

EXHIBIT D1:

Boyle Heights Community Plan Implementation Overlay (CPIO) District

Boyle Heights Community Plan Update

CF 23-0861; CPC-2016-2905-CPU; ENV-2016-2906-EIR

Recommended by the City Planning Commission on April 20, 2023

September 2023

Boyle Heights
Community Plan Implementation Overlay District
(Boyle Heights CPIO District)

Ordinance No. _____
Effective Date XXXXX

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City Planning Commission Recommended Draft – Summer 2023

CHAPTER I – FUNCTION OF THE CPIO DISTRICT

Section I-1. BOYLE HEIGHTS CPIO DISTRICT AUTHORITY AND BOUNDARIES

Pursuant to Los Angeles Municipal Code (LAMC) Chapter 1A Section 8.2.2, the City Council establishes the Boyle Heights Community Plan Implementation Overlay District (Boyle Heights CPIO District). The boundaries of the Boyle Heights CPIO District are contained within the boundaries of the Boyle Heights Community Plan Area (Community Plan Area) as adopted on _____ (Council File No. _____) and shown on Figures 1-4.

Figure 1. Subarea A - Community Benefits Program



Figure 2. Subarea B – Historic Resources Subarea

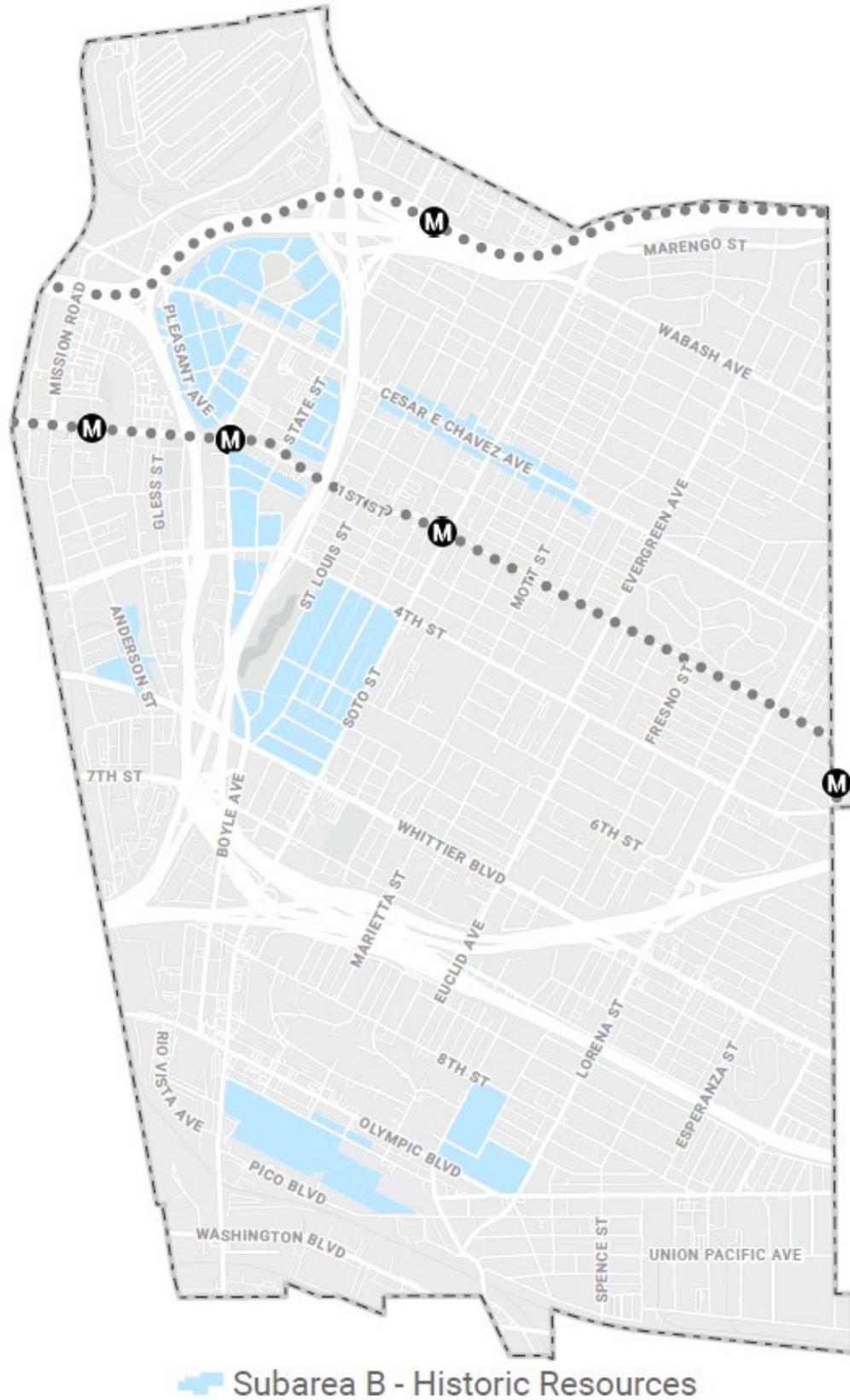


Figure 3. Subarea C – Soil Sampling Subarea

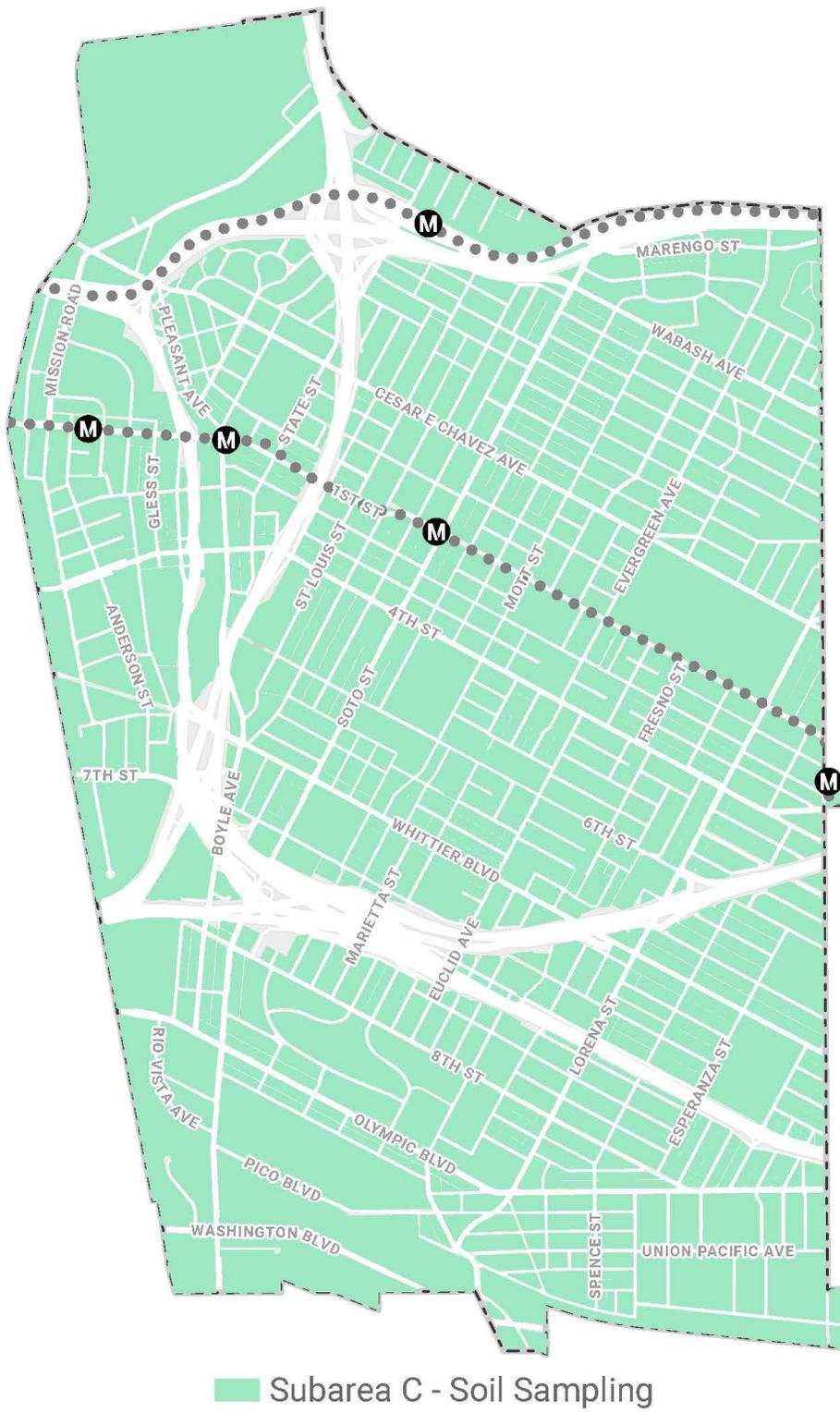


Figure 4. Subarea D – Public Lands



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Section I-2. PURPOSE

The purposes of the Boyle Heights CPIO District are as follows:

- I. To implement the goals and policies of the Boyle Heights Community Plan.
- II. To create development incentives that facilitate the production of affordable housing and are tailored to the neighborhood context.
- III. To encourage mixed-income and affordable housing development and minimize potential residential displacement.
- IV. To create approval processes, including a ministerial administrative clearance process, which enables mixed-income housing infill development that will positively impact communities in conformance with these regulations.
- V. To preserve and protect neighborhood identity, including protecting cultural and historic resources and distinctive character defining elements of existing urban form.
- VI. To ensure safe ground disturbance practices in areas where soil contaminants may exist.

Section I-3. SUBAREAS

The Boyle Heights CPIO District contains four Subareas as shown on Figures 1-4 and as precisely delineated by solid boundary lines on the CPIO District Boundary Maps, attached to the ordinance establishing the Boyle Heights CPIO District. The Subareas consist of contiguous or non-contiguous parcels characterized by common overarching Community Plan themes, goals, and policies, and are grouped by a common boundary. The Subareas are described below.

Community Benefits Program Subarea A

The Community Benefits Program (CBP) Subarea A applies to areas within Boyle Heights that allow multi-unit residential development. Subarea A strives to introduce more affordable housing development wherever multi-unit residential development is allowed. This Subarea includes an incentive structure that prioritizes mixed-income and 100 percent affordable housing. Within the Subarea, unique zones tailor the incentives to the surrounding context, offering greater intensities of height, FAR, and density around fixed rail transit stations and bus corridors.

Historic Resources Subarea B

The purpose of this subarea, which includes neighborhoods that have an abundance of historically and architecturally significant buildings, is to guide the ongoing maintenance and rehabilitation of these structures through an additional level of review.

Soil Sampling Subarea C

The purpose of this subarea, which includes the entirety of the Community Plan Area, is to ensure that soil contaminants are identified and mitigated prior to ground disturbance.

Public Lands Subarea D

The purpose of Subarea D is to support development of community serving uses and affordable housing on publicly owned land.

Section I-4. DEFINITIONS

100 Percent Affordable Housing. A project in which 100 percent of the residential dwelling units, excluding any manager unit(s), are Restricted Affordable Units as defined by the LAMC Chapter 1A.

Demolition. Throughout the CPIO, site activities that constitute Demolition are defined and determined by the Department of Building and Safety. For the purpose of implementing Chapter III, site activities that include the removal of building components, such that only exterior walls remain is considered Demolition.

Eligible Historic Resources. A building, structure, object, site, landscape, or natural feature identified as an individual resource or as a contributor to a historic district under a local, state or federal designation program; or identified as a contributor to an eligible historic district through SurveyLA (The Los Angeles Historic Resources Survey), or another historical resource survey, completed subsequent to the effective date of the CPIO, and completed by a person meeting the Secretary of the Interior's Professional Qualification Standards for Historic Preservation and accepted as complete by the Director, in consultation with the Office of Historic Resources (OHR). This term does not include a non-contributor to an eligible historic district.

Mixed-income Housing. A project comprising a mix of market-rate and Restricted Affordable Units.

Project. Within Subarea A, a “Project” shall mean any construction, erection, alteration of, or addition to a structure that would exceed the Base Floor Area and/or Base Height allowances authorized under the subject site’s Form District.

Within Subarea B, a “Project” shall mean any activity that requires the issuance of a building, grading, demolition, or change of use permit on any site that is an Eligible Historic Resource, unless the work consists solely of interior work such as tenant improvements or interior rehabilitation/repair.

Within Subarea C, a “Project” shall mean any activity that involves ground disturbance or requires a grading or excavation permit.

Within Subarea D, a “Project” shall mean any new construction located on a publicly owned lot that requests a transfer of floor area to transfer unused permitted floor area to another legally defined lot located within Subarea D.

Within all Subareas, a “Project” shall also mean the demolition of any habitable structure pursuant to Section I-6.B.4 of this CPIO.

Rehabilitation. The act or process of returning a property to a state of utility, through repair or Alteration, which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its Historical, architectural and Cultural values.

Restoration. The act or process of accurately recovering the form, features and details of a property as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

Restricted Affordable Unit. A Dwelling Unit for which rental amounts are restricted so as to be affordable to and occupied by Acutely-Low, Extremely-Low, Very-Low, or Lower income households, as determined by the Los Angeles Housing Department or its successor agency.

Section I-5. RELATIONSHIP TO OTHER ZONING REGULATIONS

- A. For properties within the boundaries of the Boyle Heights Community Plan, the Citywide Transit Oriented Communities Guidelines (TOC) shall be superseded by the provisions and requirements contained within this ordinance. The incentives contained within this ordinance and LAMC Ch. 1A Sec. 9.3.1 shall act as the TOC Area for those properties located within a one-half mile radius of a Major Transit Stop, as defined in subsection (b) of Section 21195 of the California Public Resources Code. For properties beyond the one-half mile radius of a Major Transit Stop and outlined in the Subarea map below, the Community Benefits Program is available as an optional incentive program for Eligible Housing Developments.

- B. Nothing in the Boyle Heights CPIO District is intended to override or conflict with any regulations in the LAMC or other ordinance establishing a park or Quimby fee or park or open space dedication requirement, including any provisions related to credits or fee and dedication calculations.
- C. Projects providing Restricted Affordable Units to fully utilize the Affordable Housing Local Incentive Program shall be considered exempt from the Affordable Housing Linkage Fee.
- D. Nothing in this Boyle Heights CPIO District is intended to override or conflict with any regulations in the LAMC that would otherwise require a conditional use permit.
- E. Nothing in this Boyle Heights CPIO District is intended to override or conflict with any bicycle parking regulations.
- F. Nothing in this Boyle Heights CPIO District is intended to override or conflict with the regulations set forth in LAMC Chapter 1A 9.2.1 that provide bonuses, waivers, and incentives for certain affordable housing projects. Projects that utilize bonuses, waivers, and incentives under LAMC Chapter 1A 9.2.1 shall not be eligible for the provisions contained within this ordinance.

Section I-6. REVIEW PROCEDURES

- A. **Prohibition of Issuance of DBS Permits Prior to CPIO Approval.** The Department of Building and Safety (DBS) shall not issue a permit for any Eligible Housing Development within a Boyle Heights CPIO subarea (in whole, or in part), that seeks to utilize the bonuses, waivers, and incentives contained herein, unless the Project has been reviewed and approved in accordance with this Section I-6.
- B. **CPIO Approval.** All Projects within a Boyle Heights CPIO District Subarea (in whole or in part) shall obtain an Administrative Clearance to demonstrate compliance with the Boyle Heights CPIO District. Projects within the Boyle Heights CPIO District Subarea A that request only Base Incentives pursuant to LAMC Ch. 1A Sec. 9.3.2.C. shall be considered ministerial and shall not be required to file an application with the Department of City Planning. All Projects within Boyle Heights CPIO District Subarea A that request Additional Incentives under LAMC Ch. 1A Sec. 9.3.2.D shall follow the Procedures in Sec. 9.2.1.1.G.2. An application for a CPIO Approval shall be reviewed and approved pursuant to LAMC Section 13B.3.1(Administrative Review), including as its requirements are modified and supplemented below:
 - 1. **Content of Application for a CPIO Approval.** An applicant shall provide, at a minimum, two sets of detailed permit drawings and any other exhibits deemed necessary to demonstrate compliance with all applicable provisions of the CPIO District.

2. **Administrative Clearance.**

- a. **Director Approval.** The Director shall grant an Administrative Clearance after reviewing the Project and finding that it is in compliance with all applicable provisions of the Boyle Heights CPIO District as indicated by a plan stamped by the Department of City Planning.
- b. **Non-Appealable Ministerial Approval.** The approval of an Administrative Clearance is not subject to appeal and is not discretionary for purposes of CEQA Guidelines Sections 15060(c)(1) and 15268.

3. **Director's Determination.** In addition to the requirements in Section I-6 C.2 above, and LAMC Chapter 1A Section 13.4.5, Projects subject to Subarea B shall file for a Director's Determination. The Director or the Director's designee shall have initial decision-making authority to grant a CPIO Director's Determination, with an appeal to the Area Planning Commission in accordance with the procedures set forth in LAMC Chapter 1A Section 13.4.5.

4. **CPIO Approval Compliance.** No demolition permit shall be issued for any Project unless building permits for a replacement development on the site have been issued, and any necessary land use entitlements have been granted.

- a. Notwithstanding the above this prohibition shall not apply to any structure deemed hazardous by the Department of Building and Safety.
- b. Furthermore, this prohibition shall not apply to structures that are considered uninhabitable.

Section I-7. ENVIRONMENTAL STANDARDS PROCEDURES

The Environmental Standards in Appendix A are included in the Boyle Heights CPIO District to implement the Mitigation & Monitoring Program included as part of the Boyle Heights Community Plan update and reviewed in the City of Los Angeles Boyle Heights Community Plan Environmental Impact Report (Case No. ENV-2016-2906-EIR), certified on XX, XX, XXXX.

Any Project subject to discretionary review within the CPIO Boundaries shall comply with all applicable Environmental Standards as set forth in Appendix A, subject to the following rules.

- A. **Applicability of Environmental Standards.** A Project does not need to comply with any Environmental Standard that is not relevant to the scope of activities involved with the Project. For example, a Project that proposes only minor façade alterations and no grading shall not be subject to Environmental Standards that apply to grading activities (such as noise and vibration standards). The decision maker, in his or her reasonable discretion, shall determine those Environmental Standards that apply to a particular Project.
- B. **Plans.** Compliance with all applicable Environmental Standards listed in Appendix A shall be demonstrated on the plans as project features (that is, features that are physically built into the Project such as an air filtration system) or as operational features on a sheet within the plans (that is, features that are carried out either during the construction of the Project, or over the life of the project, such as the use of paints, sealants, and other building materials that yield low air pollutants).
- C. **Modification of Environmental Standards.** Modifications of Environmental Standards do not require the processing of a CPIO Adjustment or CPIO Exception. The Director (or appeal body on appeal) may modify or not require an Environmental Standard listed in Appendix A for any Project when: (1) the Director finds in writing, based upon substantial evidence, the Environmental Standard is not necessary to mitigate an impact, including because of the existence of a similar or more effective regulation that applies to the Project; (2) the City complies with CEQA Guidelines, Section 15162, including by preparing an addendum or subsequent environmental clearance to the Boyle Heights Community Plan EIR to analyze the impacts from the modifications to the Environmental Standards; or (3) the City prepares a new CEQA clearance for the Project. No CPIO Approval shall be issued for a Project with a modified Environmental Standard until this subsection has been complied with. The modification of an Environmental Standard is not independently appealable unless an appeal of an entitlement or CEQA determination is otherwise available through this CPIO District, the LAMC, or CEQA.

Section I-8. CEQA CLEARANCE

For purposes of CEQA compliance for subsequent projects approved with a CPIO Approval, including, but not limited to, consideration of a CEQA clearance pursuant to Government Code Section 65457, Public Resources Code Section 21155.4; or CEQA Guidelines, Sections 15183 or 15183.3, the Boyle Heights CPIO District shall operate and be treated as a specific plan, zoning ordinance, and a prior plan level decision for which and EIR was certified.

Section I-9. SEVERABILITY

If any portion, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each portion or subsection, sentence, clause

and phrase herein, irrespective of the fact that any one or more portions, subsections, sentences, clauses or phrases be declared invalid.

CHAPTER II – COMMUNITY BENEFITS PROGRAM SUBAREA

COMMUNITY BENEFITS PROGRAM SUBAREA

A – BOYLE HEIGHTS COMMUNITY BENEFITS PROGRAM SUBAREA A

OVERVIEW

The Community Benefits Program (CBP) Subarea, shown on Figure I, introduces more affordable housing development throughout the Plan Area. This Subarea includes a tiered incentive structure that prioritizes mixed-income and 100 percent affordable housing and seeks to ensure replacement units on the project site. Within the Subarea, unique zones tailor the incentives to the surrounding context, offering greater height, FAR, and density incentives around fixed rail transit stations and bus corridors.

Section II. LOCAL AFFORDABLE HOUSING INCENTIVE PROGRAM

II – 1. For properties within the boundaries of the Boyle Heights Community Plan, where this CPIO District applies, optional development incentives are available for Eligible Housing Developments that meet the requirements outlined in LAMC Ch. 1A Sec. 9.3.1. Within the boundaries of the Boyle Heights Community Plan, the Citywide Transit Oriented Communities (TOC) Guidelines shall be superseded by the provisions and requirements contained within this ordinance.

II – 2. ELIGIBILITY. An Eligible Housing Development shall be eligible for Local Affordable Housing Incentives Pursuant to LAMC Chapter 1A Sec. 9.3.2. within Subarea A of the CPIO if it meets all of the following requirements:

1. **On-Site Restricted Affordable Units.** On-Site Restricted Affordable Units shall be provided at levels outlined in **Set B** of LAMC Ch. 1A 9.3.2. The minimum number of On-Site Restricted Affordable Units shall be calculated based upon the total number of units in the final project.
2. **Dwelling Unit Mix and Location.** A minimum of 30% of the dwelling units for an Eligible Housing Development shall be two bedrooms or larger, and LAHD shall determine the location of the restricted affordable units within the development. Projects that provide 100% of the units in the development as deed-restricted affordable units, except for a manager’s unit, are exempt from this requirement.
3. **Dwelling Units.** All units in an Eligible Housing Development shall meet the definition of a “Household Dwelling Unit” as defined in LAMC Ch.1A Div. 14.2.

II – 3. Base Incentives. An Eligible Housing Development that meets the requirements outlined in Section II-2 above shall be eligible for the Base Incentives for **Set B** established in LAMC Ch. 1A 9.3.2.C. Projects utilizing Base Incentives only shall follow the procedures in Section I-6.C. of this ordinance.

1. For properties located within Subarea A, a Housing Development shall be eligible for a 75% decrease in the required parking for residential uses, as outlined in Ch. 1A 9.3.2.C.4.a.

II – 4. Additional Incentives. In addition to the applicable Base Incentives, an Eligible Housing Development that meets the requirements outlined in Section II. above may be granted up to three (3) of the additional incentives listed in LAMC Ch. 1A 9.3.2.D by following the procedures in LAMC Ch. 1A 9.3.3.D

CHAPTER III – HISTORIC PRESERVATION SUBAREA

HISTORIC PRESERVATION SUBAREA

B – HISTORIC PRESERVATION SUBAREA B

OVERVIEW

The purpose of this subarea, which includes neighborhoods that have an abundance of historically and architecturally significant buildings, is to maintain the eligibility of individual historic resources and historic districts, and guide the ongoing maintenance and rehabilitation of these structures.

III – 1. Eligible Historic Resource Evaluation. Prior to any other CPIO Approval being issued, a Project in this subarea that involves an Eligible Historic Resource shall comply with the following review procedures:

A. Non-Demolitions. For any Project that does not involve the demolition of an Eligible Historic Resource, no CPIO Approval shall be issued until one of the following occurs:

- i. The Director, in consultation with the Office of Historic Resources, determines, based upon substantial evidence, that the Eligible Historic Resource is not an historical resource, as defined by Public Resources Code Section 21084.1; or,
- ii. The Director, in consultation with the Office of Historic Resources, determines, based upon substantial evidence, that the Project is consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings; or,
- iii. A Director's Determination pursuant to Section I-6.C.3 of this CPIO, and Environmental review in compliance with CEQA was completed for the Project, including if necessary, the adoption of a statement of overriding considerations.

B. Demolitions. For any Project that involves the demolition of an Eligible Historic Resource, no CPIO Approval shall be issued until one of the following occurs:

- i. The Director, in consultation with the Office of Historic Resources, determines, based upon substantial evidence, that the Eligible

Historic Resource is not an historical resource, as defined by Public Resources Code Section 21084.1; or

- ii. A Director's Determination pursuant to Section I-6.C.3 of this CPIO, and, Environmental review in compliance with CEQA was completed on the Project, including if necessary, the adoption of a statement of overriding considerations.
 - a. No Director's Determination shall be issued for Demolition or removal of any building or structure, within a National Register Historic District, within Subarea B, that is designated as a Contributing Element, and the application shall be denied unless the Owner can demonstrate to the Director that the owner would be deprived of all economically viable use of the property. In making its determination, the Director shall consider any evidence presented concerning the following:
 1. An opinion regarding the structural soundness of the structure and its suitability for continued use, renovation, Restoration or Rehabilitation from a licensed engineer or architect who meets the Secretary of the Interior's Professional Qualification Standards as established by the Code of Federal Regulation, 36 CFR Part 61. This opinion shall be based on the Secretary of the Interior's Standards for Architectural and Engineering Documentation with Guidelines;
 2. An estimate of the cost of the proposed, demolition, and replacement project and an estimate of the cost that would be incurred to execute a Secretary of the Interior's Standards for Rehabilitation alternative to the project, as identified in a Project Environmental Impact Report (EIR), or in the absence of an EIR, when appropriate under CEQA, as identified by the Director of Planning in consultation with the Cultural Heritage Commission or its designee;
 3. An estimate of the market value of the property in its current condition; after completion of the proposed Demolition and replacement project; and after any expenditure necessary to execute a Secretary of the Interior's Standards for

Rehabilitation alternative to the project, as identified in a Project Environmental Impact Report (EIR), or in the absence of an EIR, when appropriate under CEQA, as identified by the Director of Planning in consultation with the Cultural Heritage Commission or its designee;

4. An estimate from architects, developers, real estate consultants, appraisers, or other real estate professionals experienced in Rehabilitation as to the economic feasibility of Restoration, renovation or Rehabilitation of any existing structure or objects. This shall include tax incentives and any special funding sources, or government incentives which may be available.

C. CEQA Review for Eligible Historic Resources. In complying with this Section III-I, if at any time the Director, in consultation with the Office of Historic Resources, determines the Eligible Historic Resource is not a historical resource as defined by Public Resources Code Section 21084.1, approval of the Project (involving no other discretionary approvals) shall be a ministerial approval for purposes of CEQA, including CEQA Guidelines, Section 15268.

CHAPTER IV – SOIL SAMPLING SUBAREA

SOIL SAMPLING SUBAREA

C – Soil Sampling Subarea C

OVERVIEW

The purpose of Subarea C is to facilitate cleanup of contaminated soils and minimize public health risk by requiring soil sampling for projects that include ground disturbance. Any project within this Subarea is subject to soil sampling prior to ground disturbance to reduce health impacts to Boyle Heights residents.

IV – 1. Eligibility. Any project conducting excavation, grading, or other types of ground or soil disturbance must conduct a soil test to determine if elevated levels of lead or arsenic are present.

IV – 2. Clearance. Prior to grading, excavation, or building permit issuance, soil test results must be provided to Building & Safety demonstrating that elevated levels of lead or arsenic are not present.

IV – 3. If elevated levels of lead or arsenic are present, the project must comply with any requirements from LADBS and coordinate with other agencies as necessary. An abatement plan prepared by a qualified expert may be required and the project shall comply with all federal, state, and local hazard material laws. Prior to issuance of any permits, the qualified expert shall certify compliance with the abatement plan and shall certify that it is safe to issue and act under the sought permit, including providing a no further action letter by the enforcing agency if applicable. The qualified expert shall be subject to City approval and all records submitted to the City by expert shall be signed under penalty of perjury.

[Soil Sampling Subarea C may become an Environmental Protection Measure through the adoption process]

CHAPTER V – PUBLIC LANDS SUBAREA

PUBLIC LANDS DEVELOPMENT STANDARDS SUBAREA

D – Public Lands Development Standards Subarea D

OVERVIEW

The purpose of **Subarea D** is to regulate development on publicly owned lands and allow for floor area to be transferred between publicly-owned properties in the Community Plan Area, to support and facilitate public serving uses and affordable housing.

V – 1. Transfer of Floor Area. Any owner(s) of a legally defined lot located within Subarea D may transfer unused permitted floor area to another legally defined lot within Subarea D, pursuant to the procedures of this section.

- A. Floor Area.** Total floor area in the Public Lands Subarea D shall not exceed 3.0:1 FAR and no individual site shall exceed 4.0:1 FAR through a transfer of floor area.
- B. Limitation.** Any project constructed with transferred floor area must comply with all regulations set forth in this Subarea.
- C. Procedures.** Projects seeking the transfer of unused permitted floor area, within the floor area cap, shall apply for an Administrative Clearance pursuant to the provisions of Section I-6 C.2 of this CPIO.

APPENDIX A – ENVIRONMENTAL STANDARDS

OVERVIEW

As described in Section I-7 of the CPIO District, these Environmental Standards are included to implement the Mitigation & Monitoring Program included as part of the Boyle Heights Community Plan update and reviewed in the Boyle Heights Environmental Impact Report (Case No. ENV-2016-2906-EIR), certified by the City Council.

In addition to Projects in Subareas that are required to comply with these Environmental Standards, any other discretionary project in the boundaries of the Boyle Heights Community Plan Area that seeks to rely on the Boyle Heights EIR for its CEQA clearance (including through tiering, preparing an addendum, supplemental EIR or a statutory infill exemption), may incorporate or impose the following Environmental Standards on the project. Compliance may be achieved through covenant, conditions, plan notations, or other means determined reasonably effective by the Director of Planning or the decision-maker.

[MITIGATION MEASURES / ADDITIONAL ENVIRONMENTAL STANDARDS FORTHCOMING]