

Mayor
Lisa Motoyama
Mayor Pro Tem
Tessa Rudnick



Councilmembers
Paul Fadelli
Gabriel Quinto
Carolyn Wysinger

TUESDAY, FEBRUARY 7, 2023

SPECIAL CITY COUNCIL MEETING (5:00 PM)

Hillside Conference Room - 10890 San Pablo Ave, El Cerrito

Join Via Zoom:

<https://us06web.zoom.us/j/85276251169?pwd=OE91T2p6S2ZOc1VZSWVyNUIBZVA1QT09>

Meeting ID: 852 7625 1169 **Password:** 606388 **Dial in:** 1-408-638-0968

REGULAR CITY COUNCIL MEETING (6:00 PM)

Council Chambers - 10890 San Pablo Ave, El Cerrito

Join Via Zoom:

<https://us06web.zoom.us/j/81055939387?pwd=UnJ3Z1ZLUGttcXZKSDRFNU56RkRzd09>

Meeting ID: 810 5593 9387 **Password:** 732723 **Dial in:** 1-408-638-0968

View (Regular Meeting Only):

1. Cable T.V. Broadcast on KCRT Channel 28
2. Livestream Online at www.el-cerrito.org/CouncilMeetingMaterials

Teleconferencing: Consistent with the Brown Act as amended by AB 361 (2021), all individuals may participate in-person at the location listed above, or remotely via zoom. In-person attendance limited to available seats and designated accessible spaces only (no standing room). Masks are strongly recommended ([full in-person protocols available here.](#))

Accommodations: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk at 510-215-4305. Notification 48 hours prior to the meeting will enable the City to make reasonable accommodations. Closed Captions available via zoom.

Conduct: This meeting shall be conducted pursuant to the El Cerrito [City Council Rules of Order and Procedure](#), including adjourning by 11:00 PM unless extended to a specific time determined by a majority of the Council.

Public Comments:

1. *In-person* by submitting a request to speak to the City Clerk.
2. *Via Zoom* using the "[Raise Hand](#)" icon to request to speak.
3. *By Phone* at 1-408-638-0968, dial *9 to "raise your hand".
4. *By Email* to cityclerk@ci.el-cerrito.ca.us identified in the subject line as **Public Comments – Agenda Item #.**

Written comments received by **2:00 p.m. the day of the meeting** will be provided to the City Council and posted [online](#) in advance of the meeting. Comments received after the deadline will be provided to the City Council and will be posted **after the meeting**.

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5:00 PM ROLL CALL - CONVENE SPECIAL CITY COUNCIL MEETING

1. ORAL COMMUNICATIONS FROM THE PUBLIC

All persons wishing to speak should sign up with the City Clerk. Remarks are typically limited to 3 minutes per person and to items on the special meeting agenda only.

2. CLOSED SESSION CONFERENCE WITH NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency Designated Representatives: Karen Pinkos, City Manager; Alexandra Orologas, Assistant City Manager; Shannon Bassi, Senior Human Resources Analyst; Glenn Berkheimer, Labor Negotiator; and Sky Woodruff, City Attorney.
Employee Organizations: Public Safety Management Association (PSMA); and United Professional Firefighters Local 1230.

Contact: Sky Woodruff, City Attorney, City Management

3. ADJOURN REGULAR CITY COUNCIL MEETING

6:00 PM ROLL CALL – CONVENE REGULAR CITY COUNCIL MEETING

**1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF A
MOMENT OF SILENCE**

2. TELECONFERENCE AND PUBLIC COMMENT INSTRUCTIONS

3. COUNCIL/STAFF COMMUNICATIONS

Reports of closed session, commission appointments and informational reports on matters of general interest which are announced by the City Council and staff.

4. ORAL COMMUNICATIONS FROM THE PUBLIC

Remarks are typically limited to 3 minutes per person. The Mayor may reduce the time limit per speaker depending upon the number of speakers and may limit the total time for public comment to facilitate the completion of business on the agenda. Comments regarding non-agenda, presentation and consent calendar items will be heard first. Comments related to items appearing on the Public Hearing or Policy Matter portions of the Agenda will be heard prior to the City Council taking action on each item.

5. PRESENTATIONS

**A. Proclamation Honoring Captain Brian Cheshareck Firefighter of the
Year**

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Action Proposed: Approve a proclamation honoring Captain Brian Cheshareck as Firefighter of the Year in the City of El Cerrito.

Contact: Eric Saylors, Fire Chief, Fire Department

B. Legislative Bodies and Remote Participation Regulations Effective March 1, 2023

Action Proposed: Receive and file a presentation reviewing updates to legislation related to remote participation in meetings subject to the Brown Act including AB361, AB2449, and existing requirements under the Brown Act.

Contact: Holly M. Charl  ty, City Clerk; Sky Woodruff, City Attorney, City Management

C. Presentation of wood-frame target story (“soft story”) multi-unit residential properties

Action Proposed: Receive and file a presentation regarding a study of wood-frame target story (“soft story”) multi-unit residential properties in El Cerrito.

Contact: Aissia Ashoori, Housing Manager; Keith Marks, Chief Building Official; Melanie Mintz, Community Development Director, Community Development Department

6. ADOPTION OF THE CONSENT CALENDAR

All items on the consent calendar shall be acted upon in one motion, unless a member of the City Council or staff request separate consideration.

A. Day Of Remembrance Of Japanese American Incarceration During World War II

Action Proposed: At the request of Mayor Motoyama, approve a proclamation recognizing February 19 as a Day of Remembrance of Japanese American Incarceration in El Cerrito.

Contact: Holly M. Charl  ty, City Clerk, City Management

B. Black History Month Proclamation

Action Proposed: Pass a motion to approve a proclamation declaring February as Black History Month in the City of El Cerrito, and flying the

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Pan African Flag for the month of February.

Contact: Shannon Bassi, Senior Human Resources Analyst, Human Resources

C. Lunar New Year Proclamation

Action Proposed: Pass a motion to approve a proclamation recognizing the cultural and historical significance of Lunar New Year in the City of El Cerrito.

Contact: Shannon Bassi, Senior Human Resources Analyst, Human Resources

D. 2nd Read and Adoption of an Ordinance Amending City Council Regular Meeting Start Time

1st Reading 1/17/2023

Action Proposed: Pass a motion to waive the second reading and adopt Ordinance 2023-02 amending Section 2.04.010 to change the Regular City Council meeting start time from 7:00 p.m. to 6:00 p.m

Contact: Holly M. Charléty, City Clerk, City Management

E. Parking Time Limit Modification in front of 10340 San Pablo Avenue

Action Proposed: Approve a resolution authorizing the Public Works Director/City Engineer to install eighteen (18) feet of green curb markings with a parking time limit of thirty (30) minutes in front of 10340 San Pablo Avenue.

Contact: Roland Lambert, Interim Engineering Manager/Senior Engineer, Public Works Department; Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department

F. Acceptance and Agreements for Emergency Vehicle Access Easements at 1711 and 1755 Eastshore Boulevard

Action Proposed: Adopt a resolution accepting two Emergency Vehicle Access Easements from Security Public Storage – El Cerrito, LLC, and from El Cerrito Affordable Housing Partners, LLC (“Owners”), to provide access for emergency vehicles at 1711-1755 Eastshore Boulevard, and authorizing the City Manager to execute two Certificates of Acceptance for the Easement Deeds and record the easements.

Contact: Sean Moss, Planning Manager, Community Development

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7. PUBLIC HEARINGS

8. POLICY MATTERS

A. Predevelopment Loan with ECP Parcel A South Housing Partners, LP for the El Cerrito Plaza BART Transit-Oriented Development, and Inclusion of City Owned Property in Project Application

Action Proposed: 1) Adopt a resolution authorizing the City of El Cerrito to enter into a Predevelopment Loan Agreement (Loan) with ECP Parcel A South Housing Partners, LP (Developer), for the property located at 515 Richmond Street - APN 504-050-012-5 - also known as Parcel A South (ECP-PAS) - El Cerrito Plaza BART Transit-Oriented Development (Development) for predevelopment activities related to the construction of 70 affordable housing units; and 2) Adopt a resolution authorizing the inclusion of a small City-owned property to be included in an entitlement application for a portion of the residential development in the El Cerrito Plaza BART Station Transit-Oriented Development Project and authorizing the City Manager to sign necessary development applications to include the property and to initiate negotiations for potential conveyance of the property to BART.

Contact: Aissia Ashoori, Housing Manager; Sean Moss, Planning Manager; Melanie Mintz, Community Development Director, Community Development Department

B. Caltrans Maintenance Agreements for El Cerrito del Norte Transit-Oriented Development Complete Streets Improvement Project and On-going Operations

Action Proposed: Adopt a resolution approving and authorizing execution of an Electrical Facilities Cost Sharing Agreement, Amendment No. 3 to Agreement for Maintenance of State Highways, and a Project Specific Maintenance Agreement between the State of California Department of Transportation (Caltrans) and the City of El Cerrito (City) for the El Cerrito del Norte Transit-Oriented Development (TOD) Complete Streets Improvement Project and on-going operations.

Contact: Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department

9. CITY COUNCIL LOCAL & REGIONAL LIAISON ASSIGNMENTS

Mayor and City Council communications regarding local and regional liaison assignments and committee reports.

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10. ADJOURN REGULAR CITY COUNCIL MEETING

In memory of former El Cerrito Councilmember and Mayor Janet Abelson.

The next regularly scheduled City Council meeting is Tuesday, February 21, 2023 at 6:00 p.m.

The City of El Cerrito serves, leads and supports our diverse community by providing exemplary and innovative services, public places and infrastructure, ensuring public safety and creating an economically and environmentally sustainable future.

EL CERRITO CITY COUNCIL PROCLAMATION
Commending and Congratulating Captain/Paramedic Brian Cheshareck for his
Selection as El Cerrito Fire Department Firefighter of the Year 2022

WHEREAS, Captain Brian Cheshareck began his career in El Cerrito as a Firefighter/Paramedic on November 28, 2004, and began to quickly adapt to the many roles that all fire employees play in the success of the El Cerrito-Kensington Fire Department; and

WHEREAS, Captain Brian Cheshareck continued his career by fulfilling positions that demanded great responsibility demonstrated by his promotion to Engineer on February 10, 2008, followed by his promotion to Captain on November 1, 2012; and

WHEREAS, Captain Brian Cheshareck has spent countless, selfless hours mentoring the department's new hires and assisting his peers; and

WHEREAS, Captain Brian Cheshareck has taken on the task of managing the department's fleet of fire engines and works hard to keep them in serviceable condition while communicating the necessities of that assignment to his co-workers; and

WHEREAS, Captain Brian Cheshareck worked diligently on the coordination and implementation of the Engineer's promotional exam during the past year; and

WHEREAS, Captain Brian Cheshareck was instrumental during the year in facilitating Station 65's relocation to its temporary quarters for the duration of construction; and

WHEREAS, Captain Brian Cheshareck lead the effort to order a new fire engine 71 during 2022 including writing the design specifications for the engine and working with the manufacturer and the department Apparatus Committee; and

WHEREAS, Captain Brian Cheshareck is humble, hard-working, trustworthy and an asset to the department's organization; and

WHEREAS, Captain Brian Cheshareck was chosen by his colleagues to receive the Firefighter of the Year 2022 for his exemplary leadership and dedication to the department.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby commend and congratulate Captain/Paramedic Brian Cheshareck on the occasion of his recognition as Firefighter of the Year. The City Council extends sincere appreciation to Captain/Paramedic Brian Cheshareck for his devotion to the community and the residents of El Cerrito.

Dated: February 7, 2023

Lisa Motoyama, Mayor



AGENDA BILL

Agenda Item No. 5.B.

Date: February 7, 2023
To: El Cerrito City Council
From: Holly M. Charl  y, City Clerk; Sky Woodruff, City Attorney, City Management
Subject: Legislative Bodies and Remote Participation Regulations Effective March 1, 2023

ACTION PROPOSED

Receive and file a presentation reviewing updates to legislation related to remote participation in meetings subject to the Brown Act including AB361, AB2449, and existing requirements under the Brown Act.

BACKGROUND/ANALYSIS

As of February 28, 2023, there will no longer be a California state of emergency in effect and therefore it is likely that legislative bodies will no longer be able to comply with the regulatory requirements to meet under AB361. The following provides a brief summary of the remote participation options as of **March 1, 2023**. This includes Assembly Bill 2449 (AB2449), which went into effect on January 1, 2023, and existing teleconferencing provisions under the Brown Act.

AB2449 – Allows a member of the legislative body to participate remotely ***without*** disclosing or providing public access to the remote location.

Limitations of Use

Regardless of the eligible reasons listed below, the use of exceptions under AB2449 is limited to 3 consecutive months or 20% of the regular meetings within a calendar year. A quorum of body members must meet in the same physical location.

Eligible Exceptions

Just Cause (Limit to 2 times per calendar year)

1. The need to provide childcare or caregiving for a family member; or
2. Having a contagious illness that prevents in-person attendance; or
3. A need related to a physical or mental disability; or
4. Traveling while on official business of the legislative body, or other state/local agency.

Emergency Circumstances

1. A physical or family medical emergency that prevents a member from attending the meeting in person.

- Member is not required to disclose any medical diagnosis or disability, or personal medical information.

Requirements

Legislative Body Member:

1. Must notify the City Clerk and City Manager as soon as possible with a general description of the circumstances allowed under the *Eligible Reasons* listed above.
2. A separate request is required for each meeting (regardless of the eligible reason.)
3. The member is required to participate with **both** audio and visual technology.
4. Before *each* vote at the meeting, the member must verbally disclose if any individual over the age of 18 years of age is present in the room and the nature of the relationship of any such individual.

Legislative Body:

1. A quorum of the legislative body **must** meet in person from one location that is accessible to the public.
2. In addition to in-person attendance, the legislative body **must** provide an option for public participation via a call-in, internet-based service.
 - This information **must** be listed on the agenda and no action may be taken if the method of remote public participation becomes unavailable during the meeting.
3. FOR EMERGENCY CIRCUMSTANCES ONLY The legislative body **must** consider and take action on request(s) from member(s) at the beginning of the meeting.

If any of the requirements of the Legislative Body cannot be met, the member is not eligible to utilize the AB2449 exception but can participate in the meeting under existing Brown Act provisions outlined below.

BROWN ACT TELECONFERENCING REQUIREMENTS

Authorizes member(s) of a legislative body to participate remotely as long as the following conditions are met:

1. At least a quorum of the legislative body are participating from locations within the City limits of El Cerrito; and
2. The address of each remote location is listed on the agenda; and
3. Each remote location has a copy of the agenda posted 72 hours in advance of the meeting (in a location that is visible and accessible 24/7); and
4. Each remote location is open and accessible to the public and allows any public in attendance to provide public comment; and
5. All votes are taken by roll call.

CITY BOARDS, COMMISSIONS, AND COMMITTEES
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The City currently has 13 Boards, Commissions, and Committees (Advisory Bodies) which equates to regular evening meetings held on 10 out of 18 working days per month. One department staff is assigned to each advisory body as a staff liaison. The liaison is typically also a subject matter expert in the area of responsibility of the advisory body. The liaison is intricately involved in facilitating the meeting, participating in the discussion, ensuring the requirements of the Brown Act are met, and taking meeting minutes. A hybrid meeting would require the additional responsibility of facilitating technology for the in-person meeting as well as the technology for running a remote zoom meeting, and facilitating public comment both in person and remotely. This amount of work would require two to three staff members to participate in running a hybrid meeting, as is required for running hybrid City Council meetings.

While it is the ultimate goal of the city to eventually provide hybrid meetings for all City Advisory Bodies, at this time the City does not currently have sufficient staffing resources to provide a hybrid meeting for Advisory Bodies that would meet the regulatory requirements under AB2449. As a result, all **City Advisory Bodies will return to meeting in-person only effective March 1, 2023**. Only existing teleconferencing rules under the Brown Act will be permitted for members of Advisory Bodies to participate in a meeting remotely. The City will provide an audio-only call-in option for those members who have coordinated with their staff liaison in advance of publication of the meeting agenda to ensure that these requirements are met.

STRATEGIC PLAN CONSIDERATIONS

This item is consistent with El Cerrito Strategic Plan Goal A - Deliver exemplary government services.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

This section is not applicable to this agenda item.

LEGAL CONSIDERATIONS

This approach and overview has been discussed and approved by the City Attorney.

Reviewed by:



Karen Pinkos, City Manager

Attachments:

1. AB2449 Bill Text



AB-2449 Open meetings: local agencies: teleconferences. (2021-2022)

SHARE THIS:



Date Published: 09/14/2022 09:00 PM

Assembly Bill No. 2449

CHAPTER 285

An act to amend, repeal, and add Sections 54953 and 54954.2 of the Government Code, relating to local government.

[Approved by Governor September 13, 2022. Filed with Secretary of State September 13, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2449, Blanca Rubio. Open meetings: local agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act generally requires posting an agenda at least 72 hours before a regular meeting that contains a brief general description of each item of business to be transacted or discussed at the meeting, and prohibits any action or discussion from being undertaken on any item not appearing on the posted agenda. The act authorizes a legislative body to take action on items of business not appearing on the posted agenda under specified conditions. The act contains specified provisions regarding providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health.

This bill would revise and recast those teleconferencing provisions and, until January 1, 2026, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements that each teleconference location be identified in the notice and agenda and that each teleconference location be accessible to the public if at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the local agency's jurisdiction. Under this exception, the bill would authorize a member to participate remotely under specified circumstances, including participating remotely for just cause or due to emergency circumstances. The emergency circumstances basis for remote participation would be contingent on a request to, and action by, the legislative body, as prescribed. The bill, until January 1, 2026, would authorize a legislative body to consider and take action on a request from a member to participate in a meeting remotely due to emergency circumstances if the request

does not allow sufficient time to place the proposed action on the posted agenda for the meeting for which the request is made. The bill would define terms for purposes of these teleconferencing provisions.

This bill would impose prescribed requirements for this exception relating to notice, agendas, the means and manner of access, and procedures for disruptions. The bill would require the legislative body to implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with federal law.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 54953 of the Government Code, as amended by Section 3 of Chapter 165 of the Statutes of 2021, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

(B) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(C) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(f) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audiovisual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

(D) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet

website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

(g) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(h) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(i) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing members of the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(j) For the purposes of this section, the following definitions shall apply:

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).

(D) Travel while on official business of the legislative body or another state or local agency.

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (f), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(5) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(6) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(7) "Two-way audiovisual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(8) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(9) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

(k) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 2. Section 54953 of the Government Code, as added by Section 4 of Chapter 165 of the Statutes of 2021, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audiovisual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

(D) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further

action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

(f) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(g) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(h) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing members of the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(i) For the purposes of this section, the following definitions shall apply:

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (f).

(D) Travel while on official business of the legislative body or another state or local agency.

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (e), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(5) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(6) "Two-way audiovisual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(7) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(8) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

(j) This section shall become operative January 1, 2024, shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 3. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each

teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2026.

SEC. 4. Section 54954.2 of the Government Code is amended to read:

54954.2. (a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(2) For a meeting occurring on and after January 1, 2019, of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site, the following provisions shall apply:

(A) An online posting of an agenda shall be posted on the primary Internet Web site homepage of a city,

county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

(B) An online posting of an agenda including, but not limited to, an agenda posted in an integrated agenda management platform, shall be posted in an open format that meets all of the following requirements:

(i) Retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications.

(ii) Platform independent and machine readable.

(iii) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the agenda.

(C) A legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site and an integrated agenda management platform shall not be required to comply with subparagraph (A) if all of the following are met:

(i) A direct link to the integrated agenda management platform shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an Internet Web site with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.

(ii) The integrated agenda management platform may contain the prior agendas of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state for all meetings occurring on or after January 1, 2019.

(iii) The current agenda of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state shall be the first agenda available at the top of the integrated agenda management platform.

(iv) All agendas posted in the integrated agenda management platform shall comply with the requirements in clauses (i), (ii), and (iii) of subparagraph (B).

(D) For the purposes of this paragraph, both of the following definitions shall apply:

(i) "Integrated agenda management platform" means an Internet Web site of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.

(ii) "Legislative body" has the same meaning as that term is used in subdivision (a) of Section 54952.

(E) The provisions of this paragraph shall not apply to a political subdivision of a local agency that was established by the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state.

(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(4) To consider action on a request from a member to participate in a meeting remotely due to emergency circumstances, pursuant to Section 54953, if the request does not allow sufficient time to place the proposed action on the posted agenda for the meeting for which the request is made. The legislative body may approve such a request by a majority vote of the legislative body.

(c) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

(1) A legislative body as that term is defined by subdivision (a) of Section 54952.

(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.

(e) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 5. Section 54954.2 is added to the Government Code, to read:

54954.2. (a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(2) For a meeting occurring on and after January 1, 2019, of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site, the following provisions shall apply:

(A) An online posting of an agenda shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

(B) An online posting of an agenda including, but not limited to, an agenda posted in an integrated agenda management platform, shall be posted in an open format that meets all of the following requirements:

(i) Retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications.

(ii) Platform independent and machine readable.

(iii) Available to the public free of charge and without any restriction that would impede the reuse or

redistribution of the agenda.

(C) A legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site and an integrated agenda management platform shall not be required to comply with subparagraph (A) if all of the following are met:

(i) A direct link to the integrated agenda management platform shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an Internet Web site with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.

(ii) The integrated agenda management platform may contain the prior agendas of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state for all meetings occurring on or after January 1, 2019.

(iii) The current agenda of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state shall be the first agenda available at the top of the integrated agenda management platform.

(iv) All agendas posted in the integrated agenda management platform shall comply with the requirements in clauses (i), (ii), and (iii) of subparagraph (B).

(D) For the purposes of this paragraph, both of the following definitions shall apply:

(i) "Integrated agenda management platform" means an Internet Web site of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.

(ii) "Legislative body" has the same meaning as that term is used in subdivision (a) of Section 54952.

(E) The provisions of this paragraph shall not apply to a political subdivision of a local agency that was established by the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state.

(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(c) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of

Section 3 of Article I of the California Constitution.

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

(1) A legislative body as that term is defined by subdivision (a) of Section 54952.

(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.

(e) This section shall become operative January 1, 2026.

SEC. 6. The Legislature finds and declares that Sections 1 and 2 of this act, which amend Section 54953 of the Government Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hospital room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 7. The Legislature finds and declares that Sections 1 and 2 of this act, which amend Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings.



AGENDA BILL

Agenda Item No. 5.C.

Date: February 7, 2023
To: El Cerrito City Council
From: Aissia Ashoori, Housing Manager; Keith Marks, Chief Building Official; Melanie Mintz, Community Development Director, Community Development Department
Subject: Presentation of wood-frame target story ("soft story") multi-unit residential properties

ACTION PROPOSED

Receive and file a presentation regarding a study of wood-frame target story ("soft story") multi-unit residential properties in El Cerrito.

BACKGROUND

In December 2019, the Community Development Department applied for and received \$49,511 through the Federal Emergency Management Agency (FEMA) and the Governor's Office of Emergency Services (CalOES) as a planning grant under the *Disaster DR-4353 Hazard Mitigation Grant Program* (HMGP). The purpose of the grant is to study the City's housing stock with attention to wood-frame target stories (WFTS), also known as soft story buildings, to identify potential hazard and hazard mitigation practices from other cities as they might apply to El Cerrito.

In Winter 2021, the City issued a Request for Qualifications (RFQ) solicitation for engineers/consultants experienced with evaluating and designing seismic retrofit programs. On January 18, 2022, the City Council adopted Resolution 2022-02 to contract with David Bonowitz, S.E. to undertake the work authorized by the grant. Mr. Bonowitz has a comprehensive and unique background in this area. He has undertaken soft story analysis in Albany, Hayward, Mill Valley, Mountain View, Oakland, and Berkeley. He also took part in developing the Association of Bay Area Government (ABAG) Soft Story Model Ordinance.

ANALYSIS

The City of El Cerrito, along with much of California, is geographically faced with earthquake risks. The City has adopted multiple policies and plans pertaining to hazard mitigation and our residential housing stock. The plans listed below contain implementation strategies/actions to address seismic hazards.

- [City of El Cerrito- 2015-2023 Housing Element](#)

Program H1.8. Seismic Retrofit Program

Consider enacting additional incentive programs and requirements to encourage retrofitting of seismically unsafe buildings, such as soft-story buildings. Explore possible funding sources or programs to minimize the financial impact of retrofits

on low- and moderate-income residents. Review upcoming grant opportunities on a quarterly basis and explore programs bi-annually.

- [El Cerrito Affordable Housing Strategy \(2017\)](#)

Pillar B: Reduce the Risk of Displacement and Help Stabilize At-Risk Populations.

Strategy 4: Implement Policies to Preserve Low-Cost Housing Stock

While maintaining the affordability of the City's existing deed-restricted units is the highest priority, the City's relatively low-cost, privately owned housing stock (sometimes referred to as "naturally occurring affordable housing" or NOAH) serves many low- and moderate-income residents. Some of the issues related to the preservation of the City's low-cost housing stock include: Need for seismic upgrade of soft-story buildings. Soft-story residential buildings are multi-story buildings constructed prior to modern building codes that have open parking or commercial space on the ground floor.

Implementation Actions

4-1. Explore possible funding sources or programs to minimize the financial impact of retrofits on low- and moderate-income residents. For example, FEMA, CDBG, and other sources of funding may be available. Some potential future sources of local funding for affordable housing discussed under Pillar 4 (such as a property transfer tax or countywide General Obligation bond measure) could also fund these activities.

- [City of El Cerrito 1999 General Plan](#)

Chapter 7: Resources and Hazards

C. Goals and Policies

Goal H1: Minimize potential for loss of life, injury, damage to property, economic and social dislocation and unusual public expense due to natural and man-made hazards, including protection from the risk of flood damage, hazards of soil erosion, fire hazards, weak and expansive soils, potentially hazardous soil materials, other hazardous materials, geologic instability, seismic activity, and release of hazardous materials from refineries and chemical plants in West County.

Policies:

H1.8: Seismic Safety. Assure existing and new structures are designed to contemporary standards of seismic safety. Review, amend, and update, at regular intervals, all relevant City codes and ordinances to incorporate the most current knowledge and highest standards of seismic safety.

- [Contra Costa County Operation Area Hazard Mitigation Plan, City of El Cerrito](#)

The Hazard Mitigation Action Plan Matrix lists the following actions of El Cerrito hazard mitigation action by priority:

- *EC-1*: Where appropriate, support retrofitting or relocation of structures in high hazard areas, prioritizing structures that have experienced repetitive losses.
- *EC-2*: Integrate the hazard mitigation plan into other plans, ordinances and programs that dictate land use decisions in the community, including the General Plan.
- *EC-20*: Require engineered plan sets for retrofitting of heavy two-story homes with living spaces over garages, spilt level homes, homes on hillsides.
- *EC-21*: Require engineered plan sets for voluntary or mandatory soft-story retrofits until a standard plan set and construction details become available.
- *EC-22*: Require engineered plan sets for retrofitting of Unreinforced Masonry Buildings (URMs).

Housing Stock

The City's residential housing stock is comprised of approximately 11,000 units; of which 13% are multifamily buildings of 2-4 units, 15% multifamily buildings with 5+ units, and 72% (7,800) single-family (attached/detached) properties. Much of the City's housing stock was primarily constructed between pre-1939 through 1979, before current building codes. In 1978, the California Health and Safety Code (Section 19161) was updated to recognize earthquake resistant design as it pertains to building construction, which is how the cutoff date was determined.

By studying the City's housing stock, the City aims to have a professional analysis and clear understanding of the vulnerable buildings that exist. With this understanding, the City will be able to identify program options to preserve the City's existing housing stock.

The target properties studied as a part of the existing FEMA/CalOES grant were residential WFTS residential buildings of at least three units with soft, weak, or open ground front stories constructed before 1981. These buildings were selected due to the 1978 California Health and Safety Code update. Although a formal structural analysis was not performed to confirm the risk associated with any particular building's WFTS condition, the study did aim to identify and screen the housing stock to confirm and quantify residential buildings with potential seismic deficiencies.

ANALYSIS/STUDY

The purpose of the study is to inform the development of a risk reduction policy consistent with the City's Hazard Mitigation Plan. This study did not involve review of drawings or plans, structural analysis, nor confirmation of building-specific conditions. Therefore, the WFTS characterizations should be understood as "suspected WFTS."

Key inventory findings include:

Building Cohort	Buildings	Units
Total housing stock	~8150	~11,300
Multi-unit (3 or more) buildings	431	~3,300
Pre-1981 multi-unit buildings	375	~1,900
Pre-1981 multi-unit WFTS buildings	224 – 258	1,139 – 1,293
Pre-1981 multiunit WFTS buildings, 3- and 4-unit buildings only	150 – 175	570 – 663

Attachment 1 provides additional information regarding this study.

Next Steps

No action is being requested of the City Council at this time. Staff will continue analysis of this issue through the update of the City's Safety Element of the General Plan, which is expected to begin in the summer of 2023. In the interim, staff will continue to monitor the potential for funding opportunities for retrofitting WFTS buildings through state programs, and advocate for program criteria that would benefit El Cerrito residents. Additionally, staff will initiate an education and outreach program on this topic, including providing information on the City's website. Following further analysis, staff plans to return to the City Council at a future meeting to hold a study session to discuss and consider options available for the City.

STRATEGIC PLAN CONSIDERATIONS

This study will assist the City in implementing the following goals of the Strategic Plan: *Goal A: Deliver Exemplary Government Services; Goal B: Achieve Long-Term Financial Sustainability; Goal C: Deepen a Sense of Place and Community Identity; and Goal F: Foster Environmental Sustainability Citywide.*

ENVIRONMENTAL CONSIDERATIONS

This study is categorically exempt from CEQA. Any future actions may be required to comply with CEQA.

FINANCIAL CONSIDERATIONS

There are no immediate financial considerations or costs associated at this time. Implementation of any new programs could require expenditure allocation depending upon direction. Program considerations could entail a range of costs and the annual

operating budget and staff time for selected programs would be presented as they move forward.

LEGAL CONSIDERATIONS

The City Attorney has reviewed all legal considerations within this report.

Reviewed by:

A handwritten signature in blue ink, appearing to read "Karen Pinkos".

Karen Pinkos, City Manager

Attachments:

1. Presentation



Presentation: Multi-Unit Wood-Frame Target Story Study

CITY COUNCIL MEETING

FEBRUARY 7, 2023

By: David Bonowitz, S.E. and Aissia Ashoori, Housing Manager



FEMA

Agenda

- Background
- Purpose & Scope
- Analysis & Findings
- Next Steps

Background



- Various City plans and strategies have recognized “soft story”
- Unreinforced Masonry Buildings (URM) Ordinance: Adopted 2009
- City was awarded FEMA-California Office of Emergency Services Planning Grant in December 2019
 - Contracted with David Bonowitz, S.E. in January 2022

BACKGROUND: LOCAL HOUSING POLICIES



[1999: General Plan; includes Safety Element](#)



[2015-2023: Housing Element](#)



[2017: Affordable Housing Strategy](#)



[2018: Contra Costa County Operation Area Hazard Mitigation Plan, City of El Cerrito](#)

Background

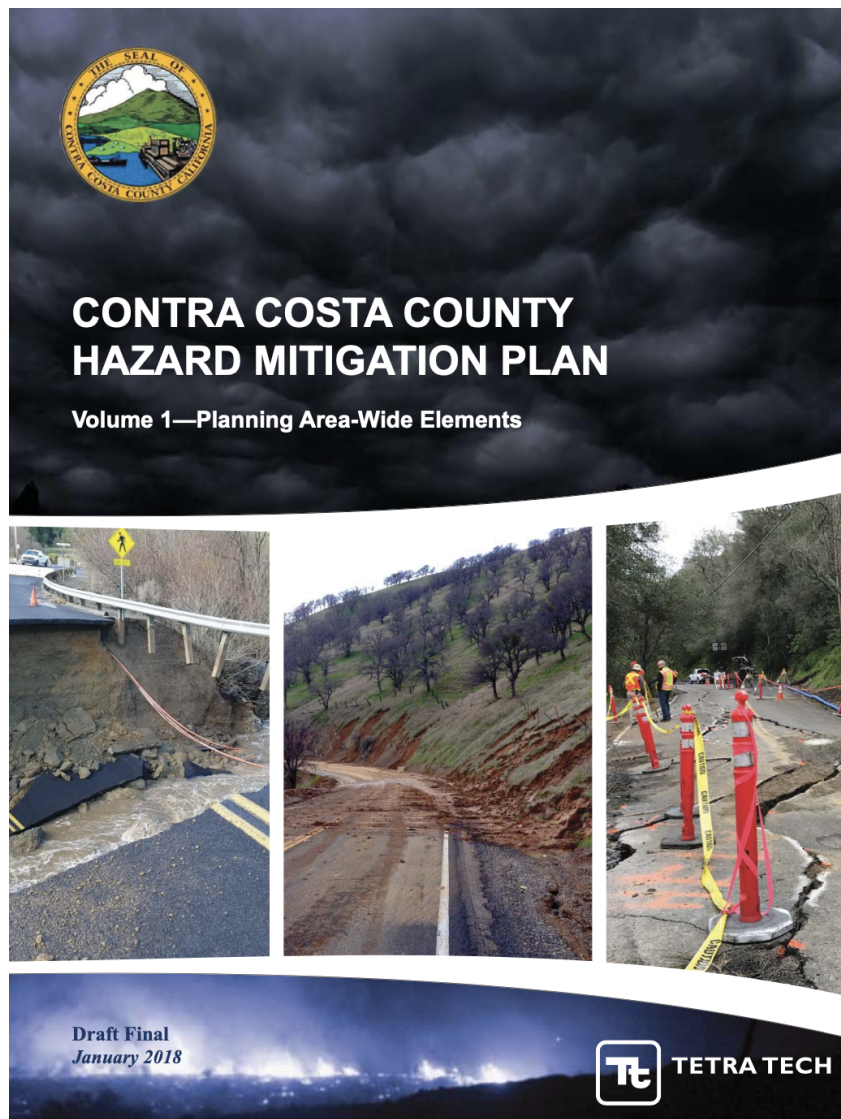
■ Hazard Mitigation Plan (2018)

EC-1: Where appropriate, support retrofitting or relocation of structures in high hazard areas, prioritizing structures that have experience repetitive losses.

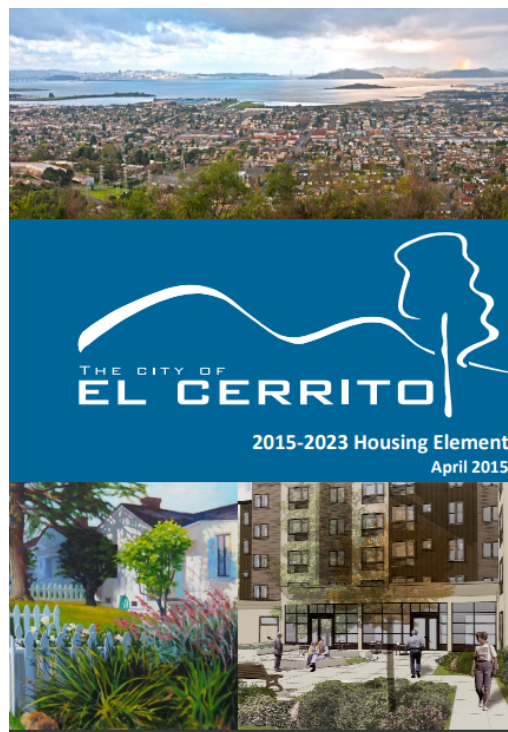
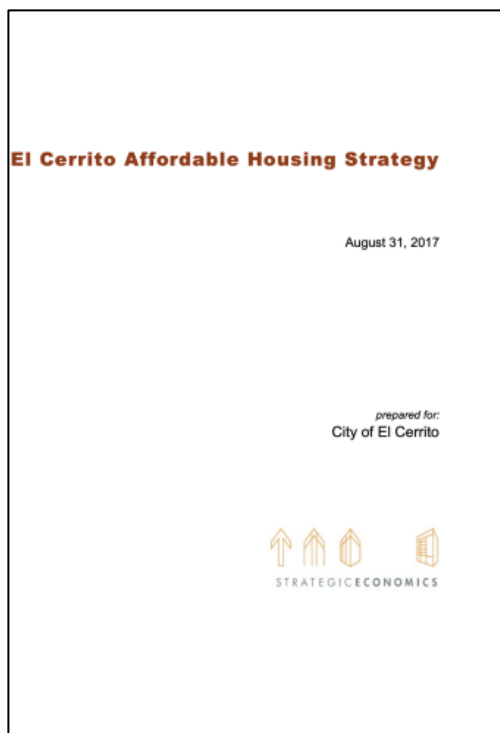
EC-2: Integrate the hazard mitigation plan into other plans, ordinances and programs that dictate land use decisions in the community, including the General Plan.

EC-20: Require engineered plan sets for retrofitting of heavy two-story homes with living spaces over garages, spilt level homes, homes on hillsides.

EC-21: Require engineered plan sets for voluntary or mandatory soft-story retrofits until a standard plan set and construction details become available.



Background



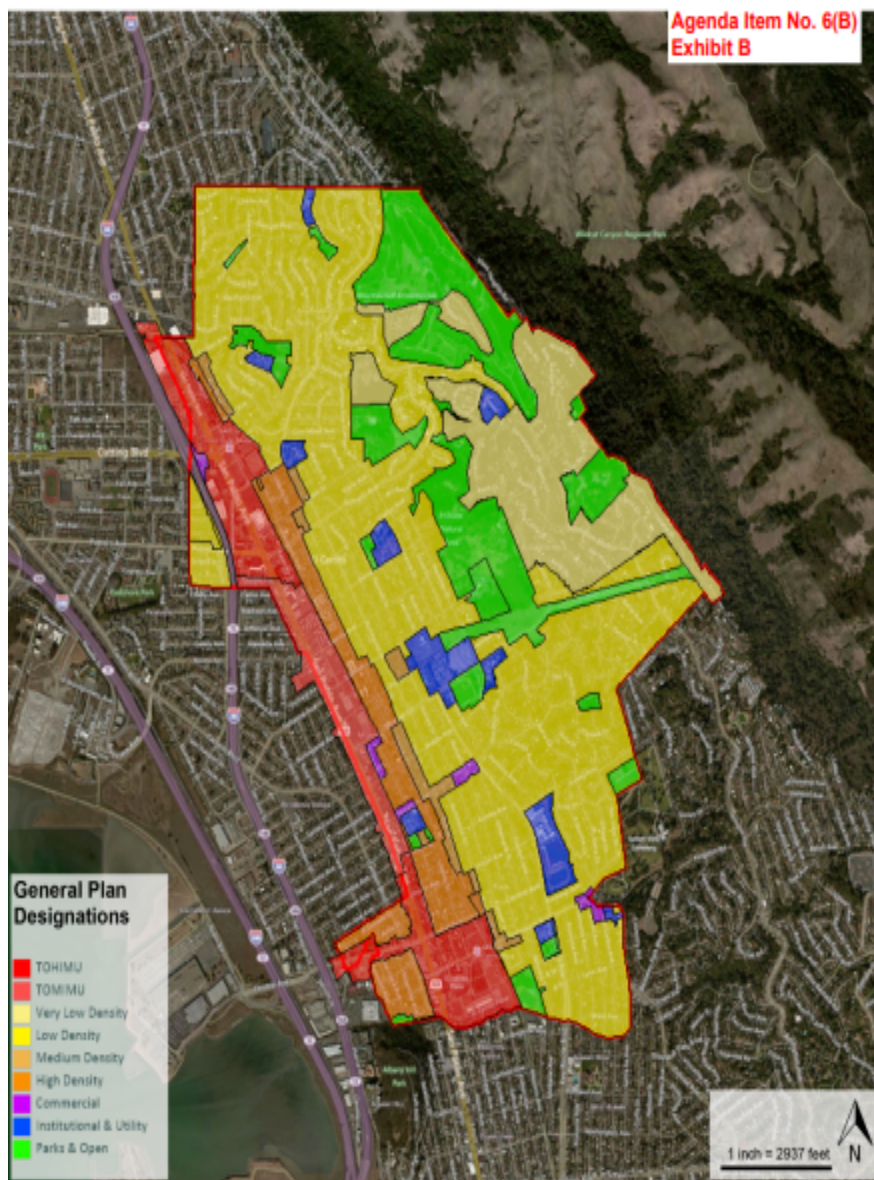
■ Housing Element (2015 and 2023)

Program H1.8. Seismic Retrofit Program

Consider enacting additional incentive programs and requirements to encourage retrofitting of seismically unsafe buildings, such as soft-story buildings. Explore possible funding sources or programs to minimize the financial impact of retrofits on low- and moderate-income residents. Review upcoming grant opportunities on a quarterly basis and explore programs bi-annually.

■ Affordable Housing Strategy (2017)

Strategy 4: Implement Policies to Preserve Low-Cost Housing Stock; 4-1. Explore possible funding sources or programs to minimize the financial impact of retrofits on low- and moderate-income residents. For example, FEMA, CDBG, and other sources of funding may become available.



Background

General Plan (1999)

Chapter 7: Resources and Hazards

C. Goals and Policies

Goal H1: Minimal potential for loss of life, injury, damage to property, economic and social dislocation and unusual public expense due to natural and man-made hazards, including protection from the risk of flood damage, hazards of soil erosion, fire hazards, weak and expansive soils, potentially hazard soils materials, other hazardous materials, geologic instability, seismic activity, and release of hazardous materials from refineries and chemical plants in West County.

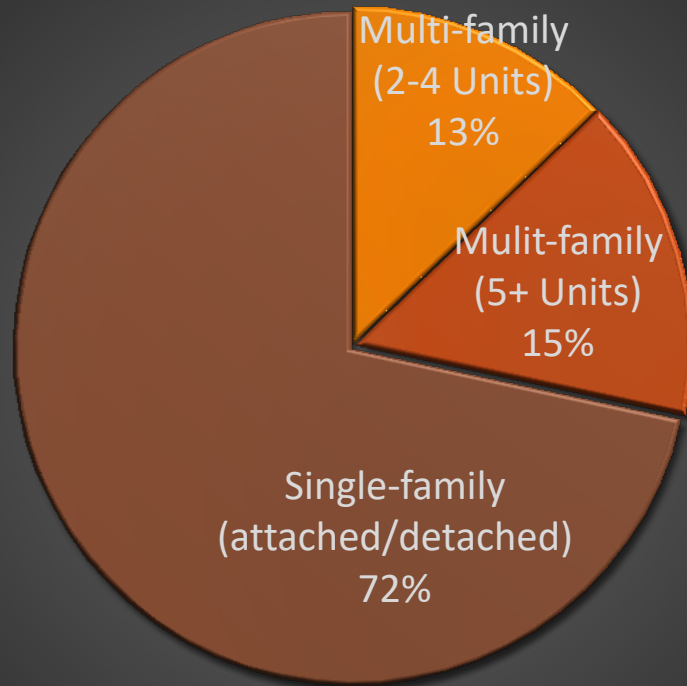
Policies:

H1.8: Seismic Safety. Assure existing and new structures are designed to contemporary standards of seismic safety. Review, amend, and update, at regular intervals, all relevant City codes and ordinances to incorporate the most current knowledge and highest standards of seismic safety.

Background: El Cerrito Housing Stock

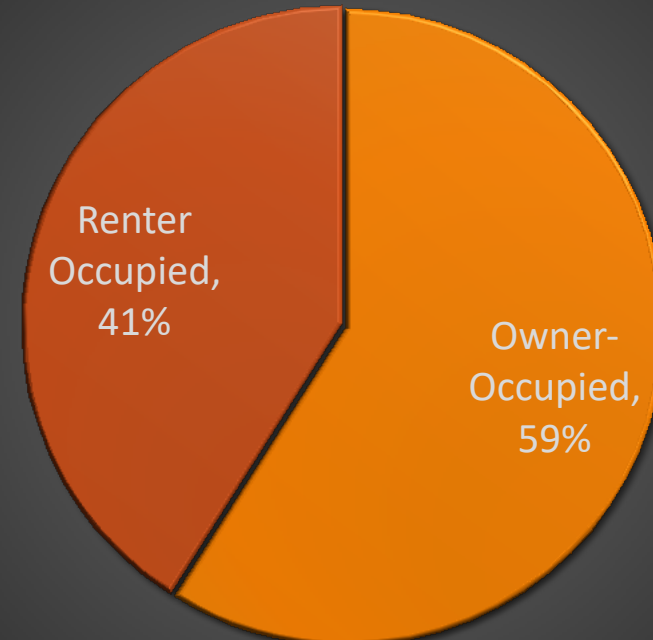


Housing Type Trends, 2020



■ Multi-family (2-4 Units) ■ Multit-family (5+ Units)
■ Single-family (attached/detached)

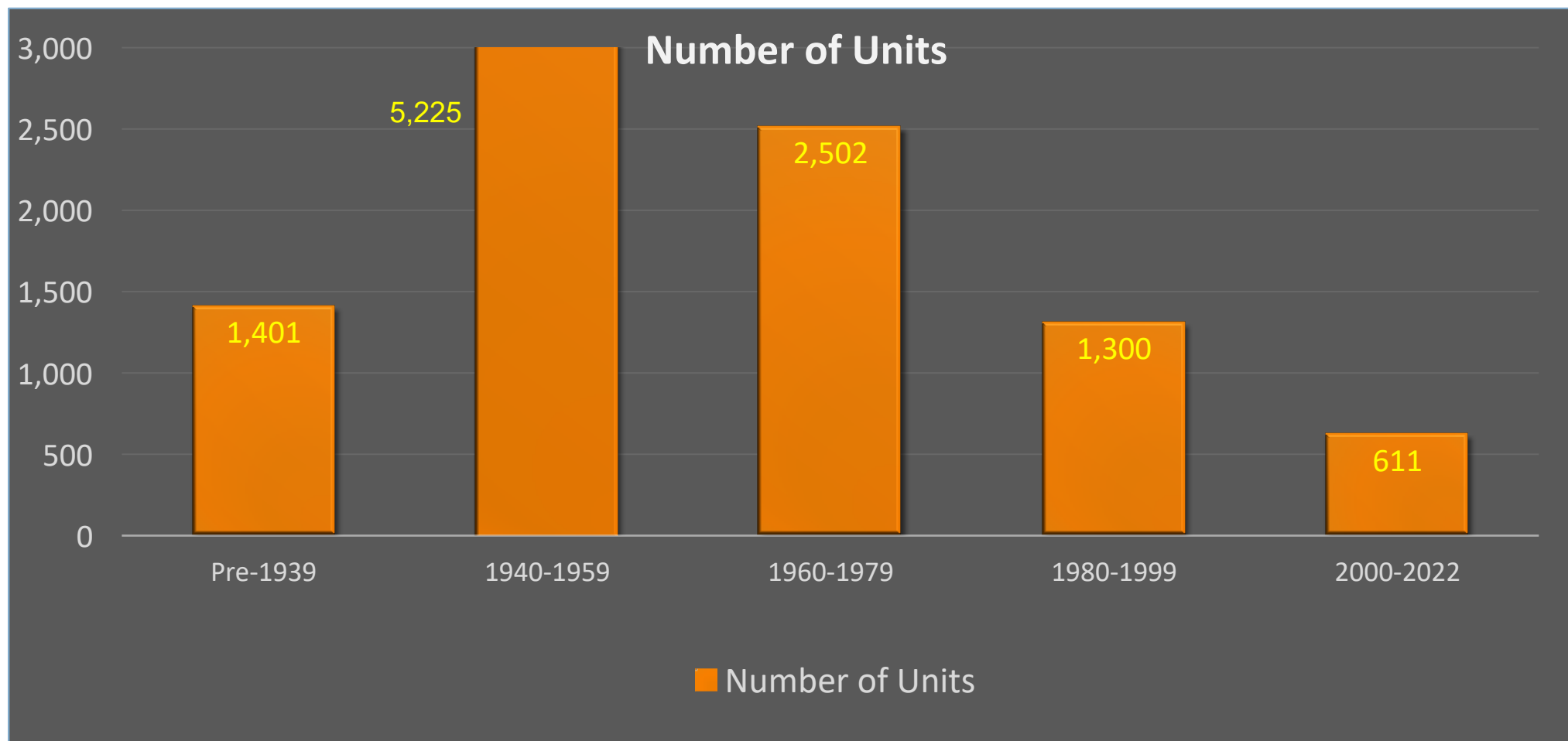
Housing Tenure, 2015-2019



■ Owner-Occupied ■ Renter Occupied

Background:

Housing Units Built By Year, El Cerrito, 2019





WFTS: Wood-Frame Target Story

- A more accurate term for what many call “soft story”
 - *Target story*: A story substantially structurally different from the story above (requires engineering judgment).
 - *Wood-frame target story*: A target story that relies on wood-frame walls for earthquake resistance.
- Now used consistently in Bay Area programs
- Avoids confusion with technical meaning of “soft story”
 - Not limited to certain building materials, uses, or ages
- Avoids conflict with El Cerrito Municipal Code Section [16.32.20](#), which implements the City’s URM program but also contains an obsolete, flawed definition of “soft story”

Not WFTS

Left:
Not a target story

Right:
Target story, but not
wood-frame



Note: Buildings shown are not in El Cerrito.

El Cerrito WFTS Study

- Purpose
 - To inform the development of risk reduction policy consistent with the City's Hazard Mitigation policies
- Scope
 - Multi-unit residential buildings (3 or more units)
 - Constructed before 1981
 - How many are WFTS? What characteristics do the WFTS buildings present?
- Process
 - Used County Assessor data
 - Supplemented with judgmental review of online imagery
 - Counted and summarized “suspected” and “potential” WFTS buildings
 - No drawing review, site visit, quantitative structural analysis, or confirmation of building-specific conditions

El Cerrito WFTS Study: Findings

Building Cohort	Buildings	Units
Total housing stock	~8150	~11,300
Multi-unit buildings	431	3300
Pre-1981 multi-unit buildings	375	1900
Pre-1981 multi-unit WFTS buildings	224 – 258	1139 – 1293
3-4 unit buildings	150 – 175	570 – 663
5+ unit buildings	74 – 83	569 – 630

- Ranges reflect uncertainty inherent in the inventory process.
- Multi-unit buildings contain 29% of total housing stock.
- Pre-1981 WFTS buildings contain up to 11% of the total housing stock, but 39% of the multi-unit stock.
- Larger buildings make up 1/3 of the WFTS cohort but 1/2 of the WFTS units.

258 pre-1981 WFTS Multi-Unit Buildings

- ~90% were built 1950-1980, essentially all in the City's current multi-family neighborhoods
- ~90% are 2-story buildings
- About half are 2-story w/ 3-4 units
 - ~50 are of a common style
- Of the 83 buildings with 5+ units
 - 57 (69%) have only 5 or 6 units
 - Only 8 have more than 10 units (max: 33 units)
- ~80% have at least one occupied unit in the target story
- Only 1 has a commercial ground floor space
- No hotels or motels
- Few condominium buildings (Assessor data unclear)
- Only 1 building (6 units) designated as affordable
- No designated senior housing or assisted living

258 pre-1981 WFTS Multi-Unit Buildings

134

2-st, 3-4 unit



~50

2-st, 4-unit model

74

2-st, 5+ unit



24

2-st over cripple wall



20

3-st, 3+ unit



Note: Buildings shown are not in El Cerrito.

El Cerrito WFTS Study: City Comparisons

City	WFTS w/ 3+ units	WFTS w/ 5+ units
El Cerrito	10 – 11% of housing stock	5 – 6% of housing stock
Albany	8.4 – 11%	4 – 6%
Mill Valley	4.3 – 12%	3 – 8%
Berkeley	not reported	6%
Palo Alto	not reported	10%
Mountain View	16%	14%
San Francisco	not reported	14%
Oakland	not reported	15%

Typical Retrofit Approaches

- Add wood sheathing to existing stud walls (or add new walls)



Typical Retrofit Approaches

- At open side, add steel frame or column, w/ concrete footing



Photo: T. Matteson

Typical Retrofit Cost

- Total cost = Investigation + Design + Construction
- Key cost factors: Building size, age, deficiency
- 2022 total cost based on 2018 data:
 - 2-story, 3-4 unit: **\$35,000 – \$70,000**
 - 5+ unit: **\$40,000 – \$130,000**
 - Low end of range applies if new steel & foundation not needed
 - Additional: \$5-10K investigation (if no plans), geohazard mitigation, tenant coordination



Next Steps

1. Continue further analysis through Safety Element Update (summer 2023)
2. Continue to monitor funding of the new State programs
 - Advocate for program criteria that would benefit El Cerrito residents
3. Develop education and outreach campaign
4. Future study session for City Council consideration of options



Questions & Answers

THANK YOU!

EL CERRITO CITY COUNCIL PROCLAMATION
Declaring February 19, 2023 as Day of Remembrance of Japanese American
Incarceration During World War II in the City of El Cerrito

WHEREAS, On February 19, 1942, President Franklin D. Roosevelt signed Executive Order 9066, under which more than 120,000 Americans and residents of Japanese ancestry were incarcerated in 10 internment camps scattered throughout western states and displaced from their homes during World War II; and

WHEREAS, Despite their families being incarcerated behind barbed wire in the United States, approximately 33,000 veterans of Japanese ancestry fought bravely for our country during World War II, serving in the 100th Battalion, the 442nd Regimental Combat Team, and the 522nd Field Artillery Battalion; and

WHEREAS, Dale Minami, Peggy Nagae, Dennis Hayashi, Rod Kawakami, and many attorneys and interns contributed innumerable hours to win a reversal of the original convictions of Korematsu, Yasui, and Hirabayashi in 1983 by filing a petition for writ of error coram nobis on the grounds that fundamental errors and injustice occurred; and

WHEREAS, The federal Civil Liberties Act of 1988 apologized on behalf of the people of the United States for the evacuation, incarceration, and relocation of Americans and permanent residents of Japanese ancestry during World War II. The act also provided for restitution to those individuals of Japanese ancestry who were incarcerated; and

WHEREAS, On June 21, 2000, President William Jefferson Clinton elevated 20 Japanese Americans who served in the 100th Battalion and the 442nd Regimental Combat Team and were among 52 individuals who received the nation's second highest military decoration, the Distinguished Service Cross, to receive the nation's highest military decoration, the Medal of Honor, bringing the total number of Japanese Americans who so received the Medal of Honor to 21; and

WHEREAS, In 2010, President Barack Obama granted the Congressional Gold Medal, collectively, to the 100th Infantry Battalion and 442nd Regimental Combat Team in recognition of their dedicated service during World War II; and

WHEREAS, In 2022, President Joe Biden issued a presidential proclamation declaring February 19, 2022 as the national Day of Remembrance of Japanese American Incarceration During World War II; and

WHEREAS, Given recent national events, it is all the more important to learn from the mistakes of the past and to ensure that such an assault on freedom will never again happen to any community in the United States.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby declare February 19, 2023 as Day of Remembrance of Japanese American Incarceration During World War II in the City of El Cerrito.

Dated: February 7, 2023

Lisa Motoyama, Mayor

EL CERRITO CITY COUNCIL PROCLAMATION
Recognizing February as Black History Month in the City of El Cerrito

WHEREAS, much of the City of El Cerrito's honor, strength and distinction can be attributed to the diversity of cultures and traditions that are celebrated by our residents; and

WHEREAS, African Americans have played a significant role in the history of our nation and California's economic, cultural, spiritual, and political development while working tirelessly to promote their culture and history; and

WHEREAS, as a result of their determination, hard work, and perseverance, African Americans have made valuable and lasting contributions to our community and our state, achieving exceptional success in all aspects of society including business, education, politics, science, and the arts; and

WHEREAS, in 1976, Black History Month was formally adopted to honor and affirm the importance of Black History throughout our American experience, and is full of individuals who took a stance against prejudice, advanced the cause of civil rights, strengthened families, communities, and our nation; and

WHEREAS, all Americans are encouraged to reflect on past successes and challenges of African Americans and look to the future to improve society so that we live up to the ideals of freedom, equality, and justice; and

WHEREAS, the Pan-African flag, also known as the UNIA (Universal Negro Improvement Association) flag, was created in 1920 to represent people of the African diaspora and to symbolize black liberation in the United States. The flag is an emblem of Black pride and symbolizes the union of governance, people, and territory.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby declare February as Black History Month in the City of El Cerrito and invites everyone to recognize and celebrate the diversity and character of our community and highlight the importance of sharing our culture, customs, and traditions with those around us. And furthermore, recognizes Black History Month by flying the Pan-African Flag at City Hall during the month of February.

Dated: February 7, 2023

Lisa Motoyama, Mayor

CITY COUNCIL OF THE CITY OF EL CERRITO PROCLAMATION
Recognizing the Cultural and Historical Significance of Lunar New Year
in the City of El Cerrito

WHEREAS, Lunar New Year begins on the second new moon following the winter solstice, or the first day of the new year according to the lunisolar calendar, and extends until the full moon 15 days later; and

WHEREAS, January 22, 2023, marks the first day of Lunar New Year and the Year of Rabbit for calendar year 2023; and

WHEREAS, Lunar New Year began in China more than 4,000 years ago and is widely celebrated in East and Southeast Asia; and

WHEREAS, Lunar New Year is often referred to as Spring Festival in various Asian countries; and

WHEREAS, the Asian diaspora has expanded the Lunar New Year celebration into an annual worldwide event; and

WHEREAS, Lunar New Year is celebrated by Asian Americans and many non-Asian Americans in El Cerrito and throughout California and the entire United States; and

WHEREAS, participants celebrating Lunar New Year travel to spend the holiday reuniting with family and friends, enjoying community activities and cultural performances; and

WHEREAS Lunar New Year is traditionally a time to wish others good fortune, health, peace, prosperity, and happiness.

NOW, THEREFORE, the City of El Cerrito recognizes the cultural and historical significance of Lunar New Year; in observance of Lunar New Year, expresses its deepest respect for Asian Americans and all individuals in El Cerrito and throughout the world who celebrate this significant occasion; and wishes Asian Americans and all individuals who observe this holiday a happy and prosperous new year.

Dated: February 7, 2023

Lisa Motoyama, Mayor

ORDINANCE NO. 2023-02

AN ORDINANCE OF THE CITY OF EL CERRITO AMENDING EL CERRITO MUNICIPAL CODE SECTION 2.04.010 MODIFYING THE START TIME OF REGULAR CITY COUNCIL MEETINGS FROM 7:00 P.M. TO 6:00 P.M.

WHEREAS, on Tuesday, December 6, 2022 the City Council adopted the 2023 Regular Meeting Calendar; and

WHEREAS, at the same meeting, the City Council directed staff to return with an ordinance to formally change the start time of regular meetings from 7:00 PM to 6:00 PM.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EL CERRITO DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: Section 2.04.010 is hereby amended to read as follows (additions in underline, deletions in strikethrough):

2.04.010 - Meeting—Regular.

The council shall hold regular meetings on the first and third Tuesdays of each month at ~~7:00 p.m.~~ 6:00 p.m. It may adjourn any regular or special meeting to a date certain, which shall be specified in the order of adjournment, and such an adjourned meeting may likewise be adjourned. Any adjourned regular meeting shall be a regular meeting for all purposes. In the event that any order adjourning a meeting fails to state the hour at which the adjourned meeting is to be held, such adjourned meeting will be held at ~~7:00 p.m.~~ 6:00 p.m.

Section 2: Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The city council hereby declares that it would have passed the ordinance codified in this chapter, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of this chapter would be subsequently declared invalid or unconstitutional.

Section 3: Effective Date. This Ordinance shall take effect and be enforced thirty days after the date of its adoption. Prior to the expiration of fifteen days from the passage thereof, the ordinance or a summary thereof shall be posted or published as may be required by law, and thereafter the same shall be in full force and effect.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council on January 17, 2023 and passed by the following vote:

AYES:	Mayor Motoyama; Mayor Pro Tem Rudnick; Councilmembers Fadelli, Quinto and Wysinger
NOES:	None
ABSENT:	None
ABSTAIN:	None

ADOPTED AND ORDERED published at a regular meeting of the City Council held on February 7, 2023 and passed by the following vote:

AYES:	Councilmembers
NOES:	Councilmembers
ABSENT:	Councilmembers
ABSTAIN:	Councilmembers

APPROVED:

Lisa Motoyama, Mayor

ATTEST:

Holly M. Charl  ty, City Clerk

ORDINANCE CERTIFICATION

I, Holly M. Charl  ty, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. 2023-02 of the City of El Cerrito; that said Ordinance was duly enacted and adopted by the City Council of the City of El Cerrito at a meeting of the City Council held on the 7th day of February, 2023; and that said Ordinance has been published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of El Cerrito, California,
on_____.

Holly M. Charl  ty, City Clerk



AGENDA BILL

Agenda Item No. 6.E.

Date: February 7, 2023
To: El Cerrito City Council
From: Roland Lambert, Interim Engineering Manager/Senior Engineer, Public Works Department; Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department
Subject: Parking Time Limit Modification in front of 10340 San Pablo Avenue

ACTION PROPOSED

Approve a resolution authorizing the Public Works Director/City Engineer to install eighteen (18) feet of green curb markings with a parking time limit of thirty (30) minutes in front of 10340 San Pablo Avenue.

BACKGROUND/ANALYSIS

In September 2022, City staff received a request from the business owner of the Himalayan Grocery store located at 10340 San Pablo Avenue, including support from the property owner, for a designated parking space in front of their business. The El Cerrito Municipal Code does not allow for the designation of parking for individual businesses or types of businesses. However, it does allow time limits as needed to serve nearby businesses. The Himalayan Grocery Store is located on the east side of San Pablo Avenue between Stockton Avenue and Eureka Avenue. This is a busy commercial area with a variety of businesses and new residential development at the southern end of the block. The posted time limit, previously approved by the City Council (Resolution No. 1948-1282), is one hour. To better meet the needs of this business and adjacent dry cleaners, City staff is proposing to modify the existing time limit in front of this address to short-term (30-minute) parking by installing 18 feet of green curb markings. The 30-minute time limit would be in place between 8 a.m. and 6 p.m. on any day except holidays. Green curb markings are intended for businesses where visits usually take no more than 15 to 30 minutes. Typical businesses that benefit from green curb markings are small neighborhood grocery stores, convenience stores, dry cleaners, and florists, among others. The shorter duration promotes parking turnover in an area close to these types of business to serve a greater volume of customers. On a related note, several of the business owners along this block have indicated that vehicles frequently park longer than the time limit and have requested increased enforcement of all parking time limits along this block.

On September 20, 2022, notifications regarding the proposed parking changes were sent to property owners, current residents, and businesses within a 300-foot radius of this location. City staff received comments from four individuals objecting to the proposed parking changes (attached). The comments were concerning the potential negative impacts on surrounding businesses more generally as well as one business in particular. Only one (1) of approximately 15 parking spaces (about 7%) on the east side of San Pablo Avenue between Stockton Avenue and Eureka Avenue would be

converted to short-term parking and this space is anticipated to serve more customers. On November 8, 2022, City staff sent a second notice to the four individuals who submitted comments explaining why City staff would be recommending that the City Council approve the green curb markings.

It should be noted that the dry cleaners at 10344 San Pablo Avenue (next door to the Himalayan Grocery store) had requested green curb markings in August 2021, but withdrew their request after similar objections. In addition to the 14 other parking spaces on the subject block, there is currently ample two-hour parking available on the block immediately to the south within a short walking distance for customers requiring longer visits. In summary, City staff anticipate that the installation of green curb markings will meet the short-term parking needs of businesses on the block and there will be sufficient parking for visits longer than 30 minutes.

STRATEGIC PLAN CONSIDERATIONS

Approval of the installation of green curb marking would help fulfill the following City of El Cerrito Strategic Plan Goals A and C – Deliver exemplary government services and deepen a sense of place and community identity, by working with the Himalayan Grocery store and other small local businesses to improve access for a variety of businesses.

ENVIRONMENTAL CONSIDERATIONS

The project is categorically exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15301 because the project is a minor alteration of an existing public facility involving negligible or no expansion of use beyond that presently existing. More specifically, the installation of curb markings and signs will be done on existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities, which is exempt from CEQA.

FINANCIAL CONSIDERATIONS

The cost for installing the 18 feet of curb markings is estimated to be under \$500 and is included in the Public Works, Maintenance operating budget.

LEGAL CONSIDERATIONS

El Cerrito Municipal Code Section 11.40.160 requires that any modification of green curb markings be approved by City Council Resolution. Similarly, El Cerrito Municipal Code Section 11.40.210 requires that any modification of time-limited parking restrictions be approved by City Council Resolution. In this case, the City is modifying the existing parking restriction of 1 hour to 30 minutes and using green curb markings to do so. The City Attorney has reviewed the proposed action and found that legal considerations have been addressed.

Reviewed by:

A handwritten signature in blue ink, appearing to read "Karen Pinkos".

Karen Pinkos, City Manager

Attachments:

1. Resolution
2. Public Comments

RESOLUTION 2023-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO INSTALL EIGHTEEN (18) FEET OF GREEN CURB MARKINGS WITH A PARKING TIME LIMIT OF THIRTY (30) MINUTES IN FRONT OF 10340 SAN PABLO AVENUE

WHEREAS, the business owner of the Himalayan Grocer Store located at 10340 San Pablo Avenue requested changes to parking restrictions in front of their business; and

WHEREAS, parking is currently limited to one hour between 9 a.m. and 6 p.m. except Sundays and Holidays; and

WHEREAS, a shorter time limit would promote parking turnover to better serve more customers of businesses on the block; and

WHEREAS, El Cerrito Municipal Code Section 11.40.160 and 11.40.210 require that any modification of green curb markings and time limited parking, respectively, be approved by the City Council; and

WHEREAS, this project is categorically exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15301 because it is considered a minor alteration of an existing public facility involving negligible or no expansion of use beyond that presently existing. More specifically, the installation of curb markings and signs will be done on existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities, which is exempt from CEQA.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby authorizes the Public Works Director/City Engineer to install eighteen (18) feet of green curb markings with a parking time limit of thirty (30) minutes between the hours of eight (8) a.m. to six (6) p.m. of any day, except holidays, in front of 10340 San Pablo Avenue.

BE IT FURTHER RESOLVED that this resolution shall become effective immediately upon passage and adoption.

I CERTIFY that at a regular meeting on February 7, 2023, the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on _____.

Holly M. Charl  ty, City Clerk

APPROVED:

Lisa Motoyama, Mayor

From: [REDACTED]
To: [Roland Lambert](#)
Subject: Concern regarding green curb marking in front of 10340 San Pablo Avenue
Date: Monday, October 10, 2022 10:34:29 PM

Attn: Roland Lambert, Acting Engineering Manager/Senior Engineer for the City of El Cerrito

Dear Mr. Lambert,

I am looking forward to Banter Wine's opening this year, and I cannot see how further restricting the parking on San Pablo Avenue with green curb marking will be helpful to businesses in this neighborhood —especially new businesses trying to attract and establish customers. I would like to support businesses in El Cerrito, but limiting parking to 30 minutes, even if it is just one space, will make it harder to spend time, shop and do business here.

Please do not allow the proposal for green curb marking in front of 10340 San Pablo Avenue to go forward.

Thank you for considering my request.

Best regards,
Aaron Jeung

Sent from my iPhone

Roland Lambert, Acting Engineering Manager/Senior Engineer
City of El Cerrito Public Works Department
10890 San Pablo Avenue, El Cerrito, CA 94530

Tel: 510.215.4368
Email: Riambert@ci.el-cerrito.ca.us

October 10, 2022

Dear Mr. Lambert,

It has come to my attention that the Himalayan Grocery Store has requested that green curb parking be considered on San Pablo Avenue. Given that this is very similar to Norge Cleaners' request from a year ago, I am therefore writing to you again to emphasize that this idea, if brought to fruition, will be to the detriment of all neighboring businesses and to the city and citizens of El Cerrito as a whole.

It does not matter if it is several green curb parking spaces or even just one, for the ramifications to all El Cerrito shops, restaurants and service vendors in the vicinity of the Himalayan Grocery Store remains the same:

- The shorter-term parking will directly result in abbreviated or no patronage, and therefore lower profitability, for all other local merchants and the city economy at large.
- Limiting customer parking availability, even by one El Cerrito business parking area, will inevitably lead to persons not even attempting to invest in particular stores and services anymore due to the inconvenience caused by the new parking time limitation.

For the benefit of only one business, you are inconveniencing not only local businesses, but inevitably the town citizens and the economy overall if the green curb parking proposal were to pass. I remind all involved that the Himalayan Grocery Store accepted their new lease conditions well-knowing and accepting the current public parking conditions and circumstances. I therefore respectfully emphasize to not make the mistake of accommodating just one vendor at the expense of the city and the multitude of already established loyal El Cerrito businesses.

As previously mentioned, I write the above as a concerned former citizen of the city, as well as a current co-owner of the establishment at 10368 San Pablo Avenue. My parents were once the proud owners of a grocery store at the aforementioned location, and I know firsthand the value of the current public parking conditions, having serviced hundreds of customers through the years. Some 40 years later, the parking situation is, if anything, all the more compacted.

Especially given the business hardships and horrors of the last 2 going on 3 years, now is not the time to consider this limited parking proposal, if it's several spots or even just one green curb parking spot. Carrying out this plan will simply push business and patronage further away and out of our city.

Let me know if I can be of further assistance. Thank you again for your time and consideration.

Regards,

[Redacted Signature]

David H. Tanaka

[Redacted Address] San Pablo Avenue, Property Co-Owner

[Redacted Address]

October 10, 2022

Roland Lambert, Acting Engineering Manager/Senior Engineer
City of El Cerrito Public Works Department
10890 San Pablo Avenue
El Cerrito, CA 94530

Dear Mr. Lambert,

I am writing to you because I am against Himalayan Grocery's request for green curb marking on San Pablo Avenue. I operated a grocery store at 10368 San Pablo Avenue, and I have owned this property for 40 years.

There has always been longer term parking between Stockton Avenue and Eureka Avenue on San Pablo Avenue. The installation of 18 feet of 30-minute green curb marking would hurt many businesses along this block. Throughout the years, we have had several tenants: two grocery stores, a retail machine shop and repair service, and an art studio/school. Currently, a wine bar is scheduled to open soon. The thirty-minute parking restriction would make it difficult to do business. Businesses will lose customers and revenues will decrease. During the 1980s and 1990s when I ran a specialty grocery store, the one-hour parking limit was helpful to the many customers who came to shop at our business.

As a landlord, the ability to rent our space is important to me. Potential tenants will be deterred if there is a 30-minute parking restriction. I will have a harder time finding tenants, and I will suffer a loss of income which I primarily rely on for a living.

This proposal is counterproductive, and I am asking that the request for green curb markings on this block be denied.

Thank you for your time and attention in this matter.

Sincerely,

A black rectangular redaction box covering the signature of Frances Tanaka.

Frances Tanaka

Resident of El Cerrito and Owner of  San Pablo Avenue

October 10, 2022

Roland Lambert, Acting Engineering Manager/Senior Engineer
City of El Cerrito Public Works Department
10890 San Pablo Avenue
El Cerrito, CA 94530

Dear Mr. Lambert,

I am aware that the Himalayan Grocery store has requested eighteen feet of green curb marking on San Pablo Avenue. I am writing to you because I am the leasing contact and co-owner of 10368 San Pablo Avenue, and I think this proposal will hurt the current businesses on this block as well as future potential tenants looking to establish their businesses.

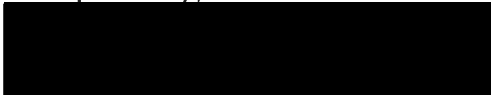
We have had many tenants occupy our building over the years. Most were retail businesses including grocery stores, outdoor machinery sales and art supply sales. It has also been used for several years as an art studio and school where classes were taught. Currently, there are improvements being made for a wine bar and gift shop to occupy the space.

The Himalayan Grocery store knew about the existing parking situation when they decided to open their business in the space. It is not fair that for one tenant, Himalayan Grocery, public parking is being considered for further restriction. The parking has been longer term parking for decades to the benefit of many businesses on this block.

If approved, this proposal would negatively impact the surrounding businesses. Customers will have a harder time shopping, eating at restaurants and receiving services. They will simply go elsewhere. Businesses and the City of El Cerrito will suffer and lose revenue. Therefore, I hope the City of El Cerrito will reject this proposal to install green curb markings.

Thank you for considering my request.

Respectfully,


Joyce Tanaka
Co-Owner of  San Pablo Avenue



AGENDA BILL

Agenda Item No. 6.F.

Date: February 7, 2023
To: El Cerrito City Council
From: Sean Moss, Planning Manager, Community Development
Subject: Acceptance and Agreements for Emergency Vehicle Access Easements at 1711 and 1755 Eastshore Boulevard

ACTION PROPOSED

Adopt a resolution accepting two Emergency Vehicle Access Easements from Security Public Storage – El Cerrito, LLC, and from El Cerrito Affordable Housing Partners, LLC (“Owners”), to provide access for emergency vehicles at 1711-1755 Eastshore Boulevard, and authorizing the City Manager to execute two Certificates of Acceptance for the Easement Deeds and record the easements.

BACKGROUND

The site at 1711-1755 Eastshore Boulevard most recently served as a location of Orchard Supply Hardware (OSH), but has been vacant for a number of years.

On January 4, 2022, the El Cerrito Zoning Administrator approved an Administrative Use Permit to allow a personal storage land use in the existing building at 1755 Eastshore Boulevard. On February 2, 2022, the El Cerrito Design Review Board granted Tier III Design Review approval for exterior improvements needed to renovate the existing building for conversion into a storage facility (Security Public Storage).

In January 2022, the Owners submitted an application for Tier II Design Review of a new five-story, 310-unit multi-family residential development on the surface parking area of the former OSH store, to the east of the anticipated self-storage facility.

Also in January 2022, the Owners submitted an application to subdivide the 3.87-acre parcel, to create a 79,541 square foot lot (Parcel 1), and an 88,867 square foot lot (Parcel 2) to accommodate the two uses. Resultant Parcel 1 contains the existing 50,950 square foot vacant commercial building. Resultant Parcel 2 contains the surface parking lots for the former OSH store and provides access to the site from Eastshore Boulevard. The combined properties have 742 linear feet of frontage on Eastshore Boulevard.

The two-lot subdivision was requested in order to allow for separate parcels for the storage business and the multi-family residential development.

The Subdivision Committee approved the two-lot minor subdivision at its meeting on November 15, 2022, and the parcel map was filed and recorded at the Contra Costa County Recorder’s Office on December 19, 2022.

ANALYSIS

Two emergency vehicle access easements are proposed to provide unimpeded ingress and egress to Fire Department and other first responder vehicles needing to access the site from Eastshore Boulevard during emergencies. The easements are approximately 26 feet wide and have a total approximate length of 1,000 linear feet extending over both properties. The easements are intended to provide access into and through both parcels, along an existing asphalt driveway, which has two approaches from Eastshore Boulevard, at the north and south ends of the property. The driveway traverses the west side of the properties, abutting Interstate 80, and also extends around the north side of the existing vacant commercial building on Parcel 1. The El Cerrito Fire Department has reviewed the proposed easements and found them to be adequate.

The easements would be non-exclusive grants of access rights, meaning that the Owners retain the right to use the easement areas as long as such use does not unreasonably interfere with emergency vehicle use, and also includes the right to grant concurrent easements to other parties within the easement area. Two Easement Deeds (Attachments 2 and 3) have been prepared for this purpose and have been reviewed by the City Attorney for compliance with Statutory law and City of El Cerrito ordinances and policies. The accompanying Legal Description and Plat Map (Exhibits "A", "A-1", and "B" of both agreements) have been reviewed and approved by the City Surveyor. All documents have been reviewed by the Owners and terms of the agreements have been accepted by the Owners.

STRATEGIC PLAN CONSIDERATIONS

Execution of the Easement Agreements is consistent with El Cerrito Strategic Plan Goal A - *Deliver exemplary government services* and Goal E - *Ensure the public's health and safety*. Specifically, approval of these easements will provide unimpeded Fire Department and other emergency vehicle access to the entire site.

ENVIRONMENTAL CONSIDERATIONS

Pursuant to CEQA Guidelines Section 15061(b)(3) (the common sense exemption), an activity is exempt from CEQA review where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The proposed activity is the acceptance of easements for emergency vehicle access. Such activity does not result in any physical impact to the environment, and is thus exempt from environmental review pursuant to Section 15061(b)(3) of the CEQA Guidelines.

FINANCIAL CONSIDERATIONS

The proposed action will have no fiscal impact on the City. The City's review of the required documents was covered by the fees for the parcel map application. The Owners will pay to record the required documents. The Owners will be responsible for maintenance and upkeep of those portions of the driveway that are within the easements and are solely responsible for any costs to restore the driveway that may result from usage in the event of emergencies.

LEGAL CONSIDERATIONS

Government Code Section 27281 requires the City to consent to the acceptance of “any interest in or easement upon real estate”. The attached Resolution would accept the Emergency Vehicle Access Easements on 1711 and 1755 Eastshore Boulevard and authorize the City Manager to execute the Certificates of Acceptance for the Easement Deeds and to record the documents. The City Attorney has reviewed the proposed City Council Action and Easement Deeds and has found that legal considerations have been addressed.

Reviewed by:

A handwritten signature in blue ink, appearing to read 'Karen Pinkos', is written over a faint, light blue rectangular background.

Karen Pinkos, City Manager

Attachments:

1. Resolution
2. Easement Deed (Parcel 1, Security Public Storage, LLC)
3. Easement Deed (Parcel 2, El Cerrito Affordable Housing Partners, LLC)
4. Certificate of Acceptance (Parcel 1, Security Public Storage, LLC)
5. Certificate of Acceptance (Parcel 2, El Cerrito Affordable Housing Partners, LLC)

RESOLUTION 2023-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO ACCEPTING TWO EMERGENCY VEHICLE ACCESS EASEMENTS FROM EL CERRITO AFFORDABLE HOUSING PARTNERS, LLC AND FROM SECURITY PUBLIC STORAGE, LLC, "OWNERS", TO PROVIDE FOR EMERGENCY VEHICLE ACCESS TO THE PROPERTIES AT 1711 AND 1755 EASTSHORE BOULEVARD, AND AUTHORIZING THE CITY MANAGER TO EXECUTE TWO CERTIFICATES OF ACCEPTANCE AND TO RECORD THE EASEMENT DEEDS

WHEREAS, on January 4, 2022, the El Cerrito Zoning Administrator adopted a resolution granting an Administrative Use Permit for a personal storage land use at 1755 Eastshore Boulevard; and

WHEREAS, on February 2, 2022, the El Cerrito Design Review Board adopted a resolution granting Design Review Approval for alterations to an existing commercial building located at 1755 Eastshore Boulevard; and

WHEREAS, in January 2022, the applicant, El Cerrito Affordable Housing Partners, LLC., submitted an application for a Parcel Map to split the existing property into two parcels; and

WHEREAS, in January 2022, the Owners submitted an application for Tier II Design Review to the City of El Cerrito for consideration of a five-story, 310-unit multi-family residential development; and

WHEREAS, on November 15, 2022, the El Cerrito Subdivision Committee held a duly noticed public hearing and approved the Parcel Map; and

WHEREAS, the proposed action will not result in any fiscal impact on the City, and the Owners have agreed to be responsible for maintenance and upkeep of those portions of the driveway that are within the easements, and solely responsible for costs to restore the driveway that may be incurred as a result of usage in the event of emergencies; and

WHEREAS, the Owners have provided Legal Descriptions and Plat Maps of the easements for recording with Contra Costa County; and

WHEREAS, Government Code Section 27281 requires a governmental agency to consent to the acceptance of easements; and

WHEREAS, acceptance of easements is exempt from review under California Environmental Quality Act (CEQA) pursuant Section 15061(b)(3) (the common sense exemption), as an activity where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby accepts two easements from El Cerrito Affordable Housing Partners, LLC, and from Security Public Storage, LLC, "Owners", to provide emergency vehicle access to the properties at 1711 and 1755 Eastshore Boulevard as described in the Easement DEEDS, and authorizes the City Manager to execute a Certificates of Acceptance for each easement and any other documents reasonably necessary to carry out the intent of this Resolution, and to authorize recordation of the Easement Deeds in the official records of the Contra Costa County Recorder's Office.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon passage and adoption.

I CERTIFY that at a regular meeting on February 7, 2023 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on_____.

Holly M. Charléty, City Clerk

APPROVED:

Lisa Motoyama, Mayor

When Recorded Return To:

City of El Cerrito
Attn: City Clerk
10890 San Pablo Ave, El
Cerrito, CA 94530

Above Line for Recorder's Use

Documentary Transfer Tax Exempt Under Revenue And Taxation Code Section 11922

APN: 513-362-010-3 and 513-371-002-9

Easement Deed

Security Public Storage – El Cerrito LLC, a California limited liability company, hereinafter referred to as “**GRANTOR**”, hereby grants to the City of El Cerrito, a municipal corporation of the State of California, hereinafter referred to as “**GRANTEE**”, a non-exclusive emergency vehicle access easement (“**EVAE**”) for ingress and egress in, over, and through that certain real property situated in the City of El Cerrito, County of Contra Costa, State of California (the “**Easement Area**”), which Easement Area is more particularly described in **Exhibit A-1** attached hereto and incorporated herein by this reference. The Easement Area is a portion of that certain real property more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference (the “**Parcel**”). A depiction of the Easement Area is shown on **Exhibit B** attached hereto and incorporated herein by this reference.

Not a Public Dedication. Nothing contained in this Easement Deed shall, or shall be deemed to, constitute a gift or dedication of any portion of the Parcel or Easement Area to the general public or for the benefit of the general public or for any public purpose whatsoever, it being the intention that this Easement Deed will be strictly limited to and for the purposes expressed herein. Grantor shall be permitted to take whatever reasonable action it deems necessary to prevent any portion of the Easement Area from being dedicated or taken for public use or benefit.

Running of Benefits and Burdens. All provisions of this Agreement, including the benefits and burdens hereof, run with the land and are binding upon and inure to the benefit of the Grantor, and the respective heirs, assigns, successors, and personal representatives of the Grantor.

Non-Exclusive Grant. Grantor retains the right to make any use of the Easement Area that does not interfere unreasonably with Grantee’s use and enjoyment of the EVAE in accordance with this Easement Deed, including without limitation, the right to grant concurrent easements in the Easement Area to third parties.

Exhibit "A"
Legal Description of Parcel

Real property in the City of El Cerrito, County of Contra Costa, State of California, described as follows:

PARCEL ONE OF PARCEL MAP - SUBDIVISION MS 451-22, ACCORDING TO THE OFFICIAL MAP THEREOF, FILED FOR RECORD ON DECEMBER 19, 2022, IN BOOK 220 OF PARCEL MAPS, AT PAGES 25- 27, CONTRA COSTA COUNTY RECORDS.

APN: PORTION 513-371-002-9

EXHIBIT A

Exhibit "A-1"
Legal Description of Easement Area

All that real property, situate in the City of El Cerrito, County of Contra Costa, State of California, described as follows:

AREA ONE:

Being a portion of Parcel One as shown on that map entitled "Parcel Map Subdivision MS 451-22", recorded December 19, 20 22, in Book 220 of Parcel Maps, at Pages 25-27, Contra Costa County Records, further described as follows:

Beginning at the most northerly corner of said *Parcel One*; thence South $17^{\circ}05'50''$ East, 26.00 feet along the easterly boundary line of said *Parcel One*; thence leaving last said easterly boundary line South $72^{\circ}57'22''$ West, 163.95 feet to the beginning of a curve, concave to the northeast, having a radius of 43.00 feet; thence westerly and northwesterly 20.00 feet along said curve, through a central angle of $26^{\circ}38'57''$ to the beginning of a reverse curve, concave to the southeast, having a radius of 38.00 feet; thence westerly and southwesterly 45.88 feet along said curve, through a central angle of $69^{\circ}10'59''$; thence South $28^{\circ}08'26''$ East, 370.08 feet; thence North $72^{\circ}54'10''$ East, 126.18 feet; thence South $18^{\circ}04'35''$ East, 9.90 feet to a point on the southerly boundary line of said *Parcel One*; thence along the southerly and westerly boundary line of said parcel the following three (3) courses:

1. South $72^{\circ}56'52''$ West, 143.17 feet;
2. North $30^{\circ}29'26''$ West, 60.47 feet;
3. North $27^{\circ}42'20''$ West, 335.03 feet to the beginning of a non-tangent curve, concave to the southeast, having a radius of 64.00 feet, a radial line to the beginning of said curve bears North $64^{\circ}42'46''$ West;

thence leaving said boundary line northeasterly and easterly 83.01 feet along said curve, through a central angle of $74^{\circ}19'05''$ to the beginning of a reverse curve, concave to the north, having a radius of 17.00 feet; thence northeasterly 7.91 feet along said curve, through a central angle of $26^{\circ}38'57''$ to a point on the northerly boundary line of said *Parcel One*; thence along said northerly boundary line North $72^{\circ}57'22''$ East, 163.93 feet to the **Point of Beginning** of this description.

Containing an area of 15,141 square feet, more or less.

See Exhibit "B" attached hereto and made part thereof.



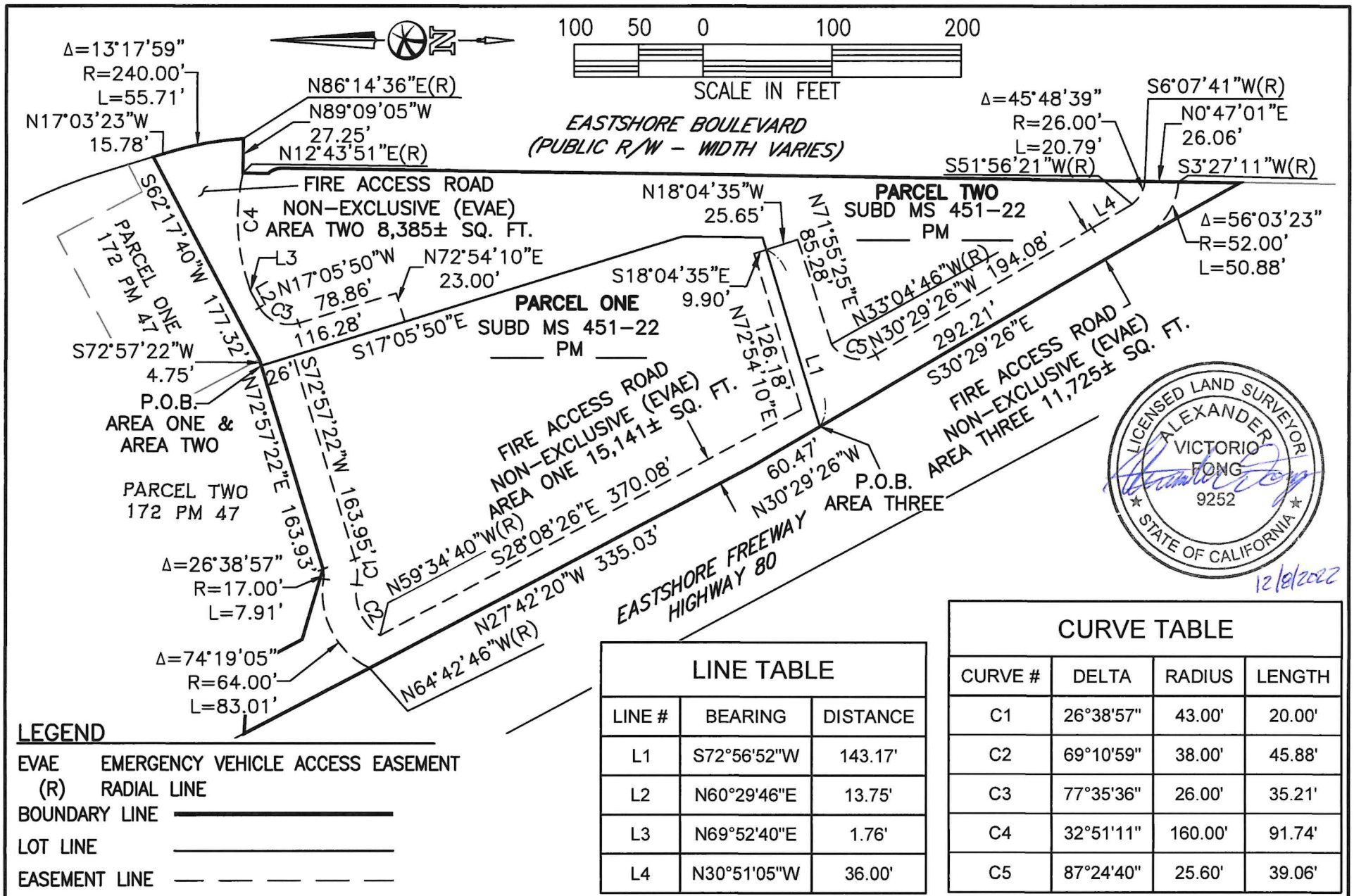
Page 1 of 1

EXHIBIT A-1

Exhibit "B"
Depiction of Easement Area (EVAE)

EXHIBIT B

EXHIBIT B



12/9/2022



925 • 685 • 4569 bellecci.com

EXHIBIT B

DATE: 12/06/2022 SCALE: 1"=100'
FILE NO.: 21054 SHEET 1 OF 1

EVAE EASEMENTS

When Recorded Return To: City of El Cerrito Attn: City Clerk 10890 San Pablo Ave, El Cerrito, CA 94530	
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Above Line for Recorder's Use

Documentary Transfer Tax Exempt Under Revenue And Taxation Code Section 11922

APN: 513-362-010-3 and 513-371-002-9

Easement Deed

El Cerrito Affordable Housing Partners, LLC, a California limited liability company, hereinafter referred to as “**GRANTOR**”, hereby grants to the City of El Cerrito, a municipal corporation of the State of California, hereinafter referred to as “**GRANTEE**”, a non-exclusive emergency vehicle access easement (“**EVAE**”) for ingress and egress in, over, and through that real property situated in the City of El Cerrito, County of Contra Costa, State of California, described as follows (the “**Easement Area**”), which Easement Area is more particularly described in **Exhibit A-1** attached hereto and incorporated herein by this reference. The Easement Area is a portion of that certain real property more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference (the “**Parcel**”). A depiction of the Easement Area is shown on **Exhibit B** attached hereto and incorporated herein by this reference.

Not a Public Dedication. Nothing contained in this Easement Deed shall, or shall be deemed to, constitute a gift or dedication of any portion of the Parcel or Easement Area to the general public or for the benefit of the general public or for any public purpose whatsoever, it being the intention that this Easement Deed will be strictly limited to and for the purposes expressed herein. Grantor shall be permitted to take whatever reasonable action it deems necessary to prevent any portion of the Easement Area from being dedicated or taken for public use or benefit.

Running of Benefits and Burdens. All provisions of this Agreement, including the benefits and burdens hereof, run with the land and are binding upon and inure to the benefit of the Grantor, and the respective heirs, assigns, successors, and personal representatives of the Grantor.

Non-Exclusive Grant. Grantor retains the right to make any use of the Easement Area that does not interfere unreasonably with Grantee’s use and enjoyment of the EVAE in accordance with this Easement Deed, including without limitation, the right to grant concurrent easements in the Easement Area to third parties.

In witness whereof, GRANTOR(s) executed this Easement Deed as of _____, 2023.

GRANTOR:

El Cerrito Affordable Housing Partners, LLC,
a California limited liability company

By: _____

Name: Alexis Gevorgian

Title: Manager

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.
--

State of _____)

)

County of _____)

On _____, 2023 before me, _____, notary public
(here insert name and title of the officer), personally appeared _____, who proved
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the
entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature __ (Seal)

Exhibit "A"
Legal Description of Parcel

Real property in the City of El Cerrito, County of Contra Costa, State of California, described as follows:

PARCEL TWO OF PARCEL MAP - SUBDIVISION MS 451-22, ACCORDING TO THE OFFICIAL MAP THEREOF, FILED FOR RECORD ON DECEMBER 19, 2022, IN BOOK 220 OF PARCEL MAPS, AT PAGES 25- 27, CONTRA COSTA COUNTY RECORDS.

APN: PORTION 513-362-010-3 and 513-371-002-9

Exhibit "A-1"
Legal Description of Easement Parcel

All that real property, situate in the City of El Cerrito, County of Contra Costa, State of California, described as follows:

AREA TWO:

Being a portion of Parcel Two as shown on that map entitled "Parcel Map Subdivision MS 451-22", recorded December 19, 20 22, in Book 220 of Parcel Maps, at Page 25-27, Contra Costa County Records, further described as follows:

Beginning at the most northwesterly corner of said *Parcel Two*; thence South 17°05'50" East, 116.28 feet along the westerly boundary line of said *Parcel Two*; thence leaving last said westerly boundary line North 72°54'10" East, 23.00 feet; thence North 17°05'50" West, 78.86 feet to the beginning of a curve, concave to the southeast, having a radius of 26.00 feet; thence northerly 35.21 feet along said curve, through a central angle of 77°35'36"; thence North 60°29'46" East, 13.75 feet; thence North 69°52'40" East, 1.76 feet to the beginning of a curve, concave to the south, having a radius of 160.00 feet; thence easterly 91.74 feet along said curve, through a central angle of 32°51'11" to a point on the easterly boundary line of said *Parcel Two*; thence along the easterly and northerly boundary line of said *Parcel Two* the following five (5) courses:

1. North 89°09'05" West, 27.25 feet to the beginning of a non-tangent curve, concave to the southwest, having a radius of 240.00 feet, a radial line to the beginning of said curve bears North 86°14'36" East;
2. Northwesternly 55.71 feet along said curve, through a central angle of 13°17'59";
3. North 17°03'23" West, 15.78 feet;
4. South 62°17'40" West, 177.32 feet;
5. South 72°57'22" West, 4.75 feet to the **Point of Beginning** of this description.

Containing an area of 8,385 square feet, more or less.

AREA THREE:

Being a portion of Parcel Two as shown on that map entitled "Parcel Map Subdivision MS 451-22", recorded December 19, 20 22, in Book 220 of Parcel Maps, at Page 25-27, Contra Costa County Records, further described as follows:

Beginning at the most westerly corner of said *Parcel Two*; thence South 30°29'26" East, 292.21 feet to the beginning of a curve, concave to the northeast, having a radius of 52.00 feet; thence southeasterly and easterly 50.88 feet along said curve, through a central angle of 56°03'23" to a point on the easterly boundary line of said *Parcel Two*; thence along said easterly boundary line North 0°47'01" East, 26.06 feet to the beginning of a non-tangent curve, concave to the northeast, having a radius of 26.00 feet, a radial line to the beginning of said curve bears South 6°07'41" West; thence northwest 20.79 feet along said curve, through a central angle of 45°48'39"; thence North 30°51'05" West, 36.00 feet; thence North 30°29'26" West, 194.08 feet

to the beginning of a curve, concave to the southeast, having a radius of 25.60 feet; thence northeast 39.06 feet along said curve, through a central angle of 87°24'40"; thence North 71°55'25" East, 85.28 feet; thence North 18°04'35" West, 25.65 feet to a point on the southerly boundary line of said *Parcel One*; thence along said southerly boundary line South 72°56'52" West, 143.17 feet to the **Point of Beginning** of this description.

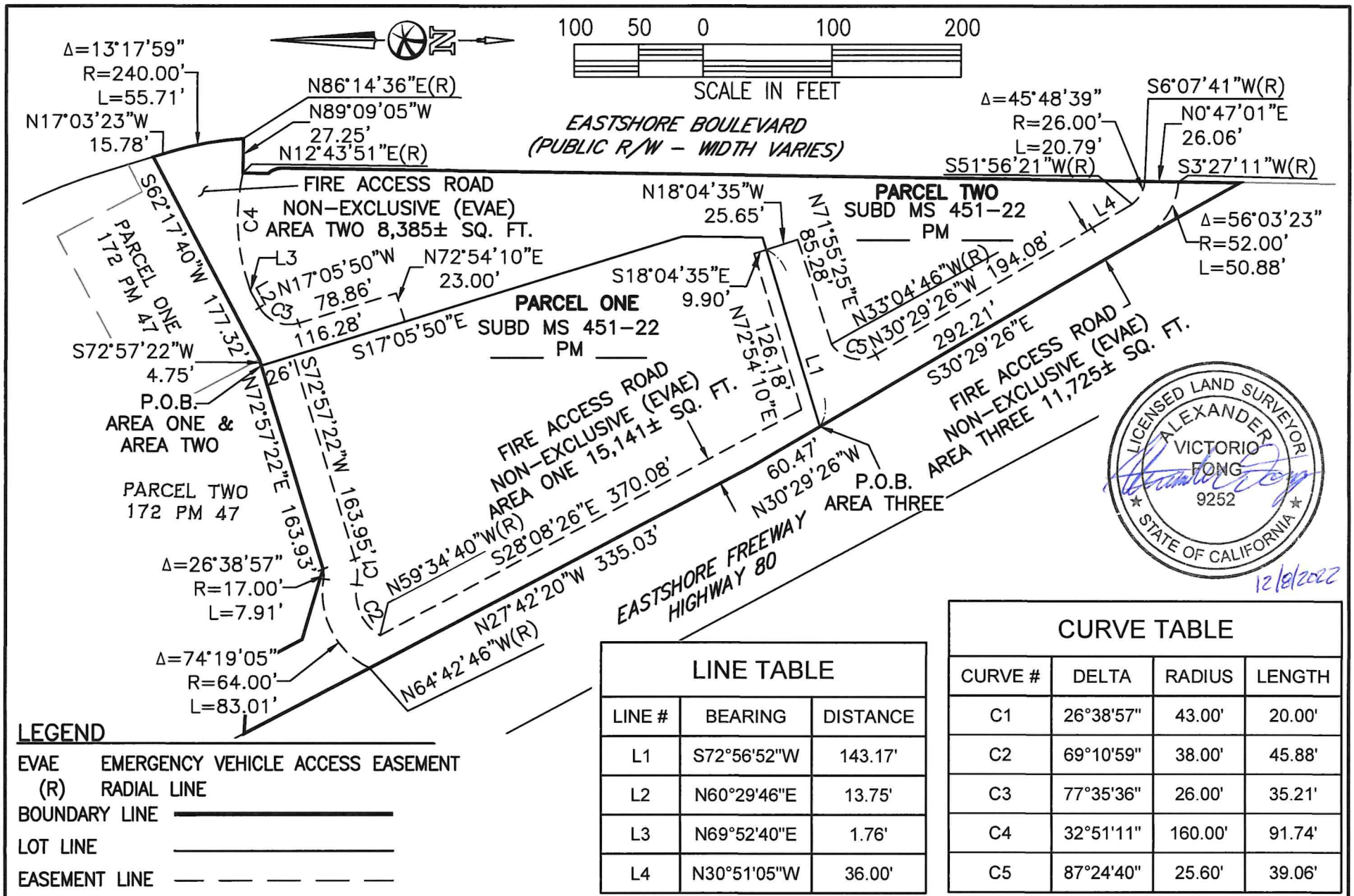
Containing an area of 11,725 square feet, more or less.

See Exhibit "B" attached hereto and made part thereof.



Exhibit "B"
Depiction of Easement Area

EXHIBIT B



925 • 685 • 4569 bellecci.com

EXHIBIT B

DATE: 12/06/2022 SCALE: 1"=100'
 FILE NO.: 21054 SHEET 1 OF 1

EVAE EASEMENTS

CERTIFICATE OF ACCEPTANCE
(California Government Code Section 27281)

This is to certify that the interest in real property conveyed by the Easement Deed dated _____, 2023 from Security Public Storage – El Cerrito LLC, a California limited liability company (“**Grantor**”), to the City of El Cerrito, a charter city (“**Grantee**” or “**City**”), is hereby accepted on behalf of the City by the undersigned officer or agent pursuant to authority conferred by Resolution No. 2023-XX of the City Council adopted on February 7, 2023, and that the City consents to recordation of the Easement Deed in the official records of Contra Costa County by its duly authorized officer.

Dated: _____, 2023

CITY OF EL CERRITO

By: _____
Karen Pinkos, City Manager
City of El Cerrito

Attest

City Clerk

Approved as to Form:

City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Contra Costa)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

CERTIFICATE OF ACCEPTANCE
(California Government Code Section 27281)

This is to certify that the interest in real property conveyed by the Easement Deed dated _____, 2023 from El Cerrito Housing Affordable Housing Partners, LLC, a California limited liability company (“**Grantor**”), to the City of El Cerrito, a charter city (“**Grantee**” or “**City**”), is hereby accepted on behalf of the City by the undersigned officer or agent pursuant to authority conferred by Resolution No. 2023-XX of the City Council adopted on February 7, 2023, and that the City consents to recordation of the Easement Deed in the official records of Contra Costa County by its duly authorized officer.

Dated: _____, 2023

CITY OF EL CERRITO

By: _____
Karen Pinkos, City Manager
City of El Cerrito

Attest

City Clerk

Approved as to Form:

City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Contra Costa)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____



AGENDA BILL

Agenda Item No. 8.A.

Date: February 7, 2023
To: El Cerrito City Council
From: Aissia Ashoori, Housing Manager; Sean Moss, Planning Manager; Melanie Mintz, Community Development Director, Community Development Department
Subject: Predevelopment Loan with ECP Parcel A South Housing Partners, LP for the El Cerrito Plaza BART Transit-Oriented Development, and Inclusion of City Owned Property in Project Application

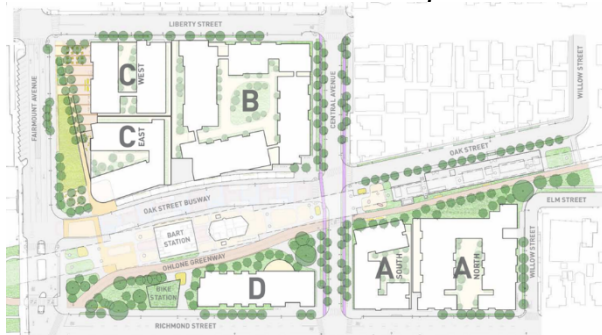
ACTION PROPOSED

1) Adopt a resolution authorizing the City of El Cerrito to enter into a Predevelopment Loan Agreement (Loan) with ECP Parcel A South Housing Partners, LP (Developer), for the property located at 515 Richmond Street - APN 504-050-012-5 - also known as Parcel A South (ECP-PAS) - El Cerrito Plaza BART Transit-Oriented Development (Development) for predevelopment activities related to the construction of 70 affordable housing units; and 2) Adopt a resolution authorizing the inclusion of a small City-owned property to be included in an entitlement application for a portion of the residential development in the El Cerrito Plaza BART Station Transit-Oriented Development Project and authorizing the City Manager to sign necessary development applications to include the property and to initiate negotiations for potential conveyance of the property to BART.

BACKGROUND

The San Francisco Bay Area Rapid Transit District (BART) owns approximately 8.3 acres at the El Cerrito Plaza BART Station (Station). The site is primarily occupied by the Station itself and surface parking lots on three City blocks. The Station is bordered by Fairmount and Central Avenues as well as Richmond, Willow, Liberty, Oak, and Elm Streets. (*Exhibit 1*) The site consists of four parcels of land (APNs 504-050-012, 504-121-017, 504-122-010, and 501-130-031). The City of El Cerrito owns approximately 15,000-16,000 square feet within parcel 504-121-017 (annotated as Parcel D in Exhibit 1.)

Exhibit 1: El Cerrito Plaza Proposed Transit Oriented Development Site Map



Zoning

On September 30, 2018, Governor Brown signed [AB 2923](#) into law. It added sections 29010.1 through 29010.12 to California's Public Utilities Code, affecting zoning requirements on existing BART-owned property in Alameda, Contra Costa, and San Francisco counties within a half-mile of stations. AB 2923 includes two core components:

1. Transit-Oriented Development (TOD) Zoning Standards: AB 2923 established Baseline Zoning Standards for BART properties subject to the legislation. Cities and counties had until July 1, 2022, to rezone non-conforming parcels to align with the AB 2923 Baseline Zoning Standards.
2. Development Streamlining: Developers in an exclusive negotiating agreement with BART to develop its property may apply for expedited approval from local cities and counties, as articulated in Senate Bill 35, if (1) the project is at least 50% residential; (2) a minimum of 20% of proposed housing is affordable to low- or very low- income households; (3) the height is within one story of the tallest approved height within a ½ mile; and (4) the construction plan meets required labor standards described in the bill.

The San Pablo Avenue Specific Plan (SPASP) has been determined by BART to conform with the AB 2923 Baseline Zoning Standards.

Table 1. AB 2923 Baseline Zoning Standards for El Cerrito Plaza Station

AB 2923 Baseline Zoning Standards for El Cerrito Plaza Station	
Residential Density	75 dwelling units per acre or higher
Allowable Building Height	7 stories or higher
Allowable Floor Area Ratio (FAR)	4.2 FAR or higher
Minimum Vehicle Parking	Zero for all land uses (no minimum required allowed)
Maximum Residential Vehicle Parking	0.5 spaces per unit or lower
Minimum Secure Bike Parking	1 space per residential unit or higher

One parcel within the proposed TOD, at 515 Richmond Street - Parcel A South (ECP-PAS), is located outside of the 2014 Specific Plan area. Although it was added to the

Specific Plan area during the 2022 SPASP update (adopted December 6, 2022) to comply with AB 2923, given that the provisions of AB 2923 automatically apply as of July 1, 2022, and because the Developer's timeline requires that the parcel at this location needed to proceed in advance of when the SPASP Update was scheduled to move forward, the Developer submitted an application utilizing SB 330 pursuant to both the provisions of AB 2923 and the City's existing TOM (Transit Oriented Mixed Use) zoning district on October 3, 2022. SB 330 allows the developer to utilize the standards in place at the time of submittal (as modified by AB 2923). AB 2923 also allows the developer to utilize ministerial approval processes implemented by SB 35. The site master plan, for the remaining three parcels, is expected to be submitted early February 2023. The Development itself is a multiyear planning process that will be constructed in various phases, as shown in *Table 2*.

El Cerrito Plaza Station TOD

The City has long envisioned new housing near transit, most recently articulated in the City Climate Action Plan *Sustainable Community Goal #1: Encourage more compact, higher density infill development along transportation corridors to reduce vehicle miles traveled in El Cerrito and beyond*. El Cerrito Plaza Station is in proximity to the City's Downtown district and adjacent to various transit routes including the Ohlone Greenway and San Pablo Avenue. Nearby, there are shopping, dining, and neighborhood services. As envisioned in the SPASP, development in this area will create a more active, vibrant urban area, with a mix of commercial and residential uses that complement and support one another and bring vitality, including increased retail sales, to the area.

In 2016, the City Council authorized the City Manager ([Resolution 2016-68](#)) to execute a Memorandum of Understanding (MOU) with BART to study TOD at the Station including the potential of a new library. The MOU was executed in 2018 and staff from the City and BART met regularly on the topic. Ultimately, both agencies opted to proceed with a development process to attract a highly qualified development team to develop a TOD, including a site plan scenario that could accommodate a potential City library.

Starting in 2019, BART and City staff initiated a series of community engagement efforts specific to this Development. Both the [City](#) and [BART](#) have dedicated websites for the public to access materials related to the Development (www.el-cerrito.org/tod). As a result of the public feedback received, the City Council adopted the El Cerrito Plaza [TOD Goals & Objectives](#) on November 19, 2019 that was later adopted by the BART Board of Directors in 2020 and amended in 2021, as the guiding principles for the Development.

On July 21, 2020, BART released a [Request for Developer Qualifications](#) for TOD at El Cerrito Plaza BART Station. The BART Board of Directors authorized an Exclusive Negotiating Agreement (ENA) in November 2020 with a joint venture comprised of Holliday Development, Related Companies of California, and Satellite Affordable Housing Associates (SAHA) to advance the Development. This Development

demonstrates the value of public-private partnership which plays an integral role in providing housing locally and regionally.

The preliminary Development concept includes 713 units across 6 buildings on 6.48 acres and will be delivered in six phases. Currently, the proposed levels of affordability are: 53% market-rate and 47% below market rate consisting of 31% affordable (30% - 60% of area median income) and 16% low income (up to 80% area median income). *Table 2* further describes the estimated schedule by phase and housing type.

Table 2: El Cerrito Plaza Station TOD Phases & Schedule

Entitlement Process	Phases by Parcel	Housing Type	Predevelopment	Estimated Construction
AB2923-TOM	Phase 1: Parcel A South	70 units - affordable	2022-2024	2024-2026
AB2923-Master Plan	Phase 2: Parcel B	Up-to 259 units market-rate	2023-2024	2024-2026
	Mixed-Use	(BART parking garage + bike station)		
	Phase 3: Parcel C East	Up-to 84-units – affordable	2024-2025	2025-2026
	Mixed Use			
	Phase 4: Parcel C West (Mixed Use - Library)	Up-to 79-units - affordable	2024-2025	2025-2027
	Phase 5: Parcel A North	Up-to 133 units - market-rate	2025-2026	2026-2028
	Phase 6: Parcel D	Up-to 88 units - affordable	2026-2027	2027-2029
*Total	713 Units			
*These figures are estimates; final unit counts and schedules are subject to funding and vertical design/master plan considerations.				

The Development will also integrate other community benefits and amenities for El Cerrito including public open spaces and art, small commercial/retail, and multimodal transportation infrastructure improvements. Enhancements to the Ohlone Greenway, a new bike station, a public plaza and other Station access improvements are also being incorporated as a part of the Development. The Development will provide much needed

housing while prioritizing access for all modes of travel by residents, visitors and patrons to Downtown.

As authorized by City Council in [Resolution 2016-68](#) and [Resolution 2019-66](#), a new library is continuing to be advanced through the site planning phase. The Developer, BART, and the City are working closely to develop a library plan that accommodates a modern public facility integrated within the ground floor of one of the affordable housing buildings (Parcel C West) at the Development, pending the City's ability to finance the facility. A study session pertaining to this opportunity is scheduled for an upcoming City Council study session.

City Policies

The Development is a vital component to the City's housing goals and a key component of the City being able to meet its Regional Housing Needs Allocation (RHNA). It is consistent with the City's [San Pablo Avenue Specific Plan](#), [Climate Action Plan](#), and [Economic Development Plan](#). ECP-PAS is also in alignment with the [Affordable Housing Strategy](#) (Strategy). The Strategy identifies four policy pillars, and the development of ECP-PAS specifically furthers pillars A, C and D. For reference, these include:

- A. Leverage Private Development to Address Affordable Housing Needs
- B. Reduce the Risk of Displacement
- C. Encourage Development of "Missing Middle Housing" that Serves Low- and Moderate-Income Households
- D. Increase Local Funding to Continue Supporting Development of Affordable and Special Needs Housing

The RHNA is a state-mandated process for identifying the total number of housing units (by affordability level) that each jurisdiction must accommodate in its Housing Element. In the 2015-2022 5th RHNA cycle, the City was tasked with 398 new housing units. For the 6th Cycle 2023-2031 reporting period, El Cerrito is tasked with creating 1,391 new housing units at different affordability levels, including 334 very low-income, 192 low-income, and 241 moderate-income units. This Development is an important part of meeting the City's housing goals.

Tonight's requested action includes two components to advance the below market rate components of the TOD, including:

1. A predevelopment loan request to advance ECP-PAS and assist in securing construction financing.
2. A request to authorize submittal of an SB330 preliminary application for the TOD, inclusive of a sliver of City-owned property contained within one of the

surface parking lots to develop affordable housing and to authorize negotiations to convey the property to BART.

ANALYSIS

ECP-PAS PREDEVELOPMENT LOAN

The affordable housing component in this TOD Development will be delivered in four phases. ECP-PAS is the first phase, targeting to begin construction as early as spring 2024, contingent upon securing financing. As a reminder, securing financing for affordable housing projects often requires a very proactive strategy, persistence, and numerous layers of funding sources.

The ECP-PAS proposal consists of a new 6-story, 71-foot-tall building with 70 affordable units on 0.48-acre portion of 1.53-acre BART parking lot (Parcel A-South) adjacent to the Station bordered by the Ohlone Greenway, at the intersection of Central Avenue and Richmond Street (See *Exhibit 1* above). ECP-PAS will include 1-, 2-, and 3-bedroom units for family households earning between 30-60% of the [Area Median Income \(AMI\) for Contra Costa County](#). Final affordability levels for the units will be determined once funding is secured and will depend upon the funding sources. As proposed, ECP-PAS includes a parking garage with 35 spaces, a secured bike storage room, a residential lobby, a community room, and courtyard/green space for residents. As explained above, ECP-PAS is subject to an approval process/timeline under SB 330 and the application was submitted to the City in October 2022. An advisory review will be conducted by the Design Review Board based on the Board's traditional purview under the San Pablo Avenue Specific Plan to allow the Board and the public an opportunity to comment.

Given the competitiveness for affordable housing funding, demonstrating a local source of funding in ECP-PAS is a critical component of successful funding applications, and the City's funding from its City's Low and Moderate Income Housing Asset Fund will help leverage significant additional funds necessary to build affordable housing. The Developer has currently requested predevelopment assistance from the City both to demonstrate local commitment and to help advance ECP-PAS through predevelopment activities. The current funding strategy for ECP-PAS is to seek financing from a combination of federal and state Low Income Housing Tax Credits (LIHTC), tax-exempt bonds, the state Housing and Community Development (HCD) Affordable Housing and Sustainable Communities (AHSC) program, an HCD Infill Infrastructure Grant (IIG), and County HOME and Measure X funds combined with a discounted ground lease with BART. Upcoming application deadlines include AHSC due on April 4, 2023 followed by anticipated award announcements in summer 2023. Staff will return to the City Council on February 21, 2023, to request authorization for EC-PAS to apply for AHSC. If awarded, AHSC will provide financing for the affordable housing as well as substantial funding to enhance multi-modal transportation infrastructure to the Development area not only for BART commuters but for residents, patrons, bicyclists, and pedestrians.

Staff is seeking authorization for a Predevelopment Loan to the Developer in the amount of \$350,000 from the City's Low and Moderate Income Housing Asset Fund, to be structured similar to the loan provided to BRIDGE Housing in 2019 for the predevelopment of Mayfair Affordable. The proposed Loan term is fifty-five years from the date of the Certificate of Occupancy, 3% interest annually, and repayment is equal to the City's proportionate share of residual receipts for ECP-PAS once constructed. If for any reason ECP-PAS is not constructed, the Developer can request the City to deem the Loan repaid. This Loan will assist the Developer by funding portions of the architecture and engineering, professional/consulting services (including the preparation of affordable housing loan applications) and legal fees associated with predevelopment activities. A portion of the budget has been set aside for soft cost contingency to ensure that any changes are appropriately captured. With a total predevelopment budget of \$2.6 million, the City's Loan will fund 13% of predevelopment activities. *Table 3* shows an itemization of predevelopment expenditures.

Table 3 – Predevelopment Loan Budget

Predevelopment Loan Budget		
Task	Budget	Estimated Start Date
Architecture/Engineering (A&E)	\$1,617,166	2022
Other Professional/Consulting	\$334,333	2022
Fee and Permits	\$169,750	2023
TCAC Fees	\$77,000	2023
Legal Fees	\$230,000	2022
Soft Cost Contingency	\$257,500	As needed
Accounting/Administration	\$2,040	2022
Total	\$2,687,789	

The proposed Loan is intended to help move the ECP-PAS through the next phase (construction documents and financing applications) and is not associated with construction or permanent financing which is typically provided at the time construction commences. As with the Mayfair Affordable and Hana Gardens projects, repayment of

the loan will be solely from cash flow from ECP-PAS, if any, unless there is a default of the terms, and will be secured through ECP-PAS work product. Once the Developer enters a lease with BART for the property, the loan will be secured by a leasehold deed of trust on the property subordinate to bank and state financing. As a reminder, the Developer has an Exclusive Negotiating Agreement with BART that will evolve into an option agreement and ground lease at construction closing.

The Developer is requesting, and staff is in support of, the proposed loan request which will allow the City to continue to work to provide high quality housing for low-income community members. To assist with costs and demonstrate funding competitiveness, staff suggests providing financial assistance to the Developer to support ECP-PAS and to ensure it remains feasible. City staff will consider/return with subsequent predevelopment loan requests as other phases proceed, as outlined above in *Table 2*.

PARCEL D: CITY OWNED PROPERTY

As noted above, ECP-PAS is on a separate entitlement schedule than the remainder of the TOD project. ECP-PAS is being developed pursuant to AB 2923 and the City's TOM zoning designation. The remainder of the site is being reviewed together through a Master Plan-AB 2923 process wherein the entire site will be entitled as one project utilizing SPASP zoning standards and proceed into construction in multiple phases. The Master Plan includes Parcel D, where approximately 88 units of below market rate lower income units are being contemplated (as shown in *Table 2*).

The City owns a separate parcel of approximately 15-16,000 square feet that abuts Parcel D (see *Exhibit 1* above and *Exhibit 2* below). The City property is currently used as part of a surface parking lot for BART patrons, pursuant to a lease agreement approved by the City Council in 1987. In order to facilitate the development of the project's proposed lower income housing and future Ohlone Greenway alignment, BART and the development team have requested the City consider conveying its land to BART. The terms of this conveyance, including a possible land swap wherein BART also conveys land to the City, have yet to be negotiated. However, in order to maintain schedules for entitling and advancing the entire TOD into the construction schedule depicted in *Table 2*, the Developer intends to submit an SB 330 preliminary application in the coming weeks. The City's Master Plan application and the SB 330 preliminary application both require that all property owners acknowledge the filing of an application.

The proposed action requests two items: 1) that the City Council authorize the inclusion of the City's property in the SB 330 preliminary application for development on Parcel D and authorize the City Manager to sign an application acknowledging and authorizing the application to include the City-owned property, as well as any other documents necessary for application purposes; and 2) that the City Council authorize the City Manager to commence negotiations regarding the proposed conveyance and potential land swap. The terms of the land transaction would be brought back to the City Council and the authorization to submit an application does not bind the Council to convey the land. The City would retain complete discretion about whether to proceed with

conveyance of the land. The Developer will submit the SB 330 preliminary application with two potential site plans: one with the City's parcel incorporated and one without the parcel. City staff, BART, and the Developer would then commence negotiations and staff would bring a recommendation to City Council prior to the developer submitting the next phase of the Master Plan.

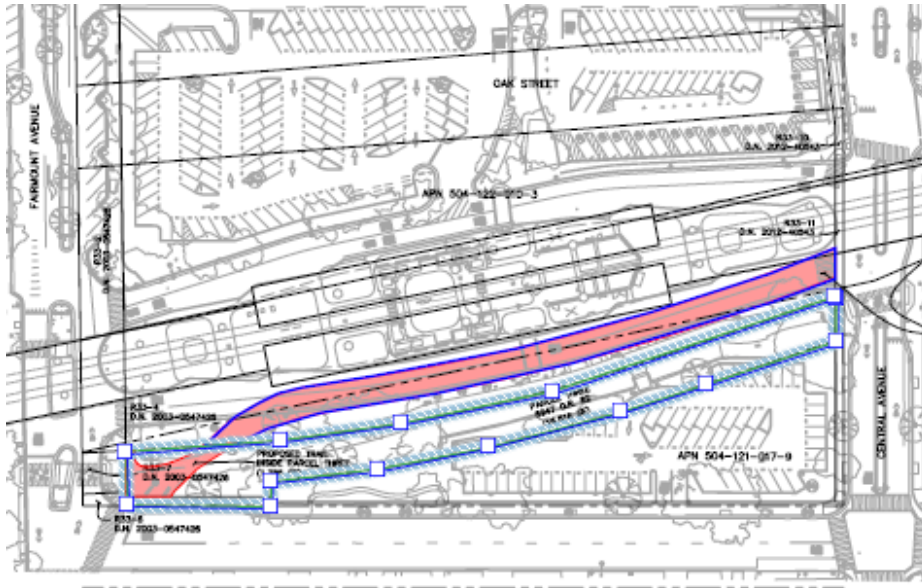


Exhibit 2: Parcel D and City-owned land

City-owned parcel leased to BART and used as part of surface parking lot, outlined in green.

STRATEGIC PLAN CONSIDERATIONS

The proposed actions help fulfill the City's Strategic Plan Goal C: Deepen a sense of place and community identity and specifically the strategies to reimagine underdeveloped and underutilized properties, promote strong neighborhoods and welcome residents of all ages and cultures.

ENVIRONMENTAL CONSIDERATIONS

The Project, including the ECP-PAS portion, is subject to ministerial review under applicable provisions of AB 2923 and SB 35. No review under the California Environmental Quality Act ("CEQA") is required for the Project, including the ECP-PAS portion. It can be seen with certainty that the proposed predevelopment loan will have no significant effects on the environment different from the ECP-PAS development itself. The predevelopment loan will only facilitate pre-construction activities associated with the Project. No review under CEQA is required (CEQA Guidelines section 15061). It is further exempted under Government Code section 65913.4(j) which also applies to any financing assistance associated with the ECP-PAS portion of the Project, including approval of the predevelopment loan.

The development capacity of the Fairmount to Central Parcel as part of the Project has been adequately analyzed in the Supplemental Environmental Impact Report for the 2022 update to the San Pablo Avenue Specific Plan, which was certified by the City

Council on December 6, 2022. The actions taken that will consent to inclusion of the property in the Project application have no potential for physical effects on the environment because they do not commit the City to any specific project. The conveyance of the Fairmount to Central Parcel is subject to negotiations regarding the terms of the conveyance, and the City retains full discretion not to convey the property. If the Fairmount to Central Parcel were conveyed to BART, it would be for inclusion of the property in a development project that, as noted, is not subject to CEQA review. If legally required, final conveyance of the Fairmount to Central Parcel will be fully evaluated in compliance with CEQA as part of the conveyance process, which the City would undertake at the earliest feasible time. (See CEQA Guidelines, Section 15004(b)(1)).

FINANCIAL CONSIDERATIONS

The proposed \$350,000 loan will be made from the Low and Moderate Income Housing Asset Fund. The fund is restricted for use to increase, improve, and preserve the housing supply affordable to very low, low, and moderate income households, and consists of revenues received from the City's Redevelopment Agency pursuant to the Dissolution Act and residual receipt payments from previous loans made from the fund. The fund balance is currently \$805,000. As a reminder, repayment of the loan will only be received from EC-PAS cash flow and only if it is constructed unless there is a default of the terms. The proposed loan would be dispersed in two payments, beginning in FY 2022-23 through FY 2023-24. Staff will release the initial draw of \$200,000 in FY 2022-23 and the second draw of \$150,000 in FY 2023-24 contingent on securing significant funding sources.

LEGAL CONSIDERATIONS

This has been reviewed by the Successor Agency Legal Counsel and City Attorney.

Reviewed by:

A handwritten signature in blue ink, appearing to read 'Karen Pinkos', is written over a faint circular official stamp.

Karen Pinkos, City Manager

Attachments:

1. Resolution (Loan)
2. Resolution (Application)

RESOLUTION NO. 2023-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO (THE "CITY") AUTHORIZING A PREDEVELOPMENT LOAN WITH ECP PARCEL A SOUTH HOUSING PARTNERS, LP, IN CONNECTION WITH THAT CERTAIN PROPERTY LOCATED AT 515 RICHMOND STREET

WHEREAS, the City Council goals, objectives, policies and action programs prioritize the City's housing needs through the El Cerrito General Plan, San Pablo Avenue Specific Plan, Affordable Housing Strategy, Housing Element, Strategic Plan, Climate Action Plan and Economic Development Action Plan; and

WHEREAS, the City Council adopted the 2014 San Pablo Avenue Specific Plan (Plan) to promote transit-oriented development (TOD) for all income levels, especially new affordable housing; and

WHEREAS, due to the Plan's success, the City Council adopted a Supplemental Environmental Impact Report (SEIR) for the San Pablo Avenue Specific Plan on December 6, 2022, to support additional development capacity; and

WHEREAS, the El Cerrito Plaza BART Station as identified in the City's San Pablo Avenue Specific Plan is located in Downtown El Cerrito, the City's entertainment/theater and shopping district that serves as the southern gateway to the City; and

WHEREAS, the El Cerrito Affordable Housing Strategy (Strategy), adopted August 17, 2017, identifies four policy pillars for implementation to produce, protect and preserve affordable housing for El Cerrito residents; and

WHEREAS, the Strategy includes "Pillar D. Increase Local Funding to Continue Supporting Development of Affordable and Special Needs Housing"; and

WHEREAS, housing affordability continues to be a regional issue; and

WHEREAS, on December 16, 2021 the Association of Bay Area Government (ABAG) adopted the Final Regional Housing Needs Assessment (RHNA) Plan: San Francisco Bay Area, 2023-2031 assigning the San Francisco Bay Area region 441,176 housing units at all income levels; and

WHEREAS, the City of El Cerrito's was allocated 1,391 total new housing units, including 334 very-low, 192 low-, 241 moderate, and 624 above moderate income units, to meet future housing needs for its 6th Housing Element Cycle which commences in 2023; and

WHEREAS, In 2018 the City entered an MOU with BART to study and pursue TOD opportunities and a potential new library at the El Cerrito Plaza Station; and

WHEREAS, Assembly Bill 2923 was signed by the Governor on September 30, 2018 directing BART to adopt new transit-oriented zoning standards for BART-owned property in Alameda, Contra Costa, and San Francisco counties within a half-mile of stations; and

WHEREAS, the City Council adopted the El Cerrito Plaza TOD Goals and Objectives on November 19, 2019, as the guiding vision for El Cerrito Plaza Station; and

WHEREAS, on July 21, 2020 BART issued a Request for Developer Qualifications for TOD at El Cerrito Plaza BART Station; and

WHEREAS, on November 19, 2020 BART Board of Directors authorized an Exclusive Negotiating Agreement (ENA) with a joint venture comprised of Holliday Development, Related Companies of California and Satellite Affordable Housing Associates ("Developer") to advance the TOD; and

WHEREAS, the Developer is proposing to develop a portion of the Development with 70 affordable residential units for households earning between 30% - 60% of the Area Median Income; and

WHEREAS, the City as the housing successor to the Agency has established a low and moderate income housing asset fund (Housing Fund) and has received certain loan repayments which are deposited into the Housing Fund; and

WHEREAS, the City Council has determined that providing a predevelopment loan to ECP Parcel A South Housing Partners, LP (an affiliate of the Developer) to support the development of very low- and low-income housing at 515 Richmond Street, also known as Parcel A South (ECP-PAS), is in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito hereby approves a predevelopment loan to ECP Parcel A South Housing Partners, LP in the amount of Three Hundred Fifty Thousand Dollars (\$350,000) to be made from the Housing Fund and authorizes the City Manager to execute all loan documents to evidence the loan including a loan agreement and any other related documents and to take any other actions necessary to implement the loan.

BE IT FURTHER RESOLVED that the City Council finds as follows: the Project, including the ECP-PAS portion, is subject to ministerial review under applicable provisions of AB 2923 and SB 35. No review under the California Environmental Quality Act ("CEQA") is required for the Project, including the ECP-PAS portion. It can be seen with certainty that the proposed predevelopment loan will have no significant effects on the environment different from the ECP-PAS development itself. The predevelopment loan will only facilitate pre-construction activities associated with the Project. No review under CEQA is required. (CEQA Guidelines section 15061.) It is further exempted under Government Code section 65913.4(j) which also applies to any financing

assistance associated with the EC-PAS portion of the Project, including approval of the predevelopment loan.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediate upon passage and adoption.

I CERTIFY that at the regular meeting on February 7, 2023, the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on_____.

Holly M. Charl  ty, City Clerk

APPROVED:

Lisa Motoyama, Mayor

RESOLUTION NO. 2023-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO (THE "CITY") AUTHORIZING THE INCLUSION OF A SMALL CITY-OWNED PROPERTY IN AN APPLICATION FOR A PORTION OF THE RESIDENTIAL DEVELOPMENT IN THE EL CERRITO PLAZA BART TRANSIT-ORIENTED DEVELOPMENT PROJECT AND AUTHORIZING THE CITY MANAGER TO SIGN NECESSARY DEVELOPMENT APPLICATIONS TO INCLUDE THE PROPERTY AND TO INITIATE NEGOTIATIONS FOR POTENTIAL CONVEYANCE OF THE PROPERTY TO BART IF THE PROJECT IS APPROVED

WHEREAS, the City Council goals, objectives, policies and action programs prioritize the City's housing needs through the El Cerrito General Plan, San Pablo Avenue Specific Plan, Affordable Housing Strategy, Housing Element, Strategic Plan, Climate Action Plan and Economic Development Action Plan; and

WHEREAS, the City Council adopted the 2014 San Pablo Avenue Specific Plan ("Plan") to promote transit-oriented development ("TOD") for all income levels, especially new affordable housing; and

WHEREAS, due to the Plan's success, the City Council adopted a Supplemental Environmental Impact Report (SEIR) for the San Pablo Avenue Specific Plan on December 6, 2022, to support additional development capacity; and

WHEREAS, the El Cerrito Plaza BART Station as identified in the City's San Pablo Avenue Specific Plan is located in Downtown El Cerrito, the City's entertainment/theater and shopping district that serves as the southern gateway to the City; and

WHEREAS, the El Cerrito Affordable Housing Strategy ("Strategy"), adopted August 17, 2017, identifies four policy pillars for implementation to produce, protect and preserve affordable housing for El Cerrito residents; and

WHEREAS, the Strategy includes "Pillar D. Increase Local Funding to Continue Supporting Development of Affordable and Special Needs Housing".

WHEREAS, housing affordability continues to be a regional issue; and

WHEREAS, on December 16, 2021 the Association of Bay Area Government ("ABAG") adopted the *Final Regional Housing Needs Assessment ("RHNA") Plan: San Francisco Bay Area, 2023-2031* assigning the San Francisco Bay Area region 441,176 housing units at all income levels; and

WHEREAS, the City of El Cerrito was allocate with creating 1,391 total housing units, including 334 very-low, 192 low-, 241 moderate, and 624 above moderate income

units, to meet future housing needs for its 6th Housing Element Cycle which commences in 2023; and

WHEREAS, in 2018, the City entered into a Memorandum of Understanding (“MOU”) with the Bay Area Rapid Transit District (BART) to study and pursue TOD opportunities and a potential new library at the El Cerrito Plaza Station; and

WHEREAS, Assembly Bill 2923 was signed by the Governor on September 30, 2018 directing BART to adopt new transit-oriented zoning standards for BART-owned property in Alameda, Contra Costa, and San Francisco counties within a half-mile of stations;

WHEREAS, the City Council adopted the El Cerrito Plaza TOD Goals and Objectives on November 19, 2019 as the guiding vision for El Cerrito Plaza Station; and

WHEREAS, on July 21, 2020 BART issued a Request for Developer Qualifications for TOD at El Cerrito Plaza BART Station (“Project”);

WHEREAS, on November 19, 2020 BART Board of Directors authorized an Exclusive Negotiating Agreement (“ENA”) with a joint venture comprised of Holliday Development, Related Companies of California and Satellite Affordable Housing Associates to advance the TOD (together, the “Development Team”); and

WHEREAS, in 1980, by the adoption of Resolution 80-28, the City Council accepted a quitclaim from the Atchison, Topeka, & Santa Fe Railroad Company of two small pieces of property located east of BART right-of-way, one between Central Avenue and Willow Street (the “Central to Willow Parcel”), the other between Fairmount Avenue and Central Avenue (the “Fairmount to Central Parcel”). The Fairmount to Central Parcel is illustrated in the staff report that accompanied this resolution. In 1987, the City leased the properties to BART for expansion of parking lots for the Plaza BART Station. An addendum to the lease was approved in 2000; and

WHEREAS, the Fairmount to Central Parcel abuts Parcel D of the Project. BART has requested that the City consider conveying the Fairmount to Central Parcel to BART to facilitate the planned development on Parcel D. The development on Parcel D is currently anticipated to include approximately 88 units that would have rents restricted to be affordable to individuals and families earning lower incomes, which are some of the most difficult units to produce in the current development environment. Inclusion of the Fairmount to Central Parcel in the Parcel D development would enable additional design flexibility to both the community and the project’s benefit. It would allow for more building articulation, provide superior open space by creating a larger contiguous plaza area near the intersection of the Ohlone Greenway and Central Avenue, and potentially add units; and

WHEREAS, City and BART staff have not initiated formal negotiations over the terms of a potential conveyance of the Fairmount to Central Parcel, but the

Development Team seeks to submit a development application that includes Parcel D and the Fairmount to Central Parcel. The City Council supports the inclusion of the Fairmount to Central Parcel in the development application, with the understanding that no final decision has yet been made about whether to convey the Fairmount to Central Parcel to BART, and that the City retains the discretion to withdraw its consent at any time for any reason, which would result in the Development Team having to revise the application accordingly.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito as follows:

1. The City Council hereby consents to and authorizes the inclusion of the Fairmount to Central Parcel in an application for development of Parcel D as identified in the development plan for the El Cerrito Plaza BART TOD Project, with the understanding that no final decision has yet been made about whether to convey the Fairmount to Central Parcel to BART, and that the City retains the discretion to withdraw its consent at any time for any reason, which would result in the Development Team having to revise the application accordingly.
2. The City Manager is authorized to sign applications and other documents as necessary to facilitate the inclusion of the Fairmount to Central Parcel in applications for development of Parcel D as identified in the development plan for the El Cerrito Plaza BART TOD Project.
3. The City Manager is authorized to initiate formal negotiations with BART and the Development Team for the conveyance of the Fairmount to Central Plaza to BART.
4. The development capacity of the Fairmount to Central Parcel as part of the Project has been adequately analyzed in the Supplemental Environmental Impact Report for the 2022 update to the San Pablo Avenue Specific Plan, which was certified by the City Council on December 6, 2022. The actions taken to consent to inclusion of the property in the Project application have no potential for physical effects on the environment because they do not commit the City to any specific project. The conveyance of the Fairmount to Central Parcel is subject to negotiations regarding the terms of the conveyance, and the City retains full discretion not to convey the property. If the Fairmount to Central Parcel were conveyed to BART, it would be for inclusion of the property in a development project that, as noted, is not subject to CEQA review. If legally required, final conveyance of the Fairmount to Central Parcel will be fully evaluated in compliance with CEQA as part of the conveyance process, which the City would undertake at the earliest feasible time. (See CEQA Guidelines, Section 15004(b)(1)).

5. Conveyance of the Fairmount to Central Parcel to BART would be exempt from the Surplus Land Act (Gov. Code §§ 54220 *et seq.*) under either Government Code Section 54221(f)(1)(C) or (D), or both.
6. This Resolution shall become effective immediate upon passage and adoption.

I CERTIFY that at the regular meeting on February 7, 2023, the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

IN WITNESS of this action, I have hereunto set my hand and affixed the official Seal of said City, on _____.

Holly M. Charléty, City Clerk

Approved:

Lisa Motoyama, Mayor



AGENDA BILL

Agenda Item No. 8.B.

Date: February 7, 2023
To: El Cerrito City Council
From: Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department
Subject: Caltrans Maintenance Agreements for El Cerrito del Norte Transit-Oriented Development Complete Streets Improvement Project and On-going Operations

ACTION PROPOSED

Adopt a resolution approving and authorizing execution of an Electrical Facilities Cost Sharing Agreement, Amendment No. 3 to Agreement for Maintenance of State Highways, and a Project Specific Maintenance Agreement between the State of California Department of Transportation (Caltrans) and the City of El Cerrito (City) for the El Cerrito del Norte Transit-Oriented Development (TOD) Complete Streets Improvement Project and on-going operations.

BACKGROUND

The El Cerrito del Norte TOD Complete Streets Improvement Project (Project) will implement multimodal transportation improvements identified in the San Pablo Avenue Specific Plan and Active Transportation Plan. The Project is intended to support and catalyze TOD by creating a safe and comfortable environment that balances the needs of all street users, to improve pedestrian and bicyclist safety and access to housing and the Del Norte BART Station, to encourage mode-shift to walking, biking, and taking transit, and to support economic development in Uptown El Cerrito by creating a "sense of place." Planned improvements consist of enhanced and new protected crosswalks, new context-sensitive bikeways, bus boarding islands, circulation improvements, and various streetscape enhancements.

The Project spans several streets, including San Pablo Avenue from Ohlone Greenway near the northern City limit to Potrero Avenue, Eastshore Boulevard from Potrero Avenue to San Pablo Avenue, Hill Street from San Pablo Avenue to Liberty Street, Cutting Boulevard from I-80 to Key Boulevard, and Knott Avenue from San Pablo Avenue to Key Boulevard. A sizable portion of the Project is on State Route 123, requiring that the Project undergo an extensive Caltrans project development process for design and construction. The Project is funded by a variety of sources including federal, state and regional grants as well as developer fees totaling approximately \$13.4 million. The federal funds from the One Bay Area Grant Program are administered by the Caltrans Local Assistance Office, requiring additional steps to obligate the federal funds before the Project can be advertised for construction. Detailed information on the project description and funding was previously provided in the [August 17, 2021 Agenda Bill](#).

Caltrans maintenance agreements specify the responsibility for maintaining facilities constructed on or adjacent to State highways. They also define the financial arrangements for assuming this responsibility. In El Cerrito, the maintenance agreements cover Interstate 80 interchange areas at Potrero Avenue and Cutting Boulevard and State Route 123 encompassing San Pablo Avenue from the southern city limit, north to the Del Norte area and then west on Cutting Boulevard, ending at Interstate 80. The construction of a major project located on a state route will typically prompt the revision of existing agreements or new agreements per Caltrans standard procedures.

Electrical Facilities Cost Sharing Agreement (EFCSA)

In 1986, the City and Caltrans entered into an EFCSA specifying the method of sharing the maintenance and energy costs of the electrical facilities, such as traffic signals and flashing beacons, on state right-of-way in El Cerrito. These costs are shared because the electrical facilities also serve local streets intersecting the state highways. As part of the 1986 EFCSA, Caltrans sought to reduce the administrative burden of billing local agencies for these costs. In lieu of billing the City for maintenance costs and energy costs on a pro rata share, Caltrans took on the responsibility for all maintenance costs while the City took on the responsibility for all energy costs. At that time, Caltrans estimated that the costs to Caltrans and the City would remain relatively the same. Correspondingly, the City estimated that the energy costs would likely be less than half of the total of both maintenance and energy costs, and therefore no greater than the City's proportionate share of the costs.

Amendment No. 3 to Agreement for Maintenance of State Highways

In 1992, the City and Caltrans entered into an Agreement for Maintenance of State Highways in El Cerrito, also known as a delegated maintenance agreement (DMA). The agreement specifies the responsibility for performance of certain maintenance functions by the City on behalf of Caltrans for sidewalks including planting strips, trash/debris, landscaping and other appurtenances, and reimbursement of costs incurred by the City for these functions. Under this agreement, landscaping in medians and street lighting, outside of intersection safety lighting, are the sole responsibility of the City and therefore Caltrans does not reimburse the City for any of these costs. Amendments to this agreement have been executed over the years to reflect improvements initiated by the City. Caltrans typically requires local agencies to maintain, at their sole expense, improvements that are outside the standard for state highways. Amendment No. 1, executed in 2006, incorporated the relinquishment of sidewalks along State Route 123 (San Pablo Avenue and Cutting Boulevard) from the state to the City by eliminating the maximum annual reimbursement of \$1,000 for sidewalk maintenance. This enabled the Cerrito Theater frontage improvements. Amendment No. 2, executed in 2011, incorporated City improvements planned as part of the San Pablo Avenue Streetscape Project. These include curb bulb-outs, special crosswalk pavement treatments and markings, and the two flashing crosswalk systems at Madison and Lincoln Avenues and associated appurtenances.

Project Specific Maintenance Agreement

The City and Caltrans entered into a Freeway Maintenance Agreement in 1957, and a Supplemental Freeway Maintenance Agreement (FMAs) in 1962. After construction of I-80, the FMAs specified that the City, at its sole expense, was responsible for maintenance of local streets relocated or reconstructed as part of the freeway construction and Caltrans, at its sole expense, was responsible for the maintenance of the freeway and ramps. When a local agency plans to construct improvements on a state route, Caltrans determines whether the type and location of improvements require a Project Specific Maintenance Agreement (PSMA) to clarify maintenance responsibilities for specific improvement or supersede relevant portions of the FMAs as necessary. As in the amendments to the DMA, Caltrans requires local agencies to maintain, at their sole expense, improvements that are outside the standard for state highways. Caltrans did not require PSMA's for City projects under prior amendments to the DMA.

ANALYSIS

All three agreements (EFCSA, DMA Amendment No. 3, and PSMA) are in Caltrans standard formats and the City Attorney has reviewed and provided comments on the initial drafts.

EFCSA

Since the prior agreement was executed in 1986, Caltrans has changed its method of sharing maintenance and energy costs for electrical facilities on state highways, reverting to splitting both these costs with local agencies. Caltrans indicated that it seeks to take over the energy accounts to improve its operations and maintenance functions. Currently, because Caltrans is not the energy account holder, they have encountered difficulties coordinating with the electrical utility to power down its facilities to perform maintenance work and receiving power shutoff notices for its facilities.

With the proposed EFCSA, Caltrans would incur all maintenance and energy costs first, calculate the pro-rata cost, and then invoice the City. The electrical facilities covered by the proposed EFCSA are listed in Exhibit A and include existing traffic signals and intersection safety lighting as well as the new pedestrian hybrid beacon and rectangular rapid flashing beacons planned by the Project. Maintenance, under the EFCSA, includes routine inspections of all structures, devices and facilities, repairs, cleaning, replacements, and improvements, if necessary. The cost distribution for each existing traffic signal would be based on the pro-rata share of each agency's number of legs at each intersection. For example, a standard three-leg intersection with one leg that is part of a local street and two legs that are part of the state route will have a cost distribution of 33% for the City and 67% for the State. It should be noted that the signal at Schmidt Lane and San Pablo Avenue was built after 1986 and therefore has been added to the proposed EFCSA. As described above, the City would be solely responsible for maintenance and energy costs for the new facilities to be constructed as part of the Project.

City staff evaluated the financial impacts of reverting to a pro-rata share of both maintenance and energy costs. City staff obtained the annual electrical facility maintenance costs recently incurred by Caltrans and annual energy costs incurred by the City. City staff found that Caltrans' maintenance costs can range significantly from year to year depending on repairs that may be needed at each location. The maintenance costs ranged from \$42,165 in Fiscal Year (FY) 2019-20 to \$28,306 in FY 2020-21. The City's energy costs for the subject facilities were approximately \$12,600 in 2021 and \$14,800 in 2022 (this includes intersection safety lighting, which is proposed to be incorporated into EFCSA although currently covered by the agreement below). In the past, energy efficiency upgrades have decreased energy costs; however, recent PG&E rate increases have significantly increased these costs over the last few years.

The pro-rata share for Caltrans and the City is about 50% each. This means, the City has been benefitting under the existing arrangement compared to the proposed changes, which is consistent with the City's evaluation back in 1986 when it was estimated that the energy costs would be less than the maintenance costs in the long run. At that time, Caltrans sought to reduce the administrative burden of billing local agencies for costs and likely determined that this benefit outweighed costs higher than its pro-rata share. However, as mentioned above, Caltrans has now changed their position to improve operations and maintenance of electrical facilities. The table below summarizes City costs under the current and proposed EFCSA.

Approximate 2022 Cost	Current EFCSA	Proposed EFCSA
City*	\$14,800	\$26,700
Caltrans**	\$38,600	\$26,700
Total	\$53,400	\$53,400
City Proportionate Share	\$26,700	\$26,700
City Averted Costs	\$11,900	-

*Calendar Year 2022 Costs, includes intersection safety lighting

**Average of prior two fiscal years plus 5% Consumer Price Index to estimate FY2021-22

As shown, under the current agreement, the City has incurred costs lower than its pro-rata share, resulting in averted costs of approximately \$11,900 in 2022. Additionally, the City would be responsible for 100% of the costs for a new pedestrian hybrid beacon and two rectangular rapid flashing beacons on the state highway, which are estimated to be approximately \$1,500 per year. The proposed agreement would require that these expenses be included in the City's budget as discussed in the Financial Considerations section.

DMA Amendment No. 3

To make the DMA consistent with the proposed EFCSA, the City's responsibility for electrical equipment will be removed. Also, since Caltrans will take over all energy accounts and bill the City for the City's share of the costs, the reimbursement to the City for intersection safety lights will be removed and covered under the EFCSA.

City staff took this opportunity to revisit the maximum reimbursement amount for other maintenance functions covered by the DMA, specifically for the litter/debris category, which includes trash and litter removal, street sweeping, and related maintenance performed by contractors for the City plus debris pick-up by City staff (approximately 4 hours per month). Under the current agreement, Caltrans has authorized a maximum annual reimbursement of \$16,000 for the litter/debris category. City staff documented costs of approximately \$31,000 in 2022 and requested that Caltrans increase the reimbursement amount. While the City averted some electrical maintenance costs, Caltrans averted trash/debris costs. Caltrans staff deliberated over allowable costs and has approved a maximum annual reimbursement of \$24,500. As such, the proposed amendment would result in a cost savings of approximately \$8,500. This would be included as increased revenue in the City's budget as discussed in the Financial Considerations section.

Caltrans did not accept responsibility for maintenance costs of \$6,500 for trash capture device cleaning. These devices are required to meet requirements for trash reduction imposed on the City under its Municipal Regional Stormwater Permit (MRP) issued by the San Francisco Bay Regional Water Quality Control Board. Caltrans indicated that State Route 123 is not a significant trash generation area in the Caltrans Statewide Trash Implementation Plan nor the Caltrans Trash Load Reduction Workplan for the San Francisco Bay Region. Therefore, trash control devices are not the responsibility of Caltrans. In contrast, the City's Long-Term Trash Load Reduction Plan identifies San Pablo Avenue as largely a High Trash Generation and Medium Trash Generation area and under the MRP is required to install trash capture systems or equivalent. City staff intends to further engage Caltrans staff to reconcile differing requirements for each of our agencies and pursue reimbursement for these costs as part of a future amendment to the agreement.

PSMA

The Project includes improvements that are above the typical Caltrans maintained facilities, such as landscaped areas, separated bike lanes, sidewalk bulb-outs, bus stop facilities, and stormwater quality treatment facilities. Given the type and extent of improvements planned as part of the Project, including at the I-80 on-ramps on Cutting Boulevard, Caltrans has determined that a PSMA is required to identify the specific improvements and the City's responsibility for maintenance of these facilities at its sole expense. The PSMA does not change maintenance responsibilities specified in the general maintenance agreements described above, but rather provides additional detail for specific project components. The PSMA is in final draft form to align with a revised FMA, which Caltrans just recently notified City staff will also be needed. City staff anticipate bringing the revised FMA to the City Council for its consideration at its next regular meeting.

City staff has estimated the increased annual cost for maintenance of these new facilities is \$25,000 to \$30,000 (in 2022 dollars). Most of these costs are for contract maintenance services. Because City staff will be issuing new Requests for Proposals for both landscape maintenance and street sweeping services within the next two years,

there is uncertainty about these costs. Although the estimates are conservative based on existing prices, recent experiences have shown unexpected cost increases when we conduct new solicitations for maintenance services.

Summary

In total, City staff estimates that the three proposed agreements will increase the City's maintenance responsibility and net costs by \$29,900 to \$34,900 (in 2022 dollars) per year as summarized below.

Agreement	Annual Amount
EFCSA Cost Increase	\$13,400
DMA No. 3 Reimbursement Increase	-\$8,500
PSMA	\$25,000 to \$30,000
Total Cost Increase	\$29,900 to \$34,900

The budget implications are discussed in the Financial Consideration section.

Caltrans requires execution of all three agreements to permit construction of the Project on the state highway. From a process standpoint, approval of the agreements as soon as possible is needed to obtain right-of-way clearance for the Project, a critical step in ensuring the federal funding for construction of the Project can be obligated this spring. City staff request that the City Council approve the three agreements and authorize the Mayor and/or City Manager to execute each agreement, as necessary.

STRATEGIC PLAN CONSIDERATIONS

The City's Strategic Plan articulates the mission of the City to serve, lead, and support our diverse and transit-rich community by providing exemplary and innovative services, public places and infrastructure, ensuring public safety, and creating an economically and environmentally sustainable future. The El Cerrito del Norte TOD Complete Streets Improvement Project along with the approval of the three maintenance agreements required for its implementation is consistent with various El Cerrito Strategic Plan goals, including Goal D – Develop and rehabilitate public facilities as community focal points; Goal C – Deepen a sense of place and community identity by promoting strong neighborhoods; and Goal F – Foster environmental sustainability citywide by encouraging alternative modes of transportation to the single occupancy vehicle.

ENVIRONMENTAL CONSIDERATIONS

California Environmental Quality Act ("CEQA") Guidelines require preparation of an Initial Study to identify whether a plan or project will have a significant effect on the environment. For projects with potentially significant impacts, proposed mitigations may be included as part of the environmental review process to ensure that such impacts are mitigated to a less than significant level where possible.

The El Cerrito del Norte TOD Complete Streets Improvement Project is a combination of projects identified in the San Pablo Avenue Specific Plan and Active Transportation

Plan. The City Council approved a programmatic Environmental Impact Report and associated Mitigation Monitoring and Reporting Program for the San Pablo Avenue Specific Plan in September 2014, and an Initial Study/Mitigated Negative Declaration and associated Mitigation Monitoring and Reporting Program for the Active Transportation Plan in April 2016. Both documents were prepared per CEQA Guidelines. As part of the Caltrans project development process, City staff and consultants prepared a project checklist to confirm that all impacts of the Project were sufficiently evaluated in these documents. The mitigation measures identified in both Mitigation Monitoring and Reporting Programs will be implemented as appropriate in order to mitigate any identified environmental impacts of the Project under CEQA.

As part of the federal funding requirements, the Project was evaluated for compliance with the National Environmental Policy Act (NEPA), which included conducting several environmental studies. City staff and consultants prepared a Categorical Exclusion with Technical Studies. Caltrans is responsible for determining NEPA compliance and approved the NEPA document on March 1, 2022.

FINANCIAL CONSIDERATIONS

The design and construction of the Project is mostly funded by grants and developer fees of over \$13 million. The grants required the City's commitment to operate and maintain the Project. As described above, City staff estimates that the three agreements will increase the City's maintenance responsibility and result in a net increase in costs from \$29,900 to \$34,900 (in 2022 dollars). These costs will impact the City's Special Funds and the General Fund in different ways.

The Special Funds for streets and transportation purposes, including Gas Tax Fund, Measure J Return to Source Fund, and SB1 Fund cover most, if not all, of the maintenance and utility costs for traffic signal systems, flashing beacons and similar electronic traffic control devices. Staff anticipates that the approximate \$11,900 annual cost increase plus annual price adjustments for existing facilities included in the EFCSA will begin in Fiscal Year 2023-24 and, as such, will propose a cost distribution across the Special Funds during the upcoming budget process. The approximate \$1,500 cost increase plus annual price adjustments for new facilities will be incurred after the Project is completed, likely in fall 2024, as such, staff anticipates these costs will need to be budgeted beginning in Fiscal Year 2024-25. The transportation funds currently have healthy revenues and fund balances that are expected to be sufficient to cover these costs over the long term.

The \$8,500 in increased reimbursement resulting from Amendment No. 3 to the DMA is anticipated to offset existing expenses in the General Fund and the Landscape and Lighting Assessment District (LLAD) Fund related to contract services for several litter and trash activities and a limited amount of City Maintenance staff time. As noted above, because City staff will be issuing new Request for Proposals for both landscape maintenance and street sweeping services within the next two years, there is uncertainty about these costs in the long term. If needed in the future, City staff could pursue increased reimbursement from Caltrans for these delegated maintenance

responsibilities along with the trash capture device cleaning.

City staff has estimated the increased annual cost for maintenance of new facilities included in the PSMA, which are the City's sole responsibility, is approximately \$25,000 to \$30,000. This is a conservative estimate based on 2022 contract prices. However, future cost increases are difficult to predict at this time given upcoming Request for Proposals. These costs will be incurred after the Project is completed, likely in fall 2024, so they will need to be budgeted for beginning in Fiscal Year 2024-25. Because these are transportation facilities, many of these costs can be covered by the Special Funds. However, some General Fund support may be needed. Staff will monitor closely and report back to City Council if adjustments are necessary.

LEGAL CONSIDERATIONS

All three agreements are currently in draft final form. The City Attorney has reviewed the agreements, provided comments, and found that legal considerations have been addressed. Minor revisions are pending. The final agreements will be in substantially the form attached, subject to review and approval by the City Attorney.

Reviewed by:



Karen Pinkos, City Manager

Attachments:

1. Resolution
2. Exhibit A to Resolution
3. Exhibit B to Resolution
4. Exhibit C to Resolution

RESOLUTION 2023-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING AND AUTHORIZING EXECUTION OF AN ELECTRICAL FACILITIES COST SHARING AGREEMENT (EFCSA), AMENDMENT NO. 3 TO AGREEMENT FOR MAINTENANCE OF STATE HIGHWAYS IN THE CITY OF EL CERRITO (DMA) AND PROJECT SPECIFIC MAINTENANCE AGREEMENT (PSMA) BETWEEN THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) AND THE CITY OF EL CERRITO (CITY) FOR THE EL CERRITO DEL NORTE TRANSIT-ORIENTED DEVELOPMENT COMPLETE STREETS IMPROVEMENT PROJECT (PROJECT) AND ON-GOING OPERATIONS

WHEREAS, the El Cerrito del Norte Transit-Oriented Development (TOD) Complete Streets Improvement Project will implement multimodal transportation improvements identified in the San Pablo Avenue Specific Plan and Active Transportation Plan, adopted by City Council in September 2014 and April 2016, respectively; and

WHEREAS, the Project is intended to support and catalyze TOD by creating a safe and comfortable environment that balances the needs of all street users, to improve pedestrian and bicyclist safety and access to housing and the Del Norte BART Station, to encourage mode-shift to walking, biking and taking transit, and to support economic development by creating a “sense of place” in Uptown El Cerrito; and

WHEREAS, the design and construction of the Project is funded by a variety of sources including federal, state and regional grants as well as developer fees totaling over \$13 million and the City has committed to operate and maintain the Project once it is constructed; and

WHEREAS, a significant portion of the project is on the State Route 123, including San Pablo Avenue from Potrero Avenue to Cutting Boulevard and Cutting Boulevard from San Pablo Avenue to I-80, and therefore the Project must be approved by Caltrans; and

WHEREAS, Caltrans and City entered into an Electrical Facilities Cost Sharing Agreement (EFCSA) in 1986 to specify the method of sharing the maintenance and energy costs of the electrical facilities, such as traffic signals and flashing beacons, on State highways within City limits; and

WHEREAS, Caltrans and City entered into an Agreement for Maintenance of State Highways in El Cerrito, also known as a delegated maintenance agreement (DMA), in 1992 to provide for the City to perform certain maintenance functions on State Route 123 within the City limit; and

WHEREAS, Caltrans and City executed Amendment No. 1 to the DMA in 2006 after the City accepted relinquishment of the sidewalk portions of the roadway and Amendment No. 2 in 2011 to incorporate non-State standard improvements constructed as part of the San Pablo Avenue Streetscape Project; and

WHEREAS, to obtain Caltrans approval of the Project, Caltrans requires that the City execute a new EFCSA, Amendment No. 3 to the DMA, and a PSMA to specify maintenance responsibilities of the State and City within the State right-of-way;

WHEREAS, although the requirement to execute the EFCSA, Amendment No. 3 to the DMA, and PSMA stems from the Project, Caltrans has updated these agreements to reflect its current forms for maintenance agreements, cost sharing methods, and improvements that have been constructed since the EFCSA and DMA were previously approved; and

WHEREAS, it is estimated that the three proposed agreements will increase the City's net costs for maintenance by a total of \$29,900 to \$34,900 (in 2022 dollars) per year and the City will need to budget for these increased costs in upcoming fiscal years.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby approves and authorizes the Mayor and City Manager, as necessary, to execute the Electrical Facilities Cost Sharing Agreement, Amendment No. 3 to Agreement for Maintenance of State Highways in the City of El Cerrito, and Project Specific Maintenance Agreement, all between the State and the City, which shall be in substantially the form attached hereto as Exhibit A, B, and C, respectively, subject to final review by the City Attorney.

BE IT FURTHER RESOLVED that this resolution shall become effective immediately upon passage and adoption.

I CERTIFY that at a regular meeting on February 7, 2023 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on _____.

Holly M. Charl  ty, City Clerk

APPROVED:

Lisa Motoyama, Mayor

CC-123-PM 0/2.2 & CC-80-PM 1.6/2.1

ELECTRICAL FACILITIES COST SHARING AGREEMENT WITH CITY OF EL CERRITO

This ELECTRICAL FACILITIES COST SHARING AGREEMENT ("AGREEMENT") is made by and between the State of California, acting by and through the Department of Transportation ("STATE"), and the CITY of El Cerrito ("LOCAL AGENCY"); each may be referred to individually as a "PARTY" and jointly as "PARTIES."

RECITALS

1. This AGREEMENT will specify the CITY's and STATE's respective costs associated with the installation, operation, maintenance, repair and replacement of electrical facilities, including electronically-operated traffic control devices along both SR-80 and SR-123.
2. The PARTIES executed [a] prior Electrical Facilities Cost Sharing Agreement(s) covering both SR-80 and SR-123. This AGREEMENT replaces the prior Electrical Facilities Cost Sharing Agreement(s). The prior Electrical Facilities Cost Sharing Agreement(s) will not remain in full force and effect.

OPERATIVE PROVISIONS

1. **Prior Electrical Facilities Cost Sharing Agreements.** This Agreement replaces the PARTIES' prior Electrical Facilities Cost Sharing Agreement(s) dated October 29, 1986. The prior Electrical Facilities Cost Sharing Agreement(s) will not remain in full force and effect.
2. **Maintenance Standards.** All maintenance shall comply with the standards set forth in Streets and Highways Code Section 27 and in accordance with California laws, regulations and STATE standards, including STATE's Maintenance Manual, policies, procedures and specifications in effect and as amended. "Maintain" or "maintenance" if applicable under this AGREEMENT includes routine inspections of all structures, devices and facilities, repairs, cleaning, replacements, and improvements, if necessary.

3. **Control of Streets/Roads.** LOCAL AGENCY shall continue control and maintenance of each relocated or reconstructed LOCAL AGENCY street, frontage road, and other STATE-constructed local street. Changes to LOCAL AGENCY's electrical facilities cost sharing resulting from future improvements or alterations to the limits of the SR-80 and SR-123 or improvements or alterations to the electrical facilities covered in this AGREEMENT may be made by each PARTY executing an amended Exhibit "A" and/or executing additional pages to Exhibit "A" that will be attached to this AGREEMENT and will supersede the original Exhibit "A".
4. **Amendment to Agreement.** Except as provided in Section 3 above concerning Exhibit amendments, this AGREEMENT may only be amended by a written agreement executed by all PARTIES.
5. **Successors.** This AGREEMENT shall be binding upon and inure to the benefit of each of the PARTIES and their respective successors-in-interest, including, but not limited to any public entity to whom any part of the STATE right of way covered under this AGREEMENT may be relinquished and any subsequently incorporated city or other municipality established within the LOCAL AGENCY's jurisdictional limits.
6. **Encroachment Permits.** If LOCAL AGENCY must enter STATE right of way to perform any maintenance or work to the facilities covered by this AGREEMENT, LOCAL AGENCY must be issued an encroachment permit from the STATE's District 04 Encroachment Permit Office at no cost to CITY.
7. **Electrical Facilities.** This AGREEMENT specifies the LOCAL AGENCY's and STATE's respective costs associated with the installation, operation, maintenance, repair and replacement of electrical facilities, including electronically-operated traffic control devices, flashing beacons, traffic signals, traffic-signal systems, safety-lighting, sign lighting, controllers, sensors, load switches, and electrical devices along both SR-80 and SR-123 and specifically listed in Exhibit A.
8. **Cost Sharing and Apportionment.** Exhibit A lists the percentage of electrical facilities costs apportioned to each PARTY and shall be based on STATE's actual costs.

9. **Billing.**

- A. Maintenance costs for shared traffic control devices, flashing-beacons, traffic-signals, safety lighting, and traffic-signal systems (including integral overhead lighting fixtures) identified in Exhibit A shall be based on actual costs, including but not limited to (1) the costs of installing, repairing and replacing the devices and device components; (2) the costs of regular inspection and maintenance; (3) labor, including overhead assessment; and (4) energy costs.
- B. Maintenance costs for all other safety lighting and sign lighting shall be based on calculated unit-costs derived by averaging STATE's District-wide costs each quarter, including but not limited to (1) the costs of installing, repairing, and replacing the devices and device components; (2) the costs of regular inspection and maintenance; (3) labor, including overhead assessment; and (4) energy costs.
- C. STATE will bill LOCAL AGENCY quarterly in arrears for LOCAL AGENCY's share of electrical facilities costs listed in Exhibit A.

10. **Budget Contingency.** STATE's payment of costs and expenses assumed under this AGREEMENT is contingent upon the Legislature appropriating sufficient funds under the Budget Act and the encumbrance of funding to the STATE's District Office.

11. **Legal Relations and Responsibilities.**

- A. **No Third-Party Beneficiaries.** This AGREEMENT is not intended to create duties, obligations or rights of third parties beyond the PARTIES to the AGREEMENT. Nor does this AGREEMENT affect a PARTY's legal liability by imposing any standard of care for the operation and maintenance of STATE highways and LOCAL AGENCY facilities different from the standard of care imposed by law.
- B. **Indemnification.** Neither LOCAL AGENCY nor any of its officers or employees is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by STATE in connection with any work, authority or jurisdiction conferred upon STATE pursuant to this AGREEMENT. STATE shall fully defend, indemnify and save harmless LOCAL AGENCY and its officers and employees from all claims, suits or actions of every kind occurring by reason of

anything done or omitted to be done by STATE, its contractors, sub-contractors, and/or its agents pursuant to this AGREEMENT.

Neither STATE nor any of its officers or employees is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by LOCAL AGENCY in connection with any work, authority or jurisdiction conferred upon LOCAL AGENCY pursuant to this AGREEMENT. LOCAL AGENCY shall fully defend, indemnify and save harmless STATE and its officers and employees from all claims, suits or actions of every kind occurring by reason of anything done or omitted to be done by LOCAL AGENCY, its contractors, sub-contractors and/or its agents pursuant to this AGREEMENT.

12. **Termination.** This AGREEMENT may be terminated by the mutual written consent of each PARTY.
13. **Effective Date.** This AGREEMENT shall become effective on the last of the dates each PARTY's authorized representative has executed this AGREEMENT.
14. **Authority.** Each individual executing this AGREEMENT on behalf of each PARTY represents and warrants that he/she is duly authorized to execute this AGREEMENT as authorized under Streets and Highways Code Sections 114 and 130. LOCAL AGENCY represents and certifies that it has, through its regular political process, authorized the execution of this AGREEMENT by appropriate resolution, delegation, or plenary authority as required.
15. **Counterparts.** This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.
16. **Electronic Signatures.** Electronic signatures of the PARTIES, whether digital or encrypted, are intended to authenticate this written AGREEMENT and shall have the same force and effect as manual signatures for this AGREEMENT.

THE CITY OF EL CERRITO

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

Dated: _____
Mayor

APPROVED:

Dated: _____
City Manager

Dated: _____
City Clerk

Dated: _____
LEAH BUDU
Deputy District Director
Maintenance Division,
District 04

FINAL DRAFT

Exhibit "A"
ELECTRICAL FACILITIES AND COST SHARING AGREEMENT
COST APPORTIONMENT
STATE and CITY of El Cerrito (LOCAL AGENCY)
Effective September 13, 2022

BASIS OF COST DISTRIBUTION

State-Owned and Maintained
Billed by the State

<u>Route and PM</u>	<u>Location</u>	<u>Type of Facility</u>	Cost Distribution	
			<u>State</u>	LOCAL AGENCY
04-CC-080- PM01.662	POTRERO AVE. & EASTSHORE BLVD.	SIGNAL (E28C4) & LIGHTS	40%	60%
04-CC-123- PM0.061	CARLSON BLVD. & SAN PABLO RD. (SR-123)	SIGNAL (E28E0) & LIGHTS	50%	50%
04-CC-123- PM0.182	FAIRMONT AVE. & SAN PABLO RD. (SR-123)	SIGNAL (E28F1) & LIGHTS	50%	50%
04-CC-123- PM0.302	CENTRAL AVE. & SAN PABLO RD. (SR-123)	SIGNAL (E28F2) & LIGHTS	50%	50%
04-CC-123- PM0.722	STOCKTON AVE. & SAN PABLO RD. (SR-123)	SIGNAL (E28F3) & LIGHTS	66%	33%

04-CC-123-PM01.002	MOESER LN. & SAN PABLO RD. (SR-123)	SIGNAL (E28F4) & LIGHTS	66%	33%
04-CC-123-PM01.222	SCHMIDT LN. & SAN PABLO RD. (SR-123)	SIGNAL (E28J8) & LIGHTS	66%	33%
04-CC-123-PM01.362	MANILA AVE. & SAN PABLO RD. (SR-123)	SIGNAL (E28F5) & LIGHTS	66%	33%
04-CC-123-PM01.762	POTRERO AVE. & SAN PABLO RD. (SR-123)	SIGNAL (E28F6) & LIGHTS	50%	50%
04-CC-123-PM01.982	HILL ST. & SAN PABLO RD. (SR-123)	SIGNAL (E28F7) & LIGHTS	40%	60%
04-CC-123-PM02.1	CUTTING BLVD. & SAN PABLO RD. (SR-123)	SIGNAL (E28F8) & LIGHTS	50%	50%
04-CC-123-PM02.13	CUTTING BLVD. (SR-123) & PEERLESS AVE.	PEDESTRIAN HYBRID BEACON (E28AL)	0%	100%
04-CC-123-PM02.17	CUTTING BLVD. (SR-123) & SR-80 NB ONRAMP	RECTANGULAR RAPID FLASHING BEACON (E28AM)	0%	100%
04-CC-123-PM02.17	CUTTING BLVD. (SR-123) & SR-80 NB ONRAMP (LOOP)	RECTANGULAR RAPID FLASHING BEACON (E28AO)	0%	100%

FINAL DRAFT

**AMENDMENT NUMBER 3
TO AGREEMENT FOR MAINTENANCE
OF STATE HIGHWAYS IN THE CITY OF
EL CERRITO**

This AMENDMENT Number 3 to the Maintenance Agreement hereafter referred to as "AMENDMENT No. 3", is effective on _____, and is entered into by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "STATE", and the City of El Cerrito, hereinafter referred to as "CITY". CITY and STATE together are hereafter referred to as "PARTIES".

WITNESSETH:

WHEREAS, an Agreement for Maintenance of State Highways in the City of El Cerrito, herein after referred to as "AGREEMENT", was executed by CITY on July 6, 1992, and by STATE on July 21, 1992; and

WHEREAS, AGREEMENT by its terms provides that it may be modified or amended at any time upon mutual consent of the PARTIES; and

WHEREAS, the AGREEMENT was amended by the parties on September 30, 2011, with an effective date of September 1, 2011 (Amendment No. 2); and

WHEREAS, the PARTIES mutually desire to identify the maintenance responsibilities of CITY for newly constructed and/or revised improvements within STATE's right of way on State Route 123 by Encroachment Permit ; and

WHEREAS, the PARTIES hereto now desire to amend the AGREEMENT as provided herein.

NOW, THEREFORE, the PARTIES agree to amend AGREEMENT as follows:

1. Section H of AGREEMENT is hereby modified to read as shown on the attached "Amendment No. 3, Effective January 11, 2023", numbered page 6, which shall be substituted for like numbered page (as modified by Amendment No. 2) in AGREEMENT, and shall cancel and supersede such like numbered page, becoming a part of AGREEMENT for all purposes.
2. EXHIBIT A of AGREEMENT, labeled "Maintenance and Operation of Electrical Equipment by the City of El Cerrito for Caltrans", is hereby deleted.

3. AMENDMENT No. 3 is hereby deemed to be included and made a part of AGREEMENT and shall remain in full force and effect until amended or terminated. In all other respects, AGREEMENT shall remain in full force and effect.

IN WITNESS WHEREOF, the PARTIES hereto have set their hands and seals the day and year first above written.

CITY OF EL CERRITO

Dated: _____

City Manager

Attest:

Dated: _____

City Clerk

Approved as to form:

Dated: _____

City Attorney

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

Dated: _____

LEAH BUDU,
Deputy District Director
Maintenance Division, District 04

H. DELEGATION OF MAINTENANCE

The specific maintenance function indicated below is hereby delegated to the CITY. This delegation of maintenance function set forth herein does not include the control and maintenance areas and functions which rest with the CITY under the terms of executed Freeway Agreements and/or Freeway Maintenance Agreements.

<u>Route No.</u>	<u>Length Miles</u>	<u>Description of Routing</u>	<u>Program Delegated</u>	<u>Maximum Annual Authorized Expenditure</u>
80	0.46	Eastshore Freeway from city limits 600 feet south of Potrero Avenue Undercrossing to west city limits near Cutting Boulevard, a length of 0.46 mile.	None	\$0.00
123	2.22	San Pablo Avenue from south city limits at Cerrito Creek to Cutting Boulevard; along Cutting Boulevard to ramps of Eastshore Freeway (Route 80), a length of 2.22 miles. (See Footnotes 1,2,3,4 ,5)	HM2C HM2D HM2E HM4K	\$0.00 \$24,500.00 \$0.00 \$0.00
Total Authorized Expenditure:				\$24,500.00

Footnotes:

1. Length of street to be cleaned- 8.2 curb miles.
2. CITY, at CITY expense, will be responsible for maintenance of sidewalks, water quality treatment facilities (including trash capture devices, bioretention area ("rain garden"), etc.), and roadside areas.
3. STATE will maintain lights connected to STATE traffic signal circuits. CITY will maintain other lighting.
4. Maintenance of landscaped areas or other ornamental plantings in the median area will be performed by the CITY at no expense to the STATE.
5. Maintenance of improvements constructed under an Encroachment Permit including: bulbouts within STATE's right of way; non-STATE standard materials, pavement markings, and pavement treatments in and near crosswalks; in-pavement lighting systems for crosswalk (s) including electrical energy, etc. will be performed by the CITY at no expense to the STATE.

**PROJECT SPECIFIC MAINTENANCE AGREEMENT
WITH CITY OF EL CERRITO**

THIS AGREEMENT is made effective on _____, by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "STATE" and the City of El Cerrito; hereinafter referred to as "CITY"; and collectively referred to as "PARTIES".

SECTION I

RECITALS

1. Encroachment Permit Number _____ was executed between CITY and STATE to construct bicyclist, pedestrian, transit, and vehicle improvements on State Route (SR) 123 and SR-80, hereinafter referred to as "PROJECT", and
2. In accordance with said agreement, it was agreed by PARTIES that prior to or upon PROJECT completion, CITY and STATE will enter into a Maintenance Agreement, and
3. The PARTIES hereto mutually desire to identify the maintenance responsibilities of CITY for the improvements of PROJECT constructed within the STATE right of way under the Cooperative Agreement Number _____, and
4. There is an existing Freeway Maintenance Agreement(s), with CITY dated June 3, 1957 and an existing Supplemental Freeway Maintenance Agreement with CITY dated September 11, 1962. This Agreement is not meant to supersede the earlier agreement(s), and
5. There is an existing Delegated Maintenance Agreement (DMA) , with CITY dated July 21, 1992. The DMA was amended by Amendment No.1 on August 23, 2006 and Amendment No. 2 on September 30, 2011. This Agreement is not meant to supersede the earlier agreement (s), and
6. There is a Cooperative Agreement Number 4-2040, specifying the responsibilities of PARTIES and the procedures necessary to formalize relinquishment of certain portions of State Route 123 within the CITY, and
7. There is a STATE Relinquishment Agreement Number 56082, where STATE relinquished to CITY that portion of State Route 123 between 346 feet south of Carlson Blvd. to Cutting Blvd. in the City of El Cerrito in Contra Costa County, consisting of existing sidewalks.

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

SECTION II

AGREEMENT

1. This Agreement addresses CITY responsibility for plants (shrubs & trees), irrigation systems, wood mulch, gravel, topsoil, fertilizer, decomposed granite tree well, tree well (collectively the "LANDSCAPING") placed within State Highway right of way on State Route 123.
2. This Agreement addresses CITY responsibility for bike rack, bench, waste receptacle, city roadside sign and post, street lighting, pedestrian scale lighting, wayfinding signage, (collectively the "STREETSCAPE") placed within State Highway right of way on State Route 123.
3. Exhibit A, B, and C consist of plan drawings and documents that delineate and describe the areas within STATE right of way which are the responsibility of the CITY to maintain in accordance with this Agreement.
4. If there is mutual agreement on a change in the maintenance responsibilities between PARTIES, the PARTIES can revise the Exhibit A, B, or C by a mutual written execution of the exhibit.
5. CITY must obtain the necessary Encroachment Permits from STATE's District 04 Encroachment Permit Office prior to entering STATE right of way to perform CITY maintenance responsibilities. This permit will be issued at no cost to CITY.
6. OPERATIONS- It is STATES's responsibility to provide efficient operation of highway intersections and freeway interchanges, including ramp connections to local streets and roads.
7. LANDSCAPED AREAS - CITY, at CITY expense, is responsible for the maintenance of LANDSCAPING improvements of PROJECT, including sidewalks, on-ramp, median, and bike landscaped buffer.

8. BICYCLE LANES AND CYCLE TRACKS constructed as permitted encroachments within STATE's right of way, CITY is solely responsible for all permitted improvements, including but not limited to the delineation, bike lane raised concrete islands, bike landscaped buffer, cast-in-place concrete buffer ("CIP conc BUFFER"), precast concrete buffer ("PC conc BUFFER"), curb ramp, drainage facilities, slope and structural adequacy. CITY will maintain, at CITY expense, a safe facility for bicycle travel along the entire length of the lane/cycle track by providing sweeping and debris removal when necessary; and all signing and striping, delineators, and pavement markings required for the direction and operation of that non-motorized facility.
9. SIDEWALKS constructed as permitted encroachments within STATE's right of way, CITY is solely responsible for all permitted improvements including curb ramps, curb and gutter.
10. BUS STOP FACILITY
 - 10.1. BUS STOP facility constructed as permitted encroachments within STATE's right of way, CITY is solely responsible for all permitted improvements, including but not limited to bus shelters, benches, bus pad, bus boarding island ("BUS PLATFORM"), bus stop sign and post, curb, curb ramp, detectable warning surface, sidewalk, pedestrian barricade, handrail, curb markings, delineators, striping, pavement markings, and structural adequacy.
 - 10.2. CITY will maintain, at CITY expense, a safe facility for public use by providing litter, trash, and debris removal within a twenty (20') foot radius of BUS PLATFORM. Items must be collected and removed from work site after every maintenance service. Routine maintenance will include removing unauthorized signs, postings, and graffiti from BUS STOP facility.
11. STORMWATER QUALITY TREATMENT FACILITY
 - 11.1. STORMWATER QUALITY TREATMENT Facility constructed as permitted encroachments within STATE's right of way, CITY is solely responsible for all permitted improvements, including but not limited to bioretention area ("rain garden"), curb, retaining curb, underdrain/subdrain facilities, storm drainage

facilities, LANDSCAPING, and structural section adequacy required for the operation of the facility.

11.2. CITY will maintain, at CITY expense, by removing accumulated sediment, providing maintenance inspection before the rainy season and after large storm events, cleaning storm drainage facilities, and cleaning underdrain facilities.

12. STREETSCAPE constructed as permitted encroachments within STATE's right of way, CITY is solely responsible for all permitted improvements, including but not limited to operation and energy costs of lighting facilities. CITY will maintain, at CITY expense, by providing scheduled routine maintenance.

13. MEDIAN PEDESTRIAN REFUGE ISLAND constructed as permitted encroachments within STATE's right of way, CITY is solely responsible for all permitted improvements, including but not limited to curb ramp, curb markings, signs, delineators, markers, and structural section. CITY will maintain, at CITY expense, a safe facility by providing sweeping and/or debris removal when necessary; required for the direction and operation of that non-motorized facility.

14. EMERGENCY VEHICLE DETECTION SYSTEM ("EVDS") AND TRANSIT SIGNAL PRIORITY ("TSP") SYSTEM constructed as a permitted encroachment within STATE's right of way. CITY is solely responsible for, but not limited to the installation and maintenance of EVDS and TSP systems.

14.1. CITY, at CITY expense, will inspect and maintain the EVDS and TSP equipment, including all components within the controller cabinet, any components attached to a signal pole or mast arm, and other related components; the phasing and timing of the EVDS and TSP systems will be as directed by the STATE Engineer.

14.2. Upon installation, replacement, or maintenance of a EVDS & TSP system, CITY maintenance personnel, STATE Engineer, local transit personnel, and local emergency services personnel will conduct joint operational tests. A representative of the EVDS or TSP system supplier should also be present to provide technical assistance during the initial operational tests.

14.3. In addition to regular inspection and maintenance, all costs of repairing or replacing damaged or missing EVDS and TSP equipment is the responsibility of the CITY.

14.4. CITY will provide skilled maintenance personnel who will be available to respond without delay to emergency calls. Controller failure, lights out, knockdowns, or two (2) red lights out at an intersection are considered emergencies. His/Her email and phone number are the following:

TSP System: _____.

EVDS: _____.

14.5. CITY will notify the STATE Engineer a minimum 15 working days prior to any change in the EVDS or TSP system.

15. LEGAL RELATIONS AND RESPONSIBILITIES

15.1. Nothing within the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or to affect the legal liability of a PARTY to the Agreement by imposing any standard of care with respect to the operation and maintenance of STATE highways and local facilities different from the standard of care imposed by law.

15.2. Neither CITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by, under or in connection with any work, authority or jurisdiction conferred upon STATE under this Agreement. It is understood and agreed that STATE shall fully defend, indemnify and save harmless CITY and all of their officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement.

15.3. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction conferred upon CITY under this Agreement. It is understood and agreed that CITY shall fully defend, indemnify and save harmless STATE and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including but not limited to, tortious, contractual, inverse condemnation

or other theories or assertions of liability occurring by reason of anything done or omitted to be done by CITY under this Agreement.

16. PREVAILING WAGES:

16.1. Labor Code Compliance- If the work performed under this Agreement is done under contract and falls within the Labor Code section 1720(a)(1) definition of a "public works" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code section 1771. CITY must conform to the provisions of Labor Code sections 1720 through 1815, and all applicable provisions of California Code of Regulations found in Title 8, Chapter 8, Subchapter 3, Articles 1-7. CITY agrees to include prevailing wage requirements in its contracts for public works. Work performed by CITY'S own forces is exempt from the Labor Code's Prevailing Wage requirements.

16.2. Requirements in Subcontracts - CITY shall require its contractors to include prevailing wage requirements in all subcontracts when the work to be performed by the subcontractor under this Agreement is a "public works" as defined in Labor Code Section 1720(a)(1) and Labor Code Section 1771. Subcontracts shall include all prevailing wage requirements set forth in CITY's contracts.

17. INSURANCE

17.1. SELF-INSURED - CITY is self insured. CITY agrees to deliver evidence of self-insured coverage providing general liability insurance, coverage of bodily injury liability and property damage liability, naming STATE, its officers, agents and employees as the additional insured in an amount of \$1 million per occurrence and \$2 million in aggregate and \$5 million in excess. Coverage shall be evidenced by a certification of self-insurance letter ("Letter of Self-Insurance"), satisfactory to STATE, certifying that CITY meets the coverage requirements of this section. This Letter of Self-Insurance shall also identify the project location as depicted in EXHIBIT A. CITY shall deliver to STATE the Letter of Self-Insurance with a signed copy of this AGREEMENT. A copy of the executed Letter of Self-Insurance shall be attached hereto and incorporate as Exhibit B.

17.2. SELF-INSURED using Contractor - If the work performed under this AGREEMENT is done by CITY's contractor(s), CITY shall require its contractor(s) to maintain in force, during the term of this AGREEMENT, a policy of general liability insurance, including coverage of bodily injury liability and property damage liability, naming STATE, its officers, agents and employees as the additional insured in an amount

of \$1 million per occurrence and \$2 million in aggregate and \$5 million in excess. Coverage shall be evidenced by a certificate of insurance in a form satisfactory to the STATE that shall be delivered to the STATE with a signed copy of this Agreement.

18. TERMINATION - This Agreement may be terminated by mutual written consent by PARTIES or by STATE for cause., CITY's failure to comply with the provisions of this Agreement may be grounds for a Notice of Termination by STATE.

19. TERM OF AGREEMENT - This Agreement shall become effective on the date first shown on its face sheet and shall remain in full force and effect until amended or terminated as set forth in Article 18 above.

PARTIES are empowered by Streets and Highways Code Section 114 and 130 to enter into this Agreement and have delegated to the undersigned the authority to execute this Agreement on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this Agreement.

IN WITNESS WHEREOF, the PARTIES hereto have set their hands and seals the day and year first above written.

THE CITY OF EL CERRITO

By: _____
Mayor

Initiated and Approved

By: _____
City Manager

ATTEST:

By: _____
City Clerk

By: _____
City Attorney

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By: _____
LEAH BUDU
Deputy District Director
Maintenance Division, District 04

EXHIBIT A

(Plan map identifying the applicable STATE Routes (Freeway proper) and CITY road(s) and facilities)

EXHIBIT B – LETTER OF CERTIFICATE OF CITY OF EL CERRITO STATEMENT OF SELF INSURANCE

ATTN: Leah Budu, Deputy District Director, Maintenance
California Department of Transportation District 4
111 Grand Avenue
Oakland, CA 94623

Sept. 22, 2022

City of El Cerrito
Department of Finance

RE: Statement of Self Insurance for the City of El Cerrito ("CITY") Related to the Project Specific Maintenance Agreement with State of California Department of Transportation ("STATE") for the bicyclist, pedestrian, transit, and vehicle improvement project along State Route 123 from Potrero Rd (PM 1.7) to SR-123 (PM2.2)/SR-80 (PM2.06).

Dear Ms. Budu:

The purpose of this letter is to certify that the CITY is self-insured and self-funded covering third-party claims arising out of its general operations (for example, commercial general liability and automobile liability insurance). Further the CITY is self-insured covering workers' compensation claims and has received the consent of the State Department of Industrial Relations to do so.

Each fiscal year, as a part of its budgetary process, the CITY appropriates funds specifically to satisfy valid third-party claims and workers' compensation claims, which may be brought against the CITY.

The CITY certifies its self-insured, general liability coverage for bodily injury liability and property damage liability, meets the required coverage amounts in section 18.1 (INSURANCE) of the Maintenance Agreement, specifically general liability insurance, coverage of bodily injury liability and property damage liability in an amount of \$1 million per occurrence and \$2 million in aggregate and \$5 million in excess. The CITY further represents that regarding any claims made in connection with the Maintenance Agreement by the STATE, the STATE will be first-in-line regarding the reserved, self-insured amounts.

If you need any additional information regarding this letter, please direct those inquiries through my office.

Sincerely,

FINANCE MANAGER

**EXHIBIT B – LETTER OF CERTIFICATE OF CITY OF EL CERRITO STATEMENT OF
SELF INSURANCE**

DRAFT



SHEET INDEX

EA: 04-2AC40-0420000117

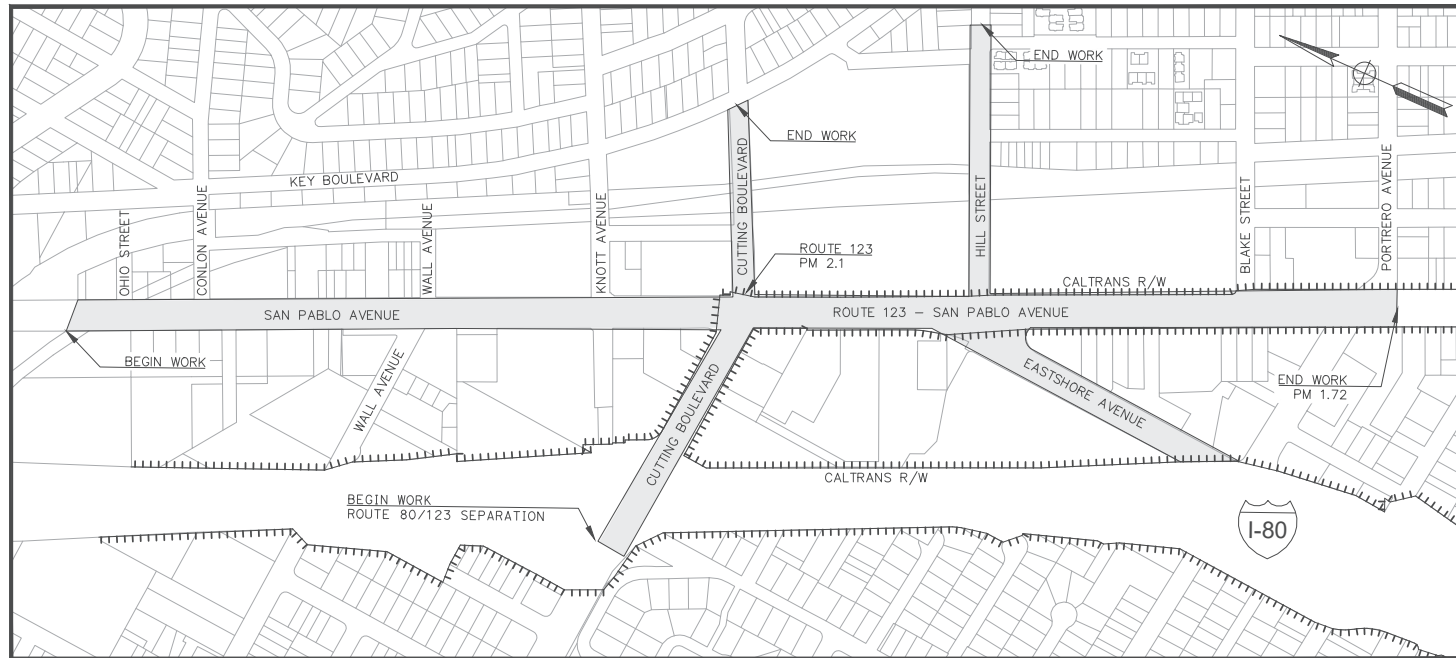
Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET No.	TOTAL SHEETS
04	CC	123	1.7/2.2	1	94



STATE OF CALIFORNIA, DEPT OF TRANSPORTATION

PROJECT SPECIFIC MAINTENANCE AGREEMENT WITH THE CITY OF EL CERRITO, IN CONTRA COSTA COUNTY, IN EL CERRITO ROUTE 123 (SAN PABLO AVENUE) BETWEEN PORTRERO AVENUE AND CUTTING BOULEVARD

TO BE SUPPLEMENTED BY STANDARD PLANS DATED 2018



THE STANDARD PLANS LIST APPLICABLE TO THIS CONTRACT IS INCLUDED IN THE NOTICE TO BIDDERS AND SPECIAL PROVISIONS BOOK.

EL CERRITO
SCALE: 1" = 200'

DRAFT

EXHIBIT A
SHEET 1 OF 8
NO SCALE

SEPTEMBER 19, 2022



BORDER LAST REVISED 7/2/2010

USERNAME ==>
DGN FILE ==> 0413000049e0001

RELATIVE BORDER SCALE
IS IN INCHES

0 1 2 3

UNIT 0708

PROJECT NUMBER & PHASE

04130000491

EXHIBIT B – LETTER OF CERTIFICATE OF CITY OF EL CERRITO STATEMENT OF SELF INSURANCE

ATTN: Leah Budu, Deputy District Director, Maintenance
California Department of Transportation District 4
111 Grand Avenue
Oakland, CA 94623

Sept. 22, 2022

City of El Cerrito
Department of Finance

RE: Statement of Self Insurance for the City of El Cerrito ("CITY") Related to the Project Specific Maintenance Agreement with State of California Department of Transportation ("STATE") for the bicyclist, pedestrian, transit, and vehicle improvement project along State Route 123 from Potrero Rd (PM 1.7) to SR-123 (PM2.2)/SR-80 (PM2.06).

Dear Ms. Budu:

The purpose of this letter is to certify that the CITY is self-insured and self-funded covering third-party claims arising out of its general operations (for example, commercial general liability and automobile liability insurance). Further the CITY is self-insured covering workers' compensation claims and has received the consent of the State Department of Industrial Relations to do so.

Each fiscal year, as a part of its budgetary process, the CITY appropriates funds specifically to satisfy valid third-party claims and workers' compensation claims, which may be brought against the CITY.

The CITY certifies its self-insured, general liability coverage for bodily injury liability and property damage liability, meets the required coverage amounts in section 18.1 (INSURANCE) of the Maintenance Agreement, specifically general liability insurance, coverage of bodily injury liability and property damage liability in an amount of \$1 million per occurrence and \$2 million in aggregate and \$5 million in excess. The CITY further represents that regarding any claims made in connection with the Maintenance Agreement by the STATE, the STATE will be first-in-line regarding the reserved, self-insured amounts.

If you need any additional information regarding this letter, please direct those inquiries through my office.

Sincerely,

FINANCE MANAGER

EXHIBIT C

**EMERGENCY VEHICLE DETECTION SYSTEM (EVDS) AND
TRANSIT SIGNAL PRIORITY (TSP) SYSTEM**

Caltrans and CITY of El Cerrito
Effective January 27, 2023

BASIS OF COST DISTRIBUTION
City-Owned and Maintained

<u>Route and PM</u>	<u>Location</u>	<u>Type of Facility</u>	<u>Cost Distribution</u>	
			<u>State</u>	<u>CITY</u>
04-CC-123- PM 1.98	HILL ST & SAN PABLO RD. (SR-123)	EVDS	0	100
04-CC-123- PM 1.98	HILL ST & SAN PABLO RD. (SR-123)	TSP	0	100
04-CC-123- PM 2.1	CUTTING BLVD. & SAN PABLO RD. (SR-123)	EVDS	0	100
04-CC-123- PM 2.1	CUTTING BLVD. & SAN PABLO RD. (SR-123)	TSP	0	100



SUPPLEMENTAL AGENDA MATERIALS

February 7, 2023

(Revised February 8, 2023)

SPECIAL AND REGULAR CITY COUNCIL MEETING

PUBLIC COMMENT INDEX

1. Public Comments received

Agenda Item 5B – Legislative Bodies and Remote Participation Regulations Effective March 1, 2023

1. Presentation

Agenda Item 8A – Predevelopment Loan with ECP Parcel A South Housing Partners, LP for the El Cerrito Plaza BART Transit-Oriented Development, and Inclusion of City Owned Property in Project Application

1. Presentation

Agenda Item 8B – Caltrans Maintenance Agreements for El Cerrito del Norte Transit-Oriented Development Complete Streets Improvement Project and On-going Operations

1. Presentation



SUPPLEMENTAL AGENDA MATERIALS PUBLIC COMMENT INDEX

SPECIAL AND REGULAR CITY COUNCIL MEETING

February 7, 2023

(Revised February 8, 2023)

The following Public Comments were **received by 2:00:00 p.m. 2/7/2023**, were provided directly to City Councilmembers in advance of the meeting, and were posted online as supplemental materials at www.el-cerrito.org/CouncilMeetingMaterials

SPECIAL CITY COUNCIL MEETING

Public Comments

1. Cordell Hindler

REGULAR CITY COUNCIL MEETING

Public Comments – Items Not on the Agenda

1. Cordell Hindler
2. Avis Codron, Chair, Park and Recreation Commission
3. El Cerrito Tennis Club
4. Cordell Hindler
5. Cordell Hindler
6. **Howdy Goudey**

Agenda Item 5B – Legislative Bodies and Remote Participation Regulations Effective March 1, 2023

1. **Howdy Goudey**

From: [Cordell Hindler](#)
To: [City Clerk](#)
Subject: Public Comment - 2. Closed Session
Date: Thursday, February 2, 2023 9:28:15 PM

Hello Mayor Motoyama, Council Members and Staff,

I would Encourage the Council To Hear from the Unions

Sincerely
Cordell

Date: January 20, 2023
To: Hon. Mayor and City Councilmembers
CC: Karen Pinkos, City Manager; Yvetteh Ortiz, Public Works Director; Holly Charley,
City Clerk; Chris Jones, Staff Liaison
From: Chair Avis Codron, El Cerrito Park and Recreation Commission
RE: Urban Trails Recommendations to City Council

Please find below a recommendation approved by the El Cerrito Park and Recreation Commission at their November 30, 2022 Regular Meeting.

Moved/Seconded: Vice Chair Kaczor/Member La Force.

Action: Passed a motion to forward the recommendations for urban trails to the City Council as presented.

Ayes: Chair Codron; Vice Chair Kaczor; Members Chuaqui and La Force.

Noes: None

Abstain: None

RECOMMENDATIONS TO CITY COUNCIL

INTRODUCTION

On December 1, 2021 the Park and Recreation Commission formed a work plan group with Trail Trekkers to explore opportunities to support urban trail development and maintenance.

SUMMARY OF RECOMMENDATIONS TO CITY COUNCIL

- 1)** Establish a contact department and person to coordinate and work with Trail Trekkers on matters that support trail development and maintenance (i.e., borrowing tools, removal of debris etc.,)
- 2)** Review and approve Trail Trekkers public outreach procedure for urban trails. Procedure outlines in detail how Trail Trekker's volunteer resources will execute community outreach to the public. Their community outreach ensures the public understands the benefits of the trail system and communication process. The procedure also outlines the multiple communication measures and timeline used to properly inform the public of trail maintenance and maintenance.

TRAIL TREKKERS COMMUNITY OUTREACH PROCEDURE FOR URBAN TRAIL DEVELOPMENT AND MAINTENANCE

- A. Trail Trekkers will identify trail projects that require improvements and present to Park and Recreation Commission
- B. Trail Trekkers will outline a detailed work plan for each trail
 - Trail Name
 - Trail Location
 - Trail Work Requirements
 - City Support Requirements (hauling debris, limited administrative staff dedication)
 - Pre-requisite Checklist
 - Stege Sanitary District
 - Native Plant Checklist
 - Others as applicable
- C. Trail Trekkers will present and recommend trails to be included in the Park and Recreation Commission work plan
- D. Park and Recreation will review trails submitted by Trail Trekkers and approve as part of the Park and Recreation workplan
- E. Trail Trekker's volunteer resources will execute a community outreach to the public in regards to trail improvement and development. The community outreach will consists of multiple measures:
 - Print materials that will include comprehensive information about each trail
 - Post on social media platforms (Facebook, Nextdoor, etc.,
 - Invite public to call/email for additional information
 - Meet with public as needed
 - Perform regular follow up with neighbors as desired
 - Perform timely updates & progress of trails to Park and Recreation Commission and neighbors
- F. Trail Trekkers will work with assigned city department/staff contact.
- G. Trail Trekkers will provide status updates to Park and Recreation

Timeline for Community Outreach:

Eight Weeks from Trail Building – Trekkers meets with El Cerrito to determine what City resources are needed, if needed, visiting trail site to take final measurements. Make a list of tools and materials needed (railroad ties; gravel, concrete etc., mulch. Make a list of human resources needed to procure these items and needed to deliver them to the trail site on or before trail build day.

Six weeks from Trail Building – Trekkers trail building committee meets to finalize our building teams.

Four weeks from Trail Building – Outreach teams distribute flyers and knock on doors to inform neighbors of the plan and invite them to participate.

Three weeks from trail building- Follow up with homes where no one answered. Send email reminders to Trekker members to come on trail building day.

Construction day – Verify the supplies and tools are at the trail building site. Prepare the site. Build the trail, cleaning up after each day until project is complete.

WE NEED YOUR HELP!



The Arlington courts are the most used in El Cerrito. This home base for the ECTC is the primary site for all competitive and recreational events. It is also popular with the broader tennis community, teaching professionals, tennis clinics and summer camps because there are three courts and restrooms.

The planned amenities will benefit ALL.

Two Tax Deductible Ways To Build The Tennis Center

The El Cerrito Tennis Club is selling personalized engraved bricks to fund the estimated \$30,000 project. The bricks will create a flat viewing area adjacent to the bleacher as an integral part of the Tennis Center.



Brick ordering information is on the back panel of this brochure. Order form is inside.

OR

Don't want a brick? Monetary contributions in any amount are welcome.

Mail a check (payable to "El Cerrito Community Foundation" with "ECTC" in the memo line) to ECTC, Box 1952, El Cerrito, 94530

Ordering Information

Bricks sizes and cost:

4" x 8" with up to 4 lines of text \$100

8" x 8" with up to 6 lines of text \$180

There are two ways to order bricks:

1. Using the order form in this brochure, enter your chosen text. Mail the form with your check (payable to "El Cerrito Community Foundation" with "ECTC" in the memo line) to ECTC, Box 1952, El Cerrito, 94530.
2. Go to ectennis.org/tennis-center, fill out the order form and make your payment.

Orders received prior to January 15, 2023 will be assured of installation in the project's first phase in Spring 2023. Later orders will be added to subsequent brick installations.

Questions?

Email us at ectennisclub@gmail.com

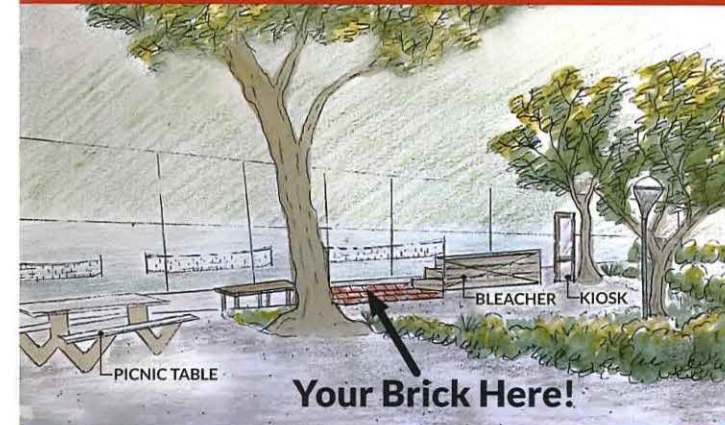
Thank You
For Helping Make This 100%
Privately Funded Community
Resource A Reality!



Similar bleacher shown at Albany Memorial Park.

TAX INFORMATION. Donations via brick purchase or monetary contributions are tax deductible through ECTC's fiscal agent, the El Cerrito Community Foundation, Federal Tax ID #68-0485391.

BUY A BRICK!



Help Make The
El Cerrito Arlington Courts
TENNIS CENTER
A Reality

A privately funded initiative of the El Cerrito Tennis Club (ECTC) will convert a grassy slope adjacent to the Arlington Park tennis courts into an assembly and viewing area called the **Tennis Center**. The City-approved project will:

- Improve viewing and court access
- Add a 30-seat bleacher, benches, and picnic table
- Create a flat assembly, picnic and staging area for tennis events and socializing
- Include a kiosk to post tennis information
- **RECEIVED** Provide a landscaped shady grove

FEB 02 2023

City of El Cerrito
City Clerk



El Cerrito Tennis Club

IDEAS FOR YOUR BRICK

- Your family names
- Commemorate your years as an ECTC member
- Honor a former member
- Remember a special friend
- Memorialize your USTA team
- Advertise your business
- Add a quotation
- Fun or inspirational saying



Help Make The El Cerrito Arlington Courts TENNIS CENTER A Reality

A privately funded initiative of the El Cerrito Tennis Club (ECTC) will convert a grassy slope adjacent to the Arlington Park tennis courts into an assembly and viewing area called the **Tennis Center**.

Yes, we'd like to reserve a permanent brick. Please engrave our brick as follows:

ANY SYMBOL IS CONSIDERED ONE SPACE (PERIOD, COMMA, DASH)
ALL TEXT IS CENTERED UNLESS OTHERWISE NOTED

4 x 8 Brick

8 x 8 Brick

EXAMPLE

G	O		N	E	W	T	O	N		H	I	G	H		L	I	O	N	S
S	T	A	T	E		C	H	A	M	P	I	O	N	S					
2	0	0	2	,		2	0	0	3	,		2	0	0	4				

Mail the form with your check (payable to "El Cerrito Community Foundation" with "ECTC" in the memo line) to ECTC, Box 1952, El Cerrito, 94530.

Name: _____ Phone: () _____

Address: _____

City: _____ State: _____ Zip: _____

Email: _____ Amount Paid: _____

If you have any questions, please email ectennisclub@gmail.com.

YOU CAN ALSO ORDER ON OUR WEBSITE:

ectennis.org/tennis-center

From: [Cordell Hindler](#)
To: [City Clerk](#)
Subject: Public Comments- 1.
Date: Thursday, February 2, 2023 12:47:59 PM

Good Morning Honorable Mayor Motoyama, Council Members and Staff

1. For a Future Agenda, The Council Should Consider Inviting Danny Wan to Provide a Presentation on How the Port of Oakland Is recovering from the Pandemic
2. Also to Have Sabrina Landreth to Provide an Update on what Activities that East Bay Regional Park district are working on

Sincerely
Cordell

From: [Cordell Hindler](#)
To: [City Clerk](#)
Subject: Public Comments- Not on the Agenda
Date: Saturday, February 4, 2023 11:56:37 AM

Hello Mayor Motoyama, Council Members and Staff

I Have some comments for the Record

1. For a Future Agenda, the Council Should Consider Inviting Danny Wan To Provide a Presentation on How the Port of Oakland is Recovering from the Pandemic
2. Also an Update in regarding the Class and Comp Study

Sincerely
Cordell

From: [Howdy Goudey](#)
To: [City Clerk](#)
Subject: Public comment - not on the agenda
Date: Tuesday, February 7, 2023 7:46:52 PM

Caution! This message was sent from outside your organization.

City Clerk, please include this comment for items not on the agenda in the record of the 2/7/2023 Council meeting.

Dear Mayor Motoyama and Council Members,

I continue to be disappointed by the decision to only allow public comment on presentation agenda items during the first public comment opportunity at the beginning of the meeting. This is not a good policy because it undermines robust public participation. Under the current policy, the public does not get to hear the presentation before commenting and must rely on reading presentation slides ahead of the meeting (if they are even posted in a timely fashion). The public may not be able to be present at the beginning of the meeting but they may be present for the presentation (which could be considerably later) and want to make a comment after the presentation. The public may not be aware that they wanted to make a comment until hearing the presentation. Limiting their comments to written comments filed after the meeting is a very limited form of participation that does not get the attention of the Council during the meeting. For the general public, it is not very clear when to make a public comment for presentations, unless they read the agenda very carefully. It would be much better, and consistent, for public participation to simply be offered as part of each agenda item. This goes for the consent items, too, now that they are moved later in the meeting, because the comment period and the consent votes end up being very far apart in time, making it harder for the public to both make their comment and hear the outcome.

Thanks for your time and consideration,
Howdy Goudey
El Cerrito

From: [Howdy Goudey](#)
To: [City Clerk](#)
Subject: Public comment, agenda item 5B
Date: Tuesday, February 7, 2023 7:46:48 PM

Caution! This message was sent from outside your organization.

City Clerk, please include this comment for agenda item 5B in the record of the 2/7/2023 Council meeting.

Dear Mayor Motoyama and Council Members,

The decision to not support remote access for advisory bodies should be reconsidered. The claim that implementing remote access requires 2-3 staff members is overstated. This can be done in a simpler fashion for advisory bodies. It does not have to be the same system used for Council meetings. For more than two years, all the staff liaisons have very successfully run remote meetings with a single staff person. Transitioning to hybrid meetings just means doing the same things with the staff person operating from the meeting room instead. The only thing that needs to be added is a simple low-cost USB speakerphone type device and an external USB camera (combined less than \$300). I am part of several community groups that have successfully implemented hybrid meetings without professional staff. There are some challenges to get it right, but it can be fairly simple and a single individual who is not a media professional can administer a hybrid meeting reliably.

Offering hybrid meetings for advisory bodies is most important for the expanded public participation that it enables. Many individuals with children, or other constraints, can not easily attend in-person evening meetings. Individuals with hearing challenges can benefit from the text closed captioning that is built into virtual meeting platforms. It is helpful to also have the ability for the members of the body to participate remotely under the limits of the new law, but the main reason to support hybrid meetings for all the city meetings is to improve public access and participation.

Thanks for your time and consideration,
Howdy Goudey
El Cerrito

LEGISLATIVE BODIES AND STATE REGULATIONS FOR REMOTE PARTICIPATION

EFFECTIVE MARCH 1, 2023



BROWN ACT TELECONFERENCE REQUIREMENTS (EXISTING)

Authorizes member(s) of a legislative body to participate remotely **IF**:

1. A quorum of the body participates from within the jurisdiction; **and**
2. The address of each location is listed on the agenda; **and**
3. Each location posts the agenda 72 hours prior to the meeting; **and**
4. Each location is open and accessible to the public and allows for public comment; **and**
5. All votes are taken by roll call.

AB361 (IN EFFECT 10/1/2021 – 1/1/2024)

- *Temporary* legislation suspending teleconferencing requirements of the Brown Act if:
 - Certain conditions are met, *including the presence of a state or local Emergency*; and
 - Certain findings adopted by the legislative body every 30 days
- Allows fully remote meetings (no in-person location)
- As of March 1, 2023, the El Cerrito, Contra Costa County, and California State of Emergency will all end
 - The City no longer meets the statutory requirements to utilize AB 361

AB2449 (IN EFFECT 1/1/2023 – 1/1/2026)

- *Temporary* legislation suspending some teleconferencing requirements of the Brown Act.
 - Allows a member of the legislative body to participate remotely **without disclosing or providing public access to the remote location(s)**:
 - In certain circumstances;
 - With limitations to the frequency of use;
 - **IF** certain requirements are met by the member AND the legislative body/agency

AB2449 - ELIGIBLE EXCEPTIONS

JUST CAUSE

1. The need to provide childcare or caregiving for a family member; or
2. Having a contagious illness that prevents in-person attendance; or
3. A need related to a physical or mental disability; or
4. Traveling while on official business of the legislative body, or other state/local agency.

EMERGENCY CIRCUMSTANCES

1. A physical or family medical emergency that prevents a member from attending the meeting in person

AB2449 – LIMITATIONS OF USE

JUST CAUSE

- No more than 2 times per calendar year

ALL ELIGIBLE CIRCUMSTANCES

- 3 consecutive months or 20% of the regular meetings within a calendar year.

Example of Maximum Use:

- 26 Regular meetings (twice monthly) = no more than 5 meetings (including any uses of Just Cause).
- 12 Regular meetings (monthly) = no more than 2 meetings (including any use of Just Cause)

AB2449 - REQUIREMENTS

LEGISLATIVE BODY MEMBER

- Provide notice as soon as possible with general description of circumstances to determine eligibility
- A separate request is required for each meeting
- Must participate with **both** audio and video
- Before **each** vote verbally disclose any individual 18+ present in the room and nature of relationship

LEGISLATIVE BODY/AGENCY

- Ensure a quorum is present **in-person**
- Must provide a remote option for public participation and list on the agenda
 - No action can be taken if method of remote public participation becomes unavailable during the meeting
- EMERGENCY CIRCUMSTANCES ONLY
Must consider and take action on request(s) at the beginning of the meeting

CITY COUNCIL

- No change to hybrid method of delivery for Council meetings
 - Current methods meet the statutory requirements of AB2449
 - Members can use AB2449 or existing regulations
- Notify City Clerk as soon as possible to request remote participation
 - City Clerk to advise on options based on attendance tracking
- Standing item for Emergency Circumstances approval beginning March 1, 2023

CITY ADVISORY BODIES

- Effective March 1, 2023, all meetings will meet **in-person only** in City Council Chambers
- Current Technology requires 2-3 staff members to run a hybrid meeting
- Staffing levels cannot support the statutory requirements of AB2449
- Members can use existing Brown Act teleconferencing regulations
- City will continue to work towards the goal of providing hybrid meetings

El Cerrito Plaza BART Transit-Oriented Development

City Council Meeting: Agenda Item 8.A.

February 7, 2023



El Cerrito Plaza BART TOD Agenda

- Background
 - Process and Timeline
 - Project Elements
 - Funding
 - Upcoming Activity
- Tonight's Actions
 - Predevelopment Loan
 - Authorization regarding City parcel



El Cerrito Plaza BART TOD

Tonight's Proposed Actions



Adopt a resolution authorizing a predevelopment loan for El Cerrito Plaza TOD - Parcel A-South – to support the advancement of 70 affordable housing units; and



Adopt a resolution authorizing the inclusion of a small City-owned parcel to be included in development application and authorize the City Manager to initiate negotiations for potential conveyance of the property to BART.

El Cerrito Plaza BART TOD

Background: Current and Future Conditions



Aerial View of Project Site looking Northwest

Conceptual rendering of preliminary design

PYATOK

VAN METER
WILLIAMS
POLLACK

ENWILLERKUEHL
AMERICAN ARCHITECTURE

El Cerrito Plaza BART Station Development
Planning Commission and Design Review Board Joint Study Session | September 7, 2022

El Cerrito Plaza BART TOD

Background: Public-Private Partnership



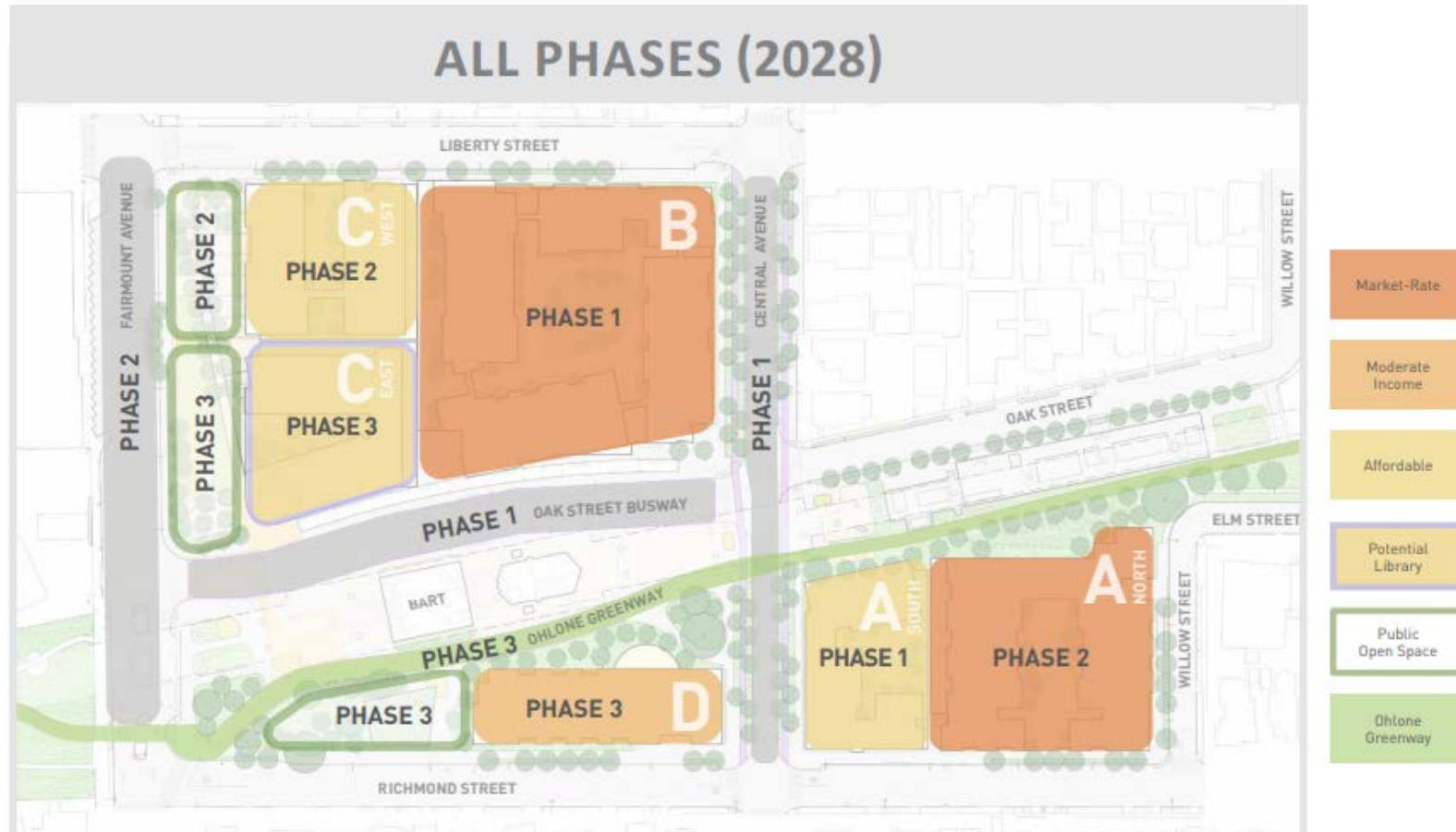
El Cerrito Plaza BART TOD Site Plan

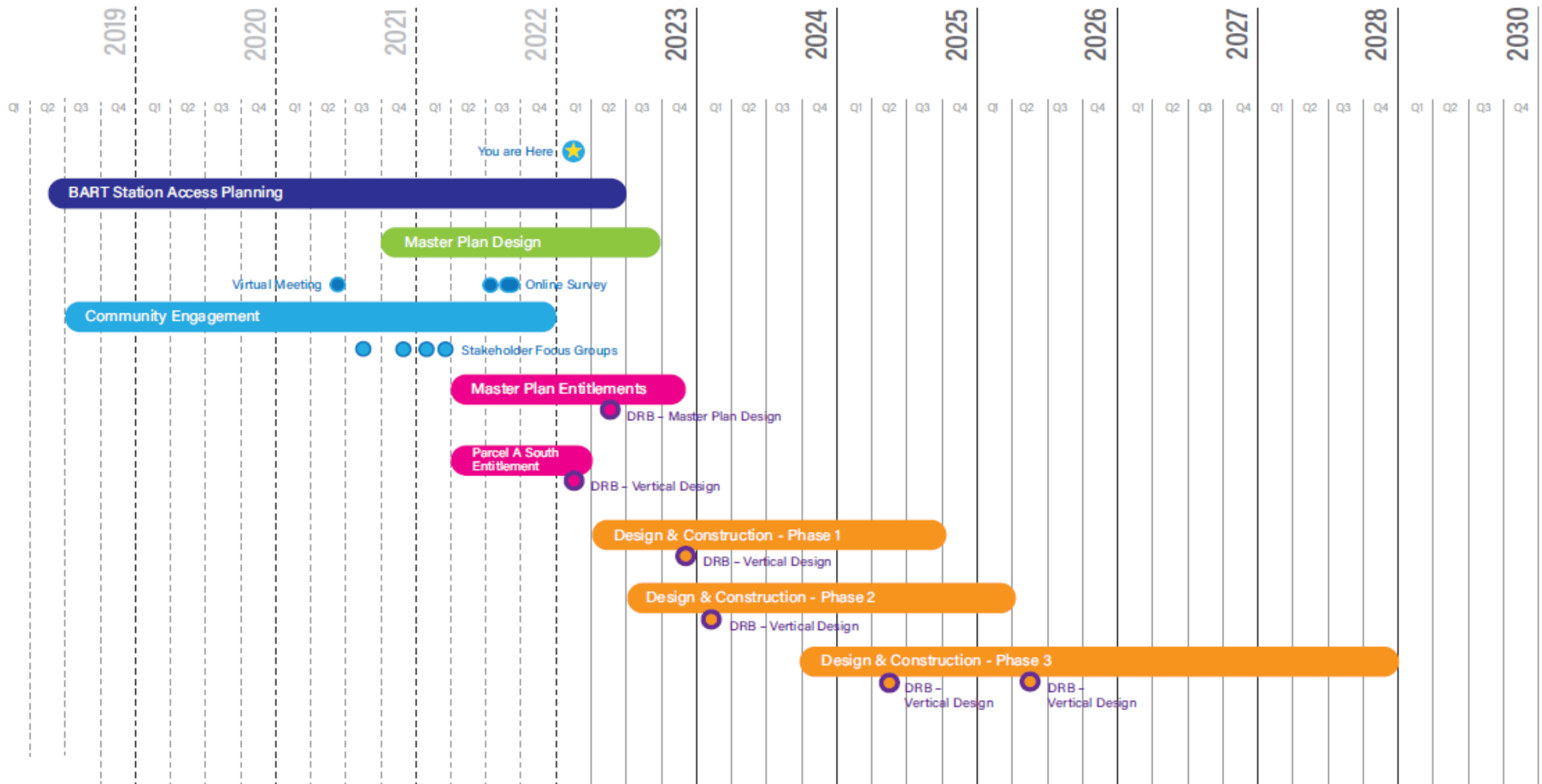


What is Transit-Oriented Development (TOD)?

- A walkable, compact, mixed-use, higher intensity development within walking distance of transit facilities
- Multiyear Planning and Construction Process
- ~ 8.3 Acres
- 6 Buildings = ~713 Units
 - 47% Below Market Rate
- Project is aligned with City's goals, policies and standards

El Cerrito Plaza BART TOD Conceptual Phasing Plan





El Cerrito Plaza BART TOD Project Elements

- Housing: Variety of Income Levels
- Transportation/Transit: Multimodal Access Improvements
- Parking
 - Managed On-Street Parking Program
 - Onsite parking
- Community Benefits
 - Public Open Spaces, Public Art, Public Plaza
 - Small Commercial Space
- New El Cerrito Library (proposed)

El Cerrito Plaza BART TOD

Grants / Funding / Finance

- Project Leverage Outside Funding & Grants, e.g.
 - TIRCP \$24M (secured): Parking Garage, Bicycle/Pedestrian Improvements, Parking Program, Transit Center
 - Infill Infrastructure Grant Program
 - Affordable Housing Sustainable Communities (AHSC)
 - Others
- Fees
 - WCCUSD, STMP, TIF, Stege
- Library: Possible with City Funding
 - Upcoming Council Study Session
 - State Grant Letter of Interest
- Market-Rate Housing (privately-funded)
 - New possessory interest/property tax
- Affordable Housing (public finance; multiple sources)

El Cerrito Plaza BART TOD Community Engagement

Activities to Date

- Council Meetings
- Open Houses (In Person and Zoom)
- BECCAP (Berkeley El Cerrito Corridor Access Plan)
- Design Review Board/Planning Commission Study Session

Additional Info

- City: www.el-cerrito.org/tod
- BART: www.bart.gov/about/business/tod/el-cerrito-plaza
- Developer: elcerritotod.squarespace.com

Upcoming

- Parking Program Council and Public Meetings
- Library Council Study Session (February/March)
- Design Review Board Meetings:
 - Parcel A South (February)
 - Master Plan (Spring/Summer)

Parcel A South: Affordable Housing

City Predevelopment Loan



El Cerrito Plaza BART TOD

Affordable Housing

**El Cerrito: 6th Cycle (2023-31) Regional Housing Needs Assessment
Number of Units By Income Level**

Very Low	Low	Moderate	Above Moderate	Total
334	192	241	624	1,391

**2022 Contra Costa County: Area Median Income (AMI)
Affordability by Maximum Income Level**

Household Size	Very Low (30% -50% AMI)	Low (50% -80% AMI)
1	\$50,000	\$76,750
2	\$57,150	\$87,700
3	\$64,300	\$98,650
4	\$71,400	\$109,600



El Cerrito Plaza BART TOD

Parcel A South: Affordable Housing

- Phase 1: Expected to break ground as early as 2024
- Affordable Units: 70
- Income Targets: Very-low and low-income between 30% - 60% AMI
- Project Financing: Various Funding Sources/Subsidies
 - City: Local Match (Timeline 2023)
 - County (2023-4)
 - State (2023-4)
 - Federal (2023-4)



2022 Conceptual Design

PYATOK

VAN METER
WILLIAMS
POLLACK

EWILLERKUEHL
LANDSCAPE ARCHITECTURE

El Cerrito Plaza BART Station Development
Planning Commission and Design Review Board Joint Study Session | September 7, 2022



El Cerrito Plaza BART TOD

Parcel A South: Affordable Housing

Hana Gardens Senior Apts.
10860 San Pablo Ave
Completed 2018



Mayfair Affordable Apts.
11690 San Pablo Ave
Estimated 2024-5



- Loan: \$350,000 Request for Predevelopment Activities
- Source: Low Moderate Income Housing Asset Fund (restricted for affordable housing)
- Terms:
 - 3% Interest
 - 55-Year Term
 - Affordability Restrictions: Incomes, Rents
 - Residual Receipts: Repayment based the availability of revenue/profit after calculating gross income less operating expenses

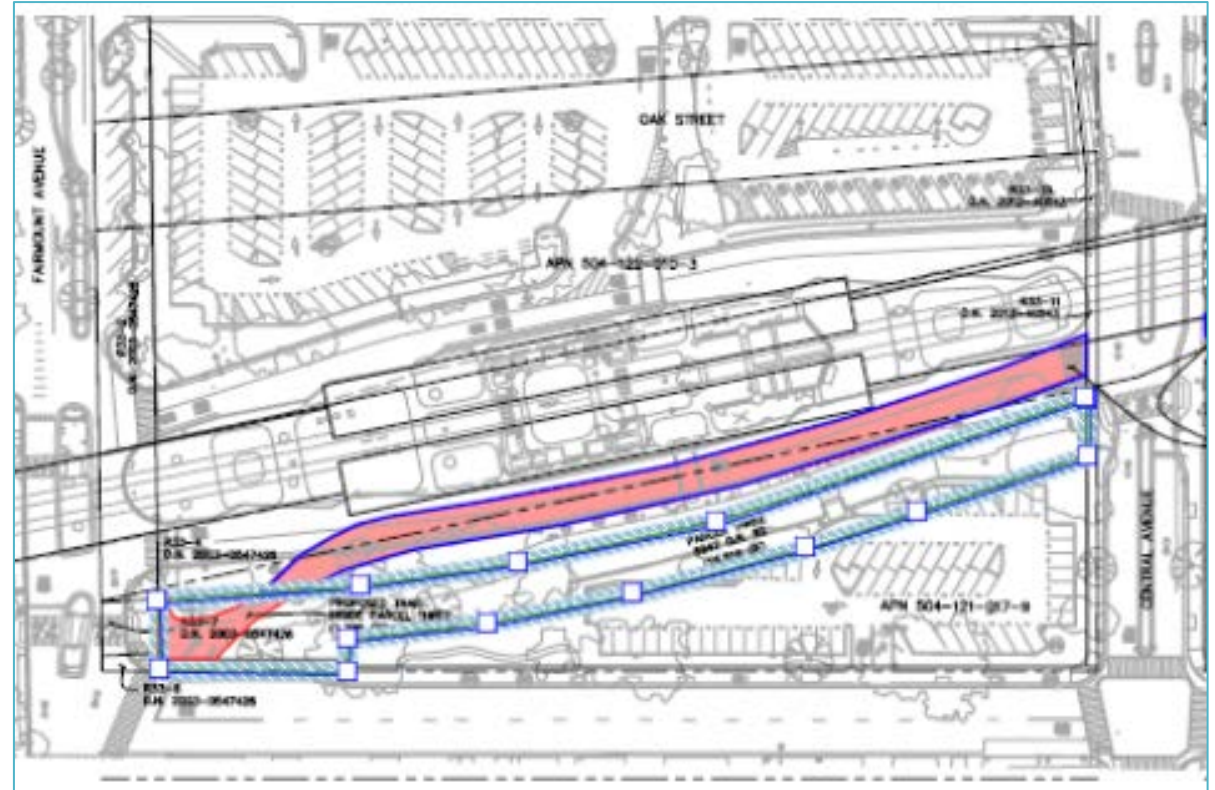
Parcel D: City-Owned Property

Authorization for Development Application



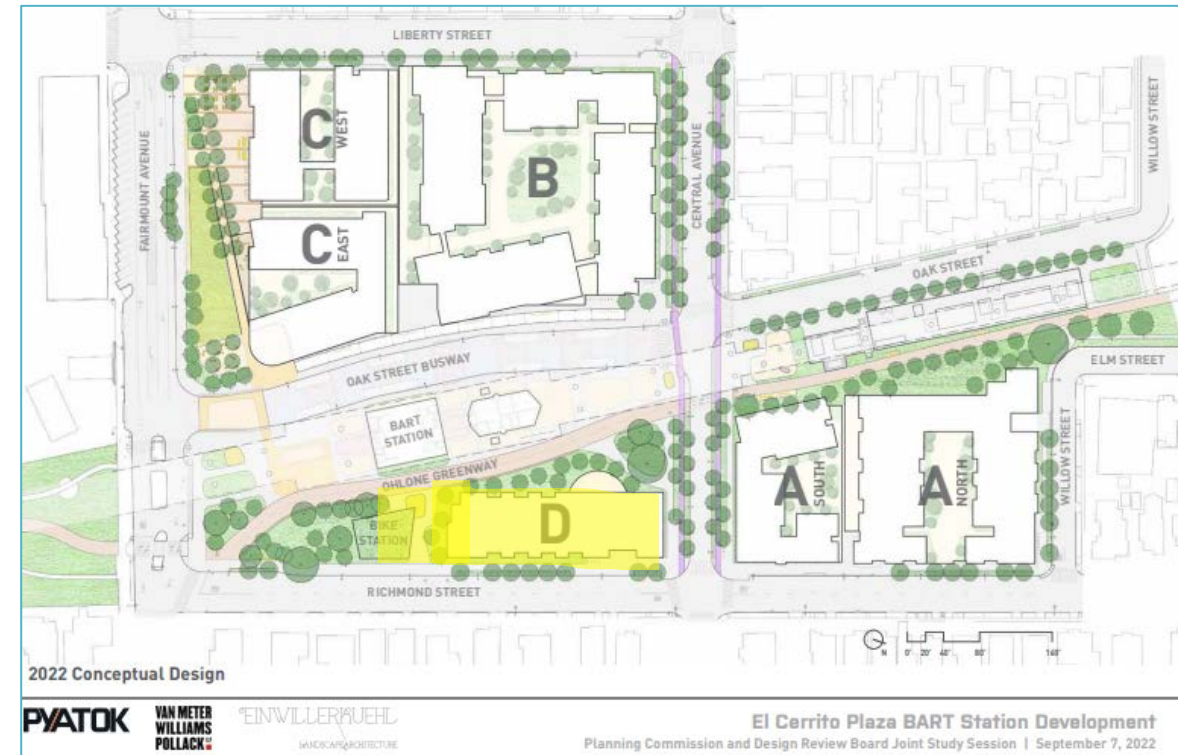
El Cerrito Plaza BART TOD Parcel D

- City-owned parcel 15-16,000 sf within “Parcel D” parking lot
- City Council authorized lease to BART in 1987
- Realign Greenway
- Facilitate land to be incorporated into below-market rate development
- Application for development requires City’s signature



El Cerrito Plaza BART TOD Parcel D

- Provide Affordable Housing
 - Phase 6: Up to 88 units
 - Income Targets: Up-to 80% AMI
- Enable parcel to be included in application for development
 - Action will authorize the City Manager to execute preliminary development application with/without parcel
- Staff/City Manager will return to Council with proposed terms (including possible land swap)



Reminder: Proposed Actions

El Cerrito Plaza BART TOD



Adopt a resolution authorizing a predevelopment loan for El Cerrito Plaza TOD - Parcel A-South – to support the advancement of 70 affordable housing units; and



Adopt a resolution authorizing the inclusion of a City-owned property to be included in the ECP TOD residential development application and authorize the City Manager to initiate negotiations for potential conveyance of the to BART.

Questions, Answers, Discussion

Thank you!





Caltrans Maintenance Agreements for El Cerrito del Norte TOD Complete Streets & On-Going Operations

City of El Cerrito City Council Meeting
February 7, 2023

PROPOSED ACTION:

Adopt a resolution approving and authorizing execution of three agreements between Caltrans and the City for the El Cerrito del Norte Transit-Oriented Development (TOD) Complete Streets Project and On-going operations



Electrical Facilities Cost Sharing Agreement



Amendment No. 3 to Agreement for Maintenance of State Highways



Project Specific Maintenance Agreement

El Cerrito del Norte TOD Complete Streets Project

- Multimodal transportation improvements identified in the San Pablo Avenue Specific Plan and Active Transportation Plan
- On San Pablo Ave, Cutting Blvd, Eastshore Blvd, Hill St and Knott Ave (www.el-cerrito.org/transformingdelnorte)
- Sizeable Portion on State Route 123 requiring Extensive Caltrans Project Development Process and Caltrans Permits, opening up existing maintenance agreements
- Federal, state and regional grants plus developer fees totaling approximately \$13.4 million for design and construction
- \$4.8 million in federal funds are at risk if we do not obtain a Caltrans permit for construction which requires maintenance agreements be in place



Project Schedule

Task	Start	End
Caltrans Project Development Process	Fall 2019	Winter 2022/23
Project-Level Environmental Compliance	Winter 2019/20	Winter 2021/22
Stakeholder & Community Engagement	Fall 2021	Fall 2022
Detailed Design (including Plans, Specification & Estimate)	Winter 2021/22	Winter 2022/23
ROW Certification	Winter 2022/23	Winter 2022/23
Federal Authorization to Proceed with Construction	Winter 2022/23	Spring 2023
Advertisement, Bidding and Award	Spring 2023	Spring 2023
Construction	Summer 2023	Summer 2024

Electrical Facilities Cost Sharing Agreement (EFCSA)

Existing Agreement

- 1986 Agreement
- Specifies method of sharing cost related to Traffic Signals, Flashing Beacons, Pedestrian Hybrid Beacons, Intersection Safety Lighting
- Intended to reduce admin burden: City responsible for Energy Costs and Caltrans for Maintenance Costs
- Energy includes electrical utility costs
- Maintenance includes routine inspections, repairs, cleaning, replacements, necessary upgrades, etc.
- City incurring costs lower than its pro-rata share of approx. 50%

Proposed Amendment

- Caltrans seeks to improve operations & maintenance plus safety
 - Hold electrical utility accounts
 - Revert back to pro-rata share based on number of legs at each intersection
 - Estimated City Annual Cost Increase of \$11,900 (2022 dollars)
- Incorporate Del Norte Project Improvements, sole City expense
 - Pedestrian Hybrid Beacon
 - Two Flashing Beacons
 - Estimated City Annual Cost Increase of \$1,500
- Total Annual Cost Increase of approx. \$13,400

Amendment No. 3 to Agreement for Maintenance of State Highways

Existing Agreement & Prior Amendments

- 1992 Agreement, known as Delegated Maintenance Agreement (DMA)
- Specifies maintenance functions performed by City on behalf of Caltrans and max reimbursement to City
- Delegated functions can include sidewalk maintenance, trash/debris, and landscaping
- Caltrans typically requires local agencies to maintain, at their sole expense, improvements that are outside the standard for state highways
- Prior amendments for sidewalk relinquishment from Caltrans to City in 2006 and for San Pablo Avenue Streetscape Improvements in 2011
- Caltrans reimbursing less than City's actual costs

Proposed Amendment

- Amendment to reconcile with Electrical Cost Sharing Agreement (remove electrical facilities)
- Revisit annual max reimbursement to City for litter/debris:
 - Increased by over 50% from \$16,000 to \$24,500, resulting in City Costs Savings of \$8,500
 - Excludes Reimbursement of \$6,500 for trash capture device cleaning; separate discussion & potential future amendment or alternative mechanism to help both City and Caltrans comply with Water Quality Control Board Requirements; plus continued collaboration on joint projects

Project Specific Maintenance Agreement (PSMA)

Existing Agreements

- 1957 Freeway Maintenance Agreement and 1962 Supplemental Freeway Maintenance Agreement (FMAs)
- Specify that City solely responsible for local streets relocated or reconstructed as part of I80 construction and Caltrans solely responsible for freeway and ramps
- PSMA's clarify maintenance responsibilities for specific improvements constructed by a local agency that are beyond typical Caltrans facilities and/or supersede relevant portions of the FMAs as necessary
- Caltrans has not previously required a PSMA for City projects

Proposed PSMA

- Incorporate Del Norte Project improvements including landscaped areas, separated bikeways, sidewalk bulb-outs, bus stop facilities, and stormwater quality treatment facilities
- As in other agreements, maintenance of new improvements at City sole expense
- In final draft form to align with a forthcoming revised FMA, which last week Caltrans indicated would also be needed
 - Update maps in the FMAs to be consistent with PSMA responsibilities for bikeways.
 - City staff anticipate bringing the revised FMA to the City Council for its consideration at its next regular meeting.
- Estimated City Annual Cost Increase of \$25,000 to \$30,000 (in 2022 dollars), contingent on future maintenance service contracts

Summary & Budget Implications

- Over \$13 million in funding committed for project design & construction
- Caltrans requires execution of maintenance agreements to permit construction of the Project on the state highway.
- Caltrans construction permit is needed as soon as possible to obligate the federal funding (\$4.8 Million) for construction of the Project

Agreement	O&M Annual Amount (2022 dollars)	Budget Implications
EFCSA Cost Increase	\$13,400	Starting FY2023-24, Special Funds for Transportation
DMA No. 3 Reimbursement Increase	-\$8,500	Starting FY2023-24, General Fund & LLAD
PSMA	\$25,000 to \$30,000	FY2024-25, Special Funds and potentially some General Fund support
Total Cost Increase	\$29,900 to \$34,900	

Questions & Comments

