

BERKELEY UNIFIED SCHOOL DISTRICT

RESOLUTION 05-87

**RESOLUTION OF THE BOARD OF EDUCATION OF THE
BERKELEY UNIFIED SCHOOL DISTRICT CALLING AN ELECTION,
ESTABLISHING SPECIFICATIONS OF THE ELECTION ORDER, AND
REQUESTING CONSOLIDATION WITH OTHER ELECTIONS
OCCURRING ON NOVEMBER 7, 2006**

WHEREAS, the Berkeley Unified School District (“District”) is committed to offering a high-quality educational program to all students in the District, and due to inadequate state funding, increased local revenues are necessary to meet this goal; and

WHEREAS, California Constitution, Article XIII A, section 4 and Government Code section 50075 et seq. authorize the District, upon approval of 2/3rds of the electorate, to levy qualified special taxes on property in the District for the purposes of providing quality educational programs in the District and other lawful purposes of the District; and

WHEREAS, an adequately funded and well-developed public education program provides numerous benefits and advantages to all of the residents of the community; and

WHEREAS, in the judgment of this Board, following public hearing and comment, it is advisable to request that the Alameda County Registrar of Voters call an election and submit to the voters of the District the question whether the District shall levy a special tax within the District for the purpose of raising additional revenue for the District; and

WHEREAS, pursuant to Education Code section 5342 and Elections Code sections 10400, 10402 and 10403 such election may be completely or partially consolidated with any other election held on the same day and in the same territory or territory that is in part the same.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. Resolution Constitutes Order of Election. This resolution shall constitute an order of election pursuant to Education Code Section 5320 et seq.

Section 2. Date and Purpose of Measure. Pursuant to Section 4 of Article XIII A of the California Constitution and Government Code section 50077, a special election shall be held within the boundaries of the District on November 7, 2006, for the purpose of voting on a measure (“Measure”) which will be presented to voters in substantially the form attached hereto and marked Exhibit A, containing the question of whether the District shall impose a special tax (“Special Tax”) for the educational purposes stated

therein. In addition, the full text of the Measure (“Full Ballot Text”) shall appear in the ballot pamphlet in substantially the form attached hereto and marked Exhibit B.

Section 3. Very Low-income Senior Exemption from the Special Tax. An exemption from payment of the Special Tax may be granted annually on any single family residential parcel or multi-family dwelling unit owned and occupied by one or more very low-income senior citizens, upon annual application to the City of Berkeley for such exemption. To be eligible for such exemption, the senior citizen must be 65 years of age or older as of July 1 of any applicable tax year, and must meet the very low-income qualifications of Berkeley Municipal Code Section 7.56.035, which is incorporated by reference herein. In the event of expiration of Municipal Code Section 7.56.035 for any reason, the same qualification criteria shall continue to apply to this exemption.

Section 4. Collection of the Tax. The Special Tax shall be collected by the Alameda County Treasurer-Tax Collector or other designated agency at the same time, in the same manner, and subject to the same penalties as *ad valorem* property taxes collected by the Treasurer-Tax Collector. Unpaid Special Taxes shall bear interest at the same rate as the rate for unpaid *ad valorem* property taxes until paid. The collection of Special Taxes under this Measure, including imposition of penalties, additional fees, and interest upon persons who fail to remit the tax imposed by this Measure, or who fail to remit any delinquent remittance, shall be subject to and governed by the rules, regulations, and procedures authorized by law. Penalties and/or fees imposed and such interest as accrues under the provisions of this Measure shall become a part of the Special Taxes herein to be paid to the District. The collection of the Special Tax shall not decrease the funds available from other sources of the District in any period from the effective date hereof.

The tax shall be levied on the Square Footage of all Improvements, including all Buildings and Structures, on Parcels of taxable real property in the District, except where the Improvements are otherwise exempt from taxation.

The tax levied shall be at the rate of 22.80 cents per square foot on all Improvements on Residential Parcels, 34.36 cents per square foot on all Improvements on Commercial, Industrial, and Institutional Parcels, and \$50 per parcel on Unimproved Parcels.

The District, through the City of Berkeley, shall provide the Alameda County Treasurer-Tax Collector or other designated agency a report indicating the parcel number and amount of tax for each parcel of taxable real property.

The tax base shall be as described in the Berkeley Municipal Code Section 7.56.020 which defines and delimits the parameters of the square footage applications, and which is incorporated by reference herein. Current definitions of the terms “Building,” “Improvements,” “Parcel,” “Square Footage,” “Structure,” and “Unimproved Parcel” pursuant to the Berkeley Municipal Code are provided in Section 6 of the Full Ballot Text of the Measure. In the event of the expiration of this Municipal Code for any reason, the same definitions shall continue to apply as the basis for this Special Tax. In

the event of the modification of any Berkeley Municipal Code definition or term that applies to this Special Tax, the definition or term as modified shall apply to the basis for this Special Tax.

With respect to all general property tax matters within its jurisdiction, the Alameda County Tax Assessor shall make all final determinations of tax exemption or relief for any reason, and that decision shall be final and binding. With respect to matters specific to levy of the Special Tax, a District administrative review panel or the City of Berkeley as the designated agency, shall make all necessary final determinations, and that decision shall be final and binding.

Section 5. Authority for Ordering Election. The authority for ordering the election is contained in Section 50075 et seq. of the Government Code and Section 4 of Article XIII A of the California Constitution.

Section 6. Authority for Specifications. The authority for the specification of this election order is contained in Section 5322 of the Education Code.

Section 7. Delivery of Resolution to County Registrar, County Clerk and County Superintendent of Schools. The Clerk of the Board is hereby directed to cause certified copies of this Resolution and Order to be delivered not later than August 9, 2006, to the Alameda County Superintendent of Schools and not later than August 9, 2006, to the Alameda County Registrar of Voters (the "County Registrar"), as the officer conducting the election, and to the Alameda County Clerk of the Board of Supervisors (the "County Clerk").

Section 8. Formal Notice. The Alameda County Superintendent of Schools is hereby requested to prepare and execute a Formal Notice of Parcel Tax Election and consolidation order in substantially the form attached hereto as Exhibit C (the "Formal Notice"), and to call the election by causing the Formal Notice to be posted pursuant to Section 5362 of the Education Code by August 9, 2006, or to otherwise cause the notice to be published as permitted by law. The Clerk of the Board, on behalf of and as may be requested by the Alameda County Superintendent of Schools, is authorized to cause all notices required by law in connection herewith to be published and posted, as the case may be.

Section 9. Full Ballot Text. The Board hereby determines to include within the ballot pamphlet the Full Ballot Text in substantially the form attached hereto as Exhibit B, which is hereby approved and adopted by the Board, and the County Registrar is hereby directed to include the Full Ballot Text in the ballot pamphlet.

Section 10. Conduct of Election. (a) *Request to County Registrar.* Pursuant to Section 5303 of the Education Code, the County Registrar is requested to take all steps to hold the election in accordance with law and these specifications.

(b) *Voter Pamphlet.* The County Registrar is hereby requested to reprint the Measure in its entirety (the Full Ballot Text located in Exhibit B) in the voter information pamphlet to be distributed to voters pursuant to Section 13307 of the Elections Code. In the event the Full Ballot Text of the measure will not be reprinted in the voter information pamphlet in its entirety, the County Registrar is hereby requested to print, immediately below the impartial analysis of the Measure, in no less than 10-point boldface type, a legend substantially as follows:

The above statement is an impartial analysis of Measure _____.
If you desire a copy of the measure, please call the Alameda County Registrar of Voters at (phone number) and a copy will be mailed at no cost to you.

(c) *Consolidation.* The County Registrar and the Alameda County Board of Supervisors are hereby requested to consolidate the election ordered hereby with any and all other elections to be held on November 7, 2006, within the District.

(d) *Canvass of Results.* The Alameda County Board of Supervisors is authorized to canvass the returns of the election pursuant to Section 10411 of the Elections Code.

Section 11. Appropriations Limit. Pursuant to Section 7902.1 of the Government Code or any successor or other applicable provision of law, the Board of Education shall provide in each year for any increase in the District's appropriations limit as shall be necessary to ensure that proceeds of the Special Tax may be received and spent for its authorized purposes.

Section 12. Ballot Arguments. The President of this Board and/or his designees are hereby authorized to prepare and file with the County Registrar a ballot argument in favor of the Measure contained in Exhibits A and B hereto, and any ballot argument prepared in connection with the Measure, including a rebuttal argument, each within the time established by the County Registrar, which shall be considered the official ballot arguments of this Board as sponsor of the Measure.

Section 13. Official Actions. The District Superintendent, President of the Board, or their designees are hereby authorized to execute any other document and to perform all acts necessary to place the Measure on the ballot including making alterations to the Measure and Full Ballot Text stated in Exhibits A and B hereto to comply with requirements of law and election officials or which are, in the judgment of the District Superintendent, in the best interests of the District.

Section 14. Effective Date. This resolution shall take effect from and after its adoption.

ADOPTED, SIGNED and APPROVED by the Board of Education of the Berkeley Unified School District on the 28th¹.day of June, 2006 by the following vote:

AYES:

NOES:

ABSTENTIONS:

President of the Governing Board of the
Berkeley Unified School District

Attested to:

Clerk of the Governing Board of the
Berkeley Unified School District

EXHIBIT A

ABBREVIATED TEXT OF MEASURE

“Berkeley Public Schools Educational Excellence Act of 2006”

To support quality public education, shall Berkeley Unified School District replace two annual special taxes expiring in 2007 with one annual special tax for 10 years at 22.80¢/sq.ft. for residential buildings, 34.36¢/sq.ft. for commercial and other buildings and \$50 for unimproved parcels with annual cost-of-living adjustments? Funds shall continue to be used for designated purposes, including class size reduction, school libraries, music programs, teacher training, and academic support. Independent monitoring committees will oversee use of funds.

Exhibit B

Full Text of Measure

The following is the full ballot text of the proposition to be presented to the voters by the Berkeley Unified School District in the ballot pamphlet:

“Berkeley Public Schools Educational Excellence Act of 2006”

To support quality public education, shall Berkeley Unified School District replace two annual special taxes expiring in 2007 with one annual special tax for 10 years at 22.80 cents/sq.ft. for residential buildings, 34.36 cents/sq.ft. for commercial and other buildings and \$50 for unimproved parcels with annual cost-of-living adjustments? Funds shall continue to be used for designated purposes, including class size reduction, school libraries, music programs, teacher training, and academic support. Independent monitoring committees will oversee use of funds.

1. TITLE AND PURPOSE

“Berkeley Public Schools Educational Excellence Act of 2006”

The revenues raised by this Measure are to be used to improve the educational achievement of Berkeley’s public school students by providing quality educational programs.

2. ALLOCATION OF FUNDS

Available Revenues raised by this Measure are to be allocated to the following purposes and shall be deposited in restricted accounts for these purposes:

- Smaller class sizes, expanded course offerings, and counseling.....66%
- Programs to Enhance Student Learning, including school site programs, school libraries, music, visual and performing arts, and parent outreach programs.....25%
- Professional development and educational program evaluation.....9%

3. DEFINITION OF PURPOSES

A. **Smaller Class Sizes, Expanded Course Offerings, and School Counseling Services**

i. Sixty-six percent (66%) of the Available Revenues of this Measure shall be dedicated annually to Reducing Class Sizes at all K-12 schools, expanding course offerings at all secondary schools, and providing counseling services at each of the District's middle schools, in ways that may not be achieved solely through support by the District's General Fund.

ii. The goals for the class sizes to be achieved with these revenues are District-wide Average Class Sizes of 26:1 for the elementary schools grades K-5, 28:1 for the secondary schools, and 18:1 for continuation high school and other secondary opportunity programs. Average class sizes in the K-3 grades shall be reduced to 20:1 as long as state class size reduction funds are provided for that purpose at a level not less than currently funded by the State. After resultant class sizes meet the goals stated above, additional teachers may be added first to allow for expanded course offerings and then for program support in schools in so far as the funds permit. Alternative methods to reduce class sizes in a particular year may be adopted by the School Governance Council and implemented as approved by the Board of Education.

iii. The reduced Average Class Sizes shall be maintained throughout the duration of the Measure except in the case of a "Severe Fiscal Emergency" as defined in Section 6 of this Measure.

iv. The revenues dedicated to these purposes may be spent for all costs attendant to them, including operational and professional development costs, and other costs associated with the opening or maintaining of classrooms to reduce class sizes.

B. Programs to Enhance Student Learning

Twenty-five percent (25%) of the Available Revenues generated by this Measure shall be dedicated annually to providing programs designed to improve the academic proficiency of all students through effective instruction, a challenging and engaging curriculum, and addressing the needs of the whole child. Revenues from this Measure may support all costs attendant to providing these services, including operational costs. These revenues shall be allocated as follows:

i. School Discretionary Funds-

Forty-one percent (41%) of the revenues dedicated to Programs to Enhance Student Learning shall be allocated annually as School Discretionary Funds to each K-12 school on a per pupil basis. Existing district preschools shall receive a similar allocation for each full time student. The School Governance Council (as described in Section 5.B.ii.) shall develop recommendations to allocate these revenues for the personnel, services and materials required to deliver effective activities leading to improved student performance.

The school's Site Plan, including the proposed expenditure of the school's discretionary funds, shall be presented annually to the Board of Education and shall be implemented as adopted by the Board of Education.

Revenues may be used for, but are not restricted to, the personnel, materials and services required to deliver such programs as arts and sciences instruction, academic tutoring and counseling, athletics and student activities, and before and after school programs.

ii. School Libraries, Music, Visual and Performing Arts, and Parent Outreach Programs

Fifty-nine percent (59%) of the revenues dedicated to Programs to Enhance Student Learning shall be allocated annually to the following District-wide programs:

(a) School Libraries

Twenty-nine percent (29%) of revenues dedicated to the Programs to Enhance Student Learning shall be allocated annually to provide student access to quality school libraries which shall be maintained by providing library staff to operate the District's K-12 school and other specialized libraries, and by allocating revenues for books, materials, services and equipment for the school libraries.

(b) Music and Visual and Performing Arts Programs

Twenty-five percent (25%) of the revenues dedicated to the Programs to Enhance Student Learning shall be allocated annually to providing quality instructional programs in music and the visual and performing arts for elementary and middle school students. Revenues may be used for, but are not restricted to, providing qualified teachers and staff, professional development in the arts, musical instruments and instructional materials, services and equipment necessary to conduct these programs.

(c) Parent Outreach Services

Five percent (5%) of the revenues dedicated to the Programs to Enhance Student Learning shall be allocated annually for a variety of services to support the families of Berkeley's public school students by providing parent education and promoting greater parent involvement in their children's education.

(d) Flexibility of Funds

To maintain quality programs with the revenues available for these three purposes, up to ten percent (10%) of the allocations for these District-wide programs (School Libraries, Music and Visual and Performing Arts Programs, and Parent Outreach Services) may, on approval by the Board, be redistributed among these purposes provided no purpose receives more than 15% over its designated allocation in any given year.

C. Professional Development, Educational Program Evaluation, and Technology for Schools

Nine percent (9%) of the Available Revenues of this Measure shall be dedicated to providing professional development for the District's teachers and staff, to assessing the effectiveness of the District's educational programs for improving student achievement, and to providing and maintaining computers and technology in schools. All costs attendant to providing these services are permissible.

4. THE TAX LEVY

A. Tax Base

- i. The Special Tax shall be levied on the Square Footage of all Improvements, including all Buildings and Structures, on Parcels of taxable real property in the Berkeley Unified School District, except where the Improvements are otherwise exempt from taxation.

The tax levied shall be at the rate of 22.80 cents/square foot on all Improvements on Residential Parcels, 34.36 cents/square foot on all Improvements on Commercial, Industrial, and Institutional Parcels and \$50/parcel on Unimproved Parcels.

- ii. The tax base shall be as described in the Berkeley Municipal Code Section 7.56.020 which defines and delimits the parameters of the square footage applications, and which is incorporated by reference herein. Current definitions of the terms “Buildings,” “Improvements,” “Parcels,” “Square Footage,” and “Unimproved Parcels” pursuant to the Berkeley Municipal Code are provided in Section 6 of this Measure. In the event of the expiration of this Municipal Code for any reason, the same definitions shall continue to apply as the basis for this Special Tax. In the event of the modification of any Berkeley Municipal Code definition or term that applies to this Special Tax, the definition or term as modified shall apply to the basis for this Special Tax.
- iii. An exemption may be granted annually on any single family residential Parcel or multi-family dwelling unit owned and occupied by one or more very low-income senior citizens, upon annual application to the City of Berkeley for such exemption. To be eligible for such exemption, the senior citizen must be 65 years of age or older as of July 1 of any applicable tax year, and must meet the very low-income qualifications of Berkeley Municipal Code Section 7.56.035, which is incorporated by reference herein. In the event of expiration of Municipal Code Section 7.56.035 for any reason, the same qualification criteria shall continue to apply to this exemption.

- iv. With respect to all general property tax matters within their respective jurisdictions, the Alameda County Tax Assessor or the City of Berkeley shall make all final determinations of tax exemption or relief for any reason, and that decision shall be final and binding. With respect to matters specific to the levy of the Special Tax, a District administrative review panel or the City of Berkeley, as the designated agency, shall make all necessary final determinations, and that decision shall be final and binding.

B. Term

The term of this Measure shall be 10 years. The Measure shall be operative immediately upon passage. The tax shall be levied beginning in the 2007-2008 tax year and shall continue each year thereafter for ten years. Any proceeds from this Special Tax not spent during those fiscal years may be spent on all authorized purposes until exhausted.

C. Cost-of-Living Adjustment

Each year, commencing with the 2007-08 tax year, the first year of assessment, and thereafter, the rates imposed by this Special Tax may be increased by a cost-of-living adjustment equal to the annual percentage increase of the State of California statutory inflation adjustment as defined in Education Code Section 42238.1(b) which is incorporated by reference herein.

Any increase in funds raised by this Measure due to the cost-of-living adjustments set forth in this Section shall be allocated proportionally among the Measure's purposes in accordance with Section 2 of this Measure.

D. Constitutional Spending Limit

Pursuant to Article XIII B of the California Constitution and applicable laws, the appropriations limit of the District shall be increased periodically by the amount collected by the levy of this Special Tax.

E. Savings Clause

The provisions of this Measure shall not apply to any person, association, or corporation or to any property as to whom or which it is beyond the power of the District to impose the tax herein provided. The Board of Education hereby declares, and the voters by approving this measure concur, that every sentence, clause, section, and part of this Measure has

independent value and the Board of Education and the voters would have adopted each provision hereof regardless of every other provision hereof. If any sentence, clause, section, or part of this Measure or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, or part of this Measure and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or other parts of this Measure. It is hereby declared to be the intention of the Board of Education and of the electorate that this Measure would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof, not been included.

5. ACCOUNTABILITY PROVISIONS

A. Separate Account

Proceeds of this Special Tax shall be deposited into an account which shall be kept separate and apart from other accounts in the District and shall be applied only to the respective purposes in the percentages specified in Section 2.

B. Participation in Planning and Oversight of Special Tax Funds

i. District-wide Committee

A District-wide Planning and Oversight Committee, composed of parents/guardians, staff members, students, residents, or community members representing all school sites, shall be established to be advisory to the District, and, in accordance with bylaws adopted by the Board of Education, shall:

- present recommendations to the Board of Education about the annual expenditure plans for the revenues generated by this Measure;
- provide communication among school sites to enhance their effective use of the revenues provided by this Measure; and,
- review District compliance with the terms of this Measure.

ii. School Governance Council

A School Governance Council, composed of the school's Principal, teachers, staff members, parents/guardians, residents, or community members, shall be established at each pre-K-12 school site or designated program in accordance with California law, policies, and by-laws adopted by the Board of Education.

Each School Governance Council shall develop a School Site Plan which shall be focused on improving student learning and shall direct the revenues from section 3.B.i. of this Measure to implement the Board-approved School Site Plan.

At Berkeley High School, a committee composed of students, teachers, staff members and parents/guardians, residents or community members may make recommendations for expenditures allocated from this measure to the School Governance Council.

The District shall make available regularly to the Principal and the School Governance Council revenue and expenditure reports to enable the School Governance Council to prepare its School Site Plan.

C. Financial Oversight

The District shall make available to the Planning and Oversight Committee and the general public, updated revenue and expenditure reports of the proceeds of this Special Tax at least four times annually: before adoption of the District's annual budget, concurrently with the State-required interim reports, and with the annual report on the Measure ("Annual Report").

The Annual Report shall display the revenues generated by this Measure and the expenditures of the revenues as of the year's financial "closing," and shall include a report on the status of projects funded by the revenues. This report shall be organized to display clearly how the expenditures relate to the purposes of this Measure.

The Annual Report shall be delivered to the Planning and Oversight Committee no later than November 1 following the closing of the fiscal year. The Planning and Oversight Committee shall review the Annual Report and report to the Board of Education on the District's compliance with the conditions of this Measure by February 1.

D. Independent Auditor's Report and Audit Committee

Each year, an independent auditor retained by the District shall review District records to determine that funds generated by this Measure have been allocated and expended in compliance with the provisions of this Measure, including:

- that the funds raised by this Measure have been allocated to the respective purposes in the percentages specified in Section 2.
- that the funds raised by this Measure have been spent for purposes specified in Section 3, subdivisions A-C.
- that other provisions of this Measure have been satisfied.

The audit shall be conducted in accordance with generally accepted accounting principles, the Standards and Procedures for Audits of California K-12 Local Educational Agencies, and this Measure.

Subsequent to issuance of the Auditor's Report, the District's Audit Committee, as established by the Board of Education, shall review the Auditor's Report.

E. Civil Remedies Available at Law

The above provisions are in addition to civil remedies available at law for assuring compliance with the terms of this Measure.

6. DEFINITIONS

For purposes of this Measure, the following terms shall be defined as set forth below:

- A.** "Available Revenues" shall mean the amount of money provided by this Measure after deduction of authorized collection charges by the county or city for collection of the tax and two percent (2%) of Special Tax revenues for public information, translation services for District families and support of the Planning and Oversight Committee.

- B.** “Average Class Size” shall mean the District-wide average of the enrollment at each grade level in all K-12 classrooms, excluding physical education.

The formula for determining the number of full-time equivalent teachers (FTEs) in grades 6-12, to meet the Average Class Size objectives shall be: student enrollment x 6 class periods per day/per student, divided by 5 teaching periods, divided by Average Class Size objective, unless and until this formula is altered contractually by agreement between the District and the Berkeley Federation of Teachers (or the union representing BUSD teachers).

- C.** In accordance with Berkeley Municipal Code Section 7.56.020, subdivision A, which is incorporated by reference herein, “Building” means any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person or property of any kind. The word “building” includes the word “structure.”
- D.** In accordance with Berkeley Municipal Code section 7.56.020, subdivision F, which is incorporated by reference herein, “Improvements” mean all buildings or structures erected or affixed to the land.
- E.** Operational costs are all costs of operating relevant District programs to accomplish the Measure’s purposes and include but are not limited to personnel, materials, equipment, services, technology, facilities, maintenance and administrative costs. Administrative costs incurred in implementing this Measure shall be paid from the proceeds of this Measure at the District’s Indirect Cost Rate authorized by the California Department of Education.
- F.** In accordance with Berkeley Municipal Code Section 7.56.020, subdivision I, which is incorporated by reference herein, “Parcel” means a unit of real estate in one ownership as shown on the most current official assessment role of the Alameda County Assessor.
- G.** “Reducing Class Sizes” shall mean that the revenues allocated under Section 3. A. of this Measure shall be spent to reduce class sizes, below the staffing ratios supported by the District’s unrestricted general fund.

- H. “Severe Fiscal Emergency”- For a severe fiscal emergency to be declared under section 3.A.iii., it must be the result of unforeseen financial events and can only be declared by the Board of Education with no less than a 4/5 vote, when
- (a) The Board of Education determines the District’s Interim Financial Report to be “Qualified” or “Negative” pursuant to AB 1200 and AB 2756, and the Alameda County Office of Education concurs with this determination; or
 - (b) The Alameda County Office of Education has “Disapproved” the District’s annual budget, or has “Certified” the District’s Interim Financial Report as “Qualified” or “Negative.”
- I. In accordance with Berkeley Municipal Code Section 7.56.020, subdivision G, “Square Footage” means the total gross horizontal areas of all floors, including usable basement and cellars, below the roof and within the outer surface of the main walls of buildings (or the center lines of party walls separating such buildings or portions thereof) or within lines drawn parallel to and two feet within the roof line of any building or portion thereof without walls (which includes, notwithstanding paragraph 3 below, the square footage of all porches), and including pedestrian access walkways or corridors, but excluding the following:
- Areas used for off-street parking spaces or loading berths and driveways and maneuvering aisles relating thereto.
 - Areas which are outdoor or semi-outdoor areas included as part of the building to provide a pleasant and healthful environment for the occupants thereof and the neighborhood in which the building is located. This exempted area is limited to stoops, balconies and to natural ground areas, terraces, pools and patios which are landscaped and developed for active or passive recreational use, and which are accessible for use by occupants of the building.
 - Arcades, porticoes, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designated or used as sales, display, storage, service or production areas.

- J.** In accordance with Berkeley Municipal Code Section 7.56.020, subdivision H, which is incorporated by reference herein, “Structure” means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.
- K.** “Unimproved Parcel” means a taxable Parcel that does not contain Buildings or other Improvements.