# CITY COUNCIL OF MONTEREY PARK
# AND THE CITY COUNCIL ACTING ON BEHALF OF THE SUCCESSOR AGENCY OF THE FORMER REDEVELOPMENT AGENCY
# AGENDA

## REGULAR CITY COUNCIL MEETING

**Wednesday**
**April 7, 2021**
**6:30 p.m.**

**EXECUTIVE ORDER NO. N-29-20**

These meetings will be conducted pursuant to Section 3 of Executive Order No. N-29-20 issued by Governor Newsom on March 17, 2020.

Accordingly, Councilmembers will be provided with a meeting login number and conference call number; they will not be physically present at Council Chambers.

Pursuant to the Governor's order, the public may provide public comment utilizing the methods set forth below.

Note that City Hall is currently closed to the public. You will not be admitted to City Hall.

**MISSION STATEMENT**

The mission of the City of Monterey Park is to provide excellent services to enhance the quality of life for our entire community.

## GENERAL INFORMATION

Documents related to an Agenda item are available to the public in the City Clerk's Office located at 320 West Newmark Avenue, Monterey Park, CA 91754, during normal business hours and the City's website at http://www.montereypark.ca.gov/AgendaCenter/City-Council-17.

The public may watch the meeting live on the city's cable channel MPKTV (AT&T U-verse, channel 99 or Charter Communications, channel 182) or by visiting the city's website at http://www.montereypark.ca.gov/133/City-Council-Meeting-Videos.

This Agenda may include items considered by the City Council acting on behalf of the Successor Agency of the former Monterey Park Redevelopment Agency which dissolved February 1, 2012. Successor Agency matters will include the notation of "SA" next to the Agenda Item Number.

## PUBLIC PARTICIPATION

In accordance with Executive Order No. N-29-20 and guidance from the California Department of Public Health on gatherings, remote public participation is allowed in the following ways:

Via Email

Public comment will be accepted up to 24 hours before the meeting via email to mpclerk@montereypark.ca.gov and, when feasible, read into the record during public comment. Written communications are limited to not more than 50 words.

Via Telephone

Public comment may be submitted via telephone during the meeting, before the close of public comment, by calling **(888) 788-0099 or (877) 853-5247** and entering Zoom Meeting ID: **2892225995** then press pound (#). When prompted to enter participation ID number press pound (#) again. If participants would like to make a public comment they will enter "***9**" then the Clerk's office will be notified, and you will be in the rotation to make a public comment. Press "***6**" to unmute yourself when called upon to speak. Participants are encouraged to join the meeting 15 minutes before the start of the meeting. You may speak up to 5 minutes on Agenda item. Speakers will not be allowed to combine time. The Mayor and City Council may change the amount of time allowed for speakers. As part of the virtual meeting protocols, anonymous persons will not be allowed to provide public comment.

Important Disclaimer

When a participant calls in to join the meeting, their name and/or phone number will be visible to all participants. Note that all public meetings will be recorded.

| | |
|---|---|
| **CALL TO ORDER** | **Mayor** |
| **FLAG SALUTE** | **Mayor** |
| **ROLL CALL** | **Peter Chan, Hans Liang, Henry Lo, Fred Sornoso, Yvonne Yiu** |

**AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS**

**PUBLIC COMMUNICATIONS:**

While all comments are welcome, the Brown Act does not allow the City Council to take action on any item not on the agenda. The Council may briefly respond to comments after Public Communications is closed. Persons may, in addition to any other matter within the City Council's subject-matter jurisdiction, comment on Agenda Items at this time. If you provide public comment on a specific Agenda item at this time, however, you cannot later provide comments at the time the Agenda Item is considered.

**[1.] PRESENTATION – None**

**1-A. ANNUAL SPRING CLEANING AND CHIPPER SERVICE DAY – SATURDAY, APRIL 10, 2021**

**1-B. AUTISM AWARENESS MONTH**

## [2.] OLD BUSINESS - None

## [3.] CONSENT CALENDAR ITEMS NOS. 3A-3E

### 3-A. MINUTES

It is recommended that the City Council and the City Council (acting on behalf of the Successor Agency) consider:

(1) Approving the minutes from the regular meeting of March 3, 2021; and

(2) Taking such additional, related, action that may be desirable.

### 3-B. WAIVE FURTHER READING AND ADOPT AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT (DA-20-01) BY AND BETWEEN THE CITY OF MONTEREY PARK AND BR CASTER CORP. TO FACILITATE DEVELOPMENT OF A STRUCTURE FOR SELF-STORAGE UNITS; TO ACTIVATE THE BUSINESS RECOVERY DEVELOPMENT AGREEMENT ZONE ("BRDZ") IN MONTEREY PARK MUNICIPAL CODE CHAPTER 21.45; AND TO AMEND THE ZONE MAP

It is recommended that the City Council consider:

(1) Waiving the second reading and adopting the proposed ordinance; and/or

(2) Taking such additional, related, action that may be desirable.

### 3-C. WAIVE FURTHER READING AND ADOPT AN ORDINANCE AMENDING THE MONTEREY PARK MUNICIPAL CODE TO ESTABLISH PARKING REQUIREMENTS FOR RELIGIOUS INSTITUTION AFFILIATED HOUSING DEVELOPMENT PROJECTS IN ACCORDANCE WITH CALIFORNIA LAW AND CODIFY PARKING REGULATIONS FROM THE MONTEREY PARK BUSINESS RECOVERY PROGRAM

It is recommended that the City Council consider:

(1) Waiving the second reading and adopting the proposed ordinance; and/or

(2) Taking such additional, related, action that may be desirable.

### 3-D. AUTHORIZE CITY MANAGER TO AMEND AGREEMENT NO. 1718-A WITH WORLD JOURNAL LA, LLC, TO BE THE CO-PRODUCER OF THE MONTEREY PARK LUNAR NEW YEAR FESTIVAL

It is recommended that the City Council consider:

(1) Authorizing the City Manager to amend agreement no. 1718-A and extend the term for two additional one-year terms, in a form approved by the City Attorney, with World Journal LA, LLC, to co-produce the Monterey Park Lunar New Year Festival, on dates to be determined by the City; and

(2) Taking such additional, related, action that may be desirable.

### 3-E. NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK RESOLUTION

It is recommended that the City Council consider:

(1) Adopting a Resolution Declaring the week of April 11 through 17, 2021 to be National Public Safety Telecommunicators Week in the City of Monterey Park; and

(2) Taking such additional related action that may be desirable.

**[4.] PUBLIC HEARING – None.**

**[5.] NEW BUSINESS**

**5-A. CITY COUNCIL DISTRICTING – CENSUS DATA UPDATE**

It is recommended that the City Council consider:

(1) Receiving and filing this report; and

(2) Taking such additional, related, action that may be desirable.

**[6.] CITY COMMUNICATIONS (CITY COUNCIL)**

**6-A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEREY PARK DENOUNCING CORONAVIRUS (COVID-19) STIGMATIZATION, HATE CRIMES AND XENOPHOBIC VIOLENCE AGAINST ALL ASIAN AMERICANS AND PACIFIC ISLANDERS (REQUESTED BY MAYOR PRO TEM LO AND COUNCIL MEMBER CHAN)**

It is recommended that the City Council consider:

(1) Adopting a resolution denouncing coronavirus (COVID-19) stigmatization, hate crimes and xenophobic violence against all Asian Americans and Pacific Islanders;

(2) Taking such additional, related, action that may be desirable.

**[7.] FUTURE AGENDA ITEMS**

**[8.] CLOSED SESSION (IF REQUIRED; CITY ATTORNEY TO ANNOUNCE)**

**ADJOURN**

# City Council Staff Report

**DATE:** April 7, 2021
**AGENDA ITEM NO:** Consent Calendar
Agenda Item 3A

**TO:** The Honorable Mayor and City Council

**FROM:** Vincent D. Chang, City Clerk

**SUBJECT:** Minutes

## RECOMMENDATION:

It is recommended that the City Council and the City Council (acting on behalf of the Successor Agency) consider:

1. Approving the minutes from the regular meeting of March 3, 2021; and
2. Taking such additional, related, action that may be desirable.

## EXECUTIVE SUMMARY:

None.

## BACKGROUND:

None.

## FISCAL IMPACT:

None.

Respectfully submitted,

Vincent D. Chang
City Clerk

Prepared by:

Henry Lu
Minutes Clerk

Approved By:

Ron Bow
City Manager

## ATTACHMENT(S):

1. Draft Minutes

# ATTACHMENT 1
Draft Minutes

# MINUTES
# MONTEREY PARK CITY COUNCIL
# SUCCESSOR AGENCY (SA)
# MARCH 3, 2021

The City Council of the City of Monterey Park held a Regular Teleconference Meeting via Zoom on Wednesday, March 3, 2021 at 6:30 p.m. The regular meeting was conducted pursuant to Section 3 of Executive Order No. N-29-20 issued on March 17, 2020. Accordingly, Council Members were provided a meeting login number and conference call number and were not physically present at Council Chambers.

The minutes include items considered by the City Council acting on behalf of the Successor Agency of the former Monterey Park Redevelopment Agency, which dissolved February 1, 2012. Successor Agency matters will include the notation of "SA" next to the Agenda Item Number.

## PUBLIC PARTICIPATION

In accordance with Executive Order No. N-29-20 and guidance from the California Department of Public Health on gatherings, remote public participation was allowed in the following ways:

Via Email
Public comment were accepted up to 24 hours before the meeting via email to mpclerk@montereypark.ca.gov and, when feasible, read into the record during public comment. Written communications are limited to not more than 50 words.

Via Telephone
Public comment may be submitted via telephone during the meeting, before the close of public comment, by calling (888) 788-0099 or (877) 853-5247 and entering Zoom Meeting ID: **990 6630 8301** then press pound (#). When prompted to enter participation ID number press pound (#) again. If participants would like to make a public comment they will enter "***9**" then the Clerk's office will be notified, and you will be in the rotation to make a public comment. Press "***6**" to unmute yourself when called upon to speak. Participants are encouraged to join the meeting 15 minutes before the start of the meeting. You may speak up to 5 minutes on Agenda item. Speakers will not be allowed to combine time. The Mayor and City Council may change the amount of time allowed for speakers. As part of the virtual meeting protocols, anonymous persons will not be allowed to provide public comment.

**Important Disclaimer** – When a participant calls in to join the meeting, their name and/or phone number will be visible to all participants. Note that all public meetings will be recorded.

**CALL TO ORDER:**
Mayor Yiu called the meeting to order at 6:30 p.m.

**FLAG SALUTE:**
Mayor Yiu led the Flag Salute.

**ROLL CALL:**
City Clerk Vincent Chang called the roll:
Council Members Present: Peter Chan, Hans Liang, Henry Lo, Fred Sornoso arrived at 6:45 p.m., Yvonne Yiu
Council Members Absent: None

**ALSO PRESENT:** City Manager Ron Bow, City Attorney Karl Berger, City Treasurer Joseph Leon, Assistant City Manager Inez Alvarez, Fire Chief Matt Hallock, Police Chief Kelly Gordon, Director of Management Services Martha Garcia, City Librarian Diana Garcia, Interim Director of Public Works Frank Lopez, Interim Director of Human Resources and Risk Management Danielle Tellez, Police Captain Scott Wiese, Fire Captain Ryan Weddle, Economic Development Manager Joseph Torres, Planning Manager Jason Moquin, Police Sergeant Bob Hung, Deputy Fire Marshall Chris Gomez, Community Communications Coordinator Randy Ishino, Deputy City Clerk Cindy Trang, Assistant Deputy City Clerk Helena Cho

**AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS**
None.

**PUBLIC COMMUNICATIONS**

**Public Speaker Disclaimer:** Meetings are held virtually and the information listed for the speakers may or may not reflect the correct spelling of their respective name.

This item was heard after Agenda Item No. 1A.

- Diana Garcia, City Librarian, thanked the City Council for their leadership in eliminating Library overdue fines for the residents. She informed the public that the Library and Recreation and Community Services department has set up Story Walks that are available at Barnes Park, Sierra Vista Park, Highland Park, and Garvey Ranch Park. She stated that Story Walk is a way for families to enjoy reading and love of the outdoors at the same time. She encouraged residents to visit any of the four parks.

**1. PRESENTATION**
Matters listed under presentation are for informational content and discussion only.

**1A. DEVELOPMENT PROJECTS UPDATE**

This item was heard before Public Communications.

Economic Development Manager Torres presented a PowerPoint presentation for Development Projects Update.

**1B. CLIMATE ACTION PLAN UPDATE**

This item was heard after Public Communications.

Interim Director of Public Works Lopez and Planning Manager Moquin presented a PowerPoint presentation on the Climate Action Plan Update.

**2. OLD BUSINESS**

None.

**3. CONSENT CALENDAR ITEMS NOS. 3A-3E**

Matters listed under consent calendar are considered to be routine, ongoing business and are enacted by one motion unless specified.

**Action Taken:** Mayor Yiu declared a property-related conflict of interest as she has ownership of 120 West Hellman Avenue for Agenda Item No. 3D. The City Council and the City Council, acting on behalf of the Successor Agency, approved and adopted Agenda Item Nos. 3A, 3B, 3C, and 3D on Consent Calendar, excluding Agenda Item No. 3E which was pulled for discussion and separate motion, reading resolutions and ordinances by the title only and waiving further reading thereof.

**Motion:** Mayor Yiu did not participate on Agenda Item No. 3D. Moved by Council Member Chan and seconded by Council Member Sornoso motion carried by the following vote:

| | | |
|---|---|---|
| Ayes: | Council Members: | Chan, Liang, Sornoso, Lo, Yiu |
| Noes: | Council Members: | None |
| Absent: | Council Members: | None |
| Abstain: | Council Members: | None |

**3A. WAIVE SECOND READING AND ADOPT AN ORDINANCE REPEALING MONTEREY PARK MUNICIPAL CODE ("MPMC") CHAPTER 1.16 AND AMENDING CHAPTER 3.12 IN ITS ENTIRETY REGARDING FILING CLAIMS IN COMPLIANCE WITH THE CALIFORNIA GOVERNMENT CLAIMS ACT (GOVERNMENT CODE §§ 810-966.6) AND FILING WRITS PURSUANT TO CODE OF CIVIL PROCEDURE § 1094.6**

The first reading and introduction of the ordinance took place at the February 17, 2021 regular meeting of the City Council. The February 17, 2021 staff report is attached to the staff report for reference. Second reading and adoption of this Ordinance is recommended; if approved, the Ordinance will take effect 30 days from approval date.

**Action Taken:** The City Council waived second reading and adopted Ordinance No. 2202 repealing Monterey Park Municipal Code Chapter 1.16 and amending Chapter 3.12 in its entirety regarding filing claims in compliance with the California Government Claims Act (Government Code §§ 810-966.6) and filing writs pursuant to Code of Civil Procedure § 1094.6 on Consent Calendar.

**Ordinance No. 2202,** entitled:
AN ORDINANCE REPEALING MONTEREY PARK MUNICIPAL CODE CHAPTER 1.16 AND AMENDING CHAPTER 3.12 IN ITS ENTIRETY REGARDING FILING CLAIMS IN COMPLIANCE WITH THE CALIFORNIA GOVERNMENT CLAIMS ACT (GOVERNMENT CODE §§ 810-966.6) AND FILING WRITS PURSUANT TO CODE OF CIVIL PROCEDURE § 1094.6

**3B. WAIVE FURTHER READING AND ADOPT AN OMNIBUS ORDINANCE AMENDING AND REPEALING VARIOUS SECTIONS OF THE MONTEREY PARK MUNICIPAL CODE AS SPECIFIED, TO CODIFY PORTIONS OF THE MONTEREY PARK BUSINESS RECOVERY PROGRAM AND REPEAL REGULATIONS GOVERNING FORTUNETELLING**

The Ordinance was introduced and received first reading at the February 17, 2021 City Council meeting. The original staff report (from February 17, 2021) is attached to the staff report for reference. Second reading and adoption of this Ordinance is recommended. If adopted, the Ordinance will take effect in 30 days.

CEQA (California Environmental Quality Act):
Adopting the Ordinance is exempt from further environmental review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq*., "CEQA") and CEQA Guidelines (14 California Code of Regulations §§ 15000, *et seq*.) because it establishes rules and procedures for operation of existing facilities; minor temporary use of land; and minor alterations in land use. The ordinance, therefore, is categorically exempt from further CEQA review under CEQA Guidelines §§ 15301; 15303; and 15304(e). Further, adopting the ordinance is exempt from review under CEQA pursuant to CEQA Guidelines §15061(b)(3) because the ordinance is for general policies and procedure-making.

**Action Taken:** The City Council waived the second reading and adopted Ordinance No. 2203 amending and repealing various sections of the Monterey Park Municipal Code as specified on Consent Calendar.

**Ordinance No. 2203,** entitled:
AN OMNIBUS ORDINANCE AMENDING AND REPEALING VARIOUS SECTIONS OF THE MONTEREY PARK MUNICIPAL CODE AS SPECIFIED

**Note:** This item will be brought back for City Council for consideration to waive and adopt the second reading of the Ordinance at the March 17, 2021 meeting.

**3C. WAIVE FURTHER READING AND ADOPT AN ORDINANCE REPEALING CHAPTER 9.53 OF THE MONTEREY PARK MUNICIPAL CODE AND ADDING NEW CHAPTER 4.50 REGULATING NOISE**

The Ordinance was introduced and received first reading at the February 17, 2021 City Council meeting. The original staff report (from February 17, 2021) is attached to the staff report for reference. Second reading and adoption of this Ordinance is recommended. If adopted, the Ordinance will take effect in 30 days.

CEQA (California Environmental Quality Act):
Adopting the Ordinance is exempt from further environmental review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA Guidelines (14 California Code of Regulations §§ 15000, et seq.) because it establishes rules and procedures for operation of existing facilities; minor temporary use of land; and minor alterations in land use. The ordinance, therefore, is categorically exempt from further CEQA review under CEQA Guidelines §§ 15301; 15303; and 15304(e). Further, adopting the ordinance is exempt from review under CEQA pursuant to CEQA Guidelines §15061(b)(3) because the ordinance is for general policies and procedure-making.

**Action Taken:** The City Council waived the second reading and adopted Ordinance No. 2204 repealing chapter 9.53 of the Monterey Park Municipal Code and adding a new chapter 4.50 regulating noise on Consent Calendar.

**Ordinance No. 2204,** entitled:
AN ORDINANCE REPEALING CHAPTER 9.53 OF THE MONTEREY PARK MUNICIPAL CODE AND ADDING A NEW CHAPTER 4.50 REGULATING NOISE

**3D. FINAL MAP NO. 73665 TO ALLOW THE SUBDIVISION OF AIR RIGHTS TO ESTABLISH AND MAINTAIN A TWELVE-UNIT MEDICAL OFFICE CONDOMINIUM DEVELOPMENT – 120 WEST HELLMAN AVENUE**

On July 23, 2019, the Planning Commission approved Tentative Map No. 73665 via Resolution No. 11-19 for a twelve-unit medical office condominium project at 120 West Hellman Avenue (the "Project").

The proposed final map was reviewed by the City Engineer for compliance with applicable law. Except for the required public improvements, the final map meets such requirements. A subdivision improvement agreement must be executed by the applicant to complete approvals for the final map.

CEQA (California Environmental Quality Act):
On July 23, 2019, the Planning Commission found that the Project was categorically exempt from the requirements of CEQA pursuant to CEQA Guidelines § 15332 as a Class 32 categorical exemption (Infill Development). The findings and conclusions made by the Planning Commission are incorporated into the attached Resolution by reference.

**Action Taken:** Mayor Yiu declared a property-related conflict of interest as she is the owner of 120 West Hellman Avenue and did not participate. The City Council adopted Resolution No. 12227 authorizing the City Engineer to accept a 15-feet corner property line radius dedication at the northwest corner of West Hellman Avenue and Baltimore Avenue and approving Final Map No. 73665 and authorized the City Manager to execute Subdivision Improvement Agreement for Final Map No. 73665 in a form approved by the City Attorney on Consent Calendar.

**Resolution No. 12227,** entitled:
A RESOLUTION APPROVING FINAL MAP NO. 73665 FOR A TWELVE-UNIT MEDICAL OFFICE CONDOMINIUM PROJECT AT 120 WEST HELLMAN AVENUE

**3E. N. ATLANTIC BLVD WATER MAIN IMPROVEMENTS –AWARD OF CONTRACT**

On September 2, 2020, the City Council rejected all bids received for the N. Atlantic Water & Sewer Improvement project Spec 2020-002 and authorized the re-advertisement of the project as two separate projects. Staff completed the solicitation of bids for only the water main portion of the work. The deadline for the submittal of bids was February 17, 2021. Staff completed the review of the bids and recommends the contract be awarded to Gentry Brothers, Inc. in the amount of $885,503.40; a 15% contingency is also requested for a total project cost of $1,018,403.40.

CEQA (California Environmental Quality Act):
The proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 14 California Code of Regulations § 15301 as a Class 1 categorical exemption (Existing Facilities). The Project results in minor alterations to existing public facilities involving no significant expansion of the existing use. The Project is not anticipated to have any significant impacts with regard to traffic, noise, air quality or water quality.

**Action Taken:** The City Council authorized the City Manager to execute a public works contract, in a form approved by the City Attorney, with Gentry Brothers, Inc., in the amount of $885,503.40 for the N. Atlantic Water Main Improvements, Specification No. 2021-001 and authorized the Interim Director of Public Works to approve change orders and contingency up to $132,900 (15%) of the contract amount, for a total project cost of $1,018,403.40.

**Motion:** Moved by Council Member Chan and seconded by Council Member Liang motion carried by the following vote:

| | | |
|---|---|---|
| Ayes: | Council Members: | Chan, Liang, Sornoso, Lo, Yiu |
| Noes: | Council Members: | None |
| Absent: | Council Members: | None |
| Abstain: | Council Members: | None |

## 4. PUBLIC HEARING

## 4A. ANNUAL WEED ABATEMENT PROTEST HEARING

The County of Los Angeles Department of Agriculture Commissioner and Weights and Measures submitted to the City the annual Weed Abatement Declaration List and resolution declaring that weeds, brush, rubbish, refuse, and dirt maintained on certain private properties in the City, are a public nuisance. At the regular City Council meeting on February 17, 2021, the Council adopted Resolution No. 12224 approving the 2021 Weed Abatement Declaration List as posted by the County. By adopting the Resolution, the Council declared its intention to provide for the abatement of said public nuisances. To complete the process, the Council must hold a protest hearing to allow parcel owners identified on the Declaration List an opportunity to object to their inclusion thereon.

CEQA (California Environmental Quality Act):
Adoption of the Resolution is exempt for the California Environmental Quality Act ("CEQA") under CEQA Guidelines § 15061(b)(3), because it can be seen with certainty that there is no possibility that the Resolution may have a significant effect on the environment.

**Action Taken:** The City Council opened the public hearing at 7:33 p.m. to receive documentary and public comments, noting that there are no speakers, closed the public hearing at 7:34 p.m.; and adopted Resolution No. 12228 declaring that weeds, brush, rubbish and refuse upon or in front of specified property in the city are a seasonal and recurrent public nuisance as amended to change the date on Page 2, Section 2, from "March 3, 2021" to "August 4, 2021."

**Motion:** Moved by Council Member Chan and seconded by Mayor Pro Tem Lo motion carried by the following vote:

| | | |
|---|---|---|
| Ayes: | Council Members: | Chan, Liang, Sornoso, Lo, Yiu |
| Noes: | Council Members: | None |
| Absent: | Council Members: | None |
| Abstain: | Council Members: | None |

**Resolution No. 12228,** entitled:
A RESOLUTION ADOPTED PURSUANT TO GOVERNMENT CODE § 39561 DECLARING THAT WEEDS, BRUSH, RUBBISH AND REFUSE UPON OR IN FRONT OF SPECIFIED PROPERTY IN THE CITY ARE A SEASONAL AND RECURRENT PUBLIC NUISANCE, AND DECLARING ITS INTENTION TO PROVIDE FOR ABATEMENT

## 5. NEW BUSINESS

### 5A. SUPPORT OF THE SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS' WHITE PAPER ON LOS ANGELES HOMELESS SERVICES AUTHORITY (LAHSA) REFORM

Municipalities in the San Gabriel Valley are committed to be leaders in the fight to combat homelessness. We all have the need and the desire to serve the most vulnerable in our communities and to maximize local ideas, resources, and programs to this end. The San Gabriel Valley Council of Governments (SGVCOG) and its member cities including the City of Monterey Park developed this white paper to demonstrate our commitment to creating a more coordinated, effective homelessness services system which is capable of solving our homelessness crisis.

**Public Speakers:**

- Caitlin Sims, Principal Management Analyst from San Gabriel Valley Council of Governments, was present and available to answer questions.

- Jaclyn Grant, Senior Consultant from Focus Strategies, was present and available to answer questions.

**Action Taken:** The City Council accepted and authorized the City Manager to express support of the San Gabriel Valley Council of Governments' White Paper on Los Angeles Homeless Service Authority (LAHSA) Reform.

**Motion:** Moved by Mayor Pro Tem Lo and seconded by Council Member Chan motion carried by the following vote:

| | | |
|---|---|---|
| Ayes: | Council Members: | Chan, Liang, Sornoso, Lo, Yiu |
| Noes: | Council Members: | None |
| Absent: | Council Members: | None |
| Abstain: | Council Members: | None |

## 5B. HOMELESSNESS PLAN FOR THE CITY OF MONTEREY PARK

In February 2020, the Governing Board of the San Gabriel Valley Council of Governments (SGVCOG) formalized funding to support regional cities in the development of city-based plans to prevent and respond to homelessness. The City of Monterey Park elected to participate in this effort and worked with the SGVCOG's consultant, Focus Strategies, from June 2020 through February 2021 to develop the attached Homelessness Response Plan (referred to as "Plan" hereafter, Attachment #1 to the staff report). The Plan provides a roadmap of strategies that maintain and build upon current City efforts (e.g., the outreach activities of the Police Department), leverage partnerships with local and regional programs, and, where possible, align with SGVCOG and Los Angeles County Homeless Initiative Strategies to maximize impact.

**Public Speakers:**

- Samantha Matthews, Management Analyst at the San Gabriel Valley Council of Governments (SGVCOG), stated that the SGVCOG supports adopting the City's Homelessness response plan.

- Jaclyn Grant, Senior Consultant from Focus Strategies, was present and available for questions.

**Discussion:** Police Chief Gordon and Jaclyn Grant presented a PowerPoint on Homelessness Plan for the City of Monterey Park.

**Action Taken:** The City Council adopted the City of Monterey Park's Homelessness Response Plan for the period of March 2021 through December 31, 2023.

**Motion:** Moved by Mayor Pro Tem Lo and seconded by Council Member Liang motion carried by the following vote:

| | | |
|---|---|---|
| Ayes: | Council Members: | Chan, Liang, Sornoso, Lo, Yiu |
| Noes: | Council Members: | None |
| Absent: | Council Members: | None |
| Abstain: | Council Members: | None |

## 5C. PURCHASE OF PUBLIC SAFETY RADIO EQUIPMENT

The Police Department is currently utilizing Motorola XTS 5000 and Motorola XTL 5000 radios purchased in 2009, as well as base station consoles and repeaters originally installed in 1999. Approximately 95% of the Police Department's portable, mobile, and base station radio inventory is no longer supported by the manufacturer and replacement parts are no longer available. The Fire Department needs to upgrade its current handheld and vehicle radios, in order to keep pace with new and emerging technology in order to maintain interoperability with the Police Department and as well as with adjacent jurisdictions and other statewide agencies that the Fire Department responds with to fulfill the local, regional, and statewide public safety mission.

Staff recommends purchasing new portable, mobile, and base station radios, including related accessories from Motorola in the amount of $2,682,300 for the police department and $744,271 for the fire department to ensure the safety and efficiency of public safety.

**Action Taken:** The City Council authorized the City Manager to execute an agreement with Motorola Solutions, Inc., in a form approved by the City Attorney, not to exceed $2,700,000 for the purchase of Motorola APX radios and related accessories for the Police Department. Bidding is not required pursuant to Monterey Park Municipal Code ("MPMC") § 3.20.050(B) and (D) (as amended per Ordinance No. 2199, adopted December 2, 2020); (2) authorized the City Manager to execute an agreement with Motorola Solutions, Inc., in a form approved by the City Attorney, not to exceed $750,000 for the purchase of Motorola APX radios and related accessories for the Fire Department. Bidding is not required pursuant to Monterey Park Municipal Code ("MPMC") § 3.20.050(B) and (D) (as amended per Ordinance No. 2199, adopted December 2, 2020); and (3) authorized the City Manager to approve a budget allocation of $750,000 from the General Fund Balance for the purchase of Motorola APX radios and related accessories.

**Motion:** Moved by Mayor Pro Tem Lo and seconded by Council Member Liang motion carried by the following vote:

| | | |
|---|---|---|
| Ayes: | Council Members: | Chan, Liang, Sornoso, Lo, Yiu |
| Noes: | Council Members: | None |
| Absent: | Council Members: | None |
| Abstain: | Council Members: | None |

## 6. CITY COMMUNICATIONS (CITY COUNCIL)

Council Member Chan spoke about the increase in hate crimes towards Asian American and Pacific Islanders. He relayed that on February 15, 2017 the City had passed Resolution No. 11895 declaring Monterey Park is dedicated to preserving the rights of all persons within its jurisdiction and on May 3, 2017 the City had adopted Resolution No. 11914 declaring May 6, 2017, day of inclusion on the 135th anniversary of the Chinese Exclusion Act in Recognition of the Harm caused by racially discriminating immigration measures and honors the contribution of all immigrants and refugees who have enriched our communities. He stated that on May 5, 2019 and May 20, 2020 the City adopted Resolution Nos. 12083 and 12159 declaring the month of May as Asian American and Pacific Islander Heritage month. He stated that the City of Monterey Park does not tolerate any racial bias, discrimination, or bigotry. He encouraged all residents to report any hate crimes to the police.

Council Member Liang thanked City Staff, Police Department, and Fire Department for continuing service throughout the pandemic.

Council Member Sornoso mentioned that he is looking forward to the dedication to the playground and fitness center at Barnes Park on March 8, 2021. He inquired when the city can schedule another Community Clean-up day.

Mayor Pro Tem Lo spoke about the increase hate crimes in the surrounding cities. He thanked the Library department for their Read Across America Read-A-Thon program. He reported that he attended the grand opening of Ono Hawaiian BBQ at the Market Place. He informed the public that Herald Christian Health Center is operating a COVID-19 vaccination site at Mark Keppel High School.

Mayor Yiu reported that Herald Christian Health Center is operating a COVID-19 vaccination site at Mark Keppel High School and that they successfully administered 880 shots in a day.

## 7. FUTURE AGENDA ITEMS

None.

## 8. CLOSED SESSION (IF REQUIRED; CITY ATTORNEY TO ANNOUNCE)

None.

**ADJOURNMENT**

There being no further business for consideration, the meeting was adjourned at 8:57 p.m.

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Vincent D. Chang
City Clerk

# City Council Staff Report

**DATE:** April 7, 2021

**AGENDA ITEM NO:** Consent Calendar
Agenda Item 3B

**TO:** The Honorable Mayor and City Council

**FROM:** Frank A. Lopez, Interim Director of Public Works

**SUBJECT:** Waive further reading and adopt an Ordinance approving a Development Agreement (DA-20-01) by and between the City of Monterey Park and BR Caster Corp. to facilitate development of a structure for self-storage units; to activate the Business Recovery Development Agreement Zone ("BRDZ") in Monterey Park Municipal Code Chapter 21.45; and to amend the zone map.

## RECOMMENDATION:

It is recommended that the City Council consider:

1. Waiving the second reading and adopting the proposed ordinance; and/or
2. Taking such additional, related, action that may be desirable.

## EXECUTIVE SUMMARY:

The Ordinance was introduced and received first reading at the March 17, 2021 City Council meeting. The original staff report (from March 17, 2021) is attached for reference. Second reading and adoption of this Ordinance is recommended. If adopted, the Ordinance will take effect in 30 days.

Respectfully submitted by:

Frank A. Lopez
Interim Director of Public Works /
City Engineer / City Planner

Prepared by:

Jason Moquin
Planning Manager

Approved by:

Ron Bow
City Manager

Reviewed by:

Karl H. Berger
City Attorney

Attachments:

1. Draft Ordinance
2. March 17, 2021 Staff Report

# ATTACHMENT 1
Draft Ordinance

**ORDINANCE NO. _____**

**AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF MONTEREY PARK AND BR CASTER CORP. TO FACILITATE DEVELOPMENT OF A STRUCTURE FOR SELF-STORAGE UNITS; TO ACTIVATE THE BUSINESS RECOVERY DEVELOPMENT AGREEMENT ZONE ("BRDZ") IN MONTEREY PARK MUNICIPAL CODE CHAPTER 21.45; AND TO AMEND THE ZONE MAP.**

**THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:**

SECTION 1. *Recitals*. The City Council finds and declares as follows:

A. BR Caster Corp., ("Developer") proposes to enter into a development agreement with the City of Monterey Park (the "Development Agreement"), which is attached to this Ordinance as Exhibit "A," and incorporated by reference.

B. The Development Agreement activates the Business Recovery Development Agreement Zone ("BRDZ") which allows the Developer to construct a proposed 107,850 square foot self-storage facility (the Project") on 0.93 acres located at 2500 Davidson Drive (the "Property"). The proposed Project was reviewed by the City for, in part, consistency with the General Plan and conformity with the MPMC;

C. In addition, the City reviewed the Project's environmental impacts under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq*., "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq*., the "CEQA Guidelines");

D. The City completed its review and scheduled a public hearing regarding the proposed Project, before the City Council for March 17, 2021. Notice of the public hearing on the proposed Project was posted and mailed as required by the MPMC;

E. On March 17, 2021, the City Council conducted a public hearing to consider the Project including, without limitation, this Ordinance and the Development Agreement;

F. The City Council reviewed the proposed project, conditions of approval, and related environmental aspects of the Project as required by the MPMC at the March 17, 2021 public hearing; and

G. The City Council has carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearing of March 17, 2021; and

H. This Ordinance, and its findings, are based upon the entire administrative record considered during the March 17, 2021 public hearing including, without limitation, the staff report and accompanying documents.

SECTION 2. *Findings*. Pursuant to Government Code § 65867.5, the City Council finds the following:

A. The Development Agreement is consistent with the General Plan of the City of Monterey Park. The Development Agreement furthers the goals of the General Plan and is in the interest of the general community welfare in that the Development Agreement will, among other things, facilitate the development of the subject site that is currently vacant and underutilized, which is consistent with the following General Plan policies:

1. LU Policy 1.1 – to ensure zoning regulations provide flexibility regarding allowed uses.

2. LU Policy 2.1 – to provide flexible and clear development standards to allow commercial, professional, industrial institutional, and hospitality businesses and uses to expand and thrive economically.

3. LU Policy 24.1 – to ensure zoning regulations applicable to Monterey Pass Road corridor permit the range of uses necessary to achieve land use goals and prohibit uses that conflict with those goals, including prohibition of warehousing and truck-related uses.

B. The Development Agreement also provides certainty in planning and construction as well as orderly development, while providing assurance to the Applicant that it may construct the Project.

SECTION 3. *Environmental Review*. The City reviewed the Project's environmental impacts under the California Environmental Quality Act (Pub. Res. Code §§ 21000, *et seq*., "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Reg. §§ 15000-15387; the “CEQA Guidelines”). The Project is categorically exempt from additional environmental review pursuant to CEQA Guidelines § 15332 as a Class 32 categorical exemption (In-Fill Development Projects). The Project consists of constructing a self-storage facility on a vacant 0.93 acre triangular shaped lot surrounded by existing development. Other than activating the BRDZ via the Development Agreement, there are no proposed changes to the General Plan nor the zoning. The Project site has no value as habitat for endangered, rare or threatened species. The technical studies prepared for the Project demonstrate there will not be

any significant environmental effects relating to traffic, noise, air quality, or water quality. Finally, the Project can be adequately served by all required utilities and public services.

SECTION 4. *Notice of Determination*. The City Manager, or designee, is directed to file a notice of determination in accordance with CEQA §§ 21152, 21167(f); CEQA Guidelines § 15094; and any other applicable law.

SECTION 5. *General Plan and Zoning*. The proposed project conforms to the Monterey Park General Plan, as set forth in Section 2. In addition, the proposed Project results in the development of a 107,850 square foot self storage facility on a underutilized parcel which is topographically constrained within the city and includes provisions intended to ensure that such development will be of high-quality architectural.

SECTION 6. *Public Benefits.* The Development Agreement provides for public benefits including, without limitation:

A. Development of a topographically challenged, and high-visibility remnant site at the intersection of Davidson Drive and Monterey Pass Road. The site has been vacant for 36 years.

B. Development of a land use with very low impacts on existing infrastructure and minimal burdens on surrounding properties.

C. Generation of retail sales tax and property tax.

D. Improvement of the public right-of-way on Davidson Drive.

E. Construction and Improvement of pedestrian and disabled access at the intersection of Davidson Drive and Monterey Pass Road.

F. Installation of enhanced landscaping at a high-visibility corner where the Monterey Pass Road corridor and Corporate Center intersect.

G. The development provides screening of the adjacent Southern California Edison Sub-station.

SECTION 7. *Incorporation of Development Agreement; Changes; Execution*. In accordance with Government Code §§ 65864, *et seq*. this Ordinance approves the Development Agreement in substantially the form attached as Exhibit "A," and incorporated into this Ordinance by reference.

A. The DA may be changed before execution as authorized by the City Council during the public hearings for the Project.

B. The DA may be changed before execution for minor clarifications and technical, clerical, corrections as approved by the City Attorney including, without limitation, completion of references, status of planning approvals, and completion and conformity of all exhibits to the DA.

C. The City Council authorizes the Mayor to execute the DA on the City's behalf. The City Manager, or designee, is authorized to execute amendments or operative memoranda as permitted by the DA, in a form approved by the City Attorney.

SECTION 8. *BRDZ Activation*. Pursuant to MPMC § 21.45, the BRDZ is activated for the Project Site identified in the DA. Combined with the regulations governing the Project Site by the MPMC, the DA will regulate all land uses on the Project Site.

SECTION 9. *Zone Map Amendment*. Pursuant to MPMC § 21.45.020 (F), the Monterey Park Zoning Map is amended to reflect the BRDZ overlays as set forth in attached Exhibit "B," which is incorporated by reference.

SECTION 10. *Construction*. This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 11. *Enforceability*. Repeal of any provision of the Monterey Park Municipal Code does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 12. *Reliance on Record*. Each and every one of the findings and determinations in this Ordinance are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the matter. The determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 13. *Limitations*. The City Council's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the City Council's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the City's ability to solve what are in effect regional, state, and national problems and

issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

SECTION 14. *Severability*. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 15. *Electronic Signatures*. This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 16. *Publications*. The City Clerk is directed to certify the passage and adoption of this Ordinance; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 17. *Recording.* The City Clerk is directed to certify the passage and adoption of this Ordinance, cause it to be entered into the City of Monterey Park's book of original ordinances, make a note of the passage and adoption in the records of this meeting, and, within fifteen days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 18. *Effective Date.* This Ordinance becomes effective on the 30th day following its passage and adoption.

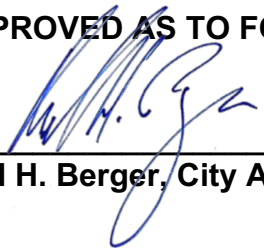
**ORDINANCE NO. ___ HAD ITS FIRST READING ON MARCH 17, 2021, ITS SECOND READING ON APRIL 7, 2021, AND WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MONTEREY PARK AT ITS REGULAR MEETING OF APRIL 7, 2021.**

**Yvonne Yiu, Mayor**

**ATTEST:**

**Vincent D. Chang, City Clerk**

**APPROVED AS TO FORM:**



**Karl H. Berger, City Attorney**

**Exhibit A: Development Agreement 20-01**
**Exhibit B: Zone Map Amendment**

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

CITY OF MONTEREY PARK
320 West Newmark Avenue
Monterey Park, CA 91754

Attention: City Clerk

EXEMPT FROM RECORDER'S FEES

Pursuant to Government Code § 6103

(Space Above For Recorder's Use)

**DEVELOPMENT AGREEMENT**

**By And Among**

**City of Monterey Park**

**And**

**BR Caster Corp.**

# DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT ("Agreement," effective as of April ___, 2021 ("Effective Date"), is entered into by and between (1) the CITY OF MONTEREY PARK, a general law city and municipal corporation ("City"), and (2) BR Caster Corp., a California corporation ("Caster" or "Developer"), as follows:

## RECITALS

A. In order to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs and risk of development, the Legislature of the State of California enacted Government Code Section 65864, et. seq. ("Development Agreement Statute"). The Development Agreement Statute authorizes the City to enter into binding development agreements with developers having a legal or equitable interest in real property, establishing certain development rights in such property.

B. Pursuant to the Development Agreement Statute, City adopted regulations implementing the Development Agreement Statute as codified in the Monterey Park Municipal Code ("MPMC").[1] This Agreement has been processed and approved in accordance with the MPMC.

C. BR Caster Corp. is in escrow for the purchase of 2500 Davidson Drive, Monterey Park, CA 91754 for the purpose of developing a self-storage facility (the "Project") affected by the terms of this Agreement. The real property affected by the Project is legally described in attached Exhibit "A," which is incorporated by reference (the "Property").

D. City and Developer determined a development agreement is appropriate for the Project in order to activate the Business Recovery Development Agreement Zone ("BDRZ").[2]

E. The City Council determined that the Project will provide certain public benefits to warrant entering into this Agreement. Those benefits are listed in Section 5.1 of this Agreement. In addition, this Agreement will facilitate orderly growth and quality development of the Project in conformance with the goals and policies of the City's General Plan.[3]

F. Developer would not proceed with the Project without the City's assurances set forth in this Agreement. Developer has and will continue to invest substantial money and effort in reliance upon the City's assurances as set forth in this Agreement. Developer acknowledges that the City would not enter into this Agreement without the Developer's assurances set forth in this Agreement and the anticipated benefits, as described in Section 5.1, to be provided in connection with development of the Project.

G. City has conducted an environmental review of the Project under the California Environmental Quality Act ("CEQA") and, based on an analysis of the technical studies identified

[1] *See* MPMC Chapter 21.44 as codified by Ordinance No. 2193, adopted October 7, 2020.

[2] As codified in MPMC Chapter 21.45 by Ordinance No. 2193; originally adopted via Ordinance Nos. 2184 (adopted July 15, 2020) and 2185 (adopted August 5, 2020).

[3] As adopted pursuant to Measure JJ on November 3, 2020.

in attached Exhibit B, determined the Project is categorically exempt pursuant to CEQA Guidelines § 15332 as a Class 32, in-fill development.

H. The City Council has given the required notice of its intention to adopt this Agreement and conducted public hearings thereon pursuant to the Development Agreement Statute and MPMC. As required by applicable law, the City Council has found the provisions of this Agreement and its purposes are consistent with the goals, policies, standards, and land use designations specified in the City's General Plan and will provide for an orderly development of the Project in accordance with the objectives set forth in the General Plan and the MPMC.

I. On March ___, 2021, the City Council adopted the Approving Ordinance (defined below) approving this Agreement and authorizing its execution. That Ordinance became effective on April ____, 2021. Before approving this Agreement, the City Council made certain findings, as set forth in the Approving Ordinance.

1. The term or duration of this Agreement has a commensurate relationship to the benefit(s) provided to the City.

## ARTICLE 1

## DEFINITIONS

1.1. Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this Agreement. Words and phrases not defined in this Section have the meaning set forth in this Agreement; the MPMC; the Development Agreement Statute; or in common usage. "Approving Ordinance" means Ordinance No. XX-XX adopted on March ____, 2021, approving execution of this Agreement.

1.2. "Applicable Rules" means all of the ordinances, rules, regulations and officials policies governing the Project as set forth in Article 3. without limitation, the City's Zoning Regulations and building regulations, adopted as of the Effective Date. Among other matters, the Applicable Rules set forth and govern the permitted uses of land, the density or intensity of use, subdivision requirements, setbacks, and development standards, the provision for reservation or dedication of land for public purposes, and the design, improvement and construction guidelines, standards and specifications applicable to the development of the Property.

1.3. "CEQA" means the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq*.), and the CEQA Guidelines (14 California Code of Regulations §§ 15000, *et seq*.).

1.4. "City" means the City of Monterey Park and its successors and assigns.

1.5. "City Council" means the City Council of Monterey Park, its governing body.

1.6. "Developer" means, individually, and "Developers" means, collectively, the Parties who have signed this Agreement as Developer, and, subject to the restrictions on assignment set forth herein, successor Owners.

1.7. "Development Impact Fees" means fees established and adopted pursuant to the Mitigation Fee Act (Government Code §§ 66000, *et seq*.) and the MPMC. Development Impact Fees do not mean or include Processing Fees. The Development Impact Fees to be paid for the Project are set forth in attached Exhibit "E," which is incorporated by reference.

1.8. "Development Agreement Regulations" means MPMC Chapter 21.44.

1.9. "Development Agreement Statute" means Government Code §§ 65864, *et seq*.

1.10. "Discretionary Action(s)" or "Discretionary Approval(s)" means a City action requiring the exercise of judgment, deliberation, or discretion on the City's behalf, including that of any board, agency, commission, officer, or employee in the process of approving or disapproving a particular activity, as distinguished from any ministerial activity which merely requires City to determine whether there has been compliance with statues, ordinances, or regulations.

1.11. "Effective Date" means the effective date of this Agreement and commencement of the Term, which is the date the Approving Ordinance becomes effective.

1.12. "General Plan" means the City of Monterey Park General Plan, as it exists as of the Effective Date.

1.13. "Minor Change" means changes, modifications, or adjustments which are consistent with the overall intent of the Project Approvals and which do not materially alter the overall nature, scope, or design of the Project including, without limitation, minor changes in locations of the Project Buildings or infrastructure, relocation of no more than 30% of the total approved leasable Project Building square footage, the construction or provision of additional parking spaces within the building envelope of any Parking Areas, and/or the configuration of internal circulation elements.

1.14. "Party" means, individually, and "Parties" means, collectively, the parties to this Agreement, consisting of City (and its successors and assigns) and the Developer (including, subject to the restrictions on assignment set forth herein, successor Owners).

1.15. "Processing Fees" means all processing fees and charges required by City that are applied uniformly to all construction or development related activity including, without limitation, fees for land use applications, building permit applications, building permits, grading permits, shoring and excavation permits, hauling permits, encroachment permits, demolition permits, subdivision or parcel maps, lot line adjustments, street vacations, inspections, certificates of occupancy, and plan check. Processing Fees does not mean or include Developer Fees.

1.16. "Project" means the development project identified as "A-1 Self Storage Facility – Monterey Park" as described in CEQA Determination (Exhibit "B"), and detailed in the Approved Development Plan as shown on attached Exhibit "D," which is incorporated by reference.

1.17. "Project Approvals" means City approvals governing the development of the Project, including this Agreement, as provided for in Ordinance XX-XX.

1.18. "Property" means the real property described in attached Exhibit "A," which is incorporated by reference.

1.19. "Subsequent Permits" is defined in Section 4.1.1.

1.20. "Uniform Codes" means those Uniform Codes adopted by reference in the MPMC in accordance with Government Code §§ 50022.2, et seq. as required by applicable law including, without limitation, Health and Safety Code § 18944.5 and Title 24 of the California Code of Regulations. The Uniform Codes govern building and construction standards including, without limitation, the building, plumbing, electrical, mechanical, grading, sign, and fire standards."Vested Rules" are defined in Section 3.1.

## ARTICLE 2

## GENERAL PROVISIONS

2.1. Property Subject to This Development Agreement. This Agreement benefits and encumbers the Property. The Property is to be developed with the Project, i.e., the "A-1 Self Storage Facility – Monterey Park."

2.2. Term of Agreement. The Term of this Agreement commences upon the Effective Date and continues in full force and effect for five years pursuant to MPMC § 21.44.020(E) unless terminated earlier by its terms ("Term").

## ARTICLE 3

## APPLICABLE RULES, REGULATIONS, AND POLICIES

3.1. Vested Rules. "Vested Rules" mean, collectively, the ordinances, resolutions, rules, regulations, requirements, and official policies of the City in effect as of the Effective Date which govern the following, to the extent applicable to the Property: development agreements; permitted uses; density and building intensity; growth control; zoning designations and regulations; subdivision, improvement, grading, landscaping and signage; design, development, improvement, and construction standards and specifications; standards and requirements for public reservations and dedications, public improvements and facilities; transit, parking, open space, employee housing and affordable housing; standards and requirements for processing of Subsequent Permits

(as defined in Section 5.1.1); and the Project Approvals described in Section 3.3. The Vested Rules do not include: (i) Uniform Codes, or changes thereto from time to time; (ii) Development Impact Fees or fee calculation methods; or (iii) fees imposed by other governmental agencies, whether or not collected by the City on behalf of such agencies. The Vested Rules include those set forth in attached Exhibit "C," which is incorporated by reference. Various Subsequent Permits, such as tentative subdivision maps, grading permits and use permits, are or may be required in order to implement the development of the Project under the terms of the Vested Rules. In addition, Subsequent Permits, such as a change in zoning standards, may be desirable due to changes in development products or standards or for other reasons during the Term of this Agreement. This Agreement and the vested right to develop are not intended to preclude changes or additions to the Vested Rules which are mutually acceptable. Developer takes notice pursuant to Government Code § 66020(d) that City is imposing exactions upon the Project in accordance with the Mitigation Fee Act (Government Code § 66000, et seq.). Developer is informed that it may protest exactions in accordance with Government Code § 66020. Developer knowingly and willingly waives any rights it may have under Government Code § 66020 or any other provision of law to protest the imposition of any fees, dedications, reservations, or exactions imposed on the Project as authorized by this Agreement.

3.2. Section 3.1 does not apply to City's enforcement of the "Uniform Codes" regulating building or construction standards which will apply to the Project at the time City issues building permits.

3.3. Changes to the Vested Rules. All Subsequent Permits will be processed in accordance with the procedures, standards, and requirements set forth in the Vested Rules, except to the extent changes to the Vested Rules are proposed by the Subsequent Permit. In that case, the processing of the Subsequent Permit is not subject to the Vested Rules. Any approved Subsequent Permit will be incorporated into (and amend or supplement, as appropriate) the Vested Rules upon adoption by City and approval by the affected Developer. If Developer proposes any amendment or addition to the Vested Rules, then the application therefor will clearly indicate such request, and, if the application is approved by City, then City's action will clearly state the Vested Rules were amended or supplemented. City must consider any such request in its sole discretion. If an amendment or supplement to the Vested Rules is adopted by City other than pursuant to an application by Developer, then it may amend or supplement to Vested Rules only if the affected Developer approved the same in writing.

3.4. Project Approvals. "Project Approvals" means: (a) this Agreement; (b) the CEQA Determination; (c) any amendments or additions to the Project Approvals and any Subsequent Permits (as defined in Section 4.1.1) which are subsequently issued by City and approved by Developer of the affected Projects or portion thereof, in accordance with the procedures described in Section 3.1. The Project Approvals are included in the Vested Rules. The permitted uses, the density or intensity of use, the zoning, the maximum height and size of buildings, the provisions for reservation and dedication of land, and the subdivision or use permit improvement requirements for the Project are set forth in Exhibit "D," as supplemented by Subsequent Permits issued in conformance with the Vested Rules.

3.5. Vested Right to Develop. During the Term of this Agreement, with regard to the Project listed in Recital C and the Property legally defined in Exhibit A, Developer is assured, and City agrees, the development rights, obligations, terms and conditions specified in the Project Approvals, the other Vested Rules, and this Agreement are fully vested in Developer and may not be changed or modified by City, whether by administrative action, legislative action, or vote of the electorate, except as may be expressly permitted by and in accordance with the terms and conditions of this Agreement, or as may be expressly consented to by Developer. Developer has the vested right to develop and construct the Project on the Property and each portion thereof, in accordance with the Project Approvals, the other Vested Rules, and this Agreement.

3.6. No Conflicting Enactments. Except as provided in Section 3.5 of this Agreement, during the Term of this Agreement, the City will not, without the prior written consent of Developer, do any of the following:

3.6.1 Apply to the Property, or any portion thereof, any change in the Vested Rules or any new or amended rule, ordinance, resolution, regulation, requirement, or official policy which conflicts with or is inconsistent with this Agreement, or which reduces the development rights provided by this Agreement, or which limits or reduces the permitted uses allowed under the Vested Rules, or which discriminates against Developer or the Project or any portion thereof, or which applies only to the Project or a portion thereof;

3.6.2 Apply to the Property any new rule, ordinance, resolution, regulation, requirement, or official policy which requires any additional discretionary review or approval; or

3.6.3 Apply to the Property any new or amended rule, ordinance, resolution, regulation, requirement, or official policy that materially, adversely affects the timing or phasing of construction or development or that limits the availability of utilities, infrastructure, or public services for the Property.

3.7. Term of Project Approvals. To the extent allowed by the Subdivision Map Act, the term of any tentative map approved for any portion of the Property, whether as stated in the existing Project Approvals, or as stated in any subsequent amendment or addition to the Project approvals including, without limitation, any tentative parcel map, tentative map, vesting tentative map, or vesting tentative parcel map, any amendment of any such map, and any subdivision improvement agreement entered into in connection with any of the aforementioned maps, will be automatically extended for the Term of this Agreement. Similarly, the term of any Project Approvals approved for any portion of the Property, whether existing or subsequently approved, will be automatically extended for the Term of this Agreement. In addition, in accordance with Government Code §66452.6, the term of any map or other Project Approval will be extended for a period equal to any period of time during which: (a) a development moratorium exists including, without limitation, a water or wastewater moratorium, or the actions of public agencies (other than City) that regulate land uses, development or providing services to the Property, that prevents, prohibits, or delays the construction of the Project; or (b) a lawsuit involving any development approvals or permits for the Project is pending. A development moratorium adopted or implemented by City does not apply to the Property, as further described in Section 3.8.

3.8. Initiatives/Referendum. Any law enacted or imposed after the Effective Date by initiative or referendum, or by the City Council, directly or indirectly, in connection with any proposed initiative or referendum, which law would conflict with the vested rights to develop granted to Developer under this Agreement will, to the maximum extent permitted by law, not apply to the Property.

3.9. Moratoria; Growth Control Measures. Developer's rights to develop the Property in conformance with the Vested Rights under this Agreement prevails over any growth control measure or development moratorium adopted or implemented by City after the Effective Date, whether adopted specifically to prohibit construction of the Project or any portion thereof, or as an interim measure during the processing of contemplated General Plan, Specific Plan, or zoning changes, or as a general growth control management measure.

3.10. Effect of Inconsistent State or Federal Laws. This Agreement may be modified or suspended as may be necessary to comply with the State of California or Federal legislation, case law, codes, or regulations enacted/issued after the Effective Date, which preempt local jurisdiction and which prevent or preclude compliance with one or more provisions of this Agreement; provided, however, that such modification or suspension will be made to the minimum extent necessary and only after the Parties have met and conferred in good faith to determine the feasibility of such modification or suspension and to minimize its effect on the rights of the Parties and fulfillment of the purposes and intent of this Agreement. The Parties will cooperate to process applications for any City or governmental approvals which may be required as a result of any such modification or suspension of this Agreement.

3.11. Public Works. Developer must construct any facilities or improvements which will be dedicated to City or any other governmental agency upon completion in the same manner and to the same standards as would be applicable to City or such other governmental agency should it have undertaken construction.

3.12. Business Recovery Development Agreement Zone ("BRDZ"). This Agreement is intended to activate the BRDZ as set forth in the MPMC. Pursuant to MPMC Chapter 21.45, this Agreement allows for the following:

3.12.1 Land Uses. 21.10.030 Table 21.10 (A) Public Storage/Mini -Storage.

3.12.2 Development Standards. 21.10.070 Table 21.10 (B) F.A.R. Max 2.65.

## ARTICLE 4

## PROCESSING OF SUBSEQUENT PERMITS AND APPROVALS

4.1. Subsequent Permits.

4.1.1 Defined. "Subsequent Permits" means the land use, development, and building approvals which are to be processed for approval by City and which are necessary or appropriate in order to develop the Project in accordance with the Vested Rules, the Project Approvals, and this Agreement including, without limitation, zone changes, master plans or amendments thereto, any and all permits and/or approvals that are part of development maps, subdivision improvements plans and agreements, design review, site plans, landscape plans, preliminary grading plans, grading plans and permits, building plans and permits, and environmental determinations. The Subsequent Permits include any permits and approvals required to complete the infrastructure and improvements necessary to develop the Property (collectively, the "Improvements"), in accordance with this Agreement and the Vested Rules including, without limitation, those related to: (a) clearing the Property; (b) preliminary grading or grading of the Property; (c) construction of roads and storm drainage facilities; (d) construction of all commercial structures and all structures and facilities accessory thereto, subject to the limitations set forth in this Agreement. The grant of vested rights to Developer pursuant to this Agreement does not waive or remove any requirement to process and obtain Subsequent Permits for the Project, to the extent required under the Vested Rules and the Project Approvals.

4.1.2 Standard of ReviewCity agrees applications for Subsequent Permits will be processed in good faith and granted on terms and conditions in conformance with this Agreement, the Project Approvals, and the Vested Rules. In the event any conflict arises between the terms and conditions of a Subsequent Permit and this Agreement, the provisions of this Agreement prevail unless otherwise agreed to in writing by the City and the affected Developer.

4.2. Processing. Subject to compliance with the Vested Rules and other applicable laws, the Subsequent Permits will be reviewed, processed, and acted upon by City, provided that: (a) applications for such approvals are submitted to City during the Term of this Agreement; (b) the applications are deemed complete pursuant to the Vested Rules; and (c) there is no uncured Event of Default under the terms and conditions of this Agreement with respect to the portion of the Property for which such approval is sought. City agrees it will not unreasonably withhold or unreasonably condition any Discretionary Action or Discretionary Approval which may be issued by City in order for the Project to proceed, provided that Developer reasonably and satisfactorily complies with all preliminary procedures, actions, payments of Processing Fees, and criterial generally required of developers by City for processing applications for developments and consistent with this Agreement.

4.3. Development Fees. Due to the consideration and benefits as described in Section 5.1, the following apply to the development fees described below:

4.3.1 Permit Fees. If a Subsequent Permit requires any significant change to the Project, then any additional Permit Fees must meet all applicable nexus and rough proportionality requirements. Permit Fees will be payable in an amount and at the time established by City's fee schedule at the time of issuance. Any credits applicable to Permit Fees to which any portion of the Project is entitled as a result of construction may be transferred to any other portion of the Project and applied to reduce future Permit Fees which become payable provided that this Agreement does not, by itself, entitle Developer to any such credits.

4.3.2 Development Impact Fees. Developer will pay fees established and adopted pursuant to the Mitigation Fee Act (Government Code §§ 66000, *et seq*.) and the MPMC, as detailed in Exhibit "E".

4.3.3 Application Processing Fees. Developer must pay the Application Processing Fees in effect on the date the City Council approves this Development Agreement.

4.4. Other Local, State, Federal Approvals. The Parties contemplate that development of the Project pursuant to this Agreement may be subject to the approval of other governmental agencies. The Parties will act in good faith and use reasonable effort and diligence to process and obtain such approvals in a manner and on terms and conditions that are consistent with, and implement, the Project Approvals, the Vested Rules, and this Agreement. If any revisions or corrections of plans for Project Approvals approved by City is required by any other governmental agency, then the Parties will cooperate reasonably and in good faith to develop a mutually acceptable solution.

## ARTICLE 5

## PUBLIC BENEFITS

5.1. Public Benefits. The Parties acknowledge and agree that Developer's agreement to perform and abide by the covenants and obligations set forth herein is material consideration for City's agreement to perform and abide by the covenants set forth herein, including without limitation the following specific public benefits for this Agreement:

- Development of a topographically challenged, and high-visibility remnant site at the intersection of Davidson Drive and Monterey Pass Road. The site has been vacant for 36 years.
- Development of a land use with very low impacts on existing infrastructure and minimal burdens on surrounding properties.
- Generation of retail sales tax and property tax.
- Improvement of the public right-of-way on Davidson Drive.
- Construction and Improvement of pedestrian and disabled access at the intersection of Davidson Drive and Monterey Pass Road.
- Installation of enhanced landscaping at a high-visibility corner where the Monterey Pass Road corridor and Corporate Center intersect.
- The development provides screening of the adjacent Southern California Edison Sub-station.

5.1.1 Construction and Funding of Project Facilities and Infrastructure. Developer must construct and fund the construction of any Project Facilities and Infrastructure (as

detailed in Exhibit D, attached hereto) at the time such Project Facilities and Infrastructure are needed to satisfy the requirements of the Project Approvals. Except as otherwise specifically set forth herein, Developer has no responsibility for the operation, maintenance, repair or replacement of Project Facilities and Infrastructure.

5.1.2 Dedications. No dedications to City of rights-of-way or other interests in real property owned by Developer within the Property are proposed or required.

## ARTICLE 6

## REVIEW OF COMPLIANCE

6.1. Annual Review. The City will conduct reviews in accordance with the MPMC to determine whether Developer is acting in good faith compliance with the provisions of this Agreement. Appropriate fees to cover City's costs to conduct the annual review shall be collected from the Developer in compliance with the MPMC.

6.2. Procedure for Review. City's City Planner, or designee, will conduct the review contemplated by this Section 6 to ascertain whether Developer has reasonably complied in good faith with the material terms and conditions of this Agreement during the period for which the review is conducted. The City Planner, or designee, will give Developer notice that any such review has been commenced, and give Developer at least 20 days to provide the City Planner such information as Developer deems relevant to such review. In addition, upon written request of the City Planner, Developer must furnish such documents or other information reasonably requested by the City Planner.

6.3. Result of Review. If, following such a review, the City Planner, or designee, finds good faith compliance by Developer with the terms and conditions of this Agreement, the City Planner, or, will issue to Developer an executed certificate of compliance. The certificate of compliance will state: (a) the Agreement is unmodified and in full force and effect (or identifying any modifications); (b) there are no uncured defaults under the Agreement by the certifying Party or, to the certifying Party's knowledge, by any other Party (or specifying any such defaults); and (c) any other information reasonably requested regarding the status of the Agreement and performance by the Parties.

If, following such a review, the City Planner, or designee, finds that Developer has not complied in good faith with the terms and conditions of the Agreement, the City Planner, or designee, will provide notice to Developer detailing such non-compliance. Upon receipt of such notice, Developer may commence to cure the stated non-compliance in accordance with the terms of this Agreement, including without limitation Section 8.1. If Developer fails to cure the non-compliance pursuant to the terms of this Agreement, including without limitation Section 8.1, the City Planner, or designee, will notify the City Council. Developer has the ability to dispute any such claim of non-compliance or failure to cure at a public hearing before the Agreement may be modified or terminated.

## ARTICLE 7

## ASSIGNMENTS; MORTGAGEE PROTECTION

7.1. Right to Assign

7.1.1 Right to Assign. Subject to Section 7.2 of this Agreement with respect to the rights of a mortgagee, Developer may assign or transfer any portion of its interests, rights, or obligations ("Rights") under this Agreement and under the Approvals and Subsequent Approvals to third parties acquiring successor interests in the Project or Project Site, or any portion thereof, including without limitation purchasers or long-term ground lessees of the parcels or facilities located on or within the Project Site.

7.1.2 Assumption of Assigned Obligations and Rights. As a condition to any assignment or transfer under this Agreement, any person or entity accepting such Assignment ("Assignee") must assume all of the obligations and rights of this Agreement as they pertain to the portion of the Property being transferred to the Assignee.

7.2. Right to Mortgage. Developer or Owner may assign, pledge, or otherwise encumber its rights and interests under this Agreement for security purposes to a Mortgagee of any defined Lot(s) without City's consent. Nothing contained in this Agreement restricts Developer from encumbering all or any portion of the Property with a Mortgage, deed of trust, or other security device (collectively, "Mortgage). No breach of this Agreement will default, render invalid, diminish, or impair the lien of any Mortgage or the rights of any mortgagee, but all of the terms and conditions of this Agreement are binding upon and effective against any Person, including any mortgagee or any person, who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu for defaults or monetary obligations arising before its acquisition of title to the Property or portion thereof.

7.3. Notice of Default. If City receives written notice from a Mortgagee requesting a copy of any notice of default given to Developer and specifying the address for service thereof, then City will deliver to such Mortgagee, concurrently with the delivery to Developer, any notice given to Developer with respect to any claim by City that such Developer is in default hereunder. If City makes a determination of noncompliance hereunder and a Mortgagee has requested notice of such determination, City will also serve notice of such noncompliance on such Mortgagee concurrently with service on Developer. Each Mortgagee may, without obligation, during the same period available to Developer hereunder, to cure or remedy, or to commence to cure or remedy, the event of default claimed or the areas of noncompliance set forth in City's notice.

## ARTICLE 8

## DEFAULT; REMEDIES

8.1. Events of Default. Subject to the provisions of Section 10.15 regarding Unavoidable Delays, Section 7.1 regarding assignment and assumption, and Section 7.2 regarding

Mortgagee Protection, the failure by any Party to pay any sum or to perform any obligation required under this Agreement, including, without limitation, City's failure to issue Subsequent Permits for the Project in conformance with this Agreement, and such Party's failure to cure such default within the specified cure period after receipt of a Notice of Default pursuant to Section 9.2 below, constitutes an "Event of Default" under this Agreement. Except as otherwise provided in Section 4.2, failure by Developer to construct or delay in constructing the Project or any portion thereof shall not be a default or Event of Default under this Agreement, and Developer is not liable to City for damages for failure to construct any portion of the Project, unless such failure or delay constitutes a default under the terms of any Final Map, building permit or similar approval, in which event City may exercise any of its normal remedies for default under such permit or approval.

8.2. Notice of Default and Cure. Any Party claiming a default under this Agreement must deliver to the defaulting Party a written notice of default ("Notice of Default"). The Notice of Default must specify the reasons for the allegation of default with reasonable particularity and the manner in which the default can be cured. The defaulting Party has the right to cure the default within 30 days after receiving the Notice of Default; provided, however, that if the nature of the alleged default is such that it cannot be reasonably cured within 30 days, then the 30-day period will be extended for the time reasonably required to complete the cure, so long as the defaulting Party commences the cure within the 30-day period and diligently prosecutes the cure to completion thereafter.

8.3. Procedure Upon and Event of Default. After the occurrence of an Event of Default, the other Party may give notice of its intent to terminate this Agreement pursuant to Government Code § 65868 and the MPMC implementing said section. Following notice of intent to terminate, or before instituting legal proceedings, the matter must be scheduled for consideration and review at a public meeting of the City Council within 30 days after that notice. Following consideration of the evidence presented in the review before the City Council, the Party alleging the default by the other Party may institute legal proceedings or may give written notice of termination of this Agreement to the other Party; provided, however, Developer may only terminate this Agreement with respect to such portion of the Property then owned by Developer. Evidence of default may also arise in the course of an annual review of this Agreement pursuant to Section 6.1. If Developer is determined by City to be in default pursuant to the procedures for annual review, and after giving effect to Developer's right of appeal of such determination to the City Council as provided in Section 6.3, then City may give a written Notice of Default pursuant to Section 8.1. If the alleged default is not cured within the cure period set forth in Section 8.2 or within such longer period specified in City's Notice of Default, or if Developer waives its right to cure such alleged default in writing, then this Agreement may be terminated by City with respect to the portion of the Property then owned by the defaulting Developer.

8.4. Remedies for Non-Defaulting Party. If either Party is in default under the terms of this Agreement, subject to any applicable requirements under Section 8.6 of this Agreement, the other Party may elect to pursue any of the following courses of action: (i) waive such default; (ii) pursue administrative remedies as provided in this Agreement; (iii) pursue any judicial remedies available under the law; or (iv) terminate this Agreement.

8.4.1 Unless otherwise provided in this Agreement and subject to applicable requirements under Section 8.6 of this Agreement, either Party, in addition to any other rights or remedies, may institute legal action to cure, correct, or remedy any default by the other Party to this Agreement, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation hereunder or to seek specific performance. All remedies available to a Party under this section are cumulative and not exclusive of the other, and the exercise of one or more of these remedies do not constitute a waiver or election with respect to any other available remedy. In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that City is not liable in damages to Developer, or to any successor in interest of Developer, or to any other person, and Developer, on behalf of itself and all successors in interest, covenants not to sue for damages or claim any damages:

(a) For any breach of this Agreement or for any cause of action that arises out of this Agreement; or

(b) For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or

(c) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

8.4.2 City elected or appointed official, employee, or representative is personally liable to Developer in the event of any Event of Default by City or for any amount which may become due to Developer, or for any obligations under the terms of this Agreement, or for any claims of breach of contract related to this Agreement, or for any claims in the nature of tort related to this Agreement (such as fraud in the inducement).

8.4.3 **Informal Discussions**. With regard to any dispute between or among the Parties contemplated by this Agreement, within seven days written notice from ether party, the City Manager and Developer's senior executives must meet and attempt in good faith to resolve any such disputes through informal discussions, which discussions will not exceed 10 business days unless extended by mutual agreement.

8.5. Mediation. If the Parties are unable to resolve their dispute through informal discussion, then either party may commence mediation by providing to JAMS (or other mediator mutually agreed to by the Parties) and the other Parties a written request for mediation, setting forth the subject of the dispute and the relief requested. The Parties will cooperate with JAMS and with one another in selecting a mediator from JAMS' panel of neutrals, and in scheduling the mediation proceedings. The Parties covenant that they will participate in all phases of the mediation in good faith. The mediation process will occur in two phases, if necessary, as described below. During the first phase of the mediation, which in no event will exceed 30 days unless otherwise agreed to by the Parties, the Parties will attempt to resolve their dispute in accordance with JAMS standard mediation procedures. If the Parties are unable to resolve their dispute during this first phase of the mediation process, then the second phase of the mediation process will be conducted in a manner consistent with this Section. If the Parties are unable to resolve their dispute through the first phase of mediation, as described above, the party that commenced mediation (the "Complaining Party"), will have 10 business days from the expiration of the 30 day period

described above to file a brief with the other party (the "Responding Party") and with the mediator presiding over the first phase of the mediation process (the "Mediator"), which brief must set forth the merits of the Complaining Party's position regarding the issues raised during the first phase of mediation (the "Initial Brief"). The Responding Party will have 10 business days from its receipt of the Initial Brief to file a brief with the Mediator and the Complaining Party responding to the issues raised in the Initial Brief and setting forth the merits of the Responding Party's position regarding the issues raised during the first phase of mediation (the "Responding Brief"). The Complaining Party will have five business days from its receipt of the Responding Brief to file a reply brief with the Mediator and the Responding Party replying to the issues raised in the Responding Brief (the "Reply Brief"). In no event will the Initial Brief and the Responding Brief be longer than 15 pages and in no event will the Reply Brief be longer than 10 pages. Except as otherwise set forth in this Section 7.05.03, the Initial Brief, the Responding Brief and the Reply Brief will be formatted in accordance with requirements of Rule 3.1110 of the California Rules of Court, unless otherwise agreed to by the Parties. The Mediator will have two weeks following its receipt of the Reply Brief to consider the arguments set forth by the Complaining Party and the Responding Party in their respective briefs and issue an opinion stating which party the Mediator would consider to be the prevailing party if the Mediator were a judge presiding over the dispute in a court of law (the "JAMS Opinion").

8.1. All offers, promises, conduct and statements, including the JAMS Opinion, whether oral or written, made in the course of the mediation by any of the Parties, their agents, employees, experts and attorneys, and by the mediator and any JAMS employees, are confidential, privileged and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving the Parties, provided that evidence that is otherwise admissible or discoverable will not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Notwithstanding the foregoing, the JAMS Opinion will serve as the basis solely for determining whether, in the event a dispute between the Parties is litigated, either party will be awarded attorneys' fees in accordance with this Agreement.

8.2. Nothing in this Article will in any way be interpreted as requiring that Developer and City and/or City's designee reach agreement with regard to those matters being addressed, nor will the outcome of these meetings be binding in any way on City or Developer unless expressly agreed to in writing by the Parties to such meetings. Notwithstanding the forgoing, the JAMS Opinion will be binding on the Parties solely for the purposes of determining whether, in the event a dispute between or among the Parties is litigated, either party will be awarded Attorneys' Fees (as defined below) in accordance with this Agreement.

8.3. Should any judicial remedy be sought by any party because of any default under this Agreement or to enforce any provision hereof, or to obtain a declaration of rights hereunder (each individually a "**Judicial Action**"), the prevailing party in such Judicial Action is entitled to reasonable attorney's fees, court costs and such other costs as may be fixed by the court (collectively, "**Attorneys' Fees**"), provided the prevailing party in the Judicial Action was also determined to be the prevailing party in the JAMS Opinion. For purposes of this Agreement, Attorneys Fees will be calculated from the start of the first phase of mediation and will include all reasonable costs related to the first and second phases of mediation. If the prevailing party in a Judicial Action was determined to be the losing party in the JAMS Opinion, then each party will

assume the cost of their own Attorneys' Fees. Not in limitation of the foregoing, the Parties will assume their own costs related to the informal dispute resolution process described above.Extension of Agreement Term. The Term of this Agreement as set forth in Section 2.2 will automatically be extended for the period of time in which the Parties are engaged in dispute resolution to the degree that such extension of the Term is reasonably required because activities which would have been completed before the expiration of the Term are delayed beyond the scheduled expiration of the Term as a direct result of such dispute resolution.

## ARTICLE 9

## AMENDMENTS; TERMINATION

9.1. Amendments. Except as set forth in Section 3.1, this Agreement may be modified, amended and/or extended only by mutual written consent of the Parties and must be approved in the same manner as adoption of this Agreement, by ordinance as set forth in the Development Agreement Statute.

9.2. Operating Memoranda. The Parties acknowledge that the provisions of the Agreement require a close degree of cooperation and that new information and future events may demonstrate that changes are appropriate with respect to the details of performance of the Parties under this Agreement. The Parties desire, therefore, to retain a certain degree of flexibility with respect to the details of performance for those items covered in general terms under this Agreement. If and when, from time to time, the Parties find that refinements or adjustments are desirable, such refinements or adjustments will be accomplished through operating memoranda or implementation agreements approved by the Parties which, after execution, will be attached to this Agreement as addenda and become a part hereof.

9.3. Execution of Memoranda. Operating memoranda or implementation agreements may be executed on behalf of City by the City Manager and the City Attorney. In the event a particular subject requires notice or hearing, such notice or hearing will be appropriately given. Any significant modification to the terms of performance under this Agreement will be processed as an amendment of this Agreement in accordance with this Agreement and must be approved by the City Council.

9.4. Effect of Expiration/Termination. Upon expiration or termination of this Agreement: (a) no Party has any further rights or obligation hereunder except for matters which accrued before such expiration or termination and matters which specifically survive expiration or termination under the express terms of this Agreement; and (b) the underlying Project Approvals remain in full force and effect.

## ARTICLE 10

## MISCELLANEOUS

10.1. Insurance. Before the commencement of any work, Developer must furnish evidence to City that all of the following insurance requirements have been satisfied.

10.2. General. Developer must, throughout the duration of this Agreement, maintain, or cause to be maintained, the insurance specified below, to insure Developer and its employees for liability arising out of the work in connection with the Property, Project and this Agreement at the minimum levels set forth herein, with City being an additional insured on the CGL and excess or umbrella liability insurance.

10.3. Commercial General Liability. Commercial General Liability ("CGL") insurance with coverage in an amount not less than $2,000,000.00 general aggregate, $2,000,000.00 per occurrence and $2,000,000.00 products/completed operations, and including contractual liability insurance for the indemnification heretofore provided to City (subject to the policy terms, conditions, definitions and exclusions).

10.4. Business Auto Coverage. Business Automobile Liability insurance with coverage in an amount not less than $1,000,000.00 per accident for bodily injury and property damage, covering all vehicles used by the Developer (personal, company) and its employees, on or within the Project or Property or associated therewith.

10.5. Excess or Umbrella Liability Insurance (Over Primary Coverage). Such excess coverage must be at least as broad as the underlying coverage and be provided on a "pay on behalf" basis. The excess or umbrella coverage can be not less than $5,000,000 per occurrence/annual aggregate.

10.6. Workers' Compensation. Coverage must be maintained as required by the State of California.

10.7. Insurance Coverage to be Maintained by Developer's Contractors and Subcontractors. Developer must require by contract that its contractors and subcontractors maintain the same CGL, business auto, excess or umbrella liability and workers' compensation insurance as set forth in subsections (b) through (e), inclusive, hereof, except that the required minimum limits for the CGL coverage will be $2,000,000 general aggregate, $2,000,000 per occurrence and $2,000,000 products/completed operations, with excess or umbrella liability insurance in the amount of $2,000,000 per occurrence/annual aggregate. The CGL policy must include, contractual liability insurance (subject to the policy terms, conditions, definitions and exclusions).

10.8. Construction; Interpretation. This Agreement has been reviewed and revised by legal counsel for Developer and the City, and no presumption or rule that ambiguities may be construed against the drafting party apply to the interpretation or enforcement of this Agreement.

10.9. Agreement Constitutes Legislative Act. Developer acknowledges and agrees that City has approved and entered into this Agreement in the sole exercise of its legislative discretion and that the standard of review of the validity and meaning of this Agreement will be that accorded legislative acts of City.

10.10. Cooperation; Further Assurances. Each Party will: (a) deal fairly and in good faith with the other Parties; (b) not impede the other Parties' right to receive the benefits of this Agreement; (c) cooperate with and provide reasonable assistance to the other Parties in the performance of this Agreement; and (d) execute such documents or take such further actions as may be reasonably necessary to consummate the performance or to carry out the purpose and intent of this Agreement.

10.11. Counterparts. This Agreement, and any documents implementing this Agreement, may be executed in multiple counterpart originals, each of which is deemed to be an original and all of which when taken together shall constitute one and the same instrument.

10.12. Entire Agreement. The Recitals set forth above in this Agreement and the Exhibits attached hereto are incorporated by references into this Agreement as an integrated portion hereof. This Agreement, including all such Recitals and Exhibits, constitutes the entire agreement of the parties regarding the subject matter hereof, and all prior or contemporaneous agreements and understandings, whether written or oral, are superseded.

10.13. Governing Law/Jurisdiction. This will shall be governed, construed and enforced in accordance with the laws of the State of California, and the state courts of Los Angeles County have jurisdiction.

10.14. Legal Challenges—Defense and Indemnification.

10.14.1 Cooperation in the Event of a Legal Challenge

In the event of any administrative, legal or equitable action or other proceeding instituted by any person or entity not a party to the Agreement challenging the validity of any provision of this Agreement; challenging any agreement between City and other government agencies entered into at the request of Developer to facilitate the development of the Property; challenging any of the Project Approvals; or challenging the sufficiency of any environmental review of either this Agreement or any Approval under CEQA (each a "Third Party Challenge"), each party must cooperate in the defense of such Third Party Challenge, in accordance with this Section. In light of the Parties' mutual interests in successfully defending against a Third Party Challenge, the Parties will enter into a joint nondisclosure, indemnity, and litigation defense agreement, which, among other things, will require all communications between Developer and City concerning a

Third Party Challenge must be kept confidential and cannot be disclosed by either party without the written consent of the other party. Developer agrees to pay City's costs of defending a Third Party Challenge, including all court costs and reasonable attorney's fees expended by City (including the time and cost of the City Attorney) in defense of any Third Party Action, as well as the time of City's staff spent in connection with such defense. Developer may select its own legal counsel to represent Developer's interests in any Third Party Challenge at Developer's sole cost and expense. City agrees that it will not enter into a settlement agreement to any Third Party Challenge without Developer's written consent. Developer's obligation to pay City's costs in the defense of a Third Party Challenge does not extend to those costs incurred on appeal unless otherwise authorized by Developer in writing. If Developer elects, in its sole and absolute discretion, not to contest such litigation challenges, City does not have any obligation to contest such challenges. If City elects to contest such challenges after Developer elects not to contest, City will do so at its sole cost.

10.14.2 Third Party Challenges Related to the Applicability of City Laws.

The provisions of this Section will apply only in the event of a legal or equitable action or other proceeding, before a court of competent jurisdiction, instituted by any person or entity not a party to this Agreement challenging the applicability to the Project or Project Site of a conflicting City Law (a "Third Party Enforcement Action"):

10.14.3 Cooperation in Case of a Third Party Enforcement Action.

In the event of a Third Party Enforcement Action, City must (i) promptly notify Developer of such action or proceeding, and (ii) cooperate with Developer so as to most effectively respond to the Third Party Enforcement Action. In no event will City take any action that would frustrate, hinder, or otherwise complicate Developer's efforts to respond. The Parties to this Agreement agree to cooperate, to the maximum extent permitted by law, in the defense of such action or proceeding. For purposes of this Section, the required cooperation between the Parties includes, without limitation, developing litigation strategies, preparing litigation briefs and other related documents, conferring on all aspects of the litigation, developing settlement strategies, and, to the extent permitted by law, jointly making significant decisions related to the relevant litigation, throughout the course thereof. In light of the Parties' mutual interests in successfully defending against a Third Party Enforcement Action, all communications between Developer and City concerning a Third Party Enforcement Action must be kept confidential and cannot be disclosed by either party without the written consent of the other party.

10.14.4 Litigation Costs.

City's costs of defending any Third Party Enforcement Action, including all court costs, and reasonable attorney's fees expended by City (including the time and cost of the City Attorney) in defense of any Third Party Enforcement Action, as well as the time of City's staff spent in connection with such defense (the "Enforcement Action Defense Costs"), will be paid in accordance with this Agreement. Notwithstanding the forgoing, in no event will the Enforcement Action Defense Costs extend to, nor will Developer or the Project be obligated to pay, any costs incurred on appeal unless otherwise authorized by Developer in writing.

10.14.5Settlement.

City must not enter into a settlement agreement or take any other action to resolve any Third Party Enforcement Action without Developer's written consent. City cannot, without Developer's written consent, take any action that would frustrate, hinder or otherwise prevent Developer's efforts to settle or otherwise resolve any Third Party Enforcement Action.

10.14.6Effect of a Judgment.

Provided that City complies with this Section and provided that Developer is a party to the relevant Third Party Enforcement Action, Developer agrees to be bound by any final judgment (i.e., following all available appeals) arising out of a Third Party Enforcement Action and further agrees that no default under this Agreement will arise if such final judgment requires City to apply to the Project or Project Site a City Law that conflicts with Applicable Law or this Agreement.

10.14.7Defense and Indemnity.

Developer must defend and indemnify City from and against any and all damages, claims, costs and liabilities arising out of the personal injury or death of any third party, or damage to the property of any third party, to the extent such damages, claims, costs or liabilities result from the construction of the Project by Developer or by Developer's contractors, subcontractors, agents or employees. Nothing in this Section will be construed to mean that Developer must defend or indemnify City from or against any damages, claims, costs or liabilities arising from, or alleged to arise from, activities associated with the maintenance or repair by City or any other public agency of improvements that have been offered for dedication and accepted by City or such other public agency or for any other public improvements constructed by City or constructed by Developer at direction of City. City and Developer may from time to time enter into subdivision improvement agreements, as authorized by the Subdivision Map Act, which agreements may include defense and indemnity provisions different from those contained in this Section. In the event of any conflict between such provisions in any such subdivision improvement agreement and the provisions set forth above, the provisions of such subdivision improvement agreement will prevail.

10.14.8Effect on Term. The Term of this Agreement will be tolled from the initiation of any Litigation until final court action is taken in such Litigation.

10.15. Notices. All notices, demands, correspondence and communications ("Notice") shall be in writing and shall be either personally delivered or sent by certified mail, postage prepaid, return receipt requested, or delivered by a nationally recognized overnight courier service (which provides a delivery receipt), at the addresses set forth below. Any such Notice will be deemed received on the date of personal delivery or on the date of receipt (or refusal to accept delivery) set forth in the certified mail receipt if sent by U.S. mail or in the receipt provided by the overnight courier service if sent by such service.

City of Monterey Park
320 West Newmark Avenue
Monterey Park, CA 91754

Attn: Ron Bow, City Manager

with a copy to:

City of Monterey Park
320 West Newmark Avenue
Monterey Park, CA 91754

Attn: Karl H. Berger, City Attorney

Caster Properties, Inc.
_____
_____

Attn: _____

with a copy to:

Ervin, Cohen & Jessup, LLP
9401 Wilshire Boulevard, 9th Floor
Beverly Hills, CA 90212

Attn: Mr. Jeffrey T. Harlan, Esq.

10.16. Private Undertaking. It is expressly understood and agreed by the Parties the development contemplated by this Agreement is a private development, no Party is acting as the agent of any other Party in any respect hereunder, and Developer has full power and exclusive control over its properties subject only to the limitations and obligations of Developer under the Vested Rules and this Agreement. Nothing contained in this Agreement or in any document executed in connection with this Agreement will be construed as making City and Developer joint venturers or partners.

10.17. Recordation. City will use best efforts to record a Memorandum of this Agreement with the Los Angeles County Recorder within 10 days after the Effective Date, pursuant to Development Agreement Statute § 65868.5. Thereafter, if this Agreement is terminated, modified or amended as provided herein, the City will record notice of such action with the Los Angeles County Recorder.

10.18. Section Headings. Article and Section headings in this Agreement are inserted for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions of this Agreement.

10.19. Severability. If any provision or term of this Agreement, or the application of any provision or term of this Agreement to any particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, then the remainder of the Agreement is unaffected and will remain in full force and effect unless enforcement of the Agreement, with such invalidation, would be unreasonable or inequitable under the circumstances or would frustrate the purposes of the Agreement or the rights and obligations of the Parties there under.

10.20. Successors and Assigns; Covenants Running with the Land. Subject to the provisions of Section 7.1 governing assignment, the rights and obligations of Developer under this Agreement will be binding upon and inure to the benefit of successor Owners of all or any portion of the Property and shall be covenants running with the land.

10.21. Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns, including the Owners. No other Person has any right of action based upon any provision of this Agreement.

10.22. Unavoidable Delays or Events. In addition to specific provisions of this Agreement, performance by any Party hereunder shall not be deemed to be in default where delays or defaults are due to war, terrorism, pandemic, insurrection, riots, floods, earthquakes, fires, casualties, governmental restrictions imposed or mandated by governmental entities (but only as to delays or performance by Developer), enactment of conflicting state or federal laws or regulations (but only if the Party claiming delay complies at all times with the provisions of this Agreement pertaining to such conflicting laws), litigation against this Agreement or any of the Project Approvals, referendum of this Agreement or any of the Project Approvals or similar bases for excused performance ("Unavoidable Delay" or "Unavoidable Event"). Upon the occurrence of an Unavoidable Event, the time for performance will be extended, for the duration of the Unavoidable Delay. Notwithstanding the foregoing, none of the following constitutes an Unavoidable Event: (i) delays caused by market forces beyond the Parties' control; (ii) delays caused by the delay or failure by any entity other than the Party claiming such delay to provide financing for construction of the Project or any portion thereof; (iii) delays related to the cost or unavailability of financing, construction contractors, consultants, or labor; or (iv) delays related to economic conditions locally, regionally, statewide, nationwide, or worldwide.

10.23. Waiver. No waiver of any provision of this Agreement is effective unless it is in writing and signed by a duly authorized representative of the Party against whom enforcement of the waiver is sought. No waiver of any right or remedy is deemed a waiver of any right or remedy with respect to any other occurrence or event.

10.24. Authorization. Each person executing this Agreement represents and warrants that he or she is authorized and has the legal capacity to execute and deliver this Agreement on behalf of the Party for which execution has been made.

IN WITNESS WHEREOF, the Parties have executed this Development Agreement to be effective as of the Effective Date first set forth above.

"CITY"

CITY OF MONTEREY PARK
a municipal corporation

Dated: _____, 2021

By: _____
Yvonne Yiu, Mayor

ATTEST:

_____
Vincent D. Chang, City Clerk

APPROVED AS TO FORM:

_____
Karl H. Berger, City Attorney

"Developer"
BR Caster Corp.
a California corporation

Dated: _____, 2020

By: _____

APPROVED AS TO FORM:
ERVIN, COHEN & JESSUP, LLP

By: _____
Jeffrey T. Harlan, Esq.
Developer's Attorney

# Exhibit A:
# The Property

## EXHIBIT "A"

## LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF MONTEREY PARK, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THAT PORTION OF LOT 7 OF TRACT NO. 42611, IN THE CITY OF MONTEREY PARK, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 1012, PAGES 21 TO 27 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHERLY TERMINUS OF A LINE OF SAID LOT 7 THAT BEARS NORTH 0 DEGREES 02 MINUTES 40 SECONDS WEST 154.89 FEET; THENCE NORTH 0 DEGREES 02 MINUTES 40 SECONDS WEST 20.00 FEET; THENCE NORTH 30 DEGREES 57 MINUTES 00 SECONDS EAST 152.00 FEET TO THE POINT OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 633.00 FEET. TO WHICH A RADIAL LINE THROUGH SAID POINT BEARS NORTH 4 DEGREES 21 MINUTES 23 SECONDS EAST; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE 29 DEGREES 57 MINUTES 04 SECONDS AN ARC DISTANCE OF 330.90 FEET TO THE BEGINNING OF A COMPOUND CURVE CONCAVE WESTERLY HAVING A RADIUS OF 25.00 FEET TO WHICH A RADIAL LINE THROUGH SAID POINT BEARS NORTH 34 DEGREES 18 MINUTES 27 SECONDS EAST; THENCE SOUTHEASTERLY, SOUTHERLY AND SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 91 DEGREES 25 MINUTES 15 SECONDS AN ARC DISTANCE OF 39.89 FEET; THENCE SOUTH 35 DEGREES 43 MINUTES 42 SECONDS WEST 3.91 FEET; THENCE SOUTH 89 DEGREES 28 MINUTES 01 SECONDS WEST 390.79 FEET TO THE POINT OF BEGINNING.

EXCEPT ALL OIL, GAS, ASPHALTUM PETROLEUM, AND NATURAL GAS, TAR OR OTHER HYDROCARBON SUBSTANCES AND PRODUCTS, FROM UNDER OR UPON THE SAID LANDS WITH THE RIGHT TO REMOVE AND STORE AND SELL SUCH SUBSTANCES AND PRODUCTS THEREFROM TOGETHER WITH ALL RIGHTS FOR THE PURPOSE OF MINING, EXCAVATING BORING, DRILLING, SINKING OR OTHERWISE COLLECTING AND DEVELOPING SAID MINERAL SUBSTANCES AND RIGHT TO DEVELOP, STORE AND USE WATER FOR SUCH OPERATIONS AND DEVELOPMENT AS RESERVED IN DEED FROM HUNTINGTON LAND AND IMPROVEMENT COMPANY, A CALIFORNIA CORPORATION, RECORDED OCTOBER 25 1918 IN BOOK 6707 PAGE 300 OF DEEDS.

ALL OF WHICH RIGHTS WERE LIMITED TO THAT PORTION LYING BELOW A DEPTH OF 500 FEET MEASURED FROM THE SURFACE OF SAID LAND. BY DEED EXECUTED BY SECURITY PACIFIC NATIONAL BANK, A NATIONAL BANKING ASSOCIATION. SUCCESSOR BY MERGER TO SECURITY FIRST NATIONAL BANK OF LOS ANGELES, AS TRUSTEE UNDER THE WILL OF HENRY E. HUNTINGTON, DECEASED (TRUST NO. 2-018442-01), RECORDED DECEMBER 17, 1980 AS INSTRUMENT NO. 80-1264035.

ALSO EXCEPT AND RESERVE ALL OIL, GAS, AND OTHER HYDROCARBON SUBSTANCES AND ALL OTHER MINERALS IN AND FROM THE LAND DESCRIBED IN DEED MENTIONED HEREINAFTER. PROVIDED, HOWEVER NO RIGHT IS RESERVED TO ENTER ON OR FROM THE SURFACE OF SAID LAND, THE RIGHT TO ENTER THE SUBSURFACE OF SAID PROPERTY WHICH IS ALSO RESERVED SHALL BE AT ANY POINT BELOW A DEPTH OF 500 FEET FROM THE SURFACE THEREOF (MEASURED VERTICALLY FROM THE SURFACE THEREOF) IN ORDER TO TAKE FROM SAID LAND AND REDUCE TO POSSESSION ANY OIL, GAS AND OTHER HYDROCARBON SUBSTANCES AND ALL OTHER MINERALS, AS EXCEPTED AND RESERVED BY CLARA HELLMAN HELLER, A WIDOW, ET AL., IN DEED TO BOBWILL BUILDING CO., A CORPORATION, RECORDED SEPTEMBER 13, 1955 IN BOOK 48924 PAGE 346, OFFICIAL RECORDS.

APN: **5237-024-061**

**Exhibit B**
**CEQA Technical Studies**

1. Noise Technical Memorandum, Taha Environmental Planners, October 19, 2020
2. Air Quality Analysis, Taha Environmental Planners, October 20, 2020
3. Green House Gas Emissions, Taha Environmental Planners, October 20, 2020
4. Low Impact Development and Drainage Study, K & S Engineering, April 24, 2020
5. Geotechnical Analysis, Southern California Geotechnical, September 30, 2019
6. Phase 1 Environmental Site Assessment, Partner Environmental, April 12, 2017
7. Traffic Impact Study, Linscott Law and Greenspan, April 21, 2020
8. Vehicle Miles Traveled Memorandum, Linscott Law and Greenspan, September 8, 2020

**Exhibit C**

**DEVELOPMENT AGREEMENT 2500**

**DAVIDSON DRIVE**

In addition to all applicable provisions of the Monterey Park Municipal Code ("MPMC"), BR Caster Corp., (A-1 Self Storage) agrees that it will comply with the following conditions for the City of Monterey Park's approval of DA-20-01 Development Agreement ("Project Conditions").

PLANNING:

1. BR Caster Corp., (A-1 Self Storage) ("Applicant") agrees to indemnify and hold the City harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising from the City's approval of DA-20-01 except for such loss or damage arising from the City's sole negligence or willful misconduct. Should the City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of the City approval of DA-20-01, the Applicant agrees to defend the City (at the City's request and with counsel satisfactory to the City) and will indemnify the City for any judgment rendered against it or any sums paid out in settlement or otherwise. For purposes of this section "the City" includes the City of Monterey Park's elected officials, appointed officials, officers, and employees.

2. This approval is for the project as shown on the plans reviewed and approved by the City Council, dated October 28, 2020. Before the City issues a building permit, the Applicant must submit building plans showing that the project substantially complies with the plans referenced in this Resolution. Any subsequent modification must be referred to the City Planner for a determination regarding the need for Planning Commission review and approval of the proposed modification.

3. All conditions of approval must be listed on the plans submitted for plan check and on the plans for which a building permit is issued.

4. Before building permits are issued, the applicant must obtain all the necessary approvals, licenses and permits and pay all the appropriate fees as required by the City.

5. Before the City issues a certificate of occupancy, the Applicant must comply with all applicable development standards of the S-C (Shopping Center) zone unless otherwise granted under DA-20-01 and those set forth in the MPMC.

6. The real property subject to DA-20-01 must remain well-maintained and free of graffiti.

7. Building permits are required for any interior tenant improvements.

8. Landscaping/irrigation must be maintained in good condition at all times.

9. Landscaping for the project must be designed to comply with the MPMC's regulations governing efficient landscaping.

ENGINEERING:

10. Under the Los Angeles County Municipal Separate Storm Sewer System (MS4) Permit, issued under the National Pollutant Discharge Elimination System (NPDES) Program, the developer/owner is required to obtain a General Construction Storm Water Permit. This project will require the preparation of a Low Impact Development (LID) Plan and a Storm Water Pollution Prevention Plan (SWPPP). Upon approval of these plans, the developer/owner must submit an electronic copy of the approved files, including site drawings, prior to the issuance of a building or grading permit.

11. Prior to grading permit issuance, the developer must record with LA County Recorder's Office Master Covenant and Agreement as part of the MS4 Permit.

12. Prior to grading permit issuance, the developer must record with LA County Recorder's Office Master Covenant and Agreement. The developer/owner is responsible for ascertaining and paying all City development fees such as, but not limited to, sewer deficiency fees, water meter fees and metered water service impact fees as required by MPMC. A sewer connection reconstruction fee will be assessed at the time of issuance of a building permit in accordance with the provisions of Chapter 14.06 of the Municipal Code.

13. All improvement plans, including grading and public improvement plans must be based upon City approved datum. Benchmark references to be obtained from the Engineering Division.

14. As part of the water improvements (fire/domestic); the developer or his engineer must substantiate adequate water service for domestic flow, fire flow and identify backflow prevention.

15. A site drainage plan must be prepared for review and approval by the City Engineer. The property drainage must be designed so that the property drains to an approved device and subsequently to the street as appropriate or in a manner otherwise acceptable to the City Engineer. Drainage from contiguous properties must not be blocked and must be accommodated to the satisfaction of the City Engineer. A hydrology and hydraulic study of the site may be required for submittal to the City Engineer for review and approval.

16. The grading and drainage plan must incorporate all pertinent site development recommendations from the approved geological and geotechnical report submitted by the developer's consultant.

17. Project must install sidewalk along entire property frontage of Davidson Drive. Any damaged curb and gutter must be replaced.

18. All public works improvements must comply with the standards and specifications of the City and to the satisfaction of the City Engineer. All public works improvements must be completed and accepted by the City prior to the issuance of the certificate of occupancy.

19. This project must install of ADA compliant curb ramps at the two corners of the intersection of Davidson Drive and Monterey Pass Road.

20. All electric, telephone and cable TV utility services must be installed fully underground from the right-of-way to the site. Satisfactory provisions for all other utilities and service connections, including water, sewer and gas, must be made to City and public utility standards.

21. The developer must comply with the recommendations of the Transportation Impact Study prepared by Linscott Law & Greenspan, date April 21, 2020. Under Section 11 of the study, it is determined that the westbound left-turn egress movement would be restricted at the project driveway. This restriction may be lifted if adequate line of sight is demonstrated to be achievable during development to the satisfaction of City Engineer.

FIRE:

22. The minimum required fire flow is 6,000 gpm at 20 psi for a 4 hour duration. Plan submittal shall include fire low test data obtain within six months of the submittal date. The fire flow may be reduced by 50 per cent by written request to MPFD. **CFC App B.**

23. Prior to fire approval and/or map recordation, the applicant shall provide to the Fire Department, verification from the water purveyor that the water purveyor can provide the required fire flow of 6,000 gallons per minute at 20 psi for a minimum a 4-hour duration.

24. Prior to combustible construction on any parcel, a fire hydrant capable of providing 1,000 gallons per minute at 20 psi shall be provided and in service along the access road/driveway at a location approved by the Fire Code Official, but no further than 250 feet from the construction site. **The owner of the combustible construction is responsible for the cost of this installation.**

25. Provide an approved Class I standpipe system in all stairwells on all levels including the roof as set forth by the Fire Code 905.

26. Provide an approved automatic fire sprinkler system and fire alarm as set forth by Fire Code 903 and 907.

27. The Fire Department Connection shall be located no more than 100 feet away from a fire hydrant. **CFC 507.5.1.1**

28. An Emergency Responder Radio Coverage System shall be provided per Fire Code 510.

29. At least one elevator shall provide general stretcher dimensions and extend to the top floor. CBC 3002.4a

30. Stairwell I shall be provided with an exterior access door. **CFC 504.1**

31. Knox boxes shall be provided adjacent to the main entrances, Fire Control rooms, and at stairwells at approved locations. **CFC 506.1**

32. Provide a minimum of one standpipe system for use during construction. Such standpipe shall be installed when the progress of construction is not more than 40 feet in height above the lowest level of fire department access. **CFC 3313**

POLICE:

33. Adequate exterior lighting shall be provided/maintained so that the area is visible from the street during the hours of darkness. At all times, all hallways, all stairwells, and any garage/carport, guest parking areas and parking entrances shall be well lit to deter any criminal activity. There shall also be adequate lighting in all common areas of the facility. During non-business hours motion sensor activated lights maybe used in the interior areas of the facility in order to reduce electricity usage.

34. Access to the roof of the building will be locked and secured. Access to the roof will be restricted to maintenance personnel, building management, or other authorized personnel.

35. The shrubbery on the property shall be installed and maintained in such condition to permit good visibility of the units from the streets. Any shrubbery surrounding the complex shall be planted and maintained where the height of the greenery would not easily conceal persons.

36. Due to the high probability of theft associated with storage facilities an alarm system shall be installed at the main entrances and exits to the facility/lobby. In addition to the security alarm system, access control points/panels shall be installed on the entrances/gates/doors to the storage units in order to prevent unauthorized access to the common areas of the facility. These devices will serve as a deterrent to criminal activity and allow notification of the police and security in the event of any such attempt. Contact the Monterey Park Police Department Community Relations Bureau at (626) 307-1215 for additional information and alarm permits.

37. Due to the nature of this business and the high probability of theft and or burglary at storage facilities a camera surveillance/security system shall be installed covering

the interior and exterior areas of the property such as the driveway, entrances and exits to the property, common hallways, and exterior storage units, or other areas where property may be kept. The video surveillance/security should operate 24 hours a day, seven days a week. All cameras should record onto a recording medium and all recordings should be maintained in a secure and locked enclosure. It is recommended that recordings be maintained for a minimum of 30 days and made readily available for any law enforcement official who requests the recording(s) for official purposes. The permittee must submit plans to the Police Chief, or designee, demonstrating that the Project has adequate exterior lighting. The Police Chief, or designee, must approve the location and light intensity before the City issues a certificate of occupancy.

38. The below California Fire Code pertaining to radio coverage shall apply to the Police Department's radio communications also:

    a. 510.1 Emergency responder radio coverage in new buildings. Approved radio coverage for emergency responders shall be provided within all buildings meeting any one of the following conditions:

        i. There are more than 3 stories above grade plane ( as defined by the Building Code Section 202);

        ii. The total building area is 30,000 square feet or more;

        iii. The total basement area is 5,000 square feet or more;

        iv. Where required by the fire code official and radio coverage signal strength levels are not consistent with the minimum levels set forth in Section

MISCELLANEOUS:

39. The applicant/owner is responsible for ascertaining and paying all City fees and costs required by MPMC including, without limitation, legal costs associated with processing this CUP. All fees must be paid before the City issues a final certificate of occupancy.

By signing this document, Tom Kearney, on behalf of BR Caster Corp., certifies that the Applicant read, understood, and agrees to the Project Conditions listed in this document.

Tom Kearney 2-8-2021

Tom Kearney, on behalf of BR Caster Corp. (A-1 Self-Storage), Applicant

**Exhibit D**
**Approved Development Standards**

SUMMARY:

PERMITTED LAND USES:

The Property will be used for a self-storage facility.

INTENSITY OF USE:

The Project involves the development of a multi-story self-storage facility with a gross total building area of 107,850 square feet on the 40,674 square foot site. The proposed Floor Area Ratio ("FAR") is 2.65.

MAXIMUM HEIGHT AND SIZE OF BUILDINGS:

The Project height is 36 Feet

The multi-level building (three stories above three cellar levels) has a gross floor area of 107,850 square feet. Total parking provided is 13 spaces.

(SEE ATTACHED BUILDING & SITE DEVELOPMENT PLANS)

# Exhibit E

**Fee Estimate**[4]

**Development Impact Fee ("DIF")** ***(Fees to increase July 1, 2021)***

| | | Rate | Sq/ft | Fee | |
|---|---|---|---|---|---|
| Law Enforcement | $ | 0.043 | 107,850 | $ | 4,637.55 |
| Fire Supression/Medic | $ | 0.016 | 107,850 | $ | 1,725.60 |
| Public Meeting Facilities | $ | - | 107,850 | $ | - |
| Library Facilities and Collection | $ | - | 107,850 | $ | - |
| Water Distribution | $ | 0.328 | 107,850 | $ | 35,374.80 |
| Sewer Collection | $ | 0.059 | 107,850 | $ | 6,363.15 |
| Aquatics Facilities | $ | - | 107,850 | $ | - |
| Park Land Improvements | $ | 0.028 | 107,850 | $ | 3,019.80 |
| Circulation | $ | 1.109 | 107,850 | $ | 119,605.65 |
| **Total Development Impact Fees** | **$** | **1.583** | **107,850** | **$** | **170,726.55** |

**Plan Check Fees**

| | | | |
|---|---|---|---|
| Building | *Building/Electrical/Mechanical/Plumbing Plan* | $ | 88,640.00 |
| Fire | | $ | 1,773.00 |
| Public Works | *(Consultant Estimate)* | $ | 9,100.00 |
| **Total Plan Check Fees** | | **$** | **99,513.00** |

**Permit and Inspection Fees**

| | | | |
|---|---|---|---|
| Building | *Building/Electrical/Mechanical/Plumbing Plan* | $ | 102,270.00 |
| Public Works | *Permit* | $ | 625.00 |
| Public Works | *Inspection* | $ | 4,000.00 |
| **Total Plan Check Fees** | | **$** | **106,895.00** |

**Misc. Fees**

| | | | |
|---|---|---|---|
| Record Management | | $ | 6,038.00 |
| General Plan Revision | | $ | 12,075.00 |
| Strong Motion Tax | | $ | 1,268.00 |
| Green | | $ | 242.00 |
| **Total Misc. Fees** | | **$** | **19,623.00** |

**Water and Fire Connection Fees**

| | | | |
|---|---|---|---|
| Water and Fire Connection Fees | | $ | 24,570.00 |
| **Total Connection Fees** | | **$** | **24,570.00** |

**School Fees**

| | | | |
|---|---|---|---|
| *School Impact Fee (Estimate) (Fees determined by applicable school district)* | | $ | 67,237.00 |
| **Total School Fees** | | **$** | **67,237.00** |

**County Sanitation Fee**

| | | |
|---|---|---|
| *Sanitation Fee (Estimate)* | $ | 6,958.00 |
| **Total County Sanitation Fee** | **$** | **6,958.00** |
| | | |
| **Total Estimated Fees** | **$** | **495,522.55** |

[4] The fees listed are an estimate only; the final amounts may be different. These fees do not include time and materials costs associated with processing the Project or administrative costs including, without limitation, third-party consultants and legal fees. All such amounts must be paid before the City issues a building permit.

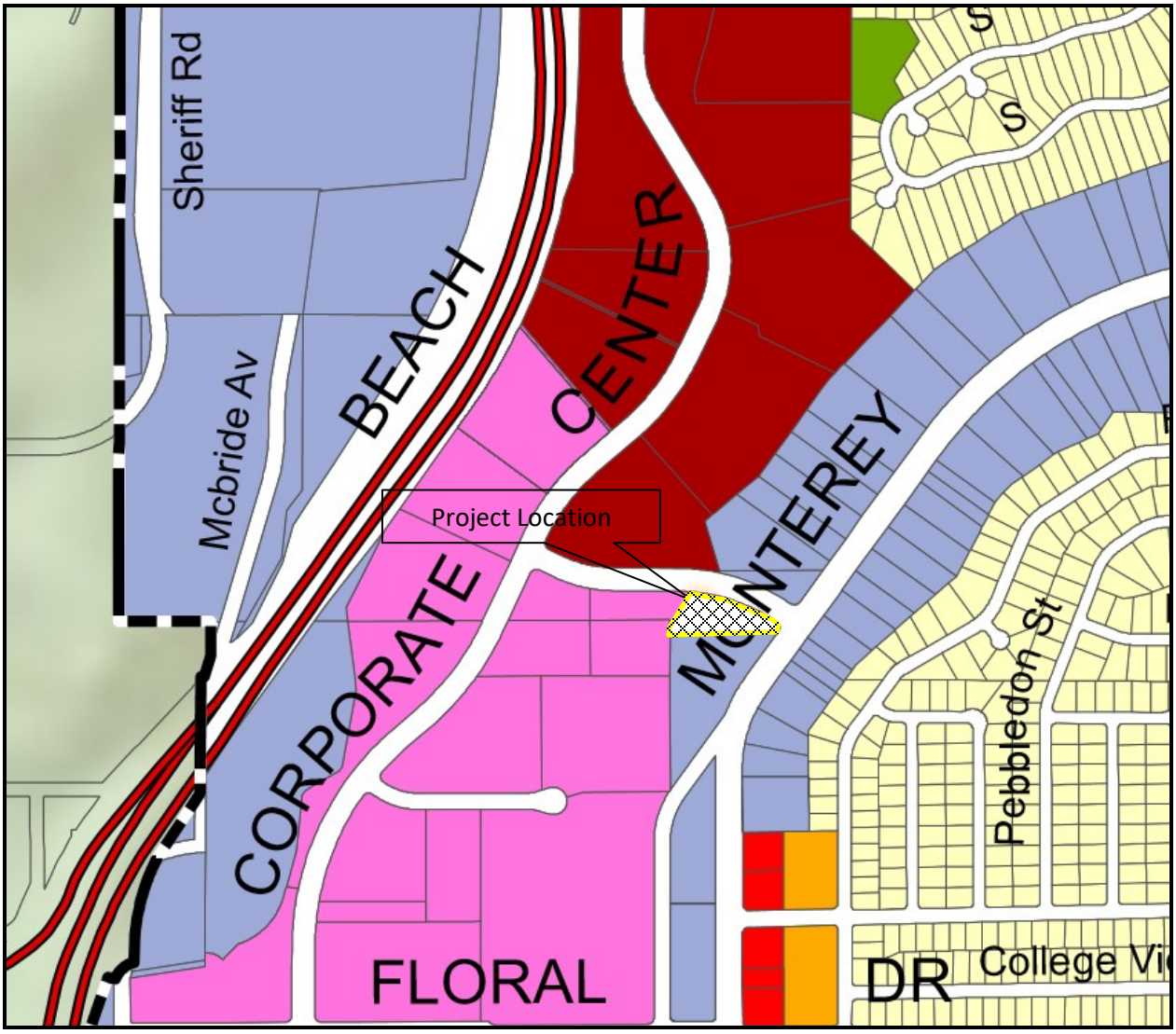
**Exhibit B to Ordinance**

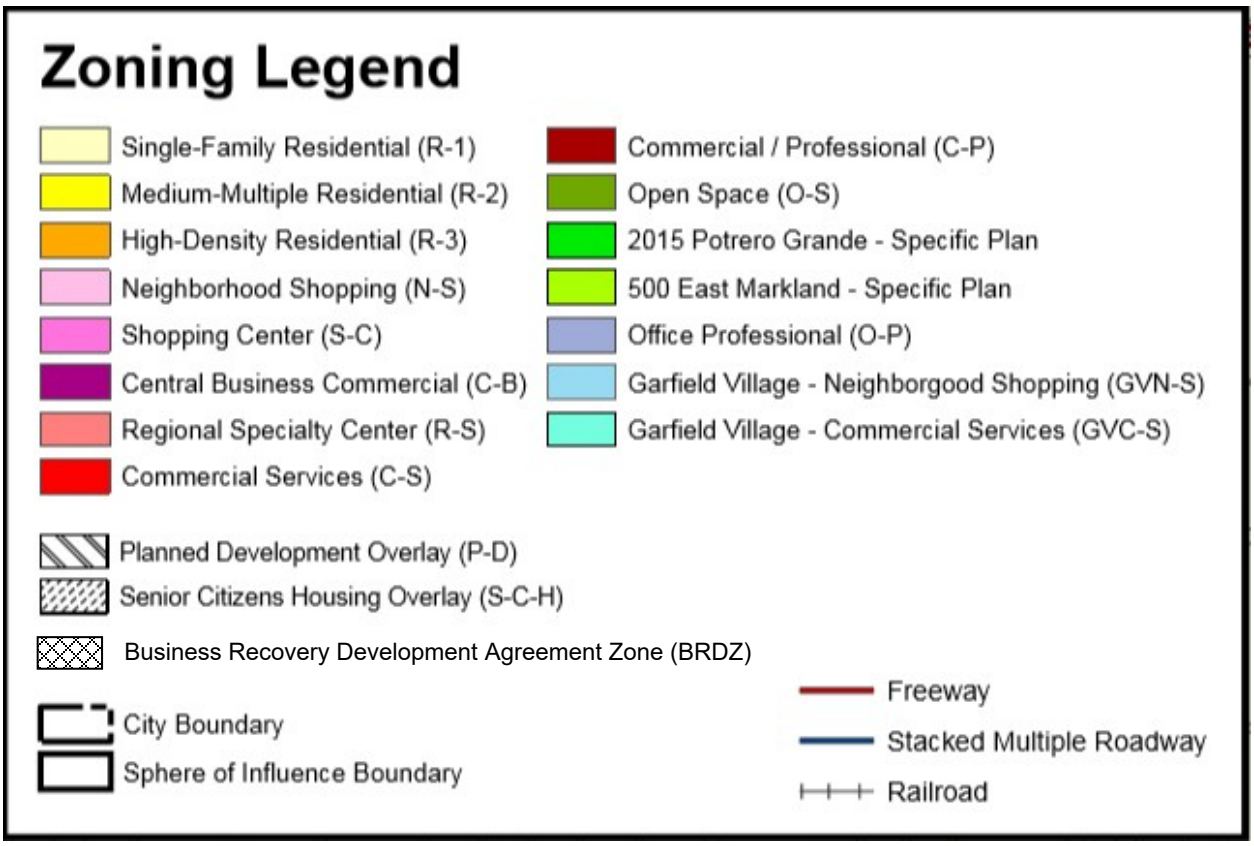
**Zone Map Amendment**

**2500 Davidson Drive**

**Existing Zone: S-C**

**Proposed Zone: S-C with BRDZ Overlay**




Zoning Legend
Single-Family Residential (R-1)
Medium-Multiple Residential (R-2)
High-Density Residential (R-3)
Neighborhood Shopping (N-S)
Shopping Center (S-C)
Central Business Commercial (C-B)
Regional Specialty Center (R-S)
Commercial Services (C-S)
Commercial / Professional (C-P)
Open Space (O-S)
2015 Potrero Grande - Specific Plan
500 East Markland - Specific Plan
Office Professional (O-P)
Garfield Village - Neighborgood Shopping (GVN-S)
Garfield Village - Commercial Services (GVC-S)
Planned Development Overlay (P-D)
Senior Citizens Housing Overlay (S-C-H)
Business Recovery Development Agreement Zone (BRDZ)
City Boundary
Sphere of Influence Boundary
Freeway
Stacked Multiple Roadway
Railroad

# ATTACHMENT 2
March 17, 2021 Staff Report

# City Council Staff Report

**DATE:** March 17, 2021

**AGENDA ITEM NO:** Public Hearing
Agenda Item 4A

**TO:** The Honorable Mayor and Members of the City Council

**FROM:** Frank A. Lopez, Interim Director of Public Works/City Engineer/City Planner

**SUBJECT:** A Public Hearing to introduce and consider an ordinance approving a Development Agreement (DA-20-01) by and between the City of Monterey Park and BR Caster Corp. to facilitate development of a structure for self-storage units; to activate the Business Recovery Development Agreement Zone ("BRDZ") in Monterey Park Municipal Code Chapter 21.45; and to amend the zone map.

**RECOMMENDATION:**

It is recommended that the City Council consider:

(1) Opening the public hearing;
(2) Receiving documentary and testimonial evidence;
(3) Closing the public hearing;
(4) Introducing and waiving first reading of an ordinance adopting DA-20-01. Second reading and adoption would occur on April 7, 2021. The DA would become effective May 7, 2021; and
(5) Taking such additional, related action that may be desirable.

**EXECUTIVE SUMMARY:**

This matter was previously considered at a public hearing conducted on February 17, 2021. A copy of the staff report from that meeting is attached for reference (without its attachments).

Second reading and adoption was scheduled for March 3, 2021. Through inadvertence, the item did not get placed onto that agenda; ordinances may only be adopted at a regular meeting.

When the issue was identified on March 1st, there was insufficient time (agendas must be posted 72 hours in advance of a regular meeting) to amend the already posted agenda. Accordingly, this matter must be again considered for introduction and first reading.

Other than changing the dates in the draft documents, there are no other changes from the February 17, 2021 meeting.

Respectfully submitted by:

Frank A. Lopez
Interim Director of Public Works /
City Engineer / City Planner

Prepared by:

Jason Moquin
Planning Manager

Reviewed by:

Karl H. Berger
City Attorney

Reviewed by:

Martha Garcia
Director of Management Services

Approved by:

Ron Bow
City Manager

**ATTACHMENTS:**

Attachment 1: February 17, 2021 Staff Report (without attachments)
Attachment 2: Draft Ordinance, Development Agreement, and Exhibits

**ATTACHMENT 1**

February 17, 2021 Staff Report (without attachments)

# City Council Staff Report

**DATE:** February 17, 2021

**AGENDA ITEM NO:** Public Hearing
Agenda Item 4-A

**TO:** The Honorable Mayor and Members of the City Council

**FROM:** Frank A. Lopez, Interim Director of Public Works/City Engineer/City Planner

**SUBJECT:** A Public Hearing to consider an ordinance approving a Development Agreement (DA-20-01) by and between the City of Monterey Park and BR Caster Corp. to facilitate development of a structure for self-storage units; to activate the Business Recovery Development Agreement Zone ("brdz") in Monterey Park Municipal Code Chapter 21.45; and to amend the zone map.

## RECOMMENDATION:

It is recommended that the City Council consider:

(1) Opening the public hearing continued from February 3, 2021;
(2) Receiving documentary and testimonial evidence;
(3) Closing the public hearing;
(4) Introducing and waiving first reading of an ordinance adopting DA-20-01. Second reading and adoption would occur on March 3, 2021. The DA would become effective April 3, 2021; and
(5) Taking such additional, related action that may be desirable.

## CEQA (California Environmental Quality Act):

The Project is categorically exempt from additional environmental review pursuant to CEQA Guidelines § 15332 as a Class 32 categorical exemption (In-Fill Development Projects). The Project consists of constructing a self-storage facility on a vacant 0.93 acre triangular shaped lot surrounded by existing development. Other than activating the BRDZ via the draft Development Agreement, there are no proposed changes to the General Plan nor the zoning. The Project site has no value as habitat for endangered, rare or threatened species. The technical studies prepared for the Project demonstrate there will not be any significant environmental effects relating to traffic, noise, air quality, or water quality. Finally, the Project can be adequately served by all required utilities and public services.

## EXECUTIVE SUMMARY:

BR Caster Corp., (A-1 Self-Storage) seeks to enter into a Development Agreement (DA-20-01) with the City to activate the Business Recovery Development Agreement Zone ("BRDZ") to allow self-storage as a permitted use in the S-C zone. This would allow construction of a 107,850 square foot self-storage facility on 0.93 acres located at 2500 Davidson Drive. The facility will consist of five stories, two of which are below grade and

three above-grade. The self-storage facility is designed with all storage units accessible from interior corridors with the overall architecture and design incorporating both commercial store-front and industrial architectural elements with smooth masonry finishes, accented by smooth metal panels, siding and coping with the primary building entrance designed with aluminum framed tinted glazing. Thirteen parking spaces situated around the perimeter of the parking courtyard are proposed (which meets zoning requirements) along with four recessed loading bays with direct access to the Project's interior corridors and freight style elevators. The Project's access is adorned with decorative paving and a masonry wall along Davidson Drive which serves to screen the interior courtyard and loading areas. The perimeter of the project site is densely landscaped with a variety trees, shrubs and groundcover.

**BACKGROUND AND ANALYSIS:**

2500 Davidson Drive is an undeveloped parcel bound by Monterey Pass Road and Davidson Drive ("Project Site"). BR Caster Corp. dba A-1 Self Storage ("Applicant") seeks to construct a 107,850 square foot self-storage facility. The S-C zone currently prohibits self-storage facilities. The Monterey Park Business Recovery Program ("BRP"), however, established the BRDZ which allows the Applicant to construct the Project by activating the BRDZ using a Development Agreement (DA-20-01). If approved, the Project will result in improving an underutilized parcel within an existing commercial/light industrial corridor and further serves to implement the BRP to stimulate economic growth, jobs and provided needed storage space for the City's residents and businesses.

Overall, the Project is well designed and meets the development standards required by the S-C zone and those amended by DA-20-01 which is further discussed in the Site Plan section of this report. The architecture utilizes a variety of building materials which are attractive and compatible with surrounding buildings. The proposed use is compatible with the other uses in the S-C zone and consistent with the City's Innovation/Technology General Plan designation. Therefore, staff recommends approval of DA-20-01, thereby entering into a Development Agreement with Caster Properties to implement the BRDZ and the approval to construct a 107,850 square foot self-storage facility based on the findings and conditions of approval in the attached resolution.

**Site Plan:**

As shown in Exhibit A-1.1, the project site is situated at the southwest corner of Davidson Drive and Monterey Pass Road. As proposed, the Project results in a Floor Area Ratio (F.A.R.) of 2.65. Ordinarily, the S-C zone limits the F.A.R. to .80 or as in this case the 40,510 square foot site would be limited to only 32,408.6 square feet of floor area. In accordance with the proposed Development Agreement the applicant is seeking to establish a F.A.R of 2.65 for the project site. Although this F.A.R. exceeds that established by the S-C zone, the overall design is capable of maintaining the natural open spaces areas situated to the west of the site and at the northeast boundary with an architectural and landscape design that breaks of the massing of the building

while maintain the required setbacks along Davidson Drive and Monterey Pass Road. The building is setback 15 feet from the existing Davidson Drive right-of-way, and approximately 61 feet from Monterey Pass Road.

Access is provided by a single 30-foor wide drive-way from Davidson Drive with the projects internal circulation designed as a courtyard with standard vehicle parking located along the perimeter of the courtyard. The internal storage units span east and west from the project entry with the project's office situated within the easterly portion of the building.

**Architecture:**
The modern style architecture compliments and accommodates the natural topography of the Project site which results in two below grade levels and three at grade and above levels. The Building has an overall height of 35 feet with a small tower element having a height of 36 feet. This is less than the 40-feet maximum regulated in the S-C Zone. The varied flat roof lines and architectural features provide for horizontal and vertical reliefs in the building massing.

As shown in Exhibit A-4.1 and A-4.2, the building's north, east, west and south elevations consist of smooth masonry finish accented by smooth and corrugated metal panels and siding with the east elevation further enhanced with aluminum framed glazing.

**Landscaping:**
The project's landscaping preserves the mature trees along the westerly boundary of the project site with the projects building setback along Davidson Drive, Monterey Pass Road and the southerly building elevation are accented with a variety of trees, shrubs, and groundcover. The plans materials and irrigation are required to be consistent with the city's landscape standards prescribed for commercial development and implement a planting pallet that meets the city's and state's water conservation goals.

## OTHER ITEMS:

Legal Notification

The legal notice of this hearing was posted at City Hall, Monterey Park Bruggemeyer Library, and Langley Center and published in the Monterey Park Press on **January 21, 2021**, with affidavits of posting and publication on file. The public hearing was opened at the February 3, 2021 City Council Meeting and continued to the February 17, 2021 to provide staff and the applicant additional time to review the proposed Development Agreement and Conditions of Approval.

Aerial Map




**FISCAL IMPACT:**
There will be an anticipated increase in property, sales, and business license tax revenue upon development of the project site.

Respectfully submitted by:

Frank A. Lopez
Interim Director of Public Works /
City Engineer / City Planner

Prepared by:

Jason Moquin
Planning Manager

Reviewed by:

Karl H. Berger
City Attorney

Reviewed by:

Martha Garcia
Director of Management Services

Approved by:

Ron Bow
City Manager

**ATTACHMENTS:**

Attachment 1: Draft Ordinance Development Agreement and Exhibits
Attachment 2: Architectural Plans

**ATTACHMENT 2**

Draft Ordinance, Development Agreement and Exhibits

**ORDINANCE NO. _____**

**AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF MONTEREY PARK AND BR CASTER CORP. TO FACILITATE DEVELOPMENT OF A STRUCTURE FOR SELF-STORAGE UNITS; TO ACTIVATE THE BUSINESS RECOVERY DEVELOPMENT AGREEMENT ZONE ("BRDZ") IN MONTEREY PARK MUNICIPAL CODE CHAPTER 21.45; AND TO AMEND THE ZONE MAP.**

**THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:**

SECTION 1. *Recitals*. The City Council finds and declares as follows:

A. BR Caster Corp., ("Developer") proposes to enter into a development agreement with the City of Monterey Park (the "Development Agreement"), which is attached to this Ordinance as Exhibit "A," and incorporated by reference.

B. The Development Agreement activates the Business Recovery Development Agreement Zone ("BRDZ") which allows the Developer to construct a proposed 107,850 square foot self-storage facility (the Project") on 0.93 acres located at 2500 Davidson Drive (the "Property"). The proposed Project was reviewed by the City for, in part, consistency with the General Plan and conformity with the MPMC;

C. In addition, the City reviewed the Project's environmental impacts under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq*., "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq*., the "CEQA Guidelines");

D. The City completed its review and scheduled a public hearing regarding the proposed Project, before the City Council for March 17, 2021. Notice of the public hearing on the proposed Project was posted and mailed as required by the MPMC;

E. On March 17, 2021, the City Council conducted a public hearing to consider the Project including, without limitation, this Ordinance and the Development Agreement;

F. The City Council reviewed the proposed project, conditions of approval, and related environmental aspects of the Project as required by the MPMC at the March 17, 2021 public hearing; and

G. The City Council has carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearing of March 17, 2021; and

H. This Ordinance, and its findings, are based upon the entire administrative record considered during the March 17, 2021 public hearing including, without limitation, the staff report and accompanying documents.

SECTION 2. *Findings*. Pursuant to Government Code § 65867.5, the City Council finds the following:

A. The Development Agreement is consistent with the General Plan of the City of Monterey Park. The Development Agreement furthers the goals of the General Plan and is in the interest of the general community welfare in that the Development Agreement will, among other things, facilitate the development of the subject site that is currently vacant and underutilized, which is consistent with the following General Plan policies:

    1. LU Policy 1.1 – to ensure zoning regulations provide flexibility regarding allowed uses.

    2. LU Policy 2.1 – to provide flexible and clear development standards to allow commercial, professional, industrial institutional, and hospitality businesses and uses to expand and thrive economically.

    3. LU Policy 24.1 – to ensure zoning regulations applicable to Monterey Pass Road corridor permit the range of uses necessary to achieve land use goals and prohibit uses that conflict with those goals, including prohibition of warehousing and truck-related uses.

B. The Development Agreement also provides certainty in planning and construction as well as orderly development, while providing assurance to the Applicant that it may construct the Project.

SECTION 3. *Environmental Review*. The City reviewed the Project's environmental impacts under the California Environmental Quality Act (Pub. Res. Code §§ 21000, *et seq*., "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Reg. §§ 15000-15387; the “CEQA Guidelines”). The Project is categorically exempt from additional environmental review pursuant to CEQA Guidelines § 15332 as a Class 32 categorical exemption (In-Fill Development Projects). The Project consists of constructing a self-storage facility on a vacant 0.93 acre triangular shaped lot surrounded by existing development. Other than activating the BRDZ via the Development Agreement, there are no proposed changes to the General Plan nor the zoning. The Project site has no value as habitat for endangered, rare or threatened species. The technical studies prepared for the Project demonstrate there will not be

any significant environmental effects relating to traffic, noise, air quality, or water quality. Finally, the Project can be adequately served by all required utilities and public services.

SECTION 4. *Notice of Determination*. The City Manager, or designee, is directed to file a notice of determination in accordance with CEQA §§ 21152, 21167(f); CEQA Guidelines § 15094; and any other applicable law.

SECTION 5. *General Plan and Zoning*. The proposed project conforms to the Monterey Park General Plan, as set forth in Section 2. In addition, the proposed Project results in the development of a 107,850 square foot self storage facility on a underutilized parcel which is topographically constrained within the city and includes provisions intended to ensure that such development will be of high-quality architectural.

SECTION 6. *Public Benefits.* The Development Agreement provides for public benefits including, without limitation:

A. Development of a topographically challenged, and high-visibility remnant site at the intersection of Davidson Drive and Monterey Pass Road. The site has been vacant for 36 years.

B. Development of a land use with very low impacts on existing infrastructure and minimal burdens on surrounding properties.

C. Generation of retail sales tax and property tax.

D. Improvement of the public right-of-way on Davidson Drive.

E. Construction and Improvement of pedestrian and disabled access at the intersection of Davidson Drive and Monterey Pass Road.

F. Installation of enhanced landscaping at a high-visibility corner where the Monterey Pass Road corridor and Corporate Center intersect.

G. The development provides screening of the adjacent Southern California Edison Sub-station.

SECTION 7. *Incorporation of Development Agreement; Changes; Execution*. In accordance with Government Code §§ 65864, *et seq*. this Ordinance approves the Development Agreement in substantially the form attached as Exhibit “A,” and incorporated into this Ordinance by reference.

A. The DA may be changed before execution as authorized by the City Council during the public hearings for the Project.

B. The DA may be changed before execution for minor clarifications and technical, clerical, corrections as approved by the City Attorney including, without limitation, completion of references, status of planning approvals, and completion and conformity of all exhibits to the DA.

C. The City Council authorizes the Mayor to execute the DA on the City's behalf. The City Manager, or designee, is authorized to execute amendments or operative memoranda as permitted by the DA, in a form approved by the City Attorney.

SECTION 8. *BRDZ Activation*. Pursuant to MPMC § 21.45, the BRDZ is activated for the Project Site identified in the DA. Combined with the regulations governing the Project Site by the MPMC, the DA will regulate all land uses on the Project Site.

SECTION 9. *Zone Map Amendment*. Pursuant to MPMC § 21.45.020 (F), the Monterey Park Zoning Map is amended to reflect the BRDZ overlays as set forth in attached Exhibit "B," which is incorporated by reference.

SECTION 10. *Construction*. This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 11. *Enforceability*. Repeal of any provision of the Monterey Park Municipal Code does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 12. *Reliance on Record*. Each and every one of the findings and determinations in this Ordinance are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the matter. The determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 13. *Limitations*. The City Council's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the City Council's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the City's ability to solve what are in effect regional, state, and national problems and

issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

SECTION 14. *Severability*. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 15. *Electronic Signatures*. This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 16. *Publications*. The City Clerk is directed to certify the passage and adoption of this Ordinance; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 17. *Recording.* The City Clerk is directed to certify the passage and adoption of this Ordinance, cause it to be entered into the City of Monterey Park's book of original ordinances, make a note of the passage and adoption in the records of this meeting, and, within fifteen days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 18. *Effective Date.* This Ordinance becomes effective on the 30th day following its passage and adoption.

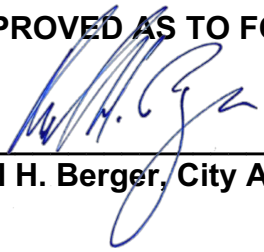
**ORDINANCE NO. ___ HAD ITS FIRST READING ON MARCH 17, 2021, ITS SECOND READING ON APRIL 7, 2021, AND WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MONTEREY PARK AT ITS REGULAR MEETING OF APRIL 7, 2021.**

_____
**Yvonne Yiu, Mayor**

**ATTEST:**

_____
**Vincent D. Chang, City Clerk**

**APPROVED AS TO FORM:**



**Karl H. Berger, City Attorney**

**Exhibit A: Development Agreement 20-01**
**Exhibit B: Zone Map Amendment**

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

CITY OF MONTEREY PARK
320 West Newmark Avenue
Monterey Park, CA 91754

Attention: City Clerk

EXEMPT FROM RECORDER'S FEES

Pursuant to Government Code § 6103

(Space Above For Recorder's Use)

**DEVELOPMENT AGREEMENT**

**By And Among**

**City of Monterey Park**

**And**

**BR Caster Corp.**

# DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT ("Agreement," effective as of April ___, 2021 ("Effective Date"), is entered into by and between (1) the CITY OF MONTEREY PARK, a general law city and municipal corporation ("City"), and (2) BR Caster Corp., a California corporation ("Caster" or "Developer"), as follows:

## RECITALS

A. In order to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs and risk of development, the Legislature of the State of California enacted Government Code Section 65864, et. seq. ("Development Agreement Statute"). The Development Agreement Statute authorizes the City to enter into binding development agreements with developers having a legal or equitable interest in real property, establishing certain development rights in such property.

B. Pursuant to the Development Agreement Statute, City adopted regulations implementing the Development Agreement Statute as codified in the Monterey Park Municipal Code ("MPMC").[1] This Agreement has been processed and approved in accordance with the MPMC.

C. BR Caster Corp. is in escrow for the purchase of 2500 Davidson Drive, Monterey Park, CA 91754 for the purpose of developing a self-storage facility (the "Project") affected by the terms of this Agreement. The real property affected by the Project is legally described in attached Exhibit "A," which is incorporated by reference (the "Property").

D. City and Developer determined a development agreement is appropriate for the Project in order to activate the Business Recovery Development Agreement Zone ("BDRZ").[2]

E. The City Council determined that the Project will provide certain public benefits to warrant entering into this Agreement. Those benefits are listed in Section 5.1 of this Agreement. In addition, this Agreement will facilitate orderly growth and quality development of the Project in conformance with the goals and policies of the City's General Plan.[3]

F. Developer would not proceed with the Project without the City's assurances set forth in this Agreement. Developer has and will continue to invest substantial money and effort in reliance upon the City's assurances as set forth in this Agreement. Developer acknowledges that the City would not enter into this Agreement without the Developer's assurances set forth in this Agreement and the anticipated benefits, as described in Section 5.1, to be provided in connection with development of the Project.

G. City has conducted an environmental review of the Project under the California Environmental Quality Act ("CEQA") and, based on an analysis of the technical studies identified

[1] *See* MPMC Chapter 21.44 as codified by Ordinance No. 2193, adopted October 7, 2020.

[2] As codified in MPMC Chapter 21.45 by Ordinance No. 2193; originally adopted via Ordinance Nos. 2184 (adopted July 15, 2020) and 2185 (adopted August 5, 2020).

[3] As adopted pursuant to Measure JJ on November 3, 2020.

in attached Exhibit B, determined the Project is categorically exempt pursuant to CEQA Guidelines § 15332 as a Class 32, in-fill development.

H. The City Council has given the required notice of its intention to adopt this Agreement and conducted public hearings thereon pursuant to the Development Agreement Statute and MPMC. As required by applicable law, the City Council has found the provisions of this Agreement and its purposes are consistent with the goals, policies, standards, and land use designations specified in the City's General Plan and will provide for an orderly development of the Project in accordance with the objectives set forth in the General Plan and the MPMC.

I. On March ___, 2021, the City Council adopted the Approving Ordinance (defined below) approving this Agreement and authorizing its execution. That Ordinance became effective on April ____, 2021. Before approving this Agreement, the City Council made certain findings, as set forth in the Approving Ordinance.

1. The term or duration of this Agreement has a commensurate relationship to the benefit(s) provided to the City.

## ARTICLE 1

## DEFINITIONS

1.1. Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this Agreement. Words and phrases not defined in this Section have the meaning set forth in this Agreement; the MPMC; the Development Agreement Statute; or in common usage. "Approving Ordinance" means Ordinance No. XX-XX adopted on March ____, 2021, approving execution of this Agreement.

1.2. "Applicable Rules" means all of the ordinances, rules, regulations and officials policies governing the Project as set forth in Article 3. without limitation, the City's Zoning Regulations and building regulations, adopted as of the Effective Date. Among other matters, the Applicable Rules set forth and govern the permitted uses of land, the density or intensity of use, subdivision requirements, setbacks, and development standards, the provision for reservation or dedication of land for public purposes, and the design, improvement and construction guidelines, standards and specifications applicable to the development of the Property.

1.3. "CEQA" means the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq*.), and the CEQA Guidelines (14 California Code of Regulations §§ 15000, *et seq*.).

1.4. "City" means the City of Monterey Park and its successors and assigns.

1.5. "City Council" means the City Council of Monterey Park, its governing body.

1.6. "Developer" means, individually, and "Developers" means, collectively, the Parties who have signed this Agreement as Developer, and, subject to the restrictions on assignment set forth herein, successor Owners.

1.7. "Development Impact Fees" means fees established and adopted pursuant to the Mitigation Fee Act (Government Code §§ 66000, *et seq*.) and the MPMC. Development Impact Fees do not mean or include Processing Fees. The Development Impact Fees to be paid for the Project are set forth in attached Exhibit "E," which is incorporated by reference.

1.8. "Development Agreement Regulations" means MPMC Chapter 21.44.

1.9. "Development Agreement Statute" means Government Code §§ 65864, *et seq*.

1.10. "Discretionary Action(s)" or "Discretionary Approval(s)" means a City action requiring the exercise of judgment, deliberation, or discretion on the City's behalf, including that of any board, agency, commission, officer, or employee in the process of approving or disapproving a particular activity, as distinguished from any ministerial activity which merely requires City to determine whether there has been compliance with statues, ordinances, or regulations.

1.11. "Effective Date" means the effective date of this Agreement and commencement of the Term, which is the date the Approving Ordinance becomes effective.

1.12. "General Plan" means the City of Monterey Park General Plan, as it exists as of the Effective Date.

1.13. "Minor Change" means changes, modifications, or adjustments which are consistent with the overall intent of the Project Approvals and which do not materially alter the overall nature, scope, or design of the Project including, without limitation, minor changes in locations of the Project Buildings or infrastructure, relocation of no more than 30% of the total approved leasable Project Building square footage, the construction or provision of additional parking spaces within the building envelope of any Parking Areas, and/or the configuration of internal circulation elements.

1.14. "Party" means, individually, and "Parties" means, collectively, the parties to this Agreement, consisting of City (and its successors and assigns) and the Developer (including, subject to the restrictions on assignment set forth herein, successor Owners).

1.15. "Processing Fees" means all processing fees and charges required by City that are applied uniformly to all construction or development related activity including, without limitation, fees for land use applications, building permit applications, building permits, grading permits, shoring and excavation permits, hauling permits, encroachment permits, demolition permits, subdivision or parcel maps, lot line adjustments, street vacations, inspections, certificates of occupancy, and plan check. Processing Fees does not mean or include Developer Fees.

1.16. "Project" means the development project identified as "A-1 Self Storage Facility – Monterey Park" as described in CEQA Determination (Exhibit "B"), and detailed in the Approved Development Plan as shown on attached Exhibit "D," which is incorporated by reference.

1.17. "Project Approvals" means City approvals governing the development of the Project, including this Agreement, as provided for in Ordinance XX-XX.

1.18. "Property" means the real property described in attached Exhibit "A," which is incorporated by reference.

1.19. "Subsequent Permits" is defined in Section 4.1.1.

1.20. "Uniform Codes" means those Uniform Codes adopted by reference in the MPMC in accordance with Government Code §§ 50022.2, et seq. as required by applicable law including, without limitation, Health and Safety Code § 18944.5 and Title 24 of the California Code of Regulations. The Uniform Codes govern building and construction standards including, without limitation, the building, plumbing, electrical, mechanical, grading, sign, and fire standards."Vested Rules" are defined in Section 3.1.

## ARTICLE 2

## GENERAL PROVISIONS

2.1. Property Subject to This Development Agreement. This Agreement benefits and encumbers the Property. The Property is to be developed with the Project, i.e., the "A-1 Self Storage Facility – Monterey Park."

2.2. Term of Agreement. The Term of this Agreement commences upon the Effective Date and continues in full force and effect for five years pursuant to MPMC § 21.44.020(E) unless terminated earlier by its terms ("Term").

## ARTICLE 3

## APPLICABLE RULES, REGULATIONS, AND POLICIES

3.1. Vested Rules. "Vested Rules" mean, collectively, the ordinances, resolutions, rules, regulations, requirements, and official policies of the City in effect as of the Effective Date which govern the following, to the extent applicable to the Property: development agreements; permitted uses; density and building intensity; growth control; zoning designations and regulations; subdivision, improvement, grading, landscaping and signage; design, development, improvement, and construction standards and specifications; standards and requirements for public reservations and dedications, public improvements and facilities; transit, parking, open space, employee housing and affordable housing; standards and requirements for processing of Subsequent Permits

(as defined in Section 5.1.1); and the Project Approvals described in Section 3.3. The Vested Rules do not include: (i) Uniform Codes, or changes thereto from time to time; (ii) Development Impact Fees or fee calculation methods; or (iii) fees imposed by other governmental agencies, whether or not collected by the City on behalf of such agencies. The Vested Rules include those set forth in attached Exhibit "C," which is incorporated by reference. Various Subsequent Permits, such as tentative subdivision maps, grading permits and use permits, are or may be required in order to implement the development of the Project under the terms of the Vested Rules. In addition, Subsequent Permits, such as a change in zoning standards, may be desirable due to changes in development products or standards or for other reasons during the Term of this Agreement. This Agreement and the vested right to develop are not intended to preclude changes or additions to the Vested Rules which are mutually acceptable. Developer takes notice pursuant to Government Code § 66020(d) that City is imposing exactions upon the Project in accordance with the Mitigation Fee Act (Government Code § 66000, et seq.). Developer is informed that it may protest exactions in accordance with Government Code § 66020. Developer knowingly and willingly waives any rights it may have under Government Code § 66020 or any other provision of law to protest the imposition of any fees, dedications, reservations, or exactions imposed on the Project as authorized by this Agreement.

3.2. Section 3.1 does not apply to City's enforcement of the "Uniform Codes" regulating building or construction standards which will apply to the Project at the time City issues building permits.

3.3. Changes to the Vested Rules. All Subsequent Permits will be processed in accordance with the procedures, standards, and requirements set forth in the Vested Rules, except to the extent changes to the Vested Rules are proposed by the Subsequent Permit. In that case, the processing of the Subsequent Permit is not subject to the Vested Rules. Any approved Subsequent Permit will be incorporated into (and amend or supplement, as appropriate) the Vested Rules upon adoption by City and approval by the affected Developer. If Developer proposes any amendment or addition to the Vested Rules, then the application therefor will clearly indicate such request, and, if the application is approved by City, then City's action will clearly state the Vested Rules were amended or supplemented. City must consider any such request in its sole discretion. If an amendment or supplement to the Vested Rules is adopted by City other than pursuant to an application by Developer, then it may amend or supplement to Vested Rules only if the affected Developer approved the same in writing.

3.4. Project Approvals. "Project Approvals" means: (a) this Agreement; (b) the CEQA Determination; (c) any amendments or additions to the Project Approvals and any Subsequent Permits (as defined in Section 4.1.1) which are subsequently issued by City and approved by Developer of the affected Projects or portion thereof, in accordance with the procedures described in Section 3.1. The Project Approvals are included in the Vested Rules. The permitted uses, the density or intensity of use, the zoning, the maximum height and size of buildings, the provisions for reservation and dedication of land, and the subdivision or use permit improvement requirements for the Project are set forth in Exhibit "D," as supplemented by Subsequent Permits issued in conformance with the Vested Rules.

3.5. Vested Right to Develop. During the Term of this Agreement, with regard to the Project listed in Recital C and the Property legally defined in Exhibit A, Developer is assured, and City agrees, the development rights, obligations, terms and conditions specified in the Project Approvals, the other Vested Rules, and this Agreement are fully vested in Developer and may not be changed or modified by City, whether by administrative action, legislative action, or vote of the electorate, except as may be expressly permitted by and in accordance with the terms and conditions of this Agreement, or as may be expressly consented to by Developer. Developer has the vested right to develop and construct the Project on the Property and each portion thereof, in accordance with the Project Approvals, the other Vested Rules, and this Agreement.

3.6. No Conflicting Enactments. Except as provided in Section 3.5 of this Agreement, during the Term of this Agreement, the City will not, without the prior written consent of Developer, do any of the following:

3.6.1 Apply to the Property, or any portion thereof, any change in the Vested Rules or any new or amended rule, ordinance, resolution, regulation, requirement, or official policy which conflicts with or is inconsistent with this Agreement, or which reduces the development rights provided by this Agreement, or which limits or reduces the permitted uses allowed under the Vested Rules, or which discriminates against Developer or the Project or any portion thereof, or which applies only to the Project or a portion thereof;

3.6.2 Apply to the Property any new rule, ordinance, resolution, regulation, requirement, or official policy which requires any additional discretionary review or approval; or

3.6.3 Apply to the Property any new or amended rule, ordinance, resolution, regulation, requirement, or official policy that materially, adversely affects the timing or phasing of construction or development or that limits the availability of utilities, infrastructure, or public services for the Property.

3.7. Term of Project Approvals. To the extent allowed by the Subdivision Map Act, the term of any tentative map approved for any portion of the Property, whether as stated in the existing Project Approvals, or as stated in any subsequent amendment or addition to the Project approvals including, without limitation, any tentative parcel map, tentative map, vesting tentative map, or vesting tentative parcel map, any amendment of any such map, and any subdivision improvement agreement entered into in connection with any of the aforementioned maps, will be automatically extended for the Term of this Agreement. Similarly, the term of any Project Approvals approved for any portion of the Property, whether existing or subsequently approved, will be automatically extended for the Term of this Agreement. In addition, in accordance with Government Code §66452.6, the term of any map or other Project Approval will be extended for a period equal to any period of time during which: (a) a development moratorium exists including, without limitation, a water or wastewater moratorium, or the actions of public agencies (other than City) that regulate land uses, development or providing services to the Property, that prevents, prohibits, or delays the construction of the Project; or (b) a lawsuit involving any development approvals or permits for the Project is pending. A development moratorium adopted or implemented by City does not apply to the Property, as further described in Section 3.8.

3.8. Initiatives/Referendum. Any law enacted or imposed after the Effective Date by initiative or referendum, or by the City Council, directly or indirectly, in connection with any proposed initiative or referendum, which law would conflict with the vested rights to develop granted to Developer under this Agreement will, to the maximum extent permitted by law, not apply to the Property.

3.9. Moratoria; Growth Control Measures. Developer's rights to develop the Property in conformance with the Vested Rights under this Agreement prevails over any growth control measure or development moratorium adopted or implemented by City after the Effective Date, whether adopted specifically to prohibit construction of the Project or any portion thereof, or as an interim measure during the processing of contemplated General Plan, Specific Plan, or zoning changes, or as a general growth control management measure.

3.10. Effect of Inconsistent State or Federal Laws. This Agreement may be modified or suspended as may be necessary to comply with the State of California or Federal legislation, case law, codes, or regulations enacted/issued after the Effective Date, which preempt local jurisdiction and which prevent or preclude compliance with one or more provisions of this Agreement; provided, however, that such modification or suspension will be made to the minimum extent necessary and only after the Parties have met and conferred in good faith to determine the feasibility of such modification or suspension and to minimize its effect on the rights of the Parties and fulfillment of the purposes and intent of this Agreement. The Parties will cooperate to process applications for any City or governmental approvals which may be required as a result of any such modification or suspension of this Agreement.

3.11. Public Works. Developer must construct any facilities or improvements which will be dedicated to City or any other governmental agency upon completion in the same manner and to the same standards as would be applicable to City or such other governmental agency should it have undertaken construction.

3.12. Business Recovery Development Agreement Zone ("BRDZ"). This Agreement is intended to activate the BRDZ as set forth in the MPMC. Pursuant to MPMC Chapter 21.45, this Agreement allows for the following:

3.12.1 Land Uses. 21.10.030 Table 21.10 (A) Public Storage/Mini -Storage.

3.12.2 Development Standards. 21.10.070 Table 21.10 (B) F.A.R. Max 2.65.

## ARTICLE 4

## PROCESSING OF SUBSEQUENT PERMITS AND APPROVALS

4.1. Subsequent Permits.

4.1.1 Defined. "Subsequent Permits" means the land use, development, and building approvals which are to be processed for approval by City and which are necessary or appropriate in order to develop the Project in accordance with the Vested Rules, the Project Approvals, and this Agreement including, without limitation, zone changes, master plans or amendments thereto, any and all permits and/or approvals that are part of development maps, subdivision improvements plans and agreements, design review, site plans, landscape plans, preliminary grading plans, grading plans and permits, building plans and permits, and environmental determinations. The Subsequent Permits include any permits and approvals required to complete the infrastructure and improvements necessary to develop the Property (collectively, the "Improvements"), in accordance with this Agreement and the Vested Rules including, without limitation, those related to: (a) clearing the Property; (b) preliminary grading or grading of the Property; (c) construction of roads and storm drainage facilities; (d) construction of all commercial structures and all structures and facilities accessory thereto, subject to the limitations set forth in this Agreement. The grant of vested rights to Developer pursuant to this Agreement does not waive or remove any requirement to process and obtain Subsequent Permits for the Project, to the extent required under the Vested Rules and the Project Approvals.

4.1.2 Standard of ReviewCity agrees applications for Subsequent Permits will be processed in good faith and granted on terms and conditions in conformance with this Agreement, the Project Approvals, and the Vested Rules. In the event any conflict arises between the terms and conditions of a Subsequent Permit and this Agreement, the provisions of this Agreement prevail unless otherwise agreed to in writing by the City and the affected Developer.

4.2. Processing. Subject to compliance with the Vested Rules and other applicable laws, the Subsequent Permits will be reviewed, processed, and acted upon by City, provided that: (a) applications for such approvals are submitted to City during the Term of this Agreement; (b) the applications are deemed complete pursuant to the Vested Rules; and (c) there is no uncured Event of Default under the terms and conditions of this Agreement with respect to the portion of the Property for which such approval is sought. City agrees it will not unreasonably withhold or unreasonably condition any Discretionary Action or Discretionary Approval which may be issued by City in order for the Project to proceed, provided that Developer reasonably and satisfactorily complies with all preliminary procedures, actions, payments of Processing Fees, and criterial generally required of developers by City for processing applications for developments and consistent with this Agreement.

4.3. Development Fees. Due to the consideration and benefits as described in Section 5.1, the following apply to the development fees described below:

4.3.1 Permit Fees. If a Subsequent Permit requires any significant change to the Project, then any additional Permit Fees must meet all applicable nexus and rough proportionality requirements. Permit Fees will be payable in an amount and at the time established by City's fee schedule at the time of issuance. Any credits applicable to Permit Fees to which any portion of the Project is entitled as a result of construction may be transferred to any other portion of the Project and applied to reduce future Permit Fees which become payable provided that this Agreement does not, by itself, entitle Developer to any such credits.

4.3.2 Development Impact Fees. Developer will pay fees established and adopted pursuant to the Mitigation Fee Act (Government Code §§ 66000, *et seq*.) and the MPMC, as detailed in Exhibit "E".

4.3.3 Application Processing Fees. Developer must pay the Application Processing Fees in effect on the date the City Council approves this Development Agreement.

4.4. Other Local, State, Federal Approvals. The Parties contemplate that development of the Project pursuant to this Agreement may be subject to the approval of other governmental agencies. The Parties will act in good faith and use reasonable effort and diligence to process and obtain such approvals in a manner and on terms and conditions that are consistent with, and implement, the Project Approvals, the Vested Rules, and this Agreement. If any revisions or corrections of plans for Project Approvals approved by City is required by any other governmental agency, then the Parties will cooperate reasonably and in good faith to develop a mutually acceptable solution.

## ARTICLE 5

## PUBLIC BENEFITS

5.1. Public Benefits. The Parties acknowledge and agree that Developer's agreement to perform and abide by the covenants and obligations set forth herein is material consideration for City's agreement to perform and abide by the covenants set forth herein, including without limitation the following specific public benefits for this Agreement:

- Development of a topographically challenged, and high-visibility remnant site at the intersection of Davidson Drive and Monterey Pass Road. The site has been vacant for 36 years.
- Development of a land use with very low impacts on existing infrastructure and minimal burdens on surrounding properties.
- Generation of retail sales tax and property tax.
- Improvement of the public right-of-way on Davidson Drive.
- Construction and Improvement of pedestrian and disabled access at the intersection of Davidson Drive and Monterey Pass Road.
- Installation of enhanced landscaping at a high-visibility corner where the Monterey Pass Road corridor and Corporate Center intersect.
- The development provides screening of the adjacent Southern California Edison Sub-station.

5.1.1 Construction and Funding of Project Facilities and Infrastructure. Developer must construct and fund the construction of any Project Facilities and Infrastructure (as

detailed in Exhibit D, attached hereto) at the time such Project Facilities and Infrastructure are needed to satisfy the requirements of the Project Approvals. Except as otherwise specifically set forth herein, Developer has no responsibility for the operation, maintenance, repair or replacement of Project Facilities and Infrastructure.

5.1.2 Dedications. No dedications to City of rights-of-way or other interests in real property owned by Developer within the Property are proposed or required.

## ARTICLE 6

## REVIEW OF COMPLIANCE

6.1. Annual Review. The City will conduct reviews in accordance with the MPMC to determine whether Developer is acting in good faith compliance with the provisions of this Agreement. Appropriate fees to cover City's costs to conduct the annual review shall be collected from the Developer in compliance with the MPMC.

6.2. Procedure for Review. City's City Planner, or designee, will conduct the review contemplated by this Section 6 to ascertain whether Developer has reasonably complied in good faith with the material terms and conditions of this Agreement during the period for which the review is conducted. The City Planner, or designee, will give Developer notice that any such review has been commenced, and give Developer at least 20 days to provide the City Planner such information as Developer deems relevant to such review. In addition, upon written request of the City Planner, Developer must furnish such documents or other information reasonably requested by the City Planner.

6.3. Result of Review. If, following such a review, the City Planner, or designee, finds good faith compliance by Developer with the terms and conditions of this Agreement, the City Planner, or, will issue to Developer an executed certificate of compliance. The certificate of compliance will state: (a) the Agreement is unmodified and in full force and effect (or identifying any modifications); (b) there are no uncured defaults under the Agreement by the certifying Party or, to the certifying Party's knowledge, by any other Party (or specifying any such defaults); and (c) any other information reasonably requested regarding the status of the Agreement and performance by the Parties.

If, following such a review, the City Planner, or designee, finds that Developer has not complied in good faith with the terms and conditions of the Agreement, the City Planner, or designee, will provide notice to Developer detailing such non-compliance. Upon receipt of such notice, Developer may commence to cure the stated non-compliance in accordance with the terms of this Agreement, including without limitation Section 8.1. If Developer fails to cure the non-compliance pursuant to the terms of this Agreement, including without limitation Section 8.1, the City Planner, or designee, will notify the City Council. Developer has the ability to dispute any such claim of non-compliance or failure to cure at a public hearing before the Agreement may be modified or terminated.

## ARTICLE 7

## ASSIGNMENTS; MORTGAGEE PROTECTION

7.1. Right to Assign

7.1.1 Right to Assign. Subject to Section 7.2 of this Agreement with respect to the rights of a mortgagee, Developer may assign or transfer any portion of its interests, rights, or obligations ("Rights") under this Agreement and under the Approvals and Subsequent Approvals to third parties acquiring successor interests in the Project or Project Site, or any portion thereof, including without limitation purchasers or long-term ground lessees of the parcels or facilities located on or within the Project Site.

7.1.2 Assumption of Assigned Obligations and Rights. As a condition to any assignment or transfer under this Agreement, any person or entity accepting such Assignment ("Assignee") must assume all of the obligations and rights of this Agreement as they pertain to the portion of the Property being transferred to the Assignee.

7.2. Right to Mortgage. Developer or Owner may assign, pledge, or otherwise encumber its rights and interests under this Agreement for security purposes to a Mortgagee of any defined Lot(s) without City's consent. Nothing contained in this Agreement restricts Developer from encumbering all or any portion of the Property with a Mortgage, deed of trust, or other security device (collectively, "Mortgage). No breach of this Agreement will default, render invalid, diminish, or impair the lien of any Mortgage or the rights of any mortgagee, but all of the terms and conditions of this Agreement are binding upon and effective against any Person, including any mortgagee or any person, who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu for defaults or monetary obligations arising before its acquisition of title to the Property or portion thereof.

7.3. Notice of Default. If City receives written notice from a Mortgagee requesting a copy of any notice of default given to Developer and specifying the address for service thereof, then City will deliver to such Mortgagee, concurrently with the delivery to Developer, any notice given to Developer with respect to any claim by City that such Developer is in default hereunder. If City makes a determination of noncompliance hereunder and a Mortgagee has requested notice of such determination, City will also serve notice of such noncompliance on such Mortgagee concurrently with service on Developer. Each Mortgagee may, without obligation, during the same period available to Developer hereunder, to cure or remedy, or to commence to cure or remedy, the event of default claimed or the areas of noncompliance set forth in City's notice.

## ARTICLE 8

## DEFAULT; REMEDIES

8.1. Events of Default. Subject to the provisions of Section 10.15 regarding Unavoidable Delays, Section 7.1 regarding assignment and assumption, and Section 7.2 regarding

Mortgagee Protection, the failure by any Party to pay any sum or to perform any obligation required under this Agreement, including, without limitation, City's failure to issue Subsequent Permits for the Project in conformance with this Agreement, and such Party's failure to cure such default within the specified cure period after receipt of a Notice of Default pursuant to Section 9.2 below, constitutes an "Event of Default" under this Agreement. Except as otherwise provided in Section 4.2, failure by Developer to construct or delay in constructing the Project or any portion thereof shall not be a default or Event of Default under this Agreement, and Developer is not liable to City for damages for failure to construct any portion of the Project, unless such failure or delay constitutes a default under the terms of any Final Map, building permit or similar approval, in which event City may exercise any of its normal remedies for default under such permit or approval.

8.2. Notice of Default and Cure. Any Party claiming a default under this Agreement must deliver to the defaulting Party a written notice of default ("Notice of Default"). The Notice of Default must specify the reasons for the allegation of default with reasonable particularity and the manner in which the default can be cured. The defaulting Party has the right to cure the default within 30 days after receiving the Notice of Default; provided, however, that if the nature of the alleged default is such that it cannot be reasonably cured within 30 days, then the 30-day period will be extended for the time reasonably required to complete the cure, so long as the defaulting Party commences the cure within the 30-day period and diligently prosecutes the cure to completion thereafter.

8.3. Procedure Upon and Event of Default. After the occurrence of an Event of Default, the other Party may give notice of its intent to terminate this Agreement pursuant to Government Code § 65868 and the MPMC implementing said section. Following notice of intent to terminate, or before instituting legal proceedings, the matter must be scheduled for consideration and review at a public meeting of the City Council within 30 days after that notice. Following consideration of the evidence presented in the review before the City Council, the Party alleging the default by the other Party may institute legal proceedings or may give written notice of termination of this Agreement to the other Party; provided, however, Developer may only terminate this Agreement with respect to such portion of the Property then owned by Developer. Evidence of default may also arise in the course of an annual review of this Agreement pursuant to Section 6.1. If Developer is determined by City to be in default pursuant to the procedures for annual review, and after giving effect to Developer's right of appeal of such determination to the City Council as provided in Section 6.3, then City may give a written Notice of Default pursuant to Section 8.1. If the alleged default is not cured within the cure period set forth in Section 8.2 or within such longer period specified in City's Notice of Default, or if Developer waives its right to cure such alleged default in writing, then this Agreement may be terminated by City with respect to the portion of the Property then owned by the defaulting Developer.

8.4. Remedies for Non-Defaulting Party. If either Party is in default under the terms of this Agreement, subject to any applicable requirements under Section 8.6 of this Agreement, the other Party may elect to pursue any of the following courses of action: (i) waive such default; (ii) pursue administrative remedies as provided in this Agreement; (iii) pursue any judicial remedies available under the law; or (iv) terminate this Agreement.

8.4.1 Unless otherwise provided in this Agreement and subject to applicable requirements under Section 8.6 of this Agreement, either Party, in addition to any other rights or remedies, may institute legal action to cure, correct, or remedy any default by the other Party to this Agreement, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation hereunder or to seek specific performance. All remedies available to a Party under this section are cumulative and not exclusive of the other, and the exercise of one or more of these remedies do not constitute a waiver or election with respect to any other available remedy. In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that City is not liable in damages to Developer, or to any successor in interest of Developer, or to any other person, and Developer, on behalf of itself and all successors in interest, covenants not to sue for damages or claim any damages:

(a) For any breach of this Agreement or for any cause of action that arises out of this Agreement; or

(b) For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or

(c) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

8.4.2 City elected or appointed official, employee, or representative is personally liable to Developer in the event of any Event of Default by City or for any amount which may become due to Developer, or for any obligations under the terms of this Agreement, or for any claims of breach of contract related to this Agreement, or for any claims in the nature of tort related to this Agreement (such as fraud in the inducement).

8.4.3 **Informal Discussions**. With regard to any dispute between or among the Parties contemplated by this Agreement, within seven days written notice from ether party, the City Manager and Developer's senior executives must meet and attempt in good faith to resolve any such disputes through informal discussions, which discussions will not exceed 10 business days unless extended by mutual agreement.

8.5. Mediation. If the Parties are unable to resolve their dispute through informal discussion, then either party may commence mediation by providing to JAMS (or other mediator mutually agreed to by the Parties) and the other Parties a written request for mediation, setting forth the subject of the dispute and the relief requested. The Parties will cooperate with JAMS and with one another in selecting a mediator from JAMS' panel of neutrals, and in scheduling the mediation proceedings. The Parties covenant that they will participate in all phases of the mediation in good faith. The mediation process will occur in two phases, if necessary, as described below. During the first phase of the mediation, which in no event will exceed 30 days unless otherwise agreed to by the Parties, the Parties will attempt to resolve their dispute in accordance with JAMS standard mediation procedures. If the Parties are unable to resolve their dispute during this first phase of the mediation process, then the second phase of the mediation process will be conducted in a manner consistent with this Section. If the Parties are unable to resolve their dispute through the first phase of mediation, as described above, the party that commenced mediation (the "Complaining Party"), will have 10 business days from the expiration of the 30 day period

described above to file a brief with the other party (the "Responding Party") and with the mediator presiding over the first phase of the mediation process (the "Mediator"), which brief must set forth the merits of the Complaining Party's position regarding the issues raised during the first phase of mediation (the "Initial Brief"). The Responding Party will have 10 business days from its receipt of the Initial Brief to file a brief with the Mediator and the Complaining Party responding to the issues raised in the Initial Brief and setting forth the merits of the Responding Party's position regarding the issues raised during the first phase of mediation (the "Responding Brief"). The Complaining Party will have five business days from its receipt of the Responding Brief to file a reply brief with the Mediator and the Responding Party replying to the issues raised in the Responding Brief (the "Reply Brief"). In no event will the Initial Brief and the Responding Brief be longer than 15 pages and in no event will the Reply Brief be longer than 10 pages. Except as otherwise set forth in this Section 7.05.03, the Initial Brief, the Responding Brief and the Reply Brief will be formatted in accordance with requirements of Rule 3.1110 of the California Rules of Court, unless otherwise agreed to by the Parties. The Mediator will have two weeks following its receipt of the Reply Brief to consider the arguments set forth by the Complaining Party and the Responding Party in their respective briefs and issue an opinion stating which party the Mediator would consider to be the prevailing party if the Mediator were a judge presiding over the dispute in a court of law (the "JAMS Opinion").

8.1. All offers, promises, conduct and statements, including the JAMS Opinion, whether oral or written, made in the course of the mediation by any of the Parties, their agents, employees, experts and attorneys, and by the mediator and any JAMS employees, are confidential, privileged and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving the Parties, provided that evidence that is otherwise admissible or discoverable will not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Notwithstanding the foregoing, the JAMS Opinion will serve as the basis solely for determining whether, in the event a dispute between the Parties is litigated, either party will be awarded attorneys' fees in accordance with this Agreement.

8.2. Nothing in this Article will in any way be interpreted as requiring that Developer and City and/or City's designee reach agreement with regard to those matters being addressed, nor will the outcome of these meetings be binding in any way on City or Developer unless expressly agreed to in writing by the Parties to such meetings. Notwithstanding the forgoing, the JAMS Opinion will be binding on the Parties solely for the purposes of determining whether, in the event a dispute between or among the Parties is litigated, either party will be awarded Attorneys' Fees (as defined below) in accordance with this Agreement.

8.3. Should any judicial remedy be sought by any party because of any default under this Agreement or to enforce any provision hereof, or to obtain a declaration of rights hereunder (each individually a "**Judicial Action**"), the prevailing party in such Judicial Action is entitled to reasonable attorney's fees, court costs and such other costs as may be fixed by the court (collectively, "**Attorneys' Fees**"), provided the prevailing party in the Judicial Action was also determined to be the prevailing party in the JAMS Opinion. For purposes of this Agreement, Attorneys Fees will be calculated from the start of the first phase of mediation and will include all reasonable costs related to the first and second phases of mediation. If the prevailing party in a Judicial Action was determined to be the losing party in the JAMS Opinion, then each party will

assume the cost of their own Attorneys' Fees. Not in limitation of the foregoing, the Parties will assume their own costs related to the informal dispute resolution process described above.Extension of Agreement Term. The Term of this Agreement as set forth in Section 2.2 will automatically be extended for the period of time in which the Parties are engaged in dispute resolution to the degree that such extension of the Term is reasonably required because activities which would have been completed before the expiration of the Term are delayed beyond the scheduled expiration of the Term as a direct result of such dispute resolution.

## ARTICLE 9

## AMENDMENTS; TERMINATION

9.1. Amendments. Except as set forth in Section 3.1, this Agreement may be modified, amended and/or extended only by mutual written consent of the Parties and must be approved in the same manner as adoption of this Agreement, by ordinance as set forth in the Development Agreement Statute.

9.2. Operating Memoranda. The Parties acknowledge that the provisions of the Agreement require a close degree of cooperation and that new information and future events may demonstrate that changes are appropriate with respect to the details of performance of the Parties under this Agreement. The Parties desire, therefore, to retain a certain degree of flexibility with respect to the details of performance for those items covered in general terms under this Agreement. If and when, from time to time, the Parties find that refinements or adjustments are desirable, such refinements or adjustments will be accomplished through operating memoranda or implementation agreements approved by the Parties which, after execution, will be attached to this Agreement as addenda and become a part hereof.

9.3. Execution of Memoranda. Operating memoranda or implementation agreements may be executed on behalf of City by the City Manager and the City Attorney. In the event a particular subject requires notice or hearing, such notice or hearing will be appropriately given. Any significant modification to the terms of performance under this Agreement will be processed as an amendment of this Agreement in accordance with this Agreement and must be approved by the City Council.

9.4. Effect of Expiration/Termination. Upon expiration or termination of this Agreement: (a) no Party has any further rights or obligation hereunder except for matters which accrued before such expiration or termination and matters which specifically survive expiration or termination under the express terms of this Agreement; and (b) the underlying Project Approvals remain in full force and effect.

## ARTICLE 10

## MISCELLANEOUS

10.1. Insurance. Before the commencement of any work, Developer must furnish evidence to City that all of the following insurance requirements have been satisfied.

10.2. General. Developer must, throughout the duration of this Agreement, maintain, or cause to be maintained, the insurance specified below, to insure Developer and its employees for liability arising out of the work in connection with the Property, Project and this Agreement at the minimum levels set forth herein, with City being an additional insured on the CGL and excess or umbrella liability insurance.

10.3. Commercial General Liability. Commercial General Liability ("CGL") insurance with coverage in an amount not less than $2,000,000.00 general aggregate, $2,000,000.00 per occurrence and $2,000,000.00 products/completed operations, and including contractual liability insurance for the indemnification heretofore provided to City (subject to the policy terms, conditions, definitions and exclusions).

10.4. Business Auto Coverage. Business Automobile Liability insurance with coverage in an amount not less than $1,000,000.00 per accident for bodily injury and property damage, covering all vehicles used by the Developer (personal, company) and its employees, on or within the Project or Property or associated therewith.

10.5. Excess or Umbrella Liability Insurance (Over Primary Coverage). Such excess coverage must be at least as broad as the underlying coverage and be provided on a "pay on behalf" basis. The excess or umbrella coverage can be not less than $5,000,000 per occurrence/annual aggregate.

10.6. Workers' Compensation. Coverage must be maintained as required by the State of California.

10.7. Insurance Coverage to be Maintained by Developer's Contractors and Subcontractors. Developer must require by contract that its contractors and subcontractors maintain the same CGL, business auto, excess or umbrella liability and workers' compensation insurance as set forth in subsections (b) through (e), inclusive, hereof, except that the required minimum limits for the CGL coverage will be $2,000,000 general aggregate, $2,000,000 per occurrence and $2,000,000 products/completed operations, with excess or umbrella liability insurance in the amount of $2,000,000 per occurrence/annual aggregate. The CGL policy must include, contractual liability insurance (subject to the policy terms, conditions, definitions and exclusions).

10.8. Construction; Interpretation. This Agreement has been reviewed and revised by legal counsel for Developer and the City, and no presumption or rule that ambiguities may be construed against the drafting party apply to the interpretation or enforcement of this Agreement.

10.9. Agreement Constitutes Legislative Act. Developer acknowledges and agrees that City has approved and entered into this Agreement in the sole exercise of its legislative discretion and that the standard of review of the validity and meaning of this Agreement will be that accorded legislative acts of City.

10.10. Cooperation; Further Assurances. Each Party will: (a) deal fairly and in good faith with the other Parties; (b) not impede the other Parties' right to receive the benefits of this Agreement; (c) cooperate with and provide reasonable assistance to the other Parties in the performance of this Agreement; and (d) execute such documents or take such further actions as may be reasonably necessary to consummate the performance or to carry out the purpose and intent of this Agreement.

10.11. Counterparts. This Agreement, and any documents implementing this Agreement, may be executed in multiple counterpart originals, each of which is deemed to be an original and all of which when taken together shall constitute one and the same instrument.

10.12. Entire Agreement. The Recitals set forth above in this Agreement and the Exhibits attached hereto are incorporated by references into this Agreement as an integrated portion hereof. This Agreement, including all such Recitals and Exhibits, constitutes the entire agreement of the parties regarding the subject matter hereof, and all prior or contemporaneous agreements and understandings, whether written or oral, are superseded.

10.13. Governing Law/Jurisdiction. This will shall be governed, construed and enforced in accordance with the laws of the State of California, and the state courts of Los Angeles County have jurisdiction.

10.14. Legal Challenges—Defense and Indemnification.

10.14.1 Cooperation in the Event of a Legal Challenge

In the event of any administrative, legal or equitable action or other proceeding instituted by any person or entity not a party to the Agreement challenging the validity of any provision of this Agreement; challenging any agreement between City and other government agencies entered into at the request of Developer to facilitate the development of the Property; challenging any of the Project Approvals; or challenging the sufficiency of any environmental review of either this Agreement or any Approval under CEQA (each a "Third Party Challenge"), each party must cooperate in the defense of such Third Party Challenge, in accordance with this Section. In light of the Parties' mutual interests in successfully defending against a Third Party Challenge, the Parties will enter into a joint nondisclosure, indemnity, and litigation defense agreement, which, among other things, will require all communications between Developer and City concerning a

Third Party Challenge must be kept confidential and cannot be disclosed by either party without the written consent of the other party. Developer agrees to pay City's costs of defending a Third Party Challenge, including all court costs and reasonable attorney's fees expended by City (including the time and cost of the City Attorney) in defense of any Third Party Action, as well as the time of City's staff spent in connection with such defense. Developer may select its own legal counsel to represent Developer's interests in any Third Party Challenge at Developer's sole cost and expense. City agrees that it will not enter into a settlement agreement to any Third Party Challenge without Developer's written consent. Developer's obligation to pay City's costs in the defense of a Third Party Challenge does not extend to those costs incurred on appeal unless otherwise authorized by Developer in writing. If Developer elects, in its sole and absolute discretion, not to contest such litigation challenges, City does not have any obligation to contest such challenges. If City elects to contest such challenges after Developer elects not to contest, City will do so at its sole cost.

10.14.2 Third Party Challenges Related to the Applicability of City Laws.

The provisions of this Section will apply only in the event of a legal or equitable action or other proceeding, before a court of competent jurisdiction, instituted by any person or entity not a party to this Agreement challenging the applicability to the Project or Project Site of a conflicting City Law (a "Third Party Enforcement Action"):

10.14.3 Cooperation in Case of a Third Party Enforcement Action.

In the event of a Third Party Enforcement Action, City must (i) promptly notify Developer of such action or proceeding, and (ii) cooperate with Developer so as to most effectively respond to the Third Party Enforcement Action. In no event will City take any action that would frustrate, hinder, or otherwise complicate Developer's efforts to respond. The Parties to this Agreement agree to cooperate, to the maximum extent permitted by law, in the defense of such action or proceeding. For purposes of this Section, the required cooperation between the Parties includes, without limitation, developing litigation strategies, preparing litigation briefs and other related documents, conferring on all aspects of the litigation, developing settlement strategies, and, to the extent permitted by law, jointly making significant decisions related to the relevant litigation, throughout the course thereof. In light of the Parties' mutual interests in successfully defending against a Third Party Enforcement Action, all communications between Developer and City concerning a Third Party Enforcement Action must be kept confidential and cannot be disclosed by either party without the written consent of the other party.

10.14.4 Litigation Costs.

City's costs of defending any Third Party Enforcement Action, including all court costs, and reasonable attorney's fees expended by City (including the time and cost of the City Attorney) in defense of any Third Party Enforcement Action, as well as the time of City's staff spent in connection with such defense (the "Enforcement Action Defense Costs"), will be paid in accordance with this Agreement. Notwithstanding the forgoing, in no event will the Enforcement Action Defense Costs extend to, nor will Developer or the Project be obligated to pay, any costs incurred on appeal unless otherwise authorized by Developer in writing.

10.14.5Settlement.

City must not enter into a settlement agreement or take any other action to resolve any Third Party Enforcement Action without Developer's written consent. City cannot, without Developer's written consent, take any action that would frustrate, hinder or otherwise prevent Developer's efforts to settle or otherwise resolve any Third Party Enforcement Action.

10.14.6Effect of a Judgment.

Provided that City complies with this Section and provided that Developer is a party to the relevant Third Party Enforcement Action, Developer agrees to be bound by any final judgment (i.e., following all available appeals) arising out of a Third Party Enforcement Action and further agrees that no default under this Agreement will arise if such final judgment requires City to apply to the Project or Project Site a City Law that conflicts with Applicable Law or this Agreement.

10.14.7Defense and Indemnity.

Developer must defend and indemnify City from and against any and all damages, claims, costs and liabilities arising out of the personal injury or death of any third party, or damage to the property of any third party, to the extent such damages, claims, costs or liabilities result from the construction of the Project by Developer or by Developer's contractors, subcontractors, agents or employees. Nothing in this Section will be construed to mean that Developer must defend or indemnify City from or against any damages, claims, costs or liabilities arising from, or alleged to arise from, activities associated with the maintenance or repair by City or any other public agency of improvements that have been offered for dedication and accepted by City or such other public agency or for any other public improvements constructed by City or constructed by Developer at direction of City. City and Developer may from time to time enter into subdivision improvement agreements, as authorized by the Subdivision Map Act, which agreements may include defense and indemnity provisions different from those contained in this Section. In the event of any conflict between such provisions in any such subdivision improvement agreement and the provisions set forth above, the provisions of such subdivision improvement agreement will prevail.

10.14.8Effect on Term. The Term of this Agreement will be tolled from the initiation of any Litigation until final court action is taken in such Litigation.

10.15. Notices. All notices, demands, correspondence and communications ("Notice") shall be in writing and shall be either personally delivered or sent by certified mail, postage prepaid, return receipt requested, or delivered by a nationally recognized overnight courier service (which provides a delivery receipt), at the addresses set forth below. Any such Notice will be deemed received on the date of personal delivery or on the date of receipt (or refusal to accept delivery) set forth in the certified mail receipt if sent by U.S. mail or in the receipt provided by the overnight courier service if sent by such service.

City of Monterey Park
320 West Newmark Avenue
Monterey Park, CA 91754

Attn: Ron Bow, City Manager

with a copy to:

City of Monterey Park
320 West Newmark Avenue
Monterey Park, CA 91754

Attn: Karl H. Berger, City Attorney

Caster Properties, Inc.
_____
_____

Attn: _____

with a copy to:

Ervin, Cohen & Jessup, LLP
9401 Wilshire Boulevard, 9th Floor
Beverly Hills, CA 90212

Attn: Mr. Jeffrey T. Harlan, Esq.

10.16. Private Undertaking. It is expressly understood and agreed by the Parties the development contemplated by this Agreement is a private development, no Party is acting as the agent of any other Party in any respect hereunder, and Developer has full power and exclusive control over its properties subject only to the limitations and obligations of Developer under the Vested Rules and this Agreement. Nothing contained in this Agreement or in any document executed in connection with this Agreement will be construed as making City and Developer joint venturers or partners.

10.17. Recordation. City will use best efforts to record a Memorandum of this Agreement with the Los Angeles County Recorder within 10 days after the Effective Date, pursuant to Development Agreement Statute § 65868.5. Thereafter, if this Agreement is terminated, modified or amended as provided herein, the City will record notice of such action with the Los Angeles County Recorder.

10.18. Section Headings. Article and Section headings in this Agreement are inserted for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions of this Agreement.

10.19. Severability. If any provision or term of this Agreement, or the application of any provision or term of this Agreement to any particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, then the remainder of the Agreement is unaffected and will remain in full force and effect unless enforcement of the Agreement, with such invalidation, would be unreasonable or inequitable under the circumstances or would frustrate the purposes of the Agreement or the rights and obligations of the Parties there under.

10.20. Successors and Assigns; Covenants Running with the Land. Subject to the provisions of Section 7.1 governing assignment, the rights and obligations of Developer under this Agreement will be binding upon and inure to the benefit of successor Owners of all or any portion of the Property and shall be covenants running with the land.

10.21. Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns, including the Owners. No other Person has any right of action based upon any provision of this Agreement.

10.22. Unavoidable Delays or Events. In addition to specific provisions of this Agreement, performance by any Party hereunder shall not be deemed to be in default where delays or defaults are due to war, terrorism, pandemic, insurrection, riots, floods, earthquakes, fires, casualties, governmental restrictions imposed or mandated by governmental entities (but only as to delays or performance by Developer), enactment of conflicting state or federal laws or regulations (but only if the Party claiming delay complies at all times with the provisions of this Agreement pertaining to such conflicting laws), litigation against this Agreement or any of the Project Approvals, referendum of this Agreement or any of the Project Approvals or similar bases for excused performance ("Unavoidable Delay" or "Unavoidable Event"). Upon the occurrence of an Unavoidable Event, the time for performance will be extended, for the duration of the Unavoidable Delay. Notwithstanding the foregoing, none of the following constitutes an Unavoidable Event: (i) delays caused by market forces beyond the Parties' control; (ii) delays caused by the delay or failure by any entity other than the Party claiming such delay to provide financing for construction of the Project or any portion thereof; (iii) delays related to the cost or unavailability of financing, construction contractors, consultants, or labor; or (iv) delays related to economic conditions locally, regionally, statewide, nationwide, or worldwide.

10.23. Waiver. No waiver of any provision of this Agreement is effective unless it is in writing and signed by a duly authorized representative of the Party against whom enforcement of the waiver is sought. No waiver of any right or remedy is deemed a waiver of any right or remedy with respect to any other occurrence or event.

10.24. Authorization. Each person executing this Agreement represents and warrants that he or she is authorized and has the legal capacity to execute and deliver this Agreement on behalf of the Party for which execution has been made.

IN WITNESS WHEREOF, the Parties have executed this Development Agreement to be effective as of the Effective Date first set forth above.

"CITY"

CITY OF MONTEREY PARK
a municipal corporation

Dated: _____, 2021

By: _____
Yvonne Yiu, Mayor

ATTEST:

_____
Vincent D. Chang, City Clerk

APPROVED AS TO FORM:

_____
Karl H. Berger, City Attorney

"Developer"
BR Caster Corp.
a California corporation

Dated: _____, 2020

By: _____

APPROVED AS TO FORM:
ERVIN, COHEN & JESSUP, LLP

By: _____
Jeffrey T. Harlan, Esq.
Developer's Attorney

# Exhibit A:
# The Property

## EXHIBIT "A"

## LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF MONTEREY PARK, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THAT PORTION OF LOT 7 OF TRACT NO. 42611, IN THE CITY OF MONTEREY PARK, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 1012, PAGES 21 TO 27 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHERLY TERMINUS OF A LINE OF SAID LOT 7 THAT BEARS NORTH 0 DEGREES 02 MINUTES 40 SECONDS WEST 154.89 FEET; THENCE NORTH 0 DEGREES 02 MINUTES 40 SECONDS WEST 20.00 FEET; THENCE NORTH 30 DEGREES 57 MINUTES 00 SECONDS EAST 152.00 FEET TO THE POINT OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 633.00 FEET. TO WHICH A RADIAL LINE THROUGH SAID POINT BEARS NORTH 4 DEGREES 21 MINUTES 23 SECONDS EAST; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE 29 DEGREES 57 MINUTES 04 SECONDS AN ARC DISTANCE OF 330.90 FEET TO THE BEGINNING OF A COMPOUND CURVE CONCAVE WESTERLY HAVING A RADIUS OF 25.00 FEET TO WHICH A RADIAL LINE THROUGH SAID POINT BEARS NORTH 34 DEGREES 18 MINUTES 27 SECONDS EAST; THENCE SOUTHEASTERLY, SOUTHERLY AND SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 91 DEGREES 25 MINUTES 15 SECONDS AN ARC DISTANCE OF 39.89 FEET; THENCE SOUTH 35 DEGREES 43 MINUTES 42 SECONDS WEST 3.91 FEET; THENCE SOUTH 89 DEGREES 28 MINUTES 01 SECONDS WEST 390.79 FEET TO THE POINT OF BEGINNING.

EXCEPT ALL OIL, GAS, ASPHALTUM PETROLEUM, AND NATURAL GAS, TAR OR OTHER HYDROCARBON SUBSTANCES AND PRODUCTS, FROM UNDER OR UPON THE SAID LANDS WITH THE RIGHT TO REMOVE AND STORE AND SELL SUCH SUBSTANCES AND PRODUCTS THEREFROM TOGETHER WITH ALL RIGHTS FOR THE PURPOSE OF MINING, EXCAVATING BORING, DRILLING, SINKING OR OTHERWISE COLLECTING AND DEVELOPING SAID MINERAL SUBSTANCES AND RIGHT TO DEVELOP, STORE AND USE WATER FOR SUCH OPERATIONS AND DEVELOPMENT AS RESERVED IN DEED FROM HUNTINGTON LAND AND IMPROVEMENT COMPANY, A CALIFORNIA CORPORATION, RECORDED OCTOBER 25 1918 IN BOOK 6707 PAGE 300 OF DEEDS.

ALL OF WHICH RIGHTS WERE LIMITED TO THAT PORTION LYING BELOW A DEPTH OF 500 FEET MEASURED FROM THE SURFACE OF SAID LAND. BY DEED EXECUTED BY SECURITY PACIFIC NATIONAL BANK, A NATIONAL BANKING ASSOCIATION. SUCCESSOR BY MERGER TO SECURITY FIRST NATIONAL BANK OF LOS ANGELES, AS TRUSTEE UNDER THE WILL OF HENRY E. HUNTINGTON, DECEASED (TRUST NO. 2-018442-01), RECORDED DECEMBER 17, 1980 AS INSTRUMENT NO. 80-1264035.

ALSO EXCEPT AND RESERVE ALL OIL, GAS, AND OTHER HYDROCARBON SUBSTANCES AND ALL OTHER MINERALS IN AND FROM THE LAND DESCRIBED IN DEED MENTIONED HEREINAFTER. PROVIDED, HOWEVER NO RIGHT IS RESERVED TO ENTER ON OR FROM THE SURFACE OF SAID LAND, THE RIGHT TO ENTER THE SUBSURFACE OF SAID PROPERTY WHICH IS ALSO RESERVED SHALL BE AT ANY POINT BELOW A DEPTH OF 500 FEET FROM THE SURFACE THEREOF (MEASURED VERTICALLY FROM THE SURFACE THEREOF) IN ORDER TO TAKE FROM SAID LAND AND REDUCE TO POSSESSION ANY OIL, GAS AND OTHER HYDROCARBON SUBSTANCES AND ALL OTHER MINERALS, AS EXCEPTED AND RESERVED BY CLARA HELLMAN HELLER, A WIDOW, ET AL., IN DEED TO BOBWILL BUILDING CO., A CORPORATION, RECORDED SEPTEMBER 13, 1955 IN BOOK 48924 PAGE 346, OFFICIAL RECORDS.

APN: **5237-024-061**

**Exhibit B**
**CEQA Technical Studies**

1. Noise Technical Memorandum, Taha Environmental Planners, October 19, 2020
2. Air Quality Analysis, Taha Environmental Planners, October 20, 2020
3. Green House Gas Emissions, Taha Environmental Planners, October 20, 2020
4. Low Impact Development and Drainage Study, K & S Engineering, April 24, 2020
5. Geotechnical Analysis, Southern California Geotechnical, September 30, 2019
6. Phase 1 Environmental Site Assessment, Partner Environmental, April 12, 2017
7. Traffic Impact Study, Linscott Law and Greenspan, April 21, 2020
8. Vehicle Miles Traveled Memorandum, Linscott Law and Greenspan, September 8, 2020

**Exhibit C**

**DEVELOPMENT AGREEMENT 2500**

**DAVIDSON DRIVE**

In addition to all applicable provisions of the Monterey Park Municipal Code ("MPMC"), BR Caster Corp., (A-1 Self Storage) agrees that it will comply with the following conditions for the City of Monterey Park's approval of DA-20-01 Development Agreement ("Project Conditions").

PLANNING:

1. BR Caster Corp., (A-1 Self Storage) ("Applicant") agrees to indemnify and hold the City harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising from the City's approval of DA-20-01 except for such loss or damage arising from the City's sole negligence or willful misconduct. Should the City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of the City approval of DA-20-01, the Applicant agrees to defend the City (at the City's request and with counsel satisfactory to the City) and will indemnify the City for any judgment rendered against it or any sums paid out in settlement or otherwise. For purposes of this section "the City" includes the City of Monterey Park's elected officials, appointed officials, officers, and employees.

2. This approval is for the project as shown on the plans reviewed and approved by the City Council, dated October 28, 2020. Before the City issues a building permit, the Applicant must submit building plans showing that the project substantially complies with the plans referenced in this Resolution. Any subsequent modification must be referred to the City Planner for a determination regarding the need for Planning Commission review and approval of the proposed modification.

3. All conditions of approval must be listed on the plans submitted for plan check and on the plans for which a building permit is issued.

4. Before building permits are issued, the applicant must obtain all the necessary approvals, licenses and permits and pay all the appropriate fees as required by the City.

5. Before the City issues a certificate of occupancy, the Applicant must comply with all applicable development standards of the S-C (Shopping Center) zone unless otherwise granted under DA-20-01 and those set forth in the MPMC.

6. The real property subject to DA-20-01 must remain well-maintained and free of graffiti.

7. Building permits are required for any interior tenant improvements.

8. Landscaping/irrigation must be maintained in good condition at all times.

9. Landscaping for the project must be designed to comply with the MPMC's regulations governing efficient landscaping.

ENGINEERING:

10. Under the Los Angeles County Municipal Separate Storm Sewer System (MS4) Permit, issued under the National Pollutant Discharge Elimination System (NPDES) Program, the developer/owner is required to obtain a General Construction Storm Water Permit. This project will require the preparation of a Low Impact Development (LID) Plan and a Storm Water Pollution Prevention Plan (SWPPP). Upon approval of these plans, the developer/owner must submit an electronic copy of the approved files, including site drawings, prior to the issuance of a building or grading permit.

11. Prior to grading permit issuance, the developer must record with LA County Recorder's Office Master Covenant and Agreement as part of the MS4 Permit.

12. Prior to grading permit issuance, the developer must record with LA County Recorder's Office Master Covenant and Agreement. The developer/owner is responsible for ascertaining and paying all City development fees such as, but not limited to, sewer deficiency fees, water meter fees and metered water service impact fees as required by MPMC. A sewer connection reconstruction fee will be assessed at the time of issuance of a building permit in accordance with the provisions of Chapter 14.06 of the Municipal Code.

13. All improvement plans, including grading and public improvement plans must be based upon City approved datum. Benchmark references to be obtained from the Engineering Division.

14. As part of the water improvements (fire/domestic); the developer or his engineer must substantiate adequate water service for domestic flow, fire flow and identify backflow prevention.

15. A site drainage plan must be prepared for review and approval by the City Engineer. The property drainage must be designed so that the property drains to an approved device and subsequently to the street as appropriate or in a manner otherwise acceptable to the City Engineer. Drainage from contiguous properties must not be blocked and must be accommodated to the satisfaction of the City Engineer. A hydrology and hydraulic study of the site may be required for submittal to the City Engineer for review and approval.

16. The grading and drainage plan must incorporate all pertinent site development recommendations from the approved geological and geotechnical report submitted by the developer's consultant.

17. Project must install sidewalk along entire property frontage of Davidson Drive. Any damaged curb and gutter must be replaced.

18. All public works improvements must comply with the standards and specifications of the City and to the satisfaction of the City Engineer. All public works improvements must be completed and accepted by the City prior to the issuance of the certificate of occupancy.

19. This project must install of ADA compliant curb ramps at the two corners of the intersection of Davidson Drive and Monterey Pass Road.

20. All electric, telephone and cable TV utility services must be installed fully underground from the right-of-way to the site. Satisfactory provisions for all other utilities and service connections, including water, sewer and gas, must be made to City and public utility standards.

21. The developer must comply with the recommendations of the Transportation Impact Study prepared by Linscott Law & Greenspan, date April 21, 2020. Under Section 11 of the study, it is determined that the westbound left-turn egress movement would be restricted at the project driveway. This restriction may be lifted if adequate line of sight is demonstrated to be achievable during development to the satisfaction of City Engineer.

FIRE:

22. The minimum required fire flow is 6,000 gpm at 20 psi for a 4 hour duration. Plan submittal shall include fire low test data obtain within six months of the submittal date. The fire flow may be reduced by 50 per cent by written request to MPFD. **CFC App B.**

23. Prior to fire approval and/or map recordation, the applicant shall provide to the Fire Department, verification from the water purveyor that the water purveyor can provide the required fire flow of 6,000 gallons per minute at 20 psi for a minimum a 4-hour duration.

24. Prior to combustible construction on any parcel, a fire hydrant capable of providing 1,000 gallons per minute at 20 psi shall be provided and in service along the access road/driveway at a location approved by the Fire Code Official, but no further than 250 feet from the construction site. **The owner of the combustible construction is responsible for the cost of this installation.**

25. Provide an approved Class I standpipe system in all stairwells on all levels including the roof as set forth by the Fire Code 905.

26. Provide an approved automatic fire sprinkler system and fire alarm as set forth by Fire Code 903 and 907.

27. The Fire Department Connection shall be located no more than 100 feet away from a fire hydrant. **CFC 507.5.1.1**

28. An Emergency Responder Radio Coverage System shall be provided per Fire Code 510.

29. At least one elevator shall provide general stretcher dimensions and extend to the top floor. CBC 3002.4a

30. Stairwell I shall be provided with an exterior access door. **CFC 504.1**

31. Knox boxes shall be provided adjacent to the main entrances, Fire Control rooms, and at stairwells at approved locations. **CFC 506.1**

32. Provide a minimum of one standpipe system for use during construction. Such standpipe shall be installed when the progress of construction is not more than 40 feet in height above the lowest level of fire department access. **CFC 3313**

POLICE:

33. Adequate exterior lighting shall be provided/maintained so that the area is visible from the street during the hours of darkness. At all times, all hallways, all stairwells, and any garage/carport, guest parking areas and parking entrances shall be well lit to deter any criminal activity. There shall also be adequate lighting in all common areas of the facility. During non-business hours motion sensor activated lights maybe used in the interior areas of the facility in order to reduce electricity usage.

34. Access to the roof of the building will be locked and secured. Access to the roof will be restricted to maintenance personnel, building management, or other authorized personnel.

35. The shrubbery on the property shall be installed and maintained in such condition to permit good visibility of the units from the streets. Any shrubbery surrounding the complex shall be planted and maintained where the height of the greenery would not easily conceal persons.

36. Due to the high probability of theft associated with storage facilities an alarm system shall be installed at the main entrances and exits to the facility/lobby. In addition to the security alarm system, access control points/panels shall be installed on the entrances/gates/doors to the storage units in order to prevent unauthorized access to the common areas of the facility. These devices will serve as a deterrent to criminal activity and allow notification of the police and security in the event of any such attempt. Contact the Monterey Park Police Department Community Relations Bureau at (626) 307-1215 for additional information and alarm permits.

37. Due to the nature of this business and the high probability of theft and or burglary at storage facilities a camera surveillance/security system shall be installed covering

the interior and exterior areas of the property such as the driveway, entrances and exits to the property, common hallways, and exterior storage units, or other areas where property may be kept. The video surveillance/security should operate 24 hours a day, seven days a week. All cameras should record onto a recording medium and all recordings should be maintained in a secure and locked enclosure. It is recommended that recordings be maintained for a minimum of 30 days and made readily available for any law enforcement official who requests the recording(s) for official purposes. The permittee must submit plans to the Police Chief, or designee, demonstrating that the Project has adequate exterior lighting. The Police Chief, or designee, must approve the location and light intensity before the City issues a certificate of occupancy.

38. The below California Fire Code pertaining to radio coverage shall apply to the Police Department's radio communications also:

    a. 510.1 Emergency responder radio coverage in new buildings. Approved radio coverage for emergency responders shall be provided within all buildings meeting any one of the following conditions:

        i. There are more than 3 stories above grade plane ( as defined by the Building Code Section 202);

        ii. The total building area is 30,000 square feet or more;

        iii. The total basement area is 5,000 square feet or more;

        iv. Where required by the fire code official and radio coverage signal strength levels are not consistent with the minimum levels set forth in Section

MISCELLANEOUS:

39. The applicant/owner is responsible for ascertaining and paying all City fees and costs required by MPMC including, without limitation, legal costs associated with processing this CUP. All fees must be paid before the City issues a final certificate of occupancy.

By signing this document, Tom Kearney, on behalf of BR Caster Corp., certifies that the Applicant read, understood, and agrees to the Project Conditions listed in this document.

Tom Kearney 2-8-2021

Tom Kearney, on behalf of BR Caster Corp. (A-1 Self-Storage), Applicant

**Exhibit D**
**Approved Development Standards**

SUMMARY:

PERMITTED LAND USES:

The Property will be used for a self-storage facility.

INTENSITY OF USE:

The Project involves the development of a multi-story self-storage facility with a gross total building area of 107,850 square feet on the 40,674 square foot site. The proposed Floor Area Ratio ("FAR") is 2.65.

MAXIMUM HEIGHT AND SIZE OF BUILDINGS:

The Project height is 36 Feet

The multi-level building (three stories above three cellar levels) has a gross floor area of 107,850 square feet. Total parking provided is 13 spaces.

(SEE ATTACHED BUILDING & SITE DEVELOPMENT PLANS)

# Exhibit E

**Fee Estimate**[4]

**Development Impact Fee ("DIF")** ***(Fees to increase July 1, 2021)***

| | | Rate | Sq/ft | Fee | |
|---|---|---|---|---|---|
| Law Enforcement | $ | 0.043 | 107,850 | $ | 4,637.55 |
| Fire Supression/Medic | $ | 0.016 | 107,850 | $ | 1,725.60 |
| Public Meeting Facilities | $ | - | 107,850 | $ | - |
| Library Facilities and Collection | $ | - | 107,850 | $ | - |
| Water Distribution | $ | 0.328 | 107,850 | $ | 35,374.80 |
| Sewer Collection | $ | 0.059 | 107,850 | $ | 6,363.15 |
| Aquatics Facilities | $ | - | 107,850 | $ | - |
| Park Land Improvements | $ | 0.028 | 107,850 | $ | 3,019.80 |
| Circulation | $ | 1.109 | 107,850 | $ | 119,605.65 |
| **Total Development Impact Fees** | **$** | **1.583** | **107,850** | **$** | **170,726.55** |

**Plan Check Fees**

| | | | |
|---|---|---|---|
| Building | *Building/Electrical/Mechanical/Plumbing Plan* | $ | 88,640.00 |
| Fire | | $ | 1,773.00 |
| Public Works | *(Consultant Estimate)* | $ | 9,100.00 |
| **Total Plan Check Fees** | | **$** | **99,513.00** |

**Permit and Inspection Fees**

| | | | |
|---|---|---|---|
| Building | *Building/Electrical/Mechanical/Plumbing Plan* | $ | 102,270.00 |
| Public Works | *Permit* | $ | 625.00 |
| Public Works | *Inspection* | $ | 4,000.00 |
| **Total Plan Check Fees** | | **$** | **106,895.00** |

**Misc. Fees**

| | | |
|---|---|---|
| Record Management | $ | 6,038.00 |
| General Plan Revision | $ | 12,075.00 |
| Strong Motion Tax | $ | 1,268.00 |
| Green | $ | 242.00 |
| **Total Misc. Fees** | **$** | **19,623.00** |

**Water and Fire Connection Fees**

| | | |
|---|---|---|
| Water and Fire Connection Fees | $ | 24,570.00 |
| **Total Connection Fees** | **$** | **24,570.00** |

**School Fees**

| | | |
|---|---|---|
| *School Impact Fee (Estimate) (Fees determined by applicable school district)* | $ | 67,237.00 |
| **Total School Fees** | **$** | **67,237.00** |

**County Sanitation Fee**

| | | |
|---|---|---|
| *Sanitation Fee (Estimate)* | $ | 6,958.00 |
| **Total County Sanitation Fee** | **$** | **6,958.00** |
| | | |
| **Total Estimated Fees** | **$** | **495,522.55** |

[4] The fees listed are an estimate only; the final amounts may be different. These fees do not include time and materials costs associated with processing the Project or administrative costs including, without limitation, third-party consultants and legal fees. All such amounts must be paid before the City issues a building permit.

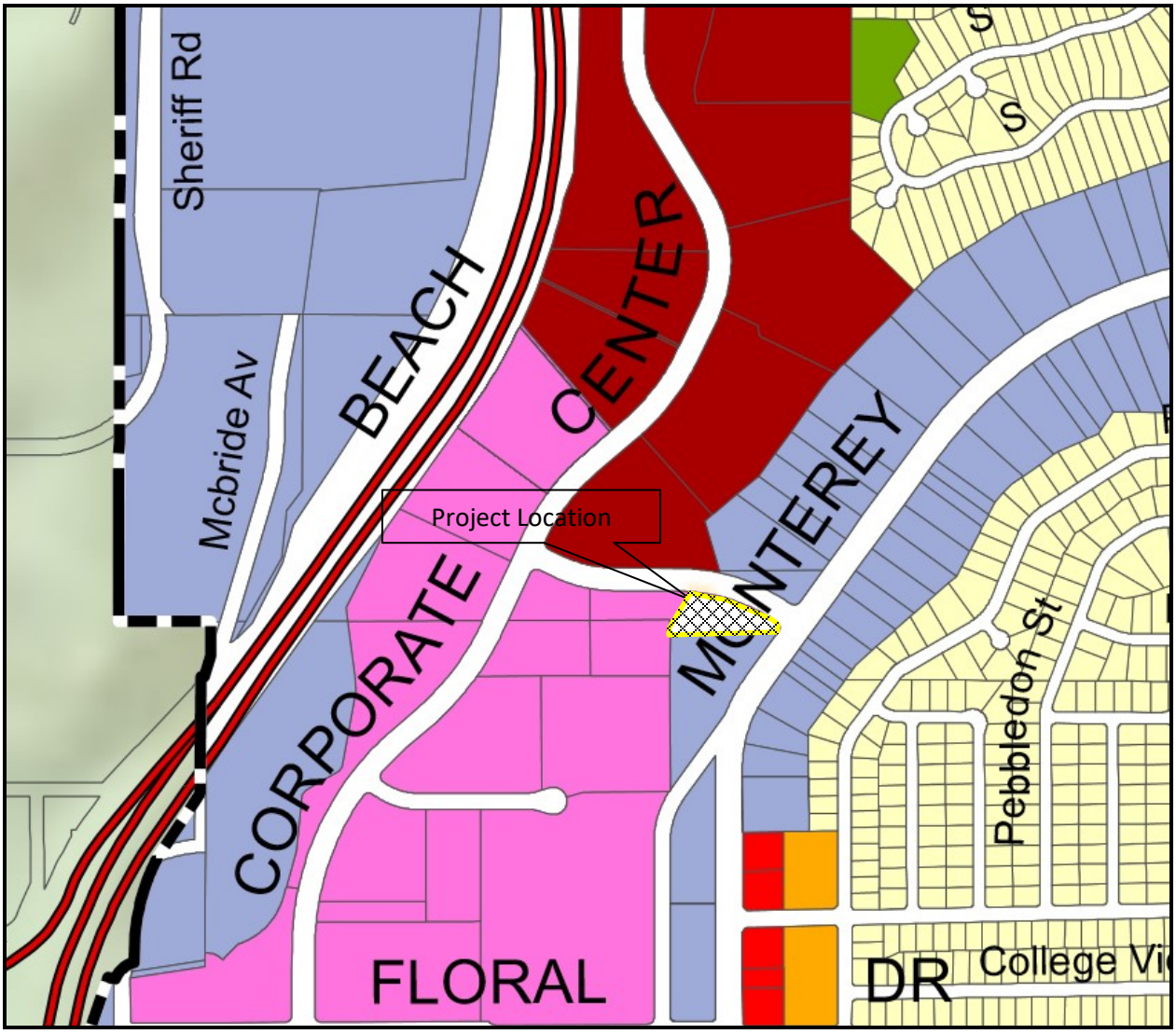
**Exhibit B to Ordinance**

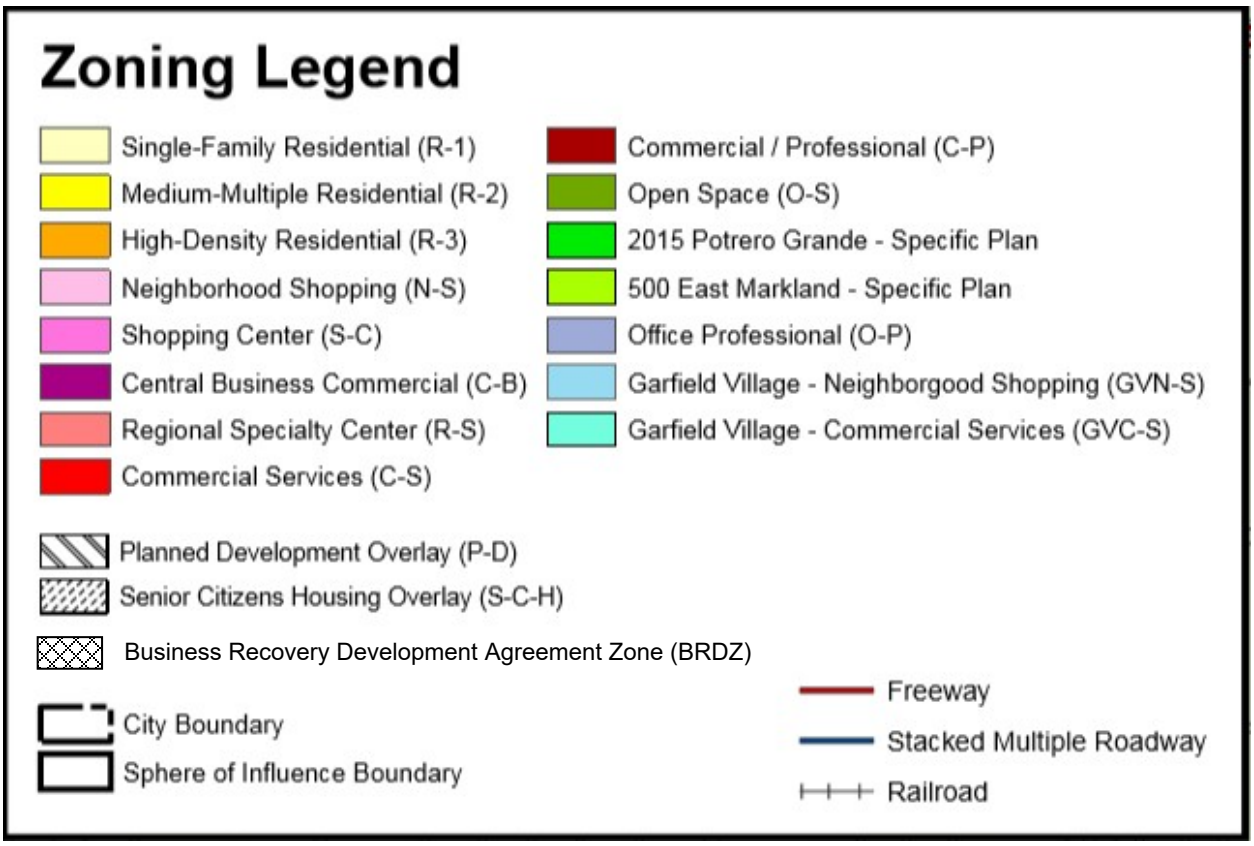
**Zone Map Amendment**

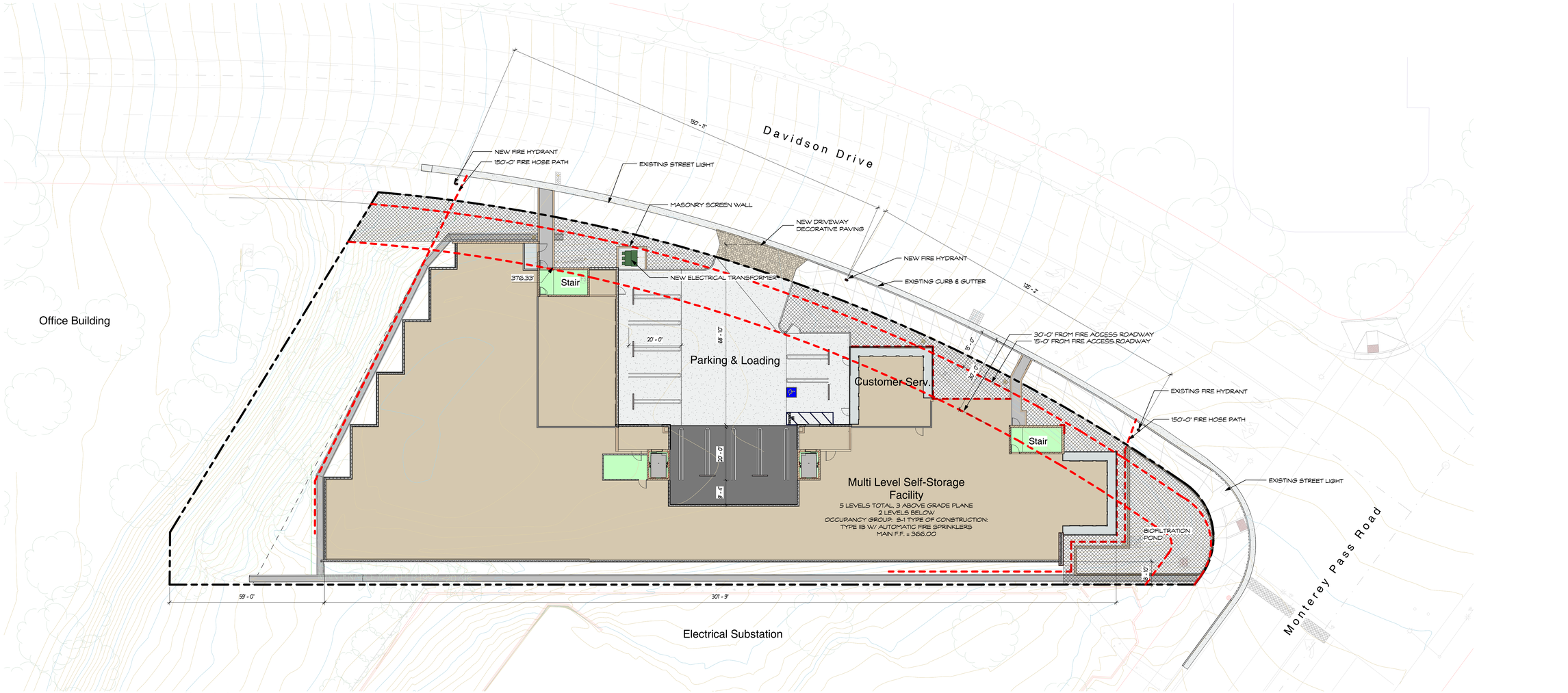
**2500 Davidson Drive**

**Existing Zone: S-C**

**Proposed Zone: S-C with BRDZ Overlay**




Zoning Legend
Single-Family Residential (R-1)
Medium-Multiple Residential (R-2)
High-Density Residential (R-3)
Neighborhood Shopping (N-S)
Shopping Center (S-C)
Central Business Commercial (C-B)
Regional Specialty Center (R-S)
Commercial Services (C-S)
Commercial / Professional (C-P)
Open Space (O-S)
2015 Potrero Grande - Specific Plan
500 East Markland - Specific Plan
Office Professional (O-P)
Garfield Village - Neighborgood Shopping (GVN-S)
Garfield Village - Commercial Services (GVC-S)
Planned Development Overlay (P-D)
Senior Citizens Housing Overlay (S-C-H)
Business Recovery Development Agreement Zone (BRDZ)
City Boundary
Sphere of Influence Boundary
Freeway
Stacked Multiple Roadway
Railroad




## Sheet Index


| Sheet Number | Sheet Name | Sheet Issue Date |
|---|---|---|
| A-1.1 | Site Plan | DA Submittal - October 20, 2020 |
| A-1.2 | Site Plan Context | DA Submittal - October 20, 2020 |
| C-1.1 | Title Sheet | April 24, 2020 |
| C-1.2 | Existing Topography | April 24, 2020 |
| C-1.3 | Conceptual Grading Plan | April 24, 2020 |
| C-1.4 | BMP Plan | April 24, 2020 |
| C-1.5 | Conceptual Street Plan | April 24, 2020 |
| L-1 | Preliminary Landscape Plan | DA Submittal - October 20, 2020 |
| A-2.1 | Level B0 Floor Plan | DA Submittal - October 20, 2020 |
| A-2.2 | Level B1 Floor Plan | DA Submittal - October 20, 2020 |
| A-2.3 | Level B2 Floor Plan | DA Submittal - October 20, 2020 |
| A-2.4 | Main Level Floor Plan | DA Submittal - October 20, 2020 |
| A-2.5 | Second Level Floor Plan | DA Submittal - October 20, 2020 |
| A-2.6 | Third Level Floor Plan | DA Submittal - October 20, 2020 |
| A-2.7 | High Roof Plan | DA Submittal - October 20, 2020 |
| A-3.1 | Site Sections | DA Submittal - October 20, 2020 |
| A-4.1 | Exterior Elevations | DA Submittal - October 20, 2020 |
| A-4.2 | Exterior Elevations | DA Submittal - October 20, 2020 |
| A-5.1 | Massing | DA Submittal - October 20, 2020 |
| A-5.2 | Project Views | DA Submittal - October 20, 2020 |
| A-5.3 | Project Views | DA Submittal - October 20, 2020 |
| A-5.4 | Project Views | DA Submittal - October 20, 2020 |


Parking Analysis

| Parking Required | | |
|---|---|---|
| Self-Storage | | 13 spaces required |
| Total | | 13 spaces required |

| Parking Provided | | |
|---|---|---|
| | Full Size | 8 spaces provided |
| | Loading (30% max) | 4 spaces provided |
| | Disabled Access | 1 spaces provided |
| Total Provided: | | 13 spaces provided |

| | | |
|---|---|---|
| Bicycle Parking Required | 5% Vehicle Spaces<br>2 spaces minimum | 1 space required. |

| Site Statistics | Provided | |
|---|---|---|
| Total Site Area | 40,674 s.f. | |
| Pad Area (CC&R) | 24,472 s.f. | |
| Pad Area + 5' (CC&R) | 27,865 s.f. | |
| Floor Area Ratio | 107,850 s.f. | 2.65 |

**Building Areas**

| | Customer Service | Display | Covered Loading | Stairs & Elevators | Mech & Elec | Int Access Storage | Ext Access Storage | CBC Total | Exterior Walls | Gross Total |
|---|---|---|---|---|---|---|---|---|---|---|
| Level B0 (Cellar) | | | | 506 | 137 | 10,021 | | 10,664 | 700 | 11,364 |
| Level B1 (Cellar) | | | | 861 | | 19,871 | | 20,732 | 1,166 | 21,899 |
| Level B2 (Cellar) | | 216 | | 506 | | 19,950 | | 20,672 | 1,226 | 21,898 |
| Main Level | 912 | 216 | 1,800 | 512 | 97 | 15,792 | 1,460 | 20,790 | 834 | 21,624 |
| Second Level | | 460 | | 665 | 50 | 18,344 | | 19,518 | 602 | 20,120 |
| Third Level | | | | 583 | | 10,238 | | 10,822 | 124 | 10,946 |
| Total | 912 | 892 | 1,800 | 3,634 | 284 | 94,216 | 1,460 | 103,199 | 4,652 | 107,850 |
| | | | | | | | | | Net Rentable: | 75,495 |

# Site Plan

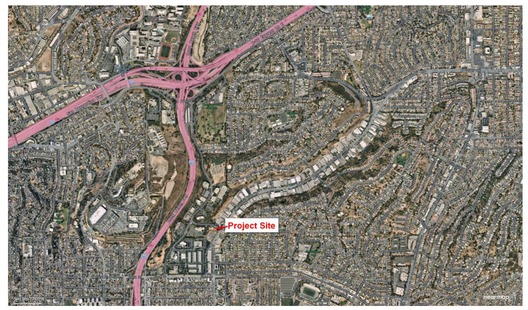
0 16' 32' Feet

Use Graphic Scale if this drawing is not printed on 30"x42" Paper

DA Submittal - October 20, 2020
1921-05.1

## Project Description and Scope of Work

An application for a Develoment Agreement for a new multi-level self storage facility and related site work.
Portion of Lot 7, Tract 42611, APN 5237-024-061




A New Self-Storage Facility for:

**A-1 Self Storage**

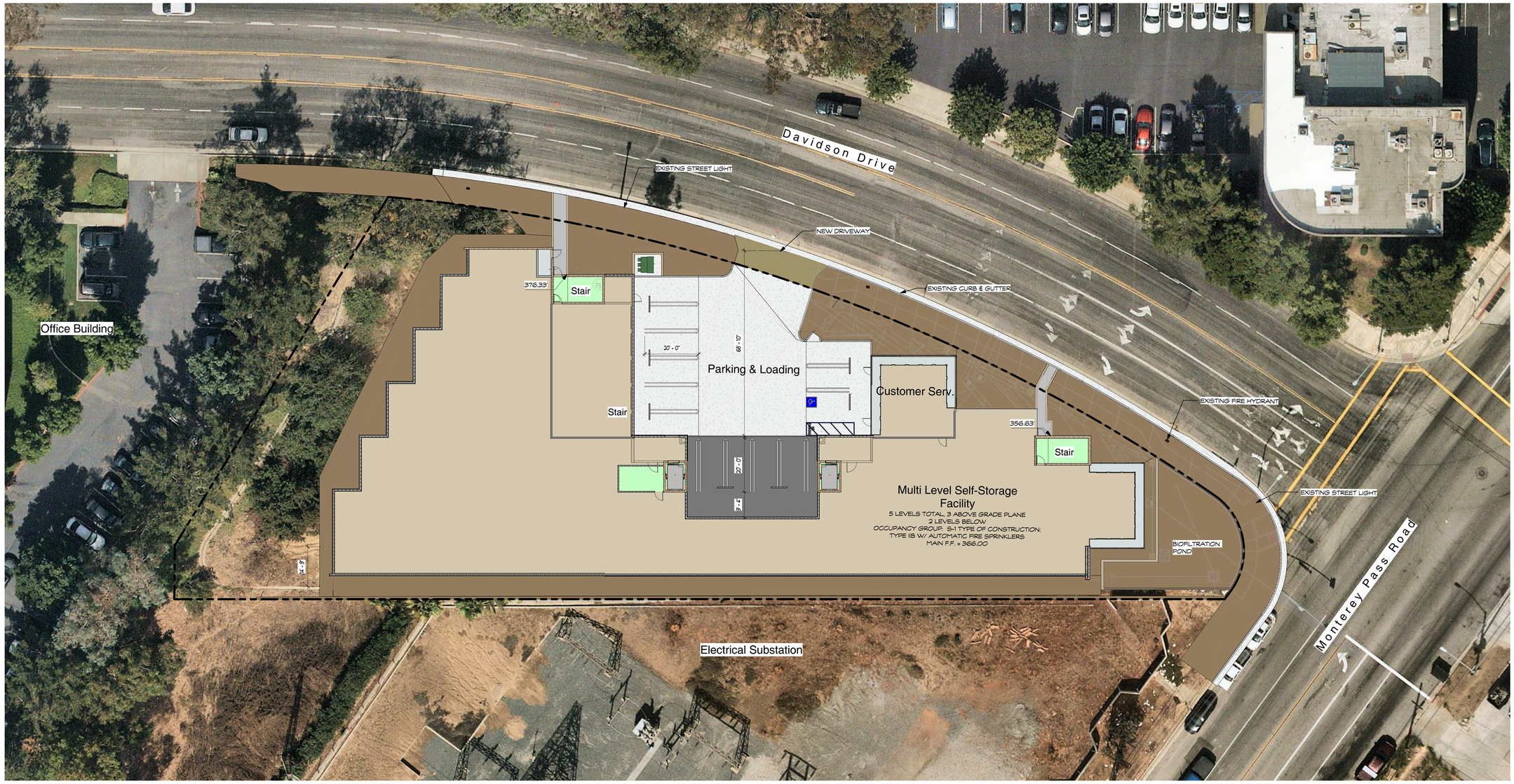
2500 Davidson Drive
Monterey Park, CA 91754


James Goodman ARCHITECTURE
An Architectural Corporation , Member American Institute of Architects

26901 Camino de Estrella, Suite A, Capistrano Beach, California 92624 949.493.0740 information@jgaia.com


A-1 Self-Storage - Tom Kearney
Environs, Inc. - Landscape Architecture
K&S Engineering, Inc - Civil Engineering

A-1.1




## Site Plan Context

0 16' 48' Feet

Use Graphic Scale if this drawing is not printed on 30"x42" Paper

DA Submittal - October 20, 2020
1921-05.1

A New Self-Storage Facility for:

**A-1 Self Storage**

2500 Davidson Drive
Monterey Park, CA 91754

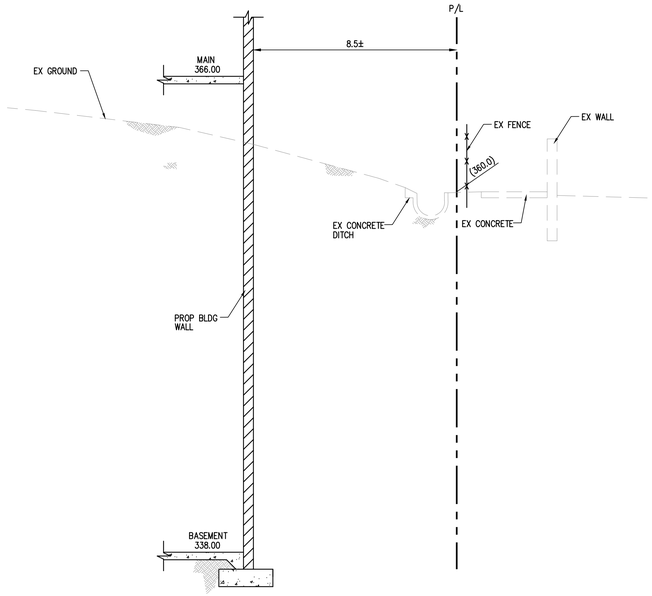
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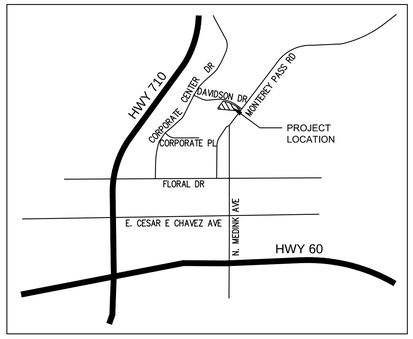
A-1 Self-Storage - Tom Kearney
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A-1.2

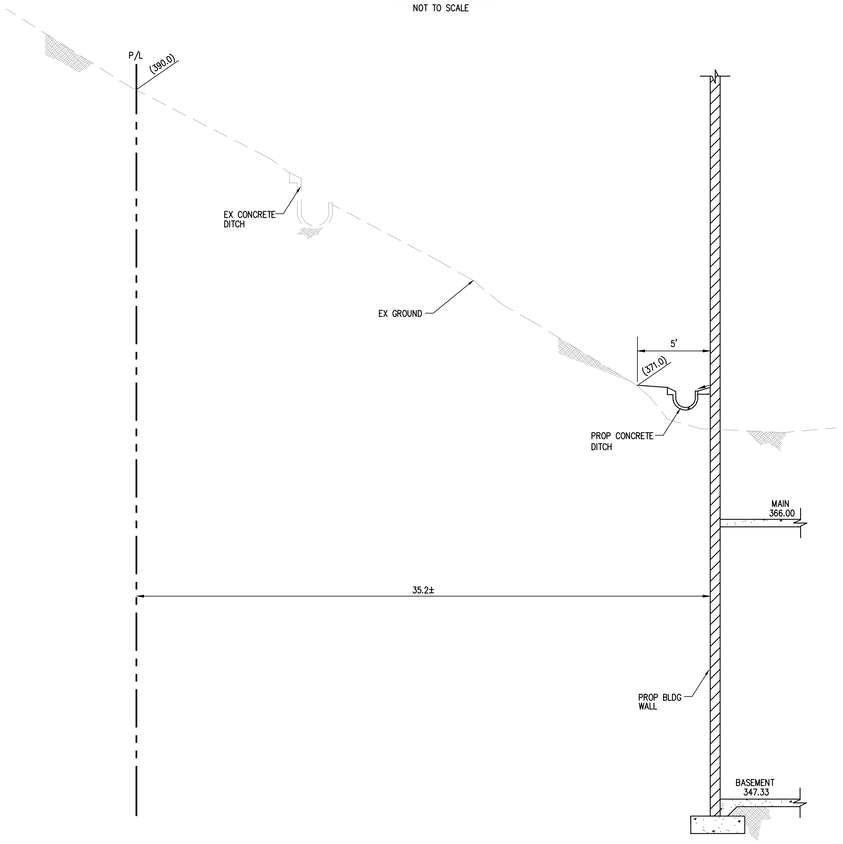
# A-1 SELF STORAGE
# MONTEREY PARK



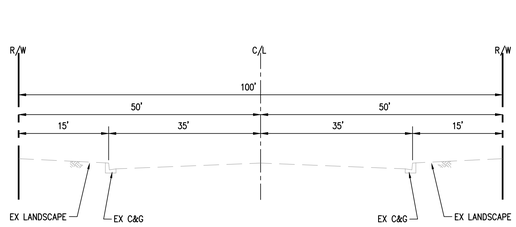

SECTION "A"
NOT TO SCALE



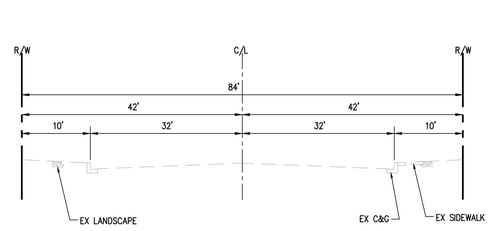

VICINITY MAP
NOT TO SCALE



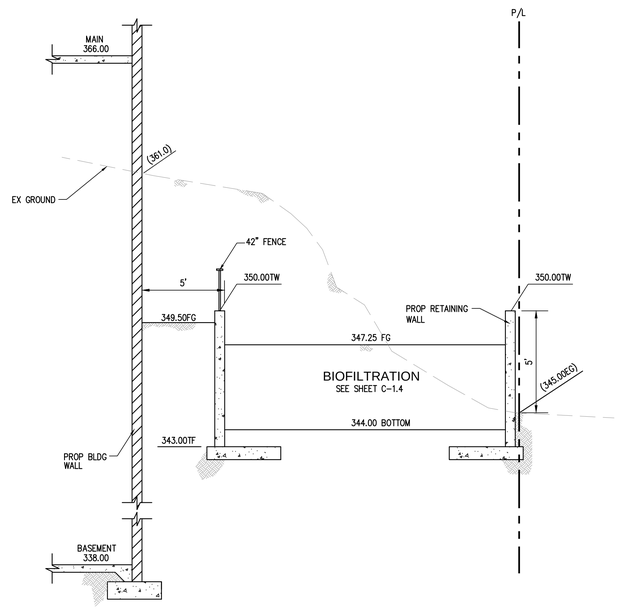

SECTION "B"
NOT TO SCALE




MONTEREY PASS ROAD
NOT TO SCALE




DAVIDSON DRIVE
NOT TO SCALE




SECTION "C"
NOT TO SCALE

## LEGEND

| ITEM | SYMBOL |
|---|---|
| INDICATES PROPERTY BOUNDARY | |
| CENTERLINE | |
| RETAINING WALL | |
| CONCRETE | |
| DRIVEWAY | |
| CONCRETE DITCH | |
| CATCH BASIN | |
| STORM DRAIN PIPE | |
| SLOPE | |
| SEWER LATERAL | S |
| WATER SERVICE | W |
| FIRE SERVICE | FS |
| CURB RAMP PER CALTRANS STD PLANS NO. A88A (TYPE B & F) | |
| BIOFILTRATION | |

## SITE ADDRESS:

2500 DAVIDSON DRIVE
MONTEREY PARK, CA 91754

## LEGAL DESCRIPTION:

LOT 7 OF PARCEL MAP NO. 42611

## PROJECT AREA:

| | |
|---|---|
| TOTAL GROSS | 0.93 AC |
| TOTAL NET | 0.69 AC |

APN:

5237-024-061

## BENCH MARK:

LOS ANGELES COUNTY PUBLIC WORKS SURVEY SECTION BENCH MARK NO. LY6718
ELEVATION: 336.678
DESCRIPTION: L&BR IN E CB MONTEREY PASS RD 35FT E/O C/L & 125FT N/O PI WITH KERN AVE @ BLDG# 1350 (20 FT NLY OF SLY P/L)

## SOURCE OF TOPOGRAPHY:

AERIAL TOPOGRAPHY AND FIELD SURVEY BY:
K & S ENGINEERING, INC
7801 MISSION CENTER COURT, SUITE 100
SAN DIEGO CA 92108
DATED AUGUST 26, 2019

## OWNER/APPLICANT

A-1 SELF STORAGE
4607 MISSION GORGE PLACE
SAN DIEGO, CA 92120
(619) 287-8873

## PREPARED BY:

K & S ENGINEERING, INC
7801 MISSION CENTER COURT, SUITE 100
SAN DIEGO CA 92108
HOSSEIN ZOMORRODI RCE 43235
(619) 296-5565 EXT 120

## SHEET INDEX:


TITLE SHEET, CROSS SECTIONS AND DETAILS.....C-1.1
EXISTING TOPOGRAPHY.....C-1.2
CONCEPTUAL GRADING PLAN.....C-1.3
BMP PLAN.....C-1.4
CONCEPTUAL STREET PLAN.....C-1.5


## PRELIMINARY GRADING NOTE:

THIS PLAN IS PROVIDED TO ALLOW FOR FULL AND ADEQUATE DISCRETIONARY REVIEW OF A PROPOSED DEVELOPMENT PROJECT. THE PROPERTY OWNER ACKNOWLEDGES THAT ACCEPTANCE OR APPROVAL OF THIS PLAN DOES NOT CONSTITUTE AN APPROVAL TO PERFORM ANY GRADING SHOWN HEREON, AND AGREES TO OBTAIN VALID GRADING PERMISSIONS BEFORE COMMENCING SUCH ACTIVITY.

TITLE SHEET

A New Self-Storage Facility for:

2500 Davidson Drive
Monterey Park, CA 91754


K&S ENGINEERING, INC.
Planning . Engineering . Surveying
7801 Mission Center Court, Suite 100 San Diego, CA 92108
(619) 296-5565 Fax: (619) 296-5564

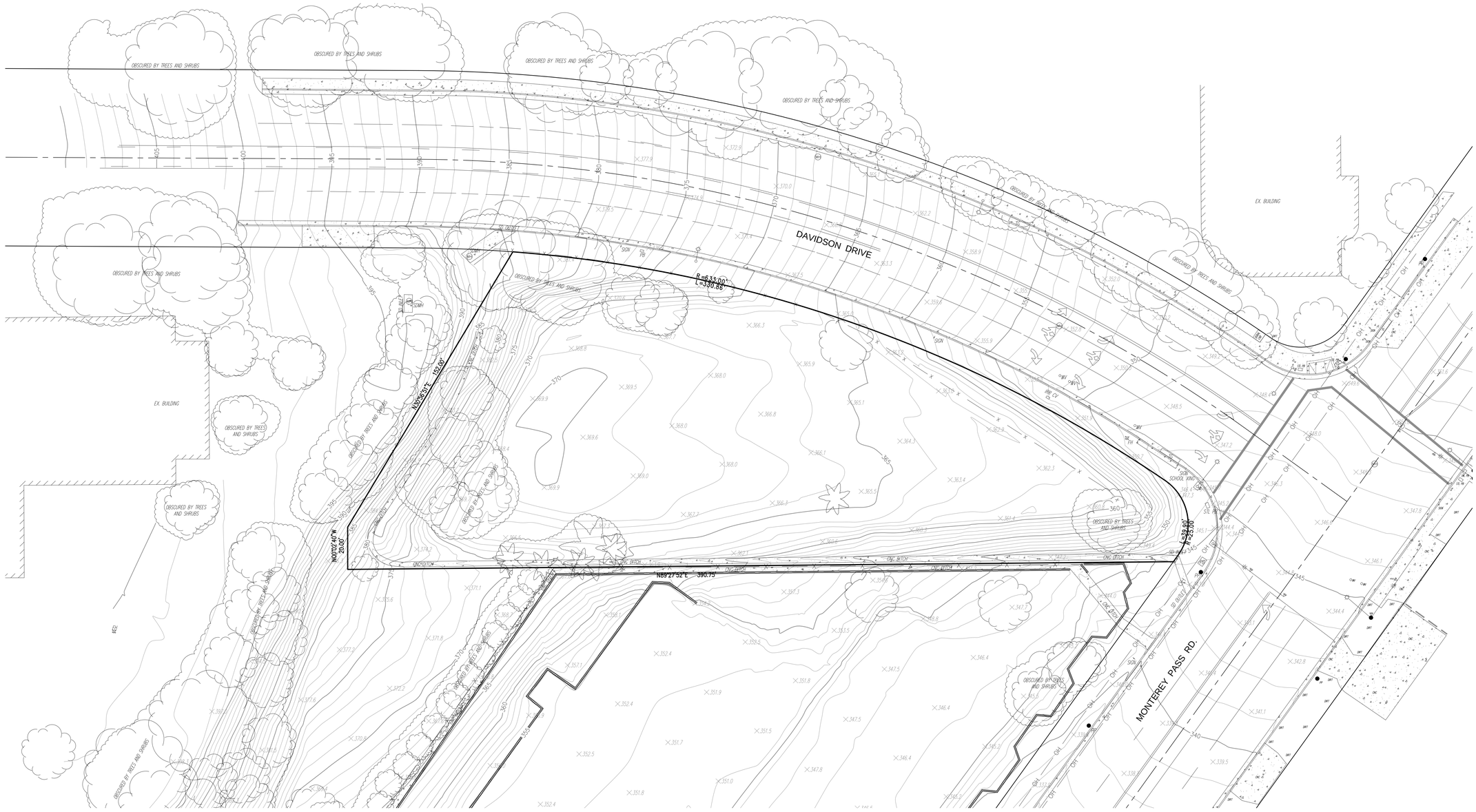
REGISTERED PROFESSIONAL ENGINEER HOSSEIN ZOMORRODI NO. 43235 EXP 3-31-22 CIVIL STATE OF CALIFORNIA

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K&S Engineering, Inc - Civil Engineering
Environs, Inc. - Landscape Architecture


C-1.1

April 24, 2020




EXISTING TOPOGRAPHY

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C-1.2

April 24, 2020

GRAPHIC SCALE: 1" = 20'


K&S ENGINEERING, INC.
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REGISTERED PROFESSIONAL ENGINEER
HOSSEIN ZOMORODI
NO. 43235
EXP 3-31-22
CIVIL
STATE OF CALIFORNIA

FOR IMPROVEMENTS WITHIN PUBLIC RIGHT OF WAY SEE SHEET C-1.5

DAVIDSON DRIVE

MONTEREY PASS RD

OBSCURED BY TREES AND SHRUBS

EX. BUILDING

FFE 347.33 (BASEMENT)
PAD 345.33

OFFICE
FFE 366.00

FFE 366.00 (MAIN)
FFE 338.00 (BASEMENT)
PAD 336.00

N02°56'51"E 152.00'

N00°03'09"W 20.00'

N89°27'52"E 390.75'

R=633.00' L=330.86'

CONCEPTUAL GRADING PLAN

A New Self-Storage Facility for:

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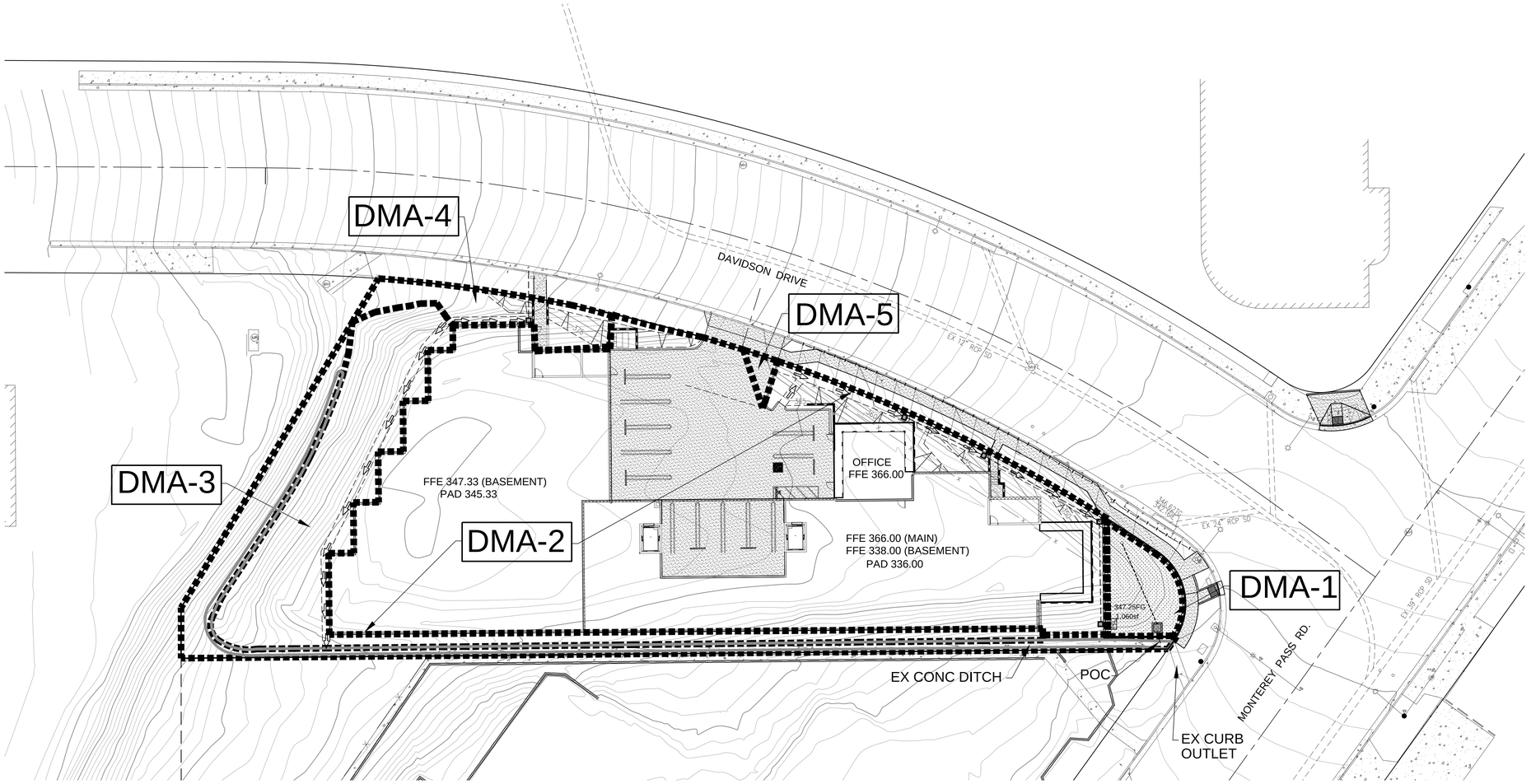
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GRAPHIC SCALE: 1" = 20'

C-1.3

April 24, 2020




## AREA CALCULATION
## BIOFILTRATION FACILITY (FOR WATER QUALITY ONLY)

| DMA TREATMENT AREA | DMA AREA (SF) | POST-PROJECT SURFACE TYPE | DMA RUNOFF FACTOR | DMA AREA X RUNOFF FACTOR | SOIL TYPE * PER WEBSOILS NRCS | BMP | | |
|---|---|---|---|---|---|---|---|---|
| | | | | | "C" | BIOFILTRATION (BIO-1) | | |
| DMA-1 & DMA-2 | 27,255 | CONCRETE/ASPHALT/ROOF | 0.9 | 24,529 | IMP SIZING FACTOR | | PROPOSED AREA | |
| DMA-1 & DMA-2 | 2,468 | LANDSCAPE | 0.1 | 246 | (WM ONLY) | MINIMUM AREA | | IMP AREA |
| | | | | 24,775 | 0.03 | 743 | 1,060 | |

## DRAINAGE MANAGEMENT AREAS

| DMA | SURFACE SF | | TOTAL SF | TYPE OF STRUCTURAL BMP |
|---|---|---|---|---|
| | IMPERVIOUS | PERVIOUS | | |
| DMA-1 | 0 | 1,025 | 1,025 | BIOFILTRATION |
| DMA-2 | 27,255 | 1,443 | 28,698 | BIOFILTRATION |
| DMA-3 | 426 | 5,793 | 6,219 | SELF-MITIGATED |
| DMA-4 | 188 | 1,175 | 1,363 | SELF-MITIGATED |
| DMA-5 | 141 | 0 | 141 | DEMINIMUS |
| TOTAL | | | 37,446 | |

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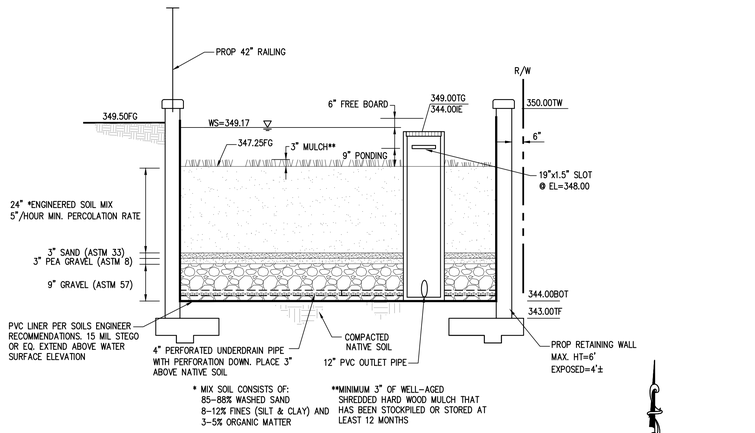
REGISTERED PROFESSIONAL ENGINEER
HOSSEIN ZOMORODI
NO.43235
EXP 3-31-22
CIVIL
STATE OF CALIFORNIA

NO DUMPING THIS DRAINS TO OCEAN

ALL STORMDRAIN INLETS AND CATCH BASINS WITHIN PROJECT MUST BE STENCILED TO DISCURAGE ILLEGAL DUMPING.

NOTES:
1. THESE ARE SAMPLE TILES AND SIGNS.
2. CITY ENGINEER TO DESIGNATE OR APPROVE SIGNS, TILES OR STENCILS.
3. PROVIDE LABELING WITH PROHIBITIVE LANGUAGE ("THIS DRAINS TO THE OCEAN")
4. SIGN SHOULD BE PLACED ON THE CATCH BASIN GRATE.
5. SIGN SHALL HAVE A WHITE BACKGROUND WITH BLUE LETTERING.

## STORM DRAIN SIGNAGE
NOT TO SCALE




## BMP-1 BIOFILTRATION
## 1,060 SF
NOT TO SCALE

0 10 20 40 60
GRAPHIC SCALE: 1" = 20'

## PROJECT TYPE
-NEW DEVELOPMENT, NEW IMPERVIOUS AREA

## SOURCE CONTROL MEASURE CHECKLIST:

| | APPLIED |
|---|---|
| -STORM DRAIN MESSAGE AND SIGNAGE (S-1) | YES |
| -OUTDOOR TRASH STORAGE/WASTE HANDLING AREA (S-3) | YES |
| -LANDSCAPE IRRIGATION PRACTICES (S-8) | YES |
| -BUILDING MATERIALS (S-9) | YES |

## STORMWATER QUALITY CONTROL MEASURE:
-BIOFILTRATION (BIO-1)

# BMP PLAN

A New Self-Storage Facility for:

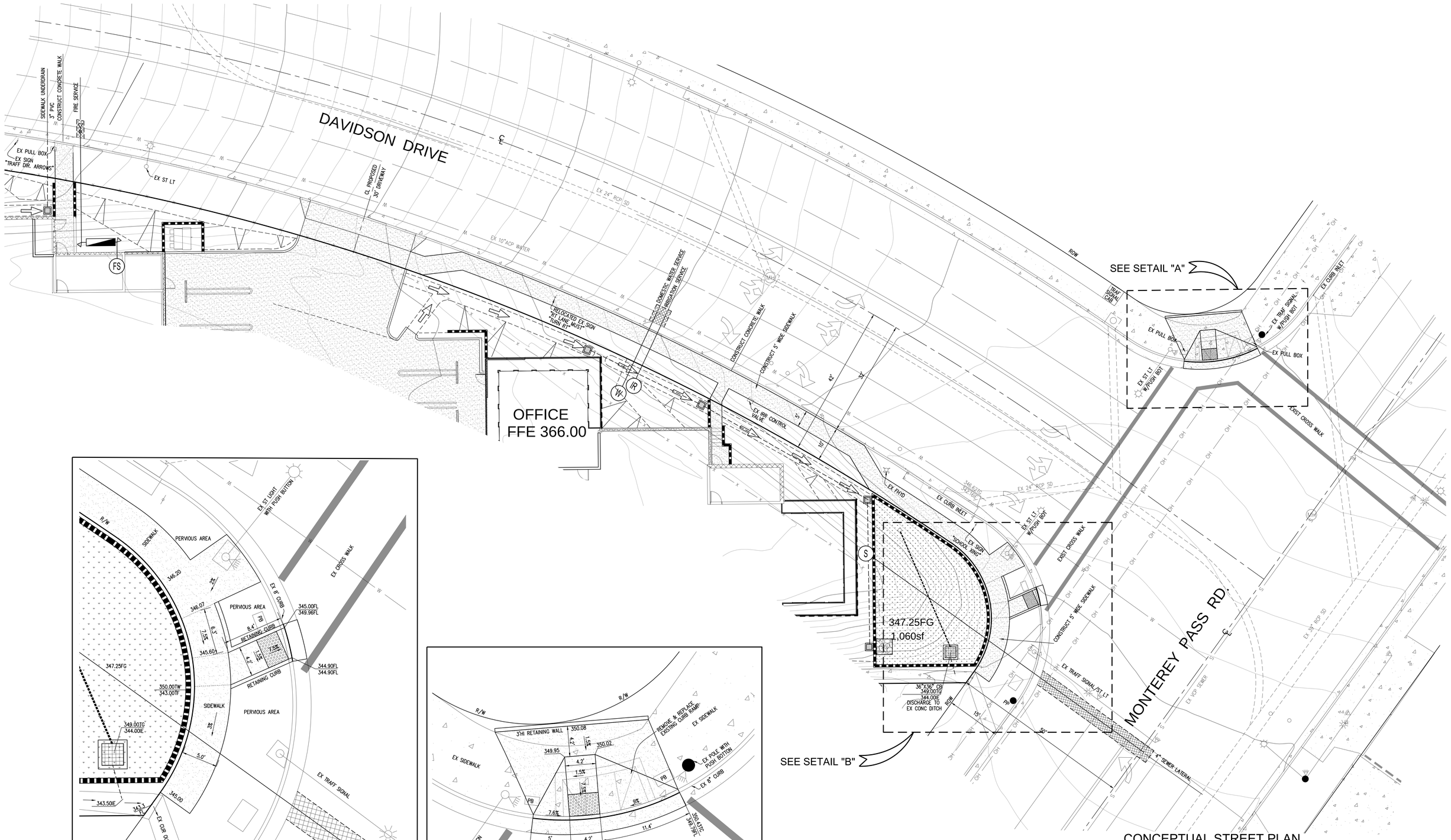
2500 Davidson Drive
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Environs, Inc. - Landscape Architecture

C-1.4

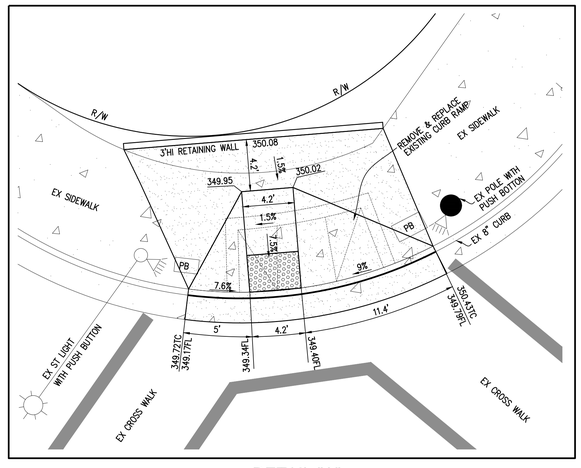
April 24, 2020



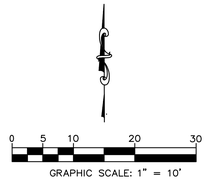




DETAIL "B"
SCALE: 1"=5'




DETAIL "A"
SCALE: 1"=5'




GRAPHIC SCALE: 1" = 10'

# CONCEPTUAL STREET PLAN

A New Self-Storage Facility for:

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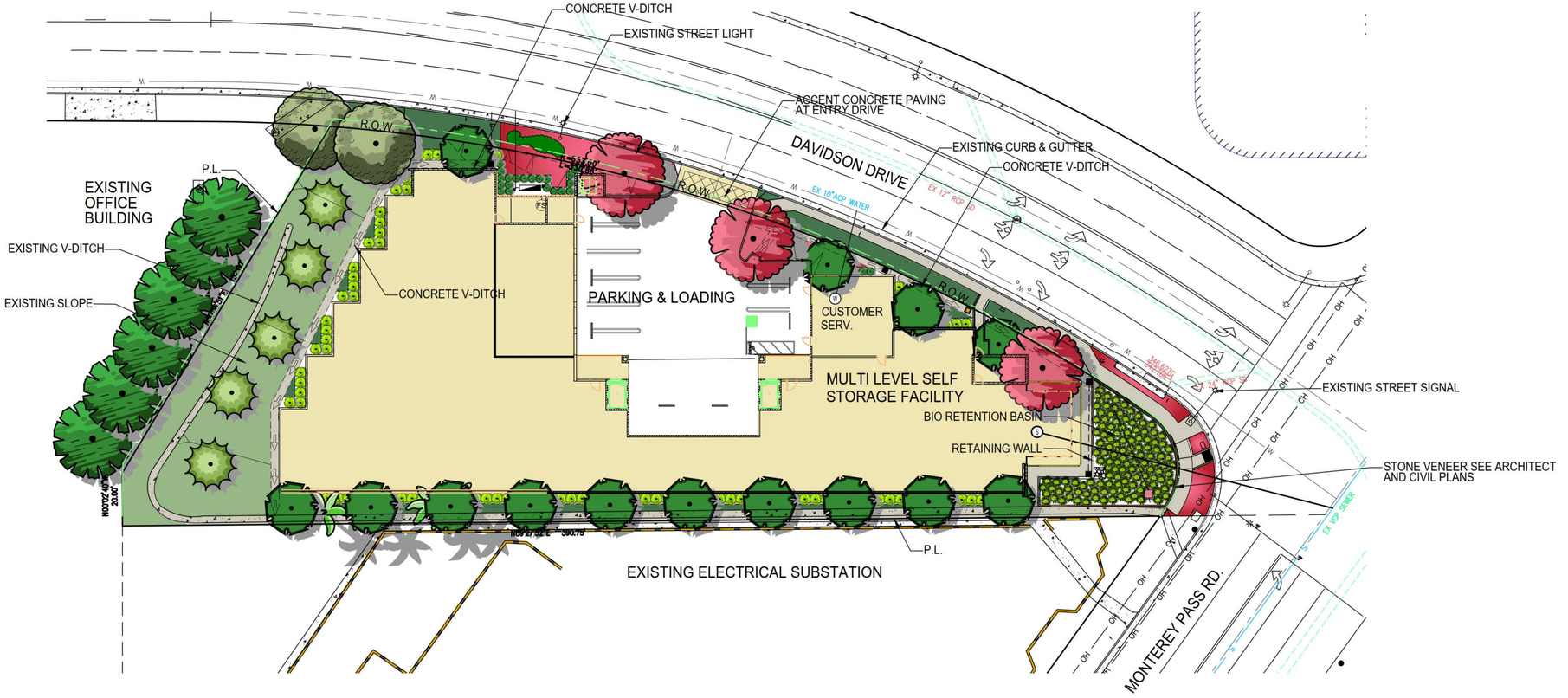
REGISTERED PROFESSIONAL ENGINEER
KENNETH ZOMBRONO
NO. 43235
EXP 3-31-22
CIVIL
STATE OF CALIFORNIA

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C-1.5

April 24, 2020




GROUND COVER PALETTE - LOW WATER USE - 1 GAL
Acacia redolens 'Desert Carpet' TM / Bank Catclaw Space 4' o.c.
Baccharis pilularis 'Pigeon Point' / Coyote Brush - Space 4' o.c.
Lantana montevidensis 'Nen Gold' / Trailing Lantana
Myoporum parvifolium 'Putah Creek' / Putah Creek Myoporum Space 3' o.c.
Rosmarinus officinalis 'Huntington Carpet' / Huntington Carpet Rosemary

GROUND COVER PALETTE - MEDIUM WATER USE - 1 GAL
Hemerocallis x 'Bitsy' / Yellow Daylily Space 2' o.c.
Rosa x 'Flower Carpet Pink' / Rose Space 3' o.c.
Rosa x 'Flower Carpet Red' / Rose Space 3' o.c.
Trachelospermum jasminoides / Star Jasmine Space 18" o.c.

EXISTING GROUND COVER & SHRUBS TO REMAIN
Festuca arundinacea 'Marathon' / Dwarf Cool Season Turf

## NOTES

1. ALL TREES WITHIN 6' OF HARDSCAPE OR ADJACENT TO SCE EASEMENT SHALL BE IN A SHAWTOWN LINEAR (WRAP AROUND NOT ALLOWED) ROOT BARRIER 24" HIGH LINEAR ROOT BARRIER SHALL BE CENTERED ON TREE AND EXTEND 5' IN BOTH DIRECTIONS FOR A TOTAL OF 10' OR TO EDGE OF PLANTER AT SCE EASEMENT.
2. NOTE: CONTRACTOR TO INSTALL CONCRETE MOWCURBS TO DEFINE THE FOLLOWING AREAS: BETWEEN GRAVEL AND PLANTING AREAS.
3. NOTE: QUANTITIES AND AREA CALCULATIONS SHOWN IN LEGEND ARE FOR REFERENCE ONLY . CONTRACTOR REPONSIBLE FOR ALL QUANTITY TAKE-OFFS AND AREA CALCULATIONS FOR DETERMINING COST AND DELIVERY OF MATERIALS TO SITE.

## SHREDDED MULCH NOTE

ALL PLANTER AREAS TO RECEIVE A 3" LAYER OF SHREDDED COVER MULCH AVAILABLE FROM EARTHWORKS (951)782-0260

SMALL SCALE FOUNDATION PLANTING - 5 GAL - LOW WATER
Arbutus unedo / Strawberry Tree Shrub - Space 5' o.c.
Callistemon citrinus 'Little John' / Dwarf Bottle Brush- Space 3' o.c.
Eleagnus pungens / Silverberry Space 4' o.c.
Nerium oleander 'Petite Pink' / Petite Pink Oleander - Space 4' o.c.
Olea europaea 'Little Ollie' TM / Little Ollie Olive Space 3' o.c.
Rosmarinus officinalis 'Tuscan Blue' / Tuscan Blue Rosemary - Space 3' o.c.
Westringia fruticosa / Coast Rosemary - Space 4' o.c.

GRASSES - LOW / MEDIUM WATER
Miscanthus transmorrisonensis / Evergreen Eulalia
Muhlenbergia capillaris 'Autumn Blush' / Pink Muhly
Muhlenbergia lindheimeri 'Autumn Glow' TM / Lindheimer's Muhly
Muhlenbergia rigens / Deer Grass
Pennisetum 'Fairy Tails' / Fairy Tails Fountain Grass

ACCENT SHRUBS - 5 GAL - LOW WATER USE
Agave attenuata / Agave - Space 4' o.c.
Anigozanthos flavidus 'Big Red' / Red Kangaroo Paw - Space 3' o.c.
Anigozanthos x 'Gold Velvet' / Kangaroo Paw - Space 3' o.c.
Arbutus unedo / Strawberry Tree Shrub - Space 5' o.c.
Berberis thunbergii 'Atropurpurea' / Red Leaf Japanese Barberry - Space 4' o.c.
Bougainvillea x 'Texas Dawn' TM / Texas Dawn Bougainvillea Space 5' o.c.
Callistemon citrinus 'Little John' / Dwarf Bottle Brush- Space 3' o.c.
Muhlenbergia capillaris / Pink Muhly Space 4' o.c.
Muhlenbergia capillaris 'Autumn Blush' / Pink Muhly
Muhlenbergia lindheimeri 'Autumn Glow' TM / Lindheimer's Muhly Space 4' o.c.
Nerium oleander 'Petite Pink' / Petite Pink Oleander - Space 4' o.c.
Olea europaea 'Little Ollie' TM / Little Ollie Olive Space 3' o.c.
Pennisetum advena 'Rubrum' / Fountain Grass Space 4' o.c.
Rosmarinus officinalis 'Tuscan Blue' / Tuscan Blue Rosemary - Space 4' o.c.
Salvia clevelandii 'Allen Chickering' / Cleveland Sage - Space 4' o.c.
Salvia greggii 'Furmans Red' / Furman's Red Salvia - Space 3' o.c.
Westringia fruticosa / Coast Rosemary - Space 4' o.c.
Yucca filamentosa 'Color Guard' / Adam's Needle - Space 4' o.c.

ACCENT SHRUBS- 1 & 5 GAL - MEDIUM WATER USE
Abelia x grandiflora 'Edward Goucher' / Glossy Abelia - 5 gal. Space 4' o.c.
Cordyline x 'Electric Pink' / Pink Cordyline Space 3' o.c.
Miscanthus transmorrisonensis / Evergreen Eulalia - Space 5' o.c.
Phormium tenax 'Yellow Wave' / New Zealand Flax - 5 gal. Space 4' o.c.
Rhaphiolepis indica 'Jack Evans' / Indian Hawthorn - 5 gal. Space 4' o.c.
Rosa floribunda 'Iceberg' / Iceberg Rose - 5 gal. Space 3'-6" o.c.

## PLANT SCHEDULE

| TREES | BOTANICAL / COMMON NAME | CONT | WUCOLS | QTY |
|---|---|---|---|---|
| | Existing Elm Tree to be Remain | Existing | Low | 2 |
| | Existing Mexican Fan Palm to be Removed | Existing | Low | 4 |
| | Existing Pine to Remain | Existing | Low | 6 |
| | Koelreuteria bipinnata / Chinese Flame Tree Standard | 36"box | Med | 3 |
| | Pinus eldarica / Afghan Pine<br>SIZE - 24" BOX - WATER USE - WULCOL - LOW | 24"box | Low | 5 |
| | Tristania conferta / Brisbane Box | 24"box | Med | 14 |

## CONCEPT PLANT SCHEDULE

FOUNDATION SHRUB - 5 GAL - MED WATER
Buxus microphylla japonica 'Green Beauty' / Green Beauty Boxwood - Space 30" o.c.
Ligustrum texanum / Texas Privet - Space 3'-6" o.c.
Nandina domestica / Heavenly Bamboo- Space 3' o.c.
Pittosporum tenuifolium 'Silver Sheen' / Tawhiwhi - Space 5' o.c.
Podocarpus gracilior 'Column' / Fern Pine - Space 4' o.c.
Rhaphiolepis indica 'Jack Evans' / Indian Hawthorn - 5 gal. Space 4' o.c.
Xylosma congestum / Shiny Xylosma - Space 4' o.c.

# Preliminary Landscape Plan

0 20' 60' Feet
Use Graphic Scale if this drawing is not printed on 30"x42" Paper

DA Submittal - October 20, 2020
1921-05.1

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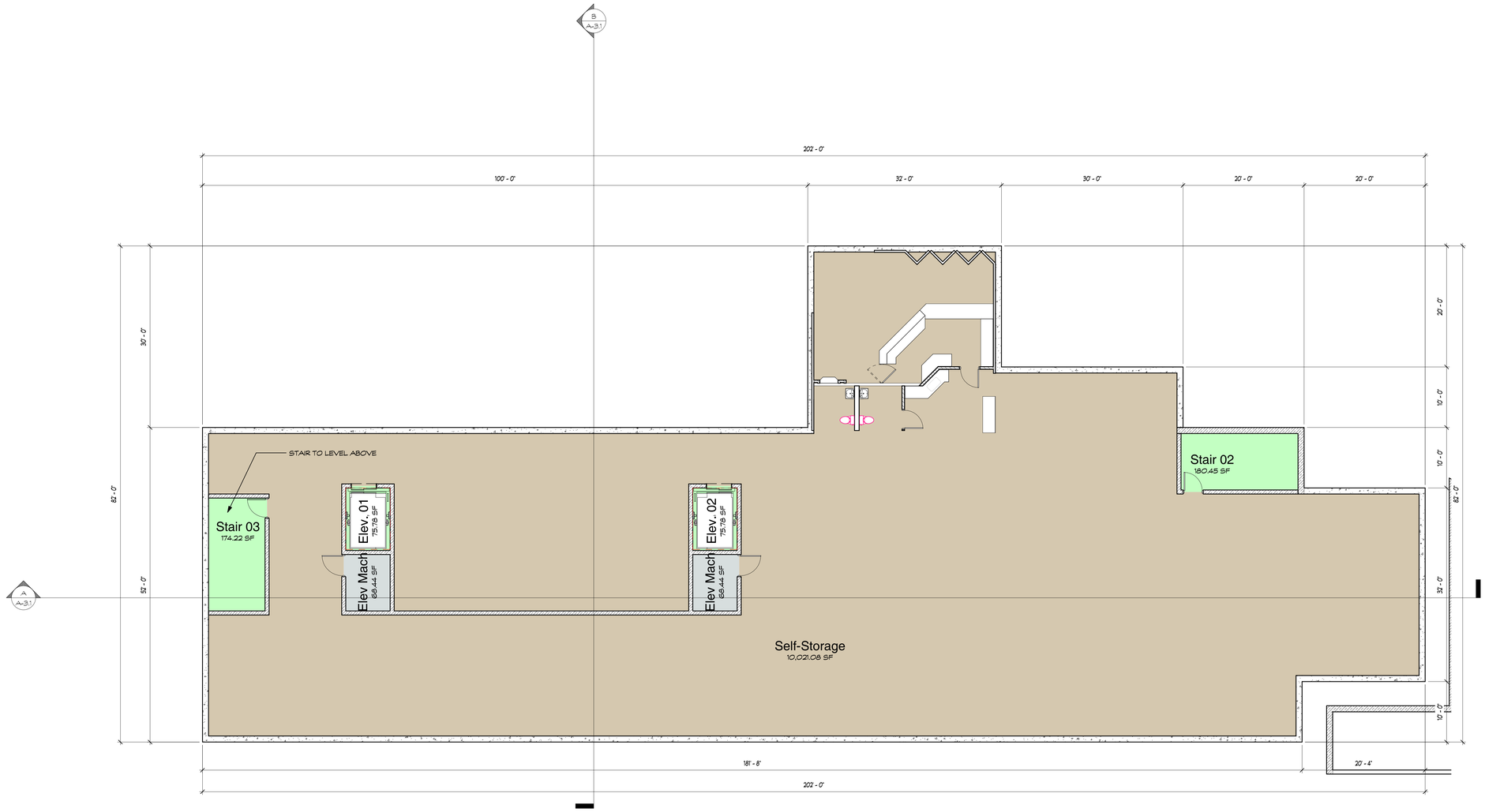
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L-1




# Level B0 Floor Plan

0 10' 30' Feet

Use Graphic Scale if this drawing is not printed on 30"x42" Paper

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1921-05.1

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**A-1 Self Storage**

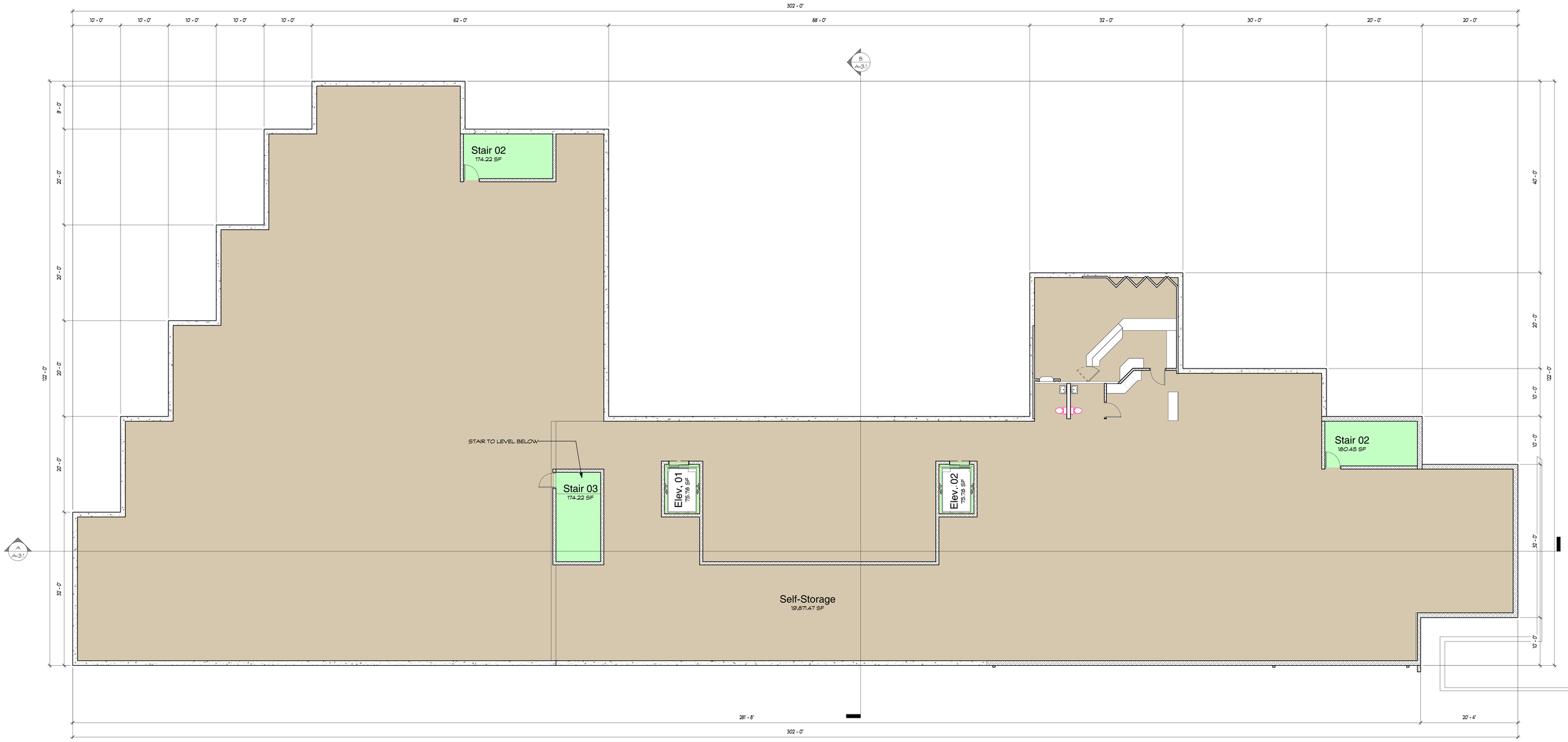
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A-2.1




# Level B1 Floor Plan

0 8' 24' Feet

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DA Submittal - October 20, 2020

1921-05.1

A New Self-Storage Facility for:

**A-1 Self Storage**

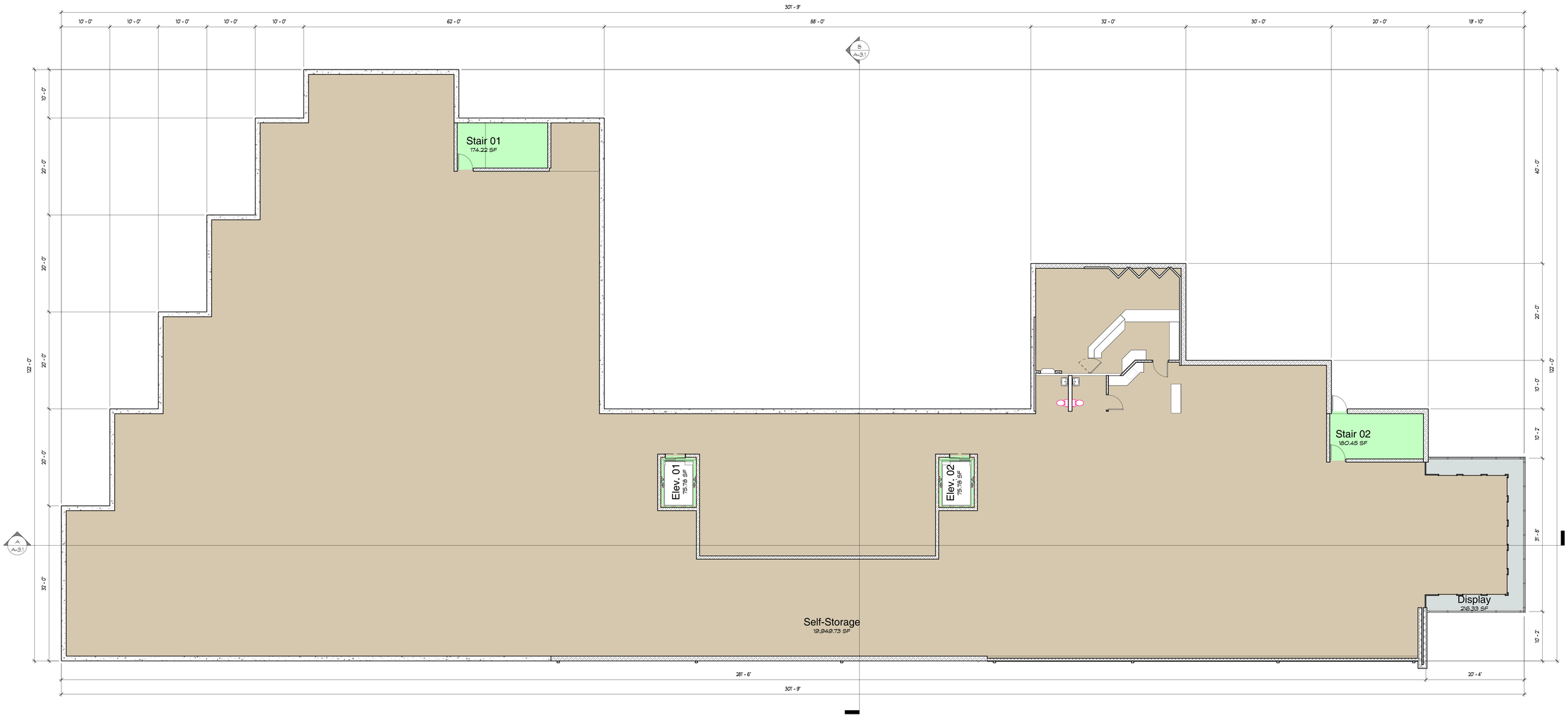
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A-2.2




# Level B2 Floor Plan

0 10' 30' Feet

Use Graphic Scale if this drawing is not printed on 30"x42" Paper

DA Submittal - October 20, 2020

1921-05.1

A New Self-Storage Facility for:

**A-1 Self Storage**

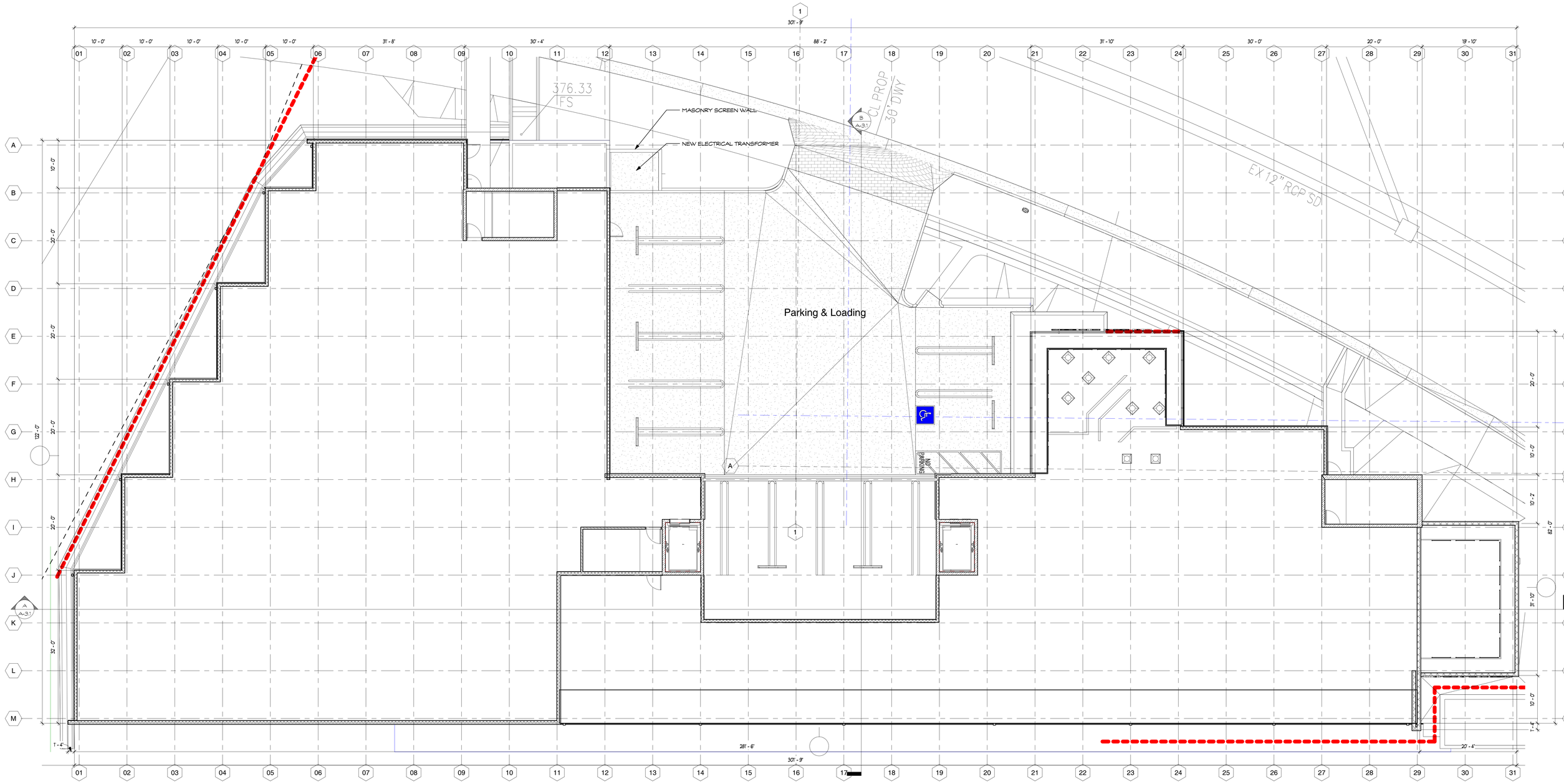
2500 Davidson Drive
Monterey Park, CA 91754

James Goodman ARCHITECTURE
An Architectural Corporation . Member American Institute of Architects

26901 Camino de Estrella, Suite A, Capistrano Beach, California 92624 949.493.0740 information@jgaia.com

A-1 Self-Storage - Tom Kearney
Environs, Inc. - Landscape Architecture
K&S Engineering, Inc - Civil Engineering

A-2.3




# Main Level Floor Plan

0 10' 30' Feet

Use Graphic Scale if this drawing is not printed on 30"x42" Paper

DA Submittal - October 20, 2020

1921-05.1

A New Self-Storage Facility for:

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A-2.4




# Second Level Floor Plan

0 10' 30' Feet

Use Graphic Scale if this drawing is not printed on 30"x42" Paper

DA Submittal - October 20, 2020

1921-05.1

A New Self-Storage Facility for:

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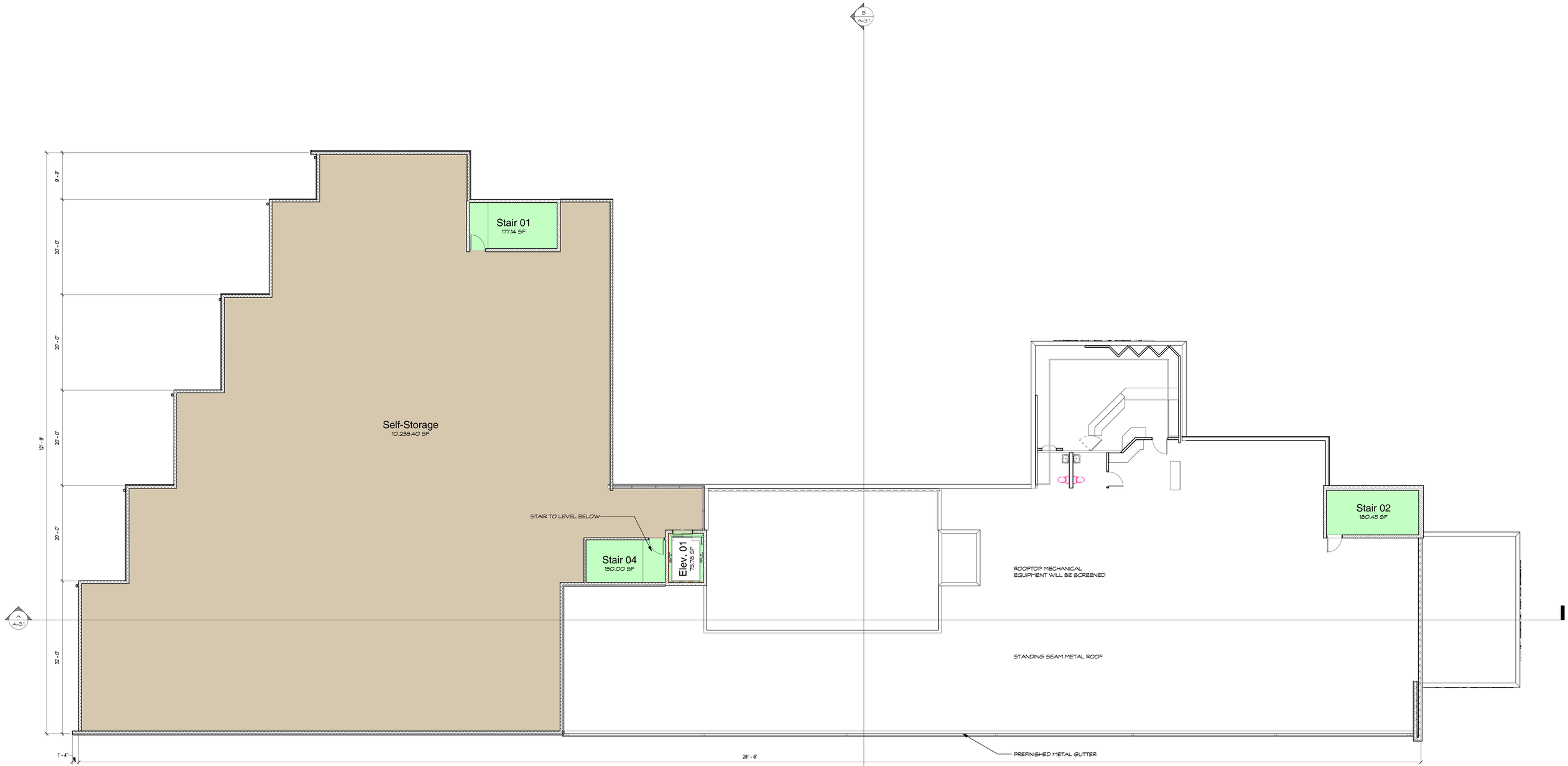
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K&S Engineering, Inc - Civil Engineering

A-2.5




# Third Level Floor Plan

0 10' 30' Feet

Use Graphic Scale if this drawing is not printed on 30"x42" Paper

DA Submittal - October 20, 2020
1921-05.1

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K&S Engineering, Inc - Civil Engineering

A-2.6




# High Roof Plan

0 10' 30' Feet

Use Graphic Scale if this drawing is not printed on 30"x42" Paper

DA Submittal - October 20, 2020

1921-05.1

A New Self-Storage Facility for:

**A-1 Self Storage**

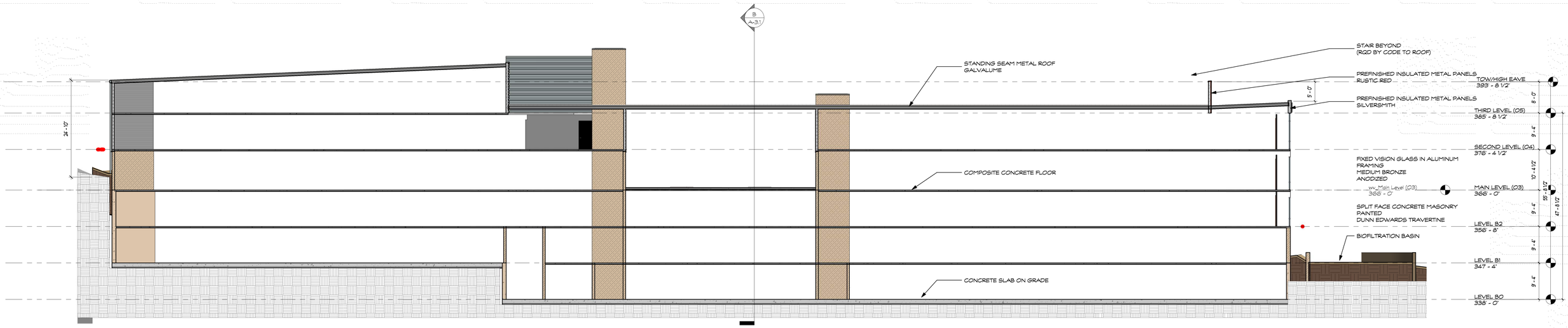
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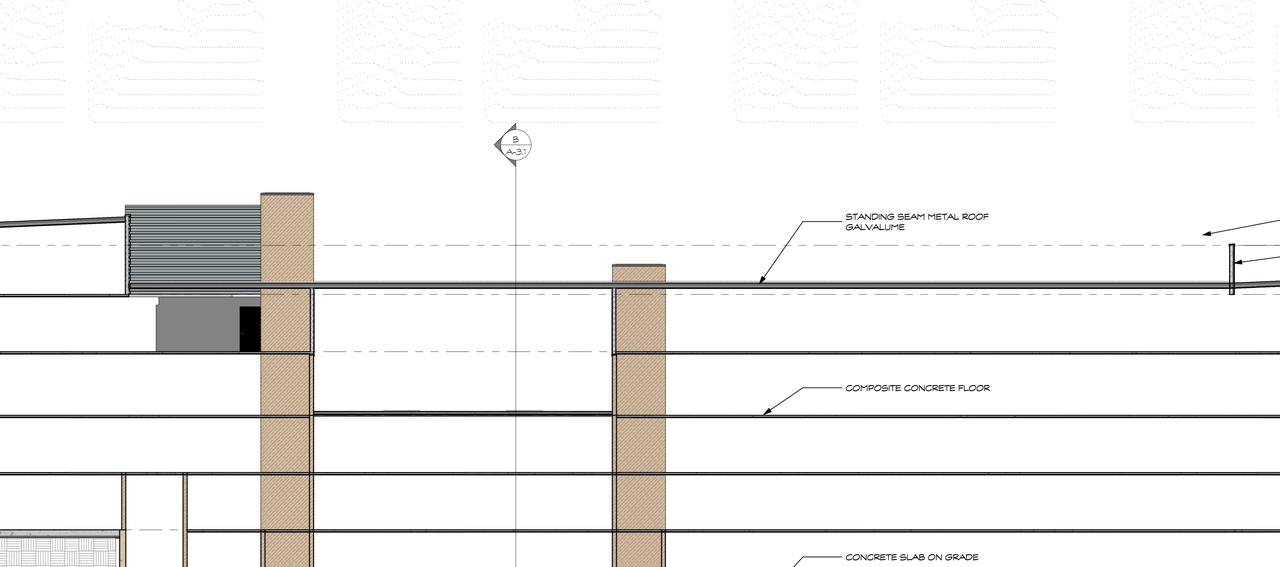
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A-1 Self-Storage - Tom Kearney
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A-2.7




Section A




Section B

Site Sections

0 10' 30' Feet

Use Graphic Scale if this drawing is not printed on 30"x42" Paper

DA Submittal - October 20, 2020

1921-05.1

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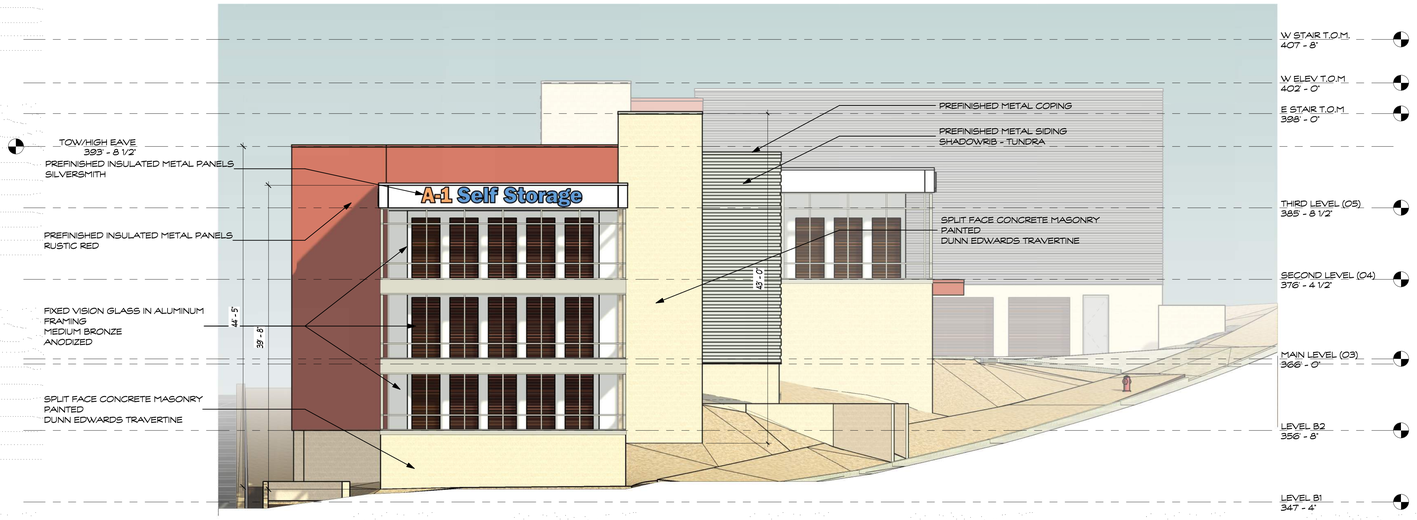
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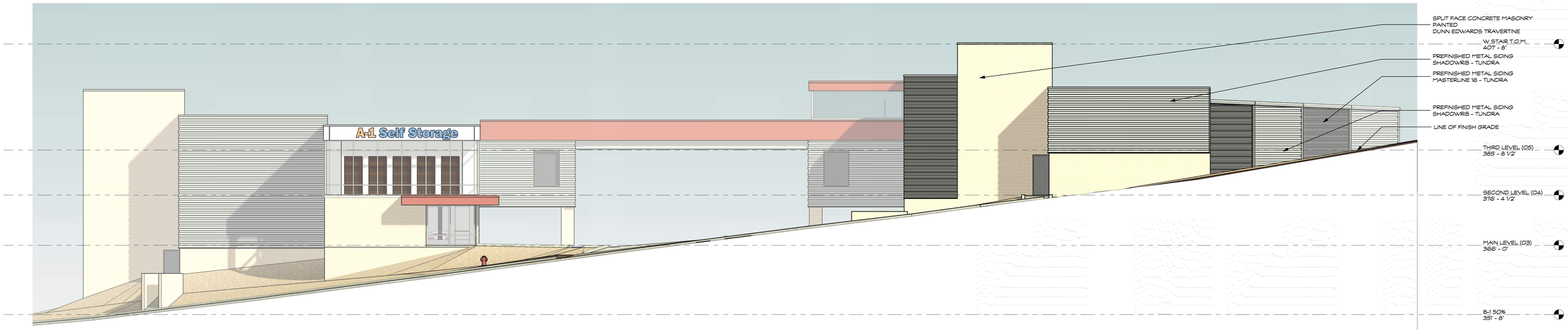
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K&S Engineering, Inc - Civil Engineering

A-3.1




East Elevation (Monterey Pass Road)




North Elevation (Davidson Drive)

# Exterior Elevations

0 8' 16' Feet

Use Graphic Scale if this drawing is not printed on 30"x42" Paper

DA Submittal - October 20, 2020

1921-05.1

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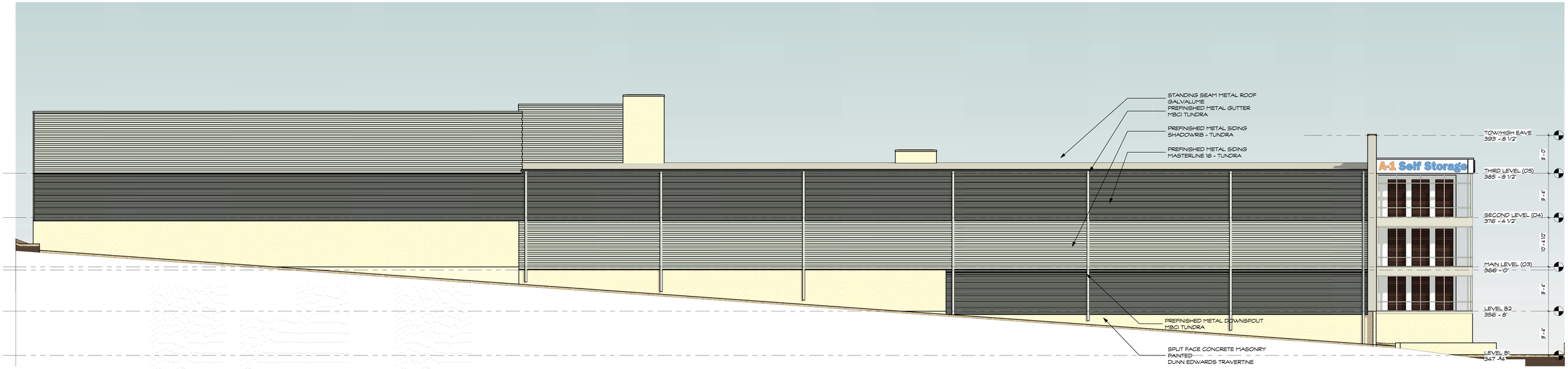
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K&S Engineering, Inc - Civil Engineering

A-4.1




West Elevation




South Elevation

# Exterior Elevations

0 8' 16' Feet

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DA Submittal - October 20, 2020
1921-05.1

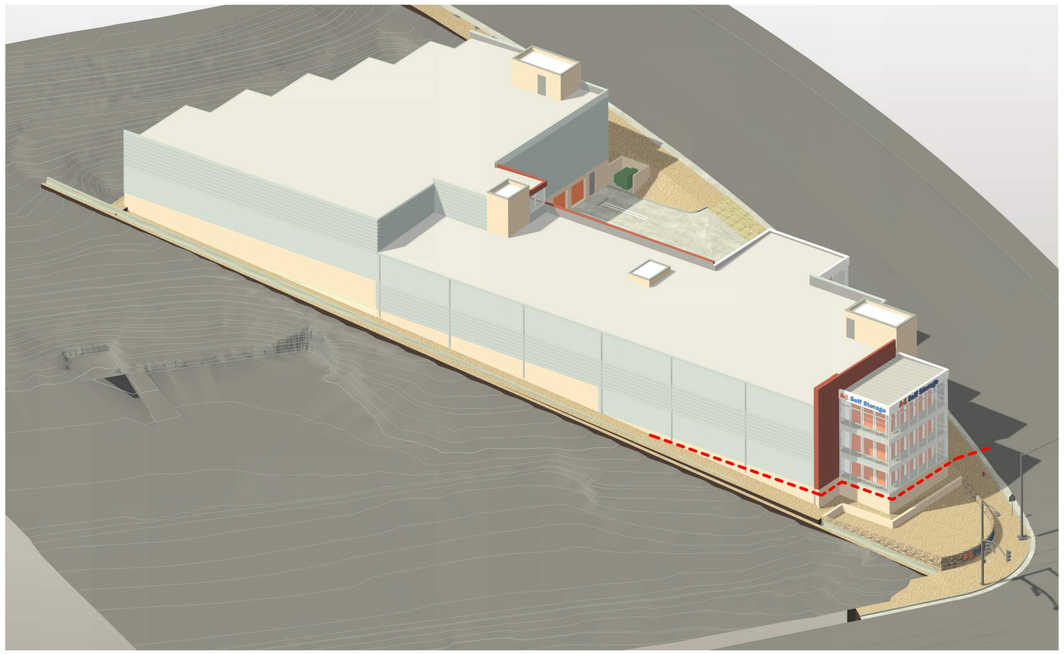
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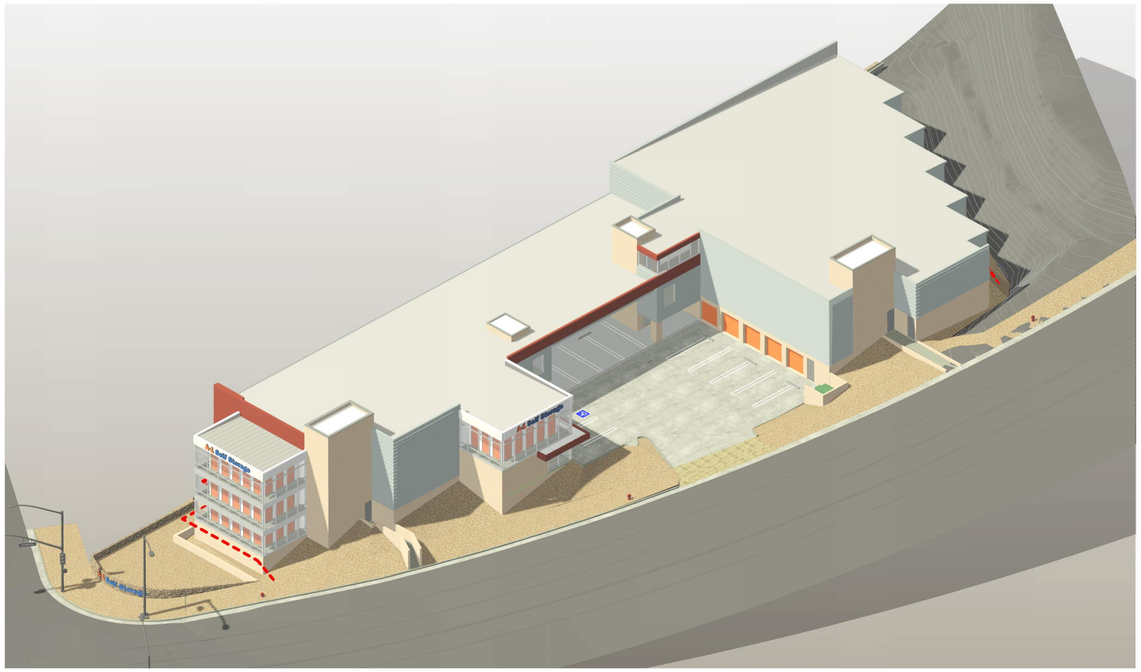
A-4.2










# Massing

0 20' 40' Feet

Use Graphic Scale if this drawing is not printed on 30"x42" Paper

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1921-05.1

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A-5.1



From Monterey Pass Road looking Northwest Existing




From Monterey Pass Road looking Northwest Proposed



From Monterey Pass Road looking West Existing




From Monterey Pass Road looking West  Proposed

## Project Views

A New Self-Storage Facility for:
**A-1 Self Storage**

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K&S Engineering - Civil Engineering
Environs, Inc. - Landscape Architecture

DA Submittal - October 20, 2020
1921-05.2 Project
Views

A-5.2



Customer Service Office Existing




Customer Service Office Proposed



From Davidson Drive looking West Existing




From Davidson Drive looking West Proposed

# Project Views

DA Submittal - October 20, 2020
1921-05.2 Project Views

A New Self-Storage Facility for:
A-1 Self Storage

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Monterey Park, CA 91754

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Environs, Inc. - Landscape Architecture



From Davidson Drive looking Southeast Existing




From Davidson Drive looking Southeast Proposed

# Project Views

DA Submittal - October 20, 2020
1921-05.2 Project
Views

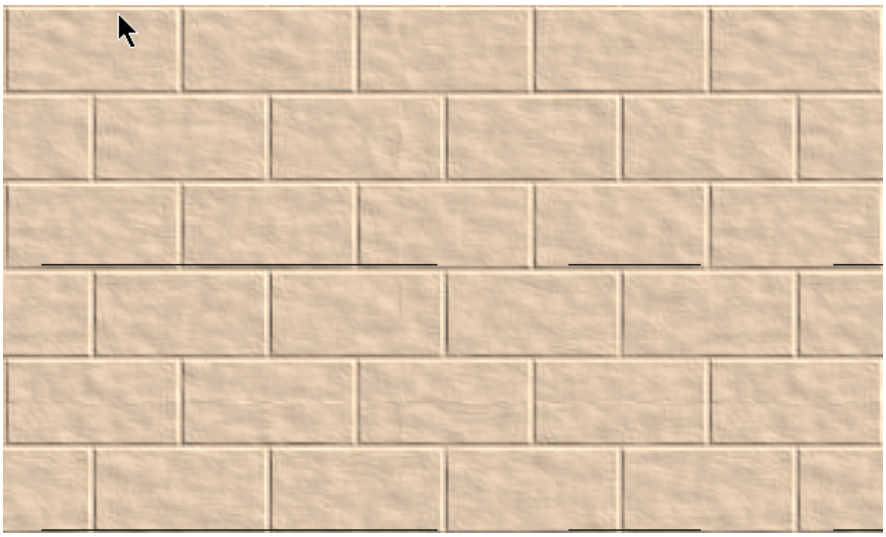
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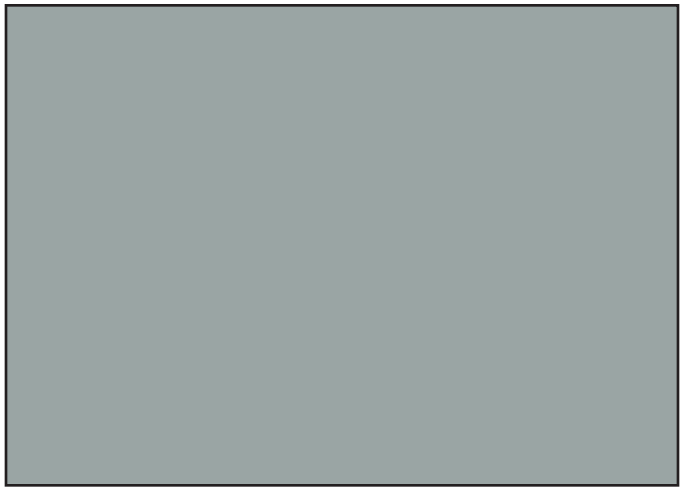
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K&S Engineering - Civil Engineering
Environs, Inc. - Landscape Architecture

A-5.4



Masonry Walls
Splitface - Painted Dunn Edwards Travertine



Prefinished Metal Siding
MBCI Shadow Rib & Masterline 16 - Tundra

# Exterior Colors & Materials

A New Self-Storage Facility for:

**A-1 Self Storage**

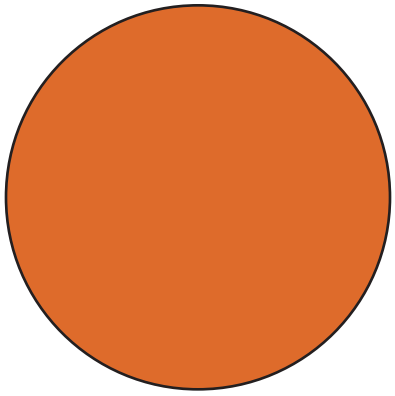
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Aluminum Storefront
Natural Clear Anodized



Prefinished Roll-up Doors
Janus Sunset Orange



Prefinished Metal Fascias & Insulated Panels
MBCI Rustic Red

# Exterior Colors & Materials

A New Self-Storage Facility for:

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Monterey Park, California

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# City Council Staff Report

**DATE:** April 7, 2021
**AGENDA ITEM NO:** Consent Calendar
Agenda Item 3C

**TO:** The Honorable Mayor and City Council

**FROM:** Frank A. Lopez, Interim Director of Public Works

**SUBJECT:** Waive further reading and adopt an Ordinance amending the Monterey Park Municipal Code to establish parking requirements for religious institution affiliated housing development projects in accordance with California law and codify parking regulations from the Monterey Park Business Recovery Program.

## RECOMMENDATION:

It is recommended that the City Council consider:

1. Waiving the second reading and adopting the proposed ordinance; and/or
2. Taking such additional, related, action that may be desirable.

## EXECUTIVE SUMMARY:

The Ordinance was introduced and received first reading at the March 17, 2021 City Council meeting. The original staff report (from March 17, 2021) is attached for reference. Second reading and adoption of this Ordinance is recommended. If adopted, the Ordinance will take effect in 30 days.

Respectfully submitted by:

Frank A. Lopez
Interim Director of Public Works /
City Engineer / City Planner

Prepared by:

Jason Moquin
Planning Manager

Approved by:

Ron Bow
City Manager

Reviewed by:

Karl H. Berger
City Attorney

Attachments:

1. Draft Ordinance
2. March 17, 2021 Staff Report

# ATTACHMENT 1
Draft Ordinance

**ORDINANCE NO. _____**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTEREY PARK ADDING SECTIONS 21.22.040 (RELIGIOUS INSTITUTION AFFILIATED HOUSING DEVELOPMENT PROJECTS; PARKING REQUIREMENTS) AND 21.22.050 (APPLICATION OF CHAPTER) TO THE MONTEREY PARK MUNICIPAL CODE**

The City Council of the City of Monterey Park does ordain as follows:

SECTION 1: The City Council finds and determines as follows:

A. On September 28, 2020, the Governor signed AB 1851 into law effective as of January 1, 2021. AB 1851 limits the number of parking spaces a local agency may require in connection with a "religious institution affiliated housing development project" ("RIAHD"), as defined. AB 1851 also requires a local agency to allow for the elimination of up to 50% of the existing parking spaces serving a place of worship in connection with the approval of a RIAHD and prohibits a local agency from requiring replacement of parking spaces that the developer of a RIAHD proposes to eliminate. AB 1851 applies to all cities, including charter cities. An amendment to the Monterey Park Municipal Code ("MPMC") is required to comply with AB 1851.

B. The City Council adopted the 2020 Monterey Park Business Recovery Program (the "Program") in response to the COVID-19 Pandemic. A portion of the Program includes parking regulations intended to help facilitate the recovery of businesses within the City. This Ordinance will codify those regulations into the MPMC. This is a ministerial action only; the City Council previously considered these regulations during a public hearing held in 2020.

C. *Amendment Findings*. Based on the facts and evidence set forth herein, in the accompanying staff report, and in the record as a whole, the City Council finds as follows:

1. The proposed amendments to the MPMC are consistent with the goals, policies, and objectives of the General Plan. The amendments are relatively minor in nature and are intended to bring the zoning regulations into compliance with a new state law mandate (AB 1851). The proposed amendments will not frustrate any goal, policy, or objective set forth in the General Plan.

2. The proposed amendments to the MPMC will not adversely affect surrounding properties. The amendments alone do not portend any future development. Any religious institution affiliated housing development projects that may be proposed in the future will be required to comply with all applicable zoning regulations. Compliance with all applicable zoning regulations will ensure that any given project will not adversely affect surrounding properties.

3. The proposed amendments to the MPMC will promote public health, safety and general welfare and serve the goals and purposes of the Zoning Code. AB 1851 is intended to encourage and accommodate the construction of affordable housing on underutilized property owned by religious institutions. Implementing AB 1851 through the proposed amendments to the MPMC will advance these goals and will serve the goals and purposes of the Zoning Code.

SECTION 2: *Environmental Review.* This Ordinance is exempt from environmental review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and 14 Cal. Code Regs. § 15305 because it consists only of minor alterations in land use limitations necessary to implement a state law mandate (AB 1851) and does not portend new development. Furthermore, the City Council finds that it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment. Consequently, it is exempt from CEQA review under 14 Cal. Code Regs. § 15061(b)(3).

SECTION 3: Section 21.22.040 is added to Title 21 of the MPMC to read as follows:

"**21.22.040 Religious Institution Affiliated Housing Development Projects; Parking Requirements.**

Notwithstanding any provisions of this Title or any adopted specific plan to the contrary, the parking requirements for a religious institution affiliated housing development project are subject to the provisions of Government Code § 65913.6, as amended. For purposes of this section, a 'religious institution affiliated housing development project' is defined as set forth in Government Code § 65913.6(a)(5)."

SECTION 4: Section 21.22.050 is added to Title 21 of the MPMC to read as follows:

"**21.22.050 Application of Chapter.**

When considering parking needs for a project, the City Planner may utilize the following methods:

A. Parking standards set forth in the MPMC.

B. Where off-site parking is proposed to meet parking standards, the City Planner may accept appropriate alternatives like ride services, micro transit, and valet services to help reduce parking demand. Such services, however, must be mitigated with sufficient pick-up and drop-off areas.

C. Shared parking agreements for new projects.

D. Accept unbundled parking for new projects. Unbundled parking allows selling or leasing parking spaces separately, rather than automatically including the parking spaces with the purchase or lease of the commercial or residential use. Unbundling parking manages parking demand by allowing applicants to only pay for the parking spaces they actually need.

E. A traffic and parking study prepared by a licensed engineer to mitigate vehicle and parking impacts. The traffic and parking study must be prepared by a state licensed traffic engineer in accordance with Los Angeles County's Traffic Impact Analysis Report Guidelines (January 1997) and Institute of Transportation Engineers, Parking Generation, 4th Edition, or the most recent subsequent edition. The traffic engineer preparing the study should define an appropriate approach for determining the number of trips generated by a proposed project and present this approach in the study."

SECTION 5: *Conflicts.* In the event of a conflict between the provisions of this Ordinance and the provisions the MPMC, any other ordinance, or any resolution, the provisions of this Ordinance govern. The Director is authorized to resolve any ambiguities in the manner set forth in the MPMC. Any such determination must be forwarded to the City Council as an informational item when practicable.

SECTION 6: *Construction*. This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 7: *Enforceability*. Repeal of any provision of the Monterey Park Municipal Code does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 8: *Severability*. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 9: *Electronic Signatures*. This Ordinance may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 10: The City Clerk is directed to certify the passage and adoption of this Ordinance, cause it to be entered into the city of Monterey Park's book of original

ordinances, make a note of the passage and adoption in the records of this meeting, and, within fifteen days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 11: *Effective Date*. This Ordinance will take effect 30 days after its final passage and adoption.

PASSED AND ADOPTED this _____ day of _____, 2021

_____
Yvonne Yiu, Mayor

ATTEST:

_____
Vincent D. Chang, City Clerk

APPROVED AS TO FORM:

_____
Karl H. Berger, City Attorney

# ATTACHMENT 2
March 17, 2021 Staff Report

# City Council Staff Report

**DATE:** March, 17 2021

**AGENDA ITEM NO:** New Business
Agenda Item 5A

**TO:** The Honorable Mayor and City Council

**FROM:** Frank A. Lopez, Interim Director of Public Works

**SUBJECT:** Consideration of an ordinance amending the Monterey Park Municipal Code to establish parking requirements for religious institution affiliated housing development projects in accordance with California law and codify parking regulations from the Monterey Park Business Recovery Program.

## RECOMMENDATION

It is recommended that the City Council consider:

1. Introduce and waive first reading of an Ordinance of the City Council of the City of Monterey Park adding Sections 21.22.040 (Religious Institution Affiliated Housing Development Projects; Parking Requirements) and 21.22.050 (Application of Chapter) to the Monterey Park Municipal Code and codifying the parking regulations adopted as part of the 2020 Monterey Park Business Recovery Program (the "Program"); and
2. Taking such additional, related, action that may be desirable.

## ENVIRONMENTAL REVIEW

In accordance with the Californnia Environmental Quality Act (Pub. Res. CCo ode § 21000, et seq.; "CEQA") and CEQA GGuidelines (Cal. Code Regs. tit. 14, § 150000, et seq.) staff determined that the Ordinanccee is exempt from additional environmental rreeview pursuant to CEQA Guidelines § 15305 bbecause it consists only of minor alterationss in land use limitations necessary to impleemment a state law mandate (AB 1851) and ddooes not portend new development. Fuur rthermore, staff finds that it can be seen wiitth certainty that there is no possibility that the e ordinance may have a significant effect on tthe environment. Consequently, iitt is exempt from additional environmental reeview per CEQA Guidelines § 15061(b))((3).

## EXECUTIVE SUMMARY

AB 1851, effective January 1,, 2021, limits the number of parking spaces aa local agency may require in connection witthh a "religious institution affiliated housing deevelopment project" ("RIAHD"), as definedd.. AB 1851 also requires a local agency to aallow for the elimination of up to 50% of th hee existing parking spaces serving a place off worship in connection with the approval oof a RIAHD and prohibits a local agency froomm requiring

replacement of parking spaces that the developer of a RIAHD proposes to eliminate. An amendment to the MPMC is required to bring it into conformance with California law.

Additionally, the Ordinance would codify the parking regulations adopted by the City Council in 2020 as part of the Monterey Park Business Recovery Program.

## BACKGROUND

Properties owned by religious institutions often have large, underutilized parking areas. To encourage and facilitate the development of affordable housing on these underutilized parcels, AB 1851 does the following:

- Prohibits a local agency from requiring the replacement of religious-use parking spaces that a developer of a "religious institution affiliated housing development project" proposes to eliminate as part of the housing development.

- Defines "religious institution affiliated housing development project" as a housing development project that meets all of the following requirements:

    - The housing development project is located on one or more contiguous parcels that are each owned, entirely, whether directly or through a wholly owned company or corporation, by a religious institution.

    - The housing development project qualifies as being near collocated religious-use parking by being on or adjacent to a parcel with religious-use parking or by being located within one-tenth of a mile of a parcel that contains religious-use parking.

    - Qualifies for a density bonus under Government Code section 65915.

- Allows a project developer to eliminate up to 50 percent of the total religious-use parking spaces available at the time the developer's request is made.

- Prevents a local agency from requiring a developer to cure a pre-existing deficit of the number of religious-use parking spaces as a condition of approval of a RIAHD.

- Specifies that the elimination of religious-use parking spaces pursuant to a RIAHD project that has been approved by a local agency does not constitute a concession for the purposes of density bonus law.

- Prohibits a local agency from denying a RIAHD solely on the basis that the project will reduce the total number of parking spaces at the place of worship as long as the reduction does not exceed 50 percent.

- Requires a local agency to allow the number of remaining religious-use parking spaces to count toward the number of spaces that the local agency would otherwise require for the RIAHD.

- Provides that a local agency is not required to allow the remaining religious-use parking spaces to count toward the number of parking spaces otherwise required for approval of the RIAHD to the extent that it would prohibit a local agency from requiring up to one parking space per unit unless the RIAHD is within one-half mile of public transit or there is a car share vehicle within one block of the parcel.

- Prohibits the reduction in parking spaces from reducing the minimum parking standards that a local agency may require of a RIAHD below one space per unit unless (a) the RIAHD is within one-half mile of a high-quality transit corridor or a major transit stop, or (b) there is a car share vehicle within one block of the parcel.

The proposed ordinance amends the parking requirements in MPMC Chapter 21.22 to specify that RIAHDs are subject to the provisions of AB 1851.

The proposed ordinance would also codify the parking regulations previously adopted by the City Council as part of the Program in 2020. There are no substantive changes to those parking regulations; this is simply a ministerial action to codify them in the MPMC.

**FISCAL IMPACT:**
None

Respectfully submitted by:

Frank A. Lopez
Interim Director of Public Works /
City Engineer / City Planner

Prepared by:

Jason Moquin
Planning Manager

Approved by:

Ron Bow
City Manager

Reviewed by:

Karl H. Berger
City Attorney

**ATTACHMENTS**

1. Text of AB 1851.
2. Ordinance No. ____.

# ATTACHMENT 1
AB 1851 Legislation

**Assembly Bill No. 1851**

CHAPTER 196

An act to add Section 65913.6 to the Government Code, relating to land use.

[Approved by Governor September 28, 2020. Filed with Secretary of State September 28, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1851, Wicks. Religious institution affiliated housing development projects: parking requirements.

Existing law provides for various incentives intended to facilitate and expedite the construction of affordable housing, including the Density Bonus Law, which requires, when an applicant proposes a housing development within the jurisdiction of a local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or for the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents.

This bill would prohibit a local agency from requiring the replacement of religious-use parking spaces that a developer of a religious institution affiliated housing development project proposes to eliminate as part of that housing development project. The bill would prohibit the number of religious-use parking spaces requested to be eliminated from exceeding 50% of the number that are available at the time the request is made. The bill would prohibit a local agency from requiring the curing of any preexisting deficit of the number of religious-use parking spaces as a condition of approval of a religious institution affiliated housing development project. The bill would require a local agency to allow the number of religious-use parking spaces that will be available after completion of a religious institution affiliated housing development project to count toward the number of parking spaces otherwise required for approval. The bill would prohibit a local agency from denying a housing development project proposed by a religious institution, or a developer working with a religious institution, solely on the basis that the project will reduce the total number of parking spaces available at the place of worship provided that the total reduction does not exceed 50% of existing parking spaces. The bill would authorize a local agency to require up to one parking space per unit for a religious institution affiliated housing development project. The bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

By adding to the duties of local planning officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 65913.6 is added to the Government Code, to read:

65913.6. (a) For purposes of this section, all of the following definitions shall apply:

(1) "Housing development project" means a housing development project as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(2) "Local agency" means any county, city, or city and county, including a charter city, or city and county.

(3) "Place of worship" means a property owned or operated by a religious institution, that is used for the purpose of regular assembly by members of the institution.

(4) "Religious institution" means an institution owned, controlled, and operated and maintained by a bona fide church, religious denomination, or religious organization composed of multidenominational members of the same well-recognized religion, lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code.

(5) "Religious institution affiliated housing development project" means a housing development project that meets all of the following criteria:

(A) The housing development project is located on one or more contiguous parcels that are each owned entirely, whether directly or through a wholly owned company or corporation, by a religious institution.

(B) The housing development project qualifies as being near colocated religious-use parking by being any of the following:

(i) Located on one or more parcels that collectively contain religious-use parking.

(ii) Located adjacent to a parcel owned by the religious institution that contains religious-use parking.

(iii) Located on one or more parcels separated by no more than 0.1 miles from a parcel owned by the religious institution that contains religious-use parking.

(C) The housing development project qualifies for a density bonus under Section 65915.

(6) "Religious-use parking spaces" means existing parking spaces that are required under the local agency's parking requirements for places of worship.

(b) (1) Notwithstanding any other law or ordinance, a local agency shall not require the replacement of religious-use parking spaces that a developer of a religious institution affiliated housing development project proposes to eliminate as part of that housing development project pursuant to this section.

(2) The number of religious-use parking spaces requested to be eliminated by a developer of a religious institution affiliated housing development project pursuant to this section shall not exceed 50 percent of the number of religious-use parking spaces that are available at the time the request is made.

(3) The elimination of religious-use parking spaces pursuant to a religious institution affiliated housing development project that has been approved by a local agency does not constitute a concession pursuant to Section 65915.

(c) Notwithstanding any other law or ordinance, a local agency shall not require the curing of any preexisting deficit of the number of religious-use parking spaces as a condition of approval of a religious institution affiliated housing development project.

(d) Notwithstanding any other law or ordinance, a local agency shall allow the number of religious-use parking spaces that will be available after completion of a religious institution affiliated housing development project to count toward the number of parking spaces otherwise required for approval of the housing development project under any other law or ordinance.

(e) Notwithstanding any other law or ordinance, a local agency shall not deny a proposed religious institution affiliated housing development project solely on the basis that the project will reduce the total number of parking spaces available at the place of worship provided that the total reduction does not exceed 50 percent of existing parking spaces.

(f) (1) Notwithstanding any provision of this section, except as provided in paragraph (3), the reduction in parking spaces authorized in this section shall not reduce the minimum parking standards that a local agency may require of a religious institution affiliated housing development project below one space per unit.

(2) For the purposes of this subdivision, a local agency shall not be required to allow the remaining religious-use parking spaces to count toward the number of parking spaces otherwise required for approval of the housing development project as provided in subdivision (d) to the extent that the application of subdivision (d) would prohibit a local agency from requiring up to one parking space per unit.

(3) This subdivision shall not apply to a religious institution affiliated housing development project if either of the following is true:

(A) The parcel is located within one-half mile walking distance of public transit. For the purposes of this paragraph, “public transit” means either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code or a major transit stop as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(g) The Legislature finds and declares that the provision of adequate housing, in light of the severe shortage of housing at all income levels in this state, is a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution, and therefore this section applies to all cities, including charter cities.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

# ATTACHMENT 2
Ordinance

**ORDINANCE NO. _____**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTEREY PARK ADDING SECTIONS 21.22.040 (RELIGIOUS INSTITUTION AFFILIATED HOUSING DEVELOPMENT PROJECTS; PARKING REQUIREMENTS) AND 21.22.050 (APPLICATION OF CHAPTER) TO THE MONTEREY PARK MUNICIPAL CODE**

The City Council of the City of Monterey Park does ordain as follows:

SECTION 1: The City Council finds and determines as follows:

A. On September 28, 2020, the Governor signed AB 1851 into law effective as of January 1, 2021. AB 1851 limits the number of parking spaces a local agency may require in connection with a "religious institution affiliated housing development project" ("RIAHD"), as defined. AB 1851 also requires a local agency to allow for the elimination of up to 50% of the existing parking spaces serving a place of worship in connection with the approval of a RIAHD and prohibits a local agency from requiring replacement of parking spaces that the developer of a RIAHD proposes to eliminate. AB 1851 applies to all cities, including charter cities. An amendment to the Monterey Park Municipal Code ("MPMC") is required to comply with AB 1851.

B. The City Council adopted the 2020 Monterey Park Business Recovery Program (the "Program") in response to the COVID-19 Pandemic. A portion of the Program includes parking regulations intended to help facilitate the recovery of businesses within the City. This Ordinance will codify those regulations into the MPMC. This is a ministerial action only; the City Council previously considered these regulations during a public hearing held in 2020.

C. *Amendment Findings*. Based on the facts and evidence set forth herein, in the accompanying staff report, and in the record as a whole, the City Council finds as follows:

1. The proposed amendments to the MPMC are consistent with the goals, policies, and objectives of the General Plan. The amendments are relatively minor in nature and are intended to bring the zoning regulations into compliance with a new state law mandate (AB 1851). The proposed amendments will not frustrate any goal, policy, or objective set forth in the General Plan.

2. The proposed amendments to the MPMC will not adversely affect surrounding properties. The amendments alone do not portend any future development. Any religious institution affiliated housing development projects that may be proposed in the future will be required to comply with all applicable zoning regulations. Compliance with all applicable zoning regulations will ensure that any given project will not adversely affect surrounding properties.

3. The proposed amendments to the MPMC will promote public health, safety and general welfare and serve the goals and purposes of the Zoning Code. AB 1851 is intended to encourage and accommodate the construction of affordable housing on underutilized property owned by religious institutions. Implementing AB 1851 through the proposed amendments to the MPMC will advance these goals and will serve the goals and purposes of the Zoning Code.

SECTION 2: *Environmental Review.* This Ordinance is exempt from environmental review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and 14 Cal. Code Regs. § 15305 because it consists only of minor alterations in land use limitations necessary to implement a state law mandate (AB 1851) and does not portend new development. Furthermore, the City Council finds that it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment. Consequently, it is exempt from CEQA review under 14 Cal. Code Regs. § 15061(b)(3).

SECTION 3: Section 21.22.040 is added to Title 21 of the MPMC to read as follows:

"**21.22.040 Religious Institution Affiliated Housing Development Projects; Parking Requirements.**

Notwithstanding any provisions of this Title or any adopted specific plan to the contrary, the parking requirements for a religious institution affiliated housing development project are subject to the provisions of Government Code § 65913.6, as amended. For purposes of this section, a 'religious institution affiliated housing development project' is defined as set forth in Government Code § 65913.6(a)(5)."

SECTION 4: Section 21.22.050 is added to Title 21 of the MPMC to read as follows:

"**21.22.050 Application of Chapter.**

When considering parking needs for a project, the City Planner may utilize the following methods:

A. Parking standards set forth in the MPMC.

B. Where off-site parking is proposed to meet parking standards, the City Planner may accept appropriate alternatives like ride services, micro transit, and valet services to help reduce parking demand. Such services, however, must be mitigated with sufficient pick-up and drop-off areas.

C. Shared parking agreements for new projects.

D. Accept unbundled parking for new projects. Unbundled parking allows selling or leasing parking spaces separately, rather than automatically including the parking spaces with the purchase or lease of the commercial or residential use. Unbundling parking manages parking demand by allowing applicants to only pay for the parking spaces they actually need.

E. A traffic and parking study prepared by a licensed engineer to mitigate vehicle and parking impacts. The traffic and parking study must be prepared by a state licensed traffic engineer in accordance with Los Angeles County's Traffic Impact Analysis Report Guidelines (January 1997) and Institute of Transportation Engineers, Parking Generation, 4th Edition, or the most recent subsequent edition. The traffic engineer preparing the study should define an appropriate approach for determining the number of trips generated by a proposed project and present this approach in the study."

SECTION 5: *Conflicts.* In the event of a conflict between the provisions of this Ordinance and the provisions the MPMC, any other ordinance, or any resolution, the provisions of this Ordinance govern. The Director is authorized to resolve any ambiguities in the manner set forth in the MPMC. Any such determination must be forwarded to the City Council as an informational item when practicable.

SECTION 6: *Construction*. This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 7: *Enforceability*. Repeal of any provision of the Monterey Park Municipal Code does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 8: *Severability*. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 9: *Electronic Signatures*. This Ordinance may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 10: The City Clerk is directed to certify the passage and adoption of this Ordinance, cause it to be entered into the city of Monterey Park's book of original

ordinances, make a note of the passage and adoption in the records of this meeting, and, within fifteen days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 11: *Effective Date*. This Ordinance will take effect 30 days after its final passage and adoption.

PASSED AND ADOPTED this _____ day of _____, 2021

_____
Yvonne Yiu, Mayor

ATTEST:

_____
Vincent D. Chang, City Clerk

APPROVED AS TO FORM:

_____
Karl H. Berger, City Attorney

# City Council Staff Report

**DATE:** April 7, 2021
**AGENDA ITEM NO:** Consent Calendar
Agenda Item 3D

**TO:** The Honorable Mayor and City Council

**FROM:** Inez Alvarez, Assistant City Manager
Robert Aguirre, Recreation Manager

**SUBJECT:** Authorize City Manager to Amend Agreement No. 1718-A with World Journal LA, LLC, to be the Co-Producer of the Monterey Park Lunar New Year Festival.

## RECOMMENDATION:

It is recommended that the City Council consider:

1. Authorizing the City Manager to amend agreement no. 1718-A and extend the term for two additional one-year terms, in a form approved by the City Attorney, with World Journal LA, LLC, to co-produce the Monterey Park Lunar New Year Festival, on dates to be determined by the City; and
2. Taking such additional, related, action that may be desirable.

## EXECUTIVE SUMMARY:

Agreement no. 1718-A between the City of Monterey Park and World Journal LA, LLC (World Journal), allowed for three consecutive Lunar New Year Festivals held in 2018, 2019, and 2020. Agreement no. 1718-A also allowed for two additional one-year extension terms and in 2020 the City agreed to the first extension with plans of having the festival in 2021.

However, due to the COVID-19 pandemic, the 2021 Lunar New Year Festival was cancelled. World Journal has requested that the City consider an amendment to Agreement No. 1718-A to include the first extension for the Lunar New Year Festival to be held in 2022, since the 2021 event was cancelled. If approved, Agreement No. 1718-A would be amended to allow for two additional one-year extensions, beginning with the first one-year extension in 2022 and the option for a second one-year extension in 2023.

If approved, the amendment would provide World Journal adequate time to plan for the 2022 event, secure sponsors and vendors, as well as implement all safety protocols established by state or local health departments.

## BACKGROUND:

The City's Annual Lunar New Year Festival is located on East Garvey Avenue in the downtown area from Garfield Avenue to Alhambra Avenue. This event features entertainment, food, and over 200 commercial vendors and cultural booths. Attendance

for the two-day event is estimated to be approximately 100,000 attendees for the past few years.

The Business Improvement District Advisory Committee (BIDAC) and City staff have been pleased with the production and partnership with World Journal for the past nine (9) years of the Lunar New Year Festival. The event would continue to be co-produced by World Journal, the City, and the BIDAC. World Journal would continue to be responsible for soliciting vendor and sponsors; securing contractors for equipment rental, trash collection, and restrooms; coordination of entertainment, decorations, marketing, and security; and all other financial and logistical obligations resulting from the production of the event. The BIDAC would continue to work with the City to produce the Opening Ceremony work with the local businesses in the immediate area impacted by the two-day event.

**FISCAL IMPACT:**

World Journal pays $7,500 towards services of City staff which include street closures, inspections, traffic, and any other safety related duties. World Journal also shares the net profit using the following percentages:

| Amount of Net Profit | Portion to CO-PRODUCER | Portion to CITY |
|---|---|---|
| $0 to $20,000 | 80% | 20% |
| $20,001 - $30,000 | 75% | 25% |
| $30,001+ | 70% | 30% |

Respectfully submitted by:

Inez Alvarez
Assistant City Manager

Prepared by:

Robert Aguirre
Recreation Manager

Approved by:

Ron Bow
City Manager

Reviewed by:

Karl H. Berger
City Attorney

**ATTACHMENT:**

1. Agreement No. 1718-A

# ATTACHMENT 1
Agreement No. 1718-A

# PROFESSIONAL SERVICES AGREEMENT BY AND BETWEEN THE CITY OF MONTEREY PARK AND WORLD JOURNAL LA, LLC

This Professional Services Agreement ("**Agreement**") is governed by the laws of the State of California and is made and entered into this 16th day of August, 2017, by and between the CITY OF MONTEREY PARK, a public corporation ("**CITY**"), and WORLD JOURNAL LA, LLC, a California limited liability corporation ("**CO-PRODUCER**"), collectively referred to as the "Parties," and separately referred to as a "Party."

## RECITALS

A. The Lunar New Year is celebrated during a fifteen-day period around January and February of each year.

B. The CITY has historically conducted Lunar New Year Festivals and desires to do so again in 2018, 2019, and 2020.

C. The CITY's Lunar New Year Festival is becoming a leading Lunar New Year Festival in the greater Los Angeles Area and attracts visitors from a wide diversity of backgrounds.

D. The CITY desires an experienced regional event coordinator to organize and manage the 2018, 2019, and 2020 Monterey Park Lunar New Year Celebration Festival (the "**Festival**").

**NOW, THEREFORE**, in consideration of the performance by the Parties of the covenants and conditions herein contained, the Parties hereto agree as follows:

## ARTICLE 1
## TERM OF AGREEMENT

1.1 This Agreement commences on **August 16, 2017**, and continues in full force and effect through**, March 1, 2020**, unless earlier terminated as provided elsewhere in this Agreement. The CITY has the option to extend this agreement for two additional one year terms.

## ARTICLE 2
## RESPONSIBILITIES OF CO-PRODUCER

2.1 The CO-PRODUCER agrees to perform any and all work necessary for the completion of the Monterey Park Lunar New Year Celebration Festival.

2.2 The CO-PRODUCER represents that it employs or will employ, at its own expense, all personnel required for the performance of any and all tasks and services. Expenses to include reimbursement for CITY staff time during the duration of the festival, including street closures, inspections, traffic, and any other duties undertaken in previous years. City expenses cannot exceed $7,500.

2.3 The CO-PRODUCER represents that the tasks and services will be performed by the CO-PRODUCER, or under its direct supervision, and that all personnel engaged in such work are fully qualified and authorized and permitted under applicable State and/or local law to perform such tasks and services.

2.4 The CO-PRODUCER cannot subcontract or assign any portion of the production management duties herein without CITY's prior written approval which cannot be unreasonably withheld.

2.5 The CO-PRODUCER must work closely with CITY's designated liaison.

2.6 The CO-PRODUCER designates Konan Tien as its representative for supervision of the tasks and services required by this Agreement.

2.7 [Intentionally blank]

2.8 The CO-PRODUCER must comply with all applicable Federal, State, and local laws, ordinances and regulations.

2.9 CITY may order changes in the services within the general scope of this Agreement, consisting of additions, deletions, or other revisions, provided such changes do not create substantial burdens on CO-PRODUCER, and only on condition that such additions, deletions or revisions are submitted to CO-PRODUCER no later than December 15, 2018; December 14, 2019; December 13, 2020. All such changes must be authorized in writing, executed by CO-PRODUCER and CITY. The cost, credit, liability or time extension resulting from changes in the services will be determined and shared in accordance with written agreement between the Parties.

2.10 CO-PRODUCER is responsible for obtaining paid sponsorships for local, state and national businesses to provide funding for the Festival.

2.11 CO-PRODUCER is responsible for leasing booths to vendors, community organizations and/or non-profits organizations to provide funding for the Festival.

CO-PRODUCER must ensure that only vendors promoting a diversity of products and/or services to the community are involved with the Festival. CO-PRODUCER must also ensure that a portion of the booths are made available for Monterey Park merchants, artistic and hand-crafted products. Further, CO-PRODUCER must ensure that booths selling products are placed so that they do not directly compete with affixed businesses located adjacent to such booths.

2.12 CO-PRODUCER must provide a layout to CITY with a total number of booths and or/tents. The configuration of all booths and tents, both externally and internally, must be approved by the Monterey Park Fire Department in its regulatory capacity.

2.13 CO-PRODUCER, except for otherwise indicated in this Agreement, is solely responsible for all expenses, costs, liabilities, and losses, incurred in furtherance of this Agreement and/or related to the Festival. CITY does not have any liability or responsibility for the payment of any losses suffered or liabilities incurred by the CO-PRODUCER arising from producing this event unless solely and directly caused by the CITY's or its officers, officials, employees and/or representatives willful or negligent act(s).

## ARTICLE 3

## RESPONSIBILITIES OF THE CITY

3.1 Robert Aguirre is the CITY's liaison regarding the subject matter of this Agreement.

3.2 CITY will provide full information regarding its requirements for the Agreement, and furnish CO-PRODUCER with any and all information, data, reports, maps, and records which are available within the offices of the CITY and are necessary for the performance by the CO-PRODUCER of the tasks and services in this Agreement at no cost to CO-PRODUCER.

## ARTICLE 4
## INTELLECTUAL PROPERTY LICENSES.

4.1 CITY grants to CO-PRODUCER an exclusive worldwide license during the term to market and promote the Festival name and any logo in any manner or media now known or hereafter devised ("Licensed Product"), including, without limitation, products embodying same.

4.2 CITY grants to CO-PRODUCER an exclusive license during the term to produce and operate the Festival within CITY's jurisdictional limits, but not elsewhere, in any manner whatsoever, provided that during the term. CITY will not grant to any other person or entity the right to produce and/or operate the Festival, whether in the CITY's jurisdictional limits or otherwise;

4.3 Pursuant to the Copyright Act of 1976, as amended, (17 U.S.C. §§ 101, *et seq.*) CITY and CO-PRODUCER will jointly retain the copyright and all other rights in and to the Logo and the Festival to be designed by CO-PRODUCER.

4.4 Other than in connection with the promotion, marketing and production of the Festival, CO-PRODUCER will not grant permission to others to use any logo without CITY's written permission, not to be unreasonably withheld.

4.5 If CO-PRODUCER learns of the substantial infringement of any copyright licensed under this Agreement, CO-PRODUCER will call CITY's attention thereto in writing and provide CITY with reasonable evidence of infringement. Neither party will notify a third party of the infringement without first obtaining consent of the other party, which consent will not be unreasonably denied. Both Parties will use their best efforts in cooperation with each other to terminate infringement without litigation. CO-PRODUCER will have no obligation to commence litigation in connection with any such infringement.

4.6 Legal action, as is decided on, will be at the expense of the party bringing suit and all damages recovered thereby will belong to the party bringing suit, but legal action brought jointly by CITY and CO-PRODUCER and fully participated in by both will be at the joint expense of the Parties and all recoveries will be shared jointly by them in proportion to the share of expense paid by each party.

4.7 Each party will cooperate with the other in litigation proceedings instituted hereunder but at the expense of the party bringing suit. Litigation will be controlled by the party bringing the suit, except that CITY may be represented by counsel of its choice in any suit brought by CO-PRODUCER.

## ARTICLE 5
## COMPENSATION

5.1 CO-PRODUCER must share Net Profit with CITY as follows:

| **Amount of Net Profit** | **Portion to CO-PRODUCER** | **Portion to CITY** |
|---|---|---|
| $0 to $20,000 | 80% | 20% |
| $20,001 - $30,000 | 75% | 25% |
| $30,001+ | 70% | 30% |

"Net Profit" is calculated by subtracting CO-PRODUCER's expenses and costs associated with FESTIVAL event from total income (e.g. commissions from the carnival, the fees paid by vendors or merchants, or sponsorships) received by CO-PRODUCER. The necessity or the amount of said expenses and costs shall be solely determined by CO-PRODUCER.

5.2 CO-PRODUCER agrees to provide an expense and income statement to the CITY in sufficient detail to verify Net Profit generated from the Festival using common accounting

practices. Such expense and income statement must be provided within 45 days of the ending date of the Festival for any one year. In addition, copies of various backup information, invoices, revenue receipts, etc, must be provided to the CITY at the same time the income and expense statement is provided. Income sources must include, without limitation, commissions from the carnival and the fees paid by vendors or merchants to attend the event, or sponsorships, etc.

5.3 CO-PRODUCER agrees to provide the CITY with advertising space in the World Journal publication to be utilized by BIDAC, Free of charge, twice during the two weeks prior to each year of the respective Monterey Park Lunar New Year Celebration Festival dates in 2018, 2019, and 2020; and twice, prior to each Christmas in 2018, 2019, and 2020.

5.4 The Parties agree that failure of CO-PRODUCER to timely provide the expense and income statement to CITY constitutes a default. Upon default, CITY must notify in writing to CO-PRODUCER and allow CO-PRODUCER a seven (7)-day grace period to cure the default. Should CO-PRODUCER fail to cure the default in the grace period, and CITY opts to not allow CO-PRODUCER to continue to provide the expenses and income statement, the Parties agree that this default will result in damage and injury to CITY. The Parties further agree, however, that actual damages incurred by CITY as result of such default is difficult if not impossible to ascertain with any degree of certainty or accuracy. Accordingly, the Parties have negotiated and have agreed that for each calendar day during which such default occurs, that CO-PRODUCER will pay CITY, as and for liquidated damages, and not as a penalty, the sum of one hundred dollars ($100).

## ARTICLE 6
## TERMINATION OF AGREEMENT

6.1 Each Party may terminate this Agreement with or without cause upon providing the other Party fifteen (15) day written notice, but in no event later than December 15, 2018; December 14, 2019; December 13, 2020.

6.2 The Parties agree that each party shall assume responsibility for its own costs, expenses, losses, damages and/or other liabilities which the Party may sustain by reason of such termination.

## ARTICLE 7
## EMPLOYMENT PRACTICES OF THE CO-PRODUCER

7.1 In providing for the performance of the tasks and services required by this Agreement, the CO-PRODUCER cannot discriminate against any employee or applicant for employment on the basis of race, religion, color, sex, or national origin.

7.2 The CO-PRODUCER must take affirmative actions to ensure that applicants are employed and employees are treated during their employment without regard to race, religion, color, sex, or national origin.

7.2.1 Affirmative actions include, without limitation, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

7.2.2 These provisions must be included in any subcontract for the services provided under this Agreement awarded by the CO-PRODUCER.

7.2.3 The CO-PRODUCER will cooperate with the CITY in maximizing the utilization of minority business enterprises to complete any subcontract work under this Agreement.

## ARTICLE 8
## CONFLICTS OF INTEREST

8.1 No officer or employee of the CITY can have any interest, direct or indirect, in this Agreement or the proceeds thereof during his tenure with the CITY or for a period of one (1) year thereafter. This section will survive termination of the Agreement.

8.2 The CO-PRODUCER covenants on behalf of itself and its employees, that it has, at the time of the execution of this Agreement, no interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement, nor will it acquire any such interest at any time during such performance of services. The CO-PRODUCER further covenants that during the performance of this Agreement, no person, having any such interest may be employed by the CO-PRODUCER.

8.3 The CITY and the CO-PRODUCER covenant and agree that, to their best knowledge, no member of the City of Monterey Park, nor any officer or employee of the CITY has any interest, whether contractual, non-contractual, financial or otherwise direct or indirect, in this Agreement or in the business of subcontracting work required under this Agreement; and that if any such interest comes to the attention of either party at any time during the performance of this Agreement, a full and complete disclosure of such information must be made in writing to the other party, even if such interest would not be considered a conflict of interest under applicable laws and the CO-PRODUCER must take such action as required by law to eliminate the conflict of interest.

8.4 The CO-PRODUCER covenants that it has not employed or retained any person or company to solicit or secure this Agreement; and that it has not paid or agreed to pay any person or company any fee, commission, percentage, brokerage fee, gift, or other compensation, contingent upon or resulting from the award of making of this Agreement. For breach or violation of this covenant, the CITY has the right to annul this Agreement without liability, or in its discretion to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

8.5 CO-PRODUCER cannot disseminate mailers, flyers, newsletters, magazines or any other written materials that exceed 200 in number that contain CITY COUNCIL member's

names, pictures or likenesses except the CITY COUNCIL member's name may be listed in a letterhead format subject to approval by CITY. This provision specifically excludes any and all press releases, news articles, reporting coverage, magazine articles, and other feature articles that are authored by CO-PRODUCER reporting on the event.

## ARTICLE 9
## INSURANCE/INDEMNIFICATION

9.1 The CO-PRODUCER must procure and maintain, for the respective Monterey Park Lunar New Year Celebration Festival dates in 2018, 2019 and 2020, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the CO-PRODUCER'S performance. The cost of such insurance is borne by the CO-PRODUCER. CITY may terminate this Agreement for CO-PRODUCER's failure to procure and/or maintain the proper insurance.

9.2 Before commencing performance under this Agreement, and at all other times this Agreement is effective, CO-PRODUCER will procure and maintain the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

| Type of Insurance | Limits |
|---|---|
| Commercial general liability | $2,000,000 |
| Professional Liability | $1,000,000 |
| Business automobile liability | $1,000,000 |
| Workers compensation | Statutory requirement |

9.3 Commercial general liability insurance will meet or exceed the requirements of the most recent ISO-CGL Form, or equivalent. The amount of insurance set forth above will be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. Liability policies will be endorsed to name CITY, its officials, and employees as "additional insured's" under said insurance coverage and to state that such insurance will be deemed "primary" such that any other insurance that may be carried by CITY will be excess and non contributory. Such insurance will be on an "occurrence," not a "claims made," basis and will not be cancelable or subject to reduction except upon thirty (30) days prior written notice to CITY.

9.4 Professional liability coverage will be on an "occurrence basis" if such coverage is available, or on a "claims made" basis if not available. When coverage is provided on a "claims made basis," CO-PRODUCER will continue to renew the insurance for a period of three (3) years after this Agreement expires or is terminated. Such insurance will have the same coverage and limits as the policy that was in effect during the term of this Agreement, and will cover CO-PRODUCER for all claims made by CITY arising out of any errors or omissions of CO-PRODUCER, or its officers or employees during the time this Agreement was in effect.

9.5 Automobile coverage will be written on ISO Business Auto Coverage Form CA 00 01 06 92, including symbol 1 (Any Auto).

9.6 CO-PRODUCER will furnish to CITY duly authenticated Certificates of Insurance evidencing maintenance of the insurance required under this Agreement and such other evidence of insurance or copies of policies as may be reasonably required by CITY from time to time. Insurance must be placed with insurers with a current A.M. Best Company Rating equivalent to at least a Rating of "A: VII."

9.7 Should CO-PRODUCER, for any reason, fail to obtain and maintain the insurance required by this Agreement, CITY may obtain such coverage at CO-PRODUCER's expense and deduct the cost of such insurance from payments due to CO-PRODUCER under this Agreement or terminate.

9.8 All Coverages. Each insurance policy required by this clause must be endorsed to state that coverage cannot be cancelled except after thirty (30) days prior written notice by mail has been given to the CITY, or ten (10) days' notice if cancellation is due to nonpayment of a premium.

9.9 **INDEMNIFICATION. CO-PRODUCER agrees to the following:**

9.9.1 ***Indemnification for Professional Services.*** **CO-PRODUCER will save harmless and indemnify and at CITY's request reimburse defense costs for CITY and all its officers, employees and representatives from and against any and all suits, actions, or claims, of any character whatever, brought for, or on account of, any injuries or damages sustained by any person or property resulting or arising solely and directly from any negligent or wrongful act, error or omission by CO-PRODUCER or any of CO-PRODUCER's officers, agents, employees, or representatives, in the performance of this Agreement, except for such loss or damage arising from CITY's sole negligence or willful misconduct.**

9.9.2 ***Indemnification for other Damages.*** **CO-PRODUCER for the respective Monterey Park Lunar New Year Celebration Festival dates in 2018, 2019 and 2020 indemnifies and holds CITY harmless from and against any claim, action, damages, costs (including, without limitation, reasonable attorney's fees), injuries, or liability, solely and directly arising out of CO-PRODUCER's negligence or willful misconduct in the performance of this Agreement, except for such loss or damage arising from CITY's sole negligence or willful misconduct. Should CITY be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising directly out of CO-PRODUCER's negligence or willful misconduct, in the performance of this Agreement, CO-PRODUCER will defend CITY (at CITY's written request and with counsel reasonably satisfactory to CITY) and will indemnify CITY for any judgment rendered against it or any sums paid out in settlement or otherwise.**

9.9.3 For purposes of this section "CITY" includes CITY's officers, officials, employees, and representatives.

9.9.4 It is expressly understood and agreed that the foregoing provisions will survive termination of this Agreement.

9.9.5 The CO-PRODUCER acknowledges that it has fully informed itself of the contents and meaning of this hold harmless agreement, and has so executed it with full knowledge thereof, and that the terms are contractual and not a mere recital. These requirements also apply to any subcontractor whose hazards are not covered by the CO-PRODUCER'S insurance policies.

9.10 CO-PRODUCER agrees to obtain from all its subcontractors involved in this Festival, certificates of insurance evidencing coverage for general liability, workers compensations, and auto liability insurance and furnish to the CITY for verification. It is the CITY's responsibility to verify the certificate's authenticity, adequacy and validity. All Insurance endorsements must contain an additional insured endorsement naming the "CITY OF MONTEREY PARK, its elected and non elected officials, employees, and agents as additional insured's. Policy must apply on a primary basis. Any insurance or self-insurance, maintained by the city is non-contributory to contractor's policy."

## ARTICLE 10
## FORCE MAJEURE

10.1 Neither CO-PRODUCER nor CITY will be deemed to be in default if performance of the obligations required in this Agreement is delayed or becomes impossible because of any natural disaster, war, terrorist act, earthquake, fire, strike, sickness, inclement weather, accident, civil commotion, epidemic, act of federal, state, or local government (including CITY in its regulatory and police power capacity), its agencies or officers, or any other legitimate cause beyond control of the Parties.

10.2 On the occurrence of any such event as set forth in Section 10.1, or if CO-PRODUCER fails to perform any of the conditions of this Agreement, because of circumstances beyond the control of CO-PRODUCER and not induced or brought about by the unreasonable acts of CITY, then CITY may elect, by giving notice to CO-PRODUCER, to extend the term of the Agreement to conduct the Festival. In the event of any such extension, specific dates, periods, and time requirements referred to in the Agreement will be postponed or extended accordingly. The Parties will make a good faith effort to negotiate a new date, which must be within sixty (60) days of the original date.

10.4 The Parties agree that each party shall assume responsibility for its own losses expenses, and/or other liabilities that result from this Agreement being delayed or becoming impossible to perform because of any natural disaster, war, terrorist act, earthquake, fire, strike, sickness, inclement weather, accident, civil commotion, epidemic, act of federal, state, or local government (including CITY in its regulatory and police power capacity), its agencies or officers, or any other legitimate cause beyond control of the Parties. CITY has no duty or obligation to pay for any portion of any such losses, expenses, and/or other liabilities.

10.5 Section 5.2 above is not applicable if this Agreement is delayed or becomes impossible because of any natural disaster, war, terrorist act, earthquake, fire, strike, sickness, inclement weather, accident, civil commotion, epidemic, act of federal, state, or local government (including CITY in its regulatory and police power capacity), its agencies or officers, or any other legitimate cause beyond control of the Parties.

10.6 In accordance with Exhibit A, in particular Section 13 and Exhibit E regarding determination process, in the event of inclement weather, or other adverse conditions, the City Manager can make the final determination to postpone or cancel the Festival in his or her sole discretion which shall not be arbitrarily made.

## ARTICLE 11
## MISCELLANEOUS

11.1 This Agreement is by and between the CITY and CO-PRODUCER and is not intended, and cannot be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the CITY and CO-PRODUCER. The employees and agents of one party are not the employees or agents of the other party for any purpose whatsoever. CO-PRODUCER and its employees are independent contractors and are not employees of the CITY. CO-PRODUCER is solely liable and responsible for providing all compensation and benefits to, or on behalf of, all persons performing work pursuant to this Agreement. CITY has no liability or responsibility for the payment of any salaries, wages, unemployment benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of CO-PRODUCER.

The CO-PRODUCER understands and agrees that all persons performing work pursuant to this Agreement are, for purposes of worker's compensation liability, solely employees of CO-PRODUCER and not employees of the CITY. The CO-PRODUCER is solely liable and responsible for furnishing any and all worker's compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of CO-PRODUCER hereunder.

The CO-PRODUCER agrees to indemnify, defend with counsel acceptable to the CITY, and hold CITY harmless for any action or proceeding regarding CO-PRODUCER'S employee or agent's independent contractor status. The employees and agents of each party must , while on the premises of the other party, comply with all rules and regulations of the premises, including, without limitation, security requirements.

11.2 The CITY and the CO-PRODUCER each binds itself and its partners, successors, and assigns of to the other party to this Agreement and to the partners, successors and assigns of such other party with respect to all covenants of this Agreement. Neither the CITY nor the CO-PRODUCER can assign, sublet, or transfer its interest in this Agreement without the written consent of the other party.

11.3 This Agreement was drafted in, and will be construed in accordance with the laws of the State of California, and exclusive venue for any action involving this agreement will be in Los Angeles County.

11.4 The CO-PRODUCER may begin work upon receipt of the "Notice to Proceed" and diligently perform the services required of him/ her by this Agreement.

11.5 All documents, data, studies, drawings, maps, models, photographs and reports prepared by CO-PRODUCER under this Agreement are to be treated as the property jointly owned by CITY and CO-PRODUCER. CO-PRODUCER is permitted to retain all original copies of said documents and materials as desired, but will deliver copies of said all original materials to CITY upon CITY's written notice. CITY agrees that use of CO-PRODUCER 's completed work product, for purposes other than identified in this Agreement, or use of incomplete work product, is at CITY's own risk.

11.6 Records of the CO-PRODUCER'S expenses pertaining to the Festival and the performance of all services under this Agreement, and records of accounts between the CITY and the CO-PRODUCER must be kept on a generally recognized accounting basis. Such records, in addition to employment, operating, and regulatory documents, must be available to the CITY or its authorized representative at mutually convenient times for inspection. The CO-PRODUCER must maintain all records for up to three (3) years after the termination of this Agreement.

11.7 CO-PRODUCER covenants that, during the term, it cannot use its name or funds, or permit or offer its name or funds, to be used in connection with the election, nomination, support or publicity endorsement or appointment of any officer of employee of (1) the CITY or any governmental agency in which the CITY area is included, or (II) any county, state or federal government agency. The CO-PRODUCER further covenants that it must refrain from participation in the distribution of pamphlets or handbills of any kind favoring or opposing any candidate for election to any public office or to the office of any equal quasi-public agency.

11.8 For any agreement with a subcontractor or other person or entity hired for this Festival in an industry or trade where workers compensation insurance is generally recommended, CO-PRODUCER agrees that such agreement must include a requirement that the subcontractor or other person or entity provide general liability insurance and workers compensation insurance naming as additional insureds the Parties to this Agreement. For trades or industries where workers compensation insurance is not the norm, CO-PRODUCER agrees that such agreement must, at a minimum, include a requirement that the subcontractor or other person or entity provide general liability insurance. The determination as to what trades or industries generally recommend workers compensation insurance is left to the sole discretion of the CITY. CO-PRODUCER agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required herein. Nonetheless it is the CITY's responsibility to verify the certificate's authenticity, adequacy and validity. CO-PRODUCER agrees to require that no contract used by any subcontractor will reserve the right to charge back to

CITY the cost of insurance required by this Agreement. CO-PRODUCER agrees that upon request, all agreements with subcontractors or others with whom CO-PRODUCER contracts with on behalf of CITY will be submitted to CITY for its review. This is not applicable to the agreements or contract strictly between CO-PRODUCER to verify the certificate's authenticity, adequacy and validity and its subcontractors or others. Failure of CITY to request copies of such agreements will not impose any liability on CITY, or its employees.

11.9 No waiver of any breach of this Agreement can be held to be a waiver of any other subsequent breach. All remedies afforded in this Agreement will be taken and construed as cumulative, that is, in addition to every other remedy provided therein or by law. The failure of one Party to enforce at any time any of the provisions of this Agreement, or to require at any time performance by the other Party of any of the provisions, therefore, cannot be construed to be a waiver of such provisions, nor in any way affect the validity of this Agreement or any part thereof or the right of the Party to thereafter enforce each and every such provision.

11.10 If there is a conflict between Services Documents, the highest in precedence controls. The precedence is from highest to lowest in precedence:

1. Permits from other agencies as may be required by law;

2. The body of this Agreement; and

3. Exhibit A and Exhibit E to this Agreement, entitled the Lunar New Year Concept.

11.11 Whenever it is necessary for either party to serve notice on the other respecting this Agreement, such notice must be served by personal delivery or by certified mail addressed to the following addresses, unless and until different addresses may be furnished in writing by either party to the other, and such notice is deemed served within seventy-two (72) hours after the same has been deposited in a United States Post Office by certified mail or has been delivered personally, and is valid and sufficient service of notice for all purposes:

**CITY**

Robert Aguirre Ph: (626) 307-1390
Recreation and Community Services Department
City of Monterey Park
320 West Newmark Ave.
Monterey Park, CA 91754

**CO-PRODUCER**

Konan Tien Ph: (323) 859-8991
World Journal LA, LLC
1588 Corporate Center Dr.
Monterey Park, CA 91754

11.12 CO-PRODUCER cannot make changes in the services or perform any additional work or provide any additional material under this Agreement without first obtaining

written authorization from CITY for additional work or materials. Additional labor or materials provided without authorization is done at CO-PRODUCER'S risk and without payment.

11.13 If any provision of this Agreement is found to be invalid, void or unenforceable, the remaining provisions nevertheless continue in full force and effect without being invalidated in any way.

11.14 CO-PRODUCER agrees that it will not engage in any activity that is substantially similar to the for the respective Lunar New Year Celebration Festival, that will compete directly with the Festival during the term of this Agreement.

11.15 Each Party had the opportunity to independently review this Agreement with legal counsel. Accordingly, this Agreement will be construed simply, as a whole, and in accordance with its fair meaning; it will not be interpreted strictly for or against either Party.

11.16 The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement. This Agreement may be modified by written amendment signed by the Parties. CITY's city manager, or designee, may execute any such amendment on behalf of CITY.

11.17 The Parties agree that this Agreement, agreements ancillary to this Agreement, and related documents to be entered into in connection with this Agreement will be considered signed when the signature of a Party is delivered by facsimile transmission. Such facsimile signature will be treated in all respects as having the same effect as an original signature.

11.18 The Parties agree that the Festival name, logo(s), website domain, vendor list, sponsor list, all forms created on behalf of the Festival are jointly owned by CITY and CO-PRODUCER.

11.19 CITY and CO-PRODUCER agree to attempt to settle any claim, dispute or controversy arising from this Agreement through consultation and negotiation in good faith and in a spirit of mutual cooperation. If those attempts fail, the dispute may be mediated by a mediator chosen jointly by CITY and CO-PRODUCER within thirty (30) days after notice by one of the parties demanding non-binding mediation. Neither party may unreasonably withhold consent to the selection of a mediator. CITY and CO-PRODUCER will share the cost of the mediation equally. The parties may agree to engage in some other form of non-binding alternate dispute resolution ("ADR") procedure in lieu of mediation. Any dispute that cannot be resolved between the parties through negotiation or mediation within two months after the date of the initial demand for non-binding mediation may then be submitted to a court of competent jurisdiction in the County of Los Angeles, California.

11.20 This Agreement supersedes any and all other Agreements either oral or in writing, between the Parties and with respect to the subject matter herein. Each Party to this Agreement acknowledges that this document comprises the entire Agreement between the above Parties with respect to the subject matter of this Agreement and no other promises, statements or representations have been made to any Party to this Agreement other than those contained herein. Any modifications of this Agreement is not valid unless in writing and signed by all Parties.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement on the date first above written.

**CITY OF MONTEREY PARK**

Ron Bow
City Manager

Date: 8/29/17

ATTEST:

Vincent Chang,
City Clerk

APPROVED AS TO FORM:
MARK D. HENSLEY, City Attorney

By: _____
Karl H. Berger, Assistant City Attorney

**WORLD JOURNAL LA, LLC**

James Kuo
President

Date: 8/24/17

**FIRST AMENDMENT TO**
**AGREEMENT NO. 1718-A BETWEEN**
**THE CITY OF MONTEREY PARK AND**
**WORLD JOURNAL LA, LLC**

THIS FIRST AMENDMENT ("Amendment") is made and entered into this 1st day of May, 2020, by and between the CITY OF MONTEREY PARK, a general law city and municipal corporation ("CITY"), and WORLD JOURNAL LA, LLC, a California limited liability corporation ("CO-PRODUCER"), collectively referred to as the "Parties," and separately referred to as a "Party."

1. Pursuant to Article 11.16 of Agreement No. 1718-A ("Agreement"):

   a. Article 1.1 - Term of Agreement is amended to read as follows:

   "This Agreement is extended on May 1, 2020 and continues in full force through March 1, 2021, unless earlier terminated as provided elsewhere in this Agreement."

2. Except as modified by this Amendment, all other terms and conditions of Agreement No. 1718-A remain the same.

IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first hereinabove written.

[SIGNATURES ON NEXT PAGE]

CITY OF MONTEREY PARK

Ron Bow,
City Manager

ATTEST:

Vincent Chang,
City Clerk

APPROVED AS TO FORM:
MARK D. HENSLEY, City Attorney

By:
Karl H. Berger, Assistant City Attorney

CO-PRODUCER

Robert Lee 6/2/2020
World Journal LA, LLC

# City Council Staff Report

**DATE:** April 7, 2021

**AGENDA ITEM NO:** Consent Calendar
Agenda Item 3E

**TO:** The Honorable Mayor and City Council

**FROM:** Kelly Gordon, Chief of Police

**SUBJECT:** National Public Safety Telecommunicators Week Resolution

## RECOMMENDATION:

It is recommended that the City Council consider:

1. Adopting a Resolution Declaring the week of April 11 through 17, 2021 to be National Public Safety Telecommunicators Week in the City of Monterey Park; and
2. Taking such additional, related, action that may be desirable.

## EXECUTIVE SUMMARY:

The Monterey Park Police Department is celebrating the week of April 11-17, 2021 as National Public Safety Telecommunicators Week. This week, sponsored by the Association of Public-Safety Communications Officials (APCO) International and celebrated annually, honors the thousands of men and women who respond to emergency calls, dispatch emergency professionals and equipment, and render lifesaving assistance to the citizens of the United States. We are enlisting your support in the form of a resolution to honor these men and women in our area for the work that they do every day to protect the residents of Monterey Park.

## BACKGROUND:

Historically, the Police Department recognizes and celebrates the hard work of these dedicated professionals. We are confident you will stand behind the commitment and devotion these men and women provide to ensure the safety and security of Monterey Park residents.

Respectfully submitted by:

Kelly Gordon
Chief of Police

Prepared by:

Gus Jimenez
Lieutenant

Approved by:

Ron Bow
City Manager

**ATTACHMENT:**

1. Resolution

# ATTACHMENT 1
## Resolution

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEREY PARK DECLARING APRIL 11-17 2021, NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS WEEK IN MONTEREY PARK**

BE IT RESOLVED by the Council of the City of Monterey Park as follows:

SECTION 1: The City Council finds as follows:

A. The Monterey Park Police Department is celebrating the week of April 11-17, 2021 as National Public Safety Telecommunicators Week. This week, sponsored by the Association of Public-Safety Communications Officials (APCO) International and celebrated annually, honors the thousands of men and women who respond to emergency calls, dispatch emergency professionals and equipment, and render lifesaving assistance to the citizens of the United States. We are enlisting your support in the form of a resolution to honor these men and women in our area for the work that they do every day to protect the residents of Monterey Park.

B. Emergencies can occur at any time that requires police, fire or emergency medical services. When an emergency occurs the prompt response of police officers, firefighters and paramedics is critical to the protection of life and preservation of property.

C. The safety of our police officers and firefighters is dependent upon the quality and accuracy of information obtained from citizens who telephone the Monterey Park police-fire communications center. Public Safety Telecommunicators are the first and most critical contact our citizens have with emergency services.

D. Public Safety Telecommunicators are the single vital link for our police officers and firefighters by monitoring their activities by radio, providing them information and insuring their safety. Public Safety Telecommunicators of the Monterey Park Police Department have contributed substantially to the apprehension of criminals, suppression of fires and treatment of patients.

E. Whereas each dispatcher has exhibited compassion, understanding and professionalism during the performance of their job in the past year.

F. The City of Monterey Park recognizes and celebrates the hard work of these dedicated professionals and declare April 11-17, 2021 as National Public Safety Telecommunications Week in Monterey Park. We stand behind the commitment and devotion these men and women provide to ensure the safety and security of Monterey Park residents.

SECTION 2: *Electronic Signatures*. This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 3: *Recordation*. The Mayor, or presiding officer, is authorized to sign this Resolution signifying its adoption by the City Council of the City of Monterey Park and the City Clerk, or her duly appointed deputy, may attest thereto.

SECTION 4: *Effective Date.* This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

PASSED AND ADOPTED this ___ day of _____, 2021.

_____
Yvonne Yiu, Mayor
Monterey Park, California

Attest:

_____
Vincent D. Chang, City Clerk
Monterey Park, California

# City Council Staff Report

**DATE:** April 7, 2021

**AGENDA ITEM NO:** New Business
Agenda Item 5A

**TO:** The Honorable Mayor and City Council

**FROM:** Vincent D. Chang, City Clerk

**SUBJECT:** City Council districting – Census data update

## RECOMMENDATION:

It is recommended that the City Council consider:

1. Receiving and filing this report; and
2. Taking such additional, related, action that may be desirable.

## EXECUTIVE SUMMARY:

In accordance with the Fair And Inclusive Redistricting for Municipalities And Political Subdivisions (FAIR MAPS) Act (Elections Code § 21600-21609), following each decennial federal census, the City Council must adopt a map showing the district boundaries city council offices so that the districts will be substantially equal in population. Certain requirements must be met before the City Council adopts the final district voting map. This includes holding at least four public hearings, good faith effort in engaging in community involvement, maintaining a dedicated webpage for providing redistricting information, and providing translated materials and live translation upon request.

Recent legislation changed the redistricting process. This report is intended to give the City Council an overview of the redistricting process and the timeline affecting the submittal of the new district map. The combination of the when the next regularly scheduled election date and when the City receives the census data will determine the deadline for submitting the new City Council district boundary map.

The U.S. Census Bureau announced on February 12, 2021 that the 2020 Census redistricting data will be released by September 30, 2021. The Statewide Database will require an additional 30 days to adjust the datasets for redistricts. In accordance with Elections Code § 21602, the boundaries of council districts must be adopted not later than 174 days before the City's next regular municipal election. The City Council has not yet decided whether that election will be held in June 2022 or November 2022. The Los Angeles County Registrar Recorder's office's deadline for submittal of new district map is December 9, 2021 for the June 7, 2022 election and May 12, 2022 for the November 8, 2022 election.

**BACKGROUND:**

In 2019, the City Council adopt a district-based voting system. The first municipal vote based upon that system occurred in March 2021. Following the federal census, districts boundaries must be reviewed and, if necessary, redrawn so that each district is substantially equal in population based upon census data. It is important in ensuring that each City Councilmember represents roughly the same number of constituents. The maps must meet certain requirements and have a less than a 10% deviation in population per district. These requirements include:

District Map Criteria

- Areas geographically contiguous (connected).
- Keeping the geographic integrity by minimizing division of community interest of social and economic interests.
- Areas easily identifiable bonded by natural and artificial barriers, streets and boundaries.
- Encourages geographical compactness where nearby areas of population are not bypassed in favor of more distant populations.
- Do not favor or discriminate against a political party.

Public Hearings

- Hold a minimum of 4 public hearings, 1 pre-draft maps hearing, 2 post-draft maps hearings, and 1 additional pre/post-draft maps hearing.
- Post-draft maps hearings must be held after 21-day (waiting period) after the release of the State-Adjusted census data.
- Hearings must start at a fixed time or after completion of previous agenda item.
- At least 1 hearing must be held after 6 p.m. or in the weekend.

Notices

- Dedicated webpage with explanation of redistricting and public comment process, calendar of hearings, notices and agendas, recordings or written summaries, draft maps considered by the City Council, and adopted map.
- Notices contain date, time and location of hearings and must be post online 5 days in advance.

Outreach

- Encourage public participation including a good faith effort to provide information to local media, provide information through “good government, civil rights, civic engagement, and community groups or organizations.”
- Interested persons sign-up.
- Post information on redistricting and comment process online including applicable non-English languages in accordance with the Secretary of State’s determination.

Translation

- Provide information on redistricting and comment process in applicable non-English languages in accordance with the Secretary of State's determination.
- Requires providing live translation if the request was made 72 hours in advance or 48 hours if the notice was posted 5 days before the hearings.

Timeline for Submittal of Adopted Map

- 174 days before the next regular election if held in June 2022.
  L.A. County's deadline for submittal of final map for June 7, 2022 election is December 9, 2021.
- 205 days before the next regular election if held in November 2022.
  L.A. County's deadline for submittal of final map for November 8, 2022 election is May 12, 2022.
- Based on Census release date of September 30, 2021, State release date of Adjusted data (30 days after), and a possible 21 day waiting period, the 2020 Census Data will not be available until sometime in November or possibly early December 2021.
- In cases of missed deadlines, the Council may petition the superior court for an order adopting council district boundaries within 5 days after the deadline or any resident of the City may file a petition thereafter and is entitled to recover costs. The City will bear all costs associated with the process as ordered by the court.

The City contracted with National Demographics Corporation (NDC) to assist with the redistricting process and to prepare district maps. NDC will conduct the initial analysis of whether the existing election areas (districts) remain population balanced (Still Balanced Analysis) upon receiving the 2020 Census data. Should the existing election areas remain population balanced and compliant with the FAIR MAPS law requirements, the City Council has the option to end the project thus keeping the existing election map and that concludes the redistricting process or choose to redraw the election areas if it wishes to do so.

The term of office of any City Council Member who was elected and whose term of office has not expired will not be affected by any changes. At the first election following adoption of new map, a council member will be elected under the new district plan with the same district number whose incumbent's term is due to expire.

We anticipate there may be new legislation to address the concerns of redistricting and the timing of the release of the Census data. In the absence of such legislation, however, the City Council's decision regarding which municipal election date to select (June or November 2022) may be influenced by the time windows within which redistricting must occur. We want to advise the City Council and the community of the latest information regarding this process and will bring back actionable items in the near future.

**FISCAL IMPACT:**

Costs for initial Still Balanced Analysis and presentation is $5,000. Costs associated with the redistricting process is $110,000. Funding will be requested in next FY 21/22 budget.

Respectfully submitted by:

Vincent D. Chang
City Clerk

Prepared by:

Cindy H. Trang
Deputy City Clerk

Reviewed by:

Inez Alvarez
Assistant City Manager

Reviewed by:

Ron Bow
City Manager

Reviewed by:

Karl H. Berger
City Attorney

Attachments:

1. Assembly Bill No. 1276 (Elections Code § 21600-21609)
2. November 18, 2020 City Council Staff Report and Minutes, Item No. 5A

**ATTACHMENT 1**
Assembly Bill No. 1276 (Elections Code § 21600-21609)

**ELECTIONS CODE - ELEC**

**DIVISION 21. STATE AND LOCAL REAPPORTIONMENT [21000 - 23004]** *( Division 21 enacted by Stats. 1994, Ch. 920, Sec. 2. )*

**CHAPTER 7. City Elections [21600 - 21630]** *( Chapter 7 enacted by Stats. 1994, Ch. 920, Sec. 2. )*

**ARTICLE 1. General Law Cities [21600 - 21609]** *( Article 1 enacted by Stats. 1994, Ch. 920, Sec. 2. )*

**21600.** (a) This article applies to a general law city that elects members of the city's legislative body by districts or from districts, as defined in Section 34871 of the Government Code.

(b) This article shall not be interpreted to limit the discretionary remedial authority of any federal or state court.

*(Amended by Stats. 2020, Ch. 90, Sec. 9. (AB 1276) Effective January 1, 2021.)*

**21601.** (a) Following a city's decision to elect its council using district-based elections, or following each federal decennial census for a city whose council is already elected using district-based elections, the council shall, by ordinance or resolution, adopt boundaries for all of the council districts of the city so that the council districts shall be substantially equal in population as required by the United States Constitution.

(1) Population equality shall be based on the total population of residents of the city as determined by the most recent federal decennial census for which the redistricting data described in Public Law 94-171 are available.

(2) Notwithstanding paragraph (1), an incarcerated person as that term is used in Section 21003, shall not be counted towards a city's population, except for an incarcerated person whose last known place of residence may be assigned to a census block in the city, if information about the last known place of residence for incarcerated persons is included in the computerized database for redistricting that is developed in accordance with subdivision (b) of Section 8253 of the Government Code, and that database is made publicly available.

(b) The council shall adopt council district boundaries that comply with the United States Constitution, the California Constitution, and the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.).

(c) The council shall adopt district boundaries using the following criteria as set forth in the following order of priority:

(1) To the extent practicable, council districts shall be geographically contiguous. Areas that meet only at the points of adjoining corners are not contiguous. Areas that are separated by water and not connected by a bridge, tunnel, or regular ferry service are not contiguous.

(2) To the extent practicable, the geographic integrity of any local neighborhood or local community of interest shall be respected in a manner that minimizes its division. A "community of interest" is a population that shares common social or economic interests that should be included within a single district for purposes of its effective and fair representation. Communities of interest do not include relationships with political parties, incumbents, or political candidates.

(3) Council district boundaries should be easily identifiable and understandable by residents. To the extent practicable, council districts shall be bounded by natural and artificial barriers, by streets, or by the boundaries of the city.

(4) To the extent practicable, and where it does not conflict with the preceding criteria in this subdivision, council districts shall be drawn to encourage geographical compactness in a manner that nearby areas of population are not bypassed in favor of more distant populations.

(d) The council shall not adopt council district boundaries for the purpose of favoring or discriminating against a political party.

*(Amended by Stats. 2020, Ch. 90, Sec. 10. (AB 1276) Effective January 1, 2021.)*

**21602.** (a) (1) For redistricting occurring in 2031 and thereafter, the boundaries of the council districts shall be adopted by the council not later than 205 days before the city's next regular election occurring after January 1 in each year ending in the number two.

(2) For redistricting occurring before 2031 and where a city has a regular election occurring after January 1, 2022, and before July 1, 2022, the boundaries of the council districts shall be adopted by the council not later than 174 days before that election.

(3) For redistricting occurring before 2031 and where a city does not have a regular election occurring after January 1, 2022 and before July 1, 2022, the boundaries of the council districts shall be adopted by the council not later than 205 days before the city's next regular election occurring on or after July 1, 2022.

(b) This section does not apply when a city transitions from at-large to district-based elections.

*(Amended by Stats. 2020, Ch. 90, Sec. 11. (AB 1276) Effective January 1, 2021.)*

**21603.** (a) If the boundaries of a city expand by the addition of new territory, including through annexation of unincorporated territory or consolidation with another city, the council shall add that new territory to the nearest existing council district without changing the boundaries of other council district boundaries.

(b) Notwithstanding subdivision (a), the council may adopt new boundaries for each council district under the circumstances described in subdivision (a) if both of the following conditions are met:

(1) There are more than four years until the council is next required to redistrict pursuant to Section 21601.

(2) The population of the new territory being annexed or consolidated is greater than 25 percent of the city's population, as determined by the most recent federal decennial census.

*(Repealed and added by Stats. 2019, Ch. 557, Sec. 19. (AB 849) Effective January 1, 2020.)*

**21605.** (a) After redistricting or districting pursuant to Section 21601 or 21603, a council shall not adopt new council district boundaries until after the next federal decennial census, except under the following circumstances:

(1) A court orders the council to redistrict.

(2) The council is settling a legal claim that its council district boundaries violate the United States Constitution, the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.), or this article.

(3) The boundaries of the city change by the addition of territory pursuant to Section 21603 or by the subtraction of territory.

(b) This section does not prohibit a council from adopting council districts between federal decennial censuses if the council is adopting council districts for the first time, including when a city adopts council districts for the purpose of transitioning from electing its council members in at-large elections to elections by districts or from districts.

*(Amended by Stats. 2020, Ch. 90, Sec. 12. (AB 1276) Effective January 1, 2021.)*

**21606.** (a) The term of office of any council member who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the district from which the council member was elected.

(b) At the first election for council members in each city following adoption of the boundaries of council districts, excluding a special election to fill a vacancy or a recall election, a council member shall be elected for each district under the new district plan that has the same district number as a district whose incumbent's term is due to expire. This subdivision does not apply when a city transitions from at-large to district-based elections.

(c) Except as provided in subdivision (a), a person is not eligible to hold office as a member of a city council unless that person meets the requirements of Section 201 of the Elections Code and Section 34882 of the Government Code.

*(Amended by Stats. 2020, Ch. 90, Sec. 13. (AB 1276) Effective January 1, 2021.)*

**21607.** Before adopting the boundaries of a council district pursuant to Section 21601 or 21603, or for any other reason, the council shall hold public hearings on the proposal in accordance with Section 21607.1. This section does not apply when a city transitions from at-large to district-based elections.

*(Amended by Stats. 2020, Ch. 90, Sec. 14. (AB 1276) Effective January 1, 2021.)*

**21607.1.** (a) Before adopting a final map, the council shall hold at least four public hearings at which the public is invited to provide input regarding the composition of one or more council districts.

(1) At least one public hearing shall be held before the council draws a draft map or maps of the proposed council boundaries.

(2) At least two public hearings shall be held after the council has drawn a draft map or maps of the proposed council boundaries.

(b) At least one public hearing or public workshop shall be held on a Saturday, on a Sunday, or after 6 p.m. on a weekday Monday through Friday.

(c) Public hearing buildings shall be accessible to persons with disabilities.

(d) If a public hearing is consolidated with a regular or special meeting of the council that includes other substantive agenda items, the public hearing shall begin at a fixed time regardless of its order on the agenda, except that the council may first conclude any item being discussed or acted upon, including any associated public comment, when that time occurs. The time of the public hearing shall be noticed to the public.

(e) The council may have city staff or a consultant conduct one or more public workshops in lieu of holding one of the public hearings required by paragraph (1) of subdivision (a).

(f) The council may establish an advisory redistricting commission pursuant to Section 23002 to hold the public hearings required by paragraph (1) of subdivision (a).

*(Added by Stats. 2019, Ch. 557, Sec. 24. (AB 849) Effective January 1, 2020.)*

**21608.** (a) The council shall take steps to encourage residents, including those in underrepresented communities and non-English speaking communities, to participate in the redistricting public review process. These steps shall include a good faith effort to do all of the following:

(1) Providing information to media organizations that provide city news coverage, including media organizations that serve language minority communities.

(2) Providing information through good government, civil rights, civic engagement, and community groups or organizations that are active in the city, including those active in language minority communities, and those that have requested to be notified concerning city redistricting.

(b) The council shall arrange for the live translation in an applicable language of a public hearing or workshop held pursuant to this article if a request for translation is made at least 72 hours before the hearing or workshop, unless less than five days' notice are provided for the hearing or workshop, in which case the request shall be made at least 48 hours before the hearing or workshop.

(c) Notwithstanding Section 54954.2 of the Government Code, the council shall publish the date, time, and location for any public hearing or workshop on the internet at least five days before the hearing or workshop. However, if there are fewer than 28 days until the deadline to adopt boundaries, the council may publish the agenda on the internet for at least three days before the hearing or workshop.

(d) (1) A draft map shall be published on the internet for at least seven days before being adopted as a final map by the council provided that, if there are fewer than 28 days until the deadline to adopt boundaries, the draft map may instead be published on the internet for at least three days.

(2) Each draft map prepared by a member of the council or by employees or contractors of the city shall be accompanied by information on the total population, citizen voting age population, and racial and ethnic characteristics of the citizen voting age population of each proposed council district, to the extent the city has that data.

(3) (A) The council and employees or contractors of the city shall not release draft maps of council districts earlier than three weeks after the block-level redistricting database required by subdivision (b) of Section 8253 of the Government Code is first made publicly available. This subparagraph does not prohibit the council from holding public hearings or workshops on the placement of council district boundaries before the earliest date that draft maps of council districts may be released.

(B) If the period of time between the date that the redistricting database is made publicly available and the map adoption deadline is fewer than 90 days and more than 59 days, the waiting period required by subparagraph (A) is reduced to one week. If the period of time between the date that the redistricting database is made publicly available and the map adoption deadline is fewer than 60 days, then the waiting period required by subparagraph (A) is waived.

(e) The council shall allow the public to submit testimony or draft maps in writing and electronically.

(f) The city shall either record or prepare a written summary of each public comment and council deliberation made at every public hearing or workshop held pursuant to this article. The city shall make the recording or written summary available to the public within two weeks after the public hearing or workshop.

(g) The council shall establish, and maintain for at least 10 years after the adoption of new council district boundaries, an internet web page dedicated to redistricting. The web page may be hosted on the city's existing internet website or another internet website maintained by the city. The web page shall include, or link to, all of the following information:

(1) A general explanation of the redistricting process for the city in English and applicable languages.

(2) The procedures for a member of the public to testify during a public hearing or to submit written testimony directly to the council in English and any applicable language.

(3) A calendar of all public hearing and workshop dates. A calendar listing that includes the time and location of the public hearing or workshop satisfies the notice required by subdivision (c).

(4) The notice and agenda for each public hearing and workshop.

(5) The recording or written summary of each public hearing and workshop.

(6) Each draft map considered by the council at a public hearing.

(7) The adopted final map of council district boundaries.

(h) For purposes of this section, "applicable language" means any language that is spoken by a group of city residents with limited English proficiency who constitute 3 percent or more of the city's total population over four years of age for whom language can be determined. Before January 1, 2021, and before January 1 in every year ending in the number one thereafter, the Secretary of State shall post the applicable languages for each city in a conspicuous location on the Secretary of State's internet website. To determine the applicable languages for each city, in 2020 and in each year ending in the number zero thereafter, the Secretary of State, in consultation with the Statewide Database, shall request a special tabulation from the United States Bureau of the Census of the most recent data on limited English proficiency from the bureau's American Community Survey that satisfies this subdivision. If the bureau is unable to produce that data, the Secretary of State shall base the Secretary of State's determination on the table from the American Community Survey enumerating the number of residents with limited English proficiency that has the largest number of languages included, that is publicly available, and that was produced within the previous ten years.

(i) This section does not apply when a city transitions from at-large to district-based elections.

(j) Before January 1, 2021, and before January in each year ending in the number one thereafter, the Secretary of State shall publish on the internet a template explaining the city redistricting process that meets the requirements of paragraphs (1) and (2), inclusive, of subdivision (g). The Secretary of State shall publish the template in all of the languages into which ballots are required to be translated in the state pursuant to subdivision (h). The template shall be published in the same conspicuous location on the Secretary of State's internet website that is described in subdivision (h).

*(Amended by Stats. 2020, Ch. 90, Sec. 15. (AB 1276) Effective January 1, 2021.)*

**21609.** (a) If the council does not adopt council district boundaries by the deadlines set forth in Section 21602, the council shall immediately petition the superior court in the county in which the city is located for an order adopting council district boundaries. If the council does not petition the superior court within five days after the deadline, any resident of the city may file that petition and shall be entitled to recover the resident's reasonable attorney's fees and costs from the city for doing so.

(b) (1) Upon finding that a petition filed pursuant to subdivision (a) is valid, the superior court shall adopt council district boundaries in accordance with the criteria set forth in Section 21601, which shall be used in the city's next regular election. The superior court may also order the adjustment of electoral deadlines as necessary to implement the new council district boundaries in the next regular election.

(2) The superior court may appoint a special master to assist the court with adopting the council district boundaries. The city shall pay the cost for the special master and associated costs.

(3) The superior court or the special master shall hold one or more public hearings before the superior court adopts the council district boundaries.

(4) Subject to the approval of the superior court, the special master may employ redistricting experts or other consultants or counsel, independent experts in the field of redistricting and computer technology, and other necessary personnel to assist them in their work. In addition, the special master may seek the full cooperation of the city in producing and using whatever data, computer models and programs, and technical assistance that was made available to the council and city personnel who are knowledgeable in the mechanics of drafting redistricting legislation. The superior court may assist the special master in securing the necessary personnel and the physical facilities required for their work, and to prepare for the prompt submission to the city of a request for city funding for the necessary expenses of the special master and the special master's staff.

(5) The council district boundaries adopted by the superior court shall be immediately effective in the same manner as if the court's order were an enacted resolution or ordinance of the city council.

*(Amended by Stats. 2020, Ch. 90, Sec. 16. (AB 1276) Effective January 1, 2021.)*

**ATTACHMENT 2**
November 18, 2020 City Council Staff Report and Minutes, Item No. 5A

# City Council Staff Report

**DATE:** November 18, 2020

**AGENDA ITEM NO:** New Business
Agenda Item 5-A

**TO:** The Honorable Mayor and City Council

**FROM:** Vincent D. Chang, City Clerk
Karl H. Berger, City Attorney

**SUBJECT:** Senate Bill 970 – Elections Date Change

## RECOMMENDATION:

It is recommended that the City Council consider:

1. Introducing and waiving first reading of an ordinance amending Monterey Park Municipal Code ("MPMC") § 2.04.050 to change the election date of general municipal elections and requesting consolidation with Los Angeles County pursuant to Elections Code § 10403;

2. Provide direction to the City Clerk regarding the mayoral rotation schedule to be brought back at a future council meeting for consideration; and

3. Taking such additional, related, action that may be desirable.

## EXECUTIVE SUMMARY:

On September 18, 2020, the Governor signed Senate Bill (SB) 970 into law changing several sections of the California Elections Code effective January 1, 2021. In particular, SB 970 mandates the City Council change the date for the City's general municipal election to June or November 2022. This will affect the terms of office for all City Councilmembers, the City Clerk, and the City Treasurer. The extension of office terms will also affect the mayoral rotation schedule.

## BACKGROUND:

In 2015, the California Legislature adopted the California Voter Participation Rights Act ("CVPRA"). The CVPRA was adopted to remedy declining voter turnout in municipal elections and was specifically intended to affect cities holding municipal elections in odd numbered years. Based upon certain voter turnout criteria (a more complete overview is included from the attached 2016 staff report), such cities (including Monterey Park) were required to consolidate their elections with the statewide elections in June or November

of even years. Practically, the CVRPA prohibits the City from holding a general municipal election on any date other than a statewide election date.

The CVPRA allowed cities – up until 2022 – to hold elections in odd-numbered years if they adopted a plan before January 1, 2018 to implement the CVPRA. In 2016, the City Council opted to postpone any action until sometime before the scheduled general municipal election in 2021. One of the main reasons for the City Council's decision in 2016 was that changing the City's general municipal election to November of even years would reduce the terms for certain council members by four months.

In 2017, the Legislature adopted SB 568 which became effective in 2019. SB 568 again changed the statewide election dates from June or November of even years, to *March* and November of even years.

This change allowed the City Council to change the date of the general municipal election from March of *odd* numbered years to March of *even* numbered years. Accordingly, this meant that elections originally scheduled for March 2021 would be rescheduled for March 2022. A consequence of that action (explained more below) was that the terms of councilmembers would be *extended by 12 months* pursuant to Elections Code § 10403.5(b).

Because the change in election dates would result in an extension in their terms of office, rather than a reduction as contemplated in 2016, the City Council opted to change the City's election date from March 2021 to March 2022 (see attached staff report from 2017). Based upon its actions in 2017, therefore, the City's general municipal election is scheduled for March 2022 at which time Council District Nos. 1 and 5 will be on the ballot.

Effective January 1, 2021, however, the statewide election dates become these:

- An election held in November of an even-numbered year.
- An election held in June of an even-numbered year that is not evenly divisible by four and **in March of each even-numbered year that is evenly divisible by four** (emphasis added).

As can be seen by the emphasized language, the City's March 2022 municipal election cannot be held (2022 is not evenly divisible by four). Consequently, the City Council *must* change its municipal election date from March to *either* June or November of 2022.

The City's voting records show that November elections typically have greater voter turnout and participation. As the Elections Official, City Clerk Chang recommends that the City Council change the municipal election date from March to November of even years. This change would also be more defensible under the CVPRA.

Whether the City Council chooses June or November, the terms of all elected officials will be extended by Elections Code § 10403.5. For officials elected in 2017 (Mayor Peter Chan, Councilmember Hans Liang, City Clerk Vincent Chang, and City Treasurer Joseph Leon), terms would be extended either three months (to June 2022) or eight months (to November 2022). For officials elected in 2020 (Mayor pro tem Yvonne Yiu, Councilmember Henry Lo, and Councilmember Fred Sornoso), terms would be extended the same length of time in 2024, i.e., from either three months (June 2024) or eight months (November 2024).[1]

Based upon the election date selected by the City Council, the mayoral rotation approved earlier this year will require amending. Some direction from the City Council regarding how that rotation should occur would be helpful. For example, a determination whether Mayor Peter Chan and Councilmember Hans Liang should be included in the mayoral rotation (i.e., obtain additional time as mayor); if Mayor Chan's current mayoral term should be extended (i.e., beyond November 18, 2020); or if the mayor terms for Councilmembers elected in 2020 should be extended to coincide with the time extensions in 2024.

**FISCAL IMPACT:**
None.

Respectfully submitted by:

Vincent D. Chang
City Clerk

Prepared by:

Cindy H. Trang
Deputy City Clerk

Reviewed by:

Ron Bow
City Manager

Reviewed by:

Karl H. Berger
City Attorney

Attachments:
1. Draft Ordinance
2. October 19, 2016 and December 6, 2017 Staff Reports (without attachments)

[1] The City Council could consider having different municipal election dates every two years, e.g., June or November beginning in 2022 and every four years afterward; and March in 2024 and every four years afterward. That, however, seems impractical and confusing for voters.

**ATTACHMENT 1**
Draft Ordinance

**ORDINANCE NO.**

**AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE § 2.04.050 TO CHANGE THE ELECTION DATE OF GENERAL MUNICIPAL ELECTIONS AND REQUESTING CONSOLIDATION WITH LOS ANGELES COUNTY PURSUANT TO ELECTIONS CODE § 10403.**

**THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:**

SECTION 1: ***Recitals***. The City Council finds as follows:

A. Elections Code § 1301 and § 10403.5 authorize the City to reschedule its general municipal election to the day of the statewide general election.

B. Effective January 1, 2021, SB 970 amends Elections Code § 1001 which governs the dates of statewide elections. As a result, the City is required to change its election date from March 2022 to either June or November 2022.

C. The City requests consolidation of its elections with the statewide general election conducted by the County of Los Angeles on the first Tuesday after the first Monday in March of even-numbered years.

D. In order to accomplish the change in election date, the term of incumbent elected officials whose terms would otherwise end in March 2022 must be lengthened from March 2022 to _____ 2022 when elected officials elected in ____ 2022 take office. Additionally, elected officials whose terms would otherwise end in March 2024 must be lengthened from march 2024 to ____ 2024 when elected officials elected in 2024 take office.

SECTION 2: ***Change to Election Date***. In accordance with Elections Code §§ 1301 and 10403.5, Monterey Park Municipal Code ("MPMC") § 2.04.050 is amended to read as follows:

"Section 2.04.050. **Municipal Elections.**

Beginning with elections held after March 2020, the general municipal election will be held on the first Tuesday after the first Monday in _____ of even-numbered years. The first general municipal election after the March 2020 general municipal election will be held on the first Tuesday after the first Monday in _____ 2022."

SECTION 3: ***Adjustment of Terms of Office***. In accordance with Elections Code §§ 1301 and 10403.5(d), due to the change of election date, the terms of office of those elected officials presently serving whose terms would previously have expired in March 2022 will instead vacate in their office upon certification of the results and administration

of oaths of office after the ____ 2022 General Municipal Election. The terms of office of those elected officials presently serving whose terms would previously have expired in March 2024 will instead vacate in their office upon certification of the results and administration of oaths of office after the ____ 2024 General Municipal Election

SECTION 4: ***Consolidated Election***. Pursuant to Elections Code § 1301, the City Council requests the County of Los Angeles approve consolidation of the City's 2022 City Council election with the statewide general election conducted by the County in _____ of each even-numbered year.

SECTION 5: ***Notice to Voters***. Pursuant to Elections Code § 10403.5, within 30 days after this Ordinance becomes effective, the City Clerk must cause a notice to be mailed to all registered voters of the City of Monterey Park (pursuant to the last report of registration by the County Clerk to the Secretary of State) informing the voters of the change in the election date. The notice must also inform the voters that as a result in the change in election date, elected city officeholders' terms in office will be changed.

SECTION 6: ***Date of the First City Council Election in 2022***. If this Ordinance becomes effective, the first City Council election to be held in 2022 will be _____.

SECTION 7: ***Request to the County***. The City Clerk is directed to forward, without delay, a certified copy of this Ordinance to the Los Angeles County Board of Supervisors and the County Election Department.

SECTION 8: ***Savings Clause***. Repeal of any provision of the MPMC or any other regulation by this Ordinance does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 9: ***Severability***. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the city council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 10: ***Validity of Previous Code Sections***. If this the entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal of the MPMC or other regulation by this Ordinance will be rendered void and cause such MPMC provision or other regulation to remain in full force and effect for all purposes.

SECTION 11: ***Effective Date***. This Ordinance will only become effective upon approval by the Los Angeles County Board of Supervisors pursuant to Elections Code § 1301(b)(1).

SECTION 12: ***Publication.*** The City Clerk must certify as to the adoption of this ordinance and cause the summary thereof to be published within fifteen calendar (15) days of the adoption and post a certified copy of this ordinance, including the vote for

and against the same, in the office of the City Clerk, in accordance with Government Code § 36993, for the City of Monterey Park.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2020.

_____
_____, Mayor

ATTEST:

_____
Vincent D. Chang, City Clerk

APPROVED AS TO FORM:

_____
Karl H. Berger, City Attorney

**ATTACHMENT 2**
October 19, 2016 and December 6, 2017 Staff Reports

# City Council Staff Report

**DATE:** October 19, 2016

**AGENDA ITEM NO:** New Business
Agenda Item 6-J.

**TO:** The Honorable Mayor and City Council

**FROM:** Vincent D. Chang, City Clerk

**SUBJECT:** CONSIDERATION OF THE CALIFORNIA VOTER PARTICIPATION RIGHTS ACT (CALIFORNIA STATE SENATE BILL 415) AND CONSOLIDATION WITH A STATEWIDE GENERAL ELECTION DATE

## RECOMMENDATION:

It is recommended that the City Council consider:

1. Provide direction to staff concerning the option desired for a statewide consolidation date, Option A or B:

   **Option A -** introduce and waive first reading of an ordinance to change the election dates to November even years beginning November 6, 2018 or November 3, 2020 and repealing Ordinance No. 1885, and schedule second reading and adoption for November 2, 2016;

   **OR**

   **Option B** – take action to reaffirm the election date in Ordinance No. 1885 and plan to reconsider the matter not later than 2021; and
2. Take such additional, related, action that may be desirable.

## EXECUTIVE SUMMARY:

The California Voter Participation Rights Act (SB 415) was passed on September 1, 2015. This new legislation prohibits a local government from holding an election on any date other than a statewide election date if holding the election on a date nonconcurrent with the statewide election has previously resulted in a "significant decrease in voter turnout." A "significant decrease in voter turnout" is defined as voter turnout for a regularly scheduled election that is at least twenty-five percent (25%) less than the average voter turnout within that city for the previous four (4) statewide general elections. SB 415 requires cities with insufficient voter turn out to either change their election dates to June or November of even year, or, prior to January 1, 2018, adopt a plan to consolidate future election with a statewide election not later than the November 8, 2022, statewide general election.

## BACKGROUND:

SB 415 adds a new chapter to the California Elections Code (Section 14050 -14057) that attempts to remedy declining voter turnout in municipal elections. Under SB 415, general law cities must hold municipal elections on a statewide election date if holding the municipal election on a date other than the statewide election previously resulted in a voter turnout that was at least 25% less than the average voter turnout of the previous four statewide elections. Such cities are required to consolidate their elections with the statewide elections in June or November of even years.

Accordingly, to determine if Monterey Park is required to consolidate with a statewide general election date, it is necessary to review the recent election voter turnout data.

| **Statewide General Election Data - Monterey Park** | | | |
|---|---|---|---|
| Election Date | Registered Voters | Ballots Cast | Voter Turnout (percentage) |
| Nov. 2008 | 25,660 | 18,748 | 73.06% |
| Nov. 2010 | 26,785 | 12,753 | 47.61% |
| Nov. 2012 | 26,796 | 16,865 | 62.94% |
| Nov. 2014 | 27,565 | 7,328 | 26.58% |
| State subtotal of Four Years *(Ballots/Registered=Voter Turnout)* | | | 210.19% |
| State Four Year Average *(210.19/4)* | | | 52.55% |
| State Four Year Average Less 25% *(52.55x.25=13.14-52.55=39.41)* | | | **39.41%** |
| **General Municipal Election Data - Monterey Park** | | | |
| March 2015 | 27,474 | 5,356 | **19.49%** |

As the above data illustrates, the voter turnout for the City's most recent municipal election was 19.49%. This is lower than the minimum threshold of 39.41%. Since the City experienced a "significant decrease in voter turnout," Monterey Park must begin conducting its general municipal elections on statewide general election dates as soon as 2018. SB 415 requires the local jurisdiction to either consolidate its election with a statewide election, or by January 1, 2018 adopt a plan to consolidate its election with the statewide election not later than the November 8, 2022 statewide general election.

In order to accommodate the statewide election dates, cities are required to increase or decrease terms of office depending on their existing election schedule. Elections Code Section 10403.5(b) limits increases or decreases to terms of office to no more than twelve months. Since the City of Monterey Park (the "City") holds its regular elections in March of odd years, any term increase to June or November of the following even year exceeds the 12 month cap established by Elections Code Section 10403.5(b).

For the City Council's consideration, following are two potential options for compliance with the provisions of SB 415:

Reducing of the upcoming Council member terms of office by 4 months (March of an odd year, to the prior November of an even year).

**Option A** is reflected in the draft ordinance that changes the City's general municipal election to November of even years with consolidation to begin November 6, 2018 or November 3, 2020. Consolidation for the November 2018 election will affect the terms of office that began March 2015 and 2017; consolidation for the November 2020 will affect the terms of office beginning March 2017 and 2019. Option A requires adoption of an ordinance, requesting the County Board of Supervisors for approval for future consolidation, and compliance with the noticing requirement.

**Option B** is simply a decision to postpone taking any immediate action. Instead, the Council would plan on reexamining the issue until not later than 2021. At that time, the City Council could consider any changes to California law (which are anticipated in the next five years) and take appropriate action (if any). Option B would simply be a minute action that can be forwarded to the County Board of Supervisors with an accompanying cover letter (which would include Ordinance No. 1885).

Another possible option to consider is increasing the terms in a two-step process by changing the election dates from March of odd years to November of odd years and again, changing the election dates from November of odd years to November of even years. This action may cause voter confusion due to the changes of election dates in such a small window of time.

Actions to change the election date require the City to adopt an ordinance changing its current election date. Elections Code Section 1301(b)(1) provides for the City Council to enact an Ordinance requiring its general municipal election to be held on the same day as the statewide general election. The ordinance would become operative upon approval by the County Board of Supervisors. Due to the constraints of the County's current voting system, if the City Council desires to consolidate early, time is of the essence in submitting a request for consolidation to the County. The County needs to perform an analysis of the City to determine if consolidation is possible prior to 2020. City staff has reached out to the County and requested for a preliminary analysis and the County had expressed support for the City to consolidate its future elections with the County general elections beginning November 2018. The final decision, however, is dependent on the approval from the Board of Supervisors. Upon approval of the Board of Supervisors, the City is required to notify all registered voters of the City regarding the change of election date and the terms it affect. An additional funding of $12,000 per notification is required to complete this task.

Per the County Elections Division, no city, on a nonconcurrent calendar, currently meets the 25% requirement and all will be required to shift to statewide consolidation. The County of Los Angeles is set to unveil a new voting system in 2020 and has expressed concern that cities transitioning to statewide elections prior to 2020 would exceed the capacity of its current optical scan voting system. There is speculation as to whether or

not the Los Angeles County has the capacity to handle all elections in June and November of even years by November 8, 2022. There are talks that some cities are considering circulating a petition seeking an alternate solution to increase voter participation and to allow the continuance of stand-alone elections. Some cities have already taken actions to move their election date to June or November of even years. Some cities are taking some actions by adopting a plan to consolidate future elections with the statewide elections no later than November 8, 2022. Still, some cities are deferring taking action while waiting to see if there will be a legislative solution, mindful of the January 1, 2018 deadline.

**FISCAL IMPACT:**

Traditionally, the City Clerk's office expends approximately $140,000 to conduct the municipal election every other odd-numbered year in March. With the fiscal implications associated with new legislation, the cost is unknown at this time. The County of Los Angeles will bill the City for the costs associated with conducting the City's election. There are many unknown factors, such as the cost of new voting equipment, staffing, elections materials that play into the costs. City staff will utilize $140,000 as a baseline for future election budgeting.

When the Council takes action to adopt an ordinance changing the election date, an additional $12,000 will be required to satisfy the noticing requirement.

Respectfully submitted by:

Vincent D. Chang
City Clerk

Prepared by:

Cindy H. Trang
Deputy City Clerk

Approved by:

Paul L. Talbot
City Manager

Reviewed by:

Karl H. Berger
Assistant City Attorney

# City Council Staff Report

**DATE:** December 6, 2017

**AGENDA ITEM NO:** New Business
Agenda Item 6-D.

**TO:** The Honorable Mayor and City Council

**FROM:** Vincent D. Chang, City Clerk

**SUBJECT:** CONSIDERATION OF WHETHER TO CONSOLIDATE GENERAL MUNICIPAL ELECTIONS WITH A STATEWIDE GENERAL ELECTIONS IN EVEN YEARS

## RECOMMENDATION:

It is recommended that the City Council consider:

1. Adopting a resolution ratifying its October 19, 2016 decision to postpone a decision to consolidate future elections with the statewide elections; AND
2. Introduce and waive first reading of an ordinance to change the election dates to November even years beginning March 3, 2020 or March 8, 2022 and repealing Ordinance No. 1885, and schedule second reading and adoption for December 20, 2017; OR
3. Provide other direction as to consideration of the California Voter Participation Rights Act (California State Senate bill 415) and consolidation with a statewide general election date; and
4. Take such additional, related, action that may be desirable.

## EXECUTIVE SUMMARY:

In October 2016, the City Council opted to postpone any decision regarding consolidating the City's general municipal elections with statewide elections until sometime before 2021. This decision allowed the City to continue conducting its elections in odd-numbered years pursuant to Ordinance No. 1885 (adopted December 12, 1994). Since then, the Los Angeles County Elections Division requested that the City Council memorialize its decision in a written resolution rather than simply rely upon the minute order from that date. By adopting the resolution, the City will have more time to further discuss and decide on an action.

Separately, on September 27, 2017 the Governor signed SB 568 which becomes effective in 2019. In brief, SB 568 only changes the date of the statewide direct primary and the presidential primary.

Starting in 2019, those will both be on the first Tuesday after the first Monday in March in either an even-numbered year or a year divisible by four.

SB 568 potentially affects the City Council's decision regarding consolidating the City's general municipal election. Specifically, Monterey Park's general election is held the first Tuesday after the first Monday in March of *odd*-numbered years. Changing the election date to the first Tuesday in March of *even*-numbered years (per SB 568) may extend the term for certain city councilmembers in accordance with applicable law (as explained in 2016).

Additionally, the conventional wisdom is that SB 568's enactment – and the resulting change in election dates by many municipalities – may cause the vendor traditionally providing election services to cease operations. There simply will be insufficient business from public entities for it to continue. Should that occur, Monterey Park would likely pay significantly more for holding municipal elections in odd-numbered years.

**BACKGROUND:**

A copy of the staff report from October 2016 is attached for reference. It provides an overview of the California Voter Participation Rights Act (SB 415) and its effect on the City of Monterey Park. In short, SB 415 mandates that cities holding elections during odd-numbered years with historically low voter turnout to consolidate with countywide elections in even numbered years. Cities can continue – up to 2022 – to hold elections in odd-numbered years if they adopt a plan before January 1, 2018 to implement consolidation. The City Council's plan was to implement changes before 2021. A resolution confirming that decision from October 2016 is attached for City Council consideration. This resolution should be adopted regardless of whether the Council opts to introduce the draft ordinance: the Board of Supervisor meeting occurs on December 19, 2017 – a day before the second reading of the ordinance (if it were introduced).

One of the reasons for the City Council's decision in 2016 was that changing the City's general municipal election to November of even years would reduce the terms for certain councilmembers by four months. Enactment of SB 568, however, would allow the City to consolidate with statewide elections in *March* of even numbered years. This would *extend* the term of certain councilmembers by one year pursuant to Elections Code § 10403.5(b).

Moving the election date to March 2020 will increase the term of office by 12 months for terms of offices beginning March 2015 and 2017. Moving the election date to March 2022 will increase the term of office by 12 months for terms of offices beginning March 2017 and March 2019.

Since 2015, SB 415 caused many cities to consolidate with county elections. As a result, the future viability of the City's vendor for election materials and implementation may be uncertain. That vendor provides elections consultant work, and all election materials and services including the certified ballot counter.

The company recently downsized and its level of services may be inadequate in the future. Moreover, cities will also see a substantial increase in costs for the similar type of services. Should the City's vendor cease operations, it may be difficult for the City to scramble to either consolidate with the County or trying to find a substitute vendor. The County is not legally obligated to accept the City's request for consolidation and the City would then be challenged in trying to operate an election using its own resources.

As of October 2017, 52 of the 88 cities in Los Angeles County either already consolidated with statewide elections or have plans to do so.

The City Council could opt to implement consolidation now. Attached is an ordinance – that is substantially the same as from October 2016 – that would implement election consolidation. A year for when this would be implemented is left blank for City Council direction.

**FISCAL IMPACT:**

Historically, the City Clerk's office expends approximately $140,000 to conduct the municipal election every other odd-numbered year in March. With the fiscal implications associated with new legislation, the cost is unknown at this time. The County of Los Angeles will bill the City for the costs associated with conducting the City's election. There are many unknown factors, such as the cost of new voting equipment, staffing, elections materials that play into the costs. City staff will utilize $140,000 as a baseline for future election budgeting.

When the Council takes action to adopt an ordinance changing the election date, an additional $12,000 will be required to satisfy the noticing requirement.

Respectfully submitted by:

Vincent D. Chang
City Clerk

Prepared by:

Cindy H. Trang
Deputy City Clerk

Approved by:

Ron Bow
City Manager

Reviewed by:

Karl H. Berger
Assistant City Attorney

**MINUTES**
**MONTEREY PARK CITY COUNCIL**
**SUCCESSOR AGENCY (SA)**
**NOVEMBER 18, 2020**

The City Council of the City of Monterey Park held a Regular Teleconference Meeting via Zoom on Wednesday, November 18, 2020 at 6:30 p.m. The regular meeting was conducted pursuant to Section 3 of Executive Order No. N-29-20 issued on March 17, 2020. Accordingly, Council Members were provided a meeting login number and conference call number and were not physically present at Council Chambers.

The minutes include items considered by the City Council acting on behalf of the Successor Agency of the former Monterey Park Redevelopment Agency, which dissolved February 1, 2012. Successor Agency matters will include the notation of "SA" next to the Agenda Item Number.

**PUBLIC PARTICIPATION**

In accordance with Executive Order No. N-29-20 and guidance from the California Department of Public Health on gatherings, remote public participation was allowed in the following ways:

Via Email
Public comment were accepted up to 24 hours before the meeting via email to mpclerk@montereypark.ca.gov and, when feasible, read into the record during public comment. Written communications are limited to not more than 50 words.

Via Telephone
Public comment may be submitted via telephone during the meeting, before the close of public comment, by calling (888) 788-0099 or (877) 853-5247 and entering Zoom Meeting ID: 926 5445 2022 then press pound (#). When prompted to enter participation ID number press pound (#) again. If participants would like to make a public comment they will enter "*9" then the Clerk's office will be notified and you will be in the rotation to make a public comment. Participants are encouraged to join the meeting 15 minutes before the start of the meeting. You may speak up to 5 minutes on Agenda item. Speakers will not be allowed to combine time. The Mayor and City Council may change the amount of time allowed for speakers. As part of the virtual meeting protocols, anonymous persons will not be allowed to provide public comment.

**Important Disclaimer** – When a participant calls in to join the meeting, their name and/or phone number will be visible to all participants. Note that all public meetings will be recorded.

The second substantial amendment to the Fiscal Year 2019-20 One-Year Action Plan was advertised in the Monterey Progress on November 13, 2020. The draft document was made available for public review via the City's website beginning November 13, 2020 and ending November 17, 2020.[1] After City Council approval, the plan will be submitted to the U.S. Department of Housing and Urban Development.

Staff recommends approval of the second substantial amendment to program the CARES Act (CDBG-CV3) special allocation.

**Action Taken:** The City Council (1) opened the public hearing at 7:16 p.m. to receive testimonial and documentary evidence, noting that there are no speakers, closed the public hearing at 7:16 p.m.; (2) approved the proposed second substantial amendment to the 2019-2020 Annual Action Plan; (3) authorized the City Manager, or designee, to execute and submit the necessary documents related to the second substantial amendment to the 2019-2020 Annual Action Plan to HUD for its review and approval; and (4) authorized a budget appropriation of $547,678 from CDBG-CV funds.

**Motion:** Moved by Mayor Pro Tem Yiu and seconded by Council Member Liang motion carried by the following vote:

| | | |
|---|---|---|
| Ayes: | Council Members: | Liang, Sornoso, Lo, Yiu, Chan |
| Noes: | Council Members: | None |
| Absent: | Council Members: | None |
| Abstain: | Council Members: | None |

## 5. NEW BUSINESS

## 5A. SENATE BILL 970 – ELECTIONS DATE CHANGE

On September 18, 2020, the Governor signed Senate Bill (SB) 970 into law changing several sections of the California Elections Code effective January 1, 2021. In particular, SB 970 mandates the City Council change the date for the City's general municipal election to June or November 2022. This will affect the terms of office for all City Councilmembers, the City Clerk, and the City Treasurer. The extension of office terms will also affect the mayoral rotation schedule.

**Public Speaker:**

- City Clerk Chang received, filed, and read into the record a written communication from Bill Lam. Mr. Lam who urged the City Council to set the election in June along with the Primary elections.

[1] 85 Federal Register 51457-01 (August 20, 2020).

**Recommendation:** That the City Council consider (1) introducing and waiving first reading of an ordinance amending Monterey Park Municipal Code ("MPMC") § 2.04.050 to change the election date of general municipal elections and requesting consolidation with Los Angeles County pursuant to Elections Code § 10403; (2) provide direction to the City Clerk regarding the mayoral rotation schedule to be brought back at a future council meeting for consideration; and (3) taking such additional, related, action that may be desirable.

**Action Taken:** By consensus, the City Council received and filed the report and directed staff to bring the item back for consideration at a future City Council meeting.

**5B. CONSIDERATION AND POSSIBLE ACTION TO INTRODUCE AND WAIVE FIRST READING OF AN ORDINANCE AMENDING CHAPTER 3.20 OF THE MONTEREY PARK MUNICIPAL CODE ("MPMC") REGARDING THE REGULATION OF PURCHASES OF GOODS, SUPPLIES AND SERVICES**

Chapter 3.20 of the MPMC was adopted for the purpose of authorizing city officers to procure services, supplies, and equipment and establishing the manner by which such actions may occur. On August 19, 2020, the City Council adopted an Ordinance amending Monterey Park Municipal Code § 3.90.050 regarding signature authority for the City Manager and Department Directors when executing contracts on the City's behalf (Ordinance No. 2187). The thresholds for purchasing and bidding, however, have not been amended to align with the signature thresholds outlined in Ordinance No. 2187. The proposed amendments to Chapter 3.20 will bring the City's procurement process in line with the updated signature authorities.

**Action Taken:** The City Council introduced and waived first reading of an Ordinance amending Chapter 3.20 of the Monterey Park Municipal Code ("MPMC") regarding the regulation of purchased goods, supplies and services.

**Motion:** Moved by Council Member Sornoso and seconded by Council Member Lo motion carried by the following vote:

| | | |
|---|---|---|
| Ayes: | Council Members: | Liang, Sornoso, Lo, Yiu, Chan |
| Noes: | Council Members: | None |
| Absent: | Council Members: | None |
| Abstain: | Council Members: | None |

**Ordinance, 1st Reading,** entitled:
AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE CHAPTER 3.20 IN ITS ENTIRETY TO REGULATE PURCHASES OF GOODS, SUPPLIES AND SERVICES

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEREY PARK DENOUNCING CORONAVIRUS (COVID-19) STIGMATIZATION, HATE CRIMES AND XENOPHOBIC VIOLENCE AGAINST ALL ASIAN AMERICANS AND PACIFIC ISLANDERS**

BE IT RESOLVED by the Council of the City of Monterey Park as follows:

SECTION 1: The City Council finds as follows:

A. The mission of the City of Monterey Park is providing the highest quality of service, ensuring that Monterey Park is a desirable place to live, work, play, and do business.

B. The Monterey Park community is diverse, and fostering mutual understanding and respect develops a much healthier, safer, and caring community.

C. The COVID-19 pandemic has led to unprecedented measures being taken to prevent the spread of the virus, including sheltering-in-place, physical distancing and restrictions on gatherings and business operations, which have led to public stress and anxiety.

D. The use of anti-Asian terminology and rhetoric related COVID-19 have perpetuated anti-Asian stigma.

E. The increased use of anti-Asian rhetoric has resulted in Asian Americans and Pacific Islanders being harassed, assaulted, and scapegoated for the COVID-19 pandemic.

F. Scientists have confirmed that COVID-19 does not respect borders and is not caused by ethnicity, and the World Health Organization (WHO) has cautioned against using geographic descriptors because they can fuel ethnic discrimination.

G. It is the goal of the City of Monterey Park to promote safety, a sense of security, and equal protection of constitutional and human rights.

SECTION 2: The City of Monterey Park stands in solidarity with the Asian American & Pacific Islander communities to send a message that discriminatory and hate-motivated behavior will not be tolerated.

SECTION 3: The City of Monterey Park strongly condemns and denounces anti-Asian sentiment in any form. The community is encouraged to immediately report hate crimes and racially motivated incidents.

SECTION 4: *Electronic Signatures*. This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 5: *Recordation*. The Mayor, or presiding officer, is authorized to sign this Resolution signifying its adoption by the City Council of the City of Monterey Park and the City Clerk, or her duly appointed deputy, may attest thereto.

SECTION 6: *Effective Date.* This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

(Mayor signature and attestation must be on the same page.)

PASSED AND ADOPTED this 7th day of April 2021.

_____
Yvonne Yiu, Mayor

Attest:

_____
Vincent D. Chang, City Clerk