Planning & Development
Land Use Planning Division

MEMORANDUM

November 5, 2026

To: Zoning Adjustments Board

From: Lisa Gordon, Contract Planner
Sharon Gong, Principal Planner

Subject: Agenda Item # 7A: 1130 Oxford Street – Entitlement (#ZP2026-0056)

CORRECTION

The timing of the conditions of approval required prior to issuance of a demolition permit have been clarified. Although many of the City Standard prior to building permit conditions of approval would have applied prior to issuance of the demolition permit through standard City practices and procedures, the conditions have been revised to clearly identify all of the applicable prior to demolition permit issuance conditions to ensure that the applicant and public understand the process and requirements.

STANDARD CONDITIONS OF APPROVAL
APPLICABILITY

Development projects approved through the City of Berkeley are subject to Standard Conditions of Approval (Standard COAs). The City of Berkeley has established Standard COAs that identify requirements for the construction and operation of the approved project. This includes general administrative conditions, permitting requirements, project construction and the regulation of on-going, on-site uses. Compliance requirements with the Berkeley Municipal Code, building permit review and issuance process, construction, final inspection requirements, certificate of occupancy, and on-going operations of the approved use are included in this document.

The Standard COAs may vary based on site size, location, environmental settings, topography, historic alteration or approved uses. Variations in the application of the Standard COAs may occur based on the project scope and site-specific characteristics including but not limited to parcel size, location, topography, and use.

Conditions which have specified thresholds due to size, uses, and other characteristics are identified.

Part I. Administrative Conditions
- A. General Project Conditions
- B. Project Specific Conditions
- C. Final Approval Conditions – Not applicable
- D. On-Going Operational Conditions – Not applicable

Part II. Prior to Issuance of Demolition Permit

Part III. At the Time of Building Permit Submittal

Part IV. Prior to Issuance of Building Permit
- A. Building & Safety/Land Use Planning
- B. Public Works
- C. Toxics
- D. Health Housing Community Services – Not applicable
- E. Rent Stabilization Board – Not applicable

Part V. During Demolition/Construction
- A. Building & Safety
- B. Land Use Planning
- C. Public Works
- D. Toxics
- E. Health Housing Community Services – Not applicable

Part VI. Prior to Final Inspection

Part VII. Prior to Certificate of Occupancy - Not applicable

Part. VIII. Fees - Not applicable

Part X. HARD HATS - Not applicable

Part XI. AB130

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CONDITIONS OF APPROVAL

Property Address:
Application Number:

I. Administrative Conditions A. General Project Conditions		Regulation Source	Timing/Implementation	Enforcement/ Monitoring
	Project Approval. This Project approval is for 1130 Oxford Street, as substantially shown and described on the Project plans dated July 24, 2026, except as required to be modified by Conditions of Approval herein and plans as presented to the Zoning Adjustments Board on September 10, 2026 ("Approval Date."). This Project vested on December 30, 2025 through PLN2025-0132. For any Condition herein that requires preparation of a Final Plan where the project applicant has submitted a conceptual plan, the Project applicant shall submit final plan(s) in substantial conformance with the conceptual plan and incorporate any required modifications.	City of Berkeley	On-Going	Land Use Planning
	Approval Limited to Proposed Project and Replacement of Existing Uses. This Use Permit authorizes only the Proposed Project described in the application. This project approval does not authorize other uses, structures or activities not included in the Project Description. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant shall obtain all permits required by the Zoning Ordinance for the use. (BMC Sections 23.404.060.B.1 and 2)	City of Berkeley BMC Sections 23.404.060	On-Going	Land Use Planning
	Compliance Required. All land uses and structures in the City of Berkeley shall comply with the Zoning Ordinance and all applicable City ordinances and regulations.	City of Berkeley BMC Section 23.102.050(B)	On-Going	Land Use Planning
	Other Regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.	City of Berkeley BMC Section 23.102.050 (E)	On-Going	Land Use Planning
	Conformance with Approved Plans. All work performed under an approved Use Permit shall follow the approved plans as presented to ZAB on July 24, 2026 and pursuant to the Conditions of Approval.	City of Berkeley BMC Section 23.404.060 (B)(4)	On-Going	Land Use Planning

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I. Administrative Conditions A. General Project Conditions		Regulation Source	Timing/Implementation	Enforcement/ Monitoring
	Permit Modifications. No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Zoning Adjustments Board. The Zoning Officer may approve changes to plans approved by the Board which reduce the size of the Project, consistent with the Board's policy adopted on May 24, 1978.	City of Berkeley BMC Section 23.404.070	On-Going	Land Use Planning
	Permit Revocation. The City may revoke or modify a discretionary permit for completed projects due to: 1) Violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. No lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board, or City Council referral.	City of Berkeley BMC Section 23.404.080	On-Going	Land Use Planning
	Permit Remains Effective for Vacant Property. Once a permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard COA #5 above.	City of Berkeley BMC Section 23.404.060	On-Going	Land Use Planning

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I. Administrative Conditions A. General Project Conditions		Regulation Source	Timing/Implementation	Enforcement/ Monitoring
	Exercise and Expiration of Permits A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property. A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property. B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun. C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the Zoning Adjustments Board in accordance with Chapter 23.410 (Appeals and Certification). D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant shall apply for and receive City approval of a new permit.	City of Berkeley BMC Section 23.404.060 (C)	On-Going	Land Use Planning

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	Hold Harmless. The permittee agrees as a Condition of Approval of this application to indemnify, protect, defend with counsel selected by the City, and hold harmless, the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents, from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively, "Claims") arising out of or in any way relating to the approval of this application, any actions taken by the City related to this entitlement, or any environmental review conducted under the California Environmental Quality Act, Public Resources Code Section 210000 et seq., for this entitlement and related actions. The indemnification shall include any Claims that may be asserted by any person or entity, including the permittee, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents. The permittee's duty to defend the City shall not apply in those instances when the permittee has asserted the Claims, although the permittee shall still have a duty to indemnify, protect and hold harmless the City.	City of Berkeley	On-Going	Land Use Planning
	Compliance with Conditions of Approval and Environmental Mitigations. The Building Permit application is subject to verification of compliance of these Conditions of Approval and any applicable Mitigation Measures. The applicant shall be responsible for demonstrating compliance with all Conditions of Approval per the timeline set forth by this Permit.	City of Berkeley	On-Going	Land Use Planning

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I. Administrative Conditions B. Project Specific Conditions		Regulation Source	Timing/Implementation	Enforcement/ Monitoring
1.	Pursuant to BMC 23.404.050(H), the Zoning Adjustments Board attaches the following additional Conditions of Approval to this Permit: • N/A	City of Berkeley BMC Section 23.040.050 (H)	N/A	N/A

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II. Prior to Issuance of Demolition Permit		Regulation Source	Timing/Implementation	Enforcement/ Monitoring
1.	**Conditions of Approval Included in Building Permit Plan Submittal** **A. Use Permit.** The Conditions of Approval for this Permit shall be printed on the second sheet of each plan set submitted for a building permit pursuant to this Permit, under the title 'Use Permit Conditions.' Additional sheets may also be used if the second sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; (8-1/2" by 11" sheets are not acceptable)	City of Berkeley	Prior to Demolition Permit Issuance	Building & Safety/Land Use Planning
2.	**Project Liaison.** The applicant shall include in all building permit plans and post onsite the name, e-mail address, and telephone number of an individual empowered to manage construction-related complaints generated from the Project. The individual's name, telephone number, and responsibility for the Project shall be posted at the project site for the duration of the Project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response and submit written reports of such complaints and actions to the project planner on a weekly basis. **Please designate the name of this individual below:** ☐ **Project Liaison** _____ Name Phone #	City of Berkeley	Prior to Demolition Permit Issuance	Building & Safety/Land Use Planning

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3.	**Construction Noise Management - Public Notice Required**. At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within **500 feet** of the project site. This notice shall at a minimum provide the following: (1) Project Description, (2) description of construction activities during extended work hours and reason for extended hours, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name, e-mail, and phone number of the Project Liaison for the Project that is responsible for responding to any local complaints, and (5) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.	City of Berkeley	Prior to Demolition Permit Issuance (At least Two Weeks Prior to Construction Commencement)	Building & Safety Division
4.	**Construction Phases**. The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or their designee shall have the authority to require an on-site meeting with these individuals as necessary to ensure compliance with these Conditions of Approval. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.	City of Berkeley	Prior to Demolition Permit Issuance	Building & Safety/Land Use Planning
5.	**Condition and Compliance Monitoring.** The applicant shall pay a $22,000 deposit for the cost of monitoring compliance with the Conditions of Approval and other applicable conditions and regulations prior to issuance of building permit. City staff shall obtain a scope and cost from a pre-approved consultant to conduct required monitoring compliance. If compliance-monitoring expenses exceed the initial deposit, the applicant shall deposit additional funds to cover such additional expenses prior to the initiation of monitoring compliance. The City shall not issue a notice-to-proceed until all funds are deposited. Any unused deposit will be refunded to the applicant.	City of Berkeley	Prior to Demolition Permit Issuance	Land Use Planning

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6.	**Erosion Prevention Plan.** Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season, the applicant shall obtain approval of an erosion prevention plan from the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.	City of Berkeley	Prior to Demolition Permit Issuance	Building & Safety/Public Works
7.	**Construction and Demolition Diversion.** The applicant shall submit a Construction Waste Management Plan that meets the requirements of BMC Chapter 19.37 "Berkeley Green Code" including 100 percent diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65 percent diversion of other nonhazardous construction and demolition waste.	City of Berkeley BMC Chapter 19.37	Prior to Demolition Permit Issuance	Building & Safety/Public Works
8.	**Public Works ADA.** Plans submitted for demolition permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.	City of Berkeley	Prior to Demolition Permit Issuance	Public Works

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9.	**Public Works – Stormwater Pollution Prevention Program (SWPPP).** As part of the demolition permit submittal, the applicant shall submit the following documents to the Public Works Department for review: **A.** A copy of the "Notice of Intent" filed with the State Water Resources Control Board (SWRCB)/Division of Water Quality; **B.** The Waste Discharger Identification (WDID) number issued by the SWRCB for the Project; **C.** A copy of the SWPPP prepared for each phase of the Project; and **D.** The name of the individual who will be responsible for monitoring the site for compliance to the approved SWPPP. Construction shall comply with the statewide general permit requiring owner to: (1) notify the State; (2) prepare and implement a SWPPP; and (3) monitor the effectiveness of the SWPPP. Additional information may be found online at http://www.swrcb.ca.gov.	City of Berkeley	Prior to Demolition Permit Issuance	Public Works
10.	**Geotechnical Plan Review.** The Applicant's Geotechnical Consultant should review and approve all geotechnical aspects of the demolition plans (i.e., site preparation and grading, site surface and subsurface drainage improvements and design parameters for foundation, etc.,) to ensure that their recommendations have been properly incorporated. The Geotechnical Plan Review should be organized by the Project Geotechnical Consultant as a letter and submitted to the City for review and approval by the appropriate City Staff prior to issuance of demolition permits.	City of Berkeley	Prior to Demolition Permit Issuance	Building & Safety/Public Works

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11.	**Air Quality - Diesel Particulate Matter Controls during Construction.** All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with either A or B, and C: **A.** The Project applicant shall prepare a health risk assessment that demonstrates the Project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from the Bay Area Air District and the California Office of Environmental Health Hazard Assessment. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or **B.** All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications. **C.** In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following: **i.** An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date. A Certification Statement that the contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of demolition permits.	City of Berkeley	Prior to Demolition Permit Issuance	Land Use Planning/ Public Works

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12.	**Construction Emissions Reduction Measures.** Development projects shall comply with the current Bay Area Air District's basic control measures for reducing construction emissions of PM10 (Table 8-2, Basic Construction Mitigation Measures Recommended for All Proposed Projects, of the May 2017 Air District CEQA Guidelines), outlined below. **1.** All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times a day. **2.** All haul trucks transporting soil, sand, or other loose material offsite shall be covered. **3.** All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. **4.** All vehicle speeds on unpaved roads shall be limited to 15 miles per hour. **5.** All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. **6.** Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points. **7.** All construction equipment shall be maintained and properly tuned in accordance with manufacture's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper conditions prior to operation. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's number shall also be visible to ensure compliance with applicable regulations.	Air Quality District	Prior to Demolition Permit Issuance	Land Use Planning/ Building and Safety/Air Quality District

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13.	**Transportation Construction Plan.** The applicant and all persons associated with the Project are hereby notified that a Transportation Construction Plan (TCP) may be required, particularly for the following activities: **A.** Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes); **B.** Storage of building materials, equipment, dumpsters, debris anywhere in the public right of way; **C.** Provision of exclusive contractor parking on-street; or **D.** Significant truck activity. Please contact the Department of Public Works Transportation Division at (510) 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be stamped and signed by a registered engineer prior to submittal. The TCP shall be consistent with any other requirements of the construction phase. A current copy of the TCP shall be available at all times at the construction site for review by City Staff.	City of Berkeley	Prior to Demolition Permit Issuance	Public Works

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14.	**Construction Noise Reduction Program.** The applicant shall develop a site-specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include the time limits compliance with BMC Section 13.40.070. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical: A. Construction equipment should be well maintained and used judiciously to be as quiet as practical. B. Equip with all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment. C. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible. D. Locate stationary noise-generating equipment as far as possible from sensitive receptors. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible. E. Prohibit unnecessary idling of internal combustion engines. F. If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile. G. Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise. H. Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. I. Route construction related traffic along major roadways and away from sensitive receptors where feasible.	City of Berkeley BMC Section 13.40.070	Prior to Demolition Permit Issuance	Zoning Officer

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15.	**Damage Due to Construction Vibration.** The Project applicant shall submit screening level analysis prior to demolition permit issuance. The analysis shall account for project specific information including the composition of the structures, location of the various types of equipment used during each phase of the Project, as well as the soil characteristics in the Project area, in order to determine whether Project construction may cause damage to any of the structures identified as potentially impacted in the screening level analysis. • If a screening level analysis shows that the Project has the potential to result in damage to structures, a structural engineer or other appropriate professional shall be retained to prepare a vibration impact assessment (assessment). • If the assessment finds that the Project may cause damage to nearby structures, the structural engineer or other appropriate professional shall recommend design means and methods of construction to avoid the potential damage, if feasible. The assessment and its recommendations shall be reviewed and approved by the Building and Safety Division and the Zoning Officer. If there are no feasible design means or methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake an existing conditions study (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage. This study shall include: o Establish the baseline condition of these structures, including, but not limited to, the location and extent of any visible cracks or spalls; and o include written descriptions and photographs.	City of Berkeley	Prior to Demolition Permit Issuance	Building & Safety Division/Zoning Officer

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II. Prior to Issuance of Demolition Permit B. Toxics		Regulation Source	Timing/Implementation	Enforcement/ Monitoring
1.	**Phase I and Phase II Environmental Site Assessment (ESA) (per ASTM 1527).** A recent Phase I ESA (less than 2 years old) shall be submitted to the Toxics Management Division for all new commercial, industrial and mixed-use developments, all improvement projects that require work **5 or more feet below grade**, and all new residential buildings with more than four dwelling units located in the Environmental Management Area (or EMA). The EMA can be viewed at: City of Berkeley Community GIS Portal (arcgis.com)	City of Berkeley	Prior to Demolition Permit Issuance	Toxics Management Division
2.	**Demolitions & Renovations – Building Materials Survey.** A hazardous materials survey shall be prepared by qualified professionals and submitted to the Toxics Management Division (TMD) prior to issuance of the demolition permit. The survey shall identify building materials, plans for hazardous materials, hazardous waste removal and disposal, the identification of all materials to be disturbed for lead-based paints, PCB containing equipment and caulking, hydraulic fluids, refrigerants, treated wood, and mercury containing devices (including fluorescent light bulbs and mercury switches), asbestos and other hazardous materials and chemicals. The report to the TMD shall include, in addition to the survey, plans on hazardous materials and hazardous waste removal and disposal that comply with State and Federal codes including California Code of Regulations (CCR) 66260 et seq.	City of Berkeley	Prior to Demolition Permit Issuance	Toxics Management Division
3.	**Asbestos Identified.** Pursuant to Bay Area Air District Regulation 11-2-401.3, if asbestos is identified a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center. Contractors shall follow state regulations where there is asbestos-related work involving 100 square feet or more of asbestos containing material (8 Cal. Code Regs. §1529, §341.6 et seq.)	Bay Area Air District	Prior to Demolition Permit Issuance	Bay Area Air District

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4.	**Environmental Site Clearance.** Prior to issuance of any building permits, the applicant shall submit to the Toxics Management Division (TMD) an environmental screening clearance to ensure that the property meets development investigation and cleanup standards for the specific use proposed on the property. Documentation in the form of a letter shall be provided from one of the following external agencies: • San Francisco Bay Regional Water Quality Control Board (RWQCB); • California Department of Toxic Substances Control (DTSC); or • The Alameda County Department of Environmental Health's Local Oversight Program (LOP).	City of Berkeley	Prior to Demolition Permit Issuance	Toxics Management Division

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III. At the Time of Building Permit Submittal		Regulation Source	Timing/Implementation	Enforcement/ Monitoring
1.	**Public Works ADA.** Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.	City of Berkeley	At Building Permit Submittal	Public Works
2.	**Public Works – Stormwater Pollution Prevention Program (SWPPP).** As part of the building permit submittal, the applicant shall submit the following documents to the Public Works Department for review: **A.** A copy of the "Notice of Intent" filed with the State Water Resources Control Board (SWRCB)/Division of Water Quality; **B.** The Waste Discharger Identification (WDID) number issued by the SWRCB for the Project; **C.** A copy of the SWPPP prepared for each phase of the Project; and **D.** The name of the individual who will be responsible for monitoring the site for compliance to the approved SWPPP. Construction shall comply with the statewide general permit requiring owner to: (1) notify the State; (2) prepare and implement a SWPPP; and (3) monitor the effectiveness of the SWPPP. Additional information may be found online at http://www.swrcb.ca.gov.	City of Berkeley	At Building Permit Submittal	Public Works
3.	**National Pollution Discharge Elimination System (NPDES).** The applicant shall demonstrate compliance with the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:	City of Berkeley BMC Section 17.20	At Building Permit Submittal	Public Works

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	A. The Project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions. **B.** Trash enclosures and/or recycling areas shall be covered, and no other areas shall drain onto these areas. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and the East Bay Municipal Utility District (EBMUD) for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD. **C.** Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans. **D.** Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be shall be conducted prior to the issuance of a building permit. **E.** All paved outdoor storage areas shall be designed to reduce/limit the potential for runoff to contact pollutants. **F.** All on-site storm drain inlets/catch basins shall be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the Project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Department.			

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	G. All private or public projects that create and/or replace 10,000 square feet or more of impervious surface shall comply with Provision C.3 of the NPDES permit and shall incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed Project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) An O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological). (Project required to meet applicable code at time of building permit application, if different from above.) **H.** All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City. **I.** Washing and/or steam cleaning shall be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing shall be managed in such a way that there is no discharge of soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the East Bay Municipal Utility District. **J.** All loading areas shall be designated to minimize run-on or run-off from the area. Accumulated wastewater that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.			

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	K. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge. **L.** The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.			
4.	**Geotechnical Plan Review.** The Applicant's Geotechnical Consultant should review and approve all geotechnical aspects of the building plans (i.e., site preparation and grading, site surface and subsurface drainage improvements and design parameters for foundation, etc.,) to ensure that their recommendations have been properly incorporated. In their Plan Review letter, the Geotechnical Consultant shall provide a conclusion (based on their investigation and analysis) regarding whether the proposed habitable structures will be safe from collapse due to landslide displacement, or seismically induced accelerated landslide displacement. The Geotechnical Plan Review should be organized by the Project Geotechnical Consultant as a letter and submitted to the City for review and approval by the appropriate City Staff prior to issuance of building permits.	City of Berkeley	At Building Permit Submittal	Building & Safety/Public Works

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IV. Prior to Issuance Building Permit: A. Building & Safety/Land Use Planning		Regulation Source	Timing/Implementation	Enforcement/ Monitoring
1.	**Air Quality - Diesel Particulate Matter Controls during Construction.** All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with either A or B, and C: **A.** The Project applicant shall prepare a health risk assessment that demonstrates the Project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from the Bay Area Air District and the California Office of Environmental Health Hazard Assessment. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or **B.** All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications. **C.** In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following: **ii.** An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date. **iii.** A Certification Statement that the contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.	City of Berkeley	Prior to Building Permit Issuance	Land Use Planning/ Public Works

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2.	**Construction Emissions Reduction Measures.** Development projects shall comply with the current Bay Area Air District's basic control measures for reducing construction emissions of PM10 (Table 8-2, Basic Construction Mitigation Measures Recommended for All Proposed Projects, of the May 2017 Air District CEQA Guidelines), outlined below. **1.** All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times a day. **2.** All haul trucks transporting soil, sand, or other loose material offsite shall be covered. **3.** All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. **4.** All vehicle speeds on unpaved roads shall be limited to 15 miles per hour. **5.** All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. **6.** Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points. **7.** All construction equipment shall be maintained and properly tuned in accordance with manufacture's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper conditions prior to operation. **8.** Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's number shall also be visible to ensure compliance with applicable regulations.	Air Quality District	Prior to Building Permit Issuance	Land Use Planning/ Building and Safety/Air Quality District

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IV. Prior to Issuance of Building Permit: B. Public Works		Regulation Source	Timing/Implementation	Enforcement/ Monitoring
1.	**Transportation Construction Plan.** The applicant and all persons associated with the Project are hereby notified that a Transportation Construction Plan (TCP) may be required, particularly for the following activities: **B.** Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes); **E.** Storage of building materials, equipment, dumpsters, debris anywhere in the public right of way; **F.** Provision of exclusive contractor parking on-street; or **G.** Significant truck activity. Please contact the Department of Public Works Transportation Division at (510) 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be stamped and signed by a registered engineer prior to submittal. The TCP shall be consistent with any other requirements of the construction phase. A current copy of the TCP shall be available at all times at the construction site for review by City Staff.	City of Berkeley	Prior to Building Permit Issuance	Public Works

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IV. Prior to Issuance of Building Permit: C. Toxics		Regulation Source	Timing/Implementation	Enforcement/ Monitoring
5.	**Environmental Site Clearance.** Prior to issuance of any building permits, the applicant shall submit to the Toxics Management Division (TMD) an environmental screening clearance to ensure that the property meets development investigation and cleanup standards for the specific use proposed on the property. Documentation in the form of a letter shall be provided from one of the following external agencies: • San Francisco Bay Regional Water Quality Control Board (RWQCB); • California Department of Toxic Substances Control (DTSC); or • The Alameda County Department of Environmental Health's Local Oversight Program (LOP).	City of Berkeley	Prior to Issuance of Building Permit	Toxics Management Division

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V. During Demolition/Construction A. Building & Safety		Regulation Source	Timing/Implementation	Enforcement/ Monitoring
1.	**Construction Hours.** Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal holiday.	City of Berkeley BMC 13.40.070 (B) (7)	During Demolition/Construction	Building & Safety
2.	**Construction Hours Exceptions**. Prior to initiating any activity that might require a longer period, the applicant shall notify the Zoning Officer in writing and request an exception for a specific period of time. If an exception is approved, then the applicant shall notify businesses and residents within 500 feet of the Project site describing the expanded construction hours two weeks prior to the expanded schedule start. The Project shall only be allowed 15 extended working days.	City of Berkeley	During Demolition/Construction	Environmental Health/ Land Use Planning
3.	**Project Construction Website.** The applicant shall establish a project construction website with the following information clearly accessible and updated monthly or more frequently as changes warrant: • Contact information (i.e. "hotline" phone number, and email address) for the Project construction manager • Calendar and schedule of daily/weekly/monthly construction activities • The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.	City of Berkeley	During Demolition/Construction	Building & Safety
4.	**Construction / No Parking Permits**. If "Construction/No Parking Permits" are required, the applicant shall contact the Permit Service Center for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). The Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health or safety of the surrounding neighborhood.	City of Berkeley	During Demolition/Construction	Building & Safety
5.	**Geotechnical Construction Inspections -** The Geotechnical Consultant should inspect, test (as needed) and approve all geotechnical aspects of the project construction. The inspections should	City of Berkeley	During Demolition/Construction	Building & Safety/Public Works

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	include, but not necessarily be limited to: site preparation and grading, geogrid reinforcement, site surface and subsurface drainage improvements, and observations of excavations for foundations prior to placement of steel and concrete. The results of these inspections and the as-built conditions of the project should be described by the geotechnical consultant in a letter and submitted to the City Engineer for review prior to final (as-built) project approval.			

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V. During Demolition/Construction: B. Land Use Planning		Regulation Source	Timing/Implementation	Enforcement/ Monitoring
1.	**Avoid Disturbance of Nesting Birds.** Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the Project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the Migratory Bird Treaty Act and the California Fish & Game Code, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.	California Department of Fish & Wildlife (CDFW)/ City of Berkeley	During Demolition/Construction	Land Use Planning

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2.	**Unanticipated Discovery of Paleontological Resources.** In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified archeologist (per Secretary of Professional Qualification Standards National Park Service 1983). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The archeologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the archeologist shall prepare an excavation plan for mitigating the effect of the Project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.	City of Berkeley	During Demolition/Construction	Land Use Planning
3.	**Unanticipated Discovery of Tribal Cultural Resources.** In the event that Tribal Cultural Resources are identified during construction or any soils-disturbing activity, all work within 50 feet of the discovery shall be redirected. The Project applicant and Project construction contractor shall notify the Land Use Planning Division within 24 hours. The City will contact any tribes who have requested consultation under AB 52 (if applicable), as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a Tribal Cultural Resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.	City of Berkeley	During Demolition/Construction	Land Use Planning
4.	**Unanticipated Discovery of Archeological Resources.** Pursuant to CEQA Guidelines section 15064.5(f), “provisions for historical or unique paleontological resources accidentally discovered during construction” should be instituted. Therefore:	City of Berkeley	During Demolition/Construction	Land Use Planning

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	A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within a minimum of 50 feet of the resources shall be halted and the Project applicant and/or lead agency shall consult with a Registered Professional Archeologist or paleontologist, and the culturally-affiliated California Native American Tribe ("Tribe") to assess the significance of the find. **B.** If any find is determined to be significant, representatives of the Project proponent and/or the lead agency and the Tribe shall meet to determine the appropriate avoidance measures or other appropriate measures to mitigate impacts to the Tribal Cultural Resource., **C.** In considering any suggested measure proposed by the Registered Professional Archeologist, the Tribe and the lead agency shall confer and such consultation will be considered concluded when either of the following occurs: (1) the parties agree to mitigation measures to mitigate or avoid a significant effect, if a significant effect exists, on a Tribal Cultural Resource or (2) A party, acting in good faith after reasonable effort, concludes that mutual agreement cannot be reached. **D.** If avoidance is unnecessary or infeasible, other appropriate measures such as removal and reburial of the Tribal Cultural Resource in an alternate location with tribal cultural monitor such as removal and reburial of the Tribal Cultural Resource in an alternate location with tribal cultural monitors may be instituted. Work may proceed on other parts of the Project site while mitigation measures for cultural resources is carried out. **E.** If significant materials are recovered, the Registered Professional Archeologist shall prepare a report on the findings for submittal to the Northwest Information Center.			

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5.	**Discovery of Human Remains.** In the event that human skeletal remains are uncovered at the Project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines Upon the discovery of the Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred, as prescribed in this section, with the most likely descendants regarding their recommendations, if applicable, taking into account the possibility of multiple human remains. The landowner shall discuss and confer with the descendants all reasonable options regarding the descendants' preferences for treatment. A. The descendants' preferences for treatment may include the following: i. The nondestructive removal and analysis of human remains and items associated with Native American human remains. ii. Preservation of Native American human remains and associated items in place. iii. Relinquishment of Native American human remains and associated items to the descendants for treatment. iv. Other culturally appropriate treatment. B. The parties may also mutually agree to extend discussions, taking into account the possibility that additional or multiple Native American human remains, as defined in this section, are located in the Project area providing a basis for additional treatment measures. C. For the purposes of this section, "conferral" or "discuss and confer" means the meaningful and timely discussion and careful consideration of the views of each party, in a manner that is cognizant of all parties' cultural values, and where feasible, seeking agreement. Each party shall recognize the other's needs and concerns for confidentiality of information provided to the other.			

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	i. Human remains of a Native American may be an inhumation or cremation, and in any state of decomposition or skeletal completeness. ii. Any items associated with human remains that are placed or buried with Native American human remains are to be treated in the same manner as the remains, but do not by themselves constitute human remains. D. Whenever the commission is unable to identify a descendant, or the descendants identified fail to make a recommendation, or the landowner or his or her authorized representative rejects the recommendation of the descendants and the mediation provided for in subdivision (k) of Public Resources Code Section 5097.94. if invoked, fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall inter the human remains and items associated with Native American human remains with appropriate dignity on the property in a location not subject to further and future subsurface disturbance. To protect these sites, that landowner shall do one or more of the following: i. Record the site with the commission or the appropriate Information Center. ii. Utilize an open-space or conservation zoning designation or easement. iii. Record a document with the county in which the property is located. F. Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to subdivision (e). G. Pursuant to State law, any action taken to implement an agreement developed pursuant to this Condition of Approval shall be exempt from the CEQA.			

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V. During Demolition/Construction: C. Public Works		Regulation Source	Timing/Implementation	Enforcement/ Monitoring
1.	**Debris.** All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.	City of Berkeley	During Construction	Public Works
2.	**Excavation.** The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.	City of Berkeley	During Construction	Public Works
3.	**Sandbags.** The Project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The Project sponsor shall comply with all City ordinances regarding construction and grading.	City of Berkeley	During Construction	Public Works
4.	**Fire Hydrant.** The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.	City of Berkeley	During Construction	Public Works
5.	**Underground Utilities.** If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.	City of Berkeley	During Construction	Public Works

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6.	**Public Works - Implement Bay Area Air District Recommended Measures during Construction**. For all proposed projects, the Bay Area Air District recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust: **A.** All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. **B.** All haul trucks transporting soil, sand, or other loose material off-site shall be covered. **C.** All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. **D.** All vehicle speeds on unpaved roads shall be limited to 15 mph. **E.** All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. **F.** Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. **G.** All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified visible emissions evaluator. **H.** Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air District's phone number shall also be visible to ensure compliance with applicable regulations.	City of Berkeley/ Bay Area Air District	During Construction	Public Works

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V. During Demolition/Construction: D. Toxics		Regulation Source	Timing/Implementation	Enforcement/ Monitoring
1.	**Hazardous Materials Business Plan.** A Hazardous Materials Business Plan shall be submitted to the Toxics Management Division through the California Environmental Reporting System: http://cers.calepa.ca.gov/ for chemicals used or stored on site during construction that exceed reporting thresholds. The Plan shall be in compliance with BMC Section 15.12.040 and California Health & Safety Code, Chapter 6.95 Div. 20.	City of Berkeley/State of California BMC Section 15.12.040	During Construction	Toxic Management Division
2.	**Hazardous Waste Compliance Plan.** Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to the TMD within 30 days of the completion of the demolition.	City of Berkeley	During Construction	Toxic Management Division

VI. Prior to Final Inspection		Regulation Source	Timing/Implementation	Enforcement/Monitoring
1.	**Construction and Demolition Diversion Receipt Reporting.** Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using Green Halo and submit online for City review and approval prior to final inspection. Alternatively, complete the Construction Waste Management Plan and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.			Building & Safety

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XI. Assembly Bill 130 A. Tribal Consultation Conditions		Regulation Source	Timing/Implementation	Enforcement/ Monitoring
1.	Pursuant to Public Resources Code Section 21080.66 (b) (4) the City of Berkeley shall include, as binding conditions of the project approval, all of the following: (A) Any enforceable agreements reached during the project consultation. (i) Agreement reached with the Confederated Villages of Lisjan Nation, Amah Mutsun Tribe and Muwekma Ohlone Tribe (See conditions 2-10 below for agreed upon conditions) (i) Upon request by a California Native American tribe, the project shall include tribal monitoring during all ground-disturbing activities, as follows: (I) Confederated Villages of Lisjan Nation shall designate a monitor; Muwekma Ohlone Tribe shall designate a monitor (II) Both tribal monitors shall comply with applicant's site access and workplace safety requirements. (III) The applicant shall compensate both tribal monitors at a reasonable rate, determined in good faith, that aligns with customary compensation for cultural resource monitoring, taking into account factors such as the scope and duration of the project. (ii) Tribal cultural resources shall be avoided where feasible, in accordance with subdivision (a) of Section 21084.3. In furtherance of this requirement, where feasible, the project applicant shall provide deference to tribal preferences regarding access to spiritual, ceremonial, and burial sites, and incorporate tribal traditional knowledge in the protection and sustainable use of tribal cultural resources and landscapes. (iii) All treatment and documentation of tribal cultural resources shall be conducted in a culturally appropriate manner, consistent with Section 21083.9. (iv) A California Historical Resources Information System archaeological records search and a tribal cultural records search shall be completed for the project site.	State of California Public Resources Code Section 21080.66	Prior to Issuance of Building Permit	Land Use Planning

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	(v) A Sacred Lands Inventory request shall be submitted to the Native American Heritage Commission. (vi) The project shall comply with Section 7050.5 of the Health and Safety Code and Section 5097.98, including immediate work stoppage upon discovery of human remains or burial grounds, and treatment in accordance with applicable law and in consultation with the affected California Native American tribe. (vii) An application of tribal ecological knowledge into habitat restoration efforts undertaken by the project as applicable to the specific environmental context and conditions of the project.			
2.	**Stop Work and Notification Upon Discovery – Amah Mutsun Tribe.** Should any indication of a tribal cultural resource be encountered during any soils-disturbing activity of the project, the project Head Foreperson and/or project sponsor shall immediately notify tribe and shall immediately suspend any soils-disturbing activities in the vicinity of the discovery until the Cultural Monitor and a qualified archeological consultant from the Qualified Archeological Consultants List have assessed the find and the respective parties have determined whether and what additional measures should be undertaken.	City of Berkeley	During Demolition/Construction	Land Use Planning
3.	**Stop Work – Muwekma Ohlone Tribe -** Should any tribal cultural resources or Native American human remains be encountered during construction, all work within the vicinity of the discovery shall cease immediately, and the appropriate procedures under CEQA, the Health and Safety Code, and the Public Resources Code shall be followed.	City of Berkeley	During Demolition/Construction	Land Use Planning
4.	**Preservation in Place - Amah Mutsun Tribe.** In the event of the discovery of a tribal cultural resource, the cultural resource team (if one is present on job), the project sponsor, the archeological consultant, and the Ohlone representative shall consult to determine whether preservation in place would be feasible and effective in preserving the values represented by the resource. The archeological consultant, in consultation with the Ohlone representative, shall document the find to current professional standards. The tribe may also require that the project sponsor immediately implement a site security program if the resource is at risk from vandalism, looting, or other damaging actions.	City of Berkeley	During Demolition/Construction	Land Use Planning

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	If it is determined that preservation-in-place of the tribal cultural resource would be both feasible and effective, the archeological consultant shall prepare a Resource Preservation Plan (RPP) in consultation with the Ohlone representative, for review, which shall be implemented by the project sponsor during construction. If it is determined that preservation in place would not be feasible or effective, then archeological assessment and treatment shall be implemented and in consultation with the Ohlone representative, as detailed below.			
5.	**Archeological Treatment – Amah Mutsun Tribe.** If it is determined, in consultation with the Ohlone representative and the project sponsor, determines that preservation-in-place of the tribal cultural resources is not a sufficient or feasible option to preserve the values represented by the resource, then the archeological consultant, in consultation with the Ohlone representative, shall conduct archeological assessment to determine the significance of the find and determine whether it retains sufficient integrity to warrant additional treatment. If the tribal cultural resource is determined to be a significant archeological resource, the archeological consultant, in consultation with the Ohlone representative, shall recommend appropriate archeological treatment to preserve the data and values of the tribal cultural resource, which may include archeological data recovery. Data recovery shall be implemented in consultation with the Ohlone representative and shall include appropriate analyses and reporting. If an archeological interpretive, monitoring, and/or testing program is required, it shall be consistent with Standard guidelines for such programs and shall be implemented immediately.	City of Berkeley	During Demolition/Construction	Land Use Planning
6.	**Human Remains and Funerary Objects – Amah Mutsun Tribe.** The treatment of any human remains, and funerary objects discovered during any soils disturbing activity shall comply with applicable State laws, including Section 7050.5 of the Health and Safety Code and Public Resources Code 5097.98. If human remains or suspected human remains are encountered during construction, the contractor and project sponsor shall ensure that ground-disturbing work within 50 feet of the remains is halted immediately and shall arrange for the protection in place of the remains until appropriate treatment and	City of Berkeley	During Demolition/Construction	Land Use Planning

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	disposition have been agreed upon and implemented in accordance with this section. The project sponsor shall immediately notify the Medical Examiner of the County in which the job resides and the Tribe of the find. In the event of the Medical Examiner's determination that the human remains are Native American in origin, the Medical Examiner will notify the California State Native American Heritage Commission (NAHC) within 24 hours and all provisions of Public Resources Code 5097.98 will be followed.			
7.	**Tribal Monitoring – Muwekma Ohlone Tribe.** Tribal monitoring will be required during all ground-disturbing activities, including the planed excavation for soil stabilization due to the depth of excavation and the project's proximity to Marin Creek, Codornices Creek and other nearby waterways that may have supported ancestral use of the area.	City of Berkeley	During Demolition/Construction	Land Use Planning
8.	**Native American Monitoring – Confederated Villages of Lisjan.** Native American Monitoring. Prior to ground disturbing activities, including any testing involving ground disturbance, a Confederated Villages of Lisjan Nation (CVLN) Tribal monitor(s) shall be retained. Tribal monitors will not be required during the abatement or demolition phases, unless demolition could involve disturbance of native soils (e.g., by removing a foundation that extends into native soils). The Tribe will monitor initial ground-disturbing work at the site to assess below-ground sensitivity, alongside the surface survey (TCR-4). If these results indicate that the site is not sensitive for Tribal Cultural Resources, Tribal monitoring for the remainder of the project may not be required. CVLN Tribal monitor(s) will have the authority to halt and redirect work should any Tribal Cultural Resources be identified during monitoring. **If Tribal Cultural Resources are encountered during ground disturbing activities, work within 100 feet of the find must halt and the find must be evaluated for listing in the CRHR and NRHP.** Monitoring may be reduced or halted at the discretion of the CVLN monitor at any time, in consultation with the lead agency, as warranted by conditions such as encountering bedrock, sediments being excavated are fill, negative findings during the first 50 percent of the entire area of ground disturbance, etc.	City of Berkeley	During Demolition/Construction	Land Use Planning

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9.	**Unanticipated Discovery of Tribal Cultural Resources – Confederated Villages of Lisjan. If cultural resources of Native American origin are identified during grading or excavation of the proposed project, all ground disturbing activities within 100 feet shall cease until a representative from the Confederated Villages of Lisjan Nation is consulted by the government agency.** If the lead agency in consultation with the consulting Tribe(s) determines that the resource is a Tribal Cultural Resource and thus significant under CEQA, the lead agency shall retain a Tribal monitor and, if applicable, a qualified archeologist, at the project proponent's expense, to prepare a mitigation plan, which shall be implemented by the lead agency in accordance with state guidelines and in consultation with the consulting Tribe(s). The mitigation plan shall describe avoidance of the resource whenever feasible. If avoidance of the resource is not feasible, the plan shall outline appropriate treatment of the resource in coordination with the consulting Tribe. Examples of appropriate mitigations other than avoidance for Tribal Cultural Resources include, but are not limited to: protecting the cultural character and integrity of the resources; protecting traditional use of the resources; protecting the confidentiality of the resources; permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places; and/or protecting the resource.	City of Berkeley	During Demolition/Construction	Land Use Planning
10.	**Halt Work/Coroner's Evaluation/Impact to Previously Undiscovered Human Remains – Confederated Villages of Lisjan.** If human remains are encountered during construction and/or other ground disturbing activities, all work within 100 feet of the remains should be redirected and the County Coroner notified immediately. At the same time, an archeologist shall be contacted to assess the situation. If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission (NAHC) within 24 hours of this identification. The NAHC will identify a Native American Most Likely Descendent (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and any associated funerary objects. **There shall be no pictures taken or testing done on the Native American human remains. All bone, until identified as not human remains, shall be treated as potential human remains and the appropriate protocols followed.** The archeologist shall record information, as appropriate and in accordance with the recommendations of the	City of Berkeley	During Demolition/Construction	Land Use Planning

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	MLD and/or Tribal representative. Upon completion of the archeologist's assessment, a report should be prepared documenting methods and results, as well as recommendations regarding the treatment of the human remains and any associated archeological materials. The report should be submitted to the lead agency, the NWIC and the consulting Tribe. Tribal representatives will rebury the Native American human remains and associated funerary objects with the appropriate dignity, either; in accordance with the recommendations of the MLD if available or in the project vicinity at a location agreed upon between the Tribe and the project proponent, which would be accessible to Tribal members in perpetuity and would not be subject to further disturbance. The discovery and reburial is to be kept confidential and secure to prevent any further disturbance.			
XI. Assembly Bill 130 B. Other Conditions		Regulation Source	Timing/Implementation	Enforcement/ Monitoring
11.	Pursuant to Public Resources Code Section 21080.66 (C) (1) (A) the City of Berkeley shall, as a condition of approval for the development, require the development proponent to complete a Phase I environmental assessment, as defined in Section 78090 of the Health and Safety Code. (B) If a recognized environmental condition is found, the development proponent shall complete a preliminary endangerment assessment, as defined in Section 78095 of the Health and Safety Code, prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity. (C) If a release of a hazardous substance is found to exist on the site, the release shall be removed or any effects of the release shall be mitigated to levels required by current federal and state statutory and regulatory standards before the local government issues a certificate of occupancy. (D) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to levels required by current federal and state statutory and regulatory standards before the local government issues a certificate of occupancy.	State of California Public Resources Code Section 21080.66	Prior to Issuance of Building Permit	Land Use Planning

LAND USE PLANNING

CONDITIONS OF APPROVAL

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12.	Pursuant to Public Resources Code Section 21080.66(d)(2), if the Project is modified at a future date such that the building is over 85 feet tall, the provisions of this Section shall apply.	State of California Public Resources Code Section 21080.66	Prior to Issuance of Building Permit	Land Use Planning
13.	Pursuant to Public Resources Code Section 21080.66(d)(4), the provisions of Section 218.8 of the Labor Code shall extend to the development proponent in addition to the direct contractor or subcontractor. For purposes of this paragraph, “development proponent” shall mean a developer who submits the housing development project application to a local government that is exempt from this division pursuant to this section.	State of California Public Resources Code Section 21080.66	Prior to Issuance of Building Permit	Land Use Planning