AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, October 15, 2024
6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY, CA 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – IGOR TREGUB
DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – CECILIA LUNAPARRA
DISTRICT 8 – MARK HUMBERT

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. Live captioned broadcasts of Council meetings are available on B-TV (Channel 33) and via internet video stream at http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244. All Council meetings are recorded.

*To access the meeting remotely use this URL: https://cityofberkeley-info.zoomgov.com/j/1613604094 To request to speak, use the "raise hand" function in Zoom. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter **Meeting ID: 161 360 4094** To provide public comment, Press *9 and wait to be recognized by the Chair. To submit a written communication for the public record, email council@berkeleyca.gov.*

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting, however, if you are feeling sick, please do not attend the meeting in person. The City Council may take action related to any subject listed on the Agenda.

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. "Disrupting" means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

***Government Code Section 84308 (Levine Act)** - Parties to a proceeding involving a license, permit, or other entitlement for use are required to disclose if they made contributions over $250 within the prior 12 months to any City employee or officer. Parties and participants with a financial interest are prohibited from making more than $250 in contributions to a decisionmaker for the 12 months after the final decision is rendered on the proceeding. The above contribution disclosures and restrictions do not apply when the proceeding is competitively bid, or involves a personnel or labor contract. For more information, see Government Code Section 84308.*

Preliminary Matters

Roll Call:

Land Acknowledgement Statement: *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

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

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

Public Comment on Non-Agenda Matters: *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons attending the meeting in-person and wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

Public Comment by Employee Unions (first regular meeting of the month): *This period of public comment is reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.*

Consent Calendar

The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Three members of the City Council must agree to pull an item from the Consent Calendar or Information Calendar for it to move to Action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

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

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

Consent Calendar

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

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

Consent Calendar

1. Amending the Berkeley Hazardous Materials and Waste Management Code
From: City Manager
Recommendation: Adopt second reading of an Ordinance No. 7,936-N.S. amending Berkeley Municipal Code (BMC) Chapter 15.12, Berkeley Hazardous Materials and Waste Management.
First Reading Vote: All Ayes.
Financial Implications: See report.
Contact: Jordan Klein, Planning and Development, (510) 981-7400

2. Contract #102814-1 Amendment: Konica Minolta Business Services, Inc. for Electronic Content Management System and Agenda Management and Workflow System
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract #102814-1 with Konica Minolta Business Solutions, Inc. for software maintenance and related services for OnBase, an Electronic Content Management System (ECMS) and agenda management and workflow system, to increase the not-to-exceed amount by $381,949 for a total not to exceed amount of $922,953 for regular annual maintenance costs and version updates, and authorize annual renewals through September 18, 2029.
Financial Implications: General Fund - $381,949
Contact: Mark Numainville, City Clerk, (510) 981-6900

3. *Item Removed from Agenda by City Manager* Cooperative Agreement with East Bay Regional Parks District
From: City Manager
Contact: Peter Radu, City Manager's Office, (510) 981-7000

Consent Calendar

4. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 15, 2024
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.
Financial Implications: See report.
Contact: Henry Oyekanmi, Finance, (510) 981-7300

5. Contract: Mission Critical Partners for Emergency Communications Consulting Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a piggyback contract and any amendments with Mission Critical Partners, LLC, using the California Multiple Award Schedules (CMAS) contract No. 3-13-70-3020A in an amount not to exceed $300,000 for the enhancement of mission-critical communications systems from November 1, 2024, through May 30, 2026, with two (2), two (2) year options to extend.
Financial Implications: See report.
Contact: David Sprague, Fire, (510) 981-3473

6. PATH CITED Round 3 Revenue Grant Agreement
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or his designee to accept a grant award, and execute any agreements, in the amount of $96,901.88 for Fiscal Year 2025, from the PATH CITED initiative to support the development of the City of Berkeley's Health, Housing, and Community Services Department's Enhanced Care Management Program. This grant agreement requires matching funding from the City in the amount of $96,901.88.
Financial Implications: See report.
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

7. Contract No. 32200162-1 Amendment: Thirdwave Corporation for Professional Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or his designee to amend Contract No. 32200162 with ThirdWave Corporation to increase the not to exceed (NTE) amount by $36,020, utilizing one-time funds. The amendment will increase the NTE amount from $275,000 to $311,020 through June 30, 2025.
Financial Implications: See report.
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

8. Revise Salary Range – Aquatics Specialist II
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to revise the salary range of the unrepresented Aquatics Specialist II classification in order to remedy salary compaction with Aquatics Specialist I.
Financial Implications: See Report.
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800

9. Purchase Order: Coast Counties Truck & Equipment Co. for Zero Waste Vehicle Parts
From: City Manager
Recommendation: Adopt a Resolution satisfying bid requirements of the City allowing the City to participate in Sourcewell (formerly NJPA) contract bid procedures, authorizing the City Manager to execute a purchase order with Coast Counties Truck & Equipment Co. for the purchase of Zero Waste long-haul vehicle parts for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $600,000.
Financial Implications: See report.
Contact: Terrance Davis, Public Works, (510) 981-6300

10. Purchase Order: Pape Kenworth for Zero Waste Tractor Trailer Parts
From: City Manager
Recommendation: Adopt a Resolution satisfying bid requirements of the City, allowing the City to participate in Sourcewell (formerly NJPA) contract bid procedures, authorizing the City Manager to execute a purchase order with Pape Kenworth for the purchase of Zero Waste tractor trailer parts for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $300,000.
Financial Implications: See report.
Contact: Terrance Davis, Public Works, (510) 981-6300

11. Purchase Order: Western Truck Center for Zero Waste Vehicle Parts and Repairs
From: City Manager
Recommendation: Adopt a Resolution satisfying bid requirements of the City allowing the City to participate in Sourcewell (formerly NJPA) contract bid procedures, authorizing the City Manager to execute a purchase order with Western Truck Center for the purchase and repairs of Zero Waste vehicle parts and repairs for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $400,000.
Financial Implications: See report.
Contact: Terrance Davis, Public Works, (510) 981-6300

Consent Calendar

12. Contract: Shaw Industries, Inc. for Civic Center Building Carpet Replacement Project
From: City Manager
Recommendation: Adopt a Resolution:
1. Approving the CMAS Contract with Shaw Industries, Inc. for Carpet Replacements at the Civic Center Building; 2. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the terms and conditions of the agreements with Shaw Industries, Inc. in an amount not to exceed $107,460, which includes a contingency of $10,367.
Financial Implications: See report.
Contact: Terrance Davis, Public Works, (510) 981-6300

13. Contract No. 32000067 Amendment: GHD, Inc. for Preparation of a Sanitary Sewer Master Plan
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000067 with GHD, Inc. for further development of a Sanitary Sewer Master Plan, also known as a Sanitary Sewer System Plan (SSP), and Related Engineering Services in an amount not to exceed $350,000 for a total not to exceed $1,290,000.
Financial Implications: See report.
Contact: Terrance Davis, Public Works, (510) 981-6300

14. Purchase Order: Arata Equipment Company for Zero Waste Vehicle Parts and Repairs
From: City Manager
Recommendation: Adopt a Resolution satisfying bid requirements of the City of Berkeley allowing the City to participate in Sourcewell (formerly NJPA) contract bid procedures, authorizing the City Manager to execute a purchase order with Arata Equipment Company for the purchase and repairs of Zero Waste vehicle parts for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $500,000.
Financial Implications: See report.
Contact: Terrance Davis, Public Works, (510) 981-6300

Consent Calendar

15. Purchase Order: McNeilus Truck and Manufacturing for Zero Waste Vehicle Parts
From: City Manager
Recommendation: Adopt a Resolution satisfying bid requirements of the City allowing the City to participate in Sourcewell (formerly NJPA) contract bid procedures, authorizing the City Manager to execute a purchase order with McNeilus Truck and Manufacturing, for the purchase of Zero Waste vehicle parts and services for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $350,000.
Financial Implications: See report.
Contact: Terrance Davis, Public Works, (510) 981-6300

16. Grant Applications: Alameda County Transportation Commission Comprehensive Investment Plan 2026
From: City Manager
Recommendation: Adopt two Resolutions authorizing the City Manager or their designee to: Submit grant applications to the Alameda County Transportation Commission for up to $4 million in Comprehensive Investment Plan (CIP) funding for the Adeline Street Transportation Improvement Project ($2 million), and Telegraph Complete Streets Corridor Project ($2 million), respectively; accept the grants awarded; and execute any resultant agreements and amendments.
Financial Implications: See report.
Contact: Terrance Davis, Public Works, (510) 981-6300

17. Purchase Order: Golden State Emergency Vehicle for Fire Vehicle Parts and Repairs
From: City Manager
Recommendation: Adopt a Resolution satisfying bid requirements of the City allowing the City to participate in Sourcewell (formerly NJPA) contract bid procedures, authorizing the City Manager to execute a purchase order with Golden State Emergency Vehicle for the purchase and repairs of fire vehicle parts for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $1,300,000.
Financial Implications: See report.
Contact: Terrance Davis, Public Works, (510) 981-6300

18. Purchase Order: Nicholas K Corp dba the Ford Store San Leandro for two (2) 2024 Ford T350 E Transit Vans
From: City Manager
Recommendation: Adopt a Resolution satisfying the requirements of City Charter allowing the City Manager to participate in Alameda County GSA Master Contract No. 901979 and authorize the City Manager to execute a purchase order for two (2) 2024 Ford T350 E Transit Vans with Nicholas K Corp dba the Ford Store San Leandro in an amount not to exceed $165,500.00.
Financial Implications: See report.
Contact: Terrance Davis, Public Works, (510) 981-6300

Consent Calendar

19. Purchase Order: Pape Machinery, Inc. for Heavy Equipment Parts and Repairs
From: City Manager
Recommendation: Adopt a Resolution satisfying bid requirements of the City of Berkeley allowing the City to participate in Sourcewell (formerly NJPA) contract bid procedures, authorizing the City Manager to execute a purchase order with Pape Machinery, Inc. for the purchase and repairs of heavy equipment parts for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $1,000,000.
Financial Implications: See report.
Contact: Terrance Davis, Public Works, (510) 981-6300

20. Councilmember Taplin's Referral regarding Cal Sailing Club's six historic J-Dock berths
From: Parks and Waterfront Commission
Recommendation: Recommend that Council adopt a resolution designating Cal Sailing Club's six historic J-Dock berths for safety training for boating activities, community service, and recreational education uses, and directing the City Manager to retain the six slips for Cal Sailing Club (CSC) to use for nonprofit sailing instruction programs and to be reviewed every four years.
Financial Implications: See report.
Contact: Roger Miller, Commission Secretary, (510) 981-6700

Council Consent Items

21. Amending BMC Section 9.04.165 -Tax Exemption for Research & Development Grants
From: Mayor Arreguin (Author)
Recommendation: Adopt a first reading of an Ordinance amending Berkeley Municipal Code Section 9.04.165 to exempt the taxation of business gross receipts relating to government and philanthropic research and development grants in the public interest.
Financial Implications: See report.
Contact: Jesse Arreguin, Mayor, (510) 981-7100

22. Naming the Harrison Street Skate Park in Honor of Terrance McCrary
From: Councilmember Kesarwani (Author)
Recommendation: Referral to the Parks, Recreation and Waterfront Commission to officially name the Harrison Street Skate Park in honor of Terrance McCrary, Jr., former skateboard counselor in training with our Recreation Division's Skate Camp and Berkeley resident killed by gun violence.
Financial Implications: See report.
Contact: Rashi Kesarwani, Councilmember, (510) 981-7110

Council Consent Items

23. Russell Street Halloween Festivities: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds
From: Councilmember Humbert (Author), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed $1,000 per Councilmember including $1,000 from Councilmember Humbert to the Claremont Elmwood Neighborhood Association for Russell Street Halloween festivities with funds relinquished to the City's General Fund for this purpose from the discretionary Council Office Budgets of Councilmember Humbert and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Funds - $1,000
Contact: Mark Humbert, Councilmember, District 8, (510) 981-7180

Action Calendar

The public may comment on each item listed on the agenda for action. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again during one of the Action Calendar public comment periods on the item. Public comment will occur for each Action item (excluding public hearings, appeals, and/or quasi-judicial matters) in one of two comment periods, either 1) before the Action Calendar is discussed; or 2) when the item is taken up by the Council.

A member of the public may only speak at one of the two public comment periods for any single Action item.

The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

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

Action Calendar – Scheduled Public Comment Period

During this public comment period, the Presiding Officer will open and close a comment period for each Action item on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters). The public may speak on each item. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.

Action Calendar – New Business

24. Amendments to the of Berkeley Green Code to require all newly constructed buildings to be Zero NOx Emission Buildings
From: City Manager
Recommendation:
1. Adopt first reading of an Ordinance amending the Berkeley Green Code, BMC Chapter 19.37, to require all newly constructed buildings to be Zero NOx Emission Buildings with two exceptions: 1) for industrial or manufacturing processes; and 2) for cooking equipment serving nonresidential occupancies in buildings; and
2. Adopt a Resolution setting forth findings of local conditions that justify more stringent regulations than those provided by the 2022 California Green Building Standards Code with Mid-Cycle Supplements.
Financial Implications: See report.
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Council Action Calendar

25. Resolution: Opposition to Police Brutality and Use of Force on Nonviolent Protesters *(Reviewed by Public Safety Committee)*
From: Councilmember Harrison (Author)
Recommendation:
Adopt a Resolution reaffirming the City of Berkeley's opposition to and condemning police brutality towards nonviolent protesters and discouraging use of "less-lethal" weapons for crowd control.
Policy Committee Recommendation: No final action taken. Item is automatically returning to the Council agenda pursuant to the time limit for items referred to policy committees.
Financial Implications: See report.
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

26. Community Safety Plans for a Safe and Resilient Berkeley
From: Councilmember Hahn (Author)
Recommendation: Refer to the City Manager to create four strategic, single-subject Community Safety Plans to effectively reduce Gun Violence, Sexual Assault, Retail Theft, and Traffic Violence. Return Plans to the City Council for review and approval.
Financial Implications: See report.
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Information Reports

27. Civic Arts Grant Awards: Fiscal Year 2025
From: City Manager
Contact: Eleanor Hollander, Economic Development, (510) 981-7530

28. LPO NOD: 2436-2442 Haste Street, #LMIN2024-0002
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Information Reports

29. LPO NOD: 1614 Sixth Street/#LMSAP2024-0003
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Public Comment – Items Not Listed on the Agenda

Adjournment

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

Archived indexed video streams are available at:
https://berkeleyca.gov/your-government/city-council/city-council-agendas.
Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

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

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at https://berkeleyca.gov/.

Agendas and agenda reports may be accessed via the Internet at:
https://berkeleyca.gov/your-government/city-council/city-council-agendas
and may be read at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: clerk@berkeleyca.gov

Libraries: Main – 2090 Kittredge Street,
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,
North Branch – 1170 The Alameda, Tarea Hall Pittman South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:
This meeting is being held in a wheelchair accessible location.
To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900 or by email at clerk@berkeleyca.gov.

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I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on October 3, 2024.

Mark Numainville, City Clerk

Communications

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

Item #20: Councilmember Taplin's Referral regarding Cal Sailing Club's six historic J-Dock berths

1. J. Graeme Lowe
2. Mariya and Ryan Alder
3. Joel B. Gussman
4. John Taussig
5. Kelly Saturno
6. Cesare Garlati

Amended Registration Statement

7. Peter Seyranian

Public Health Department

8. Ned Himmel

Housing Concern

9. Planet Glassberg
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UA Theater
10. Dale Sophiea
11. Oliver Kay
12. Laura Linden
13. Anastasia Rose Ellis
14. Rusty Cohn

Berkeley Art Center
15. Amy Yoshitsu

Aurora Theater
16. Josh Costello

Homeless Solution
17. Michaela Mordecai

Middle East Conflict
18. Jack Kurzweil
19. Elana Auerbach
20. David Weintraub

Berkeley School Board
21. Laura Babitt

Bus Schedule Changes
22. Anne Herrick
23. Michael Eshelman

Cease and Desist Letter
24. Yesica Prado and Gordon Gilmore on behalf of the Berkeley Homeless Union

Homeless RV Centers
25. Scott Robinson

Derby and Warring Intersection
26. Hermine Rule

Public Art Impact Fee
27. James M. Lloyd

Jack London Square
28. Dirk Neyhart

United Against Hate Week
29. Jennifer Coffey

CERT Training
30. Richard Schwartz

Zoning Concerns
31. Jodi Carter
32. Emilie Strauss

Natural Gas
33. Walter Wood

Proposed Proclamation
34. The Indigenous Peoples Day Pow Wow Committee
35. Susan Louie

Peace and Justice Commission
36. Cielo Rios

Police Report Request
37. Mike Vandeman

Construction Concerns
38. Aishah and Uchi-Deshi

Construction Sweeper Concerns
39. Jesse Sheehan (4)

Barkely Beach
40. Patrick Hall

12 Panoramic Way
41. Lisa Handwerker

Measure BB
42. Lynn Sherrell

Missing Middle
43. Susan Nunes Fadley

Signage at Rainbow Doughnuts
44. Carol Denney

Monterey Market
45. Armand Seguin

Kiosk in Downtown Berkeley
46. Ghawar Camij Toschian

East Bay PAC
47. Nilang Gor

Burrowing Owls
48. Martin Nicolaus
49. Ruth Hurvitz
50. Erika St. John

Newsletter
51. Eid
52. Erwan Illian
53. Vivian Warkentin
54. Russbumper

URL's
55. Russbumper (11)
56. Josh Atwood (10)
57. Keith Bayne

Forwards For Current Events
58. Eid (8)
59. Josh Atwood

Middle East Conflict and Peace & Justice Commission
60. 6,276 similarly worded form letters "Vote No on Ceasefire and related Resolutions"

Supplemental Communications and Reports

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

- **Supplemental Communications and Reports 1**
  Available by 5:00 p.m. five days prior to the meeting.

- **Supplemental Communications and Reports 2**
  Available by 5:00 p.m. the day before the meeting.

- **Supplemental Communications and Reports 3**
  Available by 5:00 p.m. two days following the meeting.

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ORDINANCE NO.7,936-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 15.12, HAZARDOUS MATERIALS AND WASTE MANAGEMENT

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

Section 1. That Berkeley Municipal Code Chapter 15.12 is amended to read as follows:

HAZARDOUS MATERIALS AND WASTE MANAGEMENT

Sections:

15.12.010– Findings and Purpose
15.12.020– Laws and Regulations Incorporated by Reference
15.12.030– Administration
15.12.040– Filing of Disclosure Information
15.12.050– Quantities Requiring Disclosure
15.12.060– Applicability of California Accidental Release Program (CalARP)
15.12.070– Permits and Registration
15.12.080– Reporting Unauthorized Releases
15.12.090– Closure
15.12.100– Unauthorized Release Abatement
15.12.110– Community Right to Know; Public Records
15.12.120– Fees and Penalties
15.12.130– Inspections
15.12.140– Enforcement
15.12.150– Administrative Enforcement
15.12.160– Relation to Existing Laws; Effective Dates
15.12.170– Relation to Other Laws

15.12.010 – Findings and Purpose

The City Council finds and declares:

A. Hazardous materials and wastes present in the community may pose acute and chronic health hazards to individuals who live, visit and work in the City of Berkeley and who are exposed to such substances as a result of fire, spills, industrial accidents, or other releases or emissions.

B. It is the intent of the Council to recognize the community's right and need for basic information on the use, handling, storage and disposal of hazardous materials and wastes in Berkeley and to establish an orderly system for the provision of such information.

C. It is further the intent of the Council that the system of disclosure set forth herein shall provide information essential to firefighters, health officials, planners, elected officials, workers and their representatives, businesses and residents in meeting their

responsibilities for the health and welfare of the community in such a way that the statutory privileges against disclosure of non-public records are not abridged.
D. Businesses that safely handle hazardous materials and wastes are beneficial to the economic life of the City and community. It is the intent of the Council to provide program provisions that facilitate the continued and growing presence of safe businesses.
E. This chapter shall apply within the City of Berkeley, and also in contiguous areas within surrounding cities for which Berkeley has regulatory and enforcement authority by agreement or otherwise.
F. It is further the intent of the Council to conform the provisions of this chapter to California laws regulating the storage and handling of hazardous materials and wastes, including: California Health and Safety Code Division 20, Chapter 6.5 (hazardous waste), Chapter 6.67 (aboveground storage of petroleum), Chapter 6.7 (underground storage tanks), Chapter 6.11 (unified program), Chapter 6.95 Article 1 (hazardous materials) and Article 2 (accidental release prevention); and California Water Code Division 7, Chapter 10, Article 4 (water, cathodic protection and groundwater monitoring wells). The City of Berkeley hereby assumes responsibility and exclusive jurisdiction for these laws, to the extent authorized by law, including designation as a Certified Unified Program Agency (CUPA). These state laws, and state regulations adopted in furtherance of these laws, are incorporated into this chapter by reference, except as modified within this chapter.
G. It is further the intent of the Council to conform the provisions of this chapter to California laws regulating the remediation of contamination resulting from releases of hazardous materials and wastes, including those provided by California Health and Safety Code Division 20, Chapter 6.5 (hazardous waste), Chapter 6.67 (aboveground storage of petroleum), Chapter 6.11 (unified program), Chapter 6.95 Article 1 (hazardous materials) and Article 2 (accidental release prevention); and California Water Code Division 7, Chapter 10, Article 4 (water, cathodic protection and groundwater monitoring wells).

15.12.020 – Laws and Regulations Incorporated by Reference

The following provisions of state law, with their implementing regulations and agency resolutions, are hereby incorporated into this chapter by reference: California Health and Safety Code Division 20, Chapter 6.5 (hazardous waste), Chapter 6.67 (aboveground storage of petroleum), Chapter 6.7 (underground storage tanks), Chapter 6.8 (Carpenter-Presley Tanner Hazardous Substances Account Act), Chapter 6.11 (unified program), Chapter 6.95 Article 1 (hazardous materials) and Article 2 (accidental release prevention); and Division 7 of the California Water Code (water quality), and Department of Water Resources Bulletins No. 74-81 and 74-90 (water, cathodic protection and groundwater monitoring wells). This chapter contains additional stricter local requirements in accordance with Sections 25299.2 and 25500 of the California Health and Safety Code. This chapter also incorporates by reference provisions of the Uniform Fire and Building Codes which pertain to management, containment, security and separation of hazardous materials and wastes, as they may be adopted from time to time by the City of Berkeley. The provisions of this chapter shall conform to these incorporated provisions as they may be amended, unless explicitly modified within this chapter.

15.12.030 – Administration

This chapter shall be administered and enforced by the hazardous materials manager. The hazardous materials manager may, for purposes related to this chapter, undertake actions, including but not limited to, the maintenance and verification of files relating to this chapter, the acquisition of additional information on hazardous materials and wastes and their handling, public education regarding hazardous materials and wastes, and promotion of pollution prevention, recycling of wastes, and compliance with this chapter.

15.12.040 – Filing of Disclosure Information

A. Each handler, or facility under the jurisdiction of the City of Berkeley, that handles hazardous material or waste in a quantity subject to disclosure under the provisions of Section 15.12.050 at any time must submit the following information at the time it begins operations, or at the time it first begins to handle a hazardous material or waste that must be disclosed:

1. All information required to be submitted under the authority of Health and Safety Code Sections 25505, 25508(a)(1), 25508.1, 25508.2, and 25508.3; and any additional information required under this chapter.

B. In addition, each handler shall submit annually either a completed certification, signed under penalty of perjury, that previously filed information remains accurate, or revised information.

C. This information must be submitted electronically to the California Environmental Reporting System (CERS) pursuant to California Health and Safety Code Sections 25505 and 25508(a)(1).

D. A handler shall complete a revised submittal to CERS, including additional information required under this chapter, at least once every three years or as specified by the hazardous materials manager. In addition, a handler shall complete a revised submittal to CERS within 30 days after any of the following:

1. Introduction of a new hazardous material or waste, or an increase in the total quantity handled of any previously disclosed hazardous material or waste by 100% or more above the quantity previously disclosed, unless the material or waste is exempted from disclosure by any of the exemptions set forth in Section 15.12.050;

2. Change of business address;

3. Change of business ownership; or

4. Change of business name.

E. The hazardous materials manager shall review each CERS submittal and shall accept it if it conforms to the requirements of subsection A of this section, and provides complete and adequate information needed for the protection of safety and health and of the environment, or shall require the handler to submit additional information to be included in the form before it may be accepted.

F. A handler shall supply upon request to the hazardous materials manager additional information determined by the hazardous materials manager to be necessary to protect health and safety or the environment.

G. All filings shall be made on the City's most current version of the applicable form. If a state form is used, a handler must comply with all additional stricter local requirements in this chapter.

H. A short form hazardous materials management plan may be required at the discretion of the hazardous materials manager or Fire Chief if the quantity of each hazardous material stored in one or more storage facilities in an aggregate quantity for the facility is 500 pounds or less for solids, 55 gallons or less for liquids, or 200 cubic feet or less at standard temperature and pressure for compressed gases. Such a plan shall include the following components:

1. General facility information;

2. A simple line drawing of the facility showing the location of the storage facilities and indicating the hazard class or classes and physical state of the hazardous materials and wastes being stored and whether any of the material is a waste;

3. Information describing that the hazardous materials and wastes will be stored and handled in a safe manner and will be appropriately contained, separated and monitored;

4. Assurance that security precautions have been taken, employees have been appropriately trained to handle the hazardous materials and wastes and react to emergency situations, adequate labeling and warning signs are posted, adequate emergency equipment is maintained, and the disposal of hazardous materials and wastes will be in an appropriate manner.

I. Each handler, or facility under the jurisdiction of the City of Berkeley, that is subject to the disclosure requirements under the provisions of Section 15.12.050(C)(5) shall file a

hazardous waste generator reporting packet in lieu of the requirements of Section 15.12.040(A). The hazardous waste generator reporting packet will include forms to identify the generator, the waste streams, an Emergency Response Plan/Contingency Plan per Health and Safety Code Section 25504(b), and any additional information as required by the hazardous materials manager.

J. All facilities that manufacture or use manufactured nanoparticles shall submit a separate written disclosure of the current toxicology of the materials reported, to the extent known, and how the facility will safely handle, monitor, contain, dispose, track inventory, prevent releases and mitigate such materials.

15.12.050 – Quantities Requiring Disclosure

A. Except as provided in the following subsections of this section, each handler who handles the following aggregate quantities of all hazardous materials and wastes at any time during a year shall disclose all such handling: 500 pounds or more of all solid hazardous materials and wastes; 55 gallons or more of all liquid hazardous materials and wastes; or 200 cubic feet or more at standard temperature and pressure of all gaseous hazardous materials.

B. Hazardous materials contained solely in consumer products packaged for distribution to, and use by, the general public shall be exempt from disclosure under this chapter except as follows:

1. When facilities are handling quantities of consumer product sold at a retail establishment that have a National Fire Protection Association or “NFPA” or Hazardous Materials Identification System or “HMIS” rating of 3 or 4 and is stored, at any time, in quantities equal to, or greater than, 165 gallons for a liquid, 600 cubic feet for a gas, and 1,500 pounds for a solid.

2. When the hazardous materials manager has notified the handler in writing that the handling of certain quantities of specified consumer products requires disclosure under this chapter in response to health and safety concerns.

C. If the aggregate storage capacity of oil at the facility is less than 1,320 gallons and a spill prevention control and countermeasure plan is not required pursuant to Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of

Federal Regulations, fluid in an oil-filled electrical system that is not contiguous to an electric facility shall be exempt from disclosure under this chapter unless the hazardous materials manager has notified the handler in writing that this handling requires disclosure under this chapter in response to health and safety concerns.

D. The following disclosure requirements shall apply in addition to those in subsections A,B, and C of this section:

1. The handler shall disclose handling of any extremely hazardous substance in quantities that require disclosure under the provisions of Section 25532(j) of Division 20 of Chapter 6.95 of the California Health and Safety Code.

2. The handler shall disclose the handling of any quantity of a material or waste that is or contains a material subject to regulation by the Nuclear Regulatory Commission in Title 10 of the Code of Federal Regulations, including any by-product, licensed, source, or special material. Disclosure is not required for manufactured products, such as tritium exit signs, smoke detectors, china, and similar products that are in use by the consumer, as well as naturally occurring radioactive materials, provided that these items are properly disposed of at the end of consumer use. Facilities may petition the hazardous materials manager for exemption of low risk or short-lived radiological materials, wastes, or products.

3. The handler shall disclose the handling of any quantity of an etiologic agent, as defined in subsection D of Section 15.08.060 of this title. Vaccines are exempt from disclosure requirements.

4. The handler shall disclose the handling or generation of any hazardous waste as defined in this title.

5. As required by the Fire Chief or hazardous materials manager, the handler shall disclose the handling of any hazardous material, as defined by the Uniform Fire Code, in a quantity at least equal to the permit quantity threshold established in the Uniform Fire Code, if that quantity is less than the applicable quantity set forth in subsection A. Permits under Section 105 of the Uniform Fire Code are under the jurisdiction of the Berkeley Fire Department. Submission of the inventory does not constitute meeting the requirements of UFC Section 105.

6. Each laboratory shall identify separately in its disclosure each hazardous material or waste handled at any time during a year in the following quantity: 500 pounds or

more of any solid hazardous material or waste; 55 gallons or more of any liquid hazardous material or waste; or 200 cubic feet or more at standard temperature and pressure of any gaseous hazardous material or waste. In addition, each laboratory shall report all other hazardous materials and wastes handled during a year, but may do so using fire code hazard classes.

7. All manufactured nanoparticles, defined as a particle with one axis less than 100 nanometers in length, shall be reported in the disclosure plan.

15.12.060 – Applicability of California Accidental Release Program (CalARP)

If the hazardous materials manager determines there to be a greater risk due to the nature of the material stored, the method of storage, location, operations, history of a facility, or other concern, the hazardous materials manager may require a facility to prepare a Risk Management Plan (RMP) and to be subject to Article 2 of Division 20 of the California Health and Safety Code even if quantities of regulated substances are less than state threshold quantities as defined in Section 25532(j) of Chapter 6.95 of Division 20 of the California Health and Safety Code.

15.12.070 – Permits and Registration

A. No person shall handle any quantity of hazardous material or waste subject to disclosure under Section 15.12.050, without obtaining all necessary permits and registrations from the hazardous materials manager. All applications for permits or registrations required by this title shall be upon forms furnished by the hazardous materials manager. Each application shall provide the owner's and/or operator's name and address, the designated place, purpose or object to which the permit or registration shall apply, and such additional information as the hazardous materials manager may consider necessary to determine compliance with this title. All applications for registrations and permits shall contain at least the disclosure information required by Section 15.12.040, and shall be accompanied by all plans or specifications required by this title. Applicants for additional registrations or permits shall provide the following additional information:

1. If underground storage tanks are on the place of business, the applicable CERS sections concerning underground storage tanks shall be completed and submitted;

2. If hazardous wastes generated on-site are being treated on-site and the treatment is subject to the permit-by-rule, conditionally authorized or conditionally exempt tier, the applicable CERS sections concerning on-site hazardous waste treatment shall be completed and submitted; and

3. Other information as required by the hazardous materials manager.

B. No person shall construct or destroy a well subject to this title, or a borehole more than five feet deep, including dewatering wells, without obtaining a permit from the hazardous materials manager.

C. Upon receipt of a completed application for a permit or a registration, the hazardous materials manager shall make the necessary review, investigation or inspection of the application, applicant, plans, specifications, existing or proposed place, operation or object to determine whether they will meet the requirements of this title. The hazardous materials manager may refer the application to such other governmental agencies as the hazardous materials manager determines may be necessary to determine whether there will be compliance with other applicable laws.

D. If the hazardous materials manager finds that the applicant, place, operation, purpose or object will comply with the requirements of this title, and the place, operation, or object will be conducted in such a manner as to accomplish the objectives and purposes of all applicable laws, and all fees are paid in full, then the hazardous materials manager shall issue a permit or registration, subject to such reasonable conditions and limitations as are required under the circumstances.

E. Permits and registrations are not transferable. Any permit or registration issued to a particular person or for a designated place, operation, purpose or object shall not be valid for use by or for any other person, place, operation, purpose or object.

F. The issuance or granting of a permit or registration, or the approval of plans and specifications, by the hazardous materials manager shall not be construed to be a permit or registration for, or an approval of, any violation of this title or other applicable laws, nor to relieve the applicant from any liability for any other permit, registration or other approval required by other applicable laws.

G. The approval of plans and specifications shall not prevent the hazardous materials manager from thereafter requiring the correction of errors in such plans and

specifications, or from preventing installation and construction operations being carried out thereunder when in violation of this title.

H. Every permit or registration issued under this title shall expire as indicated on the permit, or as otherwise provided by the hazardous materials manager, unless sooner suspended or revoked by the hazardous materials manager.

I. Whenever the work authorized by any approval of submitted plans and specifications is not commenced within 120 days after the date of such approval or date of issuance of any required building permit, or whenever the work authorized by such approval is suspended for a period of more than 120 days, such approval shall expire by limitation. Before the work authorized by such prior approval shall be commenced or continued, a new approval shall be obtained as provided in this title.

J. Every installation, alteration, construction or reconstruction shall be in accordance with the approved plans and specifications, and shall not be changed, modified or altered without written approval of the hazardous materials manager.

K. Every person required to obtain a permit or registration under this title must present a copy of such permit or registration, signed by the hazardous materials manager, when applying for any other business registration, license or permit that may be issued by the City. No building or other construction permit shall be issued by the City to any person covering any work related to this title for which prior approval by the hazardous materials manager of plans and specifications is required herein unless such approval has been granted.

L. The permittee or registrant shall retain each permit or registration issued under this title at its facility, immediately available upon request by an inspector or the hazardous materials manager.

M. Any permit or registration granted under this title may be revoked or suspended by the hazardous materials manager, after written notice, for failure to comply with the requirements of this chapter, or with the conditions of such permit or registration.

1. The permittee or registrant may appeal the revocation or suspension to the City pursuant to the procedures set forth in Chapter 1.24, beginning at Section 1.24.070 of the Berkeley Municipal Code.

2. In the event the handler appeals, the City shall schedule an administrative hearing before a hearing officer designated by the City. Notice of the hearing shall be served personally, or by first class mail, postage prepaid. The notice shall specify the time and place of the hearing, and shall be served not less than ten days prior to the time set for the hearing.

3. The hearing officer shall hear and rule on the permittee's or registrant's appeal. The handler may appear at the hearing by counsel. The formal rules of evidence shall not apply. All witnesses shall be sworn and each party shall have the right to cross-examine adverse witnesses. The hearing officer shall rule on the appeal, and may either affirm or overrule the revocation or suspension, or make such other determinations as are consistent with this chapter.

4. The hearing officer shall notify the handler of their determination in writing, by personal service or by first class mail, postage prepaid.

5. Review of the hearing decision shall be subject to judicial review pursuant Chapter 2.96 of the Berkeley Municipal Code and California Code of Civil Procedure Sections 1094.5 and 1094.6.

15.12.080 – Reporting Unauthorized Releases

The handler or any employee, authorized representative, agent or designee shall, upon discovery, immediately report to the hazardous materials manager any actual or threatened unauthorized release of a hazardous material or waste. Releases required to be reported under this section shall include, but need not be limited to, all unauthorized releases that the handler is required to report to any agency under any other law governing the handling of hazardous materials or wastes. The requirement of this section is in addition to any other requirements to report releases, and compliance with this section does not constitute compliance with any other requirements to report releases to any other agency.

15.12.090 – Closure

A. It shall be unlawful for any person to abandon or close a hazardous materials or waste storage unit, hazardous waste treatment unit or facility, until a closure application has been submitted to the hazardous materials manager and found by the hazardous materials manager to be complete.

B. It shall be unlawful for any person to abandon or close underground oil-filled equipment such as heating oil tanks, hydraulic lifts, and oil/water separators, until a closure application has been submitted to the hazardous materials manager and found by the hazardous materials manager to be complete.

C. Closure requires the following steps:

1. A handler shall submit a closure application to the hazardous materials manager at least 45 days prior to abandonment or closure of the regulated unit or facility as described in 15.12.090.A. and at least 10 days prior to the closure of underground oil-filled equipment as described in 15.12.090.B. The closure application shall demonstrate to the satisfaction of the hazardous materials manager that all hazardous materials and wastes which are or have been handled or released in the regulated area will be transported, disposed of or reused in a manner protective of public health and safety and the environment, and that any residual contamination will be removed before closure is complete.

2. The hazardous materials manager shall notify the applicant that the closure application is complete and has been accepted, notify the applicant of any deficiencies in the closure application that must be corrected prior to closure, or, depending on the complexity of the closure, require a more detailed closure plan.

3. Each regulated area being closed shall be subject to inspection by the hazardous materials manager to confirm that closure has been undertaken in conformity with the closure application and/or plan and that all contamination has been removed.

4. If contamination associated with the regulated area cannot be removed prior to closure, then the closure plan shall include a definite plan for assessing, monitoring, and removing any such contamination. The hazardous materials manager may accept a plan under this subsection only upon a finding that the plan provides adequate protection to public health and safety and the environment.

15.12.100 – Unauthorized Release Abatement

A. The handler and any person responsible for handling a hazardous material or waste subject to this chapter, including quantities exempt from disclosure under Section 15.12.050, shall institute and complete all actions necessary to remedy the effects of any unauthorized release. This shall include contaminated buildings, equipment, soil or other

media as appropriate to eliminate threats to human health or the environment. This subsection shall not affect any rights of the responsible party or third parties to recover appropriate costs and expenditures from any party.

B. A responsible party can meet the above conditions through an appropriate state or federal agency.

C. All or any part of any real property, or any building or structure located thereon, at which contamination from hazardous materials or wastes is found, which contamination is not being managed in compliance with the provisions of this section, are hereby declared a public nuisance and imminent health threat. The hazardous materials manager may require abatement of this condition by rehabilitation, removal, demolition or repair under procedures and standards provided in this chapter (including provisions incorporated by reference in Section 15.12.020), consistent with the provisions of Chapter 1.24 of the Berkeley Municipal Code.

D. In addition to the requirements set forth in Chapter 1.24, the following shall apply:

1. The notice to abate may require the handler to cease and desist any manufacturing or hazardous material handling activities that cause or contribute to the nuisance or imminent health threat.

2. The notice may specify the corrective action required or require the owner or handler to prepare a Plan of Corrective Action. When the exact nature and extent of contamination cannot be determined based on information available at the time the notice is served, the notice may require the owner and the handler to propose measures in a Plan of Corrective Action to more fully characterize the contamination, present the results of such characterization, and plan for corrective action within the time specified in the notice.

E. In the event that any person undertakes, either voluntarily or under order of the hazardous materials manager, to clean up or abate the effects of any unauthorized hazardous material or waste release, discharge or deposit upon or into any property or facility within the City, the hazardous materials manager may take such action as is necessary to supervise or verify the adequacy of the cleanup or abatement.

F. The City of Berkeley is authorized to clean up or abate the effects of any hazardous material or waste unlawfully released, discharged or deposited upon or into property or facilities within the City. The following persons are considered responsible parties and

shall be jointly and severally liable to the City for the payment of all costs incurred by the City as a result of such cleanup or abatement activity:

1. The owner or past owners of the property;

2. The person or persons whose negligent or willful act or omission proximately caused such release, discharge or deposit;

3. The person or persons who owned or had custody or control of the hazardous substance or material at the time of such release, discharge, or deposit, without regard to fault or proximate cause; and

4. The person or persons who owned or had custody or control of the container which held such hazardous material or substance at the time of or immediately prior to such release, discharge or deposit, without regard to fault or proximate cause.

G. As a condition of building permit approval, an applicant may be required to provide environmental screening clearance from either the San Francisco Bay Regional Water Quality Control Board (RWQCB), Department of Toxic Substances Control (DTSC), or the Alameda County Department of Environmental Health's Local Oversight Program (LOP). Clearance from one of these regulatory agencies will ensure that the property meets development investigation and cleanup standards for the specific use proposed on the property.

H. See Section 15.12.070 for all permitting requirements.

15.12.110 – Community Right to Know; Public Records

A. Subject to the qualifications and exemptions provided in this section, all forms, permits and registrations are public records and will be publicly available during normal business hours in the offices of the hazardous materials management program in accordance with the following procedures:

1. Written application for disclosure of information shall be submitted to the hazardous materials manager, on a form provided by the City. The written application shall identify the address of the business or City facility for which information is sought. The written application shall also include the applicant's name, address, telephone number, and verification of the applicant's identity.

2. Information requests shall receive response within ten calendar days after the submission of a complete application. The information requested shall be provided except for information that is exempt from disclosure under provisions of the Public Records Act (commencing with Section 6250 of the Government Code) or other law or regulation, or has been designated as trade secret or confidential business information by the handler, which shall be subject to the subsections of this section regarding such records. As used in this chapter, trade secret shall have the meaning given by Sections 25290 and 25511 of the Health and Safety Code, Section 6254.7 of the Government Code, and Section 1060 of the Evidence Code.

B. If a handler believes that information required to be disclosed on the disclosure form, a permit or registration application, or under the terms of subsection E of Section 15.12.040 should be exempt from disclosure under this section, the handler shall notify the hazardous materials manager in writing identifying the information the handler believes should be exempt from disclosure, and the basis for such belief. The hazardous materials manager has the right to accept or reject the request.

C. Upon receipt of a request for the release of information to the public, which includes information identified by the handler as exempt from disclosure, the hazardous materials manager shall notify the handler in writing of the request by certified mail, return receipt requested. The hazardous materials manager shall release the information 45 days after the mailing of such notice, unless prior to the expiration of this time period, the handler institutes an action in an appropriate court for a declaratory judgment that such information is subject to protection from disclosure and/or obtains an injunction prohibiting disclosure. The member(s) of the public applying for disclosure shall be considered the real party(ies) in interest in any such action.

D. Any information reported to or otherwise obtained by the hazardous materials manager, or a designee or representative, which has been determined as exempt from disclosure by the hazardous materials manager, shall not be disclosed to anyone except:

1. Any officer or employee of the City of Berkeley, County of Alameda, State of California, or United States of America, in connection with the official duties of such officer or employee under any law for the protection of health. For the purposes of this section, fire and emergency response personnel and health personnel operating within the jurisdiction of the City, and any contractor who is furnished information that

is protected from disclosure by this section, shall be considered employees of the City; or

2. To any physician or registered nurse who has determined that such information is necessary to the medical treatment of their patient.

3. Any person who received information protected from disclosure by this section because they qualified under subdivisions 1 or 2 of this subsection and who, knowing that disclosure of this information is prohibited, knowingly and willfully discloses the information in any manner to any person not entitled to receive it, shall be guilty of a misdemeanor.

E. Information certified by appropriate officials of the United States as necessarily kept secret for national defense purposes shall be accorded the full protection against disclosure as specified by such officials in accordance with the laws of the United States.

F. The provisions of this section shall not permit a handler of hazardous materials to refuse to disclose to the hazardous materials manager information required by this chapter.

15.12.120 – Fees and Penalties

A. The City Council shall establish, by resolution, from time to time, hourly billable rates and a schedule of fees for each class of permit and registration issued under this chapter, for additional late fees, charges including penalties and interest for delinquent payments, and for additional services provided by the City to administer and enforce this chapter. These fees shall be sufficient to allow the City to recover its costs of administering this chapter.

B. The amount of any fee or penalty imposed by the provisions of this chapter shall be deemed a debt to the City.

1. If such fee or penalty is not paid when due, such fee or penalty shall constitute an assessment against such business property and shall be a lien on the property for the amount thereof, which may be imposed and enforced as set forth in Chapter 1.24 of the Berkeley Municipal Code.

C. In addition, the City may collect fees in any other manner permitted by law.

15.12.130 – Inspections

A. In order to carry out the purposes of this chapter, the hazardous materials manager or their designee has the authority to inspect any place where hazardous materials or wastes are handled, or any place where the hazardous materials manager has reason to believe that an unauthorized release of a hazardous material or waste has occurred, is occurring, or may occur. This authority extends to any property within 2,000 feet of property on which hazardous materials or wastes are handled. The authority conferred by this section includes the authority to conduct any monitoring or testing of any aboveground or underground storage tank system. The right of entry shall be exercised only at reasonable hours unless otherwise required by an emergency, and entry shall be made to any establishment or property only with the consent of the owner or tenant thereof, or with proper inspection warrant or other remedy provided by law to secure entry.

B. All inspections under this chapter shall be at the discretion of the City and nothing in this chapter shall be construed as requiring the City to conduct any such inspection nor shall any actual inspection made imply a duty to conduct any other inspection. Furthermore, nothing in this chapter shall be construed to hold the City or any officer, employee or representative of the City responsible for any damage to persons or property by reason of making an inadequate or negligent inspection or by reason of any failure to make an inspection or reinspection.

15.12.140 – Enforcement

A. Any party that violates any provision of this title shall be liable for civil or criminal penalties, as appropriate, to the full extent provided by state law and this title. This liability may include, but is not limited to, liability for administrative civil penalties, as provided in Section 15.12.150. The remedies provided for under this section are in addition to any the City or any person might have under any other applicable law.

B. Except as otherwise provided, violations of this title are misdemeanors, but may be charged as infractions as provided in Chapter 1.20, in the discretion of the citing officer.

C. Any condition of property which is a violation of this title is hereby declared to be a public nuisance, which shall be subject to the provisions of Chapter 1.24.

D. The hazardous materials manager may cooperate with the City Attorney or the District Attorney as appropriate, in bringing judicial action to enforce any provision of this title. These actions may seek the penalties and relief to the full extent provided under the law,

including recovery of the reasonable costs of the City of Berkeley and the District Attorney in prosecuting the enforcement action.

E. Remedies under this chapter are cumulative.

F. The City may recover the costs set forth in subsection G of this section in any administrative proceeding conducted under the authority of this title or Health and Safety Code Section 25404 et seq., any nuisance abatement action under Chapter 1.24, or any civil action filed pursuant to this title, to the extent the City is successful in such proceeding or action.

G. The following costs shall be recoverable:

1. Inspection and reinspection costs;

2. Costs of remediation, if any;

3. Other enforcement costs;

4. Hearing officer costs if a state hearing officer is used;

5. Incidental hearing costs, such as transcripts, transportation, duplication, filing and service costs; and

6. Other personnel costs to the extent reasonably necessary to enforce the law or remediate a violation of law.

H. In any civil action filed pursuant to this chapter, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs; provided, that, pursuant to Government Code Section 38773.5, attorneys' fees shall only be available in an action or proceeding in which the City has elected, at the commencement of such action or proceeding, to seek recovery of its own attorneys' fees. In no action or proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.

15.12.150 – Administrative Enforcement

A. The hazardous materials manager shall be responsible for the issuance of administrative enforcement orders and assessment of administrative penalties for violations of this title. These procedures shall, at a minimum, comply with applicable

requirements of Sections 25187, 25404 et seq., 25514.5, and 25514.6 of the Health and Safety Code, and their implementing regulations.

B. The City Council finds and declares:

1. Administrative hearings pursuant to this title will often involve existing or potential threats to public health, safety and welfare, as well as to the environment, thus implicating matters of great public interest. The public at large has a significant stake in being able to observe and participate in such hearings, without undue procedural constraints.

2. The public, the City and the parties to proceedings under this title have a significant interest in their speedy and economical resolution; and the City and public have an additional vital interest in prompt compliance and remediation, when appropriate.

3. Material issues in administrative hearings under Health and Safety Code Sections 25404 et seq. will seldom, if ever, revolve around questions of the personal credibility of witnesses, or testimony of percipient witnesses. Rather, material factual issues will almost always involve technical issues, which will be fully explained in written reports, which will be available to all parties. Accordingly, there is little, if any, benefit to be gained by formal discovery, depositions, cross-examination, and similar formal evidentiary processes.

4. Administrative hearings under Health and Safety Code Sections 25404 et seq. will allow more effective and efficient resolution of issues than formal hearings under Government Code Sections 11500 et seq.

C. Pursuant to Government Code Section 11445.20, administrative hearings held pursuant to Health and Safety Code Sections 25404 et seq. shall be informal hearings as defined in Government Code Sections 11445.10 et seq.

D. Notwithstanding anything to the contrary, nothing herein is intended to, or shall, prevent the hearing officer from converting an informal hearing to a formal hearing under Government Code Section 11445.50, allowing cross-examination in an informal hearing, or taking any other action authorized by law.

E. For purposes of Government Code Section 11440.10, the agency head as defined in Government Code Section 11405.40 shall be the City Manager or their designee;

provided that the City Manager may not designate a person subject to the authority, direction, or discretion of the hazardous materials manager.

15.12.160 – Relation to Existing Law; Effective Dates

A. The requirements set forth in this chapter are declarative of existing law and the responsibilities of handlers of hazardous materials and wastes within the City of Berkeley, including contiguous areas within surrounding cities for which Berkeley has received regulatory and enforcement authority by agreement or otherwise, as of the effective date of the ordinance set forth in this chapter. Handlers filing disclosure forms or permit or registration applications under this chapter shall use revised forms at the time of their first update of the relevant document(s) after the effective date of this revised chapter.

B. The City of Berkeley, under the terms of Section 25502 of the Health and Safety Code, hereby assumes and reaffirms responsibility and exclusive jurisdiction within the City, including contiguous areas within surrounding cities for which Berkeley has received regulatory and enforcement authority by agreement or otherwise, for implementation of Chapter 6.95 of Division 20 of the Health and Safety Code (commencing with Section 25500), regulating the inventory and preparation of hazardous materials business plans, and regulating risk management planning to prevent accidental releases of regulated substances. This section is declarative of the assumption and responsibilities formerly codified in Chapter 11.52 of the Berkeley Municipal Code.

C. The City of Berkeley, under the terms of Section 25582 of the Health and Safety Code, hereby assumes and reaffirms responsibility and exclusive jurisdiction within the City, including contiguous areas within surrounding cities for which Berkeley has received regulatory and enforcement authority by agreement or otherwise, for implementation of Health and Safety Code Sections 25280 et seq., regulating the underground storage of hazardous substances. This section is declarative of the assumption and responsibilities formerly codified in Chapters 11.52 and 11.54 of the Berkeley Municipal Code (underground storage of hazardous substances).

D. The City of Berkeley, under the terms of Health and Safety Code Section 25404.3 and the certification of the City by the California Environmental Protection Agency on March 1, 1997, hereby assumes and reaffirms responsibility and exclusive jurisdiction within the City, including contiguous areas within surrounding cities for which Berkeley has received regulatory and enforcement authority by agreement or otherwise, for

implementation of Health and Safety Code Sections 25404 et seq., providing for unified programs to regulate hazardous materials and wastes.

15.12.170 – Relation to Other Laws

A. When conflicts arise between the contents of this chapter and any other provisions of the Berkeley Municipal Code, the most stringent provisions shall prevail, provided said provisions are not in conflict with the laws set forth in Section 15.12.020.

B. The disclosure of hazardous materials information following the provisions of this chapter shall not in any way affect any other liability or responsibility of a handler with regard to safeguarding the health and safety of any employee or any other person or the environment.

C. The degree of protection required by this chapter is considered reasonable for regulatory purposes. The standards set forth herein are minimal standards and this chapter does not imply that compliance will ensure that there will be no improper release of hazardous materials or wastes. This chapter shall not create liability on the part of the City, any officer or employee thereof for any damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. All persons handling hazardous materials or wastes within the City are advised to determine to their own satisfaction the level of additional protection necessary or desirable to ensure that there is no improper release of hazardous materials or wastes.

D. Subject to the limitations of due process, and notwithstanding any other provisions of this code, whenever the words "shall" are used in establishing a responsibility or duty of the City, its elected or appointed officers, employees, or agents, it is the intent of the City Council that such words establish a discretionary responsibility or duty requiring the exercise of judgment and discretion.

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

At a regular meeting of the Council of the City of Berkeley held on October 1, 2024, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Hahn, Humbert, Kesarwani, Lunaparra, Taplin, Tregub, Wengraf, and Arreguin.

Noes: None.

Absent: None.

02

Office of the City Manager

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: Contract #102814-1 Amendment: Konica Minolta Business Services, Inc. for Electronic Content Management System and Agenda Management and Workflow System

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract #102814-1 with Konica Minolta Business Solutions, Inc. for software maintenance and related services for OnBase, an Electronic Content Management System (ECMS) and agenda management and workflow system, to increase the not-to-exceed amount by $381,949 for a total not to exceed amount of $922,953 for regular annual maintenance costs and version updates, and authorize annual renewals through September 18, 2029.

FISCAL IMPACTS OF RECOMMENDATION

Funds to cover the cost of this contract for FY 2025 will be allocated in budget code 011-32-313-000-0000-000-411-613130. Allocations of funds for subsequent years will be subject to adoption of the Annual Appropriations Ordinance for that fiscal year.

CURRENT SITUATION AND ITS EFFECTS

The City currently uses OnBase software for its agenda management workflow system and the imaging and storage of vital city records in the digital repository. The agenda workflow system is used to route council reports for review, and to compile the agenda packets for City Council meetings.

Konica Minolta implemented and configured the OnBase application for the City and has provided ongoing maintenance and support since the “go-live” date in January 2016. The increase in the not to exceed amount is needed to cover five additional years of the following services: OnBase annual maintenance, Optical Character Recognition and Imaging software maintenance, Encryption software license for birth and death certificates, as well as costs for two future version upgrades, and the project to implement encryption for birth and death records for greater security.

BACKGROUND

In September 2014 the City entered into Contract No. 9754 with Konica Minolta Business Solutions for the purchase of the OnBase for agenda workflow and Enterprise Content Management system (ECM). Enterprise Content Management encompasses the technologies used to capture, manage, store, preserve, and deliver content and documents related to organizational processes. Also included in the system is a workflow process that was customized for the City's agenda review and compilation process. In 2019, the City extended the contract with Konica Minolta for five years under contract #102814-1.

The OnBase system is an essential core system for City operations. It is the backbone of the City's agenda management process and houses the legislative history and critical governmental records of the city in the digital repository. Currently, the repository holds over 500,000 records including resolutions, ordinances, minutes, contracts, council reports, election information, and birth and death certificates. Records for minutes and ordinances in OnBase date back to the early 1900s.

ENVIRONMENTAL SUSTAINABILITY

Increased use of digital solutions to reduce the use of paper copies creates an environmental benefit for the City.

RATIONALE FOR RECOMMENDATION

A robust, efficient, and easy to use ECMS and agenda workflow system is critical to staff's ability to provide the public with access to City records through the digital repository and the City Council agenda.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Mark Numainville, City Clerk, City Clerk Department, 981-6900

Attachment:
1: Resolution

RESOLUTION NO. ##,###-N.S.

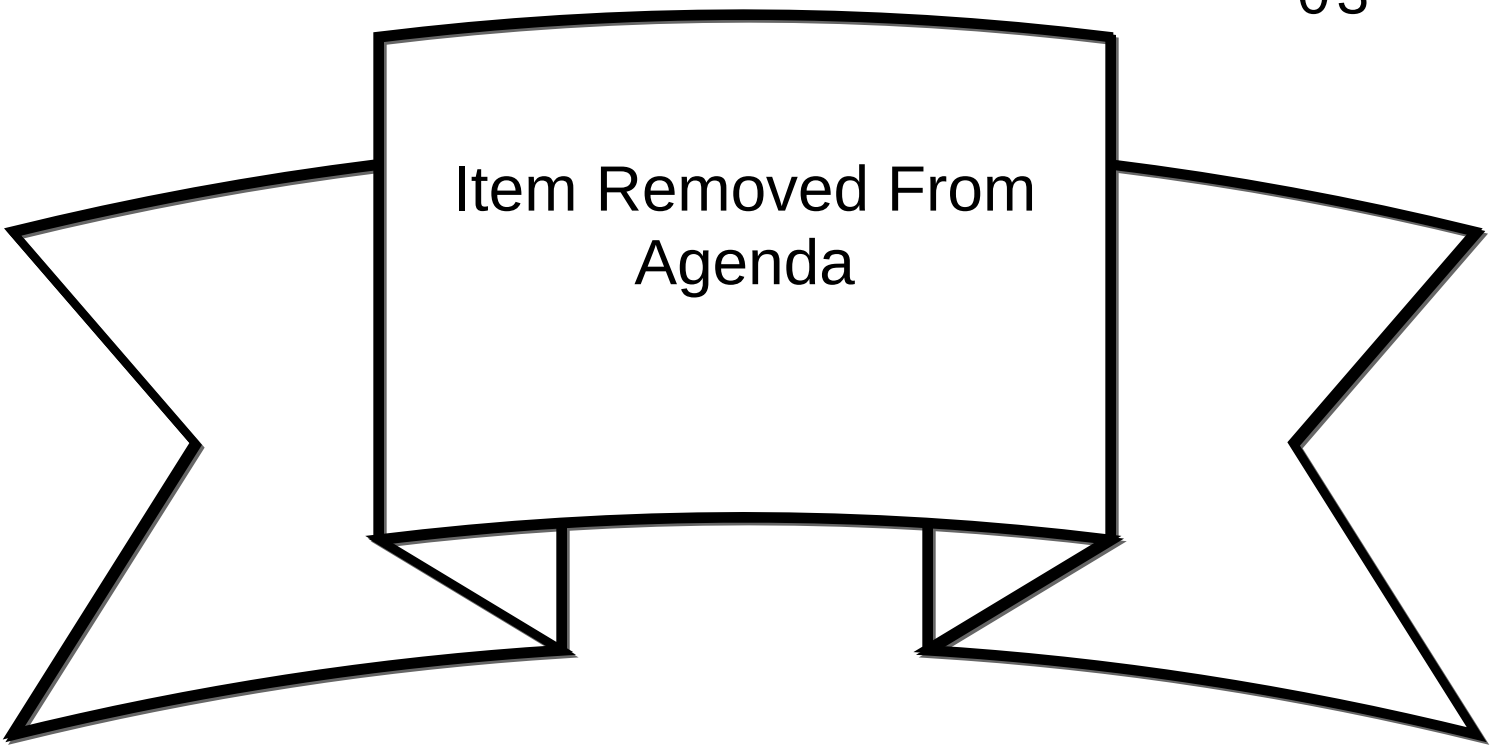
CONTRACT AMENDMENT: KONICA MINOLTA BUSINESS SERVICES, INC. FOR ONBASE, AN ELECTRONIC CONTENT MANAGEMENT AND AGENDA WORKFLOW SOFTWARE SYSTEM

WHEREAS, the City of Berkeley entered into Contract #9754 with Konica Minolta Business Solutions, Inc. in September 2014 with a not-to-exceed amount of $366,004; and

WHEREAS, the City executed a contract amendment with Konica Minolta Business Solutions, Inc. in 2019 under Contract #102814-1 to extend the term and raise the not-to-exceed amount to $541,004; and

WHEREAS, ongoing costs for software maintenance, version upgrades, and special projects require that the not-to-exceed about be raised and the term be extended.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute a contract amendment with Konica Minolta Business Solutions, Inc. for software maintenance, upgrades, and related services for an agenda workflow and electronic document management software system, to increase the not-to-exceed amount by $381,949 for a total not to exceed amount of $922,953, and authorize annual renewals for maintenance services through September 18, 2029.



This item has been removed from the agenda by the City Manager.

If you have questions regarding this report, please contact the person noted on the agenda.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

The City of Berkeley, City Council's Website
https://berkeleyca.gov/your-government/city-council

Office of the City Manager

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Henry Oyekanmi, Director, Finance

Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 15, 2024

RECOMMENDATION

Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report is **$61,896,178**

PROJECT	Fund	Source	Amount
Upholstery Installation, Repairs and Cleaning Services	672	SUPPL - FIELD - TOOLS AND PART TECH SVCS - VEHICLE MAINT	$200,000
Vehicle Lubricants	672	SUPPL - FIELD - BULK FUEL	$420,000
Tire Replacement and Repair Services	672	TECH SVCS - EQUIPMENT MAINT	$800,000
Public Safety Building Control Systems Upgrades-PSB Jail	501	PROPERTY REPAIRS & MAINT	$600,000
Organics / Compost Recycling and Hauling Services	601	PROF SVCS - MISCELLANEOUS	$59,876,178
Total:			**$ 61,896,178**

CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager's purchasing authority for services to $50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of $100,000 for goods; and $200,000 for playgrounds and construction; and $50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and

upon final notice to proceed from the requesting department, the IFB (Invitation for Bid) or RFP (Request for Proposal) may be released to the public and notices sent to the potential bidder/respondent list.

BACKGROUND
On May 6, 2008, Council adopted Ordinance No. 7,035-N.S., amending the City Manager's purchasing authority for services

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
The Finance Department reviews all formal bid and proposal solicitations to ensure that they include provisions for compliance with the City's environmental policies. For each contract that is subject to City Council authorization, staff will address environmental sustainability considerations in the associated staff report to City Council.

RATIONALE FOR RECOMMENDATION
Need for the goods and/or services.

ALTERNATIVE ACTIONS CONSIDERED
None.

CONTACT PERSON
Clayton Stilwell, General Services Manager, Finance, 510-981-7329

Attachments:
1. Upholstery Installation, Repairs and Cleaning Services
2. Vehicle Lubricants
3. Tire Replacement and Repair Services
4. Public Safety Building Control Systems Upgrades-PSB Jail
5. Organics / Compost Recycling and Hauling Services

Note: Original of this attachment with live signature of authorizing personnel is on file in General Services.

SPECIFICATION NO.	DESCRIPTION OF GOODS / SERVICES BEING PURCHASED	APPROX. RELEASE DATE	APPROX. BID OPENING DATE	INTENDED USE	ESTIMATED COST	BUDGET CODE TO BE CHARGED	DEPT. / DIVISION	CONTACT NAME & PHONE
25-11681-C	Upholstery Installation, Repairs and Cleaning Services	24-Sep	Oct-24	As needed auto upholstery services, repairs, cleaning &/or installation including delivery for City's fleet vehicles.	$200,000 over three years, with option to extend by two years	"672-54-626-722-0000-000-473-642120- 672-54-626-722-0000-000-472-613110- "	Public Works / Equipment Maintenance	Tucker Brofft 510-981-5375 Erika Barros 510-981-6462 Sara Rubio 510-981-5372
25-11682-C	Vehicle Lubricants	September-24	Oct-24	Delivery of automotive oils, grease, lubricants and coolants for the various classifications, and makes/models of vehicles in the City's Fleet	" $420,000 over three years, with option to extend by two years "	672-54-626-722-0000-000-473-642130-	Public Works / Equipment Maintenance	Tucker Brofft 510-981-5375 Erika Barros 510-981-6462
25-11683-C	Tire Replacement and Repair Services	9/1/24	Oct-24	On-call tire repairs and replacement services for City of Berkeley fleet vehicles. Includes on-site at City's Corporation Yard (1326 Allston Way, Building G) or Transfer Station (1201 2nd Street) and off-site repairs for emergency roadside services ranges from within City of Berkeley, California to Vasco Road in Livermore, California (approximately 40 miles east of Berkeley).	$800,000 over three years, with option to extend by two years	672-54-626-722-0000-000-472-613120-	Public Works / Equipment Maintenance	Tucker Brofft 510-981-5375 Erika Barros 510-981-6462
25-11684-C	Public Safety Building Control Systems Upgrades-PSB Jail	September-24	December-24	• Upgrading the buildings communication and electronic security systems. • Upgrading minor HVAC system	$ 600,000	501-54-623-677-0000-444-624110	Public Works/ Facility Division	Uriel Gonzalez (510) 981-6627
25-11685-C	Organics / Compost Recycling and Hauling Services 5-year term with option to extend for (2) additional 5-year terms	10/16/2024	10/30/2024	Organics / Compost Recycling and Hauling Services	FY 2025-FY 2030 (5.4 years) $16,010,134 FY 2031-FY 2035 $19,270,922 FY 2036-FY 2040 $24,595,122 Total if (2) additional options exercised: $59,876,178	601-54-627-732-3026-000-472-612990- 601-54-627-733-3026-000-472-612990-	Public Works Zero Waste Division	Leticia Jareuqui 981-6362
DEPT. TOTAL					**$ 61,896,178**			
TOTAL					**$ 61,896,178**			

05

Office of the City Manager

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: David Sprague, Fire Chief

Subject: Contract: Mission Critical Partners for Emergency Communications Consulting Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a piggyback contract and any amendments with Mission Critical Partners, LLC, using the California Multiple Award Schedules (CMAS) contract No. 3-13-70-3020A in an amount not to exceed $300,000 for the enhancement of mission-critical communications systems from November 1, 2024, through May 30, 2026, with two (2), two (2) year options to extend.

FISCAL IMPACTS OF RECOMMENDATION

The term of this contract is from November 1, 2024, to May 30, 2026 with an option to extend the term for two (2) additional two (2) year terms for a total term of six (6) years. Funding is available in, but not limited to, Measure FF and will not exceed $300,000.

CURRENT SITUATION AND ITS EFFECTS

On May 31, 2021, the California Department of General Services issued CMAS Agreement No. 3-13-70-3020A to procure “Information Technology and Communication Risk Management and Consulting Services.” The CMAS Agreement, established through a formal RFP process by the California Department of General Services, is based on the federal GSA Schedule and satisfies the City of Berkeley’s competitive bid requirements. This agreement with Mission Critical Partners, LLC (MCP) began on June 1, 2021, and will end on May 30, 2026.

BACKGROUND

The City of Berkeley maintains comprehensive 24/7 dispatch services for police, fire, and emergency medical services (EMS). Currently, both fire and EMS units respond to urgent calls for service—designated as code 3—utilizing lights and sirens for rapid response. Each EMS incident mandates the deployment of both a suppression company and a paramedic ambulance. The strategic positioning of suppression companies throughout the city ensures minimized response times, allowing these units to provide initial lifesaving interventions upon arrival.

Despite these robust services, the City does not engage in in-house prioritized or Emergency Medical Dispatching (EMD). Prioritized dispatching enables fire departments to effectively triage service calls through standardized questioning and categorization, ensuring appropriate resource allocation—thereby not all incidents require simultaneous code 3 responses from both fire engines and ambulances. EMD equips dispatchers with the necessary training and technological support to offer critical, pre-arrival medical instructions for a range of emergencies, including cardiac arrests, allergic reactions, drownings, stabbings, gunshot injuries, and severe bleeding, while emergency units are enroute.

The Department currently faces challenges with outdated communication tools, which are insufficient to meet the escalating demands of modern public safety operations. The City's Emergency Communications Center (ECC) is unable to integrate alternative response units into its operational framework without substantial enhancements. In response to these challenges, the Fire Department engaged Federal Engineering in 2021 for a comprehensive needs assessment and contracted with Mission Critical Partners in 2023 to conduct a staffing validation study. The findings from these engagements underscore the necessity for upgrading the ECC's spatial configurations, infrastructure, training, and technology. Furthermore, Mission Critical Partners, LLC brings a diverse array of resources critical for enhancing recruitment, retention consulting, and continuous support.

The forthcoming contract with Mission Critical Partners, LLC is poised to substantially upgrade our emergency communications infrastructure, thereby fortifying the efficiency and effectiveness of the City's emergency response capabilities.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no significant environmental impacts associated with the adoption of this recommendation. Enhanced communication systems are expected to improve operational efficiency and reduce carbon footprint through more effective response coordination.

RATIONALE FOR RECOMMENDATION

Utilizing the CMAS contract with Mission Critical Partners, LLC enables the City to leverage state-negotiated terms and pricing, ensuring cost-effectiveness and compliance with procurement regulations. The key services provided will help upgrade our communication systems to ensure they are robust, secure, and capable of handling the complexities of modern public safety operations.

CONTACT PERSON

David Sprague, Fire Chief, (510) 981-3473

Attachments:
1: Resolutions

RESOLUTION NO. ##,###-N.S.

CONTRACT: MISSION CRITICAL PARTNERS FOR EMERGENCY COMMUNICATIONS CONSULTING SERVICES

WHEREAS, the City of Berkeley provides essential 24/7 dispatch services for police, fire, and emergency medical services (EMS) and is committed to ensuring rapid and efficient emergency response capabilities; and

WHEREAS, the existing dispatch infrastructure requires significant enhancements to integrate advanced communication tools and alternative response units, as identified by comprehensive assessments conducted by Federal Engineering in 2021, Mission Critical Partners and CityGate in 2023; and

WHEREAS, the City of Berkeley's Emergency Communications Center (ECC) lacks the modernized tools necessary to support the increasing demands of public safety operations, hindering effective emergency response adaptations; and

WHEREAS, Mission Critical Partners, LLC possesses a broad spectrum of resources necessary for implementing substantial improvements in ECC space configurations, technological infrastructure, training, recruitment, retention strategies, and ongoing operational support; and

WHEREAS, the California Department of General Services issued CMAS Agreement No. 3-13-70-3020A on May 31, 2021, for the procurement of "Information Technology and Communication Risk Management and Consulting Services," which was established through a formal competitive bid process and satisfies the City of Berkeley's procurement requirements; and

WHEREAS, the CMAS Agreement with Mission Critical Partners, LLC allows the City to leverage state-negotiated terms and pricing, ensuring cost-effectiveness and adherence to statutory procurement regulations;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute a contract and any amendments with Mission Critical Partners, LLC using the California Multiple Award Schedules (CMAS) contract No. 3-13-70-3020A in an amount not to exceed $300,000 for the enhancement of mission-critical communications systems from November 1, 2024, through May 30, 2026, with two (2), two (2) year options to extend

06

Office of the City Manager

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Scott Gilman, Director, Health, Housing & Community Services

Subject: PATH CITED Round 3 Revenue Grant Agreement

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or his designee to accept a grant award, and execute any agreements, in the amount of $96,901.88 for Fiscal Year 2025, from the PATH CITED initiative to support the development of the City of Berkeley's Health, Housing, and Community Services Department's Enhanced Care Management Program. This grant agreement requires matching funding from the City in the amount of $96,901.88.

FISCAL IMPACTS OF RECOMMENDATION

The Health, Housing, and Community Services Department is currently in the process of developing an Enhanced Care Management (ECM) Program. The allocated funds will support the development and implementation costs associated with this initiative. Funding will be recommended for appropriation through the Fiscal Year 2025 second amendment to the appropriations ordinance in One-Time Grant Fund (Fund 336-51-505-548-2081-000-451-612990). The required matching funding is available in the Fiscal Year 2025 ECM General Fund Match Fund (Fund 011-51-505-548-2081-000-451-612990).

CURRENT SITUATION AND ITS EFFECTS

On August 30, 2024, the Department of Health Care Services (DHCS) awarded $146.6 million to 133 organizations providing Enhanced Care Management (ECM) and Community Supports services to Medi-Cal members. Awards are part of the Providing Access and Transforming Health (PATH) Capacity and Infrastructure, Transition, Expansion, and Development (CITED) initiative's work to help build, maintain, and scale providers' capacity to participate in the Medi-Cal delivery system and serve the whole person. The City was one of thirteen organizations selected to receive grant funding in Alameda County.

BACKGROUND

Over the past decade, Medi-Cal has undergone significant evolution and expansion, particularly through the Affordable Care Act (ACA) and various federal and state policy

changes. DHCS has launched several initiatives to enhance the beneficiary experience, emphasizing the integration of delivery systems, alignment of funding, data reporting, quality, and infrastructure. This strategic shift led to the creation of California Advancing and Innovating Medi-Cal, or CalAIM.

Effective January 1, 2022, and extending through phased reforms until 2027, CalAIM represents a multi-year initiative to modernize California's Medicaid program. The initiative aims to standardize and simplify Medi-Cal, focusing on improving the overall health of enrollees by adopting a population health approach. Building on the successes of programs like Whole Person Care (WPC), CalAIM emphasizes equitable, coordinated, and person-centered care.

As a local health jurisdiction with a history of serving high-need Medi-Cal beneficiaries, HHCS's participation in CalAIM aligns with its strategic objectives. A key component of CalAIM is Enhanced Care Management (ECM), which provides intensive coordination of clinical and non-clinical needs for high-need Medi-Cal members. With a successful Targeted Case Management (TCM) program already in place, the City of Berkeley's Health, Housing, and Community Services Department is currently in the process of planning the development and implementation of an ECM Program to continue to service the community.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION
Acceptance of the PATH Cited Round 3 grant will assist the development and implementation costs associated with the development of the City's ECM Program.

ALTERNATIVE ACTIONS CONSIDERED
No alternative actions were identified.

CONTACT PERSON
Tamiko Huey, Senior Management Analyst, HHCS, (510) 725-2243

Attachments:
1: Resolution

RESOLUTION NO. ##,###-N.S.

PATH CITED ROUND 3 GRANT AGREEMENT

WHEREAS, the Department of Health Care Services (DHCS) has awarded the City of Berkeley Health, Housing, and Community Services Department with $96,901.88in grant funding as part of the Providing Access and Transforming Health (PATH) Capacity and Infrastructure, Transition, Expansion, and Development (CITED) initiative; and

WHEREAS, the total grant amount of $96,901.88 will support the development of the City's Enhanced Care Management Program; and

WHEAREAS, this grant agreement requires matching funding from the City in the amount of $96,901.88, which is in the FY 2025 ECM General Fund Match budget (Fund 011); and

WHEREAS, awards are part of the Providing Access and Transforming Health (PATH) Capacity and Infrastructure, Transition, Expansion, and Development (CITED) initiative's work to help build, maintain, and scale providers' capacity to participate in the Medi-Cal delivery system and serve the whole person; and

WHEREAS, the City of Berkeley was one of thirteen organizations selected to receive grant funding in Alameda County.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or his designee is hereby authorized to receive funds up to the maximum grant award which may be larger or smaller than the projected award of $96,901.88 in One-Time Grant Fund (Fund 336) via the second Annual Appropriations Ordinance, and execute any resultant agreements and amendments resulting from the grant award. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

07

Office of the City Manager

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Scott Gilman, Director, Health, Housing, and Community Services

Subject: Contract No. 32200162-1 Amendment: Thirdwave Corporation for Professional Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or his designee to amend Contract No. 32200162 with ThirdWave Corporation to increase the not to exceed (NTE) amount by $36,020, utilizing one-time funds. The amendment will increase the NTE amount from $275,000 to $311,020 through June 30, 2025.

FISCAL IMPACTS OF RECOMMENDATION

The amendment will add $36,020 with a total not-to-exceed amount of $311,020. The funding for this amendment is available in the FY2025 Adopted Budget in One-Time Fund (Fund 156).

CURRENT SITUATION AND ITS EFFECTS

The Health, Housing, and Community Services Department's intends to engage in an RFP process to update the Electronic Health Records (EHR) system utilized at the Berkeley High School Health Center. The Berkeley High School Health Center currently provides Mental Health, Reproductive sexual health and first aid clinical services to Berkeley High School and Berkeley Technology Academy's student population of over 3,100 students.

The current EHR system is over 5 years old, does not adequately meet the reporting or billing requirements of the services provided and is due for an upgrade. The goal is to engage in a competitive bid process to identify a cost-effective system that meets the needs of the present operations. This will require mapping services that ThirdWave can provide to achieve a more seamless and successful implementation of the chosen solution. Incorporating process mapping, will ensure that the EHR upgrade will meet the functional, billing, and reporting requirements to maximize the effectiveness of the services provided by Berkeley High School Health Center. This methodical approach will lead to enhanced efficiency, reduced risks, and improved decision-making throughout the project.

BACKGROUND

ThirdWave's patented RapidWorkflow® Process Modeling (RWPM) workshops have proven to be a critical tool that assisted in the development of prior Berkeley City Council approved projects including the ERP Replacement Project: Enterprise Modules Needs Assessment and the Information Technology Strategic Plan & Cost Allocation Plan. Based on these prior successes, on March 7, 2022, the City signed Contract No. 32200162 with ThirdWave Corporation for CIO Support Services similar in Task 2 to the Professional Services in this amendment.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

ThirdWave Corporation conducts a portion of their work remotely. When on-site visits may be required for face-to-face meetings, they will cluster those visits over multiple days to minimize travel costs and greenhouse gas emissions related to travel. Additionally, by identifying cumbersome business practices the City is able to maintain an environmentally sound technology infrastructure.

RATIONALE FOR RECOMMENDATION

ThirdWave's RWPM Workshops have proven to be an effective and efficient way of documenting business processes and identifying pain points and areas for improvement. ThirdWave's patented RWPM was a critical tool that assisted in the development of the Citywide Digital Strategic Plan and Enterprise Modules Needs Assessment. Participating in business process mapping with ThirdWave will continue to increase efficiency, consistency, and customer service and will specify requirements for the EHR upgrade at the Berkeley High School Health Center.

ALTERNATIVE ACTIONS CONSIDERED

Staff considered completing the project without ThirdWave's service. However, doing so would lead to an inefficient allocation of staff resources and less than optimal requirement and process maps due to ThirdWave Corporation's expertise with their RWPM tool.

CONTACT PERSON

Janice Chin, Public Health Division Manager, HHCS, (510) 981-5121

Attachments:
1: Resolution

RESOLUTION NO. ##,###-N.S.

CONTRACT NO. 32200162-1 AMENDMENT: THIRDWAVE CORPORATION FOR PROFESSIONAL SERVICES

WHEREAS, on March 7, 2022, the City signed Contract No. 32200162 with ThirdWave Corporation for CIO Support Services; and

WHEREAS, ThirdWave's patented RWPM (RapidWorkflow® Process Modeling) is a critical tool that assisted in the development of prior Berkeley City Council approved projects including the ERP Replacement Project: Enterprise Modules Needs Assessment and the Information Technology Strategic Plan & Cost Allocation Plan; and

WHEREAS, the RWPM tool has proven to be an effective and efficient way of documenting business processes and identifying pain points and areas for improvement; and

WHEREAS, the Berkeley High School Health Center would benefit from application of the RWPM Tool to Department business processes in the planning and implementation of its Electronic Health Records system upgrade; and

WHEREAS, funding for this one-time project is available in Fund 156.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or his designee is authorized to amend Contract No. 32200162 with ThirdWave Corporation for professional services to increase the not to exceed amount by $36,020 to a total of $311,020 through June 30, 2025.

Office of the City Manager

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Aram Kouyoumdjian, Director of Human Resources

Subject: Revise Salary Range – Aquatics Specialist II

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to revise the salary range of the unrepresented Aquatics Specialist II classification to remedy salary compaction with Aquatics Specialist I.

FISCAL IMPACTS OF RECOMMENDATION

Annual impact at current wage rates is estimated at $3,469.

CURRENT SITUATION AND ITS EFFECTS

As a result of Living Wage Ordinance and cost-of-living adjustments, the salary rate for Aquatics Specialist I has increased at a higher percentage than Aquatics Specialist II, resulting in compaction between the two classifications. Steps 1 and 2 of Aquatics Specialist II are now identical to the wages of Aquatics Specialist I and warrant revision:

CURRENT	Step 1	Step 2	Step 3	Step 4	Step 5
Aquatics Specialist I	23.5532	23.5532	23.5532	23.5532	23.5532
Aquatics Specialist II	23.5532	23.5532	23.9963	25.2670	27.4063
REVISED	Step 1	Step 2	Step 3	Step 4	Step 5
Aquatics Specialist I	23.5532	23.5532	23.5532	23.5532	23.5532
Aquatics Specialist II	24.3501	25.0806	25.8331	26.6081	27.4063

The Personnel Board voted unanimously at its September 9, 2024 meeting to recommend the salary revisions.

BACKGROUND

The City of Berkeley's Living Wage Ordinance (LWO) sets the minimum hourly wage at $22.22 (rate effective July 1, 2024) for employees who receive no medical benefit. LWO and cost-of-living adjustments impact the lower steps of the Aquatics Specialist classifications.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

Revisions to the Aquatics Specialist II salary range are warranted to remedy salary compaction with Aquatics Specialist I.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Aram Kouyoumdjian, Director of Human Resources, (510) 981-6807.

Attachments:
1: Resolution

Internal

RESOLUTION NO. ##,###-N.S.

REVISE SALARY RANGE – AQUATICS SPECIALIST II

WHEREAS, the Human Resources Department maintains the Classification and Compensation plan for the City of Berkeley; and

WHEREAS, the salary ranges of the unrepresented Aquatics Specialist I and Aquatics Specialist II classifications have become compacted due to Living Wage Ordinance and cost-of-living adjustments; and

WHEREAS, revisions to the Aquatics Specialist II salary range are warranted in order to remedy the compaction issue; and

WHEREAS, the Personnel Board recommended on September 9, 2024 to adopt the newly proposed salary range;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the salary steps for the Aquatics Specialist II classification be revised as follows, effective the first full pay period after Council approval:

REVISED	Step 1	Step 2	Step 3	Step 4	Step 5
Aquatics Specialist II	24.3501	25.0806	25.8331	26.6081	27.4063

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Office of the City Manager

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director of Public Works

Subject: Purchase Order: Coast Counties Truck & Equipment Co. for Zero Waste Vehicle Parts

RECOMMENDATION

Adopt a Resolution satisfying bid requirements of the City allowing the City to participate in Sourcewell (formerly NJPA) contract bid procedures, authorizing the City Manager to execute a purchase order with Coast Counties Truck & Equipment Co. for the purchase of Zero Waste long-haul vehicle parts for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $600,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding in the amount of $200,000 is available for FY 2025 in the baseline Public Works budget in Equipment Maintenance 672 Fund. Additional funding will be made available and appropriated as needed in future fiscal year budgets.

CURRENT SITUATION AND ITS EFFECTS

Coast Counties Truck & Equipment Co. is the City's vendor for parts for Peterbilt Motors Company manufactured long-haul trucks used by Public Works' Zero Waste Division. These trucks are used to transfer materials from the Transfer Station to landfills, recycling centers and other facilities that process waste. This work keeps the Transfer Station from exceeding its waste storage capacity and allows the City to transport materials more easily.

Peterbilt parts will be purchased from Coast Counties utilizing Sourcewell Contract No. 032824-PMC. Coast Counties is the exclusive Peterbilt dealer for the Northern California territory, including the City, and is authorized to provide parts and service.

This work will support the City's Strategic Plan Goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

The Zero Waste Division of Public Works uses long-haul vehicles to perform their duties and support the environmental goals of the City. These vehicles are essential vehicles for Zero Waste's work to perform quality waste collection service to City residents.

Coast Counties Truck & Equipment Co. is the City's current vendor for purchasing for parts for vehicles manufactured by Peterbilt Motors Company. They are also the authorized distributor in Northern California of parts for Peterbilt manufactured vehicles, which are the make of City's long-haul trucks. As such, the City needs a vendor that can provide the appropriate parts to keep these vehicles in service and replace parts as they reach the end of their useful life.

The City has been a no cost member of Sourcewell, formerly the National Joint Powers Alliance (NJPA), and a municipal contracting agency operating under the legislative authority of Minnesota Statute 123A.21. The original 1978 statue was revised in 1995 to allow government clients to better meet their specific needs through participation in a service cooperative, rather than paying the higher cost associated with individual procurement. Sourcewell allows participating municipal agencies to leverage the benefits of cooperative purchasing and reduces procurement costs.

All Sourcewell contracts have been competitively solicited nationwide. On February 8, 2024, Sourcewell released Request for Proposal No. 032824 for Class 4-8 Chassis and Cabs with Related Equipment, Accessories, and Services. The solicitation was released for approximately forty-nine days and twenty-five proposals were submitted. Upon their review, Sourcewell selected Peterbilt as one of the most responsive proposers to meet the specifications, thusly awarding Contract No. 032824-PMC.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

This purchase order will allow Public Works Equipment Maintenance Department to continually maintain the Zero Waste long-haul vehicles in a timely manner. This can prevent potential service interruptions that could impact Zero Waste transportation of materials to and from the Transfer Station.

ALTERNATIVE ACTIONS CONSIDERED

If the City does not purchase from Coast Counties, the City would need to purchase long-haul vehicle parts from another vendor. However, Coast Counties is the exclusive dealer and distributor of parts for Peterbilt branded vehicles and the City's Zero Waste long-haul vehicles are of that brand. Going with a different vendor would lead to increased purchasing expenses and delays in procurement of parts.

CONTACT PERSON
Joy Brown, Operations Manager, Public Works, (510) 981-6629
Greg Ellington, Equipment Superintendent, Public Works, (510) 981-6469
Tucker Brofft, Senior Management Analyst, Public Works, (510) 981-5375

Attachment:
1: Resolution

RESOLUTION NO. ##,###-N.S.

PURCHASE ORDER: COAST COUNTIES TRUCK & EQUIPMENT CO. FOR ZERO WASTE VEHICLE PARTS

WHEREAS, Coast Counties Truck & Equipment Co. (“Coast Counties”) is the vendor for the City’s Zero Waste long-haul vehicle parts; and

WHEREAS, the specialized product of Coast Counties are needed for ongoing replacement, maintenance and repair of Zero Waste vehicle parts; and

WHEREAS, the Equipment Maintenance Division needs to be able to purchase the specific parts for Zero Waste vehicles to ensure its long-haul vehicles are continually operational and are replaced once they reach the end of their useful life; and

WHEREAS, on March 26, 2024 Council authorized a purchase order extension through June 30, 2025 with Coast Counties for Zero Waste vehicle parts for a total not-to-exceed amount of $351,730; and

WHEREAS, Sourcewell bid procedures satisfy the procurement requirements of the City; and

WHEREAS, funding is available in the FY 2025 budget in Equipment Maintenance Fund 672, and funding will be requested in the FY 2026 and FY 2027 budgets though the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order satisfying bid requirements of the City of Berkeley allowing the City to participate in Sourcewell (formerly NJPA) bid procedures for Coast Counties Truck & Equipment Co. for purchase long-haul vehicle parts for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $600,000.

Office of the City Manager

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director of Public Works

Subject: Purchase Order: Pape Kenworth for Zero Waste Tractor Trailer Parts

RECOMMENDATION

Adopt a Resolution satisfying bid requirements of the City, allowing the City to participate in Sourcewell (formerly NJPA) contract bid procedures, authorizing the City Manager to execute a purchase order with Pape Kenworth for the purchase of Zero Waste tractor trailer parts for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $300,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding in the amount of $100,000 is available for FY 2025 in the baseline Public Works budget in Equipment Maintenance Fund 672-54-626-722-0000-000-473-642120. Additional funding will be made available and appropriated as needed in future fiscal year budgets.

CURRENT SITUATION AND ITS EFFECTS

Pape Kenworth supplies over-the-road tractor trailer parts for the City's Zero Waste Division. These vehicles transport waste, recycling and compostable materials from the City's Transfer Station to other storage and processing stations outside of the City. This work keeps the Transfer Station from exceeding its storage capacity and allows the City to transport materials at a lower cost than using another vendor for material transportation.

Tractor trailer parts will be purchased from Pape Kenworth utilizing Sourcewell Contract No. 032824-KTC. Pape Kenworth is a dealer for tractor trailer parts in the Northern California territory including the City and is authorized to provide parts and service.

This work will support the City's Strategic Plan Goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

The Zero Waste Division of Public Works uses long-haul vehicles to perform their duties and support the environmental goals of the City. These vehicles are essential vehicles for Zero Waste's work to perform quality waste collection service to City residents.

Pape Kenworth is the City's current vendor for purchasing these parts. Pape Kenworth provides specialty parts in situations where other vendors, such as Pape Machinery, currently used by the City do not have the part or there will be a major delay in procuring the part from a vendor. Specifically, Pape supplies engine and brake parts which are critical for maintain vehicles and keeping them safe for operators. This flexibility and redundancy in vendor helps keep vehicles maintained and running longer, while also preventing vehicles from being inoperable for longer periods.

The City has been a no cost member of Sourcewell, formerly the National Joint Powers Alliance (NJPA), and a municipal contracting agency operating under the legislative authority of Minnesota Statute 123A.21. The original 1978 statue was revised in 1995 to allow government clients to better meet their specific needs through participation in a service cooperative, rather than paying the higher cost associated with individual procurement. Sourcewell allows participating municipal agencies to leverage the benefits of cooperative purchasing and reduces procurement costs.

All Sourcewell contracts have been competitively solicited nationwide. On February 8, 2024, Sourcewell released Request for Proposal No. 032824 for Class 4-8 Chassis and Cabs with Related Equipment, Accessories, and Services. The solicitation was released for approximately forty-nine days and twenty-five proposals were submitted. Upon their review, Sourcewell selected Pape Kenworth as one of the most responsive proposers to meet the specifications, thusly awarding Contract No. 032824-KTC.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

This purchase order will allow Public Works Equipment Maintenance Department to continually maintain and repair the Zero Waste's tractor trailer vehicles in a timely manner and prevent potential service interruptions.

ALTERNATIVE ACTIONS CONSIDERED

If the City does not purchase from Pape, the City would need to purchase tractor trailer equipment from another vendor. However, if other City vendors are unable to procure necessary parts in a timely manner, there will be delays in repairs, leaving vehicles potentially inoperable for longer time periods. This will slow down shipping of materials from the Transfer Station and can lead to storage limits at the Station being reached, which would limit collection and drop-off services.

CONTACT PERSON

Joy Brown, Operations Manager, Public Works, (510) 981-6629
Greg Ellington, Equipment Superintendent, Public Works, (510) 981-6469
Tucker Brofft, Senior Management Analyst, Public Works, (510) 981-5375

Attachment:
1: Resolution

RESOLUTION NO. ##,###-N.S.

PURCHASE ORDER: PAPE KENWORTH FOR ZERO WASTE TRACTOR TRAILER PARTS

WHEREAS, Pape Kenworth ("Pape") is the manufacturer of the tractor trailer parts for the City of Berkeley's Zero Waste Division tractor trailer vehicles; and

WHEREAS, the specialized product and service of Pape are needed for ongoing replacement, maintenance and repair of tractor trailer parts; and

WHEREAS, the Equipment Maintenance Division needs to be able to purchase the specific parts for the tractor trailer to ensure the City's trailers are continually operational and are replaced once they reach the end of their useful life; and

WHEREAS, Sourcewell bid procedures satisfy the procurement requirements of the City; and

WHEREAS, funding is available in the FY 2025 budget in Equipment Maintenance Fund 672, and funding will be requested in the FY 2026 and FY 2027 budgets though the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order satisfying bid requirements of the City of Berkeley allowing the City to participate in Sourcewell (formerly NJPA) bid procedures for Pape Kenworth for purchase of Zero Waste Tractor Parts for the period October 1, 2024 to June 30, 2027 for an amount not to exceed $300,000.

Office of the City Manager

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director of Public Works

Subject: Purchase Order: Western Truck Center for Zero Waste Vehicle Parts and Repairs

RECOMMENDATION

Adopt a Resolution satisfying bid requirements of the City allowing the City to participate in Sourcewell (formerly NJPA) contract bid procedures, authorizing the City Manager to execute a purchase order with Western Truck Center for the purchase and repairs of Zero Waste vehicle parts and repairs for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $400,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding in the amount of $150,000 is available for FY 2025 in the baseline Public Works budget in Equipment Maintenance Fund 672-54-626-722-0000-000-473-642120. Additional funding will be made available and appropriated as needed in future fiscal year budgets.

CURRENT SITUATION AND ITS EFFECTS

Western Truck Center is the City's vendor for parts for Battle Motors manufactured vehicles used by Public Works' Zero Waste Division. This includes garbage trucks, loaders, roll-off trucks and other vehicles used by Zero Waste for their work. These vehicles support Zero Waste with collecting refuge and transferring these materials to the Transfer Station. The City also uses Western Truck Center for repairs of these vehicles, specifically the loader section of refuse vehicles, as City facilities are not equipped to perform these types of repairs.

Battle Motors parts and repairs will be purchased from Western utilizing Sourcewell Contract No. 032824-CRN. Western is the exclusive Battle Motors dealer for the Northern California territory including the City and is authorized to provide parts and service.

This work will support the City's Strategic Plan Goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND
The Zero Waste Division of Public Works uses heavy-duty vehicles to perform their duties and support the environmental goals of the City. These vehicles are essential vehicles for Zero Waste's work and given the size, weight and complexity of these parts, the City is unable to repair them internally.

Western Truck Center is the City's current vendor for purchasing and repairing parts for the Battle Motors Company manufactured vehicles. Western Truck Center is the authorized distributor of parts for vehicles produced by Battle Motors and the City current owns and utilizes 33 of these vehicles. As such, the City needs a vendor that can provide the appropriate parts and repairs to keep these vehicles in service and replace parts as they reach the end of their useful life.

The City has been a no cost member of Sourcewell, formerly the National Joint Powers Alliance (NJPA), and a municipal contracting agency operating under the legislative authority of Minnesota Statute 123A.21. The original 1978 statue was revised in 1995 to allow government clients to better meet their specific needs through participation in a service cooperative, rather than paying the higher cost associated with individual procurement. Sourcewell allows participating municipal agencies to leverage the benefits of cooperative purchasing and reduces procurement costs.

All Sourcewell contracts have been competitively solicited nationwide. On February 8, 2024, Sourcewell released Request for Proposal No. 032824 for Class 4-8 Chassis and Cabs with Related Equipment, Accessories, and Services. The solicitation was released for approximately forty-nine days and twenty-five proposals were submitted. Upon their review, Sourcewell selected Battle Motors, Inc. as one of the most responsive proposers to meet the specifications, thusly awarding Contract No. 032824-CRN.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION
This purchase order will allow Public Works Equipment Maintenance Department to continually maintain and repair the Zero Waste Department's vehicles in a timely manner. This can prevent potential service interruptions or slowdowns in work performed by Zero Waste.

ALTERNATIVE ACTIONS CONSIDERED
If the City does not purchase from Western Truck Center, the City would need to purchase and repair its Zero Waste vehicles from another vendor. However, Western Truck Center is the exclusive dealer and distributor for Battle Motors and many of the City's Zero Waste vehicles are from Battle Motors. Using a different vendor would lead

to increased purchasing expenses and delays in vehicle repairs due to having to ship equipment to vendors farther away than Western Truck Center.

CONTACT PERSON
Joy Brown, Operations Manager, Public Works, (510) 981-6629
Greg Ellington, Equipment Superintendent, Public Works, (510) 981-6469
Tucker Brofft, Senior Management Analyst, Public Works, (510) 981-5375

Attachment:
1: Resolution

RESOLUTION NO. ##,###-N.S.

PURCHASE ORDER: WESTERN TRUCK CENTER FOR ZERO WASTE VEHICLE PARTS AND REPAIR

WHEREAS, Western Truck Center ("Western") is a vendor for Zero Waste vehicle parts and provides repairs for the City of Berkeley Zero Waste vehicles; and

WHEREAS, the specialized product and service of Western are needed for ongoing replacement, maintenance and repair of Zero Waste vehicle parts; and

WHEREAS, the Equipment Maintenance Division needs to be able to purchase the specific parts for Zero Waste vehicles and provide repairs that staff are not able to perform to ensure the City's Zero Waste vehicles are continually operational and are replaced once they reach the end of their useful life; and

WHEREAS, on March 26, 2024 City Council authorized a purchase order execution through June 30, 2025 with Western Truck Center for Zero Waste vehicle parts and repairs for a total not-to-exceed amount of $260,000; and

WHEREAS, Sourcewell bid procedures satisfy the procurement requirements of the City; and

WHEREAS, funding is available in the FY 2025 budget in Equipment Maintenance Fund 672, and funding will be requested in the FY 2026 and FY 2027 budgets though the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order satisfying bid requirements of the City of Berkeley allowing the City to participate in Sourcewell (formerly NJPA) bid procedures for Western Truck Center for purchase and repair of Zero Waste vehicle parts for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $400,000.

Office of the City Manager

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director of Public Works

Subject: Contract: Shaw Industries, Inc. for Civic Center Building Carpet Replacement Project

RECOMMENDATION

Adopt a Resolution:

1. Approving the CMAS Contract with Shaw Industries, Inc. for Carpet Replacements at the Civic Center Building;
2. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the terms and conditions of the agreements with Shaw Industries, Inc. in an amount not to exceed $107,460, which includes a contingency of $10,367.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this carpet replacement project is available in the Fiscal Year 2025 Facilities Capital Improvement Program (CIP) budget from the Capital Improvement Fund 501-54-623-677-0000-000-444, pending approval of carryover project budget from FY 2024 via the first amendment to the Annual Appropriations Ordinance.

Cost:

Carpet Replacement	$ 97,093
Contingency	$ 10,367
Total Cost	**$ 107,460**

FY 2024 Funding:

Capital Improvements Fund (501)	$107,460
Total Construction Cost	**$107,460**

CURRENT SITUATION AND ITS EFFECTS

Existing floor carpets at the Civic Center Building, located at 2180 Milvia Street, are in need of replacement on the first floor (City Clerk Department). Most of the carpets are very old and have surpassed their typical life expectancy of twenty years.

Shaw Industries, Inc. was selected through the California Multiple Award Schedule (CMAS) bid procedure. This allows the City to procure a contractor that was previously selected through the State of California bidding process. All pricing, products and/or services offered to the State of California through this system are made available to the City. Making use of this process results in cost savings and expedites contractor selection.

The services provided will support the Strategic Plan goals of creating a resilient, safe, connected and prepared city as well as providing state-of-the-art, well-maintained facilities.

BACKGROUND

The existing broadloom carpets in the Civic Center Building are over twenty years old and need replacement. There are numerous locations throughout the building where carpet failures are visible, including crushed carpeting padding, seam failures, heavy staining, and other deficiencies that are typical of a carpet that has exceeded its useful life. The work to replace carpets like these typically takes one week, and staff have the work tentatively scheduled for spring 2025. Exact project timing depend on final contract execution, availability of materials, and the contractor's availability.

In 2015, the City developed technical specifications for carpet tiles to be used in City owned buildings. The specifications have been used for several past projects, including the Public Safety Building Carpet Replacement Project in 2017 and the Civic Center Carpet Replacement in 2020 and 2022. The carpet tiles proved to be a well-received, low-maintenance and less expensive to install than non-tile carpets.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The proposed product meets criteria established in the specifications, which is in accordance with the sustainable resolutions and ordinances administered by the City's Office of Energy and Sustainable Development, the City of Berkeley Revised General Plan, the City's Climate Action Plan, and CalGreen. For example, the project will replace the existing carpet with PVC free carpet tiles that are 100% recyclable.

RATIONALE FOR RECOMMENDATION

Contracted services are required for this project as the City does not have the in-house expertise to complete this specialized work. Shaw Industries, Inc. provided a cost-effective price, complying with the City's carpet specifications.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Wahid Amiri, Deputy Public Works Director, (510) 981-6396
Ronald Nevels, Manager of Engineering, Dept. of Public Works (510) 981-6439

Elmar Kapfer, Supervising Civil Engineer, Dept. of Public Works (510) 981-6435

Attachments:
1: Resolution

RESOLUTION NO. ##,###-N.S.

CONTRACT: SHAW INDUSTRIES, INC. FOR THE CIVIC CENTER BUILDING CARPET REPLACEMENT PROJECT

WHEREAS, the existing broadloom carpeting in the Civic Center Building is in need of replacement; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this renovation project; and

WHEREAS, the California Multiple Award Schedule (CMAS) is available to state and local governments, which, by utilizing the City is able to adhere to BMC section 7.18.010, meeting the competitive bidding requirement; and

WHEREAS, the California Department of General Service Procurement Division determined Shaw Industries, Inc.'s bid pricing to be fair and reasonable and awarded CMAS Contract No. 4-20-00-0125B; and

WHEREAS, funds are available in the FY 2025 Budget in the Capital Improvement Fund (501) pending approval of the first amendment to the Annual Appropriations Ordinance.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions, or change orders until completion of the project in accordance with the terms and conditions of the agreement with Shaw Industries, Inc. for the carpet replacement project at the Civic Center Building, in an amount not to exceed $107,460; which includes an authorized contingency of $10,367. A record signature copy of the agreement and any amendments to be on file in the office of the City Clerk.

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Office of the City Manager

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director, Public Works

Subject: Contract No. 32000067 Amendment: GHD, Inc. for Preparation of a Sanitary Sewer Master Plan

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000067 with GHD, Inc. for further development of a Sanitary Sewer Master Plan, also known as a Sanitary Sewer System Plan (SSP), and Related Engineering Services in an amount not to exceed $350,000 for a total not to exceed $1,290,000.

FISCAL IMPACTS OF RECOMMENDATION

The original contract with GHD, Inc. (GHD) covers a three-year period from Fiscal Year (FY) 2020 through FY 2022 with a not to exceed total of $940,000.

FY 2020, FY 2021, and FY 2022 Budgets (Approved Contract):
Sewer Fund 611……$940,000

FY 2025 thru FY 2028 (Proposed Contract Amendment)
Sewer Fund 611 $350,000
Subtotal (Proposed Contract Increase) $350,000

Total (Approved Contract + Proposed Contract Increase) .....…$1,290,000

Funding in the amount of $350,000 for this Contract Amendment is available in the FY 2025 budget in the Sewer Fund (Fund 611).

The original contract was assigned CMS No. N6ABY.

CURRENT SITUATION AND ITS EFFECTS

Since original contract execution in FY 2020 and following delays due to staffing shortages and COVID-19 impacts, the existing Contract was extended through June 30, 2025 to allow completion of the SSP and to also provide the City with information needed to identify sewer system capacity impacts from new development and redevelopment projects. Capacity impacts are determined using the Sanitary Sewer

hydrologic and hydraulic model completed under the original contract. Additional contract scope is required to complete the SSP and update the sewer model to reflect development between 2020 and 2024. Additional scope is included to verify sewer system capacity for future development and redevelopment changes as needed over the next three years.

The SSP is a Strategic Plan Priority effort, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

The City's original Contract with GHD allowed the SSP effort to start on July 1, 2019 after a competitive solicitation process selected GHD as the most qualified firm to complete the SSP. Council authorized execution of this Contract on June 11, 2019, under Resolution No. 68,951-N.S. Since then, GHD created a Sanitary Sewer Hydraulic Model, developed dry and wet weather model runs calibrated against pipeline capacities, and identified initial deficiencies that have been incorporated into Sewer Capital Improvement plans. Capital Improvement planning forms the basis for assessing sewer service user fees and connection fees.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Preparation of the SSP will assist in the prioritization of sewer improvements. Improvements to the City's sanitary sewer system will help minimize the frequency of sanitary sewer overflows, reduce inflow & infiltration into the City's sanitary sewer system, subsequently protecting public health and water quality by minimizing impacts of untreated sewage discharge into the San Francisco Bay. This amendment will provide services to assess climate impacts to the sewer system.

RATIONALE FOR RECOMMENDATION

The original contract proposal from the team led by GHD received the highest overall score after a thorough assessment of all of the proposals and presentations. The firm is the most qualified to prepare the City's SSP and complete related Engineering services. Having GHD under contract is the cost-effective method for continued sewer modeling. Using another consultant would require the new consultant to develop their own sewer hydraulic model for the work, thereby resulting in project delays.

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered. The City does not have the staff capacity and equipment to provide the necessary services.

CONTACT PERSON

Wahid Amiri, Deputy Director, Public Works (510) 981-6396
Ronald Nevels, Manager of Engineering, Public Works, (510) 981-6439
Daniel Akagi, Supervising Civil Engineer, Public Works, (510) 981-6394
Felix Meneau, Associate Civil Engineer, Public Works, (510) 981-6399

Attachments:
1: Resolution: Amendment to Contract with GHD, Inc.

RESOLUTION NO. ##,###-N.S.

CONTRACT NO. 32000067 AMENDMENT: SANITARY SEWER MASTER PLAN BY GHD, INC.

WHEREAS, on June 11, 2019 by Resolution No. 68,951-N.S., the Council authorized Contract No. 32000067 with GHD, Inc. for Preparation of a Sanitary Sewer Master Plan also known as a Sanitary Sewer System Plan, in an amount not to exceed $940,000 for a three-year period through June 30, 2022; and

WHEREAS, the COVID-19 Pandemic and staffing shortages have delayed completing the Project, and the City Manager extended the contract termination for an additional three (3), one (1) year terms with current contract expiration date of June 30, 2025, and

WHEREAS, the necessary civil engineering services cannot be performed by City staff due to the specialized nature of the work; and

WHEREAS, the City now has staff to finalize the Sanitary Sewer System Plan, previously delayed due to COVID-19 Pandemic and staffing shortages, complete the update to the sewer fee study, and desires to include additional support for modeling future development on an as needed basis to verify impacts to the capacity of the system; and

WHEREAS, GHD, Inc. has provided a cost proposal in the amount of $350,000 to perform the requested scope of work; and

WHEREAS, funding is available from the Sanitary Sewer Fund 611 in the current year budget and the contract has been entered into the City contract database and assigned CMS No. NSABY.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 32000067 with GHD, Inc. for Preparation of a Sanitary Sewer System Plan increasing the amount by $350,000 for a total amount not to exceed $1,290,000 and extending the term of the contract to June 30, 2028. A record signature copy of said contract and any amendments to be placed on file in the Office of the City Clerk.

Office of the City Manager

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director of Public Works

Subject: Purchase Order: Arata Equipment Company for Zero Waste Vehicle Parts and Repairs

RECOMMENDATION

Adopt a Resolution satisfying bid requirements of the City of Berkeley allowing the City to participate in Sourcewell (formerly NJPA) contract bid procedures, authorizing the City Manager to execute a purchase order with Arata Equipment Company for the purchase and repairs of Zero Waste vehicle parts for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $500,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding in the amount of $200,000 is available for FY 2025 in the baseline Public Works budget in Equipment Maintenance 672 Fund. Additional funding will be made available and appropriated as needed in future fiscal year budgets.

CURRENT SITUATION AND ITS EFFECTS

Arata Equipment Company is the City of Berkeley's vendor for parts for Labrie Environment Group manufactured vehicles used by Public Works' Zero Waste Division. This includes front, side and rear loader waste trucks and roll off trucks used by Zero Waste for their work. These vehicles support Zero Waste with collecting refuge, recyclable and compostable materials from the public along with transferring these materials to and from the Transfer Station. The City also uses Arata Equipment Company for repairs of these vehicles as City facilities are not equipped to perform these types of repairs.

Labrie parts will be purchased from Arata utilizing Sourcewell Contract No. 110223-LEG. Arata is the exclusive Labrie dealer for the Northern California territory including the City of Berkeley and is authorized to provide parts and service.

This work will support the City's Strategic Plan Goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

The Zero Waste Division of Public Works uses heavy-duty vehicles to perform their duties and to support the environmental goals of the City of Berkeley. These vehicles are essential vehicles for Zero Waste's work and given the size, weight and complexity of these parts, City of Berkeley is unable to repair them internally.

Arata Equipment Company is a current vendor with the City for purchasing parts and repairing these vehicles. Arata is the exclusive distributor of parts and repairs for vehicles produced by Labrie Environmental Group in Northern California. As such, the City needs a vendor that can provide the appropriate parts and repairs to keep Labrie manufactured vehicles in service and replace parts as they reach the end of their useful life.

The City has been a no cost member of Sourcewell, formerly the National Joint Powers Alliance (NJPA), and a municipal contracting agency operating under the legislative authority of Minnesota Statute 123A.21. The original 1978 statue was revised in 1995 to allow government clients to better meet their specific needs through participation in a service cooperative, rather than paying the higher cost associated with individual procurement. Sourcewell allows participating municipal agencies to leverage the benefits of cooperative purchasing and reduces procurement costs.

All Sourcewell contracts have been competitively solicited nationwide. On September 14, 2023, Sourcewell released Request for Proposal No. 110223 for Refuse Collection Vehicles with Related Equipment, Accessories, and Services. The solicitation was released for approximately fifty days and fifteen proposals were submitted. Upon their review, Sourcewell selected Labrie Environmental Group as one of the most responsive proposers to meet the specifications, thusly awarding Contract No. 110223-LEG.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

This purchase order will allow Public Works Equipment Maintenance Department to continually maintain and repair the Zero Waste Department's vehicles in a timely manner. This can prevent potential service interruptions or slowdown's in work performed by Zero Waste.

ALTERNATIVE ACTIONS CONSIDERED

If the City does not purchase from Arata Equipment Company, the City would need to purchase and repair its Zero Waste vehicles from another vendor. However, Arata is the exclusive dealer and distributor for Labrie Environmental Group and Zero Waste utilizes vehicles manufactured by Labrie. Going with a different vendor would lead to increased

purchasing expenses and delays in vehicle repairs due to having to ship equipment to vendors farther away than Arata.

CONTACT PERSON
Joy Brown, Operations Manager, Public Works, (510) 981-6629
Greg Ellington, Equipment Superintendent, Public Works, (510) 981-6469
Tucker Brofft, Senior Management Analyst, Public Works, (510) 981-5375

Attachment:
1: Resolution

RESOLUTION NO. ##,###-N.S.

PURCHASE ORDER: ARATA EQUIPMENT COMPANY FOR ZERO WASTE VEHICLE PARTS AND REPAIR

WHEREAS, Arata Equipment Company ("Arata") is the vendor for Zero Waste vehicle parts and provides repairs for the City of Berkeley Zero Waste vehicles; and

WHEREAS, the specialized product and service of Arata are needed for ongoing replacement, maintenance and repair of Zero Waste vehicle parts; and

WHEREAS, the Equipment Maintenance Division needs to be able to purchase the specific parts for Zero Waste vehicles and provide repairs that staff are not able to perform to ensure the City's Zero Waste vehicles are continually operational and are replaced once they reach the end of their useful life; and

WHEREAS, on March 26, 2024 the Council authorized a purchase order extension through June 30, 2025 with Arata Equipment Company for Zero Waste vehicle parts and repair for a total not-to-exceed amount of $320,180; and

WHEREAS, Sourcewell bid procedures satisfy the procurement requirements of the City of Berkeley; and

WHEREAS, funding is available in the FY 2025 budget in Equipment Maintenance Fund 672, and funding will be requested in the FY 2026 and FY 2027 budgets though the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order satisfying bid requirements of the City of Berkeley allowing the City to participate in Sourcewell (formerly NJPA) bid procedures for Arata Equipment Company for purchase and repair of Zero Waste vehicle parts for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $500,000.

15

Office of the City Manager

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director of Public Works

Subject: Purchase Order: McNeilus Truck and Manufacturing for Zero Waste Vehicle Parts

RECOMMENDATION

Adopt a Resolution satisfying bid requirements of the City allowing the City to participate in Sourcewell (formerly NJPA) contract bid procedures, authorizing the City Manager to execute a purchase order with McNeilus Truck and Manufacturing, for the purchase of Zero Waste vehicle parts and services for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $350,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding in the amount of $150,000 is available for FY 2025 in the baseline Public Works budget in Equipment Maintenance 672 Fund. Additional funding will be made available and appropriated as needed in future fiscal year budgets.

CURRENT SITUATION AND ITS EFFECTS

McNeilus Truck and Manufacturing is the City's vendor for parts for Zero Waste refuse vehicles used by Public Work's Zero Waste Division. This includes garbage trucks, loaders and other vehicles used by Zero Waste for their work. McNeilus is the manufacturer for the body of several of Zero Waste's vehicles and the City is able to directly purchase parts for those vehicles from McNeilus. These vehicles support Zero Waste with collecting waste, recycled and compostable materials from the public along with transferring these materials to and from the Transfer Station.

This work will support the City's Strategic Plan Goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

The Zero Waste Division of Public Works uses refuse vehicles to perform their duties and support the environmental goals of the City. These vehicles are essential vehicles for Zero Waste's work to perform quality waste collection service to City residents.

McNeilus Truck and Manufacturing is an authorized vendor of the City's for purchasing parts for the body of Zero Waste vehicles, including the outer shell of the passenger cab and hopper. As such, City of Berkeley needs a vendor that can provide the appropriate parts to keep these vehicles in service and replace parts as they reach the end of their useful life.

The City has been a no cost member of Sourcewell, formerly the National Joint Powers Alliance (NJPA), and a municipal contracting agency operating under the legislative authority of Minnesota Statute 123A.21. The original 1978 statue was revised in 1995 to allow government clients to better meet their specific needs through participation in a service cooperative, rather than paying the higher cost associated with individual procurement. Sourcewell allows participating municipal agencies to leverage the benefits of cooperative purchasing and reduces procurement costs.

All Sourcewell contracts have been competitively solicited nationwide. On September 14, 2023, Sourcewell released Request for Proposal No. 110223 for Refuse Collection Vehicles with Related Equipment, Accessories, and Services. The solicitation was released for approximately fifty days and fifteen proposals were submitted. Upon their review, Sourcewell selected McNeilus Truck & Manufacturing as one of the most responsive proposers to meet the specifications, thusly awarding Contract No. 110223-MCN.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

This purchase order will allow Public Works Equipment Maintenance Department to continually maintain and repair the Zero Waste Department's vehicles in a timely manner. This can prevent potential service interruptions or slowdowns in work performed by Zero Waste.

ALTERNATIVE ACTIONS CONSIDERED

If the City does not purchase from McNeilus Truck and Manufacturing, the City would need to purchase refuse vehicle body parts from another vendor. However, McNeilus is the manufacturer of these parts for several vehicles used by Zero Waste and has a Sourcewell agreement in place. Going with a different vendor would lead to increased purchasing expenses due to markups from third party vendors and cause potential delays in receiving parts needed for vehicle repairs.

CONTACT PERSON

Joy Brown, Operations Manager, Public Works, (510) 981-6629
Greg Ellington, Equipment Superintendent, Public Works, (510) 981-6469
Tucker Brofft, Senior Management Analyst, Public Works, (510) 981-5375

Attachment:
1: Resolution

RESOLUTION NO. ##,###-N.S.

PURCHASE ORDER: MCNEILUS TRUCK AND MANUFACTURING FOR ZERO WASTE VEHICLE PARTS

WHEREAS, McNeilus Truck and Manufacturing ("McNeilus") is a vendor for Zero Waste vehicle parts for the City of Berkeley Zero Waste refuse vehicles; and

WHEREAS, the specialized product of McNeilus are needed for ongoing replacement, maintenance and repair of Zero Waste body vehicle parts; and

WHEREAS, the Equipment Maintenance Division needs to be able to purchase the specific parts for Zero Waste vehicles to ensure its refuse vehicles are continually operational and are replaced once they reach the end of their useful life; and

WHEREAS, on March 26, 2024, City Council authorized a purchase order extension through June 30, 2025 with McNeilus Truck and Manufacturing Company for Zero Waste truck parts for a total not-to-exceed amount of $200,000; and

WHEREAS, Sourcewell bid procedures satisfy the procurement requirements of the City; and

WHEREAS, funding is available in the FY 2025 budget in Equipment Maintenance Fund 672, and funding will be requested in the FY 2026 and FY 2027 budgets though the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order satisfying bid requirements of the City of Berkeley allowing the City to participate in Sourcewell (formerly NJPA) bid procedures for McNeilus Truck and Manufacturing for purchase Zero Waste vehicle parts and services for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $350,000.

16

Office of the City Manager

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director, Department of Public Works

Subject: Grant Applications: Alameda County Transportation Commission Comprehensive Investment Plan 2026

RECOMMENDATION

Adopt two Resolutions authorizing the City Manager or their designee to:

- Submit grant applications to the Alameda County Transportation Commission for up to $4 million in Comprehensive Investment Plan (CIP) funding for the Adeline Street Transportation Improvement Project ($2 million), and Telegraph Complete Streets Corridor Project ($2 million), respectively;
- Accept the grants awarded; and
- Execute any resultant agreements and amendments.

FISCAL IMPACTS OF RECOMMENDATION

If awarded, the City would receive up to $4 million in grant funding from Alameda County Transportation Commission's (Alameda CTC) Comprehensive Investment Plan (CIP) for the Adeline Street and Telegraph Avenue projects, starting in FY 2026.

The total cost of the projects is currently estimated not to exceed $4 million. As a share of the total project cost, capital projects have a required local match of 25% under the Alameda CTC CIP Program. Funding for the required local match not to exceed $1,000,000 would come from the Alameda County Transportation Sales Tax Measure BB Bicycle and Pedestrian Program Fund (Fund 135) and Local Streets and Roads Fund (Fund 134). Funding would be needed for projects between Fiscal Years 2027 2029. In the current five year Capital Improvement Plan (CIP) for FY 2025 – 2029, Measure BB Fund 134 and Fund 135 funding for has been fully allocated at this time. If awarded, staff will need to reprioritize projects in the next CIP development cycle to make matching funds available, with the result that some other yet to be identified projects may have to be delayed if these projects take precedence.

Alameda CTC CIP Grant Funding Requests and Matching Funds

Adeline Street Transportation Improvements Project	not to exceed $2,000,000
Telegraph Multimodal Corridor Project Corridor	not to exceed $2,000,000
Total Grant Funding Request	not to exceed $4,000,000
City Matching Funds Available	not to exceed $1,000,000

CURRENT SITUATION AND ITS EFFECTS

The Adeline Street Transportation Improvements Project and Telegraph Avenue Multimodal Corridor Project will implement recommendations identified in the 2017 Berkeley Bike Plan, 2020 Berkeley Vision Zero Action Plan, 2021 Berkeley Pedestrian Plan, 2023 Berkeley Transit-First Policy Implementation Plan, the Berkeley Strategic Transportation (BeST) Plan, and the 2020 Adeline Corridor Specific Plan.

These projects were prioritized for this grant application because of transportation equity, traffic safety, and grant funding competitiveness. The Equity Priority Area and the High Injury Streets established in the Vision Zero Action Plan are used to prioritize grant applications. The Adeline Project is located in the Equity Priority Area, and both projects are located on High Injury Streets. Further, the Alameda CTC CIP funding prioritizes projects that enhance connectivity and gap closures on Alameda CTC's Countywide Bicycle Network, address safety on high inmury streets, and directly benefit MTC designated Equity Priority Communities and other underserved communities. These sections of Telegraph Ave. and Adeline St. both appear on Alameda CTC's Countywide Bicycle Network. The Adeline Project is in an MTC-designated Equity Priority Community, as is the northmost portion of the Telegraph Project.

The City of Berkeley has previously been awarded Alameda CTC CIP 2022 and 2024 funding for the Preliminary Engineering (PE) phase of both projects, which includes conceptual design, public engagement, environmental clearance, and Council consideration of the preferred alternative for conceptual design. This report requests Council authorization to apply for funding for the next phase of detailed engineering design, which includes Plans, Specifications, and Estimates (PS&E) leading to construction drawings for project implementation.

Adeline Street Transportation Improvement Project (Adeline Project): Staff is requesting to apply for funding to complete detailed design and engineering (PS&E) for a redesign of Adeline St. between Martin Luther King Jr. Way (MLK) and the Oakland border (Adeline/Stanford/MLK/62nd St.). This project is expected to repurpose two of the existing four traffic lanes to create a new public pedestrian plaza and protected bikeways, along with upgraded traffic signal infrastructure and enhanced public transit operations on Adeline St. The project scope of work includes redesigning the intersections of Adeline St./MLK adjacent to the Ashby BART Station, and Adeline St./Stanford Ave. Conceptual design for Adeline St. adjacent to the Ashby BART Station were approved by City Council on November 29, 2022 (Resolution No. 70,622-N.S.).

The currently funded Preliminary Engineering phase began in 2024. Following robust public engagement processes, internal staff review, and input of the Transportation and Infrastructure Commission and other Berkeley commissions, staff anticipates bringing concept designs for this project to City Council for consideration in late 2026. If funded, PS&E is anticipated to initiate in 2027 and be complete by the end of 2028.

Telegraph Multimodal Corridor Project (Telegraph Project): Staff is requesting to apply for funding for detailed design and engineering (PS&E) for bicycle, pedestrian, and transit improvements on Telegraph Avenue between Dwight Way and Woolsey St. (Southern city limits), where the project will connect to the planned Upper Telegraph Complete Streets project in the City of Oakland. This project proposes upgrading the existing Class II bike lanes on Telegraph Ave. to protected bike lanes from Dwight Way to Ashby Ave., while filling-in the existing bikeway gap from Ashby Ave. to Woolsey St., and converting one vehicle lane in each direction to bus-only lanes with boarding islands to increase transit reliability and access.

The currently funded Preliminary Engineering phase of the project began in 2022 and was subsequently put on hold due to staff capacity issues. The project was restarted in 2024. Staff anticipates bringing concept designs to City Council for consideration in late 2025, following public engagement processes, internal City staff review, and the input of the Transportation and Infrastructure Commission and other Berkeley commissions.

The Adeline Project and the Telegraph Project are both Strategic Plan Priority Projects, advancing the Strategic Plan goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities. The investments in improved bicycle and pedestrian infrastructure will enhance safety in equity zones.

BACKGROUND

Alameda County Transportation Commission's (Alameda CTC) Comprehensive Investment Plan (CIP) is the mechanism by which Alameda CTC plans and programs federal, state, regional, and local transportation funding. The 2026 CIP will program a total of $100 million in funding across fiscal years 2025-26 through 2029-30, awarding grants in four project categories: Bicycle and/or pedestrian capital projects and programs, Complete streets capital and road improvement projects, Transit-related capital projects, and Shuttle and other program operations. Cities in Alameda County can submit up to three grant applications.

The Adeline and Telegraph Projects have been awarded funding for earlier project phases in previous CIP grant cycles. The Telegraph Project received $290,000 in funding for planning, scoping, preliminary engineering and environmental studies from the 2022 CIP grant. The Adeline Project has been awarded a total of $1,095,000 for preliminary engineering and environmental studies from the 2022 and 2024 CIP grants.

The improvements proposed in the Adeline and Telegraph Projects are the result of recommendations and priorities from the following Council-approved plans:

Adeline Street Transportation Improvements Project

- Vision Zero Action Plan (2020)
- Adeline Corridor Specific Plan (2020)

- Berkeley Pedestrian Plan (2021)
- Berkeley Strategic Transportation Plan (BeST Plan) Third Addendum (2022)
- Berkeley Transit First Policy Implementation Plan (2023)

Telegraph Avenue Multimodal Corridor

- Berkeley Bicycle Plan (2017)
- Vision Zero Action Plan (2020)
- Berkeley Transit First Policy Implementation Plan (2023)

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Installing transit improvements, protected bikeways, and upgrading pedestrian crossings through these two projects is anticipated to increase the numbers of people using transit, walking, and biking, which will improve traffic management and decrease greenhouse gas emissions. This is consistent with the 2009 Climate Action Policy that calls for expanding and improving the City's bicycle and pedestrian infrastructure. The 2009 Climate Action Plan sets targets of reducing transportation emissions 33% below year 2000 levels by 2020, and 80% below year 2000 levels by 2050. The Plan further states that transportation modes such as public transit, walking, and bicycling must become the primary means of fulfilling the City's mobility needs in order to meet those targets.

RATIONALE FOR RECOMMENDATION

Alameda CTC CIP funding will allow the City to address critical local and regional transportation infrastructure gaps for all modes of travel. These projects were identified using criteria drawn directly from adopted City plans and reports which underwent extensive public review prior to Council adoption. These projects have received Alameda CTC funding for earlier phases of design and planning; however, the City currently lacks sufficient funding to complete engineering and construction of these projects. As such, applying for and receiving Alameda CTC CIP funding, for which these projects are eligible, would help close the funding gaps for these projects. Not approving the application would mean foregoing up to $4,000,000 in potential grant funding.

ALTERNATIVE ACTIONS CONSIDERED

The City could choose not to apply for these funds. However, no alternative funding has been identified to complete these key traffic safety and sustainability projects.

CONTACT PERSON

Wahid Amiri, Deputy Director, Public Works 510-981-6396
Hamid Mostowfi, Transportation Manager, Public Works 510-981-6403
Eric Anderson, Principal Planner, Public Works 510-981-7062

ATTACHMENTS:
1: Resolution: Adeline Street Transportation Improvements Project Application
2: Resolution: Telegraph Multimodal Corridor Application

RESOLUTION NO. ##,###-N.S.

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF BERKELEY
AUTHORIZING THE FILING OF AN APPLICATION FOR ALAMEDA COUNTY TRANSPORTATION COMMISSION ADMINISTERED FUNDING FOR THE ADELINE STREET TRANSPORTATION IMPROVEMENT PROJECT AND COMMITTING ANY NECESSARY MATCHING FUNDS AND STATING ASSURANCES TO COMPLETE THE PROJECT

WHEREAS, the Alameda County Transportation Commission ("ALAMEDA CTC") administers funding programs for projects and programs that benefit the Alameda County transportation system, consisting of 2000 Measure B, 2010 Vehicle Registration Fee ("VRF"), 2014 Measure BB, Congestion Management Agency Transportation Improvement Program (CMA-TIP), and Transportation Fund for Clean Air Programs, and such funding is collectively defined as and shall be referenced herein as the "ALAMEDA CTC ADMINISTERED FUNDS"; and

WHEREAS, the ALAMEDA CTC adopted 2026 Comprehensive Investment Plan ("CIP") Guidelines at its Commission meeting on May 23, 2024 which includes procedures governing the 2026 CIP application process, programming guidelines, and eligible uses of ALAMEDA CTC ADMINISTERED FUNDS;

WHEREAS, the City of Berkeley ("APPLICANT") is the project sponsor for the Adeline Street Transportation Improvements Project ("PROJECT")].

WHEREAS, the PROJECT will implement a redesign of Adeline Street, between Martin Luther King Jr. Way (MLK) and the Oakland border at Adeline/Stanford/MLK/62nd Street. The Project is expected to repurpose two of the existing four traffic lanes to create a new public pedestrian plaza and protected bikeways, along with upgraded traffic signal infrastructure and enhanced public transit operations on Adeline Street. The project scope of work includes redesigning the intersections of Adeline/MLK adjacent to Ashby BART, and Adeline/Stanford; and

WHEREAS, as the Project Sponsor, APPLICANT has the legal authority to apply for funding for PROJECT and plans to submit a 2026 CIP application ("APPLICATION") to ALAMEDA CTC for up to $2,000,000.

WHEREAS, there are no legal impediments to APPLICANT applying for funding and there is no active, pending or threatened litigation that may adversely affect the proposed PROJECT or the ability of APPLICANT to deliver such PROJECT; and

WHEREAS, APPLICANT authorizes its City Manager or designee to execute and file an application with ALAMEDA CTC for discretionary ALAMEDA CTC ADMINISTERED FUNDS for the PROJECT as referenced in this Resolution; and

WHEREAS, as part of the requirements to apply and receive ALAMEDA CTC ADMINISTERED FUNDS, ALAMEDA CTC requires a resolution adopted by the responsible implementing agency stating the following:

1. APPLICANT will implement the PROJECT as described in the APPLICATION; and
2. APPLICANT will have adequate staffing resources to deliver and complete the PROJECT within the time period identified in the APPLICATION; and
3. APPLICANT understands it will enter into a Project Funding Agreement ("AGREEMENT") with ALAMEDA CTC, and will comply with the AGREEMENT 's requirements, including adherence to the agreed upon project scope, project delivery milestones, funding deadlines, project reporting and deliverable deadlines; and
4. APPLICANT is committed to deliver the PROJECT consistently with the Commission approved CIP Programming Guidelines and CIP policies, as they may change, for the funds awarded by the Commission to the PROJECT; and
5. APPLICANT is committed to secure matching funds as proposed in the APPLICATION required for awarded ALAMEDA CTC ADMINISTERED FUNDS, by phase; and
6. APPLICANT is committed to provide any additional funding that may be required beyond the original proposed APPLICATION match amount to deliver the phase of the PROJECT that is awarded with ALAMEDA CTC ADMINISTERED FUNDS; and
7. APPLICANT understands that ALAMEDA CTC ADMINISTERED FUNDS awarded to the PROJECT is limited to the Commission approved programmed amount by phase, and therefore any cost increases or unexpected funding shortfalls cannot be expected to be funded by shifting funds between phases, or by requesting additional ALAMEDA CTC ADMINISTERED FUNDS; and
8. APPLICANT understands that any cost savings in the ALAMEDA CTC-funded phase(s) will be shared proportionally between APPLICANT and ALAMEDA CTC; and
9. APPLICANT is committed to comply with the applicable requirements set forth in ALAMEDA CTC's Local Business Contract Equity ("LBCE") Program and related exhibits, as applicable, for professional services and construction contracts

funded with Measure B, Measure BB, and/or VRF funds, such as including LBCE Program goal(s) and provisions in applicable solicitations and resulting contracts, providing timely notification to ALAMEDA CTC of applicable solicitations prior to advertisement, and adhering to reporting requirements.

NOW, THEREFORE, BE IT RESOLVED that APPLICANT is authorized to file an APPLICATION to ALAMEDA CTC for funding for the PROJECT; and be it further

RESOLVED that APPLICANT hereby confirms that there is no pending or threatened litigation that might in any way adversely affect APPLICANT's ability to implement and deliver the proposed PROJECT; and be it further

RESOLVED that APPLICANT authorizes its City Manager or designee to execute the funding AGREEMENT with ALAMEDA CTC; and be it further

RESOLVED that APPLICANT shall provide ALAMEDA CTC with a fully-executed copy of this Resolution concurrently with submittal of the APPLICATION; and be it further

RESOLVED that the City Council of APPLICANT, by adopting this resolution, hereby confirms that:

1. APPLICANT will commit to implementing the PROJECT as described in the APPLICATION; and
2. APPLICANT will have adequate staffing resources to deliver and complete the PROJECT within the time period identified in the application; and
3. APPLICANT understands it will enter into an AGREEMENT with ALAMEDA CTC, and will comply with the AGREEMENT 's requirements, including adherence to the completion of the agreed upon project scope, project delivery milestones, funding deadlines, project reporting and deliverable deadlines; and
4. APPLICANT commits to delivering the PROJECT consistently with the Commission approved CIP Programming Guidelines and CIP policies, as they may change, for the funds awarded by the Commission to the PROJECT; and
5. APPLICANT will commit matching funds as proposed in the APPLICATION against the awarded ALAMEDA CTC ADMINISTERED FUNDS by phase in the amount of up to $500,000 for Detailed Engineering Design, anticipated to be from Alameda County Measure BB Transportation Sales Tax direct local

distribution; and

6. APPLICANT will provide any additional funding that may be required beyond the original proposed APPLICATION match amount to deliver the phase of the PROJECT that is awarded with ALAMEDA CTC ADMINISTERED FUNDS; and
7. APPLICANT understands that ALAMEDA CTC ADMINISTERED FUNDS awarded to the PROJECT are limited to the Commission approved programmed amount by phase, and therefore any cost increases or unexpected funding shortfalls cannot be expected to be funded by shifting funds between phases, or by requesting additional ALAMEDA CTC ADMINISTERED FUNDS; and
8. APPLICANT understands that any cost savings in the ALAMEDA CTC-funded phase(s) will be shared proportionally between APPLICANT and ALAMEDA CTC; and
9. APPLICANT will comply with the applicable requirements set forth in ALAMEDA CTC's Local Business Contract Equity ("LBCE") Program and related exhibits, as applicable, for professional services and construction contracts funded with Measure B, Measure BB, and/or VRF funds, such as including LBCE Program goal(s) and provisions in applicable solicitations and resulting contracts, providing timely notification to ALAMEDA CTC of applicable solicitations prior to advertisement, and adhering to reporting requirements.

Duly passed and adopted by the City of Berkeley at the Berkeley City Council meeting held on Tuesday, October 15, 2024 in Berkeley, California by the following votes:

AYES: **NOES:** **ABSTAIN:** **ABSENT:**

SIGNED:

_____
Jesse Arreguin, Mayor

ATTEST:

_____
Mark Numainville, City Clerk

RESOLUTION NO. ##,###N.S.

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF BERKELEY
AUTHORIZING THE FILING OF AN APPLICATION FOR ALAMEDA COUNTY TRANSPORTATION COMMISSION ADMINISTERED FUNDING FOR THE TELEGRAPH MULTIMODAL CORRIDOR PROJECT AND COMMITTING ANY NECESSARY MATCHING FUNDS AND STATING ASSURANCES TO COMPLETE THE PROJECT

WHEREAS, the Alameda County Transportation Commission ("ALAMEDA CTC") administers funding programs for projects and programs that benefit the Alameda County transportation system, consisting of 2000 Measure B, 2010 Vehicle Registration Fee ("VRF"), 2014 Measure BB, Congestion Management Agency Transportation Improvement Program (CMA-TIP), and Transportation Fund for Clean Air Programs, and such funding is collectively defined as and shall be referenced herein as the "ALAMEDA CTC ADMINISTERED FUNDS"; and

WHEREAS, the ALAMEDA CTC adopted 2026 Comprehensive Investment Plan ("CIP") Guidelines at its Commission meeting on May 23, 2024 which includes procedures governing the 2026 CIP application process, programming guidelines, and eligible uses of ALAMEDA CTC ADMINISTERED FUNDS;

WHEREAS, the City of Berkeley ("APPLICANT") is the project sponsor for the Telegraph Multimodal Corridor Project ("PROJECT")].

WHEREAS, the PROJECT will develop and implement detailed engineering plans for bikeway, pedestrian crossing, and transit improvements such as bus boarding islands and bus-only lanes on Telegraph Avenue between Dwight Way and Woolsey Street. The Project proposes a road diet to upgrade the existing Class II bike lanes to Class IV protected bike lanes, convert one travel lane to a bus-only lane, and retain one standard travel lane in each direction. The scope of work includes the redesign of the Dwight Triangle to improve pedestrian and transit access to Telegraph Avenue; and

WHEREAS, as the Project Sponsor, APPLICANT has the legal authority to apply for funding for PROJECT and plans to submit a 2026 CIP application ("APPLICATION") to ALAMEDA CTC for UP TO $2,000,000.

WHEREAS, there are no legal impediments to APPLICANT applying for funding and there is no active, pending or threatened litigation that may adversely affect the proposed PROJECT or the ability of APPLICANT to deliver such PROJECT; and

WHEREAS, APPLICANT authorizes its City Manager or designee to execute and file an application with ALAMEDA CTC for discretionary ALAMEDA CTC ADMINISTERED FUNDS for the PROJECT as referenced in this Resolution; and

WHEREAS, as part of the requirements to apply and receive ALAMEDA CTC ADMINISTERED FUNDS, ALAMEDA CTC requires a resolution adopted by the responsible implementing agency stating the following:

1. APPLICANT will implement the PROJECT as described in the APPLICATION; and
2. APPLICANT will have adequate staffing resources to deliver and complete the PROJECT within the time period identified in the APPLICATION; and
3. APPLICANT understands it will enter into a Project Funding Agreement ("AGREEMENT") with ALAMEDA CTC, and will comply with the AGREEMENT 's requirements, including adherence to the agreed upon project scope, project delivery milestones, funding deadlines, project reporting and deliverable deadlines; and
4. APPLICANT is committed to deliver the PROJECT consistently with the Commission approved CIP Programming Guidelines and CIP policies, as they may change, for the funds awarded by the Commission to the PROJECT; and
5. APPLICANT is committed to secure matching funds as proposed in the APPLICATION required for awarded ALAMEDA CTC ADMINISTERED FUNDS, by phase; and
6. APPLICANT is committed to provide any additional funding that may be required beyond the original proposed APPLICATION match amount to deliver the phase of the PROJECT that is awarded with ALAMEDA CTC ADMINISTERED FUNDS; and
7. APPLICANT understands that ALAMEDA CTC ADMINISTERED FUNDS awarded to the PROJECT is limited to the Commission approved programmed amount by phase, and therefore any cost increases or unexpected funding shortfalls cannot be expected to be funded by shifting funds between phases, or by requesting additional ALAMEDA CTC ADMINISTERED FUNDS; and
8. APPLICANT understands that any cost savings in the ALAMEDA CTC-funded phase(s) will be shared proportionally between APPLICANT and ALAMEDA CTC; and
9. APPLICANT is committed to comply with the applicable requirements set forth in ALAMEDA CTC's Local Business Contract Equity ("LBCE") Program and related exhibits, as applicable, for professional services and construction contracts

funded with Measure B, Measure BB, and/or VRF funds, such as including LBCE Program goal(s) and provisions in applicable solicitations and resulting contracts, providing timely notification to ALAMEDA CTC of applicable solicitations prior to advertisement, and adhering to reporting requirements.

NOW, THEREFORE, BE IT RESOLVED that APPLICANT is authorized to file an APPLICATION to ALAMEDA CTC for funding for the PROJECT; and be it further

RESOLVED that APPLICANT hereby confirms that there is no pending or threatened litigation that might in any way adversely affect APPLICANT's ability to implement and deliver the proposed PROJECT; and be it further

RESOLVED that APPLICANT authorizes its City Manager or designee to execute the funding AGREEMENT with ALAMEDA CTC; and be it further

RESOLVED that APPLICANT shall provide ALAMEDA CTC with a fully-executed copy of this Resolution concurrently with submittal of the APPLICATION; and be it further

RESOLVED that the City Council of APPLICANT, by adopting this resolution, hereby confirms that:

1. APPLICANT will commit to implementing the PROJECT as described in the APPLICATION; and
2. APPLICANT will have adequate staffing resources to deliver and complete the PROJECT within the time period identified in the application; and
3. APPLICANT understands it will enter into an AGREEMENT with ALAMEDA CTC, and will comply with the AGREEMENT 's requirements, including adherence to the completion of the agreed upon project scope, project delivery milestones, funding deadlines, project reporting and deliverable deadlines; and
4. APPLICANT commits to delivering the PROJECT consistently with the Commission approved CIP Programming Guidelines and CIP policies, as they may change, for the funds awarded by the Commission to the PROJECT; and
5. APPLICANT will commit matching funds as proposed in the APPLICATION against the awarded ALAMEDA CTC ADMINISTERED FUNDS by phase in the amount of up to $500,000 for Detailed Engineering Design, anticipated to be from Alameda County Measure BB Transportation Sales Tax direct local

distribution; and

6. APPLICANT will provide any additional funding that may be required beyond the original proposed APPLICATION match amount to deliver the phase of the PROJECT that is awarded with ALAMEDA CTC ADMINISTERED FUNDS; and

7. APPLICANT understands that ALAMEDA CTC ADMINISTERED FUNDS awarded to the PROJECT are limited to the Commission approved programmed amount by phase, and therefore any cost increases or unexpected funding shortfalls cannot be expected to be funded by shifting funds between phases, or by requesting additional ALAMEDA CTC ADMINISTERED FUNDS; and
8. APPLICANT understands that any cost savings in the ALAMEDA CTC-funded phase(s) will be shared proportionally between APPLICANT and ALAMEDA CTC; and

9. APPLICANT will comply with the applicable requirements set forth in ALAMEDA CTC's Local Business Contract Equity ("LBCE") Program and related exhibits, as applicable, for professional services and construction contracts funded with Measure B, Measure BB, and/or VRF funds, such as including LBCE Program goal(s) and provisions in applicable solicitations and resulting contracts, providing timely notification to ALAMEDA CTC of applicable solicitations prior to advertisement, and adhering to reporting requirements.

Duly passed and adopted by the City of Berkeley at the City Council meeting held on Tuesday, October 15, 2024 in Berkeley, California by the following votes:

AYES: **NOES:** **ABSTAIN:** **ABSENT:**

SIGNED:

_____
Jesse Arreguin, Mayor

ATTEST:

_____
Mark Numainville, City Clerk

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Office of the City Manager

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director of Public Works

Subject: Purchase Order: Golden State Emergency Vehicle for Fire Vehicle Parts and Repairs

RECOMMENDATION

Adopt a Resolution satisfying bid requirements of the City allowing the City to participate in Sourcewell (formerly NJPA) contract bid procedures, authorizing the City Manager to execute a purchase order with Golden State Emergency Vehicle for the purchase and repairs of fire vehicle parts for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $1,300,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding in the amount of $500,000 is available for FY 2025 in the baseline Public Works budget in Equipment Maintenance 672 Fund. Additional funding will be made available and appropriated as needed in future fiscal year budgets.

CURRENT SITUATION AND ITS EFFECTS

Golden State Emergency Vehicle is the City's vendor for parts for Pierce Manufacturing produced fire vehicles used by the City's Fire Department. This includes fire engines, ladder trucks, tiller trucks and hazmat trucks used by the Fire Department for their public safety work. The City also uses Golden State Emergency Vehicle for repairs of these vehicles as City facilities are not equipped to perform these types of repairs.

Pierce parts and repairs will be purchased from Golden State utilizing Sourcewell Contract No. 113021-OKC. Golden State is the exclusive Pierce dealer for the Northern California territory including the City and is authorized to provide parts and service.

This work will support the City's Strategic Plan Goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

Berkeley's Fire Department uses several specialized vehicles to perform their duties and respond to public safety issues. These vehicles are essential vehicles for the Fire

Department and given the size, weight and complexity of these parts, the City is unable to repair them internally.

Golden State Emergency Vehicle is the city's current authorized vendor for purchasing parts for and repairing these vehicles. Golden State is the exclusive distributor in Northern California of parts and repairs for vehicles produced by Pierce Manufacturing, who is the manufacturer of the specialized vehicles used by the Fire Department. As such, City of Berkeley needs a vendor that can provide the appropriate parts and repairs to keep these fire vehicles in service and replace parts as they reach the end of their useful life.

The city has been a no cost member of Sourcewell, formerly the National Joint Powers Alliance (NJPA), and a municipal contracting agency operating under the legislative authority of Minnesota Statute 123A.21. The original 1978 statue was revised in 1995 to allow government clients to better meet their specific needs through participation in a service cooperative, rather than paying the higher cost associated with individual procurement. Sourcewell allows participating municipal agencies to leverage the benefits of cooperative purchasing and reduces procurement costs.

All Sourcewell contracts have been competitively solicited nationwide. On October 12, 2021, Sourcewell released Request for Proposal No. 113021 for Firefighting Apparatus and Fire Service Vehicles. The solicitation was released for approximately forty-nine days and thirty-three proposals were submitted. Upon their review, Sourcewell selected Pierce Manufacturing as one of the most responsive proposers to meet the specifications, thusly awarding Contract No. 113021-OKC.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

This purchase order will allow Public Works Equipment Maintenance Department to continually maintain and repair Fire Department vehicles in a timely manner. This can prevent potential service interruptions that could impact the response time by the Fire Department when responding to public safety problems.

ALTERNATIVE ACTIONS CONSIDERED

If the City does not purchase from Golden State Emergency Vehicle, the City would need to purchase and repair heavy-duty vehicles from another vendor. However, Golden State is the exclusive dealer, distributor and repairer of parts for Pierce Manufacturing in California and the City's fire vehicles are from Pierce Manufacturing. Going with a different vendor would lead to increased purchasing expenses and delays in vehicle repairs due to having to ship equipment to vendors out of state.

CONTACT PERSON
Joy Brown, Operations Manager, Public Works, (510) 981-6629
Greg Ellington, Equipment Superintendent, Public Works, (510) 981-6469
Tucker Brofft, Senior Management Analyst, Public Works, (510) 981-5375

Attachment:
1: Resolution

RESOLUTION NO. ##,###-N.S.

PURCHASE ORDER: GOLDEN STATE EMERGENCY VEHICLE FOR FIRE VEHICLE PARTS AND REPAIR

WHEREAS, Golden State Emergency Vehicle ("Golden State") is the vendor for Fire Department vehicle parts and provides repairs to these vehicles; and

WHEREAS, the specialized product and service of Golden State are needed for ongoing replacement, maintenance and repair of fire vehicle parts; and

WHEREAS, the Equipment Maintenance Division needs to be able to purchase the specific parts for fire vehicles and provide repairs that staff are not able to perform to ensure the City's fire vehicles are continually operational and are replaced once they reach the end of their useful life; and

WHEREAS, on March 26, 2024 City Council authorized a purchase order extension through June 30, 2025 with Golden State Emergency Vehicle for fire vehicle parts and repair for a total not-to-exceed amount of $800,437.50; and

WHEREAS, Sourcewell bid procedures satisfy the procurement requirements of the City; and

WHEREAS, funding is available in the FY 2025 budget in Equipment Maintenance Fund 672, and funding will be requested in the FY 2026 and FY 2027 budgets though the annual budget process;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order satisfying bid requirements of the City of Berkeley allowing the City to participate in Sourcewell (formerly NJPA) bid procedures for Golden State Emergency Vehicle for purchase and repair of fire vehicle parts for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $1,300,000.

Office of the City Manager

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director, Department of Public Works

Subject: Purchase Order: Nicholas K Corp dba the Ford Store San Leandro for two 2024 Ford T350 E Transit Vans

RECOMMENDATION

Adopt a Resolution satisfying the requirements of City Charter allowing the City Manager to participate in Alameda County GSA Master Contract No. 901979 and authorize the City Manager to execute a purchase order for two 2024 Ford T350 E Transit Vans with Nicholas K Corp dba the Ford Store San Leandro in an amount not to exceed $165,500.00.

FISCAL IMPACTS OF RECOMMENDATION

The cost of two 2024 Ford T350 E Transit Vans will not exceed $165,500.00 and includes upfitting, CA tire fees, delivery to the City, and sales tax. Funding for the purchase of these vehicles is available in the FY 2025 Equipment Replacement (Fund 671) baseline budget. Sufficient funding has been contributed to the Equipment Replacement Fund towards the replacement of two current vehicles reaching the end of their useful life. These vehicles are eligible for Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project which will provide a discount of approximately $7,500 per van at the time of purchase.

CURRENT SITUATION AND ITS EFFECTS

Five vans in the Public Works Meter Maintenance Division are approaching the end of their useful life. The Department plans to replace all five with electric vans in the next six months with staggered delivery due to the lack of charging infrastructure for these vehicles at the Corporation Yard. This purchase of two 2024 Ford T350 E Transit Vans will replace two of the afore mentioned five units that have reached the end of their useful life. The replacement vehicles are needed by the City's Public Works Department Facilities Division and Transportation Meter Maintenance Division in their work to provide well maintained facilities and patrolling residential, business, and parking permitted locations within the City to ensure adherence to local regulation and state vehicle code laws. The two vehicles being replaced are gas model vans from 2013.

This purchase will support the City's Strategic Plan Priority of advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

Throughout the year, each City Department pays its proportionate share into the Equipment Replacement Fund, and those funds are utilized to replace equipment at the end of its useful life. If a vehicle request exceeds $100,000 the Department of Finance-General Services Division solicits bids or piggybacks off competitively bid contracts to ensure City Departments receive the best pricing.

On June 16, 2021, the County of Alameda General Services Agency released Request for Quotation (RFQ) No. 901979 for Vehicle Purchase. RFQ No. 901979 language required that the award goes to the qualified bidder with the lowest markup over the triple-net dealer invoice price. Triple-net is the dealer's actual cost of the vehicles after all discounts, rebates, and deductions are applied.

On July 27, 2021, one bid was received and upon review by the evaluation committee, Nicholas K Corp dba the Ford Store San Leandro was determined to be a responsive responsible bidder and was awarded County of Alameda Purchase Order Contract (Master Contract No. 901979). The County of Alameda's bid procedure satisfies the procurement requirements of the City. The term of the Agreement between the County of Alameda and the Nicholas K Corp dba the Ford Store San Leandro is October 1, 2021 through September 30, 2024.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

With this purchase, the Public Works Facilities Division and the Transportation Meter Maintenance Division staff are replacing two model year 2013 gas powered transit vans with new electric vans. This purchase satisfies the State of California Advanced Clean Fleet (ACF) Regulation requiring fleets to transition to zero emissions vehicles to protect the public health and welfare.

RATIONALE FOR RECOMMENDATION

Public Works Department Facilities Division and the Transportation Meter Maintenance Division vehicles must be replaced on a reasonable schedule to ensure employees can safely, effectively and efficiently carry out their duties. These purchases support compliance with City and State vehicle electrification requirements.

ALTERNATIVE ACTIONS CONSIDERED

None. Listed vehicles have reached the end of their useful life.

CONTACT PERSON

Greg Ellington, Superintendent, Public Works, (510) 981-6469
Joy Brown, Operations Manager, Public Works, (510) 981-6629
Tucker Brofft, Senior Management Analyst, Public Works, (510) 981-5375
Sara Rubio, Associate Management Analyst, Public Works, (510) 981-5372

Attachment:
1: Resolution

RESOLUTION NO. ##,###-N.S.

PURCHASE ORDER: NICHOLAS K CORP DBA THE FORD STORE SAN LEANDRO FOR TWO (2) 2024 FORD T350 E TRANSIT VANS

WHEREAS, two E Transit Vans are needed by the Public Works Department to replace existing vehicles that have reached the end of their useful life; and

WHEREAS, vehicles must be replaced on a reasonable schedule that allows City employees to efficiently and effectively carry out their duties; and

WHEREAS, the E Transit Van is the preferred Public Works Department vehicle for many cities because of its capacity to hold and transport equipment; and

WHEREAS, the County of Alameda General Services Agency bid procedures satisfy the procurement requirements of the City of Berkeley; and

WHEREAS, funding in the amount of $165,000.00 is available in the FY 2025 Equipment Replacement Fund 671; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order satisfying requirements of City Charter allowing the City to participate in County of Alameda General Services Agency bid procedures for two 2024 Ford T350 E Transit Vans with Nicholas K Corp dba the Ford Store of San Leandro in an amount not to exceed $165,000.00.

Office of the City Manager

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: LaTanya Bellow, Interim City Manager

Submitted by: Terrance Davis, Director of Public Works

Subject: Purchase Order: Pape Machinery, Inc. for Heavy Equipment Parts and Repairs

RECOMMENDATION

Adopt a Resolution satisfying bid requirements of the City of Berkeley allowing the City to participate in Sourcewell (formerly NJPA) contract bid procedures, authorizing the City Manager to execute a purchase order with Pape Machinery, Inc. for the purchase and repairs of heavy equipment parts for the period October 1, 2024 to December 31, 2027 for an amount not to exceed $1,000,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding in the amount of $350,000 is available for FY 2025 in the baseline Public Works budget in Equipment Maintenance 672 Fund pending the approval of the first amendment to the Annual Appropriations Ordinance (AAO1). Additional funding will be made available and appropriated as needed in future fiscal year budgets.

CURRENT SITUATION AND ITS EFFECTS

Pape Machinery, Inc., is the City of Berkeley's vendor for heavy equipment parts for heavy-duty construction vehicles manufactured by John Deere. This includes bulldozers, loaders, backhoes and other vehicles. These vehicles support the work of Public Work's Zero Waste, Equipment Maintenance and Streets & Utilities Divisions. The City also uses Pape for repairs of this equipment as City facilities are not equipped to perform these types of repairs.

John Deere heavy equipment parts and repairs will be purchased from Pape utilizing Sourcewell Contract No. 011723-JDC. Pape is the exclusive John Deere dealer for the Northern California territory including the City of Berkeley and is authorized to provide parts and service.

This work will support the City's Strategic Plan Goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

City's Public Works Department uses heavy-duty vehicles for many of its projects. This equipment is used to move waste at the transfer station, remove illegal dumping debris, transport materials and support street repair projects. These vehicles are essential vehicles for Public Works and given the size, weight and complexity of the heavy equipment parts, the City is unable to repair them internally.

Pape is the City's current vendor for purchasing and repairing these parts. They are also an authorized distributor of parts and repairs for John Deere manufactured vehicles, which are the vehicles the City uses. As such, the City needs a vendor that can provide the appropriate parts and repairs to keep these heavy-duty vehicles in service and replace parts as they reach the end of their useful life.

The City of Berkeley has been a no cost member of Sourcewell, formerly the National Joint Powers Alliance (NJPA), and a municipal contracting agency operating under the legislative authority of Minnesota Statute 123A.21. The original 1978 statue was revised in 1995 to allow government clients to better meet their specific needs through participation in a service cooperative, rather than paying the higher cost associated with individual procurement. Sourcewell allows participating municipal agencies to leverage the benefits of cooperative purchasing and reduces procurement costs.

All Sourcewell contracts have been competitively solicited nationwide. On November 15, 2022, Sourcewell released Request for Proposal No. 011723 for Heavy Construction Equipment with Related Attachments and Technology. The solicitation was released for approximately sixty-three days and eighteen proposals were submitted. Upon their review, Sourcewell selected John Deere Shared Services, LLC as one of the most responsive proposers to meet the specifications, thusly awarding Contract No. 011723-JDC.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental or climate impacts with this action aside from ensuring vehicles are in their best operating condition.

RATIONALE FOR RECOMMENDATION

This purchase order will allow Public Works Equipment Maintenance Department to continually maintain and repair the city's heavy-duty vehicles in a timely manner and prevent potential service interruptions.

ALTERNATIVE ACTIONS CONSIDERED

If the City does not purchase from Pape, the City would need to purchase and repair heavy-duty equipment from another vendor. However, Pape is the exclusive dealer and distributor of heavy equipment parts for John Deere in the Bay Area and the City's heavy-duty vehicles are from John Deere. Going with a different vendor would lead to increased purchasing expenses and delays in vehicle repairs due to having to ship equipment to vendors farther away than Pape.

CONTACT PERSON
Joy Brown, Operations Manager, Public Works, (510) 981-6629
Greg Ellington, Equipment Superintendent, Public Works, (510) 981-6469
Tucker Brofft, Senior Management Analyst, Public Works, (510) 981-5375

Attachment:
1: Resolution

RESOLUTION NO. ##,###-N.S.

PURCHASE ORDER: PAPE MACHINERY, INC. FOR HEAVY EQUIPMENT PARTS AND REPAIRS

WHEREAS, Pape Machinery, Inc ("Pape") is the manufacturer of the heavy equipment parts and provides repairs for the City of Berkeley heavy-duty vehicles; and

WHEREAS, the specialized product and service of Pape are needed for ongoing replacement, maintenance and repair of heavy equipment parts; and

WHEREAS, the Equipment Maintenance Division needs to be able to purchase the specific parts for the heavy equipment and provide repairs that staff are not able to perform to ensure the City's heavy-duty vehicles are continually operational and are replaced once they reach the end of their useful life; and

WHEREAS, on March 26, 2024, City Council authorized a purchase order extension through June 30, 2025 with Pape Machinery, Inc. for heavy equipment parts and repair for a total not-to-exceed amount of $666,697.50; and

WHEREAS, Sourcewell bid procedures satisfy the procurement requirements of the City of Berkeley; and

WHEREAS, funding is available in the FY 2025 budget in Equipment Maintenance Fund 672 pending the approval of the first amendment to the Annual Appropriations Ordinance (AAO1), and funding will be requested in the FY 2026 and FY 2027 budgets though the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order satisfying bid requirements of the City of Berkeley allowing the City to participate in Sourcewell (formerly NJPA) bid procedures for Pape Machinery, Inc. for purchase and repairs of heavy equipment parts for the period October 1, 2024 to June 30, 2027 for an amount not to exceed $1,000,000.

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Parks, Recreation and Waterfront Commission

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Parks, Recreation and Waterfront Commission

Submitted by: Claudia Kawczynska, Chairperson

Subject: Councilmember Taplin's Referral regarding Cal Sailing Club's six historic J-Dock berths

RECOMMENDATION
Recommend that Council adopt a resolution designating Cal Sailing Club's six historic J-Dock berths for safety training for boating activities, community service, and recreational education uses, and directing the City Manager to retain the six slips for Cal Sailing Club (CSC) to use for nonprofit sailing instruction programs and to be reviewed every four years.

FINANCIAL IMPLICATIONS
None

CURRENT SITUATION AND ITS EFFECTS
At a regular meeting of the Parks, Recreation, and Waterfront Commission, after hearing public comment, the commission took action to recommend that Council adopt a resolution designating Cal Sailing Club's six historic J-Dock berths for safety training for boating activities, community service, and recreational education uses, and directing the City Manager to retain the six slips for Cal Sailing Club (CSC) to use for nonprofit sailing instruction programs and to be reviewed every four years. M/S/C (Abshez/Hurtado/U); Ayes: Abshez; Bell; Hurtado; Kawczynska; Ranuzzi; Wozniak; Diehm; Noe: None; Absent: Cox.

BACKGROUND
On May 1, 2024, the Berkeley City Council Agenda & Rules Committee took action to refer Item 26. J-Dock Uses (Taplin) to the Parks, Recreation & Waterfront Commission for consideration. Item 26 can be viewed at the following link: https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/5-14-24%20TT%20J-Dock%20Resolution%20APRIL%2 0REVISED-2.pdf

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
No negative environmental impacts were identified as a result of this recommendation.

RATIONALE FOR RECOMMENDATION

We concur with Councilmember Taplin's report that supports the designation of Cal Sailing Club's six slips at J-Dock for their use for nonprofit sailing instruction programs to be reviewed every four years.

ALTERNATIVE ACTIONS CONSIDERED

None

CITY MANAGER

The City Manager concurs with the recommendation and supports the inclusion of a $35,000 budget referral to the Marina fund given the significant deficit in that fund.

CONTACT PERSON

Claudia Kawczynska, Chairperson, Parks, Recreation and Waterfront Commission
Roger Miller, Secretary, Parks, Recreation and Waterfront Commission, 510-981-6704

RESOLUTION NO. ##,###-N.S.

CAL SAILING CLUB'S SIX HISTORIC J-DOCK BERTHS

WHEREAS, the Berkeley Marina is a treasured public facility, developed as the Berkeley Yacht Harbor in the 1930s by the Works Progress Administration, which provides recreational opportunities for residents and visitors of all ages, abilities, and backgrounds; and

WHEREAS, Cal Sailing Club's 50-year unique J-Dock open water location provides incomparable access for sailboats to depart and dock under sail in any wind direction, the J-Dock provides incomparable access for sailboats to depart and dock in open water under any wind conditions; and

WHEREAS, the nonprofit Cal Sailing Club has provided sailing instruction programs and low-income youth programs for free, with membership available at low or no cost to any member of the public, with open access approaches for sailboats at the J-Dock for 50 years; and

WHEREAS, the Open Space and Recreation Element of City of Berkeley's General Plan, adopted in 2002, commits the city to "[e]nsure that park facilities and recreational activities are available at low costs to low-income residents and accessible by public transportation"; and

WHEREAS, the City of Berkeley and the State of California are investing unprecedented sums in various capital projects to revitalize the Berkeley Marina and preserve legacy recreational uses; and

WHEREAS, at a regular meeting of the Parks, Recreation, and Waterfront Commission, after hearing public comment, the commission took action to recommend that Council adopt a resolution designating Cal Sailing Club's six historic J-Dock berths for safety training for boating activities, community service, and recreational education uses for four years, and directing the City Manager to retain the six slips for Cal Sailing Club (CSC) to use for nonprofit sailing instruction programs for four years. M/S/C (Abshez/Hurtado/U). Ayes: Abshez; Bell; Hurtado; Kawczynska; Ranuzzi; Wozniak; Noe: None; Absent: Cox.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council designates Cal Sailing Club's six historic J-Dock berths for safety training for boating activities, community service, and recreational education uses, and directing the City Manager to retain the six slips for Cal Sailing Club (CSC) to use for nonprofit sailing instruction programs and to be reviewed every four years.

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Office of the Mayor

CONSENT CALENDAR
October 15, 2024

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín

Subject: Amending BMC Section 9.04.165 -Tax Exemption for Research & Development Grants

RECOMMENDATION

Adopt a first reading of an Ordinance amending Berkeley Municipal Code Section 9.04.165 to exempt the taxation of business gross receipts relating to government and philanthropic research and development grants in the public interest.

BACKGROUND

Home to the University of California, Berkeley, ranked number one worldwide for the number of venture-backed startups founded by undergraduate alumni[1] and the Lawrence Berkeley National Laboratory (one of 17 national Department of Energy research laboratories), the city of Berkeley is an attractive place for technology startups and research and development (R&D) companies.

As of late 2023, the city had approximately 400 innovation sector companies, with 325 of them (81%) considered “startups”. Of these, 35% are in Healthcare & Life Sciences, 14% in CleanTech (aka ClimateTech), 13% in Hardware, and 2% in FoodTech.[2]

All of these innovation industry subsectors leverage R&D grant funding to develop solutions that serve environmental and societal objectives, such as solutions for human health, environmental quality, climate change mitigation and adaptation, and national defense. These grants come from various federal agencies, such as the Environmental Protection Agency, National Science Foundation, and Departments of Energy, Defense, or Health and Human Services, as well as state agencies like the California Energy Commission or Department of Food and Agriculture, and philanthropic non-profit

[1] 2023 Pitchbook University Rankings. https://pitchbook.com/news/articles/pitchbook-university-rankings

[2] Companies defined as startups are for-profit businesses that sell innovative technology products or services OR substantively use innovative technologies to develop and manufacture their products or provide their services AND are developing repeatable and scalable business models that aren’t yet profitable. See the *2023 Citywide Economic Dashboard*, published by the City of Berkeley Office of Economic Development for more details.
https://berkeleyca.gov/sites/default/files/documents/Economic%20Dashboard%202023.pdf

organizations like the Bill & Melinda Gates Foundation and the Grantham Foundation[3]. Additionally, many of the early-stage companies in Berkeley's many accelerator and incubator programs, such as Berkeley SkyDeck, Activate-Berkeley, Cyclotron Road at the Berkeley Lab, Bakar Labs, Bonneville Labs and CITRIS Foundry, are recipients of government and philanthropic R&D grants, including environmental technology companies like All Power Labs, Twelve, and Widesense, foodtech companies like Akorn Technology and Novel Farms, hardware companies like Squishy Robotics and Sonera Magnetics, and biotech companies like Valitor, Xalud Therapeutics, Resvita Bio, and Glyphic Bio.

These companies are undertaking research and development in the public interest, to develop renewable energy technologies, sustainable aviation fuels and plastics, electric vehicle fleet management software, bio-based coatings to reduce food waste, plant-based meat products, safer assessment tools for first responders, treatments for a wide range of debilitating and life threatening diseases, and other solutions for society's pressing health and environmental problems, all while providing our community with jobs and opportunities for wealth creation.

For startups and R&D companies that are dependent on R&D grants as their primary source of financing, the City of Berkeley's gross receipts taxation of such grants poses a disincentive for them to locate or grow in Berkeley, as Berkeley's business license tax rate is already one of highest among Bay Area cities[4]. It also creates a perception that Berkeley is not startup-friendly, despite the city's status as a hub of intellectual creativity and technological innovation.

As such, in 2019, my office, with support from the Office of Economic Development and Finance Department, brought forth an item to provide tax waivers for Berkeley small businesses that have received governmental R&D grants, which was approved by Council on May 28, 2019. The Berkeley Municipal Code (Section 9.04.165) was amended to include the following local tax exemption:

> *Any person subject to a license under provisions of this section with less than $100,000 in annual gross receipts, as defined in Section 9.04.025, net of governmental research grants, may exclude from gross receipts up to $1,000,000 received from governmental research grants, providing that a list of those grants and the amounts of payments received are reported to the City as defined by the Director of Finance.*

Since then, 21 companies have received a R&D grant tax waiver, of which four (almost one-fifth) have reached the $1 million maximum and several companies have been

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[3] The Bill & Melinda Gates Foundation is a nonprofit fighting poverty, disease, and inequity with a mission to create a world where every person has the opportunity to live a healthy, productive life. The Grantham Foundation is a 501(c)(3) private foundation with a mission to protect and conserve the natural environment.

[4] *Business Taxes in the Bay Area: A City Level Analysis. Bay Area Council Economic Institute, February 2023. https://www.bayareaeconomy.org/files/pdf/BACEI-SF-Business-Tax-Feb2023.pdf*

denied the waiver because they either had other gross receipts exceeding $100,000 (e.g. from interest income on equity investments made in the company, tax credits, or subcontract awards for R&D services) or received a R&D grant from a non-profit philanthropic organization, rather than government entity.

These companies, along with startups that are currently ineligible for the R&D grant tax waiver, have since brought to the City's attention that the size of the grant award does not correspond to the company's profitability or likelihood of success. Rather, companies have to propose to hit aggressive milestones to receive government grant funding and once they do, they need to use that funding to achieve those milestones (e.g. hire researchers, purchase equipment to run experiments, etc.). At the federal level, taxes are not allowable costs in SBIR and STTR grant awards, either as direct or facilities and administrative (F&A) costs, so the local tax burden impacts a company receiving a $200,000 dollar R&D grant just as much as a company that receives a grant of $2 million: funds paid towards local taxes diminish the company's ability to achieve grant milestones. In other words, a company's committed project scope scales commensurately with the dollar amount of the grant, and thus the $1 million cap in the current BMC language fails to achieve the policy's intent to help early-stage companies conducting R&D in the public interest to achieve their goals and grow in Berkeley.

Further, the landscape of Berkeley startups has changed a lot in the past 5 years. It now includes more biotech and climate-tech companies where timelines for federal approval of drugs and medical devices are longer, and large capital investments are required to demonstrate proof of concept. As such, more companies are receiving larger grant awards from federal, state, and other impact-oriented nonprofits and it is these very same companies that the City wants to support, not only for economic development, but also to address the community (and world's) environmental and health challenges.

Similarly, companies that receive R&D grant funding from non-profit foundations and philanthropic organizations face the same issues with regard to the efficiency with which they develop high-impact solutions, but they do not currently have the opportunity to apply for this tax waiver. And, in these cases, Berkeley R&D companies are at a disadvantage to those from other cities when they apply for grant funding, as donors prefer to invest in places where grant money can be used most efficiently by the grantee to achieve its proposed outcomes.

Updating the ordinance tax language to recognize both government and *philanthropic* R&D grants, and provide the benefit to any business receiving such a grant, regardless of the size of the grant or other income, will enable more startups and R&D companies to grow in Berkeley, thereby leading to more potential overall business tax contributions to the City in the long run. Simultaneously, it will allow the full amount of R&D grant awards to be used to achieve the social, environmental and health challenges that these companies seek to address, and lessen local companies' incentives to move to another location with a less onerous tax structure.

RATIONALE FOR RECOMMENDATION
Providing a tax exemption on government and philanthropic R&D grants will greatly benefit innovation companies that rely on these grants to move forward on projects which are in the interest of society and the environment. Updates to the current ordinance could enable Berkeley's smaller companies to become tomorrow's engines of the economy. It will also provide an incentive for such business to remain in Berkeley and contribute to the city's tax base in the long run, thereby contributing to Berkeley's future economic vitality.

FINANCIAL IMPLICATIONS
Slight loss in tax revenue that will likely be recouped through more businesses remaining in Berkeley as they grow.

ENVIRONMENTAL SUSTAINABILITY
Not applicable.

CONTACT PERSON
Mayor Jesse Arreguín 510-981-7100
Lars Skjerping LSkjerping@berkeleyca.gov

Attachments:

1. Ordinance

ORDINANCE NO. XXXX-N.S

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 9.04, BUSINESS LICENSES

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

Section 1. That Section 9.04.165 of the Berkeley Municipal Code is amended to read as follows:

9.04.165 Professional--Semiprofessional--Connected business.

A. Finance, Insurance, Banking (including Savings and Loans) and Real Estate. Every person in any business, profession or occupation within the business field of finance, insurance and real estate, as described in the most practicable version of the U.S. Government Printing Office publication North American Industrial Classification System Manual, except for those persons whose business is primarily renting real property, as defined in Section 9.04.195, shall be classified as a professional-semiprofessional.

B. Health, Veterinary, Legal, Educational, Engineering-Architectural-Surveying, Accounting-Auditing-Bookkeeping, and Miscellaneous Services Not Classified Elsewhere. Every person in any business, profession, or occupation within the business fields of health, veterinary, legal, education, engineering-architectural surveying, accounting-auditing-bookkeeping, and miscellaneous services not classified elsewhere, as described in the current U.S. Government Printing Office publication entitled North American Industrial Classification System Manual shall be classified as professional-semi-professional.

C. Nothing contained in this section shall be deemed or construed as applying to any person engaged in any of the professions or occupations enumerated in this section solely as an employee or partner of any other person or entity conducting, managing or carrying on any such business in the City.

D. Any person subject to a license under provisions of this section may exclude from gross receipts the portion of those receipts paid to subcontractors, providing that a list of such subcontractors and the amounts of payment are reported to the Director of Finance. The Finance Department shall pursue collection of the business license tax from all reported subcontractors.

E. Any person subject to a license under provisions of this section ~~with less than $100,000 in annual gross receipts, as defined in Section~~ 9.04.025~~, net of governmental research grants,~~ may exclude governmental or philanthropic research and development ("R&D") grants from gross receipts (as defined in Section 9.04.025) ~~up to $1,000,000 received from governmental research grants~~, providing that a list of those grants and the amounts of payments received

are reported to the City as defined by the Director of Finance. (Ord. 7655-NS § 1, 2019: Ord. 7338-NS § 5, 2014: Ord. 6714-NS § 2, 2002: Ord. 6598-NS § 2, 2000: Ord. 5984-NS § 1, 1990: Ord. 5017-NS § I (part), 1977)

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

22

Rashi Kesarwani
Councilmember, District 1

CONSENT CALENDAR
October 15, 2024

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author)

SUBJECT: Naming the Harrison Street Skate Park in Honor of Terrance McCrary

RECOMMENDATION

Referral to the Parks, Recreation and Waterfront Commission to officially name the Harrison Street Skate Park in honor of Terrance McCrary, Jr., former skateboard counselor in training with our Recreation Division's Skate Camp and Berkeley resident killed by gun violence.

BACKGROUND

Terrance McCrary Jr., also known as T-Mack, was born on September 15, 1993. By all accounts he was a vibrant, big hearted person who had a passion for skateboarding and art.[1] He graduated from Berkeley public schools, attended Berkeley City College and worked at 510 Skateboarding skate shop on Telegraph avenue as a way to fuel his interests. Terrance also worked at the Harrison Skate Park as a counselor in training with the city's recreation division and was a mentor to younger kids who shared his love for skating. On August 14, 2016 at the age of 22, Terrance was killed while attending a party in Uptown Oakland. Two other attendees got into a fight; one of them pulled a gun on the other shooting him dead and taking Terrance's life as well. Terrance continues to live in the hearts of those whose lives he touched and have a presence within the skateboarding community.

Every year the McCrary family, in conjunction with the City of Berkeley's Recreation Division, hosts an annual T-Mack Skate Jam with free food, music and prizes in honor of Terrance, celebrating his life, memory, and passion for skateboarding. It is a moment to celebrate life and bring the skateboarding community together while also recognizing the pain and devastation of gun violence.

[1] Berkeleyside Obituary written by friend Delency Parham, August 15, 2016: https://www.berkeleyside.org/2016/08/15/in-loving-memory-of-terrence-mccrary-1993-2016. See also

2180 Milvia Street, Berkeley, CA 94704 ● Tel: (510) 981-7110 ● TDD: (510) 981-6903 ● Fax: (510) 981-7111
E-Mail: rkesarwani@cityofberkeley.info

While currently there is a sign at the Harrison Skate Park honoring Terrance's life and contributions to the skateboarding community at the park, it is officially known as the Harrison Skate Park. Officially naming the skate park after Terrance would be a way to further honor his life and tie the annual T-Mack Skate Jam celebrations permanently to this park.

CURRENT SITUATION AND ITS EFFECTS

Built in the early 2000s, Harrison Skate Park, located at 711 Harrison Street, is an 18,000 square foot park designed for skateboarders of all levels. It contains a large oval bowl, a fun box, and dedicated areas for beginners. The City of Berkeley's Recreation DIvision hosts summer camps and events for youth at all skill levels. Operating hours are 8 a.m. to 9:30 p.m.

ENVIRONMENTAL SUSTAINABILITY

There is no significant environmental impact of naming the skate park after Terrance McCrary, Jr.

FISCAL IMPACT

Officially naming the skate park after Terrance would require new signage in multiple locations. Parks, Recreation and Waterfront Director Scott Ferris estimated the costs at less than $5,000.

CONTACT PERSON

Councilmember Rashi Kesarwani, 510-981-7110

Attachments:
Flyer for 2023 T-Mack Skate Jam

2180 Milvia Street, Berkeley, CA 94704 ● Tel: (510) 981-7110 ● TDD: (510) 981-6903 ● Fax: (510) 981-7111
E-Mail: rkesarwani@cityofberkeley.info

City of Berkeley
Recreation Divison Presents

Parks Make Life Better!

T-MACK SKATE JAM

Saturday, September 16th, 2023
Berkeley Skate Park, 711 Harrison St
11:30 - 3:00PM



Terrence McCrary Forever

FREE EVENT FOR ALL

Free Food /Music/ Good Vibes

This is an annual event celebrating the life and memory of Terrence McCrary Jr. Terrence grew up riding the Berkeley Skate Park and was a Counselor-in-Training for the Recreation Division's Skate Camp in 2012.

This event will feature a skate jam, raffle prize giveaways, art creations, live music (DJ and music artist) and refreshments.

Sponsored By 510 Skateboarding, Skate XP, Deluxe Distribution

Refreshments will be donated by the McCrary family

For more information, call Tahir Dossett at 510-981-6690 or email: tdossett@berkeleyca.gov

Berkeley City Councilmember
Mark Humbert, District 8
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
mhumbert@berkeleyca.gov

CONSENT CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

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

Subject: Russell Street Halloween Festivities: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed $1,000 per Councilmember including $1,000 from Councilmember Humbert to the Claremont Elmwood Neighborhood Association for Russell Street Halloween festivities with funds relinquished to the City's General Fund for this purpose from the discretionary Council Office Budgets of Councilmember Humbert and any other Councilmembers who would like to contribute.

BACKGROUND

Russell Street Halloween in the Elmwood neighborhood is a long-standing tradition that draws large crowds of trick-or-treaters and other ooky-spooky Halloween characters.[1] This community-led event features lovingly decorated homes, costumes, and seasonal activities. Residents on Russell Street transform their houses into creepy and fun displays, making it one of the best spots for trick-or-treating in Berkeley. The event has become a cherished celebration, especially for families seeking a lively and safe Halloween experience. These funds will help the event cover expenses and ensure that Russell Street Halloween remains a Boo-erkeley tradition for years to come.

FINANCIAL IMPLICATIONS

No General Fund impact. $1,000 is available from Councilmember Humbert's office budget discretionary account.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with adopting this recommendation.

CONTACT PERSON

Councilmember Mark Humbert Council District 8 510-981-7180

[1] https://www.berkeleyside.org/2022/11/01/halloween-elmwood-berkeley-trick-treat

RESOLUTION NO. ##,###-N.S.

RUSSELL STREET HALLOWEEN FESTIVITIES

WHEREAS, the Russell Street Halloween festivities, sponsored by the Claremont Elmwood Neighborhood Association, will take place on October 31, 2024; and

WHEREAS, the annual event is a fang-tastic Elmwood community tradition; and

WHEREAS, Russell Street Halloween is a skele-ton of fun for the whole family; and

WHEREAS, Councilmember has surplus funds in his office expenditure account, witch he would like to contribute to the event; and

WHEREAS, the Claremont Elmwood Neighborhood Association is trick-or-treating for funds in the amount of $1,000 to help cover the costs of the festivities; and

WHEREAS, coffin up funds for this event would serve the civic interests of community-building, creating safe spaces for holiday celebrations, and preventing this event from ghosting;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Councilmembers from their Council Office Budgets up to $1,000 per office shall be granted to the Claremont Elmwood Neighborhood Association for helping cover the costs of Russell Street Halloween festivities.

24

Office of the City Manager

ACTION CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department

Subject: Amendments to the of Berkeley Green Code to require all newly constructed buildings to be Zero NOx Emission Buildings

RECOMMENDATION

1. Adopt first reading of an Ordinance amending the Berkeley Green Code, BMC Chapter 19.37, to require all newly constructed buildings to be Zero NOx Emission Buildings with two exceptions: 1. for industrial or manufacturing processes; and 2. for cooking equipment serving nonresidential occupancies in buildings; and

2. Adopt a Resolution setting forth findings of local conditions that justify more stringent regulations than those provided by the 2022 California Green Building Standards Code with Mid-Cycle Supplements.

SUMMARY

The proposed legislation would require that all newly constructed buildings be Zero NOx Emission Buildings. If adopted, the Ordinance would take effect January 1, 2025, and would not impact previous local amendments to the California Green Building Standards Code (CALGreen), last adopted with “Mid-Cycle Supplements” through Ordinance No. 7,906-N.S., which became effective July 1, 2024.

FISCAL IMPACTS OF RECOMMENDATION

The proposed Ordinance will modestly increase the plan check and inspection workload. Costs would be covered by existing fees paid by permit applicants. There are no net fiscal impacts from this amendment of the Berkeley Green Code.

CURRENT SITUATION AND ITS EFFECTS

On May 7, 2024, City Council referred to the Health, Life Enrichment, Equity & Community (HLEEC) Policy Committee to consider local amendments to CALGreen to require all newly constructed buildings to be Zero NOx Emission Buildings. On July 29, 2024, the HLEEC Policy Committee unanimously voted to send Council a qualified, positive recommendation for the Zero NOx CALGreen reach code, noting also that

Council should consider a commercial kitchen exemption, or as an alternative, consider a single margin energy reach code.

HEALTH IMPLICATIONS

The proposed Ordinance would require all newly constructed buildings of all occupancies to meet the definition of a Zero NO_X Emission Building: a newly constructed building that exclusively uses Zero NO_X Emission Appliances. Nitrogen Oxides are defined as the sum of nitrogen oxide (NO) and nitrogen dioxide (NO_2), collectively expressed as NO_X, which is a harmful air pollutant. Short-term exposure can aggravate asthma and other respiratory illnesses, and can lead to hospital admissions and emergency room visits.[1] Long-term exposure can cause asthma and potentially increase susceptibility to respiratory infections.[2] Further, NO_X contributes to acid rain and is one of the building-blocks of ozone, an air pollutant, a greenhouse gas, and a major component of smog.[3] This Ordinance would set a higher standard for health and environmental protection by improving air quality. This is consistent with the published purpose of the California Green Building Standards Code "to improve the health, safety and general welfare by enhancing the design and construction of buildings through the use of concepts having a reduced negative impact."

This proposed ordinance addresses an immediate health concern of growing importance for Berkeley residents. The Bay Area Air Quality Management District (BAAQMD) notes that: "In 2019, emissions from residential natural gas combustion accounted for roughly the same amount of NO_X emissions as passenger vehicles."[4] However, shifts in remote work practices since 2019 have likely increased that percentage, both due to increased work from home hours and reduced work commutes. BAAQMD further notes that, "Through the reduction of NO_X and particulate matter emissions, the proposed [BAAQMD Zero NOx appliance] amendments are projected annually to prevent up to 85 premature deaths and save up to $890 million in health impacts."[5] In summary, the proposed Berkeley amendment for Zero NO_X Emission Buildings advances towards a built environment consistent with current understanding of human disease prevention and environmental health.

Cooking equipment, such as ranges, cooktops, and ovens that emit NOx, exposes users to the NOx emissions and impacts their health. The use of exhaust fans and vent hoods while cooking limits exposure indoors, but does not remove it completely. The highest cited capture efficiency rate of residential kitchen vent hoods in the Energy Code is 85%, meaning cooks will inhale some combustion byproducts when a NOx

[1] https://www.epa.gov/no2-pollution/basic-information-about-no2
[2] ibid
[3] https://www3.epa.gov/airnow/mediakits/ozone/facts.pdf
[4] https://www.baaqmd.gov/~/media/dotgov/files/rules/reg-9-rule-4-nitrogen-oxides-from-fan-type-residential-central-furnaces/2021-amendments/documents/20230522_faq_appliance-rules_final-pdf.pdf?rev=b425fe938f644fa7839f8d938cad41fd&sc_lang=en
[5] ibid

emitting appliance is being used. Residential and commercial kitchen vent hoods exhaust the NOx emissions to the outside.

From a health and safety standpoint, using Zero NOx Emitting cooking equipment, whether in homes or restaurants, offers the greatest health benefit. Allowing an exception from Zero NOx for cooking equipment serving nonresidential occupancies may provide other types of benefits. For example, it may be more economically attractive to restaurant owners due to factors such as equipment availability and familiarity, as well as purchase and operating costs. Restaurant operators in Berkeley have seen increases in expenses in recent years due to leases, costs of food, staff, and increasing regulatory compliance (e.g., utilizing compostable or reusable takeout containers to eliminate single use disposables). Also, an exception for cooking equipment serving nonresidential occupancies affords the building owner the greatest flexibility to attract the widest range of tenants. Berkeley's commercial vacancy rates have not yet rebounded to pre-pandemic levels.

In addition to its direct health impacts, NOx is one of the building blocks of ozone, a potent greenhouse gas with a Global Warming Potential (GWP) of 520. The Bay Area is currently out of compliance with federal standards for ozone. The provisions for Zero NOx Emission Buildings made by Chapter 19.37 would have the effect of reducing the emission of ozone, because NOx reacts in sunlight with other volatile organic compounds to create ozone. If adopted, the Ordinance will result in a reduction in ozone and a corresponding reduction in greenhouse gas emissions.

OPTIONS

The Ordinance proposed with this staff report is the Zero NOx CALGreen reach code with two exceptions: 1. for industrial or manufacturing processes; and 2. for cooking equipment serving nonresidential occupancies in buildings. Alternatively, Council could strike Section 5.106.13.1 Exception 2 and adopt the Ordinance without exempting cooking equipment serving nonresidential occupancies from Zero NOx requirements.

CODE AMENDMENTS

The current three-year building code cycle and any effective amendments thereto are effective through December 31, 2025. The local amendments proposed with this Ordinance do not negate or otherwise affect previously adopted amendments; they introduce new amendments to the 2022 California Green Building Standards Code pertaining to NOx emissions only. Under state law, local jurisdictions may adopt stricter code provisions if justified by findings of local climatic, geological or topographical conditions.

The proposed ordinance would take effect on January 1, 2025. It would apply to any project for which a building permit application for a newly constructed building, or for an alteration or addition to an existing Zero NOx Emission Building, is submitted on or after the effective date of the ordinance. This proposed ordinance would not apply to buildings whose building permit applications were submitted prior to January 1, 2025.

The proposed ordinance supports the City's Strategic Plan Goals to create a resilient, safe, connected, and prepared city, and to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment. The proposed ordinance also supports City Council directives and policies related to fire and life safety, resilience, and climate protection, and is supported by the resolution adopting findings of local conditions.

BACKGROUND

City Council adopted the California Green Building Standards Code with local amendments on November 29, 2022, and readopted this code on June 4, 2024, with State Mid-Cycle Supplements and further local amendments (effective July 1, 2024).

Proposed amendments to the Berkeley Green Code were discussed by the Environment and Climate Commission (ECC) at its April and May 2024 meetings. ECC considered options including a Zero NOx CALGreen reach code and a Single Margin Energy reach code. Several Commissioners indicated support for a Zero NOx CALGreen reach code, without an exception for cooking equipment used in commercial kitchens, citing potential benefits including alignment with BAAQMD's Zero NOx appliance rules, appreciation of future preparedness that a reach code brings, and facilitation of neighborhood decarbonization efforts tied to seismic safety and other health and safety benefits.

This proposed Zero NO_X Emission Building amendment to CALGreen builds upon the first such local ordinance, from the City of Los Altos Hills, by adding the requirement for nonresidential occupancies to meet the Zero NO_X Emission Building standard, and requiring Zero NO_X cooking equipment for residential occupancies. The first Zero NO_X appliance regulation provision of BAAQMD Regulation 9 Rule 6 will become effective on January 1, 2027 for tanked water heaters <75kBtu.[6]

On June 26, 2024 staff hosted a virtual roundtable for design professionals, property owners, and developers who have recently built new buildings in Berkeley. This group of stakeholders, who had experience with designing and/or building a variety of buildings types, voiced support for a healthy environment and healthy buildings. Discussion topics included future code requirements, the housing crisis, recommendations for grid resilient design and battery storage, economic and technical challenges, and PG&E's interconnection timelines. The opinions in this group varied, but a Zero NOx reach code with an exception for commercial kitchens had the most interest. Several developers voiced that having natural gas available in commercial spaces can help them attract a wider range of restaurant and cafe tenants.

[6] https://www.baaqmd.gov/rules-and-compliance/rules/reg-9-rule-6-nitrogen-oxides-emissions-from-natural-gasfired-water-heaters

On July 29, 2024 the HLEEC Policy Committee discussed reach code options with staff. The Committee voted to send the item to Council with a qualified positive recommendation for the Zero NOx CALGreen reach code, noting also that Council should consider a commercial kitchen exemption, or as an alternative, a Single Margin Energy Reach Code.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

This proposed ordinance aligns with Berkeley's health, safety, and climate goals. It supports the Climate Action Plan, Berkeley Resilience Strategy, and Fossil Fuel Free Berkeley goals. Zero NO_X Emission Buildings reduce the human health, environmental, and climate impacts of emissions associated with occupying and using the new buildings.

RATIONALE FOR RECOMMENDATION

Local policies such as the proposed Ordinance provide a higher level of safety than are achieved through the State's Building Codes. Fire risk, risks to the health of building occupants, the accumulating and compounding risks of climate change to the San Francisco Bay Area, its residents, its coastal and littoral zones, and broader risks of degraded air quality justify adoption of Berkeley code amendments that are stricter than the California Building Standards Code.

The proposed ordinance, a Zero NOx amendment to CALGreen, regulates emissions from appliances and equipment. It does not regulate the energy use of appliances. Generally, electric appliances will meet Zero NOx Emitting Equipment requirements, as would natural gas fired appliances fitted with scrubbers or other equipment that capture and remove NOx emissions.

In addition, Berkeley does not meet State and Federal ambient outdoor air quality standards (nonattainment) for ozone and is also in an area of nonattainment for State standards for particulate matter (PM2.5 and PM10). Per the BAAQMD[7], a local government has the authority to regulate air quality. By regulating NOx emissions from equipment, Berkeley can reduce harm to public health within buildings, improve ambient air quality, and assist in the transition to BAAQMD's appliance rules which will impact the sale and installation of water heaters and furnaces starting in 2027.

ALTERNATIVES CONSIDERED

Council could consider instead adopting an alternative amendment known as a "Single Margin Energy Reach Code." The single margin approach would require the proposed building to meet a higher source energy compliance margin for all occupancies than currently required by the California Energy Code. Although "source energy" is not defined in the state Energy Code, a Code manual explains it generally measures the marginal greenhouse gas emissions of energy used to supply electricity (2022 Single

[7] https://www.baaqmd.gov/en/plans-and-climate/local-government-support

Family Residential Compliance Manual at 1.6.4). The metric accounts for the system delivering energy to the building, as well as the time of day the energy is delivered.

By requiring that a proposed building achieve a certain compliance margin below the source energy requirement for a standard design building, such an ordinance would require that a building improve upon the state code's EDR1 metric. Each building type would have a respective single margin it would need to comply with. This approach gives builders flexibility in how to meet these standards, and allows and applies to both electric and mixed-use fuel designs. Methods to achieve a particular source energy compliance margin include electrifying appliances, or, if a building uses gas appliances, adding efficiency improvements such as insulation, and/or utilizing solar PV or a battery. However, overall the single margin approach is less effective at reducing greenhouse gas emissions than Zero NOx requirements, though it is a feasible option for greenhouse gas reduction, and requires more passive design such as increased insulation and/or more efficient windows in a building. The Single Margin Energy Reach Code approach has been adopted by other California cities including San Luis Obispo, Santa Cruz, San Jose, Palo Alto, East Palo Alto, Encinitas, and Brisbane.

This option was discussed at ECC, HLEEC, and at the roundtable with building professionals, and was not voiced as the preferred option by the majority of the participants in any meeting. A Single Margin Energy Reach Code would require additional work for all types of projects, leading to greater difficulty in understanding the requirements, higher impacts on building design teams, and a longer timeline for implementation, as California Energy Commission approval would be required after local adoption. It would also place greater demands on City plan check and field inspection staff.

CONTACT PERSON

David Lopez, Chief Building Official, Building and Safety Division, Planning and Development Department, 510-981-7441

Kurt Hurley, Green Building Program Manager, Building and Safety Division, Planning and Development Department, 510-981-7501

Sarah Moore, Manager, Office of Energy and Sustainable Development, Planning and Development Department, 510-981-7494

Attachments:
1: Code Amendment Ordinance
2: Resolution Adopting Findings of Local Conditions

ORDINANCE NO. –N.S.

AMENDING BERKELEY MUNICIPAL CODE SECTION 19.37.040 (BERKELEY GREEN CODE)

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

Section 1. That Berkeley Municipal Code Section 19.37.040 is hereby amended to read as follows:

Section 19.37.040

BERKELEY GREEN CODE

Sections:

19.37.040 Amendments to the California Green Building Standards Code.

19.37.040 Amendments to the California Green Building Standards Code with Mid-Cycle Supplement.

Chapter 2 Definitions of the California Green Building Standards Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below:

Add new definitions to Section 202:

NITROGEN OXIDES (NO_X). The sum of nitrogen oxide (NO) and nitrogen dioxide (NO_2) collectively expressed as NO_X.

NO_X EMITTING EQUIPMENT. Any equipment or appliance primarily used for space heating, space ventilation, water heating, cooking, clothes drying and lighting that emits more than 0.0 nanograms of nitrogen oxides expressed as NO_X per joule of heat and/or light output.

ZERO NO_X EMISSION BUILDING. A building is considered a zero NO_X emission building if it utilizes only zero NO_X equipment or appliances to provide space heating, space ventilation, water heating, cooking, clothes drying, and lighting for the life of the building including future alterations and additions.

ZERO NO_X EMITTING EQUIPMENT. Any equipment or appliance that emits no more than 0.0 nanograms of nitrogen oxides (NO_X) per joule of heat and/or light output. Equipment and appliances primarily used for space heating, space ventilation, water heating, cooking, clothes drying, and lighting.

Chapter 3 Green Building of the California Green Building Standards Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below:

Add a new Subsection 301.1.2 to read:

> **301.1.2 Residential waste diversion.** The requirements of Section 4.408 shall be required for:
>
> 1. Any additions or alterations, which increase the building's conditioned area, volume or size.
>
> 2. Any building alterations with a permit valuation over $100,000.
>
> 3. Any interior or exterior demolitions valued over $3,000.

Modify Subsection 301.3.2 to read:

> **301.3.2 Nonresidential waste diversion.** The requirements of Section 5.408 shall be required for additions ~~and~~, alterations and demolitions whenever a permit is required for work.

Chapter 4 Residential Mandatory Measures of the California Green Building~~s~~ Standards Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below:

Modify Subsection 4.106.4.1 to read:

> **4.106.4.1 New one- and two-family dwellings and townhouses with attached or detached private garages, carports, or any other on-site parking.** For each dwelling unit, install a ~~listed raceway to accommodate a dedicated 208/240-volt branch circuit. The raceway shall not be less than trade size 1 (nominal 1-inch inside diameter). The raceway shall originate at the main service or subpanel and shall terminate into a listed cabinet, box or other enclosure in close proximity to the proposed location of an EV charger. Raceways are required to be continuous at enclosed, inaccessible or concealed areas and spaces. The service panel and/or subpanel shall provide capacity to install a 40-ampere 208/240-volt minimum dedicated branch circuit and space(s) reserved to permit installation of a branch circuit overcurrent protective device~~ minimum 40-ampere 208/240-volt dedicated EV branch circuit in close proximity to the proposed location of an EV charger at the time of original construction in accordance with the California Electrical Code.
>
> ~~**Exception:** A raceway is not required if a minimum 40-ampere 208/240-volt dedicated EV branch circuit is installed in close proximity to the proposed location of an EV charger at the time of original construction in accordance with the California Electrical Code.~~

4.106.4.1.1 Identification. The service panel or subpanel circuit directory shall identify the overcurrent protective device ~~space(s) reserved~~ for future EV charging as “EV ~~CAPABLE~~READY”. The raceway termination location shall be permanently and visibly marked as “EV ~~CAPABLE~~READY”.

Modify Subsection 4.106.4.2.2. to read:

4.106.4.2.2 Multifamily dwellings, hotels and motels.

1. EV ready parking spaces with receptacles.

a. **Hotels and motels.** Forty (40) percent of the total number of parking spaces shall be equipped with low power Level 2 EV charging receptacles.

b. **Multifamily parking facilities.** Forty (40) percent of the total number of parking spaces shall be equipped with low power Level 2 EV charging receptacles. EV charging receptacles required by this section shall be located in at least one assigned parking space per dwelling unit where assigned parking is provided but need not exceed forty (40) percent of the total number of assigned parking spaces provided on the site.

Exception: ~~Areas of parking facilities served by parking lifts, including but not limited to automated mechanical-access open parking garages as defined in the California Building Code; or parking facilities otherwise incapable of supporting electric vehicle charging.~~ Areas of parking facilities served by parking lifts, provided the required percentage of EV Chargers spaces are installed elsewhere.

c. **Receptacle power source.** EV charging receptacles in multifamily parking facilities shall be provided with a dedicated branch circuit connected to the dwelling unit’s electrical panel, unless determined as infeasible by the project builder or designer and subject to concurrence of the local enforcing agency.

Exception: ~~Areas of parking facilities served by parking lifts, including but not limited to automated mechanical-access open parking garages as defined in the California Building Code; or parking facilities otherwise incapable of supporting electric vehicle charging.~~ Areas of parking facilities served by parking lifts, provided the required percentage of EV Chargers spaces are installed elsewhere.

d. **Receptacle configurations.** 208/240V EV charging receptacles shall comply with one of the following configurations:

1. For 20-ampere receptacles, NEMA 6-20R.

2. For 30-ampere receptacles, NEMA 14-30R.

3. For 50-ampere receptacles, NEMA 14-50R.

Add a new section 4.106.5 to read:

4.106.5 ZERO NO_X EMISSION BUILDINGS

Add a new subsection 4.106.5.1 to read:

4.106.5.1 Newly Constructed Buildings. All newly constructed buildings and accessory structures shall be Zero NO_X Emission Buildings.

Add a new Subsection 4.405.1 to read:

4.405.1 Reduction in cement use. As allowed by the enforcing agency, cement used in concrete mix design shall be reduced not less than 25 percent. Products commonly used to replace cement in concrete mix designs include, but are not limited to:

1. Fly ash.

2. Slag.

3. Silica fume.

4. Rice hull ash.

Exception: Minimum cement reductions in concrete mix designs approved by the Engineer of Record may be lower where high early strength is needed for concrete products or to meet an accelerated project schedule.

Modify Subsection 4.408.1 to read:

4.408.1 Construction waste management. Recycle and/or salvage for reuse 100% of excavated soil and land-clearing debris, 100% of concrete, 100% of asphalt, and a minimum of 65 percent of the other nonhazardous construction and demolition waste in accordance with either Section 4.408.2, 4.408.3 or 4.408.4~~, or meet a more stringent local construction and demolition waste management ordinance~~.

Exceptions:

~~1. Excavated soil and land-clearing debris.~~

2. Alternate waste reduction methods developed by working with local agencies if diversion or recycle facilities capable of compliance with this item do not exist or are not located reasonably close to the jobsite.

3. The enforcing agency may make exceptions to the requirements of this section when isolated jobsites are located in areas beyond the haul boundaries of the diversion facility.

Chapter 5 Nonresidential Mandatory Measures of the California Green Building~~s~~ Standards Code with Mid-Cycle Supplement is adopted in its entirety subject to the modifications thereto which are set forth below:

Modify Subsection 5.106.5.3.1 to read:

5.106.5.3.1 EV Capable Spaces. [N] Twenty (20) percent of the total number of parking spaces shall be EV capable spaces. Calculation for EV capable spaces shall be rounded up to the nearest whole number. ~~shall be provided in accordance with Table 5.106.5.3.1 and~~ The spaces shall comply with the following requirements:

1. Raceways complying with the California Electrical Code and no less than 1-inch (25 mm) diameter shall be provided and shall originate at a service panel or a subpanel(s) serving the area, and shall terminate in close proximity to the proposed location of the EV capable space and into a suitable listed cabinet, box, enclosure or equivalent. A common raceway may be used to serve multiple EV capable spaces.

2. A service panel or subpanel(s) shall be provided with panel space and electrical load capacity for a dedicated 208/240 volt, 40-ampere minimum branch circuit for each EV capable space, with delivery of 30-ampere minimum to an installed EVSE at each EVCS.

3. The electrical system and any on-site distribution transformers shall have sufficient capacity to supply full rated amperage at each EV capable space.

4. The service panel or subpanel circuit directory shall identify the reserved overcurrent protective device space(s) as "EV CAPABLE". The raceway termination location shall be permanently and visibly marked as "EV CAPABLE."

Note: A parking space served by electric vehicle supply equipment or designed as a future EV charging space shall count as at least one standard automobile parking space only for the purpose of complying with any applicable minimum parking space requirements established by an enforcement agency. See Vehicle Code Section 22511.2 for further details.

Modify Subsection 5.106.5.3.2 to read:

5.106.5.3.2 Electric vehicle charging stations (EVCS). Ten (10) percent of the total number of parking spaces shall be EV capable spaces ~~shall be~~ provided with electric vehicle supply equipment (EVSE) to create EVCS ~~in the number indicated in Table 5.106.5.3.1~~ separate and in addition to the requirements of Section 5.106.5.3.1. Calculation of required EVCS shall be rounded up to the nearest whole number. The EVCS required ~~by Table 5.106.5.3.1~~ by this section shall be provided with Level 2 EVSE or DCFC as permitted in Section 5.106.5.3.2.1. At least one minimum 6.6 kVA Level 2 EVSE shall be provided.

One EV charger with multiple connectors capable of charging multiple EVs simultaneously shall be permitted if the electrical load capacity required by Section 5.106.5.3.1 for each EV capable space is accumulatively supplied to the EV charger.

Delete Table 5.106.5.3.1.

Modify Subsection 5.106.5.3.6 to read:

5.106.5.3.6 Electric vehicle charging stations (EVCS)—power allocation method. The power allocation method may be used as an alternative to the requirements in ~~Section 5.106.5.3.1, and~~ Section 5.106.5.3.2 ~~and associated Table 5.106.5.3.1~~. Use ~~Table 5.106.5.3.6~~ the product of the factor 0.66 kVA/ parking space times the total number of parking spaces to determine the total power in kVA required ~~based on the total number of actual parking spaces~~ for EVSE charging infrastructure.

Power allocation method shall include the following:

1) Use any kVA combination of ~~EV capable spaces,~~ low power Level 2, Level 2 or DCFC EVSEs.

2) At least one Level 2 EVSE shall be provided.

3) Any remainder power allocation kVA from Section 5.106.3.6 Item (1) shall be converted to one additional low power Level 2 EVSE.

Delete Table 5.106.5.3.6.

Add a new section 5.106.13 to read:

5.106.13 ZERO NO_X EMISSION BUILDINGS

Add a new subsection 5.106.13.1 to read:

5.106.13.1 New construction. [N] All newly constructed buildings shall be Zero NO_X Emission Buildings.

Exception 1: F1 and F2 Occupancy Classifications as defined by California Building Code Section 306; and H1, H2, H3, H4, and H5 Occupancy Classifications as defined by California Building Code Section 307 for processes other than service water heating, space heating, space ventilation, cooking, clothes drying, and lighting as they relate to human occupancy.

Exception 2: Cooking equipment serving nonresidential occupancies.

Add a new Subsection 5.405.1 to read:

5.405.1 Reduction in cement use. As allowed by the enforcing agency, cement used in concrete mix design shall be reduced not less than 25 percent. Products commonly used to replace cement in concrete mix designs include, but are not limited to:

1. Fly ash.

2. Slag.

3. Silica fume.

4. Rice hull ash.

Exception: Minimum cement reductions in concrete mix designs approved by the Engineer of Record may be lower where high early strength is needed for concrete products or to meet an accelerated project schedule.

Modify Subsection 5.408.3 to read:

5.408.3 Concrete, asphalt, excavated soil and land clearing debris. 100 percent of concrete, asphalt, trees, stumps, rocks and associated vegetation and soils resulting primarily from land clearing shall be reused or recycled. For a phased project, such material may be stockpiled on site until the storage site is developed.
Exception: Reuse, either on-or off-site, of vegetation or soil contaminated by disease or pest infestation.

Notes:

1. If contamination by disease or pest infestation is suspected, contact the County Agricultural Commissioner and follow its direction for recycling or disposal of the material. (www.cdfa.ca.gov/exec/ county/county_contacts.html).

2. For a map of known pest and/or disease quarantine zones, consult with the California Department of Food and Agriculture. (www.cdfa.ca.gov).

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

* * * * * *

RESOLUTION NO. ##,###-N.S.

ADOPTING FINDINGS AS TO LOCAL CLIMATIC, GEOLOGICAL, AND TOPOGRAPHICAL CONDITIONS, RENDERING REASONABLY NECESSARY ENUMERATED LOCAL G R E E N BUILDING STANDARDS THAT ARE MORE STRINGENT THAN THOSE MANDATED BY THE CALIFORNIA GREEN BUILDING STANDARDS CODE

WHEREAS, the City is proposing to adopt enumerated changes and modifications to the 2022 California Green Building Standards Code with Mid-Cycle Supplements, California Code of Regulations, Title 24, as set forth below; and

WHEREAS, Health & Safety Code §17958 allows the City to make modifications or changes to the California Building Standards Code and other regulations adopted pursuant to Health & Safety Code §17921(a) which result in more stringent local requirements; and

WHEREAS, Health & Safety Code §17958, §17958.5 and §17958.7 require that such changes be supported by findings made by the governing body that such more stringent local requirements are necessary because of "local climatic, geological, or topographical conditions"; and

WHEREAS, Health & Safety Code § 39002 recognizes local authority to set stricter air quality standards for nonvehicular sources than those set forth by state or federal law or by the California Air Resources Board; and

WHEREAS, the Bay Area Air Quality Management District approved rules on June 21, 2023 that outlaw the sale of NOx-emitting water heaters and furnaces in 2027 and 2029, respectively, for installation in Bay Area buildings including in Berkeley; and

WHEREAS, preparing structures in the City for the upcoming implementation of the Bay Area Air Quality Management District’s rules will protect community health and promote efficiency and cost savings that will benefit the City’s residents; and

WHEREAS, the Federal Clean Air Act requires the Federal Environmental Protection Agency to establish federal air quality standards to protect public health and public welfare and regulate emissions of hazardous air pollutants; and

WHEREAS, Nitrogen Dioxide and ozone are two of the six criteria pollutants explicitly addressed in the Federal Clean Air Act; and

WHEREAS, pursuant to the California Clean Air Act Law, the California Air Resources Board regulates mobile sources of pollution while local and regional authorities are

responsible for controlling air pollution discharged, released, or otherwise produced from other sources; and

WHEREAS, much of the Greater Bay Area, including the City, remains a nonattainment area that does not meet federal air quality standards for ozone and other harmful air pollutants established to protect public health; and

WHEREAS, Nitrogen Oxide and Nitrogen Dioxide (collectively NOx) emissions from building appliances contribute significantly to the formation of ozone and other harmful air pollutants that are present in the Greater Bay Area at levels that violate federal standards; and

WHEREAS, such findings must be made available as a public record and a copy thereof with each such modification or change shall be filed with the California Building Standards Commission; and

WHEREAS, on November 3, 2022, the Berkeley City Council adopted Resolution No. 70,585-N.S. and additionally on May 7, 2024 the Berkeley Council adopted Resolution no. 71,320-N.S. making findings in support of previous local code amendments.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it finds that each of the proposed changes or modifications to the California Green Building Standards Code which are enumerated below are reasonably necessary because of local conditions in the area encompassed by the City of Berkeley, as set forth below:

A. LOCAL CONDITIONS

1. Climatic Conditions

a. Discussion

The City of Berkeley is located at the geographic center of the Bay Area. The western limits are defined by the Bay at near sea level and the eastern limits by the abruptly rising Berkeley Hills to 1,200 feet. The eastern limit faces open parklands and open space (covered with vegetative fuel loading) to the east and is exposed to a unique danger from wild land fires during periods of hot, dry weather in the summer months. Many of the Berkeley homes in this area have wood shake and shingle roofs and are surrounded by brush type vegetation. The situation is made even worse by the negative effects of high wind conditions during the fire season. During May to October, critical climatic fire conditions occur where the temperature is greater than 80°F, the wind speed is greater than 15 mph, fuel moisture is less than or equal to 10.0 percent, wind direction is from north to the east-southeast and the ignition component is 65 or greater. These conditions occur more frequently during the fire season but this does not preclude the possibility that a serious fire could occur during other months of the year. The critical climate fire conditions create a situation conducive to rapidly moving, high intensity fires. Fires starting in the wild land areas along the easterly border are likely to move rapidly westward into Berkeley's urban areas.

In September 1923, critical climatic fire conditions were in effect and Berkeley sustained one of the most devastating fires in California's history. A fire swept over the range of the hills to the northeast of Berkeley and within two hours was attacking houses within the City limits. A total of 130 acres of built-up territory burned. 584 Berkeley buildings were wholly destroyed and about 30 others seriously damaged. By far the greater portion were single-family dwellings, but among the number were 63 apartments, 13 fraternity, sorority and students' house clubs and 6 hotels and boarding houses.

In December of 1980, during critical climatic fire conditions, a small fire started at Berkeley's northeast limits and within minutes five homes were totally destroyed by fire.

On October 20, 1991, a disastrous firestorm swept down from the Oakland hills. Within the first few hours, thousands of people were evacuated. Ultimately over 3,000 dwelling units were destroyed, of which more than 70 were in Berkeley. This fire matched the pattern established by the fires of 1923 and 1980. Additionally, the conditions that led to it were the same as the conditions that led to a 1970 fire that destroyed 70 homes in Oakland.

Berkeley frequently experiences cold winter days with accompanying temperature inversions which trap wood smoke near the ground and increase air pollution. These stagnant air days are marked by increased acute respiratory disease, including asthma, and a small but consistent increase in deaths from heart and lung disease. During these periods the usual onshore flow of clean marine air ceases and wood smoke air pollution becomes an area-wide phenomena. Studies by the Bay Area Air Quality Management District suggest that between 20 and 50% of air polluting small particles come from residential wood burning.

In addition, local surface winds frequently transport moisture laden air from the surface of the Bay waters into the City. Larger scale prevailing weather patterns and winds created by the jet stream from the west also transport highly humid air and storms across the Pacific Ocean through the strait between the San Francisco peninsula and the Marin Headlands straddled by Golden Gate Bridge and into the City. The moderating effect of the Bay waters on local temperatures tends to reduce local temperature extremes, even during periods of high inland temperatures. The combination of moist air from adjacent waters and the associated mild temperatures means that it is common for local weather conditions to hover near the dew point. This can result in the formation of fog associated with local and regional marine weather layers, which commonly cover the City for hours or even days at a time with an average morning relative humidity of 82 percent.

Much of Northern California is considered to possess a predominantly Mediterranean climate. At times Berkeley does experience periods of high temperature and/or low humidity particularly between mid-July and mid-October, when the danger of hillside fires is greatest. Throughout the rest of the year, the marine weather environment is characterized by higher humidity and lower overall prevailing temperatures, resulting in a higher overall moisture content in building construction materials and slower drying of building materials and assemblies once wet or humidified.

Scientific evidence has established that combustion, procurement and transportation produce significant greenhouse gas emissions that contribute to global warming and climate change. Human activities releasing greenhouse gases into the atmosphere cause increases in worldwide average temperature, which contribute to melting of glaciers and thermal expansion of ocean water, drought conditions, increase in vegetative fuel, and length of fire seasons. Alameda County, in which Berkeley is located, has significant levels of some greenhouse gases like ozone, which is also an air pollutant that impacts public health[1]. Ozone is formed when NOx and VOCs chemically react in the sun. As a coastal city located on the San Francisco Bay, Berkeley is experiencing the repercussions of climate change due excessive greenhouse gas emissions. Rising sea levels have caused significant coastal erosion and have increased impacts to infrastructure during extreme tides.

Scientific evidence also suggests storms are growing with higher intensity due to climate change and will be followed by an increased frequency of dry periods. By 2100, average temperatures in the San Francisco Bay Area are expected to increase up to 11°, bringing 6-10 additional heat waves to Berkeley each year. According to historical records, Bay Area sea level has risen 8 inches over the last century and the pace of sea level rise has increased since 2011. While regional variability exists, the median increase for the San Francisco Bay is expected to reach almost 1 ft by 2050[2] under a low risk model, while 2.7 ft is projected under an extreme risk scenario. Such climate change events are expected to increase the risk of flooding in low-lying areas of Berkeley, while hillside communities face increased risk of wildfires.

b. Summary

Local climatic conditions of periods of limited rainfall, high temperature and/or low humidity particularly between mid-July and mid-October, and high winds along with existing building construction create periodic extremely hazardous fire conditions that adversely affect the acceleration intensity and size of fires in the City. The same climatic conditions may result in the concurrent occurrence of one or more fires, which may spread in the more populated areas of the City without adequate fire department personnel to protect against and control such a situation. Throughout the rest of the year, the marine weather environment is characterized by higher humidity and lower overall prevailing temperatures, resulting in a higher overall moisture content in building construction materials and slower drying of building materials and assemblies once wet or humidified. Berkeley is susceptible to the impacts of climate change, including sea level rise, increased average temperatures, and reduced air quality.

2. Geological Conditions

a. Discussion

[1] California Nonattainment/Maintenance Status for Each County by Year for All Criteria Pollutants | Green Book | US EPA

[2] Griggs, G., Cayan, D., Tebaldi, C., Fricker, H., & Árvai, J. (2017). Rising Seas in California. California Ocean Science Trust, (April), 71. Retrieved from http://www.opc.ca.gov/webmaster/ftp/pdf/docs/rising-seas-in-california-an-update-on-sea-level-rise-science.pdf

The City of Berkeley is in a region of high seismic activity and is traversed by the Hayward fault. It has the San Andreas earthquake fault to the west and the Calaveras earthquake fault to the east. All three faults are known to be active as evidenced by the damaging earthquakes they have produced in the last 100 years and can, therefore, be expected to do the same in the future. Of primary concern to Berkeley is the Hayward Fault, which has been estimated to be capable of earthquakes exceeding a magnitude of 7.0 on the Richter scale. It extends through many residential areas and passes through a small business district and the University of California. A large number of underground utilities cross the fault, including major water supply and natural gas lines. Intensified damage during an earthquake may be expected in liquefaction zones along the Bay west of Interstate 80 and in known slide areas, as well as hillside areas (occupied mainly by dwellings) located within or near the fault zone; some areas are steep and have been subjected to slides.

The waterfront areas and areas in the Berkeley flatlands immediately adjacent to creeks and water streams present a major potential for soil liquefaction hazard. The Eastshore Freeway may liquefy and fail under heavy shaking or it may be inundated by a tsunami. The north hill area is most susceptible to landslides because of the presence of soft and unconsolidated sediments, extensive water content in the ground and the steepness of slopes.

Great potential damage can be related to the likely collapse of freeway overpasses. In the event of a major earthquake, Berkeley's firefighting capability could be significantly affected by loss of its main water supply. There is also the strong possibility of inundation due to failure of water reservoirs in the hill area. Summit Reservoir at the Kensington border in Berkeley and Berryman Reservoir North have recently been replaced by steel tanks. Berryman Reservoir South has received a seismic upgrade. Additional potential situations following an earthquake include broken natural gas mains and ensuing fire in the streets, building fires, as the result of broken service connections, the need for rescues for collapsed structures, and the rendering of first aid and other medical attention to a large number of people.

b. Summary

Local geological conditions include high seismic activity and large concentrations of residential type buildings as well as a major freeway. Since the City of Berkeley is located in a densely populated area having buildings and structures constructed over and near a vast array of fault systems capable of producing major earthquakes, the modifications cited herein are intended to better limit property damage as a result of a seismic activity and to establish criteria for repair of damaged properties following a local emergency.

3. Topographical Conditions

a. Discussion

The City of Berkeley has many homes built throughout the urban portion of the Berkeley Hills that are reached by narrow and often winding paved streets which hamper access for fire apparatus and escape routes for residents. In addition, many of the hillside homes are on the extreme eastern edge of the City and require longer response times for the total required firefighting force. Panoramic Way and other hill areas with narrow and winding streets may face the problem of isolation from the rest of the City.

In the areas north and south of the University of California, there are large concentrations of apartments, rooming houses, and fraternity and sorority houses. A number of apartments in these areas are of wood frame construction and are up to five stories in height from grade level. The fire potential is moderately high due to building congestion, heights, and wood shingle roof coverings and siding. Fires can be expected to involve large groups of buildings in these areas. It is noted that Berkeley most probably has more physically impaired people per capita than any other community in the United States. It is estimated that 14% of the approximate population of 124,321 per the 2021 Census in Berkeley are physically impaired. Emergency egress and rescue for these people are more difficult during a fire or other life safety emergency.

The Eastshore Freeway, running along the western edge of Berkeley, is one of the most heavily used and congested freeway sections in the state. Noted impacts have included increased rates of asthma, particularly among children. The proximity of Berkeley to this freeway and its location downwind from prevailing patterns negatively affects air quality, thus increasing the impact of wood smoke and NOx emissions in Berkeley. NOx emissions are released to the air from the exhaust of motor vehicles, as well as from combusting fuel gas for appliances. Accordingly, Berkeley's proximity to congested freeways contributes to the ambient NOx levels in the air. Exposure to NOx can irritate the eyes, nose, throat, and lungs, damage the respiratory system, and aggravate respiratory diseases, particularly asthma. NOx also reacts with sunlight and other chemicals in the air to form both particulate matter and ozone, both of which are harmful when inhaled.

Berkeley's local climatic and topographical conditions exacerbate the health impacts of pollutants in the air, including NOx. Part of the Pacific Coast Range, the Berkeley Hills, define the eastern boundary of the City and form a natural obstruction to the movement of humidified, cooler air out of the San Francisco Bay basin and the City of Berkeley into the dryer adjacent inland valleys and the interior of the State. Although these hills do not form an absolute air barrier, they do play a significant role in the creation of local microclimates. This effect is evidenced by the disparity in temperatures and relative humidity commonly experienced during periods of warm weather between communities adjacent to the San Francisco Bay / Pacific Ocean and communities in the Bay Area inland valleys only a few miles inland. This effect also contributes to trapping pollutants, including NOx, in the colder and denser air, rather than allowing them to dissipate.

The City of Berkeley is part of a densely populated metropolitan area with limited space for landfills. It is important to preserve the limited landfill space for materials which cannot

be diverted and to keep land-clearing debris out of landfills, where decomposition of such organic material would result in methane.

b. Summary

Local topographical conditions include hillside housing with many narrow and winding streets with slide potential for blockage in the abruptly rising Berkeley hills. These conditions create an extremely serious problem for the Fire Department when a major fire or earthquake occurs. Many situations will result in limiting or total blockage of fire department emergency vehicular traffic, overtaxed fire department personnel and a total lack of resources for the suppression of fire in buildings and structures in the City of Berkeley. In addition, under these local conditions, the presence of wood smoke can cause increased disease, including asthma, and increased deaths from heart and lung disease. The built environment also provides little space for landfills.

B. REASONABLE NECESSITY

The proposed amendments to the California Green Building Standards Code are reasonably necessary due to the local conditions set forth above because they reduce the risks to life, public safety, health, welfare and property which result from the City's changing climate, atmospheric composition, its and location astride an active earthquake fault. They are further justified for the reasons set forth below.

In further amending the California Green Building Standards Code adopted as the Berkeley Green Code with local amendments, the City proposes to make certain substantive modifications whose effect is to impose more stringent requirements locally than are mandated by the California Building Standards Code. These are:

(1) Provisions for Zero NO_x Emission Buildings to reduce indoor air pollution. (Berkeley Green Code Chapter 19.37 Section 19.37.040).

These more stringent local requirements are reasonably necessary to address risks created by local conditions set forth above for the following reasons:

- The provisions for Zero NO_x Emission Buildings made by Chapter 19.37 Section 19.37.040 will reduce known adverse human health impacts related to exposure to binary compounds of nitrogen and oxygen and will do so by requiring that all new buildings contain Zero NOx appliances and mechanically ventilated kitchens.
- The provisions for Zero NOx Zero Emission Buildings made by Chapter 19.37 will have the effect of reducing the emission of ozone, a greenhouse gas that contributes to climate change, because NOx reacts in sunlight with other volatile organic compounds to create ozone, a powerful GHG with a Global Warming Potential (GWP) of 520.

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Kate Harrison
Councilmember, District 4

ACTION CALENDAR
October 15, 2024

To: Honorable Members of the City Council

From: Councilmember Harrison

Subject: Resolution: Opposition to Police Brutality and Use of Force on Nonviolent Protesters

RECOMMENDATION

Adopt a Resolution reaffirming the City of Berkeley's opposition to and condemning police brutality towards nonviolent protesters and discouraging use of "less-lethal" weapons for crowd control.

POLICY COMMITTEE RECOMMENDATION

No final action was taken by the Public Safety Committee. Item is automatically returning to the Council agenda pursuant to the time limit for items referred to policy committees.

BACKGROUND

The City of Berkeley has a long and storied history of nonviolent protest and civil disobedience. Unfortunately, that history is coupled with one of police brutality directed at nonviolent protesters. The most infamous example of police brutality in Berkeley occurred on "Bloody Thursday" in 1969 when James Rector was murdered by the Alameda County Sheriff force and a National Guard helicopter sprayed CS (tear gas) on thousands of protesters shortly following the founding of People's Park and deputies shot birdshot and buckshot at demonstrators.

While CS gas and pepper spray are both banned in warfare by international law, police in the United States commonly use them for crowd control purposes. On June 9, 2020, the City Council unanimously passed a motion to prohibit the use of CS gas by the Berkeley Police Departments or by any agency called for mutual aid in Berkeley.[1] This motion also prohibited the use of pepper spray and smoke by the Berkeley Police Department and by any agency called for mutual aid response in Berkeley, during the

[1] https://berkeleyca.gov/sites/default/files/city-council-meetings/06-09%20Annotated%20Agenda%204pm.pdf

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COVID-19 pandemic and until such time that the City Council removes this prohibition.[2] The City's recent suspension of the local COVID emergency does not mean that the COVID-19 pandemic is over, nor does it overturn the Council's 2020 pepper spray and smoke prohibition policy.

Other devices can also harm people. LRADs, or Long-Range Acoustic Devices, have dire consequences for the protesters and bystanders who are exposed to them. According to the Berkeley Police Department's 2022 Police Equipment and Community Safety Annual Report, BPD currently has two LRADs in its possession. Use of LRADs in crowd control situations can be dangerous according to Physicians for Human Rights, and the City of Berkeley regulates their use. LRADs are "capable of causing not only permanent hearing loss, but also migraine, vestibular, and other auditory symptoms" and emit decibels up to 162 dB SPL (sound pressure level), exponentially higher than jet engines at 130 dB SPL, as decibel levels increase exponentially.[3]

Batons are commonly used by police to brutalize protesters, and recent legislation strongly restricts their use by the Berkeley Police Department. Under international law, "batons must never be used as a means of punishment, to disperse peaceful protests, or against people who are already restrained."[4] Yet batons were used by police forces across the United States to disperse peaceful protests during the Black Lives Matter protests of 2020, for example. During Berkeley Black Lives Matter protests in December of 2014, police forces used CS gas, blast rounds, and harmed protesters with batons to force crowds to disperse—which led to a successful civil rights lawsuit against the city.[5]

As a result, the City now is required to apply standards when less lethal weapons are used in a crowd using a standard closer to the lethal force standard. In addition, the policy requires BPD personnel to have a clear shot at an allegedly violent target to prevent injury to others, expansive use of force reporting, implementation of body worn cameras, cite and release provisions, crowd liaisons, and prohibitions on skirmish lines advancing rapidly into a crowd. Berkeley has to live up to its commitments, and other jurisdictions must adopt similar policies.

So-called less-lethal or "kinetic impact" projectiles, including rubber bullets, are used by police forces across the country against nonviolent protesters, and their use should be strongly restricted. According to Amnesty International, "there has been an alarming increase in eye injuries, including eyeball ruptures, retinal detachments and the

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[2] https://records.cityofberkeley.info/PublicAccess/api/Document/AfRL%C3%89LmUm28As5bQtd10Au1FOSJIk1QHHaoDvg0JDhYupGbecgfU%C3%89KphfxL4BQWn%C3%81GtBMi8Z0%C3%81w8NXdky5pxceo%3D/

[3] https://www.asha.org/news/2020/long-range-acoustic-devices-for-crowd-control-can-cause-serious-hearing-loss-and-harm/

[4] https://www.amnesty.org/en/latest/news/2022/06/global-20-rules-for-ending-widespread-misuse-of-police-batons/

[5] https://www.berkeleyside.org/2015/06/11/police-report-mistakes-challenges-in-berkeley-protests

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complete loss of sight, as well as bone and skull fractures, brain injuries, the rupture of internal organs and hemorrhaging, punctured hearts and lungs from broken ribs, damage to genitalia, and psychological trauma" by less-lethal munitions. [6] These weapons also include hard foam, rubberized buckshot, and CS gas. Amnesty International also states that "at least 53 people died from projectiles fired by security forces, according to a peer-reviewed study based on medical literature worldwide between 1990 and June 2017. It also concluded that 300 of the 1,984 people injured suffered permanent disability." All less-lethal munitions can still be lethal, and should not be used for crowd control in Berkeley by UCPD or mutual aid agencies.

Finally, the practice of corralling, or "kettling," can pose severe dangers to nonviolent and peaceful protesters. When police corral protesters in a confined space, there is nowhere to go if police begin to use force against protesters. As nonviolent and peaceful protesters are corralled into the same confined and potentially dangerous space, protesters may become victims of excessive police force more easily. Beyond the inability to escape police use of force, corralled protesters are put in a plainly frightening situation that may cause immense psychological distress. Importantly, even if police are focused on certain protesters, kettling places all protesters, including nonviolent and peaceful protesters, into the same confined and dangerous space. The City of Berkeley should strongly discourage any police departments responding to civil disobedience and protest in Berkeley from utilizing this strategy for crowd control.

"Less-lethal," which is often erroneously described as "less-than-lethal," is only relatively so. It can maim and even kill. It is known to have a disproportionate impact on persons with both physical disabilities and mental challenges. CS can be very detrimental to persons with asthma, COVID-19 or other respiratory diseases. Crowd control is a dynamic setting, and officers' ability for precise shots is greatly impaired. The chances of hitting the intended individual with a projectile are low, and of hitting uninvolved protesters is high. Chemical munitions by their nature affect large numbers of people and even spread far beyond the immediate area. BPD Chief Meehan confirmed this in a *Berkeleyside* account from June 11, 2015:

> "Chief Meehan noted that, even when an officer is focused on an individual, the projectile does not always find its mark due to the unpredictable movements of a crowd. A similar explanation was provided regarding baton strikes. Police said they are trained to avoid areas such as the head and neck, but that blows don't always land in the right place because subjects move."[7]

[6] https://www.amnesty.org/en/latest/news/2023/03/global-dozens-killed-and-thousands-maimed-by-police-misuse-of-rubber-bullets/#:~:text=There%20has%20been%20an%20alarming,damage%20to%20genitalia%2C%20and%20psychological

[7] https://www.berkeleyside.org/2015/06/11/police-report-mistakes-challenges-in-berkeley-protests

Use of less-lethal weapons in an indiscriminate manner against a demonstration that is non-violent, or even mixed, is a denial of First Amendment rights to free speech and assembly. In fact, it is tantamount to collective punishment, a denial of due process.

In September of 2021, Governor Gavin Newsom signed AB 48, which restricts police departments use of kinetic energy projectiles and chemical agents to disperse any assembly, protest, or demonstration, and AB 481, which requires law enforcement agencies to obtain approval of military equipment. While these laws restrict the use of "less-lethal" munitions California law enforcement agencies, they also do not preclude municipalities from adopting more stringent policies or reaffirming their opposition to their use on nonviolent protesters.

This subject is of particular concern because the University of California is currently awaiting a decision by the Supreme Court in Make UC a Good Neighbor v. The Regents of University of California that could allow the University to begin building housing there, with resulting protests a likely outcome. On September 19, 2023, the City of Berkeley adopted a resolution authorizing the City Attorney to submit an amicus brief in support of the University of California Regents, defending the University's proposed development of People's Park. It is important that the Berkeley City Council immediately adopt a resolution denouncing the use of "less-lethal" devices and any police brutality against nonviolent protesters in Berkeley from any agencies and police departments, whether or not our police department participates in enforcement actions.

FISCAL IMPACTS OF RECOMMENDATION

Following Berkeley's policies on crowd control will reduce the need for resource-intensive and expensive paramedic and medical care for injured protestors.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with adopting this recommendation.

ATTACHMENTS

1: Resolution

RESOLUTION NO. XXXX-N.S.

REAFFIRMING OPPOSITION TO AND CONDEMNING POLICE BRUTALITY TOWARDS NONVIOLENT PROTESTERS AND DISCOURAGING USE OF "LESS-LETHAL" WEAPONS FOR CROWD CONTROL

WHEREAS, Berkeley's Southside neighborhood has historically been the site of violent police use of force and brutality towards protesting students and community members, most famously during "Bloody Thursday" in 1969 where the Alameda County Sheriff force murdered James Rector and a National Guard helicopter sprayed CS (tear gas) on thousands of protesters shortly following the founding of People's Park; and

WHEREAS, the Chemical Weapons Convention and Geneva Convention prohibit CS gas and pepper spray in warfare; and

WHEREAS, the State of California recently enacted AB 481[8] and AB 48,[9] which demilitarize and regulate police departments' acquisition and use of projectiles, chemical weapons, military equipment, and others, and protect protesters' First and Fourth Amendment rights; and

WHEREAS, on April 27, 2021, the Berkeley City Council unanimously passed an ordinance to oversee and make transparent militarized police equipment used for crowd control and SWAT operations; and

WHEREAS, Berkeley Police Department's 2022 Police Equipment and Community Safety Annual Report provided an inventory of reportable equipment, including 20 Less Lethal single 40MM launchers, 2 Less Lethal Milkor LTL 40 MM multi-launchers, 724 associated 40mm rounds, 8 Less Lethal FN 303 Launchers, 5,445 associated FN rounds, 190 Oleoresin capsicum (OC spray), 204 Chlorobenzylidene Malononitrile and Oleoresin capsicum, 2 Long Range Acoustic Devices, and 195 36' batons; and

WHEREAS, on June 9, 2020,[10] the Berkeley City Council unanimously voted to prohibit the use of CS gas by the Berkeley Police Department or any outside department or agency called to respond to mutual aid in Berkeley and of pepper spray or smoke for crowd control by the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, during the COVID-19 pandemic and beyond; and

WHEREAS, the University of California's University-wide Police Policies and Procedures[11] allow the University of California Police Department to apply intermediate force, including batons, tasers, pepper spray, chemical agents (such as CS gas), and

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[8] https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB481.
[9] https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB48.
[10] https://berkeleyca.gov/sites/default/files/city-council-meetings/06-09%20Annotated%20Agenda%204pm.pdf.
[11] https://ucnet.universityofcalifornia.edu/tools-and-services/administrators/policies/proposed/police-procedures-manual.pdf.

rubber bullets, on nonviolent protesters displaying active resistance, which is defined as intentionally and unlawfully opposing the lawful order of a peace officer in a physical manner; and

WHEREAS, on August 3, 2022, UC Berkeley police forces in riot gear confronted protesters,[12] arrested students and community members participating in civil disobedience, and allegedly forcibly shoved nonviolent defenders of the park, resulting in severe injuries;[13] and

WHEREAS, following the conflict on August 3, 2022, police forces retreated and UC Berkeley declared construction paused indefinitely; and

WHEREAS, on August 3, 2022, the Berkeley City Council called for a special meeting on August 4th, 2022 to discuss and consider the temporary suspension of the June 9, 2020 policy prohibiting the use of CS gas, smoke, and pepper spray for the duration of the City Council recess following pressure from the Alameda County Sheriff, and then canceled it on August 4, 2022 following public outrage; and

WHEREAS, in 2020, 84% of Berkeley voters[14] approved amending the city charter to establish an independent police accountability board and director to provide oversight of local law enforcement, pointing to the public's desire for police reform; and

WHEREAS, violent, less-lethal forms of crowd control used by BPD, UCPD or mutual aid agencies, include but are not limited to Long Range Acoustic Devices, plastic and rubber bullets, hard foam, batons, corralling, launch projectiles, and Active Denial Systems; and[15]

WHEREAS, less-lethal weapons and tactics deployed in crowd control have disproportionate impacts on persons with both physical disabilities and mental challenges, can have detrimental impacts to persons with asthma, COVID-19 or other respiratory diseases; and

WHEREAS, less-lethal crowd control is a dynamic operation in which officers' ability for precise shots is greatly impaired and the chances of hitting the intended individual with a projectile are low, and of hitting uninvolved protesters is high; and

WHEREAS, chemical munitions by their nature affect large numbers of people and even spread far beyond the immediate area; and

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[12] https://www.berkeleyside.org/2022/08/03/uc-berkeley-fences-off-peoples-park-begins-construction-process.

[13] https://www.instagram.com/p/ChYn3ZYrU9j/?img_index=2.

[14] https://ballotpedia.org/Berkeley,_California,_Measure_II,_Police_Accountability_Charter_Amendment_(November_2020).

[15] https://news.berkeley.edu/2020/06/05/are-crowd-control-weapons-dangerous-very-says-uc-berkeley-expert.

WHEREAS, use of less-lethal weapons or tactics in an indiscriminate manner against a demonstration that is non-violent, or even mixed, is a denial of First Amendment rights to free speech and assembly, and is tantamount to collective punishment, and a denial of due process.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley reaffirms its objection to and denounces any and all police brutality and use of force against nonviolent protesters, including those participating in nonviolent civil disobedience.

BE IT FURTHER AND FINALLY RESOLVED that the Council of the City of Berkeley strongly urges the University of California Police Department and any outside departments or agencies called to respond to mutual aid in Berkeley against using “less-lethal” weapons and tactics—including but not limited to CS gas, pepper spray, smoke, Long-Range Acoustic Devices, batons, rubber bullets, launched projectiles, and corralling—against nonviolent protesters, including those participating in nonviolent civil disobedience.

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To: Honorable Mayor and Members of the City Council
From: Councilmember Sophie Hahn (Author)
Subject: Community Safety Plans for a Safe and Resilient Berkeley

RECOMMENDATION

Refer to the City Manager to create four strategic, single-subject Community Safety Plans to effectively reduce Gun Violence, Sexual Assault, Retail Theft, and Traffic Violence.

Return Plans to the City Council for review and approval.

SUMMARY STATEMENT

While crime rates in Berkeley remain far below the historic peaks of the 1990s, crime has been trending upward here and nationwide, and use of firearms has increased significantly since 2017 – reflective of a surge in gun purchases/availability that began with the Trump years and spiked during the pandemic. In fact, between 2020 and 2022, U.S. households purchased nearly 60 million guns and in 2021, more Americans died of gun-related injuries than any year on record.[1][2]

Having some of the strictest gun control laws in the nation, California also has among the lowest gun death rates. Still, the United States remains an outlier as it relates to firearm possession and gun violence.

Another area where the United States far surpasses other comparable nations is traffic violence, which has reached its highest levels in two decades, killing 46,000 Americans in 2022.[3] Two additional alarming trends that emerged during the pandemic were the global rise in reported sexual assault – across all age groups – and the rise of “organized” retail theft – with the San Francisco Bay Area experiencing steady increases.

To proactively address these trends, many cities across the United States are adopting formal crime/harm reduction plans, setting clear goals and identifying actionable strategies to successfully reduce community violence and harms.

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[1] de Visé, D. (2023, April 25). *Americans bought almost 60 million guns during the pandemic*. The Hill. https://thehill.com/policy/national-security/3960527-americans-bought-almost-60-million-guns-during-the-pandemic/
[2] Gramlich, J. (2023, April 26). What the data says about gun deaths in the U.S. Pew Research Center. https://www.pewresearch.org/short-reads/2023/04/26/what-the-data-says-about-gun-deaths-in-the-u-s/
[3] Morris, F. (2022, September 5). *Traffic fatalities in the U.S. are at their highest levels in two decades*. NPR. https://www.npr.org/2022/09/05/1121144984/traffic-fatalities-in-the-u-s-are-at-their-highest-levels-in-two-decades

This item refers to the City Manager, working with the Department of Health, Housing and Human Services, the Berkeley Police Department, other City Departments, and community stakeholders, to produce single-subject Community Safety Plans – aligned with the City's Reimagining Public Safety and Fair and Impartial Policing Goals, Vision Zero, and the City's Health Status Report – among other plans and policies – to address key challenges, increase safety, and significantly reduce crime and harm across four categories: sexual assault, retail theft, traffic collisions, and gun violence.

In the future, the City Manager is encouraged to proactively initiate creation of similar plans to address persistent and/or emerging community safety challenges, and bring them to the City Council for review and approval.

BACKGROUND

Despite decades of decline, crime – and especially violent crime – trended upward with the COVID-19 pandemic. Across communities of all types, crime rates changed dramatically in 2020 with murder, assault, and gun violence reaching alarming highs. According to the Brennan Center for Justice and the FBI Uniform Crime Reporting Program, in 2020, murder rose nationwide by almost 30%, aggravated assault by nearly 12%, and violent crime increased by 5% overall.[4] While Berkeley has fared better than many cities, Berkeley did experience an upswing in crime over the same period, as reflected in the Berkeley Police Department's annual crime reports.[5]

At its very worst, crime and violence cut lives short and robs families and communities of loved ones. Less serious incidents cause individual harm and negatively impact the community's sense of safety, wellbeing, and health, and erode public trust in government and law enforcement. Crime also impacts opportunities for economic growth, and the ability of cities and neighborhoods to attract new businesses and investments.

According to the Council on Criminal Justice, setting a clear goal is a crucial first step to reducing crime and preventing violence, and many cities have worked together to develop crime reduction plans.[6] Cities and Police Departments across the United States including Boston, Phoenix, Kansas City, and Tacoma, have developed such plans. More than detailing crime response and criminal justice strategies, these plans often include holistic, educational, community, and social-services-type strategies to reduce crime as well as improvements to reporting, investigating, and otherwise responding to crime.

As Berkeley works to confront root causes of crime and implement its Reimagining Public Safety Framework – a big shift from the traditional police-centered model – it's important to

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[4] Grawert, A., & Kim, N. (2022, July 12). Myths and realities: Understanding recent trends in violent crime. Brennan Center for Justice. https://www.brennancenter.org/our-work/research-reports/myths-and-realities-understanding-recent-trends-violent-crime

[5] Berkeley Police Department . (n.d.). Crime data. Berkeley Police Transparency Hub. https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/pages/crimes

[6] Council on Criminal justice. (2022, January). *Saving lives: Ten essential actions cities can take to reduce violence now*. Council on Criminal justice. https://counciloncj.org/10-essential-actions/

simultaneously make tangible progress on key community safety challenges. While there are some existing frameworks for issues like gun violence – namely Berkeley's Gun Violence Intervention and Prevention Plan – and traffic violence – Berkeley's Vision Zero – there are currently no publicly available plans for reducing sexual assault or retail theft.

Both the Gun Violence and Vision Zero plans should be updated and, as necessary, expanded to ensure they cover prevention and deterrence, so crimes and injuries don't happen in the first place; incorporate improved reporting mechanisms, to ensure the City has a trauma-informed and welcoming approach to victims seeking to report crimes; and include best practices relating to effective investigations and the resolutions of violent incidents.

Gun Violence

Berkeley exists in the context of skyrocketing gun violence rates both regionally and nationally. Although concentrated in South and West Berkeley, gun violence is a city-wide public health problem. Notwithstanding the recent decline between 2022 and 2023, shootings have gradually increased every year since 2017.

In response, the City has employed various community-based violence prevention strategies such as Operation Ceasefire, and most recently the Gun Violence Intervention and Prevention Program (GVIPP), which relies heavily on collaboration between the community and law enforcement. The GVIPP is set to launch in October 2024 and will create opportunities for people to turn away from committing acts of violence through a four-pronged approach to intervention: place based interventions, custom notifications, street outreach and social services. As Berkeley works to confront gun violence, it would benefit from an overarching framework that details all existing programs, policies, and approaches, and how they fit together.

Sexual Assault

Evidence shows that rates of sexual violence increased during states of emergency.[7] While in Berkeley, rates of sexual assault dropped in 2020 and 2021, they increased in 2022 and again 2023.[8]

The Berkeley Police Department has identified the UC Berkeley as well as Berkeley High campuses as particularly troublesome. In fact, according to UC Berkeley's 2022 Annual Report on Sexual Violence and Sexual Harassment, between 2021 and 2022, reports of sexual assault reaches the highest levels since the annual report began in 2018, with 35.7% of cases reported

[7] Walker, T. (2020, May 1). *A second, silent pandemic: Sexual violence in the time of covid-19*. Center for Primary Care Harvard Medical School . https://info.primarycare.hms.harvard.edu/perspectives/articles/sexual-violence-and-covid

[8] Berkeley Police Department. (2024, March 12). 2023 Berkeley Police Department Annual Report. City of Berkeley. https://berkeleyca.gov/sites/default/files/documents/2024-03-12%20Item%2001%20WORKSESSION%20%202023%20Berkeley%20Police%20Department%20Annual%20Report.pdf

to the Office for the Prevention of Harassment and Discriminations being sexual assault.[9] Berkeley High has also struggled to address sexual assault on campus, with various student protests and lawsuits occurring over the administration's handling of sexual assault. As UC Berkeley, Berkeley High, and BPD work to confront sexual assault, a holistic approach that includes an increased partnership, an evaluation of reporting options, additional outreach and programming could prove beneficial to addressing the epidemic of assault on campus, and in our community.

Retail Theft

In the last several years, article heading such as "Man steals over $4K worth of jackets from Berkeley REI,"[10] "Brazen thieves take $52k in tech from Berkeley Apple Store,"[11] and "Group of 7 makes off with $19,000 in North Face Goods"[12] have become commonplace, as has the use of weapons and stolen vehicles in these crimes. In this regard, statistics confirm what the media reports and what residents and workers are experiencing. Between 2022 and 2023, retail theft rose by 19%, with 574 reported commercial burglaries as compared to 435 in 2022.[13][14]

While Apple, REI, and the North Face are large retail chains, small businesses have also suffered under this new normal. Forbes reports that 90% of small business retailers nationwide have experienced theft at their store and some 83% said they believed retail theft is at least a somewhat major issue.[15] In addition to suffering financial losses, retail theft puts workers in harm's way. As Berkeley works to revitalize its downtown and commercial areas, it must offer local and small businesses, consumers, and residents a plan to ensure the safety and vitality of its commercial districts.

Traffic Violence

The United States lags far behind other comparable countries as it relates to traffic violence and fatalities, and unlike most developed nations U.S. roadways have become more deadly – especially for pedestrians and cyclists. The traffic fatality rate in the United States is around 12.8

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[9] University of California, Berkeley. (2023). 2022 Annual Report on Sexual Violence and Sexual Harassment (SVSH): Data Update. University of California, Berkeley. https://svsh.berkeley.edu/sites/default/files/2022_svsh_annual_report_full_static_version_1.pdf

[10] Fahmy, H. (2024, June 6). Video: Man steals over $4K worth of jackets from Berkeley Rei. KRON4. https://www.kron4.com/news/bay-area/video-man-steals-over-4k-worth-of-jackets-from-berkeley-rei/

[11] Raguso, E. (2024, January 26). Brazen thieves take $52K in Tech from Berkeley Apple Store. The Berkeley Scanner. https://www.berkeleyscanner.com/2023/05/29/crime/berkeley-apple-store-50000-retail-theft/

[12] Raguso, E. (2024b, February 27). Group of 7 makes off with $19,000 in North Face Goods. The Berkeley Scanner. https://www.berkeleyscanner.com/2024/02/27/crime/berkeley-north-face-19000-theft/

[13] Berkeley Police Department. (2024, March 12). 2023 Berkeley Police Department Annual Report. City of Berkeley. https://berkeleyca.gov/sites/default/files/documents/2024-03-12%20Item%2001%20WORKSESSION%20%202023%20Berkeley%20Police%20Department%20Annual%20Report.pdf

[14] Gecan, A. N. (2024, March 25). Serious crimes spiked in Berkeley in 2023, according to Police Data. Berkeleyside. https://www.berkeleyside.org/2024/03/13/2023-crime-report-berkeley-police-department

[15] Metz, J. (2024, July 10). The impact of retail theft on small businesses and states. Forbes. https://www.forbes.com/advisor/business-insurance/impact-retail-theft-on-small-businesses/

per 100,000, compared to 6.3 in New Zealand, 3.3 in Spain, and 2.0 in Norway.[1617] With the adoption of seatbelts, airbags, and improved vehicle design, the U.S. has managed to create safer cars. However, the dominance of SUVs and trucks – and their increased weight and height – as well as the increased weight of electric vehicles, has come at a cost to pedestrians and cyclists. Paired with a lack of safe bike and pedestrian infrastructure, the Country continues to lag far behind other nations.

In 2019, Berkeley adopted the Vision Zero Action Plan and committed to eliminating traffic deaths and severe injuries by 2028. While the City has made progress on its Vision Zero priorities, it has a long way to go to reach goals in a timely manner. On average, three people die and at least 32 sustain severe injuries on Berkeley streets every year.[18] Drivers routinely travel at unsafe speeds, fail to yield at crosswalks and stop signs, make illegal turns, and injure pedestrians and cyclists. As Berkeley works to meet its Vision Zero goals, it should consider what other policies, campaigns, and partnerships it can develop to increase safety for cyclists and pedestrians, as well as those traveling in vehicles.

This item gives the City Manager an opportunity to actively engage with the community and various City departments to create holistic, actionable plans to reduce crime in Berkeley and drive down the harm the community is experiencing. By setting clear expectations related to prevention, intervention, and crime solving, the City will have a better understanding of what approaches work and which ones are less effective. While the Berkeley Police Department already has internal work-plans for crime prevention, this item asks for the development of publicly available plans to drive progress, and provide accountability

Due to the complexity of crime, a city-wide approach is necessary to achieve the desired results. The City Manager's key partner developing this series of holistic plans should be local stakeholders including various City agencies and departments, Berkeley High/BUSD, Berkeley City College and UC Berkeley, businesses, and other community partners.

The collaborative effort should include already existing frameworks to address public safety challenges as well as new recommendations which may include some or all of the following, and any other elements that arise from community and expert consultation:

1. Crime Prevention Strategies - build trust and relationships through neighborhood outreach, expand community policing and consider new gun violence prevention strategies, improve environmental design, and more
2. Reporting - assess what strategies have been successful, study and implement best practices for reporting sexual assault, including a victim-centered and trauma-informed

[16] Insurance Institute for Highway Safety. (2024, June). Fatality facts 2022: State by State. IIHS. https://www.iihs.org/topics/fatality-statistics/detail/state-by-state

[17] International Transport Forum - OECD. (n.d.) Organization for Economic Co-Operation and Development. https://www.itf-oecd.org/sites/default/files/norway-road-safety.pdf

[18] City of Berkeley. (2021, March). Vision Zero Annual Report 2020-2021. https://berkeleyca.gov/sites/default/files/2022-02/Vision-Zero-Annual-Report-2020-2021.pdf

approach, examine how to protect victim privacy, best provide resources and offer support

3. Resource Allocation - consider which communities in Berkeley are under resourced and could benefit from increased funding for youth programming, restorative justice, public health, employment and education initiatives, as well as mental health and substance use disorder treatment programs
4. Improve Clearance Rates - consider additional trainings BPD could benefit from, enhance recruitment strategies, increase oversight, judge the benefit of acquiring evidence-based processing technology or equipment
5. Partnerships - explore untapped partnerships to increase public safety, consider what stakeholders in Berkeley and across the Bay Area may be currently missing in the process

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

While the Berkeley Police Department employs innovative strategies to address issues related to public safety, the City does not currently have comprehensive plans for each crime category with stated, short and long-term goals, and specific metrics to act as roadmaps toward progress.

Beginning in 2020, the Berkeley City Council voted to reimagine or redesign its public safety system from a traditional Police-Centered Model to one that is more focused on the diverse needs of the community, committing to a transformative, equitable approach to community-centered safety. The effort, now underway, included recommendations for a non-police response team for low-level emergencies, a non-police traffic enforcement agency, the creation of a Specialized Care Unit, and more.

As the City continues to expand and improve upon the comprehensive work already underway, it can utilize the principles articulated in its Reimagining Public Safety platform to create actionable, single-subject plans to address some of the most serious and complex public safety challenges our City faces. While the plans for sexual assault and retail theft will be novel, the plans developed for gun and traffic violence will fit into Berkeley's existing patchwork of policies and further expand on these ideas in the form of holistic, community safety plans.

ACTIONS/ALTERNATIVES CONSIDERED

While the City of Berkeley can continue without formal plans for each of these complex crimes and harms, it will lack strategic plans that articulate the path forward, and allow the City to measure whether the strategies employed actually work. With no plans or metrics, the City lacks the clarity needed to successfully address and reduce specific violence, crime, and other harms.

Crime reduction plans adopted by other jurisdictions rely heavily on law enforcement as the primary actors in public safety and will not be a good fit for Berkeley. The Community Safety Plans described in this item should be holistic, with a key focus on prevention and building a safe and resilient community.

CONSULTATION/OUTREACH OVERVIEW AND RESULTS
Our office met with and consulted both the City Manager and Police Chief who expressed support for this recommendation, and for the clarity these plans can provide to both the public and the City, driving towards real progress in these key areas of public safety challenge.

RATIONALE FOR RECOMMENDATION
The City of Berkeley has a Strategic Plan that identifies the long-term and short-term priorities the City Government will focus on to benefit the Berkeley community. In addition to this plan, the City of Berkeley has also adopted a Zero Waste Strategic Plan as well as a Climate Action Plan, Local Hazard Mitigation Plan, and more.

Successful implementation of Community Safety Plans could result in decreased crime and increased public safety.

IMPLEMENTATION, ADMINISTRATION, AND ENFORCEMENT
The City Manager should conduct community outreach and solicit feedback from a broad set of internal and external stakeholders. Each Community Safety Plan should include a thorough analysis of the crime, tailored recommendations, and short- and long-term goals for measuring success. Plans should be evaluated for success and adjusted accordingly.

Berkeley can reduce crime and eliminate key drivers of harm in the community. Through thoughtful planning and community participation, we can ensure the safety, security, and wellbeing of all people in Berkeley.

OUTCOMES AND EVALUATION
The City Manager should work with the Berkeley Police Department and various community stakeholders to determine what success looks like for each individual Community Safety Plan, setting realistic, attainable goals and timelines.

CONTACT
Councilmember Hahn, (510) 981-7150

Office of the City Manager

INFORMATION CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Eleanor Hollander, Economic Development Manager

Subject: Civic Arts Grant Awards: Fiscal Year 2025

INTRODUCTION

This report summarizes the Civic Arts Grant awards for budgets appropriated in mid-Fiscal Year 2024 (FY24) & Fiscal Year 2025 (FY25). It includes Capital Projects Grants appropriated in FY24 Mid-Year Budget Update (AAO#1) and awarded as part of the FY25 Civic Arts grant cycle along with the FY25 Civic Arts Grant categories of Individual Artist Projects, Community Festivals, and Arts Programs, for a total of 113 awards detailed in Attachment 1: *FY25 Civic Arts Grantees.*

CURRENT SITUATION AND ITS EFFECTS

The Civic Arts Grant award amounts (Attachment 1), as approved by the Civic Arts Commission, include two annual grant categories (FY25 Individual Artist Projects and FY25 Community Festivals), and two new categories (FY24 Capital Projects and FY25 Arts Programs). Awards in the annual Civic Arts Grant categories for FY25 totaled $44,000 for eleven (11) Individual Artist Projects and $199,680 for thirty-four (34) Community Festivals. These FY25 awards are in addition to the deployment of the second year, in the two-year cycle, of arts and cultural organizations' General Operating Support grant funding (totaling $444,799 per year for 54 organizations).

The newly offered Arts Programs grant (funded in part with a $30,000 grant from the National Endowment for the Arts) included $60,000 for twelve (12) projects. In a second new grant category this year, the Capital Projects grants, $295,000 was awarded to two (2) organizations seeded with funding from the City's FY24 AAO#1 budget cycle.

The Civic Arts program received a total of 129 grant applications across four grant categories in the recent cycle. Because the *General Operating Support* grant category has a two-year activity period, applicants were not required to apply again in that category. Similar to the previous grant cycle, there was high demand for *Individual Artist Projects* grants, with a total of 57 applications. The *Community Festivals* category received 43 applications, a 16% increase over the last cycle which had 37 applications. The new *Arts Programs* grant category received a total of 17 applications, all from nonprofit organizations not previously funded by the City's Civic Arts program. The

FY24 *Capital Projects* grant category (new this year) received twelve applications from Berkeley's arts and cultural organizations, representing a total request amount of $1,020,234.

BACKGROUND

The Civic Arts FY25 grant application period started January 8, 2024 and had staggered application deadlines for each grant category (see table below):

FY 25 Civic Arts Grant Program Category	*Grant Application Deadline*
Capital Projects	February 21, 2024
Individual Artist Projects	February 28, 2024
Community Festivals	March 6, 2024
Arts Programs	March 13, 2024

In January 2024, at the beginning of the application period, Civic Arts staff held four grant webinars (one workshop for each grant category) to inform applicants about eligibility, application requirements, and to provide instruction on using the online grants management system. All webinars were held virtually using Zoom Webinar. Recordings of the webinars were also made available on the Civic Arts website for applicants' reference.

To evaluate the grant applications, Civic Arts staff selected panelists from a Civic Arts Commission-approved pool of potential panelists. The pool consists of individuals from the greater Bay Area who have substantial backgrounds in arts and culture and a demonstrated commitment to cultural equity. Between April 30, 2024 and July 9, 2024, staff conducted four grant review panel meetings via Zoom webinar format. Panelists independently evaluated and scored applications relative to the review criteria prior to the panel meetings, and discussed their evaluations with fellow panelists during the panel review meetings.

At the conclusion of the grant review process, the compiled panel scores were presented to the Civic Arts Commission's Grants Subcommittee. The Subcommittee determined award recommendations based on application scores, the grant program guidelines, funding criteria, and available funding. The Grants Subcommittee's award amount recommendations were then forwarded to the full Civic Arts Commission for approval. Civic Arts staff communicated the grant award amount recommendations to all applicants via email after each Civic Arts Commission meeting. Grant award approvals took place at the following meetings, with the following commission votes:

FY24 Capital Projects Grants

- Grants Subcommittee meeting: May 6, 2024
- Civic Arts Commission Meeting award amount approval: May 22, 2024

Action Item: M/S/C (Ibarra/Woo) to approve FY24 Capital Projects grant awards.
Vote: Ayes — Blecher, Ibarra, Passmore, Pineda, Woo; Nays — None; Abstain — None; Absent — Anno, Bullwinkel, Covarrubias, Crandall.

FY25 Community Festivals and FY25 Arts Programs Grants

- Grant Subcommittee meeting: June 17, 2024
- Civic Arts Commission Meeting award amount approval: June 26, 2024
  Action: M/S/C (Bullwinkel/Covarrubias) to approve FY25 Community Festivals Grant Awards Scenario 1 and 2.
  Vote: Ayes — Anno, Blecher, Bullwinkel, Covarrubias, Crandall, Passmore, Pineda, Woo; Nays — None; Abstain — None; Absent — Ibarra.
  Action: M/S/C (Bullwinkel/Crandall) to approve FY25 Arts Programs Grant Awards.
  Vote: Ayes — Anno, Blecher, Bullwinkel, Covarrubias, Crandall, Passmore, Pineda, Woo; Nays — None; Abstain — None; Absent — Ibarra.

FY25 Individual Artist Projects Grants

- Grants Subcommittee meeting: July 12, 2024
- Civic Arts Commission Meeting award amount approval: July 24, 2024
  Action: M/S/C (Bullwinkel/Ibarra) to approve FY25 Arts Programs Grant Awards.
  Vote: Ayes — Anno, Bachrach, Blecher, Bullwinkel, Covarrubias, Crandall, Ibarra, Pineda, Woo; Nays — None; Abstain — None; Absent — None.

ENVIRONMENTAL SUSTAINABILITY

The Civic Arts Grants program is administered online. Applicants used a web-based grants management system to apply, and grant review panelists evaluated and scored the applications using the same system. This eliminates the use of paper applications.

POSSIBLE FUTURE ACTION

The Civic Arts *General Operating Support* grant is awarded on a two-year basis to arts organizations and includes an annual amount granted in both fiscal years; *Individual Artist Projects* and *Community Festival* grants are awarded on an annual basis and include funding for one year. Staff plans to implement the annual Civic Arts grant application and review process for Fiscal Year 2026 beginning in fall 2024. The grant cycle for FY26 will be substantially similar to this year's cycle and will culminate with the Civic Arts Commission's approval of the FY26 grant award amounts.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The City's annual budget typically includes a baseline amount of $500,000 for Civic Arts Grants to *Arts Organizations* and *Individual Artists* and approximately $156,000 for *Festivals*. Council voted to increase *Festival* category funding from $158,315 to $200,315 in FY25 using $42,000 from the Mayor's Budget. No additional funds have been added to the Community Festivals allocation for FY26, funding remains at $156,000. Civic Arts staff has applied for federal funding from the National Endowment for the Arts to offer the *Arts Programs* grant again in FY26; the City will be notified about award or decline of this matching grant in November 2024.

CONTACT PERSON

Hilary Amnah, Civic Arts, Office of Economic Development, 510-981-7539

Attachment:

1. FY25 Civic Arts Grantees

ATTACHMENT 1: FY25 Civic Arts Grant Awards

FY24 Capital Projects (2 total)

Applicant	District	Request	Award
Berkeley Ballet Theatre	District 1	$145,000	$145,000
Sense Object	District 1	$150,000	$150,000
			$295,000

FY25 Individual Artist Projects (11 total)

Artist	District	Discipline	Award
ChingChi Yu	District 3	Dance	$4,000
Cordy Joan	District 5	Folk and Traditional Arts	$4,000
Craig Nagasawa	District 5	Visual Arts	$4,000
Isaiah Mostafa	District 3	Music	$4,000
Jay Lotus Allen	District 3	Multidisciplinary / Interdisciplinary	$4,000
Martín Perna	District 4	Music	$4,000
Milani	District 1	Literary Arts	$4,000
Nur Yavuz	District 5	Folk and Traditional Arts	$4,000
pan ellington	District 4	Literary Arts	$4,000
Risa Lenore	District 8	Multidisciplinary / Interdisciplinary	$4,000
Yano	District 4	Visual Arts	$4,000
			$44,000

FY25 Arts Programs (12 total)

Applicant	District	Request	Award
ARTogether	District 2	$5,000	$5,000
California Poets in the Schools	District 2	$5,000	$5,000
Capacitor	District 4	$5,000	$5,000
Center for Accessible Technology	District 3	$5,000	$5,000
Center for Independent Living	District 3	$5,000	$5,000
Cubacaribe	District 7	$5,000	$5,000
Fuse Theatre Inc		$5,000	$5,000
Jazzline Institute	District 4	$5,000	$5,000
Mozart Youth Camerata	District 7	$5,000	$5,000
Options Recovery Services	District 4	$5,000	$5,000
Pacific Center for Human Growth	District 4	$5,000	$5,000
South Berkeley Neighborhood Development Corporation	District 3	$5,000	$5,000
			$60,000

FY25 Community Festivals (34 total)

Festival	District	Request	Award
6th Annual California Native Ways - California Indian Arts & Culture Festival	District 1	$7,000	$7,000

Berkeley CA Juneteenth Festival	District 3	$7,000	$7,000
Berkeley Maqam Festival: Cross-Roots and Encounters	District 5	$7,000	$7,000
Berkeley Poetry Festival	District 4 District 7 District 3	$7,000	$7,000
Black Women's Roots Festival	District 4	$7,000	$7,000
Family Empowerment Conference		$7,000	$7,000
La Peña Summer Tianguis and Community Block Party	District 8	$7,000	$7,000
West Berkeley Community Print Festival	District 2	$7,000	$7,000
11th annual Bay Area Book Festival	District 4	$7,000	$6,300
32nd Annual Indigenous Peoples Day Powwow and Indian Market	District 4	$7,000	$6,300
Berkeley Festival of Choro 2025	District 4 District 1 District 6	$7,000	$6,300
Community Block Party	District 4	$7,000	$6,300
Comunidad En La Placita	District 4	$7,000	$6,300
East Bay Open Studios (EBOS) Berkeley	District 1 District 2 District 3 District 4 District 5 District 6 District 7 District 8	$7,000	$6,300
Legados II: Grito de liberdade	District 1 District 2 District 4	$7,000	$6,300
SF Bay Brazilian Day & Lavagem Festival 2024	District 1	$7,000	$6,300
Cesar Chavez Dolores Huerta Tribute Site	District 1	$7,000	$5,600
DeFord Bailey Legacy Festival	District 4	$7,000	$5,600
Dia de los Muertos	District 4	$7,000	$5,600
San Francisco Mime Troupe "Free Shows in the Parks" Berkeley	District 8 District 4 District 5 District 1	$7,000	$5,600
The Berkeley Aquatic Park Youth Festival: A Bike and Boat Parade	District 2	$7,000	$5,600
Watershed Environmental Poetry Festival	District 4 District 1	$7,000	$5,600
Winter Jazzschool Community Ensemble Festival	District 5	$7,000	$5,600
Capoeira: Our Life-Giving Waters	District 1	$6,350	$5,080
2025 Junior Bach Festival Concerts	District 1 District 4 District 7 District 5 District 3	$7,000	$4,900

Annual Contemporary Performance Diasporas Festival	District 1	$7,000	$4,900
Community Music Day	District 1	$7,000	$4,900
EBCLC Community Open House & Celebration	District 3	$7,000	$4,900
Forgotten Frontlines: World War II's Asia-Pacific Theater and the Road to Partition	District 4	$7,000	$4,900
Growing Songs		$7,000	$4,900
Ho'ōla Nā Leo: Celebrating Hawaiian Sound Healing	District 1	$7,000	$4,900
North Shattuck Summer Block Party Series	District 4 District 5	$7,000	$4,900
Telegraph Second Sundays	District 7	$7,000	$4,900
The Front Row Music and Arts Festival (FRMAF)	District 4	$7,000	$4,900
			$199,680

FY25 General Operating Support (54 total)

Applicant	District	Request	Award
AXIS Dance Company	District 1	$10,000	$10,000
Berkeley Art Center Association	District 5	$10,000	$10,000
Berkeley Community Media	District 4	$10,000	$10,000
Berkeley Music Group	District 4	$10,000	$10,000
Berkeley Repertory Theatre	District 4	$10,000	$10,000
BrasArte the Damasceno Brazilian Cultural Exchange	District 1	$10,000	$10,000
California Institute for Community, Art & Nature	District 4	$10,000	$10,000
Kairos Music Academy	District 5	$10,000	$10,000
Left Margin LIT	District 5	$10,000	$10,000
Luna Kids Dance, Inc dba Luna Dance Institute	District 2	$10,000	$10,000
Anatolia Art Institute	District 5	$10,000	$9,000
Berkeley Old Time Music Convention	District 4	$10,000	$9,000
Berkeley Playhouse, Inc.	District 8	$10,000	$9,000
Danse Lumiere	District 1	$10,000	$9,000
Four Seasons Arts, Inc.	District 8	$10,000	$9,000
Girls Garage	District 1	$10,000	$9,000
Heyday	District 1	$10,000	$9,000
Kala Art Institute	District 2	$10,000	$9,000
La Peña Cultural Center	District 8	$10,000	$9,000
Makers Paradise	District 4	$10,000	$9,000
Poetry Flash	District 1	$10,000	$9,000
Sacred and Profane, A Chamber Chorus	District 1	$10,000	$9,000
The Capoeira Arts Foundation, INC (CAF)	District 1	$10,000	$9,000
The Regents of the University of California at Berkeley / Cal Performances	District 7	$10,000	$9,000
Ashkenaz Music & Dance Community Center	District 1	$10,000	$8,000
Aurora Theatre Company	District 4	$10,000	$8,000
Berkeley Choro Ensemble	District 5	$10,000	$8,000
Berkeley Community Chorus & Orchestra (BCCO)	District 4	$10,000	$8,000
Berkeley Juneteenth Cultural Celebrations	District 3	$10,000	$8,000
Berkeley Society for the Preservation of Traditional Music dba Freight & Salvage	District 4	$10,000	$8,000
David Brower Center	District 4	$10,000	$8,000

Gamelan Sekar Jaya	District 8	$10,000	$8,000
Mahea Uchiyama Center for International Dance	District 4	$10,000	$8,000
pateldanceworks	District 8	$10,000	$8,000
PlayGround	District 3	$10,000	$8,000
Shawl-Anderson Modern Dance Center	District 8	$10,000	$8,000
Shotgun Players	District 3	$10,000	$8,000
Youth Musical Theater Company	District 2	$10,000	$8,000
California Jazz Conservatory	District 4	$10,000	$7,000
Cazadero Performing Arts Camp	District 5	$10,000	$7,000
Central Works	District 7	$10,000	$7,000
East Bay Media Center	District 4	$10,000	$7,000
Holistic Honu Wellness Center	District 1	$10,000	$7,000
Immersive Arts Alliance	District 4	$10,000	$7,000
Inferno Theatre	District 3	$10,000	$7,000
MBIRA	District 4	$10,000	$7,000
Play Cafe, Inc.	District 1	$10,000	$7,000
The Potters' Studio (Nara Corporation)	District 1	$10,000	$7,000
Young People's Symphony Orchestra Association	District 4	$10,000	$7,000
Habitot Children's Museum	District 5	$9,998	$6,999
Actors Ensemble	District 3	$8,000	$6,400
UC Alumni Chorus	District 6	$8,000	$6,400
Berkeley Chamber Performances	District 5	$6,500	$5,200
Berkeley Commonplace	District 3	$6,000	$4,800
			$444,799

Office of the City Manager

INFORMATION CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department

Subject: LPO NOD: 2436-2442 Haste Street, #LMIN2024-0002

INTRODUCTION

The attached Landmarks Preservation Commission Notice of Decision (NOD) is presented to the Mayor and City Council pursuant to Berkeley Municipal Code/Landmarks Preservation Ordinance (BMC/LPO) Section 3.24.160, which requires that "a copy of the Notice of Decision shall be filed with the City Clerk and the City Clerk shall present said copy to the City Council at its next regular meeting."

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has designated the subject property as a Structure of Merit. This action is subject to a 15-day appeal period that began on October 1, 2024.

BACKGROUND

BMC/LPO Section 3.24.190 allows the Council to review any action of the Commission in granting or denying Landmark, Structure of Merit, or Historic District status. For Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by October 15, 2024. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must then rule within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY & CLIMATE IMPACTS
Landmark designation provides opportunities for the preservation, rehabilitation and adaptive re-use of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION
The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION
There are no known fiscal impacts associated with this action.

CONTACT PERSON
Fatema Crane, Principal Planner, Planning and Development Department, 510-981-7413
Allison Riemer, AICP, Associate Planner, Planning and Development, 510-981-7433

Attachments:
1: Notice of Decision – 2436-2442 Haste Street, #LMIN2024-0002

LANDMARKS PRESERVATION COMMISSION

Notice of Decision

DATE OF BOARD DECISION: September 5, 2024
DATE NOTICE MAILED: September 30, 2024
APPEAL PERIOD EXPIRATION: October 15, 2024
EFFECTIVE DATE (Barring Appeal or Certification): October 16, 2024[1]

2436-2442 Haste Street – Hutchinson Flats Building

Landmark application #LMIN2024-0002 for the consideration of City Landmark or Structure of Merit designation status for a multi-family building completed in 1904 (APN: 055-1881-01800)

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following request:

- **Structure of Merit designation**

Applicant: Petition of 51 Berkeley Residents
Anthony Bruce, application author
Berkeley Architectural Heritage Association
P.O. Box 1137
Berkeley, CA 94701

Property Owner: 2442 Haste Street LLC
3483 Ironwood Drive
San Ramon, CA 94582

ZONING DISTRICT: Telegraph Avenue Commercial District (C-T)

1 Pursuant to BMC Chapter 3.24, the City Council may "certify" any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Permit becomes effective the day after the certification deadline has passed.

ENVIRONMENTAL REVIEW STATUS: Categorically exempt from further environmental review pursuant to CEQA Guidelines Section 15061.(b)(3) Review for Exemptions.

The application materials for this project is available online at:
https://berkeleyca.gov/construction-development/land-use-development/zoning-projects or
https://permits.cityofberkeley.info/CitizenAccess/Default.aspx

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FINDINGS AND CONDITIONS OF APPROVAL AND APPLICATION MATERIALS ARE ATTACHED TO THIS NOTICE

COMMISSION VOTE: 7-0-0-1 (note: one vacancy)

YES: ENCHILL, FINACOM, LEUSCHNER, MONTGOMERY, ORBUCH, PLESE, SCHWARTZ

NO: NONE

ABSTAIN: NONE

ABSENT: CRANDALL

TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):
To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1st Floor, Berkeley. The City Clerk's telephone number is (510) 981-6900.
   a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the commission made under the provisions of Chapter 3.24.
2. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
   a. The basic fee for persons other than the applicant is $1,500. This fee may be reduced to $500 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less. Signatures collected per the filing requirement in BMC Section 3.24.300.A may be counted towards qualifying for the reduced fee, so long as the signers are qualified. The individual filing the appeal must clearly denote which signatures are to be counted towards qualifying for the reduced fee.

   b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is $500, which may not be reduced.
   c. The fee for all appeals by Applicants is $6,000.
3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

If no appeal is received, the landmark permit will be final on the first business day following expiration of the appeal period.

NOTICE CONCERNING YOUR LEGAL RIGHTS:

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a “taking” of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must include the following information:

   A. That this belief is a basis of your appeal.

   B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.

   C. All evidence and argument in support of your belief that the decision or condition

constitutes a “taking” as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

PUBLIC COMMENT:

Communications to Berkeley boards, commissions or committees are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

FURTHER INFORMATION:

Questions about the project should be directed to the project planner, Allison Riemer, at (510) 981-7433 or ariemer@berkeleyca.gov. All project application materials may be viewed at the Permit Service Center (Zoning counter), 1947 Center Street, 3rd Fl., during regular business hours.

ATTACHMENTS:

1. Findings for Approval
2. Application Materials



ATTEST: _____
Fatema Crane, Secretary
Landmarks Preservation Commission

cc: City Clerk

Application Author:	Anthony Bruce, Berkeley Architectural Heritage Association, P.O. Box 1137, Berkeley, 94701
Property Owner:	2442 Haste Street LLC, 3483 Ironwood Dr, San Ramon, 94582
Interested Parties:	Connie Hee via conniehee@hotmail.com; Eddy Li via eddyligold@gmail.com; Buddy Williams via buddy@studiokda.com; Jason Andre via jason@studiokda.com

Attachment 1, Part 2

Findings

SEPTEMBER 5, 2024

2436-2442 Haste Street – Hutchinson Flats Building

Landmark application #LMIN2024-0002 for the consideration of City Landmark or Structure of Merit designation status for a multifamily building built in 1904 (APN: 055-1881-01800)

PROJECT DESCRIPTION

Structure of Merit designation of the property at 2436-2442 Haste Street – Hutchinson Flats Building

CEQA FINDINGS

1. The project is found to be exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15061.b.3 of the CEQA Guidelines (activities that can be seen with certainty to have no significant effect on the environment).

LANDMARK PRESERVATION ORIDNANCE FINDINGS

2. Pursuant to Berkeley Municipal Code (BMC) Section 3.24.110(B)(2)(c) of the Landmarks Preservation Ordinance, the Landmarks Preservation Commission finds that the subject main building meets the designation criterion for Structure of Merit because it is an example of good design as an intact Colonial Revival and Classic Box style building. It retains many of the character-defining features of these styles, and has experienced limited alteration to its exterior since its estimated date of completion in 1904. The building retains the majority of the exterior materials from its period of significance; the craftsmanship involved in the construction of its design features is evident; and the aesthetic sense of its period of construction is expressed through its physical condition and appearance. It retains historical integrity through its design, original materials, and workmanship.
3. Pursuant to BMC Section 3.24.110.B(2)(a), the Commission also finds that the Hutchinson Flats building meets the designation criterion for Structure of Merit because it is contemporary in age with the Landmark McKinley School located at 2419 Haste Street. The two buildings are contemporary in age as the McKinley School was constructed in 1906, and the Hutchinson Flats building was constructed in 1904.
4. Pursuant to BMC Section 3.24.110.B(2)(b), the Commission further finds that the Hutchinson Flats building meets the designation criterion for Structure of Merit because it is compatible in style with the nearby Structures of Merit Lucinda Reames Houses located

at 2503 and 2509 Regent Street. The three buildings are compatible in style as all are of the Colonial Revival style.

FEATURES TO BE PRESERVED

1. This City Structure of Merit designation shall apply to the subject property and the following distinguishing features of the main building shall be preserved:
    - Three-story massing
    - Hipped roof and front-facing pediment gable above three-story bay
    - Original windows (if any)
    - Wood window framing and sills
    - Entry doors on the front façade
    - Japanese hip roof
    - Three three-story bays (located on the front and side elevations)
    - Two Ionic pilasters at the front left corner
    - Third-floor balconette on the front elevation
    - Bas-relief floral ornament within the gable
    - Bas-relief ornaments in the front bay at first and second floor level
    - Brackets, dentils, and egg-and-dart molding
    - Scroll-sawn pieces ornamenting the tops of the three bays
    - Front porch with its entablature, bulkheads, and three columns
    - Entablature of the side porch
    - Narrow-gauge clapboard siding

2. Removed Features to be Restored where possible (to match historical design and conditions)

    - Balustrade atop front and side porch cover and second-story roof

CITY OF BERKELEY
Ordinance #4694 N.S.
LANDMARK APPLICATION

Hutchison Flats Building
2442 Haste Street
Berkeley, California



Figure 1. Street (north) façade of the Hutchsion Flats Building. Anthony Bruce, 2021

1. **Street Address:** 2442 Haste Street (formerly 2436–2440 Haste Street)
   County: Alameda **City**: Berkeley **ZIP**: 94704

2. **Assessor's Parcel Number**: 055-1881-01800 (College Homestead Association Tract, Block 6, Lot 18)
   Dimensions: 50 feet x 135 feet
   Cross Streets: Telegraph Avenue and Dana Street

3. **Is property on the State Historic Resource Inventory?** Yes, 1979
   Is property on the Berkeley Urban Conservation Survey? Yes
   Form #: 18018

4. **Application for Landmark Includes**:
   a. Building(s): Yes **Garden:** No **Other Feature(s)**: No
   b. Landscape or Open Space: No
   c. Historic Site: No
   d. District: No
   e. Other: Entire property

5. **Historic Names:** Hutchison Flats Building
   Commonly Known Name: not known

6. **Date of Construction:** 1904–1905 **Factual**: Yes
   Source of Information: City of Berkeley Application for Building Permit No. 92, November 18, 1904

7. **Architect:** Thomas Dean Newsom

8. **Builder:** either owner or day's work

9. **Style:** Colonial Revival variant

10. **Original Owners:** George D. Hutchison (1904–1906)
    Original Use: three residential flats

11. **Present Owner:** 2442 Haste Street LLC, [San Ramon?], California
    Present Occupant: tenants

12. **Present Use:** Residential
    Current Zoning: R- **Adjacent Property Zoning:** R-

13. **Present Condition of Property:**
    Exterior: Excellent **Interior:** unknown **Grounds:** Defoliated
    Has the property's exterior been altered? Minimally

14. Description

The Hutchison Flats Building is located at 2442 Haste Street, and is a tall three-story Colonial Revival triplex, with narrow board siding painted a light apricot-tan (with decorative trim highlighted in teal green). The hipped roof (covered with green composition shingles) curves and flares out at the bottom; a roof type that was locally called a "Japanese roof" at the time. The wide overhanging eaves are supported by elongated brackets, and an egg-and-dart course runs along the joining of eave and wall.

There is a pedimented gable at the top of a three-story bay at the righthand side of the façade *(Fig. 3)*. The deeply inset pediment has dentils and an elaborate floral design of carved wood (or, perhaps, well-preserved plaster) in the triangular space. The top floor of the bay has overhanging scrolled square corners; the second floor has a small triangular pediment with relief foliage (acanthus leaves) bookending a cartouche *(Fig. 4)*; and the ground floor features a semi-circular panel with urn and flowers *(Fig. 5)*. Each of these *bas-relief* designs is painted with the green paint, which accentuates them against the tan background to good effect. Also, the fact that the decoration is different on each floor reinforces the fact that each floor was a separate living space.



Fig. 2 The Hutchison Flats. Anthony Bruce, 1970.



Fig. 3 Pediment gable above the three-story bay, with floral motif in the center. Anthony Bruce, 2024



Fig. 4 Cartouche-and-acanthus leaves motif at the second floor level. Anthony Bruce, 2024.



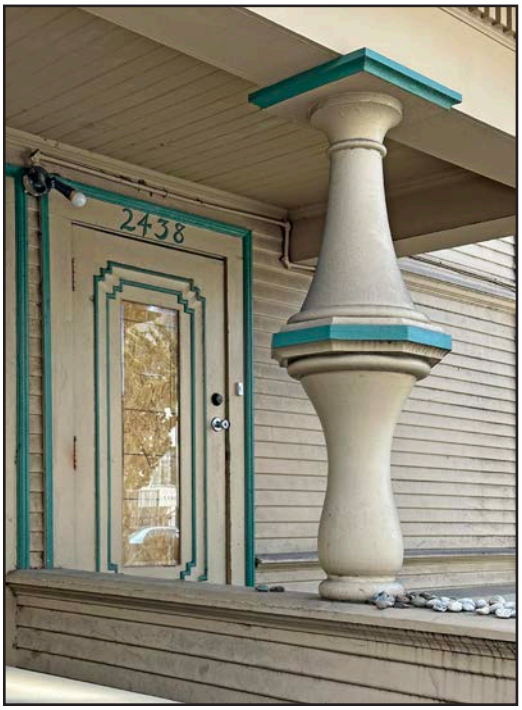
Fig. 5 Urn-and-foral motif on first floor. Anthony Bruce, 2024.

There are three separate entrances to the original three flats. The first floor flat is entered from a flat-roofed porch around on the west side. The second and third floor are entered from two separate front doors leading to two separate stairways off the flat roofed front porch (at the left on the front façade). Furthermore, the porch is reached by two sets of stairs, perpendicular to each other, and the porch is divided by a waist-high bulkhead. Each front door has a vertical window in the center surrounded by Colonial Revival style moldings. The decorative highlight of the building is the row of unique porch columns. Each resembles two giant stylized chess pieces, one upright, one upside-down, sandwiched together with an octagonal "wheel" of plain molding. One might also view these columns as a stylized rendering of the caryatids on the porch of the Erechtheum on the Acropolis.



Fig. 6 The front porch showing the three robust columns, as well as the bulkead that divides the porch in two for a bit of privacy. Anthony Bruce, 2024.

There are three of these columns extant; the matching ones on the side porch were removed, most likely when the driveway was widened. The columns are half-height, each resting on top of a bulkhead.



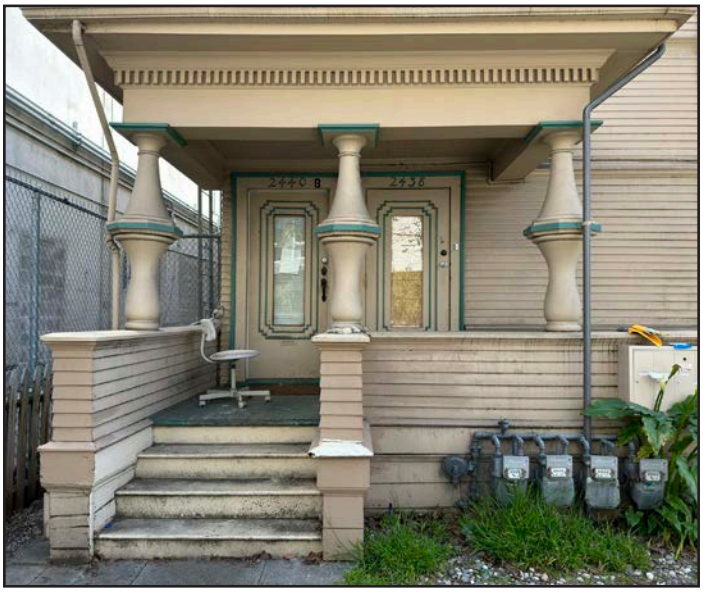


Fig. 7 and Fig. 8 Two views of the porch columns, the front doors, and the porch itself. A unique and whimsical design. Anthony Bruce, 2024.

The interior stairs to the third floor are contained in a two-story flat-roofed wing at the left. There is a corner Ionic pilaster seeming to support the entablature. A few feet over to the west, a matching pilaster finishes off the corner of the main structure. The capitals are highly ornamented with winged cherub faces and acanthus leaves, all highlighted by contrasting paint (*Fig. 9*).

A final ornamental touch is a small balcony or window box underneath the lefthand window on the third floor. It boasts miniature balusters, corner posts with ball finials, and decorative brackets for support.

Windows throughout the building are mostly double-hung. Where the windows are visible from the street, the upper sash is latticed, with anywhere from nine to fifteen lights. On the sides of the building each floor has a number of high horizontal single-paned windows (*Fig. 10*). There is also one on the second floor at the front.

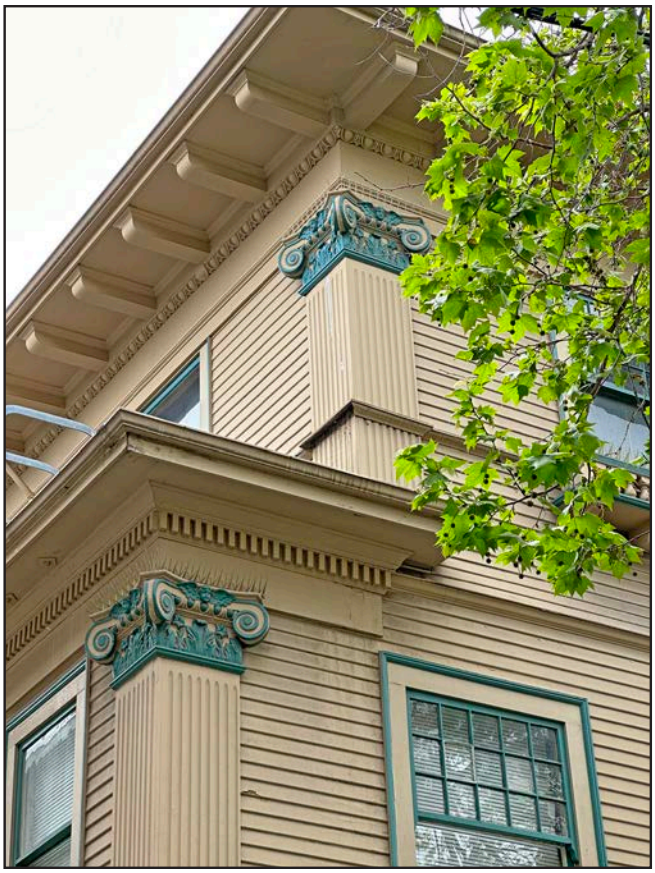


Fig. 9. The Ionic pilasters at the northeast corner of the building. Anthony Bruce, 2024.



On the west side of the building, in addition to the flat-roofed porch, there is a three-story angled bay window toward the back (*Fig. 10*). It is similar to the bay in the front, except that, instead of a pediment gable, it is capped by a hip roof and the fenestration is different. The projecting plane of the bay features a horizontal sequence of three small divided-light windows. There is a matching bay on the east side of the building, also toward the back.

The rear of the building is treated in a utilitarian manner *(Fig. 11)*. A wooden staircase that zig-zags across the back is supported by ground-to-eaves wooden support posts. There are landings at every floor and half-floor. The

Fig. 10 The west side of the building showing the entrance to the rear parking lot, the altered side porch with its missing columns, the horizontal windows, and the three-story bay. Anthony Bruce, 2024.

back doors open onto the landings and a ground-to-eaves utility porch is at the left of the façade. It is the width of the broad roof overhang and is enclosed with vertical tongue-in-groove. The design of the back elevation appears unchanged since 1904.

There is but one chimney. It most likely serves the kitchen stoves and water heaters, and perhaps a fireplace in the dining rooms (a common cost-saving measure). The chimney rises from near the center of the building and is of clinker brick, at least where it is visible.

The few alterations include the removal of classical balustrades on each of the three flat roofs and the removal of porch columns on the west side *(Fig. 12)*.



Fig. 11 The rear elevation of the Hutchison Flats Building. Anthony Bruce, 2024.

In 1905, George Hutchison built a one-and-a-half-story cottage in the rear of the property in the southwest corner. It was moved to somewhere in Contra Costa County in the summer of 1948. Perhaps the cottage was removed to create a parking lot in the rear, which is how the back yard is used today.



Fig. 12 The Hutchison Flats Building in 1939. Visible are the balustrades on top of the three flat foofs, the missing columns and bulkhead on the side porch, and the 1905 cottage still standing in the rear. Donogh Real Estate File, Berkeley Architectural Heritage Association.

The front yard is defined by a picket fence. Until recently, their was landscaping of both tropical plants and plants that bloomed with white or purple blossoms. The landscaping was intended to harmonize with the building colors of white with trim of green and purple. All that remains now is a stand of calla lilies, small river stones, and weeds. Concrete walkways lead to each of the two front entrances. These walks appear to be original, or partially original with probable repairs of sections.

The back yard is a surface parking lot acommodating twelve vehicles.



Fug. 13 Remnants of landscaping in the front yard: calla lilies and small river stones. The concrete entry walk is typical of the time. Anthony Bruce, 2024.

Features to Be Preserved

The Hutchison Flats Building is a Colonial Revival building of unique and striking appearance. It was obviously designed so that every individual feature might be harmonious and contribute to a rhythm that creates a dramatic whole. The exterior of the building has been maintained in fine condition over the last one hundred and twenty years, and it retains most of its original features, which are each essential to its whole. Therefore, all the features of the Hutchison Flats Building are significant, including, but not limited to:

- the original windows
- the window framing and sills
- the entry doors
- the “Japanese” hip roof
- the the pediment gable
- the three three-story bays
- the two Ionic pilasters at the front left corner.
- the small balcony on the third floor
- the *bas-relief* ornament within the gable
- the *bas-relief* ornaments in the front bay at first and second floor level
- the brackets, dentils, and egg-and-dart molding
- the scroll-sawn pieces ornamenting the tops of the three bays
- the front porch with its entablature, bulkheads, and three columns
- the entablature of the side porch
- the narrow-gage clapboard siding



Fig. 14 One of three doors that lead to the individual flats showing the center window panel and the Colonial Revival moldings. Anthony Bruce, 2024.

15. History



Fig. 15. The Hutchison Flats Building shown in its present day setting on Haste Street, west of the Cody's Books Building and east of the University's Rochdale Village. Google Street View photo.

The three-story Hutchison Flats Building at 2436–38–40 Haste Street (also designated as 2442 Haste) was designed as three cottage-size flats in 1904 by architect T. D. Newsom for Berkeley contractor and real estate developer, George D. Hutchison. When the building was finished, the Hutchison family moved into one of the upper flats (George's wife Luela and their 18-year-old son Claude W. and their 16-year-old daughter Lucile).

While living there, George formed a short-lived contracting firm with Charles T. Munson known as Hutchison & Munson. He also built a cottage in the rear of the property in 1905. The Hutchison family did not stay long in the building. From a 1907 notice in the *Berkeley Gazette* about their impending automobile trip to Los Angeles, it is clear that they were then living on Ward Street. As it so happens, George no longer owned the Haste Street flats by then; he had sold the property to a Carrie M. Smith in November 1906. A few years later the Hutchisons had moved to Southern California, settling in Pomona in 1913, where George was a citrus rancher and contractor. He lived there until his death in 1933, after two years of ill health.

Thomas Dean Newsom (1855–1912), the architect of the Hutchison flats, was a member of a California family of successful architects: the Oakland Newsoms, whose practices spanned the years from 1870 to the 1930s. His brothers, Samuel L. (1852-1908) and J. Cather (1857–1933), as the firm of Newsom & Newsom, were the most famous They are known now for the iconic Carson Mansion in Eureka. They also published a series of pattern books in the 1880s: *Picturesque and Artistic Homes of California*. Other architects in the family were brother John, who worked for a time with Thomas and whose daughter, Tillie, studied architecture in the 1890s; Thomas' son Merrill Newsom; Samuel's sons Sydney B. Newsom and Noble Newsom; and Archie Newsom, a distant cousin. Newsom & Newsom designed buildings up and down the state, while Thomas opened his practice in Oakland (in about 1892) and stayed put. At the time of his death he was in partnership with his son and the firm was known as T. D. Newsom & Son.

The Newsoms came to Oakland in the early 1860s from Canada. At the time of his death in 1912, Thomas Newsom was acknowledged as

one of Oakland's earliest residents, as well as "one of the best known architects in this section of the state." Another of Thomas Newsom's Berkeley buildings that is known to many, is the Mercier House built on a hillside on Shattuck Avenue, just north of Cedar, in 1902.

Only an architect such as T. D. Newsom (or, perhaps, two of his Oakland contemporaries, A. W. Smith and A. Dodge Coplin) could have designed such a fanciful—and even quirky— building as the Hutchison Flats Building. All three of these architects pushed their creative imagination to the limit, designing distinctive and unique buildings within the framework of the popular styles of the day.

The Hutchison Flats Building is basically in the Colonial Revival style, exemplified by its narrow siding, hip roof (here with flared eaves; referred to as a "Japanese" roof in the Bay Area at the time), and Classical ornament. Despite its height, the building was designed to blend with existing residences nearby. It was also stylistically compatible with the McKinley School buildings (built in 1896 and 1901) that that ran through the middle of the block.

The three flats (one per floor) were designed for the utmost in separation. The first floor flat is entered from its own porch on the west, while the two upper flats are entered through the front porch, But even here the side-by-side doors are reached by separate porch stairs and a waist-high bulkhead divides the porch in two. The stairway to the third floor is contained in a flat roof projection to the left of the porch. (All three flat roofs were once adorned with Classical balustrades.) Stepped Ionic pilasters accentuate the left corner of the façade of both the projection and the main body of the building.

Eye-catching decoration can be found at all levels of the façade. Pediments contain floral compositions. A miniature balcony graces the third floor. But the building's *pièce de résistance* is the row of columns marching the length of the front porch, defying classification in any Classical order.

The Hutchison Flats Building is clearly a unique design in Berkeley. It is the best surviving example in Berkeley of the artistic license that Thomas D. Newsom and other local turn-of-the-twentieth-century architects took with existing architectural styles to create the whimsical and decorative buildings their clients desired.



Fig. 16 The Eugene Mercier House, 15?? Shattuck Avenue, designed by T. D. Newsom in 1902. Anthony Bruce, 2024.



Fig. 17 The Kappa Sigma House designed by Thomas D. Newsom for Demetrius Satoff in 1901. It stood at 1739 Euclid Avenue until destroyed in the 1923 Berkeley Fire. Britton & Rey postcard, Anthony Bruce Collection.

16. Significance

The Hutchison Flats Building is significant as the best surviving example of a turn-of-the-twentieth-centu- ry highly personalized version of the styles of the day (here, Colonial Revival) with the eye-catching eclectic ornamentation and massing that appealed to a large group of homebuilders. It is also the best surviving ex- ample of the Berkeley work of Thomas Dean Newsom, a member of the well-known California Newsom family of architects. Additionally, the Hutchison Flats Building is significant for being not only a fine architectural ex- ample of its type, but for being a pristine, intact example (minus porch balustrades and two columns).

That the Hutchison Flats Building stands today as fine- ly as it does is also of particular consequence because, whether in Alameda, Oakland, or Berkeley, it is not of- ten that an intact residential building of this era can be found. More often than not, buildings have been dimin- ished in architectural integrity, suffering from either the ravages of time and/or the often difficult challenge to maintain the original details and integrity of design and materials. With the the Hutchison Flats Building all the remaining architectural details have been lovingly main- tained and accentuated.

Today the Hutchison Flats Building appears almost as a museum artifact because the original residential setting of this block of Haste Street has all but vanished (save for the Glennie Davies House across the street). Yet, the Hutchison Flats Building is architecturally strong enough to hold its own against the massive structures in its newer surroundings.



Fig. 18 The Hutchison Flats Building. Anthony Bruce, 2024.

17. Historic Value— **City:** Yes **Neighborhood:** Yes

Architectural Value— **City:** Yes **Neighborhood:** Yes

18. Is the property endangered? Yes. There was a proposal to demolish the Hutchison Flats Building published in February 2024 in *SF YIMBY.*

19. Bibliography:

Berkeley assessment records. The Bancroft Library.

Berkeley and Oakland directories. Berkeley Architectural Heritage Association, Ancestry.com.

Block (plat) books. Berkeley Architectural Heritage Association.

Block Files. Berkeley Architectural Heritage Association.

City of Berkeley Building Permit Application No. 92, dated November 18, 1904.

Edwards Transcript of Records for Alameda County, completion notice stating that the Hutchsion Flats Building was completed on March 6, 1905.

Ormsby Donogh Real Estate File. Berkeley Architectural Heritage Association.

Samuel and Joseph Cather Newsom: Victorian Architectural Imagery in California 1878–1908. David Gebhard, Harriette Von Breton, Robert W. Winter, exhibit catalogue, 1979.

Sanborn Fire Insurance Maps. Berkeley Architectural Heritage Association.

SF YIMBY, "Pre-Application For 2442 Haste Street in Southside, Berkeley" by Andrew Nelson, February 12, 2024.

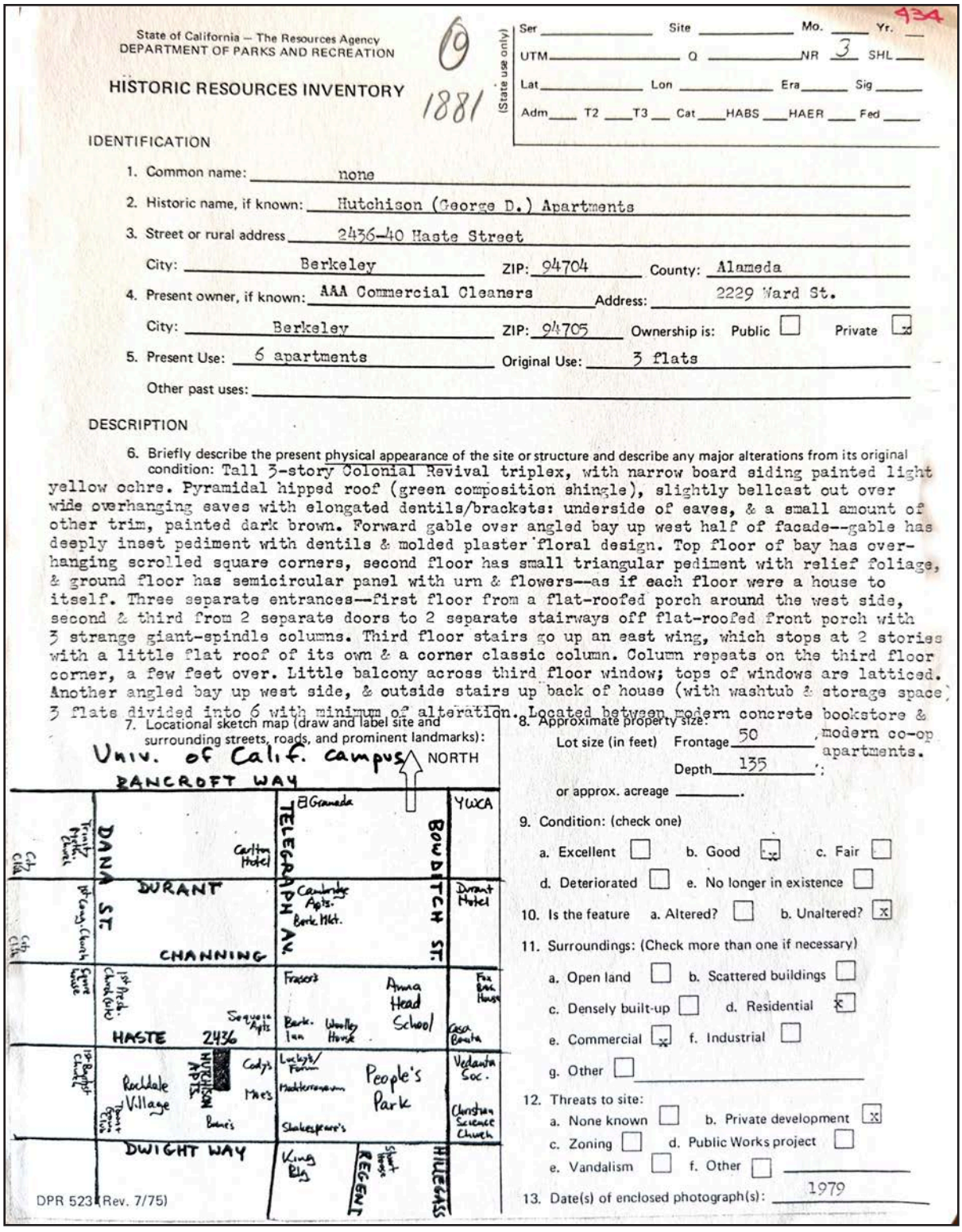
Tracts maps. Alameda County Assessor's Office.

U.S. Census and California Voter Registration records. Ancestry.com.

20. Recorder: Anthony Bruce for the the Berkeley Architectural Heritage Association,
P.O. Box 1137, Berkeley, California 94701

Date: April 2024

21. Addenda:



State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

HISTORIC RESOURCES INVENTORY

(State use only) Ser ____ Site ____ Mo. ____ Yr. 434
UTM ____ Q ____ NR 3 SHL ____
Lat ____ Lon ____ Era ____ Sig ____
Adm ____ T2 ____ T3 ____ Cat ____ HABS ____ HAER ____ Fed ____

IDENTIFICATION

1. Common name: none
2. Historic name, if known: Hutchison (George D.) Apartments
3. Street or rural address 2436-40 Haste Street
   City: Berkeley ZIP: 94704 County: Alameda
4. Present owner, if known: AAA Commercial Cleaners Address: 2229 Ward St.
   City: Berkeley ZIP: 94705 Ownership is: Public ☐ Private ☒
5. Present Use: 6 apartments Original Use: 3 flats
   Other past uses: ____

DESCRIPTION

6. Briefly describe the present physical appearance of the site or structure and describe any major alterations from its original condition: Tall 3-story Colonial Revival triplex, with narrow board siding painted light yellow ochre. Pyramidal hipped roof (green composition shingle), slightly bellcast out over wide overhanging eaves with elongated dentils/brackets: underside of eaves, & a small amount of other trim, painted dark brown. Forward gable over angled bay up west half of facade--gable has deeply inset pediment with dentils & molded plaster floral design. Top floor of bay has overhanging scrolled square corners, second floor has small triangular pediment with relief foliage, & ground floor has semicircular panel with urn & flowers--as if each floor were a house to itself. Three separate entrances--first floor from a flat-roofed porch around the west side, second & third from 2 separate doors to 2 separate stairways off flat-roofed front porch with 3 strange giant-spindle columns. Third floor stairs go up an east wing, which stops at 2 stories with a little flat roof of its own & a corner classic column. Column repeats on the third floor corner, a few feet over. Little balcony across third floor window; tops of windows are latticed. Another angled bay up west side, & outside stairs up back of house (with washtub & storage space) 3 flats divided into 6 with minimum of alteration. Located between modern concrete bookstore & modern co-op apartments.

7. Locational sketch map (draw and label site and surrounding streets, roads, and prominent landmarks):
   Univ. of Calif. campus NORTH
   BANCROFT WAY
   DANA ST.
   DURANT
   CHANNING
   HASTE 2436
   DWIGHT WAY
   TELEGRAPH AV.
   BOWDITCH ST.
   HILLEGASS
   Granada
   YWCA
   Carlton Hotel
   Cambridge Apts.
   Durant Hotel
   Fraser's
   Anna Head School
   Sequoia Apts
   Bank. Inn
   Woolley House
   Casa Bonita
   Rochdale Village
   HUTCHISON APTS
   Cody's
   Moe's
   Bear's
   Lucky's/ Farm
   Mediterranean
   Shakespeare's
   People's Park
   Vedanta Soc.
   Christian Science Church
   King Bldg
   REGENT
   Short House

8. Approximate property size:
   Lot size (in feet) Frontage 50, Depth 135;
   or approx. acreage ____.

9. Condition: (check one)
   a. Excellent ☐ b. Good ☒ c. Fair ☐
   d. Deteriorated ☐ e. No longer in existence ☐

10. Is the feature a. Altered? ☐ b. Unaltered? ☒

11. Surroundings: (Check more than one if necessary)
    a. Open land ☐ b. Scattered buildings ☐
    c. Densely built-up ☐ d. Residential ☒
    e. Commercial ☒ f. Industrial ☐
    g. Other ☐ ____

12. Threats to site:
    a. None known ☐ b. Private development ☒
    c. Zoning ☐ d. Public Works project ☐
    e. Vandalism ☐ f. Other ☐ ____

13. Date(s) of enclosed photograph(s): 1979

DPR 523 (Rev. 7/75)

Fig. 19 State of California Historic Resources Inventory, page 1.

NOTE: The following (Items 14-19) are for structures only.

14. Primary exterior building material: a. Stone ☐ b. Brick ☐ c. Stucco ☐ d. Adobe ☐ e. Wood [x]
f. Other ☐ _____

15. Is the structure: a. On its original site? [x] b. Moved? ☐ c. Unknown? ☐

16. Year of initial construction 1904 This date is: a. Factual [x] b. Estimated ☐

17. Architect (if known): Thomas D. Newsom

18. Builder (if known): ?

19. Related features: a. Barn ☐ b. Carriage house ☐ c. Outhouse ☐ d. Shed(s) ☐ e. Formal garden(s) ☐
f. Windmill ☐ g. Watertower/tankhouse ☐ h. Other ☐ _____ i. None [x]

SIGNIFICANCE

20. Briefly state historical and/or architectural importance (include dates, events, and persons associated with the site when known):
One of many buildings in the south campus area by various members of the Newsom family, Oakland architects whose practices spanned from 1870 to at least the 1930s, over 3 generations & several branches (including a Miss Tillie Newsom who was studying architecture in the 1890s): they are reputedly responsible for some 670 buildings in California pre-1901. The local patriarchs were Samuel (1847-1908) & Joseph Cather, rather widely known as Newsom & Newsom for the flamboyant Victorian Carson house in Eureka & a series of pattern books of Picturesque & Artistic Homes of California in the 1880s & 90s. Thomas D. (d. c. 1910(?), in practice by 1892) was apparently a less prominent brother, as was Tillie's father John. This house by Thomas Newsom is of interest architecturally for the "picturesque & artistic" strain in the Newsom style—the pagoda type roof, the floral ornamented pediments (like the Newsom pattern-book Avansino house at 1940 Channing, & the 1895 Hume house/Roosevelt Hospital at 2001 Dwight), the 3 willfully independent floors—& for its ingenious triplex design, blending a (small) block of flats into a neighborhood of single-family homes: it looks enough like a house from the outside, & the flats are private & fully cottage-sized. It was apparently an income property for the owner, George D. Hutchison, who lived 2 blocks west at 2237 Haste. Telegraph Av. near the university was being built up about this time (1901 news report on the King Blg. said the hammers were never silent) but housing was almost all either single family or large scale hotel/apartments (the Carlton, Granada, & Alta Vista all date from 1905-6).

21. Main theme of the historic resource: (Check only one): a. Architecture [x] b. Arts & Leisure ☐
c. Economic/Industrial ☐ d. Exploration/Settlement ☐ e. Government ☐ f. Military ☐
g. Religion ☐ h. Social/Education ☐

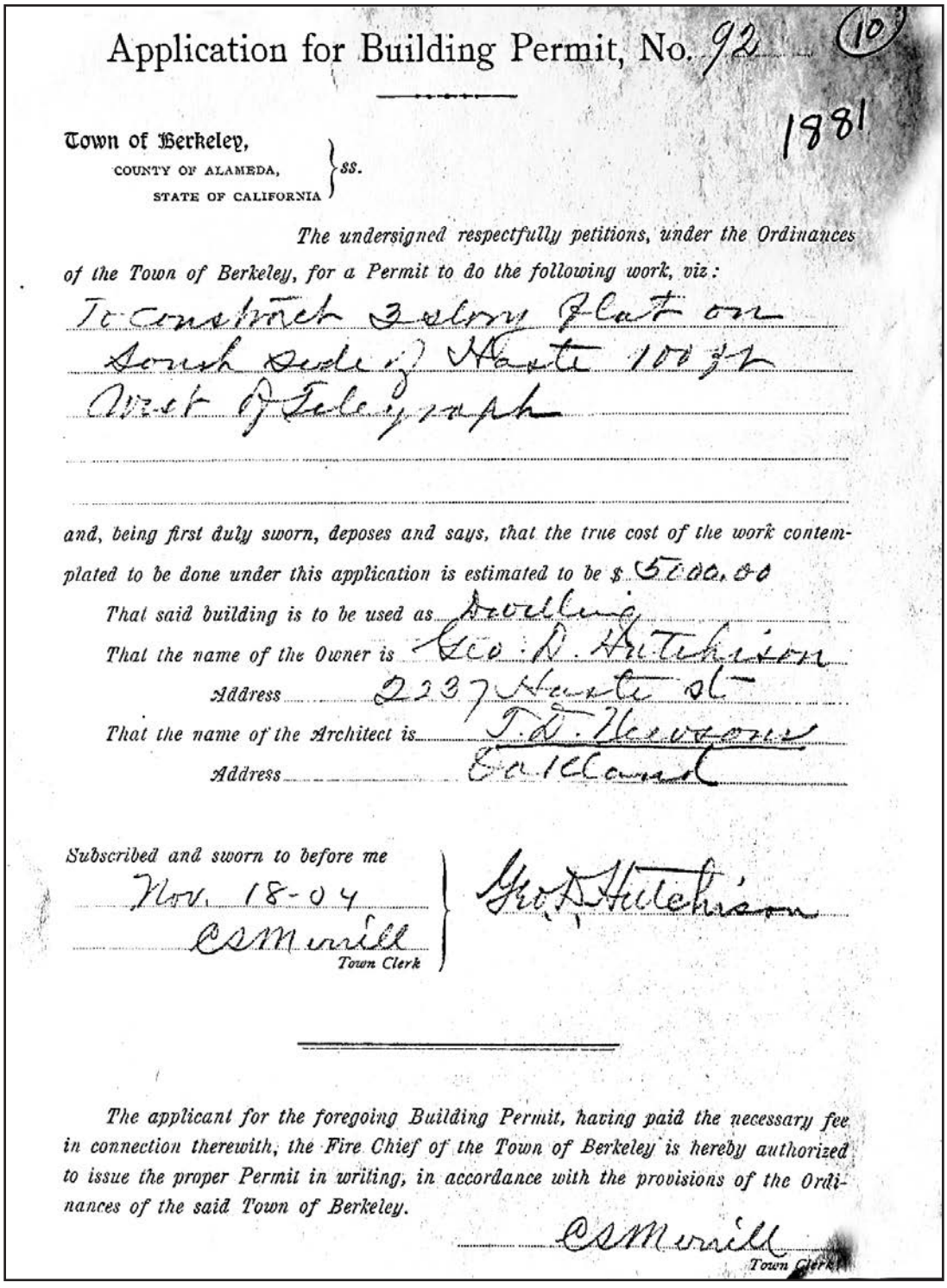
22. Sources: List books, documents, surveys, personal interviews, and their dates:
building permit & property file, City of Berkeley Housing Dept; block books & Sanborn maps.
Husted's Oakland, Berkeley...Directory, 1892,1905-9,1922. Architect & Engr., Sep1908 & Je.1930
L.Wodehouse, Am.Architects from the Civil War to WW I, 1976. Withey, Biog.Dic.of Am.Archs., 1956.
Berk.Gazette Jan.10,1979, Anthony Bruce on King Building.

23. Date form prepared: Feb.22,1979 By (name): Betty Marvin
Address: 2646 Claremont Av. City Berkeley ZIP: 94705
Phone: (415)849-1959 Organization: Berkeley Architectural Heritage Survey

BH

(State Use Only)

Fig. 20 State of California Historic Resources Inventory, page 2.



Application for Building Permit, No. 92 (10)

1881

Town of Berkeley,
COUNTY OF ALAMEDA, } ss.
STATE OF CALIFORNIA

The undersigned respectfully petitions, under the Ordinances of the Town of Berkeley, for a Permit to do the following work, viz:

To construct 2 story flat on South side of Haste 100 ft West of Telegraph

and, being first duly sworn, deposes and says, that the true cost of the work contemplated to be done under this application is estimated to be $ 5000.00

That said building is to be used as dwelling

That the name of the Owner is Geo. D. Hutchison

Address 2237 Haste st

That the name of the Architect is T. D. Newsom

Address Oakland

Subscribed and sworn to before me
Nov. 18-04
C S Merrill
Town Clerk

Geo. D. Hutchison

The applicant for the foregoing Building Permit, having paid the necessary fee in connection therewith, the Fire Chief of the Town of Berkeley is hereby authorized to issue the proper Permit in writing, in accordance with the provisions of the Ordinances of the said Town of Berkeley.

C S Merrill
Town Clerk

Fig. 21 City of Berkeley Building Permit Application No. 92, November 18, 1904.

PLANNING & DEVELOPMENT
Land Use Planning 2120 Milvia Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.9603 Fax: 510.981.7420 Email: Planning@ci.berkeley.ca.us

LANDMARK PRESERVATION COMMISSION

Landmark, Structure of Merit or Historic District Petition Form

Name of Property:	HUTCHISON FLATS BUILDING
Street Address(es) of Property:	2442 Haste Street

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate the property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions of Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we are residents of the City of Berkeley at the addresses indicated.

1
Name: Anthony Buffington Bruce (Please Print)
Address: 6 Encina Place City: Berkeley Zip: 94705
Signature: Anthony Buffington Bruce Date: 5-21-24

2
Name: Kevin Kaat (Please Print)
Address: 2309 Parker St City: Berkeley Zip: 94704
Signature: Kevin Kaat Date: 5-21-24

3
Name: STEPHANIE MANNING (Please Print)
Address: 2339 OREGON, #C City: BERKELEY Zip: 94705
Signature: Stephanie Manning Date: 5/21/24

4
Name: Juanito F. De Leon (Please Print)
Address: 2309 Howe St. City: Berkeley Zip: 94705
Signature: Date: 5/21/24

5
Name: SHERYL DENKWALTER (Please Print)
Address: 2601 MATHEWS ST. City: BERKELEY Zip: 94702
Signature:

Date: May 2024

Name of Property:	Hutchison Flats Bldg.
Street Address(es) of Property:	2442 Haste St.

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate the property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions of Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we are residents of the City of Berkeley at the addresses indicated.

6 Name: Jane Petersen (Please Print)
Address: San Diego Road City: Berkeley Zip: 94709
Signature: [signature] Date: 5/22/24

7 Name: Gale Garcia (Please Print)
Address: 2538 Fulton St. City: Berkeley Zip: 94704
Signature: [signature] Date: 5/22/24

8 Name: WANDA MULCAHY (Please Print)
Address: 2222 Parker St. City: Berkeley Zip: 94704
Signature: W. Mulcahy Date: 5/23/24

9 Name: LEONARD PITT (Please Print)
Address: 1542 GRANT ST. City: BERK Zip: 947
Signature: [signature] Date: 5-24-24

10 Name: Bertram Jones (Please Print)
Address: 195 The Uplands City: Berkeley Zip: 94705
Signature: Bertram Jones Date: 6/1/24

Land Use Planning 2120 Milvia Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.9603 Fax: 510.981.7420 Email: Planning@ci.berkeley.ca.us

Name of Property:	Hutchison Flats Bldg.
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11
Name: PAGE NELSON (Please Print)
Address: 199 THE UPLANDS City: BERKELEY Zip: 94705
Signature: [signature] Date: 6/1/24

12
Name: Lesley Emmington Jones Lesley Emmington Jones (Please Print)
Address: 195 The Uplands City: Berkeley Zip: 94705
Signature: Lesley Emmington Jone Date: 6/1/24

13
Name: SHEILA SCHWARTZBURG (Please Print)
Address: 200 THE UPLANDS City: BERKELEY Zip: 94705
Signature: Sheila M. Schwartzburg Date: 6/1/24

14
Name: Jeanne Louise Allen (Please Print)
Address: 13 Mosswood Road City: Berkeley Zip: 94704
Signature: [signature] Date: 6/2/2024

15
Name: Marc Foster Grant (Please Print)
Address: 13 Mosswood Road City: Berkeley Zip: 94704
Signature: Marc Foster Grant Date: 6/2/2024

Land Use Planning 2120 Milvia Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.9603 Fax: 510.981.7420 Email: Planning@ci.berkeley.ca.us

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16 Name: Lisa Bruce (Please Print)
Address: 3027 Claremont Ave. City: Berkeley Zip: 94705
Signature: Lisa Bruce Date: 6-2-24

17 Name: Joseph Garrett (Please Print)
Address: 2820 Derby Street City: Berkeley Zip: 94705
Signature: Joseph J. Garrett Date: 6/06/24

18 Name: CANDICE L. SCHOTT (Please Print)
Address: 1420 KAINS AVE City: BERKELEY Zip: 94702
Signature: Date: 6/6/24

19 Name: SARAH WIKANDER (Please Print)
Address: 11 HILLSIDE COURT City: BERKELEY, CA Zip: 94704
Signature: Sarah Wikander Date: 6/7/24

20 Name: Julian Hodges (Please Print)
Address: 3027 Claremont Ave City: Berkeley Zip: 94705
Signature: Julian Hodges Date: 6-9-24

Land Use Planning 2120 Milvia Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.9603 Fax: 510.981.7420 Email: Planning@ci.berkeley.ca.us

Name of Property:	Hutchison Flats Bldg.
Street Address(es) of Property:	2442 Haste St.

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21 Name: Scott Leveretta (Please Print)
Address: 572 Woodmont Ave City: Berkeley Zip: CA 94708
Signature: [signature] Date: 6/13/24

22 Name: Michael Fein (Please Print)
Address: 77 Parkside City: Berkeley Zip: 94705
Signature: Michael Fein Date: 6/22/24

23 Name: Henry Kimble (Please Print)
Address: 3829 Prince City: Zip: 94705
Signature: Henry Kimble Date: 6/22/24

24 Name: Claudine F Zuber (Please Print)
Address: 2857 Webster St City: Berkeley Zip: 94705
Signature: [signature] Date: 06 22 24

25 Name: George McCord (Please Print)
Address: 69 Domingo Av. City: Berk. Zip: 94707
Signature: G.R. McCord Date: 6/22/24

Land Use Planning 2120 Milvia Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.9603 Fax: 510.981.7420 Email: Planning@ci.berkeley.ca.us

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26 Name: ELISSA KITTNER (Please Print)
Address: 3014 Hillegass City: Berkeley Zip: 94705
Signature: Date: 6/22/24

27 Name: MICHAEL STOKES (Please Print)
Address: 678 Creston Rd City: Berkeley Zip: 94708
Signature: Date: 6-22-24

28 Name: Dorothy Witt (Please Print)
Address: 3116 Lewiston Av City: Berkeley Zip: 94705
Signature: Date: 6/22/24

29 Name: Ron Kelly (Please Print)
Address: 2731 Webster St. City: Berkeley Zip: 94705
Signature: Ron Kelly Date: 6-22-24

30 Name: Estelle Robbo (Please Print)
Address: 2844 Woolsey St B City: Berkeley Zip: 94705
Signature: Estelle Robbo Date: 6-22-2024

Name of Property:	Hutchison Flats Bldg.
Street Address(es) of Property:	2442 Haste St.

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31
Name: Davis Baltz (Please Print)
Address: 3000 Claremont Ave. #1 City: Berkeley CA Zip: 94705
Signature: Davis Baltz Date: 6/23/24

32
Name: Kelly Donner (Please Print)
Address: 2807 oak knoll City: Berkeley Zip: 94705
Signature: Date: 6/23/24

33
Name: Edmund Brown (Please Print)
Address: 2236 Derby City: Berkeley Zip: 94705
Signature: Edmund Brown Date: 6/23/24

34
Name: Christine Hoffman (Please Print)
Address: 2815 Russell St. City: Berkeley Zip: 94705
Signature: Date: 6/23/24

35
Name: Peter Yugst (Please Print)
Address: 3144 Claremont City: Berkeley Zip: 94705
Signature: Peter Yugst Date: 6/23/24

Land Use Planning 2120 Milvia Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.9603 Fax: 510.981.7420 Email: Planning@ci.berkeley.ca.us

Name of Property:	Hutchison Flats Bldg.
Street Address(es) of Property:	2442 Haste St.

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate the property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions of Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we are residents of the City of Berkeley at the addresses indicated.

36
Name: Deborah Wiener (Please Print)
Address: 2961 Magnolia St. City: Berkeley Zip: 94705
Signature: Deborah Wiener Date: 6/23/24

37
Name: PAULA SKENE (Please Print)
Address: 52 OAKVALE City: Berkeley Zip: 94705
Signature: Paula Skene Date: 23 June 2024

38
Name: OLE DIERKS (Please Print)
Address: 247B PRINCE ST. City: BERKELEY Zip: CA 94705
Signature: Ole Dierks Date: 6/23/24

39
Name: ANDREW BASKETT (Please Print)
Address: 3025 Claremont Ave City: Berkeley Zip: 94705
Signature: Andrew Baskett Date: 6/23/24

40
Name: Nadia Baskett (Please Print)
Address: 3025 Claremont Ave City: Berkeley Zip: 94705
Signature: Nadia Baskett Date: 6/23/24

Name of Property:	Hutchison Flats
Street Address(es) of Property:	2442 Haste St.

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate the property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions of Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we are residents of the City of Berkeley at the addresses indicated.

41 Name: Malcolm M Scotchler (Please Print)
Address: 2230 Blake St City: Berk Zip: 94704
Signature: [signature] Date: 6/8/24

42 Name: Seumas MuLcahy (Please Print)
Address: 2222 Parker City: Berkeley Zip: 94704
Signature: [signature] Date: 6-11-24

43 Name: LINDA LOCKE (Please Print)
Address: 2137-A PARKER ST. City: BERKELEY Zip: 94704
Signature: [signature] Date: 6-11-24

44 Name: RICHARD W. SPAID (Please Print)
Address: 2550 ELLSWORTH City: BERKELEY Zip: 94704
Signature: Richard W Spaid Date: 6-13-24

45 Name: Laura Watkins (Please Print)
Address: 2211 Blake St City: Berkeley Zip: 94704
Signature: [signature] Date: 6-13-24

Land Use Planning 2120 Milvia Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.9603 Fax: 510.981.7420 Email: Planning@ci.berkeley.ca.us

Name of Property:	Hutchison Flats
Street Address(es) of Property:	2442 Haste St.

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate the property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions of Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we are residents of the City of Berkeley at the addresses indicated.

46
Name: Marianne Sluis (Please Print)
Address: 2139 Derby st City: Berkeley Zip: 94705
Signature: Marianne Sluis Date: 6/19/24

47
Name: Burlington Willes (Please Print)
Address: 2829 Russell St. City: Berkeley Zip: 94705
Signature: Burlington Willes Date: 6/22/24

48
Name: Catherine Porter (Please Print)
Address: 3000 Claremont Ave #1 City: Berkeley Zip: 94705
Signature: Catherine Porter Date: 6/23/24

49
Name: Helen Tadeo (Please Print)
Address: 35 Vicente Rd. City: Berkeley Zip: 94705
Signature: Helen Tadeo Date: 6/23/24

50
Name: Phil Kamlarz (Please Print)
Address: 1085 Spruce st City: Berk Zip: 94707
Signature: Phil Kamlarz Date: 6-20-2024

Land Use Planning 2120 Milvia Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.9603 Fax: 510.981.7420 Email: Planning@ci.berkeley.ca.us

PLANNING & DEVELOPMENT
Land Use Planning 2120 Milvia Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.9603 Fax: 510.981.7420 Email: Planning@ci.berkeley.ca.us

LANDMARK PRESERVATION COMMISSION

Landmark, Structure of Merit or Historic District Petition Form

Name of Property:	Hutchison Flats Building
Street Address(es) of Property:	2442 Haste St.

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate the property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions of Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we are residents of the City of Berkeley at the addresses indicated.

1
Name: Barbara O'Hay (Please Print)
Address: 1085 Spruce City: Berkeley Zip: 94707
Signature: Barbara O'Hay Date: 6-23-24

2
Name: (Please Print)
Address: City: Zip:
Signature: Date:

3
Name: (Please Print)
Address: City: Zip:
Signature: Date:

4
Name: (Please Print)
Address: City: Zip:
Signature: Date:

5
Name: (Please Print)
Address: City: Zip:
Signature:

Office of the City Manager

INFORMATION CALENDAR
October 15, 2024

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department

Subject: LPO NOD: 1614 Sixth Street/#LMSAP2024-0003

INTRODUCTION

The attached Landmarks Preservation Commission Notice of Decision (NOD) is presented to the Mayor and City Council pursuant to Berkeley Municipal Code/Landmarks Preservation Ordinance (BMC/LPO) Section 3.24.240.A, which requires that "a copy of the Notice of Decision shall be filed with the City Clerk and the City Clerk shall present said copy to the City Council at its next regular meeting."

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has approved a Structural Alteration Permit (SAP) for the subject City Landmark property. This action is subject to a 15-day appeal period, which began on October 1, 2024.

BACKGROUND

BMC/LPO Section 3.24.300 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying a Structural Alteration Permit. For Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by October 15, 2024. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must then rule on the designation within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY & CLIMATE IMPACTS
Landmark designation and discretionary alteration reviews by staff and LPC provide opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION
The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION
There are no known fiscal impacts associated with this action.

CONTACT PERSON
Fatema Crane, Principal Planner, Planning and Development, 510-981-7410

Attachments:
1: Notice of Decision – #LMSAP2024-0003 for 1614 Sixth Street

LANDMARKS PRESERVATION COMMISSION

Notice of Decision

DATE OF BOARD DECISION: August 1, 2024
DATE NOTICE MAILED: September 30, 2024
APPEAL PERIOD EXPIRATION: October 15, 2024
EFFECTIVE DATE (Barring Appeal or Certification): October 16, 2024[1]

1614 Sixth Street – Charles R. Brown House

Structural Alteration Permit (#LMSAP2024-0003) to authorize construction of two new detached single-family residences on a City Landmark property.

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the Structural Alteration Permit request.

Property Owner: 1614 Sixth Street, LLC, c/o Sean Kenmore
825 Page Street
Berkeley, CA 94710

Project Applicant: Dennis O'Kelly, AIA, King O'Kelly Architects
806 Page Street
Berkeley, CA 94710

ZONING DISTRICT: Mixed Use – Residential (MU-R)

1 Pursuant to BMC Chapter 3.24, the City Council may "certify" any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Use Permit becomes effective the day after the certification deadline has passed.

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
#LMSAP2024-0003
1614 Sixth Street
Mailed: September 30, 2024
Page 2 of 5

ENVIRONMENTAL REVIEW STATUS: The project is categorically exempt from further environmental review in accordance with CEQA Guidelines Section 15331 for *Historical Resource Restoration/Rehabilitation.*

The application materials for this project is available online at:
https://berkeleyca.gov/construction-development/land-use-development/zoning-projects or
https://permits.cityofberkeley.info/CitizenAccess/Default.aspx

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FINDINGS AND CONDITIONS OF APPROVAL AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE

COMMISSION VOTE: 6-0-0-2 (note: one vacancy)

YES: Crandall, Enchill, Finacom, Montgomery, Orbuch, Twu

NO: NONE

ABSTAIN: NONE

ABSENT: Leuschner, Schwartz

TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):
To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1st Floor, Berkeley. The City Clerk's telephone number is (510) 981-6900.
   a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the commission made under the provisions of Chapter 3.24.
2. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
   a. The basic fee for persons other than the applicant is $1,500. This fee may be reduced to $500 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less. Signatures collected per the filing requirement in BMC Section 3.24.300.A may be counted towards qualifying for the reduced fee, so long as the signers are qualified. The

individual filing the appeal must clearly denote which signatures are to be counted towards qualifying for the reduced fee.

b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is $500, which may not be reduced.
c. The fee for all appeals by Applicants is $6,000.

3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

If no appeal is received, the Structural Alteration Permit will be final on the first business day following expiration of the appeal period.

NOTICE CONCERNING YOUR LEGAL RIGHTS:

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a “taking” of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must include the following information:

   A. That this belief is a basis of your appeal.

B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.

C. All evidence and argument in support of your belief that the decision or condition constitutes a “taking” as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

PUBLIC COMMENT:

Communications to Berkeley boards, commissions or committees are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

FURTHER INFORMATION:

Questions about the project should be directed to the project planner, Reina Kapadia, at (510) 981-7410 or rkapadia@berkeleyca.gov . All project application materials may be viewed at the Permit Service Center (Zoning counter), 1947 Center Street, 3rd Fl., during regular business hours.

ATTACHMENTS:

1. Findings and Conditions
2. Project Plans and Materials Information



ATTEST: _____
Fatema Crane, Secretary
Landmarks Preservation Commission

cc: City Clerk
Applicant: Dennis O’Kelly, AIA, King O’Kelly Architects
806 Page Street
Berkeley, CA 94710
Property Owner: 1614 Sixth Street, LLC, c/o Sean Kenmore
825 Page Street
Berkeley, CA 94710

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
#LMSAP2024-0003
1614 Sixth Street
Mailed: September 30, 2024
Page 5 of 5

Attachment 1, part 2

Findings and Conditions

1614 Sixth Street – Charles R. Brown House

Structural Alteration Permit #LMSAP2024-0003

Structural Alteration Permit to authorize construction of two new detached single-family residences on a City Landmark property.

FINDINGS REQUIRED UNDER CEQA

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15331 of the CEQA Guidelines ("Historic Resource Restoration/Rehabilitation"). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, and (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5.

FINDINGS RELATED TO THE SECRETARY OF THE INTERIOR'S STANDARDS

Regarding the Secretary of the Interior's Standards (SOI) for Rehabilitation, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

1. The project does not require a change of use. The property will retain its historic residential use.

2. The project will retain the historic Queen Anne residential character of the property and will avoid removal of those distinctive materials as well as alteration of the features that characterize the property.

3. The design of two new detached residential buildings will not resemble or replicate designs from the property's Victorian-era historic period. These new features are contemporary in design and materials and will not result in a false sense of historical development.

4. The subject property does not feature changes that have acquired significance in their own right.

5. Distinctive materials, features, finishes, and construction techniques, or examples of craftsmanship that characterize the Charles R. Brown House property, such as Victorian-era siding materials and Queen Anne decorative details, will be fully retained and preserved with this project, in that the proposed new construction on the property is not attached to the historic building.

6. As conditioned herein, if deteriorated historic features will be affected by this request, then they would be repaired or replaced to match the materials, design, and finishes of the original items.

7. The project scope does not propose chemical or physical treatments. However, standard conditions of Structural Alteration Permit approval would require any chemical or physical treatments to be undertaken using the gentlest means possible.

8. The project site is not known to have the potential to yield subsurface resources; the scope of proposed excavation is limited and not likely to disturb such resources if they exist. Nevertheless, as conditioned herein, actions to preserve and protect unexpected discoveries during project construction are required.

9. The proposed new buildings are designed with complimentary, high-quality materials in simplified, contemporary style employing muted colors and finishes that visually recede within the background of the Queen Anne cottage. Owing to these aspects, new work will be sufficiently differentiated from the historic design.

10. If the proposed improvements were removed in the future, they would not permanently impair the integrity or essential form of the Charles R. Brown House building because they are detached from this building.

FINDINGS REQUIRED UNDER LANDMARKS PRESERVATION ORDINANCE

1. As required by Section 3.24.260 of the Landmarks Preservation Ordinance, the Commission finds that the proposed work is appropriate for and consistent with the purposes of the Ordinance, and will preserve the characteristics and features specified in the designation for this property. Specifically:

    A. The project will not adversely affect the architectural design of the City Landmark Charles R. Brown House because the proposed new construction is detached and would not result in alterations to the historic building.

    B. The special character of the subject property lies in its residential Queen Anne architectural design, which is emphasized by the retention of the original site plan with generous front yard setback from the street and side yard separations from the adjacent properties. The proposed new development is detached and will be located behind the historic structure, thereby retaining the design integrity of the Charles R. Brown House as well as the siting and location of the historic residence in relation to the Sixth Street right-of-way and views therefrom. This project would not adversely affect the design, siting, or location of the Queen Anne cottage.

STANDARD CONDITIONS

The following conditions, as well as all other applicable provisions of the Landmarks Preservation Ordinance, apply to this Permit:

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Permit, under the title 'Structural Alteration Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. Plans and Representations Become Conditions

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

3. Subject to All Applicable Laws and Regulations

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Zoning Adjustments Board or Zoning Officer, Building and Safety Division, Public Works Department and other affected City divisions and departments.

4. Exercise and Lapse of Permits

A. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.

B. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

5. Indemnification Agreement

The permittee agrees as a condition of approval of this application to indemnify, protect, defend with counsel selected by the City, and hold harmless, the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents, from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively, "Claims")

arising out of or in any way relating to the approval of this application, any actions taken by the City related to this entitlement, or any environmental review conducted under the California Environmental Quality Act, Public Resources Code Section 210000 et seq., for this entitlement and related actions. The indemnification shall include any Claims that may be asserted by any person or entity, including the permittee, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents. The permittee's duty to defend the City shall not apply in those instances when the permittee has asserted the Claims, although the permittee shall still have a duty to indemnify, protect and hold harmless the City. (City Attorney).

6. Halt Work/Unanticipated Discovery of Tribal Cultural Resources

In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.

7. Archaeological Resources (*Ongoing throughout demolition, grading, and/or construction*)

Pursuant to CEQA Guidelines Section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:

A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.

D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

8. Human Remains (*Ongoing throughout demolition, grading, and/or construction*)

In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to CEQA Guidelines Section 15064.5 (e)(1). If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to Health and Safety Code Section 7050.5(c), and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

9. Paleontological Resources (*Ongoing throughout demolition, grading, and/or construction*)

In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

ADDITIONAL CONDITIONS

The following additional conditions are attached to this Permit:

10. No changes may be made to these approved plans without prior approval.

11. CITY PERMITS. This Structural Alteration Permit (SAP) approval is contingent upon approval of the requisite Administrative Use Permit and Public Work Permit for the project scope.

12. PLANS COMPLIANCE. Construction and building permit plans shall substantially conform to the Structural Alteration Permit (SAP) project plans dated June 26, 2024 and annotated for corrections.

13. **PROPERTY LINE CORRECTION**. Prior to submittal of any building permit for this project, the applicant shall confirm the location of the property lines and provide a boundary survey prepared and stamped by a licensed civil engineer in accordance with the requirements of the Building Official. The applicant shall correct the property lines represented on all diagrams within the project plans set so that it is consistent with the survey.

14. **REPAIR AND REPLACEMENT OF CHARACTER-DEFINING FEATURES**. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old or historic feature in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.

15. Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.

16. **COLORS.** Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit color and materials information for review and approval by Landmarks staff, in coordination with the LPC Chair as needed.

17. **CLEAR GLASS.** All glass is assumed to be clear glass. Any proposed glass that is not clear glass, or includes signage, shall be indicated on all drawings, and shall be reviewed for approval by Landmarks staff.

18. **DETAILS & WINDOWS.** Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit window, door, base, and trim details for review and approval by the Landmarks plan checker. The plans shall be revised to further differentiate the proposed siding material on the new construction from the siding on the historic house, for review and approval by Landmarks staff, in coordination with the LPC Chair as needed.

19. **HISTORIC PLAQUE.** A permanent, high-quality on-site plaque shall be installed within a publicly accessible location adjacent to the Sixth Street right-of-way. The primary goal of the exhibit shall be to inform the public about the history of the historic property, including its landmark status, and to acknowledge the alterations made. If deemed appropriate by staff in consultation with the Landmarks Preservation Commission Chair, the plaque may be designed consistent with the Berkeley Historical Plaque Project (berkeleyplaques.org). The placement, size, and appearance of the plaque shall be designed so as not to interfere with the ability of the property's character-defining features to convey their significance consistent with the Secretary of the Interior Standards. A draft of the plaque shall be submitted with the building permit for review by staff in coordination with the Landmarks Preservation Commission Chair. The final plaque or display shall be in place prior to the issuance of a certificate of occupancy.

20. **LIGHTING.** Prior to Landmarks plan checker sign-off of the building permit set of drawings, the applicant shall submit lighting details showing all existing and proposed site and building lighting. Exterior lighting, including for signage, shall be downcast and not cause glare on the public right-of-way and adjacent parcels.

21. **LANDSCAPE PLANS, including trash & recycling location.** Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit a landscape plan including the number, location, and species of all proposed plantings, and which existing plantings are to be removed. The applicant shall provide irrigation for all landscaped areas or provide drought tolerant plant palette. This shall be called out on landscape building permit drawings. Trash and recycling storage area shall not be located in the front of the historic building or within the front yard setback of the property, and shall be screened from view from the public street, for verification by the Landmarks plan checker. The amount of driveway, parking, and walkway pavers at the north side of the historic building shall be reduced in favor of tree planting(s) in this area, for verification by the Landmarks plan checker.

22. **CURB CUTS.** All curbs and curb cuts shall be constructed per the standards and specifications of the Public Works Department. Curb cuts no longer utilized shall be restored per the Public Works Department specifications.

23. The applicant shall be responsible for identifying and securing all applicable permits from the Building and Safety Division and all other affected City divisions/departments prior to the start of work.

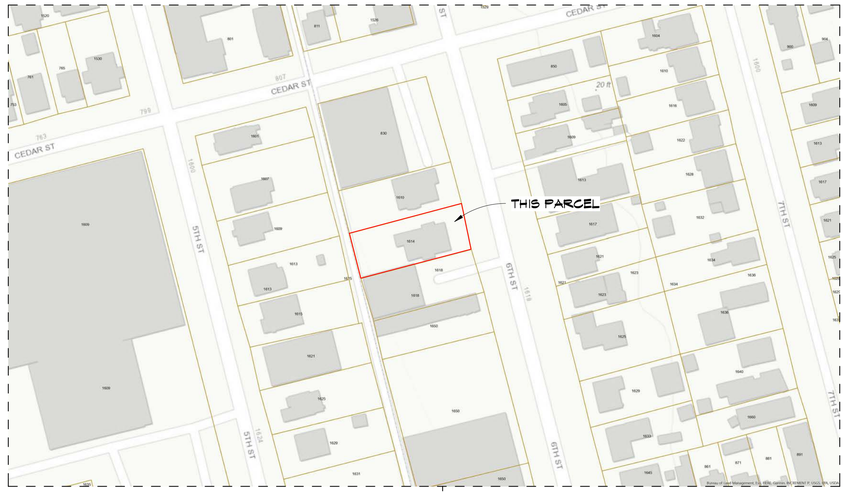
24. The applicant is responsible for complying with all the above conditions. Failure to comply with any condition could result in construction work being stopped, issuance of citations, as well as further review by the Landmarks staff, which may modify or impose additional conditions, or revoke approval.

25. All building permit drawings and subsequent construction shall substantially conform to the approved plans as outlined in Condition #1. Any modifications must be reviewed by the Landmarks plan checker to determine whether the modification requires approval.

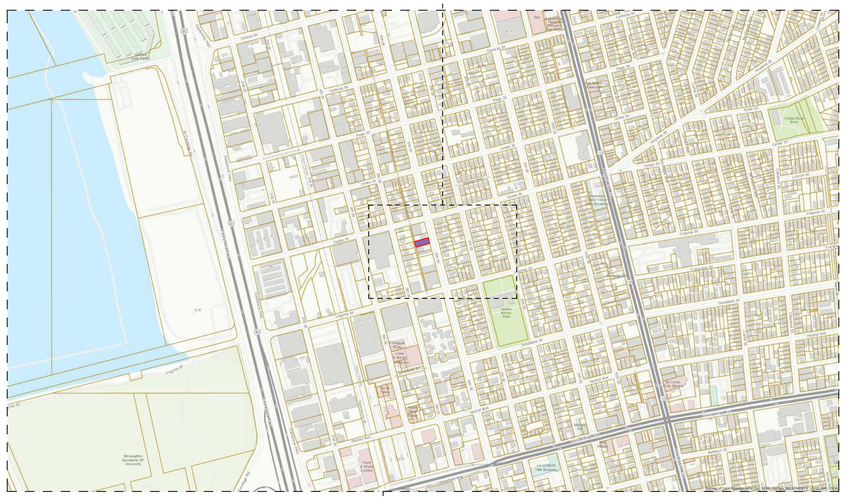
26. The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's

expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

BLOCK & LOT MAP



VICINITY MAPS



1614 6th STREET RESIDENCES

STRUCTURAL ALTERATION PERMIT - REV. 1

JUNE 26, 2024

PROJECT DIRECTORY

OWNER:
1614 SIXTH STREET, LLC
825 PAGE STREET
BERKELEY, CA 94710
T: 415.450.0636

CONTACT: SEAN KENMORE
E: skenmore@gmail.com

MEP ENGINEERS:
TBD

STRUCTURAL ENGINEERING:
TBD

ARCHITECT:
KING O'KELLY ARCHITECTS
806 PAGE STREET
BERKELEY, CA 94710
T: 415.987.4230

CONTACT: DENNIS O'KELLY
E: dennis@kingokelly.com

LANDSCAPE ARCHITECT:
PLAINS OFFICE
CALIFORNIA PLA ID #6739

CONTACT: BEN WALDO
E: bwaldo@plainsoffice-la.com

GENERAL CONTRACTOR:
TBD

PROJECT AND SITE DATA

SITE INFORMATION:

SITE ADDRESS:	1614 SIXTH STREET, BERKELEY, CA 94710
PARCEL NUMBER:	57-2117-4-1
LOT SIZE:	6,500 SF
ZONING DISTRICT:	MUR - MANUFACTURING MIXED-USE
LIQUIFICATION ZONE:	NO
FIRE ZONE:	1
REDEVELOPEMENT AREA:	YES
CREEK BUFFER:	NONE
FLOOD ZONE:	NO

BUILDING INFORMATION:

EXISTING BUILDING AREA:	0
(N) CONSTRUCTION BLD'G AREA:	1,747sf + 1,747sf = 3,494sf (NEW RESIDENCES)
OCCUPANCY:	R-3
CONSTRUCTION TYPE:	V-B
SPRINKLERED:	FULL SPRINKLERED
NOTE, EXISTING RESIDENCE ON SITE TO REMAIN	2,704 SF (EXISTING SFR TO REMAIN)

SHEET INDEX - SAP

#	SHEET NAME
SAP01	S.A.P. - PROJECT INFORMATION
SAP02	S.A.P. - EXISTING SITE PHOTOS
SAP03	3D VIEWS - BEFORE & AFTER FROM 6TH STREET - S.A.P.
SAP04	3D VIEWS - BEFORE & AFTER FROM 6TH STREET - S.A.P.
SAP05	3D VIEW3D VIEWS - BEFORE & AFTER FROM JERONIMUS ALLEY
SAP06	3D VIEW3D VIEWS - BEFORE & AFTER FROM JERONIMUS ALLEY
SAP10	S.A.P. - VICINITY MAP
SAP11	S.A.P. - EXISTING SITE PLAN
SAP12	S.A.P. - PROPOSED SITE PLAN
SAP13	S.A.P. - LANDSCAPE PLAN
SAP14	S.A.P. - LANDSCAPE PLANTING SCHEDULE
SAP21	S.A.P. - FLOOR PLANS
SAP22	S.A.P. - FLOOR PLANS
SAP23	S.A.P. - FLOOR PLANS
SAP24	S.A.P. - ROOF PLANS
SAP31	S.A.P. - ELEVATIONS
SAP32	S.A.P. - ELEVATIONS
SAP33	S.A.P. - ELEVATIONS
SAP34	S.A.P. - ELEVATIONS
SAP35	S.A.P. - STREET ELEVATIONS
SAP41	S.A.P. - SECTION DRAWINGS
SAP51	S.A.P. - MATERIALS BOARD
SAP61	S.A.P. - DETAILS
SAP71	S.A.P. - ADDITIONAL 3D VIEWS

SCOPE OF WORK

ARCHITECTURAL

THE PROJECT IS LOCATED IN THE OCEAN VIEW NEIGHBORHOOD OF WEST BERKELEY ALONG THE SIXTH STREET CORRIDOR BETWEEN VIRGINIA AND CEDAR STREETS.

THE PROJECT PROPOSES THE CONSTRUCTION OF (2) SINGLE FAMILY HOMES ON THE REAR OF A 80X130' LOT IN THE MU-R DISTRICT. THE REAR OF THIS LOT ABUTS JERONIMUS ALLEY.

THE (2) RESIDENCES WILL BE CONSTRUCTED OF TYPE V-B CONSTRUCTION AND ARE 3 STORIES WITH A ROOF DECK. THE BUILDINGS WILL BE FULLY SPRINKLERED AND ALL REQUIRED FIRE RESISTANCE RATINGS WILL BE MET PER CBC TABLE 601.

BUILDING HEIGHTS CONFORM TO THE 35' HEIGHT LIMIT (SEE SECTIONS AND ELEVATIONS). REQUIRED LOT LINE SETBACKS AND BUILDING SEPARATION REQUIREMENTS ARE MAINTAINED (SEE PARCEL PLAN). USABLE OPEN SPACE REQUIREMENTS HAVE BEEN MET. LOT COVERAGE AND F.A.R. REQUIREMENTS HAVE BEEN MET.

APPLICABLE CODES

ALL WORK SHALL COMPLY WITH THE APPLICABLE CODES, AMENDMENTS, RULES, REGULATIONS, ORDINANCES, LAWS, ORDERS, APPROVALS, ETC THAT ARE REQUIRED BY PUBLIC AUTHORITIES. IN THE EVENTOF CONFLICT, THE MOST STRINGENT REQUIREMENTS SHALL COMPLY. REQUIREMENTS INCLUDE, BUT ARE NOT LIMITED TO, THE CURRENT APPLICABLE EDITIONS OR PUBLICATIONS OF THE FOLLOWING (OR OTHERWISE NOTED):

A. 2022 CALIFORNIA BUILDING CODE
B. 2022 CALIFORNIA MECHANICAL CODE
C. 2022 CALIFORNIA ELECTRICAL CODE
D. 2022 CALIFORNIA PLUMBING CODE
E. 2022 CALIFORNIA ENERGY CODE
F. 2022 CALIFORNIA FIRE CODE
G. 2022 CALIFORNIA GREEN BUILDING CODE
H. 2022 CITY OF BERKELEY MUNICIPAL CODE
I. ACCESSIBILITY:
. CALL-OSHA
. FEDERAL REGULATIONS & AMERICAN W/ DISABILITIES ACT (ADA)

COMPLIANCE STATEMENTS

THE SUBJECT PROJECT DOES NOT INCLUDE 50 CUBIC YARDS OF CUT AND/ FILL.

NEW OR REPLACED IMPERIVOUS SURFACES < 2,500sf

BUILDING & ZONING CODE ANALYSIS

ZONING INFO: (MUR-R)	(PER TABLE 23.206-14)	
MIN. USABLE OPEN SPACE:	150sf PER DWELLING UNIT	
MAX. FLOOR AREA RATIO:	1.5 FOR BLDGS W. 50% OR > RESIDENTIAL	
-EXISTING BLDG. F.A.R.	0.416	
-NEW BLDG F.A.R.	0.571	
-TOTAL F.A.R. (ALL BDLGS)	0.987	
MAX. BUILDING HEIGHT:	35' AND (3) STORIES	
-PROPOSED BUILDING HEIGHT:	35' AND (3) STORIES	
MIN. BLDG SEPARATION:	NO MINIMUM	
MAX LOT COVERAGE:	100%	
MIN. LOT LINE SETBACKS:		
-REQ'D AT FRONT	10'-0"	(PER TABLE 23.304.3)
EXISTING AT FRONT:	21'-8"	
-REQ'D AT SOUTH SIDE:	NO MINIMUM	(PER TABLE 23.206-14)
PROPOSED AT SOUTH SIDE:	3'-0"	
-REQ'D AT NORTH SIDE:	5'-0"	(PER TABLE 23.304.3)
PROPOSED AT NORTH SIDE:	5'-0"	
-REQ'D AT REAR:	5'-0"	(PER TABLE 23.304.3)
PROPOSED AT REAR:	5'-0"	
PARKING:	NONE REQ'D	(PER TABLE 23.322-4)

OPEN SPACE AREAS

1614 (E) RESIDENCE:	
USABLE OPEN SPACE AT GRADE	512sf
1616A:	
USABLE OPEN SPACE AT GRADE	282sf
OPEN-AIR ROOF DECK	360sf
1616B:	
USABLE OPEN SPACE AT GRADE	228sf
OPEN-AIR ROOF DECK	360sf
TOTAL USABLE OPEN SPACE	**1,742sf**

LOT COVERAGE

LOT AREA	6,500sf
BUILDING FOOTPRINT:	
• 1614	1,584sf
• 1616A	698sf
• 1616B	698SF
USABLE OPEN SPACE	
• TOTAL AT GRADE	1,022sf
• TOTAL AT ROOF DECKS	720sf
PARKING & DRIVEWAY	1,192sf
NON-USEBALE OPEN SPACE	1,306sf

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LICENSED ARCHITECT
Dennis O'Kelly
C-37374
REN. 04-30-2025
STATE OF CALIFORNIA

APN 57-2117-4-1

1614 6TH ST. - S.A.P. REV. 1

OWNER: 1614 SIXTH STREET, LLC
1614 6TH STREET - BERKELEY, CA

2023.11.10	USE PERMIT

S.A.P. - PROJECT INFORMATION

SAP01

PROJECT | Project Number

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EXISTING HISTORIC BUILDING - EAST FACADE



EXISTING HISTORIC BUILDING - FROM NE



EXISTING HISTORIC BUILDING - NORTH FACADE



EXISTING HISTORIC BUILDING - WEST FACADE



VIEWS FROM 6TH STREET - FROM SE



VIEWS FROM 6TH STREET - FROM EAST



VIEWS FROM 6TH STREET - FROM NE



VIEW FROM JERONIMUS ALLEY - FROM NORTH (CEDAR STREET DIRECTION)



VIEW FROM JERONIMUS ALLEY - FROM SOUTH (VIRGINIA STREET DIRECTION)

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C-37374
REN. 04-30-2025
STATE OF CALIFORNIA

APN 57-2117-4-1

1614 6TH ST. - S.A.P. REV. 1

OWNER: 1614 SIXTH STREET, LLC
1614 6TH STREET - BERKELEY, CA

01/09/24	USE PERMIT

S.A.P. - EXISTING SITE PHOTOS

SAP02

PROJECT Project Number

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2 VIEW FROM ACROSS 6TH - AFTER Copy 1



1 VIEW FROM ACROSS 6TH - AFTER



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APN 57-2117-4-1

1614 6TH ST. - S.A.P. REV. 1

OWNER: 1614 SIXTH STREET, LLC
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06/25/24	USE PERMIT

3D VIEWS - BEFORE & AFTER FROM 6TH STREET - S.A.P.

SAP03

PROJECT Project Number

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1 VIEW FROM 6TH - SOUTH - EXISTING - S.A.P.



3 VIEW FROM 6TH - SOUTH - NEW CONSTRUCTION - S.A.P.



2 VIEW FROM 6TH - NORTH - EXISTING - S.A.P.



4 VIEW FROM 6TH - NORTH - NEW CONSTRUCTION - S.A.P.



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REN. 04-30-2025
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APN 57-2117-4-1

1614 6TH ST. - S.A.P. REV. 1

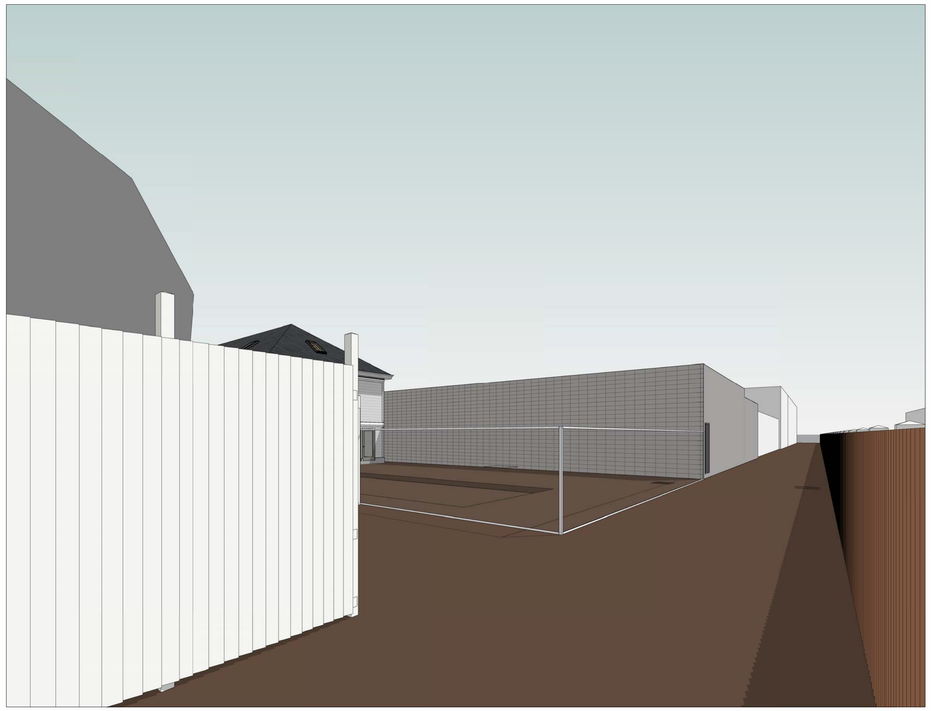
OWNER: 1614 SIXTH STREET, LLC
1614 6TH STREET - BERKELEY, CA

01/04/24	USE PERMIT

3D VIEWS - BEFORE & AFTER FROM 6TH STREET - S.A.P.

SAP04

PROJECT Project Number



2 VIEW FROM ALLEY - NORTH - BEFORE



1 VIEW FROM ALLEY - NORTH - AFTER



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STATE OF CALIFORNIA

APN 57-2117-4-1

1614 6TH ST. - S.A.P. REV. 1

OWNER: 1614 SIXTH STREET, LLC
1614 6TH STREET - BERKELEY, CA

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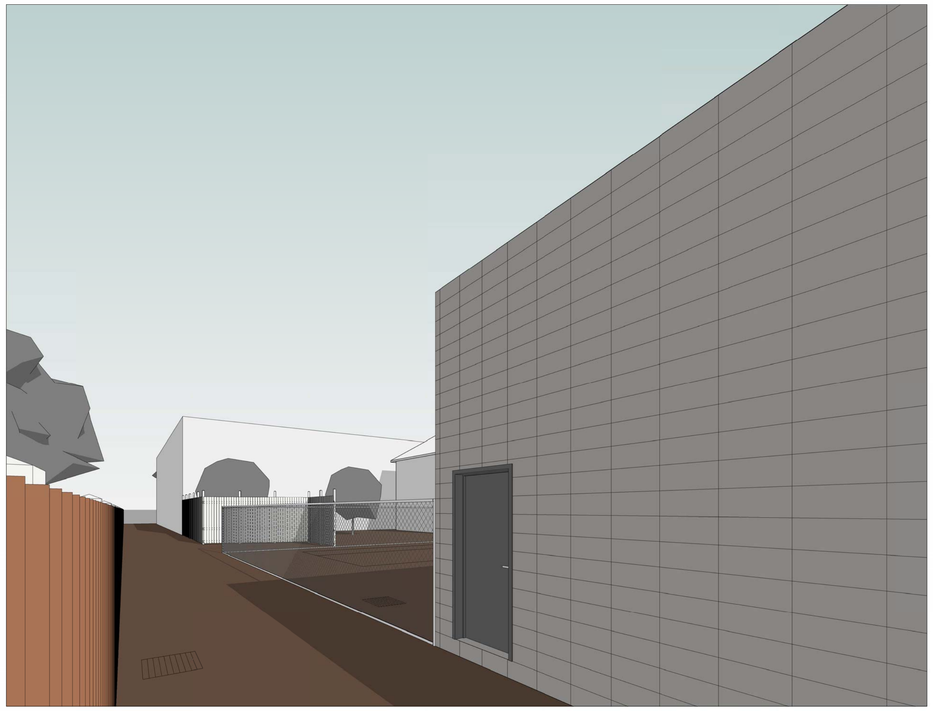
3D VIEW3D VIEWS - BEFORE & AFTER FROM JERONIMUS ALLEY

SAP05

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2 VIEW FROM ALLEY - SOUTH - BEFORE



1 VIEW FROM ALLEY - SOUTH - AFTER



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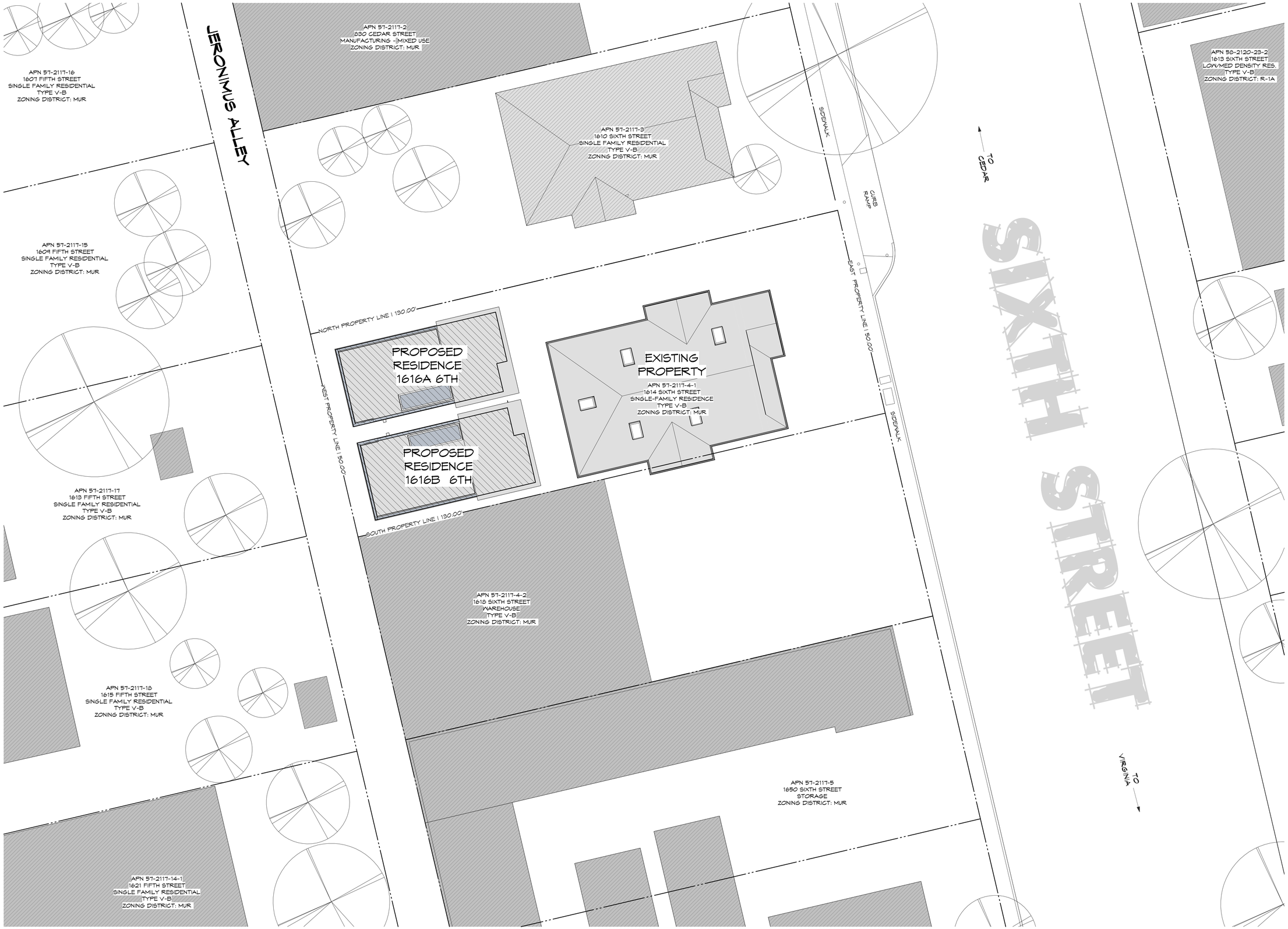
3D VIEW3D VIEWS - BEFORE & AFTER FROM JERONIMUS ALLEY

SAP06

PROJECT Project Number

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1 VICINITY PLAN - S.A.P.
1" = 10'-0"

0' 5' 10' 20' 40'

N

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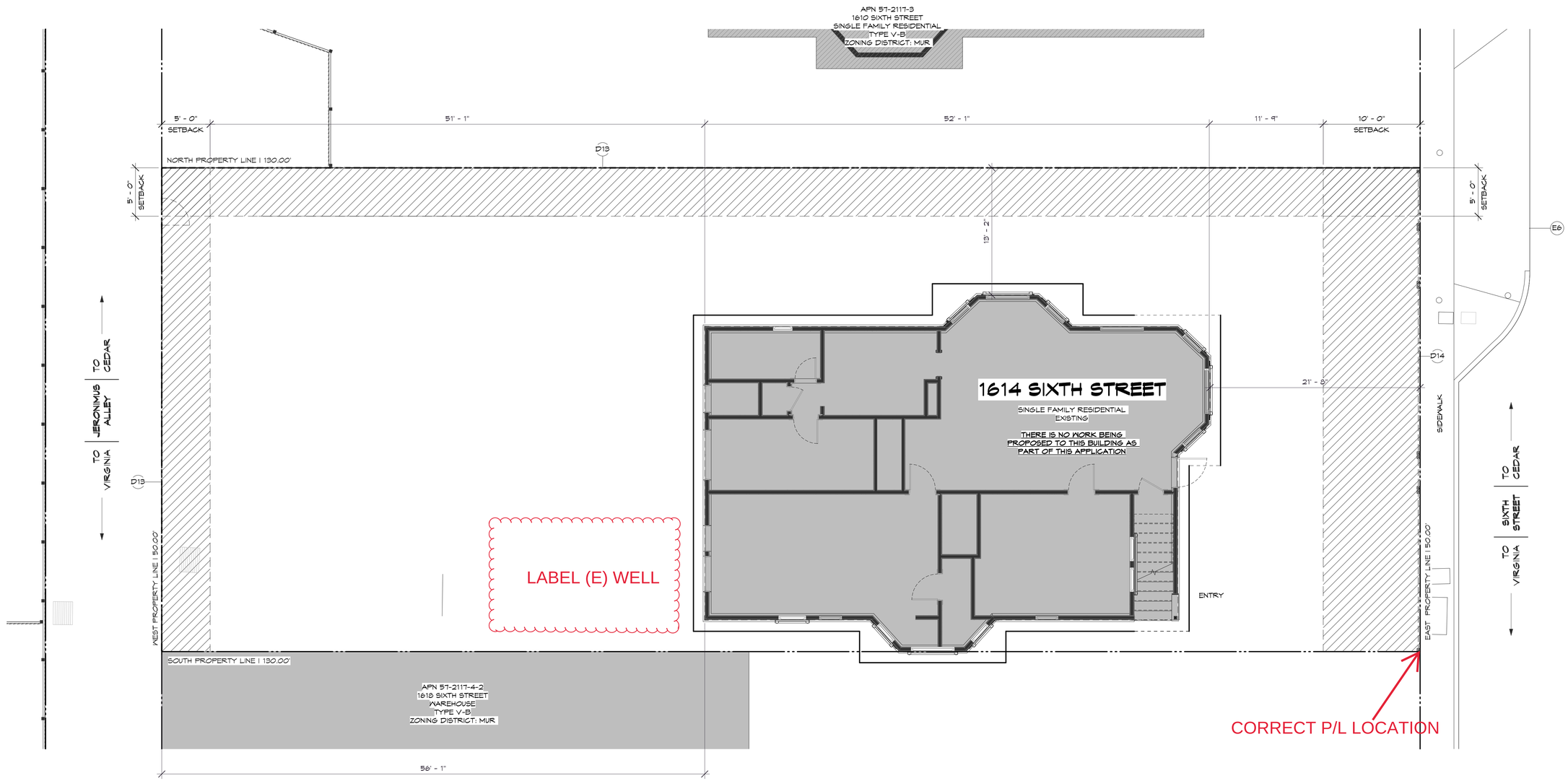
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REN. 04-30-25
STATE OF CALIFORNIA

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04/08/25	USE PERMIT

S.A.P. - VICINITY MAP

SAP10
PROJECT Project Number



1 EXISTING SITE PLAN - S.A.P.
3/16" = 1'-0"

0' 2' 4' 8' 16'

N

13.21°

KEY NOTES

NO.	TEXT
D13	REMOVE (E) CHAINLINK FENCE
D14	REMOVE (E) PICKET FENCE
E6	(E) CURB-CUT TO REMAIN

CONSTRUCTION LEGEND

- EXISTING CONSTRUCTION TO BE REMOVED
- EXISTING FLOOR/ROOF/CEILING TO BE REMOVED
- NEW WALL CONSTRUCTION
- EXISTING WALL CONSTRUCTION
- AREA NOT IN CONTRACT

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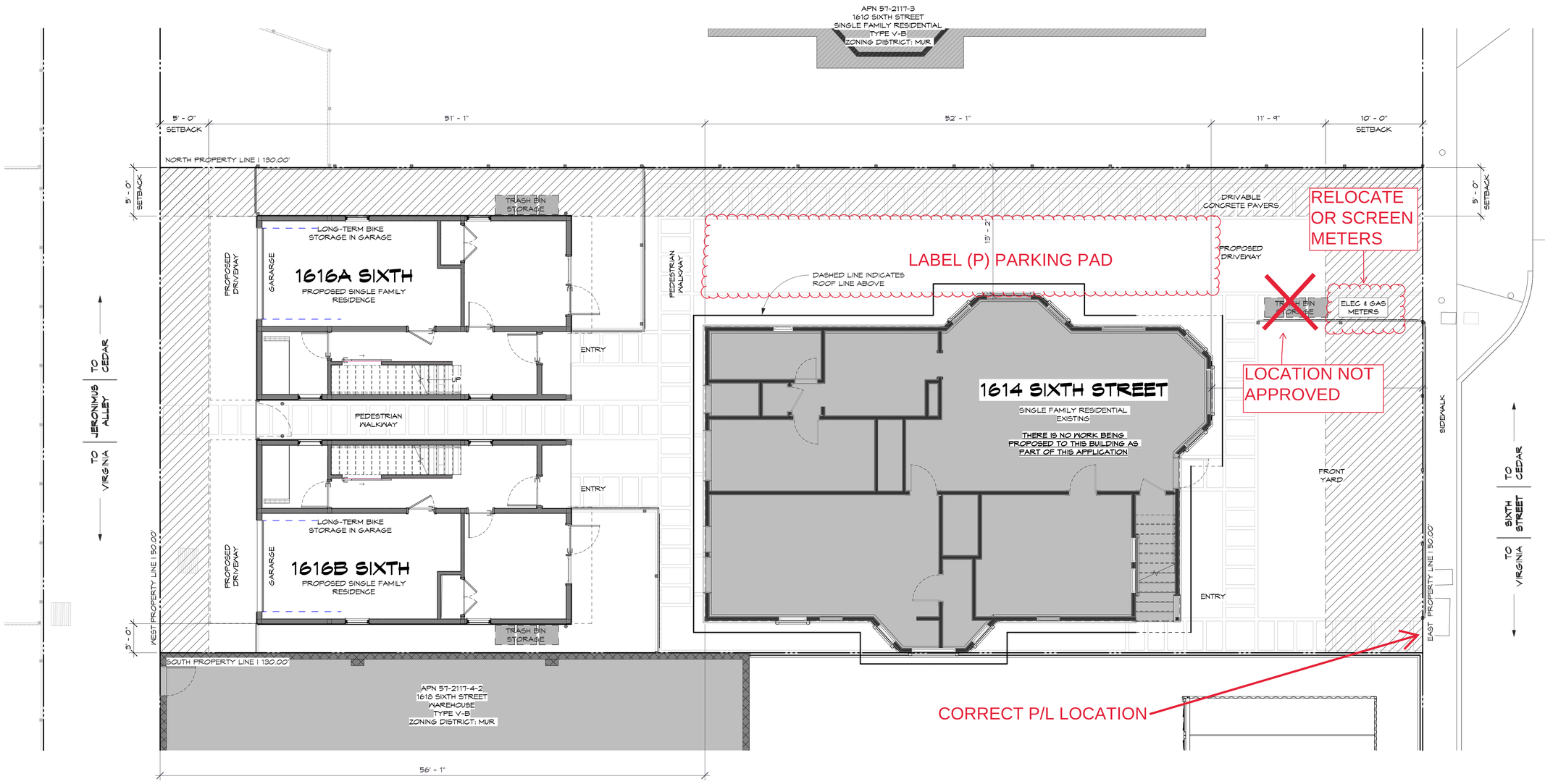
11/06/23	USE PERMIT

S.A.P. - EXISTING SITE PLAN

SAP11
PROJECT | Project Number

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1 SITE PLAN - S.A.P.
3/16" = 1'-0"

0' 2' 4' 8' 16'

N

KEY NOTES

NO.	TEXT
E6	(E) CURB-CUT TO REMAIN

CONSTRUCTION LEGEND

- EXISTING CONSTRUCTION TO BE REMOVED
- EXISTING FLOOR/ROOF/CEILING TO BE REMOVED
- NEW WALL CONSTRUCTION
- EXISTING WALL CONSTRUCTION
- AREA NOT IN CONTRACT

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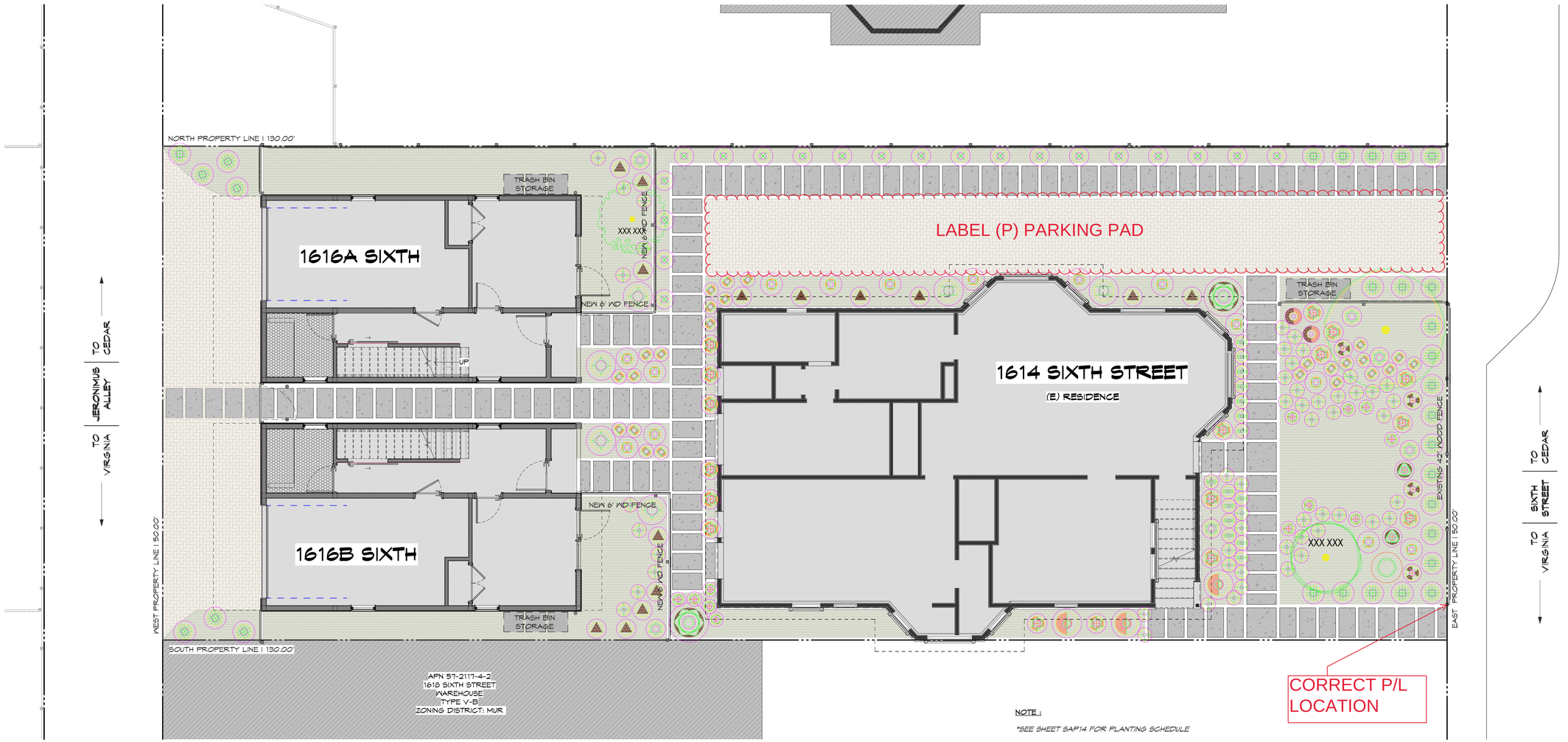
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S.A.P. - PROPOSED SITE PLAN

SAP12
PROJECT Project Number

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NOTE :

*SEE SHEET SAP14 FOR PLANTING SCHEDULE

ALL LANDSCAPE ELEMENTS TO BE CONSISTENT WITH THE STATE OF CALIFORNIA WATER EFFICIENCY LANDSCAPE ORDINANCE (WELO) STANDARDS

THE SUBJECT PROJECT DOES NOT INCLUDE 50 CUBIC YARDS OF CUT AND/ FILL.

NEW OR REPLACED IMPERIVOUS SURFACES < 2,500SF

1 LANDSCAPE PLAN - S.A.P.
3/16" = 1'-0"

0' 2' 4' 8' 16'

N 13.21°

LANDSCAPE LEGEND

- PERMEABLE PAVER (RATED TO BE DRIVEN ON)
- CONCRETE PAVERS (RATED TO BE DRIVEN ON)
- LANDSCAPED AREA w/ PERMEABLE GROUNDCOVER (MULCHED OR SIMILAR)

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APN 57-2117-4-1
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OWNER: 1614 SIXTH STREET, LLC
1614 6TH STREET - BERKELEY, CA

11/06/23	USE PERMIT

S.A.P. - LANDSCAPE PLAN

SAP13
PROJECT Project Number

6/26/2024 6:15:40 PM

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TREE SCHEDULE

NOTE:
ALL QUANTITIES SUBJECT TO CHANGE AND TO BE VERIFIED BY CONTRACTOR ON PLANS.

SYMBOL	KEY	DESCRIPTION	SIZE	SPACING	HEIGHT	SPREAD	WUCOLS	QUANTITY	REMARKS	NATIVE	DETAIL
	PR	WESTERN SYCAMORE PLATANUS RACEMOSA 'ROBERTS'	36" BOX	SEE LAYOUT	40'	30'	M			Y	
	AM	STRAWBERRY TREE ARBUTUS MARINA	24" BOX	SEE LAYOUT	20'	12'	L			Y	
	AP	JAPANESE MAPLE ACER PALMATUM 'SEIRYU'	24" BOX	SEE LAYOUT	25'	18'	M				

UNDERSTORY SCHEDULE

NOTE:
ALL QUANTITIES SUBJECT TO CHANGE AND TO BE VERIFIED BY CONTRACTOR ON PLANS.

SYMBOL	KEY	DESCRIPTION	SIZE	SPACING	HEIGHT	SPREAD	WATER	QUANTITY	REMARKS	NATIVE	DETAIL
	MC	PACIFIC WAX MYRTLE MYRICA CALIFORNICA	5 GAL	36" O.C.	20'-30' SEE REMARKS	10'-20' SEE REMARKS	L		HEDGE TO 7' HIGH, 3-4' WIDE IN LATE SPRING	Y	
	RC	COFFEEBERRY RHAMNUS CALIFORNICA 'MOUND SAN BRUNO'	1 GAL	SEE PLANS	3-4'	4-5'	L			Y	
	AC	COUSIN ITT PLANT ACACIA COGNATA 'COUSIN ITT'	1 GAL	SEE PLANS	2'	3'-4'	L				
	MM	HONEY BUSH MELIANTHUS MAJOR	5 GAL	SEE PLANS	5'-6'	6'-8'	M				
	AD	MANZANITA 'HOWARD MCMINN' ARCTOSTAPHYLOS DENSIFLORA	5 GAL	SEE PLANS	5-8'	5-6'	VL			Y	
	BS	ANGEL'S TRUMPET BRUGMANSIA SP.	15 GAL	SEE PLANS	8-12'	8-10'	M				
	PJ	JAPANESE ANDROMEDA PIERIS JAPONICA 'MOUNTAIN FIRE'	1 GAL	SEE PLANS	4-8'	3-6'	M				
	HM	ISLAND ALUM ROOT HEUCHERA MAXIMA	1 GAL	SEE PLANS	1'-2'	1'-2'	M			Y	
	PH	FOOTHILL BEARDTONGUE PENSTEMMON HETEROPHYLLUS	1 GAL	SEE PLANS	18"	1-2'	L			Y	
	EK	SANTA BARBARA DAISY ERIGERON KARVINSKIANUS	1 GAL	SEE PLANS	1'-2'	3-4'	L				
	EP	TOWER OF BELLS ECHIUM PININANA	1 GAL	SEE PLANS	8-10'	1'-2'	L		BIENNIAL		
	SC	CLEVELAND SAGE SALVIA CLEVELANDII 'WINNIFRED GILMAN'	1 GAL	SEE PLANS	1'-2'	8'-15'	L			Y	
	MR	DEERGRASS MUHLENBERGIA RIGENS	1 GAL	SEE PLANS	3' 5' FLOWERING	3'-4'	L			Y	
	FC	CALIFORNIA FESCUE FESTUCA CALIFORNICA	1 GAL	SEE PLANS	1'-2'	1'-2'	L			Y	
	WF	WOODWARDIA FIMBRIATA GIANT CHAIN FERN	1 GAL	SEE PLANS	3-4'	4-5'	M			Y	
	TA	BLACK-EYED SUSAN VINE THUNBERGIA ALATA	2 GAL	4' O.C.	CLIMBING TO 15'	SPREADING TO 20'	M				
	AA	FOXGLOVE AGAVE AGAVE ATTENUATA	2 GAL	SEE PLANS	2-4'	3-4'	L			Y	
	RS	FLOWERING GOOSEBERRY RIBES SANGUINEUM	5 GAL	SEE PLANS	6-10'	5-6'	M			Y	

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C-37374
REN. 04-30-2025
STATE OF CALIFORNIA

APN 57-2117-4-1
1614 6TH ST. - S.A.P. REV. 1
OWNER: 1614 SIXTH STREET, LLC
1614 6TH STREET - BERKELEY, CA

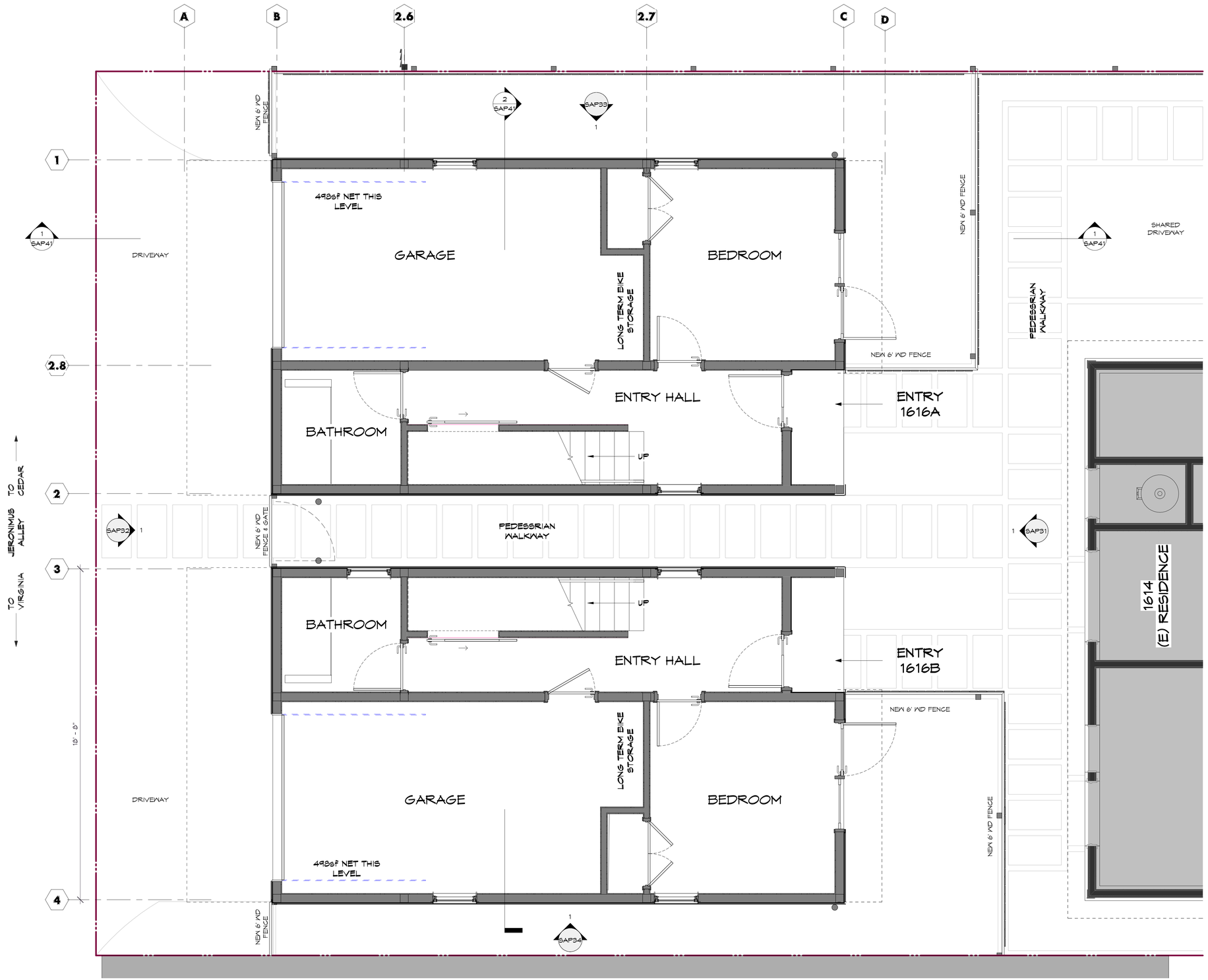
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S.A.P. - LANDSCAPE PLANTING SCHEDULE

SAP14
PROJECT Project Number

6/26/2024 6:15:40 PM

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1 GROUND LEVEL PLANS - S.A.P.
3/8" = 1'-0"

0' 1' 2' 4' 8'

N

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Dennis O'Kelly
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REN. 04-30-25
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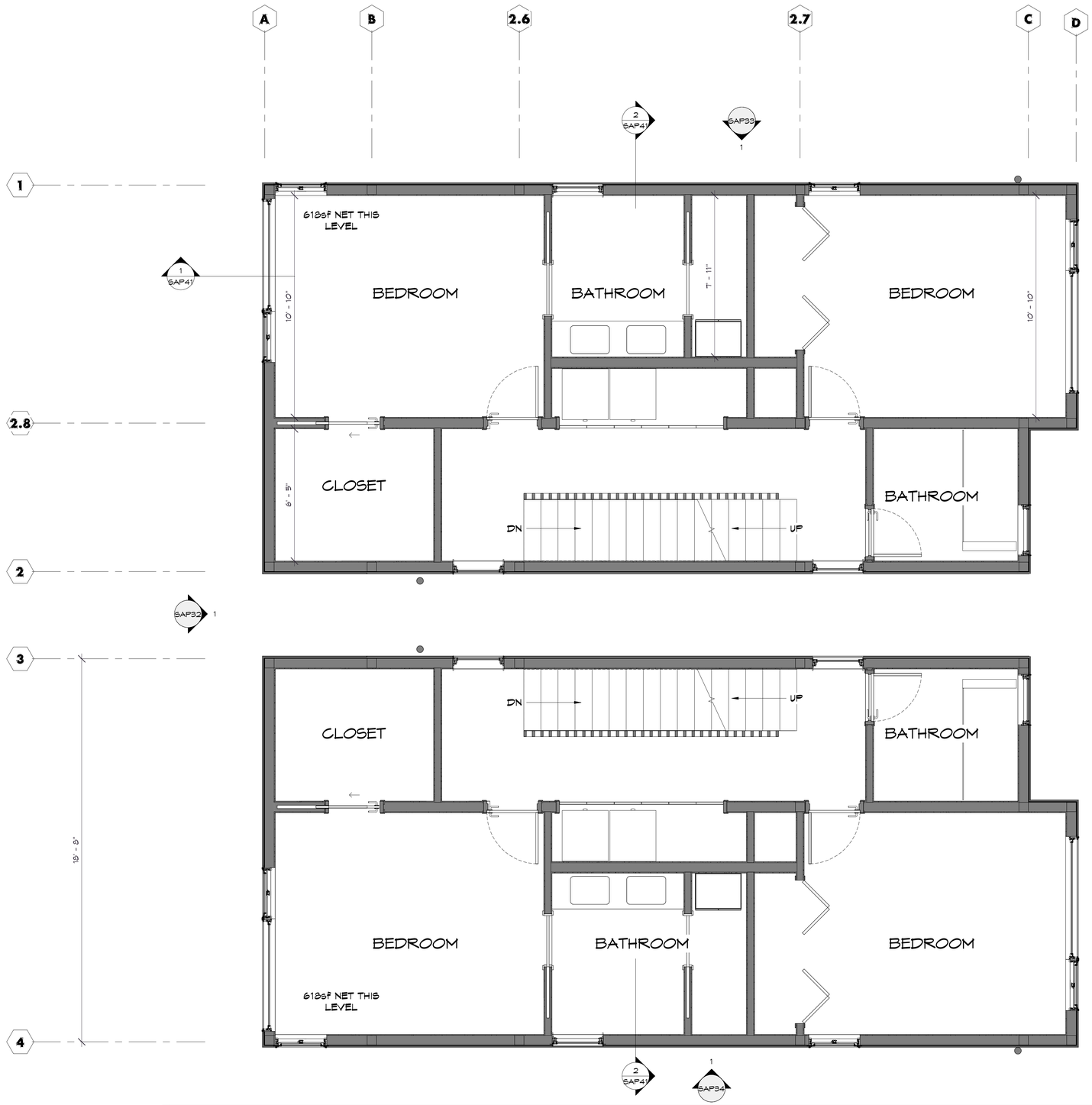
OWNER: 1614 SIXTH STREET, LLC
1614 6TH STREET - BERKELEY, CA

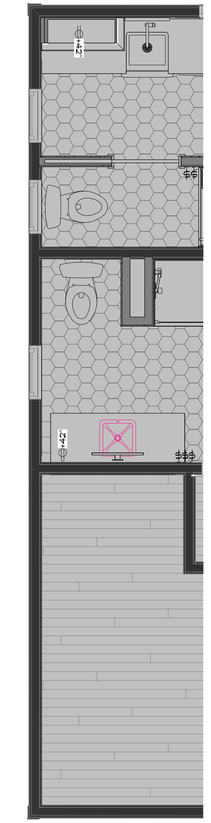
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S.A.P. - FLOOR PLANS

SAP21

PROJECT Project Number





1 SECOND LEVEL PLANS - S.A.P.
3/8" = 1'-0"

0' 1' 2' 4' 8'

N

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APN 57-2117-4-1

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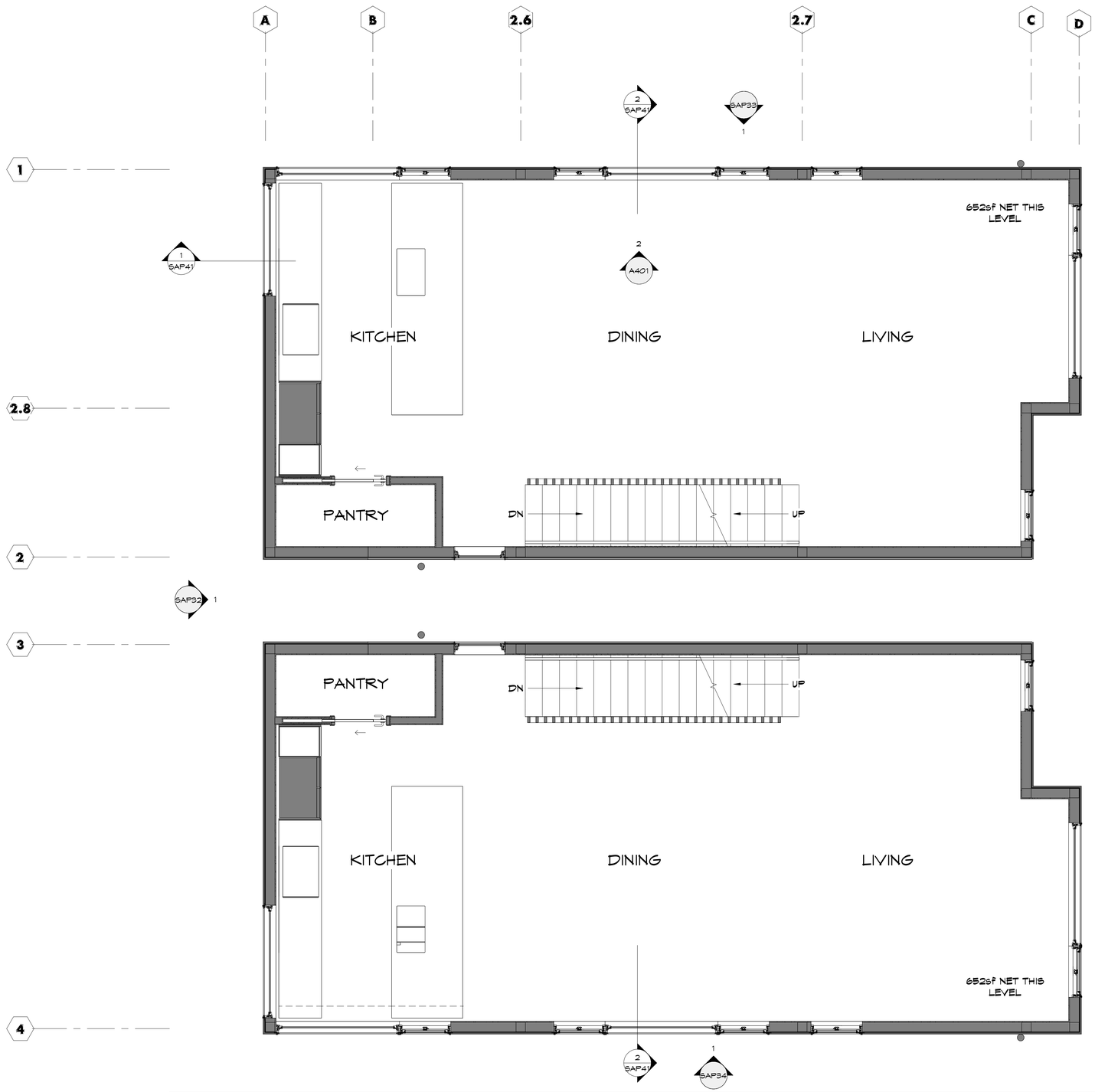
OWNER: 1614 SIXTH STREET, LLC
1614 6TH STREET - BERKELEY, CA

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S.A.P. - FLOOR PLANS

SAP22

PROJECT Project Number



1 THIRD LEVEL PLANS - S.A.P.
3/8" = 1'-0"

0' 1' 2' 4' 8'

N

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1614 6TH ST. - S.A.P. REV. 1

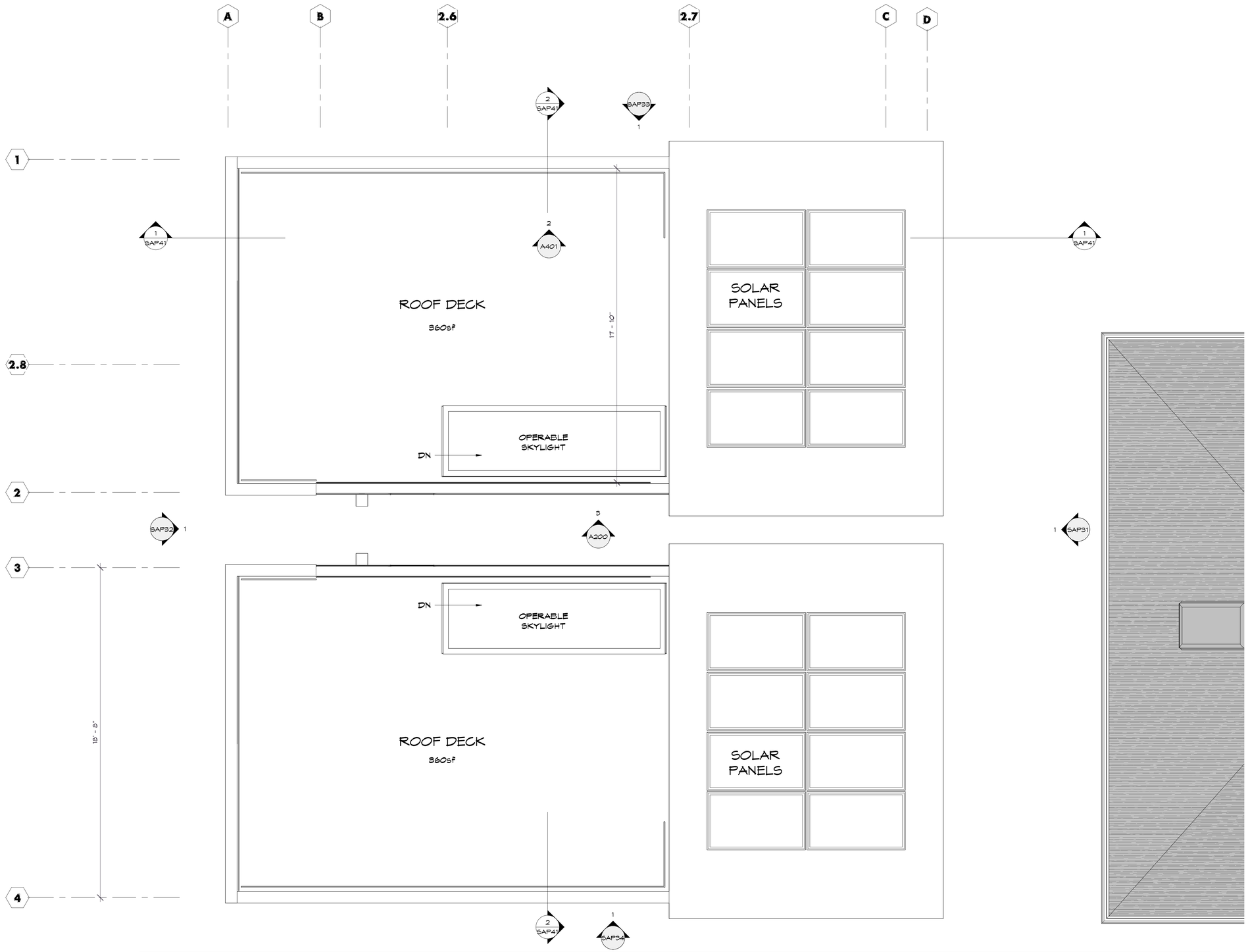
OWNER: 1614 SIXTH STREET, LLC
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S.A.P. - FLOOR PLANS

SAP23

PROJECT Project Number



1 ROOF & ROOF DECK PLANS - S.A.P.
3/8" = 1'-0"

0' 1' 2' 4' 8'

N

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S.A.P. - ROOF PLANS

SAP24

PROJECT Project Number



1 EAST ELEVATION - S.A.P.
3/8" = 1'-0"

0' 1' 2' 4' 8'

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1614 6TH ST. - S.A.P. REV. 1

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S.A.P. -
ELEVATIONS

SAP31

PROJECT Project Number



1 WEST ELEVATION - S.A.P.
3/8" = 1'-0"

0' 1' 2' 4' 8'

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APN 57-2117-4-1

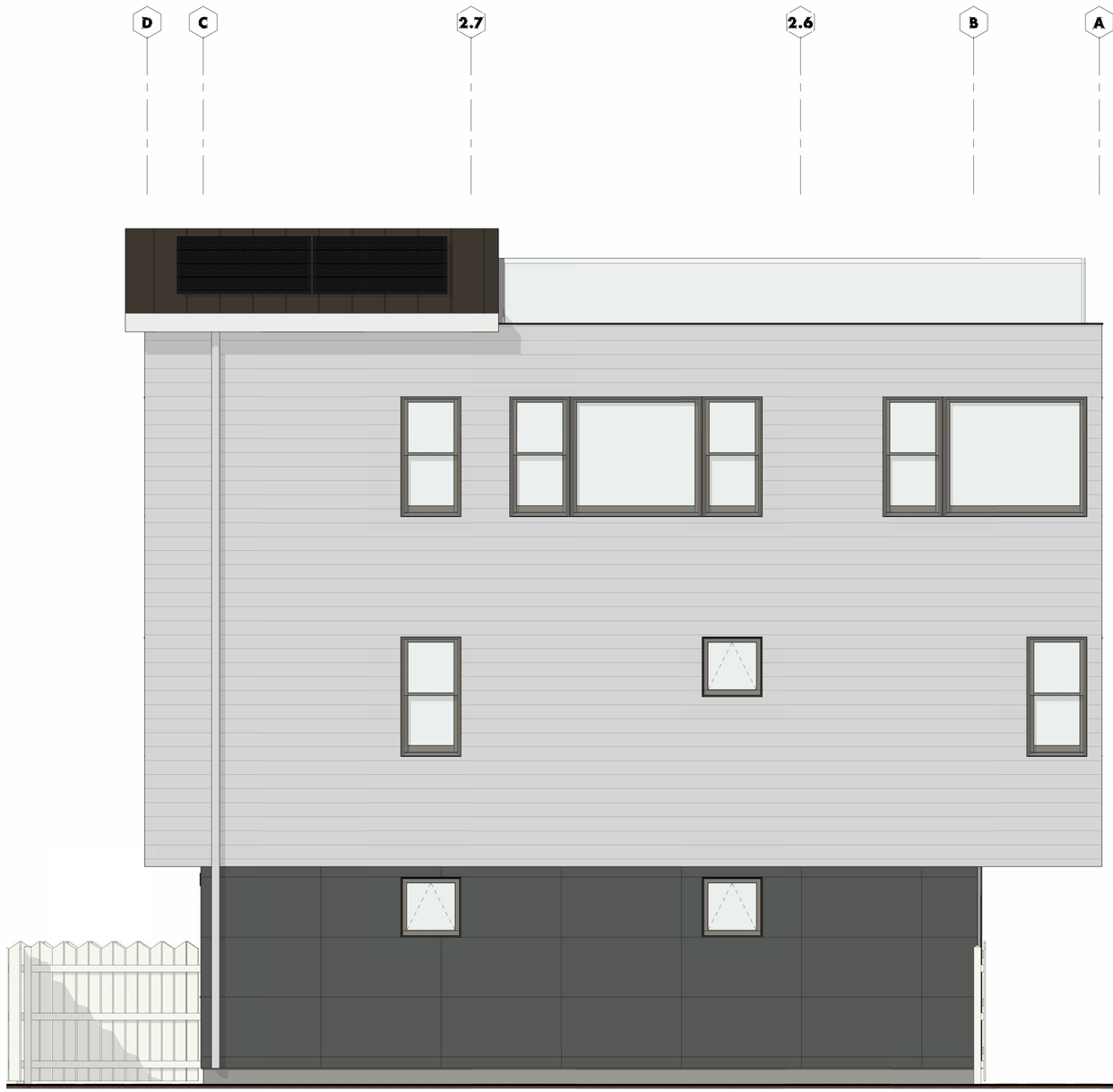
1614 6TH ST. - S.A.P. REV. 1

OWNER: 1614 SIXTH STREET, LLC
1614 6TH STREET - BERKELEY, CA

11/06/23	USE PERMIT

S.A.P. -
ELEVATIONS

SAP32
PROJECT Project Number



1 NORTH ELEVATION - S.A.P.
3/8" = 1'-0"

0' 1' 2' 4' 8'

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OWNER: 1614 SIXTH STREET, LLC
1614 6TH STREET - BERKELEY, CA

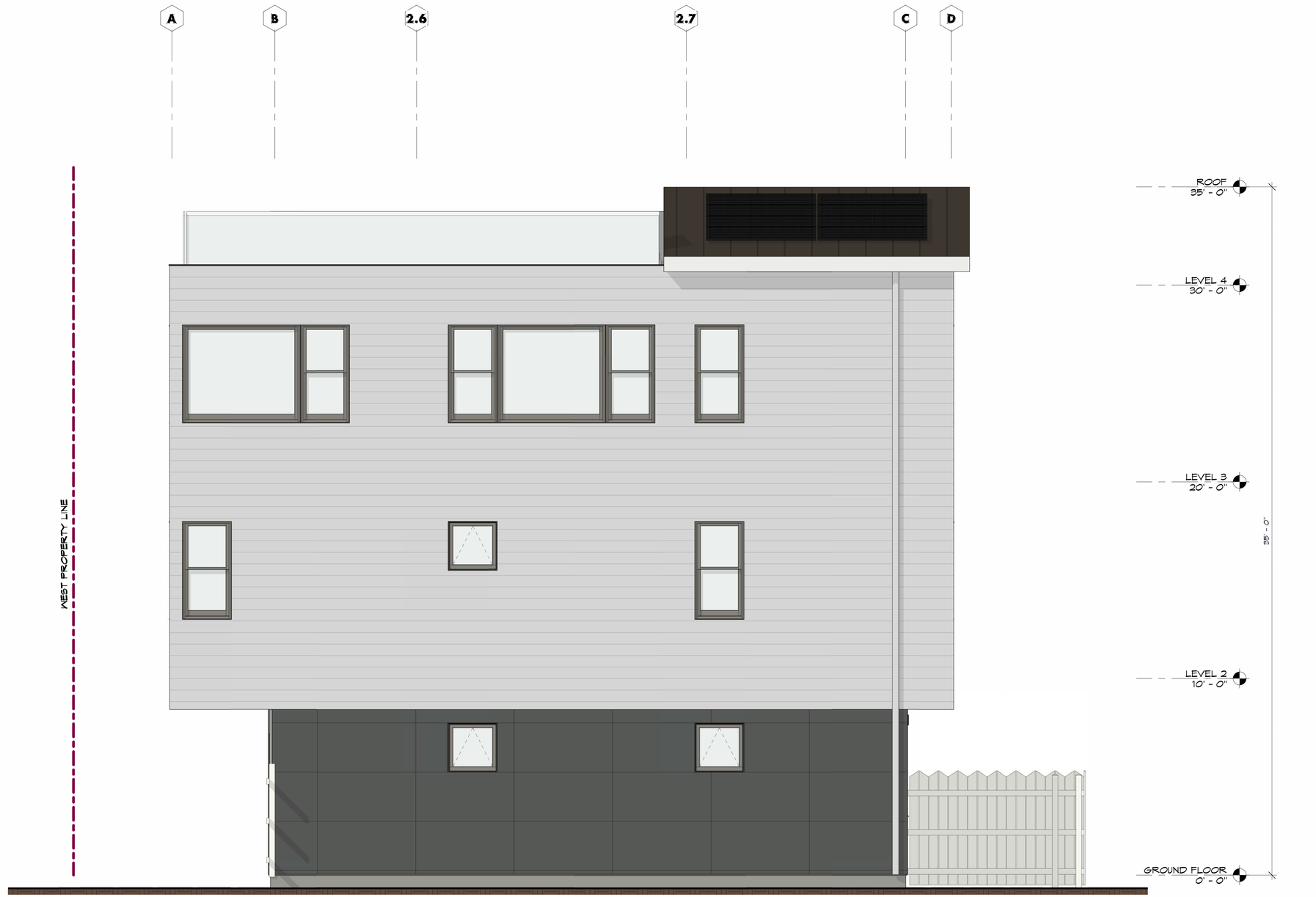
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S.A.P. - ELEVATIONS

SAP33
PROJECT Project Number

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1 SOUTH ELEVATION - S.A.P.
3/8" = 1'-0"

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APN 57-2117-4-1

1614 6TH ST. - S.A.P. REV. 1

OWNER: 1614 SIXTH STREET, LLC
1614 6TH STREET - BERKELEY, CA

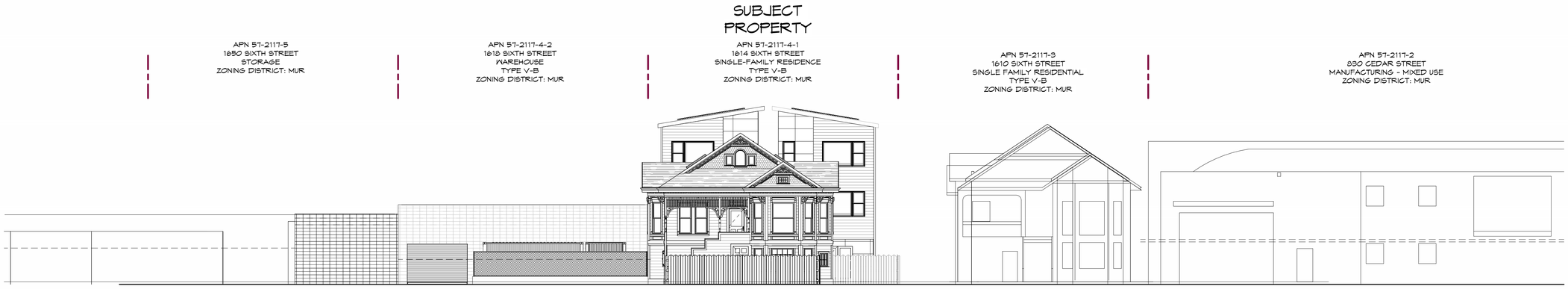
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S.A.P. -
ELEVATIONS

SAP34
PROJECT Project Number

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1 SIXTH STREET ELEVATION - S.A.P.
3/32" = 1'-0"

0' 4' 8' 16' 32'



2 JERONIMUS ALLEY ELEVATIONS - S.A.P.
3/32" = 1'-0"

0' 4' 8' 16' 32'

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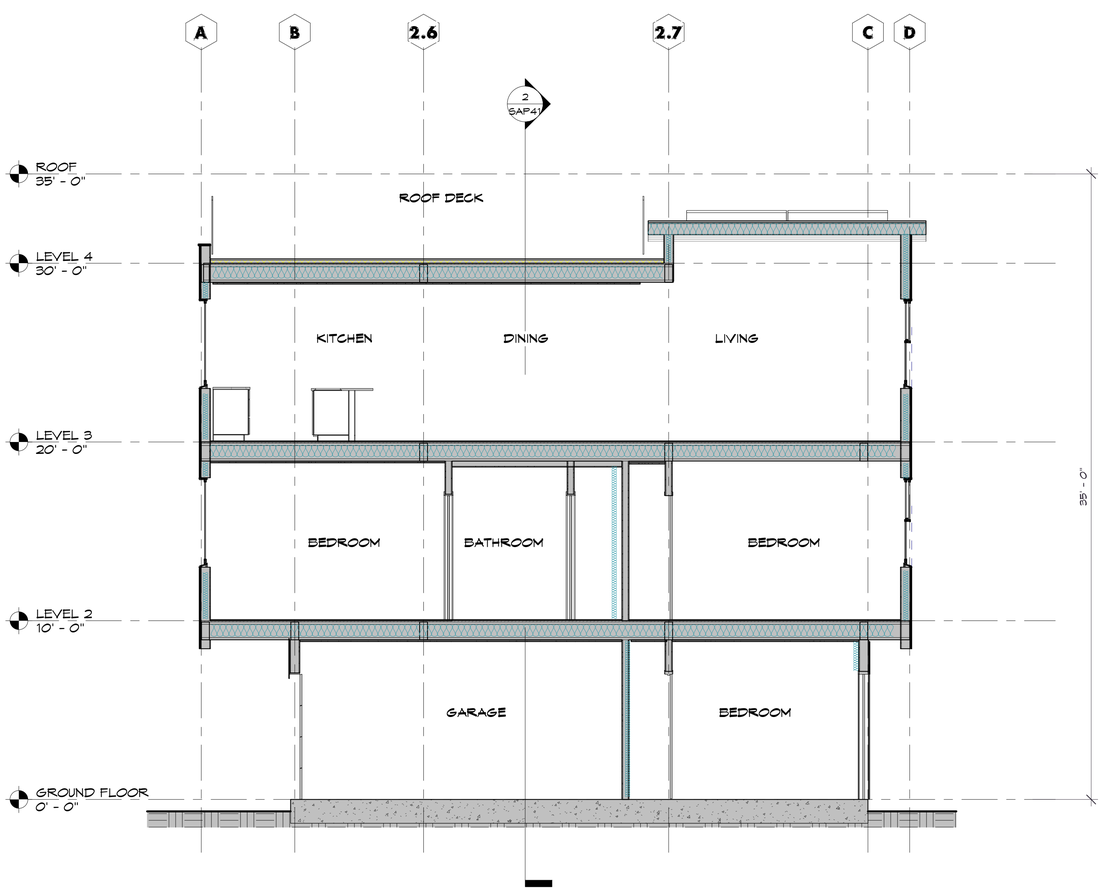
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REN. 04-30-2025
STATE OF CALIFORNIA

APN 57-2117-4-1
1614 6TH ST. - S.A.P. REV. 1
OWNER: 1614 SIXTH STREET, LLC
1614 6TH STREET - BERKELEY, CA

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S.A.P. - STREET ELEVATIONS

SAP35
PROJECT Project Number

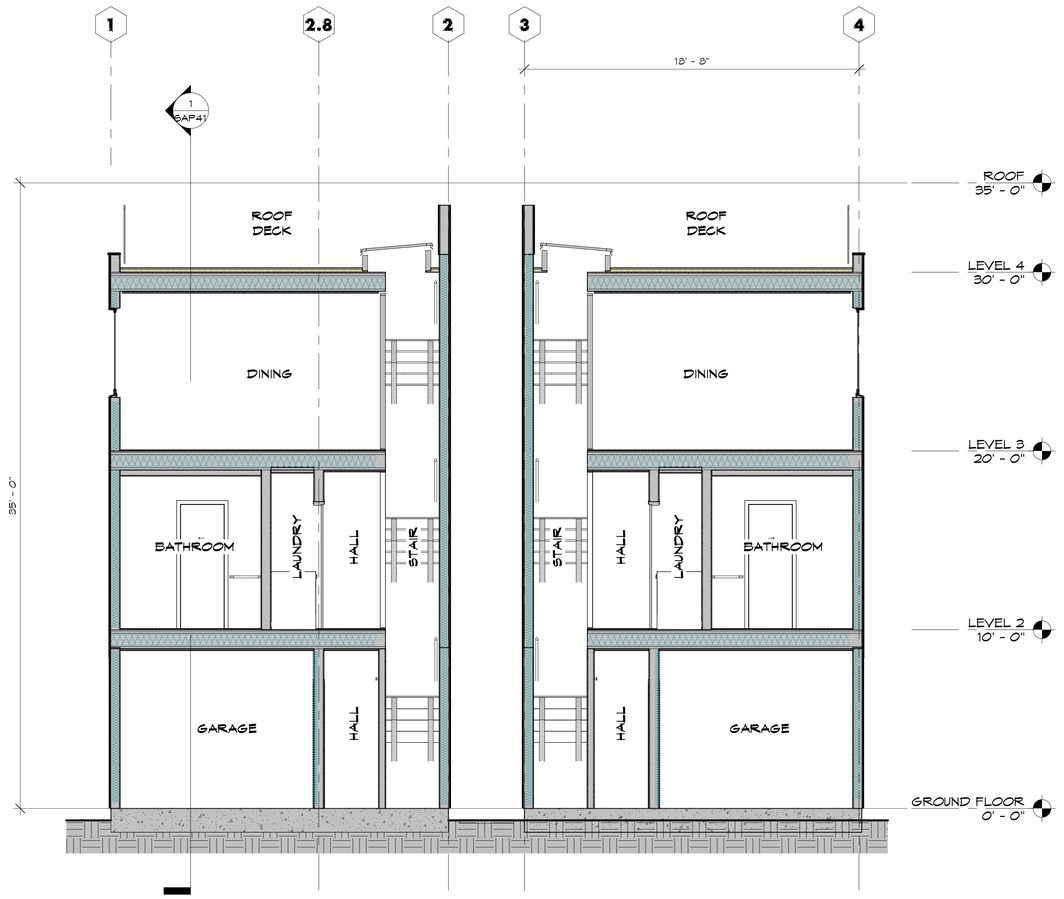


1 LONG SECTION - S.A.P.
1/4" = 1'-0"

0' 2' 4' 8' 16'

1616A

1616B



2 CROSS SECTION - S.A.P.
1/4" = 1'-0"

0' 2' 4' 8' 16'

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S.A.P. - SECTION DRAWINGS

SAP41

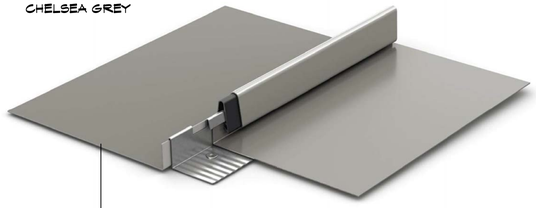
PROJECT Project Number

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CC-3
FIBER CEMENT SOFFIT PANELS
PAINTED BEN MOORE "CHELSEA GREY"

MT-2
POWDER COATED ALUM STANDING SEAM ROOFING
CHELSEA GREY



CC-2
FIBER CEMENT SIDING - V-GROOVE
PAINTED BEN MOORE "GREY TINT"
*MATCHES THE SIDING COLOR OF THE VICTORIAN

S1
OUTDOOR SCONCE AT MAIN ENTRY - BALANCE SCONCE



S2
OUTDOOR SCONCE AT NORTH & SOUTH FACADE AND ROOF DECK LUMENS - ATLANTIS SCONCE





ADJUSTABLE STANDOFF RAILING SYSTEM
CR LAURENCE
CLEAR TEMPERED GLAZING



4"x4" EXTRUDED ALUMINUM DOWNSPOT
PAINTED "GREY TINT" TO MATCH SIDING

CC-1
4'x8' FIBER-REINFORCED CONCRETE PANELS - CHARCOAL

MT-1
POWDER COATED ALUM CLADDING
CHELSEA GREY

PT-2
WHITE PAINTED WOOD FENCE
ICE MIST
*MATCHES TRIM COLOR OF VICTORIAN

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1614 6TH ST. - S.A.P. REV. 1

OWNER: 1614 SIXTH STREET, LLC
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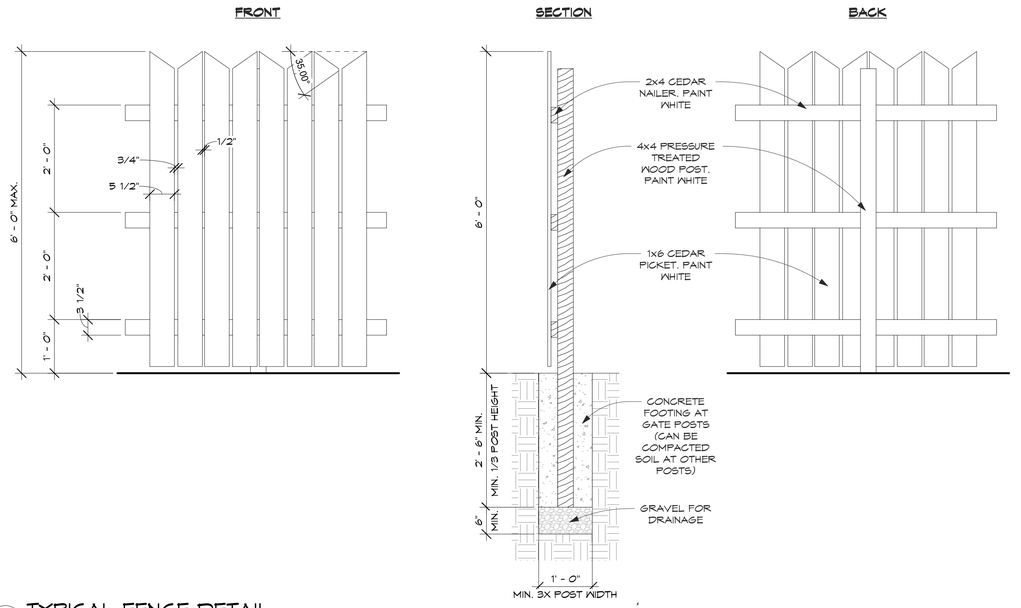
04/05/24	USE PERMIT

S.A.P. -
MATERIALS
BOARD

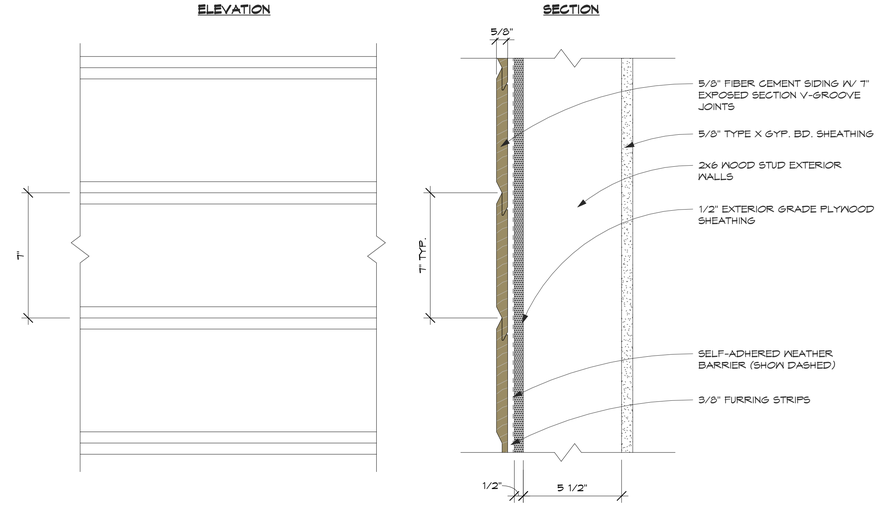
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1 TYPICAL FENCE DETAIL
3/4" = 1'-0"



GENERAL NOTE:
THE (N) FIBER CEMENT SIDING MATCHES THE T" EXPOSED SECTION OF THE SIDING ON THE ADJACENT VICTORIAN. THE SIDING ON THE VICTORIAN ALSO HAS A V-GROOVE PROFILE

2 SIDING PROFILE DETAILS
3" = 1'-0"

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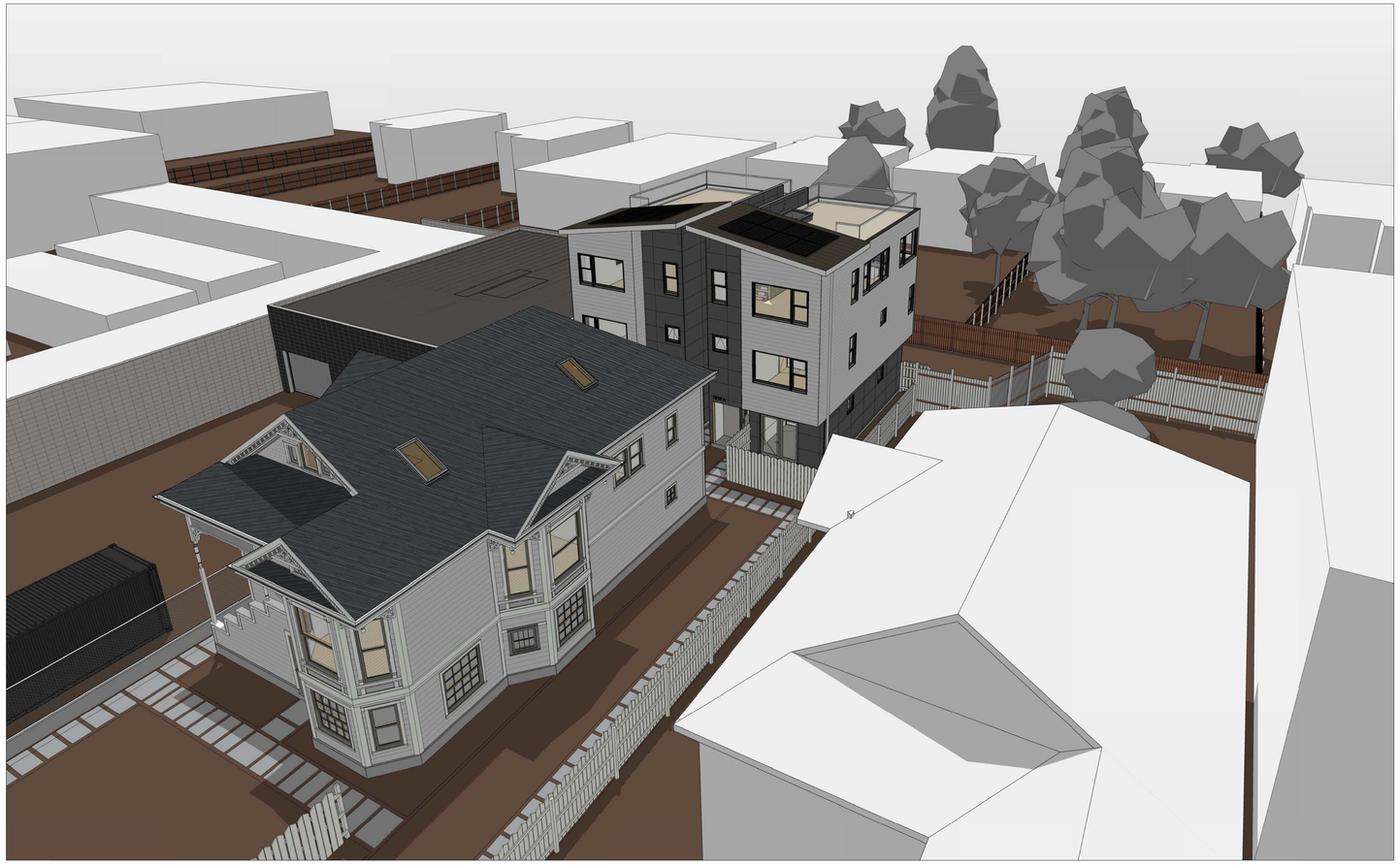
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S.A.P. - DETAILS

SAP61
PROJECT Project Number





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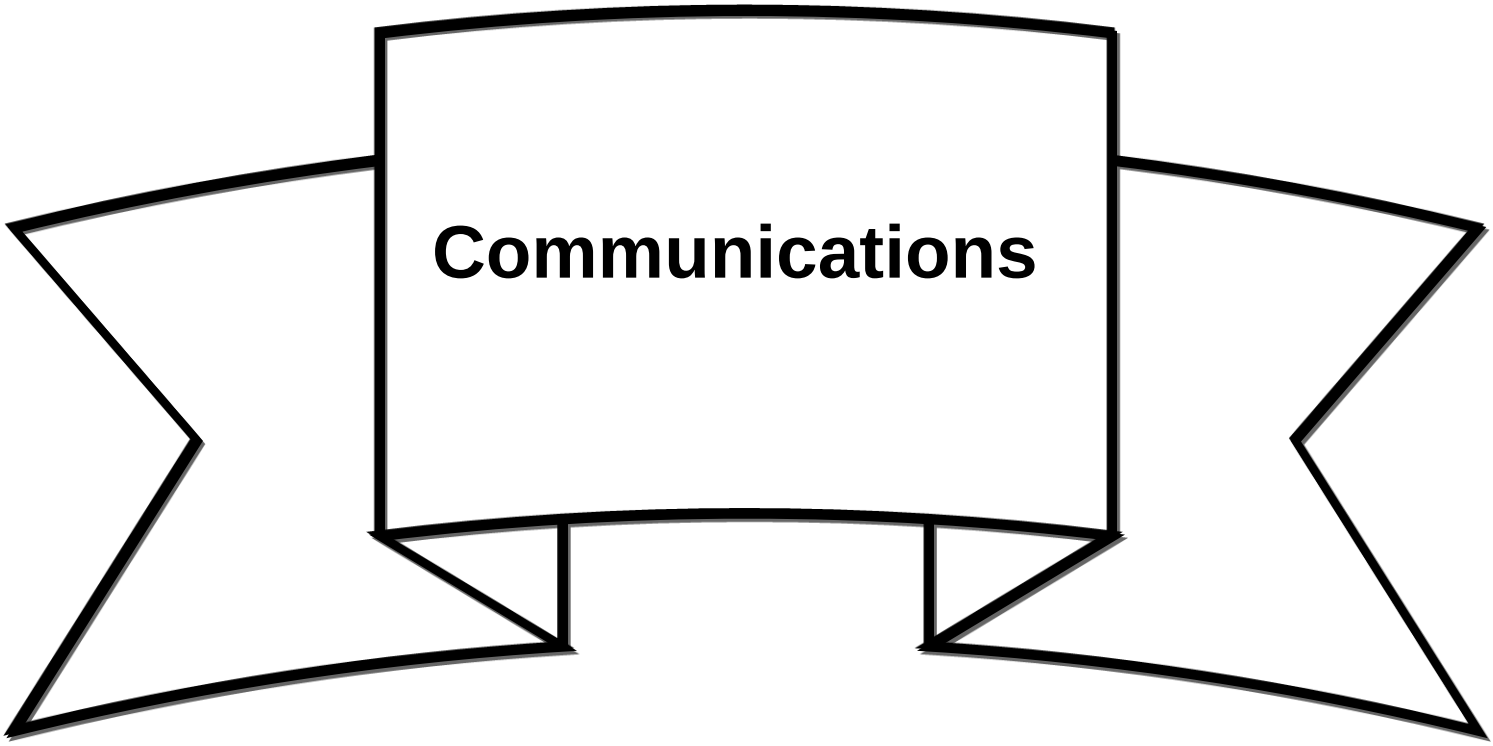
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S.A.P. -
ADDITIONAL 3D VIEWS

SAP71
PROJECT Project Number

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Berkeley, CA 94704
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clerk@cityofberkeley.info

Berkeley School Board
21. Laura Babitt

Bus Schedule Changes
22. Anne Herrick
23. Michael Eshelman

Cease and Desist Letter
24. Yesica Prado and Gordon Gilmore on behalf of the Berkeley Homeless Union

Homeless RV Centers
25. Scott Robinson

Derby and Warring Intersection
26. Hermine Rule

Public Art Impact Fee
27. James M. Lloyd

Jack London Square
28. Dirk Neyhart

United Against Hate Week
29. Jennifer Coffey

CERT Training
30. Richard Schwartz

Zoning Concerns
31. Jodi Carter
32. Emilie Strauss

Natural Gas
33. Walter Wood

Proposed Proclamation
34. The Indigenous Peoples Day Pow Wow Committee
35. Susan Louie

Peace and Justice Commission
36. Cielo Rios

Police Report Request
37. Mike Vandeman