



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Shola Olatoye
Director, Housing and
Community Development
Department

SUBJECT: Longfellow Corner License Agreement
and Predevelopment Loan

DATE: September 2, 2022

City Administrator Approval

Date: **Sep 8, 2022**

RECOMMENDATION

Staff Recommends That The City Council Adopt The Following Items Of Legislation:

- 1) A Resolution Authorizing The City Administrator To Negotiate, Finalize And Execute A No-Fee License Agreement With Resources For Community Development Or Their Affiliated Entity Or Entities To Manage And Maintain City-Owned Parcels Located at 3823 – 3829 Martin Luther King Jr. Way For A Period Of One Year, And Adopting Findings Supporting A Below-Market License For Use and Maintenance Of The Site; And**
- 2) A Resolution Authorizing The City Administrator To Enter Into An Unsecured Predevelopment Loan Agreement With Resources For Community Development Or Their Affiliated Entity Or Entities In An Amount Not To Exceed \$2,000,000 To Cover Project Development And Carrying and Maintenance Costs Associated With The Maintenance Of The Property Located at 3823 – 3829 Martin Luther King Jr. Way And Future Development Of 77 Units Of Affordable Housing**

EXECUTIVE SUMMARY

The City owns two contiguous parcels located at 3823-3829 Martin Luther King Jr. Way, totaling approximately 9,400 square feet (0.22 acres) with frontage on Martin Luther King Jr. Way, between W. MacArthur Boulevard and Apgar Street.

The subject sites are blighted, vacant, and undeveloped, and have recently been subject to extensive and repeated trespassing. Over a month and a half long period this summer, an unlicensed automobile repair operation at the site resulted in extensive pollution of the site requiring hazardous materials response, a police operation to tow the stolen vehicles that were stored on-site, extensive illegal dumping, and proper disposal of human ashes that were abandoned at the property.

City Council
September 20, 2022

The City has an Exclusive Negotiating Agreement (ENA) with an affordable housing developer Resources for Community Development (RCD), which also owns two contiguous parcels located at 3801-3807 Martin Luther King Jr. Way next to the City-owned sites.

Eventually, the project will provide seventy-seven (77) affordable housing units, with just over 2,000 square feet of community commercial space. The proposed project will set aside housing for households with incomes between 20 percent and 60 percent of the area median income (AMI) including thirty-two (32) Permanent Supportive Housing units (PSH) for homeless households.

After extensive study and substantial progress in predevelopment activities by RCD, the Housing and Community Development Department (HCDD) staff had been preparing to bring a report with recommendations to enter into a Disposition and Development Agreement (DDA) with RCD for later this Fall, as well as the license agreement and predevelopment loan recommendations proposed here. However, in order to respond to the recent issues on the site, staff has accelerated the license and predevelopment recommendations. Staff will return to City Council (Council) later this fall to provide an update on site conditions along with the DDA recommendation.

REASON FOR URGENCY

Repeated trespassing on the City site, along with illegal dumping and illicit automotive repair activities, are an immense drain on staff resources from HCDD, Oakland Public Works (OPW), Oakland Fire Department (OFD) and the Oakland Police Department (OPD) and have incurred significant costs for site clean-up and security. Permitting a license agreement for RCD to maintain the property will provide for greater stability for the site. The predevelopment loan will assist RCD with carrying costs to maintain and secure the property, as well as covering the predevelopment expenditures incurred while preparing to develop affordable housing at the site.

BACKGROUND / LEGISLATIVE HISTORY

In 1990, the City of Oakland purchased 3823 Martin Luther King Jr. Way using Community Development Block Grant funding to initiate neighborhood revitalization through affordable housing development, and pursued development proposals for the site, including lending funds to a housing development organization to purchase an adjacent site located at 3829 Martin Luther King Jr. Way.

Unfortunately, the developer for the sites was unable to pursue development plans, and in January 2017, the City acquired ownership of the 3829 Martin Luther King Jr. Way parcel via foreclosure on a former Redevelopment Agency developer loan to the prior owner, which was in default. The Redevelopment Agency loan was transferred to the City as an affordable housing asset post-Redevelopment dissolution.

On July 19, 2016, the City Council adopted Resolution No. 86335 C.M.S., placing the Measure KK Infrastructure and Housing Bond on the November 2016 ballot. On November 29, 2016, the City Council approved Ordinance No. 13403 C.M.S., enacting the City of Oakland Affordable Housing and Infrastructure Bond Law, which identified the purchase of vacant underutilized

property for newly constructing long-term affordable housing opportunities for extremely-low to low-income residents of the City of Oakland, as an eligible use for the City's affordable housing bond funds.

On June 19, 2017, the City Council approved Resolution No. 86774 C.M.S., which was subsequently amended by City Council Resolution No. 86814 C.M.S. adopted on June 29, 2017, authorizing the issuance of the first tranche of Measure KK housing bond funds in an amount not to exceed \$55 million. The authorization included funds for acquiring vacant and underutilized land to developers who propose to serve extremely-low to low-income households.

RCD, a local non-profit affordable housing developer, is the owner of two contiguous parcels located at 3801-3807 Martin Luther King Jr. Way which is next to the City-owned land. On February 9, 2018, RCD acquired the contiguous land with the use of Measure KK Site Acquisition Funds (\$3,175,000). The purchase extended from a vision to combine the parcels with the neighboring City-owned land to develop a long-term affordable housing project for extremely-low to low-income individuals and families, including a set aside of PSH for homeless households.

On May 11, 2018, HCD staff released a Request for Proposals (RFP): A Notice of Development Opportunity, seeking qualified respondents to plan, design, construct, market, sell, and/or operate an affordable housing project to be located at 3823-3829 Martin Luther King Jr. Way. In response to the RFP, RCD presented the strongest proposal for development, illustrating an efficient use of all four parcels to build the most affordable units while eliminating blight at the site.

On December 11, 2018, the Oakland City Council approved Resolution No. 87483 C.M.S., a resolution setting forth Oakland's public lands policy framework which prioritizes the use of City property to address its housing and shelter inequities and allow for zero-cost and discounted conveyances for projects that provide a benefit to the public including housing primarily for low-income and low-asset residents. The City-owned sites at 3823-3829 Martin Luther King Jr. Way are among the City's public lands portfolio designated for below market rate housing.

In addition, on December 11, 2018, the Oakland City Council approved Resolution No. 87468 C.M.S, authorizing the City of Oakland to enter into an ENA with RCD or its affiliate. The City executed the ENA with Longfellow Corner L.P., the RCD affiliate, to allow the developer to begin environmental due diligence and to negotiate with the City a Lease Disposition and Development Agreement (LDDA) or DDA. The LDDA/DDA, subject to City Council approval, would set forth in the terms and conditions for potentially conveying the RCD parcels to the City, the merger of all four parcels, the leasing or sale of the land to RCD, and the development of the housing project.

On August 9, 2019, City HCD staff released a Notice of Funding Availability (NOFA) for fiscal year 2019-2020. The NOFA was provided for the new construction of affordable rental, homeownership, and PSH projects. It was intended to partially fill the gap between development costs and financing available from other public and private sources. It sought the creation of new affordable rental and ownership units, projects targeting people experiencing homelessness, those in need of PSH, and projects closer to the start of construction with the aid of additional funds from the City.

On September 11, 2019, the City of Oakland Planning Bureau approved land use zoning entitlements, including necessary clearance under the California Environmental Quality Act (CEQA) for the 77-unit project.

Pursuant to City Council Resolution No. 87994 C.M.S., approved on January 21, 2020, RCD received a \$4,264,000 NOFA funding award in response to their NOFA submittal for extremely-low to low-income housing across 3801-3807 and 3823-3829 Martin Luther King Jr. Way.

On July 30, 2019, the City entered an ENA with Longfellow Corner L.P., an affiliate of RCD, per City Council Resolution No. 87468 C.M.S. The ENA set the framework for a period of environmental review and exclusive negotiations for potentially entering into the L/DDA. The ENA was then extended to December 12, 2022, pursuant to City Council Resolution No. 88435 C.M.S., adopted on December 15, 2020.

On March 18, 2021, the Oakland City Council in a closed session report authorized the City Administrator or designee to sign a Standard Voluntary Agreement (SVA) with the State of California Environmental Protection Agency – Department of Toxic Substances Control (DTSC) regarding the characterization of site contamination on City owned property at 3823-3829 Martin Luther King Jr. Way. The City executed the SVA on July 12, 2021, allowing the City and RCD to implement site characterization investigations, to investigate and evaluate a potential release of a hazardous substance, and to initiate discussions around a clean-up determination on the property under the purview of DTSC. The investigations found ground water contamination and lead impacted soil contamination.

In the last year, RCD has successfully worked with the State Department of Toxic Substances Control (DTSC) to develop a Remedial Action Workplan (RAW) to address remediation of the site's prior existing contamination. The RAW underwent a 30-day public comment period and received one comment. DTSC hereby subsequently approved the final RAW as of July 6, 2022. In addition to DTSC approving the RAW, RCD has successfully secured funding commitments from the following competitive State sources:

- Affordable Housing and Sustainable Communities: \$12,319,000
- No Place Like Home: \$12,410,000

The project was then awarded an additional \$7,000,000 under the City New Construction NOFA (issued November 16, 2021) per City Council Resolution No. 89241 C.M.S., which was approved on June 7, 2022. This brings the project's total City affordable housing development loan award commitment to \$11,264,000. With the 2017 site acquisition loan, total City funding committed to the project is \$14,439,000.

Currently, RCD is waiting to hear back on an application for State Infill Infrastructure Grant (IIG) funding under a Super NOFA issued by the State earlier this year (applications were due in July). With this IIG funding in place, the project could commence construction in 2023 (pending tax credit availability).

ANALYSIS AND POLICY ALTERNATIVES

Over the last couple of years, RCD has made great progress on bringing the affordable housing development and funding to fruition, and staff will bring a report with recommendations to enter into a DDA later this fall for Council consideration. As noted in the Background section, RCD will have an approved RAW with DTSC to address site remediation, funding awards from City and State, and a commitment of project-based Section 8 vouchers from the Oakland Housing Authority.

As noted above, the license agreement and predevelopment loan were intended to be considered with the DDA recommendations.

Due to the immediate danger to the site's future development, HCD staff is bifurcating the actions and bringing the license and predevelopment loan resolutions now, in order to stabilize property security, and minimize the on-going cost to the City, and danger to the site's future development and current neighbors.

Over the years, HCD staff has had to periodically address trespassing and dumping on the site, working with OPW to provide fence repair and new locks, the Oakland Police Department to tow vehicles (after a notice was provided) and utilizing the Economic and Workforce Development (EWD) contract for site cleaning via their on-call contract with Men of Valor.

However, alarming activity has increased significantly on the site during the summer, just as the site is making significant headway towards the likely start of construction in 2023.

During July and August of 2022, the City's locked fence was breached, and it became apparent the vehicles were being worked on at the property. HCDD staff worked diligently to secure the cooperation of OPD's Vehicle Abatement Division, OPW, and EWD's contract with Men of Valor for site purposes to do a site clearance and re-secure the property, similar to a prior operation in Spring 2022. However, while visiting the site on August 23, 2022 to post towing notices, staff noticed that the condition had deteriorated severely, and that the apparent chop shop operators not only had parked several stolen vehicles on site, but were also running electrical wires to a neighboring property (stealing electricity and creating a fire hazard) and water from a pipe to the street. They also dumped motor oils into a domestic on-site water well that extends into the ground, suggesting further contamination of the site that could set back the project significantly.

OFD's inspectors alerted State DTSC, which launched an investigation of the contamination. HCDD staff used an existing City contract with Bayview Environmental to remediate the site (for the new contamination) during the week of August 30th – September 2nd. Samples of the hazmat conditions were collected by DTSC for testing and analysis and those results are forthcoming. All costs associated with testing & analysis and site cleanup are also forthcoming.

As of September 2, 2022, the site is cleared. **Attachment A** includes photographs of the site before and after clean-up. It took Bayview Environmental and Men of Valor over a week to remediate the recent contamination and clean up refuse at the site, respectively. However, unless additional actions are taken, the site is vulnerable to further intrusion and dangerous conditions for both property neighbors and the intended affordable housing development at the property. The license agreement will call upon RCD to maintain and secure the property, and

provide funding to conduct regular site clean-ups and security to prevent deterioration of the site until development can start.

A main alternative would be to continue the significant, intensive City staff management of the site and our ability to enter into the ABC security contract, which is untenable in terms of staff effort, time, and risk. Specifically, HCDD staff alone spent upwards of 100 hours on this over the last month, at the detriment of other critical affordable housing development activities, and ABC cost estimates are up to \$40,000 per month. On-going debris removal and fence/lock repair will add costs as well.

Approving the recommended actions would promote the **holistic community safety** of the neighborhood by protecting against further dangerous conditions, support the momentum of creating more affordable housing to generate the City's **housing, economic, and cultural security**, and our actions to responsibly clean and protect the City-owned site would reflect **responsive, trustworthy government**.

FISCAL IMPACT

The actions recommended in this staff report do not directly have a fiscal impact on the City. As of the writing of this report, HCD staff is still waiting for the invoices related to DTSC's testing and analysis of hazardous materials (i.e. from the automotive contamination), Bayview Environmental's clean-up of the hazardous materials, and Men of Valor's clean-up of household materials and miscellaneous debris dumped on the site.

It is unlikely that the City could execute a license agreement for the site in its current state that would actually generate revenue, and RCD is better poised to be able to respond quickly to site intrusions.

The City's predevelopment loan is essentially an advance on the City's larger affordable housing loan commitment to the project and is roughly in line with other recent predevelopment loans made to projects on City-owned land (such as 7th & Campbell and the Brooklyn Basin affordable projects) that have reached the DDA or Lease Disposition and Development Agreement (LDDA) stage.

The project's Site Acquisition Funds from Measure KK (1.5331.89929.58312.1004050.SC14) are fully expended. The 2020 development loan commitment of \$4,264,000 is budgeted in Fund 1870 (Affordable Housing Trust Fund – Affordable Housing Impact Fee), Org 89929, Project (TBD). The 2022 funding commitment is still in process of being budgeted to the project after approval in June but will be comprised of funding sources to include a combination of the following funding sources: the Local Housing Trust Fund, from the Low and Moderate Income Housing Asset Fund (2830), the Affordable Housing Trust Fund (1870), (including Affordable Housing Impact Fees, Jobs/Housing Impact Fees, and Boomerang Funds), for fiscal years 2021-22 and 2022-23.

Staff proposes that the \$2,000,000 predevelopment loan be budgeted from the Fund 1870 (Affordable Housing Trust Fund – Affordable Housing Impact Fee), Org 89929, Project (TBD) portion of the funding commitment to the project for the projected uses described in **Table 1** below.

Table 1: Longfellow Corner – Proposed Predevelopment Budget	
Line Item	Amount
Early/feasibility studies (i.e., Appraisal, phase I, survey, etc.)	\$ 35,000.00
Acquisition related expenses	\$ 50,000.00
Environmental - Phase I & II, NEPA/CEQA, Traffic, DTSC, etc.	\$ 280,000.00
Architecture	\$ 755,000.00
Engineering - engineers, green raters, solar, JT, etc.	\$ 50,000.00
Demolition and abatement, includes permits and fees	\$ 200,000.00
Site maintenance and security	\$ 200,000.00
Permits & Fees	\$ 30,000.00
Syndication Costs	\$ 20,000.00
Market Study and marketing	\$ 30,000.00
Taxes	\$ 250,000.00
Soft Cost Contingency	\$ 100,000.00
TOTAL	\$ 2,000,000.00

As noted earlier, this unsecured predevelopment loan is roughly similar in character and size to other recent affordable housing projects on City-owned land at the DDA/LDDA stage. The predevelopment loan will carry a term of 24 months, with a 0% interest rate, and is intended to be consolidated into the development loans for the Project prior to construction start. There will be an option for a 12 month extension at both parties approval.

PUBLIC OUTREACH / INTEREST

RCD first met with District 1 Councilmember Dan Kalb in June 2017 to identify community stakeholders, individuals and groups to connect with about Longfellow Corner. RCD received a list of relevant organizations in the area, consisting of the Neighborhood Crime Prevention Council (NCPC) Beat 6X and the Longfellow Community Association. Meetings were conducted with both groups including neighbors of the project site, such as the owner of Marcus Bookstores and the owner of the MLK Café. The owner of the MLK Café is also the owner of the residential apartment building next to the City-owned sites.

RCD has actively stayed in close communication with the MLK Café owner and hosted its last community meeting at the MLK Café (2019). RCD continues to meet with the District 1 Council Office and local stakeholders such as being active with the San Pablo Area Revitalization Collaboration (SPARC) committee for the past several years. The Northwest Community Plan was introduced to RCD by Councilmember Kalb's office. The plan was initiated by the community in 2015 in which several meetings were hosted over years (2015-2016) to create a neighborhood specific plan for the area that would include the Longfellow Corner project site. There has been no activity with this group recently however and RCD plans to be involved with the Northwest Community Plan when discussions are reactivated.

COORDINATION

This staff report and resolution have been reviewed by the Office of the City Attorney and by the Budget Bureau. Staff has coordinated extensively with numerous other City, County and State departments and agencies in the course of resolving the trespassing, illegal activities, and contamination remediation on site: including OPW, OPD, EWD, OFD, the Alameda County Coroner's Bureau, and State DTSC. Staff from Department of Human Services were notified that a homeless gentleman was storing materials on-site (separate from the illicit automotive and dumping operation), and as of the writing of this report, HCD staff is going to follow up with DHS staff to see whether he is amenable to housing referral assistance. Other coordination on the overall project includes Planning and Building, the Real Estate Division of EWD, and the OPW's Environmental Services Division.

PAST PERFORMANCE, EVALUATION AND FOLLOW-UP

RCD owns an affordable housing portfolio of over 2,500 units at 62 sites, in 25 cities across five counties, including 14 properties located in Oakland. The organization has a long track record of owning development sites, and successfully developing and operating affordable housing to serve low-income residents of Oakland.

SUSTAINABLE OPPORTUNITIES

Economic: Longfellow Corner is located two blocks from the MacArthur Bay Area Rapid Transit (BART) station and will provide residents with excellent access to BART and Alameda-Contra Costa (AC) Transit along Telegraph Avenue and 40th Street. Residents will have efficient access to local and regional employment centers via BART. Creating housing near BART will reinforce the transit-oriented development strategy noted in the Association of Bay Area Governments (ABAG) MacArthur Transit Village Priority Development Area (PDA) and will reduce the financial burden of car ownership. The subject sites are in an area recognized by the California Tax Credit Allocation Committee (TCAC) as "high opportunity". With a high volume of development underway or approved in this neighborhood, it will be important to ensure low-income residents benefit from the value of incoming investment.

Environmental: As an urban infill site, the property will require remediation prior to development. DTSC has agreed to serve as the oversight agency for the environmental investigation and will oversee RCD's approved RAW for remediation, which included a public participation component. The proposed actions in this report will prevent the further deterioration of the site's environmental impacts on residents near the property.

Race & Equity: Longfellow Corner will have a positive impact on the surrounding community by providing affordable family housing in a neighborhood that has experienced severe displacement. With an influx of market rate housing and upscale retail, market pressures in North Oakland have resulted in sharply rising land values and rents. Adding to the stock of much needed affordable housing in this neighborhood will allow an opportunity for displaced families to maintain their social networks and benefit from up and coming nearby developments. Combining the City-owned real property with the RCD real owned property will transform the four blighted subject parcels into high-quality, professionally maintained affordable housing.

In a historically African-American neighborhood with high displacement, the 77-unit development will be met with local hiring obligations and preferences for Oakland residents. Such requirements are a step towards reversing the inequities that have led to the displacement of long-standing Oakland residents. HCD will mandate as a provision of its funding commitment that the owner/developer comply with the requirements of the City's Local Employment Program for the hiring of Oakland residents and the use of apprentices on publicly-supported projects. Fifty (50%) percent of project work hours on the construction of the project must be performed by Oakland residents, a minimum of 50 percent of all new hires must be Oakland residents, and the first new hire must be an Oakland resident.

In addition, HCD will enforce local business participation requirements in accordance with the City's Local/Small Local Business Enterprise (L/SLBE) Program. Residents for housing units will be subject to Oakland preferences where the owner/developer must give preference in the selection of tenant households. When selecting eligible households, preferences must be given to displaced, neighborhood residents, Oakland residents, and workers in accordance with the Oakland Municipal Code (Chapter 15.63, Article I).

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Upon review of the City of Oakland Planning Bureau and as of September 11, 2019, the Longfellow Corner Project received a categorical exemption under CEQA as an infill development {Sec. 15332} and a project consistent with a community plan, general plan or zoning {Sec. 15183(f)}.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt The Following Pieces of Legislation:

- 1) A Resolution Authorizing The City Administrator To Negotiate, Finalize And Execute A No-Fee License Agreement With Resources For Community Development Or Their Affiliated Entity Or Entities To Manage And Maintain City-Owned Parcels Located at 3823 – 3829 Martin Luther King Jr. Way For A Period Of One Year, And Adopting Findings Supporting A Below-Market License For Use and Maintenance Of The Site; And
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For questions regarding this report, please contact Everett Cleveland, Housing Development Coordinator, at 510-326-7687, or Christia Katz Mulvey, Housing Development Services Manager, at 510-332-4461.

Respectfully submitted,

Shola Olatoye

Shola Olatoye
Director, Housing and Community Development
Department

Reviewed by:

Christina Mun, Deputy Director, Housing and
Community Development Department

Prepared by:

Christia Katz Mulvey, Housing Development
Services Manager
Housing Development Services

Everett Cleveland, Jr., Housing Development
Coordinator
Housing Development Services

Attachments (1):

(A) August 2022 Site Photographs – Before and After Site Clean-Up

Attachment A - Longfellow Corner – Site Photographs
August 2022



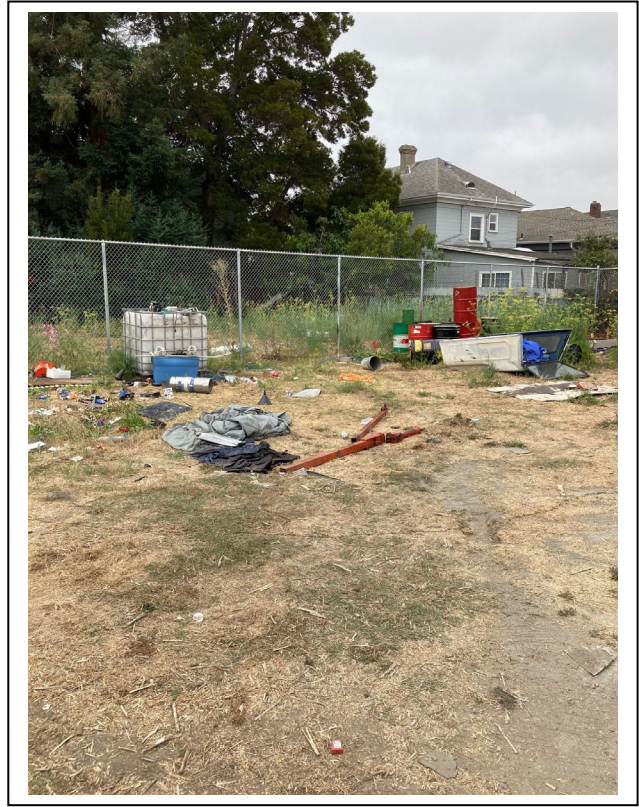
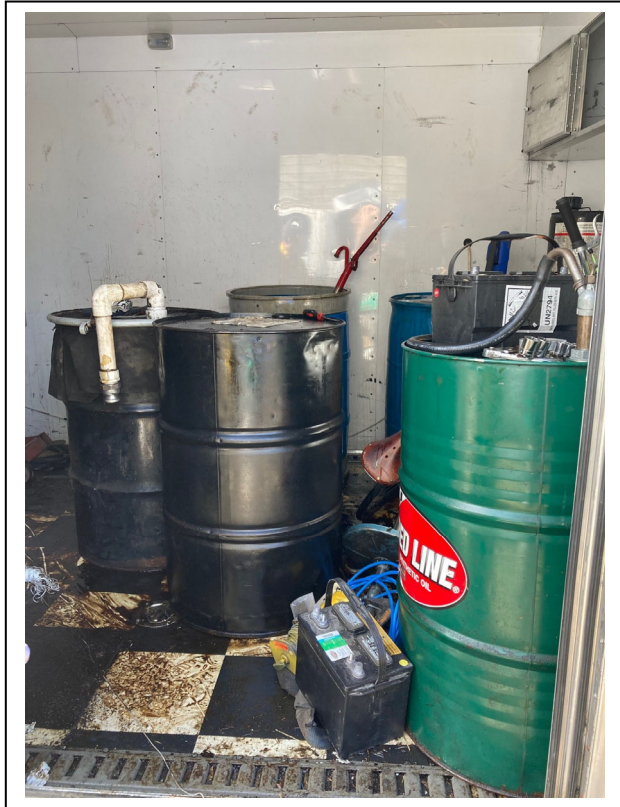
BEFORE SITE CLEAN UP



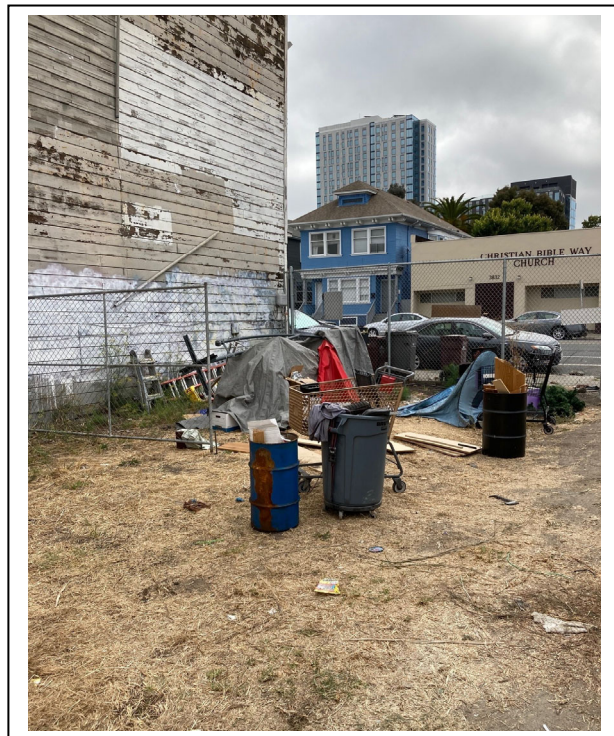
Attachment A - Longfellow Corner – Site Photographs
August 2022



Attachment A - Longfellow Corner – Site Photographs
August 2022



Attachment A - Longfellow Corner – Site Photographs
August 2022



Attachment A - Longfellow Corner – Site Photographs
August 2022

AFTER SITE CLEAN UP

