



PROCLAMATION CALLING A SPECIAL MEETING OF THE BERKELEY CITY COUNCIL

In accordance with the authority in me vested, I do hereby call the Berkeley City Council in special session as follows:

**Tuesday, October 28, 2025
4:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702
TELECONFERENCE LOCATION - 522 SEWARD SQUARE SOUTHEAST, B,
WASHINGTON, DC 20003

ADENA ISHII, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI

DISTRICT 2 – TERRY TAPLIN

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – IGOR TREGUB

DISTRICT 5 – SHOSHANA O'KEEFE

DISTRICT 6 – BRENT BLACKABY

DISTRICT 7 – CECILIA LUNAPARRA

DISTRICT 8 – MARK HUMBERT

*This meeting will be conducted in a hybrid model with both in-person and virtual attendance. Attend this meeting remotely using [Zoom](#). To request to speak, use the “raise hand” function in Zoom. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter **Meeting ID: 160 045 1102**. To provide public comment, Press *9 and wait to be recognized by the Chair. To submit a written communication for the public record, email council@berkeleyca.gov.*

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This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting, however, if you are feeling sick, please do not attend the meeting in person. 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.

Government Code Section 84308 (Levine Act) - Parties to a proceeding involving a license, permit, or other entitlement for use are required to disclose if they made contributions over \$500 within the prior 12 months to any City employee or officer. Parties and participants with a financial interest are prohibited from making more than \$500 in contributions to a decisionmaker for the 12 months after the final decision is rendered on the proceeding. The above contribution disclosures and restrictions do not apply when the proceeding is competitively bid, or involves a personnel or labor contract. For more information, see Government Code Section 84308.

Preliminary Matters

Roll Call:

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 the Action Calendar public comment period on the 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. If ten or fewer persons are interested in speaking on an individual agenda item, each speaker 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.

The Presiding Officer may open and close an additional comment period for Action items on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters), at the start of the Action Calendar. 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 – New Business

1. Ashby BART East Lot Transit Oriented Development Request for Proposal Framework

From: City Manager

Recommendation:

1. Review and provide feedback on the Request for Proposal (RFP) Framework and Draft Design Standards to inform a draft RFP for the Ashby BART East Lot Transit Oriented Development.
2. Adopt a Resolution authorizing the City Manager, or designee, to expend Housing Trust Fund dollars to acquire real property at the Ashby BART East Lot in accordance with the Exchange Agreement, authorized by Ordinance 7,939-N.S.

Fiscal Implications: See report

Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

Adjournment

I hereby request that the City Clerk of the City of Berkeley cause personal notice to be given to each member of the Berkeley City Council on the time and place of said meeting, forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the City of Berkeley to be affixed on this 23rd day of October, 2025.

/s/ Adena Ishii, Mayor

Public Notice – this Proclamation serves as the official agenda for this meeting.

ATTEST:



Mark Numainville, City Clerk

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

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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, and through the City's online records portal: <https://records.cityofberkeley.info/>.

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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:

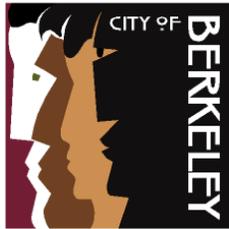
This meeting is being held in a wheelchair accessible location.

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

Please refrain from wearing scented products to this meeting.



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.



Office of the City Manager

ACTION CALENDAR

October 28, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Scott Gilman, Director, Health, Housing, and Community Services

Subject: Ashby BART East Lot Transit Oriented Development Request for Proposal Framework

RECOMMENDATION

1. Review and provide feedback on the Request for Proposal (RFP) Framework (Attachment 2) and Draft Design Standards (Attachment 3) to inform a draft RFP for the Ashby BART East Lot Transit Oriented Development.
2. Adopt a Resolution authorizing the City Manager, or designee, to expend Housing Trust Fund dollars to acquire real property at the Ashby BART East Lot in accordance with the Exchange Agreement, authorized by Ordinance 7,939-N.S.

SUMMARY

Beginning in 2018, the City and BART collaborated to plan transit-oriented development at the Ashby and North Berkeley BART sites. In 2024, BART and the City agreed that the City would relinquish its air rights over the West Lot in exchange for ownership of the East Lot. The agreement included some requirements about the future use of the East Lot and how the City will select development partners.

Council previously reserved \$26.5 million to achieve affordable housing goals, funded through Measure O bonds and Affordable Housing Mitigation Fees (AHMF) at the Ashby BART sites, of which \$8 Million will be made available for affordable housing on the East Lot.

Health, Housing, and Community Services (HHCS) staff developed a draft framework for soliciting development proposals for the East Lot which are intended to serve as the basis for a forthcoming RFP and NOFA. The East Lot Framework details submission requirements, a selection process, proposal requirements (or thresholds), and City goals for the site. Proposals will be evaluated relative to the criteria detailed in the East Lot Framework (attached). Adoption and Implementation of the East Lot Framework will be subject to compliance with the Surplus Lands Act, which the City is discussing with BART and the California Department of Housing and Community Development (“HCD”) at this time.

The project requirements were established through past Council actions, such as approval of the Ashby BART Station Transit-Oriented Development Exchange Agreement with BART, the Joint Vision and Priorities (JVP) for Transit-Oriented Development for Ashby and North Berkeley BART Stations, and other Council actions. Key proposal thresholds include:

- At least 35% of housing must be affordable, of which 20% shall be affordable to Extremely Low Income (ELI) households (7% of total units shall be ELI)
- At least 300 bedrooms
- Project must generate resources for the South Berkeley Community Fund

Project goals were identified in past Council actions, recent community planning efforts, the JVP, and through a stakeholder meeting HHCS held in the summer of 2025. Key goals include:

- 50% of housing is permanently affordable
- Maximize the number of new homes on the site
- Housing for seniors, families, people with physical or mental disabilities, and/or formerly homeless people.
- Creating homeownership opportunities for households in South Berkeley

The Planning and Development Department developed Draft Design Standards for the East Lot which are intended to be incorporated into the RFP. The proposed standards, once finalized, are intended to function as the site-specific Objective Design Standards, addressing project design, including requirements for open space, access drives, ADA loading zones, upper-story setbacks, and high-quality building materials. City staff intend to provide flexibility in the RFP to encourage creative, financially feasible proposals.

Consistent with the Exchange Agreement, the City Manager plans to establish an evaluation committee to review proposals for the East Lot. A shortlist of proposers will be invited for interviews and public presentations. The Evaluation Committee will recommend a development team for the East Lot and HHCS will seek Council's approval to negotiate an Exclusive Negotiating Agreement (ENA) and Ground Lease with the selected team.

FISCAL IMPACTS OF RECOMMENDATION

Costs to the City include staff time and expenses related to drafting of the RFP. Council authorized a contract with the housing development consulting firm Street Level Advisors, to support City staff on work related to the development of the BART sites.

Acquisition costs associated with East Lot are expected to be less than \$500,000. Ordinance 7,939-N.S. authorized the disbursement of funds from the General Fund, but if no funds from the General Fund are available, staff recommend using designated

Housing Trust Fund dollars reserved for the Ashby BART East Lot. Ashby East Lot funds, in accordance with Resolution 69,833-N.S. are to be sourced from Measure O bond funds (Fund #512) and Affordable Housing Mitigation Fees (Fund #120). These costs will be fully recovered, if possible through future East Lot agreements, including a possible ground lease, land sale or exclusive negotiation agreement. Funds needed for the acquisition of the Ashby East Lot would be added to the City's budget through the Annual Appropriations Ordinance process.

CURRENT SITUATION AND ITS EFFECTS

BART owns two key sites near the Ashby station: The West Lot, which surrounds the BART station west of Adeline, and the East Lot, which is adjacent to Ed Roberts Campus (Figure 1). The East Lot is a 1.826-acre site located between Adeline Street and Tremont Street. BART currently owns and operates the East Lot as a fee-based parking lot for the Ashby BART station.



Figure 1. Ashby BART East Lot and West Lot, both currently owned by BART. The City intends to acquire the East Lot, per the Exchange Agreement.

Starting in 2018, the City in collaboration with BART initiated a multi-phase planning process which included land use and infrastructure planning. The City has taken several actions to implement the community vision for the area including the actions listed below and discussed in more detail in the Background section of this report.

- Dedicated \$26.5 Million in Housing Trust Fund (HTF) dollars to the Ashby East and West lots.
- Established a Community Advisory Group (CAG) comprised of a Council-appointed 15-member committee and engaged in a series of community engagement and stakeholder meetings from 2020-2021.
- Adopted updated zoning for the area, consistent with AB 2923.

- Adopted several agreements with BART specifying the agreements about future development on the site including a Memorandum of Understanding (MOU) and Joint Vision and Priorities (JVP).
- Adopted ordinance 7,939-N.S., authorizing an exchange agreement with BART, securing the City's right to ownership of the East Lot in exchange for providing BART with the West Lot air rights. This document is referred to as the "Exchange Agreement".

The City will acquire the East Lot for the purposes of implementing the community vision and creating new transit-oriented housing, including permanently affordable housing. The Exchange Agreement includes several City commitments about the future use of the East Lot, including details on how the City will pursue development proposals. The proposed East Lot Framework, discussed in the next section, builds on the recent planning work, proposes a framework for soliciting development on the site and provides a timeline to accomplish the steps necessary to create new homes on the East Lot.

From Planning to Building Housing

The Planning and Development Department led community planning, technical work and coordination with BART for the Adeline corridor including the Ashby BART East and West Lot Transit Oriented Development (TOD). HHCS will lead the implementation work for the East Lot, including soliciting development proposals, facilitating the evaluation of proposals, and ongoing negotiations with the future development team. HHCS in conjunction with the Planning and Development Department and the City Manager's Office developed an East Lot Development Solicitation Framework (East Lot Framework) and project timeline.

Creating the East Lot Development Solicitation Framework

Earlier this year HHCS, in close coordination with the City Manager's Office, the City Attorney's Office, and the Planning and Development Department, began work to establish the East Lot Framework (Attachment 2).

In developing the East Lot Framework, HHCS consulted all planning documents and council actions relevant to the East Lot (discussed in more detail in the Background Section). Some of these documents, such as the Exchange Agreement, included commitments the City made about future development on the site. These commitments are terms of the City's right to acquire the East Lot. Those requirements are included in the East Lot Framework as threshold requirements that all proposals must meet. Other elements of recent planning documents reflected community and City goals for the site. These goals are included in the East Lot Framework and proposers will be incentivized to achieve the various goals.

Then, HHCS reviewed relevant existing City policies and programs, including the HTF Guidelines, the Zoning Code, and related requirements of City contracts. Also, HHCS reviewed recent solicitations for development on publicly owned land, including North Berkeley BART, the Ashby West Lot, and the City's most recent public lands project, Berkeley Way. The East Lot Framework includes known requirements for the site from various City codes and policies, as well as standard terms included in recent HHCS NOFAs.

Finally, HHCS hosted a stakeholder meeting on July 17, 2025. Key South Berkeley stakeholder groups were invited to review the East Lot Framework and provide input on additional considerations. The stakeholder priorities include high and deep levels of affordability, prioritization of a higher number of ADA accessible units as well as general incorporation of Universal Design elements, and that development teams demonstrate experience with projects addressing the needs of Black/African American communities. Stakeholders suggested that proposers acknowledge and respond to the East Lot's proximity to the Ed Roberts Campus. Generally, participants supported the proposed East Lot Framework (see Attachment 3 for attendees and notes).

This report is intended to provide the community an opportunity to review and provide input on the proposed framework, and for Council to provide input and guidance to inform a draft RFP.

The East Lot Framework

The East Lot Framework establishes the framework the City of Berkeley plans to use to solicit development proposals for the East Lot. The City intends to provoke ambitious and creative responses from the development community. Specifically, the City intends to seek proposals that meet and exceed basic requirements and artfully achieve community and City goals. For this reason, the East Lot Framework intends to offer a measure of flexibility for respondents while standing firm on the key priorities and project requirements.

The East Lot Framework:

- Identifies the key submission components.
- Describes the East Lot proposal evaluation process, including an evaluation committee.
- Identifies East Lot proposal thresholds or required project elements.
- Describes the Evaluation Criteria and Project Goals which will be incentivized through the evaluation process.

Key submission components. Development teams will be asked to submit a detailed proposal including a development concept, details about the development team's experience, a proposed schedule, a proposed community engagement plan, a

reparative framework narrative, and a financing plan, including a fair market proposal for the land.

Proposal Evaluation. Proposals will be evaluated by a committee relative to the thresholds, criteria and goals provided by the East Lot Framework. A five-member evaluation committee will evaluate the projects, with more detail described below. Teams with high scoring proposals will be invited to participate in a public presentation and an interview with the evaluation committee.

East Lot Proposal thresholds, required project elements. Project proposals must meet or exceed threshold requirements. Threshold requirements are established in the Exchange Agreement with BART, as a term required for the City to acquire the East Lot; or terms in other City requirements such as the HTF Guidelines. Key thresholds include:

- Minimum densities: 300 Bedrooms, and 248 units.
- 35% affordable to low-income households (averaging up to 60% Area Median Income, of which 20% is reserved for Extremely Low Income (ELI).
- Minimum contribution to the Community Benefits fund for South Berkeley.
- Minimum developer experience

East Lot Proposal Evaluation Criteria and Goals. Proposals will be evaluated based on the East Lot Framework criteria, including standard evaluation criteria and project goals, which proposals will be incentivized to achieve. The most successful projects will achieve the evaluation criteria and also achieve one or more of the project goals. Some of the Evaluation Criteria and Project Goals are established in the Exchange Agreement, the JVP or the City's HTF Guidelines.

Fifty percent affordability will be heavily incentivized through the evaluation process. This level of affordability was achieved at the North Berkeley BART Station and required at the Ashby BART Station West Lot.

A reparative framework is critical, as indicated in the key documents including the JVP and Exchange Agreement. The Exchange Agreement establishes a threshold requirement for proceeds from the East Lot project to establish and support a South Berkeley Fund, with a minimum annual contribution of \$150,000. Projects whose proposals also address impacts on Black/African American businesses and cultural institutions will also receive additional points.

Developer Selection Process

Upon Council's direction, HHCS intends to prepare an RFP and NOFA to solicit development proposals for the East Lot. The RFP and NOFA are intended to reflect the East Lot Framework and provide details on the site to enable detailed proposals for the City's consideration. HHCS intends to issue the RFP in the first quarter of CY2026; however, the precise timeframe is subject to compliance with the Surplus Lands Act.

HHCS will convene an evaluation committee to review all submitted development proposals. The five-member Evaluation Committee will include three representatives from the City of Berkeley, one representative from BART, and one representative from Equity 4 Black Berkeley, or similar South Berkeley community organization pending availability and community interest. The committee will evaluate proposals based on the criteria detailed in the East Lot Framework. Teams with high scoring proposals will be invited to participate in a public presentation and an interview with the evaluation committee. HHCS anticipates this evaluation process will occur over the fourth quarter of fiscal year FY2026 and first quarter of FY2027.

HHCS intends to seek Council approval to initiate negotiations with the top-ranking development team. The City expects to negotiate an ENA, Ground Lease and predevelopment loan agreement with the selected team. City staff presume a ground lease structure, but will entertain alternative land ownership structures, particularly for highly competitive projects, aligned with top City and community priorities. HHCS anticipates this process will occur over the third and fourth quarter of CY2026.

The selected development team will lead a community engagement process as part of their project refinement and subsequent entitlement process. Once the project receives entitlements, HHCS will negotiate a development loan agreement and other necessary documents identified in the ENA or Ground Lease.

The development team will lead all pre-development work including securing additional funding, pursuing relevant permits and approvals, and constructing new housing.

NOFA for the East Lot

HHCS anticipates releasing the aforementioned NOFA in conjunction with the RFP to enable a nonprofit developer on the selected team to access up to \$1M in predevelopment funds. These funds, as authorized by City Council resolution 69,833 N.S., will provide the selected developer or development team with crucial early funding to pursue construction and permanent financing for the project. The NOFA will ask the development teams to provide documentation to demonstrate compliance with the HTF guidelines, including demonstration of development experience, nonprofit status and project details. The affordable housing developer may request the remaining \$7M allocated to the East Lot when the individual affordable housing projects are further along in predevelopment.

The City typically provides two types of loans through the HTF: 1) predevelopment loans that are short-term (five years) and allow developers to assess project feasibility to better position the project to pursue competitive funding at the state level; and 2) development loans that are longer term (55 years), and are closed after all other funding is secured, just prior to construction start.

Other Resources and Incentives for Affordability

The City has taken every effort to enhance the development opportunity at the East Lot, with the intention of enticing excellent proposals which both maximally achieve the City and community goals for the site and offer the maximum return on the City's land.

Recent community planning, re-zoning, site specific design standards and detailed goals for the project establish clear expectations and enable a more direct review and approval process for consistent projects. Further, the East Lot is not expected to build or fund offsite infrastructure improvements beyond the standard improvements on adjacent sidewalks, as required by all development projects. In preparation for the RFP, the City has advanced some pre-development work on the site, including some environmental analysis (Phase II), Title work, and related activities. These materials will result in more informed proposals and reduce costs for proposers.

To incentivize affordable housing, the City has made an early and meaningful financial commitment of \$8 million, some of which will be made available to support predevelopment costs. Development teams may propose land discounts for affordable housing, and therefore projects offering more affordability could receive greater land discounts. Also, projects may qualify for entitlement under SB 35.

As a further step, the City will include guidance in the RFP on working with the Berkeley Housing Authority to follow federal guidelines to seek Project Based Vouchers (PBVs). This option would be open to projects that are consistent with federal rules and requirements, based on their success in the East Lot proposal evaluation process.

Planning Considerations – Draft Design Standards

The East Lot is zoned B-RMU (BART-Residential Mixed-Use), which allows residential and non-residential uses.

The Draft Design Standards for the Ashby East Lot propose Objective Design Standards to guide redevelopment of the Ashby East Lot. The standards complement the underlying R-BMU zoning and set clear parameters for site planning, building massing, facade design, and open space. They are intended to balance neighborhood compatibility, pedestrian access, and public realm improvements with the feasibility of delivering new housing and community-serving development. The standards will be included in the forthcoming RFP, providing clarity to respondents and allowing them to assess how the requirements may affect project design and cost. As part of the RFP process, respondents will also have an opportunity to provide feedback on the design standards and raise any concerns about how the requirements may impact project feasibility.

Key items addressed in the Draft Design Standards include:

- Required access drive and ADA loading spaces to serve the Ed Roberts Campus
- Publicly accessible open space located along public streets
- Sidewalk widening and street tree planting along Tremont and Woolsey Streets
- Ground floor residential setbacks and design to ensure privacy and active frontages
- Upper-story setbacks above the 4th story and limits on maximum continuous facade length
- Fenestration and material requirements to ensure high-quality building design

These standards would provide a consistent framework for evaluating proposals while ensuring that new development meets community priorities for open space, streetscape improvements, and design quality. (Refer to Figure 2)

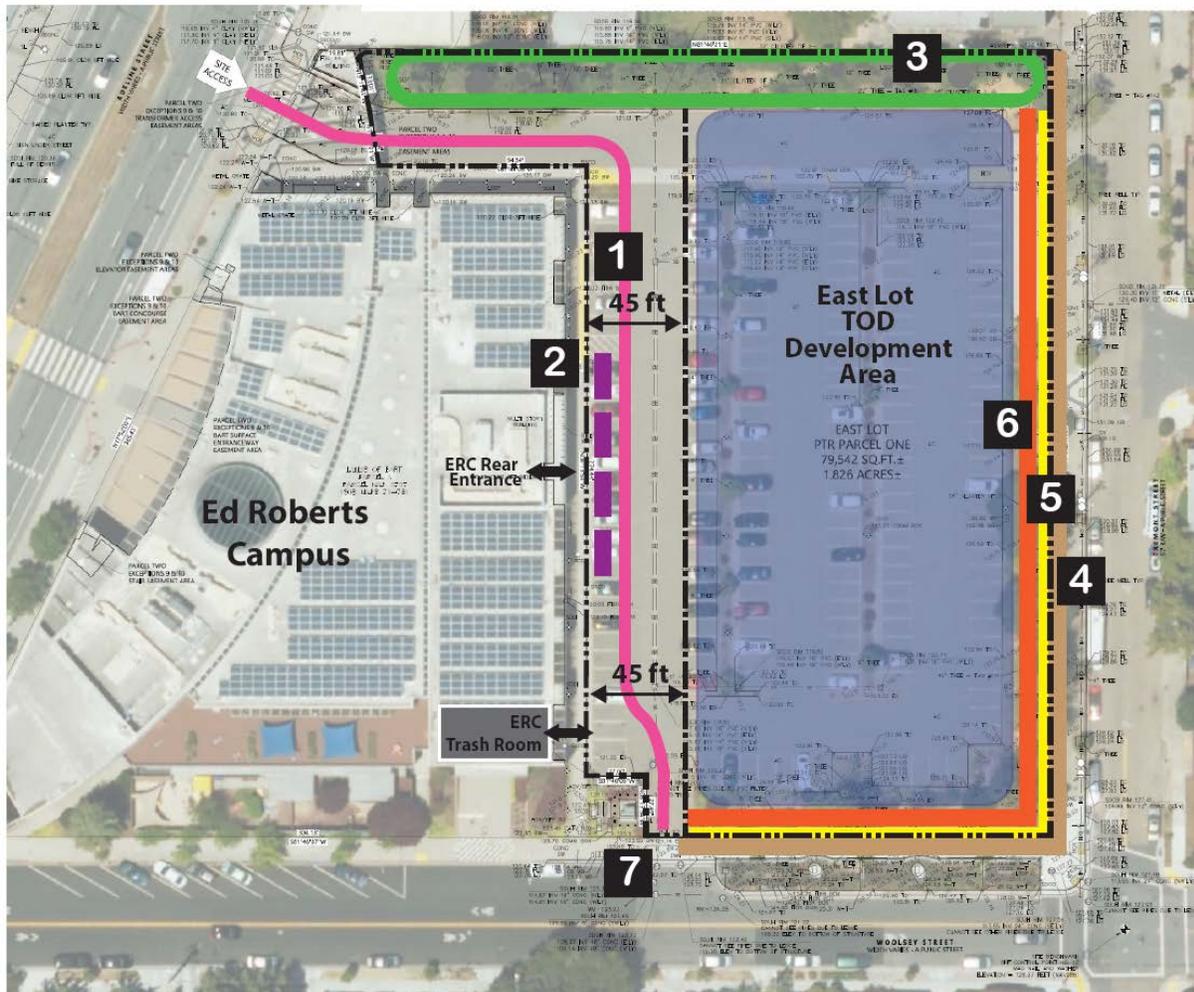


Figure 2 Legend –

1. Provide access drive from Adeline St to Woolsey St; Minimum 45 feet easement width required from west property line (approximate width, see 08.14.2008 *Reciprocal Easements Agreement* for more detail)
2. Provide 4-6 ADA loading spaces for Ed Roberts Campus
3. Maintain existing trees and landscape buffer
4. Improve sidewalks
5. Building Setback: minimum 5 ft to 15 ft
6. Step back upper story facades above the 4th story
7. Woolsey Street Access: Woolsey Street vehicle access shall be maintained for emergency vehicles, refuse removal, and vendors, commercial carriers, and other parties to make deliveries to the ERC building. Private vehicles may be limited to Adeline Street access point to reduce traffic conflicts with the bicycle boulevard on Woolsey Street"

Acquiring the East Lot

Ordinance 7,939-N.S. authorized the City to enter into the Exchange Agreement and acquire the Ashby East Lot and authorized the use of funds from the General Fund to effectuate that acquisition. General Fund dollars were not allocated for this purpose in the City's FY2026 budget. If it is beneficial to the City to acquire the Ashby East Lot site before General Fund dollars are available, the proposed Council action would enable the City to use a portion of the Housing Trust Fund reservation (Measure O and AHMF) set aside to support the development of affordable housing at the Ashby East Lot site.

The Exchange Agreement includes section 4.6.1, which states that each party shall pay fees of its own counsel, and section 4.6.2, which details costs the City of Berkeley is responsible for. These costs include but are not limited to 100% of documentary real property transfer tax, 50% of the fee charged by escrow holder, any premiums for the Title Policy of any Buyer's endorsements requested by the City, the recording fees for the East Lot deed, East Lot covenants, and any other documents recorded on behalf of the City. These costs are anticipated to be less than \$500,000 and are expected to be recovered from future East Lot agreements, such as a ground lease or purchase and sale agreement. The HTF Funds would not be used to subsidize market rate development at the site.

BACKGROUND

Since 2018, the City has been working closely with BART on the development of the North Berkeley and Ashby BART sites. The two entities entered into an MOU in March 2020 that provided a framework for the collaboration, including processes for public participation and an estimated timeline for selecting developers.

The MOU was amended in December 2020 to reflect schedule delays due to the pandemic. The City subsequently created the CAG, made up of 15 members of the public to develop a vision for affordable housing, land use, station access, building form, and new public spaces. The CAG met throughout 2020 and 2021 at public meetings and community workshops and provided feedback on the new zoning regulations impacting the BART sites. The City and BART entered into a Memorandum of Agreement (MOA) in June 2022 to address additional aspects of the collaboration. Concurrent to the public engagement process, the Berkeley City Council unanimously adopted Resolution 69,833- N.S. in April 2021 which, in part, provisionally reserved \$53

million of City controlled funds as the subsidy needed to achieve at least 35% affordable housing at the North Berkeley and Ashby BART Station sites and allowed for a portion of the funding to be allocated to predevelopment uses. In accordance with Resolution No. 69,833-N.S., the \$53 million is comprised of \$40 million in bond funds pursuant to Measure O passed by Berkeley voters on November 6, 2018, and \$13 million in AHMF. \$26.5 million was allocated to the developer team selected for the North Berkeley BART site. \$18.5 million of the total BART funds are available to support affordable housing on the Ashby West Lot, for which a developer was selected in July 2025. The remaining \$8M in funds will be designated for the Ashby East Lot.

Subsequently, the City and BART co-authored two key documents that have been referenced throughout this report. First, the JVP outlines the City and BART's shared vision for the Berkeley TOD developments, and includes among others the following priorities that apply to the East Lot:

- Maximize the number of new homes, with a variety of unit sizes
- Provide affordable housing, with a minimum 35% affordability of housing
- Expand the availability of green space for the neighborhood
- Prioritize the inclusion of residents with disabilities, specifically at the East Lot
- Prevent displacement of South Berkeley residents
- Reinforce South Berkeley's historic role as a hub for African American culture and life in the Bay Area

Also, informed by the JVP, CAG, and additional analysis, the Exchange Agreement was approved by council in ordinance 7,939-N.S. and finalizes the terms of a land exchange. In this exchange, the City relinquishes its air rights over the West Lot and any interests in the West Lot parcel, with the exception of utility easements. In return, BART will transfer full ownership of the East Lot to the City. This agreement builds on a previously approved nonbinding Term Sheet and includes provisions ensuring significant community benefits which have been outlined earlier in this report – most notably, minimum affordable housing requirements (50% on the West Lot and 35% on the East Lot), public spaces, infrastructure improvements, and compliance with City design standards and AB 2923. The property transfers and development will proceed in phases, contingent on developer selection and satisfaction of specified conditions.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The proposed RFP would require developers to demonstrate experience building energy-efficient, sustainable developments.

Additionally, creating new infill affordable housing in Berkeley that allows lower income individuals and families to live closer to transit will advance the goal of making the City more economically and racially equitable, and reduces greenhouse gas emissions by reducing vehicle-miles-traveled and decreasing reliance on personal vehicles.

ALTERNATIVE ACTIONS CONSIDERED

Today's action implements prior Council actions, especially the Exchange Agreement. HHCS staff has not considered any alternative actions. Council has authorized the ownership exchange, development, and developer selection process as outlined in the Exchange Agreement.

CONTACT PERSON

Jenny Wyant, Program Manager, HHCS, (510) 981-5228
Kelly deWolfe, Community Development Project Coordinator, HHCS, (510) 981-5424
Uttara Ramakrishnan, Associate Planner, Planning and Development Department,
(510) 981-7483

Attachments:

1. Resolution – Authorizing the Use of Housing Trust Fund Dollar to Acquire Real Property Located at Ashby East Lot
2. East Lot Developer Selection Framework (developed by Street Level Advisors)
3. Ashby BART East Lot TOD RFP Design Standards
4. July 2025, East Lot Stakeholder Meeting Notes
5. Ed Roberts Campus Reciprocal Easement Agreement

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

AUTHORIZING THE USE OF HOUSING TRUST FUND DOLLARS TO ACQUIRE
REAL PROPERTY LOCATED AT ASHBY EAST LOT

WHEREAS, the City and the San Francisco Bay Area Rapid Transit District (BART) are collaborating on the development of the North Berkeley and Ashby BART sites, and articulated shared goals in a Memorandum of Understanding, Memorandum of Agreement, Joint Vision and Priorities for Transit-Oriented Development for Ashby and North Berkeley Stations, and Ashby BART Station Transit-Oriented Development Exchange Agreement (Exchange Agreement); and

WHEREAS, on December 3, 2024, the City Council adopted Ordinance 7,939-N.S., which, in part, authorized the City Manager or designee to execute the Exchange Agreement and acquire the Ashby BART East Lot; and

WHEREAS, the Section 4.6.1 of the Exchange Agreement states that each party shall pay fees of its own counsel, and Section 4.6.2 details costs the City of Berkeley is responsible for, including but not limited to: 100% of documentary real property transfer tax, 50% of the fee charged by escrow holder, any premiums for the Title Policy of any Buyer's endorsements requested by the City, the recording fees for the East Lot deed, East Lot covenants, and any other documents recorded on behalf of the City; and

WHEREAS, Ordinance 7,939-N.S. authorizes the use of funding from the General fund for the costs listed above; and

WHEREAS, on April 27, 2021, the City Council passed resolution 69,833 N.S., which, in part, reserved \$40 Million in Measure O bond funds and \$13 million in Affordable Housing Mitigation Fees (AHMF) from the Housing Trust Fund to fund affordable housing at the North Berkeley and Ashby BART stations, of which \$8 Million is available to support the development of affordable housing on the Ashby East Lot; and

WHEREAS, the total City costs are limited to those described in the Exchange Agreement as well as any holding costs incurred from the time the City acquires the Ashby East Lot to the time the City transfers the site to the selected development team via future ground lease or sale agreement; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves the reservation of an amount not to exceed \$500,000 of the previously designated \$8 Million AHMF or Measure O bond funds for the limited purposes of acquiring and maintaining the East Lot for future housing development, if funding from the General Fund is not available.

BE IT FURTHER RESOLVED that the City Manager, or designee, shall seek to fully recoup these closing costs through future East Lot agreements, including a possible ground lease, land sale or exclusive negotiation agreement. In no case will the Housing Trust Funds be used to subsidize market rate development.

BE IT FURTHER RESOLVED that the City Manager, or designee, is hereby authorized to execute all original or amended documents or agreements in accordance with the intent of this Resolution; a signed copy of said documents, agreements, and any amendments will be kept on file in the Office of the City Clerk.

Ashby BART East Lot Developer Selection Framework

This document establishes the framework the City of Berkeley intends to use to solicit development proposals for the Ashby BART Station East Lot (East Lot).

- Section 1: East Lot Proposals – Key Submission Components
- Section 2: Proposal Evaluation and Selection
- Section 3: Proposal Thresholds for East Lot.
- Section 4: East Lot Proposal Evaluation Criteria and Goals

Section 1: East Lot Proposals – Key Submission Components

Respondents will be asked to submit proposals which include:

- A letter of intent describing the development team and their interest in the East Lot.
- A detailed description of the development team, including their relevant experience in community engagement, design, development and affordable housing; and their organizational capacity to implement their proposal.
- A preliminary development concept plan, including a Site Plan, Elevations, and Sections that demonstrates proposed layout, uses, facades, massing, design and aesthetics, and renderings.
- A development program that meets or exceeds East Lot thresholds and goals, as defined in this solicitation.
- A description of how the program maximizes the number of new homes
- A proposed project schedule, including any detail on phasing and marketability.
- A community engagement proposal, including detail on the team's approach to community outreach.
- A reparative framework that demonstrates how their proposal addresses the negative impacts to African American residents, businesses, and cultural institutions displaced by construction of the Ashby BART Station.
- A financial proposal for the lease of the East lot, which offers a fair market value for land, provides funds for the Community Benefits Fund for South Berkeley (as described in the Exchange Agreement and summarized below), and may assume discounts for permanently affordable housing.
- A development financing plan, which details the project's expected financial structure including potential sources (amounts of equity and debt financing, and any expected public financing) and uses of funds.
- An Affordable Housing Compliance Plan, which describes proposals to meet affordable housing requirements, including developer contributions to affordable housing.

- A detailed proforma demonstrating how the development team could potentially achieve 50% Affordable Housing.
- Additional materials demonstrating compliance with various City programs and codes, including City labor requirements, Affordable Housing Preference Policy, various sections of the Zoning Code including Public Art on Private Projects, Transportation Demand Management, and other local requirements as deemed relevant.

Section 2: Proposal Evaluation and Selection

The Health, Housing, and Community Services (HHCS) Department will establish an Evaluation Committee for the East Lot Request for Proposals and Notice of Funding Availability. The five-member Evaluation Committee will be appointed by the City Manager and will include three representatives from the City of Berkeley, one representative from BART, and one representative from Equity 4 Black Berkeley, or similar south Berkeley community organization pending availability and interest. The Evaluation Committee will review and score proposals in accordance with the City of Berkeley East Lot Project Goals. A short list of top scoring proposals, will be invited to interview with the Evaluation Committee and make presentations to the public. The Evaluation Committee will score interviews and presentations and recommend the most qualified respondent to the Director of HHCS and City Council for approval. Upon selection by the City Council, next steps will include an Exclusive Negotiation Agreement (ENA), a ground lease, and a Housing Trust Fund predevelopment loan.

Section 3: Proposal Thresholds for East Lot

Project proposals must meet or exceed threshold requirements. Threshold requirements are established in the Exchange Agreement with BART, as a term required for the City to acquire the East Lot; or in other City regulations such as the Housing Trust Fund Guidelines. The City committed to these thresholds in prior Council actions.

Project thresholds for the East Lot will include:

	Threshold Requirement	Related Document
1	Minimum 300 bedrooms.	Exchange Agreement
2	Minimum 35% affordable to low-income households (averaging up to 60% Area Median Income, of which 20% is reserved for Extremely Low Income (ELI).	Exchange Agreement
3	Contribute Community Benefits fund for South Berkeley at a minimum of \$150,000 annually, plus indexing, beginning at stabilized occupancy or before the project’s fourth year of occupancy, whichever comes first.	Exchange Agreement
4	Minimum Developer Experience	HTF Guidelines

Section 4: East Lot Proposal Evaluation Criteria and Goals

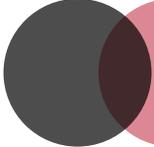
All proposals will be evaluated based on the criteria summarized in the table below. The first column describes the standard evaluation criteria the Evaluation Committee will be apply to all proposals. The second column identifies Project Goals that proposals will be incentivized to achieve through the evaluation process. The most successful projects will achieve the Evaluation Criteria and also achieve one or more of the Project Goals.

Some of the Evaluation Criteria and Project Goals are established in the **Exchange Agreement (shown in bold)**. Some Project Goals are established in the *Joint Vision and Priorities (Shown in Italics)*. Many of the Evaluation Criteria are reflected in the City’s Housing Trust Fund Guidelines.

Fifty percent affordability will be heavily incentivized through the evaluation process. This level of affordability was achieved at the North Berkeley BART Station and required at the Ashby BART Station West Lot. Proposers may be incentivized to levels of affordability greater than the 35% required through greater potential land discounts. Also, proposals that achieve the City’s 50% affordability goal would qualify for expedited entitlement through SB 35.

EVALUATION CRITERIA	PROJECT GOALS, INCENTIVIZED
1. PRELIMINARY DEVELOPMENT CONCEPT AND PROPOSED PROJECT. 25%	
Maximizes housing, units and bedrooms.	
Affordability Plan. Proposal meets or exceeds affordability thresholds. Proposal reflects reasonable assumptions for State and local funding.	<ul style="list-style-type: none"> ● 50% affordable housing. ● Prioritizes specified amounts of low and Very Low-Income housing. ● Project creates Homeownership opportunities in South Berkeley.
Households served, especially affordable housing.	<ul style="list-style-type: none"> ● <i>Prioritize the inclusion of residents with disabilities, who are likely to benefit from proximity to the Ed Roberts Campus</i> ● <i>Housing for seniors, families, people with physical or mental disabilities, and/or formerly homeless people.</i> ● A creative and innovative approach to universal design.
Reparative Framework. Describe how the proposal addresses the negative impacts to African American residents, businesses, and cultural institutions.	<ul style="list-style-type: none"> ● Proposals directly address the negative impacts to African American residents, businesses and cultural institutions.
Project Design conforms with City Design Standards.	
Project Feasibility. Proposal demonstrates a deep understanding of each proposed product type (Market rate and affordable). Proposal balances market feasibility with project goals.	

EVALUATION CRITERIA	PROJECT GOALS, INCENTIVIZED
2. QUALITY OF DEVELOPMENT TEAM EXPERIENCE. 15%	
Master Planning. Development team has successfully completed comparable, mixed-use projects at similar scale including new construction of projects with multiple buildings and mid-rise housing of 6+ floors.	
Public Private Partnerships. Development team has experience with joint development on public land, especially ground lease deals.	
Design team is experienced with projects reflecting the broader community vision.	
Design team has demonstrated Universal Design experience and expertise.	
Community Engagement. Experience leading effective community dialogue about design and programming of sites, and possible tradeoffs. Experience addressing concerns related to development impact from neighboring residents, business, and property owners.	
3. DEVELOPMENT TEAM FIT. 10%	
Financial capability of team. Demonstrated ability to secure funding and financing for similar projects.	
Nonprofit/Community Based Organization. Team includes a nonprofit, especially for affordable housing development roles.	
Acceptance of City's proposed transaction terms. Willingness to execute ENA in substantially the same form provided.	
4. ROLES AND RESPONSIBILITIES. 10%	
Firms identified offer strong overall qualifications for key predevelopment needs. Project manager experience is highly relevant to this Project.	
If a team, relationship between parties is clearly defined, as exhibited by Joint Venture (JV) agreement or similar.	
If supportive housing is included in program, team includes service provider with demonstrated success serving the population identified.	
5. FINANCIAL OFFER. 20%	
Financial Assumptions are reasonable and realistic.	
Proposal includes reasonable values and schedule of ground lease payments.	
Proposal includes resources for the Community Benefits Fund for South Berkeley residents.	
6. PUBLIC PRESENTATION. 8%	
Ability to present in public setting, communication skills.	
7. TEAM INTERVIEW. 12%	
Understanding of the issues. Ability to balance the needs of multiple stakeholders. Ability to address critical issues; Ability to think strategically. Presentation, interview and communication skills.	



Ashby BART East Lot TOD RFP Design Standards

Admin Draft 1.5 – September 4, 2025, Updated Comments

Site Planning

Required Circulation

- A. An access drive shall be maintained from Adeline Street to Woolsey Street. (See diagram in Section 3)
- B. Access drive shall meet requirement set forth in the 08.14.2008 *Reciprocal Easements Agreement*
- C. The access drive shall be a minimum 20 feet in width to provide for waste removal and fire apparatus access (assuming aerial apparatus access is from Tremont Street).
- D. The access drive shall include 4-6 ADA loading spaces along the interior sidewalk adjacent to the east side the Ed Roberts Campus building. The loading spaces shall have a minimum width of 8 feet.
- E. The access drive shall have a minimum 45 feet building-to-building dimension.
- F. Landscaping is encouraged between the access drive and the new building.

Publicly Accessible Open Space

The *R-BMU* zoning requires 35 square feet of public open space per unit.

Publicly accessible open space should be located adjacent to a public street.

Streetscape Design

- A. Tremont Street and Woolsey Street sidewalks shall be widened to 13 feet in width and should include a 5 ft curb and amenity/planting area and a 8 ft wide sidewalk throughway. The stormwater management feature on Woolsey Street shall be maintained and is in excess of the required sidewalk dimensions.
- B. The following standards apply to sidewalk street tree planting.
 1. *Pattern*. Trees shall be planted with a minimum of one tree per 25 linear feet of sidewalk length. Exceptions may be made in locations where existing infrastructure, utilities, or BART tunnel prohibit planting of trees. Existing trees should be maintained where possible.
 2. *Location*. Trees shall be evenly spaced between the curb and sidewalk or evenly spaced within the width of a planting strip. Trees shall be planted so that at maturity the trunk is at least three feet from the face of curb where loading occurs.

3. *Ground Plane.* Trees shall be provided in planters a minimum of three feet wide and a minimum of six feet long located 18 inches from the face of curb. Exceptions may be made in locations where existing infrastructure, utilities, or BART tunnel prohibit planting of trees.
4. *Subsurface Design.*
 - a) A minimum of 120 cubic feet of well aerated soil per inch of trunk diameter at maturity shall be located within six feet of each tree.
 - b) Continuous structure soil with a minimum width of four feet shall connect all consecutive street trees.

Building Setbacks

The R-BMU zoning regulates building setbacks, residential ground floor character, and location/frequency of building entrances. The following standards complement the zoning and provide additional detail and clarity. Please note: "*R-BMU F.11.b. Ground Floor Residential Entries. All ground floor residential units shall provide entries to the street in the form of stoops or other exterior entries, or balcony or patio without entrance to the street, with a minimum area of 20 square feet.*"

- A. **Tremont Street and Woolsey Street Frontages.** Where public open space is located, buildings are exempt from *R-BMU F.4.b* requiring buildings to be located up to the setback line at intersection corners.
- B. **Ground Floor Residential.** Portions of a building with ground floor residential units shall have a minimum ground floor setback of 10 feet.
- C. **Northern Property Line.** Retaining the existing tree planting along the northern property line is encouraged.

Building Design

Building Massing

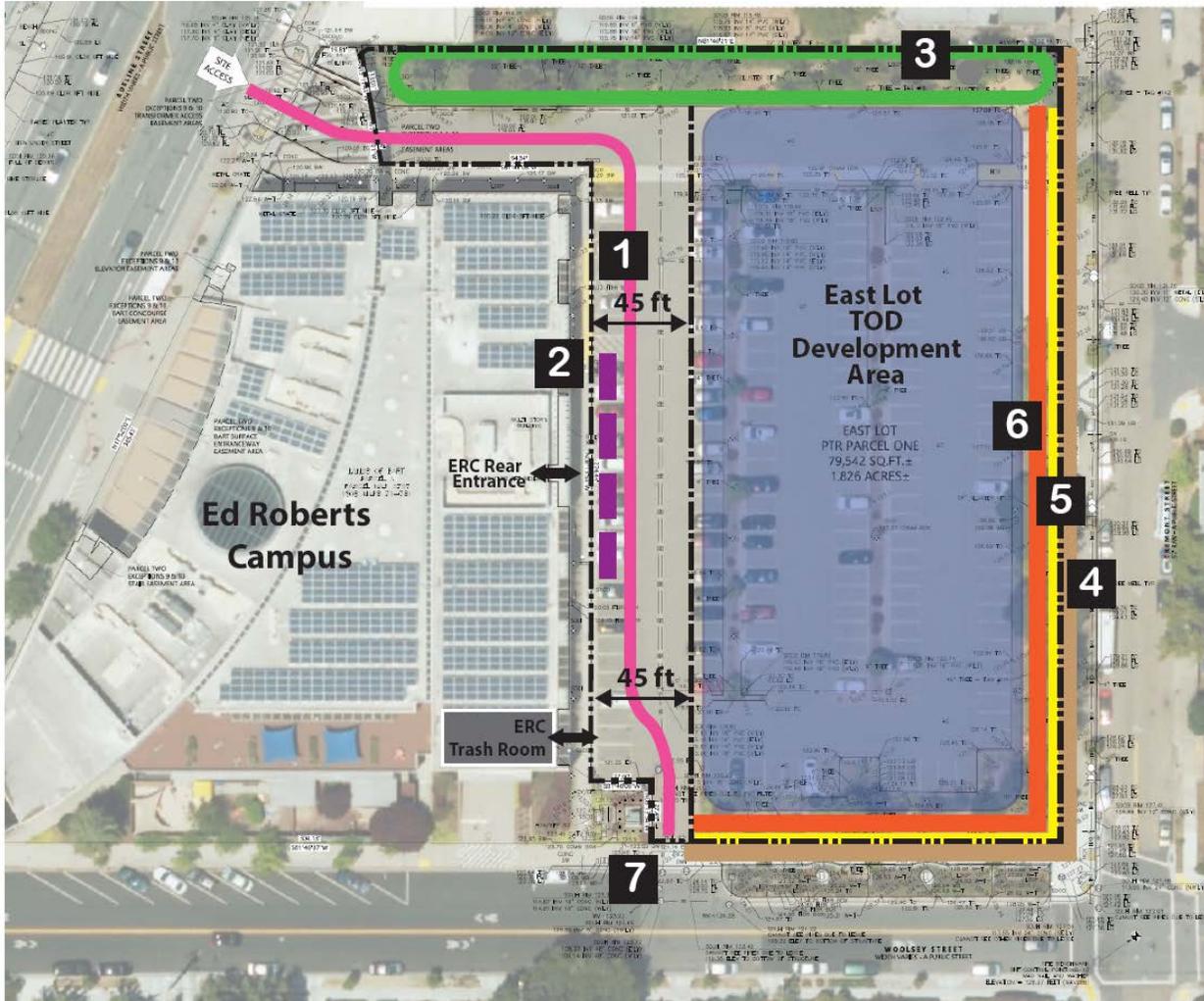
- A. **Front Upper-story Step Backs.** Portions of building located within the minimum front setback of 5 ft and maximum front setback of 15 feet shall have an upper-story step back above the 4th story with a minimum depth of 15 feet from the primary building façade.
- B. **Maximum Building Length/Major Breaks.** The maximum continuous building facade length facing Woolsey Street or Tremont Street shall not exceed 170 feet. Continuous façades are measured from a corner of a building to a courtyard or a major façade break with a minimum 15 feet by 15 feet plan dimension.

Facade Design

- A. **Vertical Rhythm and Pattern.** Building facades facing Woolsey Street and Tremont Street shall express a vertical rhythm and pattern that reflects the size and scale of a residential unit and/or individual rooms or shall be designed with custom details to create an ornamental facade.
- B. **Ground Floor Residential Units.** To provide privacy to ground floor residential units, the finished floor of units facing Woolsey Street and Tremont Street shall be raised a minimum 2 feet above sidewalk grade and windowsills shall be a minimum 3 feet above finish floor.
- C. **Fenestration.** Windows shall meet one of the following requirements:
 - 1. Windows shall be punched with a minimum recess of 2 inches from the facade or shall be framed with a minimum projection of 4 inches from the facade. Built-up stucco trim or molding (also known as “plant-ons”) are prohibited.
 - 2. Windows that are flat or flush with the facade are prohibited unless applied to a recessed portion of the building facade with a minimum of four inches in depth. Vertical window edges shall be directly adjacent to recess.
- C. **Materials.** No single material shall cover more than 80% of the cumulative facade area (excluding windows, doors, garage doors, and building trim) of a building except for high-quality materials such as brick, stone, ceramics, metals, fiber-cement panels, or other composite panel systems.

Site Diagram

Summary Diagram of Design Standards



Legend

1. Provide access drive from Adeline St to Woolsey St; Minimum 45 feet easement width required from west property line (approximate width, see 08.14.2008 *Reciprocal Easements Agreement* for more detail)
2. Provide 4-6 ADA loading spaces for Ed Roberts Campus
3. Maintain existing trees and landscape buffer
4. Improve sidewalks
5. Building Setback: minimum 5 ft to 15 ft
6. Step back upper story facades above the 4th story
7. Woolsey Street Access: Woolsey Street vehicle access shall be maintained for emergency vehicles, refuse removal, and vendors, commercial carriers, and other parties to make deliveries to the ERC building. Private vehicles may be limited to Adeline Street access point to reduce traffic conflicts with the bicycle boulevard on Woolsey Street”

East Lot Stakeholder Engagement Meeting - Discussion Notes

- **Affordability**

- Prioritize deeper affordability (ELI, VLI)
- 100% affordable
- Balance of affordable and market rate to increase income diversity for the project

- **Maximize Housing**

- Reward higher number of bedrooms, higher density
- Concerns about height and density less important than concerns about deep affordability and maximizing housing

- **Homeownership**

- Difficult to fund - consider co-op ownership or other creative models
- Homeownership is necessary: wealth building for communities of color,
- HOA fees are burdensome to lower income households and should be addressed in any future homeownership
- Ownership in conjunction with green space such as urban farm, community gardens, native landscaping.

- **Public Spaces**

- Accessible green space/gardens
- Ashby neighborhood is characterized by a lack of green spaces - more is needed.

- **Accessible Housing/Housing for people with disabilities**

- Consider incorporating inclusive design standards / universal design
- Some expressed a desire to connect the Ed Roberts Campus to the housing, as housing was once contemplated in the early planning phases for the Ed Roberts campus
- Accessible housing in conjunction with deep affordability - ELI, VLI, and Project Based vouchers

- **Reparations/Racial Equity**

- Include “historical value” - acknowledge historical contributions of the BIPOC community (e.g. William Byron Rumford, Hawkins Family)
- Include voices of BIPOC and people displaced in decisions and process

- Increase \$\$ of reparations fund - use fund for homelessness prevention services like rental assistance, emergency housing resources
- Ensure equity in who is working on the project - are we prioritizing BIPOC developers, workers, etc.
- **Services or populations served**
 - Teen Center identified as community need
 - Serve seniors, family, people with disabilities - these services are just as important as deep affordability
 - Leverage synergies - unique opportunity to provide services that already exist at ERC in conjunction with new housing
 - Supportive housing - prioritizing units for those living with serious mental illness, incorporating a licensed board and care model - 24-hour staffing. In the past, the community has supported the idea of a community agency managing a facility with 16 units or less, due to cost
- **RFP Process**
 - Request for further education and information on tradeoffs from the City for 100% affordable housing, homeownership, 50% ELI, etc.
 - Request for RFP requirements to be shared prior to RFP release - preview copy of document
 - Request for allowing community input into design considerations, as was done for the west lot ODS
 - EIFD - West Lot Study - The City is in the process of onboarding the consultant, Kosmont Companies, from Metro Transit Commission's bench and are currently refining the project scope. The City anticipates meeting next month to kick things off. The project is expected to be completed between mid and late 2026, depending on the specific tasks involved.
 - One person mentioned a desire to see a mix of market rate and nonprofit developers in JV team for this project
 - Some discussion of the desire to ensure a broad range of developers with a broad range of experience can participate in the project.

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

The San Francisco Bay Area Rapid Transit
District
300 Lakeside Drive, 22nd Floor
Oakland, California 94612
Attn: Manager, Real Estate Department

CERTIFIED TO BE A TRUE COPY OF DOCUMENT
RECORDED 8/18/08
AT SERIES NUMBER 2008-255323
OFFICIAL RECORDS OF ALAMEDA COUNTY FOR
Chicago Title Company

BY:  _____

APN: 052-1553-022-04
053-1596-013-03

(Space above this line for Recorder's use)

“BART” referred to below hereby declares that this instrument is exempt from: Recording fees (Govt. Code §27383) and Documentary Transfer Tax (Rev. and Taxation Code §11922).

RECIPROCAL EASEMENTS AGREEMENT

This RECIPROCAL EASEMENTS AGREEMENT (this “**Agreement**”) is made and entered into as of August 14, 2008, by and between THE ED ROBERTS CAMPUS, a California nonprofit public benefit corporation (“**ERC**”), and SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT, a rapid transit district established pursuant to Public Utilities Code section 28500 *et seq.* (“**BART**”). ERC and BART are sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties.**”

RECITALS

A. ERC owns that certain real property located in the County of Alameda, State of California, as more particularly described on *Exhibit A* attached hereto (the “**ERC Property**”).

B. BART owns that certain real property located in the County of Alameda, State of California, as more particularly described on *Exhibit B* attached hereto (the “**Retained Eastern Parking Lot**”). The Retained Eastern Parking Lot is adjacent to the ERC Property along the easterly boundary of the ERC Property. BART’s Ashby Station (the “**Ashby Station**”) is located below Adeline Street (within the subsurface easement established pursuant to Section 29031 of the California Public Utilities Code as shown on the Amended Record Map of Right of Way filed December 22, 1971, in Book 68 of Maps at Page 150, in the Official Records of Alameda County), adjacent to the ERC Property along the westerly border of the ERC Property. The Ashby Station and the Retained Eastern Parking Lot are collectively referred to as the “**BART Property.**” The ERC Property and the BART Property are collectively referred to herein as the “**Properties.**” The locations of the Retained Eastern Parking Lot, the ERC Property and the Ashby Station are depicted on *Exhibit C.*

C. ERC intends to construct a universally designed, transit-oriented building that will house the offices of non-profit organizations that share common objectives in furthering the independent living movement of people with disabilities (the “**ERC Building**”). In furtherance of

the universally designed, transit-oriented aspects of the ERC Building, the concourse level of the Ashby Station will be extended onto the ERC Property in a manner designed to provide seamless access from the Ashby Station to the ERC Building and an exit from the Ashby Station to Adeline Street by means of a stairway and an elevator, and the entrance plaza to the ERC Building along Adeline Street has been designed to include a stairway and an elevator providing access to, and egress from, the Ashby Station. In light of the foregoing, and as the ERC Property lies between the Ashby Station and the Retained Eastern Parking Lot, ERC and BART desire to grant to one another the easements set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants contained herein, ERC and BART enter into the following Agreement to memorialize their agreement.

AGREEMENT

1. CERTAIN DEFINITIONS.

“**Easements**” shall mean the Elevator Easement, the Stair Easement, the Transformer Access Easement, the BART Surface Entranceway Easement, the BART Concourse Easement, the Sidewalk Easement, the Adeline Driveway Easement and the Limited Access Easement (all such terms being defined in Sections 2 and 3 below).

“**Easement Areas**” shall mean the Elevator Easement Area, the Stair Easement Area, the Transformer Access Easement Area, the BART Surface Entranceway Easement Area, the BART Concourse Easement Area, the Sidewalk Easement Area, the Adeline Driveway Easement Area, the Limited Access Easement Area (all such terms being defined in Sections 2 and 3 below).

“**Improvements**” shall mean the buildings, structures, fixtures and other improvements located within any of the Easement Areas, including but not limited to, the Elevator Improvements, the Stair Improvements, the Sidewalk Improvements and the Adeline Driveway Improvements (all such terms being defined in Sections 2 and 3 below).

“**Owner**” shall mean each owner of record of the fee interest in a single Property and all of such Owner’s successors-in-interest.

“**Property**” shall mean either or any of the ERC Property, the Ashby Station or the Retained Eastern Parking Lot.

2. EASEMENTS FOR THE BENEFIT OF BART.

2.1 *Elevator Easement.*

(a) ERC hereby grants to BART for the benefit of the Ashby Station, an exclusive, perpetual easement (the “**Elevator Easement**”) in, to, over and across a portion of the ERC Property in the location generally depicted on *Exhibit D* attached hereto and incorporated herein by this reference (the “**Elevator Easement Area**”) for the installation, operation, maintenance, replacement, reconstruction, inspection and repair of an elevator, elevator machine room, elevator closet and ventilation shaft, and equipment, machinery, controls, duct work and motors related thereto (the “**Elevator Improvements**”), to serve the Ashby Station, and for

pedestrian access via the elevator cab included in the Elevator Improvements for ingress to and egress from the Ashby Station by the employees, agents, contractors, licensees, customers, patrons and invitees of BART (collectively, the “BART Invitees”).

(b) BART shall use the Elevator Easement Area and Elevator Improvements in compliance with all applicable state, federal, local and municipal laws, ordinances, codes, rules and other legal requirements now or hereinafter in effect (the “Legal Requirements”). Except as provided in Section 6, BART shall keep and maintain the Elevator Easement Area and the Elevator Improvements in good and safe condition and repair in accordance with BART’s standards for elevator maintenance, and shall be responsible for all costs of operation (including cost of utilities), maintenance and repair of the Elevator Improvements. Repair and maintenance shall include, without limitation, regular sweeping, washing down and litter pickup as required. Notwithstanding the foregoing, nothing in this Agreement is intended to relieve ERC from its obligation to construct the initial Elevator Improvements pursuant to that certain Design and Construction Agreement, dated _____, 2008, between ERC and BART (the “Design and Construction Agreement”).

2.2 *Stair Easement.*

(a) ERC hereby grants to BART, for the benefit of the Ashby Station, a non-exclusive, perpetual easement (the “Stair Easement”) in, to, over and across a portion of the ERC Property in the location generally depicted on *Exhibit E* attached hereto and incorporated herein by this reference (the “Stair Easement Area”) for the installation, operation, maintenance, replacement, inspection and repair of stairs, stairwells and related improvements (the “Stair Improvements”), to serve the Ashby Station, and for pedestrian access via the Stair Improvements for ingress to and egress from the Ashby Station by the BART Invitees.

(b) BART shall use the Stair Easement Area and Stair Improvements in compliance with all Legal Requirements. Except as provided in Section 6, BART shall keep and maintain the Stair Easement Area and the Stair Improvements in good and safe condition and repair, and shall be responsible for all costs of operation (including cost of utilities), maintenance and repair of the Stair Improvements. Repair and maintenance shall include, without limitation, regular sweeping, washing down and litter pickup as required. Notwithstanding the foregoing, (i) nothing in this Agreement is intended to relieve ERC from its obligation to construct the initial Stair Improvements pursuant to the Design and Construction Agreement, and (ii) to the extent ERC actually displays any Graphics on the walls of the Stair Improvements, ERC shall be responsible for the maintenance and repair of the same at its sole cost and expense.

2.3 *Transformer Access Easement.*

(a) ERC hereby grants to BART, for the benefit of the Ashby Station, a non-exclusive, perpetual easement (the “Transformer Access Easement”) in, to, over and across a portion of the ERC Property in the location generally depicted on *Exhibit F* attached hereto and incorporated herein by this reference (the “Transformer Access Easement Area”) for the installation, operation, maintenance, replacement, reconstruction, inspection and repair of, and access related to, (i) underground vaults and access doors to such vaults, which vaults and access doors will provide access for BART’s employees and agents and other parties authorized by

BART to an electrical transformer located in the public right-of-way adjacent to the Transformer Access Easement Area, (ii) a ventilation shaft, and (iii) exhaust and ventilation duct work to provide ventilation for said electrical transformer and the Ashby Station, including a surface ventilation grate located within the Transformer Access Easement Area.

(b) BART shall use the Transformer Access Easement Area in compliance with all Legal Requirements. Except as provided in Section 6, BART shall keep and maintain the Transformer Access Easement Area in good and safe condition and repair, and shall be responsible for all costs of operation (including costs of utilities), maintenance and repair of the Transformer Access Easement Area. Repair and maintenance shall include, without limitation, regular sweeping and litter pickup as required. Notwithstanding the foregoing, (i) nothing in this Agreement is intended to relieve ERC from its obligation to construct the initial vaults, access doors, duct work and surface ventilation grate pursuant to the Design and Construction Agreement, and (ii) nothing in this Agreement shall provide BART with the right to install an electrical transformer on the ERC Property.

2.4 BART Surface Entranceway Easement.

(a) ERC hereby grants to BART, for the benefit of the Ashby Station, a non-exclusive, perpetual easement (the “**BART Surface Entranceway Easement**”) in, to, over and across the surface of a portion of the ERC Property in the location generally depicted on *Exhibit G* attached hereto and incorporated herein by this reference (the “**BART Surface Entranceway Easement Area**”) for the purposes of providing pedestrian access over and across the BART Surface Entranceway Easement Area to provide ingress to and egress from the Stair Improvements and the Elevator Improvements by the BART Invitees.

(b) BART shall use the BART Surface Entranceway Easement Area in compliance with all Legal Requirements. Except as provided in Section 6, ERC shall keep and maintain the BART Surface Entranceway Easement Area in good and safe condition and repair, and shall be responsible for all costs of operation (including costs of utilities), maintenance and repair of the BART Surface Entranceway Easement Area. Repair and maintenance shall include, without limitation, regular sweeping, washing down and litter pickup as required.

2.5 BART Concourse Easement

(a) ERC hereby grants to BART, for the benefit of the Ashby Station, a non-exclusive, perpetual easement (the “**BART Concourse Easement**”) in, to, over and across a portion of the basement level of the ERC Building in the location generally depicted on *Exhibit H* attached hereto and incorporated herein by this reference (the “**BART Concourse Easement Area**”) for the purpose of allowing BART to use the BART Concourse Easement Area as an expansion of the entry concourse to the Ashby Station, including providing pedestrian access for ingress and egress between the Ashby Station and the ERC Building by the BART Invitees. Notwithstanding the foregoing, ERC reserves the right to display, at its sole cost and expense, signage, posters, artwork and other graphics (collectively, “**Graphics**”) on the eastern wall of the BART Concourse Easement Area (i.e. the wall that separates the BART Concourse Easement Area from the basement level of the ERC Building).

(b) BART shall use the BART Concourse Easement Area in compliance with all Legal Requirements. Except as provided in Section 6, BART shall keep and maintain the BART Concourse Easement Area in good and safe condition and repair, and shall be responsible for all costs of operation (including costs of utilities), maintenance and repair of the BART Concourse Easement Area. Repair and maintenance shall include, without limitation, regular sweeping, washing down and litter pickup as required. Notwithstanding the foregoing, nothing in this Agreement is intended to relieve ERC from its obligation to construct the initial improvements to the Concourse Easement Area pursuant to, and as contemplated under, the Design and Construction Agreement.

2.6 Sidewalk Easement.

(a) ERC hereby grants to BART, for the benefit of and appurtenant to the BART Property, a non-exclusive, perpetual easement (the “**Sidewalk Easement**”) in, to, over and across a portion of the ERC Property in the location generally depicted on *Exhibit I* attached hereto and incorporated herein by this reference (the “**Sidewalk Easement Area**”), for the purpose of providing pedestrian access over and across the Sidewalk Easement Area for ingress to and egress from the BART Property by the BART Invitees, and for the purpose of repairing and maintaining the sidewalk improvements (the “**Sidewalk Improvements**”).

(b) BART shall use the Sidewalk Easement Area and Sidewalk Improvements in compliance with all Legal Requirements. Except as provided in Section 6, BART shall keep and maintain the Sidewalk Easement Area and the Sidewalk Improvements in good and safe condition and repair, and shall be responsible for all costs of operation (including costs of utilities), maintenance and repair of the Sidewalk Improvements. Repair and maintenance shall include, without limitation, regular sweeping, washing down, and litter pickup and hole patching as required. Notwithstanding the foregoing, nothing in this Agreement is intended to relieve ERC from its obligation to construct the initial Sidewalk Improvements pursuant to the Design and Construction Agreement.

2.7 Adeline Driveway Easement.

(a) ERC hereby grants to BART, for the benefit of and appurtenant to the BART Property, a non-exclusive, perpetual easement (the “**Adeline Driveway Easement**”) in, to, over and across a portion of the ERC Property in the location generally depicted on *Exhibit J* attached hereto and incorporated herein by this reference (the “**Adeline Driveway Easement Area**”), for the purpose of providing vehicular access over and across the Adeline Driveway Easement Area by the BART Invitees for ingress to and egress from the Retained Eastern Parking Lot and for the purpose of repairing and maintaining the driveway and related improvements (the “**Adeline Driveway Improvements**”).

(b) BART shall use the Adeline Driveway Easement Area and Adeline Driveway Improvements in compliance with all Legal Requirements. Except as provided in Section 6, BART shall keep and maintain the Adeline Driveway Easement Area and the Adeline Driveway Improvements in good and safe condition and repair, and shall be responsible for all costs of maintenance and repair of the Adeline Driveway Improvements. Repair and maintenance shall include, without limitation, regular sweeping, washing down, litter pickup,

hole patching, repaving and repainting as required. Notwithstanding the foregoing, nothing in this Agreement is intended to relieve ERC from its obligation to construct the initial Adeline Driveway Improvements pursuant to the Design and Construction Agreement.

3. EASEMENT FOR THE BENEFIT OF ERC.

3.1 Limited Access Easement.

(a) BART hereby grants to ERC for the benefit of and appurtenant to the ERC Property, a non-exclusive, perpetual easement (the “**Limited Access Easement**”) in, to, over and across a portion of the Retained Eastern Parking Lot in the location generally depicted on **Exhibit K** attached hereto and incorporated herein by this reference (the “**Limited Access Easement Area**”) for the limited purposes of (i) permitting fire and police departments and similar governmental agencies to have access over and across the Limited Access Easement Area for ingress to and egress from the ERC Property in connection with providing emergency services and (ii) permitting vendors, commercial carriers and other parties to make deliveries to the ERC Building or any occupants thereof, provided that ERC and BART shall mutually agree upon (A) a limited number of specifically designated parking spaces within the Limited Access Easement Area to be used for temporary parking of delivery vehicles while making such deliveries, and (B) specific hours of the day during which such spaces will be reserved for delivery purposes (it being understood and agreed that such spaces shall be available for general BART patron parking during other hours).

(b) ERC shall use the Limited Access Easement Area in compliance with all Legal Requirements. Except as provided in Section 6, BART shall keep and maintain the Limited Access Easement Area in good and safe condition and repair, and shall be responsible for all costs of maintenance and repair of the Limited Access Easement Area. Repair and maintenance shall include, without limitation, regular sweeping, washing down, and litter pickup and repaving, hole patching and repainting as required. Notwithstanding the foregoing, nothing in this Agreement is intended to relieve ERC from its obligation to construct the initial improvements to the Limited Access Easement Area pursuant to the Design and Construction Agreement.

4. LOCATION AND DESCRIPTION OF EASEMENT AREAS. The location of the Easement Areas are generally depicted on **Exhibits D, E, F, G, H, I, J** and **K** attached hereto. After completion of construction of the ERC Building and the Improvements, ERC shall cause a licensed surveyor to survey the Easement Areas and prepare precise metes and bounds legal descriptions for each Easement Area, which legal descriptions shall be subject to the review and approval of BART. After BART and ERC have agreed upon such legal descriptions, the parties shall enter into an amendment to this Agreement, which amendment shall provide for each Easement Area to be described using such precise legal descriptions.

5. CONSTRUCTION; LIENS. Upon completion of any work on or improvements to the Easement Areas (other than any work and improvements to be made by ERC pursuant to the Design and Construction Agreement, which work and improvements shall be exclusively governed by the Design and Construction Agreement) (“**Construction Work**”), the party that constructed such work (the “**Constructing Party**”) shall promptly restore the affected area to its

former condition insofar as reasonably possible, including, without limitation, leaving the affected area free and clear of all loose dirt, debris and construction materials. All Construction Work shall be performed and completed free of any mechanics' and other liens or claims and the Constructing Party shall not allow or permit any liens, including, without limitation, any mechanics' liens, to be imposed or otherwise placed on any portion of the Property owned by any other Party in connection with the activities of such Constructing Party. In the event for any reason a lien of any sort is placed upon any portion of the Property owned by any other Party in connection with the activities of a Constructing Party, then such Constructing Party shall, at its sole cost and expense, promptly cause such lien to be removed of record from said Property by all means necessary (including, but not limited to, bonding over such lien). Such Constructing Party shall not permit any claim, lien or other encumbrance arising from its use, occupation or enjoyment of the Easements or Easement Areas to attach to the Property owned by any other Party.

6. **DAMAGE.** If, and to the extent that, any Owner or any of its occupants, employees, contractors, subcontractors, agents, concessionaires, licensees, customers and invitees, damages any portion of the Easement Areas or Improvements, such Owner shall repair and restore such damaged portions and return them to the same condition as had existed before such damage occurred.

7. **TERM OF EASEMENT.** The Easements granted herein shall be perpetual commencing on the date of execution of this Agreement, unless amended as provided in Section 10.2 below.

8. **INDEMNITY AND INSURANCE.**

8.1 Indemnity. Each Owner (in such capacity, the "Indemnifying Owner") shall indemnify, defend (with counsel reasonably acceptable to the other party), protect, and hold the other Owner, its officers, directors, employees, shareholders, partners, members and any direct or indirect owners thereof (collectively the "Indemnified Parties") harmless from and against any and all demands, liabilities, losses, damages, expenses, causes of action, suits, claims, and judgments, including, but not limited to, reasonable attorneys' fees, arising from or relating to the use of the Easements granted to such Indemnifying Owner pursuant to the terms hereof by such Indemnifying Owner or its tenants, occupants, employees, contractors, subcontractors, concessionaires, agents, licensees, customers or invitees, except to the extent caused by the gross negligence, recklessness or willful misconduct of any Indemnified Party. The provisions of this Section 8.1 shall survive any termination of this Agreement in whole or in part.

8.2 Insurance. Each Owner covenants to maintain in full force and effect, throughout the term of this Agreement, at its own cost and expense, one or more policies of commercial general liability insurance with respect to the Easements that benefit such Owner insuring against liability for injury to persons or property (and death of any persons) in, on or about the corresponding Easement Areas for the Easements that benefit such Owner. Such insurance shall be in the amount of not less than \$5,000,000 combined single limit and shall be issued by insurance companies authorized to do insurance business in the State of California and rated not less than B +/ VIII in Best's Insurance Guide. Each such policy shall contain a waiver of subrogation in favor of the other Owner, and each policy shall name the other Owner as an additional insured with coverage of the other Owner to be primary and non-contributing with

With a copy to: The San Francisco Bay Area Rapid Transit District
300 Lakeside Drive, 23rd Floor
Oakland, California 94612
Attn: Office of General Counsel

And to: The San Francisco Bay Area Rapid Transit District
300 Lakeside Drive, 22nd Floor
Oakland, California 94612
Attn: Manager, Real Estate Department

Either party may change its address for notice from time to time by notice to the other party in writing to the other in the manner aforesaid; provided that any such notice of change of address shall only be effective upon actual receipt by the other party.

10.2 Entire Agreement; Amendment. This Agreement contains the entire agreement between the parties relating to the rights herein granted and obligations herein assumed. No amendment, supplement or modification of this Agreement shall be binding unless executed in writing by the Owners.

10.3 Waiver. No waiver of a breach of any of these covenants and no delay or failure to enforce any of these covenants shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other of these covenants. No waiver of any breach hereunder shall be implied from any omission by any Party to take any action on account of such breach if such breach persists or is repeated, and no express waiver shall affect a breach other than as specified in said waiver.

10.4 Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Easement Areas to the general public or for the general public or for any public purpose whatsoever, it being the intention of the parties that this Agreement shall be strictly limited to and for the purposes herein expressed.

10.5 No Partnership. Nothing contained in this Agreement and no action by the Owners pursuant to this Agreement will be deemed to create a partnership or a joint venture.

10.6 Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

10.7 Severability. If any provision of this Agreement is, to any extent, declared by a court to be invalid or unenforceable, the remainder of this Agreement will not be affected thereby.

10.8 Exhibits. All exhibits referred to in this Agreement are incorporated herein by reference as though fully set forth herein.

10.9 Successors and Assigns. The rights and obligations established under this Agreement shall constitute covenants that shall run with the land, in accordance with Section 1468 of the California Civil Code, and shall be binding upon and only upon those

persons or entities having any right, title or interest in and to the Easement Areas, and their respective heirs, successors and assigns. By acceptance of a deed of conveyance or any other instrument granting an interest in the Easement Areas, each grantee or transferee, including mortgagees taking by foreclosure, consents and agrees to be so bound. Recordation of such a deed or other instrument shall be conclusive evidence of such acceptance.

10.10 Attorneys' Fees. In the event any party brings an action or proceeding at law or in equity to enforce, interpret or redress any breach of this Agreement, the prevailing party in such action or proceeding shall be entitled to its litigation expenses, including reasonable attorneys' fees and costs, in addition to all other damages and relief as may be awarded in any such action or proceeding. In addition to the foregoing award of costs and fees, such Prevailing party shall also be entitled to recover its court costs and expert witnesses' and attorneys' fees incurred in any post-judgment proceedings to collect or enforce any judgment. "**Prevailing party**" within the meaning of this Section 10.10 shall include, without limitation, a party who brings an action or proceeding after another party's breach, if such action or proceeding is dismissed upon the other party's payment of the sum allegedly due for performance of the covenant allegedly breached or if the party obtains substantially the relief sought by it in the action or proceeding.

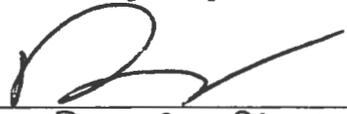
10.11 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall comprise but a single instrument.

10.12 Constructive Notice and Acceptance. Upon recordation of this Agreement, every Owner who now or hereafter owns or acquires any right, title or interest in or to any portion of the Properties is and shall be conclusively deemed to have notice of and to have consented to every term contained in this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

ERC:

THE ED ROBERTS CAMPUS,
a California nonprofit public benefit corporation

By: 

Name: DMITRI BELSER DMITRI BELSER

Title: PRESIDENT PRESIDENT

BART:

SAN FRANCISCO BAY AREA RAPID TRANSIT
DISTRICT

By: _____
(Vice) President of the Board

APPROVED AS TO FORM:

General Counsel

By: _____
(Assistant) District Secretary

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

ERC:

THE ED ROBERTS CAMPUS,
a California nonprofit public benefit corporation

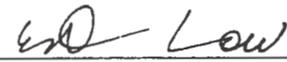
By: _____
Name: _____
Title: _____

BART:

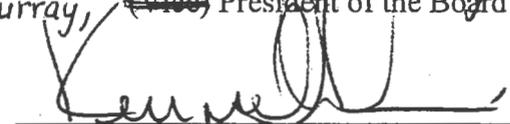
SAN FRANCISCO BAY AREA RAPID TRANSIT
DISTRICT

By: 
Gail Murray, ~~(Vice)~~ President of the Board

APPROVED AS TO FORM:



General Counsel

By: 
Kenneth A. Duron, ~~(Assistant)~~ District Secretary

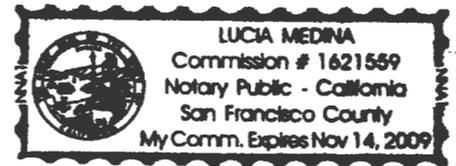
STATE OF CALIFORNIA)
COUNTY OF SAN FRANCISCO)

On August 14, 2008, before me, **Lucia Medina, a Notary Public**, personally appeared Dmitri Belser, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

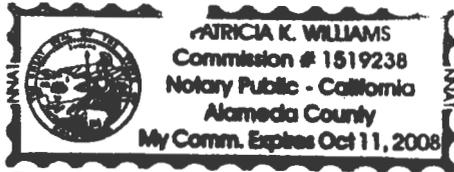
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Lucia Medina (Seal)



LUCIA MEDINA
COMMISSION # 1621559
COMMISSION EXPIRES Nov 14, 2009



STATE OF California

COUNTY OF Alameda

Patricia K. Williams
Commission # 1519238
Commission Expires Oct 11, 2008

On Aug. 14, 2008, before me, Patricia K. Williams, Notary Public,
(insert name and title of the officer)

personally appeared Gail Murray and Kenneth A. Duron, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he~~ ~~she~~ they executed the same in ~~his~~ ~~her~~ their authorized capacity(ies), and that by ~~his~~ ~~her~~ their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Patricia K. Williams
Signature of Notary

(Seal)

STATE OF _____

COUNTY OF _____

On _____, before me, _____,
(insert name and title of the officer)

personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary

(Seal)

EXHIBIT A

DESCRIPTION OF THE ERC PROPERTY

The following described real property in the City of Berkeley, County of Alameda, State of California:

Parcel A as shown on Parcel Map 9797, filed August 12, 2008, in Book 308 of Parcel Maps, Pages 76-78, inclusive, Official Records of Alameda County.

EXHIBIT B

DESCRIPTION OF THE RETAINED EASTERN PARKING LOT

The following described real property in the City of Berkeley, County of Alameda, State of California:

Parcel B as shown on Parcel Map 9797, filed August 12, 2008, in Book 308 of Parcel Maps, Pages 76-78, inclusive, Official Records of Alameda County.

EXHIBIT C

**DEPICTION OF THE RETAINED EASTERN PARKING LOT,
THE ERC PROPERTY AND THE ASHBY STATION**

[SEE ATTACHED]

PRELIMINARY

PARCEL MAP 9797 (308 M 76),
CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA
AUGUST 2008 SCALE: 1" = 100'

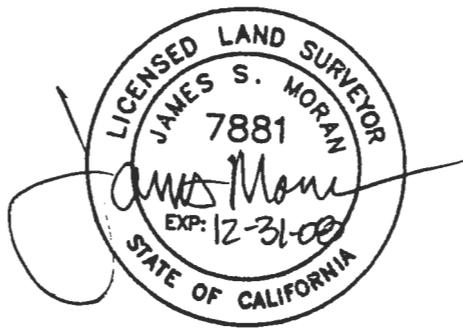
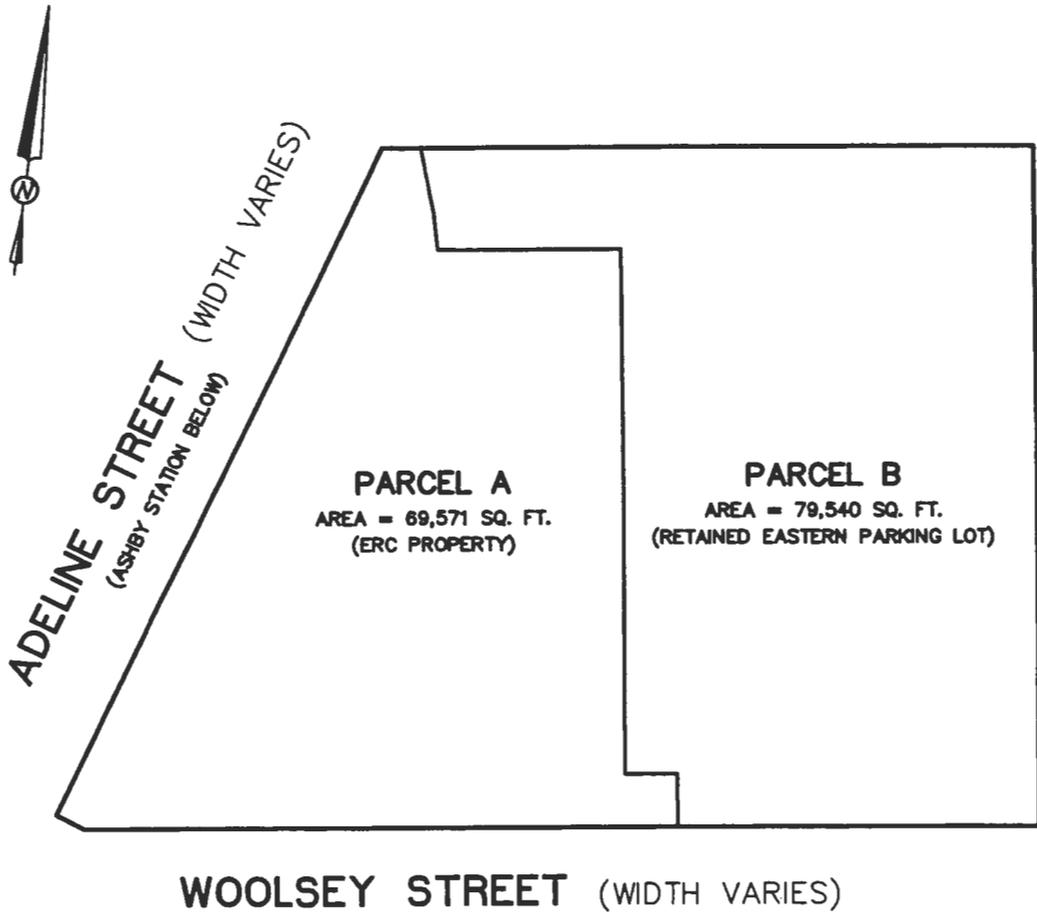


EXHIBIT D

DEPICTION OF ELEVATOR EASEMENT AREA

[SEE ATTACHED]

PRELIMINARY

THE EASEMENT DEPICTED HEREON IS PRELIMINARY AND IS TO BE REVISED SUBSEQUENT TO CONSTRUCTION PER SECTION 4 OF THIS RECIPROCAL EASEMENTS AGREEMENT

ELEVATOR EASEMENT AREA

A PORTION OF PARCEL A, PARCEL MAP 9797 (308 PM 76), CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA
AUGUST 2008 SCALE: 1" = 20'

S81°46'21"W

334.57'

PARCEL B

AREA = 79,540 SQ. FT.

PARCEL A

AREA = 69,571 SQ. FT.

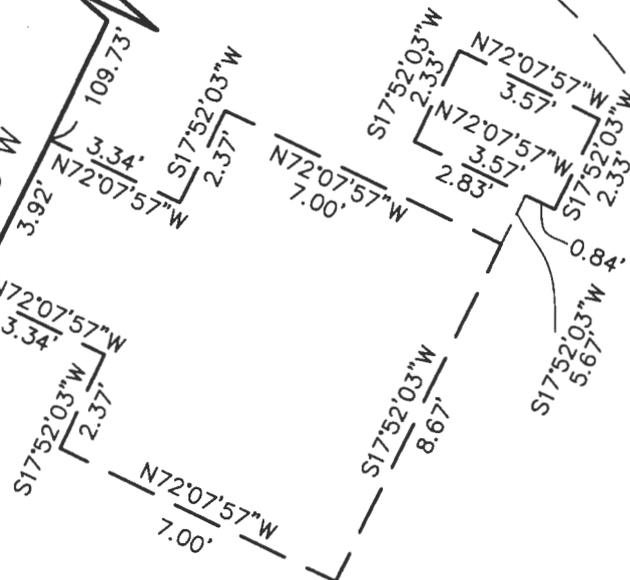
ADELINE STREET
(WIDTH VARIES)

385.42'
109.73'

S17°52'03"W

S81°46'21"W

S17°52'03"W



DETAIL
NO SCALE

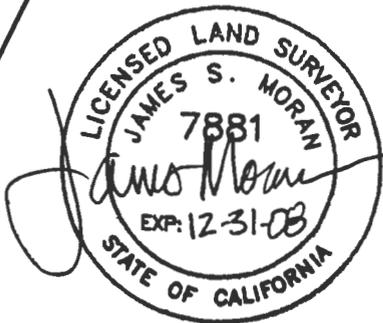


EXHIBIT E
DEPICTION OF STAIR EASEMENT AREA

[SEE ATTACHED]

PRELIMINARY

THE EASEMENT DEPICTED HEREON IS PRELIMINARY AND IS TO BE REVISED SUBSEQUENT TO CONSTRUCTION PER SECTION 4 OF THIS RECIPROCAL EASEMENTS AGREEMENT

STAIR EASEMENT AREA

A PORTION OF PARCEL A, PARCEL MAP 9797 (308 PM 76), CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA
AUGUST 2008 SCALE: 1" = 30'

S81°46'21"W 334.57'

PARCEL B

AREA = 79,540 SQ. FT.

PARCEL A

AREA = 69,571 SQ. FT.

ADELINE STREET
(WIDTH VARIES)

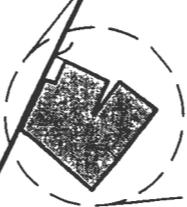
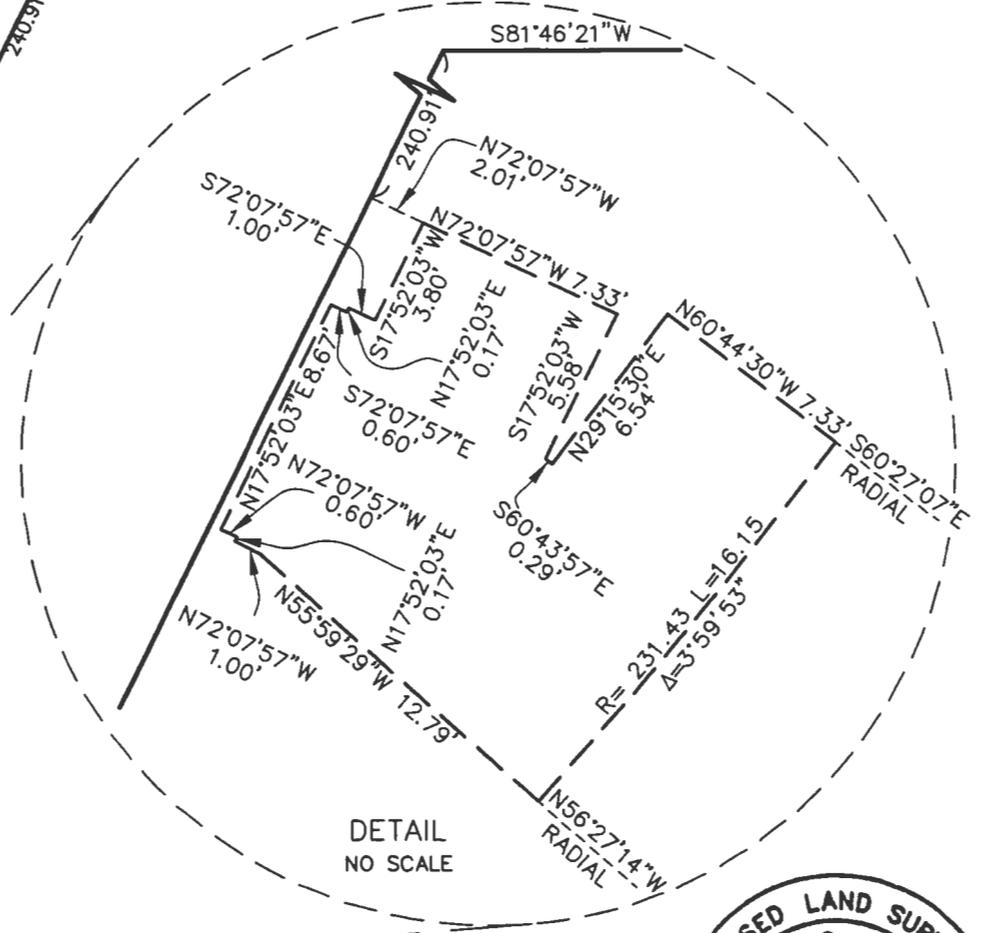
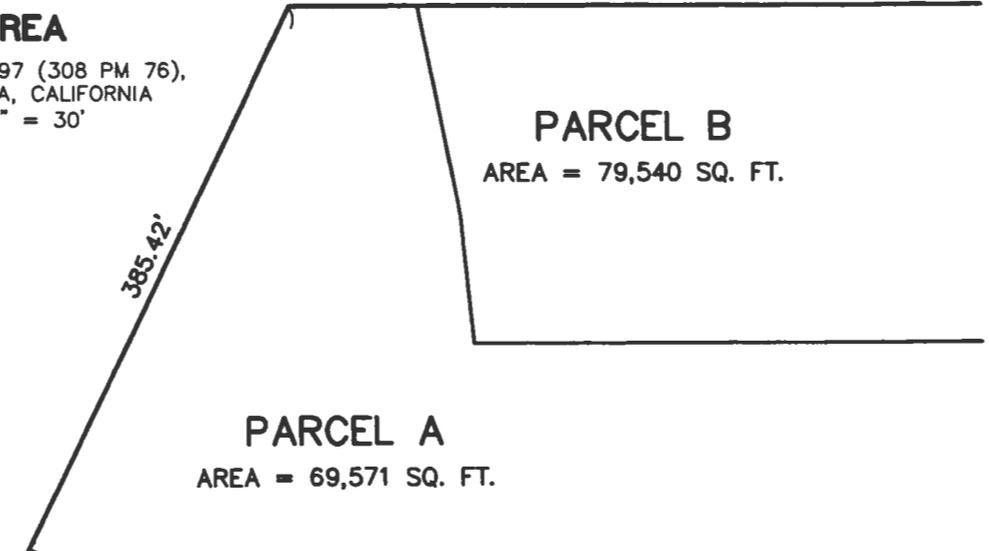


EXHIBIT F

DEPICTION OF TRANSFORMER ACCESS EASEMENT AREA

[SEE ATTACHED]

PRELIMINARY

EXHIBIT F

THE EASEMENT DEPICTED HEREON IS PRELIMINARY AND IS TO BE REVISED SUBSEQUENT TO CONSTRUCTION PER SECTION 4 OF THIS RECIPROCAL EASEMENTS AGREEMENT

TRANSFORMER ACCESS EASEMENT AREA

A PORTION OF PARCEL A, PARCEL MAP 9797 (308 PM 76), CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA
AUGUST 2008 SCALE: 1" = 20'

S81°46'21"W 334.57'

PARCEL B

AREA = 79,540 SQ. FT.

PARCEL A

AREA = 69,571 SQ. FT.

ADELINE STREET
(WIDTH VARIES)



S17°52'03"W

385.42'

39.00'

13.47'

7.81'

N72°17'57"W 2.67'

N72°07'57"W 10.19'

S17°52'03"W 10.60'

N08°13'53"W 5.03'

N81°46'07"E 13.82'

DETAIL
NO SCALE

S17°52'00"W 8.14'

S81°46'07"W 14.18'

N20°45'30"W 17.25'

S74°20'10"E 23.52'

S74°20'10"E 3.15'

DETAIL
NO SCALE

N72°17'57"W 1.85'

N72°07'57"W 10.66'

S17°52'03"W 10.00'

S72°07'57"E 10.66'

N17°52'03"E 10.00'

DETAIL
NO SCALE



EXHIBIT G

DEPICTION OF BART SURFACE ENTRANCEWAY EASEMENT AREA

[SEE ATTACHED]

EXHIBIT H

DEPICTION OF BART CONCOURSE EASEMENT AREA

[TO COME]

PRELIMINARY

THE EASEMENT DEPICTED HEREON IS PRELIMINARY AND IS TO BE REVISED SUBSEQUENT TO CONSTRUCTION PER SECTION 4 OF THIS RECIPROCAL EASEMENTS AGREEMENT

BART CONCOURSE EASEMENT AREA

A PORTION OF PARCEL A, PARCEL MAP 9797 (308 PM 76), CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA
AUGUST 2008 SCALE: 1" = 20'

S81°46'21"W

334.57'

PARCEL B

AREA = 79,540 SQ. FT.

PARCEL A

AREA = 69,571 SQ. FT.



ADELINE STREET
(WIDTH VARIES)

S17°52'03"W

385.42'
117.07'

S81°46'21"W

117.07'

N72°24'45"W
3.66'

N72°24'45"W

7.47'

S17°52'03"W
7.68'

S89°13'56"E

9.44'

N00°23'28"E 5.18'

DETAIL
NO SCALE

EXHIBIT I

DEPICTION OF SIDEWALK EASEMENT AREA

[SEE ATTACHED]

PRELIMINARY

THE EASEMENT DEPICTED HEREON IS PRELIMINARY AND IS TO BE REVISED SUBSEQUENT TO CONSTRUCTION PER SECTION 4 OF THIS RECIPROCAL EASEMENTS AGREEMENT

SIDEWALK EASEMENT AREA

A PORTION OF PARCEL A, PARCEL MAP 9797 (308 PM 76), CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA
AUGUST 2008 SCALE: 1" = 40'

S81°46'21"W

334.57'

PARCEL B

AREA = 79,540 SQ. FT.



ADELINE STREET
(WIDTH VARIES)

S17°52'03"W

385.42'

14.20'

N81°46'06"E

147.83'

N81°46'06"E

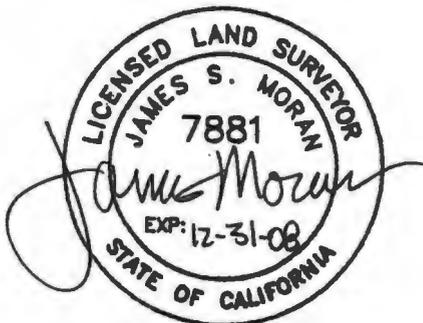
144.08'

289.16'

301.93'

PARCEL A

AREA = 69,571 SQ. FT.



N08°13'54"W

N08°13'54"W

10.00'

27.00'

N81°46'07"E

EXHIBIT J

DEPICTION OF ADELINE DRIVEWAY EASEMENT AREA

[SEE ATTACHED]

PRELIMINARY

THE EASEMENT DEPICTED HEREON IS PRELIMINARY AND IS TO BE REVISED SUBSEQUENT TO CONSTRUCTION PER SECTION 4 OF THIS RECIPROCAL EASEMENTS AGREEMENT

ADELINE DRIVEWAY EASEMENT AREA

A PORTION OF PARCEL A, PARCEL MAP 9797 (308 PM 76),
CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA.
AUGUST 2008 SCALE: 1" = 20'

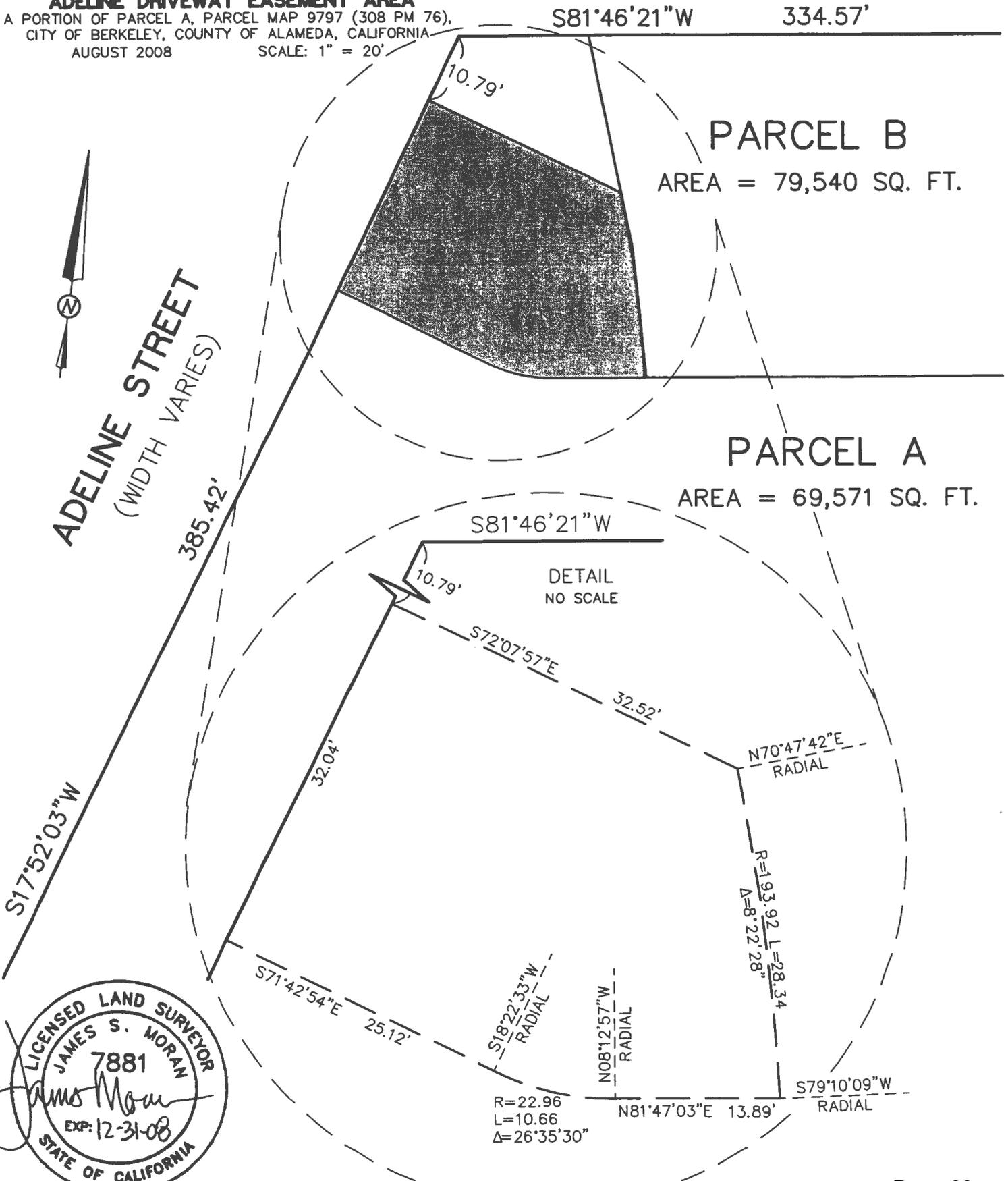


EXHIBIT K

DEPICTION OF LIMITED ACCESS EASEMENT AREA

[SEE ATTACHED]

PRELIMINARY

THE EASEMENTS DEPICTED HEREON ARE PRELIMINARY
AND ARE TO BE REVISED SUBSEQUENT TO
CONSTRUCTION PER SECTION 4 OF THIS RECIPROCAL
EASEMENTS AGREEMENT

LIMITED ACCESS EASEMENT AREA

A PORTION OF PARCEL B,
PARCEL MAP 9797 (308 PM 76),
CITY OF BERKELEY,
COUNTY OF ALAMEDA,
CALIFORNIA
AUGUST 2008 SCALE: 1" = 40'



ADELINE STREET
(WIDTH VARIES)

S17°52'03"W

385.42'

S81°46'21"W

334.57'

PARCEL B

AREA = 79,540 SQ. FT.

S81°46'06"W

94.34'

N81°46'06"E

44.48'

PARCEL A

AREA = 69,571 SQ. FT.

274.44'

235.90'

N08°13'54"W

S08°10'33"E

N13°38'34"W

S81°46'06"W
27.00'

29.66'

N08°13'54"W
27.49'

S08°10'21"E
36.50'

304.13'

N81°46'07"E

19.92'



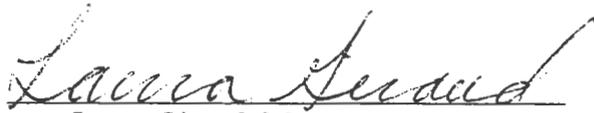
BART PARCEL # O-RE58

CERTIFICATE OF ACCEPTANCE, GOVERNMENT CODE, SEC. 27281

This is to certify that the interest in real property conveyed by the foregoing Reciprocal Easements Agreement dated as of August ~~14~~¹⁵ 2008, to the San Francisco Bay Area Rapid Transit District is hereby accepted by the undersigned on behalf of the San Francisco Bay Area Rapid Transit District pursuant to authority conferred by resolution of the Board of Directors of the San Francisco Bay Area Rapid Transit District entitled "In The Matter of Authorizing Acceptance of Deeds and Grants," bearing No. 291, adopted on October 24, 1963, and the grantee consents to recordation thereof.

Dated this 15th day of August, 2008

**SAN FRANCISCO BAY AREA RAPID TRANSIT
DISTRICT**

By: 
Laura Giraud, Manager
Real Estate Department

