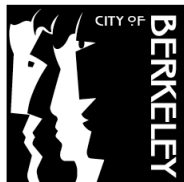


REVISED AGENDA
(ADDED CONTINUED ITEM FROM JULY 23, 2020)



BERKELEY CITY COUNCIL MEETING

Tuesday, July 28, 2020
6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/83653444287>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial **1-669-900-9128** and enter Meeting ID: **836 5344 4287**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call:

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

Consent Calendar

The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

- 1. Adoption of an Ordinance Amending Berkeley Municipal Code Chapter 16.10 (Excavations for Video and Telecommunications Systems)**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,726-N.S. amending Berkeley Municipal Code Chapter 16.10 (Excavations for Video and Telecommunications Systems).
First Reading Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila; Absent – None.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
- 2. City Consent to Declaration of Easements Between 2009 Addison and 2015 Addison**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,728-N.S. authorizing the City Manager to give City consent to an amended declaration of easements for safety and access between 2015 Addison Street, which is owned by the Berkeley Repertory Theater, and 2009 Addison Street, owned by the Joint Powers Financing Authority, leased by the City of Berkeley, and subleased to the Berkeley Repertory Theater.
First Reading Vote: All Ayes.
Financial Implications: None
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 3. Resolution Reviewing and Ratifying the Proclamation of Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)**
From: City Manager
Recommendation: Adopt a Resolution reviewing the need for continuing the local emergency due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19) and ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services on March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020 and June 16, 2020.
Financial Implications: To be determined
Contact: Farimah Brown, City Attorney, (510) 981-6950
- 4. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the council meetings of June 2, 2020 (closed and regular), June 9, 2020 (special and special), June 16, 2020 (special, special and regular), June 22, 2020 (closed), June 23, 2020 (special), June 24, 2020 (closed) and June 30, 2020 (closed and regular).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900

Consent Calendar

- 5. Establish 2021 City Council Meeting Schedule**
From: City Manager
Recommendation: Adopt a Resolution establishing the City Council regular meeting schedule for 2021, with starting times of 6:00 p.m.
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 6. Grant to Animal Services from the Avast Foundation**
From: City Manager
Recommendation: Adopt a Resolution accepting a grant for Animal Services from the Avast Foundation in the amount of \$10,000.
Financial Implications: Animal Services Donation Fund - \$10,000 (grant)
Contact: Erin Steffen, City Manager's Office, (510) 981-7000
- 7. Grant from the California Arts Council**
From: City Manager
Recommendation: Adopt a Resolution accepting a \$10,500 grant from the California Arts Council for the Berkeley Civic Arts Program to partner with the Berkeley Unified School District (BUSD) and four community arts providers to provide arts programming for BUSD summer sessions.
Financial Implications: See report
Contact: Jordan Klein, Economic Development, (510) 981-7530
- 8. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on July 28, 2020**
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.
Financial Implications: Various Funds - \$8,645,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 9. Contract No. 32000094 Amendment: Youth Spirit Artworks to Provide Transition Age Youth (TAY) Case Management and Linkage Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with vendor Youth Spirit Artworks (YSA) to provide Transition Age Youth (TAY) case management and linkage services through June 30, 2021 in an amount not to exceed \$317,000. This will extend the existing contract by one year and add in \$100,000.
Financial Implications: See report
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

Consent Calendar

10. Revenue Grant Agreement: Federal COVID19 Funding Support from the Centers for Disease Control and Prevention for the Epidemiology and Laboratory Capacity CARES Grant

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or her designee to submit grant agreements to Heluna Health, to accept this COVID19 response grant, and to execute any resultant revenue agreements and amendments; which enables us to conduct and implement mitigation strategies in response to COVID19 for the following revenue agreement: Public Health Emergency Preparedness's COVID-19 Response Program in the projected allocation of \$196,965 for FY 2021.

Financial Implications: See report

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

11. Operating Funding for Community Housing Development Organizations

From: City Manager

Recommendation: Adopt a Resolution: 1. Approving a multiyear operating funding contract for Resources for Community Development (RCD) and Satellite Affordable Housing Associates (SAHA), starting FY21 and ending FY25; 2. Approving funding in the amount of \$50,000 to RCD and \$50,000 to SAHA for FY21; 3. Authorizing City Manager or her designee to determine the amount of funding to be awarded to each organization in subsequent years, FY22 to FY25, based on the amount of the City's annual allocation of Community Housing Development Organization (CHDO) HOME funds and availability of General Fund match; and 4. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.

Financial Implications: See report

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

12. California Mental Health Services Authority (CalMHSA) Participation Agreement for the Mental Health Services Act, Innovations, Help@Hand Project

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an agreement with the California Mental Health Services Authority (CalMHSA) to enable the City of Berkeley to participate in the Mental Health Services Act (MHSA) Innovations (INN) Help@Hand multi-county collaborative project, and to extend the project through June 30, 2024.

Financial Implications: See report.

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

Consent Calendar

- 13. Contract Amendments: Contract No. 42000079 with Community Services Block Grant (CSBG) for Calendar Year 2020-21 and Contract No. 32000238 with Downtown Berkeley Association (DBA) for Double Helping Hand Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to:
1. Execute an amendment to Contract No. 42000079 with the State of California's Department of Community Services and Development (CSD) for Community Services Block Grant (CSBG) Contract Number 20F-3001 to increase the amount to \$304,355 and extend the contract period to May 31, 2021, and to execute any resultant agreements and amendments to provide services to low-income people for the period January 1, 2020 to May 31, 2021; and
 2. Execute an amendment to Contract No. 32000238 with the Downtown Berkeley Association (DBA) for the Double Helping Hand program for meals for the unhoused population by providing an additional \$37,492 in CSBG funding for a total amount not to exceed \$87,492.
- Financial Implications:** See report
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400
- 14. Contract No. 7167J Amendment: Superior, LLC for Upgrade and Support Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 7167J with Superior, LLC for development of functionalities, installation and preparation for the software upgrade of the City's FUND\$ system on the AS400 platform, increasing the contract amount by \$90,000 for a total not-to-exceed amount of \$3,565,765 from July 1, 2006 through June 30, 2021.
Financial Implications: Various Funds - \$90,000
Contact: Savita Chaudhary, Information Technology, (510) 981-6500
- 15. Contract No. 31900122-1 Amendment: Rolling Orange, Inc. for Website Redesign, Web Content Management System (CMS), and Support**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 31900122-1 with Rolling Orange, Inc. for the additional web application development, for an amount not-to-exceed \$72,000 and a total contract value not-to-exceed \$559,300 from March 1, 2019 to June 30, 2022.
Financial Implications: IT Cost Allocation Fund -\$72,000
Contact: Savita Chaudhary, Information Technology, (510) 981-6500

Consent Calendar

16. **Contract No. 10549A Amendment: Tyler Technologies Enterprise Resource Planning System for software licensing, implementation and maintenance services**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment with Tyler Technologies for software licensing, enhanced implementation services and maintenance services for the online Enterprise Resource Planning (ERP) system for the amount not to exceed \$650,000 and a total contract value not to exceed \$3,952,663 from April 1, 2017 to June 30, 2023.

Financial Implications: FUND\$ Replacement Fund - \$650,000

Contact: Savita Chaudhary, Information Technology, (510) 981-6500

17. **Contract No. 10515A Amendment: Tyler Technologies, Inc. for New World Public Safety Computer Aided Dispatch (CAD 911) Software**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 10515A with Tyler Technologies, Inc. for New World's Computer Aided Dispatch (CAD) for Police and Fire, Mobile messaging and field reporting modules, for license renewal, software support and maintenance services, increasing the amount by \$367,500, for a total not to exceed \$1,555,230 for the period March 30, 2017 to June 30, 2021.

Financial Implications: General Fund - \$367,500

Contact: Savita Chaudhary, Information Technology, (510) 981-6500

18. **Contract: ePlus for Cohesity Backup Solution and Hosted Cloud Storage**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to enter into a Contract with ePlus for the Cohesity backup solution and hosted cloud storage, for a total contract amount not to exceed \$608,400 for the term September 1, 2020 through August 31, 2025.

Financial Implications: IT Cost Allocation Fund - \$608,400

Contact: Savita Chaudhary, Information Technology, (510) 981-6500

19. **Contract: Digital Hands for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM)**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to enter into a contract and subsequent amendments with Digital Hands, for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM), for a total not to exceed amount of \$405,000, from September 1, 2020 to August 31, 2023.

Financial Implications: IT Cost Allocation Fund - \$405,000

Contact: Savita Chaudhary, Information Technology, (510) 981-6500

Consent Calendar

20. MOU with “A Safe Place” Domestic Violence Shelter

From: City Manager

Recommendation: Adopt a Resolution approving the Memorandum of Understanding (MOU) entitled “Memorandum of Understanding with A Safe Place, a domestic violence shelter provider, and authorize the Chief of Police to enter into this agreement and any amendments.

Financial Implications: See report

Contact: Andrew Greenwood, Police, (510) 981-5900

21. MOU with California Department of Justice to Accept Grant for Submission and Testing of Sexual Assault Evidence

From: City Manager

Recommendation: Adopt a Resolution approving the Memorandum of Understanding (MOU) entitled “Memorandum of Understanding with the California Department of Justice.” The Berkeley Police Department has been selected to receive a \$312,284 grant for testing untested Sexual Assault Evidence. Approving this MOU will allow reimbursement of testing expenses and related costs covered by the grant. Authorize the Chief of Police to enter into this agreement and any amendments.

Financial Implications: See report

Contact: Andrew Greenwood, Police, (510) 981-5900

22. Lease Agreement: 1001 University Avenue with The Berkeley Food Network

From: City Manager

Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a retroactive lease agreement with The Berkeley Food Network (BFN) to use the City property at 1001 University Avenue for a three-year lease term with an option to extend for two additional one-year terms.

Financial Implications: See report

Contact: Liam Garland, Public Works, (510) 981-6300

23. Grant Applications: Highway Safety Improvement Program Cycle 10

From: City Manager

Recommendation: Adopt two Resolutions authorizing the City Manager to submit grant applications to the California Highway Safety Improvement Program (HSIP) Cycle 10 for the following projects: Protected Left-Turn Signals at multiple signalized intersections for up to \$4 million and Sacramento Street Pedestrian Crossings for up to \$250,000.

Financial Implications: See Report

Contact: Liam Garland, Public Works, (510) 981-6300

Consent Calendar

- 24. Contract 9274A Amendment: Ascentis Corporation 9274A for Biometric Time Card Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9730A with Ascentis Corporation for biometric time card services to extend the contract term by one year to June 30, 2022, and increase the contract amount by \$25,000 for a total contract amount not to exceed \$75,000.
Financial Implications: Various Funds - \$25,000
Contact: Liam Garland, Public Works, (510) 981-6300
- 25. Contract: McNabb Construction Inc. for the Codornices Creek Restoration at Kains Avenue Project**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Codornices Creek Restoration Kains Avenue Project, Specification No. 20-11368-C; accepting the bid of McNabb Construction Inc. as the lowest responsive and responsible bidder; and authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications in an amount not to exceed \$550,127.
Financial Implications: Various Funds - \$550,127
Contact: Liam Garland, Public Works, (510) 981-6300
- 26. Referral Response: An Action Plan for Greening the City of Berkeley Fleet of Vehicles**
From: City Manager
Recommendation: Receive the City of Berkeley Municipal Fleet Electrification Assessment, a plan to accelerate Berkeley's municipal fleet electrification by 2030, and refer to the City Manager to pursue grant and rebate opportunities through East Bay Community Energy and other entities to support its recommendations for transitioning fleet vehicles away from fossil fuels to electric vehicles, including charging infrastructure and associated distributed energy resource options.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300

Consent Calendar

27. **Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12** *(Reviewed by the Agenda & Rules Committee) (Item contains supplemental material)*
From: Fair Campaign Practices Commission
Recommendation: Conduct a public hearing and upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to prohibit Officeholder Accounts (See Section 18531.62. Elected State Officeholder Bank Accounts, Regulations of the Fair Political Practices Commission).
(On June 29, 2020, the Agenda and Rules Committee made a Positive Recommendation to the City Council that the item be referred to the Agenda & Rules Committee to be considered with other related referrals from the Fair Campaign Practices Commission.)
Financial Implications: None
Contact: Sam Harvey, Commission Secretary, (510) 981-6950

Council Consent Items

28. **Opposition to Nuclear Warfare**
From: Mayor Arreguin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Wengraf (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a Resolution marking the 75th anniversary of the atomic bombings of Hiroshima and Nagasaki with a call to prevent nuclear war.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
29. **Support Berkeley Humane Society's Nonprofit Bark (& Meow) for the Around the Block Adoption Event and Family Street Fair in West Berkeley on August 29, 2020, organized by Berkeley Humane Society: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Councilmember Davila (Author), Councilmember Bartlett (Co-Sponsor)
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to Berkeley Humane Society's Nonprofit Bark (& Meow) for the Around the Block Adoption Event and Family Street Fair in West Berkeley on August 29, 2020, organized by Berkeley Humane Society, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute. (COVID-19 Update: If it is not safe to hold the one-day event a month-long virtual adopt-a-thon will be held instead to find homes for over 100 shelter pets).
Financial Implications: See report
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

Council Consent Calendar

- 30. Providing our Unhoused Community in the City of Berkeley with Menstrual Products** *(Reviewed by the Health, Life Enrichment, Equity & Community Committee)*

From: Councilmember Davila (Author)

Recommendation:

1. Adopt a Resolution to create an allocation of the budget towards annual purchasing of menstrual products and dispensers that will be distributed in three ways: A. Regularly scheduled replenishment of dispensers across public restrooms; B. Provide supplies to the City supported shelters, mental health offices, shower programs, and navigation centers; C. Homeless Outreach to include distribution to encampments and RV dwellers.
2. Resolution will allocate \$10,000 of the budget for the first year, and \$8,000 for every consecutive year.
3. Direct the City Manager to use existing homeless services funding to develop and deploy a program to provide a broad spectrum of menstrual products, including but not limited to, feminine hygiene, pads, tampons, underwear, and other related products, both through the City's outreach direct services, as well as through the community based homeless services providers. Additionally, require some elements of this program be deployed immediately, with a full program deployment within six months.

Financial Implications: See report

Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

- 31. Resolution in Support of 1921 Walnut Street**

From: Councilmember Harrison (Author), Councilmember Hahn (Co-Sponsor)

Recommendation: Adopt A Resolution In Support of The Preservation of 1921 Walnut Street, Currently Under The Threat of Being Purchased and Demolished by the University of California at Berkeley.

Financial Implications: None

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

- 32. Adopt a Resolution Implementing Core Police Accountability Board and Director of Police Accountability functions by July 1, 2021**

From: Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor)

Recommendation: 1. Adopt a Resolution, contingent upon voter approval of the Charter Amendment contained in Resolution No. 69,363-N.S., implementing the following core Police Accountability Board and Director of Police Accountability functions and policy changes by July 1, 2021: a. Establish and convene the Police Accountability Board with all investigatory, policy and other authorities, and; b. To assist in an orderly transition between the Police Review Commission and the Police Accountability Board established by this Article, Police Review Commission staff shall serve as interim Police Accountability Board staff until the City hires a Director of Police Accountability.

Financial Implications: Staff time

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Council Consent Calendar

- 33. Resolution in Support of AB 310 to Convert The California Infrastructure Bank (IBank) to a Public Bank**
From: Councilmember Harrison (Author), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt A Resolution In Support of AB 310 converting the California Infrastructure Bank (IBank) to a depository institution serving as a public bank for the State of California, its counties, municipalities and regional authorities.
Financial Implications: None
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 34. Oppose AB 2167 & SB 292**
From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor)
Recommendation: Approve a letter opposing AB 2167 (Daly & Cooley) Insurance Action Market Plan and SB 292 (Rubio & Jones) Wildfire Risk Modeling and Mitigation, and send to Assembly Members Tom Daly and Ken Cooley and Senators Susan Rubio and Brian Jones, with copies to Senator Nancy Skinner, Assemblymember Buffy Wicks, and Governor Gavin Newsom.
Financial Implications: None
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
- 35. Support for SB 288: Sustainable Transportation COVID-19 Recovery Act**
From: Councilmember Robinson (Author), Councilmember Bartlett (Co-Sponsor)
Recommendation: Send a letter to Senator Scott Wiener, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Senate Bill 288, which would exempt specified transportation projects from environmental review under CEQA, including bus rapid transit projects, pedestrian and bicycle facilities, and zero-emission charging stations
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 36. Support for SB 902: Authorizing Cities to Rezone for Density**
From: Councilmember Robinson (Author)
Recommendation: Send a letter to Senator Scott Wiener, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Senate Bill 902, which would authorize local governments to upzone urban infill sites and parcels in transit- or jobs-rich areas for up to 10 units of residential density.
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

Council Consent Calendar

- 37. Support for AB 2542: The California Racial Justice Act**
From: Councilmember Robinson (Author) , Councilmember Bartlett (Co-Sponsor) , Councilmember Hahn (Co-Sponsor)
Recommendation: Send a letter to Assemblymember Ash Kalra, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 2542, which would prohibit the state from seeking or obtaining a criminal conviction, or from imposing a sentence, based on race, ethnicity, or national origin.
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 38. Support for AB 2345 (CA Density Bonus)**
From: Councilmember Droste (Author)
Recommendation: That the Berkeley City Council send a letter supporting AB 2345, authored by Assemblymember Lorena Gonzalez and Assemblymember David Chiu which will help address California’s housing crisis by expanding the state density bonus for housing developers who commit to building additional affordable units.
Financial Implications: None
Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

Action Calendar

The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

The Presiding Officer will request that persons wishing to speak use the “raise hand” function to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

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

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, use the “raise hand” function to be recognized and to determine the number of persons interested in speaking at that time.

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.

Action Calendar – Public Hearings

**39. Amendment of Urgency Ordinance for Outdoor Commerce on Private Property
From: City Manager**

Recommendation: Conduct a public hearing and, upon conclusion, adopt amendments to the Urgency Ordinance (Number 7,725-N.S.) amending Berkeley's Zoning Ordinance, Chapter 23E.18 and Section 23B.20.045, to allow additional categories of commerce and establish additional operating criteria for outdoor activities on private property.

Financial Implications: See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400

40. General Plan Redesignation and Rezone of The Rose Garden Inn at 2740 Telegraph Avenue (APN 054-1716-002-00), 2744 Telegraph Avenue (APN 054-1716-003-00), and 2348 Ward Street (APN 054-1716-031-00)

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion:

1. Adopt a Resolution amending the General Plan land use designations of portions of parcels that comprise The Rose Garden Inn from Low Medium Density Residential to Avenue Commercial;
2. Adopt first reading of an Ordinance amending the Zoning Map for the portion of parcels that comprise the Rose Garden Inn from Restricted Two-Family Residential District (R-2) to General Commercial District (C-1); and
3. Certify that the reclassification of General Plan land use designations and rezoning are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Classes 1, 3, 5, and 31.

Financial Implications: See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action Calendar – New Business

41. Placing a Measure on the November 3, 2020 Ballot Amending the Rent Stabilization and Eviction for Good Cause Ordinance (B.M.C. 13.76)

From: Rent Stabilization Board

Recommendation:

1. Adopt a Resolution placing the proposed amendments to the Rent Stabilization and Eviction for Good Cause Ordinance on the ballot of the November 3, 2020 General Municipal Election.
2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

Financial Implications: See report

Contact: Matt Brown, Rent Stabilization Board, (510) 981-7368

Council Action Items

- 42. Amendments to Berkeley Municipal Code 23C.22: Short Term Rentals**
From: Councilmember Harrison (Author)
Recommendation: Amend Berkeley Municipal Code 23C.22: Short Term Rentals to clarify the ordinance and insure adequate host responsibilities, tenant protections and remedies for violating the ordinance.
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 43. Urgency Ordinance: Updates to the COVID-19 Emergency Response Ordinance; Resolution: Request UC Berkeley Voluntarily Comply with Local Ordinances Restricting Evictions, Delaying Rent Payments, and Empowering Tenants to Terminate their Leases Without Penalty**
From: Councilmember Davila (Author), Councilmember Bartlett (Co-Sponsor)
Recommendation:
1. Adopt an urgency ordinance amending Berkeley Municipal Code 13.110, Title 13, "The COVID-19 Emergency Response Ordinance," to enhance emergency tenant protections consistent with recently adopted Alameda County laws, action in other jurisdictions, and consultation with community stakeholders.
2. Adopt a resolution requesting the University of California at Berkeley voluntarily comply with local eviction moratoriums, rent suspension ordinances, and ordinances empowering tenants to terminate their leases without penalty.
Financial Implications: See report
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

Action Calendar – Continued Business

A. Changes to the Berkeley Municipal Code and City of Berkeley Policies with Respect to Local Emergency Declarations and First Amendment Curfews

(Continued from July 23, 2020)

From: Councilmember Hahn (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Mayor Arreguin (Co-Sponsor)

Recommendation:

1. Direct the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify the following with respect to the declaration of a Local Emergency:
 - a. A Local Emergency can only be declared by the Director of Emergency Services if a regular or special meeting and session of the City Council cannot be called due to physical impossibility of holding a meeting, because a quorum cannot be established, or because the urgency of the Local Emergency is such that waiting 24 hours for the City Council to convene a session and/or Special Meeting would endanger the community;
 - b. Should the Director declare a Local Emergency without action of the City Council (due to one of the reasons stated at (a), above), Council ratification of such action occurs at the first possible opportunity, even if it requires calling a Special Meeting and/or session of the Council; and
 - c. The applicable statutory and legal standards (Federal, State and Local) for calling a Local Emergency shall be presented to the City Council when seeking declaration or ratification of a Local Emergency, along with facts to support meeting those standards, so that the City Council, likely acting under rushed and exigent circumstances, is able to make a carefully considered and fact-based determination that declaration of such Local Emergency conforms with the legal standards and is supported by facts.
2. Direct the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify policies, terms and procedures for the order, scope, terms, duration, and all other elements and conditions of curfews called in response to, or likely to have the effect of limiting or banning, planned, expected or reasonably foreseeable first amendment activity, including rallies, marches, demonstrations and assemblies of all kinds (“First Amendment Curfews”), as enumerated (1-8) under the “Background” section of this item, below.
3. Advise the City Manager and/or Director of Emergency Services that approval of this item represents the will and direction of the City Council with respect to declarations of Local Emergencies and imposition of First Amendment Curfews, and should the occasion to declare a Local Emergency or impose a First Amendment curfew arise prior to formal Council adoption of the requested amendments and policies, the City Manager and/or Director of Emergency Services shall, to the greatest extent possible under existing law, strive to encompass actionable elements, and meet spirit, of this item.

Financial Implications: See report

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Information Reports

- 44. **Voluntary Time Off Program For FY 2021**
From: City Manager
Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000
- 45. **Annual Housing Pipeline Report**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 46. **LPC NOD: 1120 Second Street/#LMSAP2019-0007**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 47. **LPC NOD: 1120 Second Street/#LMSAP2019-0008**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 48. **LPC NOD: 41 San Diego Road/#LMSAP2020-0002**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Public Comment – Items Not Listed on the Agenda

Adjournment

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

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx> and KPFB Radio 89.3.

Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at
<http://www.cityofberkeley.info/citycouncil>

COMMUNICATION ACCESS INFORMATION:

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



Captioning services are provided at the meeting, on B-TV, and on the Internet.

I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on July 24, 2020.

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville, City Clerk

Communications

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

Item #41: Placing a Measure on the November 3, 2020 Ballot Amending the Rent Stabilization and Eviction for Good Cause Ordinance (B.M.C. 13.76)

1. Sara Hartley
2. Greg San Martin
3. Toni Mester
4. Erica Cleary
5. Rena Meyer
6. William Rosen
7. Labi Rabiou
8. Susan Payne
9. Colette Ford
10. Marilyn Garcia
11. Jelani Nelson
12. Matt Heafey
13. Joann Sullivan
14. Yoni Mayeri
15. Ana Perches Perez
16. David Hermele

Regenerative Economy to Address the Climate Emergency

- 17. Ingrid Good
- 18. Marcelo Garzo Montalvo

Covid-19 Related and/or Masks

- 19. Nina Lyons
- 20. Isaac Pastor-Chermak
- 21. Howard Goldberg
- 22. City of Berkeley Covid-19 Information
- 23. Vivian Warkentin
- 24. Joel Libove
- 25. Celeste Kidd
- 26. Anne Herrick (2)
- 27. Genevieve Nonet
- 28. Thomas Lord (2)
- 29. Russbumper (2)
- 30. David Lerman (5)

Telcom/5G/Cell Antennas

- 31. Vivian Warkentin
- 32. Mark Weiman
- 33. KO
- 34. Isis Feral
- 35. Blair Beekman
- 36. Pollock & James, Law Firm

Harriet Tubman Terrace

- 37. Darinxoso Oyamasela (4)
- 38. Ashley Rementer, Property Manager

Graffiti

- 39. Elana Nafalin-Kelman (2)
- 40. Customer Service, City of Berkeley (2)

Homeowners Assessment Complaint – Property Taxes

- 41. Finance Department, City of Berkeley

Lorin and Rosewood Support

- 42. Landon Williams

Cedar Properties

- 43. Laiming Huang
- 44. Tony Benado, City Clerk's Office

Civic Arts Grants

- 45. Sharon Dolan, Freight & Salvage

Smoking Violation

46. Carol Denney

Urban Dwellers Fleeing

47. Barbara Gilbert

Parking Enforcement

48. Suneel Jain

Small Landlord Needs Help

49. Grace Chi

Tilting Power Pole

50. Gar Smith

Pay Equity – City of Berkeley Employees

51. Jeff Apkarian, Union Representative

SB 82 Grant/OAC Priorities

52. Carole Marasovic

Supplemental Communications and Reports

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

- **Supplemental Communications and Reports 1**
Available by 5:00 p.m. five days prior to the meeting.
- **Supplemental Communications and Reports 2**
Available by 5:00 p.m. the day before the meeting.
- **Supplemental Communications and Reports 3**
Available by 5:00 p.m. two days following the meeting.



SOPHIE HAHN
Berkeley City Council, District 5
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
(510) 981-7150
shahn@cityofberkeley.info

EMERGENCY ITEM AGENDA MATERIAL

Meeting Date: June 9, 2020
Item Description: Emergency Declaration and First Amendment Curfew Criteria
Submitted By: Vice Mayor Sophie Hahn (Author), Councilmembers Ben Bartlett and Kate Harrison, and Mayor Jesse Arreguin (Co-Sponsors)

This item is submitted as an Immediate Action Item pursuant to Section III.D.4.b of the Berkeley Council Rules of Procedure.

In light of ongoing demonstrations throughout California and across the Bay Area in response to illegal police killings of Black individuals, there is a need for immediate action to establish policy on the order, scope, terms, duration and other conditions and elements of curfews in the City of Berkeley.

The Council must immediately take action because demonstrations have occurred in recent days and there is evidence of planning for [additional demonstrations](#) similar to the ones that prompted the recent curfew in the City of Berkeley. Such demonstrations, including potentially challenging situations in which bad actors infiltrate groups of peaceful protestors, can place outsized demands on police and others responsible for ensuring public order and safety. In addition, the City must be prepared to protect the constitutional rights of individuals who wish to peacefully assemble and protest injustices in Berkeley and beyond.

Sadly, we know that unjust and discriminatory killings of Black individuals will continue. According to a Washington Post [database](#) tracking police killings, more than 1000 people have been shot and killed by the police in the past year, with Black Americans killed at more than twice the rate of white Americans. Shocking incidents happen all the time. In the past few days, we have had a slaying in Vallejo and a shooting in Oakland of individuals of color. Because such events occur with sad frequency, protests in opposition could arise at any time as well, potentially prompting the City to seek another declaration of Local Emergency, and curfew. Therefore, new policies must be established immediately.

The Agenda for the June 9 City Council Special Meeting was published on the afternoon of June 2, prior to the meeting at which the Council approved an emergency resolution from the City Manager imposing a curfew in response to scheduled demonstrations. Therefore, the need to take immediate action to establish a policy on curfews came to the attention of the Council after the publishing of the Agenda.



SOPHIE HAHN
Berkeley City Council, District 5
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
(510) 981-7150
shahn@cityofberkeley.info

ACTION CALENDAR
July 28, 2020
(Continued from July 23, 2020)

To: Honorable Members of the City Council
From: Vice Mayor Sophie Hahn (Author), Councilmembers Ben Bartlett and Kate Harrison, and Mayor Jesse Arreguin (Co-Sponsors)
Subject: Changes to the Berkeley Municipal Code and City of Berkeley Policies with Respect to Local Emergency Declarations and First Amendment Curfews

RECOMMENDATION

1. Direct the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify the following with respect to the declaration of a Local Emergency:
 - a. A Local Emergency can only be declared by the Director of Emergency Services if a regular or special meeting and session of the City Council cannot be called due to physical impossibility of holding a meeting, because a quorum cannot be established, or because the urgency of the Local Emergency is such that waiting 24 hours for the City Council to convene a session and/or Special Meeting would endanger the community;
 - b. Should the Director declare a Local Emergency without action of the City Council (due to one of the reasons stated at (a), above), Council ratification of such action occurs at the first possible opportunity, even if it requires calling a Special Meeting and/or session of the Council; and
 - c. The applicable statutory and legal standards (Federal, State and Local) for calling a Local Emergency shall be presented to the City Council when seeking declaration or ratification of a Local Emergency, along with facts to support meeting those standards, so that the City Council, likely acting under rushed and exigent circumstances, is able to make a carefully considered and fact-based determination that declaration of such Local Emergency conforms with the legal standards and is supported by facts.
2. Direct the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify policies, terms and procedures for the order, scope, terms, duration, and all other elements and conditions of curfews called in response to, or likely to have the effect of limiting or banning, planned, expected or reasonably foreseeable first amendment activity,

including rallies, marches, demonstrations and assemblies of all kinds (“First Amendment Curfews”),as enumerated (1-8) under the “Background” section of this item, below.

3. Advise the City Manager and/or Director of Emergency Services that approval of this item represents the will and direction of the City Council with respect to declarations of Local Emergencies and imposition of First Amendment Curfews, and should the occasion to declare a Local Emergency or impose a First Amendment curfew arise prior to formal Council adoption of the requested amendments and policies, the City Manager and/or Director of Emergency Services shall, to the greatest extent possible under existing law, strive to encompass actionable elements, and meet spirit, of this item.

BACKGROUND:

“Those who won our . . . revolution were not cowards. . . They did not exalt order at the cost of liberty. . . . Only an emergency can justify repression [of speech]. . . . The fact that speech is likely to result in some violence or in destruction of property is not enough to justify its suppression. There must be the probability of serious injury to the State. Among free men, the deterrents ordinarily to be applied to prevent crime are education and punishment for violations of the law, not abridgment of the rights of free speech and assembly.” US Supreme Court Justice Brandeis, *Whitney v. California*, 274 U.S. 357, 377–78 (1927) (Brandeis, J., concurring)

State law and the Berkeley Municipal Code both include provisions for the calling of a Local Emergency. Once a Local Emergency has been called, the power to impose curfews is in the hands of the Director of Emergency Services (“Director”), with ratification by the City Council.

This item seeks to achieve two goals:

First, the Berkeley Municipal Code only allows the Director to proclaim a Local Emergency if the City Council is not “in session.” If the City Council is “in session,” the City Council must call the Local Emergency. It also requires the City Council to ratify a Local Emergency called by the Director within seven days, or the proclamation has no further effect.

2.88.040 Director of Emergency Services--Powers and duties.

- A. The Director of Emergency Services is empowered:

1. If, in the Director’s judgment, the conditions will require the combined forces of other political subdivisions to combat, to request the City Council to proclaim the existence of a "Local Emergency" if the City Council is in session, or to issue such proclamation if the City Council is not in session. Whenever a Local Emergency is proclaimed by the Director, the City Council shall take action ratifying said proclamation within seven days of issuance or the proclamation shall have no further force and effect;

This item directs the City Manager to return to the City Council amendments to the Berkeley Municipal Code and/or a policy to adopt that emphasize and clarify that the City Council is the body empowered to call Local Emergencies, and the Director of Emergency Services must present a proclamation of Local Emergency either at a Regular meeting of the City Council, or call for a Council session and/or Special Meeting to be immediately convened, and the Director may only call a Local Emergency himself in circumstances where, despite the requirement to convene the City Council, it is either (1) extremely difficult or impossible for the City Council to meet, such as a major wildfire or earthquake that renders both physical and virtual meetings physically difficult or impossible, or (2) after convening a session and/or Special Meeting, or at a Regular Meeting of the Council, a quorum cannot be established, or (3) if the emergency is so extreme and dangers to the community so grave and imminent that waiting for a Regular or Special Meeting or session of the City Council to be convened would endanger the community.

Further, the item requests clarification that City Council ratification of a declaration of Local Emergency by the Director should take place as quickly as possible, at the first possible occasion that a Special City Council meeting or session can be convened.

Second, once a Local Emergency has been declared, the Director of Emergency Services has the following powers under BMC Section 2.88.04(A)(6)(a):

To make and issue lawful rules and regulations on matters reasonably related to the protection of life, public health or safety, or improved property as affected by such emergencies; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council, shall be in writing, and shall be given widespread publicity and notice

It is according to this power that a curfew can be imposed by the Director.

A second set of BMC amendments and policies will address imposition of certain types of curfews. This item directs the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify new procedures and requirements applicable curfews which may be called in response to, or are likely to have the effect of limiting or banning, planned, expected or reasonably foreseeable first amendment activity, including rallies, marches, demonstrations and assemblies of all kinds, hereinafter referred to as "First Amendment Curfews".

Establishment of all curfews impacts constitutional rights, most notably the 5th Amendment protection against government deprivation of "life, liberty, or property, without due process of law." By limiting movement of individuals during the period of the curfew in the locations where a curfew is imposed, liberty is impacted. Thus, imposition of any curfew and must meet a high standard.

Under any curfew, first amendment activity - free speech - is also curtailed, by implication. If residents are confined to their homes some or all of the day and night due to safety concerns

and dangerous conditions after a disaster, they cannot assemble publicly for any purpose, and their first amendment rights have been curtailed. But there is a difference between a curfew that is called in the wake of a major disaster such as an earthquake or fire, to protect people from dangerous conditions, and a curfew that is called specifically in response to, or anticipation of, first amendment activity. This item asks for amendments to the Berkeley Municipal Code and/or the drafting of new policies that establish higher standards and more robust processes and policies with respect to potential First Amendment Curfews.

After an earthquake, fire, landslide or other major disaster, if a curfew is imposed to avoid the possibility that individuals out at night, for example, will be hurt by falling debris, encounter live electrical wires, or fall into sinkholes, the nexus between potential harm to community members and the calling of a curfew is clear and relatively uncontroversial. The fact that the curfew also precludes a rally, protest, funeral or other assembly is incidental.

But when a curfew is issued primarily to limit or preclude assemblies, free speech and the right to “peaceably assemble” is the direct target of the curfew, and higher standards must apply. The City Council should be the body to review the statutory and legal standards for imposition of a First Amendment Curfew, to review the facts, and to evaluate whether the intrusion on First Amendment rights is necessary to address a compelling interest, narrowly tailored to achieving that purpose, and uses the least restrictive means to achieve the purpose.

Changes to the BMC and/or new policies relating to First Amendment Curfews should include, at a minimum, the following:

1. An assertion or codification that the First Amendment shall not be infringed upon by the City of Berkeley without establishing that the proposed intrusion on First Amendment rights is necessary to address a compelling interest, narrowly tailored to achieving that purpose, and uses the least restrictive means to achieve the purpose
2. Imposition of First Amendment Curfews, if any, shall be by action of the City Council at a Regular or Special meeting, except in circumstances where it is extremely difficult or impossible for the City Council to meet, such as a major wildfire or earthquake that renders both physical and virtual meetings physically difficult or impossible, or if a quorum of the City Council cannot be established, in which case the Director of Emergency Services may impose a First Amendment Curfew that meets the requirements of all applicable Federal, State and local laws, legal standards, and policies. A curfew imposed by the Director must be ratified by the City Council within the following 24 hours, except if it is extremely difficult or impossible for the City Council to meet either physically or virtually, or a quorum of the City Council cannot be convened at a regular or special meeting.
3. A First Amendment Curfew and each and every element of such curfew, including but not limited to the curfew’s physical boundaries; times of day or night; duration; and the individuals/businesses/establishments, modes of transportation, and other activities or

elements to which it applies; shall not be imposed unless specific findings are made, based on substantial evidence, that:

- a. Each element of such curfew is narrowly tailored to meet specific violence or conditions which pose a clear and present danger of imminent violence likely to be perpetrated in each covered location (residential vs. commercial/manufacturing areas, specific residential or commercial/manufacturing areas, specific types of establishments such as bars, dispensaries, big box stores, etc.), using the covered modes (pedestrians, bike riders, people in vehicles, parking, etc.), during the covered times (morning, mid day, afternoon, evening, etc.), for the covered duration (one day, half day, etc.), and in, by or during all other conditions to which the order applies, and
- b. All reasonable alternatives and more narrowly tailored means to avoid or address specific violence or conditions which pose a clear and present danger of imminent violence, as well as any new rules or regulations which may be promulgated short of a curfew in those locations, even if more expensive to deploy, for those individuals and modes, during those times and for that duration, and for all other conditions to which the curfew applies, have been explored and found to be deficient in their ability to address specific violence or conditions which pose a clear and present danger of imminent violence, and only a curfew can reasonably provide for the necessary public safety and welfare.

All reasonable alternative means, considered and rejected, to address threats related to each covered location, population, mode or other condition or element of the curfew, shall be described in the report provided to the City Council upon the Director of Emergency Services' request for Council to impose such curfew, or upon the Director's request for ratification of a curfew imposed by the Director.

4. First Amendment Curfew orders must clearly state and/or designate on a map the specific areas to be covered, list the covered individuals/businesses, modes, times, duration and any other elements and conditions to which the order applies, and explain the specific violence or conditions which pose a clear and present danger of imminent violence, that justify imposition of the curfew to each element of the order. First Amendment Curfews may not be based on fear of violence alone; there must be specific, identified threats and/or a reasonable basis to believe threats might materialize in the locations, at the times, and by the means being banned or restricted by the curfew order.
5. A First Amendment Curfew can provide a specific number of days, or unlimited days, for which the curfew is suggested to apply. However, First Amendment Curfews can only be ordered by the City Council or, if necessary, by the Director of Emergency Services, for one twenty-four hour period at a time, and may only be extended or re-imposed, if at all, through additional action taken by the the City Council at a regular or special meeting or by the Director.

Notwithstanding the above, if, after 7 consecutive days of the City Council issuing daily First Amendment Curfew orders or the Director of Emergency Services issuing daily orders for the City Council's ratification, the Council or the Director wishes, on the 8th day, to issue a First Amendment Curfew order for a period longer than one day, the City Council, by a vote of $\frac{2}{3}$, or the Director, may issue or ratify curfew orders of up to 7 days in duration.

6. An overall finding must be made by the City Council or Director, in imposing a First Amendment Curfew, that reasonable alternative measures that burden substantially less speech would fail to achieve the City's interests, even if more complicated or costly to implement, and the added value of the curfew will make a substantial positive impact on public safety without unduly impacting rights guaranteed under local, state and federal laws, and in particular the First, Fifth and Fourteenth amendments of the US Constitution.
7. To the greatest extent possible, First Amendment Curfew orders shall refrain from using vague standards for enforcement and exemptions, that may result in selective, disparate or biased enforcement.
8. To mirror the notice requirements of Berkeley Municipal Code Section 2.88.040(6)(a), which requires "widespread publicity and notice" of a declaration of Local Emergency, and to meet ensure that a First Amendment Curfew is only enforceable against individuals who do not obey the curfew "after due notice, oral or written, has been given to said persons," and, to the greatest extent possible under the time constraints and physical conditions (lack of electricity or internet, widespread destruction in the event of a sudden wildfire or earthquake, etc.) which exist at the time a First Amendment order is ordered, the City of Berkeley shall publicize the First Amendment Curfew through, at a minimum, the following means:
 - a. By posting a notice at all locations where formal notices are regularly posted
 - b. By posting a notice prominently on the Home Page of the City of Berkeley website and on other appropriate pages of the website
 - c. By publicizing notice of the order through major City of Berkeley and police department social media accounts
 - d. By providing a copy of the notice to a broad array of traditional Bay Area media outlets including paper and online newspapers, radio and television stations, and other similar media
 - e. If the order applies only to specific locations within the City of Berkeley, by posting temporary signs on street fixtures and poles in such area(s), and in particular at major entrances to such areas such as on arterials and collector streets as they enter such restricted areas.
 - f. And by other means of broadcasting notice of the order to the general public.

In addition, notice and a reasonable opportunity to comply with the curfew (a “warning”) shall be provided to all individuals against whom enforcement is contemplated, by announcing the order through amplified communications and providing a verbal warning and reasonable opportunity to comply before enforcement.

FINANCIAL IMPLICATIONS

Cost of holding additional virtual or in-person meetings of the City Council to ensure rights guaranteed by the Constitution of the United States of America are upheld in all actions to declare Local Emergencies and impose First Amendment Curfews in the City of Berkeley.

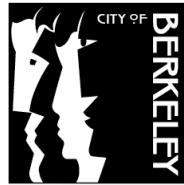
CONTACT INFORMATION

Vice Mayor Sophie Hahn, Council District 5, 510-682-5905 (Cell)

ATTACHMENTS

1. ACLU of Northern California’s June 3, 2020 letter to Alameda County Sheriff Ahern
2. Karen J. Pita Loor, *When Protest Is The Disaster: Constitutional Implications of State and Local Emergency Power*, 43 SEATTLE U. L. REV. 1 (2019)

AGENDA



BERKELEY CITY COUNCIL MEETING

Tuesday, July 28, 2020

6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/83653444287>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial **1-669-900-9128** and enter Meeting ID: **836 5344 4287**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call:

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

Consent Calendar

The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

- 1. Adoption of an Ordinance Amending Berkeley Municipal Code Chapter 16.10 (Excavations for Video and Telecommunications Systems)**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,726-N.S. amending Berkeley Municipal Code Chapter 16.10 (Excavations for Video and Telecommunications Systems).
First Reading Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
- 2. City Consent to Declaration of Easements Between 2009 Addison and 2015 Addison**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,728-N.S. authorizing the City Manager to give City consent to an amended declaration of easements for safety and access between 2015 Addison Street, which is owned by the Berkeley Repertory Theater, and 2009 Addison Street, owned by the Joint Powers Financing Authority, leased by the City of Berkeley, and subleased to the Berkeley Repertory Theater.
First Reading Vote: All Ayes.
Financial Implications: None
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 3. Resolution Reviewing and Ratifying the Proclamation of Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)**
From: City Manager
Recommendation: Adopt a Resolution reviewing the need for continuing the local emergency due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19) and ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services on March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020 and June 16, 2020.
Financial Implications: To be determined
Contact: Farimah Brown, City Attorney, (510) 981-6950
- 4. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the council meetings of June 2, 2020 (closed and regular), June 9, 2020 (special and special), June 16, 2020 (special, special and regular), June 22, 2020 (closed), June 23, 2020 (special), June 24, 2020 (closed) and June 30, 2020 (closed and regular).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900

Consent Calendar

- 5. Establish 2021 City Council Meeting Schedule**
From: City Manager
Recommendation: Adopt a Resolution establishing the City Council regular meeting schedule for 2021, with starting times of 6:00 p.m.
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 6. Grant to Animal Services from the Avast Foundation**
From: City Manager
Recommendation: Adopt a Resolution accepting a grant for Animal Services from the Avast Foundation in the amount of \$10,000.
Financial Implications: Animal Services Donation Fund - \$10,000 (grant)
Contact: Erin Steffen, City Manager's Office, (510) 981-7000
- 7. Grant from the California Arts Council**
From: City Manager
Recommendation: Adopt a Resolution accepting a \$10,500 grant from the California Arts Council for the Berkeley Civic Arts Program to partner with the Berkeley Unified School District (BUSD) and four community arts providers to provide arts programming for BUSD summer sessions.
Financial Implications: See report
Contact: Jordan Klein, Economic Development, (510) 981-7530
- 8. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on July 28, 2020**
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.
Financial Implications: Various Funds - \$8,645,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 9. Contract No. 32000094 Amendment: Youth Spirit Artworks to Provide Transition Age Youth (TAY) Case Management and Linkage Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with vendor Youth Spirit Artworks (YSA) to provide Transition Age Youth (TAY) case management and linkage services through June 30, 2021 in an amount not to exceed \$317,000. This will extend the existing contract by one year and add in \$100,000.
Financial Implications: See report
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

Consent Calendar

10. Revenue Grant Agreement: Federal COVID19 Funding Support from the Centers for Disease Control and Prevention for the Epidemiology and Laboratory Capacity CARES Grant

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or her designee to submit grant agreements to Heluna Health, to accept this COVID19 response grant, and to execute any resultant revenue agreements and amendments; which enables us to conduct and implement mitigation strategies in response to COVID19 for the following revenue agreement: Public Health Emergency Preparedness's COVID-19 Response Program in the projected allocation of \$196,965 for FY 2021.

Financial Implications: See report

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

11. Operating Funding for Community Housing Development Organizations

From: City Manager

Recommendation: Adopt a Resolution: 1. Approving a multiyear operating funding contract for Resources for Community Development (RCD) and Satellite Affordable Housing Associates (SAHA), starting FY21 and ending FY25; 2. Approving funding in the amount of \$50,000 to RCD and \$50,000 to SAHA for FY21; 3. Authorizing City Manager or her designee to determine the amount of funding to be awarded to each organization in subsequent years, FY22 to FY25, based on the amount of the City's annual allocation of Community Housing Development Organization (CHDO) HOME funds and availability of General Fund match; and 4. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.

Financial Implications: See report

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

12. California Mental Health Services Authority (CalMHSA) Participation Agreement for the Mental Health Services Act, Innovations, Help@Hand Project

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an agreement with the California Mental Health Services Authority (CalMHSA) to enable the City of Berkeley to participate in the Mental Health Services Act (MHSA) Innovations (INN) Help@Hand multi-county collaborative project, and to extend the project through June 30, 2024.

Financial Implications: See report.

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

Consent Calendar

- 13. Contract Amendments: Contract No. 42000079 with Community Services Block Grant (CSBG) for Calendar Year 2020-21 and Contract No. 32000238 with Downtown Berkeley Association (DBA) for Double Helping Hand Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to:
1. Execute an amendment to Contract No. 42000079 with the State of California's Department of Community Services and Development (CSD) for Community Services Block Grant (CSBG) Contract Number 20F-3001 to increase the amount to \$304,355 and extend the contract period to May 31, 2021, and to execute any resultant agreements and amendments to provide services to low-income people for the period January 1, 2020 to May 31, 2021; and
 2. Execute an amendment to Contract No. 32000238 with the Downtown Berkeley Association (DBA) for the Double Helping Hand program for meals for the unhoused population by providing an additional \$37,492 in CSBG funding for a total amount not to exceed \$87,492.
- Financial Implications:** See report
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400
- 14. Contract No. 7167J Amendment: Superior, LLC for Upgrade and Support Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 7167J with Superior, LLC for development of functionalities, installation and preparation for the software upgrade of the City's FUND\$ system on the AS400 platform, increasing the contract amount by \$90,000 for a total not-to-exceed amount of \$3,565,765 from July 1, 2006 through June 30, 2021.
Financial Implications: Various Funds - \$90,000
Contact: Savita Chaudhary, Information Technology, (510) 981-6500
- 15. Contract No. 31900122-1 Amendment: Rolling Orange, Inc. for Website Redesign, Web Content Management System (CMS), and Support**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 31900122-1 with Rolling Orange, Inc. for the additional web application development, for an amount not-to-exceed \$72,000 and a total contract value not-to-exceed \$559,300 from March 1, 2019 to June 30, 2022.
Financial Implications: IT Cost Allocation Fund -\$72,000
Contact: Savita Chaudhary, Information Technology, (510) 981-6500

Consent Calendar

16. **Contract No. 10549A Amendment: Tyler Technologies Enterprise Resource Planning System for software licensing, implementation and maintenance services**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment with Tyler Technologies for software licensing, enhanced implementation services and maintenance services for the online Enterprise Resource Planning (ERP) system for the amount not to exceed \$650,000 and a total contract value not to exceed \$3,952,663 from April 1, 2017 to June 30, 2023.

Financial Implications: FUND\$ Replacement Fund - \$650,000

Contact: Savita Chaudhary, Information Technology, (510) 981-6500

17. **Contract No. 10515A Amendment: Tyler Technologies, Inc. for New World Public Safety Computer Aided Dispatch (CAD 911) Software**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 10515A with Tyler Technologies, Inc. for New World's Computer Aided Dispatch (CAD) for Police and Fire, Mobile messaging and field reporting modules, for license renewal, software support and maintenance services, increasing the amount by \$367,500, for a total not to exceed \$1,555,230 for the period March 30, 2017 to June 30, 2021.

Financial Implications: General Fund - \$367,500

Contact: Savita Chaudhary, Information Technology, (510) 981-6500

18. **Contract: ePlus for Cohesity Backup Solution and Hosted Cloud Storage**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to enter into a Contract with ePlus for the Cohesity backup solution and hosted cloud storage, for a total contract amount not to exceed \$608,400 for the term September 1, 2020 through August 31, 2025.

Financial Implications: IT Cost Allocation Fund - \$608,400

Contact: Savita Chaudhary, Information Technology, (510) 981-6500

19. **Contract: Digital Hands for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM)**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to enter into a contract and subsequent amendments with Digital Hands, for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM), for a total not to exceed amount of \$405,000, from September 1, 2020 to August 31, 2023.

Financial Implications: IT Cost Allocation Fund - \$405,000

Contact: Savita Chaudhary, Information Technology, (510) 981-6500

Consent Calendar

- 20. MOU with “A Safe Place” Domestic Violence Shelter**
From: City Manager
Recommendation: Adopt a Resolution approving the Memorandum of Understanding (MOU) entitled “Memorandum of Understanding with A Safe Place, a domestic violence shelter provider, and authorize the Chief of Police to enter into this agreement and any amendments.
Financial Implications: See report
Contact: Andrew Greenwood, Police, (510) 981-5900
- 21. MOU with California Department of Justice to Accept Grant for Submission and Testing of Sexual Assault Evidence**
From: City Manager
Recommendation: Adopt a Resolution approving the Memorandum of Understanding (MOU) entitled “Memorandum of Understanding with the California Department of Justice.” The Berkeley Police Department has been selected to receive a \$312,284 grant for testing untested Sexual Assault Evidence. Approving this MOU will allow reimbursement of testing expenses and related costs covered by the grant. Authorize the Chief of Police to enter into this agreement and any amendments.
Financial Implications: See report
Contact: Andrew Greenwood, Police, (510) 981-5900
- 22. Lease Agreement: 1001 University Avenue with The Berkeley Food Network**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a retroactive lease agreement with The Berkeley Food Network (BFN) to use the City property at 1001 University Avenue for a three-year lease term with an option to extend for two additional one-year terms.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
- 23. Grant Applications: Highway Safety Improvement Program Cycle 10**
From: City Manager
Recommendation: Adopt two Resolutions authorizing the City Manager to submit grant applications to the California Highway Safety Improvement Program (HSIP) Cycle 10 for the following projects: Protected Left-Turn Signals at multiple signalized intersections for up to \$4 million and Sacramento Street Pedestrian Crossings for up to \$250,000.
Financial Implications: See Report
Contact: Liam Garland, Public Works, (510) 981-6300

Consent Calendar

- 24. Contract 9274A Amendment: Ascentis Corporation 9274A for Biometric Time Card Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9730A with Ascentis Corporation for biometric time card services to extend the contract term by one year to June 30, 2022, and increase the contract amount by \$25,000 for a total contract amount not to exceed \$75,000.
Financial Implications: Various Funds - \$25,000
Contact: Liam Garland, Public Works, (510) 981-6300
- 25. Contract: McNabb Construction Inc. for the Codornices Creek Restoration at Kains Avenue Project**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Codornices Creek Restoration Kains Avenue Project, Specification No. 20-11368-C; accepting the bid of McNabb Construction Inc. as the lowest responsive and responsible bidder; and authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications in an amount not to exceed \$550,127.
Financial Implications: Various Funds - \$550,127
Contact: Liam Garland, Public Works, (510) 981-6300
- 26. Referral Response: An Action Plan for Greening the City of Berkeley Fleet of Vehicles**
From: City Manager
Recommendation: Receive the City of Berkeley Municipal Fleet Electrification Assessment, a plan to accelerate Berkeley's municipal fleet electrification by 2030, and refer to the City Manager to pursue grant and rebate opportunities through East Bay Community Energy and other entities to support its recommendations for transitioning fleet vehicles away from fossil fuels to electric vehicles, including charging infrastructure and associated distributed energy resource options.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300

Consent Calendar

27. **Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12** *(Reviewed by the Agenda & Rules Committee) (Item contains supplemental material)*
From: Fair Campaign Practices Commission
Recommendation: Conduct a public hearing and upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to prohibit Officeholder Accounts (See Section 18531.62. Elected State Officeholder Bank Accounts, Regulations of the Fair Political Practices Commission).
(On June 29, 2020, the Agenda and Rules Committee made a Positive Recommendation to the City Council that the item be referred to the Agenda & Rules Committee to be considered with other related referrals from the Fair Campaign Practices Commission.)
Financial Implications: None
Contact: Sam Harvey, Commission Secretary, (510) 981-6950

Council Consent Items

28. **Opposition to Nuclear Warfare**
From: Mayor Arreguin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Wengraf (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a Resolution marking the 75th anniversary of the atomic bombings of Hiroshima and Nagasaki with a call to prevent nuclear war.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
29. **Support Berkeley Humane Society's Nonprofit Bark (& Meow) for the Around the Block Adoption Event and Family Street Fair in West Berkeley on August 29, 2020, organized by Berkeley Humane Society: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Councilmember Davila (Author), Councilmember Bartlett (Co-Sponsor)
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to Berkeley Humane Society's Nonprofit Bark (& Meow) for the Around the Block Adoption Event and Family Street Fair in West Berkeley on August 29, 2020, organized by Berkeley Humane Society, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute. (COVID-19 Update: If it is not safe to hold the one-day event a month-long virtual adopt-a-thon will be held instead to find homes for over 100 shelter pets).
Financial Implications: See report
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

Council Consent Calendar

- 30. Providing our Unhoused Community in the City of Berkeley with Menstrual Products** *(Reviewed by the Health, Life Enrichment, Equity & Community Committee)*

From: Councilmember Davila (Author)

Recommendation:

1. Adopt a Resolution to create an allocation of the budget towards annual purchasing of menstrual products and dispensers that will be distributed in three ways: A. Regularly scheduled replenishment of dispensers across public restrooms; B. Provide supplies to the City supported shelters, mental health offices, shower programs, and navigation centers; C. Homeless Outreach to include distribution to encampments and RV dwellers.
2. Resolution will allocate \$10,000 of the budget for the first year, and \$8,000 for every consecutive year.
3. Direct the City Manager to use existing homeless services funding to develop and deploy a program to provide a broad spectrum of menstrual products, including but not limited to, feminine hygiene, pads, tampons, underwear, and other related products, both through the City's outreach direct services, as well as through the community based homeless services providers. Additionally, require some elements of this program be deployed immediately, with a full program deployment within six months.

Financial Implications: See report

Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

- 31. Resolution in Support of 1921 Walnut Street**

From: Councilmember Harrison (Author), Councilmember Hahn (Co-Sponsor)

Recommendation: Adopt A Resolution In Support of The Preservation of 1921 Walnut Street, Currently Under The Threat of Being Purchased and Demolished by the University of California at Berkeley.

Financial Implications: None

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

- 32. Adopt a Resolution Implementing Core Police Accountability Board and Director of Police Accountability functions by July 1, 2021**

From: Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor)

Recommendation: 1. Adopt a Resolution, contingent upon voter approval of the Charter Amendment contained in Resolution No. 69,363-N.S., implementing the following core Police Accountability Board and Director of Police Accountability functions and policy changes by July 1, 2021: a. Establish and convene the Police Accountability Board with all investigatory, policy and other authorities, and; b. To assist in an orderly transition between the Police Review Commission and the Police Accountability Board established by this Article, Police Review Commission staff shall serve as interim Police Accountability Board staff until the City hires a Director of Police Accountability.

Financial Implications: Staff time

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Council Consent Calendar

- 33. Resolution in Support of AB 310 to Convert The California Infrastructure Bank (IBank) to a Public Bank**
From: Councilmember Harrison (Author), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt A Resolution In Support of AB 310 converting the California Infrastructure Bank (IBank) to a depository institution serving as a public bank for the State of California, its counties, municipalities and regional authorities.
Financial Implications: None
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 34. Oppose AB 2167 & SB 292**
From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor)
Recommendation: Approve a letter opposing AB 2167 (Daly & Cooley) Insurance Action Market Plan and SB 292 (Rubio & Jones) Wildfire Risk Modeling and Mitigation, and send to Assembly Members Tom Daly and Ken Cooley and Senators Susan Rubio and Brian Jones, with copies to Senator Nancy Skinner, Assemblymember Buffy Wicks, and Governor Gavin Newsom.
Financial Implications: None
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
- 35. Support for SB 288: Sustainable Transportation COVID-19 Recovery Act**
From: Councilmember Robinson (Author), Councilmember Bartlett (Co-Sponsor)
Recommendation: Send a letter to Senator Scott Wiener, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Senate Bill 288, which would exempt specified transportation projects from environmental review under CEQA, including bus rapid transit projects, pedestrian and bicycle facilities, and zero-emission charging stations
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 36. Support for SB 902: Authorizing Cities to Rezone for Density**
From: Councilmember Robinson (Author)
Recommendation: Send a letter to Senator Scott Wiener, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Senate Bill 902, which would authorize local governments to upzone urban infill sites and parcels in transit- or jobs-rich areas for up to 10 units of residential density.
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

Council Consent Calendar

- 37. Support for AB 2542: The California Racial Justice Act**
From: Councilmember Robinson (Author) , Councilmember Bartlett (Co-Sponsor) , Councilmember Hahn (Co-Sponsor)
Recommendation: Send a letter to Assemblymember Ash Kalra, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 2542, which would prohibit the state from seeking or obtaining a criminal conviction, or from imposing a sentence, based on race, ethnicity, or national origin.
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 38. Support for AB 2345 (CA Density Bonus)**
From: Councilmember Droste (Author)
Recommendation: That the Berkeley City Council send a letter supporting AB 2345, authored by Assemblymember Lorena Gonzalez and Assemblymember David Chiu which will help address California’s housing crisis by expanding the state density bonus for housing developers who commit to building additional affordable units.
Financial Implications: None
Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

Action Calendar

The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

The Presiding Officer will request that persons wishing to speak use the “raise hand” function to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

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

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, use the “raise hand” function to be recognized and to determine the number of persons interested in speaking at that time.

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.

Action Calendar – Public Hearings

**39. Amendment of Urgency Ordinance for Outdoor Commerce on Private Property
From: City Manager**

Recommendation: Conduct a public hearing and, upon conclusion, adopt amendments to the Urgency Ordinance (Number 7,725-N.S.) amending Berkeley's Zoning Ordinance, Chapter 23E.18 and Section 23B.20.045, to allow additional categories of commerce and establish additional operating criteria for outdoor activities on private property.

Financial Implications: See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400

40. General Plan Redesignation and Rezone of The Rose Garden Inn at 2740 Telegraph Avenue (APN 054-1716-002-00), 2744 Telegraph Avenue (APN 054-1716-003-00), and 2348 Ward Street (APN 054-1716-031-00)

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion:

1. Adopt a Resolution amending the General Plan land use designations of portions of parcels that comprise The Rose Garden Inn from Low Medium Density Residential to Avenue Commercial;
2. Adopt first reading of an Ordinance amending the Zoning Map for the portion of parcels that comprise the Rose Garden Inn from Restricted Two-Family Residential District (R-2) to General Commercial District (C-1); and
3. Certify that the reclassification of General Plan land use designations and rezoning are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Classes 1, 3, 5, and 31.

Financial Implications: See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action Calendar – New Business

41. Placing a Measure on the November 3, 2020 Ballot Amending the Rent Stabilization and Eviction for Good Cause Ordinance (B.M.C. 13.76)

From: Rent Stabilization Board

Recommendation:

1. Adopt a Resolution placing the proposed amendments to the Rent Stabilization and Eviction for Good Cause Ordinance on the ballot of the November 3, 2020 General Municipal Election.
2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

Financial Implications: See report

Contact: Matt Brown, Rent Stabilization Board, (510) 981-7368

Council Action Items

- 42. Amendments to Berkeley Municipal Code 23C.22: Short Term Rentals**
From: Councilmember Harrison (Author)
Recommendation: Amend Berkeley Municipal Code 23C.22: Short Term Rentals to clarify the ordinance and insure adequate host responsibilities, tenant protections and remedies for violating the ordinance.
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 43. Urgency Ordinance: Updates to the COVID-19 Emergency Response Ordinance; Resolution: Request UC Berkeley Voluntarily Comply with Local Ordinances Restricting Evictions, Delaying Rent Payments, and Empowering Tenants to Terminate their Leases Without Penalty**
From: Councilmember Davila (Author), Councilmember Bartlett (Co-Sponsor)
Recommendation:
1. Adopt an urgency ordinance amending Berkeley Municipal Code 13.110, Title 13, "The COVID-19 Emergency Response Ordinance," to enhance emergency tenant protections consistent with recently adopted Alameda County laws, action in other jurisdictions, and consultation with community stakeholders.
2. Adopt a resolution requesting the University of California at Berkeley voluntarily comply with local eviction moratoriums, rent suspension ordinances, and ordinances empowering tenants to terminate their leases without penalty.
Financial Implications: See report
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

Information Reports

- 44. Voluntary Time Off Program For FY 2021**
From: City Manager
Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000
- 45. Annual Housing Pipeline Report**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 46. LPC NOD: 1120 Second Street/#LMSAP2019-0007**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 47. LPC NOD: 1120 Second Street/#LMSAP2019-0008**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 48. LPC NOD: 41 San Diego Road/#LMSAP2020-0002**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Public Comment – Items Not Listed on the Agenda

Adjournment

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

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx> and KPFB Radio 89.3.

Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at <http://www.cityofberkeley.info/citycouncil>

COMMUNICATION ACCESS INFORMATION:

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



Captioning services are provided at the meeting, on B-TV, and on the Internet.

I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on July 16, 2020.

Mark Numainville, City Clerk

Communications

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

Item #41: Placing a Measure on the November 3, 2020 Ballot Amending the Rent Stabilization and Eviction for Good Cause Ordinance (B.M.C. 13.76)

1. Sara Hartley
2. Greg San Martin
3. Toni Mester
4. Erica Cleary
5. Rena Meyer
6. William Rosen
7. Labi Rabiou
8. Susan Payne
9. Colette Ford
10. Marilyn Garcia
11. Jelani Nelson
12. Matt Heafey
13. Joann Sullivan
14. Yoni Mayeri
15. Ana Perches Perez
16. David Hermele

Regenerative Economy to Address the Climate Emergency

17. Ingrid Good
18. Marcelo Garzo Montalvo

Covid-19 Related and/or Masks

19. Nina Lyons
20. Isaac Pastor-Chermak
21. Howard Goldberg
22. City of Berkeley Covid-19 Information
23. Vivian Warkentin
24. Joel Libove
25. Celeste Kidd
26. Anne Herrick (2)
27. Genevieve Nonet
28. Thomas Lord (2)
29. Russbumper (2)
30. David Lerman (5)

Telcom/5G/Cell Antennas

31. Vivian Warkentin
32. Mark Weiman
33. KO

- 34. Isis Feral
- 35. Blair Beekman
- 36. Pollock & James, Law Firm

Harriet Tubman Terrace

- 37. Darinxoso Oyamasela (4)
- 38. Ashley Rementer, Property Manager

Graffiti

- 39. Elana Nafalin-Kelman (2)
- 40. Customer Service, City of Berkeley (2)

Homeowners Assessment Complaint – Property Taxes

- 41. Finance Department, City of Berkeley

Lorin and Rosewood Support

- 42. Landon Williams

Cedar Properties

- 43. Laiming Huang
- 44. Tony Benado, City Clerk's Office

Civic Arts Grants

- 45. Sharon Dolan, Freight & Salvage

Smoking Violation

- 46. Carol Denney

Urban Dwellers Fleeing

- 47. Barbara Gilbert

Parking Enforcement

- 48. Suneel Jain

Small Landlord Needs Help

- 49. Grace Chi

Tilting Power Pole

- 50. Gar Smith

Pay Equity – City of Berkeley Employees

- 51. Jeff Apkarian, Union Representative

SB 82 Grant/OAC Priorities

- 52. Carole Marasovic

Supplemental Communications and Reports

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

- **Supplemental Communications and Reports 1**
Available by 5:00 p.m. five days prior to the meeting.
- **Supplemental Communications and Reports 2**
Available by 5:00 p.m. the day before the meeting.
- **Supplemental Communications and Reports 3**
Available by 5:00 p.m. two days following the meeting.

ORDINANCE NO. 7,726-N.S.

INSTALLATION OF VIDEO AND TELECOMMUNICATIONS SYSTEMS; AMENDING
BERKELEY MUNICIPAL CODE CHAPTER 16.10

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

Section 1. That Berkeley Municipal Code Chapter 16.10 is amended to read as follows:

16.10.010 Purpose.

A. The purpose of this Chapter is to establish policies and procedures for use of the public rights-of-way by Video Service Providers and Telephone Corporations, in order to minimize the inconvenience to and negative effects on the public and their use of the public rights-of-way, and to eliminate the cost to taxpayers that results from installation, maintenance and removal of the Facilities needed for Video and Telecommunication Systems while ensuring that all users of the public rights-of-way are treated in an equivalent manner. It is also the policy of the City to promote undergrounding of Facilities, whether related to Video Services, Telecommunications Services, or any other utility or service, whenever Technically Feasible, in order to preserve historic and local character and minimize industrial clutter and ensure optimal pedestrian accessibility and traffic safety.

B. This Chapter is intended to protect and promote public safety, community welfare, equity, and the aesthetic quality of the City consistent with the goals, objectives, and policies of the Berkeley General Plan, while at the same time providing for managed development of wireless communications infrastructure in compliance with federal and state law.

C: The City recognizes that judicial interpretation of Public Utilities Code Sections 7901 and 7901.1 authorizes the City to take notice that "lines or equipment might generate noise, cause negative health consequences, or create safety concerns", which "could disturb public road use, or disturb its quiet enjoyment." (*T-Mobile West LLC v. City and County of San Francisco* (2019) 6 Cal. 5th 1107, 1119.) This Chapter seeks to protect the public welfare in a manner consistent with Public Utilities Code sections 7901 and 7901.1.

16.10.020 Definitions.

A. For the purposes of this Chapter, the following words, terms, phrases, and their derivations shall have the meanings set forth herein unless a different meaning is clearly intended by the use and context of the word, term or phrase. When not inconsistent with the context, words used in the present tense include the future tense, and words in the singular number include the plural number.

1. "City" means the City of Berkeley, California, acting by and through its City Council or a representative as the governing body may designate to act on its behalf.

2. "City Manager" means the City Manager of the City or their designee.
3. "Company" means any Video Service Provider or Telephone Corporation that is authorized by any governmental entity or law to provide Video Services or Telecommunications Services in the City of Berkeley.
4. "Construction Plan" means information regarding the design, potential locations, and estimated time schedule for the construction and/or installation of a Facility submitted in accordance with the requirements of this Chapter and any regulations or guidelines adopted by the Director for the implementation of this Chapter.
5. "Department" means the City Department of Public Works.
6. "Director" means the Director of the City's Department of Public Works or their designee.
7. "Excess Capacity" means the volume or capacity in any existing or future duct, conduit, maintenance hole, hand hole or Facility that is or will be made available by the owner for use by third party Facilities, and any installed fiber that has not been activated for use.
8. "Facility" or "Facilities" means any cable or other wire or line, antenna, radio, pipeline, pipes, duct, conduit, converter, cabinet, pedestal, meter, tunnel, vault, equipment, drain, manhole, splice box, surface location marker, pole, structure, utility, or other appurtenance, structure, property, or tangible thing owned, leased, operated, or licensed by a Company to provide or aid in the provision of cable, personal wireless or telecommunications services that are located or are proposed to be located on the PROW.
9. "FCC" means the Federal Communications Commission.
10. "Franchise" means a written legal undertaking or action issued by any level of government, which authorizes a specific Company to utilize the City's PROW for the purpose of installing, operating, maintaining, or reconstructing a Telecommunications System or providing Video Services. No franchise agreement for any such system or service may diminish or waive compliance with the requirements of this Chapter or with any regulations or guidelines issued by the City Manager for the implementation of this Chapter.
11. "Person" means any person, corporation, partnership, proprietorship, individual, organization, or other entity.
12. "Personal Wireless Service Facility" means a personal wireless service facility as defined in 47 U.S.C. § 332(c)(7)(C)(ii), as may be amended or superseded. Personal Wireless Service Facility does not include radio towers, television towers, and government-operated public safety networks.
13. "PROW Permit" means a permit issued pursuant to this Chapter.

14. "Public rights-of-way" ("PROW") means any street, public way, or right-of-way, now laid out or dedicated, and the space on, above or below it, and all extensions thereof and additions thereto, owned, operated and/or controlled by the City or subject to an easement owned by the City for which construction and operation of the Facility is within the authorized scope of the City's easement, and any privately owned area within the City's jurisdiction which is not yet, but is designated as, a proposed public place on a tentative subdivision map approved by the City.

15. "Technically Feasible" means a circumstance in which the applicant has demonstrated by clear and convincing evidence submitted to the Director that compliance with a specific requirement within this Chapter and any administrative regulations or guidelines is physically impossible or unreasonable (e.g., incapable of being accomplished based on existing technology compatible with an applicant's existing network) and not merely more difficult or expensive than a noncompliant alternative.

16. "Telephone Corporation" is defined as set forth in Section 234 of the California Public Utilities Code, as amended.

17. "Telecommunications Service" is defined as set forth in 47 U.S. Code § 153(52), as amended.

18. "Telecommunications System" means the Facilities necessary or convenient for a telecommunications carrier to provide Telecommunications Service.

19. "Traffic Control Plan" means a plan describing the manner in which the Company will manage vehicle, bicycle, and pedestrian traffic along affected streets that have a speed limit greater than 35 miles per hour when installing or maintaining Facilities.

20. "Video Service" is defined as set forth in Section 5830(s) of the California Public Utilities Code, as amended.

21. "Video Service Provider" is defined as set forth in Section 5830(t) of the California Public Utilities Code, as amended.

22. "Video System" means the Facilities necessary or convenient for a Video Service Provider to provide Video Service.

16.10.030 PROW Permit Required—Applicability.

A. PROW Permit Required

1. Except as provided in subdivision B below, in addition to any agreement, license, permit or Franchise required by any City ordinance or any other local, state or federal law, no Company may undertake any activity in the PROW in order to construct, install, or repair any Facility, or a portion thereof, without first obtaining a PROW permit pursuant to this Chapter and paying all lawful fees required by any City ordinance.

2. All Facilities proposed to be located on utility poles owned or controlled by the Northern California Joint Pole Authority shall be subject to the application requirements and process set forth in Section 16.10.045.

B. Notwithstanding anything stated herein, a PROW Permit shall not be required (1) if the Director makes a written determination that a proposed Facility described in subdivision A relates to the maintenance, replacement or insubstantial modification of existing Facilities; or (2) if the applicant requests approval to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted pursuant to 47 U.S.C. § 1455, which will be subject to the current FCC rules and regulations applicable to “eligible facilities requests” as defined by FCC and as may be amended or superseded.

C. In addition to the requirements of this Chapter, a Company shall obtain all otherwise necessary City permits including, without limitation, encroachment permits, building permits, electrical permits, and other permits that may be lawfully required by this Code or other applicable laws or regulations.

D. Nothing in this Chapter shall be deemed to authorize the installation of facial recognition or other Surveillance Technology (as defined in Section 2.99.020) in the public-right-of-way.

E. Nothing in this Chapter shall be deemed to limit the City’s authority to regulate the placement, construction, and modification of wireless devices that are not Personal Wireless Service Facilities nor shall this Chapter limit the authority of the City to refuse or otherwise condition approval of installation of a Personal Wireless Service Facility on City property in its proprietary capacity or in any other non-regulatory capacity.

16.10.040 PROW Permit Application.

No fewer than 30 days prior to a Company’s intended Construction start date, a written application for a PROW Permit, along with payment of any fees or deposit required by the City, shall be filed with the Director, in the form and manner required by the Director, and shall contain, at a minimum, all of the following information:

A. General information regarding any Facilities that the Company plans to apply for permits to install within the PROW in the next six months, regardless of whether a permit is currently sought for those Facilities.

B. A site plan of the Facilities proposed to be located within the PROW, including a map in electronic and/or other form required by the City. The plans and specifications shall show:

1. The location and dimensions of all existing street trees of at least six inches in diameter, Facilities, and improvements in the PROW where the new Facilities are proposed.

2. Photographs with superimposed images showing any proposed Facilities.

3. A description of the proposed Facilities, including, if such information has not previously been provided to the City, a general description of the Facilities, including whether the Facilities will contain any electronic components, natural gas generator, electrical fans, and/or emergency backup equipment.

4. The specific landscaping, structures, improvements, Facilities and obstructions, if any, that the Company proposes to temporarily or permanently remove or relocate.

5. A detailed description or plan showing any proposed screening and/or landscaping associated with any proposed Facilities.

C. If the Company is proposing new underground installation of Facilities within the PROW, it shall provide to the Director information regarding any Excess Capacity that presently exists, will exist in such Facilities or does or will exist in nearby Facilities after the installation of the Company's Facilities.

D. Estimated construction start and completion dates.

E. A Traffic Control Plan, if required, that complies with guidelines established by the Director.

F. An application for any Facility shall submit to the Director proof of written public notification by first class mail to property owners and residents within 500 feet of the proposed Facility, or greater distance subject to additional conditions, if provided by administrative regulations, guidelines, or City Council policy.

G. To the extent practicable, proof that the Company has obtained any other governmental approvals and permits required to construct the Facilities in question. If a Company has not previously provided information sufficient to show that it is a Telephone Corporation or Video Service Provider, the City may also require that the Company provide such information.

H. In any application for a Personal Wireless Service Facility, the applicant shall demonstrate by clear and convincing evidence that the facility is a "small wireless facility" as defined by the FCC in 47 C.F.R. § 1.6002(l), as amended.

I. The operator of each new or modified telecommunications antenna associated with that Personal Wireless Service Facility shall submit to the City a written certification under penalty of perjury that the Personal Wireless Service Facility's radiofrequency exposure will comply with applicable FCC regulations. The report shall state the radio frequency radiation of the proposed Personal Wireless Service Facility, including the cumulative impact from other nearby Personal Wireless Service Facilities, and state whether it meets any applicable FCC requirements. The City shall not issue any PROW Permit if the operator fails to demonstrate compliance with applicable FCC requirements for radiofrequency exposure. The City may require, at the applicant's expense, peer review or independent verification of the results of the analysis.

16.10.045 Additional Application Requirements for Facilities on Utility Poles.

A. Applications for Facilities subject to Section 16.10.030.A.2 shall include proof that all entities with authority to grant or deny permission for installation of the Facility have approved it.

B. Such applications shall also include proof that all property owners and occupants specified in Section 16.10.040.F have been given notice by first class mail, no later than the date of the application, of the proposed construction or installation of the Facility. Notice shall be printed on a template form to be provided by the Director, which, among other terms, shall appraise recipients of the right to request a reasonable accommodation from the City pursuant to 28 C.F.R. § 35.106. Such notice shall also be posted on the pole on which the Facility is proposed to be installed. Notices under this Section shall identify the specific pole on which the Facility is proposed to be installed and contact information for the Company or its authorized representative, and for the Director of Public Works. The purpose of this notice is to ensure that property owners and residents have an opportunity to contact the Company, the Department of Public Works, and any entities responsible for the pole on which the Facility is proposed to be located so that they can try to resolve any objections they may have.

16.10.050 Design, Installation, and Construction of Video and Telecommunications Systems.

A. All Facilities shall be so located, constructed, installed and maintained so as not to incommode the public use of the road or highway or interrupt navigation of the waters, including access to and from the PROW from private property and access by persons with disabilities.

B. In the event a Company creates a hazardous or unsafe condition on either public or private property, or unreasonably interferes with access between the PROW and private property, the Company shall remove or modify that part of the Facility to eliminate such condition at its own cost.

C. No Facility may be located or installed in such a manner that it will unreasonably interfere with existing or adopted City plans to use the PROW, with the access rights of private property owners, with existing gas, electric, sewer or telephone fixtures, with existing water hydrants and mains, with existing sewers, storm drains or v-ditches, or any existing wastewater stations, or with any existing traffic control System.

D. Construction, installation, maintenance and repair of Facilities shall not substantially affect the integrity of any structures, and shall, to the extent feasible, be installed either perpendicular or parallel to property lines or the sides of structures.

E. All underground taps shall, to the extent reasonably possible, follow property lines and cross property at right angles unless otherwise required due to the physical characteristics of the subsurface or required under applicable law.

F. All construction of new and replacement Facilities shall be accomplished between the hours reasonably specified by the City in the approved permit or ordinances. Construction shall seek to minimize any adverse impact on services of the City or third parties.

G. Whenever existing Facilities or electric utility facilities are located underground along a particular street or public way, new non-antenna portions of Facilities shall be installed underground along that street or public way and in existing or newly installed adjacent conduit to the extent Technically Feasible. The application shall demonstrate, with appropriate documentary support, why existing Facilities are inadequate to support the project.

H. Whenever any new or existing Facilities or electric utility lines are relocated underground along a particular street or public way, a Company shall relocate its non-antenna portions of Facilities underground to the extent Technically Feasible concurrently with the other lines at its sole expense, in accordance with existing legal and regulatory requirements.

I. Companies shall advise and coordinate major construction efforts with other utility companies through City-sponsored utility coordination meetings, and, to the extent reasonably possible, coordinate their construction work with other utilities installing infrastructure in the PROW. In new developments, a Company shall contact the developer to determine whether any surplus conduit is available in the areas that the Company plans to install facilities, and whether any joint trenching or boring projects are feasible.

J. Overhead facilities may be installed only if sufficient space is available on existing utility poles or other structures, consistent with applicable regulations and agreements, as determined by the Director.

K. If proposed new Facilities would require excavation, or involve excavation for installation of new facilities, those Facilities shall be installed within existing Facilities whenever sufficient Excess Capacity is available on commercially reasonable terms and conditions.

L. Undergrounding shall be required where technically feasible. All non-antenna portions of proposed Facilities shall be installed underground or in flush-mounted vaults or low-profile waterproof pedestals, unless the Director determines that installing the non-antenna portions of the proposed Facility aboveground would not result in a significant adverse aesthetic impact relative to an undergrounded installation, would not result in significant detriment to the PROW or the environment surrounding it, and would not incommode the public use of the PROW. In making a feasibility determination, the Director shall consider the information in the application and the record, including information provided by the Company and members of the public. Undergrounding requirements must be applied on a non-discriminatory basis, unless the imposition of additional requirements is authorized by federal and state law.

M. Companies shall coordinate with affected property owners to locate Facilities so as to reasonably minimize inconvenience and disruption to residents, consistent with installation of permitted Facilities.

16.10.060 Issuance of PROW Permits.

A. Each PROW Permit shall be subject to the criteria and provisions of this Chapter. The PROW Permit may be issued upon review of a completed application and a determination by the Director that a Company has filed a complete application and has complied with all applicable requirements of this Chapter, including any duly adopted administrative regulations or guidelines. The Director's decision to issue or deny a PROW Permit shall be sent via first class mail to all owners and residents of any property located within 500 feet of the proposed Facility.

B. Criteria. In determining whether to grant or deny a PROW Permit, the Director shall, unless prohibited by applicable state or federal law, consider factors permitted under Section 7901 and 7901.1 of the California Public Utility Code and this Chapter. In particular, the Director shall consider:

1. The capacity of the PROW to accommodate all proposed Facilities.
2. The capacity of the PROW to accommodate the City's planned uses of the PROW.
3. The damage or disruption, if any, to the PROW or use and enjoyment of any public or private facilities, improvements adjacent to it, pedestrian or vehicle travel, and landscaping, if the permit is granted.
4. The visual and aesthetic impact and compatibility of Facilities with the surrounding neighborhood or zone.
5. The impact of the Facilities on views, parks, and on cultural resources protected by or eligible for protection under Chapter 3.24 of the Berkeley Municipal Code or the State Public Resources Code Section 5020.1(j).
6. The availability of technically compatible existing Facilities or Excess Capacity, or alternate routes and/or locations for the proposed Facilities, which would be less disruptive or which better protect the PROW for its dedicated use, and the feasibility of using such Facilities, Excess Capacity or alternate routes and/or locations.
7. The effect of any Facilities on traffic or pedestrian safety or access.
8. Completion of any environmental review under the California Environmental Quality Act (CEQA) that may be required by law.
9. Whether the Company has the legal entitlement to provide the services for which the Facilities will be used.

10. Any administrative regulations or guidelines adopted by the Director to implement this Chapter.

C. The Director may deny a PROW Permit or require modifications to the proposed excavation or installation of any Facility based on the factors set forth above. However, no such modifications or denial may have the effect of prohibiting the provision of personal wireless services or Video Service.

D. Where the Director has information that there is a substantial risk that a Company may not fulfill its obligations under the permit, the Director may require that the Company provide satisfactory financial security in an amount not to exceed 110% of the total estimated cost of all work to be performed under the PROW Permit, as determined by the Director, and as necessary and appropriate to compensate the City for any costs that may be required to ensure full compliance with all of the requirements of this Chapter. Such security shall consist of an irrevocable letter of credit, cash deposit, or performance bond as determined by the Director. The security shall be maintained in full force and effect until the permitted work in the PROW is completed to the satisfaction of the Director, at which time the security shall be reduced to ten percent (10%) of the actual cost of the work. The reduced security shall be maintained by the Company for a period of one year as a guarantee that the work is of good quality and free from any defective or faulty material or workmanship. Any surety supplying a performance bond must be an "admitted surety insurer," as defined in Code of Civil Procedure section 995.120, and authorized to do business in the State of California. Return of the security shall be conditioned upon the Company's faithful performance of all work in the PROW specified in the applicable permit. In the event the Company fails to comply with any provision of this Chapter related to such work, or any provision of any applicable permit or other approval related to such work, any damages or loss suffered by the City as a result thereof shall be recoverable from the security, including but not limited to the full amount of any compensation, indemnification, cost of removal, or abandonment of any property of the Company, plus reasonable attorneys' fees and costs up to the full amount of the security. Neither the provisions of this section nor any damages recovered by the City hereunder shall be construed to limit liability or damages of licensee under this Chapter, either to the full amount of the security or otherwise. In addition to its rights to take action under the security, the City may pursue any other remedy provided by law. For any wireless telecommunications facility, as defined in Government Code section 65850.6, the financial security provided by the Company shall not exceed the estimated cost of removal of the Facility. In establishing the amount of the security, the City shall take into consideration information provided by the Company and other evidence in the record regarding the cost of removal.

E. Fees. As a condition of the issuance of any permit, a Company shall pay all applicable cost-based fees assessed by resolution of the City Council; provided, however, that such payments and submittals shall not be deemed a waiver of any right the Company may have to challenge the legality of such permit fees if the Company specifies in writing the basis of any objection to such fees and pays under protest.

F. Right to Inspect. The City may inspect any work performed pursuant to a PROW Permit at any reasonable time during normal business hours that the City deems appropriate, upon reasonable notice to the Company performing that work, when necessary. In addition, the City shall inspect a Company's work reasonably promptly upon notice from the Company that the work has been completed.

G. Duration and Validity. Work should begin within 180 calendar days of the start date specified in the permit and should be prosecuted diligently to completion, including restoration. The Director at their sole discretion may grant an extension of the deadline for completion of construction upon a request by the applicant.

16.10.070 Construction Activities.

A. Not less than 10 business days prior to the intended start of construction, the Company shall provide written public notification by door hanger to residents within 500 feet of the proposed construction.

B. All work in or affecting the PROW shall be performed in accordance with this Chapter, the Construction Plan, and with the standard plans and specifications of the Department and any Department orders or regulations, except where the Director, at their discretion, grants prior written approval to deviate from the standard plans and specifications, orders, or regulations. The Director shall develop written guidelines to implement the granting of waivers authorized pursuant to this Chapter.

C. A Company shall provide reasonable advance notification, but in any case not less than three business days, to the City of the initiation of any construction activities pursuant to a PROW Permit issued under this Chapter.

D. A Company shall make its best efforts to complete any work authorized by a permit under this Chapter no later than the date specified in the permit.

E. A Company shall post and maintain notice at the site of the excavation or installation during the construction period. The notice shall include the name, telephone number, and address of the Company, a description of the excavation or installation to be performed, and the duration of the excavation or installation. The notice shall be posted along all streets where the excavation or installation is to take place.

F. If a Company requires additional time to complete work, it shall so notify the Director, and the Director may, upon a written demonstration of good cause, grant an extension of time to complete the work. In addition, the Company shall provide the Director with a telephone contact number to enable the Director to report any concerns regarding construction of the Facilities.

16.10.080 Excavation.

A. A Company that excavates or causes to be made an excavation in the PROW shall maintain, repair, or reconstruct the site of the excavation as specified by the City until such time as the site of the excavation is repaved or resurfaced by the Department, or by another party pursuant to a subsequently issued PROW permit.

B. If a Company excavates in the PROW, it shall comply with the requirements of Underground Service Alert North ("USAN") regarding notification of excavation or installation and marking of subsurface Facilities. The Company shall provide USAN with the assigned number of the permit to excavate or other information as may be necessary to properly identify the proposed excavation or installation.

C. Limits on Work in the Public Right-of-Way

1. Scope. It is unlawful for a Company to make, cause, or permit to be made any excavation in the PROW outside the boundaries, times, and description set forth in the PROW Permit.

2. Trenching. Trenching in the PROW shall be by the "direct buried method," as defined by the Director. Use of a rock wheel or other trenchless technology to excavate in the PROW is prohibited without prior written approval of the Director.

3. Single Excavation Maximum. No single excavation site shall be longer than 1,200 feet at any time except with the prior written approval of the Director.

4. A Company may not excavate any street that has been reconstructed or resurfaced by the Department or at its direction in the preceding five-year period and shall participate in City efforts to coordinate excavation activities. However, subject to Section 16.12.030, the Director may, for good cause and in their discretion, grant a waiver of the requirements of this paragraph. Good cause shall include (a) the fact that the need to excavate arose in spite of a Company's full compliance with the coordination of excavation provisions; or (b) the excavation facilitates the deployment of new technology or new service. The Director shall issue their decision on a waiver within a reasonable period after receipt of a written request for a waiver.

D. Companies shall be subject to the following requirements for excavation sites:

1. Companies shall cover open excavation with non-skid steel plates ramped to the elevation of the contiguous street, pavement, or other PROW, or otherwise protected in accordance with guidelines prescribed by the Department.

2. Companies shall keep the area surrounding the excavation clean and free of loose dirt or other debris. Excavation sites shall be cleaned at the completion of each workday. In addition, Permittees shall remove all excavated material from the site of the excavation no later than the end of each workday.

3. Materials and equipment to be used for the excavation within seven calendar days may be stored at the site of the excavation, except that fill material, sand, aggregate, and asphalt-coated material may be stored at the site only if it is stored in covered, locked containers.

4. Companies shall comply with all federal, state, and local laws regarding hazardous materials, including with respect to (a) data collection; (b) disposal, handling, release, and treatment of hazardous material; site remediation; and (c) worker safety and training. "Hazardous material" means any gas, material, substance, or waste which, because of its quantity, concentration, or physical or chemical characteristics, is deemed by any federal, state, or local authority to pose a present or potential hazard to human health or safety or to the environment.

5. Companies shall develop and implement a Water Quality Management Plan and/or Stormwater Pollution Prevention Plan for any excavation project as required by law.

E. If the Director determines that a Company has violated this Chapter or that an excavation poses a hazardous situation or constitutes a public nuisance, public emergency, or other threat to public health, safety, or welfare, the Director may issue a stop work order, impose new conditions upon a permit, or suspend or revoke a permit by notifying the Permittee company of such action in a written, electronic, or facsimile communication.

F. Restoration of PROW

1. In any case in which a Company causes a sidewalk, street, or other PROW to be excavated or disturbed by an excavation, the Company shall restore the sidewalk, street or other PROW in the manner prescribed by the orders, regulations, and standard plans and specifications of the Director.

2. Activities concerning backfilling, replacement of pavement base, and finished pavement shall be performed in a manner specified by the orders, regulations, and standard plans and specifications of the Director. In addition, these activities shall be subject to the following requirements:

a. Each excavation shall be backfilled and compacted within 72 hours from the time the construction related to the excavation is completed.

b. Replacement of the pavement base shall be completed within 72 hours from the time the excavation is backfilled.

c. Finished pavement and sidewalk restoration shall be completed within 10 days after completion of the substructure installation or sooner as directed by the Director.

3. Upon written request from a Company, the Director may grant written approval for modifications to the requirements of this section.

4. In any case where an excavation is not completed or restored in the time and manner specified in the permit, this Chapter, or the orders, regulations, and standard plans and specifications of the Department, the Director shall order the Company to complete the excavation as directed within 24 hours. If the Company fails, neglects, or refuses to comply with the order, the Director may complete or cause to be completed such excavation and/or restoration in such manner as the Director deems expedient and appropriate. The Company shall compensate the City for any reasonable costs, including but not limited to administration, construction, consultants, equipment, inspection, notification, remediation, repair, restoration, or any other actual costs incurred by the City or other agencies, boards, commissions, or departments of the City, that were made necessary by such excavation and/or restoration. The cost of such work also may be deducted from the Company's security fund.

5. Subject to the limitation set forth in this Chapter, completion of an excavation or restoration by the Department in accordance with this Chapter shall not relieve the Company from liability for future pavement failures at the excavation site.

G. In order to verify that a Company has constructed the Telecommunications or Video System in the manner required by this Chapter, the City reserves the right to inspect the construction, as well as to inspect all necessary documents related to said construction.

H. A Company, at its own expense, shall temporarily disconnect or relocate any of its Facilities when necessitated by reason of:

1. Traffic conditions;
2. Public safety;
3. Temporary or permanent street closing not for the benefit of a private party;
4. Street and sidewalk construction or resurfacing;
5. A change or establishment of street grade; or
6. Installation of sewers, drains, water pipes, storm drains, lift stations, force mains, street light Facilities, traffic signal Facilities, tracks, or any other public use of the PROW.

16.10.090 Remedies During Construction.

A. Whenever construction is being performed in a manner contrary to the provisions of this Chapter, the City Manager, or an inspection official representing the City, may order the work stopped by notice in writing served on any person or Company engaged in or causing the construction. Any work stopped shall not resume until authorized in writing by the Director.

B. Upon the failure, refusal or neglect of a Company to cause any construction or repair, or comply with a permit under this Chapter, the City may cause such work to be completed in whole or in part, and recover its costs of doing so, as set forth in this Section.

C. Upon knowledge of a Company's failure, refusal or neglect under Paragraph B, the City shall give the Company notice of default and a reasonable time, but not less than 20 days, to cure the default. If the Company does not cure the default or make substantial good faith efforts to do so within that period, the City may perform the work itself. Upon completion of that work, the City shall submit to the Company an itemized statement of costs, which shall be due no later than 30 days of billing.

D. Costs that may be recovered include, but are not limited to, administration, construction, consultants, equipment, inspection, notification, remediation, repair, restoration, or any other actual costs incurred by the Department or other agencies, boards, commissions, departments of the City, that were made necessary by reason of the emergency remediation undertaken by the Department. The cost of such work also may be deducted from the Company's security fund.

E. Remediation by the City in accordance with this section shall not relieve the Company from responsibility or liability for subsequent conditions necessitating remediation.

F. The remedies available under this section shall be cumulative of any other remedies the City may seek under the provisions of this Chapter.

16.10.100 Maintenance of Facilities—Continuing Obligations.

A. Construction, installation, maintenance and repair of any Facilities shall comply, as applicable, with the provisions of the most current editions of the City's Zoning Ordinance, Building Code, Plumbing Code, Electrical Code, any applicable City-adopted Public Works construction standards, specifications and plans, or guidelines, as they are modified from time to time, and any applicable federal, state or local statutes, ordinances, regulations, guidelines, or requirements.

B. The exterior of any newly installed Facility shall be manufactured or treated so as to resist graffiti and shall be maintained in good condition.

C. Each Facility installed in the PROW shall be clearly identified with the name of the owner of the Facility and a toll-free telephone number for the Company for which it was installed. The Director may adopt orders or regulations to specify other appropriate methods for identification.

D. A Company shall be responsible for maintaining all Facilities in good condition, well-painted and free of graffiti and other markings; provided, however, that Companies shall not be responsible for maintenance of any plantings or vegetative screening materials, whether preexisting installation of the Proposed Facilities or installed by the Company during installation. A Company assumes all responsibility for damage or injury resulting from placement or maintenance of any Facility. If a Company fails to comply with

any written City demand relating thereto, the City may perform said work and withdraw its costs and expenses from the security fund.

E. Companies shall be required to monitor and abate graffiti on Facilities installed pursuant to permits issued under this Chapter. In addition, Companies shall provide the City with a method or contact information to report graffiti on their facilities and other Facility maintenance. Companies shall make reasonable commercial efforts to remove graffiti within 72 hours of such notification.

F. By applying for and accepting a PROW Permit under this Chapter, a Company assumes all responsibility for damage or injury resulting from the presence of any Facility in the PROW. If a Company fails to comply with any written Director's demand relating thereto, the City may perform said work, or pay for such damage or injury, and withdraw its costs and expenses from the security fund or other security provided by the Company. However, remediation by the City in accordance with this section shall not relieve the Company from responsibility or liability for subsequent conditions necessitating remediation.

1. In the event that subsurface material or pavement over or immediately adjacent to any excavation becomes depressed, broken, or fails in any way at any time after the work has been completed, the Director shall notify the responsible Company, if any, of the condition, its location, and the required remedy. The Director shall give the Company notice of default and a reasonable time, but not less than 20 days, to cure the default. If the Company does not cure the default or make substantial good faith efforts to do so within that period, the City may perform the work itself. Upon completion of that work, the City shall submit to the Company an itemized statement of costs, which shall be due no later than 30 days of billing.

2. Costs that may be recovered include, but are not limited to, administration, construction, consultants, equipment, inspection, notification, remediation, repair, restoration, or any other actual costs incurred by the Department or other agencies, boards, commissions, or departments of the City, that were made necessary by reason of the emergency remediation undertaken by the Department. The cost of such work also may be deducted from the Company's security fund.

G. No Personal Wireless Service Facility or combination of Facilities subject to this Chapter shall produce power densities that exceed applicable FCC limits for electric and magnetic field strength and power density for transmitters. In order to ensure compliance with all applicable radiofrequency exposure standards, Personal Wireless Service Facilities that are subject to field testing of radiofrequency emissions under FCC standards may be required to submit reports as required by this subdivision and applicable regulations and guidelines adopted by the Director. Testing and certification in the same manner shall also be conducted upon the upgrade or substantial modification of radio or antenna equipment.

H. Notwithstanding anything herein, no operator of any Personal Wireless Service Facility shall be required to provide any report, or any information in any report, that

exceeds reports or information that may be required by the FCC. The City may obtain, at the operator's expense, independent verification of the results of any analysis. If an operator of a Personal Wireless Service Facility fails to supply any required report or fails to correct a violation of the FCC standard following notification, the PROW Permit for that Personal Wireless Service Facility shall be suspended until the operator complies with this subdivision.

1. Prior to January 31 of each year, an authorized representative for the operator of each antenna at the Personal Wireless Service Facility permitted under this Chapter shall provide under penalty of perjury a written certification to the City that each antenna is being operated in accordance with all applicable FCC radiofrequency exposure standards.

2. To the extent required by the FCC standards, the operator of a Personal Wireless Service Facility shall be required to submit to the City a report, based on actual measurements, of compliance with applicable FCC radiofrequency exposure limits within 90 days of a reduction of any FCC radiofrequency exposure limit for electric and magnetic field strength and power density for transmitters, or of any modification of each Personal Wireless Service Facility requiring a new submission under FCC standards to determine compliance. If calculated levels are not in compliance with the FCC's radiofrequency exposure limits, the operator shall cease operation of the Personal Wireless Service Facility until it is brought into compliance with the FCC's standards. A report of these calculations and required measurements, if any, and the findings with respect to compliance with the current radiofrequency exposure limits, shall be submitted to the City. If at any time, radiofrequency levels are not in compliance with the FCC's radiofrequency exposure limits, the operator shall immediately cease operation of the Personal Wireless Service Facility until it is brought into compliance with the FCC's standards. A report of these calculations and required measurements, if any, and the findings with respect to compliance with the current radiofrequency exposure limits, shall be submitted to the City.

16.10.110 Emergency Repairs.

A. Notwithstanding anything to the contrary in this Chapter, if the site of an excavation, whether during installation of Facilities or at any time thereafter, is or becomes hazardous, or constitutes a public nuisance, public emergency, or other imminent threat to the public health, safety, or welfare, such that it requires immediate action, the Director may order the responsible Company, by a written, electronic, or facsimile communication, to remedy the condition within a specified period of time.

B. If the responsible Company or its designated representative party is inaccessible or fails, neglects, or refuses to take prompt action to remedy the condition as specified in the communication, the Director may remedy the condition or cause the condition to be remedied.

C. Upon completion of that work, the City shall submit to the Company an itemized statement of costs, which shall be due no later than 30 days of billing. Amounts not timely paid may be deducted from the performance bonds or security fund. Costs that may be

recovered include, but are not limited to, administration, construction, consultants, equipment, inspection, notification, remediation, repair, restoration, or any other actual costs incurred by the Department or other agencies, boards, commissions, or departments of the City, that were made necessary by reason of the emergency remediation undertaken by the Department. The cost of such work also may be deducted from the Company's security fund.

D. Remediation by the City in accordance with this section shall not relieve the Company from responsibility or liability for subsequent conditions necessitating remediation.

16.10.120 Duty to Remove Facilities from PROW and Public Property—Abandonment in Place.

A. Each Company operating Video or Telecommunications Systems in the PROW shall submit to the Director an annual certification attesting under penalty of perjury that Facilities in the PROW remain necessary to provide Video or Telecommunication Services, and shall specifically identify any Facilities that are no longer necessary to provide said services. The Director may order a Company to remove its Facilities from public property or PROW at its own expense whenever a Company materially breaches its PROW Permit, ceases to operate any Facility for a continuous period of six months, or fails to complete construction of the Video or Telecommunications System within six months, or its PROW Permit is revoked. No such order may be issued without first giving the Company a reasonable opportunity to cure.

B. If a Company does not remove Facilities subject to removal by the deadline specified therein, the City may remove the Facilities at the Company's expense. The security fund shall be available to pay for such work.

C. If officials or representatives of the City remove Facilities, and if the Company for which they were installed does not claim the property within 30 days after service of notice of its removal upon the Company, the City may take whatever steps are available under state law to declare the property surplus and sell it, with the proceeds of such sale going to the City.

D. A Company that removes its Facilities from the PROW shall, at its own expense, replace and restore such PROW to a condition comparable to that which existed before the work causing the disturbance was done. If the Company does not do so after a reasonable period, the City may do so at the Company's expense. The security fund shall be available to pay for such work.

E. The City may, upon written application by a Company, approve the abandonment of any property in place by the Company under such terms and conditions as the City may approve. Upon City-approved abandonment of any property in place, the Company shall cause to be executed, acknowledged, and delivered to the City such instruments as the City shall prescribe and approve transferring and conveying the ownership of such property to the City.

16.10.130 City Vacation or Abandonment.

In the event any PROW or portion thereof used by a Company is vacated by the City consistent with state law, upon 180 days' prior notice, the Company shall forthwith remove its Facilities from the PROW unless specifically authorized in writing to continue. As a part of the removal, the Company shall restore, repair or reconstruct the area where the removal has occurred, consistent with Section 16.10.080, or to a lesser standard as may be specified by the Director. In the event of any failure, neglect or refusal of the Company, after 30 days' notice by the Director, to do such work, the Director may cause it to be done, and the Company shall, within 45 days of billing, pay any reasonable costs, including but not limited to administration, construction, consultants, equipment, inspection, notification, remediation, repair, restoration, or any other costs actually incurred by the Department or other agencies, boards, commissions, or departments of the City, that were made necessary by reason of the failure, neglect, or refusal to perform the work. The security fund shall be available to pay for such work.

16.10.140 System Location Data.

Annually, each Company shall provide the Director with data in a digital or other format specified by the Director which details and documents all the geographic locations of Facilities located in PROW. The record shall be updated whenever there have been significant changes in the location of the Facilities. In addition, the Company shall maintain in its local office a complete, fully-dimensioned, and up-to-date set of as-built system maps and drawings upon completion of construction. As-built drawings shall show all Facilities and reflect whether the Facilities, including but not limited to cable facilities are presently being used. Dark fiber shall be denoted as such. The scale of maps and drawings shall be sufficient to show the required details in easily readable form and size.

16.10.150 Appeals.

A. An applicant for a PROW permit under this Chapter or any resident or owner of property located within 500 feet of the proposed Facility may appeal the decision of the Director to issue or deny that permit to the City Manager by filing with the City Clerk a statement addressed to the City Manager setting forth the facts and circumstances regarding the Director's decision and the basis for the appeal. The appeal shall be accompanied by a fee as established by resolution of the City Council. Appeals from an approval will not be permitted to the extent that the appeal is based on environmental effects from radiofrequency emissions that comply with all applicable FCC regulations, so long as such considerations are prohibited by federal law.

B. The right to such an appeal shall terminate upon the expiration of 10 business days following the deposit of the Director's decision in the United States mail to the Company and all persons required to receive notice of the Director's decision pursuant to Section 16.10.060.A. A decision by the Director shall inform the Company and any person receiving notice of the decision of their right to appeal to the City Manager.

C. The City Manager shall hear the appeal not less than 10 business days from the date on which it has been filed with the City Clerk, or such later date as the Company, any other appellant, and the City may agree to. The City Clerk shall provide written notification of the time and place set for hearing the appeal. The City Manager may sustain, overrule or modify the action of the Director. The decision of the City Manager shall be final. In the event that the time to approve or deny a permit application under state or federal law expires before the City Manager decides an appeal, the decision of the Director shall be final. Any such deadline may be extended by mutual agreement of all appellants and the permit applicant.

D. Appeals shall be accompanied by such fees as are established by resolution of the City Council except that such fee may be waived in the discretion of the Director to avoid denying equal access to the appeals process, or other good cause.

16.10.160 Indemnity and Liability Insurance.

A. To the maximum extent permitted by applicable law, a Company, including each owner or operator of any Facility, shall at all times defend, indemnify, protect, save harmless, and exempt the City, the City Council, its officers, agents, servants, attorneys and employees from any and all expenses, and any and all penalties, damages or charges arising out of claims, suits, demands, causes of action, award of damages, imposition of fines and penalties, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which arise out of, or are caused by, the construction, erection, location, performance, operation, maintenance, repair, installation, replacement, removal or restoration of Facilities within the City based upon any act or omission of a Company, its agents or employees, contractors, subcontractors, independent contractors, or representatives, except for that which is attributable to the negligence or willful misconduct of the City, the City Council, its officers, agents, servants, attorneys and employees. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, expert witness fees, and other litigation expenses are included as those costs which shall be recovered by the City. The City shall provide reasonable notice to a Company of any claim or lawsuit with which it has been served that is based on the construction, erection, location, performance, operation, maintenance, repair, installation, replacement, removal or restoration of Facilities within the City by a Company. For purposes of this paragraph, "Company" shall include the Company and its parents, subsidiaries, or affiliates to the fullest extent permitted by the law.

B. Except as provided in or as supplemented by any PROW Permit, a Company shall secure and maintain commercial general liability insurance, including bodily injury and property damage, with limits of \$7,000,000 per occurrence and \$7,000,000 in the aggregate, and shall have coverage at least as broad as the Insurance Service Office (ISO) Form No. CG 0001 or its successor, so long as any Facility of the Company remains in the PROW.

C. The commercial general liability insurance policy shall include the City, the City Council, and City employees and agents as additional insureds.

D. The commercial general liability insurance policy shall be issued by an agent or representative of an insurance Company licensed to do business in the State and rated A-VII or higher by A.M. Best Key Rating Guide for Property and Casualty Insurance Companies, or having an equivalent credit rating score issued by a comparable credit rating provider.

E. The certificate of insurance evidencing the required commercial general liability policy and additional insureds shall state that the insurer shall furnish the Director with at least 30 days' written notice in advance of the cancellation of the policy.

F. Before a Company commences any construction, the Company shall deliver the policies or certificates representing the insurance to the Director as required herein.

G. Renewal or replacement policies or certificates shall be delivered to the Director within five days of the expiration of the insurance which such policies are to renew or replace.

H. The Director may for good cause increase the coverage amounts specified in paragraph B of this section. Any Company required to maintain increased coverage under this section shall provide the Director with a certificate of insurance showing the increased coverage amount. The Director shall provide at least 30 days' notice of intent to increase coverage amounts pursuant to this paragraph.

16.10.170 Revocation, Termination, and Modification of Permits.

A. In addition to all other rights and powers retained by the City, the City shall have the right to revoke any permit granted hereunder and to terminate all rights and privileges of the permit hereunder in the event of a substantial breach of the terms and conditions of said permit. A substantial breach shall include, but shall not be limited to, the following:

1. Violation of any material provision of this Chapter or of any material provision of a permit granted pursuant to this Chapter;
2. Any attempt to evade any material provision of a permit granted under this Chapter or to practice any fraud or deceit or deception upon the City;
3. The failure to obtain permits for or to begin or complete construction as provided under this Chapter or a permit granted under this Chapter;
4. Material misrepresentation of fact in the application for or negotiation of a permit under this Chapter; or
5. Failure to pay any fee or other payment required by this Chapter or a permit granted hereunder when due. Failure to pay said fee shall also require the telecommunications carrier to pay interest on any past-due fee or compensation to the City at the rate of 1.5% per month on the unpaid amount.

B. It is the intent of the City Council to regulate the installation of small wireless facilities in the PROW in a manner consistent with applicable state and federal law, including but not limited to the FCC's Declaratory Ruling and Third Report and Order, In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, 83 FR 51867-01 (adopted September 26, 2018 and released September 27, 2018, hereinafter "FCC Report and Order"). In the event that the FCC Report and Order, or other applicable federal or state law, is invalidated, modified, or limited in any way that expands the City's authority with respect to the placement and/or design of the small wireless facility, the Director may review and revoke or modify any permit issued under this Chapter based on any amendments to this Chapter, or based on new regulations established pursuant to Section 16.10.200.B. The requirements of this paragraph shall be included as a condition of approval of any permit issued pursuant to this Chapter.

16.10.180 Possessory Interest.

A. By accepting a permit under this Chapter, a Company acknowledges that notice is and was hereby given to it pursuant to California Revenue and Taxation Code Section 107.6 that use or occupancy of any public property may cause certain taxes to be levied upon such interest. A Company shall be solely liable for, and shall pay and discharge prior to delinquency, any and all possessory interest taxes or other taxes levied against its right to possession, occupancy or use of any PROW or public property pursuant to any right of possession, occupancy or use created by any permit.

B. The information supplied in an application covered by this Chapter may be made available to all taxing jurisdictions covering the area affected by the application for purposes of determining the full cash value of the property, facilitating auditing and comparison with any property statements, and validating whether and to what extent Facilities in the PROW are "new construction" as defined by California Revenue and Taxation Code Section 70.

16.10.190 Violations.

A. The Director may issue an administrative citation pursuant to Chapter 1.28 for any violation of this Chapter.

B. If any violation of this Chapter is determined to constitute a public nuisance, the City may order the abatement of the nuisance pursuant to Chapter 1.24, and said violation shall upon application by the City be enjoined by a court of competent jurisdiction.

C. The foregoing remedies shall be deemed non-exclusive, cumulative remedies and in addition to any other remedy the City may have at law or in equity.

16.10.200 Adoption of Administrative Regulations or Guidelines.

A. The Director will develop, publish, and periodically, at a frequency of no less than every five years, update or amend permit application requirements, forms, checklists,

guidelines and informational handouts under this Chapter so long as such updates or amendments do not diminish any requirement provided in the Code or any regulations or guidelines approved by the City Council. All such administrative regulations or guidelines shall be immediately effective when made publicly available in any format, which may include, but shall not be limited to, posting on the City’s website.

B. In the event that the FCC Report and Order or any other law restricting local authority over the PROW is invalidated, modified, or limited in any way, or at any other time as deemed appropriate by the Director, the Director shall review any administrative regulations or guidelines adopted to implement this Chapter, and shall revise any such administrative regulations or guidelines consistent with applicable state and federal law.

16.10.210 Interpretation and Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance, is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a special meeting of the Council of the City of Berkeley held on July 7, 2020, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: Davila.

Absent: None.

ORDINANCE NO. 7,728 -N.S.

AUTHORIZING THE CITY MANAGER TO PROVIDE CITY CONSENT TO AN AMENDED DECLARATION OF EASEMENTS FOR SAFETY AND ACCESS BETWEEN 2009 ADDISON STREET, WHICH IS OWNED BY THE BERKELEY REPERTORY THEATER, AND 2015 ADDISON STREET, WHICH IS LEASED BY THE CITY OF BERKELEY AND SUBLEASED TO THE BERKELEY REPERTORY THEATER

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

Section 1. Conveyance of property authorized.

The City Manager is hereby authorized to provide City consent to the amended declaration of easements for safety and access between 2009 Addison Street, owned by the Berkeley Repertory Theater, and 2015 Addison Street, owned by the Joint Powers Financing Authority, leased by the City of Berkeley, and subleased to the Berkeley Repertory Theater, substantially in the form attached hereto as Exhibit A, for the real property described therein.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on July 14, 2020, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.

Berkeley Repertory Theater
1995-067694
APN 057-2025-023-00

EXHIBIT A1

Access and Utility Easement

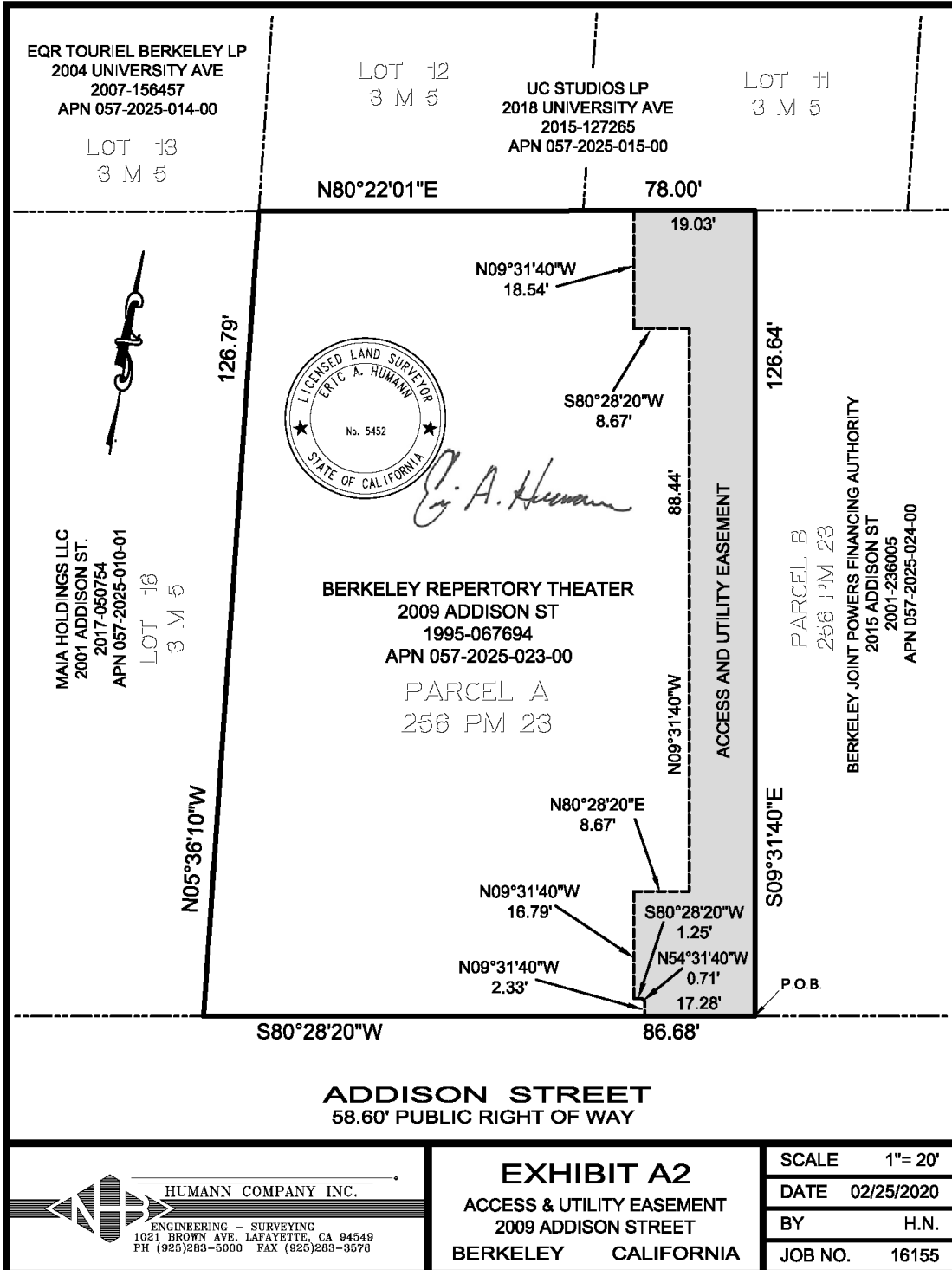
Real property situated in City of Berkeley, County of Alameda, State of California described as follows:

A portion of Parcel A, Parcel Map 7429, filed March 23, 2001 in Book 256 of Parcel Maps, at pages 23 and 24, described as follows:

Beginning at the southeasterly corner of the aforementioned Parcel A, said point also being on the northern right-of-way line of Addison Street (58.60 feet wide), thence along said line South 80°28'20" West 17.28 feet; thence leaving last line North 09°31'40" West 2.33 feet; thence North 54°31'40" West 0.71 feet; thence South 80°28'20" West 1.25 feet; thence North 09°31'40" West 16.79 feet; thence North 80°28'20" East 8.67 feet; thence North 09°31'40" West 88.44 feet; thence South 80°28'20" West 8.67 feet; thence North 09°31'40" West 18.54 feet to a point on the northern line of said Parcel A; thence along the exterior lines of said Parcel A North 80°22'01" East 19.03 feet and South 09°31'40" East 126.64 feet to the **Point of Beginning**.

Containing a total area of 1,638 square feet more or less.

Attached hereto is a plat entitled "Exhibit A2" and by this reference made a part hereof.





Office of the City Attorney

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Farimah Faiz Brown, City Attorney

Subject: Resolution Reviewing and Ratifying the Proclamation of Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)

RECOMMENDATION

Adopt a Resolution reviewing the need for continuing the local emergency due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19) and ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services on March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020 and June 16, 2020.

FISCAL IMPACT OF RECOMMENDATION

To be determined.

CURRENT SITUATION AND ITS EFFECTS

Pursuant to California Government Code section 8630 and Berkeley Municipal Code Chapter 2.88, on March 3, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed a local emergency due to conditions of extreme peril to the safety of persons and property within the City as a consequence of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19), including a confirmed case in the City of Berkeley. As a result of multiple confirmed and presumed cases in Alameda County, the County has declared a local health emergency. The Proclamation of Local Emergency empowers the Director of Emergency Services to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such local emergency. Pursuant to Government Code section 8630(b) and Berkeley Municipal Code section 2.88.040.A.1, on March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312.

Pursuant to Government Code section 8630(c), the City Council must review the need for continuing the local emergency at least once every sixty (60) days. The Council last reviewed and ratified the Proclamation of Local Emergency on June 16, 2020. The Council therefore must review the continuing need for the local emergency by August 15, 2020.

This item requests that the Council review the continued need for the local emergency and again ratify the Proclamation of Local Emergency issued on March 3, 2020, initially ratified by the Council on March 10, 2020, and subsequently review and ratified by the Council on April 21, 2020 and June 16, 2020. If approved on July 28, 2020, the Council will need to again review the proclamation by September 26, 2020.

If at any time the Council determines that the need for continuing the local emergency has ended, state law directs the Council to terminate the local emergency at the earliest possible date that conditions warrant. (Cal. Gov. Code section 8630(d).)

BACKGROUND

On March 1, 2020, Alameda County Public Health Department and Solano County Public Health Department reported two presumptive cases of COVID-19, pending confirmatory testing by the Centers for Disease Control (CDC), prompting Alameda County to declare a local health emergency.

On March 3, 2020, the City's Director of Emergency Services proclaimed a local emergency due to the spread of COVID-19, including a confirmed case in the City of Berkeley and multiple confirmed and presumed cases in Alameda County.

On March 10, 2020, the City Council ratified the Proclamation of Local Emergency. Since that action, the number of confirmed and presumed cases of COVID-19 in the City of Berkeley has increased.

On April 21, 2020, the City Council reviewed and ratified the Proclamation of Local Emergency.

On June 16, 2020, the City County again reviewed and ratified the Proclamation of Local Emergency

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

RATIONALE FOR RECOMMENDATION

The Resolution would enable the Director of Emergency Services to continue to efficiently allocate resources due to the ongoing and imminent threat to public safety.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Dee Williams-Ridley, City Manager, City Manager's Office (510) 981-7000
Farimah Brown, City Attorney, City Attorney's Office (510) 981-6998

Attachments:

1: Resolution

RESOLUTION NO. –N.S.

RESOLUTION REVIEWING AND RATIFYING THE
PROCLAMATION OF LOCAL EMERGENCY

WHEREAS, the Emergency Services Act, Government Code sections 8558(c) and 8630 authorize the proclamation of a local emergency when conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a city exist; and

WHEREAS, pursuant to Government Code section 8630, such an emergency may be proclaimed by the governing body or by an official designated by ordinance adopted by the governing body; and

WHEREAS, Berkeley Municipal Code section 2.88.040 provides that the City Manager, serving as the Director of Emergency Services, may request that the City Council proclaim the existence of a local emergency; and

WHEREAS, under provision of local law, if the City Council cannot be convened and, in the judgment of the Director of Emergency Services, the circumstances warrant it, a proclamation of local emergency may be issued which must be ratified or nullified by the City Council within seven days of issuance; and

WHEREAS, in accordance with authority granted under the above provisions of state and local law, the Director of Emergency Services beginning on March 3, 2020 did proclaim the existence of a local emergency caused by epidemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (“COVID-19”), including confirmed cases in California and the San Francisco Bay Area, and presumed cases in Alameda County prompting the County to declare a local health emergency; and

WHEREAS, on March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312; and

WHEREAS, Government Code section 8630(c) requires that the City Council review the need for continuing the local emergency at least once every sixty (60) days; and

WHEREAS, on April 21, 2020, the City Council reviewed the need for continuing the local emergency and ratified the Proclamation of Local Emergency; and

WHEREAS, on June 16, 2020, the City Council again reviewed the need for continuing the local emergency and ratified the Proclamation of Local Emergency; and

WHEREAS, the City Council does find that the aforesaid conditions of extreme peril continue to exist, and now include additional confirmed cases of COVID-19 in the City of Berkeley, thereby warranting and necessitating the continuation of the local emergency; and

WHEREAS, the City Council will need to again review the need for continuing the local emergency and ratify the Proclamation of Local Emergency by September 26, 2020.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that it is hereby proclaimed and ordered that the Proclamation of Local Emergency, issued by the Director of Emergency Services in March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the City Council on April 21, 2020 and June 16, 2020, has been reviewed and is hereby again ratified and confirmed; and

BE IT FURTHER RESOLVED that during the existence of this local emergency the powers, functions, and duties of the emergency organization of this City shall be those prescribed by state law, and the Charter, ordinances, resolutions and approved plans of the City of Berkeley.



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Mark Numainville, City Clerk
 Subject: Minutes for Approval

RECOMMENDATION

Approve the minutes for the council meetings of June 2, 2020 (closed and regular), June 9, 2020 (special and special), June 16, 2020 (special, special and regular), June 22, 2020 (closed), June 23, 2020 (special), June 24, 2020 (closed) and June 30, 2020 (closed and regular).

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. June 2, 2020 – Closed City Council Meeting
2. June 2, 2020 – Regular City Council Meeting
3. June 9, 2020 – Special City Council Meeting
4. June 9, 2020 – Special City Council Meeting
5. June 16, 2020 – Special City Council Meeting
6. June 16, 2020 – Special City Council Meeting
7. June 16, 2020 – Regular City Council Meeting
8. June 22, 2020 – Closed City Council Meeting
9. June 23, 2020 – Special City Council Meeting
10. June 24, 2020 – Closed City Council Meeting
11. June 30, 2020 – Closed City Council Meeting
12. June 30, 2020 - Regular City Council Meeting

**BERKELEY CITY COUNCIL
SPECIAL MEETING MINUTES**

TUESDAY, JUNE 2, 2020

4:00 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this closed session meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/81059614063>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial 1-669-900-9128 and enter Meeting ID: 810 5961 4063. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair. NOTE: Your phone number will appear on the screen.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

Preliminary Matters

Roll Call: 4:03 p.m.

Present: Kesarwani, Davila, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

Absent: Bartlett

Public Comment - Limited to items on this agenda only – 0 speakers.

CLOSED SESSION:

The City Council will convene in closed session to meet concerning the following:

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1):

a. Sandoval v. City of Berkeley, Alameda Superior Court Case No. RG19016889

Action: No reportable action.

b. Case Name Unspecified (disclosure would jeopardize settlement negotiations)

Action: No reportable action.

OPEN SESSION:

No reportable action.

Adjournment

Action: M/S/C (Davila/Wengraf) to adjourn the meeting.

Vote: Ayes – Kesarwani, Davila, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.

Adjourned at 5:00 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on June 2, 2020.

Mark Numainville
City Clerk

**MINUTES AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, June 2, 2020
6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/82518774480>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial 1-669-900-9128 and enter Meeting ID: 825 1877 4480. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call: 6:04 p.m.

Present: Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

Absent: None

Action: M/S/C (Arreguin/Harrison) to accept temporary rules for the conduct of the meeting related to public comment, council discussion, and moving items off consent.

Vote: All Ayes.

Ceremonial Matters:

1. Adjourned in memory of George Floyd and all those that are victims of police violence
2. Adjourned in memory of all victims of COVID-19
3. Adjourned in memory of Larry Kramer, LGBT Activist and Playwright

City Auditor Comments:

The City Auditor provided comments on the protests and also the framework of the current budget situation and how the City can address the financial challenges.

City Manager Comments:

The City Manager provided comments on the social situation and the importance of the Council's support of the community. Also provided an update on the EOC activities related to COVID-19 and the protests, with the top priority being protecting public safety and first amendment rights.

Public Comment on Non-Agenda Matters: 10 speakers.

Consent Calendar

Public Comment on Consent Calendar and Information Items Only: 7 speakers.

Action: M/S/C (Arreguin/Kesarwani) to accept an urgency item from Councilmember Kesarwani pursuant to Government Code Section 54954.2(b)(2) related to the Great Plates meal program. Councilmember Harrison added as a co-sponsor.

Vote: All Ayes.

Action: M/S/C (Arreguin/Hahn) to accept an urgency item from the City Manager pursuant to Government Code Section 54954.2(b)(2) related to citywide curfew.

Vote: Ayes – Kesarwani, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila, Harrison.

Consent Calendar

Action: M/S/C (Hahn/Arreguin) to adopt the Consent Calendar in one motion except as indicated.

Vote: All Ayes.

Consent Calendar

Resolution in Support of Extending Governor Newsom's Great Plates Delivered Food Assistance Program for Seniors and Expanding Eligibility to Low-Income Seniors

From: Councilmembers Rashi Kesarwani (Author); Susan Wengraf (Co-Sponsor); Kate Harrison (Co-Sponsor)

Recommendation: 1) Adopt a resolution in support of (1) extending Governor Gavin Newsom's Great Plates Delivered food assistance program that provides three meals per day from local restaurants to seniors and other adults who are COVID-19 positive or exposed, and (2) expanding eligibility rules so that low-income individuals with incomes less than 200 percent of the federal poverty level may participate in the program; 2) Send copies of the resolution to Governor Newsom, Congresswoman Barbara Lee, Senators Dianne Feinstein and Kamala Harris, State Senator Nancy Skinner, and Assemblywoman Buffy Wicks.

Financial Implications: Staff time.

Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

Action: Adopted Resolution No. 69,422–N.S.

1. Contract: Animal Care Services for the City of Albany

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract, with any amendments, with the City of Albany for animal care services for FY2021-FY2023, which increases the existing contract by up to \$37,046, with a total contract amount not to exceed \$249,653.

Financial Implications: See report

Contact: Erin Steffen, City Manager's Office, (510) 981-7000

Action: Adopted Resolution No. 69,423–N.S.

2. Contract No. 10039 Amendment: Koefran Industries to Provide Pick Up and Disposal of Deceased Animals for Berkeley Animal Care Services

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to extend and increase Contract No. 10039 with Koefran Industries to provide pick up and disposal of deceased animals for Berkeley Animal Care Services (BACS). The increase will be for \$20,400 through June 30, 2021 for a total contract amount not to exceed \$121,600 and subject to the city's annual appropriation process.

Financial Implications: General Fund - \$20,400

Contact: Erin Steffen, City Manager's Office, (510) 981-7000

Action: Adopted Resolution No. 69,424–N.S.

Consent Calendar

- 3. Ballot Measure Increasing the City's Appropriation Limit to Allow Expenditure of Tax Proceeds for Fiscal Years 2021 through 2024**
From: City Manager
Recommendation:
1. Adopt a Resolution placing the attached measure to increase the City's appropriation limit on the ballot at the November 3, 2020 General Municipal Election.
2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: 1. Adopted Resolution No. 69,425–N.S. and 2. Designating Mayor Arreguin and Councilmember Harrison to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.
- 4. Contract 10456 Amendment: Persimmony Electronic Case Management System for Software Licensing, Implementation and Maintenance Services for the Online Electronic Case Management System**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10456 with Persimmony International, Inc. for software licensing, implementation and maintenance services for the online Electronic Case Management system for the amount not to exceed \$127,947 and a total contract value not to exceed \$303,527 from July 12, 2016 to June 30, 2022.
Financial Implications: Targeted Case Management Fund - \$127,947
Contact: Savita Chaudhary, Information Technology, (510) 981-6500
Action: Adopted Resolution No. 69,426–N.S.
- 5. Contract No. 10789 Amendment: AMS.NET for Network Support and Maintenance**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 10789 with AMS.NET for network support and maintenance, for the amount not to exceed \$534,000 and a total contract value not to exceed \$989,335 from July 1, 2017 to June 30, 2025.
Financial Implications: IT Cost Allocation - \$534,000
Contact: Savita Chaudhary, Information Technology, (510) 981-6500
Action: Adopted Resolution No. 69,427–N.S.

Consent Calendar

6. Contracts: On-Call Waterfront Engineering, Design, Environmental Permitting and Construction Administration Services for Capital Improvement Projects at the Berkeley Waterfront

From: City Manager

Recommendation: Adopt four Resolutions authorizing the City Manager to execute contracts and any amendments with the following firms for on-call waterfront engineering, design, environmental permitting and construction administration services for capital improvement projects at the Berkeley Waterfront, for contract periods of June 15, 2020 through June 30, 2023:

1. Anchor QEA, LLC, for an amount not to exceed \$1,000,000.
2. COWI North America, Inc., for an amount not to exceed \$1,000,000.
3. Moffatt & Nichol, for an amount not to exceed \$1,000,000.
4. Transystems Corporation, for an amount not to exceed \$1,000,000.

Financial Implications: See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Action: Adopted Resolution No. 69,428–N.S. (Anchor), Resolution No. 69,429–N.S. (COWI), Resolution No. 69,430–N.S. (Moffatt), and Resolution No. 69,431–N.S. (Transystems).

7. Reject All Bids and Negotiate in the Open Market for the Grove Park Field Renovation and Park Improvements Project

From: City Manager

Recommendation: Adopt a Resolution: 1. Rejecting all bids for the work associated with the Grove Park Field Renovation and Park Improvements Project, Specification No. 20-11383-C. 2. Authorizing the City Manager to direct staff to negotiate in the open market in accordance with Article XI, Public Works and Supplies, Section 67(a) of the City Charter. 3. If negotiations are not successful, authorizing the City Manager to direct staff to re-scope and re-bid the work associated with the Grove Park Field Renovation and Park Improvements Project.

Financial Implications: See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Action: Adopted Resolution No. 69,432–N.S.

Consent Calendar

8. Amendment and Assignment of Capital Contribution Agreement: 200 Marina Blvd, LLC for the Doubletree Hotel

From: City Manager

Recommendation: Adopt first reading of an Ordinance approving an Amendment and Assignment of the City's Capital Contribution Agreement with 200 Marina Boulevard, Berkeley, LLC (200 Marina LLC) for the Doubletree Hotel, which would assign the agreement by 200 Marina LLC to its parent company, Apollo Bright, LLC (Apollo LLC), and change the payment schedule for the capital contribution from \$3M due in June 2020 to \$375,000 due in October 2020 and \$2,675,000 due upon Council approval of the Marina streets construction contract, estimated to be in January 2021. Apollo LLC's obligation to make the two capital contribution payments totaling \$3 million will be backed by an irrevocable standby letter of credit, which will be provided to the City upon execution of the amendment and assignment.

Financial Implications: See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Action: Adopted first reading of Ordinance No. 7,705–N.S. Second reading scheduled for June 16, 2020.

9. Contract: Alta Group, Inc. for the T1 Corporation Yard Maintenance Building Upgrade Project at 1326 Allston Way, and the T1 Marina Corporation Yard Maintenance Building Upgrade Project at 201 University Avenue

From: City Manager

Recommendation: Adopt a Resolution: 1. Approving plans and specifications for the T1 Corporation Yard Maintenance Building Upgrade Project and the T1 Marina Corporation Yard Maintenance Building Upgrade Project, Specification No.19-1 1302 -C; 2. Accepting the bid plus bid alternate of Alta Group, Inc. as the lowest responsive and responsible bidder; 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, for an amount not to exceed \$1,011,006 which includes a contingency of \$131,871.

Financial Implications: T1 Fund - \$1,011,006

Contact: Phillip Harrington, Public Works, (510) 981-6300

Action: Adopted Resolution No. 69,433–N.S.

10. Contract: Urban Ore, Inc. for Salvage Operations at the City of Berkeley Transfer Station

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with Urban Ore, Inc. for salvage operations of reusable materials at the City's Transfer Station for a three (3) year term commencing July 1, 2020 through June 30, 2023, for a total amount not to exceed \$114,576.

Financial Implications: Zero Waste Fund - \$114,576

Contact: Phillip Harrington, Public Works, (510) 981-6300

Action: Adopted Resolution No. 69,434–N.S.

Council Consent Items

11. Berkeley Safe Open Air Dining

From: Councilmember Hahn (Author), Mayor Arreguin (Co-Sponsor), Councilmember Rigel Robinson (Co-Sponsor), Councilmember Kate Harrison (Co-Sponsor)

Recommendation:

1. Direct the City Manager to explore and, if and when safe and feasible, identify locations throughout Berkeley, including but not limited to wide sidewalks, street medians, building curtilages, surface lots, public parking areas, and parks, for the placement of tables and chairs to be used for open air dining to support restaurants, cafes, food shops, and other small businesses impacted by the COVID-19 emergency. The City Manager is recommended to consider pursuing the procurement of such tables and chairs via public grants and/or philanthropic sources. The City Manager is further recommended to partner with the Berkeley Chamber, Downtown Berkeley Association, and local business improvement districts (BIDs) to develop protocols related to sanitation, upkeep, and storage.

2. Direct the City Manager to return to Council with recommendations for an ordinance that anticipates future revisions of Berkeley health guidelines to provide local businesses, particularly restaurants, cafes, and food shops, to access public space and private adjacent property for open air operations, with the following considerations: a. Allow businesses and BIDs to apply for temporary use of streets, surface lots, public parking spaces, public recreation space, and adjacent parcels for outdoor dining that will enable compliance with public health dictates for physical separation. i. To eliminate financial burden and fees on small businesses, consider: 1. use of federal reimbursement or funding to cover application costs, or 2. "by right" permit in designated geographic locations that will not require additional processing. ii. Waive any sidewalk cafe permits/fees to allow restaurants and other appropriate businesses to operate outside seating and service for customers who comply with Berkeley health guidelines. iii. Work with the Berkeley Chamber, Downtown Berkeley Association, and Berkeley's BIDs to identify ideal geographic locations for use of streets, surface lots, public parking spaces, public recreation space, and adjacent parcels for outdoor food business activities, including outdoor restaurants and cafes.

Financial Implications: See report

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Action: Approved recommendation as revised in Supplemental Communications Packet #2. With further revisions in 2.e to add access for AC Transit and add a new #6. Coordinate with AC Transit and any and all other potentially impacted agencies and stakeholders.

Recess 8:30 p.m. – 8:40 p.m.

A. Establishing a COVID-19 Business Damage Mitigation Fund *(Continued from May 26, 2020)*

From: Mayor Arreguin (Author), Councilmember Harrison (Author), Councilmember Robinson (Author)

Recommendation: Refer to the City Manager to establish a COVID-19 Business Damage Mitigation Fund in an amount up to \$100,000 to provide one-time grants to small businesses who experience property damage due to vandalism and other problematic behavior during this COVID-19 local State of Emergency

Financial Implications: Up to \$100,000

Contact: Jesse Arreguin, Mayor, (510) 981-7100

Action: Moved to the Consent Calendar and amended to be a referral to the budget process with further amendments as follows: 1) grants limited per incident to the amount of the affected party's deductible or \$3,000 whichever is greater; 2) limit to two grants per business; 3) prioritize repair of exterior damage; and 4) prioritize small independent businesses in need.

Action Calendar

Resolution Ratifying And Extending Emergency Curfew Order

From: City Manager

Recommendation: Adopt a Resolution (a) ratifying the Emergency Proclamation issued on June 1, 2020, and (b) extending the curfew to 5:00 a.m. on June 5 to align with other cities in the County to protect the lives and property of residents and businesses in Berkeley.

Financial Implications: To be determined

Contact: Dee Williams-Ridley, City Manager, City Manager's Office (510) 981-7000; Andrew Greenwood, Police Chief (510) 981-7500; Farimah Brown, City Attorney, City Attorney's Office (510) 981-6998

Action: M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 11:30 p.m.

Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila.

Action: M/S/C (Arreguin/Droste) to suspend the rules and extend the meeting to 11:45 p.m.

Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila.

Action: M/S/C (Hahn/Harrison) to suspend the rules and extend the meeting to 12:00 a.m.

Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila.

Action: M/S/C (Kesarwani/Arreguin) to suspend the rules and extend the meeting to 12:10 a.m.

Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila.

Action: M/S/C (Arreguin/Kesarwani) to suspend the rules and extend the meeting to 12:20 a.m.

Vote: Ayes – Kesarwani, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila, Bartlett, Harrison.

Action: M/S/C (Arreguin/Kesarwani) to adopt Resolution No. 69,435–N.S. (a) ratifying the Emergency Proclamation issued on June 1, 2020, and (b) extending the curfew to 5:00 a.m. on June 5 to align with other cities in the County to protect the lives and property of residents and businesses in Berkeley as written below.

RESOLUTION RATIFYING THE PROCLAMATION OF LOCAL EMERGENCY AND EXTENDING THE EMERGENCY CURFEW ORDER THROUGH AND UNTIL JUNE 5, 2020

WHEREAS, peaceful protesters have gathered throughout this country and region in response to the death of George Floyd as a result of the use of force by police officers in Minneapolis, Minnesota and the City of Berkeley stands with those peaceful protesters; and

WHEREAS, the City of Berkeley fully supports the people's First Amendment rights to assemble and protest against this injustice that Mr. Floyd and many others have experienced throughout the years; and

WHEREAS, the City of Berkeley has a long and proud tradition of supporting peaceful protest; and

WHEREAS, however, some people have alternatively chosen to use these peaceful protests as cover to commit coordinated, criminal acts resulting in injuries to persons and/or destruction of property during nightly rioting and/or widespread looting over the last several days in cities throughout the region, including in Oakland, San Francisco, Vallejo, Walnut Creek, Pleasant Hill, Emeryville, and here in Berkeley; and

WHEREAS, the Emergency Services Act, Government Code sections 8558(c) and 8630 authorize the proclamation of a local emergency when conditions of extreme peril to the safety of persons and property within the territorial limits of a city exist; and

WHEREAS, pursuant to Government Code section 8630 such an emergency may be proclaimed by the governing body or by an official designated by ordinance adopted by the governing body; and

WHEREAS, Berkeley Municipal Code section 2.88.040 provides that the City Manager, serving as the Director of Emergency Services, may request that the City Council proclaim the existence of a local emergency; and

WHEREAS, under provision of local law, if the City Council cannot be convened and, in the judgment of the Director of Emergency Services, the circumstances warrant it, a proclamation of local emergency may be issued which must be ratified or nullified by the City Council within seven days of issuance; and

WHEREAS, in accordance with authority granted under the above provisions of state and local law, the Director of Emergency Services beginning on June 1, 2020 proclaimed the existence of a local emergency caused by three consecutive nights of looting in Berkeley, and nightly rioting and looting in the surrounding areas, which rioting and looting was likely to continue; and

WHEREAS, the City Council does find that the aforesaid conditions of extreme peril existed on June 1, 2020, thereby warranting the proclamation of a local emergency.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that the Director of Emergency Services' Proclamation of Local Emergency and accompanying Order instituting a curfew from June 1 to June 2, 2020 is hereby ratified by the City Council; and

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the Proclamation of Local Emergency and accompanying Order instituting the curfew is hereby extended through and until 5:00 a.m. on June 5, 2020, unless the Director of Emergency Services in consultation with the Police Chief decides the emergency has abated and the curfew can be lifted before that date and time, and with the following amendments and conditions:

1. No persons shall be upon any public street, sidewalk, park, or in any other outdoor public place in the City of Berkeley between the hours of 9:00 p.m. and 5:00 a.m. from June 2, 2020 through June 5, 2020, with the following exceptions: Law enforcement personnel, firefighting personnel, emergency health care providers, for the sole purpose of traveling to home or a workplace or to obtain medical assistance, unsheltered persons, and representatives of the news media, and person engaging in non-violent First Amendment activity before 9:00 p.m. in the evening, but which must reasonably end after the curfew commences.

2. Law enforcement personnel of this City, and any other peace officers cooperating with this City's police department, are hereby authorized to enforce this order, including making arrests and/or issuing citations to any person who violates this curfew order after the person has been warned they are in violation of this order and if the person does not immediately leave the area after said warning.

3. Any violation of this order shall be subject to criminal enforcement, including but not limited to a misdemeanor under Berkeley Municipal Code section 2.88.070.

Vote: Ayes – Kesarwani, Hahn, Wengraf, Droste, Arreguin; Noes – Davila, Bartlett, Harrison, Robinson.

Action Calendar – Public Hearings

12. Fiscal Year 2021 Proposed Budget Update Public Hearing #2

From: City Manager

Recommendation: Conduct a public hearing regarding the FY 2021 Proposed Budget Update.

Financial Implications: See report

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

Action: M/S/C (Arreguin/Robinson) to continue Items 12, B, 13, 14, 15, and 18 to a special meeting called by Mayor Arreguin for June 9, 2020 at 4:00 p.m.

Vote: All Ayes.

Action Calendar – Continued Business

B. FY 2020 Mid-Year Budget Update (Continued from May 26, 2020)

From: City Manager

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

Action: Item B continued to June 9, 2020 special meeting.

Action Calendar

13. Presentation and Discussion of Community Survey Results and Direction About Next Steps for Possible Ballot Measure Development

From: City Manager

Recommendation: Discuss results of the community survey and provide direction to the City Manager about the drafting of possible measures for inclusion on the November 2020 ballot.

Financial Implications: See report

Contact: David White, City Manager's Office, 981-7000

Action: Item 13 continued to June 9, 2020 special meeting, including supplemental materials.

14. Placing Charter Amendment Measure on the November 3, 2020 Ballot Related to Full-Time Status and Salaries for the Mayor and Councilmembers *(Continued from April 28, 2020)*

From: City Manager

Recommendation:

1. Adopt a Resolution submitting an Amendment to Article V of the City Charter regarding the full-time status and salaries for the Mayor and City Council to a vote of the electors at the November 3, 2020 General Municipal Election.

2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

Financial Implications: None

Contact: Mark Numainville, City Clerk, (510) 981-6900

Action: Item 14 continued to June 9, 2020 special meeting.

15. Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral *(Continued from April 28, 2020)*

From: Energy Commission

Recommendation: The Commission recommends that the City Council develop a referendum and seek approval for it on the 2020 ballot to create a Climate Action Fund, which would support actions to achieve the Berkeley Climate Action Plan, to become Fossil Fuel free, and to respond to the Climate Emergency.

Financial Implications: See report.

Contact: Billi Romain, Commission Secretary, (510) 981-7400

Action: Item 15 continued to June 9, 2020 special meeting.

16. **Contract No. 32000094 Amendment: Youth Spirit Artworks for Transition Age Youth Case Management and Linkage Services and Tiny House Case Management** *(Continued from April 28, 2020)*

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with vendor Youth Spirit Artworks (YSA) to provide Transition Age Youth (TAY) case management and linkage services through June 30, 2021 in an amount not to exceed \$217,000. This will extend the existing contract by one year and add in \$117,000 for case management services at the Tiny Homes Village.

Financial Implications: See report

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

Action: M/S/C (Hahn/Davila) to call for the previous question on Item 16.

Vote: Ayes – Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – Kesarwani, Droste.

Action: 19 speakers. M/S/C (Harrison/Davila) to adopt Resolution No. 69,436–N.S.

Vote: Ayes – Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – Kesarwani; Abstain – Droste.

17. **Contract: ERA Construction, Inc. for Strawberry Creek Park Play Area and Restroom Renovation Project** *(Continued from May 12, 2020)*

From: City Manager

Recommendation: Adopt a Resolution: 1. Approving the plans and specifications for the Strawberry Creek Park Play Area and Restroom Renovation Project, Specification No. 20-11382-C; and 2. Accepting the correction of the sum of bid items for ERA Construction, Inc.'s bid; and 3. Accepting the bid of the lowest responsive and responsible bidder, ERA Construction, Inc.; and 4. Rejecting the bid protest of Suarez and Munoz Construction, Inc., the second lowest bidder; and 5. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with ERA Construction, Inc., for the Strawberry Creek Park Play Area and Restroom Renovation Project at 1260 West Street, Berkeley, CA 94702, in an amount not to exceed \$900,122, which includes a contract amount of \$782,715 and a 15% contingency in the amount of \$117,407.

Financial Implications: Various Funds - \$900,122

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Action: Moved to Consent Calendar. Adopted Resolution No. 69,437–N.S.

Action Calendar

18. **Proposed Amendment to Berkeley's Minimum Wage Ordinance: Berkeley Municipal Code Chapter 13.99**
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 13.99, revising Section 13.99.040 to reinstate the exemption for youth job training programs, and freezing the youth wages at \$14.50 per hour for FY21, then increase the wage annually according to the Consumer Price Index as will occur with the Berkeley Minimum wage.
Financial Implications: See report
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400
Action: Item 18 continued to June 9, 2020 special meeting.

Information Reports

19. **City Council Short Term Referral Process – Quarterly Update**
From: City Manager
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Received and filed.

Public Comment – Items Not Listed on the Agenda - 0 speakers.

Adjournment

Adjourned at 12:20 a.m.

I hereby certify that the foregoing is a true and correct record of the regular meeting of the City Council held on June 2, 2020.

Mark Numainville
City Clerk

Communications

Item #11: Berkeley Safe Open Air Dining

1. Thomas Lord (2)

Item #12: Fiscal Year 2021 Proposed Budget Update Public Hearing #2

2. Michael Katz

Safe Streets

3. MaryAnn Furda

Sanctuary Contracting Ordinance – Right to cure violation

4. Brian Hoffer

Salary of City of Berkeley Employees

5. Genevieve Wilson (2)

Pride Month

6. Brian Brunett

7. Marjo

8. Adrienne Penney

Zoom Meetings

9. Thomas Lord

Sewer Service Fees

10. Barbara Gilbert

Preparing for a Wildfire Disaster

11. Jurgan Aust

Riots Will Be Starting Soon

12. Wanda Warkentin

Berkeley Manufacturing

13. Sam Johnson

14. Dee Williams-Ridley, City Manager

African American Resource Center

15. Derethia DuVal

16. Michael McBride

17. Akilah Shaheed

Fall Semester UCB – Berkeley Businesses Affected

18. John Caner, on half of Downtown Berkeley Association, et al

Homelessness

19. Charles Durrett

Homeless Are Harassing Kids

20. Nicoletta Karam

Green Energy

21. Ethan Young

COVID-19 – General

- 22. David Lerman (4)
- 23. Thomas Lord
- 24. Holly Scheider
- 25. Russbumper
- 26. Councilmember Harrison

Supplemental Communications and Reports 1

Item #11: Berkeley Safe Open Air Dining

- 27. Harry Brill

Item #13: Discussion and Direction Regarding Potential Ballot Measures for the November 3, 2020 General Municipal Election

- 28. Supplemental material, submitted by the City Manager's Office

Supplemental Communications and Reports 2

Item #10: Contract: Urban Ore, Inc. for Salvage Operation at the City of Berkeley Transfer Station

- 29. Max Weehsler, on behalf of Urban Ore, Inc.

Item #11: Berkeley Safe Open Air Dining

- 30. Revised material, submitted by Councilmember Hahn
- 31. Carol Denney (2)

Item #15: Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral

- 32. Kathy Dervin, on behalf of the 350 East Bay and Berkeley Hub
- 33. Marjorie Alvord

Item #16: Contract No. 32000094 Amendment: Youth Spirit Artworks for Transition Age Youth Case Management and Linkage Services and Tiny House Case

- 34. 26 identical form letters
- 35. Barbara McHugh
- 36. Lisa Carey
- 37. Anna Maria Irion
- 38. Lynn Gitomer
- 39. Anne Rowe
- 40. Jonathan Walden

Supplemental Communications and Reports 3

Time Sensitive: Resolution in Support of Extending Governor Newsom's Great Plates Delivered Food Assistance Program for Seniors and Expanding Eligibility to Low-Income Seniors

- 41. Time Sensitive Item, submitted by Councilmember Kesarwani and Wengraf

Item #11: Berkeley Safe Open Air Dining

- 42. Presentation, submitted by Councilmember Hahn

- 43. Ben Gerhardstein, on behalf of Walk Bike Berkeley
- 44. Maris Arnold
- 45. Igor Tregub, on behalf of the Sierra Club Northern Alameda County Group
- 46. Alex Know, on behalf of the Telegraph Business Improvement District

Urgency Item: Resolution Ratifying and Extending Emergency Curfew Order

- 47. Urgency Item, submitted by the City Manager
- 48. Liz Ruhland (2)
- 49. Nick Guerette
- 50. Lisa Juachon
- 51. Julia Zuckerman
- 52. Dallas Morgan
- 53. Bruce Leininger
- 54. Tess Clabby
- 55. Cindy Shamban

Item #15: Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral

- 56. Ben Gerhardstein, on behalf of Walk Bike Berkeley
- 57. Tom Kelly

Item #16: Contract No. 32000094 Amendment: Youth Spirit Artworks for Transition Age Youth Case Management and Linkage Services and Tiny House Case

- 58. 46 similarly-worded form letters
- 59. Gregory Lemieux
- 60. Ben Burch
- 61. Ardys LeLu
- 62. Mary Jacobs
- 63. Molly Baskette
- 64. Libby Trumbull
- 65. Michael Austin
- 66. Maggie Geddes

Miscellaneous Communications

Police Funding/Justice Now/Black Lives Matter

- 67. Ilaria Stewart
- 68. Ines Robo
- 69. Elena Cavender
- 70. Somya Mohindra
- 71. Danielle Craig
- 72. Isabel Lichtman
- 73. Virginia Lyon
- 74. Daniel Contreras
- 75. Sheriff Gregory Ahern
- 76. Varsha Madapoosi

77. Jacob Woodall

78. Elizabeth Ferguson

1921 Walnut Street Apartment Building

79. Kim Romero

Covid Testing

80. Bryce Nesbitt

Police Review Commission

81. Moni Law

82. Kitty Calavita

**MINUTES AGENDA
SPECIAL MEETING OF THE
BERKELEY CITY COUNCIL**

Tuesday, June 9, 2020

4:00 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/89047645600>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial **1-669-900-9128** and enter Meeting ID: **890 4764 5600**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call: 4:02 p.m.

Present: Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

Absent: None

Action: M/S/C (Arreguin/Robinson) to accept temporary rules for the conduct of the meeting related to public comment and Council discussion.

Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None Abstain – Davila.

Ceremonial Matters:

1. Adjourned in memory of George Floyd and all those that are victims of police violence
2. Adjourned in memory of all victims of COVID-19
3. Adjourned in memory of Erik Salgado, victim of California Highway Patrol shooting

City Manager Comments:

The City Manager announced that she will be hosting a Town Hall meeting for the community on Thursday, June 11, 2020 at 7:00 p.m.

Action Calendar

Action: M/S/C (Arreguin/Harrison) to:

1. Accept an urgency item from Councilmember Kesarwani pursuant to Government Code Section 54954.2(b)(2) entitled Budget Referral to Establish Structure and Framework for an Office of Racial Equity.
2. Accept an urgency item from Councilmember Hahn pursuant to Government Code Section 54954.2(b)(2) entitled Black Lives Matter and Ohlone Recognition.
3. Accept an urgency item from Councilmember Harrison pursuant to Government Code Section 54954.2(b)(2) entitled Urgency Resolution: Directing the Police Review Commission and City Manager to Submit Revised Berkeley Police Department Use of Force Policy for Council Review and Approval Before the 2020 Summer Recess.
4. Accept an urgency item from Mayor Arreguin pursuant to Government Code Section 54954.2(b)(2) entitled Prohibiting the use of Chemical Agents for Crowd Control during the COVID-19 pandemic.
5. Accept an urgency item from Councilmember Hahn pursuant to Government Code Section 54954.2(b)(2) entitled Changes to the Berkeley Municipal Code and City of Berkeley Policies with Respect to Local Emergency Declarations and First Amendment Curfews.
6. Accept supplemental material from the City Manager on Item 1.

Vote: All Ayes.

Action Calendar

Budget Referral to Establish Structure and Framework for an Office of Racial Equity

From: Councilmember Kesarwani (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Droste (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)

Recommendation: Refer to the FY 2020-21 Budget Process the one-time allocation of \$150,000 to establish a structure and framework for an Office of Racial Equity consisting of a Racial Equity Officer and a supporting Specialist. The purpose of the Office of Racial Equity is to: (1) establish a common vision for racial equity across all City departments, (2) create mechanisms for measuring racial inequities in the delivery of all City programs and services; and (3) initiate efforts by all City departments to implement best practices related to metrics, policies, and procedures to close racial inequities in the allocation and delivery of all City programs and services.

Financial Implications: See report

Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

Action: 24 speakers. M/S/C (Hahn/Wengraf) to approve the recommendation amended to include that the Office of Racial Equity should be seated in the Office of the City Manager, and that the programs and services delivered by the Planning and Development Department and the Transportation Division should be included among the Citywide programs and services to be considered by the Office of Racial Equity.

Vote: All Ayes.

Black Lives Matter and Ohlone Recognition

From: Councilmember Hahn (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Davila (Co-Sponsor), Councilmember Harrison (Co-Sponsor)

Recommendation:

1. In solidarity with the Mayor of Washington, D.C. and the Black Lives Matter movement, direct the City Manager to immediately paint the words "Black Lives Matter" on Martin Luther King Jr Way in front of Old City Hall, between Center Street and Allston Way, with the text to be read from the eastern sidewalk of Martin Luther King Jr Way.
2. In recognition of the fact that Berkeley is situated on Ohlone territory, paint the words "Ohlone Territory" on Milvia Street in between Center Street and Allston Way, with the text read from the west sidewalk of Milvia Street.
3. The City Manager is encouraged to work with local artists to render the paintings. In addition, the City Manager should take care not to interfere with other street markings that are necessary for safety of pedestrians, bikes, or vehicles, or otherwise necessary.

Financial Implications: See report

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Action: 4 speakers. M/S/C (Hahn/Droste) to approve the recommendation with the following amendments: 1) the locations for the words to be painted are suggestions for the City Manager's consideration; 2) the City Manager is encouraged to work with the community to render the paintings; and 3) the paintings should not pose challenges to bicycle infrastructure.

Vote: All Ayes.

Action Calendar

Urgency Resolution: Directing the Police Review Commission and City Manager to Submit Revised Berkeley Police Department Use of Force Policy for Council Review and Approval Before the 2020 Summer Recess

From: Councilmember Harrison (Author), Mayor Arreguin (Author), Councilmember Davila (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)

Recommendation: Adopt an Urgency Resolution directing the Police Review Commission (“PRC”) and City Manager to:

1. Finalize revisions to the use of force policy as referred by Council in 2017 and drafted by the department for PRC review in January, 2020;
2. Submit revised Use of Force Policy directly to the full City Council for the Council to review and adopt before the 2020 Summer recess;
3. Incorporate revisions included the October 31, 2017 Council referral and all outstanding “8 Can’t Wait” use of force policy reforms.

Financial Implications: Staff time

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Action: 59 speakers. M/S/C (Harrison/Davila) to adopt Resolution No. 69,438–N.S. amended to add the following resolved clauses:

BE IT FURTHER RESOLVED that the City Council directs the Police Review Commission to review the use of control holds.

BE IT FURTHER RESOLVED that the City Council directs the City Manager to allow anonymized access to records about use of force to the Police Review Commission to inform deliberation of the use of force general order.

Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila.

Recess: 6:21 p.m. – 6:26 p.m.

Action Calendar

Prohibiting the use of Chemical Agents for Crowd Control during the COVID-19 pandemic

From: Mayor Arreguin (Author), Councilmember Harrison (Author), Councilmember Robinson (Author)

Recommendation: Adopt a motion to establish an official City of Berkeley policy prohibiting the use of tear gas (CS gas), pepper spray or smoke for crowd control by the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, during the COVID-19 pandemic, until such time that the City Council removes this prohibition.

Financial Implications: See report

Contact: Jesse Arreguin, Mayor, (510) 981-7100

Action: 23 speakers. M/S/Failed (Wengraf/Kesarwani) to establish an official City of Berkeley policy prohibiting the use of tear gas (CS gas), pepper spray or smoke for crowd control by the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, during the COVID-19 pandemic, until such time that the City Council removes this prohibition. And, to refer the item to the Public Safety Policy Committee and the Police Review Commission for the consideration of a permanent ban of these chemical agents.

Vote: Ayes – Kesarwani, Hahn, Wengraf, Droste; Noes – Davila, Bartlett, Harrison, Robinson; Abstain – Arreguin.

Action: M/S/Carried (Davila/Harrison) to establish an official City of Berkeley policy 1) prohibiting the use of tear gas by the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, and 2) prohibiting the use of pepper spray or smoke for crowd control by the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, during the COVID-19 pandemic, until such time that the City Council removes this prohibition.

Vote: All Ayes.

Action Calendar

Changes to the Berkeley Municipal Code and City of Berkeley Policies with Respect to Local Emergency Declarations and First Amendment Curfews From: Councilmember Hahn (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Mayor Arreguin (Co-Sponsor)

Recommendation:

1. Direct the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify the following with respect to the declaration of a Local Emergency:
 - a. A Local Emergency can only be declared by the Director of Emergency Services if a regular or special meeting and session of the City Council cannot be called due to physical impossibility of holding a meeting, because a quorum cannot be established, or because the urgency of the Local Emergency is such that waiting 24 hours for the City Council to convene a session and/or Special Meeting would endanger the community;
 - b. Should the Director declare a Local Emergency without action of the City Council (due to one of the reasons stated at (a), above), Council ratification of such action occurs at the first possible opportunity, even if it requires calling a Special Meeting and/or session of the Council; and
 - c. The applicable statutory and legal standards (Federal, State and Local) for calling a Local Emergency shall be presented to the City Council when seeking declaration or ratification of a Local Emergency, along with facts to support meeting those standards, so that the City Council, likely acting under rushed and exigent circumstances, is able to make a carefully considered and fact-based determination that declaration of such Local Emergency conforms with the legal standards and is supported by facts.
2. Direct the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify policies, terms and procedures for the order, scope, terms, duration, and all other elements and conditions of curfews called in response to, or likely to have the effect of limiting or banning, planned, expected or reasonably foreseeable first amendment activity, including rallies, marches, demonstrations and assemblies of all kinds (“First Amendment Curfews”), as enumerated (1-8) under the “Background” section of this item, below.
3. Advise the City Manager and/or Director of Emergency Services that approval of this item represents the will and direction of the City Council with respect to declarations of Local Emergencies and imposition of First Amendment Curfews, and should the occasion to declare a Local Emergency or impose a First Amendment curfew arise prior to formal Council adoption of the requested amendments and policies, the City Manager and/or Director of Emergency Services shall, to the greatest extent possible under existing law, strive to encompass actionable elements, and meet spirit, of this item.

Financial Implications: See report

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Action: M/S/C (Arreguin/Wengraf) to continue Items 3, 4, 5, 6, and the urgency item regarding Local Emergency Declarations and First Amendment Curfews, to the June 16, 2020 regular City Council meeting.

Vote: All Ayes.

Action Calendar – Public Hearings

- 1. Fiscal Year 2021 Proposed Budget Update Public Hearing #2** *(Continued from June 2, 2020)*
From: City Manager
Recommendation: Conduct a public hearing regarding the FY 2021 Proposed Budget Update.
Financial Implications: See report
Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

Action: M/S/C (Arreguin/Robinson) to continue Items 1, 2, and the supplemental material for Item 1 from the City Manager, to a special meeting called by Mayor Arreguin for June 16, 2020 at 2:30 p.m.
Vote: All Ayes.

Action Calendar

- 2. FY 2020 Mid-Year Budget Update** *(Continued from June 2, 2020)*
From: City Manager
Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000
Action: Item 2 continued to June 16, 2020 special meeting.
- 3. Presentation and Discussion of Community Survey Results and Direction About Next Steps for Possible Ballot Measure Development** *(Item Contains Supplemental Material)* *(Continued from June 2, 2020)*
From: City Manager
Recommendation: Discuss results of the community survey and provide direction to the City Manager about the drafting of possible measures for inclusion on the November 2020 ballot.
Financial Implications: See report
Contact: David White, City Manager's Office, 981-7000
Action: Item 3 continued to June 16, 2020 regular meeting.
- 4. Placing Charter Amendment Measure on the November 3, 2020 Ballot Related to Full-Time Status and Salaries for the Mayor and Councilmembers** *(Continued from June 2, 2020)*
From: City Manager
Recommendation:
 1. Adopt a Resolution submitting an Amendment to Article V of the City Charter regarding the full-time status and salaries for the Mayor and City Council to a vote of the electors at the November 3, 2020 General Municipal Election.
 2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.**Financial Implications:** None
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Item 4 continued to June 16, 2020 regular meeting.

Action Calendar – Public Hearings

- 5. Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral** (*Continued from June 2, 2020*)

From: Energy Commission

Recommendation: The Commission recommends that the City Council develop a referendum and seek approval for it on the 2020 ballot to create a Climate Action Fund, which would support actions to achieve the Berkeley Climate Action Plan, to become Fossil Fuel free, and to respond to the Climate Emergency.

Financial Implications: See report.

Contact: Billi Romain, Commission Secretary, (510) 981-7400

Action: Item 5 continued to June 16, 2020 regular meeting.

- 6. Proposed Amendment to Berkeley’s Minimum Wage Ordinance: Berkeley Municipal Code Chapter 13.99** (*Continued from June 2, 2020*)

From: City Manager

Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 13.99, revising Section 13.99.040 to reinstate the exemption for youth job training programs, and freezing the youth wages at \$14.50 per hour for FY21, then increase the wage annually according to the Consumer Price Index as will occur with the Berkeley Minimum wage.

Financial Implications: See report

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

Action: Item 6 continued to June 16, 2020 regular meeting.

Recess: 9:49 p.m. – 10:00 p.m.

Councilmember Wengraf absent at 9:49 p.m.

Adjournment

Action: M/S/C (Arreguin/Robinson) to adjourn the meeting.

Vote: Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Wengraf.

Adjourned at 10:02 p.m.

I hereby certify that the foregoing is a true and correct record of the special meeting of the City Council held on June 9, 2020.

Rose Thomsen
Deputy City Clerk

Communications

- None

Supplemental Communications and Reports 1

- None

Supplemental Communications and Reports 2

Item #1: Fiscal Year 2021 Proposed Budget Update Public Hearing #2

1. 19 similarly-worded form letters
2. Sharon Negri
3. Era Goel
4. Catie
5. Andrew Graves
6. Kate Gingold
7. David Noriega
8. Robert Hurley
9. Russbumper
10. Lauren Hermele
11. Ella Hass
12. Fiona Hass
13. Emilie Reaves
14. Ryan Thayer
15. Amanda Ho
16. Julia Bleier
17. Nirali Patel
18. Chimey Lee
19. Sage Lenier
20. Terry Taplin
21. Riley Hellinger

Item #5: Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral

22. John Arens

Supplemental Communications and Reports 3

Urgency Item: Urgency Resolution: Directing the Police Review Commission and City Manager to Submit Revised Berkeley Police Department Use of Force Policy for Council Review and Approval Before the 2020 Summer Recess

23. Urgency item, submitted by Councilmember Harrison, Mayor Arreguin, Councilmembers Davila and Bartlett
24. Che Garcia
25. Yaritza Cruz
26. Mariana Duarte
27. Arev Walker
28. Melody Joliff
29. Jesica Ender
30. Haleigh Fleming
31. Arjun Mayur
32. Jenn Guitart
33. Sal Levinson
34. Bella Lynch
35. Bob Martin

36. Rafael Gonzalez
37. Erwan Illien
38. Benjamin Pierias
39. LeeAnn Dowd (2)
40. Danielle Royston-Lopez
41. Racial and Criminal Justice Reform Group
42. Carole Marasovic
43. Jill Suttie
44. Ryan Grant
45. Sheridan Pauker
46. Sarah Pieper

Urgency Item: Prohibiting the use of Chemical Agents for Crowd Control during the COVID-19 pandemic

47. Urgency item, submitted by Mayor Arreguin, Councilmembers Harrison and Robinson
48. Shawn Beckman (2)
49. Chimey Lee
50. Moni Law
51. Kimiye Owens

Urgency Item: Black Lives Matter and Ohlone Recognition

52. Urgency item, submitted by Councilmember Hahn
53. Liza Lutzker, on behalf of Walk Bike Berkeley
54. Corinna Gould
55. Moni Law (2)

Urgency Item: Changes to the Berkeley Municipal Code and City of Berkeley Policies with Respect to Local Emergency Declarations and First Amendment Curfews

56. Urgency item, submitted by Councilmember Hahn
57. Madeline King
58. Thomas Lord
59. Friends of Adeline (2)
60. Carol Denney
61. Bryce Nesbitt
62. Elisa Mikiten
63. Chimey Lee
64. Kara O'Malley

Urgency Item: Budget Referral to Establish Structure and Framework for an Office of Racial Equity

65. Urgency item, submitted by Councilmember Kesarwani
66. Amanda Prufer
67. Stephanie Prufer
68. Caroline Yunker
69. Marianne Lagarias (2)

Item #1: Fiscal Year 2021 Proposed Budget Update Public Hearing #2

70. Christina Romak
71. Megan Raymond
72. Aimee Trujillo
73. Ashley Johnson
74. Alex Thomson

75. Anna McFall
76. Elena Vann Cleave
77. Tommy Chung
78. Erika Schultz
79. Rose Soffa Clarke
80. Diana Bohn
81. Celia Ford
82. Nick Nold
83. Becky Sotello
84. Noor
85. Jane Francis
86. Heather Hardison
87. Susan Saadat
88. Lilith Gamer
89. Mary Gilg
90. Kate Mather
91. Alfred Twu
92. Rachael Cornejo
93. Steve KoneffKlatt
94. Juliana Schwartz
95. Rachel Shipps
96. Alicia Roy
97. Natasha Geiling
98. Dana Perls
99. Alisdair Broshar
100. Orly Suveda
101. Alix Vadot
102. Eliza Smith
103. Ryan Gorelik
104. Ben Pierias (2)
105. Kayla Moore
106. Sarah Bancroft
107. Angela Clapp
108. Samuel Kaplan
109. Heather and Luke Ball
110. Dewi Zarni
111. Portal Finder
112. Catherine O'Hare
113. Theodora Gibbs-Plessl
114. Taj Herzer-Baptiste
115. Michaela Reilly
116. Julia Sen
117. Ellen McClure
118. Martin Lenarz-Geisen
119. Katrina Lapira
120. Ariella Cooley
121. Natasha Huey
122. Noelle Fa-Kaji
123. Jessica Barber
124. Jean Caiani

125. Lucia Brosgart
126. Tia Bottger
127. Allyson Bogie
128. Michelle Chung
129. Karen Shimoda
130. Jessica Brownell
131. Sanya Sehgal
132. Angela Ames
133. Ace Chen
134. Ryan Hall
135. Maya Sen
136. Dylan Campopiano
137. Allison Zau
138. Firdausi Sudarmadji
139. Judy Grether
140. Zaynab At-Taras
141. Jackie Kennedy
142. Logan Falley
143. Nahkoura Mahnassi
144. Madelyn Weiss
145. Sophia Mahoney-Rohrl
146. Madeleine Muscari
147. Christopher Lin
148. Francie Maguire
149. Laurel Chen
150. Reyna Fa-Kaji
151. Marcelo Felipe Garzo Montalvo
152. Re Nor
153. Chloe Novak
154. Kat Kott
155. Katie Cording
156. Christine Tseng
157. Celia Alter
158. Zoe Westbrook
159. Julian Dennis
160. Daniel Kim
161. Loan Pham
162. Colin Piethe
163. Elizabeth Ferguson
164. Chelsea Lee
165. Maxine Schoefer-Wulf
166. Jessica Olson
167. Daniel Milutin
168. Olivia Neville
169. Bryanna Perez
170. Kei McHale
171. Diane
172. Jordan Mickens
173. Voulette Hattar
174. Emily Haan

175. Christine Schwartz
176. Emily Yao
177. Manduhai Baatar
178. Kacei Conyers
179. Ella Hass
180. Logan Rimel
181. Andrew Lynch
182. Nicole Teixeira
183. Bethany Lourie
184. Anya Platt
185. Erin Rhoades
186. Julia S.
187. Suzanne Merkelson
188. Valerie Kratzer
189. Ceren Fitoz
190. Lanie Peterson
191. Amalee Beattie
192. Emily Bronston-Joseph
193. Alions Alkon
194. Sarah Wulf
195. Jordan Mickens
196. Ann Marie Callegari
197. Leah Renee Smith
198. Liam Bergstrom
199. Bryce Nesbitt
200. Paige
201. Katie Wilson
202. Ivonne Del Valle
203. Chimey Lee (2)
204. Juliana Dearth
205. Jesslyn Janssen
206. Ferri Wahl
207. Anne Whyte
208. Madison Luzar
209. Mark and Agatha Greeley

Item #2: FY 2020 Mid-Year Budget Update

210. Angela Jernigan (2)
211. Niels Teunis
212. Leah Naomi Gonzales (2)
213. Councilmember Davila
214. Valerie Kratzer

Item #5: Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral

215. Michael Katz

Action Calendar – Public Hearings

Item #1: Fiscal Year 2021 Proposed Budget Update Public Hearing #2

216. Supplemental Material, submitted by City Manager's Office

**MINUTES
SPECIAL MEETING OF THE
BERKELEY CITY COUNCIL**

Tuesday, June 9, 2020

6:00 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/89047645600>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial **1-669-900-9128** and enter Meeting ID: **890 4764 5600**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call: 10:02 p.m.

Present: Kesarwani, Davila, Bartlett, Harrison, Hahn, Robinson, Droste, Arreguin

Absent: Wengraf

Councilmember Wengraf present at 10:03 p.m.

Action Calendar – Public Hearing

1. ZAB Appeal: 1155-1173 Hearst Avenue

From: City Manager

Recommendation: Conduct a public hearing, and upon conclusion adopt a Resolution affirming the Zoning Adjustments Board decision to approve Use Permit #ZP2016-0028 to develop two parcels, including the substantial rehabilitation of the existing seven dwelling units and construction of six new, for-sale dwelling units, and dismiss the appeal.

Financial Implications: None

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

Public Testimony: The Mayor opened the public hearing. 20 speakers.

M/S/C (Robinson/Droste) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Arreguin/Robinson) to suspend the rules and extend the meeting to 11:30 p.m.

Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila.

Action: M/S/C (Davila/Hahn) to suspend the rules and extend the meeting to 12:00 a.m.

Vote: Ayes – Davila, Bartlett, Harrison, Hahn, Robinson, Droste, Arreguin; Noes – Kesarwani, Wengraf.

Action: M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 12:10 a.m.

Vote: All Ayes.

Action: M/S/C (Wengraf/Robinson) to call the previous question.

Vote: Ayes – Kesarwani, Bartlett, Wengraf, Robinson, Droste, Arreguin; Noes – Davila, Harrison, Hahn.

Action: M/S/Failed (Hahn/Davila) to deny the project because it does not qualify for a categorical exemption under CEQA, and the requisite non-detriment finding cannot be made because environmental impacts remain unknown and the existing problems in the area with water are extreme and clearly could be exacerbated; and, the basis for saying that it does not qualify for a categorical exemption under CEQA is due to the unusual circumstances.

Vote: Ayes – Davila, Hahn; Noes – Kesarwani, Bartlett, Harrison, Wengraf, Robinson, Droste, Arreguin.

Action: M/S/Carried (Robinson/Droste) to adopt Resolution No. 69,439–N.S. affirming the Zoning Adjustments Board decision to approve Use Permit #ZP2016-0028 to develop two parcels, including the substantial rehabilitation of the existing seven dwelling units and construction of six new, for-sale dwelling units, and dismiss the appeal with revisions to conditions 16 and 58 as follows:

16. Notice of Limitation. All owners of record of the subject property shall sign and record with the Alameda County Clerk-Recorder a “Notice of Limitation on Use of Property” and provide a recorded copy thereof to the project planner. This Notice of Limitation shall stipulate that none of the six existing rent controlled units (1155-57 Hearst, 1159 A & B Hearst, 1161-63 Hearst) shall undergo condominium conversion, Tenancy in Common, or any work that would require a new Certificate of Occupancy for the building; and shall remain subject to rent control in perpetuity unless. This limitation may not be revised or removed from this property without the prior written permission of the Zoning Officer of the City of Berkeley.

58. Rent Control in Perpetuity. The existing six rent controlled dwelling units shall not undergo condominium conversion, Tenancy in Common, or any work that would require a new Certificate of Occupancy for the building; and shall remain as rental units subject to rent control under the Rent Stabilization Ordinance.

Vote: Ayes – Kesarwani, Bartlett, Harrison, Wengraf, Robinson, Droste, Arreguin; Noes – Davila, Hahn.

Adjournment

Action: M/S/C (Harrison/Droste) to adjourn the meeting.

Vote: All Ayes.

Adjourned at 12:02 a.m.

I hereby certify that the foregoing is a true and correct record of the special meeting of the City Council held on June 9, 2020.

Rose Thomsen
Deputy City Clerk

Communications

- None

Supplemental Communications and Reports 1

Item #1: ZAB Appeal: 1155-1173 Hearst Avenue

1. Carol Cohen (2)
2. Masanori Oba
3. Dale Anania
4. Mary Jo Thoresen
5. Tracey Emerson
6. Pam Ormsby
7. David Kellogg
8. Mia Perkins, on behalf of the Rhoades Planning Group (2)

Supplemental Communications and Reports 2

Item #1: ZAB Appeal: 1155-1173 Hearst Avenue

9. Teal Major
10. Wayne Cory
11. Berkeley Neighbors Council (2)
12. Vijay Venugopal
13. Yashu Jiang

Supplemental Communications and Reports 3

Item #1: ZAB Appeal: 1155-1173 Hearst Avenue

14. Presentation, submitted by Planning
15. Zach Walton, on behalf of the SSL Law Firm
16. Hussein Saffouri, on behalf of the Ramsey Law Group (3)
17. Tracey Emerson (2)
18. Mia Perkins, on behalf of Rhoades Planning Group
19. Presentation, submitted by the Rhoades Planning Group
20. Kevin Ashe, on behalf of Holland & Knight Law Firm
21. Shirley Dean
22. Louise Ly (2)
23. Deno Gianopoulos

**MINUTES
SPECIAL MEETING OF THE
BERKELEY CITY COUNCIL**

Tuesday, June 16, 2020

2:30 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/85616992854>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial **1-669-900-9128** and enter Meeting ID: **856 1699 2854**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Roll Call: 2:32 p.m.

Present: Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

Absent: Kesarwani

Councilmember Kesarwani present at 3:17 p.m.

Action: M/S/C (Arreguin/Wengraf) to accept supplemental materials from the City Manager on Item 1.

Vote: Ayes – Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Kesarwani.

Action: M/S/C (Arreguin/Robinson) to accept supplemental materials from Vice Mayor Hahn on Item 3.

Vote: Ayes – Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Kesarwani.

Action: M/S/C (Bartlett/Harrison) to accept two urgency items from Councilmember Bartlett pursuant to Government Code Section 54954.2(b)(2).

Vote: Ayes – Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Kesarwani.

Action Calendar – Public Hearings

- 1. **Fiscal Year 2021 Proposed Budget Update Public Hearing #2** *(Continued from June 9, 2020)*

From: City Manager

Recommendation: Conduct a public hearing regarding the FY 2021 Proposed Budget Update.

Financial Implications: See report

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

Public Testimony: The Mayor opened the public hearing. 75 speakers. The Mayor closed the public hearing.

Action: Discussion held.

Recess 7:26 p.m. – 7:32 p.m.

Action Calendar

- 2. **FY 2020 Mid-Year Budget Update** *(Continued from June 9, 2020)*

From: City Manager

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

Action: 1 speaker. Discussion held. Report received and filed.

Recess 5:15 p.m. – 5:25 p.m.

3. **Amendments to the General Fund Reserve Policy** *(Continued from June 9, 2020. Reviewed by the Budget & Finance Policy Committee)*

From: City Manager

Recommendation: Adopt a Resolution amending the City Council's General Fund Reserve Policy.

Financial Implications: See report

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

Action: M/S/Failed (Hahn/Bartlett) to adopt the resolution with the amendments from Vice Mayor Hahn in the supplemental material introduced at the meeting.

Vote: Ayes – Davila, Bartlett, Hahn; Noes – Kesarwani, Harrison, Wengraf, Robinson, Droste, Arreguin.

Action: 1 speaker. M/S/Carried (Arreguin/Droste) to adopt Resolution No. 69,440–N.S. amending the City Council's General Fund Reserve Policy.

Vote: Ayes – Kesarwani, Davila, Bartlett, Harrison, Wengraf, Robinson, Droste, Arreguin; Noes – Hahn.

Urgency Item: Safety for All: The George Floyd Community Safety Act - Re-Allocate Funding for Non-Criminal Police Duties Towards a Specialized Care Unit (SCU) Pilot

From: Councilmember Ben Bartlett (Author), Mayor Jesse Arreguin (Co-sponsor), and Councilmember Rigel Robinson (Co-sponsor)

Recommendation: Refer to the Thursday, 6/18/2020 Budget & Finance Policy Committee and the FY 2020-21 Budget Process the reallocation of funds spent on non-criminal activities from the Berkeley Police Department and reinvest in a Specialized Care Unit (SCU) Pilot.

Financial Implications: See report

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

Action: 0 speakers. Councilmember Harrison added as a co-sponsor. M/S/C (Arreguin/Bartlett) to approve the recommendation.

Vote: All Ayes.

Urgency Item: Safety for All: The George Floyd Community Safety Act - Budget Request to Hire a Consultant to Perform Police Call and Response Data Analysis From: Councilmember Ben Bartlett (Author), Mayor Jesse Arreguin (Co-Sponsor), and Councilmember Kate Harrison (Co-Sponsor)

Recommendation: 1. Refer to the Thursday, 6/18/2020 Budget & Finance Policy Committee and the FY 2020-21 Budget Process the \$150,000 to: a. Hire a consultant to conduct a data-driven analysis of police calls and responses to determine the quantity and proportion of these calls that can be responded to by non-police services. The third-party consultant must be hired and engaged in work within three months of the item's passage; and b. Hire a consultant to conduct an analysis of the Berkeley Police Department's budget and its expenditures by call type. The third-party consultant must be hired and engaged in work within three months of the item's passage. 2. Direct the City Manager to: a. Implement initiatives and reforms that reduce the footprint of the police department and limit the police's response to violent and criminal service calls.

Financial Implications: See report

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

Action: 0 speakers. M/S/C (Arreguin/Kesarwani) to refer the first recommendation to the Budget & Finance Committee and schedule the second recommendation to the July 14, 2020 meeting.

Vote: All Ayes.

Adjournment

Action: M/S/C (Davila/Bartlett) to adjourn the meeting.

Vote: All Ayes.

Adjourned at 9:02 p.m.

I hereby certify that the foregoing is a true and correct record of the special meeting of the City Council held on June 16, 2020.

Mark Numainville
City Clerk

Communications

- None

Supplemental Communications and Reports 1

- None

Supplemental Communications and Reports 2

Item #1: Fiscal Year 2021 Proposed Budget Update Public Hearing #2

1. Jenny Wong, Auditor
2. Gordon Wozniak
3. Helen Marcus
4. Lilah Gliksohn
5. Sara Kahanamoku
6. Tuan Ngo
7. Mark Chekal
8. Berkeley Homeless Services Panel of Experts

Supplemental Communications and Reports 3

Item #1: Fiscal Year 2021 Proposed Budget Update Public Hearing #2

9. Supplemental material, submitted by the City Manager's Office
10. Supplemental material, submitted by the Auditor
11. Presentation, submitted by the Auditor
12. Presentation, submitted by Public Works
13. Presentation, submitted by Parks, Recreation and Waterfront
14. Presentation, submitted by Planning
15. Presentation, submitted by Health, Housing and Community Services
16. Presentation, submitted by Fire
17. Presentation, submitted by Police
18. Rachel Shipps
19. Ali Lafferty
20. Kyra Fleischman
21. Celeste Rodriguez
22. Annie Alcott
23. Cooper Mervin
24. Martin Lenarz-Geisen
25. Lauryn Kerutis
26. Helen Marks
27. Christina Becker
28. Kaela Plank
29. Angel Olsen
30. Nick Nold
31. John Grant
32. Rob Crystal-Ornelas
33. Evelyne St-Louis
34. James Weichert
35. Kate Lauer
36. Callisyn Zielenski
37. Nell Henderson
38. Marilyn Perry
39. Tessa Maurer
40. George Warner
41. Ann Preece-Scaringe
42. David Copithorne

43. Karen Shimoda
44. Sibel Guner
45. JD Mireless
46. Laurel Halvorson
47. Casandra Sweet
48. Sivan Orr
49. Patrick Pelegri-O'Day
50. Sarah Bancroft
51. Hannah Beazley
52. Luke Swanson
53. Christopher Lin
54. Diana Alvarado
55. Tammy Nguyen
56. Natasha Ham
57. Lincoln Alder
58. Iden
59. Tamiko Sidore
60. Phoebe Anne Sorgen
61. Henderson Peternell
62. Stefania Pombo
63. Natasha Rosenberg
64. Linnea Brotz
65. Sabra Stepak & Julia Elliott
66. Riya Master
67. Minjae Lee
68. Miy Sommers
69. Sanja Sehgal
70. Era Goel (2)
71. Adam Chazin-Gray
72. Sanya Sehgal
73. Loan Pham
74. Caitlin Firmage
75. Alicia Roy
76. Noelle Fa-Kaji
77. Amelia Arifin
78. Ruby MacDonald, on behalf of the League of Women Voters
79. Samantha Whitty
80. Mallorie Lynch
81. Kelly Shimoda
82. Lauren Meier
83. Serena Solorzano
84. Eavy Barbieux
85. Erin Silk
86. Rosii Floreak
87. East Bay Community Law Center
88. Clare Palmer
89. Jennifer Kwon
90. Jane Francis
91. Elizabeth Grubb
92. Carolina Rodriguez

- 93. Ryan Blackburn
- 94. Barbara de Alfaro
- 95. Susanna Faas-Bush
- 96. Eva Juliette
- 97. Aaron Stein-Chester
- 98. Jem Campbell
- 99. Amelia Rudberg
- 100. Margy Wilkinson
- 101. Robin Fink
- 102. Brieshen McKee
- 103. Rachel Rovinsky
- 104. Spencer Hamilton
- 105. Hannah Forsberg
- 106. Alice Pang
- 107. Julia Sherman

Item #2: FY 2020 Mid-Year Budget Update

- 108. Christy Stanker
- 109. Erica Etelson
- 110. Abigail Brown

Item #3: Amendments to the General Fund Reserve Policy

- 111. Supplemental material, submitted by Councilmember Hahn

Urgency Items

Safety for All: The Georg Floyd Community Safety Act – Re-Allocate Funding for Non-Criminal Police Duties Towards a Specialized Care Unit (SCU) Pilot

- 112. Emergency item, submitted by Councilmember Bartlett
- 113. Hope Henderson
- 114. Will Skinner
- 115. Chimey Lee

Safety for All: The Georg Floyd Community Safety Act – Budget Request to Hire a Consultant to Perform Police Call and Response Data Analysis

- 116. Emergency item, submitted by Councilmember Bartlett

**MINUTES
SPECIAL MEETING OF THE
BERKELEY CITY COUNCIL**

Tuesday, June 16, 2020

5:45 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/81458990553>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial **1-669-900-9128** and enter Meeting ID: **814 5899 0553**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call: 9:02 p.m.

Present: Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

Absent: None

Public Comment - Limited to items on this agenda only - 6 speakers.

Consent Calendar

Action: M/S/C (Arreguin/Wengraf) to adopt the Consent Calendar in one motion except as indicated.

Vote: All Ayes.

- 1. **Resolution Reviewing and Ratifying the Proclamation of Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)**

From: City Manager

Recommendation: Adopt a Resolution reviewing the need for continuing the local emergency due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19) and ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services on March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020.

Financial Implications: To be determined

Contact: Farimah Brown, City Attorney, (510) 981-6950

Action: Adopted Resolution No. 69,441–N.S.

Adjournment

Action: M/S/C (Wengraf/Davila) to adjourn the meeting.

Vote: All Ayes

Adjourned at 9:07 p.m.

I hereby certify that the foregoing is a true and correct record of the special meeting of the City Council held on June 16, 2020.

Mark Numainville
City Clerk

Communications

- None

Supplemental Communications and Reports 1

- None

Supplemental Communications and Reports 2

- None

Supplemental Communications and Reports 3

- None

MINUTES
BERKELEY CITY COUNCIL MEETING
Tuesday, June 16, 2020
6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/81458990553>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial **1-669-900-9128** and enter Meeting ID: **814 5899 0553**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call: 9:16 p.m.

Present: Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

Absent: None

Ceremonial Matters:

1. Adjourn in memory of all the victims of the COVID-19 pandemic
2. Adjourn in memory of the Victims of the June 16, 2015 Balcony Collapse
3. Adjourn in memory of recent victims of violence: Robert Fuller and Malcolm Harsch; Riah Milton and Dominique "Rem'Mie"; Sean Monterrosa

City Manager Comments: None

Public Comment on Non-Agenda Matters: 8 speakers.

Action: M/S/C (Arreguin/Harrison) to adopt temporary rules for the conduct of the meeting submitted by Mayor Arreguin revised to remove introductory comments.

Vote: Ayes - Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Davila.

Action: M/S/C (Arreguin/Wengraf) to add five urgency items to the agenda pursuant to Government Code Section 54954.2(b)(2).

- Outdoor Commerce (City Manager)
- Business Continuity Grant Program Funding (City Manager)
- Modification of 1956 Maintenance Agreement (City Manager)
- Analysis of Police Contractual and Legal Barriers (Councilmember Bartlett)
- Progressive Police Academy (Councilmember Bartlett)

Vote: All Ayes.

Consent Calendar

Public Comment on Consent Calendar and Information Items Only: 8 speakers.

Action: M/S/C (Arreguin/Davila) to adopt the Consent Calendar in one motion except as indicated.

Vote: All Ayes.

Consent Calendar

Urgency Ordinance: Outdoor Dining and Commerce in the Public Right-of-Way

From: City Manager

Recommendation: Take the following actions to allow for increased outdoor dining and commerce in the public right-of-way: 1. Adopt an Urgency Ordinance revising BMC Section 14.48.190 *Parklets* and BMC Section 16.18 *Right of Way Encroachments and Encroachment Permits* to simplify the permitting process for parklets during a declared local emergency; and 2. Adopt an Urgency Ordinance revising BMC Section 14.48.150 *Sidewalk Seating* to expand the areas and scope of activities that may be permitted via a sidewalk seating permit during the term of a declared city emergency; and 3. Adopt a Resolution authorizing the City Manager to waive permit fees for one year for temporary structures and activities permitted in the public right of way permitted under *BMC Sections 14.48.190 Parklets, 14.48.150 Sidewalk Seating* and Chapter 13.44 *Street Events and Block Parties*.

Contact: Jordan Klein, Economic Development Manager

Financial Implications: See report

Action: Adopted Ordinance No. 7,706–N.S. (Parklets), Ordinance No. 7,707–N.S. (Sidewalk Seating), Resolution No. 69,442–N.S. (Permit Fees)

Urgency Item: COVID-19 Business Continuity Grant Program Funding

From: City Manager

Recommendation: Adopt a Resolution accepting a \$704,000 payment from the East Bay Community Foundation of funds raised by the Berkeley Relief Fund, for distribution through the second phase of the COVID-19 Business Continuity Grant Program; and authorizing the City Manager to use the remainder of the City's \$1 million allocation to the first phase of the program to assist businesses to expand outdoor dining and commerce.

Financial Implications: See report

Contact: Jordan Klein, Economic Development, (510) 981-7000

Action: Adopted Resolution No. 69,443–N.S.

Urgency Item: Modification of 1956 Maintenance Agreement with Caltrans to add a new pedestrian overcrossing bridge at I-80 Gilman Interchange

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the 1956 Freeway Agreement with Caltrans to add proposed new pedestrian overcrossing bridge at I-80/Gilman Interchange.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

Action: Adopted Resolution No. 69,444–N.S.

Consent Calendar

Urgency Item: Safety for All: The George Floyd Community Safety Act - City Attorney and Manager Analysis of Contractual and Legal Barriers to Public Safety Reform
From: Councilmember Ben Bartlett (Author), Mayor Jesse Arreguin, and Councilmembers Kate Harrison (Co-Sponsor)

Recommendation: Direct the City Manager and City Attorney to analyze contractual and legal barriers to public safety reform including police union contracts, vendor contracts, state and federal laws, to determine barriers to accountability and substantive reform. In addition, direct the City Manager and City Attorney to evaluate elements in the proposed police review commission charter amendment, that can be implemented by the City Council.

Financial Implications: See report

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

Action: Approved recommendation.

Urgency Item: Safety for All: The George Floyd Community Safety Act - Development of a Progressive Police Academy
From: Councilmember Ben Bartlett (Author) and Mayor Jesse Arreguin (Co-Sponsor)

Recommendation: That the City Council refers to the Public Safety Committee to develop a progressive police academy and curriculum. That this progressive academy is hosted by the City of Berkeley and offered for use by the regional. The City should hire consultants and convene stakeholders including the Police Review Commission, a community task-force, and the Berkeley Police Department to create the academy's programmatic design. Once established, Berkeley Police Department recruits will attend this academy for basic training. The training program is intended to become revenue neutral. The program will be offered on a paid subscription basis to interested jurisdictions. Berkeley's progressive police academy envisions a curriculum that teaches recruits de-escalation, empathy, and the Critical Decision-Making Model (CDM). CDM encourages officers to challenge their biases, refrain from using force when possible, and build police-community trust. By reshaping police ideology through education, the City of Berkeley can tackle police brutality and police misconduct at their roots.

Financial Implications: See report

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

Action: Councilmember Davila added as a co-sponsor. Approved recommendation.

Consent Calendar

- 1. Lease for 235 University Avenue – YOONACO, Inc. dba Hana Japan**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,703-N.S. authorizing the City Manager to execute a lease agreement and necessary amendments with YOONACO, Inc., doing business as Hana Japan Steak and Seafood, at 235 University Avenue at the Berkeley Marina for a term of five years, with a five year tenant-option.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted second reading of Ordinance No. 7,703-N.S.
- 2. Amendment and Assignment of Capital Contribution Agreement: 200 Marina Blvd, LLC for the Doubletree Hotel**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,705-N.S. approving an Amendment and Assignment of the City's Capital Contribution Agreement with 200 Marina Boulevard, Berkeley, LLC (200 Marina LLC) for the Doubletree Hotel, which would assign the agreement by 200 Marina LLC to its parent company, Apollo Bright, LLC (Apollo LLC), and change the payment schedule for the capital contribution from \$3M due in June 2020 to \$375,000 due in October 2020 and \$2,675,000 due upon Council approval of the Marina streets construction contract, estimated to be in January 2021. Apollo LLC's obligation to make the two capital contribution payments totaling \$3 million will be backed by an irrevocable standby letter of credit, which will be provided to the City upon execution of the amendment and assignment.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted second reading of Ordinance No. 7,705-N.S.
- 3. City Council Rules of Procedure and Order Revisions**
From: City Manager
Recommendation: Adopt a Resolution revising the City Council Rules of Procedure and Order to add temporary rules for the conduct of meetings during the COVID-19 declared emergency; add rules for the submission of late items pursuant to Government Code Section 54954.2(b); and rescinding any preceding amendatory resolutions.
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6000
Action: Adopted Resolution No. 69,445–N.S.

Consent Calendar

- 4. Appointment of Director of Public Works**
From: City Manager
Recommendation: Adopt a Resolution confirming the appointment of Liam Garland as the Director of the Public Works Department to be effective July 13, 2020, at an annual salary of \$205,000.
Financial Implications: See report
Contact: Dee Williams-Ridley, City Manager, (510) 981-7000
Action: Adopted Resolution No. 69,446–N.S.
- 5. Urgency Ordinance Declaring a Local Fiscal Emergency In Response to the Novel Coronavirus (COVID-19) Pandemic**
From: City Manager
Recommendation: Adopt an Urgency Ordinance declaring a fiscal emergency in response to the COVID-19 pandemic as required by Council policy to be able to access the General Fund Stability Reserve to cover deficits.
Financial Implications: See report
Contact: Dave White, City Manager's Office, (510) 981-7000
Action: Adopted Ordinance No. 7,708-N.S.
- 6. Amendment to Contract No. 108410-1: Paw Fund for Spay and Neuter Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 108410-1 with Paw Fund allocating \$11,906 to provide no cost spay and neuter surgeries to eligible pet owners for FY 2021, with a total contract amount not to exceed \$107,154.
Financial Implications: See report
Contact: Erin Steffen, City Manager's Office, (510) 981-7000
Action: Adopted Resolution No. 69,447–N.S.
- 7. Assessments: Berkeley Tourism Business Improvement District**
From: City Manager
Recommendation: Adopt a Resolution approving the Annual Report of FY20 and preliminary budget for FY21 for the Berkeley Tourism Business Improvement District (BTBID) as recommended by the BTBID Owners' Association.
Financial Implications: See report
Contact: Jordan Klein, Economic Development, (510) 981-7530
Action: Adopted Resolution No. 69,448–N.S.
- 8. Temporary Appropriations FY 2021**
From: City Manager
Recommendation: Adopt a Resolution authorizing a temporary appropriation in the sum of \$50,000,000 to cover payroll and other expenses from July 1, 2020, until the effective date of the FY 2021 Annual Appropriations Ordinance.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted Resolution No. 69,449–N.S.

Consent Calendar

- 9. FY 2021 Tax Rate: Fund Disaster Fire Protection (Measure Q)**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2021 tax rate for funding the procurement of disaster fire equipment at \$0.0125 (1.25 cents) per square foot of improvements.
Financial Implications: See report
 Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted first reading of Ordinance No. 7,709-N.S. Second reading scheduled for June 30, 2020.
- 10. FY 2021 Tax Rate: Fund Debt Service on Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election)**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2021 tax rate for funding the debt service on the Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election) at 0.0070%.
Financial Implications: See report
 Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted first reading of Ordinance No. 7,710-N.S. Second reading scheduled for June 30, 2020.
- 11. FY 2021 Tax Rate: Fund the Debt Service on the Infrastructure and Facilities General Obligation Bonds (Measure T1, November 2016 Election)**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2021 tax rate funding the debt service on the Infrastructure and Facilities Improvements General Obligation Bonds (Measure T1, November 2016) at 0.0160%.
Financial Implications: See report
 Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted first reading of Ordinance No. 7,711-N.S. Second reading scheduled for June 30, 2020.
- 12. FY 2021 Tax Rate: Fund Debt Service on 2015 Refunding General Obligation Bonds (Measures G, S & I)**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2021 tax rate funding the debt service on the 2015 consolidation of Measures G, S and I (General Obligation Bonds - Elections of 1992, 1996 and 2002) at 0.0140%.
Financial Implications: See report
 Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted first reading of Ordinance No. 7,712-N.S. Second reading scheduled for June 30, 2020.

Consent Calendar

- 13. FY 2021 Special Tax Rate: Fund the Provision of Library Services**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2021 tax rate for funding the provision of Library Services in the City of Berkeley at the FY 2020 tax rate adopted by Ordinance No. 7,665-N.S. on June 11, 2019 at \$0.2272 (22.72 cents) per square foot for dwelling units and \$0.3435 (34.35 cents) per square foot for industrial, commercial, and institutional buildings.
Financial Implications: See report
 Contact: Henry Oyekanmi, Finance, (510) 981-7300; Elliot Warren, Library, (510) 981-6100
Action: Adopted first reading of Ordinance No. 7,713-N.S. Second reading scheduled for June 30, 2020.
- 14. FY 2021 Tax Rate: Business License Tax on Large Non-Profits**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2021 tax rate for Business License Tax on large non-profits at \$0.6659 (66.59 cents) per square foot of improvements.
Financial Implications: See report
 Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted first reading of Ordinance No. 7,714-N.S. Second reading scheduled for June 30, 2020.
- 15. FY 2021 Tax Rate: Fund the Debt Service on the Affordable Housing General Obligation Bonds (Measure O, November 2018 Election)**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2021 tax rate funding the debt service on the Affordable Housing General Obligation Bonds (Measure O, November 2018) at 0.0090%.
Financial Implications: See report
 Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted first reading of Ordinance No. 7,715-N.S. Second reading scheduled for June 30, 2020.
- 16. FY 2021 Tax Rate: Fund the Debt Service on the Street and Watershed Improvements General Obligation Bonds (Measure M, November 2012 Election)**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2021 tax rate funding the debt service on the Street and Integrated Watershed Improvements General Obligation Bonds (Measure M, November 2012) at 0.0080%.
Financial Implications: See report
 Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted first reading of Ordinance No. 7,716-N.S. Second reading scheduled for June 30, 2020.

Consent Calendar

- 17. FY 2021 Tax Rate: Fund the Maintenance of Parks, City Trees and Landscaping**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2021 tax rate for funding all improvements for the maintenance of parks, City trees, and landscaping in the City of Berkeley at \$0.1793 (17.93 cents) per square foot of improvements.
Financial Implications: See report
 Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted first reading of Ordinance No. 7,717-N.S. Second reading scheduled for June 30, 2020.
- 18. FY 2021 Tax Rate: Fund Emergency Services for the Severely Disabled (Measure E)**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2021 tax rate for funding the provision of emergency services for the disabled at \$0.01699 (1.699 cents) per square foot of improvements.
Financial Implications: See report
 Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted first reading of Ordinance No. 7,718-N.S. Second reading scheduled for June 30, 2020.
- 19. FY 2021 Tax Rate: Fund the Provision of Emergency Medical Services (Paramedic Tax)**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2021 tax rate for funding the provision of emergency medical services to Berkeley residents at \$0.0397 (3.97 cents) per square foot of improvements.
Financial Implications: See report
 Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted first reading of Ordinance No. 7,719-N.S. Second reading scheduled for June 30, 2020.
- 20. Contract No. 31900043 Amendment: Kings View for Mental Health Reporting Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 31900043 with Kings View to provide mental health reporting services through June 30, 2022, in an amount not to exceed \$106,428.
Financial Implications: See report
 Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400
Action: Adopted Resolution No. 69,450–N.S.

Consent Calendar

21. **Authorize the City Manager to Submit LEAP Planning Grants Program Application**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit an application for the state Local Early Action Planning (LEAP) grant program in the amount of \$500,000, and to execute documents or amendments once the grant is awarded.
Financial Implications: See report
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400
Action: Adopted Resolution No. 69,451–N.S.
22. **Contract No. 8219C Amendment: Ecology Center, Inc. for Residential Curbside Recycling Collection**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend and extend Ecology Center, Inc.'s Contract No. 8219C and increase the current Contract to include: \$210,090 for the purchase of 1600 new recycling carts, and \$3,850,384 to fund one (1) additional year of residential curbside recycling collection services. With the Amendment increase of \$4,060,474, the Contract's not to exceed amount is \$39,643,153 and will extend the Contract term for one year (1) year from July 1, 2020 through June 30, 2021.
Financial Implications: Zero Waste Fund - \$4,060,474
Contact: Phillip Harrington, Public Works, (510) 981-6300
Action: Adopted Resolution No. 69,452–N.S.

Council Consent Items

23. **Referral to the FY 21 Budget Process: Housing Retention Program and Basic Needs Fund**
From: Mayor Arreguin (Author), Councilmember Harrison (Co-Sponsor), Councilmember Wengraf (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation:
1. Refer to the Fiscal Year 2021 Budget Process, up to \$1,000,000 of General Fund revenues (depending on need and available revenues) derived from Measure U1 tax receipts to replenish funding for the Housing Retention Program that will be exhausted due to significant demand resulting from housing security faced by residents during the COVID-19 pandemic; and
2. Direct the City Manager to identify resources to develop a Basic Needs Fund to support undocumented Berkeley residents who are ineligible for other forms of assistance, including assistance under the Coronavirus Aid, Relief, and Economic Security (CARES) Act and pandemic unemployment benefits, because of their immigration status, and refer an amount up to \$250,000 to the FY 21 Budget Process.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Approved recommendation.

Council Consent Items

- 24. Lessons Learned in Organizational Management During Crisis**
From: Mayor Arreguin (Author), Councilmember Harrison (Co-Sponsor)
Recommendation: Refer to the City Manager to include insights and reflections on organizational management in any comprehensive report regarding the City response to the COVID-19 Emergency. Information should include but not limited to: an overview of how the City was structured and functioned differently during activation of the Emergency Operations Center, the benefits and challenges with cross departmental collaborations, and strategies or structures worth instituting and incorporating into future day-to-day departmental actions and interactions.
Financial Implications: Staff time
Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Councilmembers Hahn and Wengraf added as co-sponsors. Approved recommendation.
- 25. Supporting the United States and Cuba Collaboration in Fighting COVID-19**
From: Councilmember Davila (Author), Councilmember Harrison (Co-Sponsor)
Recommendation:
1. Adopt a Resolution supporting the United States and Cuba collaboration in fighting COVID-19; and
2. Send copies of this resolution to United States Senators Dianne Feinstein and Kamala Harris and United States Congresswoman Barbara Lee.
Financial Implications: None
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120
Action: 1. Adopted Resolution No. 69,453–N.S. 2. Approved recommendation.

Action Calendar – Public Hearings

26. Re-Establishment of the North Shattuck Business Improvement District

From: City Manager

Recommendation:

1. Conduct a public hearing on the re-establishment of the North Shattuck Business Improvement District (NSBID or “the District”).
2. Upon conclusion if no majority protest exists after tabulation of assessment ballots, adopt two Resolutions:
 - a. Re-establishing the NSBID for the ten-year period beginning July 1, 2020 and ending June 30, 2030, and levying assessments on properties within the District for fiscal year 2021.
 - b. Authorizing the City Manager to execute a sole source contract and any amendments with the North Shattuck Association (NSA or “the Association”) not to exceed \$2,652,778 of NSBID funds to support the North Shattuck area for the period July 1, 2020 to June 30, 2030 (FYs 21-30), through the expiration of the NSBID.

Financial Implications: See report

Contact: Jordan Klein, Economic Development, (510) 981-7530

Public Testimony: The Mayor opened the public hearing. 0 speakers.

M/S/C (Arreguin/Robinson) to close the public hearing.

Vote: Ayes – Kesarwani, Davila, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Harrison (Recused – lives within 500 feet of District)

Action: The ballots were tabulated according to their weighted value and the weighted “Yes” vote was 60.22% and the weighted “No” vote was 39.78%, thus exceeding the 50% threshold for approval. M/S/C (Arreguin/Droste) to:

1. Adopt Resolution No. 69,454–N.S. (Re-establishing the NSBID)
2. Adopt Resolution No. 69,455–N.S. (Contract)

Vote: Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – None

Action Calendar – Public Hearings

27. Levy and Collection of FY 2021 Street Lighting Assessments

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion adopt two Resolutions confirming the assessments for the Berkeley Street Lighting Assessment District No. 1982-1 and the Street Lighting Assessment District 2018, approving the Engineer's Reports, and authorizing the levying and collection of assessments in Fiscal Year 2021.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

Public Testimony: The Mayor opened the public hearing. 0 speakers.

M/S/C (Arreguin/Davila) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Arreguin/Robinson) to:

1. Adopt Resolution No. 69,456–N.S. (District No. 1982-1)

2. Adopt Resolution No. 69,457–N.S. (District 2018)

Vote: All Ayes.

28. Implement Residential Preferential Parking (RPP) Program on the 2900 Block of Lorina Street and the 3100 Block of Deakin Street

From: City Manager

Recommendation: Conduct a public hearing and upon its conclusion, adopt a Resolution amending Resolution No. 56,508-N.S. Section 25J and Section 25M by adding a subsection to implement Residential Preferential Parking (RPP) on the east side of the 2900 block of Lorina Street in RPP Area N and both sides of the 3100 block of Deakin Street in Area M.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

Public Testimony: The Mayor opened the public hearing. 4 speakers.

M/S/C (Arreguin/Wengraf) to close the public hearing.

Vote: Ayes – Kesarwani, Davila, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Bartlett (Recused – lives within proposed RPP area)

Action: M/S/C (Arreguin/Wengraf) to adopt Resolution No. 69,458–N.S.

Vote: Ayes – Kesarwani, Davila, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Bartlett (Recused – lives within proposed RPP area)

Action Calendar – New Business

29. ZAB Appeal: 2650 Telegraph Avenue, Use Permit #ZP2019-0070

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2019-0070 to demolish an existing commercial building and construct a five-story, 34,249 square-foot mixed-use building with 45 residential units (including four Very Low-Income units), 1,290 square feet of commercial space, 4,051 square feet of usable open space, 50 bicycle parking spaces and 20 vehicular parking spaces, and dismiss the appeal.

Financial Implications:

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

Action: M/S/C (Arreguin/Wengraf) to suspend the rules and extend the meeting to 11:30 p.m..

Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila

Action: M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 12:00 a.m.

Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila

Public Testimony: The Mayor opened the public hearing. 5 speakers.

M/S/C (Robinson/Wengraf) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Robinson/Hahn) to adopt Resolution No. 69,459–N.S. affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2019-0070 to demolish an existing commercial building and construct a five-story, 34,249 square-foot mixed-use building with 45 residential units (including four Very Low-Income units), 1,290 square feet of commercial space, 4,051 square feet of usable open space, 50 bicycle parking spaces and 20 vehicular parking spaces, and dismiss the appeal.

Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila

Action: M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 12:10 a.m.

Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila

Action Calendar – Continued Business

A. Changes to the Berkeley Municipal Code and City of Berkeley Policies with Respect to Local Emergency Declarations and First Amendment Curfews

(Continued from June 9, 2020)

From: Councilmember Hahn (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Mayor Arreguin (Co-Sponsor)

Recommendation:

1. Direct the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify the following with respect to the declaration of a Local Emergency:

a. A Local Emergency can only be declared by the Director of Emergency Services if a regular or special meeting and session of the City Council cannot be called due to physical impossibility of holding a meeting, because a quorum cannot be established, or because the urgency of the Local Emergency is such that waiting 24 hours for the City Council to convene a session and/or Special Meeting would endanger the community;

b. Should the Director declare a Local Emergency without action of the City Council (due to one of the reasons stated at (a), above), Council ratification of such action occurs at the first possible opportunity, even if it requires calling a Special Meeting and/or session of the Council; and

c. The applicable statutory and legal standards (Federal, State and Local) for calling a Local Emergency shall be presented to the City Council when seeking declaration or ratification of a Local Emergency, along with facts to support meeting those standards, so that the City Council, likely acting under rushed and exigent circumstances, is able to make a carefully considered and fact-based determination that declaration of such Local Emergency conforms with the legal standards and is supported by facts.

2. Direct the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify policies, terms and procedures for the order, scope, terms, duration, and all other elements and conditions of curfews called in response to, or likely to have the effect of limiting or banning, planned, expected or reasonably foreseeable first amendment activity, including rallies, marches, demonstrations and assemblies of all kinds (“First Amendment Curfews”), as enumerated (1-8) under the “Background” section of this item, below.

3. Advise the City Manager and/or Director of Emergency Services that approval of this item represents the will and direction of the City Council with respect to declarations of Local Emergencies and imposition of First Amendment Curfews, and should the occasion to declare a Local Emergency or impose a First Amendment curfew arise prior to formal Council adoption of the requested amendments and policies, the City Manager and/or Director of Emergency Services shall, to the greatest extent possible under existing law, strive to encompass actionable elements, and meet spirit, of this item.

Financial Implications: See report

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Action: Item A continued to July 14, 2020.

Action Calendar – Continued Business

B. Presentation and Discussion of Community Survey Results and Direction About Next Steps for Possible Ballot Measure Development *(Item Contains Supplemental Material) (Continued from June 9, 2020)*

From: City Manager

Recommendation: Discuss results of the community survey and provide direction to the City Manager about the drafting of possible measures for inclusion on the November 2020 ballot.

Financial Implications: See report

Contact: David White, City Manager's Office, 981-7000

Action: 5 speakers. M/S/C (Arreguin/Harrison) to provide the following direction to the City Manager regarding ballot measures to be developed.

- Parcel tax measure for Wildfire Prevention and Fire & Emergency Services (Survey Options 1 and 2) at a total cost to the average home of \$199/year or less.
- A per-ride tax (general tax) on Transportation Network Company rides of 50 cents for individual rides and 25 cents for shared rides.
- A tax measure to increase the Utility Users' Tax by 2.5% with potential authority to raise the gas portion of the tax to support climate equity efforts, and designate an advisory body to make recommendations on expenditures.

Vote: All Ayes.

C. Placing Charter Amendment Measure on the November 3, 2020 Ballot Related to Full-Time Status and Salaries for the Mayor and Councilmembers *(Continued from June 9, 2020)*

From: City Manager

Recommendation:

1. Adopt a Resolution submitting an Amendment to Article V of the City Charter regarding the full-time status and salaries for the Mayor and City Council to a vote of the electors at the November 3, 2020 General Municipal Election.
2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

Financial Implications: None

Contact: Mark Numainville, City Clerk, (510) 981-6900

Action: M/S/C (Arreguin/Wengraf) to continue Items C, D, E, and 30 to June 30, 2020.

Vote: All Ayes.

Action Calendar – Continued Business

- D. Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral** *(Continued from June 9, 2020)*

From: Energy Commission

Recommendation: The Commission recommends that the City Council develop a referendum and seek approval for it on the 2020 ballot to create a Climate Action Fund, which would support actions to achieve the Berkeley Climate Action Plan, to become Fossil Fuel free, and to respond to the Climate Emergency.

Financial Implications: See report.

Contact: Billi Romain, Commission Secretary, (510) 981-7400

Action: Item D, including supplemental material from Councilmember Harrison, continued to June 30, 2020.

- E. Proposed Amendment to Berkeley’s Minimum Wage Ordinance: Berkeley Municipal Code Chapter 13.99** *(Continued from June 9, 2020)*

From: City Manager

Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 13.99, revising Section 13.99.040 to reinstate the exemption for youth job training programs, and freezing the youth wages at \$14.50 per hour for FY21, then increase the wage annually according to the Consumer Price Index as will occur with the Berkeley Minimum wage.

Financial Implications: See report

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

Action: Item E continued to June 30, 2020.

Action Calendar – New Business

- 30. Placing Charter Amendment Measure on the November 3, 2020 Ballot to Repeal the Residency Requirement for Sworn Members of the Berkeley Fire Department**

From: City Manager

Recommendation:

1. Adopt a Resolution submitting an Amendment to Article VII of the City Charter regarding the residency requirement for sworn members of the Fire Department to a vote of the electors at the November 3, 2020 General Municipal Election.

2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

Financial Implications: See report

Contact: Mark Numainville, City Clerk, (510) 981-6900

Action: Item 30 continued to June 30, 2020.

Action Calendar – New Business

31. **Contract: CycloMedia Technology, Inc. for Geographic Information System Infrastructure Asset Data Acquisition** *(Continued from May 26, 2020)*
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with CycloMedia Technology Incorporated for Geographic Information System infrastructure asset data acquisition, for an amount not to exceed \$187,401 for the period commencing on May 15, 2020 to June 30, 2022.
Financial Implications: Various Funds - \$187,401
Contact: Savita Chaudhary, Information Technology, (510) 981-6500
Action: Item 31 continued to June 30, 2020.

Information Reports

32. **Refunding of \$7,790,000 City of Berkeley 2020 Refunding General Obligation Bonds, Series A; Refunding of \$11,690,000 City of Berkeley 2020 Refunding General Obligation Bonds, Series B; and Issuance of \$38,000,000 City of Berkeley 2020 General Obligations Bonds (Post Sale Report)**
From: City Manager
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Received and filed.
33. **FY 2020 Second Quarter Investment Report: Ended December 31, 2019**
From: City Manager
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Item 33 continued to June 23, 2020
34. **FY 2020 Third Quarter Investment Report: Ended March 31, 2020**
From: City Manager
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Item 34 continued to June 23, 2020

Public Comment – Items Not Listed on the Agenda - 0 speakers.

Adjournment

Adjourned at 12:10 a.m.

I hereby certify that the foregoing is a true and correct record of the regular meeting of the City Council held on June 16, 2020.

Mark Numainville
City Clerk

Communications

Rent Control Exemptions for ADU/Eviction Good Cause Ordinance

1. John Caner
2. Shawn Fritz
3. Gail Martin
4. Anne Whyte (2)
5. Judy Hunt
6. Judy MacLean
7. Evelina Nava, on behalf of the East Bay Community Law Center
8. Aashan Avachat
9. Mark Yarn
10. Nicola Bourne
11. Erik Dreher
12. Alfred Twu, on behalf of California Renters Caucus
13. Laverde Paola
14. Deborah Malbec
15. Judi Sui
16. Erik Dreher
17. 14 similarly worded form letters

Covid-19 – General

18. David Lerman (6)
19. Jane Scantlebury
20. Becky O'Malley
21. Marc Bodian
22. Thomas Lord (2)
23. Chimey Lee
24. Dorothea Dorenz
25. Bryce Nesbitt
26. Barbara Gilbert
27. Danielle Hall

George Floyd/PRC/Police

28. George Lippman (2)
29. Erica Etelson
30. Kitty Calavita
31. Tom Luce
32. Dee Williams-Ridley, City Manager
33. Margy Wilkinson
34. Jesse Arreguin, Mayor
35. Maris Arnold
36. Tess Clabby
37. Nellie Graham

Trump=Nazi Graffiti

- 38. Rabbi Adam and Elena Naftalin-Kelman (2)
- 39. Councilmember Wengraf

Seismic Retrofits Fee Waivers

- 40. Bryce Nesbitt

5G

- 41. Jose Arau
- 42. Max Ventura
- 43. Rachel Pachiva

African American Holistic Resource Center

- 44. Mansour Id-Deen

Harriet Tubman Terrace

- 45. Darinxoso Oyamasela

Habitot Children's Museum

- 46. Gina Moreland, Executive Director

ADA

- 47. Jenny Miller (3)
- 48. Dominika Bednarska, Disability Specialist for the City of Berkeley (2)

Sewer Service Fees

- 49. Henry Oyekanmi, Finance Director for the City of Berkeley

Public Comment for Agenda Meeting

- 50. Carole Marasovic

Supplemental Communications and Reports 1

Item #23: Referral to the FY 21 Budget Process: Housing Retention Program and Basic Needs Fund

- 51. Northern California Land Trust

Item #25: Supporting the United States and Cuba Collaboration in Fighting Covid-19

- 52. Alicia Jrapko

Item #29: ZAB Appeal: 2650 Telegraph Avenue, Use Permit #ZP2019-0070

- 53. Lucie Bacho
- 54. Jacob Price

Supplemental Communications and Reports 2

Item #25: Supporting the United States and Cuba Collaboration in Fighting Covid-19

- 55. Diana Bohn

Item #28: Implement Residential Preferential Parking (RPP) Program on the 2900 Block of Lorina Street and the 3100 Block of Deakin Street

- 56. John Lee
- 57. Anonymous

Item #29: ZAB Appeal: 2650 Telegraph Avenue, Use Permit #ZP2019-0070

58. 56 identical and/or similarly worded form letters

59. Sonja Trauss, on behalf of YIMBY Law

60. John Parman

61. Olga and Martin Schwartz

62. Alan Saldich

63. Alex Knox, on behalf of the Telegraph Business Improvement District

Item #C: Placing Charter Amendment Measure on the November 3, 2020 Ballot Related to Full-Time Status and Salaries for the Mayor and Councilmembers

64. Chris Hogan

Supplemental Communications and Reports 3

Item #4: Appointment of Director of Public Works

65. Ben Gerhardstein, on behalf of Walk Bike Berkeley

Item #23: Referral to the FY 21 Budget Process: Housing Retention Program and Basic Needs Fund

66. Andrea Henson

67. Rafael Jesus Gonzalez

68. Laura Rivas

Item #28: Implement Residential Preferential Parking (RPP) Program on the 2900 Block of Lorina Street and the 3100 Block of Deakin Street

69. Bill Walzer

70. John Hamilton

Item #29: ZAB Appeal: 2650 Telegraph Avenue, Use Permit #ZP2019-0070

71. Derek Imai, on behalf of ASUC

72. Jessica Adler

73. Paul Bickmore

74. Dexter Thomas

Item #D: Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral

75. Revised material, submitted by Councilmember Harrison

76. Holly Schneider

77. Terry Taplin

Item #31: Contract: CycloMedia Technology,, Inc. for Geographic Information System Infrastructure Asset Data Acquisition

78. Bryce Nesbitt

Urgency Items

Outdoor Dining and Commerce in the Public Right-of-Way

79. Urgent item, submitted by the City Manager's Office

Modification of 1956 Maintenance Agreement with Caltrans to Add a New Pedestrian Overcrossing Bridge at I-80 Gilman Interchange

80. Urgent item, submitted by the City Manager's Office

Business Continuity Grant Program Funding

81. Urgent item, submitted by the City Manager's Office

Safety for All: The George Floyd Community Safety Act – City Attorney and Manager Analysis of Contractual and Legal Barriers to Public Safety Reform

82. Urgent item, submitted by Councilmember Bartlett

Safety for All: The George Floyd Community Safety Act – Development of a Progressive Police Academy

83. Urgent item, submitted by Councilmember Bartlett

Miscellaneous Communications

1921 Walnut Street and UC Redevelopment

84. Natalie Logusch, on behalf of the 1921 Walnut Street Association

San Francisco is Leading

85. Alexandra Rodgers

Multiple Topics

86. Michai Freeman

MINUTES
BERKELEY CITY COUNCIL SPECIAL MEETING
MONDAY, JUNE 22, 2020
5:00 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this closed session meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/82012177428>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial 1-669-900-9128 and enter Meeting ID: 820 1217 7428. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

Preliminary Matters

Roll Call: 5:05 p.m.

Present: Davila, Droste, Hahn, Harrison, Robinson, Wengraf, Arreguin

Absent: Bartlett, Kesarwani

Councilmember Bartlett present at 5:10 p.m.

Public Comment - Limited to items on this agenda only – 1 speaker

CLOSED SESSION:

The City Council will convene in closed session to meet concerning the following:

1. CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6

Negotiators: Dee Williams-Ridley, City Manager, Paul Buddenhagen, Deputy City Manager, David White, Deputy City Manager, LaTanya Bellow, Human Resources Director, Dania Torres-Wong, Chief Labor Negotiator, Jonathan Holtzman, Chief Labor Negotiator, David Brannigan, Fire Chief, Andy Greenwood, Police Chief.

Employee Organizations: Berkeley Fire Fighters Association Local 1227, Berkeley Police Association, Service Employees International Union, Local 1021 Maintenance and Clerical Chapters, Berkeley Fire Fighters Association, Local 1227 I.A.F.F. / Berkeley Chief Fire Officers Association; International Brotherhood of Electrical Workers, Local 1245.

Action: No reportable action taken.

OPEN SESSION:

Public Reports of actions taken pursuant to Government Code section 54957.1.

No reportable action taken.

Adjournment

Action: M/S/C (Davila/Arreguin) to adjourn the meeting.

Vote: Ayes –Davila, Bartlett, Hahn, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Kesarwani, Harrison, Wengraf, Droste.

Adjourned at 7:46 p.m.

Councilmember Wengraf absent at 7:40 p.m.

Councilmember Droste absent at 7:40 p.m.

Councilmember Harrison absent at 7:44 p.m.

I hereby certify that the foregoing is a true and correct record of the closed meeting of June 22, 2020 as approved by the Berkeley City Council.

Rose Thomsen, Deputy City Clerk

**MINUTES
SPECIAL MEETING OF THE
BERKELEY CITY COUNCIL**

Tuesday, June 23, 2020

6:00 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/81018378132>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial **1-669-900-9128** and enter Meeting ID: **810 1837 8132**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Roll Call: 6:01 p.m.

Present: Kesarwani, Davila, Hahn, Wengraf, Robinson, Droste, Arreguin

Absent: Bartlett, Harrison

Councilmember Bartlett present at 6:08 p.m.

Councilmember Harrison present at 6:09 p.m.

Action Calendar

1. Fiscal Year 2021 Budget Update

From: City Manager

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

Action: M/S/C (Arreguin/Wengraf) to accept supplemental materials related to the budget update from the City Manager.

Vote: All Ayes.

Action: 47 speakers. Discussion held.

2. FY 2020 Second Quarter Investment Report: Ended December 31, 2019

(Continued from June 16, 2020)

From: City Manager

Contact: Henry Oyekanmi, Finance, (510) 981-7300

Action: 3 speakers. Discussion held. Report received and filed.

3. FY 2020 Third Quarter Investment Report: Ended March 31, 2020 *(Continued from June 16, 2020)*

From: City Manager

Contact: Henry Oyekanmi, Finance, (510) 981-7300

Action: Discussion held. Report received and filed.

Action: M/S/C (Arreguin/Wengraf) to accept an urgency item from Councilmember Wengraf related to funding for the Alameda County Sheriff.

Vote: All Ayes.

Urgency Item: Oppose Budget Increase of \$84 million Annually to the Sheriff's Budget for 349 New Positions at the Santa Rita Jail

From: Councilmember Wengraf (author), Mayor Arreguin (co-sponsor) and Councilmember Davila (co-sponsor)

Recommendation: Send the attached letter as an email to be included in the Alameda County Board of Supervisor's Agenda Packet for their June 25th budget meeting, opposing the budget increase of \$84 million annually for the next three years to the Sheriff's budget for the Santa Rita Jail.

Fiscal Implications: None

Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

Action: 4 speakers. Councilmember Kesarwani added as a co-sponsor. M/S/C (Wengraf/Kesarwani) to approve the recommendation.

Vote: All Ayes.

Adjournment

Action: M/S/C (Harrison/Davila) to adjourn the meeting in memory of Seth Smith, UC Berkeley Student and victim of recent homicide.

Vote: Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Droste.

Adjourned at 10:59 p.m.

I hereby certify that the foregoing is a true and correct record of the special meeting of the City Council held on June 23, 2020.

Mark Numainville
City Clerk

Communications

- None

Supplemental Communications and Reports 1

- None

Supplemental Communications and Reports 2

Item #1: Fiscal Year 2021 Budget Update

1. Carol Denney
2. Lisa Bullwinkel

Supplemental Communications and Reports 3

Item #1: Fiscal Year 2021 Budget Update

3. Supplemental material, submitted by Finance
4. 18 similarly-worded form letters
5. Amy Gordon
6. Christopher Paguio
7. Rose Schweis
8. Laurel Halvorson
9. Elana Auerbach (2)
10. Bill Press
11. Lynne Henderson
12. Fred Wiese
13. Elizabeth Ferguson
14. Margy Wilkinson
15. Jeremy Lent
16. Alexandra Rodgers
17. Martin Bourque, on behalf of the Ecology Center
18. A Boi

19. Barbara Gilbert (2)
20. Attilio
21. Amy Ciraco
22. Alex de Man
23. Avi Simon
24. Jenna Fahle
25. Todd Jersey
26. Alyssa Chung
27. Alecia Harger
28. Nell Henderson
29. Charlene Woodcock
30. Gina Drescher
31. Ruth Laurie Winestock
32. Victoria Buckettt
33. Colin Long
34. Sarai
35. Sara Bancroft
36. Ryan Norris
37. Tori Larson
38. Amalee Beattie
39. Hillary Brooks
40. Chimey Lee
41. Elana Auerbach

Item #3: FY 2020 Third Quarter Investment Report: Ended March 31, 2020

42. Supplemental material, submitted by Finance

Urgency Item: Oppose Budget Increase of \$84 million annually to the Sheriff's Budget for 349 New Positions at the Santa Rita Jail

43. Urgency item, submitted by Councilmember Wengraf
44. Carole Marasovic

**BERKELEY CITY COUNCIL
SPECIAL MEETING MINUTES**

WEDNESDAY, JUNE 24, 2020

4:00 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this closed session meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/83098241377>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial 1-669-900-9128 and enter Meeting ID: 830 9824 1377. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

Preliminary Matters

Roll Call: 4:08 p.m.

Present: Davila, Harrison, Hahn, Robinson, Droste, Arreguin

Absent: Kesarwani, Bartlett, Wengraf

Councilmember Bartlett present at 4:17 p.m.

Councilmember Wengraf present at 4:37 p.m.

Public Comment - Limited to items on this agenda only – 0 speakers.

CLOSED SESSION:

The City Council will convene in closed session to meet concerning the following:

1. CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6

Negotiators: Dee Williams-Ridley, City Manager, Paul Buddenhagen, Deputy City Manager, David White, Deputy City Manager, LaTanya Bellow, Human Resources Director, Dania Torres-Wong, Chief Labor Negotiator, Jonathan Holtzman, Chief Labor Negotiator, Burke Dunphy, Chief Labor Negotiator, David Brannigan, Fire Chief, Andy Greenwood, Police Chief.

Employee Organizations: Berkeley Fire Fighters Association Local 1227, Berkeley Police Association, Service Employees International Union, Local 1021 Maintenance and Clerical Chapters, Berkeley Fire Fighters Association, Local 1227 I.A.F.F. / Berkeley Chief Fire Officers Association; International Brotherhood of Electrical Workers, Local 1245, Unrepresented Employees.

Action: No reportable action taken.

OPEN SESSION:

No reportable action taken.

Adjournment

Action: M/S/C (Davila/Wengraf) to adjourn the meeting.

Vote: Ayes - Ayes – Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin;
Noes - None; Abstain – None; Absent – Kesarwani.

Adjourned at 6:20 p.m.

I hereby certify that the forgoing is a true and correct record of the closed session meeting held on June 24, 2020.

Mark Numainville
City Clerk

BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

TUESDAY, JUNE 30, 2020

3:30 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this closed session meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/83852635768>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial 1-669-900-9128 and enter Meeting ID: 838 5263 5768. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

Preliminary Matters

Roll Call: 3:36 p.m.

Present: Davila, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

Absent: Kesarwani, Bartlett

Councilmember Bartlett present at 3:40 p.m.

Councilmember Kesarwani present at 3:46 p.m.

Public Comment - Limited to items on this agenda only – 0 speakers

CLOSED SESSION:

The City Council will convene in closed session to meet concerning the following:

1. CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6

Negotiators: Dee Williams-Ridley, City Manager, Paul Buddenhagen, Deputy City Manager, David White, Deputy City Manager, LaTanya Bellow, Human Resources Director, Dania Torres-Wong, Chief Labor Negotiator, Jonathan Holtzman, Chief Labor Negotiator, David Brannigan, Fire Chief, Andy Greenwood, Police Chief.

Employee Organizations: Berkeley Fire Fighters Association Local 1227, Berkeley Police Association, Service Employees International Union, Local 1021 Maintenance and Clerical Chapters, Service Employees International Union, Local 1021 Community Services and Part-Time Recreation Leaders Association, Berkeley Fire Fighters Association, Local 1227 I.A.F.F. / Berkeley Chief Fire Officers Association.

Action: No reportable action taken.

OPEN SESSION:

Action: No reportable action taken.

Adjournment

Action: M/S/C (Davila/Robinson) to adjourn the meeting.

Vote: All Ayes.

Adjourned at 6:36 p.m.

I hereby certify that the forgoing is a true and correct record of the closed session meeting held on June 30, 2020.

Mark Numainville
City Clerk

MINUTES
BERKELEY CITY COUNCIL MEETING
Tuesday, June 30, 2020
6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
 DISTRICT 2 – CHERYL DAVILA
 DISTRICT 3 – BEN BARTLETT
 DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
 DISTRICT 6 – SUSAN WENGRAF
 DISTRICT 7 – RIGEL ROBINSON
 DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/87199785160>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial 1-669-900-9128 and enter Meeting ID: 871 9978 5160. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call: 6:43 p.m.

Present: Kesarwani, Wengraf, Robinson, Droste, Arreguin

Absent: Davila, Bartlett, Harrison, Hahn

Councilmember Davila present at 6:48 p.m.

Councilmember Bartlett present at 6:49 p.m.

Councilmember Harrison present at 6:51 p.m.

Councilmember Hahn present at 6:54 p.m.

Ceremonial Matters:

1. Adjourn in memory of Margy Wilkinson, Berkeley Resident
2. Adjourn in memory of Dr. Bert Lubin, Former Director of Childrens' Hospital
3. Adjourn in memory of all Vitims of COVID-19

City Auditor Comments:

The City Auditor offered condolences o the passing of Margy Wilkinson; Acknowledged the efforts of the Budget and Finance Committee to adopt a budget recommendation; Noted the leadership of Councilmember Bartlett; and informed the Council of the planned police audit.

City Manager Comments:

The City Manager provided updates on COVID-19 relief efforts related to the unhoused community, new housing provided, additional tests, water, masks, sanitizer, and showers; also provided an update on reopening plans.

Public Comment on Non-Agenda Matters: 10 speakers.

Action: M/S/C (Arreguin/Harrison) to accept supplemental material pursuant to the Open Government Ordinance from the Public Works Department on Item 27, revised material from the City Manager on Item 40, supplemental material from Councilmember Harrison on Item 40, and revised material from the City Manager on Item 41.

Vote: All Ayes.

Action: M/S/C (Arreguin/Wengraf) to add an urgent item from the City Manager entitled "Adopt a Revised Resolution Calling a General Municipal Election to Add a Fifth Seat to be Elected to the Rent Stabilization Board for the November 3, 2020 Election" to the agenda pursuant to Government Code Section 54954.2(b).

Vote: All Ayes.

Action: M/S/C (Hahn/Wengraf) to add an urgent item from Councilmember Hahn entitled “Letter to IBank in Support of Berkeley’s Save Our Small (SOS) Business Loan Fund” to the agenda pursuant to Government Code Section 54954.2(b).

Vote: All Ayes.

Action: M/S/C (Harrison/Bartlett) to add an urgent item from Councilmember Harrison entitled “Urgency Item: Urgency Ordinance: Tenant’s Ability to End a Lease” to the agenda pursuant to Government Code Section 54954.2(b).

Vote: All Ayes.

Consent Calendar

Public Comment on Consent Calendar and Information Items Only: 15 speakers.

Action: M/S/C (Arreguin/Harrison) to continue Item 35, Item 36, and Item 38 to July 21, 2020 special meeting.

Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila.

Action: M/S/C (Wengraf/Davila) to adopt the Consent Calendar in one motion except as indicated.

Vote: All Ayes.

Consent Calendar

Urgency Item: Adopt a Revised Resolution Calling a General Municipal Election to Add a Fifth Seat to be Elected to the Rent Stabilization Board for the November 3, 2020 Election

From: City Manager

Recommendation: Adopt a revised resolution calling a General Municipal Election to add a fifth available seat to the Rent Stabilization Board for the consolidated general municipal election on November 3, 2020.

Financial Implications: None

Contact: Mark Numainville, City Clerk, (510) 981-6900

Action: Adopted Resolution No. 69,460–N.S.

Consent Calendar

Urgency Item: Letter to IBank in Support of Berkeley's Save Our Small (SOS) Business Loan Fund

From: Councilmember Hahn (Author)

Recommendation: Send a letter to Mr. Scott Wu, Executive Director of the California Infrastructure and Economic Development Bank (IBank), requesting support for the Save Our Small (SOS) Business Loan Fund, passed by the Berkeley City Council on April 14, 2020, specifically requesting that he consider the following avenues to combine the efforts of the IBank with willing local governments to: (1) Implement allocation goals for our region within the existing Disaster Guarantee program by supporting Berkeley's Save Our Small (SOS) Business Loan Fund; and/or (2) Create a new loan vehicle for small business loans that combines private funds with State and City (or Regional, County, Town) funds that could be organized through the IBank; and send a copy of the letter to Chris Dom-browski, Acting Director, Governor's Office of Business and Economic Development (GO-Biz).

Financial Implications: None

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Action: Approved recommendation.

Urgency Item: Urgency Ordinance: Tenant's Ability to End a Lease

From: Councilmember Harrison (Author), Councilmember Robinson (Author)

Recommendation: Adopt an urgency ordinance amending Berkeley Municipal Code 13.78.017 to accurately reflect the intent of the City Council to protect tenants, while still allowing them to terminate a lease early in accordance with their contract and amending 13.110.020 to allow tenants the ability to terminate a lease without penalty due to an impact of COVID-19.

Financial Implications: None

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Action: Adopted Ordinance No. 7,720-N.S.

1. FY 2021 Tax Rate: Fund Disaster Fire Protection (Measure Q)

From: City Manager

Recommendation: Adopt second reading of Ordinance No. 7,709-N.S. setting the FY 2021 tax rate for funding the procurement of disaster fire equipment at \$0.0125 (1.25 cents) per square foot of improvements.

First Reading Vote: All Ayes.

Financial Implications: See report

Contact: Henry Oyekanmi, Finance, (510) 981-7300

Action: Adopted second reading of Ordinance No. 7,709-N.S.

Consent Calendar

- 2. FY 2021 Tax Rate: Fund Debt Service on Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election)**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,710-N.S. setting the FY 2021 tax rate for funding the debt service on the Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election) at 0.0070%.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted second reading of Ordinance No. 7,710–N.S.
- 3. FY 2021 Tax Rate: Fund the Debt Service on the Infrastructure and Facilities General Obligation Bonds (Measure T1, November 2016 Election)**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,711-N.S. setting the FY 2021 tax rate funding the debt service on the Infrastructure and Facilities Improvements General Obligation Bonds (Measure T1, November 2016) at 0.0160%.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted second reading of Ordinance No. 7,711–N.S.
- 4. FY 2021 Tax Rate: Fund Debt Service on 2015 Refunding General Obligation Bonds (Measures G, S & I)**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,712-N.S. setting the FY 2021 tax rate funding the debt service on the 2015 consolidation of Measures G, S and I (General Obligation Bonds - Elections of 1992, 1996 and 2002) at 0.0140%.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted second reading of Ordinance No. 7,712–N.S.

Consent Calendar

5. **FY 2021 Special Tax Rate: Fund the Provision of Library Services**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,713-N.S. setting the FY 2021 tax rate for funding the provision of Library Services in the City of Berkeley at the FY 2020 tax rate adopted by Ordinance No. 7,665-N.S. on June 11, 2019 at \$0.2272 (22.72 cents) per square foot for dwelling units and \$0.3435 (34.35 cents) per square foot for industrial, commercial, and institutional buildings.
First Reading Vote: All Ayes.
Financial Implications: See report
 Contact: Henry Oyekanmi, Finance, (510) 981-7300; Elliot Warren, Library, (510) 981-6100
Action: Adopted second reading of Ordinance No. 7,713–N.S.
6. **FY 2021 Tax Rate: Business License Tax on Large Non-Profits**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,714-N.S. setting the FY 2021 tax rate for Business License Tax on large non-profits at \$0.6659 (66.59 cents) per square foot of improvements.
First Reading Vote: All Ayes.
Financial Implications: See report
 Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted second reading of Ordinance No. 7,714–N.S.
7. **FY 2021 Tax Rate: Fund the Debt Service on the Affordable Housing General Obligation Bonds (Measure O, November 2018 Election)**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,715-N.S. setting the FY 2021 tax rate funding the debt service on the Affordable Housing General Obligation Bonds (Measure O, November 2018) at 0.0090%.
First Reading Vote: All Ayes.
Financial Implications: See report
 Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted second reading of Ordinance No. 7,715–N.S.
8. **FY 2021 Tax Rate: Fund the Debt Service on the Street and Watershed Improvements General Obligation Bonds (Measure M, November 2012 Election)**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,716-N.S. setting the FY 2021 tax rate funding the debt service on the Street and Integrated Watershed Improvements General Obligation Bonds (Measure M, November 2012) at 0.0080%.
First Reading Vote: All Ayes.
Financial Implications: See report
 Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted second reading of Ordinance No. 7,716–N.S.

Consent Calendar

- 9. FY 2021 Tax Rate: Fund the Maintenance of Parks, City Trees and Landscaping**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,717-N.S. setting the FY 2021 tax rate for funding all improvements for the maintenance of parks, City trees, and landscaping in the City of Berkeley at \$0.1793 (17.93 cents) per square foot of improvements.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted second reading of Ordinance No. 7,717–N.S.
- 10. FY 2021 Tax Rate: Fund Emergency Services for the Severely Disabled (Measure E)**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,718-N.S. setting the FY 2021 tax rate for funding the provision of emergency services for the disabled at \$0.01699 (1.699 cents) per square foot of improvements.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted second reading of Ordinance No. 7,718–N.S.
- 11. FY 2021 Tax Rate: Fund the Provision of Emergency Medical Services (Paramedic Tax)**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,719-N.S. setting the FY 2021 tax rate for funding the provision of emergency medical services to Berkeley residents at \$0.0397 (3.97 cents) per square foot of improvements.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted second reading of Ordinance No. 7,719–N.S.
- 12. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the council meetings of May 5, 2020 (closed), May 12, 2020 (closed and regular), May 19, 2020 (special), May 21, 2020 (closed) and May 26, 2020 (closed and regular).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Approved minutes as submitted.

Consent Calendar

- 13. Animal Services Contract with the City of Piedmont**
From: City Manager
Recommendation: Adopt a resolution authorizing the City Manager to execute a contract, with any amendments, with the City of Piedmont for animal care services for FY2021-FY2025, which increases the existing contract by up to \$180,134, with a total contract amount not to exceed \$441,984.
Financial Implications: See report
 Contact: Erin Steffen, City Manager's Office, (510) 981-7000
Action: Item 13 continued to July 14, 2020.
- 14. Amendment to Contract No. 10854 (ERMA Contract No. 118939-1): Townsend Public Affairs, Inc. for Legislative and Funding Advocacy Strategy**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Townsend Public Affairs, Inc., contract No. 10854 (ERMA Contract No. 118939-1), for an ongoing tailored legislative and funding advocacy strategy, increasing the contract amount by \$30,000, for an amount not-to-exceed \$120,000, and extending the contract from June 30, 2020 to June 30, 2021.
Financial Implications: See report
 Contact: Dave White, City Manager's Office, (510) 981-7000
Action: Adopted Resolution No. 69,461–N.S.
- 15. Contract: Downtown Berkeley YMCA for Fitness Center Memberships for City Employees Pursuant to Negotiated Employee Memoranda of Understanding**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Downtown Berkeley YMCA in the amount of \$214,848 for fitness center memberships for City employees pursuant to negotiated employee memoranda of understanding from the period July 1, 2020 to June 30, 2021.
Financial Implications: See report
 Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000
Action: Adopted Resolution No. 69,462–N.S.
- 16. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on June 30, 2020**
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.
Financial Implications: \$195,000
 Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Approved recommendation.

Consent Calendar

17. **FY 2021 Reaffirming the Investment Policies and Designation of Investment Authority**
From: City Manager
Recommendation: Adopt a Resolution affirming the Statement of Investment Policies (no changes from the current policy) and to confirm the delegation of investment authority to the Director of Finance to make investments for FY 2021.
Financial Implications: None
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted Resolution No. 69,463–N.S.
18. **Appropriations Limit for FY 2021**
From: City Manager
Recommendation: Adopt a Resolution establishing the appropriations limit at \$284,280,447 for FY 2021 pursuant to Article XIII B of the Constitution of the State of California based on the calculations for the appropriations limit.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted Resolution No. 69,464–N.S.
19. **FY 2021 Tax Rate: Fund Fire Protection and Emergency Response and Preparedness (Measure GG)**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2021 tax rate for funding Fire Protection and Emergency Response and Preparedness in the City of Berkeley at the rate of \$0.05818 (5.818 cents) per square foot of improvements for dwelling units and setting the rate for all other property at \$0.08804 (8.804 cents) per square foot of improvements with no increase in tax rate.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300; Dave Brannigan, Fire, (510) 981-5500
Action: Adopted first reading of Ordinance No. 7,721–N.S. Second reading scheduled for July 14, 2020.

Consent Calendar

20. Grant Agreement Amendment: Alameda County Coordinated Entry System (CES) Grant

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or her designee to: 1. Receive \$878,449 in additional funding and execute any agreements and amendments resulting from an augmentation and extension of a three-year grant from Alameda County Health Care Services Agency (HCSA) to fund a North County Housing Resource Center and Coordinated Entry System to Prevent and End Homelessness through December 31, 2020, increasing the contract amount to \$5,309,786, and extending the end date of the contract to December 31, 2020; 2. Execute resulting contracts for services with Bay Area Community Services (BACS) and the Cities of Albany and Oakland to fulfill the purpose of the grant; and 3. Retain \$90,004 in funding for staff in the Health, Housing & Community Services Department (HHCS) for program delivery.

Financial Implications: See report

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

Action: Adopted Resolution No. 69,465–N.S.

21. Mental Health Services Act Contract Amendment: Covenant House

From: City Manager

Recommendation: Adopt two Resolutions authorizing the City Manager or her designee to execute amendments for the following contracts with Covenant House that are funded through Mental Health Services Act (MHSA) Community Services and Supports (CSS) and Prevention and Early Intervention (PEI), and increasing the contract amounts as outlined below, and extending the contracts through March 31, 2021:

1. Increasing PEI ERMA Contract No. 122380-1 (8606J) with Covenant House California-YEAH! Program, in the amount of \$24,035 for a total contract amount not to exceed \$307,139 for support groups for Transition Age Youth (TAY);
2. Increasing CSS ERMA Contract No. 120650-1 (9553F) with Covenant House California-YEAH! Program by \$92,142 for a total contract amount not to exceed \$847,428 for services for transition age youth.

Financial Implications: See report

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

Action: Adopted Resolution No. 69,466–N.S. (Contract No. 122380-1 (8606J)), and Resolution No. 69,467–N.S. (Contract No. 120650-1 (9553F)).

Consent Calendar

- 22. Contract Amendments: Mental Health Services Act, Prevention and Early Intervention**
From: City Manager
Recommendation: Adopt two Resolutions authorizing the City Manager or her designee to execute amendments for the following contracts that are funded through Mental Health Services Act (MHSA) Prevention and Early Intervention (PEI), and extending the contracts through March 31, 2021:
 1. Increasing PEI ERMA Contract No. 088999 -1 (8801I) with Center for Independent Living (CIL) in the amount of \$24,035 for a total contract amount not to exceed \$280,619 for supports for senior citizens;
 2. Increasing PEI ERMA Contract No. 052129-1 (8516J) with Pacific Center for Human Growth in the amount of \$24,035 for a total contract amount not to exceed \$307,139 to serve Lesbian, Gay, Bi-sexual, Transgender, Queer/Questioning, and Intersex (LGBTQI) individuals.
Financial Implications: See report
 Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400
Action: Adopted Resolution No. 69,468–N.S. (Contract No. 088999 -1 (8801I)), and Resolution No. 69,469–N.S. (Contract No. 052129-1 (8516J))
- 23. Contract Amendment with BOSS for Representative Payee services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract amendment with vendor Building Opportunities for Self-Sufficiency (BOSS) to provide Representative Payee services. The amendment will add \$100,000 to the current contract and extend it through June 30, 2021 for a total contract not to exceed amount of \$200,000.
Financial Implications: See report
 Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400
Action: Adopted Resolution No. 69,470–N.S.
- 24. Reimbursement Agreement with the City of San Jose and the City of Berkeley Police Department for Training Related to the Internet Crimes Against Children (ICAC) Task Force**
From: City Manager
Recommendation: Adopt a Resolution approving the Agreement of Reimbursement between the City of San Jose and the City of Berkeley Police Department (Internet Crimes Against Children Training Costs) to provide for training reimbursement of Internet Crimes Against Children federal grant-related training costs to the City of Berkeley.
Financial Implications: None
 Contact: Andrew Greenwood, Police, (510) 981-5900
Action: Adopted Resolution No. 69,471–N.S.

Consent Calendar

25. Grant Applications: Active Transportation Program Cycle 5

From: City Manager

Recommendation: Adopt three Resolutions authorizing the City Manager to submit grant applications to the Caltrans Active Transportation Program for the following projects: 1) Washington Elementary and Berkeley High Safe Routes to School for up to \$2 million; 2) Martin Luther King Jr. Way Vision Zero Phase I Quick Build for up to \$600,000; and 3) Addison Street Bicycle Boulevard Phase II for up to \$2 million; and accept the grants awarded, and execute any resultant agreements and amendments.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

Action: Adopted Resolution No. 69,472–N.S. (Washington Elementary), Resolution No. 69,473–N.S. (Martin Luther King Jr. Way), and Resolution No. 69,474–N.S. (Addison Street).

26. Contract No. 31900035 Amendment: Ghilotti Construction Company for Shattuck Reconfiguration and Pedestrian Safety Project

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 31900035 with Ghilotti Construction Company for work on the Shattuck Reconfiguration and Pedestrian Safety Project (“Project”), Specification No.17-11090-C, increasing the contract amount by up to \$300,000 for an amended total not to exceed \$8,286,960.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

Action: Adopted Resolution No. 69,475–N.S.

27. Approval and Levy of 2018 Clean Stormwater Fee in FY 2021

From: City Manager

Recommendation: Adopt a Resolution approving the proposed adjusted fees for the 2018 Clean Stormwater Fee and ordering the levy of the fees in Fiscal Year 2021.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

Action: Adopted Resolution No. 69,476–N.S. including the Engineer’s Report accepted for consideration at the Council meeting.

Council Consent items

- 28. Support United States Congresswoman Barbara Lee’s legislation to establish a United States Commission on Truth, Racial Healing, and Transformation.**
From: Councilmember Davila (Author), Councilmember Bartlett (Co-Sponsor), Mayor Arreguin (Co-Sponsor)
Recommendation:
1. Adopt a resolution supporting United States Congresswoman Barbara Lee’s legislation to establish a United States Commission on Truth, Racial Healing, and Transformation.
2. Send copies of this resolution to United States Congresswoman Barbara Lee.
Financial Implications: None
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120
Action: Councilmember Harrison added as a co-sponsor. 1. Adopted Resolution No. 69,485–N.S. 2. Approved recommendation.
- 29. Resolution Urging Members Of Our State Legislature And Governor To Explore New Revenue Generating Options, Including A Millionaire Tax To Ensure Safety Net Programs Are Not Cut Due To An Unprecedented Statewide Deficit**
From: Councilmember Harrison (Author), Councilmember Davila (Co-Sponsor)
Recommendation: Adopt a resolution encouraging State Legislators and the Governor to explore revenue options, including an additional tax on the highest earning Californians, to address the significant state budget shortfall following the impact of COVID-19.
Financial Implications: None
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
Action: Councilmembers Bartlett and Kesarwani added as co-sponsors. Adopted Resolution No. 69,477–N.S.
- 30. Support for AB-3256: Economic Recovery and Climate Resiliency Bond**
From: Councilmember Wengraf (Author)
Recommendation: Adopt a Resolution in support of AB-3256: Economic Recovery, Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020 (E. Garcia, Bloom, Bonta, Friedman, C. Garcia, Mullin, Reyes and Wood).
Financial Implications: None
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
Action: Councilmembers Harrison, Bartlett, and Kesarwani added as co-sponsors. Adopted Resolution No. 69,478–N.S.

Council Consent items

31. **Support for AB-2501 COVID-19: Homeowner, Tenant, and Consumer relief**
From: Councilmember Wengraf (Author)
Recommendation: Adopt a Resolution in support of AB-2501: Homeowner, Tenant and Consumer Relief (Limón). Send a copy of the Resolution to Assemblymembers Limón, Skinner and Wicks and Governor Newsom.
Financial Implications: None
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
Action: Councilmembers Harrison, Bartlett, and Kesarwani added as co-sponsors.
Adopted Resolution No. 69,479–N.S.
32. **Support for ACA 5: California Act for Economic Prosperity**
From: Councilmember Robinson (Author), Councilmember Davila (Co-Sponsor), Councilmember Bartlett (Co-Sponsor), Mayor Arreguin (Co-Sponsor)
Recommendation: Adopt a resolution in support of ACA 5, which would place a measure on the statewide ballot to repeal Proposition 209 (1996) and allow the State of California to pursue minority equal opportunity and access initiatives in public employment, education, and contracting. Send copies of the resolution to Assemblymembers Shirley Weber, Mike Gipson, Miguel Santiago, Lorena Gonzalez, and Buffy Wicks, and State Senator Nancy Skinner.
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
Action: Adopted Resolution No. 69,480–N.S. amended to also state the Council's support for the measure on the ballot.

Action Calendar – Public Hearings

33. Amend One-Way Car Share Program: Electric Mopeds, Fees, Deposits

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, 1) adopt a Resolution to amend the One-Way Car Share Program to rename it as the One-Way Vehicle Share Program, add parking permit and administration fees for electric mopeds, and adjust the administration fee and free-floating parking permit deposits for cars, and 2) adopt the first reading of an Ordinance pursuant to Berkeley Municipal Code Chapter 14.62, renaming the One-Way Car Share Program as the One-Way Vehicle Share Program and removing obsolete references to parking permit stickers affixed to vehicles.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

Public Testimony: The Mayor opened the public hearing. 5 speakers.

M/S/C (Robinson/Wengraf) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Robinson/Arreguin) to:

1. Adopt Resolution No. 69,481–N.S.

2. Adopt first reading of Ordinance No. 7,722–N.S. Second reading scheduled for July 14, 2020.

Vote: Ayes – Kesarwani, Bartlett, Harrison, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila, Hahn.

34. Amendments to the Berkeley Election Reform Act; Amending Berkeley Municipal Code Chapter 2.12

From: Fair Campaign Practices Commission

Recommendation: Conduct a public hearing and upon conclusion, adopt an ordinance amending the Berkeley Election Reform Act, BMC Chapter 2.12, regarding the public financing program.

Financial Implications: None

Contact: Sam Harvey, Commission Secretary, (510) 981-6950

Public Testimony: The Mayor opened the public hearing. 0 speakers.

M/S/C (Arreguin/Wengraf) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Arreguin/Robinson) to adopt first reading of Ordinance No. 7,723–N.S. Second reading scheduled for July 14, 2020.

Vote: All Ayes.

Recess 9:15 p.m. – 9:27 p.m.

Action Calendar - Old Business

- 35. Placing Charter Amendment Measure on the November 3, 2020 Ballot Related to Full-Time Status and Salaries for the Mayor and Councilmembers** *(Continued from June 16, 2020)*
From: City Manager
Recommendation:
1. Adopt a Resolution submitting an Amendment to Article V of the City Charter regarding the full-time status and salaries for the Mayor and City Council to a vote of the electors at the November 3, 2020 General Municipal Election.
2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Item 35 continued to July 21, 2020 special meeting.
- 36. Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral** *(Item contains supplemental material) (Continued from June 16, 2020)*
From: Energy Commission
Recommendation: The Commission recommends that the City Council develop a referendum and seek approval for it on the 2020 ballot to create a Climate Action Fund, which would support actions to achieve the Berkeley Climate Action Plan, to become Fossil Fuel free, and to respond to the Climate Emergency.
Financial Implications: See report.
Contact: Billi Romain, Commission Secretary, (510) 981-7400
Action: Item 36 continued to July 21, 2020 special meeting.
- 37. Proposed Amendment to Berkeley's Minimum Wage Ordinance: Berkeley Municipal Code Chapter 13.99** *(Continued from June 16, 2020)*
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 13.99, revising Section 13.99.040 to reinstate the exemption for youth job training programs, and freezing the youth wages at \$14.50 per hour for FY21, then increase the wage annually according to the Consumer Price Index as will occur with the Berkeley Minimum wage.
Financial Implications: See report
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400
Action: 1 speaker. M/S/C (Arreguin/Wengraf) to take no action on Item 37.
Vote: All Ayes.

Action Calendar - Old Business

38. **Placing Charter Amendment Measure on the November 3, 2020 Ballot to Repeal the Residency Requirement for Sworn Members of the Berkeley Fire Department** *(Continued from June 16, 2020)*
From: City Manager
Recommendation:
1. Adopt a Resolution submitting an Amendment to Article VII of the City Charter regarding the residency requirement for sworn members of the Fire Department to a vote of the electors at the November 3, 2020 General Municipal Election.
2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.
Financial Implications: See report
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Item 38 including the revised material in Supplemental Communications Packet #2 continued to July 21, 2020 special meeting.
39. **Contract: CycloMedia Technology, Inc. for Geographic Information System Infrastructure Asset Data Acquisition** *(Continued from June 16, 2020)*
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with CycloMedia Technology Incorporated for Geographic Information System infrastructure asset data acquisition, for an amount not to exceed \$187,401 for the period commencing on May 15, 2020 to June 30, 2022.
Financial Implications: Various Funds - \$187,401
Contact: Savita Chaudhary, Information Technology, (510) 981-6500
Action: Moved to Consent Calendar. Adopted Resolution No. 69,482–N.S. including supplemental material in Supplemental Communications Packet #2.
Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila.

Action Calendar – New Business

40. FY 2021 Mid-Biennial Budget Update Adoption

From: City Manager

Recommendation: Adopt a Resolution:

1. Adopting the FY 2021 Budget as contained in the City Manager's FY 2021 Proposed Budget Update presented to Council on May 12, 2020, June 9, 2020, and as amended by subsequent Council action.
2. Authorizing the City Manager to provide applicable advances to selected community agencies receiving City funds in FY 2021, as reflected in Attachment 2, and as amended by subsequent Council action.

Financial Implications: See report

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

Action: M/S/C (Arreguin/Robinson) to suspend the rules and extend the meeting to 12:00 a.m.

Vote: All Ayes.

Action: M/S/C (Arreguin/Droste) to suspend the rules and extend the meeting to 12:30 a.m.

Vote: All Ayes.

Action: M/S/C (Arreguin/Droste) to suspend the rules and extend the meeting to 1:00 a.m.

Vote: All Ayes.

Action: M/S/C (Wengraf/Droste) to end debate and call the question on Item 40.

Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila.

Action: 99 speakers. M/S/C (Arreguin/Droste) to adopt Resolution No. 69,483–N.S. as amended by the Budget & Finance Committee recommendations on June 29, 2020 (contained in the supplemental material from Mayor Arreguin in Supplemental Communications Packet #2), amended to remove the \$100,000 allocation for the Alcatraz Traffic Study, and in the supplemental materials from the City Manager accepted at the meeting. Additional direction provided to the City Manager to provide quarterly reports, with the first report in September 2020, on police overtime as written in the supplemental materials from Councilmember Harrison accepted at the meeting.

Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila.

Action Calendar – New Business

41. FY 2021 Annual Appropriations Ordinance

From: City Manager

Recommendation: Adopt first reading of an Ordinance adopting the FY 2021 Annual Appropriations Ordinance (AAO) in the amount of \$521,674,251 (gross appropriations) and \$439,737,989 (net appropriations).

Financial Implications: See report

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

Action: 0 speakers. M/S/C (Arreguin/Droste) to adopt first reading of Ordinance No. 7,724–N.S. as amended in the materials accepted at the meeting to revise the amounts in the recommendation to \$533,318,519 (gross appropriations) and \$447,702,457 (net appropriations). Second reading scheduled for July 14, 2020.

Vote: All Ayes.

42. Borrowing of Funds and the Sale and Issuance of FY 2020-21 Tax and Revenue Anticipation Notes

From: City Manager

Recommendation: Adopt a Resolution approving the borrowing of \$43,000,000 and the sale and issuance of Fiscal Year 2020-21 Tax and Revenue Anticipation Notes.

Financial Implications:

Contact: Henry Oyekanmi, Finance, (510) 981-7300

Action: 0 speakers. M/S/C (Arreguin/Wengraf) to adopt Resolution No. 69,484–N.S.

Vote: All Ayes.

Information Reports

43. Dispatch Audit Report Wins National Recognition

From: Auditor

Contact: Jenny Wong, Auditor, (510) 981-6750

Action: Received and filed.

44. City Auditor Fiscal Year 2021 Audit Plan

From: Auditor

Contact: Jenny Wong, Auditor, (510) 981-6750

Action: Received and filed.

Public Comment – Items Not Listed on the Agenda - 3 speakers.

Adjournment

Adjourned at 1:03 a.m.

I hereby certify that the foregoing is a true and correct record of the regular meeting of the City Council held on June 30, 2020.

Mark Numainville
City Clerk

Communications

ADU and Golden Duplexes

1. Elisa Mikiten
2. Erik Dreher
3. Lee Goodwin
4. Jas Kaminsky
5. Andrew Marowitz (2)
6. Lauren Schiller
7. Gail Martin

East Bay Community Energy Budget and Rates

8. Richard Collins

Telegraph Avenue Triangle

9. Diana Bohn

True Issues – Not Signage

10. Wini Williams

Good Cause Eviction

11. Susan Sky

Telecom Ordinance

12. Soula Culver

Clean Up Around Adeline and Alcatraz

13. Ms. Richie and Friends of Adeline

Insurance Coverage During Civil Unrest

14. Ricardo Lara, Insurance Commissioner

15. Mary Beth Bykowsky, on behalf of Community Relations and Outreach Branch

Surveillance and Technology Ordinance

16. Blair Beekman

Fuel Powered Leaf Blowers

17. Yvette Chalom

Trump=Nazi Graffiti

18. Elana Naftalin-Kelman (4)

LRDP and Campus Master Plan Update

19. Margot Smith

Measure GG Tax Rate

20. Gradiva Couzin, Chair, Disaster and Fire Safety Commission

Police Concerns

21. Russbumper

22. Catherine Huchting

23. Margy Wilkinson

24. G. Whittle

25. Carole Marasovic

26. Margy Wilkinson

27. Jane Ellis

28. Lori Pottinger

29. Caterina and Jonathan Polland

30. Tom Luce

31. Christine Schwartz

32. Bud Hazelkorn

- 33. Carol Denney
- 34. Elisa Mikiten

Black Business Owners

- 35. Vivian Warkentin

Removing Flyers

- 36. Carol Denney

Covid-19

- 37. Carla Woodworth
- 38. Rachel Bradley
- 39. Nikos Daniilidis (2)
- 40. Rochelle Nason, City Councilmember City of Albany
- 41. Dawn Abrahamson
- 42. David Lerman (5)
- 43. Lisa Hernandez, Health Office/City of Berkeley
- 44. Chimey Lee
- 45. Georg Torgun
- 46. Mariam Wolodarski Lundberg

South Berkeley Neighborhood Development Corp. Request

- 47. Landon William, on behalf of SBNDC

Supplemental Communications and Reports 1

Item #37: Proposed Amendment to Berkeley’s Minimum Wage Ordinance: Berkeley Municipal Code Chapter 13.99

- 48. Supplemental material, submitted by Health, Housing and Community Services

Item #42: Borrowing of Funds and the Sale and Issuance of FY 2020-21 Tax and Revenue

- 49. Supplemental material, submitted by Finance

Supplemental Communications and Reports 2

Item #38: Placing Charter Amendment Measure on the November 3, 2020 Ballot to Repeal the Residency Requirement for Sworn Members of the Berkeley Fire Department

- 50. Revised material, submitted by the City Manager’s Office

Item #39: Contract: CycloMedia Technology, Inc. for Geographic Information System Infrastructure Asset Data Acquisition

- 51. Supplemental material, submitted by Information Technology

Item #40: FY 2021 Mid-Biennial Budget Update Adoption

- 52. Supplemental material, submitted by Mayor Arreguin
- 53. Supplemental material, submitted by Councilmember Hahn

Item #42: Borrowing of Funds and the Sale and Issuance of FY 2020-21 Tax and Revenue

54. Supplemental material, submitted by Finance

Urgency Item: Adopt a Revised Resolution Calling a General Municipal Election to Add a Fifth Seat to be Elected to the Rent Stabilization Board for the November 3, 2020 Election

55. Urgent item, submitted by the City Clerk's Office

Urgency Item: Ordinance Allowing Temporary Outdoor Uses on Private Property

56. Urgent item, submitted by the Planning and Development Department

Supplemental Communications and Reports 3

Item #27: Approval and Levy of 2018 Clean Stormwater Fee in FY 2021

57. Supplemental material, submitted by Public Works

Item #33: Amend One-Way Car Share Program: Electric Mopeds, Fees, Deposits

58. Kerby Olsen

Item #34: Amendments to the Berkeley Election Reform Act; Amending Berkeley Municipal Code Chapter 2.12

59. Brad Smith, Chair of the Fair Campaign Practices Commissions

Item #35: Placing Charter Amendment Measure on the November 3, 2020 Ballot Related to Full-Time Status and Salaries for the Mayor and Councilmembers

60. Barbara Gilbert

Item #36: Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral

61. Nancy Rader

62. Barbara Gilbert

Item #40: FY 2021 Mid-Biennial Budget Update Adoption

63. Revised material, submitted by Budget

64. Supplemental material, submitted by Councilmember Harrison

65. Diana Pruet

66. Nancy Rader

67. Haak Saxberg

68. Rebecca Shea

69. Joel Mandella

70. S. Omowale Fowles

71. Jesse Barber

72. Uma Channer

73. Rumur Dowling

74. Tara Blossom

75. Alecia

76. Avi Simon

77. Erica Sladky

78. Toki Nagata

79. Sara Bancroft

80. Christine Schwartz
81. Laurel Chen
82. Vikram Nagarajan
83. MJ Baumann
84. Derethia Du Val
85. Mary Butler
86. Nicole Bores
87. Steven KoneffKlatt
88. Katrina Lapira
89. Sophia DeWitt
90. RJ Godin
91. Mary Butler
92. Mary Behm-Steinberg
93. Alice An
94. Benjamin Karin
95. Beth Bouffard
96. Rosslyn Contreras
97. Sanya Sehgal
98. Rahwa Neguse, on behalf of Healthy Black Families
99. Saadhana Deshpande
100. Sanya Sehgal
101. Haazim Amirali
102. Vicki Alexander
103. Mathew Vernon
104. Catherine Huchting
105. Kelysey Crutchfield-Peters
106. Ashley Ro
107. Cristina Biasetto
108. Hope Henderson
109. Juliana Fredman
110. Susun Kim
111. Jennifer Schlissel
112. Arielle Balbus
113. Adele Failes-Carpenter
114. Jessica Stern
115. Frances Schaeffer
116. Ace Chen
117. Grace Reinhalter
118. Diana Alvarado
119. Katherine Cording
120. Jonah Lounds
121. Olivia deBree
122. Michelle Yiu
123. Samantha Whitty
124. John Butterfield
125. Alison Lafferty

- 126. Alicia Roy
- 127. Elisa Mikiten
- 128. Eden Marish Roehr
- 129. Orly Suveda
- 130. Ellen Woods
- 131. Katie Look
- 132. Austin Henderson
- 133. Maya Canonizado
- 134. Diana Bohn
- 135. Amelia Rudberg
- 136. Richard Lee
- 137. Sydney Trieu
- 138. Gabriella Willenz
- 139. Barbara Gilbert
- 140. Irfan Kovankaya

Item #41: FY 2021 Annual Appropriations Ordinance

- 141. Revised material, submitted by Budget

Item #44: City Auditor Fiscal Year 2021 Audit Plan

- 142. Presentation, submitted by the Auditor

Urgency Item: Letter to IBank in Support of Berkeley's Save Our Small (SOS) Business Loan Fund

- 143. Urgent item, submitted by Councilmember Hahn

Urgency Item: Tenant's Ability to End a Lease

- 144. Urgent item, submitted by Councilmember Harrison
- 145. Tiffany Tong
- 146. Samy Cherfaoui
- 147. Tanya Koroyan
- 148. Elicia Ye
- 149. Mayor Jesse Arreguin
- 150. Christine Maly



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Mark Numainville, City Clerk
 Subject: Establish 2021 City Council Meeting Schedule

RECOMMENDATION

Adopt a Resolution establishing the City Council regular meeting schedule for 2021, with starting times of 6:00 p.m.

FISCAL IMPACTS OF RECOMMENDATION

None.

BACKGROUND

Pursuant to the Open Government Ordinance, the Council must adopt an annual regular meeting schedule totaling 24 meetings. The schedule generally consists of either two or three meetings per month and provides for Spring, Summer and Winter recess periods. Meetings have not been scheduled on City holidays, Election Day or days of major religious observance.

Nine City Council Worksessions will be consolidated and scheduled for 2021.

The Mayor or a majority of the Council may call special meetings as needed. The Council may also amend the regular meeting schedule when necessary.

ENVIRONMENTAL SUSTAINABILITY

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

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

- 1: Resolution
 Exhibit A: 2021 Council Calendar

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

ADOPTING THE CITY COUNCIL 2021 REGULAR MEETING SCHEDULE

WHEREAS, pursuant to the Open Government Ordinance, the Council must adopt an annual meeting schedule totaling 24 meetings; and

WHEREAS, the schedule generally consists of either two or three meetings per month and provides for Spring, Summer and Winter recess periods; and

WHEREAS, the proposed schedule (Exhibit A) provides for regular meetings to occur with starting times of 6:00 p.m. on specified Tuesdays of each month with exceptions provided for recess periods or when a meeting would fall on a City, religious or cultural holiday or Election Day; and

WHEREAS, the Council desires to establish as part of their schedule a Winter, Spring and Summer recess period for 2021; and

WHEREAS, the Mayor or a majority of the Council may call special meetings or revise the regular meeting schedule when necessary.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council adopts the 2021 regular meeting schedule on specified Tuesdays at 6:00 p.m. as indicated:

Winter Recess – December 16, 2020 – January 18, 2021
January 19 and January 26, 2021
February 9 and February 23, 2021
March 9, March 23, and March 30, 2021
Spring Recess – March 31 – April 19, 2021
April 20 and April 27, 2021
May 11 and May 25, 2021
June 1, June 15 and June 29, 2021
July 13 and July 27, 2021
Summer Recess – July 28 – September 13, 2021
September 14 and September 28, 2021
October 12 and October 26, 2021
November 9, November 16, and November 30, 2021
December 14, 2021
Winter Recess – December 15, 2021 – January 17, 2022

Exhibit A: 2021 Council Calendar

City Clerk Department 2021 Council Calendar

(Subject to change. For the latest information, please contact the City Clerk Department, 981-6900.)

Date	Time
January	
Winter Recess (Dec. 16, 2020 – Jan. 18, 2021)	
Jan 19	6:00 p.m.
Jan 26	6:00 p.m.
February	
Feb 9	6:00 p.m.
Feb 23	6:00 p.m.
March	
Mar 9	6:00 p.m.
Mar 23	6:00 p.m.
Mar 30	6:00 p.m.
April	
Spring Recess (March 31 – April 19, 2021)	
April 20	6:00 p.m.
April 27	6:00 p.m.
May	
May 11	6:00 p.m.
May 25	6:00 p.m.
June	
June 1	6:00 p.m.
June 15	6:00 p.m.
June 29	6:00 p.m.
July	
July 13	6:00 p.m.
July 27	6:00 p.m.
Summer Recess (July 28 – Sept. 13, 2021)	
September	
Sept 14	6:00 p.m.
Sept 28	6:00 p.m.
October	
Oct 12	6:00 p.m.
Oct 26	6:00 p.m.
November	
Nov 9	6:00 p.m.
Nov 16	
Nov 30	6:00 p.m.
December	
Dec 14	6:00 p.m.
Winter Recess (Dec. 15, 2021 – Jan. 17, 2022)	



Office of the City Manager

CONSENT CALENDAR
JULY 28, 2020

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Erin Steffen, Assistant to the City Manager
 Subject: Grant to Animal Services from the Avast Foundation

RECOMMENDATION

Adopt a Resolution accepting a grant for Animal Services from the Avast Foundation in the amount of \$10,000.

FISCAL IMPACTS OF RECOMMENDATION

A grant in the amount of \$10,000 awarded by Avast Foundation to Animal Services will be used for emergency/urgent veterinary care and be deposited and expensed from the One-Time Grant: No Capital Expenditure Fund. The appropriation of the grant funds will be included in the First Amendment to the FY 2021 Annual Appropriations Ordinance. Animal Services spends approximately \$20,000 annually on emergency/urgent veterinary care and a \$10,000 grant will subsidize 50% of this expense.

CURRENT SITUATION AND ITS EFFECTS

Berkeley Animal Care Services houses and cares for approximately 1400 stray, surrendered and abandoned domestic animals each year. Many animals arrive needing emergency or urgent care for injuries or advanced disease processes. Animal Care Services strives to treat all sick and injured animals that have a good chance of recovery and adoption and uses two Berkeley based veterinary clinics to provide such care. Emergency veterinary care is specialized and higher in cost than routine veterinary care, presenting ongoing financial challenges. However, providing emergency and urgent veterinary care is critical to maintaining a high live release rate and low euthanasia rate for shelter animals.

BACKGROUND

An Avast Foundation program, "Together with Employees 2020" allows Avast employees to nominate community agencies with which they volunteer to receive financial grants in support of their work. Berkeley Animal Care Services was nominated through this program and awarded \$10,000 to provide 'Emergency Veterinary Procedures and Surgeries' over a twelve-month period.

RATIONALE FOR RECOMMENDATION

Berkeley Animal Care Services must provide emergency/urgent veterinary care to shelter animals in order to maintain a high live release rate. A grant in the amount of \$10,000 will subsidize 50% of the amount that Animal Care Services spends annually on this care.

ALTERNATIVE ACTIONS CONSIDERED

If the City were not to accept the \$10,000 Avast grant, Animal Care Services would need to use a comparable amount from the Animal Services Donation Fund for emergency veterinary care.

ENVIRONMENTAL SUSTAINABILITY

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

CONTACT PERSON

Amelia Funghi, Animal Shelter Manager (510) 981-6603

RESOLUTION NO. -N.S.

ACCEPTING A GRANT FOR ANIMAL SERVICES FROM THE AVAST FOUNDATION
IN THE AMOUNT OF \$10,000

WHEREAS, The Avast Foundation has awarded Berkeley Animal Care Services a grant; and

WHEREAS, Animal Care Services houses and cares for approximately 1400 stray, surrendered and abandoned animals each year; and

WHEREAS, many of the animals that come to Berkeley Animal Care Services are in need of emergency or urgent veterinary care; and

WHEREAS, Animal Care Services treats sick and injured animals that have a good chance of recovery and adoption in order to avoid euthanasia and successfully rehome animals; and

WHEREAS, the donation in the sum of \$10,000 will be deposited in the One-Time Grant: No Capital Expenditures Fund and appropriated as part of the First Amendment to the FY 2021 Annual Appropriations Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council accepts a grant to Animal Services from the Avast Foundation the amount of \$10,000.



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Jordan Klein, Manager, Economic Development
 Subject: Grant from the California Arts Council

RECOMMENDATION

Adopt a Resolution accepting a \$10,500 grant from the California Arts Council for the Berkeley Civic Arts Program to partner with the Berkeley Unified School District (BUSD) and four community arts providers to provide arts programming for BUSD summer sessions.

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts to the City. This grant adds funding to a pool of three grants that have already been awarded directly to our project partners for this summer arts program, including a UC Chancellor's Community Partnership Grant for \$15,000 and two grants from the Berkeley School Excellence Fund totaling \$8,250. The California Arts Council grant funds will be deposited and expensed from the One-Time Grant Fund to pay our community partners to implement this program. The grant will be appropriated in the FY 2021 Midyear Budget Update and is subject to Council approval of this item in November 2020.

CURRENT SITUATION AND ITS EFFECTS

Berkeley Civic Arts Program has partnered with BUSD and four community arts providers: Berkeley Repertory Theatre, Kala Art Institute, Shawl-Anderson Dance Center and Freight & Salvage/Playing With Tradition to bring robust theater, visual arts, dance, and music learning experiences to students during the BEARS summer session. The BEARS Program (Berkeley's Excellent Academic Road to Success) provides free or low cost year-round care for students whose families qualify based on income. The program normally takes place at three Berkeley Unified School District elementary sites (Washington, Silvia Mendez, and the Berkeley Arts Magnet schools) which offer academic and enrichment support to BEARS students during the summer. Due to COVID-19, the BEARS program was cancelled for summer 2020.

The project team will continue meeting during the coming school year to plan how this arts program may be offered next summer in alignment with BUSD protocols for implementation of next summer's BEARS program. It is possible that the program will need to pivot to be offered through a distance learning format, which will require

additional planning, but if allowed to meet in person, the original plan was as follows: In month 1, instruction is offered by Kala Art Institute (grades K-2) and Berkeley Repertory Theatre (grades 3-5) teaching artists. In month 2, instruction is offered by Shawl-Anderson Dance Center (K-2) and Freight & Salvage (grades 3-5) at all sites. Undergraduate students from Berkeley City College (2 students) and UC Berkeley's Cal C.R.E.A.T.E. service learning (2-4 students) will support and be mentored by the teaching artists throughout the project, with time allocated to co-plan the curriculum and evaluate the project and participants' work.

These Berkeley arts organizations prioritize engaging teaching artists of color who have extensive experience with culturally responsive pedagogy, including:

- Creating a safe learning environment (establishing community agreements).
- Reshaping curriculum to reflect the cultural identities of the students.
- Encouraging risk-taking and effort, not final product.
- Valuing everyone's contribution.
- Engaging students in setting their own goals, reflecting on accomplishments, and assessing areas of success and areas of growth.

Each teaching artist shares the approach of integrating creative exploration with discipline-specific skill building and is committed to centering youth creative voice.

BACKGROUND

The Civic Arts Commission and the Civic Arts Program have continued to champion equitable access to quality arts education offerings in the afterschool programs of BUSD. The "Arts and Culture Plan for the City of Berkeley" includes the goal of bolstering arts education programming that complements the public school (K-12) context and specifically calls for raising funds to develop a pilot arts education program in the BEARS summer session. We first initiated this effort in 2015 by applying for and receiving funding for two years from the Chancellor's Community Partnership Fund to study arts education at BUSD after-school programs. We worked with our university research partner, the Principal Leadership Institute in the Graduate School of Education at UC Berkeley, on a study which found disparities in art enrichment offerings between the various BUSD afterschool programs. With second year funding we continued working with our campus partner, as well as BUSD and community arts stakeholders, to identify the steps necessary to address these disparities.

The top recommendation was to address these inequities by implementing a robust summer arts program for BEARS students, who were found to lack access to quality arts education offerings. Based upon research done by our campus partner, we also believe that including a robust arts program within the BEARS summer session will support the 2020 Vision for Berkeley's Children and Youth goal of closing the achievement gap.

Working with the BEARS administrator and community arts stakeholders, we implemented a mini-pilot program of field trips during summer 2018 to Berkeley Repertory Theatre and Luna Dance Institute, which provided BEARS summer students with hands-on arts experiences in performing arts and dance. This mini-pilot was considered a successful proof of concept and the feedback from our BUSD partners was favorable and was the basis for the fundraising efforts that will enable the current BEARS arts summer program which these grant funds would support. The project team has successfully applied for and been awarded three other grants to support this project: a UC Chancellor's Community Partnership Grant for \$15,000 and two grants from the Berkeley School Excellence Fund totaling \$8,250.

ENVIRONMENTAL SUSTAINABILITY

There are no environmental sustainability effects.

RATIONALE FOR RECOMMENDATION

Due to COVID-19, enrichment programs for BUSD students have been negatively impacted. With this grant funding, the City will be able to participate in providing much-needed enrichment within the BEARS summer program. A number of the BEARS students experience challenges in their academic progress. District-wide, only 22% of African American and 56% of Latinx third grade students are at or above grade level in reading, and 27% of African American and 43% of Latinx students in eighth grade are at or above grade level in math. While the arts programming is not intended to address directly the academic challenges, the partners involved in this project believe that participating in engaging arts learning experiences will improve students' self-concept, motivate improved school attendance and develop interpersonal skills like collaboration, communication and creativity, which are foundational to academic success.

ALTERNATIVE ACTIONS CONSIDERED

No alternatives were considered.

CONTACT PERSON

Jennifer Lovvorn, Chief Cultural Affairs Officer, 981-7533

Attachments:

- 1: Resolution
- 2: Grant Award Letter from the California Arts Council
- 3: Grant Application to the California Arts Council

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

GRANT FROM THE CALIFORNIA ARTS COUNCIL FOR THE BERKELEY CIVIC ARTS PROGRAM TO PARTNER WITH THE BERKELEY UNIFIED SCHOOL DISTRICT (BUSD) AND FOUR COMMUNITY ARTS PROVIDERS TO PROVIDE ARTS PROGRAMMING FOR BUSD SUMMER SESSIONS

WHEREAS, the “Arts and Culture Plan for the City of Berkeley” includes the goal of bolstering arts education programming that complements the public school (K-12) context and specifically calls for raising funds to develop a pilot arts education program for BUSD Berkeley’s Excellent Academic Road to Success (BEARS) summer session, which provides free or low cost year-round care for students whose families qualify based on income; and

WHEREAS, the Berkeley Civic Arts Program has partnered with BUSD and four community arts providers—Berkeley Repertory Theatre, Kala Art Institute, Shawl-Anderson Dance Center, and Freight & Salvage/Playing With Tradition—to bring robust theater, visual arts, dance and music learning experiences to students during the BEARS summer session; and

WHEREAS, a mini-pilot art program was successfully implemented in the BEARS Summer Program in 2018 and the BUSD expressed interest in implementing a more robust version of this program during a future summer; and

WHEREAS, the BEARS Summer Art Program for summer 2021 is already partially funded by grants from the UC Chancellor’s Community Partnership Grant Fund (\$15,000) and the Berkeley School Excellence Fund (\$8,250); and

WHEREAS, the Civic Arts Program applied for a grant from the California Arts Council to double the arts offerings included in this program; and

WHEREAS, the California Arts Council has awarded a \$10,500 grant for this purpose and these funds will be put into revenue account code 336-21-208-252-0000-000-000-434110.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the \$10,500 grant from the California Arts Council be accepted.



Gavin Newsom, Governor

Advancing California through the Arts and Creativity

Anne Bown-Crawford, Executive Director

June 02, 2020

Application ID: **YAA-19-6951**

Jennifer Lovvorn
Berkeley Civic Arts Program
2180 Milvia Street 5th Floor
Berkeley, CA 94706

Dear Jennifer,

Congratulations!

I am pleased to inform you that at its **April 01, 2020** public meeting, the California Arts Council awarded **Berkeley Civic Arts Program** a **Youth Arts Action** program grant for application **YAA-19-6951**. The award amount is **\$10,500**.

The Council is honored to support you, and we look forward to working with you in this important program.

PLEASE NOTE: In response to the impacts of COVID-19 on the arts and culture field, you will be permitted to adjust your planned activities and/or budget without prior approval from the CAC. It is important to our Council that you are provided with this flexibility in order to keep grant funds in local communities. Priority should be given to compensating artists and other cultural workers included in the original scope of work at the amounts indicated in the original budget, only reduced by a small percentage if the full request was not granted. Other expenses in your budget may be transferred to any permitted costs without prior written approval from us. Each grantee will be required to report on the adjusted activities and outcomes that reflect the above stated Priority in the Final Report before receiving the last 10% of their award.

Refer to the FAQ at this link for more information.

[COVID-19 Response: Guidance for Current CAC Grantees and Awardees.](#)

Due to high volume of applications, we will prioritize honoring requested Panel review comments to applicants who did not receive funding this year. We hope to provide the requested comments between mid-April through late June 2020.



Gavin Newsom, Governor

Advancing California through the Arts and Creativity

Anne Bown-Crawford, Executive Director

Your work plays an important role as we continue to demonstrate the power of the arts throughout the state of California. CAC's Public Affairs staff will connect with you throughout your grant period to stay up to date on your success, and to ask for your help in supporting important Arts Council efforts such as our Arts License Plate and Keep Arts in Schools tax season campaign.

Please direct any questions you may have to J. Andrea Porras, Youth Arts Action Program Specialist at andrea.porras@arts.ca.gov.

Thank you for all you do to advance culture, creativity, and the arts in your community.

We wish you the best of luck and much success in your work.

Sincerely,

A handwritten signature in black ink, appearing to read "Anne Bown-Crawford".

Anne Bown-Crawford
Executive Director



Application Owner: Jennifer Lovvorn
Applicant Organization: Berkeley Civic Arts Program

Grant Activity Period: July 01, 2020 to June 30, 2021.

Applicant Information

INSTRUCTIONS:

Please review current year **Youth Arts Action Guidelines** at [CAC Grant Programs](#) for complete program information and submission requirements.

For questions regarding this application, contact the Arts Program Specialist below:

Name: **J. Andrea Porras**
Email: andrea.porras@arts.ca.gov
Contact: **(916) 322-6395**

Application Deadline: November 22, 2019, 11:59 PM. Exceptions will not be made for any submission attempts after the stated grant deadline.

Total Operating Revenue from last completed fiscal year

This amount must match the figure reported in either the submitted Budget Snapshot or DataArts' CAC Funder Report, Total Operating Revenue field, as applicable to this grant application.

\$1,411,661

Grant Requests cannot exceed 50% of an organization's total operating revenue from its last completed fiscal year as reported in the Budget Snapshot or SMU DataArts Funder Report.

Organizations may request up to \$20,000.



Grant Request Amount

\$10,500

Provide a brief summary of your proposal indicating how CAC grant funds would be used. This description will be used to introduce your proposal to the review panel. If funded, this description may be used as the Scope of Work in your grant contract and will be binding. It may also be edited by CAC and used to summarize your proposal in public documents.

Please begin your summary with the following: "With support from the California Arts Council, Berkeley Civic Arts Program will..."

With support from the California Arts Council, Berkeley Civic Arts Program will partner with four community arts providers: Berkeley Repertory Theater, KALA Art Institute, Shawl-Anderson Dance Center and Freight & Salvage to bring robust hands-on theater, visual arts, dance and music learning experiences to underresourced students during the BEARS summer session. The BEARS Program provides free or low cost year-round care for students whose families qualify based on income.

Is your organization applying to this grant in partnership with a Fiscal Sponsor?

No

National Endowment for the Arts (NEA) Accessibility Checklist

The NEA Office of Accessibility <https://arts.gov/accessibility/accessibility-resources/nea-office-accessibility> provides information and support to make the arts accessible for people with disabilities, older adults, veterans, and people living in institutions.

CAC encourages your organization to review the NEA Office of Accessibility website. Please verify that you have downloaded and reviewed their Brief Accessibility Checklist <https://www.arts.gov/sites/default/files/BriefChecklist-February2020.pdf>, an instructive tool created as a guide to ensure physical and communication access to organizations and projects.

Our organization has downloaded and reviewed the NEA Office of Accessibility Brief Accessibility Checklist.

Organization Details



The following information is repeated from your Organization Profile. Review for accuracy and completion. If necessary, modifications may be made by accessing the Organization Profile from the Dashboard of the Applicant Organization's Primary Contact (see below).

Organization Name: Berkeley Civic Arts Program
Primary Contact Name: Jennifer Lovvorn
Primary Contact Email: JLovvorn@cityofberkeley.info
Business Address: 2180 Milvia Street, 5th Floor, Berkeley, CA 94706
Mailing Address: , ,
County: Alameda
Region: Bay Area – Other

Executive Leader Name: Jennifer Lovvorn
Executive Leader Phone: (510) 981-7533 **Phone Ext (if applicable):**
Executive Leader Contact Email: JLovvorn@cityofberkeley.info

Year organization began arts programs and/or services: 1980

Organization's Mission Statement: The Berkeley Civic Arts Program supports a culturally vibrant and diverse arts ecosystem within the City of Berkeley.

Summary of core organizational programs and services: The Berkeley Civic Arts Program's core programs and services are:

- Funding grants to artists arts organizations and festivals.
- Providing opportunities for artists to create and display work in the public realm.
- Support high quality arts education programs to provide all Berkeley students and lifelong learners with equitable access to an enriching and creative education.
- Ensuring equitable access to high quality arts and culture for residents and visitors alike.

Narrative Questions

Provide a detailed description of your proposed project, including the hands-on learning to occur, and the specific artistic and/or cultural discipline(s) youth will engage in. Identify the activity locations, providing the name of the artistic venues, community settings, and/or school sites involved. Be sure to include how your project will accomplish one or more of the Youth Arts Action (YAA) program goals:

- Provide social-emotional creative experiences in safe and nurturing environments.
- Foster creative abilities of youth through culturally and linguistically responsive arts learning.
- Support arts programs that seek to activate youth voices, narratives, and perspectives.
- Utilize cultural assets of the local community to support positive self-identification and respect for diverse cultures.
- Empower youth through the preservation, revitalization, and/or reclamation of cultural practices.
- Cultivate the development of transferable life skills such as critical thinking, problem solving, leadership, and collaboration.

Berkeley Civic Arts Program will partner with four community arts providers: Berkeley Repertory Theater (BRT), KALA Art Institute (KAI), Shawl-Anderson Dance Center (SADC) and Freight & Salvage/Playing With Tradition (FS) to bring robust hands-on theater, visual arts, dance and music learning experiences to under-resourced students during the BEARS summer session. The BEARS Program (Berkeley's Excellent Academic Road to Success) provides free or low cost year-round care for students whose families qualify based on income. The program takes place at three Berkeley Unified School District elementary sites (Washington, Silvia Mendez, and the Berkeley Arts Magnet schools) which offer academic and enrichment support to BEARS students during the summer. In month 1, instruction is offered by KAI (grades K-2) and BRT (grades 3-5) teaching artists. In month 2, instruction is offered by SADC (K-2) and FS (grades 3-5) at all sites. Undergraduate students from Berkeley City College (2 students) and UC Berkeley's CAL C.R.E.A.T.E. service learning (2-4 students) will support and be mentored by the teaching artists throughout the project, with time allocated to co-plan the curriculum and evaluate the project and participants' work.

These Berkeley arts organizations prioritize engaging teaching artists (TAs) of color who have extensive experience with culturally responsive pedagogy, including:

- Creating a safe learning environment (establishing community agreements).
- Reshaping curriculum to reflect the cultural identities of the students.
- Encouraging risk-taking and effort, not final product.
- Valuing everyone's contribution.
- Engaging students in setting their own goals, reflecting on accomplishments, and assessing areas of success and areas of growth.

Each teaching artist shares the approach of integrating creative exploration with discipline-specific skill-building and is committed to centering youth creative voice.

SADC TA Ashley Crockett teaches hip-hop and creative dance. Classes will balance direct instruction (warm ups and combinations) with child-centered creative dance exercises to offer choice-making and student voice and ownership.

FS TA Najee Amaranth focuses on developing students' music skills through hip-hop. Najee introduces the



skills of journaling, rapping and rhyming. Students use prompts to generate ideas, use quiet reflection time to compose and refine their own original works, and gain confidence in performing for others.

KAI TA Yael Levy introduces elements of comic book design to her students. Students develop a unique character, and explore a variety of different facial expressions, postures, and situations for them. Each class will then create a collaborative comic story that incorporates characters or design elements contributed by every student.

BRT TA (TBD) will introduce students to the fundamentals of improvisational theater, exploring theater games that invite creative and spontaneous choices within structure.

Timeline:

All activities to be funded by this CAC grant must occur within the stated Grant Activity Period of July 01, 2020 to June 30, 2021. Please indicate the start and end dates for your project in the fields below.

Project Start Date: 07/01/2020

Project End Date: 08/07/2020

Provide a detailed timeline of all key arts programming and/or services that will occur within the Grant Activity Period.

The BEARS Summer Arts Program instruction occurs over two months, from June 1 through July 31, 2020. The visual arts and theater instruction offered in June is funded through other monies. CAC-funded instruction in dance and music as well as the demonstration of learning event and evaluation are implemented during the grant period from July 1-August 7, 2020.

July 1-3

Prior to beginning instruction, representatives from Freight & Salvage Music Program and Shawl-Anderson Dance Center as well as the Berkeley Youth Works internships will meet with the BEARS program administrator to review the MOU, clarify expectations around ongoing communication and tour the facilities where arts instruction will occur. A letter to families will be sent, announcing the arts programming and inviting families to the demonstration of learning event.



Teaching artists (TAs) will visit the two sites and meet BEARS staff. TAs conduct 2 hours of classroom observation each to acquaint themselves with the students and the various classroom environments.

July 6 - 31

FSMP will teach a series of four 1-hour hip-hop music production classes to the following four classes of approximately 25 students each:

- 3rd grade class at Washington Elementary,
- Combined 4th-5th grade at Washington,
- 3rd grade class at Berkeley Arts Magnet (BAM),
- Combined 4th-5th grade at BAM.

(1 hour x 4 weeks x 4 student groups =16 classes)

Simultaneously, SADC will teach a series of four 1-hour dance classes to the following four classes of approximately 20 K-2 students each:

- K/1 class at Silvia Mendez (SM);
- K/1 combo class at BAM;
- Combined 2/3 class at SM;
- Combined 2/3 class at BAM.

(1 hour x 4 weeks x 4 student groups =16 classes)

After the academic support offered to BEARS students in June ends, the students will be consolidated at two sites. This is based on historical patterns of declining student attendance in July.

July 6-31

To complement the learning in the BEARS summer arts program, each group of students will take a field trip to their respective arts provider. Students visiting FS will be given a tour of the facility including the stage, backstage, practice rooms, etc. and have sample class activities on the professional stage. Students visiting SADC will tour the studios and have sample class activities there.

July 31

The BEARS summer arts program will culminate in “demonstration of learning” events at the end of the final week. The Washington, the Silvia Mendez and Berkeley Arts Magnet sites' students will come together at a designated site for the culminating performance for families. Showing student work creates a shared community experience and gives students and families a chance to see students' work in a professional context.

August 5

After arts programming concludes, surveys are administered to students, and shared and analyzed. A debrief meeting is held with all stakeholders to capture lessons learned and suggestions for improvement



next year.

Describe the community of youth who will participate in the project, including ages or age ranges served.

YAA only supports projects for youth from infancy through age 24 that operate outside of school time, in artistic venues and community settings as well as on school sites.

The BEARS program serves 250 TK-5th grade students from across Berkeley. Students participating in the summer arts programming will range in age from 6 - 11 years (6-9 year olds will take visual arts and dance, 10-11 year olds will take theater and music). The ethnic breakdown of the students enrolled in the program is: 48% African-American, 34% Hispanic, 10% White, and 8% Asian/Pacific Islander. The program serves a majority of lower-income students with 68% qualifying for free or reduced-price lunch through the National School Lunch Program. Approximately 35% of the students are English-learners, speaking primary languages including Spanish and Arabic. The BEARS program is unique in that many of the students have grown up with the BEARS staff being a constant in their lives. Many of the sixteen staff have been employed in the program for decades, and not only know the children well, but know their parents and members of their extended families, who may have passed through the program in the previous generation. There is a sense of family among the youth, their parents and the BEARS staff.

A number of the BEARS students experience challenges in their academic progress. District-wide, only 22% of African American and 56% of Latinx third grade students are at or above grade level in reading, and 27% of African American and 43% of Latinx students in eighth grade are at or above grade level in math. While the arts programming is not intended to address directly the academic challenges, the partners involved in this project believe that participating in engaging arts learning experiences will improve students' self-concept, motivate improved school attendance and develop interpersonal skills like collaboration, communication and creativity, which are foundational to academic success.

Describe how youth participants will develop creativity and/or gain artistic skills and knowledge over the course of the project.



Each of the arts organizations' teaching artists shares a common approach to curriculum design and instruction: integrating opportunities for creative exploration with discipline-specific skill building.

Hip-hop Music Teaching Artist (TA) will focus on developing students' skills in hip-hop: writing, rhyming, rapping, and learning about the history and culture of the form. Inherent in this skill set are journaling, self-expression, and vocal technique. Students will learn to work together to develop original pieces in ensembles. Problem-solving skills and the art of collaboration are developed through the interplay of multiple ideas; students explore how music and lyrics work together and learn how to prioritize and edit. Students will maintain individual journals and produce a collective recording "portfolio" documenting their learning over the four weeks of instruction.

Dance TA will teach hip-hop and creative dance. Classes will balance direct instruction (warm ups and combinations) with child-centered creative dance exercises to offer choice-making and student voice and ownership. Teaching a specific hip-hop vocabulary as well as creative exercises builds students' technique and expressive voices. Video clips of artists such as Judith Jameson and Bill T. Jones are intentionally selected to show students that non-white artists create brilliant and powerful work and that these students can too.

Visual Arts TA will introduce elements of comic book design to her students. Students develop a unique character, and explore a variety of facial expressions, postures, and situations for them. Each class will then create a collaborative comic story that incorporates student characters and design elements.

Theater TA will introduce students to the fundamentals of improvisational, exploring theater games that invite creative choices within structure. Working with the idea of "yes, and-" students will practice spontaneous inclusion and integration of new ideas.

Describe how the project design provides for safe, healthy, and appropriate learning environments for the youth participants.



All four arts providers will feature artists with extensive experience working with youth. Our intention is for the demographics of teaching artists to mirror those of the students where possible. African American hip-hop artist Najee will teach music and biracial dance artist Ashley will teach hip-hop dance as well as creative dance exercises that invite student creativity. Visual arts artist Leah and the potential theater artist from Berkeley Rep have experience of being embedded in communities with similar demographics.

The content taught by these artists is aligned with the art-making they do professionally in the Bay Area, and we believe will appeal to students because of the forms' basis in popular youth culture. Hip hop dance and music, comic book design and improv theater are forms of cultural expression that will be of interest to the elementary-aged BEARS students.

The TAs teach using culturally responsive pedagogy. Agreements crafted by the TAs with their students at the start of program will include maintaining a respectful physical and emotional space, making it ok to take risks, having the right to pass, etc. Class sessions will begin with a check-in activity, integrating movement or sound for example, helping students arrive and get grounded, and end with a closing out ritual and reflection. Students are exposed to examples of non-white artists in each discipline, and teaching artists communicate the message that anyone can be an artist and that talented BEARS students can and should contribute to these fields. As appropriate to their age, students will be invited to take leadership roles in these rituals. Creative activities will involve choice and collaboration.

In what ways will the artistic and/or cultural providers measure the artistic and developmental outcomes of the youth participants?



The arts providers will assess artistic and developmental outcomes in the following ways:

1) Age-appropriate post surveys based on the Afterschool Initiative's Toolkit for Evaluating Positive Youth Development will be administered, covering the domains of Arts and Recreation, Cultural Competency and Sense of Self. Statements such as "I enjoy dance/music/theater more" and "I know more about my people from my own racial/ethnic group" and "I learned to do things that I didn't think I could do before" are followed by choices Yes, Kind of, Not really. This data will yield information about the developmental outcomes of youth participants.

2) The culminating events in week 4 are demonstrations of learning for the students themselves, as well as families, teachers and fellow students. This demonstration of learning might include musicians playing recordings or performing live raps; dancers demonstrating choreography, actors demonstrating improv exercises and a gallery display of visual art works. The culminating event provides a snapshot of what dance, theater and music students know and can do in a performative setting. For some students, performing in front of a live audience is stressful and isn't a setting where they can best demonstrate their skills. Where possible, students will be given the option of video recording their work in a regular classroom setting, as another way to demonstrate what they have learned.

Is your project tuition-based? If indicating "Yes," the applicant must describe a robust equity and accessibility plan that includes scholarships and reduced fees.

No

Quantitative Questions

Figures entered below should encompass anticipated activities and individuals to be directly affected by or involved in programs and services if funded by this CAC grant, and occurring within the grant period. Enter "0" for any items that are not applicable or for which you do not have supportable estimates.

Artistic disciplines to be taught

Dance, music, theater and visual arts

Duration and frequency of sessions (e.g. 1 hour, twice a week for twelve weeks)

Each arts discipline 60 min/week for 4 weeks (music, dance, theater, visual arts)



Number of sites served

3

Number of total individuals to benefit directly (individuals participating in the core program activities)

230

Number of individuals to benefit indirectly (audience members, beneficiaries of public art installations, etc.)

200

Estimated number of participants to receive full scholarship

230

Key Personnel Bios

Provide a brief biography for each key individual (artistic, technical, or administrative) involved in this project. Include name, title, whether to be supported by CAC funds, relevant experience as it relates to this project, and role within the proposed activities.

Aaron Jorgensen, Administrative Lead (supported through other funding) - Mr. Jorgensen is the Extended Learning Program Supervisor for the Berkeley BEARS Afterschool and Summer Programs. Mr. Jorgensen has supported increased arts learning opportunities for students in the BEARS program since the Chancellor's Grant research in 2016 highlighted the disparities between the BEARS subsidized program for low-income families and the LEARNS afterschool program for the general population. Mr. Jorgensen will promote the summer arts learning opportunity to families and facilitate access to the teaching artists during the summer program. He will provide support as needed to ensure that the program runs smoothly from the initial meetings and teaching artists' classroom observations through arts programming, the culminating event and program evaluation.

Ashley Crockett, Dance Teaching Artist (supported by CAC funding) - Ms. Crockett graduated from UC



Irvine with a B.F.A in Dance Performance and minor in Business Management in 2012. She has performed with Alayo Dance Company, PUSH Dance Company, David Herrera Dance Company, Mix'd Ingrdnts, and Urban Jazz Dance Company. Crockett is the Co-Director of Visceral Roots Dance Company, a troupe of dancers of color committed to socially aware choreography. Ms. Crockett has been teaching K-12 students for the past 6 years in schools, summer programs, and dance studios, including at Shawl-Anderson Dance Center, AileyCamp, and John Muir Elementary (Berkeley Unified School District). She will teach hiphop and creative movement to all K-2 graders during the grant period (second month of BEARS summer program).

Najee Amaranth, HipHop Music Teaching Artist (supported by CAC funding) - Najee Amaranth is an Oakland-based rapper, educator and software developer. As a founder of the artist collective Oakland Mind, he has helped create spaces for artists and raised awareness on various social issues, including human trafficking. He has taught hip-hop culture classes (history, rap skills, performing skills) for all ages, from elementary through college. Elementary sites include Hoover Elementary in Oakland, Fairview Elementary in Hayward and Carver Elementary in San Francisco. He is currently on staff at the Freight & Salvage as the hip-hop teacher for the PLAYING WITH TRADITION program. Mr. Amaranth will teach hip-hop music production to all 3-5th graders during the grant period (second month of BEARS summer program).

Leah Yael Levy, Visual Arts Teaching Artist (supported through other funding) - Ms. Levy is a visual artist storyteller and teacher based in Berkeley, CA. Born and raised in Israel, she moved to New York City in 2002 to attend the Art Students League of New York, and later completed a BFA of Illustration from Parsons the New School for Design (2011). She moved to California to pursue an MFA in Comics at California College of the Arts (2017). She is a Teaching Artist in Kala's Artists in Schools program and was an Artist In Residence at Kala. She also teaches Mural Painting for the Richmond Art Center and various art classes for the JCC of the East Bay. Ms. Levy will teach visual arts to all K-2 students in the first month of the BEARS summer program.

TBD, Theater Teaching Artist (supported through other funding) - Berkeley Repertory teaching artists are a collection of artists with various backgrounds. They teach both with standards based curriculum and provide skill-based expertise for public programs on our Berkeley Rep campus. They have degrees from Yale School of Drama, Julliard, UCLA, Harvard, and New York University, they have graced the stages of Oregon Shakespeare Festival, Berkeley Repertory Theater, ACT, Yale Rep, and The Guthrie, to name a few, as actors, directors, choreographers, fight choreographers, playwrights and designers. They consistently strive to better themselves as artists and teachers for their community. Berkeley Repertory Theater will provide an experienced teaching artist will teach theater arts to all 3-5 students in the first month of the BEARS summer program.



If proposing therapeutic outcomes, applicants must establish the qualifications of service providers, how strategies are appropriate to the clinical and/or community arts setting, and how support is culturally responsive to participants.

Are therapeutic outcomes proposed for this project?

No

Equity

Describe how your project design and implementation reflects a commitment to include and represent the communities to be served.

Aaron Jorgenson, BEARS program director, has been involved in planning for this project since its inception, along with representatives from Shawl Anderson Dance Center, Freight & Salvage Music Program, Berkeley Repertory Theater and Kala Art Institute. The Director's support of the BEARS summer arts learning initiative is echoed by the staff and students who participated in the pilot project in the summer of 2018. In that pilot, students and staff visited Berkeley Repertory Theater and Luna Dance Institute and did arts learning activities on site. Students were curious and enthusiastic and the majority wanted more such experiences.

Each arts provider is committed to working with racially diverse teaching artists who have been training in culturally responsive pedagogy. In addition, the content of the each curriculum intentionally includes examples of non-white artists and/or cultural forms outside of traditional Western European choices. For example, in dance, students might learn about Judith Jameson of the Alvin Ailey Dance Company. For music, the hip-hop form originates in black culture with abundant mentor artists. In a visual art unit on comic books, students would be introduced to the work of local artist Trinidad Escobar, and in improv theater, students would be introduced to Culture Clash, a satirical latinx comedy group.

The project design includes a demonstration of learning event for families at the end of the months of programming. Families of students are invited to attend a demonstration of learning event and celebration featuring student dances, theater and music works as well as an exhibition of visual arts at the designated school site.

In addition, BEARS students will take field trips to the arts providers so that the message can be reinforced: "This arts form belongs to you, and you belong here, in this community space." Assessment will include students' and BEARS staff's opinions and suggestions to inform planning for the following year.

The four community arts providers are committed to providing discounted or free admission to at least one event and/or scholarships to their community-based instructional programs to increase the representation of low income communities of color at these Berkeley flagship organizations.

Accessibility



The CAC is committed to making the arts accessible and inclusive for all Californians. All CAC-funded programs, services, information, and buildings and facilities where funded activities take place must be accessible.

Describe your approach to ensuring the physical accessibility of programs and services for this project, as well as the accessibility of print and online materials. Consider personnel of the applicant organization and any partnering organizations, as well as program participants, and potential audience members in your response.

Summer arts learning will take place at three Berkeley Unified elementary schools, each of which is wheelchair accessible. Teaching artists for each art form are trained in offering appropriate accommodations to differently-abled students in dance, music, theater and visual arts. Print communications to BEARS families are translated into Spanish language and oral interpretation for other languages (Arabic) is available on request. Although official district support is not provided by the Special Education department for the non-academic portions of the summer program, BEARS staff provides accommodations for students with Individual Education Plans (IEPs) as much as possible. Two BEARS staff members will be present and support the teaching artists and the undergraduate student interns during instruction. The demonstration of learning event will be conducted bilingually, with Spanish interpretation offered along with English.

Accessibility Contact Details

Identify the primary individual who will be responsible for managing aspects of accessibility as it relates to this proposal. This may be a program manager, accessibility coordinator, or other staff member of the applicant organization.

Contact First Name: Aaron

Contact Last Name: Jorgensen

Contact Phone Number: (510) 644-7770



Contact Phone Ext:

Contact Email: aaronjorgensen@berkeley.net

Budget

Personnel Expenses

Personnel Expense	Job Title	# of Staff	Rate of Pay	CAC Request Amount	Applicant Matching Funds
Artistic	Dance teaching artist	1	\$125/hr	\$5,000.00	\$1,750.00
Artistic	Music teaching artist	1	\$125/hr	\$5,000.00	\$1,750.00
Technical	Visual art installer for exhibition	1	\$500 stipend	\$0.00	\$500.00
Artistic	Student artist interns	2	\$1125 stipend	\$0.00	\$2,250.00
				\$10,000.00	\$6,250.00

Operating/Production Expenses

Expense	CAC Request Amount	Applicant Matching Funds
Music workshop and production supplies	\$0.00	\$500.00
FS Music Program Development	\$250.00	\$250.00
SADC Dance Program Development	\$250.00	\$250.00
Dance workshop and production supplies	\$0.00	\$300.00
Buses for field trips	\$0.00	\$1,000.00
Theater production supplies	\$0.00	\$300.00
Video & Photo Documentation	\$0.00	\$1,000.00
Indirect costs	\$0.00	\$650.00
	\$500.00	\$4,250.00

Total Expenses



Total CAC Budget Request	Total Applicant Matching Funds
\$10,500.00	\$10,500.00

Entire Project Cost

	Total Cost
If your CAC Request plus Match represents one part of a larger project, indicate the total cost of the entire project.	\$36,000

Budget Notes

You may use this space to provide additional budget details, as necessary.

We have received \$15,000 as a UC Chancellor's grant to support summer arts learning in the BEARS program. Although we may not use those funds as the match for the CAC grant proposal because they are also state funds, we want CAC jurors to know that \$15,000 funding is committed. The CAL C.R.E.A.T.E Service Learning Program will have 2 UC Berkeley undergraduate students shadowing teaching artists, assisting with planning/adapting curriculum and teaching selected lessons to BEARS students. Through this project and the mentoring the students will receive, these CAL students will be better equipped to teach arts classes independently in BUSD's afterschool programs in 2020-21 school year as volunteers in the CAL C.R.E.A.T.E. service learning program. The City of Berkeley's Youth Works Summer Program has committed in-kind support to pay stipends to 2 Berkeley City College students with an interest in arts and/or education to participate as well.

Match Source

Source of Match	Identify source (name of contributor, donation, etc.)	Applicant Matching Funds	Status
Foundation	Berkeley Schools Fund	\$3,000.00	Pending
Foundation	Berkeley Schools Fund	\$3,000.00	Projected



Foundation	Berkeley School Excellence Program	\$2,250.00	Projected
		\$8,250.00	

In-Kind

Identify source (name of contributor, donation, etc.)	Applicant Matching Funds	Status
Berkeley City Youth Works	\$2,250.00	Committed
\$2,250.00		

Total

Total Matching Funds \$10,500.00

Budget Notes

If utilizing in-kind donated services to support the match requirement, please describe your method for determining the fair market value of these services. You may also use this space to provide additional details for matching sources, as necessary.

Berkeley Youth Works (BYW) places youth aged 16-26 in summer jobs and pays them as employees earning minimum wage (\$15.59/hr). Two Berkeley City College students will be hired through BYW, and work approximately 18 hours/week shadowing and supporting the dance and hip-hop music teaching artists. When we learned that the \$15,000 committed by the UC Chancellor's Grant could not be used as a match, the Berkeley Schools Fund (BSF) encouraged us to apply for additional funding. This is why there is a difference in status for the two requests from BSF.

Budget Snapshot (3 Years)

3-Years' Statement of Financial Activities

Applicant Organization Fiscal Year End Date

06/30/2019

Click on the Calendar icon. First select Month and Year, then select Day.

Income

	2016-17 (optional)	2017-18 (required)	2018-19 (required)
Earned	\$1,136,643.00	\$985,305.00	\$1,411,661.08



Contributed	\$0.00	\$50,000.00	\$0.00
Total Revenue	\$1,136,643.00	\$1,035,305.00	\$1,411,661.08

Expense

	2016-17 (optional)	2017-18 (required)	2018-19 (required)
Personnel	\$204,051.00	\$263,289.00	\$358,060.00
Operating/Production	\$932,592.00	\$772,016.00	\$1,053,601.08
Total Expense	\$1,136,643.00	\$1,035,305.00	\$1,411,661.08
Surplus (Deficit)	\$0.00	\$0.00	\$0.00

Budget Notes

Address significant changes in line items from one year to the next and explain anticipated surpluses or deficits in the Budget Snapshot Notes. Once Budget Snapshot Notes have been provided, select "Save" and then "Close" to return to the application Budget tab.

Personnel expenses increased over these three years because the City Budget allocated funding for additional staffing. Operating/Production also varied from FY to FY based upon the budget allocations from City Council. We are required to operate with a balanced budget and therefore our annual budget is established at the beginning of each fiscal year and we spend up to that amount and we do not carry a surplus or run a deficit.

Payee Data Record



Download the Payee Data Record form (STD 204) and verify that the pre-filled organizational information is correct. Please fill in the information in section 5 and sign. Scan and upload the completed form below.

Please Note: If applying with a Fiscal Sponsor, be sure to Save Draft prior to downloading the Payee Data Record in order to reflect accurate information. Not providing a signed copy of the Payee Data Record form (STD 204) will delay payments if grant is awarded.

Upload signed and scanned copy of the Payee Data Record form (STD 204).

[PAYEE_DATA_RECORD_Berkeley_Civic_Arts.pdf](#)

1,016.7 KB - 11/07/2019 5:13pm

Total Files: 1

Support Materials

Instructions

Use file names that are brief but specific to the provided content and to your organization. Panelists will be advised to spend approximately 10 minutes reviewing artistic work samples prior to the panel meeting. Any uploaded materials exceeding the maximum permitted for each field will not be reviewed nor considered in the adjudication of your proposal. For video and audio, provide start and end times for the portion you would like the panel to review in the Support Materials Notes at the bottom of this page.

Accepted File Types:

Documents

Upload MS Word (.doc) or Adobe PDF (.pdf) file formats only.

Images

Option 1: Upload images as individual JPGs. Recommended resolution: 300 dpi. Recommended image size: 800 x 600 pixels. If scanning images, please scan at a resolution of 300 dpi and save/upload as individual JPGs.

Option 2: Combine images within one PDF.

Video (links)

Video files are not accepted - do not upload video files for review. Video work samples may be provided as online links (URLs) below applicable Support Materials. Non-password protected videos are preferred; if protected, passwords must be provided in the available field. Video links plus other file uploads may not exceed the indicated maximum number of materials requested, per material type.

Audio

Audio selections may be provided as online links (URLs) on a single-page PDF, or uploaded in MP3 format.

Artistic Work Samples

Include up to two samples of artist work providing evidence of talent and capacity both as artist(s) and as instructor/facilitator(s). Work samples should be recent, relevant and related to your proposed project. Video samples featuring interaction with youth are highly recommended. Videos should be included as url links below.



[Audio_work_sample_Najee_Amaranth_hiphop_artist.pdf](#)

401.2 KB - 11/06/2019 8:02am

Total Files: 1

Are you providing video links in support of artistic work?

Yes

Video 1 URL: <https://youtu.be/qLbz0xh1in0>

Video 1 Password:

[Click to view](#)

Video 2 URL:

Video 2 Password:

Youth Work Sample

Provide up to two samples that best portray youth work created under the instruction of the project artist(s).

Are you providing video links in support of youth work?

Yes

Video 1 URL: <https://www.youtube.com/watch?v=UZQHPTU9QCw&feature=youtu.be>

Video 1 Password:

[Click to view](#)



Video 2 URL: https://scontent-sjc3-1.xx.fbcdn.net/v/t42.9040-4/10000000_515119725965133_224734107928625152_n.mp4?_nc_cat=111&efg=eyJ2ZW5jb2RlX3RhZyI6InN2ZV9zZCJ9&_nc_oc=AQm9-XXu3R_1CyRMetDRuCjFgZjSjFtLoGBySIhybCUtS9DA0N09JqNUm7o4Fu2OGu4&_nc_ht=scontent-sjc3-1.xx&oh=63dc1771ab9b2b24a0dbfce2f2477223&oe=5DC46AC7

Video 2 Password:

[Click to view](#)

Additional Work Sample Materials

Provide up to two PDF documents that best portray your organization and its work. These may include press materials, flyers, brochures, programs, newsletters, and other marketing pieces generated within the past two years.

[2019_SepOct_FreightnSalvage_Calendar.pdf](#)

2.6 MB - 11/08/2019 9:16am

[Berkeley_Rep_Storybuilders_10_hour_curriculum_\(excerpt\)___photos.pdf](#)

1.1 MB - 11/06/2019 1:04pm

Total Files: 2

Letter of Support or Testimonial

Provide a signed statement from a key stakeholder, partner, or community member. Statement should substantiate the quality of the organization, and affirm the organization's impact on its constituents. This should not be from staff or board of the applicant organization.

[CA_Arts_Council_Grant_BEARS_Letter_of_Support.pdf](#)

64.8 KB - 10/31/2019 10:01am

Total Files: 1

Support Materials Notes

Provide brief descriptions of artistic work samples and other support materials. For video or audio samples, provide specific start and end times for the portion you would like the panel to review. Be sure to clearly indicate which specific files your notes are referencing.

1. Artist work sample from Hip-hop teaching artist Najee Amaranth: "Bumaye" (2:09) from his 2019 album release Father of the Year. Listen to first minute.
2. Artist work sample from dance teaching artist Ashley Crockett: teaching a studio class to middle and high school aged youth at Shawl-Anderson Dance Center. (2:25) Watch entire clip.
3. Youth work sample created under guidance of dance teaching artist Ashley Crockett - Culminating Youth Performance at Laney College Theater, June 2019. This is a Beginning Teen Jazz class with students who are in middle school and high school. The dance was made in the spring semester by teaching artist Ashley Crockett with structured improvisation and choreographic input from the students. (5:32) Watch first 2 minutes.
4. Hip-hop for Change summer project. Najee Amaranth was one of four adult artists mentoring nine youth artists who explored hip-hop and climate change in a collaboration with East Bay Regional Parks. Najee supported students to write three raps about climate change, the water, and nature preservation, create a dance piece around the elements of nature, and a visual art piece. (3:05) Watch from 0:22 - 2:40.
5. Freight & Salvage's calendar of events for September-October 2019.
6. Berkeley Repertory Theater's excerpt from 10-lesson Story Residency curriculum (lessons 1-3) with photos of students from elementary residencies and middle school summer community programs.

Certification & Release

This Certification and Release must be signed by an authorized board member or designated organizational representative with the knowledge of the matters contained herein, and holds the legal authority to obligate the applicant organization, with the approval of the applicant organization's board of directors or other governing body.



The undersigned certifies the following:

California Secretary of State Certificate of Status

The represented organization has "active status" with the California Secretary of State (SOS) showing evidence of "good standing" at the time of application.

Yes, I certify, Not applicable - applicant organization is not a nonprofit corporation

The undersigned certifies the following:

The represented organization has valid proof of tax-exempt status under sec.501(c)(3) of the Internal Revenue Code, or under sec. 23701d of the California Revenue and Taxation Code, or is a unit of government; or for grant programs allowing Fiscal Sponsors, is applying in partnership with a Fiscal Sponsor entity meeting all Fiscal Sponsor eligibility requirements as indicated in CAC Fiscal Sponsor Policy; that the applicant organization has been consistently engaged in arts programming for a specific number of years prior to time of application; has its principal place of business in California; and has completed prior contract requirements, if applicable; and has approval of the organization's board of directors or other governing body; and that the applicant organization and Fiscal Sponsor, if applicable, both comply with the Civil Rights Act of 1964, as amended; sec 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975; observes provisions of the Drug Free Workplace Act of 1988; and California Government Code secs.11135-11139.5 (barring discrimination); complies with the Fair Labor Standards Act, as defined by the Secretary of Labor in part 505 of title 29 of the Code of Federal Regulation; the Americans with Disabilities Act of 1990; and the Fair Employment and Housing Act; that all information contained herein is accurate or represents a reasonable estimate of operations based on data available at the time of submission; and that there are no misstatements or misrepresentations contained herein or in any attachments; and is aware that modification of the proposal at any point may require a contract amendment, rescinding of a grant award or cancellation of contract.

The undersigned hereby releases the California Arts Council (CAC) and the State of California, their employees and agents, from any liability and/or responsibility concerning damage to or loss of materials submitted to the CAC and the State of California, whether or not such damage or loss is caused by the negligence of the CAC, the State of California, their employees and agents.

Yes, I certify



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Henry Oyekanmi, Director, Finance
 Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on July 28, 2020

RECOMMENDATION

Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report is \$8,645,000

<u>PROJECT</u>	<u>Fund</u>	<u>Source</u>	<u>Amount</u>
Outfitting of 11 Police Utility Vehicles	671	Equipment Replacement	\$125,000
Sanitary Sewer Rehabilitation Project: Parker Street	611	Sanitary Sewer Operation	\$6,520,000
FY 20 Sidewalk Repairs	133 134 149 501	Measure F Measure BB Local St. Private Property Sidewalks Capital Improvements	\$2,000,000
Total:			\$8,645,000

CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager's purchasing authority for services to \$50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of \$100,000 for goods; and \$200,000 for playgrounds and

Formal Bid Solicitations and Request for Proposals
Scheduled for Possible Issuance After Council
Approval on July 28, 2020

CONSENT CALENDAR
July 28, 2020

construction; and \$50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and upon final notice to proceed from the requesting department, the IFB (Invitation for Bid) or RFP (Request for Proposal) may be released to the public and notices sent to the potential bidder/respondent list.

BACKGROUND

On May 6, 2008, Council adopted Ordinance No. 7,035-N.S., amending the City Manager's purchasing authority for services.

ENVIRONMENTAL SUSTAINABILITY

The Finance Department reviews all formal bid and proposal solicitations to ensure that they include provisions for compliance with the City's environmental policies. For each contract that is subject to City Council authorization, staff will address environmental sustainability considerations in the associated staff report to City Council.

RATIONALE FOR RECOMMENDATION

Need for the services.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Darryl Sweet, General Services Manager, Finance, 510-981-7329

Attachments:

- 1: Formal Bid Solicitations and Request for Proposals Scheduled For Possible Issuance After Council Approval on July 28, 2020
 - a) Outfitting of 11 Police Utility Vehicles
 - b) Sanitary Sewer Rehabilitation Project: Parker Street
 - c) FY 20 Sidewalk Repairs

Note: Original of this attachment with live signature of authorizing personnel is on file in General Services.

DATE SUBMITTED: July 28, 2020

SPECIFICATION NO.	DESCRIPTION OF GOODS / SERVICES BEING PURCHASED	APPROX. RELEASE DATE	APPROX. BID OPENING DATE	INTENDED USE	ESTIMATED COST	BUDGET CODE TO BE CHARGED	DEPT. / DIVISION	CONTACT NAME & PHONE
20-11406-C	Outfitting of 11 Police Utility Vehicles	7/29/2020	8/25/2020	Emergency equipment outfitting, Purchase Only, for 11 each Ford Utility police Interceptors.	\$125,000	FUND\$ - 860-5703-410-7042 ERMA - 671-54-626-723-0000-000-473-664120-	PW	Mike Loyola 981-6490
20-11407-C	Sanitary Sewer Rehabilitation Project: Parker Street	8/24/2020	9/14/2020	Sewer rehabilitation and replacement project to repair and replace old and deteriorated sewer lines.	\$6,520,000	611-54-623-676-0000-000-473-665130-PWENSR2101 (830-5213-432-6510-21SR01)	PW- Engineering	Daniel Akagi 981-6394 Tiffany Pham 981-6427
20-11409-C	FY 20 Sidewalk Repairs	8/18/2020	9/17/2020	Proactive and Responsive sidewalk work throughout Berkeley.	\$120,200 \$100,000 \$551,623 \$728,177 \$150,000 \$100,000 \$250,000 <u>\$2,000,000</u>	133 FY 20 Carryover & FY21 Baseline 133-54-623-674-3015-000-431-665110- 134 FY 20 Carryover & FY21 Baseline 134-54-625-716-0000-000-431-612990- 149 FY 20 Carryover & FY21 Baseline 149-54-623-674-0000-000-431-665110- and 149-54-623-674-3015-000-431-665110- 501 FY21 Baseline 501-54-625-716-0000-000-431-612990- and 501-54-625-716-0000-000-431-642990-	PW- Engineering	Joe Enke 981-6411
DEPT. TOTAL					\$8,645,000			
GRAND TOTAL					\$8,645,000			



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Lisa Warhuus, Director, Health, Housing & Community Services
 Subject: Contract No. 32000094 Amendment: Youth Spirit Artworks to Provide Transition Age Youth (TAY) Case Management and Linkage Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with vendor Youth Spirit Artworks (YSA) to provide Transition Age Youth (TAY) case management and linkage services through June 30, 2021 in an amount not to exceed \$317,000. This will extend the existing contract by one year and add in \$100,000.

FISCAL IMPACTS OF RECOMMENDATION

Funds for the scope of work in the amount of \$100,000 will be provided from ERMA GL Code 315-51-503-526-2017-000-451-612990-. The Contract Management System number for this contract is CMS No. YSA-TAY.

CURRENT SITUATION AND ITS EFFECTS

On December 3, 2019, by Resolution No. 69,194-N.S., City Council approved amending Contract No. 32000094 with YSA to add \$50,000 in funding for TAY case management and linkage services. On June 2, 2020, by Resolution No. 69,436-N.S., City Council approved amending Contract No. 32000094 to add funding in the amounts of \$39,000 in FY20 and \$78,000 in FY21 from Measure P for case management services for TAY within their YSA Tiny Villages program. This contract amendment will add an additional \$100,000 for TAY case management and linkage services within Berkeley exclusively during FY21.

BACKGROUND

BMH has partnered with YSA for the past two years to serve the TAY population, which includes youth between the ages of 16-24. YSA has proven an effective vendor for this service, and continuing this successful partnership will provide continuity to consumers and ensure the related objectives of stability and connection to services are realized for our community's TAY population.

The State of California MHSA provides funding for local mental health services and supports. City of Berkeley MHSA Three Year Program and Expenditure Plans (Three

Year Plans) and Annual Updates, details the uses of local MHSA funds. Development of local MHSA Three Year Plans and Annual Updates require community program planning, writing a draft plan, providing a 30-day public review, and conducting a public hearing at the Mental Health Commission.

The development of the MHSA FY20/21 – 22/23 Three Year Plan is currently underway and will be on the City Council Agenda in October 2020. The proposed Three Year Plan will include continued funding to YSA for TAY Case Management & Linkage services.

Given unforeseen delays due to Covid-19, that have occurred (and may likely continue to occur in the near future), approval of this Council Item will enable contract amendments to be executed and payments to be made in a timely manner. This will assist Contractors who may be experiencing financial hardships during this time as a result of Covid-19. Funding for these services and supports has been included in the FY21 Budget.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the action recommended in this report.

RATIONALE FOR RECOMMENDATION

The scope of services under this contract are critically needed due to the current challenges faced by the local TAY population. YSA provided these services in a satisfactory manner for the last one and a half years.

ALTERNATIVE ACTIONS CONSIDERED

As an alternative action, Council could instead direct staff to conduct a new RFP to competitively solicit a different vendor, or decide to not fund this service.

CONTACT PERSON

Conor Murphy, Assistant Management Analyst, HHCS, 510-981-7611

Steven Grolnic-McClurg, Manager of Mental Health Services, HHCS, 510-981-5249

Attachments:

1: Resolution

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

CONTRACT NO. 32000094 AMENDMENT: YOUTH SPIRIT ARTWORKS TO PROVIDE TRANSITION AGE YOUTH (TAY) CASE MANAGEMENT AND LINKAGE SERVICES

WHEREAS, Mental Health Services Act (MHSA) funds are allocated to mental health jurisdictions across the state for the purposes of transforming the mental health system into one that is consumer and family driven, culturally competent, wellness and recovery oriented, includes community collaboration, and implements integrated services; and

WHEREAS, on July 23, 2019 by Resolution No. 69,033-N.S., City Council authorized the City Manager to approve the MHSA Plan FY2019-2020 Annual Update; and

WHEREAS, within the City Council approved MHSA Plan FY2019-2020 Annual Update was an allocation of \$100,000 for contracted Transition Age Youth (TAY) Case Management and Linkage Services; and

WHEREAS, on December 3, 2019 by Resolution No. 69,194-N.S., City Council authorized the City Manager to approve amending Contract No. 32000094 through June 30, 2020 in an amount not to exceed \$100,000; and

WHEREAS, on June 2, 2020 by Resolution No. 69,436-N.S., City Council authorized the City Manager to approve amending Contract No. 32000094 through June 30, 2021 in an amount not to exceed \$217,000; and

WHEREAS, funds are available in the current budget year in ERMA GL Code 315-51-503-526-2017-000-451-612990- and this contract has been entered in the Citywide contract database and assigned CMS No. YSA-TAY.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute an amendment to Contract No. 32000094 with Youth Spirit Artworks for Transition Age Youth case management and linkage services and Tiny House case management through June 30, 2021 in an amount not to exceed \$317,000. A record signature copy of said contract and any amendments to be on file in the City Clerk Department.



Office of the City Manager

CONSENT CALENDAR

July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, Health, Housing & Community Services

Subject: Revenue Grant Agreement: Federal COVID19 Funding Support from the Centers for Disease Control and Prevention for the Epidemiology and Laboratory Capacity CARES Grant

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to submit grant agreements to Heluna Health, to accept this COVID19 response grant, and to execute any resultant revenue agreements and amendments; which enables us to conduct and implement mitigation strategies in response to COVID19 for the following revenue agreement:

Public Health Emergency Preparedness's COVID-19 Response Program in the projected allocation of \$196,965 for FY 2021.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley will receive funds in the estimated amount of \$196,965 from the CDC ELC CARES grant for FY 2021. This contract will have its own identifying contract number and defined budget code:

Public Health Emergency Preparedness's COVID-19 Response Program COVID-19 Crisis Response Revenue Budget Code 366-51-506-557-2075-000-000-431110- and Expenditure Budget Code 336-51-506-557-2075-000-451-511110-various. No match required and revenue is expected to be \$196,965 for May 1, 2020 through March 23, 2022.

The funds will be appropriated as part of the First Amendment to the FY 2021 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley receives funding from many sources annually to conduct efforts towards improving the health of the community. As a local health jurisdiction, the City is entitled to specific Federal and State funding to meet core public health objectives. The Public Health Division is committed to providing essential services to the community to prevent the spread of disease and to respond to health threats such as pandemics.

BACKGROUND

As a local health jurisdiction (LHJ), the City of Berkeley provides a broad range of public health programs and services to the community, with the goals of addressing health inequities, promoting healthy environments and behaviors, protecting residents from disease, and preventing illness, disability, and premature death. The total additional anticipated revenue from this federal grant is \$196,965 from May 1, 2020 through March 23, 2022.

As part of the “Coronavirus Aid, Relief, and Economic Security Act” or the “CARES Act” of 2020, Center for Disease Control and Prevention (CDC) Epidemiology and Laboratory Capacity (ELC) is awarding a total of nearly \$631 million nationally. Under this program-initiated component funding under the Emerging Issues (E) Project of CK19-1904, henceforth ‘ELC CARES’, California has received \$20,000,000. CDPH has allocated ELC CARES funding for each LHJ with a base amount of \$150,000 and then prorated by population.

The intention of this funding is to rapidly establish and monitor key activities related to COVID-19 in the areas of epidemiology, laboratory, and informatics. Monitoring the indicators associated with these activities is intended to assist State, local, and territorial governments in making data-driven policy decisions regarding testing, mitigation, and prevention efforts. The Public Health PH Division’s Public Health Emergency Preparedness Program (PHEPP) is best able to receive, manage and monitor these grant funds while ensuring the contract deliverables are met. PHEPP supports the City’s greatest Public Health response needs to prevent, prepare for, and respond to COVID-19.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

These funds support vital emergency response actions and services related to our mandates as a public health jurisdiction and local initiatives designed to address health inequities in Berkeley and improve the health of Berkeley residents. These non-competitive grants support the Department’s mission and provide the City with funding to continue emergency response efforts that protect and improve the health of the community.

ALTERNATIVE ACTIONS CONSIDERED

This funding is essential for the Public Health Division’s mission and goals. The Public Health Division assesses each funding source to ensure that it supports the City’s mission and goals. The alternative action of not seeking any of these funding sources would result in a significant reduction in public health services to the community.

CONTACT PERSON

Janice Chin, Manager, Public Health Division, HHCS, (510) 981-5121

Attachments:

1. Resolution

RESOLUTION NO. ##,### –N.S.

REVENUE GRANT AGREEMENT: FEDERAL COVID19 FUNDING SUPPORT FROM THE CENTERS FOR DISEASE CONTROL AND PREVENTION FOR THE EPIDEMIOLOGY AND LABORATORY CAPACITY CARES GRANT

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division, is committed to promoting and protecting the health of the public and the environment by supporting the City's greatest Public Health response needs to prevent, prepare for, and respond to COVID-19; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services provides a broad range of needed public health program services to the community; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services works to promote healthy environments and behaviors, protect residents from disease, and prevent illness, disability, and premature death; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services seeks to eliminate health inequities; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital emergency response services; and

WHEREAS, the budgets codes to be used are: Budget Codes (Revenue) 366-51-506-557-2075-000-000-431110-; and (Expenditure) 336-51-506-557-2075-000-451-511110-various.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to submit a grant agreement to Heluna Health for funding for July 1, 2020 through March 23, 2022 for the Public Health Emergency Preparedness Program's COVID-19 response to promote and protect the health of the public and the environment by supporting the City's greatest Public Health response needs to prevent, prepare for, and respond to COVID-19; to accept the grant funds; execute any resultant revenue agreements and amendments in line with the grant award, which may be larger or smaller than the projected award of \$196,965; and implement the projects and appropriation of funding for related expenses, subject to securing the grant. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Lisa Warhuus, Director, Health, Housing & Community Services
 Subject: Operating Funding for Community Housing Development Organizations

RECOMMENDATION

Adopt a Resolution:

1. Approving a multiyear operating funding contract for Resources for Community Development (RCD) and Satellite Affordable Housing Associates (SAHA), starting FY21 and ending FY25;
2. Approving funding in the amount of \$50,000 to RCD and \$50,000 to SAHA for FY21;
3. Authorizing City Manager or her designee to determine the amount of funding to be awarded to each organization in subsequent years, FY22 to FY25, based on the amount of the City's annual allocation of Community Housing Development Organization (CHDO) HOME funds and availability of General Fund match; and
4. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.

SUMMARY

Staff is recommending approval of a five-year operating funding contract for Resources for Community Development (RCD) and Satellite Affordable Housing Associates (SAHA), to support their work in creating affordable housing in Berkeley. RCD and SAHA are nonprofit community-based organizations whose missions are to serve low-income residents through creation of safe affordable housing and building community through their projects. Both qualify as Community Housing Development Organizations (CHDOs) under federal HOME program guidelines and were the only CHDOs to apply in the last funding round. In combination, they are working on three new affordable housing projects that will serve 185 low-income households, in addition to operating most of the permanently affordable housing in Berkeley. For the first year of the contract, staff propose funding RCD and SAHA using \$30,000 in funds from the General Fund, consistent with prior years, and \$70,000 in HOME funds allowed under a federal COVID-19 waiver, for an allocation of \$50,000 for each agency. The CHDO operating assistance will allow RCD and SAHA to sustain staffing capacity as they develop these

projects. This is even more important now as they deal with the additional challenges their organizations face during the COVID-19 pandemic.

FISCAL IMPACTS OF RECOMMENDATION

Staff is recommending a total of \$100,000 in operating assistance to be allocated for FY21, of which \$70,000 will be allocated from the City's HOME funds (Budget Code: 310-51-504-530-0000-000-444-636110), and \$30,000 will be allocated from General Funds (Budget Code: 501-51-504-530-0000-000-444-636110). The City currently has approximately \$1 million in HOME funds in the Housing Trust Fund. The General Fund allocation for CHDO operating support will be included in the FY2021 budget which will be presented to City Council on June 30, 2020.

CURRENT SITUATION AND ITS EFFECTS

On March 5, 2020, the City issued a Notice of Funding Availability (NOFA) for qualified Community Housing Development Organization (CHDOs) to compete for multiyear operating funding, starting FY21 through FY25. Two qualified CHDOs submitted applications by the deadline on April 16, 2020: Resources for Community Development (RCD) and Satellite Affordable Housing Associates (SAHA).

At the time the NOFA was issued on March 5, 2020, staff had anticipated a total of \$60,000 would be available for CHDO operating support funding in FY21. Half of the funding, or \$30,000, would be allocated from the City's FY21 HOME entitlement and \$30,000 would be allocated from the City's General Fund consistent with past practice. The CHDO operating funds would help both organizations sustain consistent staffing as they develop their projects.

On April 14, 2020, in response to the COVID-19 crisis, HUD issued a notice of the availability of waivers for certain HOME program requirements. The City of Berkeley applied for and was granted several waivers, including the ability to increase the amount of CHDO operating assistance for eligible CHDOs. The waiver would allow the City to increase the amount of CHDO set-aside funds to \$70,000, bringing the total amount of CHDO operating support available to \$100,000, including the \$30,000 in matching City General Funds.

HUD's waiver stipulates that the CHDO HOME funds be allocated for this purpose:

"A CHDO receiving increased operating assistance must use the assistance to maintain organizational capacity during the COVID-19 pandemic."

In response to the availability of increased operating funds, RCD and SAHA identified ways in which the additional support would help them maintain their operations as they address the needs and safety of their staff and the residents of their properties in Berkeley.

Although it is too early to tell the full impact of the pandemic on their operations, both RCD and SAHA have experienced a drop in revenue in April and May in rental income due to the changes in tenants' ability to pay rent. Both anticipate decreases in charitable giving and project delays that will impact their ability to earn developer fee. At the same time, operating costs, such as Personal Protective Equipment for staff, increased janitorial services, and support for remote working, have increased. Both RCD and SAHA have requested an additional \$20,000 each to help offset the additional costs and loss in revenue during the COVID-19 pandemic. This brings the total amount of the operating funding request to \$50,000 for each of their respective organizations.

Providing operating support to certified CHDOs is a Strategic Plan Priority Project, advancing the City's goal to create affordable housing and housing support service for the most vulnerable community members. This operating support is even more critical now as these organizations deal with the impact of the pandemic on their residents, staff and their operations. Staff recommends allocating \$50,000 each to RCD and SAHA in operating support.

BACKGROUND

Federal HOME program regulations define a CHDO as an organization that meets certain capacity criteria, meets specified board composition criteria, and has certain policies in place. To be "certified" as a CHDO, eligible organizations must provide related documentation to the City for review and approval. RCD and SAHA were recertified as CHDOs through the NOFA process.

Jurisdictions have the option of providing 5% of its HOME funds to CHDOs as operating support, if the CHDO will be working on a HOME-funded project in the next 24 months. Years ago, the City had two qualified CHDOs (RCD and SAHA), and received enough funds to provide \$30,000 in HOME funds to each organization annually. As HOME funds were reduced at the federal level, the City began providing the HOME funds to one organization, and a matching amount of General Funds to the other.

In prior years, the City has provided operating assistance to support CHDOs, like RCD and SAHA, using an allocation of City HOME funds matched by City General Fund. In the last five years, the City has kept the same level of CHDO operating funding at \$56,330 despite small increases in the City's HOME entitlement. HUD's waiver of the 5% cap on CHDO operating was granted in recognition of the stresses being placed on community-based affordable housing providers during the pandemic.

Starting in FY21, staff recommends establishing a five-year funding term to expedite the distribution of the funds which will help sustain a consistent stream of operating assistance to CHDOs. Staff oversight of each CHDO's activities related to the operating funding will continue as in previous years. Grantees will be required to report on the status of the projects through semi-annual and year-end reporting, including a summary

of use of funds and an update on annual milestones. Under HOME regulations, the HOME funding is only available to a CHDO that is expected to have a HOME-funded project within the next two years. Although this two-year deadline has been waived under the COVID-19 HUD waiver, both RCD and SAHA will be working on three new affordable housing projects in the next two years as they originally proposed.

The amount of funding for FY21 is higher than in previous years with increased CHDO operating assistance made possible by the HUD waiver. The HUD waiver which allows the City to set aside up to 10% of the City's HOME allocation for CHDO operating assistance would apply to the FY21 allocation only, covering the period of July 1, 2020, to June 30, 2021. Funding levels for subsequent years, FY22 to FY25, would be based on the availability of CHDO HOME funds and matching General Fund. The allocation of CHDO HOME funds for operating assistance would be limited to a maximum of 5% of the City's annual HOME allocation unless otherwise permitted by HUD.

In FY20, staff had established a process for working with the Housing Advisory Committee (HAC) to develop priorities and recommendations for the operating assistance funding. This year, staff had intended to follow a similar review process. However, since the HAC has not been meeting during the Shelter In Place order, it was not possible to take this recommendation to the HAC this year. Staff's priority is to get the operating assistance to the CHDOs immediately. Waiting until such time it is possible to meet with the HAC would cause further delays in getting the funds out to the CHDOs.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with providing operating funds.

RATIONALE FOR RECOMMENDATION

Staff recommends approval of a five-year operating funding contract in the amount of \$50,000 each to RCD and SAHA in FY21, for a total of \$100,000 in operating assistance for Year 1. Funding levels for subsequent years, FY22 through FY25, would be capped at a maximum of 5% of the City's annual HOME allocation and matching General Fund if available. CHDO operating assistance is necessary to help sustain consistent funding for CHDOs as they work on creating affordable housing opportunities for Berkeley's low-income residents. This becomes even more important now as these CHDOs address the effects the COVID-19 pandemic has had on their low-income residents, staff and operations.

ALTERNATIVE ACTIONS CONSIDERED

The City could limit CHDO operating assistance to \$60,000 total consistent with past years, and not go up to the HUD limit for the current fiscal year. This approach is less consistent with the City's historical support for community-based affordable housing providers and the essential role they play in Berkeley.

CONTACT PERSON

Lourdes Chang, Community Development Project Coordinator, HHCS, 510-981-5263

Attachment:

1: Resolution

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

APPROVAL OF A FIVE-YEAR COMMUNITY HOUSING DEVELOPMENT ORGANIZATION OPERATING FUNDING CONTRACT FOR RESOURCES FOR COMMUNITY DEVELOPMENT AND SATELLITE AFFORDABLE HOUSING ASSOCIATES

WHEREAS, the City Council established a Housing Trust Fund Program (HTF) to assist in the development and expansion of housing affordable to low and moderate income persons who either work or reside within the City of Berkeley, and authorized the City Manager to implement the Program; and

WHEREAS, there is a great need for affordable and special needs housing in the City of Berkeley as stated in the General Plan Housing Element and the City of Berkeley's Consolidated plan; and

WHEREAS, the US Department of Housing and Urban Development (HUD) allows each jurisdiction to reserve up to 5% of its HOME Investment Partnership Program (HOME) entitlement for operating support for certified Community Housing Development Organizations (CHDO); and

WHEREAS, the City historically matched the HOME CHDO funds (\$30,000 for FY2021) with an equal amount of General Funds; and

WHEREAS, on March 5, 2020, the City issued a Notice of Funding Availability for multi-year operating funding for FY2021 through FY2025, and making \$60,000 available for the first year of funding in FY2021;

WHEREAS, the City received applications from certified CHDOs including Resources for Community Development and Satellite Affordable Housing Associates; and

WHEREAS, on April 14, 2020, in response to the COVID-19 pandemic HUD issued a notice of availability of certain waivers of the HOME regulations, including a waiver that would allow the City to reserve up to 10% of its HOME entitlement for CHDO operating support to assist certified CHDOs to maintain organizational capacity throughout the pandemic; and

WHEREAS, under the HUD waiver, the City would have the ability to increase the total amount of operating assistance for FY2021 to \$100,000, including \$70,000 in CHDO HOME funds and \$30,000 in matching City General Funds; and

WHEREAS, the HUD waiver would apply only to the first year of the five-year operating funding term, and funding levels for subsequent years, FY2022 through FY2025, would be capped at a maximum of 5% of the City's annual HOME allocation and matching General Fund when available; and

July 28, 2020

WHEREAS, upon reviewing the CHDO operating funding proposals to ensure compliance with HOME regulations and the requirements under the HUD waiver COVID-19 Response, staff is recommending funding Resources for Community Development and Satellite Affordable Housing Associates at \$50,000 each for FY21.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approve a multiyear operating funding contract for Resources for Community Development and Satellite Affordable Housing Associates with a five-year term starting FY2021 through FY2025, and approve the following reservations of CHDO operating funds for FY2021:

- \$15,000 in General Funds each for Resources for Community Development and Satellite Affordable Housing Associates
- \$35,000 in HOME funds each for Resources for Community Development and Satellite Affordable Housing Associates

BE IT FURTHER RESOLVED that the City Manager, or her designee, is hereby authorized to determine the level of funding for subsequent years, FY2022 through FY2025, where the amount of funding would be based on the amount of the City's allocation of Community Housing Development Organization (CHDO) HOME funds and availability of General Fund match.

BE IT FURTHER RESOLVED that the City Manager, or her 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.



Office of the City Manager

CONSENT CALENDAR

July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, Health, Housing & Community Services

Subject: California Mental Health Services Authority (CalMHSA) Participation Agreement for the Mental Health Services Act, Innovations, Help@Hand Project

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute an agreement with the California Mental Health Services Authority (CalMHSA) to enable the City of Berkeley to participate in the Mental Health Services Act (MHSA) Innovations (INN) Help@Hand multi-county collaborative project, and to extend the project through June 30, 2024.

FISCAL IMPACTS OF RECOMMENDATION

Funding in the amount of \$352,916 from MHSA revenue received from the State of California is available in the FY 2021 budget in the ERMA GL code: 315-51-503-526-2020-000-451-612990.

CURRENT SITUATION AND ITS EFFECTS

State of California MHSA funds are provided to mental health jurisdictions to transform the mental health system. One of the five funding components of MHSA is Innovations (INN). The INN component is comprised of annually recurring funds that are to be utilized to implement short-term pilot projects that contribute new learning in the mental health field.

In June 26 2018, City Council approved the MHSA INN Technology Suite Project (Attachment 2) which has been renamed "Help@Hand". This project will implement free technology-based mental health services and solutions (mobile and computer applications – Apps) in Berkeley. The purpose of the project is to assess whether mental health technology Apps will: increase access to mental health services and supports; improve the quality of mental health services; and lead to better outcomes.

This project is part of a multi-county collaborative that includes ten other California mental health jurisdictions. The collaborative utilizes a Joint Powers Authority (JPA), the California Mental Health Services Authority (CalMHSA), as the fiscal intermediary for the project. CalMHSA will oversee and administer contracts directly with the chosen Technology Vendors for the mental health services and supports Apps, and the

engagement and evaluation components of the project. The Mental Health Division will work closely with CalMHSA to ensure the quality, execution and monitoring of services purchased from the chosen vendors. In order to allocate funds to participate in this multi-county collaborative project, the City of Berkeley is required to obtain approval from City Council to execute a Participation Agreement with CalMHSA.

The total project budget is \$462, 916, of which \$352,916 will be reallocated to CalMHSA through the Participation Agreement. The remaining amount of \$110,000 will be kept at the local level to be utilized for project coordination, evaluation and other associated project costs

BACKGROUND

Based on the passage of Proposition 63 in 2004, a funding allocation was made available by the State through MHSA funds for the purpose of innovative programming. MHSA Innovation funds are to be utilized to create new learning in the mental health field through short-term pilot projects that increase service access, quality, outcomes, and/or community collaborations. The City of Berkeley's initial INN Plan was approved in 2012 by City Council. From June 2012 through June 2015 seven short term pilot projects were implemented to improve mental health service acquisition, quality, and/or outcomes for underserved and inappropriately served populations.

The second INN Plan was approved by City Council in April 2014, with an update approved in October 2019. This plan currently allocates funds for Trauma Informed Care (TIC) training and supports for educators, and the children and families that are served at Head Start sites in Berkeley. The purpose of the project is to assess whether a change in the mental health approach of TIC training for educators will assist students in receiving services and supports they need, and will assess whether the project leads to improved mental health outcomes.

On June 26, 2018, the INN Technology Suite project was approved by City Council. It has since been renamed "Help@Hand". This project will implement free mental health technology-based Apps in Berkeley through a multi-county collaborative. The purpose of the project is to assess whether mental health technology Apps will: increase access to mental health services and supports; improve the quality of mental health services; and lead to better outcomes.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

CalMHSA serves as the fiduciary intermediary for the MHSA INN Technology Suite multi-county collaborative project. In order to participate in this project and allocate funds to the fiduciary intermediary, the City of Berkeley is required to obtain City Council approval to execute a Participation Agreement with CalMHSA.

ALTERNATIVE ACTIONS CONSIDERED

As CalMHSA serves as the fiduciary intermediary for this project, and entering into the Participation Agreement with CalMHSA is required to join into this multi-county collaborative project, no other alternative actions were considered.

CONTACT PERSON

Karen Klatt, Community Services Specialist III, Mental Health Division, HHCS, 981-7644

Attachments:

1. Resolution
 Exhibit A: CalMHSA Participation Agreement
2. City Council Approved MHSA INN Technology Suite Project

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

CALIFORNIA MENTAL HEALTH SERVICES AUTHORITY (CALMHSA)
PARTICIPATION AGREEMENT FOR THE MENTAL HEALTH SERVICES ACT (MHSA)
INNOVATIONS (INN) HELP@HAND PROJECT

WHEREAS, the City's Department of Health, Housing & Community Services, Mental Health Division, currently receives Mental Health Services Act (MHSA) Innovations (INN) funds on an annual basis for short term projects that will increase learning in the mental health field through strategies that will either improve the access, quality, or outcomes of services, and/or promote community collaborations; and

WHEREAS, in order to utilize MHSA INN funds, the Mental Health Division must have a stakeholder informed, locally approved plan in place; and

WHEREAS, the initial MHSA INN Plan was adopted on February 23, 2012 by the Mental Health Commission following a three month long community planning process that included input from mental health consumers, family members, staff, and other community stakeholders; and

WHEREAS, on March 20, 2012 by Resolution No. 65,629-N.S., pursuant to the approved MHSA INN Plan, City Council authorized the execution of up to seven INN pilot project grants, utilizing \$429,600 by June 2012; and

WHEREAS, on May 7, 2013 by Resolution No. 66,107-N.S., the City Council authorized the City Manager to approve the MHSA Fiscal Years 2012 and 2013 Annual Update which included an update to continue mental health services and supports through INN projects utilizing \$315,000 by June 2014; and

WHEREAS, on January 21, 2014 by Resolution No. 66,466-N.S., the City Council authorized the City Manager to approve the INN MHSA Plan Update which increased funding for mental health services and supports through INN projects utilizing \$147,700 by June 2014; and

WHEREAS, on June 24, 2014 by Resolution No. 66,668- N.S., the City Council authorized the City Manager to approve the MHSA Fiscal Years 2013 and 2014 Annual Update which included an update to continue mental health services and supports through INN projects utilizing \$148,799 by June 2015; and

WHEREAS, on June 30, 2015, the original MHSA INN funded projects ended; and

WHEREAS, on April 26, 2016, by Resolution No. 67,434-N.S., the City Council authorized the City Manager to approve the Trauma Informed Care for Educators INN Project utilizing \$180,000 through June 30, 2018; and

WHEREAS, by Resolution No. 68,493-N.S., the City Council authorized the City Manager to approve the MHSA INN Technology Suite project to implement technology-based mental health services and supports in Berkeley utilizing \$462,916 by June 30, 2021; and

WHEREAS, the MHSA INN Technology Suite project is part of a multi-county collaborative that utilizes a Joint Powers Authority (JPA), the California Mental Health Services Authority (CalMHSA), as the fiduciary intermediary for the project; and

WHEREAS, the multi-county collaborative renamed the Technology Suite project to the "Help@Hands" project; and

WHEREAS, in order to allocate funds to the fiscal intermediary to participate in the multi-county collaborative, the City of Berkeley must enter into a Participation Agreement with CalMHSA; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to execute the Participation Agreement with CalMHSA (Exhibit A) to participate in the MHSA INN multi-county collaborative Help@Hands project, and to extend the project through June 30, 2024.

Exhibit

A: CalMHSA Participation Agreement

Agreement No. 523-ITS-2020-CB

CALIFORNIA MENTAL HEALTH SERVICES AUTHORITY
PARTICIPATION AGREEMENT AMENDMENT
COVER SHEET

1. City of Berkeley ("Participant") desires to participate in the Program identified below.

Name of Program: MHSA Innovation Program (a.k.a. Help@Hands)

2. California Mental Health Services Authority ("CalMHSA") and Participant acknowledge that the Program will be governed by CalMHSA's Joint Powers Agreement and its Bylaws, and by this Participation Agreement Amendment. This Amendment revises the following exhibits and term from the initial Participation Agreement. This Amendment also incorporates provisions of the Standard Technology Services Agreement developed by CalMHSA in connection with the Program and makes related changes.

- Exhibit A Program Description
- Exhibit B General Terms and Conditions
- Exhibit C County-Specific Scope and Funding

3. The term of the Program is **January 1, 2020** through **6/30/2024**.

4. Authorized Signatures:

CalMHSA

Signed: _____ Name: John E. Chaquica, CPA, MBA, ARM

Title: Interim Executive Director Date: _____

Participant: _____ County

Signed: _____ Name (Printed): _____

Title: _____ Date: _____

Participation Agreement
EXHIBIT A – PROGRAM DESCRIPTION

I. Name of Program – MHSa Innovation Program

II. Program Overview

CalMHSA will assist participating counties to act jointly or in coordination to introduce new mental health practices, make changes to existing practices in the mental health field, or apply promising community-driven practices that have been successful in other fields. These efforts will be directed to increasing access to mental health services by underserved populations and the overall population, increasing quality of services, or promoting collaboration among agencies and communities.

PARTICIPATION AGREEMENT
Exhibit B – General Terms and Conditions

I. Definitions

The following words as used throughout this Participation Agreement shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used:

- A. CalMHSA – California Mental Health Services Authority, a Joint Powers Authority (JPA) created by counties in 2009 at the instigation of the California Mental Health Directors Association to jointly develop and fund mental health services and education programs.
- B. Mental Health Services Division (MHSD) – The Division of the California Department of Health Care Services responsible for mental health functions.
- C. Member – A County (or JPA of two or more Counties) that has joined CalMHSA and executed the CalMHSA Joint Powers Agreement.
- D. Mental Health Services Act (MHSA) – Initially known as Proposition 63 in the November 2004 election, which added sections to the Welfare and Institutions Code providing for, among other things, PEI Programs.
- E. Participant – Any County participating in the Program either as Member of CalMHSA or as Partner under a Memorandum of Understanding with CalMHSA.
- F. Program – The program identified in Exhibit A, as further embodied in the Services Agreement.
- G. Services Agreement – That certain Standard Technology Services Agreement entered into by and between CalMHSA and technology service providers in connection with the Program.

Terms not defined herein shall have the meaning ascribed to them in the Services Agreement unless their meaning is otherwise apparent from the context.

II. Responsibilities

- A. Responsibilities of CalMHSA:
 - 1. Act as fiscal and administrative agent for the Program.
 - 2. Management of funds received consistent with the requirements of any applicable laws, regulations, guidelines and/or contractual obligations.
 - 3. Provide regular fiscal reports to Participants and/or other public agencies with a right to such reports.
 - 4. Submission of plans, updates, and/or work plans for review and approval by Participant representative.
 - 5. Compliance with CalMHSA's Joint Powers Agreement and Bylaws.
- B. Responsibilities of Participant:

1. Transfer of funds for the Program as specified in Exhibit C at the beginning of each fiscal year identified in Exhibit C, County-Specific Scope and Funding.
2. Identification of a representative authorized to act for Participant and receive notices on behalf of Participant with regard to the Program.
3. Cooperate by providing CalMHSA with requested information and assistance in order to fulfill the purpose of the Program.
4. Provide feedback on Program performance.
5. Compliance with applicable laws, regulations, guidelines, contractual agreements, JPAs and bylaws.

III. Duration, Term, Amendment and Participant Withdrawal

- A. The Program is of indefinite duration, and will continue as long as Participants wish to act together to conduct innovation projects in compliance with their respective responsibilities hereunder. However, the obligation of any single Participant (a.k.a. Member) to pay funds is limited to the periods and amounts stated in Exhibit C, County-Specific Scope and Funding.
- B. Except as otherwise provided for in Section IV of this Agreement, this Agreement may be supplemented, amended or modified only by the mutual agreement of CalMHSA and the Participant, expressed in writing and signed by authorized representatives of both parties.
- C. Subject to Section IV of this Agreement, any Participant may withdraw from the Program upon six (6) months' prior written notice. Notice shall be deemed served on the date of mailing in the U.S. Mail.

IV. Funding, Amending Program Operations and Administration, Cancellation and Shutdown of the Program

- A. The Program and its administration by CalMHSA are funded by the Participants. CalMHSA has no independent ability to fund the Program. The Program cannot continue without Participant funding. Therefore, if CalMHSA determines that Participant funding is no longer available at the levels it deems sufficient, in its sole discretion, to properly fund the Program, including its administration, CalMHSA shall invoke this Section IV.A. and propose either a means of promptly remedying the funding issue or an orderly process of winding down the Program. CalMHSA shall convey its proposal in the form of a proposed amendment to this Agreement (and/or any other Program related documents) providing for:
 1. changes that will ensure CalMHSA can operate and administer the Program on financially sound terms, which terms would take effect no less than 30 calendar days' after delivery of the amendment to the representatives of the Participants then funding the Program; or
 2. changes that will authorize CalMHSA to take the steps necessary to cancel and administer an orderly shutdown of the Program, which terms would

take effect no less than 30 calendar days' after delivery of the amendment to the representatives of the Participants then funding the Program.

CalMHSA shall deliver the proposed amendment(s) to the Participants' representatives by U.S. Mail and electronic communication. Delivery shall be deemed to have occurred on the first business day after the date of mailing of the amendment(s).

- B. The Participants shall each consider and vote to accept or reject CalMHSA's proposed amendment(s) no more than 30 calendar days' after its delivery. A majority vote of the Participants then funding the Program shall determine whether CalMHSA's proposed amendment(s) is accepted or rejected.
- C. Regardless of whether the Participants accept or reject CalMHSA's proposed amendment(s), the Participants agree to pay for any new or different services and costs CalMHSA incurs in a good faith effort to stabilize the Program.
- D. Upon cancellation, termination or other conclusion of the Program, any Program funds remaining undisbursed shall be returned to the Participants after any and all obligations of the Program have been satisfied, including any obligations to CalMHSA. Unused funds paid for a joint effort will be returned pro rata to Participants in proportion to payments made unless adjusted as provided for in Section IV.E.
- E. CalMHSA shall provide notice of the amount of unused funds to be returned and the pro rata amount to be returned to each Participant in the Program at least 15 calendar days' before returning the funds.
 - 1. CalMHSA's notice shall be delivered electronically to each Participants' representative, and a backup copy will be sent via U.S. Mail. The notice shall be deemed delivered on the date it is sent.
 - 2. Within 10 calendar days' of the date of that electronic notice, a Participant may seek an adjustment in the amount of unused funds to be returned to it by submitting an adjustment request to CalMHSA's Project Manager electronically, and copy each of the Participants' representatives on the electronic communication. The adjustment request must demonstrate why a disproportionate share of the unused funds should be paid to the Participant.
 - 3. Within 5 calendar days of the date an adjustment request was sent to CalMHSA, any Participant whose proportionate share of the unused funds would or may be reduced if the adjustment request is granted may submit a response to the adjustment request to CalMHSA's Project Manager electronically, and must copy each of the Participants' representatives on the electronic communication.
 - 4. CalMHSA shall consider all adjustment requests and responses and shall determine whether an adjustment request should be granted, in whole or in part. CalMHSA shall have exclusive jurisdiction over how to resolve any such requests, and its decision(s) shall be final.
 - 5. CalMHSA shall render its decision(s) on any adjustment requests before returning any unused funds.

6. CalMHSA's decisions shall be delivered electronically to each Participants' representative, and a backup copy will be sent via U.S. Mail.

V. Fiscal Provisions; Order of Precedence

- A. Funding required from the Participants will not exceed the amount stated in Exhibit C, County-Specific Scope and Funding.
- B. County will provide the funding amount stated in Exhibit C - Budget, which includes a one-time administrative fee. CalMHSA will invoice the County upon execution of Participation Agreement, for the full budget amount in order to successfully carry out its contractual obligations.
- C. Through the Program, Participants invest in innovation to scale existing mobile applications or successfully develop and scale new mobile applications for the benefit of those living with mental illness. The Parties agree that investing in technology, particularly new technologies, is highly speculative and it is essentially impossible to know whether a Party's failure to perform will cause the other Party harm. Therefore, the Parties agree that neither shall be liable to the other with respect to any investment in a particular mobile application, for the success of failure of the Program in part or as a whole, or for any Program related work, including administration of the Program.
- D. Other than with respect to this Section IV hereof, in the event of any conflict between the terms of this Agreement and the terms of the Services Agreement with respect to CalMHSA's obligations the terms of the Services Agreement shall control.
- E. In addition to the terms of Section 8.11 of the Services Agreement, the Parties agree to observe and comply with all applicable laws, ordinances, codes and regulations of government agencies, including federal, state, municipal and local governing bodies and commissions associated with the investments made in connection with the Program.
- F. Pursuant to the terms of Section 8.14 of the Services Agreement, CalMHSA shall require vendors under the Services Agreement to procure and maintain the policies and levels of insurance set forth therein, including to name CalMHSA and the Participants as additional insureds under such policies.

PARTICIPATION AGREEMENT

Exhibit C – Amended County-Specific Scope and Funding

Amended Budget

Due to the Mental Health Services Oversight and Accountability Commission (MHSOAC) having awarded a two-year extension and assessments related to funding of components, the following new budget allocation will be adopted, effective January 1, 2020. However, the budget is expected to be revised over time as projects are completed and assessments made.

New Budget Allocation Effective January 1 ,2020

DESCRIPTION	FY19/20 THRU FY23-24
CalMHSA (Admin/Project Management)	\$66,686
Technology	\$133,247
Evaluation	\$21,395
PEERs	\$8,545
Outreach/Marketing	\$3,152
CalMHSA Managed Local Funds	\$119,891
TOTAL FUNDING TO CALMHSA	\$352,916
<i>(to be withheld from overall budget)</i>	

**City of Berkeley
Mental Health Services Act (MHSA)
Innovations (INN)
Technology Suite Project Plan**



**Mental Health Division
Health, Housing & Community
Services (HHCS) Department**

RESOLUTION NO. 68,493-N.S.

MENTAL HEALTH SERVICES ACT (MHSA) INNOVATIONS **(INN)** TECHNOLOGY SUITE PROJECT PLAN

WHEREAS, the City's Department of Health, Housing & Community Services, Mental Health Division, currently receives Mental Health Services Act (MHSA) Innovations **(INN)** funds on an annual basis for short term projects that will increase learning in the mental health field through strategies that will either improve the access, quality, or outcomes of services, and/or promote community collaborations; and

WHEREAS, the Mental Health Division works cooperatively and in partnership with the area schools, community-based agencies, and other providers in the provision of such services and supports; and

WHEREAS, the initial MHSA INN Plan was adopted on February 23, 2012 by the Mental Health Commission following a three month long community planning process that included input from mental health consumers, family members, staff, and other community stakeholders; and

WHEREAS, on March 20, 2012 by Resolution No. 65,629-N.S., pursuant to the approved MHSA INN Plan, City Council authorized the execution of up to seven INN pilot project grants, utilizing \$429,600 by June 2012; and

WHEREAS, on May 7, 2013 by Resolution No. 66,107-N.S., the City Council authorized the City Manager to approve the MHSA Fiscal Years 2012 and 2013 Annual Update which included an update to continue mental health services and supports through INN projects utilizing \$315,000 by June 2014; and

WHEREAS, on January 21, 2014 by Resolution No. 66,446-N.S., the City Council authorized the City Manager to approve the INN MHSA Plan Update which increased funding for mental health services and supports through INN projects utilizing \$147,700 by June 2014; and

WHEREAS, on June 24, 2014 by Resolution No. 66,668-N.S., the City Council authorized the City Manager to approve the MHSA Fiscal Years 2013 and 2014 Annual Update which included an update to continue mental health services and supports through INN projects utilizing \$148,799 by June 2015; and

WHEREAS, on June 30, 2015, the original MHSA INN funded projects ended; and

WHEREAS, on April 26, 2016, by Resolution No. 67,434-N.S., the City Council authorized the City Manager to approve a Trauma Informed Care for Educators INN Project utilizing \$180,000 through June 30, 2018; and

WHEREAS, a new MHSA INN Plan has been written and vetted through the stakeholder process that must be approved by City Council in order to implement technology-based mental health services and supports in Berkeley and Albany utilizing \$462,916 by June 30, 2021.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to approve the MHSA INN Plan (Exhibit A) for a new INN Mental Health Technology Suite Project through June 30, 2021.

BE IT FURTHER RESOLVED that the City Manager is authorized to forward the MHSA INN Plan to the Mental Health Oversight and Accountability Commission (MHSAOAC) for final State approval.

The foregoing Resolution was adopted by the Berkeley City Council on June 26, 2018 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Maio, Wengraf, Worthington and Arreguin.

Noes: None.

Absent: None.

tl-- , '

Jesse Arreguin, **May**

Attest:


Mark Numainville, City Clerk

MHSA COUNTY COMPLIANCE CERTIFICATION

County/City: City of Berkeley

MHSA Innovations Technology Suite Plan

Local Mental Health Director	Program Lead
Name: Steve Grolnic-McClurg	Name: Karen Klatt
Telephone Number: (510) 981-5249	Telephone Number: (510) 981-7644
E-mail: <u>SGrolnic-McClurg@cityofberkeley.info</u>	E-mail: <u>KKlatt@cityofberkeley.info</u>
Local Mental Health Mailing Address: 1521 University Avenue Berkeley, CA 94703	

I hereby certify that I am the official responsible for the administration of County/City mental health services in and for said County/City and that the County/City has complied with all pertinent regulations and guidelines, laws and statutes of the Mental Health Services Act in preparing and submitting this MHSA Innovations Technology Suite Plan, including stakeholder participation and nonsupplantation requirements.

This MHSA Innovations Technology Suite Plan has been developed with the participation of stakeholders, in accordance with Welfare and Institutions Code Section 5848 and Title 9 of the California Code of Regulations section 3300, Community Planning Process. The MHSA Innovations Technology Suite Plan was circulated to representatives of stakeholder interests and any interested party for 30 days for review and comment and a public hearing was held by the local mental health board. All input has been considered with adjustments made, as appropriate. The MHSA Innovations Technology Suite Plan, attached hereto, was adopted by the City Council on June 26, 2018.

Mental Health Services Act funds are and will be used in compliance with Welfare and Institutions Code section 5891 and Title 9 of the California Code of Regulations section 3410, Non-Supplant. All documents in the attached annual update are true and correct.

5\ - v -c)\lfl,c.-f\"c •(uJ
Loc [Redacted]

((l rfl!.
1 Dat

MHSA COUNTY FISCAL ACCOUNTABILITY CERTIFICATION

County: City of Berkeley

Local Mental Health Director Name: Steve Grolnic-McClurg Telephone Number: (510) 981-5249 Email: SGrolnic-McClural@citvofberkeley.info	County Auditor..controller/City Financial Officer Name: Henry Oyekanmi Telephone Number: (510) 981-7326 Email: hoyekanmi@citvofberkeley.info
County Mental Health Mailing Address: 1521 University Avenue Berkeley CA 94703	

I hereby certify that the MHSA Innovations Technology Suite Plan is true and correct and that the County has complied with all fiscal accountability requirements as required by law or as directed by the State Department of Health Care Services and the Mental Health Services Oversight and Accountability Commission, and that all expenditures are consistent with the requirements of the Mental Health Services Act (MHSA), including Welfare and Institutions Code (WIC) sections 5813.5, 5830, 5840, 5847, 5891, and 5892; and Title 9 of the California Code of Regulations sections 3400 and 3410. I further certify that all expenditures are consistent with an approved plan or update and that MHSA funds will only be used for programs specified in the Mental Health Services Act. Other than funds placed in a reserve in accordance with an approved plan, any funds allocated to a county which are not spent for their authorized purpose within the time period specified in WIC section 5892(h), shall revert to the state to be deposited into the fund and available for counties in future years.

I declare under penalty of Perjury under the laws of this state that the foregoing and the attached MHSA Innovations Technology Suite Plan is true and correct to the best of my knowledge.

Steven Grolnic-McClurg
Local Mental Health Director (PRINT)

[Signature] 11/29/18
Signature Date

I hereby certify that for the fiscal year ended June 30, 2011, the County/City has maintained an interest-bearing local Mental Health Services (MHS) Fund (WIC 5892(f)); and that the county's/city's financial statements are audited annually by an independent auditor and the most recent audit report is dated for the fiscal year ended June 30, 2017 I further certify that for the fiscal year ended June 30, 2017 the State MHSA distributions were recorded as revenues in the local MHS Fund; that County/City MHSA expenditures and transfers out were appropriated by the City Council and recorded in compliance with such appropriations; and that the County/City has complied with WIC section 5891(a), in that local MHSA funds may not be loaned to a county general fund or any other county fund.

I declare under penalty of perjury under the laws of this state that the foregoing is true and correct.

[Signature] _____
Signature Date

MENTAL HEALTH SERVICES ACT (MHSA) DRAFT INNOVATIONS(INN) PLAN PROPOSED TECHNOLOGY SUITE PROJECT

The City of Berkeley has created a Draft Mental Health Services Act (MHSA) Innovations (**INN**) plan in order to allocate \$462,916 of unspent funds to join with other California counties to pilot a Mental Health Technology Project. Becoming a collaborative partner on the Technology Suite Project would make various technology-based mental health services and supports available locally in Berkeley and Albany. The proposed **INN** project will seek to learn whether the Technology Suite Project will increase access to mental health services and supports; and whether it will increase the quality of mental health services, including leading to better outcomes.

MHSA INNOVATIONS BACKGROUND AND OVERVIEW

Enacted by voters on November 2, 2004, the Mental Health Services Act (MHSA) is Proposition 63 that places a 1% tax on every dollar of personal income over \$1 million. MHSA revenues are allocated to mental health jurisdictions across the state for the purposes of transforming and expanding the public mental health system by helping systems become more integrated, culturally competent, consumer and family member driven, and wellness and recovery oriented. Through five funding components, MHSA is designed to create the capacity for a broad continuum of prevention, early intervention and treatment services along with the necessary infrastructure, technology, and training elements to support effective mental health system transformation.

One of the five funding components of MHSA is Innovations (**INN**). The purpose of INN is to implement short-term pilot projects that contribute to new learning in the Mental Health field. These funds provide the opportunity to pilot test creative strategies that can inform future practices in communities/or mental health settings. INN projects can target any population and any aspect of the mental health system as long as the strategies or approaches that are being implemented address at least one of the following areas:

- Increase access to mental health services
- Increase access to mental health services for underserved groups
- Increase the quality of mental health services, including better outcomes
- Promote interagency collaboration

INN projects must also either: introduce new mental health practices or approaches that have never been done before; or make changes to existing mental health practices/approaches, including adapting them to a new setting or community; or introduce a new promising community-driven practice/approach that has been successful in non-mental health contexts or settings. Mental Health jurisdictions are required to report on the results of strategies and projects that were implemented through this funding component.

As with all MHSA components, INN funds are made available through an approved INN Plan which includes the following required steps: conducting a community program planning process informed by community stakeholders, plan development, a 30-Day Public Review, a Public Hearing, and obtaining approvals by the local City Council and the California Mental Health Services Oversight and Accountability Commission (MHSOAC).

COMMUNITY PROGRAM PLANNING (CPP)

In Fiscal Year 2017 (FY17) the City of Berkeley, Health, Housing & Community Services Department, Mental Health Division (Berkeley Mental Health) hired an outside consultant, Applied Survey Research, to conduct the State required MHSA Community Program Planning (CPP) process to obtain input on local mental health needs that could potentially be addressed through INN funds. Over a five-month period community input meetings, key informant interviews, focus groups and MHSA Advisory Committee

MHSA COUNTY COMPLIANCE CERTIFICATION

County/City: City of Berkeley

MHSA Innovations Technology Suite Plan

Local Mental Health Director	Program Lead
Name: Steve Grolnic-McClurg	Name: Karen Klatt
Telephone Number: (510) 981-5249	Telephone Number: (510) 981-7644
E-mail: <u>SGrolnic-McClurg@cityofberkeley.info</u>	E-mail: <u>KKlatt@cityofberkeley.info</u>
Local Mental Health Mailing Address:	
1521 University Avenue Berkeley, CA 94703	

I hereby certify that I am the official responsible for the administration of County/City mental health services in and for said County/City and that the County/City has complied with all pertinent regulations and guidelines, laws and statutes of the Mental Health Services Act in preparing and submitting this MHSA Innovations Technology Suite Plan, including stakeholder participation and nonsupplantation requirements.

This MHSA Innovations Technology Suite Plan has been developed with the participation of stakeholders, in accordance with Welfare and Institutions Code Section 5848 and Title 9 of the California Code of Regulations section 3300, Community Planning Process. The MHSA Innovations Technology Suite Plan was circulated to representatives of stakeholder interests and any interested party for 30 days for review and comment and a public hearing was held by the local mental health board. All input has been considered with adjustments made, as appropriate. The MHSA Innovations Technology Suite Plan, attached hereto, was adopted by the City Council on June 26, 2018.

Mental Health Services Act funds are and will be used in compliance with Welfare and Institutions Code section 5891 and Title 9 of the California Code of Regulations section 3410, Non-Supplant. All documents in the attached annual update are true and correct.

5\ - v -c)\lfl,c.-f\"c •(uJ
Loc [Redacted]

((l rfl!.
1 Dat

MHSA COUNTY FISCAL ACCOUNTABILITY CERTIFICATION

County: City of Berkeley

Local Mental Health Director Name: Steve Grolnic-McClurg Telephone Number: (510) 981-5249 Email: SGrolnic-McClural@citvofberkeley.info	County Auditor..controller/City Financial Officer Name: Henry Oyekanmi Telephone Number: (510) 981-7326 Email: hoyekanmi@citvofberkeley.info
County Mental Health Mailing Address: 1521 University Avenue Berkeley CA 94703	

I hereby certify that the MHSA Innovations Technology Suite Plan is true and correct and that the County has complied with all fiscal accountability requirements as required by law or as directed by the State Department of Health Care Services and the Mental Health Services Oversight and Accountability Commission, and that all expenditures are consistent with the requirements of the Mental Health Services Act (MHSA), including Welfare and Institutions Code (WIC) sections 5813.5, 5830, 5840, 5847, 5891, and 5892; and Title 9 of the California Code of Regulations sections 3400 and 3410. I further certify that all expenditures are consistent with an approved plan or update and that MHSA funds will only be used for programs specified in the Mental Health Services Act. Other than funds placed in a reserve in accordance with an approved plan, any funds allocated to a county which are not spent for their authorized purpose within the time period specified in WIC section 5892(h), shall revert to the state to be deposited into the fund and available for counties in future years.

I declare under penalty of Perjury under the laws of this state that the foregoing and the attached MHSA Innovations Technology Suite Plan is true and correct to the best of my knowledge.

Steven Grolnic-McClurg
Local Mental Health Director (PRINT)

[Signature]
Signature

11/29/18
Date

I hereby certify that for the fiscal year ended June 30, 2011, the County/City has maintained an interest-bearing local Mental Health Services (MHS) Fund (WIC 5892(f)); and that the county's/city's financial statements are audited annually by an independent auditor and the most recent audit report is dated for the fiscal year ended June 30, 2017. I further certify that for the fiscal year ended June 30, 2017 the State MHSA distributions were recorded as revenues in the local MHS Fund; that County/City MHSA expenditures and transfers out were appropriated by the City Council and recorded in compliance with such appropriations; and that the County/City has complied with WIC section 5891(a), in that local MHSA funds may not be loaned to a county general fund or any other county fund.

I declare under penalty of perjury under the laws of this state that the foregoing is true and correct.

7&7 _____
Signature

[Redacted]

Signature _____ Date _____

t.

meetings were held to obtain input from MHSA Advisory Committee members, consumers, family members, representatives from community-based organizations, individuals from un-served, underserved and inappropriately served populations; City Commissioners, Berkeley Mental Health staff, and other MHSA Stakeholders. The areas of local mental health needs that emerged from this process included: Access to and Availability of Services; Crisis Response; Coordination of Services and Transitions; Lack of Evaluation; Stigma of Mental Illness; and Youth/Transition Age Youth (TAY) mental health needs.

Development of the proposed INN Plan included both an examination of the areas of need that emerged out of the FY17 planning process and the amount of INN funding that needed to be expended by a given timeline. Following an internal review, various potential program ideas were vetted through the State Mental Health Services Oversight Accountability Commission (MHSOAC) and the local MHSA Advisory Committee before proposing to join the multi-county collaborative Technology Suite Project.

Some of the multiple areas of need repeatedly voiced in the FY17 planning process that the City of Berkeley is proposing to address through the multi-county collaborative INN Technology Suite Project are Access to and Availability of Services; Coordination of Services and Transitions; Stigma of Mental Illness; and Youth/Transition Age Youth (TAY) mental health needs.

In FY18 three MHSA Advisory Committee meetings and three Community Input Meetings were held to obtain input on the proposed use of INN funds to join the multi-county collaborative Technology Suite Project. Additionally, presentations were held on the proposed project at meetings of the Berkeley Pool of Consumer Champions, and the Mental Health Commission. Community input for this project was overwhelmingly favorable.

A 30-Day Public Review was held from Tuesday, April 24 through Wednesday, May 23, 2018 to invite input on the MHSA Draft INN Plan. A copy of the Draft Plan was posted on the BMH MHSA website and was available for reviewing in hard copy format at the downtown Public Library at 2090 Kittredge Street. An announcement of the 30-Day Public Review was mailed and/or emailed to community stakeholders. Following the 30-day public review period a Public Hearing at the Mental Health Commission was held on Thursday, May 24, 2018 at 7:00pm at the North Berkeley Senior Center. During the Public Hearing, the Mental Health Commission passed a motion approving the MHSA Innovations Technology Suite Project as submitted.

INN TECHNOLOGY SUITE PROJECT OVERVIEW

Berkeley Mental Health is proposing to join with collaborative county partners to implement a suite of technology-based mental health services and solutions (mobile and computer applications - Apps) that can be accessed by community members on an at-will, voluntary basis. The Apps will collect passive data that identifies early signs and signals of mental health symptoms and will then provide access and linkage to intervention. Public users and clients choosing to utilize the Apps will be able to access services through devices like computers, tablets and smartphones. The project will identify those in need of mental health care services through active online engagement, and automated screening and assessment. Services will be focused on prevention, early intervention, and family and social supports intended to decrease the need for psychiatric hospital and emergency care.

This approach has not previously been used in a public mental health care setting. Given the popularity of technology-based services, it has been determined that engagement focused in this way can provide a method of access and linkage to care never previously achieved in the public mental health system.

- The goals of the project will include:
 1. Utilization of technology-based behavioral health solutions which engage, educate and provide intervention to individuals experiencing symptoms of mental illness;
 2. Utilization of passive sensory data to engage, educate and suggest behavioral health activation strategies to users;

3. Creating a strategic approach to access points to expose individuals to technology-based mental health solutions;
4. Developing a method and conducting outcome evaluation of all elements of the project.

The Technology Suite Project is comprised of three mental health App components, and two Universal Components. The App components are as follows:

1. Peer Chat and Digital Therapeutics: 24/7 virtual Peer Chatting through trained and certified peers with lived experience; virtual communities of support for various populations; manualized interventions, such as mindfulness exercises, cognitive behavioral or dialectical behavior interventions; referral processes.
2. Therapy Avatar: Virtual evidence-based interventions delivered via an avatar; scripted mindfulness exercises and Cognitive Behavioral therapy interventions; referral processes; access to a directory of public mental health services.
3. Digital Phenotyping: Analyzes factors associated with cell phone usage (Passive sensory data) to engage, and suggest behavioral activation strategies for users; informs targeted communities and recommended interventions; assists individuals at risk of, or experiencing early symptoms of, mental illness in identifying risks/symptoms or potential for relapse; tailors wellness strategies to a person's needs.

The Universal Components include the following:

1. Community Engagement and Outreach Engaging Users Promoting and Use: This component would provide a strategic approach to access points that will expose individuals to the mental health Apps.
2. Outcome Evaluation: An evaluation of all elements of the project, including measuring reach and clinical outcomes.

All mental health jurisdictions participating in the Technology Suite Project must include the Universal outreach and evaluation components into their local projects. However, based on community need, participating jurisdictions have the option of which mental health Apps they will buy into and make locally available.

The California Mental Health Services Authority (CalMHSA), a Joint Powers Authority (JPA), will serve as the fiscal intermediary for mental health jurisdictions who are participating in the Technology Suite Project. In this collaborative approach, CalMHSA will contract directly with technology vendors, support the shared evaluation, and maximize outreach and marketing.

PROPOSED CITY OF BERKELEY TECHNOLOGY SUITE PROJECT

In an effort to increase access to, and the availability of services; promote the coordination of services and transitions; reduce the stigma of mental illness; and address unmet community mental health needs in youth and various populations, Berkeley Mental Health is proposing to make locally available, all three of the mental health App components (Peer Chat/Digital Therapeutics; Therapy Avatar; and Digital Phenotyping). If granted approval of the INN Technology Suite Project Berkeley Mental Health will convene an Advisory Committee of community stakeholders, consumers and family members who will provide recommendations on various aspects of the project including any additional Apps that would be appropriate to address current and emerging mental health needs.

The primary learning goals of the Berkeley Technology Suite Project are to assess:

- > Whether having an accessible mobile/computer App of resources increases access to mental health services to various populations that are not currently served at Berkeley Mental Health;

- Ji.> Whether providing an App that would assist individuals in recognizing signs and symptoms of mental health concerns, would promote better outcomes;
- Ji.> Whether technology-based services would increase the coordination of accessible information of area mental health resources;
- Ji.> Whether technology-based services would provide better coordination of care for clients who are accessing multiple social services, promoting community collaboration and better mental health outcomes;
- Ji.> Whether the utilization of technology-based services would reduce stigma around accessing mental health services;
- Ji.> Whether the provision of technology-based services would increase access and promote better mental health outcomes for transition age youth;
- Ji.> Whether various populations find the technology Apps to be helpful in promoting better mental health outcomes and access to services.

The proposed timeline of the project will be from June 2018 - June 2021.

INNOVATIVE PROJECT PLAN DESCRIPTION

PRIMARY PROBLEM

In FY17 Berkeley Mental Health hired an outside consultant, Applied Survey Research, who conducted the MHSa required community program planning process to determine local mental health needs for this round of Innovation funds. Some of the multiple areas of need that emerged through this planning process that the Berkeley Mental Health is proposing to address through the Innovations Technology Suite Project are : Access to/Availability of Services; Coordination of Services and Transitions; Stigma; . and Youth issues. Outlined below are the issues that were voiced in each area:

- > Access to/Availability of Services - Concerns around a lack of services for various populations including the following: Individuals recovering from a crisis situation; Medi-Cal Clients, Homeless/unstably housed, individuals in middle income group who make too much money to qualify for Medi-Cal, but not enough to pay for a private Mental Health provider; African Americans; Bilingual individuals; undocumented individuals; Clients who reside in Albany; Children who have experienced trauma; Individuals with less severe Mental Health issues.
- > Coordination of Services and Transitions - Concerns included: What occurs when transitioning from inpatient to outpatient services; lack of coordination/sharing between electronic health systems; providers may not have knowledge about resources client is/is not connected to; need for more targeted/organized coordination between Disability, Criminal Justice, Peers/Consumers; community health workers; employment and job services; different geographical areas; Public Health; Housing and the Hub, Mental Health organizations, etc.
- > Stigma - Concerns around cultural stigma related to seeking out Mental Health services.
- > Youth - Concerns included: Youth with mental health issues who are much more likely to go to the juvenile justice system (and not get their MH issues addressed); Youth aren't always able to recognize that some of their feelings or symptoms could be related to Mental Health; Youth in constant crisis have unique Mental Health needs; Youth who are self-medicating with drugs/alcohol.

During the planning process, some of the solutions that were proposed by community stakeholders to address the stated issues were to: Implement peer support and peer navigation systems; provide a phone number individuals could call for navigation support, such_ as a resource line; provide ongoing navigation support; create a city-wide resource guide; create a network for providers where services could be coordinated for clients seen by multiple agencies; provide services that support positive mental health in innovative ways (not just talk or pharma therapy); provide better coordination among youth mental health providers; provide more support for youth around identifying symptoms and how/where to access resources; reach out to youth in other ways, such as technology.

While new projects and solutions to address some of the areas of concern have since been implemented, or are currently underway (such as the creation of the Transitional Outreach Team and producing an updated Resource Guide), many of the expressed issues of unmet mental health service needs remain in Berkeley and Albany.

WHAT HAS BEEN DONE ELSEWHERE TO ADDRESS YOUR PRIMARY PROBLEM

Technology-based mental health support and services has been increasing access to services for those who do not seek traditional means of treatment. Private industry technology-based services have previously been utilized with universities and public health institutions. However, a project that is implemented through multiple counties, which utilizes technology-based services and supports to increase access and linkage, has never-before been tested.

PROPOSED PROJECT

Berkeley Mental Health is proposing to join with multiple county partners to implement a collaborative suite of technology-based mental health services and solutions (mobile and computer applications - Apps) that can be accessed by community members on an at-will, voluntary basis. The Apps will collect passive data that identifies early signs and signals of mental health symptoms and will then provide access and linkage to intervention. Public users and clients choosing to utilize the Apps will be able to access services through devices like computers, tablets and smartphones. The project will identify those in need of mental health care services through active online engagement, and automated screening and assessment. Services will be focused on prevention, early intervention, and family and social supports intended to decrease the need for psychiatric hospital and emergency care.

This approach has not previously been used in a public mental health care setting. Given the popularity of technology-based services, it has been determined that engagement focused in this way can provide a method of access and linkage to care never previously achieved in the public mental health system.

The goals of the project include:

1. Utilization of technology-based behavioral health solutions which engage, educate and provide intervention to individuals experiencing symptoms of mental illness. Services will include:
 - Virtual peer chatting with trained and certified peers with lived experience.
 - Virtual support communities for populations including those experiencing behavioral health-related symptoms and family members of those with mental illness.
 - Virtual chat options for parents of children and adults receiving behavioral health care.
 - Virtual evidence-based interventions delivered via an avatar including mindfulness exercises and Cognitive Behavioral therapy and Dialectical Behavior Therapy (DBT) skills delivered simply.
 - Access to a directory of public mental health services
 - Referral process for those requiring additional services.
2. Use passive sensory data to engage, educate and suggest behavioral health activation strategies to users, including:
 - Incorporation of passive data from smart phones or mobile devices into an interactive approach to digital phenotyping where the technology analyzes factors associated with cell phone usage (passive data) and interacts with the user through a pop-up chat function which allows for increased user understanding of thought and feeling states.
 - Web-based analytics then inform targeted communications and recommend interventions.
 - Incorporation of emerging research in mental health early detection to target individuals who may be at risk of or experiencing early symptoms of mental illness and use passive data collection to identify risk/symptoms or potential for relapse.
3. Create a strategic approach to access points to expose individuals to technology-based mental health solutions, including:
 - Engaging school systems, including colleges and universities, to promote use of services and supports
 - Utilizing social media, public website and other media to promote use of technology-based services
 - Working with mental health organizations, including the local National Alliance for Mental Illness (**NAMI**), peer-based community learning centers and local support groups to promote use of technology-based services
 - Collaborate with those providing services to older adults at risk for social isolation, including working with senior apartment complexes, senior centers, and faith-based organizations who outreach to seniors
 - Working with local public locations, including agencies, libraries and other resources to promote technology-based service use.

4. Develop method and conduct outcome evaluation of all elements of the project, including:

- Increased wellbeing of those utilizing services.
- Reduced duration of untreated/undertreated mental illness.
- Increase in the ability for users to identify cognitive, emotional and behavioral changes and actively address them.
- Increased quality of life, measured objectively and subjectively by both the user and by indicators such as activity level, employment, school involvement, etc.

If granted approval of the INN Technology Suite Project Berkeley Mental Health will convene an Advisory Committee of community stakeholders, consumers and family members who will provide recommendations on various aspects of the project including any additional Apps that would be appropriate to address current and emerging mental health needs.

INNOVATIVE COMPONENT

The project introduces a new approach to the overall mental health system including, but not limited to, prevention and early intervention. Technology-based mental health services and supports will be implemented through this project to engage populations not previously accessed through outreach and education efforts. Through the use of technology as a means of reaching and engaging those with mental illness, the City of Berkeley and its partners intend to provide access for unserved and underserved populations.

LEARNING GOALS/PROJECT AIMS

The primary learning goals of the Berkeley Technology Suite Project are to assess:

- Whether having an accessible mobile/computer App of resources increases access to mental health services to various populations that are not currently served at Berkeley Mental Health
- Whether providing an App that would assist individuals in recognizing signs and symptoms of mental health concerns, would promote better outcomes.
- Whether technology-based services would increase the coordination of accessible information of area mental health resources;
- Whether technology-based services would provide better coordination of care for clients who are accessing multiple social services, promoting community collaboration and better mental health outcomes
- Whether the utilization of technology-based services would reduce stigma around accessing mental health services;
- Whether the provision of technology-based services would increase access and promote better mental health outcomes for transition age youth.
- Whether various populations find the technology Apps to be helpful in promoting better mental health outcomes and access to services.

Additional learning goals will assess:

- Whether those at risk of or experiencing mental symptoms of mental illness use peer chatting accessed through technological platforms.
- Whether those accessing technology-based supports and services including virtual peer chat will engage in manualized therapeutic interventions.
- Whether virtual chatting and peer-based interventions will result in greater social connectedness, reduction of symptoms related to mental illness and increased well-being.
- Which virtual-based strategies are most helpful in compelling individuals to feel willing and capable of seeking necessary behavioral health care or services.
- Whether passive data collected from smart phones or other mobile devices can accurately detect changes in mental health status and prompt behavioral change effectively.
- How digital data informs the need for mental health interventions and coordination of care.
- Determine effective strategies to reduce the duration of untreated mental illness.

- Whether online social engagement is successful in mitigating the severity of mental health symptoms.
- Determining the most effective strategies and approaches in promoting virtual care and support for the most appropriate populations.

EVALUATION OR LEARNING PLAN

The evaluation will consist of tracking and analysis of passive data, users reached, level of user engagement, access and timeliness of care and clinical outcomes. Passive data from smart phones and mobile devices will be analyzed to determine changes in mental status and response to online peer-based supports, digital therapeutic and virtual behavioral health care services. Interventions would be driven by continuous assessment and feedback.

Outcomes to be collected:

- Determination of whether users experience increased purpose, belonging and social connectedness
- Reduction of duration of untreated or undertreated mental illness and increase in timely access to mental health care for unserved and underserved populations
- Whether users experience increase in the ability to identify cognitive, emotional and behavioral changes and actively address them
- Determination of whether users experience increases in quality of life, as measured objectively and subjectively by the user and by indicators including activity level, employment, school involvement, etc.

CONTRACTING

The California Mental Health Services Authority (CalMHSA), a Joint Powers Authority (JPA), will serve as the fiscal intermediary for mental health jurisdictions who are participating in the Technology Suite Project. In this collaborative approach, CalMHSA will contract directly with technology vendors, support the shared evaluation, and maximize outreach and marketing. Berkeley Mental Health will reassign a portion of the proposed Berkeley Technology Suite Project funds to CalMHSA who will oversee and administer contracts with the chosen Technology Vendors for the mental health services and supports Apps, and the engagement and evaluation components of the project. Berkeley Mental Health will work closely with CalMHSA to ensure the quality, execution and monitoring of services purchased from the chosen vendors.

A portion of the proposed Berkeley Technology Suite Project funds may also be allocated to contract locally for a Project Manager who would oversee the implementation of the Berkeley Technology Suite Project. If Project Management services are contracted out, a Berkeley Mental Health staff would be assigned to monitor all aspects of the project to ensure the implementation and quality of the services purchased from the chosen contractor.

CERTIFICATIONS

1. City Council approval will be sought on June 26, 2018
2. MHSA Certification Document -Will be completed on final approval of City Council.
3. MHSA Fiscal Accountability Document -Will be completed on final approval of City Council.

COMMUNITY PROGRAM PLANNING

In Fiscal Year 2017 (FY17) Berkeley Mental Health hired an outside consultant, Applied Survey Research, to conduct the State required MHSA Community Program Planning (CPP) process to obtain input on local mental health needs that could potentially be addressed through INN funds. Over a five-month period community input meetings, key informant interviews, focus groups and MHSA Advisory Committee meetings were held to obtain input from MHSA Advisory Committee members, consumers, family members, representatives from community-based organizations, individuals from unserved,

underserved and inappropriately served populations; City Commissioners, Berkeley Mental Health staff, and other MHSA Stakeholders. The areas of local mental health needs that emerged from this process included: Access to and Availability of Services; Crisis Response; Coordination of Services and Transitions; Lack of Evaluation; Stigma of Mental Illness; and Youth/Transition Age Youth (TAY) mental health needs.

Development of the proposed INN Plan included both an examination of the areas of need that emerged out of the FY17 planning process and the amount of INN funding that needed to be expended by a given timeline. Following an internal review, various potential program ideas were vetted through the State Mental Health Services Oversight Accountability Commission (MHSOAC) and the local MHSA Advisory Committee before proposing to join the multi-county collaborative Technology Suite Project.

Some of the multiple areas of need repeatedly voiced in the FY17 planning process that Berkeley Mental Health is proposing to address through the multi-county collaborative INN Technology Suite Project are Access to and Availability of Services; Coordination of Services and Transitions; Stigma of Mental Illness; and Youth/Transition Age Youth (TAY) mental health needs.

In FY18 three MHSA Advisory Committee meetings and three Community Input Meetings were held to obtain input on the proposed use of INN funds to join the multi-county collaborative Technology Suite Project. Additionally, presentations were held on the proposed project at meetings of the Berkeley Pool of Consumer Champions, and the Mental Health Commission. Community input on this project has been overwhelmingly favorable. Some of the comments received were as follows: this would be a great project to support youth, Transition Age Youth and other underserved populations; how this would be a good service for individuals with insomnia and a good pairing of how mental health peers with insomnia could participate and help others; how having an App with City Resources would be very helpful. Some of the Community stakeholder questions included: Concerns around user information and identity protections; inquiries regarding how trained paid peers in the Peer Chat App are monitored and what training they have received; how community members without iPhones or computers would access the Apps; how the Division would ensure that Technology services Berkeley purchases would only be accessible by Berkeley and Albany residents; inquiries as to whether the technologies would still be available to Berkeley/Albany residents when they were traveling out of the local area; what protections would be in place for children and youth who obtain access to the App to only see age appropriate services and supports; whether the Apps would be available in different languages. If this project is approved, stakeholder concerns will be addressed during project implementation.

A 30-Day Public Review was held from Tuesday, April 24 through Wednesday, May 23, 2018 to invite input on the MHSA Draft INN Plan. A copy of the Draft Plan was posted on the BMH MHSA website and was available for reviewing in hard copy format at the downtown Public Library at 2090 Kittredge Street. An announcement of the 30-Day Public Review was mailed and/or emailed to community stakeholders. Following the 30-day public review period a Public Hearing at the Mental Health Commission was held on Thursday, May 24, 2018 at 7:00pm at the North Berkeley Senior Center. Following the Public Hearing at the May 24 meeting, the Mental Health Commission passed the following motion: M/S/C (Marasovic, Kealoha-Blake) Approve the MHSA Innovations Technology Suite Project as submitted. Ayes: Castro, Cheema, Davila, Fine, Heda, Kealoha-Blake, Ludke, Marasovic, Posey. Noes: None; Abstentions: None; Absent: Ortiz.

PRIMARY PURPOSE

The primary purpose of the Berkeley INN Technology Suite Project is to increase access to mental health services to unserved and underserved groups; and to increase the quality of mental health services, including better outcomes.

MHSA INNOVATIVE PROJECT CATEGORY

The proposed INN Technology Suite Project introduces a new mental health practice or approach.

POPULATION

The mental health Apps would be available to anyone in Berkeley/Albany who is interested in accessing the technology-based services and supports. While the services will be available to all, an example of particular populations who may choose to utilize the Apps for various levels of supports are as follows:

- Youth and Transition Age Youth
- Individuals who aren't able to access services at Berkeley Mental Health
- Those with sub-clinical mental health symptom presentation, including those who may not recognize that they are in the early course of a mental health condition
- Those at risk for mental illness or relapse of mental illness
- Socially isolated individuals, including older adults
- Those experiencing high frequency of inpatient psychiatric care
- Current behavioral health clients in need of additional support
- Family members of children and adults with mental illness in need of additional support

MHSA GENERAL STANDARDS

1. Community Collaboration

This project will seek to work with organizations serving children, youth, transitional aged youth, adults older adults, and those serving unserved, underserved and inappropriately served populations (Asian Pacific Islanders, Latinos, LGBTQ individuals, and African Americans) who would benefit from technology-based mental health services and supports. This would include, but not be limited to community centers providing social activities, inpatient and outpatient behavioral health care providers, schools, senior centers, peer-based services centers, law enforcement working with youth-based programs, etc.

2. Cultural Competency

Support communities built within the technology-based supports and services system will have the capability to address and engage with youth, adults, older adults, those with substance use or other addictions, LGBTQ Individuals seeking support and communities specifically geared toward behavioral health symptoms.

3. Client-Driven

This project requires active initiation of the client or potential client seeking technology-based mental health support. Those utilizing online or application-based services initiate their role in care and determine the frequency. The goal of the program is to engage those in need of care and reduce the duration of untreated mental illness.

4. Family-Driven

Family members of children and adults with mental illness can initiate technology-based mental health support through the online or application-based program at will.

5. Wellness, Recovery and Resilience-Focused

Using virtual peer chat and online support communities, users are connected to those with lived experience who can actively provide support and encouragement for those experience mental illness or family members of children or adults with mental illness.

6. Integrated Service Experience for Clients and Families

Though support group experiences may be different for clients than for family members, skills and Supportive practices can be used by both family members and those with mental illness to work toward common recovery goals.

CONTINUITY OF CARE FOR INDIVIDUALS WITH SERIOUS MENTAL ILLNESS

This program promotes technology-based mental health solutions and analytics of passive data collection for those active in care with the System of Care and those previously unreached. For those who require a higher level of care for severe mental health symptoms, a referral would be made through the contracting technology companies to Berkeley Mental Health.

INNOVATIVE PROJECT EVALUATION CULTURAL COMPETENCE AND MEANINGFUL STAKEHOLDER INVOLVEMENT

This project addresses the needs associated with multiple age and cultural populations including youth and transitional aged youth, adults and older adults. Additionally, instant online access to support communities for parents of children with mental illness, LGBTQ individuals and those experiencing mental health symptoms or addiction are available.

As part of a multi-county collaborative innovative program, continued communication by participating partners regarding data and outcomes will continue throughout the duration of the three-year project. Through this collaboration, an opportunity for shared learning will continue as well as development of best practices in utilizing the technology suite. Berkeley Mental Health will provide stakeholders throughout the County with regularly updated reports of outcomes during stakeholder presentations and through the MHSa Three-Year Plan and Annual Update Reports.

Berkeley Mental Health will also participate in cross-county learning opportunities supported by the Mental Health Services and Oversight Accountability Commission (MHSOAC). It is further anticipated that Berkeley Mental Health will have the opportunity to provide information on shared learning with collaborative county partners in venues including conferences, meetings and potential publication of article submission to peer-reviewed journals.

SUSTAINABILITY

Evaluation of the program by a contracted entity determining the success of the program based on the analytics of the technology-based suite of access and linkage services will determine the continued need of the program beyond the three-year innovative period. With favorable results and stakeholder support, a combination of Prevention and Early Intervention and other funds could be used to extend this project.

COMMUNICATION AND DISSEMINATION PLAN

Berkeley Mental Health, as part of a multi-county effort, will regularly share learning that occurs internally within the local jurisdiction and externally throughout California. Berkeley Mental Health will also participate in cross-county learning opportunities supported by the MHSOAC or its partner organizations. Impact, reach, implementation status and outcomes will be documented in MHSa Annual Updates and Three Year Program and Expenditure Plans and will be shared widely with local community stakeholders. Additionally, Berkeley Mental Health and its partner counties will seek to present the project and its outcomes throughout the project at statewide conferences, and other relevant conferences.

TIMELINE FOR PROJECT IMPLEMENTATION

The timeline of the project is June 2018-June 2021. The projected timeline for deliverables is outlined below, however, due to the innovative nature of this project and the multi-county collaboration, actual implementation steps may deviate in terms of sequence and/or timeframes:

PROPOSED DATE	DELIVERABLES
June 2018	Upon approval, reassign a portion of project funds to CalMHSA.
July 2018	Convene Berkeley Technology Advisory Committee comprised clients, family members, Transition Age Youth, City of Berkeley IT staff and other stakeholders who will provide feedback on implementation and guide use and scaling of the project, as well as shaping the evaluation. This committee will also make recommendations on the use of the technology suite in clinical settings and the role of the services within the Berkeley Mental Health system of care.
August 2018	Identify data to be collected and reported on; including developing a reporting framework.
August - September 2018	Launch of virtual services and local marketing of services
October 2018 - June 2021	Continue project; evaluate and report out on outcomes.

BERKELEY TECHNOLOGY SUITE BUDGET

Berkeley will allocate a total of \$462,916 in Innovation funds to this multi-county collaborative project over a period of three years. Of the \$462,916 budget, \$185,949 will be allocated from FY15/16 Innovation funds and the remainder \$276,967 will be allocated from FY16/17 funds. Funds will be expended as follows

Budget Line Item	Year 1	Year 2	Year3	Total
Local Costs: Project Coordinator (internal staff or Consultant); Administrative personnel/non-personnel costs.	\$50,000	\$20,000	\$20,000	\$90,000
Stipends	\$3,600	\$3,600	\$3,600	\$10,800
CalMHSA Administrative Cost	\$18,146			\$18,146
Technology Suite Development and implementation Costs	\$203,792	\$70,089	\$70,089	\$343,970
Total Budget	- \$281,938	\$100,489	\$80,489	\$462,916

BUDGET NARRATIVE

- i., **Local Costs:** Includes local staff or a consultant to work with the state to implement and oversee the project, and if contracted staff costs to administer the contract.
- i., **Stipends:** For peers, - consumers, family members and individuals from unserved, underserved and inappropriately served populations who will serve on the Berkeley Technology Advisory Group.
- i., **CalMHSA Administrative Cost:** Fee paid to CalMHSA to oversee the multi-county administrative and financial components of the project.
- i., **Technology Site Development and Implementation Costs:** Includes Technology Development, Product Management, Evaluation, Software Applications and Product expenses and start up and licensing fees.



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, Health, Housing and Community Services Department

Subject: Contract Amendments: Contract No. 42000079 with Community Services Block Grant (CSBG) for Calendar Year 2020-21 and Contract No. 32000238 with Downtown Berkeley Association (DBA) for Double Helping Hand Program

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to:

1. Execute an amendment to Contract No. 42000079 with the State of California's Department of Community Services and Development (CSD) for Community Services Block Grant (CSBG) Contract Number 20F-3001 to increase the amount to \$304,355 and extend the contract period to May 31, 2021, and to execute any resultant agreements and amendments to provide services to low-income people for the period January 1, 2020 to May 31, 2021; and
2. Execute an amendment to Contract No. 32000238 with the Downtown Berkeley Association (DBA) for the Double Helping Hand program for meals for the unhoused population by providing an additional \$37,492 in CSBG funding for a total amount not to exceed \$87,492.

FISCAL IMPACTS OF RECOMMENDATION

The State of California's Department of Community Services and Development (CSD) is providing a slight increase (\$5,492) in the amount of Community Services Block Grant (CSBG) entitlement funding for the period January 1, 2020 through December 31, 2020. In addition, CSD is providing \$32,000 in discretionary funds which are available through May 31, 2021. Therefore, the City Manager requires council authorization to amend the City's existing contract with CSD (No. 42000079) to add a total of \$37,492, bringing the total amount to \$304,355 (334-51-504-530-0000-000-000-431110-), and extend the contract end-date to May 31, 2021. The CSBG allocation amount is included in the City's anti-poverty Community Action Fund, which supports services for low-income Berkeley residents; it also includes funding for oversight and management of anti-poverty funds within the Health, Housing and Community Services Department (HHCS). The City Manager recommends adding these additional funds (\$37,492) to an existing

contract with the DBA (No. 32000238). This is a \$50,000 contract, currently funded with Homeless Emergency Assistance Program (HEAP) (Budget Code: 336-51-504-535-0000-000-444-636110-) funds. Adding CSBG funds will bring the total not-to-exceed amount to \$87,492. The additional funds will be appropriated as part of the First Amendment to the FY 2021 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

On December 10, 2019, City Council authorized the City Manager and her designee to execute CSBG Contract Number 20F-3001 for the amount of \$266,863 (Resolution No. 69,208 N.S.) This is the City of Berkeley's normal allocation of CSBG funds for calendar year 2020. On May 19, 2020, the State Department of Community Services and Development issued a letter to the City Manager, stating that the final award for the City will increase to \$304,355; this \$37,492 increase is a combination of \$32,000 in discretionary funding and \$5,492 in regular CSBG entitlement funding.

On May 4, 2020, the City Manager entered into a contract with the Downtown Berkeley Association for \$50,000. This contract supports the Double Helping Hand program, a collaboration between the DBA and Berkeley restaurants to provide to-go lunches to unhoused residents living in encampments. These lunches are distributed by homeless outreach teams coordinated by City of Berkeley staff. This \$50,000 contract provides funding for 150 to-go lunches three days per week through July 10, 2020. Adding \$37,497 will enable the program to continue through August 2020.

In past years, the Human Welfare and Community Action Commission (HWCAC), which acts as an advisory tri-partite Board to the Council, has provided public participation in the administration of the CSBG funds, and has made a recommendation to Council as to how these funds should be allocated. However, due to the impact of COVID-19 on the ability of City commissions to do business, the HWCAC has not been able to meet and vote upon a recommendation.

BACKGROUND

The City of Berkeley is a Community Action Agency (CAA) and receives Community Services Block Grant funds (CSBG) to support programs for residents with incomes at 120% of the federal poverty level and below. CSBG funds are part of the federal Department of Health and Human Services budget passed through the state to local CAAs. CSBG funds are used as part of the City's commitment to anti-poverty efforts for critical community services, including providing healthcare services to low-income residents.

Community Services Block Grant (CSBG) supports the City of Berkeley's anti-poverty efforts at a minimum funded level. Over the years the funds have fluctuated, but have remained relatively steady for a number of years. The City received \$160,000 until December of 2005. In 2006 the award for minimum-funded agencies was increased to \$173,556. In 2008, the award for minimum-funded agencies increased to \$259,646 annually; in 2013 the award was reduced to \$244,908. In 2016 and 2017, the annual

award was increased to \$265,577. In 2018 there was a slight reduction to an award of \$263,217. In 2019 the award slightly increased to \$266,863, which is the same original award for 2020.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

The CSBG is an important source of funding for services that help Berkeley residents living at or below 120% of the federal poverty line.

ALTERNATIVE ACTIONS CONSIDERED

Rejecting CSBG funding would reduce funding for those living in poverty in Berkeley.

CONTACT PERSON

Mary-Claire Katz, Associate Management Analyst, HH&CS Department, (510) 981-5414

Attachments:
1: Resolution

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

CONTRACT AMENDMENTS: CONTRACT NO. 42000079 WITH COMMUNITY SERVICES BLOCK GRANT (CSBG) FOR CALENDAR YEAR 2020-21 AND CONTRACT NO. 32000238 WITH DOWNTOWN BERKELEY ASSOCIATION (DBA) FOR DOUBLE HELPING HAND PROGRAM

WHEREAS, the City of Berkeley is a Community Action Agency and receives CSBG funds as the Berkeley Community Action Agency to support anti-poverty programs; and

WHEREAS, On December 10, 2019, City Council authorized the City Manager or her designee to execute a revenue contract (Contract No. 42000079) with the State of California Department of Community Services and Development (CSD) for a total of \$266,863 for calendar year 2020 (Budget Code: 334-51-504-530-0000-000-000-431110); and

WHEREAS, on May 19, 2020 CSD notified the City Manager that the 2020 allocation would increase by \$5,492 and that the City was awarded an additional \$32,000 in CSBG discretionary funding, which is available for use until May 31, 2021; and

WHEREAS, on May 4, 2020, the City Manager entered into a \$50,000 contract (No. 32000238) with the Berkeley Downtown Berkeley Association, funded with Homeless Emergency Aid Program (HEAP) funds (Budget Code: 336-51-504-535-0000-000-444-636110-) to provide to-go lunches for the unhoused population in Berkeley through the Double Helping Hand program; and

WHEREAS, the funding for the Double Helping Hand program is an eligible activity under the CSBG program.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute an amendment to Community Service Block Grant Contract 20F-3001 (City Contract No. 42000079), adding \$37,492, increasing the contract amount to \$304,355, extending the contract term to May 31, 2021, and authorizing the City Manager to execute any resultant agreements and amendments. A record signature copy of said agreement and any amendments shall be on file in the office of the City Clerk.

BE IT FURTHER RESOLVED that the City Manager or her designee is authorized to amend an existing contract (Contract No. 32000238) with the Downtown Berkeley Association for the Double Helping Hand program for meals for the unhoused population by providing an additional \$37,492 in CSBG funding for a total amount not to exceed \$87,492 for the period May 4, 2020 through September 30, 2020. A record signature copy of said agreement and any amendments shall be on file in the office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Savita Chaudhary, Director, Department of Information Technology

Subject: Contract No. 7167J Amendment: Superion, LLC for Upgrade and Support Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 7167J with Superion, LLC for development of functionalities, installation and preparation for the software upgrade of the City's FUND\$ system on the AS400 platform, increasing the contract amount by \$90,000 for a total not-to-exceed amount of \$3,565,765 from July 1, 2006 through June 30, 2021.

FISCAL IMPACTS OF RECOMMENDATION

Funding for these additional professional services is available in Fiscal Year (FY) 2021's General Fund and FUND\$ Replacement Fund as outlined below. Spending in future years for this amendment is subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

Breakdown of Costs:

\$ 24,480	FY 2021: Development of the FLSA report, W4 changes for 2020 Budget Code: 011-12-123-000-0000-000-411-613130- (General Fund, City Auditor, Professional Services)
\$ 65,520	FY 2021: FUND\$ Software Upgrade Customized Code Analysis Budget Code: 503-35-362-376-0000-000-412-612990- (FUND\$ Replacement Fund, Department of Information Technology, Professional Services)

\$ 90,000 Total FY 2021: Professional Services

CURRENT SITUATION AND ITS EFFECTS

The City currently uses IBM's AS400 application to support citywide operations, which the City refers to as "FUND\$". These modules include Cash Receipts, Fixed Assets, Accounting, Accounts Receivable, Business Licenses (historical), Payroll, Fleet Management, Work Order and Facilities Management, Code Enforcement, Refuse Billing, Land Management, and Tax Assessment.

While the City continues to replace modules in FUND\$, establish a new ERP system, and replace other software systems as part of FUND\$ Replacement Phase II for Work Order (includes Asset Management, and Facilities Management), Fleet management, Zero Waste work order and billing, maintaining the historical data in FUND\$ is critical for performing business analytics and reporting on historical data. The current system needs to be maintained and kept upto date to support citywide operations as well as data migration, conversion and archival needs to meet the requirements of the City's retention policy.

The current proposed project milestones are identified as below:

1. **Development of the Fair Labor Standards Act (FLSA) report:** The City's current payroll system, does not calculate FLSA overtime properly. A new development is required to create a report that identifies retroactively underpaid overtime for employees since 2018. This is **one time cost** as the Payroll module is in progress to be migrated to the new Financial System Tyler Munis ("ERMA")
2. **Development for W4 Changes for 2020:** In December 2019, the Internal Revenue Service (IRS) issued the redesigned 2020 Form W-4. IRS requires all new employees and any employee who makes withholding changes in 2020 to use the new form. The City's current FUND\$ payroll system requires a modification to accept the 2020 W-4 Form. This is **one time cost** as the Payroll module is in progress to be migrated to the new Financial System Tyler Munis ("ERMA")
3. **Current FUND\$ System Upgrade (Analysis):** FUND\$ is currently operating on a software version 9.1.1 that will no longer be supported as of December 2020. In addition, we have no existing support from the vendor on the customized code due to heavily customized system with over 3000 customizations. The City currently utilizes Superior, LLC to provide application specific support to the AS400 platform. In order to continue receiving support, the City **must** upgrade FUND\$ to a version 9.1.19 or higher that is supported.

Superior, LLC will provide the professional services required to complete the analysis and assessment of existing customizations and identify which ones need to be migrated to the new version before planning for the upgrade. Based on the analysis provided staff will work with Superior and departments to identify the next steps and will need to upgrade FUND\$ and provide ongoing support for the customized modifications made to the FUND\$ platform.

BACKGROUND

FUND\$ has supported City operations in all departments for over two decades. The initial implementation in 1989 focused on automating core financial functions including the Payroll, General Ledger, Accounts Payable, and Purchasing modules. After the initial implementation, the City implemented extensive customizations of the FUND\$ software to expand its use throughout all departments.

On June 1, 2010, Council received a FUND\$ Status Report outlining usability challenges, an incremental replacement plan, and estimated costs and replacement timelines http://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/2010/06Jun/2010-06-01_Item_26_Contract_No._7167_FUND_Software_Maintenance.pdf

In January 2016, Council authorized staff to release a Request for Proposal (RFP) to solicit proposals to replace the FUND\$ application through RFP No. 2016-11012-C. Staff identified a qualified company to provide a comprehensive public sector ERP system that met the City's functional scope.

On March 28, 2017, Council authorized the City Manager to execute a contract with Tyler Technologies for the purchase of Tyler-Munis' ERP software and implementation services

https://www.cityofberkeley.info/Clerk/City_Council/2017/03_Mar/Documents/2017-03-28_Item_14_Contract_Tyler_Technologies.aspx

ENVIRONMENTAL SUSTAINABILITY

The upgrade of the FUND\$ application to a supported version allows the City to use more web-based tools and better reporting options such as saving reports to storage rather than printing it. This could lead to reduction of using paper, and less energy consumption by not having all reports printed. The upgrade would also ease the transition to other best-of-breed software as part of FUND\$ replacement Phase II, which would allow for providing online services, thereby eliminating the need for the public to visit City offices for routine applications.

RATIONALE FOR RECOMMENDATION

Superior retains exclusive rights to provide support for its software. This means no other vendor provides authorized maintenance. Staff considered terminating this agreement and providing maintenance without vendor assistance, but given the critical operations supported by FUND\$, the risk of limited support would be inappropriate, especially since staff resources are focused on configuring, testing, and implementing FUND\$ module replacements, rather than supporting the aged FUND\$ system.

ALTERNATIVE ACTIONS CONSIDERED

Staff considered developing and upgrading the AS400 software and supporting FUND\$ without Superior, but given the critical operations supported by FUND\$, the associated costs for staffing and training are cost prohibitive.

CONTACT PERSON

Savita Chaudhary, Director, Department of Information Technology, 510-981-6541

Attachments:

1: Resolution

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

CONTRACT NO. 7167J AMENDMENT: SUPERION, LLC FOR UPGRADE AND SUPPORT SERVICES OF THE AS400 APPLICATION

WHEREAS, Superion LLC's AS400 software, known to the City as FUND\$, has supported the City of Berkeley's critical business operations in all departments for over two decades, including the Payroll, General Ledger, Accounts Payable, and Purchasing modules; and

WHEREAS, Superion, LLC is the only vendor authorized to provide support for the AS400 software; and

WHEREAS, FUND\$ is currently operating on a software version that will no longer be supported as of December 2020; and

WHEREAS, in January 2016, Council authorized staff to release an RFP to solicit proposals to replace the FUND\$ application through RFP No. 2016-11012-C; and

WHEREAS, funding for these additional professional services is available in Fiscal Year (FY) 2021's General Fund and FUND\$ Replacement Fund and the funding in future years is subject to Council approval of the proposed city-wide budget and Annual Appropriation Ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 7167J with Superion, LLC for the upgrade and support services of the City's FUND\$ system on the AS400 platform, increasing the contract amount increasing the contract amount by \$90,000 for a total not-to-exceed amount of \$3,565,765 from July 1, 2006 through June 30, 2023.



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Savita Chaudhary, Director, Department of Information Technology

Subject: Contract No. 31900122-1 Amendment: Rolling Orange, Inc. for Website Redesign, Web Content Management System (CMS), and Support

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 31900122-1 with Rolling Orange, Inc. for the additional web application development, for an amount not-to-exceed \$72,000 and a total contract value not-to-exceed \$559,300 from March 1, 2019 to June 30, 2022.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the additional development services is available in Fiscal Year (FY) 2021 IT Cost Allocation fund as outlined below. Spending in future years for this amendment is subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

\$72,000	FY 2021: Maintenance and Support Services Budget Code: 680-35-363-384-6005-000-472-612990- (Department of IT, Cost Allocation, Professional Services)
----------	---

\$72,000 FY 2021: Total Professional Services

CURRENT SITUATION AND ITS EFFECTS

The City began working with Rolling Orange, Inc. to develop a new city website in March 2019. The project includes the development of a new information architecture, new look and feel, mobile-responsive design, and build-out of the new website in the Drupal content management system.

During technical discovery and template development with Rolling Orange, several additional needs were identified:

- 1. Replacement of self-hosted custom applications**

The City's website hosts two custom-built tools that are highly used by community members - a Building Permit Fee estimator and Council District lookup tool by

address. Both these applications were determined to be essential features of the website, but the existing code is incompatible with the new software and hosting environment. These tools will be rebuilt and integrated into the new website.

2. System integration for 311 intake forms

Currently, online 311 reporting is managed through a series of custom-coded forms that were developed in-house and are hosted on premises. The existing forms allow reporting only a limited number of issues online and have significant technical limitations, such as not allowing users to upload photographs. Rolling Orange will create a unified intake form for 311 services and integrate it with the new website.

3. Implementation of portals for Rent Stabilization Board and Berkeley Housing Authority

The City's website also serves as the website for two independently governed bodies - the Rent Stabilization Board and Berkeley Housing Authority. Rolling Orange will configure portals for these sections that support a unique set of users and permissions, and that prevents their content from being edited by posters from other departments.

4. Additional template and guided service delivery tool development

To support online 311 reporting and other transactional elements of the website, Rolling Orange will develop a guided service delivery tool using a series of contextual drop-down menus to assist users completing tasks such as permit applications, issue reporting, or online payments.

The website redesign is a Strategic Plan Priority Project, advancing our goal to be a customer-focused organization that provides excellent, timely, easily accessible service and information to the community.

BACKGROUND

Rolling Orange, Inc was selected to develop a new website for the City of Berkeley after a competitive bidding process. In February 2018, the City published Request for Proposal (RFP) No. 17-1118-C seeking a website redesign and new web content management system with secure, high-performance offsite hosting.

The City received twenty-five (25) responses. A multi-departmental team evaluated the proposals and conducted two rounds of interviews and software demonstrations. Rolling Orange was selected for the project after receiving the highest scores from both the evaluation team and other stakeholders who were invited to attend the demonstrations.

The City began work with Rolling Orange in March 2019. Working closely with City staff to assess technical and user needs, Rolling Orange has developed new posting

templates, workflows, navigation structures and underlying technical architecture, and has completed end-user testing on a prototype version of the new website.

The new website will use secure, off-site hosting, allowing the City to retire the server that currently hosts the website. This necessitates the replacement of several legacy applications which had been custom built in-house and are currently maintained and support by Information Technology staff.

ENVIRONMENTAL SUSTAINABILITY

The improvements in website ease-of-use and availability of online transactions will help reduce travel associated with on-site visits to City offices. The improved functionality of the new software will increase efficiency of internal processes thus reducing paper-based processes resulting in an environmentally sound and cost-effective information technology infrastructure.

Additionally, moving the website from onsite to offsite hosting will reduce the City's server and storage computing needs as well as ongoing maintenance needed to maintain the equipment. It will also provide redundancy in case of a disaster such as earthquake, etc.

RATIONALE FOR RECOMMENDATION

The replacement of existing custom applications and integration into the new website will reduce maintenance and support needed from Information Technology staff and improve the new website's utility and ease-of-use for community members.

ALTERNATIVE ACTIONS CONSIDERED

Alternative actions considered included not including this functionality on the new website, however this option is not practical. Online issue reporting and easier online transactions are highly desired by community members and are part of the City's Strategic Plan.

CONTACT PERSON

Savita Chaudhary, Director, Information Technology, 510 981-6541

Attachments:

1: Resolution

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

CONTRACT NO. 31900122-1 AMENDMENT: ROLLING ORANGE, INC. FOR WEBSITE REDESIGN, WEB CONTENT MANAGEMENT SYSTEM (CMS), AND SUPPORT

WHEREAS, on February 27, 2018, the City issued a Request for Proposals (RFP) for a website redesign and web content management system and received twenty-five qualifying vendor responses; and

WHEREAS, the RFP evaluation committee evaluated each proposal and determined that the Rolling Orange, Inc. proposal best met the City's operational, technological, and fiscal requirements; and

WHEREAS, additional technical discovery after the commencement of work with Rolling Orange identified additional functional needs for the new website, including the replacement and integration of several custom-built applications and enhanced online 311 reporting; and

WHEREAS, funding for the additional development services is available in Fiscal Year (FY) 2021 IT Cost Allocation Fund, and spending in future years for this amendment is subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 31900122-1 with Rolling Orange, Inc. for website redesign and web content management system, increasing the amount by \$72,000, for a total contract amount not to exceed \$559,300 from March 1, 2019 to June 30, 2022.



Office of the City Manager

CONSENT CALENDAR

July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Savita Chaudhary, Director, Information Technology Department

Subject: Contract No. 10549A Amendment: Tyler Technologies Enterprise Resource Planning System for software licensing, implementation and maintenance services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract amendment with Tyler Technologies for software licensing, enhanced implementation services and maintenance services for the online Enterprise Resource Planning (ERP) system for the amount not to exceed \$650,000 and a total contract value not to exceed \$3,952,662.68 from April 1, 2017 to June 30, 2023.

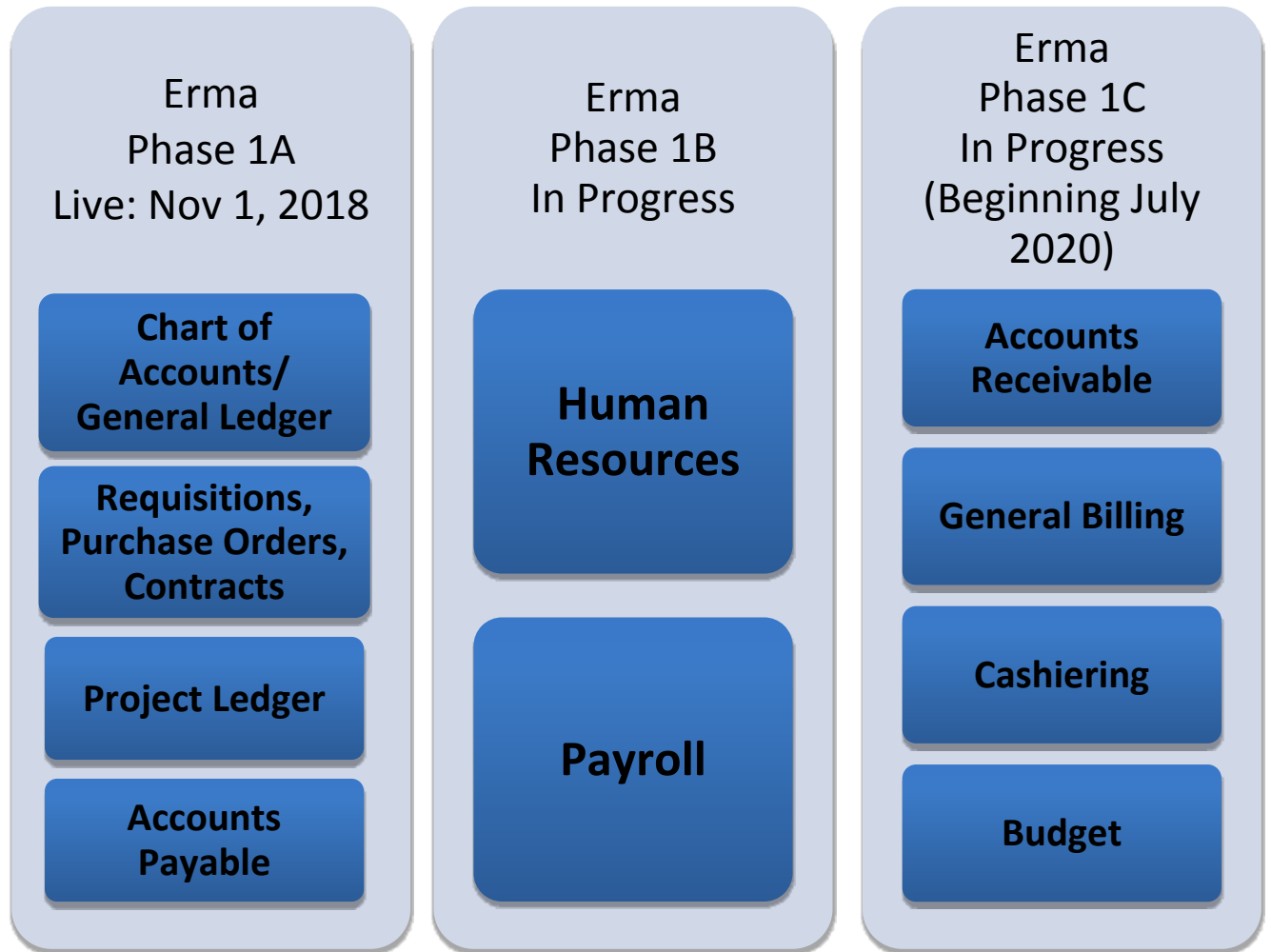
FISCAL IMPACTS OF RECOMMENDATION

Funding for additional services related to the implementation of the Human Resources and Payroll modules, and additional software maintenance for FY 2021, is available in the FUNDS Replacement fund as itemized below. Spending for this contract in future fiscal years is subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

		FY 2021: Professional Services
\$	340,000	Budget Code: 503-35-362-376-0000-000-412-612990- (ERP Replacement Fund, Information Technology, Professional Services)
		FY 2021: Software Maintenance
\$	310,000	Budget Code: 503-35-362-376-0000-000-412-613130- (ERP Replacement Fund, Information Technology, Software Maintenance)
<hr/>	<hr/>	<hr/>
\$	650,000	FY 2021 Total: Professional Services, Software Maintenance

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley has implemented Phase 1A of Tyler Technologies' Munis ERP system, internally named enterprise resource management application (erma). The City is currently focused on implementing Phases 1B and 1C to complete the implementation of the ERP system.



The City is committed to deploying best practices for Payroll implementation which require attention to the Minimum Viable Product to go live. To accomplish this, the City requires additional implementation support to ensure that the system pays staff in compliance with Fair Labor Standards (FLSA), including the City of Berkeley's complex union agreements we have in place with our employees. Additionally, time entry practices will change dramatically from a physical time card to electronic reporting and the City recognizes staff will need additional support for the transition to be successful.

The City also needs to pay annual fees to cover maintenance, service licenses and disaster recovery services on an ongoing annual basis. This amendment will cover additional implementation support for the payroll and time entry modules as well as ongoing fees through 2021.

The City is scheduled to begin working on Phase 1C July, 2020. Implementation sessions for the budget module are scheduled to begin in July, 2020. Implementation sessions for Accounts Receivable, General Billing and Cashiering is scheduled to begin in September, 2020.

BACKGROUND

The City entered into contract with Tyler Technologies on May 11, 2017 to implement the City's new Enterprise Resource Planning (ERP) software. The initial agreement assumed a launch of financials on July 1, 2018 and Human Resources and Payroll on January 1, 2019. Due to the complexity of the project related to transitioning from a 30 year old system and significant staff turnover, the financial phase of the project was split into 2 portions (General Ledger and expenditures as phase 1A and General Billing, cashiering, Budget Module and Accounts Receivable as Phase 1B). Phase 1A launched on November 1st 2018 and proved to be a difficult transition for the City due to insufficient training and data conversion issues. Over the past year, staff have worked diligently to train staff, and address issues with the data conversion. Staff are currently working with Tyler to determine a project plan and timeline for the implementation of General Billing, Cashiering and Accounts Receivable. This will require significant project management, application of lessons learned and streamlined training for staff.

The Human Resources and Payroll launch date is scheduled for Fall 2020 and applying the lessons learned from implementation from Phase 1A, staff have determined a need for additional training support from Tyler as it is impactful to have the software experts present while training staff on how to use the new system. This will occur in partnership with Civic Makers training which focusses on strong use of technology based training due to COVID-19 social distancing guidelines and best safety practices, dynamic and varied learning styles and change management. We have learned that we need both the system expertise and human expertise to advance a change of this magnitude.

ENVIRONMENTAL SUSTAINABILITY

The adoption and implementation of a modern ERP system will reduce the amount of paper used in processing the City's business activities. The new system will also reduce the paperwork involved in timesheet processing for the City employees. Effective training will increase the rate at which the City reduces secondary processing.

Contract 10549A Amendment:
Tyler Technologies Enterprise Resource Planning System

CONSENT
July 28, 2020

RATIONALE FOR RECOMMENDATION

It is important to continually apply lessons learned from each phase to improve adoption and implementation roll out. This includes more robust, comprehensive and dynamic system testing and training.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Savita Chaudhary, Director, Information Technology, 510-981-6541

Attachments:

1: Resolution

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

CONTRACT NO. 10549A AMENDMENT: TYLER TECHNOLOGIES, INC FOR
ENTERPRISE RESOURCE PLANNING SYSTEM

WHEREAS, On May 27, 2016, the City issued an RFP) No. 16-11012-C, for a new ERP Software and Implementation services; and

WHEREAS, the RFP review committee evaluated each proposal and determined that the Tyler Technologies Inc. proposal best met the City's operational, technological, and fiscal requirements; and

WHEREAS, on May 11, 2017, the City the City entered into a contract with Tyler Technologies to implement the Munis Enterprise Resource Planning (ERP) System; and

WHEREAS, funding for additional services related to the implementation of the Human Resources and Payroll modules, and additional software maintenance and support for FY 2021, is available in the FUNDS\$ Replacement fund and spending for this contract in future fiscal years is subject to Council approval of the proposed citywide budget and annual appropriation ordinances; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to amend Contract No. 10549A with Tyler Technologies, Inc. for software licensing, enhanced implementation services and maintenance services for the online Enterprise Resource Planning (ERP) system for the amount not to exceed \$650,000 and a total contract value not to exceed \$3,952,662.68 from April 1, 2017 to June 30, 2023



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Savita Chaudhary, Director, Information Technology
Subject: Contract No. 10515A Amendment: Tyler Technologies, Inc. for New World Public Safety Computer Aided Dispatch (CAD 911) Software

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 10515A with Tyler Technologies, Inc. for New World’s Computer Aided Dispatch (CAD) for Police and Fire, Mobile messaging and field reporting modules, for license renewal, software support and maintenance services, increasing the amount by \$367,500, for a total not to exceed \$1,555,230 for the period March 30, 2017 to June 30, 2021.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the amendment in the amount of \$367,500 is available in Fiscal Year (FY) 2021 Department of Information Technology General Fund budget as outlined below. Spending in future years for this amendment is subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

\$367,500	FY 2021: License renewal, Maintenance and Support Services Budget Code: 011-35-362-376-6001-000-472-613130- (General Fund, IT Department, Software Maintenance)
\$367,500	FY 2021: Total License renewal, Maintenance & Support Professional Services

CURRENT SITUATION AND ITS EFFECTS

Currently, the City utilizes Tyler Technology’s New World Public Safety Systems software suite to support Police Department operations and a significant portion of Fire Department operations. This includes 911 Computer Aided Dispatch (CAD), Mobile Data Terminals (MDTs) for over seventy-five police & fire vehicles, Jail Management (Corrections MS) to support jail operations, mobile ticketing (Brazos), and Mobile Field Reporting (FR). To improve the efficiency of its operations, the Police Department partnered with the Fire Department and the Department of Information Technology to upgrade to the new system.

In August 2020, Staff will complete an upgrade of the Tyler-New World Public Safety system that allows for compliance with the Warren-911-Emergency Assistance Act and the California Assembly Bill (AB) 1168). This upgrade was a part of a previous contract.

The Warren-911-Emergency Assistance Act requires every local public agency to establish and operate, or to be a part of, an emergency telephone system using the digits "911," and creates the State 911 Advisory Board to assist in facilitating the purpose of the act to establish the number 911 as the primary emergency telephone number statewide. The City currently complies and has the 911 number available for emergencies.

California AB 1168 requires each public safety answering point to deploy a text to 911 service, no later than January 1, 2021, that can accept Short Message Service (SMS) messages and Real-Time Text (RTT) messages.

Other improvements that are not part of the Tyler software suite will complete the functionality for text messages to 911. The work below is completed or in progress for all items and expected to be completed before the January 2021 due date. These efforts include:

- The GeoComm project (paid for by State funding) completed earlier this year cleaned up accuracy of Public Safety GIS map data.
- The RapidDeploy project (also paid for by State funding) made improvements to GIS map layers which enable identification of locations accurate within feet even to a building and floor as compared to previously location was only accurate to a quarter mile. This data will be available for 911 use via New World CAD. This project was also completed earlier this year.
- Fiber connectivity to the CAD area is another part of preparation for AB 1168 compliance and was funded separately. Fiber is in place and equipment installation and training are pending.

To keep the software current and under a support agreement, the City pays an annual software maintenance fee that guarantees the City's right to software upgrades, patches, and vendor support with technical problems. Keeping the software current allow the City to meet these regulations and engage with vendor for any upgrades needed. This amendment is for license agreements and for maintenance of this software suite for FY 2021.

Tyler New World is a Strategic Plan Priority Project, advancing our goal to provide an efficient and financially healthy City government.

BACKGROUND

On July 25, 2006, City Council authorized the execution of a contract with New World Systems, Inc. for the acquisition and installation of public safety hardware and software.

Following a tough, two-year contract negotiation and ten months of software configuration, testing, and integration with other City software systems (such as Geographic Information Systems and Network Security Systems), as well as extensive public safety staff training, the first two modules (Computer Aided Dispatch and Mobile Data Terminals) went live on April 28, 2009.

On August 1, 2010, the third module (Records Management) went live, followed by the fourth module (Jail Management) on November 29, 2010. The module (Mobile Field Reporting for Police) went live on March 25, 2011.

On October 1, 2015 Tyler Technologies announced acquisition of New World Systems.

On March 31, 2017, City executed the contract #10515 with Tyler Technologies for New World Systems software suite.

On March 1, 2019, the module (Mobile Ticketing Platform) went live. This module provides electronic ticket submission to the courts, which facilitates and speeds up this process, providing for real time updated information for the courts.

On February 1, 2020, the module (Mobile Field Reporting for Fire) went live and resulted in ability to update status of emergency calls where Fire emergency and / or ambulances are called out. Updates are tied to the original CAD record.

Tyler New World software enabled police and fire personnel to shift from paper-based records management to a more modern, electronic case management system. In addition, the software suite provides streamlined access to law enforcement and emergency service records, enhanced crime analysis tools, and online crime reporting services.

ENVIRONMENTAL SUSTAINABILITY

The adoption and implementation of an Enterprise version will enable integration with GIS maps thus resulting in more accurate maps for dispatchers to respond to the calls. The addition of Shield Force (Mobile Field Reporting for Fire) module resulted in additional process improvement thus reducing paper-based processes resulting in an environmentally sound and cost-effective information technology infrastructure.

RATIONALE FOR RECOMMENDATION

The public safety computer system is a critical business solution which supports police and fire department operations, including 911 Computer Aided Dispatch (CAD), Mobile Data Terminals (MDTs) for over seventy-five police & fire vehicles, Jail Management module to support jail operations, and Mobile Field Reporting (FR) and Mobile ticketing. This system ties together all 911 communications, facilitates rapid updates to 911 call situations. CAD is identified as a critical application for EOCs and for disaster recovery. Emergency calls from Berkeley residents and visitors in Berkeley are fielded through this system, making it an essential part of public safety for the City of Berkeley.

ALTERNATIVE ACTIONS CONSIDERED

The alternative of forgoing maintenance payments would result in the loss of automatic patches, technical support, and troubleshooting services, and disqualify the City from receiving regular software upgrades. Not renewing this software maintenance agreement would result in higher cost ad hoc support services.

CONTACT PERSON

Savita Chaudhary, Director, Information Technology, 981-6541

Attachments:

1: Resolution

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

CONTRACT NO. 10515A AMENDMENT: TYLER TECHNOLOGIES FOR NEW WORLD COMPUTER AIDED DISPATCH (CAD 911) FOR POLICE AND FIRE

WHEREAS, ensuring efficient and effective public safety operations is an essential component of the City's mission and the Aegis Public Safety software suite from New World Systems, Inc. is at the core of Police and Fire operations; and

WHEREAS, City and Contractor entered Contract No. 10515, dated, March 30, 2017, which contract was authorized by the Berkeley City Council by Resolution No. 67,855-N.S.; and

WHEREAS, on December 19, 2017, an amendment was authorized by the Berkeley City Council by Resolution No. 68,259-N. S; and

WHEREAS, the City must keep up to date with current software versions to ensure our Police and Fire departments have current technology and tools with which to service the community; and

WHEREAS, funding for the additional software licenses in the amount of \$367,500 is available in Fiscal Year (FY) 2021 Department of Information Technology General Fund budget, and spending in future years for this amendment is subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 10515A with Tyler Technologies for New World's Computer Aided Dispatch (CAD), Jail Management, Mobile messaging and field reporting modules, for software support and maintenance services, increasing the amount by \$367,500, for a total not to exceed \$1,555,230 for the period March 30, 2017 to June 30, 2021.



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Savita Chaudhary, Director, Department of Information Technology
 Subject: Contract: ePlus for Cohesity Backup Solution and Hosted Cloud Storage

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to enter into a Contract with ePlus for the Cohesity backup solution and hosted cloud storage, for a total contract amount not to exceed \$608,400 for the term September 1, 2020 through August 31, 2025.

FISCAL IMPACTS OF RECOMMENDATION

One-time funding for the implementation and ongoing funding for the software maintenance, support, and hosted cloud storage is available in the Department of Information Technology's Fiscal Year (FY) 2021-2025 Cost Allocation Fund as outlined below. Spending in future fiscal years is subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

Cost Summary:

\$225,200	Total FY 2021: Software Maintenance and Professional Services
\$273,200	Total FY 2022: Software Maintenance
\$110,000	Total FY 2024: Software Maintenance
\$608,400	Grand Total FY 2021-2025: Software Maintenance and Professional Services

Cost Breakdown by Fiscal Year:

	FY 2021: Software Maintenance
\$215,200	Budget Code: 680-35-363-384-0000-000-472-613130 (IT Cost Allocation, Network Operations, Software Maintenance)
	FY 2021: Professional Services
\$10,000	Budget Code: 680-35-363-384-0000-000-472-612990- (IT Cost Allocation, Network Operations, Professional Services)
\$225,200	Total FY 2021: Software Maintenance and Professional Services

FY 2022-FY 2025: Software Maintenance
 \$273,200 Budget Code: 680-35-363-384-0000-000-472-613130
 (IT Cost Allocation, Network Operations, Software Maintenance)

\$273,200 Total FY 2022: Software Maintenance

FY 2024-FY 2025: Software Maintenance
 \$110,000 Budget Code: 680-35-363-384-0000-000-472-613130
 (IT Cost Allocation, Network Operations, Software Maintenance)

\$110,000 Total FY 2024: Software Maintenance

CURRENT SITUATION AND ITS EFFECTS

The City’s current data backup solution has been in place since 2013 and provides data backups, redundancy, and encryption for approximately 18 terabytes (TB) of data to support the City's file, email, website, and database servers. At the time it was put in place, it was a leap in technology, as it replaced a legacy tape-based backup solution, and offered secure, cloud-based backups that met all of the security and privacy standards of both the Health Insurance Portability and Accountability Act (HIPAA) and the Department of Justice (DOJ).

In the recent years, the City has implemented, or is in the process of implementing, a large number of technology initiatives, including the FUNDS\$ replacement project, migrating the City’s email solution to the Office 365 cloud, and implementing a new virtual server infrastructure to support the growing needs of the City.

The new Cohesity backup solution offers a modern, scalable backup solution geared towards supporting modern technology and future needs for the City. The Cohesity solution can scan the City’s new virtual server technology for Ransomware, and detect Ransomware in backups, as well as, backup and recover from Office 365 email and OneDrive data.

The new Cohesity backup solution offers following advantages:

- Performs snapshot backups of entire virtual servers instead of just being able to back up the data on the servers. This feature will provide the City a new capability of full virtual server recovery in a disaster recovery scenario.
- Provides a global search feature to allow staff to search through backups for keywords and file names to ensure fast and efficient recovery of lost data, and to improve regulatory compliance performance.
- In addition, all newly created virtual servers will be automatically backup up at the time of creation, thus replacing the manual process in the old backup solution.

In addition to Cloud Storage there is an additional local backup appliance for the Cohesity solution which is designed with redundancy in mind, so that no single server or drive failure will cause the solution to stop any backups or recoveries from completing which has been an issue with the current solution.

The Backup replacement solution meets the City's Strategic goal of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

Prior to 2013, the Department of Information Technology used a tape-based back-up solution since such was the industry standard. In June 2013, the Department of Information Technology implemented the current backup solution, which provided both local and cloud-based storage for all City file servers, application servers, database servers, and email.

The City's current backup solution has outgrown the scalability and flexibility required to meet the City's current and future backup demands. Some of the challenges with the current system are:

- **Manual processes and non-granular backups:** With the increase in data and systems, staff are spending an increasing and an unscalable amount of time simply setting up and running the backups. In addition, the backups themselves are not granular and are not searchable so they require an inordinate amount of time in a data recovery situation and do not meet current data leak incident legal and regulation timelines
- **Increased backup errors and troubleshooting:** Staff are spending increasing amounts of time troubleshooting failed backups, re-running backups due to backup errors, and recovering backup data on a solution that is not meeting the current needs of the City. In addition, the City has implemented a new virtual server technology, and while the current solution can perform basic data backups on the new virtual environment, more modern backup solutions can leverage this new technology to perform backups and recoveries more automatically and faster, while utilizing disk space more efficiently,
- **Hardware Failures:** The City's current backup solution has had two major hardware failures since 2013, resulting in the vendor needing to replace the on-site backup appliance twice, which was covered as part of the maintenance agreement, but resulted in a significant amount of staff time in both instances, and left the City vulnerable for several days without a backup solution in place. In one instance additional cost was incurred to replace one of the failed devices.

Renewal costs for the current system began escalating (starting in May 2018) and given the growing obsolete functionality of the current solutions' manual processes and non-granular backups, Department of Information Technology staff initially created an internal process improvement effort we called "Backup Better." After initially addressing issues that could be addressed leveraging to the maximum extent the current solution, the team reported out to the Director (November 2019) that the any additional improvements would need to take into consideration replacing the Barracuda backup with a more modern and virtual systems-accommodating technical solution set. Given the recent instability of the current backup solution, the City began to look at alternative backup solutions, rather than continuing with the current solution.

In February 2020, the City issued Request for Proposal 20-11386-C for a new backup solution and received four (4) qualifying responses. The RFP review committee evaluated each proposal and determined that the proposal from ePlus for the Cohesity Backup Solution with hosted Cloud Storage best met the City's operational, technological, and fiscal requirements.

ENVIRONMENTAL SUSTAINABILITY

The Cohesity backup solution provides the same environmental sustainability benefits as the solution it is replacing, which (a) eliminated the need for approximately 350 magnetic tape cartridges each year (who's manufacturing and recycling were not environmentally friendly to the standard that meet the City's Green IT goals), also (b) eliminated the need to transport backup tapes to and from offsite storage (saving transportation costs and reducing greenhouse gas emissions).

RATIONALE FOR RECOMMENDATION

The City has been going through large number of technology initiatives such as (a) FUNDS\$ replacement in progress, (b) moving email to the Office 365 cloud, (c) upgrading server and storage infrastructure. Additionally, the City had outgrown its current backup system, (which has not kept up with advances in technology) and needs a solution that can grow and scale to meet the current and future needs of the City. The staff determined that the current solution is inefficient, outdated, and does not scale to meet future needs. As a result, the City decided to release an RFP to find a new backup system replacement solution.

After a competitive bid process (Request for Proposal 20-11386-C) staff is recommending that the Cohesity backup solution provided by ePlus is the best solution, factoring in the City's current and future needs (technical and operational), costs, and vendor references. Cohesity sells their solution through resellers such as ePlus, and ePlus is the reseller that proposed this solution.

Cohesity was founded in 2013, and since then has won several prestigious industry awards, most recently being awarded the 2020 Gartner Peer insights Customer Choice Award for data center backup and recovery products, for the third year in a row.

Additionally, the City of Pleasanton and County of Ventura both highly recommend Cohesity for its technical prowess as well as cost as compared to other solutions.

ALTERNATIVE ACTIONS CONSIDERED

The City considered continuing with its current backup solution, and due to the instability of the solution, coupled with the growing and changing needs of the City, finally led the City to look at alternative backup solutions, rather than continuing with the current solution.

The recommended solution was selected after an RFP process.

CONTACT PERSON

Savita Chaudhary, Director, Department of Information Technology, 981-6541

Attachments:

1: Resolution

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

CONTRACT: EPLUS FOR COHESITY BACKUP SOLUTION AND HOSTED CLOUD STORAGE

WHEREAS, in February 2020, The City of Berkeley issued RFP No. 20-11386-C for a Backup System Replacement and received four (4) qualifying vendor responses; and

WHEREAS, the RFP review committee evaluated each proposal and determined that the proposal from ePlus for the Cohesity Backup Solution with hosted Cloud Storage best met the City's operational, technological, and fiscal requirements; and

WHEREAS, the Cohesity backup solution offers a modern, scalable backup solution geared towards supporting modern technology and future needs for the City; and

WHEREAS, with the FUND\$ Replacement Project and the large number of technology initiatives in progress, there is an increased need for data backup; and

WHEREAS, one-time funding for the implementation and ongoing funding for the software maintenance, support, and hosted cloud storage is available in the Department of Information Technology's Fiscal Year (FY) 2021-2025 Cost Allocation Fund, and spending in future fiscal years is subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to enter into a contract and amendments with ePlus for a Cohesity Backup Solution with Hosted Cloud Storage, for a total contract amount not to exceed \$608,400 for the 5-year term from September 1, 2020 through August 31, 2025.



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Savita Chaudhary, Director, Department of Information Technology

Subject: Contract: Digital Hands for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM)

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to enter into a contract and subsequent amendments with Digital Hands, for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM), for a total not to exceed amount of \$405,000, from September 1, 2020 to August 31, 2023.

FISCAL IMPACTS OF RECOMMENDATION

Funding for these professional services is available in the Department of Information Technology's Fiscal Year (FY) 2021-2023 IT Cost Allocation Fund, as outlined below. Spending for this contract in future fiscal years is subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

\$135,000	FY 2021: Professional Services Budget Code: 680-35-363-382-0000-000-472-613130- (IT Cost Allocation, Security, Professional Services)
\$135,000	FY 2022: Professional Services Budget Code: 680-35-363-382-0000-000-472-613130- (IT Cost Allocation, Security, Professional Services)
\$135,000	FY 2023: Professional Services Budget Code: 680-35-363-382-0000-000-472-613130- (IT Cost Allocation, Security, Professional Services)

\$405,000 Total FY 2021-2023: Software Maintenance and Professional Services

CURRENT SITUATION AND ITS EFFECTS

Currently, the City of Berkeley (The City) relies on alerts to notify staff of security events or threats. Relying on alerts does not enable the City to actively detect those looking to

attack the City, those doing so but not succeeding, and known advanced threats, or targeted attacks.

Last year, the City's network experienced several cyber-attacks, fraudulent financial cyber-attempts, and suspicious cyber-activities. These attacks include targeting the use of our City email, the City's email system, employee payroll, and City finances. In addition, the City experienced multiple viruses and other malware, which may have included ransom ware. Thus far, the City has successfully detected, contained, and responded to the attacks that triggered alerts before they were successful.

The as-is assessment of the City's Cyber Resiliency Plan (CRP), documented the likelihood of a cyber-attack succeeding and the City's risk of failing as high. This means that it is not a matter of if, but when, a cyber-attack will be successful against the City. The consequences of such a successful attack are critical, meaning the City will suffer severe to catastrophic losses in its capacity to operate as well as deliver services to our community. One example of catastrophic consequences includes an attack on the City of Atlanta in 2018, which shut down city operations for 6 weeks¹. A second example of a crippling cyber-attack happened to the City of Union City, CA in 2019².

With the outbreak of COVID, the pace of cyber-attacks has significantly increased and the volume of cyber-attacks in Northern California has more than doubled, reducing our chances of continuing our run of good fortune. Thus far, the City has experienced and repelled five (5) known attacks since the beginning of the COVID-related shelter in place (SIP) order, the most recent attack in May 2020.

The costs of a catastrophic cyber-attack will affect the City for years after the cleanup and restoration of our systems. When the City of New Orleans was hacked in 2019, they reportedly spent their entire cyber-insurance coverage in the first week. The agencies assisting New Orleans predicted a six to eight (6-8) month window before a sense of normalcy would return³. This attack was before the COVID-19 pandemic. Additionally, approximately one-third of data breach costs occur more than a year after an incident. An average of two-thirds (67%) of breach costs come in the first year, 22% accrue in the second year after a breach, and 11% occur more than two years after a breach. This is the typical long-term impact of breach-related costs.

The CRP's as-is assessment identified the need to expand the City's visibility into security events to increase our cyber-resilience and to lower the impact of cyber-attacks. The City also needs to move to active 24/7/365 monitoring and to proactive threat hunting; specifically, monitoring that encompasses the entire sequence of an attack must be

¹ <https://www.ajc.com/news/local/atlanta-cyberattack-still-affecting-these-city-departments/on9qJliW3B3j4m6P0pY5HJ/>

² <https://www.govtech.com/security/Union-City-Calif-Works-to-Recover-After-Cyberattack.html>

³ <https://techcrunch.com/2019/12/14/new-orleans-declares-state-of-emergency-following-ransomware-attack/>

monitored so that undetected incidents can be identified and resolved. For example, the steps hackers take before (exploration), during (the act of gaining a foothold inside the City's network and applications), and after (a data breach, a technology lock-out/ransoming like that experienced by San Francisco MUNI⁴, or a technology hijacking for Blockchain, crypto-mining, and other individual or nefarious uses) must all be monitored.

Other local municipalities, including the City of Palo Alto, City of Sacramento, City and County of San Francisco, and other Municipal Information Systems Association of California (MISAC) members – all have a managed security service provider (MSSP). The City needs such a team, provided through this MSSP contract, added as an augment of our IT services in order to have sufficient monitoring and timely incident response before it is too late.

BACKGROUND

In 2018, the City developed a Cyber Resilience Plan (CRP) to provide the City a situational awareness of our cyber-risk exposure, the maturity of its cyber-security capabilities, the City's efficiency in addressing regulatory compliance, and to provide action items that ensure the City is equipped to handle cyber-attacks and mitigate the effects of a successful cyber-attack.

The CRP divided this effort into two sets of work: an as-is assessment and a to-be roadmap.

The CRP as-is assessment compared the City's existing technologies, operational requirements, and service delivery needs against against thirty-nine (39) cybersecurity and Public Sector processes, procedures, organizational norms, and technologies applicable to the following areas:

- Data Transparency, Data Privacy, and Data Security
- Monitoring, Response, and Mitigation
- Policy and Rationale
- Program Functional Design
- Training and Culture

The CRP's as-is assessment discovered and documented that the City is lacking in:

- Coverage – only addressing 11 of 98 Basic controls and 2 of 48 Advanced ones
- Maturity – with none of the thirty-nine key processes and procedures measuring better than minimal

⁴ <https://kirkpatrickprice.com/blog/horror-stories-5-cities-victimized-by-cyber-threats/>

The CRP's roadmap is a five-year plan that prioritizes 215 action items that that the City must act upon in order to reduce its current risk exposure, mature its capabilities, and become more efficient. This roadmap prioritizes action items by critical, high, medium, and low.

One critical recommendation of the CRP is an implementation of a security monitoring and event management solution. The City's current solution of relying on automated alerts does not permit the City to detect well-known advanced threats and unusual/targeted attacks. Furthermore, it is critical to the City's security incident response that this security monitoring and event management are active, dedicated, and cover our IT assets 24/7/365.

In February 2020, the City of Berkeley issued a Request for Proposal (RFP) No. 20-11385-C for addressing two highest priority action items from the CRP:

- **Part A:** Managed Security Service Provider (MSSP/SIEM)
- **Part B:** End Point Protection and Detection/Response (EPP/EDR/MDR)

At this time, the End Point Protection and Detection Response project is unfunded and will be requested as part of future years' budgeting processes.

The CRP aligns with the City's adopted Strategic Plan goals of:

- Create a resilient, safe, connected, and prepared City
- Provide state-of-the-art, well-maintained infrastructure, amenities, and facilities
- Be a customer-focused organization that provides excellent, timely, easily accessible service and information to the community; and

adopts the strategies which align with the five (5) year Digital Strategic Plan (DSP).

ENVIRONMENTAL SUSTAINABILITY

All event monitoring and SIEM services are conducted remotely thus eliminating the need for travel to Berkeley, resulting in a reduction of greenhouse gas emissions for travel.

RATIONALE FOR RECOMMENDATION

Implementing an event monitoring and SIEM program is in alignment with the City's Cyber-Resilience Plan (CRP), and satisfies the most urgent and critical findings and recommendations of the CRP. Implementing a robust event monitoring system, a higher quality collection of sensors, and SIEM solution set that provides a 24/7/365 coverage immediately addresses this real and debilitating risk for the City.

Additionally, other critical, but less urgent CRP recommendations can be incorporated by this Digital Hands at a later date when supported by the budget.

According to the most recent surveys of organizations that have implemented a MSSP/SIEM:

- Seventy-four percent (74%) have seen a reduction in security breaches as a result
- Eighty-two percent (82%) thus rate their implementation as effective, and
- The top three benefits they have realized are (is) faster detection and response, (ii) better visibility and (iii) more efficient security operations.

After reviewing all responses from RFP 20-11385-C, Staff determined that Digital Hands demonstrated their technical expertise and their ability to both complement and augment our staff and existing tools as specified by the RFP, thereby extending our capabilities by the most efficient means. Digital Hands is the most qualified candidate to assist the City with implementing a robust event monitoring and SIEM solution to address the most urgent and critical items identified by the CRP.

Furthermore, Digital Hands is in compliance with the Health Insurance Portability and Accountability Act (HIPAA), the Federal Department of Justice (US DOJ)/Criminal Justice Information Services Security Policy (CJIS), and the Payment Card Industry Data Security Standard (PCI DSS) – a high bar in the industry that the City of Berkeley’s MSSP/SIEM vendor must meet.

ALTERNATIVE ACTIONS CONSIDERED

The City considered buying more security monitoring tools and utilities, and hiring additional staff to increase coverage to 24/7/365. This option is cost prohibitive and not sustainable because incident response analysts are among the highest paid and most high turnover positions in cybersecurity.

The City also considered not implementing a robust event monitoring and SIEM solution, but with the frequency and volume of cyber-attacks on local municipalities on the rise, and the huge economic and long-term impact reported by other Cities who have suffered successful attacks, Staff felt that this is an investment in protecting the City’s information technology infrastructure and data used in delivering services to our community as well as in protecting the privacy of our information which cannot wait and must be implemented immediately.

The RFP 20-11385-C addressed two of the top four Critical issues identified in the As Is Assessment - namely Part ‘A:’ MSSP/SIEM and Part ‘B:’ “End Point Protection and Detection/ Response (EPP/EDR/MDR)” action items. As a result of the budget reductions mandated by the fiscal impact of COVID-19 the procurement process for Part ‘B’ has been deferred until Fiscal Year (FY) 2022.

CONTACT PERSON

Savita Chaudhary, Director, Department of Information Technology, 510-981-6541

Attachments:

1: Resolution

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

CONTRACT: DIGITAL HANDS FOR EVENT MONITORING AND SECURITY
INFORMATION AND EVENT MANAGEMENT (SIEM)

WHEREAS, Cybersecurity ransomware attacks against local governments in the U.S. have been on the rise; and

WHEREAS, in February 2020, The City of Berkeley issued RFP No. 20-11385-C for a Managed Security Service Provider (MSSP) and received four qualifying responses; and

WHEREAS, the RFP review committee evaluated each proposal and determined that the proposal from Digital Hands best met the City's operational, technological, and fiscal requirements; and

WHEREAS, Digital Hands is in compliance with the Health Insurance Portability and Accountability Act (HIPAA), the Federal Department of Justice (US DOJ)/Criminal Justice Information Services Security Policy (CJIS), and the Payment Card Industry Data Security Standard (PCI DSS); and

WHEREAS, funding for these professional services is available in the Department of Information Technology's Fiscal Year (FY) 2021-2023 IT Cost Allocation Fund; and spending in future fiscal years is subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to enter into a contract and subsequent amendments with Digital Hands, for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM), for a total not to exceed amount of \$405,000, from September 1, 2020 to August 31, 2023.



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Andrew Greenwood, Chief of Police

Subject: MOU with “A Safe Place” Domestic Violence Shelter

RECOMMENDATION

Adopt a Resolution approving the Memorandum of Understanding (MOU) entitled “Memorandum of Understanding with A Safe Place, a domestic violence shelter provider, and authorize the Chief of Police to enter into this agreement and any amendments.

FISCAL IMPACT OF RECOMMENDATION

A Safe Place provides services to victims of domestic violence free of charge. There is no fiscal impact.

CURRENT SITUATION AND ITS EFFECTS

The Berkeley Police Department has a longstanding relationship with A Safe Place. They provide domestic violence shelter and services to victims of domestic violence. This new “Memorandum of Understanding” extends the current agreement without changes to the existing relationship and would be in effect until November 1, 2023.

BACKGROUND

A Safe Place is a non-profit established in 1976 to provide shelter and counseling services to victims of domestic violence and their children. They provide their services to victims in the City of Berkeley free of charge.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

Approval of this Memorandum of Understanding with A Safe Place will ensure an ongoing relationship that serves a vital need in the community, helping victims of domestic violence with shelter and ongoing services.

CONTACT PERSON

Andrew Greenwood, Chief of Police, (510) 981-5900

ATTACHMENTS

1. Memorandum of Understanding with A Safe Place
2. Resolution



PO Box 23006 Oakland, CA 94623 510-986-8600 asafeplace.org

MEMORANDUM OF UNDERSTANDING

October 31, 2020 – November 1, 2023

This Memorandum of Understanding (MOU) between **A Safe Place** and the **City of Berkeley Police Department** describes the ongoing working relationship and the activities in which we participate or engage in supportive efforts to serves victims of domestic violence.

The **City of Berkeley Police Department** will support the effort of **A Safe Place** in the following manner:

- Contact **A Safe Place** 24-hour crisis line when responding to Domestic Violence victims for sheltering services.
- Transport domestic violence victims, in accordance with department procedure, to a safe location where **A Safe Place** staff can meet clients for admittance to a shelter.

This agreement shall remain in effect from October 31, 2020 – November 1, 2023 or unless terminated in writing by either party.

Signature: _____
Carolyn Russell
Executive Director
A Safe Place

Date: _____

Signature: _____
Andrew Greenwood
Chief of Police
City of Berkeley Police Department

Date: _____

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

MEMORANDUM OF UNDERSTANDING:

A Safe Place

WHEREAS, The City of Berkeley Police Department has a longstanding relationship and existing Memorandum of Understanding with “A Safe Place” Domestic Violence Shelter; and

WHEREAS, A Safe Place provides emergency shelter and ongoing counseling services to victims of domestic violence and their children; and

WHEREAS, the Memorandum of Understanding describes the relationship and interaction between the Berkeley Police Department and A Safe Place; and

WHEREAS, Berkeley domestic violence victims benefit greatly from the services provided by A Safe Place free of charge;

NOW THEREFORE, BE IT RESOLVED by the City Council of Berkeley that the Chief of Police is authorized to enter into and execute the Memorandum of Understanding “Memorandum of Understanding with A Safe Place” and any amendments.



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Andrew Greenwood, Chief of Police

Subject: MOU with California Department of Justice to accept \$312,284 grant for submission and testing of Sexual Assault Evidence

RECOMMENDATION

Adopt a Resolution approving the Memorandum of Understanding (MOU) entitled “Memorandum of Understanding with the California Department of Justice.” The Berkeley Police Department has been selected to receive a \$312,284 grant for testing untested Sexual Assault Evidence. Approving this MOU will allow reimbursement of testing expenses and related costs covered by the grant. Authorize the Chief of Police to enter into this agreement and any amendments.

FISCAL IMPACT OF RECOMMENDATION

The Department of Justice will fund up to \$312,284 dollars of evidence processing and DNA testing of untested evidence in Sexual Assault cases. The grant funds will be deposited into and expensed from the One-Time Grant: No Capital Expenditures Fund to ensure proper tracking and reconciliation of authorized grant activity within the Police Department Budget. The appropriation of the grant funds will be included in the First Amendment to the FY 2021 Annual Appropriations Ordinance that will be submitted to Council in November.

CURRENT SITUATION AND ITS EFFECTS

The Berkeley Police Department applied for and was selected to receive Grant funding for testing of sexual assault evidence. The Berkeley Police Department Sexual Assault Unit does not have a Sexual Assault Kit backlog. However, DNA technology has advanced significantly in recent years including better DNA recovery from clothing and objects using “touch DNA”. The Special Victims Unit applied for grant funding in order to reexamine unsolved cold cases for opportunities to test more evidence using more modern DNA recovery techniques.

BACKGROUND

In 2016, the Special Victims Unit added staffing to investigate unsolved sexual assault cases. The Berkeley Police Department does not have a backlog of Sexual Assault Kits. The California DOJ has made funding available for increased testing of untested evidence of any kind in Sexual Assault cases. The Special Victims Unit applied for and was selected to receive funding from this Grant to fund additional testing of sexual assault evidence in cold cases.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

Approval of this Memorandum of Understanding with the California Department of Justice is required for disbursement of funding awarded by this Grant. It will allow for additional testing which may lead to identification of persons responsible for sexual assault related crimes.

CONTACT PERSON

Andrew Greenwood, Chief of Police, (510) 981-5900

ATTACHMENTS

1. Memorandum of Understanding with the California Department of Justice
2. Resolution

Berkeley Police Department

Contact Person: Sergeant Jesse Grant
2100 Martin Luther King Jr. Way, Berkeley, CA 94704
(510) 981-5717
jgrant@cityofberkeley.info

MEMORANDUM OF UNDERSTANDING

with the

California Department of Justice

Expires June 30, 2022

I PURPOSE

This Memorandum of Understanding (“MOU”) is entered into by the Department of Justice (“DOJ”) and the **BERKELEY POLICE DEPARTMENT** (hereinafter, “Grantee”), to provide grant funds to Grantee for expenditure. The Grantee will expend funds for the purposes identified in the approved Grant Application submitted by Grantee in response to the DOJ’s Request for Applications for activities for California’s local law enforcement agencies to submit and test untested sexual assault evidence.

This MOU shall become effective upon execution by all parties and shall expire on June 30, 2022.

The DOJ grants to Grantee **\$312,284**, (the “Grant Amount”), for expenditure in accordance with this MOU, including the Scope of Work included in the approved Grant Application.

The Request for Applications and Grant Application are incorporated by reference into this MOU.

II COMMUNICATION

All reports, notices, requests, and/or correspondence pertaining to this MOU shall be forwarded to the DOJ at:

California Department of Justice
Division of Law Enforcement
Attn: Nicole Behler
1300 I Street, Suite 1150
Sacramento, CA 95814
SAESubmission@doj.ca.gov

III BUDGET

Grantee shall expend the Grant Amount in accordance with the approved Budget as follows:

EXPENDITURE CATEGORY	TOTAL AUTHORIZED AMOUNT
Personal Services (personnel salaries, overtime)	\$39,874
Operating Expenditures (outsourcing)	\$272,410
TOTAL	\$312,284

Grantee shall submit any request for a change to an Approved Budget item in writing or via e-mail to the DOJ, and any changes to the Approved Budget must be pre-approved in writing by the DOJ at least thirty (30) days in advance of any change to any Approved Budget item.

IV COST REIMBURSEMENT/INVOICING

DOJ shall reimburse Grantee, in arrears, for Grantee's actual expenditures incurred while performing the required workload. Grantee shall submit to DOJ **two (2)** Grantee Invoices for each month (one original and one copy) for all expenditures incurred during such month, including completed travel. Grantee shall ensure that it has accepted and approved all vendor deliverables, all equipment has been delivered, all travel is complete, and all administrative activities have been performed. All invoices must be sent to the grant manager via U.S. Mail or overnight delivery.

A) **Receipts and Documentation:**

Grantee shall provide substantiation to DOJ pertaining to acceptance of hardware, software, services, and deliverables along with Grantee Invoices for payment. Invoices paid by the Grantee and submitted to the DOJ for reimbursement shall include the invoice number, invoice date, service period, agreement number, vendor name, vendor contact information, amounts, and the approved Budget Template, clearly identifying with which Expenditure the invoice associates.

Grantee shall provide copies of packing slips substantiating delivery of purchased equipment. Grantee Invoices and supporting documentation must be sent to the DOJ in hard copy format no later than the 15th calendar day following the month of the Expenditure. (For example, a purchase made on June 2nd would require that the related Grantee Invoice be received by the DOJ no later than July 15th).

B) **Workload Justification:**

Each agency request for reimbursement shall be submitted in an invoice format and contain the following workload information associated with the reimbursement period:

- 1) For the reporting period, the total number of untested sexual assault cases submitted for testing, or the total number of cases tested if the agency (e.g., a crime lab) performed testing on evidence received from a submitting agency.

C) **Match Requirements:**

There is no match requirement for this grant.

Grantee Invoices must be delivered via U.S. Mail or overnight delivery and addressed to:

California Department of Justice
Division of Law Enforcement
Attn: Nicole Behler
1300 I Street, Suite 1150
Sacramento, CA 95814
SAESubmission@doj.ca.gov

V BUDGET CONTINGENCY CLAUSE

It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this MOU does not appropriate sufficient funds for the purposes contemplated by this MOU, this MOU shall be of no further force and effect. In such event, the DOJ shall have no liability to pay any funds whatsoever to Grantee or to furnish any other consideration under this MOU, and Grantee shall not be obligated to perform any provisions of this MOU for which it would have been reimbursed.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this MOU, the DOJ shall have the option either to cancel this MOU with no liability occurring to the DOJ, or offer an amendment to the Grantee to reflect the reduced amount.

VI ADMINISTRATION AND AUDIT

The DOJ is not liable for the Grantee's use of funds or any subsequent audit findings.

Grantee agrees that the DOJ and the California State Auditor, or their designated representatives shall have the right to review and copy any records and supporting documentation pertaining to the funds expended by Grantee and the Grantee's performance under this MOU. Grantee agrees to maintain all such records and reports for possible audit for a minimum of three (3) years after payment by DOJ of the final Grantee Invoice submitted by Grantee. Grantee agrees to allow access to such records during normal business hours and to allow interviews with officers and employees who might reasonably have information related to such records. Grantee agrees to include a similar right for DOJ and the California State Auditor to audit records and interview staff in any subcontract related to performance of the MOU.

Should Grantee fail to comply with this MOU, including by submitting for reimbursement expenditures for purposes not permitted under the MOU, DOJ may take one or more actions. Actions include but are not limited to requiring Grantee to return all or any portion of grant funds, and any other remedies available under law. In addition, the Grantee may be disqualified from applying for or receiving future grant funds.

This section shall survive expiration or termination of this MOU.

VII GRANTEE CONTACT INFORMATION

Sergeant Jesse Grant
Berkeley Police Department, Investigations Division, Special Victims Unit.
2100 Martin Luther King Jr. Way, Berkeley, CA 94704
(510) 981-5717
jgrant@cityofberkeley.info

Lieutenant Dan Montgomery
Berkeley Police Department, Investigations Division, Detective Bureau
2100 Martin Luther King Jr. Way, Berkeley, CA 94704
(510) 981-5733
dmontgomery@cityofberkeley.info

Chuck Gunter, Administration, Fiscal Services Manager
Berkeley Police Department
2100 Martin Luther King Jr. Way, Berkeley, CA 94704
(510) 981-5976
cgunter@cityofberkeley.info

VIII MISCELLANEOUS PROVISIONS

Amendment- No amendment or variation of the terms of this MOU is valid unless made in writing, and signed by the duly authorized representatives of the parties.

Assignment- This MOU is not assignable by Grantee in whole or in part.

Indemnification- To the fullest extent permitted by law, Grantee shall indemnify and hold harmless the DOJ, its officers, agents and employees (collectively, the Indemnified Parties), against any and all losses, damages, claims, actions, liabilities, costs and expenses of any conceivable nature, kind or character (including, without limitation, attorneys' fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under any statutory law or at common law or otherwise, arising out of or based upon or in any way relating to the performance of this MOU, except to the extent such damages are caused by the gross negligence or willful misconduct of such Indemnified Party. The rights of any persons to indemnity hereunder and rights to payment of fees and reimbursement of expenses pursuant this section shall survive the expiration or termination of this MOU.

Optional Termination- The DOJ may terminate this MOU and be relieved of any obligation to provide grant funds to Grantee should Grantee fail to perform the scope of work at the time and in the manner provided in this MOU.

IX REPORTING REQUIREMENT

BERKELEY POLICE DEPARTMENT agrees to submit a quarterly report beginning September 1, 2020. The following information must be included in the report:

- a. For the reporting period, the total number of untested sexual assault cases submitted for testing, or the total number of cases tested if the agency (e.g., a crime lab) performed testing on evidence received from a submitting agency. The report shall

include the following information:

- 1.) Agency case number
- 2.) Date evidence was received by agency
- 3.) If the submitted evidence was a sexual assault kit, specify if it was included in the audit report the agency sent to DOJ per AB 3118 requirements
- 4.) Date evidence was submitted to a crime laboratory for processing
- 5.) Submitting agency and submitting agency case number, if applicable

A final quarterly report of untested sexual assault cases must be submitted to the DOJ on or before June 30, 2022.

IX AUTHORIZATION

The DOJ and Grantee, by their duly authorized officials, have executed this MOU on the respective dates indicated below. This MOU and any future amendments shall be forwarded to the Division of Law Enforcement, Office of the Chief, with all of its attachments, and will become effective upon completion of signature from all parties.

ANDREW R. GREENWOOD
Berkeley Police Department, Chief of Police

Date

NICOLE BEHLER, Grant Administrator
Bureau of Forensic Services
California Department of Justice

Date

BARRY MILLER, Director
Bureau of Forensic Services
California Department of Justice

Date

CHRIS RYAN, Chief
Division of Operations
California Department of Justice

Date

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

**MEMORANDUM OF UNDERSTANDING:
CALIFORNIA DEPARTMENT OF JUSTICE**

WHEREAS, The City of Berkeley Police Department applied for Grant funding to test additional sexual assault evidence; and

WHEREAS, The California Department of Justice approved the application and approved a grant award of \$312,284 for the testing of untested evidence in sexual assault cases; and

WHEREAS, The grant funds will be deposited into and expensed from the One-Time Grant: No Capital Expenditures Fund to ensure proper tracking and reconciliation of authorized grant activity within the Police Department Budget; and the appropriation of the grant funds will be included in the First Amendment to the FY 2021 Annual Appropriations Ordinance that will be submitted to Council in November; and

WHEREAS, acceptance of the grant funding requires entering into a Memorandum of Understanding regarding this allocation and procedures for disbursement or reimbursement of said award; and

WHEREAS, additional funding for testing untested evidence may lead to solving unsolved sexual assault cases by identifying persons who have committed sexual assault and hold them accountable for their crimes.

NOW THEREFORE, BE IT RESOLVED by the City Council of Berkeley that the Chief of Police is authorized to enter into and execute the Memorandum of Understanding "Memorandum of Understanding with the California Department of Justice" and any amendments thereto.



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Liam Garland, Director, Public Works Department
 Subject: Lease Agreement: 1001 University Avenue with The Berkeley Food Network

RECOMMENDATION

Adopt first reading of an Ordinance authorizing the City Manager to execute a retroactive lease agreement with The Berkeley Food Network to use the City property at 1001 University Avenue for a three-year lease term with an option to extend for two additional one-year terms.

FISCAL IMPACTS OF RECOMMENDATION

The monthly rent for this three-year lease agreement will be one dollar (\$1.00). In exchange for favorable rent, the Berkeley Food Network (BFN) will take full responsibility for all maintenance and utility costs at 1001 University Avenue, the warehouse building owned by the City of Berkeley ("City") located at University Avenue Center, the former Premier Cru site. In addition, BFN will 1) complete improvements to the building described in Exhibit C of the lease, at an estimated cost of \$80,000 and 2) submit an annual report detailing BFN's statistics serving City of Berkeley community members. The report will include at minimum the following information: a) pounds of food distributed in the City of Berkeley, number of individuals served in Berkeley, amount of food received by program participants, and value of food distributed. Revenue from this lease will be deposited in the General Fund, revenue budget code 011-54-624-702-0000-000-000-461110-.

CURRENT SITUATION AND ITS EFFECTS

The warehouse building at 1001 University Avenue initially served as the location for the City's 2017-18 Winter Shelter beginning in December 2017. In May of 2018 the City issued an RFP seeking proposals from for-profit, non-profit, governmental and nongovernmental agencies interested in leasing all or part of 1001 and 1011 University Avenue. BFN was selected as one of three organizations offered the spaces. Prior to final determination of shared occupancy of the spaces, BFN requested to be allowed to move into 1001 University by March 1, 2019. A six-month license agreement was approved by the City Manager in February of 2019 with a term ending August 31, 2019.

Staff envisioned the six-months would be used to finalize occupants for the spaces and negotiate leases to be submitted to City Council for a start date of September 1, 2019. The retail-commercial building at 1011 University Avenue, initially considered an ideal location for an interim City Council Chamber was ultimately approved for use as temporary office and program space for City staff displaced by Measure T1 Bond projects. The space is currently occupied by Meals on Wheels, Black Infant Health, and other Health, Housing and Community Service Department programs displaced by renovation of the North Berkeley Senior Center. That project's budget included allocation of funds for relocating staff. After a thorough market search for space, 1011 University at a rate of \$1 per square foot per month, proved to be the most beneficial in meeting current City needs.

Since March 1, 2019, BFN has operated and plans to continue to operate a food rescue and distribution center from the warehouse at 1001 University Avenue should City Council authorize the City Manager to sign the lease. If approved, the lease's retroactive start date will be September 1, 2019 for a term of three (3) years terminating August 31, 2022 with two (2) one-year options to extend. The lease rate is \$1.00 per month. BFN is responsible for payment of all utilities.

BACKGROUND

On March 28, 2017 City Council adopted an Ordinance authorizing the acquisition of 1001, 1007, and 1011 University and 1925 Ninth Street (University Avenue Center, "UAC") as a site for future redevelopment into substantially below market rate housing. Bauman Culinary College was a tenant at the time of purchase and has the option to occupy 1007 University Avenue (a historic building) until 2031. 1001 University Avenue (a warehouse) and 1011 University Avenue (a retail-commercial space) were both unoccupied at the time of purchase. The City Manager directed City staff to use or publicly lease the two buildings for at least three (3) years but no more than five (5) years, at which time plans and permits for redevelopment as housing should be complete or, at minimum, a more time-certain timeline for redevelopment or sale of the property would be complete.

ENVIRONMENTAL SUSTAINABILITY

The Berkeley Food Network program rescues viable food by diverting it from the waste stream and distributing it to those in need of food in Berkeley and throughout Alameda County.

RATIONALE FOR RECOMMENDATION

Lease of City owned property to a non-profit organization promoting food rescue and distribution supports City of Berkeley program goals and its most vulnerable community members directly. This lease's term supports City Manager direction to lease until plans and permits for redevelopment as low-income housing are substantially complete.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Dionne Early, Community Development Project Coordinator, Department of Public Works, (510) 981-6453

Attachments:

1: Ordinance

Exhibit A: Lease

ORDINANCE NO. -N.S.

LEASE: 1001 UNIVERSITY AVENUE WAREHOUSE TO THE BERKELEY FOOD NETWORK

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

Section 1. FINDINGS:

The warehouse located in University Avenue Center (“UAC”), owned by the City of Berkeley and consisting of two parcels with three buildings and an additional parcel with a surface parking lot. UAC is located on the northern side of University Avenue between Ninth Street and Tenth Street. The warehouse address is 1001 University Avenue and shares a parcel with 1007 University Avenue, the Mobilized Women of Berkeley City Landmark building (currently Bauman College) on the northeasterly corner of University Avenue and Ninth Street. The entrance is located at the rear of the building from the parking lot (1925 Ninth Street). The door fronting on University Avenue is a fire exit only. The loading dock fronts on Ninth Street. The warehouse is approximately 9,625 square feet of rentable space with two floors of offices, one ADA compliant restroom, two storage rooms, one enclosed trash room, and a loading dock. The Berkeley Food Network plans to continue operating a food rescue and distribution center which it has been operating from this location since March 1, 2019.

Section 2. AUTHORIZATION FOR CITY MANAGER TO ENTER INTO LEASE AT 1001 University Avenue, Berkeley, California.

The City Manager is hereby authorized to enter into a three (3)-year lease agreement with the option for two (2), 1-year extensions with The Berkeley Food Network for real property located at 1001 University Avenue, Berkeley, California. Such lease shall be on substantially the terms set forth in Exhibit A.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

Exhibits
A: Lease

CITY OF BERKELEY
IMPROVED PROPERTY LEASE

Between

THE CITY OF BERKELEY, A CHARTER CITY
ORGANIZED AND EXISTING UNDER THE LAWS
OF THE STATE OF CALIFORNIA

As Landlord,

And

The Berkeley Food Network

As Tenant

For the Property at
1001 University Avenue at the University Avenue Center
Berkeley, CA

TABLE OF CONTENTS

1. DEFINITIONS..... 5

2. TERM 5

3. RENT 6

4. PROPERTY AND OTHER TAXES 7

 A. Taxes 7

 B. Possessory Interest Taxes 7

 C. Personal Taxes 7

 D. Payment of Taxes..... 7

 E. Tenant's Right to Contest..... 7

5. USE OF PREMISES..... 8

6. USE OF 1001 UNIVERSITY AVENUE PROPERTY 10

7. SERVICES..... 11

8. OBLIGATION OF TENANT TO REMOVE PERSONAL PROPERTY 12

9. ALTERATIONS AND IMPROVEMENTS..... 12

10. LIENS 14

11. TENANT AND LANDLORD MAINTENANCE OBLIGATIONS..... 15

12. DAMAGE OR DESTRUCTION..... 15

13. INDEMNIFICATION..... 16

 A. Indemnity 16

 B. Exemption of Landlord from Liability 16

14. INSURANCE..... 17

15. COMPLIANCE WITH LAWS..... 19

16. ASSIGNMENT AND SUBLEASE..... 20

17. INSPECTION 21

18. DEFAULT 21

19. REMEDIES UPON DEFAULT 23

20. ENVIRONMENTAL OBLIGATIONS 24

21. ENVIRONMENTAL DUTIES..... 25

22. LANDLORD'S RIGHT TO CURE 26

23. EMINENT DOMAIN 26

24. SUBORDINATION..... 27

25. NO MERGER..... 27

26. TRANSFER BY LANDLORD..... 27

27. ESTOPPEL CERTIFICATES 27

28. HOLDING OVER 28

29. GOVERNING LAW..... 28

30. SECURITY DEPOSIT..... 28

31. SIGNAGE..... 28

32. NO PARTNERSHIP 29

33. NO WAIVER..... 29

34. NOTICES..... 29

35. COMPLETE AGREEMENT..... 30

36. REQUESTS FOR CONSENT; WAIVER OF CLAIM..... 30

37. INTERPRETATION..... 30

38. SUCCESSORS AND ASSIGNS 30

39. AUTHORITY 31

40. UNAVOIDABLE DELAYS..... 31

41. TIME OF THE ESSENCE..... 31

42. BROKERAGE 31

43. CITY NON-DISCRIMINATION ORDINANCE 31

44. NON-DISCRIMINATION AGAINST PERSONS WITH DISABILITIES 32

45. CONFLICT OF INTEREST PROHIBITED 32

46. NUCLEAR FREE BERKELEY 33

47. OPPRESSIVE STATES 33

48. BERKELEY LIVING WAGE ORDINANCE (LWO)..... 33

49. BERKELEY EQUAL BENEFITS ORDINANCE (EBO) 34

50. AUDIT 35

51. CITY BUSINESS LICENSE, PAYMENT OF TAXES, TAX I.D. NUMBER 35

52. SURVIVAL 35

53. EXHIBITS 35

EXHIBIT A..... 37

EXHIBIT B..... 36

EXHIBIT C..... 37

PROPERTY LEASE

BASIC LEASE INFORMATION

- 1. **Landlord:** City of Berkeley, a California municipal corporation
2180 Milvia Street
Berkeley, CA 94704
Attention: Director, Public Works
Telephone: (510) 981-6700 / Facsimile: (510) 981-6710
- 2. **Tenant:** The Berkeley Food Network
- 3. **Tenant Trade Name:** Tenant shall operate under the trade name The Berkeley Food Network (BFN)
- 4. **Effective Date:** September 1, 2019
- 5. **Premises:** Approximately 9,625 rentable square feet comprising the entirety of the building located at 1001 University Avenue and one dedicated parking space in the parking lot located at 1925 Ninth Street (“**Premises**”). The Premises includes the area as shown in Exhibit A.
- 6. **Permitted Uses:** The Premises are to be used to operate and coordinate food provision services, including a food distribution hub and a mobile pantry, for individuals, families, schools and other organizations living in and/or operating in Berkeley.
- 7. **Initial Term:** Three (3) years, commencing September 1, 2019 (“**Commencement Date**”) and terminating August 31, 2022 with two, one year options to extend.
- 8. **Base Rent:** \$1.00 per month; with Tenant prepaying Base Rent for the entire Initial Term of Thirty Six Dollars (\$36.00) on or before the Effective Date
- 9. **Improvements:** See Exhibit C for list of improvements tenant is required to complete.
- 10. **Security Deposit:** \$0.00

The Basic Lease Information set forth above and the Exhibits attached hereto are incorporated into and made a part of the following Lease. In the event of any conflict between the Basic Lease Information and terms of the Lease, the terms of the Lease shall control.

LANDLORD’S INITIALS _____ TENANT’S INITIALS _____

LEASE

THIS LEASE is made by and between the CITY OF BERKELEY, a Charter City organized and existing under the laws of the State of California ("Landlord or City") and Berkeley Food Network, a California non-profit corporation, doing business at 1569 Solano Avenue, #243, Berkeley, CA 94707 ("Tenant").

WITNESSETH

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises for the term and subject to the terms, covenants, agreements and conditions set forth below, to each and all of which Landlord and Tenant hereby mutually agree.

1. **DEFINITIONS**

Unless the context otherwise specifies or requires, the following terms shall have the meanings herein specified:

1. "Affiliate," as to any person, shall mean such person's partners, members, commissioners, officers, employees, volunteers and agents.
2. "Building" shall mean the building(s) on the Premises as described in Exhibit A.
3. "Lease Year" shall mean each twelve-month period during the term of the Lease commencing upon the effective date of the Lease.
4. "Premises" shall mean the warehouse Building at 1001 University Avenue in Berkeley, California and measuring approximately 9,625 square feet consisting of a main storage area, a smaller storage room, one restroom, a loading dock, trash room, and offices on the first and second floor, and one dedicated parking space in the parking lot located at 1925 Ninth Street, as further described in Exhibit A, attached to and made a part of this Lease.
5. "Property" shall mean University Avenue Center consisting of the warehouse building at 1001 University Avenue, Bauman Cooking School at 1007 University, the retail-office building at 1011 University Avenue, and the parking lot at 1925 Ninth Street in Berkeley, California.

2. **TERM**

A. Initial Term and Option to Extend. The initial term is for a period of three (3) years with a start date of September 1, 2019. Tenant has the option, under certain terms and conditions as described below, to extend this lease for two additional one-year terms. This Lease shall take effect once duly approved by the Berkeley City Council and executed by both Landlord and Tenant with a the Effective Date”).

B. Procedure for Extension. After the Initial Lease Term, the Lease may be extended for up to two additional terms of one (1) year each subject to the following terms and conditions. If Tenant wishes to extend the Lease beyond the Initial Lease Term, Tenant must provide written

notice of such intent to Landlord at least **one hundred and eighty (180) days** prior to the expiration of the Lease. **At least sixty (60) days prior to expiration of the Lease**, Landlord shall provide written notice to Tenant of (1) any additional improvements that will be required to be completed by Tenant during the extension lease terms and (2) notice of Landlord’s determination to grant an extension of the lease upon condition that Tenant agrees to the additional improvements and rental rate at least thirty (30) days prior to the expiration of the Lease.

C. Procedure for Early Termination.

- a. If at any time prior to actual expiration of the Lease, Landlord determines, at its sole discretion, that Tenant has failed to comply, following notice and cure periods, with any term or condition of the Lease, Landlord may revoke the granting of the additional term and seek applicable remedies under the Lease, including, but not limited to Paragraph 20.
- b. If at any time prior to the actual expiration of the lease, provided Tenant has completed the improvements set forth on Exhibit C, then Tenant may terminate the lease with six (6) months’ written notice for any reason.
- c. If at any time prior to the actual expiration of the lease, the Landlord has finalized constructions plans and is ready (or will be ready within 6 months)to begin construction of low-income housing on the property, the purpose for which the property was purchased, Landlord may terminate the lease with six (6) months’ written notice to the Tenant.

D. Expiration of Term. At the expiration of the term, or any sooner termination of this lease due to default, Tenant agrees to quit and surrender possession of the Premises and its appurtenances to Landlord in good order and condition. Tenant will ensure that all scheduled capital improvement projects have been completed through the particular date of termination. Tenant agrees to reimburse the Landlord for any damage done to the property caused by Tenant’s occupation or tenancy excepting reasonable wear and tear and external damage from the weather or elements. Tenant shall not leave or allow to remain on the property any garbage, refuse, debris, or personal property. Tenant will pay Landlord any removal costs incurred by Landlord. At the end of the tenancy, Tenant agrees to deliver the property keys to the Landlord in person or by mail to the Landlord’s designated agent.

3. RENT

A. Minimum Rent. Tenant shall pay to Landlord as a minimum rental for its use and occupancy of the Premises a monthly rent of ONE DOLLAR (\$1.00) for the initial three (3) year term or Thirty Six Dollars (\$36.00) and, if exercised, each of the renewal option periods.

<u>Initial Period</u>	<u>Monthly Amount</u>
09/01/2019 – 08/31/2022	\$1 or \$36.00 prepaid
<u>Renewal Option Period</u>	
09/01/2022 – 08/31/2023	\$1 or \$12.00 prepaid
09/01/2023 – 08/31/2024	\$1 or \$12.00 prepaid

B. Annual Reporting Requirement. In recognition of the nominal Minimum Rent, Tenant agrees to the following: On or about March 1, 2020 and on or about March 1st annually thereafter during the Term and any Renewal Option Period, Tenant agrees to submit a copy of its

annual statistics for the prior calendar year including a) pounds of food distributed; b) individuals served (duplicated and unduplicated); c) amount of food received by program participants; d) value of food distributed including calculation methodology; and e) a list of Berkeley-based organizations and City of Berkeley sponsored or supported programs served.

C. Manner of Payment. All rent and other payments due from Tenant shall be made to Landlord in lawful money of the United States of America at Landlord's address below or to such other person or at such other place as Landlord may from time to time designate in writing. Payments shall be made payable to the "City of Berkeley" and delivered in person or by mail to the:

Finance Department
Customer Service Counter
1947 Center Street, 1st Floor
Berkeley, CA 94704

4. **PROPERTY AND OTHER TAXES**

A. Taxes. As used in this Lease "Taxes" means Possessory Interest Taxes and Personal Taxes. Tenant's obligations for Taxes for the last full or partial year of the Term and for any prior unpaid Taxes shall survive the expiration or earlier termination of this Lease.

B. Possessory Interest Taxes. This Lease creates a possessory property interest in Tenant. Tenant's property interest may be subject to property taxation, and Tenant or the party in whom the possessory interest is vested shall be responsible for payment of any and all property taxes levied on the interest (collectively, "**Possessory Interest Taxes**").

C. Personal Taxes. Tenant shall pay directly to the taxing authority all taxes and assessments levied upon the trade fixtures, alterations, additions, improvements, partitions, cabling, wiring, furniture, equipment, inventories and other personal property located and/or installed on the Premises by or on behalf of Tenant (individually and collectively "**Tenant's Property**") and any Tenant Improvements (collectively, "**Personal Taxes**").

D. Payment of Taxes. Tenant shall pay all Taxes prior to delinquency. To the extent any such taxes are not separately assessed or billed to Tenant by the taxing authority, Landlord shall deliver to Tenant copies of the assessment and tax bill. Tenant shall pay such amount directly to the taxing authority no later than ten (10) business days prior to the date on which such Taxes are due. Should Tenant fail to pay its Taxes, Landlord may elect to do so on Tenant's behalf within five (5) days of Landlord's demand therefore. Tenant shall reimburse Landlord for such Taxes and any penalties and fines, together with interest at the Applicable Interest Rate, from the date Landlord tendered payment.

E. Tenant's Right to Contest. Tenant may, at no cost to Landlord, reasonably contest the legal validity or amount of any taxes, assessments, or charges for which Tenant is responsible under this Lease, and institute such proceedings as Tenant considers necessary; provided, however, that Tenant shall at all times protect Landlord from foreclosure of any lien,

and that Landlord shall not be required to join in any proceeding or contest brought by Tenant.

5. **USE OF PREMISES**

A. The Premises shall be used to operate and coordinate food provision services, including a food distribution hub and a mobile pantry, for individuals, families, schools and other organizations living in and/or operating in Berkeley. Tenant may operate seven days per week to maintain its programs and services for a term of three (3) years with two one year options to extend. The Premises may not be subleased or rented to the public or other organizations. Landlord's granting of this Lease is not to be construed as a promise or a guarantee that such approval will be granted by the City in its regulatory capacity.

B. Tenant shall operate its business on and about the Premises in a manner consistent with the use permitted herein and the standards of this Lease, including those described in Exhibit B.

C. At all times, Tenant agrees to provide adequate personnel to ensure the safe and efficient management of its use of the Premises.

D. Tenant will comply with all applicable safety standards in effect at any given time, and take all necessary steps to ensure that its participants and patrons are properly supervised to prevent injury to participants and others. Tenant will provide adequate supervision of the participants and patrons at all times while using the Premises.

E. Landlord shall have no responsibility for Tenant's furnishings, property or equipment that may be lost, stolen, or damaged.

F. Tenant acknowledges that the Premises is located within University Avenue Center, three parcels consisting of three buildings and one surface parking lot, and agrees to require its employees, participants, and patrons who use the Premises to abide by standards of this Lease, including those described in Exhibit B.

G. Business may be conducted with the public on the Premises at any time provided that Tenant shall have obtained all required permits and abide by rules and regulations as described in the Berkeley Municipal Code. Tenant shall obtain any required permits from the City if it sponsors any special events that require doing business after 10 p.m. on any day.

H. Tenant shall not, without the written consent of Landlord:

1. place, construct or maintain in, on, or about the Premises any advertisement media, including without limitation, searchlights, flashing lights, loudspeakers, or other similar media or device subject to Berkeley Municipal Code, Title 20;

2. place or permit the use in or on the Premises of any video games, pinball machines or other devices or equipment for amusement or recreation, or any vending machines, newspaper racks or other coin operated devices (excepting pay telephones).

3. warehouse or stock on the Premises any goods, wares or merchandise other than that which is directly related to the Tenant's use of the Premises;

4. store, display or sell goods or merchandise on the Premises other than that which is directly related to the Tenant's use of the Premises, or place or permit portable signs or other devices to be stored or to remain on the Premises;

5. use or permit any portion of the Premises to be used as living or sleeping quarters; and

6. sell, distribute, display, or offer for sale any item, which, in Landlord's good faith judgment, may tend to detract from the image of University Avenue Center or tenants of University Avenue Center including but not limited to Bauman College.

I. Tenant shall not do or permit to be done in, on, or about the Premises anything which is prohibited by, or may conflict with, any law, statute, ordinance or governmental rule or regulation now in force or hereafter enacted or promulgated, or which is prohibited by the standard forms of special form or commercial general liability insurance, or which may cause a cancellation of any insurance policy covering University Avenue Center, or the Premises or any of its contents, or (except with the prior written consent of Landlord) which may increase the existing rate of or affect any special form or commercial general liability insurance or other insurance upon University Avenue Center, or the Premises, or any of its contents. In the event Tenant does or permits to be done anything or keeps or permits to be kept anything on or about the Premises which increases the existing rate of such insurance upon University Avenue Center or the Premises or any of its contents, Tenant shall pay the amount of any such increase promptly upon Landlord's demand. Tenant shall not do or permit anything to be done which will in any way obstruct or interfere with the rights of other lawful users of University Avenue Center, including, without limitation, tenants, their employees or invitees, disturb or annoy them, or use or allow the Premises to be used for any improper, unlawful or objectionable purpose. Tenant shall not maintain or permit any nuisance in or about the Premises or commit or suffer to be committed any waste in or upon the Premises.

J. No auction, fire, bankruptcy, distress, clearance, or going-out-of-business sale shall be conducted on the Premises nor shall any sign or advertisement regarding such activity be posted in or about the Premises.

K. Tenant shall not use or permit the Premises to be used in any manner or permit anything to be brought into or kept therein which would (i) violate the certificate of occupancy for the Premises; (ii) make it impossible or extraordinarily difficult to obtain special form coverage, commercial general liability or other insurance required to be furnished by Tenant under this Lease; (iii) cause structural injury to any part of the Premises or the Building; (iv) impair or interfere with the proper operation and maintenance of the Premises or University Avenue Center; or (v) violate any of Tenant's other obligations under this Lease.

L. If any governmental license or permit, other than a certificate of occupancy, shall be required for the proper and lawful conduct of Tenant's business, Tenant shall procure and

maintain such license or permit and submit the same for inspection by Landlord. Tenant at all times shall comply with the terms and conditions of each such license or permit.

M. Nothing shall be done in or about the Premises by Tenant or anyone having a contractual relationship with Tenant that will result in substantial interference, by themselves or third parties, with normal operation and use of University Avenue Center or the means of ingress and egress thereto ("Substantial Interference"). Tenant shall use every effort to eliminate Substantial Interference, including legal action. If Tenant fails to bring an immediate halt to any Substantial Interference, Landlord shall have the right (i) to take action and require Tenant to undertake and eliminate such Substantial Interference and (ii) to commence any legal action to eliminate such Substantial Interference. Any agreement entered into by Tenant with regard to use of the Premises shall contain a provision reserving to Tenant all of the necessary rights and remedies to permit Tenant to comply with its obligations under this provision and authorizing Landlord to enforce the terms of such provision if Tenant fails to do so.

6. **USE OF 1001 UNIVERSITY AVENUE PREMISES**

A. Tenant agrees that except as otherwise provided in this Lease, it is not a covenant or condition of this Lease or of any other agreement with Tenant that Landlord undertake or cause to be undertaken any development or redevelopment of the Property (University Avenue Center) or the Premises (1001 University Avenue), and Landlord shall incur no liability whatsoever to Tenant for failure to undertake such development or redevelopment.

B. Landlord at all times shall have the right and privilege of making such changes in and to Property (other than the Premises) from time to time which in its sole opinion are deemed to be desirable or appropriate, including the location and relocation of stairways, sidewalks, pathways, driveways, streets, entrances, exits, automobile parking spaces, the direction and flow of traffic, designation of prohibited areas, landscaped areas, utilities and all other facilities; provided, however, that the foregoing is not intended to entitle Landlord to unreasonably effect changes that would materially and adversely affect access to or visibility of the Premises, except temporarily during periods of construction. Landlord shall have the right to establish, promulgate, and enforce such reasonable rules and regulations concerning University Avenue Center, as it may deem necessary or advisable for the proper and efficient management, operation, maintenance and use thereof, and Tenant shall comply with the same.

C. Landlord at all times shall have the sole and exclusive management and control of University Avenue Center, including without limitation, the right to lease, license or permit the use of space within University Avenue Center to persons for the sale of merchandise and/or services and the right to permit advertising displays, educational displays, displays of art, and promotional activities and entertainment.

D. Nothing contained herein shall be deemed to create any liability to Landlord for any personal injury, or any damage to motor vehicles, vessels, or other property of Tenant's members, employees or others, unless caused by the gross negligence or willful misconduct of Landlord, its agents, servants or employees. Tenant is solely responsible for the security of the Premises, and for the safety of those using the Premises pursuant to this Lease or any permits or licenses from the City. Tenant acknowledges that if Landlord provides security guards or police

patrols for University Avenue Center or any portion thereof, Landlord does not represent, guarantee or assume responsibility that Tenant or any person or entity will be secure from losses or injury caused by the acts of third parties and does not assume responsibility for any such illegal acts. Tenant hereby waives any present or future claims Tenant may have against Landlord, whether known or unknown, for bodily injury or property damage arising from the performance of such security agents. City shall not be obligated to provide any public liability or property damage or loss insurance for the benefit of Tenant or any other person or entity.

E. Tenant will use its best efforts to maintain effective relations with other tenants and users of University Avenue Center and with neighbors. Tenant shall park vehicles only in legal and/or designated parking areas and only for the legal period of time; shall deposit all trash in legal containers; shall not deposit food or material of any kind on adjacent Premises; and shall respect the environment of University Avenue Center.

F. Tenant shall not interfere with the free and unobstructed access by the public and/or other tenants to University Avenue Center. Tenant shall not preclude other users of the Property from exercising a different use without first obtaining any and all appropriate permits. However, the foregoing is not intended, and shall not be construed to confer any right of action upon any third party.

G. Landlord reserves to itself the right to grant to others in the future nonexclusive utility easements over, under, through, across or on the Premises in locations that will not unreasonably interfere with Tenant's access to or use of the Premises. Any interference shall be temporary, and all work on the Premises shall proceed expeditiously. Tenant shall be given reasonable notice before commencement of any work on the Premises. In the event the installation or maintenance of such future utility lines in such easements causes any damage to the Premises, or any portion thereof, or other facilities located upon the Premises, including but not limited to pavement, curbs and sidewalks, the same shall be repaired by Landlord at its expense, if not so repaired by the party installing and maintaining the line. Landlord shall hold harmless and indemnify Tenant from all claims arising out of the grant or use of such a utility easement, except to the extent they result from the negligence or willful misconduct of Tenant or its sub-lessees or sub-tenants.

7. **SERVICES**

A. Tenant shall make all arrangements for and pay for the following utilities and services, including garbage, telephone, internet/cable, and all fees and periodic charges related thereto. Tenant shall be billed by Landlord on a regular and mutually agreeable basis and pay the Landlord, within 30 days of the date of the invoice, for the following utilities and services including but not limited to water, sewer, electricity and gas. For electricity, Tenant agrees to reimburse Landlord for 77% of the monthly electrical bill for 1001-1007 University Avenue and 100% of the gas bill (if any) for 1001 University under this Lease.

B. Landlord makes no representation or warranty that the supply of any utility or service to the Premises and/or the Building will not be interrupted, delayed or reduced.

C. Landlord shall not be liable for damages to either person or property; nor shall

Landlord be deemed to have evicted Tenant; nor shall there be any abatement of any rent; nor shall Tenant be relieved from performance of any covenant on its part to be performed hereunder by reason of any (i) breakdown of equipment or machinery utilized in supplying utilities or services; (ii) interruption of or failure to supply or delay in supplying any such utilities or services; (iii) the limitation or restriction on use of water, electricity gas, or telecommunications service serving the Premises or University Avenue Center; or (iv) failure to repair or cure any of the foregoing, except in the case of Landlord's gross negligence or willful misconduct.

8. **OBLIGATION OF TENANT TO REMOVE PERSONAL PROPERTY**

Upon the expiration of this Agreement, Tenant is obligated to remove any personal property placed in the Premises by the Tenant. If any personal property does remain on the Premises upon the expiration of the Agreement it will be considered abandoned personal property, which will be removed by the City and the Tenant will be responsible for all costs associated with removing the personal property from the Premises.

9. **ALTERATIONS AND IMPROVEMENTS**

A. Tenant acknowledges that Landlord owns the Premises. Tenant accepts the Premises from Landlord in its "AS IS" condition, the conditions that exist as of the Effective Date of this Lease. Tenant acknowledges that Landlord makes no representation or warranty concerning (i) the physical condition of the Premises; (ii) the Premises suitability for Tenant's proposed use; or (iii) the presence of any Hazardous Substance in or about the Property or the Premises, except as otherwise expressly set forth in this Lease. Landlord has encouraged Tenant to make its own physical inspection of all aspects of the Property and the Premises and to conduct its own investigation as to the suitability of the Property and the Premises for Tenant's use.

B. Tenant shall not make any alterations, additions or improvements to the Premises ("Tenant's Work") affecting the Building structure or utility systems, or attach any fixture or item of equipment thereto without Landlord's prior written consent. All such alterations, additions, or improvements shall be made at Tenant's sole expense in accordance with Landlord's General Design Requirements (if any) and the plans and specifications (including specifications for materials to be used in connection therewith) and a statement of the estimated cost of such work submitted to and approved by Landlord (collectively the "Plans and Specifications"). If the cost thereof exceeds \$5,000 for any single instance, or if such Tenant's Work involves the Building structure or utility systems, any contractor or person selected by Tenant must be a licensed contractor. Landlord, in its sole discretion, shall approve or disapprove Tenant's request and may disapprove Tenant's use of any materials or substances, including but not limited to asbestos and fiber glass, which Landlord, in its sole discretion, deems potentially hazardous, toxic or threatening to health. To the extent that Tenant's Work shall require a building permit or other permits from the City of Berkeley, and/or any other governmental agency, Tenant shall not perform any of Tenant's Work until Tenant has obtained all requisite permits. As the Property owner, all permits must be approved and signed by the Director of Public Works or his/her designee. Tenant further shall comply with all prevailing wage requirements of California Labor Code Sections 1720 et seq., to the extent such requirements are applicable to Tenant's work.

C. Except as otherwise expressly provided in this Lease, Tenant shall not repair, replace or modify any utility system located within the Premises without the Landlord's prior written consent. Tenant is responsible for the repair of any damage to any utility system, structural element of the Premises, facilities of Landlord or any other facilities arising out of Tenant's construction activities or Tenant's negligence or willful misconduct; provided, however, such provision is not intended to and shall not be interpreted to make any other person or entity a third party beneficiary thereof.

D. This Lease specifically prohibits Tenant, or any other party, from expanding uses or structures allowed on the Premises beyond those designated in use permits approved by the City of Berkeley. Notwithstanding approval of any new Use Permit allowing expansion, or any future expansion of the uses in existing buildings, or additions to existing buildings, construction of any new buildings, or moving existing buildings onto the Premises, are all subject to the prior written approval of the Landlord and all improvements (including Exhibit B) are subject to the environmental review and permit regulations and approvals of same by all applicable local, state, and federal agencies.

E. If Tenant proposes to make or construct any alterations, improvements, additions or fixtures that affect any portion of the Premises or any structures located on the Premises that are allowed under an existing use permit, Tenant shall first provide the Landlord with thirty (30) days prior written notice. If Landlord raises no objections within thirty (30) days after receipt of such notice, Tenant may proceed, provided Tenant obtains all required permits.

F. 1. Tenant shall not substantially deface or change any floors, walls, ceilings, roofs, or partition any of the structures or improvements on the Premises without first providing thirty (30) days written notice to Landlord. If Landlord raises no objections within thirty (30) days after receipt of such notice, Tenant may proceed, provided Tenant obtains all required permits. If required in writing by Landlord, Tenant shall require all contractors to provide a labor and materials bond for the full amount of any contract for improvements that exceed \$50,000. Tenant shall pay, when due, all sums of money that may be due or become due for any labor, services, materials, supplies or equipment furnished to or for Tenant in, at, upon or about the Premises and which may be secured by any mechanic's, material men's or other lien against the Premises or Landlord's interest therein.

2. All alterations, improvements or additions that are now or in the future attached permanently to the Premises shall be the Property of Landlord and shall remain with the Property at the termination of this Lease, except that Landlord can elect within thirty (30) days of the termination of the Lease to require Tenant, at its cost, to remove any equipment that Tenant has affixed to the Premises.

G. As of the date of this Lease, the Premises has not been inspected by a Certified Access Specialist (CASP). City makes no warranty or representation as to whether or not the Premises comply with the ADA or any similar legislation. In the event that Tenant's use of the Premises requires modifications or additions to the Premises in order to comply with the ADA or similar legislation, Tenant agrees to make any such necessary modifications and/or additions at Tenant's expense.

H. 1. Tenant agrees that to the extent it is required to comply with the prevailing wage requirements, Tenant shall assure that all workers are paid the prevailing rate of per diem wages, and travel and subsistence payments (defined in applicable collective bargaining agreements filed in accordance with Section 1773.8 of the California Labor Code), in effect on the date of Landlord's first approval of a building permit or other approval of the work. Copies of the applicable prevailing rate of per diem wages are on file at Landlord's principal office and will be made available to any interested party on request. Tenant agrees to post a copy of the prevailing rate of per diem wages at the Property. Tenant, as a penalty to Landlord, shall forfeit Twenty-Five Dollars (\$25) for each calendar day, or portion thereof (or such other sum as specified from time to time by Section 1775 of the California Labor Code), for each worker paid less than the applicable prevailing rates for such work or craft in which such worker is employed. The difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by Tenant.

2. Tenant agrees to keep or cause to be kept by each contractor and subcontractor an accurate payroll record for each worker employed on Tenant's Work covered by this subparagraph H showing all of the information specified in subsection (a) of Section 1776 of the California Labor Code. All such payroll records shall be certified, available for inspection and filed in accordance with the procedures specified in subsections (b)-€ inclusive of Section 1776 of the California Labor Code. In the event of noncompliance with the foregoing requirements concerning payroll records which continues for more than ten (10) days after Landlord gives Tenant written notice specifying in what respects Tenant must comply, Tenant shall forfeit, as a penalty to Landlord, for each worker Twenty-Five Dollars (\$25) for each calendar day, or portion thereof, until strict compliance is effectuated. Tenant shall be responsible for complying with Section 1777.5 of the California Labor Code concerning apprenticeable occupations, with respect to all work covered by that section. For purposes of the prevailing wage requirements of this subparagraph, Tenant shall be deemed to be "a contractor" as that term is used in Sections 1720 et seq., of the California Labor Code. Except where the context otherwise requires, the definitions of terms and phrases contained in the State prevailing wage law, Sections 1720 et seq., of the California Labor Code, and in the implementing administrative regulations, shall apply to the same terms and phrases which are used in the prevailing wage requirements of this subparagraph H.

10. **LIENS**

Tenant shall keep the property on which the Premises is situated, free from any liens arising out of any work performed, materials furnished or obligations incurred by Tenant. In the event that Tenant fails to cause any such liens to be released, Landlord shall have, in addition to all other remedies provided herein or by law, the right (but not the obligation) to cause the same to be released by such means as Landlord shall deem proper, including payment of the claim giving rise to such lien. All sums paid and all expenses incurred by Landlord in connection therewith shall be reimbursed by Tenant promptly on demand. Landlord shall have the right to post and keep posted on the Premises any notices (including, without limitation, notices of non-responsibility pursuant to California Civil Code Section 3094) that Landlord may deem proper

for protection of Landlord and the Premises. Tenant shall give Landlord at least ten (10) business days' prior notice of the date of commencement of any Tenant work on or in the Premises to allow Landlord to post such notices.

11. **TENANT AND LANDLORD MAINTENANCE OBLIGATIONS**

A. Tenant agrees that during the entire term of this Lease, at its own cost and expense, it shall keep and maintain the entire Premises, including the Building and all interior and exterior areas in the leased area, in good-quality order, repair and condition. Except as otherwise provided in this Lease, Tenant shall perform, at its own cost and expense, any and all maintenance, removal of graffiti, repairs, or rehabilitation to the Premises, whether required by deterioration or by operations of Tenant or otherwise.

B. To the extent applicable, Tenant hereby waives the provisions of Civil Code Sections 1941 and 1942, and any other provision of law now or hereafter in effect, with regard to the habitability of the Property and the Premises.

C. "Good-quality order, repair and condition", as used herein, shall mean the maintenance, repair, or renovation of the Premises necessary to keep and maintain the Building and Premises in safe, efficient, and attractive condition, given the nature and age of the Building, at any time during the term of this Lease.

D. Tenant shall provide its own janitorial service for the Premises, and all of Tenant's rubbish shall be removed by Tenant to such location(s) on the Premises or within University Avenue Center as may be designated by Landlord.

E. In the event of a dispute related to Tenant's maintenance and repair obligations under the Lease that Landlord and Tenant cannot informally resolve, Tenant's only remedy against Landlord shall be the right to terminate this Lease, effective thirty (30) days from the delivery of written notice to Landlord.

F. Nothing in this Paragraph 11 shall be deemed to affect or impair Landlord's rights under paragraph 9 of this Lease. Tenant acknowledges that Landlord has no obligation and has made no promises to alter, remodel, improve, repair, decorate or paint the Building or to improve the Premises, or any part thereof. Landlord has made no representations respecting the condition of the Building, the Premises, or University Avenue Center, except as specifically set forth in this Lease.

12. **DAMAGE OR DESTRUCTION**

A. In the event the Premises are damaged by fire, flood, earthquake, act of God, the elements, or other casualty, then Landlord shall forthwith repair the same, at its sole expense, unless Landlord or Tenant has the right to terminate pursuant to subparagraph 12.B below. Tenant shall be solely responsible for the loss, repair, and replacement of its all equipment and leasehold improvements.

B. Anything in subparagraph A to the contrary notwithstanding, Landlord shall not

have any obligation to repair or rebuild the Premises or the Building (and Tenant and Landlord shall each have the right to terminate this Lease): (i) following damage or destruction thereto if the damage or destruction is due to any cause or casualty other than one against which the responsible party is required to carry insurance or actually does carry insurance and such party reasonably estimates that the cost of repair or rebuilding exceeds ten percent (10%) of the then replacement cost of the Premises or Building, as the case may be. If the responsible party elects not to repair any damage or destruction pursuant to this provision, such party shall give the other party notice of such election within sixty (60) days after the date of such damage or destruction; and this Lease shall terminate as of the date of such damage or destruction.

C. Tenant hereby waives the provisions of California Civil Code Sections 1932 and 1933 and any other statutes now or hereafter in effect which relate to termination of a lease when leased Premises is damaged or destroyed and agrees that such event shall be governed by the terms of this Lease.

13. INDEMNIFICATION

A. Indemnity. Except to the extent claims are caused by Landlord's sole or active negligence or willful misconduct, Tenant shall indemnify, protect, defend, and hold harmless Landlord and its elected officials, officers, employees, volunteers, lenders, agents, representatives, contractors and each of their successors and assigns from and against any and all claims, judgments, causes of action, damages, penalties, costs, liabilities, and expenses, including all costs, attorneys' fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon, arising at any time during or after the Term as a result (directly or indirectly) of or in connection with (i) any default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease; (ii) Tenant's or Tenant's Parties use of the Premises, the Property, or any portion thereof, or the conduct of Tenant's business or any activity, work or thing done, permitted or suffered by Tenant or Tenant's Parties in or about the Premises, the Property or any portion thereof; (iii) any act, error or omission of Tenant or Tenant's Parties in or about the Property or any portion thereof; (iv) loss of, injury or damage to, or destruction of property (including but not limited to merchandise or inventory), including loss of use resulting from such loss, injury, damage, or destruction; or (v) any resulting economic loss, consequential damages, or exemplary damages (collectively, the "**Indemnification**"). Tenant shall provide such Indemnification by and through counsel reasonably acceptable to Landlord. The obligations of Tenant under this Section A shall survive the expiration or other termination of this Lease with respect to any claims or liability arising prior to such expiration or other termination.

B. Exemption of Landlord from Liability. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property including, but not limited to, Tenant's Property and any Tenant Improvements, and injury to or death of persons in, upon or about the Premises, the Property, or any portion thereof, arising from any cause, and Tenant hereby waives all claims in respect thereof against Landlord, except to the extent such claims are caused by Landlord's sole or active negligence or willful misconduct. Tenant hereby agrees that Landlord shall not be liable for injury to Tenant's business or any loss of income therefrom or for damage to the property of Tenant, or injury to or death of Tenant, Tenant's Parties or any other person in or about the Premises, the Property, or any portion thereof, whether such damage or injury is

caused by fire, steam, electricity, gas, water or rain, or from the breakage, leakage or other defects of sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether said damage or injury results from conditions arising within or about the Premises, the Property, or any portion thereof or from other sources or places, and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Tenant, except damage or injury caused solely by Landlord's sole or active negligence or willful misconduct. Landlord shall not be liable for any damages arising from any act or neglect of any other tenant or occupant, if any, of the Premises, the Property, or any portion thereof, or Landlord's failure to enforce the terms of any agreements with parties other than Tenant.

14. **INSURANCE**

A. Tenant, at its sole expense, shall procure and maintain the following insurance:

1. Commercial general liability insurance insuring Tenant against any liability arising out of its use, occupancy, repair or maintenance of the Premises or University Avenue Center, with a combined single limit of not less than \$2,000,000 for injury to or death of one or more persons in any one accident or occurrence and Property damage in any one accident or occurrence. Such comprehensive general liability insurance shall include fire liability coverage and public liability and Property damage insurance, including personal injury, broad form Property damage, blanket contractual, and other coverage as may be reasonably required by Landlord. Landlord shall have the right, from time to time, to require Tenant to increase the amount of its comprehensive general liability insurance coverage if, in Landlord's reasonable opinion, the amount of such coverage is not sufficient in light of the risks insured and Tenant's use of the Premises or University Avenue Center.

2. Special Form Property insurance for cost of damage to Tenant's improvements and personal property in the Premises, including, without limitation, during any term of construction of Tenant's Work, builders' All-Risk Insurance. Such insurance shall include coverage for vandalism and malicious mischief and cost of demolition and increased cost of construction by reason of changes in applicable ordinances/laws and shall not contain a co-insurance clause.

B. All policies of insurance and all renewals thereof shall be approved as to form and sufficiency by Landlord's Risk Manager and shall be issued by good and responsible companies qualified to do and doing business in California and rated A-: XIII or better in the most recent version of Best's Insurance Guide. Each of the required insurance coverages except for workers compensation (i) shall name Landlord, its officers, agents, employees and volunteers as additional insureds and, with respect to casualty insurance, as their respective interests may appear and (ii) if reasonably available, shall provide that it may not be canceled or altered by the insurer in such manner as to adversely affect the coverage unless sixty (60) days' prior notice is given by certified mail to Landlord at the address set forth in Paragraph 34 below, or to such place as Landlord may from time to time designate in a notice to Tenant.

C. An original certificate of each policy of insurance shall be delivered to Landlord prior to the date the Premises is delivered to Tenant and from time to time during the Term. If Tenant shall fail to procure or maintain any insurance required hereunder or shall fail to furnish

to Landlord any duplicate policy or certificate, Landlord may obtain such insurance; and any premium or cost paid by Landlord for such insurance shall be reimbursed by Tenant promptly upon Landlord's demand. Tenant shall make good faith efforts to ensure that at least sixty (60) days prior to the expiration of any such policy, an extension endorsement showing that such insurance coverage has been or will be renewed or extended shall be delivered to Landlord and if, despite such good faith efforts, such extension endorsement cannot be timely delivered, Tenant shall cause to be delivered to Landlord within said time other reasonable documentary evidence of renewal of coverage and shall continue exercising diligent efforts to deliver to Landlord the required extension endorsement. If such coverage is canceled or reduced, Tenant, within ten (10) days after receipt of written notice of such cancellation or reduction in coverage but in no event later than the effective date of cancellation or reduction, shall deliver to Landlord a certificate showing that the required insurance has been reinstated or provided through another insurance company (ies). Upon Tenant's failure to so deliver such certificate, Landlord may, without further notice and at its option, (1) exercise Landlord's rights as provided in this Lease or (2) procure such insurance coverage at Tenant's expense and Tenant shall promptly reimburse Landlord for such expense.

D. If any of the insurance required in this Paragraph 14 is provided under a claims-made form of policy, Tenant shall maintain such coverage continuously throughout the Term and without lapse for a period of not less than five (5) years beyond the termination of this Lease, to the effect that should occurrences during the Term give rise to claims made after termination of this Lease, such claims shall be covered by such claims-made policies.

E. Tenant's Property insurance policy insuring the Premises, Building, and Tenant's Property in the Premises shall include a waiver of the insurer's right of subrogation or, if such waiver should be unobtainable or unenforceable, (i) an express agreement that such policy shall not be invalidated if the assured waives, before the casualty, the right of recovery against any party responsible for a casualty covered by the policy or (ii) any other form of permission concerning the assured's right to waive its right of recovery. If such waiver, agreement or permission shall not be, or shall cease to be, obtainable, Tenant shall so notify Landlord promptly after learning thereof. To the extent that a loss occurs for which the Landlord has coverage through the Alliant Property Insurance Program, Landlord waives its right to recovery from Tenant for amounts in excess of the self-insured retention of the Bay Cities Joint Powers Insurance Authority (which as of execution of this Lease is \$250,000 consisting of a \$10,000 deductible for Landlord and a \$240,000 deductible for the Insurance Authority.) Notwithstanding the foregoing, Tenant's Property insurance shall be primary and the Landlord's property insurance shall be secondary.

F. Tenant hereby releases Landlord with respect to any claim (including a claim for negligence) which Tenant might otherwise have against Landlord for loss, damage or destruction of Tenant's Property occurring during the Term to the extent to which Tenant is insured under a policy (ies) containing a waiver of subrogation or agreement or permission to release liability, as provided in subparagraph E above. If, notwithstanding the recovery of insurance proceeds by Tenant for such loss, damage or destruction, Landlord is liable to Tenant with respect thereto or is obligated under this Lease to make replacement, repair, restoration or payment, then (provided Tenant's right of full recovery under its insurance policies is not thereby prejudiced or otherwise adversely affected) the amount of the net proceeds of the Tenant's insurance against such loss,

damage or destruction shall be offset against Landlord's liability to Tenant therefore or shall be made available to Landlord to pay for replacement, repair or restoration, as the case may be. Nothing contained herein shall relieve either party of any duty to repair, restore or rebuild imposed elsewhere in this Lease or shall nullify any abatement of rent provided for elsewhere in this Lease.

G. If Tenant employs any person, it shall carry workers' compensation and employer's liability insurance and shall provide a certificate of insurance to the Landlord. The workers' compensation insurance shall: provide that the insurance carrier shall not cancel, terminate, or otherwise modify the terms and conditions of said insurance except upon thirty (30) days prior written notice to the Landlord; provide for a waiver of any right of subrogation against Landlord to the extent permitted by law; and be approved as to form and sufficiency by the Landlord's Risk Manager.

H. If a death, serious personal injury, or substantial Property damage occurs in connection with the performance of this Lease, Tenant shall immediately notify the Landlord's Risk Manager. If any accident occurs in connection with this Lease, Tenant shall promptly submit a written report to Landlord, in such form as the Landlord may require. This report shall include the following information: 1) name and address of the injured or deceased person(s); 2) name and address of Tenant's subtenant, if any; 3) name and address of Tenant's liability insurance carrier; and 4) a detailed description of the accident, including whether any of Landlord's equipment, tools or materials were involved.

I. Tenant or Tenant's designated agent shall forward all insurance documents to:

Director, Public Works Department (Attn: Real Property)
City of Berkeley
2180 Milvia St., 3rd Floor
Berkeley, CA 94704

15. **COMPLIANCE WITH LAWS**

A. Tenant, at its sole expense, shall promptly comply with all applicable laws, ordinances, rules, regulations, permits or requirements now or hereafter in effect (whether foreseen or unforeseen by Landlord or Tenant); with the requirements of any board of fire underwriters or similar body now or hereafter constituted; with any occupancy certificate issued by any public officer; and with the provisions of all recorded documents affecting the Premises, insofar as any of the foregoing relate to or affect the condition, use or occupancy of the Premises or the Building. Such compliance by Tenant shall include, without limitation, compliance with all obligations to alter, maintain, or restore the Premises (and, as applicable, the Building), or construct improvements in or to the Premises, regardless of cost and regardless of when during the term of the Lease the work is required.

B. Tenant acknowledges that conducting its operations at the Premises and making certain alterations and improvements may require an authorization, approval or permit (collectively, "Regulatory Approval") from a governmental authority having jurisdiction over the Premises. Tenant shall be solely responsible for obtaining any such Regulatory Approval, and

Tenant shall not seek any Regulatory Approval without first obtaining the approval of Landlord. All costs associated with applying for and obtaining any necessary Regulatory Approval shall be borne by Tenant. Tenant shall be solely responsible for complying with any and all conditions imposed by regulatory agencies as part of a Regulatory Approval; however, Landlord shall not take any action that would materially interfere or prevent Tenant from complying with all such conditions. Any fines or penalties imposed as a result of the failure of Tenant to comply with the terms and conditions of any Regulatory Approval shall be paid and discharged by Tenant, and Landlord shall have no liability, monetary or otherwise, for said fines and penalties, except to the extent that such fines or penalties were caused by the willful acts or omissions of Landlord. To the fullest extent permitted by law, Tenant agrees to indemnify and hold Landlord and its officers, agents and employees harmless from and against any loss, expense, cost, damage, attorneys' fees, penalties, claims or liabilities which Landlord may incur as a result of Tenant's failure to timely obtain or comply with the terms and conditions of any Regulatory Approval. Landlord agrees to cooperate (but only to the same extent and in the same manner as a non-public entity could so cooperate, and not as an exercise of Landlord's police or regulatory power) with Tenant in filing, processing and obtaining all Regulatory Approvals, and upon request of Tenant, to join with Tenant as co-applicant in filing, processing and obtaining all Regulatory Approvals; provided, however, that Landlord may refuse to file, process or obtain Regulatory Approvals or to join Tenant as a co-applicant if Landlord determines in its sole and absolute discretion that it is not in Landlord's best interest to do so. Nothing contained herein shall be deemed to limit or otherwise constrain Landlord's discretion, powers, and duties as a regulatory agency with certain police powers.

C. Tenant understands and agrees that Landlord is entering into this Lease in its capacity as a landowner with a proprietary interest in the Premises and not as a regulatory agency of the City of Berkeley with certain police powers. Landlord's legal status shall in no way limit the obligation of Tenant to obtain any required approvals from Landlord's departments, boards, or commissions that have jurisdiction over the Premises. By Landlord's entering into this Lease, neither Landlord nor any of City Council, boards, commissions, agencies, departments, or Affiliates obligates itself to any other governmental agent, board, commission or agency, or to Tenant, or to any other individual or entity, with regard to any discretionary action relating to development or operation of the Premises or University Avenue Center. Discretionary action includes but is not limited to rezonings, variances, environmental clearances, or any other governmental agency approvals that may be required or desirable for the improvement, alteration, or operation of the Premises or University Avenue Center. By entering into this Lease, Landlord is in no way modifying or limiting the obligation of Tenant to cause the Premises to be used and occupied in accordance with all laws.

16. ASSIGNMENT AND SUBLEASE

A. Except as otherwise expressly allowed herein, Tenant shall not directly or indirectly, by operation of law or otherwise, transfer, assign, pledge, encumber or hypothecate this Lease or all or any portion of the Premises or Tenant's interest in and to the Premises (collectively, an "Assignment") or sublet the Premises or any portion thereof or permit the Premises or any portion thereof to be used, occupied or managed by anyone other than Tenant pursuant to any Lease, use or concession agreement or otherwise (collectively, a "Sublease") without first obtaining Landlord's written consent. Any assignment, encumbrance, or sublease

without Landlord's written consent shall be voidable and, at Landlord's election, shall constitute a default. City has the sole discretion to determine whether to agree to any sublease or assignment. No consent to any assignment, encumbrance, or sublease shall constitute a further waiver of the provisions of this paragraph.

B. Neither this Lease nor any interest therein shall be assignable or transferable in proceedings in attachment, garnishment, or execution against Tenant, in voluntary or involuntary proceedings in bankruptcy or insolvency or receivership taken by or against Tenant or by any process of law. Possession of the Premises shall not be divested from Tenant in such proceedings or by any process of law without the prior written consent of Landlord.

C. Tenant expressly waives any rights that it might otherwise be deemed to possess pursuant to applicable law, including without limitation, Section 1997.040 of the California Civil Code, to limit any remedy of Landlord pursuant to Section 1951.2 or 1951.4 of the Code by means of proof that enforcement of a restriction on use of the Premises would be unreasonable.

17. **INSPECTION**

Landlord may enter the Premises at all reasonable times (with reasonable advance notice except in case of emergency) (i) to inspect the same; (ii) to exhibit the same to prospective purchasers, mortgagees or tenants; (iii) to conduct tests, inspections and surveys to determine whether Tenant is complying with all of its obligations hereunder; (iv) to post notices of non-responsibility or other notices that may be permitted hereunder; (v) to post "to Lease" signs of reasonable size upon the Premises during the last ninety (90) days of the Term; and (vi) to make repairs required or permitted to be made by Landlord or repairs to any adjoining space or any utility systems or to make repairs, alterations or additions to any other portion of the Premises or University Avenue Center; provided, however, that all such work shall be done as promptly and with as little interference to Tenant as reasonably possible. Tenant hereby waives all claims against Landlord for any injury or inconvenience to or interference with Tenant's business or any loss of occupancy or quiet enjoyment of the Premises resulting from Landlord's entry into the Premises or any work performed therein by Landlord. Landlord shall at all times have a key to all doors in and about the Premises (excluding Tenant's vaults, safes and similar areas designated by Tenant in writing in advance), and Landlord shall have the right to use any and all means which Landlord may deem proper in an emergency to obtain entry to the Premises. Tenant also shall provide Landlord with written notice of the name, address, telephone number, and Tenant's account number of the burglar alarm company (if any) utilized by Tenant for the Premises. Any entry to the Premises by any of said means or otherwise shall not under any circumstances be deemed a forcible or unlawful entry into or a detainer of the Premises or an eviction (actual or constructive) of Tenant from the Premises.

18. **DEFAULT**

The occurrence of any one of the following shall constitute an event of default on the part of Tenant:

A. **Failure to Use Premises.** Abandonment and vacation of the Premises or failure to occupy and use the Premises as specified in paragraphs 5 and 6.

B. Nonpayment of Rent. Failure to pay any installment of rent or any other sum due and payable hereunder upon the date when such payment is due, such failure continuing for a period of ten (10) days after written notice of such failure; provided, however, that Landlord shall not be required to provide such notice more than twice during any consecutive twelve (12) months with respect to non-payment of any portion of rent, the third such non-payment during any consecutive twelve (12) months constituting an event of default without requirement of notice.

C. Other Obligations. Failure to perform any obligation, agreement or covenant under this Lease, such failure having continued for thirty (30) days after notice of such failure from Landlord or such longer period as is reasonably necessary to remedy such default, provided that Tenant has commenced to remedy the default within such thirty (30) day period and shall continuously and diligently pursue such remedy until such default is cured.

D. General Assignment. A general assignment by Tenant for the benefit of creditors.

E. Bankruptcy. The filing of a voluntary petition in bankruptcy by Tenant, or the filing of an involuntary petition by Tenant's creditors, which involuntary petition remains undischarged for a period of thirty (30) days. In the event that under applicable law the trustee in bankruptcy or Tenant has the right to affirm this Lease and to continue to perform the obligations of Tenant hereunder, such trustee or Tenant, in such time period as may be permitted by the bankruptcy court having jurisdiction, shall cure all defaults of Tenant hereunder outstanding as of the date of affirmance and shall provide to Landlord such adequate assurances as may be necessary to ensure Landlord of the continued performance of Tenant's obligations hereunder. Any transferee (by operation of law or otherwise) must provide Landlord with adequate assurance of its future performance under this Lease. In the event of Tenant's bankruptcy, insolvency or reorganization, the parties specifically intend that the actions of the trustee or Tenant in assuming and/or assigning this Lease shall be governed by Sections 362 – 365 of Title 11 of the United States Code applicable to executory contracts and expired leases..

F. Receivership. The employment of a receiver to take possession of all or substantially all of Tenant's assets in the Premises.

G. Insolvency. The attachment, execution or other judicial seizure of all or substantially all of Tenant's assets in or on the Premises; the admission by Tenant in writing of its inability to pay its debts as they become due; the filing by Tenant of a petition seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future law or regulation; the filing by Tenant of an answer admitting or failing timely to contest a material allegation of a petition filed against Tenant in any such proceeding or if, within thirty (30) days after the commencement of any proceeding against Tenant seeking reorganization or arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future law or regulation, such proceeding shall not have been dismissed.

H. Release of Hazardous or Toxic Substances or Materials and Other Environmental

Impacts. Any release or discharge in, on, under, around, or from the Premises and/or University Avenue Center by Tenant, its agents or employees of Hazardous Substances which has not been fully cleaned up within ten (10) days after such release or discharge. Any negative impacts to the natural habitat and environment of University Avenue Center caused by Tenant that are documented by a qualified, independent source and for which reasonable remediation measures are not available, or the Tenant fails to cooperate with the Landlord in implementing in a timely manner reasonable measures intended to mitigate any negative impacts.

I. Illegal Drugs. Any release or discharge of chemicals, toxics, solution in connection with the manufacturing and mixing of any illegal substance on the premises.

J. Non-compliance with lease terms. Failure to perform any of the obligations, and improvements listed on Exhibit B, such failure continuing for 30 days after notice from the landlord of said default.

19. REMEDIES UPON DEFAULT

A. Termination. In the event of the occurrence of any event of default, Landlord shall have the right immediately to terminate this Lease by written notice and at any time thereafter to recover possession of the Premises or any part thereof and to expel and remove Tenant, any other person or party occupying the same and all Premises located therein, by any lawful means and to reenter the Premises without prejudice to any of the remedies that Landlord may have under this Lease or under law or equity.

B. Continuation after Default. In the event of any default, this Lease shall continue in effect for so long as Landlord does not terminate this Lease under subparagraph A above. In such case, Landlord may enforce all its rights and remedies under this Lease, including without limitation, the right to recover rent as it becomes due, and all of its rights and remedies under law. Acts of maintenance, preservation, efforts to relet the Premises for Tenant's account or the appointment of a receiver upon application of Landlord to protect Landlord's interest under this Lease shall not constitute an election to terminate this Lease or Tenant's right to possession.

C. Damages upon Termination. Should Landlord terminate this Lease pursuant to subparagraph A above, in addition to any other rights and remedies to which it may be entitled under applicable law, Landlord shall be entitled to recover from Tenant: (i) the worth at the time of the award of the unpaid rent and other amounts which had been earned at the time of termination; plus (ii) the worth at the time of the award of the amount by which the unpaid rent which would have been earned after termination until the time of the award exceeds the amount of such rent loss that Tenant proves reasonably could have been avoided; plus (iii) the worth at the time of the award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rent loss that Tenant proves reasonably could be avoided; plus (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which, in the ordinary course of things, would likely result therefrom, including without limitation, the costs and expenses (including brokerage commissions and advertising costs) incurred by Landlord, with or without terminating the Lease, (1) in retaking possession of the Premises; (2)

in cleaning and making repairs and alterations to the Premises reasonably necessary to return the Premises to good condition for the use permitted by this Lease and otherwise to prepare the Premises for reletting; (3) in removing all persons and personal property from the Premises and transporting and storing any of Tenant's personal property left at the Premises, although Landlord shall have no obligation to remove, transport, or store any of such personal property; and (4) in reletting the Premises for such term, at such rent and upon such other terms and conditions as Landlord in its sole discretion may deem advisable; plus (v) such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time under California law. The "worth at the time of award" of the amounts referred to in (i) and (ii) shall be computed with interest at the maximum rate allowed by law. The "worth at the time of award" of the amount referred to in (iii) shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award plus one percent (1%).

D. Computation of Rent for Purposes of Default. For purposes of computing unpaid rent which would have accrued and become payable pursuant to subparagraph C above, unpaid rent shall include the total rent for the balance of the term of the Lease.

E. Remedies Cumulative. All rights, privileges and elections or remedies of the parties are cumulative and not alternative to the extent permitted by law and except as otherwise specifically provided herein.

F. No Waiver. Landlord's waiver of any breach of a covenant or condition hereof, or Landlord's failure to declare any default immediately upon occurrence thereof or a delay in taking any action in connection therewith shall not waive such breach or such covenant or condition or any subsequent breach thereof. The subsequent acceptance of rent or other monies by Landlord shall not be deemed a waiver of any preceding default by Tenant, other than the failure of Tenant to pay the particular rent or other sum so accepted, regardless of Landlord's knowledge of such default at the time of its acceptance of rent.

G. No Right of Redemption. Tenant waives any right of redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179 or any other present or future law in the event Tenant is evicted or Landlord takes possession of the Premises by reason of Tenant's default.

20. ENVIRONMENTAL OBLIGATIONS

A. Tenant shall not, without Landlord's prior written consent (which consent may be granted or denied in Landlord's sole discretion), install, bring into or release or discharge in, on, under, around, or from the Premises any (i) asbestos-containing materials, (ii) electrical transformers, fluorescent light fixtures with ballasts or other equipment containing PCB's or (iii) materials which constitute hazardous, extremely hazardous or toxic materials under the Resource Conservation and Recovery Act, the California Hazardous Waste Control Act, the Comprehensive Environmental Response Compensation and Liability Act, the California Safe Drinking Water and Toxic Enforcement Act of 1986 or any other applicable law or regulation concerning hazardous or toxic materials, (collectively "Hazardous Substances") and has not done so prior to the effective date of this Lease. Any Hazardous Substances which are used, stored, treated, disposed of or released from the Premises by Tenant or its representatives, agents,

employees or invitees, shall be used, stored, treated, released and disposed of in accordance with all applicable laws and regulations.

B. If Tenant knows or has reasonable cause to believe that any Hazardous Substance has been released on or beneath the Premises, Tenant shall immediately notify the Berkeley Police Department and the Toxic Management Office and promptly give written notice of same to Landlord. If Tenant knows or has reasonable cause to believe that such substance is an imminent and material danger to public health or safety, Tenant shall take all actions necessary to alleviate such danger. Tenant shall provide to Landlord as promptly as possible, and in any event within five business days after Tenant first receives or sends the same, copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to the Premises or Tenant's use thereof and concerning Hazardous Substances. Tenant shall not negotiate or enter into any settlement agreement, consent decree or other compromise in respect of Hazardous Substances affecting the Premises or the Premises without first giving Landlord prior written notice and full opportunity to appear, intervene or otherwise protect Landlord's rights and interests.

C. Without limitation of the provisions of paragraph 13 hereof, Tenant shall indemnify, defend and hold Landlord and its affiliates harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses which arise during or after the term of this Lease as a result of the handling of Hazardous Substances on the Premises, or University Avenue Center by Tenant, its agents or invitees, including without limitation, all costs of monitoring, investigating, and remediation of the same, damages for diminution in the value of the Premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises, damages arising from any adverse impact on marketing of any such space and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees. This indemnification by Tenant includes, but is not limited to, costs incurred in connection with any investigation of site conditions or any clean-up, remediation, removal or restoration work requested by Landlord or required by any federal, state or local governmental agency or political subdivision because of Hazardous Substance present in the soil or groundwater in, on or under the Premises or in any improvements. Without limiting the foregoing, if the presence of any Hazardous Substance in, on, under or about the Premises caused or permitted by Tenant results in any contamination of the Premises or University Avenue Center, Tenant, at its sole expense, promptly shall take all action that is necessary to return the Premises to the condition existing prior to the introduction of such Hazardous Substance in, on, under or about the Premises; provided that Landlord's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions could not potentially have any material adverse effect upon the Premises. Tenant's obligations under this paragraph 20.C. shall survive the expiration or termination of this Lease.

D. Tenant's obligations under the Lease regarding Hazardous Substances apply only in connection with, and to the extent of, Hazardous Substances brought onto the Premises or University Avenue Center by Tenant and/or Tenant's employees, agents, invitees or contractors.

21. **ENVIRONMENTAL DUTIES**

A. Tenant shall minimize waste and recycle and compost. Tenant must participate in a recycling service provided by the City or provide an acceptable alternative with the approval of

the City's Recycling Program Manager. To that end, Tenant shall:

1. Assign someone to be in charge of its recycling programs, and to communicate needs and questions to the Zero Waste Division in the City's Public Works Department.
2. Recycle corrugated cardboard, office papers and beverage containers (glass bottles, plastic bottles, and cans)
3. Place collection containers for paper at convenient locations.
4. Educate employees and program participants about recycling procedures.
5. Recycle batteries and office equipment (contact the City's Zero Waste Division for information about vendors).
6. Tenant shall recycle construction waste from tenant improvements.

22. **LANDLORD'S RIGHT TO CURE**

All covenants to be performed by Tenant shall be performed at Tenant's sole cost and expense and without abatement of rent. Without limiting Landlord's rights under any other provision of this Lease, if Tenant shall fail to pay any sum of money or shall fail to perform any other act and such failure shall have become an event of default under paragraph 18, Landlord, without waiving or releasing Tenant from any of its obligations, may make (but shall not be obligated to make) any such payment or perform any such other act. All sums so paid by Landlord and all necessary incidental costs shall be deemed additional rent and shall be payable to Landlord immediately upon Landlord's written demand.

23. **EMINENT DOMAIN**

A. If all or any part of the Premises shall be taken as a result of the exercise of the power of eminent domain, this Lease shall terminate as to the part so taken on the earlier of the dates that title vests in the condemning authority or such authority takes possession of the Premises. In the case of a partial taking, either Landlord or Tenant shall have the right to terminate this Lease as to the balance of the Premises by written notice to the other party within thirty (30) days after such date of taking; provided, however, that Tenant shall have no right to terminate this Lease unless the portion of the Premises taken shall be of such extent and nature as substantially to impede or impair Tenant's use of the balance of the Premises. In the event of any such taking, Landlord shall be entitled to all compensation, damages, income, rent, awards and interest that may be paid or made in connection with such taking. Tenant shall have no claim against Landlord for the value of any unexpired Term; however, Landlord shall cooperate with Tenant if Tenant seeks to recover, at its sole expense, proceeds or awards paid to compensate for damage to the "goodwill" associated with Tenant's business. Any such amounts recovered shall belong to Tenant.

B. If any part of the Premises shall be so taken and this Lease shall not be terminated, then this Lease shall continue in full force and effect, except that the Rent shall be reduced in the same proportion that the rentable area of the Premises taken bears to the original rentable area of the Premises. Landlord, upon receipt of the award, shall make all necessary repairs and alterations (exclusive of Tenant's trade fixtures, furniture, furnishings, personal Premises, decorations, signs and contents) to restore the portion of the Premises remaining to as near its former condition as the circumstances will permit and to restore the Building to the

extent necessary to constitute the portion of the Building not so taken a complete architectural unit. Landlord, in any event, shall not be required to spend for such repairs and alterations an amount in excess of the amount received by Landlord as damages for the taking of such part of the Premises and/or Building; and Tenant, at its sole cost and expense, shall make all necessary repairs and alterations to Tenant's trade and lighting fixtures, furniture, furnishings, personal Premises, decorations, signs and contents.

C. As used herein, the "amount received by Landlord" shall mean that portion of the award received by Landlord as damages from the condemning authority which is free and clear of all prior claims or collections by Landlord and less reasonable attorneys' and appraisers' fees and expenses.

24. **SUBORDINATION**

A. This Lease shall be subject and subordinated to (i) all ground or underlying leases which have been or may hereafter be executed affecting the Premises, (ii) any Declaration of Covenants, Conditions and Restrictions now or hereafter recorded affecting University Avenue Center, all without the necessity of having further instruments executed on behalf of Tenant to effectuate such subordination.

B. Tenant agrees to execute and deliver upon demand such further instruments or documents as may reasonably be required by Landlord to evidence any such subordination of this Lease. Tenant hereby constitutes and appoints Landlord, as Tenant's attorney-in-fact, coupled with an interest, to execute and deliver any such instrument(s) on behalf of Tenant.

25. **NO MERGER**

The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger and shall, at the option of Landlord, terminate all or any existing subleases or subtenancies or operate as an assignment to it of any or all such subleases or subtenancies.

26. **TRANSFER BY LANDLORD**

In the event the original Landlord or any successor owner of University Avenue Center shall sell or convey the Premises, or any portion thereof that includes the Premises, all liabilities and obligations on the part of the original Landlord or such successor owner shall terminate. All such liabilities and obligations thereupon shall be binding only upon the new owner. Tenant agrees to attorn to such new owner.

27. **ESTOPPEL CERTIFICATES**

From time to time, Tenant shall execute and deliver to Landlord promptly upon request a certificate certifying (i) that this Lease is unmodified and in full force and effect or, if there has been any modification, that this Lease is in full force and effect as modified, and stating the date and nature of each such modification; (ii) the date to which rent and other sums payable hereunder have been paid; (iii) that no notice has been received by Tenant of any default which

has not been cured, except as to defaults specified in such certificate; (iv) that Landlord is not in default under this Lease and that Tenant has no claims, charges, offsets or defenses against Landlord, or specifying the nature of any such default or claim, charges, offsets or defense; and (v) such other matters as may be reasonably requested by Landlord. Any such certificate may be relied upon by any prospective purchaser, vendee, or other party. If Tenant fails to execute and deliver any such certificate within ten (10) business days after Landlord's written request, such failure, at Landlord's election, shall be conclusive against Tenant that this Lease is in full force and effect, without modification (except as may be represented by Landlord), that there are no uncured defaults in Landlord's performance, and that not more than one year's rent has been paid in advance.

28. **HOLDING OVER**

If, after the expiration of the Term of the Lease, Tenant remains in possession of the Premises with Landlord's consent all provisions of this Lease shall remain in effect with the following exceptions: (1) Tenant shall become a tenant from month-to-month, such tenancy terminable on thirty (30) days' notice given at any time by either party.

29. **GOVERNING LAW**

This Lease shall be governed by the laws of the State of California.

30. **SECURITY DEPOSIT**

Landlord is waiving the security deposit.

31. **SIGNAGE**

The size, design, material and location of any sign, marquee, awning, decoration or other attachment, advertising material or lettering on the Premises or on the exterior of the Building (collectively "signage") shall be subject to Landlord's prior written approval. All such signage shall comply with the criteria outlined in Berkeley Municipal Code, Title 20 and shall be subject to the following provisions:

A. Tenant, at its sole expense, shall submit to Landlord a written description of all proposed signage, including dimensions, color, proposed location and other pertinent information ("Signage Proposal"). Landlord shall review the Signage Proposal and shall notify Tenant in writing of its approval, or reason(s) for its disapproval, within thirty (30) business days after Landlord's receipt of the Signage Proposal. If disapproved, Tenant shall make all required modifications to the Signage Proposal and shall resubmit the same to Landlord within seven (7) days after its receipt of Landlord's disapproval.

B. Within ten (10) days after Landlord's approval of the Signage Proposal, Tenant, at its sole expense, shall cause to be prepared and submitted to Landlord two (2) sets of plans ("Sign Plans") reflecting in detail the information contained in the approved Signage Proposal. Landlord shall review the Sign Plans within thirty (30) days after Landlord's receipt of the same.

C. Upon Tenant's receipt of its sign permit from Landlord, Tenant shall construct and/or install all signage shown on the Sign Plans; in any event, however, Tenant shall complete such construction and/or installation not later than thirty (30) days after the sign permit is issued, unless otherwise agreed to by the City in writing.

D. Upon Landlord's request, Tenant immediately shall remove any signage that Tenant has placed or permitted to be placed in, on or about the Premises or Building contrary to the terms of this paragraph 31. If Tenant fails to do so, Landlord may enter upon the Premises and remove the same at Tenant's expense. Tenant, at its sole expense, shall maintain and replace all approved signage and shall repair, at its sole expense, any damage to the Premises caused by the erection, maintenance or removal of any signage, including any damage caused by Tenant's removal of its signage at the expiration or earlier termination of the Lease. Tenant also shall comply with such regulations as may from time to time be promulgated by Landlord governing the signage of all tenants in University Avenue Center.

32. **NO PARTNERSHIP**

It is expressly understood and agreed that Landlord shall not be deemed in any way or for any purpose a partner, agent or principal of Tenant, in the conduct of its business or otherwise, or a joint venture or member of a joint enterprise with Tenant.

33. **NO WAIVER**

Landlord's waiver of Tenant's breach of any covenant or condition shall not be deemed a waiver of any subsequent breach of the same or any other covenant or condition, nor shall any custom or practice which may develop between the parties in the administration of the terms hereof be construed to waive or to lessen the right of Landlord to insist upon Tenant's performance in strict accordance with the terms of this Lease.

34. **NOTICES**

All notices, demands, consents or approvals which may or are required to be given by either party shall be in writing and shall be deemed to have been received when delivered personally or on the earlier of the date of actual receipt or two (2) business days following deposit in the United States mail, registered or certified, postage prepaid, addressed as follows:

To Tenant: The Berkeley Food Network
1569 Solano Avenue
Berkeley, CA 94707

To Landlord: City of Berkeley
Public Works Department
2180 Milvia Street, 3rd Floor
Berkeley, CA 94704

With copies to: City Manager Real Property – Public Works

City of Berkeley
2180 Milvia Street, 5th Floor
Berkeley, CA 94704

City of Berkeley
1947 Center Street, 5th Floor
Berkeley, CA 94704

Notices to Landlord regarding Hazardous Substances required by paragraph 20 hereof shall be sent both to the above addresses and to such other place as either party may from time to time designate in a written notice to the other party, or in the case of Tenant, delivered to the Premises.

Tenant will appoint an agent to receive the service of all proceedings, demands, and notices hereunder as the person in charge of or occupying the Premises at the time. If no person shall be in charge of or occupying the same, then such service may be made by attaching the same on the main entrance of the Premises

35. **COMPLETE AGREEMENT**

This Lease is intended by the parties as the final expression of their agreement with respect to such terms as are included herein and may not be contradicted by evidence of any prior or contemporaneous agreement. The parties further intend that this Lease constitutes the complete and exclusive statement of its terms, and no extrinsic evidence whatsoever may be introduced in any judicial or other proceeding involving this Lease. The language and all parts of this Lease shall be construed as a whole and in accordance with its fair meaning and not restricted for or against either party. This Lease may be modified or amended only by a written instrument signed by both parties.

36. **REQUESTS FOR CONSENT; WAIVER OF CLAIM**

Tenant hereby waives any claim for damages against Landlord that it may have based upon any assertion that Landlord unreasonably has withheld or has delayed any consent or approval, and Tenant's sole remedy shall be an action for specific performance of such provision, injunction or declaratory judgment. In the event of a final determination in Tenant's favor, the requested consent or approval shall be deemed to have been granted.

37. **INTERPRETATION**

The use of masculine, feminine, or neuter genders shall include the other genders, and the singular shall include the plural and vice-versa. Headings are intended for convenience only and shall not be referred to in construing any provision. If there is more than one party as Tenant, the obligations imposed upon Tenant shall be joint and several. If any provision(s) of this Lease shall be found, to any extent, to be invalid or unenforceable the remainder of the Lease shall not be affected thereby.

38. **SUCCESSORS AND ASSIGNS**

This Lease shall be binding upon and shall inure to the benefit of Landlord, its successors and assigns, and shall be binding upon and shall inure to the benefit of Tenant, its heirs, successors and (to the extent assignment may be permitted hereunder) assigns.

39. **AUTHORITY**

If Tenant is a corporation or partnership, each of the persons executing this Lease on behalf of Tenant covenants and warrants that Tenant is a duly authorized and existing corporation or partnership, that Tenant has and is qualified to do business in California, that Tenant has full right and authority to enter into this Lease and that each person signing on behalf of Tenant is authorized to do so.

40. **UNAVOIDABLE DELAYS**

A. In the event that Tenant or Landlord is delayed, directly or indirectly, from the performance of any act or thing required to be done or performed under the terms or conditions hereof by acts of the other party to this Lease, acts of God, fire, floods, inclement weather, unavoidable governmental action, strikes or labor difficulties of any and all kinds, shortages of or delay in the delivery of materials, acts of war, riot and civil commotion, or by any other cause beyond the reasonable control of Tenant or Landlord, as the case may be, such failure shall not be deemed to be a breach of this Lease or a violation of any such covenants or conditions and the time within which Tenant or Landlord must perform any such act shall be extended by a period of time equal to the period of delay arising from any of such causes.

B. Notwithstanding any provision of this paragraph 40 or any other provision of this Lease to the contrary, it is understood and agreed that there shall be no abatement of, or delay in the commencement of, or payment of any sum due to Landlord under this Lease.

41. **TIME OF THE ESSENCE**

Time is of the essence of each and every covenant and condition of this Lease.

42. **BROKERAGE**

Landlord and Tenant hereby represent and warrant, each to the other, that they have not disclosed this Lease or the subject matter hereof to, and have not otherwise dealt with, any broker, finder or any other person, firm, corporation or other legal entity so as to create any legal right or claim of whatsoever kind or nature for a commission or similar fee or compensation with respect to the Premises or this Lease. Landlord and Tenant hereby indemnify each other against, and agree to hold each other harmless from, any liability or claim (and all expenses, including attorneys' fees, incurred in defending any such claim or in enforcing this indemnity) for a real estate brokerage commission or similar fee or compensation arising out of or in any way connected with any claimed dealings with the indemnitor and relating to the Premises or this Lease.

43. **CITY NON-DISCRIMINATION ORDINANCE**

A. Tenant hereby agrees to comply with the provisions of the Berkeley Municipal Code ("B.M.C."), including without limitation Chapter 13.26, as amended from time to time. In

the performance of its obligations under this Lease, Tenant agrees as follows:

1. Tenant shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over 40), sex, pregnancy, marital status, disability, sexual orientation or AIDS.

2. Tenant shall permit Landlord access to records of employment, employment advertisements, application forms, EEO-1 forms, affirmative action plans and any other documents which, in the reasonable opinion of Landlord, are necessary to monitor compliance with this non-discrimination provision. In addition, Tenant shall fill out, in a timely fashion, forms supplied by Landlord to monitor this non-discrimination provision.

B. Tenant understands that this Lease is governed by City Council by Ordinance No. 6579, and Chapter 6.46 of this ordinance. This resolution, as may be amended from time, stipulates that Tenant's membership policies may be reviewed by the City for compliance therewith at any time, and that unsatisfactory membership policies may result in non-renewal of this Lease or termination by the City.

44. **NON-DISCRIMINATION AGAINST PERSONS WITH DISABILITIES**

A. If Tenant provides any aid, service or benefit to others on the Landlord's behalf, Tenant shall, in the provision of such aid, service or benefit, observe and comply with all applicable provisions of Title II of the Americans with Disabilities Act of 1990 and any amendments thereto. Tenant shall further observe and comply with all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination against individuals with disabilities or ensuring that individuals with disabilities are not excluded from participating in or receiving benefits, services or activities of the Landlord.

B. If Tenant is or becomes a "public accommodation" as defined in Title III of the Americans with Disabilities Act of 1990, Tenant shall observe and comply with all applicable provisions of the Act and any amendments thereto, and all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination on the basis of disability in the full and equal enjoyment of goods, services, facilities, privileges, advantages, or accommodations offered by the Tenant. All of Tenant's activities must be in accordance with these laws, ordinances, codes, and regulations, and Tenant shall be solely responsible for complying therewith.

45. **CONFLICT OF INTEREST PROHIBITED**

A. In accordance with California Government Code Section 1090, Berkeley City Charter Section 36 and B.M.C. Chapter 3.64, neither Tenant nor any employee, officer, director, partner or member of Tenant, or immediate family member of any of the preceding, shall have served as an elected officer, an employee, or a board, a committee or commission member of Landlord, who has directly or indirectly influenced the making of this Lease.

B. In accordance with California Government Code Section 1090 and the Political Reform Act, (Government Code Section 87100 *et seq.*) no person who is a director, officer,

partner, trustee, employee or consultant of Tenant, or immediate family member of any of the preceding, shall make or participate in a decision made by Landlord or any of its boards, commissions or committees, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Tenant, except to the extent permitted by 2 California Code of Regulations, Section 18700(c)(2).

C. Interpretation of this paragraph shall be governed by the definitions and provisions used in the Political Reform Act, Government Code section 87100 *et seq.*, its implementing regulations, manuals and codes, Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64, as amended from time to time.

46. **NUCLEAR FREE BERKELEY**

Tenant agrees to comply with B.M.C. Chapter 12.90, the Nuclear Free Berkeley Act, as amended from time to time.

47. **OPPRESSIVE STATES**

A. In accordance with Resolution No. 59,853 – N.S., Tenant certifies that it has no contractual relations with, and agrees during the term of this Lease to forego contractual relations to provide personal services to, the following entities:

- (1) The governing regime in any Oppressive State.
- (2) Any business or corporation organized under the authority of the governing regime of any Oppressive State.
- (3) Any individual, firm, partnership, corporation, association, or any other commercial organization, and including parent-entities and wholly-owned subsidiaries (to the extent that their operations are related to the purpose of this Lease) for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

B. For purposes of this Lease, the Tibet Autonomous Region and the provinces of Abo, Kham, and U-Tsang shall be deemed oppressive states.

C. Tenant's failure to comply with this paragraph shall constitute a default of this Lease and Landlord may terminate this Lease pursuant to paragraph 18. In the event that Landlord terminates this Lease due to a default under this provision, Landlord may deem Tenant a non-responsible bidder for five (5) years from the date this Lease is terminated.

48. **BERKELEY LIVING WAGE ORDINANCE (LWO)**

A. Tenant agrees to comply with Berkeley Municipal Code Chapter 13.27, the Berkeley Living Wage Ordinance (LWO). If Tenant employs six (6) or more part-time, or full-time employees, and generates \$350,000 or more in annual gross receipts, Tenant will be required to provide all eligible employees with City mandated minimum compensation during the term of this lease, as defined in B.M.C. Chapter 13.27, and well as comply with the terms enumerated herein.

B. Tenant shall be required to maintain all reasonable records and documents that would establish whether Tenant is subject to Berkeley's Living Wage Ordinance. If Tenant is subject to the LWO, as defined therein, Tenant shall be further required to maintain monthly records of those employees located on the leased premises. These records shall include the total number of hours worked, the number of hours spent providing service on the leased Premises, the hourly rate paid, and the amount paid by Tenant for health benefits, if any, for each of its employees providing services under the lease. The records described in this paragraph shall be made available upon the City's request. The failure to produce these records upon demand shall be considered a default, subject to the provisions contained in paragraph 18 herein.

C. If Tenant is subject to the LWO, Tenant shall include the requirements of the ordinance, as defined in B.M.C. Chapter 13.27, in any and all subleases in which Tenant enters with regard to the subject premises. Subtenants shall be required to comply with this ordinance with regard to any employees who spend 25% or more of their compensated time on the leased Premises.

D. If Tenant fails to comply with the requirements of this the LWO and this lease, the City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

Tenant's failure to comply with this Section shall constitute default of the lease, upon which City may terminate this lease pursuant to paragraph 18.

In addition, at City's sole discretion, Tenant may be responsible for liquidated damages in the amount of \$50 per employee per day for each and every instance of an underpayment to an employee. It is mutually understood and agreed that Tenant's failure to pay all of its eligible employees at least the applicable living wage rate will result in damages being sustained by the City; that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein is the nearest and most exact measure of damage for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty of forfeiture for Tenant's breach.

49. **BERKELEY EQUAL BENEFITS ORDINANCE (EBO)**

A. Tenant hereby agrees to comply with the provisions of the Berkeley Equal Benefits Ordinance, B.M.C. Chapter 13.29. If Tenant is currently subject to the Berkeley Equal Benefits Ordinance, Tenant will be required to provide all eligible employees with City mandated equal benefits during the term of this lease, as defined in B.M.C. Chapter 13.29, as well as comply with the terms enumerated herein.

B. If Tenant is currently or becomes subject to the Berkeley Equal Benefits Ordinance, Tenant agrees to supply the City with any records the City deems necessary to determine compliance with this provision. Failure to do so shall be a considered a default, subject to the provisions of paragraph 19 of this lease.

C. If Tenant fails to comply with the requirements of this Section, City shall have the

rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

Tenant's failure to comply with this paragraph shall constitute default of the lease, upon which City may terminate this lease pursuant to paragraph 18.

In addition, at City's sole discretion, Tenant may be responsible for liquidated damages in the amount of \$50.00 per employee per day for each and every instance of violation of this Section. It is mutually understood and agreed that Tenant's failure to provide its employees with equal benefits will result in damages being sustained by City; that the nature and amount of these damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein is the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Tenant's breach.

50. **AUDIT**

Pursuant to Section 61 of the Berkeley City Charter, the City Auditor's Office, or its designee, may conduct an audit of Tenant's financial, performance and compliance records maintained in connection with the operations and services performed under this Lease, and with the payments made under this Lease. In the event of such audit, Tenant agrees to make all such financial, performance and compliance records available to the Auditor's Office, or to its designee. City agrees to provide Tenant an opportunity to discuss and respond to any findings before a final audit report is filed.

51. **CITY BUSINESS LICENSE, PAYMENT OF TAXES, TAX I.D. NUMBER**

Tenant has obtained a City business license as required by B.M.C. Chapter 9.04, and its license number is written below; or, Tenant is exempt from the provisions of B.M.C. Chapter 9.04 and has written below the specific B.M.C. section under which it is exempt. Tenant shall pay all state and federal income taxes and any other taxes lawfully assessed and due. Tenant certifies under penalty of perjury that the taxpayer identification number written below is correct.

52. **SURVIVAL**

The provisions of this Lease and obligations of Tenant that, by their nature, are to be performed after or are to survive termination of this Lease shall survive such termination.

53. **EXHIBITS**

Exhibit A, and any other exhibit, addendum or schedule referenced in this Lease are made a part hereof by this reference.

IN WITNESS WHEREOF, the parties hereto have executed this Lease at Berkeley, California effective as of the Effective Date.

TENANT:

THE BERKELEY FOOD NETWORK, a non-profit organization

By: Sara Webber Date 3/9/20
Sara Webber, Executive Director

LANDLORD:

CITY OF BERKELEY, a municipal corporation

By: _____ Date _____
Dee Williams-Ridley, City Manager

Approved as to form:

Registered by:

City Attorney Date _____ City Auditor Date _____

Attest:

City Clerk Date _____

TENANT INFORMATION

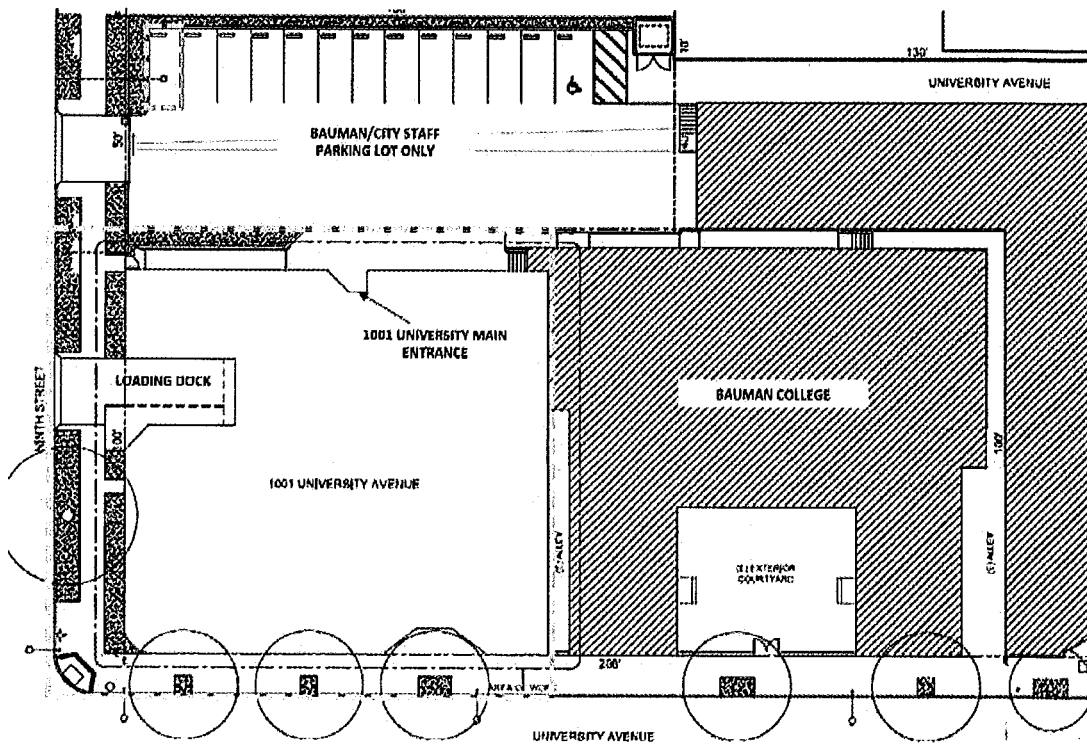
Tax Identification No. **81-4942342**
Incorporated: Yes **X** No
Certified Woman Business Enterprise: Yes ___ No **X**
Certified Minority Business Enterprise: Yes ___ No **X**
Certified Disadvantaged Business Enterprise: Yes ___ No **X**
City Business License No. _____, or Exempt pursuant to B.M.C. Section _____

**EXHIBIT A
PREMISES DESCRIPTION**

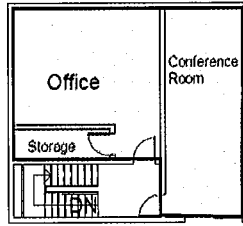
1001 University Avenue at University Avenue Center:

Lease of 1001 University Avenue (main entrance 1925 Ninth Street) include usage of the following:

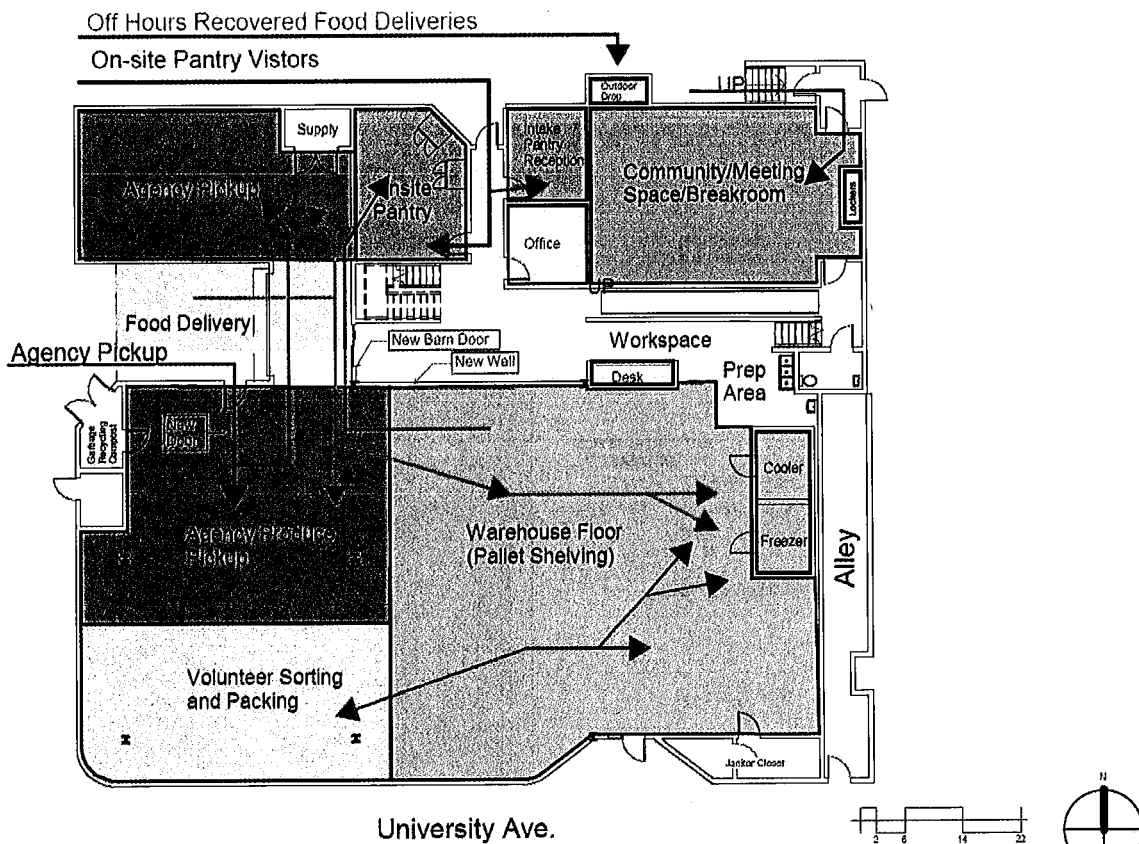
- The main warehouse;
- The smaller warehouse/storage room;
- The offices on the first and mezzanine levels;
- The loading dock;
- The bathroom;
- The attached trash enclosure/ trash room; and
- One dedicated parking space in the lot located at 1925 Ninth Street.



PRELIMINARY FLOOR PLAN



② Second Floor
3/64" = 1'-0"



① First Floor
3/64" = 1'-0"

	The Berkeley Food Network 1001 University Berkeley, CA	Preliminary Floor Plans (for illustration only)	
		001	107
		04/16/19	
		Drawn by SS	Checked by SS

**EXHIBIT B
USE OF PROPERTY**

1. Tenant's use of the building located at 1001 University Avenue shall be exclusive.
2. Tenant shall use and occupy the Premises for the purpose of operating and coordinating food provision services, including a food distribution hub and a mobile pantry. The Premises shall be used by Tenant for no other purpose. Licensor represents that the Premises may lawfully be used for such purpose.
3. The Premises is available for use seven days per week, 24 hours per day.
4. The loading dock may be used to load and unload supplies, materials, etc., but shall not be used as a public entrance unless or until it is compliant with local, state and federal ADA regulations.
5. The Tenant must sign up for garbage, compost, and recycling service through the City of Berkeley. The Tenant is responsible for payment of the service. The Tenant's dumpsters/bins must be stored in the trash room/enclosure in the building.
6. Tenant shall not permit the facility to be used for:
 - a. Disruptive or destructive activity;
 - b. The creation or maintenance of a public nuisance;
 - c. Anything which is against the laws or regulations of any public authority;
 - d. Any purpose or in any manner which will obstruct, interfere with, or infringe upon the rights of neighbors.
7. The following conduct is prohibited and not permitted in any area of the facility:
 - a. Smoking of tobacco or cannabis;
 - b. Possession and/or consumption of alcoholic beverages, drugs or controlled substances;
 - c. Gambling;
 - d. The use of abusive, intimidating, threatening, or harassing language.
8. Portable heating units shall be used only with the express permission of the Berkeley Fire Department.
9. The Tenant has the right to park one (1) car in the adjacent lot located at 1925 Ninth Street, Berkeley, CA.

**EXHIBIT C
IMPROVEMENTS
“TENANT’S WORK”**

1. Tenant Improvements. Landlord will not provide any Tenant Improvements to the Premises. In lieu of market rate rent, the Tenant has directed funds toward roof improvements identified in the assessment provided by ABBAE and other improvements to the facility. Tenant hired and paid its own architect in designing the use of the Premises, hired and paid its own bonded Contractor (insurance required by Contractor), and paid for any building permits with Alameda County and/or City of Berkeley Planning Department. All improvements were approved by the Director of Public Works prior to the start of work. This work has been completed and cost approximately \$100,000.
2. Roof. City hired Allana Buick and Bers (ABBAE) to complete a condition assessment of the existing roof coverings and related flashings. Tenant completed the repairs listed for the Premises, identified in the report as 1001 University Avenue. Tenant is not required to complete any work on 1011 University Avenue, the other property assessed in the report. Tenant has completed the work and it has been inspected by designated City of Berkeley staff.



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Liam Garland, Director, Department of Public Works
Subject: Grant Applications: Highway Safety Improvement Program Cycle 10

RECOMMENDATION

Adopt two Resolutions authorizing the City Manager to submit grant applications to the California Highway Safety Improvement Program Cycle 10 for the following projects: Protected Left-turn Signals at multiple signalized intersections for up to \$4 million and Sacramento Street Pedestrian Crossings for up to \$250,000.

FISCAL IMPACTS OF RECOMMENDATION

If awarded, these grants would provide a total of up to \$4,250,000 of competitive grant revenue to the City’s State Capital Grants Fund (Fund 306) for traffic safety improvements at multiple signalized intersections and crosswalks without traffic control starting in FY 2021. City matching funds are not required for these types of projects under the California Highway Safety Improvement Program (HSIP) program.

Protected Left-turn Signals at Multiple Intersections Project	\$4,000,000
Sacramento Street Pedestrian Crossings	\$ 250,000
Total HSIP Grant Funding Request	\$4,250,000

CURRENT SITUATION AND ITS EFFECTS

The HSIP provides funding to agencies to install specific counter measures to enhance traffic safety on public streets and highways. One of these counter measures is converting left-turn phases at signalized intersections from permissive to protected. The term “permissive left-turn” refers to the situation where drivers at signalized intersections make left-turns using the same green light that is used by drivers continuing straight. This occurs in Berkeley where the signal face lacks a left-turn arrow to provide a dedicated phase for making a left-turn. Drivers making a permissive left-turn must yield to oncoming motor and bicycle traffic and pedestrians in the crosswalk that the driver’s vehicle is about to cross. Installation of signal heads with left-turn arrows allows for the provision of a “protected left-turn” wherein the driver has a dedicated signal phase for making a left-turn. The driver is protected from oncoming traffic, which is stopped at a red light on the opposite side of the intersection, and pedestrians and bicyclists are protected from left-turning traffic due to proceeding during a separate signal phase. The locations included in the City’s Protected Left-turn Signal Project would be selected based on the number of reported crashes related to left-turns, as required by the HSIP Program.

The Sacramento Street Pedestrian Crossings project is proposed to be submitted for funding under the HSIP Pedestrian Crossing Enhancements Set-aside Program. This program provides up to \$250,000 per applicant for installation of Rectangular Rapid Flashing Beacons (RRFBs), pedestrian countdown signal heads, crosswalk markings, advanced yield lines/signs, and other types of signs and pavement markings. Other work related to pedestrian crossing safety may be allowed as long as the cost is no more than 20% of the total project cost. The Sacramento Street Pedestrian Crossings Project would include allowable project elements consistent with the Berkeley Bicycle Plan (2017) and forthcoming Draft 2020 Pedestrian Plan. The project would extend between Dwight Way and Alcatraz Avenue and include the installation of Rectangular Rapid Flashing Beacons for the pedestrian crossings of Sacramento Street at Fairview, Prince, and Oregon Streets. Due to the limited amount of funding available per applicant, Pedestrian Hybrid Beacons (PHBs) are not an allowable project element, as a single PHB would exceed \$250,000 in cost. The PHBs along Sacramento Street recommended within the City's 2017 Bicycle Plan therefore would not be included in the grant application.

BACKGROUND

The proposed projects are consistent with the City's adopted Vision Zero Action Plan (Plan)¹. The Plan shows violation of the pedestrian right of way at a crosswalk as the second most prevalent traffic violation associated with severe and fatal collisions in Berkeley, after unsafe speed. The Plan also shows that failure to yield while making left or U-turns is the third most prevalent traffic violation associated with severe and fatal collisions in Berkeley. By providing a dedicated signal phase for left and U turns at various locations, the Protected Left-turn Signal Project will reduce collisions caused by driver failure to yield while making these maneuvers. The Sacramento Street Pedestrian Crossings project will reduce collisions caused by driver violation of the pedestrian right of way by making pedestrians more visible as they cross the street. Sacramento Street is identified as a high-injury street in the Vision Zero Action Plan and Draft Berkeley 2020 Pedestrian Plan.

The overall purpose of the California HSIP is to achieve a significant reduction in traffic fatalities and serious injuries on all public roads through the implementation of infrastructure-related highway safety improvements. The California HSIP is part of the federal HSIP codified under 23 CFR 924.

ENVIRONMENTAL SUSTAINABILITY

The projects in these grant applications are designed to improve traffic safety for people walking and riding bicycles for transportation, consistent with the 2009 Berkeley Climate Action Plan Policy 5.a that calls for expanding and improving Berkeley's bicycle and pedestrian infrastructure. The Plan sets targets of reducing transportation emissions 33% below year 2000 levels by 2020, and 80% below year 2000 levels by 2050. The Plan further states that transportation modes, such as public transit, walking, and bicycling, must become the primary means of fulfilling the City's mobility needs in order to meet these targets. Reducing the number of collisions involving left-turn movements

¹ https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley_Vision_Zero_Action_Plan_Approved_03102020.pdf

could also reduce the amount of automotive fluid spills that may occur after serious collisions. Spilled automotive fluid could otherwise drain to the Bay and contaminate the soil.

RATIONALE FOR RECOMMENDATION

HSIP funding allows the City to address traffic safety issues at multiple signalized intersections and along a major transportation corridor. The need for the projects in these applications has been identified in the 2019 Berkeley Vision Zero Action Plan (Resolution No. 69,324-N.S.), as well as in the Draft 2020 Berkeley Pedestrian Plan. These documents were the result of robust public engagement processes involving Transportation Commissioners and numerous other members of the Berkeley community. Not applying would mean foregoing up to \$10,000,000 in potential grant funding.

ALTERNATIVE ACTIONS CONSIDERED

The City could choose not to apply for these funds. However, no alternative funding source has been identified to complete these traffic safety projects.

CONTACT PERSON

Farid Javandel, Transportation Division Manager, Public Works, 981-7061
Beth Thomas, Principal Planner, Public Works, 981-7068
Eric Anderson, Associate Planner, Public Works, 981-7062

Attachments:

- 1: Resolution - Protected Left-turn Signals
- 2: Resolution - Sacramento Street Pedestrian Crossings

RESOLUTION NO. -N.S.

GRANT APPLICATION: HIGHWAY SAFETY IMPROVEMENT PROGRAM FOR
PROTECTED LEFT-TURN SIGNALS AT MULTIPLE INTERSECTIONS

WHEREAS, the overall purpose of the California Highway Safety Improvement Program is to achieve a significant reduction in traffic fatalities and serious injuries on the State's public roads through the implementation of infrastructure-related highway and street safety improvements; and

WHEREAS, funding for local agency infrastructure projects is available in Cycle 10 of the California Highway Safety Improvement Program; and

WHEREAS, permissive left-turns at signalized intersections can lead to increased fatal and severe collisions; and

WHEREAS, the City has made a commitment to promoting projects that meet the City's Vision Zero Policy (Resolution No. 68,371-N.S.) goal of zero fatal and severe collisions by 2028; and

WHEREAS, signal modifications to eliminate conflicts between left-turning traffic and pedestrians are among the potential safety improvement measures proposed in the Draft 2020 Berkeley Pedestrian Plan; and

WHEREAS, if awarded, the grant funds will be placed in the City's State Capital Grants Fund (Fund 306) starting in FY 2021.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to submit a grant application to the California Highway Safety Improvement Program for traffic safety improvements at certain signalized intersections citywide for the amount of up to \$4 million, and accept the grants awarded, and execute any resultant agreements and amendments.

RESOLUTION NO. -N.S.

GRANT APPLICATION: HIGHWAY SAFETY IMPROVEMENT PROGRAM FOR
SACRAMENTO STREET PEDESTRIAN CROSSINGS

WHEREAS, residents of South Berkeley crossing Sacramento Street on foot encounter traffic safety issues such as fast-moving, heavy vehicle traffic, trucks, buses, and lack of gaps in traffic to safely cross the street; and

WHEREAS, these traffic safety concerns have been documented in both the 2020 Berkeley Vision Zero Action Plan (Resolution No. 69,324-N.S.) and the Draft 2020 Berkeley Pedestrian Plan, wherein Sacramento Street has been identified as a high-injury street for severe and fatal traffic crashes involving pedestrians; and

WHEREAS, pedestrian crossing beacons, advance yield lines and red curbs approaching crosswalks at unsignalized intersections are among the traffic safety improvements proposed for Sacramento Street between Dwight Way and Alcatraz Avenue in the Draft 2020 Berkeley Pedestrian Plan update; and

WHEREAS, Highway Safety Improvement Program Pedestrian Crossing Enhancements Set-aside funds can be used to make pedestrian traffic safety improvements; and

WHEREAS, if awarded, the grant funds will be placed in the City's State Capital Grants Fund (Fund 306) starting in FY 2021.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to submit a grant application to the California Highway Safety Improvement Program (Cycle 10) for the amount of up to \$250,000, and accept the grants awarded, and execute any resultant agreements and amendments.



Office of the City Manager

CONSENT CALENDAR

July 28, 2020

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Liam Garland, Director, Department of Public Works
 Subject: Contract 9274A Amendment: Ascentis Corporation 9274A for Biometric Time Card Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9730A with Ascentis Corporation for biometric time card services to extend the contract term by one year to June 30, 2022, and increase the contract amount by \$25,000 for a total contract amount not to exceed \$75,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available in the Fund 127 State Transportation Tax, Fund 130 Measure B Local Streets and Roads, Fund 601 Zero Waste, Fund 611 Sanitary Sewer, Fund 672 Equipment Maintenance, Fund 673 Building Maintenance, Fund 616 Clean Storm Water, Fund 631 Parking Meter Fund FY 2021 budget. FY 2022 funding is subject to appropriation.

CURRENT SITUATION AND ITS EFFECTS

The authorized spending limit for Contract No. 9274A has almost been reached. Failure to obtain Council approval for the recommended action will interrupt the ongoing provision of biometric time card services at the City's Corporation Yard and Solid Waste Management and Transfer Station (Transfer Station).

BACKGROUND

Biometric time card services have been provided by Ascentis Corporation since 2013. City staff will need to continue to utilize these services until the City's new Tyler Munis - Executime payroll accounting system has been fully implemented.

ENVIRONMENTAL SUSTAINABILITY

None.

RATIONALE FOR RECOMMENDATION

In order to ensure the uninterrupted provision of bio metric time card services at the City's Corporation Yard and Transfer Station, staff recommends that Council authorize execution of an amendment to Contract No. 9274A with Ascentis Corporation to increase the contract amount.

ALTERNATIVE ACTIONS CONSIDERED

None, continuation of biometric time card services are necessary until the City's new Executime payroll account system has been fully implemented.

CONTACT PERSON

Greg Ellington, Superintendent, (510) 981-6459

Attachments:

1: Resolution

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

CONTRACT NO. 9274A AMENDMENT - ASCENTIS CORPORATION FOR BIOMETRIC TIME CARD SERVICES AT CITY'S CORPORATION YARD AND TRANSFER STATION

WHEREAS, Ascentis Corporation has provided biometric time card services since 2013; and

WHEREAS, biometric time card services are needed until the City's Executive payroll accounting system has been fully implemented; and

WHEREAS, funding is available in Fund 127 State Transportation Tax, Fund 130 Measure B Local Streets and Roads, Fund 601 Zero Waste, Fund 611 Sanitary Sewer, Fund 672 Equipment Maintenance, Fund 673 Building Maintenance, Fund 616 Clean Storm Water, Fund 631 Parking Meter Fund FY 2021 budget. FY 2022 funding is subject to appropriation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 9274A with Ascentis Corporation for biometric time card services at the City's Corporation Yard and Transfer Station, extending the contract term by one year to June 30, 2022, and increasing the contract amount by \$25,000 for a total contract amount not to exceed \$75,000. A record signature copy of said contract amendment to be on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Liam Garland, Director, Department of Public Works
 Subject: Contract: McNabb Construction Inc. for the Codornices Creek Restoration at Kains Avenue Project

RECOMMENDATION

Adopt a Resolution approving plans and specifications for the Codornices Creek Restoration at Kains Avenue Project, Specification No. 20-11368-C; accepting the bid of McNabb Construction Inc. as the lowest responsive and responsible bidder; and authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications in an amount not to exceed \$550,127.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available from the Storm Water System Capital Improvement Program budgets in FY 2021. State Transportation Tax Funds and a Department of Water Resources Grant appropriated in FY 2020 and project budgeted will be carried forward into FY 2021. Measure M, Measure T1 funds, State Transportation Tax Funds, and the Department of Water Resources will be appropriated by the first Amendment to the FY 2021 Annual Appropriations Ordinance (AAO1). No other funding is required, and no other projects will be delayed due to this expenditure.

Low bid by Contractor	\$458,439
20% Contingency	\$91,688
Total construction cost	\$550,127

FY 2021 Funding:

Storm Drain System Capital Improvement Program Funds	
State Transportation Tax (127)	\$22,500
Measure M Streets & Watershed GO Bond (506)	\$202,607
Measure T1 Fund (511)	\$100,000
Dept. of Water Resources Grant (336)	\$225,000
Total construction cost	\$550,127

It is important to move forward with this project since the expenditure of several funding sources are time sensitive, such as the Dept. of Water Resources Grant and the allocated Measure T1 funds. These funds make up over 50% of the total construction

budget, and without them this project cannot proceed. In addition, this project is critical to the restoration of creek habitat and is a mitigation requirement identified by SF Bay Regional Water Quality Control Board. This mitigation requirement must be met to satisfy the permit conditions of another Measure T1 funded project, the City's Rose Garden Renovation Project, currently under construction.

CURRENT SITUATION AND ITS EFFECTS

The Codornices Creek Restoration Project at Kains Avenue, Specification No. 20-11368-C, was released for bids on March 13, 2020, and bids were opened on April 9, 2020 (see Attachment 3, Abstract of Bids). Two non-local bids were received, \$458,439 from McNabb Construction Inc. and \$546,570 from D-Line Constructors. McNabb Construction Inc. of Lafayette, California, was the lowest responsive and responsible bidder, with a bid of \$458,439, and their references were found to be satisfactory. This project includes a 20% contingency, which brings the total contract amount up to the requested \$550,127. Staff recommends a contract for this project be awarded to McNabb Construction Inc. The engineer's estimate for the project was \$475,000.

The Codornices Creek Restoration Project at Kains Avenue Project supports the Strategic Plan Goals of protecting the environment and providing state-of-the art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

Codornices Creek, has a persistent population of endangered steelhead salmon, and it is in a degraded condition on the portion at the undeveloped city-owned parcel on the 100 Block of Kains Avenue. Both the Cities of Berkeley and Albany have expressed willingness in the past to restore this segment of creek that represents the boundary between the two municipalities. Additionally, creek advocate groups and the residents of the Resources for Community Development housing complex, adjacent to this site, have expressed interest in caring for the creek. This project will restore a critical segment of Codornices Creek between Kains and San Pablo Avenues by stabilizing eroding creek banks and removing falling concrete. The project will bioengineer creek bank soils; provide habitat for the benefit of steelhead, a federally threatened species that migrates upstream to spawn in this watershed; songbirds; and other terrestrial and aquatic species. Approximately 180 linear feet of the concrete channel and culvert will be returned to an earthen channel, as shown in the Location Map, Attachment 2. The project also includes a new trash rack to prevent the culvert underneath San Pablo Avenue from flooding San Pablo Avenue and downstream properties. Because the project requires work be performed in the creek channel, environmental permits limit the construction work window to the summer and fall months.

The Codornices Creek Restoration at Kains Avenue Project received grant funding from the Department of Water Resources to restore the natural habitat of this portion of Codornices Creek. The Earth Island Institute is the City's grant co-sponsor for this project. This project involves partnerships among public agencies, non-profit organizations, and citizens/neighborhood groups. Many individuals and entities have been seeking to advance this project for over a decade.

The project plans and specifications are on file in the Public Works Department. In accordance with the requirements of the California Environmental Quality Act (CEQA), this project has been determined to be categorically exempt as a Section 15333 Small Habitat Restoration. The secured environmental permits include Clean Water Act Section 401 Water Quality Certification from the San Francisco Bay Regional Water Quality Control Board, authorization under Nationwide permits from the U. S. Army Corps of Engineers, and a Notification of Streambed Alteration from the California Department of Fish and Wildlife.

The Living Wage Ordinance does not apply to this project since Public Works construction contracts are, pursuant to City policy, subject to State prevailing wage laws. The contractor has submitted a Certification of Compliance with the Equal Benefits Ordinance. The Community Workforce Agreement (CWA) does not apply because the engineer's estimate of \$475,000 was below the \$500,000 contract amount threshold for CWA eligibility. The contract is also subject to the California Department of Water Resources (DWR) grant labor compliance program requirements.

ENVIRONMENTAL SUSTAINABILITY

Restoring Codornices Creek through this portion on the City's Kains Avenue property will improve the channel for the migration of federally threatened steelhead, restore riparian habitat critical for controlling water temperature during hot summer months, providing macroinvertebrate habitat for maintaining the creek food web, and offer habitat for songbirds and other wildlife.

RATIONALE FOR RECOMMENDATION

The work requires contracted services, as the City does not possess the in-house labor or equipment resources necessary to complete the project. This project reduces the City's reliance on creek channelization and is consistent with BMC Chapter 17.08 (Preservation and Restoration of Natural Watercourses).

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered for this creek restoration project. The City could choose not to proceed with this project. However, the creek habitat would then continue to deteriorate and grant funding would be unused.

CONTACT PERSON

Nisha Patel, Manager of Engineering & City Engineer (510) 981-6406
Joe Enke, Supervising Civil Engineer (510) 981-6411

Attachments:

- 1: Resolution
- 2: Location Map & List of Streets for Project
- 3: Abstract of Bids

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

CONTRACT: MCNABB CONSTRUCTION INC. FOR CODORNICES CREEK
RESTORATION AT KAINS AVENUE PROJECT

WHEREAS, the Codornices Creek Restoration at Kains Avenue Project is to restore the riparian environment and habitat in the Codornices Creek in the City; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this Codornices Creek Restoration; and

WHEREAS, an invitation for bids was duly advertised and McNabb Construction, Inc. was the lowest responsive and responsible bidder; and

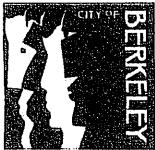
WHEREAS, City received a grant from the California Department of Water Resources (DWR) for the Urban Streams Restoration Program to help mitigate flooding and erosion problems and secured \$225,000 for construction; and

WHEREAS, the DWR grant requirements, including a labor compliance program were incorporated into the project (Specification No. 20-11368-C); and

WHEREAS, funding is available in the current year budget in the Storm Drain System Capital Improvement Program State Transportation Tax (Fund 127), Measure M Streets & Watershed GO Bond (Fund 506), Measure T1 (Fund 511), and Department of Water Resources Grant (Fund 336).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specification No. 20-11368-C for the Codornices Creek Restoration at Kains Avenue Project are approved.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions or change orders, until completion of the project in accordance with the approved plans and specifications with McNabb Construction, Inc. for the Codornices Creek Restoration at Kains Avenue Project, in an amount not to exceed \$550,127, which includes a 20% contingency for unforeseen circumstances. A record signature copy of said agreement and any amendments to be on file in the Office of the City Clerk.



City of Berkeley
Abstract of Bids Worksheet

Finance Department
General Service Division

For: Codornices Creek Stabilization at Kains Ave

Specification#: 20-11368-C

Bid Date: 04/09/20

	Bidders	Base Bid	Nuc Free	Work Force Comp	Opp. States	Living Wage	EBO
1	McNabb Construction Inc	\$ 458,439.-	✓		✓		✓
2	D LINE Constructors Inc.	\$ 546,570.-	✓		✓		✓
3							
4							
5							
6							
7							
8							
9							
10							

SS BE
✓ ✓
✓ ✓

Bid Recorder: MARLYN SWEET *[Signature]*

Bid Opener: Steve P *[Signature]* 4/9/20

Project Manager: *[Signature]*



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Liam Garland, Director, Department of Public Works

Subject: Referral Response: An Action Plan for Greening the City of Berkeley Fleet of Vehicles

RECOMMENDATION

Receive the City of Berkeley Municipal Fleet Electrification Assessment, a plan to accelerate Berkeley's municipal fleet electrification by 2030, and refer to the City Manager to pursue grant and rebate opportunities through East Bay Community Energy and other entities to support its recommendations for transitioning fleet vehicles away from fossil fuels to electric vehicles, including charging infrastructure and associated distributed energy resource options.

FISCAL IMPACTS OF RECOMMENDATION

This recommendation has no direct fiscal impacts. The City of Berkeley Municipal Fleet Electrification Assessment Plan (Fleet EV Plan), however, estimates that transitioning light-duty fleet vehicles to electric vehicles (EVs) over the next ten years will have significant costs, due primarily to expenses associated with needed charging infrastructure. Light-duty EV fleet replacement is estimated at \$9.76 million over the next ten years, compared with \$8.34 million for gasoline/hybrid vehicles. The differential is primarily due to the high costs associated with charging infrastructure including procurement, installation at the multiple locations where Berkeley fleet vehicles are domiciled, and electrical upgrades required to support charging. Further, if recommended solar photovoltaic (PV) and battery energy storage systems are included, an additional \$1.58 million will be required, totaling an estimated \$11.34 million over ten years. Light-duty vehicles are approximately 40% of the total Berkeley Municipal Fleet; costs associated with transitioning medium-duty, heavy-duty, and emergency vehicles to EVs have not been estimated in the Fleet EV Plan because very few options are available. Implementation of an electric fleet will require additional funding through future City Budget adoptions.

CURRENT SITUATION AND ITS EFFECTS

This Fleet EV Plan responds to Item 36, "An Action Plan for Greening the City of Berkeley Fleet of Vehicles," which originally appeared on the agenda of the June 25, 2019 Council meeting and was sponsored by Councilmembers Wengraf, Harrison, Robinson, and Mayor Arreguin. This Council item called for the City Manager and

Department of Public Works to create a plan to aggressively accelerate implementation of the electrification of the City's municipal fleet and phase out fossil fuel use in municipal vehicles by 2030. The Fleet EV Plan complements the drafting of Berkeley's first Electric Mobility Roadmap, by the Planning Department, and embodies the Roadmap goal of Demonstrating City Leadership, specifically the strategy to develop and implement a City fleet electrification plan.

This Fleet EV Plan completes the Strategic Plan Priority project "City Vehicle Fleet Assessment" and supports the Strategic Plan Goals of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities and being a global leader in addressing climate change and protecting the environment.

As directed by Council, the Fleet EV Plan includes an evaluation of the City's current fleet, and an analysis of opportunities for transitioning to a fleet of fossil fuel free vehicles, as soon as the technology can safely and reliably meet operational needs. Based on this analysis, the Fleet EV Plan focuses on light-duty vehicles (approximately 40% of the total fleet) because few medium- and heavy-duty EVs exist, and of those that do, performance is not appropriate for Berkeley's fleet. The Fleet EV Plan addresses 2021-2025 procurement cycles in detail, and 2026-2030 procurement cycles more generally, to ensure fiscally responsible procurement and deployment of EVs. It also proposes associated distributed energy resource (DER) options, including charging infrastructure and onsite solar PV and/or battery energy storage (BES) systems. Specifically, the plan includes an initial screening to identify sites at which solar PV and/or BES may be favorable to offset electricity consumption of the City's EV fleet. BES systems allow for operational flexibility, resilience, and energy demand management. The plan has details on vehicle and DER technology, and financial model recommendations for each fleet facility (domicile). It recommends a scenario to meet fleet electrification requirements with the greatest ease of implementation and integration.

As of February 2020, the City fleet, excluding emergency response vehicles, consisted of 99 passenger sedans and SUVs, 30 parking enforcement scooters, 88 medium-duty pick-up trucks and vans, and 98 heavy-duty vehicles, all domiciled in 15 dispersed locations. It was determined the light-duty fleet could be transitioned to battery electric vehicles (BEVs, such as Chevy Bolts), with some plug-in hybrid electric vehicles (PHEVs, such as Prius Primes) that travel primarily using electricity, but which also have gasoline engines for flexibility and resilience needed for emergency response and disaster preparedness. Emergency vehicles for police patrol and pursuit, firefighting, and emergency medical services are not currently available as BEVs or PHEVs. The plan recommends that medium-duty and heavy-duty gasoline engine/hybrid vehicles continue to be evaluated during the 2020-2030 timeframe via pilot programs, until EVs in these classes are available, cost-effective, and able to meet the same duty cycle of existing vehicles. For example, some of the fleet's 72 medium-duty pickup trucks may

be able to be replaced by the all-electric Ford F-150, a light-duty truck currently expected to arrive in the U.S. market by the end of 2021.

Table 1 summarizes Fleet EV Plan recommendations for adding charging stations, solar PV, BES systems, and backup generators to support the transition of the light-duty fleet to an EV fleet. Solar PV and BES recommendations are based on the energy load of the fleet, and some locations are being evaluated through East Bay Community Energy (EBCE)'s separate *Solar + Storage at Critical Municipal Facilities Assessment*, which is expected to be completed by the end of 2020. Backup generators are included in the Fleet EV Plan to provide resilience, but these needs may be met at some locations with solar PV and BES.

Table 1: Summary of Fleet EV Plan Recommendations for Charging Infrastructure and Associated Distributed Energy Resource Options to Support Light-duty Fleet Electrification Transition

Facility Name	Facility Location	Light-Duty EVs	Chargers	Solar PV (kW DC)	BES	Backup Generator
Corp Yard	1326 Allston Way	16	4 dual-head L2 and 1 DCFC	52.7	33 kW / 130 kWh	Yes
Berkeley Transfer Station (prior to rebuild)	1201 Second Street	5	2 dual-head L2 w/ load management			
Berkeley Marina	125/127 University Avenue	33 (includes scooters)	4 dual-head L2	70.5	75 kW / 300 kWh	Yes
Adult Mental Health Clinic	1521 University Avenue	13	3 dual-head L2	--	--	
Mental Health Clinic	1890 Alcatraz Avenue/ 3282 Adeline Street	6	1 dual-head L2	--	--	Yes
Center Street Garage	2025 Center Street	36 (some will relocate to Civic Center)	28 dual-head, 1 single L2 (existing)	168.9	63 kW / 250 kWh	
Central Library Parking Lot	2031 Bancroft Way	1	1 dual-head L2	18.8	--	Yes
Public Safety Building	2100 Martin Luther King Jr Way	2	1 dual-head L2	10.8	--	
Civic Center	2180 Milvia Street	1	2 dual-head L2	--	--	
Mental Health Clinic	2636/2640 Martin Luther King Jr Way	8	2 dual-head L2	60.1		
South Berkeley Senior Center	2939 Ellis Street	2	1 dual-head L2	7.8		Yes
North Berkeley Senior Center	1901 Hearst Avenue	2	1 dual-head L2	29.6		

The City fleet includes three take-home vehicles that are assumed to be charged at a staffs' homes.

Table 2 summarizes the estimated annual costs for transitioning the City's light-duty fleet to EVs. Estimates are based on April 2020 data for initial procurement, installation, and annual operation and maintenance costs. Factors that impact these estimates include change in costs of equipment, insurance, sales tax, and utility rates; change in the numbers of vehicles procured each year; implementation of solar PV and/or BES systems, and the availability of incentives and grants.

Table 2: Summary of Estimated Procurement and Operating and Maintenance Costs by Year

	2021	2022	2023	2024	2025	2026-30
Light-duty vehicle procurement	\$1,156,200	\$678,043	\$151,379	\$191,797	\$151,736	\$2,528,658
Charger procurement and installation*	\$675,500	\$675,500				
Annual charger maintenance fee*	\$12,400	\$22,300	\$22,300	\$22,300	\$22,300	\$111,500
Solar PV procurement and installation*	\$534,650	\$534,650				
BES procurement and installation	\$1,020,000					\$1,020,000
Back-up generator procurement	\$827,000					
Minimum reserved funds for heavy-duty EV evaluation	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	
Total	\$4,475,750	\$2,160,493	\$423,679	\$464,097	\$424,036	\$3,660,158

*Does not include charging stations and solar PV already installed or planned for 2020 or any charging stations that will be incorporated into the new Transfer Station rebuild project

As shown in Table 2, complete implementation of the EV Fleet Plan requires significant resources, particularly in the first two years of implementation, 2021 and 2022. Costs associated with building adequate charging infrastructure are unavoidable, but the plan attempts to minimize those costs via charger sharing, load management, and potentially providing mobile charging in some locations. EVs require charging stations for refueling, and the City's vehicles are domiciled in dispersed locations (see Table 1), most of which currently have limited electrical capacity, as well as physical constraints related to adding EV charging infrastructure. Although elements such as solar PV and BES are not essential for EV adoption, if incorporated, they will reduce utility costs associated with vehicle charging and provide greater resilience during power losses.

BACKGROUND

As staff sought resources to complete the Action Plan for Greening the City of Berkeley Fleet of Vehicles in July 2019, EBCE offered to perform rapid fleet electrification assessments for member cities to help update EBCE's electricity load growth curve forecast and plan for infrastructure build out. Member cities including Berkeley, Albany, Dublin, and Oakland expressed interest in participating in the assessments, and EBCE issued an RFP for consultant services in September 2019. City of Berkeley staff participated in review of the proposals, and final selection of the consultant team of Frontier Energy, DKS Associates, and Gladstein, Neandross & Associates. The project kicked off in November 2019 with Berkeley in first position for the comprehensive fleet electrification assessment. The consultant team, working closely with EBCE and Berkeley staff, completed the assessment in May 2020.

Transportation is the largest source of greenhouse gas (GHG) emissions in Berkeley, accounting for 60% of the community's total emissions in 2016.¹ In keeping with Berkeley Climate Action Plan goals, and consistent with Council's 2018 Climate Emergency Declaration and resolution to become a Fossil Fuel Free City, staff began incorporating EVs into the municipal fleet in 2016. The fleet currently includes 2 electric scooters (GO-4 EVs) for parking enforcement and 15 Toyota Prius Primes used in multiple departments including Health, Housing & Community Services, Planning, and Public Works.

At the end of 2019, 37 additional charging ports were added to the newly rebuilt Center Street Garage, for a total 57 ports available for public and fleet charging, at this facility which also hosts a 168.9 kW solar PV rooftop canopy. The Center Street Garage rebuild and charging expansion utilized a portion of the \$600,000 allocated in the FY2020 budget for EVs and charging infrastructure, with funding also going towards incorporating EV charging stations into current capital projects at the Mental Health Clinic and North Berkeley Senior Center; and charging design work at the Corp Yard and the Berkeley Marina. In addition, staff was recently informed Berkeley's application for the West Oakland Zero Emission Grant Program to fund fleet EVs and charging infrastructure has been recommended for a \$100,914 award for approval by the Bay Area Air Quality Management District Board in June 2020.

Further expansion of fleet EVs is dependent on providing appropriate charging infrastructure. This Fleet EV Plan provides the City of Berkeley with a plan and recommendations for the accelerated transition to fleet electrification, including associated DER options. EBCE graciously funded this plan, and will continue to offer assistance for the installation of EV charging infrastructure and DER. EBCE has applied to the California Energy Commission for CALeVIP funding that would provide \$14.5 million to our region over 4 years beginning in 2021, for Level 2 and DC Fast Charge stations. This could potentially be combined with other funding opportunities including

¹ Climate Action Plan Update, December 6, 2018, available at <https://www.cityofberkeley.info/climate/>.

Pacific Gas & Electric's EV Fleet program, but significant City investment will be required for plan implementation.

ENVIRONMENTAL SUSTAINABILITY

Driving an EV instead of a conventional gasoline or diesel-fueled combustion engine vehicle eliminates tailpipe emissions. The associated GHG emissions, when charging is powered by onsite solar PV or by EBCE's 100% carbon-free product (Brilliant 100, which is currently used by municipal accounts), are also completely eliminated.

Widespread electric mobility is an essential component of reaching the State's carbon neutrality (zero net carbon) by 2045, and becoming a Fossil Fuel Free City as soon as possible. This Fleet EV Plan estimates the annual lifecycle GHG emissions associated with the light-duty fleet would drop 96% between 2020 and 2030 from 56.6 metric tons to only 2.1 metric tons per year.

RATIONALE FOR RECOMMENDATION

The City of Berkeley Municipal Fleet Electrification Assessment presents an ambitious plan for transitioning fleet vehicles away from fossil fuels to electric vehicles, including developing charging infrastructure and associated distributed energy resource options, such as solar photovoltaics and battery energy storage. The Fleet EV Plan is thorough and was developed in close collaboration with City staff and EBCE to meet Council's referral request and to demonstrate City leadership in addressing climate change and protecting the environment. Given the budgetary impacts of COVID-19 on the City, no specific budget allocation to support Fleet EV Plan implementation is being requested at this time.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Daryl Witbeck, Public Works Operations Manager, Public Works, 510-981-6451

Greg Ellington, Equipment Maintenance Superintendent, Public Works, 510-981-6469

Sarah Moore, Sustainability Program Manager, Planning, 510-981-7494

Attachments:

1: City of Berkeley Municipal Fleet Electrification Assessment Plan

2: Original Referral Report from June 25, 2019 (Item 36, An Action Plan for Greening the City of Berkeley Fleet of Vehicles)

City of Berkeley Municipal Fleet Electrification Assessment



Prepared for: East Bay Community Energy on behalf of the City of Berkeley

FRONTIER ENERGY, INC.
1000 Broadway, Suite 410
Oakland, CA 94607

DKS ASSOCIATES
1970 Broadway, Suite 740
Oakland, CA 94612

GLADSTEIN, NEANDROSS & ASSOCIATES
2525 Ocean Park Blvd, Suite 200
Santa Monica, CA 90405

Contents

Glossary.....	3
Introduction	4
Summarized Recommendations	8
Summary of Estimated Costs by Year	9
Summary of Emissions Reduction.....	10
Fleet Electrification Transition	12
Light-duty Vehicles.....	12
Availability of Medium- and Heavy-Duty EVs	14
Availability of Emergency EVs.....	14
2026-2030 Budgeting Considerations for Light-Duty EVs.....	15
Charging Strategy Options	16
Distributed Energy Resources.....	19
Total Cost of Ownership	21
TCO Model Results.....	22
Greenhouse Gas Emissions Reduction.....	24
Conclusion.....	25
Appendix A: Municipal Fleet Assessment	26
Appendix B: Electrical Needs and Charging Infrastructure Summary	44
Appendix C: Distributed Energy Resources Analysis.....	55
Appendix D: Total Cost of Ownership.....	73
Appendix E: Recommendations by Domicile: Charging, Solar PV, BES for Light-Duty Fleet EVs.....	87
Site #1 Corp Yard.....	87
Site #2 Berkeley Transfer Station.....	92
Site #3 Berkeley Marina (125/127 University Avenue).....	93
Site #4 Adult Mental Health Clinic	97
Site #5 Mental Health Clinic.....	99
Site #6 Center Street Garage	101
Site #7 Central Library Parking Lot.....	104
Site #8 Public Safety Building.....	107
Site #9 Civic Center (City Hall).....	110

Site #10 Mental Health Clinic (2636/2640 Martin Luther King Jr Way)..... 112
Site #11 South Berkeley Senior Center 115
Site #12 North Berkeley Senior Center 118

Glossary

4WD/4x4	Four-wheel drive
A	Amperes
BAAQMD	Bay Area Air Quality Management District
BES	Battery energy storage
BEV	Battery electric vehicle
CALeVIP	California Electric Vehicle Incentive Program
CapEx	Capital expense
CARB	California Air Resources Board
CORE	California Off-Road Equipment
CVRP	Clean Vehicle Rebate Project
DCFC	DC Fast Charging
DER	Distributed energy resource
EBCE	East Bay Community Energy
EV	Electric vehicle
EVSE	Electric vehicle service equipment
GHG	Greenhouse gas
HVIP	Hybrid Voucher Incentive Program
ICE	Internal combustion engine
kW	Kilowatt
kWh	Kilowatt hour
LCFS	Low Carbon Fuel Standard
Level 2/L2	240-volt charging equipment
O&M/OpEx	Operation and maintenance (expense)
OEM	Original Equipment Manufacturer
PHEV	Plug-in hybrid electric vehicle
PV	Photovoltaic
RA	Resource adequacy
SF	Square feet
SUV	Sport utility vehicle
TCO	Total cost of ownership
V	Volt
W	Watt
ZEV	Zero emission vehicle

City of Berkeley Fleet Transition Plan

Introduction

Fleet electrification offers local governments economic benefits that include lower lifecycle costs and reduced risk of fuel price volatility when compared to internal combustion engine (ICE) vehicles. Deployment of electric vehicles (EV) in municipal fleets also benefits the local population through the use of clean electricity as fuel, which helps reduce criteria air pollutants and greenhouse gas emissions.

To assist local government partners in overcoming perceived barriers to municipal fleet electrification, East Bay Community Energy (EBCE) commissioned a consultant team to develop a plan on behalf of the City of Berkeley (City) that evaluates the short- and long-term cost savings associated with the transition to EVs, determines impacts and benefits to the City, and outlines steps to efficiently integrate EVs and charging infrastructure at municipal facilities in a fiscally responsible manner.

In June 2019 City Council requested the City Manager and Department of Public Works collaborate to create an Action Plan by June 2020 that would outline how the City would accelerate the implementation of municipal fleet electrification by 2030. The purpose of this report is to understand the current municipal fleet composition and make recommendations about transitioning from light-, medium-, and heavy-duty ICE vehicles to EVs by 2030, to the extent feasible. Commitment to fleet electrification will help move the City closer to achieving Council-adopted climate policies while leading by example in the community.

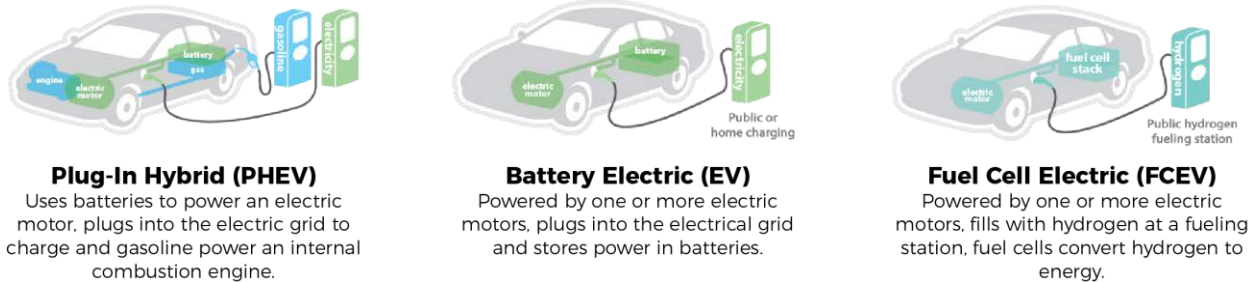
Development of this report was supported by data provided by the City and supplemental information gathered during meetings and interviews.

The purpose of this report is to present a formalized EV deployment plan for the City's municipal fleet in line with the City's commitments and goals. This plan addresses 2021-2025 procurement cycles in detail and 2026-2030 procurement cycles more generally to ensure fiscally responsible procurement and deployment of EVs and proposed associated distributed energy resource (DER) options, including charging infrastructure and onsite solar photovoltaic (PV) and/or battery energy storage (BES) systems. It includes reporting about vehicle and DER technology and financial model recommendations for each fleet facility (domicile), and it ultimately recommends a scenario to meet fleet electrification requirements with the greatest ease of implementation and integration.

Vehicle Technology

Zero-emission vehicles (ZEV) are those that have electric drivetrains to provide all or some of the vehicle's power. California regulations recognize three types of ZEVs as shown in Figure 1.

Figure 1: Types of Zero-Emission Vehicles



Source: Center for Sustainable Energy

- Plug-in Hybrid Electric Vehicles (PHEV): PHEVs are powered by electric charging and gasoline fueling. Most have an all-electric driving range of 10-50 miles. PHEVs can often be fully charged overnight from a standard electrical socket (Level 1) and accept Level 2 charging. PHEVs are more efficient than hybrids and, if driven on primarily on electric power, can achieve up to 133 miles per gallon gasoline equivalent.¹
- Battery Electric Vehicles (BEV): BEVs are powered by electric batteries only and have a range of between 70-315 miles. BEVs are very efficient and can achieve up to 120 miles per gallon gasoline equivalent.¹ Most BEVs can be charged at Level 1, which is ideal for vehicles with a long dwell time, and Level 2 and DC Fast Charging. Figure 2 illustrates the difference in time to charge at the three charging levels.
- Fuel Cell Electric Vehicles (FCEV): FCEVs are powered by a fuel cell that converts hydrogen into electric energy within the vehicle. Current FCEV models have a range of 312-380 miles. FCEVs are fueled at public hydrogen stations in about five minutes. One hydrogen station located at 1250 University Avenue in Berkeley is currently in development. FCEVs are efficient in power conversion and can achieve up to 68 miles per gallon gasoline equivalent.¹ Longer term, FCEVs may be considered for medium and heavy-duty fleet applications.

Charging Technology

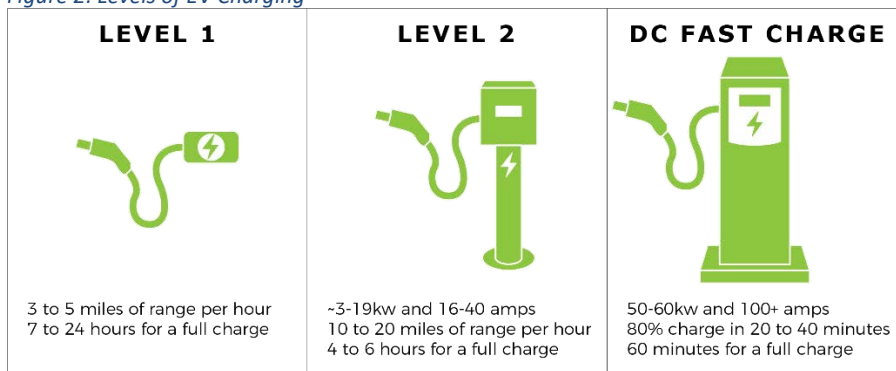
Chargers are identified by their input voltage and are designed and sold by many manufacturers with different prices, applications and functionality. Figure 2 illustrates the difference in charging speeds (miles of range added per hour) from the three charging levels.

- Level 1 charging uses a common wall outlet. Some vehicles can use a standard 120-volt outlet on a dedicated circuit for a “trickle” charge. Most EVs include a cord that can plug into a Level 1 outlet and, therefore, this level of charging does not require installation of charging equipment. Depending on the battery capacity of the EV, Level 1 charging can take 7 to 24 hours for a full charge.

¹ <https://fueleconomy.gov>

- Level 2 equipment offers charging through a 240V, AC plug and requires electric vehicle service equipment (EVSE) with a dedicated 40-amp circuit. All BEVs and PHEVs can use Level 2 charging by using the cord that is attached to the EVSE and plugging it into the vehicle. Level 2 EVSEs come in many configurations: wall mounted, free standing, curbside, and ceiling mounted, and can be networked (smart) to accept payment and communicate charging status or not networked (dumb). Depending on the battery capacity of the EV vehicle, Level 2 charging generally takes 4 to 6 hours to completely charge a depleted battery, however, charging duration can increase in extreme cold and hot temperatures.
- DC Fast Charging (DCFC) is the fastest way to charge an EV and requires a specialized charger on a dedicated circuit that matches the amperage of the EVSE—between 50 and 150 amps. Most BEVs can utilize a DCFC by using the cord attached to the EVSE. Most DCFCs are networked to charge customers for use and help with power management to avoid peaks in demand. Mobile and portable DCFCs are just entering the market. DCFC charging generally takes fewer than 60 minutes to completely charge a depleted battery, however, charging duration can increase in extreme cold and hot temperatures.

Figure 2: Levels of EV Charging



Source: Frontier Energy

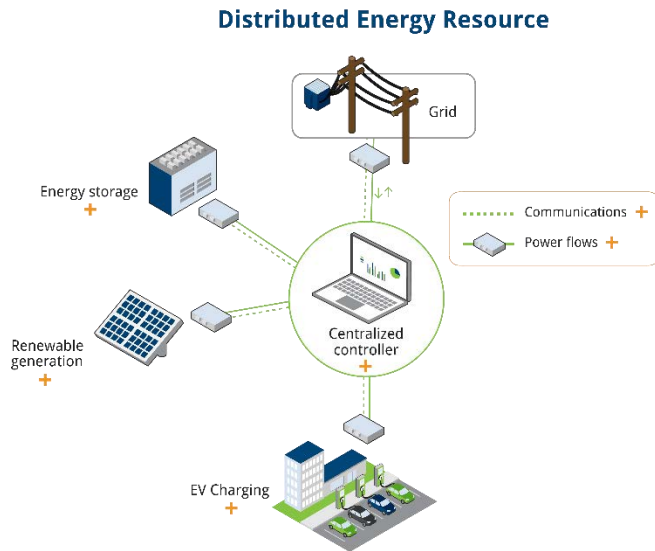
Solar Photovoltaic + Battery Energy Storage Systems

With the threat of a major earthquake predicted to impact the greater San Francisco Bay Area in the next 30 years, cities like Berkeley have extensive experience preparing for natural disasters that can interrupt the utility grid. In recent years, however, increased frequency of climate-related wildfires created a new impact on the City’s operations and those of its businesses and residents. As a last-resort measure to prevent grid-initiated fires, the investor owned utility PG&E implemented processes to de-energize targeted regions known as Public Safety Power Shutoff (PSPS) events. It is crucial that the City’s EV fleet has reliable fueling options when electric service is interrupted due to a natural disaster or PSPS to ensure staff can provide continuity of service to the community.

Onsite solar photovoltaic (PV) arrays paired battery energy storage (BES) systems can provide that resilience. And, on a day-to-day basis, these systems can also reduce costs associated with PG&E demand charges further helping the City’s fleet save on operational expenses.

With the help of a central controller, power generated from onsite solar PV is directed to the BES system. If a City facility is not suitable for onsite PV, electricity will be directed from the grid to the BES system by the controller. In either case, the controller monitors onsite electricity production, electricity flowing from the grid to the battery, and consumption by loads like building energy use and EV charging infrastructure. Figure 3 provides a simplified schematic of a solar PV and BES system.

Figure 3: Schematic of a DER system



Source: Frontier Energy

Summarized Recommendations

In late-February 2020, the City fleet, excluding emergency response vehicles, consisted of 99 passenger sedans and SUVs, 30 parking enforcement scooters, 88 medium-duty pick-up trucks and vans, and 98 heavy-duty vehicles. The City's fleet domiciles in 15 locations. With input from City staff, it was determined that the light-duty fleet could be transitioned to EVs and, in fact, that transition had already begun with the acquisition of 15 Prius Prime PHEVs. The detailed recommendations summarized in this report focus on the light-duty fleet. Medium- and heavy-duty vehicles should be evaluated during the 2020-2030 timeframe via pilot programs until EVs in these classes are cost effective and can meet the same duty cycle of the existing vehicles.

Table 1 summarizes the recommendations throughout this report for adding charging stations, solar PV, and BES systems to support the transition of the light-duty fleet to EVs. Solar PV and BES recommendations are based on the energy load of the fleet, and some locations are being evaluated through EBCE's separate *Solar + Storage at Critical Municipal Facilities Assessment*. Backup generators are included to provide resiliency, but these needs may be met at some locations with solar PV and BES.

Table 1: Summary of Light-duty Fleet Electrification Transition

Facility Name	Facility Location	Light-Duty EVs	Chargers	Solar PV (kW DC)	BES	Backup Generator
Corp Yard	1326 Allston Way	16	4 dual-head L2 and 1 DCFC	52.7	33 kW / 130 kWh	Yes
Berkeley Transfer Station (prior to rebuild)	1201 Second Street	5	2 dual-head L2 w/ load management			
Berkeley Marina	125/127 University Avenue	33 (includes scooters)	4 dual-head L2	70.5	75 kW / 300 kWh	Yes
Adult Mental Health Clinic	1521 University Avenue	13	3 dual-head L2	--	--	
Mental Health Clinic	1890 Alcatraz Avenue/ 3282 Adeline Street	6	1 dual-head L2	--	--	Yes
Center Street Garage	2025 Center Street	36 (some will relocate to Civic Center)	28 dual-head, 1 single L2 (existing)	168.9	63 kW / 250 kWh	
Central Library Parking Lot	2031 Bancroft Way	1	1 dual-head L2	18.8	--	Yes
Public Safety Building	2100 Martin Luther King Jr Way	2	1 dual-head L2	10.8	--	

Facility Name	Facility Location	Light-Duty EVs	Chargers	Solar PV (kW DC)	BES	Backup Generator
Civic Center	2180 Milvia Street	1	2 dual-head L2	--	--	
Mental Health Clinic	2636/2640 Martin Luther King Jr Way	8	2 dual-head L2	60.1		
South Berkeley Senior Center	2939 Ellis Street	2	1 dual-head L2	7.8		Yes
North Berkeley Senior Center	1901 Hearst Avenue	2	1 dual-head L2	29.6		

The City fleet includes three take-home vehicles that are assumed to be charged at staffs' homes.

Summary of Estimated Costs

Table 2 summarizes the estimated annual costs for transitioning the City's light-duty fleet to EVs. Estimates are based on data available in April 2020 for initial procurement, installation, and annual operation and maintenance costs. Factors that impact these estimates include change in cost of equipment, insurance, sales tax, and utility rates; change in the numbers of vehicles procured each year; implementation of solar PV and/or BES systems, and the availability of incentives and grants.

Table 2: Summary of Estimated Procurement and Operating and Maintenance Costs by Year

	2021	2022	2023	2024	2025	2026-30
Light-duty vehicle procurement	\$1,156,200	\$678,043	\$151,379	\$191,797	\$151,736	\$2,528,658
Charger procurement and installation*	\$675,500	\$675,500				
Annual charger maintenance fee*	\$12,400	\$22,300	\$22,300	\$22,300	\$22,300	\$111,500
Solar PV procurement and installation*	\$534,650	\$534,650				
BES procurement and installation	\$1,020,000					\$1,020,000
Back-up generator procurement	\$827,000					
Reserved funds for procurement of heavy-duty EVs for evaluation	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	
Total	\$4,475,750	\$2,160,493	\$423,679	\$464,097	\$424,036	\$3,660,158

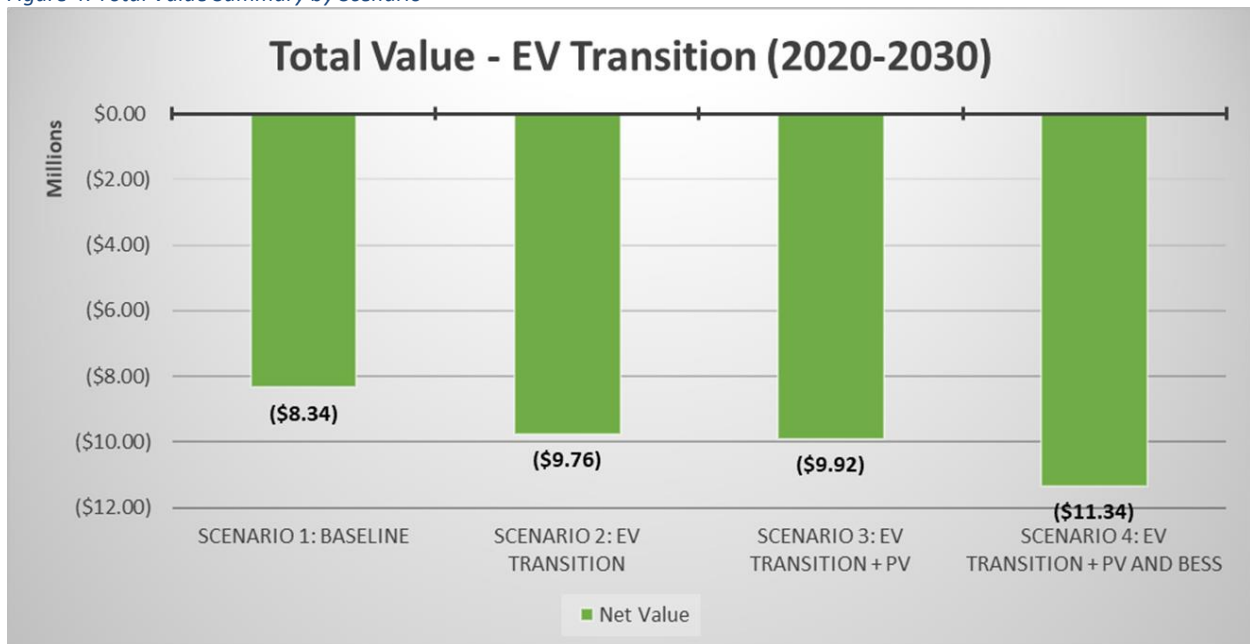
*Does not include charging stations and solar PV already installed or planned for 2020 or any charging stations that will be incorporated into the new Transfer Station rebuild project

To understand the total cost of ownership, four scenarios were created:

1. Baseline—assume that existing gasoline and hybrid ICE vehicles are replaced with similar vehicles
2. EV Transition—assumes that existing gasoline and hybrid ICE vehicles are replaced with EVs
3. EV Transition + PV—adds solar to the EV Transition
4. EV Transition + PV and BES—adds battery storage

Due to the high costs associated with charging infrastructure, including procurement, installation, and electrical upgrades, the EV transition scenario is more expensive over 10 years than the Baseline scenario. Adding solar PV is a slight increase further and the addition of both solar PV and BES systems further increases the total cost of ownership, as shown in Figure 4. EBCE plans to aggregate cities’ solar PV and BES needs into a competitive solicitation in 2020 to reduce the cost and complexity of deploying these systems in the near term for its local government partners.

Figure 4: Total Value Summary by Scenario



Additional charging may need to be added to support medium-, heavy-duty, and emergency response EVs as they become more readily available and economically feasible. Additionally, grant programs, rebates, and incentives may further offset costs of procuring and operating the proposed supporting DER technologies. It is recommended that the City closely track such funding opportunities and coordinate with partners, such as EBCE, accordingly.

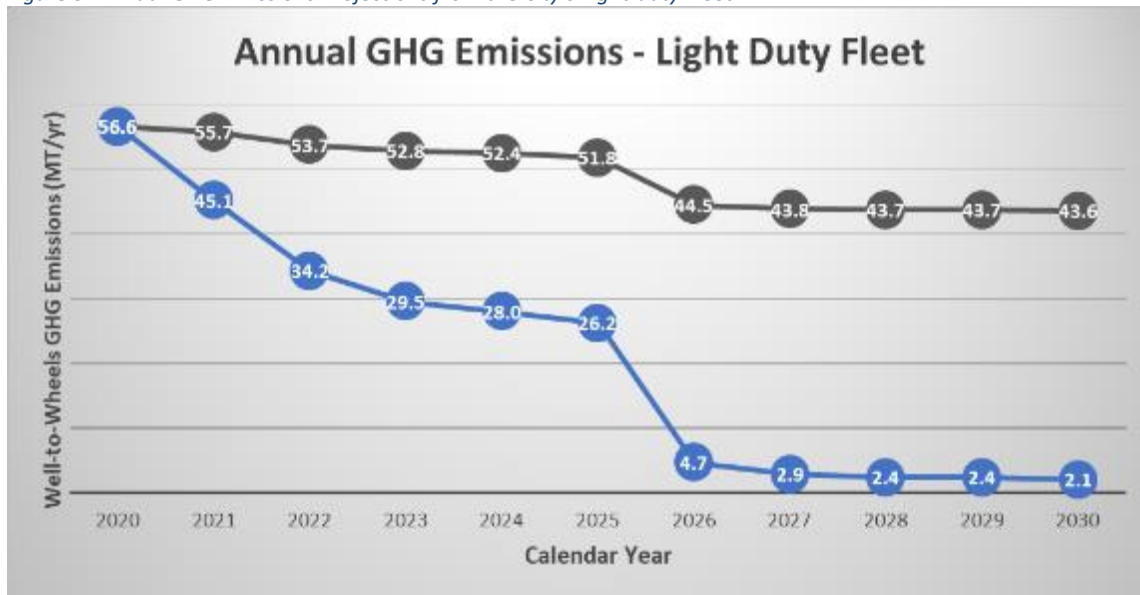
Summary of Emissions Reduction

Transportation contributes 60% of Berkeley’s greenhouse gas (GHG) emissions.² Transitioning to EVs charged with 100% renewable or carbon-free electricity that EBCE provides dramatically reduces GHGs from the City’s fleet. Figure 5 compares GHG emissions under the Baseline scenario and the EV

² <https://www.cityofberkeley.info/climate/>

transition scenario. Precipitous drops in the EV transition scenario in 2021, 2022, and 2025 are associated with the substantial number of vehicles slated for replacement in each of those years.

Figure 5: Annual GHG Emissions Projections from the City's Light-duty Fleet



In 2030, GHGs would be reduced 96% relative to the Baseline scenario. The few remaining GHG emissions are associated with seven PHEV SUVs that have a portion of their daily mileage powered by gasoline. By 2030, it is likely that SUV BEVs that meet the City's duty cycles will be available, effectively allowing the City to achieve a 100% reduction in the GHG emissions for the light-duty fleet considered in this analysis.

Fleet Electrification Transition

Light-duty Vehicles

As of February 2020, the City’s light-duty fleet passenger sedans (or cars), SUVs, and parking enforcement scooters (excluding vehicles used for emergency services and response) consisted of 75 passenger sedans, 24 SUVs, and 30 parking enforcement scooters

The City schedules vehicle replacement 7, 10, or 15 years from the purchase date, although some vehicles are kept longer than planned. All the GO-4 scooters are scheduled to be replaced in 2026. Based on the current vehicle replacement schedule, Table 3 summarizes year-by-year transition to EVs.

The consultant team recommends replacing existing passenger sedans with BEVs, transitioning some existing SUVs to BEV sedans and replacing other SUVs with PHEV SUVs. PHEV SUVs will primarily travel on the electricity available from the vehicles’ batteries and the gasoline engine provides flexibility and resiliency needed by these vehicles for emergency response and disaster preparedness. By 2026, the BEV parking enforcement scooters will likely meet the City’s needs for range and reliability. If BEV scooters are not viable or cost effective by 2026, the City may consider replacing the scooters with BEV sedans.

Table 3: Procurement Schedule for Passenger Sedans and SUVs

Year	Number of BEV Passenger Sedans/Wagons	Number of PHEV SUVs	Number of BEV Scooters
2020*	1	0	
2021**	29	3	
2022	10	8	
2023	3	1	
2024	4	1	
2025	4	0	
2026	11	0	30
2027	6	0	
2028	3	0	
2029	0	0	
2030	1	0	

*Vehicles the City procured in January and February 2020 or are scheduled to be procured in 2031 do not appear in this table.

**Six vehicles may be replaced with EVs in 2020 (instead of 2021), pending approval of a Bay Area Air Quality Management District (BAAQMD) grant application.

2020-2025 Budgeting Considerations for Light-Duty EVs

Based on the negotiated contract rates from National Auto Fleet Group, Table 4 lists the estimated price for EVs, including 9.25% sales tax, additional keys, and other fees. The prices are rounded to the nearest dollar, based on the City’s stated preference to standardize on the Nissan Leaf Plus and Chevy Bolt. The City doesn’t have a stated preference for an SUV replacement and three PHEV options are listed.

Table 4: Average Contract Rates for EVs

Technology Type	Body Type	Make and Model	NAFG Est. Price	EPA Rated All-electric Range	Battery Size (kWh)
BEV	Sedan	Nissan Leaf Plus	\$37,934	226	62
BEV	Small Wagon	Chevy Bolt	\$37,577	259	60
BEV	Scooter	GO-4 EV	\$47,666	100*	20
PHEV	SUV	Kia Niro LX PHEV	\$31,505	26	9
PHEV	SUV	Mitsubishi Outlander 4WD	\$40,061	22	12
PHEV	Minivan	Chrysler Pacifica	\$43,578	32	16

*Manufacturer estimate

Currently, the City is eligible to claim a Clean Vehicle Rebate Program (CVRP) rebate from the State of California for up to 30 EVs per year.³ In 2020, BEVs are eligible for a \$2,000 per vehicle rebate and some PHEVs are eligible for a \$1,000 rebate. The Mitsubishi Outlander, the only four-wheel-drive (4WD) PHEV, is not eligible for the rebate because it does not meet the minimum requirement for all-electric range.⁴ The Kia Niro crossover PHEV and the Chrysler Pacifica minivan are eligible for CVRP.

Table 5 estimates the cost for replacement EVs in 2020 through 2025 (from Table 3) for each budget year with the current contracted prices (from Table 4). The estimated budget will vary based on the contract price, vehicle selected, and changes in sales tax rates. Although more EV makes and models will become available, EV costs will likely remain in the same price range through 2025. Because the CVRP rebate program may not be continued beyond the planned end in 2022,⁵ the consultant team took a conservative approach and did not include the rebates starting in 2023.

Table 5: Year-by-Year Budget Estimates to Replace Existing ICE Vehicles with EVs

Year	Nissan Leaf Plus @ \$37,934	Chevy Bolt @ \$37,577	Mitsubishi Outlander PHEV @ \$40,061	Potential CVRP Rebate	Total Estimated Vehicle Cost
2020	\$37,934 (1)			(\$2,000)	\$35,934
2021*	\$455,208 (12)	\$638,809 (17)	\$120,183 (3)	(\$58,000)	\$1,156,200
2022	\$189,670 (5)	\$187,855 (5)	\$320,488 (8)	(\$20,000)	\$678,043
2023	\$113,802 (3)	\$37,577 (1)			\$151,379
2024	\$151,736 (4)		\$40,061 (1)		\$191,797
2025	\$151,736 (4)				\$151,736

*The City applied for a grant from Bay Area Air Quality Management District. If awarded, six vehicles scheduled to be replaced in 2021 will be replaced in 2020 and will not need to be included in the 2021 budget.

³ <https://cleanvehiclerebate.org/eng/fleet>. Rebates are on a first-come, first-served basis.

⁴ <https://cleanvehiclerebate.org/eng/faqs/why-don%E2%80%99t-i-see-my-vehicle-eligibility-list-0>

⁵ <https://ww3.arb.ca.gov/msprog/aqip/fundplan/fy1920fundingplan-appc-rev.pdf>

Availability of Medium- and Heavy-Duty EVs

The City fleet includes 72 medium-duty pickup trucks, some of which may be able to be replaced with an upcoming all-electric Ford F-150, which Ford announced will arrive in the U.S. market by the end of 2021. Ford also announced it will have an F-150 PHEV by late-2020; however, the battery is intended to be used for accessories and not motive power.⁶ It is unknown if the F-150s will have a utility body application, but companies like Motiv Power Systems produce an EV chassis that can be upfitted with a utility body. Motiv's EV-450 is larger than the F-250 and Rangers the City operates today.

The City also operates 16 cargo vans, primarily Ford E-250/350 and Connect Transit vans, two of which include a genset for camera operation. Electric vans (passenger and cargo) start at about \$100,000, but production has not kept pace with orders and supplies are very limited. Some cargo vans may be able to be replaced with PHEV SUVs or pick-ups.

The City operates three Ford E450 20-passenger buses for the South Berkeley Senior Center, two of which are scheduled for replacement in 2020 and 2022. Several manufacturers offer EV shuttle buses that cost \$270,000 and up, depending on configuration and accessories (e.g., wheelchair lift).

The fleet inventory list shows 16 refuse and dump trucks that are scheduled to be replaced in 2020 and 2021. Electric models of these vehicles are currently available in limited supply and cost about \$320,000 each. Fleet staff have feedback from other agencies that the limited range and long charging time of current BEV refuse trucks is not practical for City operations, which includes multiple 88-mile round trips to the Livermore landfill every day. The City's intention is to electrify refuse vehicles and add charging infrastructure, including solar PV and BES, during the rebuild of the Transfer Station.

From a budgeting perspective, the consultant team recommends allocating up to \$250,000 per year to procure medium- and heavy-duty EVs as pilot projects so that City staff can evaluate their suitability to duty cycle and task. As grants and incentives become available, this amount should be reconsidered annually.

Availability of Emergency EVs

Emergency vehicles for police patrol and pursuit, firefighting, and emergency medical services are not currently available in plug-in models. None of the automakers that build police-specific vehicles have announced a plug-in version.⁷

Rosenbauer, an Austrian company, has a concept BEV fire vehicle called the CFT that is smaller than a traditional U.S. firetruck.⁸ The City of Los Angeles recently ordered a CFT, which will be the first in North America. Electric "ambulances" are BEV sedans that have been retrofitted to provide aid at an incident;

⁶ Other companies have announced BEV pickups with starting prices in the \$70,000 range and are aimed at a luxury market. The consultant team did not consider these trucks for fleet use.

⁷ Ford announced a PHEV patrol sedan but released the car as "special services" sedan not rated for patrol or pursuit.

⁸ <https://innovation.rosenbauer.com/en/concept-fire-truck/>

they are not capable of transporting patients as a traditional ambulance does. None of the manufacturers that make firetrucks and ambulances have announced plans to electrify these vehicles.

2026-2030 Budgeting Considerations for Light-Duty EVs

The year-by-year replacement schedule calls for replacing a total of 21 passenger sedans and 30 parking enforcement scooters between 2026 and 2030, with most replacements occurring in 2026.

In its *Annual Energy Outlook*, the Energy Information Agency projects that 300-mile-range BEVs will be upper-tier of the EV market by 2025.⁹ Bloomberg New Energy Finance’s *Electric Vehicle Outlook*¹⁰ report published in late-2019 stated, “we expect price parity between EVs and internal combustion engines by the mid-2020s in most segments...”

By 2024, the City will have been acquiring data from the telematics system (scheduled to be installed in 2020) for four years. Data collected on vehicle use patterns and parking behavior will inform and support the City’s decision to either procure lower-cost BEVs with 100-to-150-mile range or higher-cost BEVs with 300-miles or more range. Although budgeting the cost of vehicles in future years is imprecise, Table 6 and Table 7 estimate costs for light-duty EVs for both scenarios. Should the City replace the GO-4 scooters with BEV sedans for parking enforcement, upfits to the sedans (e.g., lightbars, license plate readers) will result in approximately the same cost per vehicle as per scooter. Note that the current replacement schedule calls for no vehicles to be replaced in 2029.

Table 6: Higher-cost, Longer-range BEVs

Year	Sedan @ \$37,934	Scooter @ \$53,906	Total Estimated Vehicle Cost
2026	\$796,614 (21)	\$1,617,180 (30)	\$2,413,794
2027	\$227,604 (6)		\$227,604
2028	\$113,802 (3)		\$113,802
2030	\$37,934 (1)		\$37,934

Table 7: Lower-cost, Shorter-range BEVs

Year	Sedan @ \$32,273	Scooter @ \$53,906	Total Estimated Vehicle Cost
2026	\$677,733 (21)	\$1,617,180 (30)	\$2,294,913
2027	\$193,638 (6)		\$193,638
2028	\$96,837 (3)		\$96,837
2030	\$32,273 (1)		\$32,273

Medium- and heavy-duty EVs may be competitive in performance, range, and reliability by the latter half of the decade. Additionally, the range of light-duty vehicles may have increased enough that BEVs could be used for some emergency response vehicles (e.g. police patrol and pursuit, some fire applications). It is recommended that the City reevaluate the vehicle budget in early 2025.

⁹ <https://www.eia.gov/outlooks/aeo/>

¹⁰ <https://about.bnef.com/electric-vehicle-outlook/#toc-download>

Appendix A includes detailed information about fleet replacement analysis, including an itemized list of the passenger sedans and SUVs in the current fleet and recommended replacement types.

Charging Strategy Options

Analysis of the City's existing fleet found that most light-duty vehicles drive between 3 and 63 miles per day with an average usage of 27.1 miles. Considering the relative efficiency difference between gasoline-powered ICE vehicles and BEVs, this translates into approximately 80 kWh of electricity per day on average. In addition, most vehicles are driven during the day and parked overnight at City facilities, which provides ample dwell time for battery charging. The City stated intention to standardize on the Chevy Bolt and Nissan Leaf Plus, which have a 60 and 62 kilowatt/hour (kWh) battery, respectively, and well over 200 miles of range. Due to these minimal power requirements coupled with long dwell times for most vehicles domiciled at the City facilities, light-duty BEVs could share chargers and, at some facilities, share power loads by using a power load management strategy.

Table 8 lists the recommended charging infrastructure for transitioning the light-duty fleet to EVs, including charging stations that are already available to fleet vehicles. Cost estimates include electrical upgrades needed at City facilities (e.g., adding electrical capacity at the panel). To provide back-up power for resiliency, the consultant team included cost estimates for diesel generators at crucial sites, which would be powered by the City's supply of renewable diesel. On-site solar PV and BES may fulfill this requirement. It is assumed that the City will install all charging by 2022 to support rapid transition to electrification and take advantage of anticipated incentive programs.

Table 8: Near-term Recommendations for Charging

Facility Name	Facility Location	Chargers	New Service	Estimated Build-out Costs	Option	Backup Generator
Corp Yard	1326 Allston Way	4 dual-head L2 and 1 DCFC	Yes	\$354,000		\$487,000
Berkeley Transfer Station	1201 Second Street	2 dual-head L2	No	\$87,000		\$34,000
Berkeley Marina	125/127 University Avenue	4 dual-head L2	Yes	\$290,000		\$204,000
Adult Mental Health Clinic	1521 University Avenue	3 dual-head L2	Yes	\$135,000		
Mental Health Clinic	1890 Alcatraz Avenue/ 3282 Adeline Street	1 dual-head L2	Yes	\$147,000	\$45,000 for mobile charger	\$34,000

Facility Name	Facility Location	Chargers	New Service	Estimated Build-out Costs	Option	Backup Generator
Center Street Garage	2025 Center St	28 dual-head, 1 single L2	NA	Currently installed/Public access		
Central Library Parking Lot	2031 Bancroft Way	1 dual-head L2	Yes	\$149,000		\$34,000
Public Safety Building	2100 Martin Luther King Jr Way	1 dual-head L2	No	\$42,000		
Civic Center	2180 Milvia Street	2 dual-head L2	No	\$65,000		
Mental Health Clinic	2636/2640 Martin Luther King Jr Way	2 dual-head L2	NA	\$40,000*		
South Berkeley Senior Center	2939 Ellis Street	1 dual-head L2	Yes	\$82,000		\$34,000
North Berkeley Senior Center	1901 Hearst Avenue	1 dual-head L2	NA	\$45,000 In Progress		

*One L2 charging is being installed; cost is for adding one additional charger

Smart chargers also have an annual fee for networking, which can be negotiated as a multi-year contract. The City currently has a contract with ABM Industries through 2023 for EV network operations and maintenance, plus extended warranty for 57 Level 2 chargers at a cost that equals about \$1,100 per charger.¹¹ DCFC contracts range from \$2,500 to \$15,000 annually. For purposes of analysis, it was assumed that the Corp Yard DCFC will have a \$2,500 annual fee.

The California Electric Vehicle Infrastructure Project (CALeVIP),¹² an incentive program from the California Energy Commission, offers incentives to purchase and install Level 2 and DC fast chargers, available on a first-come, first-served basis. EBCE has applied as a co-funding partner for the 2021 funding round and, if selected, the City of Berkeley may be eligible for up to \$4,500 per Level 2 charging connector. Additionally, mobile charging units currently qualify for a 50% rebate under CARB's CORE¹³ program.

¹¹ https://www.cityofberkeley.info/Clerk/City_Council/2018/12_Dec/Documents/2018-12-11_Item_12_Contract_No__9893B_Amendment.aspx

¹² <https://calevip.org/about-calevip>

¹³ <http://californiacore.org/>

In projecting energy demand for charging, the consultant team took a conservative approach and assumed that all light-duty vehicles will be BEVs, although some will be PHEV SUVs. Estimated costs are for dual-head, pedestal mounted chargers (each charger has two connectors) and include equipment and installation. At some facilities, the estimated cost includes upgrades to the electrical service on the City's side of the meter. For example, charging infrastructure at the Public Safety Building will require new electrical service with a 200 amperes (A) main breaker. Some facilities require one or more new breakers in an existing panel and other locations require a new subpanel.

Estimates do not include upgrades that may be required on the utility side of the meter. For example, the utility may need increase a transformer's capacity to handle the additional load from charging. EBCE will work with the City to identify utility upgrades that may be necessary. To provide back-up power for resiliency, the consultant team included cost estimates for diesel generators at crucial sites, although BES systems may fulfill this need.

Appendix B provides detailed information about how charging needs were determined and considerations for charging strategies to minimize staff time and PG&E demand charges.

Distributed Energy Resources

The consultant team evaluated potential areas for DER—onsite solar PV, BES and EV charging infrastructure—at each of the vehicle domicile locations. The analyses represented an initial screening to identify sites at which solar PV and/or BES may be favorable and reasonably sized to offset electricity consumption of the City’s EV fleet.

The current fleet assessment identifies the need to support 1,009 kWh/day of EV charging, indicating that solar PV arrays deployed at some sites could also serve onsite building loads and/or future fleet charging needs.

Five domicile locations are also being evaluated through EBCE’s *Solar + Storage at Critical Municipal Facilities Assessment*, which is funded by a Bay Area Air Quality Management District (BAAQMD) grant. The goal of this project is to identify critical facilities designated to serve the community in time of emergency throughout Alameda County and size solar PV and BES systems to meet critical loads at those sites. EBCE plans to aggregate the site portfolio into a competitive solicitation Summer 2020 to reduce the cost and complexity of deploying these systems near term for its local government partners.

Fleet modeling was performed using charging profiles beginning at 6:00 PM each day to provide a conservative baseline for EV charging costs.

As a result of modeling all domicile locations with the upcoming PG&E tariff schedule²² and assessing the physical space available for solar PV and/or BES systems, the consultant team recommends installing solar PV at eight locations (some of which are already planned or in construction) and augment three of these locations with BES systems for operational flexibility, resilience and demand management. BES at these locations will time-shift excess generation from solar PV or from EBCE-provided electricity during the day to use during the new evening peak period hours.

BES can provide resiliency at these three crucial locations, which could eliminate the need for diesel generators. Load management software for charging stations can effectively avoid PG&E’s electricity demand charges more cost effectively than BES.

Table 9 lists the domiciles and the recommendation for solar PV and BES to offset energy use by fleet charging.

Table 9: Recommended Solar PV and BES

Location	Existing and Planned Charging Stations	Total Solar PV Capacity (kW DC)	BES Recommendation	Potential Cost for Solar PV + BES
Corp Yard	4 Dual-head Level 2 and 1 DCFC	52.7*	33 kW / 130 kWh	\$423,800
Berkeley Marina	4 Dual-head Level 2	70.5*	75 kW / 300 kWh	\$54,000

Location	Existing and Planned Charging Stations	Total Solar PV Capacity (kW DC)	BES Recommendation	Potential Cost for Solar PV + BES
Center Street Garage	28 Dual-head Level 2 and 1 Single-head Level 2	168.9*	63 kW / 250 kWh	\$782,100
Central Library Parking Lot	1 Dual-head Level 2	18.8		\$75,200
Public Safety Building	1 Dual-head Level 2	10.8		\$43,200
Mental Health Clinic	1 Dual-head Level 2	60.1*		\$240,400
South Berkeley Senior Center	1 Dual-head Level 2	7.8		\$31,200
North Berkeley Senior Center	1 Dual-head Level 2	29.6*		\$118,400

**Already installed or considered for development via EBCE’s Solar + Storage at Critical Municipal Facilities initiative*

Appendix C provides details about solar PV and/or BES systems at Berkeley facilities and recommendations specific to EV charging needs.

Total Cost of Ownership

To determine the total cost of ownership (TCO) for the transition of the light-duty fleet to EVs, four scenarios were created and modeled over an analysis period from 2020 to 2030:

- Scenario 1. Baseline: This scenario assumes that the City's future fleet purchases maintain their existing light-duty vehicle technology composition, replacing each vehicle with a similar new vehicle at the end of the current vehicle's useful life. Traditional ICE vehicles powered by gasoline are replaced with new ICE vehicles, standard ICE hybrid vehicles powered by gasoline are replaced with new ICE hybrids, PHEVs are replaced with new PHEVs, etc. Under this scenario, no new DER options are deployed at any fleet location.
- Scenario 2. EV Transition: This scenario considers the transition of the light-duty fleet to both BEVs and PHEVs. Infrastructure costs for EV charging are included in this scenario, and electricity costs are based on costs of grid electricity supplied by EBCE.
- Scenario 3. EV Transition with Solar PV: Building on Scenario 2, this scenario includes the deployment of solar PV systems at eight City facilities where fleet vehicles are domiciled. Under this scenario, electricity costs for EV charging are largely eliminated through the onsite solar PV generation.
- Scenario 4. EV Transition with Solar PV and BES: This scenario further extends Scenario 3 to include the deployment of BES systems at two City facilities.

Each scenario also assumed vehicle capital and operational costs which were developed from historical operational and cost data provided by the City for each vehicle in the fleet. Replaced vehicles are assumed to maintain the same activity level of the existing vehicle.

The various electrification scenarios assumed the budgeted amounts for purchase and installation of charging infrastructure (in Table 8) and \$1,100 per Level 2 charger and \$2,500 for the DCFC in annual costs for network services and maintenance. Costs are based on current City contracts for existing Level 2 chargers at Center Street Garage, though it should be noted that the City is not bound to contracting with this provider for future charger deployment, and maintenance and service costs vary significantly depending on the provider.¹⁴ DCFC maintenance costs are estimated to be 2% of the cost of capital costs per year.

Solar PV and BES costs were estimated using the capital costs in Table 9 plus straight-line depreciation for the solar PV. It is assumed that BES will need to be replaced before 2030, effectively doubling the capital costs.¹⁵

¹⁴ Based on Contract 9893B Amendment (Dec 2018) for EVSP services. Average of Y3-Y5 maintenance/network costs. Y1-Y2 include installation costs for new chargers and were therefore excluded.

¹⁵ Studies indicate 5-to-7-year useful life for current lithium battery technologies at 50% or greater depth of discharge. Casals et al, "Second life batteries lifespan: Rest of useful life and environmental analysis", Journal of Environmental Analysis, Vol 232, February 2019, pgs 354-363. Smith et al, "Life Prediction Model for Grid-Connected Li-ion Battery Energy Storage System" National Renewable Energy Laboratory, presented at 2017 American Control Conference, Seattle, WA, May 24-26, 2017.

Fleet EVs can generate revenue credits earned through the California Low Carbon Fuel Standard (LCFS) program.¹⁶ LCFS credit prices vary and the average credit price in 2019 was \$196.¹⁷ This analysis took a conservative approach and escalated in future years' credits using the average consumer price index increase of 2.2% per year.

Table 10 shows that transitioning to EVs increases the LCFS credits the City can generate over the baseline of the current fleet. Because all City fleet facilities currently receive 100% zero-carbon electricity from EBCE, adding solar PV and/or BES does not increase the LCFS credits that the City may earn.

Table 10: Value of LCFS Credits 2021-2029

	Scenario 1 Baseline	Scenario 2 EV Transition	Scenario 3 EV Transition + Solar PV	Scenario 4 EV Transition + Solar PV + BES
LCFS Credits	\$59,692	\$388,924	\$388,924	\$388,924

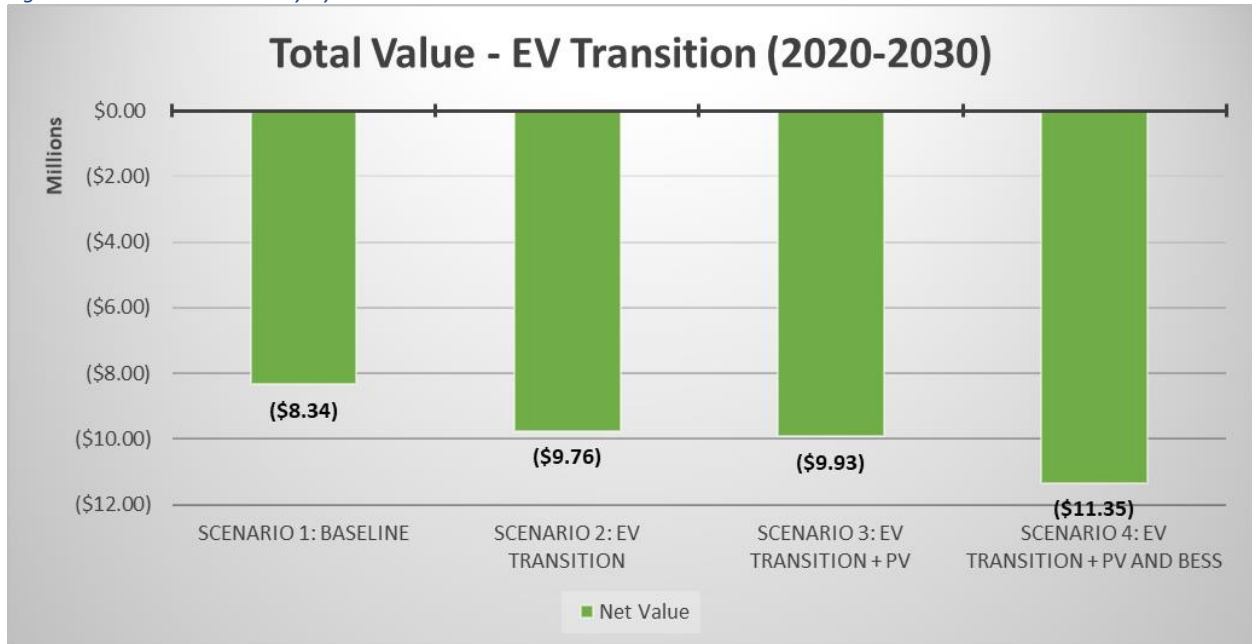
TCO Model Results

The TCO model estimates the cost of the Scenario 1 (Baseline), or business as usual, at \$8.34 million over the 2020-2030 analysis period, as shown in Total Value Summary by Scenario. Scenario 2 (EV Transition) cost is estimated at \$9.76 million over the same analysis period. The incremental cost of the charging infrastructure (including backup generation) are the primary contributors to the increased cost in this scenario. These costs are partially offset by lower vehicle maintenance costs, incentives, and LCFS program revenues. Additional details are provided in the figures and table below. Scenario 3 adds solar PV systems to Scenario 2 and increases cost by \$170,000. This is due to the offset of most of the additional infrastructure expense through reduced grid electricity costs. Scenario 4 adds BES, resulting in a total cost that is approximately \$3.0 million greater than Scenario 1 (Baseline). This increased cost assumes BES will need to be replaced before 2030. BES systems do not necessarily reduce operational cost to offset the incremental costs of BES deployment, but may provide resiliency to the City's fleet instead of requiring diesel generators.

¹⁶ <https://ww2.arb.ca.gov/our-work/programs/low-carbon-fuel-standard>

¹⁷ California Air Resources Board, Credit Activity Reports.

Figure 6: Total Value Summary by Scenario



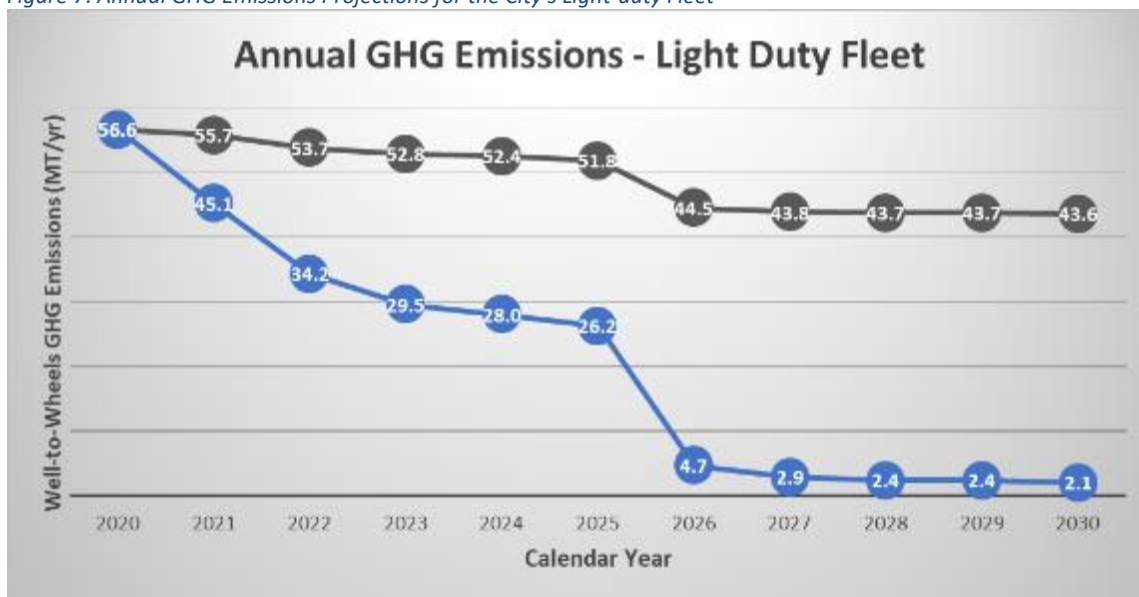
Appendix D provides a detailed analysis of total cost of ownership and the benefits to the City of Berkeley for the transition to EVs and DER.

Greenhouse Gas Emissions Reduction

Annual emissions from each vehicle were estimated using the using emissions factors from the California Air Resources Board’s LCFS program “lookup table” and aggregated to estimate annual GHG emissions for the light-duty fleet considered for EV transition. Because the City uses EBCE’s carbon-free electricity, GHG emissions from BEVs are estimated as zero.

Figure 7 shows that the emissions under Scenario 1 (Baseline) decline from 56.6 to 43.6 metric tons of CO2 equivalent per year (MT CO2e/year) by 2030. The 23% decrease in emissions largely comes from increasing fuel efficiency of gasoline and hybrid ICE vehicles. Under Scenario 2 (EV transition), emissions decline from 56.6 to 2.1 MT CO2e/year, **or 95% by 2030**. The significant reduction in annual emissions between 2025 and 2026 are associated with a substantial number of vehicles slated for replacement in 2026, including all the parking enforcement scooters. The few remaining GHG emissions are associated with seven PHEV SUVs that have a portion of their daily mileage powered by gasoline. By 2030, it is likely that SUV BEVs that meet the City’s duty cycles will be available, effectively allowing the City to achieve a 100% reduction in the GHG emissions for the light-duty fleet considered in this analysis.

Figure 7: Annual GHG Emissions Projections for the City's Light-duty Fleet



Conclusion

This analysis assumes that the City of Berkeley will quickly transition to an all-electric fleet powered by EBCE's 100% carbon free electricity. EBCE, City staff, and the consultant team collaborated on an implementation plan that enables a fast transition to EVs in the light-duty fleet, calls for prudent evaluation of medium- and heavy-duty electrification options, and increases resiliency. The team also took a fiscally conservative approach to capital and operating costs, especially regarding potential incentives and funding sources, given the uncertainties of these programs.

In addition to reduced GHG emissions, residents and businesses benefit from the fleet EV transition via reduced air pollution and noise, particularly in the instance of medium- and heavy-duty vehicle electrification. The City benefits from a more-predictable fuel cost when using electricity, rather than the more volatile price swings of conventional fuels. Additionally, the City will provide an example of how procuring and operating EVs and charging stations at scale can help reduce overall costs, which may encourage private fleet electrification and charging station deployment at workplaces.

Awareness will grow as more EVs perform essential City services in the public eye. Businesses and residents may be encouraged to choose zero-emission transportation options. As the City becomes a leading example in EV and DER deployment, it will encourage additional sustainable operations to be adopted within Berkeley's private sector and may attract even more sustainability-focused businesses to the city.

While recognizing Berkeley's reputation as a leader in local climate action and sustainability, EBCE looks forward to collaborating with the City on building and vehicle electrification efforts. The City can leverage EBCE's carbon-free electricity and ability to aggregate procurement of DER to reduce emissions and improve air quality, and to lower the upfront costs associated with these technologies. By acting on the recommendations laid out in this report, the City of Berkeley can further build its already well-recognized status as a city leading the way toward a future with improved quality of life for all its residents, businesses, and visitors.

Appendix A: Municipal Fleet Assessment

The units that can be transitioned to battery electric vehicles (BEV) and plug-in hybrid vehicles (PHEV) were identified by assessing the current fleet composition, identifying applicable electric vehicle models available today and expected to be introduced in the near term, and by using the City Fleet Services' existing vehicle replacement plan. Development of this report was supported by data provided by the City and supplemental information gathered during meetings and interviews. Table 1 summarizes the City's municipal fleet as it existed on February 21, 2020. The fleet includes 346 vehicles (excluding vehicles used for emergency services and response and off-road maintenance), of which only about 25% are capable of electrification today.

Table 11: Summary of the City of Berkeley's Fleet by Vehicle Type and Configuration

Vehicle Type	Fuel	Configuration	Number of Vehicles
Cargo Van	Gasoline	Cargo Van	18
Chassis Cab - Aerial Lift	Diesel	Aerial Lift	4
Chassis Cab - Box Truck	Gasoline	Box Truck	1
Chassis Cab - Pickup	Diesel	Pickup	1
Chassis Cab - Pickup	Gasoline	Pickup	1
Chassis Cab - Specialized Body	CNG	Sweeper	2
Chassis Cab - Specialized Body	Diesel	Chipper	2
Chassis Cab - Specialized Body	Diesel	Crane Truck	1
Chassis Cab - Specialized Body	Diesel	Dump	5
Chassis Cab - Specialized Body	Diesel	Dump/OVHD Loader	1
Chassis Cab - Specialized Body	Diesel	Road Patching Truck	2
Chassis Cab - Specialized Body	Diesel	Sweeper	4
Chassis Cab - Specialized Body	Diesel	Vactor Truck	3
Chassis Cab - Specialized Body	Gasoline	Container Handler	2
Chassis Cab - Specialized Body	Gasoline	Dump	5
Chassis Cab - Specialized Body	Gasoline	Sign Truck	1
Chassis Cab - Stake bed	Diesel	Stake bed	2
Chassis Cab - Utility Truck	Diesel	Utility Truck	3
Chassis Cab - Utility Truck	Gasoline	Utility Truck	22
Cutaway - Box Van	Gasoline	Box Van	1
Cutaway - Pass Van	Gasoline	Passenger Van	1
Cutaway - Shuttle Bus	Gasoline	Shuttle Bus	5
Cutaway - Step Van	Gasoline	Step Van	1
Cutaway - Van	Gasoline	Van	2
Passenger Car	CNG	Passenger Car	1
Passenger Car	Gasoline	Passenger Car	72
Passenger Van	Gasoline	Passenger Van	3
Pickup	Diesel	Pickup	2
Pickup	Gasoline	Pickup	69
Pickup	Gasoline	4x4	1

Vehicle Type	Fuel	Configuration	Number of Vehicles
Scooter	EV	Scooter (Go 4)	2
Scooter	Gasoline	Scooter (Go 4)	28
Semi-tractor	Diesel	Semi-tractor	8
SUV	Gasoline	SUV	26
Refuse Collection Vehicle	CNG	Front Loader	4
Refuse Collection Vehicle	Diesel	Front Loader	6
Refuse Collection Vehicle	CNG	Rear Loader	7
Refuse Collection Vehicle	Diesel	Rear Loader	7
Refuse Collection Vehicle	CNG	Roll-on/Roll-off	2
Refuse Collection Vehicle	CNG	Side Loader	5
Refuse Collection Vehicle	Diesel	Side Loader	6
Van	Gasoline	Van	7

Availability of Electric Vehicles

The City of Berkeley procures vehicles through several negotiated contracts including those from Sourcewell, Climate Mayors EV Fleet Purchasing Collaborative, and Houston-Galveston Area Council (HGAC). Contracts enable public and private fleets across the country to negotiate discounted rates based upon buying large numbers of vehicles. Table 2 lists the base cost (excluding tax, extra keys, and other fees) of light-duty BEVs and PHEVs available from National Fleet Auto Group, the company that manages many individual negotiated contracts.¹⁸

Table 12: EVs and PHEVs at National Fleet Auto Group

Make/Model	Body Type	Technology Type	EV Range	Total Range	Contract Unit Price
Mitsubishi Outlander	PHEV	SUV	22	310	\$31,219
Chrysler Pacifica	PHEV	Minivan	32	520	\$39,514
Toyota Prius Prime	PHEV	Mid-size Sedan	25	640	\$26,096
Ford Fusion Energi	PHEV	Mid-size Sedan	26	610	\$27,968
Kia Niro LX*	PHEV	Small Station Wagon	26	560	\$25,706
Kia Optima	PHEV	Mid-size Sedan	29	610	\$29,450
Hyundai Ioniq	PHEV	Mid-size Sedan	29	601	\$22,950
Honda Clarity	PHEV	Mid-size Sedan	47	293	\$34,219
Chevrolet Bolt	BEV	Small Station Wagon	259	259	\$33,987 ¹⁹
Nissan Leaf Plus	BEV	Mid-size Sedan	226	226	\$34,256 ³
Kia Soul	BEV	Small Station Wagon	111	111	\$27,762

¹⁸ <https://www.nationalautofleetgroup.com/>

¹⁹ Provided by Greg Ellington

Make/Model	Body Type	Technology Type	EV Range	Total Range	Contract Unit Price
Hyundai Ioniq	BEV	Mid-size Sedan	124	124	\$26,939
VW e-Golf	BEV	Compact Sedan	125	125	\$32,285

**The Kia Niro is also available as a BEV but is not listed on the National Auto Fleet Group contract.*

As a point of comparison, the City purchased 15 Toyota Prius Prime PHEVs between October 2019 and January 2020 at a cost of \$28,147 each using Climate Mayors EV Fleet Purchasing Collaborative.

Electric medium and heavy-duty trucks for municipal fleet applications, which include pickup trucks and cargo vans, are in earlier stages of commercialization than electric sedans and small wagons. Cities across the U.S. have deployed pilot projects to understand operational requirements of medium and heavy-duty vehicles for fleet use cases that include transit and shuttle buses, cargo vans, refuse trucks, and other types of work trucks, but limited data is yet available on their performance, reliability, and cost of ownership.

Emergency vehicles for police patrol and pursuit, firefighting, and emergency medical services are not available in plug-in models. The Fremont California Police Department is testing a Tesla Model S as a patrol vehicle and reports that it behaved favorably with considerably less downtime than the Ford Explorer Utility Interceptors that are most of the Fremont's patrol vehicle fleet. The Department reports that it typically purchases Explorers (Utility Interceptors) for \$48,114 and expects to purchase the \$47,960 Ford Hybrid Explorer Hybrid police purpose-built in the future. However, the base price doesn't include upfits that can double the cost of a police vehicle.²⁰

Although upcoming EVs like the Ford Mustang Mach E and Tesla Model Y will likely have sufficient interior capacity, battery range, and performance to the Ford police cars currently purchased, these EVs are not pursuit rated and do not have the suspension and security features that are standard on a patrol vehicle, nor are they pre-drilled for mounting lightbars, sirens, and safety equipment. None of the automakers that build police-specific vehicles have announced a plug-in version.²¹

Rosenbauer, an Austrian company, has a concept EV fire vehicle called the CFT that is smaller than a traditional U.S. firetruck.²² The City of Los Angeles recently ordered a CFT, which will be the first in the U.S. Electric "ambulances" in service and planned are sedans that have been retrofitted to provide aid at an incident; they are not capable of transporting patients in the same way an ambulance transport patients. None of the manufacturers that make firetrucks and ambulances have announced plans to electrify these vehicles.

²⁰ Upfits include lightbars, sirens, computer equipment, ballistic doors, molded rear seats, and a more than a dozen other police-specific features.

²¹ Ford announced a PHEV patrol sedan but released the car as "special services" sedan not rated for patrol or pursuit.

²² <https://innovation.rosenbauer.com/en/concept-fire-truck/>

Fleet Electrification Transition

Passenger Sedans and SUVs

As of February 2020, the City's light-duty fleet of passenger sedans (or cars) and SUVs (excluding vehicles used for emergency services and response) consisted of:

- 75 passenger sedans
 - 54 gasoline-powered hybrid internal combustion engine vehicles (ICEs) purchased between 2002 and 2017
 - 15 PHEVs purchased in late-2019 and early-2020
 - 5 gasoline-powered ICEs purchased 1999-2008
 - 1 natural gas-powered car purchased in 2003
- 24 Ford Escape SUVs purchased 2009-2015
 - 7 gasoline-powered hybrid ICEs
 - 17 gasoline-powered ICEs
 - 5 of these have four-wheel drive (4WD)

In February, the City did not use fleet management software or track data about individual vehicle use. The City's Equipment Maintenance Division of the Public Works Department planned to implement GPS tracking (telematics) on some vehicles in mid-2020. With this implementation, real-time service alerts and diagnostic information will be available so that departments can understand each vehicle's daily use, including origin/destination, number of miles traveled, the time parked between uses, and driver behavior that can impact fuel efficiency, including average vehicle speed and amount of idling time.

To identify an EV replacement schedule, the consultant team used data received from the City on the non-emergency passenger sedans and SUVs that shows all except two fleet vehicles have an average daily fuel use of less than one gallon of gasoline, which indicates that vehicles are driven less than 30 miles per day. The two exceptions are Ford Escape SUVs, one from Engineering and one from Meter Repair, that show an average daily fuel use of about 2.5 gallons of gasoline. Of the 97 passenger sedans and SUVs, 75 have a dwell time of 12 hours or longer. Telematics data will help determine if the vehicles are parked overnight or are parked for a few hours between use. In addition, a new Fuel Management System is expected to be installed in all City vehicles beginning in Spring or Summer 2020. It is a passive system that is not dependent on user input and will improve the accuracy of each vehicle's fuel use data.

The City schedules vehicle replacement 7, 10, or 15 years from the purchase date, although some vehicles are kept longer than planned. Based on the current vehicle replacement schedule, the year-by-year summary transition to EVs is listed in Table 4. It is recommended that each passenger sedan be replaced with a BEV and each SUV be replaced with a PHEV SUV. It is assumed that vehicles purchased in 2020 will be replaced in 2031.

Table 13: Procurement Schedule for Passenger Sedans and SUVs

Year	Number of BEV Passenger Sedans/Wagons	Number of PHEV SUVs
2020*	1	0
2021	29	3
2022	10	8
2023	3	1
2024	4	1
2025	4	0
2026	11	0
2027	6	0
2028	3	0
2029	0	0
2030	1	0

*Vehicles the City procured in January and February 2020 or are scheduled to be procured in 2031 do not appear in this table.

Since November 2019, the City added 12 passenger vehicles to its fleet to accommodate growing service needs. Fleet requested that this report assume that the City will use data from the new telematics platform to help each department determine if vehicles could be shared among staff and/or departments without impacting City services and, therefore, guide vehicle procurement and retirement practices that may not result in one-for-one replacements. The goal is to be able to expand City services without adding more vehicles to the fleet.

Based on the limited data available about vehicle use patterns, the consultant team identified the following potential right-sizing opportunities that the City can validate with telematics data and in consultation with interdepartmental leadership:

- Seven pool vehicles are scheduled to be replaced in 2021. All use less than 0.75 gallons of gasoline daily, on average, and could be replaced with a small BEV wagon like the Chevrolet Bolt, which the U.S. Environmental Protection Agency classifies as a small wagon and can meet the use case of these fleet vehicles. Replacing all seven vehicles with a Bolt would give each vehicle the same cargo capacity.
- The Equipment Maintenance Corp Yard division has two Ford Escape Hybrids scheduled to be replaced in 2021. Both use less than 0.15 gallons of gasoline daily, on average, and are listed as Special Purpose. The City can consider, based on telematics data, whether reducing the number of vehicles to one, or replacing one or both SUVs with a small BEV wagon (Chevrolet Bolt) or BEV sedan (Nissan Leaf) will enable Berkeley to retain the functionality of these vehicle use cases.
- In 2021 and 2022, four of the SUVs scheduled to be replaced use less than 0.25 gallons of gasoline daily, on average. These vehicles are used (one each) by the Office of Transportation, Library Services, Parks Facilities, and Engineering. The City can consider, based on telematics data, if replacing the SUVs with a small BEV wagon (Chevrolet Bolt) or BEV sedan (Nissan Leaf) will enable Berkeley to retain the functionality of these vehicle use cases.
- Five of the Ford Escape SUVs scheduled to be replaced in 2022 are 4WD. The Mitsubishi Outlander is currently the only 4WD PHEV available in the market. If 4WD is not essential for these vehicles, consider replacing with a Chevy Bolt or Nissan Leaf.

- Building and Safety currently operates 10 gasoline-powered hybrid ICE cars that are not dedicated to a special use and each use less than 0.5 gallons of gasoline daily on average. Five of these hybrids are scheduled to be replaced in 2021 and 2022, and the other five between 2024 and 2026. Optimizing vehicle use within the department could allow for the creation of a smaller pool of shared vehicles by 2024, when they are scheduled for replacement.

Table 14 is an itemized list of the passenger sedans and SUVs in the fleet in February 2020 sorted by replacement year and a recommended replacement type. This list does not include the 15 PHEVs already purchased in 2020 and are unlikely to be replaced before 2030. Additionally, six vehicles that are scheduled to be replaced in 2021 (unit numbers 8457, 9103, 9104, 9116, 4110, 9017) will be replaced with Chevy Bolts in 2020, pending approval of a Bay Area Air Quality Management District (BAAQMD) grant application.

Table 14: Itemized Vehicle Replacement List

Chassis	Unit #	Mk	Model	Type	Year	Dedicated Use	Division	Fuel Use	EV Fraction	Replace In	Replace with
Sedan	9102	Hon	Civic	Hybrid	2003	New Employees	Engineering	0.27	100%	2020	BEV sedan
Sedan	478	Frd	Taurus	Wagon	1999	Pool Vehicle	Equip Maint Pool	0.37	100%	2021	BEV small wagon
Sedan	489	Frd	Taurus	Wagon	1999	Pool Vehicle	Equip Maint Pool	0.67	100%	2021	BEV small wagon
Sedan	4011	Toy	Prius	Hybrid	2011	Special Purpose	Bldg & Safety	0.11	100%	2021	BEV sedan
Sedan	4108	Toy	Prius	Hybrid	2009		DHS Admin	0.15	100%	2021	BEV sedan
Sedan	6404	Frd	Fusion		2011		Comm Collection	0.13	100%	2021	BEV sedan
Sedan	6900	Hon	Civic	CNG	2003		Marina Operations	0.60	100%	2021	BEV sedan
Sedan	8192	Hon	Fit		2008	Special Purpose	Portable Meals	0.24	100%	2021	BEV sedan
Sedan	8457	Hon	Civic	Hybrid	2003	Special Purpose	FYC PROGAM	0.11	100%	2021	BEV small wagon
Sedan	8518	Frd	Focus		2001		South Berkeley Senior	0.51	100%	2021	BEV sedan
Sedan	9011	Toy	Prius	Hybrid	2002		Equip Maint Pool	0.52	87%	2021	BEV small wagon
Sedan	9013	Hon	Civic	Hybrid	2003		Equip Maint Pool	0.81	55%	2021	BEV small wagon
Sedan	9103	Hon	Civic	Hybrid	2003	Pool Vehicle	Equip Maint Pool	0.37	100%	2021	BEV small wagon
Sedan	9104	Hon	Civic	Hybrid	2003	Special Purpose	Housing Code Enforcement	0.18	100%	2021	BEV small wagon
Sedan	9106	Toy	Prius	Hybrid	2006	Code Enforcement	Housing Code Enforcement	0.16	100%	2021	BEV sedan
Sedan	9107	Toy	Prius	Hybrid	2006		Comm/ Radio's	0.50	90%	2021	BEV sedan
Sedan	9108	Toy	Prius	Hybrid	2006		Equip Maint Corpyrd	0.30	100%	2021	BEV sedan
Sedan	9109	Toy	Prius	Hybrid	2006		Equip Maint Pool	0.42	100%	2021	BEV small wagon
Sedan	9110	Toy	Prius	Hybrid	2006		Equip Maint Pool	0.26	100%	2021	BEV small wagon
Sedan	9111	Toy	Prius	Hybrid	2006		Parking Enforcement	0.31	100%	2021	BEV sedan
Sedan	9112	Toy	Prius	Hybrid	2006	Inspector	Building & Safety	0.16	100%	2021	BEV sedan
Sedan	9116	Toy	Prius	Hybrid	2010		Neighborhood Svc's	0.20	100%	2021	BEV small wagon
Sedan	9117	Toy	Prius	Hybrid	2011		DHS Admin	0.27	100%	2021	BEV sedan

Chassis	Unit #	Mk	Model	Type	Year	Dedicated Use	Division	Fuel Use	EV Fraction	Replace In	Replace with
SUV	1966	Frd	Escape	Hybrid	2009		Fire Training	0.87	55%	2021	PHEV SUV
SUV	2906	Frd	Escape	Hybrid	2009	Special Purpose	Equip Maint Corp yrd	0.13	100%	2021	BEV small wagon
SUV	4110	Frd	Escape	Hybrid	2008		Equip Maint Pool	0.62	79%	2021	BEV small wagon
SUV	6889	Frd	Escape		2008		Street Light Maint	1.34	72%	2021	PHEV SUV
SUV	6890	Frd	Escape	Hybrid	2009	Special Purpose	Equip Maint Corp Yard	0.06	100%	2021	BEV small wagon
SUV	9017	Frd	Escape		2009		Engineering	2.50	39%	2021	BEV small wagon
SUV	9115	Frd	Escape	Hybrid	2009	Assigned	Engineering	0.21	100%	2021	BEV small wagon
SUV	9604	Frd	Escape		2013		Trans/Disp Svc's	1.02	95%	2021	BEV small wagon
SUV	9605	Frd	Escape		2014	Special Purpose	Office of Trans.	0.16	100%	2021	BEV small wagon
Sedan	4805	Toy	Prius	Hybrid	2012		Comm/ Radio's	0.32	100%	2022	BEV sedan
Sedan	8506	Toy	Prius	Hybrid	2012		Building & Safety	0.32	100%	2022	BEV sedan
Sedan	8507	Toy	Prius	Hybrid	2012		Building & Safety	0.46	99%	2022	BEV sedan
Sedan	8508	Toy	Prius	Hybrid	2012		Building & Safety	0.30	100%	2022	BEV sedan
Sedan	8509	Toy	Prius	Hybrid	2012		Building & Safety	0.54	84%	2022	BEV sedan
SUV	1973	Frd	Escape		2013	Fire	Fire Prev/Insp/ Invest	0.50	100%	2022	PHEV SUV
SUV	1974	Frd	Escape	4WD	2013		Fire Operations	0.59	100%	2022	PHEV SUV
SUV	1975	Frd	Escape		2013		Fire/Supp/Rescue /Haz	1.10	88%	2022	PHEV SUV
SUV	1976	Frd	Escape	4WD	2013		Fire Operations	1.88	51%	2022	PHEV SUV
SUV	1977	Frd	Escape	4WD	2013		Fire Operations	1.69	57%	2022	PHEV SUV
SUV	2909	Frd	Escape		2013		Meter Repair Admin	2.55	38%	2022	PHEV SUV
SUV	8519	Frd	Escape	4WD	2013		Building & Safety	0.71	100%	2022	PHEV SUV
SUV	8520	Frd	Escape	4WD	2013	Inspector	Building & Safety	0.48	100%	2022	PHEV SUV
SUV	9004	Frd	Escape	Hybrid	2012		Corp Yard Mgmt. Office	1.35	36%	2022	BEV small wagon
SUV	9019	Frd	Escape	Hybrid	2012		Parks Facilities	0.27	100%	2022	BEV small wagon

Chassis	Unit #	Mk	Model	Type	Year	Dedicated Use	Division	Fuel Use	EV Fraction	Replace In	Replace with
SUV	9021	Frd	Escape		2013		Library Services	0.34	100%	2022	BEV small wagon
SUV	9119	Frd	Escape		2013		Engineering	0.99	98%	2022	BEV small wagon
SUV	9120	Frd	Escape		2013	New Employees	Engineering	0.41	100%	2022	BEV small wagon
Sedan	8006	Toy	Prius	Hybrid	2008		ASP	0.64	71%	2023	BEV sedan
Sedan	8007	Toy	Prius	Hybrid	2008		ASP/Crisis	0.63	72%	2023	BEV sedan
Sedan	9123	Toy	Prius	Hybrid	2013	Special Purpose	Vector Control II	0.11	100%	2023	BEV sedan
Sedan	2381	Frd	Escape		2014	Special Purpose	Sewer Maint	0.36	100%	2023	BEV small wagon
Sedan	8510	Toy	Prius	Hybrid	2014		Building & Safety	0.43	100%	2024	BEV sedan
Sedan	8511	Toy	Prius	Hybrid	2014		Building & Safety	0.39	100%	2024	BEV sedan
Sedan	9113	Toy	Prius	Hybrid	2009	Special Purpose	IT ADMIN	0.10	100%	2024	BEV sedan
Sedan	9126	Toy	Prius	Hybrid	2015		Meter Repair	0.20	100%	2024	BEV sedan
SUV	4114	Frd	Escape		2015		Bldg Maint	0.66	100%	2024	PHEV SUV
Sedan	1595	Frd	Fusion	Hybrid	2016		Parking Enforcement	0.24	100%	2025	BEV sedan
Sedan	8009	Toy	Prius V	Hybrid	2015		ASP/FSP	0.80	56%	2025	BEV sedan
Sedan	8010	Toy	Prius V	Hybrid	2015		ASP/FSP	0.71	64%	2025	BEV sedan
Sedan	8521	Toy	Prius V	Hybrid	2015		Building & Safety	0.36	100%	2025	BEV sedan
Sedan	8011	Toy	Prius V	Hybrid	2016		ASP	0.59	76%	2026	BEV sedan
Sedan	8012	Toy	Prius	Hybrid	2016		ASP/Crisis	0.32	100%	2026	BEV sedan
Sedan	8013	Toy	Prius V	Hybrid	2016		ASP/FSP	0.70	64%	2026	BEV sedan
Sedan	8014	Toy	Prius V	Hybrid	2016		Mental Health	0.73	62%	2026	BEV sedan
Sedan	8015	Toy	Prius V	Hybrid	2016	Special Purpose	FYC PROGAM	0.19	100%	2026	BEV sedan
Sedan	8016	Toy	Prius	Hybrid	2016		Mental Health	0.40	100%	2026	BEV sedan
Sedan	8232	Toy	Prius	Hybrid	2016		Tuolumne Camp Trk.	0.48	93%	2026	BEV sedan
Sedan	8512	Toy	Prius V	Hybrid	2016		Building & Safety	0.31	100%	2026	BEV sedan
Sedan	8522	Toy	Prius V	Hybrid	2016		Building & Safety	0.51	88%	2026	BEV sedan
Sedan	9024	Toy	Prius V	Hybrid	2016		Building & Safety	0.25	100%	2026	BEV sedan

Chassis	Unit #	Mk	Model	Type	Year	Dedicated Use	Division	Fuel Use	EV Fraction	Replace In	Replace with
Sedan	9025	Toy	Prius	Hybrid	2016	Special Purpose	Neighborhood Services	0.07	100%	2026	BEV sedan
Sedan	6406	Toy	Prius	Hybrid	2016		ZW Admin	0.17	100%	2027	BEV sedan
Sedan	8017	Toy	Prius V	Hybrid	2017		ASP/Crisis	0.66	68%	2027	BEV sedan
Sedan	9026	Toy	Prius V	Hybrid	2017	Special Purpose	Toxics Management	0.13	100%	2027	BEV sedan
Sedan	9118	Toy	Prius	Hybrid	2012	Special Purpose	FYC Program	0.13	100%	2027	BEV sedan
Sedan	9121	Toy	Prius	Hybrid	2012		ASP/Crisis	0.21	100%	2027	BEV sedan
Sedan	9122	Toy	Prius	Hybrid	2012		ASP/FSP	0.78	58%	2027	BEV sedan
Sedan	9022	Toy	Prius V	Hybrid	2014	Inspector	Health Inspections	0.20	100%	2028	BEV sedan
Sedan	9023	Toy	Prius V	Hybrid	2014	Special Purpose	Toxics Management	0.11	100%	2028	BEV sedan
Sedan	9125	Toy	Prius V	Hybrid	2014		Vector Control	0.24	100%	2028	BEV sedan
Sedan	8008	Toy	Prius	Hybrid	2015		ASP/Crisis	0.37	100%	2030	BEV sedan

Budgeting Considerations for Light-Duty Passenger Vehicles

Based on the negotiated contract rates from National Auto Fleet Group, Table 15 lists the estimated price for EVs, including 9.25% sales tax, additional keys, and other fees and rounded to the nearest dollar, based on the City’s stated preference to standardize on the Nissan Leaf Plus and Chevy Bolt, and includes three options for a PHEV SUV replacement.

Table 15: Average Contract Rates for EVs

Technology Type	Body Type	Make and Model	NAFG Est. Price	EPA Rated All-electric Range	Battery Size (kWh)
BEV	Sedan	Nissan Leaf Plus	\$37,934	226	62
BEV	Small Wagon	Chevy Bolt	\$37,577	259	60
PHEV	SUV	Kia Niro LX PHEV	\$31,505	26	9
PHEV	SUV	Mitsubishi Outlander 4WD	\$40,061	22	12
PHEV	Minivan	Chrysler Pacifica	\$43,578	32	16

Currently, the City is eligible to claim a Clean Vehicle Rebate Program (CVRP) rebate from the State of California for up to 30 EVs per year.²³ It is important to note that CVRP rebates are first-come, first-served and the program’s rebate funding amount must be reauthorized by the state legislature every year. Historically, legislature has annually authorized funding and the California Air Resources Board (CARB) has allocated money to rebate applications that were waitlisted in the previous fiscal year, which reduces the amount of funding for new applications. It is important to note that in the coming years the legislature may allocate less or no funding for CVRP, or only enough funding for the waitlist.

In 2020, BEVs are eligible for a \$2,000 per vehicle rebate and some PHEVs are eligible for a \$1,000 rebate. The Mitsubishi Outlander is not eligible for the rebate because it does not meet the minimum requirement for electric range,²⁴ however the Kia Niro crossover PHEV and the Chrysler Pacifica minivan are eligible for CVPR. The three vehicles are shown in Figure 8.

Figure 8: Kia Niro, Chrysler Pacifica, Mitsubishi Outlander



²³ <https://cleanvehiclerebate.org/eng/fleet>

²⁴ <https://cleanvehiclerebate.org/eng/faqs/why-don%E2%80%99t-i-see-my-vehicle-eligibility-list-0>

Table 16 estimates the cost for replacement vehicles in 2020 through 2025 as recommended in Table 14 for each budget year with the current estimated contracted prices as shown in Table 15. Note that the actual budget will vary based on the contract used, vehicle price, additional options, and changes in sales tax rates.

Between 2023 and 2025 a total of 13 City vehicles are expected to be replaced and it is likely that negotiated contracts will include more EV makes and models at that time. Vehicle costs will continue to be approximately \$30,000-\$35,000 because OEMs are focused on extending battery range rather than incrementally reducing vehicle cost. The consultant team recommends BEVs to replace existing passenger sedans due to the small price difference between PHEV and BEV sedans.

The consultant team recommends PHEVs to replace most ICE SUVs. Gasoline use indicates that most SUVs drive fewer than 30 miles a day, which will be confirmed by telematics data. SUVs will primarily travel on the electricity available from the PHEVs’ batteries, however, the gasoline engine provides flexibility and resiliency needed by these vehicles for emergency response and disaster preparedness.

CARB’s most-recent *Three-Year Plan for CVRP*²⁵ indicates that the existing rebate program may end by 2022 as CARB shifts funding to new, more-targeted equity programs that include Clean Cars 4 All, Financing Assistance for Lower-Income Consumers, and Clean Mobility Voucher Program. Although CVRP rebates may be renewed when CARB updates the *Three-Year Plan for CVRP* in 2021, the consultant team took a conservative approach and did not include the rebates starting in 2023 in Table 7. With that in mind, the City should track the status of CVRP and consider purchasing the four 2023 replacement EVs in 2022, if it appears CVRP rebates will be reduced or concluded in 2022.

As previously noted, the City can currently obtain a maximum of 30 rebates annually through CVRP. The City’s vehicle replacement schedule calls for replacing 32 vehicles in 2021, three of which are potentially Mitsubishi Outlander PHEVs that are not eligible for the rebate but are the only currently available 4WD PHEV SUV.

Table 16: Year-by-Year Budget Estimates to Replace Existing ICE vehicles with EVs

Year	Nissan Leaf Plus @ \$37,934	Chevy Bolt @ \$37,577	Mitsubishi Outlander PHEV @ \$40,061	Potential CVRP rebate	Total Estimated Vehicle Cost
2020	\$37,934 (1)			(\$2,000)	\$35,934
2021*	\$455,208 (12)	\$638,809 (17)	\$120,183 (3)	(\$58,000)	\$1,156,200
2022	\$189,670 (5)	\$187,855 (5)	\$320,488 (8)	(\$20,000)	\$678,043
2023	\$113,802 (3)	\$37,577 (1)			\$151,379
2024	\$151,736 (4)		\$40,061 (1)		\$191,797
2025	\$151,736 (4)				\$151,736

*if awarded the BAAQMD grant, six vehicles schedule to be replaced in 2021 will be replaced in 2020 and will not need to be included in the 2021 budget.

²⁵ <https://ww3.arb.ca.gov/msprog/aqip/fundplan/fy1920fundingplan-appc-rev.pdf>

In its *Annual Energy Outlook*, the Energy Information Agency projects that 300-mile-range BEVs will be upper-tier of the EV market by 2025.²⁶ By 2024, the City will have been acquiring data from the telematics system installed in March 2020 for four years. Data collected on vehicle use patterns and parking behavior will inform and support City and Fleet Services' EV decisions to procure lower-cost BEVs with 100-to-150-mile range for certain use cases or BEVs with 300-miles or more range at a higher price point for other uses cases. Longer-range BEVs may be applicable for municipal sites where deployment of charging infrastructure could be difficult due to space constraints (e.g., BEVs could share charging stations).

Parking Enforcement Scooters

The City operates 30 Westward Industries' gasoline powered GO-4 scooters for parking enforcement activities. During development of this assessment, City staff indicated that the scooters, which have a seven-year lifespan, are easy to maneuver and safely operate. Few companies make vehicles for parking enforcement, and Westward Industries is the only OEM working on an all-electric model. In 2017, the City took delivery of two all-electric GO-4 models. However, after using them in the field, staff found them unsuitable, as reported to City Council on May 14, 2019.²⁷ Therefore, the City recently purchased and put into service 15 gasoline-powered GO-4 scooters to replace older models that were scheduled for retirement.

The two electric GO-4 scooters were reconditioned by the manufacturer, and the City is testing the scooters to gauge their suitability. Scooters will not need to be replaced until 2026, and by then, it is anticipated the all-electric GO-4 will be further in its market development and other electric scooters may be available for this application.

City staff requested a summary of other local government experiences with all-electric vehicles for parking enforcement and security. Two EVs that cities tested, the FireFly scooter and the Mercedes Smart EV, are no longer available. Polaris offers a public safety package for its GEM neighborhood EV that includes an overhead beacon light and lockable trunk storage on the two and four-seat models. City staff previously researched this option and found it unsuitable for City needs.

Cities are also evaluating BEVs in their police fleets primarily for non-pursuit purposes. The City of Los Angeles uses BMW i3 hatchbacks for sworn officers on routine assignments, the City of Huntsville (MD) has two Chevy Bolts for traffic control officers, and the Cities of Pasadena and San Jose leased Chevy Bolts for civilian and sworn officers to use for safety meetings and injury investigations. None of the cities the consultant team spoke with indicated that they purchased or leased EVs specifically for parking enforcement.

²⁶ <https://www.eia.gov/outlooks/aeo/>

²⁷ https://www.cityofberkeley.info/Clerk/City_Council/2019/05_May/City_Council_05-14-2019_-_Regular_Meeting_Agenda.aspx

Medium-duty Vehicles

The City fleet includes 72 medium-duty pickup trucks, mostly Ford F-150, F-250, and Rangers. Of the 72 trucks, 60 pickups may be able to be replaced with an upcoming all-electric Ford F-150 EV. In mid-March 2020, Ford announced will arrive in the U.S. market late-2021 to early-2022. Ford also announced it will have an F-150 PHEV by late-2020, however, the battery is intended to be used for accessories and not motive power.²⁸ It's unknown if the F-150s will have a utility body application, but companies like Motiv Power Systems produce an EV chassis that can be upfitted with a utility body. Motiv's EV-450 is larger than the F-250 and Rangers the City operates today.

In 2019, the City purchased an F-150 for \$39,000. It is likely that the F-150 EV will have a higher price point than its gasoline counterpart, but Ford has not announced pricing. Other pickup trucks are also in development and expected to arrive in 2021-2022, but those are aimed at the luxury market and have MSRPs starting at \$70,000 or re being developed by start-up companies.

As the F-150 EV becomes available, and if incentives bring the cost of the BEV pickups in line with gasoline-powered ICE trucks, the consultant team recommends that the City evaluate up to three BEV pickups on different duty cycles to determine performance, suitability to task, and total cost of ownership.

The City also operates 16 cargo vans, primarily Ford E-250/350 and Connect Transit vans, two of which include a genset for camera operation. Ford, Mercedes, Nissan, and Volkswagen all introduced electric cargo and passenger vans in Europe in 2020 and intend to launch U.S. versions in 2023. Table 17 shows electric vans (passenger and cargo) that are currently available. Production, however, has not kept pace with orders and supplies are very limited.

Lightening Systems vans start at about \$100,000, although incentives can cut the price by half. The Hybrid Voucher Incentive Program (HVIP),²⁹ which provides incentives for medium- and heavy-duty EVs, has incentives up to \$50,000 for zero emission vans, however, the HVIP funds for 2019-2020 have been depleted and new voucher requests are not currently being accepted.³⁰

²⁸ Other companies have announced BEV pickups with starting prices in the \$70,000 range and are aimed at a luxury market. The consultant team did not consider these trucks for fleet use.

²⁹ <https://www.californiahvip.org/how-to-participate/#Eligible-Vehicle-Catalog>

³⁰ <https://content.govdelivery.com/accounts/CARB/bulletins/2699f43>

East Bay Community Energy Fleet Electrification

Table 17: HVIP Incentives for Panel Vans

Model	Make	HVIP Eligible Funds	GVWR	Type	Body Type	Battery Size	Chassis Type
C-Series Logistics	Envirotech	N/A	Class 3 (10,001-14,000 lb)	BEV	Logistics, Standard and Low Roof	106 kWh	Van
Ford Transit LEV60/120 Passenger Van	Lightning Systems	\$50,000	Class 3 (10,001-14,000 lb)	BEV	Ford Transit 350HD Passenger Wagon, 148"	43 kWh	Van
Ford Transit LEV60/120 Passenger Van	Lightning Systems	\$50,000	Class 3 (10,001-14,000 lb)	BEV	Ford Transit 350HD Passenger Wagon, 148"	86 kWh	Van
Ford Transit LEV Cargo	Lightning Systems	\$50,000	Class 3 (10,001-14,000 lb)	BEV	Ford Transit 350HD Cargo Van, 148"	43 kWh	Van
Ford Transit LEV Cargo	Lightning Systems	\$50,000	Class 3 (10,001-14,000 lb)	BEV	Ford Transit 350HD Cargo Van, 148"	86 kWh	Van
eSprinter	Mercedes Benz	N/A	Class 2 (6,001-10,000 lb)	BEV	Delivery	35, 55 kWh	Van
Ford Transit	SEA Electric	N/A	Class 3 (10,001-14,000 lb)	BEV	SEA-DRIVE 70a powertrain	88 kWh	Van
Electric Shuttle Van	Zenith Motors	Delisted 1/30/2020	Class 3 (10,001-14,000 lb)	BEV	Passenger van	51.8 kWh	Van
Electric Shuttle Van	Zenith Motors	Delisted 1/30/2020	Class 3 (10,001-14,000 lb)	BEV	Passenger van	62.1 kWh	Van
Electric Shuttle Van	Zenith Motors	Delisted 1/30/2020	Class 3 (10,001-14,000 lb)	BEV	Passenger van	69 kWh	Van

Model	Make	HVIP Eligible Funds	GVWR	Type	Body Type	Battery Size	Chassis Type
Electric Cargo Van	Zenith Motors	Delisted 1/30/2020	Class 3 (10,001-14,000 lb)	BEV	Cargo Van	51.8 kWh	Van
Electric Cargo Van	Zenith Motors	Delisted 1/30/2020	Class 3 (10,001-14,000 lb)	BEV	Cargo Van	62.1 kWh	Van
Electric Cargo Van	Zenith Motors	Delisted 1/30/2020	Class 3 (10,001-14,000 lb)	BEV	Cargo Van	69 kWh	Van

The consultant team recommends that the City use findings from telematics data to identify cargo vans that might be transitioned to PHEV SUVs, and possibly the Ford F-150 PHEV that may be able to provide power for camera operation without requiring a genset. The team also recommends the City consider evaluating the suitability of an electric cargo van when one becomes available at a price (with HVIP or a similar incentive program) that is cost-competitive with a comparable gasoline-powered ICE vehicle.

Heavy-duty Vehicles

The City fleet has 98 heavy-duty vehicles (Class 3 or higher) that range from special-purpose vehicles like street sweepers and refuse trucks to a variety of utility vehicles and flatbed trucks. Fleet is already implementing electrification for vehicles as it is available, including liftgates, dump beds, and electric power take off systems (ePTOs) that use an electric motor and battery to power onboard equipment like aerial lifts and booms.

The City operates three Ford E450 20-passenger buses for the South Berkeley Senior Center. Several OEMs offer EV shuttle buses that are equipped for paratransit and have up to 120 miles of range, although range is dependent upon several factors including accessories (e.g., wheelchair lifts), operating terrain (e.g., up and down hills), and climate (running the heat or air conditioning.) Lion, an electric school bus OEM, also has an “urban midi bus” in development. The fleet inventory list supplied by the City shows that one shuttle will be replaced in 2020 and two in 2026.

Sacramento Regional Transit purchased nine GreenPower shuttles in partnership with Electrify America at a cost of \$270,000 to \$320,000 each depending on wheelchair lift configuration.³¹ The consultant team recommends that the City replace existing ICE shuttles with EVs. As previously noted, the HVIP program³² provides incentives for medium and heavy-duty EVs. These include up to \$90,000 in incentives for zero emission shuttles, as shown in Table 18. HVIP funds for 2019-2020 have been depleted and new voucher requests are not being accepted.³³ Alternatively, the City may consider a

³¹ March 1 interview with Will Berry from Electrify America

³² <https://www.californiahvip.org/how-to-participate/#Eligible-Vehicle-Catalog>

³³ <https://content.govdelivery.com/accounts/CARB/bulletins/2699f43>

East Bay Community Energy Fleet Electrification

grant program like the upcoming Clean Mobility Voucher Program with CALSTART and GRID Alternatives.³⁴

Table 18: HVIP Incentives for Shuttle Buses

Model	OEM	Vehicle Incentives	Battery	Model Years	GVWR
Gillig 29' ePlus Battery Electric Low Floor Bus	Gillig	\$90,000	296 kWh	2018	Bus < 30'
GreenPower EV Star All-Electric Min-eBus	GreenPower Motor Company	\$90,000	95 kWh	2018-19	Bus < 30'
Lightning Systems Ford Transit 350HD Passenger Bus - 120 Mile Range	Lightning Systems	\$80,000	86 kWh	2018-2019	Bus 20' - 24'
Lightning Systems Ford Transit 350HD Passenger Bus - 60 Mile Range	Lightning Systems	\$80,000	43 kWh	2018-2019	Bus 20' - 24'
Micro Bird D-Series Electric Shuttle Bus	Micro Bird	\$80,000	88 kWh	2019	< 14,000, Bus < 30'
Phoenix Motor Cars ZEUS 300 Passenger Shuttle	Phoenix	\$80,000	105 kWh	2018-2019	14,000 - 26,000, Bus < 30'
Phoenix Motor Cars ZEUS 400 Passenger Shuttle	Phoenix	\$80,000	105 kWh	2019	14,000 - 26,000, Bus < 30'
SEA E-450 EV*	SEA Electric	\$80,000	100 kWh	2020	14,000 - 26,000
SEA F-450 EV*	SEA Electric	\$80,000	136 kWh	2020	14,000 - 26,000
SEA F-550 EV*	SEA Electric	\$80,000	136 kWh	2020	14,000 - 26,000
SEA F-650 EV*	SEA Electric	\$90,000	160 kWh	2020	14,000 - 26,000

³⁴ <https://ww3.arb.ca.gov/msprog/lct/pdfs/cmo-voucher.pdf>

East Bay Community Energy Fleet Electrification

**SEA vehicles can also be configured as a large cargo van or delivery truck.*

The fleet inventory list supplied by the City’s Fleet shows 16 refuse and dump trucks that are scheduled to be replaced in 2020 and 2021. Electric models of these vehicles are currently available in limited supply. For an estimate of the cost, the City of Seattle procured two BYD refuse trucks at \$320,000 each. Furthermore, Fleet staff have feedback from other agencies that the limited range of and long charging time of current EV refuse trucks will not be practical or acceptable for City operations, which includes multiple 88-mile round trips to the Livermore landfill every day.

Table 19 lists the HVIP incentives available for this category of vehicle. As noted above, HVIP funds for 2019-2020 have been depleted and new voucher requests are not being accepted.³⁵ The consultant team recommends that the City prepare to evaluate one refuse truck and/or one dump truck when the Transfer Station is complete and when HVIP funding is replenished or a similar incentive is available.

Table 19: HVIP Incentives for Refuse and Dump Trucks

Model	OEM	Vehicle Incentives	Battery	Model Years	GVWR
BYD 8R Class 8 Refuse Truck	BYD Motors	\$150,000	295 kWh	2018-2019	> 26,000
Phoenix Motor Cars ZEUS 500 Flat Bed Truck	Phoenix	\$80,000	105 kWh	2018-2019	14,000 - 26,000
SEA NPR EV*	SEA Electric	\$80,000	136 kWh	2020	14,000 - 26,000
SEA 195 EV*	SEA Electric	\$80,000	136 kWh	2020	14,000 - 26,000
SEA ACMD 8 EV*	SEA Electric	\$150,000	216 kWh	2020	> 26,000
SEA EXPEDITOR EV*	SEA Electric	\$150,000	216 kWh	2020	> 26,000

**Several of the SEA models can be configured for different uses.*

Other HVIP-eligible vehicles include transit and school buses, delivery and drayage trucks, and food trucks that do not match the needs of the City’s fleet.

For the City’s heavy-duty municipal fleet vehicle use cases, cost-effective EVs are eight-to-ten years in the future, even when accounting for incentives. The consultant team recommends that the City continue to fuel medium- and heavy-duty diesel engine vehicles with renewable diesel. Renewable diesel is produced from plant, animal or other waste products and according to CARB, the full lifecycle emissions of carbon from renewable diesel produced from sustainable sources, which the City is procuring, are more than 60 percent lower than either petroleum diesel or B20 biodiesel. The City’s fleet of on and off-road vehicles and equipment consumes about 265,000 gallons of renewable diesel fuel a year, which has enabled the City to reduce its GHG footprint from petroleum diesel by approximately 74% percent.³⁶

³⁵ <https://content.govdelivery.com/accounts/CARB/bulletins/2699f43>

³⁶ Calculated from U.S. EPA Lifecycle GHG Emissions By Feedstock <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/lifecycle-greenhouse-gas-results>

In addition, the City operates 17 vehicles (15 refuse trucks and two street sweepers) that run on natural gas. Clean Energy, a distributor of natural gas and operator of natural gas fueling stations, is distributing its Redeem renewable natural gas (RNG) to cities that include Santa Monica, Santa Clarita, Midway City, Redondo Beach, Sacramento, Ontario and San Jose. RNG is derived from capturing biogenic methane that is produced from the decomposition of organic waste from dairies, landfills, and wastewater treatment plants. Until the refuse trucks can be replaced, the City might consider procuring RNG.

The consultant team also recommends the City continue to procure vehicles with electric power take off systems (ePTOs) that use an electric motor and battery to power onboard equipment like aerial lifts and booms until low and zero-emission vehicle technologies for this segment are more mature and prices are more competitive.

Appendix B: Electrical Needs and Charging Infrastructure Summary

This report documents existing parking and electrical service conditions at 15 facilities at which the City of Berkeley's fleet vehicles are domiciled (parked overnight) and recommends charging equipment and cost estimates to be implemented in the near term (two-to-five years). Eventual electrification of medium-duty, heavy-duty, emergency response vehicles, and other specialized equipment is treated in more general terms.

Similarly, for facilities that are planned for reconstruction in the medium-to-long-term, such as the Transfer Station, this report provides near-term recommendations for light-duty vehicle charging infrastructure and assumes that medium- and heavy-duty vehicle charging will be accommodated when the facilities are rebuilt or relocated.

For each domicile, the consultant team assessed that parking capacity and layout, the location and capacity of existing electrical service, and any anticipated site-specific constraints to future charging infrastructure installation. Table 20 summarizes near-term recommendations for each site evaluated. To provide back-up power for resiliency, the consultant team included cost estimates for diesel generators at crucial sites, which would be powered by the City's supply of renewable diesel. However, resiliency could be met with on-site solar energy production and storage batteries.

East Bay Community Energy Fleet Electrification

Table 20: Near-term Recommendations for Charging

Facility Name	Facility Location	Energy Needs (kWh/day)	Light-duty Vehicles		Chargers	New Service Req'd	Preliminary Build-Out Costs		
			LDV	C1			L2 (Dual Head)/DCFC	Option 1 Level 2 Only	Option 2 Mobile Only*
Corp Yard	1326 Allston Way	112.74	7	9	4 and 1 DCFC	Yes	\$354,000 (includes 1 DCFC)	-	\$487,000
Berkeley Transfer Station (prior to rebuild)	1201 Second St	49.64	2	3	2	No	\$87,000	-	\$34,000
Berkeley Marina	125/127 University Ave	296.07	33		4	Yes	\$290,000	-	\$204,000
Adult Mental Health Clinic	1521 University Ave	156.74	13		3	Yes	\$135,000		-
Mental Health Clinic	1890 Alcatraz Ave/ 3282 Adeline St	33.29	6		1 or 1 Mobile	Yes	\$147,000	\$45,000	\$34,000
Center Street Garage	2025 Center St	247.81	27	9	28 Dual, 1 Single	NA	Currently installed/Public access	-	-

East Bay Community Energy Fleet Electrification

Facility Name	Facility Location	Energy Needs (kWh/day)	Light-duty Vehicles		Chargers	New Service Req'd	Preliminary Build-Out Costs		
			LDV	C1			L2 (Dual Head)/DCFC	Option 1 Level 2 Only	Option 2 Mobile Only*
Central Library Parking Lot	2031 Bancroft Way	3.38	1		1	Yes	\$149,000	-	\$34,000
Public Safety Building	2100 MLK Jr Way	16.54		2	1	No	\$42,000	-	-
Civic Center	2180 Milvia St	7.19	1		2	No	\$65,000	-	-
Mental Health Clinic	2636/2640 MLK Jr Way	55.66	8		1	NA	\$40,000 1 In Progress/1 Future	-	-
S. Berkeley Senior Center	2939 Ellis St	7.33	2		1	Yes	\$82,000	-	\$34,000
N. Berkeley Senior Center	1901 Hearst Ave	11.84	2		1	NA	\$45,000 In Progress	-	-
Total cost							\$1,216,000	\$180,000	\$827,000

*Note: LDV=Light Duty Vehicle (passenger sedans). Class 1 (C1) includes any vehicle on a truck-style frame with a GVWR of 6,000 lbs or less including SUVs.

Charging Strategy Options

Analysis of the City's existing fleet found that most light-duty vehicles drive between 3 and 63 miles per day with an average usage of 27.1 miles. Considering the relative efficiency difference between gasoline-powered ICE vehicles and BEVs, this translates into approximately 80-kWh of electricity per day on average. In addition, most vehicles are driven during the day and parked overnight at City facilities, which provides ample dwell time for battery charging. The City's stated intention is to standardize its fleet on the Chevy Bolt and Nissan Leaf Plus, which have a 60- and 62-kWh battery, respectively, and well over 200 miles of range. Due to these minimal power requirements coupled with long dwell times for most vehicles domiciled at the City facilities, light-duty BEVs could share chargers or share power loads via a power load management strategy.

Current Charging Options

Currently available charging technologies appropriate to the City of Berkeley's light-duty vehicle fleet needs include the strategies discussed below and summarized in Table 21. The recommended strategies for each site are listed in Table 22.

Dedicated Chargers

The basic way to charge a fleet is with individual chargers dedicated to each vehicle in the fleet. This approach to charging typically requires each fleet vehicle be assigned a parking stall and that each parking stall be equipped with its own charger. Fleets typically use Level 2 chargers to provide greater range and deploy smart chargers to track electrical use by vehicle or department, similar to tracking gasoline consumption. In cases where vehicle use is minimal, BEVs have long-range batteries, and/or long dwell times, Level 1 charging may be an option.

Vehicle operators pick up the vehicle at the assigned stall, manually disconnect the charger before using the vehicle, and later return the vehicle to the assigned stall and reconnect the charging cord. For fleet facilities with on-site staff or an automated parking management system, vehicles could be rotated between stalls because all stalls would be comparably equipped with chargers. For example, the City could potentially implement this approach at the Center Street Garage, which is currently equipped with more chargers than planned fleet EVs; however, the chargers assigned to City vehicles would not be available for public use under this scenario.

Benefits: The primary benefit of this approach is its simplicity and predictability for fleet operators and drivers. It also provides flexibility due to the relative abundance of chargers, allowing for future expansion via implementation of load management systems or other options.

Disadvantages: A ratio of one charger per parking stall or per EV requires numerous charger installations, which is generally inefficient and can potentially be a more-costly approach due to the expense of procuring and installing³⁷ each charger. In addition to the cost, the parking facility is more heavily impacted during the charging infrastructure construction period.

³⁷ Installation costs typically include design, permitting, and electrical service upgrades.

With a one-EV-to-one-charger ratio, the capacity to charge other vehicles is wasted for two reasons: 1) the charger sits idle while the dedicated vehicle is in use, and 2) a fully charged EV in the assigned parking space blocks other vehicles from using the charger.

Operational costs of dedicated chargers can be higher as well. Simultaneously charging multiple EVs at fleet facilities, without managed charging or energy storage incorporated into the system, could result in costly demand charges. This expense is included in PG&E's electricity delivery fees component of customer bills. This cost is different from EBCE's electric generation charge, which helps save the City money on its operating costs while maximizing the utilization of renewable energy.

Network and data costs can also add up over time when smart chargers or third-party load management systems are deployed, and ongoing charger maintenance costs are usually proportionate to the quantity of chargers installed.

General Recommendations: Dedicated chargers generally make the most sense in the following circumstances:

- Locations, such as the Center Street Garage, that are currently equipped with significant quantities of chargers that could be dedicated to a unique parking space/fleet EV. These chargers, however, would not be available to the public when in use by the City's fleet.
- Facilities at which a limited number of EVs are domiciled and ample electrical capacity is available, such as the Central Library parking lot.
- When funds are not constrained.

Dedicated Chargers with Load Management

Load splitting, balancing, or management systems can reduce the maximum power load to avoid or reduce needed electrical service upgrades or utility demand charges. These systems enable fleet operators to control when and how each fleet EV charges.

For example, the company Cyber Switching has a control unit called the EVMC that switches power to multiple chargers in a "round-robin" scenario. A single electrical line can feed multiple chargers and incrementally rotate the current to each charger on a programmable timed basis. The EVMC first polls an individual EV to check its battery status, and if charged, moves on to the next EV in line. Another example, Powerflex, includes sophisticated Adaptive Load Management that incorporates driver inputs and real-time electrical load monitoring to determine which EV will receive a determined amount of electricity and when.

These systems can be paired with Level 2 chargers that are not networked ("dumb" chargers) to upgrade their functionality. Cyber Switching's EVMC spreads the power typically allocated to a single charger to up to four chargers. Powerflex can manage a series of up to 100 chargers while monitoring building loads by reading the power currently in use by all the building's electrical circuits. If additional electric capacity is available, Powerflex will redirect excess electrical capacity to the chargers. Additionally, some charging networks like ChargePoint and Greenlots have dedicated software with customizable algorithms to intelligently share power among networked ("smart") chargers so every EV charges as fast as possible without exceeding the site's rated electrical capacity.

Benefits: The primary benefit of load management is reduction of peak electrical load to reduce or avoid costly electrical service upgrades and PG&E's demand charges.

Disadvantages: Load management requires networked smart chargers, which may have higher capital and/or operating costs and depends on the individual system and quantity of chargers. Third-party load splitting or management systems can operate with non-networked dumb chargers, but the equipment and service require additional capital and data costs.

General Recommendations: Adding load management to dedicated chargers generally makes the most sense in parking facilities with limited power supply where large numbers of heavily utilized EVs with long dwell times are domiciled. This does not apply to most of the City's domicile locations; however, as the City adds more EVs to the fleet, the circumstance could change.

Shared Chargers

At facilities with shared chargers, a minimum number of Level 2 chargers are installed to serve all the fleet EVs domiciled by rotating charger use. This is generally feasible for the City because most fleet vehicles travel relatively few miles per day and are parked and available for charging for at least 14 hours. Not needing to charge their batteries every night means the City's fleet EVs could share chargers by taking turns based on a schedule or depending on a vehicle's state of charge. Additionally, a shared DCFC could supplement shared Level 2 chargers at large City facilities with multiple light, medium and heavy-duty vehicles such as the Corp Yard. In cases where dwell times are limited to only four hours, the anticipated duration of charging would still be sufficient to charge the relatively small number of EVs.

Benefits: The primary benefit of sharing EV chargers is cost reduction. The City can purchase and install a minimum number of chargers and avoid the need to increase facility electrical capacity. An additional benefit is reduced construction related disruption at facilities during charger installation.

Disadvantages: Sharing chargers requires careful management of fleet EVs to ensure that all vehicles maintain a sufficient state of charge for their intended daily use. As more EVs are added to the fleet, it is likely that the City will need to procure and install additional chargers.

General Recommendations: Sharing chargers makes the most sense under the following circumstances:

- Facilities that serve fleet EVs that typically drive less than 40 miles a day and have dwell times longer than eight hours, such as the Corp Yard and Mental Health Clinics.
- Facilities with limited available electrical capacity to avoid the expense of electrical service upgrades.

Shared Chargers with Load Management

This is a variation on shared chargers that incorporates load management to provide flexibility. This could be achieved by networked smart chargers with integral load management or by a third-party add-on system.

Benefits: The primary benefit is to reduce PG&E peak demand charges, potential electric service upgrades costs, and initial investment costs associated with the procurement and installation of

chargers generally (e.g., reduced number of individual units required). This approach is also useful to leverage the constrained electrical capacity of certain sites to install more chargers that would share available electrical load.

Disadvantages: It requires active parking/charging management by City staff and poses a potential risk that fleet EVs may not be sufficiently charged if not managed properly.

General Recommendations: Adding load management to shared chargers makes the most sense at locations like the Transfer Station at which a load management system can serve the four chargers needed near term with a relatively small 40-amp electrical capacity.

Mobile Charging

Mobile or semi-mobile charging is an alternative or complement to fixed EV chargers. These consist of energy storage systems that draw power from the grid then dispense the electricity to EVs when needed. Examples are from Freewire Technologies, which has two mobile charging units, Mobi and Boost; and Danner, which has the Mobile Power Station (MPS). The MPS and Mobi units are equipped with wheels and operator controls, while the Boost is stationary and hard-wired but can be easily disconnected for re-location to another facility.

Each Mobi can charge up to eight light-duty EVs per shift and can be equipped with an optional Hydra unit that simultaneously charges seven vehicles (charging is at Level 1 speed). Boost is a larger unit that has 160 kWh of battery capacity and 120 kW output capable of charging 25 light-duty EVs per shift at 100kW.

Dannar's MPS can charge multiple types of batteries and replicate the function of a mobile generator. The DANNAR 4.00 base configuration comes standard with three 42 kWh Li-Ion battery packs (126 kWh total) and can be easily upgraded with up to nine additional packs for a total of 504 kWh of on-board electricity.

Another example, SparkCharge, is an innovative startup that produces a highly portable, modular DCFC. Its battery-powered chargers snap together like Lego blocks, and provide up to 20 miles of range per battery module. Fleets can use SparkCharge modules to augment short-range EVs or rescue EVs that run out of charge, which avoids the need to be towed to a charger.

Benefits: By being able to accept power from the grid at low voltage and/or during times when electrical demand is low or during the day when grid renewables and/or onsite solar (depending on the City facility) generation is high, mobile energy storage platforms can help to avoid PG&E's demand charges. Other benefits include the ability to:

- Charge additional fleet EVs than the facility's existing power capacity may support.
- Provide backup energy to fleet vehicles during power outages.
- Charge multiple EVs at the same site by moving the charger, rather than moving the vehicles.
- Relocate the charger from one facility to another to address changing needs or to provide flexible charging capacity at non-City owned facilities where fleet EVs may be domiciled.

The Danner Mobile Power Stations can also be outfitted with auxiliary equipment such as lifts or loaders, allowing these units to function as fully electric off-road equipment. Both the Danner and Mobi can also perform the function of a generator by powering electrical equipment where no power outlets are available.

Disadvantages: The main disadvantage of this option is the large upfront costs. Using mobile charging units also requires active parking/charging management by City staff who will need to move the charger to individual fleet EVs and manually connect them. Mobile chargers take up space in the parking lot and staff may not be able to get the unit close enough to the EV in a crowded parking facility. Theft and vandalism may also be a concern at facilities lacking site security.

General Recommendations: Using mobile charging units as an option may make sense at:

- Facilities where power upgrades may be significant due to large numbers of EVs and/or has space constraints make installation of multiple individual chargers difficult. (e.g., Berkeley Marina at 125/127 University Ave)
- Facilities that are leased (e.g., Adult Mental Health Clinic at 1521 University Avenue).
- Facilities where fixed charging infrastructure near term is needed but may not be fiscally responsible because of site redevelopment plans in the future (e.g, Transfer Station) or that will be redeveloped.

The Mobi and the Danner units qualify for a 50% rebate under CARB's CORE³⁸ program.

³⁸ <http://californiacore.org/>

Table 21: Charging Strategy Summary

	Dedicated chargers	Dedicated chargers with load management	Shared chargers	Shared chargers with load management	Mobile charging
Strengths:					
Convenience and simplicity	Yes	Yes	No	No	Yes
Capacity for future fleet expansion	Yes	Yes	No	No	Yes
Reduces peak demand and resulting service upgrades	No	Yes	Yes	Yes	Yes
Reduces capital expenditure from fewer chargers purchased and installed.	No	No	Yes	Yes	Depends on facility scale
Challenges:					
Costs for hardware purchase, installation and load upgrades.	Yes	Yes	No	No	More cost effective for larger facilities
Initial cost of system plus data charges	No	Yes	No	Depends on provider	Yes
Requires active parking/charging management by City staff	No	No	Yes	Yes	Yes
Risk of vehicles not being charged	No	No	Yes	Yes	Yes

Table 22: Facility Recommendation Summary

Domicile	Dedicated connectors	Dedicated connectors with load management	Shared connectors	Shared connectors with load management	Mobile charging
Corporation Yard			8 L2 + 1 DCFC		
Berkeley Transfer Station		4 L2			1 Mobile
Berkeley Marina			8 L2		Possible option: 1 Mobile
Adult Mental Health Clinic					3 Mobile
Mental Health Clinic			2 L2		Possible option: 1 Mobile
Center Street Garage	35 L2 (connectors from existing chargers currently assigned to fleet)				
Central Library Parking Lot	2 L2				
Public Safety Building	2 L2				
Civic Center Building	4 L2				
Mental Health Clinic			2 L2		
South Berkeley Senior Center	2 L2				
North Berkeley Senior Center	2 L2				

Future Charging Technologies

The City should monitor emerging charging technologies and plan for pilot programs/evaluation as these become market ready.

- Inductive charging which can wirelessly charge an EV
- Automated charging which pairs with autonomously operated vehicles are paired with robotic or wireless chargers
- Bi-directional charging provides vehicle-to-grid (V2G), vehicle-to-building (V2B), and vehicle-to-vehicle (V2V) electrical flow.

East Bay Community Energy Fleet Electrification

- V2G would enable surplus EV battery capacity to be sold back to the grid in times of peak grid electrical demand, thereby creating a potential source of revenue for fleets.
- V2B would facilitate sharing of power between the buildings co-located with the fleet parking facility and the vehicles that charge there, allowing buildings to borrow stored electricity from the EV batteries at times of peak building electrical demand, thereby avoiding PG&E's demand charges.
- V2V would allow EVs to transfer power to and from each other's batteries. Since utilization by most City fleet vehicles is well within the battery range of currently available EVs, a substantial surplus power is typically available. This power could be shuffled between vehicles on an as-needed basis, reducing demands on fleet charging infrastructure as well as on the grid.

As these technologies come to market, the costs will be higher than with traditional charging recommended in this report yet may reduce staff time needed to manage charging and, with bi-directional charging, may help balance utility costs.

Appendix C: Distributed Energy Resources Analysis

The purpose of this report is to summarize the potential areas for distributed energy resources (DER) deployment at each of the City of Berkeley's fleet domiciles. DER is defined as onsite solar photovoltaics (solar PV), battery energy storage (BES) and electric vehicle (EV) charging infrastructure. The analyses represent an initial screening that implies the DER deployments identified are favorable and reasonably sized compared to the proposed EV fleet's needs. Performance and costs are meant to be budgetary level, and firm quotes and scopes of work for each location are encouraged to determine the actual capital needs required.

Summary of Recommendations

Twelve domicile location were examined for solar PV and BES deployment, to balance the electrical load from EV charging. Based on our findings, the consultant team recommends that the City consider deploying solar PV and BES systems at the eight locations listed in Table 23.

Table 23: Recommended Solar PV and BES

Location	Existing and Planned Charging Stations	Total Solar PV Capacity (kW DC)	BES Recommendation	Potential Cost for Solar PV + BES
Corp Yard	4 Dual-head Level 2 and 1 DCFC	52.7*	33 kW / 130 kWh	\$423,800
Berkeley Marina	4 Dual-head Level 2	70.5*	75 kW / 300 kWh	\$782,100
Center Street Garage	28 Dual-head Level 2 and 1 Single-head Level 2	168.9*	63 kW / 250 kWh	\$375,000
Central Library Parking Lot	1 Dual-head Level 2	18.8		\$75,200
Public Safety Building	1 Dual-head Level 2	10.8		\$43,200
Mental Health Clinic	1 Dual-head Level 2	60.1*		\$240,400
S. Berkeley Senior Center	1 Dual-head Level 2	7.8		\$31,200
N. Berkeley Senior Center	1 Dual-head Level 2	29.6*		\$118,400

*Already installed or being considered for development via EBCE's Solar + Storage at Critical Municipal Facilities initiative (see below)

Of the recommended locations, five are also being evaluated through EBCE's *Solar + Storage at Critical Municipal Facilities Assessment*, which is funded by a Bay Area Air Quality Management District grant. The goal of this complementary project is to identify critical facilities designated to serve the community in time of emergency throughout Alameda County and size solar PV and BES systems to meet critical loads at those sites. EBCE plans to aggregate the site portfolio into a competitive solicitation Summer 2020 to reduce the cost and complexity of deploying these systems near term for its local government partners.

Three domicile locations, the Adult Mental Health Clinic, Mental Health Clinic, and Civic Center, were excluded from solar PV and BES deployment due to constraints specific to each location discovered during the assessment. The Transfer Station was evaluated to support the LD fleet only, however Solar PV for this size fleet only not recommended. Solar PV and BES should be re-evaluated when the site is rebuilt, and impact of the heavy-duty fleet is assessed at that time.

Solar Potential at City Sites

To offset the electricity consumption of Berkeley's EV fleet, the solar PV potential for each of the primary facilities where vehicles are domiciled was evaluated. Eight of the 12 facilities were found suitable for solar PV for EV fleet charging, while four were found to have site specific constraints precluding solar PV deployment. Solar PV arrays consist of multiple modules, each approximately 17.8 square feet (SF) (5.5-feet x 3.25-feet) and weighing about 40 lbs. The exact size, weight, and electricity output of PV modules will vary by manufacturer however the average electricity output is 300 watts (W) which will produce approximately 16.5 W/SF of area. Panels with more surface area and higher outputs of 350–400 watts (W) are available, but these panels have an equivalent area normalized output of 16.5 W/SF. Roof locations where solar PV are mounted must be able to support the weight of the proposed PV array, which ranges from 650 pounds for a five-kilowatt (kW) array to more than 2,000 pounds for a 15-kW array. Array that use mounting racks must be designed to resist wind-lift, and the underlying roof structure must be more resistant. No structural load analysis was conducted for this project.

At each domicile location, the consultant team analyzed building rooftop and parking carport opportunities.³⁹ This potential is dictated by the overall unobstructed area available to install the solar PV system and orientation of the system to the sun throughout the day with south, southwestern and west facing facades yielding the greatest electricity production. Surface areas with shading caused by architectural details and mechanical equipment and adjacent trees or buildings are not suitable for solar PV systems.

This methodology resulted in array sizing that matched the existing solar PV design at two projects at the Mental Health Clinic at 2636/2640 MLK Jr Way and the North Berkeley Senior Center, resulting in consistency with work previously performed. Once the geometry constraints of the available roof areas were determined, the configuration was entered in the National Renewable Energy Laboratory's (NREL) PVWatts Calculator.⁴⁰ Output from PV Watts was exported as hourly data to combine the performance of the multiple solar PV arrays simulated for each location. The results are summarized in the following sections.

Annual Solar PV Generation

The following provides a brief summary of the conditions for each location where the City's EV fleet will be domiciled, and the result of the solar PV screening. The total generation potential for all sites based on the resources identified is 419.2 kW of solar PV, with 231.3 kW of new capacity recommended. The

³⁹ This analysis did not assess whether roof or other structural upgrades would be necessary at City sites, or approximate costs for those potential upgrades.

⁴⁰ <https://pvwatts.nrel.gov/>

East Bay Community Energy Fleet Electrification

solar PV resource generates an average of 1,753 kWh/day. The current fleet electrification assessment identifies the need to support 1,009 kWh/day of EV charging, indicating that solar PV arrays deployed at some sites could also serve onsite building loads and/or future fleet charging needs, as shown in Table 24.

East Bay Community Energy Fleet Electrification

Table 24: Solar PV Sizing Results and Daily Generation

Facility Name	Facility Location	Overall Assessment	Total Solar PV Capacity (kW DC)	Average Daily Generation (kWh/day)	Average Daily EV Charging Need (kWh/day)
Corp Yard	1326 Allston Way	Replacement of the existing 19 kW solar array with a 30.6 kW using higher output panels. Install new 16.1 kW array over the fuel island, and 6.0 kW covered parking array in the yard parking area.	52.7	195.3	112.74
Berkeley Transfer Station	1201 Second St	Defer array design until site redeveloped. Charging need based on near-term light-duty fleet.	0	0	49.64
Berkeley Marina	125/127 University Ave	Suitable for one rooftop array and one parking lot array.	70.5	297.6	298.93
Adult Mental Health Clinic	1521 University Ave	Existing array is not property of the city. No further solar PV can be deployed.	n/a	n/a	156.74
Mental Health Clinic	1890 Alcatraz Ave/ 3282 Adeline St	No solar PV recommended due to insufficient roof area.	0	0	33.29
Center Street Garage	2025 Center St	Existing 168.9 kW rooftop solar PV array installed. No further solar PV recommended.	168.9	732.4	247.81
Central Library Parking Lot	2031 Bancroft Way	Suitable for one rooftop solar PV array.	18.8	71.0	3.38
Public Safety Building	2100 MLK Jr Way	Suitable for one rooftop solar PV array. Parking areas substantially shaded and not recommended.	10.8	40.8	16.5
Civic Center	2180 Milvia St	Roof structurally unsuitable for deployment. No solar PV recommended.	0	0	6.17
Mental Health Clinic	2636/2640 MLK Jr Way	A 60.1 kW solar PV array has already been designed for the facility. No further solar PV recommended.	60.1	258.7	64.94
S. Berkeley Senior Center	2939 Ellis St	Suitable for one rooftop solar PV array.	7.8	33.6	7.33
N. Berkeley Senior Center	1901 Hearst Ave	A 29.6 kW solar PV array has already been designed for the facility. No further solar PV recommended.	29.6	127.8	11.84
Total			419.2 (231.3 new)	1752.7	1,009.3

Changes in Utility Tariffs and Coincidence of DER Loads

Per California Public Utilities Commission (CPUC) Decision 18-08-013,⁴¹ PG&E will phase out legacy tariff series “A” and “E,” and replace each tariff with a “B” series that reflects the current costs of transmission. Every account will be migrated to the corresponding “B” series rate by March 2021 (e.g., accounts on the A-1 rate will be migrated to B-1; accounts on E-19 will be migrated to B-19, etc.). All ECBE accounts, including those for the City will be impacted by these changes. Table 25 compares the difference in the peak periods from the tariff revision. The “B” rates shift the peak period from midday to late afternoon and early evening, and the peak period will apply year-round.

Table 25: Changes in Peak Utility Period from Tariff Update

Period	“A” & “E” Rates (Current)	“B” Rate (Future)
Summer Period	May 1 – Oct 31	June 1 – Sep 30
Peak	12:00 PM – 6:00 PM M-F	4:00 PM – 9:00 PM All days
Part-peak	8:30 AM – 12:00 PM M-F 6:00 PM – 9:30 PM M-F	2:00 PM – 4:00 PM All days 9:00 PM – 11:00 PM All days
Off-peak	All other hours	All other hours
Super Off-peak	None	None

Period	“A” & “E” Rates (Current)	“B” Rate (Future)
Winter Period	Nov 1 – Apr 30	Oct 1 – May 31
Peak	None	4:00 PM – 9:00 PM All days
Part-peak	8:30 AM – 9:30 PM M-F	None
Off-peak	All other hours	All other hours
Super Off-peak	None	9:00 AM – 2:00 PM All days March – May only

Every rate class has a varying energy charge (\$/kWh) for each of the time periods in Table 3, with the energy rate in the peak period being approximately 30% higher than the off-peak period during the summer months and 15% higher during the winter months. **The variation between on-peak and off-peak energy costs in the “B” series tariffs is not substantially different from the current “A” and “E” tariffs in place today, only the time of the on-peak period has changed.**

⁴¹ https://www.pge.com/tariffs/assets/pdf/adviceletter/ELEC_5499-E.pdf

The rate classes of B-10 and B-19 (for larger facilities) have demand charges in addition to the energy charges for each period. Demand is based on the highest rate of energy consumption in a specified 15-minute period and is charged at a cost per kW (\$/kW). Best management practices to manage this demand from EV fleet charging can include scheduled charging, smart charging (auto scheduling), and discharge from a battery energy storage system coincident with EV charging. These methods can be successful in lowering, but not eliminating the resulting demand charge, and are most effective when applied against fleet charging that occurs on a regular, controlled schedule. Intermittent charging, and locations that support both fleet charging and public charging can have substantial financial impact from demand charges.

Tariff B-10 has one monthly demand charge assessed for the peak power consumption on any 15-minute interval. Tariff B-19 has up to three demand charges separately assessed monthly and added together: one for the peak period, one for the part-peak period, and one for any 15-minute interval in the month. Tariffs B-1 and B-6 do not have demand charges. Table 26 summarizes the peak for each tariff.

Table 26: Tariffs with Demand Components

Demand Component in Tariff	B-1	B-6	B-10	B-19
Peak	No	No	No	Yes
Part-peak	No	No	No	Yes
Any-hour	No	No	Yes	Yes

The impact of all the above components must be considered when determining the value of the solar PV and BES. For simplicity, assumptions are grouped by rate structure. **Due to the impending rate change, the consultant team evaluated each deployment by using the corresponding new “B” tariff and ECBE supply rates, rather than the current utility rate.** Under the new delivery tariff, ECBE would continue to provide the City with its carbon-free electricity supply product, Brilliant 100. Table 27 summarizes the assumptions used to model rates at each fleet domicile location.

East Bay Community Energy Fleet Electrification

Table 27: Utility Modeling Assumptions

Rate	Buildings	Rate Modeling Assumptions
B-1	Berkeley Marina Adult Mental Health Clinic (1890 Alcatraz) Mental Health Clinic	<ul style="list-style-type: none"> No demand component in rate. Solar PV generation and EV charging impacts energy consumption in the period it occurs. Addition of EV unlikely to push facility above 75 kW threshold needed to stay on rate B-1.
B-6	S. Berkeley Senior Center	<ul style="list-style-type: none"> No demand component in rate. Solar PV generation and EV charging impacts energy consumption in the period it occurs. Addition of EV unlikely to push facility above 75 kW threshold needed to stay on rate B-6.
B-10	Corp Yard Berkeley Transfer Station Central Library Parking Lot Mental Health Clinic (2636/2640 MLK) N. Berkeley Senior Center	<ul style="list-style-type: none"> Solar PV reduces any-hour monthly demand. EV charging does not impact demand.
B-19	Public Safety Building Civic Center	<ul style="list-style-type: none"> Solar PV reduces the any-hour monthly demand typically occurring mid-day. EV charging impacts peak and part-peak demand. EV charging does not impact the any-hour demand typically occurring mid-day.
B-19	Center Street Garage	<ul style="list-style-type: none"> Due to observed load building shape, Solar PV does not reduce the any-hour monthly demand that occurs at approximately 8:00 PM. EV charging impacts peak and part-peak demand EV charging impacts the any-hour demand due to building load shape.

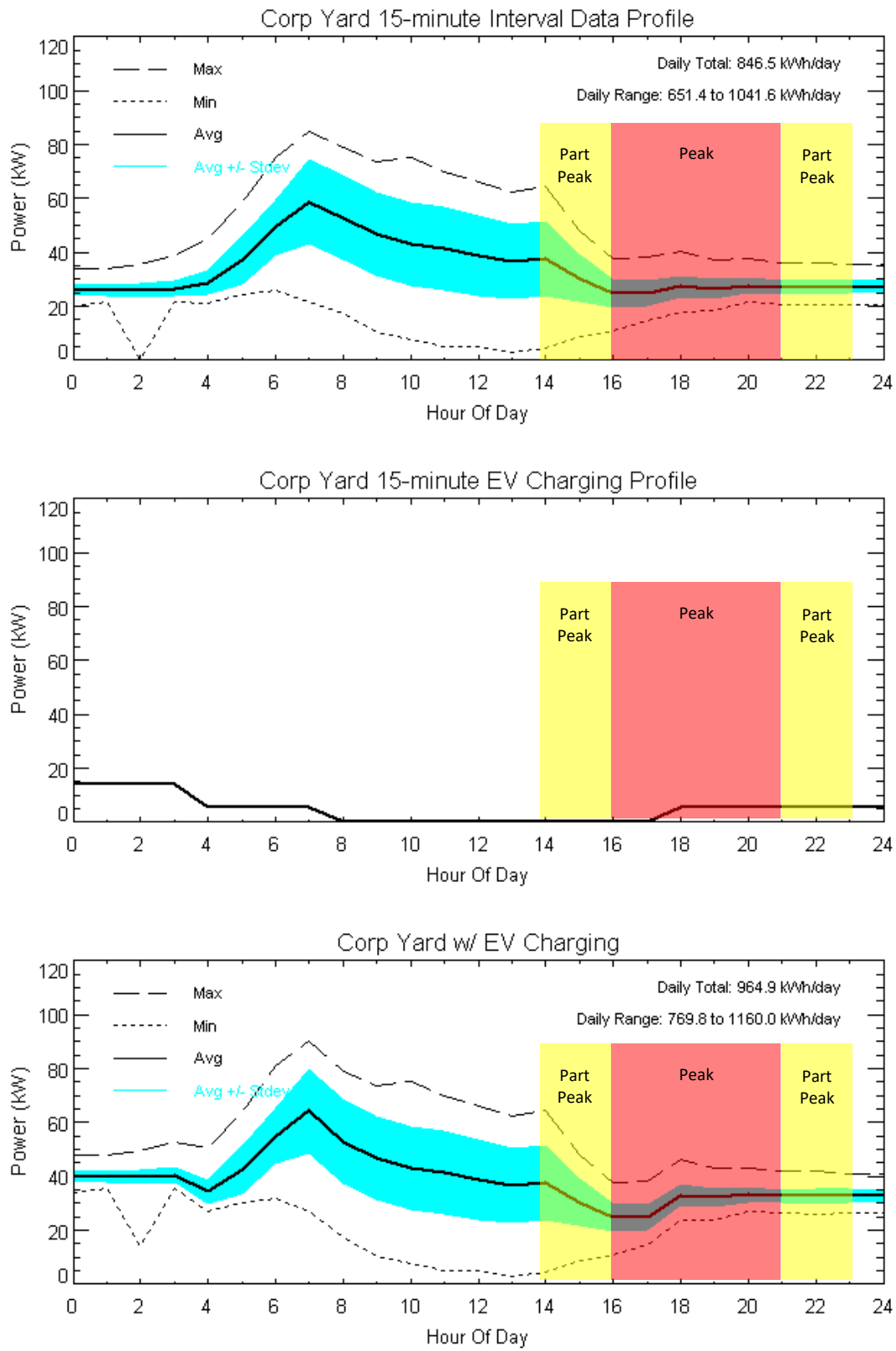
Figure 9 displays the impacts of these assumptions using actual data for the Corp Yard and the stipulated EV charging profile. The Corp Yard peak power occurs at 7:00 AM and decreases throughout the day as the existing solar PV array provides generation. Under the new B-10 rate, the facility has only a single demand charge, which would be largely unchanged from the addition of EV charging. Part-peak and peak-period energy increases from EV charging would occur, as well as off-peak charging for the balance of the evening. Figure 10 shows that under the new tariff, most of the solar PV generation is during the off-peak hours.

Figure 11 shows the impact of EV charging on the Center Street Garage. This facility already has a sizable solar PV array, and limited additional solar PV can be reasonably accommodated. In the original design, there was space for 20 additional panels to be added totaling 7.5 kW DC (4%) additional capacity, however pursuing this capacity should be secondary to establishing solar PV at the other identified locations. This facility will be adversely impacted by the transition to the B-19 tariff. The facility peak occurs during the new peak period, even before EV charging is added. EV charging contributes to the peak-period demand and the part-peak demand. Additionally, the impact of public charging, which may be highly coincident with the new time-of-use peak period is not considered in this study. The Center Street Garage is adjacent to the Theatre District, and therefore may be subject to substantial evening public charging.

Fleet modeling was performed using charging profiles beginning at 6:00 PM each day, to provide a conservative baseline for EV charging costs. The selected examples illustrate the need for smart charging controls or a load management system to regulate the timing of charging outside of the peak period and demonstrates the opportunity to control costs via a BES system. The City should continue to explore these options, as well as coordinate with ECBE to secure further alternatives for energy supply options and demand mitigation throughout the transition of the tariffs.

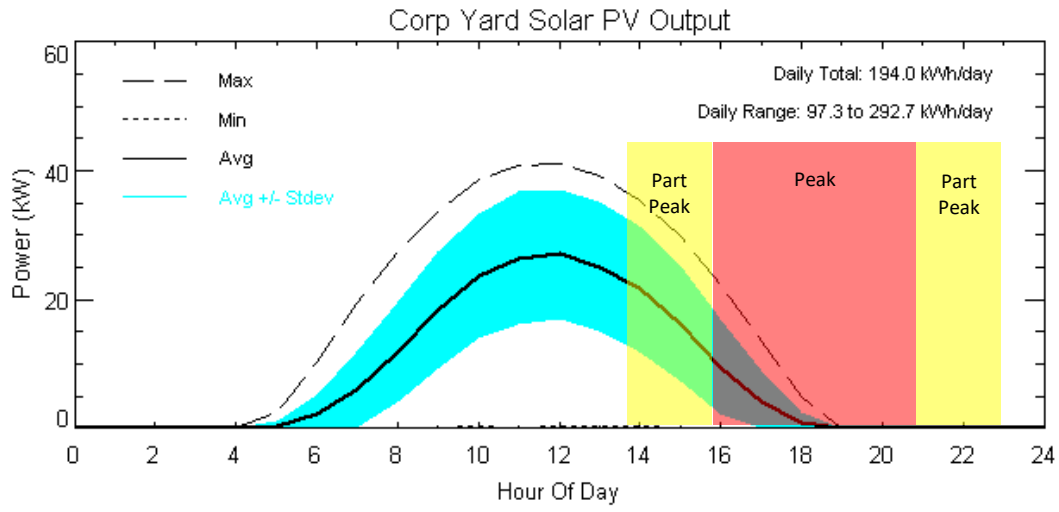
East Bay Community Energy Fleet Electrification

Figure 9: Corp Yard Current Electric Load and Impact of EV Charging (Tariff B-10)



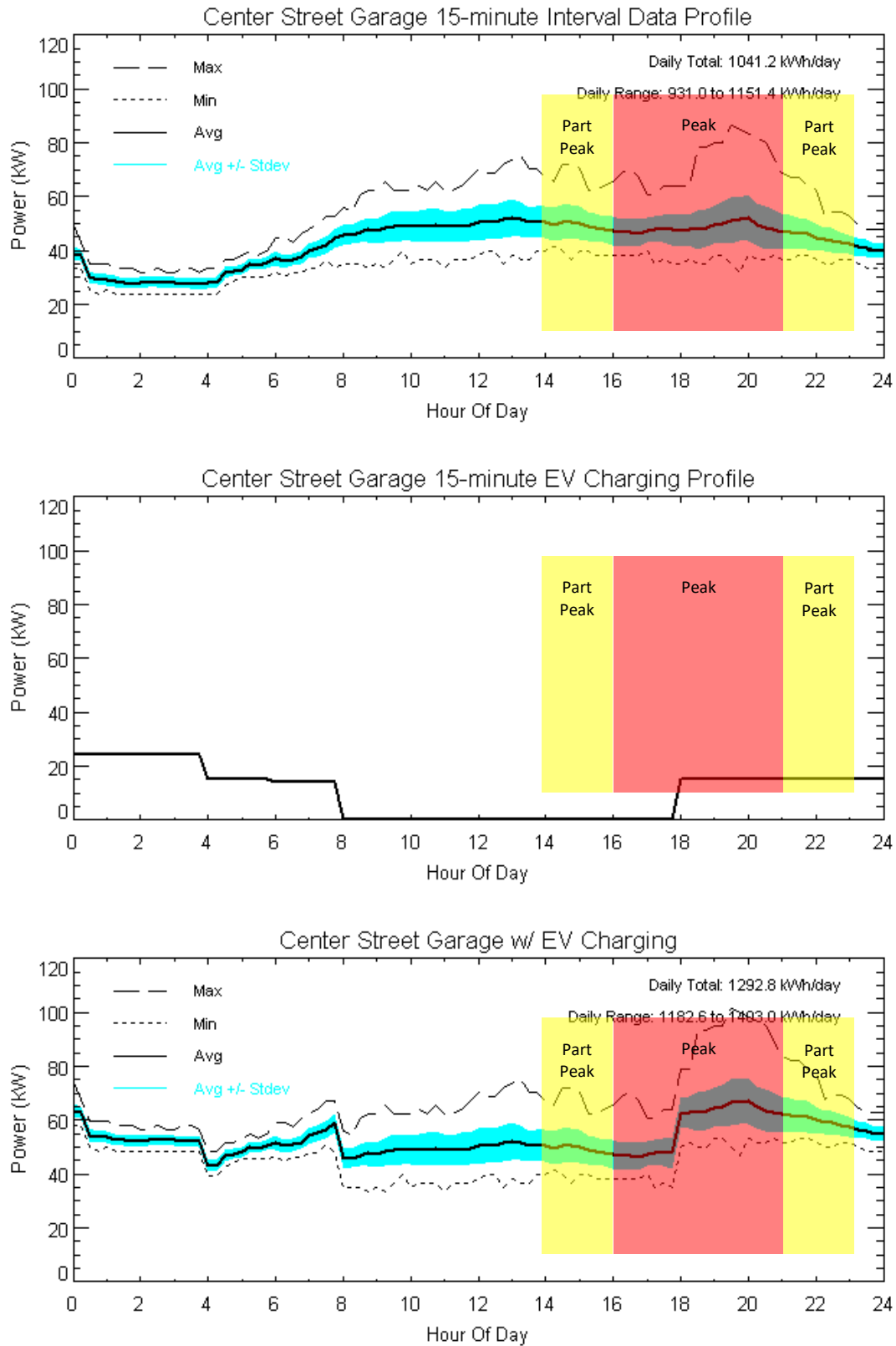
East Bay Community Energy Fleet Electrification

Figure 10: Proposed PV System Performance – Corp Yard (Tariff B-10)



East Bay Community Energy Fleet Electrification

Figure 11: Center Street Garage Current Electric Load and Impact of EV Charging (Tariff B-19) (3/10/2019 – 2/20/2020)



With a large City fleet and public charging potential and substantial deployed solar PV, the rate options for the Center Street Garage should be investigated more deeply. Two rate options are available for this building and have a dramatic impact on utility charges. Option R is for buildings with less than 15% of annual generation produced by on-site solar; and Option S is for buildings with battery storage sized to 10% or greater of peak demand. These options are only available for facilities on the B-19 rate.

These rate options trade lower demand charges during the peak and part-peak period for higher energy charges in those periods. Option S takes the demand/energy trade-off further by introducing an “as-used-daily-demand” charge. This allows the facility to capitalize on days when BES can limit demand without a substantial penalty for missing a day of demand reduction.

Modeling these rate options showed little impact on the cost of charging, however, the influence of the building energy use profile must also be considered. A full load shape study incorporating interval data of the building, and temporary metering data for all EV charging circuits (public or City fleet) should be performed prior to exercising either rate option. The City should continue to engage with ECBE to investigate these rate and load profile studies to ensure the most beneficial rate structures are being utilized.

Value of Solar PV

The value of the solar PV systems modeled was calculated using the applicable ECBE rate for the location and incorporated the impacts of demand and time-of-use costs of energy, where applicable. The time-of-day variation and potential for demand reduction from the prevailing utility rate structure was used to determine the value of the electricity produced from solar PV. This results in the energy generated from solar PV having a much higher value on a \$/kWh basis than the comparable average cost of energy of the baseline building evaluated. The underlying energy profile of the host account was not considered in determining the value of the solar PV generation, nor was limiting the solar PV output in the case of grid constraint or curtailment.

Installation costs for the proposed solar PV arrays were based on typical values for small- to medium-sized systems deployed in the Bay Area. A normalized cost of \$4.00/watt DC was applied to the rooftop arrays, and \$7.00/watt DC was applied to the parking area arrays. Table 28 lists the economic potential from solar PV generation if the electricity is used at the time of generation either as EV charging or as displaced building import energy. Note that all costs are budgetary and need verification from actual scope and industry price quotes prior to proceeding. The City should continue to work with EBCE for all available program dollars and maximize the value of bulk purchase arrangements to reduce this value to the extent possible.

East Bay Community Energy Fleet Electrification

Table 28: Economic Potential from PV Generation

Facility Name	Facility Location	Prevailing Rate	Annual Value of Solar PV Generation	Solar PV System Budget Cost ⁴²	Calculated Payback (years)
Corp Yard	1326 Allston Way	B-10SX Brilliant 100	\$16,833	\$228,800	13.6
Berkeley Transfer Station	1201 Second St	B-10SX Brilliant 100	n/a	n/a	n/a
Berkeley Marina	125/127 University Ave	B-1X Brilliant 100	\$26,219	\$332,100	12.7
Adult Mental Health Clinic	1521 University Ave	B-1X Brilliant 100**	n/a	n/a	n/a
Mental Health Clinic	1890 Alcatraz Ave/ 3282 Adeline St	B-1X Brilliant 100	n/a	n/a	n/a
Center Street Garage	2025 Center St	B-19S Bright Choice	n/a	n/a	n/a
Central Library Parking Lot	2031 Bancroft Way	B-10SX Brilliant 100	\$6,120	\$75,200	12.3
Public Safety Building	2100 MLK Jr Way	B-19S Bright Choice	\$4,269	\$43,200	10.1
Civic Center	2180 Milvia St	B-19S Bright Choice	n/a	n/a	n/a
Mental Health Clinic	2636/2640 MLK Jr Way	B-10SX Brilliant 100	\$22,445	\$240,400	10.7
S. Berkeley Senior Center	2939 Ellis St	B-6 Brilliant 100	\$2,814	\$31,200	11.1
N. Berkeley Senior Center	1901 Hearst Ave	B-10SX Brilliant 100	\$11,043	\$118,400	10.7
Total* (new only)			\$89,743	\$1,069,300	11.9

*Existing systems not included in total

** Account not owned by the City of Berkeley

⁴² Add 25% for engineering and 25% for soft costs if a detailed engineering analysis is needed

Fleet Charging Costs

Costs for fleet charging were computed using the applicable utility rate and the stated assumptions for impact on demand charges. Table 29 summarizes the cost of charging the EV fleet per domicile location, without the support from beneficial solar PV and BES systems. Total electrification of the light duty fleet by 2030 would have a present-day charging cost of \$78,795 at 21.4¢/kWh, calculated from the sum of the EV charging energy (kWh) and the cost of charging (\$) under the governing utility rate for each domicile location.

Table 29: Annual Cost of EV Fleet Charging

Facility Name	Facility Location	Annual EV Energy (kWh/year)	Cost of EV Charging (\$/year)	Average Cost of Fleet Electricity (\$/kWh)
Corp Yard	1326 Allston Way	41,149	\$6,272	\$0.152
Berkeley Transfer Station (near-term light-duty fleet)	1201 Second St	18,119	\$2,906	\$0.160
Berkeley Marina	125/127 University Ave	109,109	\$26,994	\$0.247
Adult Mental Health Clinic	1521 University Ave	57,212	\$14,098	\$0.246
Mental Health Clinic	1890 Alcatraz Ave/ 3282 Adeline St	12,149	\$2,993	\$0.246
Center Street Garage	2025 Center St	90,451	\$19,449	\$0.215
Central Library Parking Lot	2031 Bancroft Way	1,234	\$200	\$0.162
Public Safety Building	2100 MLK Jr Way	6,036	\$690	\$0.114
Civic Center	2180 Milvia St	2,626	\$396	\$0.151
Mental Health Clinic	2636/2640 MLK Jr Way	23,702	\$3,516	\$0.148
S. Berkeley Senior Center	2939 Ellis St	2,675	\$627	\$0.235
N. Berkeley Senior Center	1901 Hearst Ave	4,320	\$655	\$0.152
Total		368,782	\$78,795	\$0.214

Battery Energy Storage Options

Battery energy storage (BES) systems allow for energy from daytime solar PV generation to be time-shifted for use during the evening and nighttime hours. This allows either on-site generated electricity from solar PV or ECBE's carbon-free electricity to be provided during periods when solar PV is not providing generation. BES systems can also be sized for fleet resilience, providing 100% of the fleet's energy needs over the course of a one-day grid outage. Alternatively, a BES system can be downsized to offset EV charging loads only during the peak and part-peak periods to save the City operational costs.

Additional BES capacity larger than that needed to meet the EV charging requirements can be installed to meet building resiliency loads, or to participate in a utility resource adequacy (RA) program. The City should work with ECBE to investigate these options as programs develop.

BES systems are an evolving technology, and new standards in battery chemistry and technology are emerging each day. Presently the standard for battery technology is centered on the lithium-ion (Li-Ion) technology as a widely available, robust energy storage medium. Current best-in-class Li-ion BES technologies have storage durations of approximately four hours, also known as a four-hour resource. Longer duration storage of six-to-eight hours is under development for utility system support, but not currently available as a behind-the-meter resource. This analysis focuses on the four-hour resource.

BES systems are typically installed as either a packaged containerized system or require a dedicated outdoor shelter. The typical footprint of a BES system is approximately 0.17 sf/kWh. A 25 kW / 100-kWh unit would therefore occupy a 170-sf area, plus applicable clearances around the BES system as required by NFPA and local code enforcement, which generally doubles the area needed.

Fleet charging typically starts at the end of staff shifts and persists across the vehicle dwell time or until the EV is fully charged. The start time of charging will need optimization based on the prevailing utility rate structure. With new utility rates dedicated to EV charging, the City should work with ECBE to choose the optimum rate structure for each location and adapt fleet charging times, when feasible, to ensure the most cost-effective charging configuration.

Based on the daily solar PV generation and EV charging needs, Table 30 provides the required BES system sizing and resulting cost to meet 100% of fleet needs with BES for resilience.

East Bay Community Energy Fleet Electrification

Table 30: BES Sizing and Cost – BES Sized for EV Resiliency Meeting 100% of Daily EV Electricity Need

Facility Name	Facility Location	BES Size Required*	Daily Average EV Need (kWh/day)**	BES Potential Cost
Corp Yard	1326 Allston Way	33 kW / 130 kWh	112.74	\$195,000
Berkeley Transfer Station	1201 Second St	To be added during rebuild.	49.65	\$0
Berkeley Marina	125/127 University Ave	75 kW / 300 kWh	298.93	\$450,000
Adult Mental Health Clinic	1521 University Ave	Insufficient space to site BES.	156.74	\$0
Mental Health Clinic	1890 Alcatraz Ave/ 3282 Adeline St	Insufficient space to site BES.	33.29	\$0
Center Street Garage	2025 Center St	63 kW / 250 kWh	247.81	\$375,000
Central Library Parking Lot	2031 Bancroft Way	2.5 kW / 10 kWh	3.38	\$15,000
Public Safety Building	2100 MLK Jr Way	5 kW / 20 kWh (EVs only)	16.5	\$30,000
Civic Center	2180 Milvia St	2.5 kW / 10 kWh	6.17	\$15,000
Mental Health Clinic	2636/2640 MLK Jr Way	20 kW / 80 kWh	64.94	\$120,000
S. Berkeley Senior Center	2939 Ellis St	2.5 kW / 10 kWh	7.33	\$15,000
N. Berkeley Senior Center	1901 Hearst Ave	3 kW / 12 kWh	11.84	\$18,000
Total		258 kW / 1032 kWh		\$1,233,000

*BES sizing based on 4-hour resource

** Daily Average EV need determined in Fleet Assessment and Charging Infrastructure Analysis

The cost of charging in Table 7 is useful for prioritizing the importance of BES deployment at each location where fleet EVs are domiciled. Domicile locations with substantial annual charging costs and higher average costs of energy should be prioritized for initial BES deployment. These locations will benefit the most from the added operational flexibility and the protection from demand charges that BES provides. The Corp Yard, Berkeley Marina, and Center Street Garage all have substantially more charging load and higher costs of energy than the other domicile locations. Facilities with annual charging costs of less than \$3,000 are unlikely to be cost effective for BES deployment, unless the EVs at these locations are critical to providing community services in times of emergency. Table 31 summarizes the locations recommended for BES deployment.

East Bay Community Energy Fleet Electrification

Table 31: BES Sizing and Cost – Recommended Locations

Facility Name	Facility Location	BES Size Recommended	Daily Average EV Need (kWh/day)	BES Potential Cost
Corp Yard	1326 Allston Way	33 kW / 130 kWh	112.74	\$195,000
Berkeley Marina	125/127 University Ave	75 kW / 300 kWh	298.93	\$450,000
Center Street Garage	2025 Center St	63 kW / 250 kWh	247.81	\$375,000
Total		170 kW / 680 kWh		\$1,020,000

Combined Value

The consultant team recommends installing solar PV at the eight locations identified, and augment three of these locations with BES systems for operational flexibility, resilience and demand management. BES at these locations will time-shift excess generation during the day for use during the new evening peak period hours. The Corp Yard and Berkeley Marina, savings from the BES systems assume that all energy from the BES comes from excess on-site solar PV and has a value equal to the grid purchased energy it displaces at the time of use, including applicable demand charge assumption listed in Table 27. Inter-day arbitrage may be possible at the Center Street Garage using the Option S rate rider, however a deeper study into that rate incorporating the impact of the building profile is needed, and the probability of increased savings is uncertain.

Overall, solar PV and BES systems to support EV fleet charging has a total cost of \$2,089,300 as shown in Table 32.

East Bay Community Energy Fleet Electrification

Table 32: Recommended Solar PV + BES Summary

Facility Name	Facility Location	Annual Savings	Solar PV Cost	BES Cost	Payback (years)
Corp Yard	1326 Allston Way	\$13,390	\$228,800	\$195,000	31.7
Berkeley Transfer Station	1201 Second St	\$4,295	\$0	\$0	n/a
Berkeley Marina	125/127 University Ave	\$26,994	\$332,100	\$450,000	29.0
Adult Mental Health Clinic	1521 University Ave	\$0	\$0	\$0	n/a
Mental Health Clinic	1890 Alcatraz Ave/ 3282 Adeline St	\$0	\$0	\$0	n/a
Center Street Garage	2025 Center St	\$19,449	\$0	\$375,000	19.3
Central Library Parking Lot	2031 Bancroft Way	\$6,120	\$75,200	\$0	12.3
Public Safety Building	2100 MLK Jr Way	\$4,269	\$43,200	\$0	10.1
Civic Center	2180 Milvia St	\$0	\$0	\$0	n/a
Mental Health Clinic	2636/2640 MLK Jr Way	\$22,445	\$240,400	\$0	10.7
S. Berkeley Senior Center	2939 Ellis St	\$2,814	\$31,200	\$0	11.1
N. Berkeley Senior Center	1901 Hearst Ave	\$11,043	\$118,400	\$0	10.7
Total		\$110,820	\$1,069,300	\$1,020,000	19.3

Appendix D: Total Cost of Ownership

This report estimates the total cost of ownership (TCO) and greenhouse gas (GHG) emissions to the City from 2020 to 2030 under four electrification scenarios. Four scenarios form the basis of the TCO analysis presented in this report. All scenarios are modeled over an analysis period from 2020 to 2030 for the light-duty fleet.

- Scenario 1. Baseline: This scenario assumes that the City's future light-fleet purchases maintain their existing light-duty vehicle technology composition, replacing each vehicle with a similar new vehicle at the end of the current vehicle's useful life. Traditional internal combustion engine (ICE) vehicles powered by gasoline are replaced with new (ICE) vehicles, standard ICE hybrid vehicles powered by gasoline are replaced with new ICE hybrids, PHEVs are replaced with new PHEVs, etc. Under this scenario, no new DER options are deployed at any fleet location.
- Scenario 2. EV Transition: This scenario considers the transition of the light-duty fleet to both BEVs and PHEVs. Infrastructure costs for EV charging, or Electric Vehicle Service Equipment (EVSE), are included in this scenario, and electricity costs are based on costs of grid electricity supplied by EBCE.
- Scenario 3. EV Transition with Solar PV: Building on Scenario 2, this scenario includes the deployment of solar PV systems at City facilities where fleet vehicles are domiciled.⁴³ Under this scenario, demand costs for EV charging are largely eliminated because the solar PV is generating enough power to offset the vehicle energy need. (This assumes that all solar PV power is for the EVs and none for the building.)
- Scenario 4. EV Transition with Solar PV and BES: This scenario further extends Scenario 3 to include the deployment of BES systems at City facilities described in the Task 2.1 report.

⁴³ As described in the Distributed Energy Resources (DER) Suitability Analysis report.

TCO Methodology and Assumptions

Prior chapter reports are based on an analysis of the City’s existing light-duty fleet on a vehicle-by-vehicle basis and projections of the aggregated electrical loads for each fleet facility, considering the specific vehicles domiciled at each facility. The TCO analysis continues this approach, calculating fleet costs on a vehicle-by-vehicle basis and infrastructure costs on a facility basis. Specific cost components included in the TCO analysis and the basis for their estimated values are discussed below.

Vehicle Costs

Vehicle costs have been developed from historical operational and cost data provided by the City for each vehicle in the fleet. Wherever possible, future replacements of existing vehicles are assumed to maintain the same activity level of the existing vehicle. In some cases, recently deployed vehicles do not have any significant historical operational data upon which to develop activity assumptions. For these vehicles, an average of operational data from similar vehicles domiciled at the same facility is used as the baseline activity data.

Capital and Operational Costs

A description of each cost assessed in the vehicle cost model and the basis for projecting future costs is described below.

Capital Costs (CapEx) – The purchase cost of the vehicle (inclusive of taxes), extended warranties, and additional keys are included. The baseline purchase cost is determined by vehicle type and technology. Costs are estimated using recent procurement prices and estimates reported by the City. For gasoline powered ICE vehicles, compressed natural gas (CNG) sedans and gasoline powered ICE SUVs, no recent purchase price data were available from the City as the City has not bought these vehicles in five years or more. Instead, estimates made are based on escalated prices from prior years. Prices for PHEVs and BEVs are consistent with pricing reported in the Fleet Assessment report. Future year prices are estimated using year-over-year percentage changes from the US Energy Information Administration (EIA) Annual Energy Outlook.⁴⁴ EIA does not project prices for traffic enforcement scooters. Instead, the year-over-year percentage changes for sedans are used as a surrogate for scooter pricing. This recognizes that the City may transition scooters to sedans or small wagons if suitable BEV versions of scooters do not become available before the current fleet of scooters is due for replacement. Prices for CNG SUVs, CNG scooters, HEV scooters, PHEV scooters, and BEV SUVs are not estimated as none of these vehicles are proposed for deployment.

⁴⁴ US EIA, Annual Energy Outlook 2020, “Table 52. New Light-Duty Vehicle Prices”. BEV projections based on “200-mile Electric Vehicle” category. PHEV projections based on “Plug-in 40 Gasoline Hybrid” category. SUV projections are based the “Small Crossover Car” subcategory and Sedans are based on the “Compact Cars” subcategory.

East Bay Community Energy Fleet Electrification

Table 33. 2020 Vehicle Purchase Price Assumptions

Technology	Sedan	Scooter	SUV
Gasoline ICE	\$23,000	\$46,622	\$27,000
CNG	\$23,000	N/A	N/A
Gasoline Hybrid ICE	\$29,876	N/A	\$33,387
PHEV	\$28,147	N/A	\$36,295
BEV	\$34,256	\$57,218	N/A

Operating Costs (OpEx) – This category refers primarily to maintenance and repair costs as other operational costs (fuel, insurance, and registration) are identified separately in this report. Maintenance cost data provided by the City does not show a strong dependence on vehicle technology type or annual mileage. This is not unexpected as most of the City’s vehicles considered in this analysis have low daily mileages, meaning that maintenance costs are based primarily on calendar time rather than accumulated mileage. Because gasoline powered hybrids and PHEVs have internal combustion engines, preventative maintenance related to engine fluids is not eliminated in the way that such maintenance would be eliminated in a BEV. These results are consistent with other municipal fleets. For example, the City of New York reported reduced maintenance costs associated with their BEVs, whereas reported data showed that maintenance costs for gasoline powered ICE vehicles, including both hybrids and PHEVs, varied substantially with no clear trend in cost reductions for the hybrid platforms. Only BEVs showed clear maintenance cost reductions, albeit over less than a full life cycle thus far.⁴⁵ Maintenance reductions reported in the New York data for BEVs ranged from approximately 60% to 90% relative to traditional gasoline powered ICE vehicles. Alameda County cites maintenance cost reductions of 56% for BEVs relative to gasoline ICE vehicles.⁴⁶ Additionally, the City of Minneapolis cites a prior Electric Power Research Institute study estimating maintenance cost reductions of approximately 35% for light-duty BEVs.⁴⁷

For the purposes of this analysis, it is assumed that gasoline hybrids and PHEVs have maintenance costs equivalent to traditional gasoline ICE vehicles and that BEVs provide a 56% maintenance cost reduction. Actual maintenance cost reductions may vary, based on factors such as topography, weather, driver behavior, and vehicle.

Fuel Costs – Fuel prices are escalated from current prices using EIA Annual Energy Outlook 2020 projections.⁴⁸ The average cost of unleaded gasoline (inclusive of taxes) paid by the City in 2019 was \$3.45/gallon. CNG pricing is estimated at \$2.47/gasoline gallon equivalent (GGE) based on average West Coast CNG pricing.⁴⁹ Electricity pricing was estimated based on the facility where the vehicle is domiciled and varies depending on the implementation of DERs at facilities where fleet EVs are domiciled. Table 2 summarizes the estimated cost of electricity for each facility. Without DER infrastructure, costs for fleet charging are computed using the applicable utility rate at each location, as described in the DER

⁴⁵ New York City Department of Citywide Administrative Services, NYC Fleet Newsletter, March 8, 2019. Issue 255.

⁴⁶ Bay Area Climate Collaborative – Ready, Set, Charge Fleets, May 2015.

⁴⁷ City of Minneapolis, Electric Vehicle Study, October 2017

⁴⁸ US EIA, Annual Energy Outlook 2020, “Table 3. Energy Prices by Sector and Source - Pacific Region”.

⁴⁹ US Department of Energy - Alternative Fuels Data Center, Alternative Fuel Price Report, Table 5, January 2020.

Suitability Analysis report. Where DER solutions are implemented, electricity costs are effectively zero because onsite solar PV systems will generate enough power to fully offset fleet energy costs. Additionally, incremental demand charges are not incurred beyond the current site loads due to the use of charging management systems. Note that where BES systems are deployed as recommended the systems provide additional confidence that demand charges can be avoided if charging management systems are unable to consistently avoid incremental demand during peak pricing periods. However, under the assumption that charging management is successfully implemented and avoids incremental demand charges the cost of electricity is the same for sites deploying solar PV only or solar

Table 34. Estimated EV Charging Cost by Facility

Facility Name	Location	Cost of EV Charging (\$/year)	Average Cost of Fleet Electricity (\$/kWh)
Corporation Yard	1326 Allston Way	\$6,272	\$0.152
Berkeley Transfer Station	1201 Second Street	\$2,906	\$0.160
Berkeley Marina	125/127 University Avenue	\$26,994	\$0.247
Adult Mental Health Clinic	1521 University Avenue	\$14,098	\$0.246
Mental Health Clinic	1890 Alcatraz Avenue/3282 Adeline Street	\$2,993	\$0.246
Center Street Garage	2025 Center Street	\$19,449	\$0.215
Central Library Parking Lot	2031 Bancroft Way	\$200	\$0.162
Public Safety Building	2100 Martin Luther King Jr. Way	\$690	\$0.114
Civic Center	2180 Milvia Street	\$396	\$0.151
Mental Health Clinic	2636 Martin Luther King Jr. Way	\$3,516	\$0.148
South Berkeley Senior Center	2939 Ellis Street	\$627	\$0.235
North Berkeley Senior Center	1901 Hearst Avenue	\$655	\$0.152
N/A	Take Home		\$0.240

Fuel economy also impacts total fuel cost. To capture these impacts, EIA projections of fuel economy improvements for light-duty vehicles are applied to the baseline fuel economy of the current fleet vehicle.⁵⁰ When the vehicle is replaced, the fuel economy improvement for the replacement vehicle is calculated relative to the baseline vehicle and adjusted to account for any differences in technology.

Insurance Costs – The City participates in an Excess Liability insurance pool rather than purchasing specific automobile insurance coverage. Consequently, it is difficult to assess the effective cost of insurance on a vehicle-by-vehicle basis. As a conservative estimate, it is assumed that annual insurance costs are 1% of the vehicle purchase price.⁵¹

⁵⁰ US EIA, Annual Energy Outlook 2020, “Table 40. Light-Duty Vehicle Miles per Gallon by Technology Type - Pacific Region”

⁵¹ Per City guidance.

Registration Costs – Vehicle registration fees are calculated based on California Department of Motor Vehicle (DMV) guidelines. A portion of vehicle registration fees is based on the DMV’s estimate of the current market value of the vehicle. Table 35 summarizes the variable fee schedule based on the age of the vehicle. The calculated cost of the variable portion of the registration fee is the percentage of the purchase price for the age of the vehicle in the registration year. A fixed portion of the fee also applies and is currently \$112 for BEVs and \$132 for all other light-duty vehicles.

Table 35. California DMV Vehicle Registration Fee Schedule for Variable Portion of Fee (% of original purchase price)

Age (years)	0	1	2	3	4	5	6	7	8	9	10	11	12
Fee	0.65%	0.59%	0.52%	0.46%	0.39%	0.33%	0.26%	0.20%	0.16%	0.13%	0.10%	0.10%	0.10%

Residual Value – The residual value of the vehicle is calculated using straight-line depreciation over five years for all traditional gasoline and CNG ICE vehicles. Depreciation is calculated over seven years for gasoline powered hybrids, PHEVs, and BEVs per City guidance.

Revenue Opportunities

While fleets typically only present costs to the City, PHEVs and BEVs can generate revenue credits earned through the California Low Carbon Fuel Standard (LCFS) program. These revenue sources partially offset the costs of deploying EVs and are calculated in the TCO model.

Purchase incentives are also assumed to be available to the City through 2023 via the Clean Vehicle Rebate Program (CVRP) at a rate of \$1,000 per PHEV and \$2,000 per BEV. CVRP incentives are calculated in the TCO model as well.

LCFS Credits - The California LCFS program allows fleets to generate credits for the use of low carbon fuels like electricity in transportation applications. One credit is equal to one metric ton of GHG reductions. The number of credits generated by a vehicle depends on the carbon intensity of the electricity supplied, calendar year, and activity of the vehicle. Credit price dependency on calendar year stems from the declining carbon intensity “benchmark” established in the LCFS program. Credit generation is calculated based on the difference between this benchmark and the carbon intensity of the transportation fuel used. Consequently, the number of credits generated per kWh declines approximately ten percent as the benchmark value declines by ten percent between 2020 and 2030. All City fleet facilities currently receive 100% zero-carbon electricity from EBCE. The only leased facility where fleet vehicles are domiciled, the Adult Mental Health Clinic at 1521 University Avenue, is also an EBCE customer.

LCFS credit prices vary and are determined by market demand. The average credit price in 2019 was \$196.⁵² While there is substantial variation in the market price for LCFS credits, credit prices have trended up over the last several years and now sit near the effective price cap of \$219. This price cap is adjusted each year based on the consumer price index using a base price of \$200 in 2016. For purposes of this analysis, it is assumed that the LCFS credit price will continue to be near the price cap through

⁵² California Air Resources Board, Credit Activity Reports.

2030. Hence, the 2019 average price of \$196 is escalated in future years at the average consumer price index increase of 2.2% per year observed between 2016 and 2019.

Infrastructure Costs

Infrastructure costs were developed in the Electrical Needs and Charging Infrastructure and DER Suitability reports. The underlying assumptions and bases for these costs are detailed in the associated reports.

Charging and Associated Infrastructure

EVSE costs include the chargers themselves and the associated facility electrical infrastructure upgrades required to serve the chargers. The cost of BES systems to serve as backup generators in time of grid outages is also included, but detailed separately, as summarized in Table 36. Residual values for both the EVSE and BES systems are calculated based on a 10-year useful life and a construction year of 2021. Residual values use straight line depreciation over the useful life of the equipment. Annual maintenance costs include network services and maintenance by an EVSE service provider. Costs are estimated at \$1,100 per dual-head Level 2 charger and are based on current City contracts for existing EVSE at Center Street Garage, though it should be noted that the City is not bound to contracting with this EVSE provider for future EVSE deployment, and maintenance and service costs vary significantly depending on the provider.⁵³ A single DC fast charger is proposed to be deployed at the Corporation Yard. Maintenance and network costs for DCFCs can vary widely based on site conditions and other factors such as required service response times. Typical maintenance contracts can range from \$2,500 to \$15,000 per charger per year. Additionally, service providers may use complex pricing models that include per-site costs in addition to per-charger costs. For the purposes of this analysis, the maintenance costs for the DCFC are estimated at \$2,500 per charger per year, consistent with a standard maintenance contract that does not include rapid service response times or other special features.

Table 36. EVSE and Related Infrastructure Costs by Facility

Facility Name	Location	Existing EVSE	New EVSE (dual-head L2)	CapEx - EVSE	CapEx-Genset ⁵⁴	Residual Value - EVSE	Residual Value - Genset	Annual Maint. Cost
Corporation Yard	1326 Allston Way	0	5 ⁵⁵	\$354,000	\$487,000	\$35,400	\$48,700	\$6,900
Berkeley Transfer Station	1201 Second Street	0	2	\$87,000	\$34,000	\$8,700	\$3,400	\$2,200
Berkeley Marina	125/127 University Avenue	0	4	\$290,000	\$204,000	\$29,000	\$20,400	\$4,400
	201 University Avenue							

⁵³ Based on Contract 9893B Amendment (Dec 2018) for EVSP services. Average of Y3-Y5 maintenance/network costs. Y1-Y2 include installation costs for new chargers and were therefore excluded.

⁵⁴ Genset refers to a backup generator used to provide power during grid outages.

⁵⁵ 4 Level 2 dual-head chargers and 1 DCFC.

East Bay Community Energy Fleet Electrification

Facility Name	Location	Existing EVSE	New EVSE (dual-head L2)	CapEx - EVSE	CapEx-Genset ⁵⁴	Residual Value - EVSE	Residual Value - Genset	Annual Maint. Cost
	841 Folger Avenue							
Adult Mental Health Clinic	1521 University Avenue	0	3	\$135,000	\$0	\$13,500	\$0	\$3,300
Mental Health Clinic	1890 Alcatraz Avenue	0	1	\$147,000	\$34,000	\$14,700	\$3,400	\$1,100
	3282 Adeline Street							
Center Street Garage	2025 Center Street	29	0	\$0	\$0	\$0	\$0	\$0
Central Library Parking Lot	2031 Bancroft Way	0	1	\$149,000	\$34,000	\$14,900	\$3,400	\$1,100
Public Safety Building	2100 Martin Luther King Jr. Way	0	1	\$42,000	\$0	\$4,200	\$0	\$1,100
Civic Center	2180 Milvia Street	0	1	\$65,000	\$0	\$6,500	\$0	\$1,100
Mental Health Clinic	2636 Martin Luther King Jr. Way	1	0	\$0	\$0	\$0	\$0	\$0
South Berkeley Senior Center	2939 Ellis Street	0	1	\$82,000	\$34,000	\$8,200	\$3,400	\$1,100
North Berkeley Senior Center	1901 Hearst Avenue	1	0	\$0	\$0	\$0	\$0	\$0
Take Home		0	3	\$0	\$0	\$0	\$0	\$0

Solar Photovoltaic Systems

Solar PV system costs are summarized in Table 5. Residual values for solar PV systems are based on the listed construction year. For all locations except Berkeley Transfer Station, the assumed construction year is 2021. Because the Berkeley Transfer Station is currently planned for redevelopment with construction slated for 2026, the construction year for the solar PV system at this facility is also assumed to be 2026. Residual values use straight-line depreciation over the useful life of the equipment, which is assumed to be 20 years.

Table 37. Solar Photovoltaic System Costs by Facility

Facility Name	Location	Construction Year	CapEx	Residual Value
Corporation Yard	1326 Allston Way	2021	\$228,800	\$125,840
Berkeley Marina	125/127 University Avenue	2021	\$332,100	\$182,655
	201 University Avenue			
	841 Folger Avenue			

East Bay Community Energy Fleet Electrification

Facility Name	Location	Construction Year	CapEx	Residual Value
Adult Mental Health Clinic	1521 University Avenue	2021	\$0	\$0
Mental Health Clinic	1890 Alcatraz Avenue	2021	\$0	\$0
	3282 Adeline Street			
Center Street Garage	2025 Center Street	2021	\$0	\$0
Central Library Parking Lot	2031 Bancroft Way	2021	\$75,200	\$41,360
Public Safety Building	2100 Martin Luther King Jr. Way	2021	\$43,200	\$23,760
Civic Center	2180 Milvia Street	2021	\$0	\$0
Mental Health Clinic	2636 Martin Luther King Jr. Way	2021	\$240,400	\$132,220
South Berkeley Senior Center	2939 Ellis Street	2021	\$31,200	\$17,160
North Berkeley Senior Center	1901 Hearst Avenue	2021	\$118,400	\$65,120

Battery Energy Storage Systems

BES system costs are summarized in Table 38. Residual values for BES are based on the listed construction year. For all locations the assumed construction year is 2021. The first generation of BES deployments are assumed to have a five-year useful life, with replacement required five years after the initial construction year.⁵⁶ Second generation deployments are assumed to have a ten-year useful life as battery technology improves. Residual values use straight line depreciation over the useful life of the equipment, which is assumed to be five or ten years, as described above.

Table 38. Battery Energy Storage System Costs by Facility

Facility Name	Location	Construction Year	First Replacement	CapEx	First Replacement Cost	Residual Value
Corporation Yard	1326 Allston Way	2021	2026	\$195,000	\$195,000	\$117,000
Berkeley Transfer Station	1201 Second Street	2026	2031	\$0	\$0	\$0
Berkeley Marina	125/127 University Avenue	2021	2026	\$450,000	\$450,000	\$270,000
	201 University Avenue					
	841 Folger Avenue					
Adult Mental Health Clinic	1521 University Avenue	2021	2026	\$0	\$0	\$0
Mental Health Clinic	1890 Alcatraz Avenue	2021	2026	\$0	\$0	\$0

⁵⁶ Studies indicate 5-to-7-year useful life for current lithium battery technologies at 50% or greater depth of discharge. Casals et al, "Second life batteries lifespan: Rest of useful life and environmental analysis", Journal of Environmental Analysis, Vol 232, February 2019, pgs 354-363. Smith et al, "Life Prediction Model for Grid-Connected Li-ion Battery Energy Storage System" National Renewable Energy Laboratory, presented at 2017 American Control Conference, Seattle, WA, May 24-26, 2017.

Facility Name	Location	Construction Year	First Replacement	CapEx	First Replacement Cost	Residual Value
	3282 Adeline Street					
Center Street Garage	2025 Center Street	2021	2026	\$375,000	\$375,000	\$225,000
Central Library Parking Lot	2031 Bancroft Way	2021	2026	\$0	\$0	\$0
Public Safety Building	2100 Martin Luther King Jr. Way	2021	2026	\$0	\$0	\$0
Civic Center	2180 Milvia St	2021	2026	\$0	\$0	\$0
Mental Health Clinic	2636 Martin Luther King Jr. Way	2021	2026	\$0	\$0	\$0
South Berkeley Senior Center	2939 Ellis Street	2021	2026	\$0	\$0	\$0
North Berkeley Senior Center	1901 Hearst Avenue	2021	2026	\$0	\$0	\$0
Take Home		2021	N/A	\$0	\$0	\$0

TCO Model Results

The TCO model estimates the cost of the Scenario 1 (Baseline), or business as usual, at \$8.34 million over the 2020-2030 analysis period, as shown in Figure 12. Scenario 2 (EV Transition) cost is estimated at \$9.76 million over the same analysis period. The incremental cost of the charging infrastructure (including backup generation) are the primary contributors to the increased cost in this scenario. These costs are partially offset by lower vehicle maintenance costs, incentives, and LCFS program revenues. Additional details are provided in the figures and table below. Scenario 3 adds solar PV systems to Scenario 2 and increases cost by \$170,000. This is due to the offset of most of the additional infrastructure expense through reduced grid electricity costs. Scenario 4 adds BES, resulting in a total cost that is approximately \$3.0 million greater than Scenario 1 (Baseline). This increased cost is the byproduct of the assumption made in prior reports that smart charging (e.g., load management) can effectively avoid electricity demand charges and that the grid acts as energy storage. Under those assumptions BES systems do not provide additional operational cost reductions to offset the incremental costs of BES deployment. However, there may be additional value not quantified in this analysis to the BES systems based on their ability to provide a degree of resiliency to the City’s fleet to ensure continuity of service to the community in time of grid outage.

East Bay Community Energy Fleet Electrification

Figure 12. Total Value Summary by Scenario

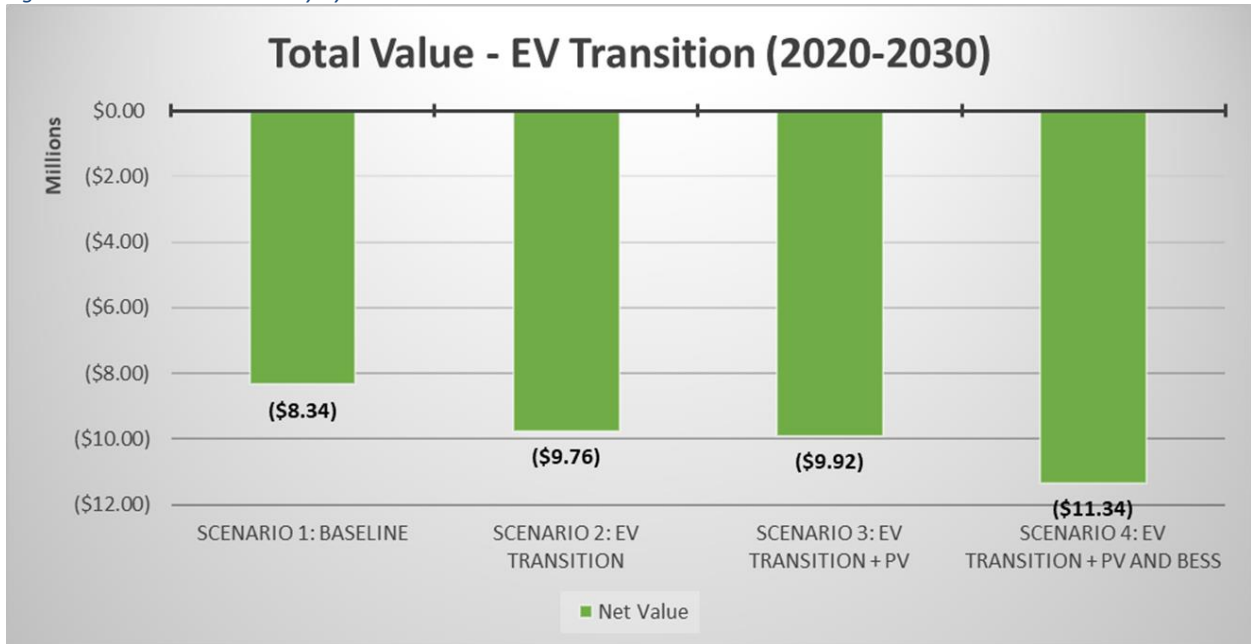


Figure 13 breaks down the major cost components for each scenario. Scenario 1 has the least expenditures, revenue, and residual values. Both Scenario 2 and Scenario 3 have higher upfront expenditures associated with the cost of infrastructure. However, the higher infrastructure costs provide greater residual value, particularly for the solar PV systems that are assumed to have a 20-year useful life. Table 39 further breaks down costs into infrastructure and vehicle categories and the capital and operational cost categories described previously in this report.

Figure 13. Total Value Detail by Scenario

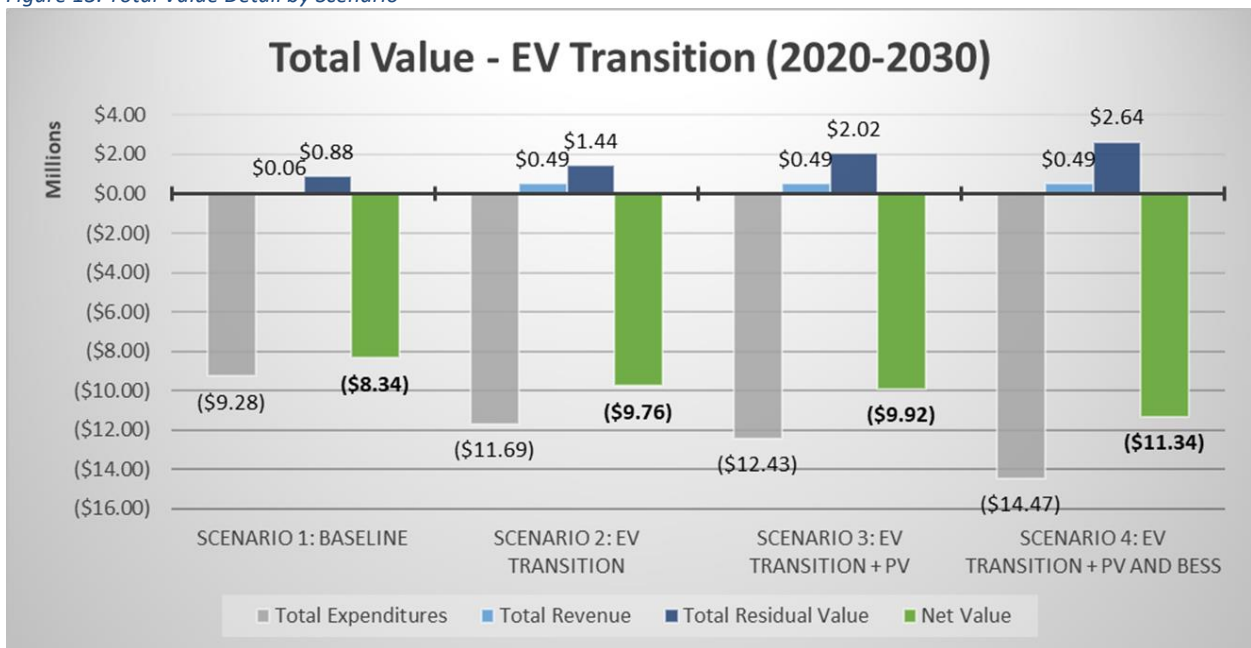


Table 39. TCO Cost Detail

Scenario		Scenario 1 Baseline	Scenario 2 EV Transition	Scenario 3 EV Transition + Solar PV	Scenario 4 EV Transition + Solar PV + BES
Infrastructure	EVSE CapEx	\$0	(\$1,351,000)	(\$1,351,000)	(\$1,351,000)
	EVSE Maintenance	\$0	(\$200,700)	(\$200,700)	(\$200,700)
	EVSE Residual	\$0	\$135,100	\$135,100	\$135,100
	GenSet CapEx	\$0	(\$827,000)	(\$827,000)	(\$827,000)
	GenSet Residual	\$0	\$82,700	\$82,700	\$82,700
	Solar PV CapEx	\$0	\$0	(\$1,069,300)	(\$1,069,300)
	Solar PV Residual	\$0	\$0	\$588,115	\$588,115
	BES CapEx	\$0	\$0	\$0	(\$1,020,000)
	BES First Replacement	\$0	\$0	\$0	(\$1,020,000)
	BES Residual	\$0	\$0	\$0	\$612,000
	Infrastructure Subtotal	\$0	(\$2,160,900)	(\$2,642,085)	(\$4,070,085)
Vehicles	CapEx	(\$4,403,279)	(\$4,737,081)	(\$4,737,081)	(\$4,737,081)
	OpEx	(\$3,278,010)	(\$2,902,697)	(\$2,902,697)	(\$2,902,697)
	Fuel Costs	(\$653,735)	(\$665,212)	(\$337,809)	(\$337,809)
	Insurance	(\$478,279)	(\$532,245)	(\$532,245)	(\$532,245)
	Registration	(\$466,180)	(\$474,370)	(\$474,370)	(\$474,370)
	Specialized Equipment	\$0	\$0	\$0	\$0
	Residual Value	\$875,159	\$1,217,642	\$1,217,642	\$1,217,642
	Incentives	\$0	\$104,000	\$104,000	\$104,000
	LCFS Credits	\$59,692	\$388,924	\$388,924	\$388,924
	Vehicles Subtotal	(\$8,344,632)	(\$7,601,039)	(\$7,273,635)	(\$7,273,635)
	Total	(\$8,344,632)	(\$9,761,939)	(\$9,915,720)	(\$11,343,720)

Greenhouse Gas Emission Projections

GHG emissions and energy consumption metrics for the light-duty fleet are calculated based on projected fuel/electricity use under Scenario 1 and 2 described for the TCO modeling. Metrics are shown for the cumulative 2020-2030 analysis period, as well as the 2030 calendar year. As with the TCO model, activity and emissions are calculated on a vehicle-by-vehicle basis for each calendar year.

GHG Emission Factors

GHG emissions reflect well-to-wheels emissions (emissions associated with the full lifecycle of the fuel including extraction, processing, production, transport, and end use in a vehicle) using emissions factors from the California Air Resources Board's LCFS program. The assumed emission factors are summarized in Table 40. CNG and gasoline values use current LCFS program "lookup table" values for these fuels.⁵⁷ Their values are not assumed to decline over the analysis period. Electricity supplied from the grid uses the California grid average carbon intensity for 2020, but declines each year based on California Energy Commission projections.⁵⁸ Electricity supplied by onsite solar PV systems and/or through EBCE's Brilliant

⁵⁷ <https://ww2.arb.ca.gov/resources/documents/lcfs-pathway-certified-carbon-intensities>

⁵⁸ California Energy Commission, Integrated Energy Policy Report, 2018. Appendix B. Uses emissions reductions based on SB350 through 2029. Future years assume a straight-line decrease from the 2029 value to zero by 2045.

East Bay Community Energy Fleet Electrification

100 electricity service are assumed to have a zero-carbon intensity. Note that all City-owned fleet facilities are served by EBCE. In turn, all City-owned facilities use zero-carbon intensity electricity under Scenario 2, independent of the deployment of additional solar PV and/or BES systems. Additionally, while 1521 University Avenue is a leased facility, it’s also an EBCE Brilliant 100 customer. Table 41 summarizes the assumed fraction of electricity supplied as zero-carbon electricity at each facility. Only electricity supplied to take-home vehicles that are charged at staff residences are assumed to use grid-average electricity.

Table 40. Carbon Intensity Factors (gCO₂e/MJ)

Year	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
CNG	79.21	79.21	79.21	79.21	79.21	79.21	79.21	79.21	79.21	79.21	79.21
Gasoline	99.44	99.44	99.44	99.44	99.44	99.44	99.44	99.44	99.44	99.44	99.44
EV (Grid)	82.92	81.63	78.67	74.19	66.88	59.95	55.91	51.28	46.23	40.96	34.02
EV (Zero Carbon)	0	0	0	0	0	0	0	0	0	0	0

Table 41. Assumed Fraction of Electricity for EV Charging Supplied from Zero-carbon Electricity Sources by Facility

Facility Name	Location	% Zero-CI Electricity
Corporation Yard	1326 Allston Way	100%
Berkeley Transfer Station	1201 Second Street	100%
Berkeley Marina	125/127 University Avenue	100%
	201 University Avenue	100%
	841 Folger Avenue	100%
Adult Mental Health Clinic	1521 University Avenue	100%
Mental Health Clinic	1890 Alcatraz Avenue	100%
	3282 Adeline Street	100%
Center Street Garage	2025 Center Street	100%
Central Library Parking Lot	2031 Bancroft Way	100%
Public Safety Building	2100 Martin Luther King Jr. Way	100%
Civic Center	2180 Milvia Street	100%
Mental Health Clinic	2636 Martin Luther King Jr. Way	100%
South Berkeley Senior Center	2939 Ellis Street	100%
North Berkeley Senior Center	1901 Hearst Avenue	100%

Emissions Model Results

Emissions from each vehicle, as detailed in Appendix A, are aggregated to estimate annual GHG emissions for the light-duty fleet considered for EV transition. As shown in Figure 14, emissions under Scenario 1 (Baseline) decline from 56.6 to 43.6 MT CO₂e/year by 2030. The 23% decrease in emissions largely comes from increasing fuel efficiency of gasoline and hybrid ICE vehicles. Under Scenario 2 (EV transition), emissions decline from 56.6 to 2.1 MT CO₂e/year, **or 95% by 2030**. The significant reduction in annual emissions between 2025 and 2026 are associated with a substantial number of vehicles slated

East Bay Community Energy Fleet Electrification

for replacement in 2026 that would transition from gasoline or gasoline hybrid ICE vehicles to BEVs. This includes the parking enforcement scooters.

Figure 14: Annual GHG Emissions Projections for the City's Light-duty Fleet

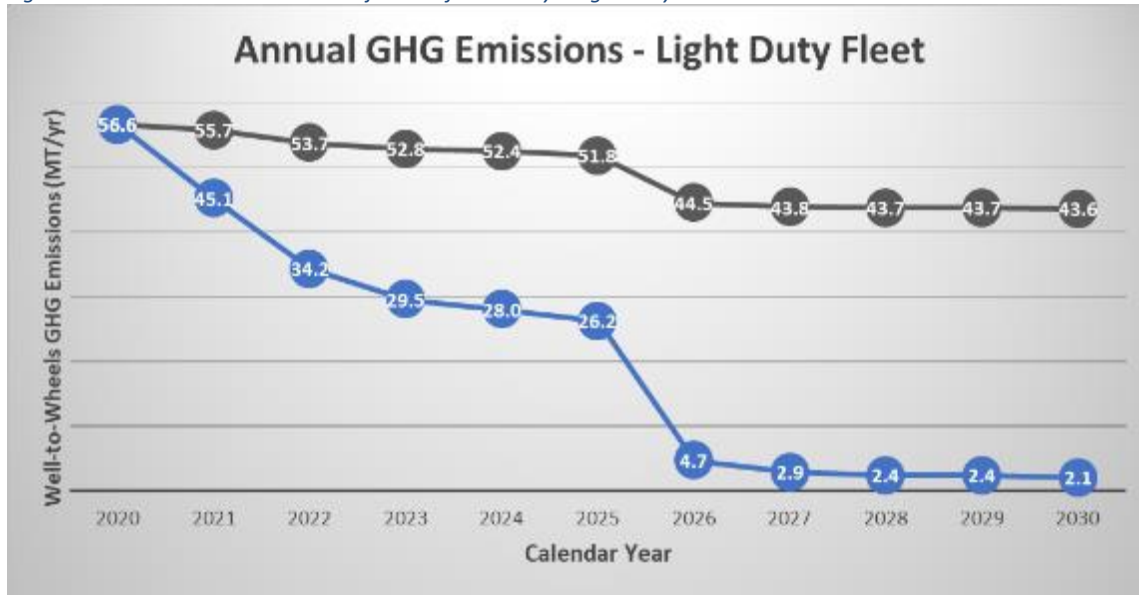


Table 42 and Table 43 summarize mileage, energy consumption, and fleet average emissions for each scenario and the estimated percentage change from Scenario 1 (Baseline) to Scenario 2 (EV Transition). Under Scenario 2 (EV Transition), gasoline and CNG ICE vehicle mileage would decrease by 59% relative to Scenario 1 (Baseline) as it transitions to EV mileage over the 2020-2030 analysis period. In 2030, the annual gasoline and CNG ICE vehicle mileage would be reduced 96% relative to Scenario 1 (Baseline) as most of the miles travelled by these vehicles transition to EV.

Fleet average fuel economy, in miles per gasoline-gallon equivalent (MPGe), increases 38% over the 2020-2030 period and increases by 79% in 2030 relative to the Scenario 1 (Baseline). The few remaining GHG emissions are associated with seven PHEV SUVs that have a portion of their daily mileage powered by gasoline. By 2030, it is likely that SUV BEVs that meet the City’s duty cycles will be available, effectively allowing the City to achieve a 100% reduction in the GHG emissions for the light-duty fleet considered in this analysis.

Table 42. Emissions and Energy Consumption Metrics for the City Fleet from 2020 to 2030

Metric	2020-2030		
	Baseline	EV Transition	% Change
Gasoline/CNG ICE Mileage	4,155,346	1,696,465	-59%
EV Mileage	518,992	2,977,873	474%
Gasoline/CNG Consumption (GGE)	160,362	68,529	-57%
Electricity Consumption (GGE)	8,128	53,439	557%
Fleet Avg MPGe	27.7	38.3	38%
Fleet GHG Emissions (MTCO2e)	542.2	234.1	-57%
Fleet GHG Emissions Rate (gCO2e/mi)	116.0	50.1	-57%

Table 43. Emissions and Energy Consumption Metrics for the City Fleet in 2030

Metric	2030		
	Baseline	EV Transition	% Change
Gasoline/CNG ICE Mileage	374,407	22,713	-94%
EV Mileage	50,533	402,227	696%
Gasoline/CNG Consumption (GGE)	12,888	573	-96%
Electricity Consumption (GGE)	676	7,017	939%
Fleet Avg MPGe	31.3	56.0	79%
Fleet GHG Emissions (MTCO _{2e})	43.6	2.1	-95%
Fleet GHG Emissions Rate (gCO _{2e} /mi)	102.5	4.9	-95%

Appendix E: Recommendations by Domicile: Charging, Solar PV, BES for Light-Duty Fleet EVs

Site #1 Corp Yard

Recommended: Charging stations, solar PV, BES, electrical upgrades

Additional: Structural upgrade to canopy to support solar PV

Site Description

The Corporation Yard (Corp Yard) at 1326 Allston Way is the City of Berkeley's largest fleet parking facility in terms of number of vehicles domiciled. A total of 137 vehicles including light-, medium-, and heavy-duty vehicles are based here, including most of the City's specialty vehicles like sweepers, vactors, and mowers. The facility has a gasoline and diesel fueling station and maintenance garage for all fleet vehicle Figure 15 details the different areas of operations within the Corp Yard. Because the focus of this project is to provide charging for the exclusive use of City-owned fleet vehicles, charging station recommendations exclude the employee/visitor parking lot.

Figure 15: Corp Yard Maintenance Building facility details



The main electrical distribution panel is located on the northwest corner of the yard and the sub-panel is located on the north side of the repair workshop. City staff explained that the sub-panel for the repair shop will be upgraded and will accommodate the load for planned EV chargers.

The Corp Yard site has several constraints for DER (chargers, solar PV, BES) design:

- Temporary/portable buildings not suitable for solar PV due to structural concerns.
- Main Barn is a historic structure and not suitable for solar PV due to structural strength of rafters.

East Bay Community Energy Fleet Electrification

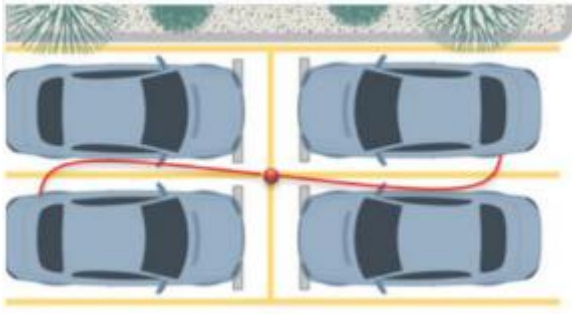
- The parking stalls in the Corp Yard are limited in relation to the number of vehicles domiciled or serviced at this site.
- The vehicle maintenance facility is in the middle of the site, potentially impacting charging infrastructure installation costs.
- Designs for charging, solar PV, and BES need to consider the amount of space that trucks require when navigating the parking lot.
- City staff prefer all conduit to be underground.

Recommendations

The Corp Yard will need multiple types of chargers and charging strategies. To meet the immediate need of replacing all light-duty vehicles with EVs:

- Four dual-head (eight connectors) pedestal-mounted, low-power (7.2 kW) Level 2 chargers in a central location between Buildings A and G, installing the chargers in the center of a block of parking spots as illustrated in Figure 16.
- One DC Fast Charger to accommodate the charging needs for the vehicles that come in for repair and provide flexibility for a broader range of EVs that will be serviced in the future.
- New electrical service will be required to support this charging equipment. The total demand on each circuit is 3,328 V using a 40A breaker that outputs 6,656 VA per charger using a 40A 2-pole breaker. There is also 50 VA added for gateway. The total Level 2 charger load is: $6,656 * 8 + 50 = 53.3$ kVA which requires 148A (200 A) of ampacity. DCFCs need 63.5 kVA which requires 156A (200 A breaker). The total DCFC load is 116.8 kVA, which requires 141A. The main breaker should be 300A. A step-down transformer rated 75kVA (480-208/120) will be required for the Level 2 chargers.

Figure 16: Conceptual Charger Layout (Source: VELOZ)



- The Corp Yard is suitable for up seven rooftop solar PV arrays and two parking lot arrays, which would produce 358 kWh/day, which exceeds the estimated energy demand to charge light-duty vehicles. Extra capacity could be available to serve the charging needs of medium- and heavy-duty equipment as they are added to the fleet.
- A 112 kWh BES to provide resiliency for fleet charging and help avoid demand charges.

East Bay Community Energy Fleet Electrification

Figure 17 shows potential locations for solar arrays. The suggested combinations to meet fleet EV needs are Arrays D + E + Yard Parking totaling 52.7 kW. Array D will replace the existing 19 kW system that is approximately 15 years old, which will improve the generation potential of this location.⁵⁹

Array E is the canopy of the existing gasoline and diesel fuel island and a new canopy will need to be constructed to support the weight of the PV array. Cost estimates do not include the fuel island canopy construction, or structural components. Constructing this canopy may present an opportunity to add DC Fast Charging or a charger dedicated to medium- and heavy-duty vehicles to the fueling island.

Figure 17: Potential locations for Solar PV Arrays



Solar PV Siting and Generation Potential - Corp Yard

Solar PV Array Location	Gross Area Identified (SF)	Solar PV Array Area (SF)	Number of PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
A	2,252	804	45	13.5	11.2	18,564
B	1,512	465	26	7.8	6.5	8,753
C	2,631	858	48	14.3	11.9	19,727

⁵⁹ This replacement scope of work proposed to the City in January 2020 by Sun Light & Power.

East Bay Community Energy Fleet Electrification

Solar PV Array Location	Gross Area Identified (SF)	Solar PV Array Area (SF)	Number of PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
D	3,360	1,519	85	30.6	25.4	41,399
E	2,400	965	54	16.1	13.4	21,782
Public Parking	6,480	1,430	80	23.9	19.1	32,334
Yard Parking	1,620	358	20	6.0	5.0	8,117
Total	20,276	5,809	325	97.2	77.8	130,768

Recommended Solar PV Arrays to Meet EV Charging Needs - Corp Yard

Solar PV Array Location	Gross Area Identified (SF)	Solar PV Array Area (SF)	Number of Solar PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
D	3,360	1,519	85	30.6	25.4	41,399
E	2,400	965	54	16.1	13.4	21,782
Yard Parking	1,620	358	20	6.0	5.0	8,117
Total	7,380	2,842	159	52.7	43.8	71,298

Value of Solar PV to Battery Energy Storage for EV Charging: B-10SX- Brilliant 100 Rate - Corp Yard

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Value of Demand (\$)	Value of Energy (\$)	Total Value (\$)	Average Value of Solar PV Energy (\$/kWh)
1	14.3	1,648	\$192	\$252	\$444	\$0.27
2	17.5	2,043	\$235	\$307	\$543	\$0.27
3	20.5	3,375	\$276	\$414	\$690	\$0.20
4	22.3	4,304	\$299	\$527	\$826	\$0.19
5	23.7	5,050	\$318	\$606	\$924	\$0.18
6	23.8	5,392	\$320	\$1,029	\$1,348	\$0.25
7	23.3	5,062	\$313	\$967	\$1,280	\$0.25
8	22.1	4,453	\$296	\$848	\$1,144	\$0.26
9	20.5	3,686	\$275	\$686	\$961	\$0.26
10	18.2	2,819	\$244	\$429	\$673	\$0.24
11	14.9	1,856	\$200	\$287	\$487	\$0.26
12	12.5	1,461	\$167	\$227	\$394	\$0.27
Total		41,149			\$9,715	\$0.24

East Bay Community Energy Fleet Electrification

Value of Solar PV to Building: B-10SX- Brilliant 100 Rate - Corp Yard

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Demand Costs Avoided (\$)	Energy Costs Avoided (\$)	Total Costs Avoided (\$)	Average Value of Solar PV Energy (\$/kWh)
1	10.5	1,207	\$141	\$185	\$326	\$0.27
2	12.8	1,497	\$172	\$225	\$398	\$0.27
3	15.1	2,473	\$202	\$304	\$505	\$0.20
4	16.3	3,154	\$219	\$386	\$605	\$0.19
5	17.4	3,700	\$233	\$444	\$677	\$0.18
6	17.5	3,950	\$234	\$754	\$988	\$0.25
7	17.1	3,709	\$229	\$708	\$938	\$0.25
8	16.2	3,263	\$217	\$622	\$838	\$0.26
9	15.0	2,701	\$201	\$503	\$704	\$0.26
10	13.3	2,065	\$179	\$314	\$493	\$0.24
11	10.9	1,360	\$146	\$211	\$357	\$0.26
12	9.1	1,070	\$123	\$166	\$289	\$0.27
Total		30,149			\$7,118	\$0.24

Cost of EV Charging: B-10SX- Brilliant 100 Rate - Corp Yard

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	13.9	3,495	\$0	\$464	\$464	\$0.13
2	13.9	3,157	\$0	\$419	\$419	\$0.13
3	13.9	3,495	\$0	\$464	\$464	\$0.13
4	13.9	3,382	\$0	\$449	\$449	\$0.13
5	13.9	3,495	\$0	\$464	\$464	\$0.13
6	13.9	3,382	\$0	\$648	\$648	\$0.19
7	13.9	3,495	\$0	\$670	\$670	\$0.19
8	13.9	3,495	\$0	\$670	\$670	\$0.19
9	13.9	3,382	\$0	\$648	\$648	\$0.19
10	13.9	3,495	\$0	\$464	\$464	\$0.13
11	13.9	3,382	\$0	\$449	\$449	\$0.13
12	13.9	3,495	\$0	\$464	\$464	\$0.13
Total		41,149			\$6,272	\$0.15

Site #2 Berkeley Transfer Station

Recommended: Charging stations for light-duty fleet; solar PV during 2026 rehabilitation

Additional: Charging for BEV refuse trucks when those trucks are viable for City needs

Site Description

The Berkeley Transfer Station is at 1201 Second St., shown in Figure 18 is being redeveloped with construction is expected to start mid-2026. The Solid Waste & Recycling Transfer Station Feasibility Study concepts⁶⁰ for facility replacement included infrastructure to support the electrification of the Zero Waste collection fleet as that technology becomes viable.

In the nearer term, five light-duty vehicles domicile at the Berkley Transfer Station. A sub-panel rated at 100A will be available to EV chargers once the existing trailer on the facility is removed, however 60A of the capacity is reserved for an electric forklift.

Figure 18: Berkeley Transfer Station Facility Details



⁶⁰ presented at a November 2019 City Council Work Session

Recommendations

To meet the immediate need of transitioning light-duty vehicles to EVs and consideration that the site will be redeveloped:

- Two dual-head (two connectors) wall- or pedestal-mounted, low-power (7.2 kW) Level 2 chargers
- A third-party load management system to share the 40A of electrical capacity among the four connectors.
- Solar PV during rehabilitation in 2026.

Table 33. Cost of EV Charging on B-10SX-Brilliant 100 Rate - Berkeley Transfer Station

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	11.5	1,539	\$0	\$234	\$234	\$0.23
2	11.5	1,390	\$0	\$211	\$211	\$0.23
3	11.5	1,539	\$0	\$234	\$234	\$0.23
4	11.5	1,489	\$0	\$226	\$226	\$0.23
5	11.5	1,539	\$0	\$234	\$234	\$0.23
6	11.5	1,489	\$0	\$264	\$264	\$0.27
7	11.5	1,539	\$0	\$273	\$273	\$0.27
8	11.5	1,539	\$0	\$273	\$273	\$0.27
9	11.5	1,489	\$0	\$264	\$264	\$0.27
10	11.5	1,539	\$0	\$234	\$234	\$0.23
11	11.5	1,489	\$0	\$226	\$226	\$0.23
12	11.5	1,539	\$0	\$234	\$234	\$0.23
Total		18,119			\$2,906	\$0.25

East Bay Community Energy Fleet Electrification

Site #3 Berkeley Marina (125/127 University Avenue)

Recommended: Charging stations for light-duty fleet and BES

Additional: Solar PV is already planned for this location

Site Description

This facility is being reconfigured into two different zones: one for public parking and one for fleet vehicles with dedicated parking stalls for vehicles used for traffic and parking control, Police Department, and marina maintenance. Figure 19 shows the aerial view of the facility with the fenced/hatched area on the drawing indicating the dedicated fleet parking stalls and areas identified probable for solar PV arrays. An existing dual-head charger for public use is installed on the east end of the 125/127 University building. Combined solar PV generation capacity of 58 kW AC is higher than the building peak demand; however, all the energy is directed to vehicle charging. No energy from the solar PV and BES remains for building use

As a conservative measure, daily energy needs were calculated for BEVs instead of 33 BEV parking scooters. If the City procures BEV scooters, the recommended chargers can charge the scooters and have additional capacity for other fleet vehicles.

Figure 19: Berkeley Marian Ariel View



Recommendations

To meet the near-term needs of light-duty, non-emergency vehicles and parking enforcement vehicles:

- Four dual-head (eight connectors) Level 2 chargers. Most vehicles will likely not need to charge every day, but staff will need to reposition vehicles during charging sessions.
 - A portion of the EVs could be charged using a mobile charger, which would avoid the need to reposition vehicles for charging and eliminate the costs of upgrading the electrical service.
- New electrical service with a 200A main breaker to accommodate the estimated charging loads and capacity for an additional single-head charger. The total demand on each circuit is 3,328 V using a 40A breaker which outputs 6,656 VA for a charger using a 40A two-pole breaker. With 50 VA added for gateway, the total Level 2 charger load is: $6,656 \times 8 + 50 = 53.3\text{kVA}$, which requires 148A.
- One 75 kW/300 kWh BES to offset the long-term needs of vehicle charging and maximize the solar PV already planned for this location.

East Bay Community Energy Fleet Electrification

Solar PV Siting and Generation Potential – Berkeley Marina

Solar PV Array Location	Gross Area Identified (SF)	Solar PV Array Area (SF)	Number of Solar PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
A	7,200	3,218	180	53.8	44.7	83,172
Parking	4,536	1,001	56	16.7	13.4	25,449
Total	11,736	4,219	236	70.5	58.0	108,571

Value of Solar PV to Battery Electric Storage for EV Charging on B-1X- Brilliant 100 Rate - Berkeley Marina

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Value of Demand (\$)	Value of Energy (\$)	Total Value (\$)	Average Value of Solar PV Energy (\$/kWh)
1	47.1	5,532	\$0	\$1,279	\$1,279	\$0.23
2	53.0	6,436	\$0	\$1,489	\$1,489	\$0.23
3	57.3	9,421	\$0	\$2,087	\$2,087	\$0.22
4	58.7	10,811	\$0	\$2,400	\$2,400	\$0.22
5	58.2	11,823	\$0	\$2,632	\$2,632	\$0.22
6	57.6	12,299	\$0	\$3,234	\$3,234	\$0.26
7	56.7	11,786	\$0	\$3,101	\$3,101	\$0.26
8	56.6	10,954	\$0	\$2,882	\$2,882	\$0.26
9	54.4	9,593	\$0	\$2,500	\$2,500	\$0.26
10	52.2	8,760	\$0	\$2,026	\$2,026	\$0.23
11	47.5	6,247	\$0	\$1,443	\$1,443	\$0.23
12	43.9	4,960	\$0	\$1,146	\$1,146	\$0.23
Total		108,571			\$26,219	\$0.24

Value of Solar PV to Building: B-1X- Brilliant 100 Rate - Berkeley Marina

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Demand Costs Avoided (\$)	Energy Costs Avoided (\$)	Total Costs Avoided (\$)	Average Value of Solar PV Energy (\$/kWh)
No additional value to the building						

Cost of EV Charging: B-1X- Brilliant 100 Rate - Berkeley Marina

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	25.8	9,267	\$0	\$2,175	\$2,175	\$0.23
2	25.8	8,370	\$0	\$1,964	\$1,964	\$0.23
3	25.8	9,267	\$0	\$2,175	\$2,175	\$0.23
4	25.8	8,968	\$0	\$2,105	\$2,105	\$0.23
5	25.8	9,267	\$0	\$2,175	\$2,175	\$0.23
6	25.8	8,968	\$0	\$2,446	\$2,446	\$0.27
7	25.8	9,267	\$0	\$2,527	\$2,527	\$0.27
8	25.8	9,267	\$0	\$2,527	\$2,527	\$0.27
9	25.8	8,968	\$0	\$2,446	\$2,446	\$0.27
10	25.8	9,267	\$0	\$2,175	\$2,175	\$0.23

East Bay Community Energy Fleet Electrification

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
11	25.8	8,968	\$0	\$2,105	\$2,105	\$0.23
12	25.8	9,267	\$0	\$2,175	\$2,175	\$0.23
Total		109,109			\$26,994	\$0.25

East Bay Community Energy Fleet Electrification

Site #4 Adult Mental Health Clinic

Recommended: Charging stations or mobile charging for light-duty fleet

Additional: Solar PV is already installed at this leased location

Site Description

The Adult Mental Health Clinic is located at 1521 University Avenue and shown in Figure 20. Currently, 13 light-duty vehicles are domiciled at this location.

Figure 20: Aerial View of the Adult Mental Health Clinic



Recommendations

This site is not owned by the City and requires an upgrade to the electrical service. If the landlord agrees to EV charging at this facility, the recommendation is:

- Three dual-head Level 2 chargers (six connectors) to be shared by all vehicles.
- A new electrical service with a main breaker rated at a minimum of 200A to accommodate the current charging loads and a future single-head charger can be installed, if needed.
 - A back-up option would be to use three mobile chargers.

This site has no future solar PV potential and does not have physical area for a BES system.

Cost of EV Charging on B-1X Rate - Adult Mental Health Clinic

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	15.2	4,859	\$0	\$1,138	\$1,138	\$0.23
2	15.2	4,389	\$0	\$1,028	\$1,028	\$0.23
3	15.2	4,859	\$0	\$1,138	\$1,138	\$0.23
4	15.2	4,702	\$0	\$1,102	\$1,102	\$0.23
5	15.2	4,859	\$0	\$1,138	\$1,138	\$0.23
6	15.2	4,702	\$0	\$1,272	\$1,272	\$0.27

East Bay Community Energy Fleet Electrification

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
7	15.2	4,859	\$0	\$1,315	\$1,315	\$0.27
8	15.2	4,859	\$0	\$1,315	\$1,315	\$0.27
9	15.2	4,702	\$0	\$1,272	\$1,272	\$0.27
10	15.2	4,859	\$0	\$1,138	\$1,138	\$0.23
11	15.2	4,702	\$0	\$1,102	\$1,102	\$0.23
12	15.2	4,859	\$0	\$1,138	\$1,138	\$0.23
Total		57,212			\$14,098	\$0.25

Site #5 Mental Health Clinic

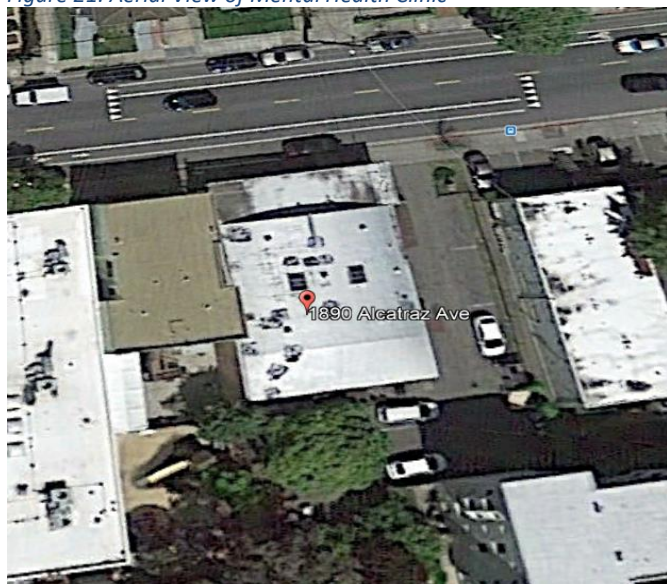
Recommended: Charging stations light-duty fleet

Additional: Relocate vehicles domiciles at Drop-in Center to Mental Health Clinic

Site Description

The mental health clinic is located at 1890 Alcatraz Ave, shown in Figure 21, and a Drop-in Center is located nearby at 3282 Adeline St. Currently, three light-duty vehicles are domiciled at each location, for a total of six vehicles. 3282 Adeline is a leased facility and is not suitable for investment in charging infrastructure. The building has a domed roof that will not accommodate solar PV and does not have enough physical space for a BES system.

Figure 21: Aerial View of Mental Health Clinic



Recommendations

To meet the near-term needs of fleet EVs:

- One dual-head Level 2 charger at 1890 Alcatraz that all six light-duty vehicles share
- New electrical service with a main breaker rated at a minimum of 60A.
 - A new service with 100A main would accommodate the charging loads, and a potential additional dual-head Level 2 charger could be installed in the future, if needed.
 - This site could also be served with a portable charging option, as described for the Adult Mental Health Clinic site.

Cost of EV Charging: B-1X- Brilliant 100 Rate - Adult Mental Health Clinic

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	3.0	1,032	\$0	\$242	\$242	\$0.23
2	3.0	932	\$0	\$218	\$218	\$0.23
3	3.0	1,032	\$0	\$242	\$242	\$0.23

East Bay Community Energy Fleet Electrification

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
4	3.0	999	\$0	\$234	\$234	\$0.23
5	3.0	1,032	\$0	\$242	\$242	\$0.23
6	3.0	999	\$0	\$270	\$270	\$0.27
7	3.0	1,032	\$0	\$279	\$279	\$0.27
8	3.0	1,032	\$0	\$279	\$279	\$0.27
9	3.0	999	\$0	\$270	\$270	\$0.27
10	3.0	1,032	\$0	\$242	\$242	\$0.23
11	3.0	999	\$0	\$234	\$234	\$0.23
12	3.0	1,032	\$0	\$242	\$242	\$0.23
Total		12,149			\$2,993	\$0.25

East Bay Community Energy Fleet Electrification

Site #6 Center Street Garage

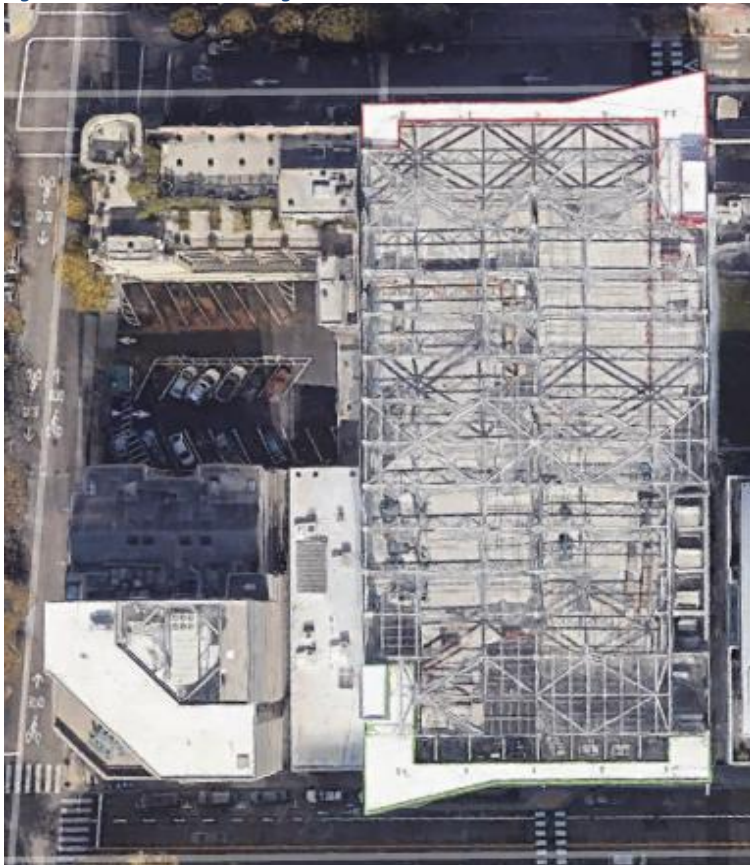
Recommended: BES

Additional: Load management system for existing charging stations

Site Description

The Center Street Garage an eight-level public parking garage at 2025 Center St. Thirty-seven light-duty fleet vehicles are domiciled here and it is the main parking facility for City Hall employees and visitors and is used daily by the general public. Currently, 29 EV chargers with a total of 57 connectors are installed and accessible to City employees and the public in addition to fleet vehicles. The main distribution assembly panel for this facility is located on the ground floor. The roof of the garage has an existing solar PV array that is owned by the City. Figure 22 is an aerial view of the Center Street Garage.

Figure 22 Center Street Garage aerial view



Recommendations

The Center Street Garage has existing charger capacity for current and anticipated charging demand. Load management could be used to satisfy future electrical load growth if charging demand exceeds the facility's electrical capacity in the future.

One 63 kW / 250 kWh BES system will increase resiliency and help to avoid peak demand changes from EV charging.

East Bay Community Energy Fleet Electrification

Solar PV Siting and Generation Potential - Center Street Garage

Solar PV Array Location	Gross Area Identified (SF)	Solar PV Array Area (SF)	Number of Solar PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
Existing	n/a	n/a	414	113.9	91.1	172,153
Total	0	0	414	113.9	91.1	172,153

Note: Performance calculated assuming 275 W DC/panel, and performance assumptions from other modeling results.

Value of Solar PV to Battery Electric Storage for EV Charging: B-19S-Bright Choice Rate – Center Street Garage

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Value of Demand (\$)	Value of Energy (\$)	Total Value (\$)	Average Value of Solar PV Energy (\$/kWh)
1	38.6	4,541	\$847	\$524	\$1,371	\$0.30
2	45.1	5,200	\$995	\$601	\$1,596	\$0.31
3	47.2	8,045	\$1,046	\$1,100	\$2,146	\$0.27
4	47.3	9,037	\$1,050	\$1,231	\$2,280	\$0.25
5	47.6	9,706	\$1,059	\$1,316	\$2,375	\$0.24
6	47.6	10,260	\$1,813	\$1,263	\$3,076	\$0.30
7	45.6	9,918	\$1,756	\$1,225	\$2,981	\$0.30
8	46.1	9,383	\$1,744	\$1,156	\$2,899	\$0.31
9	46.2	8,007	\$1,655	\$970	\$2,625	\$0.33
10	41.3	7,053	\$906	\$814	\$1,720	\$0.24
11	38.2	5,340	\$828	\$614	\$1,442	\$0.27
12	36.2	3,960	\$785	\$455	\$1,240	\$0.31
Total		90,451			\$25,752	\$0.28

Value of Solar PV to Building: B-19S-Bright Choice Rate – Center Street Garage

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Demand Costs Avoided (\$)	Energy Costs Avoided (\$)	Total Costs Avoided (\$)	Average Value of Solar PV Energy (\$/kWh)
1	75.4	8,880	\$1,656	\$1,024	\$2,681	\$0.30
2	88.1	10,168	\$1,945	\$1,176	\$3,121	\$0.31
3	92.4	15,733	\$2,045	\$2,151	\$4,196	\$0.27
4	92.5	17,672	\$2,053	\$2,407	\$4,460	\$0.25
5	93.1	18,981	\$2,070	\$2,574	\$4,644	\$0.24
6	93.1	20,064	\$3,545	\$2,471	\$6,016	\$0.30
7	89.2	19,395	\$3,435	\$2,396	\$5,830	\$0.30
8	90.2	18,349	\$3,410	\$2,260	\$5,670	\$0.31
9	90.3	15,658	\$3,237	\$1,897	\$5,134	\$0.33
10	80.7	13,793	\$1,772	\$1,591	\$3,363	\$0.24
11	74.7	10,443	\$1,619	\$1,200	\$2,819	\$0.27
12	70.8	7,745	\$1,536	\$889	\$2,425	\$0.31
Total		176,880			\$50,358	\$0.28

East Bay Community Energy Fleet Electrification

Cost of EV Charging: B-19S-Bright Choice Rate – Center Street Garage

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	24.5	7,682	\$552	\$923	\$1,475	\$0.19
2	24.5	6,939	\$552	\$834	\$1,386	\$0.20
3	24.5	7,682	\$552	\$923	\$1,475	\$0.19
4	24.5	7,434	\$552	\$894	\$1,445	\$0.19
5	24.5	7,682	\$552	\$923	\$1,475	\$0.19
6	24.5	7,434	\$995	\$938	\$1,934	\$0.26
7	24.5	7,682	\$995	\$970	\$1,965	\$0.26
8	24.5	7,682	\$995	\$970	\$1,965	\$0.26
9	24.5	7,434	\$995	\$938	\$1,934	\$0.26
10	24.5	7,682	\$552	\$923	\$1,475	\$0.19
11	24.5	7,434	\$552	\$894	\$1,445	\$0.19
12	24.5	7,682	\$552	\$923	\$1,475	\$0.19
Total		90,451			\$19,449	\$0.22

East Bay Community Energy Fleet Electrification

Site #7 Central Library Parking Lot

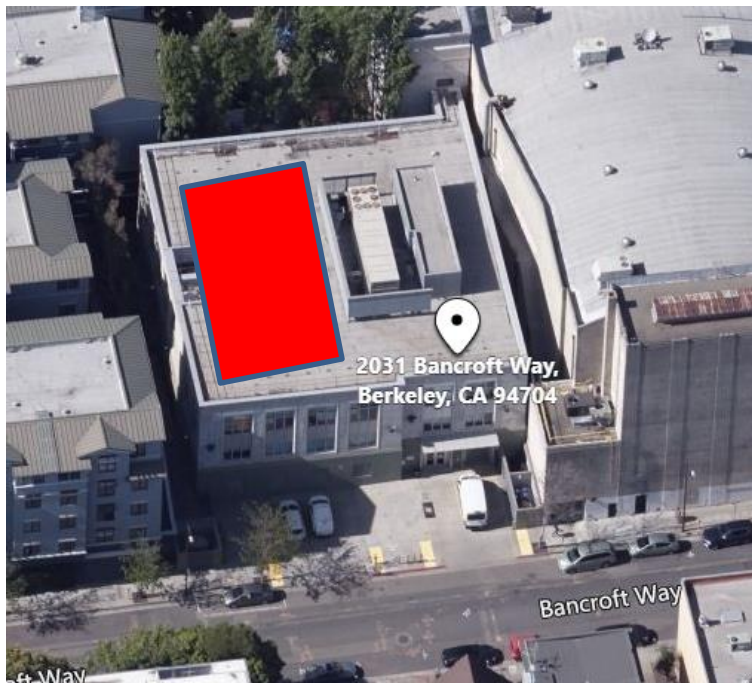
Recommended: Charging, solar PV

Additional: Potential for assigned vehicles to use other charging stations or plug in to a wall outlet

Site Description

The Central Library is located at 2031 Bancroft Way, as shown in Figure 23. Only one light-duty vehicle is parked at this location. No public EV parking is planned for this site. Available area provides substantially more solar PV potential required to offset EV fleet charging needs. If solar PV is deployed for fleet support only, BES is not recommended due to small system size.

Figure 23: Aerial View of the Central Library



Recommendations

To meet the near-term needs of light-duty fleet vehicles:

- One dual-head Level 2 charger is recommended at this facility.
- New electrical service with a main breaker rated minimum of 60A.
 - A 100A main would accommodate a potential future additional charger (one dual-head Level 2), if needed.

Optionally, the single vehicle at this site could charge using the DCFC recommended for the Corp Yard, at available Level 2 chargers at other City facilities or at nearby public charging or charge onsite using an outdoor wall outlet (Level 1 charging), or a combination of these options. Solar PV would not be needed for EV charging but could provide benefit to the building electrical load.

East Bay Community Energy Fleet Electrification

Solar PV Siting and Generation Potential – Central Library Parking

Array Location	Gross Area Identified (SF)	Array Area (SF)	Number of PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
A	3,060	1,126	63	18.8	15.0	25,908
Total	3,060	1,126	63	18.8	15.0	25,908

Value of Solar PV to Battery Electric Storage for EV Charging: B-10SX-Brilliant 100 Rate - Central Library Parking Lot

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Value of Demand (\$)	Value of Energy (\$)	Total Value (\$)	Average Value of Solar PV Energy (\$/kWh)
1	0.4	49	\$6	\$7	\$13	\$0.27
2	0.5	62	\$7	\$9	\$17	\$0.27
3	0.6	105	\$8	\$13	\$21	\$0.20
4	0.7	126	\$9	\$15	\$24	\$0.19
5	0.7	145	\$9	\$18	\$27	\$0.18
6	0.7	163	\$10	\$31	\$41	\$0.25
7	0.7	156	\$9	\$30	\$39	\$0.25
8	0.7	138	\$9	\$26	\$35	\$0.25
9	0.6	109	\$8	\$20	\$29	\$0.26
10	0.5	83	\$7	\$13	\$20	\$0.24
11	0.4	55	\$6	\$9	\$14	\$0.26
12	0.4	42	\$5	\$7	\$12	\$0.27
Total		1,234			\$291	\$0.24

Value of Solar PV to Building: A-10SX-Brilliant 100 Rate - Central Library Parking Lot

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Demand Costs Avoided (\$)	Energy Costs Avoided (\$)	Total Costs Avoided (\$)	Average Value of Solar PV Energy (\$/kWh)
1	8.4	975	\$113	\$149	\$262	\$0.27
2	11.0	1,235	\$147	\$186	\$333	\$0.27
3	12.1	2,108	\$163	\$259	\$422	\$0.20
4	13.4	2,523	\$179	\$309	\$488	\$0.19
5	13.8	2,906	\$185	\$352	\$537	\$0.18
6	14.2	3,253	\$191	\$621	\$812	\$0.25
7	14.0	3,126	\$188	\$599	\$787	\$0.25
8	13.2	2,753	\$178	\$523	\$701	\$0.25
9	12.5	2,184	\$168	\$405	\$573	\$0.26
10	10.8	1,653	\$146	\$252	\$397	\$0.24
11	8.4	1,109	\$113	\$172	\$284	\$0.26
12	7.4	848	\$100	\$132	\$231	\$0.27
Total		24,674			\$5,828	\$0.24

East Bay Community Energy Fleet Electrification

Cost of EV Charging: B-10SX-Brilliant 100 Rate - Central Library Parking Lot

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	0.8	105	\$0	\$16	\$16	\$0.16
2	0.8	95	\$0	\$15	\$15	\$0.16
3	0.8	105	\$0	\$16	\$16	\$0.16
4	0.8	101	\$0	\$16	\$16	\$0.16
5	0.8	105	\$0	\$16	\$16	\$0.16
6	0.8	101	\$0	\$18	\$18	\$0.17
7	0.8	105	\$0	\$18	\$18	\$0.17
8	0.8	105	\$0	\$18	\$18	\$0.17
9	0.8	101	\$0	\$18	\$18	\$0.17
10	0.8	105	\$0	\$16	\$16	\$0.16
11	0.8	101	\$0	\$16	\$16	\$0.16
12	0.8	105	\$0	\$16	\$16	\$0.16
Total		1,234			\$200	\$0.16

East Bay Community Energy Fleet Electrification

Site #8 Public Safety Building

Site Description

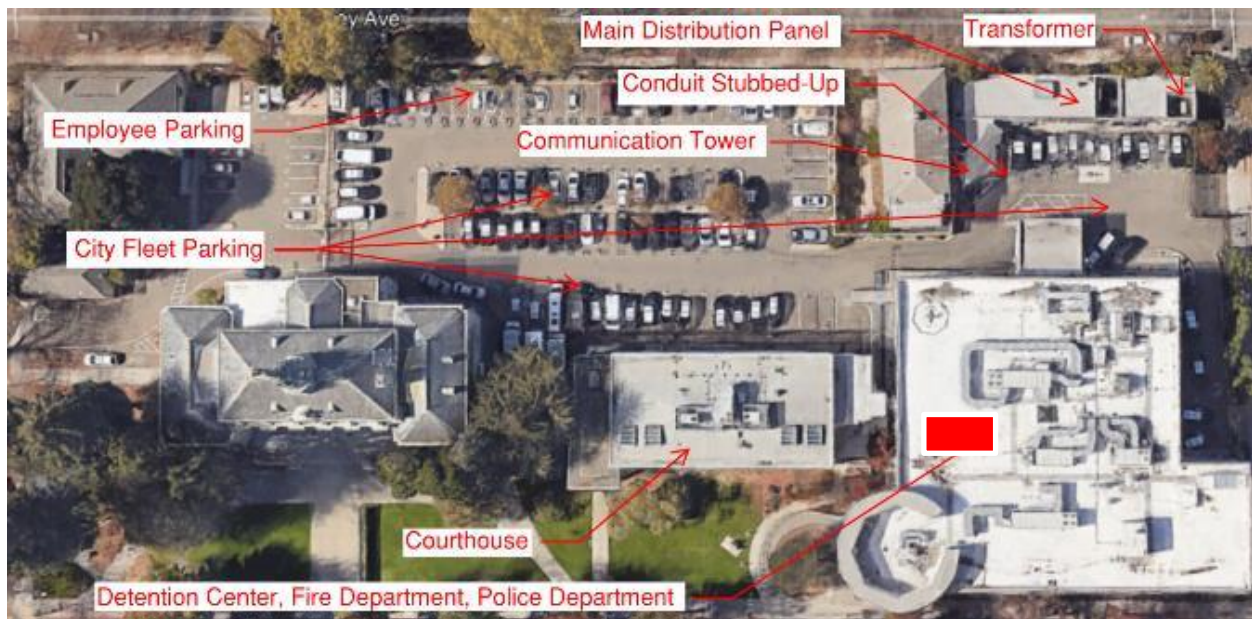
Recommended: Charging, solar PV

Additional: Additional charging potentially needed as police patrol/pursuit vehicles become available near the end of the decade.

The Public Safety Building is located on 2100 Martin Luther King Jr Way. The main fleet parking is in the center of the facility. The westernmost row is assigned to employee parking. Parking stalls in the middle are assigned to the Police Department and other City fleets for a total of 79 vehicles, many of which are emergency vehicles and are unlikely to transition to EVs before 2030. An additional 12 parking stalls are on the north side of the Communication Tower building. Currently, two non-emergency light-duty vehicles domicile here.

Figure 24 Public Safety Building facility details shows the different areas of operations and locations of electrical power infrastructure within the Public Safety Building site. Space for solar PV arrays is limited; location A is still available, but other mechanical equipment has been added to roof since this photo. The parking lot is highly shaded and not effective for solar PV.

Figure 24 Public Safety Building facility details



This facility is equipped with a spare 70-Amp, 3-pole 480Y/277V breaker and in-ground junction boxes for future EV charging. Access to the underground boring, trenching, and repaving could be a concern as other buried conduit essential for public safety operations could be in the vicinity.

Recommendations

To meet the near-term needs of light-duty, non-emergency vehicles:

- One dual-head higher-power Level 2 charger is appropriate to charge the existing vehicles and be prepared for anticipated expansion of the EV fleet.

East Bay Community Energy Fleet Electrification

Solar PV Siting and Generation Potential - Public Safety Building

Solar PV Array Location	Gross Area Identified (SF)	Array Area (SF)	Number of PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
A	1,925	644	36	10.8	8.6	14,883
Total	1,925	644	36	10.8	8.6	14,883

Value of Solar PV to Battery Electric Storage for EV Charging on B-19S-Brilliant 100 Rate – Public Safety Building

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Value of Demand (\$)	Value of Energy (\$)	Total Value (\$)	Average Value of Solar PV Energy (\$/kWh)
1	2.2	249	\$47	\$29	\$76	\$0.30
2	2.8	316	\$62	\$36	\$98	\$0.31
3	3.1	539	\$69	\$74	\$142	\$0.26
4	3.4	645	\$76	\$88	\$164	\$0.25
5	3.5	743	\$79	\$100	\$179	\$0.24
6	3.6	831	\$145	\$103	\$248	\$0.30
7	3.6	799	\$144	\$99	\$244	\$0.31
8	3.4	704	\$134	\$87	\$221	\$0.31
9	3.2	558	\$116	\$68	\$184	\$0.33
10	2.8	423	\$61	\$49	\$109	\$0.26
11	2.1	283	\$46	\$32	\$79	\$0.28
12	1.9	217	\$41	\$25	\$66	\$0.30
Total		6,306			\$1,809	\$0.29

Value of Solar PV to Building: B-19S-Brilliant 100 Rate – Public Safety Building

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Demand Costs Avoided (\$)	Energy Costs Avoided (\$)	Total Costs Avoided (\$)	Average Value of Solar PV Energy (\$/kWh)
1	2.9	339	\$64	\$39	\$103	\$0.30
2	3.8	429	\$84	\$50	\$133	\$0.31
3	4.2	733	\$94	\$100	\$194	\$0.26
4	4.6	877	\$103	\$119	\$223	\$0.25
5	4.8	1,010	\$107	\$136	\$244	\$0.24
6	4.9	1,131	\$197	\$140	\$337	\$0.30
7	4.9	1,087	\$196	\$135	\$332	\$0.31
8	4.6	957	\$182	\$118	\$300	\$0.31
9	4.4	759	\$158	\$92	\$250	\$0.33
10	3.8	575	\$82	\$66	\$149	\$0.26
11	2.9	385	\$63	\$44	\$107	\$0.28
12	2.6	295	\$56	\$34	\$89	\$0.30
Total		8,577			\$2,460	\$0.29

East Bay Community Energy Fleet Electrification

Cost of EV Charging on B-19S-Brilliant 100 Rate – Public Safety Building

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	4.1	513	\$0	\$59	\$59	\$0.11
2	4.1	463	\$0	\$53	\$53	\$0.11
3	4.1	513	\$0	\$59	\$59	\$0.11
4	4.1	496	\$0	\$57	\$57	\$0.11
5	4.1	513	\$0	\$59	\$59	\$0.11
6	4.1	496	\$0	\$57	\$57	\$0.11
7	4.1	513	\$0	\$59	\$59	\$0.11
8	4.1	513	\$0	\$59	\$59	\$0.11
9	4.1	496	\$0	\$57	\$57	\$0.11
10	4.1	513	\$0	\$59	\$59	\$0.11
11	4.1	496	\$0	\$57	\$57	\$0.11
12	4.1	513	\$0	\$59	\$59	\$0.11
Total		6,036			\$690	\$0.11

East Bay Community Energy Fleet Electrification

Site #9 Civic Center (City Hall)

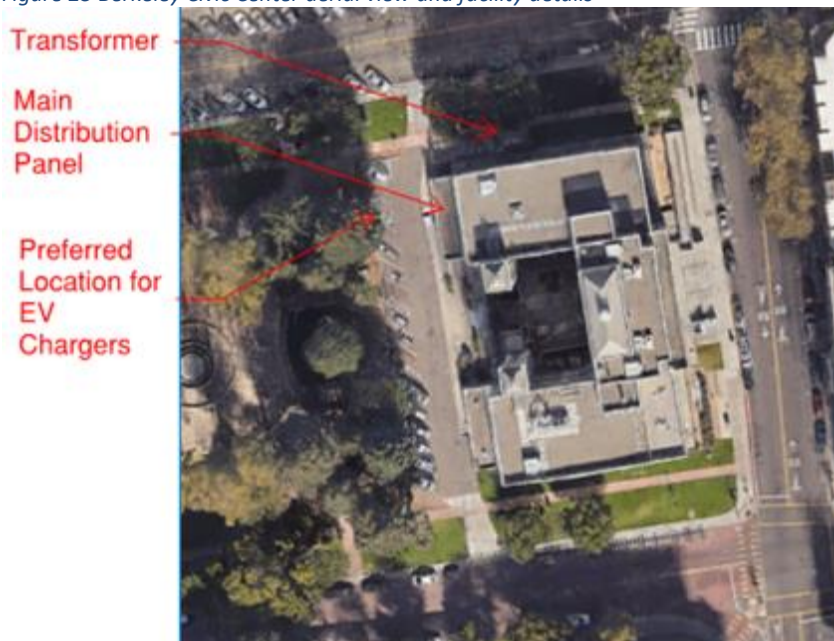
Recommended: Charging

Additional: Additional charging potentially needed as police patrol/pursuit vehicles become available near the end of the decade.

Site Description

The Civic Center is located at 2180 Milvia St. in the heart of downtown Berkeley. Sixteen parking stalls are assigned to City staff with a signpost in the front of each parking stall. A total of 25 light-duty vehicles are assigned to Civic Center Hall, although most park at the City's Center Street Garage (Site #6). Figure 25 shows the aerial view of the Civic Center facility. The building's roof is unsuitable for solar PV based on age and condition.

Figure 25 Berkeley Civic Center aerial view and facility details



The main distribution panel is in the basement of the building across from the parking stalls. The transformer is located on the north side of the building close to the enclosed bicycle parking area. The main distribution panel is about 55 feet from the first parking stall located on the NW corner of Civic Center.

Recommendations

To meet the near-term needs of light-duty vehicles:

- One dual-head Level 2 charger installed at the ends of the angled parking stalls opposite the existing main distribution panel will accommodate the existing vehicles those that are planned to be relocated to this domicile.

East Bay Community Energy Fleet Electrification

Cost of EV Charging: B-19S- Brilliant 100 Rate – Civic Center

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	0.5	223	\$1	\$27	\$28	\$0.13
2	0.5	201	\$1	\$24	\$25	\$0.13
3	0.5	223	\$1	\$27	\$28	\$0.13
4	0.5	216	\$1	\$26	\$27	\$0.13
5	0.5	223	\$1	\$27	\$28	\$0.13
6	0.5	216	\$16	\$28	\$44	\$0.20
7	0.5	223	\$16	\$29	\$45	\$0.20
8	0.5	223	\$16	\$29	\$45	\$0.20
9	0.5	216	\$16	\$28	\$44	\$0.20
10	0.5	223	\$1	\$27	\$28	\$0.13
11	0.5	216	\$1	\$26	\$27	\$0.13
12	0.5	223	\$1	\$27	\$28	\$0.13
Total		2,626			\$396	\$0.15

Site #10 Mental Health Clinic (2636/2640 Martin Luther King Jr Way)

Recommended: Charging, solar PV

Additional: Both are already under construction as part of a building remodel.

Site Description

The City of Berkeley Mental Health and Human Services is located at 2636/2640 Martin Luther King Jr. Way, as shown in Figure 26. A total of eight vehicles assigned to this location share five assigned on-street parking spaces. The main distribution panel is rated as 600 A ampacity according to drawings received from the City.

Figure 26 City of Berkeley Mental Health and Human Services parking facility details



Recommendations

Plans received from the City indicate two dual-head Level 2 chargers are planned at this site as curbside charging. One will be installed in 2020 and the other installed later, if needed. Based on the vehicle inventory and use data, sharing these chargers should accommodate the needs of the eight EVs. A 60.1 kW solar PV array that will cover the entire roof is under construction.

Solar PV Location and Generation Potential - Mental Health Clinic

Solar PV Array Location	Gross Area Identified (SF)	Solar PV Array Area (SF)	Number of Solar PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
Planned				60.1	48.1	94,430
Total				12.6	10.1	94,430

East Bay Community Energy Fleet Electrification

Value of Solar PV to Battery Electric Storage for EV Charging: B-10SX-Brilliant 100 Rate – Mental Health Clinic

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Value of Demand (\$)	Value of Energy (\$)	Total Value (\$)	Average Value of Solar PV Energy (\$/kWh)
1	10.1	1,189	\$135	\$181	\$316	\$0.27
2	11.8	1,315	\$158	\$198	\$356	\$0.27
3	12.0	2,061	\$162	\$255	\$417	\$0.20
4	12.6	2,330	\$169	\$289	\$458	\$0.20
5	12.5	2,513	\$168	\$311	\$479	\$0.19
6	12.6	2,637	\$169	\$496	\$665	\$0.25
7	12.4	2,627	\$166	\$496	\$662	\$0.25
8	12.0	2,451	\$162	\$461	\$622	\$0.25
9	12.1	2,146	\$163	\$396	\$559	\$0.26
10	11.4	1,848	\$153	\$281	\$435	\$0.24
11	10.1	1,410	\$136	\$217	\$353	\$0.25
12	9.7	1,176	\$130	\$181	\$312	\$0.27
Total		23,702			\$5,634	\$0.24

Value of Solar PV to Building: B-10SX-Brilliant 100 Rate – Mental Health Clinic

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Demand Costs Avoided (\$)	Energy Costs Avoided (\$)	Total Costs Avoided (\$)	Average Value of Solar PV Energy (\$/kWh)
1	30.1	3,548	\$404	\$540	\$943	\$0.27
2	35.2	3,924	\$472	\$591	\$1,063	\$0.27
3	35.9	6,149	\$482	\$762	\$1,244	\$0.20
4	37.5	6,954	\$503	\$863	\$1,367	\$0.20
5	37.3	7,499	\$501	\$928	\$1,429	\$0.19
6	37.5	7,870	\$503	\$1,480	\$1,984	\$0.25
7	36.9	7,838	\$495	\$1,480	\$1,976	\$0.25
8	35.9	7,313	\$482	\$1,375	\$1,857	\$0.25
9	36.2	6,403	\$486	\$1,181	\$1,667	\$0.26
10	34.1	5,514	\$458	\$840	\$1,297	\$0.24
11	30.2	4,207	\$405	\$649	\$1,054	\$0.25
12	28.9	3,509	\$389	\$542	\$930	\$0.27
Total		70,728			\$16,812	\$0.24

East Bay Community Energy Fleet Electrification

Cost of EV Charging: B-10SX-Brilliant 100 Rate – Mental Health Clinic

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	4.6	2,013	\$0	\$248	\$248	\$0.12
2	4.6	1,818	\$0	\$224	\$224	\$0.12
3	4.6	2,013	\$0	\$248	\$248	\$0.12
4	4.6	1,948	\$0	\$240	\$240	\$0.12
5	4.6	2,013	\$0	\$248	\$248	\$0.12
6	4.6	1,948	\$0	\$387	\$387	\$0.20
7	4.6	2,013	\$0	\$400	\$400	\$0.20
8	4.6	2,013	\$0	\$400	\$400	\$0.20
9	4.6	1,948	\$0	\$387	\$387	\$0.20
10	4.6	2,013	\$0	\$248	\$248	\$0.12
11	4.6	1,948	\$0	\$240	\$240	\$0.12
12	4.6	2,013	\$0	\$248	\$248	\$0.12
Total		23,702			\$3,516	\$0.15

Site #11 South Berkeley Senior Center

Recommended: Charging, solar PV

Additional: Charging should anticipate procurement of BEV passenger vans.

Site Description

The South Berkeley Senior Center is located at 2939 Ellis St., as shown in Figure 27. Two light-duty vehicles and three passenger vans are assigned to this facility. A strip of open ground on the north side of the property between the parking lot and the property line of the facility could be used to run the underground conduit system from the new service enclosure to the parking stalls where EV chargers can be installed. The multifaceted roof makes a solar PV installation difficult at this site; the solar PV array is sized for largest available southern exposure roof area

Figure 27 South Berkeley Senior Center facility aerial view



Recommendations

To meet the near-term needs of light-duty vehicles and potential near-term procurement of EV passenger vans or shuttle:

- A dual-head, high-power Level 2 charger.
- New electrical with a main breaker rated a minimum of 60A.
 - A 100A main will allow for future load of an additional dual-head charger, if needed.

Solar PV Location and Generation Potential – South Berkeley Senior Center

Solar PV Array Location	Gross Area Identified (SF)	Solar PV Array Area (SF)	Number of Solar PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
A	1,509	465	26	7.8	6.2	12,265
Total	1,509	465	26	7.8	6.2	12,265

East Bay Community Energy Fleet Electrification

Value of Solar PV to Battery Electric Storage for EV Charging on B-6-Brilliant 100 Rate – South Berkeley Senior Center

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Value of Demand (\$)	Value of Energy (\$)	Total Value (\$)	Average Value of Solar PV Energy (\$/kWh)
1	1.2	139	\$0	\$30	\$30	\$0.22
2	1.4	152	\$0	\$33	\$33	\$0.22
3	1.4	234	\$0	\$51	\$51	\$0.22
4	1.4	260	\$0	\$57	\$57	\$0.22
5	1.4	277	\$0	\$61	\$61	\$0.22
6	1.4	289	\$0	\$71	\$71	\$0.25
7	1.4	289	\$0	\$72	\$72	\$0.25
8	1.3	273	\$0	\$67	\$67	\$0.25
9	1.4	242	\$0	\$59	\$59	\$0.24
10	1.3	213	\$0	\$46	\$46	\$0.22
11	1.2	166	\$0	\$36	\$36	\$0.22
12	1.1	139	\$0	\$30	\$30	\$0.22
Total		2,675			\$614	\$0.23

Value of Solar PV to Building on B-6-Brilliant 100 Rate – South Berkeley Senior Center

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Demand Costs Avoided (\$)	Energy Costs Avoided (\$)	Total Costs Avoided (\$)	Average Value of Solar PV Energy (\$/kWh)
1	4.2	500	\$0	\$108	\$108	\$0.22
2	4.8	545	\$0	\$118	\$118	\$0.22
3	4.9	839	\$0	\$183	\$183	\$0.22
4	5.1	934	\$0	\$204	\$204	\$0.22
5	5.0	993	\$0	\$218	\$218	\$0.22
6	5.0	1,036	\$0	\$256	\$256	\$0.25
7	4.9	1,037	\$0	\$257	\$257	\$0.25
8	4.8	979	\$0	\$241	\$241	\$0.25
9	4.9	869	\$0	\$211	\$211	\$0.24
10	4.7	764	\$0	\$166	\$166	\$0.22
11	4.2	594	\$0	\$128	\$128	\$0.22
12	4.1	500	\$0	\$108	\$108	\$0.22
Total		9,590			\$2,201	\$0.23

Cost of EV Charging on B-6-Brilliant 100 Rate – South Berkeley Senior Center

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	1.4	227	\$0	\$52	\$52	\$0.23
2	1.4	205	\$0	\$47	\$47	\$0.23
3	1.4	227	\$0	\$52	\$52	\$0.23
4	1.4	220	\$0	\$50	\$50	\$0.23
5	1.4	227	\$0	\$52	\$52	\$0.23
6	1.4	220	\$0	\$54	\$54	\$0.25
7	1.4	227	\$0	\$56	\$56	\$0.25

East Bay Community Energy Fleet Electrification

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
8	1.4	227	\$0	\$56	\$56	\$0.25
9	1.4	220	\$0	\$54	\$54	\$0.25
10	1.4	227	\$0	\$52	\$52	\$0.23
11	1.4	220	\$0	\$50	\$50	\$0.23
12	1.4	227	\$0	\$52	\$52	\$0.23
Total		2,675			\$627	\$0.23

East Bay Community Energy Fleet Electrification

Site #12 North Berkeley Senior Center

Recommended: Charging, solar PV

Additional: Both are already under construction as part of a building remodel.

Site Description

The North Berkeley Senior Center is located at 1901 Hearst Ave., as shown in Figure 21. This site was under construction at the time of the site visits. City staff stated that a new load distribution panel, spare breakers, and conduits stubbed-up will be installed as part of the ongoing construction at this facility. Drawings received from the City show a dual-head Level 2 charger to be installed and a solar PV array will be added to the area shown in the figure.

Figure 28 North Berkeley Senior Center aerial view



Recommendations

The planned (or under construction) Level 2 charger and solar PV array will accommodate the charging needs of the two light-duty vehicles domiciled at this location.

Solar PV Siting and Generation Potential – North Berkeley Senior Center

Solar PV Array Location	Gross Area Identified (SF)	Solar PV Array Area (SF)	Number of Solar PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
Proposed				29.6	23.7	46,665
Total				29.6	23.7	46,665

East Bay Community Energy Fleet Electrification

Value of Solar PV to Battery Electric Storage for EV Charging on B-10SX-Brilliant 100 Rate – North Berkeley Senior Center

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Value of Demand (\$)	Value of Energy (\$)	Total Value (\$)	Average Value of Solar PV Energy (\$/kWh)
1	1.8	217	\$25	\$33	\$58	\$0.27
2	2.2	240	\$29	\$36	\$65	\$0.27
3	2.2	376	\$29	\$47	\$76	\$0.20
4	2.3	432	\$30	\$53	\$84	\$0.19
5	2.3	477	\$31	\$59	\$89	\$0.19
6	2.3	481	\$31	\$90	\$121	\$0.25
7	2.2	474	\$29	\$89	\$119	\$0.25
8	2.2	445	\$30	\$84	\$113	\$0.25
9	2.2	393	\$30	\$72	\$102	\$0.26
10	2.0	329	\$27	\$50	\$77	\$0.23
11	1.8	257	\$25	\$40	\$64	\$0.25
12	1.7	199	\$23	\$31	\$54	\$0.27
Total		4,319			\$1,022	\$0.24

Value of Solar PV to Building: B-10SX-Brilliant 100 Rate – North Berkeley Senior Center

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Demand Costs Avoided (\$)	Energy Costs Avoided (\$)	Total Costs Avoided (\$)	Average Value of Solar PV Energy (\$/kWh)
1	18.0	2,125	\$242	\$323	\$565	\$0.27
2	21.1	2,352	\$283	\$354	\$637	\$0.27
3	21.5	3,687	\$289	\$457	\$746	\$0.20
4	22.3	4,230	\$299	\$524	\$823	\$0.19
5	22.4	4,673	\$300	\$575	\$876	\$0.19
6	22.4	4,712	\$300	\$886	\$1,187	\$0.25
7	21.4	4,648	\$287	\$875	\$1,162	\$0.25
8	21.6	4,358	\$290	\$819	\$1,108	\$0.25
9	21.7	3,851	\$291	\$711	\$1,002	\$0.26
10	19.5	3,226	\$261	\$491	\$752	\$0.23
11	18.1	2,522	\$243	\$389	\$632	\$0.25
12	17.1	1,952	\$229	\$302	\$531	\$0.27
Total		42,336			\$10,021	\$0.24

Cost of EV Charging: A-10SX-Brilliant 100 Rate – North Berkeley Senior Center

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	1.7	367	\$0	\$48	\$48	\$0.13
2	1.7	331	\$0	\$43	\$43	\$0.13
3	1.7	367	\$0	\$48	\$48	\$0.13
4	1.7	355	\$0	\$46	\$46	\$0.13
5	1.7	367	\$0	\$48	\$48	\$0.13
6	1.7	355	\$0	\$69	\$69	\$0.19
7	1.7	367	\$0	\$71	\$71	\$0.19

East Bay Community Energy Fleet Electrification

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
8	1.7	367	\$0	\$71	\$71	\$0.19
9	1.7	355	\$0	\$69	\$69	\$0.19
10	1.7	367	\$0	\$48	\$48	\$0.13
11	1.7	355	\$0	\$46	\$46	\$0.13
12	1.7	367	\$0	\$48	\$48	\$0.13
Total		4,320			\$655	\$0.15



Kate Harrison
Councilmember District 4
Susan Wengraf
Councilmember District 6

CONSENT CALENDAR
June 25, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Harrison, Vice Mayor Wengraf, Councilmember Robinson and Mayor Arreguin
Subject: An Action Plan for Greening the City of Berkeley Fleet of Vehicles

RECOMMENDATION

Request the City Manager and Department of Public Works collaborate to create an Action Plan ("plan"), by June 2020, to aggressively accelerate the implementation of the electrification of the City's municipal fleet and phase out fossil fuel use in municipal vehicles by 2030 with consideration of an earlier transition for light-duty passenger vehicles. The Plan should include an evaluation of the City's current fleet and an analysis of opportunities for transitioning to a fleet of fossil fuel free vehicles, as soon as the technology can safely meet operational needs. An update on our progress should be reported to City Council as an information item every six months.

In the interim, the City Manager is asked to explain criteria used to purchase fossil fuel vehicles in all future staff items related to vehicle purchases with Council.

FINANCIAL IMPLICATIONS

Consultant fees, if deemed desirable by the City Manager, and staff time.

BACKGROUND

The City Council declared a climate emergency on June 12, 2018. In light of this emergency and the City of Berkeley's ongoing commitment to and investment in electric charging technology and facilities, we request that the City develop an action plan to significantly reduce the city's contribution to carbon pollution and to evaluate when electric vehicles can safely and operationally replace the vehicles in the current municipal fleet.¹

Berkeley has demonstrated its commitment to reducing its vehicle emissions; The Energy Commission's Recommendations for a Fossil Free Berkeley were articulated in the Fossil Free Berkeley Report (1/23/2019):

¹ In 2017, San Francisco passed an ordinance mandating that all new light-duty additions to the passenger vehicle fleet, subject to certain exemptions and waivers, be zero-emission. In addition, the ordinance specifies December 31, 2022 as a deadline for transitioning San Francisco's entire light-duty fleet.

- *Requiring all future city government procurements of vehicles to minimize emissions, and establishing a goal and plan for transitioning the city's vehicle fleet to all electric vehicles.*
- *Establishing a goal and plan for transitioning to 100% renewable energy for municipal operations and a community wide goal of 100% reductions by 2030.*
- *Assessing the city's transportation vehicle needs and develop an aggressive timeline for transitioning to all electric. This assessment would include consideration of 1) Switching to lower carbon transport options such as electric cars or bicycles where possible and 2) the timing of technology development and commercialization for car batteries*

Additionally, on September 25, 2018, the City Council approved a contract with Cadmus Group LLC to develop a Berkeley Electric Vehicle Roadmap, a comprehensive action-based EV roadmap to speed the transition from fossil fuels to EV's in the community. The recommendation we are proposing here would focus specifically on the COB fleet of vehicles, complementing the work of Cadmus.

The City is investing in charging stations across Berkeley such as the Center Street Garage and the North Berkeley Senior Center. At the May 14, 2019 City Council meeting, the Director of Public Works confirmed that the City has set aside \$600,000 for new electric vehicle charging stations. In addition, East Bay Community Energy is working with City staff to expand charging infrastructure. Thus, we are poised to significantly expand our electric fleet.

The transportation sector accounts for over 60 percent² of Berkeley's core greenhouse gas emissions, which are the main driver of climate change. Transitioning our city fleet of vehicles from fossil fuels to clean electricity is an important and vital component of achieving our climate goals that will significantly reduce greenhouse gas emissions and improve air quality, and represent further commitment to the City's decarbonization obligations. A zero emissions municipal fleet will also help to inspire residents and businesses to transition to zero emissions vehicles.

The following actions are proposed to accelerate Berkeley's transition to a clean and green municipal fleet:

The City Manager in collaboration with the Department of Public Works shall create an Action Plan ("plan") to aggressively accelerate the electrification of the City's municipal fleet and phase out fossil fuel use in municipal vehicles by 2030.

The plan should consider:

- Criteria, safety and operational needs.
- Current available technologies.

² Office of Energy & Sustainable Development (OESD) 2016 Community Inventory. Dec 6, 2018 Climate Action Plan Update

- Current fleet right sizing/retirement opportunities.
- A strategy for infrastructure deployment to support the electrification of the municipal fleet. This strategy should take into consideration a long-term funding approach for EV charging infrastructure, including potential partnerships with publicly accessible charging networks and state and regional funding sources.
- Consideration of the possibilities of leasing gas-powered when electric vehicles are not feasible in order to avoid obsolescence.
- A strategy to rapidly electrify the city’s fleet and to provide for the use of fossil fuel-free liquid fuels when electric vehicles are not a viable option.
- Plug-in vehicles should be purchased for the municipal fleet when a cost effective, market-ready vehicle is available which matches the planned operations for that vehicle.
- Recognizing the unique needs of emergency management and first response vehicles, the plan should include a strategy to provide emergency management services with electric and fossil fuel-free vehicles wherever possible.
- An assessment of the challenges or opportunities presented by different vehicle fuel types on emergency management and response and allow for exemptions where alternative vehicles are not readily available.

The Action Plan should be completed no later than June, 2020 and presented to City Council in time for the FY 2021 budget process.

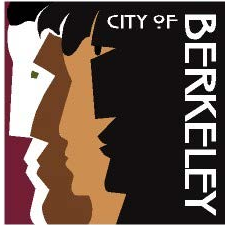
ENVIRONMENTAL SUSTAINABILITY

Supports the goals of the COB Climate Action Plan, and Fossil Free Berkeley Report

“Driving an electric car in the Bay Area reduces about 70% of the greenhouse gases produced by a conventional car.” *Berkeley Office of Energy & Sustainable Development (OESD)*

CONTACT PERSON

Councilmember Harrison	Council District 4	510-981-7140
Councilmember Wengraf	Council District 6	510-981-7160



[First Last name]
Councilmember District [District No.]

SUPPLEMENTAL REVISED AGENDA MATERIAL for Supplemental Packet 2

Meeting Date: February 4, 2020

Item Number: 2

Item Description: Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

Submitted by: Councilmember Hahn

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.



SOPHIE HAHN
Berkeley City Council, District 5
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
(510) 981-7150
shahn@cityofberkeley.info

ACTION CALENDAR
February 4, 2020

To: Honorable Mayor and Members of the City Council
From: Vice Mayor Sophie Hahn
Subject: Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

RECOMMENDATION

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.

Officeholder accounts are accounts an elected official can open, and raise funds for, to pay for expenses related to the office they hold.¹ They are not campaign accounts, and cannot be used for campaign purposes. The types of expenses Officeholder Accounts can be used for include research, conferences, events attended in the performance of government duties, printed newsletters, office supplies, travel related to official duties, etc. Cities can place limits on Officeholder Accounts, as Oakland has done.² Officeholder Accounts must be registered as official "Committees" and adhere to strict public reporting requirements, like campaign accounts. They provide full transparency to the public about sources and uses of funds.

The FCPC bases its recommendation to prohibit Officeholder Accounts on arguments about "equity" and potential "corruption" in elections. The report refers repeatedly to "challengers" and "incumbents," suggesting that Officeholder Accounts are vehicles for unfairness in the election context.

I believe that the FCPC's recommendations reflect a misunderstanding of the purpose and uses of Officeholder Accounts, equating them with campaign accounts and suggesting that they create an imbalance between community members who apparently have already decided to run against an incumbent (so-called "challengers") and elected officials who are presumed to be

¹ <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter5/18531.62.pdf>

² <http://www2.oaklandnet.com/w/OAK052051>

always running for office. The recommendations do not take into account some important framing: the question of what funds are otherwise available to pay for Officeholder-type expenses for Officeholders or members of the public. Contrary to the conclusions of the FCPC, I believe Officeholder accounts are an important vehicle to redress a significant disadvantage for elected officials, whose ability to exercise free speech in the community and participate in conferences and events related to their profession is constrained by virtue of holding public office, as compared to community members, whose speech rights are unrestricted in any manner whatsoever, and who can raise money to use for whatever purposes they desire.

Outlawing Officeholder Accounts is also posited as a means to create equity between more and less wealthy Officeholders, on the theory that less affluent Officeholders will have less access to fundraising for Officeholder Accounts than more affluent Officeholders. Because there are no prohibition on using personal funds for many of the purposes for which Officeholder Account funds can be used, prohibiting Officeholder Accounts I believe has the opposite effect; it leaves more affluent Officeholders with the ability to pay for Officeholder expenses from personal funds, without providing an avenue for less affluent Officeholders, who may not have available personal funds, to raise money from their supporters to pay for such Officeholder expenses.

The question of whether Officeholder Accounts should be allowed in Berkeley plays out in the context of a number of rules and realities that are important to framing any analysis.

First, by State Law, elected officials are prohibited from using public funds for a variety of communications that many constituents nevertheless expect. For example, an elected official may not use public funds to send a mailing announcing municipal information to constituents, “such as a newsletter or brochure, [...] delivered, by any means [...] to a person’s residence, place of employment or business, or post office box.”³ Nor may an elected official mail an item using public funds that features a reference to the elected official affiliated with their public position.⁴ Note that Electronic newsletters are not covered by these rules, and can and do include all of these features, even if the newsletter service is paid for by the public entity. That said, while technically not required, many elected officials prefer to use email newsletter distribution services (Constant Contact, MailChimp, Nationbuilder, etc.) paid for with personal (or “Officeholder”) funds, to operate in the spirit of the original rules against using public funds for communications that include a photo of, or references to, the elected official.

Without the ability to raise funds for an Officeholder Account, for an elected official to send a paper newsletter to constituents or to use an email newsletter service that is not paid for with public funds, they must use personal funds. A printed newsletter mailed to 5-6,000 households (a typical number of households in a Berkeley City Council District) can easily cost \$5,000+, and an electronic mail service subscription typically costs \$10 (for the most basic service) to \$45 per month, a cost of \$120.00 to over \$500 per year - in personal funds.

³ <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

⁴ <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

Second, Berkeley City Councilmembers and the Mayor of Berkeley are not paid enough for there to be any reasonable expectation that personal funds should be used for these types of expenses.⁵ For many Councilmembers and/or the Mayor, work hours are full time - or more - and there is no other source of income.

Finally, and most importantly, local elected officials are restricted from accepting money or gifts. An elected official cannot under any circumstances raise money to pay for Officeholder expenses such as printed communications, email newsletter services, travel and admission to industry conferences for which the elected official is not an official delegate (e.g., conferences on City Planning, Green Cities, Municipal Finance, etc.), and other expenses related to holding office that are not covered by public funds. Again, without the possibility of an Officeholder Account, an elected official generally must use personal funds for these expenses, allowing more affluent elected officials to participate while placing a hardship or in some cases a prohibition on the ability of less affluent elected officials to undertake these Officeholder-type activities - which support expected communications with constituents and participation in industry activities that improve the elected official's effectiveness.

The elected official's inability to raise funds from others must be contrasted with the ability of a community member - a potential "challenger" who has not yet declared themselves to be an actual candidate - or perhaps a neighborhood association, business or corporation (Chevron, for example) - to engage in similar activities. Nothing restricts any community member or organization from using their own funds - or funds obtained from anyone - a wealthy friend, a corporation, a local business, a community organization or their neighbors - for any purpose whatsoever.

Someone who doesn't like the job an elected official is doing could raise money from family or connections anywhere in the community - or the world - and mail a letter to every person in the District or City criticizing the elected official, or buy up every billboard or banner ad on Facebook or Berkeleyside to broadcast their point of view. By contrast, the elected official, without access to an Officeholder Account, could only use personal funds to "speak" with their own printed letter, billboard or advertisement. Community members (including future "challengers") can also attend any and all conferences they want, engage in travel to visit interesting cities and projects that might inform their thoughts on how a city should be run, and pay for those things with money raised from friends, colleagues, businesses, corporations, foreign governments - *anyone*. They are private citizens with full first amendment rights and have no limitations, no reporting requirements, no requirements of transparency or accountability whatsoever.

The imbalance is significant. Outside of the campaign setting, where all declared candidates can raise funds and must abide by the same rules of spending and communications, *elected officials cannot raise money for any expenses whatsoever, from any source, while community*

⁵ Councilmembers receive annual compensation of approximately \$36,000, while the Mayor receives annual compensation of approximately \$55,000.⁵

members, including organizations and private companies, can raise as much money as they want from any sources, and use that money for anything they choose.

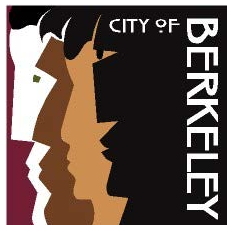
Without the ability to establish and fund an Officeholder Account, the only option an elected official has is to use personal funds, which exacerbates the potential imbalance between elected officials with more and less personal funds to spend. Elected officials work within a highly regulated system, which can limit their ability to “speak” and engage in other activities members of the public are able to undertake without restriction. Officeholder Accounts restore some flexibility by allowing elected officials to raise money for expenses related to holding office, so long as the sources and uses of those funds is made transparent.

By allowing Officeholder Accounts and regulating them, Berkeley can place limits on amounts that can be raised, and on the individuals/entities from whom funds can be accepted, similar (or identical) to the limits Berkeley places on sources of campaign funds. Similarly, Berkeley can restrict uses of funds beyond the State’s restrictions, to ensure funds are not used for things like family members’ travel, as is currently allowed by the State. Oakland has taken this approach, and has a set of Officeholder Account regulations that provide a good starting point for Berkeley to consider.⁶

I respectfully ask for a vote to send the question of potential allowance for, and regulation of, Officeholder Accounts to the Agenda and Rules Committee for further consideration.

CONTACT: Sophie Hahn, District 5: (510) 981-7150

⁶ <http://www2.oaklandnet.com/w/OAK052051>



Fair Campaign Practices Commission

SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 2

Meeting Date: February 4, 2020

Item Number: 2

Item Description: Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

Submitted by: Samuel Harvey; Deputy City Attorney / Secretary, Fair Campaign Practices Commission

Attachment 4 to the report (“Memorandum signed by City Attorney Manuela Albuquerque”) included an attachment which was erroneously omitted from the Council item. Attached is Attachment 4 (for context) along with the additional pages which should be included to appear as pages 16 -17 of the item.



Office of the
City Attorney

DATE: December 28, 1999

TO: BARBARA GILBERT,
Aide to Mayor Shirley Dean

FROM: MANUELA ALBUQUERQUE, City Attorney *MA*
By: CAMILLE COUREY, Deputy City Attorney

SUBJECT: APPLICATION OF BERKELEY ELECTION REFORM ACT TO OFFICEHOLDER ACCOUNTS

ISSUE:

Does the Berkeley Election Reform Act (BERA) govern officeholder accounts?

CONCLUSION:

No. The BERA does not govern true officeholder accounts per se. However, the mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under the BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable local laws.

ANALYSIS:

Sarah Reynoso, former secretary and staff counsel to the Fair Campaign Practices Commission (FCPC), issued an opinion to the FCPC dated December 2, 1991, a copy of which is attached, stating that the BERA's contribution limit does not apply to contributions made to an officeholder account. The opinion reasons that the BERA's contribution limit applies only to "contributions" as defined in the BERA, i.e., which are made directly or indirectly in support of or in opposition to the nomination or election of one or more candidates to elective office. (See Berkeley Municipal Code (BMC) § 2.12.100.) Contributions to a true officeholder account are not made for the purpose of nominating or electing a candidate to office, but rather for the use of an officeholder in carrying out the duties of his or her office. Therefore, the contribution limit of the BERA is inapplicable to officeholder accounts.¹ For similar reasons, the BERA does not

¹ However, the opinion also provided that contributions to officeholder accounts still had to be reported on campaign statements because the State Fair Political Practices Commission (FPPC) Regulations broadly defined contributions as any contribution for "political purposes." Since officeholder expenses are for political purposes, they must be reported to the State.

Barbara Gilbert

Re: Application of Berkeley Election Reform Act To Officeholder Accounts

December 28, 1999

Page 2

apply to true officeholder accounts.

The BERA requires the filing of statements to report the amounts received and expended in municipal elections. (See BMC §§ 2.12.015, 2.12.030 through 2.12.050) Specifically, a "campaign statement" required to be filed under the BERA is an itemized report which provides the information required by Sections 2.12.245 through 2.12.325 of the BERA. (BMC § 2.12.080.) Sections 2.12.245 through 2.12.325 govern the reporting of contributions and expenditures. "Contributions" and "expenditures" are defined by the BERA as any amounts received or expended, respectively, in aid of or in opposition to the nomination or election of one or more candidates to elective office. (See BMC §§ 2.12.100 and 2.12.130.) Contributions to or expenditures from a true officeholder account are not subject to the BERA's reporting requirements because they are made for the purpose of carrying out the duties of elective office, and not for the purpose of aiding or opposing the nomination or election of one or more candidates to elective office.² Therefore, the BERA does not apply to true officeholder accounts.

However, the fact that an account may be designated as an officeholder account will not shield it from scrutiny under the BERA if the officeholder account is, in fact, being used for the receipt of contributions or the making of expenditures in aid of the nomination or election of a candidate for local elective office. Nor will BERA requirements, such as the \$250 contribution limit or the prohibition against contributions from businesses to candidates, be held inapplicable if contributions made initially to an officeholder account are transferred subsequently to a campaign account. Where the actions taken with respect to an officeholder account implicate campaign contributions and expenditures in municipal elections, the officeholder account will be scrutinized under the BERA and other applicable local law.

Attachment

cc: Fair Campaign Practices Commission
Sherry Kelly, City Clerk

City Attorney Opinion Index: ILE 1. and IILG.

CCM

PAUSERSUBEL2\offhldr.mem.doc

² Again, however, the State FPPC still requires the reporting of activity relating to an officeholder account. (See footnote 1.)

CITY OF BERKELEY

DATE: December 9, 1991

Memorandum

TO: FCPC COMMISSIONERS

FROM: Sarah Reynoso,  Secretary & Staff CounselSUBJECT: APPLICABILITY OF BERA'S CONTRIBUTION LIMIT TO FUNDS RAISED FOR OFFICEHOLDER EXPENSESBACKGROUND AND ISSUE

I received the attached letter from Richard N. Lerner, treasurer of Friends of Loni Hancock Committee ("Committee"), regarding the applicability of BERA's (Berkeley Election Reform Act) \$250 contribution limit to funds raised to cover officeholder expenses. The Committee would like to raise money to cover activities by the Mayor for which the City has not allocated funds, for example, distribution of a newsletter and international travel to visit Berkeley Sister Cities.

Thus, the issue presented to the Commission is as follows: Is BERA's \$250 contribution limit applicable to funds raised for officeholder expenses?

CONCLUSION

No. The BERA's contribution limitation is only applicable to money raised "in aid of or in opposition to the nomination or election" of a candidate. Since the Committee intends to raise these funds for activities unrelated to the nomination or election of the Mayor, they are not subject to the BERA's \$250 contribution limitation. However, such funds must be reported as contributions under the State Political Reform Act and their expenditure itemized on the disclosure forms.

ANALYSIS

The BERA prohibits candidates for elective office from soliciting or accepting a contribution of more than \$250 from any one contributor. (BERA section 2.12.415.) Thus, funds which fall within BERA's definition of a contribution, are subject to the \$250 limit. In order to determine whether funds raised for officeholder expenses are subject to the contribution limitation, BERA's definition of contribution must be reviewed.

The BERA defines contribution, in part, as follows:

"Contribution" means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or

FCPC COMMISSIONERS
December 9, 1991
Page 2

in opposition to the nomination or election of one or more candidates (Emphasis added.)

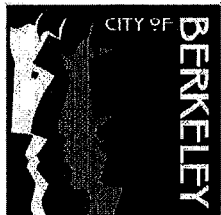
Thus, the plain language of the BERA requires that a contribution be solicited for purposes related to the nomination or election of a candidate for office to be subject to its contribution limitation. Since the Committee intends to raise funds for purposes unrelated to the Mayor's nomination or election for elective office, such funds do not fall within the BERA's definition and are therefore not subject to its \$250 limitation.

However, because the state Political Reform Act defines contribution to include any funds raised for political purposes, funds raised for officeholder expenses are considered contributions and must be reported on campaign disclosure forms.^{1/} (Government Code section 82015.) Additionally, since the court's ruling in SEIU v. FPPC invalidated the state's \$1,000 contribution limit, funds raised for officeholder expenses are not subject to any limitation.

As a final precaution, the Committee should be advised that the FPPC has issued regulations concerning officeholder expenses and it should review them with respect to their interaction with the BERA.

Attachment

^{1/}I spoke with the FPPC's legal staff and confirmed that funds raised for officeholder expenses must be reported as contributions on the campaign disclosure forms.



Office of the City Auditor
Ann-Marie Hogan, City Auditor

MEMORANDUM

Date: March 14, 2017
To: Councilmember Harrison
From: Ann-Marie Hogan, City Auditor
Re: Council Expense Reimbursement Guidance

The purpose of this memo is to provide you with forms for, links to, and general guidance on Council expense and reimbursement policies. In some cases, the restrictions on expenses for Council Members are more restrictive and more complex than those for City employees, because of state law. You must contact my office prior to incurring expenses for attendance at a conference, seminar, or training, or making travel arrangements. The purchase of routine office supplies should be made using the City's standard procurement procedures and vendors, using a purchase order, but on those occasions when you must pay for something personally and then request reimbursement, you will also need to submit the request to my office. For information regarding the City's procurement procedures, see Administrative Regulation 3.4¹. Once your City email is active, we'll send this memo to you via email, so you can click on the links to the City's intranet. Please feel free to contact me if you or your staff have questions.

In July 2006, the Berkeley City Council passed Resolution No. 63,412–N.S. to comply with state bill AB1234, which requires all cities to adopt an expense reimbursement policy for legislators in local government, and sets specific requirements for that policy. In September 2013, at the recommendation of the City Attorney, Council rescinded Resolution No. 63,412–N.S. and replaced it with Resolution No. 66,295–N.S. (See attached.) Council adopted the new resolution to incorporate a budget relinquishment and grant policy, and also to clarify the criteria and spending limitations associated with reimbursements for the Mayor and Council Members. Some of the spending limitations include:

- **Mileage and Transit**:- Mileage is reimbursed at the current year's IRS mileage rate and must be accompanied by supporting documentation, such as a Google Maps printout. Use the most economical mode of transportation practical.
- **Meals**: Meals are reimbursed at the per diem rates set forth in City Administrative Regulation 3.9, or the actual cost of the meal, whichever is *lower*.² The per diem rate covers the meal, tax,

¹ Administrative Regulation 3.4: <http://icobweb/AR/PDF/AR3-4.pdf>

² Administrative Regulation 3.9: [http://icobweb/AR/PDF/2016/Administrative Regulation 3.9.pdf](http://icobweb/AR/PDF/2016/Administrative%20Regulation%203.9.pdf)

tip, and nonalcoholic beverages (alcoholic beverages are not reimbursable). The per diem rate also applies when Council Members are requesting reimbursement for meals paid on behalf of individuals who are conducting city related business, such as Legislative Assistants. Council Members must submit original receipts, a list of attendees and the Statement of Municipal Purpose form (explaining how the expense benefits the City), as part of the reimbursement request. Any expense in excess of the individual meal allowance will not be reimbursed. The current per diem rates are:

- Breakfast \$10
 - Lunch \$15
 - Dinner \$26
- **Airfare**: Airfare is reimbursed based on the most economical mode and class of transportation reasonably consistent with scheduling needs. We suggest that you attach a printout of available fares with your request. Please note that the current language in Resolution No. 66,295–N.S. is out of date because it references a program that is no longer available. This will be corrected in Council’s next revision of that resolution.
 - **Lodging**: Lodging for conferences will be reimbursed at the available group rates. If lodging at the conference rate is not available, reimbursement will be based on either the published conference rate or the government rates published by the U.S. General Services Administration, whichever is greater. Where no conference rate is published, the reimbursement rate will be based on the government rate or the median rate listed on discount travel websites, whichever is greater. Trivago, Priceline, Kayak, Orbitz, Travelocity, and Expedia are examples of travel sites that provide discount rates and may be used to identify a reasonable median rate. Include a printout of the published conference rate, government rate, or travel site rates with the reimbursement request as applicable. Council Members can look up rates by using the U.S. General Services Administration’s Per Diem Rates Look-Up tool.³ Council Members should select the specific location they are traveling to in the look-up tool.
 - **Registration**: Generally, Council Members should use a purchase order for conference, seminar, and training registrations as defined by Administrative Regulation 3.9. However, Council Members may use their credit card to register, if that is the vendor’s required form of payment. Council Members may not submit their reimbursement request until after the event has taken place, and must include proof of payment, and should include evidence of attendance with their request. Resolution No. 66,295–N.S. also requires that Council members provide a report to Council on training they attend, but we will be recommending that this requirement be deleted since it is not required by AB1234.

³ Hotel fee tool: <http://www.gsa.gov/portal/category/100120>

When completing a reimbursement request, Council Members must complete and provide the following:

1. FN-024 payment voucher: available in Administration Regulation 3.14⁴, on the City's intranet⁵, or by contacting Accounts Payable at (510) 981-7310. All three sources provide guidance for completing this form.
2. Statement of municipal purpose form: available in City Auditor's Groupware section or by contacting the City Auditor's Office at (510) 981-6750 or auditor@cityofberkeley.info.
3. Supporting documentation: Council member original receipts, proof of payment, official per diem rates, etc.

Council Members must include account codes on the FN-024 payment voucher. The City's standard account codes are *14 digits* long and include both an element and an object code as the last four digits. The most commonly used element and object codes are:

- 4064: mileage/transportation (including taxi or ride-sharing service, such as Uber or Lyft)
- 4063: registration
- 4062: meals and lodging related to conferences, seminars, training, workshops, and similar
- 4061: airfare
- 5550: meals and food for city business, events, functions, and similar business meals

City Administrative Regulation (A.R.) 3.9 establishes the policies and procedures for reimbursing expenses incurred by City staff to attend conferences, meetings, seminars, trainings, and workshops. The regulation complements Resolution No. 66,295–N.S., which establishes the procedures for Council Members. A.R. 3.9 includes the following exceptions for Mayor and Council Members' expenses:

- **Attendance and travel request form:** The Mayor, Council Members, and Legislative Assistants are not required to submit an Attendance and Travel Request form. (A.R. 3.9, page two)
- **Paying for another employee's expenses:** The Mayor, Council Members, and Legislative Assistants may be reimbursed for paying for other legislative staff's or Council Members' expenses incurred for city related business. This is an exception to A.R. 3.9, noted on page three.
- **Business meals:** The Mayor and Council Members may be reimbursed for meals where the primary purpose of the meal is to conduct City-related business (other than simply meeting constituents). City Auditor review and approval is required. Council Members must describe the purpose of their business meal, e.g. issues discussed and how they relate to adopted priorities of Council, on the Statement of Municipal Purpose form and list the attendees. *Meals are reimbursed at the per diem rates as listed above, or the actual cost of the meal, whichever is lower.* (A.R. 3.9, page four) **Note that AB1234 requires that members of a legislative body shall**

⁴ A.R. 3.14: <http://icobweb/AR/PDF/AR3-14.pdf>

⁵ City Intranet: <http://icobweb/finance/GroupwareAP.FN-024&PettyCash.htm>

provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

- **Receipts:** The Mayor, Council Members, and Legislative Assistants must submit meal receipts. Meals are reimbursed at the per diem rates as listed above, or the actual cost of the meal, whichever is lower. (A.R. 3.9, page four)

cc: Sheila Soo, Administrative Assistant, Auditor's Office

RESOLUTION NO. 66,295-N.S.

CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICIES

WHEREAS, each fiscal year, the City Council appropriates funds in the Mayor and Councilmember's departmental budgets to cover the costs of Mayor and Council staff and non-personnel expenditures which are reasonable and necessary for the performance of the duties of Mayor and Councilmember; and

WHEREAS, the Council needs to ensure that the expenditures are incurred and paid in conformity with the requirements of the City Charter; and

WHEREAS, AB 1234, adopted in 2005 and codified as Government Code Sections 53232, et. seq., requires that all cities adopt an expense reimbursement policy for Mayor and Council expenses; and

WHEREAS, on July 25, 2006, the City Council adopted Resolution No. 63,412-N.S. to establish the expenditure and reimbursement policy required by state law; and

WHEREAS, the Councilmember Office Budget Relinquishment and Grant Policy generally falls under the purview of the existing City Expenditures and Expense Reimbursement for Mayor and Council.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Councilmember Office Budget Relinquishment and Grant Policy enumerated in Exhibit A is incorporated by reference into the policy for City Expenditures and Expense Reimbursement for Mayor and Council.

BE IT FURTHER RESOLVED that Resolution No. 63,412-N.S. and any amendments thereto are hereby rescinded.

BE IT FURTHER RESOLVED that the policy concerning City Expenditures and Expense Reimbursement for Mayor and Council departments is hereby adopted to read as follows:

CITY EXPENDITURES AND EXPENSE REIMBURSEMENT FOR MAYOR AND COUNCIL DEPARTMENTS

I. City Expenditures for Mayor and Council

The Mayor and Council members shall purchase all office supplies, office equipment, furniture, computers, or any other product, good, or service for the actual and necessary expense of their office in the manner normally applicable to all other purchases of goods and services by the City. Such expenses may include membership in organizations of elected officials and the purchase of newspapers and periodicals that provide information needed for the performance of official duties.

II. Reimbursement of Actual and Necessary Expense of Office

The Mayor and Council members and their staff may be reimbursed for the actual and necessary expenses for the categories of activities set forth below under "Authorized Activities."

A. Authorized Activities.

Travel, meals and/or other food, incidentals, and lodging incurred in connection with the following types of activities set forth below constitute authorized expenses, as long as the other requirements of this Resolution are fulfilled:

1. Communicating with representatives of local, regional, state and national government on City policy positions;
2. Attending educational seminars designed to improve officials' skill and information levels, provided that a brief report of such seminar shall be made by the Mayor and Council at a subsequent Council meeting;
3. Participating in local, regional, state and national organizations of cities whose activities affect the City's interests;
4. Recognizing service to the City (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost);
5. Attending City events; or events sponsored by organizations or entities whose activities affect the City's interests where the primary purpose of the event is to discuss subjects which relate to City business;
6. Implementing City approved policies;
7. Meals where the primary purpose of the meal is to conduct City-related business (other than simply meeting constituents) as long as the amount of such meal does not exceed the daily maximum as set forth in this Resolution and meets applicable federal and state standards as to when meal reimbursement may be allowed; and
8. Expenditures for these purposes approved in advance by a Mayor or Council member and undertaken by that person's staff.

Expenditures for all other activities require prior approval by the City Council and must meet an articulated municipal purpose that must be recited in the report proposing the expenditure and the resolution authorizing the expenditure. The policy for relinquishments and grants from Councilmember office budgets is enumerated in Exhibit A.

B. Unauthorized Expenses

The following personal expenditures incurred by City officials shall not be reimbursed:

1. The personal portion of any trip, such as where the official is on his/her own vacation activities;
2. Political contributions or attendance at political or charitable events;
3. Family expenses, including partner's expenses when accompanying official on agency-related business, as well as children or pet-related expenses;
4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related

- expenses), or other recreational and cultural events;
- 5. Alcoholic beverages;
- 6. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
- 7. Personal losses incurred while on City business.

Any questions regarding the propriety of a particular type of expense should be resolved by the City Council before the expense is incurred.

C. Particular Types of Authorized Expenditures Defined

To conserve City resources and keep expenses within community standards for public officials, expenditures should adhere to the following guidelines. In the event that expenses are incurred which exceed these guidelines, the cost borne or reimbursed by the City will be limited to the costs that fall within the guidelines.

1. **Registration.** Registration fee charged for any authorized convention, conference, seminar or meeting is reimbursable.
2. **Transportation.** The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. Charges for rental-vehicles may be reimbursed under this provision if more than one City official is attending an out of town conference, and it is determined that sharing a rental vehicle is more economical than other forms of transportation. In making such determination, the cost of the rental vehicle, parking and gasoline will be compared to the combined cost of such other forms of transportation. Government and group rates must be used when available.
3. **Airfare.** Airfares that are equal to or less than those available through the Enhanced Local Government Airfare Program offered through the League of California Cities, the California State Association of Counties and the State of California are presumed to be the most economical and reasonable for purposes of reimbursement under this policy. Reimbursement for travel must not exceed the rates available through the League program as published by the California Department of General Services.
4. **Automobile.** Automobile mileage is reimbursed at Internal Revenue Service rates presently in effect. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable. The Internal Revenue Service rates will not be paid for rental vehicles; only receipted fuel expenses will be reimbursed.
5. **Car Rental.** Rental rates that are equal or less than those published by the California Department of General Services shall be considered the most economical and reasonable for purposes of reimbursement under this policy.
6. **Taxis/Shuttles.** Taxis or shuttles fares may be reimbursed, including a 15 percent gratuity per fare, when the cost of such fares is equal or less than

the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.

7. **Lodging.** Lodging expenses will be reimbursed or paid for when travel on official City business reasonably requires an overnight stay. If such lodging is in connection with a conference, lodging expenses must not exceed the group rates. If lodging at the conference rate is not available, reimbursement will be based on either the published conference rate or government rates as published by the Federal General Services Agency, whichever is greater. Where no conference rate is published, the reimbursement will be based on the government rate or the median rate listed on priceline.com or similar service, whichever is greater.
8. **Meals.** Meal expenses and associated gratuities will be reimbursed at the rate set forth in Administrative Regulation 3.9.
9. **Telephone/Fax/Cellular.** Council members will be reimbursed for actual telephone and fax expenses incurred on City business. Telephone bills should identify which calls were made on City business. For calls made on an official's personal cell phone, the official may obtain reimbursement for business calls based on the following formula: minutes used on public business divided by the total minutes allowed under a monthly plan, plus long-distances charges for those calls.
10. **Airport Parking.** Airport parking must be used for travel exceeding 24-hours.
11. **Other Travel Related Expenses.** Baggage handling fees of up to \$1 per bag and gratuities of up to 15 percent will be reimbursed. Expenses for which City officials receive reimbursement from another agency are not reimbursable.
12. **Miscellaneous Office Products.** Notwithstanding the requirement in Section I, occasionally an elected officer or officer's staff may need to make an immediate small out of pocket purchase of office supplies that are normally ordered by the City for which payment is paid directly to the vendor. The City in accordance with the applicable City Manager Administrative Regulation concerning petty cash refunds may reimburse such purchases.

D. Cash Advance Policy for Airfare and Hotel Only (per A.R, 3.9)

From time to time, it may be necessary for an official to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such request for an advance should be submitted to the City Auditor, and copied to the City Manager, ten (10) working days prior to the need for the advance with the following information:

1. The purpose of the expenditure(s);
2. Whether the expenditure is for an authorized activity
3. The benefit to the residents of the City.
4. The anticipated amount of the expenditure(s) (for example, hotel rates, meal costs, and transportation expenses); and
5. The dates of the expenditure(s).

Any unused advance must be returned to the City within five (5) working days of the official's return, along with an expense report and receipts documenting how the advance was used in compliance with this expense policy.

E. Expense Report Content and Submission Deadline

1. A Statement of Expense must be completed, signed and submitted to the City Auditor for review and forwarding to the Finance Department for payment. The Statement of Expense must document that the expense in question met the requirements of this Resolution. For example, if the meeting is with a legislator, the local agency official should explain whose meals were purchased, what issues were discussed and how those relate to the City's adopted legislative positions and priorities.
2. Officials must submit their Statement of Expense reports to the Auditor's Office within 60 days of an expense being incurred, accompanied by receipts documenting each expense. Restaurant receipts, in addition to any credit card receipts, are also part of the necessary documentation. Receipts for gratuities and tolls under \$5 are not required.
3. Inability to provide such documentation in a timely fashion may result in the expense being borne by the official.

F. Audits of Expense Reports

All expenses are subject to verification by the City Auditor of compliance with this policy.

G. Reports

At the following City Council meeting, each official shall briefly report on meetings attended at City expense. If multiple officials attended, a joint report may be made.

H. Compliance with Laws

City officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act.

I. Violation of This Policy

Use of public resources or falsifying expense reports in violation of this policy may result in any or all of the following:

1. loss of reimbursement privileges;
2. a demand for restitution to the City;
3. the City's reporting the expenses as income to the elected official to state and federal tax authorities;
4. civil penalties of up to \$1,000 per day and three times the value of the resources used; and
5. prosecution for misuse of public resources.

The foregoing Resolution was adopted by the Berkeley City Council on September 10, 2013 by the following vote:


Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.



Tom Bates, Mayor

Attest: 

Mark Numainville, CMC, City Clerk

Councilmember Office Budget Relinquishment and Grant Policy

Introduction – Limitations on the Expenditure of Public Funds

The basic purpose of the City as an entity is to exist and function as a *municipality*. This is also reflected in the Charter, which limits the Council's powers only to those "municipal affairs adequate to a complete system of local government". (Section 38.)

Exercises of this power may not be used solely to further the interests of particular individuals, although they may incidentally benefit private interests:

The exercise of the police power is available only for the purpose of promoting the general welfare, the interests of the public as distinguished from those of individuals or persons. It cannot be used to promote private gain or advantage, except so far as the same may also promote the public interest and welfare, and it is the latter, and not the former, effect which forms the basis of the power and warrants its exercise.
(*Binford v. Boyd* (1918) 178 Cal. 458, 461.)

The Council's basic powers circumscribe its ability to spend public funds. In other words, the Council cannot spend public funds for purposes that are beyond its authority in the first place. Thus the City may only use its funds for municipal purposes. In any given case the crucial inquiry is whether an expenditure serves such a purpose.

The determination of what constitutes a public purpose is primarily a matter for the legislature, and its discretion will not be disturbed by the courts so long as that determination has a reasonable basis.
(*County of Alameda v. Carlson* (1971) 5 Cal.3d 730, 745-746.)

If the courts find that there is a valid public purpose, they next examine whether the government's actions are reasonably related to effectuating this purpose. (*Tip Top Foods, Inc. v. Lyng* (1972) 28 Cal.App.3d 533, 541.) Public appropriations granted to private interests will not be considered unlawful diversions of public funds when the transaction serves the public interest, merely granting an incidental benefit to the private individual. (*Cane v. City and County of San Francisco* (1978) 78 Cal.App.3d 654, 660.)

Criteria for Grants of City Funds from Councilmember Office Budgets

Relinquishments and grants for purposes and recipients that fall within the categories listed in Table 1 may be "pre-approved" each fiscal year by Council resolution.

Table 1.

Recipient	Purpose
The City (e.g., the Berkeley Public Library, the Berkeley Animal Shelter)	Any purpose already being undertaken, because it already serves a public purpose. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.
BUSD and other public agencies operating in Berkeley	Any purpose already being undertaken, because it already serves a public purpose, assuming the activity is in Berkeley. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.
Entities with which the City is co-sponsoring a public event in Berkeley (e.g., Earth Day, Solano Stroll).	City co-sponsorship suggests but is not conclusive of public purpose; public purpose would need to be stated, and all such events should be open to the public at no cost. Alternatively, a list of ongoing events that have been determined to serve a public purpose could be developed.
Entities in Berkeley to which the City already contributes funds for municipal purposes (e.g., affordable housing or social service nonprofits)	To advance the same public purposes for which the entities are funded. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.

Proposed relinquishments and grants that do not meet the criteria for pre-approval, but that meet an appropriate municipal purpose, may be approved by resolution with a majority vote of the City Council.

CITY OF BERKELEY

ADMINISTRATIVE REGULATIONS

A.R. NUMBER:	3.4
ORIGINAL DATE:	07/94
POSTING DATE:	4/14/2009
PAGE	1 of 5 PAGES

SUBJECT: Purchasing Policy & Purchasing Manual

PURPOSE

To ensure that the City receives the most favorable price, quality, and/or service available for all purchases, while adhering to City Council directives. The Precautionary Principle (PP) and Environmentally Preferable Purchasing Policies (EP3) should be considered whenever feasible, and in accordance with the adopted budget. Furthermore, the complete AR provides City employees with appropriate procedures to knowledgeably participate in the procurement process. This is the Executive Summary of AR 3.4, with an introduction to procedures for the City's Purchasing Policy. The Purchasing Manual is the full AR 3.4, and includes the complete policy and procedures. The City Purchasing Manual can be found online at [Groupware – Finance: Purchasing Manual](#).

POLICY

It is the policy of the City Manager that all City purchases, with only specified and approved exceptions, shall be made through a competitive process. Regardless of the value of the purchase, more than one documented quotation, bid, or proposal is strongly encouraged. The City Council periodically sets or adjusts cost levels of purchases for Council review and approval, and the parameters for the formally documented competitive processes.

Responsibility for City Purchases rests with designated positions for implementation of this policy:

1. The City maintains a centralized General Services office through which all purchases of goods and services are processed. Each Department originates requests for procurement.
2. Departments are responsible for requesting the type and quality of product or service required. Sole and single source contracts are discouraged, but may be utilized if approved as provided in the Purchasing Manual. The FUNDS system maintains lists of vendors cross-referenced to commodities and services.
3. The General Services Division is ultimately responsible for determining the means of purchase and the appropriate vendor. All purchases made will be of a quality consistent with the ultimate use intended and will be based on best value to the City of Berkeley, not necessarily on the lowest obtainable price.
4. Only the City Manager has the authority to enter into a contract/agreement, except purchase orders, with a vendor. The authority to enter into a Purchase Order has been delegated to the General Services Manager.
5. A comprehensive list of City restrictions on procurement are addressed in Section I of the manual. In addition to those restrictions prescribed by law the following are prohibitions requested by City Council.

-
- A) On January 29, 2008 Council requested the City Manager prohibit purchases from Chevron Corporation whenever possible.
 - B) On October 28, 2008 Council requested the City Manager research limiting the purchase of bottled water. In response, the City Manager directed staff to eliminate as much as possible the purchasing of individual bottles of water. Bottled water can still be purchased for emergency preparedness and for field events where health and safety are a concern. For all other events, carafes and tap water should be used.

PROCEDURE

See the current version of the City Purchasing Manual, available online at [Groupware – Finance: Purchasing Manual](#), for complete information and procedures. The following is the table of contents for the Purchasing Manual:

- I. General Procedures, Responsibilities and Requirements
- II. Purchasing Requirements by Price
- III. Purchasing Procedures
- IV. Glossary of Terms
- V. Frequently Asked Questions (FAQs)
- VI. Requirement on Contracting with Certain Entities (Forms & Council Actions)
- VII. Council Guidelines on Purchasing Services and Goods
- VIII. How to Guide
- IX. Reports (In Development)
- X. Forms

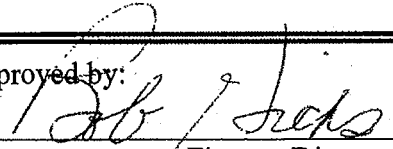
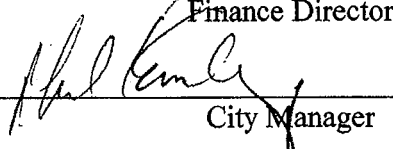
DEFINITIONS

1. **Procurement:** Procurement refers to the process of managing activities associated with an organization's need to obtain the goods and services required for its operation. To ensure that the correct amount of the product or service is received at the appropriate time, specific steps are taken in the procurement process, including: value assurance; determining which commodities or services are best; choosing the right suppliers and vendors; negotiating the best prices; and awarding contracts. For General Services to conduct the procurement process responsibly, its functions include spend analysis, sourcing, supplier implementation, transaction management, category management, and supplier performance management.
2. **Purchasing:** The processing of a purchase order. The key steps in the process are: departments place and approve requisitions; General Services or departments find the item (sourcing); General Services issues the purchase order (PO); and General Services sends PO to vendor. Upon fulfillment of the order, the City is invoiced and the vendor is paid.

3. Purchasing Requisition (PR): A purchasing requisition is a document that instructs General Services to spend a designated and approved amount from a specific department/division budget account for needed goods or services.
4. Purchase Order (PO): A purchase order is used for the purchase of goods. The PO represents a contractual agreement that is enforceable under law. To have an enforceable contract there must be agreement of the parties, which consists of an offer by one party, acceptance of that offer by the other party, and mutual consideration.
5. Blue-Backed Contract: A blue backed contract is used for the purchase of services. A blue-backed contract represents a contractual agreement that is enforceable under law. To have an enforceable contract there must be agreement of the parties, which consists of an offer by one party, acceptance of that offer by the other party, and mutual consideration.

Attachments:

1. Purchasing Thresholds: Ordinance No. 6,875 – N.S.
2. Purchasing Thresholds: Ordinance No. 7,035 – N.S.

<p>RESPONSIBLE DEPARTMENT: Finance Department</p> <p>TO BE REVIEWED/REVISED: Every year</p>	<p>Approved by:</p> <p> _____ Finance Director</p> <p> _____ City Manager</p>
---	---

ATTACHMENT 1

ORDINANCE NO. 6,875-N.S.

AMENDING BERKELEY MUNICIPAL CODE SECTION 7.18.010B REGARDING EXPENDITURES FOR SPECIFIC IMPROVEMENTS, INCLUDING PLAY AREA IMPROVEMENTS AND EQUIPMENT WHICH EXCEED \$200,000; AMENDING SECTION 7.18.010C REGARDING EXPENDITURES FOR THE PURCHASE OF SUPPLIES, EQUIPMENT, AND MATERIALS WHICH EXCEED \$100,000; AND AMENDING SECTION 7.18.020A REGARDING EXPENDITURE LIMITATIONS IN CASE OF EMERGENCY

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

Section 1. That Berkeley Municipal Code Section 7.18.010 is amended as follows:

Section 7.18.010 Expenditures pursuant to Chapter Article XI, Sections 67 and 67.5.

A. Except as otherwise provided in this Title, expenditures pursuant to Article XI, Sections 67 and 67.5 of the Charter of the City of Berkeley, which exceed the amount of \$25,000 shall require Council approval.

B. Expenditures for specific improvements (public projects), including play area improvements and equipment in public parks which exceed the amount of \$200,000 shall require Council approval pursuant to Article XI, Section 67 of the Charter of the City of Berkeley.

C. Expenditures for the purchase of supplies, equipment, and materials which exceed the amount of \$100,000 shall require Council approval.

Section 2. That Berkeley Municipal Code Section 7.18.020A is amended as follows:

Section 7.18.020 Expenditures pursuant to Charter Article XI, Section 67.4 Emergencies.

A. Expenditures pursuant to Article XI, Section 67.4 of the Charter of the City which exceed the amount of \$100,000 shall require Council approval; and expenditures for public construction projects and playground improvements and equipment which exceed the amount of \$200,000 shall require Council approval.

B. Notwithstanding subsection A of this section, in the event of a declared emergency under Chapter 2.88, the expenditure limitation under Article XI, Section 67.4 of the Charter of the City shall be an amount not exceeding the amount appropriated by the Council in the most recent appropriation ordinance for the fund from which an expenditure is made and for the purpose authorized for such fund.

C. Whenever purchases are made pursuant to this section, the City Manager shall promptly inform the Council as to the nature and amount.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

ATTACHMENT 2

ORDINANCE NO: 7,035-N.S.

AMENDING BERKELEY MUNICIPAL CODE SECTION 7.18.010 REGARDING EXPENDITURES FOR SERVICE CONTRACTS TO INCREASE CITY MANAGER'S AUTHORITY

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

Section 1. That Berkeley Municipal Code Section 7.18.010 is amended to read as follows:

Section 7.18.010 Expenditures pursuant to Chapter Article XI, Sections 67 and 67.5.

A. Except as otherwise provided in this Title, expenditures pursuant to Article XI, Sections 67 and 67.5 of the Charter of the City of Berkeley, which exceed the amount of \$50,000 shall require Council approval.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on April 22, 2008, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Anderson, Capitelli, Maio, Moore, Olds, Wozniak and Bates.

Noes: Spring and Worthington.

Absent: None.

At a regular meeting of the Council of the City of Berkeley held on May 6, 2008, this Ordinance was adopted by the following vote:

Ayes: Anderson, Capitelli, Maio, Moore, Olds, Wozniak and Bates.

Noes: Spring and Worthington.

Absent: None.

ATTEST: [Signature] Deanna Despain, Deputy City Clerk

[Signature] Tom Bates, Mayor

Date signed: [Signature]

A.R. NUMBER: 3.9
ORIGINAL DATE: 07/94
POSTING DATE: 11/3/16
PAGE 1 of 9 PAGES

CITY OF BERKELEY ADMINISTRATIVE REGULATIONS

**SUBJECT: Attendance and Payment of Expenses Associated with
Conferences, Meetings, Seminars, Trainings, and Workshops**

PURPOSE

To establish policies and procedures for City staff to obtain approval to attend conferences, meetings, seminars, trainings, and workshops; and to establish procedures for the City's direct payment of authorized expenses incurred by an individual for attendance at an approved event or meeting. Obtaining approval of an Attendance & Travel (A&T) Request for an event or meeting, along with associated expenses, ensures that appropriate supervisors and Department Directors have determined an employee's attendance at an event or meeting benefits the City, and that expenses are consistent and in line with the department's adopted budget.

This Administrative Regulation (AR) also complements **Resolution No. 66,295, City Council Expenditure and Reimbursement Policies** for the Mayor and Council (Attachment B); and **Resolution No. 63,413, Establishing Travel and Training Reimbursement Policy for Board and Commission Members** of the Rent Stabilization Board, Board of Library Trustees, and members of other boards or commissions (Attachment C).

POLICY

It is the policy of the City Manager to authorize Department Directors and Supervisors to approve an employee's request to attend, and to receive payment for expenses associated with conferences, meetings, seminars, training, and workshops.

Table of Contents

I. APPROVALS.....	2
II. EXPENDITURES BASICS	2
III. ALLOWABLE EXPENSES	3
IV. PAYMENTS BY CHECK USING A PURCHASE ORDER	5
V. ADVANCE PAYMENTS & RECONCILIATION	5
VI. EXPENSE REIMBURSEMENT	7
VII. OTHER EXCEPTIONS.....	7
VIII. DEFINITIONS (related to Attendance at Conferences, Workshops, Training, Seminars, Meetings).....	8
IX. ATTACHMENTS/LINKS	9

I. APPROVALS

Note: Employee Must Submit and Obtain Approval for A&T Request before incurring any allowable expenses

City Approval to attend and incur authorized expenses for an eligible event is based on the following factors:

- A. Expectation that the City will derive a specific benefit from staff attendance.
- B. Employee submission of the authorized A&T Request form (the current version in Groupware), and receipt of approval from her/his Supervisor &/or Department Director in advance of an authorized event, including approval for all associated expenses.
- C. All expenditures and reimbursements for the Mayor and Council must adhere to Resolution No. 66,295 and be approved by the City Auditor.
- D. For routine and, or, recurring meetings an A&T Request must be submitted, approved, and on file in the department in advance of the initial date, and must be renewed annually for each fiscal year.
- E. Department Directors are to complete and submit an A&T Request; no other signature is required for approval.
- F. Exceptions to use of the A&T Request form are: Mayor, Council, and Legislative Assistants (when allowed under Resolution No. 66,295); and members of the Rent Stabilization Board, and Board of Library Trustees. Resolution No. 66,295 or Resolution No. 63,413 governs their approvals, expenditures, and related matters.
- G. Expenditures are provided for in the adopted budget for the employee's department. For specific procedures, see item III. Allowable Expenses.

II. EXPENDITURES BASICS

Expenditures must be documented in accordance with all related City ARs and other associated policies, using current forms (published in Groupware), including and not limited to:

- AR 3.4 Purchasing Manual: Employees and Mayor/Council must make full use of the City's Procurement procedures and submit purchase requisitions to generate payment for registration prior to travel. Note: Expenses for Board/Commission members and other non-staff or elected officials eligible to attend an event pursuant to the standards in Resolution No. 63,413 must have payments processed by the designated board or commission Secretary, using FN-024 Payment Vouchers through Accounts Payable.
- AR 3.14 FN-024 Voucher Processing
- AR 7.2 Use of Private Vehicles and Mileage Reimbursement
- Auto Record for Mileage Reimbursement: for further details, see AR 7.2 and Transportation: Private Vehicle, below.

- City Council Resolution No. 66,295 City Council Expenditure and Reimbursement Policies.
- City Council Resolution No. 63,413 Establishing Travel and Training Reimbursement Policy for Board and Commission Members.

In addition:

- Statement of Expense forms and receipts, for reconciliation of an advance &/or reimbursement of expenses incurred, must be submitted to Finance – Accounts Payable within 60 calendar days (30 days for Council/Commission, unless revised) after conclusion of the event. Statement of Expense forms and receipts submitted after this date may not be processed, and individuals assume full, personal responsibility for the costs they incurred.
- Advances or reimbursements to an employee are restricted to expenses for that employee only – they may not cover the expenses of any other employee. Exception to this restriction is for reimbursements only of expenses for Mayor and Council and their Legislative Assistants.

See item V. Advance Payments and Reconciliation.

III. ALLOWABLE EXPENSES

Expenditures should adhere to the following guidelines. In the event that expenses are incurred that exceed these guidelines, the cost borne or reimbursed by the City will be limited to those that fall within these guidelines, unless approved by an appropriate, designated authority. Proof of payment for all expenses must be provided when reconciling the Statement of Expense form, except as indicated.

- A. **Registration:** Registration fee charged for an authorized conference, meeting, seminar, training or workshop is allowable. Employees should register in a timely manner to take advantage of registration discounts. Payments can be made by Purchase Orders (PO). See also: Payments by Check Using a Purchase Order, below.
- B. **Transportation:** Employees must use the most economical mode and class of transportation reasonably consistent with scheduling needs, coordination with other employees traveling together, and cargo space requirements, and following the most direct and time-efficient route incorporating these factors. If an employee chooses a more expensive mode of travel based on personal criteria, reimbursement will be for the lesser cost of transportation.
 1. **Public Transit** should be used for travel to events and meetings outside the City of Berkeley and in other locations, where accessible by transit. Receipts are not required for these expenses.
 2. **Fleet Vehicle:** see AR 7.1 Use of Fleet Vehicles for details.
 3. **Private Vehicle:** see AR 7.2 Use of Private Vehicles & Mileage Reimbursement for details. If use of a private vehicle is authorized, mileage is reimbursed at IRS

rates currently in effect, in addition to parking fees, bridge and road tolls, which are also reimbursable.

- Unless an alternative is proposed by a department and acceptable to Accounts Payable, expenses for approved use of a private vehicle should be submitted with other expenses associated with attendance at an authorized event or meeting on the Statement of Expense.
4. **Rental Vehicle** charges may be reimbursed under this provision with Department Director approval. Rental fees, receipted fuel expenses, and authorized parking fees, **bridge and road tolls will be reimbursed**.
 5. **Air/Train** fares for reimbursement under this policy should be the most economical and reasonable amount available after the Attendance and Travel Request is approved.
 6. **Travel to/from Airports: Employees will be reimbursed for the most economical and appropriate means**; if there's any question about this, obtain department approval before incurring the expense.
 7. **Taxi or Shuttle** fares may be reimbursed with receipts.
- C. **Lodging:** Cost of accommodations will be reimbursed or paid for when travel on official City business reasonably requires an overnight stay.
1. When travel status is more than twelve (12) hours; or when the location is more than 50 miles from the employee's worksite and residence based on odometer, MapQuest or other reliable documentation; or when an event begins before 8:00am or ends after 5:00pm and a documented evening event requires the employee's attendance.
 2. If lodging is associated with a conference, employees should register in a timely manner to take advantage of discounts or conference rates. Lodging expenses that exceed the group rate published by the conference sponsor must be approved by an appropriate, designated authority.
 3. For non-conference lodging, travelers must request government rates, when available and must be authorized by Department Director.
 4. Costs to upgrade rooms from the basic accommodations provided are not reimbursable, unless authorized by the Department Director.
- D. **Meals: Meals are reimbursable only if travel status is over twelve hours or requires overnight lodging.**
1. **Meal expenses**, including non-alcoholic beverages, tax, and tips, are reimbursable up to a total per diem of \$51: the amounts per meal are \$10 breakfast; \$15 lunch; \$26 dinner; and receipts are not required. Expenses above the authorized amounts are the responsibility of the employee.
 2. **Breakfast &/or evening meetings with meals**, which are scheduled before conferences or meetings commence, or after they adjourn, and that require the employee's attendance, will be considered for reimbursement when

documentation is submitted reflecting the requirement of the employee's attendance for the meeting and location.

3. **Meals included with registration or lodging that are taken at additional expense** will only be considered for reimbursement at the authorized per diem by approval of the Department Director when documentation is submitted reflecting the necessity of this expense, such as:
 4. **Meals during approved travel time** to/from an event or meeting destination may be reimbursable with approval by the employee's Department Director, at the authorized amount for the individual meal(s) (see Meal expenses, above).
 5. **NOTE:** Business meals with other employees, commissioners or elected officials of the City of Berkeley are specifically NOT reimbursable. Exceptions for Mayor and Council must be reviewed and approved by the City Auditor. City funds may also NOT be used for expenses related to holiday activities or other office parties or events, unless exempted by AR 3.3.
- E. **Other Travel Related Expenses:** Expenses for which City staff or officials receive reimbursement from another agency are not reimbursable.

IV. PAYMENTS BY CHECK USING A PURCHASE ORDER

Generally, General Services – Procurement will process a PO within three working days, and a check could be issued in the next AP check run. It is the department responsibility to notify Procurement staff when the requisition is approved to ensure timely processing of the PO in order to issue the check promptly. Departments may have internal procedures that require additional time, and employees are expected to familiarize themselves with these internal deadlines.

- A. Expenses for registration should be paid by check using a Purchase Order (PO). This includes online registration when "pay by check" is an option.
- B. Use of an employee's credit card or personal check for registration is only permitted and eligible for reimbursement when time does not permit issuing a City check for payment, and is approved by the Department Director.
- C. Resolution No. 66,295 or Resolution No. 63,413 governs any exceptions for Mayor and Council, or for the Rent Stabilization Board or Board of Library Trustees.
- D. Expenses for accommodations, if lodging is included in the event package, should be paid with the registration fee using a Purchase Order (PO).

V. ADVANCE PAYMENTS & RECONCILIATION

An approved A&T Request is required for any request for an advance. Advances are extended only to employees in classifications that are not included on the list of **Classifications NOT eligible for advances**. Advances are limited to approved air/train fare and lodging only.

In addition:

- Registration or meals, and other transportation expenses may not be advanced to any employee.
- Advances to an employee are restricted to expenses for that employee only – they may not cover the expenses of another employee.
- Departments must maintain a Tracking Worksheet that documents employees' advance requests and reconciliations. These Worksheets must be submitted to the Auditor's Office by the 10th working day of each calendar quarter (January, April, July, October), along with copies of correspondence to those employees who have advance reconciliations outstanding. The Auditor's Office will review departmental travel advance worksheets on a sample basis.
- If an advance is issued to an employee and the employee does not attend the event, whether due to personal circumstances, the event being cancelled, or the City intervened to cancel the employee's attendance, the employee must seek recovery of charges and remit the full refunded amount to the City.

A. Requesting an Advance

1. Requests for an advance must be submitted to Finance – Accounts Payable at least 10 working days before the event start date. Employees are expected to familiarize themselves with any additional internal deadlines or procedures their departments may require.
2. Requests for an advance must include:
3. Approved Attendance and Travel Request, with documentation showing dates and time, and rates offered for travel and accommodations, including meals provided with the event.
4. Completed FN-024 Payment Voucher (current version on Groupware) with required signatures of approval and all specified back-up documentation. See AR 3.14 for details.

B. Reconciling an Advance

1. Each travel advance must be reconciled before an employee can request another; employees are not eligible for multiple advances.
2. Attendance must be documented in the form of a receipt, sign in sheet, or certificate of attendance.
3. Employees must submit a Statement of Expense and receipts to appropriate department staff within 60 calendar days of conclusion of the event (30 days for Council/Commission, unless revised). Statement of Expense forms and receipts submitted after this date may not be processed, and the employee assumes full, personal responsibility for the costs she/he incurred. If an employee fails to reconcile an advance within this timeframe, the City may take disciplinary action.

4. When an advance exceeds the expenses incurred, the employee is responsible for paying the difference by cash or check payable to the City of Berkeley for the balance at the time of reconciliation. Payment is submitted to the City Treasury and a copy of the CR edit report must be attached to the employee's Statement of Expense, in addition to all required original receipts.
5. When an advance is less than the expenses incurred, departments submit an FN-024 Payment Voucher payable to the employee for the difference, along with the employee's Statement of Expense and original receipts for expenses incurred.

VI. EXPENSE REIMBURSEMENT

See Allowable Expenses, above, for expenses that qualify for reimbursement, and the acceptable rates and limitations for those expenses. To obtain reimbursement of approved expenses incurred:

- A. Employees must submit a completed FN-024 Payment Voucher, and Statement of Expense, and receipts to appropriate department staff within 60 calendar days after conclusion of the event. Statement of Expense forms and receipts submitted after this date may not be processed, and the employee assumes full, personal responsibility for the costs she/he incurred.
- B. Reimbursements to an employee are restricted to expenses for that employee only – they may not cover the expenses of another employee.
- C. Tips, except where documented, are not reimbursable.
- D. Reimbursements are processed by FN-024 Payment Voucher (see AR 3.14) and must include:
 1. Authorized signature/s (see AR 3.12).
 2. Attendance and Travel Request approved by Supervisor &/or Department Director.
 3. Documentation of attendance at the event or meeting (receipt, certificate, sign-in sheet).
 4. Statement of Expense, completed with all required original receipts.
 5. Auto Record for Mileage Reimbursement, if use of a private vehicle was authorized (see AR 7.2 for details and instructions) and these are the only expenses for reimbursement associated with the event.

VII. OTHER EXCEPTIONS

Any exception not already identified within other sections of this AR must be submitted to, and approved by the employee's Department Director. For Mayor, Council, Legislative Assistants, Rent Stabilization Board or Board of Library Trustees, exceptions must be approved as set forth in the appropriate Resolution.

Employees may request an exception to the reimbursement rules when original receipts, or other proof of payment such as a canceled check, cannot be provided to verify expenses. The Supervisor and Department Director (or designee) must approve requests for an exception that require the "Approval of Payment Exception" portion of the Statement of Expense and state the necessity for the exception. In addition, the Finance Director must also approve any payment exceptions.

VIII. DEFINITIONS (related to Attendance at Conferences, Workshops, Training, Seminars, Meetings)

Advance: Payment to an employee with an approved Attendance & Travel Request to purchase air/train travel and qualifying lodging reservations and incur expenses associated with attending the forthcoming event or meeting. See procedures for Requesting an Advance, and Reconciling an Advance.

Event: Conference: A gathering of persons associated with a professional, membership or support organization for discussing matters of common concern, which may include presentations, programs and exhibits related to municipal government &/or related functions.

Event: Workshop, Training Session, or Seminar: A usually brief intensive educational program for a relatively small group of people that focuses on techniques and skills in a particular field.

Meeting: Non-Routine Meeting: A formally arranged gathering for a common purpose that the City will derive a specific benefit from staff attendance.

Meeting: Routine or Recurring Meeting: A gathering that occurs in predictable intervals for a common purpose, where attendance is part of the employee's usual role and responsibilities.

Overnight Stay: Out-of-town accommodations (room and specified meals) required for an employee to attend an approved event or eligible meeting (see Allowable Expenses for details).

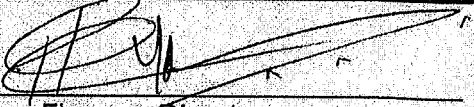
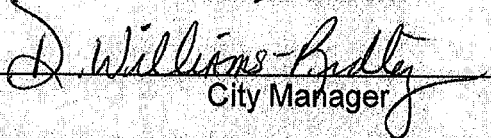
Payment Documentation: Documentation is required to provide tangible proof of payment for approved goods or services, and usually specifies: issuer and receiver of receipt; date; purpose or commodity; and dollar amount of the expense. Acceptable back-up for reimbursable expenses includes: original receipts, cancelled checks (copies of front and back), proof of credit card charge and payment (receipt and copy of statement), and printed online payment confirmation with name and amount. Photocopies of receipts are not acceptable.

Point of Origin: Location, if other than Worksite, from which authorized travel may originate or to which travel may conclude, related to attendance at an approved event and calculation of expenses for reimbursement.

Worksite: Main office or work location where an employee usually performs her/his regular job duties with the City of Berkeley.

IX. ATTACHMENTS/LINKS

- A. Classifications NOT eligible for advances
- B. Resolution 66,295 (Mayor/Council Departments)
- C. Resolution 63,413 (Rent Board/Library Trustees)
- D. Attendance & Travel Request
- E. Statement of Expense
- F. AR 7.2 Use of Private Vehicles & Mileage Reimbursement
- G. Auto Record for Mileage Reimbursement
- H. FN-024 Payment Voucher

RESPONSIBLE DEPARTMENT: Finance Department	Approved by: 
TO BE REVIEWED/REVISED: Every year	_____  City Manager

Attachment A

JOB CODE	REP UNIT	CLASSIFICATION TITLES INELIGIBLE FOR A TRAVEL ADVANCE	JOB CODE	REP UNIT	CLASSIFICATION TITLES INELIGIBLE FOR A TRAVEL ADVANCE
1350	M	Accounting Manager	1374	Z1	Economic Development Manager
1317	M	Animal Services Manager	2923	M	Economic Development Project Mgr.
1213	Z1	Assistant City Attorney	1417	Z1	Emergency Services Manager
1118	Z1	Assistant City Manager	1402	Z1	Employee Relations Officer
8174	Z1	Assistant Fire Chief	1426	M	Energy Officer
1801	Z1	Assistant to the City Manager	1348	M	Equipment Superintendent
1301	Z1	Audit Manager	1121	Z5	Executive Director of Rent Board
1323	Z1	Budget Manager	1344	M	Facilities Maintenance Superintendent
1306	M	Building and Safety Manager	8155	B	Fire Apparatus Operator EMT
1320	Z1	Capital Improvement Programs Manager	8167	B	Fire Captain EMT
1107	Z1	City Attorney	1105	Z1	Fire Chief
1102	Z1	City Auditor	8158	B	Fire Lieutenant EMT
1120	Z1	City Clerk	8164	B	Fire Lieutenant Training EMT
1101	Z1	City Manager	8160	B	Fire Prevention Inspector I EMT
1315	M	Customer Services Manager	8161	B	Fire Prevention Inspector II EMT
2303	Z2	Deputy City Attorney II	1418	Z1	Fire Prevention Manager
2311	Z2	Deputy City Attorney III	1321	M	General Services Manager
1366	Z1	Deputy City Auditor for Payroll Mgmt.	1377	M	Hazardous Materials Manager
1219	Z1	Deputy City Clerk	1223	Z1	Health Officer
1103	Z1	Deputy City Manager	1224	Z1	Health Officer (Cert)
1227	Z1	Deputy Director of Finance	1363	M	Housing Authority Manager
1229	Z1	Deputy Director of Health & Human Services	1352	M	Housing Services Manager
1211	Z1	Deputy Director of Library Services	1380	Z1	Human Resources Manager
1228	Z1	Deputy Director of Parks, Recreation & Waterfront	1221	Z1	Information Systems Manager
1230	Z1	Deputy Director of Planning	1354	M	Land Use Planning Manager
1205	Z1	Deputy Director of Public Works	1803	Z5	Library Building Project Manager
1209	Z1	Deputy Director of Public Works (Reg)	1466	Z2	Library Financial Manager
1204	Z1	Deputy Fire Chief	1465	Z5	Library Network Administrator
8182	B	Deputy Fire Marshal EMT	1373	M	Manager of Economic Development
1203	Z1	Deputy Police Chief	1310	M	Manager of Engineering
1123	Z1	Director of Community Development	1368	M	Manager of Environmental Health
1104	Z1	Director of Finance	1360	M	Manager of Health Promotion
1125	Z1	Director of Health and Human Services	1339	M	Manager of Mental Health Services
1126	Z1	Director of Housing	1362	M	Manager of Program Planning and Administration
1108	Z1	Director of Human Resources	8186	Z1	Paramedic Program Supervisor
1127	Z1	Director of Information Technology	8111	B	Paramedic Supervisor I
1115	Z1	Director of Library Services	8113	B	Paramedic Supervisor II
1112	Z1	Director of Parks, Recreation & Waterfront	1327	M	Parking Services Manager
1124	Z1	Director of Planning	1332	M	Parks Superintendent
1111	Z1	Director of Public Works	1326	M	Planning Manager

JOB CODE	REP UNIT	CLASSIFICATION TITLES INELIGIBLE FOR A TRAVEL ADVANCE	JOB CODE	REP UNIT	CLASSIFICATION TITLES INELIGIBLE FOR A TRAVEL ADVANCE
1307	M	Disability Programs Manager			
8148	E	Police Captain	1353	M	Revenue Collection Manager
1110	Z1	Police Chief	2716	Z2	Senior Human Resources Analyst
8145	F	Police Inspector	1325	M	Seniors Program Administrator
8147	F	Police Lieutenant	1314	M	Solid Waste and Recycling Manager
1473	Z1	Police Review Commission Officer	2316	Z2	Staff Attorney II
8142	F	Police Sergeant	2317	Z2	Staff Attorney III
2458	Z1	Psychiatrist Supervisor	1404	M	Supervising Civil Engineer
1322	M	Public Safety Business Manager	1476	M	Supervising Systems Analyst
1312	M	Public Works Maintenance Superintendent	1340	M	Supervising Traffic Engineer
1475	M	Real Property Administrator	2712	Z2	Training Officer
2890	M	Recycling Program Manager	1369	M	Waterfront Manager

RESOLUTION NO. 66,295-N.S.

CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICIES

WHEREAS, each fiscal year, the City Council appropriates funds in the Mayor and Councilmember's departmental budgets to cover the costs of Mayor and Council staff and non-personnel expenditures which are reasonable and necessary for the performance of the duties of Mayor and Councilmember; and

WHEREAS, the Council needs to ensure that the expenditures are incurred and paid in conformity with the requirements of the City Charter; and

WHEREAS, AB 1234, adopted in 2005 and codified as Government Code Sections 53232, et. seq., requires that all cities adopt an expense reimbursement policy for Mayor and Council expenses; and

WHEREAS, on July 25, 2006, the City Council adopted Resolution No. 63,412-N.S. to establish the expenditure and reimbursement policy required by state law; and

WHEREAS, the Councilmember Office Budget Relinquishment and Grant Policy generally falls under the purview of the existing City Expenditures and Expense Reimbursement for Mayor and Council.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Councilmember Office Budget Relinquishment and Grant Policy enumerated in Exhibit A is incorporated by reference into the policy for City Expenditures and Expense Reimbursement for Mayor and Council.

BE IT FURTHER RESOLVED that Resolution No. 63,412-N.S. and any amendments thereto are hereby rescinded.

BE IT FURTHER RESOLVED that the policy concerning City Expenditures and Expense Reimbursement for Mayor and Council departments is hereby adopted to read as follows:

CITY EXPENDITURES AND EXPENSE REIMBURSEMENT FOR MAYOR AND COUNCIL DEPARTMENTS

I. City Expenditures for Mayor and Council

The Mayor and Council members shall purchase all office supplies, office equipment, furniture, computers, or any other product, good, or service for the actual and necessary expense of their office in the manner normally applicable to all other purchases of goods and services by the City. Such expenses may include membership in organizations of elected officials and the purchase of newspapers and periodicals that provide information needed for the performance of official duties.

II. Reimbursement of Actual and Necessary Expense of Office

The Mayor and Council members and their staff may be reimbursed for the actual and necessary expenses for the categories of activities set forth below under "Authorized Activities."

A. Authorized Activities.

Travel, meals and/or other food, incidentals, and lodging incurred in connection with the following types of activities set forth below constitute authorized expenses, as long as the other requirements of this Resolution are fulfilled:

1. Communicating with representatives of local, regional, state and national government on City policy positions;
2. Attending educational seminars designed to improve officials' skill and information levels, provided that a brief report of such seminar shall be made by the Mayor and Council at a subsequent Council meeting;
3. Participating in local, regional, state and national organizations of cities whose activities affect the City's interests;
4. Recognizing service to the City (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost);
5. Attending City events; or events sponsored by organizations or entities whose activities affect the City's interests where the primary purpose of the event is to discuss subjects which relate to City business;
6. Implementing City approved policies;
7. Meals where the primary purpose of the meal is to conduct City-related business (other than simply meeting constituents) as long as the amount of such meal does not exceed the daily maximum as set forth in this Resolution and meets applicable federal and state standards as to when meal reimbursement may be allowed; and
8. Expenditures for these purposes approved in advance by a Mayor or Council member and undertaken by that person's staff.

Expenditures for all other activities require prior approval by the City Council and must meet an articulated municipal purpose that must be recited in the report proposing the expenditure and the resolution authorizing the expenditure. The policy for relinquishments and grants from Councilmember office budgets is enumerated in Exhibit A.

B. Unauthorized Expenses

The following personal expenditures incurred by City officials shall not be reimbursed:

1. The personal portion of any trip, such as where the official is on his/her own vacation activities;
2. Political contributions or attendance at political or charitable events;
3. Family expenses, including partner's expenses when accompanying official on agency-related business, as well as children or pet-related expenses;
4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related

- expenses), or other recreational and cultural events;
5. Alcoholic beverages;
6. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
7. Personal losses incurred while on City business.

Any questions regarding the propriety of a particular type of expense should be resolved by the City Council before the expense is incurred.

C. Particular Types of Authorized Expenditures Defined

To conserve City resources and keep expenses within community standards for public officials, expenditures should adhere to the following guidelines. In the event that expenses are incurred which exceed these guidelines, the cost borne or reimbursed by the City will be limited to the costs that fall within the guidelines.

1. **Registration.** Registration fee charged for any authorized convention, conference, seminar or meeting is reimbursable.
2. **Transportation.** The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. Charges for rental-vehicles may be reimbursed under this provision if more than one City official is attending an out of town conference, and it is determined that sharing a rental vehicle is more economical than other forms of transportation. In making such determination, the cost of the rental vehicle, parking and gasoline will be compared to the combined cost of such other forms of transportation. Government and group rates must be used when available.
3. **Airfare.** Airfares that are equal to or less than those available through the Enhanced Local Government Airfare Program offered through the League of California Cities, the California State Association of Counties and the State of California are presumed to be the most economical and reasonable for purposes of reimbursement under this policy. Reimbursement for travel must not exceed the rates available through the League program as published by the California Department of General Services.
4. **Automobile.** Automobile mileage is reimbursed at Internal Revenue Service rates presently in effect. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable. The Internal Revenue Service rates will not be paid for rental vehicles; only receipted fuel expenses will be reimbursed.
5. **Car Rental.** Rental rates that are equal or less than those published by the California Department of General Services shall be considered the most economical and reasonable for purposes of reimbursement under this policy.
6. **Taxis/Shuttles.** Taxis or shuttles fares may be reimbursed, including a 15 percent gratuity per fare, when the cost of such fares is equal or less than

the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.

7. **Lodging.** Lodging expenses will be reimbursed or paid for when travel on official City business reasonably requires an overnight stay. If such lodging is in connection with a conference, lodging expenses must not exceed the group rates. If lodging at the conference rate is not available, reimbursement will be based on either the published conference rate or government rates as published by the Federal General Services Agency, whichever is greater. Where no conference rate is published, the reimbursement will be based on the government rate or the median rate listed on priceline.com or similar service, whichever is greater.
8. **Meals.** Meal expenses and associated gratuities will be reimbursed at the rate set forth in Administrative Regulation 3.9.
9. **Telephone/Fax/Cellular.** Council members will be reimbursed for actual telephone and fax expenses incurred on City business. Telephone bills should identify which calls were made on City business. For calls made on an official's personal cell phone, the official may obtain reimbursement for business calls based on the following formula: minutes used on public business divided by the total minutes allowed under a monthly plan, plus long-distances charges for those calls.
10. **Airport Parking.** Airport parking must be used for travel exceeding 24-hours.
11. **Other Travel Related Expenses.** Baggage handling fees of up to \$1 per bag and gratuities of up to 15 percent will be reimbursed. Expenses for which City officials receive reimbursement from another agency are not reimbursable.
12. **Miscellaneous Office Products.** Notwithstanding the requirement in Section I, occasionally an elected officer or officer's staff may need to make an immediate small out of pocket purchase of office supplies that are normally ordered by the City for which payment is paid directly to the vendor. The City in accordance with the applicable City Manager Administrative Regulation concerning petty cash refunds may reimburse such purchases.

D. Cash Advance Policy for Airfare and Hotel Only (per A.R, 3.9)

From time to time, it may be necessary for an official to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such request for an advance should be submitted to the City Auditor, and copied to the City Manager, ten (10) working days prior to the need for the advance with the following information:

1. The purpose of the expenditure(s);
2. Whether the expenditure is for an authorized activity
3. The benefit to the residents of the City.
4. The anticipated amount of the expenditure(s) (for example, hotel rates, meal costs, and transportation expenses); and
5. The dates of the expenditure(s).

Any unused advance must be returned to the City within five (5) working days of the official's return, along with an expense report and receipts documenting how the advance was used in compliance with this expense policy.

E. Expense Report Content and Submission Deadline

1. A Statement of Expense must be completed, signed and submitted to the City Auditor for review and forwarding to the Finance Department for payment. The Statement of Expense must document that the expense in question met the requirements of this Resolution. For example, if the meeting is with a legislator, the local agency official should explain whose meals were purchased, what issues were discussed and how those relate to the City's adopted legislative positions and priorities.
2. Officials must submit their Statement of Expense reports to the Auditor's Office within 60 days of an expense being incurred, accompanied by receipts documenting each expense. Restaurant receipts, in addition to any credit card receipts, are also part of the necessary documentation. Receipts for gratuities and tolls under \$5 are not required.
3. Inability to provide such documentation in a timely fashion may result in the expense being borne by the official.

F. Audits of Expense Reports

All expenses are subject to verification by the City Auditor of compliance with this policy.

G. Reports

At the following City Council meeting, each official shall briefly report on meetings attended at City expense. If multiple officials attended, a joint report may be made.

H. Compliance with Laws

City officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act.

I. Violation of This Policy

Use of public resources or falsifying expense reports in violation of this policy may result in any or all of the following:

1. loss of reimbursement privileges;
2. a demand for restitution to the City;
3. the City's reporting the expenses as income to the elected official to state and federal tax authorities;
4. civil penalties of up to \$1,000 per day and three times the value of the resources used; and
5. prosecution for misuse of public resources.

The foregoing Resolution was adopted by the Berkeley City Council on September 10, 2013 by the following vote:

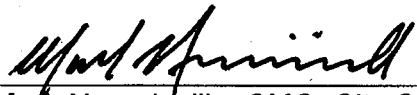
Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.



Tom Bates, Mayor

Attest: 

Mark Numainville, CMC, City Clerk

Councilmember Office Budget Relinquishment and Grant Policy

Introduction – Limitations on the Expenditure of Public Funds

The basic purpose of the City as an entity is to exist and function as a *municipality*. This is also reflected in the Charter, which limits the Council's powers only to those "municipal affairs adequate to a complete system of local government". (Section 38.)

Exercises of this power may not be used solely to further the interests of particular individuals, although they may incidentally benefit private interests:

The exercise of the police power is available only for the purpose of promoting the general welfare, the interests of the public as distinguished from those of individuals or persons. It cannot be used to promote private gain or advantage, except so far as the same may also promote the public interest and welfare, and it is the latter, and not the former, effect which forms the basis of the power and warrants its exercise.
(*Binford v. Boyd* (1918) 178 Cal. 458, 461.)

The Council's basic powers circumscribe its ability to spend public funds. In other words, the Council cannot spend public funds for purposes that are beyond its authority in the first place. Thus the City may only use its funds for municipal purposes. In any given case the crucial inquiry is whether an expenditure serves such a purpose.

The determination of what constitutes a public purpose is primarily a matter for the legislature, and its discretion will not be disturbed by the courts so long as that determination has a reasonable basis.
(*County of Alameda v. Carlson* (1971) 5 Cal.3d 730, 745-746.)

If the courts find that there is a valid public purpose, they next examine whether the government's actions are reasonably related to effectuating this purpose. (*Tip Top Foods, Inc. v. Lyng* (1972) 28 Cal.App.3d 533, 541.) Public appropriations granted to private interests will not be considered unlawful diversions of public funds when the transaction serves the public interest, merely granting an incidental benefit to the private individual. (*Cane v. City and County of San Francisco* (1978) 78 Cal.App.3d 654, 660.)

Criteria for Grants of City Funds from Councilmember Office Budgets

Relinquishments and grants for purposes and recipients that fall within the categories listed in Table 1 may be "pre-approved" each fiscal year by Council resolution.

Table 1.

Recipient	Purpose
The City (e.g., the Berkeley Public Library, the Berkeley Animal Shelter)	Any purpose already being undertaken, because it already serves a public purpose. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.
BUSD and other public agencies operating in Berkeley	Any purpose already being undertaken, because it already serves a public purpose, assuming the activity is in Berkeley. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.
Entities with which the City is co-sponsoring a public event in Berkeley (e.g., Earth Day, Solano Stroll).	City co-sponsorship suggests but is not conclusive of public purpose; public purpose would need to be stated, and all such events should be open to the public at no cost. Alternatively, a list of ongoing events that have been determined to serve a public purpose could be developed.
Entities in Berkeley to which the City already contributes funds for municipal purposes (e.g., affordable housing or social service nonprofits)	To advance the same public purposes for which the entities are funded. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.

Proposed relinquishments and grants that do not meet the criteria for pre-approval, but that meet an appropriate municipal purpose, may be approved by resolution with a majority vote of the City Council.

RESOLUTION NO. 63,413-N.S.

ESTABLISHING TRAVEL AND TRAINING REIMBURSEMENT POLICY FOR BOARD AND COMMISSION MEMBERS

WHEREAS, AB 1234, a new state law, requires that all cities adopt an expense reimbursement policy before a legislative body member may receive reimbursement for necessary expenses of office; and

WHEREAS, the Rent Stabilization Board and Board of Library Trustees occasionally authorize their Board members to attend specific training seminars and meetings which are designed to facilitate the Board members' performance of their duties; and

WHEREAS, the City Manager will occasionally authorize the use of City funds for a board or commission member from other boards or commissions to attend training programs or conferences designed to improve that official's skill and information level; and

WHEREAS, the Council has adopted an Expenditure and Reimbursement Policy for the Council and Mayor that sets forth those travel and training expenses for which Council will be reimbursed.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the following policy is adopted for reimbursement of board and commission members for travel and training expenses.

TRAVEL AND TRAINING REIMBURSEMENT FOR BOARDS/COMMISSIONS

A. Authorized Activities.

Travel, meals and lodging incurred in connection with attending educational seminars designed to improve officials' skill and information levels constitute authorized expenses, as long as the other requirements of this Resolution are fulfilled. For members of most of the City's boards and commission, other than the Board of Library Trustees and Rent Stabilization Board, such activities will occur only on rare occasions when approved by the City Manager and determined to be within the City's budget. The member of the body attending the educational event shall provide a brief report of the activity to the legislative body at a public meeting subsequent to the seminar. The Rent Stabilization Board may also receive travel meals and lodging incurred in connection with communicating with representatives of local, regional, state and national government on Board policy positions to the extent permitted by the Board.

B. Unauthorized Expenses

The following personal expenditures incurred by City officials shall not be reimbursed:

1. The personal portion of any trip, such as where the official is on his/her own vacation activities;
2. Political contributions or attendance at political or charitable events;

3. Family expenses, including partner's expenses when accompanying official on agency-related business, as well as children or pet-related expenses;
4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related expenses), or other recreational and cultural events;
5. Alcoholic beverages;
6. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
7. Personal losses incurred while on City business. Any questions regarding the propriety of a particular type of expense should be resolved by the City Council before the expense is incurred.

C. Particular Types of Authorized Expenditures Defined

To conserve City resources and keep expenses within community standards for public officials, expenditures should adhere to the following guidelines. In the event that expenses are incurred which exceed these guidelines, the cost borne or reimbursed by the City will be limited to the costs that fall within the guidelines.

1. **Registration.** Registration fee charged for any authorized convention, conference, seminar or meeting is reimbursable.
2. **Transportation.** The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. Charges for rental-vehicles may be reimbursed under this provision if more than one City official is attending an out of town conference, and it is determined that sharing a rental vehicle is more economical than other forms of transportation. In making such determination, the cost of the rental vehicle, parking and gasoline will be compared to the combined cost of such other forms of transportation. Government and group rates must be used when available.
3. **Airfare.** Airfares that are equal to or less than those available through the Enhanced Local Government Airfare Program offered through the League of California Cities, the California State Association of Counties and the State of California are presumed to be the most economical and reasonable for purposes of reimbursement under this policy.
4. **Automobile.** Automobile mileage is reimbursed at Internal Revenue Service rates presently in effect. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable. The Internal Revenue Service rates will not be paid for rental vehicles; only receipted fuel expenses will be reimbursed.
5. **Car Rental.** Rental rates that are equal or less than those available through the State of California's website (<http://www.catravelmart.com/default.htm>) shall be considered the most economical and reasonable for purposes of reimbursement under this policy.


6. **Taxis/Shuttles.** Taxis or shuttles fares may be reimbursed, including a 15 percent gratuity per fare, when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.
7. **Lodging.** Lodging expenses will be reimbursed or paid for when travel on official City business which reasonably requires an overnight stay. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question. Travelers must request government rates, when available. In the event that government rates are not available at a given time or in a given area, lodging rates that do not exceed the IRS per diem rates for a given area are presumed reasonable and hence reimbursable.
8. **Meals.** Meal expenses and associated gratuities should be moderate, taking into account community standards and the prevailing restaurant costs of the area. A helpful source of guidance is Internal Revenue Service per diem rates for meals and incidental expenses, which include adjustments for higher costs locations (*see* Publication 1542 at www.irs.gov or www.policyworks.gov/perdiem).
9. **Telephone/Fax/Cellular.** Officials will be reimbursed for actual telephone and fax expenses incurred on City business. Telephone bills should identify which calls were made on City business. For calls made on an official's personal cell phone, the official may obtain reimbursement for business calls based on the following formula: minutes used on public business divided by the total minutes allowed under a monthly plan, plus long-distances charges for those calls.
10. **Airport Parking.** Airport parking must be used for travel exceeding 24-hours.
11. **Other Travel Related Expenses.** Baggage handling fees of up to \$1 per bag and gratuities of up to 15 percent will be reimbursed. Expenses for which City officials receive reimbursement from another agency are not reimbursable.

The foregoing Resolution was adopted by the Berkeley City Council on July 25, 2006 by the following vote:

Ayes: Councilmembers Anderson, Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak and Mayor Bates.

Noes: None.

Absent: None.

Attest: 
Sherry M. Kelly, City Clerk



Tom Bates, Mayor

CITY OF BERKELEY
ADMINISTRATIVE REGULATIONS

A.R. NUMBER: 3.14
ORIGINAL DATE: 03/01/96
POSTING DATE: 08/30/07
PAGE 1 of 7 PAGES

SUBJECT: FN-024 Voucher Processing

PURPOSE

This AR establishes criteria and procedures for payments using an FN-024.

POLICY

It is the policy of the City Manager that an FN-024 Payment Vouchers (see Groupware – Finance) is limited to making payments for the following purposes.

- A. City Employees, Mayor and Councilmembers, Commissioners¹, or Library Trustees:
1. Employee travel advances and reimbursements (see AR 3.9 and forms in Groupware – Finance)
 2. Employee reimbursements for authorized use of a private vehicle (see AR 7.2 &/or AR 3.19 in process and form Auto Record for Mileage Reimbursement published in Groupware – Finance)
 3. Mayor and Council reimbursement for authorized expenses² (see Resolution 63,412-NS)
 4. Commissioner and Library Trustee³ payments^{Note} (see AR 3.2 for eligibility criteria; and Resolution 63,413-NS)
- B. Refunds
- C. Other Designated Payments:
1. State and Federal taxes
 2. Loan repayment
 3. Various payments associated with payroll and employee benefits
 4. Certain 1-time miscellaneous items under \$5,000
 5. Police Department Special Enforcement Unit Cash Fund (Special Investigative Bureau/SIB)*

¹ “Commissioner” includes Rent Stabilization Board Commissioners for reimbursements or other approved payments.

² Requires review by the City Auditor; SIB reimbursement payment also requires approval by City Auditor.

³ These payments to Commissioners (not including Rent Board) and Library Trustees, are for “... authorized payment in lieu of expenses to members of all Council-appointed boards, commissions, committees, task forces and joint subcommittees who meet certain criteria ...” See AR 3.2 for complete details.

All other goods and services, including subscriptions and membership dues, must be paid by Purchase Order (see AR 3.4 and the online Purchasing Manual). The Director of Finance must approve any exceptions before purchases are made on behalf of the City.

See AR 3.3, Petty Cash Accounts and forms in Groupware – Finance, for reimbursement for purchases \$50 and under.

PROCEDURE

These steps take you through how to make correct entries and complete an FN-024 Payment Voucher; note that WORDS PRINTED LIKE THIS designate a field for your entries on the Voucher form.

- FN-024 Payments
- Payments to City Employees, Elected Officials, or Qualifying Commissioners
- Payments for Refunds
- Other Designated Payments
- Additional Instructions for all FN-024 Payment Vouchers
- Check Printing & Disbursement
- Related items on Groupware – Finance

FN-024 Payments

Use FUNDS\$ GMBA Master Inquiry [FUNDS\$ > 7 > 1 > 2] to confirm all vendor information, including the designated Name on Checks field displayed at the bottom of the FUNDS\$ screen.

1. For an existing vendor/payee: if there are any differences between the data in GMBA Vendor Master file and the remittance information: please notify Finance – General Services: go to Groupware > Finance > Procurement Materials & Forms: Vendor Information Application, and use this form to update/correct the vendor information, and submit it to General Services.
2. For any new vendor or payee: an original and signed Vendor Information Application and/or W-9 (as applicable for vendor/payment) must be on file with Finance – General Services. In the interim, fax a copy to General Services; then attach a copy of completed Vendor Application and/or W-9 to the FN-024; the signed original/s must be mailed within 3 days.
 - a. Vendor Information Application: go to Groupware > Finance > Procurement Materials & Forms: Vendor Information Application, and have the vendor/payee complete this form.
 - b. Tax Payer ID & Certification Form W-9, or go to <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.

Payments to City Employees, Elected Officials, Qualifying Commissioners, or Library Trustees

A. Vendor Information

1. VENDOR NAME: enter the name of individual, followed by "EMPLOYEE," "MAYOR," "COUNCIL," "COMMISSIONER," "RENT BOARD" or "LIBRARY TRUSTEE," as applicable, and highlight the individual's designation.

-
2. VENDOR NO.: enter the number for the individual, as found in FUNDS\$ GMBA Vendor Master Inquiry.
 3. ADDRESS: enter the department and division of payee or Commissioner's mailing address.
 4. Payments to employees, Mayor and Council must be picked up from AP: complete the line for Pick Up Check at AP as instructed under the section Check Printing & Disbursement, below.
Payments to qualifying Commissioners⁴ or Library trustees will be mailed. If payment will be picked up rather than mailed out, complete the line for Pick Up Check at AP as instructed under the section Check Printing & Disbursement, below.

NOTE: FN-024s for Mayor/Council official reimbursements, qualifying Commissioner stipends, and Library Trustees must be reviewed by the City Auditor prior to submitting to Accounts Payable for payment processing. SIB payments must be reviewed and approved by the City Auditor.

- B. Description & Purpose (FUNDS\$ limits this to approximately 25 characters per description field)
 1. DESCRIPTION 1: enter conference name, period/s of mileage reimbursement, or Board or Commission meeting date/s.
 2. DESCRIPTION 2: enter other applicable information, i.e., the reason a request for payment is being made on an FN-024, rather than a Purchase Order.
- C. Invoice Information
 1. INVOICE #: enter conference invoice # or date/s. (FUNDS\$ limit of approximately 15 characters)
 2. INVOICE DATE: for advances or reimbursements to an employee, Mayor, Councilmember or Commissioner*, enter the date of the conference or the last date of the reimbursement period.

Payments for Refunds

- A. Vendor Information
 1. VENDOR NAME: enter payee name followed by "MISC REFUND" and **highlight** it.
 2. VENDOR NO.: enter the assigned miscellaneous vendor number.
 3. ADDRESS: enter the payee mailing address.
 4. Requests for refunds that include deductions for fees should clearly state the original amount paid to the City, the reason for the deduction, and the balance for the refund owed to payee.
 5. Original receipts must be submitted for a refund. If an original receipt is not available, a completed and signed Customer Request for Refund Without Receipt must be attached.
- B. Description & Purpose (FUNDS\$ limits this to approximately 25 characters per description field)
 1. DESCRIPTION 1: enter nature of purchase or service.

⁴ Including members of the Rent Stabilization Board for reimbursements or other approved payments.

2. DESCRIPTION 2: enter other applicable information, i.e., the reason a request for refund is being made.

C. Invoice Information

1. INVOICE #: for refunds, use the receipt number. (FUND\$ limit of approximately 15 characters)
2. INVOICE Date: for refunds, enter the original payment date from the original receipt.

Other Designated Payments (see list under Policy on 1st page)

A. Vendor Information

FIRST – For all FN-024 Payments: follow instructions for the initial procedure, above. Then:

1. VENDOR NAME: enter the payee name as it appears in FUND\$ GMBA Master Inquiry.
2. VENDOR NO.: enter the vendor # as it appears in FUND\$ GMBA Master Inquiry.
3. ADDRESS: when correct information is confirmed or corrected in GMBA, this can be blank.

B. Description & Purpose (FUND\$ limits these to approximately 25 characters per description field)

1. DESCRIPTION 1: enter nature of purchase or service.
2. DESCRIPTION 2: enter other applicable information, i.e., the reason a request for payment is being made on an FN-024, rather than a Purchase Order.

C. Invoice Information

1. INVOICE #: enter exactly as it appears on the vendor invoice, with dashes, hyphens, etc; if there is no invoice number, use the statement date as the invoice number (FUND\$ has a limit of approximately 15 characters).
2. INVOICE Date: enter the invoice or statement date.

Additional Instructions for all FN-024 Payment Vouchers

A. Account Codes & Project Code

1. Prior to submitting an FN-024, departments must confirm the account codes and project code used are active, correct for the expenditure, and have sufficient, unencumbered balances.
2. If needed, departments must process any budget adjustments prior to submitting the FN-024.
3. Accounts Payable will return FN-024s to departments for inactive budget or project codes, and/or improper budget codes, or insufficient funds.

B. Authorized Signatures

Each department must complete an Authorized Signatures Card with the designated staff authorized to approve invoices and FN-024s (see AR 3.12 and the Authorized Signatures Card form on Groupware – Finance). When there are changes in personnel authorized to approve an FN-024, the Authorized Signatures Card must be updated with Accounts Payable. 1.

PREPARED BY: signature of the person responsible for completing the FN-024.

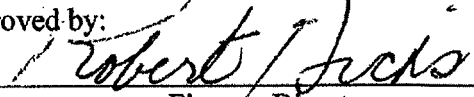

-
2. **AUTHORIZED DEPT SIGNATURE:** must be signed by authorized personnel, as reflected by the Authorized Signatures Card currently on file with Accounts Payable. FN-024s signed by unauthorized personnel will be returned.
- C. Limitations & Justification for 1-time Miscellaneous Items
1. A 1-time request for payment made on an FN-024, which would otherwise be made using a Purchase Order, means 1-time ever – not once a year or once-in-awhile. 1-time requests are only allowed for payments less than \$5,000.
 2. If a request for payment is being made on an FN-024 that would otherwise be made using a Purchase Order, there must be a justification provided on, or attached to, the FN-024. The Finance Director must approve the justification for use of an FN-024 prior to it being submitted for payment.
- D. Compiling the FN-024 Package: Form & Attachments
1. Place the FN-024 on top, with all required documentation stapled to the upper left-hand corner.
 2. If there is documentation required to be included with payment to the vendor, you must provide copies of this documentation, along with an envelope or mailing label addressed to the vendor. This is in addition to documentation required for Accounts Payable. Attach the documentation (duplicate copies and/or mailing stubs) to the upper right-hand corner.
 3. For payment of two or more items on a single FN-024, list each item separately, with its corresponding amount and account codes, on the FN-024. Attach an adding machine tape that totals the original items, and balances to the total on the FN-024.
 4. Employee reimbursements for authorized use of a private vehicle require an attached corresponding Auto Record for Mileage Reimbursement, available in Groupware. In addition, attach an adding machine tape totaling and balancing to the FN-024 for the period submitted.

Check Printing & Disbursement

1. Checks are usually printed weekly on Thursdays. FN-024s received in Accounts Payable by 5:00pm Monday will be processed for printing that week. Changes to this schedule will be emailed to departmental AP processing personnel and/or posted on the City's intranet.
2. Vendor checks will be mailed; see Compiling the FN-024 Package: Form & Attachments for specific requirements. If payment will be picked up rather than mailed, see instructions below.
3. Employee, Mayor, and Council checks will be available to pick up at Accounts Payable after 4:00pm on Thursday.
4. Pick Up Check at Accounts Payable: If it's been indicated on the FN-024 that a designated person will pick up the check, a City employee may sign for and pick up vendor checks. However, vendors may not pick up checks themselves from Finance – Accounts Payable. If payment will be picked up by an employee, rather than mailed out, complete the line in the upper right hand side of the FN-024 for Pick Up Check at AP: enter and **highlight** the name of authorized person the payment may be released to. This employee will be notified by email when the check is available to be picked up from Finance – Accounts Payable.

EXCEPTIONS

Any exceptions to this AR must be approved in writing by the Director of Finance.

<p>RESPONSIBLE DEPARTMENT: Finance Department</p>	<p>Approved by:  Finance Director</p>
<p>TO BE REVIEWED/REVISED: Every year</p>	<p> City Manager</p>

The following items are related to this AR, and can be found on Groupware – Finance:

1. FN-024 Payment Voucher – Excel file
2. FN-024 Payment Voucher – PDF file
3. AR 3.12 Authorized Signatures for Invoices and FN-024 Payment Vouchers
4. Authorized Signatures Card
5. Vendor Information Application
6. Tax Payer ID & Certification Form W-9
7. Customer Request for Refund Without Receipt
8. Attendance & Travel Expense Forms – web page with links to individual forms



Fair Campaign Practices Commission

CONSENT CALENDAR

July 28, 2020

To: Honorable Mayor and Members of the City Council
From: Fair Campaign Practices Commission
Submitted by: Dean Metzger, Chairperson, Fair Campaign Practices Commission
Subject: Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to prohibit Officeholder Accounts (See [Section 18531.62. Elected State Officeholder Bank Accounts, Regulations of the Fair Political Practices Commission](#)).

POLICY COMMITTEE RECOMMENDATION

On June 29, 2020, the Agenda and Rules Committee adopted the following action: M/S/C (Hahn/Wengraf) to make a Positive Recommendation to the City Council that the item be referred to the Agenda & Rules Committee to be considered with other related referrals from the Fair Campaign Practices Commission. The item will be calendared for the Consent Calendar on the July 28, 2020 agenda. Vote: All Ayes.

SUMMARY

Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also a goal of the Fair Elections Act of 2016.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The proposed amendments to the Berkeley Election Reform Act (BERA) were adopted by the Fair Campaign Practices Commission (FCPC) at its regular meeting of November 21, 2019.

Action: M/S/C (Smith/Saver) to adopt the proposed amendments to BERA related to Officeholder Accounts.

Vote: Ayes: Metzger, Ching, Saver, Blome, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: O'Donnell (excused).

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the “double green light” process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

BACKGROUND

The Fair Campaign Practices Commission has supported creating the circumstances in which the incumbent and challengers during an election play on as level a playing field as possible and reducing the influence of private campaign contributions. For instance, the Berkeley Fair Elections Act of 2016, which was passed by voters and recommended to Council by the Commission, included the following express purposes:

- Eliminate the danger of actual corruption of Berkeley officials caused by the private financing of campaigns.
- Help reduce the influence of private campaign contributions on Berkeley government.
- Reduce the impact of wealth as a determinant of whether a person becomes a candidate.

(Section 2.12.490(B)-(D).)

A recent inquiry to the Commission Secretary regarding the regulation of Officeholder Accounts resulted in a request from a Commissioner to have discussion of these accounts placed on the May 16, 2019 agenda for possible action. The following motion was made and passed at that meeting:

Motion to request staff work with Commissioner Smith to bring to a future meeting background information and a proposal to eliminate officeholder accounts (M/S/C: O'Donnell/Blome; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

Definition of an Officeholder Account

Under state law, an “officeholder account” refers to the funds held in a single bank account at a financial institution in the State of California separate from any other bank account held by the officeholder and that are used for “paying expenses associated with holding public office.” Officeholder Account funds cannot be used to pay “campaign expenses.” This definition is drawn from state law applicable to statewide elected officials: Government Code section 85316 (Attachment 2), and the accompanying regulation by the Fair Political Practices Commission (FPPC) codified at Title 2, Division 6, of the California Code of Regulations, [Section 18531.62](#) (Attachment 3).

Contributions to or expenditures from an Officeholder Account are not subject to BERA’s reporting requirements. (The FPPC still requires the reporting of activity relating to Officeholder Accounts, which is available to view on Berkeley’s [Public Access Portal](#).) If, however, a complaint is filed that an Officeholder Account is used for

campaign contributions or to pay “campaign expenses,” BERA can be used to respond to the complaint. The legal arguments for these statements are contained in a memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert, dated December 28, 1999 and a December 9, 1991 memorandum by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, that is attached to the December 28, 1999 memo. (Attachment 4.) Because the BERA provisions relied on in these memoranda have not been amended, and because no other BERA provisions have been added to regulate officeholder accounts, the memoranda’s conclusions remain valid and are still controlling guidance.

Contributions to Officeholder Accounts

Funds raised for Officeholder Accounts in Berkeley are not subject to any limitations, either from the FPPC or BERA. Neither is there a limit on the total amount the Officeholder Account fund may receive in contributions per year. Contributions to an elected official’s Officeholder Account may put that contributor in a more favorable light with the elected official than might otherwise be the case.

Expenditures from Officeholder Accounts

Except for the restriction that Officeholder Account funds cannot be used for “campaign expenses,” BERA does not restrict how funds from Officeholder Accounts can be used.

There are a number of permissible expenditures from Officeholder Accounts that could put an elected official in a favorable light with voters that are not available to a challenger for that office. A donation to a nonprofit organization, although technically not a “campaign expense,” would be seen favorably by those receiving the funds as well as individuals favorably disposed to the nonprofit organization receiving the funds. An individual running against this incumbent would have to draw on their own resources to make contributions to nonprofit organizations.

As long as political campaigns are not included, newsletters mailed to constituents related to events, information, or an officeholder’s position on matters before the Council are a permissible Officeholder Account expenditure. This keeps the incumbent’s name in front of the voter in a way unavailable to a challenger unless they pay for a newsletter and its distribution from their own resources.

Expenditures from Officeholder Account funds for flowers and other expressions of condolences, congratulations, or appreciation, while technically not “campaign expenses,” also increase the probability that the recipient will be favorably predisposed toward the elected official as a candidate for reelection or election to another office. Again, a challenger would have to draw on their own resources to express condolences, congratulations, or appreciation to their potential supporters.

Further, officeholder accounts can be used to pay for a broad range of office expenses, such as meals, travel, parking tickets, or contributions to other candidates or political parties.¹ Eliminating officeholder accounts would reduce reliance on and the influence of private contributions for these expenditures.

Recommendation

To make elections more equitable between challengers and incumbent and for the reasons given above, the Fair Campaign Practices Commission recommends prohibiting Officeholder Accounts.

Berkeley will not be the first to prohibit Officeholder Accounts. The San Jose Municipal Code was amended to prohibit officeholder accounts in January 2008. ([Chapter 12.06 – ELECTIONS, San Jose, CA Code of Ordinances, p. 10](#))

Part 8 - OFFICEHOLDER ACCOUNTS

12.06.810 - Officeholder account prohibited.

No city officeholder, or any person or committee on behalf of a city officeholder may establish an officeholder account or an account established under the Political Reform Act, California Government Code Section 8100 et seq. as amended, for the solicitation or expenditure of officeholder funds. Nothing in this section shall prohibit an officeholder from spending personal funds on official or related business activities.

The following additions to BERA are proposed:

2.12.157 Officeholder Account

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

2.12.441 Officeholder account prohibited

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.

¹ Under state law applicable to state elected officials, officeholders may use campaign contributions for “expenses that are associated with holding office.” (Govt. Code, § 89510.) To qualify, expenditures must be “reasonably related to a legislative or governmental purpose.” (*Id.*, § 89512.) “Expenditures which confer a substantial personal benefit shall be directly related to a political, legislative, or governmental purpose.” (*Ibid.*)

- C. Anyone holding an active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account, in accordance with FPCC guidelines.

ENVIRONMENTAL SUSTAINABILITY

There are no identified environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

This proposed change to BERA will help to level the playing field between challengers and the incumbent running for elective office.

ALTERNATIVE ACTIONS CONSIDERED

A Subcommittee was formed to consider the options of (1) amending the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts, (2) amending BERA to mitigate possible advantages incumbents with an Officeholder Accounts have over challengers, or (3) doing nothing with regard to Officeholder Accounts. The four members of the Subcommittee recommended unanimously to the full Commission to amend the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts.

CITY MANAGER

The City Manager takes no position on the content and recommendations of this report.

CONTACT PERSON

Dean Metzger, Chair, Fair Campaign Practices Commission. 981-6998

Attachments:

- 1: Proposed Ordinance
- 2: Government Code section 85316
- 3: Section 18531.62 (Elected State Officeholder Bank Accounts), Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations
- 4: Memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert (including attached memorandum signed by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, to the FCPC)

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

OFFICEHOLDER ACCOUNT PROHIBITED; AMENDING BERKELEY MUNICIPAL CODE
CHAPTER 2.12

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

Section 1. That Berkeley Municipal Code section 2.12.157 is added to read as follows:

BMC 2.12.157 Officeholder account

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

Section 2. That Berkeley Municipal Code section 2.12.441 is added to read as follows:

BMC 2.12.441 Officeholder account prohibited

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.
- C. This provision does not affect a candidate’s ability to establish a legal defense fund or the requirements for such a fund, as set forth in the Political Reform Act or by regulation.
- D. Any active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation


[Home](#)
[Bill Information](#)
[California Law](#)
[Publications](#)
[Other Resources](#)
[My Subscriptions](#)
[My Favorites](#)

 Code:

 Section:


[Up^](#) [<< Previous](#) [Next >>](#)
[cross-reference chaptered bills](#)
[PDF](#)
[Add To My Favorites](#)

 Search Phrase:

GOVERNMENT CODE - GOV

TITLE 9. POLITICAL REFORM [81000 - 91014] (Title 9 added June 4, 1974, by initiative Proposition 9.)

CHAPTER 5. Limitations on Contributions [85100 - 85802] (Chapter 5 added June 7, 1988, by initiative Proposition 73.)

ARTICLE 3. Contribution Limitations [85300 - 85321]

(Article 3 added June 7, 1988, by initiative Proposition 73.)

85316. (a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) No person shall make, and no elected state officer shall receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

(A) Three thousand dollars (\$3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars (\$5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars (\$20,000) in the case of the Governor.

(2) No elected state officer shall receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars (\$50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars (\$100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars (\$200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that he or she may seek during the term of office to which he or she is currently elected, including, but not limited to, reelection to the office he or she currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. None of the expenditures made by elected state officers pursuant to this subdivision shall be subject to the voluntary expenditure limitations in Section 85400.

(4) The commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100).

(Amended by Stats. 2007, Ch. 130, Sec. 149. Effective January 1, 2008. Note: This section was added by Stats. 2000, Ch. 102, and approved in Prop. 34 on Nov. 7, 2000.)

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18531.62. Elected State Officeholder Bank Accounts.

(a) Application and Definitions. For purposes of Section 85316(b) and this regulation, the following definitions apply:

(1) "Officeholder" means an elected state officer.

(2) "Officeholder controlled committee" means a committee formed pursuant to subdivision (c) of this regulation.

(3) "Officeholder account" means the bank account established at a financial institution located in the State of California pursuant to Section 85316(b).

(4) "Officeholder funds" means money in the officeholder account.

(b) Establishing the Officeholder Account: For purposes of Section 85316(b), an officeholder shall maintain officeholder funds in a single bank account separate from any other bank account held by the officeholder.

(c) Establishing the Officeholder Controlled Committee, Reporting and Recordkeeping:

(1) Formation: The officeholder shall establish a controlled committee by filing a statement of organization pursuant to Section 84101 if the officeholder receives \$2,000 or more in officeholder contributions in a calendar year.

(2) Committee Name: The controlled committee name shall include the officeholder's last name, the office held, the year the officeholder was elected to the current term of office, and the words "Officeholder Account." The statement of organization shall include the name, account number, and address of the financial institution where the committee established the officeholder account.

(3) Filing Requirements: The controlled committee shall file campaign statements and reports pursuant to Chapters 4 and 5, except Sections 85200 and 85201, of Title 9 of the Government Code at the same times and in the same places as it otherwise would be required to do for any other controlled committee formed by the officeholder for election to state office.

(4) Required Recordkeeping and Audits. The officeholder and treasurer shall be subject to recordkeeping requirements under Section 84104. The officeholder account and officeholder controlled committee shall be subject to audits under Chapter 10 of Title 9 of the Government Code. Any audit of the officeholder, or any of his or her controlled committees, under Section 90001 shall include all officeholder accounts and officeholder controlled committees maintained by the officeholder during the audit period as described in Regulation 18996(a)(1).

(d) Prohibitions:

(1) Officeholder funds may not be contributed or transferred to another state or local committee, including any other controlled committee of the officeholder, except as permitted in subdivisions (g) (2) and (g)(3).

(2) Officeholders may not use officeholder funds to pay "campaign expenses" as defined in Regulation 18525(a).

(3) The officeholder may not transfer or contribute funds from any other committee he or she controls to the officeholder account, except as permitted in subdivision (g)(2) and (g)(3).

(e) Contributions to the Officeholder Account:

(1)(A) Required Notices: In addition to the requirements of Regulation 18523.1, a written solicitation for contributions to the officeholder account shall include the following: "For purposes of the Political Reform Act's contribution limits, a contribution to an officeholder-

account is also considered to be a contribution to all campaign committees for future elective state office the officeholder seeks during his or her current term of office.

(B) In addition to the requirements of subparagraph (A) above, an officeholder who files a statement of intention to be a candidate for any elective state office during the officeholder's term of office shall provide notice of this filing to every person that has made a contribution to his or her officeholder account. The notice shall contain the language in subparagraph (A) and be transmitted or mailed within 10 days of filing the statement of intention to be a candidate.

(2) Cumulation: A contribution to the officeholder account shall also be deemed a contribution to the officeholder's controlled committee for election to elective state office for the purposes of Section 85316(b)(3) only under all of the following circumstances:

(A) The contributor makes the contribution between the day the election was held for the term of office for which the officeholder account was established and the end of that term of office;

(B) The officeholder maintains the controlled committee, established for a future term of elective state office, at any time during the period covered in subparagraph (A).

(3) Cumulation and Primary and General Elections: A person's contributions to the officeholder account, when combined with contributions from the same person for a primary and general election to the elective state office may not exceed the contribution limits applicable to the primary and general election.

(4) Multiple Officeholder Accounts: When an officeholder maintains more than one officeholder account in the same calendar year, he or she may not receive the following contributions to any of those accounts during that calendar year:

(A) Contributions from a single contributor that, when cumulated for all the accounts, exceed the maximum amount the contributor could give to the officeholder account having the highest per person contribution limit under Section 85316(b)(1).

(B) Contributions from all contributors that, when cumulated for all the accounts, exceed the maximum amount in total contributions the officeholder could receive in the officeholder account having the highest aggregate contribution limit under Section 85316(b)(2).

(f) Contributions Over the Limits:

(1) An officeholder shall return to the contributor the portion of any contribution to his or her officeholder account that exceeds the limits of Section 85301, 85302 (after cumulation) or 85316 (either alone or after cumulation) by the earlier of 14 days of receipt or 14 days of the date the officeholder files a statement of intention to be a candidate for elective state office pursuant to Section 85200.

(2) A contributor to the officeholder account does not violate the contribution limits applying to the officeholder's election to a future elective state office as otherwise provided under Section 85316(b)(3) if, when he or she makes the contribution, the officeholder has not filed a statement of organization to establish a controlled committee for election to a future elective state office.

(g) Terminating Officeholder Accounts and Committees.

(1) The officeholder may not accept contributions after the officeholder's term of office ends or the date he or she leaves that office, whichever is earlier.

(2) The officeholder may redesignate the officeholder account as an officeholder controlled committee for a future term of the same office by amending the statement of

organization for the committee to reflect the redesignation for the future term of office prior to the date the officer's term of office ends.

(3) An officeholder may redesignate officeholder funds in the redesignated officeholder account as officeholder funds for the new term of office, subject to the limitations in subdivision (e)(4).

(4) Once the officeholder's term of office ends or he or she leaves that office, whichever is earlier, the officeholder may only use his or her officeholder funds for the following purposes:

- (A) Paying outstanding officeholder expenses.
- (B) Repaying contributions to contributors to the officeholder account.
- (C) Making a donation to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, if no substantial part of the proceeds will have a material financial effect on the officeholder, a member of his or her immediate family, or his or her committee treasurer.

(D) Paying for professional services reasonably required by the officeholder controlled committee to assist in the performance of its administrative functions.

(5) The officeholder shall terminate the officeholder controlled committee within 90 days of the date the officer's term of office ends or he or she leaves that office, whichever is earlier. The Executive Director may for good cause extend the termination date or permit the candidate to reopen the account.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 84104, 85316 and 90000-90007, Government Code.

HISTORY

1. New section filed 7-3-2007; operative 8-2-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2007, No. 27). For prior history, see Register 2007, No. 26.
2. Change without regulatory effect amending section filed 3-22-2016; operative 4-21-2016 pursuant to 2 CCR 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 13).



Office of the
City Attorney

DATE: December 28, 1999

TO: BARBARA GILBERT,
Aide to Mayor Shirley Dean

FROM: MANUELA ALBUQUERQUE, City Attorney *MA*
By: CAMILLE COUREY, Deputy City Attorney

SUBJECT: APPLICATION OF BERKELEY ELECTION REFORM ACT TO OFFICEHOLDER ACCOUNTS

ISSUE:

Does the Berkeley Election Reform Act (BERA) govern officeholder accounts?

CONCLUSION:

No. The BERA does not govern true officeholder accounts per se. However, the mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under the BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable local laws.

ANALYSIS:

Sarah Reynoso, former secretary and staff counsel to the Fair Campaign Practices Commission (FCPC), issued an opinion to the FCPC dated December 2, 1991, a copy of which is attached, stating that the BERA's contribution limit does not apply to contributions made to an officeholder account. The opinion reasons that the BERA's contribution limit applies only to "contributions" as defined in the BERA, i.e., which are made directly or indirectly in support of or in opposition to the nomination or election of one or more candidates to elective office. (See Berkeley Municipal Code (BMC) § 2.12.100.) Contributions to a true officeholder account are not made for the purpose of nominating or electing a candidate to office, but rather for the use of an officeholder in carrying out the duties of his or her office. Therefore, the contribution limit of the BERA is inapplicable to officeholder accounts.¹ For similar reasons, the BERA does not

¹ However, the opinion also provided that contributions to officeholder accounts still had to be reported on campaign statements because the State Fair Political Practices Commission (FPPC) Regulations broadly defined contributions as any contribution for "political purposes." Since officeholder expenses are for political purposes, they must be reported to the State.

Barbara Gilbert

Re: Application of Berkeley Election Reform Act To Officeholder Accounts

December 28, 1999

Page 2

apply to true officeholder accounts.

The BERA requires the filing of statements to report the amounts received and expended in municipal elections. (See BMC §§ 2.12.015, 2.12.030 through 2.12.050) Specifically, a "campaign statement" required to be filed under the BERA is an itemized report which provides the information required by Sections 2.12.245 through 2.12.325 of the BERA. (BMC § 2.12.080.) Sections 2.12.245 through 2.12.325 govern the reporting of contributions and expenditures. "Contributions" and "expenditures" are defined by the BERA as any amounts received or expended, respectively, in aid of or in opposition to the nomination or election of one or more candidates to elective office. (See BMC §§ 2.12.100 and 2.12.130.) Contributions to or expenditures from a true officeholder account are not subject to the BERA's reporting requirements because they are made for the purpose of carrying out the duties of elective office, and not for the purpose of aiding or opposing the nomination or election of one or more candidates to elective office.² Therefore, the BERA does not apply to true officeholder accounts.

However, the fact that an account may be designated as an officeholder account will not shield it from scrutiny under the BERA if the officeholder account is, in fact, being used for the receipt of contributions or the making of expenditures in aid of the nomination or election of a candidate for local elective office. Nor will BERA requirements, such as the \$250 contribution limit or the prohibition against contributions from businesses to candidates, be held inapplicable if contributions made initially to an officeholder account are transferred subsequently to a campaign account. Where the actions taken with respect to an officeholder account implicate campaign contributions and expenditures in municipal elections, the officeholder account will be scrutinized under the BERA and other applicable local law.

Attachment

cc: Fair Campaign Practices Commission
Sherry Kelly, City Clerk

City Attorney Opinion Index: ILE.1. and IILG.

CCM

PAUSERSUBEL2\offhldr.mem.doc

² Again, however, the State FPPC still requires the reporting of activity relating to an officeholder account. (See footnote 1.)

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT

The Fair Campaign Practices Commission is proposing amendments to the Berkeley Election Reform Act related to the prohibition of officeholder accounts.

The hearing will be held on, February 4, 2020, at 4:00 p.m. in the School District Board Room, 1231 Addison Street.

A copy of the agenda material for this hearing will be available on the City’s website at www.CityofBerkeley.info as of **January 30, 2020**.

For further information, please contact Samuel Harvey, Commission Secretary at 981-6998.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

Published: January 24, 2020 – The Berkeley Voice
Pursuant to Berkeley Municipal Code Section 2.12.051

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on January 30, 2020.

\_\_\_\_\_  
Mark Numainville, City Clerk





Office of the Mayor

CONSENT CALENDAR

July 28, 2020

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, Councilmember Ben Bartlett,  
Councilmember Susan Wengraf, and Councilmember Sophie Hahn

Subject: Opposition to Nuclear Warfare

RECOMMENDATION

Adopt a Resolution marking the 75<sup>th</sup> anniversary of the atomic bombings of Hiroshima and Nagasaki with a call to prevent nuclear war.

BACKGROUND

On August 6 and 9, 1945, an estimated 210,000 were killed during the atomic bombings of Hiroshima and Nagasaki. 75 years later and the consequences of nuclear weapons continues. In January 2020, the Doomsday Clock, a symbolic clock designed in 1947 to show the risk of existential dangers, moved to 100 seconds to midnight, the closest it has ever been to midnight. The dual threat of nuclear weapons and climate change were attributed to this dire announcement. Mining, storage, and disposal of radioactive materials such as uranium frequently take place by indigenous lands. And over the next 30 years, the United States is planning to spend \$1.7 trillion on upgrading its nuclear arsenal instead of phasing it out. Also of great concern, the Trump administration has taken action that has increased the threat of nuclear weapons, such as leaving international treaties including the Treaty on the Prohibition of Nuclear Weapons and the Iran Deal, along with fumbling negotiations with North Korea.

The City of Berkeley has taken similar action in the past regarding nuclear weapons. Most notably, Berkeley voters approved the Nuclear Free Berkeley Act in 1986. While this act was in response to the growing threat of nuclear warfare during the Cold War, nuclear warfare remains a significant existential threat with continued proliferation and tensions between nuclear nations. Berkeley is also a part of Mayors for Peace, an organization consisting of over 7,900 cities worldwide that advocates for the abolition of nuclear weapons.

FINANCIAL IMPLICATIONS

None

ENVIRONMENTAL SUSTAINABILITY

The detonation of even a small number of nuclear weapons could have catastrophic human and environmental consequences that could affect everyone on the planet.

[Title of Report]

CONSENT CALENDAR  
July 28, 2020

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

1: Resolution



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

ON THE 75th ANNIVERSARY OF THE U.S. ATOMIC BOMBINGS OF HIROSHIMA AND NAGASAKI; A CALL TO PREVENT NUCLEAR WAR

WHEREAS, August 6 and 9, 2020 mark the 75th anniversaries of the United States atomic bombings of Hiroshima and Nagasaki; and

WHEREAS, on August 6, 1945 the United States unleashed the nuclear age, dropping a single atomic bomb on Hiroshima – a tiny and crude nuclear weapon by today’s standards – indiscriminately incinerating tens of thousands of ordinary people and killing or injuring over 90% of the doctors and nurses in Hiroshima; and

WHEREAS, three days later, the United States dropped a second atomic bomb on Nagasaki; and

WHEREAS, by the end of 1945 more than 210,000 people - mainly civilians - were dead, and the surviving A-bomb victims (“hibakusha”), their children and grandchildren continue to suffer from physical and psychological effects of the bombings; and

WHEREAS, indigenous and colonized peoples have, in large part, borne the brunt of more than 75 years of nuclear devastation resulting from the mining of uranium, the testing of nuclear weapons, the dumping, storage and transport of plutonium and nuclear wastes, and the theft of their lands for nuclear infrastructure; and

WHEREAS, today, more than 13,000 nuclear weapons, most an order of magnitude more powerful than the atomic bombs that destroyed Hiroshima and Nagasaki— 92% held by the United States and Russia, continue to pose an intolerable threat to humanity; and

WHEREAS, the detonation of even a small number of these weapons could have catastrophic human and environmental consequences that could affect everyone on the planet; and

WHEREAS, over the next 30 years, the United States plans to spend an estimated \$1.7 Trillion to replace its entire nuclear weapons infrastructure and upgrade its nuclear bombs and warheads and the bombers, missiles and submarines that deliver them; and

WHEREAS, all the nuclear-armed nations are upgrading their nuclear arsenals; and

WHEREAS, the Bulletin of the Atomic Scientists has moved the hands of its iconic Doomsday Clock to 100 seconds to midnight, the closest it’s ever been set since its inception in 1947, due to “two simultaneous existential dangers – nuclear war and climate

change – that are compounded by a threat multiplier, cyber-enabled information warfare, that undercuts society’s ability to respond”; and

WHEREAS, according to United Nations High Representative for Disarmament Affairs Izumi Nakamitsu: “The specter of unconstrained nuclear competition looms over us for the first time since the 1970s. We are witnessing what has been termed a qualitative nuclear arms race, one not based on numbers but on faster, stealthier and more accurate weapons. Regional conflicts with a nuclear dimension are worsening, and proliferation challenges are not receding;” and

WHEREAS, the administration has requested over \$740 billion for the military in its FY 2021 budget proposal, far more than the United States spent for military purposes at the height of the Korean or Vietnam Wars or the peak of the Reagan buildup of the 1980s; and

WHEREAS, the biggest increase in the proposed FY 2021 budget is a nearly 20% increase in spending on nuclear weapons at \$45 billion; and

WHEREAS, the fact that the COVID-19 pandemic has come close to overwhelming the health care system even when only a small fraction of the population has required hospitalization— and hospitals were intact to provide care – demonstrates that there can be no meaningful response to or recovery from nuclear war; and

WHEREAS, every city in America is now facing severe budget challenges as a direct result of the COVID-19 pandemic, forcing them to lay off employees and make cuts to critical programs, including those for public safety; and

WHEREAS, according to a recent study, the amount of money spent by the United States in one year on nuclear weapons could instead provide 300,000 ICU (intensive care unit) beds, 35,000 ventilators and 75,000 doctors’ salaries; and

WHEREAS, the United States is obligated under the 1970 Nuclear Non-Proliferation Treaty (NPT) to take concrete steps to eliminate its nuclear arsenal; and

WHEREAS, the City of Berkeley has been a Nuclear Free Zone since passage of “The Nuclear Free Berkeley Act” (Ord.5784-NS Section 1, 1986), Berkeley Municipal Code (BMC) 12.90, which states: “The people of Berkeley find that: A. The nuclear arms race poses an intolerable threat to humanity;” and

WHEREAS, a grassroots movement called “Back from the Brink: The Call to Prevent Nuclear War” has been endorsed by 250 health, environmental, academic, peace, and justice organizations and has resulted in resolutions approved by the United States Conference of Mayors and 32 municipalities, including Los Angeles, Baltimore, Salt Lake City, and Washington DC, with more under consideration.

NOW, THEREFORE BE IT RESOLVED, that on the 75th anniversary of the U.S. atomic bombings of Hiroshima and Nagasaki, the City of Berkeley calls on the President and Congress to step back from the brink and to lead a global effort to prevent nuclear war by renouncing the option of using nuclear weapons first; ending the sole, unchecked authority of any president to launch a nuclear attack; taking U.S. nuclear weapons off hair-trigger alert; cancelling the plan to replace its entire arsenal with enhanced weapons; and actively pursuing a verifiable agreement among nuclear armed states to eliminate their nuclear arsenals; and

BE IT FURTHER RESOLVED, that the City of Berkeley urges the United States government to retract its opposition to the 2017 Treaty on the Prohibition of Nuclear Weapons and to embrace the Treaty as a welcome step towards negotiation of a comprehensive agreement on the achievement and permanent maintenance of a world free of nuclear arms; and

BE IT FURTHER RESOLVED, that the City of Berkeley calls on the President and Congress to reverse federal spending priorities and to redirect funds currently allocated to nuclear weapons and unwarranted military spending to support safe and resilient cities and meet human needs, including by providing immediate funding for critical needs exposed by the COVID-19 pandemic such as health care accessible and affordable for all, more robust public health capacity at every level of government, programs to secure housing and food security, and measures to assure secure funding for municipalities and states throughout this and future disasters for which they are the first line of defense; and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to Congressman Barbara Lee and to Senators Dianne Feinstein and Kamala Harris.





Cheryl Davila  
Councilmember  
District 2

CONSENT CALENDAR  
July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila and Councilmember Ben Bartlett

Subject: Support Berkeley Humane Society's Nonprofit Bark (& Meow) for the Around the Block Adoption Event and Family Street Fair in West Berkeley on August 29, 2020, organized by Berkeley Humane Society: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

#### RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to Berkeley Humane Society's Nonprofit Bark (& Meow) for the Around the Block Adoption Event and Family Street Fair in West Berkeley on August 29, 2020, organized by Berkeley Humane Society, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute. *(COVID-19 Update: If it is not safe to hold the one-day event a month-long virtual adopt-a-thon will be held instead to find homes for over 100 shelter pets).*

#### BACKGROUND

The eighth annual Bark (& Meow) Around the Block Adoption Event and Family Street Fair will take place on Saturday, August 29, 2020, in West Berkeley. This annual pet adoption event, free to the public, is a large community based, family-friendly street fair and adopt-a-thon complete with great food, live entertainment, vendors (pet and non-pet), and fun activities for all ages.

Last year, Bark (& Meow) Around the Block stretched over two long city blocks, attracted at least 2,500 attendees, over 40 diverse vendors, and 20 local partner animal rescue organizations. Over 165 shelter and rescue animals were placed into loving homes in just a few hours.

The festival will draw a significant number of families, potential pet adopters, and the general public including current pet guardians out to engage with a pet-friendly event that includes local food trucks, live music, and a variety of vendors.

Additionally, the COVID19 caused more animals in the shelters that need opportunities to find loving homes. This event will go a long way in helping to connect new families with pets who need a second chance.

The Bark (& Meow) Around the Block Adoption Event and Family Street Fair will also have media impact and will:

(1) Focus on Berkeley by the entire Bay Area, thanks to promotions by NBC Bay Area and Telemundo live broadcast, radio coverage, social media, and more.

(2) Very low cost for the city relative to the benefits because the vast majority of costs are borne by the nonprofit organization

For 125 years, Berkeley Humane has served animals and our community by providing life-saving programs for cats and dogs, cultivating compassion, and strengthening the human-animal bond. Berkeley Humane continues to expand and adapt the services of the organization to meet the ongoing needs of the community's animals and their human guardians. Berkeley Humane's work would not be possible without its strong partnerships with local animal welfare groups and the support from animal-loving friends who share the Society's vision. Today, Berkeley Humane has thousands of supporters and volunteers and remains steadfast in its practices to curb pet overpopulation in the East Bay and give pet guardians the tools they need to ensure that their pets remain happy and healthy in their homes for the rest of their lives.

#### FINANCIAL IMPLICATIONS

No General Fund impact. \$250 is available from Councilmember Cheryl Davila's Council Office Budget discretionary account (011-11-102-000-0000-000-411).

#### ENVIRONMENTAL SUSTAINABILITY

Protecting our pets is itself an act of environmental sustainability.

#### CONTACT PERSON

Cheryl Davila  
Councilmember District 2  
510.981.7120  
[cdavila@cityofberkeley.info](mailto:cdavila@cityofberkeley.info)

#### ATTACHMENTS:

1. Resolution

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY SUPPORTING BERKELEY HUMANE SOCIETY'S NONPROFIT BARK (& MEOW) FOR THE AROUND THE BLOCK ADOPTION EVENT AND FAMILY STREET FAIR IN WEST BERKELEY ON AUGUST 29, 2020, ORGANIZED BY BERKELEY HUMANE SOCIETY: RELINQUISHMENT OF COUNCIL OFFICE BUDGET FUNDS TO GENERAL FUND AND GRANT OF SUCH FUNDS

WHEREAS, The eighth annual Bark (& Meow) Around the Block Adoption Event and Family Street Fair will take place on Saturday, August 29, 2020, in West Berkeley. This annual pet adoption event, free to the public, is a large community based, family-friendly street fair and adopt-a-thon complete with great food, live entertainment, vendors (pet and non-pet), and fun activities for all ages.

WHEREAS, Last year, Bark (& Meow) Around the Block stretched over two long city blocks, attracted at least 2,500 attendees, over 40 diverse vendors, and 20 local partner animal rescue organizations. Over 165 shelter and rescue animals were placed into loving homes in just a few hours.

WHEREAS, The festival will draw a significant number of families, potential pet adopters, and the general public including current pet guardians out to engage with a pet-friendly event that includes local food trucks, live music, and a variety of vendors.

WHEREAS, Additionally, the COVID19 caused more animals in the shelters that need opportunities to find loving homes. This event will go a long way in helping to connect new families with pets who need a second chance.

WHEREAS, The Bark (& Meow) Around the Block Adoption Event and Family Street Fair will also have media impact and will:

- (1) Focus on Berkeley by the entire Bay Area, thanks to promotions by NBC Bay Area and Telemundo live broadcast, radio coverage, social media and more.
- (2) Very low cost for the city relative to the benefits because the vast majority of costs are borne by the nonprofit organization

WHEREAS, For 125 years, Berkeley Humane has served animals and our community by providing life-saving programs for cats and dogs, cultivating compassion, and strengthening the human-animal bond. Berkeley Humane continues to expand and adapt the services of the organization to meet the ongoing needs of the community's animals and their human guardians. Berkeley Humane's work would not be possible without its strong partnerships with local animal welfare groups and the support from animal-loving friends who share the Society's vision. Today, Berkeley Humane has thousands of supporters and volunteers and remains steadfast in its practices to curb pet overpopulation in the East Bay and give pet guardians the tools they need to ensure that their pets remain happy and healthy in their homes for the rest of their lives.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley hereby approve the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to Berkeley Humane Society's Nonprofit Bark (& Meow) for the Around the Block Adoption Event and Family Street Fair in West Berkeley on August 29, 2020, organized by Berkeley Humane Society, with funds relinquished to the City's general fund for

this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute. *(COVID-19 Update: If it is not safe to hold the one-day event a month-long virtual adopt-a-thon will be held instead to find homes for over 100 shelter pets).*





Cheryl Davila  
Councilmember  
District 2

CONSENT CALENDAR

July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila

Subject: Providing our Unhoused Community in the City of Berkeley with Menstrual Products

RECOMMENDATION

1. Adopt a Resolution to create an allocation of the budget towards annual purchasing of menstrual products and dispensers that will be distributed in three ways:
  - A. Regularly scheduled replenishment of dispensers across public restrooms
  - B. Provide supplies to the City supported shelters, mental health offices, shower programs, and navigation centers
  - C. Homeless Outreach to include distribution to encampments and RV dwellers
2. Resolution will allocate \$10,000 of the budget for the first year, and \$8,000 for every consecutive year.
3. Direct the City Manager to use existing homeless services funding to develop and deploy a program to provide a broad spectrum of menstrual products, including but not limited to, feminine hygiene, pads, tampons, underwear, and other related products, both through the City's outreach direct services, as well as through the community based homeless services providers. Additionally, require some elements of this program be deployed immediately, with a full program deployment within six months.

POLICY COMMITTEE RECOMMENDATION

On July 13, 2020, the Health, Life Enrichment, Equity & Community Committee adopted the following action: M/S/C (Hahn/Kesarwani) to forward the item to Council with a qualified positive recommendation and ask the author to incorporate the following modified recommendation into the item: Direct the City Manager to use existing homeless services funding to develop and deploy a program to provide a broad spectrum of menstrual products, including but not limited to, feminine hygiene, pads, tampons, underwear, and other related products, both through the City's outreach direct services, as well as through the community based homeless services providers. Additionally, require some elements of this program be deployed immediately, with a full program deployment within six months. Vote: All Ayes.

RATIONALE FOR RECOMMENDATION

The City of Berkeley spent \$6.5 million of the general fund to combat homelessness in 2019. Women who are not housed typically struggle with the lack of access to proper sanitary needs such as showers, tampons, and sanitary menstrual pads. It is necessary to treat menstrual products equally similar to toilet paper and soap. The lack of access to menstrual products leads to increased health disparities and other issues such as infections. Moreover, menstrual equity is part of a larger goal to bridge the financial inequities that women face.

## BACKGROUND

The City of Berkeley spent close to \$20 million on providing homeless services. About \$6.5 million came from its general fund, about \$9.5 million came from regional, state, and federal funds and \$3.9 million were one-time funds from the state's Homeless Emergency Aid Program. Many women have been utilizing the shower program that was expanded due to the Covid-19 pandemic, adding the West Campus pool, a new location, and extending its hours at Willard. The City now includes Dignity on Wheels, the mobile shower program that also includes washer, dryers, toilets, showers, and case management services to enable more opportunity for our community experiencing homelessness to maintain dignity and humility during the COVID-19 pandemic.

Menstrual products are the most needed by women's shelters, but the least donated due to the large stigma around menstruation. The topic often not discussed, stops people from thinking about the issue which only intensifies inaccessibility to menstrual products for individuals who may need them most.

Menstrual products are costly for the average person, especially those women experiencing houselessness. Women in the United States spend approximately \$150-\$300 annually on menstrual products, or \$12-\$25 a month. Homeless women may have to make the decision between purchasing menstrual products or buying their other essentials for that day.

Lack of accessibility to menstrual products can cause the homeless to use whatever they have available to contain their menstrual needs. Additionally, the lack of clean water for the homeless means that with makeshift products, these individuals are incredibly susceptible to numerous infections.

Working towards menstrual equity is not just beneficial for social justice, but also is to bridge healthcare injustices. Some use socks, paper towels, plastic bags, toilet paper, or clothing in place of hygiene products. This can lead to infections such as urinary tract infections (UTI), yeast infections, and more.

Reducing the stigma around menstruation, bridging gender and healthcare injustices, especially for those who are most impacted, is the responsibility of all.

## FINANCIAL IMPLICATIONS

An estimate of \$10,000 for the first year, with the purchase of about 10 dispensers to place across public restrooms in the City of Berkeley that are easily accessible to the homeless, as well as the purchasing of upwards of 70,000 menstrual products annually. Each following year, the estimate is \$8,000, accounting for the fact that dispensers are a one time cost.

Estimated price of dispenser (holds around 20 tampons + around 10 pads): \$200

Estimated price of 500 pack of tampons: \$50

Estimated price of 599 pack of pads: \$55

## ENVIRONMENTAL SUSTAINABILITY

None, so long as there are proper disposal methods in restrooms and homeless camps for the products.

## CONTACT PERSONS

Cheryl Davila

Councilmember District 2

510.981.7120

[cdavila@cityofberkeley.info](mailto:cdavila@cityofberkeley.info)

Sanjita Pamidimukkala  
District 2 Intern  
925.984.9435  
[dh.spamidimukkala@students.srvusd.net](mailto:dh.spamidimukkala@students.srvusd.net)

Eshal Sandhu  
District 2 Intern  
925.255.6608  
[dh.esandhu@students.srvusd.net](mailto:dh.esandhu@students.srvusd.net)

ATTACHMENTS:

1. Resolution

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY, CALIFORNIA,  
PROVIDING OUR HOUSELESSNESS COMMUNITY WITH MENSTRUAL PRODUCTS

WHEREAS, The City of Berkeley spent close to \$20 million on providing homeless services. About \$6.5 million came from its general fund, about \$9.5 million came from regional, state, and federal funds and \$3.9 million were one-time funds from the state's Homeless Emergency Aid Program; and

WHEREAS, Many women have been utilizing the shower program that was expanded due to the Covid-19 pandemic, adding the West Campus pool, a new location, and extending its hours at Willard. The City now includes Dignity on Wheels, the mobile shower program that also includes washer, dryers, toilets, showers, and case management services to enable more opportunity for our community experiencing homelessness to maintain dignity and humility during the COVID-19 pandemic; and

WHEREAS, Menstrual products are the most needed by women's shelters, but the least donated due to the large stigma around menstruation. The topic often not discussed, stops people from thinking about the issue which only intensifies inaccessibility to menstrual products for individuals who may need them most; and

WHEREAS, Menstrual products are costly for the average person, especially those women experiencing houselessness. Women in the United States spend approximately \$150-\$300 annually on menstrual products, or \$12-\$25 a month. Homeless women may have to make the decision between purchasing menstrual products or buying their other essentials for that day; and

WHEREAS, Lack of accessibility to menstrual products can cause the homeless to use whatever they have available to contain their menstrual needs. Additionally, the lack of clean water for the homeless means that with makeshift products, these individuals are incredibly susceptible to numerous infections; and

WHEREAS, Working towards menstrual equity is not just beneficial for social justice, but also is to bridge healthcare injustices. Some use socks, paper towels, plastic bags, toilet paper, or clothing in place of hygiene products. This can lead to infections such as urinary tract infections (UTI), yeast infections, and more; and

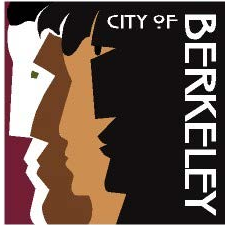
WHEREAS, Reducing the stigma around menstruation, bridging gender and healthcare injustices, especially for those who are most impacted, is the responsibility of all; and

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Berkeley, California supports not only the increased accessibility of feminine hygiene products for the homeless in order to combat healthcare injustices, but also the reduction of stigmatization surrounding menstruation. Specifically, the Council of the City of Berkeley calls for:

1. Adopt a Resolution to create an allocation of the budget towards annual purchasing of menstrual products and dispensers that will be distributed in three ways:
  - A. Regularly scheduled replenishment of dispensers across public restrooms
  - B. Provide supplies to the City supported shelters, mental health offices, shower programs, and navigation centers
  - C. Homeless Outreach to include distribution to encampments and RV dwellers
2. Resolution will allocate \$10,000 of the budget for the first year, and \$8,000 for every consecutive year.

3. Direct the City Manager to use existing homeless services funding to develop and deploy a program to provide a broad spectrum of menstrual products, including but not limited to, feminine hygiene, pads, tampons, underwear, and other related products, both through the City's outreach direct services, as well as through the community based homeless services providers. Additionally, require some elements of this program be deployed immediately, with a full program deployment within six months.





Kate Harrison  
Councilmember District 4

Consent Item  
July 28, 2020

To: Honorable Mayor and Members of the City Council  
From: Councilmember Harrison and Councilmember Hahn  
Subject: Resolution in Support of 1921 Walnut Street

### RECOMMENDATION

Adopt A Resolution In Support of The Preservation of 1921 Walnut Street, Currently Under The Threat of Being Purchased and Demolished by the University of California at Berkeley.

### FISCAL IMPACT OF RECOMMENDATION

None

### CURRENT SITUATION AND ITS EFFECTS

UC Berkeley is currently in contract talks to buy and demolish the property at 1921 Walnut street to build The Gateway Student Housing Project to house up to 810 students. Previously the university had planned to build around the property at 1921 Walnut but have since changed their plan and would like to purchase it for demolition.

UC Berkeley would be required to provide tenants with “fair and reasonable relocation payment” but many tenants have valid fears that that relocation will force them out of Berkeley.

Organizations that have spoken out against the purchase and redevelopment of the property include the Berkeley Tenant’s Union, Eviction Defense Center, and student organizations at UC Berkeley that understand the need for affordable student housing but do not want it to come at the cost of evicting people from their homes, which are existing affordable housing.

The resolution calls onb UC Berkeley to respect the tenants living in 1921 Walnut, some of which have been living in the building for over 20 years, and to build the gateway in way that preserves 1921 Walnut Street.

### BACKGROUND

ENVIRONMENTAL SUSTAINABILITY

No impact

RATIONALE FOR RECOMMENDATION

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Councilmember Kate Harrison

Attachments:

- 1: Resolution
2. Letter from Mayor Arreguín



**WHEREAS**, 1921 Walnut Street in Berkeley is an eight-unit rent-controlled property that is a good, affordable home for people living in our downtown, allowing people to live close to work, the University of California, transit, and all that the downtown has to offer,

**WHEREAS**, many of the tenants have called this building their home for many years,

**WHEREAS**, the Regents of the University of California have expressed their intent to purchase 1921 Walnut Street and redevelop the property into housing that will not include the former rent-controlled units,

**WHEREAS**, the City of Berkeley values rent control, has had rent control since 1980, and that a core value of the City, as expressed numerous times by its voters is the preservation of affordable housing and the protection of its tenants,

**WHEREAS**, The University of California is a state entity, unencumbered by local land use regulations and some statewide legislation,

**WHEREAS**, the histories of the University of California and the City of Berkeley are inextricably linked and the community they have built together continues to influence the world,

**WHEREAS**, the University of California is a valued member of our community and has responsibilities to that community outside of simple legal obligation,

**WHEREAS** the Berkeley Rent Stabilization Board has given an identical charge to the University of California in a letter dated June 8, 2020,

**NOW THEREFORE BE IT RESOLVED** that the council of the City of Berkeley calls on the Regents of the University of California to preserve the property at 1921 Walnut and the local rent control status of its tenants or, in the alternative, that should the property be removed from the protection of the local rent control ordinance either via sale demolition of other means that the regents commit to replacing these eight units on a one-to-one basis with comparable affordable units. In addition, should the tenants at Walnut St. be displaced from their homes we urge that they be relocated into units of comparable size and rent. Finally, while the Regents are generally exempt from local land use regulations and some statewide legislation, we urge that the regents honor all applicable local and state laws that pertain to the tenancy rights of these citizens.



Office of the Mayor

Jesse Arreguin  
Mayor

June 22, 2020

Chancellor Carol Christ  
University of California at Berkeley  
200 California Hall, # 1500  
Berkeley, CA 94720-1500

**Re: Purchase of 1921 Walnut St., Berkeley, California/Preservation of Affordable Housing**

Dear Chancellor Christ,

I would like to thank your staff for briefing me on the Anchor House project last month. As suggested in our June 12, 2018 letter to you<sup>1</sup>, the City Council suggested that the University/Walnut/Oxford site (“Gateway” site) be developed for student housing. The Council found this and three other locations as “consensus supported sites for new student housing in the short term”. We concluded that these opportunity sites could generate enough student housing to fulfill the remaining 1,500 beds approved under the current 2020 LRDP.

The “Gateway” site is a perfect location for a substantial amount of student housing and pedestrian serving retail. I appreciate the street level improvements and integration of spaces within the building for public use. This project is literally an anchor to the City and University and will help revitalize our Downtown and fulfill the goals of our Downtown Area Plan.

While I am supportive of the overall project, I am writing to raise my concerns over the potential acquisition, demolition and displacement of residents at 1921 Walnut Street. Over the past few months, I have been contacted by tenants at 1921 Walnut Street, an existing rent-controlled building, raising questions about the proposed acquisition of their building and the applicability of local and state laws around rent control and demolitions.

I am in receipt of the April 20, 2020 letter from Michelle De Guzman, Director, Real Estate Acquisitions and Development for the University, sent to the tenants of 1921 Walnut Street, an existing eight-unit building which is subject to the rent and eviction controls under the Berkeley Rent Stabilization Ordinance, BMC Chapter 13.76, and the Berkeley Demolition Ordinance, BMC Chapter 23C.08. The letter detailed that the property was to be purchased by the Regents and the University would demolish it and ultimately displace its tenants.

---

<sup>1</sup> Letter to Chancellor Carol Christ from Berkeley City Council, “UC Berkeley Master Leasing of Student Housing”, June 12, 2018, [https://www.cityofberkeley.info/.../2018-06-12\\_Item\\_25\\_UC\\_Berkeley\\_Master\\_Leasing\\_of\\_Student.aspx](https://www.cityofberkeley.info/.../2018-06-12_Item_25_UC_Berkeley_Master_Leasing_of_Student.aspx)

The City of Berkeley has had a rent control ordinance since 1980 to protect tenants from arbitrary rent increases and evictions and preserve the economic and cultural diversity of the Berkeley community. This ordinance has been reaffirmed and strengthened by the voters over the years. One of its core principals is preserving existing affordable housing and protecting tenants from displacement. Since 1984, the City of Berkeley Zoning Ordinance, in its Demolition provisions (BMC Chapter 23C.08) has contained restrictions on the demolition of controlled rental units. Existing Berkeley law requires that the demolition of any rental units constructed before 1980 be replaced with a deed-restricted affordable unit for each unit demolished or payment of an in-lieu fee to the Housing Trust Fund. The premise behind this ordinance is that the loss of naturally occurring affordable housing must be mitigated with either a below market-rate unit or funding to build permanently affordable housing.

If the University acquires 1921 Walnut Street, under its state constitutional exemption it does not appear to be subject to these local regulations regarding rent and demolition controls.

As Mayor of Berkeley, I am very concerned that in the process of creating new homes the University would eliminate existing affordable housing and displace current tenants. Some of the existing tenants at 1921 Walnut have resided there for at least 10 years and are very anxious over their impending eviction. While I understand the University's desire to maximize the footprint in order to increase the number of units, I believe UC Berkeley can exclude this site from its development plans and still achieve a substantial number of housing units, given project height at 16 stories.

I join the Berkeley Rent Stabilization Board in calling on UC Berkeley, the project donor/developer and the Regents to not acquire this property and ensure its preservation as rent-controlled housing. If the University decides to proceed in purchasing the property and therefore remove the property from the protections of the local rent control ordinance, the University of California should voluntarily commit to the requirements of Berkeley's Demolition Ordinance and replace each of the eight demolished units with a deed restricted affordable unit in the project for perpetuity, or payment of an in-lieu fee to the City of Berkeley Housing Trust Fund. In addition, should the tenants at 1921 Walnut Street be displaced from their homes I urge that they be relocated into units of comparable size and rents, and provided relocation assistance comparable to that required under the City of Berkeley Relocation Ordinance.

Finally, while UC Berkeley is generally exempt from local land use regulations, I urge the University to honor all applicable local and state laws that pertain to the tenancy rights of these citizens and local demolition controls, consistent with the voter approved Measure N, "The Public Agency Accountability Measure", November 1988<sup>2</sup>.

---

2

<https://www.cityofberkeley.info/recordsonline/api/Document/AV7V8DjB%C3%89BaRNvFa2%C3%89nr0XSsOMv7R8w6Q6%C3%81Y%C3%81fgjioz7gGf2PcasVw6SqzyL3ujEk6%C3%89BitUojYUtUmooMtl6JkY%3D/>

Sincerely,

Jesse Arreguin  
Mayor, City of Berkeley

C.c.  
Chair John Perez and Regents of the University of California  
UC President Janet Napolitano  
Berkeley City Councilmembers  
Commissioners, Berkeley Rent Stabilization Board  
Michelle De Guzman, Director, Real Estate Acquisitions and Development  
Tenants at 1921 Walnut Street





Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
July 28, 2020

To: Members of the City Council

From: Councilmember Harrison and Councilmember Bartlett

Subject: Adopt a Resolution Implementing Core Police Accountability Board and Director of Police Accountability functions by July 1, 2021

RECOMMENDATION

1. Adopt a Resolution, contingent upon voter approval of the Charter Amendment contained in Resolution No. 69,363-N.S., implementing the following core Police Accountability Board and Director of Police Accountability functions and policy changes by July 1, 2021:
  - a. Establish and convene the Police Accountability Board with all investigatory, policy and other authorities, and;
  - b. To assist in an orderly transition between the Police Review Commission and the Police Accountability Board established by this Article, Police Review Commission staff shall serve as interim Police Accountability Board staff until the City hires a Director of Police Accountability.

BACKGROUND

On April 14, 2020 the Council unanimously adopted Resolution 69,363-N.S. submitting Police Accountability Board and Director of Police Accountability Charter Amendment initiative to the November 2020 ballot.

The purpose of the Police Accountability Board is to promote public trust through independent, objective, civilian oversight of the Berkeley Police Department, provide community participation in setting and reviewing Police Department policies, practices, and procedures, and to provide a means for prompt, impartial and fair investigation of complaints brought by members of the public against sworn employees of the Berkeley Police Department. The purpose of the Director of Police Accountability is to investigate complaints filed against sworn employees of the Berkeley Police Department, to reach an independent finding as to the facts and recommend corrective action where

Adopt a Resolution Implementing Core Police Accountability Board and Director of Police Accountability functions by July 1, 2021

warranted. The Director of Police Accountability may also serve as the Secretary to the Police Accountability Board to assist the Board is carrying out their duties.

Section 27 of the Charter Amendment states that the “Police Review Commission established by Ordinance No. 4,644-N.S., as amended, shall continue in existence until its functions are transferred to the Police Accountability Board, but no later than January 3, 2022.”

It is in the public interest to establish the new Board and Director Office as soon as possible to facilitate modern police accountability functions, especially in light of ongoing efforts to transform public safety. While the final appointment of the Director of Police Accountability may take time, the City is positioned, as specified in Section 27, to establish the new functions and policy changes of the Police Accountability Board and appoint an interim Director no later than July 1, 2021.

This resolution would implement the outcomes outlined in the Charter Amendment no later than July 1, 2021, while understanding that the permanent Director may be appointed later.

#### FINANCIAL IMPLICATIONS

Staff time.

#### ENVIRONMENTAL SUSTAINABILITY

No environmental impact.

#### CONTACT

Councilmember Kate Harrison  
kharrison@cityofberkeley.info | 510-981-7140

#### ATTACHMENTS:

1. Resolution



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

ADOPT A RESOLUTION IMPLEMENTING CORE POLICE ACCOUNTABILITY BOARD  
AND DIRECTOR OF POLICE ACCOUNTABILITY FUNCTIONS BY JULY 1, 2021

WHEREAS, on April 14, 2020 the Council unanimously adopted Resolution 69,363-N.S. submitting Police Accountability Board and Director of Police Accountability Charter Amendment initiative to the November 2020 ballot; and

WHEREAS, the purpose of the Police Accountability Board is to promote public trust through independent, objective, civilian oversight of the Berkeley Police Department, provide community participation in setting and reviewing Police Department policies, practices, and procedures, and to provide a means for prompt, impartial and fair investigation of complaints brought by members of the public against sworn employees of the Berkeley Police Department; and

WHEREAS, the purpose of the Director of Police Accountability is to investigate complaints filed against sworn employees of the Berkeley Police Department, to reach an independent finding as to the facts and recommend corrective action where warranted, and the Director of Police Accountability may also serve as the Secretary to the Police Accountability Board to assist the Board in carrying out their duties; and

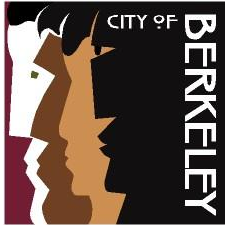
WHEREAS, Section 27 of the Charter Amendment states that the Police Review Commission established by Ordinance No. 4,644-N.S., as amended, shall continue in existence until its functions are transferred to the Police Accountability Board, but no later than January 3, 2022; and

WHEREAS, it is in the public interest to establish the Police Accountability Board and Director of Police Accountability as soon as possible to facilitate modern police accountability functions, especially in light of ongoing efforts to transform public safety; and

WHEREAS, the City is positioned to establish the functions and policy changes of the Police Accountability Board and appoint an interim Director no later than July 1, 2021.

NOW THEREFORE BE IT RESOLVED that the City Council, contingent upon voter approval of the Charter Amendment contained in Resolution No. 69,363-N.S., establishes the following core Police Accountability Board and Director of Police Accountability functions and policy changes for implementation by July 1, 2021:

- a. Establish and convene the Police Accountability Board with all investigatory, policy and other authorities, and;
- b. To assist in an orderly transition between the Police Review Commission and the Police Accountability Board established by this Article, Police Review Commission staff shall serve as interim Police Accountability Board staff until the City hires a Director of Police Accountability.



Kate Harrison  
Councilmember District 4

Consent Item  
July 28, 2020

To: Honorable Mayor and Members of the City Council  
From: Councilmember Harrison and Councilmember Hahn  
Subject: **Resolution in Support of AB 310 to Convert The California Infrastructure Bank (IBank) to a Public Bank**

#### RECOMMENDATION

Adopt A Resolution In Support of AB 310 converting the California Infrastructure Bank (IBank) to a depository institution serving as a public bank for the State of California, its counties, municipalities and regional authorities.

#### FISCAL IMPACT OF RECOMMENDATION

None

#### CURRENT SITUATION AND ITS EFFECTS

A state public bank will provide technical support, funding, and financial services to create and operate local and regional public banks that are authorized by AB 857, the Public Banking Act that was passed into law in 2019, and which will direct local funds to address local priorities in a locally accountable manner.

Assembly Bill 310 also would immediately invest 10% of the PMIA into the IBank to increase lending and credit to local governments and small businesses for purposes of economic recovery

Increasing the IBank's lending capacity immediately will help address pressing local needs more quickly and reduce the long-term human and economic costs of a meager, prolonged response to recession. Assembly Bill 310 will expand the IBank's role by converting it into a state bank that can finance economic recovery efforts by conducting direct lending to local governments, and partnership lending to small businesses through relationships with existing local financial institutions (community banks, credit unions and CDFIs) to offer emergency lending, especially to hard-hit communities of color.

#### BACKGROUND

The State of California Infrastructure and Economic Development Bank (IBank) was created in 1994 with state funds to provide infrastructure finance in California using funds from tax-exempt revenue bonds and, in April 2020, the Office of the Governor of California allocated \$50 million to the IBank to expand loan guarantees for small businesses run by low-income individuals who did not qualify for federal funds, including undocumented individuals.

However, the State of California has no public banking option outside of the IBank's narrow scope. Because of this, the State of California, like the City of Berkeley, holds their assets with large out-of-state commercial banks, which charge excessive fees and have no particular incentive to invest in California communities.

ENVIRONMENTAL SUSTAINABILITY

No impact

RATIONALE FOR RECOMMENDATION

The City of Berkeley has repeatedly resolved to end its relationships with large commercial banks. For example the Berkeley City Council resolution from May 30, 2017 “a Resolution establishing City of Berkeley policies that ensure investments and service contracts are with socially responsible entities.” And when the City resolved to divest funds from Wells Fargo in 2012.<sup>1</sup> Assembly Bill 310 would allow the City of Berkeley to conform to these resolutions, by moving its deposits, accounts and servicing to a California Public Bank.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Councilmember Kate Harrison

Attachments:

1: Resolution

---

<sup>1</sup> “City of Berkeley Plans to Pull \$300M Out of Wells Fargo,” Feb. 2012, <https://prisondivest.com/2012/02/08/city-of-berkeley-plans-to-pull-300m-out-of-wells-fargo/>

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

WHEREAS Assembly Bill 310 (Santiago), the California State Public Bank Act, converts the California Infrastructure Bank (IBank) to a depository institution serving as a public bank for the State of California, its counties, municipalities and regional authorities; and

WHEREAS, the City of Berkeley has been forced to make substantial budget reductions, which are already having an immediate impact and insofar as they are likely to continue into subsequent years will grow more costly to address if not dealt with quickly and prudently; and

WHEREAS, the City has the authority to invest in the \$32 billion Local Agency Investment Fund (LAIF), which is invested in the \$99 billion Pooled Money Investment Account (PMIA); and

WHEREAS, Assembly Bill 310 also would immediately invest 10% of the PMIA into the IBank to increase lending and credit to local governments and small businesses for purposes of economic recovery; and

WHEREAS, increasing the IBank's lending capacity immediately will help address pressing local needs more quickly and reduce the long-term human and economic costs of a meager, prolonged response to recession; and

WHEREAS, Assembly Bill 310 will expand the IBank's role by converting it into a state bank that can finance economic recovery efforts by conducting direct lending to local governments, and partnership lending to small businesses through relationships with existing local financial institutions (community banks, credit unions and CDFIs) to offer emergency lending, especially to hard-hit communities of color; and

WHEREAS, with no public banking option, the State and this City hold their assets with large out-of-state commercial banks, which charge excessive fees and have no particular incentive to invest in California communities; and

WHEREAS, the City of Berkeley has repeatedly in the past – and as far back as 2012 - resolved to end its relationships with large commercial banks (C.f. Berkeley City Council, May 30<sup>th</sup>, 2017 “a Resolution establishing City of Berkeley policies that ensure investments and service contracts are with socially responsible entities.” also “City of Berkeley Plans to Pull \$300M Out of Wells Fargo,” Feb. 2012, <https://prisondivest.com/2012/02/08/city-of-berkeley-plans-to-pull-300m-out-of-wells-fargo/>); and

WHEREAS Assembly Bill 310 would allow the City of Berkeley to conform to these resolutions, by moving its deposits, accounts and servicing to a California Public Bank; and

WHEREAS, the City of Berkeley endorsed Assembly Bill 857, the Public Banking Act of 2019; and

WHEREAS, Assembly Bill 310 will expand the IBank's role by converting it into a state bank that can finance economic recovery efforts by conducting direct lending to local governments, and partnership lending to small businesses through relationships with existing local financial institutions (community banks, credit unions and CDFIs) to offer emergency lending, especially to hard-hit communities of color; and

WHEREAS, a state public bank will provide technical support, funding, and financial services to create and operate local and regional public banks that are authorized by AB 857, the Public Banking Act that was passed into law in 2019, and which will direct local funds to address local priorities in a locally accountable manner; and

WHEREAS, the State of California Infrastructure and Economic Development Bank (IBank) was created in 1994 with state funds to provide infrastructure finance in California using funds from tax-exempt revenue bonds and, in April 2020, the Office of the Governor of California allocated \$50 million to the IBank to expand loan guarantees for small businesses run by low-income individuals who did not qualify for federal funds, including undocumented individuals; and

WHEREAS, instead of prioritizing shareholder returns, a state public bank will prioritize the needs of local agencies addressing equitable small business loans and public infrastructure;

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Berkeley proclaims its support for AB 310 (Santiago), and

**BE IT FURTHER RESOLVED**, that by the adoption of this Resolution, the City of Berkeley hereby includes in its 2019-2020 State Legislative Program SUPPORT for AB 310 (Santiago), which would provide COVID-19 relief and expand the IBank into a state-chartered, depository institution; and

**BE IT FURTHER RESOLVED** that a letter of support for AB 310 be sent by the City Manager to Senator Nancy Skinner, the California Senate Banking and Finance Committee and/or whatever other legislative committees will be conducting hearings on the legislation, no later than the deadline for filing position letters to each committee.



Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
July 28, 2020

To: Honorable Mayor and Members of the City Council  
From: Councilmember Wengraf and Councilmember Hahn  
Subject: Oppose AB 2167 & SB 292

RECOMMENDATION

Approve a letter opposing AB 2167 (Daly & Cooley) Insurance Action Market Plan and SB 292 (Rubio & Jones) Wildfire Risk Modeling and Mitigation, and send to Assembly Members Tom Daly and Ken Cooley and Senators Susan Rubio and Brian Jones, with copies to Senator Nancy Skinner, Assemblymember Buffy Wicks, and Governor Gavin Newsom

FINANCIAL IMPLICATIONS

None

BACKGROUND

Due to increasing numbers of wildfires, home insurance has become unaffordable or unavailable for many living in high fire hazard areas. Insurance companies are denying renewals of home insurance policies families have had for years. AB 2167 and SB 292 attempt to solve this issue but do so by taking away insurance price controls, allowing insurance companies to continue refusing to insure homeowners based on their location, and without including incentives for home hardening and other fire prevention strategies. The item should be amended to meet homeowners' needs.

ENVIRONMENTAL SUSTAINABILITY

None

CONTACT PERSON

Councilmember Wengraf                      Council District 6                      510-981-7160

Attachments:

- 1: Letter
- 2: [AB 2167](#)
- 3: [SB 292](#)

Oppose AB 2167 & SB 292

CONSENT CALENDAR  
July 28, 2020

July 28, 2020

The Honorable Tom Daly  
California State Assembly  
State Capitol, PO Box 942849  
Sacramento, CA 94249

The Honorable Susan Rubio  
California State Senate  
State Capitol, Room 4052  
Sacramento, CA 95814

**RE: Opposition from the Berkeley City Council RE: AB 2167 (Daly & Cooley) Insurance Action Market Plan, and SB 292 (Rubio and Jones) Wildfire Risk Modeling and Mitigation.**

Dear Assembly Members Daly and Cooley and Senators Rubio and Jones:

The City Council of the City of Berkeley officially registers our opposition to AB 2167 and SB 292. While the Council appreciates your initiative to solve for homeowners' inability to find home insurance if they live in high fire hazard zones, your bill, as currently designed, contains flaws that make it a win for insurance companies but not for homeowners.

AB 2167 and SB 292 lets insurance companies "cherry pick" who they want to offer insurance to – the bill does not mandate that insurers write in high risk areas, where a majority of insurance non-renewals are occurring in the state.

AB 2167 and SB 292 does not guarantee that policyholders will be able to find companies willing to write insurance they can afford.

AB 2167 and SB292 does not address the most important things that first responders and consumers have identified as necessary – namely home hardening and wildfire mitigation that will reduce the risk of devastating fire, bring down the cost of insurance, and make it widely available.

Essentially, Assembly Bill 2167 and Senate Bill 292 are an insurance industry "wish list" that weakens existing important consumer protections and does not further the purposes of Proposition 103, which voters approved more than three decades ago to protect consumers from excessive, inadequate, and unfairly discriminatory insurance rates. This bill would severely harm consumers by hitting homeowners and hard-working families with even higher insurance bills anywhere there is wildfire risk across California – at a time when they can least afford it.

The Berkeley City Council urges you to amend AB 2167 and SB 292 with these considerations in mind.

Sincerely,

Berkeley City Council  
CC: Senator Nancy Skinner  
Assembly Member Buffy Wicks  
Governor Gavin Newsom



AMENDED IN ASSEMBLY MAY 4, 2020

california legislature—2019–20 regular session

**ASSEMBLY BILL No. 2167**

**Introduced by Assembly Members Daly and Cooley**

*(Principal coauthor: Senator Rubio)*

***(Coauthors: Assembly Members Chen, Megan Dahle,  
Kamlager, Mayes, Medina, and Waldron)***

*(Coauthors: Senators Dahle and Jones)*

February 11, 2020

An act to add Chapter 12 (commencing with Section 10109) to Part 1 of Division 2 of the Insurance Code, relating to insurance.

legislative counsel's digest

AB 2167, as amended, Daly. Insurance market action plan.

The Insurance Rate Reduction and Reform Act of 1988, an initiative measure enacted by Proposition 103, as approved by the voters at the November 8, 1988, statewide general election, prohibits specified insurance rates from being approved or remaining in effect that are excessive, inadequate, unfairly discriminatory, or otherwise in violation of the act. The act requires an insurer that wishes to change a rate to file a complete rate application with the Insurance Commissioner and deems the application approved 60 days after public notice of the application unless certain events occur, including that a consumer requests a hearing, or the commissioner determines to hold a hearing. The act requires hearings to be conducted pursuant to specified provisions of law governing administrative hearings. Existing law authorizes the provisions of Proposition 103 to be amended by a statute that furthers the

purposes of the act and is enacted by the Legislature with a  $\frac{2}{3}$  vote.

98

## AB 2167 — 2 —

~~Under existing law, the California FAIR Plan Association is a joint reinsurance association in which all insurers licensed to write basic property insurance participate in administering a program for the equitable apportionment of basic property insurance for persons who are unable to obtain that coverage through normal channels.~~

~~This bill would establish the Insurance Market Action Plan (IMAP) program under which residential property insurance policies in a county may qualify for IMAP protection if residential property insurance policies issued by the FAIR Plan constitute 3% or more of all policies issued and in force in that county. The bill would authorize an insurer to submit an IMAP filing to the department and *the requirements of the program are met. The bill would require the an IMAP filing submitted to the Department of Insurance by an insurer to include include, among other things, a request for adequate rates, a plan for maintaining solvency of the insurer, and mitigation requirements. The bill would also require an insurer to commit in the IMAP to offer new and renewal residential property insurance policies in a set of IMAP counties until the insurer achieves a market penetration rate in those IMAP counties that is no lower than 85% of its statewide market penetration rate. The bill would require an insurer that submits an IMAP filing to receive an expedited review of its rate filing, not to exceed 120 days, if the insurer uses an actuarial assumption for trend and loss development that is at the midpoint or less of rate impacts, or files for a rate increase based solely on increased reinsurance costs, and does not otherwise change any other aspect of its rate filing from its previous department approved rate. The bill would require the Office of Planning and Research, on or before, January 1, 2023, to issue a report outlining the effectiveness of the IMAP program.*~~

By providing for an expedited review and approval of residential property insurance rates, the bill would amend Proposition 103 and thus require a  $\frac{2}{3}$  vote.

*The bill would provide that its provisions are not severable.*

*The bill would make its operation contingent on the enactment of SB 292 of the 2019–20 Regular Session.*

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

98

— 3 — AB 2167

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Legislature finds and declares all of the  
2 following

:

3 (a)

4 (1) Climate change has created a new reality in California.  
5 Fifteen of the 20 most destructive wildfires in the state's history  
6 have occurred since 2000 and 10 of the most destructive fires have  
7 occurred since 2015. *More people died from wildfires in 2017 and*  
8 *2018 than in the last 10 years combined.*

9 (A) *Igniting November 8, 2018, the Camp Fire burned for 17*  
10 *days, killed at least 85 people, and destroyed over 18,800*  
11 *structures. It is not only the most expensive wildfire in United*  
12 *States history, but was the most expensive natural disaster*  
13 *worldwide in 2018. Insured losses reached \$12.5 billion, while*  
14 *total losses were \$16.5 billion.*

15 (B) *Also igniting November 8, 2018, the Woolsey Fire burned*  
16 *for 14 days, killed three people, and destroyed over 1,600*  
17 *buildings. Insured losses are estimated at \$3 billion to \$5 billion*  
18 *of the \$6 billion in total property losses.*

19 (C) *Igniting July 23, 2018, the Carr Fire burned for 37 days,*  
20 *killed eight people, including three firefighters, and destroyed over*  
21 *1,600 structures. The fire caused over \$1.5 billion in property*  
22 *damage.*

23 (D) *Igniting December 4, 2017, the Thomas Fire burned for 39*  
24 *days, killed 23 people, including one firefighter and 21 people*  
25 *from a resulting mudslide, and destroyed over 1,000 structures.*  
26 *The fire caused over \$2.2 billion in damages.*

27 (E) *Igniting October 8, 2017, the Tubbs Fire burned for 12 days,*  
28 *killed 22 people, and destroyed over 5,600 structures. Insured*  
29 *losses are estimated to be between \$7.5 billion and \$9.5 billion.*

30 (F) *Igniting October 8, 2017, the Atlas Fire burned for 12 days,*  
31 *destroyed 25,000 acres, and destroyed over 700 buildings. Insured*  
32 *losses are estimated to be between \$2.5 billion and \$4.5 billion.*

33 (G) *Burning for over three months in 2018, a less costly seventh*

34 *fire, the Mendocino Complex Fire, became the largest recorded*  
 35 *fire in state history when it consumed over 459,000 acres, more*  
 36 *than the previous largest fire, the Thomas Fire, in 2017.*  
 37 ~~(b)~~

98

**AB 2167 — 4 —**

1 (2) Fire season in California has changed. In the western United  
 2 States, the length of the fire season is over 80 days longer than it  
 3 was in the 1970s. According to research from the University of  
 4 California, Los Angeles, residents may no longer expect fire season  
 5 to end in September. Instead, the onset of seasonal rain can be  
 6 delayed into October or even November. These longer periods  
 7 without rain, combined with the well-known, heavy wind patterns  
 8 of autumn, have created increased likelihood of uncontrollable,  
 9 severe fires that endanger life and property. The Camp Fire in  
 10 Paradise is an example of a fire that started after the end of the  
 11 traditional fire season.

12 ~~(e)~~

13 (3) The impact of catastrophic fires is multifaceted. While the  
 14 governmental costs of fire response and suppression are significant,  
 15 research from Headwaters Economics indicates those costs are  
 16 less than 10 percent of the total costs. Combined with suppression  
 17 expenses, other short-term costs, including evacuation and aid  
 18 relief, road stabilization, and home and property loss only represent  
 19 35 percent of the total wildfire-related costs. Longer term costs,  
 20 including loss of property value, tax revenue, and business revenue,  
 21 as well as landscape rehabilitation, infrastructure repair, loss of  
 22 ecosystem services, and human casualties represent the remaining  
 23 65 percent.

24 (4) *According to a Department of Insurance 2018 report on*  
 25 *the availability and affordability of wildfire coverage, major*  
 26 *insurers are pulling back from writing new policies or renewing*  
 27 *policies in the wildland-urban interface (WUI) fire areas.*  
 28 *Additionally, premiums are increasing in the WUI, and most*  
 29 *insurers do not take into consideration wildfire mitigation*  
 30 *conducted by the homeowner or the community. This is in part*  
 31 *because no single insurer has loss experience in the WUI to*  
 32 *validate the rates and premiums charged for each wild fire risk*  
 33 *model score. The department's report further states that a credible*  
 34 *database for wildfire loss experience in the WUI is needed in order*  
 35 *for insurers to use rating plans that impact rates in the WUI and*  
 36 *suggests that the Legislature should create a framework within*  
 37 *which insurers offer a mitigation premium credit for property*  
 38 *owners that conduct proper mitigation.*

39 (5) *The National Institute of Building Sciences studied 23 years*  
40 *of federally funded mitigation grants provided by the Federal*

98

## — 5 — AB 2167

1 *Emergency Management Agency (FEMA), the United States*  
2 *Economic Development Administration, and the United States*  
3 *Department of Housing and Urban Development, and found that*  
4 *hazard mitigation funding saves six dollars (\$6) in future disaster*  
5 *costs for every one dollar (\$1) invested. Further, the study found*  
6 *that designing buildings to meet the 2018 International Residential*  
7 *Code and 2018 International Building Code would provide a*  
8 *national benefit of eleven dollars (\$11) for every one dollar (\$1)*  
9 *of investment when compared to 1990-era building codes and*  
10 *National Flood Insurance Program requirements.*

11 (6) *Studying, developing, and incentivizing homeowners to*  
12 *actively participate in, actuarially sound wildfire mitigation*  
13 *measures is therefore a fiscally prudent policy with the potential*  
14 *to save lives and prevent billions of dollars in future losses from*  
15 *occurring. A regularly updated and secure central database of*  
16 *publicly held housing infrastructure information, deployed in*  
17 *support of a public catastrophic loss model, has the potential to*  
18 *significantly enhance statewide disaster planning and response*  
19 *efforts, as well as quantify the benefit of homeowners' mitigation*  
20 *efforts. In order to accomplish this goal, it is important for the*  
21 *state to partner with insurers, insurance research organizations,*  
22 *and local agencies to develop easily and uniformly enforced*  
23 *defensible space practices and measurable mitigation efforts for*  
24 *future study.*

25 (7) *Research shows that homeowners' risk reduction behaviors*  
26 *are influenced by the perceived effectiveness of the activities and*  
27 *their perceived ability to complete them. Public outreach,*  
28 *information sharing, and a communitywide collaborative process*  
29 *on wildfire protection planning have been found to build trust*  
30 *among residents and local fire agencies. It is the intent of the*  
31 *Legislature to partner with local agencies throughout California's*  
32 *diverse wildfire risk regions in support of collecting regionally*  
33 *specific housing infrastructure information in support of developing*  
34 *regionally specific loss modeling.*

35 ~~(d)~~

36 (8) *Residential property insurance provides essential financial*  
37 *security for California residents for both short-term and long-term*  
38 *costs. Insurance supports temporary needs for housing and*  
39 *transportation for fire victims, intermediate needs for debris and*  
40 *hazardous materials removal from fire-affected properties, and*

**AB 2167 — 6 —**

1 long-term rebuilding of structures and replacement of personal  
2 property. There is no governmental program that provides similar  
3 comprehensive assistance for California residents and it is,  
4 therefore, vital for the State of California to ensure the existence  
5 of a vibrant residential property insurance marketplace capable of  
6 serving all communities.

7 (e)

8 (9) Strains in the residential property insurance system are  
9 becoming evident. As the Senate Committee on Insurance noted  
10 in its 2019 informational hearing on homeowners' insurance  
11 availability and affordability, California policyholders have  
12 "enjoyed a long spell of low insurance rates" but "climate change,  
13 drought, population movement, and other factors may be changing  
14 the fundamental nature of the homeowners' insurance market."  
15 Analysis of countrywide data from the National Association of  
16 Insurance Commissioners indicates that average homeowners'  
17 insurance rates in California rank 32nd in the country and, when  
18 adjusted for differences in regional costs, rank 49th in the country,  
19 at less than one-half the cost for insurance in states exposed to  
20 other natural disasters, including hurricanes.

21 (f)

22 (10) As part of a similar 2019 investigation of the homeowners'  
23 insurance market, the Assembly Committee on Insurance noted  
24 the acceleration of losses in this environment of relatively low  
25 rates, finding that a "study of the homeowners' insurance market  
26 released in 2018 as part of California's Fourth Climate Change  
27 Assessment found that insured losses through 2017 wiped out the  
28 entire underwriting profit insurers earned since 2000. The 2018  
29 fires continued with another round of enormous losses." The  
30 committee cautioned against a legislative response that "increases  
31 the likelihood of any policy change to generate unintended  
32 consequences" and guarding against the great risk that regulating  
33 some, but not all, of the important aspects of insurance could  
34 "significantly disrupt a homeowners' insurance market that is  
35 effectively serving a great majority of California homeowners."

36 (g)

37 (11) The final report of the Governor's Commission on  
38 Catastrophic Wildfire Cost and Recovery attempted to reconcile  
39 the various competing interests associated with insurance  
40 availability, risk selection, and pricing. The commission noted that

## — 7 — AB 2167

1 “while insurance is still largely available, it will become  
2 increasingly unavailable and/or unaffordable for many in the  
3 wildland urban interface in California.” In attempting to harmonize  
4 the various competing interests for California, the commission  
5 recommended preserving risk-based insurance pricing, while  
6 avoiding cross-subsidies of high-risk areas by low-risk areas, as  
7 well as developing incentives for parcel and community level loss  
8 mitigation  
9 efforts.

9 (h)

10 (b) Based upon this extensive investigation in both the legislative  
11 and executive branches, the Legislature ~~has determined~~ *determines*  
12 that a state policy response is required to solve several issues  
13 simultaneously, ~~including~~, *including* all of the following:

14 (1) Ensuring insurance rates are adequate to avoid insurer  
15 insolvencies and to permit insurers to operate in the state’s highest  
16 risk areas, while imposing restrictions on rates above actuarially  
17 justified levels.

18 (2) Reducing the number of residents that are required to rely  
19 upon the California FAIR Plan, which the State of California  
20 created to provide a market of last resort but which is a catastrophic  
21 insurance pool at rate levels far higher than the regular insurance  
22 market.

23 (3) Incentivizing insurers to seek cost-based rates in exchange  
24 for assurances that they will serve high-risk communities at levels  
25 similar to their statewide presence.

26 (4) Developing systems of accountability for individual and  
27 community-based loss mitigation efforts.

28 (c) *Recent wildfires have contributed to a surge of residential  
29 property insurance policies being issued by the FAIR Plan in  
30 numbers approaching that seen after the Northridge earthquake.  
31 In order to monitor surges in new FAIR Plan policies and to create  
32 a standard threshold to indicate when admitted market residential  
33 property insurance availability in specified areas of the state has  
34 declined, the Legislature determines that it is necessary to do all  
35 of the following:*

36 (1) *Create a standard threshold for residential property  
37 insurance policies to qualify for the Insurance Market Action Plan  
38 (IMAP), established by this act, based on monitoring surges in  
39 FAIR Plan new business that indicate a contracting insurance  
40 market.*

**AB 2167 — 8 —**

1 (2) Incentivize insurers to seek cost-based rates in exchange  
2 for assurances that they will maintain an adequate presence in  
3 specified high-risk areas of the state, and evaluate the effectiveness  
4 of these methods at reducing reliance on the FAIR Plan in eligible  
5 areas, thereby maintaining an adequate supply of admitted market  
6 insurance at a price more affordable to most consumers than that  
7 offered by the FAIR Plan.

8 (3) Establish a scientifically advanced probabilistic wildfire  
9 loss model for the purpose of providing property and casualty  
10 insurers access to a state of the art public tool that is accessible  
11 for comparison, evaluation, and analysis of modeled risk  
12 assumptions used in support of IMAP rate filings. In this regard,  
13 it is the intent of the Legislature to convene an advisory committee  
14 of public and private stakeholders to design standards for the use  
15 of probabilistic wildfire loss models in residential property  
16 insurance rate development, and to establish a database and  
17 computer model for that purpose.

18 (A) The Legislature finds these measures are necessary to limit  
19 the number of insurer-initiated nonrenewals that occur in response  
20 to changes in the understanding of wildfire risk and to limit  
21 homeowners' reliance on the California FAIR Plan.

22 (B) The Legislature finds that such a model is an objective public  
23 tool that will promote precision in loss projection, and that  
24 decreasing the uncertainty of future losses in this state is necessary  
25 to stabilize large price swings in the residential property insurance  
26 market.

27 (C) The Legislature further intends that such a model be  
28 available to assist state and local governments incorporate a  
29 modeled understanding of the costs of wildfire risk in their planning  
30 processes.

31 (†)

32 (d) To the extent that a court may find that this legislation  
33 amends the Insurance Rate Reduction and Reform Act of 1988,  
34 an initiative measure, enacted by Proposition 103, as approved by  
35 the voters at the November 8, 1988, statewide general election,  
36 the Legislature has determined that this act furthers the purpose  
37 of Proposition 103 because the primary goal of this act is to  
38 increase statewide availability of insurance using risk-based pricing  
39 subject to the prior approval of the Insurance Commissioner, and



1 seeks to prevent unfair discrimination in pricing or unjustified  
2 regional subsidies in high fire-risk areas.

3 SEC. 2. Chapter 12 (commencing with Section 10109) is added  
4 to Part 1 of Division 2 of the Insurance Code, to  
read: 5

6 Chapter 12. ~~Insurance Market Action Plan~~ *Wildfire*  
7 *Risk Modeling and Mitigation*

8  
9 *Article 1. Insurance Market Action Plan*

10

11 ~~10109. (a) The Insurance Market Action Plan (IMAP) program~~  
12 ~~is hereby established.~~

13 ~~(b) (1) Residential property insurance policies in a county may~~  
14 ~~qualify for insurance market action plan (IMAP) protection if~~  
15 ~~residential property insurance policies issued by the California~~  
16 ~~FAIR Plan constitute 3 percent or more of all policies issued and~~  
17 ~~in force in the county, as annually calculated by the department~~  
18 ~~and the Department of Finance.~~

19 ~~(2) A county that meets the requirements of paragraph (1) shall~~  
20 ~~be designated by the department as an IMAP county.~~

21 ~~(c) If the IMAP process implemented by this chapter results in~~  
22 ~~eliminating the eligibility of all counties from being qualified under~~  
23 ~~subdivision (b), an insurer may continue to make IMAP filings~~  
24 ~~pursuant to this chapter.~~

25 *10109. (a) The Insurance Market Action Plan (IMAP) program*  
26 *is hereby established.*

27 *(b) Residential property insurance policies in a county may*  
28 *qualify for insurance market action plan (IMAP) protection if the*  
29 *requirements of this article are met.*

30 ~~10109.1 (a) An insurer may submit an IMAP filing submitted~~  
31 ~~to the department, which department by an insurer shall include~~  
32 ~~all of the following:~~

33 (1) A request for adequate rates, as described in Section 10109.3.

34 (2) A plan for maintaining the insurer's solvency as policy count  
35 grows in IMAP counties, taking into account, among other things,  
36 risks related to overconcentration in high-risk communities.

37 (3) Parcel-level and community-based mitigation and  
38 verification requirements, as described in Section 10109.2.

39 (4) *A list of the areas within an IMAP eligible county in which*  
40 *the insurer proposes to issue residential property insurance*

1 pursuant to its IMAP filing, and a list of the areas within that  
2 county in which the insurer shall not issue residential property  
3 insurance pursuant to its IMAP filing.

4 (b) (1) An insurer shall commit in the IMAP to offer new and  
5 renewal residential property insurance policies in a set of IMAP  
6 counties until the insurer achieves a market penetration rate in  
7 those IMAP counties that is no lower than 85 percent of its  
8 statewide market penetration rate. The IMAP commitment shall  
9 be calculated based on the insurer's residential property insurance  
10 policy count across the entire designated set of IMAP counties,  
11 but need not be met in each county individually.

12 (2) Notwithstanding paragraph (1), an insurer shall monitor and  
13 avoid overconcentration in any one particular area within an IMAP  
14 county or across a particular IMAP county in order to prevent a  
15 catastrophic loss that could impair its solvency.

16 ~~10109.2. An IMAP filing shall set forth the mitigation standards  
17 required in order for counties to qualify for IMAP protection,  
18 including all of the following:~~

19 ~~(a) Objective standards for parcel-level mitigation, along with  
20 procedures for verifying that the mitigation actually occurred,  
21 including any required governmental or third-party certifications.~~

22 ~~(b) Requirements for community certifications, if any, including  
23 designation as a Firewise USA site by the National Fire Protection  
24 Association.~~

25 10109.3. (a) A rate proposed as part of an IMAP filing shall  
26 not be excessive, inadequate, or unfairly discriminatory, and shall  
27 be actuarially sound so that premiums are adequate to cover  
28 expected losses, expenses, and taxes, and shall reflect investment  
29 income of the insurer.

30 (b) A rate requested as part of an IMAP filing shall be subject  
31 to the prior approval of the commissioner.

32 ~~10109.4. A rate requested as part of an IMAP filing may be  
33 based on a complex catastrophe model, as follows:~~

34 ~~(a) The complex catastrophe model shall be based on the best  
35 available scientific information for assessing the risk of catastrophic  
36 wildfire frequency, severity, and loss.~~

37 ~~(b) The projected losses derived from the catastrophe model  
38 shall meet all applicable statutory standards.~~

39 ~~(c) The complex catastrophe model shall consider both  
40 parcel-level mitigation and regional mitigation.~~

98

— 11 — AB 2167

1 10109.5. (a) An insurer that submits an IMAP filing pursuant  
2 to this chapter shall receive an expedited review of its rate filing  
3 if either of the following conditions are met:

4 (1) The insurer uses an actuarial assumption for trend and loss  
5 development that is at the midpoint or less of rate impacts, and  
6 does not otherwise change any other aspect of its rate filing from  
7 its previous department approved rate.

8 (2) The insurer files for a rate increase based solely on increased  
9 reinsurance costs, subject to the requirements of Section 10109.6,  
10 and does not otherwise change any other aspect of its rate filing  
11 from its previous department approved rate.

12 (b) The time period for the expedited rate review shall not  
13 exceed 120 days, and the department shall not request that the  
14 insurer waive the 120-day requirement.

15 (c) If the department does not approve the filing within the 120  
16 days, the IMAP filing is automatically withdrawn and the insurer  
17 may continue with its previously approved rate and the insurer  
18 retains the ability to select risks without meeting the requirements  
19 of subdivision (b) of Section 10109.1.

20 (d) Notwithstanding subdivision (c), if an insurer submits an  
21 IMAP filing to amend a rate level approved in a previous IMAP  
22 filing, and the department does not approve the filing within the  
23 120 days, the insurer's IMAP commitments, including the  
24 ~~commitments~~ *commitment* required by subdivision (b) of Section  
25 10109.1, shall be suspended until the department and the insurer  
26 reach agreement on the filing.

27 10109.6. If a rate requested as part of an IMAP filing includes  
28 the net costs of reinsurance, including internal or external  
29 reinsurance, the reinsurance agreement shall be entered into in  
30 good faith in an arm's length transaction and at fair market value  
31 for the coverage provided. The reinsurance shall meet the  
32 department's statement credit requirements.

33 10109.7. If an insurer submits an IMAP filing pursuant to this  
34 chapter and the department or an intervener objects to an issue  
35 other than the rate calculation, then the expedited IMAP rate filing  
36 shall be processed separately from the contested issue so that the  
37 contested issue does not delay the expedited rate filing. If, based  
38 on the contested issue, the department orders a nonconsensual  
39 change to the IMAP, the insurer's IMAP requirements shall be

1 suspended until the department and the insurer agree upon revised  
2 terms for the IMAP.

3 ~~10109.8. On or before January 1, 2023, the Office of Planning  
4 and Research shall issue a report outlining the effectiveness of the  
5 IMAP program that includes, but is not limited to, all of the  
6 following:~~

7 ~~(a) An analysis of whether the IMAP program achieved average  
8 admitted market rates lower than the California FAIR Plan plus  
9 difference in condition policies.~~

10 ~~(b) An analysis of the overall progress of the IMAP program  
11 towards achieving market penetration goals in IMAP counties.  
12 This data shall be reported in aggregate.~~

13 ~~(c) Recommendations for continued improvements to the IMAP  
14 program.~~

15 *SEC. 3. The provisions of this act are not severable. If any  
16 provision of this act or its application is held invalid, all other  
17 provisions of this act shall also be held invalid.*

18 *SEC. 4. This act shall become operative only if Senate Bill 292  
19 of the 2019–20 Regular Session is enacted and becomes effective  
20 on or before January 1, 2021.*

○

AMENDED IN ASSEMBLY MAY 4, 2020

AMENDED IN ASSEMBLY JUNE 17, 2019

**SENATE BILL No. 292**

**Introduced by Senator Rubio**

*(Principal coauthor: Assembly Member Daly)*

***(Coauthor: Senator Jones)***

*(Coauthors: Assembly Members Cooley, Mayes, and Medina)*

February 14, 2019

An act to add ~~Division 6 (commencing with Section 17000) to the Insurance Code, relating to disaster mitigation, and making an appropriation therefor. Sections 10109.05, 10109.07, 10109.2, 10109.4, and 10109.8 to, and to add Article 2 (commencing with Section 10109.10) to Chapter 12 of Part 1 of Division 2 of, the Insurance Code, relating to insurance.~~

legislative counsel's digest

SB 292, as amended, Rubio. ~~Prepared California Disaster Mitigation Fund.~~ *Wildfire risk modeling and mitigation.*

*The Insurance Rate Reduction and Reform Act of 1988, an initiative measure enacted by Proposition 103, as approved by the voters at the November 8, 1988, statewide general election, prohibits specified insurance rates from being approved or remaining in effect that are excessive, inadequate, unfairly discriminatory, or otherwise in violation of the act. The act requires an insurer that wishes to change a rate to file a complete rate application with the Insurance Commissioner and deems the application approved 60 days after public notice of the application unless certain events occur, including that a consumer requests a hearing, or the commissioner determines to hold a hearing.*

97

**SB 292 — 2 —**

*The act requires hearings to be conducted pursuant to specified provisions of law governing administrative hearings.*

*Under existing law, the California FAIR Plan Association is a joint reinsurance association in which all insurers licensed to write basic property insurance participate in administering a program for the equitable apportionment of basic property insurance for persons who are unable to obtain that coverage through normal channels.*

*This bill would require the association, on or before January 31 and July 31 of each year, to submit a report to the commissioner that lists certain counties, according to specified population thresholds, in which the number of new residential property insurance policies issued by the FAIR Plan during the prior 6 months equals a certain percentage of the number of single family residences in that county. The bill would require a county listed on the report to be designated*

by the department as an insurance market protection (IMAP) eligible county under the IMAP program that would be established if AB 2167 of the 2019–20 Regular Session is enacted. The bill would authorize an insurer to submit an IMAP filing to the department for residential property insurance policies issued in an IMAP eligible county and would require the IMAP filing to set forth specified mitigation standards. The bill would require the Office of Planning and Research, on or before, January 1, 2023, to issue a report outlining the effectiveness of the IMAP program.

This bill would state the intent of the Legislature to establish a commission in state government consisting of the Insurance Commissioner, the State Fire Marshall, the Executive Director of the California Building Standards, and the Director of Emergency Services to, among other things, convene stakeholders to develop regionally specific community hardening standards that have the propensity for reducing loss due to wildfires. The bill would create the Catastrophic Modeling Advisory Committee to be chaired jointly by the Insurance Commissioner and the Director of Emergency Services, or their designees. The bill would prescribe the membership of the advisory committee and would require the advisory committee to, among other things, deliver to the Office of Emergency Services, on or before July 1, 2024, a comprehensive report detailing a plan for the Office of Emergency Services to, upon appropriation by the Legislature, establish and operate a public catastrophic loss model.

The bill would provide that its provisions are not severable.

97

### — 3 — SB 292

The bill would make its operation contingent on the enactment of AB 2167 of the 2019–20 Regular Session.

~~Existing law establishes the Department of Insurance, headed by the Insurance Commissioner, which regulates insurers and insurance practices. Existing law establishes various classes of insurance, including, among others, fire and automobile insurance. Other existing law establishes various grant programs aimed at funding disaster mitigation activities, including a local assistance grant program for fire prevention administered by the Department of Forestry and Fire Protection, the Earthquake Brace and Bolt program administered by the California Residential Mitigation Program, a joint powers authority comprised of the California Earthquake Authority and the Office of Emergency Services, and specified flood prevention programs administered by the Department of Water Resources.~~

~~This bill would create the Prepared California Disaster Mitigation Board in state government comprised of specified state officers or their designees and appointed members of the public, as specified. The bill would also establish the Prepared California Disaster Mitigation Program to be administered by the board to award grants to homeowners for fire-related disaster mitigation activities, as specified.~~

~~The bill would create the Prepared California Disaster Mitigation Fund, as a continuously appropriated fund, for purposes of disaster mitigation. The bill would impose a \$12 annual assessment on all residential property insurance policies, a \$6 per vehicle annual assessment on all private passenger and commercial automobile insurance policies, and an annual assessment of 1% of the annual premium on all commercial insurance policies covering physical property damage or business interruption. The bill would require the assessments to be collected from policyholders by insurers and remitted to the department for deposit into the fund. By creating a continuously appropriated fund, the bill would make an appropriation.~~

~~The bill would require the board to annually distribute money from the fund, as it deems appropriate, based on the disaster mitigation needs of the state to specified state agencies, including at least 20% each to the Department of Forestry and Fire Protection for purposes of a local assistance grant program for fire protection activities, to the California Earthquake Authority for purposes of awarding grants pursuant to the Earthquake Brace and Bolt program, to the Department of Water Resources for purposes of specified flood control programs, and to the board to be awarded pursuant to the Prepared California Disaster~~

97

**SB 292 — 4 —**

~~Mitigation Program for purposes of grants to homeowners for fire-related disaster mitigation purposes. The bill would require the Department of Forestry and Fire Protection, the California Earthquake Authority, and the Department of Water Resources to report specified information to the board relating to the types of mitigation activities funded and information sufficient to allow the board to study mitigation effectiveness, as specified.~~

~~The bill would require the board to prepare a report to be submitted to the Legislature on or before January 1, 2021, and annually thereafter, that includes, among other things, a summary of the mitigation measures funded and an analysis of the effectiveness of those mitigation measures in preventing losses from wildfires, earthquakes, and floods, as specified. The bill would also require the board to prepare and submit a report to the Legislature on or before January 1, 2024, that contains recommendations for model homeowners insurance discounts based on the risk mitigation measures that the board has determined to reduce loss.~~

~~Vote:  $\frac{2}{3}$  majority. Appropriation: yes-no. Fiscal committee: yes.  
State-mandated local program: no.~~

*The people of the State of California do enact as follows:*

- 3     SECTION 1. (a) *The Legislature finds and declares all of the*  
4     *following:*  
5     (1) *Climate change has created a new reality in California.*

6 *Fifteen of the 20 most destructive wildfires in the state's history*  
7 *have occurred since 2000 and 10 of the most destructive fires have*  
8 *occurred since 2015. More people died from wildfires in 2017 and*  
9 *2018 than in the last 10 years combined.*

10 (A) *Igniting November 8, 2018, the Camp Fire burned for 17*  
11 *days, killed at least 85 people, and destroyed over 18,800*  
12 *structures. It is not only the most expensive wildfire in United*  
13 *States history, but was the most expensive natural disaster*  
14 *worldwide in 2018. Insured losses reached \$12.5 billion, while*  
15 *total losses were \$16.5 billion.*

16 (B) *Also igniting November 8, 2018, the Woolsey Fire burned*  
17 *for 14 days, killed three people, and destroyed over 1,600*  
18 *buildings. Insured losses are estimated at \$3 billion to \$5 billion*  
19 *of the \$6 billion in total property losses.*

97

## — 5 — SB 292

37 (C) *Igniting July 23, 2018, the Carr Fire burned for 37 days,*  
38 *killed eight people, including three firefighters, and destroyed over*  
39 *1,600 structures. The fire caused over \$1.5 billion in property*  
40 *damage.*

41 (D) *Igniting December 4, 2017, the Thomas Fire burned for 39*  
42 *days, killed 23 people, including one firefighter and 21 people*  
43 *from a resulting mudslide, and destroyed over 1,000 structures.*  
44 *The fire caused over \$2.2 billion in damages.*

45 (E) *Igniting October 8, 2017, the Tubbs Fire burned for 12 days,*  
46 *killed 22 people, and destroyed over 5,600 structures. Insured*  
47 *losses are estimated to be between \$7.5 billion and \$9.5 billion.*

48 (F) *Igniting October 8, 2017, the Atlas Fire burned for 12 days,*  
49 *destroyed 25,000 acres, and destroyed over 700 buildings. Insured*  
50 *losses are estimated to be between \$2.5 billion and \$4.5 billion.*

51 (G) *Burning for over three months in 2018, a less costly seventh*  
52 *fire, the Mendocino Complex Fire, became the largest recorded*  
53 *fire in state history when it consumed over 459,000 acres, more*  
54 *than the previous largest fire, the Thomas Fire, in 2017.*

55 (2) *Fire season in California has changed. In the western United*  
56 *States, the length of the fire season is over 80 days longer than it*  
57 *was in the 1970s. According to research from the University of*  
58 *California, Los Angeles, residents may no longer expect fire season*  
59 *to end in September. Instead, the onset of seasonal rain can be*  
60 *delayed into October or even November. These longer periods*  
61 *without rain, combined with the well-known, heavy wind patterns*  
62 *of autumn, have created increased likelihood of uncontrollable,*  
63 *severe fires that endanger life and property. The Camp Fire in*  
64 *Paradise is an example of a fire that started after the end of the*  
65 *traditional fire season.*

66 (3) *The impact of catastrophic fires is multifaceted. While the*  
67 *governmental costs of fire response and suppression are*  
68 *significant, research from Headwaters Economics indicates those*  
69 *costs are less than 10 percent of the total costs. Combined with*



70 *suppression expenses, other short-term costs, including evacuation*  
 71 *and aid relief, road stabilization, and home and property loss only*  
 72 *represent 35 percent of the total wildfire-related costs. Longer*  
 73 *term costs, including loss of property value, tax revenue, and*  
 74 *business revenue, as well as landscape rehabilitation,*  
 75 *infrastructure repair, loss of ecosystem services, and human*  
 76 *casualties represent the remaining 65 percent.*

97

**SB 292 — 6 —**

12 (4) *According to a Department of Insurance 2018 report on the*  
 13 *availability and affordability of wildfire coverage, major insurers*  
 14 *are pulling back from writing new policies or renewing policies*  
 15 *in the wildland-urban interface (WUI) fire areas. Additionally,*  
 16 *premiums are increasing in the WUI, and most insurers do not*  
 17 *take into consideration wildfire mitigation conducted by the*  
 18 *homeowner or the community. This is in part because no single*  
 19 *insurer has loss experience in the WUI to validate the rates and*  
 20 *premiums charged for each wild fire risk model score. The*  
 21 *department's report further states that a credible database for*  
 22 *wildfire loss experience in the WUI is needed in order for insurers*  
 23 *to use rating plans that impact rates in the WUI and suggests that*  
 24 *the Legislature should create a framework within which insurers*  
 25 *offer a mitigation premium credit for property owners that conduct*  
 26 *proper mitigation.*

27 (5) *The National Institute of Building Sciences studied 23 years*  
 28 *of federally funded mitigation grants provided by the Federal*  
 29 *Emergency Management Agency (FEMA), the United States*  
 30 *Economic Development Administration, and the United States*  
 31 *Department of Housing and Urban Development, and found that*  
 32 *hazard mitigation funding saves \$6 in future disaster costs for*  
 33 *every \$1 invested. Further, the study found that designing buildings*  
 34 *to meet the 2018 International Residential Code and 2018*  
 35 *International Building Code would provide a national benefit of*  
 36 *\$11 for every \$1 of investment when compared to 1990-era building*  
 37 *codes and National Flood Insurance Program requirements.*

38 (6) *Studying, developing, and incentivizing homeowners to*  
 39 *actively participate in, actuarially sound wildfire mitigation*  
 40 *measures is therefore a fiscally prudent policy with the potential*  
 41 *to save lives and prevent billions of dollars in future losses from*  
 42 *occurring. A regularly updated and secure central database of*  
 43 *publicly held housing infrastructure information, deployed in*  
 44 *support of a public catastrophic loss model, has the potential to*  
 45 *significantly enhance statewide disaster planning and response*  
 46 *efforts, as well as quantify the benefit of homeowners' mitigation*  
 47 *efforts. In order to accomplish this goal, it is important for the*  
 48 *state to partner with insurers, insurance research organizations,*  
 49 *and local agencies to develop easily and uniformly enforced*  
 50 *defensible space practices and measurable mitigation efforts for*

51 *future study.*

97

— 7 — SB 292

41 (7) *Research shows that homeowners' risk reduction behaviors*  
 42 *are influenced by the perceived effectiveness of the activities and*  
 43 *their perceived ability to complete them. Public outreach,*  
 44 *information sharing, and a communitywide collaborative process*  
 45 *on wildfire protection planning have been found to build trust*  
 46 *among residents and local fire agencies. It is the intent of the*  
 47 *Legislature to partner with local agencies throughout California's*  
 48 *diverse wildfire risk regions in support of collecting regionally*  
 49 *specific housing infrastructure information in support of developing*  
 50 *regionally specific loss modeling.*

51 (8) *Residential property insurance provides essential financial*  
 52 *security for California residents for both short-term and long-term*  
 53 *costs. Insurance supports temporary needs for housing and*  
 54 *transportation for fire victims, intermediate needs for debris and*  
 55 *hazardous materials removal from fire-affected properties, and*  
 56 *long-term rebuilding of structures and replacement of personal*  
 57 *property. There is no governmental program that provides similar*  
 58 *comprehensive assistance for California residents and it is,*  
 59 *therefore, vital for the State of California to ensure the existence*  
 60 *of a vibrant residential property insurance marketplace capable*  
 61 *of serving all communities.*

62 (9) *Strains in the residential property insurance system are*  
 63 *becoming evident. As the Senate Committee on Insurance noted*  
 64 *in its 2019 informational hearing on homeowners' insurance*  
 65 *availability and affordability, California policyholders have*  
 66 *"enjoyed a long spell of low insurance rates" but "climate change,*  
 67 *drought, population movement, and other factors may be changing*  
 68 *the fundamental nature of the homeowners' insurance market."*  
 69 *Analysis of countrywide data from the National Association of*  
 70 *Insurance Commissioners indicates that average homeowners'*  
 71 *insurance rates in California rank 32nd in the country and, when*  
 72 *adjusted for differences in regional costs, rank 49th in the country,*  
 73 *at less than one-half the cost for insurance in states exposed to*  
 74 *other natural disasters, including hurricanes.*

75 (10) *As part of a similar 2019 investigation of the homeowners'*  
 76 *insurance market, the Assembly Committee on Insurance noted*  
 77 *the acceleration of losses in this environment of relatively low*  
 78 *rates, finding that a "study of the homeowners' insurance market*  
 79 *released in 2018 as part of California's Fourth Climate Change*  
 80 *Assessment found that insured losses through 2017 wiped out the*

97

35 *entire underwriting profit insurers earned since 2000. The 2018*  
 36 *fires continued with another round of enormous losses.” The*  
 37 *committee cautioned against a legislative response that “increases*  
 38 *the likelihood of any policy change to generate unintended*  
 39 *consequences” and guarding against the great risk that regulating*  
 40 *some, but not all, of the important aspects of insurance could*  
 41 *“significantly disrupt a homeowners’ insurance market that is*  
 42 *effectively serving a great majority of California homeowners.”*

43 *(11) The final report of the Governor’s Commission on*  
 44 *Catastrophic Wildfire Cost and Recovery attempted to reconcile*  
 45 *the various competing interests associated with insurance*  
 46 *availability, risk selection, and pricing. The commission noted that*  
 47 *“while insurance is still largely available, it will become*  
 48 *increasingly unavailable and/or unaffordable for many in the*  
 49 *wildland urban interface in California.” In attempting to*  
 50 *harmonize the various competing interests for California, the*  
 51 *commission recommended preserving risk-based insurance pricing,*  
 52 *while avoiding cross-subsidies of high-risk areas by low-risk areas,*  
 53 *as well as developing incentives for parcel and community level*  
 54 *loss mitigation efforts.*

55 *(b) Based upon this extensive investigation in both the legislative*  
 56 *and executive branches, the Legislature determines that a state*  
 57 *policy response is required to solve several issues simultaneously,*  
 58 *including all of the following:*

59 *(1) Ensuring insurance rates are adequate to avoid insurer*  
 60 *insolvencies and to permit insurers to operate in the state’s highest*  
 61 *risk areas, while imposing restrictions on rates above actuarially*  
 62 *justified levels.*

63 *(2) Reducing the number of residents that are required to rely*  
 64 *upon the California FAIR Plan, which the State of California*  
 65 *created to provide a market of last resort but which is a*  
 66 *catastrophic insurance pool at rate levels far higher than the*  
 67 *regular insurance market.*

68 *(3) Incentivizing insurers to seek cost-based rates in exchange*  
 69 *for assurances that they will serve high-risk communities at levels*  
 70 *similar to their statewide presence.*

71 *(4) Developing systems of accountability for individual and*  
 72 *community-based loss mitigation efforts.*

73 *(c) Recent wildfires have contributed to a surge of residential*  
 74 *property insurance policies being issued by the FAIR Plan in*

97

## — 9 — SB 292

41 *numbers approaching that seen after the Northridge earthquake.*  
 42 *In order to monitor the surges in new FAIR Plan policies and to*  
 43 *create a standard threshold to indicate when admitted market*  
 44 *residential property insurance availability in specified areas of*  
 45 *the state has declined, the Legislature determines that it is*  
 46 *necessary to do all of the following:*

47 (1) Create a standard threshold for residential property  
48 insurance policies to qualify for the Insurance Market Action Plan  
49 (IMAP), established by this act, based on monitoring surges in  
50 FAIR Plan new business that indicate a contracting insurance  
51 market.

52 (2) Incentivize insurers to seek cost-based rates in exchange  
53 for assurances that they will maintain an adequate presence in  
54 specified high-risk areas of the state, and evaluate the effectiveness  
55 of these methods at reducing reliance on the FAIR Plan in eligible  
56 areas, thereby maintaining an adequate supply of admitted market  
57 insurance at a price more affordable to most consumers than that  
58 offered by the FAIR Plan.

59 (3) Establish a scientifically advanced probabilistic wildfire  
60 loss model for the purpose of providing property and casualty  
61 insurers access to a state of the art public tool that is accessible  
62 for comparison, evaluation, and analysis of modeled risk  
63 assumptions used in support of IMAP rate filings. In this regard,  
64 it is the intent of the Legislature to convene an advisory committee  
65 of public and private stakeholders to design standards for the use  
66 of probabilistic wildfire loss models in residential property  
67 insurance rate development, and to establish a database and  
68 computer model for that purpose.

69 (4) The Legislature finds these measures are necessary to limit  
70 the number of insurer-initiated nonrenewals that occur in response  
71 to changes in the understanding of wildfire risk and to limit  
72 homeowners' reliance on the California FAIR Plan.

73 (A) The Legislature finds that such a model is an objective public  
74 tool that will promote precision in loss projection, and that  
75 decreasing the uncertainty of future losses in this state is necessary  
76 to stabilize large price swings in the residential property insurance  
77 market.

78 (B) The Legislature further intends that such a model be  
79 available to assist state and local governments incorporate a

97

**SB 292 — 10 —**

7 modeled understanding of the costs of wildfire risk in their planning  
8 processes.

9 SEC. 2. Section 10109.05 is added to the Insurance Code, to  
10 read:

11 10109.05. (a) The California FAIR Plan Association shall, on  
12 a biannual basis, submit a report to the commissioner that lists  
13 the counties that meet the following criteria:

14 (1) The county has a population of 200,000 or fewer residents  
15 and the number of new residential property insurance policies  
16 issued by the FAIR Plan during the prior six months equals 1  
17 percent or more of the number of single family residences in that  
18 county.

19 (2) The county has a population of 200,001 to 400,000, inclusive,  
20 residents and the number of new residential property insurance

21 policies issued by the FAIR Plan during the prior six months equals  
22 0.75 percent or more of the number of single family residences in  
23 that county.

24 (3) The county has a population of 400,001 to 800,000, inclusive,  
25 residents and the number of new residential property insurance  
26 policies issued by the FAIR Plan during the prior six months equals  
27 0.35 percent or more of the number of single family residences in  
28 that county.

29 (4) The county has a population of more than 800,000 residents  
30 and the number of new residential property insurance policies  
31 issued by the FAIR Plan during the prior six months equals 0.15  
32 percent or more of the number of single family residences in that  
33 county.

34 (b) For purposes of this section, county population and single  
35 family residence counts shall be determined by the most recently  
36 available estimates published by the Department of Finance.

37 (c) (1) The biannual reports submitted by the California FAIR  
38 Plan Association pursuant to subdivision (a) shall be delivered to  
39 the commissioner on or before January 31 and July 31 of each  
40 year and shall be based on the sum of the new FAIR Plan  
41 residential property insurance policies issued between July 1 and  
42 December 31 of the prior year for the January 31 report and on  
43 the sum of the new FAIR Plan residential insurance policies issued  
44 between January 1 and June 30, inclusive, of that same year for  
45 the July 31 report.

97

## — 11 — SB 292

21 (2) Notwithstanding subdivision (a) and paragraph (1), the  
22 initial report due on or before January 31, 2021, shall include the  
23 information required by subdivision (a) for the calendar years  
24 2019 and 2020, organized in the same six-month time periods  
25 described in paragraph (1), and using the information published  
26 by the Department of Finance for those years.

27 SEC. 3. Section 10109.07 is added to the Insurance Code, to  
28 read:

29 10109.07. (a) A county that is listed on a report submitted to  
30 the commissioner pursuant to Section 10109.05 shall be designated  
31 by the department as an IMAP eligible county. The department's  
32 first designation shall include all the counties listed on the initial  
33 report required pursuant to paragraph (2) of subdivision (c) of  
14 Section 10109.05.

36 (b) An insurer may submit an IMAP filing to the department for  
37 residential property insurance policies issued in an IMAP eligible  
38 county.

39 (c) (1) If a county is originally designated as an IMAP eligible  
40 county at the time an insurer submits and receives approval for  
41 an IMAP filing in that county, but the county is subsequently not  
42 designated as an IMAP eligible county, the insurer may continue  
43 to issue new residential property insurance policies under the

44 *IMAP rate in that county until the insurer files for a new rate in*  
 45 *that county or until two years after the date the county is no longer*  
 46 *designated by the department as an IMAP county, whichever occurs*  
 47 *first.*

48 *(2) Notwithstanding paragraph (1), if a county for which an*  
 49 *insurer has submitted an IMAP filing is no longer designated as*  
 50 *an IMAP eligible county, the insurer may continue to renew*  
 51 *policies with existing insureds in that county at the IMAP rate.*

52 *SEC. 4. Section 10109.2 is added to the Insurance Code, to*  
 53 *read:*

54 *10109.2. (a) An IMAP filing shall set forth community and*  
 55 *parcel-level mitigation standards, along with any necessary*  
 56 *procedures for verifying mitigation activities, including any*  
 57 *required governmental or third-party certifications.*

58 *(b) The commissioner may periodically connect IMAP eligible*  
 59 *county representatives with representatives from IMAP*  
 60 *participating insurers and third-party fire protection or*  
 61 *certification associations to promote collaboration between local*

97

**SB 292 — 12 —**

41 *governments and industry on local policies for IMAP filings made*  
 42 *pursuant to this article.*

43 *SEC. 5. Section 10109.4 is added to the Insurance Code, to*  
 44 *read:*

45 *10109.4. A rate requested as part of an IMAP filing may be*  
 46 *based on a complex catastrophe model, as follows:*

47 *(a) The complex catastrophe model shall be based on the best*  
 48 *available scientific information for assessing the risk of*  
 49 *catastrophic wildfire frequency, severity, and loss.*

50 *(b) The projected losses derived from the catastrophe model*  
 51 *shall meet all applicable statutory standards.*

52 *(c) The complex catastrophe model shall consider both*  
 53 *parcel-level mitigation and regional mitigation.*

54 *SEC. 6. Section 10109.8 is added to the Insurance Code, to*  
 55 *read:*

56 *10109.8. On or before January 1, 2023, the Office of Planning*  
 57 *and Research shall issue a report outlining the effectiveness of the*  
 58 *IMAP program that includes, but is not limited to, all of the*  
 59 *following:*

60 *(a) An analysis of whether the IMAP program achieved average*  
 61 *admitted market rates lower than the California FAIR Plan plus*  
 62 *difference in condition policies.*

63 *(b) An analysis of the overall progress of the IMAP program*  
 64 *towards achieving market penetration goals in IMAP counties and*  
 65 *the impact on FAIR Plan enrollments. This data shall be reported*  
 66 *in aggregate.*

67 *(c) Recommendations for continued improvements to the IMAP*  
 68 *program.*

69 SEC. 7. Article 2 (commencing with Section 10109.10) is added  
70 to Chapter 12 of Part 1 of Division 2 of the Insurance Code, to  
71 read:

32  
33 Article 2. Catastrophic Loss Modeling

34  
9 10109.10 (a) It is the intent of the Legislature to establish in  
10 state government a commission that shall consist of the following  
11 members, or their designees:

12 (1) The Insurance Commissioner.

13 (2) The State Fire Marshall.

97

## — 13 — SB 292

41 (3) The Executive Director of the California Building Standards  
42 Commission.

43 (4) The Director of Emergency Services.

44 (b) The commission shall annually elect from its membership,  
45 a chairperson and a vice chairperson.

46 10109.11. It is the intent of the Legislature that the commission  
47 established pursuant to Section 10109.10 be created for the  
48 following purposes:

49 (a) To convene stakeholders from fire protection districts, the  
50 insurance industry, the building trades industry, planning  
51 associations, cities, and counties to develop regionally specific  
52 community hardening standards that have the propensity for  
53 reducing loss due to wildfires.

54 (b) To develop fire prevention standards for individual home  
55 hardening activities specific to wildfire risks that differentiate  
56 between, at a minimum, ember flow resistance and radiant heat  
57 resistance.

58 (c) To establish a central database on housing infrastructure  
59 data specific to wildfire risk for use by a public catastrophic loss  
60 model.

61 (d) Develop a standard for the uniform collection and secure  
62 storage of housing infrastructure data relevant to insurable risks  
63 and necessary to run a sophisticated loss model.

64 10109.12. (a) The Catastrophic Modeling Advisory Committee  
65 is hereby created, to be chaired jointly by the Insurance  
66 Commissioner and the Director of Emergency Services, or their  
67 designees. If the commission described in Section 10109.10 is  
68 created, the advisory committee shall be under the direction of the  
69 commission.

70 (b) In addition to the Insurance Commissioner and the Director  
71 of Emergency Services, the advisory committee shall consist of the  
72 following members:

73 (1) Four members appointed by the Governor, as follows:

74 (A) An actuary from the insurance industry.

75 (B) A representative from an insurance research organization  
76 with expertise in wildfire risk modeling.

- 77 (C) Two full-time faculty members from a California public  
78 university with expertise in the following fields:  
79 (i) Statistics.  
80 (ii) Computer system design.

97

**SB 292 — 14 —**

- 31 (2) Two full-time faculty members from the University of  
32 California, to be appointed by the Senate Committee on Rules from  
33 a list provided by the Regents of the University of California, with  
34 expertise in the following fields:  
35 (A) Wildfire modeling.  
36 (B) Regional modeling.  
37 (3) Two full-time faculty members from the University of  
38 California, to be appointed by the Speaker of the Assembly from  
39 a list provided by the Regents of the University of California, with  
40 expertise in the following fields:  
41 (A) Fire weather studies.  
42 (B) Wind modeling.  
43 (c) (1) The initial appointments for the members described in  
44 paragraphs (1) to (3), inclusive, of subdivision (b) shall be made  
45 on or before July 1, 2021.  
46 (2) The terms for the members appointed pursuant to paragraph  
47 (1) of subdivision (b) shall be for a period of three years.  
48 (3) The terms for the members appointed pursuant to paragraphs  
49 (2) and (3) of subdivision (b) shall terminate on the date the report  
50 is issued pursuant to Section 10109.14.  
51 10109.13. The advisory committee shall meet at least quarterly  
52 and shall do all of the following:  
53 (a) Gather existing sources of publicly available housing  
54 infrastructure data relevant to wildfire loss projection and deposit  
55 data in a central database.  
56 (b) Compile for study the existing wildfire modeling efforts and  
57 capabilities of the University of California, and other public and  
58 private universities and research organizations.  
59 (c) Develop a comprehensive plan for the establishment of a  
60 public catastrophic wildfire loss model pursuant to Section  
31 10109.14.  
40 10109.14. (a) On or before July 1, 2024, the advisory  
41 committee shall deliver to the Office of Emergency Services, a  
42 comprehensive report detailing a plan for the Office of Emergency  
43 Services to, upon appropriation by the Legislature, establish and  
44 operate a public catastrophic loss model.  
45 (b) The comprehensive report shall do all of the following:  
46 (1) Adopt the best scientifically available actuarial methods,  
47 principles, standards, models, and output ranges that have the

97



## — 15 — SB 292

5 potential for improving the accuracy, precision, or reliability of  
6 wildfire loss projections used by insurers.

7 (2) Review available public housing infrastructure data, and  
8 identify other data necessary to operate a public wildfire loss  
9 model.

10 (3) Recommend a standard for the uniform collection and secure  
11 storage of housing infrastructure data relevant to insurable risks.

12 (4) Develop standards for model inputs, outputs, operation, and  
13 review of wildfire loss models.

14 (5) Recommend additional public research needed in wildfire  
15 loss modeling methodologies to improve loss projection precision  
16 or that are necessary to complete a public catastrophic loss model.

17 (6) Identify the housing infrastructure data needed to create  
18 actuarially sound methodologies for incorporating public and  
19 privately collected data on defensible space and home hardening  
20 methods into a public catastrophic loss model.

21 (7) Discuss potential interfaces for residential property insurers  
22 to access the public model for comparison of assumptions, factors,  
23 and detailed loss results, and for other analytical purposes and  
24 review sufficient to evaluate the modeling used in support of rate  
25 filings.

26 (A) This discussion shall consider strategies for public model  
27 review of third-party models used in rate filings and shall consider  
28 that access to the public model is intended to support the use of  
29 probabilistic loss modeling in IMAP rate filings made pursuant  
30 to Article 1 (commencing with Section 10109).

31 (B) A proposed public model review shall include a process to  
32 determine whether insurer assumptions meet or fail the public  
33 catastrophic wildfire loss model standards. Public model review  
34 is intended to ensure that to the greatest extent possible, an  
35 insurer's findings, data, actuarial methods, principles, standards,  
36 models, or output ranges relied upon to project losses are based  
37 on the best available science.

38 (C) It is the intent of the Legislature to protect from public  
39 disclosure proprietary third-party or in-house modeling data  
40 submitted by an insurer for evaluation by or comparison with the  
41 public model.

42 (8) Consider strategies for using the public model to help  
43 insurers control concentration risk in a wildland urban interface  
44 area. The strategies shall include a monitored evaluation process

97

## SB 292 — 16 —

8 for the assumptions used by an insurer given different modeled  
9 predictions for the insurer's expected average annual loss,  
10 probable maximum loss, maximum possible loss, and other metrics.

11 10109.15. The members of the advisory committee shall not

12 receive compensation, but shall receive per diem pursuant to  
13 Section 11564.5 of the Government Code, and reimbursement for  
14 actual and necessary expenses incurred in the performance of  
15 membership duties.

16 SEC. 8. The provisions of this act are not severable. If any  
17 provision of this act or its application is held invalid, all other  
18 provisions of this act shall also be held invalid.

19 SEC. 9. This act shall become operative only if Assembly Bill  
20 2167 of the 2019–20 Regular Session is enacted and becomes  
21 effective on or before January 1, 2021.

22 SECTION 1. (a) The Legislature finds and declares all of the  
23 following:

24 (1) California has over \$1 trillion in economic loss risk exposure  
25 from future catastrophic earthquakes, floods, and wildfires.

26 (2) Two thirds of the earthquake risk in the United States resides  
27 in California, and California has a long history of damaging and  
28 lethal earthquakes.

29 (A) In 1994, the magnitude 6.7 Northridge earthquake killed  
30 60 people, injured 9,000 more people, and displaced 125,000  
31 people. The Northridge earthquake caused \$49 billion in economic  
32 damage and \$25 billion in property damage to over 80,000  
33 buildings. At the time, it was the costliest natural disaster in United  
34 States history, but only \$15.3 billion of the damaged was insured.

35 (B) In 1989, the magnitude 6.9 Loma Prieta earthquake killed  
36 63 people, injured more than 3,700 people, displaced 3,000 people,  
37 damaged or destroyed 12,000 homes, and caused more than \$6  
38 billion in property damage.

39 (C) In 1971, the magnitude 6.6 Sierra Madre earthquake killed  
40 58 people, damaged 30,000 homes, and brought down parts of the  
41 Interstate 5 and Interstate 210 freeways.

42 (D) In 1906, the magnitude 7.9 San Francisco earthquake killed  
43 3,000 people, left 250,000 people homeless, and started a fire that  
44 destroyed 28,000 buildings over 500 city blocks.

45 (E) According to the latest Uniform California Earthquake  
46 Rupture Forecast, there is a 99 percent chance that an earthquake  
47 of a magnitude 6.7 or greater will occur in California in the next

97

## — 17 — SB 292

41 30 years, as well as a 90 percent chance of a magnitude 7.0 or  
42 greater earthquake and a 46 percent chance of a magnitude 7.5 or  
43 greater earthquake occurring in the same period. According to the  
44 United States Geological Survey, a magnitude 7.0 earthquake on  
45 the Hayward Fault could displace 400,000 people and a similar  
46 earthquake on the San Andreas Fault could displace 250,000  
47 people. A 7.8 magnitude earthquake could cause as much as \$213  
48 billion in economic damages to the state.

49 (F) Prior to the 1994 Northridge earthquake, the insurance  
50 industry dramatically underestimated the potential damage from  
51 such moderate earthquakes. After experiencing a record 1,192

52 percent loss ratio on earthquake lines due to the Northridge  
53 earthquake, many insurers considered leaving California. The  
54 Legislature created the California Earthquake Authority (CEA) to  
55 offer earthquake insurance in California and stabilize the  
56 homeowners insurance market. Over 1,000,000 Californians now  
57 hold a CEA policy, representing over 80 percent of the California  
58 earthquake insurance market, but only 12 percent of the state's  
59 homeowners. Making CEA policies more affordable and attainable  
60 to all Californians residing in high earthquake risk areas of the  
61 state is critical to the state's earthquake preparedness.

62 (3) Flooding occurs in all parts of California. About 90 percent  
63 of floods are riverine. The state has over 7 million inhabitants and  
64 over \$580 billion in assets situated within 500-year flood plains.  
65 Nearly one-half of the people living in California are concentrated  
66 in the south coast region. Over the life of a 30-year mortgage, the  
67 true risk of living in a 500-year flood plain amounts to a 6 percent  
68 chance of flooding.

69 (A) Approximately 35 percent of agricultural land in the state  
70 is located in flood plains, with \$7 billion in crop value located in  
71 500-year flood plain zones.

72 (B) Continuation or acceleration of sea level rise, in combination  
73 with climate change driven precipitation changes, will likely result  
74 in an increase in flood events, especially in the central valley.

75 (C) In 1997, 48 counties were declared disaster areas due to a  
76 series of Pineapple Express storms overwhelming levees in the  
77 Sacramento and San Joaquin River basins. The major flood event  
78 inundated 300 square miles. Over 23,000 structures were damaged,  
79 nine people were killed, and 120,000 people were evacuated.  
80 Damages amounted to \$2 billion.

97

**SB 292 — 18 —**

41 (D) In 1995, a major flood event affected nearly every part of  
42 the state. Twenty-eight people were killed and the flood caused  
43 \$1.8 billion in damages.

44 (E) In 1986, a major flood event occurred when a nine-day  
45 rainstorm caused several levee breaks, resulting in the inundation  
46 of four Delta islands. The Sierra Nevada recorded 1,000-year  
47 rainfalls, 50,000 people were evacuated, and 13 people were killed.  
48 The flood caused \$400 million in property damage.

49 (F) In 1955, a statewide disaster was declared when a storm  
50 caused a flood that killed 74 people and caused \$200 million in  
51 economic losses.

52 (G) In 1909, a 12,000-year rain event over the Feather River  
53 basin resulted in La Porte receiving 57.41 inches of rain over 20  
54 days. The flood resulted in an overhaul of planned statewide flood  
55 control designs.

56 (H) In 1862, a storm dumped 10 feet of rainfall in California  
57 over 43 days, causing immense flooding. Known as the "Great  
58 Flood of 1862," the flood washed away bridges and inundated

59 over 5,000 square miles of the Central Valley with up to 30 feet  
60 of water. The Great Flood of 1862 was a 1,000-year flood event.  
61 Models that project the impact of such a storm today, also known  
62 as an ARkStorm, suggest up to 1.5 million people could be  
63 displaced and the state could suffer \$725 billion in economic losses.

64 (I) The federal National Flood Insurance Program is \$25 billion  
65 in debt, and is heavily subsidized. Private market flood insurance  
66 exists, but accurate flood risk data is unavailable. According to a  
67 2017 United States Department of Homeland Security Office of  
68 Inspector General report, only 42 percent of the Federal Emergency  
69 Management Agency's (FEMA's) flood maps adequately identify  
70 the level of flood risk. These out-of-date maps interfere with price  
71 signals for insurance premiums and home prices, and do not  
72 adequately communicate the flood risk to would-be homebuyers  
73 or insurers.

74 (4) Over 2 million homes, or approximately 15 percent of  
75 California's housing stock, is at high or extreme risk from wildfires.  
76 California's total housing risk exposure to wildfire damage is \$249  
77 billion.

78 (A) The top 10 costliest wildfires in United States history have  
79 all occurred in California, and 6 of those occurred in 2017 and  
80 2018. More people died from wildfires in 2017 and 2018 than in

97

## — 19 — SB 292

40 the last 10 years combined. The 2017 and 2018 fires caused a  
41 combined \$24.8 billion in insurance claims, including \$21.6 billion  
42 in residential personal property claims, \$2.5 billion in commercial  
43 property claims, and approximately \$500,000 in auto claims.

44 (B) Igniting November 8, 2018, the Camp Fire burned for 17  
45 days, killed at least 85 people, and destroyed over 18,800  
46 structures. It is not only the most expensive wildfire in United  
47 States history, but was the most expensive natural disaster  
48 worldwide in 2018. Insured losses reached \$12.5 billion, while  
49 total losses were \$16.5 billion.

50 (C) Also igniting November 8, 2018, the Woolsey Fire burned  
51 for 14 days, killed three people, and destroyed over 1,600 buildings.  
52 Insured losses are estimated at \$3 billion to \$5 billion of the \$6  
53 billion in total property losses.

54 (D) Igniting July 23, 2018, the Carr Fire burned for 37 days,  
55 killed eight people, including three firefighters, and destroyed over  
56 1,600 structures. The fire caused over \$1.5 billion in property  
57 damage.

58 (E) Igniting December 4, 2017, the Thomas Fire burned for 39  
59 days, killed 23 people, including one firefighter and 21 people  
60 from a resulting mudslide, and destroyed over 1,000 structures.  
61 The fire caused over \$2.2 billion in damages.

62 (F) Igniting October 8, 2017, the Tubbs Fire burned for 12 days,  
63 killed 22 people, and destroyed over 5,600 structures. Insured  
64 losses are estimated to be between \$7.5 billion and \$9.5 billion.

65 (G) Igniting October 8, 2017, the Atlas Fire burned for 12 days,  
66 destroyed 25,000 acres, and destroyed over 700 buildings. Insured  
67 losses are estimated to be between \$2.5 billion and \$4.5 billion.

68 (H) Burning for over three months in 2018, a less costly seventh  
69 fire, the Mendocino Complex Fire, became the largest recorded  
70 fire in state history when it consumed over 459,000 acres, more  
71 than the previous largest fire, the Thomas Fire, in 2017.

72 (I) According to a Department of Insurance 2018 report on the  
73 availability and affordability of wildfire coverage, major insurers  
74 are pulling back from writing new policies or renewing policies  
75 in the wildland-urban interface (WUI) fire areas. Additionally,  
76 premiums are increasing in the WUI, and most insurers do not take  
77 into consideration wildfire mitigation conducted by the homeowner  
78 or the community. This is in part because no single insurer has  
79 loss experience in the WUI to validate the rates and premiums

97

**SB 292 — 20 —**

21 charged for each wild fire risk model score. The department's  
22 report further states that a credible database for wildfire loss  
23 experience in the WUI is needed in order for insurers to use rating  
24 plans that impact rates in the WUI and suggests that the Legislature  
25 should create a framework within which insurers offer a mitigation  
26 premium credit for property owners that conduct proper mitigation.

27 (5) Incentivizing homeowners to actively participate in  
28 mitigation measures is critical to statewide preparedness. Research  
29 shows that homeowners' risk reduction behaviors are influenced  
30 by the perceived effectiveness of the activities and their perceived  
31 ability to complete them. Public outreach, information sharing,  
32 and a communitywide collaborative process on wildfire protection  
33 planning have been found to build trust among residents and local  
34 fire agencies.

35 (6) The National Institute of Building Sciences studied 23 years  
36 of federally funded mitigation grants provided by FEMA, the  
37 United States Economic Development Administration, and the  
38 United States Department of Housing and Urban Development,  
39 and found that hazard mitigation funding saves \$6 in future disaster  
40 costs for every \$1 invested. Further, the study found that designing  
41 buildings to meet the 2018 International Residential Code and  
42 2018 International Building Code would provide a national benefit  
43 of \$11 for every \$1 of investment when compared to 1990-era  
44 building codes and National Flood Insurance Program  
45 requirements.

46 (b) It is, therefore, the intent of the Legislature to do all of the  
47 following:

48 (1) Establish an ongoing catastrophic risk mitigation fund to  
49 prepare California's local governments, homeowners, and small  
50 businesses for our top natural disaster risks: earthquakes, wildfires,  
51 and floods.

52 (2) Increase investment in the Department of Forestry and Fire

53 Protection’s (CAL FIRE’s) local assistance grant program for fire  
 54 protection, so that local governments may invest in equipment,  
 55 build fire lines, and launch community preparedness efforts.  
 56 (3) Increase investment in the California Earthquake Authority’s  
 57 Earthquake Brace and Bolt program, as well as design additional  
 58 retrofit programs, so that homeowners may affordably retrofit their  
 59 homes and prepare for the next earthquake.

97

— 21 — SB 292

1 (4) Increase investment in the Department of Water Resources  
 2 flood control grant programs, so that local governments have the  
 3 resources to save their residents’ homes from floods.

4 (5) Increase investment in homeowners and small businesses  
 5 that perform mitigation on their property, by offering grants and  
 6 rebates for specific mitigation efforts, so that others may be  
 7 incentivized to follow their lead.

8 (6) Study the effectiveness of mitigation measures for the benefit  
 9 of homeowners and insurers by giving insurers a data driven tool  
 10 for the development of insurance premium credits and discounts  
 11 for specific mitigation measures.

12 SEC. 2. Division 6 (commencing with Section 17000) is added  
 13 to the Insurance Code, to read:

14  
 15 DIVISION 6. DISASTER MITIGATION 16  
 17 Chapter 1. Definitions 18

19 17000. For purposes of this division, “board” means the  
 20 Prepared California Disaster Mitigation Board.

21  
 22 Chapter 2. Prepared California Disaster Mitigation  
 23 Fund

24  
 25 17001. There is hereby created the Prepared California Disaster  
 26 Mitigation Fund within the State Treasury. Notwithstanding Section  
 27 13340 of the Government Code, moneys in the fund are  
 28 continuously appropriated without regard to fiscal year to the board  
 29 for the purposes specified in this division.

30 17002. (a) An annual assessment is hereby imposed on the  
 31 following insurance policies:

32 (1) A twelve-dollar (\$12) annual assessment on all residential  
 33 property insurance policies, including homeowner’s insurance,  
 34 fire insurance, earthquake insurance, and policies covering  
 35 condominiums and mobilehomes.

36 (2) A six-dollar (\$6) per vehicle annual assessment on all private  
 37 passenger and commercial automobile insurance policies.

38 (3) An annual assessment of 1 percent of the annual premium  
 39 on all commercial insurance policies covering physical property  
 40 damage or business interruption.

97

SB 292 — 22 —

1 ~~(b) The assessments shall be collected from policyholders by~~  
2 ~~insurers and remitted to the Department of Insurance for deposit~~  
3 ~~into the Prepared California Disaster Mitigation Fund.~~

4 ~~(e) (1) Assessments collected pursuant to this section are not~~  
5 ~~part of an insurer's rates or rating plan, are not premiums for any~~  
6 ~~purpose, and are not subject to premium taxes, fees, or~~  
7 ~~commissions.~~

8 ~~(2) The amount of the assessment shall be separately stated on~~  
9 ~~either a billing or policy declaration sent to an insured.~~

10  
11 ~~Chapter 3. Prepared Disaster Mitigation Program~~

12  
13 ~~17010. There is hereby created the Prepared California Disaster~~  
14 ~~Mitigation Board in state government.~~

15 ~~17011. (a) The board shall be comprised of the following~~  
16 ~~members:~~

17 ~~(1) The Insurance Commissioner or their designee.~~

18 ~~(2) The Director of Emergency Services or their designee.~~

19 ~~(3) The Director of Forestry and Fire Protection or their~~  
20 ~~designee.~~

21 ~~(4) The Director of Water Resources or their designee.~~

22 ~~(5) The Senate Committee on Rules shall appoint two members~~  
23 ~~to serve three year terms as follows:~~

24 ~~(A) One member of the public with experience in the insurance~~  
25 ~~industry.~~

26 ~~(B) One member of the public with experience in the risk~~  
27 ~~analytics industry.~~

28 ~~(6) The Speaker of the Assembly shall appoint two members~~  
29 ~~to serve three year terms as follows:~~

30 ~~(A) One member of the public with experience in the insurance~~  
31 ~~industry.~~

32 ~~(B) One member of the public with experience in fire science.~~

33 ~~(7) The Governor shall appoint four members to serve at the~~  
34 ~~pleasure of the Governor as follows:~~

35 ~~(A) One member of the public with experience in the insurance~~  
36 ~~industry.~~

37 ~~(B) One member of the public to represent insurance consumers.~~

38 ~~(C) One member of the public with expertise in earthquake~~  
39 ~~engineering.~~

40 ~~(D) One member of the public.~~

97

1 (b) The Governor shall appoint the chair of the board.

SB 292

2 ~~(e) The members of the board shall serve without compensation,~~  
 3 ~~but each of the public members shall be reimbursed for the~~  
 4 ~~member's actual and necessary expenses incurred in the~~  
 5 ~~performance of that member's duties.~~

6 ~~17012. (a) There is hereby established the Prepared California~~  
 7 ~~Disaster Mitigation Program to be administered by the board to~~  
 8 ~~award grants to homeowners for fire-related disaster mitigation~~  
 9 ~~activities.~~

10 ~~(b) The board shall develop, advertise, and offer to homeowners,~~  
 11 ~~mitigation grants and rebates designed to decrease risk of loss from~~  
 12 ~~wildfire or earthquake-caused fire, including any of the following:~~

13 ~~(1) Grants for installation or replacement of the following:~~

14 ~~(A) Fire-resistant roofing.~~

15 ~~(B) Fire-resistant siding.~~

16 ~~(C) Fire-resistant eaves or soffits.~~

17 ~~(D) Fire-resistant windows.~~

18 ~~(E) Exterior roof-mounted fire sprinklers.~~

19 ~~(2) Grants for the replacement of exterior deck wood with~~  
 20 ~~fire-retardant treated wood or other fire-safe materials.~~

21 ~~(3) Grants for the removal of hazardous trees within 30 feet of~~  
 22 ~~a home.~~

23 ~~(4) Rebates for the installation or replacement of the following:~~

24 ~~(A) Earthquake shutoff valves.~~

25 ~~(B) Exterior vent screens.~~

26 ~~(C) Weatherstripping or fire seal strips.~~

27 ~~(D) Trimming of hazardous trees within 100 feet of a home.~~

28 ~~(E) Rain gutter guards or rain gutters designed to prevent~~  
 29 ~~accumulation of debris.~~

30 ~~(5) Rebates for additional low-cost retrofits, as identified by the~~  
 31 ~~State Fire Marshal pursuant to subdivision (c) of Section 51189~~  
 32 ~~of the Government Code, that provide comprehensive site and~~  
 33 ~~structure fire risk reduction.~~

34 ~~(e) The board shall determine the amount of each grant or rebate~~  
 35 ~~to be offered as follows:~~

36 ~~(1) An amount up to 100 percent of the cost for mitigation~~  
 37 ~~projects estimated to cost one thousand dollars (\$1,000) or less.~~

38 ~~(2) An amount up to 50 percent of the cost of mitigation projects~~  
 39 ~~estimated to cost more than one thousand dollars (\$1,000), provided~~

97

**SB 292 — 24 —**

1 that no grant or rebate may be awarded for more than five  
 2 thousand dollars (\$5,000).

3 ~~(d) The board shall collect data from grant and rebate recipients~~  
 4 ~~on the types and locations of mitigation efforts undertaken in order~~  
 5 ~~to confirm completion of the mitigation projects, and may collect~~  
 6 ~~data relating to any other factors necessary to allow the board to~~  
 7 ~~conduct a longitudinal study of the effectiveness of the mitigation~~  
 8 ~~measures to prevent damage during catastrophes.~~

9 ~~(e) The board may develop and offer additional grants or rebates~~



10 pursuant to subdivision (c) that are designed to decrease risk of  
11 loss from wildfire or earthquake-related fire.

12  
13 ~~Chapter 4. Disaster Mitigation Funding~~

14  
15 ~~17020. The board shall annually distribute money from the~~  
16 ~~Prepared California Disaster Mitigation Fund to the state agencies~~  
17 ~~listed in this section, as it deems appropriate, based on the disaster~~  
18 ~~mitigation needs of the state. At a minimum, the board shall~~  
19 ~~annually distribute the following sums of money:~~

20 ~~(a) At least 20 percent to the Department of Forestry and Fire~~  
21 ~~Protection for purposes of the local assistance grant program for~~  
22 ~~fire protection activities pursuant to Section 4124.5 of the Public~~  
23 ~~Resources Code, provided that only local agencies shall be eligible~~  
24 ~~for grants made with these funds.~~

25 ~~(b) At least 20 percent to the California Earthquake Authority~~  
26 ~~for purposes of awarding grants pursuant to the Earthquake Brace~~  
27 ~~and Bolt program.~~

28 ~~(c) At least 20 percent to the Department of Water Resources~~  
29 ~~for purposes of the Delta Levees Special Flood Control Projects~~  
30 ~~Program, the Small Communities Flood Risk Reduction Program,~~  
31 ~~the Flood Emergency Response Projects Grant Program, and the~~  
32 ~~Local Levee Assistance Program.~~

33 ~~(d) At least 20 percent to the board to be awarded pursuant to~~  
34 ~~the Prepared California Disaster Mitigation Program for purposes~~  
35 ~~of grants to homeowners for fire-related disaster mitigation~~  
36 ~~purposes.~~

37 ~~(e) Up to 5 percent to the board for operating expenses, and to~~  
38 ~~administer the Prepared California Disaster Mitigation Program,~~  
39 ~~including advertising the availability of grants and rebates to~~  
40 ~~homeowners and fulfilling the board's mitigation study obligations.~~

97

— 25 — SB 292

1 ~~17021. The Department of Forestry and Fire Protection and~~  
2 ~~the board shall do both of the following:~~

3 ~~(a) Prior to the annual distribution of funds pursuant to~~  
4 ~~subdivision (a) of Section 17020, agree on the wildfire mitigation~~  
5 ~~projects to be funded, with an emphasis on protecting vulnerable~~  
6 ~~populations. The Department of Forestry and Fire Protection shall~~  
7 ~~consider socioeconomic characteristics of the communities to be~~  
8 ~~protected, including data on poverty levels, residents with~~  
9 ~~disabilities, language barriers, residents over 65 years of age or~~  
10 ~~under 5 years of age, and households without a car.~~

11 ~~(b) Develop a periodic reporting agreement for the grant funds~~  
12 ~~awarded pursuant to subdivision (a) of Section 17020 that requires~~  
13 ~~the Department of Forestry and Fire Protection to report~~  
14 ~~information sufficient to allow the board to study wildfire~~  
15 ~~mitigation effectiveness, including all of the following:~~

16 ~~(1) Information on the types and locations of wildfire mitigation~~

17 projects.

18 ~~(2) Information on the damage caused by wildfires in areas~~  
19 ~~where mitigation efforts have occurred.~~

20 ~~(3) Other information the board finds necessary to study wildfire~~  
21 ~~mitigation effectiveness.~~

22 ~~17022. The California Earthquake Authority and the board~~  
23 ~~shall do all of the following:~~

24 ~~(a) Prior to the annual distribution of funds pursuant to~~  
25 ~~subdivision (b) of Section 17020, agree on the earthquake~~  
26 ~~mitigation projects to be funded, with an emphasis on protecting~~  
27 ~~vulnerable populations. The authority shall consider socioeconomic~~  
28 ~~characteristics of the communities to be protected, including data~~  
29 ~~on poverty levels, residents with disabilities, language barriers,~~  
30 ~~residents over 65 years of age or under 5 years of age, and~~  
31 ~~households without a car.~~

32 ~~(b) Develop a periodic reporting agreement for the grant funds~~  
33 ~~awarded pursuant to subdivision (b) of Section 17020 that requires~~  
34 ~~the authority to report information sufficient to allow the board to~~  
35 ~~study earthquake mitigation effectiveness, including all of the~~  
36 ~~following:~~

37 ~~(1) Information on the types and locations of earthquake~~  
38 ~~mitigation projects.~~

39 ~~(2) Information on the damage caused by earthquakes in areas~~  
40 ~~where mitigation efforts have occurred.~~

97

**SB 292 — 26 —**

1 ~~(3) Other information the board finds necessary to study~~  
2 ~~earthquake mitigation effectiveness.~~

3 ~~(e) Develop and propose to the Legislature additional~~  
4 ~~cost-effective earthquake retrofit grant or low-cost loan programs~~  
5 ~~for homeowners requiring seismic retrofit but who do not qualify~~  
6 ~~for the Earthquake Brace and Bolt program, including owners of~~  
7 ~~mobilehomes and condominiums, and for small businesses, as~~  
8 ~~defined in subparagraph (A) of paragraph (1) of subdivision (d)~~  
9 ~~of Section 14837 of the Government Code, that own real property.~~

10 ~~17023. The Department of Water Resources and the board shall~~  
11 ~~do both of the following:~~

12 ~~(a) Prior to the annual distribution of funds pursuant to~~  
13 ~~subdivision (c) of Section 17020, agree on the flood mitigation~~  
14 ~~projects to be funded, with an emphasis on protecting vulnerable~~  
15 ~~populations. The Department of Water Resources shall consider~~  
16 ~~socioeconomic characteristics of the communities to be protected,~~  
17 ~~including data on poverty levels, residents with disabilities,~~  
18 ~~language barriers, residents over 65 years of age or under 5 years~~  
19 ~~of age, and households without a car.~~

20 ~~(b) Develop a periodic reporting agreement for the grant funds~~  
21 ~~awarded pursuant to subdivision (c) of Section 17020 that requires~~  
22 ~~the Department of Water Resources to report information sufficient~~  
23 ~~to allow the board to study flood mitigation effectiveness, including~~

24 all of the following:

25 (1) Information on the types and locations of flood mitigation  
26 projects.

27 (2) Information on the damage caused by flooding in areas  
28 where mitigation efforts have occurred.

29 (3) Other information the board finds necessary to study flood  
30 mitigation

effectiveness. 31

32 Chapter 5. Reporting 33

34 17030. The Department of Insurance shall collect data regarding  
35 the availability of insurance in high-risk fire areas and report that  
36 data to the board on a periodic basis.

37 17031. The board shall prepare a report to be submitted to the  
38 Legislature on or before January 1, 2021, and annually thereafter,  
39 that includes at least all of the following:

97

— 27 — SB 292

1 (a) A summary of the amounts of the grants and rebates awarded  
2 pursuant to the Prepared California Disaster Mitigation Program  
3 and a summary of the mitigation measures implemented with those  
4 grants and rebates. The summary shall also include a discussion  
5 of any new grants or rebates under development.

6 (b) A summary of the mitigation measures funded pursuant to  
7 Section 17020, and an analysis of the effectiveness of those  
8 mitigation measures in preventing losses from wildfires,  
9 earthquakes, and floods, if applicable, given the types and locations  
10 of natural disasters.

11 (c) A summary of known existing mitigation discounts offered  
12 by residential property insurers.

13 (d) Recommendations for additional earthquake retrofit grant  
14 program proposals pursuant to subdivision (c) of Section 17022  
15 to augment the Earthquake Brace and Bolt program.

16 17032. On or after January 1, 2022, the board shall contract  
17 with the California State Auditor's Office to conduct an audit of  
18 the Prepared California Disaster Mitigation Board's operations  
19 from inception to December 31, 2021, inclusive. The audit shall  
20 provide an independent assessment of the performance and  
21 management of the board and of the Prepared California Disaster  
22 Mitigation Program. The board shall fund the audit out of its  
23 operating expense budget pursuant to subdivision (e) of Section  
24 17020. A copy of the audit shall be submitted to the board and to  
25 the Legislature, on or before January 1, 2023.

26 17033. (a) The Department of Insurance and the board shall  
27 develop an information sharing agreement to allow the board to  
28 collect data on losses caused by fire, earthquake, and flood in order  
29 to study mitigation efforts and insurer loss experience.

30 (b) The board shall continuously study the data compiled under  
31 this section and the data compiled by the Department of Forestry  
32 and Fire Protection pursuant to Section 17021, the data compiled

33 ~~by the California Earthquake Authority pursuant to Section 17022,~~  
34 ~~the data compiled by the Department of Water Resources pursuant~~  
35 ~~to Section 17023, and the data compiled by the board pursuant to~~  
36 ~~subdivision (d) of Section 17012, including the longitudinal~~  
37 ~~analyses of the effectiveness of mitigation measures to prevent~~  
38 ~~loss.~~  
39 (e) ~~The board shall prepare and submit a report to the Legislature~~  
40 ~~on or before January 1, 2024, that contains recommendations for~~

97

1 ~~model homeowners insurance discounts based on the risk~~  
2 ~~mitigation measures that the board has determined reduce loss~~  
3 ~~based on its studies conducted pursuant to this division.~~

4 (d) ~~The board shall publish or maintain the data supporting the~~  
5 ~~recommendations made pursuant to subdivision (c) in such a way~~  
6 ~~as to be easily accessible to insurers for the purpose of ratemaking~~  
7 ~~and mitigation discount development. All data made available~~  
8 ~~shall comply with the privacy requirements of the Insurance~~  
9 ~~Information and Privacy Protection Act (Article 6.6 (commencing~~  
10 ~~with Section 791) of Chapter 1 of Part 2 of Division 1).~~

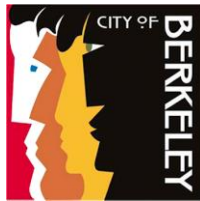
11 ~~17034. The board may contract with private firms and public~~  
12 ~~universities, as necessary, to study mitigation efforts and complete~~  
13 ~~the data analysis required by this division.~~

14 ~~17035. All reports required to be submitted to the Legislature~~  
15 ~~pursuant to this division shall be submitted in compliance with~~  
16 ~~Section 9795 of the Government Code.~~

O

97





CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

CONSENT CALENDAR  
 July 28, 2020

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Rigel Robinson and Councilmember Ben Bartlett  
 Subject: Support for SB 288: Sustainable Transportation COVID-19 Recovery Act

RECOMMENDATION

Send a letter to Senator Scott Wiener, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Senate Bill 288, which would exempt specified transportation projects from environmental review under CEQA, including bus rapid transit projects, pedestrian and bicycle facilities, and zero-emission charging stations.

BACKGROUND

The California Environmental Quality Act requires agencies to assess the significant environmental impacts of proposed discretionary projects before approval. Current law exempts certain categories of projects from CEQA requirements, including increases to service on existing rail or highway rights-of-way.

SB 288, introduced by Senator Scott Wiener, would extend the following existing exemptions until 2030: 1) bicycle transportation plans for an urbanized area for restriping of streets and highways, 2) bicycle parking and storage, 3) signal timing to improve street and highway intersection operations, and 4) related signage for bicycles, pedestrians, and vehicles under certain conditions. Additionally, this bill would further exempt projects relating to updated and new transit stations, bus rapid transit lines, safer streets for biking and walking, zero-emission vehicle charging facilities, and repairs for bridge and transit storage facilities.

The environmental benefits of public transit, bicycle, and pedestrian infrastructure are already well-documented. The City of Berkeley Climate Action Plan states that to meet our greenhouse gas reduction goals, “transportation modes such as public transit, walking and bicycling must become the primary means of fulfilling our mobility needs, and remaining motor vehicle use must be far less carbon-intensive.”<sup>1</sup> Recommended actions to achieve this goal include:

- Increasing the safety, reliability, and frequency of public transit.
- Accelerating implementation of the City’s Bicycle and Pedestrian Plans and continuing efforts to make walking and cycling safe, healthy, and enjoyable alternatives to driving.

<sup>1</sup> [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Energy\\_and\\_Sustainable\\_Development/Berkeley%20Climate%20Action%20Plan.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Berkeley%20Climate%20Action%20Plan.pdf)

- Creating incentives for low-carbon vehicles such as electric vehicles and plug-in hybrids.

Several other countries, such as Canada and Germany, do not require full environmental impact reviews for sustainable transportation projects since they are presumed to have a positive impact on the environment.<sup>2</sup> Delays in such projects due to CEQA reviews and lawsuits can add years to project timelines, driving up costs and obstructing the rapid infrastructure investments we need to effectively combat climate change.

Accelerating sustainable transportation projects is especially important now, as unemployment skyrockets and transportation agencies and cities across California struggle with strained budgets due to the COVID-19 pandemic. According to the bill text, “investments in building public transit, complete streets, and bicycle lanes are proven job generators and can help California avoid an extreme and prolonged recession by growing and protecting jobs. Studies have shown that complete streets projects create an average of 10 jobs per one million dollars. Investments in public transportation result in an average of 13 jobs per one million dollars spent and have a 5 to 1 economic return.”<sup>3</sup>

SB 288 would put the City of Berkeley on the right track towards economic recovery and meeting our GHG reduction goals. The Council should support the passage of this legislation, and send the attached letter of support to Senator Scott Wiener, Senator Nancy Skinner, and Assemblymember Buffy Wicks.

#### FINANCIAL IMPLICATIONS

None.

#### ENVIRONMENTAL SUSTAINABILITY

The transportation sector comprises 60 percent of Berkeley’s greenhouse gas emissions. Ensuring the acceleration of sustainable infrastructure investments, which promote walking, biking, and taking public transit, is aligned with the goals put forth in the City’s Climate Action Plan.<sup>4</sup>

#### CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

#### Attachments:

1: Letter of support

---

<sup>2</sup> <https://sf.streetsblog.org/2020/06/16/bill-would-streamline-transit-bike-and-ped-projects/>

<sup>3</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB288](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB288)

<sup>4</sup> <https://www.cityofberkeley.info/climate/>



2: Bill text

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB288](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB288)

July 28, 2020

The Honorable Scott Wiener  
California State Senate  
State Capitol, Room 5100  
Sacramento, CA 95814

**RE: City of Berkeley's Support for Senate Bill 288**

Dear Senator Wiener,

The Berkeley City Council would like to convey our full support for SB 288, regarding CEQA exemptions for sustainable transportation projects such as updated and new transit stations, bus rapid transit lines, pedestrian and bicycle projects, zero-emission vehicle charging facilities, and repairs for bridge and transit storage facilities.

As California sets out on a long road of economic recovery from the impacts of COVID-19, renewed investment in public transit, pedestrian, and bicycle infrastructure will create much-needed jobs. As the state slowly begins the process of re-opening safely, we must also ensure that polluting vehicle traffic does not bounce back to pre-COVID levels, which would prevent California from reaching its stated goal of reducing greenhouse gas emissions 40 percent below 1990 levels by 2030.

Environmental reviews for public transportation projects that are inherently pro-environment are often lengthy, expensive, and can cause years of delay. Especially at a time when public transit agencies and cities are suffering from reduced ridership and severe budget cuts, these additional costs and delays can render projects infeasible altogether.

California should be fast-tracking such projects, not delaying them. The Berkeley City Council supports SB 288 and thanks you for taking the lead on this important issue.

Sincerely,

The Berkeley City Council

CC: Senator Nancy Skinner  
Assemblymember Buffy Wicks



CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

CONSENT CALENDAR  
 July 28, 2020

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Rigel Robinson  
 Subject: Support for SB 902: Authorizing Cities to Rezone for Density

RECOMMENDATION

Send a letter to Senator Scott Wiener, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Senate Bill 902, which would authorize local governments to upzone urban infill sites and parcels in transit- or jobs-rich areas for up to 10 units of residential density.

BACKGROUND

SB 902, introduced by Senator Scott Wiener, would allow local governments to more easily increase the allowable unit density in any parcel located in a transit-rich area, a jobs-rich area, or an urban infill site to up to 10 units per parcel. The bill imposes no requirement or mandate that such increase in density be made, only reducing barriers for such an increase to occur. Many local governments across the state struggle to increase allowable density even when the political desire exists to do so because of onerous and lengthy review processes and the possibility of CEQA litigation on what, in this case, amounts to a very modest change.

While recent housing legislation has been met with concerns of preemption of local control, this bill would assist the City of Berkeley in more easily accommodating additional housing while allowing our community to identify the best way to do so. The Council would maintain the authority to identify areas at risk of gentrification and displacement and craft our density policies with those impacts in mind. Should this law pass, the City would be under no obligation to take any action; rather, the path would be clearer should we decide to do so.

Increasing allowable unit density in parts of the city less at risk to displacement and gentrification is an excellent tool to increase the housing supply while integrating the City. Many of the most exclusionary, wealthiest, and whitest neighborhoods in Berkeley have zoning laws that effectively prohibit apartments from being constructed. Increasing allowable unit density in these neighborhoods would allow for increased integration, pose minimal displacement risk, and increase our housing supply.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Attachments:

1: Letter of support

2: Bill text

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB902](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB902)

July 28, 2020

The Honorable Scott Wiener  
California State Senate  
State Capitol, Room 5100  
Sacramento, CA 95814

**RE: City of Berkeley's Support for Senate Bill 902**

Dear Senator Wiener,

The Berkeley City Council would like to convey our full support for Senate Bill 902, regarding enabling local governments to upzone urban infill sites and parcels in transit- or jobs-rich areas.

While modest in scope, we know that unnecessary and repetitive review steps for zoning amendments have built up in many jurisdictions, posing a barrier to increasing density even when the political desire exists at councils and county boards to do so. Frequently, frivolous lawsuits under CEQA are tossed up to slow down density, undermining the actual important work of that law. Your bill will effectively clear the way for jurisdictions to increase the supply of badly needed housing while maintaining local control.

This balanced bill is one part of the solution to our housing crisis, and we cannot see why it should garner any opposition.

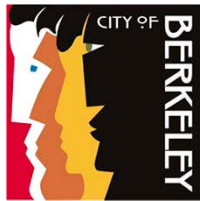
Thank you for this important piece of legislation.

Sincerely,

The Berkeley City Council

CC: Senator Nancy Skinner  
Assemblymember Buffy Wicks





CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

CONSENT CALENDAR  
 July 28, 2020

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Rigel Robinson, Councilmember Ben Bartlett, and  
 Councilmember Sophie Hahn  
 Subject: Support for AB 2542: The California Racial Justice Act

RECOMMENDATION

Send a letter to Assemblymember Ash Kalra, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 2542, which would prohibit the state from seeking or obtaining a criminal conviction, or from imposing a sentence, based on race, ethnicity, or national origin.

BACKGROUND

AB 2542, introduced by Assemblymember Ash Kalra, would enable a person charged or convicted of a crime to challenge racial bias in their case, as shown through evidence of 1) explicit racial bias by an attorney, judge, law enforcement officer, expert witness, or juror, 2) use of racially discriminatory language in court and during criminal proceedings, 3) racial bias in jury selection, 4) statistical disparities in charging and convictions of specific crimes, or 5) statistical disparities in sentencing.<sup>1</sup>

In 1987, the U.S. Supreme Court ruled in *McCleskey v. Kemp* that statistical evidence was insufficient to prove racial discrimination in court, instead requiring “exceptionally clear proof” -- a higher, and often impossible threshold to meet.<sup>2</sup>

This ruling has made it extremely difficult to confront racism in the American criminal justice system. Purposeful and blatant discrimination that can be clearly proved constitutes only a small portion of the racial bias that harms BIPOC defendants in court. All-white juries and clear patterns of Black and brown people being subjected to harsher sentences for the same crime are also pervasive forms of racism.

A 2012 Duke study found that all-white juries convict Black defendants 16 percent more often than they do white defendants.<sup>3</sup> Despite the court ruling in *Batson v. Kentucky* (1986) that lawyers cannot use peremptory challenges to exclude potential jurors on the basis of race, they continue to do so. Studies showed that in North Carolina,

<sup>1</sup> [https://twitter.com/Ash\\_Kalra/status/1280235432416997376/photo/4](https://twitter.com/Ash_Kalra/status/1280235432416997376/photo/4)

<sup>2</sup> <https://supreme.justia.com/cases/federal/us/481/279/>

<sup>3</sup> <https://today.duke.edu/2012/04/jurystudy>

prosecutors were 2.5 times more likely to dismiss Black jurors in death-row cases. In Caddo Parish, Louisiana, prosecutors were three times as likely to do so.<sup>4</sup>

In the *McCleskey* majority opinion, the Supreme Court observed that state legislatures retain the power to address this issue through state law. Kentucky has passed a version of the Racial Justice Act specifically regarding the death penalty,<sup>5</sup> and North Carolina did as well until it was overturned by a Republican majority. On June 5, 2020, North Carolina's Supreme Court issued an order restoring the full protections of the act for people who filed claims before its repeal in 2013.<sup>6</sup>

The State of California has laws prohibiting racial discrimination in employment, housing, and public accommodation, but no counterpart for discrimination in the criminal justice system.<sup>7</sup> By explicitly outlawing discrimination in criminal convictions and sentencing, this bill would provide recourse for victims of racial bias. The Berkeley City Council should support AB 2542 and send the attached letter of support to Assemblymember Ash Kalra, Senator Nancy Skinner, and Assemblymember Buffy Wicks.

#### FINANCIAL IMPLICATIONS

None.

#### ENVIRONMENTAL SUSTAINABILITY

No impact.

#### CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Attachments:

1: Letter of support

2: Bill text

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB2542](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB2542)

---

<sup>4</sup> <https://psmag.com/news/the-data-that-shows-american-juries-are-racially-biased>

<sup>5</sup> <https://nkaa.uky.edu/nkaa/items/show/728#:~:text=African%20Americans%20Database-,Kentucky%20Racial%20Justice%20Act%20of%201998,death%20penalty%20will%20be%20barred.>

<sup>6</sup> <https://www.aclu.org/press-releases/north-carolina-supreme-court-finds-repeal-racial-justice-act-unconstitutional>

<sup>7</sup> <https://www.shrm.org/resourcesandtools/tools-and-samples/hr-ga/pages/californiafairemploymenthousingact.aspx>



July 28, 2020

The Honorable Ash Kalra  
California State Assembly  
State Capitol, Room 2196  
Sacramento, CA 95814

**RE: City of Berkeley's Support for Assembly Bill 2542**

Dear Assemblymember Kalra,

The Berkeley City Council would like to convey our full support for AB 2542, which would enable a person charged or convicted of a crime to challenge racial bias in their case.

The *McCleskey* decision is a stain on our court system that has allowed racism to go unchecked for far too long. Purposeful and blatant discrimination that can be clearly proved constitutes only a small portion of the racial bias that harms BIPOC defendants in court. All-white juries and clear patterns of Black and brown people being subjected to harsher sentences for the same crime are also pervasive forms of racism. Without an explicit law that prohibits discrimination, the courts will continue to perpetuate the mass incarceration of people of color, especially Black people.

The California Racial Justice Act builds on the precedent set by Kentucky's and North Carolina's efforts, and goes further to prohibit racial discrimination in all convictions and sentences. This is a crucial piece of legislation that takes another step towards eliminating racial bias in the American criminal justice system and providing victims of discrimination with legal recourse.

The Berkeley City Council supports AB 2542 and thanks you, the bill's sponsors, and principal co-authors Senator Steve Bradford, Senator Lena Gonzalez, and Senator Holly Mitchell for taking the lead on this important issue.

Sincerely,

The Berkeley City Council

CC: Senator Nancy Skinner  
Assemblymember Buffy Wicks





Lori Droste  
Berkeley City Councilmember, District 8

Consent Calendar  
July 28, 2020

To: Honorable Mayor and Members of the City Council  
From: Councilmember Lori Droste  
Subject: Support for AB 2345 (CA Density Bonus)

**Recommendation:**

That the Berkeley City Council send a letter supporting AB 2345, authored by Assemblymember Lorena Gonzalez and Assemblymember David Chiu which will help address California’s housing crisis by expanding the state density bonus for housing developers who commit to building additional affordable units.

**Financial Implications:**

None.

**Background:**

This bill will help ensure that more affordable housing is built in California by modifying the State’s existing density bonus law. AB 2345 will increase the maximum density bonus a developer can receive in exchange for committing a higher number of affordable units. AB 2345 will also allow developers to access more incentives like reduced parking requirements, setback relief and modified design requirements, if they commit to a higher percentage of affordable units.

With more than 40 percent of all California households considered cost-burdened—meaning households spend more than 30 percent of their monthly income on housing costs—AB 2345 will provide developers the incentive to build the affordable units we urgently need in California.

**Environmental Sustainability:** No impact

**Contact Person:**

Councilmember Lori Droste Council District 8 510-981-7180

**Attachment 1: Draft Letter of Support**

**Attachment 2: Legislative Digest**

July 28, 2020

The Honorable Assemblymember Lorena Gonzalez  
California State Assembly  
State Capitol  
P.O. Box 942849  
Sacramento, CA 94249

RE: Assembly Bill 2345 - CA Density Bonus - SUPPORT

Dear Assemblymembers Gonzalez and Chiu,

Berkeley City Council is pleased to support AB 2345, which will help address California's housing crisis by expanding the state density bonus for housing developers who commit to building additional affordable units.

AB 2345 will increase the maximum density bonus a developer can receive in exchange for committing a higher number of affordable units. It will also allow developers to access more incentives like reduced parking requirements, setback relief and modified design requirements, if they commit to a higher percentage of affordable units.

With more than 40 percent of all California households considered cost-burdened—meaning households spend more than 30 percent of their monthly income on housing costs—AB 2345 will provide developers the incentive to build the affordable units we urgently need in California.

By including additional incentives to the state density bonus, this legislation will help add thousands of new units to California's housing stock. For these reasons and more, Berkeley City Council is proud to support AB 2345.

Sincerely,  
Berkeley City Council

CC: Assemblymember Buffy Wicks  
Senator Nancy Skinner

Introduced by Assembly Members Gonzalez and Chiu

February 18, 2020

---

An act to amend ~~Section~~ *Sections 65400 and* 65915 of the Government Code, relating to housing.

## LEGISLATIVE COUNSEL'S DIGEST

AB 2345, as amended, Gonzalez. Planning and zoning: density bonuses: *annual report*: affordable housing.

### **Existing**

*(1) The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. That law requires the planning agency of a city or county to provide by April 1 of each year an annual report to, among other entities, the Department of Housing and Community Development that includes, among other specified information, the number of net new units of housing that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, as provided.*

*This bill would require that the annual report include specified information regarding density bonuses granted in accordance with specified law.*

*(2) Existing law, known as the Density Bonus Law, requires a ~~city or county~~ city, county, or city and county to provide a developer that proposes a housing development within the jurisdictional boundaries of that ~~city or county~~ city, county, or city and county with a density bonus and other incentives or concessions for the production of lower income housing units, or for the donation of land within the development, if the developer agrees to construct a specified percentage of units for very low income, low-income, or moderate-income households or qualifying residents and meets other requirements. Existing law provides for the calculation of the amount of density bonus for each type of housing development that qualifies under these provisions. Existing law specifies the number of incentives or concessions that an*

applicant can receive. Existing law ~~specifies~~ *requires* that an applicant ~~shall~~ receive 3 incentives or concessions for projects that include at least 30% of the total units for lower income households, at least 15% for very low income households, or at least 30% for persons or families of moderate income in a common interest development. Existing law ~~specifies~~ *requires* that an applicant ~~shall~~ receive 4 incentives or concessions for projects in which 100% of the total units are for lower income households, as specified.

This bill, instead, would authorize an applicant to receive 3 incentives or concessions for projects that include at least 30% of the total units for lower income households, at least 12% of the total units for very low income households, or at least 30% for persons or families of moderate income in a common interest development. The bill would also authorize an applicant to receive 4 and 5 incentives or concessions, as applicable, for projects in which greater percentages of the total units are for lower income households, very low income households, or for persons or families of moderate income in a common interest development, as specified. The bill would also authorize an applicant to receive 6 incentives or concessions for projects in which 100% of the total units are for lower income households, as specified.

Existing law provides that a housing development that receives a waiver from any maximum controls on density, as specified, ~~shall not be~~ *is not* eligible for, and ~~shall not receive,~~ *prohibits such a development from receiving,* a waiver or reduction of development standards.

This bill, instead, would provide that a housing development that receives a waiver from any maximum controls on density, ~~shall only be~~ *is only* eligible for a specified waiver or reduction of development standards, unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

Existing law specifies that the density bonus, or the amount of the density increase over the otherwise allowable gross residential density, to which an applicant is entitled varies according to the amount by which the percentage of affordable housing units in a development exceeds a specified base percentage for units for lower income households, very low income households, senior citizens, persons and families of moderate income, transitional foster youth, or lower income students, as specified. Existing law authorizes a maximum density bonus of 35% for a housing development in which 20% or more of the total units are for lower income households. Existing law authorizes a maximum density bonus of 35% for a housing development in which 11% or more of the total units are for very low income households. Existing law authorizes a maximum density bonus of 35% for housing developments in which 40% or more of the total units are for persons and families of moderate income.

This bill would include a maximum density bonus for a housing development in which 16% of the total units are for lower income households and would increase the maximum density bonus, to up to 50%, for construction of a housing development in which a greater percentage than that described above of total units are for lower income households, very low income households, and persons and families of moderate income, as specified.

By adding to the duties of local planning officials with respect to the award of density bonuses, this bill would impose a state-mandated local program.

~~Existing law specifies that,~~

*(3) Existing law prohibits,* except as provided, upon the request of a developer, a city, county, or city and county ~~shall not require~~ *from requiring* a vehicular parking ratio for a development that qualifies for a density bonus that exceeds specified amounts of onsite parking per bedroom. Existing law also specifies the parking ratios applicable to a development that include a maximum percentage of low-income or very low income units, that is located within  $\frac{1}{2}$  mile of a transit stop, and that provides unobstructed access to the transit stop from the development.

This bill would decrease the maximum ratio of vehicular parking for developments with 2 to 3 bedrooms, as specified. This bill would define the term “natural or constructed impediments” for purposes of determining whether a development has unobstructed access to a transit stop. The bill would ~~specify~~ *require* that the measurement of the distance of a development from a transit stop ~~shall~~ be measured from any point on the property of the proposed development to any point on the property where the transit stop is located. The bill would authorize a developer to request that a city, county, or city and county not impose vehicular parking standards if the development meets specified ~~requirements,~~ *affordability requirements and either (A) provides unobstructed access to a major transit stop, as defined, or (B) is a for-rent housing development for individuals who are 62 years of age or older, and older that* will have either paratransit service or unobstructed access to a fixed bus route, as specified.

*(4) Existing law requires a city, county, or city and county to adopt an ordinance that specifies how it will implement the Density Bonus Law, but provides that failure to adopt an ordinance does not relieve a city, county, or city and county from complying with that law. Existing law also authorizes a city, county, or city and county, if permitted by local ordinance, to grant a density bonus greater than what is described in the Density Bonus Law or to grant a proportionately lower density bonus than what is required by the Density Bonus Law for developments that do not meet the requirements of that law.*

*This bill, notwithstanding any other law, would provide that a city, county, or city and county that has adopted an ordinance pursuant to the Density Bonus Law that, as of the date immediately prior to the effective date of bill, provides for density bonuses that exceed the density bonuses required by the Density Bonus Law is not required to amend or otherwise update its ordinance to comply with the amendments made by this bill.*

*(5) By adding to the duties of local planning officials with respect to preparing and submitting the above-described annual report to the Department of Housing and Community Development and awarding density bonuses, this bill would impose a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.





Office of the City Manager

PUBLIC HEARING

July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Interim Director, Department of Planning and Development

Subject: Amendment of Urgency Ordinance for Outdoor Commerce on Private Property

**RECOMMENDATION**

Conduct a public hearing and, upon conclusion, adopt amendments to the Urgency Ordinance (Number 7,725-N.S.) amending Berkeley's Zoning Ordinance, Chapter 23E.18 and Section 23B.20.045, to allow additional categories of commerce and establish additional operating criteria for outdoor activities on private property.

FISCAL IMPACTS OF RECOMMENDATION

May result in increased sales and employment tax revenues due to additional commercial activity compared to the status quo.

CURRENT SITUATION AND ITS EFFECTS

On July 7, 2020, City Council adopted an Urgency Ordinance adding Chapter 23E.18 and Section 23B.20.045 to provide a non-discretionary approval process (Zoning Certificate/Business License) to establish outdoor commerce on private property, subject to certain objective criteria and nuisance provisions. For more information on adoption of the Urgency Ordinance, refer to the July 7, 2020 City Council report (see *Attachment 2*).

At that hearing, Councilmembers asked whether additional business activities could be considered for inclusion in the program, and what restrictions would be appropriate for those categories of uses. Examples included manufacturing, salons, and other uses. Equity considerations and broad risk reduction strategies were also raised as considerations. Concern was also expressed about internally inconsistent lists of allowable activities. This report provides recommendations for amendments that satisfy Council inquiries.

BACKGROUND

The COVID-19 pandemic, and the associated imperative to avoid close physical contact with others, especially indoors, is having devastating impacts on Berkeley businesses. On June 2, 2020, the Berkeley City Council adopted a referral to the City Manager to explore strategies to expand outdoor dining and commerce so that businesses will be

able to comply with health guidelines and operate with sufficient capacity to remain solvent during the duration of the current public health emergency. At the meeting on June 16, 2020, the City Council adopted three urgency ordinances to permit outdoor dining, commerce, and associated amenities in the public right-of-way.

On July 7, 2020, the Berkeley City Council adopted an ordinance (see Attachment 1) pursuant to the City Charter to allow outdoor commercial activity on private property without discretionary zoning approval for certain uses in specified districts subject to objective operating criteria and nuisance provisions. The ordinance focused on outdoor retail and dining, assuming that most such businesses would be located along established commercial corridors where a parking lot or patio could be repurposed for customer access and would not result in unusual difficulties maintaining physical distance if proper protocols are followed. The ordinance also allowed outdoor assembly (e.g. classes, exercise, and religious assembly). The ordinance also applied in the MU-LI (Mixed Use Light Industrial) and MM (Mixed Manufacturing) zoning districts, where similar uses are allowed.

#### ENVIRONMENTAL SUSTAINABILITY

None.

#### RATIONALE FOR RECOMMENDATION

The proposed amendments to the urgency ordinance include additional uses and criteria based on the existing orders of the California Governor and the City Health Officer, including a list of allowable activities and criteria. The following links are to the most recent orders.

<https://covid19.ca.gov/stay-home-except-for-essential-needs/>

[https://www.cityofberkeley.info/uploadedFiles/Health\\_Human\\_Services/Public\\_Health/covid19/COB-health-order-n20-10-phased-reopening.pdf](https://www.cityofberkeley.info/uploadedFiles/Health_Human_Services/Public_Health/covid19/COB-health-order-n20-10-phased-reopening.pdf)

[https://www.cityofberkeley.info/uploadedFiles/Health\\_Human\\_Services/Public\\_Health/covid19/COB-health-order-n20-07-shelter-in-place-appendix-c-additional-businesses-permitted.pdf](https://www.cityofberkeley.info/uploadedFiles/Health_Human_Services/Public_Health/covid19/COB-health-order-n20-07-shelter-in-place-appendix-c-additional-businesses-permitted.pdf)

Future orders may influence the pace of reopening and the allowable activities and criteria. Therefore, staff recommends that the Council incorporate those future orders by reference to maintain compliance with expansions or contractions in allowable activities. Overall, it is expected that businesses that are able to adjust to outdoor activity will take the opportunity, and thus will be better able to maintain their economic viability and employment base, but others will be limited by space and operational constraints. Therefore, the ordinance also allows businesses to share space in order to facilitate outdoor markets, use of vacant or underutilized space, and cost sharing.

ALTERNATIVE ACTIONS CONSIDERED

Council may consider other allowable used and criteria for outdoor commerce on private property.

CONTACT PERSON

Jordan Klein, Interim Director, Department of Planning and Development, 510-981-7534  
Steven Buckley, Land Use Planning Manager, Department of Planning and Development, 510-981-7411

Attachments:

- 1: Ordinance 7,725-N.S. (not submitted with report)
- 2: Proposed Amendments
- 3: Governor's Order (linked in body of report)
- 4: Health Officer's Order and Appendices (linked in body of report)
- 5: Public Hearing Notice

ORDINANCE NO. -N.S.

AMENDING URGENCY ORDINANCE NO. 7,725-N.S. ADOPTED JULY 7, 2020 TO INCLUDE ADDITIONAL ALLOWABLE COMMERCIAL ACTIVITIES AND TO INCLUDE ADDITIONAL OPERATIONAL CRITERIA ON PRIVATE PROPERTY WITHOUT REQUIRING A DISCRETIONARY PERMIT IN ORDER TO SAFELY SUPPORT LOCAL BUSINESSES DURING THE COVID-19 PANDEMIC.

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

Section 1. That Berkeley Municipal Code Chapter 23E.18 is adopted to read as follows:

**BMC Chapter 23E.18 Temporary Outdoor Uses on Private Property**

Sections:

- 23E.18.010 Purpose
- 23E.18.020 Definitions
- 23E.18.030 Applicability
- 23E.18.040 Requirements
- 23E.18.050 Operating Standards
- 23E.18.060 Remedies

**23E.18.010 Purpose**

The purpose of this chapter is:

- A. To relax regulation on private property to support existing or new legally established commercial businesses during the locally declared state of emergency related to COVID-19.
- B. To expand customer access to commercial businesses during the locally declared state of emergency related to COVID-19.
- C. To establish requirements and operating standards associated with relaxed regulation during the locally declared state of emergency related to COVID-19.

**23E.18.020 Definitions**

The definitions set forth in this Section shall govern the meaning of the following terms as used in this Chapter:

- A. Temporary Outdoor Use – An allowable temporary use on private property conducted by a legally established ~~Retail, Food Service Establishment or General Assembly~~ business in the same zoning district as it currently operates.

- B. Temporary Fixtures and Structures – Physical equipment necessary to safely conduct business outdoors.

**23E.18.030 Applicability**

- A. Regulation in this Chapter is valid during and up to 90 days after the locally declared state of emergency related to COVID-19.
- B. Regulation in this Chapter applies to existing and new ~~commercial~~ businesses with a valid City of Berkeley Business License.
- C. Regulation in this Chapter applies to private property in ~~all the~~ Commercial zoning districts, the Mixed Use Light-Industrial (MU-LI) district, the Manufacturing (M) district, and the Mixed Manufacturing (MM) district.
- D. The following ~~commercial~~ businesses are not eligible to obtain a Zoning Certification for Temporary Outdoor Use:
  - 1. Delivery-Only (Cannabis) Retailers
  - 2. Liquor Stores / Wine Shops
  - 3. Adult-oriented Businesses
  - 4. Smoke Shops
  - 5. Firearm/Munitions Businesses

**23E.18.040 Requirements**

- A. Legally established businesses ~~in the following Use categories authorized by the Governor's Executive Orders and Public Health Orders and the Public Health Orders of the City Health Officer, including appendices, to conduct outdoor business~~ may conduct business outdoors on private property with a Zoning Certificate for Temporary Outdoor Use subject to compliance with the Executive Orders and Public Health Orders and other guidance related to phased reopening in Berkeley.
  - ~~1. Retail, except those listed in Section 23E.18.030 [Applicability]~~
  - ~~2. Food Service Establishments~~
  - ~~3. Alcoholic Beverage Service (Incidental to Food Service)~~
  - ~~4. Assembly Uses~~
  - ~~5. Entertainment~~
- B. Temporary Outdoor Uses may be conducted:
  - 1. On private property at the address listed on a business's City of Berkeley business license, and/or
  - ~~6. business license.~~

~~7. Temporary Outdoor Uses may be conducted on private property at an address other than that listed on a business's City of Berkeley business license if the following conditions are met:~~

~~8.2. The property is used for commercial purposes, is a vacant lot, or is a vacant building in a Commercial zoning district, the MU-LI district or the MM district.~~

~~a. Temporary Outdoor Uses shall be conducted in the same Zoning District where the business legally operates.~~

~~C.~~ The operator of the Temporary Outdoor Use ~~has~~ must have the written permission of and assurance of the property owner to maintain compliance with Section 23E.18.050 [Operating Standards].

~~B.D.~~ An application for a Zoning Certificate for a Temporary Outdoor Use must be accompanied by a site plan, business description and operational plan that certifies compliance with Section 23E.18.050 [Operating Standards]

### 23E.18.050 Operating Standards

A Zoning Certificate does not constitute permission to operate ~~under the orders of the State and local Health Officers~~ unless businesses comply with the following regulations:

- A. Businesses shall comply with State and local regulations for normal business operations in addition to State regulations for outdoor operations.
- B. Businesses shall follow the Governor's Executive Orders Public Health Orders and the City of Berkeley Public Health Orders, including Appendices. City of Berkeley's COVID-19 Public Health Officer Orders.
- C. Businesses shall comply with Americans with Disabilities Act (ADA) requirements and Berkeley Building Code (BMC Chapter 19.28).
- ~~D.~~ Temporary Outdoor Uses shall maintain a 10-foot setback adjacent to property in a Residential District ~~in order to reduce impacts from allowable noise, odor, smoke and light.~~

~~E.D.~~

~~F.E.~~ Food Service Establishments with incidental alcoholic beverage service must comply with all applicable regulations of the California Department of Alcohol Beverage Control and obtain a COVID-19 temporary catering authorization.

~~G.F.~~ Sanitation

- 1. Businesses shall provide garbage, recycling and compost services in accordance with the Alameda County Mandatory Recycling Ordinance.
- 2. Food service establishments shall provide restrooms and sanitation during hours of operation.

3. Food service establishments shall comply with Berkeley's Single Use Foodware and Litter Reduction Ordinance effective July 1, 2020.

H.G. Operating Hours for Temporary Outdoor Uses shall be limited to 9am to 9pm. Hours of operation include the time that the business is open for customer access to the departure of the last patron. These limitations do not apply to the delivery, maintenance, security, product preparation and other pre-opening activities, and, cleanup, shutdown, and other post-closure activities which do not involve presence of customers.

H.H. Safety:

1. If Temporary Outdoor Uses are located within an active parking lot, businesses shall provide temporary barriers to separate vehicle traffic from pedestrians and commercial activity.
2. If Temporary Outdoor Uses fully occupy a parking lot, businesses shall provide temporary barriers to prevent vehicle traffic from entering the parking lot.

H.I. Parking and loading requirements on private property are temporarily suspended if a Temporary Outdoor Use displaces areas designated for these purposes.

H.J. Permits issued pursuant to this Section shall be posted in plain view within the commercial establishment for which the permit has been issued.

H.K. Other Impacts

1. Temporary Outdoor Uses shall be conducted in a manner that protects the residential character of surrounding neighborhoods from adverse impacts, including, but not limited to commercial noise and offensive odors.
2. Smoking shall be prohibited in areas designated for Temporary Outdoor Uses as set forth in BMC Section 12.70.030 [Locations where smoking is prohibited].
3. Temporary outdoor lighting fixtures must be oriented in a manner to direct the light away from adjacent parcels.

H.L. Temporary Fixtures and Structures

1. Temporary Fixtures and Structures intended to support Temporary Outdoor Uses must be identified on a site plan and show compliance with Section 23E.18.050 [Operating Standards]
2. Movable fixtures such as tables/chairs, umbrellas, heaters, generators, trucks and trailers shall be stored in a secure place on private property when not in use.
3. Fixed structures such as semi-permanent tents, shipping containers, portable sinks and toilets, shall occupy no more than 50% of the outdoor

space dedicated to a Temporary Outdoor Use in order to allow for appropriate social distancing

4. The location, type and operation of Temporary Fixtures and Structures must comply with the requirements of and be inspected by the Building and Safety Division, Health Department, Fire Department, Police Department and/or Public Works Department, as applicable for safety.

### **23E.18.060 Remedies**

- A. A Zoning Certificate for Temporary Outdoor Use may be revoked for non-compliance with any conditions designated herein and the Zoning Officer may issue a cease and desist order immediately.
- B. A Temporary Outdoor Use that meets the nuisance criteria set forth in Section 23B.64.020 [Nuisances Defined] shall be considered a public nuisance and is subject to abatement as set forth in Chapter 23B.64 [Nuisance Abatement].

Section 2. That Berkeley Municipal Code Section 23B.20.045 is adopted to read as follows:

### **BMC Section 23B. 20.045 Zoning Certificates for Temporary Outdoor Uses**

- A. Zoning Certificates for Temporary Outdoor Uses shall be required for businesses that are not normally permitted to operate outdoors, but are allowed to operate outdoors on private property during the locally declared state of emergency related to COVID-19 and for 90 days after the emergency is lifted.
- B. Zoning Certificates for Temporary Outdoor Uses are subject to the requirements of Chapter 23B.20 [Zoning Conformance Review].

Section 3 This Ordinance is adopted as an urgency ordinance pursuant to the Charter of the City of Berkeley, Article XIV, Section 93 and shall be effective immediately. The City Council finds and determines that the adoption of this Ordinance as an urgency ordinance is necessary for the immediate preservation of the public peace, health and safety of the residents of the City of Berkeley.

### Section 4. Findings

- a. In December 2019, an outbreak respiratory illness due to a novel coronavirus (COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, across the world, including the United States.
- b. COVID-19 presents a public health concern that requires extraordinary protective measures and vigilance.



- c. The Center for Disease Control (“CDC”) activated its Emergency Response System to provide ongoing support for the response to COVID–19 on January 23, 2020.
- d. A national emergency was declared on March 13 to assist with combating COVID-19.
- e. Governor Gavin Newsom declared a state of emergency in California to “prevent, hinder, or delay appropriate actions to prevent and mitigation the effects of the COVOD-19” on March 14.
- f. Between March 16, 2020 and June 19, 2020, Berkeley’s Public Health Officer issued a series of health orders placing prohibitions on indoor activities and severe limitations on commercial business operations.
- g. In an effort to support businesses during the shelter in place orders, the City of Berkeley is establishing a Temporary Outdoor Use for commercial activities on private property to provide businesses with an option to operate safely and remain solvent during the duration of the public health emergency.
- h. In an effort to protect customers and employees of commercial businesses, the City of Berkeley is establishing a Temporary Outdoor Use for commercial activities on private properties to allow businesses to operate in compliance health guidelines and reduce risks of viral transmission.
- i. For these reasons, there is a current and immediate threat to the public health, safety, and welfare, and that failure to adopt the proposed amendments to the Zoning Ordinance would exacerbate that threat to public health, safety, and welfare.

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

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**Amendment of Urgency Ordinance for Outdoor Commerce on Private Property**

The hearing will be held on July 28, 2020 at 6:00 p.m. The hearing will be held via videoconference pursuant to Governor’s Executive Order N-29-20.

A copy of the agenda material for this hearing will be available on the City’s website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of July 16, 2020. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Jordan Klein, Interim Director, Planning and Development Department at 510-981-7534.

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to [council@cityofberkeley.info](mailto:council@cityofberkeley.info) in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Posted:** July 16, 2020

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on July 16, 2020.

Mark Numainville, City Clerk



Office of the City Manager

PUBLIC HEARING

July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Interim Director, Planning & Development Department

Subject: General Plan Redesignation and Rezone of The Rose Garden Inn at 2740 Telegraph Avenue (APN 054-1716-002-00), 2744 Telegraph Avenue (APN 054-1716-003-00), and 2348 Ward Street (APN 054-1716-031-00)

RECOMMENDATION

Conduct a public hearing and upon conclusion:

1. Adopt a resolution amending the General Plan land use designations of portions of parcels that comprise The Rose Garden Inn from Low Medium Density Residential to Avenue Commercial;
2. Adopt first reading of an ordinance amending the Zoning Map for the portion of parcels that comprise the Rose Garden Inn from Restricted Two-Family Residential District (R-2) to General Commercial District (C-1); and
3. Certify that the reclassification of General Plan land use designations and rezoning are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Classes 1, 3, 5, and 31

FISCAL IMPACTS OF RECOMMENDATION

There are no direct fiscal impacts to the City of Berkeley by considering this General Plan redesignation and rezoning application. The property owner has an application pending to renovate the existing hotel site and add 14 hotel rooms. If these General Plan and zoning amendments are approved and The Rose Garden Inn improvements are built, the City may accrue increased property and transit occupancy tax revenues.

CURRENT SITUATION AND ITS EFFECTS

The Rose Garden Inn was originally established as a bed and breakfast in the 1970s. In the 1990s, it was converted to a hotel and restaurant. The Rose Garden Inn currently operates as a hotel with 40 guestrooms and a restaurant that is open to the general public.

The hotel occupies three parcels and includes five buildings (Attachment 3). The three parcels under consideration for a General Plan redesignation and rezoning are split-zoned between R-2 and C-1 (Attachment 4). One building (Building D) is also split between R-2 and C-1. The property owner is requesting the General Plan redesignation and Zoning Map amendment to bring the existing hotel uses at the Rose Garden Inn into conformity with the General Plan and Zoning Map. Previous work on this property, which included renovation of existing buildings and the addition of hotel rooms and improved food service areas, was approved with Use Permits, Design Review, Structural Alteration Permits and a Variance.

BACKGROUND

On December 4, 2019, the Planning Commission discussed and considered the proposed General Plan redesignation and zoning map amendments and directed staff to set a public hearing for the proposed amendments. On February 5, 2020, the Planning Commission conducted a public hearing and voted to recommend approval of the General Plan redesignation and rezone to the City Council by an 8-0-0-1 vote (Ayes: Beach, Kapla, Krpata, Lacey, Schildt, Vincent, Wiblin, and Wrenn. Noes: None. Abstain: None. Absent: Martinot.). See meeting minutes, included as Attachment 5.

ENVIRONMENTAL SUSTAINABILITY

There are no direct environmental opportunities from these proposed actions, however the existing hotel is on a major transit corridor and is within walking distance of Alta Bates Hospital and the University of California campus. If future improvements to the hotel are approved, they would need to meet the recently adopted 2019 California Building Code requirements which include higher sustainability standards.

RATIONALE FOR RECOMMENDATION

The rationale for the requested General Plan redesignation and zoning map amendment is to bring the existing hotel uses at the project site into conformity with the General Plan and Zoning Map, and to allow for future improvements to the hotel without need for a Variance (hotels are not allowed in the R-2 District). If approved, future improvements will be subject to C-1 development standards and regulations. The property owner is separately applying for Use Permits to upgrade and expand the non-historic portion of the hotel complex, which will be considered by the Zoning Adjustments Board if this zoning action is approved by the City Council. No changes to the overall use of the hotel are proposed and historic buildings (Berkeley Landmarks 125 and 126) would not be adversely impacted by these improvements.

The proposed General Plan redesignation and zoning map amendment would move the Low Medium Density/Avenue Commercial and the R-2/C-1 boundary approximately 50 feet west of its existing location to reflect the boundaries of the existing hotel site. Adjacent parcels to the north and south have the same geometry as this block-face (i.e. C-1 parcels fronting Telegraph Avenue and R-2 parcels to the west of the C-1). The proposed General Plan redesignation from Low Medium Density Residential to Avenue

Commercial and the rezoning of portions of the site from R-2 to C-1 would allow continuation of existing commercial uses at the project site that are compatible with commercial uses along the Telegraph Avenue corridor and have existed compatibly with the neighboring residential area.

The proposed General Plan amendment serves the public interest by allowing the entire existing hotel use to operate within a unified Avenue Commercial land use designation. The existing hotel has been in operation in some form since the 1970s. It is located on a pedestrian-friendly corridor that is serviced by a high-frequency bus line and is walking distance from Alta Bates Hospital and the UC Berkeley campus. These actions will also reconcile mapping irregularities that result in a split designation on a property that has been used as a hotel for several decades, and facilitate future renovation that would meet General Plan policies such as *Land Use Policy 13 and 27 (Basic Goods and Services and Avenue Commercial Areas)*, *Economic Development Policy 3 (Local Businesses)* and *Transportation Policy 16 (Access by Proximity)*. The Avenue Commercial land use designation would also be consistent with existing General Commercial land use designations along the Telegraph Avenue commercial corridor.

ALTERNATIVE ACTIONS CONSIDERED

The Council may deny the amendments, or continue the public hearing, or take no action, in which case the proposed renovation of The Rose Garden Inn would not occur.

CONTACT PERSON

Alene Pearson, Principal Planner, Planning & Development Department (510) 981-7489

Attachments:

- 1: Resolution for General Plan Amendment
Exhibit A: General Plan Amendment Map
- 2: Ordinance to adopt Zoning Amendment
Exhibit A: Zoning Amendment Map
- 3: Existing Site Plan
4. Current Zoning Map
- 5: Planning Commission meeting minutes– February 5, 2020
- 6: Public Hearing Notice of City Council Hearing on July 28, 2020

RESOLUTION NO. ___ N.S

AMENDING THE BERKELEY GENERAL PLAN TO REDESIGNATE ASSESSOR PARCEL NUMBERS (APNS) 054-1716-002-00, 054-1716-003-00, AND 054-1716-031-00 FROM LOW MEDIUM DENSITY RESIDENTIAL TO AVENUE COMMERCIAL

WHEREAS, the City Council of the City of Berkeley has the authority to approve and amend the designation of parcels from one General Plan land use designation to another in order to address unforeseen circumstances and changing priorities; and

WHEREAS, the redesignation of the noted parcels was prepared based on a request from a property owner that wishes to modify and unify the allowable uses within buildings and lots that currently cross General Plan land use designation boundaries; and

WHEREAS, on February 5, 2020, the Planning Commission held a duly noticed public hearing and took public testimony and recommended approval to the City Council regarding the adoption of a General Plan redesignation of Assessor Parcel Numbers (APNs) 054-1716-002-00, 054-1716-003-00, and 054-1716-031-00; and

WHEREAS, on July 28, 2020, the City Council held a duly noticed public hearing to consider the recommendations of the Planning Commission, staff, property owner and the general public regarding the General Plan map amendment of APNs 054-1716-002-00, 054-1716-003-00, AND 054-1716-031-00; and

WHEREAS, the proposed General Plan amendment serves the public interest by allowing the entire existing hotel use to operate within a unified Avenue Commercial land use designation. The existing hotel business has been in operation since the 1970s. It is located on a pedestrian-friendly corridor that is serviced by a high-frequency bus line and is walking distance from Alta Bates Hospital and the UC Berkeley campus; and

WHEREAS, the proposed General Plan amendment reconciles mapping irregularities that result in a split designation on a property that has been used as a hotel for several decades, as well as facilitates future renovation that would meet General Plan policies such as *Land Use Policy 13 and 27 (Basic Goods and Services and Avenue Commercial Areas)*, *Economic Development Policy 3 (Local Businesses)* and *Transportation Policy 16 (Access by Proximity)*.

WHEREAS, the proposed General Plan amendment would redesignate portions of the three parcels that comprise the Rose Garden Inn from Low Medium Density Residential to Avenue Commercial, maintaining consistency with current uses and existing land use designations along the Telegraph Avenue commercial corridor; and

WHEREAS, the proposed General Plan amendment would not directly result in changes to the physical characteristics of the property or existing structures, but will facilitate

renovation that would be completed in compliance with current codes and regulations. New development also would be reviewed for compliance with Berkeley Municipal Code and CEQA and would be constructed in compliance with California Building and Safety Code as adopted by the City of Berkeley; and

WHEREAS, staff evaluated the amendment request and determined it is categorically exempt from CEQA pursuant to Classes 1, 3, 5, and 31, which apply to the proposed General Plan and zoning amendments as well as the currently proposed renovation and expansion project. Section 15301 of the *CEQA Guidelines* states that a Class 1 Categorical Exemption (CE) is for minor alterations of existing private structures that involve negligible or no expansion of an existing use. Section 15303 states that a Class 3 CE is for construction of limited numbers of new structures and the conversion of existing structures from one use to another where only minor modifications are made in the exterior of the structure. Class 1 and Class 3 apply to the proposed project because the proposed amendment is undertaken to permit improvements to the existing hotel which are shown in pending Use Permit applications to include only minor expansions to the existing footprint and exterior of the buildings. Section 15305 states that a Class 5 CE is for minor alterations in land use limitations which do not result in changes to land use or density. As the proposed project includes only minor alterations to the land use limitations on a site with an existing building and does not include any proposed change to density, Class 5 applies to the proposed project. Section 15331 of the *State CEQA Guidelines* states that a Class 31 CE is for rehabilitation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for Rehabilitating Historic Buildings (1995). Class 31 applies to the proposed project because rehabilitation will be undertaken consistent with the Secretary of the Interior's standards as required by future Structural Alteration Permits. Notwithstanding the above, development proposed subsequent to the rezoning will be subject to project-level review under CEQA and the City of Berkeley's Environmental Review; and

WHEREAS, all documents constituting the record of this proceeding are and shall be retained by the City of Berkeley Planning and Development Department, Land Use Planning Division, at 1947 Center Street, Berkeley, California.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the General Plan is hereby amended as shown in Exhibit A.

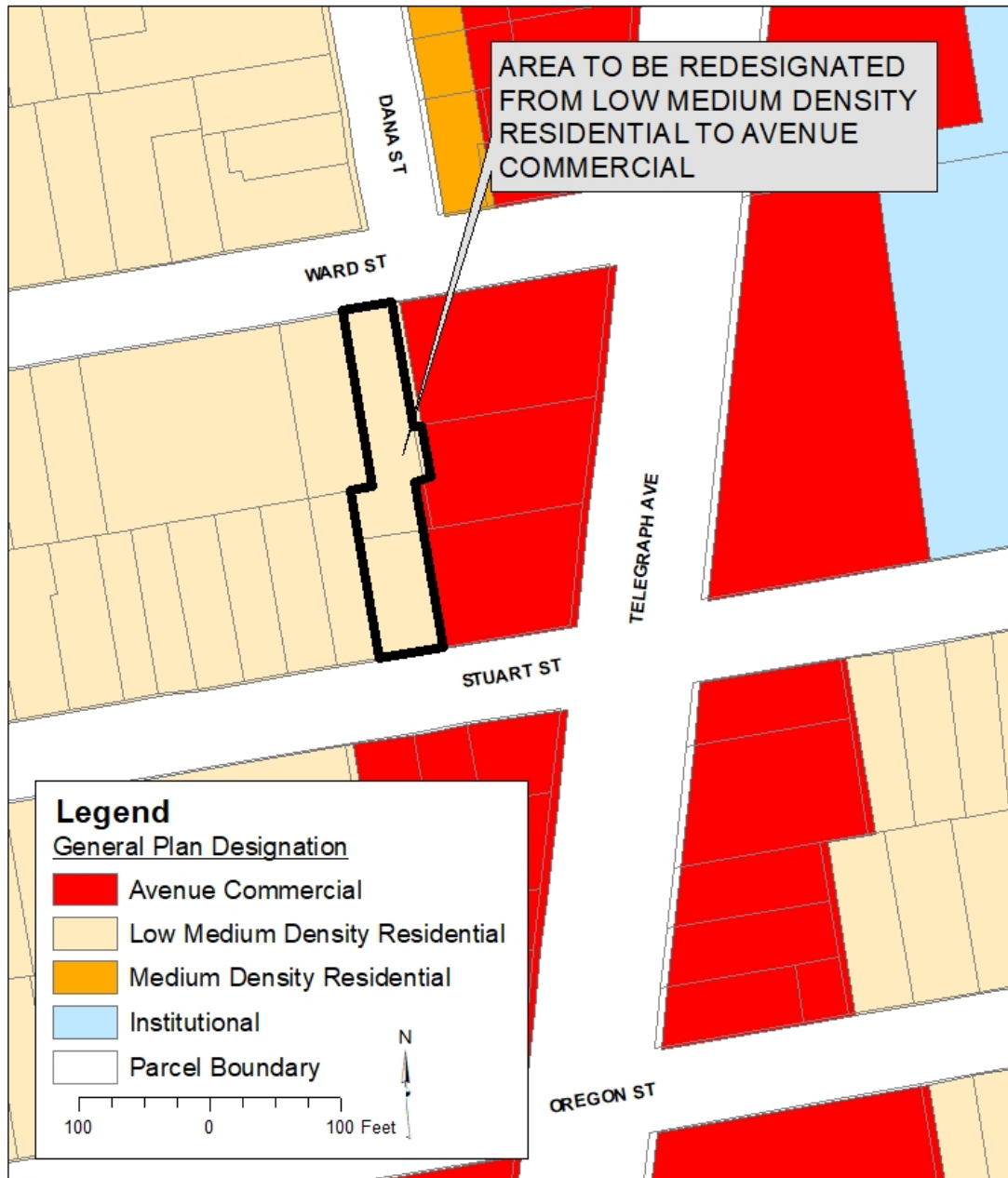
Attachment

Exhibit A: General Plan Amendment Map

ATTACHMENT 1: EXHIBIT A

GENERAL PLAN MAP AMENDMENT

2740 Telegraph Avenue (APN 054-1716-002-00),
2744 Telegraph Avenue (APN 054-1716-003-00)
2348 Ward Street (APN 054-1716-031-00)



source: G:\Planning\LANDUSE\GIS\Rezone\mxd\GenPlan.mxd

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE (BMC) TITLE 23 (ZONING), OFFICIAL ZONING MAP, TO REZONE ASSESSOR PARCEL NUMBERS (APN) 054-1716-002-00, 054-1716-003-00, AND 054-1716-031-00 FROM RESTRICTED TWO-FAMILY RESIDENTIAL DISTRICT (R-2) TO GENERAL COMMERCIAL DISTRICT (C-1)

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

Section 1. The City Council has certified that the rezone amendment request is categorically exempt from CEQA pursuant to Classes 1, 3, 5, and 31, which apply to the proposed amendment as well as the pending future hotel renovation project.

Section 2. The City Council finds this rezoning from R-2 (Restricted Two-family Residential) to C-1 (General Commercial) serves the public interest by eliminating the legal non-conformity of a hotel use. The amendment serves the public interest by allowing the entire existing hotel use to continue by-right within the General Commercial zoning district. The rezoning would correct a mapping anomaly that splits three parcels and a building, resolving unnecessary complexity in land use permitting processes and decisions for the site.

Section 3. The City Council finds that the proposed zoning map amendment would align the boundary between the R-2 and C-1 Districts with existing property lines, approximately 50 feet to the west, to include the entire existing footprint of the Rose Garden Inn. The proposed rezoning is compatible with existing General Commercial zoning district to the east, north and south of the project site and would align with the proposed General Plan amendment described above. The R-2 zoning district to the west and south would remain undisturbed by this amendment and is consistent with similar compatible adjacencies in the area.

Section 4. The City Council finds that the proposed zoning map amendment moves the R-2/C-1 boundary approximately 50 feet west of its existing location. Adjacent parcels to the north and south have the same geometry as this block-face (i.e. C-1 parcels fronting Telegraph Avenue and R-2 parcels to the west of the C-1). The proposed rezoning of portions of the site from R-2 to C-1 would allow continuation of existing commercial uses at the project site that are compatible with commercial uses along the Telegraph Avenue corridor and have existed compatibly with the neighboring residential area. The proposed C-1 zoning would allow compatible mixed residential/commercial and higher density uses with approval of a Use Permit, which would be consistent with the remainder of properties along Telegraph Avenue.

Section 5. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be

filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

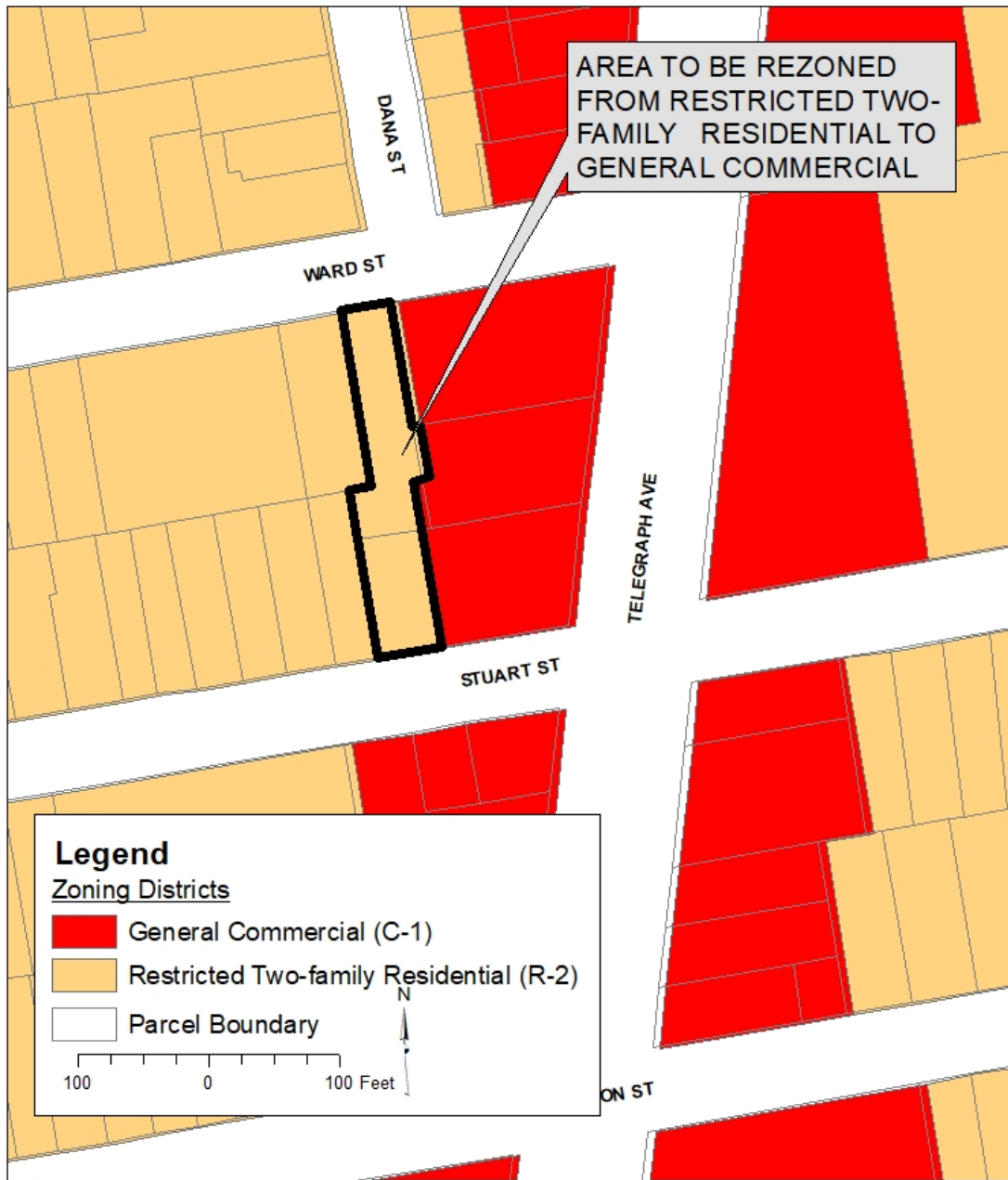
Exhibit

A: Zoning Map Amendment

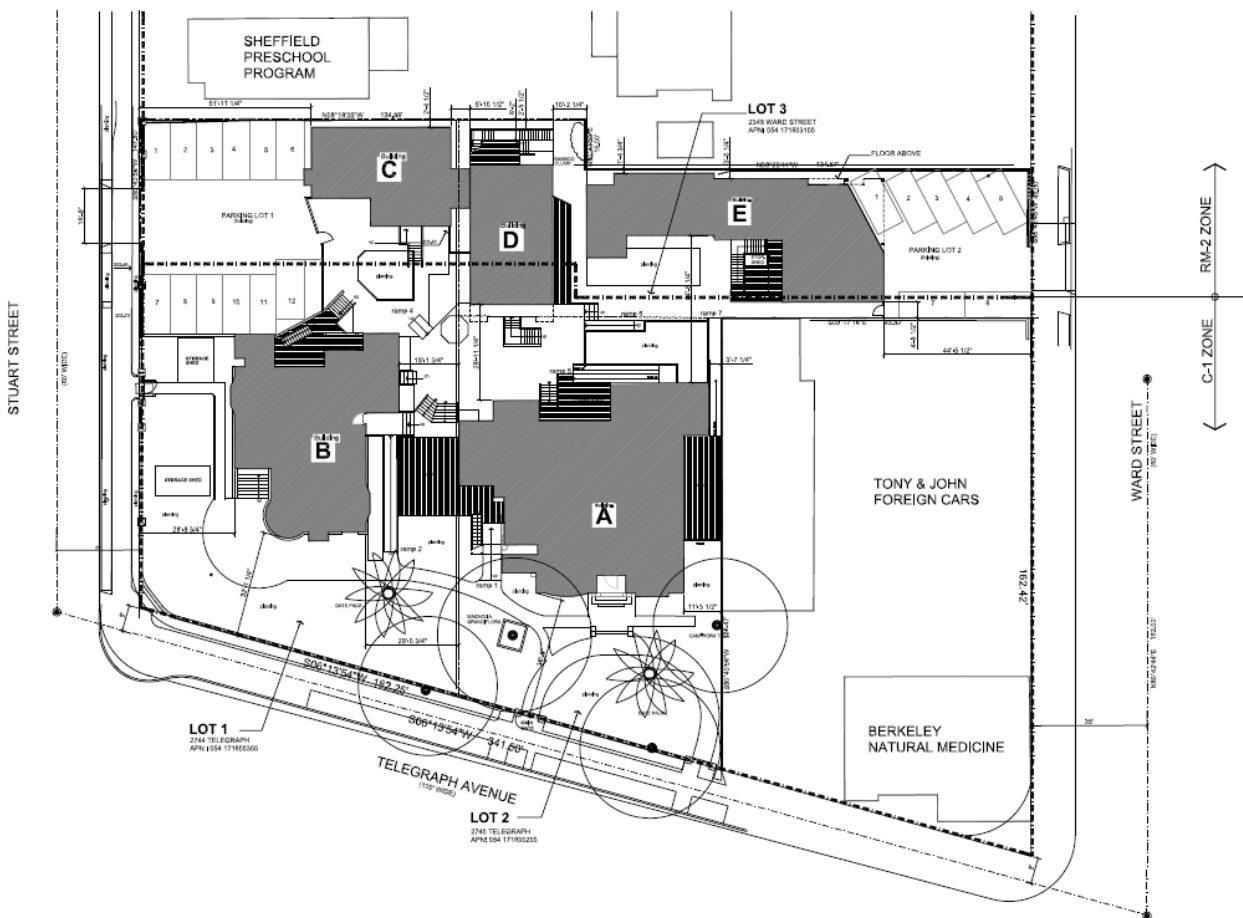
ATTACHMENT 2: EXHIBIT A

ZONING MAP AMENDMENT

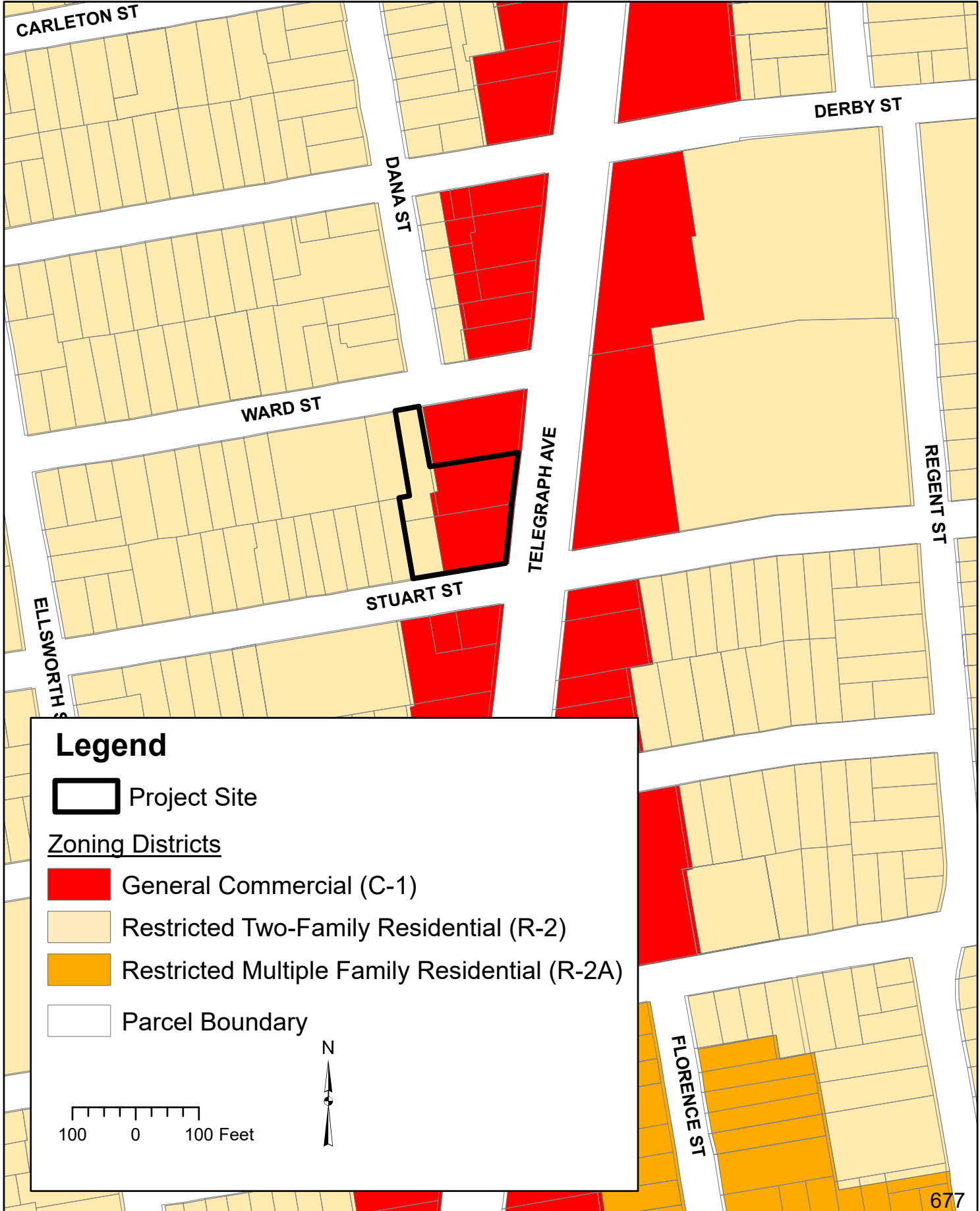
2740 Telegraph Avenue (APN 054-1716-002-00),
2744 Telegraph Avenue (APN 054-1716-003-00)
2348 Ward Street (APN 054-1716-031-00)



ATTACHMENT 3: EXISTING SITE PLAN



PROJECT SITE AND CURRENT ZONING





Planning Commission

1 **DRAFT MINUTES OF THE REGULAR PLANNING COMMISSION MEETING**

2 **February 5, 2020**

3 The meeting was called to order at 7:01 p.m

4 **Location:** South Berkeley Senior Center, Berkeley, CA

5 **1. ROLL CALL:**

6 **Commissioners Present:** Benjamin Beach, Robb Kapla, Shane Krpata, Mary Kay Lacey,
7 Christine Schildt, Jeff Vincent, Brad Wiblin, and Rob Wrenn.

8 **Commissioners Absent:** Steve Martinot.

9 **Staff Present:** Secretary Alene Pearson, Katrina Lapira, and Beth Greene.

10 **2. ORDER OF AGENDA:** Move Item 9 (2020 Planning Commission Elections) to before Item 3
11 (Public Comment Period).

12 **9. 2020 Planning Commission Elections**

13 Motion (Schildt) to elect Commissioner Robb Kapla as Chair of the Planning Commission.
14 Ayes: Beach, Kapla, Krpata, Lacey, Schildt, Vincent, Wiblin, and Wrenn. Noes: None.
15 Abstain: None. Absent: Martinot. (8-0-0-1)

17 Motion (Schildt) to elect Commissioner Mary Kay Lacey as Vice Chair of the Planning
18 Commission.
19 Ayes: Beach, Kapla, Lacey, Schildt, and Wrenn. Noes: None. Abstain: Krpata, Vincent, and
20 Wiblin. Absent: Martinot. (5-0-3-1)

22 **3. PUBLIC COMMENT PERIOD: 1**

23 **4. PLANNING STAFF REPORT:**

- 24
- 25 • January 21 - City Council adopted Extension of ADU Urgency Ordinance
 - 26 • January 28 - City Council adopted First Reading of Comprehensive Cannabis Ordinance
 - 27 • February 4 - City Council held Work Session on the Adeline Corridor Plan
 - 28 • Planning Commission Meeting on February 19 is canceled

29 **Information Items:** *None.*

30 **Communications:**

- 31 • December 3, 2019 – Sheffield Preschool, 2740-44 Telegraph & 2348 Ward Re-zone
- 32 • January 22 – Planning Staff, APA Annual Planning Commissioner Conference
- 33 • January 24 – City Manager’s Office, Strategic Plan Information
- 34 • January 27 – Southside Neighborhood Consortium, Southside EIR
- 35 • January 28 – Yovino-Young, 2740-44 Telegraph & 2348 Ward Re-zone
- 36 • January 29 – People’s Park Historic District Advocacy Group, Southside EIR
- 37 • January 30 – Bell, Accessory Dwelling Units

38

39 **Late Communications** (Received after the Packet deadline):

- 40 • January 31 - Posselt, Southside EIR
- 41 • January 31 – Lee, Accessory Dwelling Units
- 42 • February 4 – Singh, Southside EIR
- 43 • February 4 – March, Southside EIR

44

45 **Late Communications** (Received and distributed at the meeting):

- 46 • February 5 – Associated Students University of California, Southside EIR
- 47 • February 5 - Griffin, Accessory Dwelling Units
- 48 • February 5 – Staff, Item 10 – Housing Capacity Analysis + Proposed Southside Zoning
- 49 Modifications (Updated February 5, 2020)

50 **5. CHAIR REPORT:** None.

51

52 **6. COMMITTEE REPORT:**

53

- 54 • Adeline Corridor Specific Plan Subcommittee: The next subcommittee meeting will be
- 55 on March 18.
- 56
- 57 • Zoning Ordinance Revision Project (ZORP): The next subcommittee meeting will be on
- 58 February 24.
- 59
- 60 • Joint Subcommittee for the Implementation of State Housing Laws: At the next meeting
- 61 on February 26, JSISHL will discuss objective design, shadow, and density standards.
- 62
- 63 • APA Planning Commissioner’s Training: Commissioner Shane Krpata shared some
- 64 insights about training session.

65 **7. APPROVAL OF MINUTES:**

66 Motion/Second/Carried (Wrenn/Schildt) to approve the Planning Commission Meeting Minutes
 67 from January 15, 2020 with the discussed corrections to line 81. Ayes: Beach, Kapla, Krpata,
 68 Lacey, Schildt, Vincent, Wrenn, and Wiblin. Noes: None. Abstain: None. Absent: Martinot. (8-
 69 0-0-1)

70

71 **FUTURE AGENDA ITEMS AND OTHER PLANNING-RELATED EVENTS:** At the next meeting,
 72 March 4, 2020 the following items may be presented. (There will be no Planning Commission
 73 meeting on February 19.)

- 74 • Public Hearing on Parking Reform

75 **AGENDA ITEMS**

76 **10. Discussion: Public Hearing: Southside EIR Discussion**

77 Staff introduced the Southside Environmental Impact Report (EIR) project, explaining the basis
 78 for the project and the role of CEQA analysis as part of the study of potential development
 79 standards. Staff shared feedback received from the Southside EIR subcommittee and asked
 80 the Commission to provide comment on the proposed Zoning Ordinance and Zoning Map
 81 changes. The Commission directed Staff to include in their analysis the study of a scenario
 82 where 5-story buildings would be permissible in the R-3 zoning district, density bonus heights,
 83 and other alternatives.

84 **Public Comments: 13**

85 **11. Action: Public Hearing: Amendments to the Berkeley Zoning Map and**
 86 **General Plan for 2740 & 2744 Telegraph Avenue and 2348 Ward**
 87 **Street**

88 Staff provided a reviewed the proposal to redesignate and re-zone portions of parcels
 89 addressed 2740 & 2744 Telegraph Avenue and 2348 Ward Street- the existing Rose Garden
 90 Inn. The project requests a General Plan redesignation of the three parcels from Low Medium
 91 Density Residential to Avenue Commercial and a rezone from Restricted Two-family Residential
 92 (R-2) to General Commercial (C-1).

93 **Public Comments: 2**

94 Motion/Second/Carried (Schildt/Wiblin) to close the public hearing.
 95 Ayes: Beach, Kapla, Krpata, Lacey, Schildt, Vincent, Wiblin, and Wrenn. Noes: None.
 96 Abstain: None. Absent: Martinot. (8-0-0-1)
 97

98 Motion/Second/Carried (Vincent/Schildt) to make a recommendation to the City Council that
 99 portions of the parcels located at 2740 Telegraph Avenue (Assessor's Parcel Number [APN]
 100 054-1716-002-00), 2744 Telegraph Avenue (APN 054-1716-003-00) and 2348 Ward Street
 101 (APN 054-1716-031-00) be re-designated from Low Medium Density Residential to Avenue
 102 Commercial and be rezoned from Restricted Two-Family Residential District (R-2) to
 103 General Commercial District (C-1).
 104 Ayes: Beach, Kapla, Krpata, Lacey, Schildt, Vincent, Wiblin, and Wrenn. Noes: None.
 105 Abstain: None. Absent: Martinot. (8-0-0-1)

106
 107 **12. Discussion: ADU Discussion**

108 Staff presented information on the existing interim ADU ordinance, noting areas in State law
109 where modifications could be adopted in a local ordinance. The Commission directed staff to
110 assess common issues experienced by the public as a result of the new State law and explore
111 ADU development incentives related to accessibility and affordability.

112 **Public Comments: 8**

113 **The meeting was adjourned at 11:12pm**

114 **Commissioners in attendance: 8**

115 **Members in the public in attendance: 33**

116 **Public Speakers: 23 speakers**

117 **Length of the meeting: 4 hours and 11 minutes**

DRAFT

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

**2740 & 2744 TELEGRAPH AVENUE / 2348 WARD STREET
GENERAL PLAN REDESIGNATION AND ZONING MAP AMENDMENT**

The Department of Planning and Development is proposing, at the request of the property owner, a rezoning and General Plan amendment for Assessor Parcel Numbers (APNs) 054-1716-002-00, 054-1716-003-00 and 054-1716-031-00, shown on the attached map. These parcels comprise the project site and correspond to 2740 and 2744 Telegraph Avenue and 2348 Ward Street. The requested General Plan amendment would change portions of the parcels from Low Medium Density Residential to Avenue Commercial. The rezoning would change portions of the parcels from the Restricted Two-Family Residential (R-2) District [Berkeley Municipal Code (BMC) Chapter 23D.28] to the General Commercial (C-1) District [BMC Chapter 23E.36].

The purpose of the requested re-designation and rezone is to bring the existing hotel uses at the project site into conformity with the General Plan and Zoning Map and to allow for future improvements to the hotel. The property owner is separately applying for Use Permits to upgrade and expand the non-historic portion of the hotel complex, but no changes to the hotel use are proposed, and the historic buildings (Berkeley Landmarks 125 and 126) would not be adversely impacted.

The hearing will be held on July 28, 2020 at 6:00 p.m.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of Thursday, July 16, 2020. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Alene Pearson, Principal Planner, at 510-981-7489.

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the

public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

Published: July 17, 2020 per California Code Sections 65856(a) and 65090.

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on Thursday, July 16, 2020.

---

Mark Numainville, City Clerk



Imagery provided by Microsoft Bing and its licensors © 2019.  
Additional data provided by City of Berkeley, 2019; Alameda County, 2018.



Rent Stabilization Board  
Office of the Executive Director

ACTION CALENDAR  
July 28, 2020

TO: Honorable Mayor and Members of the City Council

FROM: Berkeley Rent Stabilization Board

SUBMITTED BY: Matt Brown, Acting Executive Director, Rent Stabilization Board

SUBJECT: Placing a Measure on the November 3, 2020 Ballot Amending the Rent Stabilization and Eviction for Good Cause Ordinance (B.M.C. 13.76)

---

RECOMMENDATION

1. Adopt a Resolution placing the proposed amendments to the Rent Stabilization and Eviction for Good Cause Ordinance on the ballot of the November 3, 2020 General Municipal Election.
2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

SUMMARY

The Rent Stabilization Board has recommended a set of amendments to the Rent Stabilization and Eviction for Good Cause Ordinance. These amendments set forth the following changes:

1. Adopt a secondary Registration fee for three types of partially-exempt units (single-family homes, condominiums, and newly constructed units);
2. Amend the Rent Stabilization and Eviction for Good Cause Ordinance to limit the substantive basis for eviction for nonpayment of rent so that it does not apply to rent payments that come due during a state or local state of emergency when triggered by applicable federal, state, or local emergency legislation;

3. Repeal the “golden duplex” exemption for owner-occupied duplexes that were owner-occupied on December 31, 1979, so tenants in eligible owner-occupied duplexes will have rent control and/or eviction protections;
4. Repeal the Accessory Dwelling Unit exemption for rental units in a residential property containing a single, lawfully established and fully permitted Accessory Dwelling Unit where the landlord also occupies a unit in the same property as his/her principal residence and the tenancy was created after November 7, 2018, so tenants in eligible Accessory Dwelling Units will have rent control and/or eviction protections.

### FISCAL IMPACTS OF RECOMMENDATION

There will be a small financial cost to the City limited to the costs associated with placing the measure on the ballot. Each additional measure added to the ballot increases the costs to the city.

If a secondary Registration fee for single-family homes, condominiums, and newly constructed units is adopted, the Registration fees currently mandated by B.M.C. 13.76.080 for fully covered rental units may decrease as a result of economies of scale to provide services to partially-covered units that Rent Board staff already provide to fully-covered units.

Limiting the substantive basis for eviction for nonpayment of rent so that it does not apply to rent payments that come due during a state or local state of emergency when triggered by applicable federal, state, or local emergency legislation will have no fiscal impact on the City. This amendment would ensure there is no conflict between the Rent Stabilization and Eviction for Good Cause Ordinance and the emergency legislation adopted by Council (BMC 13.110) in response to the current state of emergency associated with the COVID-19 pandemic. It would also potentially eliminate conflict with similar legislation in the event of a future state of emergency.

If the “golden duplex” and Accessory Dwelling Unit exemptions are repealed, the number of units protected by rent control and/or good cause for eviction will increase, and the Registration fees currently mandated by B.M.C. 13.76.080 for other fully covered rental units may decrease as a result of economies of scale to provide services to these newly-covered units. For Accessory Dwelling Units, in particular, many of these may be partially-exempt as newly constructed rental units, so they would only be required to register if covered by the secondary Registration fee proposal.

### CURRENT SITUATION AND ITS EFFECTS

Berkeley voters passed Measure D in June 1980, establishing the current Berkeley Rent Stabilization and Eviction for Good Cause Ordinance as codified in Berkeley Municipal Code Chapter 13.76. Berkeley City Council has, periodically, placed measures on the general ballot

for the voters to decide when the Board recommends amendments.

1. Secondary Registration Fee

The Rent Ordinance currently exempts single-family homes, condominiums, and newly constructed rental units from Registration. When owners and tenants of these rental units seek information from the Rent Board, staff is unable to provide them with substantive assistance since the agency is funded by Registration fees and thus only provides assistance to those that are fully covered by the Rent Ordinance.

2. Exclusion of Delayed Rent Payments During States of Emergency as a Substantive Basis for Eviction for Nonpayment of Rent

Many jurisdictions, including the City of Berkeley and Alameda County have passed ordinances to prohibit evictions for delayed payment of rent when the tenant has a covered reason related to COVID-19 for delayed payment of rent. BMC 13.110 permits a tenant to repay any accrued late rent payments within 12 months of the expiration of the state of emergency and makes clear that a tenant may not be evicted for failure to repay the rent. The Rent Ordinance, however, is silent on how states of emergency or emergency legislation impact the substantive basis for eviction for nonpayment of rent.

3. Repeal of the “Golden Duplex” Exemption

The Rent Ordinance fully exempts a subset of owner-occupied duplexes from the rent control and eviction protections of the Ordinance. These “golden duplexes” (up to 955) are ones that are currently owner-occupied as a principal residence and were owner-occupied (not necessarily by the same owner) on December 31, 1979. There are other owner-occupied duplexes (up to 1,078) that do not qualify as “golden” and thus, the rented unit is fully covered by rent control and eviction protections.

4. Repeal of the Accessory Dwelling Unit Exemption

The Rent Ordinance and corresponding regulations fully exempt rental units on properties with a permitted Accessory Dwelling Unit where one unit on the property is owner-occupied as a principal residence and the tenancy was created after November 7, 2018.

BACKGROUND

1. Secondary Registration Fee

If a secondary registration fee is adopted for rental units in single-family homes, condominiums, and new construction, Rent Board staff would be able to assist tenants and landlords of these

units. In addition, aggregated information about these types of units would allow policymakers to monitor the ongoing housing crisis and improve the efficacy of local regulatory efforts to mitigate the crisis. The Registration Fee for these units would cover only those additional expenses incurred by the Board as a result of counseling the owners and tenants of these partially-exempt units, as well as registration of those units, and would not cover the costs associated with petitions for individual rent adjustments and other services that are not provided to partially-exempt units.

The IRA-AGA-Registration Committee voted unanimously on May 8, 2020 and the Rent Board voted unanimously on May 29, 2020 to support this proposal. The approved language is set forth in Attachment A, in subsections 13.76.050, 13.76.060, and 13.76.080

2. Exclusion of Delayed Rent Payments During States of Emergency as a Substantive Basis for Eviction for Nonpayment of Rent

If the Rent Ordinance was amended to make clear that delayed rent payments during states of emergency could not be used as a substantive basis for eviction for nonpayment of rent, then it would ensure there is no conflict between the Ordinance and eviction moratoriums passed in response to the COVID-19 global pandemic, including the Berkeley COVID-19 Emergency Response Ordinance (B.M.C. 13.110).

The IRA-AGA-Registration Committee voted unanimously on May 8, 2020 and the Rent Board voted unanimously on May 29, 2020 to support this proposal. The approved language is set forth in Attachment A, in subsection 13.76.130.

3. Repeal of the “Golden Duplex” Exemption

If the “Golden Duplex” exemption was repealed from the Rent Ordinance, tenants in rental units in all duplexes would be protected by rent control and good cause for eviction protections unless they were exempt under a separate provision, such as new construction. Rent ceilings must be established for units that lose exemption. Thus, this proposal would set the rent ceilings at the amount of rent in effect on March 1, 2020, for tenants who occupied the unit continuously on or before March 1, 2020, through the date this amendment becomes effective. For tenancies that begin after March 1, 2020, the rent ceiling would be the lawfully established initial rent under the Costa-Hawkins Rental Housing Act (Civil Code Section 1954.50 et. seq.).

The IRA-AGA-Registration Committee voted unanimously on May 8, 2020 and the Rent Board voted 7-2-0-0 on May 29, 2020 to support this proposal. The approved language is set forth in Attachment A, in subsections 13.76.050 and 13.76.080.

4. Repeal of the Accessory Dwelling Unit Exemption



If the Accessory Dwelling Unit exemption was repealed from the Rent Ordinance, tenants in previously exempt rental units would be protected by rent control and good cause for eviction protections unless they were exempt under a separate provision, such as new construction. Rent ceilings must be established for units that lose exemption. Thus, this proposal would set the rent ceilings at the amount of rent in effect on March 1, 2020, for tenants who occupied the unit continuously on or before March 1, 2020, through the date this amendment becomes effective. For tenancies that begin after March 1, 2020, the rent ceiling would be the lawfully established initial rent under the Costa-Hawkins Rental Housing Act (Civil Code Section 1954.50 et. seq.).

The IRA-AGA-Registration Committee voted unanimously on May 8, 2020 and the Rent Board voted 5-2-2-0 on May 29, 2020 to support this proposal. The approved language is set forth in Attachment A, in subsections 13.76.050 and 13.76.080.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### RATIONALE FOR RECOMMENDATION

This report and its recommendations are the result of direction from the Rent Stabilization Board, which voted on May 20, 2020 to recommend to the City Council to place the proposed amendments on the ballot for November 3, 2020.

#### ALTERNATIVE ACTIONS CONSIDERED

While no specific alternatives were proposed, some concern was expressed about the lack of comprehensive data regarding the proposals to eliminate the “golden duplex” and Accessory Dwelling Unit exemptions. The Rent Board does not collect comprehensive data on partially or fully exempt rental units, so the data that was provided is an approximation. The Board is currently unable to compel landlords or tenants to submit any information regarding tenancies as this information is only collected for controlled units – the Rent Ordinance connects the Registration Fee directly to rent-controlled units only. The elected Board has made a policy decision to propose removal of the full exemptions associated with “golden duplex” and Accessory Dwelling Units, but Board staff is unable to collect tenancy information for these units as they currently fall outside the Board’s regulatory umbrella. The Planning Department does not have data on the number of Accessory Dwelling Units that receive a final inspection and are completed. The Department has identified the number of permits approved each year (16 in 2016, 74 in 2017, 80 in 2018, and 70 in 2019), but construction could be completed in a different year or not completed (or started) at all.

Should the Council choose not to adopt the Rent Board’s recommendation to repeal the full exemption of Accessory Dwelling Unit units on the November 3, 2020 ballot, staff would like to offer an amendment to ensure that rental units that were never meant to be exempted will not be.

Beginning in January 2020, owners can create Accessory Dwelling Units on multi-family properties. If voters do not eliminate the ADU exemption as proposed by the Rent Board, they should amend the exemption as currently written in the Rent Ordinance. Otherwise, there would likely be unintended exemptions created, since rental units in multi-family properties would all become exempt if an owner occupied one of the units as their principal residence. As initially drafted, the existing exemption was only meant to apply narrowly to situations in which a single family dwelling shares a property with a single ADU. Staff has language available in the event Council chooses this option. It is not being included in this report, since the Board did not recommend this option.

CONTACT PERSON

Matt Brown, Acting Executive Director, Rent Stabilization Board, (510) 981-4905

Attachments:

1. Resolution

Exhibit A: Ordinance as Amended

2. May 29, 2020 Staff Report to Rent Board

Attachment 1

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

SUBMITTING TO THE BERKELEY ELECTORATE A MEASURE TO AMEND BERKELEY MUNICIPAL CODE CHAPTER 13.76 TO ADOPT A SECONDARY REGISTRATION FEE FOR SINGLE-FAMILY HOMES, CONDOMINIUMS, AND NEWLY CONSTRUCTED UNITS; PROHIBIT EVICTION FOR NONPAYMENT OF RENT OF TENANTS WHO QUALIFY UNDER ADOPTED EMERGENCY LEGISLATION; AND APPLY RENT CONTROL AND/OR EVICTION FOR GOOD CAUSE PROTECTIONS TO OWNER-OCCUPIED DUPLEXES THAT WERE OWNER-OCCUPIED ON DECEMBER 31, 1979 AND ELIGIBLE LAWFULLY PERMITTED ACCESSORY DWELLING UNITS.

WHEREAS, the purposes of the Berkeley Rent Stabilization and Eviction for Good Cause Ordinance are to regulate residential rent increases in the City of Berkeley and to protect tenants from unwarranted rent increases and arbitrary, discriminatory, or retaliatory evictions, in order to help maintain the diversity of the Berkeley community and to ensure compliance with legal obligations relating to the rental of housing. This legislation is designed to address the City of Berkeley's housing crisis, preserve the public peace, health and safety, and advance the housing policies of the city with regard to low and fixed income persons, minorities, students, handicapped, and the aged; and

WHEREAS, the Berkeley Rent Stabilization Board will be able to provide services to landlords, owners, and tenants of single family homes, condominiums, and new construction with the imposition of a secondary Registration Fee; and

WHEREAS, protections against eviction established by the Berkeley City Council's COVID-19 Emergency Ordinance (B.M.C. Chapter 13.110) and similar future local emergency legislation will be codified in the Berkeley Rent Ordinance (B.M.C. 13.76.130); and

WHEREAS, the exemption established by B.M.C. 13.76.050F. will be eliminated, so that rental units in owner-occupied duplexes that were owner-occupied on December 31, 1979 may be covered by the registration, rent control, and/or good cause for eviction provisions of the chapter; and

WHEREAS, the exemption established by B.M.C. 13.76.050N. will be eliminated, so that rental units in properties that contain a lawfully permitted Accessory Dwelling Unit would not be fully exempt from the Berkeley Rent Ordinance and may be covered by the registration, rent control, and/or good cause for eviction provisions of the chapter; and

WHEREAS, these enumerated amendments to the Rent Stabilization and Eviction for Good Cause Ordinance will prevent displacement of tenants by extending additional protections and services to tenants who do not enjoy such protections under existing law; and

WHEREAS, the Berkeley City Council has elected to submit to the voters at the November 3, 2020 General Municipal Election, a measure to amend Berkeley Municipal Code Chapter 13.76 to adopt a secondary registration fee for single-family homes, condominiums, and newly constructed units; prohibit eviction for nonpayment of rent of tenants who qualify under the terms of adopted emergency legislation; and apply rent control and/or eviction for good cause protections to owner-occupied duplexes that were owner-occupied on December 31, 1979 and eligible lawfully permitted accessory dwelling units; and

WHEREAS, in accordance with the provisions of Section 10002 and 10403 of the Elections Code of the State of California, the Alameda County Board of Supervisors is requested to consolidate the City of Berkeley General Municipal Election with the Statewide General Election to be held November 3, 2020; and

WHEREAS, the City of Berkeley hereby requests that the Alameda County Board of Supervisors permit the Registrar of Voters of Alameda County to perform services in connection with said election at the request of the City Clerk. These services to include all necessary services related to official ballot creation, sample ballot and voter information pamphlet preparation, vote-by-mail, polling places, poll workers, voter registration, voting machines, canvass operations, and any and all other services necessary for the conduct of the consolidated election; and

WHEREAS, the Council desires to submit this measure to be placed upon the ballot at said consolidated election.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Board of Supervisors of Alameda County is hereby requested to include on the ballots and sample ballots the measure enumerated above to be voted on by the voters of the qualified electors of the City of Berkeley.

BE IT FURTHER RESOLVED that the full text of the measure shall be printed in the Voter Information Pamphlet mailed to all voters in the City of Berkeley.

BE IT FURTHER RESOLVED that the above enumerated measure requires a majority vote threshold for passage.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the City of Berkeley, the Government Code and the Elections Code of the State of California.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to obtain printing, supplies and services as required.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to enter into any contracts necessary for election consulting services, temporary employment services, printing services, and any such other supplies and services as may be required by the statutes of the State of California and the Charter of the City of Berkeley for the conduct of the November General Municipal Election.

BE IT FURTHER RESOLVED that Pursuant to Elections Code Section 9285 (b), the City Council hereby adopts the provisions of Elections Code Section 9285 (a) providing for the filing of rebuttal arguments for city ballot measures.

BE IT FURTHER RESOLVED that the City will reimburse the Registrar of Voters for the costs associated with placing the measure on the ballot.

BE IT FURTHER RESOLVED that said proposed Ordinance measure shall appear and be printed upon the ballots to be used at said election as follows:

| CITY OF BERKELEY ORDINANCE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Shall the measure amending the Rent Stabilization and Eviction for Good Cause Ordinance to: adopt a registration fee for single-family homes, condominiums, and newly-constructed units to be set by the Rent Stabilization Board to cover reasonable registration and counseling costs for such units; prohibit eviction of qualifying tenants for nonpayment of rent during state or local emergencies; and apply rent control and/or eviction limitations to eligible owner-occupied duplexes and accessory dwelling units be adopted? | YES |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | NO  |

BE IT FURTHER RESOLVED that the text of the measure be shown as Exhibit A, attached hereto and made a part hereof.

Exhibits

A: Text of Measure

Exhibit A

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

AN ORDINANCE OF THE CITY OF BERKELEY AMENDING BERKELEY MUNICIPAL CODE CHAPTER 13.76 TO ADOPT A SECONDARY REGISTRATION FEE FOR SINGLE-FAMILY HOMES, CONDOMINIUMS, AND NEWLY CONSTRUCTED UNITS; PROHIBIT EVICTION FOR NONPAYMENT OF RENT OF TENANTS WHO QUALIFY UNDER THE TERMS OF ADOPTED EMERGENCY LEGISLATION; APPLY RENT CONTROL AND EVICTION FOR GOOD CAUSE PROTECTIONS TO OWNER-OCCUPIED DUPLEXES THAT WERE OWNER-OCCUPIED ON DECEMBER 31, 1979; AND APPLY RENT CONTROL AND EVICTION FOR GOOD CAUSE PROTECTIONS TO LAWFULLY PERMITTED ACCESSORY DWELLING UNITS.

The people of the City of Berkeley do ordain as follows:

Section 1. Section 13.76.050 of the Berkeley Municipal Code is amended to read as follows:

**13.76.050 Applicability**

This chapter shall apply to all real property that is being rented or is available for rent for residential use in whole or in part, except for the following:

A. Rental units which are owned by any government agency. However, the exemption of units owned by the Berkeley Housing Authority from the terms of this chapter shall be limited to their exemption from the terms of Section 13.76.080, Rent Registration; Section 13.76.100, Establishment of Base Rent Ceiling and Posting; Section 13.76.110, Annual General Adjustment of Rent Ceilings; and Section 13.76.120, Individual Adjustments of Rent Ceilings, of this chapter.

B. Rental units which are rented primarily to transient guests for use or occupancy less than fourteen consecutive days in establishments such as hotels, motels, inns, tourist homes, and rooming and boarding houses. However, the payment of rent every fourteen days or less shall not by itself exempt any unit from coverage by this chapter.

C. Rental units in nonprofit cooperatives owned and controlled by a majority of the residents.

D. Rental units leased to tenants assisted under the Section 8 program (42 U.S.C. Section 1437f) or the Shelter Plus Care Program (42 U.S.C. 11403 et. seq.) or similar federally funded rent subsidy program. Except as may be preempted by state or federal law, the exemption of such rental units from the terms of this chapter shall be limited to Section 13.76.080, Rent Registration; Section 13.76.100, Establishment of Base Rent Ceiling and Posting; Section 13.76.110, Annual General Adjustment of Rent Ceilings and Section 13.76.120, Individual Adjustments of Rent Ceilings, of this chapter. However, the exemption from Sections 13.76.080, 13.76.110 and 13.76.120 shall apply only for so long as the rent demanded does not exceed the authorized Payment Standard, which, for purposes of this subsection, is the maximum monthly rental

assistance potentially available to an assisted household before deducting the household share of income paid for rent and utilities as established by the Berkeley Housing Authority or successor agency. For units where the rent demanded exceeds the Payment Standard, the Payment Standard or an initial rent above the Payment Standard if approved by the Berkeley Housing Authority, as reported to the board by the Berkeley Housing Authority or successor agency, shall become the unit's base rent ceiling and the reference point from which the rent ceiling shall be adjusted in accordance with Sections 13.76.110 and 13.76.120.

E. Rental units in any hospital, skilled nursing facility, health facility, asylum, or non-profit home for the aged.

~~F. Rental units in a residential property which is divided into a maximum of four units where one of such units is occupied by the landlord as his/her principal residence. Any exemption of rental units established under this subsection (13.76.050 F.) shall be limited to rental units that would have been exempt under the provisions of this chapter had this chapter been in effect on December 31, 1979. After July 1, 1982, this exemption shall no longer apply to rental units in a residential property which is divided into three or four units. It shall continue to apply to rental units in a residential property which is divided into two units, and which meet all the other requirements of this subsection (13.76.050F). Rental units which become non-exempt under this provision shall have the provisions of Subsections 13.76.080I and 13.76.100C. applied to them.~~

G. A rental unit in a residential property where the landlord shares kitchen or bath facilities with the tenant(s) of such rental unit and where the landlord also occupies a unit in the same property as his/her principal residence.

H. For the purposes of Subsections 13.76.050 F. and G., the term landlord shall be defined only as the owner of record holding at least 50% interest in the property.

I. Newly constructed rental units, as defined in Section 13.76.040. However, the exemption of such newly constructed units shall be limited to their exemption from the terms of ~~Section 13.76.080, Rent Registration;~~ Section 13.76.100, Establishment of Base Rent Ceiling and Posting; Section 13.76.110, Annual General Adjustment of Rent Ceilings; and Section 13.76.120, Individual Adjustments of Rent Ceilings, of this chapter. To the extent that state law permits, the exemption of such newly constructed units shall be limited to the first 20 years after completion of construction.

J. A rental unit which is rented by a nonprofit, accredited institution of higher education to a tenant or tenants who are student(s), faculty, or staff of the institution or of a member school of the Graduate Theological Union, provided, however, that the institution owned the unit as of January 1, 1988.

K. A rental unit in a residential property owned by an organization exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code that is rented to a low income tenant and subject to a regulatory agreement with a governmental agency that controls the unit's rent levels. However, the exemption for such rental units from the terms of this chapter shall be limited to Section 13.76.080, Rent Registration; Section 13.76.100, Establishment of Base Rent Ceiling and Posting; Section 13.76.110, Annual General Adjustment of Rent Ceilings; and Section 13.76.120, Individual Adjustments of Rent Ceilings of this chapter and shall apply only for so long as the regulatory agreement is in effect. This exemption shall not apply to rental units at the property that are not subject to a regulatory agreement with a governmental agency or that are rented

by a tenant who occupied the unit prior to the property's acquisition by the tax-exempt organization.

L. Rental units in a facility owned or leased by an organization exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code that has the primary purpose of operating a treatment, recovery, therapy, sanctuary or shelter program for qualified clients, where such rental units are provided incident to the client's participation in the primary program and where the client has been informed in writing of the temporary or transitional nature of the housing at the inception of his or her participation in the program. However, except as may be preempted by the Transitional Housing Participant Misconduct Act (California Health and Safety Code Sections 50580 et. seq.) or other state or federal law, such rental units shall not be exempted from the terms of Section 13.76.130, Good Cause Required for Eviction. For purposes of Section 13.76.130.A.2, the client's continued eligibility for participation in the treatment, recovery, therapy, sanctuary or shelter program shall be deemed a material term of the client's rental agreement with the program's operator.

M. A rental unit or room which is rented by an active member of a fraternity or sorority recognized by the University of California Berkeley, or a rental unit or room which is rented by an active member of a fraternity or sorority identified by Rent Board Resolution. To qualify for the exemption, the rental unit must be owned by the fraternity or sorority or by an entity whose sole purpose is the maintenance and operation of the fraternity or sorority's rental units for the benefit of the members in order to provide housing to said members at cost.

~~N. A rental unit in a residential property containing a lawfully established and fully-permitted Accessory Dwelling Unit where the landlord also occupies a unit in the same property as his/her principal residence. This subsection (13.76.050N) shall only apply to properties containing a single Accessory Dwelling Unit, shall only apply to units-compliant with all applicable requirements of Chapter 23C.24 ("Accessory Dwelling Units"), and shall only apply to tenancies created after November 7, 2018.~~

N. A dwelling or a unit alienable separate from the title to any other dwelling unit unless the tenancy commenced before January 1, 1996. However, the exemption of such units shall be limited to their exemption from the terms of Section 13.76.100, Establishment of Base Rent Ceiling and Posting; Section 13.76.110, Annual General Adjustment of Rent Ceilings; and Section 13.76.120, Individual Adjustments of Rent Ceilings, of this chapter. The exemptions provided in this Section shall apply only as long as the pertinent provisions of California Civil Code Section 1954.50 et. seq. ("Costa-Hawkins") remain in effect and require such an exemption.



Section 2. Section 13.76.060 of the Berkeley Municipal Code is amended to read as follows:

### **13.76.060 Rent Stabilization Board**

A. Composition. There shall be in the city of Berkeley an elected rent stabilization board; the board shall consist of nine commissioners. The board shall elect annually as chairperson one of its members to serve in that capacity.

B. Eligibility. Residents who are duly qualified electors of the city of Berkeley are eligible to serve as commissioners on the board.

C. Full disclosure of holdings. Candidates for the position of commissioner shall fulfill the requirements as set forth in the City Charter in Article III, Section 6 1/2.

In addition, when filing nomination papers, candidates shall submit a verified statement of their interests and dealings in real property, including but not limited to its ownership, sale or management and investment in and association with partnerships, corporations, joint ventures and syndicates engaged in its ownership, sale or management during the previous three years.

D. Election of commissioners. Commissioners shall be elected at the statewide general election held in November of even numbered years.

E. Terms of office. Commissioners' terms of office shall be as set forth in Article XVII of the Berkeley City Charter.

F. Powers and duties. The elected rent stabilization board shall have the power to determine, to arbitrate and to set rent levels, whether through general or individual adjustments, of any unit which has controlled rents under any Berkeley Ordinance, and to administer any Berkeley program which regulates rents and evictions. The board shall have the following powers and duties:

1. Set the rent ceilings for all rental units.
2. Require registration of all rental units under Section 13.76.080.
3. Publicize the manner in which the base rent ceiling is established under Section 13.76.100.
4. To make adjustments in the rent ceiling in accordance with Sections 13.76.110 and 13.76.120.
5. Set rents at fair and equitable levels in view of and in order to achieve the purposes of this chapter.
6. To issue orders, rules and regulations, conduct hearings and charge fees as set below.
7. Make such studies, surveys and investigations, conduct such hearings, and obtain such information as is necessary to carry out its powers and duties.
8. Report annually to the city council of the city of Berkeley on the status of rental housing units covered by this chapter.

9. Request the City Council to remove rent controls under Section 13.76.060Q.
10. Administer oaths and affirmations and subpoena witnesses and relevant documents.
11. Establish rules and regulations for settling civil claims under Section 13.76.150.
12. Seek injunctive relief under Section 13.76.150.
13. Pursue civil remedies in courts of appropriate jurisdiction.
14. Intervene as an interested party in any litigation brought before a court of appropriate jurisdiction by a landlord or tenant with respect to rental units covered by this chapter.
15. Hold public hearings.
16. Charge and collect registration fees, including penalties for late payments.
17. Other powers necessary to carry out the purposes of this chapter which are not inconsistent with the terms of this chapter.
18. Except as provided in Section 13.76.060N of this chapter, the board shall finance its reasonable and necessary expenses for its operation without the use of general fund monies of the city of Berkeley.

G. Rules and Regulations: The board shall issue and follow such rules and regulations, including those which are contained in this Chapter, as will further the purposes of this Chapter. The board shall publicize its rules and regulations prior to promulgation in at least one newspaper of general circulation in the city of Berkeley.

All rules and regulations and relevant documents explaining the decisions, orders, and policies of the board shall be kept in the board's office and shall be available to the public for inspection and copying.

The board shall publicize this Chapter so that all residents of Berkeley will have the opportunity to become informed about their legal rights and duties under this Chapter. The board shall prepare a brochure which fully describes the legal rights and duties of landlords and tenants under this Chapter. The brochure shall be made available to the public.

H. Meetings: The board shall hold regularly scheduled meetings. Special meetings shall be called at the request of at least a majority of the commissioners of the board. The board shall hold its initial meeting no later than July 15, 1980.

I. Quorum: Five commissioners shall constitute a quorum for the board.

J. Voting: The affirmative vote of five commissioners of the board is required for a decision, including all motions, rules, regulations, and orders of the board.

K. Compensation: The rent stabilization board shall be a working board. Commissioners shall be paid compensation and benefits in an amount set by the board in order to

compensate commissioners for their time and work performed as required by this chapter and the city charter.

L. Dockets: The board shall maintain and keep in its office all hearing dockets, which shall be available for public inspection.

M. Vacancies: If a vacancy shall occur on the board, a qualified person to fill such vacancy shall be selected in accordance with the procedures set forth in Article V of the City Charter.

N. Financing: The board shall finance its reasonable and necessary expenses by charging landlords annual registration fees in amounts deemed reasonable by the board. The registration fee for partially-exempt units shall reasonably approximate the cost of registration and counseling services for such units, and shall not include the cost of services from which such units are exempt. Such registration fees shall not be passed on to tenants in the form of rent increases except with the express prior approval of the board. The board is also empowered to request and receive funding, when and if necessary, from the city of Berkeley and/or any other available source for its reasonable and necessary expenses, including expenses incurred at the request of the City.

O. Staff: The board shall be a working board and shall employ such staff as may be necessary to perform its functions efficiently and as provided by Berkeley Ordinance.

P. Registration: The board shall require the registration of all rental units covered by this chapter as provided for in Section 13.76.080. The board may also require landlords to provide current information supplementing their registration statements.

Q. Decontrol: If the annual average vacancy rate for all rental units in the city of Berkeley exceeds five percent over a six month period, the city council is empowered, upon request by the board, at its discretion and in order to achieve the purposes of this chapter, to exempt rental units covered by this chapter from Sections 13.76.080, 13.76.100, 13.76.110 and 13.76.120 of this chapter. In determining the vacancy rate for the city of Berkeley the board and the city council shall consider all available data and may conduct their own survey. If units are exempted pursuant to this Subsection Q coverage shall be reimposed if the city council finds that the average annual vacancy rate has thereafter fallen below five percent. Prior to any decision to exempt or renew coverage for rental units under this Subsection Q the board shall hold at least two public hearings.

R. Conflict of Interest: Commissioners shall be subject to the requirements of the California Political Reform Act and other applicable state and local conflict of interest codes. Commissioners shall not necessarily be disqualified from exercising any of their powers and duties on the grounds of a conflict of interest solely on the basis of their status as a landlord or tenant. However, a commissioner shall be disqualified from ruling on a petition for an individual adjustment of a rent ceiling under Section 13.76.120, where the commissioner is either the landlord of the property or a tenant residing in the property that is involved in the petition.

Section 3. Section 13.76.080 of the Berkeley Municipal Code is amended to read as follows:

**13.76.080 Rent registration**

A. The board shall require all landlords subject to the provisions of this chapter, including Section 13.76.130, to file with the board by September 1, 1980 a rent registration statement for each rental unit covered by this chapter. An owner who has resided in a single family dwelling for at least three hundred sixty five consecutive calendar days need not file a rent registration statement under the provisions of this chapter if he/she rents this single family dwelling to another person or persons for a period not to exceed nine calendar months.

B. Landlords shall provide in their initial rent registration statement the following information:

- (1) The address of each rental unit;
- (2) The name and address of the landlord(s) and the managing agent, if any;
- (3) The date on which the landlord received legal title to or equitable interest in the rental unit;
- (4) The housing services provided for the rental unit;
- (5) The rent in effect on June 6, 1978;
- (6) The rent in effect on December 30, 1979;
- (7) The base rent ceiling;
- (8) The lowest rent in effect between June 6, 1978, and the date of the adoption of this chapter;
- (9) The amount of any deposits or other monies in addition to periodic rent demanded or received by the landlord in connection with the use or occupancy of the rental unit;
- (10) Whether the rental unit was vacant or occupied on May 31, 1980;
- (11) Rent in effect on December 31, 1981.

C. All rent registration statements provided by landlords in accordance with this chapter shall include an affidavit signed by the landlord declaring under penalty of perjury that the information provided in the rent registration statement is true and correct.

D. The first annual registration fee of twelve dollars per unit shall be paid by the landlords to the board no later than September 1, 1980. Subsequent annual registration fees set in accordance with Section 13.76.060N of this chapter shall be paid no later than July 1 of each. Because fees charged in years prior to 1991 were due on

September 1, but paid for board expenses from each preceding July 1, the fee due 1991 shall be calculated to pay for twelve months of board expenses.

E. The board shall provide forms for the registration information required by this section and shall make other reasonable efforts to facilitate the fulfillment of the requirements set forth in this section.

F. Every annual registration fee required by this chapter which is not paid on or before July 1 is declared delinquent, and the board shall add to said registration fee and collect a penalty of one hundred percent of the fee so delinquent in addition to the fee. Every six months that the fee and penalty remain delinquent, the penalty shall be increased by one hundred percent of the original fee. The board may waive the penalty if payment is made within thirty days of the original due date.

A landlord may request the board to waive all or part of the penalty if he/she can show good cause for the delinquent payment.

G. The amount of any registration fee and penalty imposed by the provisions of this chapter shall be deemed a debt to the city.

H. Within thirty days after the filing of a rent registration statement, the board shall provide a true and correct copy of said statement to the occupant of the respective unit.

I. Landlords of formerly exempt units shall register within sixty days of coming under coverage of this chapter. Units with tenancies established on or before March 1, 2020, that were formerly exempt as owner-occupied duplexes (under repealed subsection 13.76.050.F) shall register the rent in effect on March 1, 2020, and the initial rent ceiling shall be established on the basis of that monthly rent, subject to applicable annual general adjustments. Units with current tenancies established after March 1, 2020, that were formerly exempt as owner-occupied duplexes (under repealed subsection 13.76.050.F) shall register the monthly rent in effect on the first day of the tenancy and the initial rent ceiling shall be established on the basis of that initial rent set pursuant to the Costa-Hawkins Rental Housing Act (Civil Code Section 1954.50, et. seq.). The registration fee for this first-time registration shall be pro-rated based upon the number of months remaining to the next July 1 annual registration deadline.

J. No landlord shall be deemed to be in compliance with this section with respect to a given unit until the landlord has completed registration for all covered units in the same property. Registration shall be deemed complete when all required information has been provided and all outstanding fees and penalties have been paid.

K. Registration fees shall not be passed along to the tenants without the express, prior approval of the board. Under no circumstances shall penalties be passed along to tenants.

L. Landlords of partially-exempt units (set forth above in Sections 13.76.050I. and 13.76.050N.) shall register within sixty days of coming under coverage of this chapter. The registration fee for this first-time registration shall be pro-rated based upon the number of months remaining to the next July 1 annual registration deadline.

Section 4. Section 13.76.130 of the Berkeley Municipal Code is amended to read as follows:

**13.76.130 Good cause required for eviction**

A. No landlord shall be entitled to recover possession of a rental unit covered by the terms of this chapter unless said landlord shows the existence of one of the following grounds:

1. The tenant has failed to pay rent to which the landlord is legally entitled pursuant to the lease or rental agreement and under the provisions of state or local law, unless the tenant has withheld rent pursuant to applicable law; and said failure has continued after service on the tenant of a written notice setting forth the amount of rent then due and requiring it to be paid, within a period, specified in the notice, of not less than three days. Rent that is lawfully withheld pursuant to emergency legislation that authorizes rent withholding during the effective period of a state of emergency applicable in Berkeley shall not constitute grounds for recovery of possession except as expressly provided in the applicable emergency legislation. Emergency legislation adopted during the emergency may prohibit recovery of possession for lawfully withheld rent even after the expiration of a state or local emergency.

2. The tenant has continued, after written notice to cease, to substantially violate any of the material terms of the rental agreement, except the obligation to surrender possession on proper notice as required by law, and provided that such terms are reasonable and legal and have been accepted in writing by the tenant or made part of the rental agreement; and provided further that, where such terms have been accepted by the tenant or made part of the rental agreement subsequent to the initial creation of the tenancy, the landlord shall have first notified the tenant in writing that he or she need not accept such terms or agree to their being made part of the rental agreement. Notwithstanding any contrary provision in this chapter or in the rental agreement, a landlord is not entitled to recover possession of a rental unit under this subsection where a tenant permits his or her rental unit to be occupied by a subtenant, provided:

- a. The landlord has unreasonably withheld consent to the subtenancy; and
- b. The tenant remains an actual occupant of the rental unit; and
- c. The number of tenants and subtenants actually occupying the rental unit does not exceed the number of occupants originally allowed by the rental agreement or the board's regulations, whichever is greater.

d. Withholding of consent by the landlord shall be deemed to be unreasonable where:

(i) The tenant's written request for consent was given at least two weeks prior to commencement of the subtenancy;

(ii) The proposed new subtenant has, upon the landlord's written request, completed the landlord's standard form application or provided sufficient information to allow the landlord to conduct a standard background check, including references and credit, income and other reasonable background information; and

(iii) The proposed new subtenant meets the landlord's customary occupancy qualifications and has not refused the landlord's request to be bound by the terms of the current rental agreement between the landlord and the tenant; and

(iv) The landlord has not articulated in writing a well-founded reason for refusing consent.

3. The tenant has willfully caused or allowed substantial damage to the premises beyond normal wear and tear and has refused, after written notice, to pay the reasonable costs of repairing such damage and cease damaging said premises.

4. The tenant has refused to agree to a new rental agreement upon expiration of a prior rental agreement, but only where the new rental agreement contains provisions that are substantially identical to the prior rental agreement, and is not inconsistent with local, state and federal laws.

5. The tenant has continued, following written notice to cease, to be so disorderly as to destroy the peace and quiet of other tenants or occupants of the premises or the tenant is otherwise subject to eviction pursuant to subdivision 4 of Code of Civil Procedure Section 1161.

6. The tenant has, after written notice to cease, refused the landlord access to the unit as required by state or local law.

7a. The landlord, after having obtained all necessary permits from the City of Berkeley, seeks in good faith to undertake substantial repairs which are necessary to bring the property into compliance with applicable codes and

laws affecting the health and safety of tenants of the building or where necessary under an outstanding notice of code violations affecting the health and safety of tenants of the building, and where such repairs cannot be completed while the tenant resides on the premises.

b. Where such repairs can be completed in a period of 60 or fewer days, and the tenant, within 30 days after the service of a notice of termination of his or her tenancy, agrees in writing to vacate the premises during the period required to complete the repairs at no charge to the landlord, other than abatement of the obligation to pay rent for the premises during the period required to complete the repairs, the landlord may not recover possession pursuant to this subsection (13.76.130A.7.) unless the tenant shall fail or refuse to vacate the premises in accordance with such agreement.

c. Where the landlord owns any other residential rental units in the City of Berkeley, and any such unit is vacant and available at the time of premises or the entry of a judgment by a court of competent jurisdiction awarding possession of the premises to the landlord, the landlord shall, as a condition of obtaining possession pursuant to this subsection (13.76.130A.7.), notify tenant in writing of the existence and address of each such vacant rental unit and offer tenant the right, at the tenant's option:

(i) To enter into a rental agreement (to be designated as a "temporary rental agreement") on any available rental unit which the tenant may choose, at a rent not to exceed the lesser of the lawful rent which may be charged for such available rental unit or the lawful rent in effect, at the time of the notice of termination of tenancy, on the unit being vacated, said rental agreement to be for a term of the lesser of ninety days or until completion of repairs on the rental unit being vacated by tenant; or

(ii) To enter into a new rental agreement or lease for such available rental unit at a rent not to exceed the lawful rent which may be charged for such available rental unit.

d. Where the landlord recovers possession under this subsection (13.76.130A.7.), the tenant must be given the right of first refusal to re-occupy the unit upon completion of the required work. In the event the landlord files an application for an individual rent adjustment within six



months following the completion of the work, the tenant shall be a party to such proceeding the same as if he or she were still in possession, unless the landlord shall submit, with such application, a written waiver by the tenant of his or her right to re-occupy the premises pursuant to this subsection.

8. The landlord, after having obtained all necessary permits from the City of Berkeley, seeks in good faith to recover possession of the rental unit, in order to remove the rental unit from the market by demolition.

9. Owner Move-in Evictions.

a. The landlord seeks in good faith with honest intent and without ulterior motive to recover possession for his/her own use and occupancy as his/her principal residence for a period of at least 36 consecutive months; or

b. For the use and occupancy as the principal residence by the landlord's spouse or by the landlord's child, or parent for a period of at least 36 consecutive months.

c. For the purposes of this subsection (13.76.130A.9.), the term landlord shall be defined as the owner of record, as of the time of giving of a notice terminating tenancy, and at all times thereafter to and including the earlier of the tenant's surrender of possession of the premises or the entry of a judgment of a court of competent jurisdiction awarding possession of the premises to the landlord, holding at least a 50% interest in the property and shall not include a lessor, sublessor, or agent of the owner of record.

d. All notices terminating tenancy pursuant subsection 13.76.130.A.9 shall include the following: the existence and potential availability of relocation assistance under subsection 13.76.130A.9.g; the existence of tenant protections for families with minor children as defined in subsection 13.76.130A.9.k; the name and relationship of any qualified relative for purposes of subsection 13.76.130A.9b; and the landlord's ownership interest in any residential properties in the City of Berkeley where such interest, in any form whatsoever, is ten percent (10%) or greater. The landlord shall, within ten days of giving notice, file a copy of the notice terminating tenancy with the Rent Board.

e. The landlord may not recover possession under this subsection (13.76.130A.9.) if a comparable unit, owned by the landlord in the City of Berkeley, was, at the time of the landlord's decision to seek to recover possession of the

rental unit, already vacant and available, or if a comparable unit, owned by the landlord in the City of Berkeley, thereafter becomes vacant at any time until the earlier of the tenant's surrender of possession of the premises or the entry of a judgment of a court of competent jurisdiction awarding possession of the premises to the landlord. In an action by or against the tenant, evidence that a comparable unit was vacant and available within ninety days prior to the date of a notice terminating the tenant's tenancy shall create a presumption that such unit was vacant and available at the time of the landlord's decision to seek to recover possession of the premises. "Presumption" means that the court must find the existence of the presumed fact unless and until the contrary is proven by a preponderance of the evidence.

f. The landlord shall offer any non-comparable unit owned by the landlord to the tenant if a non-comparable unit becomes available before the recovery of possession of the tenant's unit at a rate based on the rent the tenant is paying with an upward or downward adjustment based on the condition, size, and other amenities of the replacement unit. Disputes concerning the initial rent for the replacement unit shall be determined by the Rent Board.

g. Where a landlord recovers possession of a unit under subsection 13.76.130A.9, the landlord is required to provide standard relocation assistance to tenant households where at least one occupant has resided in the unit for one year or more in the amount of \$15,000. The landlord is required to provide an additional \$5,000 relocation assistance to tenant households that qualify as low-income; or include disabled or elderly tenants; minor children; or tenancies which began prior to January 1, 1999. The relocation fees set forth above shall be increased in accordance with the rules set forth in subsection 13.76.130A.9.h below. The procedures for payment of this relocation assistance are set forth below in subsection 13.76.130A.9.p.(i) through (iv). The following definitions apply for any tenant households evicted for owner move-in under subsection 13.76.130A.9:

(i)"low-income tenants" means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States

Housing Act of 1937, or as otherwise defined in Health and Safety Code Section 50079.5.

(ii) a person is “disabled” if he/she has a physical or mental impairment that limits one or more of a person's major life activities within the meaning of the California Fair Housing and Employment Act (Government Code § 12926).

(iii) “elderly” is defined as sixty (60) years of age or older.

(iv) “minor child” means a person who is under 18 years of age.

(v) “tenancy began prior to January 1, 1999” is a tenancy where an “original occupant” (as defined by Berkeley Rent Board Regulation) still permanently resides in the rental unit.

h. Effective January 1 of each year beginning in 2018, the fees set forth above in subsection 13.76.130A.9.g., may be increased in an amount based on the Consumer Price Index - All Urban Consumers in the San Francisco-Oakland-San Jose Region averaged for the 12-month period ending June 30, of each year, as determined and published by United States Department of Labor. Any increase shall be published by the Board on or before October 31<sup>st</sup> of each year.

i. It shall be evidence that the landlord has acted in bad faith if the landlord or the landlord's qualified relative for whom the tenant was evicted does not move into the rental unit within three months from the date of the tenant's surrender of possession of the premises or occupy said unit as his/her principal residence for a period of at least 36 consecutive months.

j. Once a landlord has successfully recovered possession of a rental unit pursuant to subsection 13.76.130A.9.a., then no other current or future landlords may recover possession of any other rental unit on the property pursuant to subsection 13.76.130A.9.a. It is the intention of this subsection that only one specific unit per property may be used for such occupancy under subsection 13.76.130A.9.a and that once a unit is used for such occupancy, all future occupancies under subsection 13.76.130A.9.a must be of that same unit.

k. A landlord may not recover possession of a unit from a tenant under subsection 13.76.130A.9 if any tenant in the rental unit has a custodial or family relationship with a minor child who is residing in the unit, the tenant with the custodial or family relationship has resided in the unit for 12 months or more, and the effective date of the notice of termination of tenancy falls during the school year. The term “school year” as used in this subsection means the first day of instruction for the Fall Semester through the first day of the month following the last day of instruction for the Spring Semester, as posted on the Berkeley Unified School District website for each year.

(i) For purposes of subsection 13.76.130A.9.k, the term “custodial relationship” means that the person is a legal guardian of the child, or has a caregiver’s authorization affidavit for the child as defined by Section 6550 of the California Family Code, or that the person has provided full-time custodial care of the child pursuant to an agreement with the child’s legal guardian or court-recognized caregiver and has been providing that care for at least one year or half of the child’s lifetime, whichever is less. The term “family relationship” means that the person is the biological or adoptive parent, grandparent, brother, sister, aunt or uncle of the child, or the spouse or domestic partner of such relations.

l. A landlord may not recover possession of a unit from a tenant under subsection 13.76.130A.9 if any tenant in the rental unit:

(i) Is 60 years of age or older and has been residing on the property for five years or more;  
or

(ii) Is disabled and has been residing on the property for five years or more; or

(iii) Has resided on the property for five years or more and the landlord has a ten percent (10%) or greater ownership interest, in any form whatsoever, in five or more residential rental units in the City of Berkeley.

m. A tenant who claims to be a member of one of the classes protected by subsection 13.76.130A.9.l must submit a statement, with supporting evidence, to the landlord. A

tenant's failure to submit a statement at any point prior to the trial date of an unlawful detainer action for possession of the tenant's unit shall be deemed an admission that the tenant is not protected by subsection 13.76.130A.9.I. A landlord may challenge a tenant's claim of protected status by raising it as an issue at trial in an unlawful detainer action for possession of the tenant's unit.

n. The provisions of subsection 13.76.130A.9.I shall not apply to the following situations:

(i) Where a person is the owner of three or fewer residential units in the City of Berkeley and has no greater than a nine percent (9%) ownership interest in any other residential unit in the City of Berkeley; or

(ii) Where each residential rental unit in Berkeley in which the landlord holds an ownership interest of ten percent (10%) or greater is occupied by a tenant otherwise protected from eviction by subsection 13.76.130A.9.I and the landlord's qualified relative who is seeking possession of a unit subject to subsection 13.76.130A.9.b is 60 years of age or older or is disabled as defined in subsection 13.76.130A.9.I.(ii) above; or

(iii) Where each residential rental unit in Berkeley in which the landlord holds an ownership interest of ten percent (10%) or greater is occupied by a tenant otherwise protected from eviction by subsection 13.76.130A.9.I, the landlord has owned the unit for which possession is being sought subject to subsection 13.76.130A.9.a for five years or more and is 60 years of age or older or is disabled as defined in subsection 13.76.130A.9.I.(ii).

o. Where a landlord recovers possession under Subsection 13.76.130A.9, the tenant must be given the right of first refusal to re-occupy the unit upon its next vacancy.

p. When a landlord is required to provide a relocation assistance payment subject to subsection 13.76.130A.9.g, the payment shall be divided among the tenants occupying

the rental unit at the time of service of the notice to terminate tenancy.

(i) Within ten days of service of a notice terminating tenancy under subsection 13.76.130A.9, the landlord shall deposit the standard relocation assistance (for households where an occupant has resided one year or more) with the City or its designated agent to be held in escrow. Within ten days after the funds

are deposited into escrow, the City shall release the standard relocation assistance to the tenant household, unless the landlord notifies the Rent Stabilization Program in writing that he/she disputes the tenant's eligibility to receive such assistance.

(ii) In order to claim entitlement to additional relocation assistance under subsection 13.76.130A.9.g, a tenant must notify the landlord and the Rent Stabilization Program in writing that he/she is claiming low-income, disabled, elderly, tenant with minor child status, or a claim that the tenancy began prior to January 1, 1999 (hereinafter "entitlement to additional relocation assistance") per subsection 13.76.130A.9.g within 30 days of filing of notice of termination of tenancy with the Rent Stabilization Program. The landlord shall deposit the additional relocation payment with the Rent Stabilization Program or its designated agent to be held in escrow for any tenant household who claims entitlement to additional relocation assistance within ten days after such notice claiming entitlement to additional relocation assistance is mailed. Within ten days after the funds are deposited into escrow, the Rent Stabilization Program shall authorize release the relocation assistance to the tenant household that claims entitlement to additional relocation assistance, unless the landlord notifies the Rent Stabilization Program in writing that he/she disputes the tenant's eligibility to receive such assistance.

(iii) When a tenant household's eligibility to receive standard or additional relocation

assistance as described in subsection 13.76.130A.9.g is disputed, either party may file a Rent Board petition requesting a determination of eligibility or file a claim in a court of competent jurisdiction. The Rent Stabilization Program shall release disputed relocation assistance funds to either the tenant or the landlord upon receipt of either a written agreement by both the landlord and the affected tenant, an order of a court of competent jurisdiction, or an order of a City or Rent Board hearing examiner issued pursuant to a petition process conducted in accordance with applicable Rent Board Regulations.

(iv) The landlord may rescind the notice of termination of tenancy prior to any release of relocation payment to the tenants by serving written notice stating such rescission on the tenants. In such instance, the relocation payment shall be released to the landlord. Subsequent to the release of any relocation payment to the tenants, the landlord may rescind the notice of termination of tenancy only upon the written agreement of the tenants to remain in possession of the rental unit. If the tenants remain in possession of the rental units after service of a landlord's written notice of rescission of the eviction, the tenants shall provide an accounting to the landlord of the amount of the relocation payment expended for moving costs, return to the landlord that portion of the relocation payment not expended for moving costs, and assign to the landlord all rights to recover the amount of relocation payment paid to third parties. If a rescission occurs under this subsection, the tenant(s) shall continue the tenancy on the same terms as before the notice was served.

(v) Where a landlord has served a notice of termination of tenancy on a tenant prior to the date that this amendment takes effect and the notice of termination of tenancy has not expired, the landlord shall deposit the full relocation payment with the City or its designated agent to be held in escrow for the

tenants if the tenants have not vacated the rental unit as of the effective date of this amendment, and the landlord shall pay the full relocation payment to the tenants if the tenants have vacated the rental unit as of the effective date of this amendment. Said deposit in escrow or payment to the tenants shall be made within ten days of the effective date of this amendment.

(vi) Failure of the landlord to make any payment specified herein shall be a defense to any action to recover possession of a rental unit based upon the landlord's termination of tenancy notice pursuant to this subsection (13.76.130A.9). In addition, if the tenants of a rental unit have vacated the unit as a result of a notice of termination of tenancy pursuant to this subsection (13.76.130.A.9), and the landlord fails to make any payment specified herein, the landlord shall be liable to the tenants for three times the amount of the payment as well as reasonable attorney fees.

q. A tenant who prevails in an action brought under this subsection (13.76.130A.9), in addition to any damages and/or costs awarded by the court, shall be entitled to recover all reasonable attorney's fees incurred in bringing or defending the action.

r. At least twice annually, Rent Board staff shall report to the Rent Board regarding the occupancy status of units possession of which has been recovered pursuant to this subsection (13.76.130A.9) within the prior 36 months.

s. If any provision or clause of this subsection (13.76.130A.9) or the application thereof to any person or circumstance is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses, and to this end the provisions and applications of this subsection are severable.

10. A landlord or lessor seeks in good faith to recover possession of the rental unit for his/her occupancy as a principal residence, where the landlord or lessor has previously occupied the rental unit as his/her principal residence and has the right to recover possession of the unit for



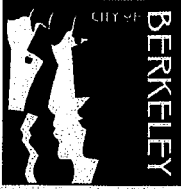
his/her occupancy as a principal residence under an existing rental agreement with the current tenants.

11. The tenant fails to vacate a rental unit occupied under the terms of a temporary rental agreement entered into pursuant to the provisions of subsection 13.76.130A.7.c., following expiration of the term of said temporary rental agreement, and following written notice of the availability of tenant's previous rental unit for re-occupancy by tenant (if the term of the rental agreement has expired by reason of the completion of repairs on the old rental unit), or of written notice to quit (if the term of the rental agreement has expired by reason of the expiration of a period of 90 days).

B. A landlord's failure to specify good cause as listed above in subsections 1. through 11. of Section 13.76.130A. in the notice of termination or the notice to quit and in the complaint for possession shall be a defense to any action for possession of a rental unit covered by the terms of this chapter.

C. In any action to recover possession of a rental unit covered by the terms of this chapter, except an action to recover possession under subsection 13.76.130A.7., 13.76.130.A.8, or 13.76.130.A.11., a landlord shall allege, as to each rental unit on the property, substantial compliance as of the date of the notice of termination or notice to quit and as of the date of the commencement of the action for possession with the implied warranty of habitability and compliance as of the date of the notice of termination or notice to quit and as of the date of the commencement of the action for possession with Sections 13.76.100 (Rent Ceiling) and 13.76.080 (Rent Registration) of this chapter.

D. The landlord shall file with the board a copy of any notice of termination, notice to quit, and summons and complaint, within ten days after the tenant has been served with such notice or summons and complaint.




Rent Stabilization Board  
Office of the Executive Director

**MEMORANDUM**

**DATE:** May 21, 2020

**TO:** Honorable Members of the Berkeley Rent Board

**FROM:** Honorable Members of the IRA/AGA/Habitability Committee

By: Matt Brown, Acting Executive Director   
Matthew Siegel, Staff Attorney  
Lynn Wu, Staff Attorney

**SUBJECT:** Proposed Amendments to Rent Stabilization and Eviction for Good Cause Ordinance

---

**Summary**

The IRA-AGA-Registration Committee met on May 8, 2020 to discuss amendments to the Rent Stabilization and Eviction for Good Cause Ordinance and voted unanimously to propose them to the full Board. This memorandum compiles the Committee's recommendations for proposed amendments that are designed to ensure that the Ordinance better serves its purpose; namely the prevention of arbitrary, discriminatory or retaliatory evictions, in order to maintain the diversity of the Berkeley community and to ensure compliance with legal obligations relating to the rental of housing. In light of both the ongoing housing crisis and the new threat to housing stability posed by the COVID-19 pandemic, these proposed amendments enhance the ability of the Board and City Council to preserve the public peace, health and safety, and the availability of housing for low and fixed income households, people of color, students, people with disabilities, and older residents.

The proposed amendments include an expanded registration requirement for partially-exempt units; an amendment to eliminate the exemption for owner-occupied duplexes; an amendment to the nonpayment of rent cause for eviction to exclude rent that is delayed due to a covered reason related to a state of emergency such as the COVID-19 pandemic; and an amendment to eliminate the exemption for Accessory Dwelling Units (ADUs). Each proposed amendment is discussed separately below.

2125 Milvia Street, Berkeley, California 94704  
TEL: 510.981.7368 ■ TDD: 510.981.6903 ■ FAX: 510.981.4940  
E-MAIL: [rent@ci.berkeley.ca.us](mailto:rent@ci.berkeley.ca.us) ■ INTERNET: [www.ci.berkeley.ca.us/rent/](http://www.ci.berkeley.ca.us/rent/)

**1. Expanded Registration**

**Background and Need for Rent Stabilization Board Action:**

This proposal would require the registration of certain types of units not covered by rent control for purposes of monitoring the ongoing housing crisis and improving the efficacy of local regulatory efforts to mitigate the crisis.

If this proposal were enacted, the Board would adopt a secondary Registration Fee for two types of partially-exempt units: single-family homes and newly constructed units. The Registration Fee for these units would cover only those additional expenses incurred by the Board as a result of counseling the owners and tenants of these partially-exempt units, as well as registration of those units, and would not cover the costs associated with petitions for individual rent adjustments and other services that are not provided to partially-exempt units.

The proposal should set forth a deadline for the registration of partially-exempt units, which are currently exempt from registration requirements. This deadline should be established in consideration of the administrative resources required by Board staff, in addition to the other policy goals of the proposal.

**Proposed Language:**

Chapter 13.76 is amended as follows:

Section 13.76.050

**APPLICABILITY**

This chapter shall apply to all real property that is being rented or is available for rent for residential use in whole or in part, except for the following:

...

I. Newly constructed rental units, as defined in Section 13.76.040. However, the exemption of such newly constructed units shall be limited to their exemption from the terms of ~~Section 13.76.080, Rent Registration;~~ Section 13.76.100, Establishment of Base Rent Ceiling and Posting; Section 13.76.110, Annual General Adjustment of Rent Ceilings; and Section 13.76.120, Individual Adjustments of Rent Ceilings, of this chapter. To the extent that state law permits, the exemption of such newly constructed units shall be limited to the first 20 years after completion of construction.

...

O. A dwelling or a unit alienable separate from the title to any other dwelling unit unless the tenancy commenced before January 1, 1996. However, the exemption of such units shall be limited to their exemption from the terms of Section 13.76.100, Establishment of Base Rent Ceiling and Posting; Section 13.76.110, Annual General Adjustment of Rent Ceilings; and Section 13.76.120, Individual Adjustments of Rent Ceilings, of this chapter. The exemptions provided in this Section shall apply only as long as the pertinent provisions of California Civil Code Section 1954.50 et. seq. ("Costa-Hawkins") remain in effect and require such an exemption.

Section 13.76.060

RENT STABILIZATION BOARD

...  
N. Financing: The board shall finance its reasonable and necessary expenses by charging landlords annual registration fees in amounts deemed reasonable by the board. The registration fee for partially-exempt units shall reasonably approximate the cost of registration and counseling services for such units, and shall not include the cost of services from which such units are exempt. Such registration fees shall not be passed on to tenants in the form of rent increases except with the express prior approval of the board. The board is also empowered to request and receive funding, when and if necessary, from the city of Berkeley and/or any other available source for its reasonable and necessary expenses, including expenses incurred at the request of the City.

Section 13.76.080

RENT REGISTRATION

A. The board shall require all landlords subject to the provisions of this chapter, including Section 13.76.130, to file with the board by September 1, 1980 a rent registration statement for each rental unit covered by this chapter. An owner who has resided in a single family dwelling for at least three hundred sixty five consecutive calendar days need not file a rent registration statement under the provisions of this chapter if he/she rents this single family dwelling to another person or persons for a period not to exceed nine calendar months.

...  
L. Landlords of partially-exempt units (set forth above in Sections 13.76.050I. and 13.76.050O.) shall register within sixty days of coming under coverage of this chapter. The registration fee for this first-time registration shall be pro-rated based upon the number of months remaining to the next July 1 annual registration deadline.

2. "Golden Duplex" Repeal

**Background and Need for Rent Stabilization Board Action:**

This proposal would repeal the "golden duplex" exemption for owner-occupied duplexes that were owner-occupied on December 31, 1979, and would bring all duplexes within the coverage of the ordinance, except those that are also exempt under a separate provision, such as new construction. Rent ceilings must be established for units that lose exemption. Thus, this proposal would set the rent ceilings at the amount of rent in effect on March 1, 2020, for tenants who occupied the unit continuously on or before March 1, 2020, through the date this amendment becomes effective. For tenancies that begin after March 1, 2020, the rent ceiling would be the lawfully established initial rent under the Costa-Hawkins Rental Housing Act (Civil Code Section 1954.50 et. seq.).

**Proposed Language:**

Section 13.76.050

APPLICABILITY

This chapter shall apply to all real property that is being rented or is available for rent for residential use in whole or in part, except for the following:

...

~~F. Rental units in a residential property which is divided into a maximum of four units where one of such units is occupied by the landlord as his/her principal residence. Any exemption of rental units established under this subsection (13.76.050 F.) shall be limited to rental units that would have been exempt under the provisions of this chapter had this chapter been in effect on December 31, 1979. After July 1, 1982, this exemption shall no longer apply to rental units in a residential property which is divided into three or four units. It shall continue to apply to rental units in a residential property which is divided into two units, and which meet all the other requirements of this subsection (13.76.050F). Rental units which become non-exempt under this provision shall have the provisions of Subsections 13.76.080I and 13.76.100C. applied to them.~~

Section 13.76.080

RENT REGISTRATION

A. The board shall require all landlords subject to the provisions of this chapter to file with the board by September 1, 1980 a rent registration statement for each rental unit covered by this chapter. An owner who has resided in a single family dwelling for at least three hundred sixty five consecutive calendar days need not file a rent registration statement under the provisions of this chapter if he/she rents this single family dwelling to another person or persons for a period not to exceed nine calendar months.

...

I. Landlords of formerly exempt units shall register within sixty days of coming under coverage of this chapter. Units with tenancies established on or before March 1, 2020, that were formerly exempt as owner-occupied duplexes (under repealed subsection 13.76.050.F) shall register the rent in effect on March 1, 2020, and the initial rent ceiling shall be established on the basis of that monthly rent, subject to applicable annual general adjustments. Units with current tenancies established after March 1, 2020, that were formerly exempt as owner-occupied duplexes (under repealed subsection 13.76.050.F) shall register the monthly rent in effect on the first day of the tenancy and the initial rent ceiling shall be established on the basis of that initial rent set pursuant to the Costa-Hawkins Rental Housing Act (Civil Code Section 1954.50, et. seq.). The registration fee for this first-time registration shall be pro-rated based upon the number of months remaining to the next July 1 annual registration deadline.

**3. COVID19 Delayed Payments Are Not Good Cause for Eviction**

**Background and Need for Rent Stabilization Board Action:**

The Berkeley City Council’s COVID-19 Emergency Response Ordinance (Berkeley Municipal

Code Chapter 13.110) provides that where a tenant has a Covered Reason for Delayed Payment, those delayed payments shall not constitute grounds for eviction, even after the expiration of the local State of Emergency. Alameda County has enacted a similar protection that applies countywide. This proposal would amend the Rent Stabilization Ordinance to ensure that there is no conflict with these or any other future pieces of emergency legislation by limiting the substantive basis for eviction for nonpayment of rent so that it does not apply to rent payments that come due during a state or local state of emergency when triggered by applicable federal, state, or local emergency legislation.

**Proposed Language:**

Section 13.76.130

**GOOD CAUSE REQUIRED FOR EVICTION**

A. No landlord shall be entitled to recover possession of a rental unit covered by the terms of this chapter unless said landlord shows the existence of one of the following grounds:

1. The tenant has failed to pay rent to which the landlord is legally entitled pursuant to the lease or rental agreement and under the provisions of state or local law, unless the tenant has withheld rent pursuant to applicable law; and said failure has continued after service on the tenant of a written notice setting forth the amount of rent then due and requiring it to be paid, within a period, specified in the notice, of not less than three days. Rent that is lawfully withheld pursuant to emergency legislation that authorizes rent withholding during the effective period of a state of emergency applicable in Berkeley shall not constitute grounds for recovery of possession except as expressly provided in the applicable emergency legislation. Emergency legislation adopted during the emergency may prohibit recovery of possession for lawfully withheld rent even after the expiration of a state or local emergency.

**4. Eliminating the Accessory Dwelling Unit (ADU) Exemption**

**Background and Need for Rent Stabilization Action:**

The committee proposes to eliminate the ADU exemption entirely.<sup>1</sup>

Rent ceilings must be established for units that lose exemption. Thus, this proposal would set the rent ceilings at the amount of rent in effect on March 1, 2020 for tenants who occupied the unit continuously from on or before March 1, 2020 through the date this amendment becomes effective. For tenancies that begin after March 1, 2020, the rent ceiling would be the lawfully

---

<sup>1</sup> Starting in January 2020, owners may create ADUs in multi-family properties. If voters do not eliminate the ADU exemption as proposed by the committee, they will need to amend the exemption as currently written in the Rent Ordinance. Otherwise, there would likely be unintended exemptions created, since rental units in multi-family properties would become exempt after an owner occupies a unit on the property as their principal residence. As initially drafted the existing exemption was only meant to apply narrowly to situations in which only a Single Family Dwelling shares a property with a single ADU. If nothing else, this language must be amended to ensure that rental units are not exempted that were never meant to be.

established initial rent under the Costa-Hawkins Rental Housing Act (Civil Code Section 1954.50 et. seq.).

**Proposed Language:**

Section 13.76.050

APPLICABILITY

This chapter shall apply to all real property that is being rented or is available for rent for residential use in whole or in part, except for the following:

...  
~~N. A rental unit in a residential property containing a lawfully established and fully permitted Accessory Dwelling Unit where the landlord also occupies a unit in the same property as his/her principal residence. This subsection (13.76.050N) shall only apply to properties containing a single Accessory Dwelling Unit, shall only apply to units compliant with all applicable requirements of Chapter 23C.24 ("Accessory Dwelling Units"), and shall only apply to tenancies created after November 7, 2018.~~

Section 13.76.080

RENT REGISTRATION

A. The board shall require all landlords subject to the provisions of this chapter to file with the board by September 1, 1980 a rent registration statement for each rental unit covered by this chapter. An owner who has resided in a single family dwelling for at least three hundred sixty five consecutive calendar days need not file a rent registration statement under the provisions of this chapter if he/she rents this single family dwelling to another person or persons for a period not to exceed nine calendar months.

...  
I. Landlords of formerly exempt units shall register within sixty days of coming under coverage of this chapter. Units with tenancies established on or before March 1, 2020, that were formerly exempt as Accessory Dwelling Units where the landlord also occupies a unit in the same property as his/her principal residence (under repealed subsection 13.76.050.N) shall register the monthly rent in effect on March 1, 2020, and the initial rent ceiling shall be established on the basis of that rent, subject to applicable annual general adjustments. Units with current tenancies established after March 1, 2020, that were formerly exempt as owner-occupied duplexes (under repealed subsection 13.76.050.N) shall register the monthly rent in effect on the first day of the tenancy and the initial rent ceiling shall be established on the basis of that initial rent set pursuant to the Costa-Hawkins Rental Housing Act (Civil Code Section 1954.50 et. seq.). The registration fee for this first-time registration shall be pro-rated based upon the number of months remaining to the next July 1 annual registration deadline.

**CONCLUSION**

The IRA/AGA/Registration Committee has unanimously proposed that the Board adopt these proposed amendments at its May 8, 2020 meeting. After the Board discusses them and decides what it wishes to propose, the City Council will have to vote to place these matters on the ballot for the November general election. Typically, proposed Rent Ordinance amendments have also been brought to the 4 x 4 Committee, but that Committee has not been deemed essential and consequently is not convening at this time as a result of the local state of emergency related to the COVID-19 pandemic.

Time is of the essence as Council will have to place these matters on an agenda soon in order to meet any ballot measure deadlines. Staff awaits the Board's instruction on how it wishes to proceed.





Kate Harrison  
Councilmember District 4

ACTION CALENDAR  
July 28, 2020

To: Honorable Mayor and Members of the City Council  
From: Councilmember Kate Harrison  
Subject: Amendments to Berkeley Municipal Code 23C.22: Short Term Rentals

RECOMMENDATION

Amend Berkeley Municipal Code 23C.22: Short Term Rentals to clarify the ordinance and insure adequate host responsibilities, tenant protections and remedies for violating the ordinance.

BACKGROUND

Berkeley has had regulations on short term rentals (STRs) since 2017, allowing STRs in most residential and commercial zones, as long as the host pays the transient occupancy tax and the unit being rented fits particular criteria (no Below Market Rate unit may be a short term rental, no unit may be a short term rental if it has had a No Fault Eviction in the past five years, etc). The City of Santa Monica also has an ordinance regulating STRs that places the regulatory burden on the *host platform* (i.e., AirBnB or other corporate host platforms) rather than the individual renting out their unit. Santa Monica placed four obligations on the host platform: collecting and remitting transient occupancy taxes, regularly disclosing listings and booking information to the City, refraining from booking properties not licensed by the City, and refraining from collecting fees for ancillary services.<sup>1</sup> The Ninth Circuit Court of Appeals upheld the legality in the case of *Homeaway.com v. Santa Monica*, thus confirming the rights of Cities to regulate short term rental host platforms.

The proposed amendments update the City of Berkeley's STR regulations to more closely align with Santa Monica's ordinance, as well as other amendments intended to ensure that the short term rentals in Berkeley serve the needs of the City. The primary five changes are as follows:

**1) Regulatory burden shifted to the Host Platform**

We clarify the definition of a hosting platform in 23C.22.030.H (page 2) as a marketplace that derives revenue from maintaining said short term rental marketplace. Regulating the host platform consolidates regulation and ensures that the transient

---

<sup>1</sup> *Homeaway.com v Santa Monica*. United State Court of Appeals for the Ninth Circuit. No. 18-55367.

occupancy tax owned to the City gets paid. Recommended changes to 23C.22.050.H and I (page 5) state that if a hosting platform is utilized to book a short term rental, both it and the individual host are legally responsible and are jointly liable for remitting the transient occupancy tax. New section 23C.22.050.I (pages 5-6) also outlines new duties of the hosting platform, including a regular disclosure of short term rental listings in the City as well as their address, length of stay, and listed prices. In addition, the hosting platform is responsible for ensuring that all short term rentals are appropriately licensed with a Zoning Certificate and adds the requirements that STRs must list the Zoning Certificate on any STR advertisements. The new regulations also include a safe harbor clause, making clear that hosting platforms that disclose listings, regularly remit the transient occupancy tax, and ensure the listing has a Zoning Certificate will be presumed to be in compliance with the chapter.

## **2) Hosts can have only one residence**

Individual people have the right to rent out their homes on a short term basis, but in a housing crisis, it is in the best interest of the City to ensure that no one has extra units for STRs when they could house someone long term instead. To that end, 23C.22.030.F and 23C.22.030.I (pages 2-3) clarify that hosts may not have more than one principle place of residency, which may include accessory buildings or ADUs.

## **3) Short term rentals limited to single ADUs, single Accessory Buildings or Golden Duplexes not rented for the past ten years**

The current ordinance limits use of Accessory Buildings or Accessory Dwelling Units to those that have not been rented for ten years. Additions to Section 23C.22.020.D (page 1) expand that prohibition to include more than one Accessory Building or ADU on a property and prohibits short term rentals in Golden Duplexes if those units have been rented in the last ten years. Unpermitted use of these units would be investigated by the Rent Stabilization Board under Section 23C.22.060.I (page 7).

## **4) Closing 14/30 day loophole**

Under current law, any rental over 14 days is not a short term rental and thus does not require paying a transient occupancy tax. Any rental that is shorter than 30 days is not a long term rental and thus rent control and other rental protections are awarded to the tenant. As it now stands there are instances of regularly renting a unit for a period of time between 14 days and fewer than 30 days, thus circumventing standard regulations. 23C.22.030.N (page 3) and 23C.22.040 (page 4) close this loophole by disallowing rentals between 14 and 30 days, and stating that no Zoning Certificate or advertisement for a short term rental may be permitted for rentals longer than 14 days.

## **5) Remedies**

New language under 23C.22.060E and 23C.22.060.J (page 7) clarify that in the case of a private right of action the prevailing party is entitled to recover reasonable costs and attorney's fees, thus making private right of action more financially feasible. The new

Resolution in Support of Senate Bill 54 and Assembly Bill 1080:  
The California Circular Economy and Plastic Pollution Reduction Act

ACTION CALENDAR  
July 28, 2020

language also gives the City the right to issue administrative subpoenas to determine whether short term rentals are in compliance with the chapter. Both of these edits are intended to encourage enforcement and compliance.

Finally, the ordinance clarifies the definitions of the terms Accessory Building, Accessory Dwelling Unit, and the Transient Occupancy Tax and defines a Golden Duplex and other clarifying language.

CONTACT PERSON

Kate Harrison, Berkeley City Councilmember, (510) 981-7140

ATTACHMENTS

Ordinance

## 100Chapter 23C.22 Short-Term Rentals

### 23C.22.010 Purposes

The purposes of the Short-Term Rentals related regulations contained in this Chapter are:

- A. To prevent long-term rental units from being replaced with Short-Term Rentals and protect affordable housing units from conversion.
- B. To preserve and protect neighborhood character and livability from nuisances that are often associated with Short-Term Rentals.
- C. To generate City revenue to share City infrastructure cost and other public expenditures by operation of Short-Term Rentals under established standards.
- D. To provide alternative forms of lodging. (Ord. 7521-NS § 1 (part), 2017)

### 23C.22.020 Applicability

- A. Short-Term Rentals shall be allowed in residential uses in the following zoning districts: R-1, R-1A, R-2, R-2A, R-3, R-4, R-5, R-S, R-SMU, C-DMU, C-1, C-NS, C-SA, C-T, C-W, and MU-R.
- B. Short-Term Rentals shall be prohibited in below market rate (BMR) units. BMR units for Short-Term Rental purposes refer to Dwelling Units whose rents are listed as a result of deed restrictions or agreements with public agencies, and whose tenants must be income-qualified.
- C. A property containing a Dwelling Unit protected by a No-Fault Eviction cannot operate Short-Term Rentals for five years from eviction unless it is a single-family home that has been vacated for purposes of Owner Occupancy in compliance with the Rent Stabilization Ordinance.
- D. Short-Term Rentals are only allowed in a single, Accessory Building and in single existing Accessory Dwelling Units (ADUs), or a Golden Duplex unless such ADUs are or have within the last 10 (ten) years preceding the effective date of this ordinance been used for long term rentals, as defined by the requirements of the Rent Stabilization Ordinance. Short-Term Rentals shall not be allowed in Accessory Dwelling Units permitted after the date this Ordinance first became effective. (Ord. 7521-NS § 1 (part), 2017)

### 23C.22.030 Definitions

The definitions set forth in this Section shall govern the meaning of the following terms as used in this Chapter:

A. Accessory Building: A detached building containing habitable space, excluding a kitchen, which is smaller in size than the main building on the same lot, and the use of which is incidental to the primary use of the lot.

B. Accessory Dwelling Unit: A secondary dwelling unit that is located on a lot which is occupied by one legally established Single-Family Dwelling that conforms to the standards of Section 23C.24. An Accessory Dwelling Unit must comply with local building, housing, safety and other code requirements and provide the following features independent of the Single-Family Dwelling: 1) exterior access to Accessory Dwelling Unit; 2) living and sleeping quarters; 3) a full kitchen; and 4) a full bathroom. An Accessory Dwelling Unit also includes an efficiency unit and a manufactured home, as defined in the Health and Safety Code.

C. "Adjacent Properties" mean the Dwelling Units abutting and confronting, as well as above and below, a Dwelling Unit within which a Short-Term Rental is located.

D. "Dwelling Unit" means a building or portion of a building designed for, or occupied exclusively by, persons living as one (1) household.

E. "Golden Duplex" means an owner-occupied duplex that is exempt from rent control and eviction protection, so long as it was occupied by the owner on December 31, 1979 and is currently occupied by the owner.

F. "Host" means any Owner and is used interchangeably in this Title with Owner Host. An Owner Host is a person who is the owner of record of residential real property, as documented by a deed or other such evidence of ownership, who offers his or her Host Residence, or a portion thereof, as a Short-Term Rental. For purposes of offering a Short-Term Rental, an Owner Host may not have more than one "Host Residence" in the City of Berkeley, excluding an Accessory Building or an Accessory Dwelling Unit on the same residential real property. A Tenant Host is a lessee of residential real property, as documented by a lease or other such evidence, who offers their Host Residence, or portion thereof, as a Short-Term Rental.

G. "Host Present" or "Host Presence" means the Host is living in the Host Residence during the Short-Term Rental period. In the case of a parcel comprised of a Single Family Dwelling and one or more authorized Accessory Dwelling Units and/or Accessory Buildings, the Host is considered Present if he or she is present in any Dwelling Unit on such property during the Short Term Rental period.

H. "Hosting Platform" means a business or person that provides a marketplace through which an Owner Host may offer a Dwelling Unit for Short-Term Rentals. A Hosting Platform is usually, though not necessarily, provided through an internet-based platform. It generally allows a Dwelling Unit to be advertised through a website provided by the Hosting Platform and provides a means for potential Short-Term Rental Transients to arrange and pay for Short-Term Rentals, and from which operator of the Hosting Platform derives revenue, including booking fees or advertising revenues, from providing or maintaining the marketplace.

L. "Host Residence" means a Host's principal place of residence as defined by whether the Host carries on basic living activities at the place of residence, and whether the place of residence is the Host's usual place of return. Motor vehicle registration, driver's license, voter registration or other evidence as may be required by the City shall be indicia of principal residency. A Host may have only one place of principal residency in the City, and if that principal place of residency contains more than one dwelling unit, the principal place of residency shall be only one such dwelling unit.

J. "Host Responsibilities" means the requirements that a "Host" is obligated to comply with as set forth in this Ordinance.

K. "Local Contact" means a person designated by the Host who shall be available during the term of any Short-Term Rental for the purpose of (i) responding within sixty minutes to complaints regarding the condition or operation of the Dwelling Unit or portion thereof used for Short-Term Rental, or the conduct of Short-Term Rental Transients; and (ii) taking appropriate remedial action on behalf of the Host, up to and including termination of the Short Term Rental, if allowed by and pursuant to the Short Term Rental agreement, to resolve such complaints.

L. "No Fault Eviction" means an eviction pursuant to the Ellis Act or Sections 13.76.130.A.9 or 10 of the Berkeley Municipal Code.

M. "Short-Term Rental" or "STR" means the use of any Dwelling Unit, authorized Accessory Dwelling Unit or Accessory Building, or portions thereof for dwelling, sleeping or lodging purposes by Short-Term Rental Transients. Short-Term Rental shall be an accessory use to a residential use and be considered neither a Tourist Hotel nor a Residential Hotel for purposes of this Title.

N. Short Term Rentals are allowed for 14 or fewer consecutive days. Any rental for more than 14 consecutive days is not permitted as a Short Term Rental, and any rental for more than 14 consecutive days and less than 30 consecutive days is not permitted in the City of Berkeley.

O. "Short-Term Rental Transient" or "STR Transient" means any person who rents a Dwelling Unit, authorized Accessory Dwelling Unit or Accessory Building, or portion thereof, [for 14 or fewer consecutive days](#).

P. ["Transient Occupancy Tax" or "TOT" means local transient tax as set forth in Berkeley Municipal Code Section 7.36. The tax is paid by the Short-Term Rental Transient at the time payment is made for the Short-Term Rental. The TOT is then remitted to the City.](#)

### **23C.22.040 Permit And License Required**

Short Term Rentals are permitted only in the Host Residence. A Zoning Certificate [and a Business License](#) for a Short-Term Rental shall be required for each Host to operate a Short-Term Rental. [A Host must provide the Uniform Resource Locator \(URL\) — specifically, the website address — for any and all advertisements for the STR, if applicable, on the Zoning Certificate application.](#)

[No Zoning Certificate may be issued to allow for a Short-Term Rental of more than 14 consecutive days, and no advertisement for a Short Term Rental of more than 14 consecutive days is allowed.](#)

### **23C.22.050 Operating Standards and Requirements**

A Short-Term Rental is allowed only if it conforms to each of the operating standards and requirements set forth in this Section, [and the Host complies with all Host Responsibilities set forth in this Ordinance](#).

#### A. Proof of Host Residency.

1. An Owner-Host of a Short-Term Rental must provide documentation of Owner Host and Host Residence status and, if applicable, Host Presence, as defined [above](#).

2. A Tenant-Host must provide documentation of lessee status, Host Residence and Host Presence, if applicable, as defined in subdivisions C, E, and B of Section [23C.22.030](#). In addition, a Tenant-Host must present written authorization allowing for a Short-Term Rental in the Host Residence from the building owner or authorized agent of the owner.

#### B. STR Duration and Required Residency Timeframes

1. When the Host is Present, the unit, or a portion thereof, may be rented as a Short-Term Rental for an unlimited number of days during the calendar year.

2. When the Host is not Present, the number of days that the unit can be used for Short-Term Rental purposes shall be limited to 90 days per calendar year.

C. Number of Occupants. The maximum number of Short-Term Rental Transients allowed for a Short-Term Rental unit shall be as provided for in the Berkeley Housing Code (BMC Chapter [19.40](#)).

D. Notification.

(i) Initial, one-time notification of the establishment of a Short-Term Rental by [Zoning Certificate](#) and Business license, shall be provided to the residents of all Adjacent Properties. Notification shall include Host and Local Contact information. Additional notification shall be required within a week of updated Host [or Local Contact information](#).

(ii) In any advertisement for the STR, a Host must include the [Zoning Certificate number](#).

E. Enforcement Fee. For the initial enforcement period, while enforcement costs are being determined, the Host shall pay an additional enforcement fee in an amount equal to 2% of the rents charged by that Host, not to exceed the cost of the regulatory program established by this Chapter over time. Such fees may be paid by the Hosting Platform on behalf of the Host. After the initial enforcement period, the Council may revise the enforcement fee by resolution.

F. Liability Insurance. Liability insurance is required of the Host, or Hosting Platform on behalf of the Host, in the amount of at least \$1,000,000.

G. Documents Provided to STR Transients. Electronic or paper copies of the Community Noise Ordinance and Smoke-Free Multi-Unit Housing Ordinance must be provided to STR Transients upon booking and upon arrival.

H. Transient Occupancy Tax. (“TOT”). The TOT shall be collected on all Short-Term Rentals. The Host is responsible for collecting and remitting the TOT, in coordination with any Hosting Platform, if utilized, to the City. If a Hosting Platform collects payment for rentals, then both it and the Host shall have legal responsibility for collection and remittance of the TOT.

I. Housing Platform Responsibilities.

(i) Subject to applicable laws, A Hosting Platform shall disclose to the City on a regular basis each rental listing located in the City, the names of the person or persons responsible for each such listing, the address of each such listing, the length of stay for each such listing, and the price paid for each booking transaction.



(ii) A Hosting Platform shall not complete any booking transaction for any STR unless the Host has a valid Zoning Certificate at the time the Hosting Platform receives a fee the booking transaction.

(iii) A Hosting Platform shall not collect or receive a fee for a STR unless the Host has a valid Zoning Certificate at the time the Hosting Platform would otherwise be entitled to receive a fee for the booking transaction.

(iv) Safe Harbor: A Hosting Platform operating exclusively on the internet, which operates in compliance with subsections (i), (ii) and (iii) above, shall be presumed to be in compliance with this Chapter.

J. Housing Code Compliance. Any building or portion thereof used for Short-Term Rentals shall comply with the requirements of the Berkeley Housing Code (BMC Chapter [19.40](#)).

K. Payment of Additional Taxes: The Host shall pay all City taxes and fees owed, in addition to the TOT, if applicable, in a timely manner. [100](#)

L. The Host shall be responsible for listing on any rental ad the Zoning Certificate number. The Host shall also provide both the Business License number, if required pursuant to Chapter [9.04](#), and Zoning Certificate for the STR to the City and/or a vendor hired by the City to administer this Chapter, upon request.

### **23C.22.060 Remedies**

A. Compliance with Second-Response Ordinance. The Host shall comply with the Second Response Ordinance (BMC Chapter [13.48](#)). The Host shall be prohibited from operating Short-Term Rentals for one year upon issuance of a third violation affidavit.

B. Violation of any provision of this Chapter is punishable as set forth in Chapters [1.20](#) and [1.28](#).

C. Violation of any provision of this Chapter is hereby declared to be a public nuisance subject to abatement under Chapters [1.24](#), [1.26](#) and [23B.64](#).

D. In any enforcement action by the City, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs; provided that, pursuant to Government Code Section [38773.5](#), attorneys' fees shall only be available in an action or proceeding in which the City has elected, at the commencement of such action or proceeding, to seek recovery of its own attorneys' fees. In no action or proceeding shall an award of

attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.

E. Any resident of the City may bring a private action for injunctive or other relief to prevent or remedy a public nuisance as defined in this Chapter, or to prevent or remedy any other violation of this Chapter. No action may be brought under this subdivision unless and until the prospective plaintiff has given the City and the prospective defendant(s) at least 30 days written notice of the alleged public nuisance and the City has failed to initiate proceedings within that period, or after initiation, has failed to diligently prosecute. The prevailing party in any such action shall be entitled to recover reasonable costs and attorney's fees.

F. Any occurrence at a Short-Term Rental unit that constitutes a substantial disturbance of the quiet enjoyment of private or public property in a significant segment of a neighborhood, such as excessive noise or traffic, obstruction of public streets by crowds or vehicles, public intoxication, the service to or consumption of alcohol by minors, fights, disturbances of the peace, litter or other similar conditions, constitutes a public nuisance.

G. It shall be a public nuisance for any STR Transient of a Short-Term Rental unit where an event is taking place to refuse access to, or interfere with access by, Fire Department or other City personnel responding to an emergency call or investigating a situation.

H. Notwithstanding any provision of Chapter [13.48](#) to the contrary, a public nuisance as defined in this Section shall be subject to remedies set forth in Section [23C.22.060](#). (Ord. 7521-NS § 1 (part), 2017)

I. A violation of this Chapter by a Host Owner who offers or rents a rent controlled unit, multiple ADU's, multiple Accessory Buildings, or a Golden Duplex, may be reported to the Berkeley Rent Stabilization Board for investigation by the Board. Upon report of a violation to the Rent Stabilization Board, the Board is required to provide a written report of the investigation within 30 days. Where a violation is found, the Rent Board will immediately provide the written report supporting its finding of a violation to the City Attorney's office for remedial action by the City.

J. The City may issue and serve administrative subpoenas as necessary to obtain specific information regarding Short-Term Rentals located in the City, including but not limited to, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay, to determine whether the STR and related listing complies with this Chapter. Any subpoena issued pursuant to this section shall not require the production of information sooner than 30 days

from the date of service. A person or entity that has been served with an administrative subpoena may seek judicial review during that 30 day period.





Cheryl Davila  
Councilmember  
District 2

ACTION CALENDAR  
July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila and Councilmember Ben Bartlett

Subject: Urgency Ordinance: Updates to the COVID-19 Emergency Response Ordinance;  
Resolution: Request UC Berkeley Voluntarily Comply with Local Ordinances  
Restricting Evictions, Delaying Rent Payments, and Empowering Tenants to  
Terminate their Leases Without Penalty

#### RECOMMENDATION

1. Adopt an urgency ordinance amending Berkeley Municipal Code 13.110, Title 13, "The COVID-19 Emergency Response Ordinance," to enhance emergency tenant protections consistent with recently adopted Alameda County laws, action in other jurisdictions, and consultation with community stakeholders.
2. Adopt a resolution requesting the University of California at Berkeley voluntarily comply with local eviction moratoriums, and rent suspension ordinances, and ordinances empowering tenants to terminate their leases without penalty.

#### BACKGROUND

##### **A. Berkeley's COVID-19 Emergency Response Ordinance**

On March 17, 2020, the Berkeley City Council adopted an emergency ordinance prohibiting evictions of residential and commercial tenants unable to pay their rent due to COVID-19. Subsequently, on April 21, 2020, the Council further amended the City's ordinance to enhance eviction protections for commercial tenants, namely a prohibition on unreasonable rent increases for impacted businesses and nonprofits. Again on May 26, 2020, the Council further amended the city's ordinance to enhance eviction protections for residential tenants and homeowners, including banning most residential evictions through the end of the local state of emergency. Subsequently, on June 30, 2020 the Council further amended the city's ordinance to clarify and enhance the ability of residential tenants to terminate a lease. Since the enactment of these protections, other jurisdictions in California, including neighboring jurisdictions and the Alameda County Board of Supervisors have enacted a number of additional protections that are either complimentary to, or more stringent than, Berkeley's ordinance. The item updates BMC 13.110 to include best practices and to align with newly adopted countywide protections.

##### **B. Alameda County's Urgency Ordinances**

On March 24, 2020, the Alameda Board of Supervisors passed an urgency ordinance creating a temporary moratorium on evictions for renters and homeowners in the Unincorporated County (Ordinance No. 2020-14).

On March 31, 2020, the Board extended protections to the entire County. Similar to our BMC 13.110, the ordinances applied a moratorium on evictions to tenants, homeowners or mobile home owners who can provide documentation that they cannot pay their rent or mortgage due to a substantial loss of income, substantial out-of-pocket medical expenses, or extraordinary childcare needs caused by COVID-19.

On April 21, 2020, the Board considered and adopted additional amendments,<sup>1</sup> after finding that the pandemic and shelter in place orders created severe new and exacerbated existing socioeconomic impacts. Accordingly, the County deemed any eviction, regardless of cause, a public health threat. Giving cities this option provides baseline protections for residents of cities without moratoria, but allows cities to make determinations in the best interest of their residents.

On June 30, 2020, the Board considered and adopted additional amendments following unrelenting lobbying from the county's landlords. Unfortunately, these amendments weakened the county's ordinance, such as by reducing administrative penalties for violating the ordinance to such an extent that they are now just "the cost of doing business." Additionally, the language regarding city ordinances changed: Instead of stronger protections in a city ordinance automatically applying, now "the city must duly affirm or declare in writing its intent to opt out of the County ordinance. The writing must enumerate the specific provisions of the County's ordinance from which the city intends to opt out and must include a finding that the city ordinance is stronger."

The California Attorney General has opined that when a county has declared a local emergency within its jurisdictional boundaries in an area that includes both unincorporated and incorporated territory, the county may adopt emergency rules and regulations pursuant to Government Code section 8634 that will be effective in both unincorporated and incorporated areas (62 Ops. Cal. Atty. Gen. 701 (1979)). However, questions have been raised as to whether this power of counties always covers charter cities, such as Berkeley; for example, in early June, many members of the Council questioned whether the county-wide curfew issued by the county sheriff was legally valid within Berkeley city limits.

### **C. Updates to The Covid-19 Emergency Response Ordinance**

Unreasonable evictions are directly at odds with local, state and federal measures to recover from the pandemic.

Housing stability is a prerequisite for flattening the COVID-19 infection curve. Loss of housing presents significant health risks for those directly affected and the population at large, through disruption of shelter in place orders, social distancing measures and increased homelessness. Testing, quarantine, and physical distancing measures are bolstered by housing security.

In recognition of developments at the Alameda County level, action in other jurisdictions, and consultation with community stakeholders, the item proposes the following additional key amendments to BMC 13.110:

---

<sup>1</sup> Amend Countywide Temporary Moratorium on Residential Evictions, Alameda County Community Development Agency, April 21, 2020, [https://www.acgov.org/board/bos\\_calendar/documents/DocsAgendaReg\\_04\\_21\\_20/GENERAL%20ADMINISTRATION/Regular%20Calendar/CDA\\_294956.pdf](https://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_04_21_20/GENERAL%20ADMINISTRATION/Regular%20Calendar/CDA_294956.pdf), Amendments were crafted and presented by the Alameda County's Community Development Agency and the Housing and Community Development Department (HCD), in coordination with County Counsel, Public Health, all cities countywide, Resources for Community Development, and legal agencies including Bay Area Legal Aid, Centro Legal de la Raza, East Bay Community Law Center, and Housing and Economic Rights Advocates

1. *Expansion of Moratorium Scope:*

Consistent with numerous jurisdictions (including the Cities of Los Angeles, Santa Monica, and Inglewood) these amendments would prohibit Ellis Act evictions.<sup>2</sup> Additionally, minor amendments are made to the exception for health and safety threats to bring it in line with the language of the County ordinance; this is important to ensure there are no evictions prohibited by the County ordinance but ostensibly allowed under the City ordinance, thereby minimizing the risk of legal confusion.

2. *Extended Duration of Protections*

Currently, many protections under the Berkeley ordinance lapse either upon the expiration of the local state emergency or thirty days thereafter. This period is not as long as in other jurisdictions. For example, the City of Los Angeles's ordinance protects tenants from Ellis Act evictions for sixty (60) days after the expiration of the local state of emergency. These amendments would extend various protections to ninety (90) days after the expiration of the local state emergency. This would provide relief for many residents who will likely face difficulty finding sufficient employment for an extended period of time even following the expiration of the local state of emergency due to significantly depressed aggregate demand (i.e. a continuing economic recession or depression). By continuing to keep residents housed for a "buffer period," it would also reduce the risk of unintentionally causing an additional outbreak following the expiration of the state of emergency. These amendments would also allow the Council to extend this period by resolution (instead of an ordinance), allowing the Council to swiftly act by majority vote to protect public health and safety and keep residents housed if the local situation necessitates immediate action.

3. *Authorize Tenants To Self-Attest Financial Hardship*

Some tenants may have difficulty providing sufficient documentation that proves their COVID-related financial hardship. In order to ensure that no tenant is left behind, these amendments would authorize tenants to self-attest their COVID-related financial hardship. Given that landlords are ultimately allowed to recover back rent, there would ultimately be no barrier to their ability to ultimately be made financially "whole."

4. *Clarifies Covered Reasons for Delayed Payment*

Due to Berkeley's status as a "college town" and the transition of UC Berkeley (and other local institutions of higher education) to many online and/or hybrid-format classes in response to the ongoing COVID pandemic many segments of Berkeley's rental market have seen a significant drop in demand. While this reduced demand may benefit many tenants entering new rental agreements, continuing tenants are largely not receiving this benefit, and ironically some may be in a worse position even if their own financial situation remains unchanged. Many tenants, especially those who live with students, may have had one or more roommates move-out, and planned to replace them with a new roommate(s) who would pay the same share of the rent. However, many landlords required their tenants to sign lease renewals before the severity of the COVID crisis became clear. As a result, those tenants were not in a position to bargain for a rent reduction, and with reduced demand for housing may be unable to find a replacement roommate willing and able to pay the same share of the rent as an outgoing roommate. The remaining tenants can be left with an unwinnable choice: Delaying taking on a new roommate(s) in the hope of finding someone who can pay the same share of the rent (while having to pay the full share of the rent until they find a replacement), or take on a higher share of the rent in order to immediately have a new roommate. While previous versions of the ordinance were clearly intended to cover this

---

<sup>2</sup> [aagla.org/wp-content/uploads/2020/07/7120-Updated-Temporary-Eviction-Moratorium-Chart-002.pdf](https://aagla.org/wp-content/uploads/2020/07/7120-Updated-Temporary-Eviction-Moratorium-Chart-002.pdf)

situation, the failure to explicitly mention them creates a perpetual risk that the courts will interpret them otherwise. These amendments make clear that such scenarios are covered reasons for nonpayment, eliminating the risk of judicial misinterpretation.

Additionally, the amendments also remove self-contradicting language referencing group living arrangements; this ensures that all tenants are properly covered by that potential reason for delaying payment.

5. *Extends Additional Protections to Homeowners and Penalties to Lenders*

The County Ordinance extends evictions protections afforded to tenants and related requirements to homeowners; similarly, the county ordinance makes explicit that lenders (e.g. a bank that holds the property's mortgage) and their agents have the same obligations (e.g. providing residents notice of their rights under the ordinance) and penalties for noncompliance as landlords. These amendments extend that tenant-homeowner parity to the City ordinance.

6. *Extends the Repayment Period for Back Rent*

Under the existing ordinance, tenants have twelve (12) months to repay back rent before landlords may sue. However, community stakeholders have raised significant concerns that this is much too short a period. For instance, if a tenant normally spends 50% or more of their income on rent (an obscene yet common scenario) and is unemployed due to COVID for 12 months, they would be mathematically unable to repay their back rent over 12 months even if they income immediately fully recovered (unlikely) and the the landlord waited until 12 months *after the tenant re-gained employment* (which is not required of the landlord).

Outside of the unlawful detainer process (which imposes a 12-month window), landlords have 48 months to collect back rent owed under a written agreement (Civ. Proc. §337.2) and 24 months to collect back rent owed under an oral agreement (Civ. Proc. §339.5). In recognition of these limits, these amendments extend the repayment period to forty-seven (47) months for written leases and twenty-three (23) months for oral rental agreements. This significantly increases the ability of a tenant to repay all their back rent, without conflicting with the legal right of landlords under state law to collect back rent.

7. *Provides Additional Examples of Prohibited Retaliation*

The ordinance prohibits retaliation against tenants for exercising their rights under it, and explicitly names shutting off utilities and reducing services as examples of prohibited retaliation. These amendments add additional examples of prohibited retaliation.

8. *Improves Civil Remedies for Violations*

These amendments make various changes that bring civil remedies (including authorizing administrative fines and offering protections for tenants who act in good faith but do not prevail in court) in line with the County ordinance. Additionally, it makes clear that the City Attorney, Rent Stabilization Board, or another person or entity may sue to enforce the ordinance.

9. *Extends Criminal Penalties to non-Commercial Violations*

Currently, the city ordinance only imposes criminal penalties for violations relating to commercial properties. These amendments extend criminal penalties to any violations by a landlord or lender, using verbatim language from the County ordinance. In addition to providing legal certainty that violations also covered by the County ordinance can be criminally prosecuted, these amendments are necessary to allow criminal prosecution for



violating residential property provisions not covered by the County ordinance (e.g. conducting an ostensible Ellis Act eviction).

10. *Liberal Construction*

States that the ordinance should be liberally construed so as to fully achieve its purpose and provide the greatest possible protections to tenants.

Consistent with the actions of Alameda County, neighboring jurisdictions, and other jurisdictions throughout California, and the ongoing shelter-in-place order and associated emergency activities in response to the global pandemic, it is in the public interest to clarify and amend the COVID-19 Emergency Response Ordinance.

**D. Resolution Calling on UC Berkeley to Voluntarily Comply with Local Ordinances**

As a state agency, UC Berkeley (and the entire University of California system) is most likely exempt from ordinances protecting tenants during the ongoing COVID-19 pandemic. However, UC Berkeley's failure to comply with this has created significant problems for many students, and community stakeholders have raised alarms about the situation. The attached resolution calls on UC Berkeley to voluntarily comply with all local ordinances restricting evictions, delaying rent payments, and/or allowing tenants to terminate a lease without a penalty, regardless of legal obligation for UC Berkeley to do so.

FINANCIAL IMPLICATIONS

Preventing evictions can result in significant savings to the City in the short, medium, and long-term, by reducing homeless, infections, and social services spending. Additionally, bringing protections for tenants and other residents under Berkeley law to at least those of the County ordinance could result in savings from potential litigation by landlords or lenders seeking to nullify the County ordinance within Berkeley city limits (especially if such litigation names the City as a real party in interest). Preventing evictions will prevent the spread of COVID 19.

ENVIRONMENTAL SUSTAINABILITY

Protecting our communities during this climate and health crisis is an act of environmental sustainability.

CONTACT PERSONS

Cheryl Davila  
Councilmember District 2  
510.981.7120  
[cdavila@cityofberkeley.info](mailto:cdavila@cityofberkeley.info)

ATTACHMENTS:

1. Urgency Ordinance
2. Resolution

ORDINANCE NO. -N.S.

URGENCY ORDINANCE AMENDING CHAPTER 13.110 OF THE BERKELEY MUNICIPAL CODE, THE COVID-19 EMERGENCY RESPONSE ORDINANCE

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

Section 1. The Berkeley Municipal Code Chapter 13.110 is amended to read as follows:

**Chapter 13.110  
COVID-19 EMERGENCY RESPONSE ORDINANCE**

**Sections:**

- 13.110.010 Findings and Purpose**
- 13.110.020 Prohibited Conduct**
- 13.110.030 Definitions**
- 13.110.040 Collection of Back Rent and Late Fees**
- 13.110.050 Application**
- 13. 110.060 Implementing Regulations**
- 13.110.070 Waiver**
- 13.110.080 Remedies**
- 13.110.090 Severability**
- 13.110.100 Liberal Construction**

**13.110.010 Findings and Purposes**

International, national, state and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2." And the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19"). In response to this emergency, on March 3, 2020, the City Manager acting as the Director of Emergency Services declared a local State of Emergency based on COVID-19 (hereinafter referred to as "the State of Emergency"), which the City Council subsequently ratified on March 10, 2020. On April 21, 2020, the council ratified an extension of the local state of emergency through June 21, 2020. In addition, on March 4, 2020, the Governor declared a state of emergency in California and the President of the United States declared a national state of emergency on March 13, 2020 regarding the novel coronavirus and COVID-19.

On March 16, 2020, the City of Berkeley Public Health Officer, along with several other neighboring jurisdictions issued a Shelter in Place Order directing all individuals living in the City of Berkeley to shelter at their place of residence except that they may leave to provide or receive certain essential services or engage in certain essential activities, and prohibiting non-essential gatherings and ordering cessation of non-essential travel.

On March 31, this Shelter in Place Order was extended to May 3, 2020, and restricted activities further. This Shelter in Place Order was subsequently extended again.

Furthermore, on March 16, 2020, the Governor issued Executive Order N-28-20, specifically authorizing local governments to halt evictions for commercial tenants, residential tenants, and homeowners who have been affected by COVID-19, emphasizing that the economic impacts of COVID-19 have been significant and could threaten to undermine housing security as many people are experiencing material income loss as a result of business closures, the loss of hours or wages or layoffs related to COVID-19, hindering their ability to keep up with rents, mortgages and utility bills.

The Order also stated that because homelessness can exacerbate vulnerability to COVID-19, Californians must take measures to preserve and increase housing security for Californians to protect public health and specifically stated that local jurisdictions may take measures to promote housing security beyond what the state law would otherwise allow.

On April 6, 2020, the Judicial Council of California issued emergency rules suspending court proceedings for unlawful detainer and judicial foreclosures until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted. However, the Judicial Council could revoke this decision at essentially any time, thereby immediately placing tenants not covered by an eviction moratorium ordinance at immediate risk.

On April 21, 2020, Alameda County enacted an urgency ordinance prohibiting eviction for any reason other than withdrawal of rental property under the Ellis Act or court-ordered eviction for public safety. Even if the Alameda County ordinance did not have effect within the incorporated area of Berkeley, it would be ~~Although the Alameda County ordinance does not have effect within the incorporated area of Berkeley, it is~~ desirable to ensure that Berkeley residents have at least the same level of protection as the residents of unincorporated Alameda County.

During this State of Emergency, and in the interests of protecting the public health and preventing transmission of the COVID-19, it is essential to avoid unnecessary displacement and homelessness. It is the intent of this Ordinance to fully implement the suspension of the statutory bases for eviction for nonpayment of rent and for default in the payment of a mortgage as authorized by Executive Order N-28-20.

At the same time, the Governor, as well as, the Berkeley Health Officer, and those of other jurisdictions ordered the closure of businesses, except those deemed essential. Many businesses, such as restaurants, are open only for take-out or pick up services and face a critical loss of business.

~~-----~~The City Council is aware that some landlords of commercial properties are seeking significant rent increases during the period when many commercial tenants are closed or are experiencing substantial and catastrophic reductions in their business and income. Such rent increases force tenants who are closed or have substantially reduced revenues face the choice of accepting a significant rent increase, moving at a time when it is virtually impossible, or closing altogether. Accepting a rent increase while closed or in a reduced state of operations means that the commercial tenants face even more debt to the landlord when the emergency is

over, and may face a substantially increased rent when the tenant returns to normal operations, if ever.

Landlords of commercial property that unreasonably increases rents on tenants of commercial property during the COVID-19 emergency significantly impacts vulnerable small businesses, nonprofits, and artists who form a large part of the backbone of Berkeley's economy, revenue sources, and employment opportunities. These rent increases are coming at a time when the commercial rents are likely falling due to business closures and potential loss of businesses at the end of the emergency. Thus, these rent increases appear as a way of evading the Governor's and Berkeley's commercial tenant eviction moratorium by forcing tenants to agree to rent increases or leave. Such conduct constitutes constructive evictions in contravention of the eviction moratorium. Furthermore, such rent increases may affect businesses providing goods and essential services, resulting in increases in those costs of essential goods and services contravening the intent of anti-price gouging laws.

On expiration of leases when the emergency order is in place, unreasonable rent increases have already forced the closure of businesses and will result in closing of additional business causing loss of income for the business owners, loss of employment for the employees and of revenue to the city, and an increase in homelessness. To reduce the spread of COVID-19, it is essential to avoid unnecessary displacement and homelessness. Because of the emergency restrictions, businesses forced out due to increased rents will be unable to move to new locations and new businesses will be unable to open during this emergency period. During a state of emergency cities have extraordinary powers and jurisdiction to create legislation in order to counteract the effects of the emergency situation on its people and businesses. Protecting tenants from excessive rent increases will prevent additional loss of employment and essential services for Berkeley residents. In order to effectively implement an eviction moratorium, the City Council finds it imperative to prevent constructive eviction through unreasonable rent increases.

Multiple jurisdictions have banned Ellis Act evictions. In Los Angeles County alone, the cities of Los Angeles, Inglewood, and Santa Monica (and possibly others have banned) Ellis Act evictions. For example, Los Angeles's ordinance bans Ellis Act evictions through 60 days after the expiration of the local state of emergency.

Accordingly, the City of Berkeley adopts the following amendments to Berkeley Municipal Code Chapter 13.110.

#### **13.110.020 Prohibited Conduct**

A. During the Covered Period-local State of Emergency, no landlord or lender-other entity shall evict or attempt to evict an occupant of real property unless necessary to stop an imminent threat to-for the health and safety of residents. For purposes of this Ordinance, the basis for an exception to this Ordinance cannot be the Resident's COVID-19 illness or exposure to COVID-19, whether actual or suspected.

B. Residential Eviction Moratorium. It shall be a complete defense to any action for unlawful detainer that the notice upon which the action is based was served or expired, or that the complaint was filed or served, during the Covered Period local State of Emergency.

C. No landlord of an Impacted Business or Nonprofit may upon expiration of a lease increase rent for an Impacted Business or Nonprofit in an amount greater than ten (10) percent over the rent in effect at the commencement of the local state of emergency declared by the Director of Emergency Services. For purposes of this section, rent means all consideration for the use and enjoyment of the rented premises, including base rent and any additional rent or other charges for costs such as utilities, maintenance, cleaning, trash removal, repairs and any other charges to the tenant required under the rental agreement. This section 13.110.020 C. shall expire on May 31, 2020, concurrent with Executive Order N-28-20; provided, however, that this section shall be automatically extended if Executive Order N-28-20 is extended or the tenant protections therein are extended pursuant to another Governor's Executive Order.

### 13.110.030 Definitions

A. "Covered Reason for Delayed Payment" means:

- (1) the basis for the eviction is nonpayment of rent, arising out of a material decrease in household, business, or other rental unit occupant(s)'s income (including, but not limited to, a material decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or to caregiving responsibilities, or a material decrease in business income caused by a reduction in opening hours or consumer demand), or material out-of-pocket medical expenses, ~~or, in a group living arrangement wherein all tenants are collectively responsible for payment of the rent to the landlord,~~ a reduction in the number of tenants living in the unit (including due to difficulty finding new tenants and/or subtenants willing and able to cover a sufficient share of the rent) which reduces the ability of the remaining tenants to pay the rent, a change in the tenants which reduces the ability of the collective tenants to pay the rent, or a rent increase that exceeds the Annual General Adjustment for the current year; and
- (2) the decrease in household, business, or other rental unit occupant's income or the expenses or reduction in number of tenants described in subparagraph (1) was caused by the impacts of COVID-19 pandemic, or by any local, state, or federal government response to COVID-19.

B. "Covered Period" means the period of time beginning with the effective date of this Chapter and concluding 90 days after the expiration of the local state of emergency. However, the City Council may vote by resolution to extend the duration of the Covered Period.

~~C. B.~~ "Delayed Rent Payment Agreement" means a mutual agreement between a landlord and tenant regarding the timing and amount of payments for rent that is delayed by a Covered Reason for Delayed Payment.

~~D. C.~~ "Impacted Business or Nonprofit" means a business or nonprofit organization that had a business license in 2019 or 2020 in the City of Berkeley or is a registered nonprofit in either or both of those years and:

1. whose operation has been shut down due to the COVID-19 emergency, or
2. that is unable to accept customers at its location and is open for limited virtual, take-out or pickup services only, or
3. who suffered a material loss of income.

E. D. "Landlord" includes owners, lessors, or sublessors of either residential or commercial rental property, and the agent, representative, or successor of any of the foregoing.

F. "Lender" means the mortgagee of a purchase money or similar mortgage, or the holder or beneficiary of a loan secured by one or more Units, which person has the right to mortgage or similar payments from the owner as mortgagor, including a loan servicer, and the agent, representative, or successor of any of the foregoing.

G. E. "Tenant" includes a tenant, subtenant, lessee, sublessee, or any other person entitled by written or oral rental agreement to use or occupancy a renter of either residential or commercial property.

#### **13.110.040 Collection of Back Rent and Late Fees**

A. Nothing in this Chapter shall relieve the tenant of liability for unpaid rent, which the landlord may seek after expiration of the local State of Emergency. Notwithstanding any lease provision to the contrary, a landlord may not charge or collect a late fee, fine, or interest for rent that is delayed by a Covered Reason for Delayed Payment. The City will develop standards or guidelines for tenants to repay unpaid rent accrued during the Covered Period course of the local State of Emergency. Landlords are encouraged to work with local agencies that will be making rental assistance available for qualifying tenants.

B. Tenants shall have up to forty-seven (47) ~~twelve (12)~~ months to pay rent that accrued during the Covered Period, except that in the case of an oral rental agreement this period shall be ~~twenty-three (23) months, was delayed by a Covered Reason for Delayed Payment~~ unless the landlord and tenant come to a mutual repayment agreement ("Delayed Rent Payment Agreement"). Notwithstanding any lease provision to the contrary, a landlord may not charge or collect a late fee, fine, or interest for rent that is delayed by a Covered Reason for Delayed Payment.

C. A Tenant is not required to provide documentation to the Landlord in advance to qualify for the delayed repayment of rent over the 12 months. However, upon the request of a Landlord, a Tenant shall provide such documentation to the Landlord within forty-five (45) days after the request or within thirty (30) days after the local State of Emergency is ended, whichever is later; the tenant may self-attest as a form of documentation. In the case of nonpayment of rent, the failure of a Tenant to notify the landlord in advance of being delinquent in the payment of rent prior to being served with a notice pursuant to Code of Civil Procedure section 1161(2) does not waive the Tenant's right to claim this Chapter as a complete defense to nonpayment of rent in an unlawful detainer action.

D. Any medical or financial information provided to the landlord shall be held in confidence, and shall not be disclosed to other entities unless such disclosure is permitted or required by the law, or unless the tenant authorizes the disclosure of the information in writing.

E. Any relief from the City of Berkeley either directly to a property owner on their own application or as a pass through for City relief payments to the tenant shall directly reduce the amount of any rent that was delayed by a Covered Reason for Delayed Payment. This requirement shall be applied into any Delayed Rent Payment Agreement, regardless of the terms of that agreement.

### 13.110.050 Application

A. This Chapter applies to eviction notices and unlawful detainer actions based on notices served, filed, or which expire ~~during the Covered Period on or after the effective date of this Chapter through the end of the local State of Emergency.~~ It does not apply ~~to withdrawal of accommodations from the rental market pursuant to Government Code 7060 et seq. (“Ellis Act”) or~~ to units ordered by the City to be vacated for the preservation of public health, including where the City deems necessary to control the spread of COVID-19.

B. With respect to delayed payment ~~accrued during the Covered Period covered by this Ordinance,~~ a landlord may seek such rent after the ~~Covered Period expiration of the local State of Emergency,~~ pursuant to Section 13.110.040, but may not file an action pursuant to Code of Civil Procedure sections 1161(2) *et seq.* or otherwise seek to recover possession of a rental unit based on the failure to pay rent that accrued during the ~~Covered Period local State of Emergency.~~ In any action to evict based on alleged nonpayment of rent, it shall be a complete defense to such action if any part of the rent in dispute accrued at any time ~~during the Covered Period. from the effective date of this Chapter the expiration of the local State of Emergency.~~

C. A Landlord ~~or Lender~~ shall not retaliate against a Tenant ~~or other resident~~ for exercising their rights under this Ordinance, including but not limited to shutting off any utilities, ~~or~~ reducing services or amenities to which the Tenant ~~or other resident~~ would otherwise be entitled, ~~refusing to offer a new rental agreement upon expiration of a prior rental agreement where the new rental agreement contains provisions that are substantially identical to the prior rental agreement, or taking actions or inaction which hurts the tenant’s or other resident credit rating or causes other landlords to not offer them a rental agreement or to offer them a rental agreement on less favourable terms than they would otherwise offer.~~

D. In addition to the affirmative defenses set forth above, in any action to recover possession of a rental unit filed under Berkeley Municipal Code section 13.76.130(A)(1), it shall be a complete defense that the landlord impeded the tenant’s effort to pay rent by refusing to accept rent paid on behalf of the tenant from a third party, or refusing to provide a W-9 form or other necessary documentation for the tenant to receive rental assistance from a government agency, non-profit organization, or other third party. Acceptance of rental payments made on behalf of the tenant by a third party shall not create a tenancy between the landlord and the third party.



**13.110.060 Implementing Regulations**

The City Manager may promulgate implementing regulations and develop forms to effectuate this Ordinance. This includes the option of requiring landlords and lenders to give a notice to Tenants and other residents informing them of this Chapter and the right to seek the benefits of this Chapter.

**13.110.080 Remedies**

A. In the event of a violation of this Ordinance by a landlord or lender, an aggrieved tenant or other resident, any person or entity who will fairly and adequately represent the interests of tenants, or the City ~~In the event of a violation of this Ordinance, an aggrieved tenant~~ may institute a civil proceeding for injunctive relief, and money actual damages as specified below, and whatever other relief the court deems appropriate. No proof of knowledge, intent, or other mental state is required to establish a violation. Money damages shall only be awarded if the trier of fact finds that the landlord acted in knowing violation of or in reckless disregard of this Ordinance. A prevailing landlord or lender shall be entitled to an award of attorneys' fees only if it is determined by the Court the action was wholly without merit or frivolous. ~~The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant to order of the court. The remedy available under this section shall be in addition to any other existing remedies which may be available to the tenant under local, state or federal law.~~ In addition, this Ordinance grants a defense to eviction in the event that an unlawful detainer action is commenced in violation of this Ordinance.

B. The protections provided by this ordinance shall be available to all tenants, regardless of any agreement wherein a tenant waives or purports to waive their rights under this Ordinance, with any such agreement deemed void as contrary to public policy.

~~C. A. Violations of Section 13.110.020(C) – (Commercial rent restrictions:)-~~

1. Violations of this Chapter by a landlord or lender ~~Section 13.110.020(C)~~ may be enforced by an administrative fine of up to \$1,000 pursuant to Chapter 1.28. Each day ~~a commercial property landlord or lender violates this chapter demands rent in excess of the amount permitted pursuant to Section 13.110.020(C)~~ is a separate violation. Each and every day of violation includes each day on which a failure to comply with this ordinance continues. The City may also charge the costs of investigating and issuing any notices of violations, and any hearings or appeals of such notices.

2. Any landlord or lender violating any of the provisions of this ordinance is guilty of a misdemeanor. Each person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this ordinance is committed, continued or allowed in conjunction with the Landlord's or Lender's activities with respect to the Unit and is punishable accordingly. Each and every day of violation includes each day on which a failure to comply with this ordinance continues. No proof of knowledge, intent, or other mental state is required to establish a violation. The City Attorney may refer those landlords and lenders in ~~violation-violators~~ of this Chapter ~~Section 13.110.020(C)~~ to the Alameda County District Attorney



for redress as a violation of this Chapter and/or Business and Professions Code section 17200, et seq. or, if granted permission by the District Attorney, may bring an action pursuant to this Chapter and/or Business and Professions Code section 17200, et seq.

D. The remedies provided by this ordinance are cumulative and in addition to any other remedies available at law or in equity.

### **13.110.100 Liberal Construction**

The provisions of this Chapter shall be liberally construed so as to fully achieve its purpose and provide the greatest possible protections to tenants.

#### Section 2. Vote Required, Immediately Effective

Based on the findings and evidence in Section 13.110.010 of this Urgency Ordinance, the Council determines that this Ordinance is necessary for the immediate preservation of the public health, peace and safety in accordance with Article XIV Section 93 of the Charter of the City of Berkeley and must therefore go into effect immediately. This Ordinance shall go into effect immediately upon a seven-ninths vote of the City Council, in satisfaction of the Charter of the City of Berkeley.

RESOLUTION NO. XXXX

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF BERKELEY CALLING ON UC BERKELEY TO VOLUNTARILY COMPLY WITH ORDINANCES RESTRICTING EVICTIONS, DELAYING RENT PAYMENTS, AND/OR ALLOWING TENANTS TO TERMINATE A LEASE WITHOUT A PENALTY, REGARDLESS OF LEGAL OBLIGATION TO DO SO

WHEREAS, in the wake of the ongoing COVID-19 public health crisis and ensuing economic devastation, multiple jurisdictions; including the City of Berkeley, the City of Albany, and Alameda County; have passed ordinances restricting evictions and delaying rent payments; and

WHEREAS, in the wake of the ongoing COVID-19 public health crisis and ensuing economic devastation, the City of Berkeley has passed an ordinance empowering many tenants (including, de facto, all students) to terminate their leases without penalty with thirty (30) days' notice; and

WHEREAS, as a state agency, UC Berkeley (and the entire University of California system) is most likely exempt from such ordinances; and

WHEREAS, students in University housing still need such protections. For example, residents of the University Village family housing complex have been organizing due to UC Berkeley not giving them protections equivalent to that of tenants in private housing. Furthermore, UC Berkeley has allowed what little protections it did offer to expire prematurely; and

WHEREAS, this failure by UC Berkeley threatens to force students to drop out of school, disruption their children's education (in the case of student parents), become homeless, and more; and

WHEREAS, community stakeholders have raised alarms about this situation; and

WHEREAS, there is precedent for the University of California voluntarily complying (at least on paper) with local ordinances;<sup>3</sup> and

NOW, THEREFORE, BE IT RESOLVED that the City Council for the City of Berkeley calls upon UC Berkeley to voluntarily and indefinitely comply with all local ordinances restricting evictions, delaying rent payments, and/or allowing tenants to terminate a lease without a penalty, regardless of legal obligation for UC Berkeley to do so; and

BE IT FURTHER RESOLVED that copies of this resolution shall be sent to the Chancellor; Assistant Vice Chancellor and Chief Operating Officer for the Division of Student Affairs; and the

---

<sup>3</sup> University of California Policy PPSM-30: Compensation. [policy.ucop.edu/doc/4010400/PPSM-30](http://policy.ucop.edu/doc/4010400/PPSM-30). "In consultation with the Office of the President, the Executive Officer will establish local salary ranges for salary grades and jobs without salary grades at their location at a level at least consistent with federal, state, and local minimum wage provisions in the communities where the Executive Officer is located."

Executive Director, Housing, Events, & Facilities Services of UC Berkeley, the Regents of University of California (including and the Regents-Designate), and the President and President-Designate of the University of California; and

BE IT FURTHER RESOLVED that copies of this resolution shall be sent to the President, External Affairs Vice President, and Housing Commission of the Associated Students of the University of California; the President, External Affairs Vice President, and Basic Needs Project Director of the UC Berkeley Graduate Assembly; the UC Berkeley Village Residents Association; the UC Berkeley Residence Hall Assembly; and the Daily Californian.





Office of the City Manager

INFORMATION CALENDAR  
July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Teresa Berkeley-Simmons, Budget Manager, City Manager's Office

Subject: Voluntary Time Off Program for FY 2021

INTRODUCTION

As a citywide cost-saving measure, the City Manager is designating 17 Voluntary Time Off (VTO) days in FY 2021 and authorizing certain City offices and non-essential services to temporarily close for those days.

CURRENT SITUATION AND ITS EFFECTS

The proposed 17 VTO dates will fall on a schedule similar to FY 2020, with City offices generally closing on every second Friday, with additional days the last week in December 2020 (December 24 - December 31). The following are the proposed VTO Days:

| Date (2020)  | Day                   | Date (2021)   | Day                  |
|--------------|-----------------------|---------------|----------------------|
| July 24      | Friday                | January 8     | Friday               |
| August 14    | Friday                | February 11** | Thursday             |
| September 11 | Friday                | March 12      | Friday               |
| October 9    | Friday                | April 9       | Friday               |
| November 3*  | Tuesday               | May 14        | Friday               |
| December 11  | Friday                | June 11       | Friday               |
| December 24  | Thursday              |               |                      |
| December 28  | Monday                |               |                      |
| December 29  | Tuesday               |               |                      |
| December 30  | Wednesday             |               |                      |
| December 31  | Thursday              |               |                      |
|              | <b>11 days (2020)</b> |               | <b>6 days (2021)</b> |

\*VTO switch in November due to the National Election Day (see [Council Item<sup>1</sup>](#))

\*\*Please note that Friday, February 12, 2021 is the observed Lincoln's Birthday

<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/09\\_Sep/Documents/2019-09-10\\_Item\\_53\\_Voluntary\\_Time\\_Off\\_on\\_Statewide.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/09_Sep/Documents/2019-09-10_Item_53_Voluntary_Time_Off_on_Statewide.aspx)

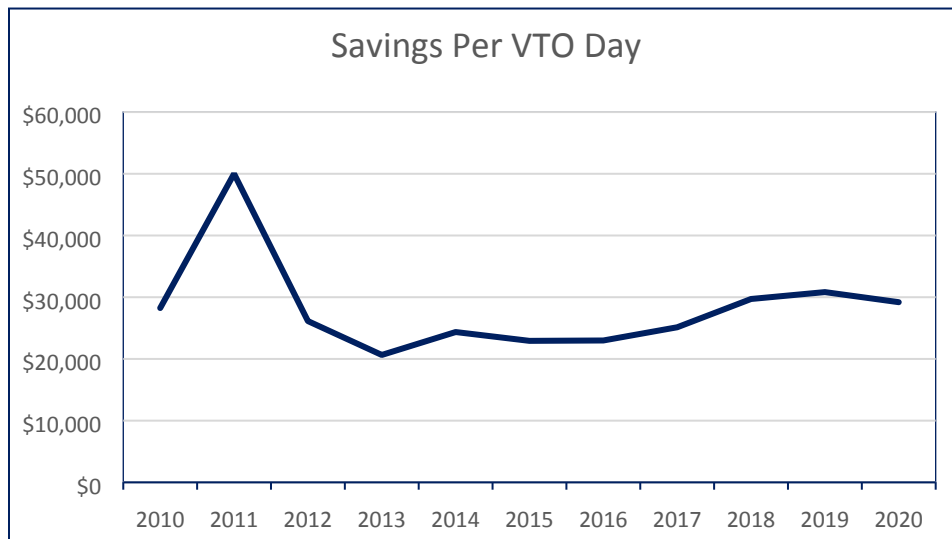
The purpose of VTO days is to generate savings to help balance the budget. The program has achieved a savings of \$467,108 on an all funds basis in FY 2020. The actual VTO savings was lower than previous fiscal year because of city building closure and staff working remotely due to the COVID-19 pandemic.

**Voluntary Time Off Salary Savings**

| Fiscal Year | Number of VTO Days | Base Salary Savings | Savings Per VTO Day |
|-------------|--------------------|---------------------|---------------------|
| 2010        | 19                 | \$536,660           | \$28,245            |
| 2011        | 29                 | \$1,450,126         | \$50,004            |
| 2012        | 28                 | \$731,723           | \$26,133            |
| 2013        | 28                 | \$578,044           | \$20,644            |
| 2014        | 16                 | \$389,706           | \$24,357            |
| 2015        | 16                 | \$366,853           | \$22,928            |
| 2016        | 16                 | \$367,821           | \$22,989            |
| 2017        | 16                 | \$402,070           | \$25,129            |
| 2018        | 16                 | \$475,400           | \$29,713            |
| 2019        | 17                 | \$524,086           | \$30,829            |
| 2020        | 16                 | \$467,108*          | \$29,194            |

\*Annualized savings

Although we plan to continue the VTO program in FY 2021, we will reevaluate the VTO program again for FY 2022. As shown in the chart below, the savings generated from the VTO program have significantly declined since FY 2011, however, savings per VTO day appear to have been gradually increasing since 2016. A slight decrease in FY 2020 was due to the COVID-19 pandemic as explained above.



In FY 2020, staff considered the impact that the VTO days had on City services. It was determined that the VTO days were, in general, not having a significant detrimental effect on the City's ability to provide quality services. Inconveniences to residents were mitigated in several ways, including keeping the 311 Customer Call Center open on VTO days, adjusting due dates for fines, and posting clear signs in advance of closure dates. In addition, many services remain open on VTO days including Police, Fire, Public Works Zero Waste, Senior Centers, Rent Board, Libraries, and the Animal Shelter.

### BACKGROUND

The concept for a VTO program was proposed in 2004 by the labor unions representing non-sworn employees as an alternative to a mandatory closure of City offices ("furloughs") and staff layoffs. The VTO program designates certain days City offices are closed to the public while allowing staff to take paid or unpaid leave, or voluntarily report to work. The VTO closures have permitted staff to reduce their vacation leave balances, and eliminate the costly past practice of buying back vacation leave balances, which in turn has allowed the City to reduce its cost to pay out accrued vacation leave upon an employee's separation from employment. It has also been used by departments to help them reach their annual target savings.

**Service Impacts:** The VTO program has generated minimal complaints from the public regarding the office closures and reduced services because many key services remain open to the public, while other services can be provided on a callback basis.

During VTO days, customer service counters at the Finance Customer Service Center and Permit Service Center are closed. When Customer Service Center offices are closed and access to the drop box for Finance Customer Service payments is cut off, customers are redirected through signage to the Rent Board Office at 2125 Milvia Street. When the Permit Service Center is closed, building inspection services continue to be available to the public when City approvals are required for time-sensitive projects. The City will continue to notify the public of City VTO closure dates through public noticing, the press, voicemail messages, and signs.

The Voluntary Time Off Program for FY 2021 is a Strategic Plan Priority, advancing our goal to provide an efficient and financially-healthy City government.

### ENVIRONMENTAL SUSTAINABILITY

VTO days may reduce vehicle miles traveled associated with City employees' work commute. Otherwise there are no identifiable environmental effects or opportunities associated with the subject of this report.

POSSIBLE FUTURE ACTION

We are continuing the VTO program in FY 2021. However, we will reassess the economic impact as well as the cost benefit to the public of continuing these temporary closures of City offices for FY 2022.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Cost savings are achieved on an annual basis from the VTO program. Since FY 2009, annual cost savings ranging from just over \$350,000 to just under \$1.5 million have been achieved from the VTO program.

CONTACT PERSON

LaTanya Bellow, Director of Human Resources, 981-6800  
Teresa Berkeley-Simmons, Budget Manager, 981-7000





Office of the City Manager

## INFORMATION CALENDAR

July 28, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Timothy Burroughs, Director, Planning and Development Department  
 Subject: Annual Housing Pipeline Report

### INTRODUCTION

The Housing Pipeline Report is prepared annually by the Planning and Development Department in response to a request from the City Council for a progress report on the development of new housing units in Berkeley. The report includes data on numbers of new units at each phase of the development process, from application to occupancy, with subtotals for units set aside for specific levels of affordability.

### CURRENT SITUATION AND ITS EFFECTS

The annual Housing Pipeline Report was most recently delivered to City Council on July 23, 2019. The report provides data on the following:

- Projects that have been submitted and are pending approval/entitlements;
- Projects that were issued a use permit but have not had building permits issued;
- Projects that were issued a building permit;
- Projects that were completed since 2014; and
- Regional Housing Needs Allocation (RHNA) goals and progress report.

This report aligns with the annual reporting required by the State Department of Housing and Community Development and Department of Finance. This alignment optimizes the staff time needed to produce these data, avoiding the need to compile new versions of data multiple times per year.

The California Department of Finance tracks the number and type of building permits finalized each year. Data from cities is due to the Department of Finance by February 1.

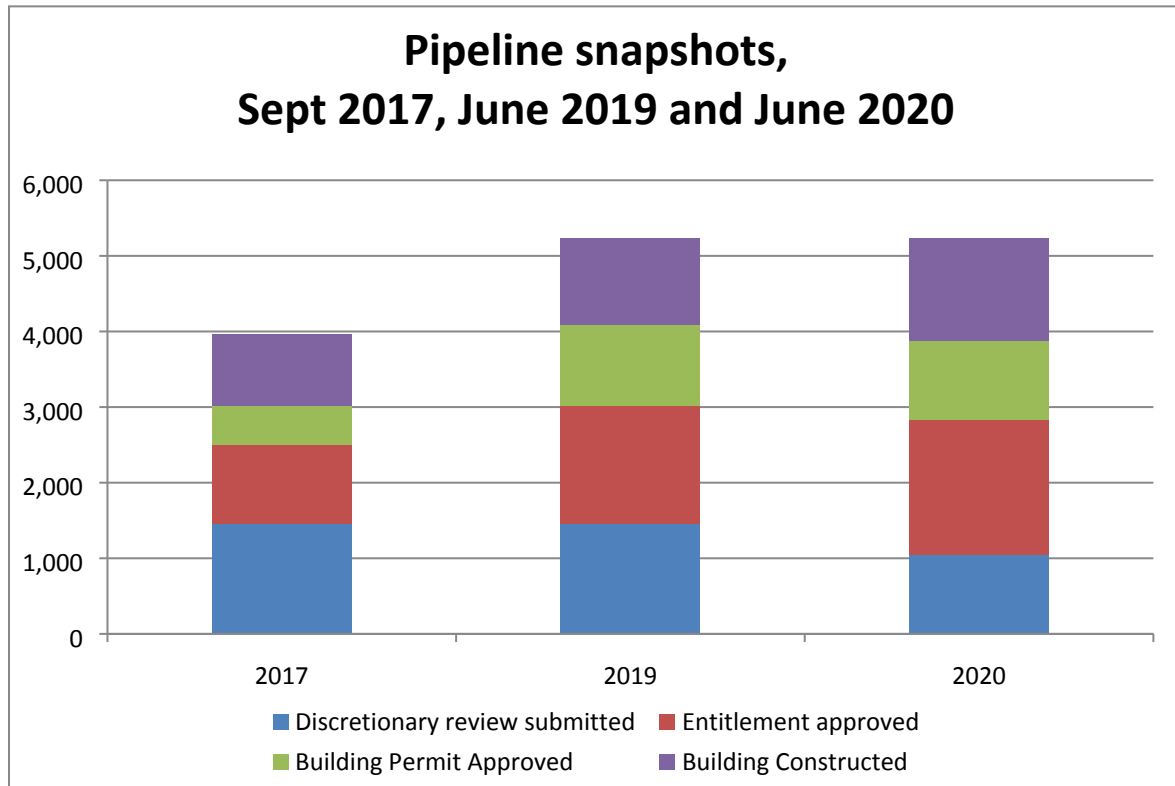
The Department of Housing and Community Development requires jurisdictions to submit an annual progress report (APR) that tracks status of implementation of the Housing Element of each jurisdiction's General Plan. These data are important because the Housing Element allows the City to adequately plan to meet the housing needs of everyone in the community. The APR ensures the City is following the policies and programs outlined in the Housing Element. The APR requirements were expanded greatly in the past year to require local jurisdictions to track project addresses, building

permit numbers, dates of completed application submittals, entitlements issued, building permits issued, and building permits finalized between January 1 and December 31 of a given year. Affordability levels, housing tenure (ownership and rentals) and SB-35 applications are also recorded. The APR is due by April 1 each year.

Staff present the annual housing pipeline report to the City Council each July, using data from the most recently completed calendar year, to correspond with the information submitted to the State.

**Summary of Housing Pipeline Data**

The following chart summarizes the number of units proposed or produced, from projects comprising five units or more, in each stage of the development pipeline: submitted Use Permit application, approved Use Permit application, Building Permit issued, and construction completed/Certificate of Occupancy issued. The chart provides a snapshot of these data taken on June 1, 2020 and provided in the two previous reports. Projects which received approvals after June 1, 2020 will be included in next year’s report.



The chart above is a summary of the more detailed information provided in Attachments 1-4. These build on information from previous reports to show how projects move

through the development process. In some cases, the information from previous years has been amended to address inaccuracies or reflect new information; this information is usually related to building permit submittal dates or approval dates, or unit counts. The detailed data tables include:

**Table 1 – Projects with more than five units submitted and pending approval.**

Table 1 provides the address, Zoning District, total units and status of review by the City of pending projects, regardless of submittal date. This table does not report on the number of affordable units, because those may change prior to Zoning approval, and later prior to Certificate of Occupancy. For many projects in Berkeley, the total number of units and the total number and type of affordable units within a proposed project are subject to change until an applicant pays the Affordable Housing Mitigation Fee, which, per BMC Section 22.20.065.C, is due only prior to issuance of a Certificate of Occupancy.

The number of dwelling units pending review by the Land Use Division is 1,045, which is a decrease from the 1,448 units shown in the pipeline report presented to Council in July 2019. The units included in Table 1 would be created within 18 projects, compared with 18 projects that were pending in the snapshot from June 2019, and 23 pending in the snapshot taken in September, 2017. In addition, two Group Living Accommodation (GLA) projects were submitted and are included in the table. Since they do not provide units, and to maintain consistency in the data over time, the 178 rooms that the GLA projects could provide are not included in the numbers above. However, their progress will be tracked for future reports.

As reported to Council previously, the information presented in the “Project Status” column tends to change quickly and often (several rounds of staff review, for example, often require changes to a project’s description), and thus this annual pipeline report would not provide the most current project-by-project information. The City’s Current Zoning Applications Log, which is updated weekly for all pending applications, provides the most up-to-date information and can be found here: [https://www.cityofberkeley.info/Planning\\_and\\_Development/Land\\_Use\\_Division/Current\\_Zoning\\_Applications\\_Log.aspx](https://www.cityofberkeley.info/Planning_and_Development/Land_Use_Division/Current_Zoning_Applications_Log.aspx).

Table 1 also includes a “Submittal Date” column that may be useful to understand the overall timeline for review of a project as applicants respond to:

- City requests for additional documents needed to complete or clarify applications and comply with CEQA;
- Input provided by the community; and
- Suggestions or direction from the Landmarks Preservation Commission, Design Review Committee, Zoning Adjustments Board, and (when appealed) the City Council.

**Table 2 – Projects with more than five units that were approved but have not yet received a building permit.** Table 2 provides the address, Zoning District and number of units by income category for projects that received Zoning approval, but have not received a building permit. The number of dwelling units in this category is 1,790. This continues an upward trend in the number of units, from 1,573 in 2019 and 1,042 in 2017.

Table 2 provides the first opportunity to report more reliable information about the number and levels of affordability a project will provide. As noted above, however, the number of below market rate units is only certain at the issuance of Certificate of Occupancy.

Table 2 also includes “Entitlement Year” and “By” columns to report on the year the use permit was granted and the final approving body (ZAB or Council).

For projects in Table 2, the median time period between when use permit applications were deemed complete and the use permit was issued by either ZAB or City Council was between five and six months.

Of the ten projects in Table 2 which have not yet submitted building permits, two have been entitled for over two years: 2902 Adeline and 2720 San Pablo. 2720 San Pablo was approved in 2007, and since then, the current owners have submitted a use permit application for a new, different project at this site. This new use permit application is included within Table 1 as a pending project. The developers of 2902 Adeline are still determining whether to move forward with the project.

One project, 1040 University, was removed from the list, as it was simply as conversion from one affordable housing type (27 Single Room Occupancy (SRO) units) into 27 Very Low-Income units.

**Table 3 – Projects with more than five units for which a building permit was issued, but are not yet occupied.** Table 3 provides the address, Zoning District and number of units by income category for projects that have received a building permit following their Zoning approval. The number of dwelling units in this category is 1,045 (compared to 1,074 in the 2019 report and 525 in the 2017 report). All projects included in this table are now under construction.

This table also demonstrates the range of timelines between entitlement and building permit issuance. Of the 17 projects that are under construction, 10 received a building permit within 24 months of receiving a use permit. Of the other seven, most were put on the market and sold prior to submittal of a building permit. Of note is the project known as Acheson Commons (shown in Table 3 as 2111, 2131 & 2145 University Avenue & 1900 Walnut), a project site that was also sold after the City

issued the use permit. The timeline between use permit and building permit issuance was also affected by the complexity of this particular site, which comprises four parcels.

The median time period between use permit issuance and building permit issuance for projects in Table 3 was just over 17 months.

Table 3 also includes a “Projected Completion Date” column, which provides an estimated calendar year of construction completion. More specific dates cannot be reliably furnished, as many factors can prolong date of completion, such as season, costs, and economic trends.

**Table 4 – Projects with more than five units, that received a building permit after 2014, and which have been completed.** The baseline for this table is 2014 because the current Regional Housing Needs Assessment (RHNA) started on January 1, 2014 and runs through to October 31, 2022. This table provides the most accurate information about the number of units and the breakdown of affordable units, because these numbers generally do not change after the building is completed. The number of dwelling units in this category is 1,351 (up from 1,141 in the 2019 report and 952 in the 2017 report).

The previous reports used the term “Certificate of Occupancy (COO) issued” to indicate when a project was finished. Most projects do not require a COO and are considered complete once construction is completed and the building is finalized by the Building and Safety Division. This report has removed the reference to COOs in order to more accurately reflect the action taken and to be consistent with the information reflected in the previous reports.

Table 4 provides the date a building permit was issued along with the date the project was completed. Table 4 also reports the year a project was approved, and the final approving body (ZAB or Council). The median time from building permit issuance to project completion for these projects was just over 25 months.

**Table 5 – Status of Regional Housing Needs Allocation (RHNA) - all housing types.** Unlike in 2017, Table 5 now provides the City’s progress towards RHNA as reported annually to the Department of Housing and Community Development (HCD). This table is consistent with the information that HCD will use to determine Berkeley’s compliance with affordable housing production goals and is taken directly from Berkeley’s Annual Progress Report on the Housing Element. Table 5 continues to report on building permits issued after January 1, 2014, and is current through 2019 (per RHNA reporting requirements). Through 68% of the reporting period, the City’s progress ranges from 21% for Very Low-Income units, 4% for Low-Income units, 23% for Moderate Income units to 128% for Above-Moderate units.

338 additional below market rate units have been entitled, but are not yet included in the RHNA numbers in Table 5 because they have not received a building permit. Those units are reflected in Table 2.

Within the numbers in Table 5 is a trend that merits highlighting in this report: the production of Accessory Dwelling Units (ADUs). The number of building permits issued for new ADUs increased from one in 2015 to 95 in 2019, for a building permit total of 266 since 2015.

### BACKGROUND

The City Council made its original request for a periodic Housing Pipeline report on June 13, 2017, in response to a request authored by Council Member Harrison. The Planning Department presented its first housing pipeline report on October 31, 2017 (and later on November 28, 2017, with a few corrections). On December 11, 2018, Council approved another related referral from Council Member Harrison that requested further information on the time between phases of the development process, particularly between entitlement and building permit issuance.

### ENVIRONMENTAL SUSTAINABILITY

There are no environmental impacts from this report. The implications of housing development on sustainability issues is considered at length in the City's Climate Action Plan, available at: <https://www.cityofberkeley.info/climate/>.

### POSSIBLE FUTURE ACTION

This report includes no proposals for future action by the City Council.

### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

None.

### CONTACT PERSON

Elizabeth Greene, Senior Planner, Planning and Development Department, 510-981-7484

### Attachments:

- 1: Table 1 – Projects submitted and pending approval
- 2: Table 2 – Projects approved
- 3: Table 3 – Projects with Building Permit issued
- 4: Table 4 – Projects completed since 2014
- 5: Table 5 – Status of Regional Housing Needs Allocation

| <b>Table 1.A – Projects with more than 5 units submitted and pending approval by ZAB or Council.</b> |             |               |              |                |                                         |
|------------------------------------------------------------------------------------------------------|-------------|---------------|--------------|----------------|-----------------------------------------|
| #                                                                                                    | Street Name | Zoning        | Total Units  | Submittal Date | Project Status as of 6/19/2019          |
| 3031                                                                                                 | Adeline     | C-SA          | 42           | 7/24/18        | Incomplete                              |
| 2590                                                                                                 | Bancroft    | C-T           | 87           | 6/5/19         | Incomplete                              |
| 1915                                                                                                 | Berryman    | R-2A          | 10           | 5/22/20        | Incomplete                              |
| 2015                                                                                                 | Blake       | R-4           | 155          | 12/20/18       | Incomplete                              |
| 2317                                                                                                 | Channing    | R-S           | 17           | 12/20/19       | Incomplete                              |
| 2000                                                                                                 | Dwight      | R-4           | 126          | 4/24/19        | Incomplete                              |
| 1155                                                                                                 | Hearst      | R-2A          | 6            | 2/2/16         | Under Appeal, Council 6-9-2020          |
| 2099                                                                                                 | MLK         | C-DMU         | 72           | 5/2/19         | Incomplete                              |
| 1200                                                                                                 | San Pablo   | C-W           | 104          | 12/2/19        | Incomplete                              |
| 2136                                                                                                 | San Pablo   | C-W           | 123          | 10/29/19       | Incomplete                              |
| 2371                                                                                                 | San Pablo   | C-W           | 6            | 5/15/19        | Incomplete                              |
| 2720                                                                                                 | San Pablo   | C-W           | 40           | 1/20/16        | Complete May 2019; ZAB Preview-10-10-19 |
| 3000                                                                                                 | San Pablo   | C-W           | 78           | 9/27/19        | Incomplete                              |
| 1650                                                                                                 | Shattuck    | C-NS          | 10           | 2/21/20        | Incomplete                              |
| 2023                                                                                                 | Shattuck    | C-DMU         | 48           | 3/5/19         | Complete; ZAB & DRC Previews 10-10-19   |
| 2650                                                                                                 | Telegraph   | C-1           | 45           | 4/18/19        | Complete. ZAB 3-12-20. Council 6-16-20  |
| 1110                                                                                                 | University  | C-1           | 36           | 3/3/17         | Complete; on hold per applicant         |
| 1367                                                                                                 | University  | C-1           | 40           | 10/18/19       | Incomplete                              |
|                                                                                                      |             | <b>Total:</b> | <b>1,045</b> |                |                                         |

**Table 1.B Group Living Accomodation Projects submitted and pending approval by ZAB or Council**

|        |           |             |              |         |                                                             |
|--------|-----------|-------------|--------------|---------|-------------------------------------------------------------|
| 2210   | Harold    | C-DMU outer | 136-bed      | 1/31/20 | Incomplete.                                                 |
| 0/2435 | San Pablo | C-W         | 42 GLA units | 12/6/18 | Complete 10/28/19. Continued off calendar from 12/12/19 ZAB |

Note: Proposed #s of affordable units are not reported at this pre-approval stage, as they tend to change significantly.

|  |                                  |  |  |  |  |
|--|----------------------------------|--|--|--|--|
|  |                                  |  |  |  |  |
|  | New projects added               |  |  |  |  |
|  | Number changed since 2019 report |  |  |  |  |
|  |                                  |  |  |  |  |

| #    | Street Name  | Zoning                                                                                                 | Ext Low <30% AMI | VLI 31%-50% AMI | LI 51%-80% AMI | MOD 81-120% AMI | BMR Total  | Above MOD    | Total Units  | Entitlement Year | By:     | Building Permit Applied For? | Subtotals                                                            |
|------|--------------|--------------------------------------------------------------------------------------------------------|------------------|-----------------|----------------|-----------------|------------|--------------|--------------|------------------|---------|------------------------------|----------------------------------------------------------------------|
| 2902 | Adeline      | C-SA & R-4                                                                                             |                  | 4               | 4              | 1               | 9          | 41           | 50           | 2017             | Council | No                           | Units in Approved projects, no BP yet applied for:<br><br><b>609</b> |
| 2001 | Ashby        | C-SA                                                                                                   | 25               | 28              | 33             | 0               | 86         | 1            | 87           | 2019             | SB35    |                              |                                                                      |
| 2176 | Kittredge    | C-DMU                                                                                                  | 0                | 0               | 0              | 0               | 0          | 165          | 165          | 2020             | ZAB     |                              |                                                                      |
| 1740 | San Pablo    | C-W                                                                                                    | 0                | 4               | 0              | 0               | 4          | 47           | 51           | 2018             | ZAB     |                              |                                                                      |
| 1835 | San Pablo    | C-W                                                                                                    | 0                | 7               | 0              | 0               | 7          | 94           | 101          | 2019             | ZAB     |                              |                                                                      |
| 2198 | San Pablo    | C-W                                                                                                    |                  | 5               |                |                 | 5          | 52           | 57           | 2019             | ZAB     |                              |                                                                      |
| 2720 | San Pablo    | C-W                                                                                                    |                  | 0               | 3              | 0               | 3          | 15           | 18           | 2007             | ZAB     |                              |                                                                      |
| 2701 | Shattuck     | C-SA                                                                                                   |                  | 5               | 0              | 0               | 5          | 52           | 57           | 2019             | Council |                              |                                                                      |
| 3000 | Shattuck     | C-SA                                                                                                   |                  | 2               | 2              | 0               | 4          | 19           | 23           | 2018             | Council |                              |                                                                      |
| 2009 | Addison      | C-DMU                                                                                                  |                  |                 |                |                 | 0          | 45           | 45           | 2019             | ZAB     | 7/18/19                      | Units in Approved projects, BP applied for:<br><br><b>1181</b>       |
| 2028 | Bancroft     | C-DMU                                                                                                  |                  | 2               |                |                 | 2          | 35           | 37           | 2019             | ZAB     | 10/29/19                     |                                                                      |
| 2012 | Berkeley Way | C-DMU                                                                                                  | 53               | 54              | 34             | 0               | 141        | 1            | 142          | 2019             | SB35    | 9/12/19                      |                                                                      |
| 2542 | Durant       | C-T                                                                                                    |                  | 0               | 0              | 0               | 0          | 32           | 32           | 2018             | ZAB     | 4/4/19                       |                                                                      |
| 1601 | Oxford       | R-3                                                                                                    |                  | 13              | 21             | 0               | 34         | 3            | 37           | 2018             | SB35    | 12/17/19                     |                                                                      |
| 1201 | San Pablo    | C-W                                                                                                    |                  | 0               | 0              | 5               | 5          | 22           | 27           | 2006             | Council | 11/25/19                     |                                                                      |
| 2527 | San Pablo    | C-W                                                                                                    | 0                | 6               | 6              | 0               | 12         | 51           | 63           | 2018             | Council | 8/17/18                      |                                                                      |
| 2100 | San Pablo    | C-W                                                                                                    | 0                | 0               | 0              | 0               | 0          | 96           | 96           | 2019             | ZAB     | 8/30/19                      |                                                                      |
| 3020 | San Pablo    | C-W                                                                                                    |                  | 2               | 2              | 0               | 4          | 25           | 29           | 2007             | ZAB     | 4/15/15                      |                                                                      |
| 1951 | Shattuck     | C-DMU                                                                                                  | 0                | 0               | 0              | 0               | 0          | 156          | 156          | 2019             | ZAB     | 12/27/19                     |                                                                      |
| 2190 | Shattuck     | C-DMU                                                                                                  |                  | 0               | 0              | 0               | 0          | 274          | 274          | 2019             | Council | 12/19/19                     |                                                                      |
| 2352 | Shattuck     | C-DMU                                                                                                  | 0                | 14              | 0              | 0               | 14         | 190          | 204          | 2019             | ZAB     | 12/20/19                     |                                                                      |
| 2556 | Telegraph    | C-T                                                                                                    |                  |                 |                |                 | 0          | 24           | 24           | 2018             | ZAB     | 12/19/18                     |                                                                      |
| 1717 | University   | C-1                                                                                                    |                  | 3               | 0              | 0               | 3          | 12           | 15           | 2017             | ZAB     | 1/17/20                      |                                                                      |
|      |              | <b>Totals:</b>                                                                                         | <b>78</b>        | <b>149</b>      | <b>105</b>     | <b>6</b>        | <b>338</b> | <b>1,452</b> | <b>1,790</b> |                  |         |                              |                                                                      |
|      |              |                                                                                                        |                  |                 |                |                 |            |              |              |                  |         |                              |                                                                      |
|      |              | Projects over 2 years old and no BP submitted                                                          |                  |                 |                |                 |            |              |              |                  |         |                              |                                                                      |
|      |              | Change to unit count since 2019 report                                                                 |                  |                 |                |                 |            |              |              |                  |         |                              |                                                                      |
|      |              | New project added                                                                                      |                  |                 |                |                 |            |              |              |                  |         |                              |                                                                      |
|      |              | Projects moved from Table 1                                                                            |                  |                 |                |                 |            |              |              |                  |         |                              |                                                                      |
|      |              |                                                                                                        |                  |                 |                |                 |            |              |              |                  |         |                              |                                                                      |
|      |              | For SB 35 projects, issuance of a compliance letter will be the equivalent of a discretionary approval |                  |                 |                |                 |            |              |              |                  |         |                              |                                                                      |



| Table 3 – Approved projects with more than 5 units: Building permit issued. |                                   |                |                       |                      |                       |              |              |                |                     |         |                              |                            |
|-----------------------------------------------------------------------------|-----------------------------------|----------------|-----------------------|----------------------|-----------------------|--------------|--------------|----------------|---------------------|---------|------------------------------|----------------------------|
| #                                                                           | Street Name                       | Zoning         | VLI<br>31%-50%<br>AMI | LI<br>51%-80%<br>AMI | MOD<br>81-120%<br>AMI | BMR<br>Total | Above<br>MOD | Total<br>Units | Entitlement<br>Year | By:     | Building<br>Permit<br>Issued | Est.<br>Completion<br>Date |
| 1950                                                                        | Addison                           | C-DMU          | 4                     | 0                    | 0                     | 4            | 103          | 107            | 2016                | ZAB     | 6/2/17                       | 2019                       |
| 2072                                                                        | Addison                           | C-DMU          | 0                     | 0                    | 0                     | 0            | 66           | 66             | 2018                | ZAB     | 1/29/20                      | ??                         |
| 3051                                                                        | Adeline                           | C-SA           | 0                     | 0                    | 0                     | 0            | 11           | 11             | 2016                | ZAB     | 11/12/19                     |                            |
| 2580                                                                        | Bancroft                          | C-T            | 11                    | 0                    | 0                     | 11           | 111          | 122            | 2018                | ZAB     | 7/24/19                      | 2020                       |
| 2035                                                                        | Blake                             | C-SA           | 4                     | 0                    | 0                     | 4            | 80           | 84             | 2016                | Council | 8/10/17                      | 2020                       |
| 739                                                                         | Channing                          | MU-R           | 0                     | 0                    | 0                     | 0            | 10           | 10             | 2018                | ZAB     | 5/30/19                      | Unknown                    |
| 2510                                                                        | Channing                          | C-T            | 3                     | 0                    | 0                     | 3            | 37           | 40             | 2018                | ZAB     | 1/27/20                      | 2020                       |
| 2631                                                                        | Durant                            | R-SMU          | 0                     | 0                    | 0                     | 0            | 56           | 56             | 2016                | Council | 12/1/17                      | 2020                       |
| 1500                                                                        | San Pablo                         | C-W & R-1A     | 16                    | 0                    | 0                     | 16           | 154          | 170            | 2016                | Council | 12/21/17                     | 2020                       |
| 2628                                                                        | Shattuck                          | C-SA           | 0                     | 0                    | 0                     | 0            | 78           | 78             | 2019                | ZAB     | 5/5/20                       | ??                         |
| 2597                                                                        | Telegraph                         | C-T & R-2      | 1                     | 0                    | 0                     | 1            | 9            | 10             | 2017                | Council | 8/9/18                       | 2020                       |
| 1698                                                                        | University                        | C-1            | 3                     | 0                    | 0                     | 3            | 33           | 36             | 2014                | ZAB     | 6/20/17                      | 2020                       |
| 2067                                                                        | University                        | C-DMU          | 4                     | 0                    | 0                     | 4            | 46           | 50             | 2016                | ZAB     | 10/10/18                     | 2020                       |
| 2111                                                                        | University                        | C-DMU          | 6                     | 0                    | 0                     | 3            | 65           | 68             | 2013                | ZAB     | 6/27/18                      | 2020                       |
| 2131                                                                        | University                        | C-DMU          | 2                     | 0                    | 0                     | 1            | 20           | 21             | 2013                | ZAB     | 6/27/18                      | 2020                       |
| 2145                                                                        | University                        | C-DMU          | 0                     | 0                    | 0                     | 0            | 36           | 36             | 2013                | ZAB     | 6/27/18                      | 2020                       |
| 1922                                                                        | Walnut                            | C-DMU          | 2                     | 0                    | 0                     | 2            | 78           | 80             | 2013                | ZAB     | 6/27/18                      | 2020                       |
|                                                                             |                                   | <b>Totals:</b> | <b>56</b>             | <b>0</b>             | <b>0</b>              | <b>52</b>    | <b>993</b>   | <b>1,045</b>   |                     |         |                              |                            |
|                                                                             | Projects moved from Table 2       |                |                       |                      |                       |              |              |                |                     |         |                              |                            |
|                                                                             | Numbers changed since 2019 report |                |                       |                      |                       |              |              |                |                     |         |                              |                            |
|                                                                             | Dates changed since 2019 report   |                |                       |                      |                       |              |              |                |                     |         |                              |                            |

| Table 4 – Approved projects with more than 5 units: Building Permit Issued after 2014 and Project Completed |                                                          |                |                       |                      |                       |              |              |                |                     |         |                              |                  |
|-------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|----------------|-----------------------|----------------------|-----------------------|--------------|--------------|----------------|---------------------|---------|------------------------------|------------------|
| #                                                                                                           | Street Name                                              | Zoning         | VLI<br>31%-50%<br>AMI | LI<br>51%-80%<br>AMI | MOD<br>81-120%<br>AMI | BMR<br>Total | Above<br>MOD | Total<br>Units | Entitlement<br>Year | By:     | Building<br>Permit<br>Issued | Complete<br>Date |
| 1935                                                                                                        | Addison                                                  | C-DMU          | 0                     | 0                    | 0                     | 0            | 69           | 69             | 2013                | Council | 10/17/14                     | 5/26/17          |
| 2002                                                                                                        | Addison                                                  | C-DMU          | 0                     | 0                    | 0                     | 0            | 6            | 6              | 2016                | ZAB     | 2/1/18                       | 8/28/18          |
| 2126                                                                                                        | Bancroft                                                 | C-DMU          | 5                     | 0                    | 0                     | 5            | 45           | 50             | 2016                | ZAB     | 11/6/17                      | 11/15/19         |
| 2024                                                                                                        | Durant                                                   | C-DMU          | 0                     | 0                    | 0                     | 0            | 79           | 79             | 2013                | Council | 7/8/14                       | 12/7/15          |
| 2526                                                                                                        | Durant                                                   | C-T            | 0                     | 0                    | 0                     | 0            | 44           | 44             | 2014                | ZAB     | 2/18/14                      | 6/30/17          |
| 2532                                                                                                        | Durant                                                   | C-T            | 0                     | 0                    | 0                     | 0            | 7            | 7              | 2016                | ZAB     | 6/23/17                      | 1/30/19          |
| 2107                                                                                                        | Dwight                                                   | C-DMU          | 9                     | 0                    | 0                     | 9            | 90           | 99             | 2012                | ZAB     | 2/16/16                      | 3/24/17          |
| 2201                                                                                                        | Dwight                                                   | R-S            | 7                     | 0                    | 0                     | 7            | 70           | 77             | 2013                | ZAB     | 6/3/15                       | 11/17/16         |
| 2227                                                                                                        | Dwight                                                   | R-3            | 0                     | 0                    | 0                     | 0            | 6            | 6              | 2013                | Council | 9/7/15                       | 5/25/18          |
| 2001                                                                                                        | Fourth                                                   | C-W            | 12                    | 0                    | 0                     | 12           | 140          | 152            | 2014                | ZAB     | 4/1/16                       | 7/31/18          |
| 2441                                                                                                        | Haste                                                    | C-T            | 0                     | 0                    | 0                     | 0            | 42           | 42             | 2013                | ZAB     | 5/7/14                       | 6/27/16          |
| 3132                                                                                                        | MLK                                                      | C-SA           | 0                     | 41                   | 0                     | 41           | 1            | 42             | 2007                | ZAB     | 11/20/15                     | 12/7/17          |
| 2747                                                                                                        | San Pablo                                                | C-W            | 3                     | 3                    | 0                     | 6            | 35           | 41             | 2007                | ZAB     | 4/13/17                      | 4/24/20          |
| 2748                                                                                                        | San Pablo                                                | C-W            | 23                    | 0                    | 0                     | 23           | 0            | 23             | 2014                | ZAB     | 12/12/17                     | 10/23/19         |
| 3015                                                                                                        | San Pablo                                                | C-W            | 8                     | 7                    | 0                     | 15           | 83           | 98             | 2007                | Council | 3/19/14                      | 2/16/16          |
| 2013                                                                                                        | Second                                                   | MU-LI          | 0                     | 0                    | 0                     | 0            | 19           | 19             | 2015                | ZAB     | 11/22/16                     | 1/31/19          |
| 2598                                                                                                        | Shattuck                                                 | C-SA & R-2A    | 4                     | 3                    | 0                     | 7            | 25           | 32             | 2014                | Council | 5/1/15                       | 5/31/17          |
| 2600                                                                                                        | Shattuck                                                 | C-SA & R-2A    | 12                    | 12                   | 0                     | 24           | 99           | 123            | 2014                | Council | 1/1/14                       | 3/17/17          |
| 2711                                                                                                        | Shattuck                                                 | C-SA           | 0                     | 0                    | 0                     | 0            | 22           | 22             | 2016                | ZAB     | 9/6/17                       | 11/18/18         |
| 2539                                                                                                        | Telegraph                                                | C-T            | 6                     | 0                    | 0                     | 6            | 64           | 70             | 2016                | ZAB     | 7/12/17                      | 9/30/19          |
| 800                                                                                                         | University                                               | C-W            | 4                     | 0                    | 0                     | 4            | 54           | 58             | 2013                | ZAB     | 7/15/14                      | 12/2/15          |
| 824                                                                                                         | University                                               | C-W            | 4                     | 0                    | 0                     | 4            | 44           | 48             | 2015                | ZAB     | 8/20/15                      | 2/6/18           |
| 1812                                                                                                        | University                                               | C-1            | 0*                    | 0                    | 0                     | 0            | 46           | 46             | 2014                | ZAB     | 6/25/15                      | 3/7/17           |
| 1974                                                                                                        | University                                               | C-DMU          | 8                     | 0                    | 0                     | 8            | 90           | 98             | 2014                | ZAB     | 9/29/15                      | 10/3/17          |
|                                                                                                             |                                                          | <b>Totals:</b> | <b>105</b>            | <b>66</b>            | <b>0</b>              | <b>171</b>   | <b>1,180</b> | <b>1351</b>    |                     |         |                              |                  |
|                                                                                                             | New project added                                        |                |                       |                      |                       |              |              |                |                     |         |                              |                  |
|                                                                                                             | Projects moved from Table 3                              |                |                       |                      |                       |              |              |                |                     |         |                              |                  |
|                                                                                                             | Change to unit count or BP issued date since 2019 report |                |                       |                      |                       |              |              |                |                     |         |                              |                  |
|                                                                                                             | Building permit partially finalized                      |                |                       |                      |                       |              |              |                |                     |         |                              |                  |

**Table 5 – Status of Regional Housing Needs Allocation - All Housing Types.**

Progress towards 2014-2022 RHNA: Approved Building Permits

January 1, 2014 – December 31, 2019

|                          | RHNA Allocation | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | Total Units to Date | Percent of Goal Achieved | Remaining RHNA |
|--------------------------|-----------------|------|------|------|------|------|------|---------------------|--------------------------|----------------|
| <b>VLI (&lt;50% AMI)</b> | 532             | 15   | 59   | 16   | 10   | 1    | 11   | 112                 | 21%                      | 420            |
| <b>LI (51%-80% AMI)</b>  | 442             | 0    | 17   |      |      |      |      | 17                  | 4%                       | 425            |
| <b>MOD (81-120% AMI)</b> | 584             | 5    | 132  |      |      |      |      | 137                 | 23%                      | 447            |
| <b>BMR Total</b>         | 1558            | 20   | 208  | 16   | 10   | 1    | 11   |                     |                          |                |
| <b>Above MOD</b>         | 1401            | 258  | 326  | 212  | 262  | 329  | 403  | 1790                | 128%                     | -389           |
| <b>Total</b>             | 2959            | 278  | 534  | 228  | 272  | 330  | 414  |                     |                          |                |





Office of the City Manager

INFORMATION CALENDAR

July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Director, Planning and Development

Subject: LPC NOD: 1120 Second Street/#LMSAP2019-0007

INTRODUCTION

The attached Landmarks Preservation Commission Notice of Decision (NOD) is presented to the Mayor and City Council pursuant to Berkeley Municipal Code/Landmarks Preservation Ordinance (BMC/LPO) Section 3.24.240.A, which requires that “a copy of the Notice of Decision shall be filed with the City Clerk, and the City Clerk shall present said copy to the City Council at its next regular meeting.”

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has approved a Structural Alteration Permit (SAP) for the design of a temporary, rooftop wireless telecommunications facility at the subject City Landmark site. This action is subject to a 15-day appeal period, which began on July 13, 2020.

BACKGROUND

BMC/LPO Section 3.24.300 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying a Structural Alteration Permit. In order for Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by July 28, 2020. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must rule on the application within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no known fiscal impacts associated with this action.

CONTACT PERSON

Fatema Crane, Landmarks Preservation Commission Secretary, Planning and Development, 510-981-7410

Attachments:

1: Notice of Decision – #LMSAP 2019-0007, 1120 Second Street/City Incinerator Site



L A N D M A R K S  
P R E S E R V A T I O N  
C O M M I S S I O N

---

N O T I C E O F D E C I S I O N

**DATE OF BOARD DECISION: June 4, 2020**  
**DATE NOTICE MAILED: July 13, 2020**  
**APPEAL PERIOD EXPIRATION: July 28, 2020**  
**EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): July 29, 2020<sup>1</sup>**

## 1120 Second Street

**Structural Alteration Permit (#LMSAP2019-0007) to approve the design of a temporary rooftop wireless telecommunications facility on an existing, self-storage building of approximately 45 ft. in height, on the site where the City Landmark Municipal Incinerator structure is located.**

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following permit:

**PERMITS REQUIRED:**

- Structural Alteration Permit, pursuant to Berkeley Municipal Code Section 3.24.200

**APPLICANT:** Derek Turner, J5 Infrastructure Partners, representing AT&T Mobility

**ZONING DISTRICT:** Manufacturing (M)

**ENVIRONMENTAL REVIEW STATUS:** Categorically exempt pursuant to Section 15331 of the CEQA Guidelines for Historical Resource Rehabilitation.

**The application materials for this project are available online at:**

<http://www.cityofberkeley.info/zoningapplications>

---

<sup>1</sup> Pursuant to BMC Section 23B.32.090, the City Council may “certify” any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Use Permit becomes effective the day after the certification deadline has passed.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
Structural Alteration Permit - #LMSAP2019-0007  
1120 Second Street – Site of the City Incinerator Structure  
July 13, 2020  
Page 2 of 4

---

**FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE**

---

**COMMISSION VOTE: 9-0-0-0**

**YES:** ABRANCHES DA SILVA, ADAMS, ALLEN, CRANDALL, ENCHILL, FINACOM,  
HALL MONTGOMERY, JOHNSON, SCHWARTZ

**NO:** None

**ABSTAIN:** None

**ABSENT:** None

**Note New Methods for Submitting Appeals during Shelter-In-Place Order**

**TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):**

To appeal a decision of the Landmarks Preservation Commission to the City Council during the 2020 City Council Shelter-In-Place Order, you must:

1. Mail a letter clearly and concisely setting forth the grounds for the appeal with a check or money order for required fees to the City Clerk, located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley, 94704. The City Clerk's telephone number is (510) 981-6900.

OR

Alternatively, you may email your complete appeal and all attachments to the Planning Department at [planning@cityofberkeley.info](mailto:planning@cityofberkeley.info) and include a telephone number where you can be reached during the day. Planning Department staff will call you within three business days to obtain payment information for the required fees by credit card *only*.

- a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the commission made under the provisions of Chapter 3.24.
2. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
    - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less. Signatures collected per the filing requirement in BMC Section 3.24.300.A may be counted towards qualifying for the reduced fee, so long as the signers are qualified. The individual



LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
Structural Alteration Permit - #LMSAP2019-0007  
1120 Second Street – Site of the City Incinerator Structure  
July 13, 2020  
Page 3 of 4

filing the appeal must clearly denote which signatures are to be counted towards qualifying for the reduced fee.

- b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
- c. The fee for all appeals by Applicants is \$2500.
3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

If no appeal is received, the landmark designation will be final on the first business day following expiration of the appeal period.

#### **NOTICE CONCERNING YOUR LEGAL RIGHTS:**

---

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:
  - A. That this belief is a basis of your appeal.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
Structural Alteration Permit - #LMSAP2019-0007  
1120 Second Street – Site of the City Incinerator Structure  
July 13, 2020  
Page 4 of 4

- B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
- C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

**PUBLIC COMMENT:**

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

**FURTHER INFORMATION:**

Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7410 or fcrane@cityofberkeley.info. All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 1947 Center Street, 3<sup>rd</sup> Fl., between 8 a.m. and 4 p.m., Monday through Friday, except Tuesday when the Center closes at 3PM.

**ATTACHMENTS:**

- 1. Findings and Conditions
- 2. Project Plans



**ATTEST:** \_\_\_\_\_  
Fatema Crane, Secretary  
Landmarks Preservation Commission

Cc:  
City Clerk  
Applicant

# ATTACHMENT 1

---

## FINDINGS AND CONDITIONS

### 1120 Second Street

#### Structural Alteration Permit #LMSAP2019-0007

**To approve the design of a temporary rooftop wireless telecommunications facility on an existing, self-storage building of approximately 45 ft. in height, on the site where the City Landmark Municipal Incinerator structure is located.**

#### **CEQA FINDINGS**

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 153331 of the CEQA Guidelines (“Historic Resource Restoration/Rehabilitation”). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

#### **SECRETARY OF THE INTERIOR’S STANDARDS FINDINGS**

Regarding the Secretary of the Interior’s Standards for Rehabilitation, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

Regarding the Secretary of the Interior’s Standards for Restoration, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

1. The historic incinerator and slaughter house use of the subject property was previously changed to private self-storage purposes in 1985. Because this change of use has already occurred, the proposed project would not be responsible for ending or changing the historic use of the property. A wireless telecommunication facility would be an additional and new use at this property, but would require no alteration of the Landmark incinerator building.
2. The historic character of the property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize this property have been avoided.
3. Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken in this project.
4. Changes to the property that have acquired historic significance in their own right are not affected by this proposal.

5. If affected, distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the historic period will be preserved.
6. Deteriorated features from the historic period will be repaired rather than replaced if affected. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Conditions to protect archeological resources have been applied to this project.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old where possible and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

### **LANDMARK PRESERVATION ORDINANCE FINDINGS**

---

1. As required by Section 3.24.260 of the Landmarks Preservation Ordinance, the Commission finds that proposed work is appropriate for and consistent with the purposes of the Ordinance, and will preserve and enhance the characteristics and features specified in the designation for this property, because:
  - Owing to its and temporary nature, the proposed rooftop wireless telecommunications facility would not impair the special historical interest and value of the municipal incinerator structure.

### **STANDARD CONDITIONS**

---

The following conditions, as well as all other applicable provisions of the Landmarks Preservation Ordinance, apply to this Permit:

#### **1. Conditions Shall be Printed on Plans**

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Permit, under the title 'Structural Alteration Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

#### **2. Plans and Representations Become Conditions**

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

#### **3. Subject to All Applicable Laws and Regulations**

The approved construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to installation, the applicant shall obtain Use Permit approval in accordance with BMC Section 23C.17 (Wireless Telecommunication). Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

#### **4. Exercise and Lapse of Permits (Section 23B.56.100)**

- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- A. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has:
  - (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

#### **5. Indemnification Agreement**

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

### **ADDITIONAL CONDITIONS**

---

The following additional conditions are attached to this Permit:

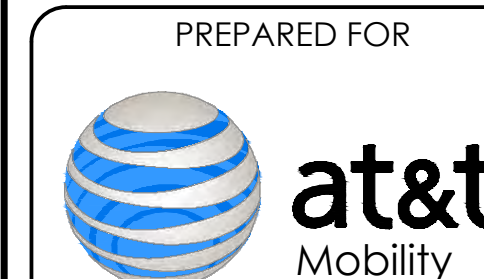
6. **Use Permit approval.** This Structural Alteration Permit approval and the installation of the subject wireless telecommunications facility are contingent upon Use Permit approval in accordance with BMC Chapter 23.
7. **Chemical Treatments.** With respect to historic resources located on this site or within the propose project area, any chemical treatments needed as construction progresses will be undertaken using the gentlest means possible.





**at&t**  
Mobility

SITE NUMBER: CCL00165  
 SEARCH RING NAME: PUBLIC STORAGE  
 SITE NAME: PUBLIC STORAGE CCL00165  
 ADDRESS: 1120 SECOND ST. BERKELEY, CA 94710  
 JURISDICTION: CITY OF BERKELEY  
 SITE TYPE: TREE POLE / OUTDOOR EQUIPMENT  
 FA#: 13866621  
 PTN#: 3701A07RNF  
 USID#: 177863



5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:



2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T SITE NO: CCL00165

PACE NO: MRSFR033255

DRAWN BY: BH

CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS LEASE AREA            |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRW REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRW REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licenser:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**

**PUBLIC STORAGE**

1120 SECOND ST.  
BERKELEY, CA 94710

Sheet Title:

**TITLE SHEET**

Sheet Number:

**T-1**

**PROJECT DESCRIPTION      PROJECT INFORMATION      PROJECT TEAM      SHEET INDEX      REV.**

INSTALLATION OF A NEW SITE BUILD, UNMANNED TELECOMMUNICATIONS FACILITY, CONSISTING OF THE FOLLOWING:  
 AT&T WIRELESS PROJECT SCOPE WILL CONSIST OF THE FOLLOWING:  
 • REMOVE AND REPLACE EXISTING 60'-0" TALL MONOPOLE IN EXISTING EQUIPMENT AREA  
 • REMOVE (3) CELL BLOCKS WITH SECTION OF CHAIN LINK FENCE TO BE REINSTALLED  
 • REMOVE EXISTING CABLE TRAY  
 • INSTALL (1) PROPOSED 80'-0" HIGH MONOPOLE (BY OTHERS)  
 • INSTALL (12) PROPOSED AT&T PANEL ANTENNAS  
 • INSTALL (15) PROPOSED AT&T REMOTE RADIO HEADS (RRH)  
 • INSTALL (1) PROPOSED AT&T DC-6 SURGE SUPPRESSOR  
 • INSTALL (1) PROPOSED AT&T DC-12 SURGE SUPPRESSOR ON (E) H-FRAME  
 • INSTALL (1) PROPOSED AT&T PURCELL CABINET STACKED ON (E) PURCELL CABINET  
 • INSTALL PROPOSED AT&T POWER AND FIBER CABLES  
 • INSTALL (1) COAX CABLE TRAY

PROJECT INFORMATION:  
 SITE NAME: PUBLIC STORAGE  
 SITE NUMBER: CCL00165  
 SITE ADDRESS:  
 1120 SECOND ST.  
 BERKELEY, CA 94710  
 JURISDICTION: CITY OF BERKELEY  
 A.P.N.: 060-2381-002-02  
 CURRENT ZONING: N/A  
 EXISTING USE: MULTIUSE  
 PROPOSED USE: MULTIUSE, COMMUNICATIONS FACILITY  
 LATITUDE (NAD 83): 37° 52' 51.01" N  
 LONGITUDE (NAD 83): 122° 18' 26.25" W  
 GROUND ELEVATION: 12.4' AMSL (NAVD88)  
 ACCESSIBILITY REQUIREMENTS: FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. ACCESSIBILITY IS NOT REQUIRED PER CBC2019, SECTION 11B-203.4 (LIMITED ACCESS SPACE)  
 OCCUPANCY GROUPS: GROUP S-1  
 TYPE OF CONSTRUCTION: TYPE II-A  
 SPRINKLERS: FULLY SPRINKLERED  
 STORIES: 4 STORIES

PROPERTY OWNER:  
 PUBLIC STORAGE  
 LORI KIND (805) 300-2240  
 PO BOX 25025  
 GLENDALE, CA 91221-5026  
 POWER AGENCY:  
 PG&E  
 PH: (408) 261-5373  
 TELEPHONE AGENCY:  
 AT&T  
 APPLICANT / LESSEE:  
 AT&T MOBILITY  
 5001 EXECUTIVE PARKWAY, 4W550H  
 SAN RAMON, CA 94583  
 CONTACT: ALYSSA FERRIS  
 EMAIL: AB724B@ATT.COM  
 CELL: (530) 966-2612  
 ENGINEER:  
 J5 INFRASTRUCTURE PARTNERS  
 CONTACT: JOSE CARLOS FAZ, S.E.  
 EMAIL: JFAZ@J5IP.COM  
 PH: (949) 247-7767 x160  
 PROJECT MANAGER:  
 J5 INFRASTRUCTURE PARTNERS  
 CONTACT: MISAKO HILL  
 EMAIL: MHILL@J5IP.COM  
 CELL: (415) 533-2540  
 CONSTRUCTION MANAGER:  
 BECHTEL  
 CONTACT: ROSS GOMPERTZ  
 EMAIL: RLGOMER@BECHTEL.COM  
 PH: (714) 396-4820  
 RF ENGINEER:  
 AT&T MOBILITY  
 CONTACT: AMRITPAL SINGH  
 EMAIL: AS230B@ATT.COM  
 PH: (817) 966-7271  
 SITE ACQUISITION:  
 J5 INFRASTRUCTURE PARTNERS  
 CONTACT: MICHAEL GUIGLOTTO  
 EMAIL: MGUIGLOTTO@J5IP.COM  
 PH:(415) 225-6667  
 RFDS VERSION: 2.00  
 DATE UPDATED: 04/02/18

| TITLE SHEET | REV. |
|-------------|------|
| T-1         | 5    |
| GN-1        | 5    |
| GN-2        | 5    |
| LS-1        | 7    |
| A-1         | 5    |
| A-2         | 5    |
| A-2.1       | 5    |
| A-3         | 5    |
| A-3.1       | 5    |
| A-4         | 5    |
| A-4.1       | 5    |
| A-5         | 5    |
| A-5.1       | 5    |
| A-6         | 5    |
| A-6.1       | 5    |
| A-7         | 5    |
| A-7.1       | 5    |

**GENERAL CONTRACTOR NOTES**  
 DO NOT SCALE DRAWINGS  
 THESE PLANS ARE FORMATTED TO BE FULL SIZE AT 24" X 36". CONTRACTORS SHALL VERIFY ALL PLANS AND EXISTING DIMENSIONS AND CONDITIONS ON THE JOB SITE AND SHALL IMMEDIATELY NOTIFY THE ARCHITECT/ENGINEER IN WRITING OF ANY DISCREPANCIES BEFORE PROCEEDING WITH THE WORK OR MATERIAL ORDERS OR BE RESPONSIBLE FOR THE SAME.

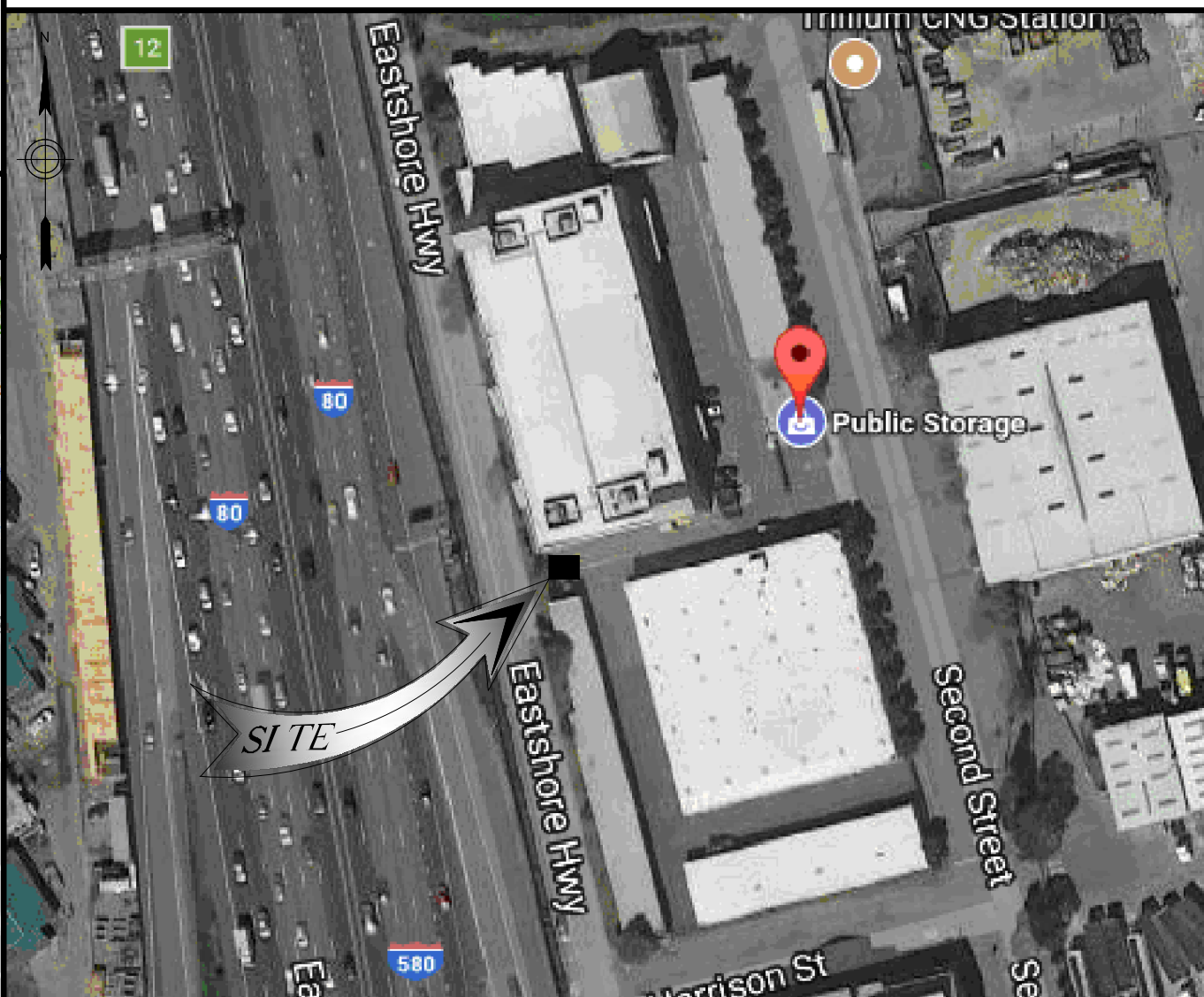
**CODE COMPLIANCE**

ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THESE CODES.

- CALIFORNIA BUILDING STANDARDS CODE: 2019 TRIENNIAL EDITION OF TITLE 24, WITH AN EFFECTIVE DATE OF JANUARY 1, 2020.  
 PART 1 - CALIFORNIA ADMINISTRATIVE CODE  
 PART 2 - CALIFORNIA BUILDING CODE, BASED ON THE 2018 INTERNATIONAL BUILDING CODE  
 PART 2.5 - CALIFORNIA RESIDENTIAL CODE, BASED ON THE 2018 INTERNATIONAL RESIDENTIAL CODE  
 PART 3 - CALIFORNIA ELECTRICAL CODE, BASED ON THE 2017 NATIONAL ELECTRICAL CODE  
 PART 4 - CALIFORNIA MECHANICAL CODE, BASED ON THE 2018 UNIFORM MECHANICAL CODE  
 PART 5 - CALIFORNIA PLUMBING CODE, BASED ON THE 2018 UNIFORM PLUMBING CODE  
 PART 6 - CALIFORNIA ENERGY CODE  
 PART 7 - VACANT  
 PART 8 - CALIFORNIA HISTORICAL BUILDING CODE  
 PART 9 - CALIFORNIA FIRE CODE, BASED ON THE 2018 INTERNATIONAL FIRE CODE  
 PART 10 - CALIFORNIA EXISTING BUILDING CODE, BASED ON THE 2018 INTERNATIONAL EXISTING BUILDING CODE  
 PART 11 - CALIFORNIA GREEN BUILDING STANDARDS CODE (ALSO KNOWN AS CALGREEN)  
 PART 12 - CALIFORNIA REFERENCED STANDARDS CODE
- ANSI/TIA-222 (REV H)
- 2018 NFPA 101, LIFE SAFETY CODE
- 2019 NFPA 72, NATIONAL FIRE ALARM AND SIGNALING CODE
- 2019 NFPA 13, STANDARD FOR THE INSTALLATION OF SPRINKLER SYSTEMS



**LOCAL MAP**



**STATEMENTS**

STRUCTURAL:  
 STRUCTURAL ANALYSIS IS NOT WITHIN THE SCOPE OF WORK CONTAINED IN THIS DRAWINGS SET. FOR ANALYSIS OF EXISTING AND/OR PROPOSED COMPONENTS, REFER TO STRUCTURAL ANALYSIS PROVIDED UNDER SEPARATE COVER.  
 ANTENNA MOUNT ANALYSIS IS NOT WITHIN THE SCOPE OF WORK CONTAINED IN THIS DRAWING SET. FOR ANALYSIS OF MOUNT TO SUPPORT EXISTING AND/OR PROPOSED COMPONENTS, REFER TO ANTENNA MOUNT STRUCTURAL ANALYSIS PROVIDED UNDER SEPARATE COVER.

**APPROVALS**

| APPROVED BY:             | INT: | DATE: |
|--------------------------|------|-------|
| AT&T PM:                 |      |       |
| VENDOR:                  |      |       |
| RF ENGINEER:             |      |       |
| LEASING / LANDLORD:      |      |       |
| ZONING:                  |      |       |
| CIVIL VENDOR (CM):       |      |       |
| UTILITY (POWER / TELCO): |      |       |

**DIRECTIONS FROM AT&T**

- DIRECTIONS FROM AT&T'S OFFICE AT 5001 EXECUTIVE PKWY, SAN RAMON, CA 94583:
- START OUT GOING NORTHWEST.
  - TURN RIGHT.
  - TAKE THE 1ST LEFT.
  - TURN RIGHT ONTO EXECUTIVE PKWY.
  - TURN LEFT ONTO CAMINO RAMON.
  - TURN LEFT ONTO CROW CANYON RD.
  - MERGE ONTO I-680 N TOWARD SACRAMENTO.
  - MERGE ONTO CA-24 W VIA EXIT 46A TOWARD OAKLAND/LAFAYETTE.
  - MERGE ONTO I-580 W VIA EXIT 2B.
  - TAKE THE GILMAN STREET EXIT, EXIT 12.
  - TURN RIGHT ONTO GILMAN ST.
  - TAKE THE 2ND LEFT ONTO 2ND ST.
  - 1120 2ND ST, BERKELEY, CA 94710-1004. 1120 2ND ST IS ON THE LEFT.



GENERAL CONSTRUCTION NOTES:

- PLANS ARE INTENDED TO BE DIAGRAMMATIC OUTLINE ONLY. UNLESS NOTED OTHERWISE, THE WORK SHALL INCLUDE FURNISHING MATERIALS, EQUIPMENT, APPURTENANCES AND LABOR NECESSARY TO COMPLETE ALL INSTALLATIONS AS INDICATED ON THE DRAWINGS.
- THE CONTRACTOR SHALL OBTAIN, IN WRITING, AUTHORIZATION TO PROCEED BEFORE STARTING WORK ON ANY ITEM NOT CLEARLY DEFINED OR IDENTIFIED BY THE CONTRACT DOCUMENTS.
- CONTRACTOR SHALL CONTACT USA (UNDERGROUND SERVICE ALERT) AT (800) 227-2600, FOR UTILITY LOCATIONS, 48 HOURS BEFORE PROCEEDING WITH ANY EXCAVATION, SITE WORK OR CONSTRUCTION.
- THE CONTRACTOR SHALL INSTALL ALL EQUIPMENT AND MATERIALS IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS UNLESS SPECIFICALLY INDICATED OTHERWISE, OR WHERE LOCAL CODES OR REGULATIONS TAKE PRECEDENCE.
- ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CBC / UBC'S REQUIREMENTS REGARDING EARTHQUAKE RESISTANCE, FOR, BUT NOT LIMITED TO, PIPING, LIGHT FIXTURES, CEILING GRID, INTERIOR PARTITIONS, AND MECHANICAL EQUIPMENT. ALL WORK MUST COMPLY WITH LOCAL EARTHQUAKE CODES AND REGULATIONS.
- REPRESENTATIONS OF TRUE NORTH, OTHER THAN THOSE FOUND ON THE PLOT OF SURVEY DRAWINGS, SHALL NOT BE USED TO IDENTIFY OR ESTABLISH BEARING OF TRUE NORTH AT THE SITE. THE CONTRACTOR SHALL RELY SOLELY ON THE PLOT OF SURVEY DRAWING AND ANY SURVEYOR'S MARKINGS AT THE SITE FOR THE ESTABLISHMENT OF TRUE NORTH, AND SHALL NOTIFY THE ARCHITECT / ENGINEER PRIOR TO PROCEEDING WITH THE WORK IF ANY DISCREPANCY IS FOUND BETWEEN THE VARIOUS ELEMENTS OF THE WORKING DRAWINGS AND THE TRUE NORTH ORIENTATION AS DEPICTED ON THE CIVIL SURVEY. THE CONTRACTOR SHALL ASSUME SOLE LIABILITY FOR ANY FAILURE TO NOTIFY THE ARCHITECT / ENGINEER.
- THE BUILDING DEPARTMENT ISSUING THE PERMITS SHALL BE NOTIFIED AT LEAST TWO WORKING DAYS PRIOR TO THE COMMENCEMENT OF WORK, OR AS OTHERWISE STIPULATED BY THE CODE ENFORCEMENT OFFICIAL HAVING JURISDICTION.
- DO NOT EXCAVATE OR DISTURB BEYOND THE PROPERTY LINES OR LEASE LINES, UNLESS OTHERWISE NOTED.
- ALL EXISTING UTILITIES, FACILITIES, CONDITIONS, AND THEIR DIMENSIONS SHOWN ON THE PLAN HAVE BEEN PLOTTED FROM AVAILABLE RECORDS. THE ARCHITECT / ENGINEER AND THE OWNER ASSUME NO RESPONSIBILITY WHATSOEVER AS TO THE SUFFICIENCY OR THE ACCURACY OF THE INFORMATION SHOWN ON THE PLANS, OR THE MANNER OF THEIR REMOVAL OR ADJUSTMENT. CONTRACTORS SHALL BE RESPONSIBLE FOR DETERMINING EXACT LOCATION OF ALL EXISTING UTILITIES AND FACILITIES PRIOR TO START OF CONSTRUCTION. CONTRACTORS SHALL ALSO OBTAIN FROM EACH UTILITY COMPANY DETAILED INFORMATION RELATIVE TO WORKING SCHEDULES AND METHODS OF REMOVING OR ADJUSTING EXISTING UTILITIES.
- CONTRACTOR SHALL VERIFY ALL EXISTING UTILITIES, BOTH HORIZONTAL AND VERTICALLY, PRIOR TO THE START OF CONSTRUCTION. ANY DISCREPANCIES OR DOUBTS AS TO THE INTERPRETATION OF PLANS SHOULD BE IMMEDIATELY REPORTED TO THE ARCHITECT / ENGINEER FOR RESOLUTION AND INSTRUCTION, AND NO FURTHER WORK SHALL BE PERFORMED UNTIL THE DISCREPANCY IS CHECKED AND CORRECTED BY THE ARCHITECT / ENGINEER. FAILURE TO SECURE SUCH INSTRUCTION MEANS CONTRACTOR WILL HAVE WORKED AT HIS/HER OWN RISK AND EXPENSE.
- ALL NEW AND EXISTING UTILITY STRUCTURES ON SITE AND IN AREAS TO BE DISTURBED BY CONSTRUCTION SHALL BE ADJUSTED TO FINISH ELEVATIONS PRIOR TO FINAL INSPECTION OF WORK.
- ANY DRAIN AND/OR FIELD TILE ENCOUNTERED / DISTURBED DURING CONSTRUCTION SHALL BE RETURNED TO ITS ORIGINAL CONDITION PRIOR TO COMPLETION OF WORK. SIZE, LOCATION AND TYPE OF ANY UNDERGROUND UTILITIES OR IMPROVEMENTS SHALL BE ACCURATELY NOTED AND PLACED ON "AS-BUILT" DRAWINGS BY GENERAL CONTRACTOR, AND ISSUED TO THE ARCHITECT / ENGINEER AT COMPLETION OF PROJECT.
- ALL TEMPORARY EXCAVATIONS FOR THE INSTALLATION OF FOUNDATIONS, UTILITIES, ETC., SHALL BE PROPERLY LAID BACK OR BRACED IN ACCORDANCE WITH CORRECT OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) REQUIREMENTS.
- INCLUDE MISC. ITEMS PER AT&T SPECIFICATIONS

A.B.  
ABV.  
ACCA  
ADD'L  
A.F.F.  
A.F.G.  
ALUM.  
ALT.  
ANT.  
APPRX.  
ARCH.  
AWG.  
BLDG.  
BLK.  
BLKG.  
BM.  
B.N.  
BTCW.  
B.O.F.  
B/U  
CAB.  
C.ANT.  
C.I.P.  
CLG.  
CLR.  
COL.  
CONC.  
CONN.  
CONST.  
CONT.  
d  
DBL.  
DEPT.  
D.F.  
DIA.  
DIAG.  
DIM.  
DWG.  
DWL.  
EA.  
EL.  
ELEC.  
ELEV.  
EMT.  
E.N.  
ENG.  
EQ.  
EXP.  
EXST.(E)  
EXT.  
FAB.  
F.F.  
F.G.  
FIN.  
FLR.

ANCHOR BOLT  
ABOVE  
ANTENNA CABLE COVER ASSEMBLY  
ADDITIONAL  
ABOVE FINISHED FLOOR  
ABOVE FINISHED GRADE  
ALUMINUM  
ALTERNATE  
ANTENNA  
APPROXIMATE(LY)  
ARCHITECT(URAL)  
AMERICAN WIRE GAUGE  
BUILDING  
BLOCK  
BLOCKING  
BEAM  
BOUNDARY NAILING  
BARE TINNED COPPER WIRE  
BOTTOM OF FOOTING  
BACK-UP CABINET  
CABINET  
CANTILEVER(ED)  
CAST IN PLACE  
CEILING  
CLEAR  
COLUMN  
CONCRETE  
CONNECTION(OR)  
CONSTRUCTION  
CONTINUOUS  
PENNY (NAILS)  
DOUBLE  
DEPARTMENT  
DOUGLAS FIR  
DIAMETER  
DIAGONAL  
DIMENSION  
DRAWING(S)  
DOWEL(S)  
EACH  
ELEVATION  
ELECTRICAL  
ELEVATOR  
ELECTRICAL METALLIC TUBING  
EDGE NAIL  
ENGINEER  
EQUAL  
EXPANSION  
EXISTING  
EXTERIOR  
FABRICATION(OR)  
FINISH FLOOR  
FINISH GRADE  
FINISH(ED)  
FLOOR

FDN.  
F.O.C.  
F.O.M.  
F.O.S.  
F.O.W.  
F.S.  
FT.( ' )  
FTG.  
G.  
GA.  
GL.  
G.F.I.  
INTERRUPTER  
GLB. (GLU-LAM)  
GPS  
GRND.  
HDR.  
HGR.  
HT.  
ICGB.  
IN. ( " )  
INT.  
LB.(#)  
L.B.  
L.F.  
L.  
MAS.  
MAX.  
M.B.  
MECH.  
MFR.  
MIN.  
MISC.  
MTL.  
(N)  
NO.(#)  
N.T.S.  
O.C.  
OPNG.  
P/C  
PCS  
SERVICES  
PLY.  
PPC  
PRC  
P.S.F.  
P.S.I.  
P.T.  
PWR.  
QTY.  
RAD.(R)  
REF.  
REINF.  
REQ'D/  
RGS.

ABBREVIATIONS:

FOUNDATION  
FACE OF CONCRETE  
FACE OF MASONRY  
FACE OF STUD  
FACE OF WALL  
FINISH SURFACE  
FOOT (FEET)  
FOOTING  
GROWTH (CABINET)  
GAUGE  
GALVANIZE(D)  
GROUND FAULT CIRCUIT  
  
GLUE LAMINATED BEAM  
GLOBAL POSITIONING SYSTEM  
GROUND  
HEADER  
HANGER  
HEIGHT  
ISOLATED COPPER GROUND BUS  
INCH(ES)  
INTERIOR  
POUND(S)  
LAG BOLTS  
LINEAR FEET (FOOT)  
LONG(ITUDINAL)  
MASONRY  
MAXIMUM  
MACHINE BOLT  
MECHANICAL  
MANUFACTURER  
MINIMUM  
MISCELLANEOUS  
METAL  
NEW  
NUMBER  
NOT TO SCALE  
ON CENTER  
OPENING  
PRECAST CONCRETE  
PERSONAL COMMUNICATION  
  
PLYWOOD  
POWER PROTECTION CABINET  
PRIMARY RADIO CABINET  
POUNDS PER SQUARE FOOT  
POUNDS PER SQUARE INCH  
PRESSURE TREATED  
POWER (CABINET)  
QUANTITY  
RADIUS  
REFERENCE  
REINFORCEMENT(ING)  
REQUIRED  
RIGID GALVANIZED STEEL

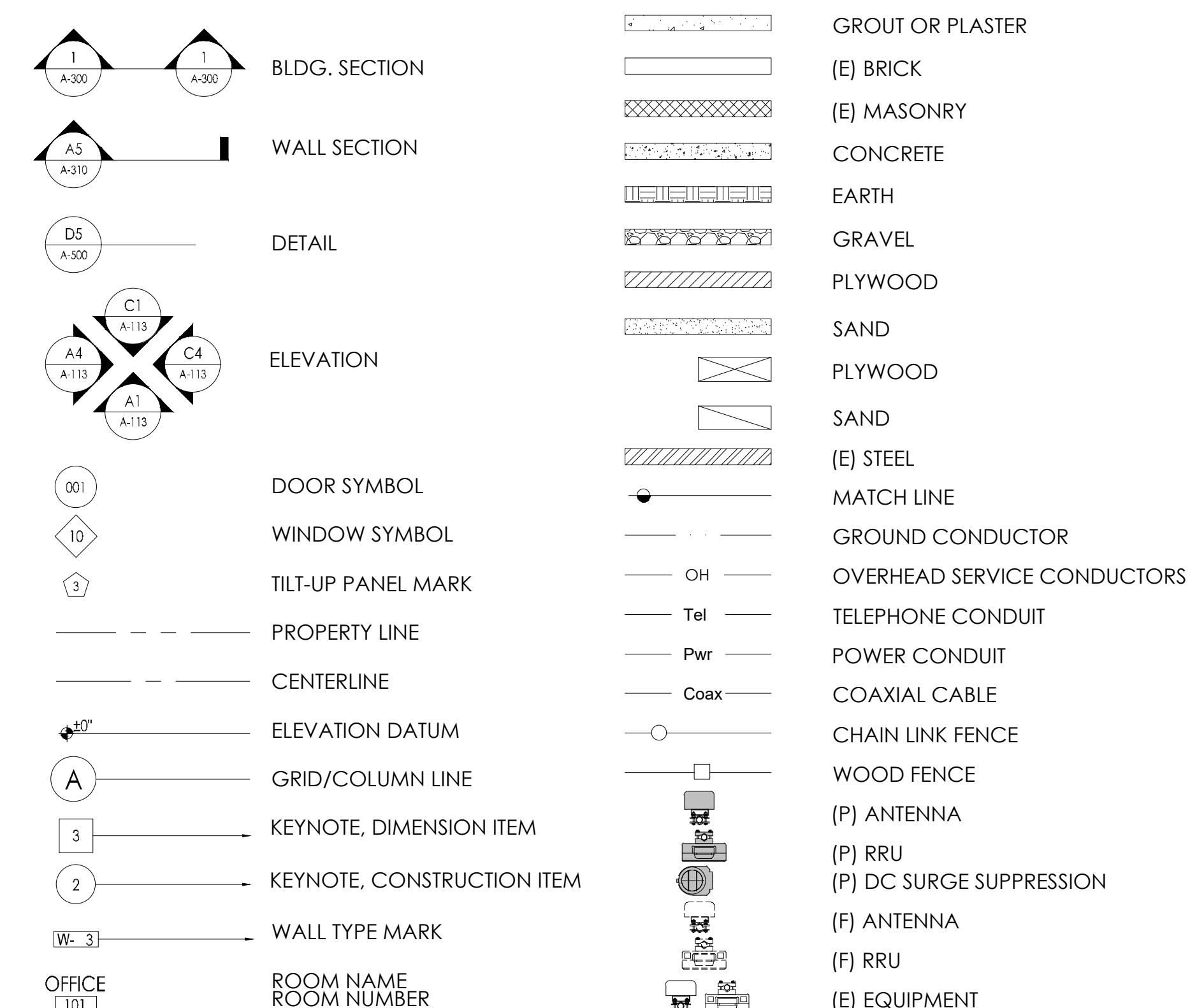
SCH.  
SHT.  
SIM.  
SPEC.  
SQ.  
S.S.  
STD.  
STL.  
STRUC.  
TEMP.  
THK.  
T.N.  
T.O.A.  
T.O.C.  
T.O.F.  
T.O.P.  
T.O.S.  
T.O.W.  
TYP.  
U.G.  
U.L.  
U.N.O.  
V.I.F.  
W  
w/  
WD.  
W.P.  
WT.  
C  
R

SCHEDULE  
SHEET  
SIMILAR  
SPECIFICATIONS  
SQUARE  
STAINLESS STEEL  
STANDARD  
STEEL  
STRUCTURAL  
TEMPORARY  
THICK(NESS)  
TOE NAIL  
TOP OF ANTENNA  
TOP OF CURB  
TOP OF FOUNDATION  
TOP OF PLATE (PARAPET)  
TOP OF STEEL  
TOP OF WALL  
TYPICAL  
UNDER GROUND  
UNDERWRITERS LABORATORY  
VERIFY IN FIELD  
WIDE (WIDTH)  
WITH  
WOOD  
WEATHERPROOF  
WEIGHT  
CENTERLINE  
PLATE, PROPERTY LINE

APPLICABLE CODES, REGULATIONS AND STANDARDS:

- SUBCONTRACTOR'S WORK SHALL COMPLY WITH ALL APPLICABLE NATIONAL, STATE, AND LOCAL CODES AS ADOPTED BY THE LOCAL AUTHORITY HAVING JURISDICTION (AHJ) FOR THE LOCATION.
- THE EDITION OF THE AHJ ADOPTED CODES AND STANDARDS IN EFFECT ON THE DATE OF CONTRACT AWARD SHALL GOVERN THE DESIGN.
- SUBCONTRACTOR'S WORK SHALL COMPLY WITH THE LATEST EDITION OF THE FOLLOWING STANDARDS:
  - AMERICAN CONCRETE INSTITUTE (ACI) 318, BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE
  - AMERICAN INSTITUTE OF STEEL CONSTRUCTION (AISC), MANUAL OF STEEL CONSTRUCTION, ASD, NINTH EDITION
  - TELECOMMUNICATIONS INDUSTRY ASSOCIATION (TIA) 222-G, STRUCTURAL STANDARD FOR STRUCTURAL ANTENNA TOWER AND ANTENNA SUPPORTING STRUCTURES
  - INSTITUTE FOR ELECTRICAL AND ELECTRONICS ENGINEERS (IEEE) 81, GUIDE FOR MEASURING EARTH RESISTIVITY, GROUND IMPEDANCE, AND EARTH SURFACE POTENTIALS OF A GROUND SYSTEM IEEE 1100 (1999) RECOMMENDED PRACTICE FOR POWERING AND GROUNDING OF ELECTRICAL EQUIPMENT.
  - IEEE C62.41, RECOMMENDED PRACTICES ON SURGE VOLTAGES IN LOW VOLTAGE AC POWER CIRCUITS (FOR LOCATION CATEGORY "C3" AND "HIGH SYSTEM EXPOSURE")
  - TIA 607 COMMERCIAL BUILDING GROUNDING AND BONDING REQUIREMENTS FOR TELECOMMUNICATIONS TELCORDIA GR-63 NETWORK
  - EQUIPMENT-BUILDING SYSTEM (NEBS): PHYSICAL PROTECTION
  - TELCORDIA GR-347 CENTRAL OFFICE POWER WIRING
  - TELCORDIA GR-1275 GENERAL INSTALLATION REQUIREMENTS
  - TELCORDIA GR-1503 COAXIAL CABLE CONNECTIONS
  - ANY AND ALL OTHER LOCAL & STATE LAWS AND REGULATIONS
  - FOR ANY CONFLICTS BETWEEN SECTIONS OF LISTED CODES AND STANDARDS REGARDING MATERIAL, METHODS OF CONSTRUCTION, OR OTHER REQUIREMENTS, THE MOST RESTRICTIVE SHALL GOVERN. WHERE THERE IS CONFLICT BETWEEN A GENERAL REQUIREMENT AND A SPECIFIC REQUIREMENT, THE SPECIFIC REQUIREMENT SHALL GOVERN.

SYMBOLS LEGEND:



PREPARED FOR

5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:

2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T SITE NO: CCL00165  
PACE NO: MRSFR033255  
DRAWN BY: BH  
CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS PER LEASE AREA        |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRW REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRW REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensor:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**

**PUBLIC STORAGE**

1120 SECOND ST.  
BERKELEY, CA 94710

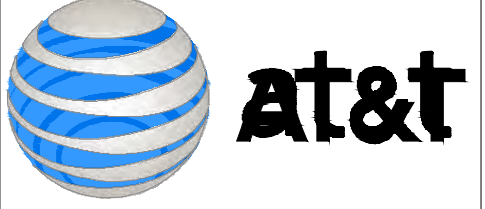
Sheet Title:

**GENERAL NOTES**

Sheet Number:

**GN-1**





This Site Operated by:  
**AT&T MOBILITY**  
5001 EXECUTIVE PKWY,  
SAN RAMON, CA 94583  
IN CASE OF FIRE AND THE NEED FOR SHUTDOWN  
TO DEACTIVATE ANTENNAS CALL THE  
FOLLOWING NUMBER:  
For 24 Hour Emergency Contact and Access Please Call:  
(800)832-6662

Reference Site#: #####  
Site Address: #####

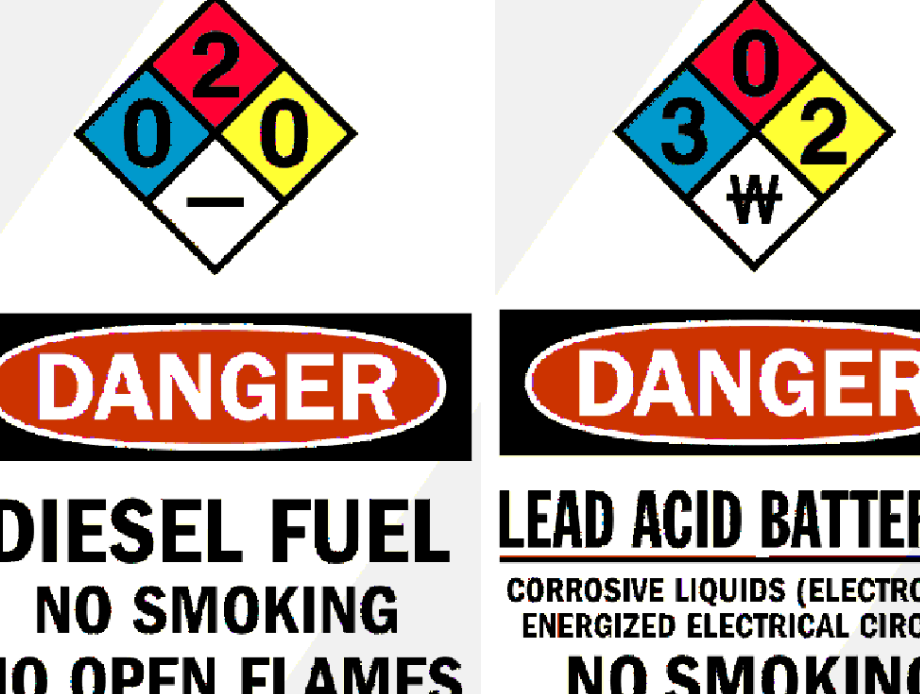
10 FENCED COMPOUND SIGNAGE  
N.T.S.




9 FENCED COMPOUND SIGNAGE  
N.T.S.



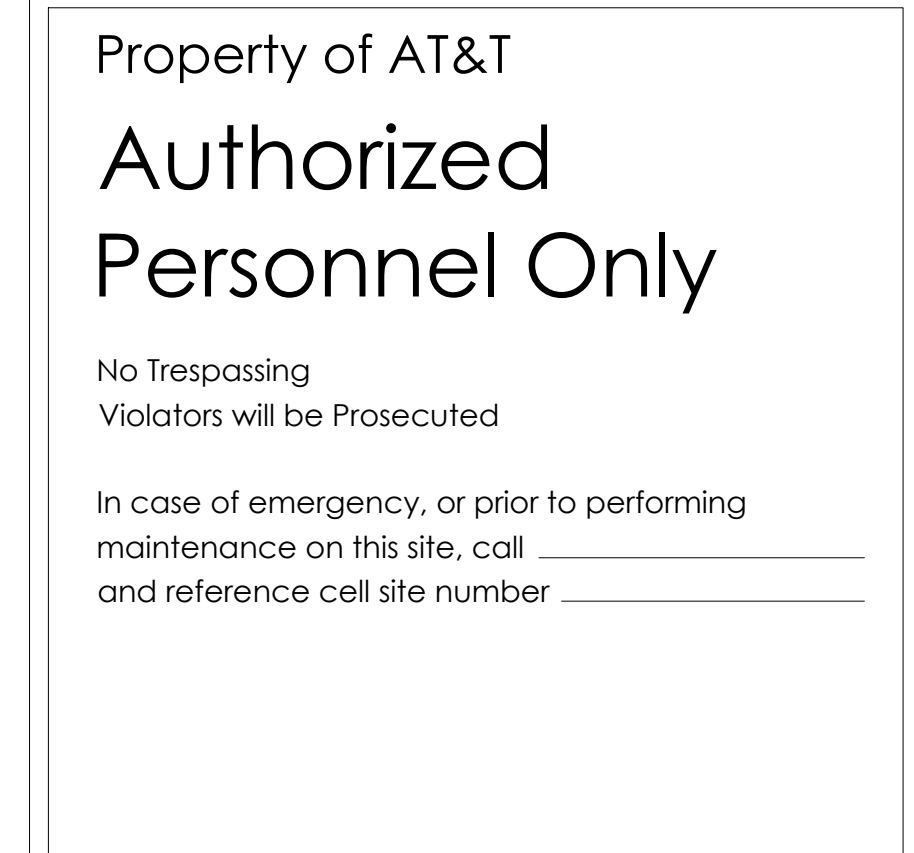
8 DOOR / EQUIPMENT SIGN  
N.T.S.



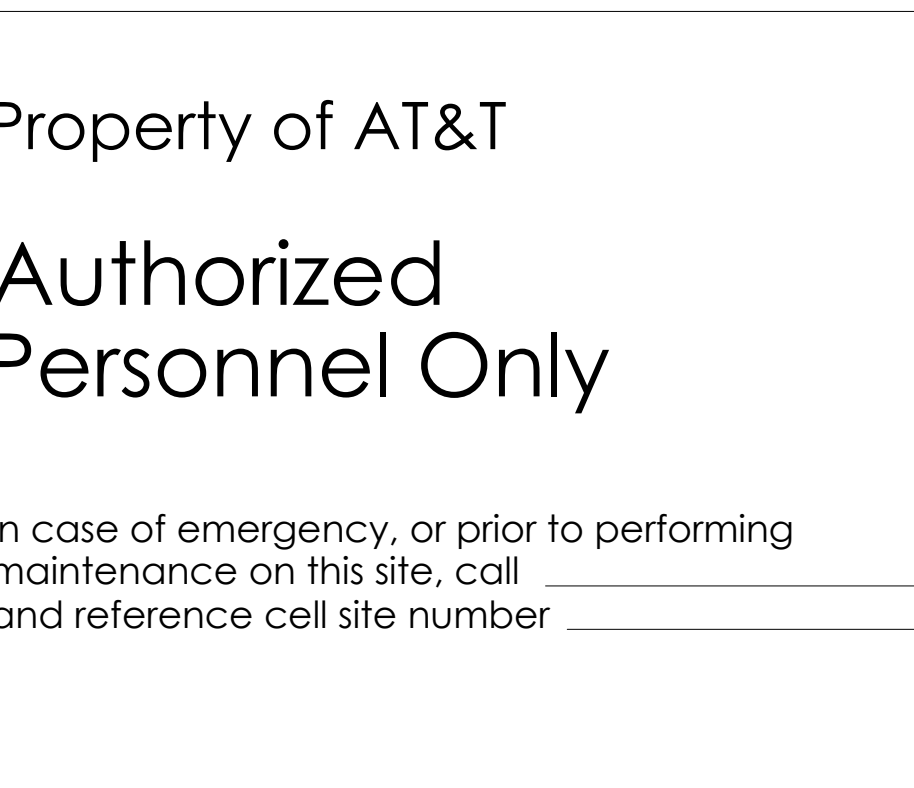
7 NFPA HAZARD SIGN - TYPICAL  
N.T.S.



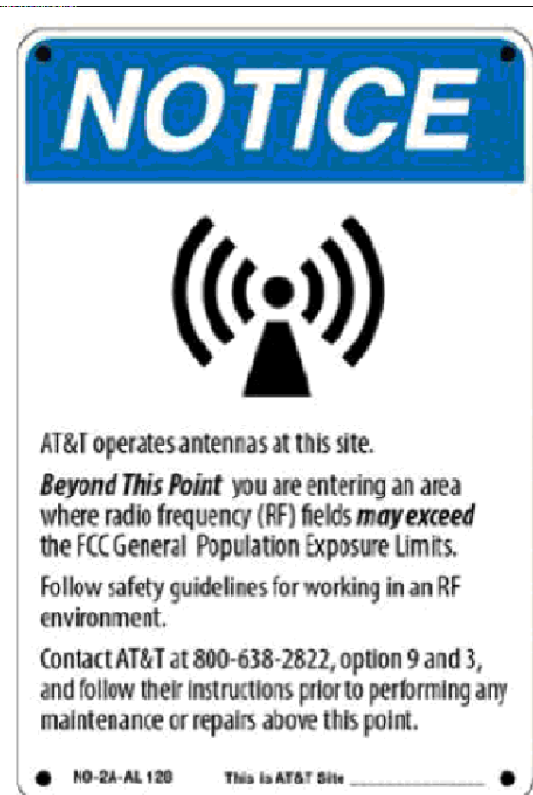
6 FCC ASR SIGNAGE  
N.T.S.



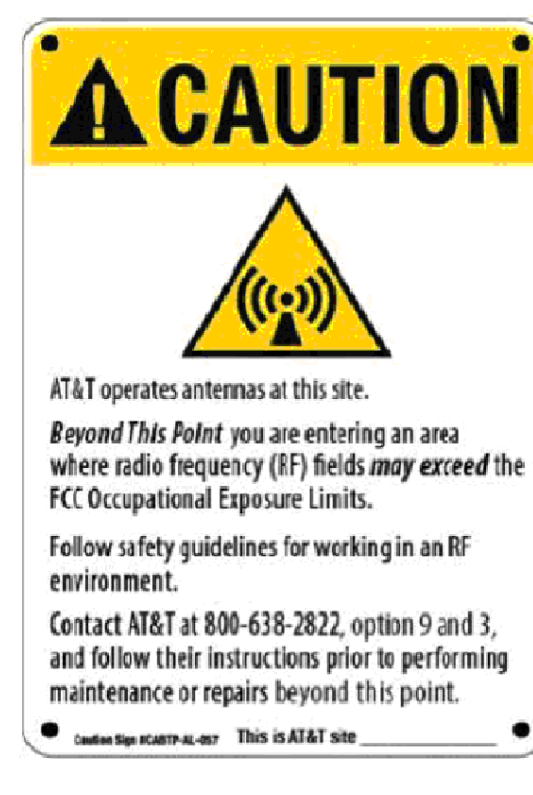
5 GATE SIGNAGE  
N.T.S.



4 SHELTER / CABINET DOORS SIGNAGE  
N.T.S.



Notice Sign 2  
(8" x 12")



Caution Sign 2  
(8" x 12")



Caution Sign 2A  
(8" x 12")  
Use only if instructed by RF Safety



Caution Sign 2B Tower  
(8" x 12")  
Use for Towers only



Caution Sign 2C Parapet  
(5" x 7")

1. CONTRACTOR SHALL INSTALL ALL INFORMATION SIGNAGE IN ACCORDANCE w/ AT&T WIRELESS DOCUMENT #03-0074, RF EXPOSURE POLICY AND RF SAFETY COMPLIANCE PROGRAM, LATEST EDITION.

2. FABRICATION:

\*SIGN 1-1: ENTRANCE DOOR, SEE DETAIL 1A, THIS SHEET

SIGN 1 IS TO BE MADE ON THE 50 MIL ALUMINUM SHEETING (SIZE 8 INCHES BY 12 INCHES) w/ FOUR (4) 1/4 INCH MOUNTING HOLES, ONE EACH CORNER OF THE SIGN FOR MOUNTING w/ HARDWARE w/ THE WRAPS. THE MAIN BACKGROUND COLOR IS TO BE WHITE FRONT & BACK w/ BLACK LETTERING.

THE INFORMATION BAND SHALL BE 1.2 INCH SOLID GREEN BAND w/ 0.5 INCH HIGH BLACK LETTERING. THE BODY TEXT SHALL BE IN BLACK LETTERING w/ 0.2 INCH HIGH LETTERS. THE REF LINE SHALL BE IN 1/8 INCH LETTERS.

THE PLACEMENT OF TEXT SHALL BE DONE IN A MANNER THAT WILL PERMIT EASY READING FROM A DISTANCE OF APPROXIMATELY 6 FEET IN FRONT OF THE SIGN.

2 ALERTING & INFORMATION SIGNAGE  
N.T.S.

ALL PAINT WILL BE BAKED w/ ENAMEL w/ UV PROTECTIVE COATING OVER THE FACE OF THE SIGN.

\*SIGN 1-2: POLE, SEE DETAIL 1B, THIS SHEET

SIGN 2 MUST BE A NON METALLIC LABEL w/ AN ADHESIVE BACKING. THE LABEL SHALL BE MADE USING VINYL OR SIMILAR WEATHERPROOF MATERIAL. THE LABEL SHALL BE APPROXIMATELY 5X7 INCHES w/ A WHITE BACKGROUND AND BLACK LETTERING. THE GREEN BAND SHALL BE 1.375 INCH IN HEIGHT & THE LETTERING SHALL BE BLACK w/ 0.75 INCH HIGH LETTERS. THE TEXT LETTERING SHALL BE BLACK w/ 1/4 INCH HIGH LETTERS. UV PROTECTION SHALL BE PLACED OVER THE FRONT OF THE LABEL.

\*SIGN 1-3: BACK OF ANTENNAS, SEE DETAIL 1C & 3, THIS SHEET

\*SIGN 3 IS A 1 INCH X 2 INCH PANEL THAT CAN BE APPLIED TO THE BACK OR SIDE OF AN ANTENNA TO IDENTIFY IT AS AN AT&T ANTENNA.

\*SIGN 1-4: SIDE OF ANTENNAS, SEE DETAIL 1D & 3, THIS SHEET


SIGN 4 IS MADE FROM TRANSPARENT MATERIAL 1-1/2 INCHES WIDE & 24 INCHES LONG. THE LETTERING IS TO BE BLACK w/ 1/4 INCH LETTERING IN A VERTICAL COLUMN. THE SPACING BETWEEN WORDS MUST BE SUCH THAT IT IS EASILY READ & FILLS THE LENGTH OF THE SIGN.

SIGNAGE AND STRIPING INFORMATION

- THE FOLLOWING INFORMATION IS A GUIDELINE w/ RESPECT TO PREVAILING STANDARDS LIMITING HUMAN EXPOSURE TO RADIO FREQUENCY ENERGY AND SHOULD BE USED AS SUCH. IF THE SITE'S EMF REPORT OR ANY LOCAL, STATE OR FEDERAL GUIDELINES OR REGULATIONS SHOULD BE IN CONFLICT w/ ANY PART OF THESE NOTES OR PLANS, THE MORE RESTRICTIVE GUIDELINE OR REGULATION SHALL BE FOLLOWED AND OVERRIDE THE LESSER.
- THE PUBLIC LIMIT OF RF EXPOSURE ALLOWED BY AT&T IS 1mWcm<sup>2</sup> AND THE OCCUPATIONAL LIMIT OF RF EXPOSURE ALLOWED BY AT&T IS 5mWcm<sup>2</sup>
- IF THE BOTTOM OF THE ANTENNA IS MOUNTED (8) EIGHT FEET ABOVE THE GROUND OR WORKING PLATFORM LINE OF THE PERSONAL COMMUNICATION SYSTEM (PCS) AND DOES NOT EXCEED THE PUBLIC LIMIT OF RF EXPOSURE LIMIT THEN NO STRIPING OR BARRICADES SHOULD BE NEEDED.
- IF THE PUBLIC LIMIT OF RF EXPOSURE ON THE SITE IS EXCEEDED AND THE AREA IS PUBLICLY ACCESSIBLE (e.g. ROOF ACCESS DOOR THAT CANNOT BE LOCKED, OR FIRE EGRESS) THEN BOTH BARRICADES AND STRIPING SHALL BE PLACED AROUND THE ANTENNAS. THE EXACT EXTENT OF THE BARRICADES AND STRIPING SHALL BE DETERMINED BY THE EMF REPORT FOR THE SITE DONE BEFORE OR SHORTLY AFTER COMPLETION OF SITE CONSTRUCTION. USE THE PLANS AS A GUIDELINE FOR PLACEMENT OF SUCH BARRICADES AND STRIPING.
- IF THE PUBLIC LIMIT OF RF EXPOSURE ON THE SITE IS EXCEEDED AND THE AREA IS PUBLICLY ACCESSIBLE (e.g. ROOF ACCESS DOOR THAT CANNOT BE LOCKED, OR FIRE EGRESS) THEN BOTH BARRICADES AND STRIPING SHALL BE PLACED AROUND THE ANTENNAS. THE EXACT EXTENT OF THE BARRICADES AND STRIPING SHALL BE DETERMINED BY THE EMF REPORT FOR THE SITE DONE BEFORE OR SHORTLY AFTER COMPLETION OF SITE CONSTRUCTION. USE THE PLANS AS A GUIDELINE FOR PLACEMENT OF SUCH BARRICADES AND STRIPING.
- ALL TRANSMIT ANTENNAS REQUIRE A THREE LANGUAGE WARNING SIGN WRITTEN IN ENGLISH, SPANISH, AND CHINESE. THIS SIGN SHALL BE PROVIDED TO THE CONTRACTOR Y THE AT&T CONSTRUCTION PROJECT MANAGER AT THE TIME OF CONSTRUCTION. THE LARGER SIGN SHALL BE PLACED IN PLAIN SIGHT AT ALL ROOF ACCESS LOCATIONS AND ON ALL BARRICADES. THE SMALLER SIGN SHALL BE PLACED ON THE ANTENNA ENCLOSURES IN A MANNER THAT IS EASILY SEEN BY ANY PERSON ON THE ROOF. WARNING SIGNS SHALL COMPLY w/ ANSI C95.2 COLOR, SYMBOL, AND CONTENT CONVENTIONS. ALL SIGNS SHALL HAVE AT&T'S NAME AND THE COMPANY CONTACT INFORMATION (e.g. TELEPHONE NUMBER) TO ARRANGE FOR ACCESS TO THE RESTRICTED AREAS. THIS TELEPHONE NUMBER SHALL BE PROVIDED TO THE CONTRACTOR BY THE AT&T CONSTRUCTION PROJECT MANAGER AT THE TIME OF CONSTRUCTION. PHOTOS OF ALL STRIPING, BARRICADES & SIGNAGE SHALL BE PART OF THE CONTRACTORS CLOSE OUT PACKAGE & SHALL BE TURNED INTO THE AT&T CONSTRUCTION PACKAGE & SHALL BE TURNED INTO THE AT&T CONSTRUCTION PROJECT MANAGER AT THE END OF CONSTRUCTION. STRIPING SHALL BE DONE w/ FADE RESISTANT YELLOW SAFETY PAINT IN A CROSS-HATCH PATTERN AS DETAILED BY THE CONSTRUCTION DRAWINGS. ALL BARRICADES SHALL BE MADE OF AN RF FRIENDLY MATERIAL SO AS NOT TO BLOCK OR INTERFERE w/ THE OPERATION OF THE ANTENNAS. BARRICADES SHALL BE PAINTED w/ FADE RESTRAINT YELLOW SAFETY PAINT. THE CONTRACTOR SHALL PROVIDE ALL RF FRIENDLY BARRICADES NEEDED, & SHALL PROVIDE THE AT&T CONSTRUCTION PROJECT MANAGER w/ A DETAILED SHOP DRAWING OF EACH BARRICADE. UPON CONSTRUCTION COMPLETION.

1 GENERAL NOTES  
N.T.S.

PREPARED FOR



5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:



2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:  
**CCL00165**

AT&T SITE NO: CCL00165  
PACE NO: MRSFR033255  
DRAWN BY: BH  
CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS PER LEASE AREA        |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensor:

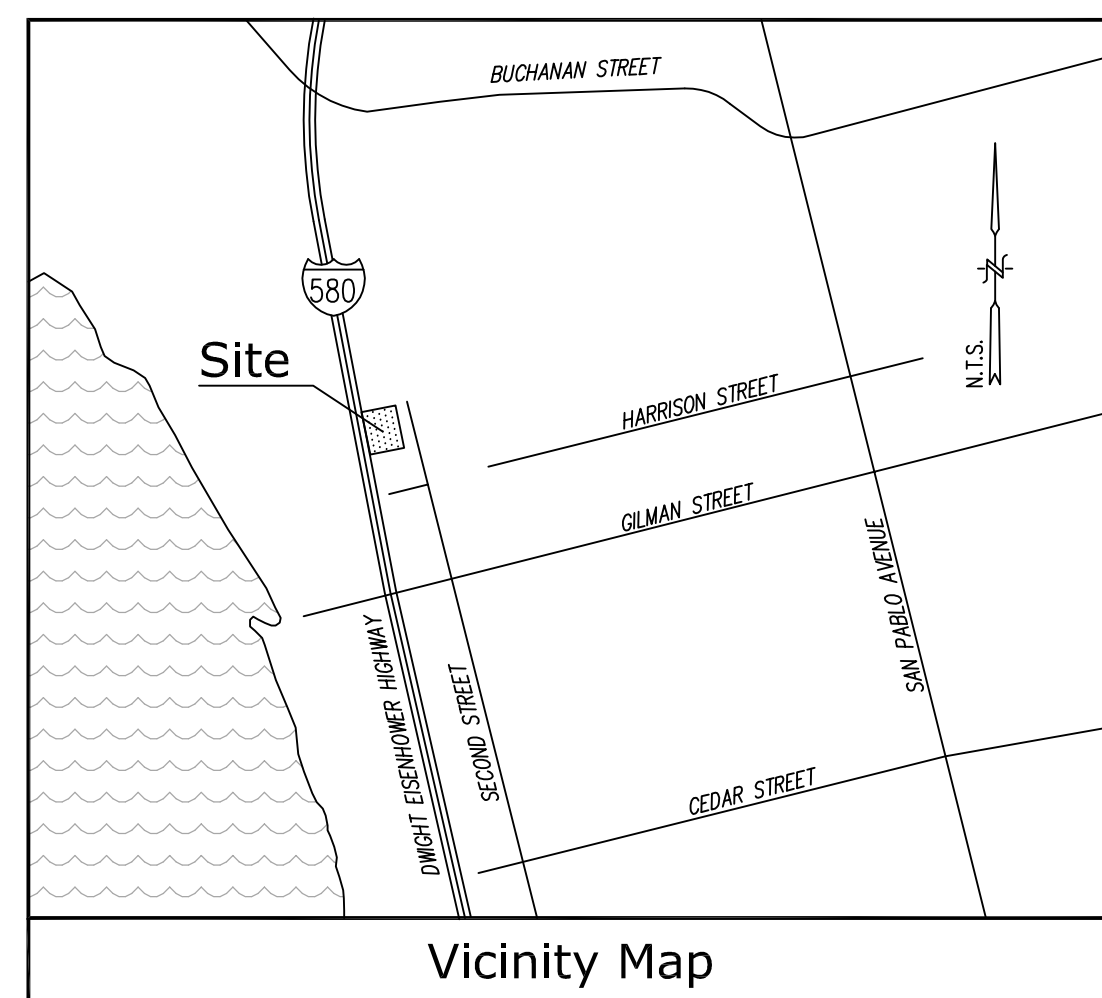
It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:  
**CCL00165**  
PUBLIC STORAGE  
1120 SECOND ST.  
BERKELEY, CA 94710

Sheet Title:  
**SITE SIGNAGE**

Sheet Number:  
**GN-2**





### Title Report

PREPARED BY: STEWART TITLE GUARANTY COMPANY  
ORDER No.: 0180-253617  
DATED: NOVEMBER 9, 2016

### Legal Description

THE LAND REFERRED TO IN THIS GUARANTEE IS DESCRIBED AS FOLLOWS:  
SITUATED IN THE CITY OF BERKELEY, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:  
BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERN LINE OF HARRISON STREET, FORMERLY DURANT STREET, WITH THE DIRECT EXTENSION NORTHERLY OF THE WESTERN LINE OF SECOND STREET; THENCE CONTINUING ALONG SAID DIRECT EXTENSION NORTH 13° 12' 38" WEST 593.07 FEET TO THE CENTERLINE OF CODORNICES CREEK; THENCE ALONG SAID CENTERLINE OF CODORNICES CREEK SOUTH 80° 05' 43" WEST 161.59 FEET AND NORTH 77° 14' 00" WEST 18.06 FEET TO THE EASTERN LINE OF THAT PARCEL OF LAND DESCRIBED IN THE DEED BY THE CITY OF BERKELEY TO THE STATE OF CALIFORNIA, DATED APRIL 10, 1944, RECORDED MAY 6, 1944, IN BOOK 4546 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, AT PAGE 200, SAID LINE ALSO BEING THE EASTERN LINE OF THE EASTSHORE FREEWAY; THENCE ALONG SAID EASTERN LINE, SOUTH 8° 48' 53" EAST 141.65 FEET; THENCE SOUTH 11° 21' 12" EAST 453.81 FEET TO A POINT OF CURVATURE; THENCE ALONG A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 15.00 FEET, THROUGH A CENTRAL ANGLE OF 91° 51' 18", AN ARC DISTANCE OF 24.05 FEET TO A POINT ON TANGENCY, SAID POINT ALSO BEING ON SAID NORTHERN LINE OF HARRISON STREET; THENCE ALONG SAID NORTHERN LINE NORTH 76° 47' 30" EAST 188.13 FEET TO THE POINT OF BEGINNING.

### Assessor's Parcel No.

060-2381-002-02

### Easements

- 8 THE FACT THAT THE OWNERSHIP OF SAID LAND DOES NOT INCLUDE ANY RIGHTS OF ACCESS TO THE STATE FREEWAY, SAID RIGHTS HAVING BEEN RELINQUISHED TOGETHER WITH A WAIVER OF ANY CLAIMS FOR DAMAGES, IN THE DEED TO THE STATE OF CALIFORNIA, RECORDED MAY 6, 1944 IN BOOK 4546, PAGE 200, OFFICIAL RECORDS (PLOTTED HEREON).
- 9 THE FACT THAT THE OWNERSHIP OF SAID LAND DOES NOT INCLUDE ANY RIGHTS OF ACCESS TO THE STATE FREEWAY, SAID RIGHTS HAVING BEEN RELINQUISHED TOGETHER WITH A WAIVER OF ANY CLAIMS FOR DAMAGES, IN THE DEED TO THE STATE OF CALIFORNIA, RECORDED APRIL 4, 1955 IN BOOK 7619, PAGE 309 AS INSTRUMENT NO. AK36252 OF OFFICIAL RECORDS (PLOTTED HEREON).

### Geographic Coordinates at Proposed Monopine

1983 DATUM: LATITUDE 37° 52' 51.01" N LONGITUDE 122° 18' 26.25" W  
ELEVATION = 12.4 FEET ABOVE MEAN SEA LEVEL

CERTIFICATION:  
THE LATITUDE AND LONGITUDE SHOWN ABOVE ARE ACCURATE TO WITHIN +/- 15 FEET HORIZONTALLY AND THAT THE ELEVATIONS SHOWN ABOVE ARE ACCURATE TO WITHIN +/- 3 FEET VERTICALLY. THE HORIZONTAL DATUM (GEOGRAPHIC COORDINATES) IS IN TERMS OF THE NORTH AMERICAN DATUM OF 1983 (NAD 83) AND IS EXPRESSED IN DEGREES (°), MINUTES (') AND SECONDS ("). TO THE NEAREST HUNDREDTH (1/100) OF A SECOND. THE VERTICAL DATUM (ELEVATIONS) IS IN TERMS OF THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88) AND IS DETERMINED TO THE NEAREST TENTH OF A FOOT.

### Basis of Bearings

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CALIFORNIA COORDINATES SYSTEM (CCS 83), ZONE 3, 1983 DATUM, DEFINED BY SECTIONS 8801 TO 8819 OF THE CALIFORNIA PUBLIC RESOURCES CODE.

### Lease Area

AS SHOWN

### Bench Mark

THE CALIFORNIA SPATIAL REFERENCE CENTER C.O.R.S. "P181", ELEVATION = 344.59 FEET (NAVD 88).

### Date of Survey

JANUARY 05, 2017.



2600 CAMINO RAMON, WEST WING  
SAN RAMON, CALIFORNIA 94583

A&E DEVELOPMENT:



AZ - CA - CO - ID - NM - NV - TX - UT

CONSULTANT:

## CAL VADA SURVEYING, INC.

411 Jenks Cir., Suite 205, Corona, CA 92880  
Phone: 951-280-9960 Fax: 951-280-9746  
Toll Free: 800-CALVADA www.calvada.com

JOB NO. 17003

LICENSURE:



REVISION:

| REVISION: | DATE: / BY:     | DESCRIPTION:    |
|-----------|-----------------|-----------------|
| 4         | 05/09/17<br>JC  | UPDATED ZD      |
| 5         | 08/23/17<br>MN  | CLIENT COMMENTS |
| 6         | 09/06/17<br>GBM | ADDITIONAL TOPO |
| 7         | 05/10/19<br>HP  | UPDATED ZD's    |

SITE INFORMATION:

SITE NUMBER  
**CCL00165**

SITE NAME  
**PUBLIC STORAGE**

1120 SECOND ST.,  
BERKELEY, CA 94710  
ALAMEDA COUNTY

SHEET TITLE:

**TOPOGRAPHIC SURVEY**

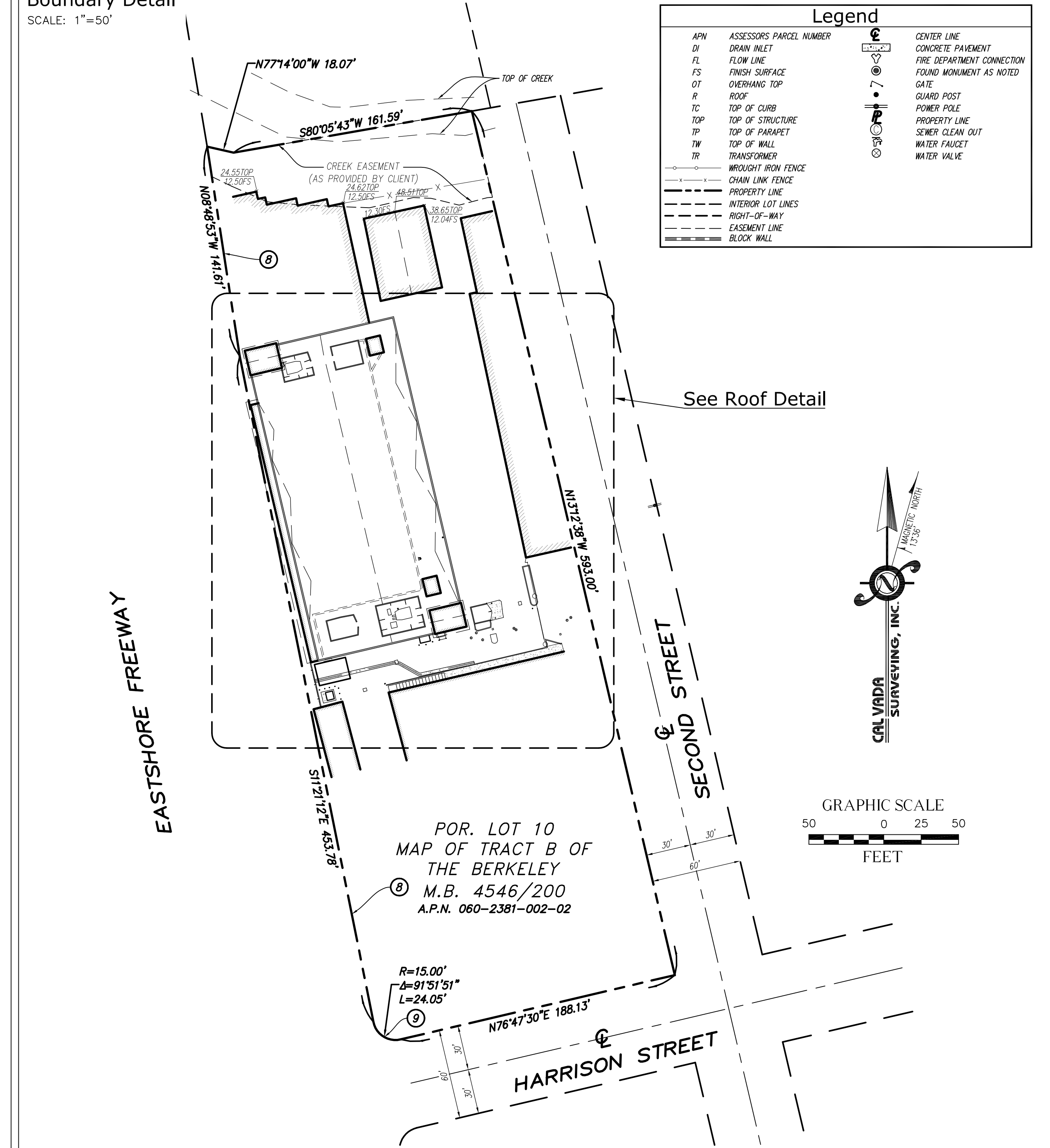
SHEET NUMBER:

**LS-1**

SHEET 1 OF 1

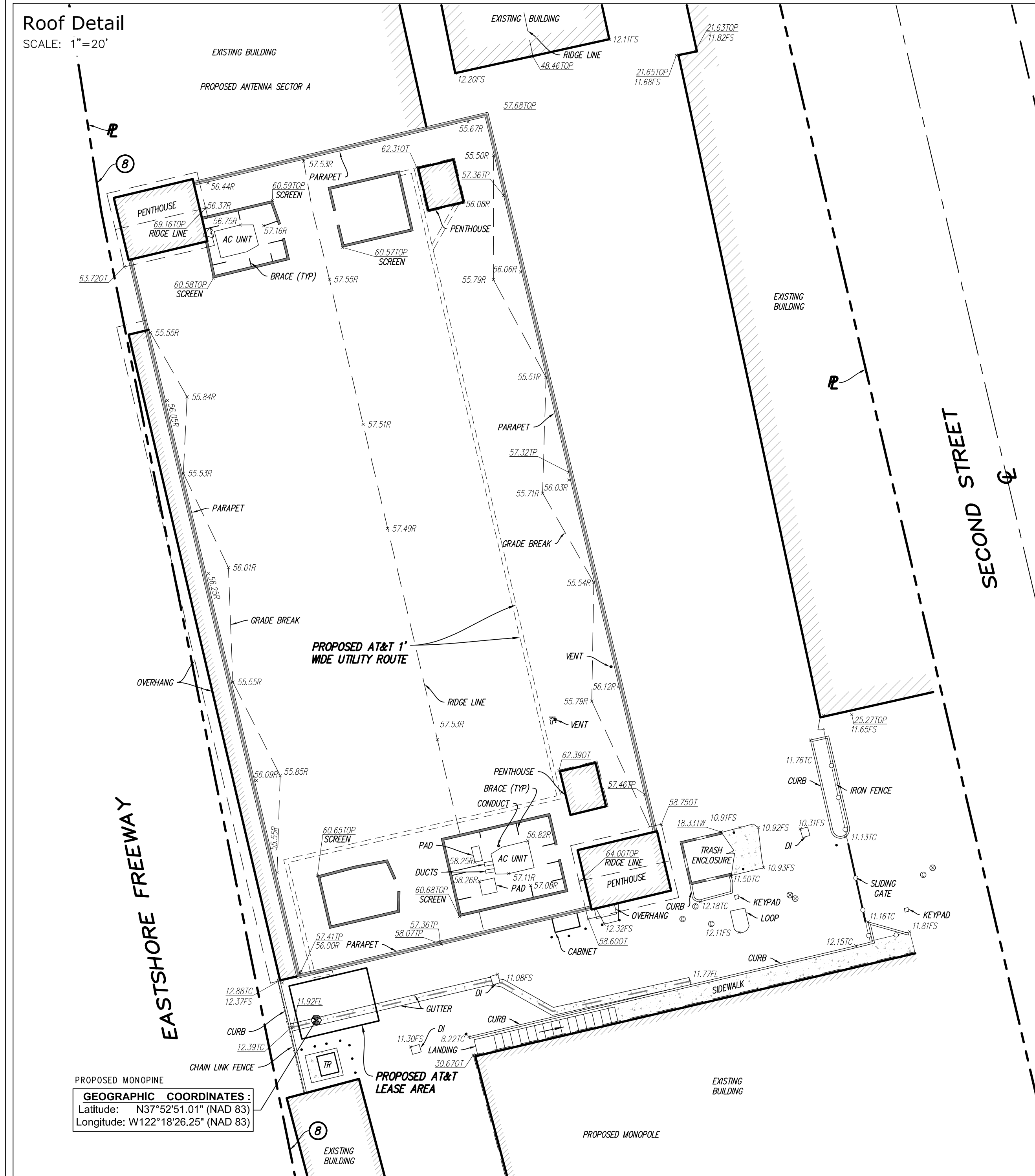
### Boundary Detail

SCALE: 1"=50'



### Roof Detail

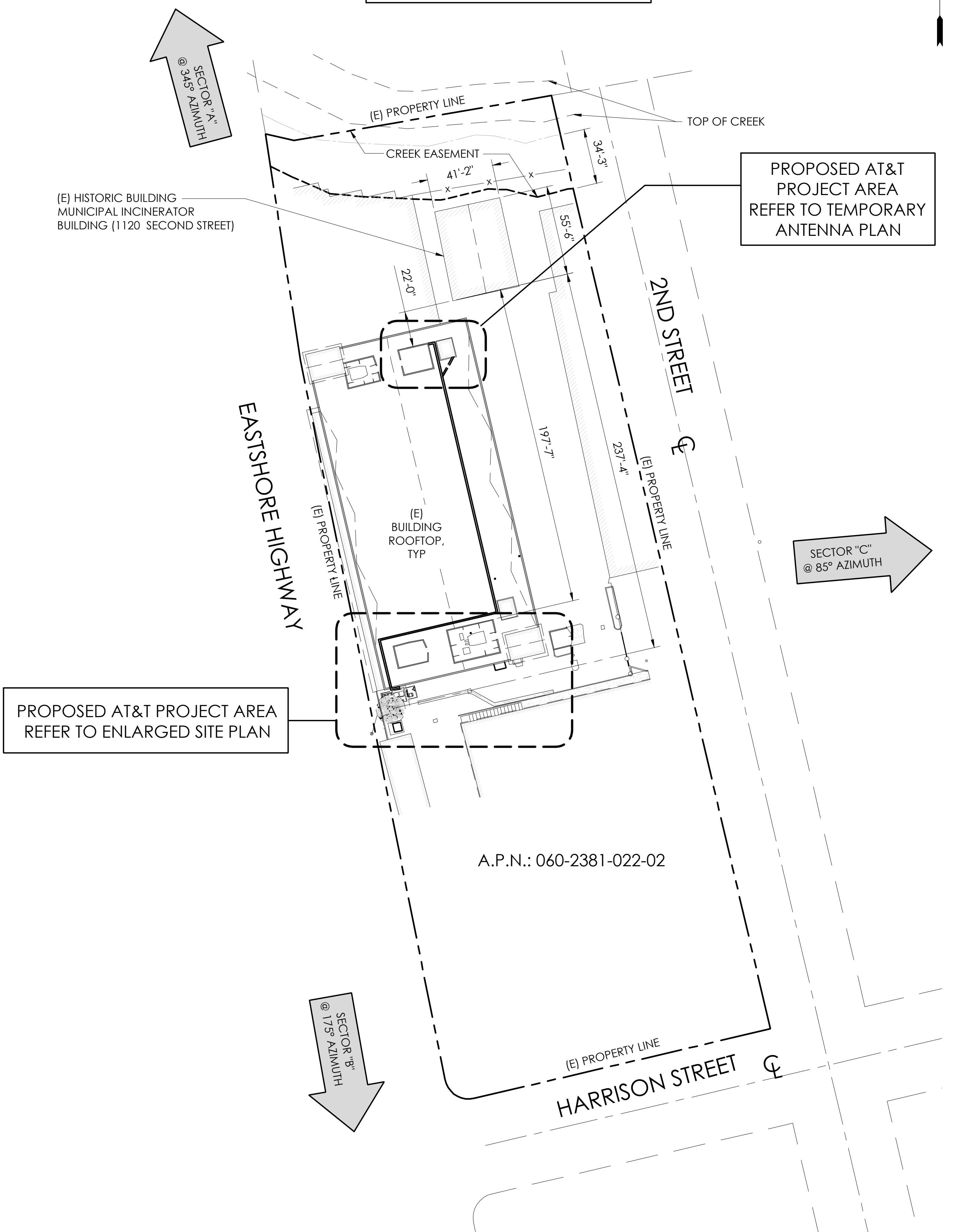
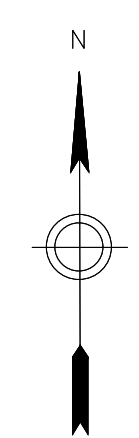
SCALE: 1"=20'



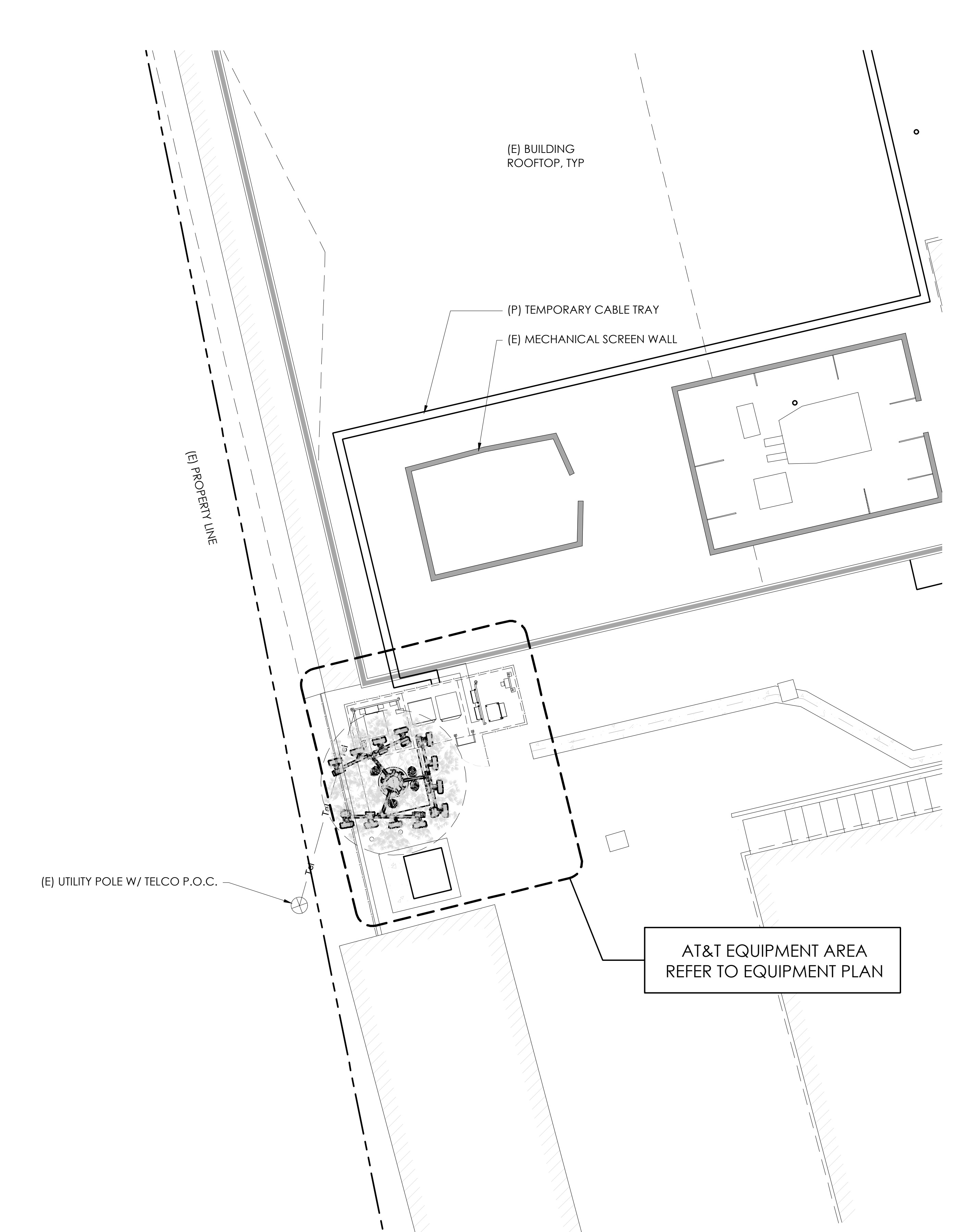


NOTES:  
 1. PRIOR TO CONSTRUCTION, GENERAL CONTRACTOR TO CONTACT DIG ALERT TO MARK OUT EXISTING UNDERGROUND UTILITIES. IN THE EVENT OF CONFLICTS, CONTRACTOR TO CONTACT J5 INFRASTRUCTURE PARTNERS.

**THIS IS NOT A SITE SURVEY**  
 ALL PROPERTY BOUNDARIES, ORIENTATION OF TRUE NORTH AND STREET HALF-WIDTHS HAVE BEEN OBTAINED FROM A TAX PARCEL MAP AND EXISTING DRAWINGS AND ARE APPROXIMATE.



1 OVERALL SITE PLAN  
 1" = 40'-0"



2 ENLARGED SITE PLAN  
 1/8" = 1'-0"

PREPARED FOR  
  
 5001 EXECUTIVE PARKWAY, 4W550H  
 SAN RAMON, CALIFORNIA 94583

Vendor:  
  
 2030 MAIN STREET, SUITE 200  
 IRVINE, CALIFORNIA 94583

AT&T Site ID:  
**CCL00165**

AT&T SITE NO: CCL00165  
 PACE NO: MRSFR033255  
 DRAWN BY: BH  
 CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS LEASE AREA            |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensors:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:  
**CCL00165**  
 PUBLIC STORAGE  
 1120 SECOND ST.  
 BERKELEY, CA 94710

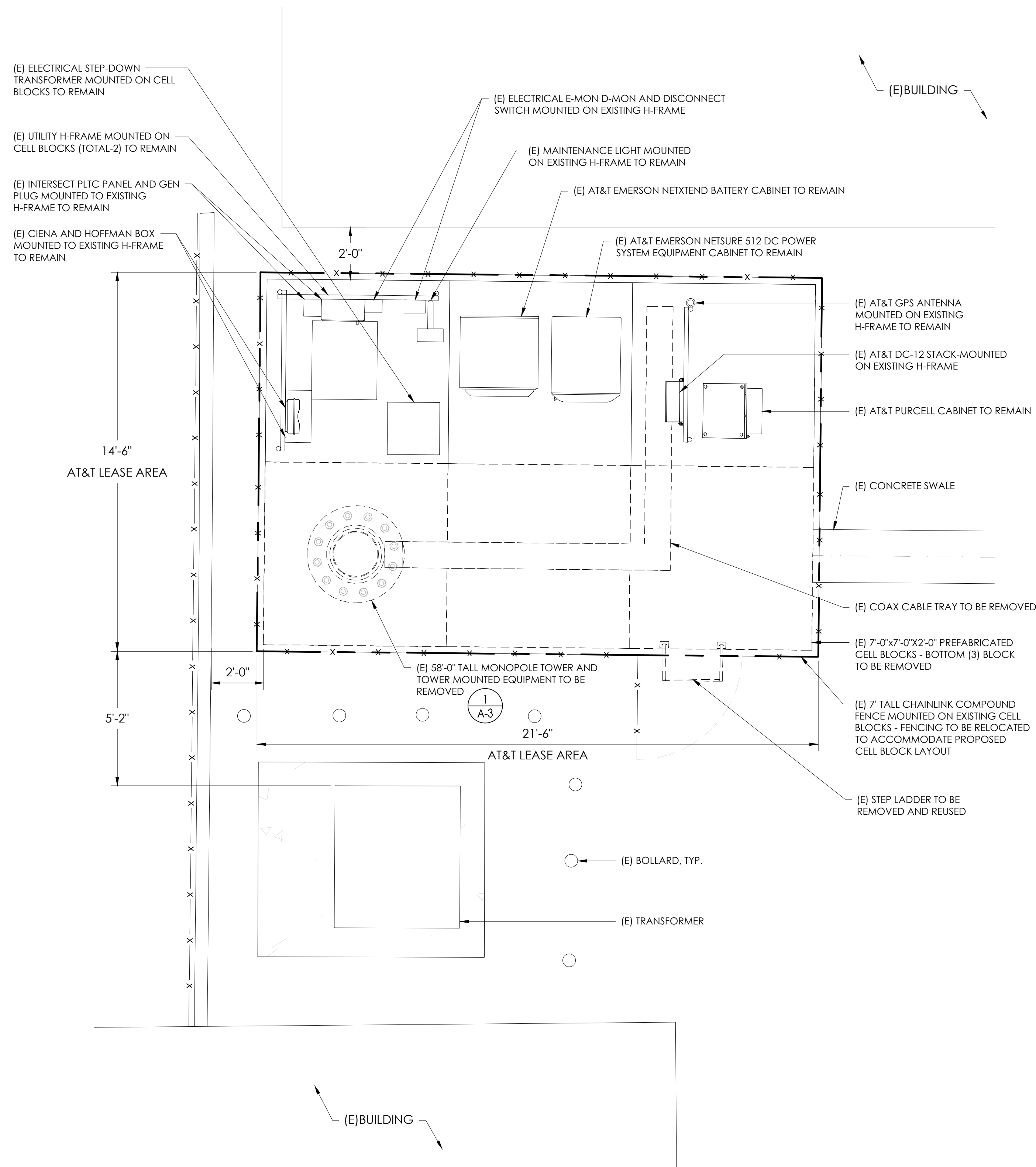
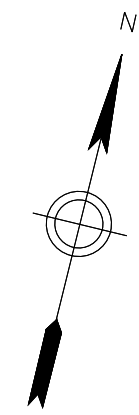
Sheet Title:  
**SITE PLAN & ENLARGED SITE PLAN**

Sheet Number:  
**A1**



NOTES:  
1. PRIOR TO CONSTRUCTION, GENERAL CONTRACTOR TO CONTACT DIG ALERT TO MARK OUT EXISTING UNDERGROUND UTILITIES. IN THE EVENT OF CONFLICTS, CONTRACTOR TO CONTACT J5 INFRASTRUCTURE PARTNERS.

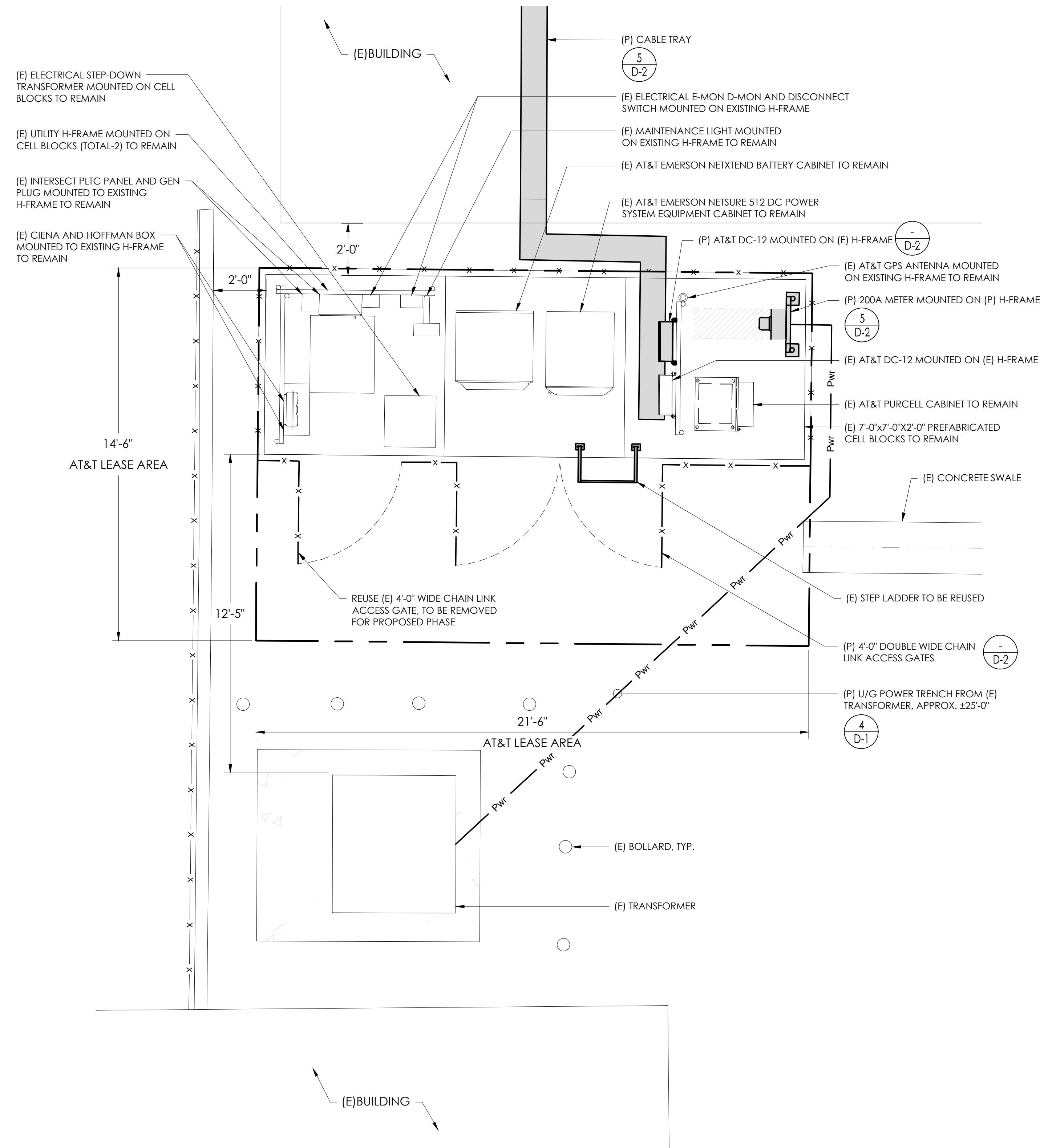
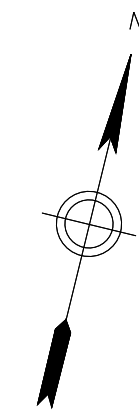
**THIS IS NOT A SITE SURVEY**  
ALL PROPERTY BOUNDARIES, ORIENTATION OF TRUE NORTH AND STREET HALF-WIDTHS HAVE BEEN OBTAINED FROM A TAX PARCEL MAP AND EXISTING DRAWINGS AND ARE APPROXIMATE.



1 EXISTING EQUIPMENT PLAN  
3/8" = 1'-0"

NOTES:  
1. PRIOR TO CONSTRUCTION, GENERAL CONTRACTOR TO CONTACT DIG ALERT TO MARK OUT EXISTING UNDERGROUND UTILITIES. IN THE EVENT OF CONFLICTS, CONTRACTOR TO CONTACT J5 INFRASTRUCTURE PARTNERS.

**THIS IS NOT A SITE SURVEY**  
ALL PROPERTY BOUNDARIES, ORIENTATION OF TRUE NORTH AND STREET HALF-WIDTHS HAVE BEEN OBTAINED FROM A TAX PARCEL MAP AND EXISTING DRAWINGS AND ARE APPROXIMATE.



2 TEMPORARY/INTERIM EQUIPMENT PLAN PHASE  
3/8" = 1'-0"

PREPARED FOR  
 at&t Mobility  
5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:  
 J5 INFRASTRUCTURE PARTNERS  
2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:  
**CCL00165**

AT&T SITE NO: CCL00165  
PACE NO: MRSFR033255  
DRAWN BY: BH  
CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS LEASE AREA            |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensor:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

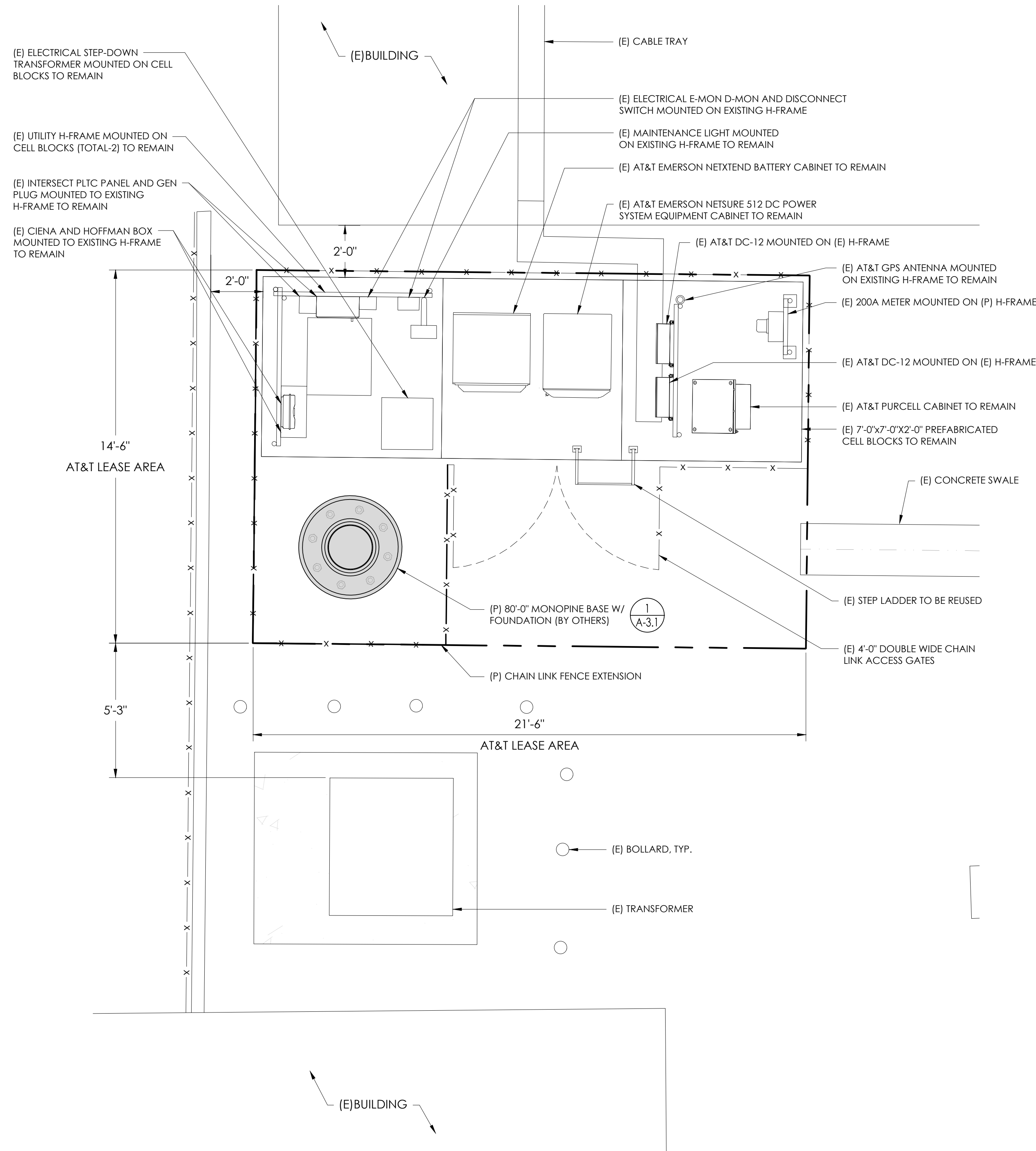
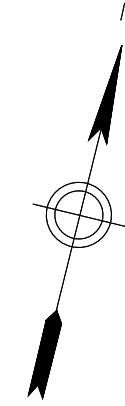
Issued For:  
**CCL00165**  
PUBLIC STORAGE  
1120 SECOND ST.  
BERKELEY, CA 94710

Sheet Title:  
**EXISTING & TEMPORARY EQUIPMENT PLAN**

Sheet Number:  
**A2**

NOTES:  
1. PRIOR TO CONSTRUCTION, GENERAL CONTRACTOR TO CONTACT DIG ALERT TO MARK OUT EXISTING UNDERGROUND UTILITIES. IN THE EVENT OF CONFLICTS, CONTRACTOR TO CONTACT J5 INFRASTRUCTURE PARTNERS.

**THIS IS NOT A SITE SURVEY**  
ALL PROPERTY BOUNDARIES, ORIENTATION OF TRUE NORTH AND STREET HALF-WIDTHS HAVE BEEN OBTAINED FROM A TAX PARCEL MAP AND EXISTING DRAWINGS AND ARE APPROXIMATE.



1 PROPOSED EQUIPMENT PLAN PHASE  
3/8" = 1'-0"

2 NOT USED  
3/8" = 1'-0"

PREPARED FOR  
 at&t  
Mobility  
5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:  
 J5 INFRASTRUCTURE  
PARTNERS  
2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:  
**CCL00165**

AT&T SITE NO: CCL00165  
PACE NO: MRSFR033255  
DRAWN BY: BH  
CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS                       |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensor:  
  
It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:  
**CCL00165**  
**PUBLIC STORAGE**  
1120 SECOND ST.  
BERKELEY, CA 94710

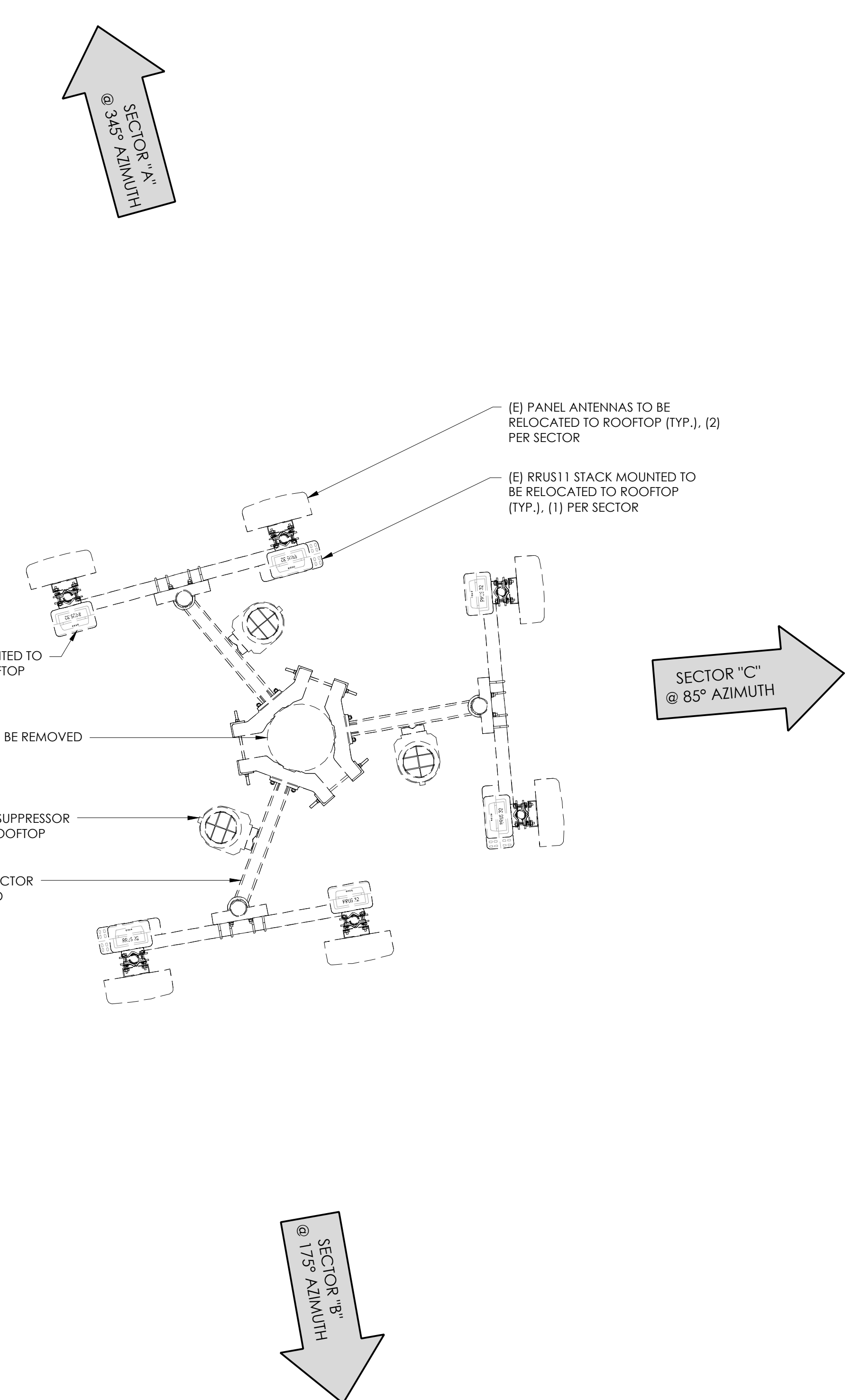
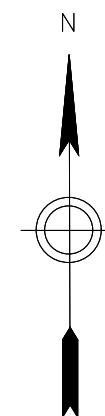
Sheet Title:  
**PROPOSED EQUIPMENT PLAN**

Sheet Number:  
**A2.1**



NOTES:  
1. PRIOR TO CONSTRUCTION, GENERAL CONTRACTOR TO CONTACT DIG ALERT TO MARK OUT EXISTING UNDERGROUND UTILITIES. IN THE EVENT OF CONFLICTS, CONTRACTOR TO CONTACT J5 INFRASTRUCTURE PARTNERS.

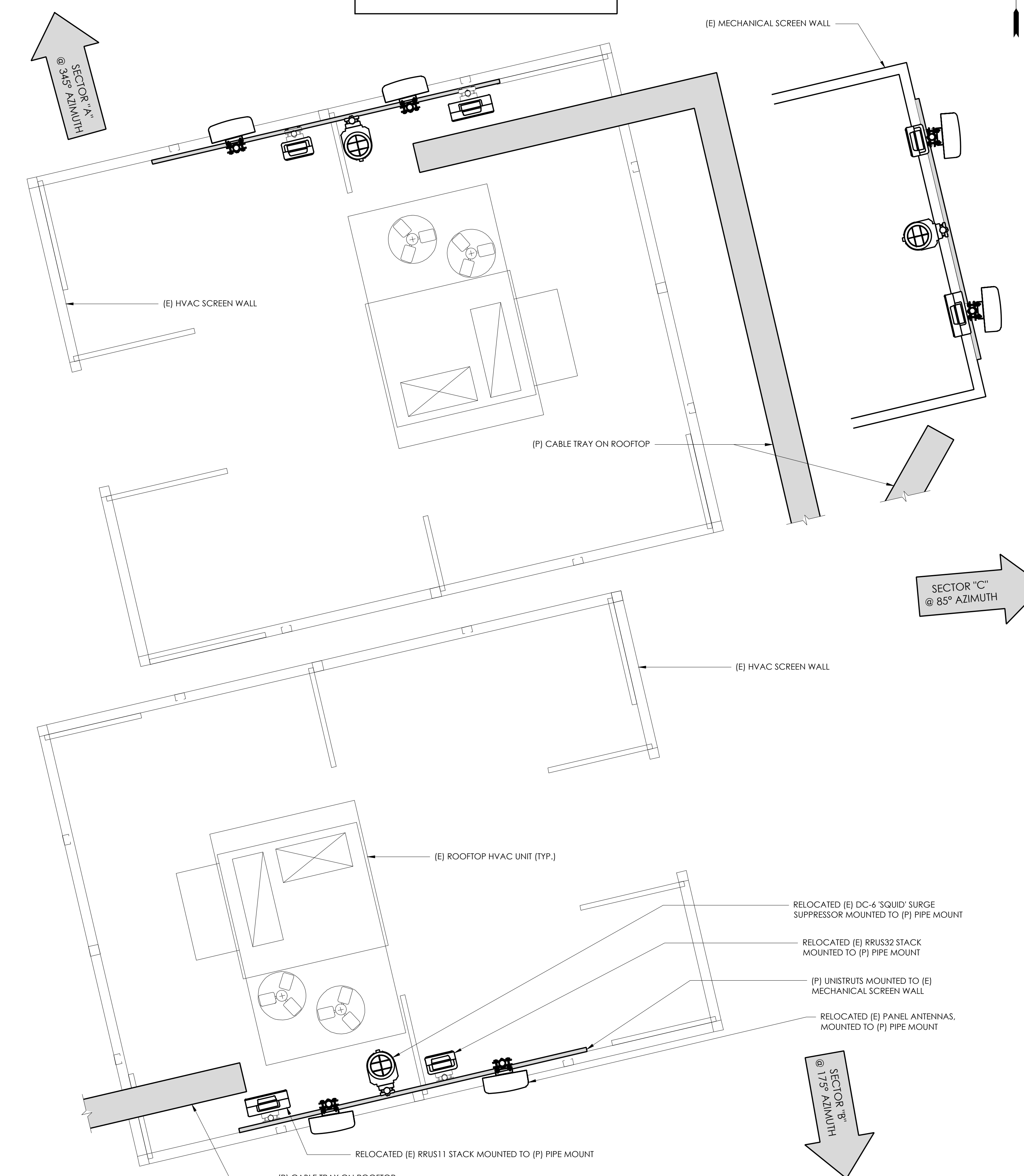
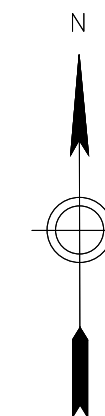
**THIS IS NOT A SITE SURVEY**  
ALL PROPERTY BOUNDARIES, ORIENTATION OF TRUE NORTH AND STREET HALF-WIDTHS HAVE BEEN OBTAINED FROM A TAX PARCEL MAP AND EXISTING DRAWINGS AND ARE APPROXIMATE.



- (E) RRUS32 STACK MOUNTED TO BE RELOCATED TO ROOFTOP (TYP.), (2) PER SECTOR
- (E) RRUS1 STACK MOUNTED TO BE RELOCATED TO ROOFTOP (TYP.), (1) PER SECTOR
- (E) RRUS32 STACK MOUNTED TO BE RELOCATED TO ROOFTOP (TYP.), (3) PER SECTOR
- (E) 58'-0" MONOPOLE TO BE REMOVED
- (E) DC-6 'SQUID' SURGE SUPPRESSOR TO BE RELOCATED TO ROOFTOP
- (E) RING MOUNT AND SECTOR FRAMES TO BE REMOVED

NOTES:  
1. PRIOR TO CONSTRUCTION, GENERAL CONTRACTOR TO CONTACT DIG ALERT TO MARK OUT EXISTING UNDERGROUND UTILITIES. IN THE EVENT OF CONFLICTS, CONTRACTOR TO CONTACT J5 INFRASTRUCTURE PARTNERS.

**THIS IS NOT A SITE SURVEY**  
ALL PROPERTY BOUNDARIES, ORIENTATION OF TRUE NORTH AND STREET HALF-WIDTHS HAVE BEEN OBTAINED FROM A TAX PARCEL MAP AND EXISTING DRAWINGS AND ARE APPROXIMATE.



- RELOCATED (E) DC-6 'SQUID' SURGE SUPPRESSOR MOUNTED TO (P) PIPE MOUNT
- RELOCATED (E) RRUS32 STACK MOUNTED TO (P) PIPE MOUNT
- (P) UNISTRUTS MOUNTED TO (E) MECHANICAL SCREEN WALL
- RELOCATED (E) PANEL ANTENNAS MOUNTED TO (P) PIPE MOUNT
- RELOCATED (E) RRUS1 STACK MOUNTED TO (P) PIPE MOUNT

1 EXISTING TEMPORARY ANTENNA PLAN  
1/2" = 1'-0"

2 TEMPORARY/INTERIM EQUIPMENT PLAN PHASE  
1/2" = 1'-0"

PREPARED FOR  
  
5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:  
  
2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:  
**CCL00165**

AT&T SITE NO: CCL00165  
PACE NO: MRSFR033255  
DRAWN BY: BH  
CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS LEASE AREA            |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensor:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:  
**CCL00165**  
**PUBLIC STORAGE**  
1120 SECOND ST.  
BERKELEY, CA 94710

Sheet Title:  
**EXISTING & TEMPORARY ANTENNA PLAN**

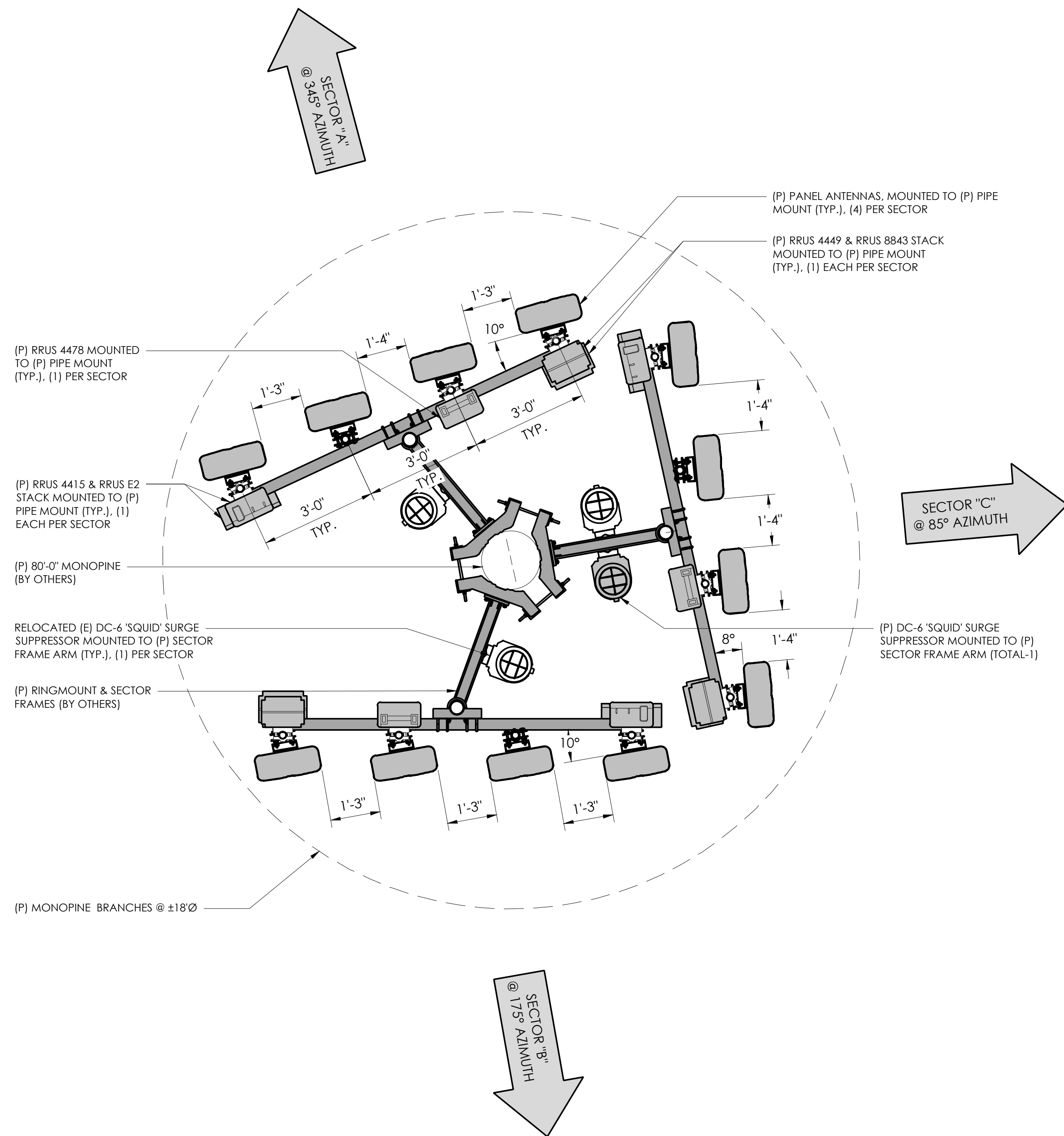
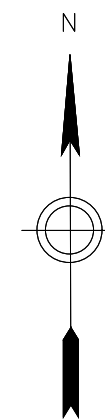
Sheet Number:  
**A3**



NOTES:  
1. PRIOR TO CONSTRUCTION, GENERAL CONTRACTOR TO CONTACT DIG ALERT TO MARK OUT EXISTING UNDERGROUND UTILITIES. IN THE EVENT OF CONFLICTS, CONTRACTOR TO CONTACT J5 INFRASTRUCTURE PARTNERS.

**THIS IS NOT A SITE SURVEY**

ALL PROPERTY BOUNDARIES, ORIENTATION OF TRUE NORTH AND STREET HALF-WIDTHS HAVE BEEN OBTAINED FROM A TAX PARCEL MAP AND EXISTING DRAWINGS AND ARE APPROXIMATE.



1 PROPOSED EQUIPMENT PLAN  
1/2" = 1'-0"

| EXISTING ANTENNA SCHEDULE |       |         |            |             |                 |             |          |           |          |   |
|---------------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|----------|---|
| SECTOR                    | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA |   |
| A<br>L<br>P<br>H<br>A     | A1    | TBD     | 345°       | 58'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 11  | - |
|                           | A2    | TBD     | 345°       | 58'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 32  | - |
|                           | A3    | -       | -          | -           | -               | -           | -        | -         | RRUS 32  | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 1    | TBD   | TBD  | ±80'-0" |
| DC    | 2    | TBD   | TBD  | ±80'-0" |

| SECTOR           | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA |   |
|------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|----------|---|
| B<br>E<br>T<br>A | B1    | TBD     | 175°       | 58'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 11  | - |
|                  | B2    | TBD     | 175°       | 58'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 32  | - |
|                  | B3    | -       | -          | -           | -               | -           | -        | -         | RRUS 32  | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 1    | TBD   | TBD  | ±80'-0" |
| DC    | 2    | TBD   | TBD  | ±80'-0" |

| SECTOR                | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA |   |
|-----------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|----------|---|
| G<br>A<br>M<br>M<br>A | C1    | TBD     | 85°        | 58'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 11  | - |
|                       | C2    | TBD     | 85°        | 58'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 32  | - |
|                       | C3    | -       | -          | -           | -               | -           | -        | -         | RRUS 32  | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 1    | TBD   | TBD  | ±80'-0" |
| DC    | 2    | TBD   | TBD  | ±80'-0" |

| TEMPORARY/INTERIM ANTENNA SCHEDULE |       |         |            |             |                 |             |          |           |          |   |
|------------------------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|----------|---|
| SECTOR                             | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA |   |
| A<br>L<br>P<br>H<br>A              | A1    | TBD     | 345°       | 55'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 11  | - |
|                                    | A2    | TBD     | 345°       | 55'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 32  | - |
|                                    | A3    | -       | -          | -           | -               | -           | -        | -         | RRUS 32  | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 1    | TBD   | TBD  | ±80'-0" |
| DC    | 2    | TBD   | TBD  | ±80'-0" |

| SECTOR           | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA |   |
|------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|----------|---|
| B<br>E<br>T<br>A | B1    | TBD     | 175°       | 55'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 11  | - |
|                  | B2    | TBD     | 175°       | 55'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 32  | - |
|                  | B3    | -       | -          | -           | -               | -           | -        | -         | RRUS 32  | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 1    | TBD   | TBD  | ±80'-0" |
| DC    | 2    | TBD   | TBD  | ±80'-0" |

| SECTOR                | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA |   |
|-----------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|----------|---|
| G<br>A<br>M<br>M<br>A | C1    | TBD     | 85°        | 55'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 11  | - |
|                       | C2    | TBD     | 85°        | 55'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 32  | - |
|                       | C3    | -       | -          | -           | -               | -           | -        | -         | RRUS 32  | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 1    | TBD   | TBD  | ±80'-0" |
| DC    | 2    | TBD   | TBD  | ±80'-0" |

| PERMANENT ANTENNA SCHEDULE |       |         |            |             |                 |             |          |           |           |   |
|----------------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|-----------|---|
| SECTOR                     | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA  |   |
| A<br>L<br>P<br>H<br>A      | A1    | TBD     | 345°       | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS 4449 | - |
|                            | A2    | TBD     | 345°       | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS 4478 | - |
|                            | A3    | TBD     | 345°       | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | -         | -         | - |
|                            | A4    | TBD     | 345°       | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS E2   | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 1    | TBD   | TBD  | ±80'-0" |
| DC    | 2    | TBD   | TBD  | ±80'-0" |

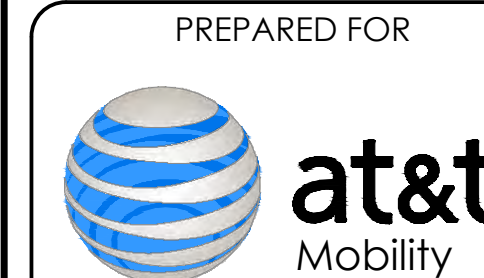
| SECTOR           | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA  |   |
|------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|-----------|---|
| B<br>E<br>T<br>A | B1    | TBD     | 175°       | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS 4449 | - |
|                  | B2    | TBD     | 175°       | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS 8843 | - |
|                  | B3    | TBD     | 175°       | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | -         | -         | - |
|                  | B4    | TBD     | 175°       | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS E2   | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 1    | TBD   | TBD  | ±80'-0" |
| DC    | 2    | TBD   | TBD  | ±80'-0" |

| SECTOR                | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA  |   |
|-----------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|-----------|---|
| G<br>A<br>M<br>M<br>A | C1    | TBD     | 85°        | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS 4449 | - |
|                       | C2    | TBD     | 85°        | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS 8843 | - |
|                       | C3    | TBD     | 85°        | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | -         | -         | - |
|                       | C4    | TBD     | 85°        | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS E2   | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 2    | TBD   | TBD  | ±80'-0" |
| DC    | 4    | TBD   | TBD  | ±80'-0" |

2 PANEL SCHEDULE  
N.T.S.



5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:



2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T Site NO: CCL00165

PACE NO: MRSFR033255

DRAWN BY: BH

CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS PER LEASE AREA        |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRAM REDLINES     |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRAM REDLINES     |
| 0   | 04/24/19 | 100% ZDS                               |

Licensor:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**

PUBLIC STORAGE


1120 SECOND ST.  
BERKELEY, CA 94710

Sheet Title:  
**PROPOSED ANTENNA  
PLAN & PANEL  
SCHEDULE**

Sheet Number:

**A3.1**

PREPARED FOR



5001 EXECUTIVE PARKWAY, 4W550H  
 SAN RAMON, CALIFORNIA 94583

Vendor:



2030 MAIN STREET, SUITE 200  
 IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T SITE NO: CCL00165  
 PACE NO: MRSFR033255  
 DRAWN BY: BH  
 CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS PER LEASE AREA        |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensors:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**

**PUBLIC STORAGE**

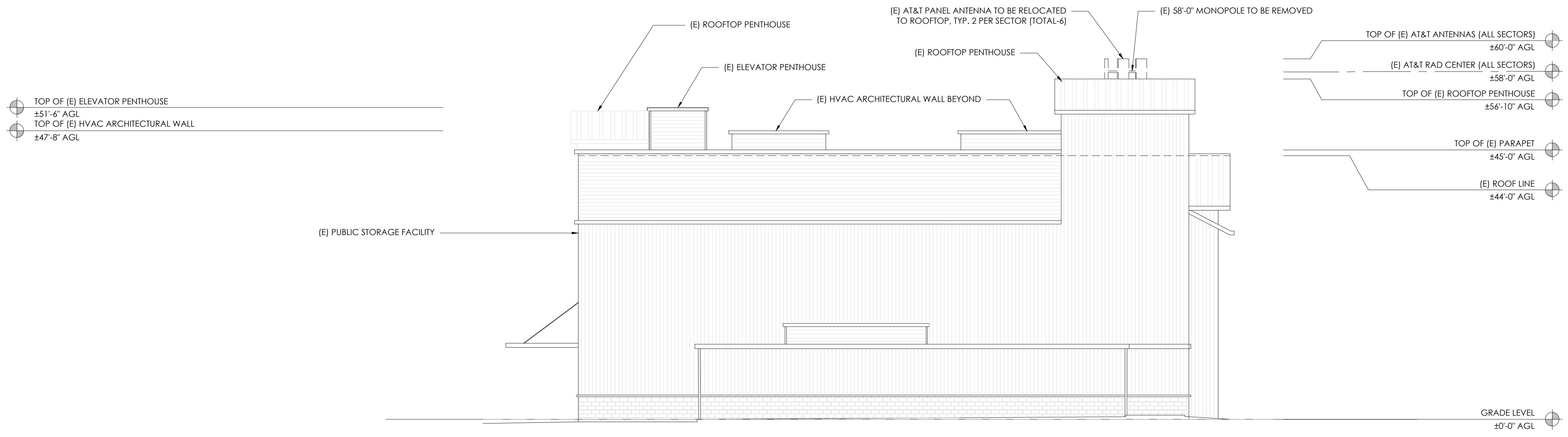
1120 SECOND ST.  
 BERKELEY, CA 94710

Sheet Title:

**EXISTING & TEMPORARY NORTH ELEVATIONS**

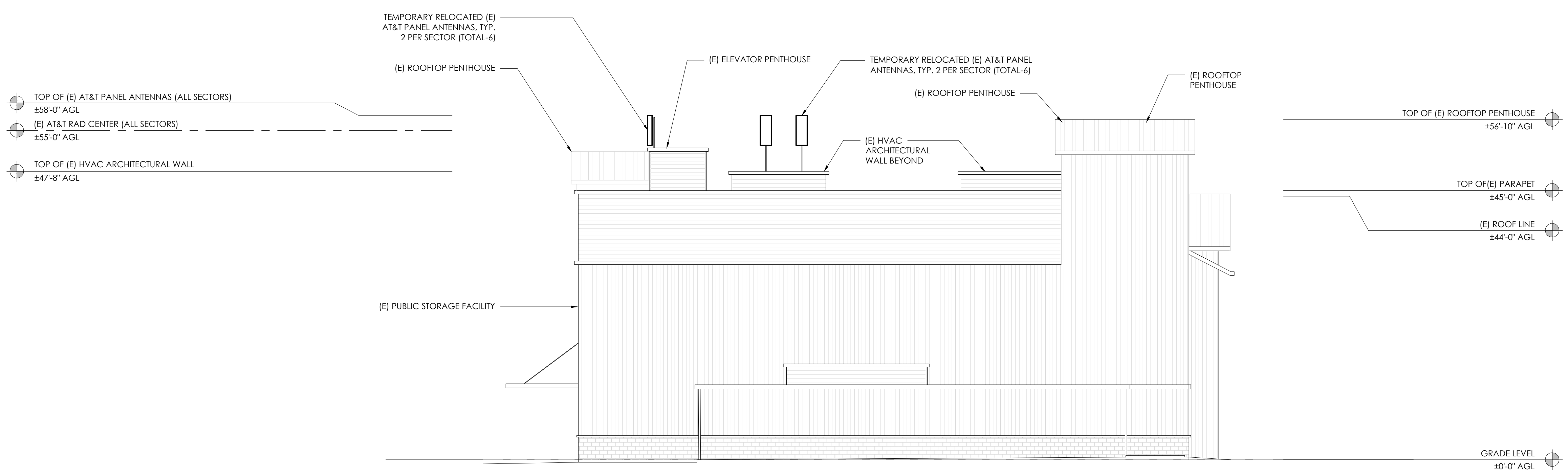
Sheet Number:

**A4**



1 EXISTING NORTH ELEVATION  
 3/32" = 1'-0"


NOTE:  
 1. PROPOSED AT&T CABLE TRAY, CONDUITS, FRP ENCLOSURES, AND ANCILLARY EQUIPMENT MOUNTED ON EXISTING BUILDING TO BE PAINTED SHERWIN-WILLIAMS SW 7071 "GRAY-SCREEN".  
 2. PROPOSED CABLE TRAY VERTICALLY MOUNTED FROM EQUIPMENT AREA AT GRADE TO ROOFTOP. PROPOSED CABLE TRAY SHALL TRANSITION TO ROOFTOP AND ROUTED TO EACH EACH SECTOR.



2 TEMPORARY NORTH ELEVATION  
 3/32" = 1'-0"



PREPARED FOR



5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:



2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T SITE NO: CCL00165  
PACE NO: MRSFR033255  
DRAWN BY: BH  
CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS PER LEASE AREA        |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensor:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**

**PUBLIC STORAGE**

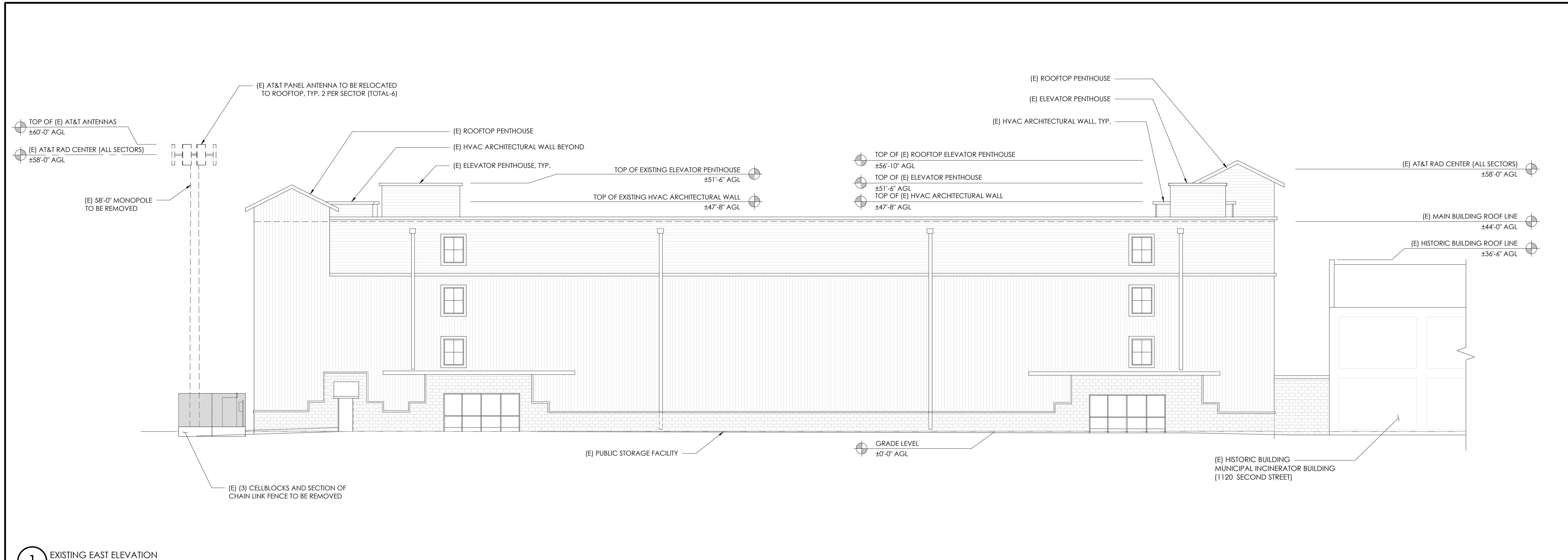
1120 SECOND ST.  
BERKELEY, CA 94710

Sheet Title:

**EXISTING & TEMPORARY EAST ELEVATIONS**

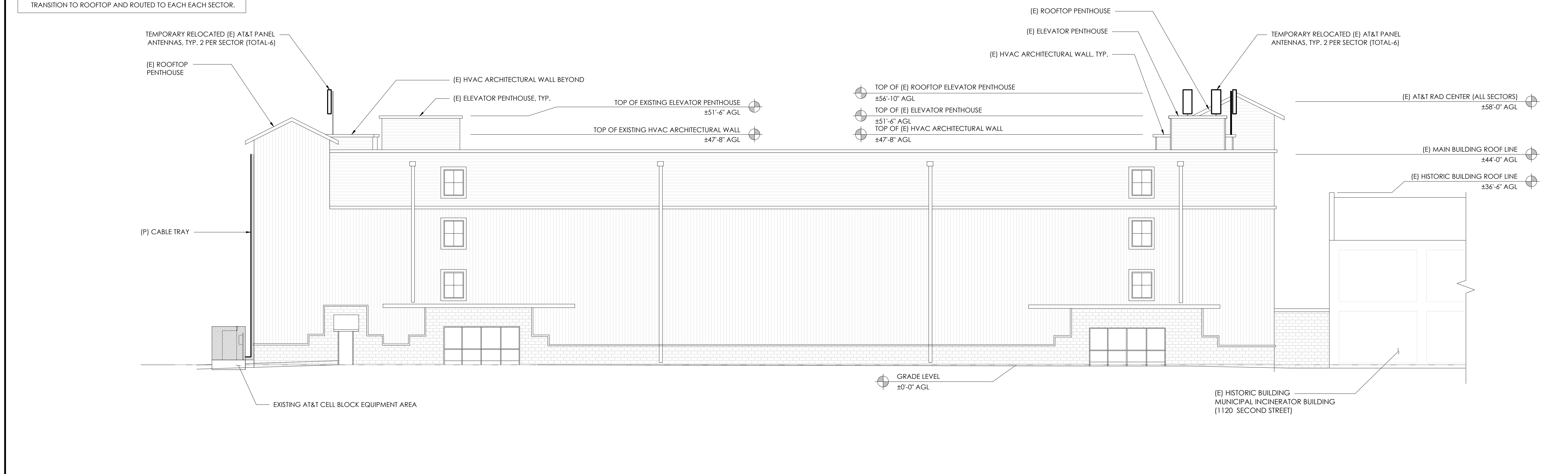
Sheet Number:

**A5**




1 EXISTING EAST ELEVATION  
3/32" = 1'-0"

NOTE:  
1. PROPOSED AT&T CABLE TRAY, CONDUITS, FRP ENCLOSURES, AND ANCILLARY EQUIPMENT MOUNTED ON EXISTING BUILDING TO BE PAINTED SHERWIN-WILLIAMS SW 7071 "GRAY-SCREEN"  
2. PROPOSED CABLE TRAY VERTICALLY MOUNTED FROM EQUIPMENT AREA AT GRADE TO ROOFTOP. PROPOSED CABLE TRAY SHALL TRANSITION TO ROOFTOP AND ROUTED TO EACH EACH SECTOR.



2 TEMPORARY EAST ELEVATION  
3/32" = 1'-0"

PREPARED FOR



5001 EXECUTIVE PARKWAY, 4W550H  
 SAN RAMON, CALIFORNIA 94583

Vendor:



2030 MAIN STREET, SUITE 200  
 IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T SITE NO: CCL00165  
 PACE NO: MRSFR033255  
 DRAWN BY: BH  
 CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS PER LEASE AREA        |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensors:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**

**PUBLIC STORAGE**

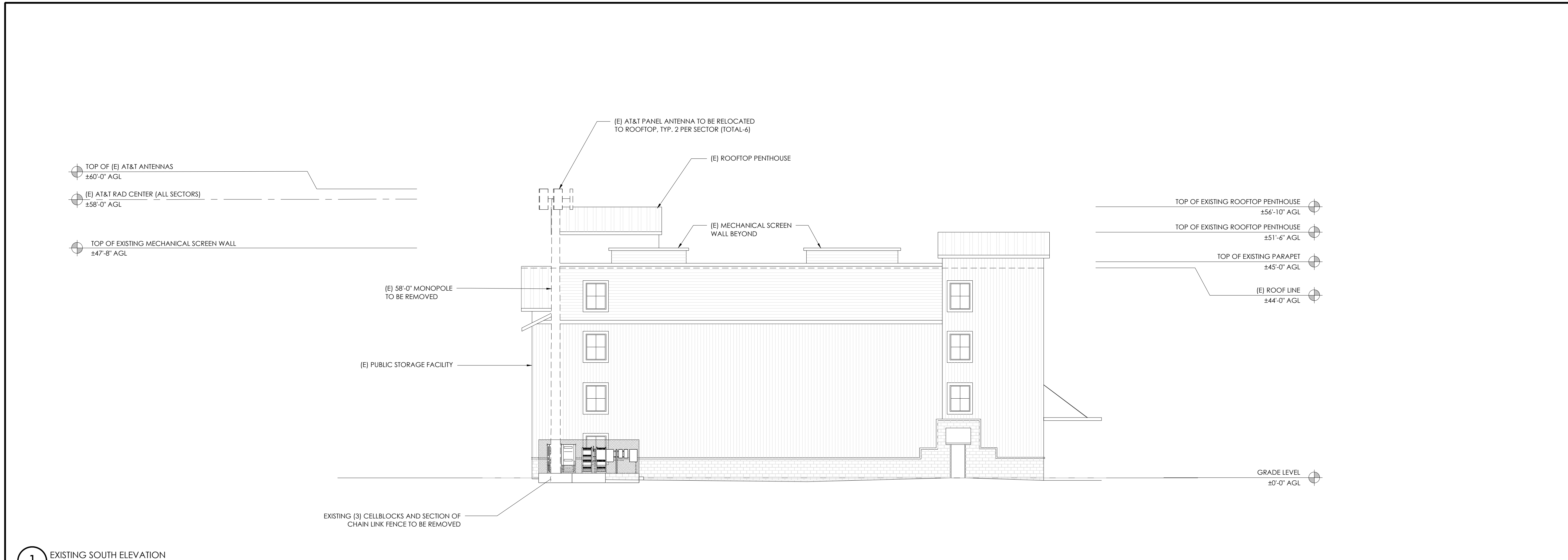
1120 SECOND ST.  
 BERKELEY, CA 94710

Sheet Title:

**EXISTING & TEMPORARY SOUTH ELEVATIONS**

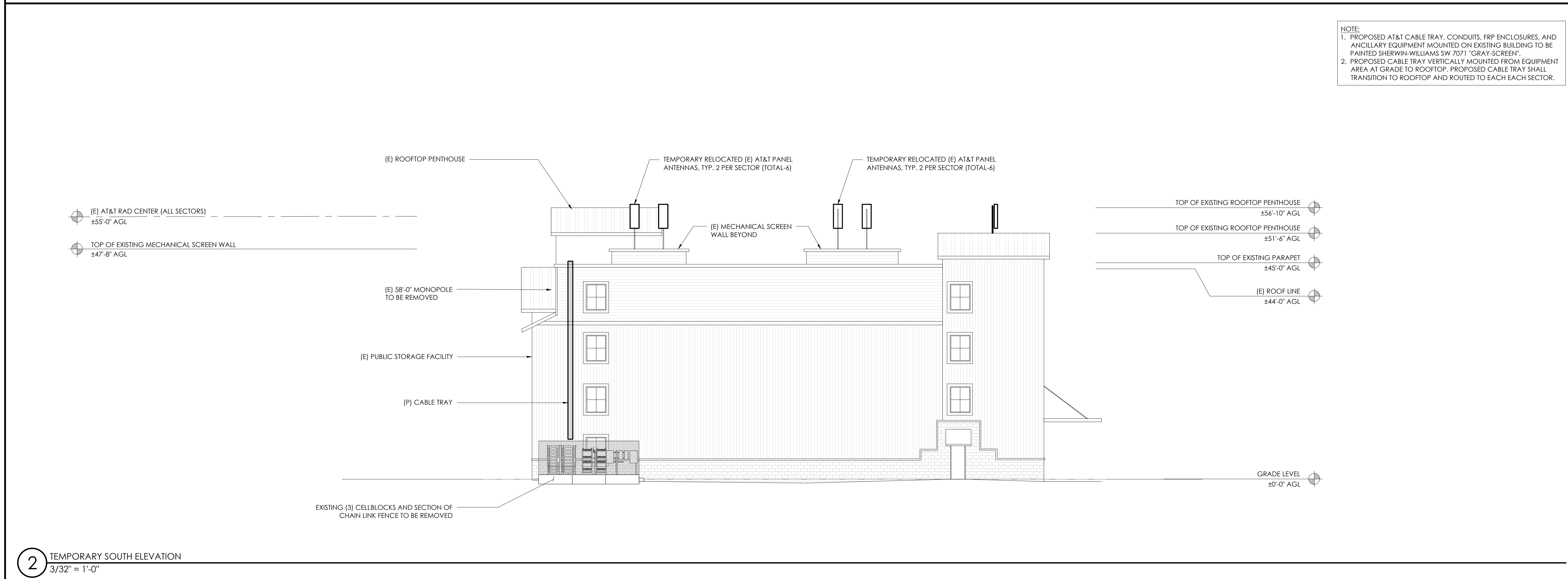
Sheet Number:

**A6**



**1** EXISTING SOUTH ELEVATION  
 3/32" = 1'-0"


NOTE:  
 1. PROPOSED AT&T CABLE TRAY, CONDUITS, FRP ENCLOSURES, AND ANCILLARY EQUIPMENT MOUNTED ON EXISTING BUILDING TO BE PAINTED SHERWIN-WILLIAMS SW 7071 "GRAY-SCREEN".  
 2. PROPOSED CABLE TRAY VERTICALLY MOUNTED FROM EQUIPMENT AREA AT GRADE TO ROOFTOP. PROPOSED CABLE TRAY SHALL TRANSITION TO ROOFTOP AND ROUTED TO EACH EACH SECTOR.



**2** TEMPORARY SOUTH ELEVATION  
 3/32" = 1'-0"



PREPARED FOR



5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:



2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T SITE NO: CCL00165  
PACE NO: MRSFR033255  
DRAWN BY: BH  
CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS LEASE AREA            |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensor:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**

**PUBLIC STORAGE**

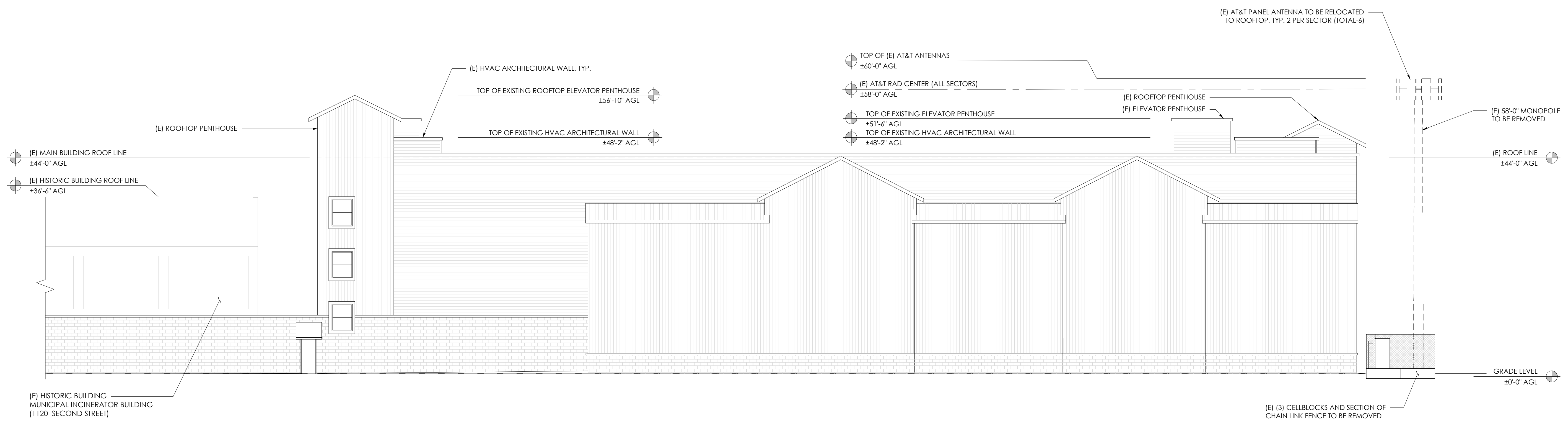
1120 SECOND ST.  
BERKELEY, CA 94710

Sheet Title:

**EXISTING & TEMPORARY WEST ELEVATIONS**

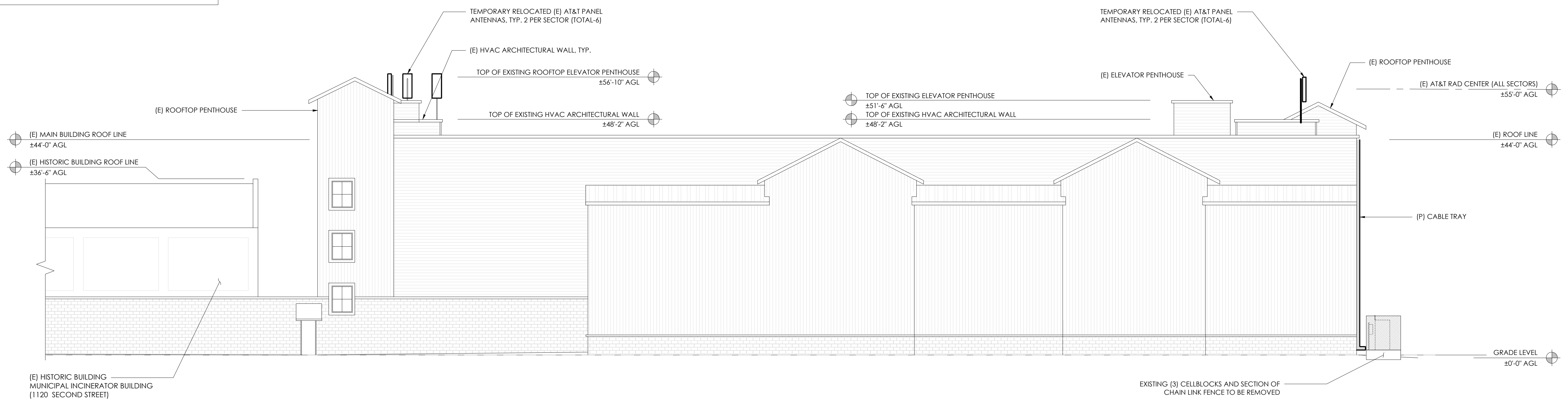
Sheet Number:

**A7**

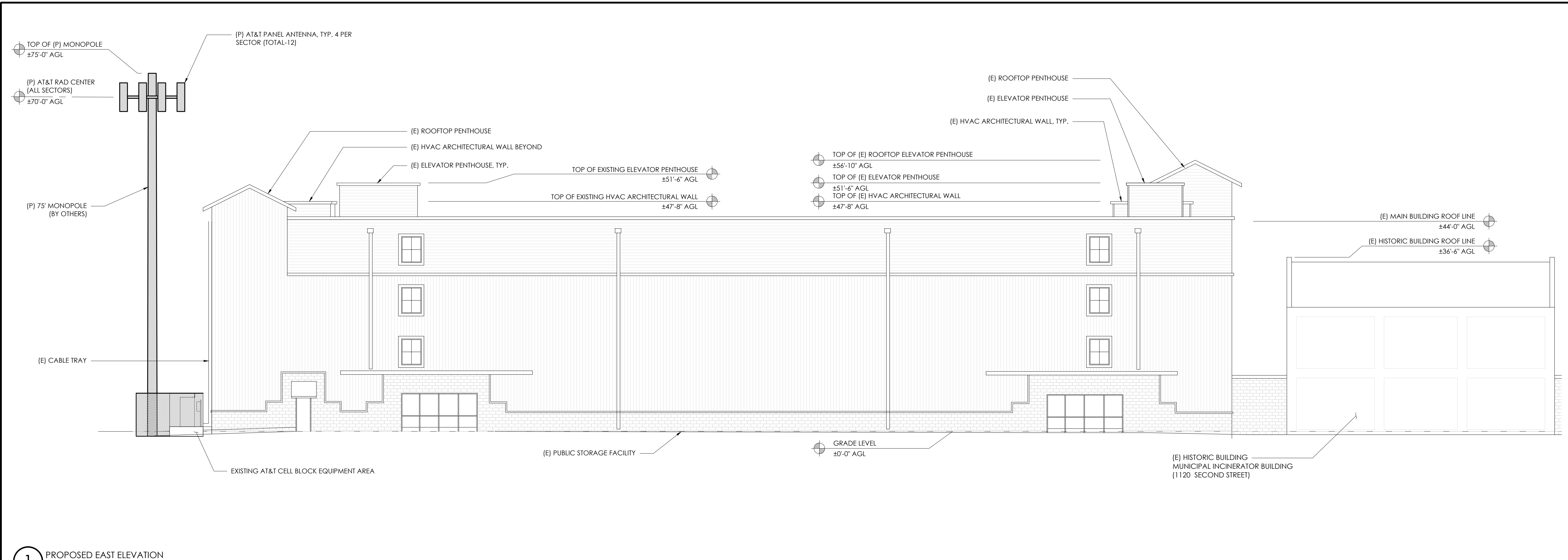


**1** EXISTING WEST ELEVATION  
3/32" = 1'-0"

NOTE:  
1. PROPOSED AT&T CABLE TRAY, CONDUITS, FRP ENCLOSURES, AND ANCILLARY EQUIPMENT MOUNTED ON EXISTING BUILDING TO BE PAINTED SHERWIN-WILLIAMS SW 7071 "GRAY-SCREEN".  
2. PROPOSED CABLE TRAY VERTICALLY MOUNTED FROM EQUIPMENT AREA AT GRADE TO ROOFTOP. PROPOSED CABLE TRAY SHALL TRANSITION TO ROOFTOP AND ROUTED TO EACH EACH SECTOR.



**2** TEMPORARY WEST ELEVATION  
3/32" = 1'-0"



1 PROPOSED EAST ELEVATION  
 3/32" = 1'-0"

2 NOT USED  
 N.T.S.

PREPARED FOR  
  
 5001 EXECUTIVE PARKWAY, 4W550H  
 SAN RAMON, CALIFORNIA 94583

Vendor:  
  
 2030 MAIN STREET, SUITE 200  
 IRVINE, CALIFORNIA 94583

AT&T Site ID:  
**CCL00165**

AT&T SITE NO: CCL00165  
 PACE NO: MRSFR033255  
 DRAWN BY: BH  
 CHECKED BY: SMR

| REV | DATE     | DESCRIPTION |
|-----|----------|-------------|
| 0   | 05/28/20 | 100% ZDs    |

| REV | DATE     | DESCRIPTION |
|-----|----------|-------------|
| 0   | 05/28/20 | 100% ZDs    |

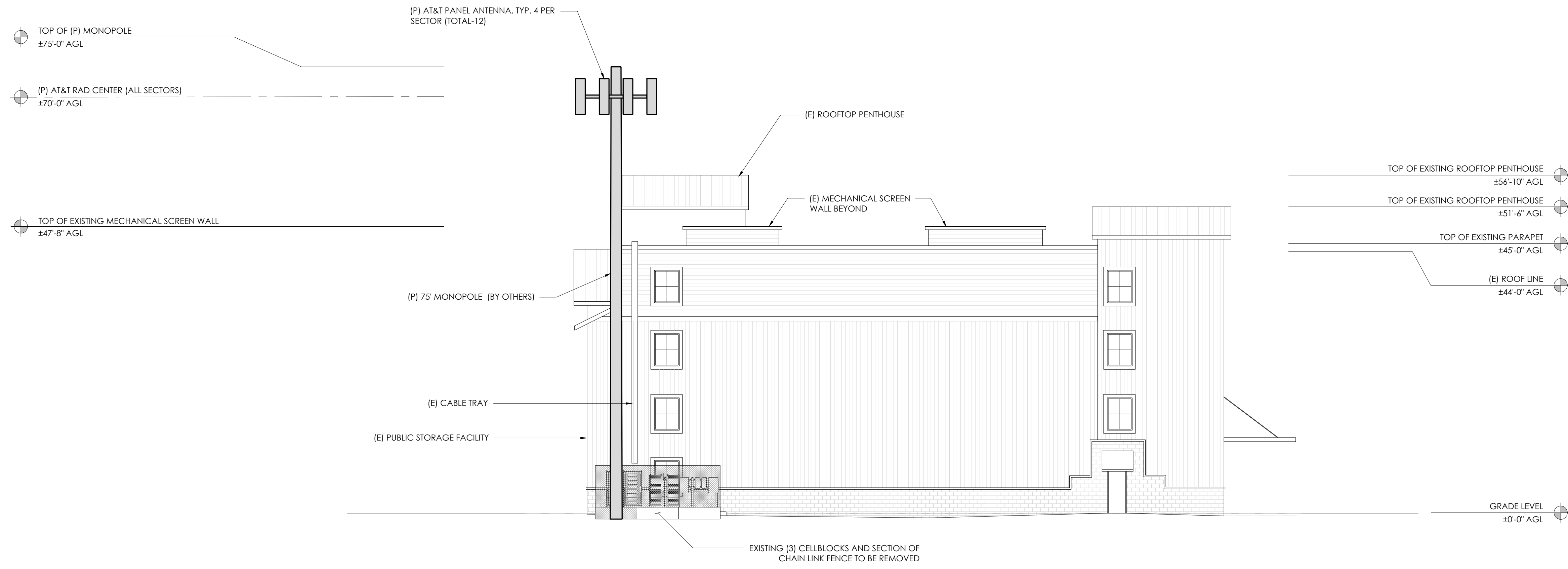
Licensors:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:  
**CCL00165**  
 PUBLIC STORAGE  
 1120 SECOND ST.  
 BERKELEY, CA 94710

Sheet Title:  
**PROPOSED EAST ELEVATIONS**

Sheet Number:  
**A5.1**



1 PROPOSED SOUTH ELEVATION  
 3/32" = 1'-0"

2 NOT USED  
 N.T.S.

PREPARED FOR

5001 EXECUTIVE PARKWAY, 4W550H  
 SAN RAMON, CALIFORNIA 94583

Vendor:

2030 MAIN STREET, SUITE 200  
 IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T SITE NO: CCL00165  
 PACE NO: MRSFR033255  
 DRAWN BY: BH  
 CHECKED BY: SMR

| REV | DATE     | DESCRIPTION |
|-----|----------|-------------|
| 0   | 05/28/20 | 100% ZDs    |

| REV | DATE     | DESCRIPTION |
|-----|----------|-------------|
| 0   | 05/28/20 | 100% ZDs    |

Licensors:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**

PUBLIC STORAGE  
 1120 SECOND ST.  
 BERKELEY, CA 94710

Sheet Title:

**PROPOSED SOUTH ELEVATIONS**

Sheet Number:

**A6.1**







Office of the City Manager

INFORMATION CALENDAR

July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Director, Planning and Development

Subject: LPC NOD: 1120 Second Street/#LMSAP2019-0008

INTRODUCTION

The attached Landmarks Preservation Commission Notice of Decision (NOD) is presented to the Mayor and City Council pursuant to Berkeley Municipal Code/Landmarks Preservation Ordinance (BMC/LPO) Section 3.24.240.A, which requires that “a copy of the Notice of Decision shall be filed with the City Clerk, and the City Clerk shall present said copy to the City Council at its next regular meeting.”

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has approved a Structural Alteration Permit (SAP) for the design of a permanent monopole wireless telecommunications facility at the subject City Landmark site. This action is subject to a 15-day appeal period, which began on July 13, 2020.

BACKGROUND

BMC/LPO Section 3.24.300 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying a Structural Alteration Permit. In order for Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by July 28, 2020. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must rule on the application within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no known fiscal impacts associated with this action.

CONTACT PERSON

Fatema Crane, Landmarks Preservation Commission Secretary, Planning and Development, 510-981-7410

Attachments:

1: Notice of Decision – #LMSAP 2019-0008, 1120 Second Street/City Incinerator Site



ATTACHMENT 1



LANDMARKS  
PRESERVATION  
COMMISSION  
NOTICE OF DECISION

**DATE OF BOARD DECISION: June 4, 2020**  
**DATE NOTICE MAILED: July 13, 2020**  
**APPEAL PERIOD EXPIRATION: July 28, 2020**  
**EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): July 29, 2020<sup>1</sup>**

## 1120 Second Street

**Structural Alteration Permit (#LMSAP2019-0008) to abrogate previous #LMSAP2017-0005 in order to approve the design of a permanent ground-mounted, approximately 80-ft. tall mono-pole wireless telecommunications facility (instead of a permanent rooftop facility) at a property that features the City Landmark Municipal Incinerator structure.**

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following permit:

**PERMITS REQUIRED:**

- Structural Alteration Permit, pursuant to Berkeley Municipal Code Section 3.24.200

**APPLICANT:** Derek Turner, J5 Infrastructure Partners, representing AT&T Mobility

**ZONING DISTRICT:** Manufacturing (M)

**ENVIRONMENTAL REVIEW STATUS:** Categorically exempt pursuant to Section 15331 of the CEQA Guidelines for Historical Resource Rehabilitation.

**The application materials for this project are available online at:**

---

<sup>1</sup> Pursuant to BMC Section 23B.32.090, the City Council may “certify” any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Use Permit becomes effective the day after the certification deadline has passed.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
Structural Alteration Permit - #LMSAP2019-0008  
1120 Second Street – Site of the City Incinerator Structure  
July 13, 2020  
Page 2 of 4

<http://www.cityofberkeley.info/zoningapplications>

---

**FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE**

---

**COMMISSION VOTE: 9-0-0-0**

**YES:** ABRANCHES DA SILVA, ADAMS, ALLEN, CRANDALL, ENCHILL, FINACOM,  
HALL MONTGOMERY, JOHNSON, SCHWARTZ

**NO:** None

**ABSTAIN:** None

**ABSENT:** None

**Note New Methods for Submitting Appeals during Shelter-In-Place Order**

**TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):**

To appeal a decision of the Landmarks Preservation Commission to the City Council during the 2020 City Council Shelter-In-Place Order, you must:

1. Mail a letter clearly and concisely setting forth the grounds for the appeal with a check or money order for required fees to the City Clerk, located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley, 94704. The City Clerk's telephone number is (510) 981-6900.

OR

Alternatively, you may email your complete appeal and all attachments to the Planning Department at [planning@cityofberkeley.info](mailto:planning@cityofberkeley.info) and include a telephone number where you can be reached during the day. Planning Department staff will call you within three business days to obtain payment information for the required fees by credit card *only*.

- a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the commission made under the provisions of Chapter 3.24.
2. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
    - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less. Signatures collected

LANDMARKS PRESERVATION COMMISSION

NOTICE OF DECISION

Structural Alteration Permit - #LMSAP2019-0008

1120 Second Street – Site of the City Incinerator Structure

July 13, 2020

Page 3 of 4

per the filing requirement in BMC Section 3.24.300.A may be counted towards qualifying for the reduced fee, so long as the signers are qualified. The individual filing the appeal must clearly denote which signatures are to be counted towards qualifying for the reduced fee.

- b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
  - c. The fee for all appeals by Applicants is \$2500.
3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

If no appeal is received, the landmark designation will be final on the first business day following expiration of the appeal period.

**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

---

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
Structural Alteration Permit - #LMSAP2019-0008  
1120 Second Street – Site of the City Incinerator Structure  
July 13, 2020  
Page 4 of 4

- A. That this belief is a basis of your appeal.
- B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
- C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

**PUBLIC COMMENT:**

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

**FURTHER INFORMATION:**

Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7410 or fcrane@cityofberkeley.info. All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 1947 Center Street, 3<sup>rd</sup> Fl., between 8 a.m. and 4 p.m., Monday through Friday, except Tuesday when the Center closes at 3PM.

**ATTACHMENTS:**

- 1. Findings and Conditions
- 2. Project Plans



**ATTEST:** \_\_\_\_\_  
Fatema Crane, Secretary  
Landmarks Preservation Commission

Cc:  
City Clerk  
Applicant

# ATTACHMENT 1

---

## FINDINGS AND CONDITIONS

### 1120 Second Street

#### Structural Alteration Permit LMSAP# 2019-0008

To abrogate previous #LMSAP2017-0005 in order to approve the design of a permanent ground-mounted, approximately 80-ft. tall mono-pole wireless telecommunications facility (instead of a permanent rooftop facility) at a property that features the City Landmark Municipal Incinerator structure.

#### CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 153331 of the CEQA Guidelines (“Historic Resource Restoration/Rehabilitation”). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

#### SECRETARY OF THE INTERIOR’S STANDARDS FINDINGS

Regarding the Secretary of the Interior’s Standards for Rehabilitation, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

1. The subject property features the historic incinerator building which was used as a slaughter house during its historic period; the property and building were subsequently converted to use as a self-storage facility in 1985. The proposed addition of the wireless telecommunication facility use at this site will not change or affect the historic use because it no longer exists. The introduction of the proposed use on the non-historic building at this site will not change the distinctive materials, features, spaces or spatial relationships of the historic incinerator building.
2. The historic character of the property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided in the approved concealment design for the new rooftop facility.
3. This property will continue to be recognized as a physical record of its time, place, and use as a result of the approved project. No changes that would create a false sense of

historical development, such as adding conjectural features or elements from other historic properties, will be undertaken.

4. No changes to this property that have acquired historic significance in their own right are proposed.
5. This project will not affect distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize this property.
6. No deteriorated historic features of this property will be affected by this proposal.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials are prohibited by the Conditions herein.
8. Any archeological resources at this site will be unaffected by the proposed work which includes no excavation.
9. Exterior alterations or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property, because no such alterations will occur on the historic incinerator building. The new work (e.g. new screen wall for the rooftop facility) will be differentiated from the old; the proposed contemporary design and materials of the screen walls will be compatible with the size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New installation of the proposed facility will be undertaken in such a manner that, if the facility were removed in the future, the essential form and integrity of the historic incinerator building would be unimpaired.

#### **LANDMARK PRESERVATION ORDINANCE FINDINGS**

---

1. As required by Section 3.24.260 of the Landmarks Preservation Ordinance, the Commission finds that proposed work is appropriate for and consistent with the purposes of the Ordinance, and will preserve and enhance the characteristics and features specified in the designation for this property, because:
  - A. The proposal to install a new wireless facility on the roof of the non-historic building at this site will not affect or alter the historic incinerator building. The proposed alterations will not change the features or character of the historic building.
  - B. The proposed facility is designed to seamlessly match the contemporary style and design of the non-historic building that was constructed in 2007. The new facility would not be confused with the style and character of the historic building constructed in the Mission revival style in 1913.

## STANDARD CONDITIONS

---

The following conditions, as well as all other applicable provisions of the Landmarks Preservation Ordinance, apply to this Permit:

### 1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Permit, under the title 'Structural Alteration Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

### 2. Plans and Representations Become Conditions

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

### 3. Subject to All Applicable Laws and Regulations

The approved construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to installation, the applicant shall obtain Use Permit approval in accordance with BMC Section 23C.17 (Wireless Telecommunication). Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

### 4. Exercise and Lapse of Permits (Section 23B.56.100)

- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- A. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has:
  - (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

### 5. Indemnification Agreement

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn,

set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

### **ADDITIONAL CONDITIONS**

---

The following additional conditions are attached to this Permit:

6. **Use Permit approval.** This Structural Alteration Permit approval and the installation of the subject wireless telecommunications facility are contingent upon Use Permit approval in accordance with BMC Chapter 23.
7. **Colors and Materials.** Prior submittal of any building permit for this project, the applicant shall submit final colors and material information for review and approval by staff.
8. **Chemical Treatments.** With respect to historic resources located on this site or within the propose project area, any chemical treatments needed as construction progresses will be undertaken using the gentlest means possible.

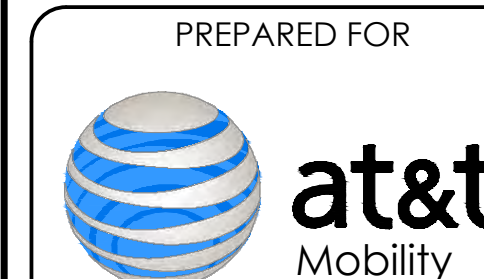




# at&t

Mobility

SITE NUMBER: CCL00165  
 SEARCH RING NAME: PUBLIC STORAGE  
 SITE NAME: PUBLIC STORAGE CCL00165  
 ADDRESS: 1120 SECOND ST. BERKELEY, CA 94710  
 JURISDICTION: CITY OF BERKELEY  
 SITE TYPE: TREE POLE / OUTDOOR EQUIPMENT  
 FA#: 13866621  
 PTN#: 3701A07RNF  
 USID#: 177863



5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:



2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T SITE NO: CCL00165

PACE NO: MRSFR033255

DRAWN BY: BH

CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS LEASE AREA            |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRW REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRW REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licenser:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**

**PUBLIC STORAGE**

1120 SECOND ST.  
BERKELEY, CA 94710

Sheet Title:

**TITLE SHEET**

Sheet Number:

**T-1**

| PROJECT DESCRIPTION | PROJECT INFORMATION | PROJECT TEAM | SHEET INDEX | REV. |
|---------------------|---------------------|--------------|-------------|------|
|---------------------|---------------------|--------------|-------------|------|

INSTALLATION OF A NEW SITE BUILD, UNMANNED TELECOMMUNICATIONS FACILITY, CONSISTING OF THE FOLLOWING:  
 AT&T WIRELESS PROJECT SCOPE WILL CONSIST OF THE FOLLOWING:

- REMOVE AND REPLACE EXISTING 60'-0" TALL MONOPOLE IN EXISTING EQUIPMENT AREA
- REMOVE (3) CELL BLOCKS WITH SECTION OF CHAIN LINK FENCE TO BE REINSTALLED
- REMOVE EXISTING CABLE TRAY
- INSTALL (1) PROPOSED 80'-0" HIGH MONOPOLE (BY OTHERS)
- INSTALL (12) PROPOSED AT&T PANEL ANTENNAS
- INSTALL (15) PROPOSED AT&T REMOTE RADIO HEADS (RRH)
- INSTALL (1) PROPOSED AT&T DC-6 SURGE SUPPRESSOR
- INSTALL (1) PROPOSED AT&T DC-12 SURGE SUPPRESSOR ON (E) H-FRAME
- INSTALL (1) PROPOSED AT&T PURCELL CABINET STACKED ON (E) PURCELL CABINET
- INSTALL PROPOSED AT&T POWER AND FIBER CABLES
- INSTALL (1) COAX CABLE TRAY

PROJECT INFORMATION:  
 SITE NAME: PUBLIC STORAGE  
 SITE NUMBER: CCL00165  
 SITE ADDRESS:  
 1120 SECOND ST.  
 BERKELEY, CA 94710  
 JURISDICTION: CITY OF BERKELEY  
 A.P.N.: 060-2381-002-02  
 CURRENT ZONING: N/A  
 EXISTING USE: MULTIUSE  
 PROPOSED USE: MULTIUSE, COMMUNICATIONS FACILITY  
 LATITUDE (NAD 83): 37° 52' 51.01" N  
 LONGITUDE (NAD 83): 122° 18' 26.25" W  
 GROUND ELEVATION: 12.4' AMSL (NAVD88)  
 ACCESSIBILITY REQUIREMENTS: FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. ACCESSIBILITY IS NOT REQUIRED PER CBC2019, SECTION 11B-203.4 (LIMITED ACCESS SPACE)  
 OCCUPANCY GROUPS: GROUP S-1  
 TYPE OF CONSTRUCTION: TYPE II-A  
 SPRINKLERS: FULLY SPRINKLERED  
 STORIES: 4 STORIES

APPLICANT / LESSEE:  
 AT&T MOBILITY  
 5001 EXECUTIVE PARKWAY, 4W550H  
 SAN RAMON, CA 94583  
 CONTACT: ALYSSA FERRIS  
 EMAIL: AB724B@ATT.COM  
 CELL: (530) 966-2612  
 CONSTRUCTION MANAGER:  
 BECHTEL  
 CONTACT: ROSS GOMPERTZ  
 EMAIL: RLGOMER@BECHTEL.COM  
 PH: (714) 396-4820  
 RF ENGINEER:  
 AT&T MOBILITY  
 CONTACT: AMRITPAL SINGH  
 EMAIL: AS230B@ATT.COM  
 PH: (817) 966-7271  
 ENGINEER:  
 J5 INFRASTRUCTURE PARTNERS  
 CONTACT: JOSE CARLOS FAZ, S.E.  
 EMAIL: JFAZ@J5IP.COM  
 PH: (949) 247-7767 x160  
 PROJECT MANAGER:  
 J5 INFRASTRUCTURE PARTNERS  
 CONTACT: MISAOKO HILL  
 EMAIL: MHILL@J5IP.COM  
 CELL: (415) 533-2540  
 SITE ACQUISITION:  
 J5 INFRASTRUCTURE PARTNERS  
 CONTACT: MICHAEL GUIGLOTTO  
 EMAIL: MGUIGLOTTO@J5IP.COM  
 PH:(415) 225-6667  
 RFDS VERSION: 2.00  
 DATE UPDATED: 04/02/18

|       |                                        |   |
|-------|----------------------------------------|---|
| T-1   | TITLE SHEET                            | 5 |
| GN-1  | GENERAL NOTES                          | 5 |
| GN-2  | SITE SIGNAGE                           | 5 |
| LS-1  | TOPOGRAPHIC SURVEY                     | 7 |
| A-1   | SITE PLAN / ENLARGED SITE PLAN         | 5 |
| A-2   | EXISTING & TEMPORARY EQUIPMENT PLAN    | 5 |
| A-2.1 | PROPOSED EQUIPMENT PLAN                | 5 |
| A-3   | EXISTING & TEMPORARY ANTENNA PLAN      | 5 |
| A-3.1 | PROPOSED ANTENNA PLAN & PANEL SCHEDULE | 5 |
| A-4   | EXISTING & TEMPORARY NORTH ELEVATIONS  | 5 |
| A-4.1 | PROPOSED NORTH ELEVATIONS              | 5 |
| A-5   | EXISTING & TEMPORARY EAST ELEVATIONS   | 5 |
| A-5.1 | PROPOSED EAST ELEVATIONS               | 5 |
| A-6   | EXISTING & TEMPORARY SOUTH ELEVATIONS  | 5 |
| A-6.1 | PROPOSED SOUTH ELEVATIONS              | 5 |
| A-7   | EXISTING & TEMPORARY WEST ELEVATIONS   | 5 |
| A-7.1 | PROPOSED WEST ELEVATIONS               | 5 |

**GENERAL CONTRACTOR NOTES**

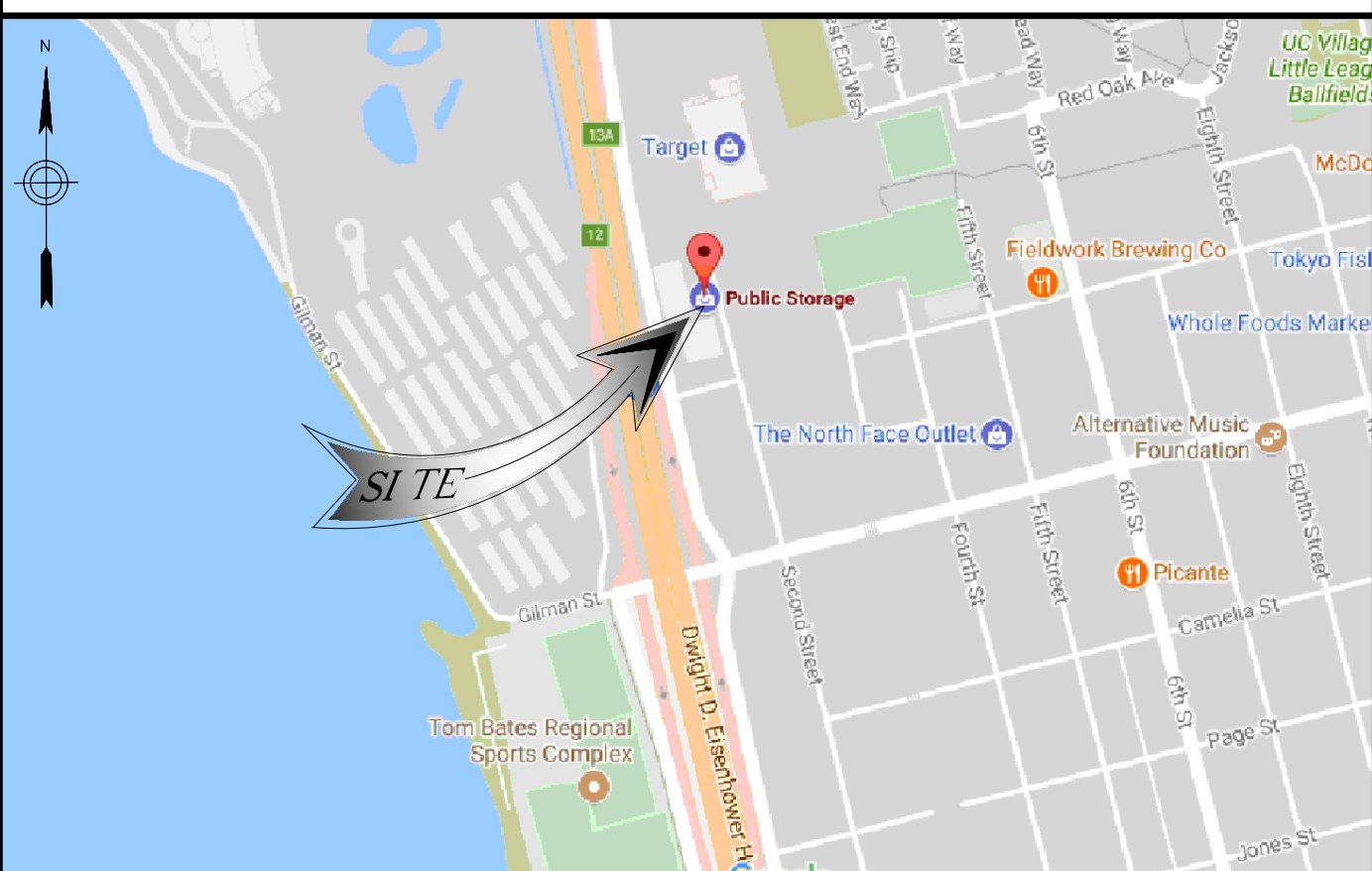
DO NOT SCALE DRAWINGS  
 THESE PLANS ARE FORMATTED TO BE FULL SIZE AT 24" X 36". CONTRACTORS SHALL VERIFY ALL PLANS AND EXISTING DIMENSIONS AND CONDITIONS ON THE JOB SITE AND SHALL IMMEDIATELY NOTIFY THE ARCHITECT/ENGINEER IN WRITING OF ANY DISCREPANCIES BEFORE PROCEEDING WITH THE WORK OR MATERIAL ORDERS OR BE RESPONSIBLE FOR THE SAME.

**CODE COMPLIANCE**

ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THESE CODES.

- CALIFORNIA BUILDING STANDARDS CODE: 2019 TRIENNIAL EDITION OF TITLE 24, WITH AN EFFECTIVE DATE OF JANUARY 1, 2020.  
 PART 1 - CALIFORNIA ADMINISTRATIVE CODE  
 PART 2 - CALIFORNIA BUILDING CODE, BASED ON THE 2018 INTERNATIONAL BUILDING CODE  
 PART 2.5 - CALIFORNIA RESIDENTIAL CODE, BASED ON THE 2018 INTERNATIONAL RESIDENTIAL CODE  
 PART 3 - CALIFORNIA ELECTRICAL CODE, BASED ON THE 2017 NATIONAL ELECTRICAL CODE  
 PART 4 - CALIFORNIA MECHANICAL CODE, BASED ON THE 2018 UNIFORM MECHANICAL CODE  
 PART 5 - CALIFORNIA PLUMBING CODE, BASED ON THE 2018 UNIFORM PLUMBING CODE  
 PART 6 - CALIFORNIA ENERGY CODE  
 PART 7 - VACANT  
 PART 8 - CALIFORNIA HISTORICAL BUILDING CODE  
 PART 9 - CALIFORNIA FIRE CODE, BASED ON THE 2018 INTERNATIONAL FIRE CODE  
 PART 10 - CALIFORNIA EXISTING BUILDING CODE, BASED ON THE 2018 INTERNATIONAL EXISTING BUILDING CODE  
 PART 11 - CALIFORNIA GREEN BUILDING STANDARDS CODE (ALSO KNOWN AS CALGREEN)  
 PART 12 - CALIFORNIA REFERENCED STANDARDS CODE
- ANSI/TIA-222 (REV H)
- 2018 NFPA 101, LIFE SAFETY CODE
- 2019 NFPA 72, NATIONAL FIRE ALARM AND SIGNALING CODE
- 2019 NFPA 13, STANDARD FOR THE INSTALLATION OF SPRINKLER SYSTEMS

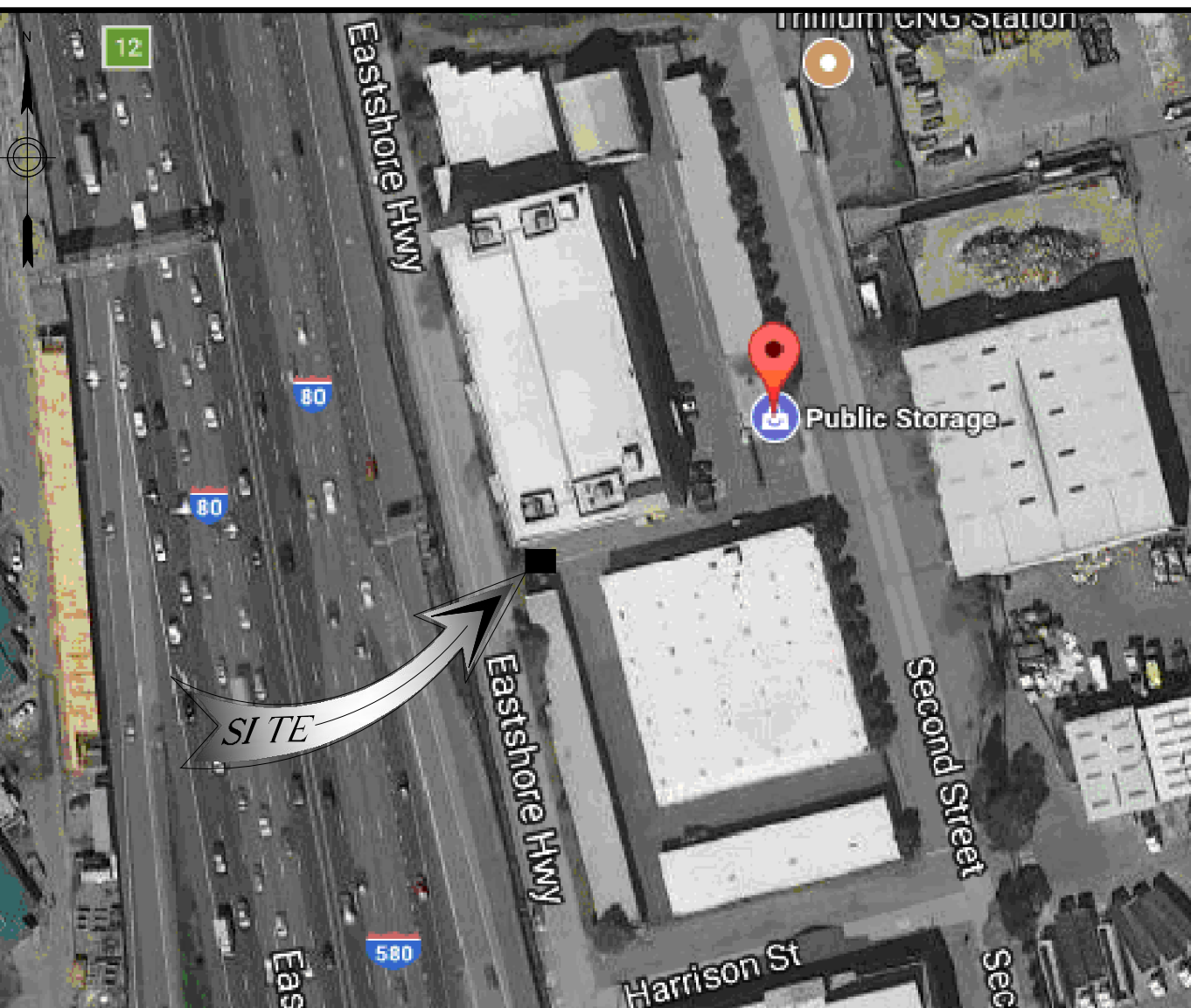
**VICINITY MAP**



**STATEMENTS**

STRUCTURAL:  
 STRUCTURAL ANALYSIS IS NOT WITHIN THE SCOPE OF WORK CONTAINED IN THIS DRAWINGS SET. FOR ANALYSIS OF EXISTING AND/OR PROPOSED COMPONENTS, REFER TO STRUCTURAL ANALYSIS PROVIDED UNDER SEPARATE COVER.  
 ANTENNA MOUNT ANALYSIS IS NOT WITHIN THE SCOPE OF WORK CONTAINED IN THIS DRAWING SET. FOR ANALYSIS OF MOUNT TO SUPPORT EXISTING AND/OR PROPOSED COMPONENTS, REFER TO ANTENNA MOUNT STRUCTURAL ANALYSIS PROVIDED UNDER SEPARATE COVER.

**LOCAL MAP**



**APPROVALS**

|                          |              |      |       |
|--------------------------|--------------|------|-------|
| AT&T PM:                 | APPROVED BY: | INT: | DATE: |
| VENDOR:                  |              |      |       |
| RF ENGINEER:             |              |      |       |
| LEASING / LANDLORD:      |              |      |       |
| ZONING:                  |              |      |       |
| CIVIL VENDOR (CM):       |              |      |       |
| UTILITY (POWER / TELCO): |              |      |       |

**DIRECTIONS FROM AT&T**

DIRECTIONS FROM AT&T'S OFFICE AT 5001 EXECUTIVE PKWY, SAN RAMON, CA 94583:

- START OUT GOING NORTHWEST.
- TURN RIGHT.
- TAKE THE 1ST LEFT.
- TURN RIGHT ONTO EXECUTIVE PKWY.
- TURN LEFT ONTO CAMINO RAMON.
- TURN LEFT ONTO CROW CANYON RD.
- MERGE ONTO I-680 N TOWARD SACRAMENTO.
- MERGE ONTO CA-24 W VIA EXIT 46A TOWARD OAKLAND/LAFAYETTE.
- MERGE ONTO I-580 W VIA EXIT 2B.
- TAKE THE GILMAN STREET EXIT, EXIT 12.
- TURN RIGHT ONTO GILMAN ST.
- TAKE THE 2ND LEFT ONTO 2ND ST.
- 1120 2ND ST, BERKELEY, CA 94710-1004. 1120 2ND ST IS ON THE LEFT.



GENERAL CONSTRUCTION NOTES:

- PLANS ARE INTENDED TO BE DIAGRAMMATIC OUTLINE ONLY. UNLESS NOTED OTHERWISE, THE WORK SHALL INCLUDE FURNISHING MATERIALS, EQUIPMENT, APPURTENANCES AND LABOR NECESSARY TO COMPLETE ALL INSTALLATIONS AS INDICATED ON THE DRAWINGS.
- THE CONTRACTOR SHALL OBTAIN, IN WRITING, AUTHORIZATION TO PROCEED BEFORE STARTING WORK ON ANY ITEM NOT CLEARLY DEFINED OR IDENTIFIED BY THE CONTRACT DOCUMENTS.
- CONTRACTOR SHALL CONTACT USA (UNDERGROUND SERVICE ALERT) AT (800) 227-2600, FOR UTILITY LOCATIONS, 48 HOURS BEFORE PROCEEDING WITH ANY EXCAVATION, SITE WORK OR CONSTRUCTION.
- THE CONTRACTOR SHALL INSTALL ALL EQUIPMENT AND MATERIALS IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS UNLESS SPECIFICALLY INDICATED OTHERWISE, OR WHERE LOCAL CODES OR REGULATIONS TAKE PRECEDENCE.
- ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CBC / UBC'S REQUIREMENTS REGARDING EARTHQUAKE RESISTANCE, FOR, BUT NOT LIMITED TO, PIPING, LIGHT FIXTURES, CEILING GRID, INTERIOR PARTITIONS, AND MECHANICAL EQUIPMENT. ALL WORK MUST COMPLY WITH LOCAL EARTHQUAKE CODES AND REGULATIONS.
- REPRESENTATIONS OF TRUE NORTH, OTHER THAN THOSE FOUND ON THE PLOT OF SURVEY DRAWINGS, SHALL NOT BE USED TO IDENTIFY OR ESTABLISH BEARING OF TRUE NORTH AT THE SITE. THE CONTRACTOR SHALL RELY SOLELY ON THE PLOT OF SURVEY DRAWING AND ANY SURVEYOR'S MARKINGS AT THE SITE FOR THE ESTABLISHMENT OF TRUE NORTH, AND SHALL NOTIFY THE ARCHITECT / ENGINEER PRIOR TO PROCEEDING WITH THE WORK IF ANY DISCREPANCY IS FOUND BETWEEN THE VARIOUS ELEMENTS OF THE WORKING DRAWINGS AND THE TRUE NORTH ORIENTATION AS DEPICTED ON THE CIVIL SURVEY. THE CONTRACTOR SHALL ASSUME SOLE LIABILITY FOR ANY FAILURE TO NOTIFY THE ARCHITECT / ENGINEER.
- THE BUILDING DEPARTMENT ISSUING THE PERMITS SHALL BE NOTIFIED AT LEAST TWO WORKING DAYS PRIOR TO THE COMMENCEMENT OF WORK, OR AS OTHERWISE STIPULATED BY THE CODE ENFORCEMENT OFFICIAL HAVING JURISDICTION.
- DO NOT EXCAVATE OR DISTURB BEYOND THE PROPERTY LINES OR LEASE LINES, UNLESS OTHERWISE NOTED.
- ALL EXISTING UTILITIES, FACILITIES, CONDITIONS, AND THEIR DIMENSIONS SHOWN ON THE PLAN HAVE BEEN PLOTTED FROM AVAILABLE RECORDS. THE ARCHITECT / ENGINEER AND THE OWNER ASSUME NO RESPONSIBILITY WHATSOEVER AS TO THE SUFFICIENCY OR THE ACCURACY OF THE INFORMATION SHOWN ON THE PLANS, OR THE MANNER OF THEIR REMOVAL OR ADJUSTMENT. CONTRACTORS SHALL BE RESPONSIBLE FOR DETERMINING EXACT LOCATION OF ALL EXISTING UTILITIES AND FACILITIES PRIOR TO START OF CONSTRUCTION. CONTRACTORS SHALL ALSO OBTAIN FROM EACH UTILITY COMPANY DETAILED INFORMATION RELATIVE TO WORKING SCHEDULES AND METHODS OF REMOVING OR ADJUSTING EXISTING UTILITIES.
- CONTRACTOR SHALL VERIFY ALL EXISTING UTILITIES, BOTH HORIZONTAL AND VERTICALLY, PRIOR TO THE START OF CONSTRUCTION. ANY DISCREPANCIES OR DOUBTS AS TO THE INTERPRETATION OF PLANS SHOULD BE IMMEDIATELY REPORTED TO THE ARCHITECT / ENGINEER FOR RESOLUTION AND INSTRUCTION, AND NO FURTHER WORK SHALL BE PERFORMED UNTIL THE DISCREPANCY IS CHECKED AND CORRECTED BY THE ARCHITECT / ENGINEER. FAILURE TO SECURE SUCH INSTRUCTION MEANS CONTRACTOR WILL HAVE WORKED AT HIS/HER OWN RISK AND EXPENSE.
- ALL NEW AND EXISTING UTILITY STRUCTURES ON SITE AND IN AREAS TO BE DISTURBED BY CONSTRUCTION SHALL BE ADJUSTED TO FINISH ELEVATIONS PRIOR TO FINAL INSPECTION OF WORK.
- ANY DRAIN AND/OR FIELD TILE ENCOUNTERED / DISTURBED DURING CONSTRUCTION SHALL BE RETURNED TO ITS ORIGINAL CONDITION PRIOR TO COMPLETION OF WORK. SIZE, LOCATION AND TYPE OF ANY UNDERGROUND UTILITIES OR IMPROVEMENTS SHALL BE ACCURATELY NOTED AND PLACED ON "AS-BUILT" DRAWINGS BY GENERAL CONTRACTOR, AND ISSUED TO THE ARCHITECT / ENGINEER AT COMPLETION OF PROJECT.
- ALL TEMPORARY EXCAVATIONS FOR THE INSTALLATION OF FOUNDATIONS, UTILITIES, ETC., SHALL BE PROPERLY LAID BACK OR BRACED IN ACCORDANCE WITH CORRECT OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) REQUIREMENTS.
- INCLUDE MISC. ITEMS PER AT&T SPECIFICATIONS

A.B. ANCHOR BOLT  
 ABV. ABOVE  
 ACCA ANTENNA CABLE COVER ASSEMBLY  
 ADD'L ADDITIONAL  
 A.F.F. ABOVE FINISHED FLOOR  
 A.F.G. ABOVE FINISHED GRADE  
 ALUM. ALUMINUM  
 ALT. ALTERNATE  
 ANT. ANTENNA  
 APPRX. APPROXIMATE(LY)  
 ARCH. ARCHITECT(URAL)  
 AWG. AMERICAN WIRE GAUGE  
 BLDG. BUILDING  
 BLK. BLOCK  
 BLKG. BLOCKING  
 BM. BEAM  
 B.N. BOUNDARY NAILING  
 BTCW. BARE TINNED COPPER WIRE  
 B.O.F. BOTTOM OF FOOTING  
 B/U BACK-UP CABINET  
 CAB. CABINET  
 C.ANT. CANTILEVER(ED)  
 C.I.P. CAST IN PLACE  
 CLG. CEILING  
 CLR. CLEAR  
 COL. COLUMN  
 CONC. CONCRETE  
 CONN. CONNECTION(OR)  
 CONST. CONSTRUCTION  
 CONT. CONTINUOUS  
 d PENNY (NAILS)  
 DBL. DOUBLE  
 DEPT. DEPARTMENT  
 D.F. DOUGLAS FIR  
 DIA. DIAMETER  
 DIAG. DIAGONAL  
 DIM. DIMENSION  
 DWG. DRAWING(S)  
 DWL. DOWEL(S)  
 EA. EACH  
 EL. ELEVATION  
 ELEC. ELECTRICAL  
 ELEV. ELEVATOR  
 EMT. ELECTRICAL METALLIC TUBING  
 E.N. EDGE NAIL  
 ENG. ENGINEER  
 EQ. EQUAL  
 EXP. EXPANSION  
 EXST.(E) EXISTING  
 EXT. EXTERIOR  
 FAB. FABRICATION(OR)  
 F.F. FINISH FLOOR  
 F.G. FINISH GRADE  
 FIN. FINISH(ED)  
 FLR. FLOOR

ANCHOR BOLT  
 ABOVE  
 ANTENNA CABLE COVER ASSEMBLY  
 ADDITIONAL  
 ABOVE FINISHED FLOOR  
 ABOVE FINISHED GRADE  
 ALUMINUM  
 ALTERNATE  
 ANTENNA  
 APPROXIMATE(LY)  
 ARCHITECT(URAL)  
 AMERICAN WIRE GAUGE  
 BUILDING  
 BLOCK  
 BLOCKING  
 BEAM  
 BOUNDARY NAILING  
 BARE TINNED COPPER WIRE  
 BOTTOM OF FOOTING  
 BACK-UP CABINET  
 CABINET  
 CANTILEVER(ED)  
 CAST IN PLACE  
 CEILING  
 CLEAR  
 COLUMN  
 CONCRETE  
 CONNECTION(OR)  
 CONSTRUCTION  
 CONTINUOUS  
 PENNY (NAILS)  
 DOUBLE  
 DEPARTMENT  
 DOUGLAS FIR  
 DIAMETER  
 DIAGONAL  
 DIMENSION  
 DRAWING(S)  
 DOWEL(S)  
 EACH  
 ELEVATION  
 ELECTRICAL  
 ELEVATOR  
 ELECTRICAL METALLIC TUBING  
 EDGE NAIL  
 ENGINEER  
 EQUAL  
 EXPANSION  
 EXISTING  
 EXTERIOR  
 FABRICATION(OR)  
 FINISH FLOOR  
 FINISH GRADE  
 FINISH(ED)  
 FLOOR

FDN. FOUNDATION  
 F.O.C. FACE OF CONCRETE  
 F.O.M. FACE OF MASONRY  
 F.O.S. FACE OF STUD  
 F.O.W. FACE OF WALL  
 F.S. FINISH SURFACE  
 FT.(') FOOT (FEET)  
 FTG. FOOTING  
 G. GROWTH (CABINET)  
 GA. GAUGE  
 GI. GALVANIZE(D)  
 G.F.I. GROUND FAULT CIRCUIT  
 INTERRUPTER  
 GLB. (GLU-LAM) GLUE LAMINATED BEAM  
 GPS GLOBAL POSITIONING SYSTEM  
 GRND. GROUND  
 HDR. HEADER  
 HGR. HANGER  
 HT. HEIGHT  
 ICGB. ISOLATED COPPER GROUND BUS  
 IN. (") INCH(ES)  
 INT. INTERIOR  
 LB.(#) POUND(S)  
 L.B. LAG BOLTS  
 L.F. LINEAR FEET (FOOT)  
 L. LONG(ITUDINAL)  
 MAS. MASONRY  
 MAX. MAXIMUM  
 M.B. MACHINE BOLT  
 MECH. MECHANICAL  
 MFR. MANUFACTURER  
 MIN. MINIMUM  
 MISC. MISCELLANEOUS  
 MTL. METAL  
 (N) NEW  
 NO.(#) NUMBER  
 N.T.S. NOT TO SCALE  
 O.C. ON CENTER  
 OPNG. OPENING  
 P/C PRECAST CONCRETE  
 PCS PERSONAL COMMUNICATION  
 PLY. PLYWOOD  
 PPC POWER PROTECTION CABINET  
 PRC PRIMARY RADIO CABINET  
 P.S.F. POUNDS PER SQUARE FOOT  
 P.S.I. POUNDS PER SQUARE INCH  
 P.T. PRESSURE TREATED  
 PWR. POWER (CABINET)  
 QTY. QUANTITY  
 RAD.(R) RADIUS  
 REF. REFERENCE  
 REINF. REINFORCEMENT(ING)  
 REQ'D/ REQUIRED  
 RGS. RIGID GALVANIZED STEEL

ABBREVIATIONS:

FOUNDATION  
 FACE OF CONCRETE  
 FACE OF MASONRY  
 FACE OF STUD  
 FACE OF WALL  
 FINISH SURFACE  
 FOOT (FEET)  
 FOOTING  
 GROWTH (CABINET)  
 GAUGE  
 GALVANIZE(D)  
 GROUND FAULT CIRCUIT  
 GLUE LAMINATED BEAM  
 GLOBAL POSITIONING SYSTEM  
 GROUND  
 HEADER  
 HANGER  
 HEIGHT  
 ISOLATED COPPER GROUND BUS  
 INCH(ES)  
 INTERIOR  
 POUND(S)  
 LAG BOLTS  
 LINEAR FEET (FOOT)  
 LONG(ITUDINAL)  
 MASONRY  
 MAXIMUM  
 MACHINE BOLT  
 MECHANICAL  
 MANUFACTURER  
 MINIMUM  
 MISCELLANEOUS  
 METAL  
 NEW  
 NUMBER  
 NOT TO SCALE  
 ON CENTER  
 OPENING  
 PRECAST CONCRETE  
 PERSONAL COMMUNICATION  
 PLYWOOD  
 POWER PROTECTION CABINET  
 PRIMARY RADIO CABINET  
 POUNDS PER SQUARE FOOT  
 POUNDS PER SQUARE INCH  
 PRESSURE TREATED  
 POWER (CABINET)  
 QUANTITY  
 RADIUS  
 REFERENCE  
 REINFORCEMENT(ING)  
 REQUIRED  
 RIGID GALVANIZED STEEL

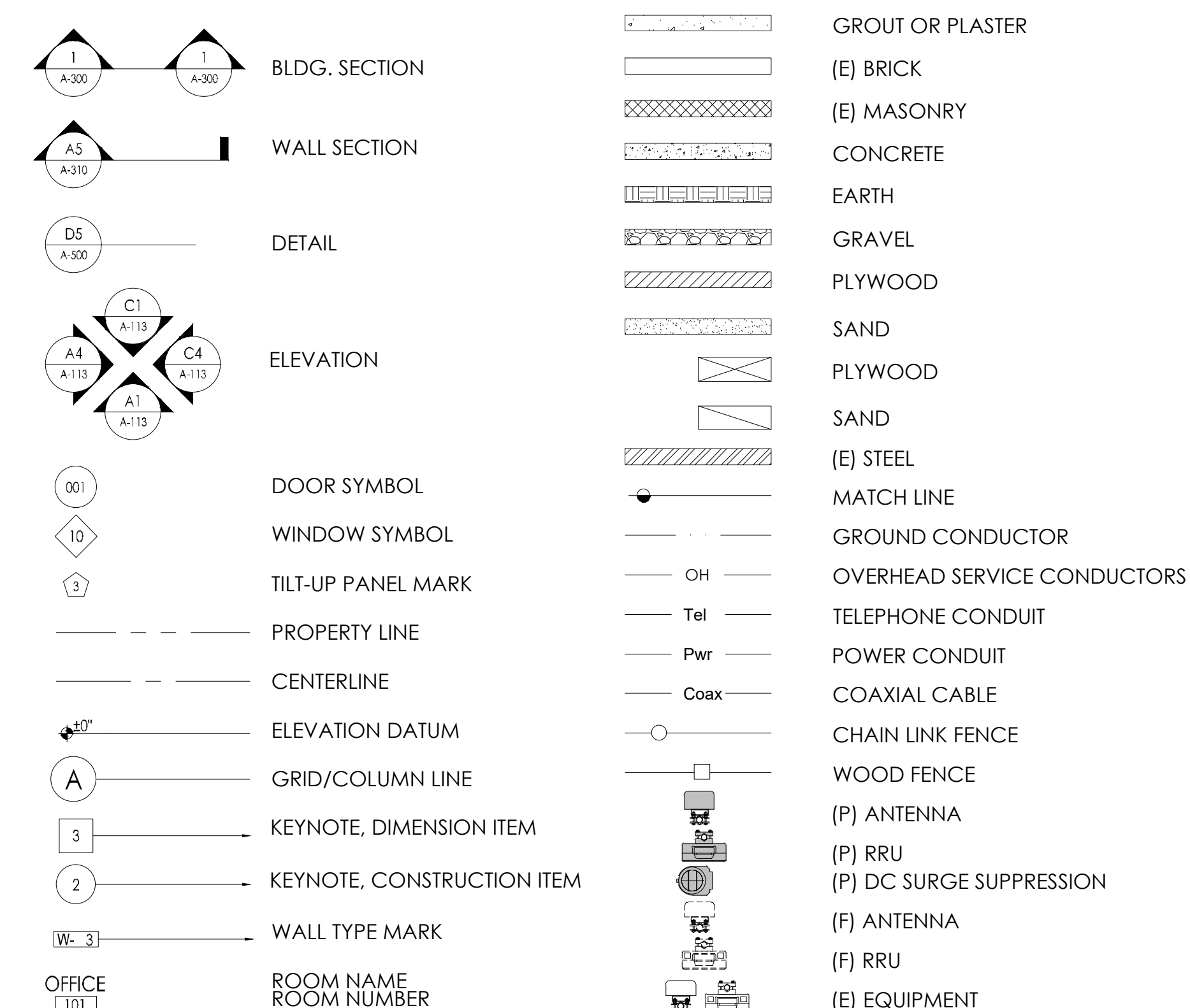
SCH. SCHEDULE  
 SHT. SHEET  
 SIM. SIMILAR  
 SPEC. SPECIFICATIONS  
 SQ. SQUARE  
 S.S. STAINLESS STEEL  
 STD. STANDARD  
 STL. STEEL  
 STRUC. STRUCTURAL  
 TEMP. TEMPORARY  
 THK. THICK(NESS)  
 T.N. TOE NAIL  
 T.O.A. TOP OF ANTENNA  
 T.O.C. TOP OF CURB  
 T.O.F. TOP OF FOUNDATION  
 T.O.P. TOP OF PLATE (PARAPET)  
 T.O.S. TOP OF STEEL  
 T.O.W. TOP OF WALL  
 TYP. TYPICAL  
 U.G. UNDER GROUND  
 U.L. UNDERWRITERS LABORATORY  
 U.N.O. UNLESS NOTED OTHERWISE  
 V.I.F. VERIFY IN FIELD  
 W. WIDE (WIDTH)  
 W/ WITH  
 WD. WOOD  
 W.P. WEATHERPROOF  
 WT. WEIGHT  
 C CENTERLINE  
 P PLATE, PROPERTY LINE

SCHEDULE  
 SHEET  
 SIMILAR  
 SPECIFICATIONS  
 SQUARE  
 STAINLESS STEEL  
 STANDARD  
 STEEL  
 STRUCTURAL  
 TEMPORARY  
 THICK(NESS)  
 TOE NAIL  
 TOP OF ANTENNA  
 TOP OF CURB  
 TOP OF FOUNDATION  
 TOP OF PLATE (PARAPET)  
 TOP OF STEEL  
 TOP OF WALL  
 TYPICAL  
 UNDER GROUND  
 UNDERWRITERS LABORATORY  
 UNLESS NOTED OTHERWISE  
 VERIFY IN FIELD  
 WIDE (WIDTH)  
 WITH  
 WOOD  
 WEATHERPROOF  
 WEIGHT  
 CENTERLINE  
 PLATE, PROPERTY LINE

APPLICABLE CODES, REGULATIONS AND STANDARDS:

- SUBCONTRACTOR'S WORK SHALL COMPLY WITH ALL APPLICABLE NATIONAL, STATE, AND LOCAL CODES AS ADOPTED BY THE LOCAL AUTHORITY HAVING JURISDICTION (AHJ) FOR THE LOCATION.
- THE EDITION OF THE AHJ ADOPTED CODES AND STANDARDS IN EFFECT ON THE DATE OF CONTRACT AWARD SHALL GOVERN THE DESIGN.
- SUBCONTRACTOR'S WORK SHALL COMPLY WITH THE LATEST EDITION OF THE FOLLOWING STANDARDS:
  - AMERICAN CONCRETE INSTITUTE (ACI) 318, BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE
  - AMERICAN INSTITUTE OF STEEL CONSTRUCTION (AISC), MANUAL OF STEEL CONSTRUCTION, ASD, NINTH EDITION
  - TELECOMMUNICATIONS INDUSTRY ASSOCIATION (TIA) 222-G, STRUCTURAL STANDARD FOR STRUCTURAL ANTENNA TOWER AND ANTENNA SUPPORTING STRUCTURES
  - INSTITUTE FOR ELECTRICAL AND ELECTRONICS ENGINEERS (IEEE) 81, GUIDE FOR MEASURING EARTH RESISTIVITY, GROUND IMPEDANCE, AND EARTH SURFACE POTENTIALS OF A GROUND SYSTEM IEEE 1100 (1999) RECOMMENDED PRACTICE FOR POWERING AND GROUNDING OF ELECTRICAL EQUIPMENT.
  - IEEE C62.41, RECOMMENDED PRACTICES ON SURGE VOLTAGES IN LOW VOLTAGE AC POWER CIRCUITS (FOR LOCATION CATEGORY "C3" AND "HIGH SYSTEM EXPOSURE")
  - TIA 607 COMMERCIAL BUILDING GROUNDING AND BONDING REQUIREMENTS FOR TELECOMMUNICATIONS TELCORDIA GR-63 NETWORK
  - EQUIPMENT-BUILDING SYSTEM (NEBS): PHYSICAL PROTECTION
  - TELCORDIA GR-347 CENTRAL OFFICE POWER WIRING
  - TELCORDIA GR-1275 GENERAL INSTALLATION REQUIREMENTS
  - TELCORDIA GR-1503 COAXIAL CABLE CONNECTIONS
  - ANY AND ALL OTHER LOCAL & STATE LAWS AND REGULATIONS
  - FOR ANY CONFLICTS BETWEEN SECTIONS OF LISTED CODES AND STANDARDS REGARDING MATERIAL, METHODS OF CONSTRUCTION, OR OTHER REQUIREMENTS, THE MOST RESTRICTIVE SHALL GOVERN. WHERE THERE IS CONFLICT BETWEEN A GENERAL REQUIREMENT AND A SPECIFIC REQUIREMENT, THE SPECIFIC REQUIREMENT SHALL GOVERN.

SYMBOLS LEGEND:



PREPARED FOR

5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:

2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T SITE NO: CCL00165  
 PACE NO: MRSFR033255  
 DRAWN BY: BH  
 CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS PER LEASE AREA        |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRW REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRW REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensor:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**

**PUBLIC STORAGE**

1120 SECOND ST.  
BERKELEY, CA 94710

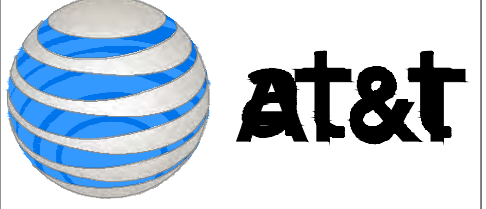
Sheet Title:

**GENERAL NOTES**

Sheet Number:

**GN-1**





This Site Operated by:  
**AT&T MOBILITY**  
5001 EXECUTIVE PKWY,  
SAN RAMON, CA 94583  
IN CASE OF FIRE AND THE NEED FOR SHUTDOWN  
TO DEACTIVATE ANTENNAS CALL THE  
FOLLOWING NUMBER:  
For 24 Hour Emergency Contact and Access Please Call:  
(800)832-6662

Reference Site#: #####

Site Address: #####

10 FENCED COMPOUND SIGNAGE  
N.T.S.



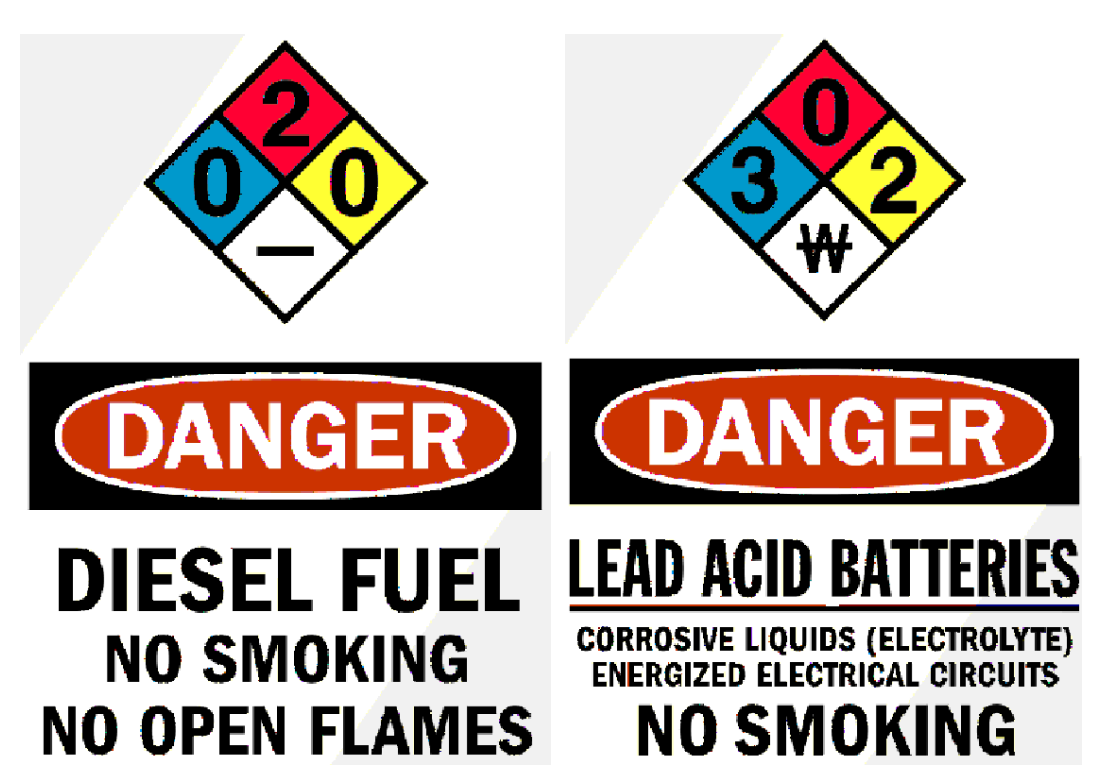
**DANGER**  
**NO TRESPASSING**

9 FENCED COMPOUND SIGNAGE  
N.T.S.



**NOTICE**  
**AUTHORIZED PERSONNEL ONLY**

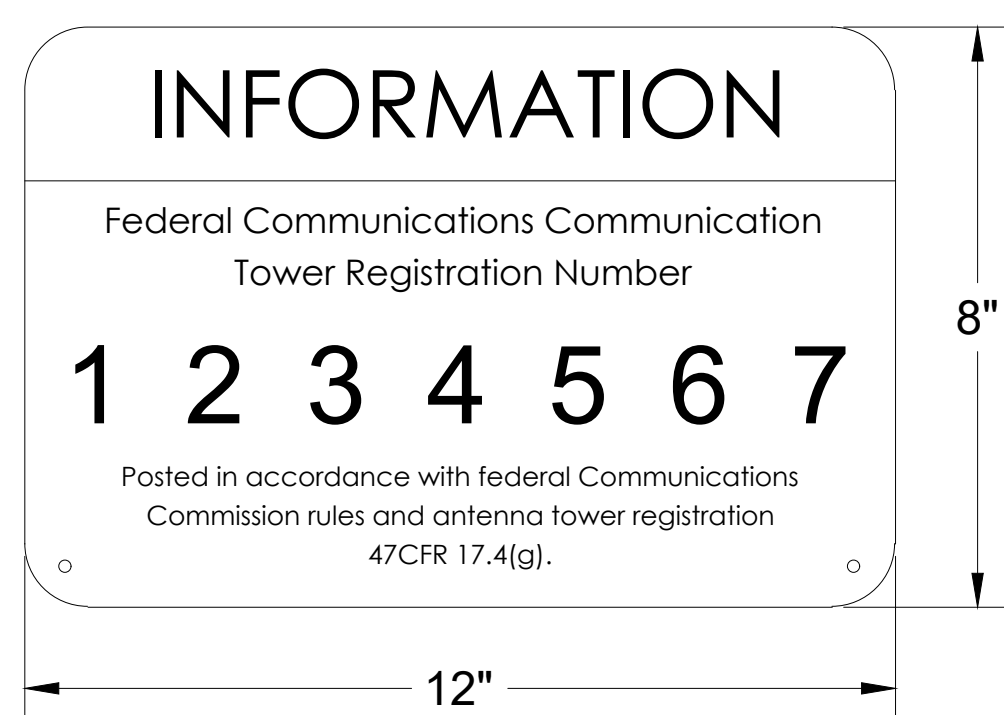
8 DOOR / EQUIPMENT SIGN  
N.T.S.



**DANGER**  
**DIESEL FUEL**  
**NO SMOKING**  
**NO OPEN FLAMES**

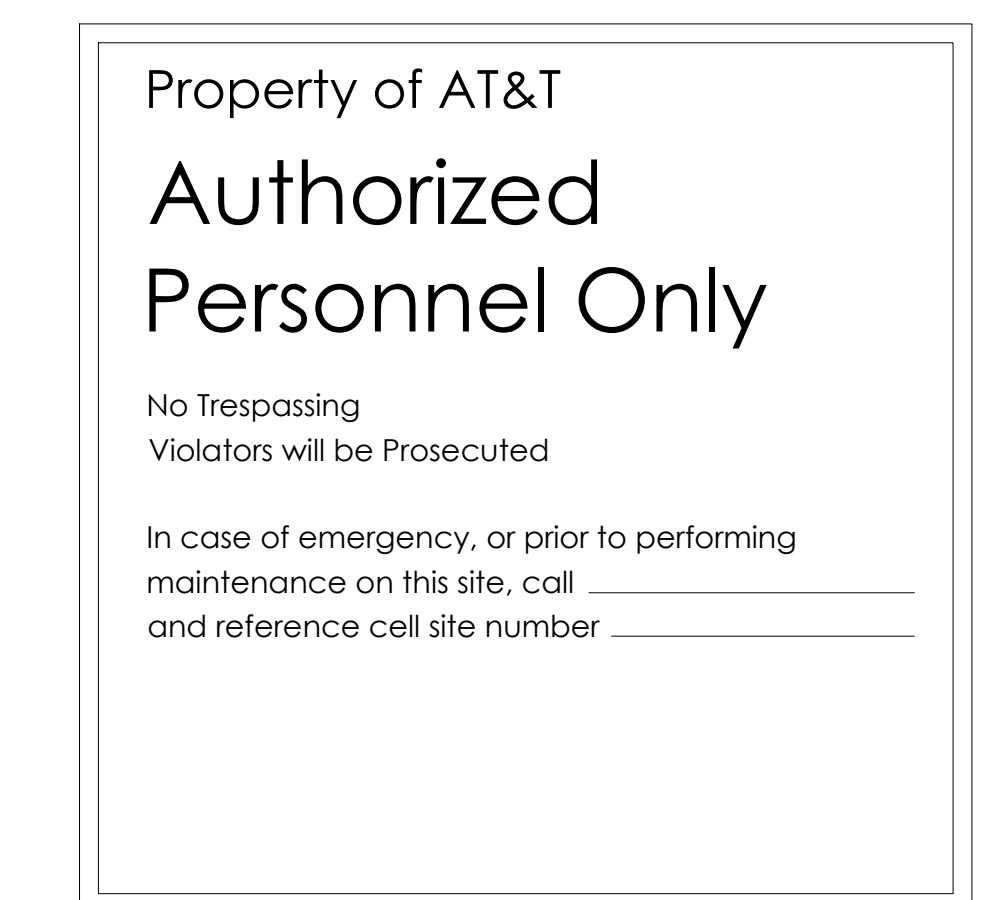
**DANGER**  
**LEAD ACID BATTERIES**  
**CORROSIVE LIQUIDS (ELECTROLYTE)**  
**ENERGIZED ELECTRICAL CIRCUITS**  
**NO SMOKING**

7 NFPA HAZARD SIGN - TYPICAL  
N.T.S.



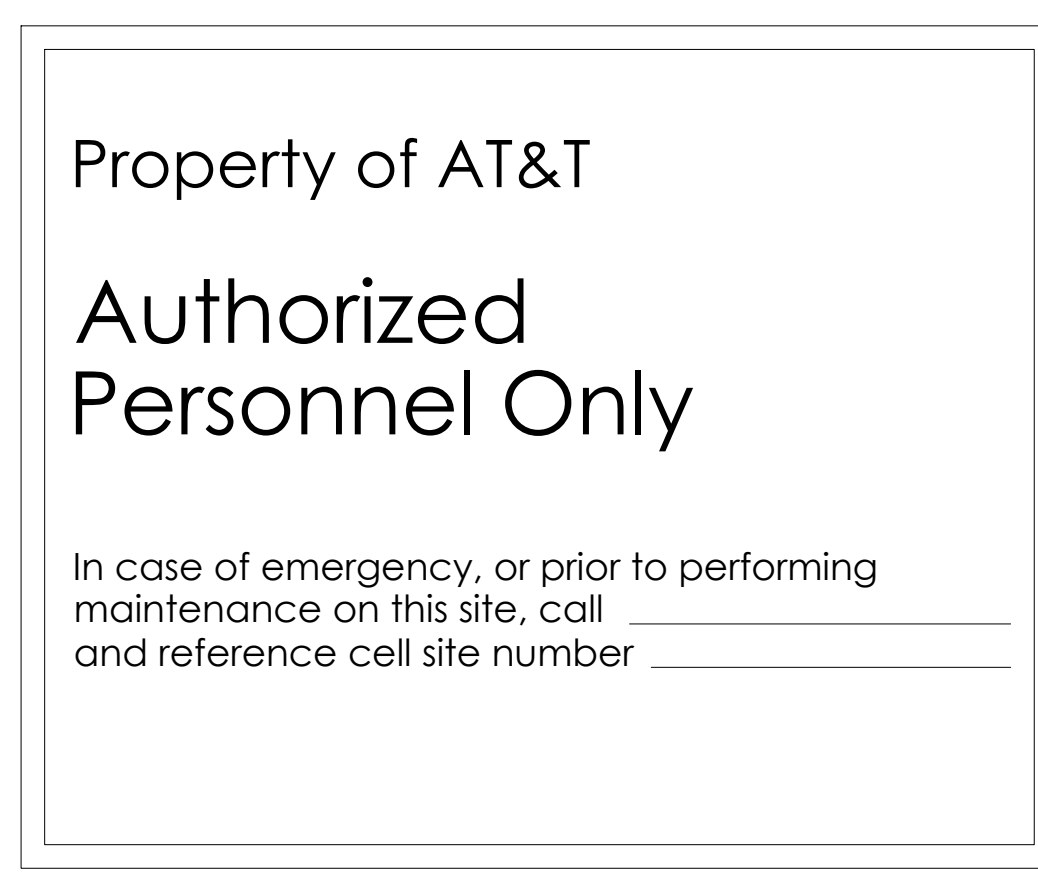
**INFORMATION**  
Federal Communications Communication  
Tower Registration Number  
**1 2 3 4 5 6 7**  
Posted in accordance with federal Communications  
Commission rules and antenna tower registration  
47CFR 17.4(g).

6 FCC ASR SIGNAGE  
N.T.S.



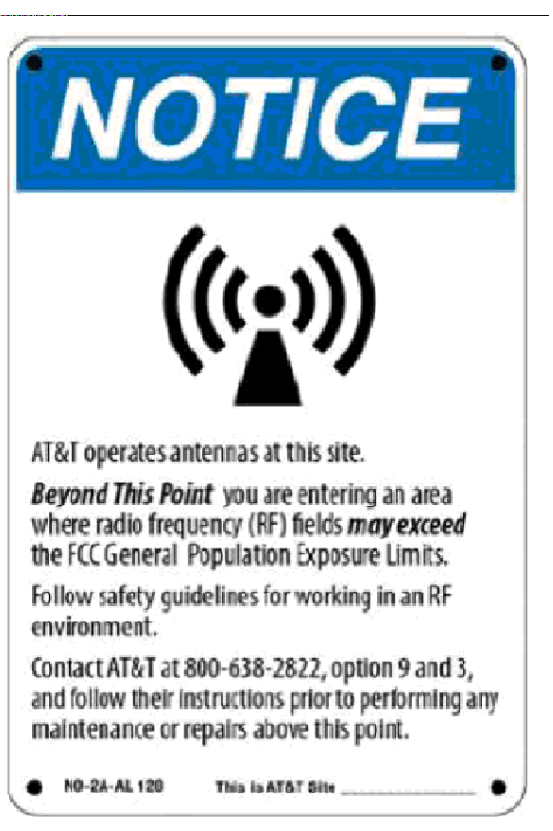
Property of AT&T  
**Authorized Personnel Only**  
No Trespassing  
Violators will be Prosecuted  
In case of emergency, or prior to performing  
maintenance on this site, call \_\_\_\_\_  
and reference cell site number \_\_\_\_\_

5 GATE SIGNAGE  
N.T.S.



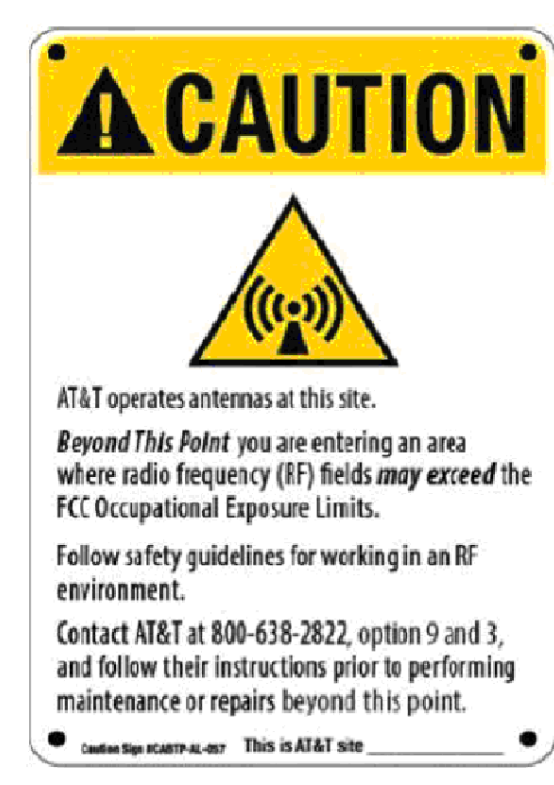
Property of AT&T  
**Authorized Personnel Only**  
In case of emergency, or prior to performing  
maintenance on this site, call \_\_\_\_\_  
and reference cell site number \_\_\_\_\_

4 SHELTER / CABINET DOORS SIGNAGE  
N.T.S.



**NOTICE**  
AT&T operates antennas at this site.  
*Beyond This Point* you are entering an area  
where radio frequency (RF) fields may exceed  
the FCC General Population Exposure Limits.  
Follow safety guidelines for working in an RF  
environment.  
Contact AT&T at 800-638-2822, option 9 and 3,  
and follow their instructions prior to performing  
maintenance or repairs above this point.

Notice Sign 2  
(8" x 12")



**CAUTION**  
AT&T operates antennas at this site.  
*Beyond This Point* you are entering an area  
where radio frequency (RF) fields may exceed the  
FCC Occupational Exposure Limits.  
Follow safety guidelines for working in an RF  
environment.  
Contact AT&T at 800-638-2822, option 9 and 3,  
and follow their instructions prior to performing  
maintenance or repairs beyond this point.

Caution Sign 2  
(8" x 12")



**CAUTION**  
AT&T operates antennas at this site.  
*In The Striped Area* you are entering an area  
where radio frequency (RF) fields may exceed the  
FCC Occupational Exposure Limits.  
Follow safety guidelines for working in an RF  
environment.  
Contact AT&T at 800-638-2822, option 9 and 3,  
and follow their instructions prior to performing  
maintenance or repairs within the striped area.

Caution Sign 2A  
(8" x 12")  
Use only if instructed by RF Safety



**CAUTION**  
**On this tower:**  
Radio frequency (RF) fields near some antennas  
may exceed the FCC Occupational Exposure Limits.  
Contact AT&T at 800-638-2822, option 9 and 3, and  
follow their instructions prior to performing  
maintenance or repairs beyond this point.  
Personnel climbing this tower should be trained  
for working in RF environments and use a personal  
RF monitor if working near active antennas.

Caution Sign 2B Tower  
(8" x 12")  
Use for Towers only



**CAUTION**  
AT&T operates antennas at this site.  
*Beyond This Point* you are entering an area  
where radio frequency (RF) fields may exceed the  
FCC Occupational Exposure Limits.  
Follow safety guidelines for working in an RF  
environment.  
Contact AT&T at 800-638-2822, option 9 and 3,  
and follow their instructions prior to performing  
maintenance or repairs beyond this point.

Caution Sign 2C Parapet  
(5" x 7")

1. CONTRACTOR SHALL INSTALL ALL INFORMATION SIGNAGE IN ACCORDANCE w/ AT&T WIRELESS DOCUMENT #03-0074, RF EXPOSURE POLICY AND RF SAFETY COMPLIANCE PROGRAM, LATEST EDITION.

2. FABRICATION:

\*SIGN 1-1: ENTRANCE DOOR, SEE DETAIL 1A, THIS SHEET

SIGN 1 IS TO BE MADE ON THE 50 MIL ALUMINUM SHEETING (SIZE 8 INCHES BY 12 INCHES) w/ FOUR (4) 1/4 INCH MOUNTING HOLES, ONE EACH CORNER OF THE SIGN FOR MOUNTING w/ HARDWARE w/ TIE WRAPS. THE MAIN BACKGROUND COLOR IS TO BE WHITE FRONT & BACK w/ BLACK LETTERING.

THE INFORMATION BAND SHALL BE 1.2 INCH SOLID GREEN BAND w/ 0.5 INCH HIGH BLACK LETTERING. THE BODY TEXT SHALL BE IN BLACK LETTERING w/ 0.2 INCH HIGH LETTERS. THE REF LINE SHALL BE IN 1/8 INCH LETTERS.

THE PLACEMENT OF TEXT SHALL BE DONE IN A MANNER THAT WILL PERMIT EASY READING FROM A DISTANCE OF APPROXIMATELY 6 FEET IN FRONT OF THE SIGN.

2 ALERTING & INFORMATION SIGNAGE  
N.T.S.

ALL PAINT WILL BE BAKED w/ ENAMEL w/ UV PROTECTIVE COATING OVER THE FACE OF THE SIGN.

\*SIGN 1-2: POLE, SEE DETAIL 1B, THIS SHEET

SIGN 2 MUST BE A NON METALLIC LABEL w/ AN ADHESIVE BACKING. THE LABEL SHALL BE MADE USING VINYL OR SIMILAR WEATHERPROOF MATERIAL. THE LABEL SHALL BE APPROXIMATELY 5X7 INCHES w/ A WHITE BACKGROUND AND BLACK LETTERING. THE GREEN BAND SHALL BE 1.375 INCH IN HEIGHT & THE LETTERING SHALL BE BLACK w/ 0.75 INCH HIGH LETTERS. THE TEXT LETTERING SHALL BE BLACK w/ 1/8 INCH HIGH LETTERS. UV PROTECTION SHALL BE PLACED OVER THE FRONT OF THE LABEL.

\*SIGN 1-3: BACK OF ANTENNAS, SEE DETAIL 1C & 3, THIS SHEET

\*SIGN 3 IS A 1 INCH X 2 INCH PANEL THAT CAN BE APPLIED TO THE BACK OR SIDE OF AN ANTENNA TO IDENTIFY IT AS AN AT&T ANTENNA.

\*SIGN 1-4: SIDE OF ANTENNAS, SEE DETAIL 1D & 3, THIS SHEET

SIGN 4 IS MADE FROM TRANSPARENT MATERIAL 1-1/2 INCHES WIDE & 24 INCHES LONG. THE LETTERING IS TO BE BLACK w/ 1/8 INCH LETTERING IN A VERTICAL COLUMN. THE SPACING BETWEEN WORDS MUST BE SUCH THAT IT IS EASILY READ & FILLS THE LENGTH OF THE SIGN.

SIGNAGE AND STRIPING INFORMATION

- THE FOLLOWING INFORMATION IS A GUIDELINE w/ RESPECT TO PREVAILING STANDARDS LIMITING HUMAN EXPOSURE TO RADIO FREQUENCY ENERGY AND SHOULD BE USED AS SUCH. IF THE SITE'S EMF REPORT OR ANY LOCAL, STATE OR FEDERAL GUIDELINES OR REGULATIONS SHOULD BE IN CONFLICT w/ ANY PART OF THESE NOTES OR PLANS, THE MORE RESTRICTIVE GUIDELINE OR REGULATION SHALL BE FOLLOWED AND OVERRIDE THE LESSER.
- THE PUBLIC LIMIT OF RF EXPOSURE ALLOWED BY AT&T IS 1mWcm<sup>2</sup> AND THE OCCUPATIONAL LIMIT OF RF EXPOSURE ALLOWED BY AT&T IS 5mWcm<sup>2</sup>
- IF THE BOTTOM OF THE ANTENNA IS MOUNTED (8) EIGHT FEET ABOVE THE GROUND OR WORKING PLATFORM LINE OF THE PERSONAL COMMUNICATION SYSTEM (PCS) AND DOES NOT EXCEED THE PUBLIC LIMIT OF RF EXPOSURE LIMIT THEN NO STRIPING OR BARRICADES SHOULD BE NEEDED.
- IF THE PUBLIC LIMIT OF RF EXPOSURE ON THE SITE IS EXCEEDED AND THE AREA IS PUBLICLY ACCESSIBLE (e.g. ROOF ACCESS DOOR THAT CANNOT BE LOCKED, OR FIRE EGRESS) THEN BOTH BARRICADES AND STRIPING SHALL BE PLACED AROUND THE ANTENNAS. THE EXACT EXTENT OF THE BARRICADES AND STRIPING SHALL BE DETERMINED BY THE EMF REPORT FOR THE SITE DONE BEFORE OR SHORTLY AFTER COMPLETION OF SITE CONSTRUCTION. USE THE PLANS AS A GUIDELINE FOR PLACEMENT OF SUCH BARRICADES AND STRIPING.
- IF THE PUBLIC LIMIT OF RF EXPOSURE ON THE SITE IS EXCEEDED AND THE AREA IS PUBLICLY ACCESSIBLE (e.g. ROOF ACCESS DOOR THAT CANNOT BE LOCKED, OR FIRE EGRESS) THEN BOTH BARRICADES AND STRIPING SHALL BE PLACED AROUND THE ANTENNAS. THE EXACT EXTENT OF THE BARRICADES AND STRIPING SHALL BE DETERMINED BY THE EMF REPORT FOR THE SITE DONE BEFORE OR SHORTLY AFTER COMPLETION OF SITE CONSTRUCTION. USE THE PLANS AS A GUIDELINE FOR PLACEMENT OF SUCH BARRICADES AND STRIPING.
- ALL TRANSMIT ANTENNAS REQUIRE A THREE LANGUAGE WARNING SIGN WRITTEN IN ENGLISH, SPANISH, AND CHINESE. THIS SIGN SHALL BE PROVIDED TO THE CONTRACTOR Y THE AT&T CONSTRUCTION PROJECT MANAGER AT THE TIME OF CONSTRUCTION. THE LARGER SIGN SHALL BE PLACED IN PLAIN SIGHT AT ALL ROOF ACCESS LOCATIONS AND ON ALL BARRICADES. THE SMALLER SIGN SHALL BE PLACED ON THE ANTENNA ENCLOSURES IN A MANNER THAT IS EASILY SEEN BY ANY PERSON ON THE ROOF. WARNING SIGNS SHALL COMPLY w/ ANSI C95.2 COLOR, SYMBOL, AND CONTENT CONVENTIONS. ALL SIGNS SHALL HAVE AT&T'S NAME AND THE COMPANY CONTACT INFORMATION (e.g. TELEPHONE NUMBER) TO ARRANGE FOR ACCESS TO THE RESTRICTED AREAS. THIS TELEPHONE NUMBER SHALL BE PROVIDED TO THE CONTRACTOR BY THE AT&T CONSTRUCTION PROJECT MANAGER AT THE TIME OF CONSTRUCTION. PHOTOS OF ALL STRIPING, BARRICADES & SIGNAGE SHALL BE PART OF THE CONTRACTORS CLOSE OUT PACKAGE & SHALL BE TURNED INTO THE AT&T CONSTRUCTION PACKAGE & SHALL BE TURNED INTO THE AT&T CONSTRUCTION PROJECT MANAGER AT THE END OF CONSTRUCTION. STRIPING SHALL BE DONE w/ FADE RESISTANT YELLOW SAFETY PAINT IN A CROSS-HATCH PATTERN AS DETAILED BY THE CONSTRUCTION DRAWINGS. ALL BARRICADES SHALL BE MADE OF AN RF FRIENDLY MATERIAL SO AS NOT TO BLOCK OR INTERFERE w/ THE OPERATION OF THE ANTENNAS. BARRICADES SHALL BE PAINTED w/ FADE RESTRAINT YELLOW SAFETY PAINT. THE CONTRACTOR SHALL PROVIDE ALL RF FRIENDLY BARRICADES NEEDED, & SHALL PROVIDE THE AT&T CONSTRUCTION PROJECT MANAGER w/ A DETAILED SHOP DRAWING OF EACH BARRICADE. UPON CONSTRUCTION COMPLETION.

1 GENERAL NOTES  
N.T.S.

PREPARED FOR



5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:



2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T SITE NO: CCL00165  
PACE NO: MRSFR033255  
DRAWN BY: BH  
CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS PER LEASE AREA        |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensor:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**  
**PUBLIC STORAGE**  
1120 SECOND ST.  
BERKELEY, CA 94710

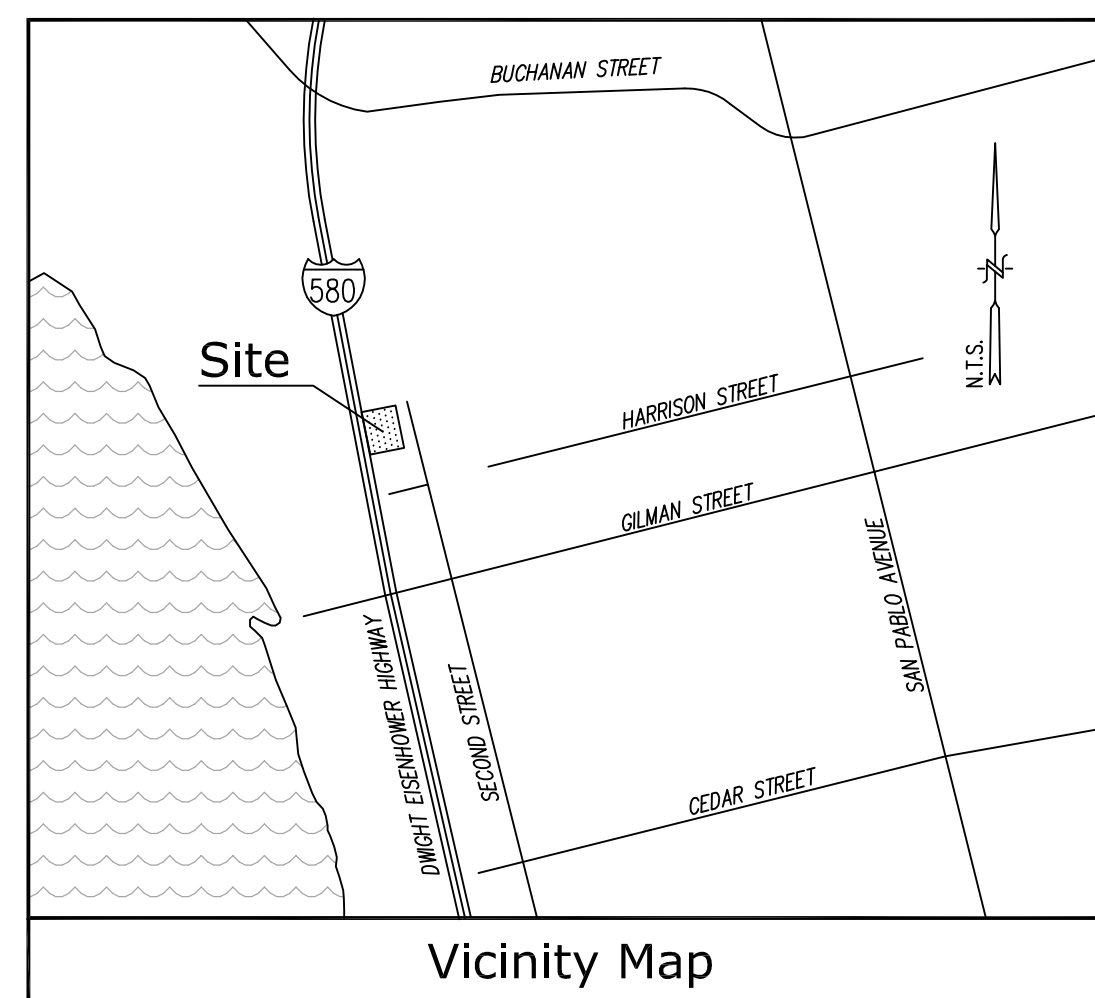
Sheet Title:

**SITE SIGNAGE**

Sheet Number:

**GN-2**





**Title Report**

PREPARED BY: STEWART TITLE GUARANTY COMPANY  
ORDER No.: 0180-253617  
DATED: NOVEMBER 9, 2016

**Legal Description**

THE LAND REFERRED TO IN THIS GUARANTEE IS DESCRIBED AS FOLLOWS:  
SITUATED IN THE CITY OF BERKELEY, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:  
BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERN LINE OF HARRISON STREET, FORMERLY DURANT STREET, WITH THE DIRECT EXTENSION NORTHERLY OF THE WESTERN LINE OF SECOND STREET; THENCE CONTINUING ALONG SAID DIRECT EXTENSION NORTH 13° 12' 38" WEST 593.07 FEET TO THE CENTERLINE OF CODORNICES CREEK; THENCE ALONG SAID CENTERLINE OF CODORNICES CREEK SOUTH 80° 05' 43" WEST 161.59 FEET AND NORTH 77° 14' 00" WEST 18.06 FEET TO THE EASTERN LINE OF THAT PARCEL OF LAND DESCRIBED IN THE DEED BY THE CITY OF BERKELEY TO THE STATE OF CALIFORNIA, DATED APRIL 10, 1944, RECORDED MAY 6, 1944, IN BOOK 4546 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, AT PAGE 200, SAID LINE ALSO BEING THE EASTERN LINE OF THE EASTSHORE FREEWAY; THENCE ALONG SAID EASTERN LINE, SOUTH 8° 48' 53" EAST 141.65 FEET; THENCE SOUTH 11° 21' 12" EAST 453.81 FEET TO A POINT OF CURVATURE; THENCE ALONG A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 15.00 FEET, THROUGH A CENTRAL ANGLE OF 91° 51' 18", AN ARC DISTANCE OF 24.05 FEET TO A POINT ON TANGENCY, SAID POINT ALSO BEING ON SAID NORTHERN LINE OF HARRISON STREET; THENCE ALONG SAID NORTHERN LINE NORTH 76° 47' 30" EAST 188.13 FEET TO THE POINT OF BEGINNING.

**Assessor's Parcel No.**

060-2381-002-02

**Easements**

- 8 THE FACT THAT THE OWNERSHIP OF SAID LAND DOES NOT INCLUDE ANY RIGHTS OF ACCESS TO THE STATE FREEWAY, SAID RIGHTS HAVING BEEN RELINQUISHED TOGETHER WITH A WAIVER OF ANY CLAIMS FOR DAMAGES, IN THE DEED TO THE STATE OF CALIFORNIA, RECORDED MAY 6, 1944 IN BOOK 4546, PAGE 200, OFFICIAL RECORDS (PLOTTED HEREON).
- 9 THE FACT THAT THE OWNERSHIP OF SAID LAND DOES NOT INCLUDE ANY RIGHTS OF ACCESS TO THE STATE FREEWAY, SAID RIGHTS HAVING BEEN RELINQUISHED TOGETHER WITH A WAIVER OF ANY CLAIMS FOR DAMAGES, IN THE DEED TO THE STATE OF CALIFORNIA, RECORDED APRIL 4, 1955 IN BOOK 7619, PAGE 309 AS INSTRUMENT NO. AK36252 OF OFFICIAL RECORDS (PLOTTED HEREON).

**Geographic Coordinates at Proposed Monopine**

1983 DATUM: LATITUDE 37° 52' 51.01" N LONGITUDE 122° 18' 26.25" W  
ELEVATION = 12.4 FEET ABOVE MEAN SEA LEVEL

CERTIFICATION:  
THE LATITUDE AND LONGITUDE SHOWN ABOVE ARE ACCURATE TO WITHIN +/- 15 FEET HORIZONTALLY AND THAT THE ELEVATIONS SHOWN ABOVE ARE ACCURATE TO WITHIN +/- 3 FEET VERTICALLY. THE HORIZONTAL DATUM (GEOGRAPHIC COORDINATES) IS IN TERMS OF THE NORTH AMERICAN DATUM OF 1983 (NAD 83) AND IS EXPRESSED IN DEGREES (°), MINUTES (') AND SECONDS ("). TO THE NEAREST HUNDREDTH (1/100) OF A SECOND. THE VERTICAL DATUM (ELEVATIONS) IS IN TERMS OF THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88) AND IS DETERMINED TO THE NEAREST TENTH OF A FOOT.

**Basis of Bearings**

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CALIFORNIA COORDINATES SYSTEM (CCS 83), ZONE 3, 1983 DATUM, DEFINED BY SECTIONS 8801 TO 8819 OF THE CALIFORNIA PUBLIC RESOURCES CODE.

**Lease Area**

AS SHOWN

**Bench Mark**

THE CALIFORNIA SPATIAL REFERENCE CENTER C.O.R.S. "P181", ELEVATION = 344.59 FEET (NAVD 88).

**Date of Survey**

JANUARY 05, 2017.



2600 CAMINO RAMON, WEST WING  
SAN RAMON, CALIFORNIA 94583

A&E DEVELOPMENT:



AZ - CA - CO - ID - NM - NV - TX - UT

CONSULTANT:

**CAL VADA SURVEYING, INC.**

411 Jenks Cir., Suite 205, Corona, CA 92880  
Phone: 951-280-9960 Fax: 951-280-9746  
Toll Free: 800-CALVADA www.calvada.com

JOB NO. 17003

LICENSURE:



REVISION:

| REVISION: | DATE: / BY:     | DESCRIPTION:    |
|-----------|-----------------|-----------------|
| 4         | 05/09/17<br>JC  | UPDATED ZD      |
| 5         | 08/23/17<br>MN  | CLIENT COMMENTS |
| 6         | 09/06/17<br>GBM | ADDITIONAL TOPO |
| 7         | 05/10/19<br>HP  | UPDATED ZD's    |

SITE INFORMATION:

SITE NUMBER  
**CCL00165**

SITE NAME  
**PUBLIC STORAGE**

1120 SECOND ST.,  
BERKELEY, CA 94710  
ALAMEDA COUNTY

SHEET TITLE:

**TOPOGRAPHIC SURVEY**

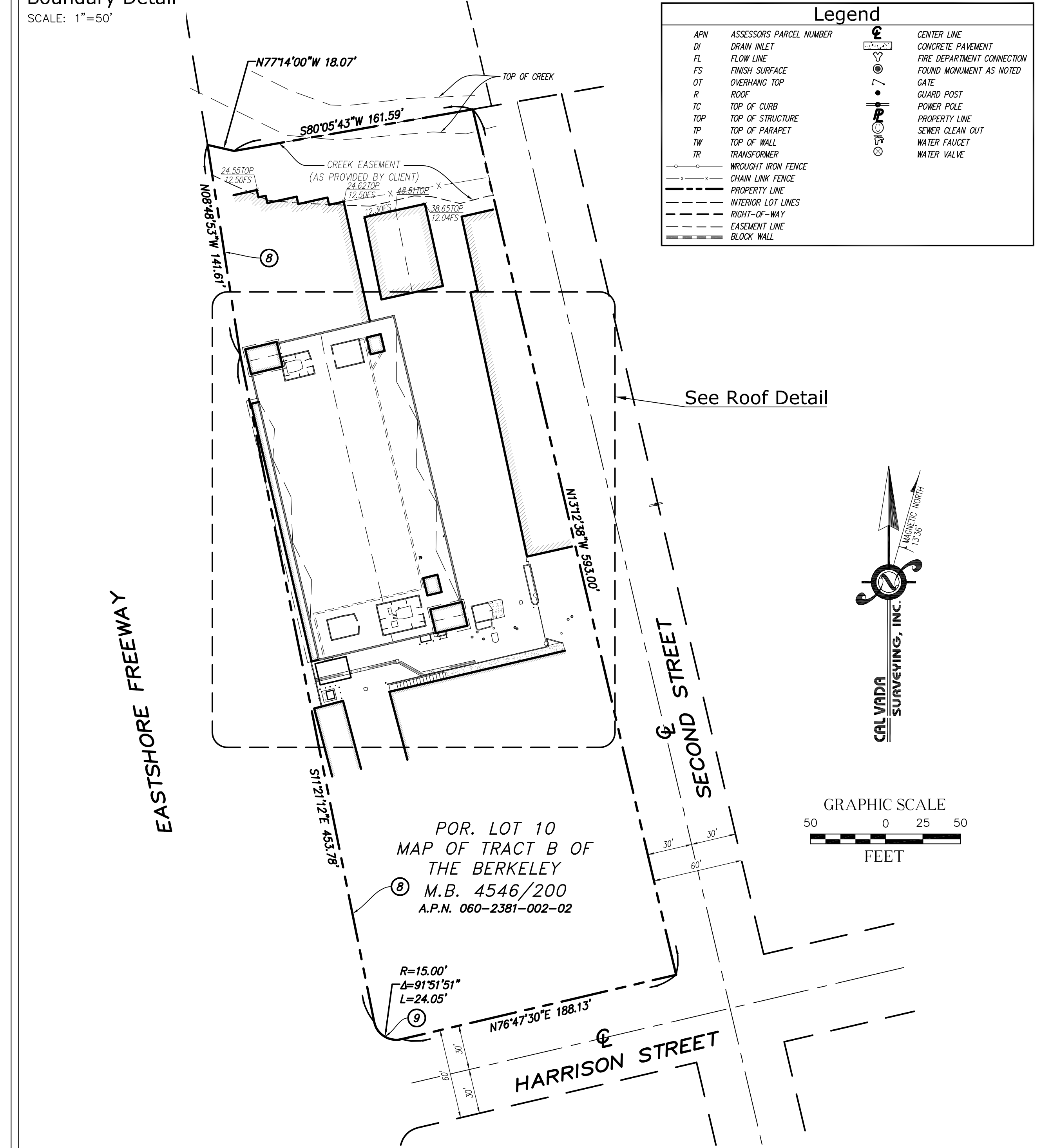
SHEET NUMBER:

**LS-1**

SHEET 1 OF 1

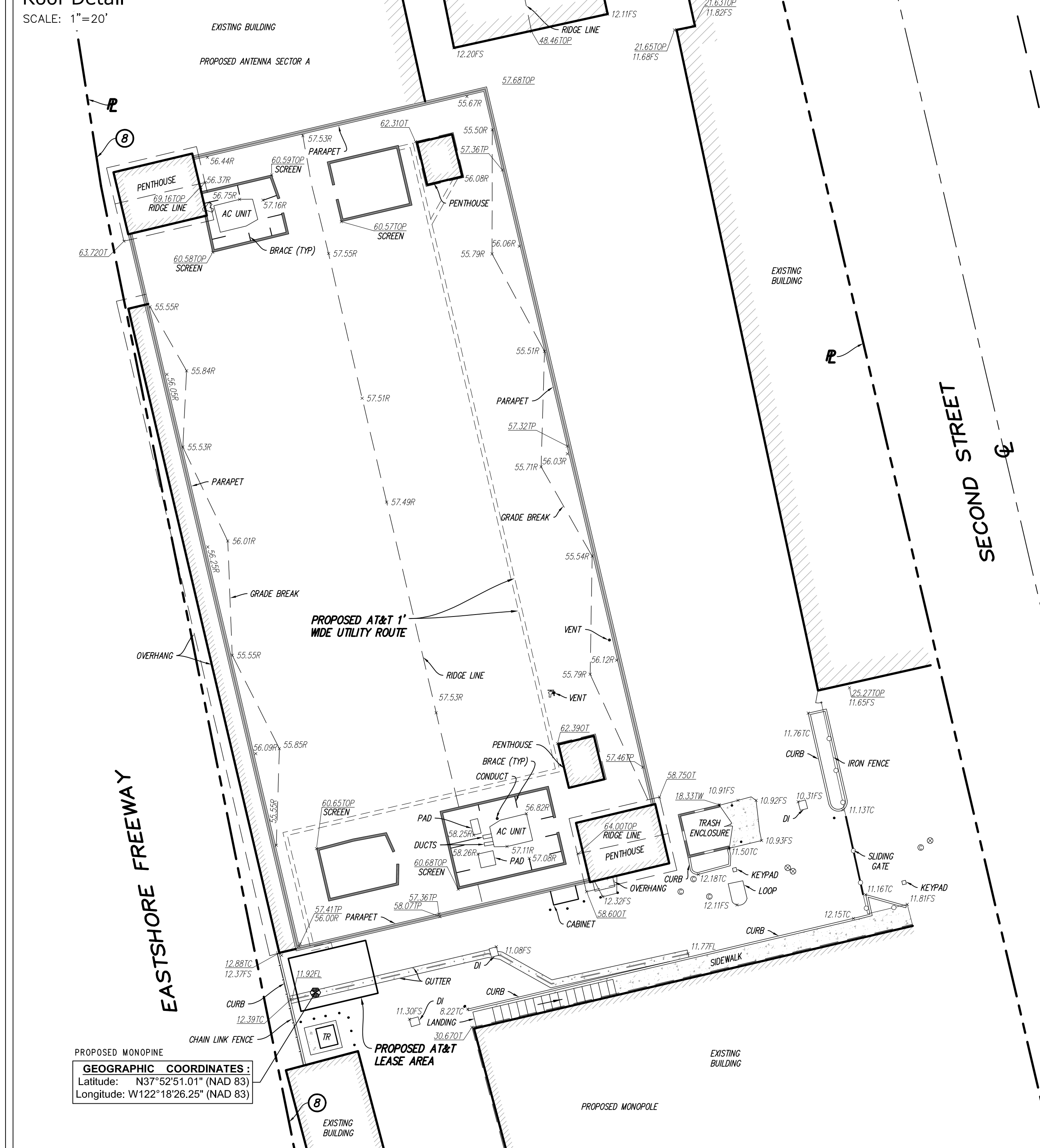
**Boundary Detail**

SCALE: 1"=50'



**Roof Detail**

SCALE: 1"=20'

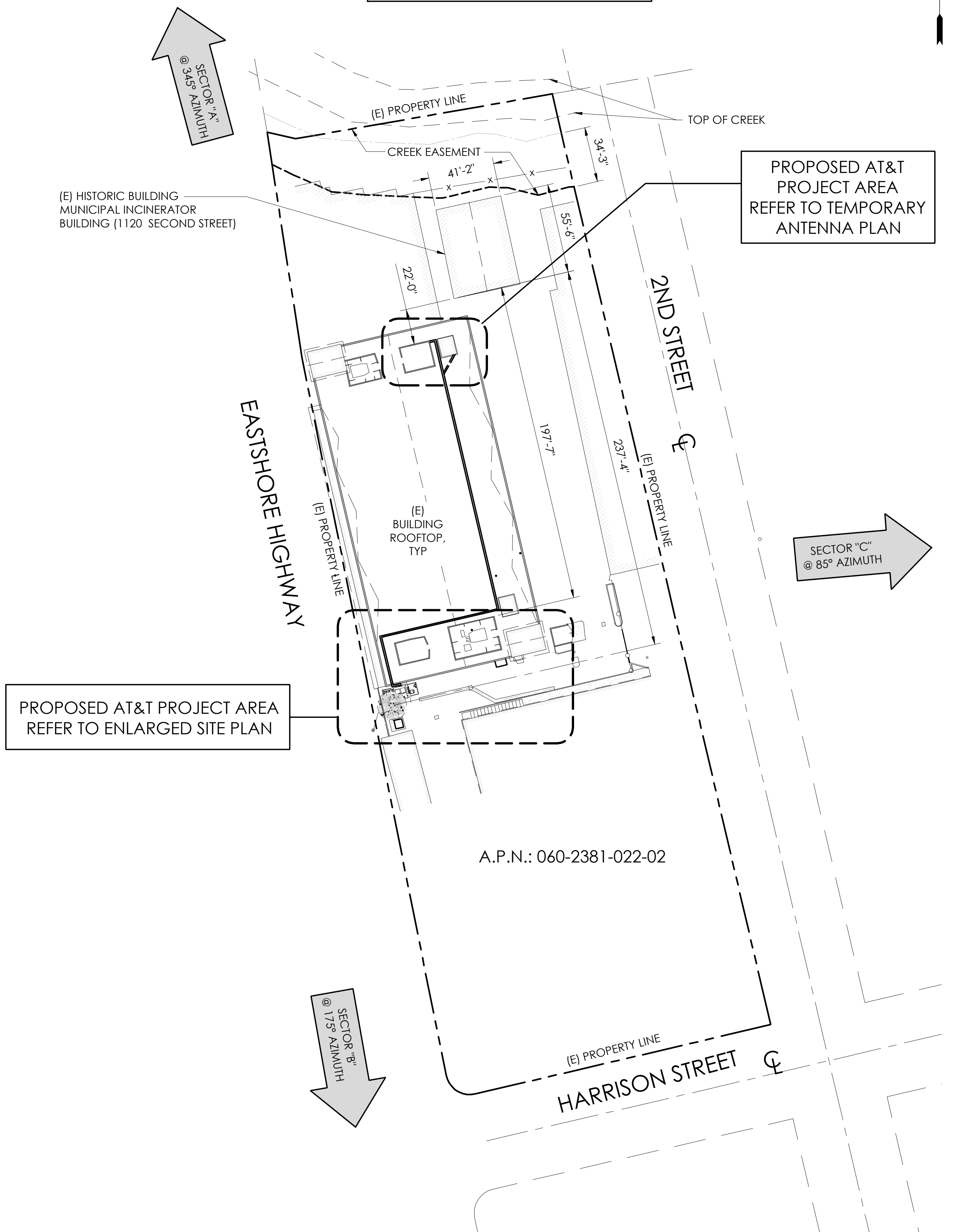
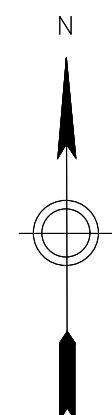




NOTES:  
1. PRIOR TO CONSTRUCTION, GENERAL CONTRACTOR TO CONTACT DIG ALERT TO MARK OUT EXISTING UNDERGROUND UTILITIES. IN THE EVENT OF CONFLICTS, CONTRACTOR TO CONTACT J5 INFRASTRUCTURE PARTNERS.

**THIS IS NOT A SITE SURVEY**

ALL PROPERTY BOUNDARIES, ORIENTATION OF TRUE NORTH AND STREET HALF-WIDTHS HAVE BEEN OBTAINED FROM A TAX PARCEL MAP AND EXISTING DRAWINGS AND ARE APPROXIMATE.



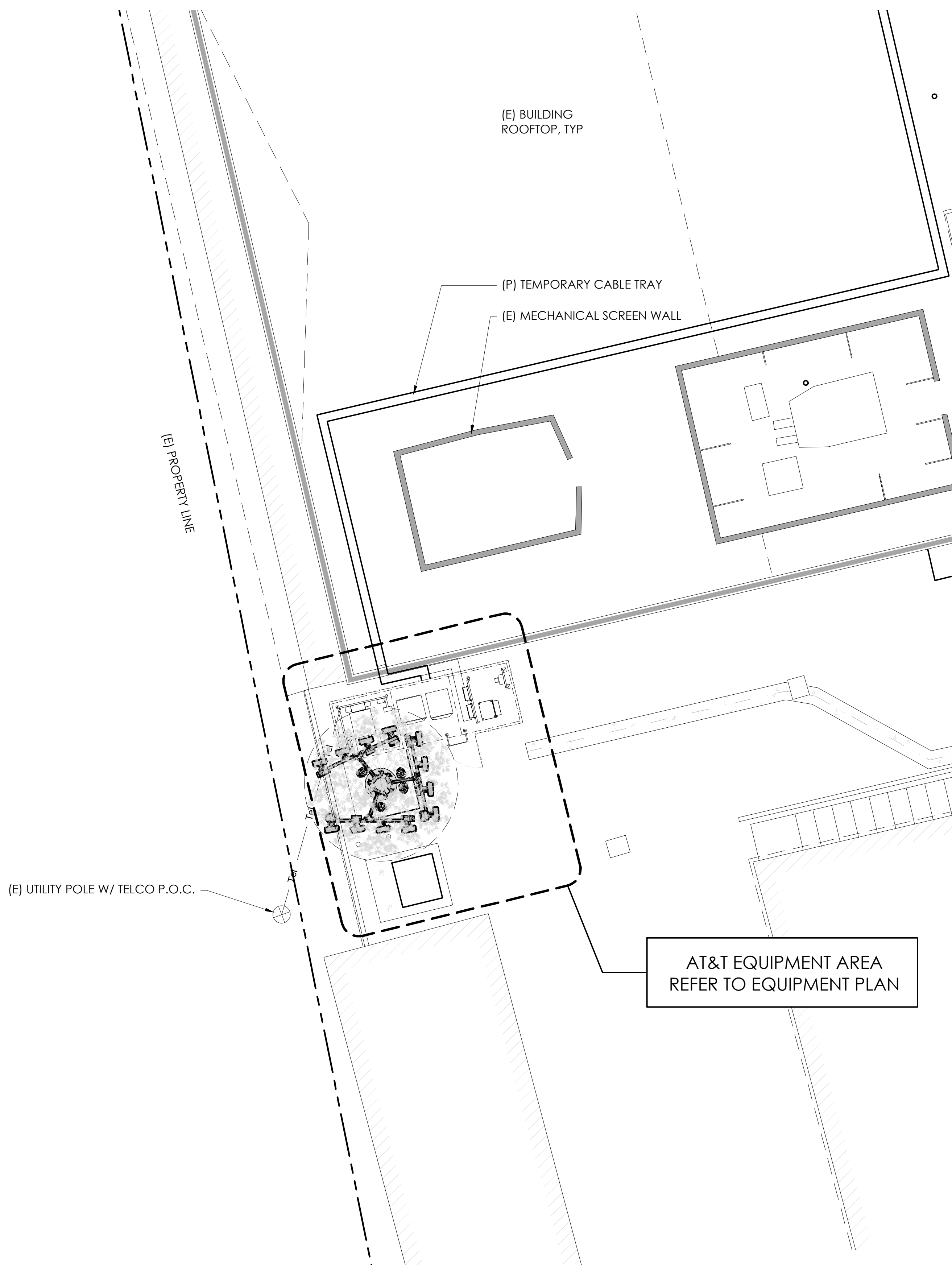
PROPOSED AT&T PROJECT AREA  
REFER TO ENLARGED SITE PLAN

PROPOSED AT&T  
PROJECT AREA  
REFER TO TEMPORARY  
ANTENNA PLAN

SECTOR "C"  
@ 85° AZIMUTH

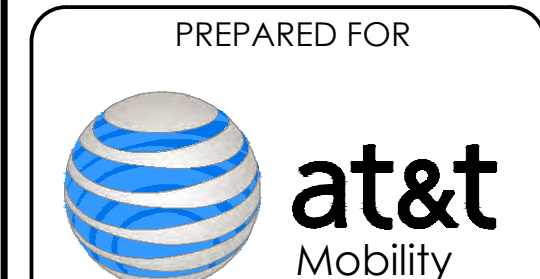
A.P.N.: 060-2381-022-02

1 OVERALL SITE PLAN  
1" = 40'-0"



AT&T EQUIPMENT AREA  
REFER TO EQUIPMENT PLAN

2 ENLARGED SITE PLAN  
1/8" = 1'-0"



5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583



2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:  
**CCL00165**

AT&T SITE NO: CCL00165  
PACE NO: MRSFR033255  
DRAWN BY: BH  
CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS LEASE AREA            |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensors:  
  
It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:  
**CCL00165**  
PUBLIC STORAGE  
1120 SECOND ST.  
BERKELEY, CA 94710

Sheet Title:  
**SITE PLAN & ENLARGED SITE PLAN**

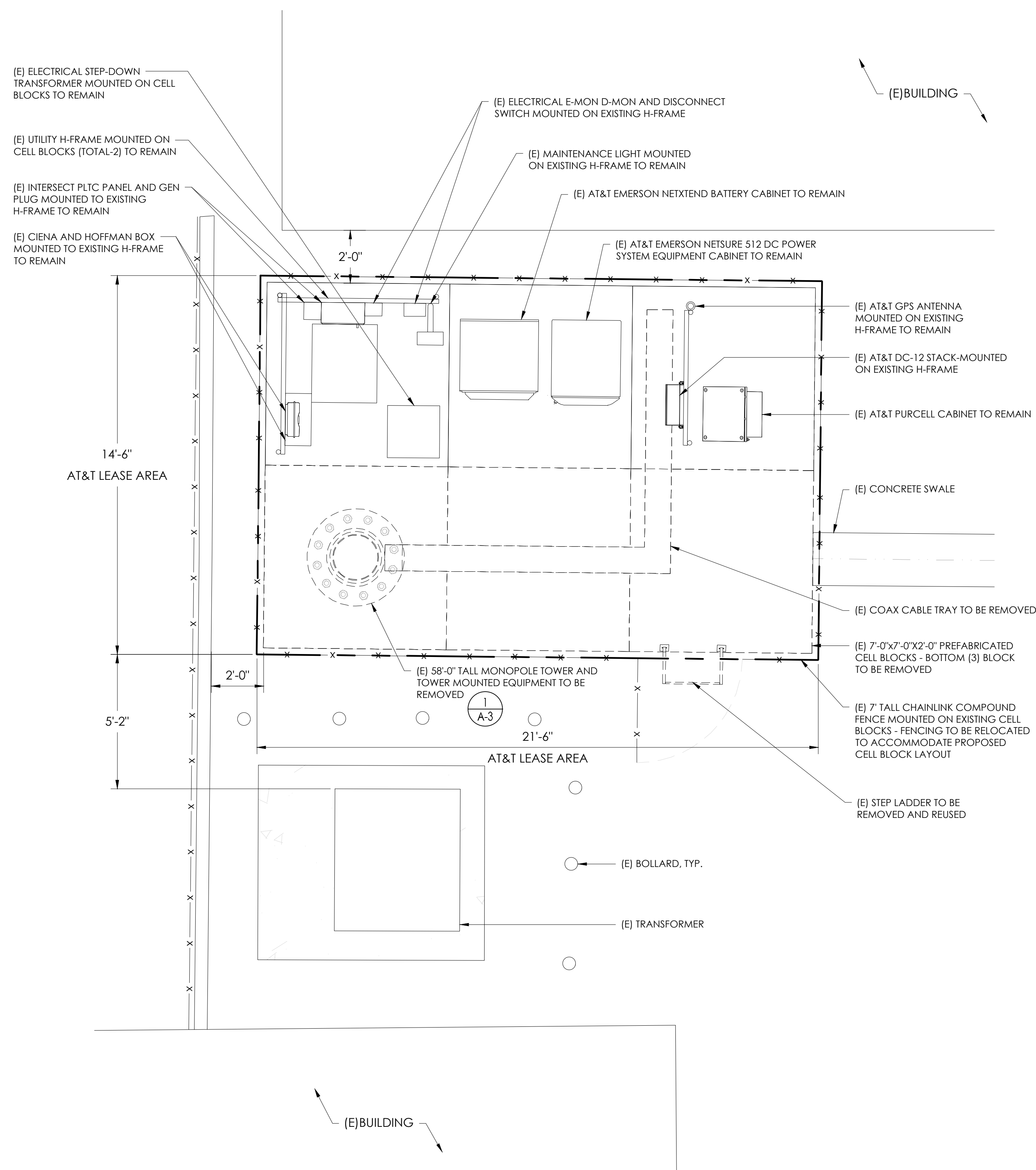
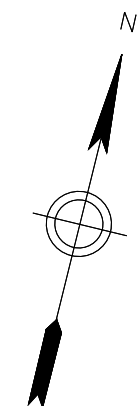
Sheet Number:  
**A1**



NOTES:  
1. PRIOR TO CONSTRUCTION, GENERAL CONTRACTOR TO CONTACT DIG ALERT TO MARK OUT EXISTING UNDERGROUND UTILITIES. IN THE EVENT OF CONFLICTS, CONTRACTOR TO CONTACT J5 INFRASTRUCTURE PARTNERS.

**THIS IS NOT A SITE SURVEY**

ALL PROPERTY BOUNDARIES, ORIENTATION OF TRUE NORTH AND STREET HALF-WIDTHS HAVE BEEN OBTAINED FROM A TAX PARCEL MAP AND EXISTING DRAWINGS AND ARE APPROXIMATE.

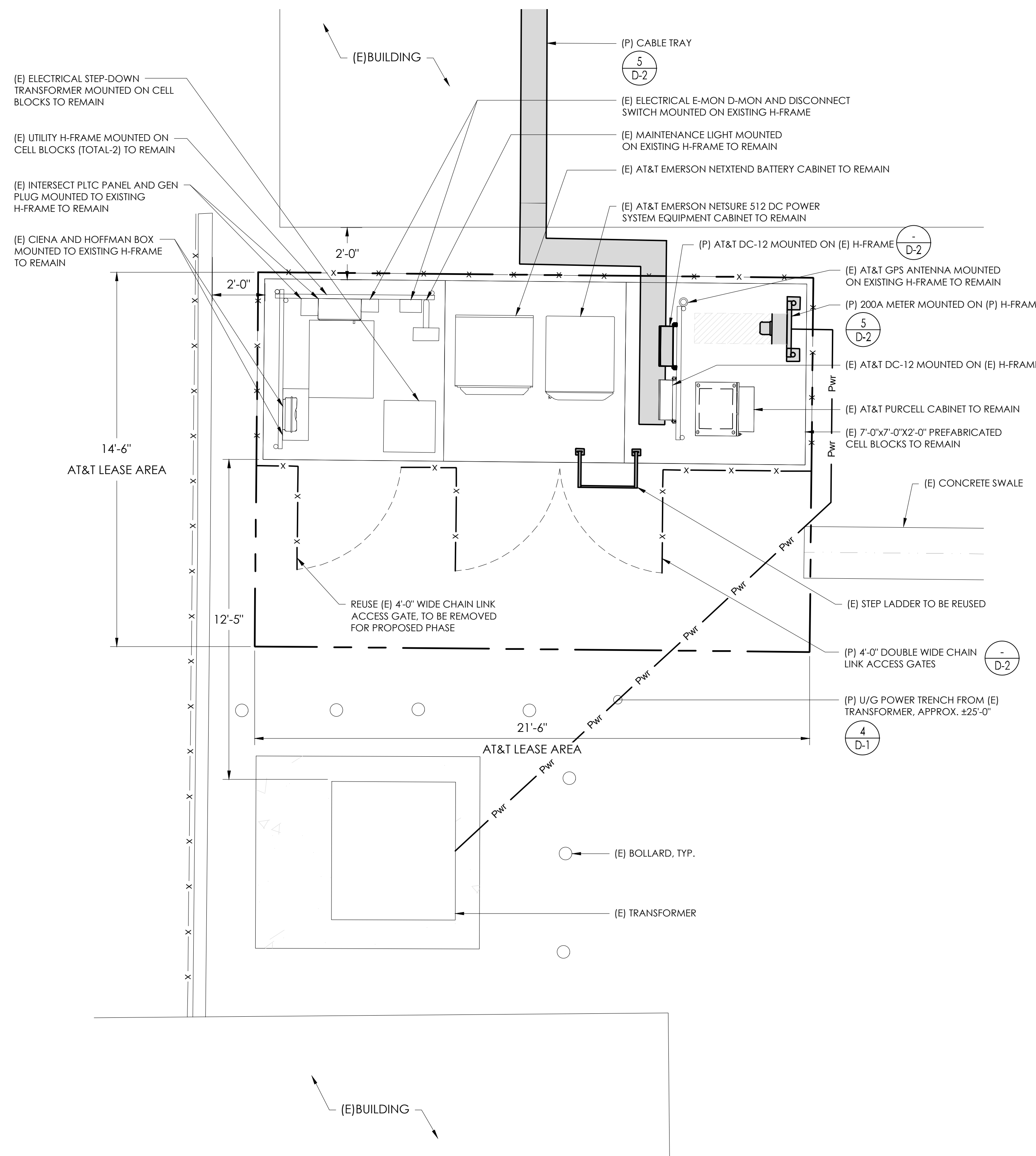
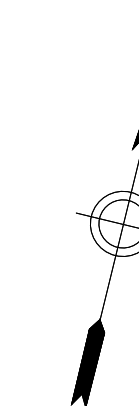


1 EXISTING EQUIPMENT PLAN  
3/8" = 1'-0"

NOTES:  
1. PRIOR TO CONSTRUCTION, GENERAL CONTRACTOR TO CONTACT DIG ALERT TO MARK OUT EXISTING UNDERGROUND UTILITIES. IN THE EVENT OF CONFLICTS, CONTRACTOR TO CONTACT J5 INFRASTRUCTURE PARTNERS.

**THIS IS NOT A SITE SURVEY**

ALL PROPERTY BOUNDARIES, ORIENTATION OF TRUE NORTH AND STREET HALF-WIDTHS HAVE BEEN OBTAINED FROM A TAX PARCEL MAP AND EXISTING DRAWINGS AND ARE APPROXIMATE.



2 TEMPORARY/INTERIM EQUIPMENT PLAN PHASE  
3/8" = 1'-0"

PREPARED FOR



5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:



2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T SITE NO: CCL00165

PACE NO: MRSFR033255

DRAWN BY: BH

CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS LEASE AREA            |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensor:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**

PUBLIC STORAGE

1120 SECOND ST.  
BERKELEY, CA 94710

Sheet Title:

**EXISTING &  
TEMPORARY  
EQUIPMENT PLAN**

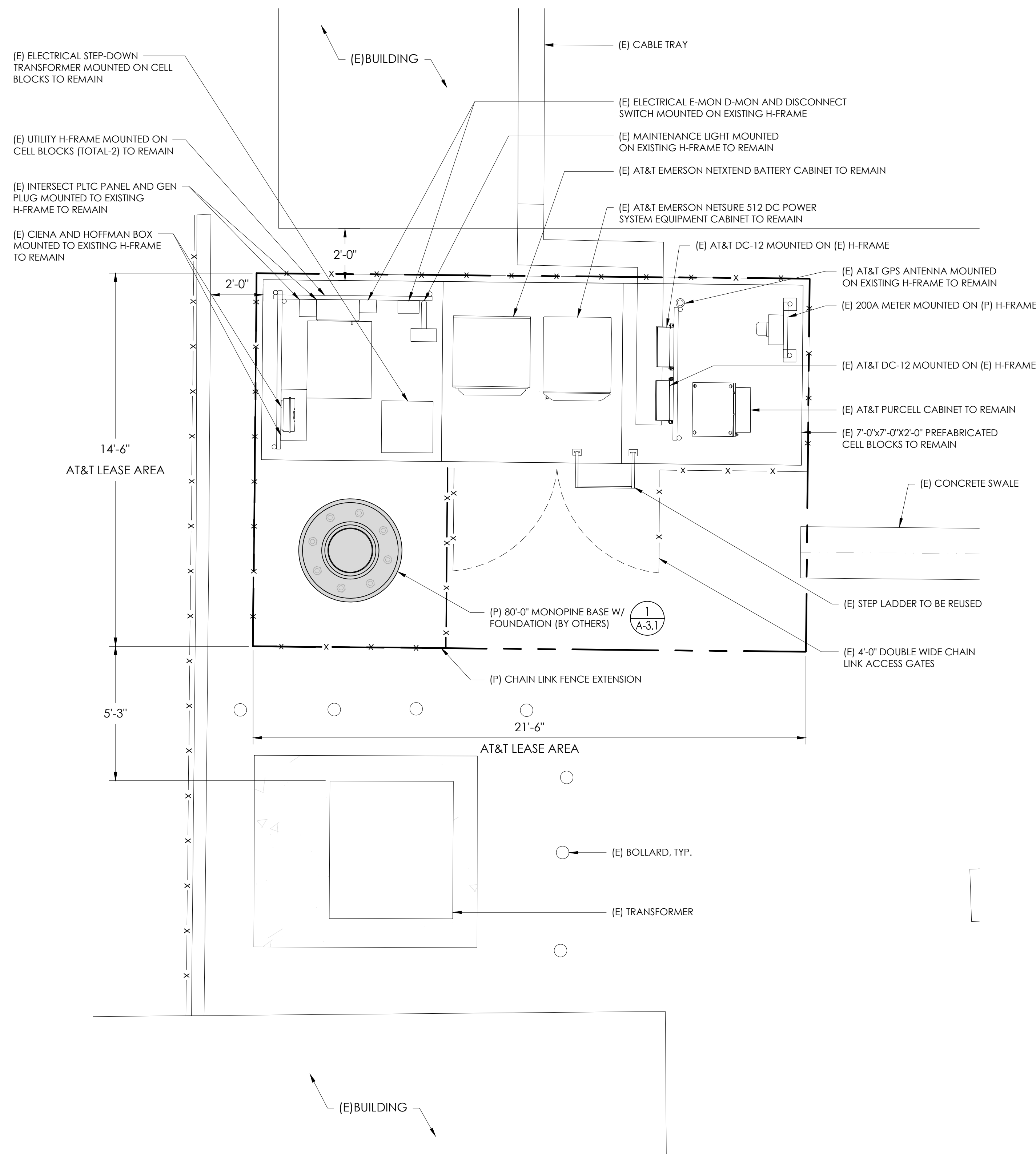
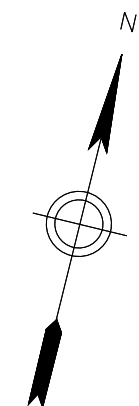
Sheet Number:

**A2**

NOTES:  
1. PRIOR TO CONSTRUCTION, GENERAL CONTRACTOR TO CONTACT DIG ALERT TO MARK OUT EXISTING UNDERGROUND UTILITIES. IN THE EVENT OF CONFLICTS, CONTRACTOR TO CONTACT J5 INFRASTRUCTURE PARTNERS.

**THIS IS NOT A SITE SURVEY**

ALL PROPERTY BOUNDARIES, ORIENTATION OF TRUE NORTH AND STREET HALF-WIDTHS HAVE BEEN OBTAINED FROM A TAX PARCEL MAP AND EXISTING DRAWINGS AND ARE APPROXIMATE.



1 PROPOSED EQUIPMENT PLAN PHASE  
3/8" = 1'-0"

2 NOT USED  
3/8" = 1'-0"

PREPARED FOR  
 at&t Mobility  
5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:  
 J5 INFRASTRUCTURE PARTNERS  
2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:  
**CCL00165**

AT&T SITE NO: CCL00165  
PACE NO: MRSFR033255  
DRAWN BY: BH  
CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                                       |
|-----|----------|---------------------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                                  |
| 4   | 11/19/19 | UPDATED 100% ZDS                                  |
| 3   | 08/28/19 | UPDATED 100% ZDS PER LEASE AREA PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES                 |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES                 |
| 0   | 04/24/19 | 100% ZDS                                          |

Licensor:  
  
It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:  
**CCL00165**  
**PUBLIC STORAGE**  
1120 SECOND ST.  
BERKELEY, CA 94710

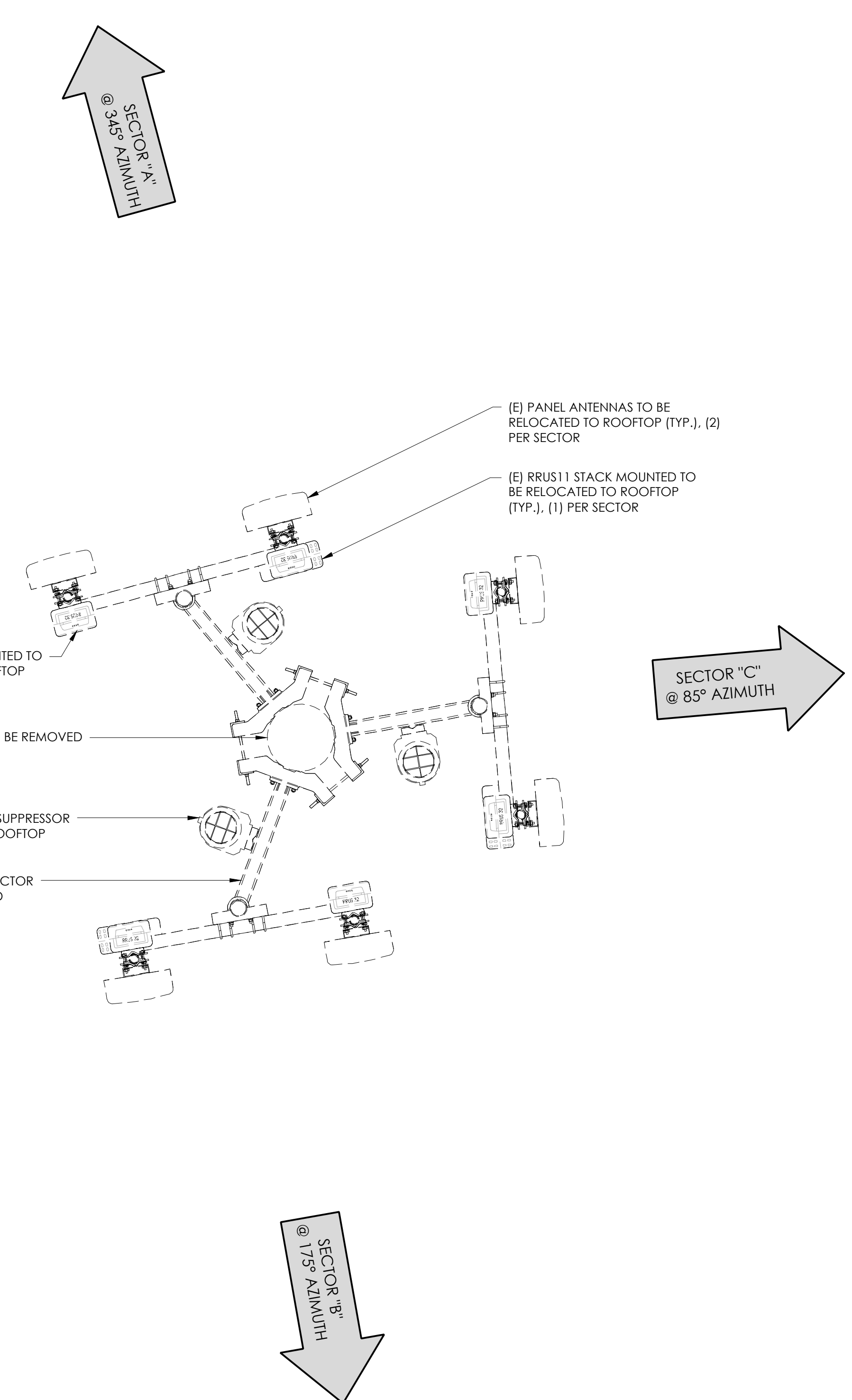
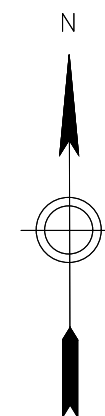
Sheet Title:  
**PROPOSED EQUIPMENT PLAN**

Sheet Number:  
**A2.1**



NOTES:  
1. PRIOR TO CONSTRUCTION, GENERAL CONTRACTOR TO CONTACT DIG ALERT TO MARK OUT EXISTING UNDERGROUND UTILITIES. IN THE EVENT OF CONFLICTS, CONTRACTOR TO CONTACT J5 INFRASTRUCTURE PARTNERS.

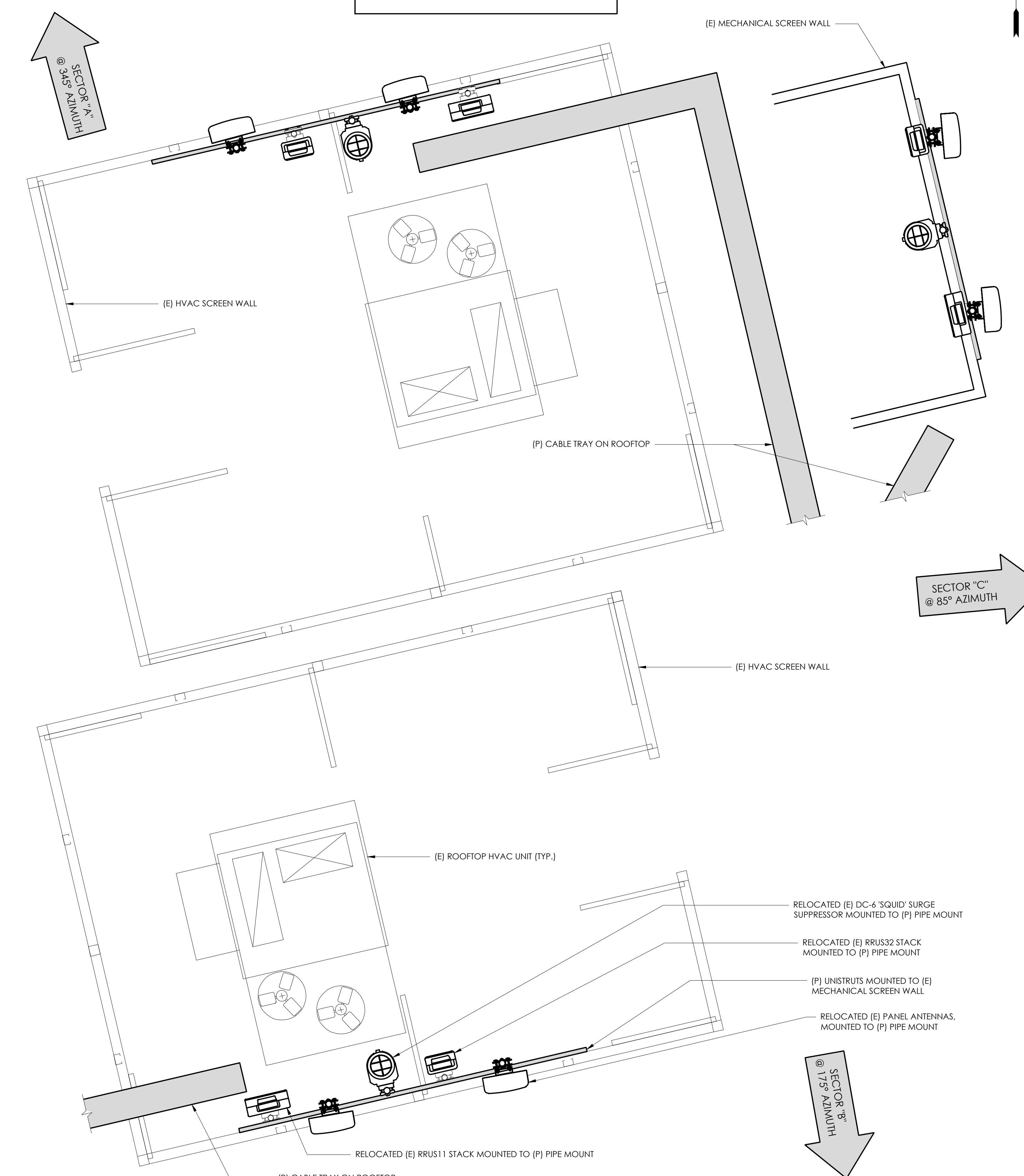
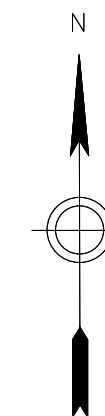
**THIS IS NOT A SITE SURVEY**  
ALL PROPERTY BOUNDARIES, ORIENTATION OF TRUE NORTH AND STREET HALF-WIDTHS HAVE BEEN OBTAINED FROM A TAX PARCEL MAP AND EXISTING DRAWINGS AND ARE APPROXIMATE.



- (E) RRUS32 STACK MOUNTED TO BE RELOCATED TO ROOFTOP (TYP.). (2) PER SECTOR
- (E) RRUS1 STACK MOUNTED TO BE RELOCATED TO ROOFTOP (TYP.). (1) PER SECTOR
- (E) RRUS32 STACK MOUNTED TO BE RELOCATED TO ROOFTOP (TYP.). (3) PER SECTOR
- (E) 58'-0" MONOPOLE TO BE REMOVED
- (E) DC-6 'SQUID' SURGE SUPPRESSOR TO BE RELOCATED TO ROOFTOP
- (E) RING MOUNT AND SECTOR FRAMES TO BE REMOVED

NOTES:  
1. PRIOR TO CONSTRUCTION, GENERAL CONTRACTOR TO CONTACT DIG ALERT TO MARK OUT EXISTING UNDERGROUND UTILITIES. IN THE EVENT OF CONFLICTS, CONTRACTOR TO CONTACT J5 INFRASTRUCTURE PARTNERS.

**THIS IS NOT A SITE SURVEY**  
ALL PROPERTY BOUNDARIES, ORIENTATION OF TRUE NORTH AND STREET HALF-WIDTHS HAVE BEEN OBTAINED FROM A TAX PARCEL MAP AND EXISTING DRAWINGS AND ARE APPROXIMATE.



- RELOCATED (E) DC-6 'SQUID' SURGE SUPPRESSOR MOUNTED TO (P) PIPE MOUNT
- RELOCATED (E) RRUS32 STACK MOUNTED TO (P) PIPE MOUNT
- (P) UNISTRUTS MOUNTED TO (E) MECHANICAL SCREEN WALL
- RELOCATED (E) PANEL ANTENNAS MOUNTED TO (P) PIPE MOUNT

2 TEMPORARY/INTERIM EQUIPMENT PLAN PHASE  
1/2" = 1'-0"

1 EXISTING TEMPORARY ANTENNA PLAN  
1/2" = 1'-0"

PREPARED FOR  
  
5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:  
  
2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:  
**CCL00165**

AT&T SITE NO: CCL00165  
PACE NO: MRSFR033255  
DRAWN BY: BH  
CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS LEASE AREA            |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensor:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:  
**CCL00165**  
**PUBLIC STORAGE**  
1120 SECOND ST.  
BERKELEY, CA 94710

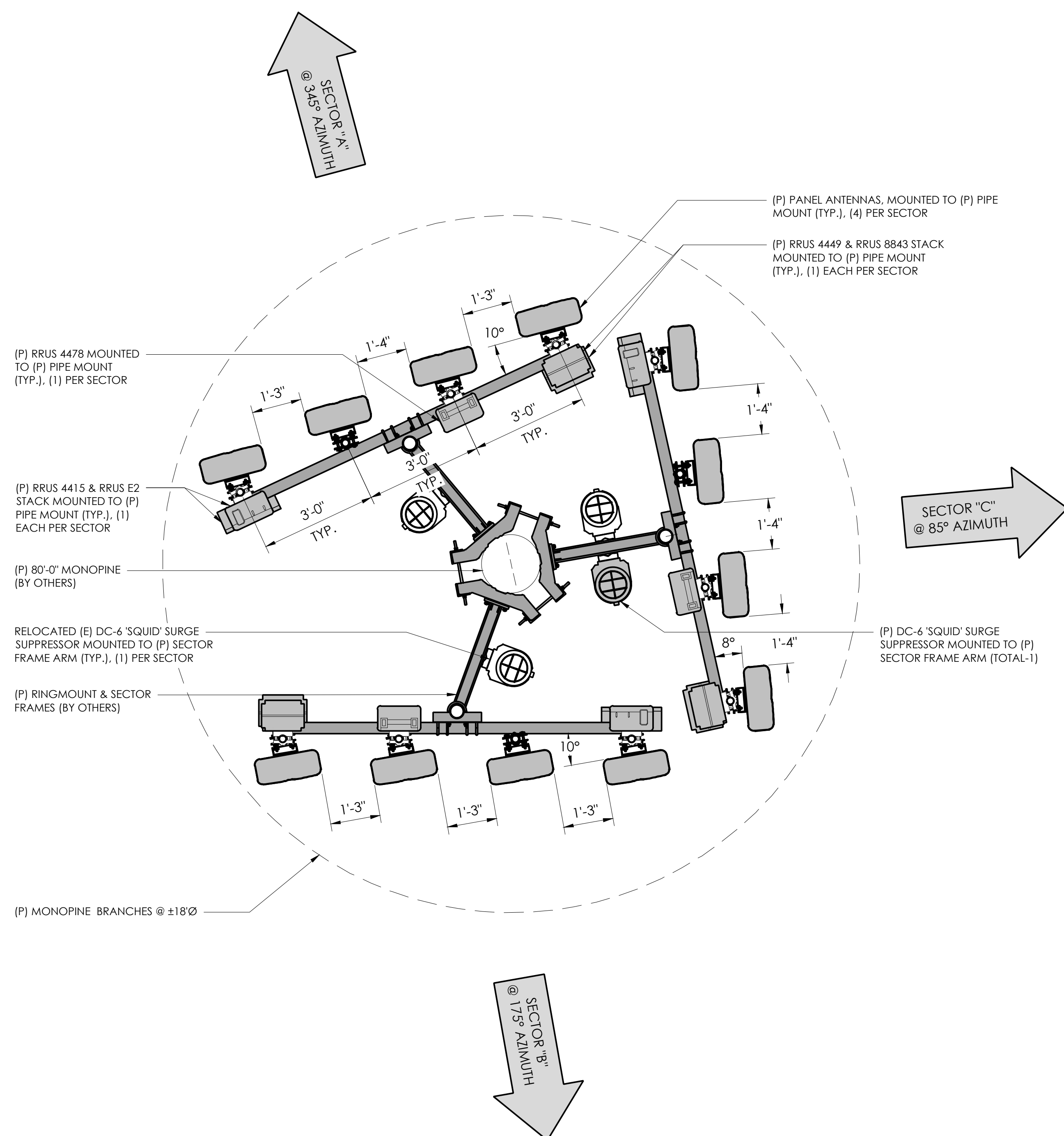
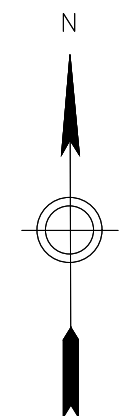
Sheet Title:  
**EXISTING & TEMPORARY ANTENNA PLAN**

Sheet Number:  
**A3**



NOTES:  
1. PRIOR TO CONSTRUCTION, GENERAL CONTRACTOR TO CONTACT DIG ALERT TO MARK OUT EXISTING UNDERGROUND UTILITIES. IN THE EVENT OF CONFLICTS, CONTRACTOR TO CONTACT J5 INFRASTRUCTURE PARTNERS.

**THIS IS NOT A SITE SURVEY**  
ALL PROPERTY BOUNDARIES, ORIENTATION OF TRUE NORTH AND STREET HALF-WIDTHS HAVE BEEN OBTAINED FROM A TAX PARCEL MAP AND EXISTING DRAWINGS AND ARE APPROXIMATE.



1 PROPOSED EQUIPMENT PLAN  
1/2" = 1'-0"

| EXISTING ANTENNA SCHEDULE |       |         |            |             |                 |             |          |           |          |   |
|---------------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|----------|---|
| SECTOR                    | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA |   |
| A<br>L<br>P<br>H<br>A     | A1    | TBD     | 345°       | 58'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 11  | - |
|                           | A2    | TBD     | 345°       | 58'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 32  | - |
|                           | A3    | -       | -          | -           | -               | -           | -        | -         | RRUS 32  | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 1    | TBD   | TBD  | ±80'-0" |
| DC    | 2    | TBD   | TBD  | ±80'-0" |

| SECTOR           | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA |   |
|------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|----------|---|
| B<br>E<br>T<br>A | B1    | TBD     | 175°       | 58'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 11  | - |
|                  | B2    | TBD     | 175°       | 58'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 32  | - |
|                  | B3    | -       | -          | -           | -               | -           | -        | -         | RRUS 32  | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 1    | TBD   | TBD  | ±80'-0" |
| DC    | 2    | TBD   | TBD  | ±80'-0" |

| SECTOR                | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA |   |
|-----------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|----------|---|
| G<br>A<br>M<br>M<br>A | C1    | TBD     | 85°        | 58'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 11  | - |
|                       | C2    | TBD     | 85°        | 58'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 32  | - |
|                       | C3    | -       | -          | -           | -               | -           | -        | -         | RRUS 32  | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 1    | TBD   | TBD  | ±80'-0" |
| DC    | 2    | TBD   | TBD  | ±80'-0" |

| TEMPORARY/INTERIM ANTENNA SCHEDULE |       |         |            |             |                 |             |          |           |          |   |
|------------------------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|----------|---|
| SECTOR                             | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA |   |
| A<br>L<br>P<br>H<br>A              | A1    | TBD     | 345°       | 55'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 11  | - |
|                                    | A2    | TBD     | 345°       | 55'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 32  | - |
|                                    | A3    | -       | -          | -           | -               | -           | -        | -         | RRUS 32  | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 1    | TBD   | TBD  | ±80'-0" |
| DC    | 2    | TBD   | TBD  | ±80'-0" |

| SECTOR           | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA |   |
|------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|----------|---|
| B<br>E<br>T<br>A | B1    | TBD     | 175°       | 55'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 11  | - |
|                  | B2    | TBD     | 175°       | 55'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 32  | - |
|                  | B3    | -       | -          | -           | -               | -           | -        | -         | RRUS 32  | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 1    | TBD   | TBD  | ±80'-0" |
| DC    | 2    | TBD   | TBD  | ±80'-0" |

| SECTOR                | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA |   |
|-----------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|----------|---|
| G<br>A<br>M<br>M<br>A | C1    | TBD     | 85°        | 55'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 11  | - |
|                       | C2    | TBD     | 85°        | 55'-0"      | COMMSCOPE       | SBNHH-1D45B | HEX      | 1         | RRUS 32  | - |
|                       | C3    | -       | -          | -           | -               | -           | -        | -         | RRUS 32  | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 1    | TBD   | TBD  | ±80'-0" |
| DC    | 2    | TBD   | TBD  | ±80'-0" |

| PERMANENT ANTENNA SCHEDULE |       |         |            |             |                 |             |          |           |           |   |
|----------------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|-----------|---|
| SECTOR                     | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA  |   |
| A<br>L<br>P<br>H<br>A      | A1    | TBD     | 345°       | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS 4449 | - |
|                            | A2    | TBD     | 345°       | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS 4478 | - |
|                            | A3    | TBD     | 345°       | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | -         | -         | - |
|                            | A4    | TBD     | 345°       | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS E2   | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 1    | TBD   | TBD  | ±80'-0" |
| DC    | 2    | TBD   | TBD  | ±80'-0" |

| SECTOR           | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA  |   |
|------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|-----------|---|
| B<br>E<br>T<br>A | B1    | TBD     | 175°       | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS 4449 | - |
|                  | B2    | TBD     | 175°       | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS 8843 | - |
|                  | B3    | TBD     | 175°       | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | -         | -         | - |
|                  | B4    | TBD     | 175°       | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS E2   | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 1    | TBD   | TBD  | ±80'-0" |
| DC    | 2    | TBD   | TBD  | ±80'-0" |

| SECTOR                | TECH. | AZIMUTH | RAD CENTER | ANTENNA MFR | ANTENNA MODEL # | PORT        | # OF RRH | RRH MODEL | # OF TMA  |   |
|-----------------------|-------|---------|------------|-------------|-----------------|-------------|----------|-----------|-----------|---|
| G<br>A<br>M<br>M<br>A | C1    | TBD     | 85°        | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS 4449 | - |
|                       | C2    | TBD     | 85°        | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS 8843 | - |
|                       | C3    | TBD     | 85°        | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | -         | -         | - |
|                       | C4    | TBD     | 85°        | 70'-0"      | COMMSCOPE       | NNHH-65B-R4 | OCTO     | 1         | RRUS E2   | - |

| TYPE  | QTY. | MODEL | SIZE | LENGTH  |
|-------|------|-------|------|---------|
| FIBER | 2    | TBD   | TBD  | ±80'-0" |
| DC    | 4    | TBD   | TBD  | ±80'-0" |

PREPARED FOR

5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:

2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T SITE NO: CCL00165  
PACE NO: MRSFR033255  
DRAWN BY: BH  
CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS                       |
| 3   | 08/28/19 | LEASE AREA                             |
| 2   | 06/10/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensor:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**

PUBLIC STORAGE

1120 SECOND ST.  
BERKELEY, CA 94710

Sheet Title:


**PROPOSED ANTENNA PLAN & PANEL SCHEDULE**

Sheet Number:

**A3.1**

2 PANEL SCHEDULE  
N.T.S.

PREPARED FOR



5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:



2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T SITE NO: CCL00165  
PACE NO: MRSFR033255  
DRAWN BY: BH  
CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS PER LEASE AREA        |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensors:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**

**PUBLIC STORAGE**

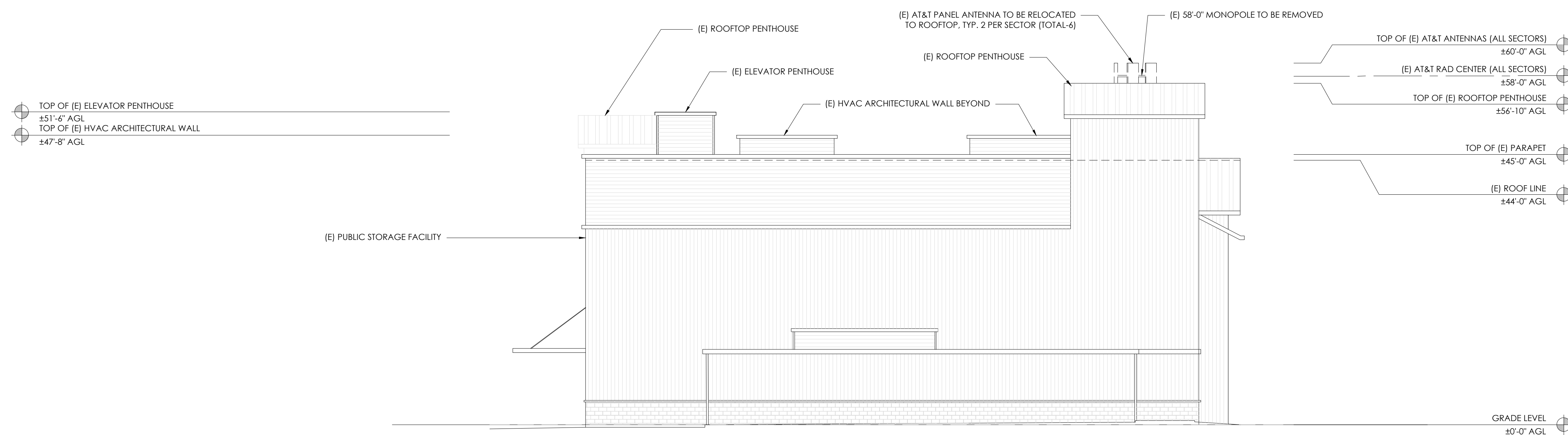
1120 SECOND ST.  
BERKELEY, CA 94710

Sheet Title:

**EXISTING & TEMPORARY NORTH ELEVATIONS**

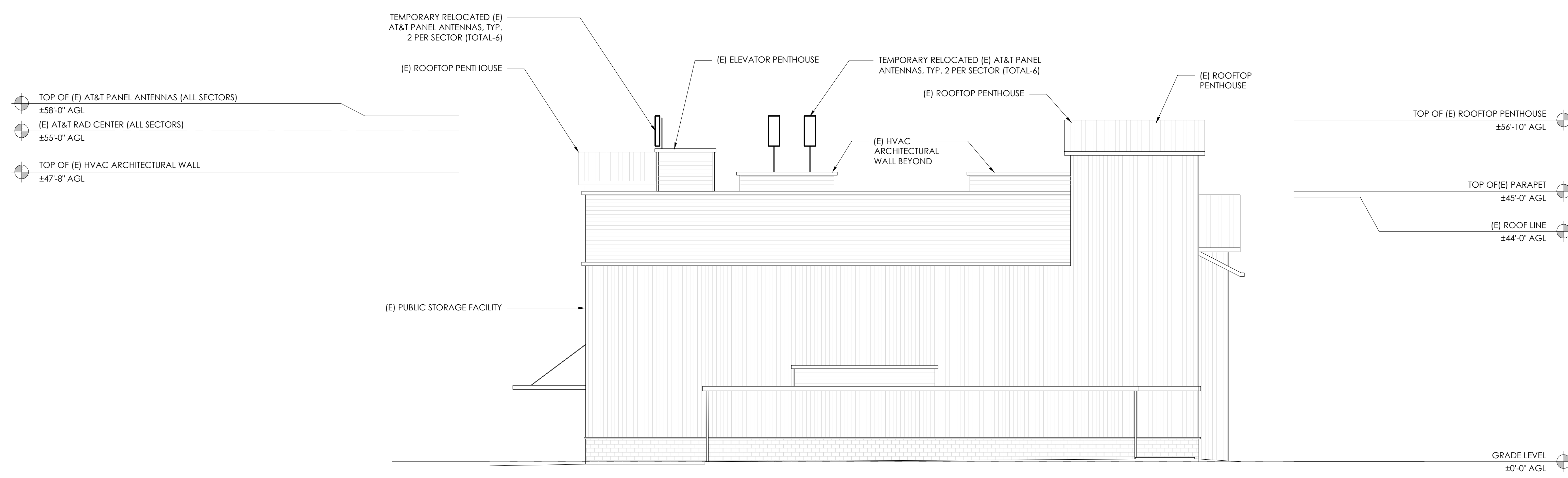
Sheet Number:

**A4**



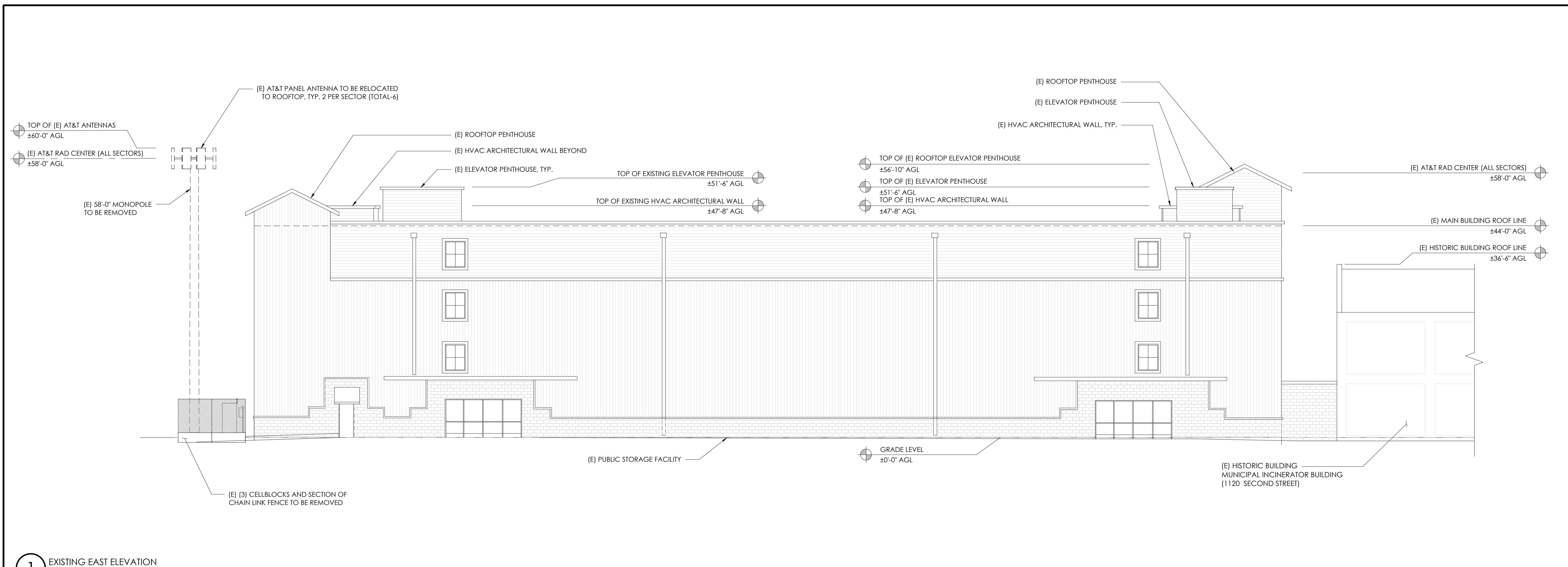
1 EXISTING NORTH ELEVATION  
3/32" = 1'-0"

NOTE:  
1. PROPOSED AT&T CABLE TRAY, CONDUITS, FRP ENCLOSURES, AND ANCILLARY EQUIPMENT MOUNTED ON EXISTING BUILDING TO BE PAINTED SHERWIN-WILLIAMS SW 7071 "GRAY-SCREEN".  
2. PROPOSED CABLE TRAY VERTICALLY MOUNTED FROM EQUIPMENT AREA AT GRADE TO ROOFTOP. PROPOSED CABLE TRAY SHALL TRANSITION TO ROOFTOP AND ROUTED TO EACH EACH SECTOR.



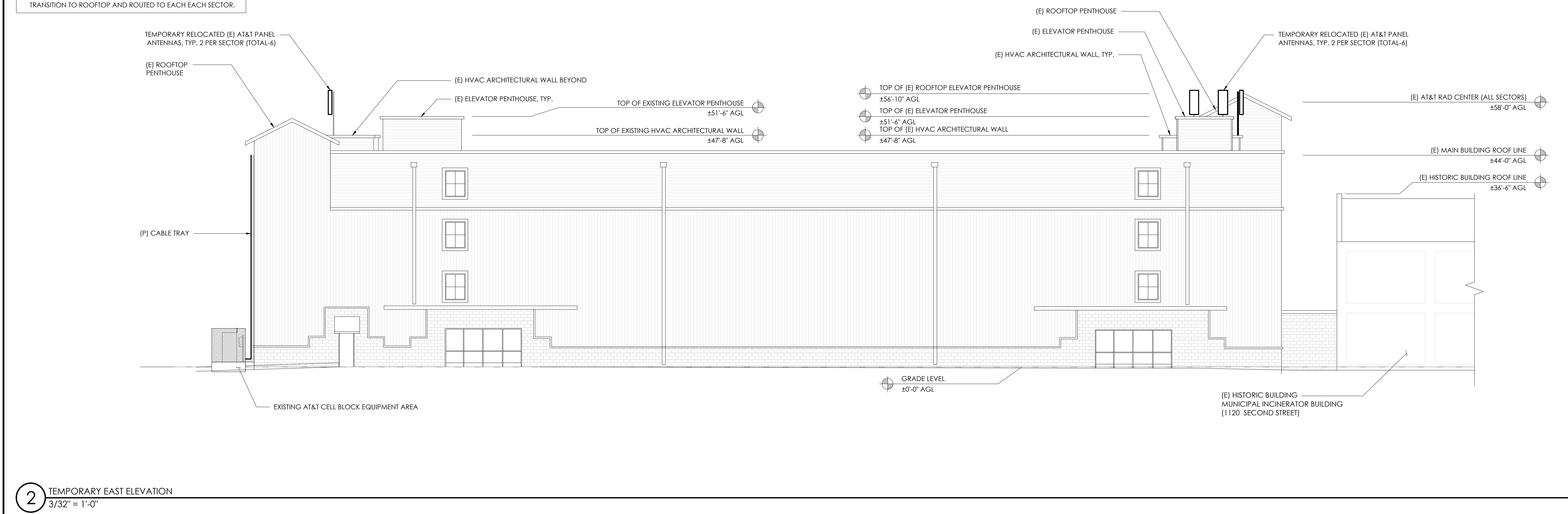
2 TEMPORARY NORTH ELEVATION  
3/32" = 1'-0"





1 EXISTING EAST ELEVATION  
3/32" = 1'-0"

NOTE:  
1. PROPOSED AT&T CABLE TRAY, CONDUITS, FRP ENCLOSURES, AND ANCILLARY EQUIPMENT MOUNTED ON EXISTING BUILDING TO BE PAINTED SHERWIN-WILLIAMS SW 7071 "GRAY-SCREEN".  
2. PROPOSED CABLE TRAY VERTICALLY MOUNTED FROM EQUIPMENT AREA AT GRADE TO ROOFTOP. PROPOSED CABLE TRAY SHALL TRANSITION TO ROOFTOP AND ROUTED TO EACH EACH SECTOR.



2 TEMPORARY EAST ELEVATION  
3/32" = 1'-0"

PREPARED FOR

5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:

2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T SITE NO: CCL00165  
PACE NO: MRSFR033255  
DRAWN BY: BH  
CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS PER LEASE AREA        |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensor:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**

**PUBLIC STORAGE**

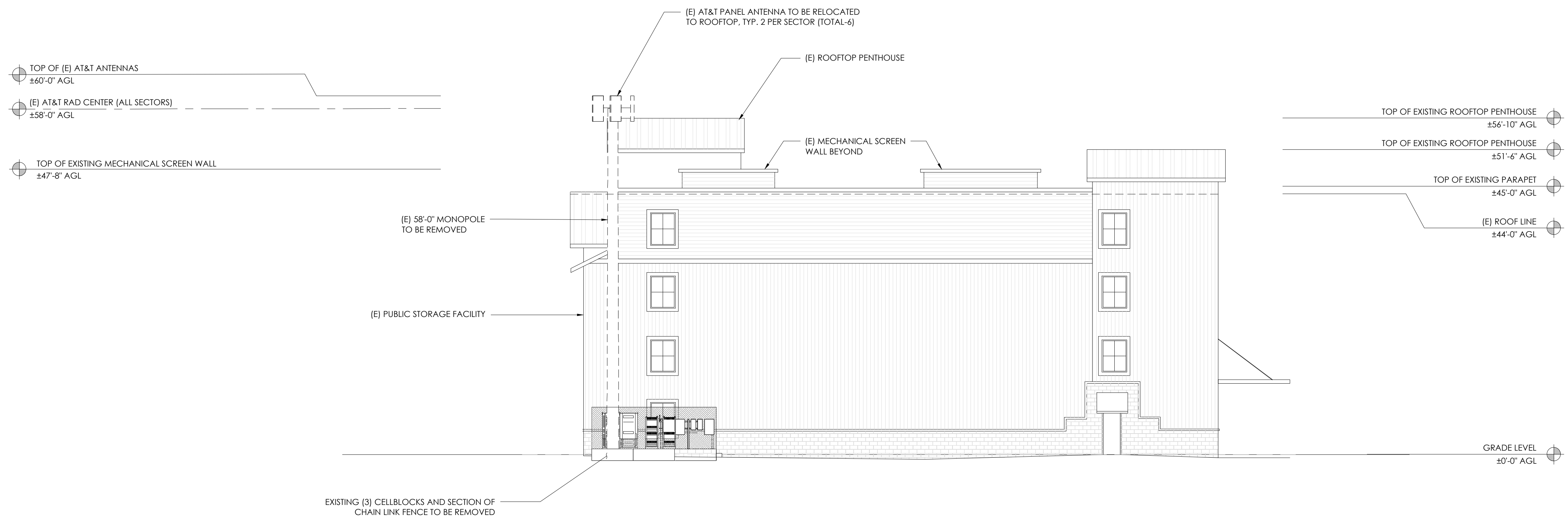
1120 SECOND ST.  
BERKELEY, CA 94710

Sheet Title:

**EXISTING & TEMPORARY EAST ELEVATIONS**

Sheet Number:

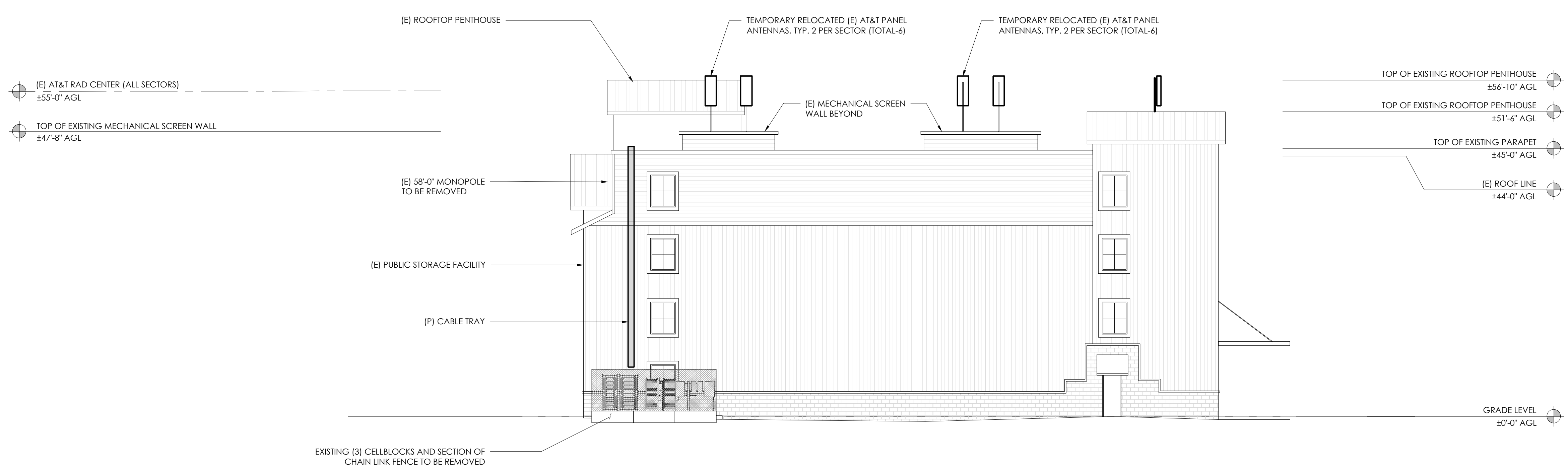
**A5**



1 EXISTING SOUTH ELEVATION  
3/32" = 1'-0"

NOTE:  
1. PROPOSED AT&T CABLE TRAY, CONDUITS, FRP ENCLOSURES, AND ANCILLARY EQUIPMENT MOUNTED ON EXISTING BUILDING TO BE PAINTED SHERWIN-WILLIAMS SW 7071 "GRAY-SCREEN".  
2. PROPOSED CABLE TRAY VERTICALLY MOUNTED FROM EQUIPMENT AREA AT GRADE TO ROOFTOP. PROPOSED CABLE TRAY SHALL TRANSITION TO ROOFTOP AND ROUTED TO EACH EACH SECTOR.

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS LEASE AREA            |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |



2 TEMPORARY SOUTH ELEVATION  
3/32" = 1'-0"

PREPARED FOR

5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:

2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T SITE NO: CCL00165  
PACE NO: MRSFR033255  
DRAWN BY: BH  
CHECKED BY: SMR

Licensors:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**

**PUBLIC STORAGE**

1120 SECOND ST.  
BERKELEY, CA 94710

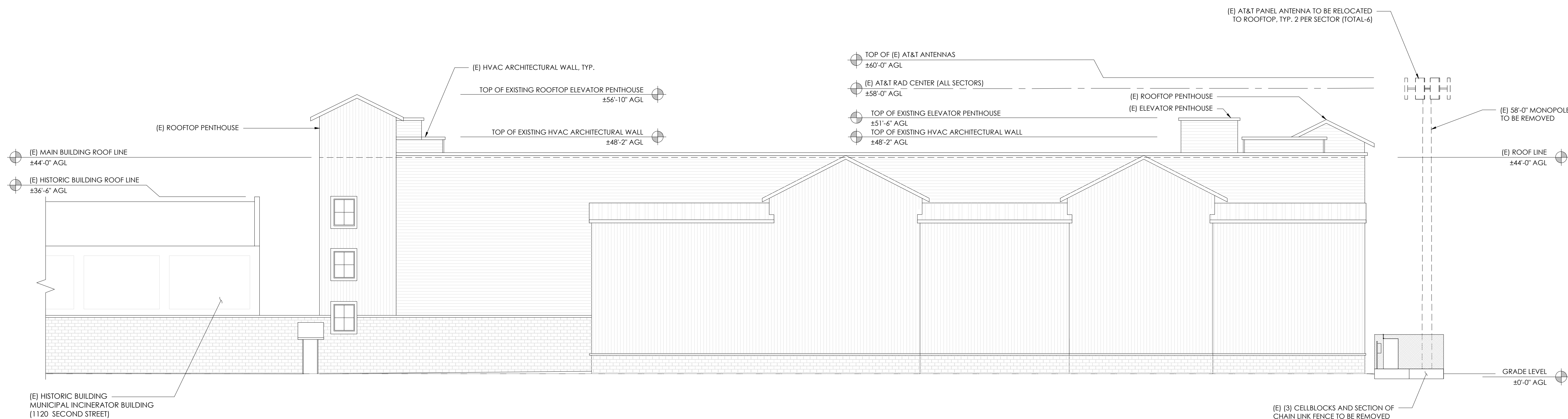
Sheet Title:

**EXISTING & TEMPORARY SOUTH ELEVATIONS**

Sheet Number:

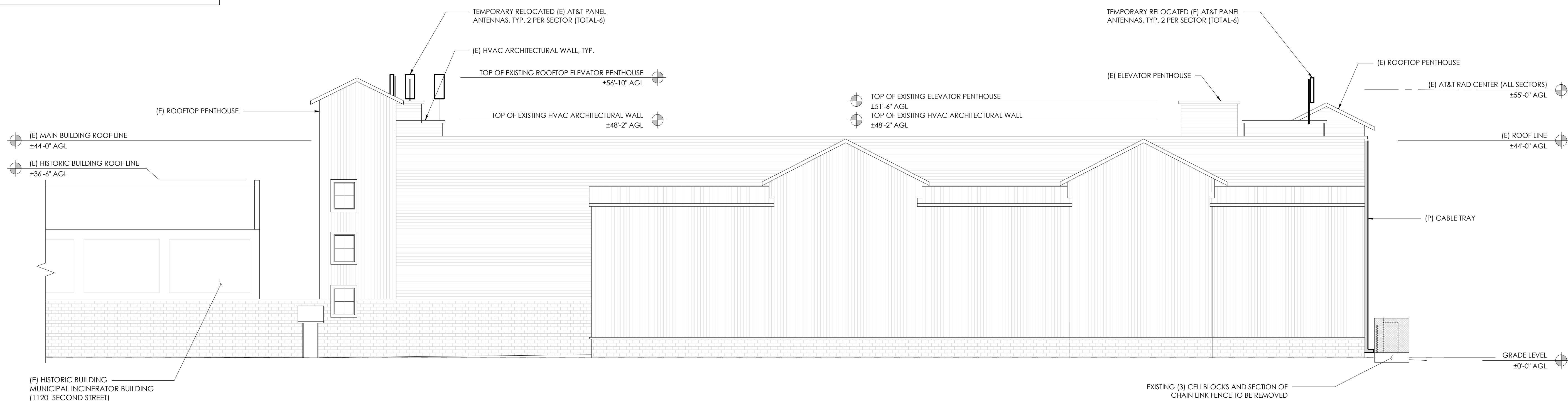
**A6**



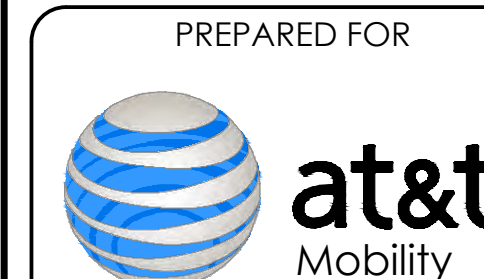


1 EXISTING WEST ELEVATION  
3/32" = 1'-0"

NOTE:  
1. PROPOSED AT&T CABLE TRAY, CONDUITS, FRP ENCLOSURES, AND ANCILLARY EQUIPMENT MOUNTED ON EXISTING BUILDING TO BE PAINTED SHERWIN-WILLIAMS SW 7071 "GRAY-SCREEN".  
2. PROPOSED CABLE TRAY VERTICALLY MOUNTED FROM EQUIPMENT AREA AT GRADE TO ROOFTOP. PROPOSED CABLE TRAY SHALL TRANSITION TO ROOFTOP AND ROUTED TO EACH EACH SECTOR.



2 TEMPORARY WEST ELEVATION  
3/32" = 1'-0"



5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:



2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T SITE NO: CCL00165

PACE NO: MRSFR033255

DRAWN BY: BH

CHECKED BY: SMR

| REV | DATE     | DESCRIPTION                            |
|-----|----------|----------------------------------------|
| 5   | 02/07/20 | REVISED 100% ZDS                       |
| 4   | 11/19/19 | UPDATED 100% ZDS LEASE AREA            |
| 3   | 08/28/19 | UPDATED 100% ZDS PER PLANNING COMMENTS |
| 2   | 06/10/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 1   | 05/06/19 | UPDATED 100% ZDS PER DRM REDLINES      |
| 0   | 04/24/19 | 100% ZDS                               |

Licensor:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**

**PUBLIC STORAGE**

1120 SECOND ST.  
BERKELEY, CA 94710

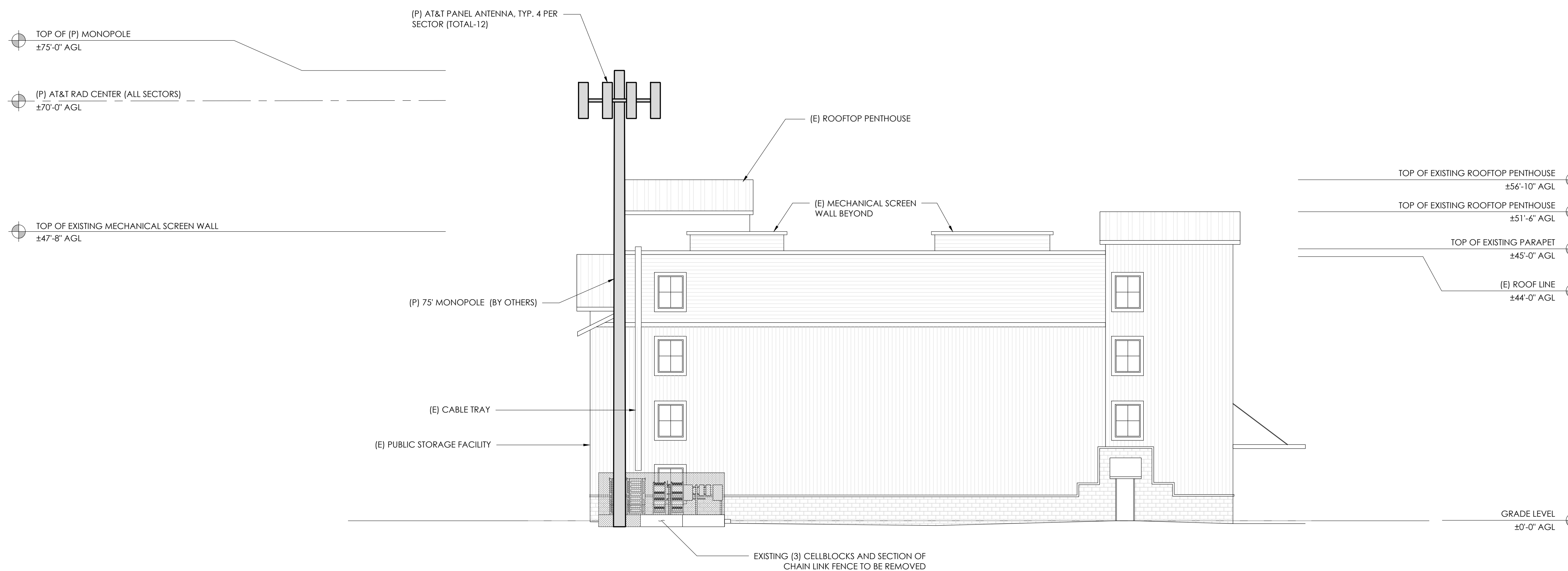
Sheet Title:

**EXISTING & TEMPORARY WEST ELEVATIONS**

Sheet Number:

**A7**





1 PROPOSED SOUTH ELEVATION  
3/32" = 1'-0"

2 NOT USED  
N.T.S.

PREPARED FOR

5001 EXECUTIVE PARKWAY, 4W550H  
SAN RAMON, CALIFORNIA 94583

Vendor:

2030 MAIN STREET, SUITE 200  
IRVINE, CALIFORNIA 94583

AT&T Site ID:

**CCL00165**

AT&T SITE NO: CCL00165  
PACE NO: MRSFR033255  
DRAWN BY: BH  
CHECKED BY: SMR

| REV | DATE     | DESCRIPTION |
|-----|----------|-------------|
| 0   | 05/28/20 | 100% ZDs    |

Licensors:

It is a violation of law for any persons, unless they are acting under the direction of a licensed professional engineer, to alter this document

Issued For:

**CCL00165**

PUBLIC STORAGE  
1120 SECOND ST.  
BERKELEY, CA 94710

Sheet Title:

**PROPOSED SOUTH ELEVATIONS**

Sheet Number:

**A6.1**









Office of the City Manager

INFORMATION CALENDAR

July 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Director, Planning and Development

Subject: LPC NOD: 41 San Diego Road/#LMSAP2020-0002

INTRODUCTION

The attached Landmarks Preservation Commission Notice of Decision (NOD) is presented to the Mayor and City Council pursuant to Berkeley Municipal Code/Landmarks Preservation Ordinance (BMC/LPO) Section 3.24.240.A, which requires that “a copy of the Notice of Decision shall be filed with the City Clerk, and the City Clerk shall present said copy to the City Council at its next regular meeting.”

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has approved a Structural Alteration Permit (SAP) for the subject City Landmark site. This action is subject to a 15-day appeal period, which began on July 13, 2020.

BACKGROUND

BMC/LPO Section 3.24.300 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying a Structural Alteration Permit. In order for Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by July 28, 2020. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must rule on the application within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no known fiscal impacts associated with this action.

CONTACT PERSON

Fatema Crane, Landmarks Preservation Commission Secretary, Planning and Development, 510-981-7410

Attachments:

1: Notice of Decision – #LMSAP 2020-0002, 41 San Diego Road/John Hinkel Park



L A N D M A R K S  
P R E S E R V A T I O N  
C O M M I S S I O N

---

N O T I C E O F D E C I S I O N

**DATE OF BOARD DECISION: June 4, 2020**  
**DATE NOTICE MAILED: July 13, 2020**  
**APPEAL PERIOD EXPIRATION: July 28, 2020**  
**EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): July 29, 2020<sup>1</sup>**

## **41 San Diego Road --John Hinkel Park**

**Structural Alteration Permit (#LMSAP2020-0002) to improve access to John Hinkel Park by completing ADA improvements in the amphitheater and converting a vehicle drive aisle into an additional playground and enhanced picnic area.**

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following permit:

**PERMITS REQUIRED:**

- Structural Alteration Permit, pursuant to Berkeley Municipal Code Section 3.24.200

**APPLICANT:** City of Berkeley Dept. of Park, Recreation and Waterfront

**ZONING DISTRICT:** Single-Family Residential/Hillside Overlay (R1/H)

**ENVIRONMENTAL REVIEW STATUS:** Categorically exempt pursuant to Section 15331 of the CEQA Guidelines for Historical Resource Rehabilitation.

**The application materials for this project are available online at:**

<http://www.cityofberkeley.info/zoningapplications>

---

<sup>1</sup> Pursuant to BMC Section 23B.32.090, the City Council may “certify” any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Use Permit becomes effective the day after the certification deadline has passed.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
Structural Alteration Permit - #LMSAP2020-0002  
41 San Diego Road – John Hinkel Park  
July 13, 2020  
Page 2 of 4

---

**FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE**

---

**COMMISSION VOTE: 6-3-0-0**

**YES:** ABRANCHES DA SILVA, ALLEN, CRANDALL, ENCHILL, HALL  
MONTGOMERY, JOHNSON

**NO:** ADAMS, FINACOM, SCHWARTZ

**ABSTAIN:** None

**ABSENT:** None

**Note New Methods for Submitting Appeals during Shelter-In-Place Order**

**TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):**

To appeal a decision of the Landmarks Preservation Commission to the City Council during the 2020 City Council Shelter-In-Place Order, you must:

1. Mail a letter clearly and concisely setting forth the grounds for the appeal with a check or money order for required fees to the City Clerk, located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley, 94704. The City Clerk's telephone number is (510) 981-6900.

OR

Alternatively, you may email your complete appeal and all attachments to the Planning Department at [planning@cityofberkeley.info](mailto:planning@cityofberkeley.info) and include a telephone number where you can be reached during the day. Planning Department staff will call you within three business days to obtain payment information for the required fees by credit card *only*.

- a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the commission made under the provisions of Chapter 3.24.
2. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
    - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less. Signatures collected per the filing requirement in BMC Section 3.24.300.A may be counted towards qualifying for the reduced fee, so long as the signers are qualified. The individual

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
Structural Alteration Permit - #LMSAP2020-0002  
41 San Diego Road – John Hinkel Park  
July 13, 2020  
Page 3 of 4

filing the appeal must clearly denote which signatures are to be counted towards qualifying for the reduced fee.

- b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
  - c. The fee for all appeals by Applicants is \$2500.
3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

If no appeal is received, the landmark designation will be final on the first business day following expiration of the appeal period.

#### **NOTICE CONCERNING YOUR LEGAL RIGHTS:**

---

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:
  - A. That this belief is a basis of your appeal.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
Structural Alteration Permit - #LMSAP2020-0002  
41 San Diego Road – John Hinkel Park  
July 13, 2020  
Page 4 of 4

- B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
- C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

**PUBLIC COMMENT:**

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

**FURTHER INFORMATION:**

Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7410 or fcrane@cityofberkeley.info. All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 1947 Center Street, 3<sup>rd</sup> Fl., between 8 a.m. and 4 p.m., Monday through Friday, except Tuesday when the Center closes at 3PM.

**ATTACHMENTS:**

- 1. Findings and Conditions
- 2. Project Plans



**ATTEST:** \_\_\_\_\_  
Fatema Crane, Secretary  
Landmarks Preservation Commission

Cc:  
City Clerk  
Applicant: City of Berkeley Dept. of Parks, Recreation and Waterfront

## ATTACHMENT 1

## FINDINGS AND CONDITIONS

**41 San Diego Road****Structural Alteration Permit #LMSAP2020-0002**

**To improve access to John Hinkel Park by completing ADA improvements in the amphitheater and converting a vehicle drive aisle into an additional playground and enhanced picnic area.**

**CEQA FINDINGS**

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15331 of the CEQA Guidelines (“Historic Resource Restoration/Rehabilitation”). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

**SECRETARY OF THE INTERIOR’S STANDARDS FINDINGS**

Regarding the Secretary of the Interior’s Standards for Restoration, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

1. A property will be used as a City park as it was historically.
2. The historic character of the property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize this property have been avoided.
3. Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken in this project.
4. Changes to the property that have acquired historic significance in their own right are not affected by this proposal.
5. If affected, distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the historic period will be preserved.
6. Deteriorated features from the historic period will be repaired rather than replaced if affected. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Conditions to protect archeological resources have been applied to this project.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work

will be differentiated from the old where possible and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

## **FINDINGS FOR APPROVAL**

1. As required by Section 3.24.260 of the Landmarks Preservation Ordinance, the Commission finds that proposed work is appropriate for and consistent with the purposes of the Ordinance, and will preserve and enhance the characteristics and features specified in the designation for this property. Specifically, the Commission finds that:
  - The proposed scope of work in this schematic design will not result in a substantial change to the overall character, design and natural beauty of John Hinkel Park. This work is limited in area and scope and will engender only a modest change in the landscape while preserving the character-defining features of the property.

## **STANDARD CONDITIONS**

The following conditions, as well as all other applicable provisions of the Landmarks Preservation Ordinance, apply to this Permit:

### **1. Conditions Shall be Printed on Plans**

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Permit, under the title 'Structural Alteration Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

### **2. Plans and Representations Become Conditions**

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

### **3. Subject to All Applicable Laws and Regulations**

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.



**4. Exercise and Lapse of Permits (Section 23B.56.100)**

- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- A. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

**5. Indemnification Agreement**

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval

**ADDITIONAL CONDITIONS**


---

The following additional conditions are attached to this Permit:

- 6. Use Permit approval.** This Structural Alteration Permit is contingent upon Use Permit approval for this project.
- 7. Repair and replacement of character-defining features.** Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old or historic feature in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence. Mortared rock wall repair shall include only appropriately sourced rock and be directed by professionals with relevant expertise.
- 8. Chemical Treatments.** Any chemical treatments needed as construction progresses will be undertaken using the gentlest means possible.

- 9. Archaeological Resources.** Pursuant to CEQA Guidelines section 15064.5(f), “provisions for historical or unique archaeological resources accidentally discovered during construction” should be instituted. Therefore:
- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
  - B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
  - C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
  - D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
  - E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
- 10. 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. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
- 11. 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 paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important,

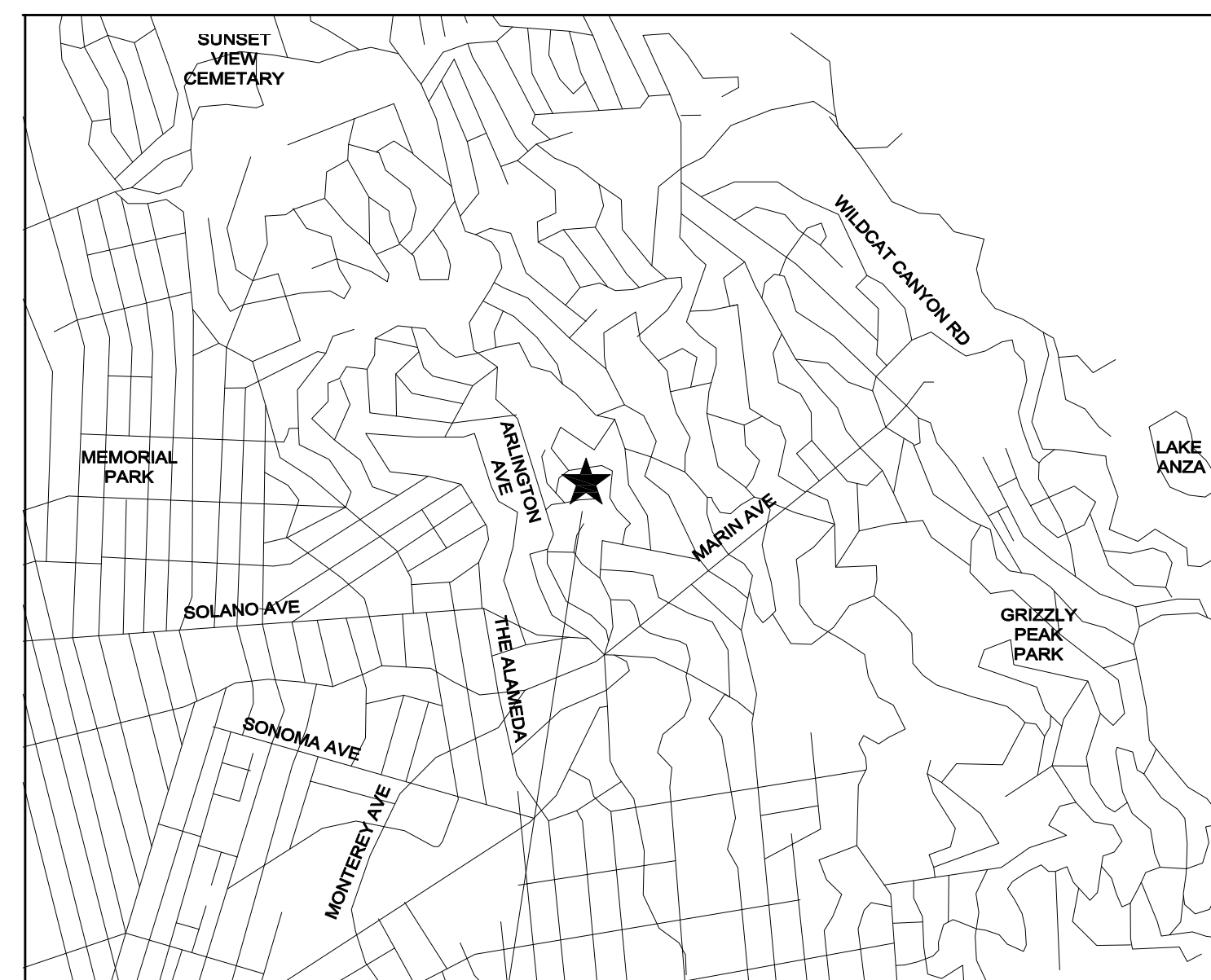
and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

12. **Halt Work/Unanticipated Discovery of Tribal Cultural Resources.** In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
13. **Public Furniture and Play Equipment.** Prior to Landmarks plan check approval of this project, the applicant shall present final details of public furniture and play structures for approval by staff.

CITY OF BERKELEY  
ALAMEDA COUNTY, CALIFORNIA

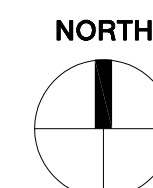
# JOHN HINKEL PARK AMPHITHEATER AREA IMPROVEMENTS

SCHEMATIC DESIGN  
FEBRUARY 12, 2020



VICINITY PLAN  
N.T.S.

JOHN HINKEL PARK  
PROJECT SITE



**els** architecture  
urban design  
510.549.2929 | elsarch.com  
2040 Addison St. Berkeley, CA 94704

PROJECT:

**JOHN HINKEL PARK  
AMPHITHEATER AREA  
IMPROVEMENTS**

41 SOMERSET PLACE  
BERKELEY, CA

**PROJECT DESCRIPTION**

IMPROVEMENTS TO THE AMPHITHEATER AREA OF JOHN HINKEL PARK INCLUDE ACCESSIBLE PATH, IMPROVED DRAINAGE, SURFACE TREATMENT, PICNIC AREA, AND PLAY AREA. PARKING INCLUDES A SPACE FOR ACCESSIBLE VAN, ADDITIONAL VEHICLE SPACES, STRIPING, AND SIGNAGE. A BIKE RACK, WASTE, AND RECYCLING BINS ARE PROVIDED. MASONRY REPAIR WILL BE PROVIDED AT THE AMPHITHEATER AND FIREPLACE. HANDRAILS WILL BE PROVIDED AT THE EXISTING STAIRS SURROUNDING THE AMPHITHEATER.

PROJECT NUMBER:

**201320.26**

CLIENT:

**CITY OF BERKELEY  
PARKS RECREATION AND WATERFRONT**  
2180 MILVIA STREET, 3RD FLOOR  
BERKELEY, CA 94704

CONSULTANTS:

**LANDSCAPE ARCHITECT:**  
PGAdesign, Inc.  
444 17th Street  
OAKLAND, CA 94612  
TEL: 510-465-1284

**CIVIL ENGINEER:**  
URBAN DESIGN CONSULTING ENGINEERS  
318 Harrison Street, Suite 302  
OAKLAND, CA 94707  
TEL: 510-868-1085

**SHEET INDEX**

**ARCHITECTURAL**

- A000 COVER SHEET
- X-4195 TOPOGRAPHIC SURVEY (PROVIDED BY OTHERS FOR REFERENCE ONLY)
- A400 ENLARGED SITE PLAN

**LANDSCAPE**

- L101 LANDSCAPE PLAN
- L102 PLAY EQUIPMENT AND SITE FURNISHINGS
- L103 PAVING AND PLANTING MATERIALS
- L104 PRELIMINARY GRADING PLAN

| REVISION |      |             |
|----------|------|-------------|
| NUMBER   | DATE | DESCRIPTION |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |

CITY SPECIFICATION NUMBER:

ISSUE:  
**SCHEMATIC DESIGN**

DATE:  
**FEBRUARY 12, 2020**

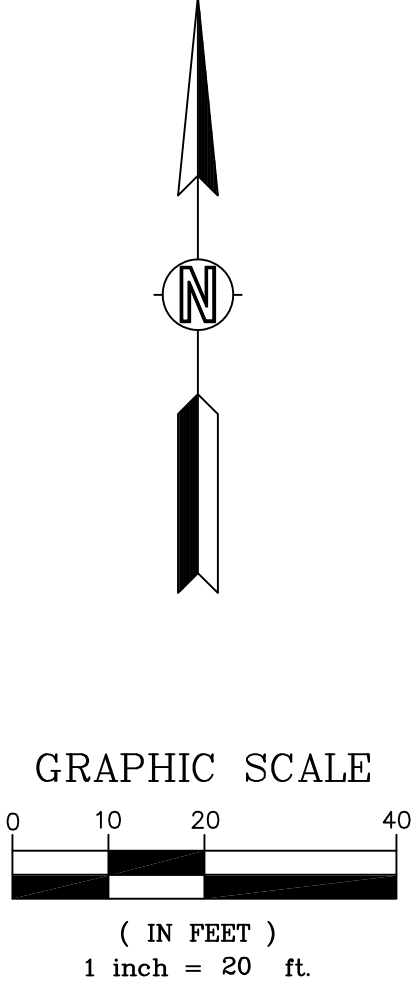
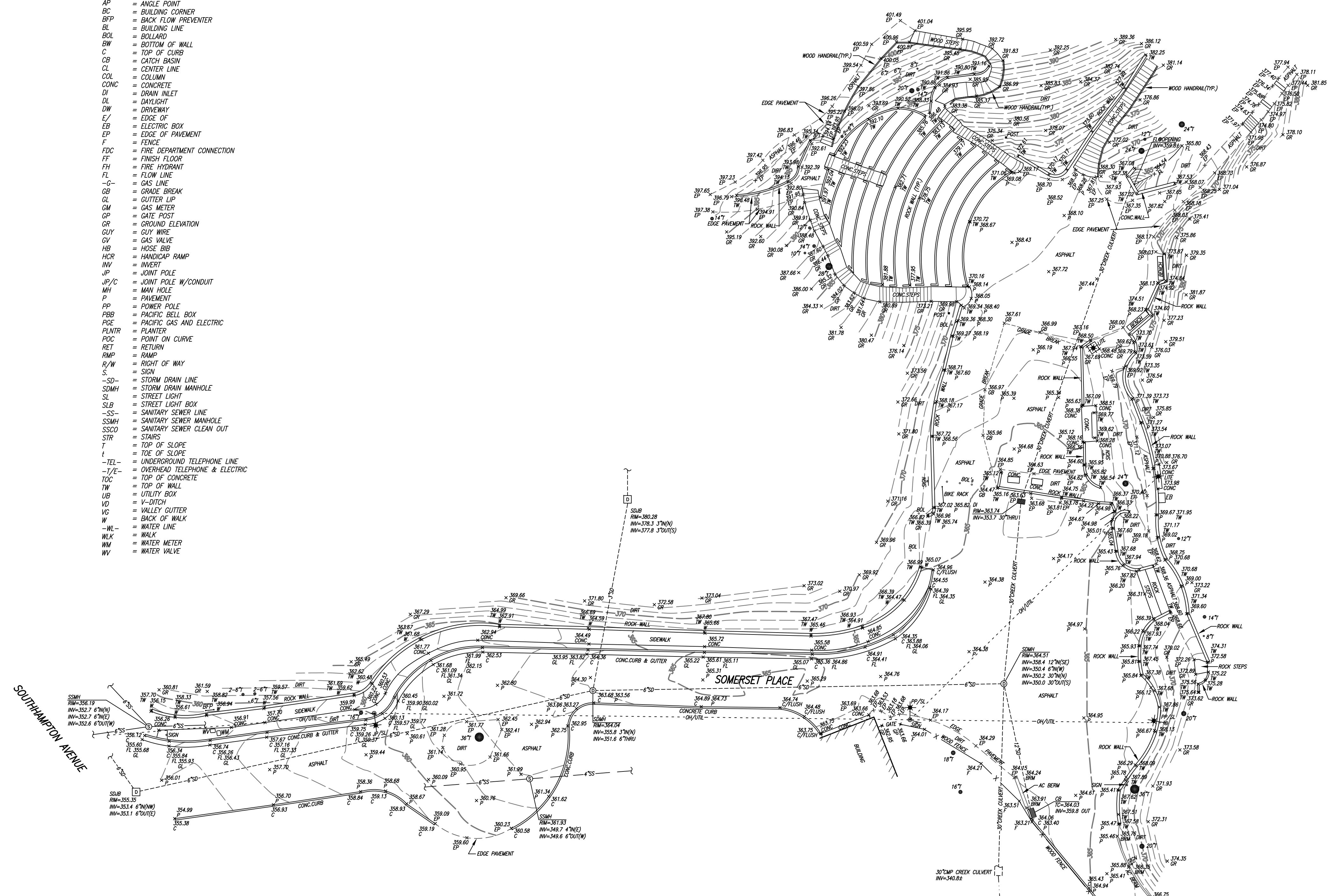
SHEET TITLE:  
**COVER SHEET**

SHEET NUMBER:  
**A000**



LEGEND

- T = TREE (APPROX. DIA. @ BREAST HEIGHT)
- AD = AREA DRAIN
- AP = ANGLE POINT
- BC = BUILDING CORNER
- BFP = BACK FLOW PREVENTER
- BL = BUILDING LINE
- BOL = BOLLARD
- BW = BOTTOM OF WALL
- C = TOP OF CURB
- CB = CATCH BASIN
- CL = CENTER LINE
- COL = COLUMN
- CONC = CONCRETE
- DI = DRAIN INLET
- DL = DAYLIGHT
- DW = DRIVEWAY
- E = EDGE OF
- EB = ELECTRIC BOX
- EP = EDGE OF PAVEMENT
- F = FENCE
- FDC = FIRE DEPARTMENT CONNECTION
- FF = FIRE FLOOR
- FH = FIRE HYDRANT
- FL = FLOW LINE
- GL = GAS LINE
- GB = GRADE BREAK
- GL = GUTTER LIP
- GM = GAS METER
- GP = GATE POST
- GR = GROUND ELEVATION
- GUY = GUY WIRE
- GV = GAS VALVE
- HB = HOSE BIB
- HCR = HANDICAP RAMP
- HW = HWO
- JP = JOINT POLE
- JP/C = JOINT POLE W/CONDUIT
- MH = MAN HOLE
- P = PAVEMENT
- PP = POWER POLE
- PBB = PACIFIC BELL BOX
- PGE = PACIFIC GAS AND ELECTRIC
- PLNTR = PLANTER
- POC = POINT ON CURVE
- RET = RETURN
- RMP = RAMP
- R/W = RIGHT OF WAY
- S = SIGN
- SD- = STORM DRAIN LINE
- SDMH = STORM DRAIN MANHOLE
- SL = STREET LIGHT
- SLB = STREET LIGHT BOX
- SS- = SANITARY SEWER LINE
- SSMH = SANITARY SEWER MANHOLE
- SSCO = SANITARY SEWER CLEAN OUT
- STR = STAIRS
- T = TOP OF SLOPE
- t = TOE OF SLOPE
- TEL- = UNDERGROUND TELEPHONE LINE
- TFE- = OVERHEAD TELEPHONE & ELECTRIC
- TOC = TOP OF CONCRETE
- TW = TOP OF WALL
- UB = UTILITY BOX
- VD = V-DITCH
- VG = VALLEY GUTTER
- W = WATER LINE
- WLK = WALK
- WM = WATER METER
- WV = WATER VALVE



GENERAL NOTES

1. THE LOCATIONS OF UNDERGROUND UTILITIES AS SHOWN HEREON ARE BASED ON ABOVE GROUND STRUCTURES AND RECORD DRAWINGS PROVIDED THE SURVEYOR. LOCATIONS OF UNDERGROUND UTILITIES/STRUCTURES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES/STRUCTURES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THIS SURVEY TO LOCATE BURIED UTILITIES/STRUCTURES.
2. CONTRACTORS AND OTHERS PERFORMING WORK SHALL VERIFY THE EXACT LOCATION AND DEPTH OF ALL UNDERGROUND UTILITIES.
3. CONTOUR INTERVAL = 1'
4. BASIS OF BEARINGS: CITY OF BERKELEY DATUM, (C.O.B.)
5. BENCHMARK: CITY OF BERKELEY CP-6006, FOUND MAG NAIL. ELEVATION = 364.20'  
PER 2013 TOPOGRAPHIC SURVEY RECEIVED 10-8-2019
6. BOUNDARY LINES ARE APPROXIMATE ONLY, AND ARE BASED ON AVAILABLE RECORD INFORMATION.
7. SPRINKLER HEADS AND IRRIGATION LINES ARE NOT SHOWN HEREON.



*Patrick M. Rei*  
 PATRICK M. REI DATE 10/16/19  
 L.S. # 8178

F:\projects\19653\19-05\OWGS\SURVEY\X-4195\_10-22-19.dwg 10/22/19

|                                                           |                                                                                                                                                                    |                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                |
|-----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>NOTE: CONTOURS BY INTERPOLATION, APPROXIMATE ONLY.</p> | <p>REFERENCES</p> <p>FIELD BOOK No. _____</p> <p>FILE MAP: _____</p> <p>TITLE CO.: _____</p> <p>POLICY No.: _____</p> <p>DATUM: C.O.B.</p> <p>MSC. REF.: _____</p> | <p>REVISIONS</p> <p>10/22/19</p> <p>REVISED 24"SD TO 30"SD</p> <p>PER C.O.B. EMAIL 10/21/19.</p> | <p><b>KISTER, SAVIO &amp; REI, INC.</b><br/>                 LAND SURVEYORS - CIVIL ENGINEERS</p> <p>825 SAN PABLO AVENUE<br/>                 PINOLE, CALIFORNIA 94564<br/>                 PHONE: (510) 222-4020 FAX: (510) 222-3718<br/>                 E-MAIL: info@ksrinc.net</p> <p>FOR: CITY OF BERKELEY</p> <p>SCALE: 1" = 20'</p> <p>DATE: 10/16/19</p> | <p>DESCRIPTION</p> <p><b>TOPOGRAPHIC SURVEY</b></p> <p>PORTION OF HINKEL PARK</p> <p>JOB No. 19653-19-05</p> <p>DWG No. X-4195</p> <p>BERKELEY, CALIFORNIA</p> |
|-----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|



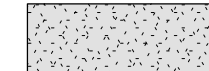






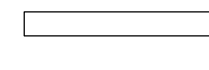
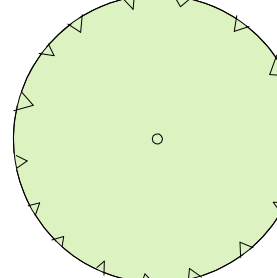
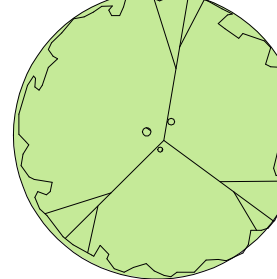








**LANDSCAPE MATERIAL LEGEND**

-  ASPHALT PAVING
-  INTEGRAL COLOR CONCRETE - COLOR A
-  INTEGRAL COLOR CONCRETE - COLOR B
-  INTEGRAL COLOR CONCRETE - COLOR C
-  STABILIZED DECOMPOSED GRANITE PAVING
-  PLAY SURFACING - ENGINEERED WOOD FIBER
-  PLANTING AREA - LOW PLANTING - 3' TALL MAX
-  EXISTING STONE WALL TO REMAIN
-  PROPOSED TREE - QUERCUS AGRIFOLIA
-  PROPOSED TREE - PLATANUS RACEMOSA

**LANDSCAPE GENERAL NOTES**

1. EXISTING SITE INFORMATION IS PROVIDED ON THE SURVEY PLAN BY KISTER, SAVIO & REI, INC. LANDSCAPE ARCHITECT ASSUMES NO RESPONSIBILITY OR LIABILITY FOR COMPLETENESS OR ACCURACY OF PLANS PROVIDED BY OTHERS.
2. 'TYP' OR TYPICAL MEANS THAT THE CONDITION IS REPRESENTATIVE FOR SIMILAR CONDITIONS THROUGHOUT, UNLESS OTHERWISE NOTED. DETAILS ARE USUALLY NOTED 'TYP' ONLY ONCE WHEN THEY FIRST OCCUR.
3. NOTES AND SYMBOLS ON ONE DRAWING APPLY TO OTHER SIMILAR DETAILS AND CONDITIONS.
4. BECOME ACQUAINTED WITH SUBGRADE UTILITIES, PIPES AND STRUCTURES. SHOULD UTILITIES OR OTHER WORK NOT SHOWN ON THE PLANS BE FOUND DURING EXCAVATIONS, PROMPTLY NOTIFY OWNER'S REPRESENTATIVE. FAILURE TO DO SO WILL MAKE CONTRACTOR LIABLE FOR DAMAGE ARISING FROM HIS OPERATIONS SUBSEQUENT TO DISCOVERY OF SUCH UTILITIES NOT SHOWN ON PLANS.
5. DIMENSIONS ARE FROM OUTSIDE FACE OF BUILDING OR WALLS, UNLESS OTHERWISE NOTED, AND ARE TO BE VERIFIED IN THE FIELD PRIOR TO CONSTRUCTION AND MAJOR EXCAVATION. WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SCALING.
6. UNLESS OTHERWISE NOTED, ANGLES TO BE RIGHT ANGLES, ARCS WHICH APPEAR TANGENT AND UNIFORM ARE TO BE TANGENT AND UNIFORM, LINES WHICH APPEAR PARALLEL ARE TO BE PARALLEL, AND ITEMS WHICH APPEAR CENTERED TO BE CENTERED, MAINTAIN LINES TRUE, LEVEL, PLUMB, AND SQUARE.
7. REFER TO GRADING PLANS FOR GRADING AND DRAINAGE STRUCTURES PRIOR TO INSTALLATION OF WALKS, WALLS, FOOTINGS, AND OTHER STRUCTURES.
8. LANDSCAPE ARCHITECT TO APPROVE LAYOUT IN THE FIELD PRIOR TO CONSTRUCTION. AT TIME OF FIRST SITE VISIT AND BEFORE ANY MAJOR EXCAVATION, THE GENERAL LAYOUT OF SITE ELEMENTS SHOULD BE CONFIRMED. IN A SEPARATE SITE VISIT, LANDSCAPE ARCHITECT TO CONFIRM LAYOUT OF FORMS.
9. VERIFY THAT CONDUITS AND SLEEVES ARE PLACED PRIOR TO POURING CONCRETE PAVING.
10. LOCATE ELECTRICAL JUNCTION BOXES FOR LIGHTS IN PLANTING AREAS UNLESS SHOWN OTHERWISE. LAYOUT TO BE APPROVED BY THE OWNER'S REPRESENTATIVE PRIOR TO TRENCHING.
11. CAREFULLY REVIEW LANDSCAPE IRRIGATION PLANS AND NOTES TO IDENTIFY LOCATIONS WHERE PIPE, SLEEVES, SANDBED OR CONDUIT MUST BE PLACED PRIOR TO PLACEMENT OF FORMWORK FOR INSTALLATION OF CONCRETE, OTHER PAVING, OR WALLS. COORDINATE WITH OTHER TRADES TO INSTALL IRRIGATION PIPE, SLEEVE, SANDBEDDING, OR CONDUIT. SHOULD CONFLICTS ARISE REVIEW WITH OWNER'S REPRESENTATIVE FOR RESOLUTION.
12. QUANTITIES PROVIDED ARE FOR INFORMATION ONLY. VERIFY QUANTITIES AND NOTIFY OWNER OF DISCREPANCIES.
13. VERIFY PROPERTY BOUNDARIES AND LOT LINES PRIOR TO COMMENCEMENT OF WORK.

**els** architecture+  
urban design  
510.549.2929 | elsarch.com  
2040 Addison St, Berkeley, CA 94704

PROJECT:

**JOHN HINKEL PARK  
AMPHITHEATER AREA  
IMPROVEMENTS**

41 SOMERSET PLACE  
BERKELEY, CA

PROJECT NUMBER:

201320.26

CLIENT:

**CITY OF BERKELEY  
PARKS RECREATION AND WATERFRONT**

2180 MILVIA STREET, 3RD FLOOR  
BERKELEY, CA 94704

CONSULTANTS:

**LANDSCAPE ARCHITECT:**  
PGAdesign, Inc.  
444 17th Street  
OAKLAND, CA 94612  
TEL: 510-465-1284

**CIVIL ENGINEER:**  
URBAN DESIGN CONSULTING ENGINEERS  
318 Harrison Street, Suite 302  
OAKLAND, CA 947607  
TEL: 510-868-1085

| REVISION |      |             |
|----------|------|-------------|
| NUMBER   | DATE | DESCRIPTION |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |

CITY SPECIFICATION NUMBER:

ISSUE:

**SCHEMATIC DESIGN**

DATE:

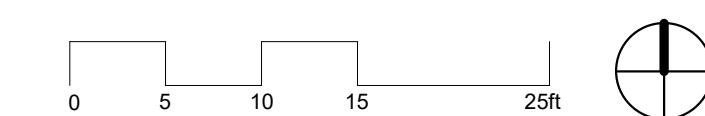
02/12/2020

SHEET TITLE:

**Landscape Plan**

SHEET NUMBER:

**L101**





PROJECT:

**JOHN HINKEL PARK  
AMPHITHEATER AREA  
IMPROVEMENTS**

41 SOMERSET PLACE  
BERKELEY, CA

PROJECT NUMBER:  
**201320.26**

CLIENT:  
**CITY OF BERKELEY  
PARKS RECREATION AND WATERFRONT**  
2180 MILVIA STREET, 3RD FLOOR  
BERKELEY, CA 94704

CONSULTANTS:  
**LANDSCAPE ARCHITECT:**  
PGAdesign, Inc.  
444 17th Street  
OAKLAND, CA 94612  
TEL: 510-465-1284

**CIVIL ENGINEER:**  
URBAN DESIGN CONSULTING ENGINEERS  
318 Harrison Street, Suite 302  
OAKLAND, CA 94767  
TEL: 510-868-1085



WHITE-OAK STEPPERS AND BOULDER PLAY - EARTHSCAPE PLAY EQUIPMENT



LUMBERJACK LOG JAM - EARTHSCAPE PLAY EQUIPMENT



CONCRETE TURTLES AT DG PATH



LINEAR WOOD BENCH AND 6' WOOD BENCH - STREETLIFE ROUGH & READY



DOUBLE BAY SWING SET WITH BIRDSNEST AND TWO BELT SWINGS - KOMPAN NRO912



PICNIC TABLES - STREETLIFE SOLID PICNIC SET



ENGINEERED WOOD FIBER PLAY SURFACING

| REVISION |      |             |
|----------|------|-------------|
| NUMBER   | DATE | DESCRIPTION |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |

CITY SPECIFICATION NUMBER:

ISSUE:  
**SCHEMATIC DESIGN**

DATE:  
**02/12/2020**

SHEET TITLE:  
**Play Equipment and  
Site Furnishings**

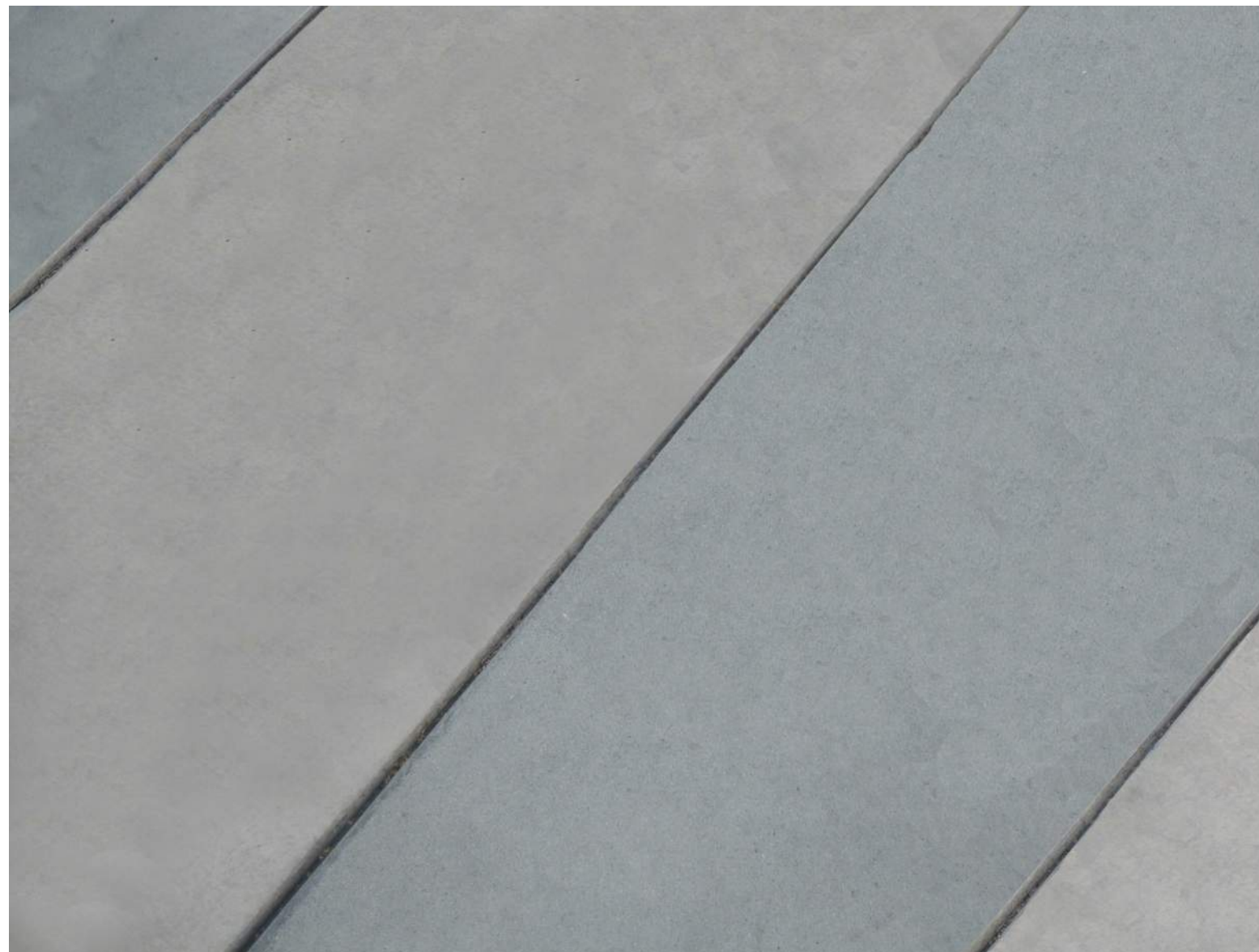
SHEET NUMBER:

**L102**





CURVING CONCRETE PATH - SEE CONCRETE COLOR BELOW



COLORLED CONCRETE PAVING WITH CUSTOM SCORING AND SANDBLAST FINISH



CUSTOM SCORED CONCRETE AT PICNIC AREA



NATIVE UNDERSTORY PLANTING - UNDER 3' TALL FOR VISIBILITY THROUGH SITE



ROBUST BORDER PLANTING AT CURVED PATH AND PARKING AREA



COAST LIVE OAK TREES, QUERCUS AGRIFOLIA



CALIFORNIA SYCAMORE TREES, PLATANUS RACEMOSA

PROJECT:

**JOHN HINKEL PARK  
AMPHITHEATER AREA  
IMPROVEMENTS**

41 SOMERSET PLACE  
BERKELEY, CA

PROJECT NUMBER:

201320.26

CLIENT:

**CITY OF BERKELEY**  
PARKS RECREATION AND WATERFRONT

2180 MILVIA STREET, 3RD FLOOR  
BERKELEY, CA 94704

CONSULTANTS:

**LANDSCAPE ARCHITECT:**

PGAdesign, Inc.  
444 17th Street  
OAKLAND, CA 94612  
TEL: 510-465-1284

**CIVIL ENGINEER:**

URBAN DESIGN CONSULTING ENGINEERS  
318 Harrison Street, Suite 302  
OAKLAND, CA 947607  
TEL: 510-868-1085

| REVISION |      |             |
|----------|------|-------------|
| NUMBER   | DATE | DESCRIPTION |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |

CITY SPECIFICATION NUMBER:

ISSUE:

**SCHEMATIC DESIGN**

DATE:

02/12/2020

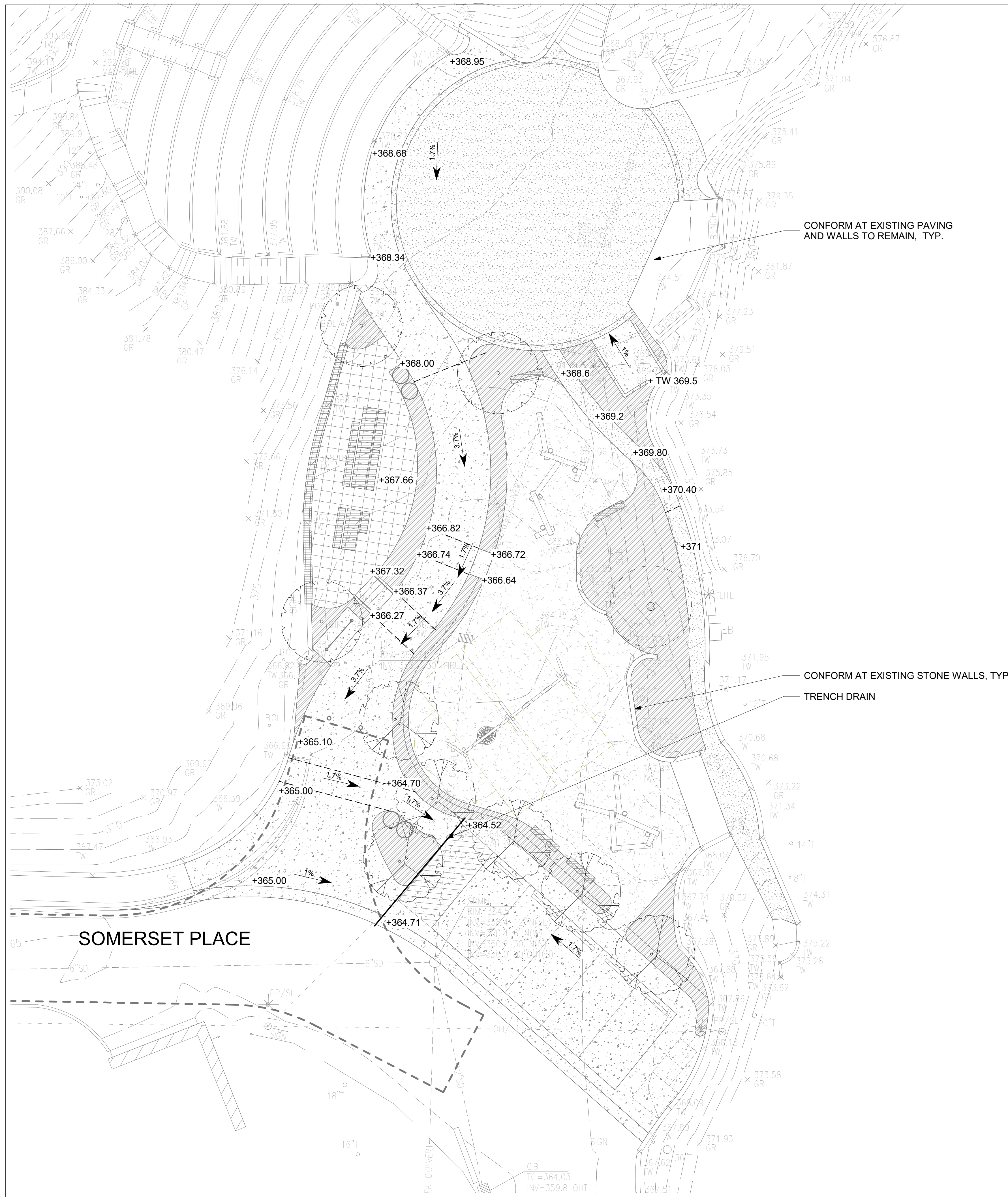
SHEET TITLE:

**Paving and Planting  
Materials**

SHEET NUMBER:

**L103**





**GRADING LEGEND**

- PROPOSED MAJOR CONTOUR LINE (NONE SHOWN)
- PROPOSED MINOR CONTOUR LINE (NONE SHOWN)
- ← 2% FLOW DIRECTION
- RIM +70.48 GRADING POINT
- .02 PERCENT OF PROPOSED SLOPE
- (.02) PERCENT OF EXISTING SLOPE
- FF FINISH FLOOR ELEVATION
- RIM RIM ELEVATION
- FS FINISH SURFACE ELEVATION
- TC TOP OF CURB
- BC BOTTOM OF CURB
- HP HIGH POINT
- FG FINISH GRADE
- TW TOP OF WALL
- BW BOTTOM OF WALL
- TS TOP OF STEP
- BS BOTTOM OF STEP

**DRAINAGE NOTES**

1. NEW AREA DRAINS AND UNDERGROUND PIPES NEEDED, ASSUME THREE DRAINS. TIE INTO EXISTING DRAIN INLET.
2. ADJUST EXISTING DRAIN INLET TO NEW ELEVATION.
3. TRENCH DRAIN NEEDED TO CARRY WATER FROM ROADWAY AND PARKING AREA TO PLANTED AREA AND DRAINAGE SYSTEM.
4. PROJECT AREA CURRENTLY 100% IMPERVIOUS SURFACE. PROPOSED IMPROVEMENTS REDUCE IMPERVIOUS SURFACE AREA. NO BIOTREATMENT AREAS ANTICIPATED AS PART OF THIS PROJECT.

**els architecture**  
urban design  
510.549.2929 | elsarch.com  
2040 Addison St. Berkeley, CA 94704

PROJECT:

**JOHN HINKEL PARK  
AMPHITHEATER AREA  
IMPROVEMENTS**

41 SOMERSET PLACE  
BERKELEY, CA

PROJECT NUMBER:  
**201320.26**

CLIENT:  
**CITY OF BERKELEY  
PARKS RECREATION AND WATERFRONT**  
2180 MILVIA STREET, 3RD FLOOR  
BERKELEY, CA 94704

CONSULTANTS:  
**LANDSCAPE ARCHITECT:**  
PGAdesign, Inc.  
444 17th Street  
OAKLAND, CA 94612  
TEL: 510-465-1284

**CIVIL ENGINEER:**  
URBAN DESIGN CONSULTING ENGINEERS  
318 Harrison Street, Suite 302  
OAKLAND, CA 947607  
TEL: 510-868-1085

| REVISION |      |             |
|----------|------|-------------|
| NUMBER   | DATE | DESCRIPTION |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |
|          |      |             |

CITY SPECIFICATION NUMBER:

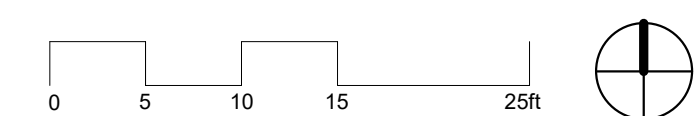
ISSUE:  
**SCHEMATIC DESIGN**

DATE:  
**02/12/2020**

SHEET TITLE:  
**Preliminary Grading  
Plan**

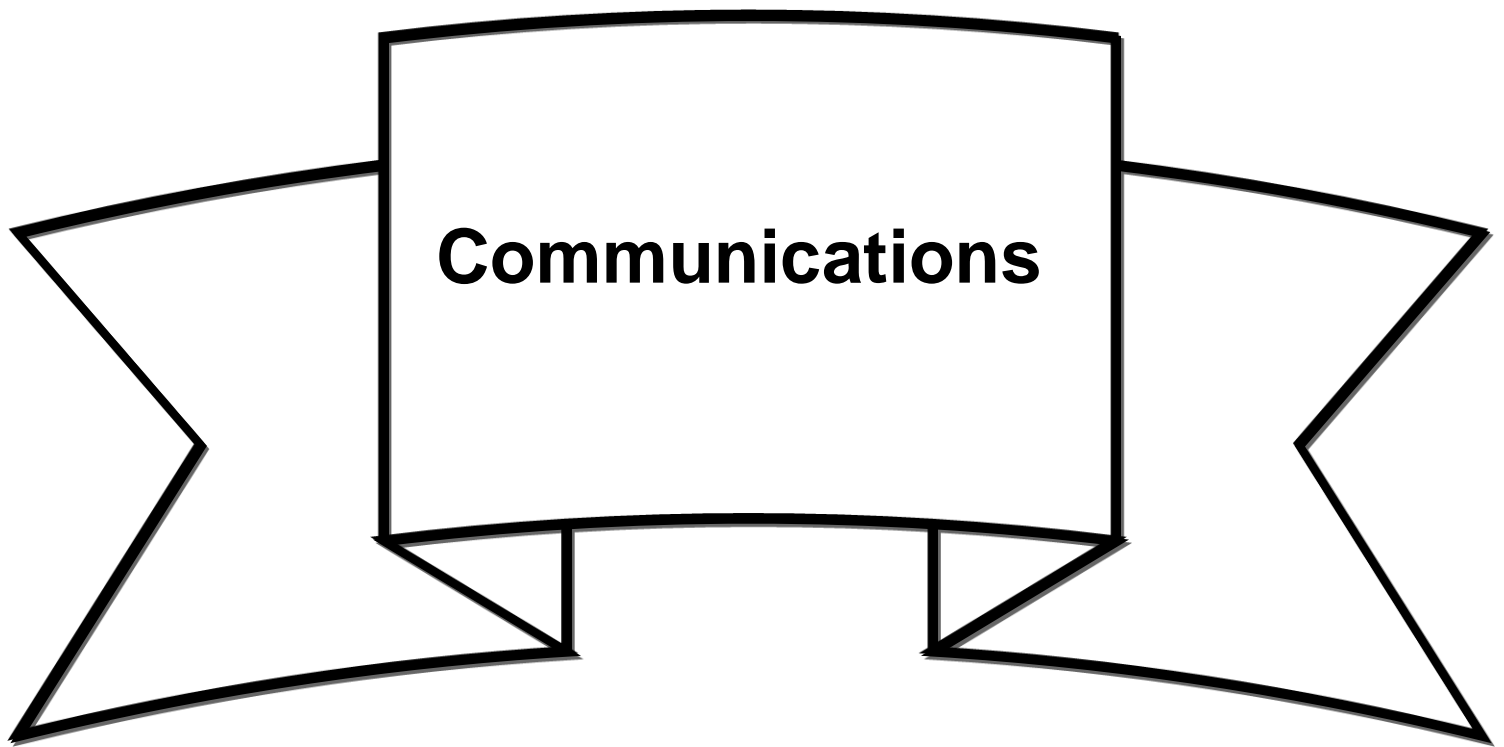
SHEET NUMBER:

**L104**









All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

**City Clerk Department**

2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

**Records Online**

<http://www.cityofberkeley.info/recordsonline>

To search for communications associated with a particular City Council meeting using Records Online:

1. Select Search Type = “Public – Communication Query (Keywords)”
2. From Date: Enter the date of the Council meeting
3. To Date: Enter the date of the Council meeting (this may match the From Date field)
4. Click the “Search” button
5. Communication packets matching the entered criteria will be returned
6. Click the desired file in the Results column to view the document as a PDF