

***ENVIRONMENTAL DECLARATION**

(CALIFORNIA FISH AND GAME CODE SECTION 711.4)

**ENDORSED
FILED
ALAMEDA COUNTY**

LEAD AGENCY NAME AND ADDRESS

FOR COUNTY CLERK USE ONLY

APR 18 2025

City of Berkeley
Attn: Vicky Schlepp
1947 Center Street, 2nd floor
Berkeley, CA 94704

MELISSA WILK, County Clerk
By AS Deputy

FILE NO: _____

25 - 169

CLASSIFICATION OF ENVIRONMENTAL DOCUMENT:

(PLEASE MARK ONLY ONE CLASSIFICATION)

1. NOTICE OF EXEMPTION / STATEMENT OF EXEMPTION

A - STATUTORILY OR CATEGORICALLY EXEMPT

\$ 50.00 - COUNTY CLERK HANDLING FEE

2. NOTICE OF DETERMINATION (NOD)

A - NEGATIVE DECLARATION (OR MITIGATED NEG. DEC.)

\$ 2,916.75 - STATE FILING FEE

\$ 50.00 - COUNTY CLERK HANDLING FEE

B - ENVIRONMENTAL IMPACT REPORT (EIR)

\$ 4,051.25 - STATE FILING FEE

\$ 50.00 - COUNTY CLERK HANDLING FEE

3. OTHER: _____

A COPY OF THIS FORM MUST BE COMPLETED AND SUBMITTED WITH EACH COPY OF AN ENVIRONMENTAL DECLARATION BEING FILED WITH THE ALAMEDA COUNTY CLERK.

BY MAIL FILINGS:

PLEASE INCLUDE FIVE (5) COPIES OF ALL NECESSARY DOCUMENTS AND TWO (2) SELF-ADDRESSED ENVELOPES

IN PERSON FILINGS:

PLEASE INCLUDE FIVE (5) COPIES OF ALL NECESSARY DOCUMENTS AND ONE (1) SELF-ADDRESSED ENVELOPES.

ALL APPLICABLE FEES MUST BE PAID AT THE TIME OF FILING.

FEES ARE EFFECTIVE JANUARY 1, 2024

MAKE CHECKS PAYABLE TO: ALAMEDA COUNTY CLERK

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

From: (Public Agency): City of Berkeley
Planning and Development , 1947 Center Street
Berkeley, CA 94704

**ENDORSED
FILED
ALAMEDA COUNTY**

County Clerk
County of: Alameda

(Address)

APR 18 2025

MELISSA WILK, County Clerk
By MS **Deputy**

Project Title: Berkeley Humane, 2700 Ninth Street, Use Permit #ZP2024-0161

Project Applicant: David Marks

Project Location - Specific:

2700 Ninth Street, City of Berkeley, County of Alameda

Project Location - City: Berkeley

Project Location - County: Alameda County

Description of Nature, Purpose and Beneficiaries of Project:

To modify the Use Permit originally approved under #UP2013-0055 to demolish the existing animal shelter building and construct a replacement building. The modified project proposes to construct a 6,026 square-foot one-story building, a 2,845 square foot outdoor courtyard and 3,262 square foot one-story dog pavilion.

Name of Public Agency Approving Project: City of Berkeley, Land Use Planning

Name of Person or Agency Carrying Out Project: Berkeley East Bay Humane Society

Exempt Status: (check one):

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: Section 15183.3 ("Streamlining for Infill Pro
- Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The project is exempt because the original infill project would not have any significant effects on the environment that have not already been analyzed in a prior EIR, that are more significant than previously analyzed; the modified project is reduced and will not have any new significant environmental impacts.

Lead Agency
Contact Person: Vicky Schlepp

Area Code/Telephone/Extension: (510) 981-7422

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: Vicky Schlepp

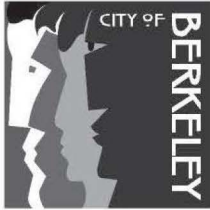
Date: 04/18/2025

Title: City of Berkeley Planner

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____



Planning and Development Department
Land Use Planning

U S E P E R M I T

CITY OF BERKELEY ZONING ORDINANCE Berkeley Municipal Code Title 23

USE PERMIT MODIFICATION: #ZP2024-0161

Property Address: **2700 NINTH STREET**

Permittee Name: **DAVID MARKS**

Use and/or Construction Permitted: **Use Permit Modification #ZP2024-0161 to modify the Use Permit originally approved under #UP2013-0055 to demolish the existing 16,538 square-foot two-story animal shelter building and construct a two-story, 13,211 square-foot replacement building. The modified project proposes to construct a 6,026 square-foot one-story building, a 2,845 square foot outdoor courtyard and 3,262 square foot one-story dog pavilion.**

A. Zoning Permits required for the original Use Permit #UP2013-0055

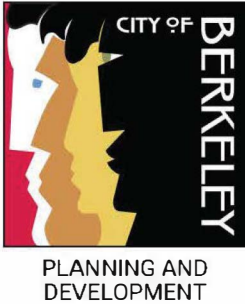
- Use Permit to demolish a non-residential building, per Berkeley Municipal Code (BMC) Section 23C.08.050;
- Use Permit to construct a new animal shelter, per BMC Section 23E.84.030;
- Use Permit to create more than 10,000 square feet of floor area, per BMC Section 23E.84.050.B; and
- Administrative Use Permit for temporary use of the existing adjacent warehouse building, per BMC Chapter 23B.40.010.

B. Zoning Permits Required for the Use Permit Modification:

- Use Permit Modification pursuant to Berkeley Municipal Code (BMC) Section 23.404.070(B) to modify an approved discretionary permit;
- Administrative Use Permit pursuant to BMC Section 23.304.080(A) for a gate/fence/wall over 6-feet in height; and
- Administrative Use Permit pursuant to BMC Section 23.302.020(D) to establish an outdoor use (meet and greet courtyard).

FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

The Use Permit herein described has been duly granted by the Zoning Adjustments Board and is in effect on April 16, 2025.



ZONING ADJUSTMENTS BOARD – FINDINGS

MARCH 27, 2025

2700 Ninth Street – Berkeley Humane

Use Permit Modification #ZP2024-0161 to modify the Use Permit originally approved under #UP2013-0055 to demolish the existing 16,538 square-foot two-story animal shelter building and construct a two-story, 13,211 square-foot replacement building. The modified project proposes to construct a 6,026 square-foot one-story building, a 2,845 square foot outdoor courtyard and 3,262 square foot one-story dog pavilion.

ZONING PERMITS REQUIRED

- Use Permit Modification pursuant to Berkeley Municipal Code (BMC) Section 23.404.070(B) to modify an approved discretionary permit;
- Administrative Use Permit pursuant to BMC Section 23.304.080(A) for a gate/fence/wall over 6-feet in height; and
- Administrative Use Permit pursuant to BMC Section 23.302.020(D) to establish an outdoor use (meet and greet courtyard).

I. CEQA FINDINGS

- II. It is staff's recommendation to the Zoning Adjustments Board that 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 15183.3 of the CEQA Guidelines ("Streamlining for Infill Projects").

III. FINDINGS FOR APPROVAL

- A. As required by BMC Section 23.406.040(E), Findings for Approval, the project, under the circumstances of this particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
- B. The project will be located within an existing built area with a range of commercial, light industrial and residential uses; and

2700 NINTH STREET- USE PERMIT #ZP2024-0161
March 27, 2025

ZAB FINDINGS & CONDITIONS
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- C. The project will continue the historic use of the site as an animal shelter, but in a new smaller and more efficient building.
- D. The new building will meet modern life/safety standards and comply with District setback and FAR limits;
- E. The project footprint and building scale is similar in height and mass to the surrounding buildings and the project design was reviewed by the DRC, which has addressed appropriateness of the proposed design, and the DRC concluded that the project was appropriate for the site; and
- F. The project will be subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, which will ensure that the project will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.

IV. OTHER FINDINGS FOR APPROVAL

- A. As required by BMC Section 23.206.100(A) All Manufacturing Districts, to approve an AUP or a Use Permit in a Manufacturing District, the Zoning Adjustment Board (ZAB) finds that the project is consistent with the purposes of the district, compatible with the surrounding uses and buildings, complies with the adopted West Berkeley Plan, and meets any applicable performance standards for off-site impacts. The ZAB finds that:
 - 1. The modified project is consistent with the purposes of the MU-R Zoning District because it is consistent with the normal use and operation of surrounding uses and buildings, including residential and industrial buildings, and designed in such a manner to be supportive of the character and purposes of the District. The purposes of the MU-R District include combining residential, live/work, light industrial, arts and crafts and other compatible uses; supporting the development of businesses of all types which contribute to the maintenance and improvement of the environment, and protecting residents from unreasonably detrimental effect of nonresidential uses. Veterinary hospitals and similar uses "compatible with the purposes of the MU-R District" are among the permissible uses in the District. Based on the analysis in the Infill Environmental Checklist and the applicant's history of the same use as proposed on the same site, the project will not result in detrimental effects to residents, including the adjacent live-work building. The animal shelter will continue to support responsible animal ownership and to treat animals needing medical care, thus contributing to maintenance and improvement of the environment. The proposed new building will continue the existing use, which has been operating compatibly with the mixed-use neighborhood for decades;
 - 2. The project is consistent with the adopted West Berkeley Plan. According to the West Berkeley Plan, "the Mixed Use/Residential focuses on those areas where the typical mix is residential and light industrial. To maintain the district's smaller scale of

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March 27, 2025

ZAB FINDINGS & CONDITIONS
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development, it has a lower height limit and lower allowed Floor Area Ratio (amount of development per square foot of land) than do the manufacturing and light industrial districts.” The project will meet the District’s height limit and FAR restrictions, and will be compatible with the mix of uses envisioned in the Plan; and

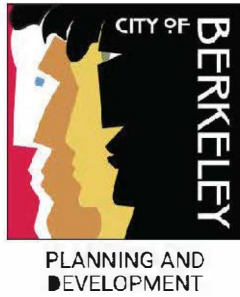
3. The project is able to meet any applicable performance standards as described in Section 23.206.090: MU-R Mixed Use-Residential District. As discussed in the Infill Environmental Checklist, dust, glare, noise, odor, vibration, hazardous materials and other potential off-site environmental impacts will be less than significant with required adherence to existing regulations and standard conditions of approval. Parking is not required for new uses or buildings located within one-half mile of a major transit stop per BMC 23.322.020(D) Location Exemption. The project site is located two blocks west of San Pablo Avenue, a transit corridor served by several bus lines. Therefore, the project will not exceed the amount and intensity of use that can be served by available traffic capacity and parking supply.
- B.** As required by BMC Section 23.206.100(B)(3) the Zoning Adjustment Board finds that (a) The project is unlikely, under reasonably foreseeable circumstances, to either induce or contribute to a cumulative change of use in buildings away from residential, live/work, light industrial, or arts and crafts uses; and (b) The project is designed to be supportive of the character and purposes of the district.
The project will continue the existing and historic animal shelter use. The modified building design and outdoor area will allow the use to continue in an improved space for optimal physical and behavioral health for the animals while they are in shelter and waiting for adoption.
- C.** As required by BMC Section 23.302.020, the Zoning Adjustment Board finds that an outdoor courtyard when not abutting a residential district is allowed because the existing site has a similar layout which has been there since 1980 and the use would continue to be the same; there is an outdoor kennel, an open space, and the shelter/hospital building. The adjacent live/work building does not have any openings in the wall facing the shelter and the adjacent warehouse along the interior side property line is owned and used by the Berkeley Humane.
- D.** As required by BMC Section 23.304.080(A) the Zoning Adjustments Board finds that the addition of a fence, gate and wall over 6 feet in height is allowable because the project will enclose the dog pavilion and open space of the lot with a 14-foot tall wall along a portion of the street-side property line of Ninth Street; a feature which horizontally extends out from the proposed main building’s façade, maintaining architectural coherence. The wall feature includes openings for an 8-foot tall entry door, privacy gate, and privacy fencing. The fence 8-foot tall fence continues to the rear of the lot and screens the trash and utilities. This new feature would provide a barrier for the animals from the activities in the public right-of-way and privacy screening for the property. Shading impacts would be minimal because the wall feature faces east, any new shadows would be onto the subject property during morning hours and the public-right-of-way during evening hours. The adjacent buildings are taller

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March 27, 2025

ZAB FINDINGS & CONDITIONS
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and do not have any window openings which would be affected.

- E. As required by BMC Section 23.404.070(B), the Zoning Adjustments Board finds that the modification of an approved discretionary permit is required because the structure is substantially altered from the original approval. The modified project substantially changes the structure by proposing to build a total of 9,280 square feet in two separate one-story buildings and a new 2,845 square foot outdoor courtyard in between the two buildings where it had originally approved the construction of one two-story 13,211 square feet building with parking along the rear property line.



USE PERMIT ZP2024-0161 CONDITIONS OF APPROVAL

March 27, 2025

2700 Ninth Street – Berkeley Humane

Use Permit Modification #ZP2024-0161 to modify the Use Permit originally approved under #UP2013-0055 to demolish the existing 16,538 square-foot two-story animal shelter building and construct a two-story, 13,211 square-foot replacement building. The modified project proposes to construct a 6,026 square-foot one-story building, a 2,845 square foot outdoor courtyard and 3,262 square foot one-story dog pavilion.

I. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

Pursuant to Berkeley Municipal Code (BMC) Title 23 Zoning Ordinance and Title 13 Public Peace, Morals, and Welfare, the following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. **Conditions and 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 Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings.
2. **Compliance Required (BMC Section 23.102.050).** All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.
3. **Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060(B)(1) and (2)):**
 - A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
 - B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To re-establish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

- 4. Conformance to Approved Plans (BMC Section 23.404.060(B)(4)).**
All work performed under an approved permit shall comply with the approved plans and any conditions of approval.
- 5. Exercise and Expiration of Permits (BMC Section 23.404.060(C)):**
 - A.** A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
 - B.** A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
 - C.** The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with BMC Chapter 23.410, Appeals and Certification.
 - D.** A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.
- 6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060(D)).** Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.
- 7. Permit Modifications (BMC Section 23.404.070).** No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.
- 8. Permit Revocation (BMC Section 23.404.080).** The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.
- 9. HARD HATS (BMC Section 13.107).** Pursuant to BMC Chapter 13.107 "Establishing Healthcare and Apprenticeship Standards for Private Development" projects within City limits consisting of construction of either a new building, addition to an existing building, alteration of existing floor area, or demolition of 50,000 square feet or more of floor area shall be subject to the requirements of this Chapter. The combination of alterations, additions and/or demolition that impacts 50,000 square feet or more of floor area shall be subject to the requirements of this Chapter. This includes compliance with the requirements contained in BMC Sections 13.107.040 - 13.107.090.
 - A. Prior to Building Permit issuance and during project construction, the applicant shall comply with the following sections and submit the required document(s):**

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USE PERMIT CONDITIONS

March 27, 2025

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- i. BMC Section 13.107.040(a)-(d), Apprenticeship Requirements
 - ii. BMC Section 13.107.050(a)-(e), Health Care Expenditures
 - iii. Submit: Contractor Prequalification Questionnaire
- B. At the time Building Permit Issuance**, the applicant shall comply with the following section and submit the required document(s):
- i. BMC Section 13.107.060, Required Applicant and Contractor Statements
 - ii. Submit: Applicant Declaration
 - iii. Submit: Statement of Compliance seven days before contractor starts work
- C. Within 30 Days of completing each contractor's respective work**
- i. BMC Section 13.107.060, Required Applicant and Contractor Statements
 - ii. Submit: Contractor Satisfaction Statement
- D. Prior to Issuance of Certificate of Occupancy**, or prior to approved final inspection for alterations, additions, or demolition projects that do not change the occupancy class of the structure or space:
- i. BMC Section 13.107.060, Required Applicant and Contractor Statements
 - ii. Submit: Applicant Certification of Compliance
- E. During Project Construction**, the applicant shall comply with the following sections:
- i. BMC Section 13.107.070(a)-(b), Notice and Posting
 - ii. BMC Section 13.107.080, Retaliation Prohibited
- F. On-Going and at least three years after receiving approved Final Inspection**, the applicant shall comply with the following section:
- i. BMC Section 13.107.090, Retention of Records

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

II. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC Section 23.404.050(H) Conditions of Approval, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

11. Project Liaison. The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. Please designate the name of this individual below:

Project Liaison _____
Name Phone #

12. Bird Safe Buildings. Prior to submittal of the building permit, the applicant shall demonstrate compliance with the applicable bird safe building provisions in BMC Section 23.304.150, Bird Safe Buildings.

Prior to Issuance of Any Building & Safety Permit (Demolition or Construction)

13. The temporary use shall not begin before issuance of a Notice of Determination of approval of this Use Permit. The temporary use shall cease no later than 30 days after a certificate of occupancy is issued for the new Humane Society building.

14. Sidewalk Encroachment. Prior to issuance of a building permit, the applicant may obtain an Encroachment Permit from the Public Works Department for the proposed use of the right-of-way, pursuant to BMC Chapter 16.18.
15. Project requires approval of a Final Design Review application by the Design Review Committee.
16. **Demolition.** Demolition of the existing building cannot commence until a complete application is submitted for the replacement building. In addition, all plans presented to the City to obtain a permit to allow the demolition are subject to these conditions.
17. **Construction and Demolition Diversion.** Applicant shall submit a [Construction Waste Management Plan](#) that meets the requirements of BMC Chapter 19.37 including 100 percent diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65 percent diversion of other nonhazardous construction and demolition waste.
18. **Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
 - A. **Phase I and Phase II Environmental Site Assessment (ESA) (per ASTM 1527).** A recent Phase I ESA (less than 2 years old) shall be submitted to the Toxics Management Division for developments for: all new commercial, industrial and mixed-use developments and all improvement projects that require work 5 or more feet below grade, and all new residential buildings with more than four dwelling units located in the Environmental Management Area (or EMA). The EMA can be viewed at: [City of Berkeley Community GIS Portal \(arcgis.com\)](#)
 - B. Depending on the findings in the Phase I, a Phase II or additional investigation may be necessary. Any available soils and groundwater analytical data available for projects listed in this section must also be submitted to TMD.
 - C. **Environmental Site Clearance.** The applicant shall 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. Environmental screening clearance shall be submitted to the City of Berkeley's Toxics Management Division prior to issuance of any building permits.
 - D. **Soil and Groundwater Management Plan.** A site-specific Soil and Groundwater Management Plan (SGMP) shall be submitted to Toxics Management Division (TMD) for all non-residential projects, and residential or mixed-use projects with more than four dwelling units, that: (1) are in the Environmental Management Area (EMA), as shown on the most recent City of Berkeley EMA map, and (2) propose any excavations deeper than 5 feet below grade or if significant soils removal is anticipated. The SGMP shall be submitted to the TMD with the project's building permit application and shall be approved by TMD prior to issuance of the building permit.

The SGMP shall comply with the hazardous materials and waste management standards required by BMC Section 15.12.100, the stormwater pollution prevention requirements of San Francisco Bay Regional Water Quality Control Board's Order No. R2-2009-0074, California hazardous waste generator regulations (Title 22 California Code of Regulations (CCR) 66260 et seq.), and the East Bay Municipal Utility District's Ordinance 311, and shall include the following:

- i. procedures for soil and groundwater management including identification of pollutants and disposal methods;
- ii. procedures to manage odors, dust and other potential nuisance conditions expected during development;
- iii. notification to TMD within 24 hours of the discovery of any previously undiscovered contamination; and
- iv. the name and phone number of the individual responsible for implementing the SGMP and who will respond to community questions or complaints.

TMD may require additional information or impose additional conditions as deemed necessary to protect human health and the environment. All requirements of the approved SGMP shall be deemed conditions of approval.

E. Demolitions & Renovations – Building Materials Survey. A hazardous materials survey for building materials and plans on hazardous materials and hazardous waste removal and disposal is required and must be prepared by qualified professionals, and submitted to the Toxics Management Division (TMD) prior to issuance of the building permit.

- i. The survey shall include the identification of all materials to be disturbed for lead-based paints, PCB containing equipment and caulking, hydraulic fluids, refrigerants, treated wood, and mercury containing devices (including fluorescent light bulbs and mercury switches), asbestos and other hazardous materials and chemicals.
- ii. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center. Contractors must follow state regulations where there is asbestos-related work involving 100 square feet or more of asbestos containing material (8 Cal. Code Regs. §1529, §341.6 et seq.)
- iii. The report to the TMD shall include, in addition to the survey, plans on hazardous materials and hazardous waste removal and disposal that comply with State and Federal codes including California Code of Regulations (CCR) 66260 et seq.
- iv. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition.

Please note, the PCB Screening Form required by Public Works, Engineering, is a separate requirement and does not address the PCB identification requirement of the Toxics Management Division.

F. Hazardous Materials Business Plan. A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 and California Health & Safety Code, Chapter 6.95 Div. 20, shall be submitted to the Toxics Management Division through the California Environmental Reporting System: <http://cers.calepa.ca.gov/> for chemicals used or stored on site during construction that exceed reporting thresholds. The reporting is required if your facility stores or handles hazardous materials in aggregate quantities equal to or greater than 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet of compressed gases, or generates any quantity of hazardous waste. This includes welding gases, emergency generator fuel, paints, etc.

Additionally, the business occupant must submit an HMBP within 30 days of starting operations.

G. Petroleum Storage. An (SPCC) Plan is required to be prepared and implemented for facilities with any one of the following:

- i. aggregate aboveground petroleum storage capacities of 1,320 gallons or more stored in aboveground storage containers, tanks, oil-filled equipment, or
- ii. one or more tank(s) in an underground area (TIUGA) with petroleum storage capacities of 55 gallons or greater. More information on TIUGAs can be found here: <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/tank-in-an-underground-area-tiuga/>

The SPCC plan must be prepared prior to beginning operations and you must submit facility information to Toxics Management Division (TMD) through the California Environmental Reporting System: <http://cers.calepa.ca.gov/>. The SPCC plan will be reviewed during the site inspection and shall not be submitted in CERS or to the TMD.

Prior to Issuance of Any Building (Construction) Permit

19. Parcel Merger/Lot Line Adjustment. The applicant shall secure approval of any parcel merger and/or lot line adjustment associated with this Use Permit. Prior to issuance of a building permit, the applicant shall secure approval of any parcel merger and/or lot line adjustment associated with this Use Permit. The applicant shall furnish proof of the approval and recordation of the lot line adjustment to create the reconfigured lot allowing the proposed project to be located within legal lot lines as shown on the project plans.

20. Final Design Review. The Project requires approval of a Final Design Review application by the Design Review Committee.

- 21. HVAC Noise Reduction.** Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.
- 22. Solar Photovoltaic (Solar PV) and Battery Energy Storage Systems (ESS).** A solar PV system shall be installed, subject to specific limited exceptions, as specified by the Berkeley Energy Code (BMC Chapter 19.36). Energy storage system (ESS) readiness (new single-family, duplex, and townhouse homes) or ESS installation (new multifamily and most nonresidential buildings) shall be completed as specified by BMC Chapter 19.36. Location of the solar PV system and the ESS, if applicable, shall be noted on the construction plans. (Project required to meet applicable code at time of building permit application, if different from above.)
- 23. Electric Vehicle (EV) Charging.** Each dwelling unit shall install a listed raceway, wiring, and load capacity to allow for future Level 2 (40 amp) plug-in electric vehicle (EV) charging system installation, or any more stringent EV charging requirements as specified by the Berkeley Green Code (BMC Chapter 19.37). Readiness for EV charging and EV charging station installations shall be noted on the construction plans. (Project required to meet applicable code at time of building permit application, if different from above.)
- 24. Water Efficient Landscaping.** Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELo). MWELo-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ET_o) for Berkeley is 41.8.
- 25. Recycling and Organics Collection.** Applicant shall provide recycling and organics collection areas for occupants, clearly marked on plans, which comply with the Alameda County Organics Reduction and Recycling Ordinance (2021-02). Contact the Zero Waste Division at RecyclingProgram@berkeleyca.gov.
- 26. Public Works ADA.** Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.

Prior to Demolition or Start of Construction:

- 27. Construction/No Parking Permits.** Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood.

During Construction:

28. Construction Hours. Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.

29. Public Works - Implement Bay Area Air Quality Management District (BAAQMD)- Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:

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

30. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with one of the following measures:

- A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or

- B.** All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.
- C.** In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:
- i.** An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
 - ii.** A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.

31. Construction and Demolition Diversion. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.

32. Low-Carbon Concrete. The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25 percent. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff. (Project required to meet applicable code at time of building permit application, if different from above.)

33. Avoid Disturbance of Nesting Birds. Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.

34. 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.

- 35. 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 Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
- 36. 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.
- 37. 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.
- 38. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A.** The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.

- B.** Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
- C.** Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
- D.** Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
- E.** All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
- F.** All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
- G.** All private or public projects that create and/or replace 5,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological). (Project required to meet applicable code at time of building permit application, if different from above.)
- H.** All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
- I.** Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

- J. All loading areas must be designated to minimize “run-on” or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.
- K. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
- L. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 39. Public Works.** Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
- 40. Public Works.** All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
- 41. Public Works.** The applicant shall ensure that all excavation accounts for surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
- 42. Public Works.** The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.
- 43. Public Works.** Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
- 44. Public Works.** The removal or obstruction of any fire hydrant shall require the submission of a plan to the City’s Public Works Department for the relocation of the fire hydrant during construction.
- 45. Public Works / Building and Safety.** If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

Prior to Final Inspection or Issuance of Occupancy Permit:

46. Nonresidential Projects – Child Care. As required by Resolution No. 66,618-N.S., adopted June 3, 2014, the applicant shall offset the estimated impacts of the project on affordable child care according to the following formulas, which are recalculated annually per the Consumer Price Index:

USE	FEE as of July 1, 2024
Office, Restaurant, Retail	\$1.75 per net new square foot
Industrial/Manufacturing	\$1.05 per net new square foot
Hotel/Lodging	\$2.09 per net new square foot
Warehouse/Storage	\$0.87 per net new square foot
Research and Development	\$1.12 per net new square foot

In-Lieu Fee - Owner shall pay a fee into the City's Child Care Operating Subsidy account in the amounts and according to the schedule listed below:

- One-third prior to Building Permit issuance \$"= (total net square footage times per-sqft rate for intended use per table above) divided by three, rounded to nearest whole dollar amount"
- One-third prior to Certificate of Occupancy or Final Inspection for the building shell, \$"same as above"
- One-third one year after Certificate of Occupancy or Final Inspection, \$"same as above"

The final payment shall be appropriately secured by the City, e.g., by a letter of credit, bond, Promissory Note, Deed of Trust or another appropriate form of security. The applicant is encouraged to pay both the second and third fee installments prior to issuance of the Occupancy Permit. Any obligations remaining after an Occupancy permit is issued will be recorded against the property deed. Some payments carry interest from the date they would normally be due.

Applicants may request reductions to these fee amounts, under the provisions of BMC Sections 22.20.070 or 22.20.080 relating to lower levels of impact, infeasibility, or overriding benefit to the City.

47. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.

48.All landscape, site and architectural improvements shall be completed per the attached approved drawings dated February 6, 2025.

At All Times:

- 49. Compliance with Approved Plan.** The project shall conform to the plans and statements in the Use Permit.
- 50. Exterior Lighting.** All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
- 51. Rooftop Projections.** No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.
- 52. Design Review.** Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review approval.
- 53. Drainage Patterns.** The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
- 54. Loading.** All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.
- 55. Required Bike Parking.** Secure and on-site bike parking for at least three bicycles shall be provided for the life of the building.
- 56. Transit Subsidy Condition.** If 10 or more employees, the business operator shall reimburse employees the maximum non-taxable cost of commuting to and from work on public transportation (e.g., monthly passes) if they so commute, and a notice informing employees of the availability of such subsidy shall be permanently displayed in the employee area as per BMC Chapter 9.88.
- 57. Periodic Review and Reporting.** The City may require periodic review of this approved project to verify compliance with permit requirements and conditions of approval. The permit holder or property owner is responsible for complying with any periodic reporting, monitoring, or assessments requirement. This permit is subject to the provisions of BMC Section 23.404.080 (Permit Revocation) if violations of the permit requirements are found by the Zoning Officer.
- 58.** This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

INFILL ENVIRONMENTAL CHECKLIST
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INFILL ENVIRONMENTAL CHECKLIST

NOTE: This form is intended to assist lead agencies in assessing infill projects according to the procedures provided in Section 21094.5 of the Public Resources Code. The content satisfies the requirements in Section 15183.3 of the CEQA Guidelines.

1. Project title:

2700 Ninth Street – East Bay Humane Society Project

2. Lead agency name and address:

City of Berkeley Planning Department, Land Use Division
2120 Milvia Street, 2nd Floor
Berkeley, California 94704

3. Contact person and phone number:

Greg Powell, Principal Planner, (510) 981-7414

4. Project location:

The project site comprises Assessor's Parcel 054-1746-00203, a 7,695 square-foot parcel at the southwest corner of Ninth and Carleton streets, and Assessor's Parcel 054-1746-00204, an adjacent, L-shaped, 15,183 square-foot parcel with frontage on Ninth and Carleton streets. The address is 2700 Ninth Street, Berkeley, California 94710. Figure 1 shows the location of the project site within the vicinity.

5. Project sponsor's name and address:

Berkeley Humane Society
2700 Ninth Street
Berkeley, California, 94710

6. General Plan designation:

MU, Mixed-Use

7. Zoning:

MU-R, Mixed Use-Residential

8. Prior Environmental Document(s) Analyzing the Effects of the Infill Project (including State Clearinghouse Number if assigned):

Final Environmental Impact Report, City of Berkeley's West Berkeley Project Final Environmental Impact Report, 2011, State Clearinghouse # 2009072084

9. Location of Prior Environmental Document(s) Analyzing the Effects of the Infill Project:

City of Berkeley Planning Department, Land Use Division, 2120 Milvia Street, 2nd Floor, Berkeley, California 94704

Infill Environmental Checklist
2700 Ninth Street – East Bay Humane Society Project

Figure 1: Vicinity Map



10. Description of project:

The proposed project would involve demolition of the existing building on the corner of Ninth and Carleton streets and construction of a new two-story, 13,211 square-foot animal shelter and hospital with dog kennels, reception and hospital proposed on the first floor, and cat housing and administrative offices proposed on the second floor. Public entry would be from Ninth Street, and additional staff access would be provided from Carleton Street. Parking would be provided in a new seven parking-space (including one ADA van-accessible space) landscaped parking lot accessed via a 20-foot wide driveway from Ninth Street. Table 1 summarizes the basic project components.

**Table 1
 Project Summary**

Characteristic	Size/Quantity	
Height (max)	31 feet, two stories	
Square feet of major program areas	Animal Housing:	1,439
	EBHS Operations (animal care adoption support):	10,029
	Conference and Break Rooms:	561
	Storage:	433
	Total including non-program space:	13,211
Parking	7 spaces (including one ADA van-accessible)	

The existing ornamental trees directly adjacent to the building's foundation would be removed as part of demolition activities. Approximately 2,000 square feet of new landscaping would be installed within the five-foot setbacks along Ninth and Carleton streets and in adjacent planters in the sidewalk area, as well as along the southern property line adjacent to the parking lot. Landscaped areas would include shrubs and ground cover and several small trees. Nine new street trees are also proposed: Chinese flame trees on Carleton Street and frontier elm trees on Ninth Street.

In order to allow Humane Society services to continue during the planning and fundraising for, and construction of, the new building, the applicant has also requested an Administrative Use Permit for temporary use of the adjacent approximately 10,000-square-foot warehouse building for up to four years.

The applicant is also requesting a lot line adjustment to allow for the project to be located within one parcel and to allow the proposed new building to conform to the MU-R District's 1:1 maximum floor to area ratio (FAR). The adjustment would reconfigure the existing corner parcel (currently 7,695 square feet) and the L-shaped parcel around it (currently 15,183 square feet) into two rectangular parcels of 13,467 and 9,925 square feet, respectively. The new building would be on the larger of these parcels, on the corner of Ninth and Carleton streets.

Construction would take approximately 15 to 18 months. The foundation would be a spread-footing design. The maximum depth of excavation would be six feet (five feet plus an allowance of an additional foot for over-excavation) at elevator pit. Most foundations would extend to approximately two feet. Material import and export would be limited, as no subsurface space is proposed and the building would be slightly elevated to provide positive drainage.

Figure 2 shows the proposed site plan. Figure 3, show project renderings Ninth Street and Carleton Street.

11. Surrounding land uses and setting:

Neighborhood/Area Description: The immediate area includes a restaurant directly to the north across Carleton Street; a warehouse building housing additional Humane Society operations to the west; a live-work building to the south; and automotive, warehouse and industrial uses to the east. The broader area comprises a mix of land uses and development including industrial/light manufacturing and warehouse buildings, commercial uses and residences.

Site Conditions: The relatively flat, rectangular project site is fully developed with an existing 16,538 square-foot, two-story animal shelter building that was partially destroyed by a fire in 2010, as well as a seven-space surface parking lot and a dog kennel area surrounded by wood and cement walls.

According to organizational history, the Berkeley-East Bay Humane Society (EBHS) was founded in 1927 by three individuals, including George Denny. In 1935 EBHS is listed near the corner at 940 Carlton Street, with permits indicating a series of changes between 1943 and 1945. Berkeley Historical Society photos of Denny with a EBHS truck at the corner of Ninth and Carleton Streets clearly show a EBHS sign on what appears to be a one-story wood-framed building. In 1966 the small cottage at 2706 Ninth Street was demolished and the building was expanded to include second floor living space. In the 1970s tenant improvements for a veterinary hospital with parking upgrades were completed, and EBHS was granted permits to establish living quarters for veterinary sciences students, later converted to lecture room. In 1980, dog kennels were added, and in May of 2010, a fire destroyed most of the building. Currently, EBHS operates out of a portion of the 16,538 square-foot, two-story building on-site and a portion of an approximately 10,000-square-foot warehouse building to the west of the project site.

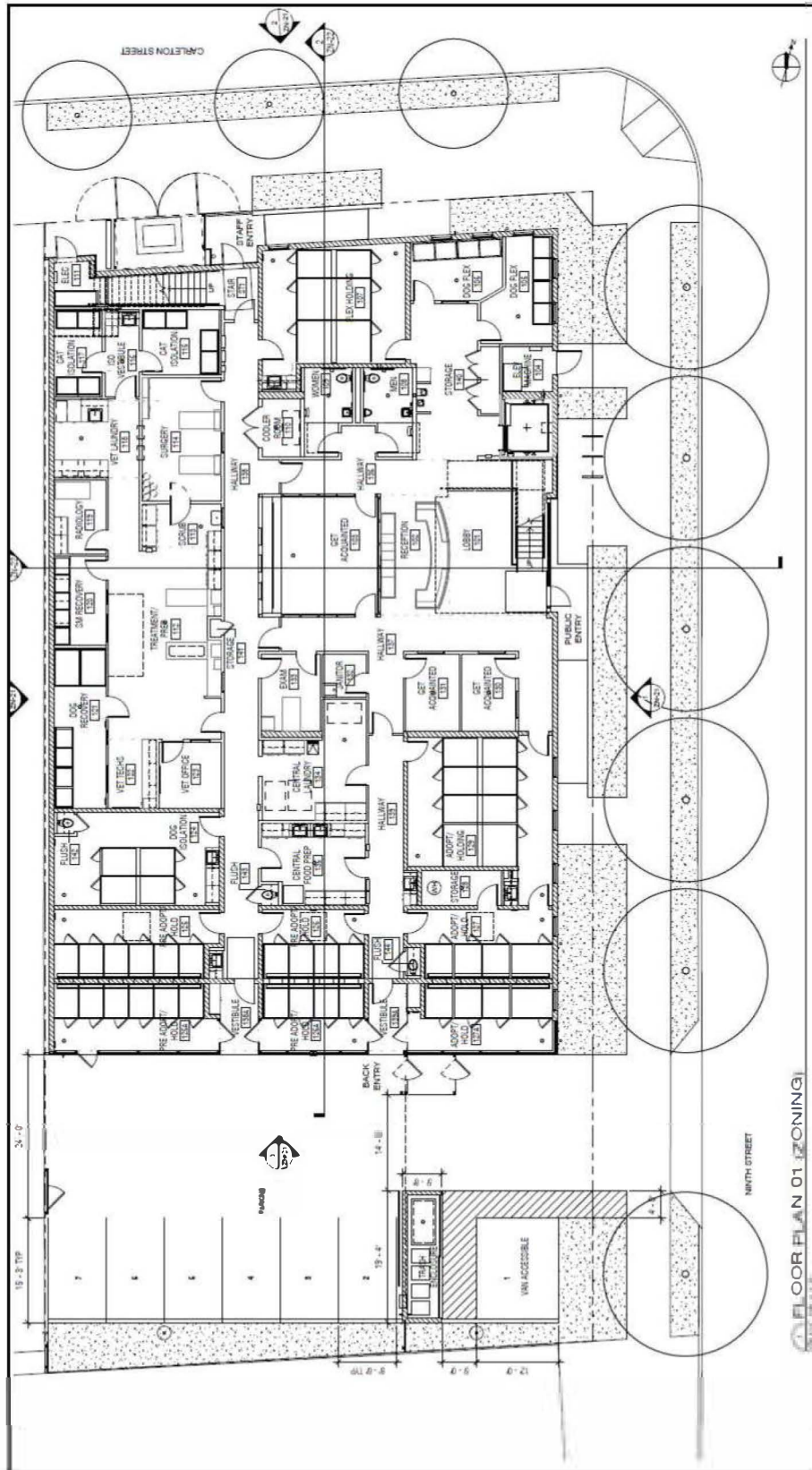
The site of the proposed temporary use is the L-shaped parcel, which has frontage on both Ninth and Carleton streets. This parcel is developed with an approximately 10,000 square-foot warehouse housing some EBHS operations; EBHS's dog kennels; and the existing surface parking lot. The warehouse building is a steel structure with brick infill walls around the perimeter. Current uses include storage, laundry for the shelter, and some auxiliary shelter uses.

12. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.):

None.

Infill Environmental Checklist
2700 Ninth Street – East Bay Humane Society Project

Figure 3 – Proposed Site Plan



Infill Environmental Checklist
2700 Ninth Street – East Bay Humane Society Project

Figure 4 – Project Renderings



SATISFACTION OF APPENDIX M PERFORMANCE STANDARDS

CEQA *Guidelines* Section 15183.3 allows lead agencies to streamline the environmental review process for eligible infill projects by removing analysis of the following types of environmental effects from the CEQA document:

1. If an effect was addressed as a significant effect in a prior environmental impact report (EIR) for a planning level decision (such as the Downtown Area Plan), then, with some exceptions, that effect need not be analyzed again for an individual infill project even when that effect was not reduced to a less than significant level in the prior EIR.
2. An effect need not be analyzed, even if it was not analyzed in a prior EIR or is more significant than previously analyzed, if the lead agency makes a finding that uniformly applicable development policies or standards, adopted by the lead agency or a city or county, apply to the infill project and would substantially mitigate that effect.

In order to be eligible for streamlined review under Section 15183.3, a project must meet the performance standards contained in Appendix M of the *Guidelines*. The following section provides information demonstrating that the infill project satisfies these standards

Does the non-residential infill project include a renewable energy feature? If so, describe below. If not, explain below why it is not feasible to do so.

The project would meet the strict energy efficiency requirements of California's Title 24 (CALGreen) Building Code. The building also would be designed for solar readiness to facilitate the future installation of rooftop solar panels. The applicant and building user is the East Bay Humane Society, a non-profit group with financial limitations that make it infeasible to commit to solar installation at this time.

If the project site is included on any list compiled pursuant to Section 65962.5 of the Government Code, either provide documentation of remediation or describe the recommendations provided in a preliminary endangerment assessment or comparable document that will be implemented as part of the project.

Four underground storage tanks were located beneath the Carleton Street sidewalk and adjacent to the Berkeley-East Bay Humane Society building. As of 1994, all site investigations and remedial actions were complete, and the State of California Regional Water Quality Control Board issued a closure letter in July of 1994. This closure letter is on file at City of Berkeley Land Use Planning Division offices and available for review by request. As discussed in the Checklist under Item VIII, *Hazards and Hazardous Materials*, no adverse impacts from the former adjacent underground storage tanks would occur.

For commercial projects with a single building floor-plate below 50,000 square feet, the project satisfies which of the following?

Project is located within a low vehicle travel area, as defined in Appendix M.

Pursuant to CEQA *Guidelines* Appendix M, "low vehicle travel area" means a traffic analysis zone that exhibits a below average existing level of travel as determined using a regional travel demand model.

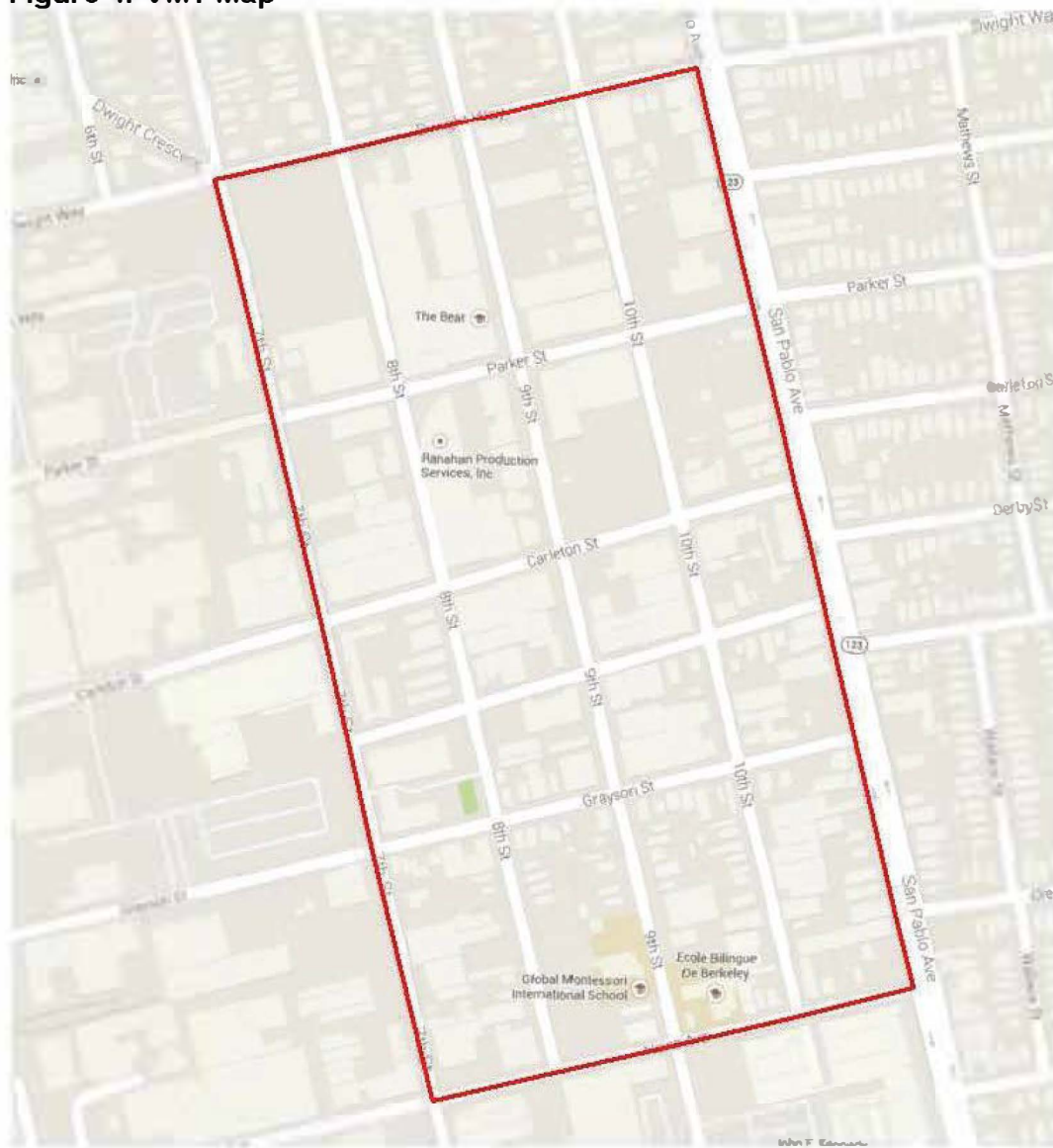
Infill Environmental Checklist
2700 Ninth Street – East Bay Humane Society Project

The City of Berkeley's traffic model outputs for average employee vehicle miles traveled (VMT) in the zone in which the project site is located (See Figure 4), compared to the average employee VMT for the entire City of Berkeley, are as follows:

- Year 2010 – 20.05 compared to 25.71 (78% of the average)
- Year 2020 – 19.46 compared to 22.73 (86% of the average)
- Year 2040 – 19.71 compared to 24.67 (80% of the average)

Thus the project site is in a zone where the typical employee travels, and would expect to travel in the future, between 78% and 86% of the citywide average employee VMT (i.e., employees in this zone generate an average of 14% to 22% fewer VMT than the average employee in the entire City).

Figure 4: VMT Map



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ENVIRONMENTAL FACTORS AFFECTED

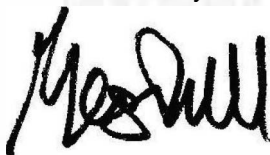
The infill project could potentially result in one or more of the following environmental effects.

- | | | |
|---|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forest Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology/Soils |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology/Water Quality |
| <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Population/Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Utilities/Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION:

On the basis of this initial evaluation:

- I find that the proposed infill project WOULD NOT have any significant effects on the environment that either have not already been analyzed in a prior EIR or that are more significant than previously analyzed, or that uniformly applicable development policies would not substantially mitigate. Pursuant to Public Resources Code Section 21094.5, CEQA does not apply to such effects. A Notice of Determination (Section 15094) will be filed.
- I find that the proposed infill project will have effects that either have not been analyzed in a prior EIR, or are more significant than described in the prior EIR, and that no uniformly applicable development policies would substantially mitigate such effects. With respect to those effects that are subject to CEQA, I find that such effects WOULD NOT be significant and a NEGATIVE DECLARATION, or if the project is a Transit Priority Project a SUSTAINABLE COMMUNITIES ENVIRONMENTAL ASSESSMENT, will be prepared.
- I find that the proposed infill project will have effects that either have not been analyzed in a prior EIR, or are more significant than described in the prior EIR, and that no uniformly applicable development policies would substantially mitigate such effects. I find that although those effects could be significant, there will not be a significant effect in this case because revisions in the infill project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION, or if the project is a Transit Priority Project a SUSTAINABLE COMMUNITIES ENVIRONMENTAL ASSESSMENT, will be prepared.
- I find that the proposed infill project would have effects that either have not been analyzed in a prior EIR, or are more significant than described in the prior EIR, and that no uniformly applicable development policies would substantially mitigate such effects. I find that those effects WOULD be significant, and an infill ENVIRONMENTAL IMPACT REPORT is required to analyze those effects that are subject to CEQA.



Signature

May 7, 2015
Date

Greg Powell
Printed Name and Title

ENVIRONMENTAL CHECKLIST

As described below and reflected in the organization and content of the checklist, this Infill Environmental Checklist is different from the Appendix G CEQA *Guidelines* Checklist commonly used for CEQA Initial Studies. This Infill Environmental Checklist is based on Appendix N CEQA *Guidelines* Infill Environmental Checklist form. The Appendix N Infill Environmental Checklist form and this Infill Environmental Checklist are intended to document a qualifying infill project's eligibility for streamlining pursuant to CEQA Guidelines Section 15183.3 and to assist in making the determinations required by Section 15183.3, including whether the infill project's effects have been addressed in a planning level decision or by uniformly applicable development policies.

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) For the purposes of this checklist, "prior EIR" means the environmental impact report certified for a planning level decision, as supplemented by any subsequent or supplemental environmental impact reports, negative declarations, or addenda to those documents. "Planning level decision" means the enactment or amendment of a general plan, community plan, specific plan, or zoning code. (Section 15183.3(e).)
- 4) Once the lead agency has determined that a particular physical impact may occur as a result of an infill project, then the checklist answers must indicate whether that impact has already been analyzed in a prior EIR. If the effect of the infill project is not more significant than what has already been analyzed, that effect of the infill project is not subject to CEQA. The brief explanation accompanying this determination should include page and section references to the portions of the prior EIR containing the analysis of that effect. The brief explanation shall also indicate whether the prior EIR included any mitigation measures to substantially lessen that effect and whether those measures have been incorporated into the infill project.
- 5) If the infill project would cause a significant adverse effect that either is specific to the project or project site and was not analyzed in a prior EIR, or is more significant than what was analyzed in a prior EIR, the lead agency must determine whether uniformly applicable development policies or standards that have been adopted by the lead agency, or city or county, would substantially mitigate that effect. If so, the checklist shall explain how the infill project's implementation of the uniformly applicable development policies will substantially mitigate that effect. That effect of the infill project is not subject to CEQA if the lead agency makes a finding, based upon substantial evidence, that the development policies or standards will substantially mitigate that effect.

Infill Environmental Checklist
2700 Ninth Street – East Bay Humane Society Project

- 6) If all effects of an infill project were either analyzed in a prior EIR or are substantially mitigated by uniformly applicable development policies or standards, CEQA does not apply to the project, and the lead agency shall file a Notice of Determination.
- 7) Effects of an infill project that either have not been analyzed in a prior EIR, or that uniformly applicable development policies or standards do not substantially mitigate, are subject to CEQA. With respect to those effects of the infill project that are subject to CEQA, the checklist shall indicate whether those effects are significant, less than significant with mitigation, or less than significant. If there are one or more "Significant Impact" entries when the determination is made, an infill EIR is required. The infill EIR should be limited to analysis of those effects determined to be significant. (Sections 15128, 15183.3(d).)
- 8) "Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures will reduce an effect of an infill project that is subject to CEQA from "Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how those measures reduce the effect to a less than significant level. If the effects of an infill project that are subject to CEQA are less than significant with mitigation incorporated, the lead agency may prepare a Mitigated Negative Declaration. If all of the effects of the infill project that are subject to CEQA are less than significant, the lead agency may prepare a Negative Declaration.
- 9) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to an infill project's environmental effects in whatever format is selected.
- 10) The explanation of each issue should identify:
 - a) the significance criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significance.

RELATIONSHIP OF THE PROPOSED PROJECT TO THE WEST BERKELEY PROJECT EIR ANALYSIS

As required by CEQA, the City prepared a Final Environmental Impact Report (FEIR), State Clearinghouse Number: 2009072084, which analyzed the environmental impacts of the West Berkeley Project (WBP). The Berkeley City Council certified the WBP FEIR as meeting the requirements of CEQA on March 22, 2011, by adopting Resolution 65209 – N. S. The City Council adopted the WBP in two separate sections: the first section included zoning amendments for reusing and expanding existing buildings and businesses, while the second section allowed new uses in specified types of protected spaces. On March 22, 2011, the City Council adopted the first section of the WBP in Resolution 65210 – N. S. On June 28, 2011, the City Council adopted the second section of the WBP in Resolution 65372 – N. S, which incorporated by reference the certified FEIR from Resolution 65209 – N.S.

The following written checklist cites the specific portions of the WBP EIR, including page and section references, containing the analysis of the WBP's significant effects. The written checklist also indicates the applicable mitigation measures from the WBP EIR that would be incorporated into the proposed project.

It should be noted that a Supplemental EIR was prepared in 2012 for additional proposed zoning ordinance amendments, primarily related to further changes to the Master Use Permit process for West Berkeley. Although the EIR was certified, the amendments were not approved, and therefore the impacts and mitigation measures identified in that EIR are not relevant to this Infill Environmental Checklist.

The following checklist of “environmental factors potentially affected” should be viewed in the context that the WBP FEIR, as it states at Page P-1, is a “program-level record of the types of environmental impacts that may be associated with implementation of the WBP.” Any new projects (such as private or public development activities) that might occur within West Berkeley following adoption of the WBP are be subject to subsequent environmental review pursuant to CEQA. Such review will determine whether:

- A project is exempt from further review;
- The activity is adequately covered by the EIR, so that no further CEQA review is needed...”

This Report presents the written checklist that cites the specific portions of the WBP EIR, including page and section references, containing the analysis of the WBP's potential significant effects. For this reason, this analysis begins with reference to the Project Description in the WBP EIR to demonstrate that the proposed project is generally included within the overall plan area buildout described in the Project Description for the WBP EIR. It should also be noted that all applicable mitigation measures from the WBP EIR have either been incorporated into the project or would be required in the City's standard Conditions of Approval for projects in West Berkeley.

Chapter 3: Project Description.

As noted in the Project Description for the WBP EIR, the WBP does not change the basic types of land uses permitted in West Berkeley. With respect to the MU-R zone in which the project site is located, the WBP encourages the reuse and expansion of existing buildings “by modifying regulations to make it easier and less time-consuming for new businesses to begin and existing

businesses to expand” (Berkeley, January 2010). Specific zoning ordinance changes that apply to the MU-R zone include the following:

- Revisions to regulations for child care;
- Use restrictions for food service;
- New use definitions for uses that are appropriate for manufacturing districts;
- Development standards to regulate height by floor-to-area ratio (FAR) instead of by the number stories;
- Allowance of Administrative Use Permits (AUPs) for dwellings that are proximate to Manufacturing or Mixed Manufacturing districts; and
- Parking reductions with standards and a permit process.

As also discussed in the West Berkeley Plan EIR Project Description (Page 3-18), the WBP EIR assumed that implementation of the WBP would enable the City of Berkeley to accommodate 3.8 million gross square feet of industrial/manufacturing/commercial development over the 20-year planning period. Because some of this development would occur on existing developed sites and would replace or reuse existing buildings, the EIR estimated that of the 3.8 million gross square feet of new building area, approximately half (about 1.9 million gross square feet) would be net new development. The project’s proposed rebuilding of an existing animal shelter would be within this projected buildout.

As documented throughout this Infill Environmental Checklist, the WBP EIR’s environmental analysis accounts for potential redevelopment on the project site.

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
I. AESTHETICS. Would the project:					
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

WBP EIR Summary

The WBP EIR analyzes aesthetics in pages 4-1 through 4-13. The WBP EIR identifies significant but mitigable impacts from obstruction of east-west public view corridors (Impact AES-1) along Hearst Avenue, Virginia Street, and Cedar Street. New buildings within such public view corridors that are greater than two stories in height and exceed the height of adjacent buildings are identified as potentially obstructing scenic views toward San Francisco Bay or the East Bay hills. In Impact AES-2, the WBP EIR identifies significant but mitigable impacts to the “lower-scale and eclectic” visual character of West Berkeley from allowing new structures above an existing 45-foot height limit in manufacturing areas. In addition, significant but mitigable impacts are found from new structures with heights exceeding 45 feet whose shadows fall onto public open space or recreational areas. In regard to light and glare impacts, the Initial Study for the WBP EIR concludes that impacts would be less than significant through compliance with the City’s design review requirements.

Project-Specific Impacts

- a) The proposed project is located on Ninth Street and Carleton Street, which the WBP EIR did not identify as public view corridors with scenic views of the bay or the hills. Furthermore, the project would not be visible from a public view corridor: the project site is approximately 0.9 miles to the south of Hearst Avenue, the nearest such corridor. The proposed two-story building would be less than 45 feet tall and would be within the range of heights of adjacent buildings that are one to three stories tall. Therefore, the project would have **no impact** on scenic vistas, which is within the impacts identified in the WBP EIR for the WBP as a whole.
- b) The proposed project would have adverse effects if it would “substantially damage” scenic resources. The project site is fully developed, and does not have any substantial natural features such as rock outcroppings. Although the project would involve removal of four small

coniferous trees against the existing building's foundation, as well as one small street tree on Carleton Street, during site preparation and construction, these trees are not of sufficient stature or type to be considered a substantial scenic resources. In addition, the project would include adding nine street trees of species acceptable to the City's Street Trees and Urban Forestry Management Program.

The *Infill Environmental Checklist* form incorporated into the State CEQA *Guidelines* also lists "historic buildings within a state scenic highway" as a type of scenic resource warranting examination. The project site is not visible from a State scenic highway, and there are no such highways within West Berkeley. Therefore, by definition, the proposed project would not result in an adverse effect on scenic resources associated with a State scenic highway pursuant to the Infill Environmental Checklist.

Impacts to scenic resources would be within those identified in the WBP EIR for the WBP as a whole, and the project would have **no impact**.

- c) The project site is currently occupied by a two-story, 16,538-square-foot building with a series of flat roofs. The street elevations of the building include brick with planter at the ground-floor corner with Ninth Street and Carleton Street, storefront windows, a recessed entry, and stucco cladding with aluminum windows on the second story. The existing building has a heterogeneous (mixed) appearance because the facility is a conglomeration of many different buildings and/or additions that came together to make up one site (Kaufer, 2013). Although a May 2010 fire destroyed most of the interior of the existing building, it did not visibly affect the facades that face Ninth Street or Carleton Street. Four coniferous trees approximately 30 feet tall line the building's foundation along Ninth Street.

The proposed project would alter the visual character of the project site through the demolition of the existing building and construction of a replacement building. As shown by the proposed Ninth Street and Carleton Street elevations in Figures 4 and 5, the exterior of the rebuilt building would consist of a combination of cement plaster, metal siding, wood slat siding, composite wood slat screens, a glass storefront, and steel- and aluminum-framed windows. The proposed building would have a two-story mass at the corner of Ninth Street and Carleton but would step down to one story at the kennels on the southern part of the site. A small parking lot with seven parking spaces would occupy the southern end of the site, adjacent to the new animal shelter. As shown in Figure 4, a wood slat enclosure would partially hide this parking lot from view, from the perspective of Ninth Street.

The overall project is intended have a contemporary/industrial look that would blend with surrounding uses in the neighborhood while retaining a distinct identity. The project would be located in a "physical form subarea" that the WBP EIR defines as Mixed Use/Residential. This area – bounded by Carleton Street on the north, Seventh Street on the west, Heinz Street on the south, and San Pablo Avenue on the east – is characterized by a "highly unusual mix of moderately scaled light industrial uses (with occasional larger scale plants) with residential ones." In this eclectic environment, the proposed contemporary/ industrial building would complement the visual character of neighboring restaurant, warehouse, live-work, automotive, and industrial uses. Moreover, the proposed two-story building would be consistent with the existing building's two-story height and with surrounding buildings that range from one to three stories in height. The proposed temporary use of the adjacent approximately 10,000-square-foot warehouse building also would not alter the visual character of the site. Therefore, the project would not adversely affect the "lower-scale and eclectic" aesthetic that the WBP EIR identifies as characteristic of West Berkeley.

The proposed landscaping also would have a beneficial impact on the visual quality of the site. Although the project would involve removing the existing ornamental trees directly adjacent to the building's foundation, approximately 2,000 square feet of new landscaping would be installed within the five-foot setbacks along Ninth and Carleton streets and in adjacent planters in the sidewalk area, as well as along the southern property line adjacent to the parking lot. Landscaped areas would include shrubs and ground cover and several small trees. Nine new street trees of species acceptable to the City's Street Trees and Urban Forestry Management Program are also proposed: Chinese flame trees on Carleton Street and frontier elm trees on Ninth Street.

Therefore, impacts to visual character would be within those identified in the WBP EIR for the WBP as a whole, and would be **less than significant**.

- d) The proposed building's exterior would include surface-mounted light fixtures at the ground floor. As discussed in the Initial Study for the WBP EIR, lighting would be required to comply with the City's design review requirements, ensuring that the project does not create new sources of substantial light and glare.

The only shadow-sensitive receptor adjacent to the project site is the live-work building to the south. The proposed 31-foot-tall building would not exceed 45 feet, the height at which the WBP EIR identifies potential shadow impacts. While the rebuilt building would create shadows that fall to the west, north, and east, depending on the position of the Earth as it orbits the sun, it would not project substantial shadows to the south. In the northern hemisphere, the sun only projects southward shadows near the summer solstice in the early morning and evening. Because the proposed building would be separated from the live-work building by a parking lot, these shadows would not affect development to the south. Therefore, the building would not produce substantial shadows that might fall onto shadow-sensitive receptors, such as residences, public open space, or recreational areas.

On February 20, 2014, the Design Review Committee considered the project, including lighting, and voted unanimously to forward a favorable recommendation to the ZAB. Finally, the City's standard conditions of approval require that exterior lighting be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property. Therefore, impacts related to lighting, glare, and shadows would be within those identified in the WBP EIR for the WBP as a whole, and would be **less than significant with uniformly applicable development standards**.

Conclusion

As the project would have less than significant overall aesthetic impacts, which are not greater than the impacts identified in the WBP EIR for the WBP as a whole, this issue **does not require mitigation or further study in an EIR**.

Infill Environmental Checklist
 2700 Ninth Street – East Bay Humane Society Project

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
II. AGRICULTURE AND FORESTRY RESOURCES.					
<p>In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:</p>					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
51104(g)?					
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

WBP EIR Summary

Appendix A of the WBP EIR discusses impacts on agricultural resources on pages 7 and 8 of the Initial Study. As noted therein, “the Adopted General Plan (2001-2002), there are no significant agricultural resources in Berkeley. None are shown in that document’s Existing Land Use map and the Land Use Diagram. Further, the Land Management Element states that ‘Agriculture in Berkeley is limited to personal and community gardens.’” The Initial Study concludes that the WBP would have no impacts on agricultural resources.

Project-Specific Impacts

a - e) The project site and vicinity are located within an urban area in the City of Berkeley. There are no agricultural resources, Williamson Act-contracted land, or forest land located on or near the project site. The site and all surrounding properties are classified as “Urban and Built-Up Land” on the State Department of Conservation’s Farmland Mapping and Monitoring Maps (2010). The proposed project would not convert agricultural land to non-agricultural uses or result in the loss of forest land or conversion of forest land to non-forest use. The site’s urban zoning designation would not change. Although ornamental vegetation against the existing building’s foundation would be removed during site preparation and construction, this vegetation does not constitute forestry resources, and the project would involve the planting of nine new street trees of species acceptable to the City’s Street Trees and Urban Forestry Management Program. The proposed project would have **no impact** on agriculture or forestry resources.

Conclusion

As the project would have no impact on agriculture or forestry resources – the same as the impacts identified in the WBP EIR for the WBP as a whole – this issue **does not require mitigation or further study in an EIR.**

Infill Environmental Checklist
 2700 Ninth Street – East Bay Humane Society Project

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
III. AIR QUALITY Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

WBP EIR Summary

The WBP EIR discusses air quality impacts on pages 4-45 through 4-64. The WBP EIR identifies the following impacts and mitigation measures that would apply to the project proposed:

- **Impact AIR-4:** Construction Period Air Quality Impacts. Construction of development projects under the WBP would result in temporary emissions of dust and diesel exhaust that may result in both nuisance and health impacts. Without appropriate measures to control these emissions, these impacts would be considered *significant*.
- **Mitigation AIR-4:** Implement BAAQMD-Recommended Measures to Control PM10 Emissions during Construction. Measures to reduce diesel particulate matter and PM10 from construction are recommended to ensure that short-term health impacts to nearby sensitive receptors are avoided. Dust (PM10) Control Measures:

- Water all active construction areas at least twice daily and more often during windy periods. Active areas adjacent to residences should be kept damp at all times.
- Cover all hauling trucks or maintain at least two feet of freeboard.
- Pave, apply water at least twice daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas.
- Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas and sweep streets daily (with water sweepers) if visible soil material is deposited onto the adjacent roads.
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (i.e., previously-graded areas that are inactive for 10 days or more).
- Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles.
- Limit traffic speeds on any unpaved roads to 15 mph.
- Replant vegetation in disturbed areas as quickly as possible.
- Suspend construction activities that cause visible dust plumes to extend beyond the construction site. Measures to Reduce Diesel Particulate Matter and PM_{2.5}:
- Clear signage at all construction sites will be posted indicating that diesel equipment standing idle for more than five minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate, or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they were onsite or adjacent to the construction site.
- Opacity is an indicator of exhaust particulate emissions from off-road diesel powered equipment. Each project shall ensure that emissions from all construction diesel powered equipment used on the project site do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately
- The contractor shall install temporary electrical service whenever possible to avoid the need for independently powered equipment (e.g. compressors).
- Properly tune and maintain equipment for low emissions.

The WBP EIR also finds that impacts related to consistency with Clean Air Plan (CAP) assumptions (Impact AIR-1) would be significant but mitigable, given that developed anticipated as a result of the WBP would increase employment at a greater rate than was assumed when the BAAQMD prepared the latest update to the CAP. In Impact AIR-2, the WBP EIR finds that new non-residential development may generate toxic air contaminants (TACs) and small particulate matter (PM_{2.5}) near existing sensitive receptors. Impacts are identified as significant but mitigable. Finally, in Impact AIR-3, the WBP EIR identifies significant and unavoidable impacts from new non-residential development that may generate odors near sensitive receptors.

Air Quality Environmental and Regulatory Setting

The project site is located in the City of Berkeley within the boundaries of the San Francisco Bay Area Air Basin (Bay Area). The Bay Area's moderate climate steers storm tracks away from the region for much of the year, although storms generally affect the region from November through April. Berkeley's proximity to the refreshing onshore breezes stimulated by the Pacific Ocean provide for generally very good air quality. However, during the ozone smog season (typically, May through October), transport studies have shown that ozone precursor emissions generated in Oakland and Berkeley are often transported to other regions of the Bay Area and beyond (e.g., Central Valley) that are more conducive to the formation of ozone smog. In the winter,

reduced solar energy and cooler temperatures diminish ozone smog formation, but increase the likelihood of carbon monoxide formation.

Average annual temperatures in the area are in the mid-fifties, generally ranging from the low-forties on winter mornings to mid-seventies during summer afternoons. Daily and seasonal oscillations of temperature are small because of the moderating effects of the nearby ocean. In contrast to the steady temperature regime, rainfall is highly variable and confined almost exclusively to the “rainy” period from November through April. About 95 percent of the average annual rainfall of approximately 30 inches occurs during this period. Precipitation may vary widely from year to year as a shift in the annual storm track of a few hundred miles can mean the difference between a wet year and drought conditions. Winds in the project area display several characteristic regimes. During the day, especially under fair weather conditions, winds are from the west and northwest as air is funneled through the Golden Gate toward Berkeley. At night, cooling of the land generates winds from the east and southeast. Summer afternoon sea breezes typically range from 20 to 30 miles per hour. Peak annual winds occur during winter storms. South and southeast winds typically also precede weather systems passing through the region.

As required by the federal Clean Air Act passed in 1970, the United States Environmental Protection Agency has identified six criteria air pollutants that are pervasive in urban environments and for which state and federal health-based ambient air quality standards have been established. EPA calls these pollutants criteria air pollutants because the agency has regulated them by developing specific public health- and welfare-based criteria as the basis for setting permissible levels. Ozone, carbon monoxide (CO), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), particulate matter (PM), and lead are the six criteria air pollutants.

The California Health and Safety Code defines toxic air contaminants (TACs) as air pollutants “which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health” (Health and Safety Code Section 39655(a)). By definition, TACs include substances listed in the federal Clean Air Act as “hazardous air pollutants.” TACs are less pervasive in the urban atmosphere than criteria air pollutants, but are linked to short-term (acute) or long-term (chronic and/or carcinogenic) adverse human health effects. There are hundreds of different types of TACs, with varying degrees of toxicity. Sources of TACs include industrial processes, commercial operations (e.g., gasoline stations and dry cleaners), and motor vehicle exhaust. Unlike regulations concerning criteria air pollutants, there are no ambient air quality standards for evaluation of TACs based on the amount of emissions. Instead, emissions of TACs are evaluated based on the degree of health risk that could result from exposure to these pollutants.

Project-Specific Impacts

- a) The California Clean Air Act requires that air districts create a Clean Air Plan (CAP) that describes how the jurisdiction will meet air quality standards. These plans must be updated every three years. The most recently adopted air quality plan in the San Francisco Bay Area Air Basin is the 2010 Clean Air Plan (2010 CAP). The 2010 CAP is a roadmap showing how the San Francisco Bay Area will achieve compliance with the state one-hour ozone standard as expeditiously as practicable, and how the region will reduce transport of ozone and ozone precursors to neighboring air basins. The 2010 CAP does not include control measures that apply directly to individual development projects; instead, the control strategy includes stationary-source control measures to be implemented through the Bay Area Air Quality Management District (BAAQMD) regulations; mobile-source control measures to be implemented through incentive programs and other activities; and transportation control

measures to be implemented through transportation programs in cooperation with the Metropolitan Transportation Commission (MTC), local governments, transit agencies, and others. Under BAAQMD's methodology, a determination of consistency with the most recently adopted CAP should demonstrate that a project:

- *Supports the primary goals of the CAP;*
- *Includes applicable control measures from the CAP; and*
- *Does not disrupt or hinder implementation of any CAP control measures.*

Support the Primary Goals of the CAP. The primary goals of the 2010 CAP are to:

- *Attain air quality standards;*
- *Reduce population exposure and protecting public health in the Bay Area; and*
- *Reduce greenhouse gas emissions and protect the climate.*

Any project that would not support these goals would not be considered consistent with the 2010 CAP. On an individual project basis, consistency with BAAQMD quantitative thresholds is interpreted as demonstrating support for the CAP goals. As shown below in the response to checklist items b and c, approval of the project would not result in significant and unavoidable criteria pollutant emissions or other significant air quality impacts; similarly, as shown in Section VII, *Greenhouse Gas Emissions*, the project would result in less than significant GHG impacts. Therefore, the proposed project would be consistent with the CAP goals.

As noted above, the WBP EIR finds that impacts related to consistency with CAP assumptions would be significant but mitigable, given that developed anticipated as a result of the WBP would increase employment at a greater rate than was assumed when the BAAQMD prepared the latest update to the CAP. However, the proposed project would not generate new employment relative to existing conditions. The proposed project would involve demolition of an 16,538-square-foot animal shelter building and construction of a replacement 13,211-square-foot building, which would be 3,327 square feet smaller than the existing building (an approximate 20 percent reduction in size) and would not serve additional employees. The proposed project would not exceed anticipated growth under the inventory and assumptions of the General Plan and the 2010 CAP. Therefore, the project is consistent with the 2010 CAP. Impacts would be within those identified in the WBP EIR for the WBP as a whole, and would be **less than significant**.

- b, c) In June 2010, the BAAQMD Board of Directors adopted thresholds of significance to assist in the review of projects under CEQA. The BAAQMD was ordered to set aside the adopted thresholds by the by the Alameda County Superior Court (*California Building Industry Association v. Bay Area Air Quality Management District*, 2013), and is no longer recommending that these thresholds be used as a general measure of a project's significant air quality impacts. As such, lead agencies need to determine appropriate GHG thresholds of significance based on substantial evidence in the record. Lead agencies may rely on the BAAQMD's *CEQA Guidelines* (updated May 2012) for assistance in calculating air pollution emissions, obtaining information regarding the health impacts of air pollutants, and identifying potential mitigation measures. According to the BAAQMD's 2012 *CEQA Guidelines*, the BAAQMD's 1999 thresholds of significance for criteria pollutants remain appropriate for use in CEQA analysis. These thresholds are 15 tons per year of ROG, NO_x and PM₁₀.

Construction Emissions. Construction of the proposed project, lasting an anticipated 15-18 months, would generate temporary emissions of criteria air pollutants, primarily due to the operation of construction equipment and truck trips. As discussed in Impact AIR-4 in the WBP EIR, emissions of dust and diesel exhaust could result in both nuisance and health impacts without appropriate measures to control these emissions. The nearest sensitive receptors to the project site, live-work units located adjacent and to the south, could be exposed these temporary emissions. However, the proposed project would be subject to standard City Conditions of Approval that implement the measures to control emissions of dust and particulate matter which are included in Mitigation Measure AIR-4 in the WBP EIR. Construction air pollutant emissions would be within those identified in the WBP EIR for the WBP as a whole, and would be **less than significant with uniformly applicable development standards.**

Operational Emissions. Operation of the proposed project would represent a continuation of an existing animal shelter use. For a period of four years, until the proposed building is completed, the Humane Society would maintain existing operations in an adjacent warehouse building with a floor area of approximately 10,000 square feet. Over the long term, the project would involve demolishing an existing 16,538-square-foot building and replacing it with a 13,211-square-foot building. The floor area of this rebuilt building would be approximately 20 percent smaller than that of the existing building. Due to the reduced size of the new animal shelter and adherence to current regulatory standards for energy-efficiency, operational emissions from energy consumption would be reduced relative to existing conditions on the project site. The proposed building would be designed and constructed in compliance with the energy-efficiency requirements of the 2013 California Energy Code, as incorporated by reference in Section 19.36.010 of the Berkeley Municipal Code. Nonresidential buildings in Berkeley, such as the proposed animal shelter, would meet mandatory requirements in Subchapter 3 of the California Energy Code for insulation, air ducts, mechanical systems, and other building features. In addition, as part of LEED certification, the applicant would optimize the energy performance of the proposed building. Adherence to California Energy Code requirements and LEED performance standards would improve the energy-efficiency of the proposed building relative to the older existing building. The project also would not generate an increase in operational emissions from motor vehicle trips because it would not involve a change in land use or a substantial increase in the intensity of development.

Because the proposed project would involve replacement of an existing use at a lower intensity of development and with more energy-efficient materials, it would not result in an increase in operational emissions relative to existing operations at the project site. Operational air pollutant emissions would be within those identified in the WBP EIR for the WBP as a whole, and would be **less than significant.**

- d) Certain population groups are considered more sensitive to air pollution than others. Sensitive population groups include children, the elderly, the acutely ill, and the chronically ill, especially those with cardio-respiratory diseases. Residential uses are also considered more sensitive to air pollution than non-residential uses because residents (including children and the elderly) tend to be at home for extended periods of time, resulting in sustained exposure to any pollutants present. As discussed above, the nearest sensitive residential uses to the project site are located at live-work units adjacent and to the south. However, the proposed animal shelter use would not generate substantial amounts of TACs. Similarly, adjacent industrial and residential uses are not known to emit substantial quantities of TACs. Therefore, on-site and nearby sensitive receptors would not be exposed to TAC emissions that would significantly impact human health, since the project would only

Infill Environmental Checklist
 2700 Ninth Street – East Bay Humane Society Project

involve minor releases of air contaminants during construction and operations. In addition, the proposed project would not generate new operational emissions that could exceed federal or State ambient air quality standards (AAQS). Therefore, impacts to sensitive receptors would be within those identified in the WBP EIR for the WBP as a whole, and would be **less than significant**.

- e) The 2012 BAAQMD *CEQA Guidelines* lists “confined animal facilities” as a land use that has potential to generate considerable odors. The proposed animal shelter may result in minor odors from the presence of pets and the disposal of waste. However, animals at the new shelter would be confined to indoors and would not generate substantial odors outdoors. Furthermore, the proposed project would not constitute a new land use, but would replace an existing animal shelter on the project site. Therefore, Mitigation Measure AIR-3 in the WBP EIR, which requires site-specific review of new development expected to cause odor impacts, would not apply to the proposed project. Odor impacts would be within those identified in the WBP EIR for the WBP as a whole, and would be **less than significant**.

Conclusion

As the project would have less than significant impacts on air quality with uniformly applicable development policies – and the impacts would be within the impacts identified in the WBP EIR for the WBP as a whole – this issue **does not require further study in an EIR**.

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
IV. BIOLOGICAL RESOURCES:					
Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
IV. BIOLOGICAL RESOURCES:					
Would the project:					
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

WBP EIR Summary

Appendix A of the WBP EIR discusses impacts on biological resources on pages 11 and 12 of the Initial Study. As noted therein, implementation of the WBP would not adversely affect areas that currently provide habitat for special-status species, riparian habitat in Aquatic Park or outside of West Berkeley, protected wetlands, wildlife corridors, tree preservation policies, or habitat conservation plans. The WBP EIR notes that “General Plan Policy EM-29 requires the City to maintain and enhance street and park trees to improve the environmental and provide habitat.” Implementation of Policy EM-29 through site-specific design review and use permits is found to reduce impacts from conflicts with tree preservation policies to a less than significant level. The WBP EIR concludes that overall impacts to biological resources would be less than significant.

Project-Specific Impacts

a – f) The project site and vicinity are located within an urban area in the City of Berkeley and within the DAP area. There is little vegetation on-site or adjacent to the project site, except

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for four small ornamental trees that line the foundation of the existing Humane Society building along Ninth Street and a street tree on Carleton Street. No wetlands, riparian or other habitat, or suitable habitat for special-status wildlife occur on-site or adjacent to the site. The project site does not provide a suitable corridor for wildlife movement, as it is completely developed with existing structures and not adjacent to habitat or wildlife movement areas. Although the project would involve removal of existing ornamental trees, it would provide nine new street trees of species acceptable to the City's Street Trees and Urban Forestry Management Program. The planting of nine street trees would represent a net gain in West Berkeley's urban forest. No conflict with local policies or ordinances protecting biological resources, including trees, would occur. No adopted Habitat Conservation Plans, Natural Community Conservation Plans or other approved local, regional, or state habitat conservation plans apply to the project site. In addition, as discussed in the introduction to this document, buildings of similar height and intensity are considered in the WBP EIR, including on the project site, so the project's general impacts on biological resources are considered as part of the EIR's analysis of overall buildout of the WBP. Impacts would be within those studied in the WBP EIR, and there would be **no project-specific impact**.

Conclusion

As the project would have no impact on biological resources – less than the impacts identified in the WBP EIR for the WBP as a whole – this issue **does not require further study in an EIR**.

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
V. CULTURAL RESOURCES Would the project:					
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

WBP EIR Summary

The WBP EIR discusses cultural resources impacts on pages 4-75 through 4-81. The WBP EIR identifies the following impacts and mitigation measures that would apply to the proposed project:

- **Impact CUL-2: Possible Disturbance of Unidentified Subsurface Archaeological Resources.** Ground-disturbing activities associated with new construction and related underground utility installation could result in the destruction or disturbance of unidentified subsurface archaeological resources (particularly in the Shellmound area), which would represent a *potentially significant* impact.
 - **Mitigation CUL-2: Halt Work/Archaeological Evaluation/Site-Specific Mitigation.** If archaeological resources are uncovered during construction activities, all work within 50 feet of the discovery shall be redirected until a qualified archaeologist can be contacted to evaluate the situation, determine if the deposit qualifies as an archaeological resource, and provide recommendations. If the deposit does not qualify as an archaeological resource, then no further protection or study is necessary. If the deposit does qualify as an archaeological resource, then the impacts to the deposit shall be avoided by project activities. If the deposit cannot be avoided, adverse impacts to the deposit must be mitigated. Mitigation may include, but is not limited to, archaeological data recovery. Upon completion of the archaeologist's assessment, a report should be prepared documenting the methods, findings and recommendations. The report should be submitted to the City, the project proponent and the NWIC.
- **Impact CUL-3: Possible Disturbance of Unidentified Subsurface Paleontological Resources.** Although no paleontological resources are currently known to exist in West Berkeley, ground-disturbing activities associated with new construction and related underground utility installation could result in the destruction of unidentified subsurface paleontological resources, which would represent a *potentially significant* impact.
 - **Mitigation CUL-3: Halt Work/Paleontological Evaluation/Site-Specific Mitigation.** Should paleontological resources be encountered during construction or site preparation activities, such works shall be halted in the vicinity of the find. A qualified paleontologist shall be contacted to evaluate the nature of the find and determine if mitigation is necessary. All feasible recommendations of the paleontologist shall be implemented. Mitigation may include, but is not limited to, in-field documentation and recovery of specimen(s), laboratory analysis, the preparation of a report detailing the methods and findings of the investigation, and curation at an appropriate paleontological collection facility.
- **Impact CUL-4: Possible Disturbance of Unidentified Human Remains.** Ground-disturbing activities associated with new construction and related underground utility installation could result in the disturbance of unidentified subsurface human remains, which would represent a *potentially significant* impact.
 - **Mitigation CUL-4: Halt Work/Coroner's Evaluation/Native American Heritage Consultation/Compliance with Most Likely Descendent Recommendations.** If human remains are encountered during construction activities, all work within 50 feet of the remains should be redirected and the County Coroner notified immediately. At the same time, an archaeologist shall be contacted to assess the situation. If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American

Heritage Commission will identify a Native American Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and any associated grave goods. The archaeologist shall recover scientifically-valuable information, as appropriate and in accordance with the recommendations of the MLD. Upon completion of the archaeologist's assessment, a report should be prepared documenting methods and results, as well as recommendations regarding the treatment of the human remains and any associated archaeological materials. The report should be submitted to the City, the project proponent and the NWIC.

In addition, Impact CUL-1 in the WBP EIR finds that despite the substantial protections in place in City policy, it is possible that development anticipated under the WBP could result in the demolition of historic resources located within West Berkeley. The WBP EIR concludes that impacts from the demolition of historic resources would represent a *significant and unavoidable* impact associated with WBP implementation.

Project-Specific Impacts

- a) The proposed project would involve demolition of an existing building that is more than 40 years old. As discussed in Item I, *Aesthetics*, a review of historical documents and records for the project site indicate that this building is a conglomeration of many different buildings and/or additions that came together to make up one site (Kaufer, 2013). The site has been “modified bit by bit throughout the years to meet the needs of the early occupants, which included a butcher shop and a pool hall/cigar shop,” and lastly the Berkeley Humane Society since 1935. Based on this history of substantial modifications and the building’s “utilitarian” character, the City’s Landmarks Preservation Commission found on February 6, 2014, that it does not appear to meet historical resource criteria. Therefore, the proposed project would not involve demolition of a historic resource.

Construction of the proposed project would occur approximately 65 feet away from the Standard Die & Specialty Company building, a designated City of Berkeley landmark, which is located to the west at 2701 Eighth Street (City of Berkeley, 2010). This two-story brick building was originally constructed in 1924. The proposed project would have a significant impact on historic resources if it would compromise the historic setting of this landmark. However, as noted above, the existing Humane Society building does not retain a historic character because of substantial modifications, and an existing warehouse building would remain between the project site and the landmark. For these reasons, demolition of the existing animal shelter building would not impair the historic character of the nearby historic landmark. The proposed building also would be compatible in height and architectural style with surrounding buildings. The temporary use of an adjacent warehouse for animal shelter operations also would not alter the landmark’s setting. Therefore, the project would not have adverse effects on nearby historic resources. Overall impacts on historic resources would be within those identified in the WBP EIR for the WBP as a whole, and would be **less than significant**.

- b – d) The WBP EIR does not identify any known archaeological or paleontological resources, or human remains, in West Berkeley, which includes the project site. Nevertheless, the WBP EIR identifies impacts to unrecorded subsurface archaeological and paleontological resources, and to human remains, as potentially significant but mitigable. While the proposed project would not involve extensive ground disturbance – the depth of excavation would generally be about two feet for foundations and up to six feet at the proposed elevator pit – previously unidentified resources could be disturbed during excavation for the proposed

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project, if they are located on the site. The site is not known to have greater likelihood of containing subsurface archaeological and paleontological resources or human remains than the West Berkeley area as a whole, and the areas to be disturbed are likely to have been graded in the past for construction of the existing building. Nevertheless, mitigation measures CUL-2 through CUL-4 from the WBP EIR would apply to the project, and would be expected to reduce impacts to **less than significant** levels.

Conclusion

As the project would have potentially significant but mitigable impacts on unrecorded subsurface archaeological and paleontological resources and human remains – generally the same as the impacts identified in the WBP EIR for the WBP as a whole – these issue areas **do not require further study in an EIR.**

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
<u>VI. GEOLOGY AND SOILS</u>					
Would the project:					
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
VI. GEOLOGY AND SOILS					
Would the project:					
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

WBP EIR Summary

Appendix A of the WBP EIR discusses impacts related to geology and soils on pages 15 through 17 of the Initial Study. The basic geologic setting of the project area has not changed since certification of the EIR. The WBP EIR finds that all impacts related to geology and soils would be less than significant with required implementation of existing regulations, policies, and standard practices, including the following:

- California Building Code design requirements for buildings constructed in areas of high seismic risk and expansive soils.
- Berkeley General Plan policies S-14 and S-15, which require that new development in West Berkeley be evaluated for susceptibility to liquefaction, landslides, and expansive soils, and in those instances where such risks are present, appropriate structural design features be required.
- Standard soil erosion control measures during demolition and construction associated with development under the WBP in order to minimize erosion from exposed surfaces and reduce soil erosion impacts.

Project-Specific Impacts

a (i-iv). As stated in the WBP EIR, West Berkeley is not in an Alquist-Priolo fault zone and is therefore not an area where structures are at significant risk from fault rupture; however, it is, like all of the East Bay, in an area at high risk from seismic shaking. The project site and its surroundings are relatively flat, and are not subject to landslides. Because development under the proposed project would fall within that envisioned under the WBP EIR in terms of location, use, scale, and density, the project would not increase the exposure of people or structures, relative to that analyzed in the DAP EIR, to adverse effects from seismic shaking, seismic-related ground failure including liquefaction, or landslides.

A Geotechnical Investigation was completed for the project by Rockridge Geotechnical in June 2013, and a copy of this report is available for review at the City. Consistent with the

WBP EIR, it finds that the risk of fault rupture on the project site is very low. Although the Geotechnical Investigation finds that strong to very strong ground shaking could occur at the project site during a large earthquake on a nearby fault, design of the proposed structures in accordance with the recommendations of this report would make the project geotechnically feasible.

In evaluating the liquefaction potential of soil encountered below groundwater on-site, the Geotechnical Investigation finds that a potentially liquefiable layer less than two feet thick; however, the non-liquefiable soil overlying this layer is “sufficiently thick and the potentially liquefiable layers are sufficiently thin” that the potential for seismic-related ground failure from liquefaction is low. In addition, the project site would not be subject to landslide, as it is flat and not located near steep slopes.

The Geotechnical Investigation concludes that the proposed project is feasible from a geotechnical standpoint, provided that the preliminary recommendations included in the report are incorporated in the design and construction of the project. The City of Berkeley requires all projects to submit a geotechnical report in order to receive a building permit from the City, and to comply with the recommendations of the report. Compliance with this uniformly applicable standard condition would reduce the project’s potential impacts related to seismic shaking and landslides to a level of **less than significant with uniformly applicable development policies**.

- b) As stated in the WBP EIR, most of West Berkeley has already been developed. The use of standard soil erosion control measures during demolition and construction associated with the proposed project, which are standard City conditions of approval, would minimize erosion from exposed surfaces and reduce soil erosion impacts to a **less than significant** level.
- c) As stated in the WBP EIR, West Berkeley is relatively flat, although portions of this area are subject to liquefaction, subsidence, possible lateral spreading, and collapse. However, the WBP EIR finds that soils in West Berkeley have proven sufficiently stable to support previous urban development. The Geotechnical Investigation for the proposed project finds that the project site is underlain by stiff to very stiff clay that is not susceptible to differential compaction during earthquakes. Moreover, as discussed under Item a, the Geotechnical Investigation finds that the potential for seismic-related ground failure from liquefaction is low. In addition, the risk of lateral spreading is found to be low, considering the relatively flat topography, and the thinness and depth of potentially liquefiable soil layers.

Development under the project would therefore not be expected to face major soil stability concerns. As noted above, the City of Berkeley requires all projects to submit a geotechnical report in order to receive a building permit from the City, and to comply with the recommendations of the report. Compliance with this uniformly applicable standard condition would ensure appropriate foundation design in accordance with the project-specific geotechnical report, and would reduce any potential soil stability hazards to a level of **less than significant**.

- d) As stated in the WBP Final EIR, expansive soils may be present in West Berkeley. However, General Plan Policy S-14 would help to reduce the potential risk associated with development on expansive soil. This Policy includes the following actions:
 - When appropriate, utilize the environmental review process to ensure avoidance of hazards and/or adequate mitigation of hazard-induced risk.

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- Require soil investigation and/or geotechnical reports in conjunction with development/redevelopment on sites within designated hazard zones such as areas with high potential for soil erosion, landslides, fault rupture, liquefaction and other soil-related constraints.
- Place structural design conditions on new development to ensure that recommendations of the geotechnical/soils investigations are implemented.
- Encourage owners to evaluate their buildings' vulnerability to earthquake hazards, fire, landslides, and floods and to take appropriate action to minimize the risk.
- Develop criteria for disaster-resistant land use regulations to ensure that new construction reduces rather than increases risk of all kinds.

Consistent with General Plan Policy S-14, the Geotechnical Investigation has identified soil-related constraints including expansive soils on the project site. This investigation finds a potential for seasonal movement of foundations due to the shrink and swell of high expansive clay near the surface. However, pursuant to General Plan Policy S-14, the City of Berkeley would require compliance with the recommendations contained in the geotechnical report for stable foundations. Risks to life and property from expansive soils would be **less than significant with uniformly applicable development policies**.

- e) As discussed in the WBP EIR and under Item XVII, *Utilities and Service Systems*, of this environmental checklist, West Berkeley, including the project site, is served by a sanitary sewer system maintained by the City of Berkeley for the collection system, and by the East Bay Municipal Utility District (EBMUD) for interceptor lines. The proposed project would have access to these systems, and the use of septic systems would be neither required nor permitted. The project would therefore have **no impact** in this regard.

Conclusion

The basic geologic setting of the project area has not changed since adoption of the WBP EIR, and the project's impacts related to geology and soils would be no greater than the less than significant impacts identified in the WBP EIR for the WBP as a whole. Implementation of the geotechnical recommendations from the project-specific geotechnical report would reduce any potential impacts to a less than significant level. These issues **do not require further study in an EIR**.

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
VII. GREENHOUSE GAS EMISSIONS. Would the project:					
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

WBP EIR Summary

The WBP EIR discusses impacts related to greenhouse gas (GHG) emissions on pages 4-58 through 4-64, within a larger discussion of impacts to air quality. It is estimated that development in conformance with the WBP would generate an annual increase of approximately 17.9 million pounds of CO₂e (CO₂ equivalents). The activities associated with a typical development that could generate GHG emissions include the removal of vegetation; demolition of existing buildings; construction activities; gas, electric, and water use; and motor vehicle use. However, the WBP EIR finds that the City's ongoing implementation of its Climate Action Plan would collectively reduce GHG emissions. Furthermore, the WBP EIR notes that there is no current significance threshold for GHG impacts under CEQA. Therefore, it is found that the WBP would no significant impacts related to GHG emissions.

Greenhouse Gas Emissions Environmental and Regulatory Setting

The accumulation of GHGs in the atmosphere regulates the earth's temperature. Without the natural heat trapping effect of GHG, Earth's surface would be about 34° C cooler (CalEPA, 2006). However, it is believed that emissions from human activities, particularly the consumption of fossil fuels for electricity production and transportation, have elevated the concentration of these gases in the atmosphere beyond the level of naturally occurring concentrations.

Scientific modeling predicts that continued GHG emissions at or above current rates would induce more extreme climate changes during the 21st century than were observed during the 20th century. According to the CalEPA's 2010 Climate Action Team Biennial Report, potential impacts of climate change in California may include loss in snow pack, sea level rise, more extreme heat days per year, more high ozone days, more large forest fires, and more drought years (CalEPA, April 2010). While there is growing scientific consensus about the possible effects of climate change at a global and potentially statewide level, current scientific modeling tools are unable to predict what local impacts may occur with a similar degree of accuracy.

The regulatory circumstances surrounding the analysis of GHG emissions has developed substantially since the Initial Study for the WBP, including the amendment of the CEQA guidelines to include checklist items addressing GHG emissions pursuant to SB 97, the BAAQMD's adoption of thresholds of significance for analyzing GHG emissions, and the subsequent overruling of the BAAQMD thresholds by the Alameda County Superior Court (*California Building Industry Association v. Bay Area Air Quality Management District*, March 2013). The BAAQMD was ordered to set aside the thresholds and is no longer recommending that these thresholds be used as a general measure of a project's significant air quality impacts. In August 2013, the First District Court of Appeal overturned the trial court and held that the thresholds of significance adopted by the BAAQMD were not subject to CEQA review. The California Supreme Court has agreed to hear an appeal of this case. The case is currently being briefed and the matter is still pending. Thus, BAAQMD will not issue a further recommendation until this litigation is complete.

Climate Action Plan. Adopted in June of 2009, the City of Berkeley's Climate Action Plan (CAP; City of Berkeley, June 2009) sets a 2020 year target to achieve a 33 percent absolute reduction below 2000 community-wide emissions and identifies actions to achieve the target with the ultimate goal of 80 percent emission reductions. The CAP contains GHG-reduction policies for transportation and land use, building energy use, and waste reduction and recycling.

General Plan. The City of Berkeley also addresses GHG emissions in its General Plan, primarily in the Environmental Management Element. Policies in the General Plan that would

reduce GHG emissions include developing a green building certification program and encouraging compliance with green building standards (Policy EM-4, Policy EM-5), increased waste diversion (Policy EM-7), construction and demolition material recycling (Policy EM-8), support and implementation of local emission reduction programs (Policy EM-19), promotion of energy-efficient design techniques (Policy EM-35), and implementation of energy conservation techniques (Policy EM-36).

Project-Specific Impacts

Thresholds of Significance. Pursuant to the requirements of SB 97, the Resources Agency adopted amendments to the *State CEQA Guidelines* for the feasible mitigation of GHG emissions or the effects of GHG emissions in March 2010. These guidelines are used in evaluating the cumulative significance of GHG emissions from the proposed project. According to the adopted *CEQA Guidelines*, impacts related to GHG emissions from the proposed project would be significant if the project would:

- *Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; and/or*
- *Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.*

The vast majority of individual projects do not generate sufficient GHG emissions to create a project-specific impact through a direct influence to climate change; therefore, the issue of climate change typically involves an analysis of whether a project's contribution towards an impact is cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, other current projects, and probable future projects (*CEQA Guidelines*, Section 15355). In June 2010, the BAAQMD Board of Directors adopted thresholds of significance to assist in the review of projects under CEQA. As described above, the BAAQMD was ordered to set aside its adopted GHG thresholds and is no longer recommending that these thresholds be used as a general measure of a project's significant air quality impacts. As such, lead agencies need to determine appropriate GHG thresholds of significance based on substantial evidence in the record. Lead agencies may rely on the BAAQMD's *CEQA Guidelines* (updated May 2012) for assistance in calculating air pollution emissions, obtaining information regarding the health impacts of air pollutants, and identifying potential mitigation measures.

The City of Berkeley's CAP is not a qualified GHG Reduction Strategy (Strategy) pursuant to BAAQMD's *CEQA Air Quality Guidelines*. Among other requirements, a qualified Strategy must establish a level, based on substantial evidence, below which the contribution to GHG emissions from activities covered by the plan would not be cumulatively considerable. The City's CAP does not set such a threshold. Therefore, for this EIR, the City of Berkeley has determined that the significance thresholds in the BAAQMD's May 2010 *CEQA Guidelines* for project operations within the San Francisco Bay Area Air Basin are the most appropriate thresholds for use to determine the GHG impacts of the proposed project. The significance thresholds are shown in Table 2.

**Table 2
 GHG Significance Thresholds**

GHG Emission Source Category	Operational Emissions
Non-stationary Sources	1,100 MT of CO ₂ E/year OR 4.6 MT of CO ₂ E/SP/year (residents + employees)
Stationary Sources	10,000 MT/year
Plans	6.6 MT of CO ₂ E/SP/year (residents + employees)

Notes: SP = Service Population.

Project emissions can be expressed on a per-capita basis as metric tons of CO₂E/Service Population/year, which represents the project's total estimated annual GHG emissions divided by the estimated total number of new residents and employees that would result from development of a project.

These thresholds are lower than many other commonly used thresholds, including the BAAQMD's 1999 thresholds, and thus use of the thresholds in the May 2010 *CEQA Guidelines* represents a more conservative analysis of potential GHG impacts. The per-service population guideline is intended to avoid penalizing large projects that incorporate GHG-reduction measures such that they may have high total annual GHG emissions, but would be relatively efficient, as compared to projects of similar scale. Therefore, the proposed project would have a potentially significant contribution to GHG emissions if it would result in GHG emissions that would exceed both the bright-line threshold of 1,100 metric tons of CO₂E per year or the efficiency threshold of 4.6 metric tons of CO₂E per service population per year. If the proposed project would not result in more than 1,100 metric tons of CO₂E per year, then comparison to the efficiency threshold is not required.

- a) The proposed project would generate temporary GHG emissions during construction and long-term emissions during operation of the animal shelter. Over the anticipated 15-18 month period of construction, the project would generate GHG emissions primarily from the use of construction equipment and truck trips. During temporary use of the warehouse adjacent to the project site and long-term operation of the proposed building, vehicle use associated with trips to and from the animal shelter, energy use, architectural coatings, waste generation, and other sources would produce GHG emissions. However, relative to the existing land use on-site, the proposed project would not result in additional GHG emissions.

As the proposed project would involve demolition of an existing 16,538-square-foot animal shelter building and construction of a replacement 13,211-square-foot building, it would involve neither a change in land use nor an increase in the intensity of development on the project site. The rebuilt building would be 3,327 square feet smaller than the existing building (an approximate 20 percent reduction in size). Before completion of the rebuilt building, the Humane Society would temporarily maintain its existing operations out of the adjacent warehouse. Furthermore, the proposed building would be designed and constructed in compliance with the energy-efficiency requirements of the 2013 California Energy Code, as incorporated by reference in Section 19.36.010 of the Berkeley Municipal Code. Nonresidential buildings in Berkeley, such as the proposed animal shelter, would meet mandatory requirements in Subchapter 3 of the California Energy Code for insulation, air ducts, mechanical systems, and other building features. In addition, as part of LEED certification, the applicant would optimize the energy performance of the proposed building. Adherence to California Energy Code requirements and LEED performance standards would improve the energy-efficiency of the proposed building relative to the older existing building, which would reduce indirect GHG emissions associated with electricity use.

Because the proposed project would involve replacement of an existing use at a lower intensity of development and with more energy-efficient materials, it would not result in an increase in

GHG emissions relative to existing operations at the project site. Therefore, the proposed project would not generate a net increase in GHG emissions that would exceed either the bright-line threshold of 1,100 metric tons of CO₂E per year or the efficiency threshold of 4.6 metric tons of CO₂E per service population per year. Because the WBP EIR did not analyze impacts related to GHG emissions, impacts resulting from GHG emissions would be greater than impacts anticipated in the EIR, but would be **less than significant**.

- b) State policies to reduce GHG emissions associated with energy use, including the Renewable Portfolio Standard, Title 24 of the California Building Code, and the California Solar Initiative, would reduce anticipated emissions associated with the proposed project by reducing energy use, or by providing a “cleaner” (less GHG-intensive) mix of electricity to the project from the regional utility. In addition, the City General Plan, Community Design Guidelines, and Zoning Regulations include policies that reduce energy use from buildings and equipment, including design standards that maximize passive ventilation and cooling systems and use of natural lighting within buildings. By complying with existing City policies and regulations, the project would be generally consistent with these existing requirements.

In addition, the City of Berkeley adopted a Climate Action Plan (CAP) in 2009. The CAP includes goals, policies, and implementing actions that are applicable to the proposed project, including:

- *The Transportation and Land Use Chapter includes policies designed to reduce vehicle miles traveled in Berkeley by making cycling, walking, public transit, and other sustainable mobility modes the mainstream and to increase vehicle fuel efficiency and the utilization of low carbon fuels.*
- *The Building Energy chapter includes policies that would reduce conventional energy use in existing Berkeley homes, businesses, and institutions through energy efficiency retrofits and a greater reliance on renewable energy, such as solar.*
- *The Waste Reduction and Recycling chapter includes policies that would eliminate solid waste at the point of production, and to maximize reuse and recycling throughout the community.*

The proposed project would be consistent with these CAP policies because, as discussed in Item a, it would not result in an increase in GHG emissions relative to existing animal shelter operations at the project site. In addition, the project would not exceed anticipated growth under the inventory and assumptions of the General Plan and the CAP. Therefore, GHG emissions associated with the project would not conflict with California’s commitment to GHG reduction under AB 32, or any other plan, policy or regulation intended to reduce GHG emissions. Impacts from GHG emissions would be **less than significant**.

Conclusion

As the project would have less than significant impacts from GHG emissions, which fall within the impacts identified in the WBP EIR for the WBP as a whole, this issue **does not require mitigation or further study in an EIR**.

Infill Environmental Checklist
 2700 Ninth Street – East Bay Humane Society Project

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
VIII. HAZARDS AND HAZARDOUS MATERIALS.					
Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Significant Impact	Less Than Significant or Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
VIII. HAZARDS AND HAZARDOUS MATERIALS.					
Would the project:					
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

WBP EIR Summary

The Initial Study for the WBP discusses impacts related to hazards and hazardous materials on pages 18 through 20. The Initial Study identifies the following impacts from development under the WBP:

- Compliance with applicable federal, state, and local procedures and regulations would reduce impacts associated with the routine transport, use, and disposal of hazardous materials, and with upset and accident conditions involving the release of hazardous materials, to a less than significant level.
- Although new development under the WBP could involve handling of hazardous materials within one-quarter mile of schools or child care facilities, compliance with existing regulations and standard safety procedures would reduce impacts to schools to a less than significant level.
- Remediation of sites with hazardous materials to the satisfaction of the City, the Department of Toxic Substances Control, and/or the Alameda County Department of Environmental Health would result in less than significant impacts associated with development on these sites.
- Because no airports or private airstrips are located in or near West Berkeley, no impacts from aviation-related hazards would occur.
- Since no street changes are proposed as part of the WBP, no impact related to emergency response plans or emergency evacuation plans would occur.
- West Berkeley is not located in an area formally identified as subject to wildland fire hazards, and no impact would occur.

Project-Specific Impacts

a, c) The WBP Initial Study notes that new manufacturing or laboratory facilities may involve the routine transport, use, and disposal of hazardous materials. The proposed animal shelter use is not a manufacturing or laboratory facility; while temporary operation of the animal

shelter out of the adjacent warehouse and long-term operation in the proposed building would involve the use of minor quantities of hazardous materials for medical treatment of pets or in cleaning supplies, substantial amounts of hazardous materials would not be used. Compliance with existing regulations and normal standards of use, as stated in the Initial Study, would ensure that any hazardous materials do not pose a significant risk to human health or the environment. While the project site is within roughly 0.15 miles of the Global Montessori International School and the Ecole Bilingue de Berkeley, it would not emit hazardous emissions or pose a significant risk to these or any other school from hazardous materials releases; hazardous materials would be in limited quantities, would be contained on site, and would be stored and handled in compliance with existing regulations. This impact would be **less than significant**.

- b, d) Due to the age of the existing building on the project site, demolition has the potential of resulting in the release of Asbestos-Containing Material (ACM) or lead-based paint (LBP). The building has a documented history of the release of ACM. In 2010, the project site was listed on the Hazardous Waste Information System (HAZNET) database in 2010 for six tons of asbestos-containing waste, which the applicant states was likely associated with cleanup from the May 2010 fire. BAAQMD Regulation 11, Rule 2, which governs the proper handling and disposal of ACM for demolition, renovation, and manufacturing activities in the Bay Area, would apply to the project. The EPA's Lead Renovation, Repair and Painting Rule, which is available on the EPA's website at www.epa.gov/lead/pubs/renovation.htm (United States Environmental Protection Agency, April 2014), also requires the use of lead-safe work practices to ensure that common renovation activities like sanding, cutting and demolition, which can create hazardous lead dust, are conducted properly by trained and certified contractors or individuals (City of Berkeley, *Frequently Asked Questions (FAQs) from Residents*, April 2014).

Review of Cortese List sites in the GeoTracker database (California State Water Resources Control Board, April 2015) indicates that the project site has been listed as a Leaking Underground Storage Tank (LUST) cleanup site, with xylene as the potential contaminant of concern. According to a March 1991 report on the remediation of the LUST cleanup site, the four tanks in question were used to store gasoline (Century West Engineering, 1991; this report is on file at City of Berkeley Land Use Planning Division offices and available for review by request). However, these tanks were located adjacent to the site in the public right-of-way of Carleton Street, rather than on the site itself. In addition, the tanks were removed from the project site in 1991, and the excavation pits were backfilled with stockpiled soil and offsite soil that had non-detectable levels of hydrocarbon constituents. Five soil samples taken in the pit below the tanks indicated a low level of hydrocarbons in the soil (up to 0.024 parts per millions). In July 1994, the California Regional Water Quality Control Board (RWQCB) issued a case closure letter for the site, confirming the completion of a site investigation and remediation (RWQCB, 1994). This letter concluded that "no further action related to the underground tank release is required."

The GeoTracker database also shows multiple "closed case" historical LUST sites within one-quarter mile of the project site, as well as three "one status" cleanup program sites as close as 500 feet away. Although unlikely, the potential exists to encounter contaminated soils during excavation of the project site to a depth of up to six feet, from historic activities on the project site, nearby "open case" sites, or other sites. However, standard conditions of the City of Berkeley's Toxics Management Division (TMD) require that a Soil and Groundwater Management Plan (SGMP) be submitted to the TMD with a project's building permit application and be approved by TMD prior to issuance of the building permit for all non-residential projects that are (1) in the Environmental Management Area (EMA) as

shown on the most recent City of Berkeley EMA map; and (2) propose any excavations deeper than five feet below grade. The proposed project meets both these conditions. The SGMP is required to identify procedures for soil and groundwater management, including identification of pollutants and disposal methods, and is required to comply with the hazardous materials and waste management standards required by Berkeley Municipal Code Section 15.12.100, the San Francisco Bay Regional Water Quality Control Board's Order No. R2-2009-0074 C3 and C6, California hazardous waste generator regulations (Title 22 California Code of Regulations (CCR) 66360 et seq.), and the East Bay Municipal Utility District's Ordinance 311.

The SGMP is also required to include:

- A requirement that TMD be notified within 24 hours of the discovery of any previously undiscovered contamination;
- Procedures to manage odors, dust and other potential nuisance conditions expected during development; and
- A requirement that the name and phone number of the individual responsible for implementing the SGMP and responding to community questions and complaints be posted at the construction site on the same notice required by Zoning Officer for noise management (BMC B.28.050.D).

TMD is required to review the SGMP and may require additional information or impose additional conditions as deemed necessary to protect human health and the environment. All requirements of the approved SGMP are deemed conditions of approval of the project's Use Permit.

The TMD also requires that, prior to approving any permit for partial or complete demolition activities, a hazardous materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, PCB-containing equipment, elevators or lifts, refrigeration systems, and treated wood and mercury containing devices. The survey shall include hazardous materials removal and disposal procedures to be implemented that fully comply with hazardous waste generator requirements (22 California Code of Regulations (CCR) 66360 et seq.). If the survey identifies hazardous materials, the removal and disposal procedures included in the survey shall become conditions of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition (City of Berkeley TMD, March 2013).

Compliance with these standard City conditions would reduce these potential impacts to a **less than significant** level.

- e, f) As stated in the Initial Study, West Berkeley is not near any airports or airstrips. The closest airport is Oakland International Airport, located approximately nine miles to the south. The project would therefore have **no impact** in this regard.
- g) The Initial Study finds that new development under the WBP would not cause changes in the City's street system. Consistent with this statement, the proposed project would not involve any physical changes to streets or access or evacuation routes, except for improvements to sidewalks and planting of street trees which would not hinder or redirect travel. As stated in the Initial Study, **no impact** related to emergency response plans or emergency evacuation plans would occur.

Infill Environmental Checklist
 2700 Ninth Street – East Bay Humane Society Project

- h) As stated in the Initial Study, no part of West Berkeley is within an area formally identified as subject to wildland fire hazards. The project site is within a completely urbanized area, approximately two miles from the Berkeley Hills. Development of the proposed project would therefore not increase exposure to wildland fire hazards in any significant way. The project would not expose people or structures to a significant risk of loss, injury or death involving wildland fires, and this impact is **less than significant**.

Conclusion

With existing regulations and normal standards of use, the project's impacts related to Hazards and Hazardous Materials would be no greater than the less than significant impacts identified in the Initial Study for the WBP as a whole. These issues **do not require further study in an EIR**.

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
IX. HYDROLOGY AND WATER QUALITY					
Would the project:					
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Infill Environmental Checklist
 2700 Ninth Street – East Bay Humane Society Project

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
<u>IX. HYDROLOGY AND WATER QUALITY.</u> Would the project:					
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

WBP EIR Summary

The Initial Study for the WBP discusses hydrology and water quality impacts on pages 21 through 23. As noted therein, impacts related to water quality standards would be less than significant, due to the compliance of new development with the City's National Pollution Discharge Elimination System (NPDES) permit requirements. The Initial Study also identifies impacts on groundwater supplies, drainage patterns, and stormwater runoff as less than significant because new development would not substantially alter West Berkeley's existing

character as a “fully developed, highly urban area.” No flood-related impacts would occur, as the WBP, as no additional housing is proposed, and no structures that could impede or reduce flood flow would be placed within a 100-year flood hazard area. The Initial Study also identifies no impacts related to dam failure or inundation by seiche, tsunami, or mudflow.

Project-Specific Impacts

a, f) As discussed in the Initial Study, proponents of any development project in West Berkeley, including the currently proposed project, are required to comply with all City of Berkeley requirements under its NPDES permit, and construction contractors are responsible for implementing and monitoring erosion and sedimentation control/drainage plans to ensure that contaminants are not released into urban runoff, in order to prevent significant adverse impacts to water quality. As the groundwater level has been measured at between nine and 13 feet below ground surface at the project site (Rockridge Geotechnical, 2013), and excavation for the proposed project would not exceed six feet in depth, it is unlikely that excavation would encounter groundwater. However, as discussed in Section VIII, *Hazards and Hazardous Materials*, the project would be subject to standard conditions of the City of Berkeley’s Toxics Management Division (TMD) requiring that a Soil and Groundwater Management Plan (SGMP) be submitted to the TMD with the project’s building permit application and be approved by TMD prior to issuance of the building permit. The SGMP is required to identify procedures for soil and groundwater management, including identification of pollutants and disposal methods, and is required to comply with the hazardous materials and waste management standards required by Berkeley Municipal Code Section 15.12.100, the San Francisco Bay Regional Water Quality Control Board’s Order No. R2-2009-0074 C3 and C6, California hazardous waste generator regulations (Title 22 California Code of Regulations (CCR) 66360 et seq.), and the East Bay Municipal Utility District’s Ordinance 311.

The following requirements in Section 17.20.050 of the Berkeley Municipal Code for construction and development also would apply to the proposed project:

1. *Any construction contractor performing work in the City shall provide filter materials at catch basins to retain any debris, dirt, or other pollutants generated by such work to prevent said pollutants from flowing into the City’s storm drain system.*
2. *Any applicant for a building or grading permit from the City shall, as a condition of receiving such permit, sign a certification stating that the applicant has read and shall use, to the maximum extent practicable, applicable portions of the state stormwater best management practices manual for construction activity, a copy of which shall be available to the applicant where building and grading permits are obtained.*
3. *Any applicant for a building or grading permit from the City who is subject to the state NPDES construction general permit shall, as a condition of receiving such permit, provide evidence that the applicant has submitted a notice of intent to the state Water Resources Control Board as required by said permit.*
4. *The City Manager may establish controls on the volume and rate of stormwater runoff from new developments and redevelopments as may be appropriate to minimize the discharge and transport of pollutants into the storm drain system.*

Compliance with NPDES permit requirements and Municipal Code requirement would ensure that the project does not violate water quality standards or otherwise substantially degrade water quality. This impact would be **less than significant**.

- b) The project site, like West Berkeley in general, is already developed, and the proposed project would not increase impermeable areas in a way that would significantly interfere with groundwater recharge. In fact, the extent of landscaping and permeable areas would increase. This impact would be **less than significant**.
- c-e) The project site is already fully developed with impervious surfaces. The proposed temporary use of the adjacent warehouse and development of a rebuilt animal shelter building would therefore not increase the amount of impervious surfaces on the site, while the addition of approximately 2,000 square feet of landscaped area would incrementally increase permeable areas on-site. The project would therefore not cause an increase in runoff. The project would also not introduce new uses that would produce an increase in polluted runoff compared to existing uses. Therefore, the proposed project would not alter existing drainage patterns in a manner that would result in erosion or flooding, or increase stormwater runoff which would be likely to exceed existing storm drainpipe capacity or creek culvert capacity, or increase pollutants in stormwater runoff. This impact would be **less than significant**.
- g-i) As stated in the WBP EIR, the only portions of West Berkeley that are located within a 100-year floodplain are the Aquatic Park area and a strip of land adjacent to Codornices Creek. Because the project site is not located in either floodplain, the proposed project would not be subject to inundation in the event of flooding or failure of dams or levees. The proposed project would therefore have **no impact** related to these hazards.
- j) The project site is located at an elevation of approximately 39 feet above sea level, and is approximately 0.6 miles from the nearest edge of San Francisco Bay. It is also not near any major inland body of water such as a large lake that could produce a seiche. It is not in an area subject to mudflows. Any risk of inundation by seiche, tsunami or mudflow at the project site would be remote, and would not be increased as a result of project development. The proposed project would therefore have **no impact** related to these hazards.

Conclusion

With existing regulations and normal standards of use, the project's impacts related to Hydrology and Water Quality would be no greater than the less than significant impacts identified in the Initial Study for the WBP as a whole. These issues **do not require further study in an EIR**.

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
X. LAND USE AND PLANNING. Would the project:					
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

WBP EIR Summary

The WBP EIR discusses land use and planning-related impacts on pages 4-93 through 4-97. The impacts identified for this topic in the WBP EIR are summarized below.

- Physical Division of an Established Community. Development under the WBP would not include components that would physically divide the existing community. No impact would occur.
- Introduction of New Land Uses that Could Conflict with Existing Land Uses. Although the WBP would allow for an increased intensity of land uses, these uses would be similar in character to existing uses and would not conflict with established surrounding uses. No impact would occur.
- Conflict with Applicable Land Use Plans, Policies or Regulations. Implementation of the DAP would not fundamentally conflict with any of the City of Berkeley’s land use plans, policies or regulations adopted for the purpose of avoiding or mitigating effects that could result in adverse physical changes in the environment. The WBP was developed to provide specific zoning ordinance amendments to guide future development in West Berkeley, consistent with the land use plans, policies and regulations of the City. Adoption of the WBP would require minor technical amendments to the Berkeley General Plan and West Berkeley Plan, which effectively eliminate any potential conflict with those documents. Impacts would be less than significant.
- Conflict with Habitat Conservation Plan/Natural Community Conservation Plan. There are currently no approved Habitat Conservation Plans or Natural Community Conservation Plans applicable to West Berkeley. Implementation of the WBP would not

conflict with any applicable Habitat Conservation Plan or Natural Community Conservation Plan.

Project-Specific Impacts

- a) Consistent with the discussion in the WBP EIR for West Berkeley as a whole, the proposed project would be constructed within an existing developed city block in West Berkeley. The project would occupy a portion of an existing city block that is already fully developed with structures. It would not involve construction of a physical feature (e.g., a highway or rail line) or removal of an existing means of access (e.g., a road or bridge linking different portions of a community) that would represent a physical division of an established community.
- b) Consistent with the discussion in the WBP EIR for West Berkeley as a whole, the proposed project would not introduce new land uses that do not already exist in the area. The project would involve the continuation of an established land use on the project site, by replacing an older building used by the Berkeley Humane Society with a new animal shelter. In addition, the project would be consistent with the site's zoning of Mixed Use-Residential (MU-R) with approval of requested permits. As defined in the City's Land Use Element, the MU-R zone is "intended to maintain and preserve areas of the city of lighter manufacturing and industrial uses and allow for additional uses, including residential, where determined appropriate by the zoning, and only if the use will not weaken Berkeley's manufacturing and industrial economy." Figure 1-1 in the West Berkeley Plan shows the existing animal shelter as a conforming use in the MU-R zone. Section 23E.84.030 of the Berkeley Municipal Code also lists veterinary clinics, pet hospitals, kennels, pet boarding, and other services for pets as allowed within the MU-R zone, with a public hearing and receipt of a Use Permit. To comply with existing zoning during planning and construction of the new building, the applicant also requested an Administrative Use Permit for temporary use of the adjacent approximately 10,000-square-foot warehouse building for up to four years.

The proposed height, floor area, and parking also would be consistent with existing zoning. With a height of two stories (31 feet), the proposed building would not exceed the building height limitation of 35 feet for "other non-residential" buildings in Section 23E.84.070 of the Berkeley Municipal Code. The building would have a floor area of 13,211 square feet on a revised parcel of 13,467 square feet (under the requested lot line adjustment), resulting in a floor to area ratio (FAR) of less than 1:1. This ratio would conform to the MU-R District's 1:1 maximum FAR. Pursuant to Section 23E.80.080 of the Berkeley Municipal Code, the project would be required to provide off-street parking spaces as determined by the Zoning Officer or Board based on the demand generated by the particular use. The City's Traffic Engineering division has determined that provision of seven new off-street parking spaces, which would replace the seven existing parking spaces on-site, would be sufficient to meet demand.

- c) There are currently no approved Habitat Conservation Plans or Natural Community Conservation Plans applicable to the project site or its immediate surroundings. The project would therefore not conflict with any applicable Habitat Conservation Plan or Natural Community Conservation Plan.

Conclusion

The project would have no impact regarding division of an established community, as identified in the WBP EIR for the WBP as a whole. The project would have no impact regarding Habitat Conservation Plans or Natural Community Conservation Plan, also as identified in the WBP EIR for the WBP as a whole. Because the proposed project would not involve a change of land use

Infill Environmental Checklist
 2700 Ninth Street – East Bay Humane Society Project

and would be consistent with requirements of the MU-R zoning district, impacts related to land use consistency within those identified in the WBP EIR and **less than significant**.

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
<u>XI. MINERAL RESOURCES</u>					
Would the project:					
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

WBP EIR Summary

The Initial Study for the WBP identifies no known mineral deposits of local importance or value to the region or residents of the State, or locally-important mineral resource recovery sites, within the boundaries of West Berkeley. Consequently, the Initial Study identifies no impacts on mineral resources from development anticipated under buildout of the WBP.

Project-Specific Impacts

a, b) Because the project site is located in a highly urbanized area without known mineral resources of value, impacts would remain as identified in the Initial Study. The proposed project would have **no impact** on mineral resources.

Conclusion

As the project would have no impact – the same as the impacts identified in the Initial Study for the WBP as a whole – this issue **does not require mitigation or further study in an EIR**.

Infill Environmental Checklist
 2700 Ninth Street – East Bay Humane Society Project

	Significant Impact	Less Than Significant or Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
XII. NOISE. Would the project result in:					
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

WBP EIR Summary

The WBP EIR discusses noise and vibration impacts on pages 4-111 through 4-120. The WBP EIR identifies the following impacts and mitigation measures that would be applicable to the current proposed project:

- **Impact NOI-3: Construction Noise.** Businesses and residences throughout West Berkeley would be intermittently exposed to high levels of construction noise throughout the plan horizon. Construction could temporarily elevate noise levels at adjacent

businesses and residences by 15 to 20 dBA¹ or more. This represents a *potentially significant* impact.

- **Mitigation NOI-3: Construction Noise Abatement.** Construction equipment should be well maintained and used judiciously to be as quiet as practical. The following measures, when applicable, are recommended to reduce noise from construction activities:
 - Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
 - Utilize “quiet” models of air compressors and other stationary noise sources where technology exists.
 - Locate stationary noise-generating equipment as far as feasible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.
 - Prohibit unnecessary idling of internal combustion engines.
 - Pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
 - Construct solid plywood fences around construction sites adjacent to operational business, residences or noise-sensitive land uses.
 - A temporary noise control blanket barrier could be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
 - Route construction-related traffic along major roadways and as far as feasible from sensitive receptors.
 - Ensure that construction activities (including the loading and unloading of materials and truck movements) are limited to the hours of 7:00 AM to 7:00 PM on weekdays and between the hours of 9:00 AM and 8:00 PM on weekends or holidays.
 - Ensure that excavating, grading and filling activities (including warming of equipment motors) are limited to between the hours of 7:00 AM to 7:00 PM on weekdays and between the hours of 9:00 AM and 8:00 PM on weekends or holidays.
 - Businesses, residences or noise-sensitive land uses adjacent to construction sites should be notified of the construction schedule in writing. Designate a “construction liaison” that would be responsible for responding to any local complaints about construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the liaison at the construction site.

- **Impact NOI-4: Exposure to Excessive Vibration during Construction.** Residences, businesses, and historically-significant structures in West Berkeley could be exposed to construction-related vibration during excavation and foundation work. This would represent a *potentially significant* impact.

- **Mitigation NOI-4: Measures to Reduce Vibration during Construction.** The following measures are recommended to reduce vibration from construction activities:

¹ Sounds levels are generally measured in decibels (dB) using the A-weighted sound pressure level (dBA). The A-weighting scale is an adjustment to the actual sound pressure levels to be consistent with that of human hearing response, which is most sensitive to frequencies around 4,000 Hertz (about the highest note on a piano) and less sensitive to low frequencies (below 100 Hertz).

- Avoid impact pile driving where possible. Drilled piles causes lower vibration levels where geological conditions permit their use.
- Avoid using vibratory rollers and tampers near sensitive areas.
- In areas where project construction is anticipated to include vibration-generating activities, such as pile driving, in close proximity to existing structures, site-specific vibration studies should be conducted to determine the area of impact and to present appropriate mitigation measures that may include the following:
- Identification of sites that would include vibration compaction activities such as pile driving and have the potential to generate groundborne vibration, and the sensitivity of nearby structures to groundborne vibration. Vibration limits should be applied to all vibration-sensitive structures located within 200 feet of the project. A qualified structural engineer should conduct this task.
- Development of a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions.
- Construction contingencies would be identified for when vibration levels approached the limits.
- At a minimum, vibration monitoring should be conducted during initial demolition activities and during pile driving activities. Monitoring results may indicate the need for more or less intensive measurements.
- When vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structures.
- Conduct post-survey on structures where either monitoring has indicated high levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.

The WBP EIR also finds that new development under the WBP, particularly child care use, could be exposed to excessive noise levels (Impact NOI-1). This would be a significant but mitigable impact. In addition, the WBP EIR identifies a significant but mitigable impact from noise conflicts associated with the introduction of manufacturing and industrial uses near residential uses (Impact NOI-2).

Project-Specific Impacts

- a, c) The project site is situated in a West Berkeley in the Mixed Use-Residential Zone. The immediate neighborhood includes noise-sensitive residences as well as light-industrial land uses. The nearest sensitive receptor to the project site, a three-story building with live-work residential units, is located adjacent and to the south. The proposed project would involve demolition of an existing animal shelter building and construction of a replacement building at the project site. Temporary animal shelter operations in the adjacent warehouse and long-term operation of the rebuilt animal shelter could generate noise perceptible at nearby sensitive receptors from animal sounds (e.g., the barking of dogs), human conversations, and motor vehicle activity on the on-site parking lot. However, the proposed project would not involve a change in land use or a substantial increase in the intensity of development on the project site. Therefore, noise associated with on-site animal shelter operations would not substantially increase relative to existing conditions. For the same reason, the project would not generate a substantial amount of new motor vehicle trips that could result in a perceptible increase in traffic noise levels. Impacts would be within those identified in the WBP EIR for the WBP as a whole, and would be **less than significant**.
- b, d) During the estimated 15-18-month construction period, the proposed project would intermittently generate high noise levels as well as vibration on and adjacent to the project

site. The existing animal shelter building would be demolished and a replacement building with a surface parking lot constructed on the project site. Site preparation for the new building would involve grading and excavation to a maximum depth of six feet. Temporary noise associated with demolition and construction activities may adversely affect nearby residential uses. Vibration associated with excavation and foundation work may impact nearby residences, businesses, and other structures. The main sources of noise during construction activities would be the heavy machinery used in demolition, grading, excavation, and building construction. Potential impacts associated with temporary sources of construction noise and vibration are discussed below.

Construction Noise. Demolition and construction activities on the project site would occur as close as 40 feet away from the existing live-work units to the south. Table 3 demonstrates the maximum noise levels associated with the use of heavy equipment at construction sites, at a distance of 40 feet from the noise source. As shown in Table 3, average noise levels associated with the use of heavy equipment at construction sites can range from about 76 to 87 dBA at 40 feet from the source, depending upon the types of equipment in operation at any given time and phase of construction (FHWA, 2006).

**Table 3
 Typical Construction Equipment Noise Levels**

Equipment	Acoustical Usage Factor (%) ¹	Measured Lmax (dB at 50 feet)
Augur Drill Rig	20	86
Backhoe	40	80
Compactor (ground)	20	85
Dozer	40	84
Dump Truck	40	78
Excavator	40	83
Flat Bed Truck	40	76
Front End Loader	40	81
Generator	50	83
Grader	40	85
Pickup Truck	40	77
Pneumatic Tools	50	87
Roller	20	82
Scraper	40	86
Warning Horn	5	85
Welder/Torch	40	76

¹ The average fraction of time each piece of construction equipment is operating at full power (i.e., its loudest condition) during a construction operation.
 Source: FHWA, 2006.

Maximum noise levels from construction equipment could reach up to 87 dBA at 40 feet from the source. Noise-sensitive uses near the project site, including the live-work units to the south, would be exposed to temporary noise levels during project construction. However, the live-work building has no windows or doors facing the project site, which would reduce its exposure to construction noise. Pursuant to Section 13.40.070 of the Berkeley Community Noise Ordinance, construction activity that involves operating tools or equipment used in construction, drilling, repair, alteration, or demolition work would be limited to weekday hours of 7:00 PM and 7:00 AM, or 8:00 PM and 9:00 AM on weekends or

holidays. Furthermore, temporary noise from construction would be within the impacts identified by the WBP EIR, which finds that development under the WBP could expose businesses and residences throughout West Berkeley to “high levels of construction noise.” Mitigation Measure NOI-3 from the WBP EIR would apply to abate noise from construction equipment. Impacts associated with temporary construction noise would remain **less than significant with mitigation incorporated**.

Vibration. Demolition, excavation, and foundation work on the project site could generate temporary vibration perceptible at adjacent businesses, residences, and historically-significant structures. As discussed in Section V, *Cultural Resources*, the project site is located approximately 65 feet away from the Standard Die & Specialty Company building, a designated City of Berkeley landmark. Any vibration resulting in damage to this historic structure would represent a significant impact. However, construction of the proposed project would not involve the use of pile drivers, which would minimize the intensity of vibration. No major excavation for deep foundations or subgrade levels is proposed, thus limiting the need for heavy earth-moving or excavating equipment and their associated highest levels of vibration. The designated landmark also is separated from the project site by an existing warehouse. Residential land uses would not be exposed to significant vibration impacts during the day because vibration impacts affect residents the most if sleep is disturbed. As noted above, Section 13.40.070 of the Berkeley Community Noise Ordinance restricts construction activity that involves operating tools or equipment used in construction, drilling, repair, alteration, or demolition work between weekday hours of 7:00 PM and 7:00 AM, or 8:00 PM and 9:00 AM on weekends or holidays.

While the relatively modest scale of proposed on-site construction activities and adherence to the City’s limits on the timing of construction would minimize vibration, impacts on the structural soundness of adjacent buildings would remain potentially significant as identified in the WBP EIR. The project also would comply with Mitigation Measure NOI-4 from the WBP EIR, which includes a list of recommended measures to reduce vibration levels from construction sites. Therefore, construction-related vibration impacts would be **less than significant with mitigation incorporated**.

- e, f) The project is not located within an airport land use plan, within two miles of a public airport or public use airport, or within the vicinity of a private airstrip. Impacts associated with airport noise are not discussed in the DAP EIR; however, **no impact** would occur.

Conclusion

Potential noise impacts associated with the project would be within the impacts identified in the WBP EIR for the WBP with implementation of mitigation measures NOI-3 and NOI-4 from the WBP EIR. Therefore, environmental effects related to noise and vibration **do not require further study in an EIR**.

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
XIII. POPULATION AND HOUSING					
Would the project:					
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

WBP EIR Summary

The Initial Study for the WBP discusses population and housing impacts on page 28. As noted therein, implementation of the WBP would not result in substantial population or housing growth beyond that already anticipated under the City’s General Plan. The Initial Study also finds that compliance with General Plan policies for preservation of the City’s existing housing supply and replacement of any demolished housing units would prevent the loss of housing or displacement of residents. Therefore, impacts related to population and housing are identified as less than significant.

Project-Specific Impacts

- a) The proposed project does not involve construction of residences and would not generate direct population growth in West Berkeley through the addition of housing. Because the project would maintain an existing land use without increasing the intensity of development on-site, it would not lead to indirect growth through employment generation. The project also would not involve extensions of roads or infrastructure. **No impact** on population growth would occur.
- b, c) No residential structures would be demolished to accommodate the project. Therefore, the proposed project would not result in displace existing housing or people. **No impact** would occur.

Conclusion

As the project would have a no impact on population and housing, and would be within the impacts identified in the Initial Study for the WBP as a whole – this issue **does not require mitigation or further study in an EIR.**

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
XIV. PUBLIC SERVICES					
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

WBP EIR Summary

The Initial Study for the WBP discusses impacts to public services on pages 29 and 30. As noted therein, West Berkeley is already served by two fire stations, and implementation of the WBP would not require construction of any new facilities. Similarly, the Initial Study finds that no additional facilities would be required for adequate police protection. Because the WBP does not increase residential development, it would not increase demand for schools, parks, or other public facilities. The Initial Study concludes that no impact on public facilities would occur.

Project-Specific Impacts

a) The proposed project would involve demolition of a existing animal shelter building, temporary use of an adjacent warehouse, and replacement of the existing building with a rebuilt building of comparable size. Consistent with the Initial Study’s analysis for the WBP as a whole, the project would not generate additional demand for fire protection facilities or police protection facilities. Because the project would not involve residential development, it would not generate demand for schools, parks, or other public facilities. **No impact** related to public services would occur.

Conclusion

As the project would have a no impact on public services – the same as the impacts identified in the Initial Study for the WBP as a whole – this issue **does not require mitigation or further study in an EIR.**

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
XV. RECREATION					
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

WBP EIR Summary

The Initial Study for the WBP discusses recreational resources impacts on Page 31. As noted therein, the WBP does not increase residential development or proposed new recreational facilities. Therefore, the Initial Study concludes that the WBP would have no impact related to recreational facilities.

Project-Specific Impacts

a, b) The proposed project does not involve residential development that would generate additional use or physical deterioration of existing recreational facilities, nor does it include new recreational facilities. Therefore, the project would have **no impact** on local parks and recreational facilities.

Conclusion

As the project would have no impact on recreational resources – the same as the impacts identified in the Initial Study for the WBP as a whole – this issue **does not require mitigation or further study in an EIR.**

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
<u>XVI. TRANSPORTATION/ TRAFFIC.</u>					
Would the project:					
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

WBP EIR Summary

The WBP EIR discusses transportation/traffic impacts on pages 4-207 through 4-362. Due to additional trips generated by development under the WBP, the WBP EIR identifies multiple significant and unavoidable impacts to freeway segments, arterial road segments, intersections, freeway ramps, and queues at rail crossings. In addition, the WBP EIR finds that “marginal new transit trips” generated in West Berkeley would result in significant and unavoidable impacts to

AC Transit service. Although mitigation measures in the WBP EIR would reduce impacts to the extent feasible, traffic impacts would remain significant and unavoidable.

Project-Specific Impacts

- a, b) The proposed project would not involve a change in land use or an increase in the intensity of development on the project site. While the existing animal shelter building would be demolished and a replacement building constructed on-site, the Berkeley Humane Society would generally maintain its existing level of operations in adjacent warehouse (on a temporary basis) and in the rebuilt building (over the long term). Therefore, the proposed project would not generate additional vehicle trips or transit trips in West Berkeley, relative to existing conditions at the project site. Impacts to the level of service of roadways and transit systems in the area would be **less than significant**.
- c) The project would not result in any change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks. **No impact** would occur as a result of the proposed project.
- d) The proposed project would not involve any changes to the roadway network of West Berkeley. A 20-foot-wide driveway to the proposed parking lot on the southern portion of the project site would be constructed mid-block on Ninth Street, approximately equidistant between Carleton Street and Pardee Street. The mid-block location of this driveway would minimize traffic hazards associated with turning movements by motorists entering and exiting the site, providing adequate sight distance to oncoming vehicles on Ninth Street. For pedestrians, the proposed building would be safely accessible from the sidewalk on Ninth Street. All access to the project site would be designed in accordance with applicable City standards. Therefore, the proposed project's potential impacts related to potential design hazards would be **less than significant**, and would be within those identified in the WBP EIR for the WBP as a whole.
- e) The proposed building would be immediately accessible to emergency responders off Ninth Street and Carleton Street. Emergency access would be adequate. The proposed project's potential impacts related to emergency access would be **less than significant**, and would be within those identified in the WBP EIR for the WBP as a whole.
- f) The proposed project would include improvements to the public streetscape. While only one street tree is currently present adjacent to the existing animal shelter, nine new street trees would be planted. Six frontier elm trees would be located along Ninth Street and three Chinese flame trees along Carleton Street. Additionally, about 2,000 square feet of new landscaping would be installed within the five-foot setbacks along Ninth and Carleton streets and in adjacent planters in the sidewalk area, as well as along the southern property line adjacent to the parking lot. These features would improve the pedestrian environment around the proposed animal shelter. The site would remain within short walking distance of several AC Transit bus lines that run on San Pablo Avenue, Seventh Street, and Ashby Avenue. Therefore, the project would not conflict with any adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities. Impacts would be **less than significant**, and would be within those identified in the WBP EIR for the WBP as a whole.

Conclusion

Infill Environmental Checklist
 2700 Ninth Street – East Bay Humane Society Project

As the project would have less than significant impacts related to transportation, which do not exceed the level of impacts identified in the WBP EIR for the WBP as a whole, this issue does not require mitigation or further study in an EIR.

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
XVII. UTILITIES AND SERVICE SYSTEMS. Would the project:					
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

WBP EIR Summary

The Initial Study for the WBP discusses impacts on utilities and service systems on pages 34 through 36. As noted therein, the WBP would have no impact related to exceedance of

wastewater treatment requirements, owing to compliance of new development with current wastewater treatment standards. The Initial Study finds that the East Bay Municipal Utility District (EBMUD) has adequate capacity to accommodate development in West Berkeley, and project-specific analyses by the City of the capacity of the sanitary sewer conveyance system, with fair-share contributions from applicants as needed. Therefore, impacts related to wastewater are identified as less than significant. The Initial Study also finds that impacts on stormwater drainage facilities would be less than significant given compliance with the City's NPDES permit and its Stormwater Ordinance. Impacts on water supplies are identified as less than significant with the City's water conservation programs, policies, and requirements. Finally, the Initial Study concludes that impacts related to solid waste would be less than significant because of adequate capacity at the Vasco Road Landfill and requirements for source reduction and recycling.

Project-Specific Impacts

a-g)

Water Supply.

The proposed project would involve demolition of an existing building and construction of a new building of the same land use type. Because the proposed building would be approximately 20 percent smaller than the existing building, it is expected that indoor water use would incrementally decrease. Although approximately 2,000 square feet of new landscaping would be planted, the project would conform to LEED standards to reduce outdoor water use, according to the green building checklist submitted to the City as part of the project application package. It is important to note that California is currently in a historic drought with statewide water scarcity. Nevertheless, the proposed project would not result in a substantial increase in water use relative to existing conditions on-site. Impacts would be **less than significant**.

Wastewater.

As discussed above, the proposed project would involve neither a change in land use nor an increase in the intensity of development on the project site. Therefore, wastewater generation from the project site would not increase, and site-specific analysis by the City of the capacity of the sanitary sewer conveyance system to accommodate the project is unnecessary. Therefore, the proposed project would not require the construction of wastewater infrastructure and would have a **less than significant** impact.

Stormwater Runoff.

As discussed in Section IX, *Hydrology and Water Quality*, the proposed project would involve redevelopment on a site that consists entirely of hardscape. Given the already developed nature of the site, the addition of approximately 2,000 square feet of landscaped area would result in an incremental decrease in impervious surface. The landscaped area would incrementally decrease stormwater runoff from the project site, relative to existing conditions. Moreover, the project would include features that reduce the volume of stormwater runoff and improve water quality. A portion of precipitation would infiltrate into planters and landscaped areas. Therefore, the proposed project would not require the construction of new or expanded off-site facilities for stormwater drainage and would have a **less than significant** impact related to stormwater runoff.

Solid Waste and Recycling.

Solid waste from the project site would be disposed of at the Vasco Road Landfill, which the WBP EIR finds to have sufficient capacity to accommodate solid waste from West Berkeley through the 20-year planning period of the WBP. Diversion of solid waste from the project site into the recycling stream would substantially reduce the project's impact on landfill capacity. According to the green building checklist for the proposed project (on file with the Planning Department as part of the project application), the proposed project would manage waste from construction and demolition to increase diversion from landfills. Furthermore, the project would not generate additional solid waste relative to the existing animal shelter on-site. Therefore, the proposed project would not result in greater impacts on landfill capacity or regulatory compliance related to solid waste than anticipated in the WBP EIR. Impacts would be **less than significant**.

Conclusion

As the project would have less than significant impacts related to utilities and service systems – the same as the impacts identified in the WBP EIR for the WBP as a whole – this issue **does not require mitigation or further study in an EIR**.

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.					
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.					

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

a) As discussed in this environmental checklist under Item IV, *Biological Resources*, the project does not have the potential to substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or reduce the number or restrict the range of a rare or endangered plant or animal. Nor are significant impacts to prehistoric or archaeological resources anticipated.

Furthermore, as discussed in Section V, *Cultural Resources*, the proposed project would not impair or eliminate any known prehistoric or historic resources. Impacts on unanticipated cultural resources would be less than significant with implementation of mitigation measures CUL-2 through CUL-4 from the WBP EIR, requiring adherence to existing local, state and federal regulations related to the discovery of any unanticipated cultural resources during construction activity. Therefore, impacts would be reduced to **less than significant** levels.

b) All potential environmental impacts of the project have been determined in this Infill Environmental Checklist to have either no impact, a less than significant impact, or a less than significant impact with incorporation of mitigation measures from the WBP EIR or uniformly applicable development standards. Cumulative impacts in the following resource areas have been addressed in the individual resource sections above: Air Quality, Biological Resources, and Greenhouse Gases. As discussed in Section III, *Air Quality*, and Section VII, *Greenhouse Gas Emissions*, the project would not exceed state or regional thresholds for the emission of criteria air pollutants or greenhouse gases. No cumulative impacts on biological resources occur. Therefore, in connection with the effects of any past projects, current projects, and probable future projects, the proposed project would have **less than significant** cumulative impacts (i.e., impacts would not be cumulatively considerable).

c) As discussed throughout this environmental checklist but particularly under items I, *Aesthetics*; III, *Air Quality*; VI, *Geology and Soils*; VII, *Greenhouse Gas Emissions*; VIII, *Hazards and Hazardous Materials*; XII, *Noise*; and XIV, *Public Services*; **with adherence to standard City conditions of approval and uniformly applicable development standards, the project would not have environmental effects which would cause substantial adverse effects on human beings, either directly or indirectly.**

Authority: Public Resources Code 21083, 21094.5.5
 Reference: Public Resources Code Sections 21094.5 and 21094.5.5

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