

# *Building and Construction Trades Council of Alameda County, AFL-CIO*

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Andreas Cluver  
Secretary-Treasurer

Greg Bonato  
President

Rafael Gonzalez  
Vice President

Chuck Leonard  
Sergeant in Arms

Auto & Marine Painters, #1176

Boilermakers, #549

Brick & Tile Layers, #3

Carpet & Linoleum, #12

Cement Masons, #300

Electrical Workers, #595

Elevator Constructors #8

Glaziers #169

Insulators & Asbestos Workers, #16

Iron Workers, #378

Laborers, #67

Laborers, #304

Operating Engineers, #3

Painters, #3

Plasterers, #66

Plumbers & Steamfitters, #342

Roofers, #81

Sheet Metal Workers, #104

Sign & Display, #510

Sprinkler Fitters, #483

Teamsters, #853

U.A., Utilities / Landscape, #355

Via email:ZAB@BerkeleyCA.gov

10/09/2025

Zoning Adjustments Board  
Planning and Development  
1947 Center Street, 2nd Floor  
Berkeley, CA 94704

Re: Application for Approval of 2425 Durant Project

Honorable Members of the City of Berkeley Zoning Adjustment Board:

The Building and Construction Trades Council of Alameda County (“Trades Council”) writes to advise the Zoning Adjustment Board that the Trades Council only supports approval of the 2425 Durant project (“Project”) if the three State Density Bonus concessions requested by the Project applicant are denied.

The Project applicant is pursuing a novel and unorthodox strategy of using State Density Bonus concessions to avoid three construction labor standards, namely, prevailing wages, apprenticeship participation, and health care expenditures. We have never seen this combination of State Density Bonus concession requests before.

The California Density Bonus Law allows the City to deny a project applicant’s proposed concessions if granting the concessions would have a specific, adverse impact upon public health and safety. (See Gov’t Code section 65915(d)(1) (B).) As explained in this letter, the City should deny the applicant’s proposed concessions on this basis.

To be clear, our objection is only to the misuse of the State Density Bonus to avoid labor standards that the City enacted to protect public health and safety. We do not object to the Density Bonus “waivers” that the applicant requested, which are focused on issues such as building height and size. We appreciate the ambition of the Project and would like to see it move forward, but in accordance with standards that protect public health and safety.

Public policies regarding construction worker safety are important because construction is one of the most dangerous industries. The construction industry is responsible for roughly 20% of all workplace fatalities in the U.S. despite employing only 10% of the U.S. workforce. Unfortunately, in recent years, there has been a disproportionately high number of worker fatalities in Berkeley specifically.

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This is, in large part, why the City of Berkeley adopted the HARD HATS ordinance requiring health care expenditures and apprenticeship participation. Section 13.107.020 of the ordinance states that it was adopted to ensure apprentices are competently trained, to enhance the good health of construction workers working in the City, and to promote retention and growth of a skilled labor pool in the City. The staff report recommending adoption of the ordinance echoed these concerns.

As we explain below, the City's prevailing wage, apprenticeship participation, and health care expenditure requirements that would otherwise apply to the Project are protective of public health and safety, and allowing these requirements to be "conceded" would have an adverse effect on public health and safety. The City should reject this request.

### **Health Care:**

The construction industry has one of the highest injury rates among all occupations due to the nature of the work, which involves manual labor, working at heights, and exposure to hazardous materials. According to the Bureau of Labor Statistics, the construction industry accounted for 1,008 fatal work injuries in 2020, the highest of any industry sector.

Research underscores the additional dangers faced by workers without health coverage. A 2009 study conducted by Harvard Medical School and Cambridge Health Alliance found that uninsured, working-age Americans have a 40% higher risk of death compared to those with insurance. For construction workers, whose jobs already involve elevated hazards, the absence of health coverage magnifies these risks.

This is precisely why the City of Berkeley adopted health care expenditure requirements for large private development projects, to ensure that contractors in the City are not shifting the burden of workplace injuries onto workers and their families. Allowing the applicant to avoid this requirement would undermine the City's protective framework and place workers' health at greater risk.

For these reasons, allowing contractors working on the 2425 Durant Project to avoid the City's health care expenditure requirement would have a specific, adverse impact upon public health and safety, and the applicant's request for this concession should be denied.

### **Apprenticeship:**

State and federal oversight of apprenticeship programs extends back more than 80 years. In California, construction apprenticeship program standards require several years of on-the-job training for specific work processes, a ratio of apprentices to journey-level employees, hours of classroom training, and a living wage.

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The City requires all contractors on the Project to participate in either a joint labor-management apprenticeship program or a program that meets minimum graduation standards. By doing so, the City is ensuring that all apprentices working on the Project in question are well trained and competently supervised, which is of utmost importance to public health and safety.

For these reasons, allowing contractors working on the 2425 Durant Project to avoid the City's apprenticeship participation requirement would have a specific, adverse impact upon public health and safety, and the applicant's request for this concession should be denied.

### **Prevailing Wages:**

There is a robust statistical connection between wage rates and job safety. In California, this is reflected in the state's "dual wage" workers compensation system, where higher-paid employees have a lower workers' compensation rate than lower-paid employees. This is because higher-paid employees are less likely to produce adverse workers' compensation losses, because their superior training and experience results in safer job sites.

By requiring prevailing wages to be paid, the City is promoting the use of a skilled, stable workforce – one less prone to accidents and costly workers' compensation claims. This not only protects workers but also incentivizes responsible contractors who maintain high safety standards. Exempting the Project from the City's prevailing wage requirement would directly undermine these protections.

For these reasons, allowing contractors working on the 2425 Durant Project to avoid the City's prevailing wage requirement would have a specific, adverse impact upon public health and safety, and the applicant's request for this concession should be denied.

Thank you for your consideration of our position. Feel free to contact the undersigned with any questions or concerns.

Sincerely,



Andreas Cluver, Secretary-Treasurer  
Building & Construction Trades Council of Alameda County