



Office of the City Manager

December 29, 2023

To: Honorable Mayor and Members of the City Council

From: *DWR* Dee Williams-Ridley, City Manager

Re: Framework for a Collaborative Planning Process between the City and the University of California, Berkeley on UC Capital Projects

On July 27, 2021 the City of Berkeley and the University of California, Berkeley executed a Settlement Agreement in order to end litigation related to the University's 2021 Long Range Development Plan (LRDP) Environmental Impact Report. The Settlement Agreement contained terms regarding review of development projects and commercial tenancies on University-owned land located in the City environs. More specifically, the parties were tasked with developing a "collaborative planning process" by July 27, 2023.

Development projects owned by the University but located off-campus are not subject to the City's zoning regulations, and they are not presented to the City's elected and appointed boards and commissions. The new collaborative planning process ensures that the City and the University work together to provide engagement opportunities for the public. This collaboration also ensures coordination on projects that may affect the City's infrastructure, traffic patterns and other resources.

Between November 2022 and July 2023, staff from the City and the University worked on a collaborative planning process that achieves the objectives of the Settlement Agreement and can be supported with existing resources. The resulting framework establishes a standard set of practices for sharing information about University projects, while also making the best use of staff and City Commissioner time on the highest priority issues. The framework ensures there is opportunity for staff and policy makers to review projects in the early planning and design phases when there is opportunity to incorporate feedback and advice.

The framework (see Attachment 1) was shared with select representatives from the City and the University on July 27, 2023. It was then presented to the City's and University's LRDP Principals (including Mayor Jesse Arreguin and Chancellor Carol Christ) at their August 24, 2023 meeting.

The new collaborative planning process has provided an opportunity for improved communication and expanded public engagement. These changes will provide benefits to the City, the University and the public, and will likely translate to improvements in project planning that benefit the City as a whole. The first UC capital project to which the framework is being applied is the University's Berkeley Innovation Zone project, located on Oxford Street between University Avenue and Addison Street.

Attachments:

1. Collaborative Planning Process Framework Memo

cc:

LaTanya Bellow, Deputy City Manager  
Anne Cardwell, Deputy City Manager  
Jenny Wong, City Auditor  
Farimah Brown, City Attorney  
Mark Numainville, City Clerk  
Matthai Chakko, Assistant to the City Manager  
Jordan Klein, Director, Planning and Development Department



## MEMORANDUM

**TO:** Chancellor, Carol Christ; Vice Chancellor Administration, Marc Fisher;  
Mayor, Jesse Arreguín; City Manager, Dee Williams-Ridley

**FROM:** Wendy Hillis, Assistant Vice Chancellor and Campus Architect;  
Jordan Klein, Director of Planning and Development

**DATE:** July 27, 2023

**SUBJECT:** Framework for a Collaborative Planning Process for University Capital Projects in the City  
Environs

### ATTACHMENTS:

- A: Communication Plan
- B: Coordination Plan
- C: Project Checklist
- D: Settlement Agreement

## Background

The City of Berkeley (City) and the University of California, Berkeley (University) executed a settlement agreement related to the University's 2021 Long Range Development Plan (2021 LRDP) and associated Environmental Impact Report (EIR).<sup>1</sup> In brief, as part of the agreement, the City and the University agreed to establish a collaborative planning process to allow the City and its stakeholders to review and comment on University capital projects in the City Environs<sup>2</sup>, including on sustainable development standards for these projects.<sup>3</sup>

Over the past several months, City and University staff have worked together to identify an approach to a collaborative planning process that achieves the objectives of the Settlement Agreement and can be supported by existing resources. The approach developed by staff is intended to provide a standard set of practices for sharing information about University projects, while also making the best use of staff and commissioner time on the highest priority issues. The framework is to ensure there is opportunity for staff and policy makers to review projects in the early planning and design phases when there is opportunity to incorporate feedback and advice.

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<sup>1</sup> The full text of the settlement agreement is included as Attachment D.

<sup>2</sup> See Figure 1.2, 2021 Long Range Development Plan

<sup>3</sup> Section 4.2

## **Purpose and Applicability**

While the University retains its constitutional autonomy from local land use regulations, both the City and the University have agreed that providing relevant City staff, the City Council, relevant commissions, and community members the opportunity to provide feedback on University projects in the City Environs is mutually beneficial.<sup>4</sup> The framework is intended to ensure appropriate and timely communication between University and City stakeholders at relevant points in a project's development process. The process applies to the following:

- All University capital projects off the main campus within the City of Berkeley with an anticipated value more than \$5 million<sup>5</sup> regardless of its delivery method (e.g., campus, donor-developed, public-private partnership) or its consistency with the 2021 LRDP.
- Areas off of the main campus include the City Environs and Clark Kerr Campus land use areas shown in the 2021 LRDP, Figure 1.2. If the University amends its LRDP Land Use map to include additional parcels within these land use zones, those properties would be subject to the Collaborative Planning Framework.
- This Collaborative Planning Framework does not supersede terms of the Memorandum of Understanding (City of Berkeley Resolution No. 51,172-N.S.) regarding the development of the Clark Kerr Campus dated April 23, 1982 (the "MOU").

The purpose of this Collaborative Planning Framework is to establish mutually agreed upon expectations for the general timing and deliverables provided to the City, the City Council, relevant commissions, and the public for their comment, as well as expectations for the University's response to any reasonable concerns that may be identified.

## **Responsible Parties**

As identified in the Settlement Agreement, the LRDP Principals (the Chancellor, the Vice Chancellor for Administration, the Mayor, and the City Manager) will meet regularly to review implementation of the Settlement Agreement and areas of mutual interest or concern, including implementation and updates to this Collaborative Planning Framework when necessary.<sup>6</sup>

The City Planning Director and the Campus Architect would be the primary points of contact for University projects subject to the Collaborative Planning Framework. They would propose updates to this framework when necessary. The University may delegate certain coordination tasks to its Capital Projects Director or Real Estate Director, specifically coordination of permitting and construction activities and commercial tenant issues, respectively.

## **Major Milestones and Framework Components**

The Collaborative Planning Framework establishes a series of communication opportunities as a project advances through the University's planning and design process. These steps are tied to a project's

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<sup>4</sup> Section 4.3

<sup>5</sup> Section 4.3.2

<sup>6</sup> Section 4.1

advancement through the Capital Planning Committee's (CPC) review process. High-level milestones include:

- Regular communication between the Planning Director and Campus Architect as projects are introduced and discussed by CPC. This includes monthly meetings to discuss the progress of University projects subject to this framework, as well City projects adjacent to campus properties.
- The University would present and discuss preliminary project plans to the Mayor and local Councilperson representing the area where a project is being planned. The City Planning Director would also attend these meetings.
- The City Planning Director would be invited to participate in the University's Design Review Committee when projects subject to this framework are presented and discussed.
- A "Roundtable Meeting" to present a project's preliminary plans to City staff would be organized by University and City staff after CPC's review and Chancellor's approval of a project's Feasibility Phase.
- A Project Checklist (Attachment C) would be prepared by University and City staff. As identified in the Settlement Agreement, the University would continue its practice of typically voluntarily honoring the City's existing zoning standards in the design of projects off the main campus<sup>7</sup>. The Project Checklist would be used to track issues related to the applicable City planning documents, as well as issues and comments discussed at the Roundtable Meeting.
- All projects would be presented to the City's 4x6 Committee.
- The University would present to select City commissions at the discretion of the City Planning Director and Campus Architect. In general, projects would be presented to the City's Design Review Commission. If a historic resource would be affected by a project, the University would present to the Landmark Preservation Commission. The City Planning Director and Campus Architect may also discuss if presentations at the Zoning Adjustment Board and/or Transportation and Infrastructure Commission are appropriate given the scope of a project.
- After these commission meetings occur, the City Planning Director would provide written comments, if necessary, to the Campus Architect no later than two weeks before the University plans to approve a project. The Campus Architect would respond in writing to these comments before project approval.
- During construction, the University would coordinate permitting requests and reviews required by the City to connect to the public right of way, utilities, environmental protection, and/or commercial permitting, as outlined in the City's Coordination Plan and as identified at the Roundtable Meeting and in the Project Checklist. City permits for University projects would be limited to the following: (1) City Public Works permits for work in the public right of way (e.g. "P" or "U" permits); (2) Use Permits (e.g. Zoning Certificates, Administrative Use Permits and Use Permits with Public Hearings); and (3) Business Licenses for commercial tenants in University-owned buildings leased to non-University businesses.

More detail about the timing and implementation of these steps is included in the Attachments A-C.

## **Implementation**

The Campus Architect would inform the City Planning Director about a project's schedule expectations early in this process to ensure that scheduling of the key milestones do not interfere with project

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<sup>7</sup> Section 4.3

implementation. Both the City and University agree to operate in good faith to allow for the communication and coordination included in this framework, while also meeting a project's objectives and schedule.

### **On-going Coordination and Settlement Agreement Annual Report**

Outside of project-specific coordination, the University and City planning staff will continue to have regular communication about issues of mutual concern. The Settlement Agreement requires that the University provide timely written information about implementation of the 2021 LRDP, enrollment, and housing production.<sup>8</sup> Section 4 of the Settlement Agreement also identifies several other topics that may be of interest to planning staff for future discussion.

The Collaborative Planning Process Framework formalizes staff communications to include:

- Quarterly meetings to discuss areas of mutual concern, including representatives from the University's Planning, Real Estate, Capital Projects, and Facilities staff and the City's Planning; Public Works, and Transportation staff. The City's Planning Director and Campus Architect would jointly facilitate these meetings and adjust frequency and/or attendance as needed.
- Consistent with the terms of the Settlement Agreement, the University would provide the City Planning Director with an annual update that describes annual campus population; status of capital projects in excess of \$5 million that have been proposed, approved, or in construction; status of housing production proposed, approved, or in construction, as well as master leases; and a list of commercial tenant addresses approved or modified within the reporting year. This update would document progress on the implementation of the Collaborative Planning Framework.

We look forward to improved communication between the University and the City on University projects in the City Environs and City projects adjacent to campus properties. The University shares the City's goals for strengthening the vitality of the City for all its residents, and both agencies believe that the proposed Collaborative Planning Framework will help advance this goal.

**CC:** John Arvin, Associate Vice Chancellor, Capital Strategies; Marissa Cheng, Director of Planning; Todd Henry, Principal Planner, Capital Planning; Ruben Lizardo, Director of Local Government and Community Relations; David Robinson, Chief Campus Counsel

LaTanya Bellow, Deputy City Manager; Farimah Brown, City Attorney; Liam Garland, Director of Public Works; Alene Pearson, Deputy Director of Planning and Development; David Sprague, Fire Chief

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<sup>8</sup> Section 4.1

Attachment A: Communication Plan

REQUIRED ACTIVITY	REQUIRED FOR	DELIVERABLE	TIMING	NOTES
<p>Project Evaluation per the following:</p> <ul style="list-style-type: none"> <li><a href="#">General Plan</a></li> <li><a href="#">Downtown Area Plan</a></li> <li><a href="#">Southside Plan</a></li> <li><a href="#">University Ave Strategic Plan</a></li> <li><a href="#">Streets and Open Space Plan</a></li> <li><a href="#">Pedestrian Plan</a></li> <li><a href="#">Berkeley Bicycle Plan</a></li> <li><a href="#">Berkeley Strategic Transportation (BeST) Plan</a></li> <li><a href="#">Berkeley Climate Action Plan</a></li> <li><a href="#">Green Infrastructure Plan</a></li> <li><a href="#">Commercial District Zoning</a></li> <li><a href="#">CDMU: Privately Owned Public Space</a></li> <li><a href="#">Residential District Zoning</a></li> <li>Allowable Uses</li> <li>Development Standards</li> <li><a href="#">Green Building Requirements</a></li> <li><a href="#">Berkeley's Natural Gas Prohibition</a></li> <li><a href="#">LEED Gold Certification in C-DMU</a></li> <li>Berkeley's Low Carbon Concrete Requirement</li> <li>Berkeley's Waste Diversion Regulations</li> <li>Berkeley's Existing Building Electrification Plan</li> <li><a href="#">Landmarks Preservation Ordinance</a></li> <li><a href="#">Demolition Ordinance</a></li> <li><a href="#">Downtown Berkeley Design Guidelines</a></li> <li><a href="#">Citywide Design Guidelines</a></li> <li><a href="#">University Avenue Design Guidelines</a></li> <li><a href="#">Southside Plan Design Guidelines</a></li> <li><a href="#">Parking and Driveway Design Guidelines</a></li> </ul>	<p>LRDP projects and off-campus capital projects that are valued at more than five million dollars are required to show consistency with the City of Berkeley's adopted plans.</p> <p>LRDP projects and off-campus capital projects that are valued at more than five million dollars are required to show consistency with the City of Berkeley's (aesthetic) design guidelines.</p>	<p>The <b>Project Evaluation</b> includes the following:</p> <ol style="list-style-type: none"> <li>1. The University will compile a preliminary <b>Project Description</b> and a draft <b>Project Checklist</b> (see Attachment C) to document how the project may need to respond to applicable City Plans (see Attachment D). These documents will be submitted to the Planning Director and then shared at the City-University Project Roundtable.</li> <li>2. The Campus Architect will submit a <b>Memorandum to the Planning Director</b> that 1) provides an updated <b>Project Description</b>, 2) includes the <b>Project Checklist</b> -- amended to include feedback from the City-University Project Roundtable, and 3) outlines the project schedule. These documents will be shared with relevant City Commissions, Boards and Committees as an Information Item or Discussion item (decided jointly by Campus Architect and Planning Director).</li> </ol>	<p>The documents listed in bullet #1 will be shared with the Planning Director within two weeks of CPC approval of project feasibility.</p> <p>The Documents listed in bullet #2 will be shared with the Planning Director <b>six</b> weeks prior to the 4x6 Committee meeting, which will occur in the Design Phase.</p>	
<p>University and City Project Meetings</p>				
<p>Preliminary project discussions between Campus Architect and Planning Director</p>	<p>LRDP projects and off-campus capital projects that are valued at more than five million dollars.</p> <p>Public ROW and private development projects adjacent to campus.</p>	<p>Standing monthly meeting between Campus Architect and Planning Director to discuss <b>Project Tracking Sheet</b> (see Attachment B) that lists University projects of mutual interest within the 2021 LRPD City Environs (see map) and City projects within adjacent to campus properties or within the Southside or Downtown Plan Areas.</p>	<p>This meeting will occur monthly. Each party will be responsible for entering their projects into the <b>Project Tracking Sheet</b> (see Attachment B) 24 hours prior to scheduled meeting.</p>	
<p>University to meet with elected council person representing the district where the project is proposed</p>	<p>LRDP projects and off-campus capital projects that are valued at more than five million dollars.</p>	<p>The purpose of this meeting is to seek early input on project concept that could be incorporated into the University's feasibility studies.</p>	<p>The Planning Director will schedule and attend this meeting. The Campus Architect will prepare materials for the meeting. This meeting will occur during the University's Feasibility Phase prior to CPC approval.</p>	
<p>Planning Director to attend University Design Review Committee meeting</p>	<p>LRDP projects and off-campus capital projects that are valued at more than five million dollars are required to show consistency with the City of Berkeley's adopted plans.</p>	<p>An email invitation to attend (as an interested observer) the University DRC meeting will be sent to the Planning Director</p>	<p>Email invitation to be sent as early as possible, but no less than two weeks before the meeting, which will occur in the Feasibility and/or Design Phase(s).</p>	

Attachment A: Communication Plan

REQUIRED ACTIVITY	REQUIRED FOR	DELIVERABLE	TIMING	NOTES
City and University staff attend a Project Roundtable Meeting	LRDP projects and off-campus capital projects that are valued at more than five million dollars, on-campus projects that affect the City's transportation network or sewer system, and any University project requiring services from Toxics Management Division, Fire or Police.	A Project Roundtable Meeting with University and City staff to review and discuss <b>Preliminary Project Designs</b> . to be provided by the University.	This meeting will occur at the earliest date possible after 1) documents in bullet #1 are delivered to the Planning Director and 2) <b>Preliminary Project Designs</b> are ready to be shared with City staff.>> before other commissions	
Written feedback / action items after Project Roundtable Meeting		The City will suggest updates to the <b>Project Checklist</b> and will provide <b>feedback on Preliminary Project Designs</b> that the University may consider as it moves forward into the Design Phase. The City will take notes during this meeting.	If <b>Preliminary Project Designs</b> are provided two weeks prior to this meeting, staff will try to provide written comments -- in addition to verbal feedback -- at the meeting. Otherwise, the City will provide written comments/meeting notes within two weeks of the meeting date.	
Public Outreach				
Project Information Page on Capital Strategies website	<i>not required by Settlement Agreement</i>	<b>Project Information Page</b> will provide the general public with information about the project, including general scope, location and schedule.	<b>Project Information Page</b> will be established during the Design Phase	
<a href="#">4x6 (City/UC/Student Relations) Committee</a>	Campus capital projects located in the City environs.>> over 5 million	<p>The Campus Architect and Planning Director will mutually agree upon which of the Commissions, Boards and Committees listed in this table will receive project information and whether information will be shared as a Discussion Item or Information Item.</p> <p>The Campus Architect's <b>Memorandum to the Planning Director</b> (noted in bullet #2 under <b>Project Evaluation</b>) will be shared as agenda materials at relevant Boards, Commissions and Committees. The Campus Architect will provide presentation slides if the project is presented as a Discussion Item.</p>	<p>The project will be shared with the 4x6 Committee within six weeks (or at first available meeting) of the Planning Director receiving agenda materials. Subsequent meeting dates will be mutually agreed upon by the Campus Architect and the Planning Director to best share project information and reflect project progress.</p> <p>In the event that the project changes significantly between the 4x6 Committee meeting and subsequent meetings, the Campus Architect will have the opportunity to submit an updated version of the <b>Memorandum to the Planning Director</b> <b>two</b> weeks prior to a scheduled public meeting.</p>	<p><b>4.3.2. Off-Campus Projects.</b> The University will submit all capital projects off of the main campus with an anticipated value in excess of \$5 million to the City's <b>Planning Director and will either incorporate the City Planning Director's comments into the project or explain in writing its decision not to do so.</b></p> <p>Additionally, the University will submit all capital projects off of the main campus with a value in excess of \$5 million to the City's 4x6 City/Student/UC committee so that the committee and/or its members may provide comments to the University regarding such projects.</p> <p><b>When the University determines that it will not implement such projects consistent with the City's adopted planning and zoning documents, the University will, upon the request of the City's Planning Director, provide a written explanation of the reasons for such decision.</b></p>
<a href="#">Commission Review: Zoning Adjustments Board (ZAB)</a>	Campus capital projects located in the City environs that do not go before LPC or DRC.			
<a href="#">Commission Review: Landmarks Preservation Commission (LPC)</a>	Campus capital projects located in the City environs. Those that affect City landmarks or structure of merit sites, or are located within an historic district, will go before LPC. All others will go before ZAB or DRC.			
<a href="#">Commission Review: Design Review Commission (DRC)</a>	Campus capital projects located in the City environs that significantly change the ROW or modify traffic circulation in a manner inconsistent with adopted City planning documents.			
<a href="#">Commission Review: Transportation &amp; Infrastructure Commission (TIC)</a>	Campus capital projects located in the City environs that significantly change the ROW or modify traffic circulation in a manner inconsistent with adopted City planning documents.			
CEQA Review - Cultural Resources	Off-campus and LRDP projects that impact State- and local-designated cultural resources	The University will provide City staff access to the University Archives.	ongoing	
Final Review				



Attachment A: Communication Plan

REQUIRED ACTIVITY	REQUIRED FOR	DELIVERABLE	TIMING	NOTES
Planning Director Review	LRDP projects and off-campus capital projects that are valued at more than five million dollars.	The City will provide a <b>Response Letter</b> to the Campus Architect that outlines issues raised during project review and public outreach for the University's consideration.	The City's <b>Response Letter</b> will be delivered to the Campus Architect within two weeks of the City's <i>last</i> public outreach meeting where the project is a Discussion or Information Item and no less than two weeks prior to the University's anticipated project approval / action date.  Prior to approving the project, the University will provide a <b>Final Letter</b> to the Planning Director.	<p><i>4.3.2. Off-Campus Projects. The University will submit all capital projects off of the main campus with an anticipated value in excess of \$5 million to the City's Planning Director and will either <b>incorporate the City Planning Director's comments into the project or explain in writing its decision not to do so.</b></i></p> <p><i>Additionally, the University will submit all capital projects off of the main campus with a value in excess of \$5 million to the City's 4x6 City/Student/UC committee so that the committee and/or its members may provide comments to the University regarding such projects.</i></p> <p><i>When the University determines that it will not implement such projects consistent with the City's adopted planning and zoning documents, the University will, upon the request of the City's Planning Director, provide a written explanation of the reasons for such decision.</i></p>
The University's Response to Planning Director		The University will provide a <b>Final Letter</b> that responds to the City's <b>Response Letter</b> and describes what, if any action, can be taken to address issues raised.		

REQUIRED ACTIVITY	REQUIRED FOR	DELIVERABLE	TIMING
<b>Projects Requiring Permits for Work in the Right of Way (ROW)</b>			
<a href="#">Engineering Permits</a>	Required for construction projects that impact City infrastructure (such as sidewalks, streets, and sewers) or protected environmental areas (such as creeks).	Complete an Engineering Permit application form and plans and submit to the Permit Service Center for review.	The need for City-issued permits for work in the ROW will be discussed at the <b>Project Roundtable Meeting</b> . Submission and review timelines will follow standard procedures in the Permit Service Center.
<a href="#">Temporary No Parking Sign</a>	Required to park a moving container, truck, or debris box or to occupy/block the ROW during construction.	Complete an application form and submit to the Permit Service Center for review. If approved, you must post your No Parking signs at least 72 hours before the prohibition begins.	
<a href="#">Concrete Permits for Sidewalks and Driveways</a>	Required for projects that involve work to the sidewalk, driveway approach, gutters, curbs, etc. must follow the concrete specifications.	Complete an Engineering Permit application form and plans and submit to the Permit Service Center for review. Projects must follow the pedestrian access requirements to ensure pedestrian safety.	
<a href="#">Street and Sidewalk Use Permits</a>	Required for projects that need to store materials, equipment, or debris in the public right of way. Examples of when this might be needed include for deploying a crane, closing a lane of traffic, or installing a temporary debris bin.	Complete an Engineering Permit application form and plans and submit to the Permit Service Center for review. These projects typically require a traffic control plan and pedestrian control plan. Ensure that crews follow best practices to prevent pollution run-off.	
<a href="#">Sewer and Storm Drain Permits</a>	Required to install, relocate, repair, or replace of sewer laterals or storm drains in the public right-of-way.	Complete an Engineering Permit application form and plans and submit to the Permit Service Center for review.	
Utility Permits	Required when doing any construction work that involves utilities such as gas, electricity, sewer, or small wireless facilities.	Complete a permit application which is submitted by the utility company. NOTE: Notify Underground Service Alert at (800) 227-2600 at least two working days before you excavate.	
<a href="#">Encroachment Permits</a>	Required when installing above ground features that protrude into the ROW (such as awnings and balconies) or below ground features (such as tie backs to hold vertical excavation).	Complete a permit for a major or minor encroachment permit in the ROW with the PSC. Once issued, the applicant must record the permit with the County.	
<a href="#">Installing New Sewer Lateral</a>	Required when installing a new sewer lateral.	Complete a PSL Permit application form and plans and submit to the Permit Service Center for review. After the new lateral is installed, the contractor shall apply with the PSL Program for the PSL Certificate and will schedule a verification test with a City inspector.	
<a href="#">Forestry: Prune or Remove Street Trees</a>	Required when pruning or removing a City tree.	A tree pruning/removal permit is required from Parks/Forestry. by Call Customer Service at (510) 981-2489 or email trees@cityofberkeley.info for more information.	
<b>Projects Requiring City-University Coordination</b>			

Attachment B: Coordination Plan

Internal

REQUIRED ACTIVITY	REQUIRED FOR	DELIVERABLE	TIMING
Projects with National Pollutant Discharge Elimination System (NPDES) Permits (during and after construction)	Projects with NPDES permit for stormwater runoff generated during construction and on-going operations	Electronic copy of the NPDES permit and any correspondence with the California State Water Resources Control Board (SWRCB) on issues regarding monitoring and compliance, including inspection reports conducted during the rainy season.	The City Engineer should be copied on all formal communication with the SWRCB at the time that correspondence is sent or received.
Projects subject to Certified Unified Program Agency (CUPA)	Projects and facilities that involve the cleanup, use, disposal and/or storage of hazardous materials.	The University to share plans, such as Phase 1 & 2 Environmental Reports, Soil Management Plans, Remedial Action Plans, Hazardous Business Plans, and routine monitoring reports with COB.	The University will include the City as a recipient on distribution lists of environmental reports or plans prepared for and by the University.
		The University to provide access for routine and required inspections.	The University will ensure the City has updated contact information in order to arrange timely access for inspections.
The Berkeley Police Department may support police and emergency response for University-owned projects in the City environs, but the University is the primary responding agency for University-owned properties.	<i>(courtesy request)</i>	Sharing of final schematics for new development.	Pre-construction (End of Design Phase beginning of Construction Phase) – Once final schematics are complete and construction is eminent, BPD needs to understand the proposed construction, in the event that emergency services are needed during construction (example: emergency access during subterranean excavation).  <b>This is not a review, but a courtesy sharing in case there is an emergency that BPD needs to respond to during construction.</b>
		Tour of completed project.	Project completion (prior to occupancy) – BPD to receive a tour new buildings or facilities to understand the space and hazardous materials utilized.
The Berkeley Fire Department (BFD) is the primary agency for fire and emergency response in the City of Berkeley. Alameda County is currently the primary agency under contract for fire and emergency response on Lawrence Berkeley National Lab property.	All buildings in the City of Berkeley - this includes buildings on campus and mutual aid response for Lawrence National Berkeley Lab, but does not currently include primary responder status or permitting for buildings on Lawrence Berkeley National Lab property.	Coordination between the University and the City in order to meet the standards outlined in State Fire Code.	Coordination between the University and the City in order to meet the standards outlined in State Fire Code.

REQUIRED ACTIVITY	REQUIRED FOR	DELIVERABLE	TIMING
		Sharing of final schematics for new development.	Pre-construction (End of Design Phase beginning of Construction Phase) – Once final schematics are complete and construction is eminent, BFD needs to understand the proposed construction, in the event that emergency services are needed during construction (example: emergency access during subterranean excavation).  <b>This is not a review, but a courtesy sharing in case there is an emergency that BPD needs to respond to during construction.</b>
		A tour of completed project.	Project completion (prior to occupancy) – BFD to receive a tour new buildings or facilities to understand the space and hazardous materials utilized.
<b>Other Project Actions Requiring Early Coordination</b>			
<a href="#">Subdivisions, Lot Line Adjustments and Mergers</a>	Projects looking to adjust, subdivide or merge parcels	see specific regulations or ordinances for requirements.	Share status of these activities at the Round Table mentioned above.
<a href="#">Address Assignments</a>	Projects needing a new address		
<a href="#">Development Near City Creeks</a>	Projects within 30 feet of the centerline of an open creek and within 25 feet of the centerline of a culverted creek		
<a href="#">Development Impacting Coast Live Oak Trees</a>	Projects that require removal or excessive pruning to a Live Oak require exemption to Title 6.52 of the Berkeley Municipal Code.		
<b>Projects in the City-Environs with for-profit Commercial Tenants</b>			
Business Licenses, Use Permits and Payment of Impact Fees	Commercial tenants in buildings leased to non-University parties by the University (when such buildings are not on the main campus or the Clark Kerr Campus) that operate for the sole purpose of generating revenue	The University will add language leases signed after July 31, 2023 that requires commercial tenants in buildings leased to non-University parties by the University (when such buildings are not on the main campus or the Clark Kerr Campus) for the sole purpose of generating revenue (as opposed to carrying out the program of the University) to obtain City business licenses and use permits and pay applicable fees, including but not limited to impact fees. >> annual report on housing production that is delivered to COB OED to include address, number of spaces and square footage.	Leases signed after July 31, 2023



The purpose of this checklist is to convey campus project information to the City and to document plans, policies, and permits that may be applicable to university capital projects. The checklist is intended to track key project milestones, as well as comments discussed at the Roundtable. It is a working document that is updated through the collaborative planning process.

**1 | General Project Information** (Checklist Revision Date: \_\_\_\_\_)

<b>Project Name:</b>	
<b>Project Location (Address):</b>	
<b>Anticipated Project Budget:</b>	
<b>UC Approvals (Past):</b>	
<b>UC Approvals (Future):</b>	
<b>Current CPC Phase:</b>	
<b>Anticipated Construction Period:</b>	
<b>Brief Project Description:</b>	
<b>Anticipated Utility and Infrastructure Connections</b>	<input type="checkbox"/> PG&E <input type="checkbox"/> City Wastewater/Sewer <input type="checkbox"/> City Stormwater <input type="checkbox"/> Campus Power
<b>Does the project involve a listed historic resource?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Anticipated Environmental Review Process</b>	<input type="checkbox"/> General/Statutory Exemption <input type="checkbox"/> Categorical Exemption (Class(es) _____) <input type="checkbox"/> Other Environmental Doc: <input type="checkbox"/> Initial Study <input type="checkbox"/> EIR <input type="checkbox"/> Programmatic <input type="checkbox"/> Project-Specific <input type="checkbox"/> Additional Project Analysis <input type="checkbox"/> Addendum _____ <input type="checkbox"/> Subsequent <input type="checkbox"/> Supplement to EIR Other: _____



## 2 | Review Milestones

Instructions: As a project advances, add the date each task is complete, with notes to indicate key outcomes at each step in the process.

Phase	Milestones	Date Complete	Notes
Concept	CPC Concept Approval		
	Planning Director / Campus Architect Discussion		
Feasibility	Campus Design Review		
	Planning Director / Campus Architect Discussion		
	Meeting w/ Local Councilperson(s) and Planning Director		
	CPC Feasibility Approval		
Design	Project Roundtable Meeting	<input type="checkbox"/> Draft Checklist: _____ <input type="checkbox"/> Meeting: _____ <input type="checkbox"/> COB Response: _____	
	Project Description and Checklist submitted to the Planning Director		
	4x6 Review		
	City Commissions <ul style="list-style-type: none"> <li>○ Zoning Adjustments Board</li> <li>○ Design Review Committee</li> <li>○ Landmark Preservation Commission</li> <li>○ Transportation &amp; Infrastructure</li> </ul>		
	Other Public Meetings		
	CEQA-related Notifications	<input type="checkbox"/> Notice of Exemption <input type="checkbox"/> Notice of Preparation <input type="checkbox"/> Scoping Hearing <input type="checkbox"/> Comment Hearing <input type="checkbox"/> Notice of Determination <input type="checkbox"/> Other: _____	
	City's Written Comments to University		
	University's Response to City Comments		
	Project Design/CEQA approval(s)		



### 3 | City Local Plans and Zoning Standards Summary

Instructions: Check boxes to indicate whether a planning document is applicable to the proposed project. In the notes column, briefly describe how a projects aligns or would vary from each relevant plan.

City Zoning District: _____	Are the proposed uses allowable by City zoning and/or land use regulations? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Notes:
Applicable land use plans:	<input type="checkbox"/> General Plan <input type="checkbox"/> Downtown Area Plan <input type="checkbox"/> Streets and Open Space Plan <input type="checkbox"/> Southside Plan <input type="checkbox"/> University Ave Strategic Plan	Notes:
Applicable transportation plans:	<input type="checkbox"/> Strategic Transportation Plan <input type="checkbox"/> Pedestrian Plan <input type="checkbox"/> Bicycle Plan	Notes:
Applicable climate initiatives:	<input type="checkbox"/> Climate Action Plan <input type="checkbox"/> Green Building Requirements <input type="checkbox"/> Natural Gas Prohibition <input type="checkbox"/> LEED-Gold in C-DMU Zone <input type="checkbox"/> Low Carbon Concrete <input type="checkbox"/> Waste Diversion Regulations <input type="checkbox"/> Existing Building Electrification Plan	Notes:
Applicable infrastructure and utility plans:	<input type="checkbox"/> Green Infrastructure Plan	Notes:
Other Applicable City Zoning Standards:	<input type="checkbox"/> Coastal Live Oak Ordinance <input type="checkbox"/> Creek Ordinance <input type="checkbox"/> Landmarks Preservation Ordinance <input type="checkbox"/> Demolition Ordinance	Notes:



## 4 | Graphics Package and Design Elements

Instructions: Attach the listed documents to this checklist when transmitting. The purpose of the graphics package is to convey key project information to city staff to help them understand the project. These documents align with materials that would be developed for future Regental project approval items. Provide a brief description for how the project responds to local development standards and design guidelines.

<p>Graphics Package:</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Location Map</li> <li><input type="checkbox"/> Site Plan</li> <li><input type="checkbox"/> Floor Plans</li> <li><input type="checkbox"/> Elevations/Sections</li> <li><input type="checkbox"/> Site Utility and Infrastructure</li> <li><input type="checkbox"/> Summary of Project Features that support the UC Policy on Sustainable Practices and City Climate Action Plan</li> <li><input type="checkbox"/> Exterior design materials and/or renderings (if available)</li> </ul>	<p>Notes:</p>
<p>Local Development Standards</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Height:</li> <li><input type="checkbox"/> Bulk:</li> <li><input type="checkbox"/> Setbacks:</li> <li><input type="checkbox"/> FAR:</li> <li><input type="checkbox"/> Open Space:</li> <li><input type="checkbox"/> Parking:</li> <li><input type="checkbox"/> CDMU Privately Owned Public Space:</li> <li><input type="checkbox"/> Other:</li> </ul>	<p>Notes:</p>
<p>Applicable Design Review Guidelines:</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Downtown Area Plan Design Guidelines</li> <li><input type="checkbox"/> Southside Area Design Guidelines</li> <li><input type="checkbox"/> University Avenue Design Guidelines</li> <li><input type="checkbox"/> Citywide Design Guidelines</li> <li><input type="checkbox"/> Parking and Driveway Design Guidelines</li> </ul>	<p>Notes:</p>





## 5 | Permit and Other Coordination Items:

Instructions: Indicate anticipated permits that would be sought from the city during construction. Some of these items may be discussed and amended at the project roundtable meeting.

<p>Applicable Permits:</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Engineering Permits</li> <li><input type="checkbox"/> Right of Way Permits</li> <li><input type="checkbox"/> Street and Sidewalk Use Permits</li> <li><input type="checkbox"/> Sewer and Storm Drain Permits</li> <li><input type="checkbox"/> Utility Permits</li> <li><input type="checkbox"/> Encroachment Permits</li> <li><input type="checkbox"/> Sewer Lateral Permit</li> <li><input type="checkbox"/> Forestry Permit</li> <li><input type="checkbox"/> NPDES Permits (National Pollutant Discharge Elimination System) for stormwater runoff</li> <li><input type="checkbox"/> CUPA Permits (Certified Unified Program Agency) for Hazardous Materials</li> </ul>	<p>Notes:</p>
<p>Commercial Business Requirements:</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Business Licenses</li> <li><input type="checkbox"/> Use Permits</li> <li><input type="checkbox"/> Impact Fees associated with non-University uses</li> </ul>	
<p>Other:</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Subdivision Act</li> <li><input type="checkbox"/> Address Assignment</li> <li><input type="checkbox"/> Coordination with Other Local Agencies (e.g., PG&amp;E, EBMUD, Transit, etc)</li> </ul>	



## UC BERKELEY – CITY OF BERKELEY SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into and effective as of the date last signed below (“Effective Date”), by and between the City of Berkeley (“City”), a charter city, and the Regents of the University of California (“Regents”) and the University of California, Berkeley campus (the “University”) (each a “party” and collectively the “parties”).

### RECITALS

WHEREAS, the City is a municipal corporation established pursuant to Article XI of the California Constitution; and

WHEREAS, the University is a constitutionally created entity pursuant to Article IX, Section 9 of the California Constitution, with property located within the City’s boundaries; and

WHEREAS, the University and the City entered into the 2020 LRDP Litigation Settlement Agreement in 2005 (the “2005 Settlement Agreement”), in order to settle litigation with respect to the University’s 2020 Long Range Development Plan (“2020 LRDP”) and the related Environmental Impact Report (“2020 LRDP EIR”); and

WHEREAS, the 2005 Settlement Agreement terminates at the conclusion of the 2020-2021 academic year (on or about August 13, 2021); and

WHEREAS, the Regents have adopted the 2021 Long Range Development Plan (“2021 LRDP”) and certified the 2021 LRDP EIR on July 22, 2021; and

WHEREAS, in addition to evaluating the environmental effects of the 2021 LRDP, the 2021 LRDP EIR includes project-level review of two proposed student housing projects, the “Anchor House Student Housing Project” and the “People Park’s Housing Project;” and

WHEREAS, in June 2019, the City filed a lawsuit challenging the adoption of the Supplemental Environmental Impact Report for the Upper Hearst Development for the Goldman School of Public Policy; and

WHEREAS, on December 29, 2020, the City moved to be made a party to case, *Save Berkeley’s Neighborhoods v. UC Regents, Case No. RG19006256*. The action relates to the University’s proposed intercollegiate beach volleyball facility at its Clark Kerr Campus and reformation of the Declaration of Covenants and Restrictions relating to land use restrictions at the Clark Kerr Campus entered into by the University in 1982. The Alameda County Superior Court granted the City’s motion on January 28, 2021; and

WHEREAS, the parties wish to continue and enhance the cooperative relationship they have enjoyed during the term of the 2005 Settlement Agreement as well as to settle ongoing disputes over certain University projects and avoid litigation over certain pending and future University projects, including the 2021 LRDP and the aforementioned housing projects; and

WHEREAS, the parties have negotiated in good faith and agreed to the terms of this Agreement.



NOW, THEREFORE, in consideration of the promises, covenants and provisions set forth herein, the City and the University agree as follows:

1. **STATEMENT OF SHARED GOALS AND PRINCIPLES**

1.1 The City recognizes the significant contributions that the University makes to the surrounding community and supports its efforts to plan for its future needs.

1.2 The University recognizes that the City environs are as much a part of the University experience as the campus itself, and the quality of City life is a large part of what makes the University a unique and desirable place to learn, work, and live.

1.3 The City wishes to work cooperatively with the University in planning for future capital projects on the Clark Kerr Campus and City Environs and advance projects that will improve the neighborhoods adjacent to the main campus and the Clark Kerr Campus.

1.4 The City and University have successfully completed various planning documents including the 2001 Transportation Demand Management Study, the 2003 Draft Southside Plan and the 2012 Downtown Area Plan, with broad citizen participation and community engagement.

1.5 The 2005 Settlement Agreement resulted in a historic partnership between the parties, including a joint planning process for the Downtown area, annual payments to support city services and the initiation of the Chancellor's Community Partnership Fund.

1.6 The City and the University wish to build on the positive relationship established through the 2005 Settlement Agreement.

1.7 The City and the University support efforts to increase the production and supply of housing for University students, to reduce housing instability and pressures on the city housing market.

1.8 The City seeks to increase the availability and production of housing at all income levels, and is evaluating zoning adjustments (e.g. by allowing construction of housing facilities up to twelve stories) to encourage the construction of more student housing in the City's Southside Area, located directly south of the University's main campus.

1.9 The City and the University have a shared interest in collaboration to improve their surrounding community, in particular neighborhoods that are adjacent to the main campus.

1.10 To wit, the University makes annual contributions to the City's Proposition 218 Stormwater and Street Light Fund, the Downtown Berkeley Association, and the Telegraph Improvement District.

1.11 The parties acknowledge the importance to the City of maintaining properties on the City's tax rolls, and the University commits that University-owned land will always be the first option explored by the University for both new program space and parking.



1.12 The University has set a goal in its 2021 Long Range Development Plan to limit undergraduate enrollment over the term of the planning horizon to an average of one percent per year, compounded annually.

## 2. **DEFINITIONS & ABBREVIATIONS**

2.1 The Upper Hearst Development for the Goldman School of Public Policy shall be referred to herein as “Upper Hearst Project,” and the Supplemental Environmental Impact Report prepared for the Upper Hearst Project shall be referred to herein as “SEIR”.

2.2 The “main campus” of the University is defined as all property owned by the University within the area bounded by Hearst Avenue to the north, Gayley Road/Piedmont Avenue to the east, Bancroft Way to the south, and Oxford Street/Fulton Street to the west.

2.3 The “Clark Kerr Campus” of the University is defined as all property owned by the University within the area bounded by Dwight Way to the north, East Bay Regional Park District to the east, Derby Street to the south, Warring Street to the west.

2.4 “Section” refers to each numbered paragraph of the Agreement.

2.5 Unless this Agreement specifically states otherwise, all terms are binding on the parties only during the term of the Agreement.

## 3. **FINANCIAL CONSIDERATION: ANNUAL PAYMENT**

3.1 The University agrees to make an annual payment to the City of \$4,100,000, which amount shall be increased annually by three percent compounding as described in Section 3.4 below (the “Annual Payment”) each year from 2021 through 2036 inclusive. The University shall make each Annual Payment each year by July 1 or, in 2021, by the Effective Date.

3.2 The Annual Payment is intended to be comprehensive and is inclusive of any costs to mitigate financial impacts to the City resulting from the approval, adoption or certification of the following projects: (1) the Upper Hearst Project and the SEIR, (2) any projects implementing the 2021 LRDP, including projects located on the main campus, the Clark Kerr Campus, and any other projects located off of the University’s main campus that consist of at least 80 percent assignable square footage of housing, (3) the Anchor House Student Housing Project, and (4) the People’s Park Housing Project. The City reserves all of its rights with regards to off-main campus capital projects that are not identified in this paragraph.

3.3 The Annual Payment shall not eliminate or otherwise supersede ongoing fees for services paid to the City by the University as of June 1, 2021, which fees may be increased pursuant to Section 5.1 of this Agreement. The Annual Payment supersedes and replaces the contributions specified in the 2005 Settlement Agreement annual allocation.

3.4 Except as provided in Sections 3.5 and 3.6, the City shall allocate the Annual Payment funds as follows, unless otherwise agreed to by the parties during the term of the Agreement. Each allocation is individually subject to the annual three percent increase and



shall be transferred to the City in a single payment no later than July 31<sup>st</sup> of each year during the term of the Agreement. The City is not required to spend the entire Annual Payment every year, and may accumulate funds from year to year. This agreement provides a funding mechanism only and does not constitute approval of any of the improvements listed herein.

3.4.1. \$2.8 million (increased by three percent per year) for fire and other City services;

3.4.2. \$1.3 million (increased by three percent per year) for capital projects and other services benefiting residents living within one-half mile of the University's main campus boundaries and the Clark Kerr Campus, including but not limited to a joint BPD-UCPD Telegraph Area Beat (a community-based policing program). Priorities for these projects shall be determined by City and University leaders pursuant to Section 3.7.

3.5 Notwithstanding the above, with regard only to the Annual Payment made in 2021 ("2021 Annual Payment"):

3.5.1. \$920,000 shall be allocated by the City to the City's Housing Trust Fund, in recognition of the demolition of eight rent-controlled units at 1921 Walnut Street for the Anchor House Student Housing Project;<sup>1</sup>

3.5.2. \$130,000 shall be allocated by the City for a permanent restroom in the Telegraph area;

3.5.3. An amount determined through joint planning between the City and the University will be allocated to fund a day-time drop-in/service center in the Telegraph area for the unhoused population;

3.5.4. The City shall allocate the remainder of the 2021 Annual Payment as it determines to be appropriate.

3.6 Notwithstanding the above, with regard only to the Annual Payment made in 2022 ("2022 Annual Payment"):

3.6.1. \$250,000 shall be allocated by the City for Piedmont/Channing traffic circle pedestrian and street lighting improvements;

3.6.2. Amount to be determined for wildfire risk management and fuel reduction on UC owned property;

3.6.3. The City shall allocate the remainder of the 2022 Annual Payment in compliance with Section 3.4.

3.7 The City will spend not less than 30 percent of the Annual Payment on services and infrastructure (inclusive of any services or infrastructure funded pursuant to

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<sup>1</sup> This amount does not replace or in any way impact any relocation benefits provided by the University to tenants at 1921 Walnut Street.

Sections 3.4.2, 3.5.2, 3.5.3, or 3.6.1) that benefit City residents living within one-half mile of the University's main campus boundaries and the Clark Kerr Campus. If the City fails to adhere to this commitment, then the University has the right to terminate this Agreement after providing the City written notice of the City's breach and a reasonable opportunity to cure the breach pursuant to Section 8.5. The Chancellor, Mayor, City Manager and Vice Chancellor for Administration shall meet annually to review the City's proposed list of projects and/or services satisfying the requirements of this Section. The parties shall use best efforts to reach mutual agreement on the list of expenditures, but the City shall make the allocations of its own expenditures, consistent with the terms of this Agreement. The City will not allocate any portion of the Annual Payment to the development of a new fire station, should the City decide to develop a new fire station during the term of this Agreement.

3.8 Beginning on July 1, 2023, the City shall make reasonable efforts to provide the University with an annual summary statement setting forth its use of the funds described in Section 3.4 since the prior Annual Payment. If the City fails to adhere to the commitments regarding its expenditures described in Section 3.4 above, then the University may (but is not obligated to) terminate this Agreement, after providing the City written notice of the City's breach and a reasonable opportunity to cure the breach pursuant to Section 8.5.

3.9 The University intends, but is not obligated, to continue to fund the Chancellor's Community Partnership Fund during the term of this Agreement in the amount of approximately \$300,000/year, increased by three (3) percent annually. The University shall provide a summary of these expenditures to the City annually.

#### **4. COOPERATIVE RELATIONSHIP AND PLANNING REGARDING MATTERS OF MUTUAL CONCERN**

4.1 The Chancellor, the Vice Chancellor for Administration, the Mayor, and the City Manager, and the City Attorney (as appropriate) will meet quarterly to review implementation of this Agreement and discuss areas of mutual interest or concern. The University will provide the City with timely written updates concerning its implementation of the 2021 LRDP, changes in enrollment, and campus housing production. The City and the University may mutually agree to reduce the frequency of these meetings to not less than annual if there is no longer a perceived need to meet as frequently as quarterly.

4.2 The University and the City will negotiate in good faith to establish within two years of the Effective Date a collaborative planning process for the City to review and comment upon campus capital projects located in the City environs and implementation of sustainable development standards prior to campus approval of such projects.

4.3 The University will continue its practice of typically voluntarily honoring the City's existing zoning standards in the design of projects off the main campus. The University will consult with City staff, the City Council and relevant commissions as well as community members about new projects off of the main campus and respond to any reasonably identified concerns presented during the public process. This consultation shall include, but not be limited to, the following actions:



4.3.1. LRDP Projects. While implementing the 2021 LRDP, the University will continue to review and consider the City's adopted planning and zoning documents, including without limitation the Downtown Area Plan (DAP) and the Southside Area Plan (SAP) when making decisions about the location of University facilities off of the main campus, and will use the design guidelines and standards prescribed in the DAP or SAP, as applicable, when designing projects in the respective plan areas to the extent they are consistent with the program for the building.

4.3.2. Off-Campus Projects. The University will submit all capital projects off of the main campus with an anticipated value in excess of \$5 million to the City's Planning Director and will either incorporate the City Planning Director's comments into the project or explain in writing its decision not to do so. Additionally, the University will submit all capital projects off of the main campus with a value in excess of \$5 million to the City's 4x6 City/Student/UC committee so that the committee and/or its members may provide comments to the University regarding such projects. When the University determines that it will not implement such projects consistent with the City's adopted planning and zoning documents, the University will, upon the request of the City's Planning Director, provide a written explanation of the reasons for such decision.

4.4 If campus undergraduate enrollment growth exceeds one percent per year on average over three consecutive years, then the Mayor, City Manager, the Chancellor and the Vice Chancellor for Administration shall meet to discuss the potential physical impacts of enrollment increases on the City and whether any amendments should be made to the terms of this Agreement to address the increase. The City shall present specific data and evidence to illustrate the physical impacts of campus enrollment increases on the City.

4.5 During the term of this Agreement, so long as there is demonstrated need on and in areas adjacent to University, the University will continue to fund a position of a campus social worker to work with the unhoused population who visit People's Park and in the broader Telegraph area, inclusive of Willard Park.

4.6 The City and University are parties to a Memorandum of Understanding (City of Berkeley Resolution No. 51,172-N.S.) regarding the development of the Clark Kerr Campus dated April 23, 1982 (the "MOU"). The terms of the MOU are not altered by this Agreement, though they are generally described for reference in this Section and its subsections. During the remaining term of the MOU, the University and the City will comply with the MOU by working cooperatively in planning and development of projects on the Clark Kerr Campus that would be constructed prior to the expiration of the time term of the MOU in 2032. The City and the University will also consult and work cooperatively regarding potential expanded public access to recreational facilities on the Clark Kerr Campus.

The MOU addresses the potential re-development of the property according to the Dwight-Derby Site Plan ("Site Plan") prior to 2032 (the time term of the MOU is fifty years). The MOU generally provides that the Clark Kerr Campus may not be developed, built upon, improved, operated, occupied, used or leased except as provided for and in accordance with the terms of the MOU. The MOU also generally provides that the University will maintain recreational facilities consistent with joint use agreements between the City and University. The





MOU also generally provides that the University will notify the City of Berkeley Landmarks Preservation Commission and provide 60 days to review and comment on any proposal to construct new buildings, demolish or significantly modify existing structures of architectural or historical significance, or remove existing landscaping or other significant site improvement. The MOU also generally provides that the University may depart from the plans, provisions, goals, and objectives of the Site Plan if such departure is authorized by resolution adopted by the City Council. The University reaffirms its commitment to work in partnership with the City as prescribed in the MOU.

With regard to any development planned to be undertaken by the University after the expiration of the MOU in 2032, but during the time term of this Agreement, the City will take a lead role in soliciting community input along with the University for capital renovation and capital projects (demolition, remodeling, retrofit and new construction) at the Clark Kerr Campus. The City and University will work cooperatively to develop any operational mitigations, if necessary, regarding capital renovation and capital Projects at the Clark Kerr Campus, and will consult and work cooperatively with the City regarding public access to recreational facilities on the Clark Kerr Campus.

4.7 The University's leadership will work with the City's elected officials and staff to study the impacts and plan for the potential closure of Alta Bates Hospital and its emergency room in Berkeley, and identify alternatives to continue emergency and acute care for the University and city population.

4.8 The University will cooperate in good faith with City efforts to collect and remit the City Parking Space Rental Tax from University-owned lots. The University will make best efforts to collect the tax from users by the date that the City begins collecting the tax from City-owned lots and demands collection by BART. The City acknowledges that the administrative processes between the City and the University related to collection of the tax must be established and that such establishment could preclude collection of the tax on behalf of the City prior to January 1, 2022.

4.9 The University shall require its commercial tenants in buildings leased to non-University parties by the University (when such buildings are not on the main campus or the Clark Kerr Campus) for the sole purpose of generating revenue (as opposed to carrying out the program of the University) to obtain City permits and pay City impact fees. The University shall determine in good faith whether a space is leased to carry out its programs or exclusively to generate income. Nothing in this Section prevents the City from disagreeing with the University's determination that a commercial tenancy is in furtherance of the University's program.

4.10 The University and the City will collaborate in good faith to reach an agreement regarding the University's master leasing of off-campus residential buildings, and will meet and confer in an effort to reach such an agreement within one year of the Effective Date. The University and City contemplate that such an agreement will set a date by which the University would reduce or eliminate its use of master leasing of residential facilities, excepting only temporary leasing necessary to create surge space during the renovation or construction of





campus housing facilities. This Section does not require either party to enter into such an agreement, but the parties shall use their good faith best efforts to do so.

4.11 The University and the City will work cooperatively in an effort to develop and implement plans to address the impacts of special events planned by either party or by third parties that impact the other party, including but not limited to graduations, game days, move-ins, move-outs, City parades, City street fairs, and temporary traffic changes. The parties will similarly consult about events planned by neither the City nor University but impacting both, such as free speech activities. The plans will address at least the following issues: street closures, temporary and permanent parking changes, illegal dumping, unlawful camping, and responses to persons experiencing homelessness.

4.12 The University commits in concept to assisting the City in its development of a new fire station by contributing land off of the main campus owned by the University as of the Effective Date and suitable for the development of a City fire station intended to serve the City and campus communities. The City and the University will engage in cooperative joint planning for a potential fire station in a location identified through such planning. This provision does not constitute a commitment by either party to entitle or fund a future fire station nor does this provision evidence that the City or the University have determined such a fire station to be necessary at this time.

4.13 The University will make a presentation to the City's Planning Director (who will share the information presented with the City's Design Review Committee for comment) regarding the Upper Hearst Project's proposed final design and exterior color scheme. The University will consider any comments and concerns raised regarding the design and color scheme by the City's Planning Director and address those concerns, in writing, prior to finalizing the construction drawings.

4.14 The University shall consider ground leasing to Resources for Community Development (or a similar private nonprofit housing developer) land at People's Park for the construction of a housing project to provide affordable and permanent supportive housing for the homeless. The University and City agree that the campus will entitle the project in order to enable the non-profit developer to fund and construct the project, and will work with the City and non-profit developer to support state and outside funding to complete the project. The obligations of the University regarding the supportive housing project are contingent upon compliance with the California Environmental Quality Act and the approval of the design of the project by the Board of Regents, which is presently scheduled to consider the project in September of 2021.

4.15 Explore relocation and the cost of relocating the eight-unit building at 1921 Walnut Street, if it is technically feasible, to a site to be determined, prior to the commencement of construction of the Anchor House Student Housing Project, so long as moving the building does not result in increased time to the Anchor House Student Housing Project and/or the University, or delay the construction of the Anchor House Student Housing Project.



4.16 Nothing in this Agreement shall be construed to limit, in any way, the land use or entitlement authority of the parties within their respective jurisdictions, nor to place any limits on either party's authority to undertake land use approvals, including but not limited to capital and other development projects, land use and development plans, or amendments thereto.

4.17 The University and the City will meet in good faith to discuss an extension or replacement of this Agreement beginning no later than two years prior to the Expiration Date, upon the request by either party for such a meeting.

4.18 If a third party challenges this Agreement in court, the parties will work cooperatively to defend the Agreement. If a court determines that there are legal deficiencies in the Agreement or the process used to adopt the Agreement, the parties will work in good faith to correct any legal deficiencies and readopt comparable terms.

5. **CITY SERVICES, FEES AND ASSESSMENTS**

5.1 During the term of the Agreement, the City will not increase any municipal or service fees currently charged to the University by more than the percentage increase applicable to the public generally for such fees or impose or apply any municipal fees (including without limitation sewer fees and any developer impact fees) to the University that are not already being paid by the University. For the purpose of determining the baseline fee to which such increases would apply, the fees charged as of June 1, 2021 shall be the fees that the University is obligated to pay, as those fees may be increased consistent with the fee increase limitation of this Section.

5.2 The City will not make any proposals to include property owned by the University in any new assessments without the prior consent of the University.

6. **CURRENT AND FUTURE LITIGATION**

6.1 **Upper Hearst.** The City agrees to promptly dismiss the Upper Hearst Project lawsuit with prejudice and will represent to any court in the remaining Save Berkeley's Neighborhoods lawsuit challenging the Upper Hearst Project and SEIR (Alameda County Superior Court Case No. RG19022887) that the City does not oppose the Upper Hearst Project or the SEIR. The parties will be responsible for payment of their own attorneys' fees and costs, regardless of any decision issued by the trial court. If the City terminates this Agreement pursuant to either Section 7.3 or 7.4 below, this Section 6.1 shall expressly survive such termination.

6.2 **Clark Kerr.** The City agrees to promptly dismiss the City as a party with prejudice in the Clark Kerr Covenants Lawsuit (Alameda County Superior Court Case No. RG19006256) and will represent to any court in the remaining Save Berkeley's Neighborhoods lawsuit challenging the Clark Kerr Covenants that the City has dismissed or intends to dismiss all causes of action in the lawsuit with prejudice. The parties will be responsible for payment of their own attorneys' fees and costs. If the City terminates this Agreement pursuant to either Section 7.3 or 7.4 below, this Section 6.2 shall expressly survive such termination.

6.3 **2021 LRDP, People’s Park Housing Project, and Anchor House Student Housing Projects.** The City agrees not to file any lawsuits, pursue any legal challenges, or directly or indirectly support any litigation (including without limitation through funding or by encouraging any litigation by an organization) that opposes: (1) the 2021 LRDP and 2021 LRDP EIR (2) the Anchor House Student Housing Project, (3) the People’s Park Housing Project, including without limitation the permanent supportive housing component; provided, however, the City retains all rights to challenge the Anchor House Student Housing Project and the People’s Park Housing Project if the University materially changes the scope of such projects in such a way that would cause new significant impacts or substantially increase the severity of impacts previously found to be significant. For avoidance of doubt, the City’s agreement in this Section with regard to the 2021 LRDP and 2021 LRDP EIR does not apply to amendments to the 2021 LRDP adopted during the term of this Agreement that are not adopted in furtherance of the projects described in Section 6.4 about which the City agrees that it will not file any lawsuit, pursue any legal challenges, or directly or indirectly support any litigation (including without limitation through funding or by encouraging any litigation by an organization) under the California Environmental Quality Act (“CEQA”) or any other theory. For the purposes of this Section, the scope of the Anchor House Student Housing Project and the scope of the People’s Park Housing Project are the respective project descriptions set forth in the 2021 LRDP EIR presented to the Regents for certification at its regular meeting in July 2021. If the City terminates this Agreement pursuant to either Section 7.3 or 7.4 below, this Section 6.3 shall expressly survive such termination.

6.4 **Future Campus Capital Projects, Off-Campus Housing Projects & Enrollment Decisions.** Unless the City terminates this Agreement pursuant to the termination rights described in Section 7.3 or 7.4 below, while the Agreement is in effect, the City will not file any lawsuit, pursue any legal challenges, or directly or indirectly support any litigation (including without limitation through funding or by encouraging any litigation by an organization) under CEQA or any other theory to challenge the University’s decision to approve: (1) a campus capital project on the University main campus or the Clark Kerr Campus (“Campus Capital Project”); (2) any other campus capital project off of the University main campus that consists of more than 80 percent assignable square footage of housing (“Off-Campus Housing Project”); or (3) any enrollment decision made by the State of California or the University (“Enrollment Decision”). Unless the City terminates this Agreement pursuant to the termination rights described in Section 7.4 described below, the City will also not file any CEQA action challenging an enrollment increase.

6.5 If Sections 6.3 or 6.4 are violated, this Agreement shall immediately terminate and be of no further force or effect, and the University need not comply with the notice and opportunity to cure provisions set forth in Section 8.5. If the City contends that the University has wrongfully invoked this Section and that the Agreement remains in effect in spite of the University’s contention that this Section applies, the City may commence a lawsuit alleging that this Agreement remains in effect and may seek injunctive relief to compel the University to comply with the Agreement’s terms.

6.6 For avoidance of doubt, the phrase “pursue any legal challenges, or directly or indirectly support any litigation” as used in Sections 6.1, 6.2, 6.3 and 6.4 means a formal action by the City to commence litigation or to provide City funds or City resources to



support litigation instigated by others, and does not mean the enactment of non-binding resolutions of the City Council or City boards and commissions, the statements of individual persons whether acting in their personal or official City capacities, or submission of comments to the University or other public agencies.

7. **TERMINATION**

7.1 This Agreement shall become effective upon execution of the undersigned, and shall supersede, replace, and terminate the 2005 Settlement Agreement in its entirety. Any monetary payments, if any, by the University to the City that would have been due on July 1, 2021 under the 2005 Settlement Agreement are replaced in full by the payment called for on July 1, 2021, in Section 3.1 of this Agreement. This Agreement shall terminate on June 30, 2037 (“Expiration Date”), or at such earlier date as set forth in this Agreement.

7.2 Intentionally Omitted.

7.3 Upon prior written notice to the University, the City may terminate this Agreement if the City decides to file a lawsuit challenging a Campus Capital Project or Off-Campus Housing Project, as defined in Section 6.4. If the City desires to file such a lawsuit, then the City may terminate this Agreement and permanently forego entitlement to future Annual Payments under this Agreement. In the event of such termination, the City’s obligation to not challenge project approvals under Sections 6.1, 6.2 and 6.3 expressly survive such termination. In the event of such termination, in such litigation or in any litigation filed by the City regarding a specific proposed capital project that is tiered from the 2021 LRDP EIR, the City shall not seek any compensation or damages related to enrollment increases at the University so long as the University does not increase campus undergraduate enrollment by an amount that exceeds one percent annual enrollment growth, compounded annually, compared to the 2020-2021 undergraduate enrollment level, at the time such litigation is filed.

7.4 Upon prior written notice to the University, the City may terminate this Agreement (which shall also permanently terminate the University’s obligation to make Annual Payments pursuant to Section 3.1 of this Agreement) if the University decides to increase campus undergraduate enrollment by an amount that exceeds one percent annual enrollment growth, compounded annually, compared to the 2020-2021 undergraduate enrollment level. In the event of such termination, the University and the City will have no further obligations under this Agreement except that the City’s obligation to not challenge a decision to approve the Upper Hearst Project, the 2021 LRDP, the Anchor House Student Housing Project and the People’s Park Housing Project under Sections 6.1, 6.2 and 6.3 expressly survives such termination.

8. **MISCELLANEOUS**

8.1 Time shall be of the essence in the performance and/or satisfaction of this Agreement and/or each individual term, promise, provision, obligation, sentence, clause or paragraph thereof.

8.2 The parties intend and agree that this Agreement, and each and every provision thereof, shall be binding and enforceable upon the parties according to the terms and provisions specified herein.



8.3 This written Agreement constitutes the entire Agreement between the parties as to the matters referred to herein. Any other terms, promises, provisions, obligations or agreements by or between the parties shall be enforceable only as set forth in any other applicable written agreement.

8.4 After consultation with the undersigned counsel, each party to this Agreement represents and warrants that it authorized and has the capacity to enter into this Agreement, and that each signatory to this Agreement on its behalf is authorized and has the capacity to sign this Agreement on its behalf.

8.5 Except to the extent other remedies for default under this Agreement are otherwise specified herein, the parties' obligations under this Agreement shall be specifically enforceable, and any non-defaulting party may bring an action for specific performance or any other appropriate relief in the Superior Court, after providing written notice of breach to the breaching party and an opportunity to cure, as provided in Sections 8.5.1 to 8.5.2.

8.5.1. Except with regard to City breaches pursuant to Section 6.3 or Section 6.4, if a party to this Agreement believes another party has violated this Agreement, then the party asserting a violation shall notify the other party in writing. The notice shall state the nature of the alleged violation and any proposed corrective action or remedy.

8.5.1.1 If the University asserts that the City has improperly spent or allocated a portion of an Annual Payment pursuant to Sections 3.4, 3.5, 3.6, or 3.7, the University shall offer as one available corrective action that the City allocate an equivalent amount of City funds for eligible services the following year.

8.5.2. The notifying party and the party receiving notice shall meet within fourteen (14) calendar days after the receiving party receives the notice, unless a different date is agreed to by both parties, to attempt to resolve the issues raised by the notice. If the parties are unable to reach agreement on whether a breach has occurred and/or take corrective action or remedy the breach within forty-five (45) days after this meeting, then the parties may pursue any enforcement process permitted by this Agreement.

8.6 This Agreement is intended only for the benefit of the parties. Nothing in this Agreement, express or implied, is intended to or shall confer upon any third party any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement.

*[The rest of this page has been intentionally left blank, followed by a signature page.]*



7/27/2021

\_\_\_\_\_, 2021

CITY OF BERKELEY

DocuSigned by:

\_\_\_\_\_  
Jesse Arreguin  
Mayor

DocuSigned by:

\_\_\_\_\_  
Dee Williams-Ridley  
City Manager

Approved as to form:

CITY ATTORNEY

DocuSigned by:

\_\_\_\_\_  
Farimah Faiz Brown  
City Attorney

7/27/2021

\_\_\_\_\_, 2021

UNIVERSITY OF CALIFORNIA,  
BERKELEY

DocuSigned by:

\_\_\_\_\_  
Carol T. Christ  
Chancellor

DocuSigned by:

\_\_\_\_\_  
Marc Fisher  
Vice Chancellor, Administration

*[Signatures continued on next page]*



7/27/2021

\_\_\_\_\_, 2021

THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA

Approved as to form:  
GENERAL COUNSEL OF THE REGENTS  
OF THE UNIVERSITY OF CALIFORNIA

DocuSigned by:

*Alison Krumbein*

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\_\_\_\_\_  
Alison Krumbein  
Attorney for the University of California and  
the Regents of the University of California