Burning Appliances

19.28.040 Wood Burning Appliances.

Chapter 31 of the 2022 California Building Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below.

3116 Wood Burning Appliances.

A. The purpose of this section is to reduce the health risks caused by wood smoke under the climatic conditions applicable to Berkeley.

B. For purposes of this section the following terms shall be defined as set forth below.

1. “EPA” means the United States Environmental Protection Agency.

2. “EPA Certified” means any wood heater that is labeled “EPA Certified” in accordance with the standards in Title 40, Part 60, Subpart AAA, of the Code of Federal Regulations or equivalent, in effect at the time the wood heater is installed.

3. “Pellet heater” means wood heaters that burn pellet fuel exclusively and are either EPA-certified or exempted under EPA requirements set forth in Part 60 Title 40, Subpart AAA, of the Code of Federal Regulations, February 26, 1988.

4. “Wood-burning” means an appliance that burns wood or any wood-based solid fuel, including but not limited to wood pellets.

5. “Wood burning cooking device” means any wood-burning device that is designed or primarily used for cooking.

6. “Wood-burning fireplace” means any permanently-installed masonry or factory-built wood-burning appliance, either open or with doors in front of the combustion chamber, which is neither a wood heater as defined in 40 CFR 60.531 nor designed and used for cooking.

C. No wood-burning fireplace or wood heater as defined in 40 CFR 60.531, that is not EPA certified or exempted by under EPA requirements may be installed in any occupancy.

Exception: Existing masonry fireplaces may be repaired in accordance with the applicable codes in effect at the time of the proposed repair or reconstruction. For purposes of this exception, the term repair includes resurfacing the combustion chamber, but does not include replacing any other part of the combustion chamber.

D. Wood burning cooking devices are not prohibited by this section.

E. Any person planning to install a wood-burning fireplace or heating stove must submit verifiable documentation to the City showing that the appliance conforms to the requirements of this section.

Article 4. Projection into Public Right of Way

19.28.050 Encroachments into the Public Right of Way – Revocation, Removal, Indemnification and Hold Harmless.

Chapter 32 of the 2022 California Building Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below.

3202 – ENCROACHMENTS

3202.5 Projection into the Public Right of Way – Revocation, Removal, Indemnification and Hold Harmless.

Any permits granted pursuant to this Code which allow any projection upon, over, or under the public right of way may be revoked by the City at any time. Upon such revocation, the permittee or permittee's successor(s) or assignee(s) shall forthwith remove such projection at permittee's cost and expense and without any cost or expense whatsoever to the City.

Any person who is granted a permit pursuant to the provisions of this Code which allows a projection upon, over or under the public right of way shall by the issuance of such permit thereby indemnify and hold harmless the City of Berkeley, its officers and employees of and from any and all liabilities, claims, demands, actions or causes of action for injury or injuries to any person or persons or death or deaths of any person or persons or damage to property arising out of or occasioned in any way by the issuance of said permit, the work performed pursuant to such permit, or the existence of such projection. The obligation of such indemnification and hold harmless provision shall be applicable to the successor(s) and assignee(s) of the permittee.

Article 5. Existing Buildings

19.28.060 Adoption of 2022 California Existing Building Code with Mid-Cycle Supplement and certain Chapters of the 2021 International Existing Building Code by reference.

2022 California Existing Building Code with Mid-Cycle Supplement (CEBC), including Appendix A, is adopted in its entirety subject to the modifications thereto which are set forth below.

DIVISION II SCOPE AND ADMINISTRATION
All of the administrative provisions contained in Article 1 of Chapter 19.28, the Berkeley Building Code, shall apply to this Code as well and take precedence over any CEBC administrative provisions that may conflict.

101.9 Adoption of Certain Chapters of the 2021 International Existing Building Code by reference.

When seismic retrofit is not otherwise required by this Code, the following Chapters of the 2021 International Existing Building Code (IEBC) published by the International Code Council contained in the IEBC Appendix A are hereby adopted by reference as applicable to the types of buildings as designated therein as though fully set forth herein:

Chapter A2, Earthquake Hazard Reduction in Existing Reinforced Concrete and Reinforced Masonry Wall Buildings with Flexible Diaphragms

Article 6. Repairs to Existing Buildings and Structures

19.28.070 Adoption of Regulations for the Repairs of Existing Structures.

Add a new Subsection 405.2.7 to Chapter 4 Section 405 of the California Existing Building Code with Mid-Cycle Supplement.

405.2.7 Seismic Evaluation and Design Procedures for Repairs. The seismic evaluation and design shall be based on the procedures specified in the California Building Code or ASCE 41 *Seismic Evaluation and Retrofit of Existing Buildings*. The procedures contained in Appendix A Chapters A1, A3 and A4 of the California Existing Building Code and Appendix A Chapter A2 of the International Existing Building Code shall be permitted to be used as specified in Section 405.2.7.2.

405.2.7.1 Compliance with CBC level seismic forces. Where compliance requires the use of full seismic forces, the criteria shall be in accordance with one of the following:

1. One-hundred percent of the values in the California Building Code. Where the existing seismic force-resisting system is a type that can be designated as “Ordinary,” the values of R, Ω_o, and C_d used for analysis in accordance with Chapter 16 of the California Building Code shall be those specified for structural systems classified as “Ordinary” in accordance with Table 12.2-1 of ASCE 7, unless it is demonstrated that the structural

system will provide performance equivalent to that of a “Detailed,” “Intermediate” or “Special” system.

2. ASCE 41, using a Tier 3 procedure and the two-level performance objective in Table 405.2.7.1.

Table 405.2.7.1
PERFORMANCE OBJECTIVES FOR USE IN ASCE 41 FOR COMPLIANCE WITH FULL SEISMIC FORCES

RISK CATEGORY (Based on CBC Table 1604.5)	STRUCTURAL PERFORMANCE LEVEL FOR USE WITH BSE-1N EARTHQUAKE HAZARD LEVEL	STRUCTURAL PERFORMANCE LEVEL FOR USE WITH BSE-2N EARTHQUAKE HAZARD LEVEL
I	Life Safety (S-3)	Collapse Prevention (CP)
II	Life Safety (S-3)	Collapse Prevention (CP)
III	Damage Control (S-2)	Limited Safety (S-4)
IV	Immediate Occupancy (S-1)	Life Safety (S-3)

405.2.7.2 Compliance with reduced CBC level seismic forces. Where seismic evaluation and design is permitted to meet reduced seismic forces, the criteria used shall be in accordance with one of the following:

1. The California Building Code using 75 percent of the prescribed forces. Values of R, Ω_o, and C_d used for analysis shall be as specified in Section 405.2.7.1 Item 1.

2. Structures or portions of structures that comply with the requirements of the applicable chapter in Appendix A of the California Existing Building Code (CEBC) or Appendix A of the International Existing Building Code (IEBC) as specified in Items 2.1 through 2.4 below shall be deemed to comply with this section.

2.1. The seismic evaluation and design of unreinforced masonry bearing wall buildings in Risk Category I or II are permitted to be based on the procedures specified in CEBC Appendix A Chapter A1, provided the design is no less stringent than required in Berkeley Municipal Code Section 19.38.130.

2.2. Seismic evaluation and design of the wall anchorage system in reinforced concrete and reinforced masonry wall buildings with flexible diaphragms in Risk Category I or II are permitted to be based on the procedures specified in IEBC Appendix A Chapter A2.

2.3. Seismic evaluation and design of cripple walls and sill plate anchorage in residential buildings of light-frame wood construction in Risk Category I or II are permitted to be based on the procedures specified in CEBC Appendix A Chapter A3.

2.4. Seismic evaluation and design of soft, weak, or open-front wall conditions in multiunit residential buildings of wood construction in Risk Category I or II are permitted to be based on the procedures specified in CEBC Appendix A Chapter A4.

3. ASCE 41, using the performance objective in Table 405.2.7.2 for the applicable risk category. The design spectral response acceleration parameters S_{xs} and S_{x1} specified in ASCE 41 shall not be taken less than 75 percent of the respective design spectral response acceleration parameters S_{DS} and S_{D1} defined by the *California Building Code* and its reference standards.

Table 405.2.7.2
PERFORMANCE OBJECTIVES FOR USE IN ASCE 41 FOR COMPLIANCE WITH REDUCED SEISMIC FORCES

RISK CATEGORY (Based on CBC Table 1604.5)	STRUCTURAL PERFORMANCE LEVEL FOR USE WITHBSE-1E EARTHQUAKE HAZARD LEVEL	STRUCTURAL PERFORMANCE LEVEL FOR USE WITH BSE-2E EARTHQUAKE HAZARD LEVEL
I	Life Safety (S-3). See Note a	Collapse Prevention (S-5)
II	Life Safety (S-3). See Note a	Collapse Prevention (S-5)
III	Damage Control (S-2). See Note a	Limited Safety (S-4). See Note b
IV	Immediate Occupancy (S-1)	Life Safety (S-3). See Note c

a. For Risk Categories I, II, and III, the Tier 1 and Tier 2 procedures need not be considered for the BSE-1E earthquake hazard level.
b. For Risk Category III, the Tier 1 screening checklists shall be based on the Collapse Prevention, except that checklist statements using the Quick Check provisions shall be based on MS-factors that are the average of the values for Collapse Prevention and Life Safety.
c. For Risk Category IV, the Tier 1 screening checklists shall be based on Collapse Prevention, except that checklist statements using the Quick Check provisions shall be based on MS-factors for Life Safety.

Table 405.2.7.3
REFERENCED STANDARDS

Standard Reference Number	Title	Referenced in Code Section Number

ASCE 41-17	Seismic Evaluation and Retrofit of Existing Buildings	405.2.7 Table 405.2.7.1 405.2.7.2 Table 405.2.7.2

Article 7. Technical Amendments to Structural Standards

19.28.080 Various Technical Amendments to Structural Standards.

Chapter 17 of the 2022 California Building Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below.

1705.3 Concrete construction. Special inspections and tests of concrete construction shall be performed in accordance with this section and Table 1705.3.

> **Exception:** Special inspections and tests shall not be required for: 1. Isolated spread concrete footings of buildings three stories or less above grade plane that are fully supported on earth or rock, where the structural design of the footing is based on a specified compressive strength, f'_c, no greater than 2,500 pounds per square inch (psi) (17.2 MPa).

Chapter 19 of the 2022 California Building Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below.

1905.1.7 ACI 318, Section 14.1.4. Delete ACI 318, Section 14.1.4, and replace with the following:

14.1.4 - Plain concrete in structures assigned to Seismic Design Category C, D, E or F.

14.1.4.1 - Structures assigned to Seismic Design Category C, D, E or F shall not have elements of structural plain concrete, except as follows:

- ~~Structural plain concrete basement, foundation or other walls below the base are permitted in detached one and two-family dwellings three stories or less in height constructed with stud bearing walls. In dwellings assigned to seismic design category D or E, the height of the wall shall not exceed 8 feet (2438 mm), the thickness shall not be less than $7^1/_2$ inches (190 mm), and the wall shall retain no more than 4 feet (1219 mm) of unbalanced fill. Walls shall have reinforcement in accordance with 14.6.1.~~

- Isolated footings of plain concrete supporting pedestals or columns are permitted, provided the projection of the footing beyond the face of the supported member does not exceed the footing thickness.

  ~~**Exception:** In detached one- and two-family dwelling three stories or less in height, the projection of the footing beyond the face of the supported member is permitted to exceed the footing thickness.~~

- (Plain concrete footings supporting walls are permitted, provided the footings have at least two continuous longitudinal reinforcing bars. Bars shall not be smaller than No. 4 and shall have a total area of not less than 0.002 times the gross cross-sectional area of the footing. ~~For footings that exceed 8" inches (203 mm) in thickness,~~ A minimum of one bar shall be provided at the top and bottom of the footing. Continuity of reinforcement shall be provided at corners and intersections.

  ~~**Exceptions:**~~

  1. ~~In seismic design categories A, B and C, detached one- and two-family dwellings three stories or less in height and constructed with stud bearing walls, are permitted to have plain concrete footings without longitudinal reinforcement.~~
  2. ~~For foundation systems consisting of a plain concrete footing and a plain concrete stem wall, a minimum of one bar shall be provided at the top of the stem wall and at the bottom of the footing.~~
  3. ~~Where a slab on ground is cast monolithically with the footing, one No. 5 bar is permitted to be located at either the top of the slab or bottom of the footing.~~

Article 8. Construction of Exterior Appurtenances

19.28.090 Technical Amendments for Construction of Exterior Projecting Elements and Appurtenances.

Chapter 12 of the 2022 California Building Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below:

1202.7 Ventilation of weather exposed enclosed assemblies. Balconies, landings, decks, stairs and similar exterior projecting elements and appurtenances exposed to the weather and sealed underneath shall have cross ventilation for each separate enclosed space by ventilation openings protected against the entrance of rain and snow and as set forth in Section 2304.12.2.5. Blocking and bridging shall be arranged so as not to interfere with the movement of air. The net free ventilating area shall not be less than 1/150th of the area of the space ventilated. Ventilation openings shall comply with Section 1202.2.2. An access panel of sufficient size shall be provided on the underside of the enclosed space to allow for periodic inspection.

Exceptions:

1. An access panel is not required where the exterior coverings applied to the underside of joists are easily removable using only common tools.

2. Removable soffit vents 4 inches minimum in width can be used to satisfy both ventilation and access panel requirements.

Chapter 14 of the 2022 California Building Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below:

1403.15 Projections exposed to weather. Balconies, landings, decks, stairs and similar floor projections exposed to the weather shall be constructed of naturally durable wood, preservative-treated wood, corrosion resistant (e.g., galvanized) steel, or similar approved materials.

Chapter 23 of the 2022 California Building Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below:

2304.12.2.3 Supporting members for permanent appurtenances. Naturally durable or preservative-treated wood shall be utilized for those portions of wood members that form the structural supports of buildings, balconies, porches or similar permanent building appurtenances ~~where such members are exposed to the weather without adequate protection from a roof, eave, overhang or other covering to prevent moisture or water accumulation on the surface or at joints between members~~.

2304.12.2.4 Supporting members for permeable floors and roofs. Wood structural members that support moisture-permeable floors or roofs that are exposed to the weather, such as concrete or masonry slabs, shall be of naturally durable or preservative-treated wood ~~unless~~ and shall be separated from such floors or roofs by an impervious moisture barrier. The impervious moisture barrier system protecting the structure supporting floors shall provide positive drainage of water that infiltrates the moisture-permeable floor topping.

Table 2308.6.1 WALL BRACING REQUIREMENTS[a, f, g]
Add new footnotes “f” and “g” to the end of Table 2308.6.1 to read:

> f. Methods GB, PBS, HPS and SFB are not permitted in Seismic Design Categories D or E. In Seismic Design Categories D, the use of Method PCP is limited to one-story dwellings and accessory structures.
> g. Methods DWB and PCP are not permitted in Seismic Design Categories E.

Article 9. Emergency Housing

19.28.100 Emergency Housing and Emergency Housing Facilities.

HCD Appendix P of the 2022 California Building Code with Mid-Cycle Supplement is adopted on an emergency basis and reproduced in its entirety subject to the modifications thereto which are set forth below:

APPENDIX P
EMERGENCY HOUSING

SECTION P101

GENERAL

P101.1 Scope. This appendix shall be applicable to emergency housing and emergency housing facilities, as defined in Section P102. The provisions and standards set forth in this appendix shall be applicable to emergency housing established pursuant to the declaration of a shelter crisis under Government Code section 8698 et seq. and located in new or existing buildings, structures, or facilities owned, operated, erected, or constructed by, for or on behalf of the City of Berkeley on land owned or leased by the City of Berkeley.

P101.2 Application. Notwithstanding any provisions of this Code to the contrary, the following requirements shall apply to emergency housing operated during a shelter crisis, as provided for in Government Code Section 8698 et seq. Other than the specific requirements set forth in this appendix, the facilities need not comply with the requirements of this Code for Group R occupancies unless otherwise specified in this Code.

SECTION P102

DEFINITIONS

P102.1 General. The following words and terms shall, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 of this code for general definitions.

DECLARATION OF SHELTER CRISIS. The duly proclaimed existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety. (See Government Code Section 8698)

DEPENDENT UNIT. Emergency housing not equipped with a kitchen area, toilet, and sewage disposal system. Recreational vehicles that are not self-contained and without utility service connections shall be considered dependent units.

EMERGENCY HOUSING. Housing in a permanent or temporary structure(s), occupied during a declaration of state of emergency, local emergency, or shelter crisis. Emergency housing may include, but is not limited to, buildings and structures constructed in accordance with the California Building Standards Code; and emergency sleeping cabins, emergency transportable housing units, and tents constructed in accordance with this appendix.

EMERGENCY HOUSING FACILITIES. On-site common use facilities supporting emergency housing. Emergency housing facilities include, but are not limited to, kitchen areas, toilets, showers and bathrooms with running water. The use of emergency housing facilities is limited exclusively to the occupants of the emergency housing, personnel involved in operating the housing, and other emergency personnel.

EMERGENCY HOUSING SITE. A site containing emergency housing and emergency housing facilities supporting the emergency housing.

EMERGENCY SLEEPING CABIN. Relocatable hard-sided structure constructed in accordance with this appendix, which may be occupied only for emergency housing if allowed by the enforcing agency.

EMERGENCY TRANSPORTABLE HOUSING UNIT. A single- or multiple-section prefabricated structure that is transportable by a vehicle and that can be installed on a permanent or temporary site in response to a need for emergency housing. Emergency transportable housing units include, but are not limited to, manufactured homes, mobilehomes, multifamily manufactured homes, recreational vehicles, and park trailers. For the purposes of this appendix, emergency transportable housing units may also include commercial modulars as defined in the Health and Safety Code Section 18001.8, if approved by the enforcing agency.
Emergency transportable housing units do not include factory-built housing as defined in the Health and Safety Code Section 19971.

LANDING PLATFORM. A landing provided as the top step of a stairway accessing a loft.

LOCAL EMERGENCY. Local Emergency as defined in the Government Code, Section 8558.

LOFT. A floor level located more than 30 inches (762 mm) above the main floor and open to it on at least one side with a ceiling height of less than 6 feet 8 inches (2032 mm), used as a living or sleeping space.

MANUFACTURED HOME. A structure designed to be used as a single-family dwelling, as defined in the Health and Safety Code, Section 18007.

MEMBRANE STRUCTURE. An air-inflated, air-supported, cable or frame-covered structure, not otherwise defined as a tent. (See Chapter 31 of this code.)

MOBILEHOME. A structure designed to be used as a single-family dwelling, as defined in the Health and Safety Code, Section 18008.

MULTIFAMILY MANUFACTURED HOME. A structure designed to contain not less than two dwelling units, as defined in the Health and Safety Code, Section 18008.7.

PARK TRAILER. A trailer designed for human habitation that meets all requirements in the Health and Safety Code, Section 18009.3.

RECREATIONAL VEHICLE. A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation, that meets all requirements in the Health and Safety Code, Section 18010.

STATE OF EMERGENCY. State of Emergency as defined in the Government Code, Section 8558.

TENT. A structure, enclosure or shelter, with or without sidewalls or drops, constructed of fabric or pliable material supported by any manner except by air or the contents that it protects.

SECTION P103

EMERGENCY HOUSING

P103.1 General. Emergency sleeping cabins, emergency transportable housing units including commercial modulars, membrane structures and tents constructed and/or assembled in accordance with this appendix, shall be occupied only during declaration of state of emergency, local emergency, or shelter crisis.

Buildings and structures constructed in accordance with the California Building Standards Code, used as emergency housing, shall be permitted to be permanently occupied.

P103.2 Existing buildings. Existing residential and nonresidential buildings or structures shall be permitted to be used as emergency housing and emergency housing facilities provided such buildings or structures comply with the building code provisions and/or other regulations in effect at the time of original construction and/or alteration. Existing buildings or structures used as emergency housing shall not become or continue to be substandard buildings, as determined by the enforcing agency**.**

P103.2.1 New additions, alterations, and change of occupancy. New additions, alterations, and change of occupancy to existing buildings shall comply with the requirements of the California Building Standards Code effective at the time of addition, alteration, or change of occupancy. The requirements shall apply only to and/or within the specific area of the addition, alteration, or change of occupancy.

Exceptions:

1. Existing buildings and structures used for emergency housing and emergency housing facilities may not be required to comply with the California Energy Code, as determined by the enforcing agency.
2. Change in occupancy shall not mandate conformance with new construction requirements set forth in the California Building Standards Code, provided such change in occupancy meets the minimum fire and life safety requirements set forth in Section P112 of this appendix.

P103.3 Occupant load. Except as otherwise stated in this appendix, the maximum occupant load allowed in buildings and structures used as emergency housing shall be determined by the enforcing agency, but the interior floor area shall not be less than 70 square feet (6.5 m^2) for one occupant. Where more than one person occupies the building/structure, the required floor area shall be increased at the rate of 50 square feet (4.65 m^2) for each occupant in excess of one.

Exceptions:

1. Tents.

2. Recreational vehicles and park trailers designed for human habitation that meet the requirements in the Health and Safety Code, Sections 18009.3 and 18010, as applicable
3. For emergency housing, including emergency sleeping cabins, the minimum interior floor area may be reduced to 53 square feet (4.9 m^2) if the enforcing agency determines that 53 square feet (4.9 m^2) is adequate space for a single-occupancy sleeping unit.

P103.4 Fire and life safety requirements not addressed in this appendix. If not otherwise addressed in this appendix, fire and life safety measures, including, but not limited to, means of egress, fire separation, fire sprinklers, smoke alarms, and carbon monoxide alarms, shall be determined and enforced by the enforcing agency.

P103.5 Privacy. Emergency housing shall be provided with a privacy lock on each entrance door and all windows for use by the occupants.

P103.6 Heating. All sleeping areas shall be provided with adequate heating as determined by the enforcing agency.

SECTION P104

EMERGENCY SLEEPING CABINS

P104.1 General. Emergency sleeping cabins shall have an interior floor area of not less than 70 square feet (6.5 m^2) for one occupant. Where more than one person occupies the cabin, the required floor area shall be increased at the rate of 50 square feet (4.65 m^2) for each occupant in excess of one. The interior floor area shall not exceed 400 square feet (37 m^2), excluding lofts.

P104.2 Live loads. Emergency sleeping cabins shall be designed to resist intrusion of wind, rain, and to support the following live loads:

1. Floor live loads not less than 40 pounds per square foot (1.92 kPa) of floor area.
2. Horizontal live loads not less than 15 pounds per square foot (718 Pa) of vertical wall and roof area.
3. Roof live loads not less than 20 pounds per square foot (958 Pa) of horizontal roof area.
4. In areas where snow loads are greater than 20 pounds per square foot (958 Pa), the roof shall be designed and constructed to resist these additional loads.

P104.3 Minimum ceiling height. Habitable space and hallways in emergency sleeping cabins shall have a ceiling height of not less than 80 inches (2032 mm). Bathrooms, toilet rooms, and kitchens, if provided, shall have a ceiling height of not less than 76 inches (1930 mm). Obstructions shall not extend below these minimum ceiling heights including beams, girders, ducts, lighting and other obstructions.

Exception: Ceiling heights in lofts constructed in accordance with Section P108 are permitted to be less than 80 inches (2032 mm).

P104.4 Means of egress. Emergency sleeping cabins shall be provided with at least two forms of egress placed remotely from each other. One form of egress may be an egress window complying with Section P104.4.1. When a loft is provided, one form of egress shall be an egress window complying with Section P104.4.1, provided in the loft space.

P104.4.1 Egress window. The bottom of the clear opening of the egress window shall not be more than 44 inches (1118 mm) above the floor. The egress window shall have a minimum net clear opening height of 24 inches (610 mm), and a minimum net clear opening width of 20 inches (508 mm). The egress window shall have a minimum net clear opening area of 5 square feet (0.465 m^2).

P104.5 Plumbing and gas service. If an emergency sleeping cabin contains plumbing or gas service, it shall comply with all applicable requirements of the California Plumbing Code and the California Mechanical Code.

P104.6 Electrical. Emergency sleeping cabins shall be provided with all of the following installed in compliance with the California Electrical Code:

1. Continuous source of electricity.

   Exception: The source of electricity may be an emergency generator or renewable source of power such as solar or wind power.

2. At least one interior lighting fixture.
3. Electrical heating equipment listed for residential use and a dedicated receptacle outlet for the electrical heating equipment.

   Exception: Electrical heating equipment and a dedicated receptacle outlet for the electrical heating equipment are not required if a nonelectrical source of heating is provided.

4. At least one GFCI-protected receptacle outlet for use by the occupant(s).

P104.7 Ventilation. Emergency sleeping cabins shall be provided with means of ventilation (natural and/or mechanical) allowing for adequate air replacement, as determined by the enforcing agency**.**

P104.8 Smoke alarms. Emergency sleeping cabins shall be provided with at least one smoke alarm installed in accordance with the California Residential Code, Section R314.

P104.9 Carbon monoxide alarms. If an emergency sleeping cabin contains a fuel-burning appliance(s) or a fireplace(s), a carbon monoxide alarm shall be installed in accordance with the California Residential Code, Section R315

SECTION P105

EMERGENCY TRANSPORTABLE HOUSING UNITS

P105.1 General. In addition to the requirements in this appendix, manufactured homes, mobilehomes, multifamily manufactured homes, commercial modulars, recreational vehicles, and park trailers used as emergency transportable housing shall comply with all applicable requirements in the Health and Safety Code, Division 13, Part 2; and Title 25, Division 1, Chapter 3, Subchapter 2.

No provisions of Sections P111 through P114 of this appendix shall be deemed to grant authorization for any additional work that may conflict with the standards specified in Section P105 applicable for emergency transportable housing units.

SECTION P106

TENTS AND MEMBRANE STRUCTURES

P106.1 General. Tents shall not be used to house occupants for more than 7 days unless such tents are maintained with tight wooden floors raised at least 4 inches (101.6 mm) above the ground level and are equipped with baseboards on all sides to a height of at least 6 inches (152.4 mm). Tents may be maintained with concrete slabs with the finished surface at least 4 inches (101.6 mm) above grade and equipped with curbs on all sides at least 6 inches (152.4 mm) high.

A tent shall not be considered a suitable sleeping place when it is found necessary to provide heating facilities in order to maintain a minimum temperature of 50 degrees Fahrenheit (10 degrees Celsius) within such tent during the period of occupancy.

Membrane structures installed and/or assembled in accordance with Chapter 31 of this code, may be permitted to be used as emergency housing and emergency housing facilities, as determined by the enforcing agency.

Tents and membrane structures shall comply with Chapter 31 of the California Fire Code and shall not be erected for a period of more than 180 days within a 12 month period. Tents and membrane structures shall be limited to one level located at the level of Fire Department vehicle access road or lane. Tents and membrane structures complying with Chapter 31 of the California Fire Code shall not be subject to additional provisions of Sections P111 and P112 of this appendix.

Tents and membrane structures used for sleeping purposes shall be equipped with single station battery powered smoke alarms installed in accordance with Section 907.2.11 of the California Fire Code.

SECTION P107

ACCESSIBILITY

P107.1 General. Emergency housing shall comply with the applicable requirements in Chapter 11B and/or the US Access Board Final Guidelines for Emergency Transportable Housing.

Note: The Architectural and Transportation Barriers Compliance Board (US Access Board) issued the Final Guidelines for Emergency Transportable Housing on May 7, 2014. The final guidelines amended the 2004 ADA Accessibility Guidelines (2004 ADAAG) and the 2004 Architectural Barriers Act (ABA) Accessibility Guidelines (2004 ABAAG) to specifically address emergency transportable housing units provided to disaster survivors by entities subject to the ADA or ABA. The final rule ensures that the emergency transportable housing units are readily accessible to and usable by disaster survivors with disabilities.

SECTION P108

LOFTS IN EMERGENCY HOUSING

P108.1 Minimum loft area and dimensions. Lofts used as a sleeping or living space shall meet the minimum area and dimension requirements of Sections P108.1.1 through P108.1.3.

P108.1.1 Minimum area. Lofts shall have a floor area of not less than 35 square feet (3.25 m^2).

P108.1.2 Minimum dimensions. Lofts shall be not less than 5 feet (1524 mm) in any horizontal dimension.

P108.1.3 Height effect on loft area. Portions of a loft with a sloping ceiling measuring less than 3 feet (914 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.

Exception: Under gable roofs with a minimum slope of 6:12, portions of a loft with a sloping ceiling measuring less than 16 inches (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.

P108.2 Loft access. The access to and primary egress from lofts shall be any type described in Sections P108.2.1 through P108.2.4.

P108.2.1 Stairways. Stairways accessing lofts shall comply with the California Residential Code or with Sections P108.2.1.1 through P108.2.1.6.

P108.2.1.1 Width. Stairways accessing a loft shall not be less than 17 inches (432 mm) in clear width at or above the handrail. The minimum width below the handrail shall be not less than 20 inches (508 mm).

P108.2.1.2 Headroom. The headroom in stairways accessing a loft shall be not less than 74 inches (1880 mm), as measured vertically, from a sloped line connecting the tread or landing platform nosings in the middle of their width.

P108.2.1.3 Treads and risers. Risers for stairs accessing a loft shall be not less than 7 inches (178 mm) and not more than 12 inches (305 mm) in height. Tread depth and riser height shall be calculated in accordance with one of the following formulas:

1. The tread depth shall be 20 inches (508 mm) minus 4/3 of the riser height, or
2. The riser height shall be 15 inches (381 mm) minus 3/4 of the tread depth.

P108.2.1.4 Landing platforms. The top step of stairways accessing lofts shall be constructed as a landing platform where the loft ceiling height is less than 74 inches (1880 mm). The landing platform shall be 18 inches (457 mm) to 22 inches (559 mm) in depth measured from the nosing of the landing platform to the edge of the loft, and 16 inches (406 mm) to 18 inches (457 mm) in height measured from the landing platform to the loft floor.

P108.2.1.5 Handrails. Handrails shall comply with the California Residential Code, Section R311.7.8.

P108.2.1.6 Stairway guards. Guards at open sides of stairways shall comply with the California Residential Code, Section R312.1.

P108.2.2 Ladders. Ladders accessing lofts shall comply with Sections P108.2.2.1 and P108.2.2.2.

P108.2.2.1 Size and capacity. Ladders accessing lofts shall have a rung width of not less than 12 inches (305 mm), and 10 inches (254 mm) to 14 inches (356 mm) spacing between rungs. Ladders shall be capable of supporting a 200 pound (90.7 kg) load on any rung. Rung spacing shall be uniform within 3/8-inch (9.5 mm).

P108.2.2.2 Incline. Ladders shall be installed at 70 to 80 degrees from horizontal.

P108.2.3 Alternating tread devices. Alternating tread devices are acceptable as allowed by the enforcing agency.

P108.2.4 Loft guards. Loft guards shall be located along the open side of lofts. Loft guards shall not be less than 36 inches (914 mm) in height or one-half of the clear height to the ceiling, whichever is less. Loft guards shall not have openings from the walking surface to the required guard height that allow passage of a sphere 4 inches (102mm) in diameter.

SECTION P109

LOCATION, MAINTENANCE AND IDENTIFICATION

P109.1 Maintenance. Emergency housing and emergency housing facilities shall be maintained in a safe and sanitary condition, and free from vermin, vectors and other matter of an infectious or contagious nature. The grounds within emergency housing sites shall be kept clean and free from accumulation of debris, filth, garbage and deleterious matter. Emergency housing and emergency housing facilities shall not be occupied if a substandard condition exists, as determined by the enforcing agency.

P109.1.1 Fire hazards. Dangerous materials or materials that create a fire hazard, as determined by the enforcing agency, shall not be allowed on the grounds within emergency housing sites.

P109.3 Identification. Emergency housing shall be designated by address numbers, letters, or other suitable means of identification. The identification shall be in a conspicuous location facing the street or driveway fronting the building or structure. Each identification character shall be not less than 4 inches (102 mm) in height and not less than 0.5 inch (12.7 mm) in width, installed/painted on a contrasting background.

SECTION P110

EMERGENCY HOUSING FACILITIES SANITATION REQUIREMENTS

P110.1 Drinking water. Potable drinking water shall be provided for all occupants of emergency housing.

P110.2 Kitchens and food facilities. Where provided, kitchens and food facilities, as defined in Section 113789 of the California Health and Safety Code, which support emergency housing sites, shall comply with applicable food safety provisions of Sections 113980 – 114094.5 of the California Health and Safety Code.

Where occupants of dependent units are permitted or required to cook for themselves, a separate area shall be equipped and maintained as a common use kitchen. Refrigerated storage shall be provided for safe storage of food.

P110.3 Toilet and bathing facilities. When dependent units are used as emergency housing, the emergency housing site shall be provided with one toilet and one bathing facility for every 15 occupants of each gender. The enforcing agency may permit different types and ratios of toilet and bathing facilities. The approval shall be based upon a finding that the type and ratio of toilet and bathing facilities are sufficient to process the anticipated volume of sewage and waste water, while maintaining sanitary conditions for the occupants of the emergency housing.

Bathing facilities shall be provided with heating equipment which shall be capable of maintaining a temperature of 70 degrees F (21.0 degrees Celsius) within such facilities.

Lavatories with running water shall be installed and maintained in the toilet facilities or adjacent to the toilet facilities.

P110.4 Garbage, waste and rubbish disposal. All garbage, kitchen waste and rubbish shall be deposited in approved covered receptacles, which shall be emptied when filled and the contents shall be disposed of in a sanitary manner acceptable to the enforcing agency.

SECTION P111

EMERGENCY HOUSING LIGHTING AND VENTILATION REQUIREMENTS

P111.1 Lighting. Buildings or structures used for emergency housing shall be provided with natural light by means of exterior glazed openings in accordance with Section 1204.2 of the California Building Code, or shall be provided with artificial light in accordance with Section 1204.3 of the California Building Code.

P111.2 Ventilation. Buildings or structures used for emergency housing shall be provided with natural ventilation in accordance with Section 1202.5 of the California Building Code, or mechanical ventilation in accordance with the California Mechanical Code.

SECTION P112

EMERGENCY HOUSING FIRE AND LIFE SAFETY REQUIREMENTS

P112.1 Location on property. Buildings or structures used for emergency housing, including sleeping cabins, shall be located in accordance with the requirements of Section 705 and Table 705.5 of the California Building Code, based on their type of construction and fire-resistance ratings of the exterior walls. During a shelter crisis, the fire separation distances are permitted to be measured to the existing buildings on the adjacent parcels rather than to the interior lot lines, provided the open spaces are to remain unobstructed for the duration of the shelter crisis.

P112.2 Buildings on same lot. Buildings or structures used for emergency housing, including sleeping cabins, shall be separated from each other and from other buildings on the same lot as set forth in Section 705.3 of the California Building Code. The Building Official and Fire Marshal may accept reasonable alternatives to these requirements provided reasonably equivalent fire and life safety is achieved.

P112.3 Means of egress. Buildings or structures used for emergency housing shall be provided with means of egress complying with Chapter 10 of the California Building Code, unless modified elsewhere in this appendix.

P112.4 Emergency escape and rescue. Each area of a building or structure used for sleeping purposes in emergency housing shall be provided with an emergency escape

and rescue opening in accordance with Section 1031 of the California Building Code, unless modified elsewhere in this appendix.

P112.5 Smoke alarms. Buildings or structures used for emergency housing, which provide sleeping accommodations, shall be equipped with single station battery powered smoke alarms installed in accordance with the location requirements of Section 907.2.11 of the California Fire Code, unless modified elsewhere in this appendix.

P112.6 Carbon monoxide alarms. Buildings or structures used for emergency housing, which provide sleeping accommodations, and equipped with fuel-burning appliances shall be provided with carbon monoxide detection in accordance with Section 915 of the California Fire Code, unless modified elsewhere in this appendix.

P112.7 Fire alarm. A manual fire alarm system capable of arousing sleeping occupants in accordance with Section 907.2.9.1 of the California Fire Code shall be installed in buildings, structures, or groups of buildings or structures used for emergency housing and having a gross floor area of more than 2,500 square feet or having more than 49 sleeping occupants.

Exception: Individual buildings or structures in a group of buildings or structures with sufficient separation distances to allow each building or structure to function independently in case of a fire, as approved by the Fire Marshal.

P112.8 Automatic sprinkler systems. Fire sprinklers shall be provided for new and existing buildings or structures used for emergency housing, including sleeping cabins, which provide sleeping facilities, as required by Section 903.3 of the California Fire Code. Strict compliance with the requirements of Section 903.3 may not be required when approved by the Fire Marshal. The Fire Marshal is authorized to accept reasonably equivalent alternatives to the installation provisions of Section 903.3 when dealing with buildings or structures used for emergency housing.

P112.9 Fire extinguishers. Portable fire extinguishers shall be provided in accordance with Section 906.1 of the California Fire Code.

P112.10 Flammable or combustible liquids. The possession or storage of any flammable or combustible liquids or gases shall not be permitted (intact cigarette lighters excepted). The use of any type of open flame indoors is prohibited unless conditionally approved by the Fire Chief.

P112.11 Storage in attics, under-floor and concealed spaces. Combustible materials, including but not limited to the possessions of occupants, users and staff shall not be stored in attics, under-floor spaces, or within other concealed spaces of buildings or structures used for emergency housing with sleeping accommodations.

P112.12 Fire department access. Fire Department access to building and premises used for emergency housing shall be in compliance with Section 503, Section 504 and Appendix D of the California Fire Code, as approved by the Fire Chief.

P112.13 Water supply. An approved fire protection water supply complying with Section 507 of the California Fire Code, or as approved by the Fire Chief, shall be provided for each structure, group of structures or premises used for emergency housing.

SECTION P113

ADDITIONAL REQUIREMENTS

P113.1 Operating procedures. Operating procedures including a security plan and service requirements shall be developed by the professional service provider and shown to be consistent with the shelter standards imposed by the Alameda County Social Services Agency. These procedures shall be designed to maintain order and safety within the buildings or structures used for emergency housing.

SECTION P114

ALTERNATIVES AND MODIFICATIONS

P114.1 Alternatives and modifications. Alternative compliance and/or modifications that are reasonably equivalent to the requirements in this appendix may be granted by the Local Administrative Authority in individual cases when dealing with buildings or structures used for emergency housing.

NOTE:
Authority Cited: Health and Safety Code Sections 17040, 17050, 17920.9, 17921, 17921.5, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17922.14, 17927, 17928, 18300, 18552, 18554, 18620, 18630, 18640, 18670, 18690, 18691, 18865, 18871.3, 18871.4, 18873, 18873.1 through 18873.5, 18938.3, 18944.11, and 19990; and Government Code Section 12955.1.

Reference: Health and Safety Code Sections 17000 through 17062.5, 17910 through 17995.5, 18200 through 18700, 18860 through 18874, and 19960 through 19997; Civil Code Sections 1101.4 and 1101.5; and Government Code Sections 12955.1 and 12955.1.1. (Ord. 7613-NS § 3, 2018)

Section 2. That Berkeley Municipal Code Chapter 19.29 is hereby repealed and reenacted to read as follows:

Chapter 19.29

BERKELEY RESIDENTIAL CODE

Sections:

19.29.010 Adoption of California Residential Code.
19.29.020 Title.
19.29.030 Administrative Provisions.
19.29.040 Subsection R301.2 Climatic and Geographic Design Criteria.
19.29.050 Section R337 Materials and Construction Methods for Exterior Wildlife Exposure.
19.29.060 Technical Amendments to Structural Standards.

19.29.010 Adoption of California Residential Code.
The California Residential Code with Mid-Cycle Supplement, 2022 Edition, as adopted in Title 24 Part 2.5 of the California Code of Regulations, including Appendices AH, AQ, AR, AS, AU and AX is hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this Chapter. A copy of this Code is on file for use and examination by the public in the office of the City Clerk of the City of Berkeley.

19.29.020 Title.
This Code shall be known as the "Berkeley Residential Code" and may be cited as "this Code".

19.29.030 Administrative provisions.
All of the administrative provisions contained in Article 1 of Chapter 19.28, the Berkeley Building Code, shall apply to this Code as well and take precedence over any California Residential Code (CRC) administrative provisions that may conflict.

For regulations governing wood burning appliances see BMC 19.28.040.

19.29.040 CRC Subsection R301.2 Climatic and geographic design criteria.

TABLE R301.2
CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

GROUND SNOW LOAD[o]	WIND DESIGN				SEISMIC DESIGN CATEGORY[f]	SUBJECT TO DAMAGE FROM		
	Speed[d] (mph)	Topographic effects[k]	Special wind region[l]	Wind-borne debris zone[m]		Weathering[a]	Frost line depth[b]	Termite[c]

ZERO	85	NO	NO	NO	D_2 or E	NEGLIGIBLE	N/A	VERY HEAVY

ICE BARRIER UNDERLAYMENT REQUIRED[h]	**FLOOD HAZARDS[g]**	**AIR FREEZING INDEX[i]**	**MEAN ANNUAL TEMP[j]**
NO	See Footnote 'p'	ZERO	57.2°F

MANUAL J DESIGN CRITERIA[n]						
Elevation	Altitude correction factor e	Coincident wet bulb	Indoor winter design relative humidity	Indoor winter design dry-bulb temperature	Outdoor winter design dry-bulb temperature	Heating temperature difference
345	N/A	63	N/A	70	40	30
Latitude	Daily range	Indoor summer design relative humidity	Summer Design Grains	Indoor summer design dry-bulb temperature	Outdoor summer design dry-bulb temperature	Cooling temperature difference
38	16	50	-6	75	80	5

For SI: 1 pound per square foot = 0.0479 kPa, 1 mile per hour = 0.447 m/s.

a. Where weathering requires a higher strength concrete or grade of masonry than necessary to satisfy the structural requirements of this Code, the frost line depth strength required for weathering shall govern. The weathering column shall be filled in with the weathering index, "negligible," "moderate" or "severe" for concrete as determined from Figure R301.2.(1).The grade of masonry units shall be determined from ASTM C34, ASTM C55, ASTM C62, ASTM C73, ASTM C90, ASTM C129, ASTM C145, ASTM C216 or ASTM C652.
b. Where the frost line depth requires deeper footings than indicated in Figure R403.1(1), the frost line depth strength required for weathering shall govern. The jurisdiction shall fill in the frost line depth column with the minimum depth of footing below finish grade.
c. The jurisdiction shall fill in this part of the table to indicate the need for protection depending on whether there has been a history of local subterranean termite damage.
d. The jurisdiction shall fill in this part of the table with the wind speed from the basic wind speed map Figure R301.2(2). Wind exposure category shall be determined on a site-specific basis in accordance with Section R301.2.1.4.
e. The jurisdiction shall fill in this section of the table to establish the design criteria using Table 10A from ACCA Manual J or established criteria determined by the jurisdiction.
f. The jurisdiction shall fill in this part of the table with the seismic design category determined from Section R301.2.2.1.

g. The jurisdiction shall fill in this part of the table with: the date of the jurisdiction's entry into the National Flood Insurance Program (date of adoption of the first code or ordinance for management of flood hazard areas); and the title and date of the currently effective Flood Insurance Study or other flood hazard study and maps adopted by the authority having jurisdiction, as amended.
h. In accordance with Sections R905.1.2, R905.4.3.1, R905.5.3.1, R905.6.3.1, R905.7.3.1 and R905.8.3.1, where there has been a history of local damage from the effects of ice damming, the jurisdiction shall fill in this part of the table with "YES." Otherwise, the jurisdiction shall fill in this part of the table with "NO."
i. The jurisdiction shall fill in this part of the table with the 100-year return period air freezing index (BF-days) from Figure R403.3(2) or from the 100-year (99 percent) value on the National Climatic Data Center data table "Air Freezing Index-USA Method (Base 32°F)."
j. The jurisdiction shall fill in this part of the table with the mean annual temperature from the National Climatic Data Center data table "Air Freezing Index-USA Method (Base 32°F)."
k. In accordance with Section R301.2.1.5, where there is local historical data documenting structural damage to buildings due to topographic wind speed-up effects, the jurisdiction shall fill in this part of the table with "YES." Otherwise, the jurisdiction shall indicate "NO" in this part of the table.
l. In accordance with Figure R301.2(2), where there is local historical data documenting unusual wind conditions, the jurisdiction shall fill in this part of the table with "YES" and identify any specific requirements. Otherwise, the jurisdiction shall indicate "NO" in this part of the table.
m. In accordance with Section R301.2.1.2 the jurisdiction shall indicate the wind-borne debris wind zone(s). Otherwise, the jurisdiction shall indicate "NO" in this part of the table.
n. The jurisdiction shall fill in these sections of the table to establish the design criteria using Table 1a or 1b from ACCA Manual J or established criteria determined by the jurisdiction.
o. The jurisdiction shall fill in this section of the table using the Ground Snow Loads in Figures R301.2(3) and R301.2(4).
p. Flood Hazard Data for the City of Berkeley:

Date of Jurisdiction's Entry into the NFIP: December 7, 1973;

Date of adoption of the first code or ordinance for management of flood hazards: Ordinance No. 5085-N.S., July 25, 1978;

Date of Flood Insurance study: Aug 3, 2009;

Panel numbers and dates of all currently effective maps adopted by the AHJ (Ordinance 7108-NS 9/29/09):

- FEMA's "Use of Digital Flood Hazard Data" establishes that paper and digital maps are equivalent. Policy and related information are available from FEMA. The policy implements section 107 of Public Law 108-264, 118 Stat. 724 (2004)
- Panel 13 (not available in printed form)
- Panel 14 of 725, Map Number 06001C0014G, August 3, 2009
- Panel 18 of 725, Map Number 06001C0018G, August 3, 2009
- Panel 19 of 725, Map Number 06001C0019G, August 3, 2009

- Panel 38 (not available in printed form)
- Panel 51 (not available in printed form)
- Panel 52 of 725, Map Number 06001C0052G, August 3, 2009
- Panel 53 (not available in printed form)
- Panel 54 of 725, Map Number 06001C0054G, August 3, 2009
- Panel 56 of 725, Map Number 06001C0056G, August 3, 2009
- Panel 57 of 725, Map Number 06001C0057G, August 3, 2009
- Panel 80 of 725, Map Number 06001C0080G, August 3, 2009

19.29.050 CRC Section R337 Materials and Construction Methods for Exterior Wildlife Exposure.

Chapter 3 of the 2022 California Residential Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below.

R337.1 – SCOPE, PURPOSE AND APPLICATION

R337.1.1 Scope. Section R337 and all subsections apply to building materials, systems and/or assemblies used in the exterior design and construction of new buildings and structures, additions, alterations, repairs and re-roofs located within a Wildland-Urban Interface (WUI) area as defined in Section R337.2.

R337.1.2 Purpose. The purpose of Section R337 is to establish minimum standards for the protection of life and property by increasing the ability of a building or structure located in any Fire Hazard Severity Zone within State Responsibility Area (SRA) or Local Responsibility Area (LRA) or any building or structure in the Wildland-Urban Interface (WUI) area as specified in Section R337.1.3.1 to resist the intrusion of flame or burning embers projected by a vegetation fire and contributes to a systematic reduction in conflagration losses.

R337.1.3 Application. New buildings and structures, additions, alterations, repairs and re-roofs located in any Fire Hazard Severity Zone or any new buildings and structures, additions, alterations, repairs and re-roofs located in Wildland-Urban Interface (WUI) area designated by the enforcing agency constructed after the application date shall comply with the provisions of this section. This shall include all ~~new~~ buildings and structures with residential, commercial, educational, institutional or similar occupancy type use, which shall be referred to in this section as “applicable building” (see definition in Section R337.2), as well as new buildings and structures accessory to those applicable buildings (see Exceptions 1 and 4).

Exceptions:

1. Group U occupancy accessory buildings or structures of any size located at least 50 feet (15 m) from an applicable building on the same lot.

2. Group U occupancy agricultural building or structure, as defined in Section 202 of the California Building Code, of any size located at least 50 feet (15 m) from an applicable building.
3. Group C occupancy special buildings conforming to the limitations specified in Section 450.4.1 of the California Building Code.
4. New accessory buildings and miscellaneous structures specified in Section R337.10 shall comply only with the requirements of that section.
5. Additions to and remodels of building originally constructed prior to July 1, 2008.

R337.1.3.1 Application date and where required. New buildings and structures, additions, alterations, repairs and re-roofs for which an application for a building permit is submitted on or after July 1, 2008, located in any Fire Hazard Severity Zone or any buildings and structures, additions, alterations, repairs and re-roofs for which an application for a building permit is submitted on or after July 1, 2008 located in the Wildland-Urban Interface area shall comply with all sections of this chapter., including all the following areas:

1. All unincorporated lands designated by the State Board of Forestry and Fire Protection as State Responsibility Area (SRA) including:
   1.1. Moderate Fire Hazard Severity Zones.
   1.2. High Fire Hazard Severity Zones.
   1.3. Very-High Fire Hazard Severity Zones.
2. Land designated as Very-High Fire Hazard Severity Zone by cities and other local agencies.
3. Land designated as a Wildland-Urban Interface area by cities and other local agencies.

   Exceptions:

   1. New buildings located in any Fire Hazard Severity Zone within a State Responsibility Area, for which an application for a building permit is submitted on or after January 1, 2008, shall comply with all sections of this chapter.
   2. New buildings located in any Fire Hazard Severity Zone within a State Responsibility Area, or any Wildland-Urban Interface area designated by cities and other local agencies for which an application for a building permit is submitted on or after December 1, 2005, but prior to July 1, 2008, shall only comply with the following sections of this chapter:
      2.1. Section R337.5 – Roofing.
      2.2. Section R337.6 – Vents.

R337.2 – DEFINITIONS

For the purposes of this Section R337, certain terms are defined below:

FIRE ZONE ONE shall encompass the entire City of Berkeley except for Fire Zones Two and Three.

FIRE ZONE TWO encompasses those areas designated as Combined Hillside District in the Official Zoning map of the City of Berkeley and those areas designated as Very High

in the official Fire Hazard Severity Zones (FHSZ) map of The Department of Forestry and Fire Protection (CAL FIRE), as they may be amended from time to time. The following properties, not part of the Combined Hillside District, are included in Fire Zone Two under the Very High designation of the FHSZ map: the eastern section of the University of California, Berkeley main campus, block number 2042 (Alameda County Assessor's parcel numbering (APN) system), to the east city line; all of the Clark-Kerr campus, block number 7690, to the east city line; all of block number 7680 in the City of Berkeley; portions of block number 1702 in the City of Berkeley. See Exhibit A for the specific parcels by APN and address.

FIRE ZONE 3 encompasses those areas designated as Environmental Safety – Residential Districts on the Official Zoning Map of the City of Berkeley, as it may be amended from time to time.

LOCAL RESPONSIBILITY AREA (LRA). Areas of the state in which the financial responsibility of preventing and suppressing fires is the primary responsibility of a city, county, city and county, or district. Fire Zones 2 and 3 are designated as Local Responsibility Area.

WILDLAND-URBAN INTERFACE (WUI) is a geographical area identified by the state as a "Fire Hazard Severity Zone" in accordance with the Public Resources Code Sections 4201 through 4204 and Government Code Sections 51175 through 51189, or other areas designated by the enforcing agency to be at a significant risk from wildfires. Fire Zones 2 and 3 are designated as Wildland-Urban Interface (WUI) areas.

R337.5 – ROOFING

R337.5.1 General. Roofs shall comply with the requirements of Sections R337 and R902. Roof assemblies in Fire Hazard Severity Zones shall be tested in accordance with ASTM E108 or UL790 and meet a Class A fire classification. For additional compliance see Section R902 for Class A roof assemblies. The roof assembly shall be installed in accordance with its listing and the manufacturer's installation instructions. The entire roof covering shall be replaced of every existing structure where more than 50 percent of the total roof area is replaced within any ~~1~~ 5-year period~~,~~. ~~t~~The entire roof covering of every new structure, and any roof covering applied in the alteration, repair, or replacement of the roof of every existing structure shall be a fire-retardant roof covering that is at least Class A rating fire classification.

Wooden shakes and shingles are prohibited roof coverings regardless of the assembly rating of the roof system.

R337.5.5 Spark Arrestors. All chimneys of fireplaces, stoves, barbecues or heating appliances using solid fuel shall be provided with an approved spark arrestor whenever modification has been made to any of these appliances, or whenever a structure is re-roofed. The net free area of the spark arrestor shall be not less than four times the net free area of the outlet of the chimney. The spark arrestor shall have heat and corrosion resistance equivalent to twelve-gauge wire, nineteen-gauge galvanized wire, or twenty-

four-gauge stainless steel. Openings shall not permit the passage of spheres having a diameter larger than one-half inch and shall not block the passage of spheres having a diameter of less than three-eighths inch. The arrestor shall be securely attached to the chimney or stovepipe and shall be adequately supported. The use of bands, mollies, masonry anchors or mortar ties are recommended depending upon the individual need.

R337.7 – EXTERIOR COVERING

R337.7.3.2 Replacement of Exterior Wall Covering. Materials for replacement of existing exterior wall covering shall meet or exceed the standards set forth in this chapter.

> **~~Exception:~~** ~~Where less than 50% of any wall surface is being replaced or repaired,~~ and the matching of the new plane to the existing plane on that wall is not possible.

~~R337.11~~ R337.12 – UNDERGROUND UTILITY CONNECTIONS

~~R337.11.1~~ R337.12.1 Underground utility connections. For new construction, provisions shall be made for the undergrounding of all utilities serving the property, including but not limited to electrical, telephone and cable television, by the installation of appropriately sized underground conduits extending from the street property.

~~R337.12~~ R337.13 – ADDITONAL REQUIREMENTS IN FIRE ZONE THREE

~~R337.12.1~~ R337.13.1 General. In addition to meeting the other requirements of this Chapter, buildings or structures hereinafter erected, constructed, moved, altered, added, or repaired within Fire Zone Three shall comply with the following requirements for buildings and structures.

~~R337.12.2~~ R337.13.2 Fire Warning System. All residential units shall be equipped with a Fire Warning System as specified by the residential smoke detector requirements of the current edition of the California Building Code and with an audible exterior alarm. The exterior alarm must meet the requirements of NFPA 72 or equivalent and generate 45 decibels ten feet from the alarm, or more.

~~R337.12.3~~ R337.13.3 Automatic fire sprinkler systems. Automatic fire sprinkler system requirements shall be as set forth in Berkeley Fire Code Section 903.2.24.

~~R337.12.4~~ R337.13.4 Utilities. Utilities, pipes, furnaces, water heaters or other mechanical devices located in an exposed underfloor area of a building or structure shall be enclosed with material as required for exterior one hour fire resistive construction. Adequate covered access openings for servicing and ventilation of such facilities shall be provided as required by appropriate codes.

~~R337.12.5~~ R337.13.5 Control of brush or vegetation. Brush and vegetation shall be controlled as required in the Berkeley Fire Code.

~~R337.12.6~~ R337.13.6 Special Conditions. The following additional conditions must be met:

1. Public access roads and fire trails. No person(s) shall use any public access road or fire trail for the storage of any construction material, stationary construction equipment, construction office, portable refuse container, or earth from any grading or excavating.
2. Water Service. The water service to the site shall be installed with a ¾" hose bib connection prior to beginning any wood framing. The person responsible for the construction shall have at the site a 75 ft ¾" hose available.

Exhibit A
Parcels in Addition to the Combined Hillside District

The following additional parcels by Assessor's Parcel Number and address are included in Fire Zone Two:

Parcel Number (APN)	Address
048-7680-001-02	3 Tanglewood Road
048-7680-002-01	5 Tanglewood Road
048-7680-031-00	7 Tanglewood Road
048-7680-019-00	11 Tanglewood Road
048-7680-014-00	19 Tanglewood Road
048-7680-032-01	25 Tanglewood Road
048-7680-027-00	29 Tanglewood Road
054-1702-067-00	10 Tanglewood Road
054-1702-068-00	18 Tanglewood Road
054-1702-069-00	22 Tanglewood Road
054-1702-070-00	28 Tanglewood Road
054-1702-063-00	2701 Belrose Avenue
054-1702-076-00	2715 Belrose Avenue
054-1702-075-00	2721 Belrose Avenue
054-1702-074-00	2729 Belrose Avenue
054-1702-073-00	2737 Belrose Avenue
054-1702-112-00	2801 Claremont Boulevard
054-1702-123-01	2811 Claremont Boulevard
054-1702-122-00	2815 Claremont Boulevard
054-1702-120-01	2821 Claremont Boulevard
054-1702-114-01	2816 Claremont Avenue
054-1702-115-00	2820 Claremont Avenue
054-1702-072-00	3005 Garber Street
054-1702-071-00	3015 Garber Street
054-1702-113-00	3020 Garber Street
054-1702-116-00	3017 Avalon Avenue

19.29.060 Technical Amendments to Structural Standards

Chapter 6 of the 2022 California Residential Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below.

Table R602.10.3(3) BRACING REQUIREMENTS BASED ON SEISMIC DESIGN CATEGORY[i, j]

Add new footnotes "i" and "j" to the end of Table R602.10.3(3) to read:

i. Methods GB, PBS, HPS and SFB are not permitted in Seismic Design Categories D_0, D_1, and D_2.
j. Method DWB are not permitted in Seismic Design Categories D_0, D_1, and D_2 where S_1 is greater than or equal to 0.75.

Add a new Subsection R602.10.4.5, to read:

R602.10.4.5 Limits on methods GB and PCP. In Seismic Design Categories D_0, D_1, and D_2, Method GB is not permitted, but gypsum board is permitted to be placed on the opposite side of the studs from other types of braced wall panel sheathing. In Seismic Design Categories D_0, D_1, and D_2, the use of Method PCP is limited to one-story dwellings and accessory structures.

Section 3. That Berkeley Municipal Code Chapter 19.30 is hereby repealed and reenacted to read as follows:

Chapter 19.30

BERKELEY ELECTRICAL CODE

Sections:

19.30.010 Adoption of California Electrical Code.
19.30.020 Title.
19.30.030 Administrative provisions.

19.30.010 Adoption of California Electrical Code.
The California Electrical Code, 2022 Edition, as adopted by the California Code of Regulations, Title 24, Part 3 is hereby adopted and made a part of this Chapter as though fully set forth herein subject to the modifications thereto which are set forth in this Chapter. A copy of this Code is on file for use and examination by the public in the office of the City Clerk of the City of Berkeley.

19.30.020 Title.
This Code shall be known as the "Berkeley Electrical Code" and may be cited as "this Code".

19.30.030 Administrative provisions.

All of the administrative provisions contained in Article 1 of Chapter 19.28, the Berkeley Building Code, shall apply to this Code as well and take precedence over any administrative provisions contained in Article 89 General Code Provisions that may conflict.

Section 4. That Berkeley Municipal Code Chapter 19.32 is hereby repealed and reenacted to read as follows:

Chapter 19.32

BERKELEY MECHANICAL CODE

Sections:

19.32.010 Adoption of the California Mechanical Code.
19.32.020 Title.
19.32.030 Administrative provisions.
19.32.040 Amendments to the California Mechanical Code

19.32.010 Adoption of the California Mechanical Code.
The California Mechanical Code with Mid-Cycle Supplement, 2022 Edition, as adopted in Title 24 Part 4 of the California Code of Regulations, is hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this Chapter. A copy of this Code is on file for use and examination by the public in the office of the City Clerk of the City of Berkeley.

19.32.020 Title.
This Code shall be known as the “Berkeley Mechanical Code” and may be cited as "this Code".

19.32.030 Administrative provisions.
All of the administrative provisions contained in Article 1 of Chapter 19.28, the Berkeley Building Code, shall apply to this Code as well and take precedence over any California Mechanical Code administrative provisions that may conflict.

19.32.040 Amendments to the California Mechanical Code

Chapter 4 of the 2022 California Mechanical Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below:

405.4 Kitchen Exhaust. A mechanical exhaust directly to the outdoors shall be provided in each kitchen. The fan shall run intermittently (on demand) or continuously. A readily accessible manual control designed to be operated as needed or an automatic control shall be provided for intermittent operations.

405.4.1 Exhaust Rate. For intermittent-controlled operations, the exhaust rate shall be not less than 100 ft^3/min (0.047 m^3/s) for range hoods or 300 ft^3/min (0.141 m^3/s) for mechanical exhaust fans including downdraft appliances~~.~~ and shall be rated for sound at a maximum of 3 sone at greater than or equal to 100 cfm. For continuous operated ventilation, the exhaust rate shall be not less than 5 air changes per hour based on kitchen volume for enclosed kitchens and shall be rated for sound at a maximum of 1.0 sone.

Exception: A vented range hood shall not be required in dwelling unit kitchens equipped with a local mechanical exhaust system installed in accordance with ASHRAE 62.2.

Section 5. That Berkeley Municipal Code Chapter 19.34 is hereby repealed and reenacted to read as follows:

Chapter 19.34

BERKELEY PLUMBING CODE

Sections:

19.34.010 Adoption of the California Plumbing Code.
19.34.020 Title.
19.34.030 Administrative provisions.
19.34.040 Gas Shut-Off Valves

19.34.010 Adoption of the California Plumbing Code.

The California Plumbing Code with Mid-Cycle Supplement, 2022 Edition, as adopted in Title 24 Part 5 of the California Code of Regulations, including Appendices A, B and D, is hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this Chapter. A copy of this Code is on file for use and examination by the public in the office of the City Clerk of the City of Berkeley.

19.34.020 Title.

This Code shall be known as the “Berkeley Plumbing Code” and may be cited as "this Code."

19.34.030 Administrative Provisions.

All of the administrative provisions contained in Article 1 of Chapter 19.28, the Berkeley Building Code, shall apply to this Code as well and take precedence over any California Plumbing Code administrative provisions that may conflict.

19.34.040 Gas Shut-Off Valves

Chapter 12 of the 2022 California Plumbing Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below.

Retitle and amend Section 1209.0 Excess Flow Valves to read:

1209.0 Automatic Gas Shut-Off Valves

1209.1 General. Where automatic excess flow valves are installed, they shall be listed to CSA Z21.93 and shall be sized and installed in accordance with the manufacturer's instructions. [NFPA 54:5.13]

1209.2 General Requirements for Automatic Gas Shut-Off Valves. Automatic gas shut-off valves shall:

1. Comply with all applicable requirements of the Berkeley Plumbing Code.

2. Be tested and listed by recognized testing agencies such as the Independent Laboratory of the International Approval Services (IAS), Underwriter's Laboratory (UL), International Association of Plumbing and Mechanical Officials (IAPMO) or any other agency approved by the State of California Office of the State Architect (OSA).

3. Be installed on downstream side of the gas utility meter.

4. Be installed in accordance with the manufacturer's instructions.

5. Provide a method for expedient and safe gas shut-off in an emergency.

6. Provide a capability for ease of consumer or owner resetting in a safe manner.

1209.3 Definitions

For the purpose of this Section, terms shall be defined as follows:

AUTOMATIC GAS SHUT- OFF VALVE shall mean either a motion activated gas shut-off valve or device or an excess flow gas shut-off valve or device.

DOWNSTREAM OF GAS UTILITY METER shall mean all gas piping on the property owner's side of the gas meter and after the service tee.

MOTION ACTIVATED GAS SHUT OFF VALVE shall mean an approved gas valve activated by motion. Valves are set to activate in the event of a moderate or strong seismic event greater than 5.0 on the Richter scale.

UPSTREAM OF GAS UTILITY METER shall mean all gas piping installed by the utility up to and including the meter and the utility's service tee.

1209.4 Motion Activated Gas Shut-off Valve, Required. A listed motion activated gas shut-off valve shall be installed as follows:

1209.4.1 New Construction. In any newly constructed building or structure containing fuel gas piping.

1209.4.2 Existing Buildings with a single meter. In any existing building or structure containing fuel gas piping served by a single gas meter, when any addition, alteration or repair is made for which a mechanical or plumbing permit is issued.

1209.4.3 Existing Buildings with separate meters serving individual units or tenant spaces. In any existing building or structure containing fuel gas piping served by multiple gas meters, when any addition, alteration or repair is made to an individual unit or tenant space for which a mechanical or plumbing permit is issued. The requirement for a motion activated gas shut off valve shall apply to the gas meter serving the individual unit or tenant space and the gas meter serving common area(s).

Exceptions:

1. Existing automatic gas shut-off valves installed prior to the effective date of this Section, provided the valves are maintained in operational condition.

2. Automatic gas shut-off valves installed on a gas distribution system owned or operated by a public utility.

Note: For the purpose of the requirements of this Section, excess flow valves are not permitted to be installed as a substitute for motion activated gas shut-off valves.

1209.5 Mounting. Motion activated seismic gas shut-off valves shall be mounted rigidly to the building or structure containing the fuel gas piping, unless otherwise specified in the manufacturer's installation instructions.

Section 6. That Berkeley Municipal Code Chapter 19.36 is hereby repealed and reenacted to read as follows:

Chapter 19.36

BERKELEY ENERGY CODE

Sections:

19.36.010 Adoption of the California Energy Code.
19.36.020 Title.
19.36.030 Administrative provisions.
19.36.040 Amendments to the California Energy Code.
19.36.050 CEQA

19.36.010 Adoption of the California Energy Code.
The California Energy Code with Mid-Cycle Supplement, 2022 Edition, as adopted in Title 24 Part 6 of the California Code of Regulations, is hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this Chapter. A copy of this Code is on file for use and examination by the public in the office of the City Clerk of the City of Berkeley.

19.36.020 Title.
This Code shall be known as the “Berkeley Energy Code” and may be cited as "this Code”.

19.36.030 Administrative provisions.
All of the administrative provisions contained in Article 1 of Chapter 19.28, the Berkeley Building Code, shall apply to this Code as well and take precedence over any California Energy Code administrative provisions that may conflict.

Section 7. That Berkeley Municipal Code Chapter 19.37 is hereby repealed and reenacted to read as follows:

Chapter 19.37

BERKELEY GREEN CODE

Sections:

19.37.010 Adoption of the California Green Building Standards Code with Mid-Cycle Supplement.
19.37.020 Title.
19.37.030 Administrative provisions.
19.37.040 Amendments to the California Green Building Standards Code.

The California Green Building Standards Code (CALGreen), 2022 Edition with Mid-Cycle Supplement, as adopted in Title 24 Part 11 of the California Code of Regulations, is hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this Chapter. A copy of this Code is on file for use and examination by the public in the office of the City Clerk of the City of Berkeley.

19.37.020 Title.
This Code shall be known as the “Berkeley Green Code” and may be cited as "this Code".

19.37.030 Administrative provisions.
All of the administrative provisions contained in Article 1 of Chapter 19.28, the Berkeley Building Code, shall apply to this Code as well and take precedence over any California Green Building Standards Code administrative provisions that may conflict.

19.37.040 Amendments to the California Green Building Standards Code with Mid-Cycle Supplement.

Chapter 3 Green Building of the California Green Building Standards Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below:

Add a new Subsection 301.1.2 to read:

301.1.2 Residential waste diversion. The requirements of Section 4.408 shall be required for:

1. Any additions or alterations, which increase the building's conditioned area, volume or size

2. Any building alterations with a permit valuation over $100,000

3. Any interior or exterior demolitions valued over $3,000

Modify Subsection 301.3.2 to read:

301.3.2 Nonresidential waste diversion. The requirements of Section 5.408 shall be required for additions ~~and~~, alterations and demolitions whenever a permit is required for work.

Chapter 4 Residential Mandatory Measures of the California Green Buildings Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below:

Modify Subsection 4.106.4.1 to read:

4.106.4.1 New one- and two-family dwellings and townhouses with attached or detached private garages, carports, or any other on-site parking. For each dwelling unit, install a ~~listed raceway to accommodate a dedicated 208/240-volt branch circuit. The raceway shall not be less than trade size 1 (nominal 1-inch inside diameter). The raceway shall originate at the main service or subpanel and shall terminate into a listed cabinet, box or other enclosure in close proximity to the proposed location of an EV charger. Raceways are required to be continuous at enclosed, inaccessible or concealed areas and spaces. The service panel and/or subpanel shall provide capacity to install a 40-ampere 208/240-volt minimum dedicated branch circuit and space(s) reserved to permit installation of a branch circuit overcurrent protective device~~ minimum 40-ampere 208/240-volt dedicated EV branch circuit in close proximity to the proposed location of an EV charger at the time of original construction in accordance with the California Electrical Code.

~~**Exception:** A raceway is not required if a minimum 40-ampere 208/240-volt dedicated EV branch circuit is installed in close proximity to the proposed location of an EV charger at the time of original construction in accordance with the California Electrical Code.~~

4.106.4.1.1 Identification. The service panel or subpanel circuit directory shall identify the overcurrent protective device ~~space(s) reserved~~ for future EV charging as "EV ~~CAPABLE~~READY". The raceway termination location shall be permanently and visibly marked as "EV ~~CAPABLE~~READY".

Modify Subsection 4.106.4.2.2. to read:

4.106.4.2.2 Multifamily dwellings, hotels and motels.

1. EV ready parking spaces with receptacles.

a. **Hotels and motels**. Forty (40) percent of the total number of parking spaces shall be equipped with low power Level 2 EV charging receptacles.

b. **Multifamily parking facilities.** Forty (40) percent of the total number of parking spaces shall be equipped with low power Level 2 EV charging receptacles. EV charging receptacles required by this section shall be located in at least one assigned parking space per dwelling unit where assigned parking is provided but need not exceed forty (40) percent of the total number of assigned parking spaces provided on the site.

Exception: ~~Areas of parking facilities served by parking lifts, including but not limited to automated mechanical-access open parking garages as defined in the California Building Code; or parking facilities otherwise incapable of supporting electric vehicle charging.~~ Areas of parking facilities served by parking lifts, provided the required percentage of EV Chargers spaces are installed elsewhere.

c. **Receptacle power source.** EV charging receptacles in multifamily parking facilities shall be provided with a dedicated branch circuit connected to the dwelling unit's electrical panel, unless determined as infeasible by the project builder or designer and subject to concurrence of the local enforcing agency.

Exception: ~~Areas of parking facilities served by parking lifts, including but not limited to automated mechanical-access open parking garages as defined in the California Building Code; or parking facilities otherwise incapable of supporting electric vehicle charging.~~ Areas of parking facilities served by parking lifts, provided the required percentage of EV Chargers spaces are installed elsewhere.

d. **Receptacle configurations.** 208/240V EV charging receptacles shall comply with one of the following configurations:

1. For 20-ampere receptacles, NEMA 6-20R
2. For 30-ampere receptacles, NEMA 14-30R
3. For 50-ampere receptacles, NEMA 14-50R

Add a new Subsection 4.405.1 to read:

4.405.1 Reduction in cement use. As allowed by the enforcing agency, cement used in concrete mix design shall be reduced not less than 25 percent. Products commonly used to replace cement in concrete mix designs include, but are not limited to:

1. Fly ash
2. Slag
3. Silica fume
4. Rice hull ash

Exception: Minimum cement reductions in concrete mix designs approved by the Engineer of Record may be lower where high early strength is needed for concrete products or to meet an accelerated project schedule.

Modify Subsection 4.408.1 to read:

4.408.1 Construction waste management. Recycle and/or salvage for reuse 100% of excavated soil and land-clearing debris, 100% of concrete, 100% of asphalt, and a minimum of 65 percent of the other nonhazardous construction and demolition waste in accordance with either Section 4.408.2, 4.408.3 or 4.408.4~~, or meet a more stringent local construction and demolition waste management ordinance~~.

Exceptions:

1. ~~Excavated soil and land-clearing debris.~~
2. Alternate waste reduction methods developed by working with local agencies if diversion or recycle facilities capable of compliance with this item do not exist or are not located reasonably close to the jobsite.
3. The enforcing agency may make exceptions to the requirements of this section when isolated jobsites are located in areas beyond the haul boundaries of the diversion facility.

Chapter 5 Nonresidential Mandatory Measures of the California Green Buildings Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below:

Modify Subsection 5.106.5.3.1 to read:

5.106.5.3.1 EV Capable Spaces. [N] Twenty (20) percent of the total number of parking spaces shall be EV capable spaces. Calculation for EV capable spaces shall be rounded up to the nearest whole number. ~~shall be provided in accordance with Table 5.106.5.3.1 and~~ The spaces shall comply with the following requirements:

1. Raceways complying with the California Electrical Code and no less than 1-inch (25 mm) diameter shall be provided and shall originate at a service panel or a subpanel(s) serving the area, and shall terminate in close proximity to the proposed location of the EV capable space and into a suitable listed cabinet, box, enclosure or equivalent. A common raceway may be used to serve multiple EV capable spaces.

2. A service panel or subpanel(s) shall be provided with panel space and electrical load capacity for a dedicated 208/240 volt, 40-ampere minimum branch circuit for each EV capable space, with delivery of 30-ampere minimum to an installed EVSE at each EVCS.

3. The electrical system and any on-site distribution transformers shall have sufficient capacity to supply full rated amperage at each EV capable space.

4. The service panel or subpanel circuit directory shall identify the reserved overcurrent protective device space(s) as "EV CAPABLE". The raceway termination location shall be permanently and visibly marked as "EV CAPABLE."

   Note: A parking space served by electric vehicle supply equipment or designed as a future EV charging space shall count as at least one standard automobile parking space only for the purpose of complying with any applicable minimum parking space requirements established by an enforcement agency. See Vehicle Code Section 22511.2 for further details.

Modify Subsection 5.106.5.3.2 to read:

5.106.5.3.2 Electric vehicle charging stations (EVCS). Ten (10) percent of the total number of parking spaces shall be EV capable spaces ~~shall be~~ provided with electric vehicle supply equipment (EVSE) to create EVCS ~~in the number indicated in Table 5.106.5.3.1~~ separate and in addition to the requirements of Section 5.106.5.3.1. Calculation of required EVCS shall be rounded up to the nearest whole number. The EVCS required ~~by Table 5.106.5.3.1~~ by this section shall be provided with Level 2 EVSE or DCFC as permitted in Section 5.106.5.3.2.1. At least one minimum 6.6 kVA Level 2 EVSE shall be provided.

One EV charger with multiple connectors capable of charging multiple EVs simultaneously shall be permitted if the electrical load capacity required by Section 5.106.5.3.1 for each EV capable space is accumulatively supplied to the EV charger.

Delete Table 5.106.5.3.1.

Modify Subsection 5.106.5.3.6 to read:

5.106.5.3.6 Electric vehicle charging stations (EVCS)—power allocation method. The power allocation method may be used as an alternative to the requirements in ~~Section 5.106.5.3.1, and~~ Section 5.106.5.3.2 ~~and associated Table 5.106.5.3.1~~. Use ~~Table 5.106.5.3.6~~ the product of the factor 0.66 kVA/parking space times the total number of parking spaces to determine the total power in kVA required ~~based on the total number of actual parking spaces~~ for EVSE charging infrastructure.

Power allocation method shall include the following:

1) Use any kVA combination of ~~EV capable spaces,~~ low power Level 2, Level 2 or DCFC EVSEs.
2) At least one Level 2 EVSE shall be provided.
3) Any remainder power allocation kVA from Section 5.106.3.6 Item (1) shall be converted to one additional low power Level 2 EVSE.

Delete Table 5.106.5.3.6.

Add a new Subsection 5.405.1 to read:

5.405.1 Reduction in cement use. As allowed by the enforcing agency, cement used in concrete mix design shall be reduced not less than 25 percent. Products commonly used to replace cement in concrete mix designs include, but are not limited to:

1. Fly ash.
2. Slag.
3. Silica fume.
4. Rice hull ash.

Exception: Minimum cement reductions in concrete mix designs approved by the Engineer of Record may be lower where high early strength is needed for concrete products or to meet an accelerated project schedule.

Modify Subsection 5.408.3 to read:

5.408.3 Concrete, asphalt, excavated soil and land clearing debris. 100 percent of concrete, asphalt, trees, stumps, rocks and associated vegetation and soils resulting primarily from land clearing shall be reused or recycled. For a phased project, such material may be stockpiled on site until the storage site is developed.

Exception: Reuse, either on-or off-site, of vegetation or soil contaminated by disease or pest infestation.

Notes:

1. If contamination by disease or pest infestation is suspected, contact the County Agricultural Commissioner and follow its direction for recycling or disposal of the material. (www.cdfa.ca.gov/exec/county/county_contacts.html)
2. For a map of known pest and/or disease quarantine zones, consult with the California Department of Food and Agriculture. (www.cdfa.ca.gov)

Section 8. 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 May 7, 2024, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Hahn, Humbert, Kesarwani, Lunaparra, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

Office of the City Manager

ATTACHMENT 2

ACTION CALENDAR
May 7, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department

Subject: Re-Adoption of the Berkeley Building Codes, including Local Amendments to the 2022 California Building Standards Code

RECOMMENDATION

1. Adopt first reading of an Ordinance repealing and reenacting the Berkeley Building, Residential, Electrical, Mechanical, Plumbing, Energy, and Green Building Standards Codes in BMC Chapters 19.28, 19.29, 19.30, 19.32, 19.34, 19.36 and 19.37, and adopting related procedural and stricter provisions; and

2. Adopt a Resolution setting forth findings of local conditions that justify more stringent regulations than those provided by the 2022 California Building Standards Code Supplements, and rescinding Resolution No. 70,585-N.S.

SUMMARY

The proposed legislation would incorporate updates to California's Building Standards Code (known as "Mid-Cycle Supplements") effective July 1, 2024, while preserving certain more stringent local amendments Berkeley has previously adopted. Proposed actions include:

- Retain Berkeley's more stringent, previously adopted requirements for Wildland-Urban Interface area, repairs to existing buildings, structural standards, Exterior Elevated Elements (E3) technical amendments, Emergency Housing and various appendices supporting sustainable construction such as Light Straw-Clay Construction.

- Retain previously adopted local amendments to the 2022 California Plumbing Code to require installation of motion activated gas shut-off valves in new construction, and alterations or additions to existing buildings containing fuel gas piping.

- Adopt modified amendments to the 2022 California Green Buildings Standards Code (*CAL*Green) to retain Berkeley's more stringent electric vehicle charging requirements in all building types; and

- Introduce new amendments to the 2022 California Green Buildings Standards Code (*CAL*Green) to require Zero NO_X Buildings for newly constructed buildings.

The State updates its Building Standards Code every three years. Cities may adopt the State codes as written, or they may adopt those codes with local amendments, if justified by their specific local climatic, geological or topographical conditions. The City of Berkeley most recently adopted the State code with its local amendments in November 2022.

Additionally, the State publishes intervening code amendments known as the "Mid-Cycle Supplements" 18 months after the triennial code publication. The State codes with Mid-Cycle Supplements will automatically become effective July 1, 2024 as published unless the City adopts its local amendments and makes findings to that effect. Since the State's proposed Mid-Cycle Supplements impact several important Berkeley priorities, the proposed Ordinance would retain the previously adopted amendments, and would introduce other new and modified amendments.

FISCAL IMPACTS OF RECOMMENDATION

The California Green Building Standards Code Supplement (*CAL*Green) with City amendments will increase plan check and inspection workload due to increased EV requirements, the deconstruction and reuse of existing non-residential structure provisions and the Zero NO_X Building standard. Those costs would be covered by fees paid by applicants. There are no other new fiscal impacts from the adoption of updated State codes and local amendments.

CURRENT SITUATION AND ITS EFFECTS

The current three-year code cycle is effective through December 31, 2025. The State's Mid-Cycle Supplements will supersede and conflict with the City's previously adopted local amendments adopted under Ordinance 7891-N.S., unless Berkeley re-adopts them. The local amendments proposed with this Ordinance include the previously adopted amendments, and introduce new or modified amendments to the 2022 Building Code, Residential Code and Green Building Code. If adopted, the new Ordinance would also ensure that the City amendments to the Mechanical and Plumbing Codes are retained. Under state law, local jurisdictions may adopt other administrative provisions appropriate to the locality, and may adopt stricter code provisions, if justified by findings of local climatic, geological or topographical conditions.

The proposed Ordinance supports City Council directives and policies including fire and life safety, resilience, and climate protection, and is supported by the Resolution

adopting findings of local conditions. The Ordinance also provides for the adoption of the referenced California Building Standards Codes including local amendments, before the California Building Standards Code Mid-Cycle Supplements automatically become effective July 1, 2024. The last day to file for a building permit to be reviewed under the current Berkeley Building Code Title 19 will be Friday, June 28, 2024. Staff will inform future applicants and other community members that all permit applications submitted on or before June 28, 2024, will be reviewed under the current Berkeley Building Codes. Outreach will include notifications on the City's website, announcements on the online Permit Service Center webpage, notification flyers distributed at the Permit Service Center, and email notifications.

Codes recommended for adoption are the Berkeley Building Code (Chapter 19.28), which also includes the Historical Building Code and the Existing Building Code, the Berkeley Residential Code (Chapter 19.29), the Berkeley Electrical Code (Chapter 19.30), the Berkeley Mechanical Code (Chapter 19.32), the Berkeley Plumbing Code (Chapter 34), the Berkeley Energy Code (Chapter 19.36) and the Berkeley Green Code (Chapter 19.37). In all cases, the changes are designed to provide enhanced protection of public health, safety and general welfare as they relate to the construction and occupancy of buildings and structures.

Berkeley Building Code (Chapter 19.28)
The 2022 California Building Code adopted in BMC Chapter 19.28 included numerous model code changes impacting use and occupancies, allowable building heights and areas, fire protection features, means of egress, structural modifications, etc. Of major importance were the introduction of three additional construction types for larger and taller mass timber buildings, new provisions for small and large family care facilities in apartment buildings, and the introduction of the minimum safety requirements for shipping containers when repurposed for use as buildings and structures. The revisions in the Mid-Cycle Supplements with incorporated local amendments include changes to the Wildland-Urban Interface (WUI) terminology and WUI roofing requirements. Other state revisions that do not impact local amendments include modified definitions, clarifications and minor changes to the occupancy classifications, accessible parking requirements, etc. All other local amendments will be readopted.

Berkeley Residential Code (Chapter 19.29)
The 2022 California Residential Code adopted in BMC Chapter 19.29 included numerous model code changes further refining prescriptive provisions for the construction of dwellings. Of major importance were the updated local climatic criteria required for designing structural, heating and cooling systems for buildings, introduction of the minimum safety requirements for shipping containers when repurposed for use as residential or accessory buildings and structures, and Appendix AU Cob Construction, which provides requirements for clay, sand and straw to be used as the primary building material. The revisions in the Mid-Cycle Supplements with incorporated local amendments include changes to the Wildland-Urban Interface (WUI) terminology and

WUI roofing requirements. Other state revisions that do not impact Berkeley amendments include clarification on the emergency escape and rescue openings, ESS energy rating limits, structural anchorage changes, and roof covering limits that trigger full reroof. All other local amendments will be readopted.

Berkeley Electrical Code (Chapter 19.30)
The 2022 California Electrical Code initially adopted in BMC Chapter 19.30 will be readopted without local amendments.

Berkeley Mechanical Code (Chapter 19.32)
The 2022 California Mechanical Code adopted in BMC Chapter 19.32 incorporated the prior local amendment to require installation of residential kitchen range hoods with a minimum air flow of 100 cfm and maximum sound rating not exceeding 3 sones over residential stoves and cooktops. This local amendment will be readopted.

Berkeley Plumbing Code (Chapter 19.34)
The 2022 California Plumbing Code, adopted in BMC Chapter 19.34, incorporated the prior local amendment in response to a referral from the Disaster and Fire Safety Commission, adopted by the City Council on June 1, 2021. This amendment requires mandatory installation of motion activated gas shut off valves whenever a plumbing or mechanical permit is issued for buildings containing fuel gas piping, regardless of permit valuation. This amendment is intended to reduce or prevent serious gas-related fires or explosions in the event of a major seismic event. This local amendment will be readopted.

Berkeley Energy Code (Chapter 19.36)
The 2022 California Energy Code initially adopted in BMC Chapter 19.36 will be adopted with State Mid-Cycle Supplement without local amendments.

Berkeley Green Code (Chapter 19.37)
The 2022 California Green Building Standards Code adopted in BMC Chapter 19.37 included model code changes primarily concentrated on electric vehicle (EV) charging readiness, including charging provisions for medium and heavy-duty commercial vehicles. In the Mid-Cycle Supplement, the EV charging infrastructure requirements for new construction have quantitatively increased, but are still less restrictive than Berkeley's local requirements and exceptions as adopted in Ordinance 7891-N.S. All of the previously adopted more restrictive local amendments will be retained for EV charging infrastructure, for low-carbon concrete, and for increased construction and demolition (C&D) waste diversion. The State's Mid-Cycle Supplement includes new code provisions for deconstruction and reuse of existing non-residential structures.

In addition, a new local amendment is proposed to require all newly constructed buildings of all covered types to meet the definition of a Zero NO_X Emission Building. Nitrogen Oxides (NO_X) are defined as the sum of nitrogen oxide (NO) and nitrogen

dioxide (NO_2), collectively expressed as NO_X. NO_X is a harmful air pollutant; short-term exposure can aggravate asthma and other respiratory illnesses, and exposure can lead to hospital admissions and emergency room visits.[1] Long term exposure can cause asthma.[2] Further, NO_X contributes to acid rain and is one of the building-blocks of ozone, an air pollutant, a greenhouse gas, and a major component of smog.[3]

A Zero NO_X Emission Building is defined as a newly constructed building that exclusively uses Zero NO_X Emission Appliances. This new provision sets a higher standard for health and environmental protection of new building occupants by improving air quality. This is consistent with the published purpose of the California Green Building Standards Code "to improve the health, safety and general welfare by enhancing the design and construction of buildings through the use of concepts having a reduced negative impact."

The City of Berkeley proposed Zero NO_X Emission Building amendment to *CAL*Green builds upon the first such local ordinance, from the City of Los Altos Hills, by requiring Zero NO_X Emission Buildings for new nonresidential occupancies, and requiring Zero NO_X cooking equipment. Current non-electric ovens and ranges constitute the greatest risk to building occupants, because of the intermixing of unvented NO_X emissions with respiration air. This proposed Berkeley local amendment would become effective in advance of the first Zero NO_X appliance regulation provision of Bay Area Air Quality Management District (BAAQMD) Regulation 9 Rule 4, which becomes effective Jan 1, 2027 for tanked water heaters <75kBtu.[4]

This *CAL*Green amendment addresses immediate health concern for Berkeley residents of growing importance. BAAQMD notes that: "In 2019, emissions from residential natural gas combustion accounted for roughly the same amount of NO_X emissions as passenger vehicles."[5] However, shifts in remote work practices since 2019 have likely increased that percentage, due to increased work hours from home and also reduced work commutes. BAAQMD further notes that: "Through the reduction of NO_X and particulate matter emissions, the proposed amendments are projected annually to prevent up to 85 premature deaths and save up to $890 million in health impacts."[6] In summary, the proposed amendment for Zero NO_X Emission Buildings leads the critical path to a built environment consistent with current understanding of human disease prevention and environmental health.

[1] https://www.epa.gov/no2-pollution/basic-information-about-no2
[2] ibid
[3] https://www3.epa.gov/airnow/mediakits/ozone/facts.pdf
[4] FAQ-Appliance Rules_rev_ 12-18-23 (baaqmd.gov)
[5] ibid
[6] ibid

The readopted local amendments would require increased EV charging readiness and installation in new buildings, to help facilitate EV adoption in keeping with Berkeley's Electric Mobility Roadmap. Specifically, where parking spaces are provided, the retained EV amendments require:

- Single-family homes, duplexes, and townhouses must have at least one parking space equipped with a listed raceway, wiring, and power to support a future Level 2 EV charging station. By contrast, the State's "Mid-Cycle Supplement" requires only a raceway and panel space.
- Multifamily and Hotel/Motel buildings designed with parking lifts must provide the code-required EV charging infrastructure elsewhere within the parcel.
- Nonresidential buildings must have at least 20% of spaces as EV capable to support future Level 2 EV charging stations, and at least 10% of spaces with EV charging stations installed. By contrast, the State model code requires 20% EV capable spaces, 25% of which will be EV charging stations or EVCS.

The combination of requiring EV charging stations and EV charging readiness in all new multifamily, nonresidential, and hotel/motel buildings will reduce the long-term costs of EV infrastructure installation by eliminating future required retrofits, will help increase EV adoption and ultimately help decrease greenhouse gas emissions associated with transportation.

These proposed amendments to the Berkeley Green Code were shared with the Environment and Climate Commission (ECC) on April 24, 2024.

Previous Local Amendments to Re-adopt

Previous local amendments, with some revisions and updates in code language and code sections, that are recommended for continuance in the reenacted Berkeley Building Code with Mid-Cycle Supplement (BMC Chapter 19.28) include:

- Article 1. Scope and Administrative Provisions – local amendments concerning permits, applications, fees, undocumented units, appeals, violations, unsafe buildings, and safety assessment placards.
- Article 2. Restrictions in Fire Zones – adding additional local requirements applicable to additions, alterations, repairs and re-roofs, and enacting fire protection areas not covered by the state-mandated areas.
- Article 3. Wood Burning Appliances – local amendment reducing the health risks caused by wood smoke based upon Berkeley's climatic conditions.
- Article 4. Projection into Public Right of Way – an administrative amendment concerning revocation, removal and indemnification regarding construction in the

Right of Way.

- Article 5. Existing Buildings – adopting 2022 California Existing Building Code and certain chapters of the 2021 International Existing Building Code to reduce the risk from earthquakes.
- Article 6. Repairs to Existing Buildings and Structures – establishing updated regulations for the repairs of damaged structures to comply with the Stafford Act, which authorizes the Federal Emergency Management Agency (FEMA) to fund the repair and restoration of eligible facilities damaged in a declared disaster, and requires that the repair and restoration be "on the basis of the design of such facility as it existed immediately prior to the major disaster and in conformity with current applicable codes, specifications and standards."
- Article 7. Amendments to Structural Standards – addressing Berkeley's close proximity to major earthquake faults. The Berkeley Building Official has participated in meetings of the Tri-chapter Uniform Code Committee (TUCC), which is part of the International Code Council East Bay Chapter. The TUCC recommended several structural amendments to the 2022 California Building and Residential Codes, which are included in the proposed local amendments for Berkeley.
- Article 8. Construction of Exterior Appurtenances – establishing more stringent construction standards for exterior elevated elements and continuing the amendments adopted in July 2015 following the balcony collapse at 2020 Kittredge Street.
- Article 9. Emergency Housing Appendix P (formally Appendix O) – establishing local amendments reflecting the particular characteristics and needs of Berkeley's emergency shelter responses.

Previous local amendments, with some revisions and updates in code language and code sections, that are recommended for continuance in the reenacted Berkeley Residential Code with Mid-Cycle Supplement (BMC Chapter 19.29) include:

- Appendix AH for Patio Covers which relaxes certain provisions contained in the body of the code as related to patio covers, including permitted uses; exterior wall insect screens; glazing and translucent or transparent plastic; light, ventilation and emergency egress.
- Appendix AQ for tiny homes used as dwelling units, relaxing various code requirements as they apply to smaller homes in response to the California housing crisis.
- Appendices AR, AS and AU for light straw-clay, strawbale and COB construction respectively in support of sustainable construction practices which reduce environmental impact and provide increased thermal efficiencies.
- Appendix AX for Swimming Pool Safety Act that contain mandatory provisions to

comply with State Law.

- Section 19.29.050 Materials and Construction Methods for Exterior Wildlife Exposure – adding additional local requirements applicable to additions, alterations, repairs and re-roofs, and enacting fire protection areas not covered by the state-mandated areas.
- Section 19.29.060 Technical Amendments to Structural Standards – addressing Berkeley's close proximity to major earthquake faults.

Previous local amendments, with some revisions in code language and code sections, that are recommended for continuance in the reenacted Berkeley Green Code with Mid-Cycle Amendments (BMC Chapter 19.37) include:

- Section 19.37.040 Requirements increased EV charging readiness and installation in new buildings.
- Section 19.37.040 Construction and Demolition debris amendments to require that 100% asphalt, concrete, excavated soil and land-clearing debris be diverted from disposal by recycling, reuse, and salvage, in addition to the general 65% diversion requirement.
- Section 19.37.040 Low-carbon concrete requirement, which requires that cement used in concrete mix design be reduced by not less than 25 percent.

The proposed Ordinance, with the local amendments, supports the City's Strategic Plan Goals to create a resilient, safe, connected, and prepared city, and to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment. The proposed actions also support emergency housing provisions to assist in the declared homeless shelter crisis.

BACKGROUND

The Council last adopted the California Building Standards Code with local amendments in November 2022, which became effective on January 1, 2023. That adoption was supported by and consistent with the goals and feedback received from the Environment and Climate Commission and the Disaster and Fire Safety Commission, and other interested stakeholders.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Adoption of the 2022 Berkeley Building Codes with Mid-cycle Supplements including the Berkeley local amendments is important to meet Berkeley's Climate Action Plan, Zero Waste, and Fossil Fuel Free Berkeley goals. The Berkeley Green Code supports the goals of these three initiatives by:

1) Providing expanded EV charging facilitates electric mobility and supports the diminished greenhouse gas emissions associated with transportation, currently about 60% of Berkeley's total emissions.

2) Providing for Zero NO_X Emission Buildings which limit the human health, environmental, and climate impacts of emissions associated with building occupancy.

3) Addressing the growing concern that the use of concrete, a common building product contributes to an estimated 8% of global carbon emissions. Low-carbon concrete requirements will limit the greenhouse gas emissions associated with building construction.

4) Increasing diversion requirements for construction and demolition materials keeps waste out of landfills.

RATIONALE FOR RECOMMENDATION

Local building standard codes must be adopted by the City every three years or State Model Codes will go into effect without local amendments. Since the State's Mid-Cycle Supplements conflict with adopted local amendments, re-adoption of local amendments and findings is needed to preserve previously adopted policies designed for Berkeley's local conditions. Such local policies provide a higher level of safety than would be achieved through the State's Model Codes. Fire risk, seismic danger, and other local conditions, as described in detail in the attached Resolution, justify adoption of Berkeley code amendments that are stricter than the California Building Standards Code.

ALTERNATIVE ACTIONS CONSIDERED

Staff considered establishing an exception to the proposed Zero NO_X amendment for commercial cooking appliances. However, due to known health risks to kitchen staff, the negative impacts to the environment, and the increased availability of Zero NOx cooking equipment, this exception was not included in staff's recommendation.

Staff considered establishing a Single Margin Source Energy Code amendment as an alternative to the Zero NO_X CALGreen amendment. This alternative would allow projects to include NO_X emitting equipment if they also included increased building energy efficiency measures to offset the environmental impacts. This alternative would require approval by the State Energy Commission before the City could enforce the amendment and therefore could not become by effective July 5, 2024.

City Council could also adopt the California Buildings Standards Code with Mid-Cycle Supplements with fewer, or no, local amendments; or take no action, and let the state mandated codes take effect without local amendments specifically adopted by the City of Berkeley.

CONTACT PERSON

David Lopez, Chief Building Official, Building and Safety Division, Planning and Development Department, 510-981-7441
Kurt Hurley, Green Building Program Manager, Building and Safety Division, Planning and Development Department, 510-981-7501
Sarah Moore, Interim Manager, Office of Energy and Sustainable Development, Planning and Development Department, 510-981-7494

Attachments:
1: Code Adoption Ordinance
2: Resolution Adopting Findings of Local Conditions

Attachment 3

NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL
ADOPTION OF BERKELEY BUILDING CODES

The public may participate in this hearing by remote video or in-person.

The Department of Planning and Development is proposing that the City Council adopt the second reading of an Ordinance repealing and reenacting the Berkeley Building, Residential, Electrical, Mechanical, Plumbing, Energy, and Green Building Standards Codes in BMC Chapters 19.28, 19.29, 19.30, 19.32, 19.34, 19.36 and 19.37, and adopting related procedural and stricter provisions

The hearing will be held on June 4, 2024 at 6:00 p.m, at the Berkeley Unified School District Board Room located at 1231 Addison Street, Berkeley CA 94702. A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **May 23, 2024**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact David Lopez, Chief Building Official, Manager of Building and Safety Division, Planning and Development Department, 510-981-7441

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to council@berkeleyca.gov 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. 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@berkeleyca.gov for further information.

Published: May 17 and May 24, 2024 – The Berkeley Voice
Public hearing required per California Government Code section 50022.3

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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 May 23, 2024.

_____
Mark Numainville, City Clerk
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Office of the City Manager

PUBLIC HEARING
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Planning & Development Department

Subject: ZAB Appeal: 2113-15 Kittredge Street, Use Permit #ZP2022-0144

RECOMMENDATION

Conduct a public hearing, and upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board decision to approve Use Permit #ZP2022-0144 to demolish the commercial building on a landmarked site (preserving the front façade), and construct an 18-story (203 feet, with 8-foot, 4-inch parapet), 160,734-square-foot, mixed-use building with 211 dwelling units (including 22 Very Low-Income Density Bonus qualifying units), and a 24,273-square-foot live theater space, and dismiss the appeal.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On October 26, 2022, Christian Cerria submitted a Preliminary Application to vest rights pursuant to Senate Bill (SB) 330, the Housing Crisis Act of 2019 (Government Code Sections 65941.1 and 66300), for a housing development project.

On October 31, 2022, staff received from Christian Cerria an application for Use Permit #ZP2022-0144 to demolish the commercial building on a landmarked site (preserving the front façade), and construct an 18-story, mixed-use building with 211 dwelling units, and a 24,273-square-foot live theater space ("Project"). On the same day, staff also received a Landmark Structural Alteration Permit (SAP) #LMSAP2022-0011 from the applicant for the alteration of a City Landmarked site.

On March 31, 2023, the use permit application was deemed complete. On April 28, 2023, staff recommended to the ZAB a determination that the Project be categorically exempt from CEQA, pursuant to Section 15331 ("Historical Resource Restoration/Rehabilitation") and Section 15332 ("Infill Development Projects").

On July 6, 2023, the Landmarks Preservation Commission (LPC) conducted a public hearing for LMSAP2022-0011, and continued the discussion to a second hearing. On October 5, 2023, the LPC conducted a second hearing, approved the SAP for

demolition and new construction at the landmark site with a categorical exemption from CEQA pursuant to Section 15331 (“Historical Resource Restoration/Rehabilitation”), and conditioned the permit approval with further refinements to be presented at Final Design Review before the LPC.

On January 11, 2024, the Zoning Adjustments Board (ZAB) conducted a public hearing for the use permit application. After hearing public comments and holding discussion, the ZAB approved the use permit by a vote of 5-0-1-3 (Yes: Duffy, Plese, Sanderson, Blackaby, Gaffney; No: None; Abstain: Tregub; Absent: Kahn, O’ Keefe, Lunapara).

On January 22, 2024, staff issued a Notice of Decision for the ZAB approval.

On February 5, 2024, the City Clerk received an appeal filing from Adams, Broadwell Joseph and Cardozo, on behalf of East Bay Residents for Responsible Development.

On or before May 21, 2024, staff posted the public hearing notice at the site and three nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area. The Council must conduct a public hearing to resolve the appeal.

BACKGROUND

The project site is located on the north side of Kittredge Street, within the Downtown Mixed-Use District (C-DMU), Core Sub-Area, as identified in the City’s Downtown Area Plan (DAP). The project site is surrounded by commercial, institutional and mixed-use commercial/residential buildings ranging in height from one to seven stories. The project site is served by multiple bus lines (local, rapid, and Transbay) that operate along Shattuck Avenue, one-half block west of the site, and is one block away from the Downtown Berkeley Bay Area Rapid Transit (BART) Station. The site is two blocks away from the University of California at Berkeley Shuttle, and a bike share station at the Shattuck Avenue and Center Street intersection.

The project site is associated with addresses 2113 and 2115 Kittredge Street and Assessor’s Parcel Number 57-2030-9. The 13,500-square-foot (0.31-acre) project site is a rectangular parcel that is occupied by an approximately 10,880-square-foot, movie theater (California Theater) that was originally constructed in 1914 as a live performance venue, but operated primarily as a movie theater until it closed in the fall of 2021.

The Project proposes to demolish the commercial building on the landmarked site (preserving the front façade), and construct a mixed-use building that utilizes the State Density Bonus. The Project is eligible for a density bonus under Government Code Section 65915, by including 22 Very Low-income units (15 percent of the 141-unit base project), and qualifies for a 50 percent density bonus, or 71 bonus units, of which 70 are utilized, resulting in a 211-unit density bonus project. The Project requests concessions to reduce the usable open space and landscaped open space requirements, and

waivers for height (maximum height and rooftop projections), setbacks, diagonal width, and short-term bike parking.

The project site is located within the City's Environmental Management Area; however, it is not listed on the Cortese List. Consistent with guidelines published by the Bay Area Air Quality Management District (BAAQMD)[1], the City requires a development project that includes both demolition and construction to substantiate a categorical exemption by providing an air quality assessment that indicates compliance with criteria air pollutant screening thresholds. An air quality assessment report[2] was prepared and submitted by the applicant's consultant anticipating no significant air quality impact from project construction pollutants, in support of the categorical exemption.

A Phase I Environmental Site Assessment[3] was submitted by the applicant which indicated Recognized Environmental Conditions (RECs) on the site and exceedances of residential environmental screen levels. The exceedances were determined to be minor in the Phase II Subsurface Investigation report[4], and the report concluded that the project site meets the standards for mixed-use development without incorporation of environmental mitigation into the final design. The City also included in the permit a Condition of Approval (COA) that requires oversight of this site condition by the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB). The applicant has entered into an Oversight Agreement with the SFBRWQCB to oversee further study of potential water contamination at the project site to determine the Project's impact to groundwater. Also, standard COAs related to hazardous materials would apply to the Project.

The LPC approved the Structural Alteration Permit (LMSAP 2022-0011) on October 5, 2023 with an exemption from CEQA under Section 15331 ("Historical Resource Restoration/Rehabilitation"), because it meets the requirements for rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

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[1] Bay Area Air Quality Management District. 2022. California Environmental Quality Act Air Quality Guidelines. Available at: https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines

[2] Use Permit ZP2022-0144, Zoning Project Application materials – Air Quality Assessment, dated November, 2023. ***Application materials available at: https://aca.cityofberkeley.info/CitizenAccess/Default.aspx. Click on Zoning tab; enter permit number, i.e., "ZP2022-0114"; click on the "Record Info" drop down menu; click on Attachments for a list of all application materials.***

[3] Use Permit ZP2022-0144, Zoning Project Application materials – Phase I Environmental Site Assessment, dated May 27, 2022.

[4] Use Permit ZP2022-0144, Zoning Project Application materials – Summary of Phase II Subsurface Investigation, dated November 8, 2022.

The ZAB determined that the Project is categorically exempt from CEQA, pursuant to Section 15331 ("Historical Resource Restoration/Rehabilitation") and Section 15332 ("Infill Development Projects"), found the Project to be compliant with all vested and applicable, objective General Plan and zoning standards, without specific adverse impact on public health or safety. The ZAB approved the project on January 11, 2024 without reductions to Project's density, pursuant to the State Housing Accountability Act (HAA), Government Code Section 65589.5(j).[5]

For additional project background, please see Attachment 3, the January 11, 2024 ZAB staff report for this project.

RATIONALE FOR RECOMMENDATION

The issues raised in the Appellant's letter and staff's responses follow. For the sake of brevity, the appeal issues are not re-stated in their entirety. Please refer to the appeal letter (Attachment 2) for the full text.

Issue 1:

The Appellant argues that the infill categorical exemption from CEQA is not applicable for three reasons: A) Appellant argues that the Project would have significant air quality impacts, and thus does not qualify for the infill exemption. B) Appellant argues that the Project would have other significant impacts, including impacts to historic resources, and thus triggers two exceptions to the infill exemption. C) Appellant argues that the City has relied on "mitigation measures" to reduce the Project's impacts to a level of insignificance in order to rely on categorical exemptions, in violation of CEQA.

Response:

A. The Project qualifies for the infill development exemption (CEQA Guidelines § 15332).

   CEQA provides a categorical exemption for infill development projects meeting the following conditions:

   (a) The Project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

[5] The Housing Accountability Act (HAA), Government Code Section 65589.5(j), requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that the development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

(b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
(c) The project site has no value, as habitat for endangered, rare or threatened species.
(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
(e) The site can be adequately served by all required utilities and public services.[6]

This categorical exemption is subject to several exceptions, including if "there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances" and if the project may cause a substantial adverse change in the significance of a historical resource.[7]

Under CEQA, the Secretary of the Natural Resources Agency is charged with the duty to designate classes of projects found not to have significant effects on the environment and thus are exempt from further environmental review under CEQA.[8] Public agencies may not require EIRs for projects that are categorically exempt under these designations, unless an exception to the categorical exemption applies.[9] If a project is subject to a categorical exemption, no formal environmental evaluation is required. Some projects may be subject to more than one categorical exemption.[10]

Staff, the Landmarks Committee, and the ZAB have reviewed the proposed project and determined that it satisfies the conditions for the infill development categorical exemption. The Project is consistent with the applicable general plan designation (DT – Downtown) and all applicable general plan policies, as well as with applicable zoning designation (C-DMU – Downtown Mixed-Use Commercial District) and regulations.[11] The Project is proposed within city limits on a site of 0.3 acres, i.e., less than five acres, substantially surrounded by urban uses (i.e., downtown Berkeley). The project site is already developed and thus has no value as habitat for endangered, rare or threatened species.[12] The site can be adequately served by all required utilities and public services – the Project is located in the downtown, and

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[6] CEQA Guidelines § 15332.
[7] CEQA Guidelines § 15300.2.
[8] Public Resources Code § 21084 and Guidelines § 15300.
[9] CEQA Guidelines 15300.4.
[10] The Appellant asserts that CEQA requires the City to demonstrate, based on substantial evidence, that there are no "significant effects" of the project on the environment in order rely on a categorical exemption. See, e.g., Appeal Letter at 17. This is incorrect. The City may rely on a categorical exemption if it concludes that the project meets the conditions of that exemption and there is substantial evidence to support that conclusion. At that point, the burden shifts to a challenger to demonstrate that an exception to the exemption applies.
[11] See Section V, Issues and Analysis of Attachment 3, January 11, 2024 ZAB Staff Report.
ZAB Staff Report for an analysis of project's consistency with the General Plan and Zoning.
[12] SB 330 Preliminary Application PLN2022-0067, application materials – Critical Habitat for Threatened and Endangered Species (USFWS) Map.

there is no reason to believe that will-serve letters from public utilities won't be issued for the site.

Lastly, the Project will not result in any significant effects relating to traffic, noise, air quality, or water quality:

- Traffic: The Project is consistent with the City's Vehicle Miles Traveled (VMT) Criteria and Thresholds[13], as demonstrated in the VMT Screening document submitted with the use permit application.[14] The document provides evidence that the Project is located within a Transit Priority Area, and in an area where VMT per resident is 15% below the average Bay Area resident. The project site is served by multiple bus lines (local, rapid, and transbay) that operate along Shattuck Avenue, one-half block west of the site, and is one block away from the Downtown Berkeley BART Station.
- Noise: The City requires projects to be consistent with the construction noise and community noise requirements in BMC Chapter 13.40. Additionally, COA #13 in the use permit requires the applicant to prepare a Construction Noise Reduction Program that is consistent with the BMC.[15]
- Air Quality: The Bay Area Air Quality Management District's (BAAQMD) 2022 CEQA Guidelines[16] (BAAQMD Guidelines) identifies preliminary screening criteria for construction and operation activities. The BAAQMD Guidelines are designed to provide BAAQMD-recommended procedures for evaluating potential air quality and climate impacts during the environmental review process that are consistent with CEQA requirements. It the City's practice to use these guidelines for determining the appropriate CEQA pathway for development projects.

  According to Chapter 4, Screening for Criteria Air Pollutants and Precursors (Section 4.1.1, Construction Criteria) of the BAAQMD Guidelines, construction projects that include demolition do not meet the screening criteria and cannot be considered to result in a less-than-significant impact related to criteria air pollutants and precursors. Therefore, the applicant was required to prepare an air quality assessment that indicates whether they can comply with criteria air pollutant screening thresholds. As noted in the Air Quality Assessment prepared by ESA, the Project is below BAAQMD's thresholds for criteria air pollutants.[17] The Project was not required to prepare

[13] https://berkeleyca.gov/sites/default/files/2022-02/VMT-Criteria-and-Thresholds.pdf
[14] Use Permit ZP2022-0144, Zoning Project Application materials – VMT Screening document
[15] See Findings and Conditions (Attachment 1, Exhibit B).
[16] https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines
[17] Use Permit ZP2022-0144, Zoning Project Application materials – Air Quality Assessment, dated November, 2023.

an operational air quality assessment because it is below the size standards outlined in BAAQMD Guidelines Section 4.1.2, Operational Criteria.

- Water Quality: The Project is located on a fully-developed site, and would be required to comply with the following COAs:
  - #41 requires the applicant to submit to the City documentation of compliance from the SFBRWQCB of compliance with the SFBRWQCB oversight agreement (Oversight Letter) prior to any ground-disturbing activity.[18]
  - #51 requires the applicant to comply with the City's stormwater requirements and National Pollution Discharge Elimination System permit.

Given these facts, the City may conclude that the infill development exemption applies.

The Appellant has argued that this exemption should not apply because the Project will have significant air quality and water quality impacts, and thus cannot satisfy all of the conditions for this exemption.

With respect to air quality impacts, the Appellant cites an analysis prepared by "SWAPE" attached to their appeal, which states that:

1. The Project results in an excess cancer risk over the course of a residential lifetime (30 years) of approximately 107 in one million from operation emissions.
2. Construction of the Project over 37 months or 1,125-days will result in a significant health risk impact requiring mitigation.

However, this analysis is inconsistent with the air quality assessment submitted by the applicant and prepared by ESA, which concluded that there would be no significant impacts. ESA modeled construction-related criteria air pollutant emissions and compared the data to the Bay Area Air Quality Management District (BAAQMD) thresholds of significance. All construction criteria pollutant emissions were found to be below their respective thresholds. The report concluded that the Project would not result in a significant air quality impact associated with construction criteria pollutants. As stated previously, the Project was not required to prepare an operational air quality assessment because it is below the size standards outlined in BAAQMD Guidelines Section 4.1.2, Operational Criteria. As long as the City has substantial evidence to support its conclusion that the Project would not have significant air quality impacts, it may rely on the CEQA exemption.

[18] See SFBRWQCB Oversight Letter, dated November 16, 2023, Attachment 5 to the January 11, 2024 ZAB Staff Report. Available at: https://berkeleyca.gov/sites/default/files/documents/2024-01-11_ZAB_Item%204_2113-15%20Kittredge_Staff%20Report%20and%20Attachments.pdf

The Appellant also asserts that the City was required to prepare a health risk assessment. However, if an exemption applies, no further environmental review is required.

With respect to water quality impacts, the Appellant cites the SFBRWQCB Oversight Letter on the Geotracker database, which is an agreement with the Applicant that the SFBRWQCB will oversee the investigation and cleanup of the site that also provides instructions on cost recovery for SFBRWQCB oversight work. The letter indicates that SFBRWQCB will require adequate investigation, and cleanup of any contamination found on the site as a result, before any construction-related ground disturbance is allowed.

B. The Appellant has not demonstrated that any exception to the infill development exemption applies.

The Appellant next asserts that two exceptions to the categorical exemption for infill development apply: the exception for when "there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances" and the exception for when the project may cause a substantial adverse change in the significance of a historical resource.[19]

The first exception does not apply because there are no "unusual circumstances" resulting in significant effects. The proposed project is a mixed-use, infill project in downtown Berkeley, surrounded by other mixed-use developments. Similar projects have been approved and constructed in the downtown area that have had comparable construction durations to the 2113 Kittredge project: the 12-story, mixed-use project at 1951 Shattuck (ZP2018-0137) and the mixed-use project with two eight-story buildings at 2352 Shattuck (ZP2018-0135). Both were approved in 2019 and both were determined to have no significant impacts that required further study in a project EIR. The 2113 Kittredge project is not substantially different from these projects such that the "unusual circumstances" exception would apply.

The Appellant has not shown that there will be significant adverse impacts. As noted above, the ESA report concludes that there will not be any significant air quality impacts. There is also no evidence that the Project is located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code § 65962.5 and, as a result, would create a significant hazard to the public or the environment. A Phase II Subsurface Investigation was prepared by Terraphase Engineering, dated November 8, 2022, which included collection and analysis of soil and soil vapor samples to address the RECs and data gaps identified in the Phase I Environmental Site Assessment. The Phase II investigation led to the conclusion

[19] CEQA Guidelines § 15300.2.

that the project site meets the standards for mixed-use development without incorporation of environmental mitigation into the final design.

Potential greenhouse gas impacts cannot be used to disqualify a project from an otherwise applicable exemption where the project is consistent with adopted, applicable regulations to implement statewide, regional, or local plans for the reduction of greenhouse gases.[20] Here, the Project is consistent with the City's climate action plan ("CAP").[21] It will achieve LEED Gold certification at minimum, as required by the zoning district development standards[22], and a Condition of Approval will be added to the permit requiring the applicant to submit a report of projected GHG emissions prior to applying for building permits. The Project must also comply with State Title 24 building energy efficiency standards, and BMC Chapter 19.81, which requires energy performance reports and assessments (annual and every five years) for large buildings. The appellant has not shown that the project will cause significant greenhouse gas impacts.

The Appellant has not provided any evidence suggesting that the Project "may cause a substantial adverse change in the significance of a historical resource."[23] The Project was not found to cause an adverse change to the California Theater historical resource because it proposes to retain the architectural design and details that characterize its historical significance as an Art Deco theater within the context of early 20th century Downtown development. It was further assessed and found to comply with the Secretary of the Interior's Standards for the Treatment of Historical Properties. Owing to this analysis, the proposal was exempt from further environmental review pursuant to the Class 31 categorical exemption for Historical Resource Restoration/Rehabilitation.

C. <u>The Project's conditions of approval are not necessary to reduce the Project's impacts to a level of insignificance, and thus are not "mitigation measures</u>."

The Appellant also asserts that the City relied on "mitigation measures" to find that the Project qualifies for an exemption and/or that the Project is not subject to any of the exceptions to the categorical exemption. The Appellant states that the City cannot rely on COA #40, which requires future preparation of a health risk assessment or use of Tier 3 or VDECS-equipped off-road construction equipment, to support the claimed categorical exemption; in addition, the condition constitutes "deferred mitigation." The Appellant states that "[t]he City has acknowledged that the site's soil contamination impact is significant and has included mitigation in the Project's conditions of approval which require site cleanup." In particular, the

[20] Public Resources Code § 21084(b); Guidelines § 15183.5.
[21] City of Berkeley Climate Action Plan, p. 59. Available at: https://berkeleyca.gov/your-government/our-work/adopted-plans/berkeley-climate-action-plan
[22] See Greenpoint Rated Multifamily Checklist, Sheet G011 (Attachment 1, Exhibit B).
[23] CEQA Guidelines § 15300.2.

conditions of approval require preparation of a "Soil and Groundwater Management Plan" in the future. The Appellant refers generally to measures required by the Landmarks Preservation Commission, claiming that these measures were necessary to avoid the CEQA guideline that says a categorical exemption "shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource."

COAs are necessary to ensure compliance with City and external agency regulations for development. Conditions are applied independent of the CEQA review and infill development exemption. As discussed above, the Project would have less-than-significant air quality and water quality impacts, and COA #40 and the requirement to prepare a Soil and Groundwater management Plan are not mitigations, due to the lack of impact. Similarly, the Project would preserve and rehabilitate the façade of the California Theater – which contains the character-defining features of the historical resource – and therefore would not cause a substantial adverse change to the resource. The Appellant has provided no supporting evidence regarding the risk of impacts to the historic resource. The COAs adopted by the Landmarks Commission for approval of the Structural Alteration Permit mirror the City's standard COAs for alteration projects, which ensure that all alteration projects are executed with due consideration and retention of historic features and align with best practices in preservation. These COAs are also not "mitigations," nor are they necessary to avoid the CEQA guideline prohibiting the use of a categorical exemption when the project could cause a substantial adverse change in the significance of a historical resource."[24]

Issue 2:

The Appellant asserts that the Project may result in nonconformance with the General Plan and Zoning. Specifically, the Project has not demonstrated conformance with General Plan workforce policies such as General Plan Economic Development and Employment ("ED") Policy ED-4 (Provide programs and services to assist neighborhood and avenue commercial districts), Policy ED-1, (Employment and Training), and Policy ED-12 (Promoting Berkeley). The Appellant recognizes that the Project is not required to comply with BMC Chapter 13.107, Establishing Healthcare and Apprenticeship Standards for Private Development (HARD HATS Ordinance), due to its effective date, but nevertheless, recommends that the Project include voluntary commitments to the ordinance provisions.

[24] A "historical resource" is defined under CEQA Guidelines § 15064.5(a)(2) as "a resource included in a local register of historical resources as defined in section 5020.0(k) of the Public Resources Code." Here, the subject property was designated as a Berkeley City Landmark and listed on the local register effective July 27, 2022.

Response:

As the Appellant acknowledges, Berkeley Municipal Code (BMC) Chapter 13.107 (HARD HATS Ordinance) is not applicable to the Project due to the vesting under SB 330 provisions.[25] The Project applicant submitted a Preliminary Application pursuant to SB 330 to vest in ordinances, policies, and standards in effect on October 26, 2022, when the application was determined to be complete, for the pendency of the project approval. The HARD HATS Ordinance became effective on January 1, 2024, after the vesting date of the Project's Preliminary Application. Since HARD HATS Ordinance does not apply to the Project, compliance with provisions contained in the ordinance would be voluntary.

The ZAB determined the project compliant with all vested and applicable objective General Plan and C-DMU Zoning District standards.

Issue 3:

The Appellant asserts that the Project is inconsistent with the Downtown Area Plan because it fails to provide "significant community benefits" as required by the Plan.

Response:

The DAP goals and policies broadly guide development in the downtown zoning district and are not objective standards. The project site is located in the C-DMU, Mixed Use Commercial District, where pursuant to BMC 23.204.130(E)(2)(c), a "community benefits" package (that includes a Project Labor Agreement) is required for buildings which apply for a use permit to exceed 75 feet in height. However, the Project is not subject to this requirement because its density bonus "base project" height does not exceed 75 feet.

Pursuant to Government Code Section 65915, the base project in a density bonus project is the objective standards-compliant project that represents the maximum allowable density on the site before adding the density bonus units. The density bonus units are conferred by right if the minimum amount of below-market-rate units are included in the Project, and requested waivers and concessions granted to allow the full density bonus project on the site. The Project includes 22 Very Low-income units or 15 percent of the 141-unit base project, to obtain a 50 percent density bonus or 70 bonus units, for a 211-unit density bonus project. The Project includes a waiver to exceed the 75-foot district height limit to be 203 feet tall, with 8-foot, 4-inch parapet.

[25] Pursuant to Government Code § 65589.5 (o)(1), "Subject to paragraphs (2), (6), and (7), and subdivision (d) of Section 65941.1, a housing development project shall be subject only to the ordinances, policies, and standards adopted and in effect when a preliminary application including all of the information required by subdivision (a) of Section 65941.1 was submitted".

The ZAB determined that the Project is consistent with this policy in the Downtown Area Plan.

Issue 4:

The Appellant asserts that the Project is detrimental to the general welfare and inconsistent with the zoning ordinance.

Response:

The BMC's non-detriment findings are not objective standards. Pursuant to Government Code, Section 65589.5(j), a non-objective standard cannot provide a basis for denial of or reduction in density for a housing project. Pursuant to the HAA, the City cannot deny or reduce the density of a housing development that is compliant with objective standards, unless it can meet the strict finding of specific adverse impact[26] on public health or safety – a level of impact which the State Department of Housing and Community Development considers to be rare and infrequent.[27]

The ZAB determined the Project is compliant with all vested and applicable objective general plan and zoning standards, that the findings for specific adverse impact on public health or safety in order to deny (or reduce) the Project could not be made, and approved the Project in accordance with SB 330 and the HAA.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
The project approved by the ZAB is compliant with all applicable State and local environmental requirements, would be located in a transit-rich area, and would be built and operated according to current codes for energy conservation, waste reduction, low toxicity, and other factors.

ALTERNATIVE ACTIONS CONSIDERED
Pursuant to BMC Section 23.410.040(G), the Council may (1) continue the public hearing, (2) reverse, affirm, or modify the ZAB's decision, or (3) remand the matter to the ZAB. The June 4, 2024 City Council appeal hearing represents the fourth public hearing for the Project, pursuant to Government Code Section 65905.5(a). The City can hold one additional public hearing.

Action Deadline:
Pursuant to BMC Section 23.410.040(I), if the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the Council

[26] Per Government Code § 65589.5(d)(2), a "specific, adverse impact" means "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete."
[27] Housing Accountability Act Technical Assistance Advisory (Government Code § 65589.5), p. 20; State Department of Housing and Community Development. Available at: https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/hcd-memo-on-haa-final-sept2020.pdf

(not including Council recess), then the decision of the Board shall be deemed affirmed and the appeal shall be deemed denied.

CONTACT PERSONS

Jordan Klein, Director, Planning & Development Department, (510) 981-7534
Anne Hersch, Land Use Planning Manager, (510) 981-7411
Sharon Gong, Senior Planner, (510) 981-7429

Attachments:

1. Draft Resolution
    - Exhibit A: Findings and Conditions
    - Exhibit B: Project Plans, received November 8, 2023
2. Appeal Letter, dated received February 5, 2024
3. January 11, 2024 ZAB Staff Report
4. Index to Administrative Record
5. Administrative Record
6. Public Hearing Notice

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

AFFIRMING THE ZONING ADJUSTMENTS BOARD APPROVAL OF USE PERMIT #ZP2022-0144 TO DEMOLISH THE COMMERCIAL BUILDING ON A LANDMARKED SITE (PRESERVING THE FRONT FAÇADE), AND CONSTRUCT AN 18-STORY (203 FEET, WITH 8-FOOT, 4-INCH PARAPET), 160,734-SQUARE-FOOT, MIXED-USE BUILDING WITH 211 DWELLING UNITS (INCLUDING 22 VERY LOW-INCOME DENSITY BONUS QUALIFYING UNITS), AND A 24,273-SQUARE-FOOT LIVE THEATER SPACE, AND DISMISS THE APPEAL

WHEREAS, on October 26, 2022, Christian Cerria ("applicant") submitted a Preliminary Application to vest rights pursuant to Senate Bill (SB) 330, the Housing Crisis Act of 2019 (Government Code Sections 65941.1 and 66300), for a housing development project; and

WHEREAS, on October 31, 2022, Christian Cerria submitted an application for Use Permit #ZP2022-0144 to demolish the commercial building on a landmarked site (preserving the front façade), and construct an 18-story, mixed-use building with 211 dwelling units, and a 24,273-square-foot live theater space ("project"); and also submitted an application for Landmark Structural Alteration Permit #LMSAP2022-0011 for the alteration of a City Landmarked site; and

WHEREAS, on March 31, 2023, staff deemed this application complete; and

WHEREAS, on April 28, 2023, staff determined that the level of California Environmental Quality Act ("CEQA") review would be categorically exempt, pursuant to Section 15331 ("Historical Resource Restoration/Rehabilitation") and Section 15332 ("Infill Development Projects"); and

WHEREAS, on July 6, 2023 and October 5, 2023, the Landmarks Preservation Commission (LPC) conducted public hearings for Structural Alteration Permit LMSAP2022-0011, approved the SAP for demolition and new construction at the landmark site with a categorical exemption from CEQA pursuant to Section 15331 ("Historical Resource Restoration/Rehabilitation"), and conditioned the permit approval with further refinements to be presented at Final Design Review before the LPC; and

WHEREAS, on December 21, 2023, staff mailed and posted a Notice of Public Hearing for the project at the site and two nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area; and

WHEREAS, on January 11, 2024, the Zoning Adjustments Board (ZAB) conducted a public hearing for the Use Permit. After hearing public comments and holding discussion, the ZAB approved the Use Permit by a vote of 5-0-1-3 (Yes: Duffy, Plese, Sanderson, Blackaby, Gaffney; No: None; Abstain: Tregub; Absent: Kahn, O' Keefe, Lunapara); and

WHEREAS, on January 22, 2024, staff issued the notice of the ZAB decision; and

WHEREAS, on February 5, 2024, the City Clerk received an appeal filing from Adams, Broadwell Joseph and Cardozo, on behalf of East Bay Residents for Responsible Development; and

WHEREAS, on or before May 21, 2024, staff mailed and posted a Notice of Public Hearing at the site and two nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area; and

WHEREAS, on June 4, 2024, the Council held a public hearing to consider the ZAB's decision, and in the opinion of this Council, the facts stated in, or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Council hereby adopts the findings made by the ZAB in Exhibit A to affirm the decision of the ZAB to approve Use Permit #ZP2022-0144, adopts the conditions of approval in Exhibit A; adopts the project plans in Exhibit B; and dismisses the appeal.

Exhibits
- Exhibit A: Findings and Conditions
- Exhibit B: Project Plans, received November 8, 2023

Attachment 1, EXHIBIT A

Findings and Conditions

JUNE 4, 2024

2113-15 Kittredge Street

Use Permit #ZP2022-0144 to demolish the commercial building on a landmarked site (preserving the front façade), and construct an 18-story (203 feet, with 8-foot, 4-inch parapet), 160,734-square-foot, mixed-use building with 211 dwelling units (including 22 Very Low-Income Density Bonus qualifying units), and a 24,273-square-foot live theater space.

PERMITS REQUIRED

- Use Permit under BMC Section 23.326.070(A) to demolish a non-residential building
- Use Permit under BMC Section 23.204.020(A) to construct a new mixed-use development
- Use Permit under BMC Section 23.204.020(A) to construct dwelling units
- Administrative Use Permit under BMC Section 23.204.020(A) to construct a theater (live)
- Use Permit under BMC Section 23.204.030(B)(1) to create new floor area of 10,000 square feet or more
- Use Permit under BMC Section 23.204.130(E)(1) to exceed the maximum building height limits, up to 75 feet (plus 5-foot parapet, by right)
- Administrative Use Permit under BMC Section 23.304.050(A) to exceed building height limits with rooftop architectural elements which exceed the maximum height limit for the district
- Use Permit under BMC Section 23.04.130(E)(3)(b) to modify side and rear setback requirements
- Use Permit under BMC Section 23.310.020(B) to commence alcoholic beverage service of distilled spirits
- Use Permit under BMC Section 23.310.030(A) for alcoholic beverage service, including distilled spirits, when incidental to a food service
- Administrative Use Permit under BMC Section 23.302.020(E)(4) to allow outdoor uses in a commercial district not abutting a residential district

CONCESSIONS/WAIVERS UNDER GOVERNMENT CODE SECTION 65915-65918

- Concession to reduce Usable Open Space (residential) requirement – to provide 12,539 square feet, where 16,880 square feet is required
- Concession to reduce landscaped Usable Open Space requirement – to provide 5 percent, where 40 percent is required
- Waiver of BMC Section 23.04.130(E)(1) to exceed building height limits – to be 203 feet to roof and 211 feet, 4 inches to parapet (8-foot, 4-inch-high parapet), where 75 feet is the limit (plus 5-foot parapet by right)
- Waiver of BMC Section 23.204.130(E)(3) to reduce the front, sides and rear setbacks (see Plan Set)

- Waiver of BMC Section 23.204.130(E)(3) to increase front setback maximum to five feet, four inches, where five feet maximum is required, at 0-20 feet building height
- Waiver of BMC Section 23.204.130(E)(3) to exceed the diagonal measurement limit of the building above 120 feet height – to be 152 feet, three inches, where 120 feet is required
- Waiver of BMC Section 23.322.090(A) to provide zero commercial short-term bicycle parking, where 12 is required

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15331 ("Historical Resource Restoration/Rehabilitation") and Section 15332 ("Infill Development Projects") of the CEQA Guidelines.

The project meets the requirements under CEQA Guidelines Section 15331 for rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer.

The project meets the requirements under CEQA Guidelines Section 15332, as follows:

A. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
B. The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
C. The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
D. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. The Traffic Impact Analysis prepared for the project was reviewed by the City Transportation Division which concurred with the findings of less than significant impacts. City Standard Conditions would address potential impacts related to traffic, noise, air quality, and water quality.
E. The site can be adequately served by all required utilities and public services.

2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. DENSITY BONUS FINDINGS

1. Pursuant to Government Code Section 65915, the Zoning Adjustments Board finds that:

A. Under the City's methodology for implementing density bonuses, the "base project" consists of 141 units;
B. The project will provide at least 22 Very Low-Income (VLI) qualifying units in the 141-unit "base project";
C. The project is entitled to a density increase of 50 percent over the otherwise maximum allowable residential density under the Zoning Ordinance and General Plan Land Use

Element, under the requirements of Government Code Section 65915(b) and (f), plus two concessions or incentives. This equates to a density bonus of 70 units (71 units maximum) above the Base Project, for a total of 211 units (212 units maximum).

2. In accordance with Government Code Section 65915(d) and (k), the Zoning Adjustments Board hereby grants the following concessions in order to provide for affordable housing costs:
A. Concession to Usable Open Space (residential) requirement – to provide 12,539 square feet, where 16,880 square feet is required
B. Concession to reduce the landscaped Usable Open Space requirement – to provide 5 percent, where 40 percent is required

3. In accordance with Government Code Section 65915(d), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board finds that the approval of the concession is required to provide for affordable rents, as provided in Government Code Section 65915(d)(1)(A) because 1) approval of the concession will result in identifiable and actual cost reduction; 2) approval of the concession will not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) will not be contrary to State or Federal law.

4. In accordance with Government Code Section 65915(e) the Zoning Adjustments Board hereby grants the following waivers:
A. Waiver of BMC Section 23.04.130(E)(1) to exceed building height limits – to be 203 feet to roof and 211 feet, 4 inches to parapet (8-foot, 4-inch-high parapet), where 75 feet is the limit (plus 5-foot parapet by right)
B. Waiver of BMC Section 23.204.130(E)(3) to reduce the front, sides and rear setbacks (see Plan Set)
C. Waiver of BMC Section 23.204.130(E)(3) to increase front setback maximum, where five feet maximum is required, at 0-20 feet building height
D. Waiver of BMC Section 23.204.130(E)(3) to exceed the diagonal measurement limit of the building above 120 feet height – to be 152 feet, three inches, where 120 feet is required
E. Waiver of BMC Section 23.322.090(A) to provide zero commercial short-term bicycle parking, where 12 is required

These waivers are required because state law requires the City to modify development standards as necessary to accommodate these density bonus units, and because the Zoning Adjustments Board hereby finds that the density bonus units can best be accommodated by granting these waivers.

5. In accordance with Government Code Section 65915(e), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board finds approval of waivers is required 1) construct the proposed project at the density permitted under State law; 2) approval of requested waivers will not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) approval of the requested waivers will not be contrary to State or Federal law.

III. FINDINGS FOR APPROVAL

6. The Housing Accountability Act §65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, a local agency may not deny the project or approve it with reduced density unless the agency makes written findings supported by substantial evidence that:

A. The development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower density; and

B. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval or approval at a lower density.

The project includes construction of 211 dwelling units. Because the base project would comply with applicable, objective general plan and zoning standards, §65589.5(j) does apply to this project. No significant, quantifiable, direct and unavoidable impacts, based on objective, identified written public health or safety standards, polices, or conditions, have been identified by staff.

7. As required by Section 23.406.040(E)(1) of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

A. The project is consistent with all applicable C-DMU District standards and qualifies for waivers and concessions for the listed district standards granted pursuant to State Density Bonus, Government Code, Section 65915;

B. New shadow impacts will occur 1) in the summer months and fall months around noon and in the hours before sunset on the mixed-use residential building at 2134 Allston Way to the north and the mixed-use residential buildings at 2220-40 Oxford and 2165-77 Kittredge Streets to the east; and 2) in the winter months in the hours before sunset on the mixed-use residential buildings at 2161 Allston Way and 2173-75 Allston Way to the northeast. All other new shadows will impact commercial buildings in the vicinity. The extent of the new shadow impact from the project on the site's adjacent areas is not unreasonable for a development in the dense, downtown district that allows building heights up to 60-foot, with zero to five-foot setbacks from property lines, by right.

C. The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring that the project meets the non-detriment finding.

IV. OTHER FINDINGS FOR APPROVAL

8. As required by BMC Section 23.326.070(A), in order to approve a Use Permit to demolish a commercial structure, the Zoning Adjustments Board finds that:

A. The proposed demolition of the existing landmarked movie theater building will not be materially detrimental to the commercial needs and public interest of the neighborhood because the proposed project will replace the eliminated commercial floor area with a mixed-use building that has more commercial space than the existing building, and will provide a significant amount of new dwelling units, to bring more diversity of services to residents and workers in the vicinity and new housing to the neighborhood and the City at large.

B. The existing structure to be demolished is a 10,880-square-foot movie theater. This commercial use will be replaced by a 24,273-square-foot live theater facility, 211 units of

new residential units, and two new parklets directly in front of the building, in the public right-of-way on Kittredge Street. The demolition is required in order to allow the proposed mixed-use project to be built.

C. The proposed demolition referral and Structural Alteration Permit were approved by the Landmarks Preservation Commission (LPC) on October 5, 2023.

9. As required by BMC Sections 23.310.020(B) and 23.310.030(A), in order to approve permits to commence distilled spirits alcoholic beverage sales or service when incidental to food service, the Zoning Adjustments Board finds that:

A. There are 40 existing Alcoholic Beverage Control (ABC) Type 47 (On-Sale General-Eating Place) licenses issued to establishments within 1000 feet of the project site.

B. The Findings of Public Convenience or Necessity can be made because:

1. The allowance of distilled spirits sales and service with theater concessions in the project will provide a wider range of alcoholic menu options to theater patrons that are customarily available to live theatrical venues. Such expanded menu choices will contribute to the economic success of the theater over a concessions menu that only offers beer and wine. The addition of distilled spirits to the concessions offerings will also increase business revenue, resulting in increased tax revenue for the City.
2. The project site is within 1,000 feet of Berkeley High School, at Allston Way and Milvia Street, and Constitution Square, on Shattuck Avenue between Center Street and Allston Way, which is well-used by the public and patrons of the nearby food establishments for gathering and eating. The Berkeley Police Department has reviewed the proposal and noted that there are no alcoholic beverage violations against the property owner, that the proposed mixed-use project appears to fit within the general character of the existing uses in the neighborhood, and that the project will not likely increase crime or calls for service in the area.

C. The project will be subject to alcohol service standards included in the Conditions of Approval, and must operate as a bona fide eating place, as defined by the ABC.

10. As required by Section 23.204.130(I) of the BMC, the Zoning Adjustments Board finds that the proposed use or structure:

A. *Is compatible with the purposes of the district to implement the vision and goals of the Downtown Area Plan (DAP)*:

1. Environmental Sustainability and Access: The project will be a high-density development with no vehicular parking, in proximity to regional transit, shops and amenities, and will provide more housing in the Downtown to increase access to local services and amenities by foot, by bicycle and via transit, while promoting public transit as an efficient and attractive choice through its location and through its Transportation Demand Management measures and other associated Conditions of Approval. The project is designed to achieve a LEED Platinum rating. The project will comply with the State's Model Water Efficient Landscape Ordinance (MWELO), and will feature a number of native plant species in its landscape palette.
2. Land Use, Housing and Community Health and Services, Economic Development: The project will introduce 211 new residential units, in a mix of unit sizes – studio, two-bedroom and four-bedroom units – and 22 very low-income units to the neighborhood, to help broaden the range of household incomes in the area and contribute to diversifying housing opportunities for households of different ages, incomes, varying sizes, and abilities in the Downtown.

The project features a 24,273-square-foot live theater facility that will contribute to the Downtown's appeal as a major destination for the region, with a unique concentration of housing, jobs and cultural destinations near transit, shops and amenities, enhancing the area's vitality, livability, sustainability, and character while preserving the character of the Downtown Historic neighborhood.

3. Historic Preservation and Urban Design: The LPC evaluated the project design's consistency with DAP Design Guidelines and its impact to the Shattuck Avenue Downtown Historic District resource, and conditioned the project approval to provide further design refinements and to implement site/historic preservation measures, in order to enhance compatibility of building design with the Historic District.
   Streets and Open Space: The project's 24,273-square-foot live theater facility, 211 residential units, and two public parklets on Kittredge Street will increase the number of residents in the neighborhood and will provide a new destination for both local and non-local patrons, helping to improve the Downtown neighborhood's livability and to foster an exceptional sense of place. The project will provide 12,539 square feet of private open space for residents that will comply with the State's MWELO requirements. In addition, the project would be required to contribute to the Streets and Open Space Improvement Plan (SOSIP) fund via Condition of Approval.

B. *Is compatible with surrounding uses and buildings:* The project site currently contains a movie theater that ceased operations in 2021. Uses on the surrounding properties include retail, an art center, an event venue public parking, restaurant, and multi-family residential. The project features a live theater facility and multi-family residential units, a similar mixture of uses that already exists on the site and in the vicinity. Thus, the project will not introduce new land uses that do not already exist in the Downtown, and will further the vision and goals of the DAP. The LPC approved the project with conditions for further design refinement and historic preservation requirements, and deemed the project consistent with DAP design guidelines.

11. As required by Section 23.304.050(A) of the BMC, the Zoning Adjustments Board finds that:

A. The project proposes stair and elevator elements (non-habitable, by definition) on the roof of the Base Project that represent less than the 15 percent threshold, as shown in the base project diagrams on sheet G002.A.

B. A Wind and Comfort Impact Analysis was prepared in March, 2022 for an approved use permit at 2190 Shattuck, a site that is one block to the east of the subject site, for a 25-story building proposal with zero to five-foot setbacks up to 268 feet in height, that concluded that the building will not cause significant additional wind impact on the street level at Shattuck Avenue and Allston Way. The Project, which consists of an 18-story building with similar setback reductions up to 203 feet in height, will similarly not result in significant changes to wind patterns on the sidewalk at the site along Kittredge Street.

V. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. Compliance Required (BMC Section 23.102.050)

All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

3. Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060.B.1 and 2)

A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.

B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

4. Conformance to Approved Plans (BMC Section 23.404.060.B.4)

All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

5. Exercise and Expiration of Permits (BMC Section 23.404.060.C)

A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.

B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.

C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).

D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060.D)

Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

7. Permit Modifications (BMC Section 23.404.070)
No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

8. Permit Revocation (BMC Section 23.404.080)
The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

9. Hold Harmless. The permittee agrees as a condition of approval of this application to indemnify, protect, defend with counsel selected by the City, and hold harmless, the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents, from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively, "Claims") arising out of or in any way relating to the approval of this application, any actions taken by the City related to this entitlement, or any environmental review conducted under the California Environmental Quality Act, Public Resources Code Section 210000 et seq., for this entitlement and related actions. The indemnification shall include any Claims that may be asserted by any person or entity, including the permittee, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents. The permittee's duty to defend the City shall not apply in those instances when the permittee has asserted the Claims, although the permittee shall still have a duty to indemnify, protect and hold harmless the City.

VI. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC 23.406.040.E, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

10. Project Liaison. The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Please designate the name of this individual below:**

☐ **Project Liaison** _____

Name Phone #

11. Final Design Review at Landmarks Preservation Commission (LPC). The Project requires approval of a Final Design Review application by the LPC.

12. Projected GHG Emissions. The Applicant shall submit a report of projected operational GHG emissions for the project to Land Use Planning for review prior to the submittal of any building permit.

13. Address Assignment. The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned in accordance with BMC 16.28.030, and entered into the City's database after the building permit is issued but prior to final inspection.

14. Construction Noise Reduction Program. The applicant shall develop a site-specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical:

A. Construction equipment should be well maintained and used judiciously to be as quiet as practical.
B. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
C. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
D. Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
E. Prohibit unnecessary idling of internal combustion engines.

F. If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
G. Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.
H. Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
I. Route construction related traffic along major roadways and away from sensitive receptors where feasible.

15. Damage Due to Construction Vibration**.** The project applicant shall submit screening level analysis prior to, or concurrent with demolition building permit. If a screening level analysis shows that the project has the potential to result in damage to structures, a structural engineer or other appropriate professional shall be retained to prepare a vibration impact assessment (assessment). The assessment shall take into account project specific information such as the composition of the structures, location of the various types of equipment used during each phase of the project, as well as the soil characteristics in the project area, in order to determine whether project construction may cause damage to any of the structures identified as potentially impacted in the screening level analysis. If the assessment finds that the project may cause damage to nearby structures, the structural engineer or other appropriate professional shall recommend design means and methods of construction that to avoid the potential damage, if feasible. The assessment and its recommendations shall be reviewed and approved by the Building and Safety Division and the Zoning Officer. If there are no feasible design means or methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake an existing conditions study (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage. This study shall

- establish the baseline condition of these structures, including, but not limited to, the location and extent of any visible cracks or spalls; and
- include written descriptions and photographs.

The study shall be reviewed and approved by the Building and Safety Division and the Zoning Officer prior to issuance of a grading permit. Upon completion of the project, the structures (or, in case of large buildings, of the portions of the structures) previously inspected will be resurveyed, and any new cracks or other changes shall be compared to pre-construction conditions and a determination shall be made as to whether the proposed project caused the damage. The findings shall be submitted to the Building and Safety Division and the Zoning Officer for review. If it is determined that project construction has resulted in damage to the structure, the damage shall be repaired to the pre-existing condition by the project sponsor, provided that the property owner approves of the repair.

16. Compliance with Conditions of Approval and Environmental Mitigations. The building permit application is subject to verification of compliance of these Conditions of Approval and the Downtown Area Plan Mitigation Monitoring and Reporting Program (ZAB staff report Attachment 7). The applicant shall be responsible for demonstrating compliance with all conditions of approval per the timeline set forth by this use permit. The applicant shall deposit $10,000 with the City, or less with the approval of the Zoning Officer, to pay for the cost of monitoring

compliance with these Conditions of Approval and other applicable conditions and regulations. Should compliance-monitoring expenses exceed the initial deposit, the applicant shall deposit additional funds to cover such additional expenses upon the request of the Zoning Officer; any unused deposit will be refunded to the applicant.

Prior to Issuance of Any Building & Safety Permit (Demolition or Construction)

17. Construction Noise Management - Public Notice Required. At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within **500 feet** of the project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities during extended work hours and reason for extended hours, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, and (5) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.

18. Construction Phases. The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or his/her designee shall have the authority to require an on-site meeting with these individuals as necessary to ensure compliance with these conditions. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.

19. Demolition. Demolition of the existing building cannot commence until a complete application is submitted for the replacement building. In addition, all plans presented to the City to obtain a permit to allow the demolition are subject to these conditions.

20. Construction and Demolition Diversion. Applicant shall submit a Construction Waste Management Plan that meets the requirements of BMC Chapter 19.37 including 100% diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.

21. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

A. Environmental Site Assessments:
   1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old*) shall be submitted to TMD for developments for:
      - All new commercial, industrial and mixed use developments and all large improvement projects.
      - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
      - EMA is available online at: http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf

2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

B. Soil and Groundwater Management Plan:
1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:
1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:
1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at http://cers.calepa.ca.gov/ within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at http://ci.berkeley.ca.us/hmr/

Prior to Issuance of Any Building (Construction) Permit

22. Percent for Public Art: Consistent with Chapter 23.316, the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.

23. Affordable Housing Mitigation Fee: Consistent with BMC 22.20.065 and fee resolution No. 68,074-N.S., the applicant shall provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF, or provide an alternative to the fee payment as permitted by the BMC. Payment of the AHMF may be reduced if paid prior to the building permit per resolution No. 68,074-N.S., and shall be paid no later than prior to the issuance of a certificate of occupancy for the project.

24. HVAC Noise Reduction. Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.

25. Interior Noise Levels. Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.

26. Streets and Open Space Improvement Plan: Street Frontage Improvements. Streets and Open Space Improvement Plan: Street Frontage Improvements. Consistent with the Downtown Streets and Open Space Improvement Plan (SOSIP) (or subsequent iterations as adopted by the City), the developer shall construct improvements along Kittredge Street, to the centerline. Such improvements shall be included with the building permit submittal, designed and constructed as directed by the Public Works and Fire Departments, and constructed prior to certificate of occupancy.

27. Streets and Open Space Improvement Plan: Impact Fee: As required by BMC Section 23.204.130.F, the project shall pay an impact fee to implement the Streets and Open Space Improvement Plan (SOSIP) per the fee schedule adopted by the Council by resolution. The City shall deposit this payment into the Downtown Streets and Open Space Improvement Fund (SOSIF), or its equivalent, to pay for the design and construction of the SOSIP Major Projects. The fee shall apply to the project's "Gross Floor Area" as defined in BMC Section 23.502, less any existing Gross Floor Area removed as part of the project.

28. Green Building Certification. The applicant shall submit documentation demonstrating that the building will attain LEED Gold or higher, or attain a building performance equivalent to this rating that has been approved by the Zoning Officer for this project. Documentation shall include proof of payment of the registration/application fee to the organization administering the green building certification system (e.g. USGBC/GBCI for LEED, Build It Green for GreenPoint Rated, etc.), a copy of the updated green building checklist that reflects anticipated points, and a statement

from the appropriate project team professional (e.g. LEED Accredited Professional, GreenPoint Rater, etc.) verifying that the project is on track for certification at the required level or above. The submitted green building checklist must be a type that is appropriate for the project and a version that is being accepted by the organization granting the green building certification at the time of building permit application. Whenever applicable, measures from the green building checklist shall be incorporated and noted on site plans.

29. Affordable Housing. As required by Resolution No. 66,617-N.S., adopted June 3, 2014, Applicant shall offset the estimated impacts of the project on affordable housing according to the following formulas:

USE	AFFORDABLE UNITS or FEE	
Office, Research + Development, Restaurant/Retail, Hotel	1 unit per 52,859 gross square feet	$6.06 per gross square foot
Industrial/Manufacturing, Warehouse/Storage (except "self-storage"	1 unit per 105,719 gross square feet	$3.03 per gross square foot
Self-Storage	1 unit per 54,432 gross square feet	$5.88 per gross square foot

The requirement may be satisfied by:

Housing Production - Applicant shall cause to be constructed in the City of Berkeley no less than 0 additional housing affordable to households with income at 30 percent of the SMSA median income. Applicant must have site control and Use Permit approval for the required Affordable Housing project prior to receipt of the building permit for this non-residential project, and must secure an Occupancy Permit for the required Affordable Housing project no later than 18 months from the receipt of the Occupancy Permit for this non-residential project.

-OR-

In-Lieu Fee - Applicant shall pay an equivalent in-lieu impact fee in the amounts and according to the schedule listed below (13,393 net gross square feet x $6.06 = $81,161.58 total fee):

Prior to Building Permit	$27,054
Prior to Occupancy Permit	$27,054
1 Year from Occupancy Permit	$27,054

The final payment shall be appropriately secured by the City, e.g., by a letter of credit, bond, Promissory Note, Deed of Trust or another appropriate form of security. Some payments carry interest from the date they would normally be due. Applicants may request reductions to these fee amounts, under the provisions of BMC Sections 22.20.070 or 22.20.080 relating to lower levels of impact, infeasibility, or overriding benefit to the City.

Applicants may request reductions to these fee amounts, under the provisions of BMC Sections 22.20.070 or 22.20.080 relating to lower levels of impact, infeasibility, or overriding benefit to the City.

30. Child Care. As required by Resolution No. 66,618-N.S., adopted June 3, 2014, Applicant shall offset the estimated impacts of the project on affordable child care according to the following formulas:

USE	FEE
Office, Restaurant/Retail	$1.68 per gross square foot
Industrial/Manufacturing	$1.01 per gross square foot
Hotel/lodging	$2.02 per gross square foot
Warehouse/Storage	$0.83 per gross square foot
Research & Development	$1.08 per gross square foot

In-Lieu Fee. Applicant shall pay a fee into the City's Child Care Operating Subsidy account in the amounts and according to the schedule listed below (13,393 net gross square feet x $1.68 = $22,500.24 total fee:

Prior to Building Permit	$7,500
Prior to Occupancy Permit	$7,500
1 Year from Occupancy Permit	$7,500

The final payment shall be appropriately secured by the City, e.g., by a letter of credit, bond, Promissory Note, Deed of Trust or another appropriate form of security. Some payments carry interest from the date they would normally be due.

Applicants may request reductions to these fee amounts, under the provisions of BMC Sections 22.20.070 or 22.20.080 relating to lower levels of impact, infeasibility, or overriding benefit to the City.

31. Solar Photovoltaic (Solar PV) and Battery Energy Storage Systems (ESS). A solar PV system shall be installed, subject to specific limited exceptions, as specified by the Berkeley Energy Code (BMC Chapter 19.36). Energy storage system (ESS) readiness (new single-family, duplex, and townhouse homes) or ESS installation (new multifamily and most nonresidential buildings) shall be completed as specified by BMC Chapter 19.36. Location of the solar PV system and the ESS, if applicable, shall be noted on the construction plans. (Project required to meet applicable code at time of building permit application, if different from above.).

32. Water Efficient Landscaping. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELO). MWELO-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ETo) for Berkeley is 41.8.

33. Prohibition of Natural Gas Infrastructure in New Buildings. The project shall comply with the City of Berkeley Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80). The building permit plan set submission shall include a cover sheet declaration: "Natural Gas-Free Design as required by BMC Chapter 12.80."

34. Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).

35. Public Works ADA. Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.

Prior to Demolition or Start of Construction:

36. Construction Meeting. The applicant shall request of the Zoning Officer an on-site meeting with City staff and key parties involved in the early phases of construction (e.g., applicant, general contractor, foundation subcontractors) to review these conditions and the construction schedule. The general contractor or applicant shall ensure that all subcontractors involved in subsequent phases of construction aware of the conditions of approval.

During Construction:

37. Construction Hours. Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.

38. Construction Hours- Exceptions. It is recognized that certain construction activities, such as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the developer shall notify businesses and residents within 500 feet of the project site describing the expanded construction hours. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval. The project shall not be allowed more than 15 extended working days.

39. Project Construction Website. The applicant shall establish a project construction website with the following information clearly accessible and updated monthly or more frequently as changes warrant:

- Contact information (i.e. “hotline” phone number, and email address) for the project construction manager
- Calendar and schedule of daily/weekly/monthly construction activities
- The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.

40. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:

A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer‘s specifications. All equipment shall be checked by a certified visible emissions evaluator.
H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District‘s phone number shall also be visible to ensure compliance with applicable regulations.

41. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:

A. The project applicant shall prepare a health risk assessment that demonstrates the project’s on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or
B. Consistent with the assumptions included in the *Air Quality Assessment* prepared by ESA on November 2023, all off road equipment shall be equipped with Tier 4 engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.

   In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:
   - An equipment inventory summarizing the type of off-road equipment required for each phase of construction consistent with equipment list included in the *Air Quality Assessment*, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
   - A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.

42. Soil/Groundwater Contamination. The project proponent shall provide documentation of from compliance from the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) with the SFBRWQCB Oversight Agreement, dated November 16, 2023, prior to the commencement of any ground disturbing activity. (See ZAB staff report, Attachment 5.)

43. Construction and Demolition Diversion. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using Green Halo and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original Construction Waste Management Plan and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.

44. Low-Carbon Concrete. The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.

45. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:

- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
- Storage of building materials, dumpsters, debris anywhere in the public ROW;
- Provision of exclusive contractor parking on-street; or
- Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

46. Construction / No Parking Permits. Contact the Permit Service Center (PSC) at 1947 Center Street, Third Floor or (510) 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

47. Avoid Disturbance of Nesting Birds. Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified

biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.

48. Archaeological Resources (*Ongoing throughout demolition, grading, and/or construction*). Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:

A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

49. Human Remains (*Ongoing throughout demolition, grading, and/or construction*). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

50. Paleontological Resources (*Ongoing throughout demolition, grading, and/or construction*). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

51. Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.

52. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:

A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.

B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.

C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.

D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be shall be conducted prior to the issuance of a Building Permit.

E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
G. All private or public projects that create and/or replace 10,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological).
H. All on-site storm drain inlets must be labeled “No Dumping – Drains to Bay” or equivalent using methods approved by the City.
I. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
J. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
K. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.

53. Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.

54. Public Works. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

55. Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.

56. Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

57. Public Works. The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.

58. Public Works. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

Prior to Final Inspection or Issuance of Occupancy Permit:

59. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.

60. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit, subject to any minor reductions in unit count and net square footage that may be required to ensure building code compliance, as approved by the Building and Safety Division. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **November 8, 2023**, except as modified by conditions of approval.

61. Transportation Demand Management. Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Land Use Division staff to confirm that the physical improvements required in BMC Section 23.322.060 have been installed. A Parking and Transportation Demand Management (PTDM) compliance report documenting that the programmatic measures required in BMC Section 23.322.060 are implemented shall be submitted to the Land Use Division prior to occupancy, and on an annual basis thereafter, which demonstrates that the project is compliant with the applicable requirements in this section:

A. New construction that results in an off-street total of more than 25 publicly available parking spaces shall install dynamic signage to Transportation Division specifications, including real-time garage occupancy signs at the entries and exits to the parking facility with vehicle detection capabilities and enabled for future connection to the regional 511 Travel Information System; or equivalent, as determined by the Land Use Division in consultation with the Transportation Division. The information panels shall be shown in the construction drawings and shall be installed prior to occupancy.

B. For any new building with residential units or structures converted to a residential use, required parking spaces shall be leased or sold separate from the rental or purchase of dwelling units for the life of the dwelling units. The property owner shall notify all residents of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of Certificate of Occupancy or final inspection.

C. For new structures or additions over 20,000 square feet, the property owner shall provide transportation benefits at no cost to every employee, residential unit, and/or group living

accommodation resident, one unlimited local bus transit service pass for units with one to two bedrooms, and two unlimited local bus transit service passes for units with three bedrooms or more; or (subject to the review and approval of the Zoning Officer in consultation with the Transportation Division) a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted adult monthly local bus pass. A notice describing these transportation benefits shall be posted in a location or locations visible to all employee and residents.

D. For residential structures constructed or converted from a non-residential use that provide off-street parking, vehicle sharing spaces shall be provided in the amounts shown in BMC Table 23.322-6, to be offered to vehicle sharing service providers at no cost, for as long as providers request the spaces, and otherwise consistent with BMC Section 23.322.060(D).

62. Green Building Certification. The applicant shall submit updated documentation demonstrating that the building will attain LEED Gold or higher, or attain a building performance equivalent to this rating that has been approved by the Zoning Officer for this project. Documentation expected at this stage includes proof of submission of the final application materials and payment of the certification fee. If this submission has not yet occurred, a detailed explanation and timeline indicating when it will it happen must be submitted to the Zoning Officer for review and approval. Once awarded by the organization administering the green building certification system, the applicant shall forward a copy of the certification award to the Zoning Officer.

BELOW MARKET RATE UNITS

63. Number of Below Market Rate Units. The project shall provide **22 Very Low-Income** rental dwelling units ("BMR Units"), which are required to comply with the State Density Bonus Law (Government Code Section 65915) as well as to comply with the Affordable Housing Mitigation Fee, BMC Section 22.20.065.D. The BMR Units shall be designated in the Regulatory Agreement and shall be reasonably dispersed throughout the project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR Units shall conform to the addresses assigned to the building by the City.

64. Regulatory Agreement. Prior to the issuance of a building permit, the applicant shall enter into a Regulatory Agreement that implements Government Code Section 65915 and this Use Permit. The Regulatory Agreement may include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The maximum qualifying household income for the BMR Units shall be 50 percent of area median income (AMI), and the maximum housing payment shall be 30 percent of 50 percent of AMI, as set forth in the following paragraphs of this condition. If the BMR units are occupied by very low-income tenants receiving a rental subsidy through the Section 8 or Shelter Plus Care programs, the rent received by the project sponsor may exceed the restricted rent to the payment standards allowed under those programs so long as the rent allowed under the payment standards is not greater than the market rents charged for comparable units in the development. The applicant shall submit the Regulatory Agreement to the Housing and Community Services Department (HHCS) via email to affordablehousing@cityofberkeley.info for review and approval.

65. Affordable Housing: Below Market Rate Program. In addition, affordable units must adhere to the administrative guidelines for the City's Below Market Rate program. These guidelines can

be found online at https://berkeleyca.gov/community-recreation/affordable-housing-berkeley/below-market-rate-rental-information-owners-and.The guidelines are updated annually by HHCS and posted online. Please note the following key provisions from the guidelines:

A. Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to California Health & Safety Code Section 50052.5 (h).
B. Rent shall include a reasonable allowance for utilities, as published and updated by the Berkeley Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Such allowance shall take into account the cost of an adequate level of service. Utilities do not include telephone service. Rent also includes any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.
C. BMR units will be provided for the life of the project under Section 22.20.065.

66. Determination of Area Median Income (AMI).

- The "AMI" (Area Median Income) shall be based on the income standards for the Oakland Primary Metropolitan Statistical Area reported by the United States Department of Housing and Urban Development (HUD). In the event HUD discontinues establishing such income standards, AMI shall be based on income standards determined by the California State Department of Housing and Community Development (HCD). If such income standards are no longer in existence, the City will designate another appropriate source or method for determining the median household income.
- The applicable AMI for the purpose of determining the allowable rent for each unit (but not for the purpose of determining eligibility for occupancy of an inclusionary unit) shall be determined in accordance with the following table:

Unit Size	**AMI Standard**
Studio unit	AMI for a one-person household
One-bedroom unit	AMI for a two-person household
Two-bedroom unit	AMI for a three-person household
Three-bedroom unit	AMI for a four-person household

67. Nothing in these conditions shall be interpreted to prohibit or to require modification of the Use Permit or Regulatory Agreement to allow the provision of additional BMR units, or additional affordability, than are required in the foregoing provisions.

68. Affordable Housing. Dwellings that are approved as rental units, but in which a condo map is approved prior to issuance of an occupancy permit, shall be subject to the affordability requirements within BMC 23.328 in effect on March 31, 2023. (A) Residential housing projects for the construction of five or more Dwelling Units; (B) Residential housing projects for the construction of one to four new Dwelling Units, when such Units are added to an existing one to four-unit property, which has been developed after August 14, 1986, and the resulting number of units totals five or more. All Units in such a property are subject to the requirements of this chapter; (C) Residential housing projects proposed on lots whose size and zoning designation is such to allow construction of five or more Dwelling Units.

69. Affordable Housing – Density Bonus. If a density bonus was granted for the project, the regulatory agreement shall reflect the number of qualifying units set forth in Section 65915(f)(4) that are needed to support the bonus that was granted.

At All Times:

70. Transportation Demand Management Compliance. A Transportation Demand Management compliance report shall be submitted to the Zoning Officer, on a form acceptable to the City, prior to occupancy, and on an annual basis for ten years thereafter, which demonstrates that the project complies with the applicable requirements. After three years of timely compliant submittals, staff has the option to accept less frequent submittals (minimum one every three years). Property owners may be required to pay administrative fees associated with compliance with this Condition, pursuant to BMC Section 23.334.040(B).

71. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

72. Rooftop Projections. No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.

73. Design Review. Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Landmarks Preservation Commission approval.

74. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

75. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.

76. Loading. All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.

77. Residential Permit Parking. No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The project planner shall notify the Finance Department, Customer Service Center, to add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of an occupancy permit or final inspection.

78. Tenant Notification. The developer shall provide tenant notification, via a lease rider or deed covenant, that each dwelling unit is located in a mixed-use area that includes commercial, food service and entertainment uses, and that each occupant shall not seek to impede their lawful operation.

79. Transit Subsidy Condition. If 10 or more employees, the business operator shall reimburse employees the maximum non-taxable cost of commuting to and from work on public transportation (e.g., monthly passes) if they so commute, and a notice informing employees of the availability of such subsidy shall be permanently displayed in the employee area as per BMC Chapter 9.88.

ALCOHOLIC BEVERAGE SERVICE CONDITIONS (on-site)

80. The Food Service Establishment shall comply with all applicable regulations of the California Department of Alcoholic Beverage Control (ABC).

81. Alcoholic beverage service shall be "incidental" to the primary food service use, as defined in Zoning Ordinance 23.502. An incidental use shall not exceed twenty-five percent (25%) of the floor area of the primary use, and if it consists of the commercial sales of a different line of products or services than the primary use, such incidental use may not generate gross receipts in excess of 33 percent of the gross receipts generated by the primary use.

82. Alcohol beverage service shall be only be allowed as part of a "bona fide eating place" making "actual and substantial sales of meals," and stringently enforces this requirement as determined and required by the ABC.

83. The service of alcohol shall be limited to normal meal hours (per ABC) during the restaurant's hours of operation. Patrons may only purchase food or finish drinks already purchased within the approved service hours. The Zoning Adjustments Board shall approve any change in the hours of restaurant operations and/or alcohol service (except decreased hours in compliance with applicable ABC regulations). Hours of operation are subject to review and amendment by the Zoning Adjustments Board as necessary to avoid detriment to the neighborhood or to achieve conformance with revised City standards or policies.

84. During operating hours, 100 percent of the service area shall be designed and used for and must possess the necessary utensils, and condiment dispensers with which to serve meals to the public.

85. The sale of alcoholic beverages for consumption off the premises is prohibited.

86. There shall be no service or consumption of alcohol on the public right-of-way, unless authorized by a Public Works sidewalk seating permit.

87. All alcoholic beverages served to patrons must be served in durable restaurant tableware (i.e. cups or glasses). No beer or wine may be distributed in its original bottle or can, or in any other potentially disposable container.

88. There shall be no bar or lounge area upon the licensed premises maintained for the sole purpose of sales, service or consumption of alcoholic beverages directly to patrons for consumption.

89. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Neither alcohol-dispensing facilities nor sign(s) advertising alcoholic beverages shall be visible from the public right-of-way. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.

90. A Berkeley Police Department Crime Prevention Through Environmental Design (CPTED) survey shall be completed prior to commencing alcohol service.

91. All employees selling and/or serving alcohol, or directly supervising such sales and/or service, shall complete the Licensee Education on Alcohol and Drugs (LEAD) program, or another equivalent program offered or certified by the California Department of Alcoholic Beverage Control within 6 months of employment at the establishment. Employees who have completed the course within the last five (5) years shall be exempt from this requirement.

92. Employees shall not serve alcohol to patrons who appear to be inebriated or otherwise unable to behave in an orderly manner upon consuming alcohol.

93. Any operator of the licensed establishment shall not have had a prior licensed establishment that was the subject of verified complaints or violations regarding alcohol, public safety or nuisance statutes or regulations to be confirmed by the Zoning Officer prior to issuance or transfer of a business license at this location.

94. Fortified alcohol products (e.g., malt liquor), shall not be sold on the premises.

95. The applicant shall establish cash handling procedures to reduce the likelihood of robberies and theft.

96. At no time shall the operator rent the restaurant space to a third-party promoter.

97. The owner or operator of the establishment shall take reasonable measures to prevent disturbances by patrons in the immediate vicinity. Such measures shall include signs reminding patrons of nearby residences and requests not to congregate or loiter near such residences nor operate vehicles in a noisy manner on residential streets. The operator shall give surveillance to public areas near the establishment, keep such areas free of trash and litter, provide lighting, and otherwise attempt to prevent conduct that might disturb the peace and quiet of residences in the vicinity. Furthermore, the operator shall assume reasonable responsibility for ensuring that patrons do not block the entrance or interfere with pedestrian activity on the adjacent public sidewalk.

98. This Use Permit, including these and all other required conditions, shall be posted in conspicuous location, available for viewing by any interested party.

99. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

2115 KITTREDGE ST

2115 KITTREDGE ST
BERKELEY, CA

GDC01 - USE PERMIT - 11/08/23

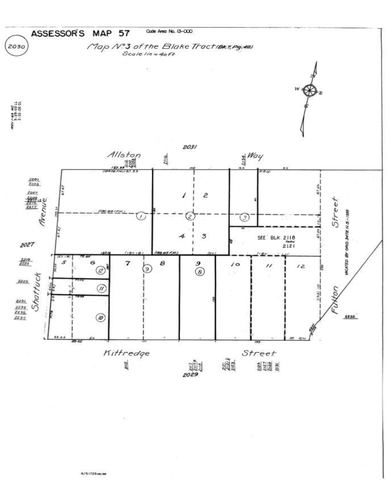
PROJECT LOCATION

5 G000 LOCATION MAP
NOT TO SCALE

PROJECT LOCATION

4 G000 VICINITY MAP
NOT TO SCALE

For Assessment Use Only



3 G000 ASSESSOR'S PARCEL MAP
12" = 1'-0"

ZONING CODE INFORMATION

SITE INFORMATION				
ADDRESS	2115 KITTREDGE ST BERKELEY, CA			
APN	057-2030-009			
ZONING DISTRICT	C-DMU			
OVERLAY / SPECIAL DISTRICT				
SEISMIC SAFETY				
ALQUIST PRIOLO	NO	LIQUEFACTION ZONE	NO	
LANDSLIDE ZONE	NO	UNREINFORCED MASONRY	NO	
HISTORIC INFO				
HISTORIC PRESERVATION				
LANDMARK / STRUCTURE OF MERIT	YES			
ENVIRONMENTAL SAFETY				
CREEK BUFFER	NONE	FIRE ZONE	1	
ENVIRONMENTAL MGMT AREA	YES	FLOOD ZONE	NO	

BUILDING DATA PER PLANNING CODE

	EXISTING	PERMITTED / REQUIRED	NEW BASE PROJECT CALCULATION	NEW PROPOSED PROJECT CALCULATION	NOTES / CODE REFERENCE
BUILDING / LOT INFO					
LOT AREA	13,500 SF	-	NO CHANGE	NO CHANGE	
BUILDING FOOTPRINT	8,680 SF	-	12,972 SF	12,016	
LOT COVERAGE	64%	-	96%	89%	
AREAS					
COMMERCIAL FLOOR AREA	10,880 SF		20,591 SF	24,273 SF	
RESIDENTIAL FLOOR AREA	0 SF	-	91,100 SF	136,461 SF	
GROSS FLOOR AREA	10,880 SF	-	111,691 SF	160,734 SF	
COMMERCIAL USABLE OPEN SPACE	0 SF	20,591 SF / 50 SF = 412 SF	457 SF	-	1 SQ.FT / 50 SF
		24,473 SF / 50 SF = 489 SF	-	712 SF	BMC TABLE 23.204-40
RESIDENTIAL USABLE OPEN SPACE	0 SF	146 UNITS X 80 SF = 11,680 SF	11,680 SF	-	80 SF/UNIT
		211 UNITS X 80 SF = 16,880 SF	-	12,539 SF	BMC TABLE 23.204-40
					DENSITY BONUS CONCESSION REQUESTED
LANDSCAPED OPEN SPACE	0 SF	40% OF 16,880 = 6,752 SF		5% OF 17,369 = 910 SF	***DENSITY BONUS CONCESSION REQUESTED***
IMPERVIOUS SURFACE AREA	100%	-	100%	100%	
HEIGHT					
# STORIES	2	-	8	18	
MAX BLDG HEIGHT	60'-0" +	75'-0"	75'-0"	211'-04"	BMC:23.204-38: C-DMU
					DENSITY BONUS WAIVER REQUESTED
SETBACKS					
FRONT YARD SETBACK	0'-0"	0 - 20'-0" BLDG HT= NO MIN.	0'	MIN 0' VARIES	BMC: TABLE 23.204-39
		21' - 75' BLDG HT= NO MIN.	0'	MIN 0' VARIES	
INTERIOR EAST	8'-4.5"	0 - 20'-0" BLDG HT= NO MIN.	0'	MIN 3' VARIES	BMC: TABLE 23.204-39
		21' - 75' BLDG HT= 0' - 5'-0"	3'	MIN 3' VARIES	***USE PERMIT - 23.204.130B***
INTERIOR WEST	11'-8.5"	0 - 20'-0" BLDG HT= NO MIN.	0'	MIN 3' VARIES	BMC: TABLE 23.204-39
		21' - 75' BLDG HT= 0'- 5'-0"	3'	MIN 3' VARIES	***USE PERMIT - 23.204.130B***
REAR YARD SETBACK	2'-8"	0 - 20'-0" BLDG HT= NO MIN	0'	MIN 0' VARIES	BMC: TABLE 23.204-39
		21' - 75' BLDG HT= 5'-0"	3'	MIN 3' VARIES	***USE PERMIT - 23.204.130B***
UNITS					
RESIDENTIAL DENSITY (UNIT COUNT)					
UNIT COUNT					
STUDIO	0	-	-	133	
2-BEDROOM	0	-	-	66	
4-BEDROOM	0	-	-	12	
TOTAL	0	-	-	211	
BELOW MARKET RATE UNITS	0			22	15% OF BASE PROJECT UNITS ARE AFFORDABLE FOR VLI = ELIGIBLE 50% DENSITY BONUS (SEE...
PARKING					
RESIDENTIAL CAR PARKING	0	0	0	0	BMC 23.322-1
COMMERCIAL CAR PARKING	0	0	-	0	***NONE REQUIRED PER AB 2097***
ADA PARKING	0		0	0	
BIKE PARKING (COMMERCIAL)	0	24,273 SF / 2,000 SF = 12	-	0	***DENSITY BONUS WAIVER REQUESTED***
BIKE PARKING (SHORT TERM RESIDENTIAL)	1	313 / 40 = 8	-	8	2, OR 1 PER 40 BEDROOMS,WHICHEVER IS GREATER
BIKE PARKING (LONG TERM RESIDENTIAL)	2	313 / 3 = 105	-	105	1/3 BEDROOMS, BMC TABLE 23.322-90

UNIT MIX:
15% VLI FOR 50% DENSITY BONUS =
15% VLI OF 141 (BASE UNITS) = 21.15 = 22

	MR	BMR	TOTAL
STUDIO:	119	14	133
2-BEDROOM:	59	7	66
4-BEDROOM:	11	1	12

6 G000 UNIT MIX
NOT TO SCALE

PER BMC SECTION 12.80.040 NATURAL GAS INFRASTRUCTURE SHALL BE PROHIBITED IN NEWLY CONSTRUCTED BUILDINGS.

1 G000 PROJECT DESCRIPTION

THE PROPOSED PROJECT AT 2115 KITTREDGE WILL RETAIN THE ORGINAL PRIMARY SOUTH FACADE OF THE BUILDING AND CONSTRUCT A 18-STORY MIXED-USE BUILDING WITH APPROX. 160,000 SF WITH ADDITIONAL BASEMENTS. THE PROPOSED BUILDING WILL INCLUDE A THEATRE OF APPROX. 24,000 SF AT THE GROUND AND SECOND FLOORS, AND (211) DWELLING UNITS. THIS SB330 DENSITY BONUS PROJECT WILL HAVE 22 AFFORDABLE UNITS. THERE WILL BE AMENITY USABLE OPEN SPACES FOR THE RESIDENTS ON THE SECOND, 16TH, 17TH, AND 18TH FLOORS.

2 G000 PROJECT TEAM

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94105

2115 KITTREDGE ST
2115 KITTREDGE ST
BERKELEY, CA

No.	DATE	DESCRIPTION
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	11/08/2023	ZAB SUBMITTAL

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NOT FOR CONSTRUCTION

PROJECT INFORMATION

G000

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ABBREVIATIONS

&	AND
@	AT
Ø	DIAMETER OR ROUND
ABV	ABOVE
A/C	AIR CONDITIONING
AC	ASPHALTIC CONCRETE
ACC	ACCESSIBLE
ACOUS	ACOUSTICAL
ACT	ACOUSTICAL CEILING TILE
AD	AREA DRAIN
ADA	AMERICAN W/ DISABILITIES ACT
ADDM	ADDENDUM
ADJ	ADJACENT OR ADJUSTABLE
AFF	ABOVE FINISHED FLOOR
AGG	AGGREGATE
AL or ALUM	ALUMINUM
ALT	ALTERNATE
L or <	ANGLE
A.P.	ACCESS PANEL
APPROX	APPROXIMATE
ARCH	ARCHITECT(URAL)
ASPH	ASPHALT
ASTM	AMERICAN SOCIETY FOR TESTING AND MATERIALS
BB	BULLETIN BOARD
BD	BOARD
BF	BRACE FRAME
BITUM	BITUMINOUS
BLDG	BUILIDNG
BLK	BLOCK
BLKG	BLOCKING
BLKHD	BULKHEAD
BM	BEAM
BN	BULLNOSE
BO	BOTTOM OF
BOH	BACK OF HOUSE
BOT	BOTTOM
BS	BOTTOM OF STAIR
BUR	BUILT-UP ROOF
BW	BOTTOM OF WALL
BDRY	BOUNDARY
CAB	CABINET
CAP	CAPACITY
CB	CATCH BASIC
CBU	CEMENTITIOUS BACKER UNIT
CEM	CEMENT
CER	CERAMIC
CG	CORNER GUARD
CIP	CAST-IN-PLACE
CJ	CONTROL JOINT
C	CENTER LINE
CLG	CEILING
CLO	CLOSET
CLR	CLEAR
CMU	CONCRETE MASONRY UNIT
CO	CLEANOUT OR CASED OPENING
COL	COLUMN
CONC	CONCRETE
CONST	CONSTRUCTION
CONT	CONTINUOUS
CORR	CORRIDOR
CPT	CARPET
CT	CERAMIC TILE
C.T.	COLLAR TIE
CTRL	CONTROL
CU FT	CUBIC FOOT (FEET)
CU YD	CUBIC YARD(S)
CW	COLD WATER
D	DRYER
d	DEGREE
DBH	DIAMETER AT BREAST HEIGHT
DEMO	DEMOLITION
DEPT	DEPARTMENT
DET	DETAIL
DF	DRINKING FOUNTAIN
D.F.	DOUGLAS FIR
DIA	DIAMETER
DIAG	DIAGONAL
DIM	DIMENSION
DISP	DISPENDER
DIV	DIVISION
DR	DOOR
DS	DOWNSPOUT
DSP	DRY STANDPIPE
DWG	DRAWING
E	EAST

ABBREVIATIONS

(E)	EXISTING
EA	EACH
EIFS	EXTERIOR INSULATION AND FINISH SYSTEM
EGSB	EXTERIOR GYPSUM SHEATHING BOARD
EJ	EXPANSION JOINT
EL	ELEVATION
ELEC	ELECTRICAL
ELEV	ELEVATOR or ELEVATION
ELEVS	ELEVATIONS
EMER	EMERGENCY
ENCL	ENCLOSURE
EOS	EDGE OF SLAB
EP	ELECTRICAL PANEL BOARD
EQ	EQUAL
EQUIP	EQUIPMENT
EST	ESTIMATE
EXCAV	EXCAVATE
EXF	EXTERIOR FINISH SYSTEM
EXH	EXHAUST
EXP	EXPANSION
EXT	EXTERIOR
FA	FIRE ALARM
FBO	FURNISHED BY OTHERS
FD	FLOOR DRAIN
FDC	FIRE DEPARTMENT CONNECTION
FDMPR	FIRE DAMPER
FDN	FOUNDATION
FDR	FIRE DOOR
FE	FIRE EXTINGUISHER
FEC	FIRE EXTINGUISHER CABINET
FF	FACTORY FINISH, FINISH FACE, FINISH
FLR	
FG	FINISHED GRADE
FHC	FIRE HOSE CABINET
FIN	FINISH (ED)
FL	FLOOR
FLEX	FLEXIBLE
FLUOR	FLUORESCENT
FO	FACE OF
FOC	FACE OF CONCRETE
FOF	FACE OF FINISH
FOS	FACE OF MASONRY
FR	FACE OF STUD
FRPF	FIRE RATED
FRP	FIRE PROOF
FRT	FIBERGLASS REINFORCED STEEL
FS	FINISH SLAB
FSEC	FOOD SERVICE QUIP. CONTRACTOR
FSR	FIRE SPRINKLER RISER
FT or '	FOOT OR FEET
FTG	FOOTING
FOH	FRONT OF HOUSE
FURN	FURNITURE
FUT	FUTURE
GA	GAUGE
GALV	GALVANIZED
GC	GENERAL CONTRACTOR
GEN	GENERAL
GFRC	FIBER REINFORCED CONCRETE
GFRG	FIBER REINFORCED GYPSUM
GL	GLAZING
GR	GUARD RAIL
GSB	GYPSUM SHEATHING BOARD
GSM	GALVANIZED METAL SHEET
GYP	GYPSUM
GWB	GYPSUM WALLBOARD
H or HT	HEIGHT
HC	HOLLOW CORE
HCP	HANDICAP
HDR	HEADER
HDWD	HARDWOOD
HDW	HARDWARE
HM	HOLLOW METAL
HMD	HOLLOW METAL DOOR
HORIZ	HORIZONTAL
HR	HOUR or HANDRAIL
HSS	HOLLOW STRUCTURAL SECTION
HVAC	HEATING, VENTILATING, & AIR CONDITIONING
HW	HOT WATER

ABBREVIATIONS

ID	INSIDE DIAMETER or DIMESNION
IN or "	INCH or INCHES
INCL	INCLUDING
INFO	INFORMATION
INSUL	INSULATION
INT	INTERIOR
INV	INVERT
J-BOX	JUNCTION BOX
JS	JANITOR'S SINK
JST	JOIST
KEC	KITCHEN EQUIPMENT CONTRACTOR
L	LENGTH, LONG. ANGLE
LAM	LAMINATE
LH	LEFT HAND
LP	LOW POINT
LT	LIGHT
LTG	LIGHTING
LVL	LEVEL
LVR	LOUVER
LYR	LAYER
MAS	MASONRY
MAT	MATERIAL
MAX	MAXIMUM
MBSM	MODIFIED BITUMINOUS SHEET
MC	MINERAL CORE
MDF	MEDIUM DENSITY FIBERBOARD
MECH	MECHANICAL
MEMB	MEMBRANE
MTL	METAL
MFR	MANUFACTURER
MIN	MINIMUM
MISC	MISCELLANEOUS
MUL	MULLION
MTD	MOUNTED
MWP	MEMBRANE WATERPROOFING
(N)	NEW
N	NORTH
NIC	NOT IN CONTRACT
NO or #	NUMBER
NOM	NOMINAL
NTS	NOT TO SCALE
NR	NON-RATED
O/	OVER
OC	ON CENTER
OCC	OCCUPANCY, OCCUPANT(S)
OD	OUTSIDE DIAMETER or DIMENSION
OFD	OVERFLOWN DRAIN
OH	OPPOSITE HAND
OPNG	OPPOSITE
OPP	OPENING
OPT	OPTIONAL or OPTIMUM
ORD	OVERFLOW ROOF DRAIN
OSCI	OWNER SUPPLIED, CONTRACTOR INSTALLED
OZ	OUNCE
PART BD	PARTICLE BOARD
PBO	PROVIDED BY OWNER
PCC	PRECAST CONCTRETE
PCP	PORTLAND CEMENT PLASTER
PERF	PERFORATED
PL	PLATE or PROPERTY LINE
P-LAM	PLASTIC LAMINATE
PLAS	PLASTER
PLYWD	PLYWOOD
PNL	PANEL
POL	POLISHED
PR	PAIR
PRC	POLYMER REINFORCED CONCRETE
PREFAB	PREFABRICATED
PRKG	PARKING
PSD	PARKING STRUCTURE DRAWINGS
PSF	POUNDS PER SQUARE FOOT
PSI	POUNDS PER SQUARE INCH
PTD	PAINTED
PT	POINT
PTN	PARTITION
PVMT	PAVEMENT
R	RADIUS or RISER
(R)	REMOVE
RA	RETURN AIR
RC	REINFORCED CONCRETE
RD	ROOF DRAIN

ABBREVIATIONS

REC	RECESSED
REF	REFERENCE
REFL	REFLECTED or REFLECTIVE
REG	REGISTER
REINF	REINFORCED
REQD	REQUIRED
RESIL	RESILIENT
REV	REVISION
RH	RIGHT HAND or ROOF HATCH
RM	ROOM
RO	ROUGH OPENING
RTU	ROOF TOP UNIT
RWL	RAIN WATER LEADER
RV	ROOF VENT
S	SOUTH
SA	SUPPLY AIR
SAB	SOUND ATTENUATION BLANKET
SC	SOLID CORE
SCHED	SCHEDULE
SCP	SCUPPER
SD	STORM DRAIN
SECT	SECTION
SEP JT	SEPARATION JOINT
SF	SQUARE FEET
SHT	SHEET
SHTHG	SHEATHING
SHM	SELF HEALING MEMBRANE
SHV	SHELVING
SI or IN²	SQUARE INCHES
SIM	SIMILAR
SKYLT	SKYLIGHT
SLNT	SEALANT
SP	STANDPIPE
SPEC	SPECIFICATION
SQ	SQUARE
SS	STAINLESS STEEL
SED #___	SEE ELECTRICAL DRAWING
SMD #___	SEE MECHANICAL DRAWING
SSD #___	SEE STRUCTURAL DRAWING
STD	STANDARD
STL	STEEL
STN	STAIN
STRUC	STRUCTURAL
SUSP	SUSPENDED
SYMM	SYMMETRICAL
T	TEMPERED
T	TREAD
TA	TOILET ACCESSORY
TBD	TO BE DETERMINED
TD	TRENCH DRAIN
TEL	TELEPHONE
TEMP	TEMPERED
T&G	TOUNGUE AND GROOVE
THK	THICK
THRU	THROUGH
TC	TOP OF CURB
TO	TOP OF
TOC	TOP OF CONCRETE
TOP	TOP OF PARAPET
TOPO	TOPOGRAPHIC
TOS	TOP OF STEEL
TP	TOP OF PAVEMENT
TS	TOP OF STAIR
TV	TELEVISION
TW	TOP OF WALL
TYP	TYPICAL
UBC	UNIFORM BUILDING CODE
UC	UNDER CUT
UFC	UNIFROM FIRE CODE
UL	UNDERWRITER'S LABORATOR
UNF	UNFINISHED
UNO or UON	UNLESS NOTED OTHERWISE
VERT	VERTICAL
VG	VERTICAL GRAIN
VIF	VERIFY IN FIELD
VWC	VINYL WALL COVERING
W	WEST or WIDTH or WASHER
W/	WITH
WC	WATER CLOSET
WD	WOOD
WDW	WINDOW
WH	WEEP HOLE or WATER HEATER
W/I	WITHIN

SHEET LIST

SHEET #	SHEET NAME	ENTITLEMENTS 10/23/2023
GENERAL		
G000	PROJECT INFORMATION	•
G001	DRAWING INDEX, SYMBOLS & ABBREVIATIONS	•
G002.A	DENSITY BONUS CALCS - BASE	•
G002.B	DENSITY BONUS CALCS - PROPOSED	•
G003	LOT COVERAGE, USABLE OPEN SPACE CALCS	•
G004	EXISTING SITE PHOTOS	•
G005	THEATER FACADE PRESERVATION	•
G006	THEATER FACADE LIGHTING PROPOSAL	•
G007	STREET STRIP ELEVATION	•
G008	SHADOW STUDIES - DEC 22	•
G009	SHADOW STUDIES - JUNE 21	•
G010	SHADOW STUDIES - SEPT 22	•
G011	GREENPOINT RATED CHECKLIST	•
G012	TERRACE VIEWS AND PERSPECTIVES	•
G013	PERSPECTIVE CONTEXT RENDERINGS	•
G014	NIGHT RENDERING	•
CIVIL		
C000	NOTES, LEGEND, & ABBREVIATIONS	•
C001	TOPOGRAPHIC SURVEY	•
C100	DEMOLITION PLAN	•
C200	SITE AND GRADING PLAN	•
C201	ROUGH GRADING PLAN	•
C300	UTILITY PLAN	•
C400	STORMWATER MANAGEMENT PLAN	•
C500	CONSTRUCTION DETAILS	•
C501	CONSTRUCTION DETAILS	•
C502	CONSTRUCTION DETAILS	•
C503	CONSTRUCTION DETAILS	•
C600	WATER POLLUTION CONTROL DRAWINGS	•
C601	WATER POLLUTION CONTROL DETAILS	•
LANDSCAPE		
L100	CALGREEN CHECKLIST	•
L101	GROUND FLOOR MATERIALS PLAN	•
L101.1	FEATURE ALTERNATIVE DESIGN OPTIONS	•
L102	2ND FLOOR PLANS	•
L103	16TH FLOOR PLAN	•
L104	17TH FLOOR PLAN	•
L105	18TH FLOOR PLAN	•
L200	PLANTING SCHEDULE	•
L202	2ND FLOOR PLANTING PLAN	•
L203	16TH FLOOR PLANTING PLAN	•
L204	17TH FLOOR PLANTING PLAN	•

SHEET LIST

SHEET #	SHEET NAME	ENTITLEMENTS 10/23/2023
L205	18TH FLOOR PLANTING PLAN	•
L300	IRRIGATION SCHEDULE AND CALCULATIONS	•
L301	GROUND FLOOR IRRIGATION PLAN	•
L302	2ND FLOOR IRRIGATION PLAN	•
L303	16TH FLOOR IRRIGATION PLAN	•
L304	17TH FLOOR IRRIGATION PLAN	•
L305	18TH FLOOR IRRIGATION PLAN	•
L306	IRRIGATION DETAILS	•
ARCHITECTURAL		
A100	SITE PLAN	•
A101	BASEMENT 2 FLOOR PLAN	•
A102	BASEMENT 1 FLOOR PLAN	•
A103	GROUND FLOOR PLAN	•
A104	LEVEL 2 FLOOR PLAN	•
A105	LEVEL 3 FLOOR PLAN	•
A106	LEVEL 4 FLOOR PLAN	•
A107	LEVEL 5,7,9,11,13 FLOOR PLAN	•
A108	LEVEL 6,8,10,12,14 FLOOR PLAN	•
A109	LEVEL 15 FLOOR PLAN	•
A110	LEVEL 16 FLOOR PLAN	•
A111	LEVEL 17 FLOOR PLAN	•
A112	LEVEL 18 FLOOR PLAN	•
A113	ROOF FLOOR PLAN	•
A201	SOUTH EXTERIOR ELEVATION	•
A202	EAST EXTERIOR ELEVATION	•
A203	WEST EXTERIOR ELEVATION	•
A204	NORTH EXTERIOR ELEVATION	•
A205	EXTERIOR ELEVATION MATERIALS	•
A211	SOUTH FACADE LIGHTING & SIGNAGE	•
A212	EAST FACADE LIGHTING & SIGNAGE	•
A213	WEST FACADE LIGHTING & SIGNAGE	•
A214	NORTH FACADE LIGHTING SIGNAGE	•
A215	SOUTH FACADE SIGNAGE	•
A310	BUILDING SECTIONS	•

VIEW NO. ON SHEET / SHEET NO. — VIEW REFERENCE

SECTION REFERENCE

DETAIL SECTION REFERENCE

ELEVATION REFERENCE

INTERIOR ELEVATION REFERENCE

ENLARGED PLAN / DETAIL REFERENCE

PROJECT NORTH / TRUE NORTH — NORTH ARROW

REVISION CLOUD

KEY NOTE: SEE LEGEND ON DRAWINGS FOR EXPLANATION OF EACH NOTE

WALL, FLR/CLG, AND ROOF TYPE

DOOR SYMBOL

WINDOW SYMBOL

PLUMBING FIXTURE / APPLIANCE SYMBOL

FINISH REFERENCE

DIMENSION TO FACE OF STUD, UNO

DIMENSON TO CENTERLINE

DIMENSON TO FACE OF FINISH

ALIGN FACE OF FINISH

DATUM REFERENCE: ELEVATION, WORK, OR CONTROL

ELEVATION CHANGE: CEILING OR FLOOR LEVEL

SPOT ELEVATION

GRAPHIC SYMBOLS

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San Francisco, CA 94105

2115 KITTREDGE ST

2115 KITTREDGE ST
BERKELEY, CA

No.	DATE	DESCRIPTION
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NOT FOR CONSTRUCTION

DRAWING INDEX, SYMBOLS & ABBREVIATIONS

G001

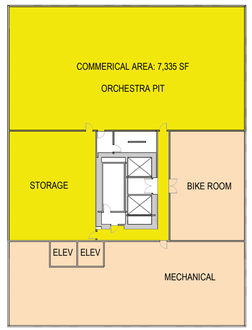
DENSITY BONUS TABLE

Base Project	Base # Units	Base # Units	% VLI units	# VLI Units	#VLI Units	Bonus %	# DB Units	# DB Units	Total Units
sq. ft. - see calculation below	base project/avg. unit size	Base Units/Max. Residential Density...	VLI = Very Low Income <50 AMI	% VLI x Base # Units			%Bonus x Base # Units (rounded up)	%Bonus x Base # Units (rounded up)	base unit + DB Units (rounded up)
91,100	140.82	141.00	15%	21.15	22.00	50.00%	70.50	71	212

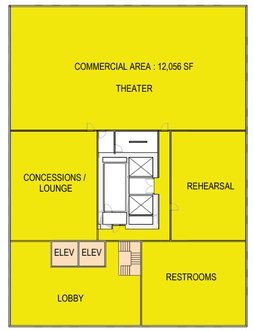
Base Project Square Footage	Floor
0	basement 2
0	basement 1
11,664	first
11,348	second
11,348	third
11,348	fourth
11,348	fifth
11,348	sixth
11,348	seventh
11,348	eighth

LEGEND:

- COMMERCIAL AREA
- RESIDENTIAL AREA (BASE)
- NON-QUALIFYING RESIDENTIAL AREA (BASE)
- COMMERCIAL USABLE OPEN SPACE

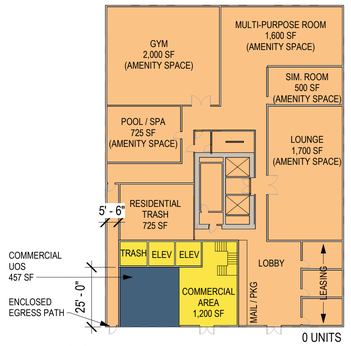


B2 BASEMENT
G002.A 1" = 30'-0" ON 24X36 (1"=60'-0" ON 12X18)



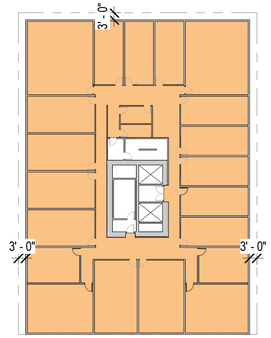
0 UNITS

B1 BASEMENT
G002.A 1" = 30'-0" ON 24X36 (1"=60'-0" ON 12X18)



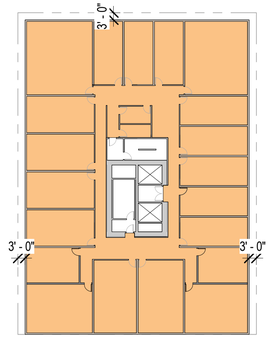
0 UNITS

1 1ST FLOOR
G002.A 1" = 30'-0" ON 24X36 (1"=60'-0" ON 12X18)



20 UNITS

2 2ND FLOOR
G002.A 1" = 30'-0" ON 24X36 (1"=60'-0" ON 12X18)



20 UNITS

3 3RD FLOOR
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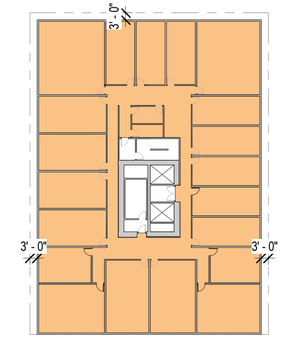

20 UNITS

4 4TH FLOOR
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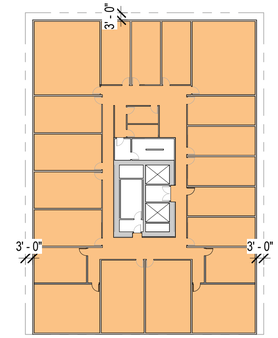
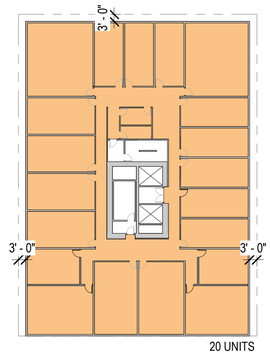


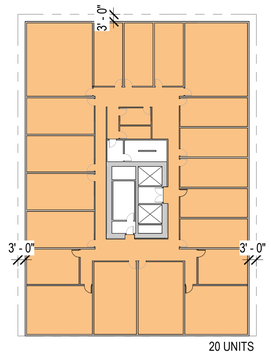
20 UNITS

5 5TH FLOOR
G002.A 1" = 30'-0" ON 24X36 (1"=60'-0" ON 12X18)



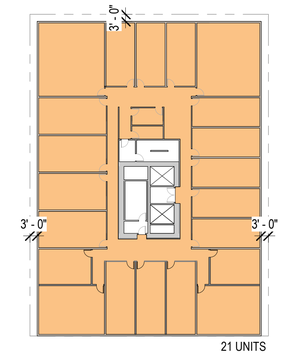
20 UNITS

6 6TH FLOOR
G002.A 1" = 30'-0" ON 24X36 (1"=60'-0" ON 12X18)



20 UNITS

7 7TH FLOOR
G002.A 1" = 30'-0" ON 24X36 (1"=60'-0" ON 12X18)



21 UNITS

8 8TH FLOOR
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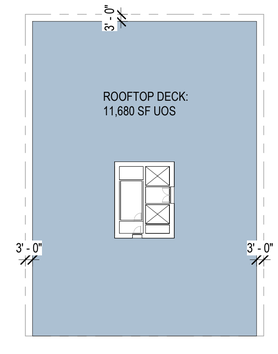

9 ROOFTOP DECK
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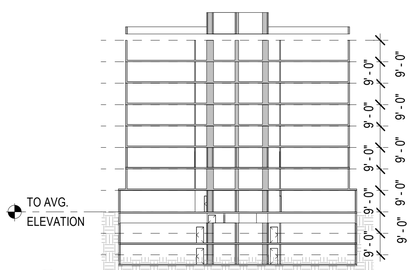

10 Density Bonus Base
G002.A 1" = 30'-0" ON 24X36 (1"=60'-0" ON 12X18)

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Email	ewong@ktgy.com
Principal	Jessica Musick
Designer	

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2115 KITTREDGE ST

2115 KITTREDGE ST
BERKELEY, CA

No.	DATE	DESCRIPTION
	9/26/2023	LPC RESUBMITTAL
	11/08/2023	ZAB SUBMITTAL

Client is responsible for notifying architect in writing for any discovered errors or omissions in the plans and specifications during construction of the project. Failure for Client to notify Architect of any known errors or omissions in the plans or specifications, and proceeding with constructing the portion of work shown in the plans or specifications containing known errors or omissions shall be a waiver by Client for any liability of Architect for such known errors or omissions. Client releases Architect for any liability for such portions of work, and Architect shall not be liable for any delay damages, change orders, repair costs, removal or demolition costs, or replacement of any such portions of work.

NOT FOR CONSTRUCTION

DENSITY BONUS CALCS - BASE

G002.A

DENSITY BONUS TABLE									
Base Project	Base # Units	Base # Units	% VLI units	# VLI Units	#VLI Units	Bonus %	# DB Units	# DB Units	Total Units
sq. ft. - see calculation below	base project/avg. unit size	Base Units/Max. Residential Density...	VLI = Very Low Income <50 AMI	% VLI x Base # Units			%Bonus x Base # Units (rounded up)	%Bonus x Base # Units (rounded up)	base unit + DB Units (rounded up)
91,100	140.82	141.00	15%	21.15	22.00	50.00%	70.50	71	212

LEGEND:

- COMMERCIAL AREA
- COMMERCIAL UOS
- RESIDENTIAL AREA CONFORMING
- RESIDENTIAL AREA NON-QUALIFYING
- PRIVATE UOS
- RESIDENTIAL UOS

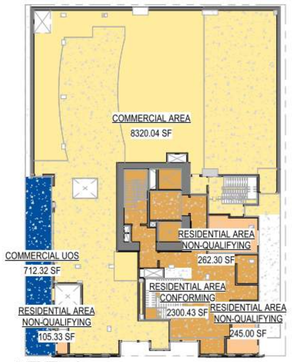
Base Project Square Footage	Floor	Residential Sq. Footage Proposed
0	basement 2	1345
0	basement 1	1798
11,664	first	2301
11,348	second	3417
11,348	third	4707
11,348	fourth	9733
11,348	fifth	9279
11,348	sixth	9269
11,348	seventh	9270
11,348	eighth	9269
	nineth	9270
	tenth	9269
	eleventh	9270
	twelfth	9269
	thirteenth	9270
	fourteenth	9269
	fifteenth	9270
	sixteenth	5363
	seventeenth	3473
	eighteenth	2353
91,100	TOTAL	136,461

Total Square Footage: 136,461

Proposed Units: 211

Average Unit Size: 647

%VLI	%DB
5%	20.0%
6%	22.5%
7%	25%
8%	27.5%
9%	30.0%
10%	32.5%
11%	35.0%
12%	38.75%
13%	42.5%
14%	46.25%
15%	50.0%



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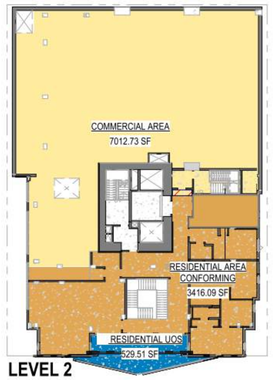

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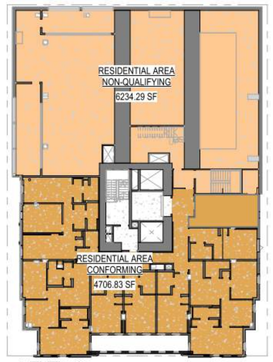

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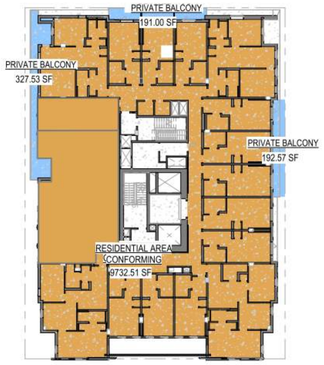

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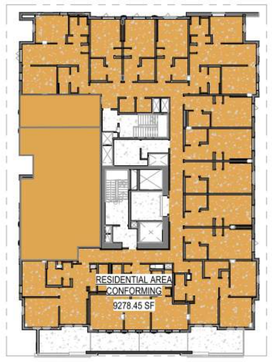

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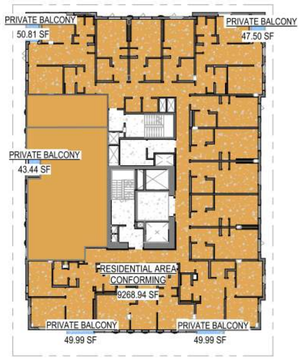


LEVEL 6

LEVEL 7

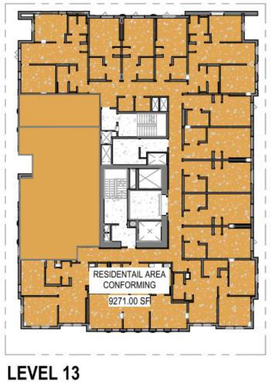
LEVEL 8

LEVEL 9

LEVEL 10

LEVEL 11

LEVEL 12



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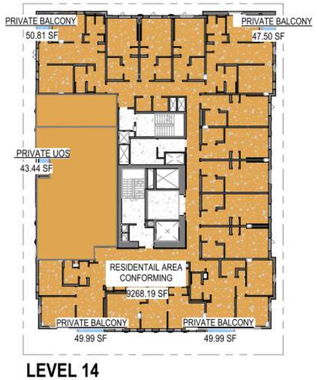
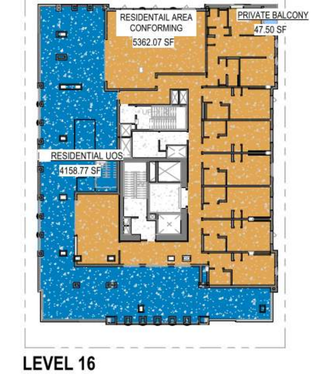


LEVEL 14

LEVEL 15



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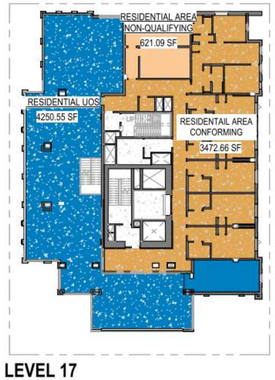

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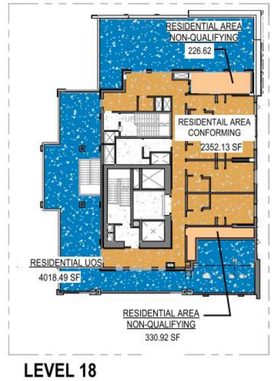

LEVEL 18

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2115 KITTREDGE ST
BERKELEY, CA

No.	DATE	DESCRIPTION
	9/26/2023	LPC RESUBMITTAL
	11/08/2023	ZAB SUBMITTAL

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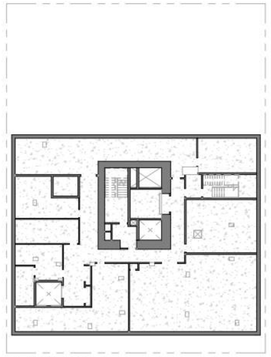
NOT FOR CONSTRUCTION

DENSITY BONUS CALCS - PROPOSED

G002.B



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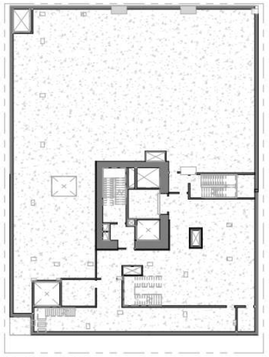
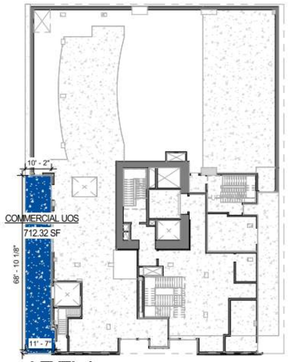


LEVEL B1



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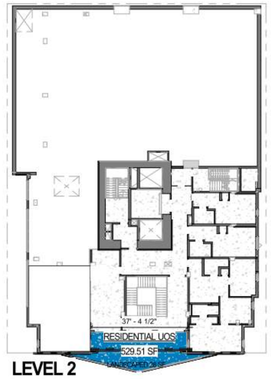

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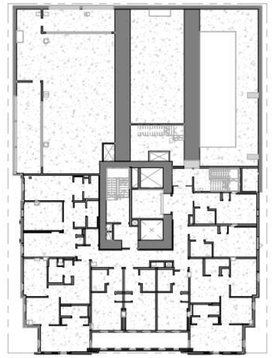

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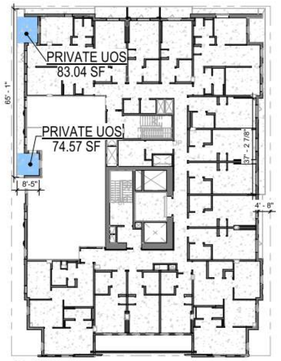

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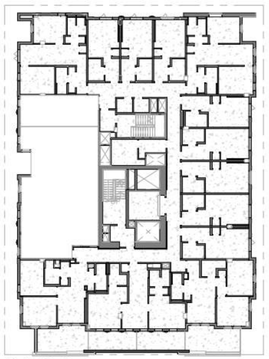

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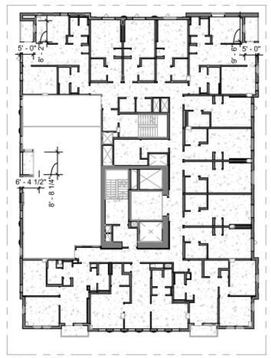

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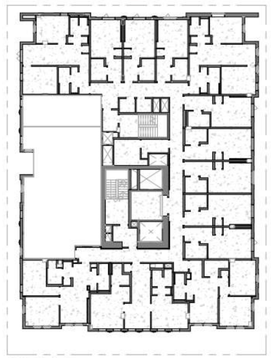

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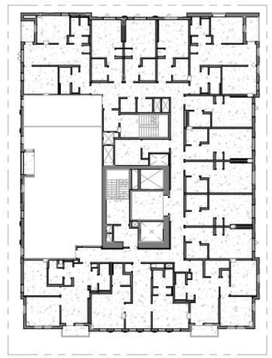

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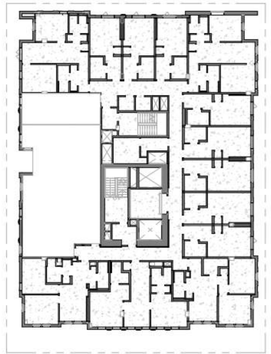

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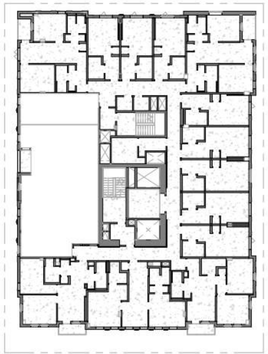

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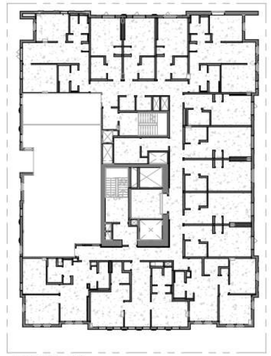

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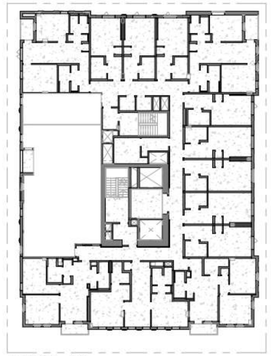

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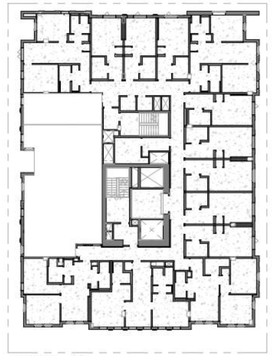

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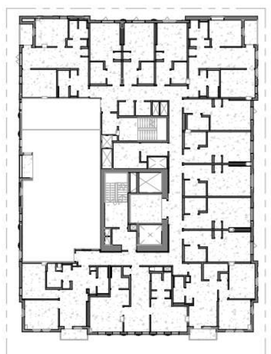

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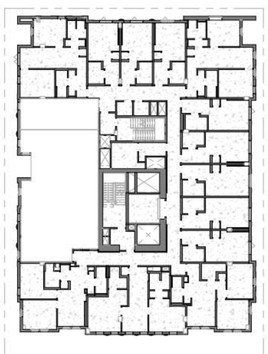

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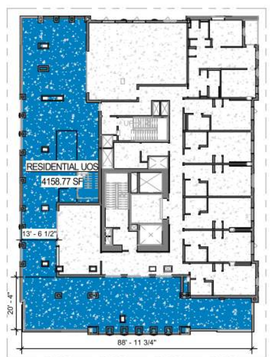
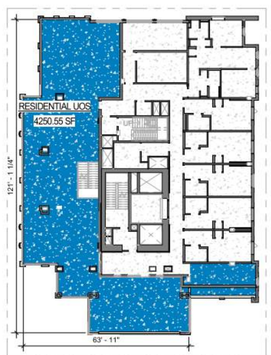


LEVEL 16 LANDSCAPE 163 SF



LEVEL 17 LANDSCAPE 441 SF

LEVEL 18 LANDSCAPE 278 SF

PROJECT DENSITY CALCULATIONS

UOS REQUIREMENTS:

NON-RESIDENTIAL USES:
1 sq. ft. of privately-owned public open space per 50 sq. ft. of commercial floor area.
*Each square foot of usable open space provided as privately-owned public open space is counted as two square feet of required on-site open space.

RESIDENTIAL:
80 FT PER UNIT
NOTE: PRIVATE BALCONIES LESS THAN 6FT IN WIDTH OR DEPTH NOT INCLUDED IN USABLE OPEN SPACE

UOS CALCS

NON-RESIDENTIAL USES
PROPOSED COMMERCIAL = 712 SF

RESIDENTIAL
211 UNITS x 80 SF = 16,880 SF
PROPOSED COMMON = 12,382 SF
PROPOSED PRIVATE = 157 SF
RESIDENTIAL TOTAL = 12,539 SF

LANDSCAPED UOS (RESIDENTIAL)
40% OF COMMON UOS
REQUIRED: 40% OF 12,539 (COMMON) = 5,015 SF
PROPOSED: 7% OF 12,539 (COMMON) = 877 SF

Area Schedule (Project Density Calc) Sorted by Level Commercial Usable Open Space Only

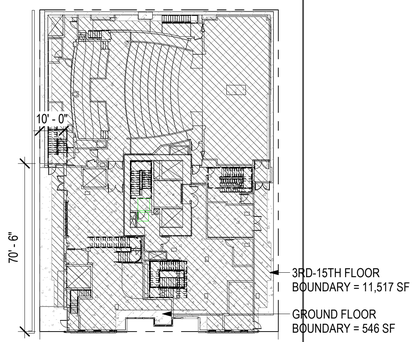
Level	Name	Area
LEVEL 1	COMMERCIAL UOS	712.32 SF
COMMERCIAL UOS TOTAL		712.32 SF

Area Schedule (Project Density Calc) Sorted by Level Usable Open Space Only

Level	Name	Area
LEVEL 2	RESIDENTIAL UOS	529.51 SF
LEVEL 4	PRIVATE UOS	157.61 SF
LEVEL 16	RESIDENTIAL UOS	4158.77 SF
LEVEL 17	RESIDENTIAL UOS	4250.55 SF
LEVEL 18	RESIDENTIAL UOS	3443.31 SF
		12539.74 SF

LOT COVERAGE CALCUALTIONS

MAX. BLDG. BOUNDRY AREA
11,517 SF + 546 SF =12,063 SF
LOT SIZE = 13,500 SF
LOT COVERAGE =12,063/13,500 = 89%



1 G003 GROUND FLOOR
1" = 30'-0" ON 24X36 (1"=60'-0" ON 12X18)

BUILDING PROGRAM LEGEND:
- COMMERCIAL UOS
- DB RESIDENTIAL UOS

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Principal	Jessica Musick
Designer	

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2115 KITTREDGE ST

2115 KITTREDGE ST
BERKELEY, CA

No.	DATE	DESCRIPTION
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	11/08/2023	ZAB SUBMITTAL

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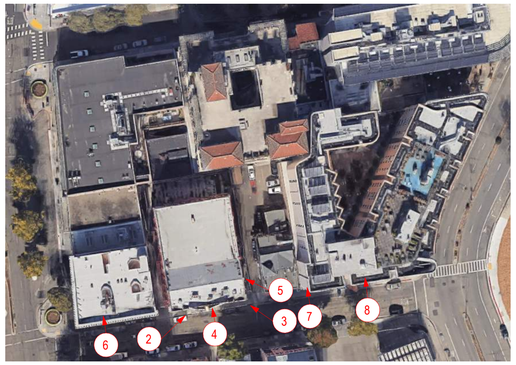
NOT FOR CONSTRUCTION

LOT COVERAGE, USABLE OPEN SPACE CALCS

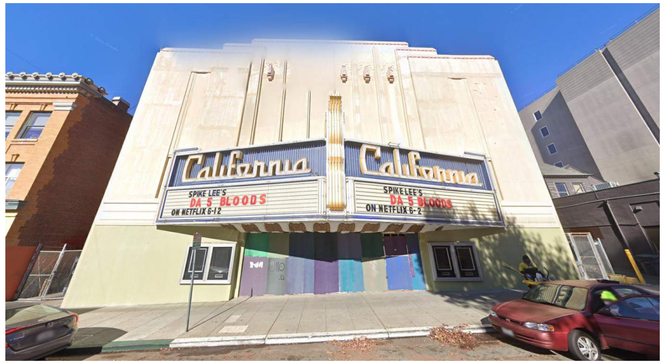
G003



1 2115 KITTREDGE STREET SITE CONTEXT PHOTO KEY
1" = 1'-0"

2 STREET VIEW LOOKING NORTH

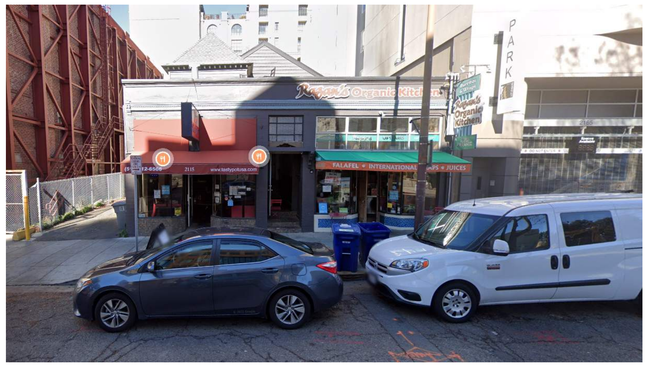
3 STREET VIEW LOOKING WEST



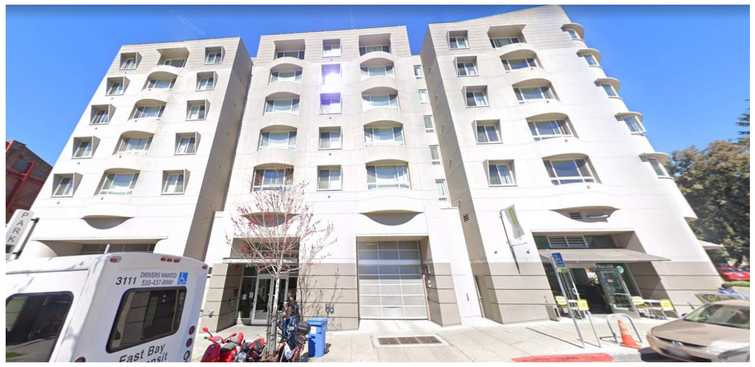
4 STREET VIEW LOOKING NORTHWEST

5 EAST SIDEYARD LOOKING WEST

6 2231 SHATTUCK



7 2115 & 2119 KITTREDGE



8 2165 & 2177 KITTREDGE

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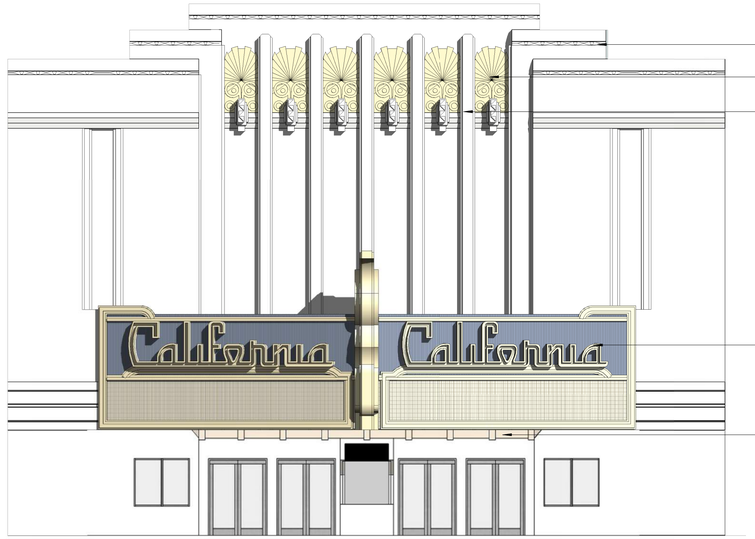
EXISTING SITE PHOTOS

G004

EXISTING THEATER FACADE

HISTORICAL THEATER FACADE



PRESERVE AND RESTORE EXISTING DECORATIVE CORNICE ELEMENTS

PRESERVE AND RESTORE EXISTING DECORATIVE COINS

PRESERVE AND RESTORE EXISTING DECORATIVE PILASTERS

PRESERVE AND RESTORE EXISTING THEATER MARQUEE

REPLACE & RECREATE EXISTING THEATER MARQUEE SOFFIT (REMOVAL REQUIRED FOR CONSTRUCTION)

2 G005 EXISTING THEATER FACADE MODIFICATIONS
1/8" = 1'-0"

ALTERNATIVE RAIL OPTION AT MARQUEE BALCONY

PROPOSED SAWCUT AND WINDOW INFILL AT EXISTING FACADE

PROPOSED SAWCUT AND OPENING AT EXISTING FACADE FOR 2ND FLOOR MARQUEE BALCONY ACCESS

PROPOSED SAWCUT AND WINDOW INFILL AT EXISTING FACADE RECESS

PROPOSED GLASS RAILING WITH BACKLIT EDGE AT MARQUEE BALCONY

PROPOSED MATTE FINISH PROJECTING SIGN. FACE OF SIGN TO BE MAXIMUM 12 S.F.

REPLACE & RECREATE STOREFRONT AT RESIDENTIAL LOBBY, THEATER ENTRANCE AND THEATER TICKET BOOTH

RESTORE EXISTING POSTER DISPLAY WITH NEW WINDOW INFILL

1 G005 PROPOSED THEATER FACADE MODIFICATIONS
1/8" = 1'-0"

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NOT FOR CONSTRUCTION

THEATER FACADE PRESERVATION

G005

EXISTING THEATER FACADE

HISTORICAL THEATER FACADE

NEW LED WASH LIGHTING AT TOP OF EXISTING FACADE

NEW LED WASH LIGHTING ABOVE EXISTING RECESSED PANEL

RESTORE EXISTING MARQUEE NEON WITH ORIGINAL NEON LIGHTING

PROPOSED GLASS RAILING WITH BACKLIT EDGE AT MARQUEE BALCONY

NEW LED BLADE SIGN LIGHTING

RETAIN EXISTING MARQUEE LETTERING WITH ORIGINAL NEON LIGHTING

NEW LED STRIP LIGHTING AT EXISTING HORIZONTAL BAND

1 G006 PROPOSED THEATER FACADE MODIFICATIONS
1/8" = 1'-0"

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THEATER FACADE LIGHTING PROPOSAL

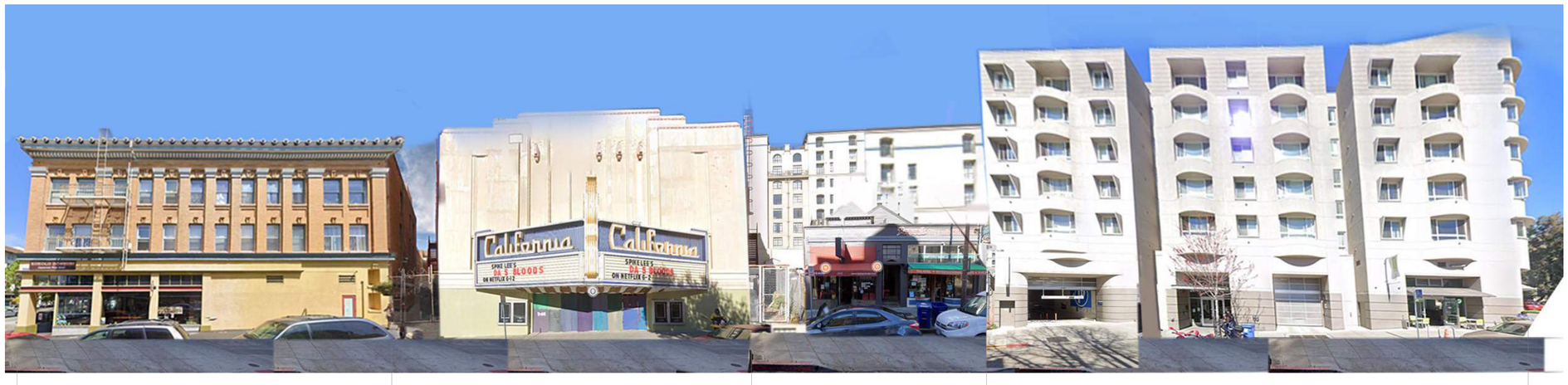
G006

2231 SHATTUCK | 2115 KITGREDGE | 2119 KITTREDGE | 2165 & 2177 KITTREDGE

BUILDING SITE

2 G007 (N) STREET STRIP ELEVATIONS

3/4" = 1'-0"



2231 SHATTUCK | 2115 KITGREDGE | 2119 KITTREDGE | 2165 & 2177 KITTREDGE

BUILDING SITE

1 G007 (E) STREET STRIP ELEVATIONS

NOT TO SCALE

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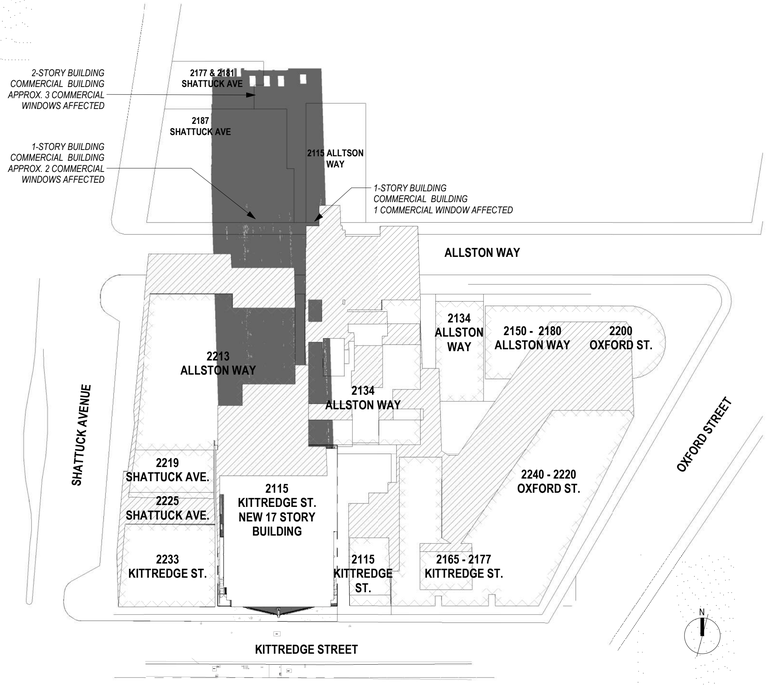
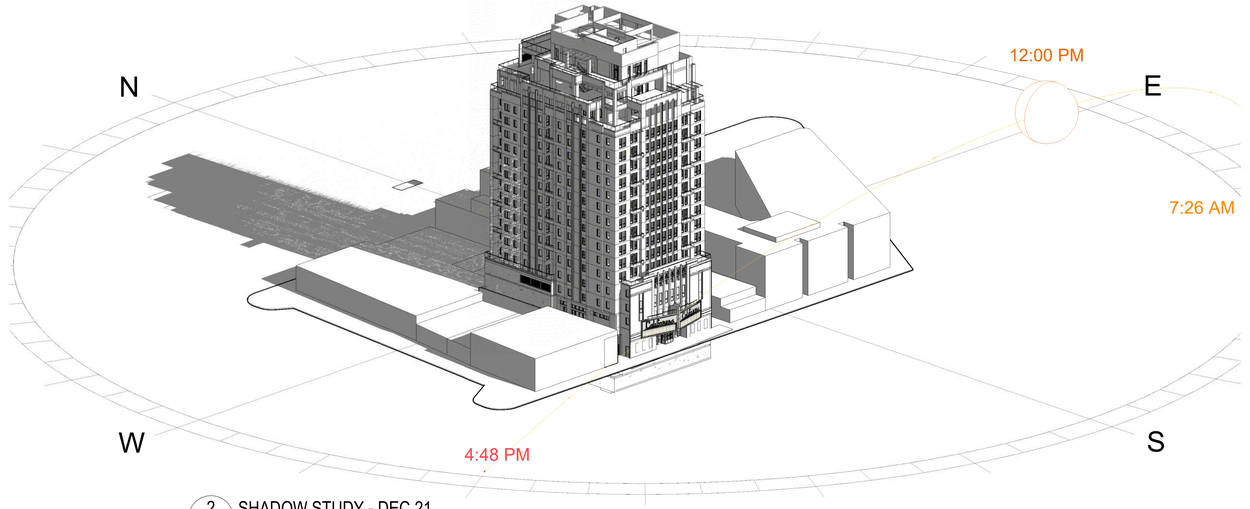
STREET STRIP ELEVATION

G007



1 G008 12/21 PROPOSED NOON
1" = 60'-0" ON 24X36 (1"=120'-0" ON 12X18)

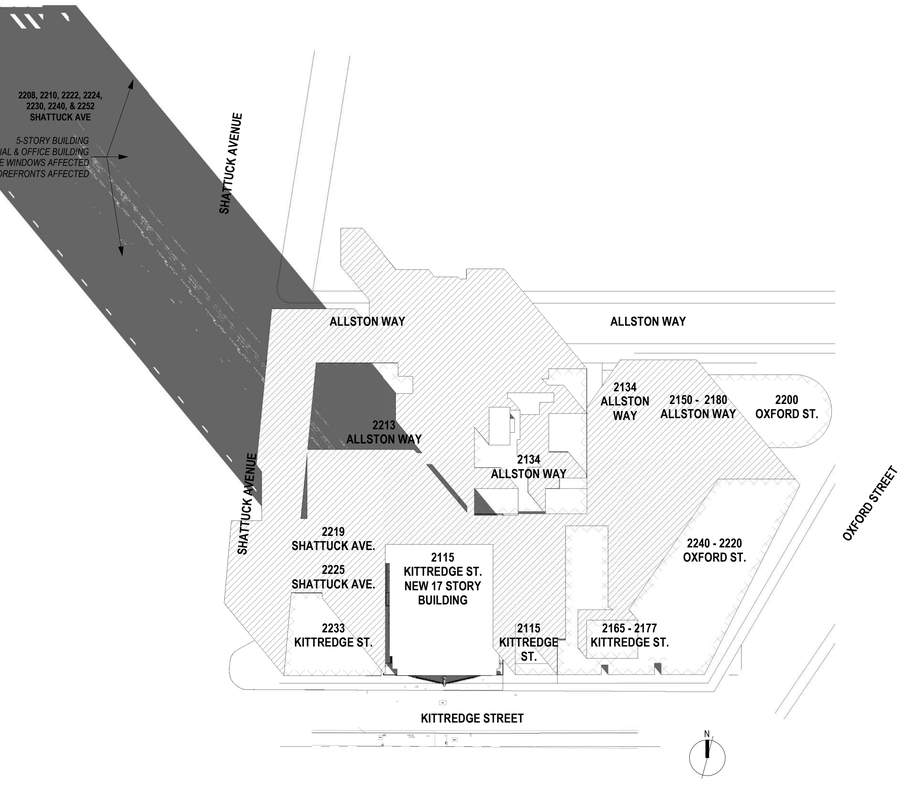


2 G008 SHADOW STUDY - DEC 21

SHADOW LEGEND:

EXISTING SHADOW

NEW SHADOW



3 G008 12/21 PROPOSED 9 21 AM
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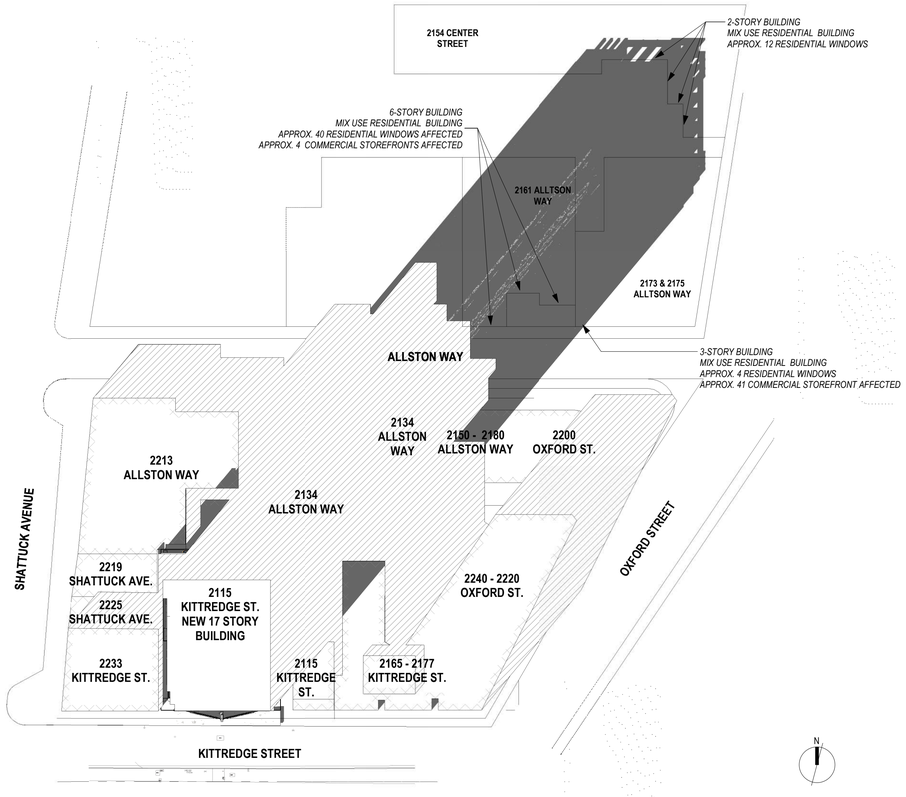

4 G008 12/21 PROPOSED 2 54 PM
1" = 60'-0" ON 24X36 (1"=120'-0" ON 12X18)

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December 21

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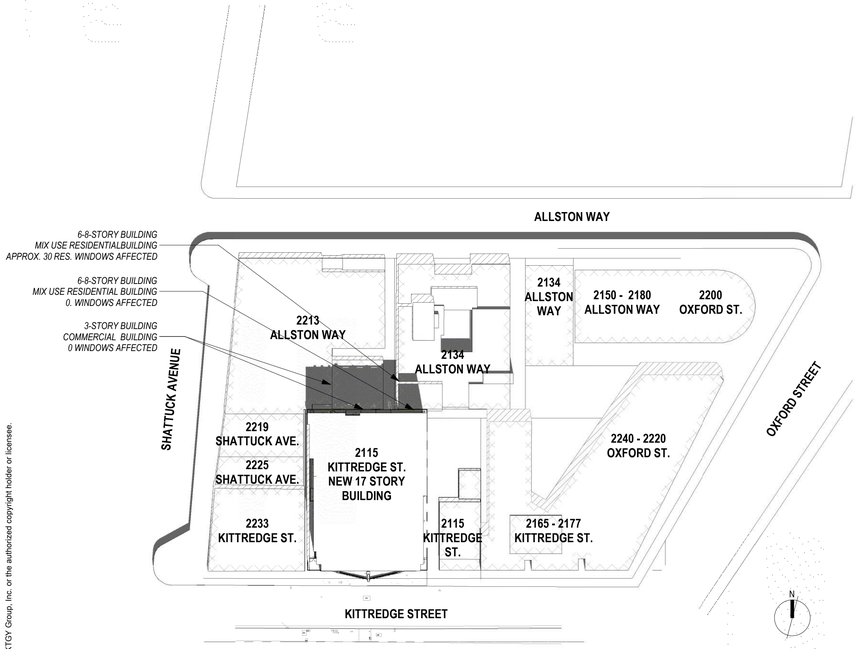
SHADOW STUDIES - DEC 22

G008



1 G009 06/21 PROPOSED NOON
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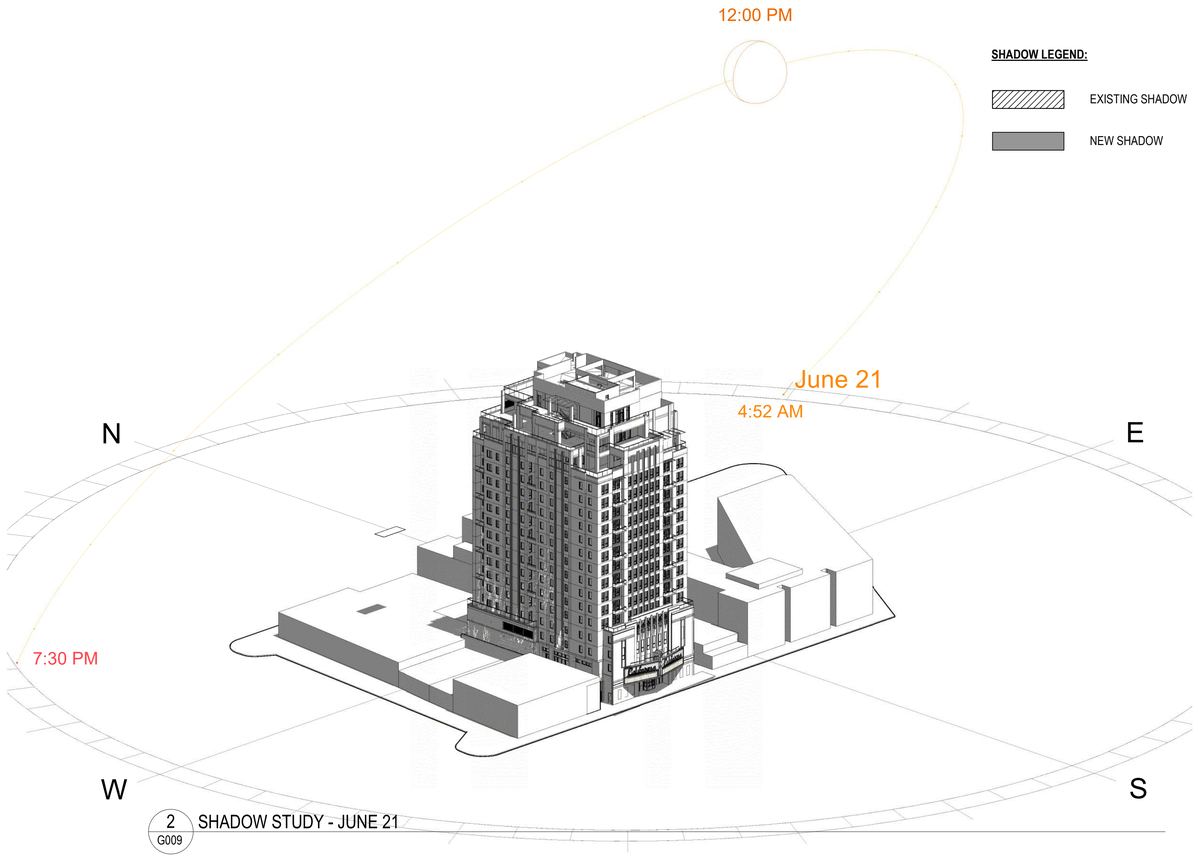
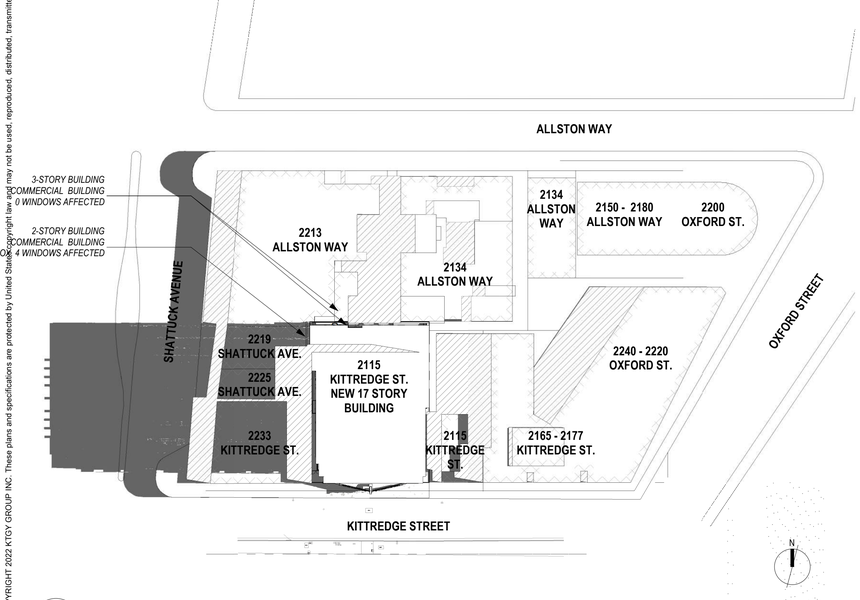


2 G009 SHADOW STUDY - JUNE 21



3 G009 06/21 PROPOSED 8 30 AM
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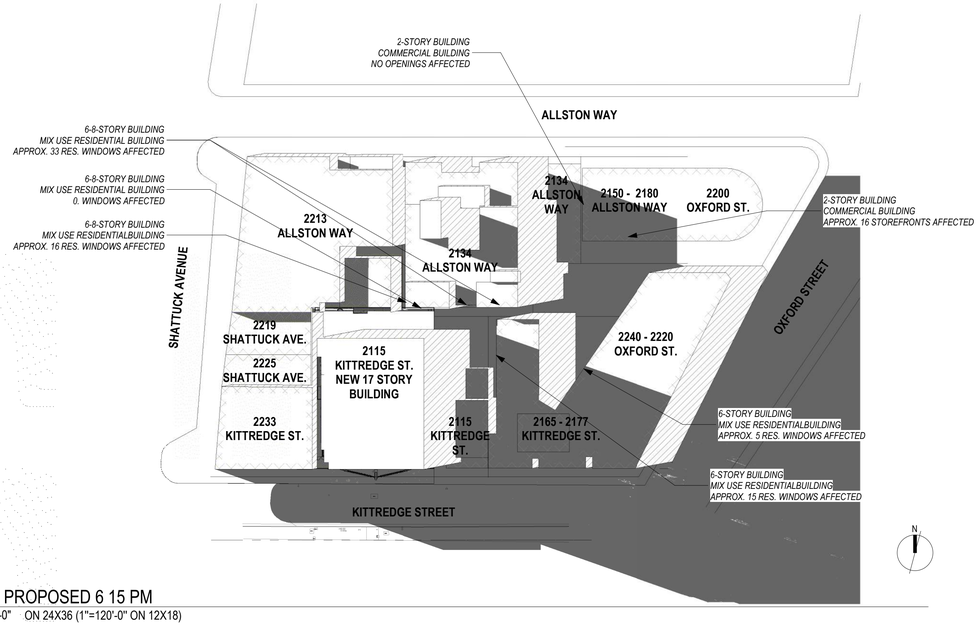

4 G009 06/21 PROPOSED 6 15 PM
1" = 60'-0" ON 24X36 (1"=120'-0" ON 12X18)

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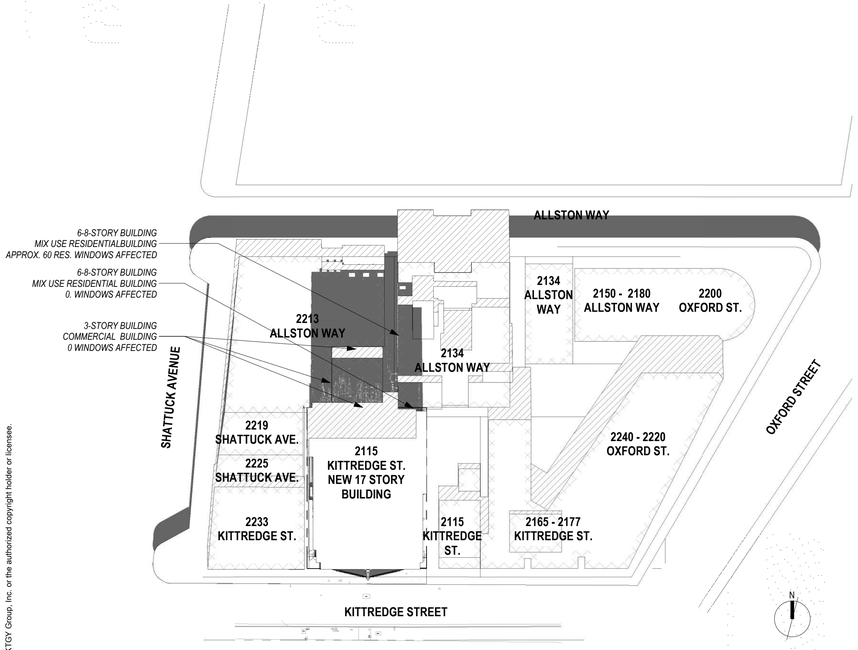
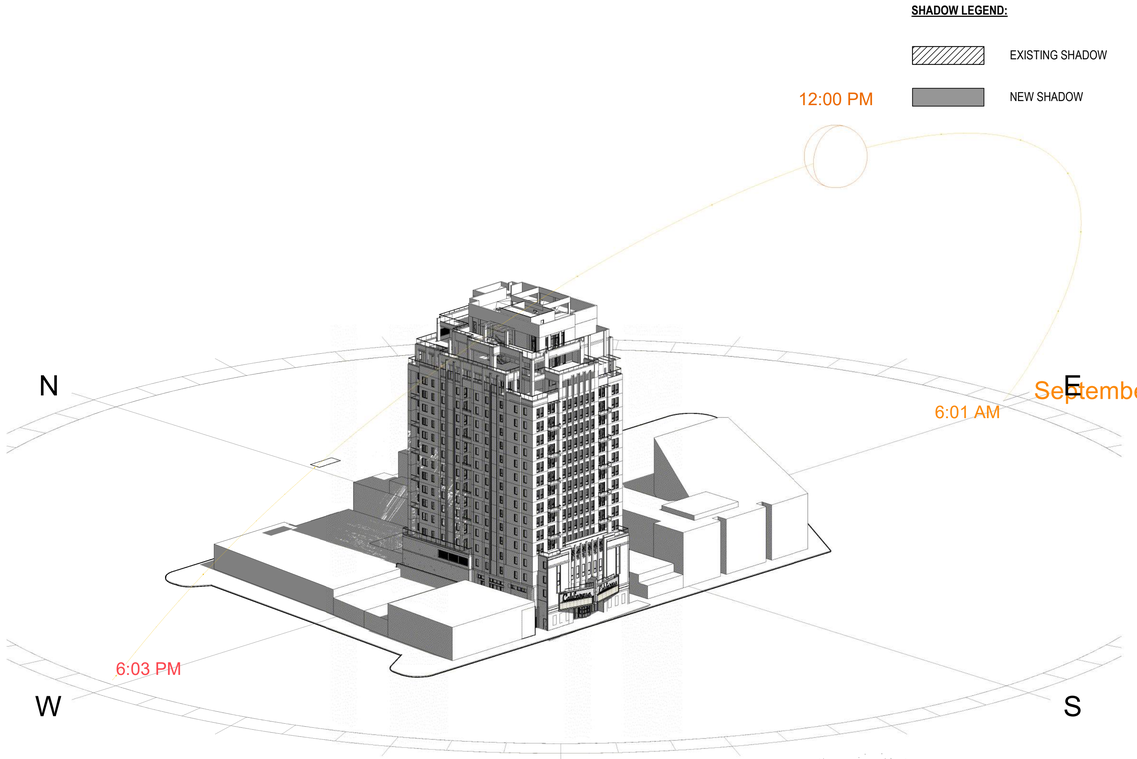
SHADOW STUDIES - JUNE 21

G009

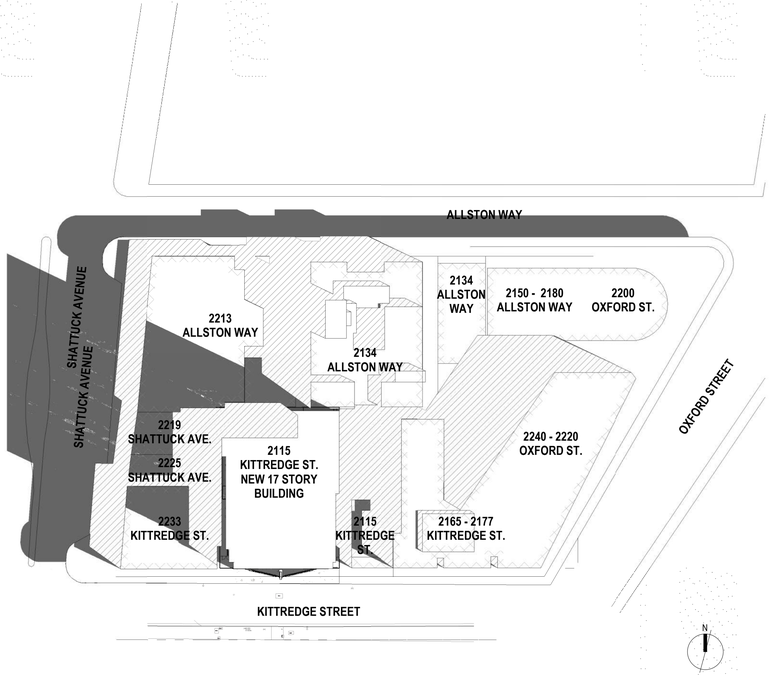


1 G010 09/22 PROPOSED NOON

1" = 60'-0" ON 24X36 (1"=120'-0" ON 12X18)

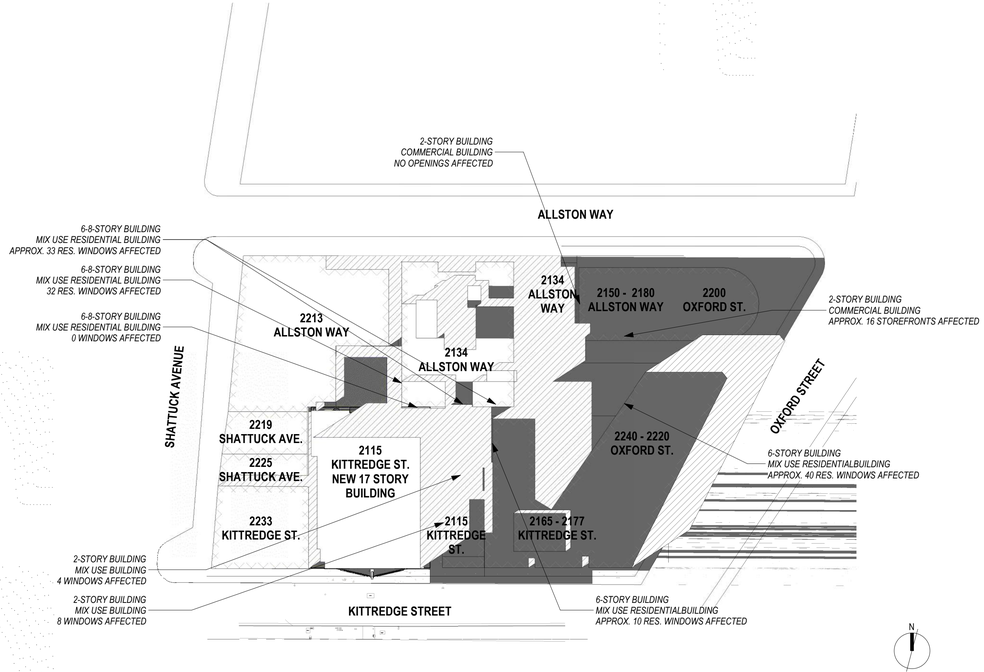


2 G010 SHADOW STUDY - SEPT 22



3 G010 09/22 PROPOSED 8 35 AM

1" = 60'-0" ON 24X36 (1"=120'-0" ON 12X18)



4x G010 09/22 PROPOSED 6 15 PM

1" = 60'-0" ON 24X36 (1"=120'-0" ON 12X18)

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SHADOW STUDIES - SEPT 22

G010

NEW HOME RATING SYSTEM, VERSION 8.0

MULTIFAMILY CHECKLIST

The GreenPoint Rated checklist tracks green features incorporated into the home. GreenPoint Rated is administered by Build It Green, a non-profit whose mission is to promote healthy, energy and resource efficient buildings in California.

The minimum requirements of GreenPoint Rated are: verification of 50 or more points; Earn the following minimum points per category: Community (2) Energy (25), Indoor Air Quality/Health (6), Resources (6), and Water (6); and meet the prerequisites CALGreen Mandatory, ES-3 , HE-1, JE-1, OT-1, OT-2

Directions for Use: Column A is a dropdown menu with the options of "Yes", "No", or "TBD" or a range of percentages to allocate points. Select the appropriate dropdown and the appropriate points will appear in the blue "points achieved" column.

The criteria for the green building practices listed below are described in the GreenPoint Rated New Home Rating Manual.
For more information please visit **www.builditgreen.org/greenpointrated**
Build It Green is not a code enforcement agency.
A home is only GreenPoint Rated if all features are verified by a Certified GreenPoint Rater through Build It Green.

Points Targeted: 157
Certification Level Targeted: Platinum
Compliance Pathway Targeted: All Electric High-Rise

New Home Multifamily Version 8

Project Name: GDC01
Project Street: 2115 Kittredge
Project City: Berkeley
Project Zip: 94704

Measures	Points Achieved	Community	Energy	IAQ/Health	Resources	Water	Notes
		Possible Points					
CALGreen							
Yes	**CALGreen Res (REQUIRED)**	4	-	1	1	1	
A. SITE							
No	**A1. Construction Footprint** (Site Preservation Plan Beyond Local Ordinance (OR 40% of Site Undeveloped and Undisturbed)	0			1		
	A2. Job Site Construction Waste Diversion						
Yes	A2.1 70% C&D Waste Diversion (**including** Alternative Daily Cover)	2			2		
Yes	A2.2 Recycling Rates from Third-Party Verified Mixed-Use Waste Facility	1			1		
No	**A3. Recycled Content Base Material** (Minimum 20% Post-Consumer Content)	0			1		
No	**A4. Heat Island Effect Reduction (Non-Roof)**	0	1				
No	**A5. Construction Environmental Quality Management Plan Including Flush-Out**	0			1		
	A6. Stormwater Control: Prescriptive Path						
No	A6.1 Permeable Paving Material	0				1	
Yes	A6.2 Filtration and/or Bio-Retention Features	1				1	
Yes	A6.3 Non-Leaching Roofing Materials	1				1	
No	A6.4 Smart Stormwater Street Design	0	1				
No	**A7. Stormwater Control: Performance Path** (Capture and Treat 85% of Annual Runoff Onsite)	0				3	
B. FOUNDATION							
Yes	**B1. Fly Ash and/or Slag in Concrete** (Minimum of 30%)	1				1	
Yes	**B2. Radon-Resistant Construction**	2			2		
Yes	**B3. Foundation Drainage System**	2				2	
No	**B4. Moisture Controlled Crawlspace**	0			1		
	B5. Structural Pest Controls						
No	B5.1 Termite Shields and Separated Exterior Wood-to-Concrete Connections	0				1	
No	B5.2 Plant Trunks, Bases, or Stems at Least 36 Inches from the Foundation	0				1	
C. LANDSCAPE							
6.70%	Enter the landscape area percentage. Points capped at 3 for less than 15%.						
No	**C1. Plants Grouped by Water Needs (Hydrozoning)**	0				1	
No	**C2. Three Inches of Mulch in Planting Beds**	0				1	
	C3. Resource Efficient Landscapes						
Yes	C3.1 No Invasive Species Listed by Cal-IPC	1			1		
Yes	C3.2 Plants Chosen and Located to Grow to Natural Size (Limited Maintenance)	1			1		
Yes	C3.3 Drought Tolerant, California Native, Mediterranean Species, or Other Appropriate Species	1				3	
	C4. Minimal Turf in Landscape						
Yes	C4.1 No Turf on Slopes Exceeding 10% and No Overhead Sprinklers Installed in Areas Less Than Eight Feet Wide	0				2	
No	C4.2 Turf on a Small Percentage of Landscaped Area	0				2	
No	**C5. Trees to Moderate Building Temperature** (at least 50% of West Facing Glazing and Walls Shaded)	0	1	1		1	
Yes	**C6. High-Efficiency Irrigation System**	0				2	
No	**C7. One Inch of Compost in the Top Six to Twelve Inches of Soil** (with Soil Testing)	0				2	
No	**C8. Rainwater Harvesting System**	0				3	

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Measures	Points Achieved	Community	Energy	IAQ/Health	Resources	Water	Notes
No	**C9. Recycled Wastewater Irrigation System**	0				1	
Yes	**C10. Submeter or Dedicated Meter for Landscape Irrigation**	0				2	
TBD	**C11. Landscape Meets Water Budget**					1	
	C12. Environmentally Preferable Materials for Site						
No	C12.1 Environmentally Preferable Materials for 70% of Non-Plant Landscape Elements and Fencing	0			1		
No	C12.2 Play Structures and Surfaces Have an Average Recycled Content ≥ 20%	0			1		
TBD	**C13. Reduced Light Pollution** (Exterior lighting fixtures shielded and directed downward)	1					
No	**C14. Large Stature Tree(s)**	0	1				
No	**C15. Third Party Landscape Program Certification**	0				1	
No	**C16. Maintenance Contract with Certified Professional** (Bay-Friendly Qualified Professional or Equiv.)	0				1	
No	**C17. Community Garden**	0	2				
D. STRUCTURAL FRAME AND BUILDING ENVELOPE							
	D1. Optimal Value Engineering						
No	D1.1 Joists, Rafters, and Studs at 24 Inches on Center	0		1		2	
No	D1.2 Non-Load Bearing Door and Window Headers Sized for Load	0				1	
No	D1.3 Advanced Framing Measures	0				2	
No	**D2. Construction Material Efficiencies** (Pre-assembled wall and roof framing for at least 90% of project)	0				1	
	D3. Engineered Lumber						
No	D3.1 Engineered Beams and Headers	0				1	
No	D3.2 Wood I-Joists or Web Trusses for Floors	0				1	
No	D3.3 Engineered Lumber for Roof Rafters	0				1	
No	D3.4 Engineered or Finger-Jointed Studs for Vertical Applications	0				1	
No	D3.5 OSB for Subfloor	0				0.5	
No	D3.6 OSB for Wall and Roof Sheathing	0				0.5	
No	**D4. Insulated Headers**	0		1			
	D5. FSC-Certified Wood						
No	D5.1 Dimensional Lumber, Studs, and Timber	0				6	
No	D5.2 Panel Products	0				3	
	D6. Solid Wall Systems						
Yes	D6.1 At Least 90% of Floors	1				1	
Yes	D6.2 At Least 90% of Exterior Walls	2	1			1	
Yes	D6.3 At Least 90% of Roofs	2	1			1	
No	**D7. Energy Heels on Roof Trusses**	0	1				
No	**D8. Overhangs and Gutters**	0	1			1	
	D9. Reduced Pollution Entering the Home from the Garage						
Yes	D9.1 Detached Garage	2			2		No Garage Provided
No	D9.2 Mitigation Strategies for Attached Garage	0			1		
	D10. Structural Pest and Rot Controls						
Yes	D10.1 All Wood Located At Least 12 Inches Above the Soil	1				1	
No	D10.2 Wood Framing Treating With Borates or Factory-Impregnated, or Wall Materials Resistant to Decay	0				1	
No	**D11. Moisture-Resistant Materials in Wet Areas (such as Kitchen, Bathrooms, Utility Rooms, and Basements)**	0			1	1	
E. EXTERIOR							
Yes	**E1. Environmentally Preferable Decking**	1				1	
No	**E2. Flashing Installation Third-Party Verified**	0				2	
Yes	**E3. Rain Screen Wall System**	2				2	
Yes	**E4. Durable and Non-Combustible Cladding Materials**	1				1	
	E5. Durable Roofing Materials						
Yes	E5.1 Durable and Fire Resistant Roofing Materials or Assembly	1			1		
Yes	E5.2 Roofing Warranty for Shingle Roofing	Y	n	n	n	n	n
No	**E6. Vegetated Roof**	0	2	2			

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F. INSULATION							
	F1. Insulation with 30% Post-Consumer or 60% Post-Industrial Recycled Content						
Yes	F1.1 Walls and Floors	0.5			0.5		
Yes	F1.2 Ceilings	0.5			0.5		
	F2. Insulation that Meets the CDPH Standard Method—Residential for Low Emissions						
Yes	F2.1 Walls and Floors	0.5		0.5			
Yes	F2.2 Ceilings	0.5		0.5			
	F3. Low GWP Insulation That Does Not Contain Fire Retardants						
Yes	F3.1 Cavity Walls and Floors	1		1			
Yes	F3.2 Ceilings	1		1			
Yes	F3.3 Interior and Exterior Insulation	1		1			
G. PLUMBING							
	G1. Efficient Distribution of Domestic Hot Water						
Yes	G1.1 Insulated Hot Water Pipes	1		1			
Yes	G1.2 WaterSense Volume Limit for Hot Water Distribution	1				1	increase insulation on pipe
No	G1.3 Increased Efficiency in Hot Water Distribution	0				2	
	G2. Install Water-Efficient Fixtures						
Yes	G2.1 WaterSense Showerheads 1.8 gpm with Matching Compensation Valve	2				2	
Yes	G2.2 WaterSense Bathroom Faucets with ≤ 1.0 gpm	1				1	
≤1.1 gpf	G2.3 WaterSense Toilets with a Maximum Performance (MaP) Threshold of No Less Than 500 Grams 1.28 gpf OR 1.1 gpf	2				2	
TBD	G2.4 Urinals with Flush Rate of ≤ 0.1 gpf					1	possible
No	**G3. Pre-Plumbing for Graywater System**	0				1	
No	**G4. Operational Graywater System**	0				3	
TBD	**G5. Thermostatic Shower Valve or Auto-Diversion Tub Spout**					1	confirm costs w/ rep
Yes	**G6. Submeter Water for Tenants**	2				2	
H. HEATING, VENTILATION, AND AIR CONDITIONING							
	H1. Sealed Combustion Units						
Yes	H1.1 Sealed Combustion Furnace	1			1		all electric - no combustion
Yes	H1.2 Sealed Combustion Water Heater	2			2		heat pump
No	**H2. High Performing Zoned Hydronic Radiant Heating System**	0		1	1		
	H3. Effective Ductwork						
Yes	H3.1 Duct Mastic on Duct Joints and Seams	1		1			
TBD	H3.2 Pressure Balance the Ductwork System			1			testing of each unit (sealed windows & doors)
TBD	**H4. ENERGY STAR® Bathroom Fans Per HVI Standards with Air Flow Verified**				1		centralized fan @ roof
	H5. Advanced Practices for Cooling						
No	H5.1 ENERGY STAR® Ceiling Fans in Living Areas and Bedrooms	0	1				
No	H5.2 Operable Windows and Skylights Located to Induce Cross Ventilation in At Least One Room in 90% of Units	0	1				
	H6. Whole House Mechanical Ventilation Practices to Improve Indoor Air Quality						
Yes	H6.1 Meet ASHRAE Standard 62.2-2016 Ventilation Residential Standards	Y	n	n	n	n	n
No	H6.2 Advanced Ventilation Standards	0		2			
No	H6.3 Outdoor Air is Filtered and Tempered	0		1			
	H7. Effective Range Design and Installation						
No	H7.1 Effective Range Hood Ducting and Design	0		1			
No	H7.2 Automatic Range Hood Control	0		1			
Yes	**H8. High Efficiency HVAC Filter (MERV 16+)**	1		1			min. merv 13
No	**H9. Advanced Refrigerants** (see global warming potential refrigerants)	0		1			
I. RENEWABLE ENERGY							
10.00%	**I1. Onsite Renewable Generation (Solar PV, Solar Thermal, and Wind)**	2		25			
	I2. Low Carbon Homes						
No	I2.1 Near Zero Energy Home (offset at least 80% of annual site energy use)	0		2			

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No	I2.2 Low Carbon Home (meet the CO2e/sq.ft. threshold)	0		4			
No	**I3. Energy Storage**	0		1			
No	**I4. Solar Hot Water Systems to Preheat Domestic Hot Water**	0		4			
≥80% of common area	**I5. Photovoltaic System for Multifamily Projects**	4		8			
J. BUILDING PERFORMANCE AND TESTING							
Yes	**J1. Third-Party Verification of Quality of Insulation Installation**	1			1		
Yes	**J2. Supply and Return Air Flow Testing**	2		1	1		
Yes	**J3. Mechanical Ventilation Testing**	1			1		
Yes	**J4. All Electric or Combustion Appliance Safety Testing**	1			1		
All Electric High-Rise	**J5. Building Energy Performance**						**Option 1: Mixed Fuel** - High Rise: Compliance margin is 10% over T24 or higher. Low Rise: Minimum Delta EDR ranges from 6-10 based on climate zone. Both high-rise and low-rise require pre-wiring requirements: Dryer - conductor rated for 40 amp, Range - conductor rated for 50 amp, PV and storage credit allowed. **Option 2: All Electric Compliance** - Meet Efficiency EDR based on climate zone (0-5). PV and Storage credit allowed. High Rise: meet T24. **Option 3: Annual Energy Use** - Minimum 20% compliance based on annual energy use. PV credit not allowed.
3							Climate Zone Input
8	J5.1 Home Meets or Exceeds Energy Compliance Pathway	41		25+			
0.00%	J5.2 Non-Residential Spaces Outperform Title 24			15			
Yes	**J6. Title 24 Prepared and Signed by a CABEC Certified Energy Analyst**	1		1			
TBD	**J7. Participation in Utility Program with Third-Party Plan Review**			1			savings by design
No	**J8. ENERGY STAR® for Homes**	0		1			
No	**J9. EPA Indoor airPlus Certification**				2		
No	**J10. Blower Door Testing**	0			3		
No	**J11. Compartmentalization of Units** (Minimum unconditioned pathways for indoor air pollutants between units)	0		1	1		
K. FINISHES							
	K1. Entryways Designed to Reduce Tracked-In Contaminants						
No	K1.1 Entryways to Individual Units (Goldenrod hard surface at entrances and permanent assembly for shoe storage)	0			1		
No	K1.2 Entryways to Buildings (Goldenrod hard surface at entrances and built-in, permanent walk-off mat or grill)	0			1		
Yes	**K2. Zero-VOC Interior Wall and Ceiling Paints**	2			2		
Yes	**K3. Low-VOC Caulks and Adhesives**	1			1		
	K4. Environmentally Preferable Materials for Interior Finish						
TBD	K4.1 Cabinets				2		
TBD	K4.2 Interior Trim				2		
TBD	K4.3 Shelving				2		
TBD	K4.4 Doors				2		
Yes	K4.5 Countertops	1			1		
	K5. Formaldehyde Emissions in Interior Finish Exceed CARB						
No	K5.1 Doors	0			1		
No	K5.2 Cabinets and Countertops	0			2		
No	K5.3 Interior Trim and Shelving	0			2		
No	**K6. Products That Comply With the Health Product Declaration Open Standard**	0			2		
No	**K7. Indoor Air Formaldehyde Level Less Than 27 Parts Per Billion**	0			2		
No	**K8. Comprehensive Inclusion of Low Emitting Finishes**				1		
Yes	**K9. Durable Cabinets** (Plywood for casework and items, ball-bearing drawer slides, dovetail joints, two directional soild hinges)	2				2	
No	**K10. At Least 25% of Interior Furniture Has Environmentally Preferable Attributes**	1				1	
L. FLOORING							
≥75%	**L1. Environmentally Preferable Flooring**	3				3	

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Measures	Points Achieved	Community	Energy	IAQ/Health	Resources	Water	Notes
TBD	**L2. Low-Emitting Flooring Meets CDPH 2010 Standard Method—Residential**			3			
Yes	**L3. Durable Flooring** (all flooring is hard surfaces)	1			1		
No	**L4. Thermal Mass Flooring**	0	1				
M. APPLIANCES AND LIGHTING							
Yes	**M1. ENERGY STAR® Dishwasher**	1				1	
	M2. Efficient Clothes Washing and Drying						
TBD	M2.1 CEE-Rated Clothes Washer		1			2	
Yes	M2.2 ENERGY STAR® Dryer	1	1				
No	M2.3 Solar Dryer/ Laundry Lines	0	0.5				
<20 cubic feet	**M3. Size-Efficient ENERGY STAR® Refrigerator**	2	2				
	M4. Permanent Centers for Waste Reduction Strategies						
No	M4.1 Built-In Recycling Center	0				1	
No	M4.2 Built-In Composting Center	0				1	
	M5. Lighting Efficiency						
Yes	M5.1 High-Efficacy Lighting	2	2				
Yes	M5.2 Lighting System Designed to IESNA Footcandle Standards or Designed by Lighting Consultant	2	2				
No	**M6. Electric Vehicle Charging Stations and Infrastructure**	0	2				
No	**M7. Central Laundry**	0				1	
Yes	**M8. Gearless Elevator**	1	1				
N. COMMUNITY							
	N1. Smart Development						
Yes	N1.1 Infill Site	2	1			1	
No	N1.2 Designated Brownfield Site	0	1			1	
>35	N1.3 Conserve Resources by Increasing Density	4		2		2	
No	N1.4 Cluster Homes for Land Preservation	0	1			1	
	N1.5 Home Size Efficiency	9				9	
875	Enter the area of the home, in square feet						
2	Enter the number of bedrooms						
	N2. Home(s)/Development Located Near Major Transit Stop						
Yes	N2.1 Within 1 Mile of a Major Transit Stop	1	1				
Yes	N2.2 Within 1/2 mile of a Major Transit Stop	0	2				
	N3. Pedestrian and Bicycle Access						
	N3.1 Pedestrian Access to Services Within 1/2 Mile of Community Services	0	2				
0	Enter the number of Tier 1 services						
0	Enter the number of Tier 2 services						
Yes	N3.2 Connection to Pedestrian Pathways	1	1				
No	N3.3 Traffic Calming Strategies	0	2				
No	N3.4 Sidewalks Buffered from Roadways and 5-8 Feet Wide	0	1				
Yes	N3.5 Bicycle Storage for Residents	1	1				
Yes	N3.6 Bicycle Storage for Non-Residents	1	1				
TBD	N3.7 Reduced Parking Capacity		2				No parking required
	N4. Outdoor Gathering Places						
Yes	N4.1 Public or Semi-Public Outdoor Gathering Places for Residents	1	1				
Yes	N4.2 Public Outdoor Gathering Places with Direct Access to Tier 1 Community Services	1	1				
	N5. Social Interaction						
No	N5.1 Residence Entries with Views to Callers	0	1				
No	N5.2 Entrances Visible from Street and/or Other Front Doors	0	1				
No	N5.3 Porches Oriented to Street and Public Space	0	1				
	N6. Passive Solar Design						
No	N6.1 Heating Load	0		2			

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Measures	Points Achieved	Community	Energy	IAQ/Health	Resources	Water	Notes
No	N6.2 Cooling Load	0		2			
	N7. Adaptable Building						
No	N7.1 Universal Design Principles in Units	0	1		1		
No	N7.2 Full-Function Independent Rental Unit	0	1				
	N8. Resiliency						
TBD	N8.1 Climate Impact Assessment (Cal-Adapt, Fortified Standard, NHZUS, FEMA P58, or Seismic Evaluation)		1		1	1	
TBD	N8.2 Strategies to Address Assessment Findings		1		1	1	
	N9. Social Equity						
TBD	N9.1 Diverse Workforce (Supplier Diversity or Local Hire)		1			1	
No	N9.2 Community Location (Disadvantaged Community)	0	1		1		
	N10. Affordability						
No	N10.1 Dedicated Units for Households Making 80% of AMI or Less	0	2				
Yes	N10.2. Units with Multiple Bedrooms for Households Making 80% of AMI or Less	2	1				
No	N10.3 At Least 20% of Units at 120% AMI or Less are For Sale	0	1				
	N11. Mixed-Use Development						
No	N11.1 Live/Work Units Include a Dedicated Commercial Entrance	0	1				
Yes	N11.2 At Least 2% of Development Floor Space Supports Mixed Use	1	1				
TBD	N11.3 Half of the Non-Residential Floor Space is Dedicated to Community Services		1				
O. OTHER							
Yes	**O1. GreenPoint Rated Checklist in Blueprints**	Y	n	n	n	n	n
Yes	**O2. Pre-Construction Kickoff Meeting with Rater and Subcontractors**	2	0.5		1	0.5	
No	**O3. Orientation and Training to Occupants—Conduct Educational Walkthroughs**	0	0.5	0.5	0.5	0.5	
No	**O4. Builder's or Developer's Management Staff are Certified Green Building Professionals**	0	0.5	0.5	0.5	0.5	
	O5. Home System Monitors						
No	O5.1 Energy Home System Monitors	0		2			
No	O5.2. Water Home System Monitors	0				1	
	O6. Green Building Education						
Yes	O6.1 Marketing Green Building	2	2				
Yes	O6.2 Green Building Signage	1		0.5		0.5	
Yes	**O7. Green Appraisal Addendum**	Y	n	n	n	n	n
No	**O8. Detailed Durability Plan and Third-Party Verification of Plan Implementation**	0			1		
No	**O9. Residents Are Offered Free or Discounted Transit Passes**	0	2				
No	**O10. Vandalism Deterrence Practices and Vandalism Management Plan**	0			1		
Yes	**O11. Smokefree Housing**	1			2		
No	**O12. Integrated Pest Management Plan**	0			1		
P. DESIGN CONSIDERATIONS							
	P1. Acoustics: Noise and Vibration Control		1		1		
	Enter the number of Tier 1 practices						
	Enter the number of Tier 2 practices						
	P2. Mixed-Use Design Strategies						
Yes	P2.1 Tenant Improvement Requirements for Build-Outs	2			1		1
Yes	P2.2 Commercial Loading Area Separated for Residential Area	1			1		
Yes	P2.3 Separate Mechanical and Plumbing Systems	1			1		
	P3. Commissioning						
Yes	P3.1 Design Phase	2		1	1		
Yes	P3.2 Construction Phase	3		2	1		
Yes	P3.3 Post-Construction Phase	1		0	1		
TBD	**P4. Building Enclosure Testing**			1	1	1	

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Summary	Points Achieved	Community	Energy	IAQ/Health	Resources	Water
Total Available Points in Specific Categories	370	46	110	69	91	54
Minimum Points Required in Specific Categories	50	2	25	6	6	6
Total Points Achieved	157.5	11.0	66.0	29.0	36.0	15.5

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Gilbane

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2115 KITTREDGE ST

2115 KITTREDGE ST
BERKELEY, CA

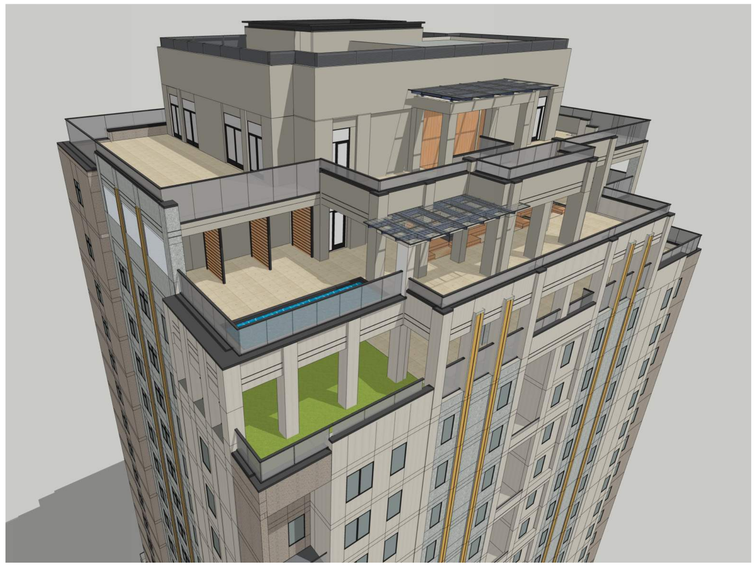
No.	DATE	DESCRIPTION
	9/26/2023	LPC RESUBMITTAL
	11/08/2023	ZAB SUBMITTAL

Client is responsible for notifying architect in writing for any discovered errors or omissions in the plans and specifications during construction of the project. Failure for Client to notify Architect of any known errors or omissions in the plans or specifications, and proceeding with constructing the portion of work shown in the plans or specifications containing known errors or omissions shall be a waiver by Client for any liability of Architect for such known errors or omissions. Client releases Architect for any liability for such portions of work, and Architect shall not be liable for any delay damages, change orders, repair costs, removal or demolition costs, or replacement of any such portions of work.

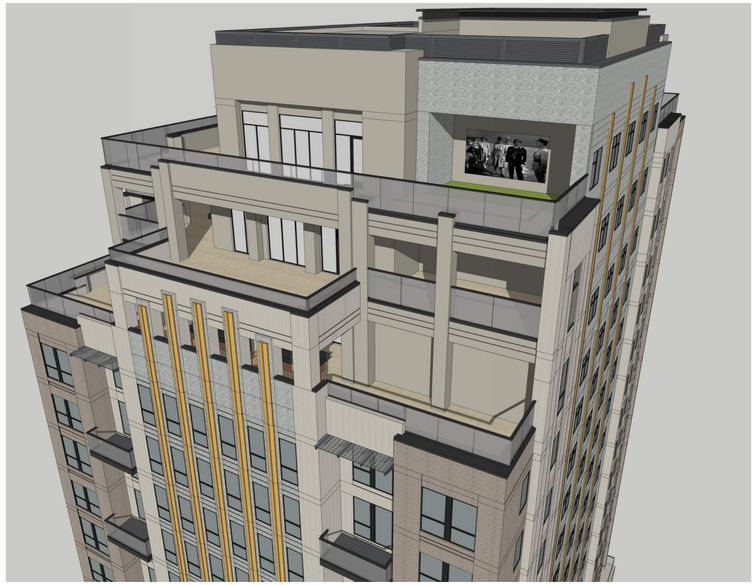
NOT FOR CONSTRUCTION

GREENPOINT RATED CHECKLIST

G011



5 G012 NW TERRACE PERSPECTIVE
NOT TO SCALE



4 G012 SE TERRACE PERSPECTIVE
NOT TO SCALE

3 G012 SW TERRACE PERSPECTIVE
NOT TO SCALE

2 G012 SOUTH TERRACE ELEVATION
NOT TO SCALE

1 G012 WEST TERRACE ELEVATION
NOT TO SCALE

NOTE: THE DESIGN INTENT OF THE TERRACE PERSPECTIVES AND ELEVATIONS IS TO SEE THE TERRACE MASSING AND STEPPING BACK OF THE FACADE AS ONE MOVES UP THE BUILDING. FOR EXTERIOR COLOR AND MATERIALS, PLEASE REFER TO SHEETS G013 AND A205.

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Designer	

Gilbane

Developer
GILBANE
DEVELOPMENT
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649 Mission Street
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94105

2115 KITTREDGE ST

2115 KITTREDGE ST
BERKELEY, CA

No.	DATE	DESCRIPTION
	9/26/2023	LPC RESUBMITTAL
	11/08/2023	ZAB SUBMITTAL

Client is responsible for notifying architect in writing for any discovered errors or omissions in the plans and specifications during construction of the project. Failure for Client to notify Architect of any known errors or omissions in the plans or specifications, and proceeding with constructing the portion of work shown in the plans or specifications containing known errors or omissions shall be a waiver by Client for any liability of Architect for such known errors or omissions. Client releases Architect for any liability for such portions of work, and Architect shall not be liable for any delay damages, change orders, repair costs, removal or demolition costs, or replacement of any such portions of work.

NOT FOR CONSTRUCTION

TERRACE VIEWS AND PERSPECTIVES

G012

6 G013 NW CONTEXT VIEW
NOT TO SCALE

5 G013 SE CONTEXT VIEW
NOT TO SCALE

4 G013 PEDESTRIAN LEVEL PERSPECTIVE
NOT TO SCALE

3 G013 SW CONTEXT VIEW
NOT TO SCALE

2 G013 NE CONTEXT VIEW
NOT TO SCALE

1 G013 CONTEXT VIEW MAP
NOT TO SCALE

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Designer	

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PERSPECTIVE CONTEXT RENDERINGS

G013

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NOT FOR CONSTRUCTION

NIGHT RENDERING

G014

2115 KITTREDGE STREET

BERKELEY, CA 94704

LEGEND

	EXISTING	PROPOSED
SAWCUT AND CONFORM LINE		
RETAINING WALL		
A.C. PAVEMENT		
CONC. VALLEY GUTTER		
CONC. SIDEWALK OR PAD		
6" CURB & GUTTER		
EDGE OF A.C. PAVEMENT	EP	
6" VERTICAL CURB		
CENTER LINE		
SANITARY SEWER MAIN	8" SS	8" SS
STORM DRAIN MAIN	12" SD	15" SD
PERFORATED PIPE		6" SD
WATER MAIN	6" W	6" W
FIRE WATER MAIN	6" FW	4" FW
DOMESTIC WATER MAIN	6" DW	4" DW
CHILLED WATER MAIN	6" CHW	4" CHW
IRRIGATION LINE	2" IRR	4" IRR
HOT WATER SUPPLY & RETURN	HWS-HWR	HWS HWR
STEAM LINE	ST	ST
TRENCH DRAIN		
CONDENSATE RETURN	CR	CR
FLOW LINE		
CHAIN LINK FENCE	x x	x x
GAS MAIN	G	2" G
ELECTRIC AND SIGNAL DUCT BANK	E	E
OVERHEAD ELECTRIC LINE	OHE	OHE
UNDERGROUND ELECTRIC LINE	UGE	UGE
STREET LIGHT CONDUIT	SL	SL
CONTOUR ELEVATION LINE	85	90 85
SPOT ELEVATION	x 95.94	FG 95.94
DIRECTION OF SLOPE	5.0%	2:1 1%
GAS METER	GM	GM
GAS VALVE	GV	GV
WATER METER	WM	WM
WATER VALVE	WV	WV
FIRE HYDRANT		
BACK FLOW PREVENTOR		
POST INDICATOR VALVE	PIV	PIV
FIRE DEPARTMENT CONNECTION	FDC	FDC
WATER LINE TEE		
CAP AND PLUG END		
AIR RELEASE VALVE		ARV
SIGN		
ACCESSIBLE RAMP		
CONCRETE THRUST BLOCK		
REDUCER		
SANITARY SEWER MANHOLE		
SANITARY SEWER CLEANOUT	SSCO	SSCO
STORM DRAIN MANHOLE		
STORM DRAIN AREA DRAIN		
STORM DRAIN CATCH BASIN	CB	
STORM DRAIN CURB INLET		
STORM DRAIN CLEANOUT	SDCO	SDCO
ELECTROLIER		
JOINT POLE	JP	JP
OVERLAND RELEASE		
CONSTRUCTION DETAIL REFERENCE		15/C5.2 DETAIL REFERENCE / SHEET REFERENCE

ABBREVIATIONS

AB	–	AGGREGATE BASE
AC	–	ASPHALT CONCRETE
AD	–	AREA DRAIN
ADA	–	AMERICANS WITH DISABILITIES ACT
ASB	–	AGGREGATE SUBBASE
BC	–	BEGINNING OF CURVE
BFP	–	BACK FLOW PREVENTOR
BLDG	–	BUILDING CORNER
BLDG	–	BUILDING
BOD	–	BOTTOM OF DOCK
BOL	–	BOLLARD
BOS	–	BOTTOM OF STEP
BOW	–	FG @ BOTTOM OF WALL
BVC	–	BEGIN VERTICAL CURVE
BW	–	BACK OF WALK
C	–	CONCRETE OR CIVIL
C&G	–	CURB AND GUTTER
CB	–	CATCH BASIN
CI	–	COMBINATION INLET
CIP	–	CAST IRON PIPE
CL	–	CENTER LINE OR CLASS
CMP	–	CORRUGATED METAL PIPE
CO	–	CLEANOUT
COI	–	CURB OPENING INLET
CONC	–	CONCRETE
CONST	–	CONSTRUCTION OR CONSTRUCT
CY	–	CUBIC YARD
DCDA	–	DOUBLE CHECK DETECTOR ASSEMBLY
DI	–	DROP INLET
DIP	–	DUCTILE IRON PIPE
DOM	–	DOMESTIC
DW	–	DOMESTIC WATER
DWG	–	DRAWING
E	–	EAST
EC	–	END OF CURVE
EP	–	EDGE OF PAVEMENT
ER	–	END OF RETURN
EVC	–	END VERTICAL CURVE
ELEV	–	ELEVATION
EX., EXIST.	–	EXISTING
FC	–	FACE OF CURB
FDC	–	FIRE DEPARTMENT CONNECTION
FF	–	FINISHED FLOOR
FG	–	FINISHED GRADE
FH	–	FIRE HYDRANT
FL	–	FLOW LINE
FOUND	–	FOUNDATION
FS	–	FINISHED SURFACE
FT	–	FOOT
FW	–	FIRE WATER
G	–	GROUND ELEVATION
GB	–	GRADE BREAK
GV	–	GATE VALVE
HCR	–	ACCESSIBLE RAMP
HP	–	HIGH POINT
INV	–	INVERT ELEVATION
JP	–	JOINT POLE
JT	–	JOINT TRENCH
LIP	–	LIP OF GUTTER
LP	–	LOW POINT
LSA	–	LANDSCAPE ARCHITECT
MAX	–	MAXIMUM
MEP	–	MECHANICAL/ELECTRICAL/PLUMBING
MH	–	MANHOLE
MIN	–	MINIMUM
MPVC	–	MIDPOINT OF VERTICAL CURVE
MON	–	MONUMENT
N	–	NORTH
N.I.C.	–	NOT IN CONTRACT
NO	–	NUMBER
NTS	–	NOT TO SCALE
P	–	PAVEMENT ELEVATION
PCC	–	PORTLAND CEMENT CONCRETE / POINT OF CONTINUOUS CURVATURE
PIV	–	POST INDICATOR VALVE
PL	–	PROPERTY LINE
PMH	–	POWER MANHOLE
POC	–	POINT ON CURVE
PP	–	POWER POLE
PRC	–	POINT OF REVERSE CURVATURE
PVC	–	POLYVINYL CHLORIDE PIPE
R	–	RADIUS
RC	–	RELATIVE COMPACTION
RCP	–	REINFORCED CONCRETE PIPE
RPPA	–	REDUCED PRESSURE PRINCIPLE ASSEMBLY
R/W	–	RIGHT OF WAY
S	–	SLOPE OR SOUTH
S.A.D.	–	SEE ARCHITECTURAL DRAWINGS
SB	–	SEDIMENT BASIN
SD	–	STORM DRAIN
S.E.D.	–	SEE ELECTRICAL DRAWINGS
SF	–	SILT FENCE
SG	–	SUBGRADE
S.L.D.	–	SEE LANDSCAPE DRAWINGS
S.M.D.	–	SEE MECHANICAL DRAWINGS
SMH	–	SIGNAL MANHOLE
S.P.D.	–	SEE PLUMBING DRAWINGS
SS	–	SANITARY SEWER
STA	–	STATION
STD	–	STANDARD
S/W	–	SIDEWALK
TC	–	TOP OF CURB
TD	–	TRENCH DRAIN
TOD	–	TOP OF DOCK
TOE	–	TOE OF SLOPE
TOS	–	TOP OF STAIR
TOW	–	FG @ TOP OF WALL
TS	–	TOP OF SLAB
TYP	–	TYPICAL
UON	–	UNLESS OTHERWISE NOTED
U/G	–	UNDERGROUND
VC	–	VERTICAL CURVE
WM	–	WATER METER
WV	–	WATER VALVE
W	–	WEST
WWF	–	WELDED WIRE FABRIC
W/	–	WITH

CONSTRUCTION NOTES

1. ALL OFF-SITE CONSTRUCTION MATERIAL AND METHODS SHALL COMPLY WITH THE LATEST EDITION OF THE CITY OF BERKELEY STANDARD PLANS & SPECIFICATIONS.
2. CONTRACTOR SHALL LEAVE AN EMERGENCY PHONE NUMBER WITH THE CITY OF BERKELEY POLICE AND FIRE DEPARTMENTS.
3. CONTRACTOR SHALL POST ON THE SITE, EMERGENCY TELEPHONE NUMBERS FOR PUBLIC WORKS, AMBULANCE, POLICE, AND FIRE DEPARTMENTS.
4. CONTRACTOR SHALL NOTIFY ALL PUBLIC OR PRIVATE UTILITY OWNERS 48 HOURS PRIOR TO COMMENCEMENT OF WORK ADJACENT TO THE UTILITY UNLESS AN EXCAVATION PERMIT SPECIFIES OTHERWISE.
5. THE CONTRACTOR SHALL HIRE A STREET CLEANING CONTRACTOR TO CLEAN UP DIRT AND DEBRIS FROM CITY STREETS THAT ARE ATTRIBUTABLE TO THE DEVELOPMENT'S CONSTRUCTION ACTIVITIES.
6. ALL GRADING SHALL BE PERFORMED IN SUCH A MANNER AS TO COMPLY WITH THE STANDARDS ESTABLISHED BY THE AIR QUALITY MAINTENANCE DISTRICT FOR AIRBORNE PARTICULATES (DUST).
7. ALL GRADING SHALL CONFORM TO APPROVED SPECIFICATIONS PRESENTED HEREON OR ATTACHED HERETO. ALL GRADING WORK SHALL BE OBSERVED AND APPROVED BY THE SOILS ENGINEER. THE GEOTECHNICAL ENGINEER SHALL BE NOTIFIED AT LEAST 48 HOURS BEFORE BEGINNING ANY GRADING. UNOBSERVED AND UNAPPROVED GRADING WORK SHALL BE REMOVED AND REDONE AT THE CONTRACTORS EXPENSE.
8. ALL MATERIALS, REQUIRED FOR THE COMPLETE EXECUTION OF THE PROJECT, SHALL BE FURNISHED AND INSTALLED BY THE CONTRACTOR UNLESS OTHERWISE NOTED.
9. THE CONTRACTOR SHALL PROVIDE ALL LIGHTS, SIGNS, BARRICADES, FLAGMEN OR OTHER DEVICES NECESSARY TO PROVIDE FOR PUBLIC SAFETY DURING THE CONSTRUCTION PERIOD.
10. THE CONTRACTOR SHALL BE RESPONSIBLE TO REPAIR OR REPLACE ANY EXISTING IMPROVEMENTS OF UNDERGROUND FACILITIES DAMAGED DURING THE CONSTRUCTION PERIOD.
11. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL ENCROACHMENT, EXCAVATION, CONCRETE, ELECTRICAL, PLUMBING, ETC. PERMITS NECESSARY PRIOR TO BEGINNING CONSTRUCTION FOR ANY WORK.
12. THE CONTRACTOR SHALL HAVE A SUPERINTENDENT OR REPRESENTATIVE ON SITE AT ALL TIMES DURING CONSTRUCTION.
13. STORAGE OF CONSTRUCTION MATERIAL AND EQUIPMENT ON CITY STREETS WILL NOT BE PERMITTED.
14. CONSTRUCTION EQUIPMENT SHALL BE PROPERLY MUFFLED. UNNECESSARY IDLING OF GRADING CONSTRUCTION EQUIPMENT IS PROHIBITED.
15. CONSTRUCTION EQUIPMENT, TOOLS, ETC. SHALL NOT BE CLEANED OR RINSED INTO A STREET, GUTTER OR STORM DRAIN.
16. A CONTAINED AND COVERED AREA ON-SITE SHALL BE USED FOR STORAGE OF CEMENT BAGS, PAINTS, FLAMMABLE, OILS, FERTILIZERS, PESTICIDES, OR ANY OTHER MATERIALS THAT HAVE POTENTIAL FOR BEING DISCHARGED TO THE STORM DRAIN SYSTEM BY WIND OR IN THE EVENT OF A MATERIAL SPILL.
17. ALL CONSTRUCTION DEBRIS SHALL BE GATHERED ON A REGULAR BASIS AND PLACED IN A DUMPSTER WHICH IS EMPTIED OR REMOVED WEEKLY. WHEN FEASIBLE, TARPS SHALL BE USED ON THE GROUND TO COLLECT FALLEN DEBRIS OR SPLATTERS THAT COULD CONTRIBUTE TO STORMWATER POLLUTION.
18. ANY TEMPORARY ON-SITE CONSTRUCTION PILES SHALL BE SECURELY COVERED WITH A TARP OR OTHER DEVICE TO CONTAIN DEBRIS.
19. CONCRETE TRUCKS AND CONCRETE FINISHING OPERATIONS SHALL NOT DISCHARGE WASH WATER INTO THE STREET GUTTERS OR DRAINS.

DISCREPANCIES

IF THERE ARE ANY DISCREPANCIES BETWEEN DIMENSIONS IN DRAWINGS AND EXISTING CONDITIONS WHICH WILL AFFECT THE WORK, THE CONTRACTOR SHALL BRING SUCH DISCREPANCIES TO THE ATTENTION OF THE ENGINEER FOR ADJUSTMENT BEFORE PROCEEDING WITH THE WORK. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROPER FITTING OF ALL WORK AND FOR THE COORDINATION OF ALL TRADES, SUBCONTRACTORS, AND PERSONS ENGAGED UPON THIS CONTRACT.

UTILITY/POTHOLE NOTE

THE TYPES, LOCATIONS, SIZES AND /OR DEPTHS OF EXISTING UNDERGROUND UTILITIES AS SHOWN ARE APPROXIMATE AND WERE OBTAINED FROM SOURCES OF VARYING RELIABILITY. ONLY ACTUAL EXCAVATION WILL REVEAL THE TYPES, EXTENT, SIZES, LOCATIONS AND DEPTHS OF SUCH UNDERGROUND UTILITIES. A REASONABLE EFFORT HAS BEEN MADE TO LOCATE AND DELINEATE ALL KNOWN UNDERGROUND UTILITIES. HOWEVER, THE ENGINEER CAN ASSUME NO RESPONSIBILITY FOR THE COMPLETENESS OR ACCURACY OF ITS DELINEATION OF SUCH UNDERGROUND UTILITIES WHICH MAY BE ENCOUNTERED, BUT WHICH ARE NOT SHOWN ON THESE PLANS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR LOCATING ALL UNDERGROUND FACILITIES AND UTILITIES BY POTHOLING PRIOR TO COMMENCING CONSTRUCTION.

DIMENSIONS

ALL DIMENSIONS ON THE PLANS ARE IN FEET OR DECIMALS THEREOF UNLESS SPECIFICALLY CALLED OUT AS FEET AND INCHES.

ENCROACHMENT NOTE:

A SEPARATE ENCROACHMENT PERMIT IS REQUIRED FOR ALL WORK WITHIN THE PUBLIC RIGHT-OF-WAY. IT IS THE CONTRACTORS RESPONSIBILITY TO OBTAIN THIS ENCROACHMENT PERMIT AND FOLLOW ALL CONSTRUCTION RELATED REQUIREMENTS OF SUCH PERMIT.

RECORD DRAWING NOTE

THE CONTRACTOR SHALL KEEP UP-TO-DATE AND ACCURATE A COMPLETE RECORD SET OF PRINTS OF THE CONTRACT DRAWINGS SHOWING EVERY CHANGE FROM THE ORIGINAL DRAWINGS MADE DURING THE COURSE OF CONSTRUCTION INCLUDING EXACT FINAL LOCATION, ELEVATION, SIZES, MATERIALS, AND DESCRIPTION OF ALL WORK. RECORDS SHALL BE "REDLINED" ON A SET OF CONSTRUCTION PLAN DRAWINGS. A COMPLETE SET OF CORRECTED AND COMPLETED RECORD DRAWING PRINTS SHALL BE SUBMITTED TO THE CITY ENGINEER AND DEVELOPER'S CIVIL ENGINEER PRIOR TO FINAL ACCEPTANCE FOR REVIEW AND APPROVAL BY THE CITY ENGINEER.

HAZARDOUS MATERIALS NOTE

THERE MAY BE ASBESTOS CONTAINING PIPE AND PIPE INSTALLATION OR OTHER HAZARDOUS MATERIALS WITHIN THE PROJECT AREA. THE CONTRACTOR WILL PROTECT ALL HAZARDOUS CONTAINING ITEMS DURING THE EXECUTION OF THIS CONTRACT. ADDITIONALLY THE CONTRACTOR WILL COMPLY WITH ALL LOCAL, STATE AND FEDERAL REGULATIONS REGARDING CONSTRUCTION ACTIVITIES NEAR HAZARDOUS MATERIALS.

CONSTRUCTION FENCE

1. CONTRACTOR SHALL PROVIDE A CONSTRUCTION FENCE AROUND THE ENTIRE AREA OF DEMOLITION AND CONSTRUCTION, INCLUDING ALL STAGING, STORAGE, CONSTRUCTION OFFICE AND LAYDOWN AREAS.
2. CONSTRUCTION FENCE SHALL BE A MINIMUM OF A 6' HIGH GALVANIZED CHAIN LINK WITH GREEN WINDSCREEN FABRIC ON THE OUTSIDE OF THE FENCE.
3. CONSTRUCTION FENCE ADDRESSED IN THESE NOTES IS ONLY FOR VISUAL CONFORMANCE OF THIS CONSTRUCTION SITE TO THE CITY OF BERKELEY STANDARDS. CONTRACTOR MAY BE REQUIRED TO PROVIDE ADDITIONAL FENCING, BARRICADES OR OTHER SAFETY DEVICES TO KEEP THE SITE SECURE AND SAFE.

FIRE DESIGN NOTE:

THE CONTRACTOR SHALL DESIGN, PREPARE SHOP DRAWINGS FOR, OBTAIN ALL REQUIRED APPROVALS, AND CONSTRUCT THE FIRE SYSTEM FOR THE PROPOSED PROJECT. CONTRACTOR SHALL HAVE SHOP DRAWINGS STAMPED BY A FIRE PROTECTION ENGINEER AS REQUIRED BY THE LOCAL AUTHORITY.

APPLICABLE FIRE CODE NOTES

APPLICABLE CODES AS OF JANUARY 1, 2023:

2022 CALIFORNIA BUILDING STANDARDS ADMINISTRATIVE CODE (PART 1, TITLE 24, CCR)

2022 CALIFORNIA BUILDING CODE, VOLUMES 1 AND 2 (PART 2, TITLE 24, CCR)
(2021 EDITION INTERNATIONAL BUILDING CODE)

2022 CALIFORNIA ELECTRICAL CODE (PART 3, TITLE 24, CCR)
(2020 EDITION NATIONAL ELECTRICAL CODE)

2022 CALIFORNIA MECHANICAL CODE (PART 4, TITLE 24, CCR)
(2021 EDITION UNIFORM MECHANICAL CODE)

2022 CALIFORNIA PLUMBING CODE (PART 5, TITLE 24, CCR)
(2021 EDITION UNIFORM PLUMBING CODE)

2022 CALIFORNIA ENERGY CODE (PART 6, TITLE 24, CCR)

2022 CALIFORNIA ELEVATOR SAFETY ORDERS (CHAPTER 4, TITLE 8, CCR)

2022 CALIFORNIA FIRE CODE (PART 9, TITLE 24, CCR)
(2021 EDITION INTERNATIONAL FIRE CODE)

2022 CALIFORNIA REFERENCED STANDARDS CODE (PART 12, TITLE 24, CCR)

TITLE 19 C.C.R., PUBLIC SAFETY, STATE FIRE MARSHAL REGULATIONS

PARTIAL LIST OF APPLICABLE REFERENCE STANDARDS AS LISTED AND AMENDED PER 2022 CALIFORNIA FIRE CODE, CHAPTER 80:

NFPA 13 – AUTOMATIC SPRINKLER SYSTEMS – 2016 EDITION
NFPA 14 – STANDPIPE SYSTEMS – 2016 EDITION
NFPA 24 – PRIVATE FIRE MAINS – 2016 EDITION
NFPA 72 – NATIONAL FIRE ALARM CODE – 2016 EDITION
NFPA 20 – STATIONARY PUMPS FOR FIRE PROTECTION – 2016 EDITION
NFPA 99 – HEALTH CARE FACILITIES – 2018 EDITION

UNDERGROUND FIRE SERVICE TO FIRE HYDRANTS REQUIREMENTS:

NFPA 24, SEC. 10.1.1.3: UNLESS THE REQUIREMENTS OF 10.1.1.3 ARE MET, ALL FERROUS METAL PIPE SHALL BE LINED IN ACCORDANCE WITH THE APPLICABLE STANDARDS IN TABLE 10.1.1.1

NFPA 24, SEC. 10.4: THE DEPTH OF COVER OVER WATER PIPES SHALL NOT BE LESS THAN 2-1/2 FEET TO PREVENT MECHANICAL DAMAGE. PIPE UNDER DRIVEWAYS SHALL BE BURIED AT A MINIMUM DEPTH OF 3 FEET. PIPE UNDER RAILROAD TRACKS SHALL BE BURIED AT A MINIMUM DEPTH OF 4 FEET.

NFPA 24, SEC. 10.4.1.1: ALL BOLTED JOINT ACCESSORIES SHALL BE CLEANED AND THOROUGHLY COATED WITH ASPHALT OR OTHER CORROSION-RETARDING MATERIAL AFTER INSTALLATION.

NFPA 24, SEC. 10.4.3: PIPE SHALL NOT BE RUN UNDER BUILDINGS EXCEPT WHERE PERMITTED IN 10.4.3.1 AND 10.4.3.2

NFPA 24, SEC. 10.6.1: THRUST BLOCKS SHALL BE PERMITTED WHERE SOIL IS STABLE AND CAPABLE OF RESISTING THE ANTICIPATED THRUST FORCES. THRUST BLOCKS SHALL BE OF A CONCRETE MIX NOT LEANER THAN ONE PART CEMENT, TWO AND ONE HALF PARTS SAND, AND FIVE PARTS STONE. THRUST BLOCKS SHALL BE PLACED BETWEEN UNDISTURBED EARTH AND THE FITTING TO BE RESTRAINED, AND SHALL BE CAPABLE OF RESISTING THE CALCULATED THRUST FORCES. WHEREVER POSSIBLE, THRUST BLOCKS SHALL BE PLACED SO THAT THE JOINTS ARE ACCESSIBLE FOR REPAIR.

NFPA 24, SEC. 10.6.2.5: CORROSION RESISTANCE. AFTER INSTALLATION, RODS, NUTS, BOLTS, WASHERS, CLAMPS, AND OTHER RESTRAINING DEVICES SHALL BE CLEANED AND THOROUGHLY COATED WITH BITUMINOUS OR OTHER ACCEPTABLE CORROSION-RETARDING MATERIAL.

NFPA 24, SEC. 10.10.2.1.1: UNDERGROUND PIPING, FROM THE WATER SUPPLY TO THE SYSTEM RISER, AND LEAD-IN CONNECTIONS TO THE SYSTEM RISER SHALL BE COMPLETELY FLUSHED BEFORE THE CONNECTION IS MADE TO THE DOWNSTREAM FIRE PROTECTION SYSTEM PIPING. THE FLUSHING OPERATION SHALL BE CONTINUED FOR A SUFFICIENT TIME TO ENSURE THOROUGH CLEANING. THE MINIMUM RATE OF FLOW SHALL BE NOT LESS THAN THAT SPECIFIED IN SECTION 10.10.2.1.3.

NFPA 24, SEC. 10.10.2.2.1: ALL PIPING AND ATTACHED APPURTENANCES SUBJECT TO SYSTEM WORKING PRESSURE SHALL BE HYDROSTATICALLY TESTED AT 200 PSI OR 50 PSI IN EXCESS OF THE SYSTEM WORKING PRESSURE, WHICHEVER IS GREATER, AND SHALL MAINTAIN THAT PRESSURE AT ±5 PSI FOR 2 HOURS.

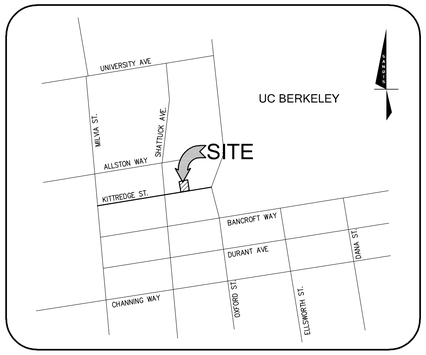
NFPA 24, SEC 10.10.1: THE INSTALLING CONTRACTOR SHALL BE RESPONSIBLE FOR THE FOLLOWING: (1) NOTIFYING THE AUTHORITY HAVING JURISDICTION AND THE OWNER'S REPRESENTATIVE OF THE TIME AND DATE TESTING IS TO BE PERFORMED; (2) PERFORMING ALL REQUIRED ACCEPTANCE TESTS; (3) COMPLETING AND SIGNING THE CONTRACTOR'S MATERIAL AND TEST CERTIFICATE(S) SHOWN IN FIGURE 10.10.1.

UNDERGROUND WORK CAUTION

CONTRACTOR SHALL CONTACT UNDERGROUND SERVICE ALERT FOR LOCATION OF UNDERGROUND UTILITIES AT LEAST 48 HOURS PRIOR TO COMMENCEMENT OF CONSTRUCTION. FOR NORTHERN CALIFORNIA DIAL 811 OR (800) 227-2600. FOR OTHER AREAS CALL (800) 642-2444. CONTRACTOR SHALL VERIFY ALL EXISTING UTILITIES PRIOR TO BEGINNING ANY WORK ON THIS SITE.

DUST CONTROL NOTES

1. WATER TRUCKS SHALL BE PRESENT AND IN USE AT THE CONSTRUCTION SITE. ALL PORTIONS OF THE SITE SUBJECT TO BLOWING DUST SHALL BE WATERED AS OFTEN AS DEEMED NECESSARY BY THE CLIENT/INSPECTOR IN ORDER TO INSURE PROPER CONTROL OF BLOWING DUST FOR THE DURATION OF THE PROJECT.
2. ALL PUBLIC STREETS AND MEDIANS SOILED OR LITTERED DUE TO THIS CONSTRUCTION ACTIVITY SHALL BE CLEANED AND SWEPT ON A DAILY BASIS DURING THE WORK WEEK, OR AS OFTEN AS DEEMED NECESSARY BY THE CLIENT/INSPECTOR, OR TO THE SATISFACTION OF THE CITY'S DEPARTMENT OF PUBLIC WORKS.
3. ALL TRUCKS HAULING SOIL, SAND, AND OTHER LOOSE MATERIALS SHALL BE COVERED WITH TARPAULINS OR OTHER EFFECTIVE COVERS.
4. WHEEL WASHERS SHALL BE INSTALLED AND USED TO CLEAN ALL TRUCKS AND EQUIPMENT LEAVING THE CONSTRUCTION SITE. IF WHEEL WASHERS CANNOT BE INSTALLED, TIRES OR TRACKS OF ALL TRUCKS AND EQUIPMENT SHALL BE WASHED OFF BEFORE LEAVING THE CONSTRUCTION SITE.
5. THE CONTRACTOR SHALL DEMONSTRATE DUST SUPPRESSION MEASURES, SUCH AS REGULAR WATERING, WHICH SHALL BE IMPLEMENTED TO REDUCE EMISSIONS DURING CONSTRUCTION AND GRADING IN A MANNER MEETING THE APPROVAL OF THE CONSTRUCTION MANAGER. THIS SHALL ASSIST IN REDUCING SHORT-TERM IMPACTS FROM PARTICLES WHICH COULD RESULT IN NUISANCES THAT ARE PROHIBITED BY RULE 403 (FUGITIVE DUST).
6. GRADING OR ANY OTHER OPERATIONS THAT CREATES DUST SHALL BE STOPPED IMMEDIATELY IF DUST AFFECTS ADJACENT PROPERTIES. THE CONTRACTOR SHALL PROVIDE SUFFICIENT DUST CONTROL FOR THE ENTIRE PROJECT SITE IN ACCORDANCE WITH THE PROJECT SWPPP (IF ONE EXISTS) OR AS APPLICABLE PER LOCAL REGULATIONS AT ALL TIMES. THE SITE SHALL BE SPRINKLERED AS NECESSARY TO PREVENT DUST NUISANCE. IN THE EVENT THAT THE CONTRACTOR NEGLECTS TO USE ADEQUATE MEASURES TO CONTROL DUST, THE CLIENT RESERVES THE RIGHT TO TAKE WHATEVER MEASURES ARE NECESSARY TO CONTROL DUST AND CHARGE THE COST TO THE CONTRACTOR.
7. THE CONTRACTOR IS RESPONSIBLE FOR DUST CONTROL MEASURES AND FOR OBTAINING ALL REQUIRED PERMITS AND APPROVALS. ALL GRADING OPERATIONS SHALL BE SUSPENDED DURING SECOND (OR WORSE) STAGE SMOG ALERTS.



VICINITY MAP

N.T.S.

PROJECT DESCRIPTION

THE PROJECT ENTAILS AN EIGHTEEN LEVEL (AND TWO BASEMENT LEVELS) APARTMENT TOWER WITH A THEATER INCLUDED IN THE LOWER LEVELS. THE CIVIL SCOPE OF WORK INCLUDES: SITE DEMOLITION, SANITARY SEWER BUILDING LATERAL, STORMWATER MEDIA FILTER AND PUMP, AREA DRAINS AND TRENCH DRAIN, FIRE AND DOMESTIC WATER SERVICE LATERALS, CURB AND GUTTER, AND SIDEWALK.

CIVIL SHEET INDEX

C000	NOTES, LEGEND, & ABBREVIATIONS
C001	TOPOGRAPHIC SURVEY
C100	DEMOLITION PLAN
C200	SITE AND GRADING PLAN
C300	UTILITY PLAN
C400	STORMWATER MANAGEMENT PLAN
C500	CONSTRUCTION DETAILS
C501	CONSTRUCTION DETAILS
C502	CONSTRUCTION DETAILS
C503	CONSTRUCTION DETAILS

CONSTRUCTION CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONSTRUCTION CONTRACTOR WILL BE REQUIRED TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS AND CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD DESIGN PROFESSIONAL HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING LIABILITY ARISING FROM SOLE NEGLIGENCE OF DESIGN PROFESSIONAL.

811 Know what's below. Call before you dig.

UNAUTHORIZED CHANGES AND USES

CAUTION: THE ENGINEER PREPARING THESE PLANS WILL NOT BE RESPONSIBLE FOR, OR LIABLE FOR, UNAUTHORIZED CHANGES TO OR USES OF THESE PLANS. ALL CHANGES TO THE PLANS MUST BE IN WRITING AND MUST BE APPROVED BY THE PREPARER OF THE PLANS.

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Designer	Nicholas Chandler

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No.	DATE	DESCRIPTION
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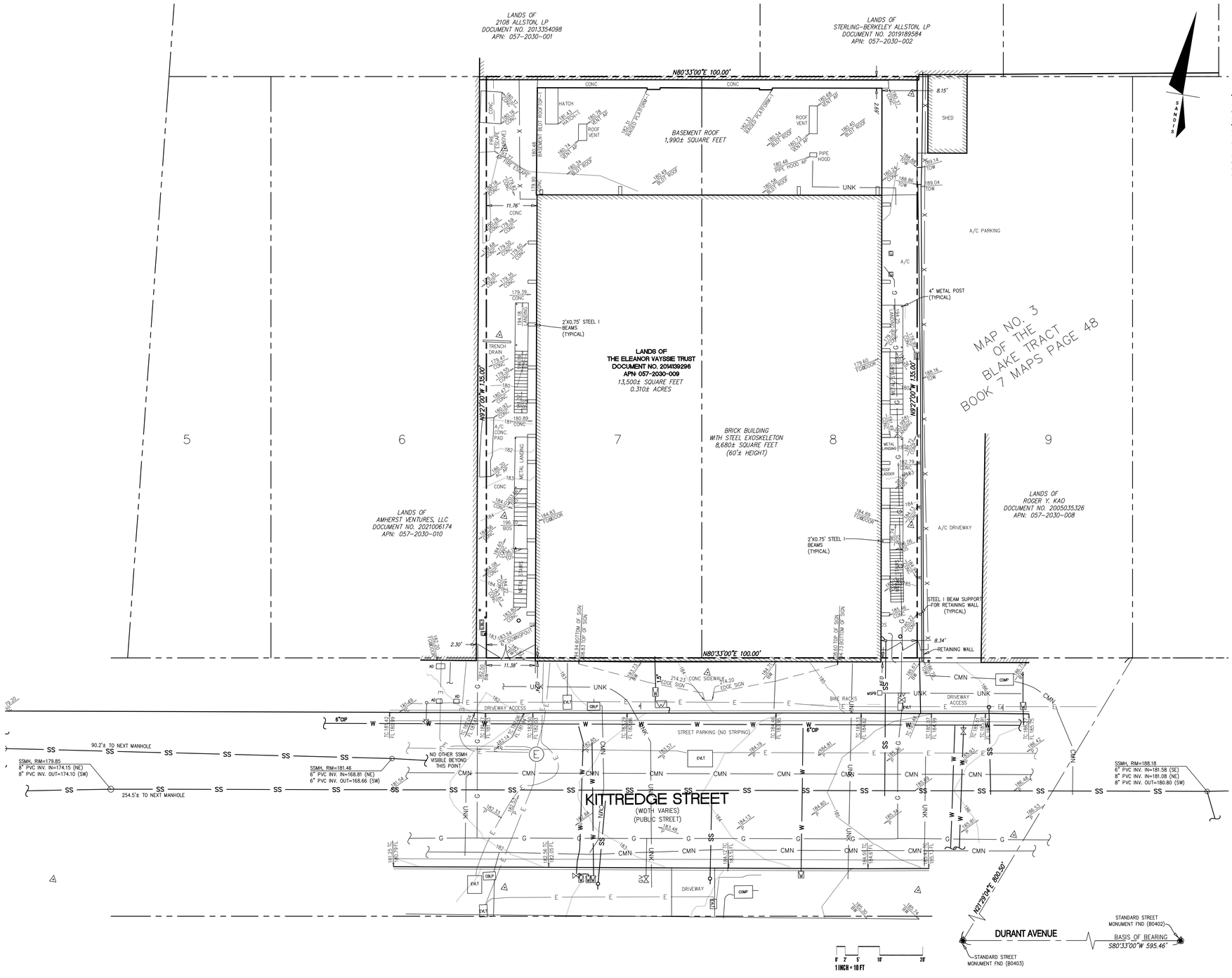
NOTES, LEGEND, & ABBREVIATIONS

C000



LEGEND

- BUILDING LINE
- BUILDING OVERHANG
- CURB LINE
- FENCE LINE
- PROPERTY LINE
- CONTOUR LINES
- COMMUNICATION LINE
- ELECTRIC LINE
- GAS LINE
- SANITARY SEWER LINE
- UNKNOWN LINE
- WATER LINE

SYMBOLS & ABBREVIATIONS

- AD — AREA DRAIN
- BOL — BOLLARD
- BOS — BOTTOM OF STAIRS
- BW — BACK OF WALK
- CBPB — CABLE PULL BOX
- COMP — COMMUNICATION PULL BOX
- CONC — CONCRETE
- DS — DOWN SPOUT
- ELECTRIC MANHOLE
- EVLT — ELECTRIC VAULT
- FL — FLOW LINE
- GM — GAS METER
- GV — GAS VALVE
- MSPB — MISCELLANEOUS PULL BOX
- SIGNS
- SSCO — SANITARY CLEANOUT
- SANITARY MANHOLE
- STREET LIGHT SINGLE ARM
- TC — TOP OF CURB
- TOS — TOP OF STAIRS
- WATER METER
- WATER VALVE

SURVEY NOTES

1. EXISTING TOPOGRAPHIC SURVEY INFORMATION SHOWN HEREON IS BASED UPON TOPOGRAPHIC SURVEYS COMPLETED BY SANDIS, UNDER THE DIRECTION OF LAURA CABRAL, PLS 7756.
2. UTILITIES SHOWN ON THIS SURVEY ARE BASED ON SURFACE OBSERVATIONS. NO WARRANTIES ARE EXPRESSED OR IMPLIED CONCERNING THE EXISTENCE, SIZE, DEPTH, CONDITION, CAPACITY, OR LOCATION OR ANY UTILITY EXISTING ON THE SITE, WHETHER PRIVATE, MUNICIPAL, OR PUBLIC OWNED.
3. CONTRACTOR SHALL VERIFY ALL UTILITIES PRIOR TO CONSTRUCTION AND REPORT BACK TO CIVIL ENGINEER ANY DISCREPANCIES WITH PLAN PRIOR TO COMMENCEMENT OF WORK.
4. TREE LOCATIONS SHOWN HEREON ARE SHOWN SYMBOLICALLY WITH SYMBOL SIZES BASED UPON TRUNK DIAMETER AT CHEST HEIGHT, AT THE LOCATION WHERE THE TREE ENTERS THE GROUND SURFACE. LOCATIONS AND SIZES OF TREE TRUNKS CAN ONLY BE CONSIDERED APPROXIMATE UNLESS OTHERWISE STATED ON THE MAP.
5. ALL DISTANCES AND DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.
6. DATES OF FIELD SURVEY: 04/13/2022, 04/15/2022, AND 04/22/2022.

BASIS OF BEARINGS

THE BEARING OF NORTH 80°33'00" EAST ALONG THE MONUMENT LINE OF DURANT AVENUE AS SHOWN UPON THAT CERTAIN MAP ENTITLED PARCEL MAP 9108 RECORDED IN BOOK 296, MAPS, PAGES 60-65, ALAMEDA COUNTY RECORDS, WAS TAKEN AS THE BASIS OF BEARINGS SHOWN UPON THIS SURVEY.

BENCHMARK

THE ELEVATION REFERENCE FOR THIS SURVEY IS A CITY OF BERKELEY BENCHMARK B3560, DESCRIBED AS 1¼" BRASS DISK IN CONCRETE AT THE NORTH NOSE OF THE MEDIAN ISLAND ON SHATTUCK AVENUE AT THE SOUTH SIDE OF KITTREDGE STREET

ELEV=178.28 FEET (CITY OF BERKELEY DATUM)

UNDERGROUND UTILITY NOTE

THE TYPES, LOCATIONS, SIZES AND/OR DEPTHS OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THIS TOPOGRAPHIC SURVEY ARE APPROXIMATE AND WERE OBTAINED FROM SOURCES OF VARYING RELIABILITY. ONLY ACTUAL EXCAVATION WILL REVEAL THE TYPES, EXTENT, SIZES, LOCATIONS AND DEPTHS OF SUCH UNDERGROUND UTILITIES. A REASONABLE EFFORT HAS BEEN MADE TO LOCATE AND DELINEATE ALL KNOWN UNDERGROUND UTILITIES. HOWEVER, THE ENGINEER CAN ASSUME NO RESPONSIBILITY FOR THE COMPLETENESS OR ACCURACY OF ITS DELINEATION OF SUCH UNDERGROUND UTILITIES WHICH MAY BE ENCOUNTERED, BUT WHICH ARE NOT SHOWN ON THIS SURVEY.

BOUNDARY NOTE

THE PARCEL LINES SHOWN HEREON ARE THE RESULT OF A BOUNDARY SURVEY MADE IN CONFORMANCE WITH THE REQUIREMENTS OF THE PROFESSIONAL LAND SURVEYOR'S ACT.

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TOPOGRAPHIC SURVEY

C001

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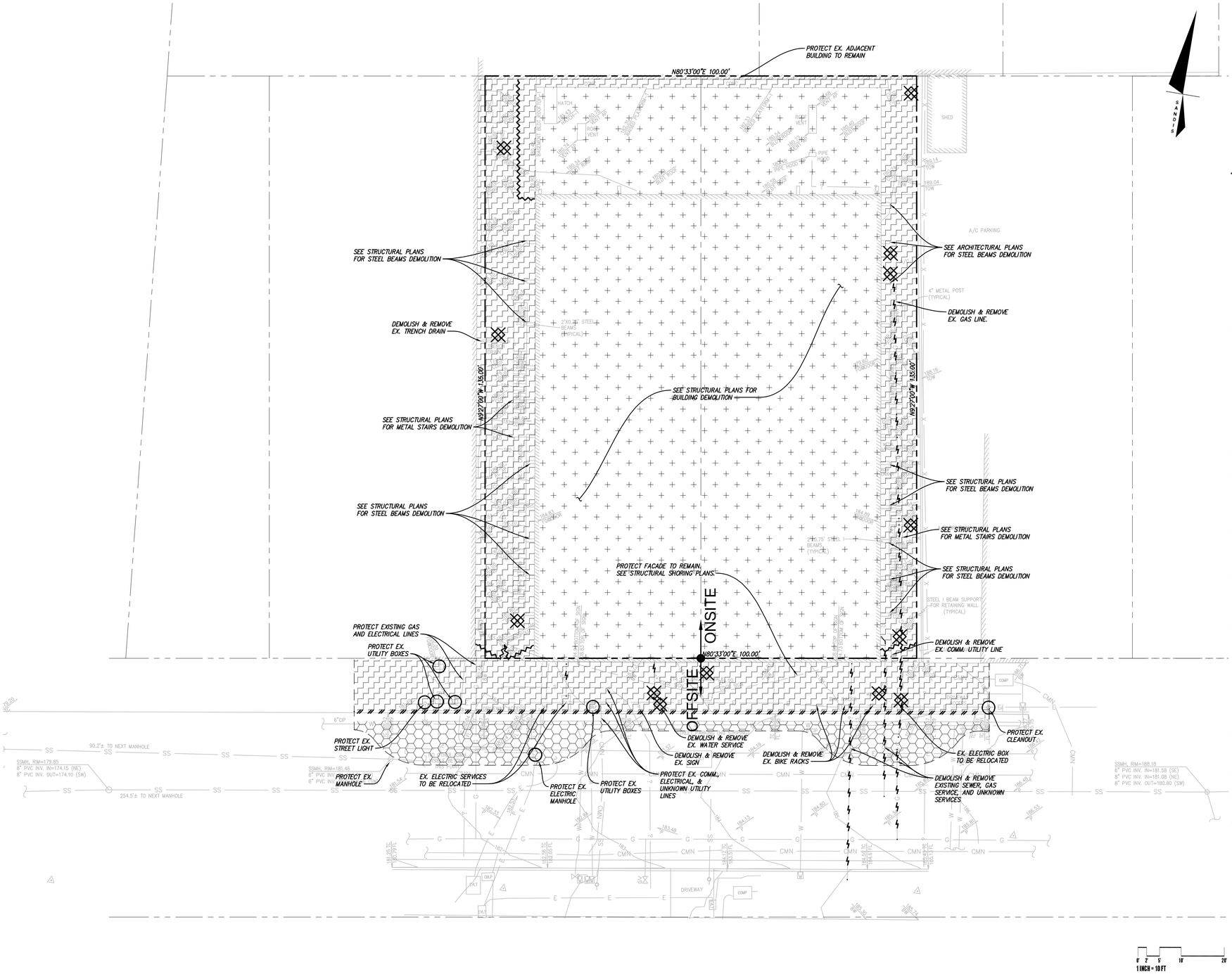

LEGEND

- SAWCUT LINE. CONTRACTOR SHALL SAWCUT WITH A NEAT, CLEAN EDGE. SAWCUT CONCRETE AT NEAREST JOINT TO SAWCUT LINE SHOWN ON PLAN.
- DEMOLISH AND REMOVE CONCRETE INCLUDING ANY ASSOCIATED BASE ROCK AND REBAR. STABILIZE THE EXISTING SUBGRADE, DEMOLISHED MATERIAL MAY BE USED AS BASE ROCK IF APPROVED BY THE GEOTECHNICAL ENGINEER.
- DEMOLISH AND REMOVE EXISTING BUILDING, SEE ARCHITECTURAL PLANS FOR EXTENT OF BUILDING DEMOLITION. STABILIZE THE EXISTING SUBGRADE.
- DEMOLISH AND REMOVE EXISTING CURB AND GUTTER, INCLUDING ANY ASSOCIATED REBAR OR BASE ROCK. SAWCUT WITH NEAT, CLEAN EDGE.
- REMOVE EXISTING WALL OR FENCE INCLUDING ASSOCIATED FOOTINGS. RETURN FENCE TO OWNER.
- DEMOLISH AND REMOVE EX. UTILITY LINE. BACKFILL EMPTY TRENCH WITH APPROVED FILL PER GEOTECHNICAL REPORT.
- DEMOLISH AND REMOVE EX. UTILITY STRUCTURE
- CAP EXISTING UTILITY WHERE SHOWN PER UTILITY OWNERS SPECIFICATIONS AND REQUIREMENTS. IF PRESSURIZED UTILITY CONTRACTOR SHALL HAVE COMPETENT PROFESSIONAL DESIGN PIPE RESTRAINTS.
- PROTECT EXISTING UTILITY TO REMAIN

DEMOLITION NOTES

1. CONTRACTOR IS TO COMPLY WITH ALL GENERAL AND STATE REQUIREMENTS INVOLVING THE REMOVAL AND DISPOSAL OF HAZARDOUS MATERIAL(S).
2. CONTRACTOR'S BID IS TO INCLUDE ALL VISIBLE SURFACE AND ALL SUBSURFACE FEATURES IDENTIFIED TO BE REMOVED OR ABANDONED IN THESE DOCUMENTS.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR A SITE INSPECTION TO FULLY ACKNOWLEDGE THE EXTENT OF THE DEMOLITION WORK.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ANY AND ALL PERMITS NECESSARY FOR ENCROACHMENT, GRADING, DEMOLITION, AND DISPOSAL OF SAID MATERIALS AS REQUIRED BY PRIVATE, LOCAL AND STATE JURISDICTIONS. THE CONTRACTOR SHALL PAY ALL FEES ASSOCIATED WITH THE DEMOLITION WORK.
5. BACKFILL ALL DEPRESSIONS AND TRENCHES FROM DEMOLITION TO THE SATISFACTION OF THE GEOTECHNICAL ENGINEER.
6. REMOVAL OF LANDSCAPING SHALL INCLUDE ROOTS AND ORGANIC MATERIALS TO THE SATISFACTION OF THE GEOTECHNICAL ENGINEER.
7. PRIOR TO BEGINNING DEMOLITION WORK ACTIVITIES, CONTRACTOR SHALL INSTALL EROSION CONTROL MEASURES OUTLINED IN THE EROSION CONTROL PLAN & DETAILS AND THE PROJECT SWPPP IF APPLICABLE.
8. THE CONTRACTOR SHALL MAINTAIN ALL SAFETY DEVICES, AND SHALL BE RESPONSIBLE FOR CONFORMANCE TO ALL LOCAL, STATE AND FEDERAL SAFETY AND HEALTH STANDARDS LAWS AND REGULATIONS.
9. THE CONTRACTOR SHALL PROTECT FROM DAMAGE ALL EXISTING IMPROVEMENTS FACILITIES AND STRUCTURES WHICH ARE TO REMAIN. ANY ITEMS DAMAGED BY THE CONTRACTOR OR THEIR AGENTS OR ANY ITEMS REMOVED FOR HIS USE SHALL BE REPLACED IN EQUAL OR BETTER CONDITION AS APPROVED BY THE ARCHITECT OR OWNER'S REPRESENTATIVE.
10. COORDINATE WITH ELECTRICAL, MECHANICAL, LANDSCAPING AND ARCHITECTURAL DRAWINGS FOR UTILITY SHUT-DOWN/DISCONNECT LOCATIONS. CONTRACTOR IS TO SHUT OFF ALL UTILITIES AS NECESSARY PRIOR TO DEMOLITION. CONTRACTOR IS TO COORDINATE SERVICE INTERRUPTIONS WITH THE UTILITY OWNER AND ANY AFFECTED PROPERTIES OR BUILDINGS. SEE ARCHITECTURAL PLANS FOR ADDITIONAL DEMOLITION SCOPE OF WORK.
11. THIS PLAN IS NOT INTENDED TO BE A COMPLETE CATALOGUE OF ALL EXISTING STRUCTURES AND UTILITIES. THIS PLAN INTENDS TO DISCLOSE GENERAL INFORMATION KNOWN BY THE ENGINEER AND TO SHOW THE LIMITS OF THE AREA WHERE WORK WILL BE PERFORMED. THIS PLAN SHOWS THE EXISTING FEATURES TAKEN FROM A FIELD SURVEY, FIELD INVESTIGATIONS AND AVAILABLE INFORMATION. THIS PLAN MAY OR MAY NOT ACCURATELY REFLECT THE TYPE OR EXTENT OF THE ITEMS TO BE ENCOUNTERED AS THEY ACTUALLY EXIST. WHERE EXISTING FEATURES ARE NOT SHOWN, IT IS NOT IMPLIED THAT THEY ARE NOT TO BE DEMOLISHED OR RELOCATED. THE CONTRACTOR SHALL PERFORM A THOROUGH FIELD INVESTIGATION AND REVIEW OF THE SITE WITHIN THE LIMIT OF WORK SHOWN IN THIS PLAN SET TO DETERMINE THE TYPE, QUANTITY AND EXTENT OF ANY AND ALL ITEMS. THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR DETERMINING THE EXTENT OF EXISTING STRUCTURES AND UTILITIES AND QUANTITY OF WORK INVOLVED IN REMOVING THESE ITEMS FROM THE SITE.
12. CONTRACTOR TO DEMOLISH AND REMOVE ALL IRRIGATION IN LANDSCAPE AREAS WITHIN THE LIMIT OF WORK. IF ANY IRRIGATION LINES OR MAINS ARE IN THE LIMIT OF WORK OR ARE DAMAGED THAT SERVE LANDSCAPE TO REMAIN, CONTRACTOR TO RECONNECT OR RELOCATE AT NO ADDITIONAL COST TO OWNER.
13. PROTECT ALL EXISTING UTILITIES IN PLACE UNLESS OTHERWISE NOTED. REPLACE ANY DAMAGED UTILITY TO REMAIN TO KEEP OPERABLE DURING CONSTRUCTION.
14. ALL UTILITY SHUT DOWNS ARE TO BE AVOIDED. IF SHUT DOWNS ARE NECESSARY, CONTRACTOR TO COORDINATE SHUT DOWN WITH UTILITY OWNER WITH 48 HOUR MINIMUM NOTICE.
15. ALL EXISTING STORM DRAIN, SANITARY SEWER, AND WATER MAINS THAT SERVE EXISTING BUILDINGS MUST REMAIN OPERABLE DURING CONSTRUCTION. CONTRACTOR TO SET UP TEMPORARY SERVICE OR PUMP AS NECESSARY TO ENSURE UNINTERRUPTED SERVICE.

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Designer	Nicholas Chandler

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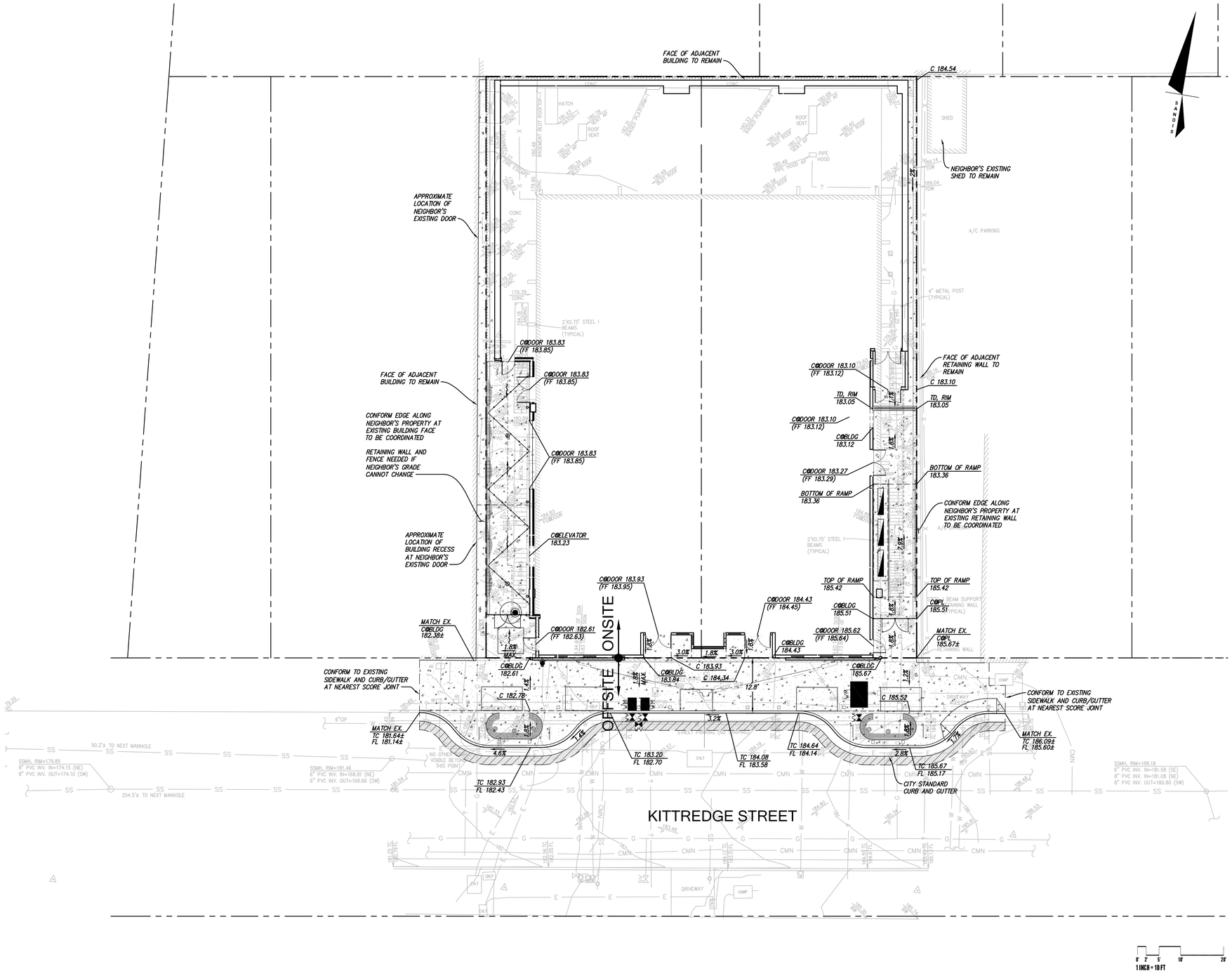
DEMOLITION PLAN

C100



LEGEND

- PROPERTY LINE
- SAWCUT LINE
- GRADE BREAK
- HARDSCAPE, SLD FOR FINISH DETAILS
- LANDSCAPING

SITE AND GRADING NOTES

1. ALL SITE WORK SHALL BE IN CONFORMANCE WITH TITLE 24 OF THE CALIFORNIA CODE OF REGULATIONS AND WITH THE AMERICANS WITH DISABILITIES ACT.
2. PATH OF TRAVEL TO BUILDING SHALL NOT EXCEED A SLOPE OF 1:20 (5%) UNLESS RAILINGS ARE SHOWN, IN WHICH CASE THE SLOPE SHALL NOT EXCEED 1:12 (8.33%).
3. A 2% MAXIMUM SLOPE LANDING SHALL BE PROVIDED AT PRIMARY ENTRANCES TO THE BUILDING. THE LANDINGS SHALL HAVE A MINIMUM WIDTH OF 60" AND A MINIMUM DEPTH OF 60" WHEN THE DOOR OPENS INTO THE BUILDING, AND 42" PLUS THE WIDTH OF THE DOOR WHEN THE DOORS OPEN ONTO THE LANDING.
4. MAXIMUM CROSS SLOPE ALONG SIDEWALK OR PATHWAY SHALL BE 2% MAXIMUM.
5. THE SIDEWALK SHALL HAVE A 4' MINIMUM CLEAR WIDTH FOR ACCESSIBLE CONFORMANCE.

GENERAL NOTES

1. CONTRACTOR SHALL VISIT THE SITE PRIOR TO BIDDING ON THIS WORK AND CONSIDER THE EXISTING CONDITIONS AND SITE CONSTRAINTS IN THE BID. CONTRACTOR SHALL BE IN THE POSSESSION OF AND FAMILIAR WITH ALL APPLICABLE GOVERNING AGENCIES STANDARD DETAILS AND SPECIFICATIONS PRIOR TO SUBMITTING OF A BID.
2. ALL WORK ON-SITE AND IN THE PUBLIC RIGHT-OF-WAY SHALL CONFORM TO ALL APPLICABLE GOVERNING AGENCIES STANDARD DETAILS & SPECIFICATIONS.
3. PRIOR TO BEGINNING WORK, AND AFTER INITIAL HORIZONTAL CONTROL STAKING, CONTRACTOR SHALL FIELD CHECK ALL ELEVATIONS MARKED WITH (E) AND REPORT ANY DISCREPANCIES GREATER THAN 0.05' TO THE ENGINEER.
4. DAMAGE TO ANY EXISTING SITE IMPROVEMENTS, UTILITIES AND/OR SERVICES TO REMAIN SHALL BE RESPONSIBILITY OF THE CONTRACTOR. CONTRACTOR SHALL REPAIR AND/OR REPLACE IN KIND.
5. CONTRACTOR AGREES THAT HE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT INCLUDING SAFETY OF ALL PERSONS AND PROPERTY THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS AND THAT THE CONTRACTOR SHALL DEFEND INDEMNIFY AND HOLD THE CLIENT, THE CONSULTING ENGINEER AND THE CITY HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE CLIENT OR THE CONSULTING ENGINEER.

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SITE AND GRADING PLAN

C200
Page 506

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Plotted By: Nicholas Chandler
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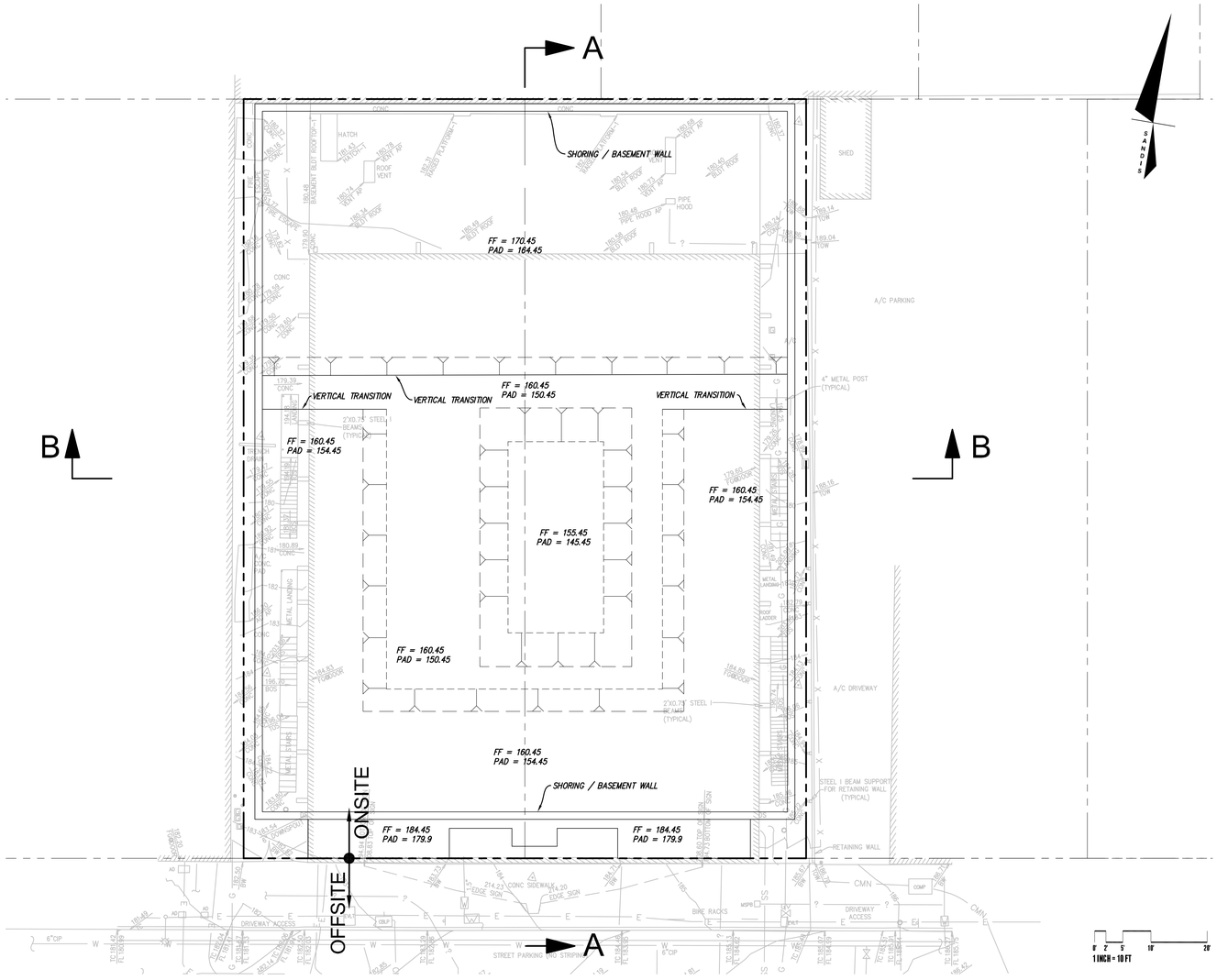
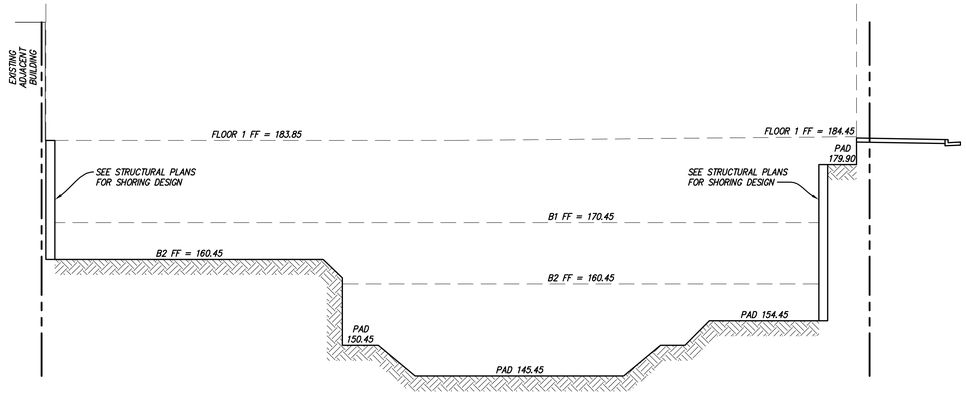


LEGEND

- DIRECTION OF STEEP SLOPE
- FLOW LINE
- TOP OF SLOPE
- TOE OF SLOPE
- 194 / 195 CONTOURS

COORDINATION NOTES

1. WORK WITH STRUCTURAL ENGINEER ON SHORING DESIGN AND LOCATION TO FINALIZE ROUGH GRADING PLAN.
2. WORK WITH ARCHITECT AND STRUCTURAL ENGINEER TO FINALIZE PAD ELEVATIONS.



SECTION A–A
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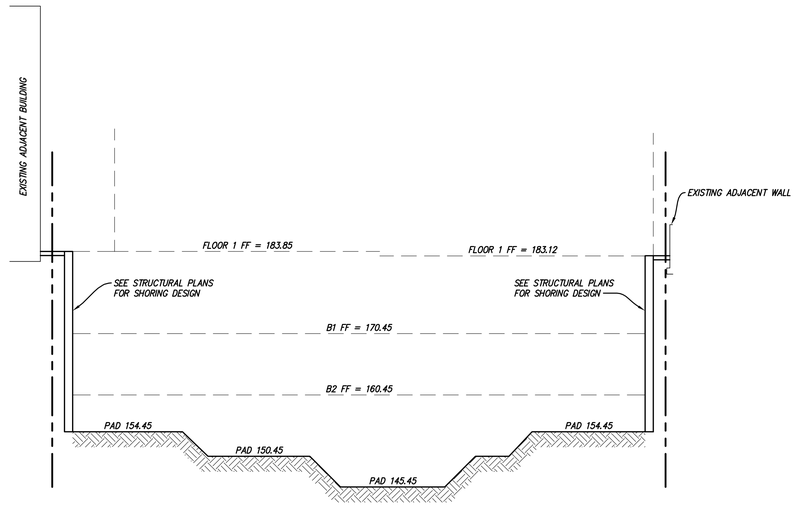

SECTION B–B
1"=10'

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ROUGH GRADNG PLAN

C201

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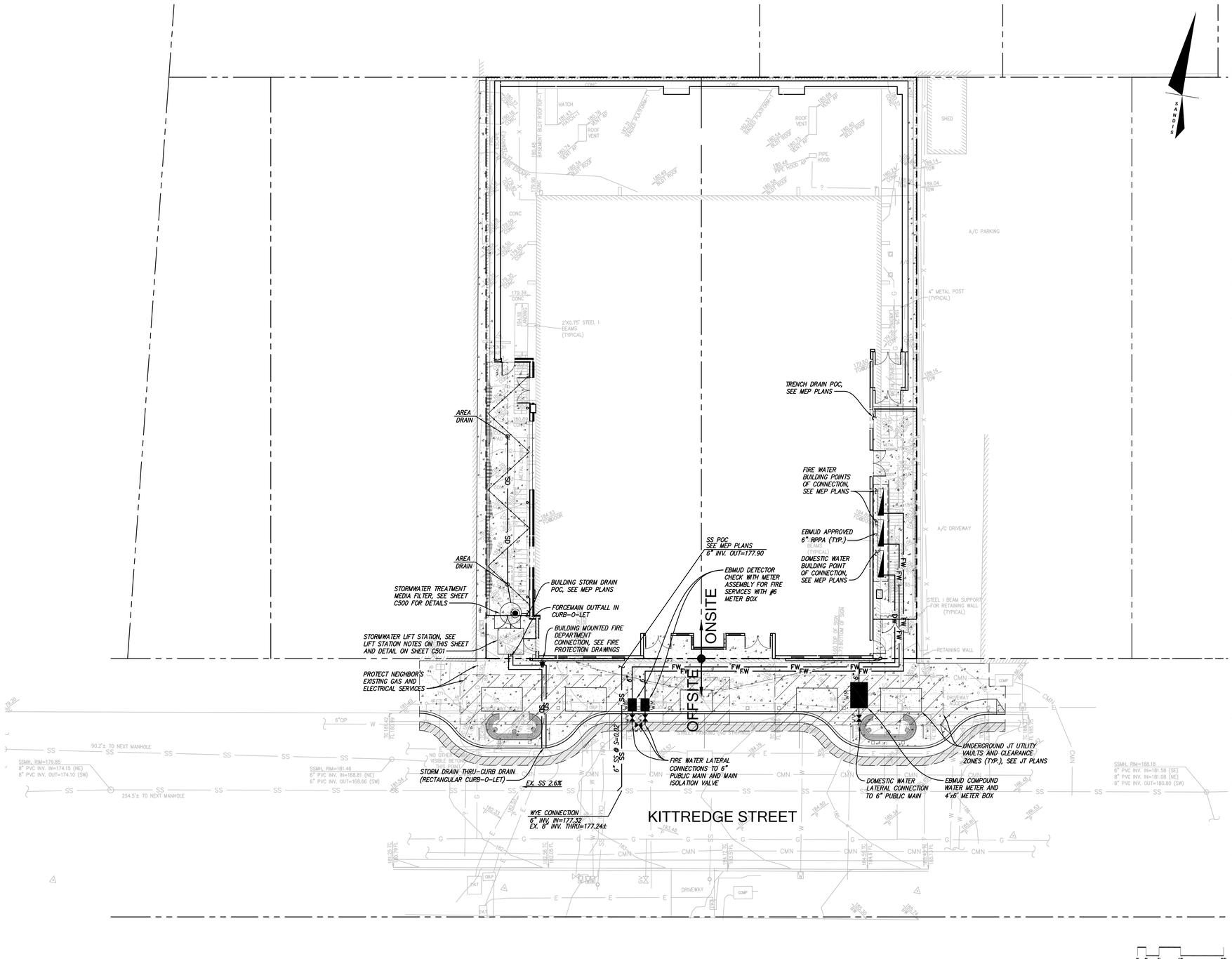

LEGEND

PROPERTY LINE

SAWCUT LINE

UTILITY NOTES

1. ALL AREA DRAINS AND CATCH BASINS GRATES WITHIN PEDESTRIAN ACCESSIBLE AREAS SHALL MEET ADA REQUIREMENTS.
2. ALL UTILITY TRENCHES SHALL BE BACK FILLED PER THE SPECIFICATIONS WITH APPROPRIATE TESTS BY THE GEOTECHNICAL ENGINEER TO VERIFY COMPACTION VALUES.
3. POTHOLING IS STRONGLY RECOMMENDED FOR NEW GRAVITY FLOW SYSTEMS TO VERIFY THE DEPTH OF ALL EXISTING CROSSING UTILITIES. POTHOLING CAN ALSO VERIFY THE SIZE AND MATERIAL OF ANY OTHER UTILITIES THE PROJECT IS CONNECTING ONTO.
4. ALL SEWER WORK SHALL BE IN CONFORMANCE WITH THE COUNTY ENVIRONMENTAL HEALTH DEPARTMENT STANDARDS.
5. ALL SEWER LATERALS SHALL HAVE A TWO WAY CLEANOUT AT FACE OF BUILDING.
6. ALL WATER SERVICE CONNECTIONS SHALL BE INSTALLED IN ACCORDANCE WITH THE APPLICABLE EBMUD STANDARDS.
7. ALL WATER LINES SHALL BE INSTALLED WITH 36" MINIMUM COVER.
8. THRUST RESTRAINTS SHALL BE DESIGNED AND INSTALLED AT ALL TEES, CROSSES, BENDS (HORIZONTAL AND VERTICAL), AND AT SIZE CHANGES.

LIFT STATION NOTES

STORMWATER TREATMENT MEDIA FILTER AND PUMP. THE STORMWATER TREATMENT DESIGN STRATEGY ENTAILS:

1. ALL ROOF AND PAVEMENT RUNOFF IS CAPTURED VIA AREA/ROOF DRAINS AND PIPED TO MEDIA FILTER VAULT.
2. STORMWATER IS TREATED THROUGH THE MEDIA FILTERS DURING A WATER QUALITY RAIN EVENT (IE. 0.2 IN/HR RAINFALL INTENSITY). THE WATER SUBSEQUENTLY HEADS TOWARDS THE OUTLET.
   - 2.1. LARGER STORM EVENTS WILL BYPASS THE MEDIA FILTERS AND HEAD DIRECTLY TO THE OUTLET.
3. STORMWATER LEAVES THE VAULT THROUGH THE OUTLET AND INTO A LIFT STATION SIZED FOR A 100 YEAR STORM EVENT WITH N+1 PUMP REDUNDANCY.
4. THE LIFT STATION FINALLY DISCHARGES INTO A THROUGH-CURB DRAIN WHICH THEN OUTFALLS INTO THE STREET GUTTER PAN.

GENERAL NOTES

1. ALL TRENCHES SHALL BE BACK FILLED PER DETAIL **X**, SHEET **XXX**.
2. CATHODIC PROTECTION SHALL BE REQUIRED ON ALL METALLIC FITTINGS AND ASSEMBLIES THAT ARE IN CONTACT WITH THE SOIL, UNLESS SPECIFICALLY DEEMED UNNECESSARY BY THE GEOTECHNICAL REPORT. CONTRACTOR IS RESPONSIBLE TO FULLY ENGINEER AND INSTALL THIS SYSTEM AND COORDINATE ANODE AND TEST STATION LOCATIONS WITH THE UTILITY OWNER.
3. COMPLETE SYSTEMS: ALL UTILITY SYSTEMS ARE DELINEATED IN A SCHEMATIC MANNER ON THESE PLANS. CONTRACTOR IS TO PROVIDE ALL FITTINGS, ACCESSORIES AND WORK NECESSARY TO COMPLETE THE UTILITY SYSTEM SO THAT IT IS FULLY FUNCTIONING FOR THE PURPOSE INTENDED.
4. UNDERGROUND UTILITIES OR STRUCTURES ARE SHOWN IN THEIR APPROXIMATE LOCATIONS AND EXTENT BASED UPON RECORD INFORMATION. LOCATIONS MAY NOT HAVE BEEN VERIFIED IN THE FIELD AND NO GUARANTEE IS MADE TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION SHOWN. THE CLIENT, BY ACCEPTING THESE PLANS OR PROCEEDING WITH IMPROVEMENTS PURSUANT THERETO, AGREES TO ASSUME LIABILITY AND TO HOLD UNDERSIGNED HARMLESS FOR ANY DAMAGES RESULTING FROM THE EXISTENCE OF UNDERGROUND UTILITIES OR STRUCTURES NOT REPORTED TO THE UNDERSIGNED; NOT INDICATED ON THE PUBLIC RECORDS EXAMINED, LOCATED AT VARIANCE WITH THOSE REPORTED OR SHOWN ON RECORDS EXAMINED.
5. CONTRACTOR SHALL VERIFY ALL EXISTING INVERT ELEVATIONS FOR STORM DRAIN AND SANITARY SEWER CONSTRUCTION PRIOR TO COMMENCEMENT OF ANY WORK. ALL WORK FOR STORM AND SANITARY SEWER INSTALLATION SHALL BEGIN AT THE DOWNSTREAM CONNECTION POINT. THIS WILL ALLOW FOR ANY NECESSARY ADJUSTMENTS TO BE MADE PRIOR TO THE INSTALLATION OF THE ENTIRE LINE. IF THE CONTRACTOR FAILS TO BEGIN AT THE DOWNSTREAM CONNECTION POINT AND WORK UP-STREAM, AND SHALL PROCEED AT HIS OWN RISK AND BE RESPONSIBLE FOR ANY ADJUSTMENTS NECESSARY.
6. EXISTING UTILITY CROSSINGS OF NEW PIPELINE ARE SHOWN ACCORDING TO THE BEST AVAILABLE INFORMATION. GAS, WATER AND SEWER SERVICE LATERALS ARE SHOWN ACCORDING TO THE BEST AVAILABLE INFORMATION. THE CONTRACTOR SHALL VERIFY THE TYPE, SIZE, LOCATION AND DEPTH OF ALL THE UTILITY CROSSING (BOTH MAINS AND LATERALS) ARE CORRECT AS SHOWN. NO GUARANTEE IS MADE THAT ALL EXISTING UTILITIES (BOTH MAINS AND LATERALS) ARE SHOWN. THE CONTRACTOR SHALL EXERCISE CAUTION WHEN EXCAVATING AND SHALL PROTECT ALL EXISTING UTILITIES (BOTH MAINS AND LATERALS) FROM DAMAGE DUE TO HIS OPERATION.
7. VERTICAL SEPARATION REQUIREMENTS (UNLESS SPECIFICALLY SHOWN OTHERWISE ON PLANS):

   A MINIMUM OF SIX (6) INCHES VERTICAL CLEARANCE, MEASURED FROM OUTSIDE EDGE OF PIPE, SHALL BE PROVIDED BETWEEN CROSSING UTILITY PIPES, EXCEPT THAT THE MINIMUM VERTICAL CLEARANCE BETWEEN WATER AND SANITARY SEWER PIPELINES SHALL BE 12 INCHES AND ALL NEW WATER PIPES SHALL BE TYPICALLY INSTALLED TO CROSS ABOVE/OVER EXISTING SANITARY SEWER PIPELINES.

   WHERE NEW WATER PIPELINES ARE REQUIRED TO CROSS UNDER EXISTING AND/OR NEW SANITARY SEWER PIPELINES, THE MINIMUM VERTICAL SEPARATION SHALL BE 12 INCHES. WATER LINE PIPE ENDS SHALL BE INSTALLED NO CLOSER THAN 10' MINIMUM HORIZONTAL DISTANCE FROM CENTERLINE OF UTILITY CROSSINGS, WHERE FEASIBLE.
8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CONTACTING APPROPRIATE UTILITIES AND REQUESTING VERIFICATION OF SERVICE POINTS, FIELD VERIFICATION OF LOCATION, SIZE, DEPTH, ETC. FOR ALL THEIR FACILITIES AND TO COORDINATE WORK SCHEDULES.
9. ANY EXISTING UNDERGROUND UTILITY LINES TO BE ABANDONED, SHALL BE REMOVED FROM WITHIN THE PROPOSED BUILDING ENVELOPE AND THEIR ENDS CAPPED OUTSIDE OF THE BUILDING ENVELOPE.
10. ANY PIPING TO BE ABANDONED IN PLACE SHALL BE FILLED WITH GROUT AND CAPPED.

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Sandis Project Number	622032
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UTILITY PLAN

C300

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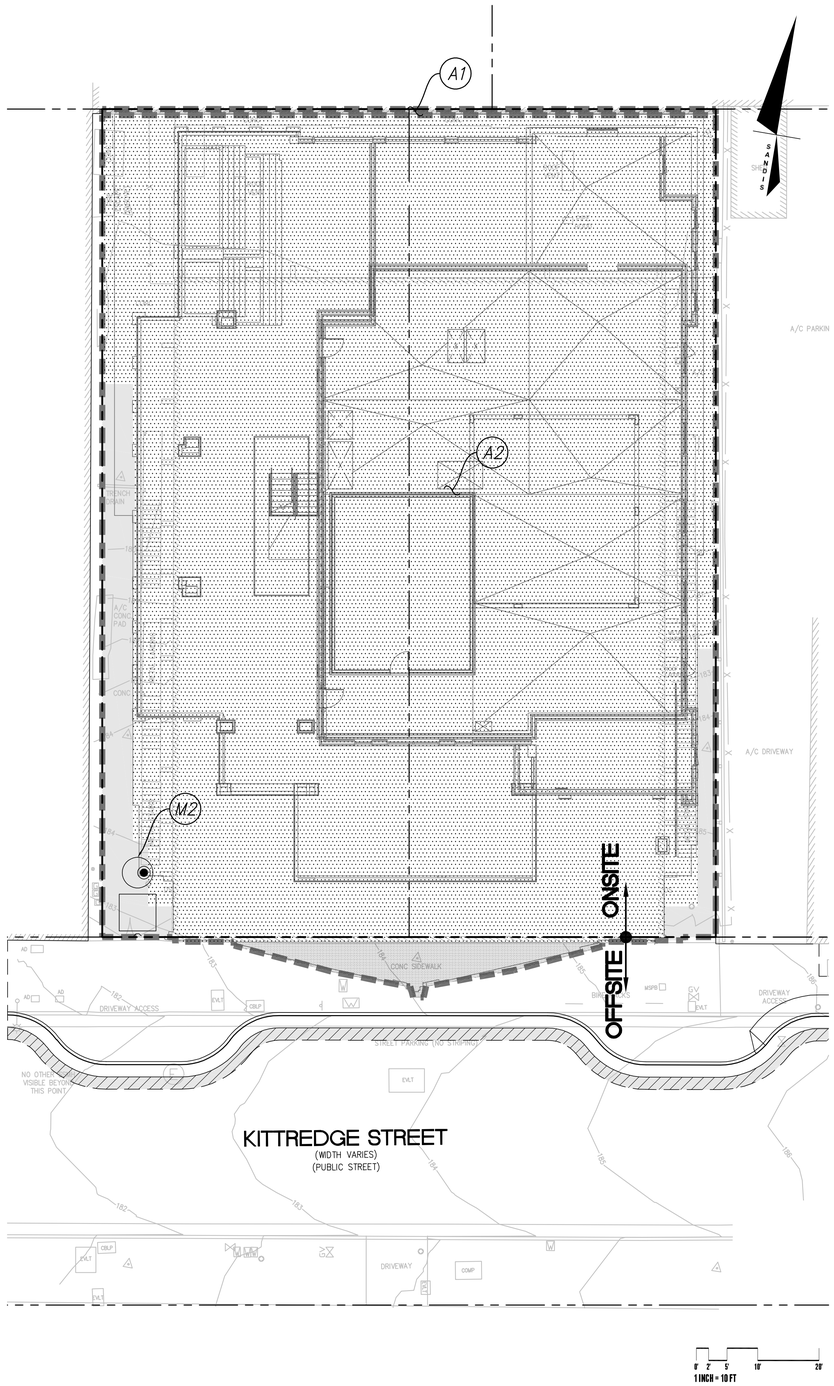

LEGEND

- PROPOSED HARDSCAPE
- PROPOSED ROOF
- EXISTING ROOF
- DRAINAGE AREA BOUNDARY

STORMWATER MANAGEMENT NOTES:

THE PROPOSED PROJECT WILL INCLUDE MORE THAN 10,000 SQUARE FEET OF IMPERVIOUS SURFACE ADDITION AND REPLACEMENT. GIVEN THAT THE PROJECT SURPASSES THIS THRSHOLD, THE PROJECT IS CONSIDERED A REGULATED PROJECT PER THE REQUIREMENTS OF PROVISION C.3 OF THE MUNICIPAL REGIONAL STORMWATER PERMIT (ORDER NO. R2-2022-0018 AND R2-2015-0049). THIS PLAN PRESENTS THE METHODS AND CALCULATIONS FOR COMPLYING WITH THESE REQUIREMENTS, IN ACCORDANCE WITH THE CITY OF BERKELEY AND ALAMEDA COUNTY STORMWATER PROGRAMS. MOROVER, GIVEN THAT THIS PROJECT IS REPLACING MORE THAN 50% OF THE EXISTING IMPERVIOUS AREA, THE PROJECT MUST TREAT THE ENTIRE SITE.

THIS PROJECT IS CONSIDERED A SPECIAL PROJECT CATEGORY "A" PER THE CHARACTERISTICS LISTED IN ALAMEDA COUNTY'S SPECIAL PROJECTS WORKSHEET:

A. PROJECT IS IN A DOWNTOWN CORE AREA.
B. PROJECT CREATES/REPLACES < ½ ACRE IMPERVIOUS SURFACE.
C. PROJECT INCLUDES NO SURFACE AREA PARKING.
D. PROJECT HAS AT LEAST 85% COVERAGE BY PERMANENT STRUCTURES.

A NARRATIVE IS INCLUDED AS PART OF THE PLANNING SUBMITTAL WHICH DESCRIBES HOW LID TREATMENT IS NOT FEASIBLE ONSITE, AND WHY THE PROJECT MUST USE A MEDIA FILTER TO REGULATE THE QUALITY OF STORMWATER LEAVING THE SITE. THIS TREATMENT DEVICE IS DESCRIBED BELOW:

A. MEDIA FILTER – RUNOFF FROM THE CONTRIBUTING IMPERVIOUS SURFACE FLOWS THROUGH A MEDIA FILTER SIZED TO TREAT THE RUNOFF BASED ON A 0.2 IN/HR INTENSITY (TREATMENT STORM EVENT). THIS IS A NON-LID TREATMENT MEASURE WHICH REMOVES POLLUTANTS FROM RUNOFF THROUGH SCREENING AND FILTER CARTRIDGES MADE UP OF MANUFACTURED MEDIA. THIS TREATMENT DEVICE IS ONLY ALLOWED FOR "SPECIAL PROJECTS". THIS PROJECT QUALIFIES AS A CATEGORY A SPECIAL PROJECT.

C.3 STORMWATER TREATMENT MEASURES

AREA ID	PROPOSED IMPERVIOUS AREA (SF)	EXISTING IMPERVIOUS AREA (SF)	TOTAL AREA (SF)	BMP ID	BMP TYPE
A1	0	75	75	–	IN-LIEU CREDIT[1]
A2	13,461	270[2]	13,731	M2	MEDIA FILTER[3]

TABLE FOOTNOTES:

1. EXISTING UNTREATED IMPERVIOUS SURFACE INCLUDES NEIGHBORING BUILDING ROOF WITHIN PROJECT PROPERTY. EXISTING IMPERVIOUS AREA WITHIN DRAINAGE AREA A2 WILL BE TREATED IN LIEU OF THIS AREA.
2. THIS AREA REPRESENTS THE EXISTING FOOTPRINT OF THE EXISTING MARQUEE SIGN TO REMAIN. 75 SF OF THE OVERALL 270 SF TREATED AREA WILL BE USED AS IN-LIEU CREDIT FOR DRAINAGE AREA A1.
3. SEE EXAMPLE MEDIA FILTER PRODUCT, THIS SHEET. SIZED USING RATIONAL METHOD (Q=CiA):

C=0.85 (ROOF/HARDSCAPE)
i_{treat}=0.2 IN/HR (TREATMENT RAINFALL INTENSITY)
i_{base}=2.05 IN/HR (10 YEAR/10 MIN RAINFALL INTENSITY PER NOAA)
A=0.32 ACRES
Q_{treat}=0.05 CFS
Q_{base}=0.56 CFS

FEMA FLOOD ZONE DESIGNATION

THE PROPOSED PROJECT SITE RESIDES IN FEMA'S FLOOD INSURANCE RATE MAP (FIRM) 06001C0057G, EFFECTIVE AUGUST 3, 2009. THE ENTIRE PROJECT AREA IS LOCATED IN ZONE X, 'OTHER AREAS' (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN).

HYDROMODIFICATION NOTE:

THE PROJECT IS EXEMPT FROM HYDROMODIFICATION REQUIREMENTS PER THE ALAMEDA COUNTY C.3 TECHNICAL GUIDANCE DOCUMENT. THE PROJECT IS EXEMPT FROM HYDROMODIFICATION DUE TO IMPERVIOUS AREA ADDED OR REPLACED BEING LESS THAN 1 ACRE.

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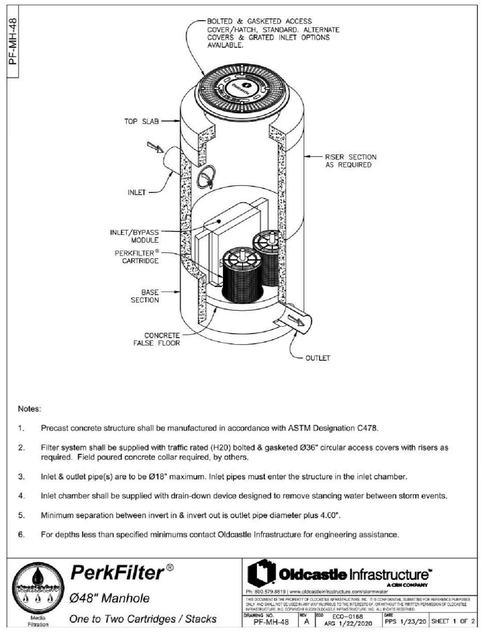
STORMWATER MANAGEMENT PLAN

C400



Notes:

1. Precast concrete structure shall be manufactured in accordance with ASTM Designation C478.
2. Filter system shall be supplied with traffic rated (H20) bolted & gasketed Ø36" circular access covers with risers as required. Field poured concrete collar required, by others.
3. Inlet & outlet pipe(s) are to be Ø18" maximum. Inlet pipes must enter the structure in the inlet chamber.
4. Inlet chamber shall be supplied with drain-down device designed to remove standing water between storm events.
5. Minimum separation between invert in & invert out is outlet pipe diameter plus 4.00".
6. For depths less than specified minimums contact Oldcastle Infrastructure for engineering assistance.

PerkFilter®
Ø48" Manhole
One to Two Cartridges / Stacks

Oldcastle Infrastructure
A CRH COMPANY
Ph: 800.579.8519 | www.oldcastleinfrastructure.com/stormwater

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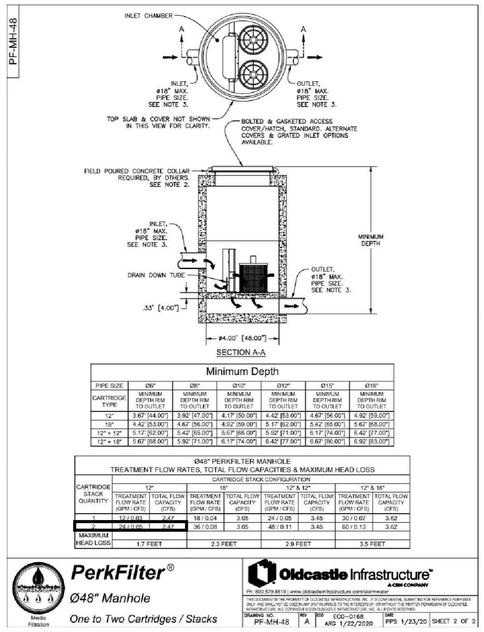
PF-MH-48	A	ECO-0168 ARS 1/22/2020	PPS 1/23/20	SHEET 1 OF 2



SECTION A-A

Minimum Depth

PIPE SIZE:	Ø6"	Ø8"	Ø12"	Ø12"	Ø15"	Ø18"
CARTRIDGE TYPE:	MINIMUM DEPTH RIM TO OUTLET	MINIMUM DEPTH RIM TO OUTLET	MINIMUM DEPTH RIM TO OUTLET	MINIMUM DEPTH RIM TO OUTLET	MINIMUM DEPTH RIM TO OUTLET	MINIMUM DEPTH RIM TO OUTLET
12"	3.67" [44.00"]	3.92" [47.00"]	4.17" [50.00"]	4.42" [53.00"]	4.67" [56.00"]	4.92" [59.00"]
18"	4.42" [53.00"]	4.67" [56.00"]	4.92" [59.00"]	5.17" [62.00"]	5.42" [65.00"]	5.67" [68.00"]
12" + 12"	5.17" [62.00"]	5.42" [65.00"]	5.67" [68.00"]	5.92" [71.00"]	6.17" [74.00"]	6.42" [77.00"]
12" + 18"	5.67" [68.00"]	5.92" [71.00"]	6.17" [74.00"]	6.42" [77.00"]	6.67" [80.00"]	6.92" [83.00"]

Ø48" PERKFILTER MANHOLE
TREATMENT FLOW RATES, TOTAL FLOW CAPACITIES & MAXIMUM HEAD LOSS

CARTRIDGE STACK QUANTITY	CARTRIDGE STACK CONFIGURATION					
	12"		18"		12" & 18"	
	TREATMENT FLOW RATE (GPM / CFS)	TOTAL FLOW CAPACITY (CFS)	TREATMENT FLOW RATE (GPM / CFS)	TOTAL FLOW CAPACITY (CFS)	TREATMENT FLOW RATE (GPM / CFS)	TOTAL FLOW CAPACITY (CFS)
1	12 / 0.03	2.47	18 / 0.04	3.05	24 / 0.05	3.45	30 / 0.07	3.62
2	24 / 0.05	2.47	36 / 0.08	3.05	48 / 0.11	3.45	60 / 0.13	3.62
MAXIMUM HEAD LOSS:	1.7 FEET		2.3 FEET		2.9 FEET		3.5 FEET	

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Ø48" Manhole
One to Two Cartridges / Stacks

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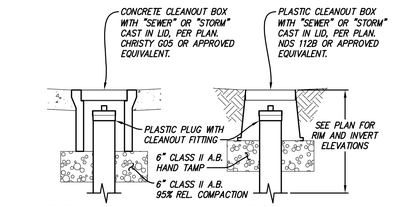
PF-MH-48	A	ECO-0168 ARS 1/22/2020	PPS 1/23/20	SHEET 2 OF 2

MEDIA FILTER
N.T.S.
1



NOTES:

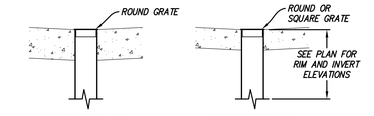
1. RISER DIAMETER SHALL MATCH THRU/OUT PIPE SIZE.

GRAVITY CLEANOUT
1"=1'
2

PIPE SIZE	NDS MODEL NUMBER*		
	PEDESTRIAN		VEHICULAR
	ROUND GRATE (BLACK PLASTIC)	SQUARE GRATE	ROUND GRATE (DUCTILE IRON)
4"	11	4 (BLACK PLASTIC)	N/A
6"	40	970 (BLACK PLASTIC)	D6
8"	10	12DH-WO** (CAST IRON)	D8

*OR APPROVED EQUIVALENT

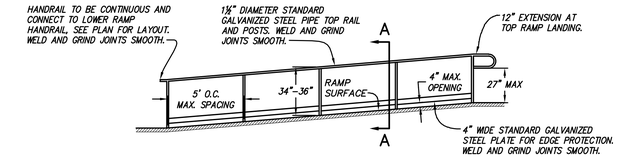
**12" TO 8" REDUCER REQUIRED TO CONNECT TO 8" RISER PIPE



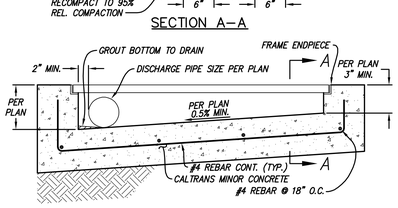
NOTES:

1. RISER DIAMETER SHALL MATCH STORM DRAIN AREA DRAIN SIZE.
2. THRU/OUT PIPE SIZE SHALL BE EQUAL OR GREATER THAN RISER DIAMETER.

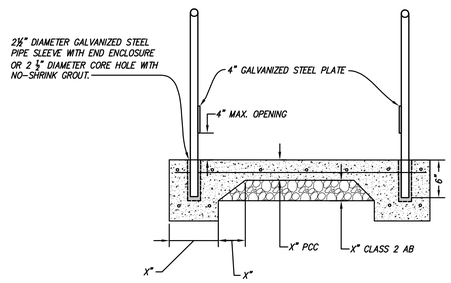
HARDSCAPE AREA DRAIN
1"=1'
3



ELEVATION



CAST-IN-PLACE TRENCH DRAIN
1"=1'
4



NOTE:
PAINT RAILING WITH PRIMER COAT AND COLOR PER OWNER DIRECTION.

SECTION A-A

ACCESSIBLE RAMP AND HANDRAIL
N.T.S.
5

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C500

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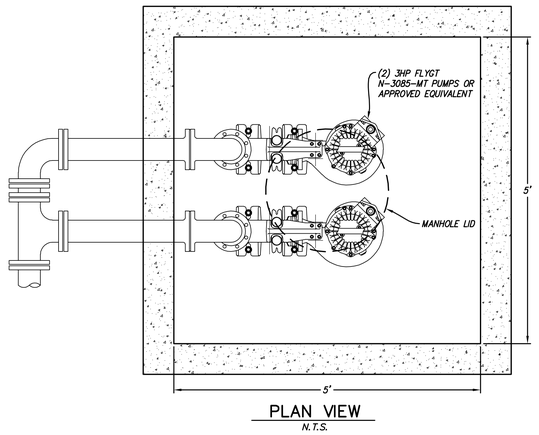
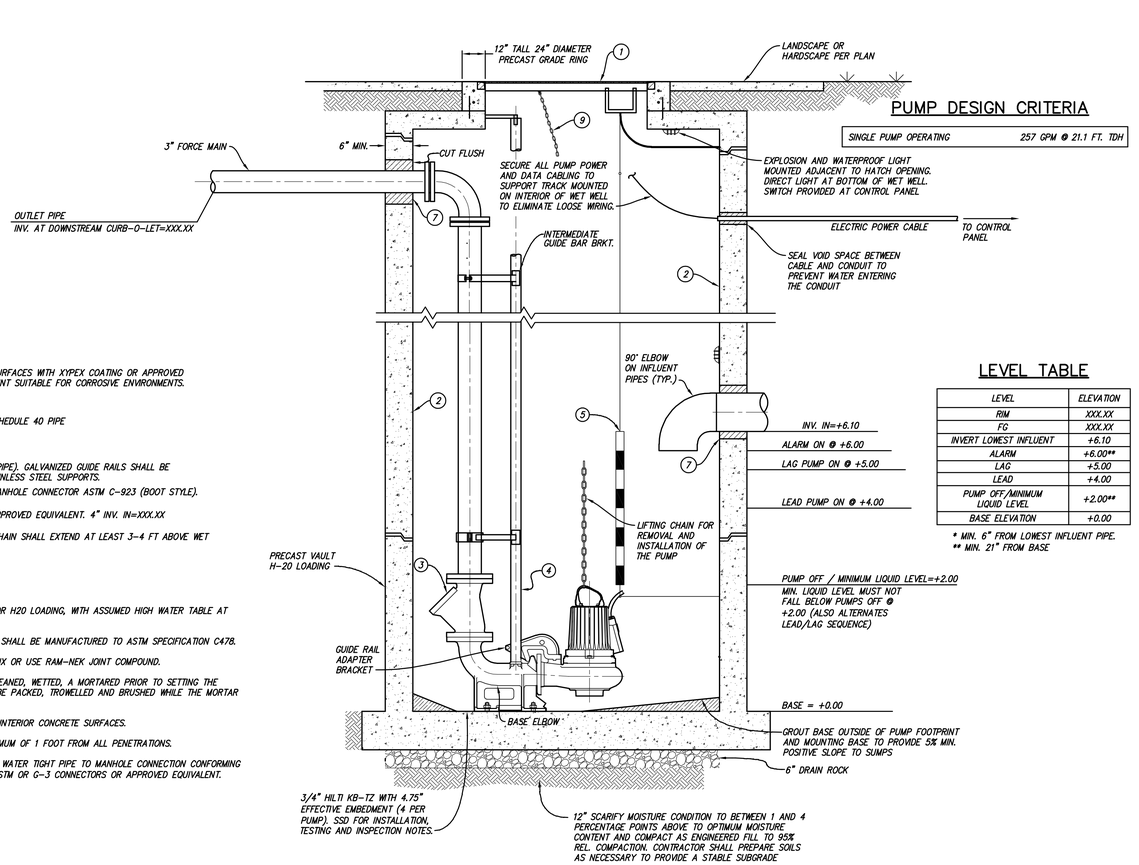


PLAN VIEW
N.T.S.



PUMP DESIGN CRITERIA

SINGLE PUMP OPERATING	257 GPM @ 21.1 FT. TDH

LEVEL TABLE

LEVEL	ELEVATION
RIM	XXX.XX
FG	XXX.XX
INVERT LOWEST INFLUENT	+6.10
ALARM	+6.00**
LAG	+5.00
LEAD	+4.00
PUMP OFF/MINIMUM LIQUID LEVEL	+2.00**
BASE ELEVATION	+0.00

* MIN. 6" FROM LOWEST INFLUENT PIPE.
** MIN. 21" FROM BASE

NOTES:

1. H-20 RATED MANHOLE LID..
2. COAT INTERIOR OF LIFT STATION SURFACES WITH XYPEX COATING OR APPROVED EQUIVALENT. PAINT WITH WHITE PAINT SUITABLE FOR CORROSIVE ENVIRONMENTS.
3. BALL CHECK VALVE.
4. (4) 2" GUIDE BAR, GALVANIZED SCHEDULE 40 PIPE
5. LEVEL PROBE (SEE LEVEL TABLE)
6. (4) 2" GUIDE BAR (SCHEDULE 40 PIPE). GALVANIZED GUIDE RAILS SHALL BE SUPPORTED EVERY 5-FT WITH STAINLESS STEEL SUPPORTS.
7. WATER TIGHT RESILIENT PIPE TO MANHOLE CONNECTOR ASTM C-923 (BOOT STYLE).
8. JOSAM 67724 SWING CHECK OR APPROVED EQUIVALENT. 4" INV. IN=XXX.XX
9. STAINLESS STEEL LIFTING CHAIN. CHAIN SHALL EXTEND AT LEAST 3-4 FT ABOVE WET WELL.

NOTES:

A. PUMP STATION TO BE DESIGNED FOR H20 LOADING, WITH ASSUMED HIGH WATER TABLE AT ELEVATION AT XXX.XX

B. PRECAST PUMP STATION MATERIAL SHALL BE MANUFACTURED TO ASTM SPECIFICATION C478.

C. GROUT JOINTS WITH 1:3 MORTAR MIX OR USE RAM-NEK JOINT COMPOUND.

D. ALL CONCRETE JOINTS SHALL BE LEANED, WETTED, A MORTARED PRIOR TO SETTING THE NEXT SECTION THE JOINTS SHALL BE PACKED, TROWELLED AND BRUSHED WHILE THE MORTAR IS PLASTIC.

E. XYPEX CONCENTRATE COATING ON INTERIOR CONCRETE SURFACES.

F. JOINT LOCATIONS SHALL BE A MINIMUM OF 1 FOOT FROM ALL PENETRATIONS.

G. ALL PIPE PENETRATIONS SHALL BE WATER TIGHT PIPE TO MANHOLE CONNECTION CONFORMING TO ASTM C-923. A-LOK'S Z-LOK STM OR G-3 CONNECTORS OR APPROVED EQUIVALENT.

LIFT STATION 1
N.T.S.

SECTION A-A
N.T.S.

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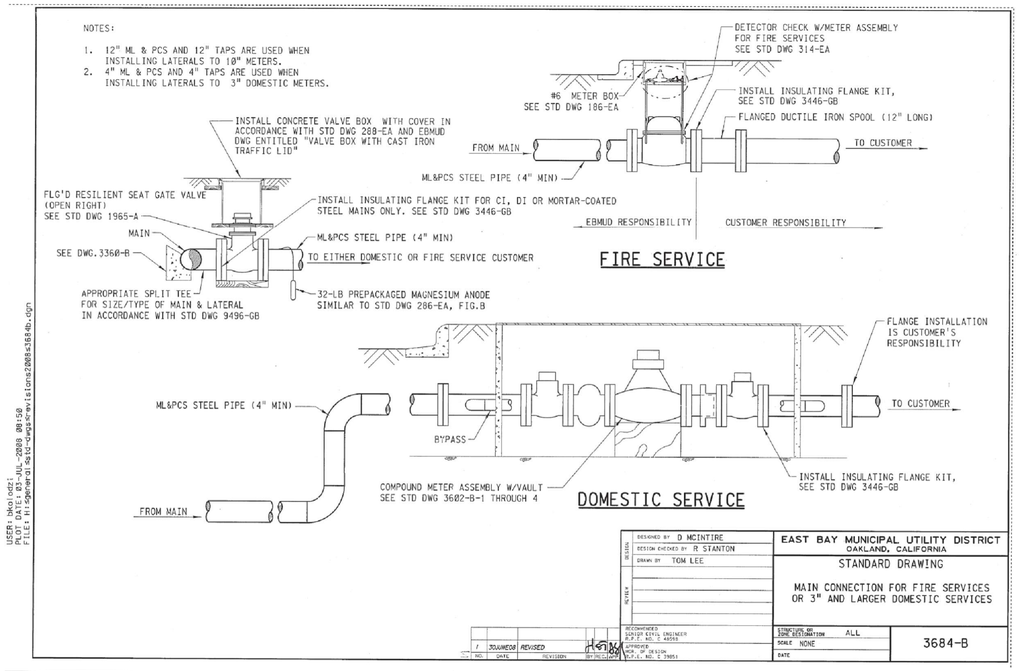
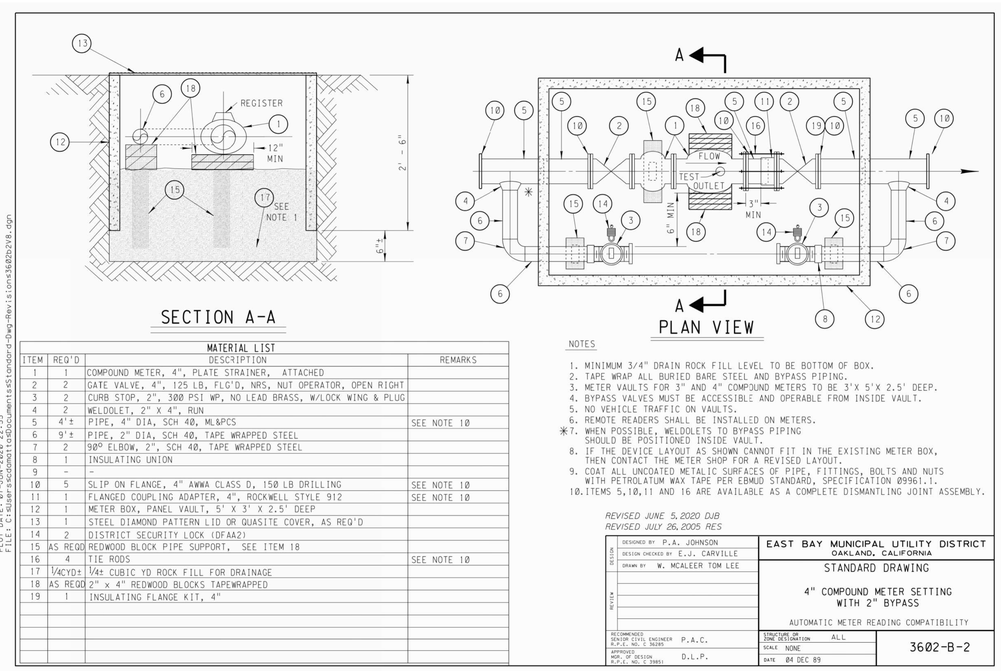
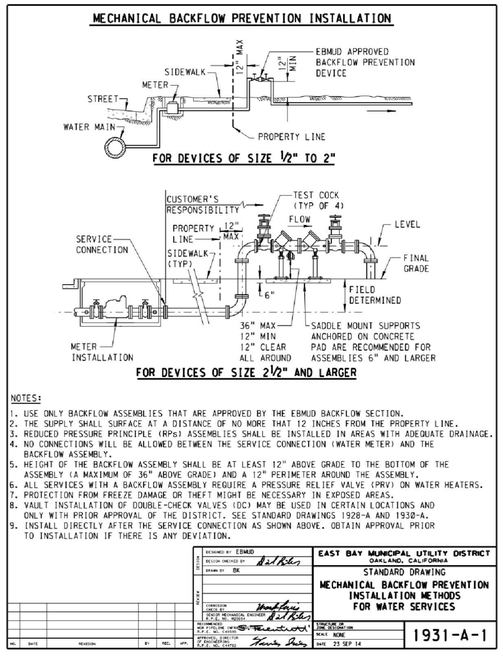
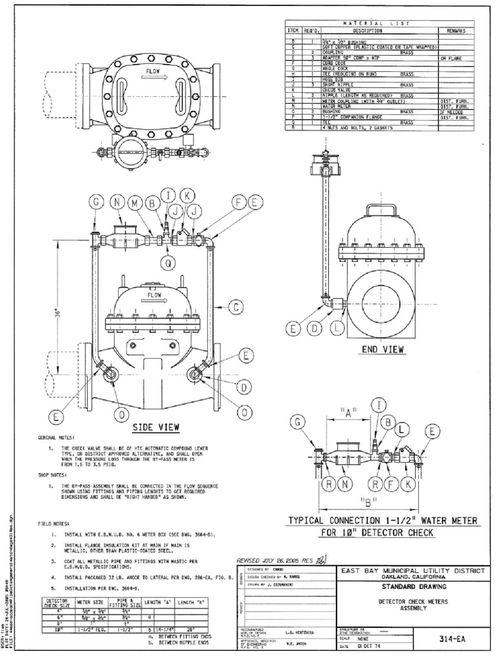
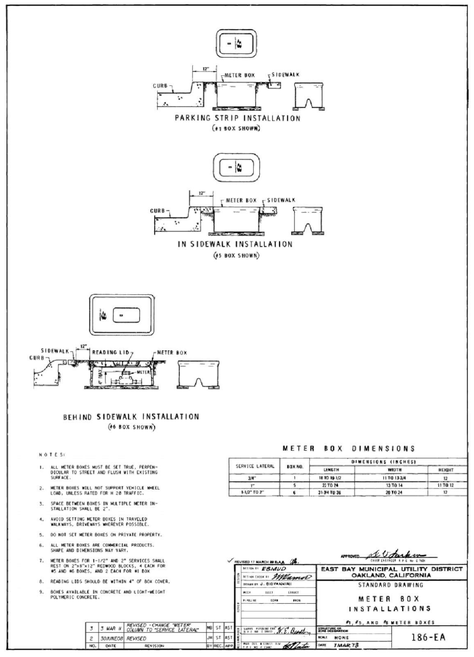
C501











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CONSTRUCTION DETAILS

C502
Page 512

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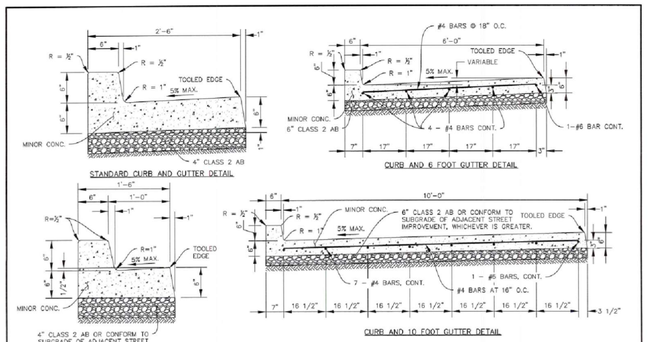
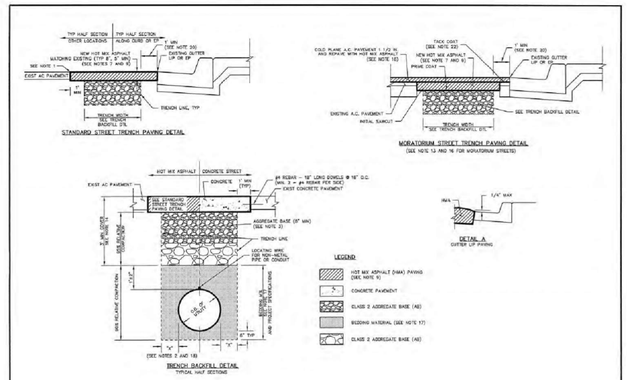


NOTE:
1. FOR ADDITIONAL REQUIREMENTS, SEE PLAN 8144, "CONCRETE WORK NOTES."

STANDARD DETAIL CURB AND GUTTER			CITY OF BERKELEY DEPARTMENT OF PUBLIC WORKS	
SUBMITTED: Dan Zeby SUPERVISING CIVIL ENGINEER	DATE: 2/27/17 R.C.E. 64582	DESIGN: HEI DRAWN: HEI CHECK: MS	DATE: 01/26/17 SCALE: N.T.S. BOOK:	PLAN: 8146 FILE: 208-157 SHEET: 1 OF 1
APPROVED: MANAGER OF ENGINEERING	DATE: 2/28/17 R.C.E. 66014			



STANDARD DETAIL TRENCH EXCAVATION AND SURFACE RESTORATION			CITY OF BERKELEY DEPARTMENT OF PUBLIC WORKS	
SUBMITTED: Dan Zeby SUPERVISING CIVIL ENGINEER	DATE: 7/6/16 R.C.E. 64582	DESIGN: HEI DRAWN: HEI CHECK:	DATE: 06/2016 SCALE: BOOK:	PLAN: 8136 FILE: 20-8-155 SHEET: 1 OF 2
APPROVED: MANAGER OF ENGINEERING	DATE: 7/6/16 R.C.E. 66014			

NOTES:

1. TRENCH EXCAVATION IN THE PUBLIC RIGHT OF WAY SHALL CONFORM TO THE CITY OF BERKELEY GENERAL REGULATIONS FOR TRENCH EXCAVATION AND SURFACE RESTORATION IN THE PUBLIC RIGHT OF WAY. CUT THROUGH THE FULL DEPTH OF EXISTING SURFACING TO A NEAT STRAIGHT LINE AT LEAST 1.0 FOOT OUTSIDE THE TRENCH LINE. RECUT PAVEMENT EDGES DAMAGED DURING CONSTRUCTION TO NEAT LINES PRIOR TO PAVING. APPLY PAINT BINDER (TACK COAT) TO ALL VERTICAL SURFACES IN ACCORDANCE WITH THE LATEST EDITION OF CALTRANS STANDARD SPECIFICATIONS.
2. MINIMUM WIDTH OF TRENCH SHALL BE IN ACCORDANCE WITH THE DIMENSION SHOWN ON THE TRENCH BACKFILL DETAIL. DIMENSIONS "X" IS SHOWN BELOW FOR THE UTILITY "OD."

UTILITY O.D.	"X" MIN
UNDER 1.0'	0.5'
1.0' TO 4.5'	1.0'
OVER 4.5'	2.0'

3. CLASS 2 AGGREGATE BASE (AB) SHALL BE INSTALLED IMMEDIATELY BELOW THE PAVEMENT SECTION TO BE REPLACED. THE AB QUALITY, GRADATION AND THE METHOD OF INSTALLATION SHALL BE IN CONFORMANCE WITH SECTION 26 OF THE CALIFORNIA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATION. THE DEPTH OF THE AB SHALL BE IN ACCORDANCE WITH THE TRENCH BACKFILL DETAIL. 95% RELATIVE COMPACTION IS REQUIRED.
4. RELATIVE COMPACTION SHALL BE DETERMINED BY CALIFORNIA TEST NUMBER 231 (NUCLEAR GAUGE) OR APPROVED EQUAL. PERMITTEE SHALL ARRANGE AND PAY FOR THE TEST FOR RELATIVE COMPACTION WHEN ORDERED BY THE ENGINEER. THE TEST SHALL BE PERFORMED BY A QUALIFIED MATERIAL TESTING LABORATORY AND TEST RESULTS BE SUBMITTED TO ENGINEERING FORTY-EIGHT (48) HOURS IN ADVANCE OF PERMANENT PAVING OPERATION.
5. PERMITTEE SHALL PLACE TEMPORARY BITUMINOUS RESURFACING TWO (2) INCHES IN THICKNESS OVER THE COMPACTED BACKFILL AREAS. GREATER THICKNESS MAY BE REQUIRED FOR MAJOR INTERSECTIONS AND OTHER CRITICAL AREAS BY THE ENGINEER AS NECESSARY. STEEL PLATES MAY BE USED AS AN ALTERNATIVE IF APPROVED BY ENGINEER.
6. TEMPORARY BITUMINOUS RESURFACING (CUT-BACK) SHALL BE MECHANICALLY COMPACTED IN PLACE TO A UNIFORM, EVEN SURFACE AND SHALL BE TRUE TO STREET GRADE AND CROSS SECTION. THE PERMITTEE SHALL REGULARLY INSPECT AND MAINTAIN THE TEMPORARY BITUMINOUS RESURFACING UNTIL THE EXCAVATION IS PERMANENTLY PAVED. THE SURFACE SHALL NOT VARY MORE THEN 1/2" FROM THE EDGE OF A 10 FOOT STRAIGHT EDGE. UPON NOTIFICATION, THE PERMITTEE SHALL CORRECT ANY SURFACE DEFECTS WITHIN 48 HOURS. LOOSE ROCKS AND OTHER DEBRIS GENERATED FROM TEMPORARY RESURFACING OPERATIONS SHALL BE IMMEDIATELY REMOVED FROM THE WORKSITE.
7. TEMPORARY BITUMINOUS RESURFACING SHALL BE REMOVED BEFORE PLACEMENT OF FINAL PAVING. FINAL PAVING SHALL BE MINIMUM FIVE (5) INCHES THICK OR SAME AS THE EXISTING PAVEMENT, WHICHEVER IS GREATER. THE PAVEMENT SHALL BE PLACED ON UNDISTURBED PREVIOUSLY COMPACTED BACKFILL AREAS.
8. PAVEMENT OUTSIDE OF BWE FINAL CUT LINE DAMAGED BY THE PERMITTEE'S OPERATIONS SHALL BE REMOVED BY SAW-CUTTING IN LINES PERPENDICULAR OR PARALLEL TO THE ORIGINAL TRENCH LINES. NO DIAGONAL CUTS WILL BE PERMITTED.
9. HOT MIX ASPHALT (HMA) SHALL BE TYPE A IN CONFORMANCE WITH SECTION 39 OF THE CALIFORNIA DEPARTMENT OF TRANSPORTATION'S STANDARD SPECIFICATIONS, UNLESS OTHER WISE SPECIFIED IN THE ENCROACHMENT PERMIT CONDITIONS OR AS DIRECTED BY THE PUBLIC WORKS DEPARTMENT. HMA SHALL BE COMPACTED TO 95% RELATIVE COMPACTION.
10. THE TOP 1 1/2" OF HMA SHALL HAVE A MAXIMUM AGGREGATE SIZE OF 1/2" UNLESS OTHERWISE SPECIFIED. THE HMA BENEATH THE TOP LAYER SHALL HAVE A MAXIMUM AGGREGATE SIZE OF 3/4".
11. UPON COMPLETION OF PAVING OPERATIONS THE PERMITTEE SHALL IMMEDIATELY REPLACE ALL PAVEMENT MARKING AND TRAFFIC STRIPING DAMAGED OR REMOVED BY HIS OPERATIONS. PAVEMENT MARKINGS AND TRAFFIC STRIPINGS SHALL BE REPLACED IN KIND OR WITH SUBSTITUTE MATERIAL APPROVED BY THE ENGINEER.
12. WHEN ANY PORTION OF THE CURB AT A LEGAL PEDESTRIAN CROSSWALK OR ANY PORTION OF THE SIDEWALK IN IMMEDIATE CONTACT WITH SUCH CURB IS REMOVED BY THE PERMITTEE OPERATIONS, THE PERMITTEE SHALL CONSTRUCT, AS PART OF HIS REPLACEMENT OPERATIONS, A CURB RAMP AS SHOWN IN CITY OF BERKELEY STANDARD DETAIL NO. R7B0.
13. EXCAVATION ON STREETS RECONSTRUCTED OR RESURFACED WITHIN THE LAST 5 YEARS WILL NOT BE PERMITTED EXCEPT FOR CONDITIONS ENUMERATED IN THE CITY OF BERKELEY GENERAL REGULATIONS AND FOR TRENCH EXCAVATION AND SURFACE RESTORATION IN THE PUBLIC RIGHT OF WAY.
14. MINIMUM COVER OVER UTILITIES IS GOVERNED BY THE CALIFORNIA PUBLIC UTILITIES COMMISSION. UTILITY OWNERS SHALL CONSIDER PLACING THEIR UTILITY LINE AT A GREATER DEPTH TO AVOID FUTURE RELOCATION DUE TO STREET/ROAD RECONSTRUCTION. THE INCREASED DEPTH SHOULD INCLUDE SUFFICIENT CLEARANCE BETWEEN THE UTILITY AND PAVEMENT STRUCTURAL SECTION UPGRADE TO PREVENT DAMAGE BY CONSTRUCTION EQUIPMENT. THE PUBLIC WORKS DEPARTMENT RECOMMENDS A MINIMUM OF 36 INCHES OF COVER BELOW THE PAVEMENT SURFACE IN ROADWAYS AND 24 INCHES BELOW FINISH GRADE IN SIDEWALKS AND OTHER PUBLIC RIGHT OF WAY.
15. RESTORATION OF THE TRENCH EXCAVATION ON CALTRANS RIGHT OF WAY (SAN PABLO AVE., ASHBY AVE., AND TUNNEL RD.) SHALL BE IN ACCORDANCE WITH CALTRANS ENCROACHMENT PERMIT.
16. RESTORE PAVEMENT AS FOLLOWS: FOR TRENCHES PARALLEL WITH THE CENTERLINE OF THE STREET, COLD PLANE AND REPAVE THE LANE IN WHICH THE TRENCH LIES. FOR TRANSVERSE TRENCHES, COLD PLANE AND REPAVE 1/2 LANE WIDTH ON EACH SIDE OF THE TRENCH. FOR BELL HOLES, COLD GRIND AND PAVE 1 LANE WIDTH ON EACH SIDE OF THE EXCAVATION. PRIOR TO COLD PLANING, THE TRENCH SHALL BE PAVED IN 3 INCH MAXIMUM LIFTS TO THE ORIGINAL SURFACE GRADES, TO WITHIN 1 1/2 INCHES OF THE EXISTING SURFACE. THE FINAL LIFT SHALL BE PLACED TO WITHIN 1 1/2 INCHES OF THE EXISTING SURFACE. THE REMAINING 1 1/2 INCHES MUST BE PAVED WITH HOT MIX ASPHALT (SEE NOTE 10) AND THE SURFACE IS PLANED. FINAL PAVING SHALL COMMENCE WITHIN 3 DAYS AFTER COLD GRINDING. ALL LOOSE MATERIAL SHALL BE REMOVED FROM THE AREA TO BE REPAVED PRIOR TO REPAVING.
17. BEDDING MATERIAL SHALL BE CLASS 2 AB OR CRUSHED ROCK PER 2015 GREENBOOK, TABLE 200-1.2.1(A), 3/4" SIEVE SIZE. ALTERNATIVE MATERIALS SHALL BE APPROVED BY THE PUBLIC WORKS DEPARTMENT. IN NO CASE SHALL "PEA" GRAVEL BE ALLOWED. A MAXIMUM OF 6 INCHES OF SAND MAY BE USED AS A BEDDING MATERIAL FOR COMMUNICATION, GAS AND ELECTRIC CONDUITS ONLY.
18. FOR GAS, ELECTRIC AND COMMUNICATION CONDUITS WITH AN OUTSIDE DIAMETER EQUAL TO OR LESS THAN 4 INCHES, THE TRENCH WIDTH MAY BE REDUCED TO NO LESS THAN 12 INCHES.
19. UNSUITABLE NATIVE MATERIAL SHALL BE EXCAVATED BELOW THE LIMIT OF EXCAVATION AND REPLACED WITH SUITABLE BACKFILL MATERIAL WHEN DIRECTED BY THE PUBLIC WORKS DEPARTMENT.
20. WHERE THE TRENCH PARALLELS CURB AND THE NEAREST TRENCH LINE IS LESS THAN 3 FEET FROM THE GUTTER LIP, ALL EXISTING HMA SHALL BE REPLACED TO THE GUTTER LIP.
21. SLURRY CEMENT BACKFILL SHALL COMPLY WITH SECTION 19-3.02E OF THE CALIFORNIA DEPARTMENT OF TRANSPORTATION'S STANDARD SPECIFICATIONS.
22. APPLY PAINT BINDER (TACK COAT) TO ALL EXISTING AC AND CONCRETE SURFACES IN ACCORDANCE WITH THE LATEST EDITION OF CALIFORNIA DEPARTMENT OF TRANSPORTATION'S STANDARD SPECIFICATIONS.

CITY OF BERKELEY DEPARTMENT OF PUBLIC WORKS			STANDARD DETAIL TRENCH EXCAVATION AND SURFACE RESTORATION	
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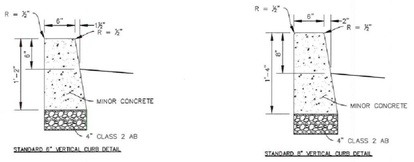

NOTE:
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STANDARD DETAIL VERTICAL CONCRETE CURB			CITY OF BERKELEY DEPARTMENT OF PUBLIC WORKS	
SUBMITTED: Dan Zeby SUPERVISING CIVIL ENGINEER	DATE: 2/27/17 R.C.E. 64582	DESIGN: HEI DRAWN: HEI CHECK: MS	DATE: 01/26/17 SCALE: N.T.S. BOOK:	PLAN: 8146 FILE: 208-158 SHEET: 1 OF 1
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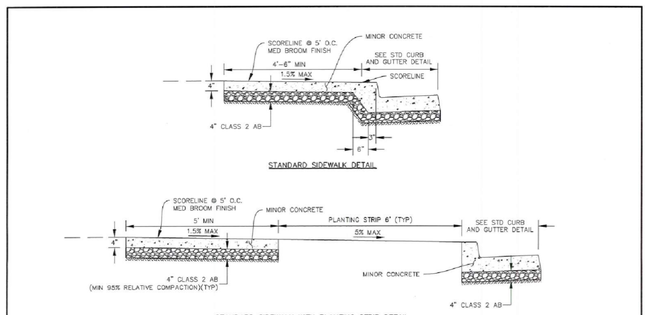

NOTE:
1. FOR ADDITIONAL REQUIREMENTS, SEE PLAN 8144, "CONCRETE WORK NOTES."

STANDARD DETAIL SIDEWALK			CITY OF BERKELEY DEPARTMENT OF PUBLIC WORKS	
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CONSTRUCTION DETAILS

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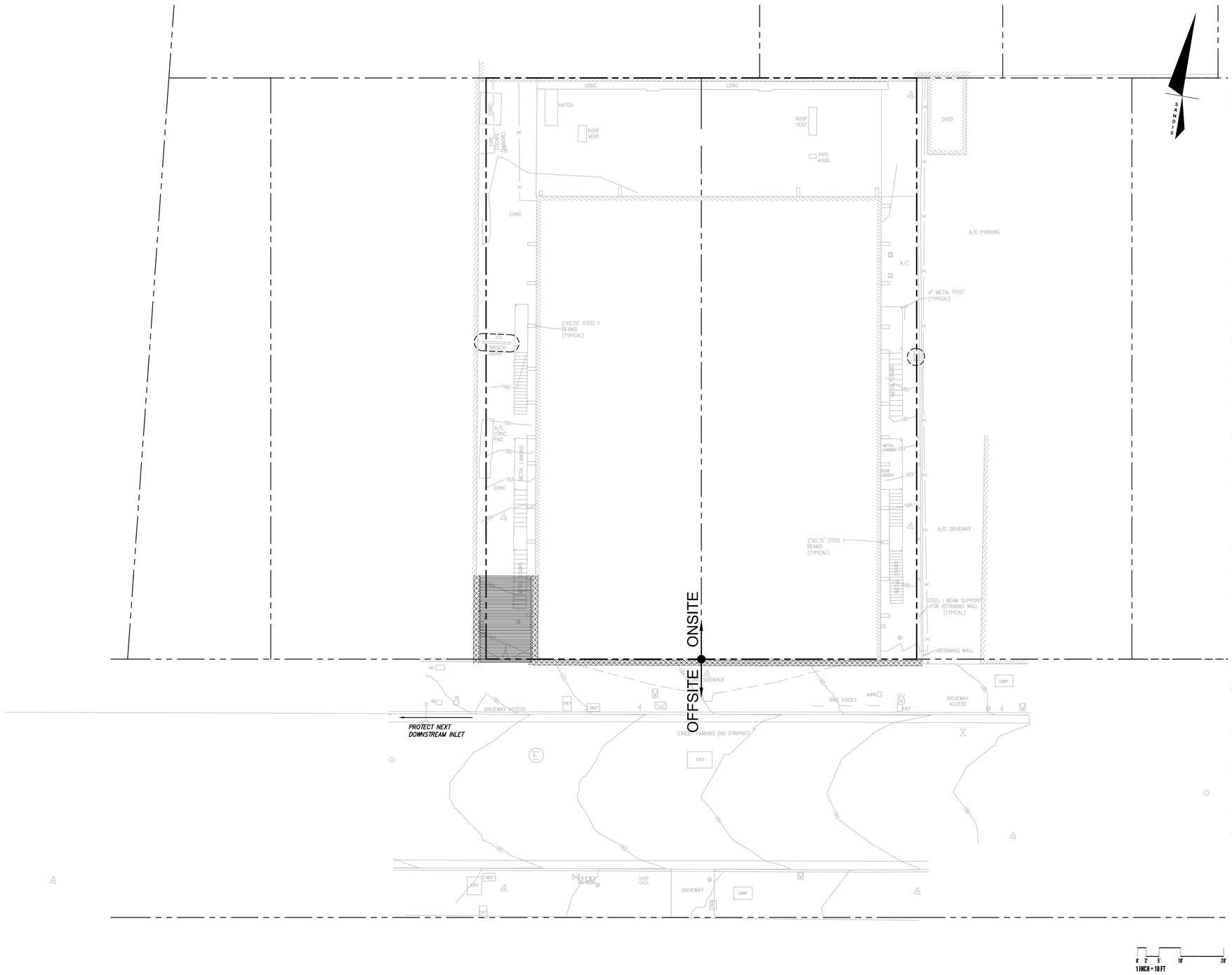

LEGEND

STABILIZED EXIT (4)

FIBER ROLL (3)

INLET PROTECTION (1) (2)

WATER POLLUTION CONTROL NOTES:

A. *THIS PLAN IS FOR STORMWATER POLLUTION CONTROL DURING CONSTRUCTION IF NO SWPPP IS REQUIRED. IF A SWPPP FOR THE PROJECT HAS BEEN ISSUED THE PROJECT SWPPP OVERRIDES ANYTHING SHOWN ON THIS PLAN.*

B. *TEMPORARY CONSTRUCTION ENTRANCE/EXIT LOCATION SHOWN IS APPROXIMATE. CONTRACTOR TO PROVIDE LOCATION WHERE APPROPRIATE.*

C. *THIS PLAN REPRESENTS POSSIBLE WATER POLLUTION CONTROL MEASURES INCLUDING EROSION CONTROL AND SEDIMENT CONTROL.*

D. *EXISTING SURFACES SHALL BE UNDISTURBED TO THE EXTENT PRACTICAL.*

E. *GROUND WATER SHALL NOT BE DISCHARGED WITH STORM WATER. GROUND WATER DEWATERING OPERATIONS SHALL BE COORDINATED AS NEEDED WITH OWNER.*

F. *CONTRACTOR SHALL PROVIDE EFFECTIVE SOIL COVER FOR AREAS OF CONSTRUCTION ACTIVITY THAT HAVE BEEN DISTURBED AND ARE NOT SCHEDULED TO BE ACTIVE FOR AT LEAST 14 DAYS.*

G. *ALL EROSION CONTROL AND SEDIMENT CONTROLS TO BE OBTAINED INSTALLED AND MAINTAINED AS REQUIRED IN PROJECT SWPPP.*

H. *CONTRACTOR TO INSTALL RUN-ON AND RUN-OFF CONTROL MEASURES ACCORDING TO PLANS OR AS NECESSARY TO ENSURE SEDIMENT IS NOT TRANSPORTED FROM SITE.*

I. *CONTRACTOR TO PROVIDE BACK-UP EROSION PREVENTION MEASURES (SOIL STABILIZATION) WITH SEDIMENT CONTROL MEASURES SUCH AS STRAW WATTLES, SILT FENCE, GRAVEL INLET FILTERS, AND/OR SEDIMENT TRAPS OR BASINS. ENSURE CONTROL MEASURES ARE ADEQUATE, IN PLACE, AND IN OPERABLE CONDITIONS. SEDIMENT CONTROLS, INCLUDING INLET PROTECTION, ARE NECESSARY BUT SHOULD BE A SECONDARY DEFENSE BEHIND GOOD EROSION CONTROL MEASURES.*

J. *STOCKPILE LOCATION(S) TO BE DETERMINED BY THE CONTRACTOR. COORDINATE WITH SITE QSP.*

K. *ALL CONCRETE TRUCKS TO USE CHUTE WASH BUCKETS FOR CONCRETE RINSE, ALL CONCRETE PUMPS TO CAPTURE CONCRETE RINSE IN SECONDARY CONTAINMENT AND PROPERLY DISPOSE.*

L. *STREET SWEEPING SHALL BE CHECKED DAILY TO ENSURE DEPOSITED SEDIMENT AND DEBRIS DOES NOT ENTER THE STORM DRAIN SYSTEM. USE REGENERATIVE VACUUM STREET CLEANER TO MITIGATE AIR AND WATER POLLUTION.*

M. *RUNOFF THAT HAS CONTACTED AMENDED SOIL AREAS SHALL NOT BE ALLOWED TO LEAVE THE SITE OR ENTER THE STORM DRAIN SYSTEM.*

PROJECT SITE MAINTENANCE

1. *REMOVE ALL DIRT, GRAVEL, RUBBISH, REFUSE, AND GREEN WASTE FROM STREET PAVEMENT AND STORM DRAINS ADJOINING THE SITE. LIMIT CONSTRUCTION ACCESS ROUTES ONTO THE SITE AND PLACE GRAVEL PADS AT THESE LOCATIONS. DO NOT DRIVE VEHICLES AND EQUIPMENT OFF THE PAVED OR GRAVELED AREAS DURING WET WEATHER.*

2. *SWEEP OR VACUUM THE STREET PAVEMENT AND SIDEWALKS ADJOINING THE PROJECT SITE AND THE ON-SITE PAVED AREAS ON A DAILY BASIS. SCRAPE CAKED-ON MUD AND DIRT FROM THESE AREAS BEFORE SWEEPING. CORNERS AND HARD TO REACH AREAS SHALL BE SWEPT MANUALLY.*

3. *CREATE A CONTAINED AND COVERED AREA ON THE SITE FOR THE STORAGE OF BAGS, CEMENT, PAINTS, OILS, FERTILIZERS, PESTICIDES, OR OTHER MATERIALS USED ON THE SITE THAT HAVE THE POTENTIAL OF BEING DISCHARGED INTO THE STORM DRAIN SYSTEM THROUGH EITHER BEING WIND-BLOWN OR IN THE EVENT OF A MATERIAL SPILL.*

4. *NEVER CLEAN MACHINERY, EQUIPMENT OR TOOLS INTO A STREET, GUTTER OR STORM DRAIN.*

5. *ENSURE THAT CEMENT TRUCKS, PAINTERS, OR STUCCO/PLASTER FINISHING CONTRACTORS DO NOT DISCHARGE WASH WATER FROM EQUIPMENT, TOOLS OR RINSE CONTAINERS INTO GUTTERS OR DRAINS.*

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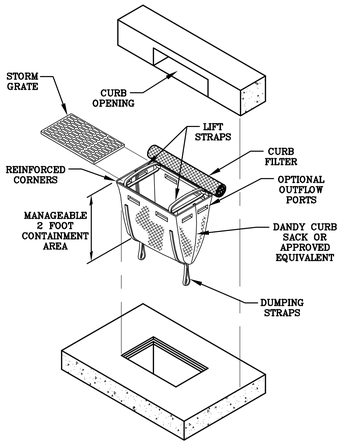
WATER POLLUTION CONTROL DRAWING

C600



NOTES:

1. PLACE CURB TYPE SEDIMENT BARRIERS ON GENTLY SLOPING STREET SEGMENTS, WHERE WATER CAN POND AND ALLOW SEDIMENT TO SEPARATE FROM RUNOFF.
2. INSPECT BARRIERS AND REMOVE SEDIMENT AFTER EACH STORM EVENT. SEDIMENT AND GRAVEL MUST BE REMOVED FROM THE TRAVELED WAY IMMEDIATELY.

DETAIL 1

CURB INLET SEDIMENT SACK

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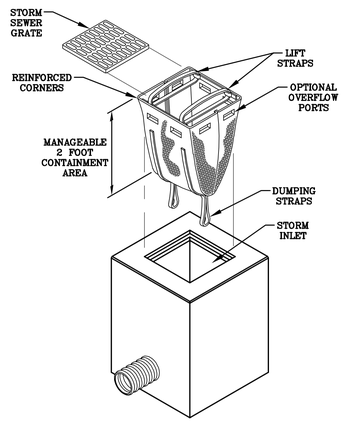


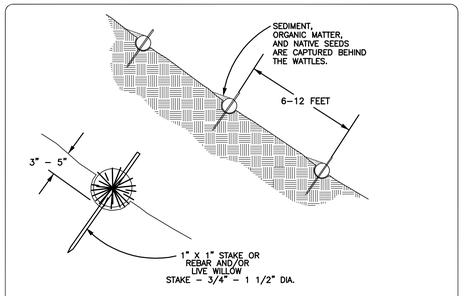
NOTES:

1. DROP INLET SEDIMENT BARRIERS ARE TO BE USED FOR SMALL, NEARLY LEVEL DRAINAGE AREAS. (LESS THAN 5%)
2. EXCAVATE A BASIN OF SUFFICIENT SIZE ADJACENT TO THE DROP INLET.
3. THE TOP OF THE STRUCTURE (PONDING HEIGHT) MUST BE WELL BELOW THE GROUND ELEVATION DOWNSLOPE TO PREVENT RUNOFF FROM BY– PASSING THE INLET. A TEMPORARY DIKE MAY BE NECESSARY ON THE DOWNSLOPE SIDE OF THE STRUCTURE.

DETAIL 2

DROP INLET SEDIMENT BARRIER

© DANDY CURB SACK



NOTE:

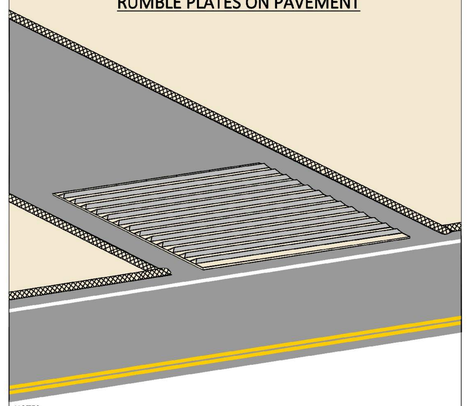
1. STRAW WATTLES ARE TUBES MADE FROM STRAW BOUND NETTING. THEY ARE APPROX. 8" DIA. AND 20 – 30 FT. LONG.
2. STRAW WATTLES TRAP SEDIMENT AND REDUCE SHEET & RILL EROSION BY REDUCING SLOPE GRADIENT, INCREASING INFILTRATION RATES AND BY PRODUCING A FAVORABLE ENVIRONMENT FOR PLANT ESTABLISHMENT.
3. STRAW WATTLE INSTALLATION REQUIRES THE PLACEMENT AND SECURE STAKING OF THE WATTLE IN A TRENCH, 3" – 5" DEEP, DUG ON CONTOUR. RUNOFF MUST NOT BE ALLOWED TO RUN UNDER OR AROUND WATTLE.

DETAIL 3

STRAW WATTLES

© 1991 JOHN MACCLEAN

RUMBLE PLATES ON PAVEMENT



NOTES:

1. USE CORRUGATED STEEL PLATES ON PAVEMENT TO PROVIDE A STABILIZED ENTRANCE AND EXIT FOR VEHICLES.
2. CLEAN PLATES REGULARLY TO MAINTAIN EFFECTIVENESS.
3. MAINTAIN DUST CONTROL AND IMPLEMENT STREET SWEEPING AND VACUUMING AS NEEDED.

DETAIL 4

RUMBLE PLATES ON PAVEMENT

File Pathxrefdesk Done://2115 Kittredge/20230223_KITTREDGE
Printed: Sep 07, 2023 8:30:07 AM
Plotted: Sep 07, 2023 8:30:07 AM
Plotted by: Nicholas Chandler
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SANDIS
BUILD ON.
SANDIS.NET

Civil Engineers | Surveyors | Planners
636 9th Street
Oakland, CA 94607
sandis.net
510.873.8866

Sandis Project Number	622032
Contact	Michael Kuykendall
Email	mkuykendall@sandis.net
Principal	Michael Kuykendall
Designer	Nicholas Chandler

Gilbane

Developer
Gilbane Development Company
649 Mission Street
5th Floor
San Francisco, CA
94105 gilbaneco.com

2115 KITTREDGE ST.

BERKELEY, CA 94704

No.	DATE	DESCRIPTION
	8/28/2023	100% DD Set

Client is responsible for notifying architect in writing for any discovered errors or omissions in the plans and specifications during construction of the project. Failure for Client to notify Architect of any known errors or omissions in the plans or specifications, and proceeding with constructing the portion of work shown in the plans or specifications containing known errors or omissions shall be a waiver by Client for any liability of Architect for such known errors or omissions. Client releases Architect for any liability for such portions of work, and Architect shall not be liable for any delay damages, change orders, repair costs, removal or demolition costs, or replacement of any such portions of work.

WATER POLLUTION CONTROL DETAILS

C601

Bay-Friendly Basics Landscape Checklist

This Bay-Friendly Basics Checklist is for all new construction and renovation of landscapes that are 2,500 square feet of irrigated area or greater and require a permit. The Bay-Friendly Basics represents the 9 required practices from the Bay-Friendly Landscape Scorecard. It is considered a minimum set of practices to improve the environmental performance of the landscape. Projects are recommended to to meet all applicable measures on the checklist. For measures that are not applicable or are not in the project's scope of work, check "N/A" and make a note of why the measure does not apply to the project (attach additional sheets if necessary). For electronic copies of this checklist, and other Bay-Friendly Landscaping resources, visit: www.BayFriendly.org

Project: 2115 Kittredge Street

Address: Berkeley, CA **Date:** 9/23/22

Earthwork & Soil Health

Yes	No	N/A	Measure & Requirement	Documentation	Notes
☑	☐	☐	**1. Mulch** **Requirement** All soil on site is protected with a minimum of 3 inches of mulch after construction. **Recomendation** Use recycled or greenwaste mulch instead of landscape fabric. Trees identified for removal are chipped and used on site as mulch, on-site storage space permitting. **Reference** *Bay-Friendly Landscape Guidelines,* Practice 4.1; *Bay-Friendly Guide to Mulch*, available at www.BayFriendly.org. Provides sources of recycled mulch and proper application of mulch and information on sheet mulching.	• Submit square footage of planting areas as well as cubic yards required to cover planting areas to a minimum three-inch (3") depth. • Submit a delivery ticket or receipt of purchased mulch and/or, • Submit receipts for sheet mulching materials and/or, • (Optional) Submit photos of trees being chipped for mulch (if applicable).	See L2.00 for SF of planting areas and CY of mulch. Remaining information to be submitted during construction.
☑	☐	☐	**2. Amend the Soil with Compost Before Planting** **Requirement** Compost is specified as the soil amendment, at the rates indicated by a soil analysis to bring the soil organic matter content to a minimum of 3.5% by dry weight or 1 inch of compost. If the imported or site soil meets the organic content of 3.5% or more, then the requirement is waived. **Recommendation** Purchase compost from a producer who participates in the U.S. Composting Council's Standard Testing Assurance(STA) program to ensure quality. **Reference** *Bay-Friendly Landscape Guidelines,* Practice 4.1; Model Bay-Friendly Soil specifications, at www.BayFriendly.org; U.S. Composting Council Standard Testing Assurance program explanation and list of participating producers can be found at: www.compostingcouncil.org	• Submit the site soil or imported topsoil analysis. No soils analysis is required if 1" of compost is used. • Submit+H35 compost details from construction documents. • Submit the receipt or delivery ticket for the compost, indicating the amount of the compost delivered/purchased. *If a waiver is requested based on soil organic matter content or the needs of plant palette,* • Submit a completed plant palette with species that need little/no soil organic matter identified, and include the source of information on their soil needs OR • Submit a soils report that indicates the soil has an organic matter content of 3.5% or greater.	Soil analysis to be submitted with building permit application.

Bay-Friendly Basics Landscape Checklist

Yes	No	N/A	Measure & Requirement	Documentation	Notes

Materials

☑	☐	☐	**3. Reduce and Recycle Landscape Construction Waste** **Requirement** Divert 50% of landscape construction and demolition waste by weight. Verify the local jurisdiction's minimum requirement and reporting procedures for construction and demolition (C&D) recycling. **Reference:** StopWaste.Org, *Builders' Guide to Reuse & Recycling: A Directory for Construction and Demolition Materials* and sample Waste Management Plan for recycling C&D materials at www.BuildGreenNow.Org.	• State the percent diversion goal in the design documents. • List specific goals and recycling and reuse requirements in plans and specifications. • Require contractors to review the waste management plan with subcontractors and to include contract language requiring subcontractors comply with the plan. • Prior to construction, complete a construction waste management plan. The City should provide a smaple template, or one can be downloaded at www.BuildGreenNow.org. • After construction, provide final waste management plan with backup documentation. If materials were sent to a C&D Recycling facility, apply a facility average diversion rate because not all materials can be recycled. Most large C&D facilities have a calculated diversion rate and can provide you with documentation stating the percentage of materials recycled at that facility (typically 50% to 90%).	Percent diversion to be included in project specifications.

Planting

☑	☐	☐	**4. Choose & Locate Plants to Grow to Natural Size** **Requirement** Species will be selected and plants spaced to allow them to grow to their natural size and shape. Pruning for structural integrity and health of plant is permitted. In addition, plants located in a row or adjacent to buildings, sidewalks or roads will be spaced between their minimum and maximum mature plant spread according to a published reference plant book and still fit into their planting area without significant overhang. Trees must meet the spacing requirements only when adjacent to buildings, in a row or other adjacent to other vertical obstructions. Vines are not subject to spacing requirements. **Reference** *Bay-Friendly Landscape Guidelines* , Practices 2.1, Bay-Friendly Plant lists are available at www.BayFriendly.org; Bronsetin,Carol, David Fross and Bart O'Brien, *California Native Plants for the Garden;* East Bay Municipal Utility District, *Plants and Landscapes for Summer Dry Climates;* Sunset,*Western Garden Book.*	• Submit plant legend indicating plant species, spacing and mature spread of plant. Indicate the source of information on spacing and spread. • Submit a statement signed by the Landscape Architect, Designer or Contractor verifying that installed plants meet this requirement.	Signed statement to be provided upon completion of construction.

Bay-Friendly Basics Landscape Checklist

Yes	No	N/A	Measure & Requirement	Documentation	Notes
☑	☐	☐	**5. Do Not Plant Invasive Plant Species** **Requirement** None of the plant species listed by CAL-IPC's Don't Plant a Pest as invasive in the San-Francisco, Bay Area are included in the planting plan. **Definition** An invasive speices is defined as a species that is non-native (or alien) to the ecosystem under consideration and whose introduction causes or is likeley to cause economic or environmental harm or harm to human health. Federal Executive Order 1311. **Reference** Bay-Friendly Landscape Guielines, Practice 2.1d; Don't Plant A Pestbrochures for trees and plants available at www.cal-ipc.org; www.cal-ipc.org/ip/inventory/weedlist.php.	• Compare the complete list of plants in the plant palette to the Cal-IPC list of plants that are invasive to the San Francisco Bay-Area. • Submit the complete plant palette. • Submit a statement signed by the Landscape Architect, Designer or Contractor confirming that no invasive species were substituted for specified species.	Signed statement to be provided upon completion of construction.
☑	☐	☐	**6. Grow drought tolerant CA native, Mediterranean or climate adapted plants** **Requirement** A minimum of 75% of the total number of plants in non-turf areas must be species that require no or little summer watering once established. Species should be adapted to the climate in which they will be planted, as referenced by a published plant reference. If plants are given a range of water needs from "occasional to moderate" for example, the landscape designer must determine if the plant will require either occasional or moderate watering based on site, soil, and climate conditions and categorize the plant appropriately. **Recommendation** California native or Mediterranean species are strongly recommended. **Reference** *Bay-Friendly Landscape Guidelines* Practice 4.2; www.owue.water.ca.gov/docs/wucols00.pdf.	• Submit a plant legend that identifies species, number of plants, irrigation requirements (and reference source of the water requirement), total number of drought tolerant plants and total number of non-turf plants. (download a Bay-Friendly plant legend template to facilitate this process at www.BayFriendly.org). • Submit a statement signed by the Landscape Architect, Designer or Contractor verifying that installed plants meet this requirement.	Bay Friendly plant legend is included in drawing set. Signed statement to be provided upon completion of construction.

Bay-Friendly Basics Landscape Checklist

Yes	No	N/A	Measure & Requirement	Documentation	Notes
☐	☐	☒	**7. Minimize the lawn** **Requirement** A maximum of 25% of total irrigated area is specified as turf, with sports or multiple use fields exempted. **Reference** *Bay-Friendly Landscape Guidelines,* Practice 4.3; Bay-Friendly Lawn Alternatives plant list at www.BayFriendly.org; Brooklyn Botanic Garden Publications, *Easy Lawns, Low Maintenance Native Grasses for Gardeners Everywhere.*	• Submit calculations of square feet of turf, excluding sports and multiple use fields, and square feet of total irrigated area. • Submit planting plans with sports and multiple use fields identified. Include a statement about the purpose of multiple use fields. • Submit as statement signed by the Landscape Architect, Designer or Contractor that installed turf meets the requirements for this credit.	No turf included in project.

Irrigation

☑	☐	☐	**8. Specify Weather-Based Irrigation Controllers (automatic, self-adjusting)** that Includes a Moisture &/or Rain Sensor Shutoff **Requirement** Weather-based irrigation controllers, soil moisture based controllers or other self-adjusting irrigation controllers, shall be required for all irrigation systems. **Reference** *Bay-Friendly Landscape Guidelines* , Practice 4.6; EBMUD website has a list of recommended self adjusting controllers at www.ebmud.com.	• Submit the make and model and product sheet of the irrigation controller. • Provide a statement signed by the Landscape Architect, Designer or Contractor that the installed controller is a self-adjusting model and includes shut off capacity.	See sheet L3.04 Signed statement to be provided upon completion of construction.
☑	☐	☐	**9. Sprinkler & Spray Heads are Not Specified for Areas Less Than 8 Feet Wide** **Requirement** Sprinkler and spray heads are not specified in areas less than or equal to 8 feet wide to prevent overspray and runoff. Acceptable alternatives include drip, subsurface drip, bubblers or no irrigation. Bubblers shall not exceed 1.5 gallons per minute per bubbler.	• Submit statement signed by the Landscape Architect, Designer or Contractor verifying that irrigation as installed does not have sprinkler or spray heads in planted areas less than 8 feet wide.	See sheet L3.04 Signed statement to be provided upon completion of construction.

Bay-Friendly Basics: Bay-Friendly Basics represents the 9 required practices in the Bay-Friendly Landscape Scorecard. Landscapes that achieve the Bay-Friendly Basics will achieve significant environmental benefits for the project and community as well as taking the first step toward becoming a Bay-Friendly Rated Landscape. If a project is interested in seeking to qualify as a Bay-Friendly Rated Landscape, it must also earn a minimum of 60 points on the Bay-Friendly Landscape Scorecard and be evaluated by a qualified Bay-Friendly Rater. Please visit www.BayFriendlyCoalition.org to learn more about taking this next step in sustainability. The Bay-Friendly Basics is not a substitute for exercising sound judgment in particular circumstances. Rather, the Bay-Friendly Basics is designed to help local governments raise the minimum environmental requirements for landscape projects that require a permit.

This checklist works well with the Small Commercial Green Building Checklist available at www.stopwaste.org/smallcommercial.

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BERKELEY, CA

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ENTITLEMENTS PHASE

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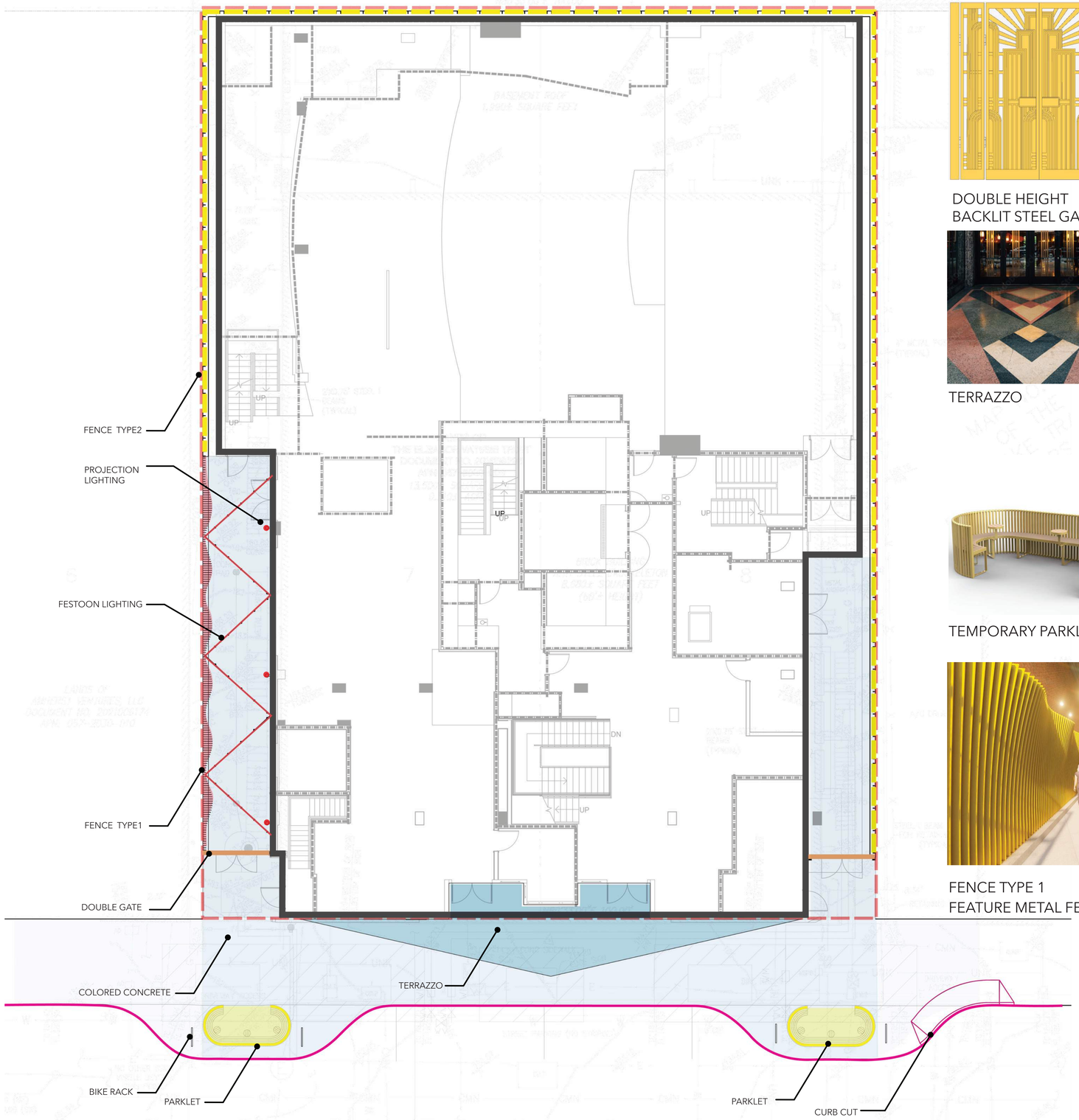
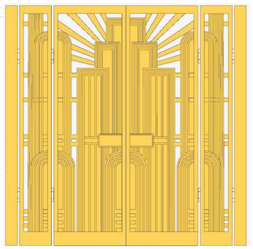
ISSUE DATE: 10/18/23

CAL GREEN CHECKLIST

L100



OPEN SPACE: 2 953 SQUARE FEET

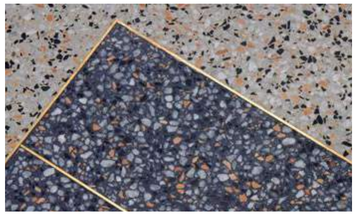


DOUBLE HEIGHT BACKLIT STEEL GATE

FESTOON LIGHTING

PROJECTION LIGHTING

TERRAZZO

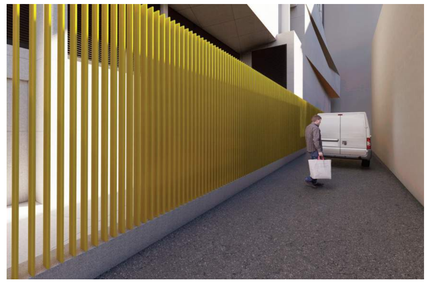


TERRAZZO BRASS JOINT

COLORED CONCRETE WITH DECORATIVE SCORING AND SILICA CARBIDE

TEMPORARY PARKLET WITH WOOD SEATING

FENCE TYPE 1
FEATURE METAL FENCE " THE CURTAIN"



FENCE TYPE 2
STANDARD METAL FENCE

NOTES:

MAX. 1.5% CROSS SLOPE AT ALL PAVED AREAS.

N

SCALE 1/8"=1'-0"

0 4 8 12

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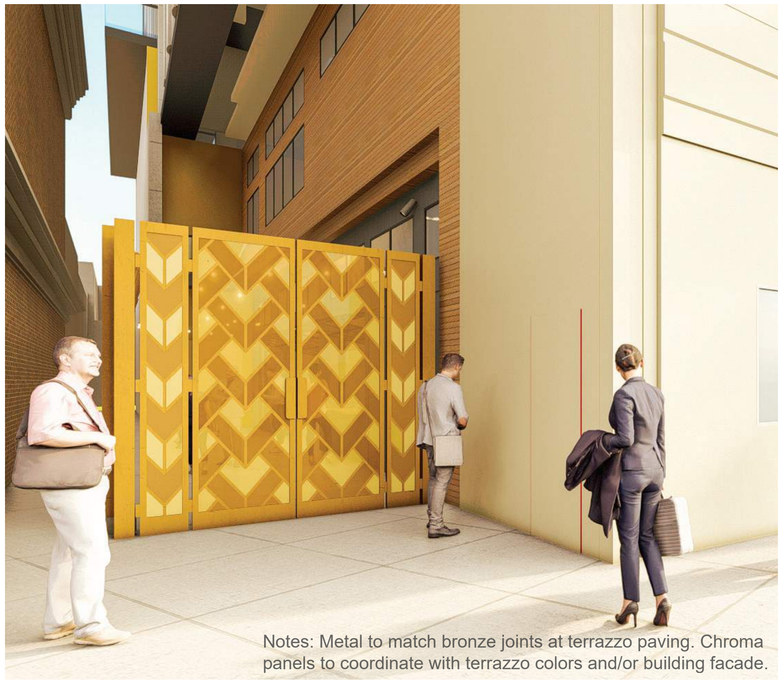
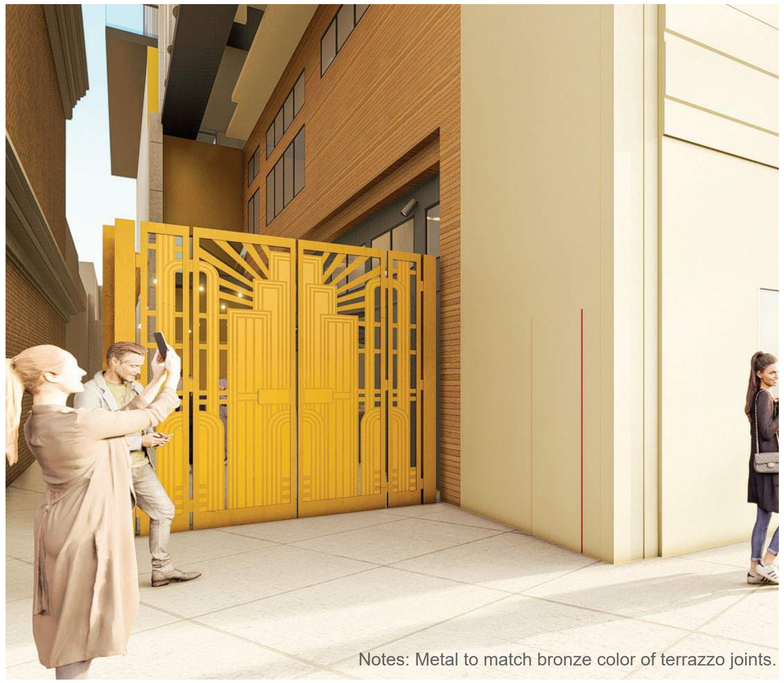
GROUND FLOOR PLANS

L101



GATE ALTERNATIVE DESIGN
METAL FRAME + COLOR PRINT CHROMA



GATE ALTERNATIVE DESIGN
METAL FRAME +LASER CUT METAL SHEET

PARKLET ALTERNATIVE DESIGN
METAL TUBE FRAME + METAL DECORATIVE PANEL

PARKLET ALTERNATIVE DESIGN
METAL FRAME + WOOD

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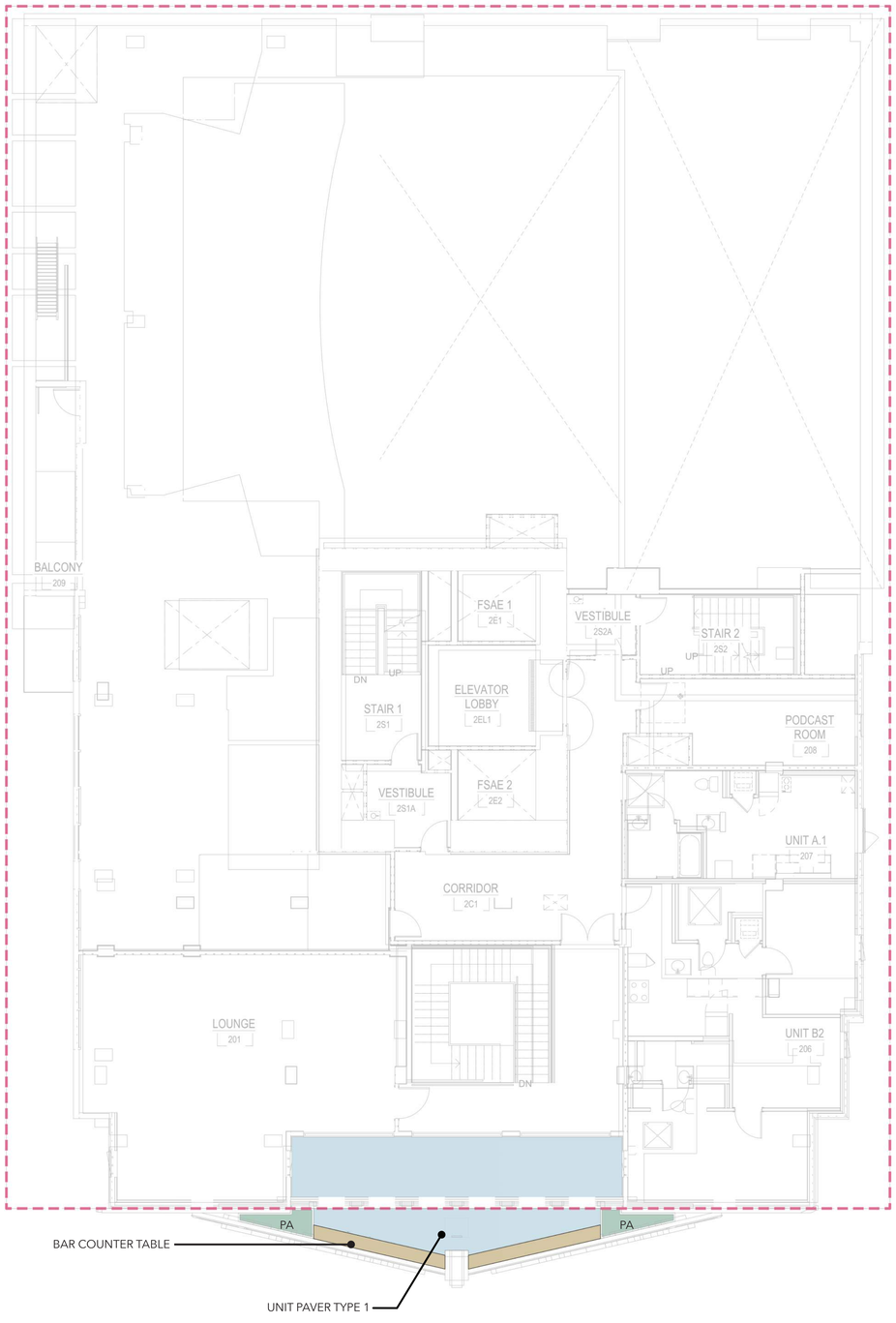
FEATURE ALTERNATIVE DESIGN OPTIONS

L101.1



TERRAZZO BAR TABLE

UNIT PAVER

OPEN SPACE: 360 SQUARE FEET
PLANTING AREA: 28 SQUARE FEET

N

SCALE 1/8"=1'-0"

0 4 8 12

studioKDA

GWO

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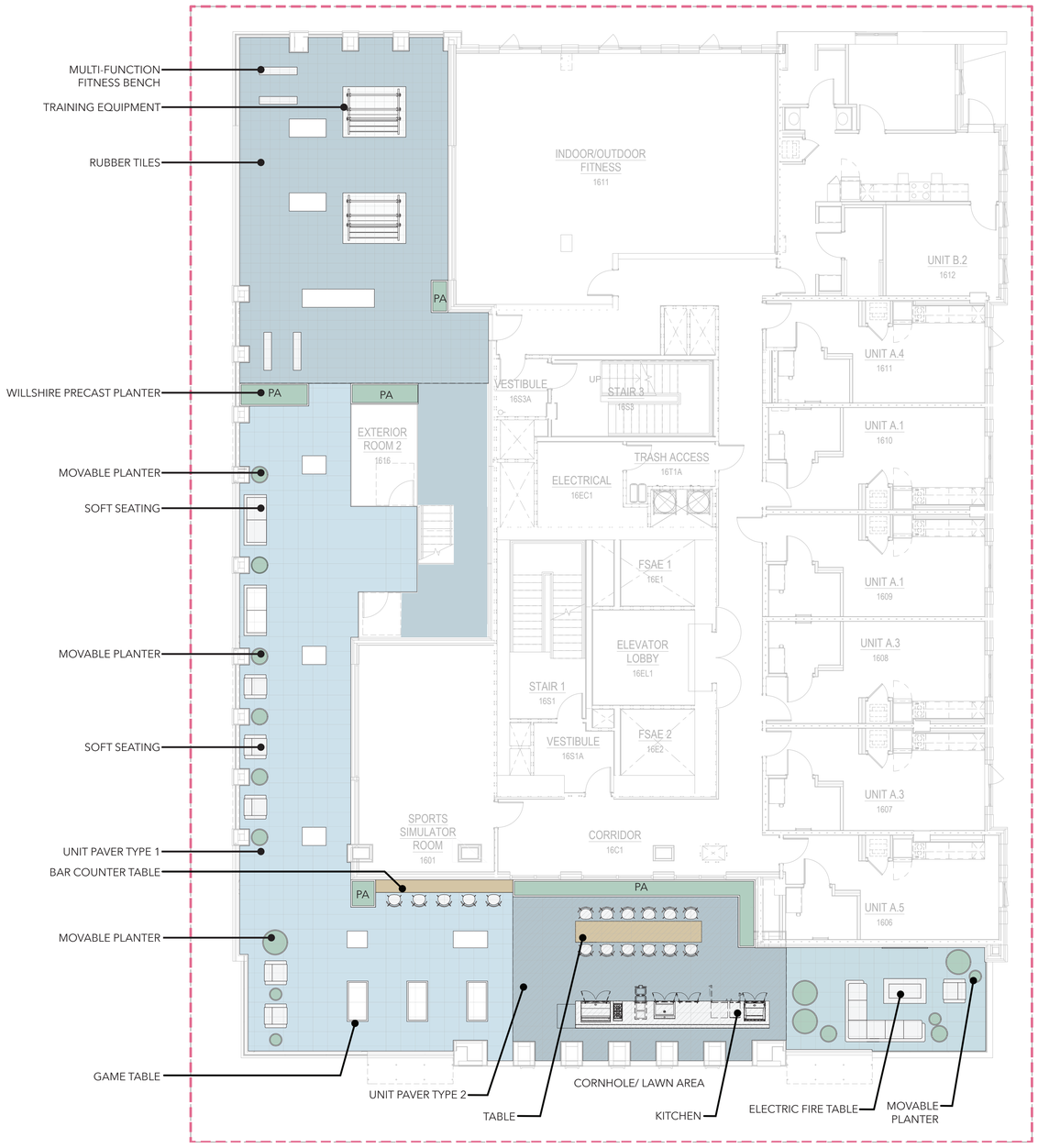
2ND FLOOR PLANS

L102



OPEN SPACE: 3 568 SQUARE FEET
PLANTING AREA: 163 SQUARE FEET

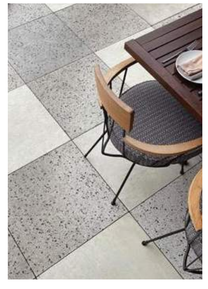
HIIT

CROSSFIT

FOOS BALL

FIRE PIT

KITCHEN ISLAND



UNIT PAVER

CORNHOLE

N

SCALE 1/8"=1'-0"

0 4 8 12

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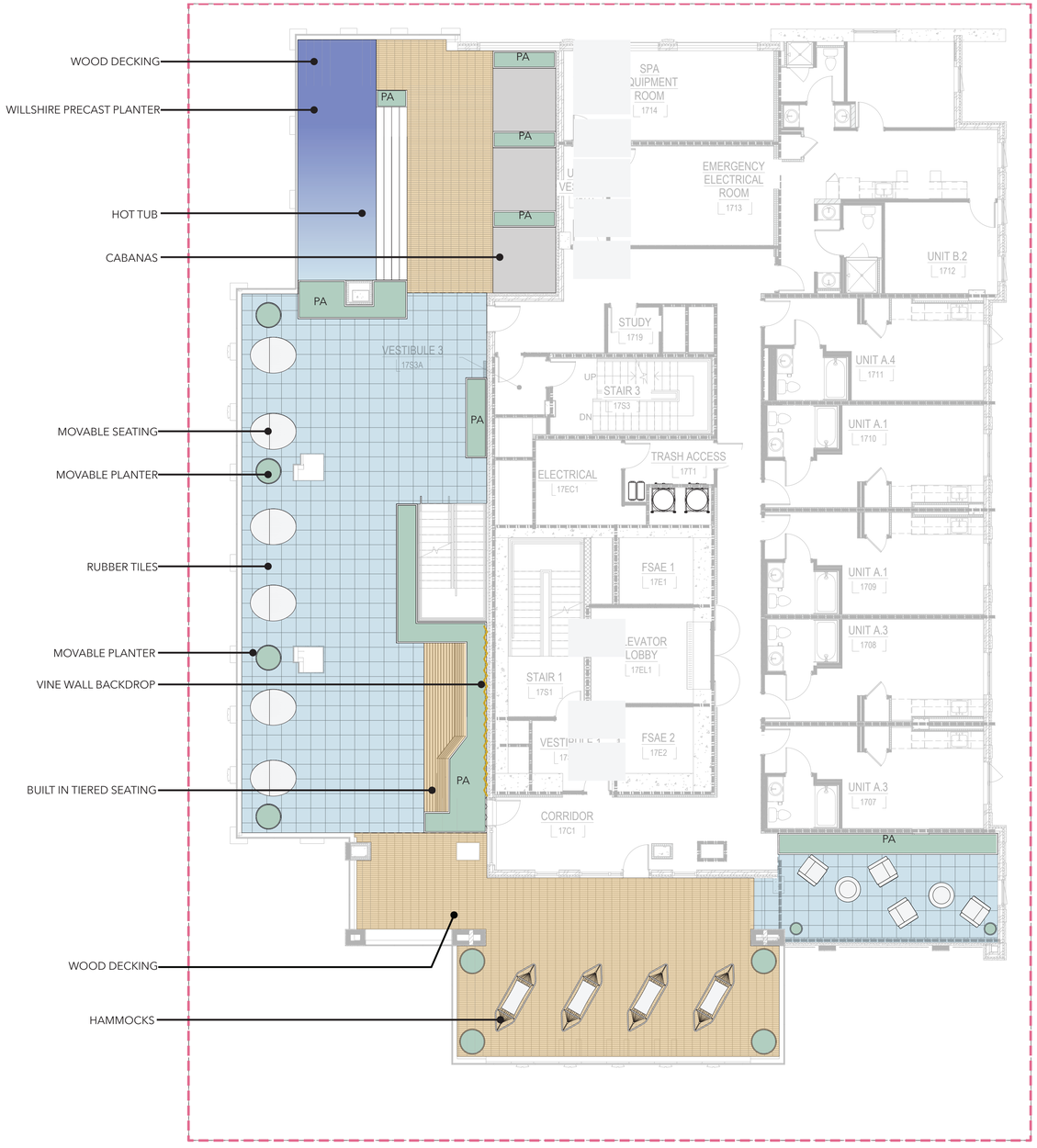
16 TH FLOOR PLANS

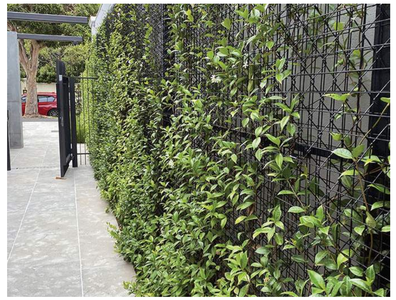
L103



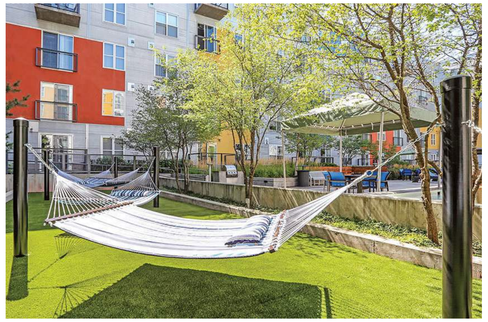
OPEN SPACE: 3437 SQUARE FEET
PLANTING AREA: 441 SQUARE FEET

POOL WITH VIEW

SHADED LOUNGE AREAS



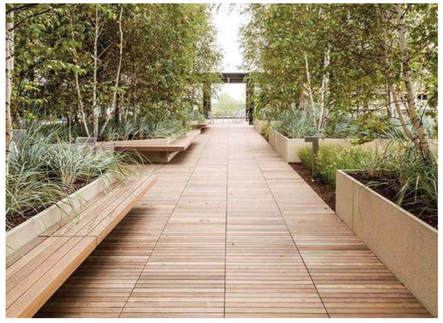
VINE WALL



HAMMOCKS

MOVEABLE SEATING

BUILT IN TIERED SEATING



WOOD DECK ON PEDESTAL

N

SCALE 1/8"=1'-0"

0 4 8 12

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GWD

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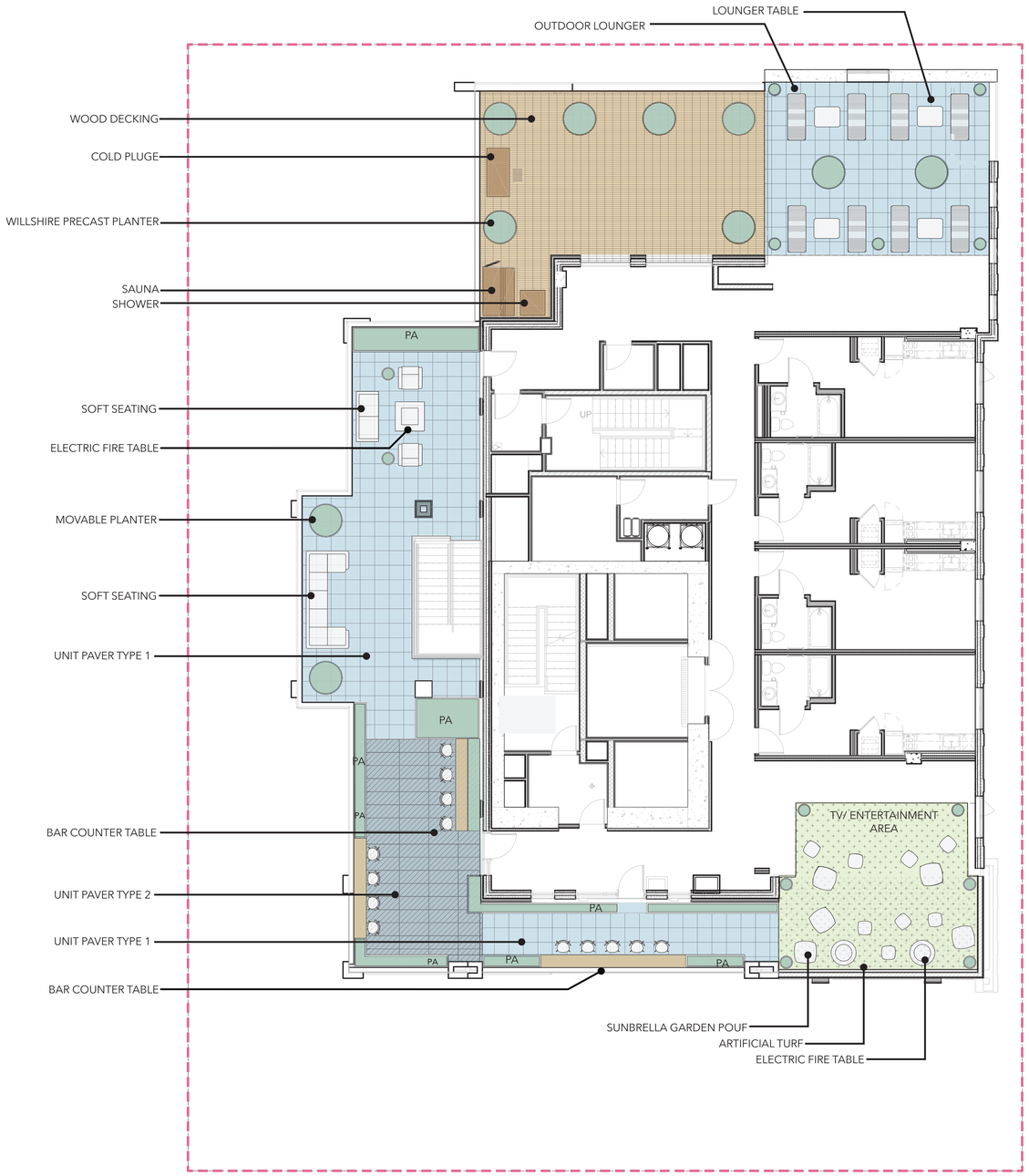
17 TH FLOOR PLANS

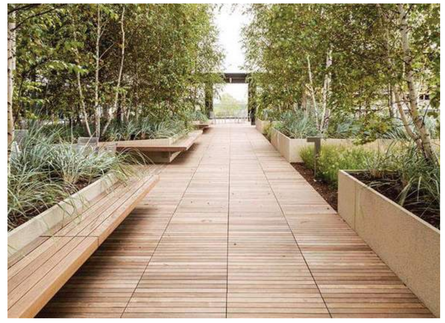
L104



OPEN SPACE: 2 213 SQUARE FEET
PLANTING AREA: 278 SQUARE FEET

TV/ ENTERTAINMENT AREA

MOVEABLE SEATING

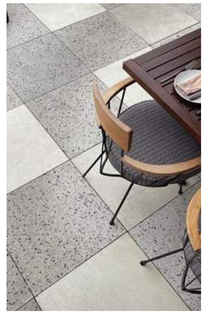


WOOD DECK ON PEDESTAL

OUTDOOR SHOWER

SAUNA

FIRE PIT



UNIT PAVER

OUTDOOR LOUNGER

COLD PLUGE

LOUNGER TABLE

N

SCALE 1/8"=1'-0"

0 4 8 12

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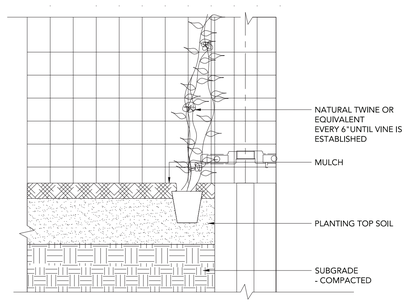
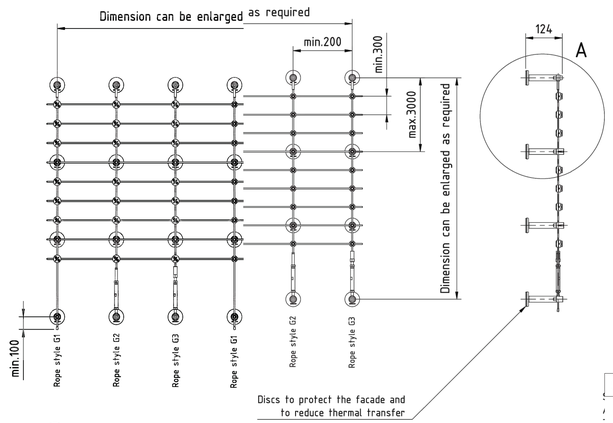
18 TH FLOOR PLANS

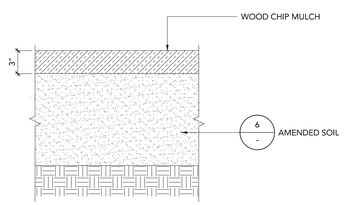
L105

TREES	CODE	BOTANICAL NAME	COMMON NAME	SIZE		QTY	WATER USE	NATIVE	WILDLIFE	SEASON OF BLOOM
	ACE CIR	ACER CIRCINATUM	VINE MAPLE	15 GAL.	SEE PLANS	12	MEDIUM	YES	ATTRACTS BIRDS, BUTTERFLIES, MOTHS	MID-SPRING
	COR NUT	CORNUS NUTTALLII	PACIFIC DOGWOOD	15 GAL.	SEE PLANS	9	LOW	YES	ATTRACTS BIRDS, BUTTERFLIES	SPRING
GROUND COVERS	CODE	BOTANICAL NAME	COMMON NAME	SIZE	SPACING	QTY	WATER USE	NATIVE	WILDLIFE	SEASON OF BLOOM
	ACH MIL	ACHILLEA MILLEFOLIUM	COMMON YARROW	1 GAL.	1'-0" O.C.	144 SF	LOW	YES	ATTRACTS BUTTERFLIES, MOTHS	SUMMER
	ART PCN	ARTEMISIA PYCNOCEPHALA	BEACH SAGEWORT	5 GAL.	3'-0" O.C.	28 SF	VERY LOW	YES	ATTRACTS BIRDS, BUTTERFLIES, MOTHS, BEES	SPRING, SUMMER
	CEA YAN	CEANOTHUS GRISEUS HORIZONTALIS 'YANKEE POINT'	YANKEE POINT CARMEL CREEPER	5 GAL.	10'-0" O.C.	119 SF	LOW	YES	ATTRACTS BIRDS, BUTTERFLIES, MOTHS, BEES	SPRING
	ESC CAL	ESCHSCHOLZIA CALIFORNICA	CALIFORNIA POPPY	1 GAL.	18" O.C.	62 SF	VERY LOW - LOW	YES	ATTRACTS BIRDS, BUTTERFLIES, BEES	SPRING, WINTER, SUMMER, FALL
	FES CAL	FESTUCA CALIFORNICA	CALIFORNIA FESCUE	1 GAL.	2'-0" O.C.	113 SF	VERY LOW	YES	ATTRACTS BUTTERFLIES	SPRING, WINTER
	HOR CAL	HORDEUM BRACHYANTHERUM CALIFORNICUM	CALIFORNIA MEADOW BARLEY	1 GAL.	2'-0" O.C.	36 SF	MEDIUM	YES	ATTRACTS BUTTERFLIES	SPRING
	SAL SPA	SALVIA SPATHACEA	HUMMINGBIRD SAGE	1 GAL.	3'-0" O.C.	43 SF	VERY LOW	YES	ATTRACTS HUMMINGBIRDS, BEES, BUTTERFLIES	WINTER, SPRING, SUMMER
	STI PUL	STIPA PULCHRA	PURPLE NEEDLE GRASS	1 GAL.	18" O.C.	146 SF	VERY LOW - LOW	YES	ATTRACTS BUTTERFLIES, BIRDS	SPRING
VINES	CODE	BOTANICAL NAME	COMMON NAME	SIZE	SPACING	QTY	WATER USE	NATIVE	WILDLIFE	SEASON OF BLOOM
	LON HOS	LONICERA HISPIDULA	CALIFORNIA HONEYSUCKLE	5 GAL.	2'-0" O.C.	65 SF	VERY LOW - LOW	YES	ATTRACTS HUMMINGBIRDS, BIRDS	SPRING, SUMMER

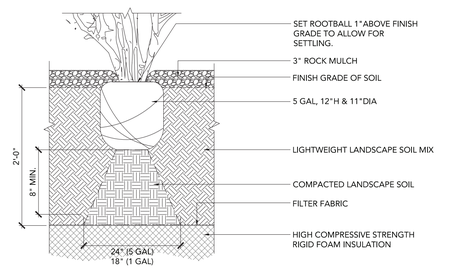


3 VINE PLANTING @ WALL — SCALE: 2"=1" TYPICAL SECTION 0 6" 12" 18"

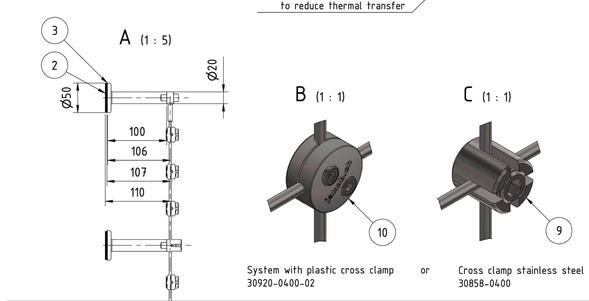




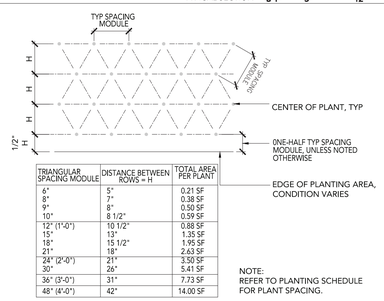
5 WOOD CHIP MULCH — SCALE: 2"=1" TYPICAL SECTION 0 1" 5" 12"



2 SHRUB PLANTING — SCALE: 1 1/2"=1" TYPICAL SECTION 0 1" 1' 2'



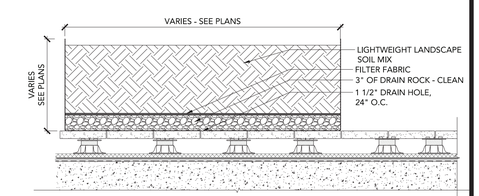
6 JAKOB VINE SISTEM — SCALE: NTS



TRIANGULAR SPACING MODULE	DISTANCE BETWEEN ROWS = H	TOTAL AREA PER PLANT
6"	5"	0.21 SF
8"	7"	0.38 SF
9"	8"	0.50 SF
10"	8 1/2"	0.59 SF
12" (1'-0")	10 1/2"	0.88 SF
15"	13"	1.35 SF
18"	15 1/2"	1.95 SF
21"	18"	2.63 SF
24" (2'-0")	21"	3.50 SF
30"	26"	5.41 SF
36" (3'-0")	31"	7.73 SF
48" (4'-0")	42"	14.00 SF

NOTE:
REFER TO PLANTING SCHEDULE FOR PLANT SPACING.

4 PLANT SPACING DIAGRAM — SCALE: NTS TYPICAL SECTION



1 TOURNESOL STEEL PLANTER — SCALE: 1"=1'-0" TYPICAL SECTION 0 1' 2' 3'

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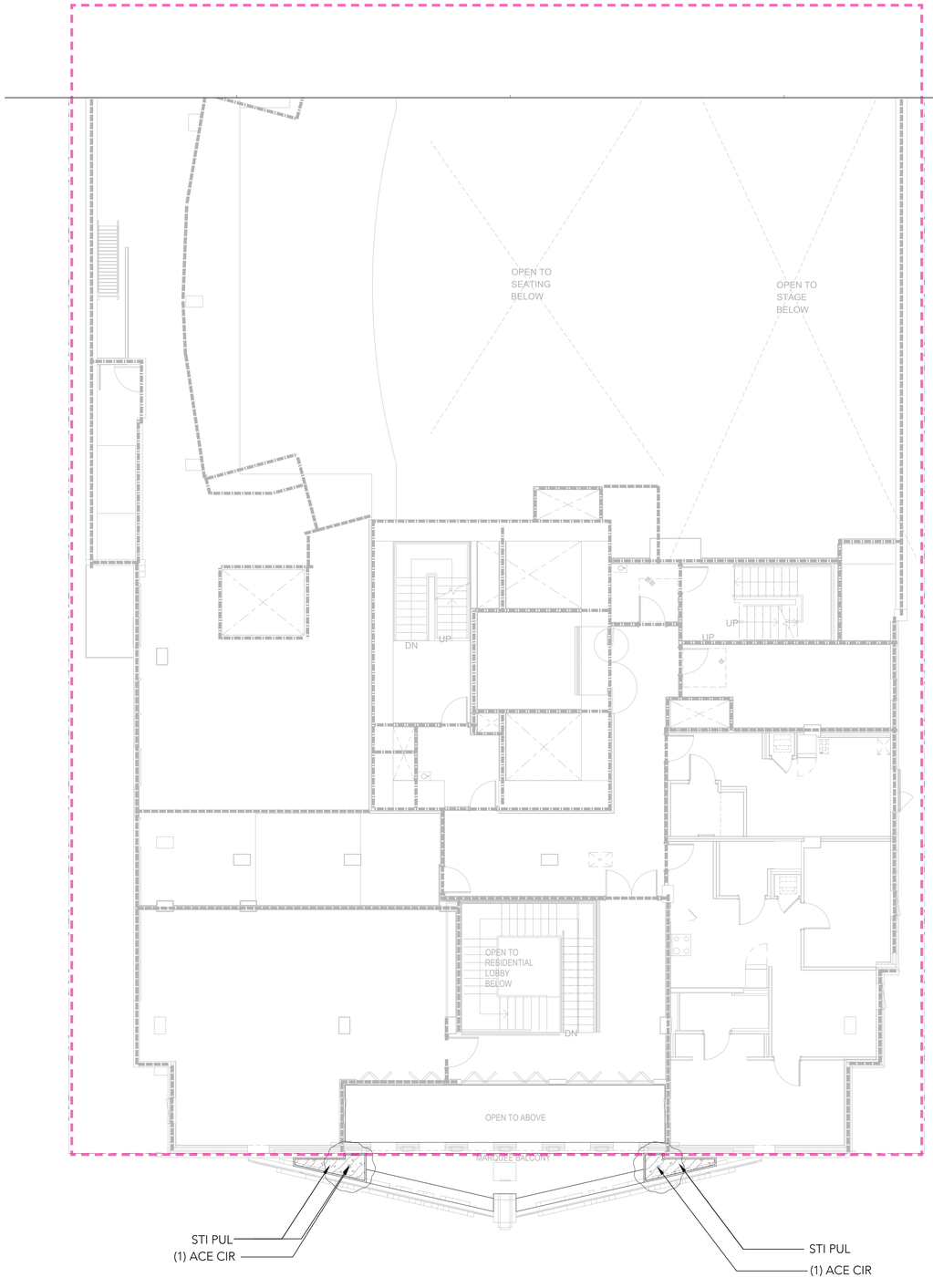
GW

△ PROJECT ISSUE RECORD:

PROJECT #:	GDC01
ISSUE DATE:	10/18/23

PLANTING SCHEDULE

L200



ACER CIRCINATUM

STIPA PULCHRA

TREES	KEY	BOTANICAL NAME	COMMON NAME	SIZE	QTY
	ACE CIR	ACER CIRCINATUM	VINE MAPLE	15 GAL.	2
GROUND COVERS	CODE	BOTANICAL NAME	COMMON NAME	SIZE	QTY
	STI PUL	STIPA PULCHRA	PURPLE NEEDLE GRASS	5 GAL.	28 SF

NORTH

SCALE 3/16" = 1'-0"

0 1' 5' 10' 15' 20' 25'

studioKDA

GWO

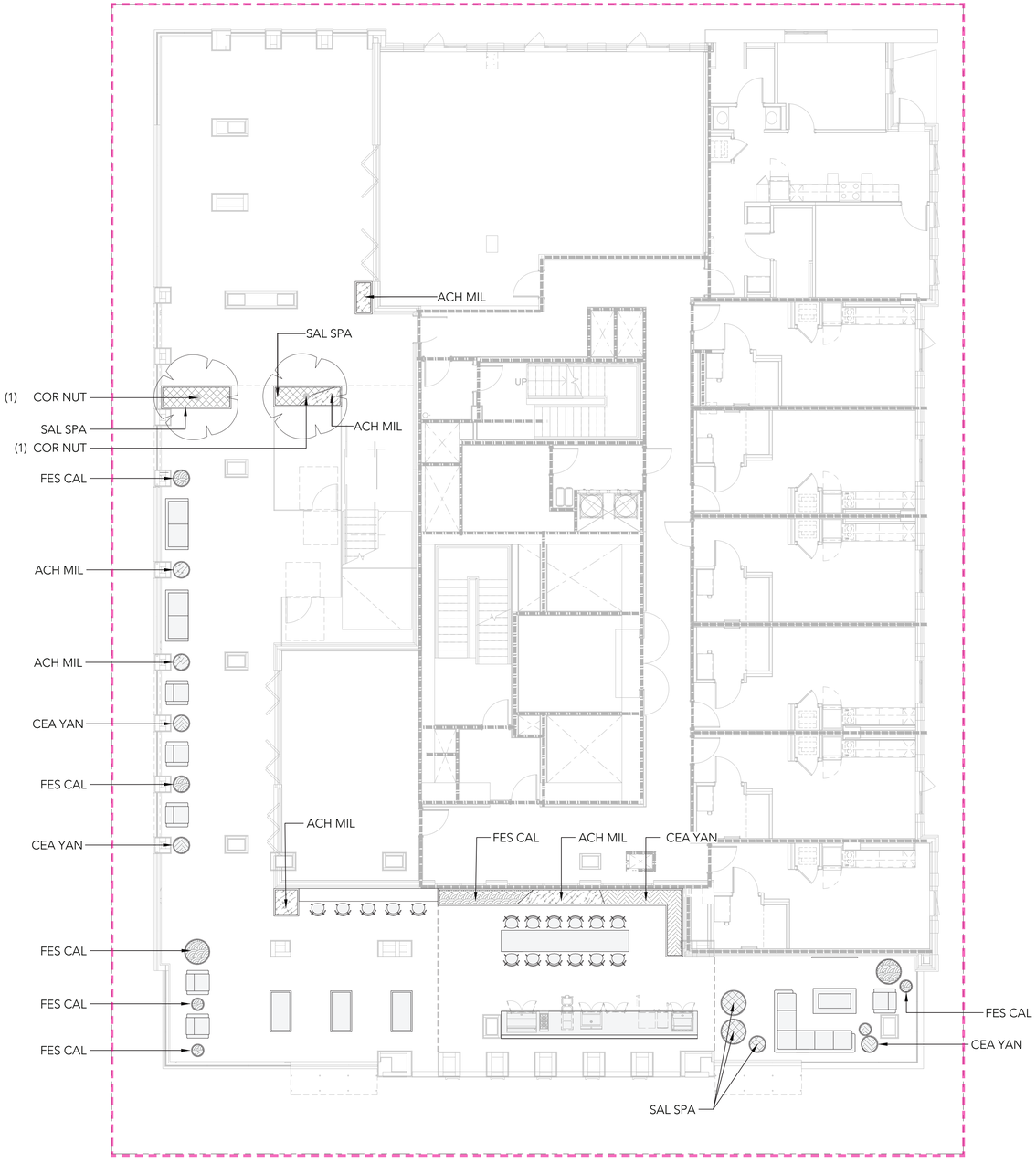
△ PROJECT ISSUE RECORD:

PROJECT #: GDC01

ISSUE DATE: 10/18/23

2ND FLOOR
PLANTING PLAN

L202



CORNUS NUTTALLII

ACHILLEA MILLEFOLIUM

CEANOTHUS GRISEUS 'YANKEE POINT'

FESTUCA CALIFORNICA

SALVIA SPATHACEA

TREES	KEY	BOTANICAL NAME	COMMON NAME	SIZE	QTY
	COR NUT	CORNUS NUTTALLII	PACIFIC DOGWOOD	15 GAL.	2
GROUND COVERS	CODE	BOTANICAL NAME	COMMON NAME	SIZE	QTY
	ACH MIL	ACHILLEA MILLEFOLIUM	COMMON YARROW	1 GAL.	48 SF
	CEA YAN	CEANOTHUS GRISEUS HORIZONTALIS 'YANKEE POINT'	YANKEE POINT CARMEL CREEPER	5 GAL.	44 SF
	FES CAL	FESTUCA CALIFORNICA	CALIFORNIA FESCUE	1 GAL.	38 SF
	SAL SPA	SALVIA SPATHACEA	HUMMINGBIRD SAGE	1 GAL.	43 SF

NORTH

SCALE 3/16" = 1'-0"

0 1' 5' 10' 15' 20' 25'

studioKDA

GW

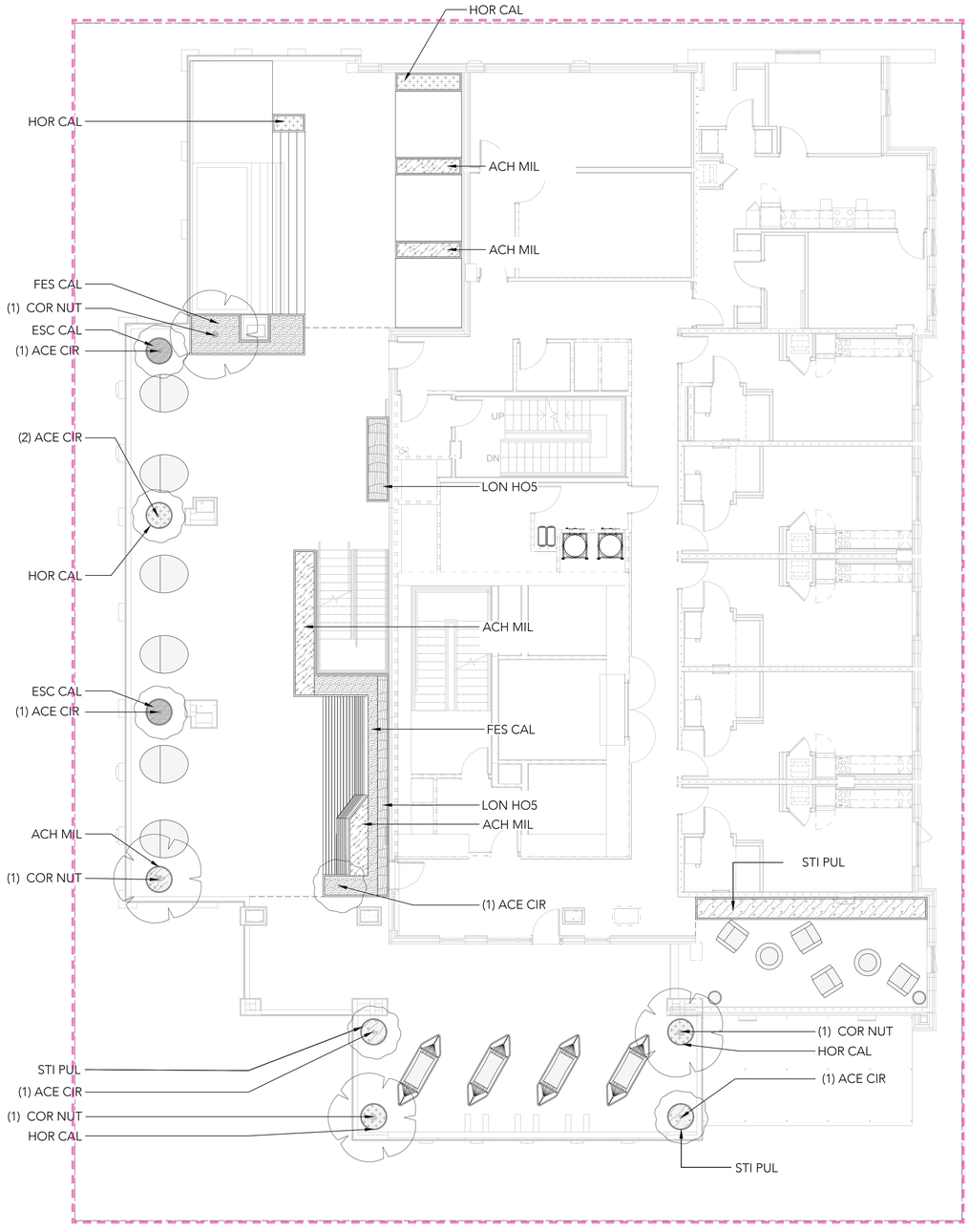
△ PROJECT ISSUE RECORD:

PROJECT #: GDC01

ISSUE DATE: 10/18/23

16 TH FLOOR
PLANTING PLAN

L203



LONICERA HISPIDULA

ESCHSCHOLZIA CALIFORNICA

ACER CIRCINATUM

ARTEMISA PYCNOCEPHALA

FESTUCA CALIFORNICA

CORNUS NUTTALLII

CEANOTHUS GRISEUS 'YANKEE POINT'

STIPA PULCHRA

ACHILLEA MILLEFOLIUM

TREES	KEY	BOTANICAL NAME	COMMON NAME	SIZE	QTY
	ACE CIR	ACER CIRCINATUM	VINE MAPLE	15 GAL.	4
	COR NUT	CORNUS NUTTALLII	PACIFIC DOGWOOD	15 GAL.	3
GROUND COVERS	CODE	BOTANICAL NAME	COMMON NAME	SIZE	QTY
	ACH MIL	ACHILLEA MILLEFOLIUM	COMMON YARROW	1 GAL.	21 SF
	ART PCN	ARTEMISIA PYCNOCEPHALA	BEACH SAGEWORT	5 GAL.	28 SF
	CEA YAN	CEANOTHUS GRISEUS HORIZONTALIS 'YANKEE POINT'	YANKEE POINT CARMEL CREEPER	5 GAL.	75 SF
	ESC CAL	ESCHSCHOLZIA CALIFORNICA	CALIFORNIA POPPY	1 GAL.	50 SF
	FES CAL	FESTUCA CALIFORNICA	CALIFORNIA FESCUE	1 GAL.	32 SF
	STI PUL	STIPA PULCHRA	PURPLE NEEDLE GRASS	1 GAL.	50 SF
VINES	CODE	BOTANICAL NAME	COMMON NAME	SIZE	QTY
	LON HOS	LONICERA HISPIDULA	CALIFORNIA HONEYSUCKLE	5 GAL.	18 SF

NORTH

SCALE 3/16" = 1'-0"

0 1' 5' 10' 15' 20' 25'

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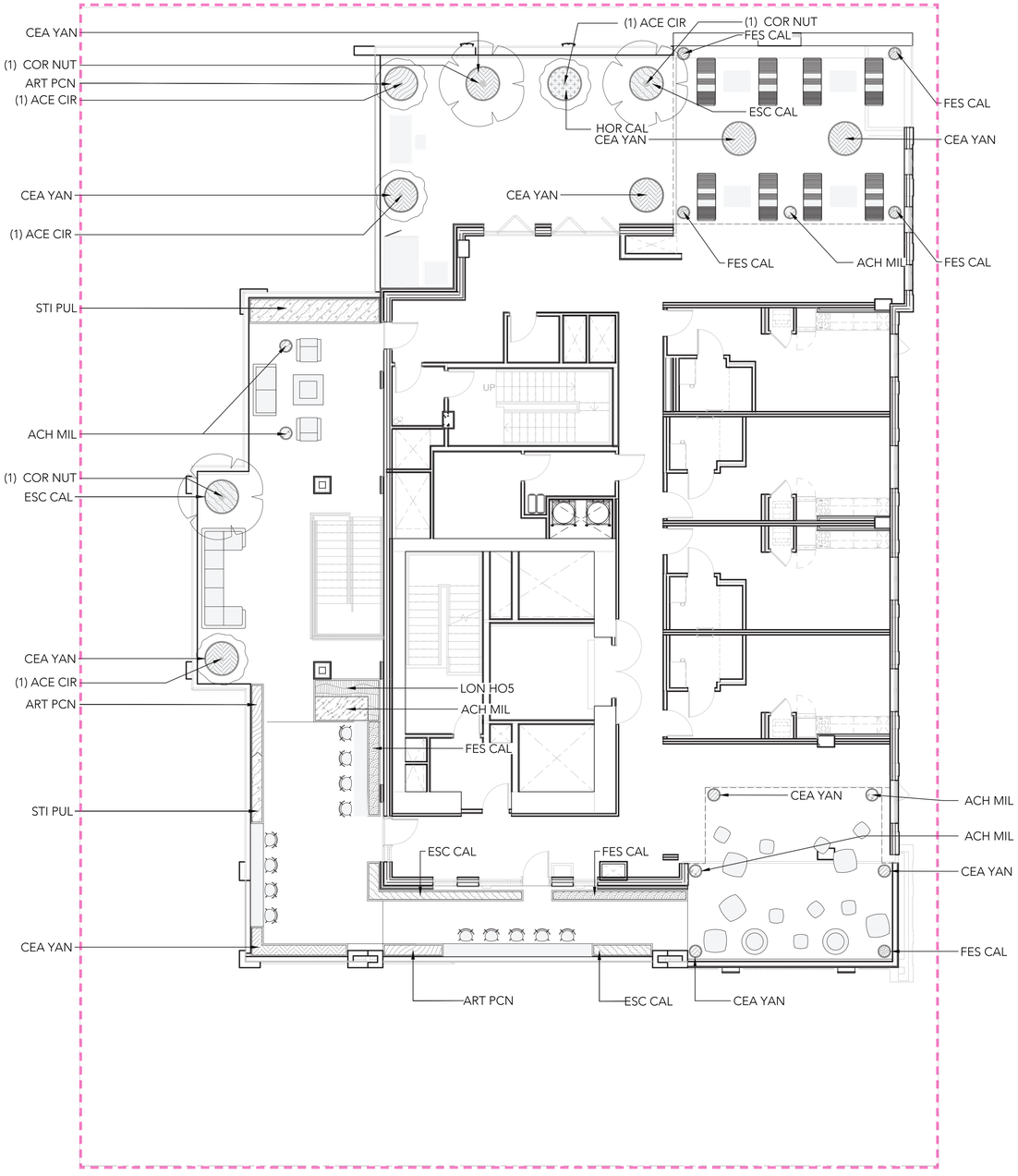
△ PROJECT ISSUE RECORD:

PROJECT #: GDC01

ISSUE DATE: 10/18/23

17 TH FLOOR
PLANTING PLAN

L204



LONICERA HISPIDULA

ESCHSCHOLZIA CALIFORNICA

ACER CIRCINATUM

ARTEMISA PYCNOCEPHALA

FESTUCA CALIFORNICA

CORNUS NUTTALLII

CEANOTHUS GRISEUS 'YANKEE POINT'

STIPA PULCHRA

ACHILLEA MILLEFOLIUM

TREES	KEY	BOTANICAL NAME	COMMON NAME	SIZE	QTY
	ACE CIR	ACER CIRCINATUM	VINE MAPLE	15 GAL.	4
	COR NUT	CORNUS NUTTALLII	PACIFIC DOGWOOD	15 GAL.	3
GROUND COVERS	CODE	BOTANICAL NAME	COMMON NAME	SIZE	QTY
	ACH MIL	ACHILLEA MILLEFOLIUM	COMMON YARROW	1 GAL.	21 SF
	ART PCN	ARTEMISIA PYCNOCEPHALA	BEACH SAGEWORT	5 GAL.	28 SF
	CEA YAN	CEANOTHUS GRISEUS HORIZONTALIS 'YANKEE POINT'	YANKEE POINT CARMEL CREEPER	5 GAL.	75 SF
	ESC CAL	ESCHSCHOLZIA CALIFORNICA	CALIFORNIA POPPY	1 GAL.	50 SF
	FES CAL	FESTUCA CALIFORNICA	CALIFORNIA FESCUE	1 GAL.	32 SF
	STI PUL	STIPA PULCHRA	PURPLE NEEDLE GRASS	1 GAL.	50 SF
VINES	CODE	BOTANICAL NAME	COMMON NAME	SIZE	QTY
	LON HOS	LONICERA HISPIDULA	CALIFORNIA HONEYSUCKLE	5 GAL.	18 SF

NORTH

SCALE 3/16" = 1'-0"

0 1' 5' 10' 15' 20' 25'

studioKDA

GWD

PROJECT ISSUE RECORD:

PROJECT #: GDC01

ISSUE DATE: 10/18/23

18 TH FLOOR
PLANTING PLAN

L205

IRRIGATION SYSTEM LEGEND

BACKFLOW PREVENTION DEVICE	–FEBCO–825Y–1" –SEE CIVIL DRAWINGS	
CONTROLLER ASSEMBLY	–BASELINE SYSTEMS–BL–1000–X	
RAIN SENSOR	–TBD	
MOISTURE SENSOR	–BASELINE	
MASTER CONTROL VALVE	–SUPERIOR–3100–1"	
FLOW SENSOR	–BASELINE	
REMOTE CONTROL VALVE	–IRRITROL–700 SERIES	
QUICK COUPLING VALVE	–RAINBIRD–33DRC	
GATE VALVE	–NIBCO–T113–IRR–LINE SIZE	
DRIP CONTROL ASSEMBLY	–TORO–DZK–700–MF	
DRIP FLUSH VALVE	–SEE DETAIL	
TREE BUBBLER	–RAINBIRD–1401	
IRRIGATION SUPPLYLINE	–1120/SCHEDULE 40 PVC PIPE	–24" COVER
IRRIGATION LATERAL LINE	–1120/CLASS 200 PVC PIPE	–18" COVER
SUBSURFACE DRIPLINE	–NETAFIM–TLCV–6–12	–3" COVER
ELECTRICAL CONDUIT	–1120/SCHEDULE 40 ELECTRICAL CONDUIT	–24" COVER
SLEEVING	–1120/SCHEDULE 40 PVC PIPE	–24" COVER
PIPING UNDER PAVERS/DECKING	–COPPER TYPE L SEAMLESS TUBING	
STUBOUT	–BY MECHANICAL SECTION OF CONTRACT	
PIPING THROUGH STRUCTURE	–BY PLUMBING SECTION OF CONTRACT	
CONDUIT THROUGH STRUCTURE	–BY ELECTRICAL SECTION OF CONTRACT	

sta
gpm
size

CONTROLLER STATION NUMBER
GALLONS PER MINUTE THROUGH VALVE
CONTROL VALVE SIZE

WELO
Water Budget and Water Use Calculator

INSTRUCTIONS:

1. Enable macros.
2. Enter values in blue cells. Gray cells will automatically fill.
3. For Eto, refer to Appendix A of the ordinance, available here: https://www.water.ca.gov/Programs/Water-Use-And-Efficiency/Urban-Water-Use-Efficiency
4. Print this sheet and submit with Landscape Document Package for the Comprehensive Performance Compliance Pathway.

Date:	2023.09.08
Project Name:	KITTREDGE - BERKELEY
Project Contact:	Sara Peschel
Project Contact Email:	sara@groundworksoffice.com

Maximum Applied Water Allowance (MAWA)	Project Type	ETo	ETAF	Special Landscape Area (SLA)	Total Landscape Area including SLA	MAWA (gal/yr)	
	Non-residential	39.6	0.45	241	1,131	**15,750**	MAWA =(ETo) * (0.62) *[(ETAF*LA) + ((1-ETAF) * SLA)].

Estimated Total Water Use (ETWU)	ETo	(SF * PF) / IE	SLA	ETWU (gal/yr)	
	39.6	227	241	**11,482**	ETWU =(ETo) * (0.62) *((PF*SF/IE) + SLA]

Difference between MAWA and ETWU **4,268** **Project meets water budget.**

ETWU Calculation (Regular landscape areas)	Zone #	Description	Select Irrigation	Square Feet (SF)	Plant Factor (PF)	Irrigation Efficiency (IE)	(SF * PF) / IE
	1	Second Lvl	Drip	28	0.30	0.81	10
	2	16th Lvl	Drip	173	0.30	0.81	64
	3	17th Lvl	Drip	411	0.30	0.81	-
	4	18th Lvl	Drip	278	0.30	0.81	152
							-
							-
	Landscape area (not including SLA)			**890**			**227**

ETWU Calculation Special Landscape Areas (SLA)	Description	Square Feet (SF)	Plant Factor / Irrigation Efficiency (PF/IE)	(SF * PF) / IE
	Edible planting area		1.0	-
	Multi-use and sports field turf area		1.0	-
	Area irrigated with recycled water		1.0	-
	Pool	241	1.0	241
	Total SLA	**241**		**0**

Total Landscape Area (including SLA) from ETWU Calculation	**1,131**

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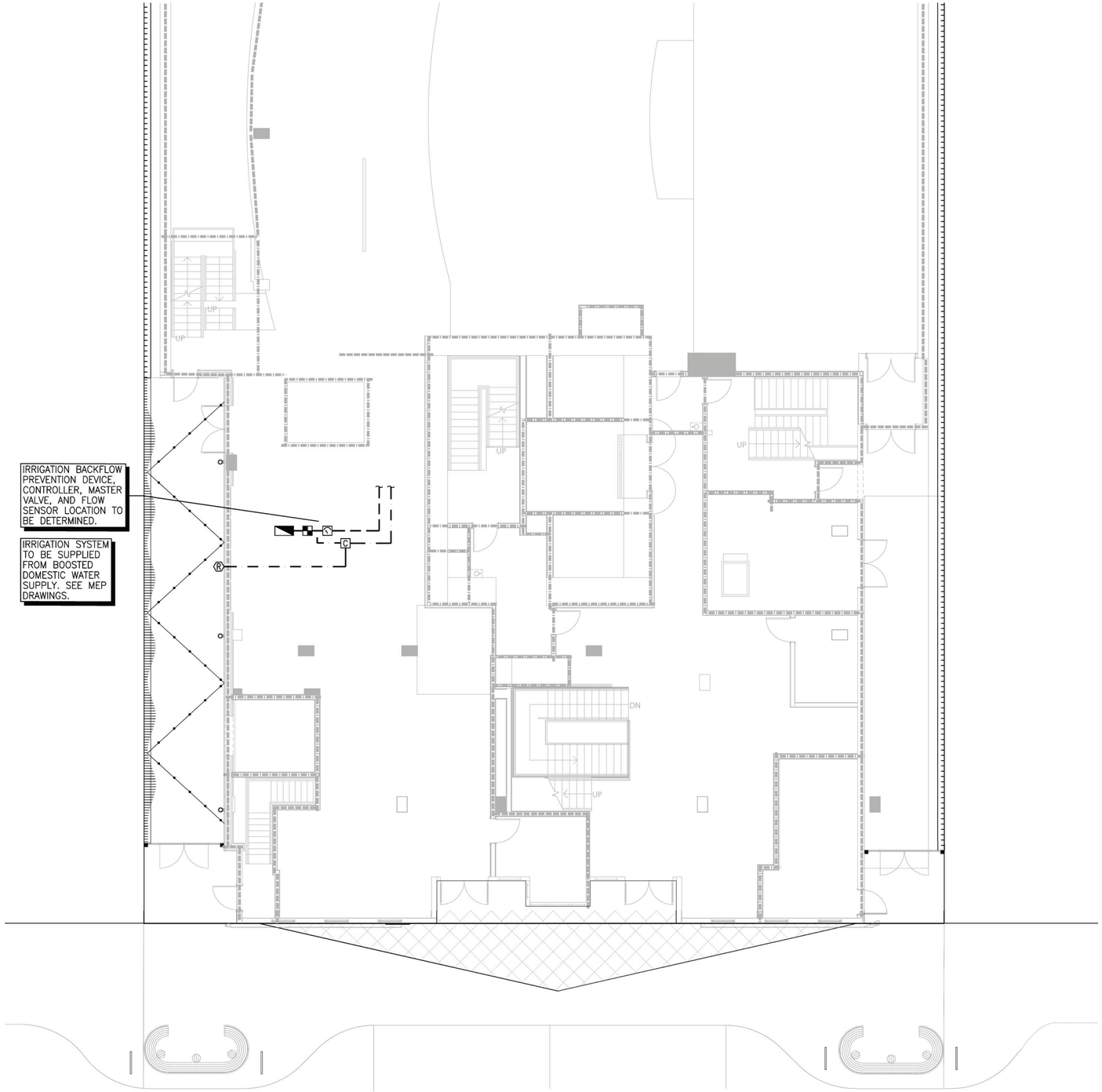
PROJECT #: GDC01

ISSUE DATE: 10/18/23

IRRIGATION SCHEDULE AND CALCULATIONS

L300



IRRIGATION SYSTEM LEGEND

BACKFLOW PREVENTION DEVICE	–FEBCO–825Y–1" –SEE CIVIL DRAWINGS	
CONTROLLER ASSEMBLY	–BASELINE SYSTEMS–BL–1000–X	
RAIN SENSOR	–TBD	
MOISTURE SENSOR	–BASELINE	
MASTER CONTROL VALVE	–SUPERIOR–3100–1"	
FLOW SENSOR	–BASELINE	
REMOTE CONTROL VALVE	–IRRITROL–700 SERIES	
QUICK COUPLING VALVE	–RAINBIRD–33DRC	
GATE VALVE	–NIBCO–T113–IRR–LINE SIZE	
DRIP CONTROL ASSEMBLY	–TORO–DZK–700–MF	
DRIP FLUSH VALVE	–SEE DETAIL	
TREE BUBBLER	–RAINBIRD–1401	
IRRIGATION SUPPLYLINE	–1120/SCHEDULE 40 PVC PIPE	–24" COVER
IRRIGATION LATERAL LINE	–1120/CLASS 200 PVC PIPE	–18" COVER
SUBSURFACE DRIPLINE	–NETAFIM–TLCV–6–12	–3" COVER
ELECTRICAL CONDUIT	–1120/SCHEDULE 40 ELECTRICAL CONDUIT	–24" COVER
SLEEVING	–1120/SCHEDULE 40 PVC PIPE	–24" COVER
PIPING UNDER PAVERS/DECKING	–COPPER TYPE L SEAMLESS TUBING	
STUBOUT	–BY MECHANICAL SECTION OF CONTRACT	
PIPING THROUGH STRUCTURE	–BY PLUMBING SECTION OF CONTRACT	
CONDUIT THROUGH STRUCTURE	–BY ELECTRICAL SECTION OF CONTRACT	
sta gpm size	CONTROLLER STATION NUMBER GALLONS PER MINUTE THROUGH VALVE CONTROL VALVE SIZE	

N

SCALE 1/8"=1'-0"

0 4 8 12

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GWO

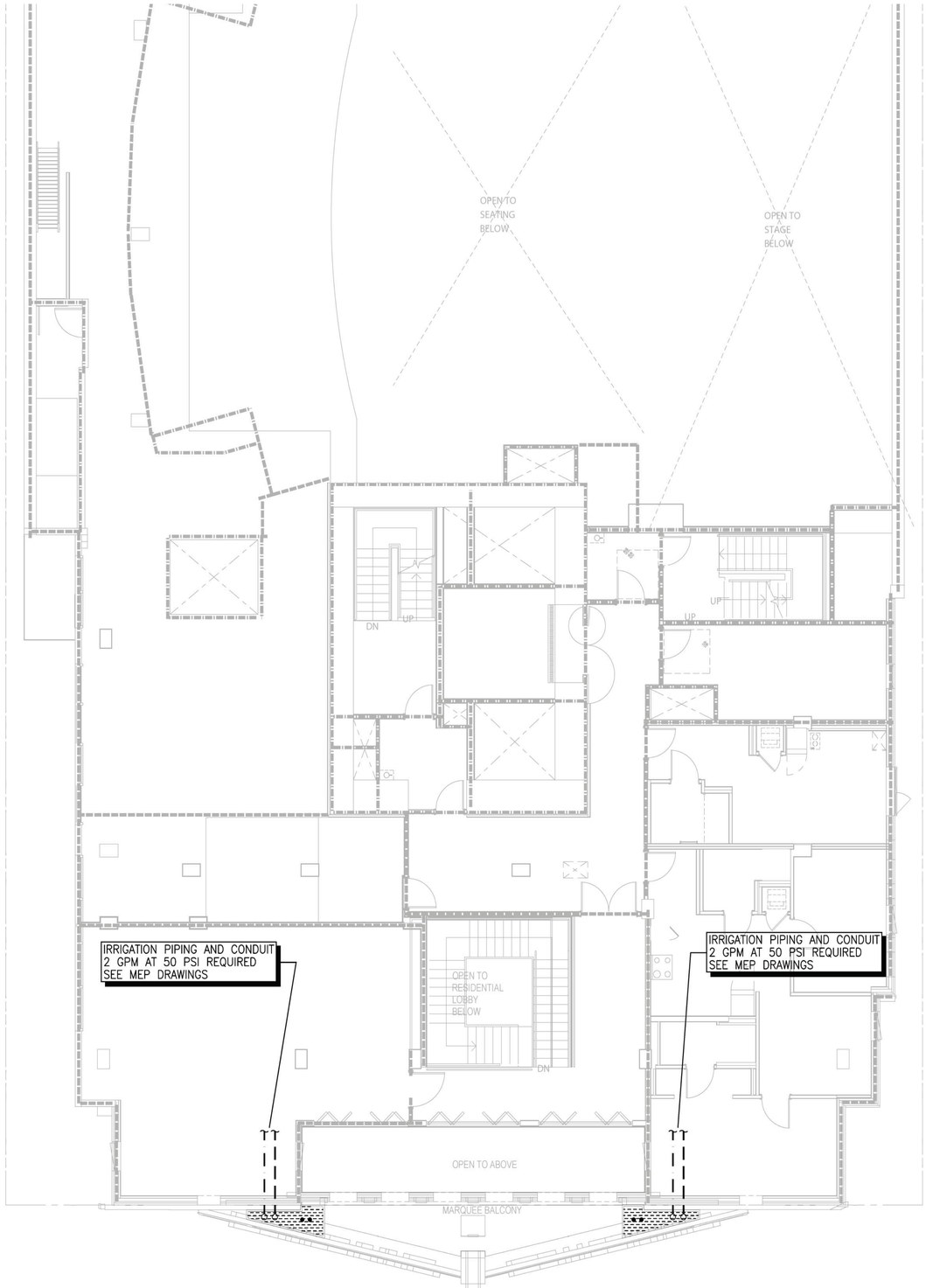
△ PROJECT ISSUE RECORD:

PROJECT #: GDC01

ISSUE DATE: 10/18/23

GROUND FLOOR
IRRIGATION PLANS

L301



IRRIGATION SYSTEM LEGEND

BACKFLOW PREVENTION DEVICE	–FEBCO–825Y–1" –SEE CIVIL DRAWINGS	
CONTROLLER ASSEMBLY	–BASELINE SYSTEMS–BL–1000–X	
RAIN SENSOR	–TBD	
MOISTURE SENSOR	–BASELINE	
MASTER CONTROL VALVE	–SUPERIOR–3100–1"	
FLOW SENSOR	–BASELINE	
REMOTE CONTROL VALVE	–IRRITROL–700 SERIES	
QUICK COUPLING VALVE	–RAINBIRD–33DRC	
GATE VALVE	–NIBCO–T113–IRR–LINE SIZE	
DRIP CONTROL ASSEMBLY	–TORO–DZK–700–MF	
DRIP FLUSH VALVE	–SEE DETAIL	
TREE BUBBLER	–RAINBIRD–1401	
IRRIGATION SUPPLYLINE	–1120/SCHEDULE 40 PVC PIPE	–24" COVER
IRRIGATION LATERAL LINE	–1120/CLASS 200 PVC PIPE	–18" COVER
SUBSURFACE DRIPLINE	–NETAFIM–TLCV–6–12	–3" COVER
ELECTRICAL CONDUIT	–1120/SCHEDULE 40 ELECTRICAL CONDUIT	–24" COVER
SLEEVING	–1120/SCHEDULE 40 PVC PIPE	–24" COVER
PIPING UNDER PAVERS/DECKING	–COPPER TYPE L SEAMLESS TUBING	
STUBOUT	–BY MECHANICAL SECTION OF CONTRACT	
PIPING THROUGH STRUCTURE	–BY PLUMBING SECTION OF CONTRACT	
CONDUIT THROUGH STRUCTURE	–BY ELECTRICAL SECTION OF CONTRACT	
sta gpm size	CONTROLLER STATION NUMBER GALLONS PER MINUTE THROUGH VALVE CONTROL VALVE SIZE	

N

SCALE 1/8"=1'-0"

0 4 8 12

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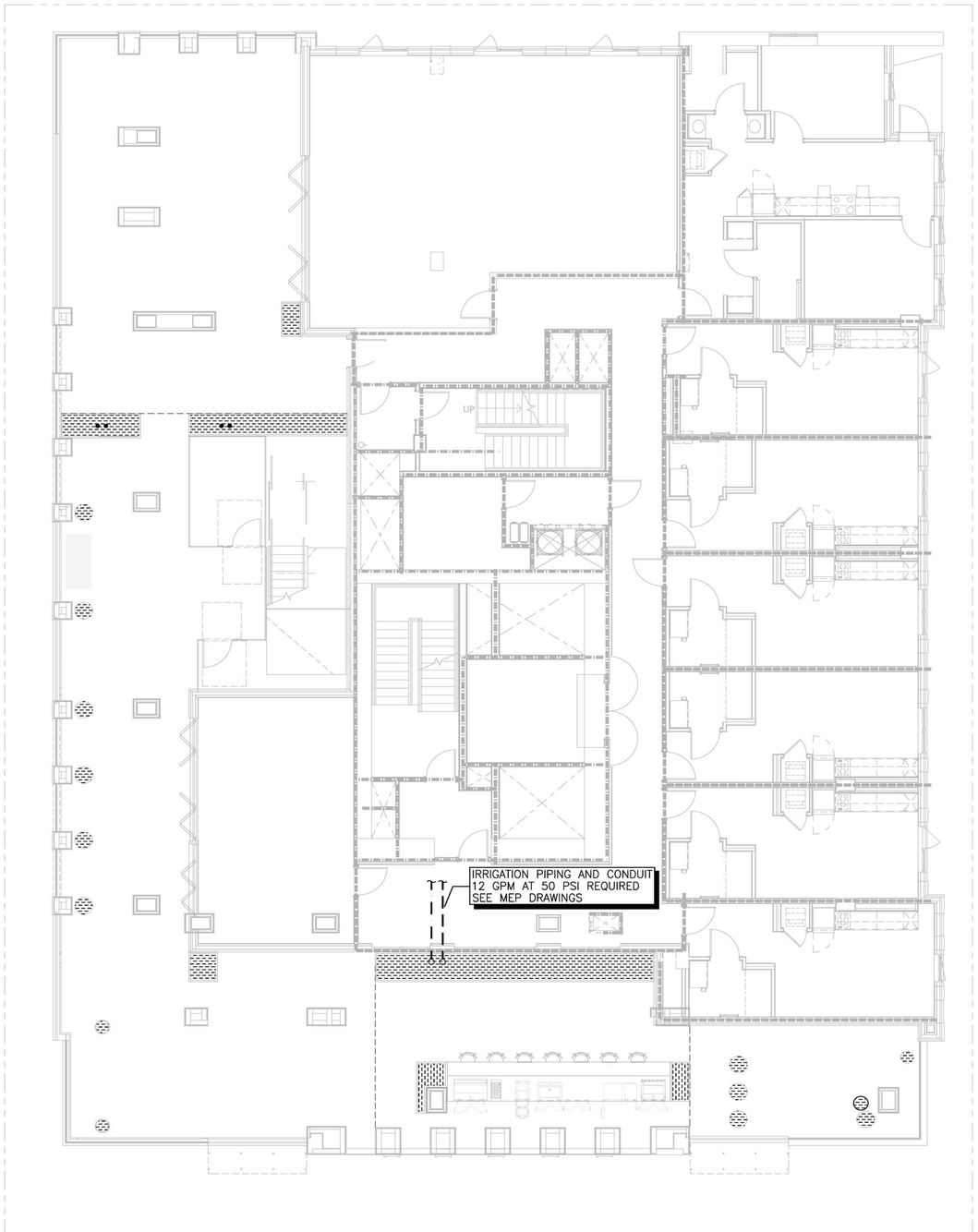
SECOND FLOOR
IRRIGATION PLANS

L302



IRRIGATION SYSTEM LEGEND

BACKFLOW PREVENTION DEVICE	–FEBCO–825Y–1" –SEE CIVIL DRAWINGS	
CONTROLLER ASSEMBLY	–BASELINE SYSTEMS–BL–1000–X	
RAIN SENSOR	–TBD	
MOISTURE SENSOR	–BASELINE	
MASTER CONTROL VALVE	–SUPERIOR–3100–1"	
FLOW SENSOR	–BASELINE	
REMOTE CONTROL VALVE	–IRRITROL–700 SERIES	
QUICK COUPLING VALVE	–RAINBIRD–33DRC	
GATE VALVE	–NIBCO–T113–IRR–LINE SIZE	
DRIP CONTROL ASSEMBLY	–TORO–DZK–700–MF	
DRIP FLUSH VALVE	–SEE DETAIL	
TREE BUBBLER	–RAINBIRD–1401	
IRRIGATION SUPPLYLINE	–1120/SCHEDULE 40 PVC PIPE	–24" COVER
IRRIGATION LATERAL LINE	–1120/CLASS 200 PVC PIPE	–18" COVER
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PIPING UNDER PAVERS/DECKING	–COPPER TYPE L SEAMLESS TUBING	
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PIPING THROUGH STRUCTURE	–BY PLUMBING SECTION OF CONTRACT	
CONDUIT THROUGH STRUCTURE	–BY ELECTRICAL SECTION OF CONTRACT	
sta gpm size	CONTROLLER STATION NUMBER GALLONS PER MINUTE THROUGH VALVE CONTROL VALVE SIZE	

N

SCALE 1/8"=1'-0"

0 4 8 12

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△ PROJECT ISSUE RECORD:

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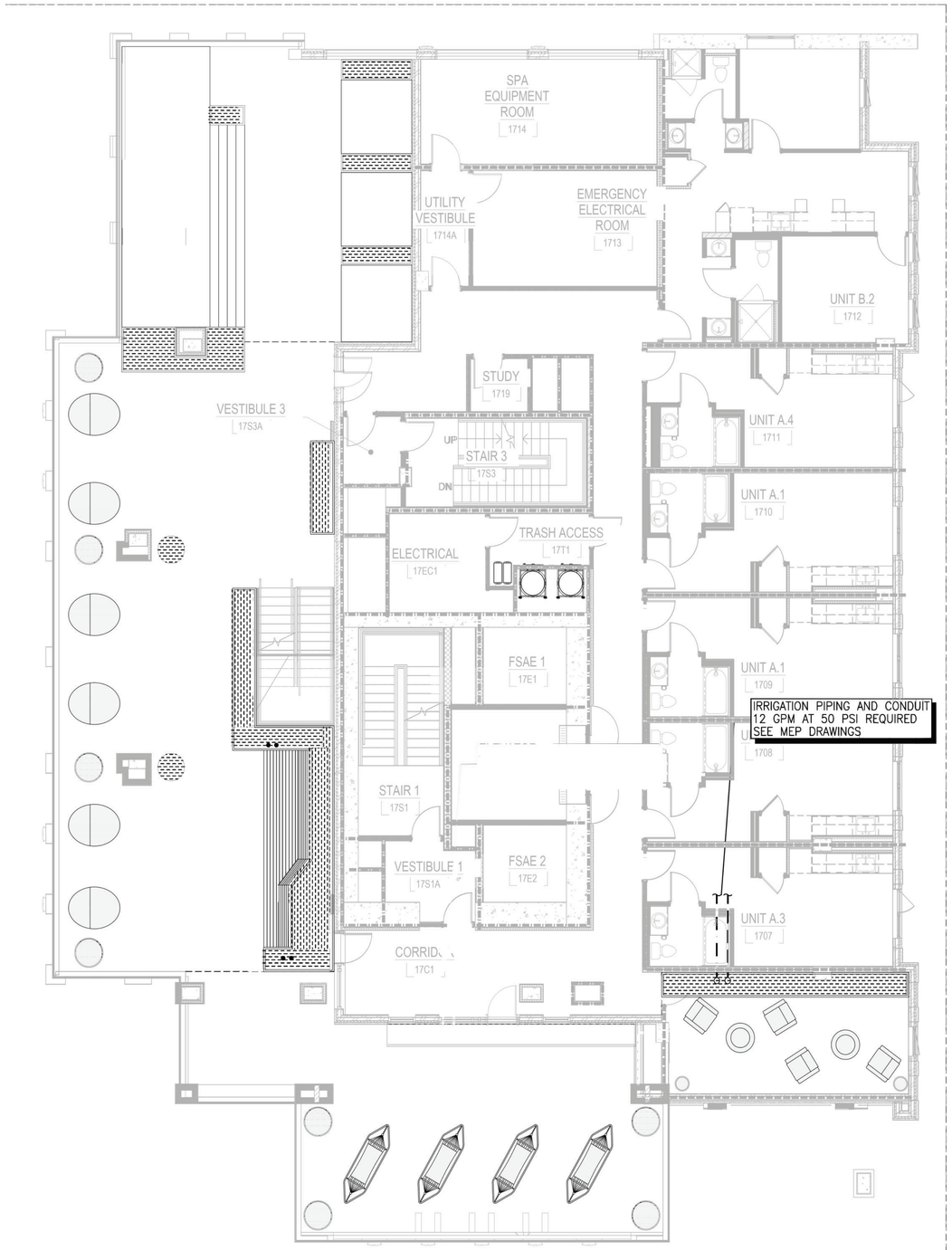
ISSUE DATE: 10/18/23

16TH FLOOR
IRRIGATION PLANS

L303



IRRIGATION SYSTEM LEGEND

BACKFLOW PREVENTION DEVICE	–FEBCO–825Y–1" –SEE CIVIL DRAWINGS	
CONTROLLER ASSEMBLY	–BASELINE SYSTEMS–BL–1000–X	
RAIN SENSOR	–TBD	
MOISTURE SENSOR	–BASELINE	
MASTER CONTROL VALVE	–SUPERIOR–3100–1"	
FLOW SENSOR	–BASELINE	
REMOTE CONTROL VALVE	–IRRITROL–700 SERIES	
QUICK COUPLING VALVE	–RAINBIRD–33DRC	
GATE VALVE	–NIBCO–T113–IRR–LINE SIZE	
DRIP CONTROL ASSEMBLY	–TORO–DZK–700–MF	
DRIP FLUSH VALVE	–SEE DETAIL	
TREE BUBBLER	–RAINBIRD–1401	
IRRIGATION SUPPLYLINE	–1120/SCHEDULE 40 PVC PIPE	–24" COVER
IRRIGATION LATERAL LINE	–1120/CLASS 200 PVC PIPE	–18" COVER
SUBSURFACE DRIPLINE	–NETAFIM–TLCV–6–12	–3" COVER
ELECTRICAL CONDUIT	–1120/SCHEDULE 40 ELECTRICAL CONDUIT	–24" COVER
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PIPING THROUGH STRUCTURE	–BY PLUMBING SECTION OF CONTRACT	
CONDUIT THROUGH STRUCTURE	–BY ELECTRICAL SECTION OF CONTRACT	
sta gpm size	CONTROLLER STATION NUMBER GALLONS PER MINUTE THROUGH VALVE CONTROL VALVE SIZE	

N

SCALE 1/8"=1'-0"

0 4 8 12

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GWO

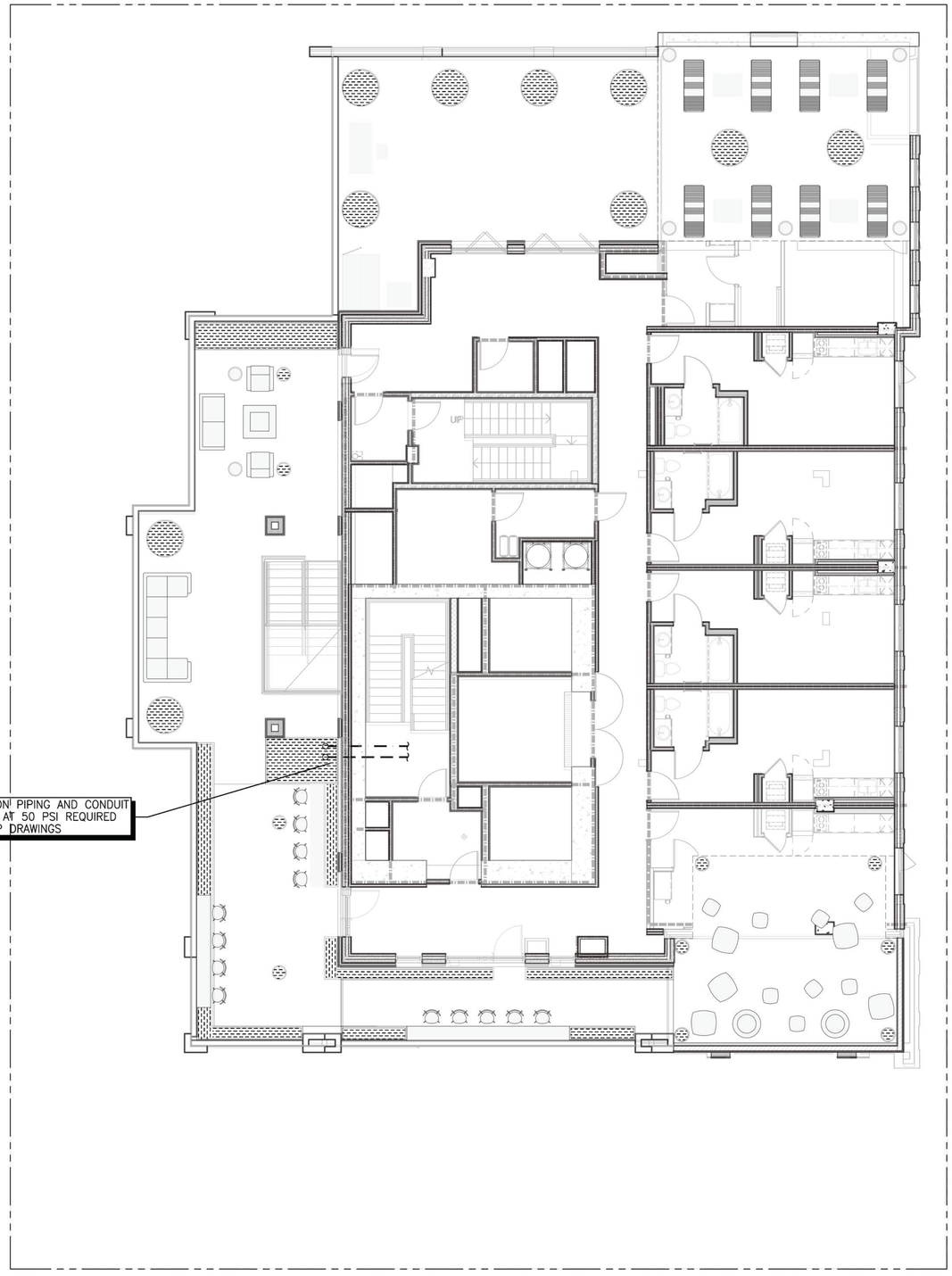
△ PROJECT ISSUE RECORD:

PROJECT #: GDC01

ISSUE DATE: 10/18/23

17 TH FLOOR
IRRIGATION PLANS

L304



IRRIGATION SYSTEM LEGEND

BACKFLOW PREVENTION DEVICE	–FEBCO–825Y–1" –SEE CIVIL DRAWINGS	
CONTROLLER ASSEMBLY	–BASELINE SYSTEMS–BL–1000–X	
RAIN SENSOR	–TBD	
MOISTURE SENSOR	–BASELINE	
MASTER CONTROL VALVE	–SUPERIOR–3100–1"	
FLOW SENSOR	–BASELINE	
REMOTE CONTROL VALVE	–IRRITROL–700 SERIES	
QUICK COUPLING VALVE	–RAINBIRD–33DRC	
GATE VALVE	–NIBCO–T113–IRR–LINE SIZE	
DRIP CONTROL ASSEMBLY	–TORO–DZK–700–MF	
DRIP FLUSH VALVE	–SEE DETAIL	
TREE BUBBLER	–RAINBIRD–1401	
IRRIGATION SUPPLYLINE	–1120/SCHEDULE 40 PVC PIPE	–24" COVER
IRRIGATION LATERAL LINE	–1120/CLASS 200 PVC PIPE	–18" COVER
SUBSURFACE DRIPLINE	–NETAFIM–TLCV–6–12	–3" COVER
ELECTRICAL CONDUIT	–1120/SCHEDULE 40 ELECTRICAL CONDUIT	–24" COVER
SLEEVING	–1120/SCHEDULE 40 PVC PIPE	–24" COVER
PIPING UNDER PAVERS/DECKING	–COPPER TYPE L SEAMLESS TUBING	
STUBOUT	–BY MECHANICAL SECTION OF CONTRACT	
PIPING THROUGH STRUCTURE	–BY PLUMBING SECTION OF CONTRACT	
CONDUIT THROUGH STRUCTURE	–BY ELECTRICAL SECTION OF CONTRACT	
sta gpm size	CONTROLLER STATION NUMBER GALLONS PER MINUTE THROUGH VALVE CONTROL VALVE SIZE	

N

SCALE 1/8"=1'-0"

0 4 8 12

studioKDA

GWO

△ PROJECT ISSUE RECORD:

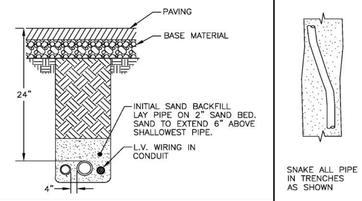
PROJECT #: GDC01

ISSUE DATE: 10/18/23

18 TH FLOOR
IRRIGATION PLANS

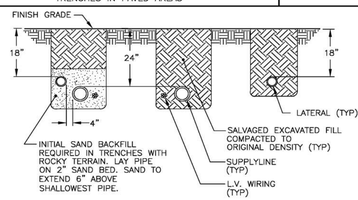
L305

NOTE: ALL PIPING UNDER PAVEMENT SHALL BE INSTALLED IN SCHEDULE 40 PVC SLEEVING.



SNAKE ALL PIPE IN TRENCHES AS SHOWN

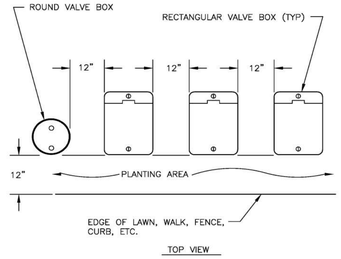
TRENCHES IN PAVED AREAS



TRENCHES IN PLANTING AREAS

A TRENCHING DETAILS
NTS

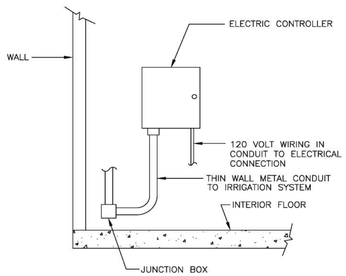
NOTES:
1. CENTER BOXES OVER VALVES.
2. SET BOXES IN GROUND COVER/SHRUB AREA WHERE POSSIBLE.
3. SET BOXES PARALLEL TO EACH OTHER AND PERPENDICULAR TO EDGE.
4. AVOID HEAVILY COMPACTING SOIL AROUND BOXES TO PREVENT DAMAGING VALVE BOXES.



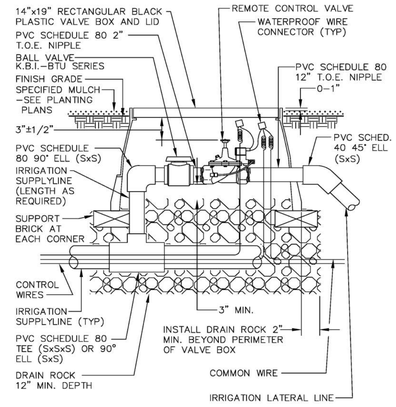
TOP VIEW

B VALVE BOX INSTALLATION DETAIL
NTS

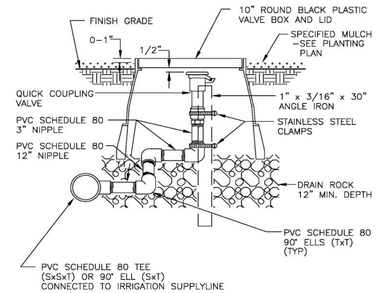
NOTE: ALL CONDUIT SHALL BE RIGID METAL–SIZE AS REQUIRED



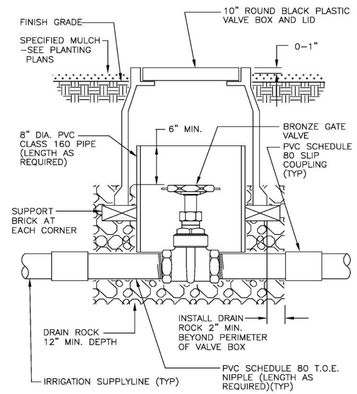
B WALL MOUNT CONTROLLER INSTALLATION DETAIL
NTS



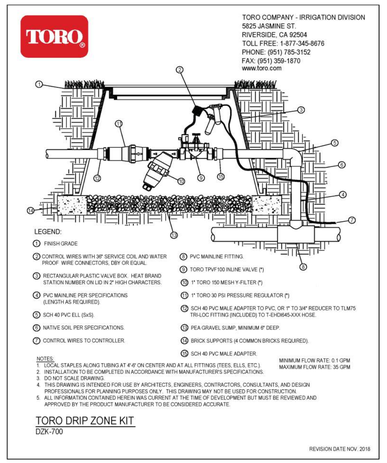
C REMOTE CONTROL VALVE INSTALLATION DETAIL
NTS

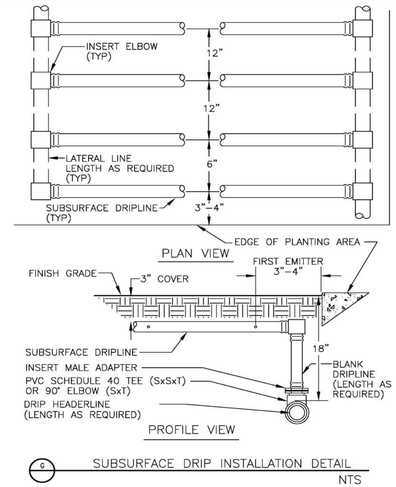


D QUICK COUPLING VALVE RISER ASSEMBLY DETAIL
NTS

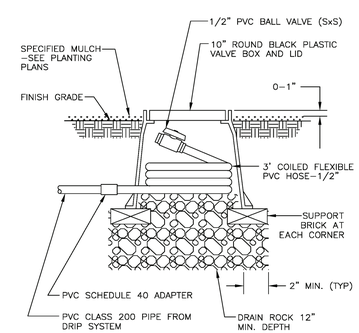


E GATE VALVE INSTALLATION DETAIL
NTS



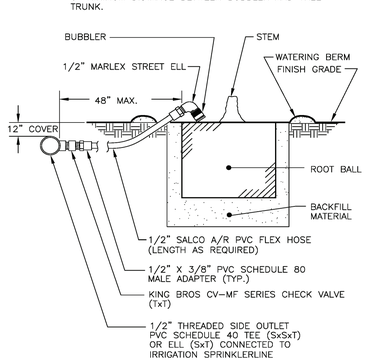


G SUBSURFACE DRIP INSTALLATION DETAIL
NTS



H FLUSH VALVE INSTALLATION DETAIL
NTS

NOTE: INSTALL BUBBLER ABOVE ROOT BALL. INSTALL BUBBLER ON UPHILL SIDE OF PLANT WHERE APPLICABLE. ALLOW 6" MINIMUM DISTANCE BETWEEN BUBBLER AND TREE TRUNK.



I BUBBLER INSTALLATION DETAIL FOR TREES
NTS

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PROJECT #: GDC01

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IRRIGATION DETAILS

L306

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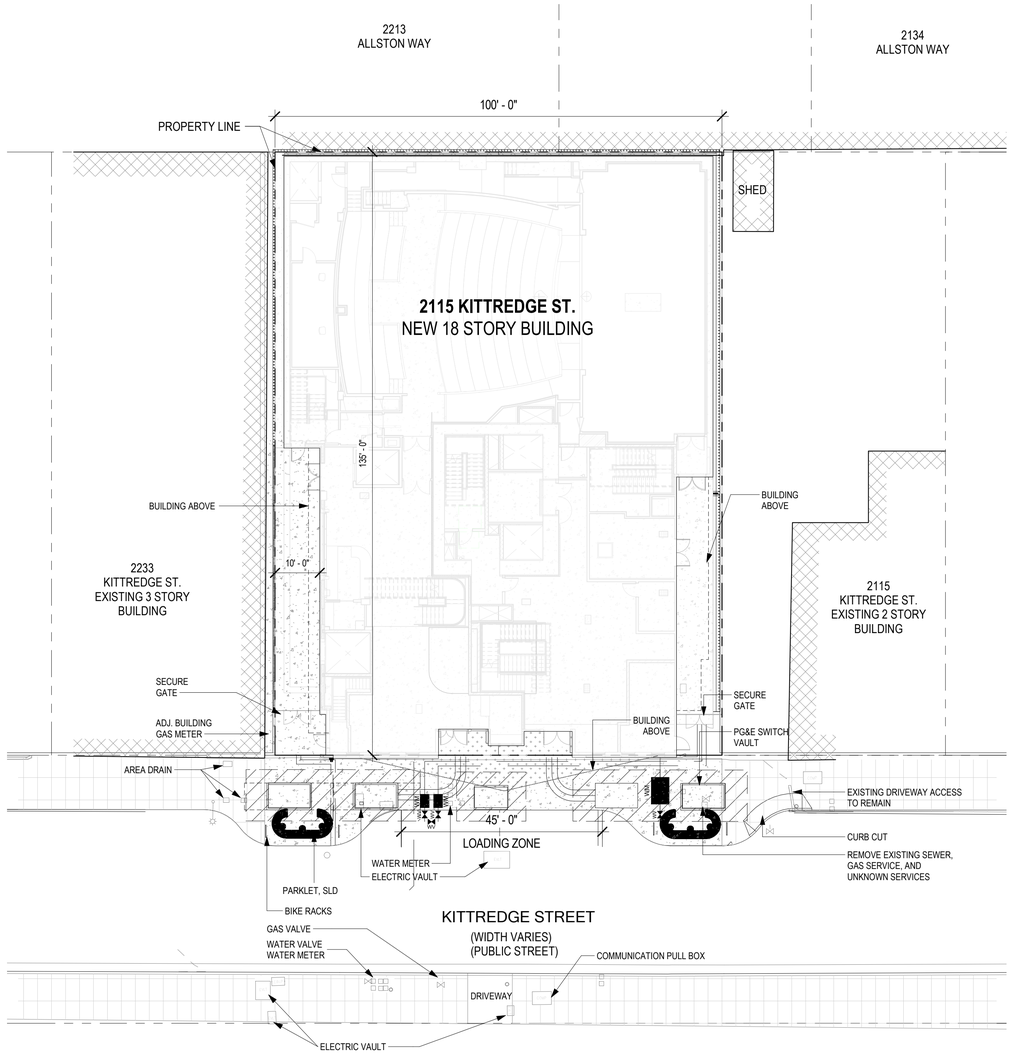
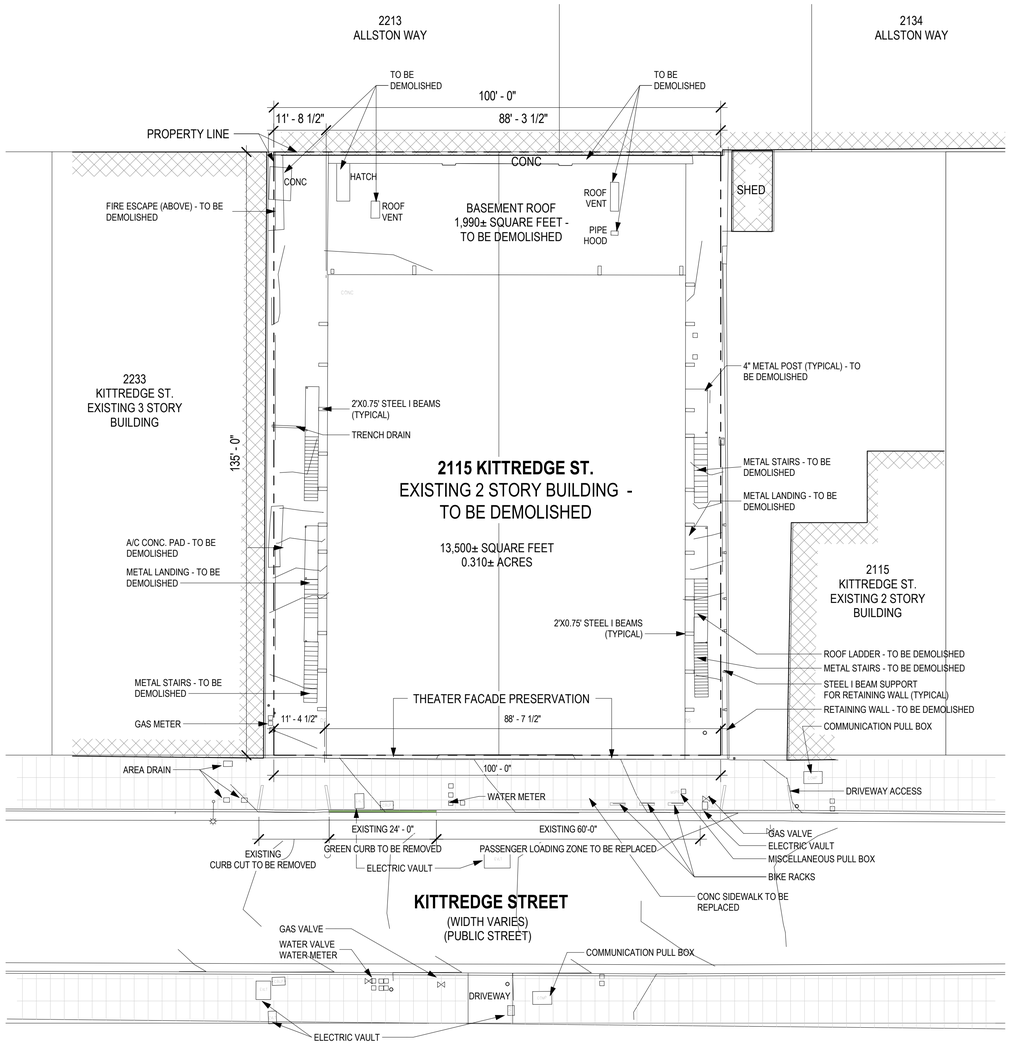


2 PROPOSED SITE PLAN
A100 1/16" = 1'-0" ON 24X36 (1/32"=1'-0" ON 12X18)



1 EXISTING SITE PLAN
A100 1/16" = 1'-0" ON 24X36 (1/32"=1'-0" ON 12X18)

N
0 4' 8' 16'

GENERAL SITE PLAN NOTES

1. SEE CIVIL DRAWINGS FOR SITE AND FINISH SLAB ELEVATIONS.
2. PROVIDE SITE PREPARATION GRADING, FILL, AND COMPACTION PER GEOTECHNICAL REPORT AND STRUCTURAL DRAWINGS.

SITE PLAN LEGEND:

TERAZZO FLOORING, SLD

COLORED CONCRETE W/ DECORATIVE SCORING, SLD

EXISTING CONCRETE SIDEWALK

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ktgy Project Number GDC01
Contact Elwin Wong
Email ewong@ktgy.com
Principal Jessica Musick
Designer

Gilbane
Developer
GILBANE DEVELOPMENT COMPANY
649 Mission Street
5th Floor
San Francisco, CA 94105

2115 KITTREDGE ST

2115 KITTREDGE ST
BERKELEY, CA

No.	DATE	DESCRIPTION
	9/26/2023	LPC RESUBMITTAL
	11/08/2023	ZAB SUBMITTAL

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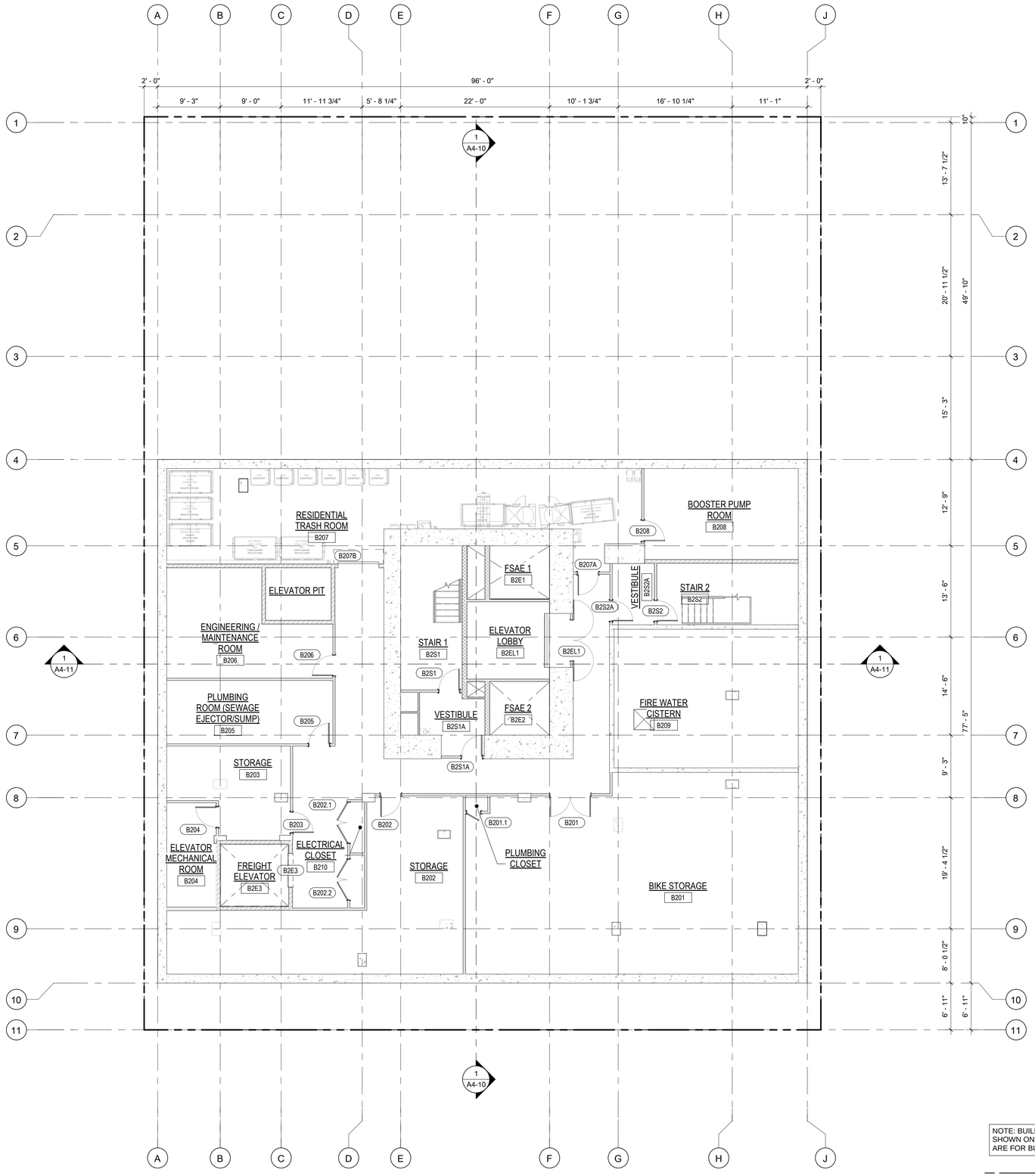
SITE PLAN

A100



NOTE: BUILDING AND WALL SECTIONS SHOWN ON PLANS AND ELEVATIONS ARE FOR BUILDING PERMIT USE ONLY.

0 1' 2' 4' 8'

PLAN NORTH

BASEMENT LEVEL B2 | 1/8" = 1'-0" | **1**

SHEET NOTES

1. FLOOR ELEVATIONS, WHERE INDICATED, ARE TO TOP OF STRUCTURAL CONCRETE. REFER TO LANDSCAPE DRAWINGS FOR WALKWAY PAVING ELEVATIONS.
2. SOFFITS AND CEILINGS HEIGHTS, ETC., ARE MEASURED FROM FINISHED FLOOR ELEVATIONS, U.O.N.
3. STUD DIMENSIONS INDICATED ARE PROVIDED TO SET MINIMUM WALL WIDTHS. SEE STRUCTURAL DRAWING FOR MINIMUM STRUCTURAL REQUIREMENTS.
4. PROVIDE FIRESTOPPING AT PLUMBING, ELECTRICAL, SPRINKLER AND FLUE PENETRATIONS THROUGH RATED ASSEMBLIES CBC SECTION 712. REFER TO SHEETS AD20 & AD21 & SPECS.
5. REFER TO ELECTRICAL DRAWINGS FOR EMERGENCY EXIT SIGNAGE.
6. DIMENSIONS ARE TO FACE OF FRAMING U.O.N.
7. REFER TO ENLARGED PLANS FOR TACTILE EXIT SIGN LOCATIONS.
8. REFER TO AD32 FOR ELEVATOR ACCESSIBILITY NOTES & DETAILS.
9. PROVIDE ADDITIONAL LAYER OF 5/8" GYPSUM BOARD IN ADDITION TO RATED ASSEMBLY AS REQUIRED TO ALIGN WITH ADJACENT 2 HOUR WALLS.
10. REFER TO SHEET A011 FOR TYPICAL SYMBOLS LEGEND
11. REFER TO EXTING DIAGRAMS ON SHEETS A0-10 THROUGH A0-20 FOR EXITING REQUIREMENTS.
12. REFER TO EBM AND STRUCTURAL DRAWINGS FOR FALL PROTECTION ANCHOR LOCATIONS.
13. DUCT PENETRATION OF SHAFT WALLS SHALL BE PROTECTED WITH COMBINATION SMOKE FIRE DAMPERS.
14. UNLESS OTHERWISE NOTED, REFER TO SHEETS AD60 & AD61 FOR TYPICAL DOOR DETAILS.
15. DIMENSIONS TO CENTER LINE OF COLUMN OR WALL, TYPICAL, U.O.N.
16. FIRE EXTINGUICHER SIZE OF 2A:10B:C TO BE PLACED AT A MAXIMUM TRAVEL DISTANCE OF 75 FEET.
17. FOR DOOR ACCESS REQUIREMENT REFER TO DETAIL 1/AD02
18. WINDOWS AND GLAZED DOORS MUST HAVE LABEL FOR THE "U" AND SHGC" FACTORS THAT ARE REQUIRED BY THE ENERGY DOCUMENTATION. SEE ENERGY COMPLIANCE INFORMATION LOCATED ON T-24 SHEET EN.1 FOR THE REQUIRED VALUES.

KEY NOTES

SYMBOLS LEGEND

- CONCRETE WALL, S.S.D.
- 2-1/2" METAL STUD
- 3-5/8" METAL STUD
- 6" METAL STUD
- 8" METAL STUD
- WALL MOUNTED FIRE EXTINGUISHER CABINET
- F.E.C. SEMI-RECESSED FIRE EXTINGUISHER CABINET
- 1-HR FIRE & SMOKE RATED CORRIDOR
- 1-HR FIRE BARRIER
- 2-HR FIRE BARRIER
- BUILDING OVERHANG ABOVE

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510.272.2910

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Email	ewong@ktgy.com
Principal	Jessica Musick
Designer	

Gilbane

Developer/Owner

2115 Kittredge St. LLC
Christian Cerria
7 Jackson Walkway
Providence, RI 02903
571-212-1733

2115 KITTREDGE ST.

BERKELEY, CA 94704

No.	DATE	DESCRIPTION
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BASEMENT 2 FLOOR PLAN

A101

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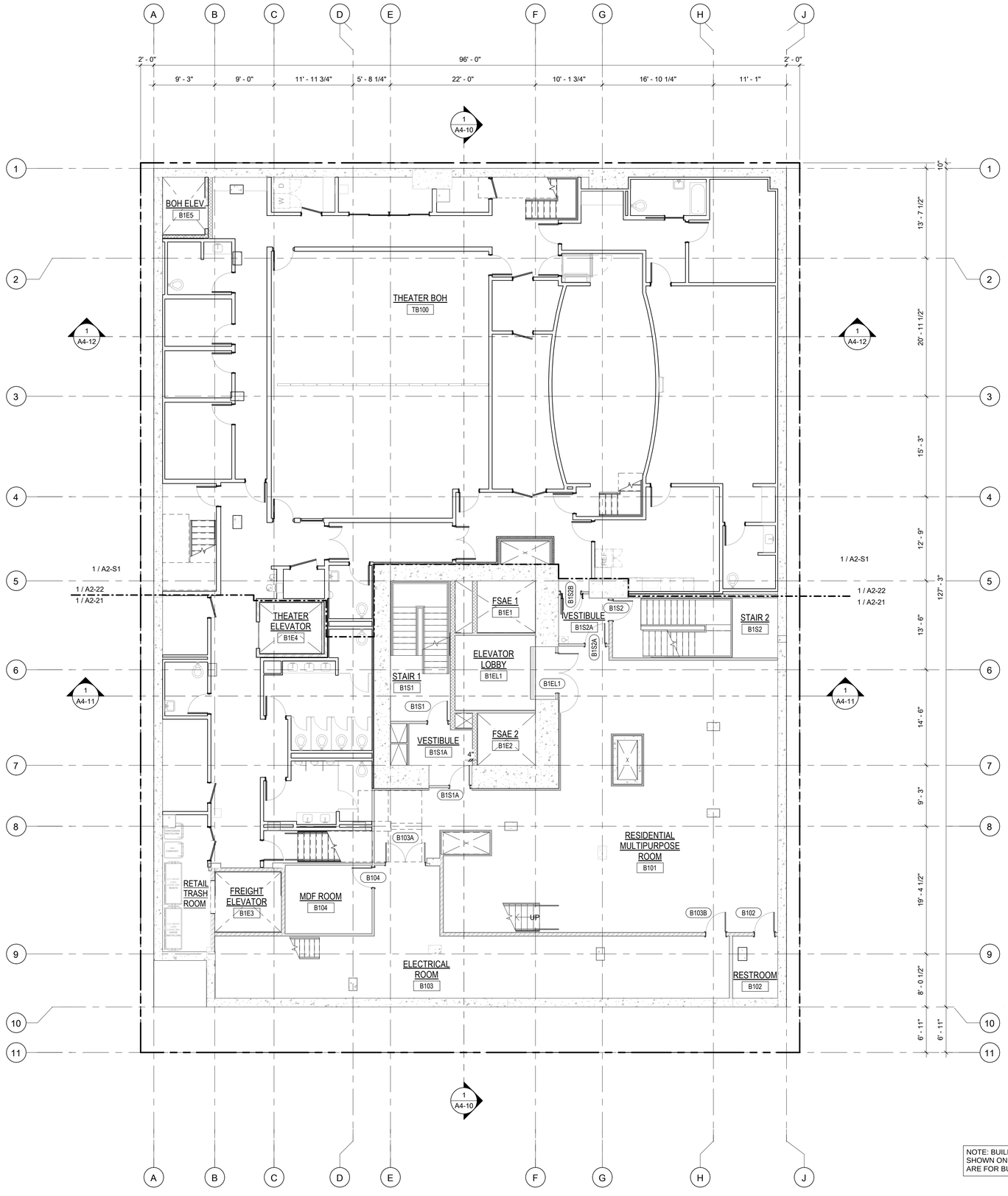

NOTE: BUILDING AND WALL SECTIONS SHOWN ON PLANS AND ELEVATIONS ARE FOR BUILDING PERMIT USE ONLY.

0 1' 2' 4' 8'

PLAN NORTH

BASEMENT LEVEL B1 | 1/8" = 1'-0" | 1

SHEET NOTES

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KEY NOTES

SYMBOLS LEGEND

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- 2-1/2" METAL STUD
- 3-5/8" METAL STUD
- 6" METAL STUD
- 8" METAL STUD
- WALL MOUNTED FIRE EXTINGUISHER CABINET
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BASEMENT 1 FLOOR PLAN

A102

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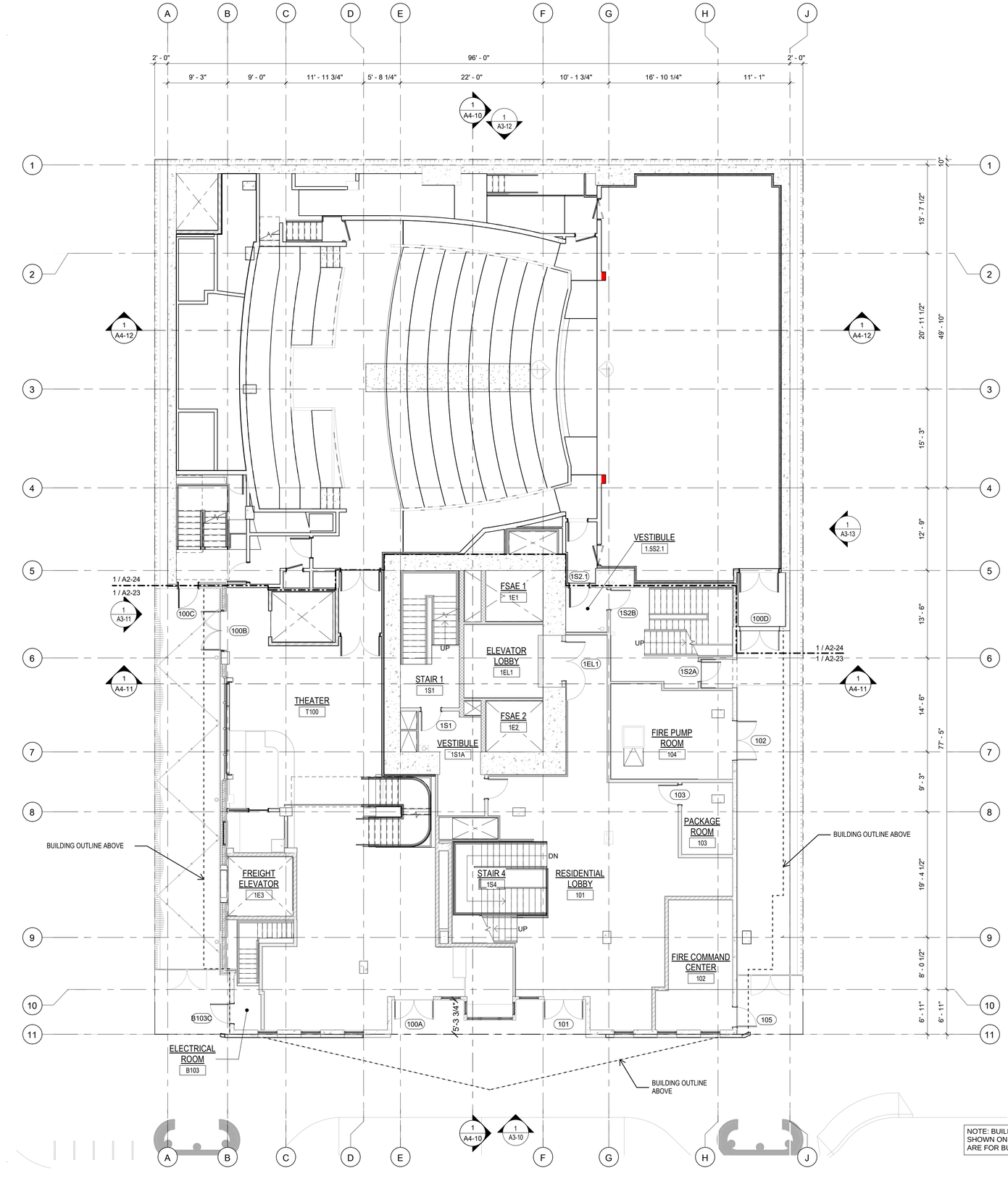

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0 1' 2' 4' 8'

PLAN NORTH

LEVEL 1 | 1/8" = 1'-0" | **1**

SHEET NOTES

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KEY NOTES

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GROUND FLOOR PLAN

A103

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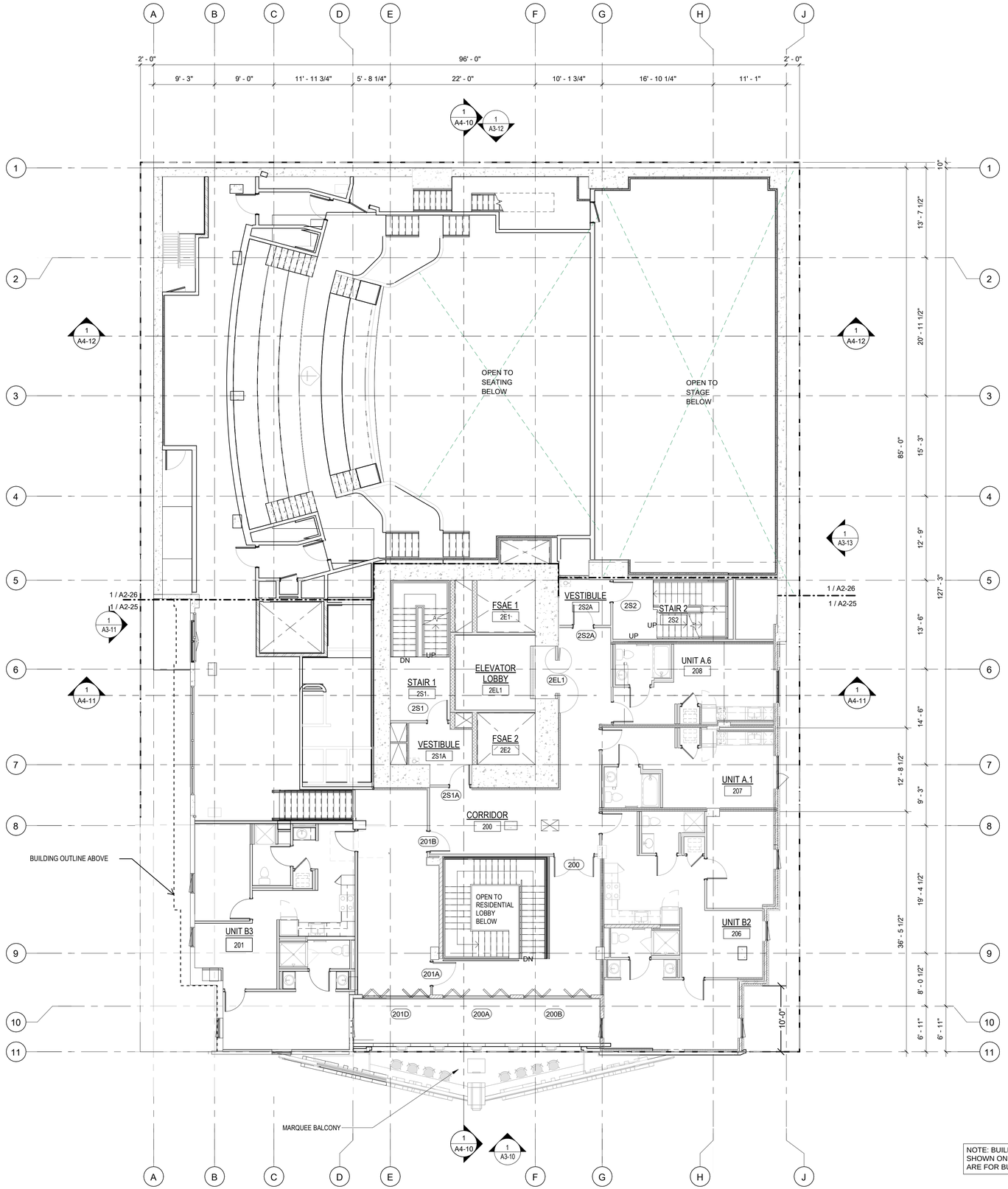

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0 1' 2' 4' 8'

PLAN NORTH

LEVEL 2 | 1/8" = 1'-0" | **1**

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4. PROVIDE FIRESTOPPING AT PLUMBING, ELECTRICAL, SPRINKLER AND FLUE PENETRATIONS THROUGH RATED ASSEMBLIES CBC SECTION 712. REFER TO SHEETS AD20 & AD21 & SPECS.
5. REFER TO ELECTRICAL DRAWINGS FOR EMERGENCY EXIT SIGNAGE.
6. DIMENSIONS ARE TO FACE OF FRAMING U.O.N.
7. REFER TO ENLARGED PLANS FOR TACTILE EXIT SIGN LOCATIONS.
8. REFER TO AD32 FOR ELEVATOR ACCESSIBILITY NOTES & DETAILS.
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11. REFER TO EXITING DIAGRAMS ON SHEETS A0-10 THROUGH A0-20 FOR EXITING REQUIREMENTS.
12. REFER TO EBM AND STRUCTURAL DRAWINGS FOR FALL PROTECTION ANCHOR LOCATIONS.
13. DUCT PENETRATION OF SHAFT WALLS SHALL BE PROTECTED WITH COMBINATION SMOKE FIRE DAMPERS.
14. UNLESS OTHERWISE NOTED, REFER TO SHEETS AD60 & AD61 FOR TYPICAL DOOR DETAILS.
15. DIMENSIONS TO CENTER LINE OF COLUMN OR WALL, TYPICAL, U.O.N.
16. FIRE EXTINGUICHER SIZE OF 2A:10B:C TO BE PLACED AT A MAXIMUM TRAVEL DISTANCE OF 75 FEET.
17. FOR DOOR ACCESS REQUIREMENT REFER TO DETAIL 1/AD02
18. WINDOWS AND GLAZED DOORS MUST HAVE LABEL FOR THE "U" AND SHGC" FACTORS THAT ARE REQUIRED BY THE ENERGY DOCUMENTATION. SEE ENERGY COMPLIANCE INFORMATION LOCATED ON T-24 SHEET EN.1 FOR THE REQUIRED VALUES.

KEY NOTES

SYMBOLS LEGEND

- CONCRETE WALL, S.S.D.
- 2-1/2" METAL STUD
- 3-5/8" METAL STUD
- 6" METAL STUD
- 8" METAL STUD
- WALL MOUNTED FIRE EXTINGUISHER CABINET
- F.E.C. SEMI-RECESSED FIRE EXTINGUISHER CABINET
- 1-HR FIRE & SMOKE RATED CORRIDOR
- 1-HR FIRE BARRIER
- 2-HR FIRE BARRIER
- BUILDING OVERHANG ABOVE

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Principal	Jessica Musick
Designer	

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2115 KITTREDGE ST.

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LEVEL 2 FLOOR PLAN

A104

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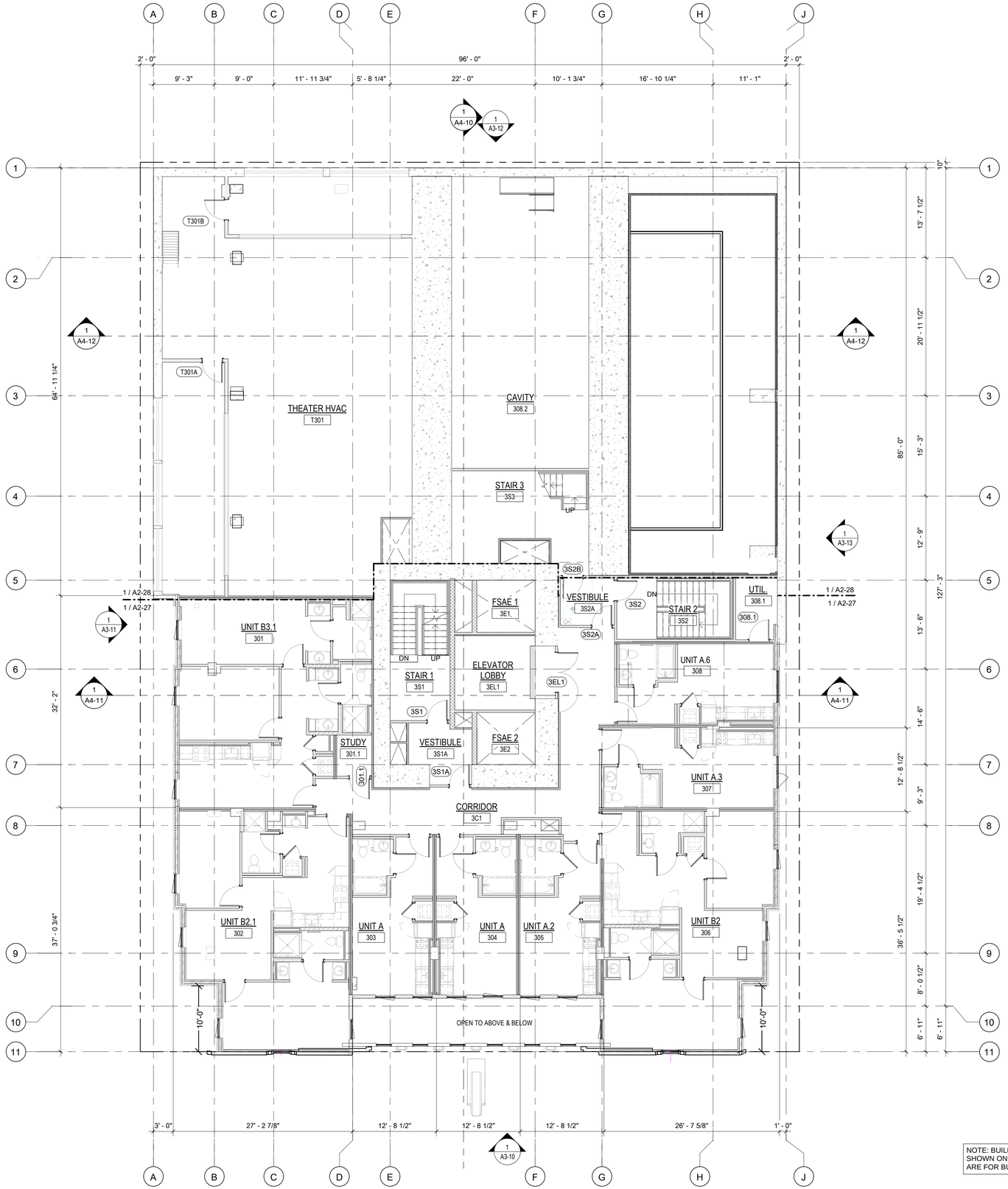

NOTE: BUILDING AND WALL SECTIONS SHOWN ON PLANS AND ELEVATIONS ARE FOR BUILDING PERMIT USE ONLY.

0 1' 2' 4' 8'

PLAN NORTH

LEVEL 3 | 1/8" = 1'-0" | **1**

SHEET NOTES

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11. REFER TO EXITING DIAGRAMS ON SHEETS A0-10 THROUGH A0-20 FOR EXITING REQUIREMENTS.
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LEVEL 3 FLOOR PLAN

A105
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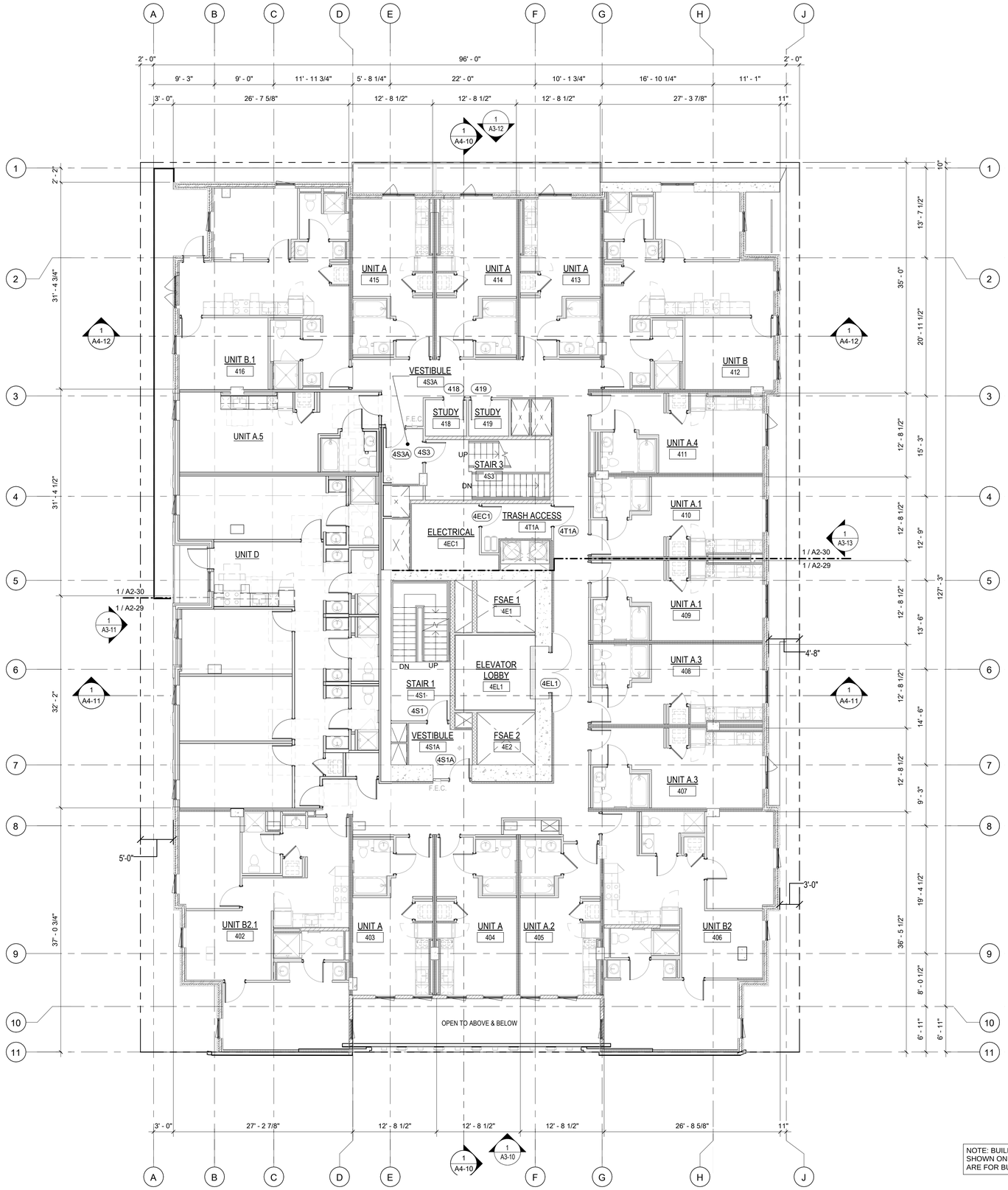
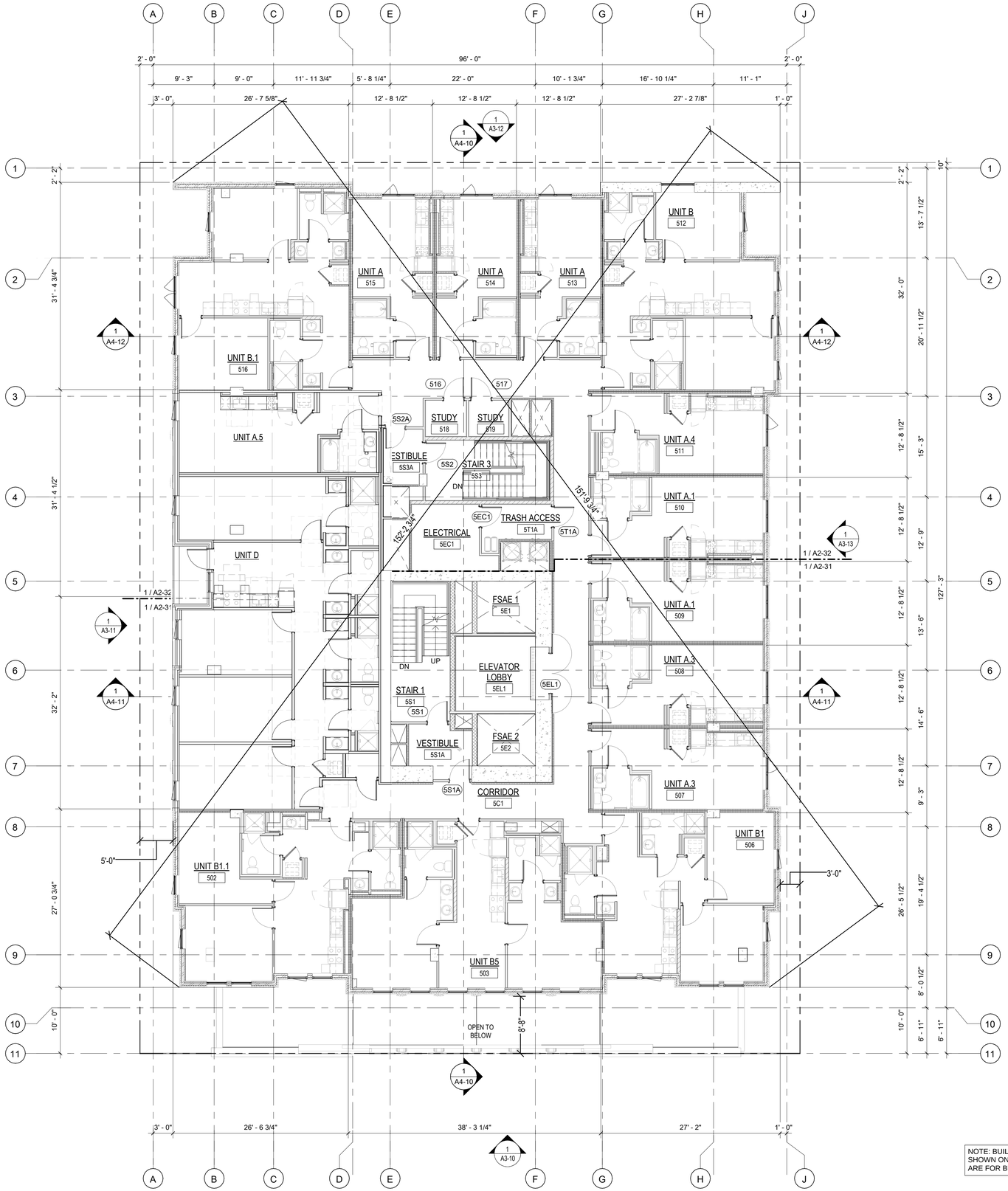

A
B
C
D
E
F
G
H
J
2' - 0"
96' - 0"
2' - 0"
9' - 3"
9' - 0"
11' - 11 3/4"
5' - 8 1/4"
22' - 0"
10' - 1 3/4"
16' - 10 1/4"
11' - 1"
3' - 0"
26' - 7 5/8"
12' - 8 1/2"
12' - 8 1/2"
12' - 8 1/2"
27' - 3 7/8"
11"
1
A4-10
1
A3-12
1
2
3
4
5
6
7
8
9
10
11
2' - 2"
31' - 4 3/4"
31' - 4 1/2"
32' - 2"
5'-0"
37' - 0 3/4"
10"
13' - 7 1/2"
35' - 0"
20' - 11 1/2"
15' - 3"
12' - 8 1/2"
12' - 8 1/2"
12' - 8 1/2



NOTE: BUILDING AND WALL SECTIONS SHOWN ON PLANS AND ELEVATIONS ARE FOR BUILDING PERMIT USE ONLY.

0 1' 2' 4' 8'

PLAN NORTH

LEVEL 5, 7, 9, 11, 13 | 1/8" = 1'-0" | **1**

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LEVEL 5, 7, 9, 11, 13
FLOOR PLAN

A107
Page 542

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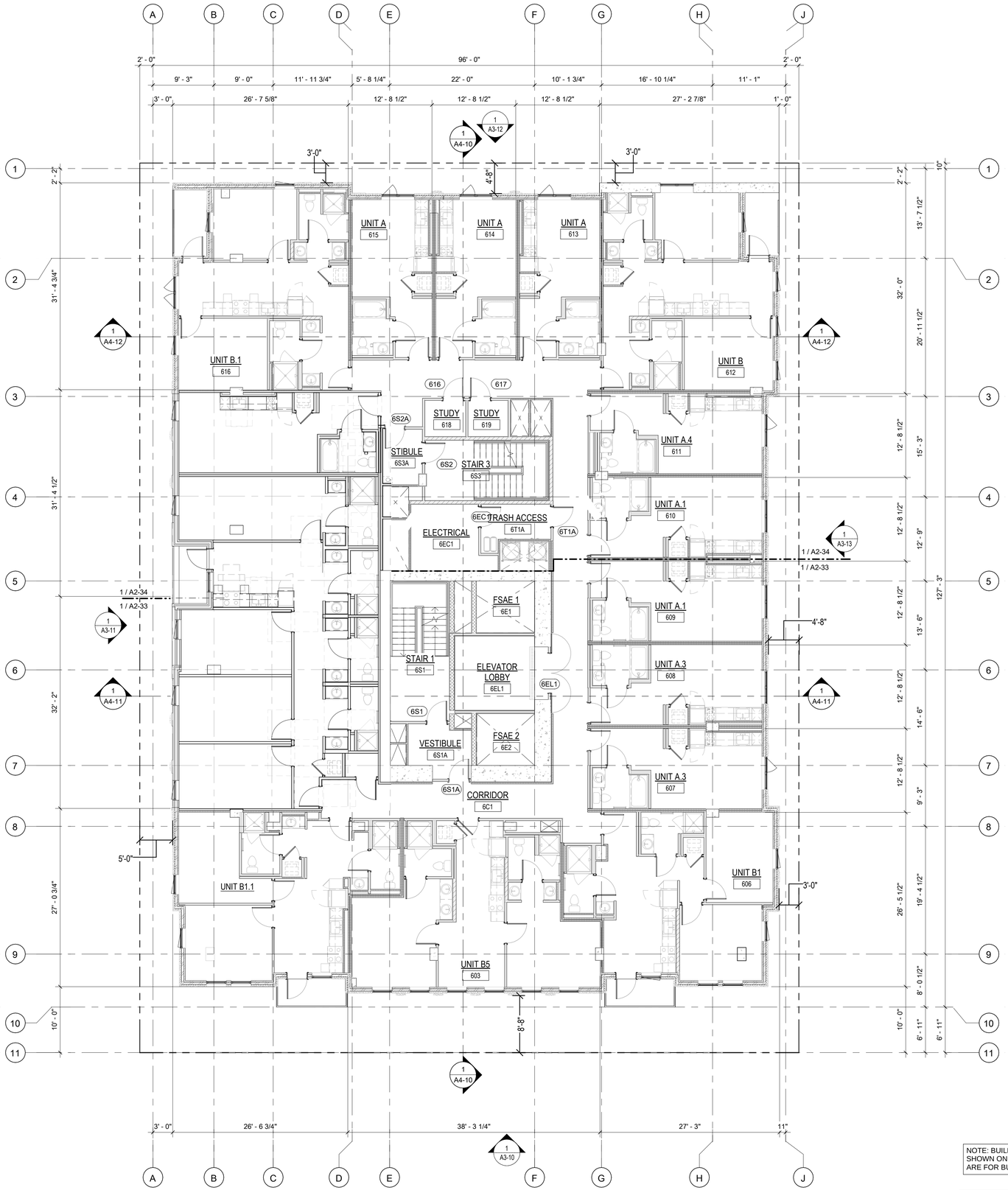

NOTE: BUILDING AND WALL SECTIONS SHOWN ON PLANS AND ELEVATIONS ARE FOR BUILDING PERMIT USE ONLY.

0 1' 2' 4' 8'

PLAN NORTH

LEVEL 6, 8, 10, 12, 14 | 1/8" = 1'-0" | **1**

SHEET NOTES

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LEVEL 6, 8, 10, 12, 14
FLOOR PLAN

A108
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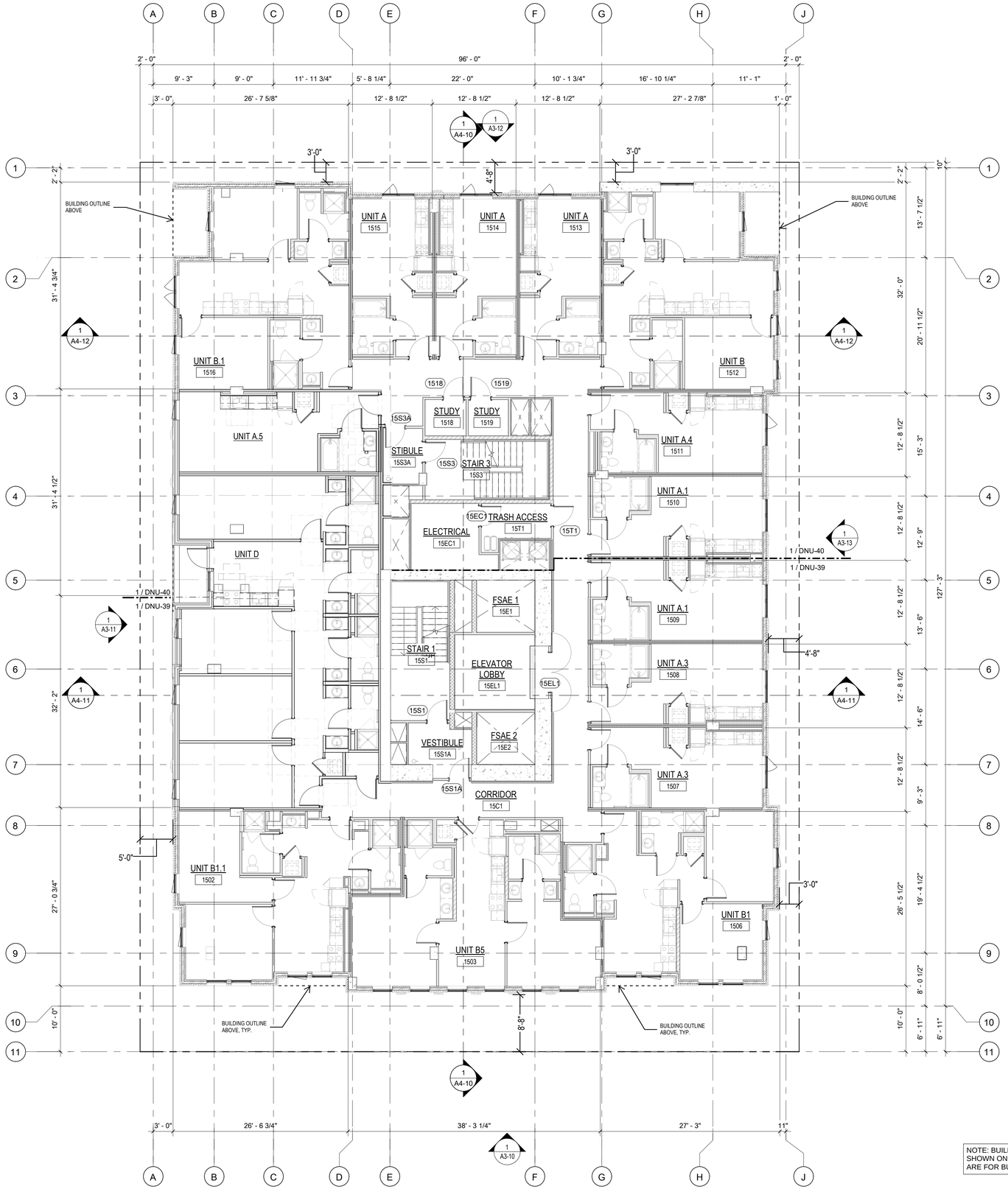

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0 1' 2' 4' 8'

PLAN NORTH

LEVEL 15 | 1/8" = 1'-0" | **1**

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LEVEL 15 FLOOR PLAN

A109
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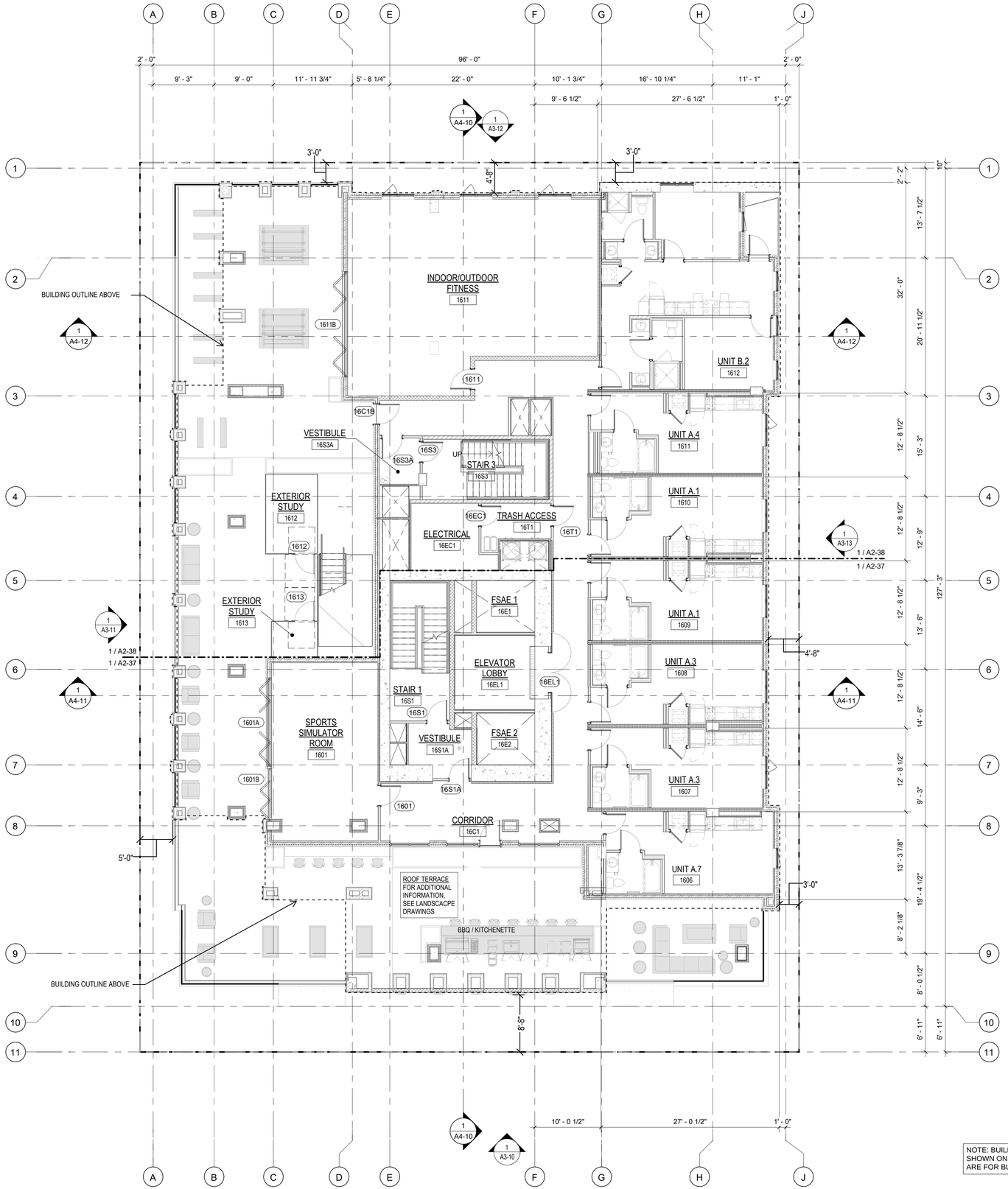

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0 1' 2' 4' 8'

PLAN NORTH

LEVEL 16 | 1/8" = 1'-0" | **1**

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14. UNLESS OTHERWISE NOTED, REFER TO SHEETS AD60 & AD61 FOR TYPICAL DOOR DETAILS.
15. DIMENSIONS TO CENTER LINE OF COLUMN OR WALL, TYPICAL, U.O.N.
16. FIRE EXTINGUICHER SIZE OF 2A:10B:C TO BE PLACED AT A MAXIMUM TRAVEL DISTANCE OF 75 FEET.
17. FOR DOOR ACCESS REQUIREMENT REFER TO DETAIL 1/AD02
18. WINDOWS AND GLAZED DOORS MUST HAVE LABEL FOR THE "U" AND SHGC" FACTORS THAT ARE REQUIRED BY THE ENERGY DOCUMENTATION. SEE ENERGY COMPLIANCE INFORMATION LOCATED ON T-24 SHEET EN.1 FOR THE REQUIRED VALUES.

KEY NOTES

SYMBOLS LEGEND

- CONCRETE WALL, S.S.D.
- 2-1/2" METAL STUD
- 3-5/8" METAL STUD
- 6" METAL STUD
- 8" METAL STUD
- WALL MOUNTED FIRE EXTINGUISHER CABINET
- F.E.C. SEMI-RECESSED FIRE EXTINGUISHER CABINET
- 1-HR FIRE & SMOKE RATED CORRIDOR
- 1-HR FIRE BARRIER
- 2-HR FIRE BARRIER
- BUILDING OVERHANG ABOVE

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No.	DATE	DESCRIPTION
	11/08/2023	ZAB SUBMITTAL

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LEVEL 16 FLOOR PLAN

A110

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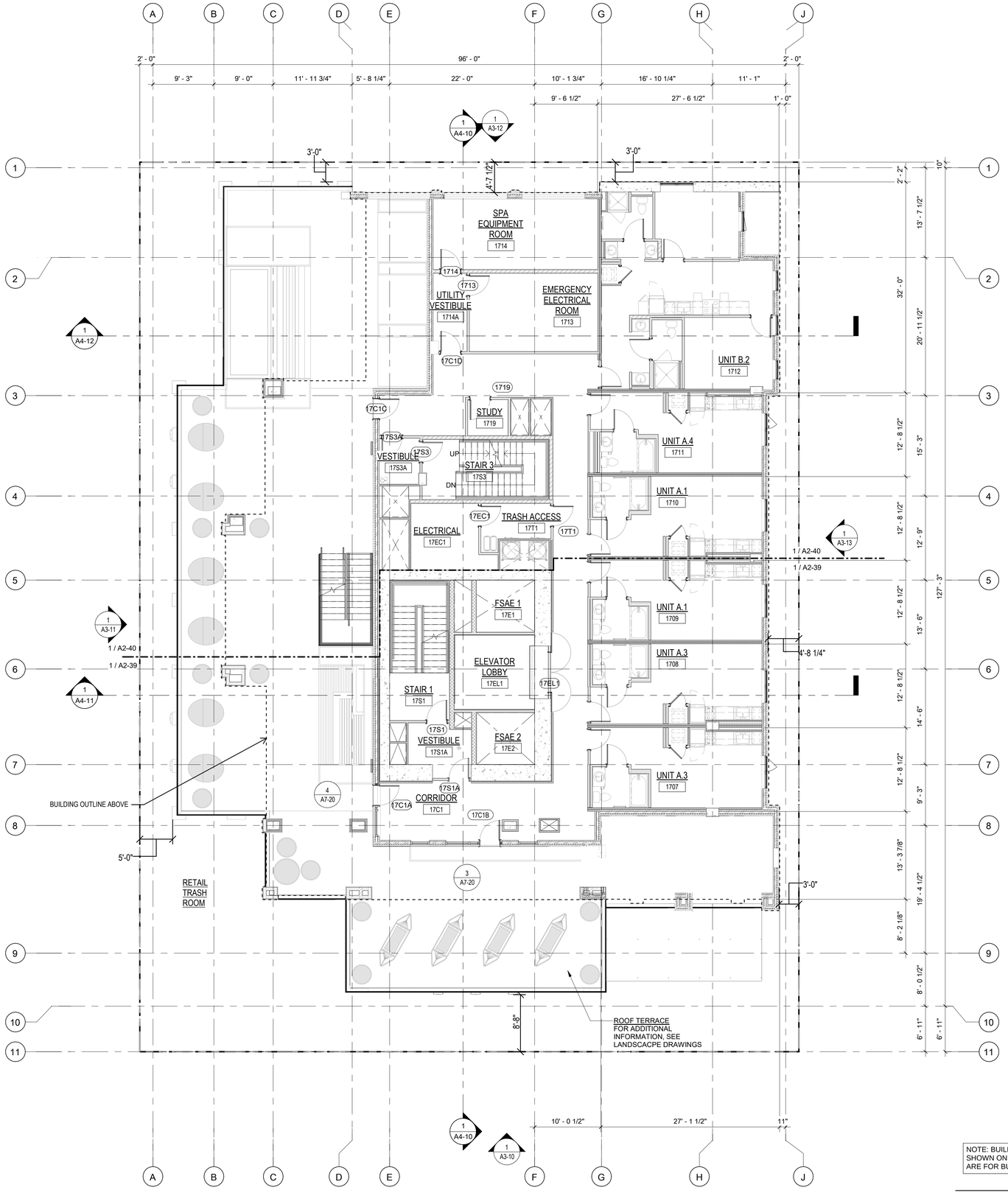

NOTE: BUILDING AND WALL SECTIONS SHOWN ON PLANS AND ELEVATIONS ARE FOR BUILDING PERMIT USE ONLY.

0 1' 2' 4' 8'

PLAN NORTH

LEVEL 17 | 1/8" = 1'-0" | **1**

SHEET NOTES

1. FLOOR ELEVATIONS, WHERE INDICATED, ARE TO TOP OF STRUCTURAL CONCRETE. REFER TO LANDSCAPE DRAWINGS FOR WALKWAY PAVING ELEVATIONS.
2. SOFFITS AND CEILINGS HEIGHTS, ETC., ARE MEASURED FROM FINISHED FLOOR ELEVATIONS, U.O.N.
3. STUD DIMENSIONS INDICATED ARE PROVIDED TO SET MINIMUM WALL WIDTHS. SEE STRUCTURAL DRAWING FOR MINIMUM STRUCTURAL REQUIREMENTS.
4. PROVIDE FIRESTOPPING AT PLUMBING, ELECTRICAL, SPRINKLER AND FLUE PENETRATIONS THROUGH RATED ASSEMBLIES CBC SECTION 712. REFER TO SHEETS AD20 & AD21 & SPECS.
5. REFER TO ELECTRICAL DRAWINGS FOR EMERGENCY EXIT SIGNAGE.
6. DIMENSIONS ARE TO FACE OF FRAMING U.O.N.
7. REFER TO ENLARGED PLANS FOR TACTILE EXIT SIGN LOCATIONS.
8. REFER TO AD32 FOR ELEVATOR ACCESSIBILITY NOTES & DETAILS.
9. PROVIDE ADDITIONAL LAYER OF 5/8" GYPSUM BOARD IN ADDITION TO RATED ASSEMBLY AS REQUIRED TO ALIGN WITH ADJACENT 2 HOUR WALLS.
10. REFER TO SHEET A011 FOR TYPICAL SYMBOLS LEGEND
11. REFER TO EXITING DIAGRAMS ON SHEETS A0-10 THROUGH A0-20 FOR EXITING REQUIREMENTS.
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18. WINDOWS AND GLAZED DOORS MUST HAVE LABEL FOR THE "U" AND SHGC" FACTORS THAT ARE REQUIRED BY THE ENERGY DOCUMENTATION. SEE ENERGY COMPLIANCE INFORMATION LOCATED ON T-24 SHEET EN.1 FOR THE REQUIRED VALUES.

KEY NOTES

SYMBOLS LEGEND

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- 2-1/2" METAL STUD
- 3-5/8" METAL STUD
- 6" METAL STUD
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- BUILDING OVERHANG ABOVE

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LEVEL 17 FLOOR PLAN

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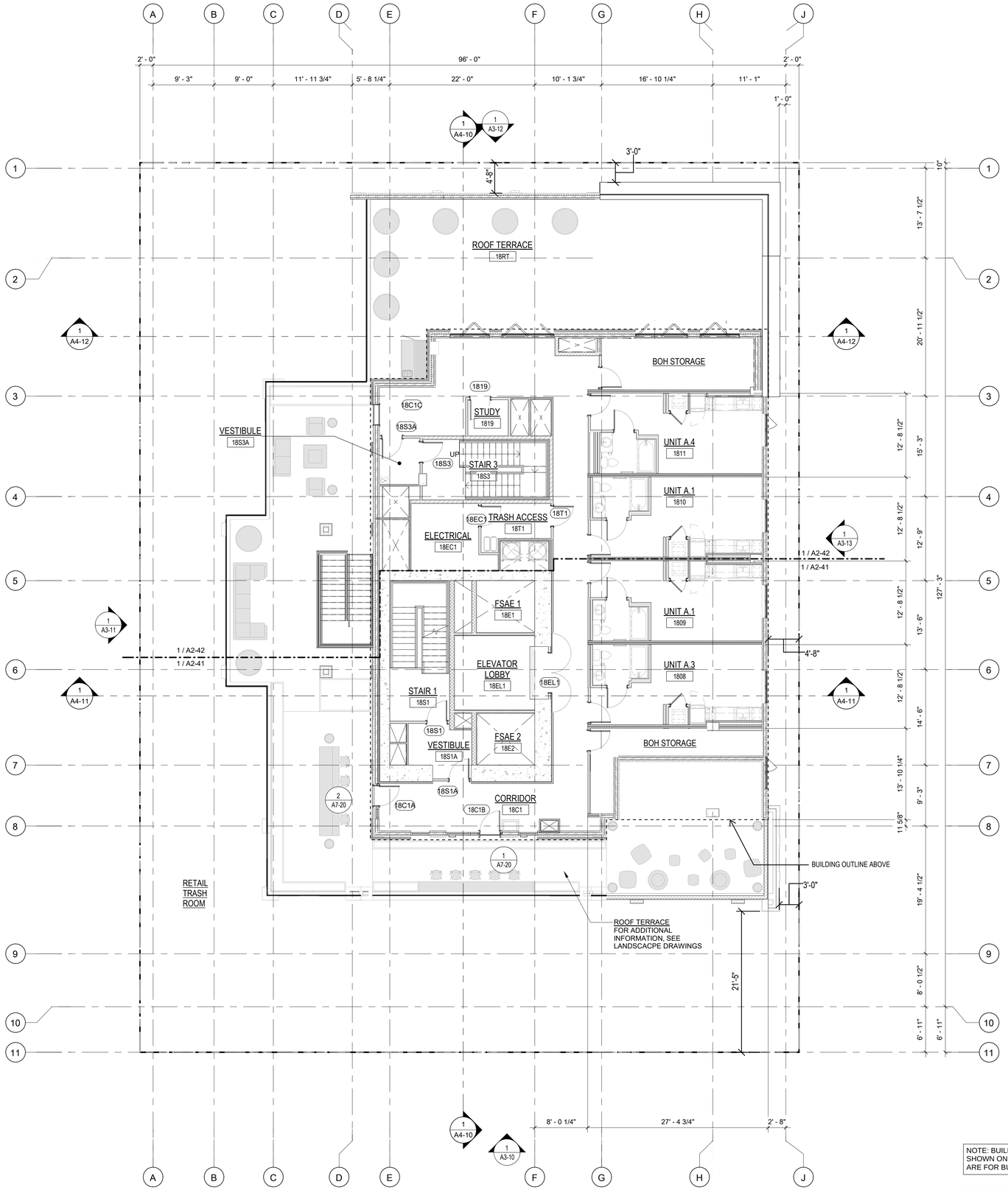

NOTE: BUILDING AND WALL SECTIONS SHOWN ON PLANS AND ELEVATIONS ARE FOR BUILDING PERMIT USE ONLY.

0 1' 2' 4' 8'

PLAN NORTH

LEVEL 18 | 1/8" = 1'-0" | **1**

SHEET NOTES

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KEY NOTES

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LEVEL 18 FLOOR PLAN

A112
Page 547

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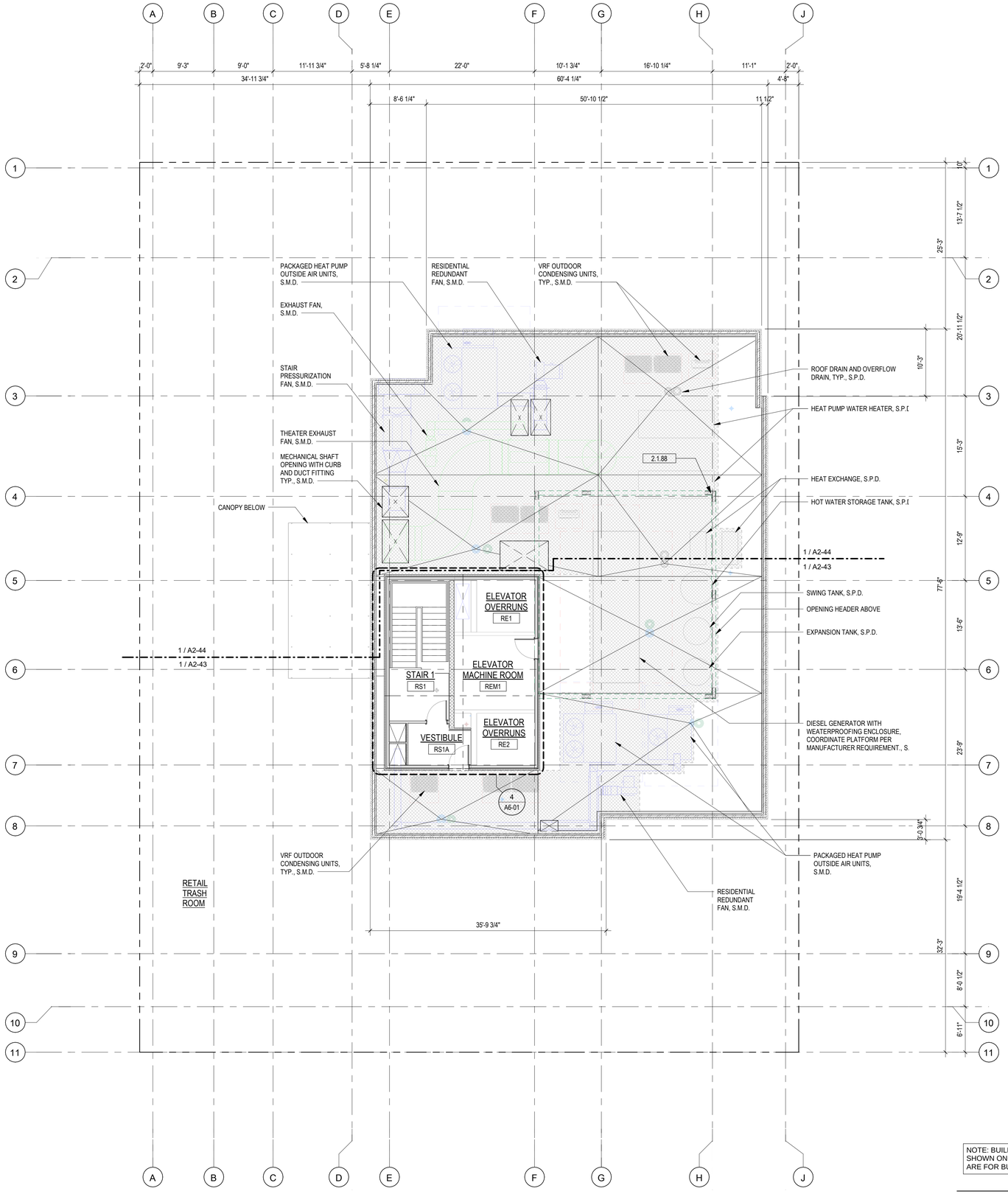

NOTE: BUILDING AND WALL SECTIONS SHOWN ON PLANS AND ELEVATIONS ARE FOR BUILDING PERMIT USE ONLY.

0 1' 2' 4' 8'

PLAN NORTH

ROOF PLAN 1/8" = 1'-0" **1**

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KEY NOTES

SYMBOLS LEGEND

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- 1-HR FIRE & SMOKE RATED CORRIDOR
- 1-HR FIRE BARRIER
- 2-HR FIRE BARRIER
- ROOF ELEMENT AREA - 2804 SF

ROOFTOP ELEMENTS CALCULATION

BUILDING AVERAGE FLOOR PLATE = 9882 SF
BUILDING ROOF AREA = 4,530 SF

9882 SF X 15% = 1,482 SF PERMITTED AREA OF ROOF TOP ELEMENT.

TOTAL ROOFTOP ELEMENTS AREA: 2,804 SF (28% OF AVERAGE FLOOR AREA)

NOTE: ROOFTOP ELEMENTS AREA NOT COMPLIANT WITH BMC 23.304.050 REQUIREMENT TO NOT EXCEED 15% OF AVERAGE FLOOR AREA OF THE BUILDING'S STOREIS. WAIVER REQUESTED.

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Principal	Jessica Musick
Designer	

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ROOF PLAN

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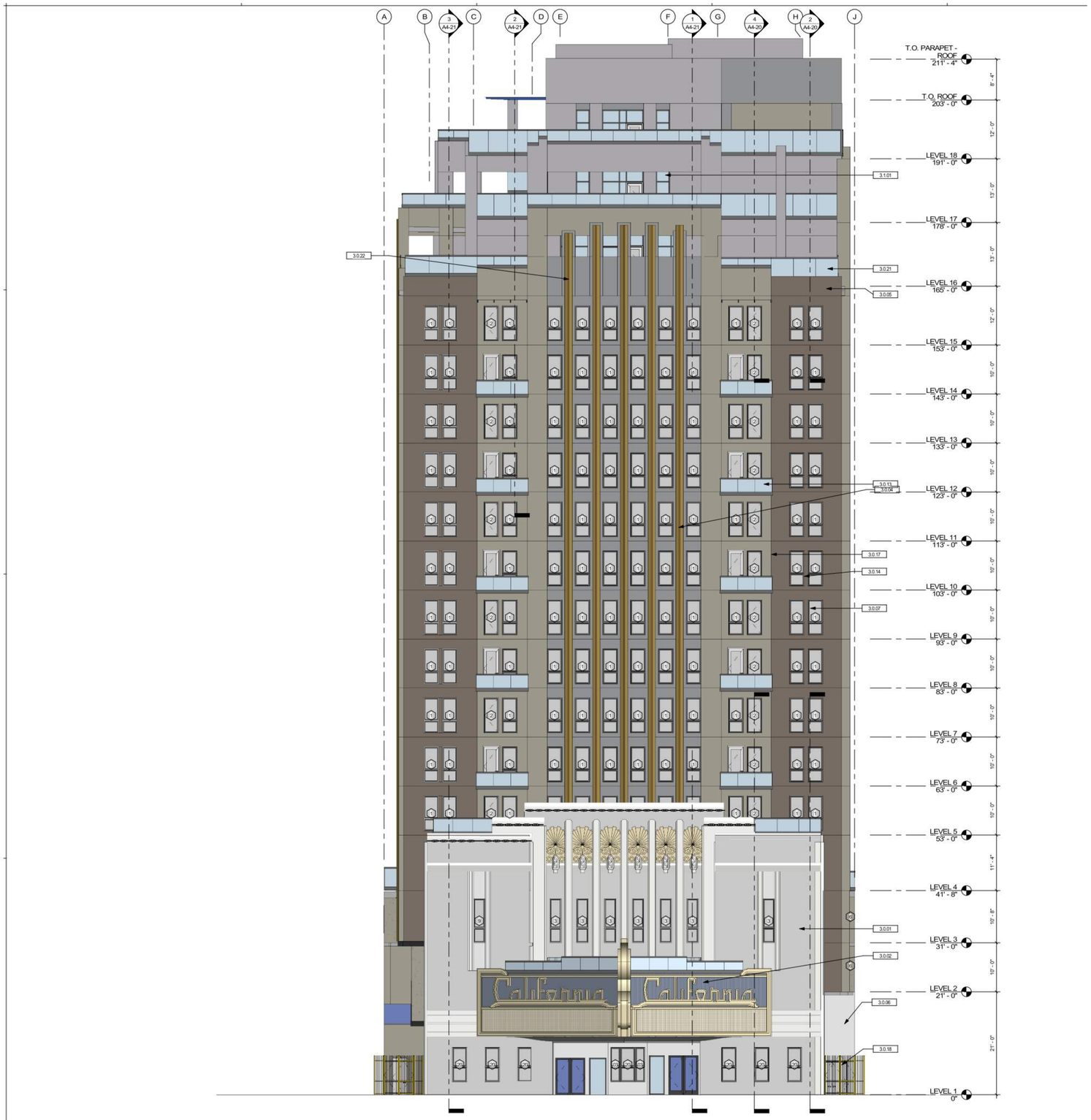
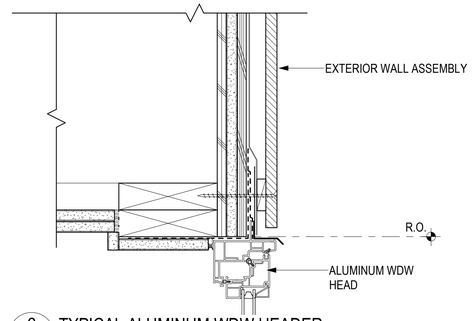


SOUTH ELEVATION 1/8" = 1'-0" 1



2 A201 TYPICAL ALUMINUM WDW HEADER
3" = 1'-0"

KEYNOTES

3.0.01	HISTORIC FACADE TO REMAIN
3.0.02	HISTORIC MARQUE TO REMAIN
3.0.04	RAISED FLUTING INCOPERATED INTO CONCRETE FACADE SYSTEM
3.0.05	CEMENT PLASTER, SMOOTH FINISH
3.0.06	CONCRETE WALL
3.0.07	CONCRETE COLUMN
3.0.13	GLASS GUARDRAIL WITH METAL CAP, SEE DETAIL X/XX
3.0.14	METAL AWNING AND GLASS CANOPY, SEE DETAIL X/XX
3.0.17	SURFACE MOUNTED DECORATIVE METAL LATTICE (DESIGN PENDING), SEE DETAIL X/XX
3.0.18	METAL FENCE & DOUBLE GATE WITH EGRESS HARDWARE. SEE DETAIL X/XX
3.0.21	FALL PROTECTION GUARDRAIL @ 6'-0", SEE DETAIL X/XX
3.0.22	FACTORY INSTALLED PROFILE WITH LED LIGHT COVE ON BOTH SIDES, TYP.
3.1.01	ALUMINUM STOREFRONT & GLAZING SYSTEM

NOTE: THE PROJECT WILL ENDEAVOR TO USE A RANGE OF BIRD SAFE STRATEGIES WHICH COULD INCLUDE GLAZING OPTIONS, BUILDING FENESTRATION AND LIGHTING STRATEGIES TO ULTIMATELY REDUCE BIRD COLLISIONS.

FINISH LEGEND

01	**MTL-01** DARK BROWN CONCRETE CLARK PACIFIC 05-13 LIGHT	
02	**MTL-02** LIGHT BROWN CONCRETE CLARK PACIFIC 05-01 MEDIUM	
03	**MTL-03** LIGHT CONCRETE CLARK PACIFIC 06-01 LIGHT	
04	**MTL-04** TERRACE ACCENT SHERWIN WILLIAMS SW 7644 GATEWAY GRAY	
05	**MTL-05** DARK ALUMINUM WINDOW FRAME ARCADIA AB-STD DARK BRONZE	
06	**MTL-06** HPL WOOD PANEL PARKLEX PRODEMA RUSTIK / NATURCLAD-W	
07	**MTL-07** STONE LOOK / FIBER CEMENT PANEL CLARK PACIFIC	
08	**MTL-08** LIGHT BEIGE STUCCO SHERWIN WILLIAMS SW 6147 PANDA WHITE	
09	**MTL-09** LIGHT ALUMINUM WINDOW FRAME MARVIN COCONUT CREAM	
10	**MTL-10** GOLDEN ACCENTS PRISMATIC POWDERS SATIN POLY GOLD	

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Designer	

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BERKELEY, CA

No.	DATE	DESCRIPTION
	9/26/2023	LPC RESUBMITTAL
	11/08/2023	ZAB SUBMITTAL

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SOUTH EXTERIOR ELEVATION

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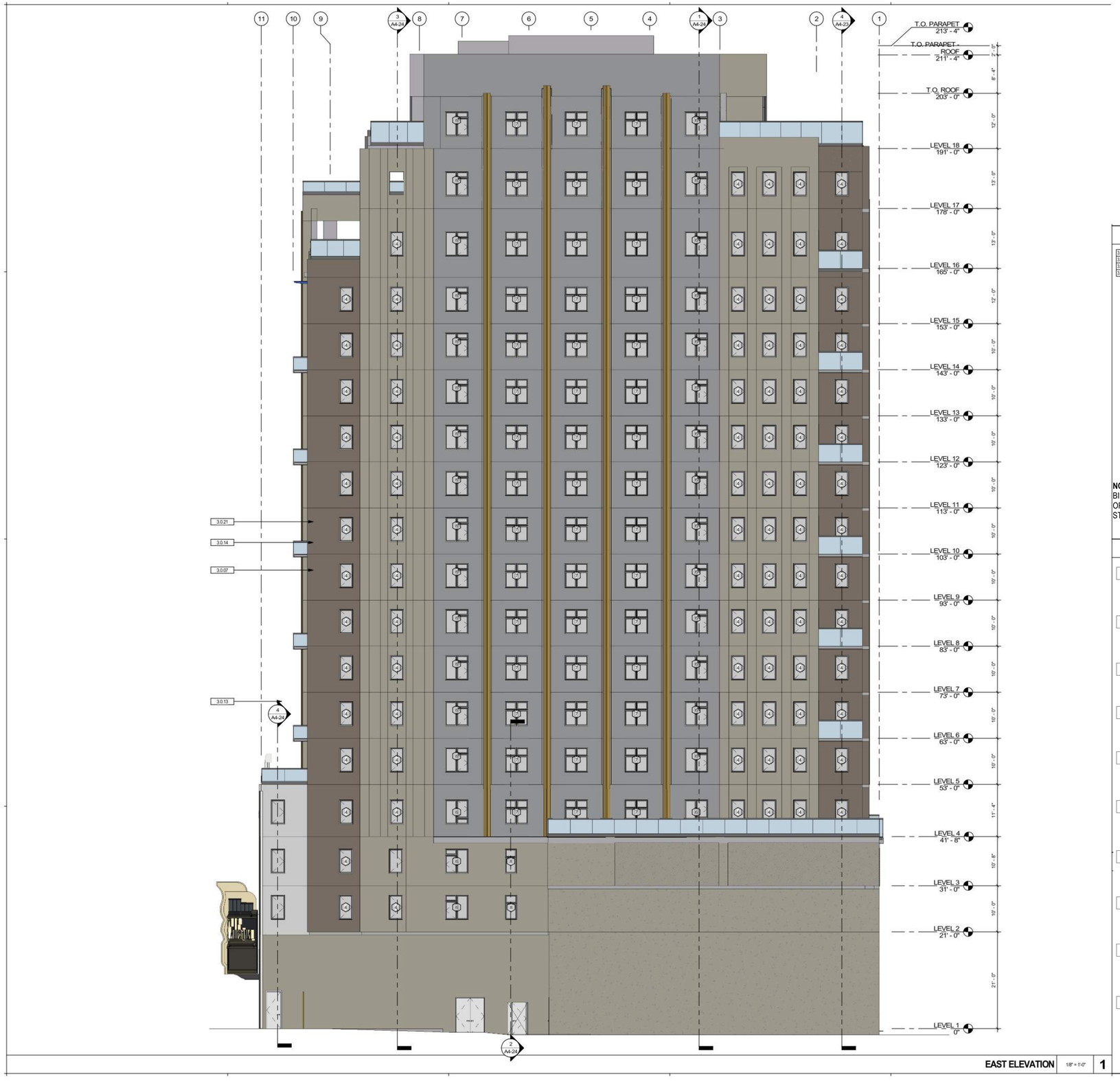

EAST ELEVATION 1/8" = 1'-0" 1

KEYNOTES

3.0.07	CONCRETE COLUMN
3.0.13	GLASS GUARDRAIL WITH METAL CAP, SEE DETAIL X/XX
3.0.14	METAL AWNING AND GLASS CANOPY, SEE DETAIL X/XX
3.0.21	FALL PROTECTION GUARDRAIL @ 6'-0", SEE DETAIL X/XX

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FINISH LEGEND

01 **MTL-01**
DARK BROWN CONCRETE
CLARK PACIFIC
05-13 LIGHT

02 **MTL-02**
LIGHT BROWN CONCRETE
CLARK PACIFIC
05-01 MEDIUM

03 **MTL-03**
LIGHT CONCRETE
CLARK PACIFIC
06-01 LIGHT

04 **MTL-04**
TERRACE ACCENT
SHERWIN WILLIAMS
SW 7644 GATEWAY GRAY

05 **MTL-05**
DARK ALUMINUM WINDOW FRAME
ARCADIA
AB-STD DARK BRONZE

06 **MTL-06**
HPL WOOD PANEL
PARKLEX PRODEMA
RUSTIK / NATURCLAD-W

07 **MTL-07**
STONE LOOK / FIBER CEMENT PANEL
CLARK PACIFIC

08 **MTL-08**
LIGHT BEIGE STUCCO
SHERWIN WILLIAMS
SW 6147 PANDA WHITE

09 **MTL-09**
LIGHT ALUMINUM WINDOW FRAME
MARVIN
COCONUT CREAM

10 **MTL-10**
GOLDEN ACCENTS
PRISMATIC POWDERS
SATIN POLY GOLD

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Developer

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EAST EXTERIOR ELEVATION

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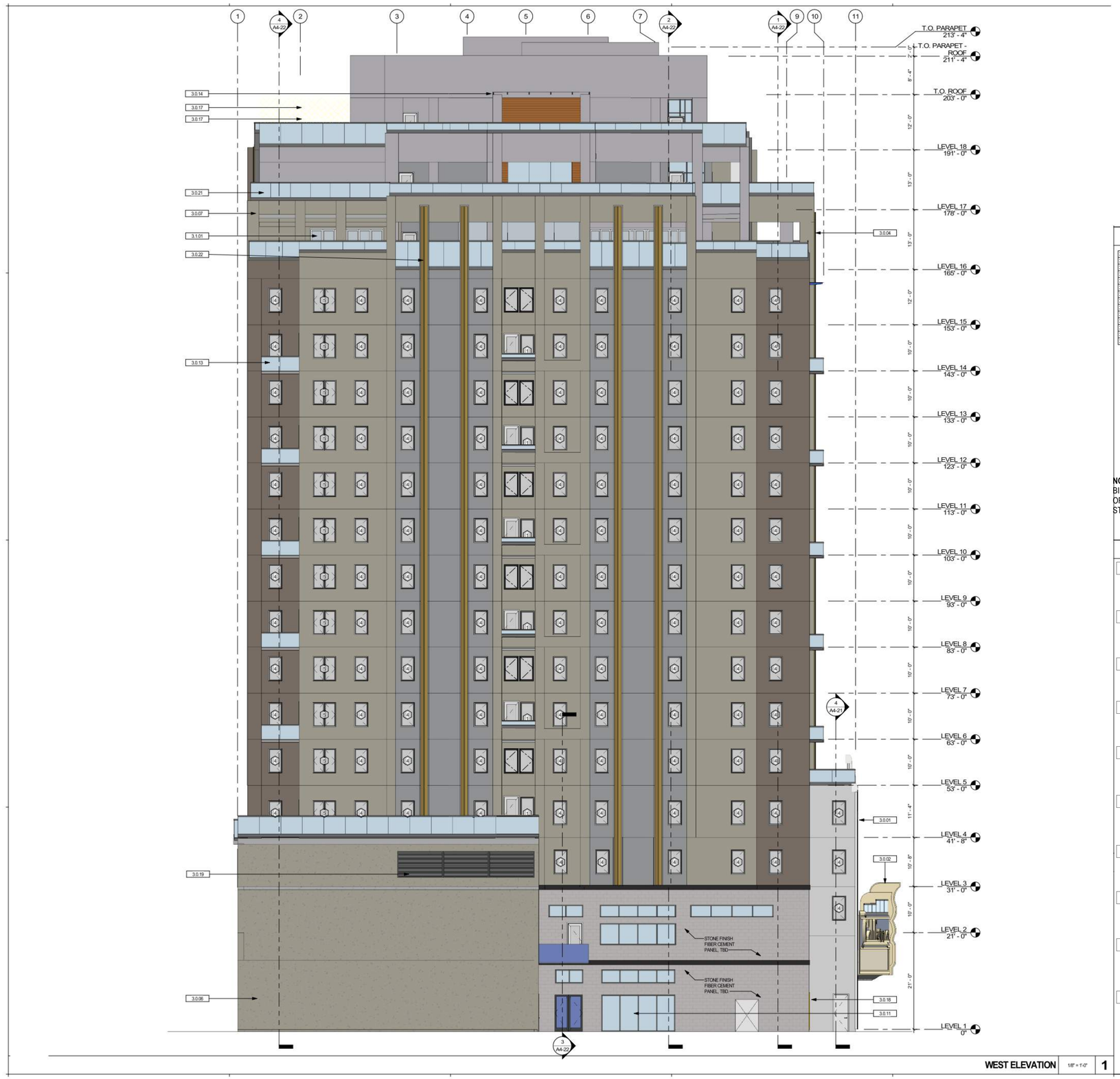

WEST ELEVATION 1/8" = 1'-0" 1

KEYNOTES

3.0.01	HISTORIC FACADE TO REMAIN
3.0.02	HISTORIC MARQUE TO REMAIN
3.0.04	RAISED FLUTING INCOPERATED INTO CONCRETE FACADE SYSTEM
3.0.06	CONCRETE WALL
3.0.07	CONCRETE COLUMN
3.0.11	OVERHEAD GLASS DOOR, SEE DOOR SCHEDULE
3.0.13	GLASS GUARDRAIL WITH METAL CAP, SEE DETAIL XXX
3.0.14	METAL AWNING AND GLASS CANOPY, SEE DETAIL XXX
3.0.17	SURFACE MOUNTED DECORATIVE METAL LATTICE (DESIGN PENDING), SEE DETAIL XXX
3.0.18	METAL FENCE & DOUBLE GATE WITH EGRESS HARDWARE, SEE DETAIL XXX
3.0.19	METAL LOUVER, SEE MECHANICAL DRAWINGS
3.0.21	FALL PROTECTION GUARDRAIL @ 6'-0", SEE DETAIL XXX
3.0.22	FACTORY INSTALLED PROFILE WITH LED LIGHT COVE ON BOTH SIDES, TYP.
3.1.01	ALUMINUM STOREFRONT & GLAZING SYSTEM

NOTE: THE PROJECT WILL ENDEAVOR TO USE A RANGE OF BIRD SAFE STRATEGIES WHICH COULD INCLUDE GLAZING OPTIONS, BUILDING FENESTRATION AND LIGHTING STRATEGIES TO ULTIMATELY REDUCE BIRD COLLISIONS.

FINISH LEGEND

01	**MTL-01** DARK BROWN CONCRETE CLARK PACIFIC 05-13 LIGHT	
02	**MTL-02** LIGHT BROWN CONCRETE CLARK PACIFIC 05-01 MEDIUM	
03	**MTL-03** LIGHT CONCRETE CLARK PACIFIC 06-01 LIGHT	
04	**MTL-04** TERRACE ACCENT SHERWIN WILLIAMS SW 7644 GATEWAY GRAY	
05	**MTL-05** DARK ALUMINUM WINDOW FRAME ARCADIA AB-STD DARK BRONZE	
06	**MTL-06** HPL WOOD PANEL PARKLEX PRODEMA RUSTIK / NATURCLAD-W	
07	**MTL-07** STONE LOOK / FIBER CEMENT PANEL CLARK PACIFIC	
08	**MTL-08** LIGHT BEIGE STUCCO SHERWIN WILLIAMS SW 6147 PANDA WHITE	
09	**MTL-09** LIGHT ALUMINUM WINDOW FRAME MARVIN COCONUT CREAM	
10	**MTL-10** GOLDEN ACCENTS PRISMATIC POWDERS SATIN POLY GOLD	

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2115 KITTREDGE ST
BERKELEY, CA

No.	DATE	DESCRIPTION
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	11/08/2023	ZAB SUBMITTAL

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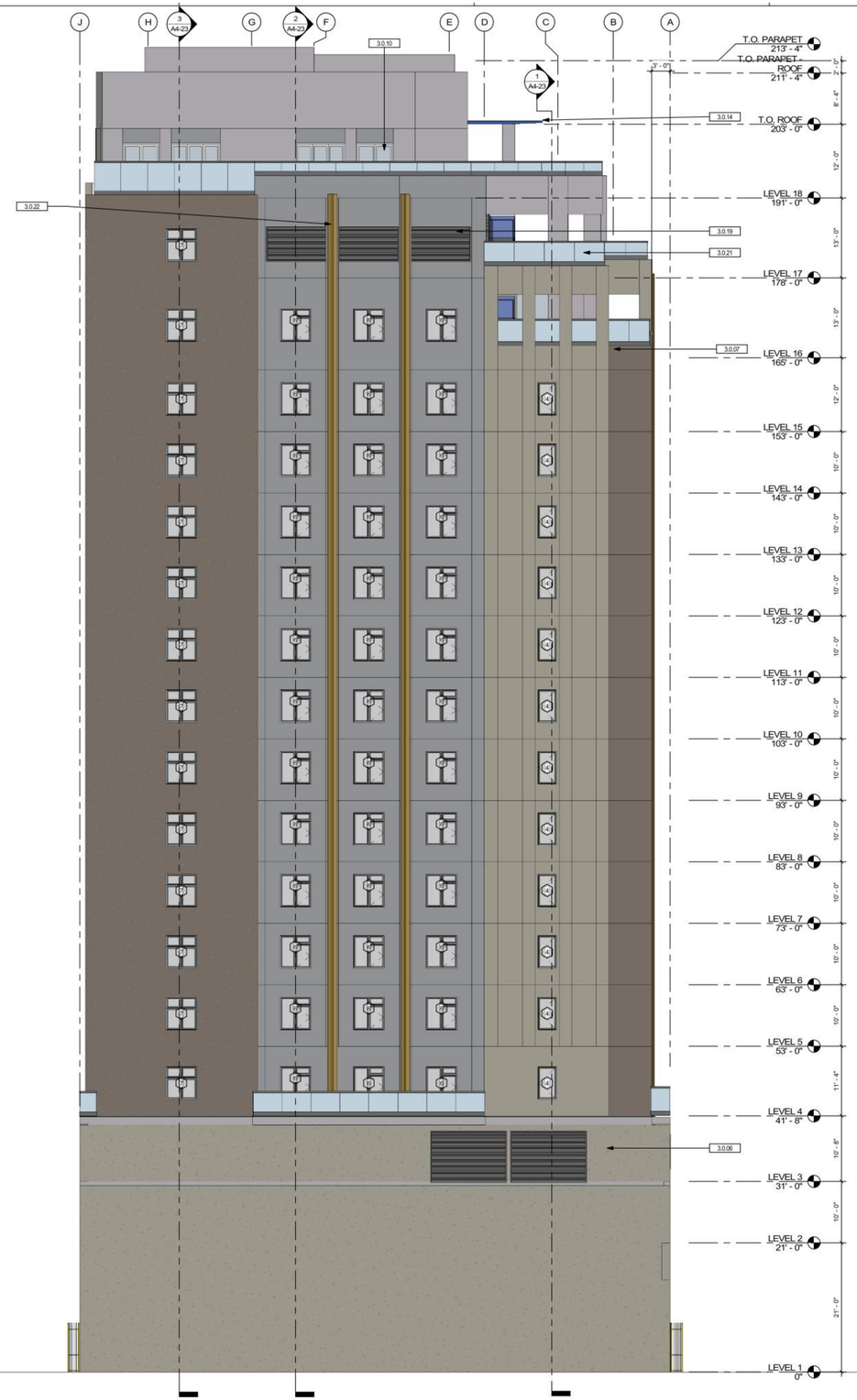
NOT FOR CONSTRUCTION

WEST EXTERIOR ELEVATION

A203



NORTH ELEVATION 1/8" = 1'-0" 1

KEYNOTES

3.0.06	CONCRETE WALL
3.0.07	CONCRETE COLUMN
3.0.10	FOLDING GLASS WALL, SEE DOOR SCHEDULE
3.0.14	METAL AWNING AND GLASS CANOPY, SEE DETAIL X/XX
3.0.19	METAL LOUVER, SEE MECHANICAL DRAWINGS
3.0.21	FALL PROTECTION GUARDRAIL @ 6'-0", SEE DETAIL X/XX
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FINISH LEGEND

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02	**MTL-02** LIGHT BROWN CONCRETE CLARK PACIFIC 05-01 MEDIUM	
03	**MTL-03** LIGHT CONCRETE CLARK PACIFIC 06-01 LIGHT	
04	**MTL-04** TERRACE ACCENT SHERWIN WILLIAMS SW 7644 GATEWAY GRAY	
05	**MTL-05** DARK ALUMINUM WINDOW FRAME ARCADIA AB-STD DARK BRONZE	
06	**MTL-06** HPL WOOD PANEL PARKLEX PRODEMA RUSTIK / NATURCLAD-W	
07	**MTL-07** STONE LOOK / FIBER CEMENT PANEL CLARK PACIFIC	
08	**MTL-08** LIGHT BEIGE STUCCO SHERWIN WILLIAMS SW 6147 PANDA WHITE	
09	**MTL-09** LIGHT ALUMINUM WINDOW FRAME MARVIN COCONUT CREAM	
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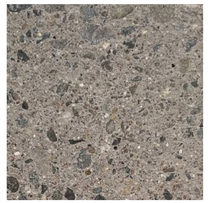
NOT FOR CONSTRUCTION

NORTH EXTERIOR ELEVATION

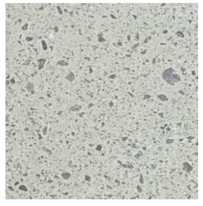
A204

MTL-01
DARK BROWN CONCRETE
CLARK PACIFIC
05-13 LIGHT

MTL-02
LIGHT BROWN CONCRETE
CLARK PACIFIC
05-01 MEDIUM



MTL-03
LIGHT CONCRETE
CLARK PACIFIC
06-01 LIGHT



MTL-04
TERRACE ACCENT
SHERWIN WILLIAMS
SW 7644 GATEWAY GRAY

MTL-05
DARK WINDOW FRAME
ARCADIA
AB-STD DARK BRONZE

MTL-06
HPL WOOD PANEL
PARKLEX PRODEMA
RUSTIK / NATURCLAD-W

MTL-07
STONE LOOK /
FIBER CEMENT PANEL

MTL-08
LIGHT BEIGE STUCCO
SHERWIN WILLIAMS
SW 6147 PANDA WHITE

MTL-09
LIGHT WINDOW FRAME
MARVIN
COCONUT CREAM

MTL-10
GOLDEN ACCENTS
PRISMATIC POWDERS
SATIN POLY GOLD

EXTERIOR ELEVATION MATERIALS ENLARGED
NOT TO SCALE

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EXTERIOR ELEVATION
MATERIALS

A205

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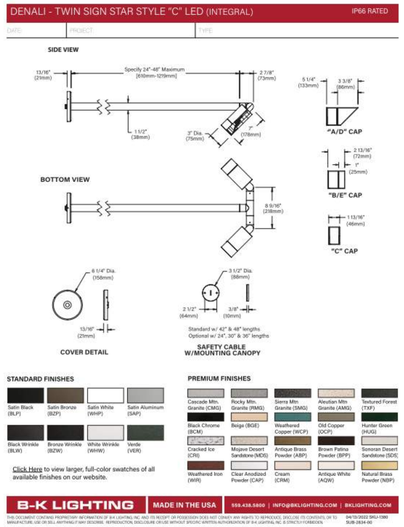
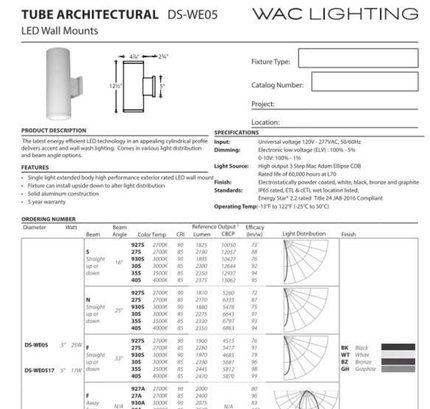
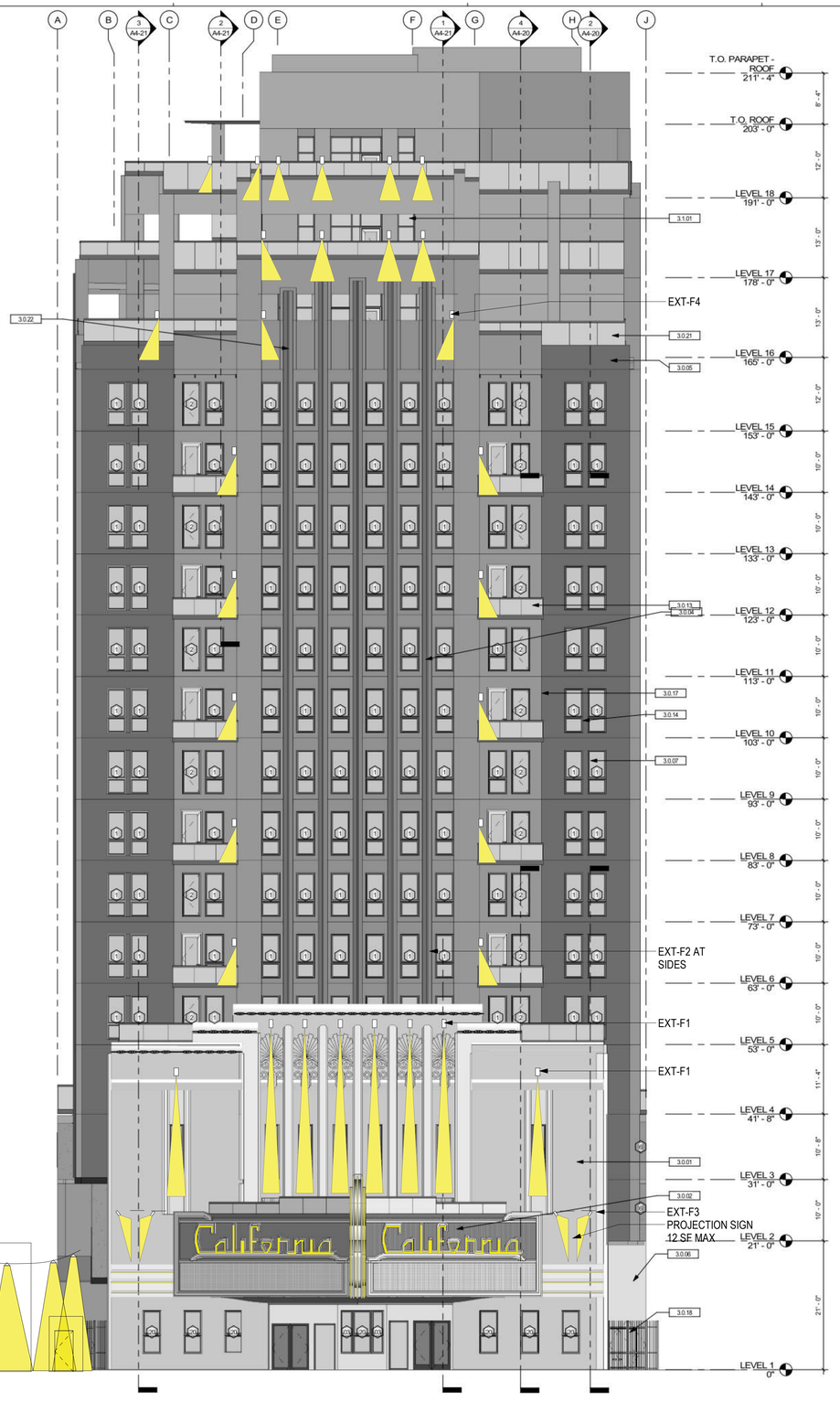
EXT-F3
LED BLADE SIGN
BK - DENALI TWIN STAR



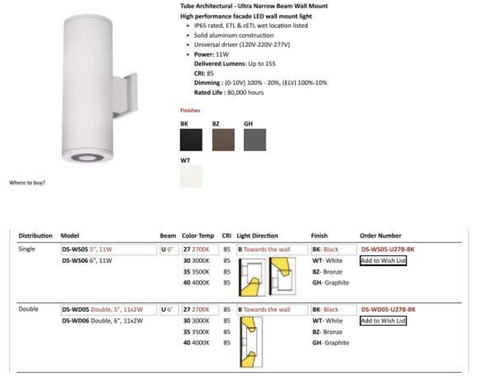
EXT-F4
ROOF DECK (TRELLIS POST & WALL MOUNT)
WAC - TUBE 5"



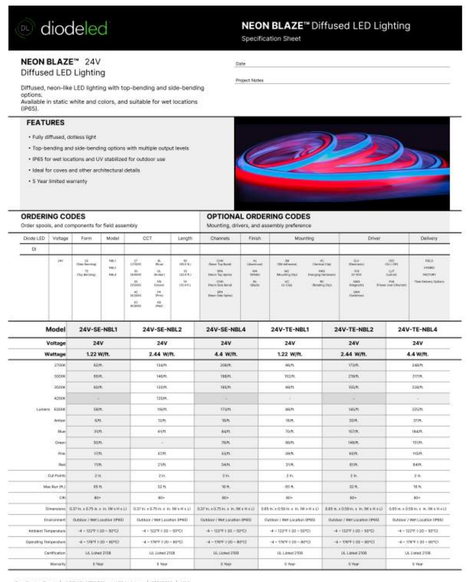


SOUTH ELEVATION 1/8" = 1'-0" **1**

EXT-F1
NARROW BEAM WALL WASH
WAC DS-WSOF-U27B-WT



EXT-F2
FLUSH LED LIGHT STRIPS
DIODE LED



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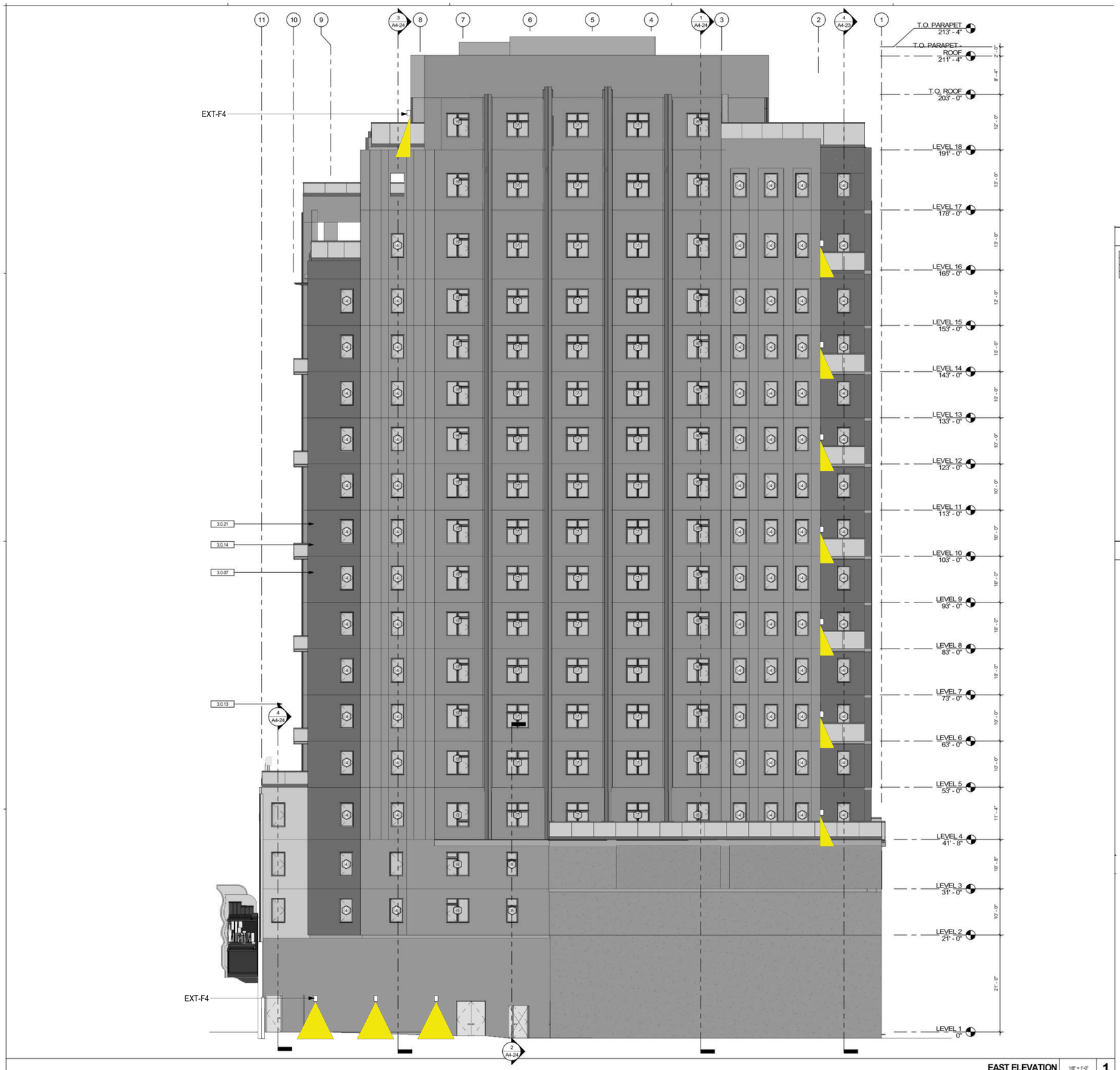
NOT FOR CONSTRUCTION

SOUTH FACADE
LIGHTING & SIGNAGE

A211



EAST ELEVATION 1/8" = 1'-0" 1

KEYNOTES

3.0.07	CONCRETE COLUMN
3.0.13	GLASS GUARDRAIL WITH METAL CAP, SEE DETAIL X/XX
3.0.14	METAL AWNING AND GLASS CANOPY, SEE DETAIL X/XX
3.0.21	FALL PROTECTION GUARDRAIL @ 6'-0", SEE DETAIL X/XX

FINISH LEGEND

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EAST FACADE LIGHTING & SIGNAGE

A212

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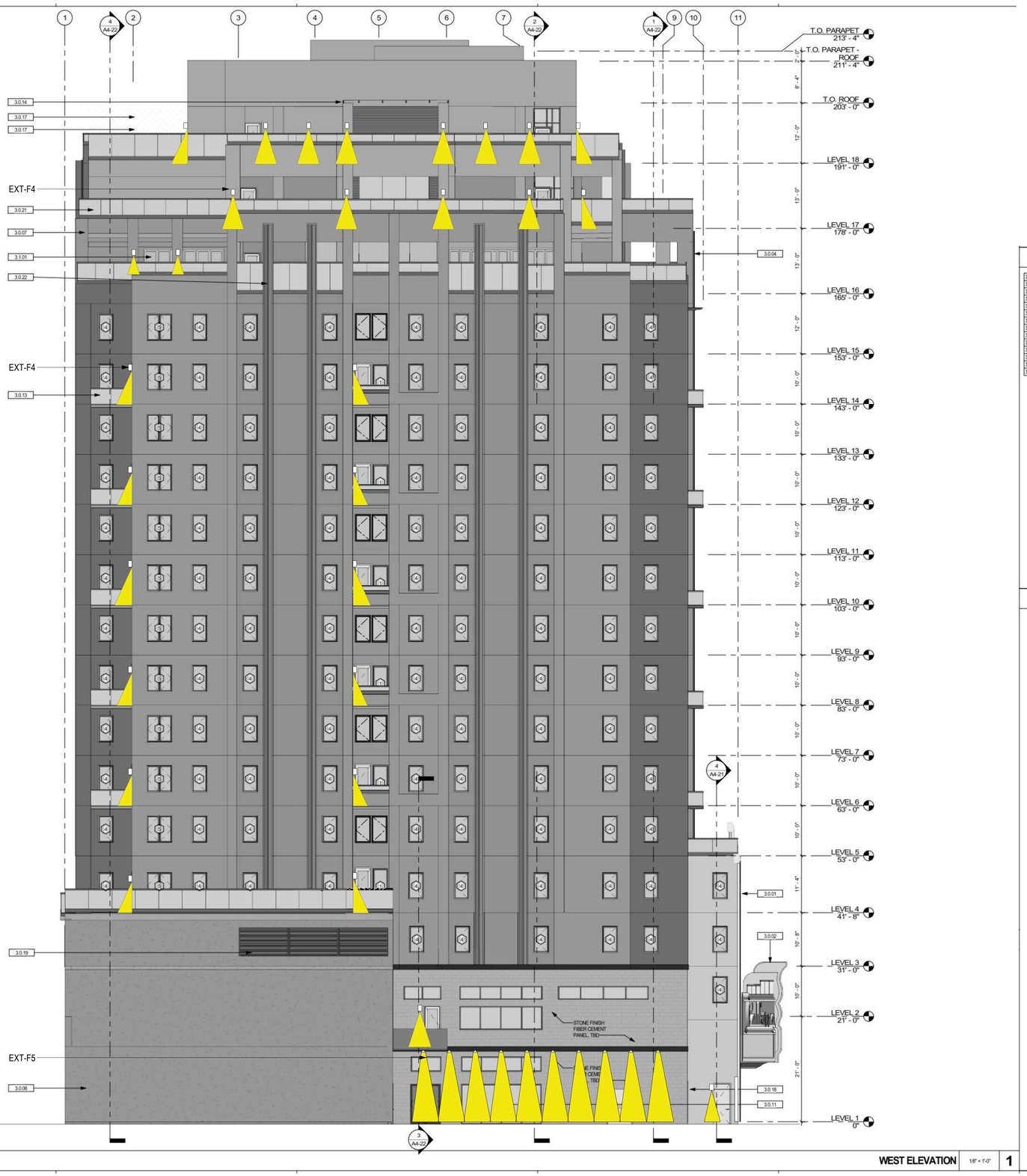

WEST ELEVATION 1/8" = 1'-0" 1

KEYNOTES

3.0.01	HISTORIC FACADE TO REMAIN
3.0.02	HISTORIC MARQUE TO REMAIN
3.0.04	RAISED FLUTING INCOPERATED INTO CONCRETE FACADE SYSTEM
3.0.06	CONCRETE WALL
3.0.07	CONCRETE COLUMN
3.0.11	OVERHEAD GLASS DOOR, SEE DOOR SCHEDULE
3.0.13	GLASS GUARDRAIL WITH METAL CAP, SEE DETAIL X/XX
3.0.14	METAL AWNING AND GLASS CANOPY, SEE DETAIL X/XX
3.0.17	SURFACE MOUNTED DECORATIVE METAL LATTICE (DESIGN PENDING), SEE DETAIL X/XX
3.0.18	METAL FENCE & DOUBLE GATE WITH EGRESS HARDWARE, SEE DETAIL X/XX
3.0.19	METAL LOUVER, SEE MECHANICAL DRAWINGS
3.0.21	FALL PROTECTION GUARDRAIL @ 6'-0", SEE DETAIL X/XX
3.0.22	FACTORY INSTALLED PROFILE WITH LED LIGHT COVE ON BOTH SIDES, TYP.
3.1.01	ALUMINUM STOREFRONT & GLAZING SYSTEM

FINISH LEGEND

EXT-F5
LED FESTOON / STRING LIGHTING @ COURTYARD
AMERICAL LIGHTING - FESTOON
PROVIDE UP LIGHT SHIELDING

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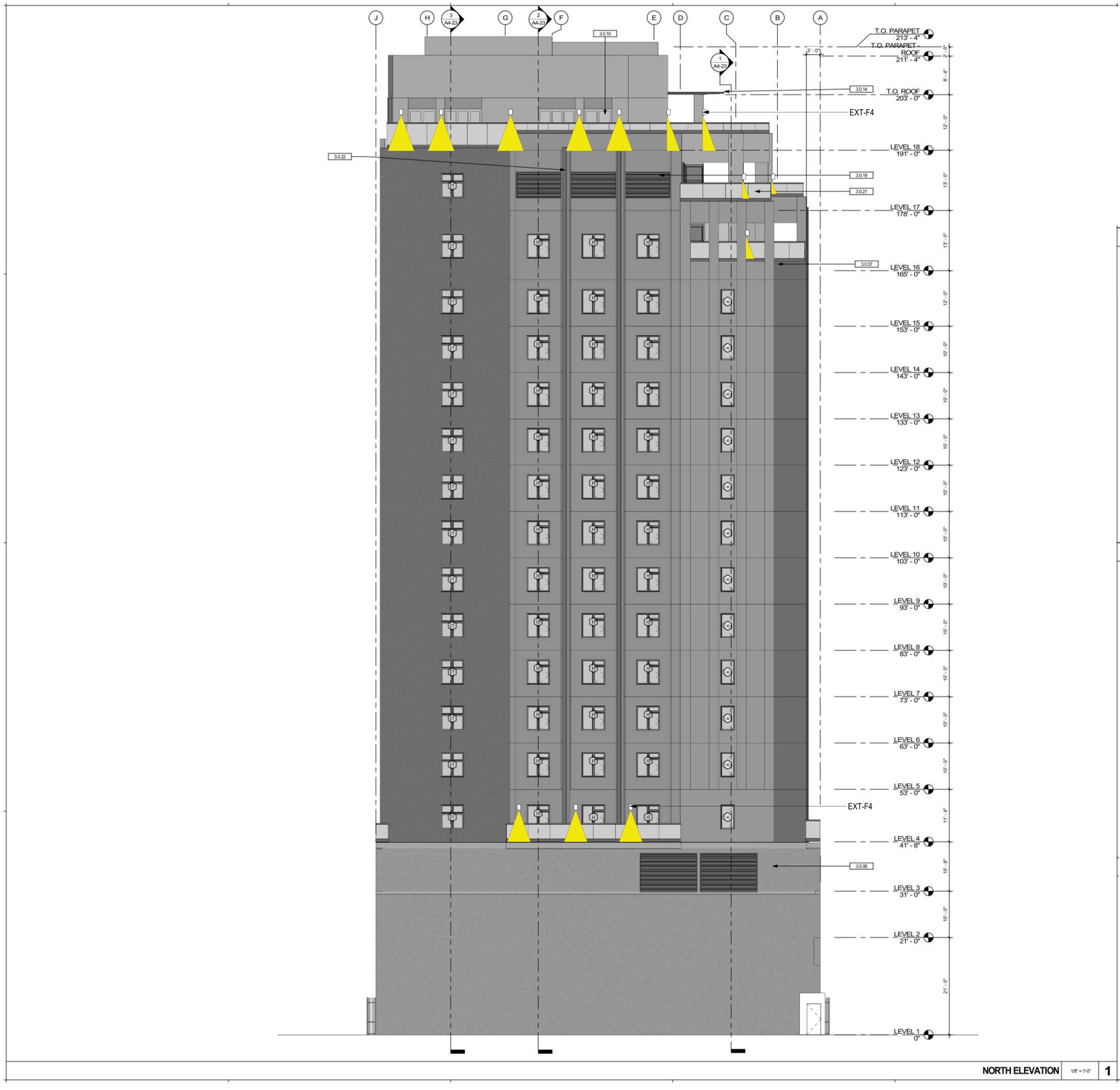
WEST FACADE LIGHTING & SIGNAGE

A213



NORTH ELEVATION 1/8" = 1'-0" 1

KEYNOTES

3.0.06	CONCRETE WALL
3.0.07	CONCRETE COLUMN
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3.0.14	METAL AWNING AND GLASS CANOPY, SEE DETAIL X/XX
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FINISH LEGEND

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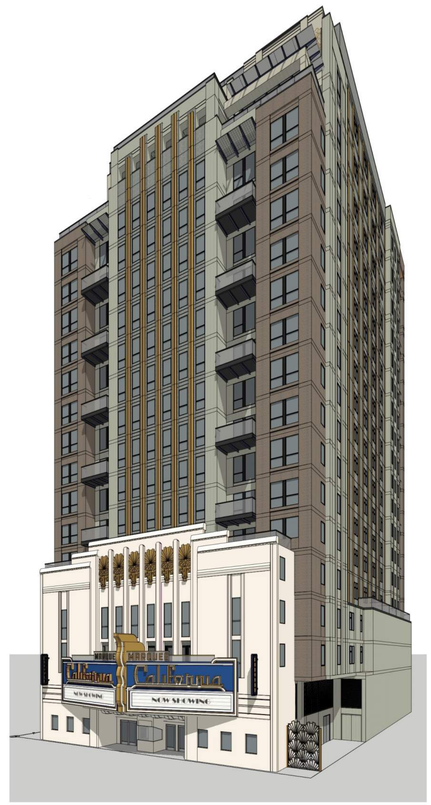
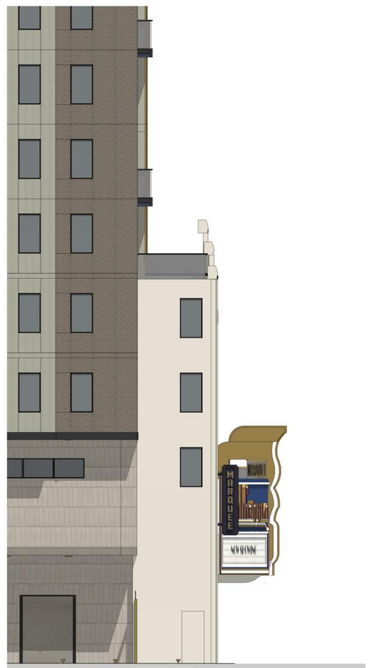
NORTH FACADE
LIGHTING SIGNAGE

A214

1 Partial Illustrated View
Scale: NTS



2 Illustrated View
Scale: NTS



1 Side View
Scale: 1" = 10' (1:120)
@tabloid

2 Front View
Scale: 1" = 10' (1:120)
@tabloid

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SOUTH FACADE SIGNAGE

A215

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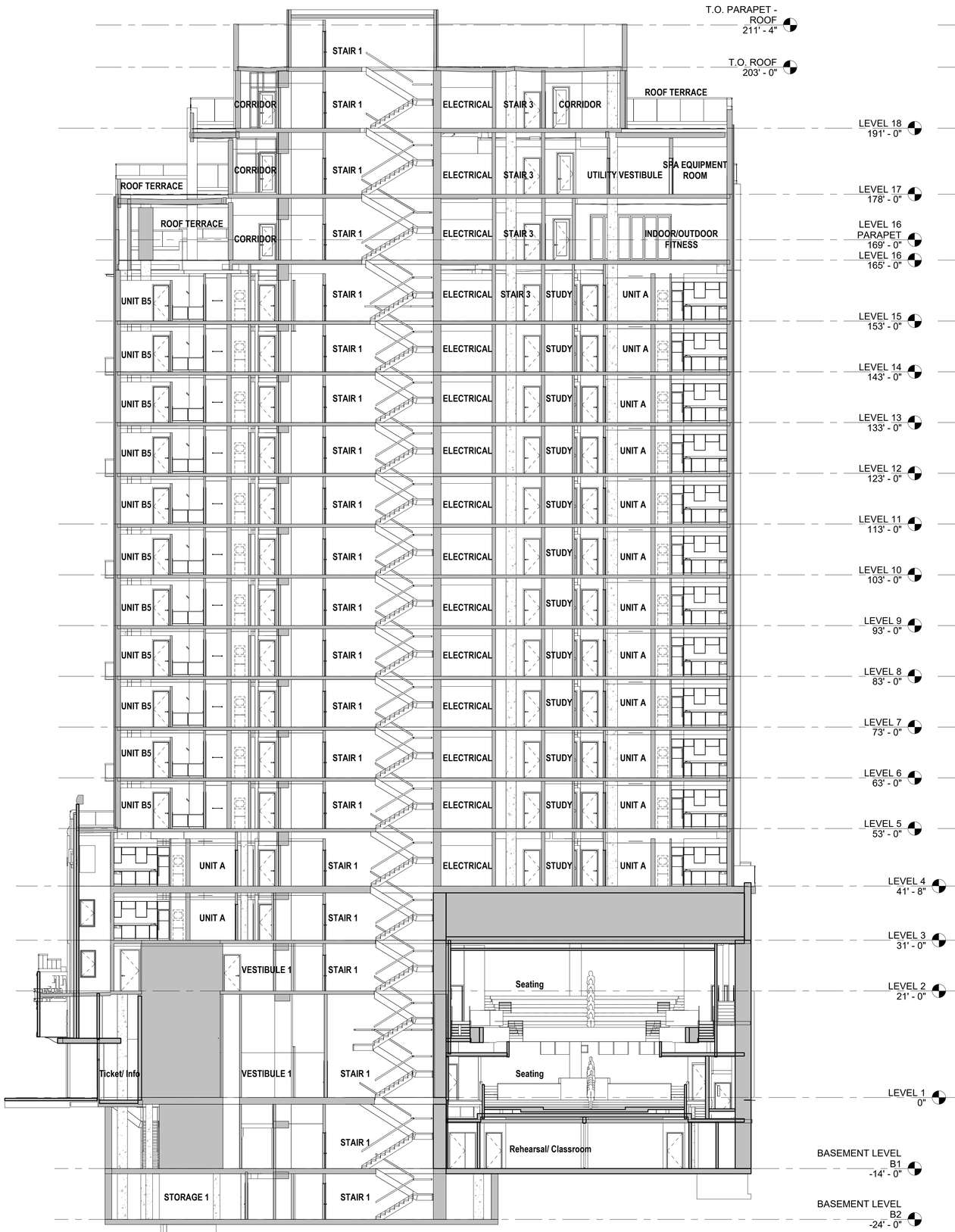
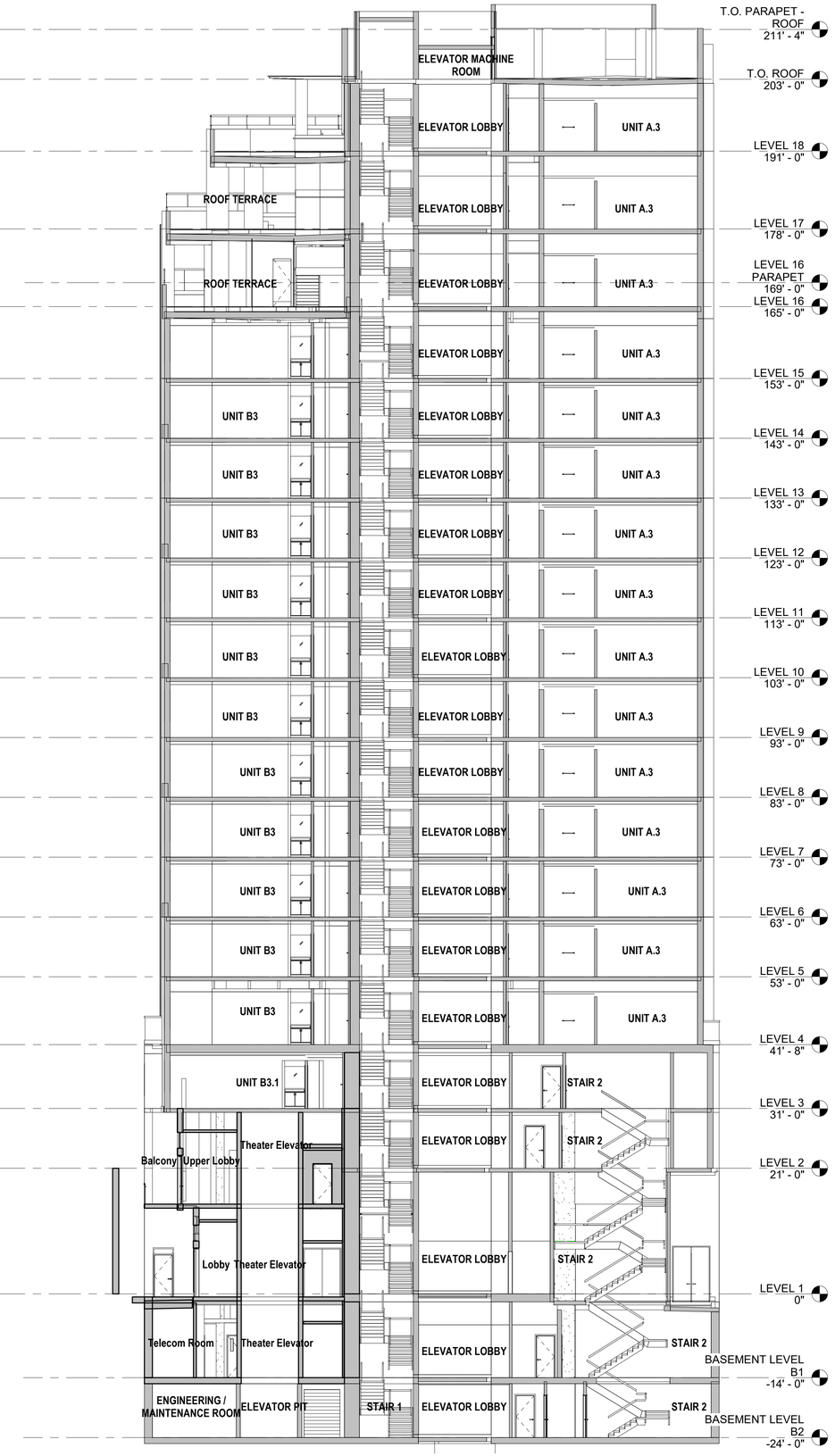


2 A310 N-S SECTION
3/32" = 1'-0" ON 24X36 (3/64"=1'-0" ON 12X18)



1 A310 E-W SECTION
3/32" = 1'-0"

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	9/26/2023	LPC RESUBMITTAL
	11/08/2023	ZAB SUBMITTAL

Client is responsible for notifying architect in writing for any discovered errors or omissions in the plans and specifications during construction of the project. Failure for Client to notify Architect of any known errors or omissions in the plans or specifications, and proceeding with constructing the portion of work shown in the plans or specifications containing known errors or omissions shall be a waiver by Client for any liability of Architect for such known errors or omissions. Client releases Architect for any liability for such portions of work, and Architect shall not be liable for any delay damages, change orders, repair costs, removal or demolition costs, or replacement of any such portions of work.

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February 5, 2024

Via Email and Hand Delivery
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Re: Appeal to City Council re 2113-15 Kittredge Street (Use Permit #ZP2022-0144)

Dear Mayor Arreguín, Members: Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Humbert and Mr. Numainville:

We are writing on behalf of East Bay Residents for Responsible Development ("East Bay Residents" or "Residents") to appeal the Zoning Adjustment Board's ("ZAB") January 11, 2024 approval of the 2113-15 Kittredge Street Project (Use Permit #ZP2022-0144; APN057-2030-009) ("Project").[1] Residents submitted comments to the ZAB ahead of the January 11, 2024 hearing on the Project.[2] The

[1] **Exhibit A:** City of Berkeley, Zoning Adjustments Board Notice of Decision, 2113-2115 Kittredge Street Use Permit #ZP2022-0144 (Date of Board Decision: January 11, 2024, Date Notice Mailed): January 22, 2024, Appeal Period Expiration: February 5, 2024, Effective Date of Permit (Barring Appeal or Certification: February 6, 2024)), (hereinafter "Notice of Decision").
[2] **Exhibit B**: Letter from ABJC to ZAB re *Agenda Item No. 4: 2113-15 Kittredge Street Project (Use Permit #ZP2022-0144)* (Jan. 11, 2024).

printed on recycled paper

Project is proposed by Christian Cerria and 2115 Kittredge Street LLC (collectively "Applicant"). The Applicant requested Use Permits from the City of Berkeley ("City") to demolish the commercial building on the landmarked site (preserving the front façade), and construct an 18-story (203 feet, with 8-foot, 4-inch parapet), 160,734-square-foot, mixed-use building with 211 dwelling units (including 22 Very Low-Income Density Bonus qualifying units), and a 24,273-square-foot live theater space with 355 seats, a full stage and backstage, fly area, and practice support spaces. Construction is proposed to take place for 37 months from September 2024 until October 2027. The Project is within 1,000 feet of Berkeley High School within the C-DMU Core Sub-Area and the Downtown General Plan Designation.[3]

This appeal is timely filed within 14 days of the City's January 22, 2024 mailing of the Notice of Decision of the ZAB decision, pursuant to Berkeley Municipal Code ("BMC" or "Municipal Code") Section 23.410-1. This Appeal is taken from the following ZAB actions, and is accompanied by payment of the required appeal fee of $1500:

- Use Permit under BMC Section 23.326.070(A) to demolish a non-residential building.
- Use Permit under BMC Section 23.204.020(A) to construct a new mixed-use development.
- Use Permit under BMC Section 23.204.020(A) to construct dwelling units
- Administrative Use Permit under BMC Section 23.204.020(A) to construct a theater (live).
- Use Permit under BMC Section 23.204.030(B)(1) to create new floor area of 10,000 square feet or more.
- Use Permit under BMC Section 23.204.130(E)(1) to exceed the maximum building height limits, up to 75 feet (plus 5-foot parapet, by right).
- Administrative Use Permit under BMC Section 23.304.050(A) to exceed building height limits with rooftop architectural elements which exceed the maximum height limit for the district.
- Use Permit under BMC Section 23.04.130(E)(3)(b) to modify side and rear setback requirements.
- Use Permit under BMC Section 23.310.020(B) to commence alcoholic beverage service of distilled spirits.

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[3] City of Berkeley, Zoning Adjustments Board, Staff Report for Board Action (January 11, 2024) (Item #4 ZAB 2024-01-11) 2113-15 Kittredge Street Use Permit #ZP2022-0144. Available at https://berkeleyca.gov/sites/default/files/documents/2024-01-11_ZAB_Item%204_2113-15%20Kittredge_Staff%20Report%20and%20Attachments.pdf ("Staff Report").

- Use Permit under BMC Section 23.310.030(A) for alcoholic beverage service, including distilled spirits when incidental to a food service.
- Administrative Use Permit under BMC Section 23.302.020(E)(4) to allow outdoor uses in a commercial district not abutting a residential district.
- Determination that the Project is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15331 ("Historical Resource Restoration/Rehabilitation") and Section 15332 ("Infill Development Projects") of the CEQA Guidelines.[4]

This Appeal was prepared with the assistance of air quality and hazardous materials experts Matt Hagemann, P.G., C.Hg and Paul E. Rosenfeld, Ph.D. of Soil Water Air Protection Enterprises ("SWAPE"), whose comments are included in the SWAPE Comments ("SWAPE Comments"). The SWAPE Comments and Mr. Hagemann's and Dr. Rosenfeld's expert curriculum vitae ("CV") are attached hereto as **Exhibit C.**

I. SUMMARY OF REASONS FOR APPEAL

Residents appeal the ZAB's actions pursuant to BMC Sections 23.410.030 and 23.406.040(E) on the grounds that:

1) **The Project may result in significant effects on air quality, public health, hazardous materials/water quality, historic resources and GHG emissions, rendering CEQA exemptions inapplicable and requiring preparation of an environmental impact report ("EIR");**
2) **The City lacks substantial evidence to demonstrate that the environmental effects of the Project are less than significant to support reliance on CEQA Exemptions;**
3) **The Project violates CEQA and the Climate Action Plan for failure to quantify the Project's operational greenhouse gas emissions;**
4) **The City has not demonstrated that the Project is consistent with General Plan policies to promote the welfare of local workers and sustainable economic development.**

[4] Notice of Determination, p. 1-2 of 5.

For the reasons explained herein and in Residents' January 11, 2024 comments to the ZAB[5], the City has not made, and cannot make, the necessary findings to support approval of the Project's Conditional Use Permits or exempt the Project from environmental review under CEQA. The City Council should uphold this appeal and remand the Project to Staff to prepare a legally adequate environmental impact report ("EIR") to remedy the deficiencies detailed herein and to adequately analyze and mitigate the Project's potentially significant environmental impacts before the Project can lawfully be approved.

First, the ZAB's reliance on CEQA exemptions for Project approval was inconsistent with law and unsupported because substantial evidence demonstrates that the Project may result in significant environmental impacts requiring mitigation. If an activity may have a significant effect on the environment, the activity is not categorically exempt from CEQA.[6] Mitigated categorical exemptions are also prohibited by CEQA.[7] "If a project may have a significant effect on the environment, CEQA review must occur and only then are mitigation measures relevant... Mitigation measures may support a negative declaration but not a categorical exemption."[8]

There is substantial evidence demonstrating that the Project's air quality and health risk impacts are significant and require mitigation. The City did not prepare a health risk assessment to quantify the Project's air quality and health risk impacts, in violation of CEQA.[9] Resident's air quality and hazardous materials expert SWAPE conducted a health risk assessment demonstrating significant air quality and health risk impacts.[10] SWAPE's quantitative health risk assessment found that the Project results in an excess cancer risk over the course of a residential lifetime (30 years) of approximately 107 in one million.[11] The infant and lifetime cancer risks exceed the BAAQMD threshold of 10 in one million, resulting in a significant environmental impact.[12]

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[5] See Exhibit B: Letter from ABJC to ZAB re *Agenda Item No. 4: 2113-15 Kittredge Street Project (Use Permit #ZP2022-0144)* (Jan. 11, 2024).
[6] Pub. Res. Code §§ 21080(b)(9); 21084(a); *Salmon Pro. & Watershed Network v. County of Marin ("SPAWN")* (2004) 125 Cal.App.4th.
[7] *SPAWN*, 125 Cal.App.4th at 1102; *Azusa Land Recl. Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal. App.4th 1165, 1198-1201.
[8] Salmon Protection & Watershed Network v. County of Marin (2004) 125 Cal.App.4th 1098, 1102 ("SPAWN").
[9] *Sierra Club v County of Fresno* (2018) 6 Cal.5th 502, 518–522 (CEQA requires an analysis of human health impacts).
[10] SWAPE Comments, p. 9-10.
[11] *Id.*
[12] SWAPE Comments, p. 9-10; *Comtys. for a Better Env't v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 110-111 (when impact exceeds significance threshold, agency must disclose in CEQA

Substantial evidence also demonstrates that the Project site has potentially significant impacts from soil contamination that exceed health-based residential environmental screening levels ("ESL") and hazardous waste screening criteria, resulting in a significant impact which precludes reliance on a categorical exemption.[13] Project-specific mitigation is required to clean the contamination to safe levels before the Project can proceed and staff have included the mitigation as a condition of approval, demonstrating that the Project is not exempt from CEQA.[14]

Additionally, the Project results in a substantial adverse change in the significance of the historic resource of the California Theatre, rendering an exemption inapplicable.[15] The measures required by the Landmarks Preservation Commission "that ensure restoration and rehabilitation of the retained portion of the historic structure, as well as documentation and salvage of the property in its current form" constitute mitigation measures under CEQA.[16]

Finally, the ZAB failed to require the Project to demonstrate consistency with City planning documents, including the City's Climate Action Plan, which requires an analysis of the Project's greenhouse gas emissions, the Downtown Area Plan and the General Plan's Economic Development and Employment ("ED") Element, which includes City policies to increase social and economic equity in land use decisions through community and workforce benefits, such as the use of a local skilled and trained workforce.

The Municipal Code prohibits the City from approving a use permit if the project is "detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or visiting in the area or neighborhood of the proposed

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document that impact is significant); *Schenck v. County of Sonoma* (2011) 198 Cal.App.4th 949, 960; *CBE v. SCAQMD*, 48 Cal.4th at 327 (impact is significant because exceeds "established significance threshold for NOx ... constitute[ing] substantial evidence supporting a fair argument for a significant adverse impact").

[13] Staff Report, p. 9; Summary of Phase II Subsurface Investigation, Downtown Berkeley Adaptive Reuse Project, 2115 Kittredge Street in Berkeley, California (November 8, 2022), p. 6 of 9. Available at: https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/5291501700/2023-03_ltr-rpt-PhII%20Investigation-0424-002-001-Final.pdf.(hereinafter "Phase II Subsurface Investigation").

[14] *Id.*

[15] 14 CCR § 14300.2(f) ("[a] categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.").

[16] City of Berkeley Landmarks Preservation Commission Staff Report, 2113 Kittredge Street – California Theater (Oct. 5, 2023), p. 8 of 10. Available at: https://berkeleyca.gov/sites/default/files/documents/2023-10-05_LPC_Item%207_2113-2115%20Kittredge_Combined%20Staff%20Report%20and%20Attachments_2.pdf

use.....or to the general welfare of the City."[17] The Housing Accountability Act also authorizes disapproval of a housing project where the project has a specific, adverse unmitigated impact upon public health or safety,[18] or is inconsistent with the general plan or zoning ordinance in jurisdictions with a current Housing Element,[19] and requires projects to comply with CEQA.[20] The Project's significant environmental impacts with respect to health risk, hazards, and historical resources demonstrate a failure to comply with CEQA and result in a public detriment to the health, safety, comfort and general welfare of the community surrounding the Project. Moreover, the Project's failure to demonstrate consistency with the CAP, Downtown Area Plan and General Plan results in additional public detriment.

In order to approve a Project under CEQA categorical exemptions, the City must demonstrate based on substantial evidence that the Project does not result in significant environmental impacts.[21] The City failed to meet that standard here, because there are several impact areas in which Residents' experts provided substantial evidence of significant impacts, or in which the record contains no evidence to support the City's reliance on the proposed Class 31 or Class 32 exemptions.

For these reasons stated herein, the Project fails to qualify for CEQA exemptions and the ZAB's decision to approve the Project was contrary to law.

II. REQUESTED ACTION ON APPEAL

The City Council should reverse the decision of the ZAB, vacate the Project approvals, and remand the Project to staff to prepare a legally adequate EIR. The City Council may take action on the subject of an appeal or any aspect of an appealed project (de novo review) pursuant to BMC Section 23.410.040(E)(1).[22] The Municipal Code grants the City Council the authority to:

- Modify, reverse, or affirm, wholly or partly, any decision, determination, condition or requirement of the prior review authority; or

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[17] BMC § 23.406.040(E)(1)(a), (b).
[18] Gov. Code § 65589.5(d)(2).
[19] Gov. Code § 65589.5(d)(5).
[20] Gov. Code § 65589.5(e).
[21] *Banker's Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego* (2006) 139 Cal.App.4th 249, 269.
[22] Berkeley Municipal Code ("BMC") Section 23.410.040(E)(1).

- For appeals to the City Council, remand the matter to the prior review authority to reconsider the application, and/or any revisions to the application submitted after the review authority's action.[23]

Additionally, the Council should remand the Project to Staff to confer with the Applicant about including voluntary conditions in the Project which implement workforce standards that satisfy zoning code, General Plan and Downtown Area Plan requirements. The conditions should include public benefits such as apprenticeship opportunities, local hire provisions, and healthcare, which promote the general welfare. Such conditions would be consistent with the Municipal Code and would ensure compliance with the General Plan and Downtown Are Plan.

III. STATEMENT OF INTEREST

East Bay Residents for Responsible Development is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential impacts associated with Project development. The association includes the UA Plumbers and Pipefitters Local 342, International Brotherhood of Electrical Workers Local 595, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, their members and families, and City and Alameda County residents.

The individual members of Residents live, work, and raise their families in the Berkeley and Alameda County. They would be directly affected by the Project and its impacts. The organizational members of Residents also have an interest in enforcing public interest, health and safety, labor and environmental laws that encourage sustainable development and ensure a safe working environment for its members. Residents' members are also concerned about projects that are built without providing opportunities to improve the recruitment, training, and retention of skilled workforces.

IV. THE ZAB'S RELIANCE ON CEQA EXEMPTIONS WAS CONTRARY TO LAW AND UNSUPPORTED BECAUSE THE PROJECT RESULTS IN SIGNIFICANT ENVIRONMENTAL IMPACTS WHICH REQUIRE MITIGATION

In approving the Project, the ZAB improperly relied on categorical exemptions pursuant to Section 15331 ("Historical Resource Restoration / Rehabilitation") and Section 15332 ("Infill Development Projects") of the CEQA Guidelines.

[23] *Id.* at 23.140.040(G).

In order to rely on a categorical exemption, the City must determine, based on substantial evidence, that approval of the Project would not result in any significant effects on the environment.[24] Exemptions must be narrowly construed and are not to be expanded beyond the scope of their plain language.[25] An agency may not rely on a categorical exemption if mitigation measures would be necessary to reduce potentially significant effects to less than significant levels.[26] "'An agency should decide whether a project is eligible for a categorical exemption *as part of its preliminary review of the project'* without reference to or reliance upon any proposed mitigation measures."[27] If an activity may have a significant effect on the environment, the activity is not exempt from CEQA, CEQA review must occur, and only then are mitigation measures relevant.[28] The ZAB failed to comply with CEQA by approving the Project in reliance on unsupported exemptions.

A. The Project May Result in Significant Air Quality and Health Risk Impacts Requiring Mitigation

CEQA requires that an EIR must be prepared, whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant environmental impact.[29] Substantial evidence includes "fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact."[30] A significant environmental impact is defined as a substantial or potentially substantial adverse change in the environment.[31] The environment refers to the physical conditions "existing within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance."[32]

Substantial evidence, as detailed herein and in the SWAPE Comments' health risk assessment, demonstrates that the Project may result in significant air quality and health risk impacts requiring preparation of an EIR to adequately analyze and mitigate such impacts before the Project can lawfully be approved.

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[24] Pub. Res. Code §§ 21080(b)(9); 21084(a); *Banker's Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego* (2006) 139 Cal.App.4th 249, 269 (lead agency must provide "substantial evidence to support [their] finding that the Project will not have a significant effect.")
[25] *Castaic Lake Water Agency v. City of Santa Clarita* (1995) 41 Cal.App.4th 1257.
[26] *SPAWN,* 125 Cal.App.4th at 1102; *Azusa Land Recl. Co.,* 52 Cal. App.4th at 1198-1201.
[27] *Id.* at 1106 (internal citations omitted) (emphasis added).
[28] *SPAWN,* 125 Cal.App.4th at 1107.
[29] PRC § 21151; 14 CCR § 15064(f); *Citizens for Responsible Equitable Envt'l Dev. v. City of Chula Vista* ("*CREED*") (2011) 197 Cal.App.4th 327, 330-31; *Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319 ("*CBE v. SCAQMD*").
[30] PRC § 21080(e)(1) (emphasis added); *CREED,* 197 Cal.App.4th at 331.
[31] PRC §§ 21068, 21100(d); 14 CCR § 15382.
[32] PRC § 21060.5.

i. Residents' Expert Health Risk Assessment Found Significant Health Risk Impacts from Project Construction Emissions

Construction of the Project over 37 months or 1,125-days will result in a significant health risk impact requiring mitigation. Residents' air quality expert SWAPE conducted a quantitative health risk assessment, using the emissions data provided by the City, which found significant cancer risks associated with Project construction. Specifically, SWAPE's health risk assessment determined that the Project will result in an excess cancer risk of 102 in one million for infants (0-2). The excess cancer risk over the course of a residential lifetime of 30 years is 107 in one million. The excess cancer risk for children (2-16) exceeds the BAAQMD threshold of 10 in one million. The cancer risk associated with Project construction exceeds BAAQMD threshold of 10 in a million. BAAQMD's 2022 CEQA Guidelines also states that "An excess cancer risk level of more than 10 in a million" results in a cumulatively considerable impact under CEQA.[33] Here, the Project results in a significant air quality and health risk impact for an exceedance of BAAQMD thresholds. If an impact exceeds an established significance threshold, it constitutes a significant impact requiring disclosure and mitigation in a CEQA document.[34]

CEQA requires that an EIR must be prepared, whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant environmental impact.[35] Substantial evidence includes "fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact."[36] Here, substantial evidence from Resident's experts' health risk assessment supports the determination that the Project results in significant air quality and health risk impacts requiring preparation of an EIR before the Project can lawfully be approved.

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[33] Bay Area Air Quality Management District 2022 CEQA Guidelines, p. 5-13. Available at: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa-guidelines-2022/ceqa-guidelines-chapter-5-project-air-quality-impacts_final-pdf.pdf?rev=de582fe349e545989239cbbc0d62c37a&sc_lang=en.

[34] *Comtys. for a Better Env't v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 110-111 (when impact exceeds significance threshold, agency must disclose in EIR that impact is significant); *Schenck v. County of Sonoma* (2011) 198 Cal.App.4th 949, 960; *CBE v. SCAQMD*, 48 Cal.4th at 327 (impact is significant because exceeds "established significance threshold for NOx ... constitute[ing] substantial evidence supporting a fair argument for a significant adverse impact").

[35] PRC § 21151; 14 CCR § 15064(f); *Citizens for Responsible Equitable Envt'l Dev. v. City of Chula Vista* ("*CREED*") (2011) 197 Cal.App.4th 327, 330-31; *Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319 ("*CBE v. SCAQMD*").

[36] PRC § 21080(e)(1) (emphasis added); *CREED*, 197 Cal.App.4th at 331.

ii. The City Failed to Conduct a Health Risk Assessment, in violation of CEQA and Regulatory Guidance

CEQA requires an analysis of human health impacts from exposure to a project's air emissions.[37] The City failed to perform an analysis of the Project's health risk resulting from exposure to the Project's construction and operational emissions, in violation of CEQA. The City's reliance on a condition of approval (Condition 40) to mitigate health risk from construction emissions does not excuse the City of the duty to disclose the severity of the Project's health risk when evaluating whether the Project qualifies for a CEQA exemption.

The City's decision to forego an analysis of health risk impacts is also inconsistent with regulatory guidance on evaluating health risk. The California Office of Environmental Health Hazard Assessment ("OEHHA") recommends a formal health risk assessment for construction exposures lasting longer than 2-months, and "[e]xposures from projects lasting more than 6 months should be evaluated for the duration of the project."[38] Here, Project construction will last longer than 37 months, which is significantly longer than the two-month short-term threshold set by OEHHA to trigger the need for a quantitative health risk analysis ("HRA"). Because Project construction will last more than six months, the OEHHA guidance specifies that cancer exposure from Project construction "should be evaluated for the duration of the project."[39] The City failed to conduct an HRA for the duration of the project as recommended by OEHHA.

The ZAB violated CEQA by approving the Project without evaluating health risk for the duration of the Project. An EIR must be prepared which includes a quantitative HRA.

a. The City's Failure to Prepare a Health Risk Analysis Constitutes Impermissibly Deferred Analysis

CEQA requires disclosure of the severity of a project's impacts and the probability of their occurrence *before* a project can be approved.[40] In *Bozung v.*

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[37] *Sierra Club,* 6 Cal.5th at 518–522.
[38] Office of Environmental Health Hazard Assessment (OEHHA), Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments, February 2015 (OEHHA 2015), Section 8.2.10: Cancer Risk Evaluation of Short Term Projects, pp. 8-17/18; https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0.
[39] OEHHA 2015 p. 8-18.
[40] 14 CCR §§ 15143, 15162.2(a); *Cal. Build. Indust. Ass'n v. BAAQMD* (2015) 62 Cal.4th 369, 388-90 ("*CBIA v. BAAQMD*") (disturbance of toxic soil contamination at project site is potentially significant

Local Agency Formation Commission ,the Supreme Court upheld "the principle that the environmental impact should be assessed as early as possible in government planning."[41] A study conducted after approval of a project will inevitably have a diminished influence on decision-making.[42] Even if the study is subject to administrative approval, it is analogous to the sort of post hoc rationalization of agency actions that has been repeatedly condemned in decisions construing CEQA.[43]

Here, the ZAB relied on compliance with a post-approval condition, Condition 40, to avoid pre-approval disclosure of the Project's health risk impacts from construction emissions (and failed entirely to evaluate the Project's health risk from operational emissions), in violation of CEQA. Condition 40 provides that projects with construction lasting more than 2 months shall either (1) prepare a health risk assessment, or (2) use Tier 3 or VDECS-equipped off-road construction equipment.[44] Both of these actions would occur after Project approval. Thus, any health risk assessment would not be considered by the decision maker or the public prior to Project approval, and would instead be utilized as a "post hoc rationalization" to support the City's past decision to approve the Project. This approach is prohibited by CEQA.

Moreover, Condition 40 provides no certainty that a health risk assessment will ever be prepared and submitted to the Land Use Planning Division. Instead, under Condition 40, the Applicant may just use Tier 4 or VDECs construction equipment to avoid a health risk assessment entirely. Skipping disclosure of impacts and jumping straight to mitigation is a clear violation of CEQA.[45]

The City similarly cannot rely on Condition 40's option to utilize Tier 4 or VDECs construction equipment as a "design feature" of the Project to avoid disclosure of environmental impacts, because disclosure of an impact required by CEQA cannot be collapsed with mitigation.[46] Even if the use of Tier 4 or VDECs

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impact requiring CEQA review and mitigation); *Madera Oversight Coalition v. County of Madera* (2011) 199 Cal. App. 4th 48, 82; *Berkeley Keep Jets Over the Bay Com. v. Bd. of Port Comrs. ("Berkeley Jets")* (2001) 91 Cal.App.4th 1344, 1370-71; CEQA Guidelines, Appendix G.

[41] (1975) 13 Cal.3d 263, 282.

[42] *Sundstrom v. County of Mendocino*, supra, 202 Cal.App.3d 296, 307.

[43] *Id.*; *No Oil, Inc. v. City of Los Angeles*, supra, 13 Cal.3d 68, 81; *Environmental Defense Fund, Inc. v. Coastside County Water Dist.* (1972) 27 Cal.App.3d 695, 706.

[44] Staff Report, p. 17 (Condition 40).

[45]. *Lotus v. Dept. of Transportation* (2013) 223 Cal.App.4th 650 (CEQA document may not compress analysis of impacts and mitigation measures into a single issue, and must incorporate all measures designed to reduce potentially significant project impacts into legally binding mitigation plan).

[46] *Id.*

construction equipment were successful to reduce health risk below levels of significance, the City must still disclose to the public and decision makers whether the Project's unmitigated emissions would exceed applicable thresholds of significance. The City failed to perform this necessary analysis and cannot lawfully defer the analysis until after Project approval.

B. The Project's Soil Contamination Results in Significant Hazardous Materials and Public Health Impacts Requiring Mitigation

There is substantial evidence in the City's own studies demonstrating that the Project site has potentially significant impacts from soil contamination that exceed health-based residential environmental screening levels ("ESL") and hazardous waste screening criteria.[47] The Staff Report and soil investigations conclude that mitigation is required to clean the contamination to safe levels before the Project can proceed and staff have included the mitigation as a condition of approval.[48]

The Phase II Subsurface Investigation conducted for the Project identified a number of hazardous contaminants impacts onsite demonstrating a potentially significant environmental impact with respect to public health. **Lead was detected in soil samples, and the concentration in one of the soil samples exceeded the residential ESL** and hazardous waste screening criteria.[49] Additionally, several volatile organic compounds ("VOCs") were detected in each of the soil-vapor samples at concentrations above laboratory reporting limits.[50] **Benzene and bromodichloromethane were detected at concentrations exceeding the residential ESLs**, but below the commercial/industrial ESLs.[51] Chloroform was detected at a concentration above the conservative commercial/industrial ESL.[52]

Residential ESLs are health-protective screening thresholds for subsurface contaminants at project sites intended for residential use. As the Water Board explains:

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[47] Staff Report, p. 9; Phase II Subsurface Investigation, p. 6 of 9.
[48] *Id.*
[49] Phase II Subsurface Investigation, p. 6 of 9.
[50] *Id.*
[51] *Id.*
[52] *Id.*

> Residential Land Use should be used to evaluate sites for unrestricted future land-use. This includes sites to be used for residential developments, hospitals, day care centers and other sensitive purposes (DTSC 2002). ESLs listed under this category incorporate assumptions regarding long-term, frequent exposure of children and adults in a residential setting.[53]

If contamination exceeds a residential ESL for a proposed residential project, it constitutes a significant impact requiring disclosure and mitigation in a CEQA document.[54] The Project's exceedances of residential ESLs constitute a significant environmental impact which require remediation, mitigation, and analysis in an EIR before the Project can be approved. The City cannot rely on a CEQA exemption where, as here, hazardous materials impacts remain significant and require mitigation.

i. Mitigation Precludes Reliance on a CEQA Exemption

The City has acknowledged that the site's soil contamination impact is significant and has included mitigation in the Project's conditions of approval which require site cleanup.[55] The City is therefore precluded from relying on a categorical exemption under *SPAWN*.

The Phase II Subsurface Investigation concluded that "soil remediation may be required during grading."[56] The Conditions of Approval in the Staff Report provide that preparation of a Soil and Groundwater Management Plan is required, but the full remediation plan has not been provided for public review.[57] The site's exceedances of residential ESLs must be remediated to levels that are below residential ESLs before the Project can be approved. The Soil and Groundwater Management Plan will therefore include remediation that constitutes mitigation under CEQA. The fact that Condition 20(b) requires cleanup oversight by the City's

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[53] San Francisco Bay Regional Water Quality Control Board, *User's Guide: Derivation and Application of Environmental Screening Levels (ESLs)* (2019), p. 2-12. available at https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwjs3eyyxNaDAxXoMEQIHa6PCA0QFnoECDgQAQ&url=https%3A%2F%2Fcanvas.eee.uci.edu%2Fcourses%2F35369%2Ffiles%2F14524449%2Fdownload%3Fdownload_frd%3D1&usg=AOvVaw2yRfXhcKKP99AYVFLz6NlC&opi=89978449 (last visited 1/11/24).

[54] *Comtys. for a Better Env't,* 103 Cal.App.4th at 110-111 (when impact exceeds significance threshold, agency must disclose in EIR that impact is significant); *Schenck,* 198 Cal.App.4th at 960; *CBE v. SCAQMD,* 48 Cal.4th at 327 (impact is significant because exceeds "established significance threshold for NOx ... constitute[ing] substantial evidence supporting a fair argument for a significant adverse impact").

[55] Staff Report, p. 9.

[56] *Id.* at 7 of 9.

[57] Staff Report, p. 12 of 28.

Toxic Management Division ("TMD") does not change the underlying fact that the Project site contains contaminations at levels exceeding residential significance thresholds which require mitigation.

A "mitigation measure" is a measure designed to minimize a project's significant environmental impacts.[58] CEQA defines mitigation to include:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.
(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
(c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
(e) Compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements.[59]

Here, the City seeks to rely on standard conditions of approval which it asserts are "requirements of the project and not mitigation."[60] While a citywide requirement to prepare a soil management plan for all projects may be standard, the requirement to implement site-specific measures to reduce a significant contamination impact at a particular project site, as here, is mitigation unique to the project. Under CEQA, the additional remediation of soil contamination in the SGMP would constitute mitigation measures to "rectify[] the impact by...restoring the impacted environment."[61] Moreover, CEQA does not allow the lead agency to compress the analysis of impacts and mitigation measures into a single issue to avoid disclosure of a potentially significant impact.[62]

Agencies are prohibited from relying on mitigated categorical exemptions.[63] The Court in *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster*, held that the CEQA Guidelines does not authorize consideration of mitigation measures in connection with a categorical exemption, and held that if mitigation

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[58] Pub. Res. Code § 21002.1(a).
[59] 14 CCR § 15370.
[60] City of Berkeley, Standard Conditions of Approval, Ordinance No. 12899 C.M.S, (2020) p. 2. Available at: https://cao-94612.s3.amazonaws.com/documents/Standard-Conditions-of-Approval-December-2020.pdf.
[61] 14 CCR § 15370.
[62] *Lotus*, (2014) 223 Cal.App.4th at 656.
[63] *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 CA4th 1098, 1102.

measures are needed to avoid potentially significant impacts, then at a minimum a mitigated negative declaration must be prepared.[64] The court in *SPAWN* similarly held that if there is a reasonable possibility of a significant effect on the environment, then the project must be reviewed under CEQA and mitigation measures may be considered only as part of that CEQA review.[65]

The City's reliance on the standard condition of approval is dissimilar to the *Walters v. City of Redondo Beach* case where the court held that a condition of approval requiring compliance with local noise standards was not a mitigation measure defeating the use of a categorical exemption, when the city found the project would meet those standards and imposed conditions of approval to ensure that it would do so.[66] Here, the standard condition of approval requires the Applicant to conduct additional environmental review in a Soil and Groundwater Management Plan and to potentially conduct additional remediation to mitigate the Project's existing soil contamination. The City cannot escape CEQA review by relying on conditions of approval to conduct its environmental review.

Moreover, the court in *Berkeley Hillside* clarified that "a finding of environmental impacts must be based on the proposed project as actually approved."[67] The SGMP may find additional environmental impacts and require additional remediation. Therefore, the Staff Report's conclusions as to environmental impacts are not based on the proposed Project as approved, but are based on future environmental review and remediation under a Soil and Groundwater Management Plan. Future remediation, mitigation, and environmental review cannot be the basis to support a categorical exemption.

The remediation associated with the SGMP to reduce contamination to levels that do not exceed residential ESLs constitutes mitigation measure, thus precluding reliance on a categorical exemption for Project approval. An EIR must be prepared which includes the analysis of the SGMP, to adequately characterize, analyze, and mitigate the Project's potentially significant hazardous contamination impacts.

C. The Project May Result in Potentially Significant Historic Resources Impacts Which Require Mitigation

The CEQA Guidelines provides that "[a] categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance

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[64] (1997) 52 CA4th 1165, 1200.
[65] 125 CA4th at 1102.
[66] (2016) 1 CA5th 809.
[67] *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1105.

of a historical resource."[68] Here, the Project may result in a substantial adverse change in the significance of the historic resource of the California Theatre, so an exemption is inapplicable. Moreover, the measures required by the Landmarks Preservation Commission for the Project "that ensure restoration and rehabilitation of the retained portion of the historic structure, as well as documentation and salvage of the property in its current form" constitute mitigation measures under CEQA.[69]

"If a project may have a significant effect on the environment, CEQA review must occur and only then are mitigation measures relevant... Mitigation measures may support a negative declaration but not a categorical exemption."[70] Here, the City is improperly relying on mitigation measures to support approval of the Project under a categorical exemption, in violation of CEQA.

V. THE CITY LACKS SUBSTANTIAL EVIDENCE TO SUPPORT A CEQA EXEMPTION

If an activity may have a significant effect on the environment, the activity is not categorically exempt from CEQA.[71] A lead agency must provide "substantial evidence to support [their] finding that the Project will not have a significant effect."[72] The City failed to meet that standard here, because there are several impact areas in which the record contains no evidence to support the City's reliance on the proposed Class 31 or Class 32 exemptions.

Additionally, the Project fails to meet the facial requirements for a Class 32 exemption. CEQA Guidelines Section 15332 provides an exemption from CEQA for "benign infill projects that are consistent with the General Plan and Zoning requirements" of a municipality and that satisfy the following criteria:[73]

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[68] 14 CCR § 14300.2(f).
[69] City of Berkeley Landmarks Preservation Commission Staff Report, 2113 Kittredge Street – California Theater (Oct. 5, 2023), p. 8 of 10. Available at: https://berkeleyca.gov/sites/default/files/documents/2023-10-05_LPC_Item%207_2113-2115%20Kittredge_Combined%20Staff%20Report%20and%20Attachments_2.pdf
[70] Salmon Protection & Watershed Network v. County of Marin (2004) 125 Cal.App.4th 1098, 1102 ("SPAWN").
[71] *SPAWN,* 125 Cal.App.4th at 1107.
[72] *Banker's Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego* (2006) 139 Cal.App.4th 249, 269.
[73] 14 CCR § 15332.

(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
(b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
(c) The project site has no value as habitat for endangered, rare or threatened species.
(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
(e) The site can be adequately served by all required utilities and public services.

The Project fails to meet the requirements of Section 15332(a) and (d) because the record lacks substantial evidence that the Project will not result in significant effects to water quality, public health, and air quality. The Project may also result in inconsistencies with the General Plan, CAP, and Downtown Area Plan. For these reasons, the Project fails to qualify for the Infill Exemption or any other categorical exemption.

A. The City Lacks Substantial Evidence to Conclude that the Project Will Not Have Significant Effects from Greenhouse Gas Emissions

The City lacks substantial evidence to support a determination that greenhouse gas ("GHG") emissions impacts are less than significant so as to support a categorical exemption. CEQA requires that in order to qualify for a categorical exemption, the City must demonstrate, based on substantial evidence, that there are no "significant effects" of the Project on the environment.[74] Here, the City has not demonstrated that GHG emissions impacts are less than significant. Therefore, the City lacks substantial evidence to support reliance on the proposed exemptions.

The Staff Report includes analysis of the Project's GHG impacts for construction only, and includes no relevant analysis regarding operational GHG impacts.[75] Moreover, the claim by the Landmarks Preservation Commission that the Project will be "powered sustainably" is not supported by substantial evidence.[76] The record contains no study quantifying GHG impacts, no evidence that the source of energy for the Project is "sustainably" sourced, and does not demonstrate that, if

[74] *Banker's Hill,* 139 Cal.App.4th at 269.
[75] Staff Report, Air Quality Assessment, Appendix A, p. 6 of 45.
[76] Berkeley Landmarks Preservation Commission, Agenda, (Oct. 5, 2023). Available at: https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-10-05_LPC_Agenda_Linked_0.pdf.

so, it would reduce the Project's GHG impacts to less than significant levels in order to rely on a CEQA exemption. Moreover, the Landmarks Preservation Commission is the City's historical resource committee, not a qualified expert in analyzing GHG emissions.[77] The Commission's conclusion that the Project's GHG emissions would be less than significant does not constitute substantial evidence.[78]

The record contains no study quantifying operational GHG impacts, no evidence that the source of energy for the Project is "sustainably" sourced, and does not demonstrate that, if so, it would reduce the Project's GHG impacts to less than significant levels in order to rely on a CEQA exemption. The City Council should uphold this appeal and remand the Project to Staff to prepare a legally adequate EIR to adequately analyze and mitigate the Project's potentially significant environmental impacts with respect to GHG emissions.

B. The City Lacks Substantial Evidence to Conclude that the Project Will Not Have Significant Effects on Water Quality

The Project site is listed on the State Water Resources Control Board's Geotracker database as "Pending Review as of 10/20/2023" as the Former California Theatre (Global ID: T10000021433).[79] On November 16, 2023, following the Phase II Subsurface Investigation, the San Francisco Bay Regional Water Quality Control Board advised the Applicant that "[b]ased on the available data, it is unclear if the contamination threatens to adversely affect the beneficial uses of groundwater and/or human health. These beneficial uses include municipal supply, agricultural supply, and industrial service and process supply."[80] Absent additional review and remediation, the City lacks substantial evidence that water quality impacts are less than significant to allow for approval of the Project under a categorical exemption.

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[77] Berkeley Landmarks Preservation Commission, Agenda, (Oct. 5, 2023). Available at: https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-10-05_LPC_Agenda_Linked_0.pdf.

[78] PRC 21082.2(c); 14 CCR 15384(b) (substantial evidence includes reasonable assumptions predicated on facts and expert opinion supported by facts).

[79] State Water Resources Control Board Geotracker, Former California Theatre (T10000021433). Available at: https://geotracker.waterboards.ca.gov/profile_report?global_id=T10000021433.

[80] San Francisco Bay Regional Water Quality Control Board, Site Cleanup Program (SCP) Recovery of Oversight Costs at the Former California Theatre, 2115 Kittredge Street, Berkeley, Alameda County (November 16, 2023). Available at: https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/9991040885/2023-11-30_CRA%202115%20Kittredge_Executed.pdf

C. The City Lacks Substantial Evidence to Conclude the Project Will Not Have Significant Effects on Air Quality and Public Health

An exemption is improper, where, as here, the Project may result in significant air quality impacts.[81] As discussed above, the Staff Report for the Project does not contain a quantified health risk analysis ("HRA" or "health risk assessment") to evaluate the Project's potentially significant air quality and public health impacts from construction and operation. Absent a health risk assessment, the record does not contain substantial evidence that toxic air contaminants from construction and operation will be reduced to less than significant levels. The City cannot rely on a categorical exemption absent substantial evidence concluding that air quality and public health impacts are less than significant without supporting evidence. The City must prepare an EIR to adequately analyze and mitigate the Project's potentially significant environmental impacts with respect to air quality and public health.

VI. THE CITY FAILED TO ANALYZE GREENHOUSE GAS IMPACTS PRIOR TO ZAB APPROVAL AND THE PROJECT CONTRAVENES THE CITY'S CLIMATE ACTION PLAN

As discussed above, the Staff Report is silent with respect to analysis of the Project's operational greenhouse gas emissions. The City's failure to analyze the significance of the Project's GHG emissions is both a violation of CEQA and of the City's Climate Action Plan.

Pursuant to CEQA Guidelines § 15064.4 subdivision (a), "A lead agency shall make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project. A lead agency shall have discretion to determine, in the context of a particular project, whether to:

(1) Quantify greenhouse gas emissions resulting from a project; and/or
(2) Rely on a qualitative analysis or performance-based standards."

Here, the City quantified construction-related GHG emissions, [82] but failed to quantify operational GHG emissions, thus failing to follow the first method. Utilizing the second method, a qualitative analysis, an agency may adopt an area wide plan to reduce greenhouse gas emissions and determine that a project's incremental contribution to climate change is not significant if the project complies

[81] 14 CCR § 15332(d).
[82] Staff Report, Air Quality Assessment, Appendix A, p. 6 of 45.

with the requirements of the previously adopted plan.[83] The City of Berkeley's CAP is the relevant area wide plan for the reduction of GHGs.

Conformance with the CAP requires a new project to "report projected GHG emissions."[84] The Berkeley CAP requires "that new projects achieve a minimum point level on an appropriate green building checklist (e.g., GreenPoint Rated Checklist for residential buildings or LEED checklist for nonresidential) **and report projected GHG emissions**."[85] The Staff Report did not include either a quantified operational GHG analysis or a report of projected operational GHG emissions. Rather, the Air Quality Assessment's Modeling files left the operational greenhouse gas analysis tables for "Operations Emissions Details" completely blank. The City therefore failed to analyze operational greenhouse gas emissions through either quantitative analysis or "report projected GHG emissions," as required by the CAP. This omission is a violation of CEQA and the CAP.

In *Mission Bay Alliance v. Office of Community Inv. & Infrastructure* (2016) 6 CA5th 160, 198, the court upheld an EIR's analysis that was based on determining consistency with a locally adopted climate strategy and GHG reduction plan.[86] Here, in order to demonstrate consistency with the Berkeley Climate Action Plan, the Project is required to quantify and "report projected GHG emissions."[87] The City must therefore quantify and report the Project's operational GHG emissions in order to comply with CEQA and the Climate Action Plan. The ZAB failed to require this analysis before approving the Project. The City Council should uphold this appeal and remand the Project to staff to circulate a legally adequate EIR containing an operational GHG analysis before the Project can be reconsidered for approval.

VII. THE PROJECT MAY RESULT IN NONCONFORMANCE WITH THE GENERAL PLAN AND ZONING

The Project has not demonstrated conformance with General Plan workforce policies. Housing development projects in the City must implement the goals and policies of the General Plan, including Policy ED-4, which includes the following:

> 1) Ensure that Berkeley has an adequate supply of decent housing, living wage jobs, and businesses providing basic goods and services.

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[83] 14 CCR § 15183.5, subd. (b).
[84] City of Berkeley Climate Action Plan, p. 59.
[85] City of Berkeley Climate Action Plan, p. 59.
[86] *Mission Bay Alliance v. Office of Community Inv. & Infrastructure* (2016) 6 CA5th 160, 198.
[87] City of Berkeley Climate Action Plan, p. 59.

2) New housing will be developed to expand housing opportunities in Berkeley to meet the needs of all income groups.[88]

General Plan Economic Development and Employment ("ED") Policy ED-1 (Employment and Training) provides that it is the Policy of the City to "**Increase the number of jobs that go to Berkeley citizens by coordinating economic development efforts with employment placement** through the following actions:

A. Work with job training programs and encourage training for life skills, job readiness, and specific target industries, including industrial companies in West Berkeley.
B. Provide labor market information from data sources and industry sectors to local educational institutions and training agencies for adults and youths.
C. Coordinate City employment and job training programs with the University of California, Vista College, and other local educational institutions.
D. Encourage the University to hire Berkeley residents.
E. Encourage the Berkeley Unified School District to provide education and job skills appropriate to jobs in Berkeley and the region.
F. Create a collaborative process among the City, employers, and local disability/minority organizations to provide access to economic and artistic opportunities and development services for all people through education, technical assistance, and economic incentives.
G. Develop and implement employment programs to assist citizens with temporary and permanent employment.
H. Establish agreements with major employers to provide job training for Berkeley youth similar to the Bayer biotech agreements.
I. Strengthen and improve the administration and performance of the First Source Program, and establish better links between the First Source Program and the Office of Economic Development.
J. Consider development of an ordinance that requires that a percentage of Berkeley residents be hired for publicly funded construction jobs.[89]

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[88] Berkeley General Plan (April 23, 2002), p. I-1.
[89] Berkeley General Plan Economic Development and Employment Element, Policy ED-1, p. ED-5 (emphasis added).

General Plan ED Element Objectives provides the following City development objectives:

> **1. Provide a variety of jobs with varied skill levels for residents of Berkeley.**
> 2. Promote community and neighborhood values.
> 3. Support businesses that are independent, locally owned, and neighborhood-serving.
> **4. Encourage environmentally sustainable business.**
> **5. Promote revitalization in neighborhoods and communities that have historically higher-than-average rates of unemployment.**
> **6. Promote a strong industrial base as a vital foundation of a stable economy.**
> **7. Increase social and economic equity in land use decisions.**
> 8. Support culture and the arts in Berkeley.
> 9. Promote general retail businesses and a variety of cultural, recreational, entertainment, and public sector activities in the Downtown to ensure that the Downtown will remain a vital, attractive, and unifying center for the city.[90]

Policy ED-12 (Promoting Berkeley) requires the City to promote Berkeley as a location for appropriate business, visitor, and conference destination through specific actions, including "[d]evelop, maintain, and distribute economic and demographic information pertaining to the Berkeley economy.[91]

Insofar as the Project does not include any commitment to provide construction jobs to local Berkeley or East Bay residents and does not contribute to any apprenticeship or other construction job training programs for the majority of the trades, or healthcare expenditures, the Project fails to comply with these General Plan policies. As proposed, the Project is not required to use apprentices or provide healthcare benefits to its construction workers,[92] and the Applicant has not agreed to use a skilled local construction workforce to construct the Project. The Project may therefore be built with low-wage, out-of-area[93] workers who lack the

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[90] Berkeley General Plan Economic Development and Employment Element, Element Objectives, p. ED-5 (emphasis added).
[91] *Id.* at Policy ED-12(C), p. ED-10.
[92] The Project does not appear to be subject to Berkeley's Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards ("HARD HATS") Ordinance, Berkeley Municipal Code ("BMC") Chapter 13.107, given the Project's SB 330 application.
[93] Statement by Councilmember Hahn, Berkeley City Council Hearing (September 20, 2022 6 PM): City Councilmember Hahn, in favor of the HARD HATS Ordinance, said that the ordinance is necessary because workers are "being bussed in from the Central Valley" which deprives them of

livable wages, health benefits, stability, and basic standard of living that Berkeley has committed to ensuring for all of its workers on all housing developments constructed in the City. If so, the Project would be detrimental to the health, safety, peace, morals, comfort, and general welfare of the City and its residents, especially its local construction workforce, and may fail to comply with General Plan workforce policies.

By contrast, providing a local skilled and trained workforce, including apprenticeship commitments and providing healthcare expenditures for construction workers would implement the policies laid out in the General Plan Economic Development and Employment Element.[94][95]

A. The Applicant Should Consider Including Voluntary Healthcare and Apprenticeship Training Standards in Line with the HARD HATS Ordinance

The Project is not required to comply with the HARD HATS Ordinance due to its effective date. However, East Bay Residents recommends that the Project include voluntary commitments to provide construction apprenticeship training opportunities for Berkeley and Alameda County residents, local hire, and healthcare expenditures for its construction workforce that are in line with the General Plan's workforce goals and consistent with City's new HARD HATS Ordinance.

The Ordinance went into effect on January 1, 2024 to implement apprenticeship program requirements and healthcare security for workers on General Plan area projects. In enacting the HARD HATS Ordinance, the City was striving "**to promote the general welfare.**"[96] Among the many general welfare concerns cited by the City was the detrimental role that the homebuilding industry plays in perpetuating income inequality by using low wage construction workers:

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time with their families and loved ones, and prevents them from being able to take their children to school in the morning.

[94] The City has authority to impose conditions of approval on the Project to ensure consistency with the General Plan's economic and workforce policies. Local agencies have broad discretion to construe general plan policies in light of the plan's purposes, and to weigh and balance general plan policies when applying them. *Eureka Citizens for Responsible Gov. v. City of Eureka* (2007) 147 Cal.App.4th 357, 373-74.

[95] SB 330 projects must be consistent with the general plan and zoning. Gov. Code § 65589.5, subd. (j)(1).

[96] BMC § 13.107.112.

> Homebuilding is supposed to reduce the number of people waiting in line for housing they can afford. But when the homebuilding industry itself generates excessive very low and low wage construction employment, that just increases the number of people needing subsidies from the taxpayer. Low wage employment is in fact a problem in both the residential and commercial construction markets.[97]

The HARD HATS staff report explained that "[t]he creation and utilization of apprenticeship along with the commitments to paid healthcare act to both recruit and retain an adequate base of construction workers and to be a pipeline for future supervisors and licensed independent contractors."[98] It further provided that "[r]equiring contractors on major projects in Berkeley to employ apprentices results in a higher volume of apprentice training, and thus, an increase in the construction labor force available to carry out the construction anticipated by the general plan, and especially that targeted by the Housing Element."[99]

The Applicant has not committed to apprenticeship or healthcare standards for its construction workforce, without which the Project may perpetuate precisely the problems that the City's General Plan workforce standards, general welfare zoning code sections, and the new HARD HATS Ordinance seek to remedy.

B. Utilizing a Skilled Construction Workforce Promotes the Goals Set Forth in the Regional Housing Needs Assessment

One of the main rationales for the HARD HATS Ordinance was to increase the housing supply through the use of a local skilled and trained labor force. Berkeley has been assigned a Regional Housing Needs Assessment ("RHNA") of roughly 9,000 units of housing to produce over an eight year period, or over 1,100 units per year.[100] The City has concluded that Berkeley does not have an adequate supply of construction workers to build over 1,100 housing units per year while also building, altering, and maintaining public and private commercial nonresidential buildings and infrastructure.[101] Only 1,250 construction sector employees lived in Berkeley in 2018.[102] City staff have previously concluded that Berkeley cannot rely on contractors to reliably import surplus skilled construction workers from other cities,[103] and that construction jobs – particularly residential construction jobs -

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[97] HARD HATS Staff Report pp. 4-5.
[98] *Id.*
[99] *Id.*
[100] *Id.* at p. 80.
[101] *Id.*
[102] *Id.*
[103] *Id.*

have lost their competitive edge relative to other jobs in the Bay Area regional economy.[104] To meet its General Plan goals, Berkeley seeks to create working conditions that will help to overcome the construction labor market's failures to make construction jobs attractive enough to recruit and retain productive trade workers.

At the September 20, 2022 hearing on the HARD HATS Ordinance, City Councilmembers explained that there is a "shortage of qualified local construction workers" and that is one reason why it is hard to get housing built.[105] Councilmember Hahn explained that Berkeley should "develop more labor, have working conditions, and pay, and benefits that you need to live in the Bay Area."[106] Councilmember Hahn further asserted that Berkeley needs to expand the available workforce of people who are able to build housing and other projects, and "to ensure they have protections."[107] Mayor Arreguin noted that the "key to addressing the significant shortage of housing is addressing the shortage of a skilled and trained workforce."[108] The Applicant has not demonstrated that the Project will help meet this goal of addressing the housing shortage by utilizing local skilled and trained construction workers.

C. Promoting Jobsite Health and Safety

Berkeley Mayor Arreguin stated in the September 20, 2022 hearing on the HARD HATS Ordinance, that it is "unacceptable to build housing on the backs of low wage workers" and noted that there is exploitation of our construction workforce.[109] The Mayor cited to projects in Berkeley where there is wage theft, OSHA violations, unsafe workplace conditions, and worker exploitation.[110] The Mayor emphasized the importance of enabling the Berkeley construction workforce to access healthcare through the implementation of measures in the HARD HATS Ordinance. The Applicant should consider providing healthcare expenditures to its construction workers to help reduce the risks of injury and illness to construction workers.

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[104] *Id.*
[105] Statement by Councilmember Hahn, Berkeley City Council Hearing (September 20, 2022 6 PM).
[106] *Id.*
[107] *Id.*
[108] *Id.*
[109] *Id.*
[110] *Id.*

VIII. THE PROJECT IS INCONSISTENT WITH THE DOWNTOWN AREA PLAN

The Project does not conform with the Downtown Area Plan because it fails to provide "significant community benefits" as required by the Plan. The Downtown Area Plan provides that "All new buildings *shall* deliver significant community benefits, many of which should be in proportion to building height."[111] The Downtown Area Plan requires projects above 75 feet to include significant community benefits in the form of affordable housing, supportive social services, green features, open space, transportation demand features, job training, and/or employment opportunities.[112] The applicable public benefit requirements are to be included as conditions of approval and the owner shall enter into a written agreement that shall be binding on all successors in interest.[113] This Project has not demonstrated consistency with the Downtown Area Plan for failure to include community benefits as conditions of approval.

IX. THE PROJECT IS DETRIMENTAL TO THE GENERAL WELFARE AND INCONSISTENT WITH THE ZONING ORDINANCE[114]

In order to approve a Use Permit, under Berkeley Municipal Code Section 23.406.040, the ZAB must find that the proposed project:

i. Will not be detrimental to the health, safety, peace, morals, comfort, or **general welfare** of persons residing or visiting in the area or neighborhood of the proposed use; and
ii. Will not be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.

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[111] City of Berkeley, Downtown Area Plan (2012) p. LU-12. Available at: https://berkeleyca.gov/sites/default/files/2022-03/Downtown-Area-Plan.pdf (emphasis added).
[112] *Id.*
[113] *Id.*
[114] The Applicant may argue that the zoning code's general welfare standard is not an objective standard within the meaning of SB 330. This is incorrect, as compliance with CEQA, including mitigating or demonstrating the absence of significant, detrimental environmental and public health effects, and compliance with the General Plan, are objective requirements under the Housing Accountability Act. Gov. Code § 65589.5(d)(2) (disapproval authorized where housing project has would have a specific, adverse unmitigated impact on public health or safety); § 65589.5(e) (projects subject to HAA must comply with CEQA); § 65589.5(d)(5) (disapproval authorized where project is inconsistent with general plan or zoning ordinance in jurisdictions with current Housing Element).

The zoning code mandates that use permits for housing projects developed within the City cannot be approved if they are detrimental to the health, safety, peace, morals, comfort, or general welfare of the City, its residents, workers and visitors, to the surrounding neighborhood, or are inconsistent with zoning.[115] The Project is inconsistent with these requirements and fails to meet the City's goals for ensuring a stable and viable construction workforce.

The Municipal Code prohibits the City from approving a use permit if the project is "detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or visiting in the area or neighborhood of the proposed use.....or to the general welfare of the City."[116] The Housing Accountability Act also authorizes disapproval of a housing project where the project has a specific, adverse unmitigated impact upon public health or safety,[117] or is inconsistent with the general plan or zoning ordinance in jurisdictions with a current Housing Element.[118]

There is substantial evidence demonstrating that the Project's significant environmental impacts with respect to health risk, hazards, and historical resources are likely to result in a public detriment to the health, safety, comfort and general welfare of the community surrounding the Project. The Project's failure to demonstrate consistency with the CAP, Downtown Area Plan and General Plan may result in additional public detriment that the ZAB failed to consider.

The ZAB lacked substantial evidence to support the findings to issue a use permit under the City's zoning ordinance. The City Council should uphold this appeal and remand the Project to staff to prepare an EIR and to require the Applicant to provide substantial evidence demonstrating that the Project will not be detrimental to the City, its residents, and its workers, and that the Project will fully comply with the General Plan and Downtown Area Plan.

X. CONCLUSION

For the reasons stated herein, the City Council should reverse the ZAB's January 11, 2024 decision approving the Project and remand the Project to prepare a legally adequate EIR to adequately analyze and mitigate the Project's potentially significant environmental impacts with respect to hazardous materials, historic resources, water quality, public health, air quality and GHG emissions before the

[115] BMC § 23.406.040(E).
[116] BMC § 23.406.040(E)(1)(a), (b).
[117] Gov. Code § 65589.5(d)(2).
[118] Gov. Code § 65589.5(d)(5).

Project can lawfully be approved. The Council should also require the Applicant to demonstrate compliance with applicable General Plan and Downtown Area Plan policies.

Thank you for considering this appeal.

Sincerely,

Kelilah Federman

Kelilah D. Federman

Attachments
KDF:acp

6899-004acp

EXHIBIT A

ZONING ADJUSTMENTS BOARD

NOTICE OF DECISION

DATE OF BOARD DECISION: January 11, 2024
DATE NOTICE MAILED: January 22, 2024
APPEAL PERIOD EXPIRATION: February 5, 2024
EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification)[1]: February 6, 2024

2113-15 Kittredge Street

Use Permit #ZP2022-0144 to demolish the commercial building on a landmarked site (preserving the front façade), and construct an 18-story (203 feet, with 8-foot, 4-inch parapet), 160,734-square-foot, mixed-use building with 211 dwelling units (including 22 Very Low-Income Density Bonus qualifying units), and a 24,273-square-foot live theater space.

The Zoning Adjustments Board of the City of Berkeley, after conducting a public hearing, **APPROVED** the following permits:

A. Zoning Permits Required:

- Use Permit under BMC Section 23.326.070(A) to demolish a non-residential building
- Use Permit under BMC Section 23.204.020(A) to construct a new mixed-use development
- Use Permit under BMC Section 23.204.020(A) to construct dwelling units
- Administrative Use Permit under BMC Section 23.204.020(A) to construct a theater (live)
- Use Permit under BMC Section 23.204.030(B)(1) to create new floor area of 10,000 square feet or more
- Use Permit under BMC Section 23.204.130(E)(1) to exceed the maximum building height limits, up to 75 feet (plus 5-foot parapet, by right)
- Administrative Use Permit under BMC Section 23.304.050(A) to exceed building height limits with rooftop architectural elements which exceed the maximum height limit for the district
- Use Permit under BMC Section 23.04.130(E)(3)(b) to modify side and rear setback requirements

[1] Pursuant to BMC Section 23.410.050(C), the City Council may certify any ZAB decision for review during the 14-day appeal period after the notice of the ZAB's decision is issued. Certification has the same effect as an appeal. However, BMC Section 1.04.070 suspends or "tolls" the Council's deadline to certify when the Council is on recess. Thus, in cases where the 14-day appeal period is scheduled to *end* during a Council recess, the certification deadline is extended past the end of the recess for the remainder of the appeal period. In cases where the appeal period *begins* during a Council recess, the certification deadline is extended until 14 days after the first Council meeting after the recess. *Extension of the certification deadline has no effect on the appeal deadline.*

1947 Center Street, Berkeley, CA 94704 Tel: 510.981.7410 TDD: 510.981.7474 Fax: 510.981.7420
E-mail: zab@berkeleyca.gov

- Use Permit under BMC Section 23.310.020(B) to commence alcoholic beverage service of distilled spirits
- Use Permit under BMC Section 23.310.030(A) for alcoholic beverage service, including distilled spirits when incidental to a food service
- Administrative Use Permit under BMC Section 23.302.020(E)(4) to allow outdoor uses in a commercial district not abutting a residential district

B. **Concessions and Waivers Requested Pursuant to State Density Bonus Law (California Government Code Section 65915):**
- Concession to reduce Usable Open Space (residential) requirement – to provide 12,539 square feet, where 16,880 square feet is required
- Concession to reduce landscaped Usable Open Space requirement – to provide 5 percent where 40 percent is required
- Waiver of BMC Section 23.04.130(E)(1) to exceed building height limits – to be 203 feet to roof and 211 feet, 4 inches to parapet (8-foot, 4-inch-high parapet), where 75 feet is the limit (plus 5-foot parapet by right)
- Waiver of BMC Section 23.204.130(E)(3) to reduce the front, sides and rear setbacks (see Table 4: Development Standards)
- Waiver of BMC Section 23.204.130(E)(3) to increase front setback maximum to five feet, four inches, where five feet maximum is required, at 0-20 feet building height
- Waiver of BMC Section 23.204.130(E)(3) to exceed the diagonal measurement limit of the building above 120 feet height – to be 152 feet, three inches, where 120 feet is required
- Waiver of BMC Section 23.322.090(A) to provide zero commercial short-term bicycle parking, where 12 is required

ZONING: C-DMU (Core) – Downtown Mixed-Use Commercial District – Core Sub-area

APPLICANT: Christian Cerria, 2115 Kittredge Street LLC, 629 Mission Street, 5th Floor, San Francisco, CA 94105

INTERESTED PARTY: Kelilah D. Federman and Christina Caro, Adams Broadwell Joseph & Cardoza, 601 Gateway Blvd., Ste. 1000, South San Francisco CA 94080

PROPERTY OWNER: Robin Lent, 426 Sandhill Circle, Menlo Park, CA 94025

ENVIRONMENTAL REVIEW STATUS: Categorically exempt pursuant to Section 15331 ("Historical Resource Restoration/Rehabilitation) and Section 15332 ("Infill Development Projects") of the CEQA Guidelines.

FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE

	Yes	No	Abstain	Absent	Recused
DUFFY	x				
KAHN				x	
PLESE	x				
O'KEEFE				x	
LUNAPARRA				x	
SANDERSON	x				
BLACKABY	x				
GAFFNEY	x				
TREGUB			x		
BOARD VOTE:	**5**	**0**	**1**	**3**	**0**

ATTEST: Claudia Garcia, Zoning Adjustments Board Secretary

PUBLICATION OF NOTICE:

Pursuant to BMC Section 23.404.050, this notice shall be mailed to the applicant at the mailing address stated in the application and to any person who requests such notification by filing a written request with the Zoning Officer on or before the date of the Board action. This notice shall also be filed with the City Clerk. In addition, the notice shall be forwarded to the Zoning Adjustments Board and to the Main Library. The notice shall also be posted at a bulletin board at the Zoning Counter. The City Clerk shall make the notice available to interested members of the Council and the public.

FURTHER INFORMATION:

Questions about the project should be directed to the project planner, Sharon Gong, at (510) 981-7429 or sgong@berkeleyca.gov. All project application materials, including full-size plans, may be viewed online at: https://aca.cityofberkeley.info/CitizenAccess/Welcome.aspx. or in the Permit Service Center at the Zoning Counter at 1947 Center Street, Third Floor, during normal office hours.

EXHIBIT B

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
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Of Counsel
MARC D. JOSEPH
DANIEL L. CARDOZO

January 11, 2024

Via Email and US Mail
Zoning Adjustments Board
Chairperson Yes Duffy
Vice Chairperson Kimberly Gaffney
Members: Igor Tregub; Michael Thompson; Cecilia Lunaparra
Shoshana O'Keefe; Charles Kahn
Alyssa Please; Debra Sanderson
Zoning Adjustments Board Secretary
Land Use Planning Division
1947 Center Street, 2nd Floor
Berkeley, CA 94704
Email: zab@berkeleyca.gov

Via Email Only
Sharon Gong
Email: sgong@cityofberkeley.info

Re: Agenda Item No. 4: 2113-15 Kittredge Street Project (Use Permit #ZP2022-0144)

Dear Zoning Adjustments Board Chairperson Duffy, Vice Chairperson Gaffney, Board Members, Ms. Gong:

We are writing on behalf of East Bay Residents for Responsible Development ("East Bay Residents" or "EBRRD") regarding Agenda Item No. 4, the 2113-15 Kittredge Street Project (Use Permit #ZP2022-0144; APN057-2030-009) ("Project") proposed by Christian Cerria and 2115 Kittredge Street LLC (collectively "Applicant").[1] The Applicant is requesting Use Permits from the City of Berkeley ("City") to demolish the commercial building on a landmarked site (preserving the front façade), and construct an 18-story (203 feet, with 8-foot, 4-inch parapet), 160,734-square-foot, mixed-use building with 211 dwelling units (including 22 Very Low-Income Density Bonus qualifying units), and a 24,273-square-foot live theater

[1] City of Berkeley, Zoning Adjustments Board, Staff Report for Board Action (January 11, 2024) (Item #4 ZAB 2024-01-11) 2113-15 Kittredge Street Use Permit #ZP2022-0144. Available at https://berkeleyca.gov/sites/default/files/documents/2024-01-11_ZAB_Item%204_2113-15%20Kittredge_Staff%20Report%20and%20Attachments.pdf ("Staff Report").

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space with 355 seats, a full stage and backstage, fly area, and practice support spaces. The project site is located on the north side of Kittredge Street, within the Downtown Mixed-Use District (C-DMU), Core Sub-Area, as identified in the City's Downtown Area Plan ("DAP").

East Bay Residents urges the Zoning Adjustments Board ("ZAB") to continue tonight's hearing and remand the Project to staff due to the City's failure to comply with the California Environmental Quality Act ("CEQA") and the Project's failure to demonstrate consistency with General Plan and DAP workforce standards. The Project proposes to convert a commercial building to a residential, mixed-use development. The staff report recommends that the Project be found categorically exempt from CEQA pursuant to Section 15332 ("Infill Development Projects") and Section 15331 ("Historical Resource Restoration/Rehabilitation") of the CEQA Guidelines. This recommendation is unsupported by the record and should not be adopted.

First, a CEQA exemption is inapplicable to the Project because there is substantial evidence in the record demonstrating that the Project has potentially significant impacts from hazardous materials and on historical resources which require mitigation. Mitigated categorical exemptions are prohibited by CEQA.[2] "If a project may have a significant effect on the environment, CEQA review must occur and only then are mitigation measures relevant... Mitigation measures may support a negative declaration but not a categorical exemption."[3]

With regard to hazards, there is substantial evidence demonstrating that the Project site has potentially significant impacts from soil contamination that exceed health-based residential environmental screening levels ("ESL") and hazardous waste screening criteria.[4] The Staff Report and soil investigations conclude that mitigation is required to clean the contamination to safe levels before the Project can proceed and staff have included the mitigation as a condition of approval.[5]

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[2] *Salmon Pro. & Watershed Network v. County of Marin ("SPAWN")* (2004) 125 Cal.App.4th at 1102; *Azusa Land Recl. Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal. App.4th 1165, 1198-1201.

[3] Salmon Protection & Watershed Network v. County of Marin (2004) 125 Cal.App.4th 1098, 1102 ("SPAWN").

[4] Staff Report, p. 9; Summary of Phase II Subsurface Investigation, Downtown Berkeley Adaptive Reuse Project, 2115 Kittredge Street in Berkeley, California (November 8, 2022), p. 6 of 9. Available at: https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/5291501700/2023-03_ltr-rpt-PhII%20Investigation-0424-002-001-Final.pdf.

[5] *Id.*

With regard to historical resources, the Project may result in a substantial adverse change in the significance of the historic resource of the California Theatre, rendering an exemption inapplicable.[6] Moreover, the measures required by the Landmarks Preservation Commission "that ensure restoration and rehabilitation of the retained portion of the historic structure, as well as documentation and salvage of the property in its current form" constitute mitigation measures under CEQA.[7]

Second, the City lacks substantial evidence to conclude that the Project would not result in significant effects relating to traffic, noise, air quality, or water quality, or that the Project complies with the General Plan.[8] These are prerequisites for a CEQA exemption and facial requirements for the Class 32 exemption.[9]

With regard to water quality, the City lacks substantial evidence to conclude that the Project will not have significant effects because the site is under active investigation by the San Francisco Bay Regional Water Quality Control Board ("Water Board"), which concluded in November 2023 that "[b]ased on the available data, ***it is unclear if the contamination threatens to adversely affect the beneficial uses of groundwater and/or human health.***"[10] There is no evidence in the record demonstrating that either the Water Board or the City have provided evidence resolving the uncertainty identified by the Water Board that water quality and public health impacts may be significant. Rather, the Phase II soil investigation concluded that "soil remediation may be required during grading,"[11] demonstrating that there may be significant water quality and public health impacts which requires mitigation.

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[6] 14 CCR § 14300.2(f) ("[a] categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.").
[7] City of Berkeley Landmarks Preservation Commission Staff Report, 2113 Kittredge Street – California Theater (Oct. 5, 2023), p. 8 of 10. Available at: https://berkeleyca.gov/sites/default/files/documents/2023-10-05_LPC_Item%207_2113-2115%20Kittredge_Combined%20Staff%20Report%20and%20Attachments_2.pdf
[8] *Banker's Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego* (2006) 139 Cal.App.4th 249, 269 (lead agency must provide "substantial evidence to support [their] finding that the Project will not have a significant effect").
[9] 14 Cal. Code Regs. ("CCR") § 15332(a), (d).
[10] San Francisco Bay Regional Water Quality Control Board, Site Cleanup Program (SCP) Recovery of Oversight Costs at the Former California Theatre, 2115 Kittredge Street, Berkeley, Alameda County (November 16, 2023). Available at: https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/9991040885/2023-11-30_CRA%202115%20Kittredge_Executed.pdf (emphasis added).
[11] Summary of Phase II Subsurface Investigation, Downtown Berkeley Adaptive Reuse Project, 2115 Kittredge Street in Berkeley, California (November 8, 2022), p. 6-7 of 9. Available at: https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/5291501700/2023-03_ltr-rpt-PhII%20Investigation-0424-002-001-Final.pdf.
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The City also lacks substantial to conclude that the Project will not have significant effects on air quality and public health from the Project's air emissions. The City did not disclose the Project's greenhouse gas ("GHG") emissions and has not prepared a health risk analysis to determine the extent of air contaminants released during Project construction and operation that may impact human health. Absent this evidence, staff's determination that air quality impacts are less than significant to support a Categorical Exemption is not supported by substantial evidence in the record.

Finally, the Project has not demonstrated consistency with General Plan and DAP policies to promote the welfare of local workers and sustainable economic development.

The ZAB should remand the Project to prepare a legally adequate environmental impact report ("EIR") to adequately analyze and mitigate the Project's potentially significant environmental impacts before the Project can lawfully be approved.

I. STATEMENT OF INTEREST

East Bay Residents for Responsible Development is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential impacts associated with Project development. The association includes labor organizations UA Plumbers and Pipefitters Local 342, International Brotherhood of Electrical Workers Local 595, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, and their members and their families who live and/or work in the City of Berkeley and Alameda County.

The individual members of EBRRD live, work, and raise their families in the City of Berkeley and Alameda County. They would be directly affected by the Project's impacts. Individual members may also work on the Project itself. They will therefore be first in line to be exposed to any health and safety hazards that may exist on the Project site.

The organizational members of EBRRD also have an interest in enforcing the City's planning and zoning laws and the State's environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making it less desirable for businesses to locate and people to live there. Indeed, continued degradation can, and has, caused restrictions on growth that reduce

future employment opportunities. Finally, EBRRD's members are concerned about projects that present environmental and land use impacts without providing countervailing economic and community benefits.

II. THE PROJECT IS NOT EXEMPT FROM CEQA BECAUSE THERE IS SUBSTANTIAL EVIDENCE OF POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS WHICH REQUIRE MITIGATION

To rely on a categorical exemption, the City must determine, based on substantial evidence, that approval of the Project would not result in any significant effects on the environment.[12] Exemptions must be narrowly construed and are not to be expanded beyond the scope of their plain language.[13] An agency may not rely on a categorical exemption if mitigation measures would be necessary to reduce potentially significant effects to less than significant levels.[14] "'An agency should decide whether a project is eligible for a categorical exemption *as part of its preliminary review of the project'* without reference to or reliance upon any proposed mitigation measures."[15] If an activity may have a significant effect on the environment, the activity is not exempt from CEQA, CEQA review must occur, and only then are mitigation measures relevant.[16]

A. The Project's Soil Contamination Results in Significant Hazardous Materials and Public Health Impacts Requiring Mitigation

There is substantial evidence demonstrating that the Project has potentially significant impacts from soil contamination that exceed health-based residential ESLs and hazardous waste screening criteria.[17]

The Phase II Subsurface Investigation conducted for the Project identified a number of hazardous contaminants impacts onsite demonstrating a potentially significant environmental impact with respect to public health. **Lead was**

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[12] Pub. Res. Code §§ 21080(b)(9); 21084(a); *Banker's Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego* (2006) 139 Cal.App.4th 249, 269 (lead agency must provide "substantial evidence to support [their] finding that the Project will not have a significant effect.")
[13] *Castaic Lake Water Agency v. City of Santa Clarita* (1995) 41 Cal.App.4th 1257.
[14] *SPAWN,* 125 Cal.App.4th at 1102; *Azusa Land Recl. Co.,* 52 Cal. App.4th at 1198-1201.
[15] *Id.* at 1106 (internal citations omitted) (emphasis added).
[16] *SPAWN,* 125 Cal.App.4th at 1107.
[17] Staff Report, p. 9; Summary of Phase II Subsurface Investigation, Downtown Berkeley Adaptive Reuse Project, 2115 Kittredge Street in Berkeley, California (November 8, 2022), p. 6 of 9. Available at:
https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/5291501700/2023-03_ltr-rpt-PhII%20Investigation-0424-002-001-Final.pdf.

detected in soil samples, and the concentration in one of the soil samples exceeded the residential ESL and hazardous waste screening criteria.[18] Additionally, several volatile organic compounds ("VOCs") were detected in each of the soil-vapor samples at concentrations above laboratory reporting limits.[19] **Benzene and bromodichloromethane were detected at concentrations exceeding the residential ESLs**, but below the commercial/industrial ESLs.[20] Chloroform was detected at a concentration above the conservative commercial/industrial ESL.[21]

Residential ESLs are health-protective screening thresholds for subsurface contaminants at project sites intended for residential use. As the Water Board explains:

> Residential Land Use should be used to evaluate sites for unrestricted future land-use. This includes sites to be used for residential developments, hospitals, day care centers and other sensitive purposes (DTSC 2002). ESLs listed under this category incorporate assumptions regarding long-term, frequent exposure of children and adults in a residential setting.[22]

If contamination exceeds a residential ESL for a proposed residential project, it constitutes a significant impact requiring disclosure and mitigation in a CEQA document.[23] The Project's exceedances of residential ESLs constitute a significant environmental impact which require remediation, mitigation, and analysis in an EIR before the Project can be approved. The City cannot rely on a CEQA exemption.

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[18] Summary of Phase II Subsurface Investigation, Downtown Berkeley Adaptive Reuse Project, 2115 Kittredge Street in Berkeley, California (November 8, 2022), p. 6 of 9. Available at: https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/5291501700/2023-03_ltr-rpt-PhII%20Investigation-0424-002-001-Final.pdf.

[19] *Id.*

[20] *Id.*

[21] *Id.*

[22] San Francisco Bay Regional Water Quality Control Board, *User's Guide: Derivation and Application of Environmental Screening Levels (ESLs)* (2019), p. 2-12. available at https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwjs3eyyxNaDAxXoMEQIHa6PCA0QFnoECDgQAQ&url=https%3A%2F%2Fcanvas.eee.uci.edu%2Fcourses%2F35369%2Ffiles%2F14524449%2Fdownload%3Fdownload_frd%3D1&usg=AOvVaw2yRfXhcKKP99AYVFLz6NlC&opi=89978449 (last visited 1/11/24).

[23] *Comtys. for a Better Env't v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 110-111 (when impact exceeds significance threshold, agency must disclose in EIR that impact is significant); *Schenck v. County of Sonoma* (2011) 198 Cal.App.4th 949, 960; *CBE v. SCAQMD*, 48 Cal.4th at 327 (impact is significant because exceeds "established significance threshold for NOx ... constitute[ing] substantial evidence supporting a fair argument for a significant adverse impact").

1. **The Need for Mitigation of the Site's Soil Contamination Impacts Does Not Support a CEQA Exemption**

The City has acknowledged that the site's soil contamination impact is significant and has included mitigation in the Project's conditions of approval which require site cleanup.[24] The City is therefore precluded from relying on a categorical exemption under *SPAWN*.

The Phase II Subsurface Investigation concluded that "soil remediation may be required during grading."[25] The Conditions of Approval in the Staff Report provide that preparation of a Soil and Groundwater Management Plan is required, but the full remediation plan has not been provided for public review.[26] The site's exceedances of residential ESLs must be remediated to levels that are below residential ESLs before the Project can be approved. The Soil and Groundwater Management Plan will therefore include remediation that constitutes mitigation under CEQA.

A "mitigation measure" is a measure designed to minimize a project's significant environmental impacts.[27] CEQA defines mitigation to include:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.
(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
(c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
(e) Compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements.[28]

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[24] Staff Report, p. 9.
[25] *Id.* at 7 of 9.
[26] Staff Report, p. 12 of 28.
[27] Pub. Res. Code § 21002.1(a).
[28] 14 CCR § 15370.

Here, the City seeks to rely on standard conditions of approval which it asserts are "requirements of the project and not mitigation."[29] While a citywide requirement to prepare a soil management plan for all projects may be standard, the requirement to implement site-specific measures to reduce a significant contamination impact at a particular project site, as here, is mitigation unique to the project. Under CEQA, the additional remediation of soil contamination in the SGMP would constitute mitigation measures to "rectify[] the impact by...restoring the impacted environment."[30]

Agencies are prohibited from relying on mitigated categorical exemptions.[31] The Court in *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster*, held that the CEQA Guidelines does not authorize consideration of mitigation measures in connection with a categorical exemption, and held that if mitigation measures are needed to avoid potentially significant impacts, then at a minimum a mitigated negative declaration must be prepared.[32] The court in *SPAWN* similarly held that if there is a reasonable possibility of a significant effect on the environment, then the project must be reviewed under CEQA and mitigation measures may be considered only as part of that CEQA review.[33]

The City's reliance on the standard condition of approval is dissimilar to the *Walters v. City of Redondo Beach* case where the court held that a condition of approval requiring compliance with local noise standards was not a mitigation measure defeating the use of a categorical exemption, when the city found the project would meet those standards and imposed conditions of approval to ensure that it would do so.[34] Here, the standard condition of approval requires the Applicant to conduct additional environmental review in a Soil and Groundwater Management Plan and to potentially conduct additional remediation to mitigate the Project's existing soil contamination. The City cannot escape CEQA review by relying on conditions of approval to conduct its environmental review.

Moreover, the court in *Berkeley Hillside* clarified that "a finding of environmental impacts must be based on the proposed project as actually

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[29] City of Berkeley, Standard Conditions of Approval, Ordinance No. 12899 C.M.S, (2020) p. 2. Available at: https://cao-94612.s3.amazonaws.com/documents/Standard-Conditions-of-Approval-December-2020.pdf.
[30] 14 CCR § 15370.
[31] *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 CA4th 1098, 1102.
[32] (1997) 52 CA4th 1165, 1200.
[33] 125 CA4th at 1102.
[34] (2016) 1 CA5th 809.
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approved."[35] The SGMP may find additional environmental impacts and require additional remediation. Therefore, the Staff Report's conclusions as to environmental impacts are not based on the proposed Project as approved, but are based on future environmental review and remediation under a Soil and Groundwater Management Plan. Future remediation, mitigation, and environmental review cannot be the basis to support a categorical exemption.

The remediation associated with the SGMP to reduce contamination to levels that do not exceed residential ESLs constitutes mitigation measure, thus precluding reliance on a categorical exemption for Project approval. An EIR must be prepared which includes the analysis of the SGMP, to adequately characterize, analyze, and mitigate the Project's potentially significant hazardous contamination impacts.

B. The Project May Result in Potentially Significant Historic Resources Impacts Which Require Mitigation

The CEQA Guidelines provides that "[a] categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource."[36] Here, the Project may result in a substantial adverse change in the significance of the historic resource of the California Theatre, so an exemption is inapplicable. Moreover, the measures required by the Landmarks Preservation Commission for the Project "that ensure restoration and rehabilitation of the retained portion of the historic structure, as well as documentation and salvage of the property in its current form" constitute mitigation measures under CEQA.[37] "If a project may have a significant effect on the environment, CEQA review must occur and only then are mitigation measures relevant... Mitigation measures may support a negative declaration but not a categorical exemption."[38] Here, the City is improperly relying on mitigation measures to support approval of the Project under a categorical exemption, in violation of CEQA.

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[35] *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1105.
[36] 14 CCR § 14300.2(f).
[37] City of Berkeley Landmarks Preservation Commission Staff Report, 2113 Kittredge Street – California Theater (Oct. 5, 2023), p. 8 of 10. Available at: https://berkeleyca.gov/sites/default/files/documents/2023-10-05_LPC_Item%207_2113-2115%20Kittredge_Combined%20Staff%20Report%20and%20Attachments_2.pdf
[38] Salmon Protection & Watershed Network v. County of Marin (2004) 125 Cal.App.4th 1098, 1102 ("SPAWN").
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III. THE CITY LACKS SUBSTANTIAL EVIDENCE TO SUPPORT A CEQA EXEMPTION

If an activity may have a significant effect on the environment, the activity is not categorically exempt from CEQA.[39] A lead agency must provide "substantial evidence to support [their] finding that the Project will not have a significant effect."[40] The City failed to meet that standard here, because there are several impact areas in which the record contains no evidence to support the City's reliance on the proposed Class 31 or Class 32 exemptions.

Additionally, the Project fails to meet the facial requirements for a Class 32 exemption. CEQA Guidelines Section 15332 provides an exemption from CEQA for "benign infill projects that are consistent with the General Plan and Zoning requirements" of a municipality and that satisfy the following criteria:[41]

(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
(b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
(c) The project site has no value as habitat for endangered, rare or threatened species.
(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
(e) The site can be adequately served by all required utilities and public services.

The Project fails to meet the requirements of Section 15332(a) and (d) because the record lacks substantial evidence that the Project will not result in significant effects to water quality, public health, and air quality. The Project may also result in inconsistencies with the General Plan. For these reasons, the Project fails to qualify for the Infill Exemption.

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[39] *SPAWN,* 125 Cal.App.4th at 1107.
[40] *Banker's Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego* (2006) 139 Cal.App.4th 249, 269.
[41] 14 CCR § 15332.

A. The City Lacks Substantial Evidence to Conclude that the Project Will Not Have Significant Effects on Water Quality

The Project site is listed on the State Water Resources Control Board's Geotracker database as "Pending Review as of 10/20/2023" as the Former California Theatre (Global ID: T10000021433).[42] On November 16, 2023, following the Phase II Subsurface Investigation, the San Francisco Bay Regional Water Quality Control Board advised the Applicant that "[b]ased on the available data, it is unclear if the contamination threatens to adversely affect the beneficial uses of groundwater and/or human health. These beneficial uses include municipal supply, agricultural supply, and industrial service and process supply."[43] Absent additional review and remediation, the City lacks substantial evidence that water quality impacts are less than significant to allow for approval of the Project under an Infill Exemption.

B. The City Lacks Substantial Evidence to Conclude the Project Will Not Have Significant Effects on Air Quality and Public Health

An exemption is improper, where, as here, the Project may result in significant air quality impacts.[44] The Staff Report for the Project does not contain a quantified health risk analysis ("HRA" or "health risk assessment") to evaluate the Project's potentially significant air quality and public health impacts from construction and operation. Absent a health risk assessment, the record does not contain substantial evidence that toxic air contaminants from construction and operation will be reduced to less than significant levels.

The Staff Report provides that the Applicant is required to prepare a "health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits."[45] However, this HRA has not yet been prepared, and

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[42] State Water Resources Control Board Geotracker, Former California Theatre (T10000021433). Available at: https://geotracker.waterboards.ca.gov/profile_report?global_id=T10000021433.
[43] San Francisco Bay Regional Water Quality Control Board, Site Cleanup Program (SCP) Recovery of Oversight Costs at the Former California Theatre, 2115 Kittredge Street, Berkeley, Alameda County (November 16, 2023). Available at: https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/9991040885/2023-11-30_CRA%202115%20Kittredge_Executed.pdf
[44] 14 CCR § 15332(d).
[45] Staff Report, Conditions & Findings, p. 17 of 28.

is not included in the record before the ZAB. Therefore, the City lacks substantial evidence to support a finding that the Project's air quality and health impacts from toxic air contaminants will be less than significant.

The Staff Report fails to adequately analyze the Project's air quality and health risk impacts. The Project may result in significant air quality and health risk impacts which may be only discovered after approval under the exemption. The Project should be remanded to Staff to prepare a legally adequate environmental impact report, including a health risk assessment to analyze the Project's potentially significant air quality and public health impacts before the Project can lawfully be approved.

Condition 40 requires the following measures:

> Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with one of the following measures:
> A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or
> B. Consistent with the assumptions included in the Air Quality Assessment prepared by ESA on November 2023 (Refer to Appendix X), all off road equipment shall be equipped with Tier 4 engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.
> In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:
> • An equipment inventory summarizing the type of off-road equipment required for each phase of construction consistent with equipment list included in the Air Quality Assessment, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.

• A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.[46]

As discussed above, the fact that a Standard Condition of Approval requires analysis of impacts does not demonstrate that a project has no significant effects. The results of the HRA will demonstrate whether or not there is a significant health risk posed by the Project's air emissions, information required by CEQA.[47] And if those effects are significant prior to mitigation, a CEQA exemption will be inapplicable.

The City cannot rely on a categorical exemption absent substantial evidence concluding that air quality and public health impacts are less than significant without supporting evidence. The City must prepare an EIR to adequately analyze and mitigate the Project's potentially significant environmental impacts with respect to air quality and public health.

C. The City Lacks Substantial Evidence to Conclude that the Project Will Not Have Significant Effects from Greenhouse Gas Emissions

The City lacks substantial evidence to support a determination that greenhouse gas ("GHG") emissions impacts are less than significant so as to support a categorical exemption. CEQA requires that in order to qualify for a categorical exemption, the City must demonstrate, based on substantial evidence, that there are no "significant effects" of the Project on the environment.[48] Here, the City has not demonstrated that GHG emissions impacts are less than significant. Therefore, the City lacks substantial evidence to support reliance on the proposed exemptions.

The Staff Report includes analysis of the Project's GHG impacts for construction only, and includes no relevant analysis regarding operational GHG impacts.[49] Moreover, the claim by the Landmarks Preservation Commission that the Project will be "powered sustainably" is not supported by substantial evidence, nor is the Landmarks Preservation Commission, the City's historical resource

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[46] Staff Report, Conditions & Findings, p. 17 of 28.
[47] *Sierra Club v County of Fresno* (2018) 6 Cal.5th 502, 518–522 (CEQA requires an analysis of human health impacts).
[48] *Banker's Hill,* 139 Cal.App.4th at 269.
[49] Staff Report, Air Quality Assessment, Appendix A, p. 6 of 45.
6899-003acp

committee, an expert in analyzing GHG emissions.[50] The record contains no study quantifying GHG impacts, no evidence that the source of energy for the Project is "sustainably" sourced, and does not demonstrate that, if so, it would reduce the Project's GHG impacts to less than significant levels in order to rely on a CEQA exemption.

The City must remand the Project to Staff to prepare a legally adequate EIR to adequately analyze and mitigate the Project's potentially significant environmental impacts with respect to GHG emissions.

IV. THE PROJECT MAY RESULT IN NONCONFORMANCE WITH THE GENERAL PLAN AND ZONING

The Project has not demonstrated conformance with General Plan workforce policies. Housing development projects in the City must implement the goals and policies of the General Plan, including Policy ED-4, which includes the following:

> 1) Ensure that Berkeley has an adequate supply of decent housing, living wage jobs, and businesses providing basic goods and services.
> 2) New housing will be developed to expand housing opportunities in Berkeley to meet the needs of all income groups.[51]

General Plan Economic Development and Employment ("ED") Policy ED-1 (Employment and Training) provides that it is the Policy of the City to "**Increase the number of jobs that go to Berkeley citizens by coordinating economic development efforts with employment placement** through the following actions:

> **A. Work with job training programs and encourage training for life skills, job readiness, and specific target industries**, including industrial companies in West Berkeley.
> **B. Provide labor market information from data sources and industry sectors to local educational institutions and training agencies for adults and youths.**

[50] Berkeley Landmarks Preservation Commission, Agenda, (Oct. 5, 2023). Available at: https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-10-05_LPC_Agenda_Linked_0.pdf.
[51] Berkeley General Plan (April 23, 2002), p. I-1.

C. Coordinate City employment and job training programs with the University of California, Vista College, and other local educational institutions.
D. Encourage the University to hire Berkeley residents.
E. Encourage the Berkeley Unified School District to provide education and job skills appropriate to jobs in Berkeley and the region.
F. Create a collaborative process among the City, employers, and local disability/minority organizations to provide access to economic and artistic opportunities and development services for all people through education, technical assistance, and economic incentives.
G. Develop and implement employment programs to assist citizens with temporary and permanent employment.
H. Establish agreements with major employers to provide job training for Berkeley youth similar to the Bayer biotech agreements.
I. Strengthen and improve the administration and performance of the First Source Program, and establish better links between the First Source Program and the Office of Economic Development.
J. Consider development of an ordinance that requires that a percentage of Berkeley residents be hired for publicly funded construction jobs.[52]

General Plan ED Element Objectives provides the following City development objectives:

1. Provide a variety of jobs with varied skill levels for residents of Berkeley.
2. Promote community and neighborhood values.
3. Support businesses that are independent, locally owned, and neighborhood-serving.
4. Encourage environmentally sustainable business.
5. Promote revitalization in neighborhoods and communities that have historically higher-than-average rates of unemployment.
6. Promote a strong industrial base as a vital foundation of a stable economy.
7. Increase social and economic equity in land use decisions.
8. Support culture and the arts in Berkeley.
9. Promote general retail businesses and a variety of cultural, recreational, entertainment, and public sector activities in the Downtown to ensure that

[52] Berkeley General Plan Economic Development and Employment Element, Policy ED-1, p. ED-5 (emphasis added).

the Downtown will remain a vital, attractive, and unifying center for the city.[53]

Policy ED-12 (Promoting Berkeley) requires the City to" promote Berkeley as a location for appropriate business, visitor, and conference destination through specific actions, including "[d]evelop, maintain, and distribute economic and demographic information pertaining to the Berkeley economy.[54]

Insofar as the Project does not include any commitment to provide construction jobs to local Berkeley or East Bay residents and does not contribute to any apprenticeship or other construction job training programs for the majority of the trades, or healthcare expenditures, the Project fails to comply with these General Plan policies. As proposed, the Project is not required to use apprentices or provide healthcare benefits to its construction workers,[55] and the Applicant has not agreed to use a skilled local construction workforce to construct the Project. The Project may therefore be built with low-wage, out-of-area[56] workers who lack the livable wages, health benefits, stability, and basic standard of living that Berkeley has committed to ensuring for all of its workers on all housing developments constructed in the City. If so, the Project would be detrimental to the health, safety, peace, morals, comfort, and general welfare of the City and its residents, especially its local construction workforce, and may fail to comply with General Plan workforce policies.

By contrast, providing a local skilled and trained workforce, including apprenticeship commitments and providing healthcare expenditures for

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[53] Berkeley General Plan Economic Development and Employment Element, Element Objectives, p. ED-5 (emphasis added).
[54] *Id.* at Policy ED-12(C), p. ED-10.
[55] The Project does not appear to be subject to Berkeley's Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards ("HARD HATS") Ordinance, Berkeley Municipal Code ("BMC") Chapter 13.107, given the Project's SB 330 application.
[56] Statement by Councilmember Hahn, Berkeley City Council Hearing (September 20, 2022 6 PM): City Councilmember Hahn, in favor of the HARD HATS Ordinance, said that the ordinance is necessary because workers are "being bussed in from the Central Valley" which deprives them of time with their families and loved ones, and prevents them from being able to take their children to school in the morning.
6899-003acp

construction workers would implement the policies laid out in the General Plan Economic Development and Employment Element.[57][58]

A. The Applicant Should Consider Including Voluntary Healthcare and Apprenticeship Training Standards in Line with the HARD HATS Ordinance

The Project is not required to comply with the HARD HATS Ordinance due to its effective date. However, East Bay Residents recommends that the Project include voluntary commitments to provide construction apprenticeship training opportunities for Berkeley and Alameda County residents, local hire, and healthcare expenditures for its construction workforce that are in line with the General Plan's workforce goals and consistent with City's new HARD HATS Ordinance.

The Ordinance went into effect on January 1, 2024 to implement apprenticeship program requirements and healthcare security for workers on General Plan area projects. In enacting the HARD HATS Ordinance, the City was striving "**to promote the general welfare.**"[59] Among the many general welfare concerns cited by the City was the detrimental role that the homebuilding industry plays in perpetuating income inequality by using low wage construction workers:

> Homebuilding is supposed to reduce the number of people waiting in line for housing they can afford. But when the homebuilding industry itself generates excessive very low and low wage construction employment, that just increases the number of people needing subsidies from the taxpayer. Low wage employment is in fact a problem in both the residential and commercial construction markets.[60]

The HARD HATS staff report explained that "[t]he creation and utilization of apprenticeship along with the commitments to paid healthcare act to both recruit and retain an adequate base of construction workers and to be a pipeline for future

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[57] The City has authority to impose conditions of approval on the Project to ensure consistency with the General Plan's economic and workforce policies. Local agencies have broad discretion to construe general plan policies in light of the plan's purposes, and to weigh and balance general plan policies when applying them. *Eureka Citizens for Responsible Gov. v. City of Eureka* (2007) 147 Cal.App.4th 357, 373-74.

[58] SB 330 projects must be consistent with the general plan and zoning. Gov. Code § 65589.5, subd. (j)(1).

[59] BMC § 13.107.112.

[60] HARD HATS Staff Report pp. 4-5.

supervisors and licensed independent contractors."[61] It further provided that "[r]equiring contractors on major projects in Berkeley to employ apprentices results in a higher volume of apprentice training, and thus, an increase in the construction labor force available to carry out the construction anticipated by the general plan, and especially that targeted by the Housing Element."[62]

The Applicant has not committed to apprenticeship or healthcare standards for its construction workforce, without which the Project may perpetuate precisely the problems that the City's General Plan workforce standards, general welfare zoning code sections, and the new HARD HATS Ordinance seek to remedy.

B. Utilizing a Skilled Construction Workforce Promotes the Goals Set Forth in the Regional Housing Needs Assessment

One of the main rationales for the HARD HATS Ordinance was to increase the housing supply through the use of a local skilled and trained labor force. Berkeley has been assigned a Regional Housing Needs Assessment ("RHNA") of roughly 9,000 units of housing to produce over an eight year period, or over 1,100 units per year.[63] The City has concluded that Berkeley does not have an adequate supply of construction workers to build over 1,100 housing units per year while also building, altering, and maintaining public and private commercial nonresidential buildings and infrastructure.[64] Only 1,250 construction sector employees lived in Berkeley in 2018.[65] City staff have previously concluded that Berkeley cannot rely on contractors to reliably import surplus skilled construction workers from other cities,[66] and that construction jobs – particularly residential construction jobs - have lost their competitive edge relative to other jobs in the Bay Area regional economy.[67] To meet its General Plan goals, Berkeley seeks to create working conditions that will help to overcome the construction labor market's failures to make construction jobs attractive enough to recruit and retain productive trade workers.

At the September 20, 2022 hearing on the HARD HATS Ordinance, City Councilmembers explained that there is a "shortage of qualified local construction workers" and that is one reason why it is hard to get housing built.[68]

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[61] *Id.*
[62] *Id.*
[63] HARD HATS Staff Report, p. 80.
[64] *Id.*
[65] *Id.*
[66] *Id.*
[67] *Id.*
[68] Statement by Councilmember Hahn, Berkeley City Council Hearing (September 20, 2022 6 PM).
6899-003acp

Councilmember Hahn explained that Berkeley should "develop more labor, have working conditions, and pay, and benefits that you need to live in the Bay Area."[69] Further Councilmember Hahn asserted that Berkeley needs to expand the available workforce of people who are able to build housing and other projects, and "to ensure they have protections."[70] Mayor Arreguin noted that the "key to addressing the significant shortage of housing is addressing the shortage of a skilled and trained workforce."[71] The Applicant has not demonstrated that the Project will help meet this goal of addressing the housing shortage by utilizing local skilled and trained construction workers.

C. Promoting Jobsite Health and Safety

Berkeley Mayor Arreguin stated in the September 20, 2022 hearing on the HARD HATS Ordinance, that it is "unacceptable to build housing on the backs of low wage workers" and noted that there is exploitation of our construction workforce.[72] The Mayor cited to projects in Berkeley where there is wage theft, OSHA violations, unsafe workplace conditions, and worker exploitation.[73] The Mayor emphasized the importance of enabling the Berkeley construction workforce to access healthcare through the implementation of measures in the HARD HATS Ordinance. The Applicant should consider providing healthcare expenditures to its construction workers to help reduce the risks of injury and illness to construction workers.

V. THE PROJECT IS INCONSISTENT WITH THE DOWNTOWN AREA PLAN

The Project does not conform with the Downtown Area Plan because it fails to provide "significant community benefits" as required by the Plan. The Downtown Area Plan provides that "All new buildings *shall* deliver significant community benefits, many of which should be in proportion to building height."[74] The Downtown Area Plan requires projects above 75 feet to include significant community benefits in the form of affordable housing, supportive social services, green features, open space, transportation demand features, job training, and/or

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[69] *Id.*
[70] *Id.*
[71] Statement by Mayor Arreguin, Berkeley City Council Hearing (September 20, 2022 6 PM).
[72] *Id.*
[73] *Id.*
[74] City of Berkeley, Downtown Area Plan (2012) p. LU-12. Available at: https://berkeleyca.gov/sites/default/files/2022-03/Downtown-Area-Plan.pdf (emphasis added).

employment opportunities.[75] The applicable public benefit requirements are to be included as conditions of approval and the owner shall enter into a written agreement that shall be binding on all successors in interest.[76] This Project has not demonstrated consistency with the Downtown Area Plan for failure to include community benefits as conditions of approval.

VI. THE PROJECT MAY BE DETRIMENTAL TO THE GENERAL WELFARE AND INCONSISTENT WITH THE ZONING ORDINANCE

In order to approve a Use Permit, under Berkeley Municipal Code Section 23.406.040, the ZAB must find that the proposed project:

i. Will not be detrimental to the health, safety, peace, morals, comfort, or **general welfare** of persons residing or visiting in the area or neighborhood of the proposed use; and
ii. Will not be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.

The zoning code mandates that use permits for housing projects developed within the City cannot be approved if they are detrimental to the health, safety, peace, morals, comfort, or general welfare of the City, its residents, workers and visitors, to the surrounding neighborhood, or are inconsistent with zoning.[77] The Project is inconsistent with these requirements and fails to meet the City's goals for ensuring a stable and viable construction workforce.

The Staff Report lacks substantial evidence that the Project would not be detrimental to the general welfare. The ZAB therefore lacks the evidence necessary to support the findings to issue a use permit under the City's zoning ordinance. The ZAB should not approve the Project until the Applicant provides substantial evidence demonstrating that the Project will not be detrimental to the City, its residents, and its workers, and until the Project fully complies with the General Plan and DAP.

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[75] *Id.*
[76] *Id.*
[77] Berkeley Municipal Code Section 23.406.040(E).
6899-003acp

VII. CONCLUSION

The record lacks substantial evidence demonstrating that the Project qualifies for a CEQA exemption or that it complies with the General Plan and DAP. The ZAB should remand the Project to prepare a legally adequate EIR to adequately analyze and mitigate the Project's potentially significant environmental impacts with respect to hazardous materials, historic resources, water quality, public health, air quality and GHG emissions before the Project can lawfully be approved.

Thank you for considering our comments. Please place this comment letter in the record of proceedings for this matter.

Sincerely,

/s/

Kelilah D. Federman
Christina Caro

:kdf

6899-003acp

EXHIBIT C

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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January 19, 2024

Kelilah Federman
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd #1000
South San Francisco, CA 94080

Subject: **Comments on the 2113-15 Kittredge Street Project**

Dear Ms. Federman,

We have reviewed the January 2024 Staff Report and Notice of Decision ("Staff Report") for the 2113-15 Kittredge Street Project ("Project") located in the City of Berkeley ("City"). The Project proposes to demolish a commercial building and construct 211 dwelling units and a 24,273-square-foot ("SF") live theater space on the 0.310-acre site.

Our review concludes that the Staff Report fails to adequately evaluate the Project's air quality, health risk, and greenhouse gas impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project may be underestimated and inadequately addressed. A full CEQA analysis should be prepared to adequately assess and mitigate the potential air quality, health risk, and greenhouse gas impacts that the project may have on the environment.

Air Quality

Incorrect Reliance on Categorical Exemptions, including the Class 32 Categorical Exemption

The Staff Report states that "the project is categorically exempt pursuant to Section 15331 ('Historical Resource Restoration/Rehabilitation') and Section 15332 ('Infill Development Projects') of the CEQA Guidelines" (p. 2). However, CEQA Sections 21080 and 21084 provide that only projects having no significant effect on the environment can be categorically exempt from CEQA review, and according to § 15332 of the CEQA Guidelines, a project can only be characterized as an in-fill development and qualify for a Class 32 Categorical Exemption if "approval of the project would not result in any significant effects

relating to traffic, noise, air quality, or water quality." [1] The Staff Report fails to mention or quantitatively evaluate the Project's health risk impacts. As such, the Staff Report fails to demonstrate a less than significant air quality impact on the environment per CEQA Guidelines § 15332 or to rely on any other categorical exemption. As a result, the Project is ineligible for a categorical exemption, including the Class 32 Categorical Exemption, and a full CEQA analysis should be prepared for three reasons:

(1) The Staff Report fails to evaluate the Project's operational emissions whatsoever;
(2) The Staff Report fails to adequately evaluate diesel particulate matter emissions; and
(3) SWAPE's screening-level analysis indicates a potentially significant health risk impact.

1) Failure to Evaluate Operational Air Quality Emissions

Review of the Staff Report and associated documents reveals that the Project fails to adequately evaluate potentially significant operational air quality emissions. Although the Project demonstrates that construction-related criteria pollutant emissions will not exceed BAAQMD thresholds, the Project fails to demonstrate similar compliance with operational criteria pollutant emissions thresholds (Table 5, p. 7). Further, review of the Project's CalEEMod output files demonstrates that the Project fails to include the operational air quality emissions whatsoever (Staff Report, p. 184). Until the City adequately analyzes any potentially significant operational air quality pollutant emissions, we cannot verify that the Project would not result in a significant air quality impact.

2) Diesel Particulate Matter Emissions Inadequately Evaluated

The Staff Report fails to mention or evaluate the Project's construction-related or operational toxic air contaminant ("TAC") emissions whatsoever. This is incorrect for five reasons.

First, by failing to prepare a quantified construction and operational HRA, the Project is inconsistent with CEQA's requirement to make "a reasonable effort to substantively connect a project's air quality impacts to likely health consequences." [2] This poses a problem because, according to the Air Quality Assessment ("AQ Assessment"), construction of the Project would produce DPM emissions through the exhaust stacks of construction equipment over a duration of approximately 37 months (p. 6). However, the Staff Report fails to evaluate the TAC emissions associated with Project construction and operation or indicate the concentrations at which such pollutants would trigger adverse health effects. Without making a reasonable effort to connect the Project's TAC emissions to the potential health risks posed to nearby receptors, the Staff Report is inconsistent with CEQA's requirement to correlate Project-generated emissions with potential adverse impacts on human health.

Second, the Office of Environmental Health Hazard Assessment ("OEHHA"), the organization responsible for providing guidance on conducting HRAs in California, released its most recent *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments* in February 2015. This

[1] CEQA Guidelines Section 15332, available at: http://resources.ca.gov/ceqa/guidelines/art19.html.
[2] "Sierra Club v. County of Fresno." Supreme Court of California, December 2018, *available at:* https://ceqaportal.org/decisions/1907/Sierra%20Club%20v.%20County%20of%20Fresno.pdf.

guidance document describes the types of projects that warrant the preparation of an HRA. Specifically, OEHHA recommends that all short-term projects lasting at least 2 months assess cancer risks.[3] Additionally, according to OEHHA:

> "Exposure from projects lasting more than 6 months should be evaluated for the duration of the project. In all cases, for assessing risk to residential receptors, the exposure should be assumed to start in the third trimester to allow for the use of the ASFs (OEHHA, 2009)."[4]

As the Project's anticipated construction duration exceeds the 2-month and 6-month thresholds set forth by OEHHA, construction of the Project meets the threshold warranting a quantified HRA under OEHHA guidance and should be evaluated for the entire 37-month construction period. Furthermore, OEHHA recommends that an exposure duration of 30 years should be used to estimate the individual cancer risk at the maximally exposed individual resident ("MEIR").[5] While the Staff Report fails to provide the expected lifetime of the proposed Project, we can reasonably assume that the Project would operate for at least 30 years, if not more. Therefore, operation of the Project also exceeds the 2-month and 6-month requirements set forth by OEHHA and should be evaluated for the entire 30-year residential exposure duration, as indicated by OEHHA guidance. These recommendations reflect the most recent state health risk policies, and as such, an EIR should be prepared to include an analysis of health risk impacts posed to nearby sensitive receptors from Project-generated DPM emissions.

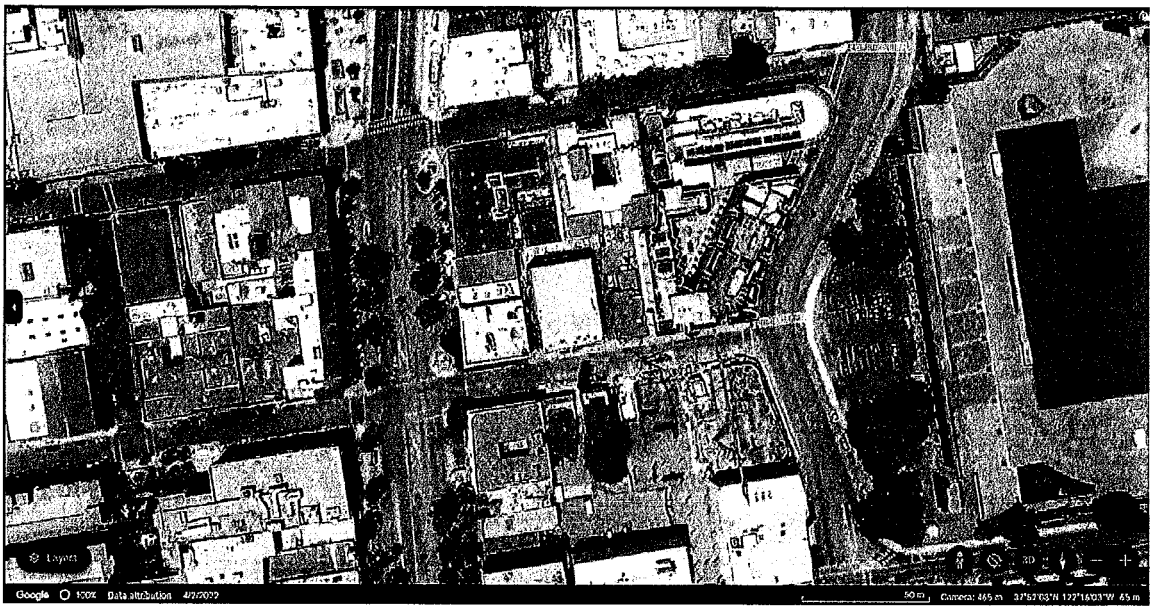
Third, the Bay Area Air Quality Management District ("BAAQMD") requires projects within 1,000 feet of an existing sensitive receptor or source to evaluate the cancer risk associated with Project construction and operation (see excerpt below):[6]

Table 2-1
Air Quality CEQA Thresholds of Significance*

Pollutant	Construction-Related	Operational-Related
Project-Level		
Risk and Hazards for new sources and receptors (Individual Project)*	Same as Operational Thresholds**	Compliance with Qualified Community Risk Reduction Plan OR Increased cancer risk of >10.0 in a million Increased non-cancer risk of > 1.0 Hazard Index (Chronic or Acute) Ambient $PM_{2.5}$ increase: > 0.3 µg/m^3 annual average Zone of Influence: 1,000-foot radius from property line of source or receptor

[3] "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, *available at:* https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 8-18.
[4] "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, *available at:* https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 8-18.
[5] "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, *available at:* https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 2-4.
[6] "California Environmental Quality Act Air Quality Guidelines." BAAQMD, May 2017, *available at:* https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en, p. 2-2, Table 2-1.

Review of Google Earth demonstrates that there are existing sensitve receptors at residential developments adjacent to the Project site (see screenshot below).



Source, Google Earth, April 2022

As a result, an analysis of the health risk posed to nearby, existing receptors from both Project operation and construction needs to be conducted pursuant to the BAAQMD.

Fourth, by not conducting a quantified construction or operational HRA for nearby, existing sensitive receptors, the Staff Report fails to compare the excess health risk impact to the applicable BAAQMD threshold of 10 in one million.[7] Specifically, regarding the operational TAC emissions threshold, the BAAQMD states:

> "The Lead Agency shall determine whether operational-related TAC and $PM_{2.5}$ emissions generated as part of a proposed project siting a new source or receptor would expose existing or new receptors to levels that exceed BAAQMD's applicable Thresholds of Significance stated below:
>
> - Compliance with a qualified Community Risk Reduction Plan;
> - An excess cancer risk level of more than 10 in one million..."[8]

Regarding the construction-related TAC emissions threshold, the BAAQMD states:

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[7] "California Environmental Quality Act Air Quality Guidelines." BAAQMD, May 2017, *available at*: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en, p. 2-5.

[8] "California Environmental Quality Act Air Quality Guidelines." BAAQMD, May 2017, *available at*: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en, p. 5-3.

"BAAQMD recommends that the same community risk and hazard Threshold of Significance for project operations be applied to construction."[9]

Pursuant to CEQA, OEHHA, and the BAAQMD, an analysis of the health risk posed to nearby, existing receptors from Project construction and operation should have been conducted.

3) Screening-Level Analysis Demonstrates Potentially Significant Health Risk Impact

In order to conduct our screening-level risk assessment we relied upon AERSCREEN, which is a screening level air quality dispersion model.[10] AERSCREEN is included in the OEHHA and the California Air Pollution Control Officers Associated ("CAPCOA") guidance as the appropriate air dispersion model for Level 2 health risk screening assessments ("HRSAs").[11, 12] A Level 2 HRSA utilizes a limited amount of site-specific information to generate maximum reasonable downwind concentrations of air contaminants to which nearby sensitive receptors may be exposed. If an unacceptable air quality hazard is determined to be possible using AERSCREEN, a more refined modeling approach should be conducted prior to approval of the Project.

We note, however, that the PM_{10} exhaust values listed in the CalEEMod output files are inconsistent with those listed in the AQ Assessment (Table 5, p.7). Nonetheless, we prepared a preliminary HRA of the Project's construction health risk impact to residential sensitive receptors using the annual PM_{10} exhaust estimates from the Staff Report's CalEEMod output files. Consistent with recommendations set forth by OEHHA, we assumed residential exposure begins during the third trimester stage of life.[13] The Staff Report's CalEEMod model indicates that construction activities will generate approximately 68 pounds of DPM over the 1,125-day construction period.[14] The AERSCREEN model relies on a continuous average emission rate to simulate maximum downward concentrations from point, area, and volume emission sources. To account for the variability in equipment usage and truck trips over Project construction, we calculated an average DPM emission rate by the following equation:

$$Emission\ Rate\ \left(\frac{grams}{second}\right) = \frac{67.5\ lbs}{1125\ days} \times \frac{453.6\ grams}{lbs} \times \frac{1\ day}{24\ hours} \times \frac{1\ hour}{3{,}600\ seconds} = \mathbf{0.000315\ g/s}$$

Using this equation, we estimated a construction emission rate of 0.000315 grams per second ("g/s"). Subtracting the 1,125-day construction period from the total residential duration of 30 years, we assumed that after Project construction, the sensitive receptor would be exposed to the Project's

[9] "California Environmental Quality Act Air Quality Guidelines." BAAQMD, May 2017, *available at*: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en, p. 8-7.

[10] "Air Quality Dispersion Modeling - Screening Models," U.S. EPA, *available at:* https://www.epa.gov/scram/air-quality-dispersion-modeling-screening-models.

[11] "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, *available at:* https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf.

[12] "Health Risk Assessments for Proposed Land Use Projects." CAPCOA, July 2009, *available at:* http://www.valleyair.org/transportation/CAPCOA_HRA_LU_Guidelines_8-6-09.pdf.

[13] "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, *available at:* https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 8-18.

[14] See Attachment A for health risk calculations.

operational DPM for an additional 26.92 years. However, the CalEEMod output files provided in the Staff Report do not include operational outputs. As such, operational PM_{10} exhaust values were omitted from the calculations. Construction was simulated as a 0.31-acre rectangular area source in AERSCREEN, with approximate dimensions of 50- by 25-meters. A release height of three meters was selected to represent the height of stacks of operational equipment and other heavy-duty vehicles, and an initial vertical dimension of one and a half meters was used to simulate instantaneous plume dispersion upon release. An urban meteorological setting was selected with model-default inputs for wind speed and direction distribution. The population of Berkeley was obtained from U.S. 2022 Census data.[15]

The AERSCREEN model generates maximum reasonable estimates of single-hour DPM concentrations from the Project Site. The U.S. EPA suggests that the annualized average concentration of an air pollutant be estimated by multiplying the single-hour concentration by 10% in screening procedures.[16] As previously stated, Google Earth indicates that the nearest sensitive receptors are residential buildings adjacent to the Project site. However, review of the AERSCREEN output files demonstrates that the *maximally* exposed individual receptor ("MEIR") is located approximately 25 meters from the Project site. The single-hour concentration estimated by AERSCREEN for Project construction is approximately 3.669 $\mu g/m^3$ DPM at approximately 25 meters downwind. Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 0.3669 $\mu g/m^3$ for Project construction at the MEIR.

We calculated the excess cancer risk to the MEIR using applicable HRA methodologies prescribed by OEHHA, as recommended by BAAQMD.[17] Specifically, guidance from OEHHA and the California Air Resources Board ("CARB") recommends the use of a standard point estimate approach, including high-point estimate (i.e. 95th percentile) breathing rates and age sensitivity factors ("ASF") in order to account for the increased sensitivity to carcinogens during early-in-life exposure and accurately assess risk for susceptible subpopulations such as children. The residential exposure parameters, such as the daily breathing rates ("BR/BW"), exposure duration ("ED"), age sensitivity factors ("ASF"), fraction of time at home ("FAH"), and exposure frequency ("EF") utilized for the various age groups in our screening-level HRA are as follows:

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[15] "Berkeley." U.S. Census Bureau, 2022, *available at:* https://datacommons.org/place/geoId/0606000.

[16] "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources Revised." U.S. EPA, October 1992, *available at:* http://www.epa.gov/ttn/scram/guidance/guide/EPA-454R-92-019_OCR.pdf.

[17] "California Environmental Quality Act Air Quality Guidelines." BAAQMD, May 2017, *available at:* http://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en, p. 56; see also "Recommended Methods for Screening and Modeling Local Risks and Hazards." BAAQMD, May 2011, *available at:* http://www.baaqmd.gov/~/media/Files/Planning%20and%20Research/CEQA/BAAQMD%20Modeling%20Approach.ashx, p. 65, 86.

Exposure Assumptions for Residential Individual Cancer Risk						
Age Group	**Breathing Rate** (L/kg-day)[18]	**Age Sensitivity Factor**[19]	**Exposure Duration** (years)	**Fraction of Time at Home**[20]	**Exposure Frequency** (days/year)[21]	**Exposure Time** (hours/day)
3rd Trimester	361	10	0.25	0.85	350	24
Infant (0 – 2)	1090	10	2	0.85	350	24
Child (2 – 16)	572	3	14	0.72	350	24
Adult (16 – 30)	261	1	14	0.73	350	24

For the inhalation pathway, the procedure requires the incorporation of several discrete variates to effectively quantify dose for each age group. Once determined, contaminant dose is multiplied by the cancer potency factor ("CPF") in units of inverse dose expressed in milligrams per kilogram per day ($mg/kg/day^{-1}$) to derive the cancer risk estimate. Therefore, to assess exposures, we utilized the following dose algorithm:

$$Dose_{AIR,per\ age\ group} = C_{air} \times EF \times \left[\frac{BR}{BW}\right] \times A \times CF$$

where:

$Dose_{AIR}$ = dose by inhalation (mg/kg/day), per age group
C_{air} = concentration of contaminant in air (µg/m3)
EF = exposure frequency (number of days/365 days)
BR/BW = daily breathing rate normalized to body weight (L/kg/day)

[18] "Air Toxics NSR Program Health Risk Assessment Guidelines." BAAQMD, December 2016, available at: https://www.baaqmd.gov/~/media/files/planning-and-research/permit-modeling/hra_guidelines_12_7_2016_clean-pdf.pdf?la=en#:~:text=To%20assess%20potential%20inhalation%20exposure%20to%20offsite%20workers%2C%20OEHHA%20recommended,for%20an%20eight%2Dhour%20day, p. 6; see also "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf.

[19] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 8-5 Table 8.3.

[20] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 5-24; see also: "Air Toxics NSR Program Health Risk Assessment Guidelines." BAAQMD, December 2016, available at: https://www.baaqmd.gov/~/media/files/planning-and-research/permit-modeling/hra_guidelines_12_7_2016_clean-pdf.pdf?la=en#:~:text=To%20assess%20potential%20inhalation%20exposure%20to%20offsite%20workers%2C%20OEHHA%20recommended,for%20an%20eight%2Dhour%20day, p. 4, 5.

[21] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 5-24.

A = inhalation absorption factor (default = 1)
CF = conversion factor (1x10-6, µg to mg, L to m3)

To calculate the overall cancer risk, we used the following equation for each appropriate age group:

$$Cancer\ Risk_{AIR} = Dose_{AIR} \times CPF \times ASF \times FAH \times \frac{ED}{AT}$$

where:

$Dose_{AIR}$ = dose by inhalation (mg/kg/day), per age group
CPF = cancer potency factor, chemical-specific $(mg/kg/day)^{-1}$
ASF = age sensitivity factor, per age group
FAH = fraction of time at home, per age group (for residential receptors only)
ED = exposure duration (years)
AT = averaging time period over which exposure duration is averaged (always 70 years)

Consistent with the 1,125-day construction schedule, the annualized average concentration for construction was used for the entire third trimester of pregnancy (0.25 years), the entire infantile stage of life (0 – 2 years), and the first 0.83 years of the child stage of life (2 – 16). The results of our calculations are shown in the table below.

The Maximally Exposed Individual at an Existing Residential Receptor

Age Group	Emissions Source	Duration (years)	Concentration (ug/m3)	Cancer Risk
3rd Trimester	Construction	0.25	0.3669	4.24E-06
Infant (0 - 2)	Construction	2	0.3669	1.02E-04
	Construction	*0.83*	*0.3669*	*5.68E-06*
	Operation	*13.17*	*	*
Child (2 - 16)	Total	14		*
Adult (16 - 30)	Operation	14	*	*
Lifetime		**30**		**1.07E-04**

As demonstrated in the table above, the excess cancer risks for the 3rd trimester of pregnancy, infants, and children at the MEIR located approximately 25 meters away, over the course of Project construction is approximately 4.24, 102, and 5.68 in one million, respectively. The excess cancer risk over the course of a residential lifetime (30 years) is approximately 107 in one million. The child cancer

risks exceed the BAAQMD threshold of 10 in one million, resulting in a potentially significant impact not previously addressed or identified by the Staff Report.

Our analysis represents a screening-level HRA, which is known to be conservative and tends to err on the side of health protection. The purpose of the screening-level HRA is to demonstrate the potential link between Project-generated emissions and adverse health risk impacts. According to the U.S. EPA:

> "EPA's Exposure Assessment Guidelines recommend completing exposure assessments iteratively using a tiered approach to 'strike a balance between the costs of adding detail and refinement to an assessment and the benefits associated with that additional refinement' (U.S. EPA, 1992).
>
> In other words, an assessment using basic tools (e.g., simple exposure calculations, default values, rules of thumb, conservative assumptions) can be conducted as the first phase (or tier) of the overall assessment (i.e., a screening-level assessment).
>
> The exposure assessor or risk manager can then determine whether the results of the screening-level assessment warrant further evaluation through refinements of the input data and exposure assumptions or by using more advanced models."

As demonstrated above, screening-level analyses warrant further evaluation in a refined modeling approach. As our screening-level HRA demonstrates that construction of the Project could result in a potentially significant health risk impact, an EIR should be prepared to include a refined health risk analysis which adequately and accurately evaluates health risk impacts associated with Project construction. If the refined analysis similarly concludes that the Project would result in a significant health risk impact, then mitigation measures should be incorporated, as described below in the "Feasible Mitigation Measures Available to Reduce Emissions" section.

Greenhouse Gas

Failure to Adequately Evaluate Greenhouse Gas Impacts

The Staff Report fails to discuss the Project's greenhouse gas ("GHG") emissions whatsoever. As such, we are unable to verify that the Project would not have a significant GHG impact. An EIR should be prepared to include a quantitative GHG analysis which adequately evaluates the Project's emissions. Until such an analysis is prepared, the Project should not be approved.

Furthermore, it is policy of the State that eligible renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045. Until the feasibility of generating on-site renewable energy production is considered, beyond the construction of a roof with solar readiness, the Project should not be approved.

Mitigation

Feasible Mitigation Measures Available to Reduce Emissions

Our analysis demonstrates that the Project may result in potentially significant air quality and health risk impacts that should be mitigated further, and that the City failed to demonstrate that the Project's GHG

impacts are less than significant. As such, in an effort to reduce the Project's emissions, we identified several mitigation measures that are applicable to the proposed Project. Therefore, to reduce the Project's emissions, we recommend consideration of implementing all SCAG's 2020 *RTP/SCS* PEIR's Air Quality Project Level Mitigation Measures ("PMM-AQ-1") and Greenhouse Gas Project Level Mitigation Measures ("PMM-GHG-1") that are not otherwise required under local regulation or Air District rules, as described below: [22]

SCAG RTP/SCS 2020-2045
Air Quality Project Level Mitigation Measures – PMM-AQ-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to violating air quality standards. Such measures may include the following or other comparable measures identified by the Lead Agency:
a) Minimize land disturbance.
b) Suspend grading and earth moving when wind gusts exceed 25 miles per hour unless the soil is wet enough to prevent dust plumes.
e) Limit vehicular paths on unpaved surfaces and stabilize any temporary roads.
f) Minimize unnecessary vehicular and machinery activities.
h) Revegetate disturbed land, including vehicular paths created during construction to avoid future off-road vehicular activities.
n) Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators.
o) Develop a traffic plan to minimize traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites.
r) Projects located within the South Coast Air Basin should consider applying for South Coast AQMD "SOON" funds which provides funds to applicable fleets for the purchase of commercially available low-emission heavy-duty engines to achieve near-term reduction of NOx emissions from in-use off-road diesel vehicles.
s) Projects located within AB 617 communities should review the applicable Community Emissions Reduction Plan (CERP) for additional mitigation that can be applied to individual projects.
t) Where applicable, projects should provide information about air quality related programs to schools, including the Environmental Justice Community Partnerships (EJCP), Clean Air Ranger Education (CARE), and Why Air Quality Matters programs.
u) Projects should work with local cities and counties to install adequate signage that prohibits truck idling in certain locations (e.g., near schools and sensitive receptors).

[22] "4.0 Mitigation Measures." Connect SoCal Program Environmental Impact Report Addendum #1, September 2020, available at: https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocal_addendum_4_mitigationmeasures.pdf?1606004420, p. 4.0-2 – 4.0-10; 4.0-19 – 4.0-23; See also: "Certified Final Connect SoCal Program Environmental Impact Report." Southern California Association of Governments (SCAG), May 2020, *available at:* https://scag.ca.gov/peir.

y) Projects that will introduce sensitive receptors within 500 feet of freeways and other sources should consider installing high efficiency of enhanced filtration units, such as Minimum Efficiency Reporting Value (MERV) 13 or better. Installation of enhanced filtration units can be verified during occupancy inspection prior to the issuance of an occupancy permit.

z) Develop an ongoing monitoring, inspection, and maintenance program for the MERV filters.

aa) Consult the SCAG Environmental Justice Toolbox for potential measures to address impacts to low-income and/or minority communities.

bb) The following criteria related to diesel emissions shall be implemented on by individual project sponsors as appropriate and feasible:

- Diesel nonroad vehicles on site for more than 10 total days shall have either (1) engines that meet EPA on road emissions standards or (2) emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%
- Diesel generators on site for more than 10 total days shall be equipped with emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%.
- Emission control technology shall be operated, maintained, and serviced as recommended by the emission control technology manufacturer.
- Diesel vehicles, construction equipment, and generators on site shall be fueled with ultra-low sulfur diesel fuel (ULSD) or a biodiesel blend approved by the original engine manufacturer with sulfur content of 15 ppm or less.
- The construction contractor shall maintain a list of all diesel vehicles, construction equipment, and generators to be used on site. The list shall include the following:
    i. Contractor and subcontractor name and address, plus contact person responsible for the vehicles or equipment.
    ii. Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation.
    iii. For the emission control technology installed: technology type, serial number, make, model, manufacturer, EPA/CARB verification number/level, and installation date and hour-meter reading on installation date.
- The contractor shall establish generator sites and truck-staging zones for vehicles waiting to load or unload material on site. Such zones shall be located where diesel emissions have the least impact on abutters, the general public, and especially sensitive receptors such as hospitals, schools, daycare facilities, elderly housing, and convalescent facilities.
- The contractor shall maintain a monthly report that, for each on road diesel vehicle, nonroad construction equipment, or generator onsite, includes:
    i. Hour-meter readings on arrival on-site, the first and last day of every month, and on off-site date.
    ii. Any problems with the equipment or emission controls.
    iii. Certified copies of fuel deliveries for the time period that identify:
        1. Source of supply
        2. Quantity of fuel
        3. Quantity of fuel, including sulfur content (percent by weight)

cc) Project should exceed Title-24 Building Envelope Energy Efficiency Standards (California Building Standards Code). The following measures can be used to increase energy efficiency:

- Provide pedestrian network improvements, such as interconnected street network, narrower roadways and shorter block lengths, sidewalks, accessibility to transit and transit shelters, traffic calming measures, parks and public spaces, minimize pedestrian barriers.
- Provide traffic calming measures, such as:
    i. Marked crosswalks
    ii. Count-down signal timers
    iii. Curb extensions iv. Speed tables
    iv. Raised crosswalks

v. Raised intersections
vi. Median islands
vii. Tight corner radii
viii. Roundabouts or mini-circles
ix. On-street parking
x. Chicanes/chokers

- Create urban non-motorized zones
- Provide bike parking in non-residential and multi-unit residential projects
- Dedicate land for bike trails
- Limit parking supply through:
  i. Elimination (or reduction) of minimum parking requirements
  ii. Creation of maximum parking requirements
  iii. Provision of shared parking
- Require residential area parking permit.
- Provide ride-sharing programs
  i. Designate a certain percentage of parking spacing for ride sharing vehicles
  ii. Designating adequate passenger loading and unloading and waiting areas for ride-sharing vehicles
  iii. Providing a web site or messaging board for coordinating rides
  iv. Permanent transportation management association membership and finding requirement.

Greenhouse Gas Project Level Mitigation Measures – PMM-GHG-1

In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to violating air quality standards. Such measures may include the following or other comparable measures identified by the Lead Agency:

b) Reduce emissions resulting from projects through implementation of project features, project design, or other measures, such as those described in Appendix F of the State CEQA Guidelines.

c) Include off-site measures to mitigate a project's emissions.

d) Measures that consider incorporation of Best Available Control Technology (BACT) during design, construction and operation of projects to minimize GHG emissions, including but not limited to:

i. Use energy and fuel-efficient vehicles and equipment;
ii. Deployment of zero- and/or near zero emission technologies;
iii. Use lighting systems that are energy efficient, such as LED technology;
iv. Use the minimum feasible amount of GHG-emitting construction materials;
v. Use cement blended with the maximum feasible amount of flash or other materials that reduce GHG emissions from cement production;
vi. Incorporate design measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse;
vii. Incorporate design measures to reduce energy consumption and increase use of renewable energy;
viii. Incorporate design measures to reduce water consumption;
ix. Use lighter-colored pavement where feasible;
x. Recycle construction debris to maximum extent feasible;
xi. Plant shade trees in or near construction projects where feasible; and
xii. Solicit bids that include concepts listed above.

e) Measures that encourage transit use, carpooling, bike-share and car-share programs, active transportation, and parking strategies, including, but not limited to the following:

i. Promote transit-active transportation coordinated strategies;
ii. Increase bicycle carrying capacity on transit and rail vehicles;
iii. Improve or increase access to transit;
iv. Increase access to common goods and services, such as groceries, schools, and day care;
v. Incorporate affordable housing into the project;
vi. Incorporate the neighborhood electric vehicle network;
vii. Orient the project toward transit, bicycle and pedestrian facilities;
viii. Improve pedestrian or bicycle networks, or transit service;
ix. Provide traffic calming measures;
x. Provide bicycle parking;
xi. Limit or eliminate park supply;
xii. Unbundle parking costs;
xiii. Provide parking cash-out programs;
xiv. Implement or provide access to commute reduction program;

f) Incorporate bicycle and pedestrian facilities into project designs, maintaining these facilities, and providing amenities incentivizing their use; and planning for and building local bicycle projects that connect with the regional network;

g) Improving transit access to rail and bus routes by incentives for construction and transit facilities within developments, and/or providing dedicated shuttle service to transit stations; and

h) Adopting employer trip reduction measures to reduce employee trips such as vanpool and carpool programs, providing end-of-trip facilities, and telecommuting programs including but not limited to measures that:

i. Provide car-sharing, bike sharing, and ride-sharing programs;
ii. Provide transit passes;
iii. Shift single occupancy vehicle trips to carpooling or vanpooling, for example providing ride-matching services;
iv. Provide incentives or subsidies that increase that use of modes other than single-occupancy vehicle;
v. Provide on-site amenities at places of work, such as priority parking for carpools and vanpools, secure bike parking, and showers and locker rooms;
vi. Provide employee transportation coordinators at employment sites;
vii. Provide a guaranteed ride home service to users of non-auto modes.

i) Designate a percentage of parking spaces for ride-sharing vehicles or high-occupancy vehicles, and provide adequate passenger loading and unloading for those vehicles;

j) Land use siting and design measures that reduce GHG emissions, including:

i. Developing on infill and brownfields sites;
ii. Building compact and mixed-use developments near transit;
iii. Retaining on-site mature trees and vegetation, and planting new canopy trees;
iv. Measures that increase vehicle efficiency, encourage use of zero and low emissions vehicles, or reduce the carbon content of fuels, including constructing or encouraging construction of electric vehicle charging stations or neighborhood electric vehicle networks, or charging for electric bicycles; and
v. Measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse.

k) Consult the SCAG Environmental Justice Toolbox for potential measures to address impacts to low-income and/or minority communities. The measures provided above are also intended to be applied in low income and minority communities as applicable and feasible.

l) Require at least five percent of all vehicle parking spaces include electric vehicle charging stations, or at a minimum, require the appropriate infrastructure to facilitate sufficient electric charging for passenger vehicles and trucks to plug-in.
m) Encourage telecommuting and alternative work schedules, such as: i. Staggered starting times ii. Flexible schedules iii. Compressed work weeks
n) Implement commute trip reduction marketing, such as: i. New employee orientation of trip reduction and alternative mode options ii. Event promotions iii. Publications
o) Implement preferential parking permit program
p) Implement school pool and bus programs
q) Price workplace parking, such as: i. Explicitly charging for parking for its employees; ii. Implementing above market rate pricing; iii. Validating parking only for invited guests; iv. Not providing employee parking and transportation allowances; and v. Educating employees about available alternatives.

These measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduce emissions released during Project construction and operation.

An EIR should be prepared to include all feasible mitigation measures, as well as include updated air quality, health risk, and GHG analyses to ensure that all potentially significant effects are accurately disclosed, and that all necessary mitigation measures are implemented to reduce emissions to below thresholds. The EIR should also demonstrate a commitment to the implementation of these measures prior to Project approval, to ensure that the Project's significant emissions are reduced to the maximum extent possible.

Disclaimer

SWAPE has received limited discovery regarding this project. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

Sincerely,

Matt Hagemann, P.G., C.Hg.

Paul E. Rosenfeld, Ph.D.

Attachment A: Updated Health Risk Calculations
Attachment B:SWAPE's AERSCREEN Output Files
Attachment C: Matt Hagemann CV
Attachment D: Paul Rosenfeld CV

Attachment A

Construction

2024	
Annual Emissions (tons/year)	0.03
Daily Emissions (lbs/day)	0.164383562
Construction Duration (days)	122
Total DPM (lbs)	20.05479452
Total DPM (g)	9096.854795
Start Date	9/1/2024
End Date	1/1/2025
Construction Days	122
2025	
Annual Emissions (tons/year)	0.01
Daily Emissions (lbs/day)	0.054794521
Construction Duration (days)	365
Total DPM (lbs)	20
Total DPM (g)	9072
Start Date	1/1/2025
End Date	1/1/2026
Construction Days	365
2026	
Annual Emissions (tons/year)	0.01
Daily Emissions (lbs/day)	0.054794521
Construction Duration (days)	365
Total DPM (lbs)	20
Total DPM (g)	9072
Start Date	1/1/2026
End Date	1/1/2027
Construction Days	365
2027	
Annual Emissions (tons/year)	0.005
Daily Emissions (lbs/day)	0.02739726
Construction Duration (days)	273
Total DPM (lbs)	7.479452055
Total DPM (g)	3392.679452
Start Date	1/1/2027
End Date	10/1/2027
Construction Days	273

Total	
Total DPM (lbs)	67.53424658
Total DPM (g)	30633.53425
Emission Rate (g/s)	0.00031516
Release Height (meters)	3
Total Acreage	0.31
Max Horizontal (meters)	50.09
Min Horizontal (meters)	25.05
Initial Vertical Dimension (meters)	1.5
Setting	Urban
Population	118,950
Start Date	9/1/2024
End Date	10/1/2027
Total Construction Days	1125
Total Years of Construction	3.08
Total Years of Operation	26.92

Operation

Emission Rate	
Annual Emissions (tons/year)	
Daily Emissions (lbs/day)	0
Total DPM (lbs)	0
Emission Rate (g/s)	0
Release Height (meters)	3
Total Acreage	0.31
Max Horizontal (meters)	50.09
Min Horizontal (meters)	25.05
Initial Vertical Dimension (meters)	1.5
Setting	Urban
Population	118,950

AERSCREEN 21112 / AERMOD 21112 01/17/24
14:37:17

TITLE: 2113 Kittredge Street, Construction

********** AREA PARAMETERS **********

SOURCE EMISSION RATE:	0.315E-03 g/s	0.250E-02 lb/hr
AREA EMISSION RATE:	0.251E-06 g/(s-m2)	0.199E-05 lb/(hr-m2)
AREA HEIGHT:	3.00 meters	9.84 feet
AREA SOURCE LONG SIDE:	50.09 meters	164.34 feet
AREA SOURCE SHORT SIDE:	25.05 meters	82.19 feet
INITIAL VERTICAL DIMENSION:	1.50 meters	4.92 feet
RURAL OR URBAN:	URBAN	
POPULATION:	118950	
INITIAL PROBE DISTANCE =	5000. meters	16404. feet

********** BUILDING DOWNWASH PARAMETERS **********

BUILDING DOWNWASH NOT USED FOR NON-POINT SOURCES

********** FLOW SECTOR ANALYSIS **********

25 meter receptor spacing: 1. meters - 5000. meters

MAXIMUM IMPACT RECEPTOR

Zo SECTOR	SURFACE ROUGHNESS	1-HR CONC (ug/m3)	RADIAL (deg)	DIST (m)	TEMPORAL PERIOD
1*	1.000	3.669	0	25.0	WIN

* = worst case diagonal

********** MAKEMET METEOROLOGY PARAMETERS **********

MIN/MAX TEMPERATURE: 250.0 / 310.0 (K)

MINIMUM WIND SPEED: 0.5 m/s

ANEMOMETER HEIGHT: 10.000 meters

SURFACE CHARACTERISTICS INPUT: AERMET SEASONAL TABLES

DOMINANT SURFACE PROFILE: Urban
DOMINANT CLIMATE TYPE: Average Moisture
DOMINANT SEASON: Winter

ALBEDO: 0.35
BOWEN RATIO: 1.50
ROUGHNESS LENGTH: 1.000 (meters)

SURFACE FRICTION VELOCITY (U*) NOT ADUSTED

METEOROLOGY CONDITIONS USED TO PREDICT OVERALL MAXIMUM IMPACT

YR	MO	DY	JDY	HR
10	01	10	10	01

H0	U*	W*	DT/DZ	ZICNV	ZIMCH	M-O LEN	Z0	BOWEN	ALBEDO	REF WS
-1.30	0.043	-9.000	0.020	-999.	21.	6.0	1.000	1.50	0.35	0.50

HT	REF TA	HT
10.0	310.0	2.0

********** AERSCREEN AUTOMATED DISTANCES **********
OVERALL MAXIMUM CONCENTRATIONS BY DISTANCE

DIST (m)	MAXIMUM 1-HR CONC (ug/m3)	DIST (m)	MAXIMUM 1-HR CONC (ug/m3)
1.00	2.684	2525.00	0.6673E-02

25.00	3.669	2550.00	0.6584E-02
50.00	1.627	2575.00	0.6497E-02
75.00	0.8872	2600.00	0.6411E-02
100.00	0.5846	2625.00	0.6328E-02
125.00	0.4248	2650.00	0.6246E-02
150.00	0.3281	2675.00	0.6167E-02
175.00	0.2642	2700.00	0.6088E-02
200.00	0.2192	2725.00	0.6012E-02
225.00	0.1859	2750.00	0.5937E-02
250.00	0.1605	2775.00	0.5864E-02
275.00	0.1407	2800.00	0.5793E-02
300.00	0.1247	2825.00	0.5723E-02
325.00	0.1117	2850.00	0.5654E-02
350.00	0.1008	2875.00	0.5587E-02
375.00	0.9155E-01	2900.00	0.5521E-02
400.00	0.8372E-01	2925.00	0.5457E-02
425.00	0.7698E-01	2950.00	0.5393E-02
450.00	0.7113E-01	2975.00	0.5331E-02
475.00	0.6623E-01	3000.00	0.5271E-02
500.00	0.6171E-01	3025.00	0.5211E-02
525.00	0.5769E-01	3050.00	0.5153E-02
550.00	0.5410E-01	3075.00	0.5096E-02
575.00	0.5088E-01	3100.00	0.5039E-02
600.00	0.4798E-01	3125.00	0.4984E-02
625.00	0.4536E-01	3150.00	0.4930E-02
649.99	0.4297E-01	3174.99	0.4877E-02
675.00	0.4080E-01	3199.99	0.4825E-02
700.00	0.3880E-01	3225.00	0.4774E-02
725.00	0.3698E-01	3250.00	0.4724E-02
749.99	0.3529E-01	3275.00	0.4675E-02
775.00	0.3374E-01	3300.00	0.4626E-02
800.00	0.3229E-01	3325.00	0.4579E-02
825.00	0.3096E-01	3350.00	0.4532E-02
850.00	0.2971E-01	3375.00	0.4486E-02
875.00	0.2855E-01	3400.00	0.4441E-02
900.00	0.2747E-01	3425.00	0.4397E-02
924.99	0.2645E-01	3450.00	0.4353E-02
950.00	0.2550E-01	3475.00	0.4310E-02
975.00	0.2460E-01	3500.00	0.4268E-02
1000.00	0.2376E-01	3525.00	0.4227E-02
1025.00	0.2297E-01	3550.00	0.4186E-02
1050.00	0.2222E-01	3575.00	0.4146E-02
1075.00	0.2152E-01	3600.00	0.4107E-02
1100.00	0.2085E-01	3625.00	0.4068E-02
1125.00	0.2021E-01	3650.00	0.4030E-02
1150.00	0.1961E-01	3675.00	0.3993E-02
1175.00	0.1904E-01	3700.00	0.3956E-02
1200.00	0.1850E-01	3725.00	0.3919E-02
1225.00	0.1798E-01	3750.00	0.3884E-02
1250.00	0.1749E-01	3775.00	0.3849E-02

1275.00	0.1702E-01	3800.00	0.3814E-02
1300.00	0.1658E-01	3825.00	0.3780E-02
1325.00	0.1615E-01	3850.00	0.3746E-02
1350.00	0.1574E-01	3875.00	0.3713E-02
1375.00	0.1535E-01	3900.00	0.3681E-02
1400.00	0.1497E-01	3925.00	0.3649E-02
1425.00	0.1461E-01	3950.00	0.3617E-02
1450.00	0.1427E-01	3975.00	0.3586E-02
1475.00	0.1394E-01	4000.00	0.3556E-02
1500.00	0.1362E-01	4025.00	0.3525E-02
1525.00	0.1332E-01	4050.00	0.3496E-02
1550.00	0.1302E-01	4075.00	0.3466E-02
1575.00	0.1274E-01	4100.00	0.3437E-02
1600.00	0.1247E-01	4125.00	0.3409E-02
1625.00	0.1221E-01	4150.00	0.3381E-02
1650.00	0.1195E-01	4175.00	0.3353E-02
1675.00	0.1171E-01	4200.00	0.3326E-02
1700.00	0.1147E-01	4225.00	0.3299E-02
1725.00	0.1125E-01	4250.00	0.3273E-02
1750.00	0.1103E-01	4275.00	0.3246E-02
1775.00	0.1081E-01	4300.00	0.3221E-02
1800.00	0.1061E-01	4325.00	0.3195E-02
1825.00	0.1041E-01	4350.00	0.3170E-02
1850.00	0.1022E-01	4375.00	0.3145E-02
1875.00	0.1003E-01	4400.00	0.3121E-02
1900.00	0.9852E-02	4425.00	0.3097E-02
1924.99	0.9677E-02	4450.00	0.3073E-02
1950.00	0.9507E-02	4475.00	0.3050E-02
1975.00	0.9343E-02	4500.00	0.3026E-02
2000.00	0.9183E-02	4525.00	0.3004E-02
2025.00	0.9028E-02	4550.00	0.2981E-02
2050.00	0.8878E-02	4575.00	0.2959E-02
2075.00	0.8732E-02	4600.00	0.2937E-02
2100.00	0.8590E-02	4625.00	0.2915E-02
2125.00	0.8451E-02	4650.00	0.2894E-02
2150.00	0.8317E-02	4675.00	0.2873E-02
2175.00	0.8186E-02	4700.00	0.2852E-02
2200.00	0.8059E-02	4725.00	0.2831E-02
2224.99	0.7936E-02	4750.00	0.2811E-02
2250.00	0.7815E-02	4775.00	0.2791E-02
2275.00	0.7698E-02	4800.00	0.2771E-02
2300.00	0.7583E-02	4825.00	0.2751E-02
2325.00	0.7472E-02	4850.00	0.2732E-02
2350.00	0.7363E-02	4875.00	0.2713E-02
2375.00	0.7257E-02	4900.00	0.2694E-02
2400.00	0.7154E-02	4924.99	0.2675E-02
2425.00	0.7053E-02	4950.00	0.2656E-02
2449.99	0.6955E-02	4975.00	0.2638E-02
2475.00	0.6859E-02	5000.00	0.2620E-02
2500.00	0.6765E-02		

********** AERSCREEN MAXIMUM IMPACT SUMMARY **********

3-hour, 8-hour, and 24-hour scaled
concentrations are equal to the 1-hour concentration as referenced in
SCREENING PROCEDURES FOR ESTIMATING THE AIR QUALITY
IMPACT OF STATIONARY SOURCES, REVISED (Section 4.5.4)
Report number EPA-454/R-92-019
http://www.epa.gov/scram001/guidance_permit.htm
under Screening Guidance

CALCULATION PROCEDURE	MAXIMUM 1-HOUR CONC (ug/m3)	SCALED 3-HOUR CONC (ug/m3)	SCALED 8-HOUR CONC (ug/m3)	SCALED 24-HOUR CONC (ug/m3)	SCALED ANNUAL CONC (ug/m3)
FLAT TERRAIN	3.697	3.697	3.697	3.697	N/A
DISTANCE FROM SOURCE	26.00 meters				
IMPACT AT THE AMBIENT BOUNDARY	2.684	2.684	2.684	2.684	N/A
DISTANCE FROM SOURCE	1.00 meters				

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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Matthew F. Hagemann, P.G., C.Hg., QSD, QSP

Geologic and Hydrogeologic Characterization
Investigation and Remediation Strategies
Litigation Support and Testifying Expert
Industrial Stormwater Compliance
CEQA Review

Education:

M.S. Degree, Geology, California State University Los Angeles, Los Angeles, CA, 1984.
B.A. Degree, Geology, Humboldt State University, Arcata, CA, 1982.

Professional Certifications:

California Professional Geologist
California Certified Hydrogeologist
Qualified SWPPP Developer and Practitioner

Professional Experience:

Matt has 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring. For the past 15 years, as a founding partner with SWAPE, Matt has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality and greenhouse gas emissions.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2104, 2017;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);

- Executive Director, Orange Coast Watch (2001 – 2004);
- Senior Science Policy Advisor and Hydrogeologist, U.S. Environmental Protection Agency (1989–1998);
- Hydrogeologist, National Park Service, Water Resources Division (1998 – 2000);
- Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
- Instructor, College of Marin, Department of Science (1990 – 1995);
- Geologist, U.S. Forest Service (1986 – 1998); and
- Geologist, Dames & Moore (1984 – 1986).

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt's responsibilities have included:

- Lead analyst and testifying expert in the review of over 300 environmental impact reports and negative declarations since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at more than 100 industrial facilities.
- Expert witness on numerous cases including, for example, perfluorooctanoic acid (PFOA) contamination of groundwater, MTBE litigation, air toxins at hazards at a school, CERCLA compliance in assessment and remediation, and industrial stormwater contamination.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.

With Komex H2O Science Inc., Matt's duties included the following:

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.
- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.

- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.
- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Executive Director:

As Executive Director with Orange Coast Watch, Matt led efforts to restore water quality at Orange County beaches from multiple sources of contamination including urban runoff and the discharge of wastewater. In reporting to a Board of Directors that included representatives from leading Orange County universities and businesses, Matt prepared issue papers in the areas of treatment and disinfection of wastewater and control of the discharge of grease to sewer systems. Matt actively participated in the development of countywide water quality permits for the control of urban runoff and permits for the discharge of wastewater. Matt worked with other nonprofits to protect and restore water quality, including Surfrider, Natural Resources Defense Council and Orange County CoastKeeper as well as with business institutions including the Orange County Business Council.

Hydrogeology:

As a Senior Hydrogeologist with the U.S. Environmental Protection Agency, Matt led investigations to characterize and cleanup closing military bases, including Mare Island Naval Shipyard, Hunters Point Naval Shipyard, Treasure Island Naval Station, Alameda Naval Station, Moffett Field, Mather Army Airfield, and Sacramento Army Depot. Specific activities were as follows:

- Led efforts to model groundwater flow and contaminant transport, ensured adequacy of monitoring networks, and assessed cleanup alternatives for contaminated sediment, soil, and groundwater.
- Initiated a regional program for evaluation of groundwater sampling practices and laboratory analysis at military bases.
- Identified emerging issues, wrote technical guidance, and assisted in policy and regulation development through work on four national U.S. EPA workgroups, including the Superfund Groundwater Technical Forum and the Federal Facilities Forum.

At the request of the State of Hawaii, Matt developed a methodology to determine the vulnerability of groundwater to contamination on the islands of Maui and Oahu. He used analytical models and a GIS to show zones of vulnerability, and the results were adopted and published by the State of Hawaii and County of Maui.

As a hydrogeologist with the EPA Groundwater Protection Section, Matt worked with provisions of the Safe Drinking Water Act and NEPA to prevent drinking water contamination. Specific activities included the following:

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted

public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

- Reviewed a number of Environmental Impact Statements for planned major developments, including large hazardous and solid waste disposal facilities, mine reclamation, and water transfer.

Matt served as a hydrogeologist with the RCRA Hazardous Waste program. Duties were as follows:

- Supervised the hydrogeologic investigation of hazardous waste sites to determine compliance with Subtitle C requirements.
- Reviewed and wrote "part B" permits for the disposal of hazardous waste.
- Conducted RCRA Corrective Action investigations of waste sites and led inspections that formed the basis for significant enforcement actions that were developed in close coordination with U.S. EPA legal counsel.
- Wrote contract specifications and supervised contractor's investigations of waste sites.

With the National Park Service, Matt directed service-wide investigations of contaminant sources to prevent degradation of water quality, including the following tasks:

- Applied pertinent laws and regulations including CERCLA, RCRA, NEPA, NRDA, and the Clean Water Act to control military, mining, and landfill contaminants.
- Conducted watershed-scale investigations of contaminants at parks, including Yellowstone and Olympic National Park.
- Identified high-levels of perchlorate in soil adjacent to a national park in New Mexico and advised park superintendent on appropriate response actions under CERCLA.
- Served as a Park Service representative on the Interagency Perchlorate Steering Committee, a national workgroup.
- Developed a program to conduct environmental compliance audits of all National Parks while serving on a national workgroup.
- Co-authored two papers on the potential for water contamination from the operation of personal watercraft and snowmobiles, these papers serving as the basis for the development of nation-wide policy on the use of these vehicles in National Parks.
- Contributed to the Federal Multi-Agency Source Water Agreement under the Clean Water Action Plan.

Policy:

Served senior management as the Senior Science Policy Advisor with the U.S. Environmental Protection Agency, Region 9.

Activities included the following:

- Advised the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinking water supplies.
- Shaped EPA's national response to these threats by serving on workgroups and by contributing to guidance, including the Office of Research and Development publication, Oxygenates in Water: Critical Information and Research Needs.
- Improved the technical training of EPA's scientific and engineering staff.
- Earned an EPA Bronze Medal for representing the region's 300 scientists and engineers in negotiations with the Administrator and senior management to better integrate scientific

principles into the policy-making process.
- Established national protocol for the peer review of scientific documents.

Geology:

With the U.S. Forest Service, Matt led investigations to determine hillslope stability of areas proposed for timber harvest in the central Oregon Coast Range. Specific activities were as follows:

- Mapped geology in the field, and used aerial photographic interpretation and mathematical models to determine slope stability.
- Coordinated his research with community members who were concerned with natural resource protection.
- Characterized the geology of an aquifer that serves as the sole source of drinking water for the city of Medford, Oregon.

As a consultant with Dames and Moore, Matt led geologic investigations of two contaminated sites (later listed on the Superfund NPL) in the Portland, Oregon, area and a large hazardous waste site in eastern Oregon. Duties included the following:

- Supervised year-long effort for soil and groundwater sampling.
- Conducted aquifer tests.
- Investigated active faults beneath sites proposed for hazardous waste disposal.

Teaching:

From 1990 to 1998, Matt taught at least one course per semester at the community college and university levels:

- At San Francisco State University, held an adjunct faculty position and taught courses in environmental geology, oceanography (lab and lecture), hydrogeology, and groundwater contamination.
- Served as a committee member for graduate and undergraduate students.
- Taught courses in environmental geology and oceanography at the College of Marin.

Matt is currently a part time geology instructor at Golden West College in Huntington Beach, California where he taught from 2010 to 2014 and in 2017.

Invited Testimony, Reports, Papers and Presentations:

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Presentation to the Public Environmental Law Conference, Eugene, Oregon.

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Invited presentation to U.S. EPA Region 9, San Francisco, California.

Hagemann, M.F., 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, Coloradao.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Nevada and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Las Vegas, NV (served on conference organizing committee).

Hagemann, M.F., 2004. Invited testimony to a California Senate committee hearing on air toxins at schools in Southern California, Los Angeles.

Brown, A., Farrow, J., Gray, A. and **Hagemann, M.**, 2004. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to the Ground Water and Environmental Law Conference, National Groundwater Association.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Arizona and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Phoenix, AZ (served on conference organizing committee).

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in the Southwestern U.S. Invited presentation to a special committee meeting of the National Academy of Sciences, Irvine, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a tribal EPA meeting, Pechanga, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a meeting of tribal repesentatives, Parker, AZ.

Hagemann, M.F., 2003. Impact of Perchlorate on the Colorado River and Associated Drinking Water Supplies. Invited presentation to the Inter-Tribal Meeting, Torres Martinez Tribe.

Hagemann, M.F., 2003. The Emergence of Perchlorate as a Widespread Drinking Water Contaminant. Invited presentation to the U.S. EPA Region 9.

Hagemann, M.F., 2003. A Deductive Approach to the Assessment of Perchlorate Contamination. Invited presentation to the California Assembly Natural Resources Committee.

Hagemann, M.F., 2003. Perchlorate: A Cold War Legacy in Drinking Water. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. From Tank to Tap: A Chronology of MTBE in Groundwater. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. A Chronology of MTBE in Groundwater and an Estimate of Costs to Address Impacts to Groundwater. Presentation to the annual meeting of the Society of Environmental Journalists.

Hagemann, M.F., 2002. An Estimate of the Cost to Address MTBE Contamination in Groundwater (and Who Will Pay). Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to a meeting of the U.S. EPA and State Underground Storage Tank Program managers.

Hagemann, M.F., 2001. From Tank to Tap: A Chronology of MTBE in Groundwater. Unpublished report.

Hagemann, M.F., 2001. Estimated Cleanup Cost for MTBE in Groundwater Used as Drinking Water. Unpublished report.

Hagemann, M.F., 2001. Estimated Costs to Address MTBE Releases from Leaking Underground Storage Tanks. Unpublished report.

Hagemann, M.F., and VanMouwerik, M., 1999. Potential Water Quality Concerns Related to Snowmobile Usage. Water Resources Division, National Park Service, Technical Report.

VanMouwerik, M. and **Hagemann, M.F.** 1999, Water Quality Concerns Related to Personal Watercraft Usage. Water Resources Division, National Park Service, Technical Report.

Hagemann, M.F., 1999, Is Dilution the Solution to Pollution in National Parks? The George Wright Society Biannual Meeting, Asheville, North Carolina.

Hagemann, M.F., 1997, The Potential for MTBE to Contaminate Groundwater. U.S. EPA Superfund Groundwater Technical Forum Annual Meeting, Las Vegas, Nevada.

Hagemann, M.F., and Gill, M., 1996, Impediments to Intrinsic Remediation, Moffett Field Naval Air Station, Conference on Intrinsic Remediation of Chlorinated Hydrocarbons, Salt Lake City.

Hagemann, M.F., Fukunaga, G.L., 1996, The Vulnerability of Groundwater to Anthropogenic Contaminants on the Island of Maui, Hawaii. Hawaii Water Works Association Annual Meeting, Maui, October 1996.

Hagemann, M. F., Fukanaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Air and Waste Management Association Publication VIP-61.

Hagemann, M.F., 1994. Groundwater Characterization and Cleanup at Closing Military Bases in California. Proceedings, California Groundwater Resources Association Meeting.

Hagemann, M.F. and Sabol, M.A., 1993. Role of the U.S. EPA in the High Plains States Groundwater Recharge Demonstration Program. Proceedings, Sixth Biennial Symposium on the Artificial Recharge of Groundwater.

Hagemann, M.F., 1993. U.S. EPA Policy on the Technical Impracticability of the Cleanup of DNAPL-contaminated Groundwater. California Groundwater Resources Association Meeting.

Hagemann, M.F., 1992. Dense Nonaqueous Phase Liquid Contamination of Groundwater: An Ounce of Prevention... Proceedings, Association of Engineering Geologists Annual Meeting, v. 35.

Other Experience:

Selected as subject matter expert for the California Professional Geologist licensing examinations, 2009-2011.

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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Paul Rosenfeld, Ph.D.

Chemical Fate and Transport & Air Dispersion Modeling

Principal Environmental Chemist

Risk Assessment & Remediation Specialist

Education

Ph.D. Soil Chemistry, University of Washington, 1999. Dissertation on volatile organic compound filtration.

M.S. Environmental Science, U.C. Berkeley, 1995. Thesis on organic waste economics.

B.A. Environmental Studies, U.C. Santa Barbara, 1991. Focus on wastewater treatment.

Professional Experience

Dr. Rosenfeld has over 25 years of experience conducting environmental investigations and risk assessments for evaluating impacts to human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risk, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, industrial, military and agricultural sources, unconventional oil drilling operations, and locomotive and construction engines. His project experience ranges from monitoring and modeling of pollution sources to evaluating impacts of pollution on workers at industrial facilities and residents in surrounding communities. Dr. Rosenfeld has also successfully modeled exposure to contaminants distributed by water systems and via vapor intrusion.

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particulate matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, creosote, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants. Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at sites and has testified as an expert witness on numerous cases involving exposure to soil, water and air contaminants from industrial, railroad, agricultural, and military sources.

Professional History:

Soil Water Air Protection Enterprise (SWAPE); 2003 to present; Principal and Founding Partner
UCLA School of Public Health; 2007 to 2011; Lecturer (Assistant Researcher)
UCLA School of Public Health; 2003 to 2006; Adjunct Professor
UCLA Environmental Science and Engineering Program; 2002-2004; Doctoral Intern Coordinator
UCLA Institute of the Environment, 2001-2002; Research Associate
Komex H_2O Science, 2001 to 2003; Senior Remediation Scientist
National Groundwater Association, 2002-2004; Lecturer
San Diego State University, 1999-2001; Adjunct Professor
Anteon Corp., San Diego, 2000-2001; Remediation Project Manager
Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager
Bechtel, San Diego, California, 1999 – 2000; Risk Assessor
King County, Seattle, 1996 – 1999; Scientist
James River Corp., Washington, 1995-96; Scientist
Big Creek Lumber, Davenport, California, 1995; Scientist
Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist
Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

Publications:

Rosenfeld P. E., Spaeth K., Hallman R., Bressler R., Smith, G., (2022) Cancer Risk and Diesel Exhaust Exposure Among Railroad Workers. *Water Air Soil Pollution.* **233,** 171.

Remy, L.L., Clay T., Byers, V., **Rosenfeld P. E.** (2019) Hospital, Health, and Community Burden After Oil Refinery Fires, Richmond, California 2007 and 2012. *Environmental Health.* 18:48

Simons, R.A., Seo, Y. **Rosenfeld, P.**, (2015) Modeling the Effect of Refinery Emission On Residential Property Value. Journal of Real Estate Research. 27(3):321-342

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Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2011). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Agrochemical Industry*, Amsterdam: Elsevier Publishing.

Gonzalez, J., Feng, L., Sutherland, A., Waller, C., Sok, H., Hesse, R., **Rosenfeld, P.** (2010). PCBs and Dioxins/Furans in Attic Dust Collected Near Former PCB Production and Secondary Copper Facilities in Sauget, IL. *Procedia Environmental Sciences*. 113–125.

Feng, L., Wu, C., Tam, L., Sutherland, A.J., Clark, J.J., **Rosenfeld, P.E.** (2010). Dioxin and Furan Blood Lipid and Attic Dust Concentrations in Populations Living Near Four Wood Treatment Facilities in the United States. *Journal of Environmental Health*. 73(6), 34-46.

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Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2009). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Petroleum Industry*. Amsterdam: Elsevier Publishing.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P**. (2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. *WIT Transactions on Ecology and the Environment, Air Pollution,* 123 (17), 319-327.

Tam L. K.., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. *Organohalogen Compounds*, 70, 002252-002255.

Tam L. K.., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. *Organohalogen Compounds*, 70, 000527-000530.

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Rosenfeld, P.E., J. J. J. Clark, A. R. Hensley, M. Suffet. (2007). The Use of an Odor Wheel Classification for Evaluation of Human Health Risk Criteria for Compost Facilities. *Water Science & Technology* 55(5), 345-357.

Rosenfeld, P. E., M. Suffet. (2007). The Anatomy Of Odour Wheels For Odours Of Drinking Water, Wastewater, Compost And The Urban Environment. *Water Science & Technology* 55(5), 335-344.

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Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash. *Water Science and Technology*. 49(9),171-178.

Rosenfeld P. E., J.J. Clark, I.H. (Mel) Suffet (2004). The Value of An Odor-Quality-Wheel Classification Scheme For The Urban Environment. *Water Environment Federation's Technical Exhibition and Conference (WEFTEC) 2004.* New Orleans, October 2-6, 2004.

Rosenfeld, P.E., and Suffet, I.H. (2004). Understanding Odorants Associated With Compost, Biomass Facilities, and the Land Application of Biosolids. *Water Science and Technology*. 49(9), 193-199.

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash, *Water Science and Technology*, 49(9), 171-178.

Rosenfeld, P. E., Grey, M. A., Sellew, P. (2004). Measurement of Biosolids Odor and Odorant Emissions from Windrows, Static Pile and Biofilter. *Water Environment Research*. 76(4), 310-315.

Rosenfeld, P.E., Grey, M and Suffet, M. (2002). Compost Demonstration Project, Sacramento California Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Integrated Waste Management Board Public Affairs Office*, Publications Clearinghouse (MS–6), Sacramento, CA Publication #442-02-008.

Rosenfeld, P.E., and C.L. Henry. (2001). Characterization of odor emissions from three different biosolids. *Water Soil and Air Pollution*. 127(1-4), 173-191.

Rosenfeld, P.E., and Henry C. L., (2000). Wood ash control of odor emissions from biosolids application. *Journal of Environmental Quality.* 29, 1662-1668.

Rosenfeld, P.E., C.L. Henry and D. Bennett. (2001). Wastewater dewatering polymer affect on biosolids odor emissions and microbial activity. *Water Environment Research*. 73(4), 363-367.

Rosenfeld, P.E., and C.L. Henry. (2001). Activated Carbon and Wood Ash Sorption of Wastewater, Compost, and Biosolids Odorants. *Water Environment Research*, 73, 388-393.

Rosenfeld, P.E., and Henry C. L., (2001). High carbon wood ash effect on biosolids microbial activity and odor. *Water Environment Research.* 131(1-4), 247-262.

Chollack, T. and **P. Rosenfeld.** (1998). Compost Amendment Handbook For Landscaping. Prepared for and distributed by the City of Redmond, Washington State.

Rosenfeld, P. E. (1992). The Mount Liamuiga Crater Trail. *Heritage Magazine of St. Kitts*, 3(2).

Rosenfeld, P. E. (1993). High School Biogas Project to Prevent Deforestation On St. Kitts. *Biomass Users Network*, 7(1).

Rosenfeld, P. E. (1998). Characterization, Quantification, and Control of Odor Emissions From Biosolids Application To Forest Soil. Doctoral Thesis. University of Washington College of Forest Resources.

Rosenfeld, P. E. (1994). Potential Utilization of Small Diameter Trees on Sierra County Public Land. Masters thesis reprinted by the Sierra County Economic Council. Sierra County, California.

Rosenfeld, P. E. (1991). How to Build a Small Rural Anaerobic Digester & Uses Of Biogas In The First And Third World. Bachelors Thesis. University of California.

Presentations:

Rosenfeld, P.E., "The science for Perfluorinated Chemicals (PFAS): What makes remediation so hard?" Law Seminars International, (May 9-10, 2018) 800 Fifth Avenue, Suite 101 Seattle, WA.

Rosenfeld, P.E., Sutherland, A; Hesse, R.; Zapata, A. (October 3-6, 2013). Air dispersion modeling of volatile organic emissions from multiple natural gas wells in Decatur, TX. *44th Western Regional Meeting, American Chemical Society.* Lecture conducted from Santa Clara, CA.

Sok, H.L.; Waller, C.C.; Feng, L.; Gonzalez, J.; Sutherland, A.J.; Wisdom-Stack, T.; Sahai, R.K.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Atrazine: A Persistent Pesticide in Urban Drinking Water. *Urban Environmental Pollution.* Lecture conducted from Boston, MA.

Feng, L.; Gonzalez, J.; Sok, H.L.; Sutherland, A.J.; Waller, C.C.; Wisdom-Stack, T.; Sahai, R.K.; La, M.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Bringing Environmental Justice to East St. Louis, Illinois. *Urban Environmental Pollution.* Lecture conducted from Boston, MA.

Rosenfeld, P.E. (April 19-23, 2009). Perfluoroctanoic Acid (PFOA) and Perfluoroactane Sulfonate (PFOS) Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*, Lecture conducted from Tuscon, AZ.

Rosenfeld, P.E. (April 19-23, 2009). Cost to Filter Atrazine Contamination from Drinking Water in the United States" Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*. Lecture conducted from Tuscon, AZ.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (20-22 July, 2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. Brebbia, C.A. and Popov, V., eds., *Air Pollution XVII: Proceedings of the Seventeenth International Conference on Modeling, Monitoring and Management of Air Pollution.* Lecture conducted from Tallinn, Estonia.

Rosenfeld, P. E. (October 15-18, 2007). Moss Point Community Exposure To Contaminants From A Releasing Facility. *The 23rd Annual International Conferences on Soils Sediment and Water.* Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). The Repeated Trespass of Tritium-Contaminated Water Into A Surrounding Community Form Repeated Waste Spills From A Nuclear Power Plant. *The 23rd Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). Somerville Community Exposure To Contaminants From Wood Treatment Facility Emissions. The *23rd Annual International Conferences on Soils Sediment and Water*. Lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld P. E. (March 2007). Production, Chemical Properties, Toxicology, & Treatment Case Studies of 1,2,3-Trichloropropane (TCP). *The Association for Environmental Health and Sciences (AEHS) Annual Meeting*. Lecture conducted from San Diego, CA.

Rosenfeld P. E. (March 2007). Blood and Attic Sampling for Dioxin/Furan, PAH, and Metal Exposure in Florala, Alabama. *The AEHS Annual Meeting.* Lecture conducted from San Diego, CA.

Hensley A.R., Scott, A., **Rosenfeld P.E.,** Clark, J.J.J. (August 21 – 25, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006*. Lecture conducted from Radisson SAS Scandinavia Hotel in Oslo Norway.

Hensley A.R., Scott, A., **Rosenfeld P.E.,** Clark, J.J.J. (November 4-8, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *APHA 134 Annual Meeting & Exposition.* Lecture conducted from Boston Massachusetts.

Paul Rosenfeld Ph.D. (October 24-25, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. Mealey's C8/PFOA. *Science, Risk & Litigation Conference.* Lecture conducted from The Rittenhouse Hotel, Philadelphia, PA.

Paul Rosenfeld Ph.D. (September 19, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel, Irvine California.

Paul Rosenfeld Ph.D. (September 19, 2005). Fate, Transport, Toxicity, And Persistence of 1,2,3-TCP. *PEMA Emerging Contaminant Conference.* Lecture conducted from Hilton Hotel in Irvine, California.

Paul Rosenfeld Ph.D. (September 26-27, 2005). Fate, Transport and Persistence of PDBEs. *Mealey's Groundwater Conference.* Lecture conducted from Ritz Carlton Hotel, Marina Del Ray, California.

Paul Rosenfeld Ph.D. (June 7-8, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. *International Society of Environmental Forensics: Focus On Emerging Contaminants*. Lecture conducted from Sheraton Oceanfront Hotel, Virginia Beach, Virginia.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Fate Transport, Persistence and Toxicology of PFOA and Related Perfluorochemicals. *2005 National Groundwater Association Ground Water And Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, Toxicology and Remediation. *2005 National Groundwater Association Ground Water and Environmental Law Conference.* Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. and Rob Hesse R.G. (May 5-6, 2004). Tert-butyl Alcohol Liability and Toxicology, A National Problem and Unquantified Liability. *National Groundwater Association. Environmental Law Conference*. Lecture conducted from Congress Plaza Hotel, Chicago Illinois.

Paul Rosenfeld, Ph.D. (March 2004). Perchlorate Toxicology. *Meeting of the American Groundwater Trust.* Lecture conducted from Phoenix Arizona.

Hagemann, M.F., **Paul Rosenfeld, Ph.D.** and Rob Hesse (2004). Perchlorate Contamination of the Colorado River. *Meeting of tribal representatives.* Lecture conducted from Parker, AZ.

Paul Rosenfeld, Ph.D. (April 7, 2004). A National Damage Assessment Model For PCE and Dry Cleaners. *Drycleaner Symposium. California Ground Water Association.* Lecture conducted from Radison Hotel, Sacramento, California.

Rosenfeld, P. E., Grey, M., (June 2003) Two stage biofilter for biosolids composting odor control. *Seventh International In Situ And On Site Bioremediation Symposium Battelle Conference* Orlando, FL.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. (February 20-21, 2003) Understanding Historical Use, Chemical Properties, Toxicity and Regulatory Guidance of 1,4 Dioxane. *National Groundwater Association. Southwest Focus Conference. Water Supply and Emerging Contaminants.*. Lecture conducted from Hyatt Regency Phoenix Arizona.

Paul Rosenfeld, Ph.D. (February 6-7, 2003). Underground Storage Tank Litigation and Remediation. *California CUPA Forum.* Lecture conducted from Marriott Hotel, Anaheim California.

Paul Rosenfeld, Ph.D. (October 23, 2002) Underground Storage Tank Litigation and Remediation. *EPA Underground Storage Tank Roundtable.* Lecture conducted from Sacramento California.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Understanding Odor from Compost, *Wastewater and Industrial Processes. Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association.* Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Using High Carbon Wood Ash to Control Compost Odor. *Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association.* Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Grey, M. A. (September 22-24, 2002). Biocycle Composting For Coastal Sage Restoration. *Northwest Biosolids Management Association.* Lecture conducted from Vancouver Washington..

Rosenfeld, P.E. and Grey, M. A. (November 11-14, 2002). Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Soil Science Society Annual Conference.* Lecture conducted from Indianapolis, Maryland.

Rosenfeld. P.E. (September 16, 2000). Two stage biofilter for biosolids composting odor control. *Water Environment Federation.* Lecture conducted from Anaheim California.

Rosenfeld. P.E. (October 16, 2000). Wood ash and biofilter control of compost odor. *Biofest.* Lecture conducted from Ocean Shores, California.

Rosenfeld, P.E. (2000). Bioremediation Using Organic Soil Amendments. *California Resource Recovery Association.* Lecture conducted from Sacramento California.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. *Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings.* Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., and C.L. Henry. (1999). An evaluation of ash incorporation with biosolids for odor reduction. *Soil Science Society of America.* Lecture conducted from Salt Lake City Utah.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Comparison of Microbial Activity and Odor Emissions from Three Different Biosolids Applied to Forest Soil. *Brown and Caldwell.* Lecture conducted from Seattle Washington.

Rosenfeld, P.E., C.L. Henry. (1998). Characterization, Quantification, and Control of Odor Emissions from Biosolids Application To Forest Soil. *Biofest.* Lecture conducted from Lake Chelan, Washington.

Rosenfeld, P.E, C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., C.L. Henry, R. B. Harrison, and R. Dills. (1997). Comparison of Odor Emissions From Three Different Biosolids Applied to Forest Soil. *Soil Science Society of America.* Lecture conducted from Anaheim California.

Teaching Experience:

UCLA Department of Environmental Health (Summer 2003 through 20010) Taught Environmental Health Science 100 to students, including undergrad, medical doctors, public health professionals and nurses. Course focused on the health effects of environmental contaminants.

National Ground Water Association, Successful Remediation Technologies. Custom Course in Sante Fe, New Mexico. May 21, 2002. Focused on fate and transport of fuel contaminants associated with underground storage tanks.

National Ground Water Association; Successful Remediation Technologies Course in Chicago Illinois. April 1, 2002. Focused on fate and transport of contaminants associated with Superfund and RCRA sites.

California Integrated Waste Management Board, April and May, 2001. Alternative Landfill Caps Seminar in San Diego, Ventura, and San Francisco. Focused on both prescriptive and innovative landfill cover design.

UCLA Department of Environmental Engineering, February 5, 2002. Seminar on Successful Remediation Technologies focusing on Groundwater Remediation.

University Of Washington, Soil Science Program, Teaching Assistant for several courses including: Soil Chemistry, Organic Soil Amendments, and Soil Stability.

U.C. Berkeley, Environmental Science Program Teaching Assistant for Environmental Science 10.

Academic Grants Awarded:

California Integrated Waste Management Board. $41,000 grant awarded to UCLA Institute of the Environment. Goal: To investigate effect of high carbon wood ash on volatile organic emissions from compost. 2001.

Synagro Technologies, Corona California: $10,000 grant awarded to San Diego State University.
Goal: investigate effect of biosolids for restoration and remediation of degraded coastal sage soils. 2000.

King County, Department of Research and Technology, Washington State. $100,000 grant awarded to University of Washington: Goal: To investigate odor emissions from biosolids application and the effect of polymers and ash on VOC emissions. 1998.

Northwest Biosolids Management Association, Washington State. $20,000 grant awarded to investigate effect of polymers and ash on VOC emissions from biosolids. 1997.

James River Corporation, Oregon: $10,000 grant was awarded to investigate the success of genetically engineered Poplar trees with resistance to round-up. 1996.

United State Forest Service, Tahoe National Forest: $15,000 grant was awarded to investigating fire ecology of the Tahoe National Forest. 1995.

Kellogg Foundation, Washington D.C. $500 grant was awarded to construct a large anaerobic digester on St. Kitts in West Indies. 1993

Deposition and/or Trial Testimony:

In the Superior Court of the State of California, County of San Bernardino
Billy Wildrick, Plaintiff vs. BNSF Railway Company
Case No. CIVDS1711810
Rosenfeld Deposition 10-17-2022

In the State Court of Bibb County, State of Georgia
Richard Hutcherson, Plaintiff vs Norfolk Southern Railway Company
Case No. 10-SCCV-092007
Rosenfeld Deposition 10-6-2022

In the Civil District Court of the Parish of Orleans, State of Louisiana
Millard Clark, Plaintiff vs. Dixie Carriers, Inc. et al.
Case No. 2020-03891
Rosenfeld Deposition 9-15-2022

In The Circuit Court of Livingston County, State of Missouri, Circuit Civil Division
Shirley Ralls, Plaintiff vs. Canadian Pacific Railway and Soo Line Railroad
Case No. 18-LV-CC0020
Rosenfeld Deposition 9-7-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jonny C. Daniels, Plaintiff vs. CSX Transportation Inc.
Case No. 20-CA-5502
Rosenfeld Deposition 9-1-2022

In The Circuit Court of St. Louis County, State of Missouri
Kieth Luke et. al. Plaintiff vs. Monsanto Company et. al.
Case No. 19SL-CC03191
Rosenfeld Deposition 8-25-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jeffery S. Lamotte, Plaintiff vs. CSX Transportation Inc.
Case No. NO. 20-CA-0049
Rosenfeld Deposition 8-22-2022

In State of Minnesota District Court, County of St. Louis Sixth Judicial District
Greg Bean, Plaintiff vs. Soo Line Railroad Company
Case No. 69-DU-CV-21-760
Rosenfeld Deposition 8-17-2022

In United States District Court Western District of Washington at Tacoma, Washington
John D. Fitzgerald Plaintiff vs. BNSF
Case No. 3:21-cv-05288-RJB
Rosenfeld Deposition 8-11-2022

In Circuit Court of the Sixth Judicial Circuit, Macon Illinois
Rocky Bennyhoff Plaintiff vs. Norfolk Southern
Case No. 20-L-56
Rosenfeld Deposition 8-3-2022

In Court of Common Pleas, Hamilton County Ohio
Joe Briggins Plaintiff vs. CSX
Case No. A2004464
Rosenfeld Deposition 6-17-2022

In the Superior Court of the State of California, County of Kern
George LaFazia vs. BNSF Railway Company.
Case No. BCV-19-103087
Rosenfeld Deposition 5-17-2022

In the Circuit Court of Cook County Illinois
Bobby Earles vs. Penn Central et. al.
Case No. 2020-L-000550
Rosenfeld Deposition 4-16-2022

In United States District Court Easter District of Florida
Albert Hartman Plaintiff vs. Illinois Central
Case No. 2:20-cv-1633
Rosenfeld Deposition 4-4-2022

In the Circuit Court of the 4th Judicial Circuit, in and For Duval County, Florida
Barbara Steele vs. CSX Transportation
Case No.16-219-Ca-008796
Rosenfeld Deposition 3-15-2022

In United States District Court Easter District of New York
Romano et al. vs. Northrup Grumman Corporation
Case No. 16-cv-5760
Rosenfeld Deposition 3-10-2022

In the Circuit Court of Cook County Illinois
Linda Benjamin vs. Illinois Central
Case No. No. 2019 L 007599
Rosenfeld Deposition 1-26-2022

In the Circuit Court of Cook County Illinois
Donald Smith vs. Illinois Central
Case No. No. 2019 L 003426
Rosenfeld Deposition 1-24-2022

In the Circuit Court of Cook County Illinois
Jan Holeman vs. BNSF
Case No. 2019 L 000675
Rosenfeld Deposition 1-18-2022

In the State Court of Bibb County State of Georgia
Dwayne B. Garrett vs. Norfolk Southern
Case No. 20-SCCV-091232
Rosenfeld Deposition 11-10-2021

In the Circuit Court of Cook County Illinois
Joseph Ruepke vs. BNSF
Case No. 2019 L 007730
Rosenfeld Deposition 11-5-2021

In the United States District Court For the District of Nebraska
Steven Gillett vs. BNSF
Case No. 4:20-cv-03120
Rosenfeld Deposition 10-28-2021

In the Montana Thirteenth District Court of Yellowstone County
James Eadus vs. Soo Line Railroad and BNSF
Case No. DV 19-1056
Rosenfeld Deposition 10-21-2021

In the Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al.cvs. Cerro Flow Products, Inc.
Case No. 0i9-L-2295
Rosenfeld Deposition 5-14-2021
Trial October 8-4-2021

In the Circuit Court of Cook County Illinois
Joseph Rafferty vs. Consolidated Rail Corporation and National Railroad Passenger Corporation d/b/a AMTRAK,
Case No. 18-L-6845
Rosenfeld Deposition 6-28-2021

In the United States District Court For the Northern District of Illinois
Theresa Romcoe vs. Northeast Illinois Regional Commuter Railroad Corporation d/b/a METRA Rail
Case No. 17-cv-8517
Rosenfeld Deposition 5-25-2021

In the Superior Court of the State of Arizona In and For the Cunty of Maricopa
Mary Tryon et al. vs. The City of Pheonix v. Cox Cactus Farm, L.L.C., Utah Shelter Systems, Inc.
Case No. CV20127-094749
Rosenfeld Deposition 5-7-2021

In the United States District Court for the Eastern District of Texas Beaumont Division
Robinson, Jeremy et al vs. CNA Insurance Company et al.
Case No. 1:17-cv-000508
Rosenfeld Deposition 3-25-2021

In the Superior Court of the State of California, County of San Bernardino
Gary Garner, Personal Representative for the Estate of Melvin Garner vs. BNSF Railway Company.
Case No. 1720288
Rosenfeld Deposition 2-23-2021

In the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse
Benny M Rodriguez vs. Union Pacific Railroad, A Corporation, et al.
Case No. 18STCV01162
Rosenfeld Deposition 12-23-2020

In the Circuit Court of Jackson County, Missouri
Karen Cornwell, Plaintiff, vs. Marathon Petroleum, LP, Defendant.
Case No. 1716-CV10006
Rosenfeld Deposition 8-30-2019

In the United States District Court For The District of New Jersey
Duarte et al, Plaintiffs, vs. United States Metals Refining Company et. al. Defendant.
Case No. 2:17-cv-01624-ES-SCM
Rosenfeld Deposition 6-7-2019

In the United States District Court of Southern District of Texas Galveston Division
M/T Carla Maersk vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS "Conti Perdido" Defendant.
Case No. 3:15-CV-00106 consolidated with 3:15-CV-00237
Rosenfeld Deposition 5-9-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants
Case No. BC615636
Rosenfeld Deposition 1-26-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants
Case No. BC646857
Rosenfeld Deposition 10-6-2018; Trial 3-7-19

In United States District Court For The District of Colorado
Bells et al. Plaintiffs vs. The 3M Company et al., Defendants
Case No. 1:16-cv-02531-RBJ
Rosenfeld Deposition 3-15-2018 and 4-3-2018

In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow Agrosciences, LLC, et al., Defendants
Cause No. 1923
Rosenfeld Deposition 11-17-2017

In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintifs vs. Chevron Corporation, et al., Defendants
Cause No. C12-01481
Rosenfeld Deposition 11-20-2017

In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition 8-23-2017

In United States District Court For The Southern District of Mississippi
Guy Manuel vs. The BP Exploration et al., Defendants
Case No. 1:19-cv-00315-RHW
Rosenfeld Deposition 4-22-2020

In The Superior Court of the State of California, For The County of Los Angeles
Warrn Gilbert and Penny Gilber, Plaintiff vs. BMW of North America LLC
Case No. LC102019 (c/w BC582154)
Rosenfeld Deposition 8-16-2017, Trail 8-28-2018

In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., Plaintiffs, vs. Meritor Inc., et al., Defendants
Case No. 4:16-cv-52-DMB-JVM
Rosenfeld Deposition July 2017

In The Superior Court of the State of Washington, County of Snohomish
Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants
Case No. 13-2-03987-5
Rosenfeld Deposition, February 2017
Trial March 2017

In The Superior Court of the State of California, County of Alameda
Charles Spain., Plaintiff vs. Thermo Fisher Scientific, et al., Defendants
Case No. RG14711115
Rosenfeld Deposition September 2015

In The Iowa District Court In And For Poweshiek County
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants
Case No. LALA002187
Rosenfeld Deposition August 2015

In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action No. 14-C-30000
Rosenfeld Deposition June 2015

In The Iowa District Court for Muscatine County
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant
Case No. 4980
Rosenfeld Deposition May 2015

In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case No. CACE07030358 (26)
Rosenfeld Deposition December 2014

In the County Court of Dallas County Texas
Lisa Parr et al, Plaintiff, vs. Aruba et al, Defendant.
Case No. cc-11-01650-E
Rosenfeld Deposition: March and September 2013
Rosenfeld Trial April 2014

In the Court of Common Pleas of Tuscarawas County Ohio
John Michael Abicht, et al., Plaintiffs, vs. Republic Services, Inc., et al., Defendants
Case No. 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition October 2012

In the United States District Court for the Middle District of Alabama, Northern Division
James K. Benefield, et al., Plaintiffs, vs. International Paper Company, Defendant.
Civil Action No. 2:09-cv-232-WHA-TFM
Rosenfeld Deposition July 2010, June 2011

In the Circuit Court of Jefferson County Alabama
Jaeanette Moss Anthony, et al., Plaintiffs, vs. Drummond Company Inc., et al., Defendants
Civil Action No. CV 2008-2076
Rosenfeld Deposition September 2010

In the United States District Court, Western District Lafayette Division
Ackle et al., Plaintiffs, vs. Citgo Petroleum Corporation, et al., Defendants.
Case No. 2:07CV1052
Rosenfeld Deposition July 2009

ZONING ADJUSTMENTS BOARD

STAFF REPORT

FOR BOARD ACTION
JANUARY 11, 2024

2113-15 Kittredge Street

Use Permit #ZP2022-0144 to demolish the commercial building on a landmarked site (preserving the front façade), and construct an 18-story (203 feet, with 8-foot, 4-inch parapet), 160,734-square-foot, mixed-use building with 211 dwelling units (including 22 Very Low-Income Density Bonus qualifying units), and a 24,273-square-foot live theater space.

I. Background

A. Land Use Designations:

- General Plan: DT – Downtown; Downtown Area Plan
- Zoning: C-DMU (Core) – Downtown Mixed-Use Commercial District – Core Sub-area

B. Zoning Permits Required:

- Use Permit under BMC Section 23.326.070(A) to demolish a non-residential building
- Use Permit under BMC Section 23.204.020(A) to construct a new mixed-use development
- Use Permit under BMC Section 23.204.020(A) to construct dwelling units
- Administrative Use Permit under BMC Section 23.204.020(A) to construct a theater (live)
- Use Permit under BMC Section 23.204.030(B)(1) to create new floor area of 10,000 square feet or more
- Use Permit under BMC Section 23.204.130(E)(1) to exceed the maximum building height limits, up to 75 feet (plus 5-foot parapet, by right)
- Administrative Use Permit under BMC Section 23.304.050(A) to exceed building height limits with rooftop architectural elements which exceed the maximum height limit for the district
- Use Permit under BMC Section 23.04.130(E)(3)(b) to modify side and rear setback requirements
- Use Permit under BMC Section 23.310.020(B) to commence alcoholic beverage service of distilled spirits

- Use Permit under BMC Section 23.310.030(A) for alcoholic beverage service, including distilled spirits when incidental to a food service
- Administrative Use Permit under BMC Section 23.302.020(E)(4) to allow outdoor uses in a commercial district not abutting a residential district

C. Concessions and Waivers Requested Pursuant to State Density Bonus Law (California Government Code Section 65915):

- Concession to reduce Usable Open Space (residential) requirement – to provide 12,539 square feet, where 16,880 square feet is required
- Concession to reduce landscaped Usable Open Space requirement – to provide 5 percent where 40 percent is required
- Waiver of BMC Section 23.04.130(E)(1) to exceed building height limits – to be 203 feet to roof and 211 feet, 4 inches to parapet (8-foot, 4-inch-high parapet), where 75 feet is the limit (plus 5-foot parapet by right)
- Waiver of BMC Section 23.204.130(E)(3) to reduce the front, sides and rear setbacks (see Table 4: Development Standards)
- Waiver of BMC Section 23.204.130(E)(3) to increase front setback maximum to five feet, four inches, where five feet maximum is required, at 0-20 feet building height
- Waiver of BMC Section 23.204.130(E)(3) to exceed the diagonal measurement limit of the building above 120 feet height – to be 152 feet, three inches, where 120 feet is required
- Waiver of BMC Section 23.322.090(A) to provide zero commercial short-term bicycle parking, where 12 is required

D. CEQA Recommendation: It is staff's recommendation that the project is categorically exempt pursuant to Section 15331 ("Historical Resource Restoration/Rehabilitation") and Section 15332 ("Infill Development Projects") of the CEQA Guidelines. The determination is made by ZAB. See section V.A for an analysis of the recommendation.

E. Parties Involved:

- Applicant — Christian Cerria, 2115 Kittredge Street LLC, 629 Mission Street, 5th Floor, San Francisco, CA 94105
- Property Owner — Robin Lent, 426 Sandhill Circle, Menlo Park, CA 94025

F. Application Materials, Staff Reports and Correspondence are available on the City's website:
https://aca.cityofberkeley.info/citizenaccess/Default.aspx
https://cityofberkeley.info/your-government/boards-commissions/zoning-adjustments-board

Figure 1: Zoning Map

Legend

	AC Transit Bus Route
C-DMU:	Downtown Mixed-Use District
Core:	C-DMU Core Sub-Area
Buffer:	C-DMU Buffer Sub-Area
Corridor:	C-DMU Corridor Sub-Area
Outer Core:	C-DMU Outer Core Sub-Area
R-5:	High Density Residential District
R-SMU:	Residential Southside Mixed Use District

Figure 2: Aerial View of Site

Figure 3: Kittredge Street (Front/South) and Right Side (East) Elevations

Figure 4: Rear (North) and Left Side (West) Elevations

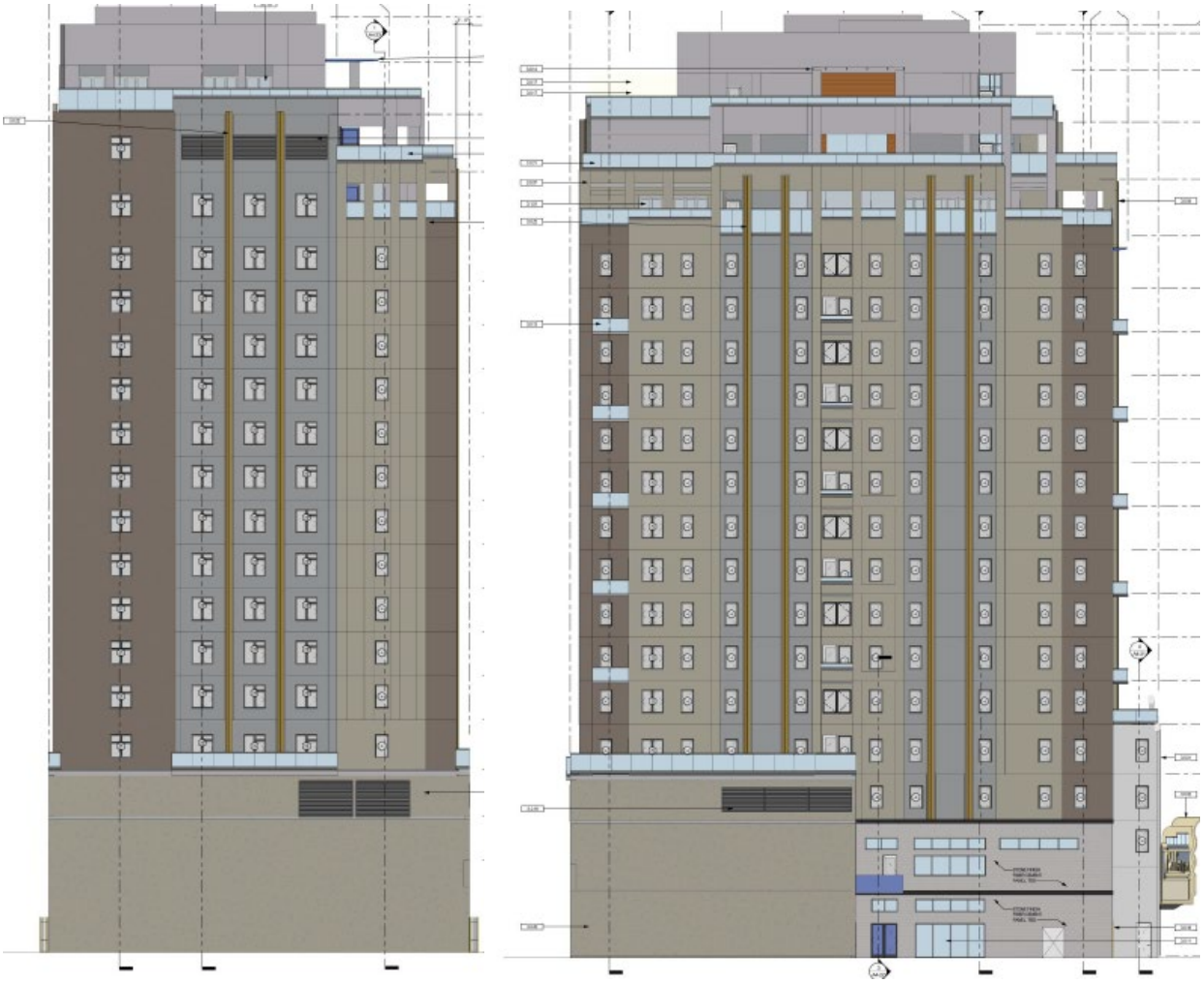

Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		California Theater (closed)	C-DMU Core Sub-Area	DT
Surrounding Adjacent Properties	North	Retail / Mixed-use - Art Center and Multi-family Residential		
	East	Restaurant/ Mixed-use Commercial, Residential / Public Parking Garage / Event Center (Brower Center)		
	West	Retail / Restaurant		
	South	Personal Service / Multi-family Residential	C-DMU Outer Core Sub-Area	

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee & Affordable Housing Fee for qualifying non-residential projects (Per Resolutions 66,618-N.S. & 66,617-N.S.)	Yes	These fees apply to projects with more than 7,500 square feet of net new non-residential gross floor area. The project provides 13,393 square feet of net new non-residential gross floor area. Therefore, the project is subject to these fees.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)		
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	Yes	The project vested policies in place at the time of submittal of an SB 330 Preliminary Application on October 26, 2022 and is therefore subject to the Affordable Housing Mitigation Fee provisions in BMC 22.20.065 (repealed on April 1, 2023). It is not subject to the Inclusionary Housing provisions of BMC Chapter 23.328. (See below.)
Inclusionary Housing provisions (Per BMC Chapter 23.328)	No	The project vested with an SB 330 Preliminary Application on October 26, 2022. It is not subject to this section.
Alcohol Sales/Service	Yes	The project is proposing distilled spirits, beer and wine service with food in the live theater concessions.
Coast Live Oaks	No	There are no oak trees on the project site.
Creeks	No	The project site is not within a creek buffer.

Characteristic	Applies to Project?	Explanation
Density Bonus	Yes	The project would provide 22 Very Low-Income units, or 15 percent of the 141 Base Project units, and qualifies for a 50 percent density bonus, or 71 bonus units (70 taken). See Section III.B for discussion.
Green Building Score	Yes	The project is designed to achieve a Leadership in Energy and Environmental Design (LEED) - Gold (or equivalent) rating.
Historic Resources	Yes	The project would involve the demolition of all but the marquee of the California Theater, a designated City Landmark and historic resource. The project is subject to a Structural Alteration Permit (LMSAP2022-0011). See discussion of the Structural Alteration Permit in Section IV.B.
Housing Accountability Act (Govt. Code 65589.5(j))	Yes	The project is a "housing development project" consisting of a mixed-use building, and requests no modifications to development standards beyond waivers and concessions requested under density bonus law. Therefore, the HAA findings apply to this project, and the project cannot be denied at the density proposed unless the findings for denial can be made. See Section III.C for discussion.
Housing Crisis Act of 2019 (SB 330)	Yes	The project meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2). See Section V.B of this report for additional discussion on the sections of SB 330 that apply to the project.
Natural Gas Prohibition (BMC Chapter 12.80)	Yes	This project is an application for new construction and was submitted after January 1, 2020, and is therefore subject to the Natural Gas Prohibition.
Public Art on Private Projects (BMC Chapter 23C.23)	Yes	The project is subject to the Percentage for Public Art on Private Projects Ordinance. The applicant is electing to provide pay the in-lieu fee (equal to 8% of total building permit valuation) to comply.
Rent Controlled Units	No	The project involves the demolition of non-residential structures and no rent-controlled units would be demolished.
Residential Preferred Parking (RPP)	No	The site is located in RPP zone "I". However, newly constructed dwellings would not be eligible to participate in the RPP program.
Seismic Hazards	No	The project site is not located in an area susceptible to seismic hazards, as defined by the State Seismic Hazards Mapping Act (SHMA). No further study is required.

Characteristic	Applies to Project?	Explanation
Soil/Groundwater Contamination	Yes	The project site is located within the City's Environmental Management Area. The project site is not listed on the Cortese List. The applicant submitted Phase I and Phase II reports which indicated Recognized Environmental Conditions on the site, and exceedances of residential environmental screen levels. A Condition of Approval will be included in the permit requiring oversight of this site condition by the San Francisco Bay Regional Water Quality Control Board. In addition, standard Conditions of Approval related to hazardous materials would apply.
Transit	Yes	The project site is served by multiple bus lines (local, rapid, and Transbay) that operate along Shattuck Avenue, one-half block west of the site and is one block away from the Downtown Berkeley Bay Area Rapid Transit (BART) Station.

Table 3: Project Chronology

Date	Action
October 26, 2022	SB 330 Preliminary Application complete
October 31, 2022	SB 330 Use Permit Application submitted
March 31, 2023	Application deemed complete
April 28, 2023	Level of CEQA review determined by staff – CEQA Exempt
July 6, 2023	Structural Alteration Permit Hearing #1 at LPC
October 5, 2023	Structural Alteration Permit Hearing #2 at LPC
December 21, 2023	Public hearing notices mailed/posted
January 11, 2024	ZAB Hearing

Table 4: Development Standards

C-DMU Standards, Core Sub-Area			Existing	Change	Proposed	Permitted/Required
Lot Area (sq. ft.)			13,500	--	13,500	n/a
Gross Floor Area (s.f.)			10,880	+149,854	160,734	n/a
Commercial Floor Area			10,880	+13,393	24,273	n/a
FAR			0.8	+11.2	12	n/a
Dwelling Units			n/a	+211	211	n/a
Bedrooms			n/a	+313	313	n/a
Building Height[1]	Maximum		60'-0"	+143'	203' (roof) 211'-4" (parapet)	50' min./60' max. (75' max. w/use permit, 180' max. w/use permit, 5' max. parapet by right)
	Stories		2	+16	18	n/a
Building Setbacks[2]	Front (Kittredge)[3]		0' 0' n/a	-- -- --	0' to 5'-4" 0' to 8'-8" 8'-8" to 32'-3"	0'–5' (bldg. ht.≤20') 0' (bldg. ht.>20' ≤75') 15' (bldg. ht.>75')
	Rear		2'-8" 2'-8" n/a	-1'-10" -1'-10" n/a	0'-10" 0'-10" 3'	0' (bldg. ht.≤20') 5' (bldg. ht.>20' ≤75') 15' (bldg. ht.>75')
	Interior Left Side (west)	0'-65' from frontage	11'-9" 11'-9" n/a	-6'-9" -9'-9" n/a	5' 2' 5'	0' (bldg. ht.≤75') 5' (bldg. ht.>75' ≤120') 15' (bldg. ht.>120')
		>65' from frontage	11'-9" 11'-9" n/a	-9'-9" -6'-9" n/a	2' 5' 5'	0' (bldg. ht.≤20') 5' (bldg. ht.>20' ≤75') 15' (bldg. ht.>75')
	Interior Right Side (east)	0'-65' from frontage	8'-5" 8'-5" n/a	-6'-5" -5'-5" n/a	2' 3' 3'	0' (bldg. ht.≤75') 5' (bldg. ht.>75' ≤120') 15' (bld1g. ht.>120')
		>65' from frontage	8'-5" 8'-5" n/a	-6'-5" -6'-5" n/a	2' 2' 3'	0' (bldg. ht.≤20') 5' (bldg. ht.>20' ≤75') 15' (bldg. ht.>75')
	Diagonal Dimension (above 120' height)		n/a	n/a	152'-3"	120' max. (bldg. ht.>120')
Lot Coverage (%)			64	+25	89	n/a
Usable Open Space (s.f.)			n/a	+13,533	12,539[4]	16,880 min. (80 s.f./d.u.)
Privately Owned Public Open Space (s.f.)			n/a	n/a	0	489 min. (1 s.f./50 s.f. of commercial)

[1] A use permit to allow height up to 75 feet is included in the Base Project for the calculation of the density bonus, and is not a requested waiver. Additional height beyond 75' is being requested as a waiver.
[2] The use permit to allow reduced setbacks up to 75' building height is included in the Base Project for the calculation of the density bonus, and is not a requested waiver. Setback reductions above 75' are being requested as waivers.
[3] The existing theater marquee overhangs approximately 17' into the right-of-way.
[4] A Concession is also requested to provide to provide 5% landscaped UOS where 40% is required.
= Waiver requested to modify the district standard.
= Concession, pursuant to State Density Bonus Law, requested to modify the district standard.
Abbreviations: s.f.= square feet; d.u.=dwelling unit; min.=minimum; max.=maximum; bldg. ht.=building height

Table 4: Development Standards (Continued)

C-DMU Standards, Core Sub-Area		Existing	Change	Proposed	Permitted/Required
Parking	Commercial (24,273 sq. ft.)	0	--	0	0 min.*
	Residential	n/a	--	0	0 min./106 max. (0.5 spaces/du max.)
	Carshare	n/a	--	n/a	n/a
	Total	0	--	0	0 min./106 max.
Bicycle Parking	Commercial - Short Term (24,273 sq. ft.)	0	--	0	12 (1 space/2,000 s.f. commercial)
	Residential - Long Term (313 bedrooms)	n/a	+105	105	105 (1 space/3 bedrooms)
	Residential - Short Term (313 bedrooms)	n/a	+8	8	8 (1 space/40 bedrooms, or 2)
	Total	0	+105/8	105/8 (long term/short term)	105/20 (long term/short term)

* Pursuant to Assembly Bill 2097, no parking is required for residential or commercial uses on a site located within ½-mile of public transit.
= Waiver requested to modify the district standard.
Abbreviations: s.f.= square feet; d.u.=dwelling unit; min.=minimum; max.=maximum; bldg. ht.=building height

II. Project Setting

A. Neighborhood/Area Description: The project site is located on the north side of Kittredge Street, within the Downtown Mixed-Use District (C-DMU), Core Sub-Area, as identified in the City's Downtown Area Plan (DAP). The project site is surrounded by commercial, institutional and mixed-use commercial/residential buildings ranging in height from one to seven stories. Along Shattuck Avenue to the west are one- and two- story retail and restaurant uses; a mixed-use, three-story apartment building with ground floor restaurant is directly west. Immediately north is the seven-story, Gaia Building art center and apartments. To the northeast are a one-story restaurant and the four-story Brower Center event space with a ground-floor restaurant. To the east is a one-story restaurant. Further east is a six-story, mixed-use apartment building with ground floor commercial and an underground public parking garage. To the southeast, at 2176 Kittredge, a seven-story, mixed use building with 169 units is under construction. (See Figure 1: Zoning Map and Figure 2: Aerial View.)

The project site is served by multiple bus lines (local, rapid, and Transbay) that operate along Shattuck Avenue, one-half block west of the site, and is one block away from the Downtown Berkeley Bay Area Rapid Transit (BART) Station. The site is two blocks away from the University of California at Berkeley Shuttle, and a bike share station at the Shattuck Avenue and Center Street intersection.

B. Site Conditions/Background: The project site is associated with addresses 2113 and 2115 Kittredge Street and Assessor's Parcel Number 57-2030-9. The 13,500-square-foot (0.31-acre) project site is a rectangular parcel that is occupied by an approximately 10,880-square-foot, movie theater (California Theater) that was originally constructed in 1914 as a live performance venue, but operated primarily as a movie theater until it closed in the fall of 2021.

III. Project Description

A. The project proposes to demolish the commercial building on the landmarked site (preserving the front façade), and construct a mixed-use building that utilizes the State Density Bonus with the following main components:

- 18 stories, 203 feet in height, with 8-foot, 4-inch parapet (see Figures 3 and 4: Elevations)
- 211 dwelling units – 133 studios, 66 two-bedroom, 12 four-bedroom
- 313 bedrooms total
- 22 Very Low Income (VLI) units
- 24,273-square-foot live theater space
- 12,539 square feet of usable open space – two private balconies; marquee balcony on level 2; roof decks on levels 16, 17 and 18
- Two parklets, approximately 75 square feet each – in public right-of-way on Kittredge
- 105-space basement bike room and 8 short-term bike parking spaces

B. Base Project and Density Bonus: By committing to provide 22 VLI units, the project is eligible for a density bonus under Government Code Section 65915. Under the City's density bonus procedures, the Base Project was calculated to have 141 units, as the maximum allowable density for the site.[1] The Base Project has an average unit size of 646 square feet in an 8-story building. Twenty-two VLI units, or 15.6 percent of the Base Project, qualifies the project for a 50 percent density bonus or 71 bonus units, of which the project would utilize 70. The resulting proposed project would be an 18-story building with 211 units (out of 212 units maximum), with an average unit size of 646 square feet (see Table 5: Density Bonus).

[1] Per the City's Density Bonus Procedures (DBP), the Base Project is the largest project allowed on the site that is fully compliant with district development standards (i.e. height, setbacks, usable open space, parking, etc.), or, the *maximum allowable density* for the site. The City uses the DBP to calculate the maximum allowable density for a site where there is no density standard in the zoning district, and to determine the number of units in the Proposed Project, which is the number of Base Project units plus the number of density bonus units that can be added according to the percentage of BMR units proposed, per Government Code, §65915(f).

Table 5: Density Bonus – Government Code 65915

Base Project Units*	Qualifying Units	Percent Density Bonus	Number of Density Bonus Units*	Proposed Project Units
141	22 VLI (15.6 percent of BP)	50 percent	70 (71 max.) (50 percent x 141)	211 (212 max.)
*Per Government Code 65915(q), all unit calculations are rounded up to the nearest whole number.				

C. Housing Accountability Act: The Housing Accountability Act (HAA), California Government Code Section 65589.5(j), requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:

1) The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and
2) There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

The Base Project complies with applicable, objective general plan and zoning standards. Further, Section 65589.5(j)(3) provides that a request for a density bonus "shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision." Therefore, the City may not deny the Base Project or density bonus request or reduce the density with respect to those units without basing its decision on the written findings under Section 65589.5(j), above. Staff is aware of no specific adverse impacts that could occur with the construction of the Base Project or the density bonus units. Therefore, Section 65589.5(j) ***does apply*** to the proposed project. All findings discussed in Sections VI and VII are subject to the requirements of Government Code Section 65589.5.

IV. Community Discussion

A. Neighbor/Community Concerns: Prior to submitting the application to the City on October 31, 2022, the applicant installed yellow Proposed Development Project signs at the project site.

On September 26, 2022 a virtual neighborhood outreach meeting was held by the applicant. One member of the public attended and discussed questions about the lack of parking in the project, electric scooters blocking the sidewalk, traffic impact on Kittredge, and noise levels during sensitive hours.

Numerous letters and emails were received by staff during the application review period from neighbors and organizations with concerns for:

- the loss of the California Theater building as a cultural and historic resource
- the lack of room on the sidewalk to accommodate the addition of pedestrian traffic from the project, scooter use of the sidewalk, and impact to access for the disabled
- proper fire department access and safe evacuation for nearby residents with the addition of new residents and theater patrons
- too much student housing and not enough for under-resourced and vulnerable people
- impacts from multiple construction projects in the area, such as reduced safety for disabled people using sidewalks, obstruction of deliveries, dust, gas and water disruptions, noise pollution, adverse health effects, obstruction of nearby resident vehicles
- the loss of use of the "alleyway" on the site by businesses fronting Shattuck

On December 21, 2023, the City mailed public hearing notices to property owners and occupants, and to interested neighborhood organizations, and posted notices within the neighborhood in three locations.

On January 2, 2024, staff received a public comment letter expressing concerns over the excessive density of the proposed building, the exposure of toxic substances from demolition of the existing building, the project's impact on water, electricity and commercial services, and the project's impact on adjacent buildings and their access to the existing alley area on the west property line.

No further communications regarding the project were received as of the writing of this staff report.

B. Landmarks Preservation Commission: In accordance with BMC Section 3.24.200 of the Landmarks Preservation Ordinance and BMC Section 23.406.070 of the Zoning Ordinance, the Landmarks Preservation Commission (LPC) must grant approval of the proposed demolition and complete design review for the new development under a Structural Alteration Permit, because the new construction shares the site with landmarked structures. The project proposes to demolish the existing California Theater building, with the exception of the front façade and marquee.

The property was designated a City Landmark site in 2022, due to its architectural merit, the property's association with historical events (namely the development of Berkeley's Downtown), and its value as contributor to the potential Historic Downtown district. In the designation, the City listed only the building's south-facing façade as the feature to be preserved.

The project was reviewed by the LPC under the Structural Alteration Permit (LMSAP 2022-0011) on July 6, 2023 and October 5, 2023. At the October 5 meeting, the LPC approved the SAP (Vote: 5-1-2-0) with a categorical exemption from CEQA pursuant to Section 15331 ("Historical Resource Restoration/Rehabilitation") due to the project's consistency with the Secretary of Interior Standards for Rehabilitation, for the demolition of the building while preserving the front façade and the construction of the proposed 18-story building. The LPC conditioned the permit approval with further refinements to be presented at Final Design Review before the LPC. The SAP Findings and Conditions can

be found at this link. (Also see Attachment 3, LMSAP2022-0011 Findings Conditions, October 5, 2023.) Further revisions to the project were made prior to this ZAB hearing based on comments received from the LPC at the October 5 meeting, including revisions to the massing of the top building levels, the relocation of two dwelling units to the top floor, revisions to the unit size distribution and resulting floor area adjustments, and other minor revisions. (See Attachment 2, Plans.) The revisions did not affect staff's recommendation for CEQA exemption.

V. Issues and Analysis

A. CEQA Exemption: The project site is located within the City's Environmental Management Area; however, it is not listed on a Cortese List. Consistent with guidelines published by the Bay Area Air Quality Management District,[2] the City requires development project that includes both demolition and construction to substantiate a categorical exemption by providing an air quality assessment that indicates compliance with criteria air pollutant screening thresholds. An air quality assessment report was prepared by the project consultant anticipating no significant air quality impact from with project construction pollutants, in support of the categorical exemption. (See Attachment 4 – Air Quality Assessment.)

In addition, Phase I and Phase II reports were submitted by the applicant which indicate Recognized Environmental Conditions on the site and exceedances of residential environmental screen levels. Staff is including a Condition of Approval that requires oversight of this site condition by the San Francisco Bay Regional Water Quality Control Board (RWQCB) (See Attachment 1 – Findings and Conditions). The applicant has entered into an Oversight Agreement with the San Francisco Bay RWQCB to oversee further study of potential water contamination at the project site, to determine the project's impact to groundwater. (See Attachment 5 – San Francisco Bay RWQCB Oversight Agreement.) Also, standard Conditions of Approval related to hazardous materials would apply.

The LPC approved the Structural Alteration Permit (LMSAP 2022-0011) on October 5, 2023 with an exemption from CEQA under Section 15331 ("Historical Resource Restoration/Rehabilitation"), because it meets the requirements for rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer.

The project is also categorically exempt from CEQA under Section 15332 ("Infill Development Projects"). The project meets all of the requirements of this exemption, as follows:

[2] Bay Area Air Quality Management District. 2022. California Environmental Quality Act Air Quality Guidelines. Available: https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines

A. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
B. The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
C. The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
D. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. The Traffic Impact Analysis prepared for the project was reviewed by the City Transportation Division which concurred with the findings of less than significant impacts. City Standard Conditions would address potential impacts related to traffic, noise, air quality, and water quality.
E. The site can be adequately served by all required utilities and public services.

Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

Therefore, Staff recommends a determination that the project is categorically exempt from CEQA, pursuant to Section 15331 ("Historical Resource Restoration/Rehabilitation") and Section 15332 ("Infill Development Projects").

B. Senate Bill 330 – Housing Crisis Act of 2019: The Housing Crisis Act, also known as Senate Bill (SB) 330, seeks to boost homebuilding throughout the State with a focus on urbanized zones by expediting the approval process for and suspending or eliminating restrictions on housing development projects. A "housing development project" means a use that is: all residential; mixed use with at least two-thirds of the square footage as residential; or transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

1. Government Code Section 65905.5(a) states that if a proposed housing development project complies with the applicable, objective general plan and zoning standards in effect at the time an application is deemed complete, then the city shall not conduct more than five hearings in connection with the approval of that housing development project. This includes all public hearings in connection with the approval of the housing development project and any continuances of such public hearings. The city must consider and either approve or disapprove the project at any of the five hearings consistent with applicable timelines under the Permit Streamlining Act [Chapter 4.5 (commencing with Section 65920)].

   The January 11, 2024 ZAB Hearing represents the third public hearing for the proposed project since the project was deemed complete. The City can hold two additional public hearings on this project, if needed. One hearing must be reserved for a potential appeal to the City Council.

2. Government Code Section 65913.10(a) requires that the City determine whether the proposed development project site is an historic site at the time the application for the housing development project is deemed complete. The determination as to whether the parcel is an historic site must remain valid during the pendency of the housing development project, unless any archaeological, paleontological, or tribal cultural resources are encountered during any grading, site disturbance, or building alteration activities.

   As discussed in Section IV.B, at the time the project was deemed complete, the structure proposed to be demolished was designated a City landmark, and an historic resource. The proposed project was approved by the LPC on October 5, 2023 with conditions of approval for historic resource preservation and requiring further refinements at Final Design Review before the LPC. The project is also required to comply with the City's standard conditions of approval, which instruct construction workers to halt work if any unanticipated discovery of archeological, paleontological, or tribal cultural resources are uncovered on the project site during ground disturbing activities.

3. Government Code §65950(a)(5) requires a public agency to approve or disapprove a project within 60 days from the determination that the project is exempt from the California Environmental Quality Act. The project was deemed complete on March 31, 2023. If the ZAB determines the application is categorically exempt from CEQA at the January 11, 2024 public hearing, the application must be approved or disapproved by March 11, 2024.

4. Government Code Section 66300(d) prohibits the demolition of residential dwelling units unless the project will create at least as many residential units as will be demolished. The project does not propose the demolition of housing units. Therefore, Section 66300(d) does not apply to the project.

C. Density Bonus Waivers and Concessions: The project is entitled to three concessions (or incentives), under Government Code Section 65915(d) for providing at least 15 percent of total units to very low-income households, and an unlimited number of waivers, under Section 65915(e).

Concession. A concession or incentive is a modification of a zoning code requirement that results in identifiable and actual cost reductions to provide for affordable housing costs. The applicant is requesting two concessions: 1) to provide less than the minimum required usable open space, which would eliminate the cost of providing more balconies and roof deck area; and 2) to provide less than the minimum required landscaped usable open space, which would eliminate the cost of providing landscaping, irrigation, and structural reinforcement for the extra weight on the roof deck locations.

The City may only deny the concessions if it finds that the concessions would have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact

without rendering the development unaffordable to low income, very low income, and moderate-income households, or if the concession would be contrary to State or Federal law.[3] Staff has identified no basis for making such a finding.

Waiver. A waiver is a modification of a development standard that would otherwise physically preclude the construction of the project with the permitted density bonus and concessions. Waivers for height (maximum height and rooftop projections), setbacks, diagonal width, and short-term bike parking are requested because they are necessary to physically accommodate the full density bonus project on the site.

The City may only deny the waivers if it finds that the waivers would have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low income, very low income, and moderate income households, or if the waiver would be contrary to State or Federal law. Staff has not identified any evidence that would support such a finding.

D. Use Permit for Demolition of Commercial Structures: Pursuant to BMC Section 23.326.070(A), in order to approve a Use Permit to demolish a commercial structure, the Board must make the findings in BMC Section 23.326.070(D)(2), including the finding that the demolition would not be materially detrimental to the commercial needs and public interest of any affected neighborhood of the City, and if demolishing a building more than forty years old, the LPC, upon review, does not recommend against granting the permit.

The proposed demolition of the existing landmarked movie theater building would not be materially detrimental to the commercial needs and public interest of the neighborhood because the proposed project would replace the eliminated commercial floor area with a mixed-use building that has more commercial space than the existing building, and would provide a significant amount of new dwelling units, to bring more diversity of services to residents and workers in the vicinity and new housing to the neighborhood and the City at large. The existing structure to be demolished is a 10,880-square-foot movie theater. This commercial use would be replaced by a 24,273-square-foot live theater facility, 211 new residential units, and two new parklets, directly in front of the building in the public right-of-way on Kittredge Street. The demolition is required in order to allow the proposed mixed-use project to be built.

Further, as discussed in Section IV.B., the proposed demolition referral and SAP were approved by the LPC on October 5, 2023.

E. Use Permits to Commence Alcohol Sales and Service (Distilled Spirits): The applicant intends to apply for a Type 47 (On-Sale General-Eating Place) license from

[3] A "specific, adverse impact" means "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete."

the Alcohol Control Board (ABC) to allow beer, wine, and distilled spirts to be served from the theater concessions. Pursuant to BMC Sections 23.310.020(B) (General Requirements Excluding Incidental Beer and Wine Service) and 23.310.030(A) (Alcoholic Beverage Service When Incidental to Food Service), the ZAB may approve use permits to commence distilled spirits alcoholic beverage sales or service. If the proposed use is within a 1,000-foot radius of the site of a use that is in the same category of alcoholic beverage sales or service, ZAB must make the required Findings of Public Convenience or Necessity. The project would also be subject to alcohol service standards included in the Conditions of Approval, and must operate as a bona fide eating place, as defined by the ABC. There are 40 existing Alcoholic Beverage Control (ABC) Type 47 (On-Sale General-Eating Place) licenses issued to establishments within 1000 feet of the project site.

Findings of Public Convenience or Necessity:

1. *The proposed establishment will promote the City's economic health, contribute to General Plan or area plan policies, or further the district purpose.*
2. *The economic benefits associated with the establishment could not reasonably be achieved without the proposed alcohol sales or service.*
3. *If the applicant has operated a licensed establishment that has been the subject of violations regarding alcohol in the State of California, or violations of public safety or nuisance statutes or regulations in Berkeley as verified by the Police Department, such violations do not indicate a high likelihood of further violations and/or detrimental impacts from the proposed establishment. In making this finding, the ZAB may consider the number, frequency, and severity of prior violations, the time elapsed since the last violation, and other relevant factors.*
4. *If the proposed establishment is within 1,000 feet of any public park or public school, the ZAB has taken into consideration the effect of the proposed establishment upon such sensitive public uses.*
5. *The Police Department has reported that the proposed establishment would not be expected to add to crime in the area.*

The allowance of distilled spirits sales and service with theater concessions in the project would provide a wider range of alcoholic menu options to theater patrons that are customarily available to live theatrical venues. Such expanded menu choices would contribute to the economic success of the theater over a concessions menu that only offers beer and wine. The addition of distilled spirits to the concessions offerings would also increase business revenue, resulting in increased tax revenue for the City.

The project site is within 1,000 feet of Berkeley High School, at Allston Way and Milvia Street, and Constitution Square, on Shattuck Avenue between Center Street and Allston Way, which is well-used by the public and patrons of the nearby food establishments for gathering and eating. There are 40 existing ABC Type 47 licenses issued to establishments within 1,000 feet of the project site. The Berkeley Police Department has reviewed the proposal and noted that there are no alcoholic beverage violations against the property owner, that the proposed mixed-use project appears to fit within the general character of the existing uses in the neighborhood,

and that the project would not likely increase crime or calls for service in the area. (See Attachment 6, Berkeley Police Department Alcohol License Recommendation)

Therefore, staff recommends approval of this permit. Alcohol service standards are included in the Conditions of Approval for the permit, and the applicant would be required to meet applicable ABC standards for the license type.

VI. Other Considerations

The analyses of conformance with district purposes, use permit findings for non-detriment, and the Downtown Area Plan (adopted 2012) goals and policies are provided for Board consideration. The proposed project is HAA-compliant. The following permits have been determined by the City to be included in the Base Project of the proposal, and are subject to findings in Section 65589.5(j) of the HAA in order to deny or reduce the density of the project. See section III.D for discussion of the HAA. The C-DMU District permit findings and General Non-Detriment findings discussed in sections VI.A and VI.B are provided for all permits, in addition to specific findings other permits.

A. Findings for Use Permits in C-DMU District: Pursuant to BMC Section 23.204.130(I), in order to approve any Use Permit in the district, the Board must make the findings that the proposed use or structure:

6. *Is compatible with the purposes of the district:*

   The project would include 211 dwelling units, 22 affordable units, 313 bedrooms, a 24,273-square-foot live theater facility, 22,539 square feet of usable open space, no vehicular parking, and 113 bike parking spaces. The project is located in Downtown Berkeley, is within walking distance of the University of California, Berkeley campus, and is well served by transit – the Downtown Berkeley BART station is located one block away from the site, and multiple Alameda County Transit lines run along Shattuck Avenue (approximately 100 feet away).

   The purpose of the C-DMU Downtown Mixed-Use District is to implement the vision and goals of the Downtown Area Plan (DAP). Summarized below are the principal goals of the DAP that are applicable to the project, in each of the main areas of concentration: Environmental Sustainability and Access, Land Use, Housing and Community Health and Services, Economic Development, Historic Preservation and Urban Design, and Streets and Open Space.

   - Environmental Sustainability and Access. *DAP goals: Integrate environmentally sustainable development and sustainability best practices; encourage high density, highly livable development to utilize regional transit and improve the availability of diverse walk-to destinations; promote "green" buildings; promote ecologically beneficial landscaping and stormwater features; minimize waste generated Downtown; improve options that increase access to Downtown on foot, by bicycle, and via transit; provide parking to meet the needs of Downtown,*

while discouraging commuter parking; promote transit as an efficient, attractive choice and as a primary mode of travel.

The project would be a high-density development with no vehicular parking, in proximity to regional transit, shops and amenities, and would provide more housing in the Downtown to increase access to local services and amenities by foot, by bicycle and via transit, while promoting public transit as an efficient and attractive choice through its location and through its Transportation Demand Management measures and other associated Conditions of Approval. The project is designed to achieve a LEED Platinum rating. The project would comply with the State's Model Water Efficient Landscape Ordinance (MWELO), and would feature a number of native plant species in its landscape palette.

- Land Use. *DAP goals: Encourage a thriving, livable Downtown that is a focal point for the city and a major destination for the region, with a unique concentration of housing, jobs and cultural destinations near transit, shops and amenities; new development contributes fair share toward Downtown improvements; cultivate Downtown as an attractive residential neighborhood with a range of housing opportunities, with an emphasis on affordable housing and family housing; new development enhances Downtown's vitality, livability, sustainability, and character through appropriate land use and design; enhance Downtown as a center for employment and innovative businesses.*

- Housing and Community Health and Services: *DAP Goals: Encourage Downtown as a thriving, livable, diverse residential neighborhood with a mix of supportive uses; offer diverse housing opportunities for persons of different ages and incomes, households of varying size, and persons of varying abilities; preserve existing affordable housing Downtown, and expand the supply of affordable housing to low-income, very low-income and working-class households in Downtown.*

- Economic Development: *DAP Goals: Make Downtown a more attractive regional destination, by building on Downtown's unique blend of cultural, historic, entertainment and by promoting successful retail businesses and other attractions with daytime and nighttime populations to support them; make Downtown more attractive and economically successful, encourage place-making through the preservation of historic buildings, street and open space improvements, and high-quality new construction; Invest in civic improvements (such as streets, open spaces, and community facilities) to enhance Downtown as a place to live, work, and visit; Increase the number of Downtown jobs that go to Berkeley residents, and support the development of job skills for Berkeley residents – especially Berkeley's youth; serve the housing needs of all income groups and provide a growing base of residents who support a broad range of Downtown retail and other business.*

  The project would introduce 211 new residential units, in a mix of unit sizes – studio, two-bedroom and four-bedroom units – and 22 very low-income units to

the neighborhood, to help broaden the range of household incomes in the area and contribute to diversifying housing opportunities for households of different ages, incomes, varying sizes, and abilities in the Downtown.

The project features a 24,273-square-foot live theater facility that would contribute to the Downtown's appeal as a major destination for the region, with a unique concentration of housing, jobs and cultural destinations near transit, shops and amenities, enhancing the area's vitality, livability, sustainability, and character while preserving the character of the Downtown Historic neighborhood.

- Historic Preservation and Urban Design: *DAP goals: Conserve Downtown's historic resources and unique character and sense of place; enhance areas of special character in Downtown, such as clusters of historic resources; provide continuity and harmony between the old and the new in the built environment; improve the visual and environmental quality of Downtown, with an emphasis on pedestrian environments that are active, safe and visually engaging.*

  The LPC evaluated the project design's consistency with DAP Design Guidelines and its impact to the Shattuck Avenue Downtown Historic District resource, and conditioned the project approval to provide further design refinements and to implement site/historic preservation measures, in order to enhance compatibility of building design with the Historic District.

- Streets and Open Space: *DAP Goals: Enhance public open spaces and streets to benefit pedestrians, improve Downtown's livability, and foster an exceptional sense of place; promote watershed health through the use of ecologically beneficial landscaping and other features; adequately fund Streets and open space improvements, maintenance, and cleaning; new development contributes to greenery and open space*.

  The project's 24,273-square-foot live theater facility, 211 residential units, and two public parklets on Kittredge Street would increase the number of residents in the neighborhood and would provide a new destination for both local and non-local patrons, helping to improve the Downtown neighborhood's livability and to foster an exceptional sense of place. The project would provide 12,539 square feet of private open space for residents that would comply with the State's MWELO requirements. In addition, the project would be required to contribute to the Streets and Open Space Improvement Plan (SOSIP) fund via Condition of Approval.

7. *Is compatible with surrounding uses and buildings.*

   The project site currently contains a movie theater that ceased operations in 2021. Uses on the surrounding properties include retail, an art center, an event venue public parking, restaurant, and multi-family residential. The project features a live theater facility and multi-family residential units, a similar mixture of uses that already exists on the site and in the vicinity. Thus, the project would not introduce new land

uses that do not already exist in the Downtown, and would further the vision and goals of the DAP. The LPC approved the project with conditions for further design refinement and historic preservation requirements, and deemed the project consistent with DAP design guidelines.

B. General Non-Detriment Finding: BMC Section 23.406.040 states that before the ZAB approves an application for a Use Permit, it must find that the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.

Shadows: According to the shadow studies submitted for the project (See Attachment 2, Project Plans – Sheets G008 through G010). New shadow impacts would occur 1) in the summer months and fall months around noon and in the hours before sunset on the mixed-use residential building at 2134 Allston Way to the north and the mixed-use residential buildings at 2220-40 Oxford and 2165-77 Kittredge Streets to the east; and 2) in the winter months in the hours before sunset on the mixed-use residential buildings at 2161 Allston Way and 2173-75 Allston Way to the northeast. All other new shadows would impact commercial buildings in the vicinity. The extent of the new shadow impact from the project on the site's adjacent areas would not be unreasonable for a development in the dense, downtown district that allows building heights up to 60-foot, with zero to five-foot setbacks from property lines, by right.

Non-Detriment: The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring that the project meets the non-detriment finding.

C. Administrative Use Permit for Architectural Projections to Exceed Height Limit: Pursuant to BMC Section 23.304.050(A) an Administrative Use Permit for architectural elements, such as mechanical penthouses, elevator equipment rooms or stair towers, that would exceed the maximum height limit. Such projections are limited to no more than 15 percent of the average floor area of all of the building's floors and cannot be used as habitable space or for commercial purposes. The project proposes stair and elevator elements on the roof of the Base Project that represent less than the 15 percent threshold, as shown in the Base Project diagrams on sheet G002.A.

D. Use Permit to Reduce Setbacks: Pursuant to BMC Section 23.204.130(E)(3), the ZAB may approve a permit to modify setbacks upon finding that the modifications will not unreasonably limit solar access or create significant increases in wind experienced on the public sidewalk.

The project requests reduced front, side and rear setbacks above 20 feet in building height in the Base Project. The findings in this section are not applicable to reduced setbacks above 75 feet building height that are requested waivers in the Proposed

Density Bonus Project. The setback encroachment in the Base Project would result in a minimal contribution to new shadow impact relative to the increase in shadow impact from the Density Bonus project height and reduced setbacks that are requested as waivers. See section VI.C for shadow study analysis. Thus, the setback reduction the Base Project would not unreasonably limit solar access.

A wind study was not provided to satisfy this finding. However, wind studies have been prepared for projects in the vicinity that are much taller and have similar setback reductions, and which can be used for reference analysis. A Wind and Comfort Impact Analysis was prepared in March, 2022 for an approved use permit at 2190 Shattuck, a site that is one block to the east of the subject site, for a 25-story building proposal with zero to five-foot setbacks up to 268 feet in height, that concluded that the building would not cause significant additional wind impact on the street level at Shattuck Avenue and Allston Way. Staff believes that the proposal at 2113-15 Kittredge for an 18-story building with similar setback reductions up to 203 feet in height, would also result in insignificant changes to wind patterns on the sidewalk at the site along Kittredge Street.

VII. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board **APPROVE** Use Permit #ZP2022-0144, pursuant to BMC Section 23.406.040.

Attachments:
1. Findings and Conditions
2. Project Plans, received November 8, 2023
3. Findings and Conditions for Landmark application #LMIN2022-0001, October 5, 2023 LPC hearing
4. Air Quality Assessment, dated November, 2023
5. San Francisco Bay RWQCB Oversight Agreement, dated November 16, 2023
6. Berkeley Police Department Alcohol License Recommendation, dated September 29, 2023
7. Downtown Area Plan MMRP
8. Notice of Public Hearing
9. Comment Letter – Everone, received January 2, 2024

Staff Planner: Sharon Gong, sgong@cityofberkeley.info, (510) 981-7429

This attachment is on file and available for review at the City Clerk Department, or can be accessed from the City Council Website. Copies of the attachment are available upon request.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

or from:

The City of Berkeley's Website
http://www.berkeleyca.gov

Attachment 6

NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL

ZAB APPEAL: 2113-15 KITTREDGE STREET, USE PERMIT #ZP2022-0144

The public may participate in this hearing by remote video or in-person.

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, JUNE 4, 2024** at **6:00 P.M.** a public hearing will be conducted to consider an appeal of the decision by the Zoning Adjustments Board to APPROVE **Zoning Permit #ZP2022-0144 to demolish the commercial building on a landmarked site (preserving the front façade), and construct an 18-story (203 feet, with 8-foot, 4-inch parapet), 160,734-square-foot, mixed-use building with 211 dwelling units (including 22 Very Low-Income Density Bonus qualifying units), and a 24,273-square-foot live theater space.**

The hearing will be held at the Berkeley Unified School District Board Room located at 1231 Addison Street, Berkeley CA 94702.

A copy of the agenda material for this hearing will be available on the City's website at https://berkeleyca.gov as of MAY 23, 2024. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

For further information, please contact Sharon Gong, Project Planner, (510) 981-7429 or SGong@berkeleyca.gov.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to council@berkeleyca.gov 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@berkeleyca.gov for further information.

_____

Mark Numainville, City Clerk

Mailed by: **MAY 21, 2024**

NOTICE CONCERNING YOUR LEGAL RIGHTS*: If you object to a decision by the City Council to approve or deny (Code Civ. Proc. 1094.6(b)) or approve (Gov. Code 65009(c)(5) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision 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 Zoning Adjustments Board decision, 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.*

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available by request from the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.

Office of the City Manager

ACTION CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Sharon Friedrichsen, Budget Manager

Subject: Fiscal Years 2025 and 2026 Proposed Budget and Fiscal Years 2025-2029 Capital Improvement Program

RECOMMENDATION

Receive the Proposed Fiscal Years 2025-2029 Capital Improvement Program and provide comments on the Capital Improvement Program and the Fiscal Years 2025 and 2026 Proposed Biennial Operating Budget.

FISCAL IMPACTS OF RECOMMENDATION

The Proposed Budget reflects planned citywide expenditures for Fiscal Years 2025 and 2026, including General Fund expenditures, and options to fund expenditures. The fiscal impact is subject to change based on forthcoming Council direction and will be codified with the adoption of the budget on June 25, 2024.

CURRENT SITUATION AND ITS EFFECTS

In conjunction with the biennial budget process, City staff prepare a Capital Improvement Program ("CIP") that identifies anticipated capital project expenditures over a five-year timeframe. A capital project is a project that helps maintain, improve, or adds to the City's infrastructure. Typically, a project is considered a capital project if it results in an acquisition of a new asset or new construction, improvements, expansion, renovation, rehabilitation, repairs, or replacement of an existing City facility or other infrastructure assets and has a long-term useful life of five years or more. The CIP is intended to assist in both the long-term planning and budget process, with the first two years of the CIP known as the Capital Budget that outlines the projected funding needs for Fiscal Years 2025 and 2026.

As part of the development of the Fiscal Years 2025 and 2026 Operating Budget, the Budget and Finance Policy Committee held public meetings on May 8,9, and 13, 2024 regarding the preliminary General Fund Budget and received presentations from City departments regarding departmental budgets and funding needs.[1]

[1] https://berkeleyca.gov/your-government/city-council/council-committees/policy-committee-budget-finance

2180 Milvia Street, Berkeley, CA 94704 ● Tel: (510) 981-7000 ● TDD: (510) 981-6903 ● Fax: (510) 981-7099
E-Mail: manager@CityofBerkeley.info Website: http://www.CityofBerkeley.info/Manager

City Council received an overview of the Fiscal Years 2025 and 2026 Operating Budget on May 21, 2024 and the Budget and Finance Policy Committee held another public meeting on May 22, 2024 to provide recommendations regarding the budget. These recommendations will be presented to Council as part of the upcoming June 4, 2024 Council meeting.

The FY 2025 and 2026 Proposed Budget is a Strategic Plan Priority Project, advancing our goal to provide an efficient and financially- health City government.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
Actions included in the capital improvement program and the operating budget will be developed and implemented in a manner that is consistent with the City's environmental sustainability goals and requirement

RATIONALE FOR RECOMMENDATION
This recommendation provides an opportunity for the City Council and the community to ask questions and provide input into the Fiscal Years 2025 and 2026 Proposed Budget before budget adoption on June 25, 2024.

ALTERNATIVE ACTIONS CONSIDERED
No alternative actions have been considered.

CONTACT PERSON
Sharon Friedrichsen, Budget Manager, City Manager's Office, 981-7000

Kate Harrison
Councilmember, District 4

ACTION CALENDAR
June 4, 2024

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison (Author) and Vice Mayor Bartlett (Co-Sponsor)

Subject: Amend Berkeley Municipal Code Chapter 3.78 To Expand Eligibility Requirements for Representatives of The Poor to Serve on The Human Welfare and Community Action Commission

RECOMMENDATION

Amend Berkeley Municipal Code Chapter 3.78 to expand eligibility requirements for Representatives of the Poor to serve on the Human Welfare and Community Action Commission, or any successor commission, to consider the current geographic formation of poverty in Berkeley.

POLICY COMMITTEE RECOMMENDATION

On May 1, 2024, the Agenda and Rules Committee adopted the following action: M/S/C (Arreguin/Wengraf) to send the item to the City Council with a negative recommendation. Vote: All Ayes.

CURRENT SITUATION AND RATIONALE FOR RECOMMENDATION

The Human Welfare and Community Action Commission is a body charged with addressing the social welfare of the Berkeley community, focusing on those experiencing poverty and financial hardship within our City. This commission, as defined by Section 3.78.010, consists of fifteen members, nine of which are appointed by each Councilmember and the Mayor and six of which are "Representatives of the Poor;" this refers to residents with incomes below the median area income or significant lived experience in poverty. As it stands, there are three districts (1, 2, and 3) that were identified by the 1988 Berkeley City Council, based on the 1980 census data, as having the most concentrated levels of poverty.[1] Currently, all six of the Representatives of the Poor must reside in these districts (two from each of the districts). Interestingly, despite the changing geographic landscape of poverty in Berkeley within the last 43 years, the ordinance language and participation criteria has remained largely unchanged. The requirement for service no longer accurately represents the different and changing image of poverty in Berkeley. By expanding inclusion requirements for Representatives of the Poor, the HWCA has more opportunity to secure necessary involvement and funding in addition to becoming a more representative decision-making body.

[1] "3.78.010 Creation of the Human Welfare and Community Action Commission." Berkeley Municipal Code. Accessed October 23, 2023. https://berkeley.municipal.codes/BMC/3.78.010

Substantive revisions to Chapter 3.78:

> *B. Six of the members shall be representatives of the poor, who shall ~~to~~ be elected as individuals residing anywhere within City limits who earn below the median area income or who have had significant lived experience in poverty. ~~to be elected two from each of three districts as established by the City Council and shown on the map attached hereto, made a part hereof and marked "Exhibit A" (see Ch. 3.999).~~*

The section B revision seeks to maintain the focus on representing the economically marginalized, but recognizes that the distribution of poverty within the community has shifted. City and community led homelessness initiatives, investments in residence hotels, and increased RV dwellers are just a few of the many reasons why poverty is dispersed differently across the city than it was 43 years. Additionally, displacement and gentrification, which have acutely affected West and South Berkeley neighborhoods, have also contributed to changing demographics. This amendment suggests electing representatives of the poor from anywhere within the City, based on contemporary geographical considerations, as opposed to 1980 Census data.

> *~~C. The community service block grant (CSBG) target area shall comprise the total area from which three election districts are drawn. Each district will have approximately equal numbers of poverty families utilizing data from the 1980 Census.~~*

The section C revision (amended to be section B) intends to concurrently address the issue of the changing landscape of poverty by eliminating the Community Services Block Grant (CSBG) target area. The HWAC Commission relies on CSBG funding to accomplish commission goals, but needs to fulfill certain participant criteria to be able to access the funding. Currently, because there is precarious membership, the HWAC commission's funding and resources are threatened. The proposed change expands the target area to cover the entire City, ensuring section B revision's feasibility. The CSBG target area is no longer limited to the former poverty districts drawn according to the 1980 census because the community of individuals in poverty are now spread into a wider area of the community as a result of placement of homeless individuals into residence hotels and RV parking, along with other programs, into other geographical areas.

These amendments to Berkeley Municipal Code Section 3.78.010 ensure that the Berkeley Human Welfare and Community Action Commission remains effective in addressing their goals. These revisions are crucial to be successful in representing a series of contemporary socio-economic developments and demonstrating the City's commitment to adapt to changing circumstances.

FISCAL IMPACTS OF RECOMMENDATION
No fiscal impacts.

ENVIRONMENTAL SUSTAINABILITY

This budget referral has no effect on environmental sustainability.

CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140

ATTACHMENTS

1. Revised BMC Chapter 3.78

ORDINANCE NO. –N.S.

AMENDING CHAPTER 3.78 TO THE BERKELEY MUNICIPAL CODE TO EXPAND ELIGIBILITY REQUIREMENTS FOR REPRESENTATIVES OF THE POOR

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

Section 1. That Berkeley Municipal Code Section 3.78.010 is amended to read as follows:

3.78.010 Creation of the Human Welfare and Community Action Commission.

A Berkeley Human Welfare and Community Action Commission is hereby created. The membership of such commission shall be fifteen:

A. Nine of the members shall be appointed by Berkeley City Councilmembers, in accordance with the Fair Representation Ordinance.

1. Four of the nine members of the commission appointed by the council shall be members or officials of business, industry, labor, religious, welfare, education, or major groups and interests in the community, as required by California Government Code Sections 12736(e), 12750(a)(2), and 12751, the language of which is incorporated herein by reference.

2. Representatives of private sector organizations shall be empowered to speak and act on behalf of the organizations they represent in connection with the board's business.

B. Six of the members shall be representatives of the poor, who shall ~~to~~ be elected as ~~who shall be~~ individuals residing anywhere within City limits who earn below the median area income or who have had significant lived experience in poverty. ~~two from each of three districts as established by the City Council and shown on the map attached hereto, made a part hereof and marked "Exhibit A" (see Ch. 3.999).~~

~~C. The community service block grant (CSBG) target area shall comprise the total area from which three election districts are drawn. Each district will have approximately equal numbers of poverty families utilizing data from the 1980 Census.~~

~~1. Four of the nine members of the commission appointed by the council shall be members or officials of business, industry, labor, religious, welfare, education, or major groups and interests in the community, as required by California Government Code Sections 12736(e), 12750(a)(2), and 12751, the language of which is incorporated herein by reference.~~

~~2. Representatives of private sector organizations shall be empowered to speak and act on behalf of the organizations they represent in connection with the board's business.~~

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 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.

Communications

All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

Records Online
https://records.cityofberkeley.info/

To search for communications associated with a particular City Council meeting using Records Online:

1. Select Search Type = “Public – Communication Query (Keywords)”
2. From Date: Enter the date of the Council meeting
3. To Date: Enter the date of the Council meeting (this may match the From Date field)
4. Click the “Search” button
5. Communication packets matching the entered criteria will be returned
6. Click the desired file in the Results column to view the document as a PDF