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October 30, 2014

Mr. Aaron Sage  
Senior Planner  
City of Berkeley  
Land Use Planning Division  
2120 Milvia Street, 2nd floor  
Berkeley, CA 94704

Dear Mr. Sage,

Thank you for providing a copy of the "Documentation of Project Significant Community Benefits" ("Community Benefits Package") for the Residences at Berkeley Plaza ("Project"). As a 17-year tenant of the building that will lose its home if and when the Project goes forward, we would like to take this opportunity to respond. We would also like to note that we did not receive several notices for this Project and were not included in the negotiation of the Community Benefits Package.

Habitot Children's Museum ("Habitot") is non-profit organization that plays a vital role in the Downtown Berkeley community. Because of this Project, Habitot will be forced to relocate and rebuild its children's museum at an estimated cost of \$1.2 million dollars, all of which must be raised through community fundraising. With this letter we are requesting compensation from the developer through the Community Benefits Package for \$250,000, a fraction of our cost to relocate, and which represents only the documented cost of the immovable tenant improvements that Habitot has invested in this building which will be destroyed as a result of the Project.

**I. Habitot Provides Direct Benefits to the Community.**

Habitot currently provides significant benefits to the Downtown Berkeley community that will be lost as a result of this Project and which has not been acknowledged by the developer.

Since 1998, Habitot has welcomed over 1 million visitors (more than 60,000 annually) - parents, grandparents, caregivers and teachers along with their young children, ages 0-5. Habitot is the East Bay's only hands-on children's museum and it has become a rite of passage for our youngest citizens. Habitot provides a rich environment for early childhood learning through hands-on exhibits, arts and interactive programs that benefit young children's brain development and helps prepare them for learning in school and beyond.

More than a place to play (although play is critically important), Habitot is a "learning lab" for new parents, offering parenting workshops, a Family Resource Center and Toy Lending Library, support groups for LGBTQ parents, caregiver training and support groups and an annual Early Childhood Safety Campaign that have impacted tens of thousands of local families. Most importantly in terms of community benefit, Habitot is well-known and relied upon for its inclusion programs. Habitot is a resource that is shared widely by vulnerable families and children at risk who especially need a place like Habitot and who might not seek it out without our dedicated programs and outreach. Teen parents, homeless families, formerly incarcerated parents, foster and kinship care families, children with special needs and many others are served through agency visits and dedicated and free programs. Habitot has formal partnerships with Children's Hospital, the Vera Casey Teen Parent Center, BOSS, A Better Way, Through the Looking Glass, the Women's Daytime Drop-in Center, Alameda County Department of Children and Family Services, CalSafe and many, many more. Each of these agencies can bear witness to the impact on children, parents, and the parent-child relationships enhanced by playful experiences at Habitot and its programs and outreach.

The direct benefits to Berkeley and its citizens are many, and include the following:

- Over 3,000 Berkeley families have been members of the museum for one or more years. Many thousands more have visited as drop-in visitors. These families discover that their 0-5 year old children benefit from Habitot's hands-on experiences in math, science, literacy, and the creative arts that they could not provide at home. Moreover, their children find rich opportunities to interact and build social skills that help prepare them for preschool, kindergarten, and beyond.
- Working parents who rely on caregivers are assured that their children have rich learning experiences when their caregivers come to Habitot. In addition, we train and support caregivers in best practices with free programs including CPR, nutrition and safety. 75% of our Berkeley member families have registered a caregiver and these families attend regularly.
- Area preschools utilize Habitot for experiences they cannot provide in the classroom. Dozens of preschool groups come every year. 150 Berkeley preschools, day cares, child care centers, Head Start and state supported preschools are on Habitot's mailing list and 77 or 51% of them have visited on

one or more field trips. We also offer professional development workshops to preschool teachers in art, play, creativity, and more.

- Vulnerable families from Berkeley local homeless shelters (among them BOSS, Women's Daytime Drop in Center), teen parent centers (Vera Casey), and special needs programs (CEID, YMCA) receive free visits to Habitot and tailored programming that specifically meets the needs of these families. These organizations have partnered with Habitot for more than 10 years and together we have benefited hundreds of at-risk families.
- Many Berkeley families over the years have received free annual memberships, discount passes, and more. 131 free memberships have been distributed to Berkeley families and organizations, and no one is turned away for lack of ability to pay.
- Branches of the Berkeley public library hold a Discover and Go pass that gives discounted admission. 61 family passes were distributed from Berkeley library branches last year, giving admission to approximately 200 Berkeley residents.
- We just launched a new program giving Berkeley homeless children free, all-inclusive birthday parties. Their parents say the parties have "erased all the bad moments that went before." Five parties for Berkeley homeless families have taken place so far this year.
- Over the past 15 years we've helped prevent avoidable accidents and injuries among young children - the highest risk group - with an annual Early Childhood Safety Campaign, working with Berkeley Public Health, the local police and fire departments and other local organizations. These annual campaigns give dozens of organizations like Berkeley Public Health, SafeKids California, the fire and police departments, Alameda County Public Health, the Red Cross, East Bay Regional Parks, and the Burn Foundation access to parents with young children, including the families most at risk, in order to give information that could potentially save lives. The Campaign gives parents and caregivers information about household poisons, lead abatement, water safety, earthquake preparedness, free choke saving and CPR training, free car seat inspections and information about child-proofing products to keep their young children safe. We have directly impacted over 22,000 parents over the years with this program and just celebrated the 1,500th car seat inspected since launching the program. This year, Habitot received formal appreciation and recognition from California's Legislature from Senator Hancock and Representatives Skinner and Bonta for this program.

Habitot welcomes families from all over the Bay Area and beyond, so in addition to benefiting individual local families, we support economic development by

bringing foot traffic and business to stores, cafes and restaurants, theaters, the car wash and a host of other businesses in Berkeley. Nearby business owners such as Cafe Clem have estimated that one-third of their business comes from Habitot patrons. We have polled our audience and found that over 70% of visitors have purchased something in Berkeley "most" or "all" of the time they visit Habitot.

The developer's plans will force Habitot to close its doors in downtown Berkeley. Closing Habitot will eliminate all these benefits to the citizens and City of Berkeley if Habitot is unable to raise \$1.2 Million on its own and successfully relocate. Therefore it is critical that the developer that is forcing Habitot to relocate bear some responsibility for at least a portion of the significant costs associated with our inevitable relocation so that the above community benefits can continue.

## **II. Habitot Will Be Displaced as a Result of the Residences at Berkeley Plaza Development.**

In 1998, Habitot invested more than \$250,000 in tenant improvements and site upgrades to its present facility in order to operate a children's museum for the community. The current plans for the Residences at Berkeley Plaza do not include tenant space for Habitot, and the proposed development will wipe out our investment of hundreds of thousands of dollars donated by individual citizens, businesses, corporations, private and public foundations, as well as city, county, and federal dollars over the past 17 years. For Habitot to remain in existence, we must relocate into a new space, and significant new community dollars will have to be raised.

Habitot is not a typical office space or retail operation that can readily relocate. As a "public assembly" use, Habitot will be required to invest significant resources in any new building for fire suppression systems, ADA restrooms, quick release doors, and seismic upgrades just to receive its occupancy permit. And to function as a children's museum, Habitot will have to install well-designed electrical and plumbing systems to recreate its exhibit galleries, re-hire artists and muralists to replace unique wall treatments, and otherwise create a new safe and appealing space for families with young children. Habitot invested in all these improvements in its current space, and none of these are transferable to a new location. Moreover, Habitot will have to expend significant money to reeducate our patrons about our new location.

According to construction cost estimators from Oliver and Company and our own estimates, more than \$1.2 million will have to be raised just to secure an occupancy permit for Habitot's "public assembly" use. Of this, a minimum of \$212,000 will have to be spent on required "public assembly" occupancy upgrades. These include a fire suppression system (sprinkler system) on two floors, required ADA accommodations (restrooms, quick release doors, etc.), a one-hour fire separation between floors, seismic upgrades, and re-installation of an architecturally significant window. An additional \$70-80/square foot or another \$800,000 will be necessary to distribute ventilation (air/heat), distribute electricity, and install flooring,

lighting, plumbing, and walls to the level of a 'warm shell'. Finally, to re-create a children's museum in the new building, a minimum of \$200,000 in funds for new or refurbished and relocated exhibits will have to be raised.

We are asking the developers of the Project to be part of that community of supporters who will maintain Habitot as a community institution by helping with the costs of relocation and occupancy by providing a share of that funding.

### **III. Habitot Requests a Small Portion of Community Benefits to Compensate for the Loss of its Current Space.**

To replace what we currently have in today's dollars will cost at least 1.2 million dollars according to cost estimates. We believe \$250,000 is a reasonable and fair fraction of the developers' combined community benefits totaling almost 24 million dollars as currently proposed and will be immediately and visibly re-invested into restoring our services and programs that support the community. We would like to seek a more sizable contribution but we are attempting to be fair and reasonable in our request. Specifically, Habitot is requesting compensation for the following investment in its current space that cannot be transferred to a new site:

- \$100,000 of construction costs, including: demolition, installing walls/benches, lighting, flooring, electrical, and plumbing for water play and art studio
- \$30,000 for permanent exhibit installation, floor to ceiling vinyl wall images installation, floor to ceiling murals
- \$35,000 for installation of an ADA compliant bathroom
- \$25,000 for upgrades to the HVAC system
- \$10,000 for phone, alarm and wiring for computers/phones
- \$50,000 for an addition to the annex, including construction and equipment for full kitchen, cabinetry, washer dryer, flooring, walls.

Habitot has asked the developer directly for compensation to no avail. The developers are well-aware that Habitot's space will be demolished by the new construction as planned, and no offers have ever been made to keep Habitot as part of the amenities of the new development, despite its long-standing presence in downtown and its community benefit. The developer recognized in the Community Benefit Package "the inconveniences and impacts associated with change in space," but they have refused our requests for compensation because "the provisions of these benefits would be enjoyed by a much smaller subset of the Berkeley community than will appreciate the enjoyment of the other benefits being provided by the project." Community Benefits Package, p. 13. As described in detail above, Habitot provides benefits to thousands of Berkeley families, as compared to the relatively few

Berkeley residents that will benefit from the touted “significant” community benefits in the developer’s Community Benefits Package (see detailed discussion of proposed community benefits below).

Other than initially mentioning that the building Habitot is considering relocating to was on the market, Mark Rhoades and the developers have played no role in assisting Habitot to relocate. Despite rumors, Habitot does not have a 'sweetheart deal' to relocate elsewhere and there is by no means any certainty that everything "is going to work out well for" Habitot, as alleged by Mark Rhoades at the June 12, 2014 Zoning Adjustments Board Meeting.

Habitot and its Board have worked very hard over the last year to develop a relocation opportunity with the help of Steve Oliver, a long-time friend of the museum who has known Habitot over our 17-year history and who agreed to work with us on acquiring the building for our use. Along with the considerable investment of time and energy from the City's Economic Development Department staff, Habitot now has hopes for a new home. The developer cannot take credit for any of this effort or our potential chance to relocate.

Initially however, Habitot will have to rent space in this new building and the rent will be more than 30% higher than it is currently. Over time, and again, only if Habitot can continue to tap into community based funding to raise the funds needed, will we be able to one day transition into some type of ownership position. This is certainly not a given. And relocation to this new site will happen if and only if Habitot can raise the funds to make this building our new home. Habitot will have to raise every cent needed to occupy and re-create a children's museum there.

Habitot is asking the City to require the developer to include compensation for the loss of Habitot’s existing space in the Community Benefit Package. The City supports social services that target low-income residents, young people, and individuals and families who are homeless or hungry and that address the needs of single and working parents in the Downtown, as seen from Downtown Area Plan Policy LU-8.3 (“support public, non-profit and for-profit agencies in Downtown that provide health-related and social services.”) See also page HC-6. Habitot currently provides these services within the DAP, and will be forced to relocate them to a new site. As explained above, \$250,000 is a more than fair and reasonable contribution to the over \$1.2 million that is required to relocate such a valuable benefit to a site within the Berkeley venue and that will serve the Berkeley community.

If Habitot is any example, the developers statements in the Documentation of Project Significant Community Benefits related to conducting significant outreach to the near-by community/businesses falls far short of even adequate given they did not make any attempt to communicate with us, as an anchor tenant of the building, regarding these significant impacts. Despite our making several requests to the developers to take a leadership role and be part of the community of supporters who will maintain Habitot as a community institution they have essentially avoided

communicating with us. Therefore, we are requesting your assistance in raising awareness of these impacts and advocating on our behalf for the very reasonable request of \$250,000 in financial support to help relocate Habitot to a new home and continue its community programs and outreach services.

**IV. The Residences at Berkeley Plaza Does Not Provide Significant Community Benefits Beyond What Would Otherwise be Required by the City.**

We understand that the anticipated valuation of the proposed community benefits will be peer reviewed by a City-designated economic consultant. With that in mind, we ask that the following concerns be evaluated, specifically as related to the repeated statement that the 180 foot tall Project proposes “significant community benefits... beyond what would otherwise be required by the City” as is required for buildings over 75 feet under Section 23E.69.090.E and DAP LU-2.2.

***Transportation Demand Management: \$212,240 first year, \$1.2 Million over 20 years***

Many of the Transportation Demand Management (“TDM”) measures included in the Community Benefits package are necessary to meet the LEED Gold standard required per zoning code Section 23E.68.085, the Climate Action Plan, the DAP, and to have no significant transportation impacts under CEQA. As such, these measures are not “beyond what would otherwise be required by the City.”

The Project’s EIR was not required to discuss conflicts with adopted policies, plans, or programs regarding bicycle, or pedestrian facilities in part because of the TDM measures that are included in the Project. (DEIR 4.2-6, IBI Group Report, July 7, 2014 Page 62, 68). For example, the 11 parking spaces provided for residents of the project to park their electric vehicle at a cost of \$44,000 have been used many times to show consistency with the Climate Action Plan, DAP, and LEED Gold certification (see i.e. Tables 6 and 13 in the Infill Environmental Checklist and SS Credit 4.3 on LEED checklist). Similarly, the residential bicycle parking for 100 residences is a claimed community benefit of \$15,000 which again only benefits the residents, and is required to meet the number of points for LEED Gold certification (SS Credit 4.2 on the checklist). Finally, cargo bikes, pedestrian grocery carts and a private bike fixing station, while innovative sustainable design features, are all direct benefits to the residents totaling \$13,400 (one bike fix stations for \$800 will be available to the public) that should not be included as community benefits of the Project beyond that required by the City.

DAP Policy ES-2.1 encourages projects in the Downtown to include “state of the art features” and programs within public and private spaces. This project complies with this policy by including smart transit screens, bike corrals, and other sustainable features noted above. However these features are required by the City and not a step beyond. We therefore urge you to perform a careful audit of the

claimed community benefits from TDM measures to determine which, if any, are actually beyond what would otherwise be required by the City.

***Human-scale streetscape and privately owned public open space: First year value: \$1.1 Million; Total value over 20 years: \$7.4 Million***

We appreciate that there is a plaza provided as part of this project, but note that for a project so large it is hard to see that a 1,872 square foot ground floor plaza that is otherwise covered by the building is a significant community benefit that goes beyond what is otherwise required. Specifically, numerous DAP policies require and encourage development of pedestrian accessible open space in the Downtown Core including: ES-3.2 (Streets & Open Space); ES-3.5 (pedestrian priority); ES-4.1(d) (Development project should pay an impact fee to fund the Streets & Open Space Improvement Plan, *and* provide public-serving on-site open space); LU 2-4 (developer contributions for open space); AC-2.1 (give pedestrians priority); HD-4.1 (pedestrian-oriented design); HD-4.3 (urban open spaces); OS-1.1 (Streets & Open Space Improvements); OS-1.2 (Shattuck Avenue should be a “world class tree-lined boulevard” and Harold Way should be a slow street); OS-3.1 (private contributions to beneficial open space).

Furthermore, Figure OS-1 in the DAP (Major Projects for Streets and Open Space) calls for significant improvements along Shattuck in the Project area that appear to be consistent with the proposed open space plans. Not only are these improvements merely consistent with, and not above what is required in the DAP, the project was only able to show no impacts to Pedestrian Environmental Quality Index (PEQI) and Bicycle Environmental Quality Index (BEQI) under CEQA because of planned project features, including the plaza, street trees, wider sidewalks and bike racks. IBI Group Report, July 7, 2014 Page 62, 68. Therefore the provision of pedestrian friendly open spaces and plazas do not represent “significant community benefits... beyond what would otherwise be required by the City.”

Finally, we would like to direct your economic consultant’s attention to the calculation of the value of the benefit provided, specifically the cost basis of 1,872 square feet of leaseable retail space, and additional 1,800 square feet of leaseable residential space. The project is required to provide 644 square feet of Privately-Owned Public Open Space, and we question the claim that 447 square feet of this is provided in widened sidewalks when the building is required to have 15 foot setbacks per Section 23E.68.070 unless modified by a Use Permit.

***Cinema Retention and Modernization: First year value: \$940,000; Total value over 20 years: \$24.7 Million***

We support the Project’s efforts to preserve Downtown Berkeley’s movie theaters. It is our understanding that Zoning Commissioner Williams specifically asked for movie theaters to be included as part of the Project at a Zoning Adjustments Board preview of the project on March 14, 2013. This is consistent with DAP Policy LU-1.2(b) (retain and support Downtown cinemas) and DAP Policy ED-1.7 (work to

Habitot Children’s Museum

Request for Consideration of Community Benefits / Residences at Berkeley Plaza Development

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retain and expand cinemas, work with the cinema to upgrade to state-of-the-art facilities). Instead of retaining the existing Shattuck cinemas (that were remodeled in 2009), the Project has *chosen* to construct “six state of the art movie theater paces and a new cinema concourse.” This decision is consistent with the DAP and direction from the Zoning Board, but is unlikely to qualify as a “significant community benefits... beyond what would otherwise be required by the City.” We will leave the audit of the added cost and claimed loss on investment to your economic consultant, but the fact that the developer declined to provide the theater space for non-profit use indicates that the Project is focused on using this space to generate revenues, and not to provide a benefit to the community.

***100% Union Labor Employment Opportunities: Total value \$10 Million***

We fully support the use of union labor to construct the project, and agree that this provides a benefit to the community. However, the developer emphasizes that it is using union labor for 100% of the project’s construction but is not benefiting from the Green Pathway requirements of prevailing wage in exchange for streamlined discretionary approval. It is important to note that the Project cannot even use the Green Pathway incentives because it the proposed project entails alteration and partial demolition of a designated landmark, the Shattuck Hotel. §23B.34.010. Furthermore, even if the Project could have pursued the Green Pathway option, it would have been required to meet several elements, and on union labor they would have been required to employ approximately 30% of its construction workers from Berkeley, if possible. DAP LU-2.3, §23B.34.050. Based on the overview provided in the proposed Community Benefits package, there is an “expectation” that the project will use local (i.e. Alameda County) workers. Compliance with all the requirements is necessary to qualify for the Green Pathway. Thus, the Project does not qualify for nor meet several of the Green Pathway requirements of zoning code Section 23E.68.090.E and the Project is not giving up any of the benefits of Green Pathway.

Zoning code Section 23E.68.090.E includes employment opportunities as an example of a significant community benefits that goes beyond what would otherwise be required by the City. Here, the same number of construction jobs will be created by development of this project, whether the workers are paid a prevailing wage or not. Construction jobs are not long term employment opportunities, and we ask that your economic consultant determine the net new long term employment opportunities that will be created as a result of this proposed Project when calculating the “economic opportunities” Community Benefits. Moreover, the Project declined to include a percent of jobs for Berkeley residents so while these jobs will be union, there is nothing to say that they will provide jobs to residents in the community.

**V. Conclusion**

The benefits Habitot provides to the community will be significantly impacted by the proposed Project. Habitot will be forced to rebuild its facilities in a new location at an estimated cost of \$1.2 million dollars, all of which must be raised

through community fundraising. With this letter we are requesting compensation from the developer through the Community Benefits Package for \$250,000, a fraction of the cost to relocate, and the documented cost of immovable tenant improvements that will be destroyed as a result of the Project. This directly translates to Habitot's ability to provide invaluable benefits to the community in its new location and represents a true community benefit the Project can provide to Berkeley.

We respectfully ask that the City include \$250,000 for Habitot as part of the Community Benefits Package for the Residences at Berkeley Plaza Project.

Sincerely,

Gina Moreland

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cc: Mark Rhoades, Rhoades Planning Group  
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