

WMA Board & Energy Council

Francisco Zermeño, **WMA President, EC 2nd Vice President**
City of Hayward, WMA, EC
Tracy Jensen, **WMA 1st Vice President**
City of Alameda, WMA, EC
Dave Sadoff, **WMA 2nd Vice President**
Castro Valley Sanitary District, WMA
Michael Hannon, **EC President**
City of Newark, WMA, EC
David Mourra, **EC 1st Vice President**
City of Emeryville, WMA, EC
David Haubert, County of Alameda, WMA, EC
Jennifer Hansen-Romero, City of Albany, WMA, EC
City of Berkeley, WMA, EC
Jean Josey, City of Dublin, WMA, EC
Yang Shao, City of Fremont, WMA, EC
City of Livermore, WMA, EC
Dan Kalb, City of Oakland, WMA, EC
Shelia Young, Oro Loma Sanitary District, WMA
Jen Cavanaugh, City of Piedmont, WMA, EC
Jack Balch, City of Pleasanton, WMA, EC
City of San Leandro, WMA, EC
Jeff Wang, City of Union City, WMA, EC
Timothy Burroughs, Executive Director

AGENDA

**MEETING OF THE
ALAMEDA COUNTY WASTE MANAGEMENT
AUTHORITY BOARD (WMA)
AND
THE ENERGY COUNCIL (EC)**

WEDNESDAY, DECEMBER 18, 2024

3:00 P.M.

***IN PERSON MEETING LOCATION:*
STOPWASTE BOARD ROOM
1537 WEBSTER STREET, OAKLAND, CA**

This meeting will be conducted in a hybrid model with both in-person attendance and Teleconference participation:

- Teleconference location #1: 118 Glashaus Loop, Emeryville, CA
- Teleconference location #2: Scott Haggerty Heritage House, 4501 Pleasanton Ave, Pleasanton, CA
- Teleconference location #3: 963 Dillo Street, San Leandro, CA
- Teleconference location #4: 3300 Capitol Ave. Building A, Fremont, CA
- Teleconference location #5: Dublin City Hall, 100 Civic Plaza, Dublin, CA
- Teleconference location #6: 806 Pierce Street, Albany, CA

Members of the public may attend in person at the Board Room, or the addresses listed above or by:

1. Calling US+1 669 900 6833 and using the Webinar ID 873 6085 0824
2. Using the [Zoom](https://zoom.us) website or App and entering meeting code 873 6085 0824

During the meeting the chair will explain the process for members of the public to be recognized to offer public comment. The process will be described on the StopWaste website at <http://www.stopwaste.org/virtual-meetings> no later than noon, Wednesday, December 18, 2024.

The public may also comment by sending an e-mail to publiccomment@stopwaste.org. Written public comment will be accepted until 3:00 p.m. on the day prior to the scheduled meeting. Copies of all written comments submitted by the deadline above will be provided to each Board Member and will be added to the official record. Comments will not be read into the record.

In accordance with the Americans with Disabilities Act, if you need assistance to participate in this meeting due to a disability, please contact the Clerk of the Board at (510) 891-6517. Notification 24 hours prior to the meeting will enable the agency to make reasonable arrangements to ensure accessibility to this meeting.

AGENDA

I. CALL TO ORDER

II. ROLL CALL OF ATTENDANCE

III. **ANNOUNCEMENTS BY PRESIDENTS** - *(Members are asked to please advise the Board or the Council if you might need to leave before action items are completed.)*

IV. OPEN PUBLIC DISCUSSION FROM THE FLOOR

An opportunity is provided for any member of the public wishing to speak on any matter within the jurisdiction of the Boards or Council, but not listed on the agenda.

V. **CONSENT CALENDAR** - The Consent Calendar contains routine items of business. Items in this section will be acted on in one motion for both the WMA and EC, unless removed by a member of either Board. Members of the WMA who are not members of the EC will vote as part of the Consent Calendar vote, but their votes will not be considered in connection with any EC items.

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1 1. **Approval of the Draft Joint WMA, EC, and PC&RB Minutes of November 20, 2024**

VI. REGULAR CALENDAR

5 1. **New Cingular Lease on Agency Property (Kelly Schoonmaker)**

That the Board hold a public hearing concerning the proposed lease, make a finding that the property subject to the lease will be used for compatible uses and that the lease will be of public benefit, and authorize the Executive Director to enter into a lease agreement with New Cingular Wireless, PCS, LLC.

31 2. **2025 Meeting Schedule (Timothy Burroughs)**

That the Waste Management Authority Board (WMA) and the Energy Council (EC) approve the 2025 Meeting Schedule.

3. **Interim appointment(s) to the Recycling Board for WMA appointee unable to attend future Board Meeting(s) (Arless Dunn)**

(The meeting of the Planning Committee & Recycling Board will be held on Thursday, January 9, 2025 at 4:00 p.m. at StopWaste, 1537 Webster St., Oakland, CA)

33 4. **Authorization to Accept Building Performance Standards Grant Funding (Ben Cooper and Karen Kho) (Energy Council Only)**

Adopt the attached Resolution authorizing the Executive Director to accept \$1,010,000 in fiscal years 2028-2030 for multifamily technical assistance services.

VII. MEMBER COMMENTS AND COMMUNICATIONS FROM THE EXECUTIVE DIRECTOR

- **Board member Recognitions**

VIII. ADJOURNMENT – TO WMA & EC MEETING ON JANUARY 22, 2025 AT 3:00 P.M.

DRAFT

**MINUTES OF THE JOINT MEETING OF THE
ALAMEDA COUNTY WASTE MANAGEMENT
AUTHORITY BOARD (WMA),
THE ENERGY COUNCIL (EC)
AND
RECYCLING BOARD (RB)**

**Wednesday, November 20, 2024
3:00 P.M.**

***IN PERSON MEETING LOCATION:*
STOPWASTE BOARD ROOM
1537 WEBSTER STREET, OAKLAND, CA**

I. CALL TO ORDER

President Zermeño called the meeting to order at 3:02 p.m. Timothy Burroughs explained the process that would be utilized during the meeting. A link to the process is available here: [Virtual-Meetings- Instructions.](#)

II. ROLL CALL OF ATTENDANCE

WMA, EC, & RB

County of Alameda	David Haubert, WMA, EC
City of Alameda	Tracy Jensen, WMA, EC, RB
City of Albany	Jennifer Hansen-Romero, WMA, EC
City of Berkeley	Susan Wengraf, WMA, EC
Castro Valley Sanitary District	Dave Sadoff, WMA
City of Dublin	Jean Josey, WMA, EC
City of Emeryville	David Mourra, WMA, EC, RB
City of Hayward	Francisco Zermeño, WMA, EC (WMA President)
City of Livermore	Bob Carling, WMA, EC
City of Newark	Mike Hannon, WMA, EC, RB (EC President)
City of Oakland	Dan Kalb, WMA, EC, RB
Oro Loma Sanitary District	Shelia Young, WMA
City of Piedmont	Jen Cavanaugh, WMA, EC
City of Pleasanton	Jack Balch, WMA, EC
City of Union City	Jeff Wang, WMA, EC, RB (RB President)
Environmental Organization	Elaine Owyang, RB
Recycling Materials Processing Industry	Laura McKaughan, RB
Source Reduction Specialist	Grace Liao, RB
Solid Waste Industry Representative	Virginia Harrington, RB

ABSENT

City of Fremont	Yang Shao, WMA, EC
City of San Leandro	Fred Simon, WMA, EC, RB
Environmental Educator	Ellen McClure, RB
Recycling Programs	Vacant, RB

Staff Participating

Timothy Burroughs, Executive Director
Pat Cabrera, Administrative Services Director
Rachel Balsley, Senior Program Manager
Kelly Schoonmaker, Senior Program Manager
Jennifer Luong, Finance Services Manager
Kyle Bander, Management Analyst

DRAFT

Arliss Dunn, Clerk of the Board
Richard Taylor, WMA Legal Counsel
Farand Kan, County Counsel

III. ANNOUNCEMENTS BY PRESIDENTS

President Zermeño welcomed Virginia Harrington to the Recycling Board as the new Solid Waste Industry representative.

IV. OPEN PUBLIC DISCUSSION FROM THE FLOOR

There were no public comments.

V. CONSENT CALENDAR

- 1. Approval of the Draft WMA & EC Minutes of October 23, 2024 (WMA & EC only)**
- 2. Approval of the Draft PC/RB Minutes of October 10, 2024 (RB only)**
- 3. Recycling Board Attendance Record (RB only)**
- 4. Written Report of Ex Parte Communications (RB only)**

There were no public comments for the Consent Calendar. Board member Wengraf moved approval of the Consent Calendar for the WMA & EC, and Board member Jensen seconded. Board member McKaughan moved approval of the Consent Calendar for the RB, and Board member Jensen seconded.

The Clerk called the roll: WMA Vote: 18-0 EC Vote: 17-0 RB Vote: 7-0
(Ayes: Balch, Carling, Cavanaugh, Hannon, Hansen-Romero, Harrington, Haubert, Jensen, Josey, Kalb, Liao, McKaughan, Mourra, Sadoff, Wang, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: McClure, Owyang, Shao, Simon)

VI. REGULAR CALENDAR

- 1. StopWaste Agency Investment Policy (Pat Cabrera, Jennifer Luong, and Kyle Bander)**

Staff recommends the following:

1. The WMA Board adopt a resolution adopting the revised investment policy which includes oversight of RB and EC funds per the attached resolution.
2. The RB adopt a resolution adopting by reference the WMA’s revised investment policy.
3. The EC adopt a resolution adopting by reference the WMA’s revised investment policy.

Timothy Burroughs introduced the item. Pat Cabrera, Jenifer Luong, and Kyle Bander provided an overview of the staff report and presented a PowerPoint presentation. A link to the report and the presentation is available here: [StopWaste-Investment-Policy-Memo.pdf](#).

Staff asked that the Boards and Council consider adoption of a revised StopWaste Agency investment policy. The proposed revision includes adding another pooled investment fund to the Agency’s portfolio of investment products available and consolidating the policy into one document applicable to all three of the Agency’s Boards – the WMA, EC, and RB. Additional time was provided to the Board for discussion and for clarifying questions. A link to the discussion is available here: [StopWaste-Investment-Policy-Discussion](#).

There were no public comments on this item. President Zermeño thanked staff for a very thorough presentation.

Board member Carling moved approval of the staff recommendation for the WMA and the Energy Council, and Board member Sadoff seconded. Board member Jensen moved approval of the staff recommendation for the Recycling Board, and Board member Hannon seconded.

The Clerk called the roll: WMA Vote: 18-0 EC Vote: 17-0 RB Vote: 8-0
(Ayes: Balch, Carling, Cavanaugh, Hannon, Hansen-Romero, Harrington, Haubert, Jensen, Josey, Kalb, Liao, McKaughan, Mourra, Owyang, Sadoff, Wang, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: McClure, Shao, Simon)

2. SB 1383/ORRO Implementation Update (Rachel Balsley, Cassie Bartholomew, and Kelly Schoonmaker)

This item is for information only.

Timothy Burroughs introduced the item and Rachel Balsley and Kelly Schoonmaker provided an overview of the staff report. A link to the report is available here: [SB1383-Orro-Update-Memo.pdf](#). Staff provided an update on how StopWaste is supporting member agencies with various implementation activities including compliance monitoring/enforcement, CalRecycle reporting, outreach and education, edible food recovery, recovered organic waste product procurement, and more.

Additional time was provided to the Board for discussion and clarifying questions. An audio link to the discussion is available here: [SB1383-ORRO-Update-Discussion](#).

There were no public comments on this item. President Zermeño thanked staff for a very informative and thorough presentation.

3. Interim appointment(s) to the Recycling Board for WMA appointee unable to attend future Board Meeting(s) (Arliss Dunn) (WMA only)

(Planning Committee and Recycling Board meeting on December 12, 2024 at 6:00 p.m. The meeting will be held at StopWaste, 1537 Webster Street, Oakland, CA)

Board member Hannon requested an interim appointment. Board member Young agreed to serve as the interim appointment. Board member Hannon moved approval of the interim appointment, and Board member Balch seconded. The motion carried 16-0. The Clerk called the roll:

(Ayes: Balch, Carling, Cavanaugh, Hannon, Hansen-Romero, Jensen, Josey, Kalb, Mourra, Sadoff, Wang, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: Haubert, Shao, Simon)

VII. MEMBER COMMENTS AND COMMUNICATIONS FROM THE EXECUTIVE DIRECTOR

Mr. Burroughs announced that the monthly topic brief highlights Measure D and the Recycling Fund. A link to the topic brief is available [here](#).

Board member Young read a proclamation in honor of Arthur Boone who recently passed away. The proclamation will be provided to the family and a copy will be kept at the office as a matter of record and is available [here](#).

Timothy Burroughs acknowledged the outgoing Board members: Carling, Cavanaugh, Kalb, and Wengraf, and presented them with a certificate of recognition and reusable gifts. Each Board member was provided an opportunity to express their sentiments for serving on the Board.

VIII. ADJOURNMENT – The meeting was adjourned at 4:42 p.m.

Next meetings: PC & RB MEETING, DECEMBER 12, 2024 AT 6:00 P.M.

WMA & EC MEETING, DECEMBER 18, 2024 AT 3:00 P.M.

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DATE: December 18, 2024
TO: Waste Management Authority Board
FROM: Kelly Schoonmaker, Senior Program Manager
SUBJECT: New Cingular Lease on Agency Property

SUMMARY

The Agency owns and manages rangeland property with multiple tenants in the Altamont Hills. The Agency proposes to enter into a lease agreement for access and a utility trench with New Cingular Wireless PCS, LLC, who is installing a telecommunications tower on a neighboring property. At the December 18, 2024, WMA Board meeting, staff will ask the Board to authorize the Executive Director to enter into a lease agreement with New Cingular Wireless PCS, LLC.

DISCUSSION

In 1993-94, the Agency purchased 1,600+ acres of land over six parcels in the Altamont Hills in unincorporated Alameda County (“Property”). Current uses of the Property include cattle grazing (through licenses with private parties), transmission and communications towers (through leases and licenses with public and private parties), one residential rental of a historic farmhouse, a wind power easement over a portion of the Property, and a conservation easement on one of the parcels.

In 2024, the Agency was approached by New Cingular Wireless PCS, LLC (New Cingular) to lease a small area (the “Premises”) on the parcel commonly known as Parcel 6 (Assessor’s Parcel Number 099A-1820-002; the “Site”), described and shown in the final draft lease Agreement (Attachment 1). Most of the Site is subject to a conservation easement dated and recorded on December 21, 2018, which protects the conservation values of the Site, and limits construction and other activities.

New Cingular intends to install a monopole tower on the neighboring parcel, APN 099-1820-003-02, owned by Vieira Ranch Investments (“Vieira Ranch Property”). To operate the monopole tower, New Cingular needs to trench power conduits from a proposed new utility pole on the Site to the base of the monopole tower on the Vieira Ranch Property and to access the Site and the Vieira Ranch Property.

New Cingular has therefore requested to enter into a lease with the Agency that would allow it to access the Premises and install, operate, and maintain the utility pole and 40 linear feet of power conduits there with a 10-foot access easement, and would provide it with access across the Site on the existing 50-foot driveway to the Vieira Ranch Property, as described in the Agreement. The Premises are located within Exception Area 4, a portion of the Site not subject to the conservation easement.

The Agreement has been reviewed by New Cingular and WMA staff and counsel. The term of the lease is 10 years, and the annual rent is \$4,000. This rental amount includes a 3% annual increase averaged over the ten-year term of the lease. Conducting a formal bid process is not required in this case as the lease meets the criteria of ACWMA Ordinance 2024-02 (Attachment 2): it does not exceed 10 years; the rent is less than \$10,000 monthly; and the use is compatible with other on-going uses of the Property and would provide a public benefit by facilitating operation of the monopole tower on the Vieira Ranch Property, which would improve cellular coverage in the area, including on the Site and on neighboring Agency property. As required by the Leasing Ordinance, the Agency issued a public notice with information about the Agreement, the process for accepting additional offers, and the process for executing the Agreement. As the Leasing Ordinance also requires, notice was issued 15 days prior to accepting offers, posted at the Agency's office and with the County clerk, and published in a newspaper of general circulation.

RECOMMENDATION

That the Board hold a public hearing concerning the proposed lease, make a finding that the property subject to the lease will be used for compatible uses and that the lease will be of public benefit, and authorize the Executive Director to enter into a lease agreement with New Cingular Wireless, PCS, LLC.

ATTACHMENTS

Attachment 1: Lease Agreement between New Cingular Wireless, PCS, LLC, and Alameda County Waste Management Authority

Attachment 2: ACWMA Ordinance 2024-02

**LEASE AGREEMENT BETWEEN
ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY
AND NEW CINGULAR WIRELESS PCS, LLC**

THIS LEASE AGREEMENT (“Lease Agreement”), effective as of the last date signed, is made by and between New Cingular Wireless PCS, LLC, a Delaware limited liability company, (“Lessee”) and the Alameda County Waste Management Authority, a public agency (“Agency”).

RECITALS

- A. Agency owns certain real property in Alameda County commonly known as Parcel 6 (Assessor’s Parcel Number (“APN”) 099A-1820-002), described and shown in **Exhibit A** (the “Site”). Most of the Site is subject to a Conservation Easement Deed dated and recorded December 21, 2018 (“Conservation Easement”), which protects the conservation values of the Site.
- B. Lessee intends to install a monopole tower on the neighboring parcel, APN 099-1820-003-02, owned by Vieira Ranch Investments (“Vieira Ranch Property”). To operate the monopole tower, Lessee needs to trench power conduits from a proposed new utility pole on the Site to the base of the monopole tower on the Vieira Ranch Property and to access the Site and the Vieira Ranch Property.
- C. Agency is willing to lease a portion of the Site, as shown in **Exhibit B** (the “Premises”) to Lessee for Lessee’s proposed uses, which include access to the Premises and access across the Site on the existing access road to the Vieira Ranch Property and installation of certain utilities as described in **Exhibit C** and **Exhibit D**, subject to the terms and conditions of this Lease Agreement. The Premises are within Exception Area 4, a portion of the Site not subject to the Conservation Easement.
- D. Lessee’s use of the Premises in accordance with this Agreement is compatible with other ongoing uses of the Site and would provide a public benefit by facilitating operation of the monopole tower on the Vieira Ranch Property, which would improve cellular coverage in the area, including on the Site and on neighboring Agency property.

NOW, THEREFORE, in consideration of the above recitals and mutual covenants herein set forth, Agency and Lessee (together, “Parties” and each individually, a “Party”) agree as follows:

- 1. **GRANT OF LEASE.** Subject to the conditions specified in this Lease Agreement, Agency hereby grants Lessee the right to use the Premises for the purposes and uses described in **Exhibit C** (“Uses”).
- 2. **TERM.** The term of this lease shall be 10 years, commencing on the date of the latter of the signature dates below (“Start Date”) and ending on the day before the tenth anniversary of the Start Date (“Term”). Thereafter, subject to all legal requirements, Agency agrees to consider in good faith any application by Lessee to enter into a new Lease Agreement under substantially the same terms and conditions as in this Lease Agreement, except that the Rent may be increased to reflect conditions at that time.

3. **RENT.**

- a. Lessee shall pay Agency the sum of \$4,000.00 per year as a fee for use of the Premises ("Rent"), payable annually.
- b. The first payment shall be due on or before the Start Date. Thereafter, each annual payment shall be payable prior to or on the anniversary of the Start Date while this Lease Agreement is in effect.
- c. If payment of Rent is not received by Agency on or before the 30th day following the due date, it shall be deemed delinquent and subject to a late charge of 5% of the delinquent amount, without limiting any of Agency's other rights and remedies under the Lease Agreement.
- d. If the Lease Agreement is terminated prior to the end of the Term, Agency shall refund any advance payment of the Rent made by Lessee, minus any delinquent Rent, and any charges and interest owed, for the period of time after the date of termination.

4. **USE OF PREMISES.**

- a. The Premises shall be used by Lessee for the Uses described in **Exhibit C**, which includes any installation, construction, and maintenance of any equipment and facilities described in **Exhibit D** ("Equipment"). No other use of the Premises is permitted except with the advance written consent of Agency.
- b. Lessee shall be responsible for all costs associated with its use of the Premises and any costs associated with installation, maintenance, and use of Lessee's Equipment.
- c. Lessee shall keep the Premises in a neat and clean condition and not leave or store any trash, garbage, or refuse of any kind in, on, or about the Premises and shall cause any refuse, trash, paper, or other waste deposited on the Premises by any of its employees, agents, or designated representatives to be picked up, and disposed of in the appropriate manner.
- d. Lessee shall not use, commit, allow, or permit to be used or committed any offensive or improper use, or any nuisance, on the Premises that may unreasonably or unlawfully disturb or damage the Premises, or interfere with any party's use and enjoyment of its property.
- e. Lessee shall comply, and ensure Lessee's personnel, and its contractors and any other parties acting on its behalf comply with all obligations in this Lease Agreement, including those safety requirements set forth in **Exhibit E**. Lessee shall be solely responsible for the conduct of its employees, agents, and sub-contractors while on the Site.

5. **CONDITION OF PREMISES.**

- a. Agency makes no warranty of the Premise’s suitability for the uses permitted under this Lease Agreement. By entering this Lease Agreement, Lessee accepts the Premises in its present condition.
 - b. If Lessee causes any damage to the Premises or Site, Lessee shall repair the same at its sole expense within 30 days of receipt of written notice from Agency; notwithstanding the foregoing, if the damage creates an unsafe condition presenting an immediate or imminent threat to public safety and welfare or damage to the environment, Lessee shall immediately implement reasonable measures to remedy that unsafe condition and shall fully correct the unsafe condition at its sole expense within 10 days of receipt of written notice of the unsafe condition from Agency, or a later date approved in writing by Agency based on interim measures that reduce the safety risk to a level acceptable to Agency, which approval shall not be unreasonably withheld or denied. If Agency determines Lessee has not repaired the damage within the time specified in this Section 5.b, Agency may, at its option, conduct the repairs itself, and invoice Lessee for the costs of the repairs, which Lessee must pay within 20 days of receipt of any such invoice.
6. **INSPECTIONS AND ENTRY BY AGENCY.** Lessee shall permit Agency and Agency’s agents, employees, and assigns, at all reasonable times, to enter the Premises for the purposes of inspection or to make repairs, alterations, or additions to any portion of the Site. Agency shall use its best efforts to minimize any disruption to Lessee’s use of the Premises.
7. **PRIOR APPROVALS.** Lessee shall obtain and maintain all needed governmental licenses, permits, and approvals for Lessee’s Uses and for construction, operation, and maintenance of the Equipment. Lessee shall provide Agency with such licenses, permits, and approvals upon request.
8. **COMPLIANCE WITH LAW.** Lessee shall, at its sole cost and expense, comply with all statutes, laws, rules, and regulations concerning Lessee’s use of the Premises, and operation of the Equipment, including, without limitation, the laws of the United States of America, the laws of the State of California, and the ordinances, regulations, and requirements of the County of Alameda, or other lawful authorities having jurisdiction over the Uses.
9. **INTERFERENCE WITH OTHER ACTIVITIES.**
- a. Lessee’s use of or access to the Premises shall not interfere with Agency’s use of the Site, including but not limited to habitat preservation, livestock grazing, wind power generation, or activities of other licensees, lessees, and easement holders that exist now or in the future.
 - b. Lessee acknowledges that it does not have any exclusive right to use of the Premises and that Agency expressly reserves the right to use, lease, or license use of the Premises in the future for other purposes that will not interfere materially with Lessee’s use of the Premises.

- c. In exercising its right of access to and use of the Premises, Lessee agrees to cooperate with any reasonable security procedures utilized by Agency at the Premises.
 - d. Lessee agrees to coordinate through the Agency with tenants and other entities with rights to the Premises or Site to identify mutually acceptable means for minimizing conflicts during use of the Premises and any installation and use of Lessee's Equipment at the Premises. If Agency reasonably suspects that Lessee's use of the Premises or Equipment is interfering with other tenants or entities' rights to the Premises or Site, Agency may require Lessee, at Lessee's own cost and expense, to contract with a mutually agreed upon third party with expertise in the nature of the interference to provide an independent determination regarding interference issues. If the third party finds that Lessee's use of the Premises is interfering with others' use of the Premises or Site, Lessee, at its sole cost and expense, shall coordinate with Agency to implement a solution that eliminates all such interference.
10. **ALTERATIONS; ADDITIONS.** Lessee shall not make or cause to be made any alterations, additions, or improvements ("Additions") to or on the Premises or Site without the prior written consent of Agency, except those Additions within the scope of Uses specified in **Exhibit C**. Where written consent of Agency is required, Lessee shall deliver written notice at least 30 days prior to any intended Additions and allow Agency the opportunity examine any plans or specifications, impose additional requirements or restrictions, and object (and therefore prohibit) such Additions.
11. **FIRE MEASURES.** Lessee shall take all reasonable precautionary measures to guard against fire on the Premises or Site while on or accessing the Premises. Lessee shall take reasonable precautions to prevent fuel spills. Any generator or apparatus that uses fuel shall be equipped with double containment, and leak detection for fuel storage. Exhaust systems and engines shall be equipped with spark arrestor(s).
12. **ENVIRONMENTAL ISSUES; HAZARDOUS MATERIALS.**
- a. Lessee shall not bring any hazardous materials onto the Premises or Site except for those expressly agreed to in **Exhibit C**. Lessee shall handle any hazardous materials it brings onto the Premises or Site in accordance with all applicable federal, state, and local laws and regulations. No pesticides, herbicides, retardants, or chemicals shall be used that may migrate outside the Premises.
 - b. If any investigation or monitoring of site conditions or any cleanup, containment, restoration, removal, or other remedial work (collectively, the "Remedial Work") is required under any applicable federal, state, or local law or regulation, by any judicial order, or by any governmental entity, or in order to comply with any agreement entered into because of, or in connection with, hazardous substances brought onto or generated on the Premises or Site by Lessee, Lessee shall perform or caused to be performed the Remedial Work in compliance with such law, regulation, order, or agreement. All costs, fees, and expenses of such Remedial Work shall be paid by Lessee including, without limitation, all charges of Lessee's contractors, consultants, engineers, attorneys, and architects in connection with monitoring or review of such

Remedial Work. In the event Lessee shall fail to commence or cause to be commenced, or fail to diligently prosecute to completion such Remedial Work within 45 days from receipt of written notice from Agency, Agency may, but is not obligated to, cause such Remedial Work to be performed, and all costs, fees, and expenses thereof, or incurred in connection therewith, shall be reimbursed to Agency by Lessee within 30 days of receipt of an invoice from Agency.

The requirements of this Section shall survive the expiration or termination of this Lease Agreement.

13. **UTILITIES.** Lessee shall, at its own expense, pay for all utilities related to the use of the Premises and its Equipment, including any costs and expenses related to any utility meters, connection charges, deposits, or fees chargeable by any utility company for Lessee. Utility upgrades necessary for the use of the Premises shall be made by Lessee at its sole expense. Utility upgrades shall all be underground except for above-ground components within the Premises. Lessee shall also upgrade utility connections to the existing facilities at the Premises as necessary. Lessee shall not interrupt power to any existing facilities or equipment without prior notification. Should power interruption attributable to Lessee occur for more than 4 hours, Lessee shall, at its sole expense, provide an uninterrupted power supply to the existing facilities or equipment.
14. **TAXES.** During the term of this Lease Agreement, Lessee shall promptly pay, before delinquency, any and all taxes, and other governmental charges, if any, which shall be laid, assessed, levied, or imposed upon, or become due and payable and upon the Lessee, the Premises, or any part thereof, including, but not limited to: (i) all taxes levied on the personal property, fixtures, and Equipment, and (ii) all license fees and other charges imposed upon Lessee's business or operations conducted thereon.
15. **INSURANCE.** Lessee shall, at Lessee's own cost and expense, secure and maintain during the entire term of this lease insurance as required by the provisions set forth in **Exhibit F.**
16. **MECHANIC'S LIENS.** Lessee shall pay, or cause to be paid, all costs and expenses for work done by it, or caused to be done by it, on the Premises of a character that will or may result in any lien on the Premises. Lessee will keep the Premises free and clear of any mechanic's lien and/or other lien on account of work done by Lessee or at its request. Lessee shall protect, indemnify, and hold Agency harmless against and from any and all claims, demands, actions, suits, liabilities, loss, damage, costs, expenses, and judgments arising out of or related to claims and claims of lien of laborers, materials, or others for work performed for, or materials or supplies furnished to Lessee or at its request.
17. **NOTICES.** All notices that are required under this Lease Agreement shall be provided in the manner set forth herein. Notice to a Party shall be delivered to the attention of the person below, or to such other person or persons as may hereafter be designated by that Party in writing. Notice shall be in writing sent (a) by a nationally recognized overnight carrier, (b) registered or certified first-class mail, return receipt requested, or (c) by e-mail, provided that a copy is also sent out not later than 1 business day thereafter by overnight carrier or registered or certified mail as described in (a) or (b)

immediately above. E-mail communications shall be deemed to have been received on the date of such transmission, provided the sender obtained an electronic confirmation of delivery (or response to an e-mail from the recipient that was not an out-of-office notice). In the case of first-class mail notice, notice shall be deemed to have been given upon receipt or refusal of delivery by the intended recipient. For overnight delivery, notice shall be deemed to be received on the date delivered.

AGENCY: Alameda County Waste Management Authority
1537 Webster Street
Oakland, CA 94612
Attn: Kelly Schoonmaker
Fax: (510) 893-2308
E-Mail: kschoonmaker@stopwaste.org

LESSEE: New Cingular Wireless PCS, LLC
Attn: Tower Asset Group – Lease Administration
Re: Cell Site No.: CCL05482
Cell Site Name: Patterson Pass Road (CA)
Search Ring Name: Patterson Pass Road
Fixed Asset No.: 14638065
1025 Lenox Park Boulevard NE, 3rd Floor
Atlanta, GA 30319
E-Mail: TowerNotices@list.att.com

With a required copy concurrently to:

New Cingular Wireless PCS, LLC
Attn: Legal Department – Network Operations
Re: Cell Site No.: CCL05482
Cell Site Name: Patterson Pass Road (CA)
Search Ring Name: Patterson Pass Road
Fixed Asset No.: 14638065
208 S. Akard Street
Dallas, TX 75202
E-Mail: TowerNotices@list.att.com

18. **ASSIGNMENT; SUCCESSORS.** The rights granted hereby may not be assigned, sold, licensed, or otherwise transferred by Lessee without prior written consent of Agency, provided that Lessee will have the right to assign, sell or transfer such rights, in whole or part, without Agency’s consent, to: (a) any entity controlled by or under common control with Lessee, (b) any entity that acquires all or substantially all of the Lessee’s assets in the market as defined by the Federal Communications Commission in which the Premises is located (collectively, “Approved Transfer”). Upon notification to Agency of such assignment, transfer or sale, Lessee will be relieved of all future performance, liabilities and obligations under this Lease Agreement. Lessee shall provide Agency with written notice of any such assignment within 10 days of such assignment. . Any attempt by Lessee to assign, this Agreement to any entity or party other than an Approved Transfer shall be void upon inception. Agency, at its sole discretion, may assign its rights and obligations hereunder without notice or approval of Lessee.

19. **CO-LOCATON.** It is the policy of Alameda County and its agencies to co-locate communication towers and facilities to avoid the degradation of the landscape and minimize impacts. Lessee shall provide access to its Equipment as needed to facilitate co-location of communication infrastructure by other public or private entities, provided said co-location will not result in interference with Lessee's existing uses at the Premises.
- a. Should a request to co-locate be made to either Lessee or Agency, the contacted party shall obtain the necessary contact information to pursue co-location opportunities and give notice to non-contacted party within 15 days of contact.
 - b. Lessee shall not unreasonably deny a request from Agency on behalf of itself or others to co-locate communication infrastructure which will not materially interfere with the activities of the Lessee at the Premises.
 - c. Agency shall not unreasonably deny a request from Lessee on behalf of itself or others to co-locate communication infrastructure which will not materially interfere with the activities of Agency at the Premises.
 - d. The Parties agree to meet and confer on any request to co-locate at the Premises.
 - e. The Parties agree to and shall share gross revenue from the co-location of communication infrastructure at the Premises. Any such shared gross revenue shall be collected by Lessee and 50% of such revenue shall be forwarded to Agency pursuant to the same schedule set forth in Section 3 of this Agreement.

20. **DEFAULT.**

- a. The occurrence of any of the following will constitute a material default and breach of this Lease Agreement by Lessee or Agency:
 - i. The abandonment of the Premises by Lessee for a period exceeding 60 days.
 - ii. Any failure by Lessee to pay Rent before it becomes delinquent as provided in Section 3.c, or any failure by Lessee to timely pay utility charges or taxes, which failure continues for more than 5 days after such amount is due.
 - iii. Failure to perform any obligation under this Lease Agreement and failure to cure such breach within 15 days of receiving notice of such breach, provided that if the nature of the breach is such that the Party claiming breach determines it will reasonably require more than 15 days to cure, the breaching Party shall not be in default if it promptly commences the cure and diligently proceeds to completion of the cure.
 - iv. The filing of any voluntary or involuntary petition in bankruptcy or the admission by Lessee of insolvency that is not removed within 60 days of filing.

- b. Upon any default and in accordance with Section 21.a below , the non-defaulting Party shall have the right to suspend or terminate the Lease Agreement and seek any other remedies available by law or equity.
- c. The Parties shall make a good faith effort to settle any dispute or claim arising under this Lease Agreement. If the Parties fail to resolve such disputes or claims, if agreeable to the Parties, they shall submit them to non-binding mediation in California at shared expense of the Parties for at least 8 hours of mediation. If mediation does not arrive at a satisfactory result, arbitration, if agreed to by all Parties, or litigation may be pursued. In the event of litigation, mediation or arbitration, each Party shall bear its own costs and attorneys' fees.
- d. In the event of a breach of any term, covenant, or condition of this Lease Agreement by Lessee, Agency may, with knowledge of such breach, permit Lessee to continue in possession of the Premises, but any waiver by Agency of any term, covenant, or condition herein contained, or of any breach thereof, shall neither vitiate the same, nor any other term, covenant, or condition contained herein, nor operate as a waiver of any other or future breach.

21. TERMINATION OF LEASE AGREEMENT.

- a. This Lease Agreement may be terminated without further liability on 30 days prior written notice as follows: (i) by either party upon a default of any covenant, condition, or term hereof by the other party, which default is not cured within 60 days of receipt of written notice of default, provided that if such default is curable, but not curable within such 60 day period, then within such period of time as is reasonably necessary to accomplish such cure (in order to avail itself of this time period in excess of 60 days, the defaulting party must send to the other party, within the 60 day period, a written plan to cure the default, which is reasonably acceptable to the other party, and the defaulting party must diligently commence and continue to perform such cure to completion according to the written plan); (ii) by either party if Lessee is unable to occupy or utilize the Premises due to a ruling or directive of any governmental or regulatory agency; or (iii) by Agency if it determines that the Lease Agreement conflicts with plans or uses approved by Agency in the future for the Site.
- b. This Lease Agreement may be terminated without further liability on 180 days prior written notice by Lessee, if it determines that the Premises are not appropriate for the intended purpose of the Lease Agreement. In such event, Lessee shall pay a termination fee in an amount equal to 6 months or 2 quarters of the then current Rent and remove any and all of Lessee's Equipment and installations, restoring the surface to the condition it was in prior to this Lease Agreement, normal wear and tear excepted. The termination fee shall be paid within 30 days of the effective date of termination of this Lease Agreement. Payment of the termination fee shall not alleviate or be in lieu of the Lessee's obligation to remove equipment and installations and restore the surface to its pre-lease condition, normal wear and tear excepted.

- c. Within 45 days of termination or expiration of this Lease Agreement, Lessee shall restore the Premises to as good a condition as existed on the Start Date or other reasonable condition acceptable to Agency.
- d. Any Equipment installed at the Premises by Lessee and any of Lessee's personal property shall remain the property of Lessee. On termination or expiration of this Lease Agreement, Lessee shall remove all Equipment and personal property placed on the Premises by Lessee or its invitees or agents. If not removed within 45 days of termination or expiration of this Lease Agreement, the Equipment and any other personal property shall become the property of Agency. If Lessee does not remove the Equipment or personal property, Lessee shall reimburse Agency for any costs it incurs for its removal within 30 days of receipt of an invoice from Agency.

The requirements of this Section shall survive the expiration or termination of this Lease Agreement.

- 22. **LIABILITY.** Agency will not be liable to Lessee, and Lessee hereby waives any claims against Agency, for any damage to property, injury, or death to any person in, on, or about the Premises by or from any cause except the sole active negligence or willful misconduct of Agency.
- 23. **INDEMNIFICATION.** Lessee shall indemnify and hold Agency and Agency's officers, directors, board member, partners, employees, agents, contractors, or subcontractors harmless from and against any and all losses, claims, liabilities, damages, costs, and expenses (including reasonable attorneys' fees and costs) and injuries (including personal injuries or death) (all of the foregoing, collectively "Claims") arising from or in connection with Lessee's or Lessee's officers', directors', partners', employees', agents', contractors', or subcontractors' use, installation, operation, maintenance, or repair of Equipment or use of the Premises or access to the Premises, except to the extent that such Claims arise from or in connection with the sole active negligence or willful misconduct of Agency. The indemnity provisions of this Section shall survive the expiration or termination of this Lease Agreement.
- 24. **EXHIBITS.** All exhibits referred to in this Lease Agreement are attached hereto and are by this reference incorporated herein and made a part of this Lease Agreement.
- 25. **POWER TO EXECUTE AGREEMENT.** Each individual executing this Lease Agreement, on behalf of one of the Parties, represents that he or she is duly authorized to sign and deliver the Lease Agreement on behalf of such Party and that this Lease Agreement is binding on such Party in accordance with its terms.
- 26. **HEADINGS.** The headings to the sections of this Lease Agreement are for convenience only and are not a part of this Lease Agreement and shall have no effect on the construction or interpretation of any part of this lease.
- 27. **TIME.** Time is of the essence as to all provisions of this Lease Agreement.
- 28. **DUPLICATE EXECUTION.** This Lease Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken

together shall constitute one and the same instrument and have the force of an original.

- 29. **JURISDICTION AND SEVERABILITY.** This Lease Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Lease Agreement shall be in that state and venue shall be in Alameda County, California. If any part of this Lease Agreement is found to conflict with applicable laws, such part shall be inoperative, null and void insofar as it conflicts with said laws, but the remainder of this Lease Agreement shall be in full force and effect.
- 30. **PRESUMPTIONS REGARDING PREPARATION.** The Parties acknowledge and agree that each of the Parties has been represented by counsel or has had full opportunity to consult with counsel. Accordingly, it is the intention and agreement of the Parties that the language, terms, and conditions of this Lease Agreement are not to be construed in any way against or in favor of any Party hereto by reason of the roles and responsibilities of the Parties or their counsel in connection with the preparation of this Lease Agreement.
- 31. **ENTIRE AGREEMENT AND MODIFICATION.** This Lease Agreement, including all Exhibits, represents the final, complete, and exclusive statement of the agreement between the Parties and supersedes all prior and contemporaneous understandings and agreements of the Parties. No Party has been induced to enter into this Lease Agreement by, nor is any party relying upon, any representation or warranty outside those expressly set forth herein. This Lease Agreement may only be amended by mutual agreement of the Parties in writing and signed by both Parties.

IN WITNESS WHEREOF, the Parties to this Lease Agreement have caused this Lease Agreement to be duly executed on their behalf by their authorized representatives.

Lessee	Agency
By: AT&T Mobility Corporation Its: Manager _____ [Name and Title] Date: _____	 _____ Pat Cabrera for Timothy Burroughs, Executive Director Date: _____
	APPROVED AS TO FORM: _____ Richard Taylor, General Counsel Date: _____

List of Exhibits

Exhibit A: Legal Description and Map of Site

Exhibit B: Map Showing Premises

Exhibit C: Uses of Premises

Exhibit D: Equipment

Exhibit E: Safety Requirements for Use of Premises

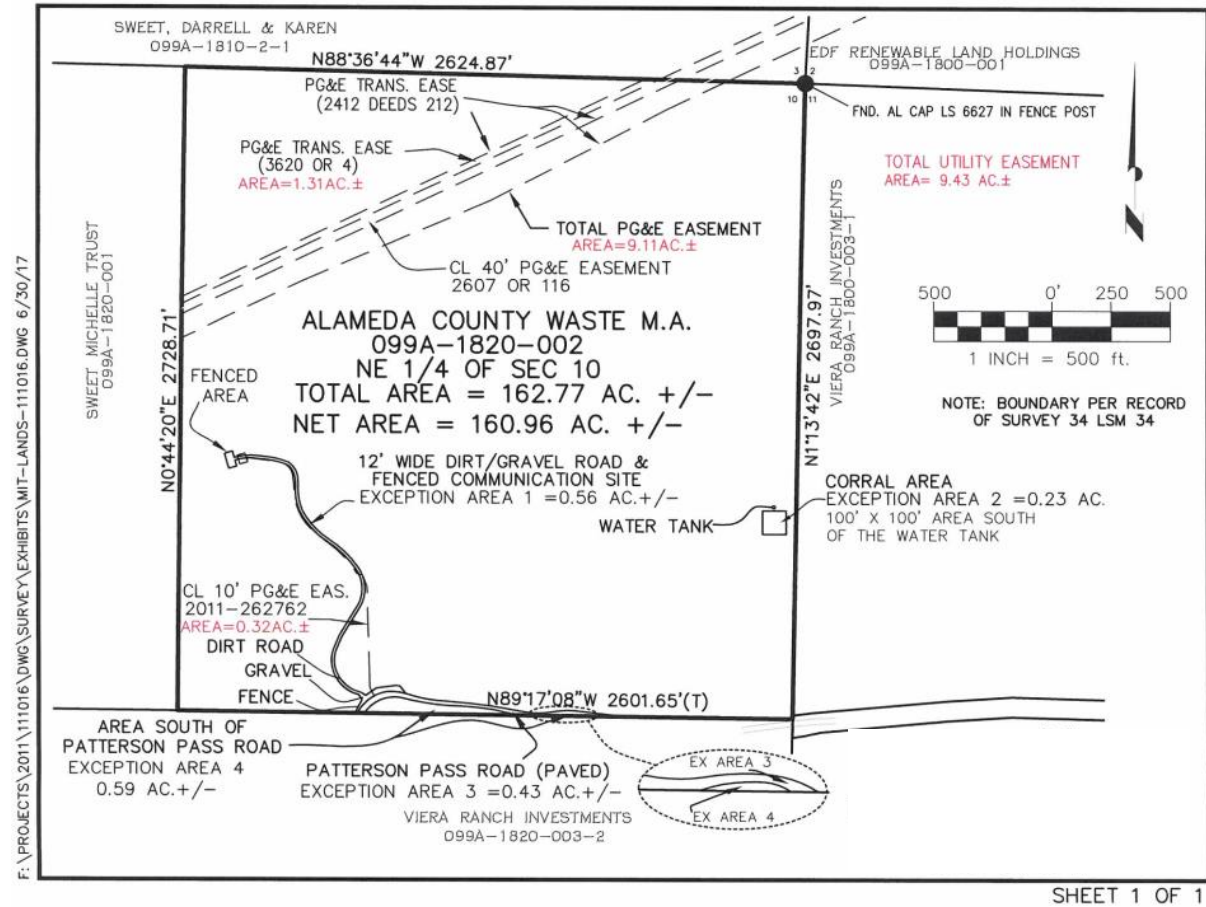
Exhibit F: Insurance Requirements

EXHIBIT A
 Legal Description and Map of Site

The "Site" is legally described as follows:

Real property in the unincorporated area of the County of Alameda, State of California, described as follows: The Northeast ¼ of Section 10, in Township 3 South, Range 3 East, of the Mount Diablo Base and Meridian.

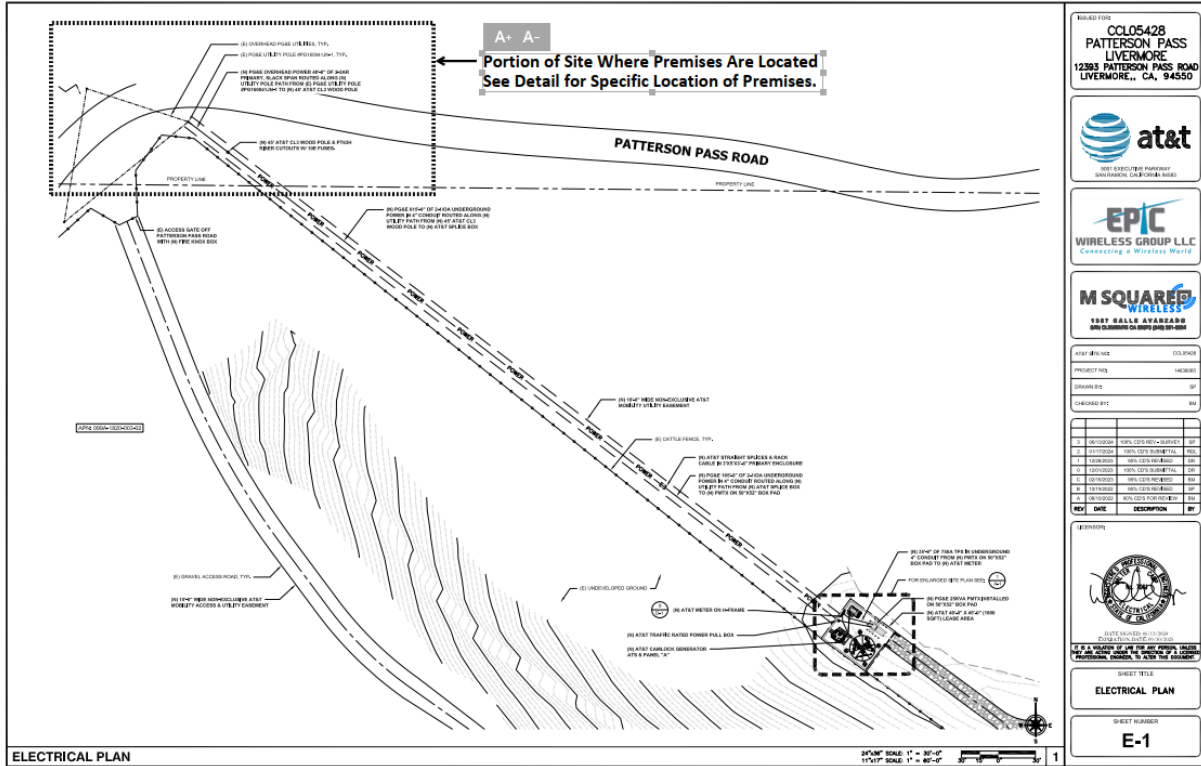
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SHEET 1 OF 1

EXHIBIT B
Map Showing Premises

Portion of Site where Premises are located:



Detail showing location of Premises:

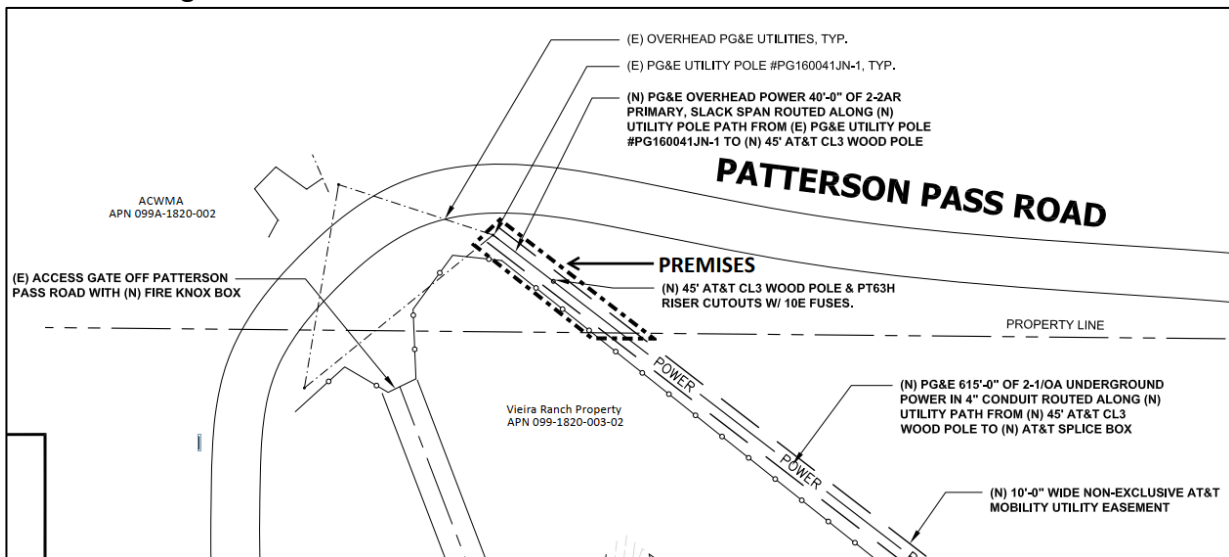


EXHIBIT C
Uses of Premises

Lessee's use of the Premises will include the Uses listed below:

1. Access through the Site via the existing access road from the public right-of-way commonly known as Patterson Pass Road to the Vieira Ranch Property. This access road is shown in **Exhibit B**.
2. Per an approved PG&E power design, installing a new 45-foot tall utility pole ("new utility pole") 40 feet southeast of an existing PG&E utility pole (Pole #PG160041JN-1), at the location shown in **Exhibit B**, and installing an overhead power line from the existing PG&E utility pole to the new utility pole.
3. Trenching power conduits from the new utility pole to the Vieira Ranch Property, within the 10-foot wide by approximately 80-foot long area of the Premises shown in **Exhibit B**, in a trench measuring approximately 3 feet deep and 16 inches wide.
4. Operating, maintaining, repairing and removing the Equipment, and replacing the Equipment with equipment serving the same functions and of approximately the same dimensions.

EXHIBIT D
Equipment

Lessee may install, construct, and maintain the following equipment and facilities (“Equipment”) on the Premises:

1. A new 45-foot tall wood utility pole (“new utility pole”).
2. An overhead power line from existing PG&E utility pole (Pole #PG160041JN-1) to the new utility pole.
3. A riser along the length of the new utility pole.
4. Power conduits trenched underground from the base of the new utility pole, within the 10-foot wide area of the Premises shown in Exhibit B and described in Exhibit C.

EXHIBIT E
Safety Requirements for Use of Premises

The following safety procedures shall be followed while on the Site (including the Premises):

1. In the event of an Emergency, the Lessee shall contact 911 and provide assistance and support to emergency responders.
2. Lessee shall exercise caution while on the Site. There are unmarked hazards, obstacles and objects that can cause harm if not properly observed.
3. No smoking on the Site or within the immediate vicinity of the Site.
4. No open flames.
5. No discharge of firearms.
6. No firearms shall be allowed on the Site unless allowed by Law.
7. No speeding: The maximum speed limit on the Site is 15 miles per hour.
8. No hunting, stalking, harassing of any mammals, reptiles, insects, or birds.
9. No horseplay, roughhousing, or other recreational activities are allowed on the Site.
10. No cooking, camping, prospecting, or star gazing, while on the Site.
11. No alcohol, beer, spirits, drugs, or other substances, legal or illegal that impair the user in any form are allowed on the Site.
12. No scenic viewing, photography, collecting of samples or data, monitoring or recording of conditions or environment while on the Site unless such activity is specifically authorized by this Lease Agreement or is the principal purpose for accessing the Site.
13. No off-road driving. All registered vehicles shall observe California vehicle code.
14. All off-road vehicles accessing the Site shall be equipped with approved spark arrestors.

Exhibit F

Insurance Requirements

1. During the life of this agreement, Lessee and all subcontractors shall maintain the following minimum insurance:

A. *Comprehensive general liability insurance*: Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis including products and completed operations, personal & advertising injury liability, blanket contractual liability per standard policy terms and conditions, and broad-form property damage liability coverage. The combined single limit for bodily injury and property damage shall be at least \$2,000,000. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

B. *Automobile Liability*: ISO Form Number CA 00 01 covering any auto (Code 1), bodily injury and property damage liability insurance covering owned, non-owned (Code 9), rented, and hired (Code 8) cars. The combined single limit for bodily injury and property damage shall at least \$1,000,000 per accident.

C. *Statutory workers' compensation and employer's liability insurance* as required by state law with a limit of at least \$1,000,000 per accident for bodily injury or disease. Neither Lessee nor its carrier shall be entitled to recover any costs, settlements, or expenses of workers' compensation claims arising out of this agreement. The Employer's Liability policy shall be endorsed to waive any right of subrogation against the Agency, its employees or agents.

D. *Professional Errors and Omissions Liability Insurance*. The limit of liability shall be at least \$1,000,000. If the policy is written on a "claims made" basis, Lessee must maintain required coverage for a period of three years after the expiration of this agreement. Lessee may satisfy this requirement by renewal of existing coverage or purchase of either prior acts or tail coverage applicable to said three-year period.

Lessee shall submit to Agency certificates of insurance and endorsements for the policies listed above. All endorsements shall be signed by a person authorized by that insurer to bind coverage on its behalf. In the event that Agency has tendered a claim to Lessee or its insurer and Lessee or its insurer has denied coverage to Agency, Lessee will make available to the Agency within ten (10) days of the Agency's written request to Lessee, complete, certified copies of all required insurance policies with any proprietary or confidential information redacted, and/or to allow Agency to view complete, unredacted copies of all required insurance policies virtually. Lessee shall not cancel, assign, or change any policy of insurance required by this agreement or engage in any act or omission that will cause its insurer to cancel any insurance policy required by this agreement except after providing 30 days prior written notice to Agency. If an insurance policy required by this agreement is unilaterally cancelled or changed by the insurer, the Lessee shall immediately provide written notice to the Agency and obtain substitute insurance meeting the requirements of this agreement. Nothing in this subsection relieves Lessee of its obligation to maintain all insurance required by this Lease Agreement at all times during the term of the agreement.

If an insurance policy required by this agreement is unilaterally cancelled or changed by the insurer, the Lessee shall immediately provide written notice to the Agency and obtain substitute insurance meeting the requirements of this agreement. Nothing in this subsection relieves Lessee of its obligation to maintain all insurance required by this Lease Agreement at all times during the term of the agreement.

2. As to all of the policies of insurance listed above, the following shall apply:

A. *Deductibles and Self-Insured Retentions.* Any deductibles or self-insured retentions must be declared to and approved by the Agency. At the option of the Agency, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Agency, its officers, officials and employees; or (2) the Lessee shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

A. *Agency as Additional Insured.* The Agency, its officers, officials, employees, agents and volunteers are to be included as additional insureds by endorsement as respects this agreement with the same coverage and limits available to the named insured regarding: liability caused in whole or in part by activities performed by or on behalf of the Lessee; premises owned, occupied or used by the Lessee, or automobiles owned, leased, hired or borrowed by the Lessee. The coverage shall contain no special limitations on the scope of the protection afforded to the Agency, its officers, officials, employees, agents or volunteers. Any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured; the additional insured coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named Insured; whichever is greater. For any claims related to this project, the Lessee's insurance coverage shall be primary insurance as respects the Agency, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Agency, its officers, officials, employees, or volunteers shall be excess of the Lessee's insurance and shall not contribute with it. Coverage can be provided in the form of an endorsement to the Lessee's insurance (at least as broad as ISO Form CG 20 38 04), or as a separate owner's policy, or on the Agency's own form. Additional insured coverage does not apply to errors and omissions insurance. Agency shall be named as "Alameda County Source Reduction and Recycling Board, Alameda County Waste Management Authority and Energy Council."

C. *Other Insurance Provisions.* The policies are to contain, or be endorsed to contain, the following provisions:

- Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Agency, its officers, officials, employees or volunteers.
- The Lessee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

D. *Insurer Rating.* Insurance is to be placed with insurers with a Bests' rating of no less than A:VII.

E. *Umbrella/Excess Insurance.* The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of Agency (if agreed to in a written contract or agreement) before the Agency's own Insurance or self insurance shall be called upon to protect it as a named insured.

F. *Subcontractors.* Lessee agrees to include in all subcontracts the same requirements and provisions of this agreement including the indemnity and insurance requirements to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by Lessee shall agree to be bound to Lessee and Agency in the same manner and to the same extent as Lessee is bound to Agency under this agreement and Lessee shall furnish a copy of this agreement's insurance and indemnity provisions to all subcontractors. All subcontractors shall provide Lessee with valid certificates of insurance and the required endorsements included in the agreement prior to commencement of any work and Lessee will provide proof of compliance to the Agency.

3. Lessee hereby grants to Agency a waiver of any right to subrogation which any insurer of Lessee may acquire against Agency by virtue of the payment of any loss under such insurance. Lessee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether Agency has received a waiver of subrogation endorsement from the insurer.

4. If a death, serious personal injury, or substantial property damage occurs in connection with the performance of this agreement, Lessee shall immediately notify Agency by telephone. Lessee shall promptly submit to Agency a written report, in such form as may be required by Agency of all accidents which occur in connection with this agreement. This report must include the following information: (a) name and address of the injured or deceased person(s); (b) names and address of Lessee's subcontractor, if any; (c) name and address of Lessee's liability insurance carrier; and (d) a detailed description of accident and whether any of Agency's equipment, tools, materials or staff were involved. Failure to comply with this section shall constitute a material breach of this agreement.

All Insurance modifications must be approved by the Agency's contract administrator

Insurance Modification Approved (Yes)___ (No) __ (No) Date Approved _____ (CAS Initials)

—

Type of Insurance Waived or Reduced:

Automotive Liability (Auto) _____, Worker's Comp (W/C)_____, Professional Liability (P/L)

Type of Insurance Waived or Reduced:

Automotive Liability (Auto) _____, Worker's Comp (W/C)_____, Professional Liability (P/L)

**ORDINANCE 2024-02
AMENDING ORDINANCE 2000-01**

**ORDINANCE ESTABLISHING PROCEDURES FOR CERTAIN LEASES AND LICENSES OF PROPERTY
OWNED BY THE AUTHORITY**

The Board of the Alameda County Waste Management Authority (“Authority”) finds that:

1. In 2000 the Authority adopted Ordinance 2000-01, the Ordinance Establishing Procedures for Certain Leases of Property Owned by the Authority. The Authority now wishes to amend the ordinance to increase the allowable monthly rental payment to \$10,000 to reflect a change in state law, to allow for that monthly rental payment to be further increased if permitted by a future change in state law, and to update the ordinance’s noticing provisions.
2. The Board of the Alameda County Waste Management Authority held a public meeting on June 26, 2024, to consider this Ordinance, and after considering all testimony and written materials provided in connection with that meeting introduced this ordinance and waived the reading thereof.

Therefore, the Board of the Authority hereby ordains as follows:

Section 1. Amendment.

Ordinance 2000-01 is hereby amended as shown in Exhibit A. Text to be added is indicated in bold underlined font (e.g., **underlined**), and text to be deleted is indicated in strikeout font (e.g., ~~strikeout~~).

Section 2. Severability.

If any provision of this Ordinance or its application to any situation is held to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.

Section 3. Publication.

Within 15 days after adoption, a summary of the Ordinance with the names of those voting for and against shall be published and a certified copy of the full text with the names of those voting for and against the Ordinance shall either (i) be posted on the Authority’s website or (ii) be posted in the Authority’s offices. The Ordinance shall become effective 30 days after adoption.

- Continued on following page -

Following introduction on June 26, 2024, passed and adopted July 24, 2024 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

I certify that under the penalty of perjury that the foregoing is a full, true and correct copy of
ORDINANCE NO. 2024-02.

ARLISS DUNN
CLERK OF THE BOARD

Exhibit A

**ORDINANCE 2000-01
as amended by Ordinance 2024-02**

**AN ORDINANCE ESTABLISHING PROCEDURES FOR CERTAIN LEASES AND LICENSES OF
PROPERTY OWNED BY THE AUTHORITY**

The Board of the Alameda County Waste Management Authority ordains as follows:

SECTION 1 (Enactment)

The Board of the Authority does hereby enact this ordinance in full consisting of Sections 1 through Section 6.

SECTION 2 (Findings)

- (a) The Authority finds that the proposed process for entering into leases or licenses for real property owned by the Authority—which applies only to leases and licenses that are non-renewable, do not exceed 10 years, have a monthly rental not ~~in excess of~~ **exceeding ten** thousand dollars (~~\$5,000~~**10,000**) **or the amount authorized in Government Code section 25537 (or any successor provision), whichever is greater,** are of public benefit, and provide for uses that are compatible with the Authority's use of the property—will provide adequate notice to the public of such leases and licenses, ensure long-term stewardship of Authority property, and establish an efficient process for managing Authority property.
- (b) The Authority finds that it has the power to enact this ordinance pursuant to the Joint Exercise of Powers Agreement for Waste Management.

SECTION 3 (Definitions)

The following definitions govern the use of terms in this ordinance:

- (a) “Authority” means the Alameda County Waste Management Authority created by the Joint Exercise of Powers Agreement for Waste Management.
- (b) “Board” means the governing body of the Authority made up of elected representatives of the member agencies pursuant to the Joint Exercise of Powers Agreement for Waste Management.

SECTION 4 (Procedures for Entering into Specified Leases and Licenses for Authority Property)

Where the Authority proposes to enter into a lease or license for any real property belonging to, leased by, or licensed by the Authority, where the lease or license is nonrenewable, does not exceed 10 years, ~~does not have~~ has a monthly rental ~~in excess of~~ not exceeding five ten thousand dollars (\$5,00010,000) or the amount authorized under Government Code section 25537 (or any successor provision), whichever is greater, will be of public benefit, and will provide for a use that is compatible with the Authority's uses of the property, the following procedures shall apply:

- (a) The Authority shall issue a notice that describes the property to be leased or licensed, the terms of the lease or license, the location where offers to lease or license the property will be accepted, the location where the lease or license will be executed, ~~the~~ any Authority officer authorized to execute the lease or license, and the date of the public hearing on the lease or license.
- (b) The notice of the proposed lease or license shall be published in the following manner:
 - 1) posting of the notice with the County clerk;
 - 2) posting of the notice at the Authority office;
 - 3) at least 15 days prior to accepting the offers to lease or license the property, mailing of the notice to any person who has filed a written request for such notice with a person designated by the Authority receive these requests; and
 - 4) publication of the notice in a newspaper of general circulation two times, with the first notice occurring at least 15 days prior to accepting the offers to lease or license the property ~~and with at least six days between the publication dates, in a newspaper of general circulation.~~
- (c) Where the proposed lease or license involves residential property, notice shall also be provided to housing sponsors (as defined by section 50074 and 50074.5 of the Health and Safety Code).
- (d) The Authority shall hold a public hearing concerning the proposed lease or license and shall make a finding that the property subject to the lease or license will be used for compatible uses and that the lease or license will be of public benefit.

SECTION 5 (Exemption)

The provisions of Section 4 shall not apply to any lease or license that the Authority enters into with the state, or with any county, city, district, public agency, public corporation or public utility corporation.

SECTION 6 (Notice and Verification)

~~This ordinance shall be posted at the Authority Office after its second reading by the Board for at least thirty (30) days and shall become effective thirty (30) days after the second reading.~~



WASTE MANAGEMENT AUTHORITY BOARD AND THE ENERGY COUNCIL

2025 MEETING SCHEDULE

The regular meeting schedule for the Authority Board and the Energy Council is held on the fourth Wednesday of each month at 3:00 p.m., except where noted differently (*). Meetings are held at StopWaste, 1537 Webster Street, Oakland, CA.

All meetings held at an in-person location will also include hybrid meeting access, e.g., via Zoom or telephone.

<u>DATE</u>	<u>TIME</u>	<u>LOCATION</u>
January 22	3:00 p.m.	StopWaste, 1537 Webster St., Oakland
February 26	3:00 p.m.	StopWaste, 1537 Webster St., Oakland
March 26	3:00 p.m.	StopWaste, 1537 Webster St., Oakland
April 23 <i>*Joint Meeting WMA/EC/RB</i>	3:00 p.m.	StopWaste, 1537 Webster St., Oakland
May 28	3:00 p.m.	StopWaste, 1537 Webster St., Oakland
June 25	3:00 p.m.	StopWaste, 1537 Webster St., Oakland
July 23	3:00 p.m.	StopWaste, 1537 Webster St., Oakland
August - NO MEETING	RECESS	
September 24	3:00 p.m.	StopWaste, 1537 Webster St., Oakland
October 22	3:00 p.m.	StopWaste, 1537 Webster St., Oakland
November 19 <i>*3rd Wednesday *Joint Meeting WMA/EC/RB</i>	3:00 p.m.	StopWaste, 1537 Webster St., Oakland
December 17 <i>*3rd Wednesday</i>	3:00 p.m.	StopWaste, 1537 Webster St., Oakland

RECOMMENDATION

That the Waste Management Authority Board (WMA) and the Energy Council (EC) approve the 2025 meeting schedule.

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DATE: December 18, 2024

TO: Energy Council

FROM: Ben Cooper, Program Manager
Karen Kho, Principal Program Manager

SUBJECT: Authorization to Accept Building Performance Standards Grant Funding

SUMMARY

In April 2024, the City of Berkeley and the City and County of San Francisco invited the Agency and the Bay Area Regional Energy Network (BayREN) to partner on a proposal to the U.S. Department of Energy (DOE)’s “Assistance for Latest and Zero Building Energy Code Adoption program,” which is funded by the Inflation Reduction Act. The proposed project, *Building Performance Standard: Adoption, Enforcement and Equitable Support, and Preparation for Regional Adoption*, would support the adoption of Building Performance Standards in the cities of Berkeley and San Francisco while preparing for broader adoption of similar standards in other Bay Area jurisdictions. In September, the DOE announced a \$19.9 million grant award to the cities of San Francisco and Berkeley for this project, which would be implemented over the next nine years. The Agency’s role would be to supplement multifamily technical assistance services and regional policy activities that are provided through BayREN.

DISCUSSION

Building Performance Standards (BPS) are policies and laws aimed at reducing the carbon impact of the built environment by requiring existing buildings to meet energy and/or greenhouse gas emissions-based performance targets. The City of Berkeley has been exploring a BPS policy for many years, and other Alameda County jurisdictions are interested in monitoring its rollout. The grant award will primarily support the design, adoption and enforcement of Building Performance Standards in Berkeley and San Francisco. Lessons learned from the experience will be shared with other jurisdictions in Alameda County and the Bay Area to facilitate broader adoption.

The Agency’s role will leverage program services provided through BayREN as follows:

- Expanding Bay Area Multifamily Building Enhancements (BAMBE) technical assistance services to support Equity Priority Buildings (EPBs) in the City of Berkeley. Target properties include multifamily buildings housing low- and moderate-income tenants, or those owned and operated by non-corporate, small businesses. The Agency can apply its experience in working with these types of properties to outreach in other Alameda County jurisdictions. See Attachment A for more details.

- Providing staff support through the BayREN Codes and Standards program to synthesize and share lessons learned with a working group of other Bay Area jurisdictions interested in building performance standards. The Agency played a similar role when the City of Berkeley adopted its Building Energy Savings Ordinance referencing Home Energy Score as a standard. No DOE grant funds are allocated for regional policy support activities, because they are covered by in-kind services that BayREN is providing to support the grant.

San Francisco is the lead agency for the grant in collaboration with the City of Berkeley. The City of Berkeley will be sub-contracting with the Agency for supplemental multifamily technical assistance services to Berkeley properties. Only hard costs including technical consulting, legal services and the federal de minimus overhead charge are included in the grant contract. All staff labor involved in administering and implementing the grant will be covered through BayREN in-kind services. This allows the Agency to recoup more overhead expenses while minimizing the grant administration and reporting burden.

RECOMMENDATION

Adopt the attached Resolution authorizing the Executive Director to accept \$1,010,000 in fiscal years 2028-2030 for multifamily technical assistance services.

ATTACHMENT

Attachment A: Scope of Work

**ENERGY COUNCIL
RESOLUTION #EC 2024 –03**

**MOVED:
SECONDED:**

AT THE MEETING HELD DECEMBER 18, 2024

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO CONTRACT FOR
BUILDING PERFORMANCE STANDARDS (BPS) GRANT SERVICES AND OTHER RELATED
ACTIONS**

WHEREAS, the Energy Council recognizes that it is in the interest of local, regional, state, and federal agencies to track and measure building energy consumption and related utility costs to inform energy programs and local building codes that stimulate the economy, create and retain jobs, reduce fossil fuel emissions, and reduce total energy usage and improve energy efficiency; and

WHEREAS, the Energy Council was formed to seek funding to develop and implement programs and policies that track energy use and utility bills, reduce energy demand, increase energy efficiency, advance the use of clean, efficient and renewable resources, and help create climate resilient communities; and

WHEREAS, the Energy Council implements the Bay Area Multifamily Building Enhancements (BAMBE) program and participates in the Codes and Standards program of the Bay Area Regional Energy Network (BayREN); and

WHEREAS, the U.S. Department of Energy established the “Latest and Zero Building Energy Codes Grant Program” that provides up to \$20 million for building performance standard development, adoption, and enforcement; and

WHEREAS, the City and County of San Francisco in collaboration with the City of Berkeley led the development of a grant proposal and invited Energy Council and BayREN to become implementation partners; and

WHEREAS, on August 27, 2024 the DOE awarded \$19.9 million dollars to the proposed project, entitled *Building Performance Standard: Adoption, Enforcement and Equitable Support, and Preparation for Regional Adoption*; and

WHEREAS, the Bay Area Regional Energy Network (BayREN) will fund Energy Council staff time to implement the grant as an in-kind services match; and

WHEREAS, the City of Berkeley intends to contract with Energy Council for \$1,010,000 for multifamily technical assistance services in the City of Berkeley as described in Attachment A; and

NOW THEREFORE, BE IT RESOLVED, that the Energy Council hereby authorizes the Executive Director to:

1. Accept funds in the amount of \$1,010,000 and add Project 1317 Building Performance Standards to the agency budget in future fiscal years.

2. Enter into all necessary contracts and agreements with the City of Berkeley.
3. Approve any required time extensions, modifications, or amendments thereto.
4. Allocate the necessary resources to implement and carry out the scope of work.

BE IT FURTHER RESOLVED, that the Executive Director as the Board President’s designee, is hereby authorized to execute on behalf of the Energy Council all contract-related documents, including, but not limited to, applications, payment requests, agreements (including the hiring of temporary staff), and amendments necessary to secure contract funds and to implement the approved contract projects;

ADOPTED this 18th day of December 2024, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAINED:

I certify that under the penalty of perjury that the foregoing is a full, true, and correct copy of Resolution #EC 2024 – 03

ARLISS DUNN
Clerk of the Board

Attachment A Scope of Work

The Building Performance Standards project will be implemented in three phases of three years each. In the first phase, the cities of San Francisco and Berkeley will develop and adopt BPS standards. In the second phase, outreach and implementation support services will be provided to target properties in both jurisdictions. In the third phase, the rollout will expand to all mandated properties in the two jurisdictions.

The Agency's role will be concentrated in the second phase of the project (roughly 2028-2030) and builds upon the BAMBE program. The exact timing of implementation will depend on successful completion of phase one activities. Funding for future phases is contingent upon the adoption of BPS policies. Grant funding will be used to provide Equity Priority Buildings in the City of Berkeley with the following services:

- Benchmarking and data verification
- Virtual and onsite energy assessments
- Development of zero emissions road maps
- Assistance with draft scopes of work for retrofit plans and bids
- Assistance in reviewing vendor bids and choosing contractors
- Project management for project scope installation
- Assistance in finding financial resources (including rebates) to fund energy efficiency and electrification upgrades

The total budget for this scope of work will be allocated as follows:

Multifamily technical assistance services	\$909,090
Indirect/Admin expenses	\$100,910
Total	\$1,010,000

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**January 2025
Meetings Schedule**

**Alameda County Waste Management Authority, the Energy Council, Source Reduction &
Recycling Board, and Programs and Administration Committee**
(Hybrid meetings are held at StopWaste Offices unless otherwise noted)

SUN	MON	TUES	WED	THURS	FRI	SAT
			1	2	3	4
5	6	7	8	9 9:00 A.M. Programs & Administration Committee Key Items: 1. FY 23/24 Audit <hr/> 4:00 P.M. Planning Committee & Recycling Board Key Items: 1. FY 23/24 Audit	10	11
12	13	14	15	16	17	18
19	20 AGENCY HOLIDAY	21	22 3:00 P.M. Waste Management Authority & Energy Council Key Items: 1. FY 23/24 Audit 2. Legislative Priorities	23	24	25
26	27	28	29	30	31	

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Energy Council
TECHNICAL ADVISORY GROUP (TAG)
Tuesday, November 19, 2024 – 1:00 pm to 2:00 pm

Attendance:

County of Alameda: Ali Abbors, Salustia Josefino, Naomi Schroeder (Fellow)
City of Alameda: Jenna MacKouse (Fellow)
City of Albany: Michelle Plouse
City of Berkeley: Katie Van Dyke, Sarah Moore
City of Dublin: Shannan Young
City of Emeryville: Nancy Humphrey, Violet Rice (Fellow)
City of Fremont: Kranti Kapur
City of Hayward: Erik Pearson, Mireille Vargas, Ava Samuels (Fellow), Ben Jex (Fellow)
City of Oakland: Nick Kordesch, Gabriel Mugalian (Fellow), Hanser Oh (Fellow)
City of Newark: Jim Scanlin
City of Piedmont: Andrew Kaplowitz (Fellow)
City of Pleasanton: Megan Campbell
City of San Leandro: Kerry Parker
City of Union City: Justin Africawala (Fellow)
Guests: Cait Cady, Ava Community Energy, Rich Chien & Jamesine Rogers Gibson, BAAQMD
StopWaste: Jennifer West, Emily Alvarez, Miya Kitahara, Natalia Guerrero, Maria Hart, Ben Cooper

Introductions

Ask TAG and Announcements – Jennifer West, StopWaste

- October and November [Topic Briefs](#) on the 2024 Alameda County Waste Characterization Study and Measure D and the Recycling Fund
- BayREN [Existing Building Study Dashboard](#) is live, please provide feedback and review for potential inaccuracies
- BayREN Energy concierge launched: <https://www.bayren.org/energy-concierge>
- Target Decarb Showcase applications will be due in early 2025: <https://www.bayren.org/decarbonization-showcase>
- Please let us know if you would be interested in hearing a presentation at a future TAG mtg about The Energy Coalition's Direct-To-Renter program, which "bypasses the traditional and highly challenging approach of working with landlords to bring appliances and technologies (e.g. portable batteries, heat pumps, air purifiers, induction cooktops, etc.) directly to renter households."
- [USGBC-CA Building Performance Peer Learning Collaborative](#) - more info if you are interested in this (Berkeley and Oakland on list)
- BAAQMD Board Meeting on 12/4 at 10AM will have a presentation on Zero NOx rules (9-4 & 9-6). Hayward may attend to support.
 - There is a [letter of support template](#) from BDC listserv if any are interested.

BAAQMD CCAP Feedback Session – Rich Chien and Jamesine Rogers Gibson, BAAQMD

- The Comprehensive Climate Action Plan (CCAP), part of the deliverables of the Climate Planning Resilience Grant program, needs to be submitted to the EPA by December 2025. Staff want ample time to get feedback on the proposed measures in the document.
 - One breakout session discussed implementation of the BAAQMD NOx rules to shape measure development for the building sector.

- The other breakout session provided feedback on Distributed Energy Resources (DER) and what the energy system needs to look like to ensure grid reliability for decarbonization, including roles and support needed for local governments.

StopWaste Building Electrification – Ben Cooper, StopWaste

- StopWaste completed upgrades to our building systems to become all-electric. We replaced the hot water heater and HVAC system with heat pumps.
 - We used Taylor Engineering based in Alameda, as they do public sector work, and sub-contracted the electrical, structural, and acoustical work
- Construction considerations included:
 - Our building is a concrete building, and we needed to consider the additional weight of heat pump units when replacing gas.
 - For the four units on the roof, we had to consider noise issues for the finance team who sit directly below the systems.
 - We needed a crane to place the roof units and we were able to use the adjacent AC transit parking lot for staging.
 - Through this work, we received reports on the capacity of existing panel and electrical distribution system within building.
- Of the four bids received, we were required to go with lowest bid as long as it met our equipment specifications (and it could include equivalent units).
 - We ended up installing a unit that was cheaper and manufactured in CA.
 - We also required the team to properly dismantle and recycle everything they could.
- The installation took a long time. We were not in a hurry as it was an “early replacement.” We completed the contract in September 2022, and the system was installed in late July/early August 2024.
 - The installation only took a few days, but adjusting the controls took longer than expected. Tip: please make sure to write into your contract a daily amount that you would “fine” the contractor if the system is not functioning.
 - We would like to compare our energy consumption post installation and are waiting for utility bill or consumption data to benchmark it.
- StopWaste staff can answer questions, and we plan to prepare shareable case study soon.