

Mayor
Lisa Motoyama
Mayor Pro Tem
Tessa Rudnick



Councilmembers
Paul Fadelli
Gabriel Quinto
Carolyn Wysinger

TUESDAY, SEPTEMBER 19, 2023

SPECIAL CITY COUNCIL MEETING (5:15 PM)

Hillside Conference Room - 10890 San Pablo Ave, El Cerrito

Join Via Zoom:

<https://us06web.zoom.us/j/81993367330?pwd=a2dWOXdXR0FJeDIEb2RBb0VFK2tuUT09>

Meeting ID: 819 9336 7330 **Password:** 726359 **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/84731432246?pwd=NWQ3cWpKV0JMWHZJU0o4MmNuNDVTUT09>

Meeting ID: 847 3143 2246 **Password:** 542729 **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

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**.

5:15 PM ROLL CALL - CONVENE SPECIAL CITY COUNCIL MEETING

1. **CONSIDER AND TAKE ACTION ON ANY REQUEST FROM A COUNCILMEMBER TO PARTICIPATE IN THE MEETING REMOTELY DUE TO EMERGENCY CIRCUMSTANCES PURSUANT TO AB 2449**

Mayor
Lisa Motoyama
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Tessa Rudnick



Councilmembers
Paul Fadelli
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Carolyn Wysinger

2. 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.

3. COMMISSION INTERVIEWS, STATUS AND APPOINTMENTS

Action Proposed: Staff requests that City Council conduct interviews and, at the conclusion of interviews, confer with staff regarding ongoing recruitment(s), any remaining vacancies, and the scheduling of further special meetings to conduct interviews (if applicable). Council may decide to make appointments at the conclusion of the meeting.

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

4. ADJOURN SPECIAL CITY COUNCIL MEETING

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

1. CONSIDER AND TAKE ACTION ON ANY REQUEST FROM A COUNCILMEMBER TO PARTICIPATE IN THE MEETING REMOTELY DUE TO EMERGENCY CIRCUMSTANCES PURSUANT TO AB 2449

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

3. TELECONFERENCE AND PUBLIC COMMENT INSTRUCTIONS

4. 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.

5. 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.

6. PRESENTATIONS

Mayor
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Carolyn Wysinger

7. 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. Approval of Minutes

Action Proposed: Pass a motion to approve the minutes from the meetings of July 18 and August 15, 2023.

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

B. 55th Anniversary of Eden Housing Proclamation

Action Proposed: Pass a motion to approve a proclamation recognizing Eden Housing's 55th anniversary.

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

C. Hispanic Heritage Proclamation

Action Proposed: Pass a motion to approve a proclamation declaring September 15, 2023- October 15, 2023 as Hispanic Heritage Month, by recognizing and celebrating the histories, cultures, and contributions of American citizens whose ancestors came from Spain, Mexico, the Caribbean, and Central and South America.

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

D. Suicide Prevention Awareness Proclamation

Action Proposed: Pass a motion to approve a proclamation declaring September as Suicide Prevention Awareness Month in the City of El Cerrito.

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

E. Proclamation Recognizing Asher Kessler

Action Proposed: Pass a motion to approve a proclamation recognizing Asher Kessler of East Bay Rough Riders and Coach Lawrence Pang for their outstanding accomplishment in the 16th World Dragon Boat Racing Championships.

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

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F. Monthly Disbursement and Check Register Report for August 2023

Action Proposed: Receive and file the Monthly Disbursement and Check Register Report for the month of August 2023.

Contact: Crystal Reams, Finance Director/City Treasurer, Finance Department

G. 2nd Reading and Adoption of an Ordinance for a Contract Amendment between the City of El Cerrito and the Board of Administration of The California Public Employees' Retirement System (CalPERS) Related to Employee Members of United Professional Firefighters Association (Local 1230)

1st Reading 8/25/2023

Action Proposed: Waive the second reading and adopt Ordinance 2023-03 amending the City's existing California Public Employees' Retirement System (CalPERS) contract.

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

H. Safe Streets for All (SS4A) Cooperative Agreement with Contra Costa Transportation Authority for Richmond Street Complete Streets Improvement Project

Action Proposed: Adopt a resolution approving the Cooperative Agreement between the Contra Costa Transportation Authority (CCTA) and the City of El Cerrito for all phases of project delivery for the Richmond Street Complete Streets Improvement Project consisting of planning, preliminary design and environmental clearance, design including preparation of plans, specifications and estimates (PS&E), right-of-way (ROW) work including utility relocations, and construction, and authorizing the City Manager to execute the agreement in a form approved by the City Attorney.

Contact: Marielle Cuison, Associate Engineer, Public Works Department; Yvetteh Ortiz, Public Works Director/City Engineer

I. Authorization of Consulting Services Agreements with Multiple Firms for On-call Building, Planning, Fire and Engineering Consulting Services

Action Proposed: Adopt a resolution authorizing the City Manager to execute professional services agreements with nine (9) consulting firms

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to provide on-call professional services for three years, with the option to extend for an additional two years, in a total amount not to exceed \$2,000,000.

Contact: Jennifer Bright, Management Assistant; Melanie Mintz, Community Development Director, Community Development Department; Yvetteh Ortiz, Public Works Director, Public Works Department; Chase Beckman, Fire Marshal/Battalion Chief, Fire Department

J. Amendment to Consulting Services Agreement with Baker Tilly to Provide Additional Consulting Services in Fiscal Year 2023-24

Action Proposed: Adopt a resolution authorizing the City Manager to execute a second amendment to the consulting services agreement with Baker Tilly US, LLP (formerly Management Partners) to provide consulting services to the City in an amount not to exceed \$25,610 in Fiscal Year 2023-24, with the total contract amount not to exceed \$100,000, and extending the term of the agreement to June 30, 2024.

Contact: Will Provost, Assistant to the City Manager, City Management

K. Safe Routes to Bay Area Rapid Transit District (BART) Funding Agreement for El Cerrito del Norte Transit-Oriented Development Complete Streets Improvement Project

Action Proposed: Adopt a resolution approving the Safe Routes to BART Funding Agreement (Agreement) between BART and the City of El Cerrito (City) for the El Cerrito del Norte Transit-Oriented Development (TOD) Complete Streets Improvement Project and authorizing the City Manager to execute the Agreement in a form approved by the City Attorney.

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

L. Purchase Authorization for Renewable Diesel and Unleaded Gasoline

Action Proposed: Adopt a resolution authorizing the City Manager to enter into fuel purchase agreements through Santa Clara County's contract bid process for renewable diesel and through the State of California's contract bid process for unleaded gasoline.

Contact: Karineh Samkian, Senior Program Manager; Susan Kattchee, Interim Operations and Environmental Services Division Manager; Yvetteh Ortiz, Public Works Director/City Engineer, Public Works

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Department

8. PUBLIC HEARINGS

A. Fire Hazard Abatement

*Exempt from CEQA review pursuant to Sections 15304 and 15308,
Notice published 9/9/2023*

Action Proposed: 1) Adopt a resolution declaring weeds, rubbish, litter, or other flammable material on certain real property identified in the resolution constitutes a public nuisance; and 2) Conduct a public hearing and upon conclusion, adopt a resolution overriding objections by property owners and ordering the City Manager or their designee to abate certain public nuisances pursuant to El Cerrito Municipal Code Chapter 16.26.

Contact: Traviss Crumpacker, Fire Prevention Officer; Chase Beckman, Fire Marshal, Fire Department

B. Cost Hearing Regarding Fire Hazard Abatement of a Public Nuisance for Properties Identified and pursuant to El Cerrito Municipal Code Chapter 16.26

Notice published 9/9/2023

Action Proposed: Conduct a public hearing and upon conclusion adopt a resolution confirming the cost of abatement of public nuisance conditions resulting from the presence of weeds, rubbish, litter or other flammable material on private properties designated in Exhibit A to the resolution as authorized by El Cerrito Municipal Code Chapter 16.26.

Contact: Chase Beckman, Fire Marshal, Fire Department; Traviss Crumpacker, Fire Prevention Officer, Fire Department

9. POLICY MATTERS

A. Establishment of the PARS Post-Employment Benefits Trust Program

Action Proposed: Adopt a Resolution authorizing participation in the PARS Post-Employment Benefits Trust Program to be administered by Public Agency Retirement Services (PARS) and U.S. Bank, appointing the City Manager as the City's Plan Administrator, authorizing the City Manager to execute the documents to implement the Program, and appropriating from fund balance and authorizing the deposit of \$1,000,000 as the initial contribution to the City's trust.

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Contact: Crystal Reams, Finance Director/City Treasurer, Finance Department; Karen Pinkos, City Manager, City Management

B. Consideration of a Financial Advisory Board Recommendation to Increase City Council Compensation

Notice published 9/9/2023

Action Proposed: Introduce by title and waive any further reading of an Ordinance to increase the City Council's compensation from \$441 per month to \$650 per month.

Contact: Crystal Reams, Finance Director/City Treasurer; Sky Woodruff, City Attorney

C. Study Session on City Board, Commission, and Committees

Action Proposed: Conduct a study session on City Boards, Commissions, and Committees (Advisory Bodies), consider recommendations made by the City Council ad-hoc committee and if applicable, provide staff direction.

Contact: Holly M. Charléty, City Clerk, City Management on behalf of City Council Ad-hoc Subcommittee of Mayor Lisa Motoyama and Councilmember Paul Fadelli

10. CITY COUNCIL LOCAL & REGIONAL LIAISON ASSIGNMENTS

Mayor and City Council communications regarding local and regional liaison assignments, committee reports, and any required reporting under AB 1234 for meetings (as defined by the Brown Act) attended at the public's expense.

11. CLOSED SESSION

A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code Section 54957

Action Proposed: Title: City Manager

Contact: Sky Woodruff, City Attorney, City Management

B. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957

Action Proposed: Agency Designated Representatives: Mayor Pro Tem Tessa Rudnick and City Councilmember Gabe Quinto

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Unrepresented Employee: City Manager
Contact: Sky Woodruff, City Attorney, City Management

12. ADJOURN REGULAR CITY COUNCIL MEETING

The next regularly scheduled City Council meeting is Tuesday, October 3, 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.



AGENDA BILL

Agenda Item No. 3.

Date: September 19, 2023
To: El Cerrito City Council
From: Holly M. Charl  ty, City Clerk, City Management
Subject: COMMISSION INTERVIEWS, STATUS AND APPOINTMENTS

ACTION PROPOSED

Staff requests that City Council conduct interviews and, at the conclusion of interviews, confer with staff regarding ongoing recruitment(s), any remaining vacancies, and the scheduling of further special meetings to conduct interviews (if applicable). Council may decide to make appointments at the conclusion of the meeting.

INTERVIEW SCHEDULE

Interviews scheduled for this meeting are as follows:

5:30 PM	Neela Chatterjee	Arts and Culture Commission
5:45 PM	Renee Thomas Jacobs	Financial Advisory Board

Additional interviews are scheduled on October 3, 2023 for Arts and Culture Commission and Human Relations Commission.

BACKGROUND/ANALYSIS

City staff continues to publicize board, commission and committee vacancies as they occur. Vacancies are published on the City's website and in the East Bay Times, and posted at City Hall, the Community Center and Library. Staff is also utilizing social media outlets to increase awareness and opportunities for citizens to participate by attending meetings and/or serving on a board, commission or committee.

STRATEGIC PLAN CONSIDERATIONS

This action aligns with Strategic Plan Goal A: Deliver Exemplary Government Services by maintaining an emphasis on providing excellent customer service.

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 section is not applicable to this agenda item.

Reviewed by:

A handwritten signature in blue ink, appearing to read "H. Charléty". The signature is fluid and cursive, with a large loop at the end.

Holly Charléty, City Clerk

Attachments:

Application(s) on file with the City Clerk

1. ACC Roster
2. FAB Roster
3. Current Vacancy List
4. List of Active Applications

Arts and Culture Commission

Term Length: 48 Months

Max Terms: 2 Term(s)

Number of Members: 7

Meeting Schedule: 4th Monday of the Month

Meeting Time: 7:00 PM

Meeting Location: Council Chambers

Meeting Address: 10890 San Pablo Ave. El Cerrito

Type: Commission

Description: The ACC is charged with oversight of the Arts in Public Places Program, City Hall Gallery Space, and responsible for acquisition, funding, and placement of public art in the City on public property. The ACC consists of members who demonstrate a commitment to various arts disciplines, including but not limited to: fine arts, visual arts, performing arts, literary arts, art history and arts education.

Council Liaison:

Mayor Lisa Motoyama

lmotoyama@ci.el-cerrito.ca.us

Staff Liaison:

Alexandra Orologas

510-215-4302

aorologas@ci.el-cerrito.ca.us

Position Number	Name	Appt Date	No. of Terms Served	Term Expiration Date
1	Audrey Faine	02/14/2023	1	03/01/2025
2	Andrew Ting	02/16/2023	1	03/01/2024
3	Patrick Taylor	02/16/2023	1	02/16/2024
4	Courtney Helion	02/09/2022	2	03/01/2025
6	George Gager	03/01/2021	2	03/01/2025

Financial Advisory Board

Term Length: 48 Months

Max Terms: 2 Term(s)

Number of Members: 5

Meeting Schedule: 4nd Tuesday of the Month

Meeting Time: 6:30 PM

Meeting Location: Council Chambers

Meeting Address: 10890 San Pablo Avenue, El Cerrito, CA

Type: Board

Description: The Financial Advisory Board (FAB) conducts a review of the proposed annual budget and long-term financial plan for the City to assist the City Council in making decisions on major expenditures and revenue sources.

Council Liaison:
Councilmember Carolyn Wysinger

Staff Liaison:
Crystal Reams

cwysinger@ci.el-cerrito.ca.us

creams@ci.el-cerrito.ca.us

Position Number	Name	Appt Date	No. of Terms Served	Term Expiration Date
3	Richard Patterson	03/01/2020	3	03/02/2024
4	Farhad Farahmand	03/01/2021	2	03/01/2025
5	Kimberly White	02/08/2022	1	03/01/2026



CURRENT VACANCIES ON BOARDS, COMMISSIONS & COMMITTEES

The El Cerrito City Council is seeking applicants interested in serving on its Boards, Commissions and Committees (Advisory Bodies). Members of Advisory Bodies provide an invaluable service to our community. Serving as a member can be a rewarding experience for community service minded residents. It is an excellent way to participate in local government and to make a personal contribution to the improvement of your community. Members are appointed by the City Council for terms of four years. Meetings are generally held once a month during evening hours.

~~Interested parties are required to attend two of the last three meetings of the advisory body applied prior to submitting an application.~~ *(this requirement has been temporarily suspended by City Council until further notice).* Applications are accepted on an ongoing basis and will remain valid for a period of one year.

Current vacancies are listed below. Click on the applicable link to find out more information about the advisory body.

Advisory Body	Vacancies
Arts & Culture Commission	2
Committee on Aging	5
Citizens Street Oversight Committee*	1
Civil Service Commission*	1
Crime Prevention Committee	10
Economic Development Committee	7
Environmental Quality Committee	4
Financial Advisory Board	2
Human Relations Commission	4
Park and Recreation Commission	3
Urban Forest Committee	9

*exempt from pre-meeting requirement

Select the Apply Now button below or visit
<http://el-cerrito.org/ApplicationforCommissions> to access the online application.
Accessibility needs may be addressed by contacting the City Clerk.



For more information, please contact CityClerk@ci.el-cerrito.ca.us or 510-215-4305
Last Updated: August 25, 2023

Name	Board Name	Application Status	Application Date
Abhijeet Singh	Contra Costa Library Commission	Active	01/31/2023
Adam Levenson	Arts and Culture Commission	Active	08/31/2023
Forrest Bice	Urban Forest Committee	Active	08/20/2023
Jennifer Witt	Human Relations Commission	Active	06/26/2023
Kevin Schenthal	Economic Development Committee	Active	07/19/2023
Linda Cain	Committee on Aging	Active	06/22/2023
Maggie Winslow	Environmental Quality Committee	Active	01/11/2023
Neela Chatterjee	Arts and Culture Commission	Active	07/28/2023
Renee Thomas Jacobs	Financial Advisory Board	Active	07/25/2023
Rosa Esquivel	Crime Prevention Committee	Active	02/08/2022
Shaulnie Mohan	Economic Development Committee	Active	02/06/2023
Shaulnie Mohan	Urban Forest Committee	Active	02/06/2023

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EL CERRITO CITY COUNCIL DRAFT MINUTES

TUESDAY, JULY 18, 2023

REGULAR CITY COUNCIL MEETING (6:00 PM)

City Council Chambers - 10890 San Pablo Ave, El Cerrito

Additional In-Person Location:

HOLIDAY INN EXPRESS & SUITES, 2102 South C St., Tacoma, WA 98402 **Ask at front desk for room number for remote meeting location**

Join Via Zoom:

<https://us06web.zoom.us/j/81274051504?pwd=Z1g4OGVxQXJWNEExTldxMFNONHhCZz09>

Meeting ID: 812 7405 1504 **Password:** 374534 **Dial in:** 1-408-638-0968

View:

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

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**.

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

Mayor Motoyama called the meeting to order at 6:01 PM.

Present In-Person: Mayor Motoyama, Mayor Pro Tem Rudnick, Councilmember Fadelli, Councilmember Quinto, **Present Remotely:** Councilmember Wysinger **Absent:** None

1. **CONSIDER AND TAKE ACTION ON ANY REQUEST FROM A COUNCILMEMBER TO PARTICIPATE IN THE MEETING REMOTELY DUE TO EMERGENCY CIRCUMSTANCES PURSUANT TO AB 2449**

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

3. **TELECONFERENCE AND PUBLIC COMMENT INSTRUCTIONS**

4. **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.

City Manager Pinkos - introduced new Finance Director and announced the El Cerrito Creative Re-Use (ECCRU) Artist in Residency's showing in the City Hall Gallery Space August 25.

Public Works Director Yvetteh Ortiz - provided an update about garbage and recycling cart distribution throughout the City.

Councilmember Quinto – announced appointment as 2nd Vice President of the League of California Cities.

Councilmember Fadelli - expressed gratitude for the Fourth of July festival; announced his open office hours the first Monday of each month for the public to meet with him directly.

Mayor Motoyama - provided positive comments about Fourth of July, announced East Bay Innovators event, and encouraged participation in the Caltrans Bike Update Survey.

5. **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.

All written comments submitted prior to and during the meeting were posted online as supplemental materials and incorporated into the official meeting record. Written public comments for matters not on the agenda were received from Staff Liaison Bridget Cooney on behalf of Committee on Aging, Cordell Hindler, and Dianne Brenner.

Oral Public Comments:

Buddy Akacic - commented on El Cerrito's Senior Community being active and about diversity, equity and inclusion.

Dianne Brenner - commented on "Rule 20A" that PG&E administers.

Mariella Moreno Murray - commented on the City's Noise Ordinance.

6. PRESENTATIONS

A. Summer 2023 I-80 Pavement Rehabilitation Project

Action Proposed: Receive and file a presentation from Caltrans District 4 on a paving project on both directions of I-80 starting at the end of July through September.

Contact: Andrew Baskerville, Contra Costa County Construction Manager, and Bart Ney, Public Affairs & Strategic Communications, Caltrans Bay Area

Presentation and Discussion: Presenters and staff responded to comments and questions raised by members of the council regarding Labor Day closures, pavement materials and heavy truck weight.

Action: Received and filed

7. 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.

Moved/Seconded: Councilmember Fadelli/Councilmember Quinto **Action:** Approved the consent calendar as indicated below. **Ayes:** Mayor Motoyama, Mayor Pro Tem Rudnick, Councilmember Fadelli, Councilmember Quinto, Councilmember Wysinger **Noes:** None

A. Crime Prevention Committee Appointment of Brett Guest

Action Proposed: Approve a Crime Prevention Committee recommendation to appoint Brett Guest to the Crime Prevention Committee, effective July 18, 2023.

Contact: Sergeant Aaron Leone, El Cerrito Police Department

Action: Approved appointment

B. Approve Three-Year Agreement between the City of El Cerrito and Chavan and Associates, LLP to Perform Required Independent Audit Services for Fiscal Years 2022-23, 2023-24 and 2024-25

Action Proposed: Adopt a resolution authorizing the City Manager to execute a three-year professional services agreement in an amount not to exceed \$202,500 with Chavan and Associates, LLP, Certified Public Accountants to perform required independent audit services for Fiscal Years 2022-23, 2023-24 and 2024-25, with the option to extend the contract for an additional two (2) one-year terms.

Contact: Alexandra Orologas, Assistant City Manager, City Management

Action: Approved Resolution No. 2023-49

C. Agreement between the City of El Cerrito and West Coast Vending and Food Service, Inc. to Provide Food Services to the El Cerrito Police Department

Action Proposed: Adopt a resolution authorizing the City Manager to enter into an agreement with West Coast Vending and Food Services, Inc. to provide vending services, including the purchase of materials, supplies, and/or equipment to the City of El Cerrito for an amount not to exceed \$75,000 annually from July 1, 2023 through June 30, 2025.

Contact: Paul Keith, Chief of Police, El Cerrito Police Department

Action: Approved Resolution No. 2023-50

D. Agreement with Motorola Solutions to Upgrade El Cerrito Police Department Radios with Encryption Software

Action Proposed: Authorize the City Manager to enter into an agreement with Motorola Solutions, Inc. for the provision of encryption software upgrades to El Cerrito Police Department radios for a cost not to exceed \$135,000.

Contact: Paul Keith, Chief of Police, El Cerrito Police Department

Action: Approved Resolution No. 2023-51

E. Consulting Services Agreement between the City of El Cerrito and Kittelson & Associates, Inc. to Provide Transportation Planning and Engineering Services for the Local Road Safety Plan

Action Proposed: Adopt a resolution authorizing the City Manager to execute a consulting services agreement for an amount not to exceed \$87,000 with Kittelson & Associates, Inc. (Kittelson) to provide transportation planning and engineering services to initiate, develop, and complete a Local Road Safety Plan (LRSP).

Contact: Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department; Jarrett Mullen, Sustainable Transportation Program Manager, Community Development Department

Action: Approved Resolution No. 2023-52

F. Amendment to Agreement with Cox Automotive Mobility Fleet Services for Fleet Maintenance Services

Action Proposed: Adopt a resolution to authorize the City Manager to amend the agreement with Cox Automotive Mobility Fleet Services for Fleet Maintenance Services by \$15,000 for a total amount not to exceed amount of \$203,100 for Fiscal Year 2022-23.

Contact: Christina Leard, Management Analyst III; Susan Kattchee, Interim Operations & Environmental Services Division Manager; Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department

Action: Approved Resolution No. 2023-53

G. Agreement with SSP Data to provide DarkTrace Detect and Response Security Monitoring Services

Action Proposed: Adopt a resolution to authorize the City Manager to execute the pricing agreement with SSP Data for DarkTrace Holding Limited's cybersecurity services in an amount not-to-exceed \$380,000 over a four-year period.

Contact: Eric Ng, Acting IT Manager, Information Technology Department

Action: Approved Resolution No. 2023-54

8. PUBLIC HEARINGS

A. Fire Hazard Abatement

Exempt from CEQA review pursuant to Sections 15304 and 15308, Notice published 7/8/2023

Action Proposed: 1) Adopt a resolution declaring weeds, rubbish, litter, or other flammable material on certain real property identified in the resolution constitutes a public nuisance; and 2) Conduct a public hearing and upon conclusion, adopt a resolution overriding objections by property owners and ordering the City Manager or their designee to abate certain public nuisances pursuant to El Cerrito Municipal Code Chapter 16.26.

Contact: Traviss Crumpacker, Fire Prevention Officer; Chase Beckman, Fire Marshal, Fire Department

Moved/Seconded: Mayor Pro Tem Rudnick/Councilmember Fadelli

Action: Approved Resolution No. 2023-55 (Declaring Identified Properties). **Ayes:** Mayor Motoyama, Mayor Pro Tem Rudnick, Councilmember Fadelli, Councilmember Quinto, Councilmember Wysinger **Noes:** None

Public Hearing: Mayor Motoyama opened the public hearing.

No public comments.

Moved/Seconded: Councilmember Quinto/Mayor Pro Tem Rudnick

Action: Closed the public hearing. **Ayes:** Mayor Motoyama, Mayor Pro Tem Rudnick, Councilmember Fadelli, Councilmember Quinto, Councilmember Wysinger **Noes:** None

Moved/Seconded: Mayor Pro Tem Rudnick/Councilmember Fadelli

Action: Adopted Resolution 2023-56 (Overriding Objections) **Ayes:** Mayor Motoyama, Mayor Pro Tem Rudnick, Councilmember Fadelli, Councilmember Quinto, Councilmember Wysinger **Noes:** None

9. POLICY MATTERS

10. CITY COUNCIL LOCAL & REGIONAL LIAISON ASSIGNMENTS

Mayor and City Council communications regarding local and regional liaison assignments, committee reports, and any required reporting under AB 1234 for meetings (as defined by the Brown Act) attended at the public's expense.

Mayor Pro Tem Rudnick - announced RecycleMore's Edible Food Recovery Grants Program and shared her experience at July Fourth Festival.

Councilmember Fadelli - commented on the community food service truck that works with Trader Joe's to save packaged food.

Councilmember Quinto - welcomed new member Brett Guest to the Crime Prevention Committee, announced National Night Out on August 1, reported his efforts working with legislators and public safety agencies to end fentanyl addiction epidemic, and attendance at July Fourth Festival.

Mayor Motoyama - reported attendance at West County Women's Leaders' Lunch, July Fourth Celebration, Contra Costa Mayors' Conference, Sakura Kai 50th Anniversary Celebration, and Robinson Weeks Scholarship Program Fundraiser.

11. ADJOURN REGULAR CITY COUNCIL MEETING

The next regularly scheduled City Council meeting is Tuesday, August 15, 2023 at 6:00 p.m.

The regular meeting adjourned at 7:22 PM.

Lisa Motoyama, Mayor

This is to certify that the foregoing is a true and correct copy of the minutes of the City Council meeting of July 18, 2023 as approved by the El Cerrito City Council.

Alexandra Orologas, Deputy City Clerk

Mayor
Lisa Motoyama
Mayor Pro Tem
Tessa Rudnick



Councilmembers
Paul Fadelli
Gabriel Quinto
Carolyn Wysinger

EL CERRITO CITY COUNCIL DRAFT MINUTES

TUESDAY, AUGUST 15, 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/88356546802?pwd=K0VRczVrZng2R3hLaWtmSFdTVVBRZz09>

Meeting ID: 883 5654 6802 **Password:** 812934 **Dial in:** 1-408-638-0968

REGULAR CITY COUNCIL MEETING (6:00 PM)

City Council Chambers - 10890 San Pablo Ave, El Cerrito

Join Via Zoom:

<https://us06web.zoom.us/j/87060673799?pwd=TWdzN1BxNFI4eWlEdEhQQ2hPZ1R3UT09>

Meeting ID: 870 6067 3799 **Password:** 667066 **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

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**.

5:00 PM ROLL CALL - CONVENE SPECIAL CITY COUNCIL MEETING
Mayor Motoyama called the meeting to order at 5:07 PM.
Present: Mayor Motoyama, Mayor Pro Tem Rudnick, Councilmember Fadelli, Councilmember Quinto, Councilmember Wysinger (arrived at 5:35 PM) **Absent:** None

1. CONSIDER AND TAKE ACTION ON ANY REQUEST FROM A COUNCILMEMBER TO PARTICIPATE IN THE MEETING REMOTELY DUE TO EMERGENCY CIRCUMSTANCES PURSUANT TO AB 2449

2. 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.
None

3. CLOSED SESSION CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Pursuant to Government Code Section 54956.8

Property: 10936 San Pablo Ave El Cerrito, CA 94530 (Assessor Parcel Number 502-411-006)

Agency negotiators: Karen Pinkos, City Manager; Melanie Mintz, Community Development Director

Negotiating parties: Life in Christ International Ministry of the Assemblies of God

Under negotiation: Price and terms

Contact: Sky Woodruff, City Attorney, City Management

City Council convened closed session at 6:08 PM. No reportable action.

4. ADJOURN SPECIAL CITY COUNCIL MEETING
The special meeting adjourned at 6:04 PM

6:00 PM ROLL CALL – CONVENE REGULAR CITY COUNCIL MEETING
Mayor Motoyama called the meeting to order at 6:11 PM.
Present: Mayor Motoyama, Mayor Pro Tem Rudnick, Councilmember Fadelli, Councilmember Quinto, Councilmember Wysinger **Absent:** None

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

2. CONSIDER AND TAKE ACTION ON ANY REQUEST FROM A COUNCILMEMBER TO PARTICIPATE IN THE MEETING REMOTELY DUE TO EMERGENCY CIRCUMSTANCES PURSUANT TO AB 2449

3. TELECONFERENCE AND PUBLIC COMMENT INSTRUCTIONS

4. 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.

City Manager Pinkos - Update on the August 9 cyber intrusion on the City's system.

Mayor Pro Tem Rudnick - spoke regarding the devastation in Hawaii and recognized Recreation for the end of a successful set of summer programs.

Councilmember Fadelli - commented on the success of National Night Out.

Mayor Motoyama - reported out on closed session; announced upcoming August 19th ribbon cutting for Freddie's Lifestyle Shop; thanked staff regarding cyber attack response and Keep El Cerrito Fire Safe efforts in obtaining Measure X funds for hillside fire safety work.

5. 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.

All written comments submitted prior to and during the meeting were posted online as supplemental materials and incorporated into the official meeting record. Written public comments for matters not on the agenda were received from Cordell Hindler, Joan Setka, Cathy Taruskin, Gary Prost, Sue Duncan, and Scott Tipping.

Oral Public Comments:

Sue Duncan - spoke regarding the wildfire in Maui and prior events and need for fire protection in El Cerrito.

Howdy Goudey - commented on consent item 7E regarding lack of local data used in analysis and need for the general practice for new infrastructure to track local transportation trends.

Ira Sharenow - spoke regarding real property transfer tax revenues and need for additional senior services.

Linda Cain - commented on the wildfire in Maui and risk of wildfire in El Cerrito.

Mariella Sanding - Contra Costa County Meds Coalition Coordinator spoke in support of the proclamation for international Overdose Awareness Day.

6. PRESENTATIONS

A. Pacific Gas and Electric (PG&E) Presentation

Action Proposed: Receive and file a presentation from Pacific Gas and Electric (PG&E) on the agency's programs, local projects and updates relevant to El Cerrito.

Contact: Sarah Yoell, Local Government Affairs Manager – Bay Area; Ed Aparis, Local Government Affairs Representative, Pacific Gas and Electric

Presentation and Discussion: Presenters and staff responded to comments and questions raised by members of the council regarding Public Safety Power Shutoff (PSPS) alerts, difference between PSPS alerts and weather alerts, information related to pole fire on Terrace, data used to identify High Fire Risk Area in the city, plans for undergrounding utilities, local representatives, and substation work.

Action: Received and filed

7. **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.

Moved/Seconded: Councilmember Fadelli/Councilmember Quinto

Action: Approve items A-D and F-H on the consent calendar as indicated below.

Ayes: Councilmember Quinto, Councilmember Fadelli, Mayor Pro Tem Rudnick, Mayor Motoyama, Councilmember Wysinger **Noes:** None

A. **Crime Prevention Committee Appointment of Jon Bashor**

Action Proposed: Approve a Crime Prevention Committee recommendation to appoint Jon Bashor to the Crime Prevention Committee, effective August 15, 2023.

Contact: Sergeant Aaron Leone, El Cerrito Police Department

Action: Approved appointment

B. **International Overdose Awareness Day Proclamation**

Action Proposed: Approve a proclamation recognizing August 31, 2023 as International Overdose Awareness Day.

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

Action: Approved proclamation

C. **Resolution in Support of Exonerating Port Chicago 50**

Action Proposed: At the request of Mayor Motoyama, adopt a resolution to support local, state, and federal efforts to exonerate Port Chicago 50.

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

Action: Approved Resolution 2023-57

D. **Final Subdivision Map for one-lot, six residential condominium subdivision at 601 Lexington Avenue**

Exempt from CEQA pursuant to Section 15268(b)(3)

Action Proposed: Adopt a resolution approving the Final Subdivision Map for a one-lot subdivision consisting of 6 condominiums in the Multifamily (RM) zoning district at 601 Lexington Avenue.

Contact: Diego Romero, Associate Planner; Sean Moss, Planning Manager, Community Development Department

Action: Approved Resolution 2023-58

E. Funding Agreement between the Contra Costa Transportation Authority and City of El Cerrito for Cost Sharing Commitments to Design and Construct the Countywide Smart Signals Project

Action Proposed: Adopt a resolution approving the funding agreement between the Contra Costa Transportation Authority and the City of El Cerrito for Cost Sharing Commitments to Design and Construct the Countywide Smart Signals Project, and authorizing the City Manager to execute the agreement in a form approved by the City Attorney.

Contact: Marielle Cuisson, Associate Engineer; Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department

Pulled from Consent by Mayor Motoyama.

Discussion: Addressed questions regarding traffic pattern analytics, outdated systems, and data collection concerns.

Moved/Seconded: Councilmember Fadelli/Councilmember Quinto

Action: Approved Resolution 2023-59. **Ayes:** Councilmember Quinto, Councilmember Fadelli, Mayor Pro Tem Rudnick, Mayor Motoyama, Councilmember Wysinger **Noes:** None

F. Amendment to Professional Services Agreement with Krisch & Company for Temporary Finance Staffing

Action Proposed: Adopt a resolution to authorize the City Manager to amend the professional services agreement with Krisch & Company (formerly Maze and Associates) for temporary Finance staffing support by \$230,134 for a total amount not to exceed amount of \$480,134.

Contact: Crystal Reams, Finance Director/City Treasurer

Action: Approved Resolution 2023-60

G. Monthly Disbursement and Check Register Report for April - July 2023

Action Proposed: Receive and file the Monthly Disbursement and Check Register Report for the months of April 2023 through July 2023. **Contact:** Crystal Reams, Finance Director/City Treasurer, Finance Department

Action: Received and filed

H. FY 2022-23 Fourth Quarter Cash and Investment Report

Action Proposed: Receive and file the City's second quarterly cash and investment report for the period April 1, 2023 through June 30, 2023.

Contact: Crystal Reams, Finance Director/City Treasurer, Finance Department

Action: Received and filed

8. PUBLIC HEARINGS

A. Contract Amendment between the City of El Cerrito and the Board of Administration of The California Public Employees' Retirement System (CalPERS) Related to Employee Members of United Professional Firefighters Association (Local 1230)

Notice Published 8/5/2023

Action Proposed: Conduct a public hearing and upon conclusion 1) adopt a Resolution of Intention to amend the contract between the City of El Cerrito and the Board of Administration of the California Public Employees' Retirement System (CalPERS), for all employees in the United Professional Firefighters Association (Local 1230); and 2) introduce by title and waive any further reading of an Ordinance amending the City's existing California Public Employees' Retirement System (CalPERS) contract.

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

Public Hearing: Mayor Motoyama opened the public hearing.

No public comments.

Moved/Seconded: Councilmember Quinto/Mayor Pro Tem Rudnick

Action: Closed the public hearing. **Ayes:** Councilmember Quinto, Councilmember Fadelli, Mayor Pro Tem Rudnick, Mayor Motoyama, Councilmember Wysinger **Noes:** None

Moved/Seconded: Mayor Pro Tem Rudnick/Councilmember

Wysinger **Action:** Approved Resolution 2023-61, introduced and waived further reading of Ordinance 2023-03 **Ayes:** Councilmember Quinto, Councilmember Fadelli, Mayor Pro Tem Rudnick, Mayor Motoyama, Councilmember Wysinger **Noes:** None

B. Fire Hazard Abatement

Exempt from CEQA review pursuant to Sections 15304 and 15308, Notice published 8/5/2023

Action Proposed: 1) Adopt a resolution declaring weeds, rubbish, litter,

or other flammable material on certain real property identified in the resolution constitutes a public nuisance; and 2) Conduct a public hearing and upon conclusion, adopt a resolution overriding objections by property owners and ordering the City Manager or their designee to abate certain public nuisances pursuant to El Cerrito Municipal Code Chapter 16.26.

Contact: Traviss Crumpacker, Fire Prevention Officer; Chase Beckman, Fire Marshal, Fire Department

Moved/Seconded: Mayor Pro Tem Rudnick/Councilmember Fadelli

Action: Approved Resolution 2023-62 (Declaring Public Nuisance).

Ayes: Councilmember Quinto, Councilmember Fadelli, Mayor Pro Tem Rudnick, Mayor Motoyama, Councilmember Wysinger **Noes:** None

Public Hearing: Mayor Motoyama opened the public hearing.

No public comments.

Moved/Seconded: Councilmember Quinto/Councilmember Wysinger

Action: Closed the public hearing **Ayes:** Councilmember Quinto, Councilmember Fadelli, Mayor Pro Tem Rudnick, Mayor Motoyama, Councilmember Wysinger **Noes:** None

Moved/Seconded: Mayor Pro Tem Rudnick/Councilmember Wysinger

Action: Approved Resolution 2023-63 (Overriding Objections)

Ayes: Councilmember Quinto, Councilmember Fadelli, Mayor Pro Tem Rudnick, Mayor Motoyama, Councilmember Wysinger **Noes:** None

C. Adoption of the 2023-2031 6th Cycle Housing Element Update

Notice Published 8/5/2023

Action Proposed: Conduct a public hearing and consider adoption of a Resolution amending the El Cerrito General Plan to repeal the 2015- 2023 Housing Element and adopt an amended Housing Element for the period of 2023-2031, including consideration of an addendum to the 1999 General Plan Environmental Impact Report (EIR), 2014 San Pablo Avenue Specific Plan EIR and 2022 San Pablo Avenue Specific Plan Supplemental EIR, for certification to the California Department of Housing and Community Development.

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

Presentation and Discussion: Presenters and staff responded to comments and questions raised by members of the council regarding budget for updating the safety element, rent registry and tenant displacement addressed in the report, and degree of substantive changes.

Public Hearing: Mayor Motoyama opened the public hearing.

Oral Public Comments:

Howdy Goudey - commented regarding lack of public interaction and participation in the plan review, the need for bolder actions and additional units.

Moved/Seconded: Councilmember Quinto/Mayor Pro Tem Rudnick
Action: Closed the public hearing. **Ayes:** Councilmember Quinto, Councilmember Fadelli, Mayor Pro Tem Rudnick, Mayor Motoyama, Councilmember Wysinger **Noes:** None

Moved/Seconded: Councilmember Wysinger/Mayor Pro Tem Rudnick
Action: Approved Resolution 2023-64 **Ayes:** Councilmember Quinto, Councilmember Fadelli, Mayor Pro Tem Rudnick, Mayor Motoyama, Councilmember Wysinger **Noes:** None

9. POLICY MATTERS

A. Amendment to City Comprehensive Financial Policies Related to Year-End Surpluses and the Emergency Disaster Relief Fund

Action Proposed: Adopt a resolution amending the City of El Cerrito Comprehensive Financial Policies to a) revise Section 2.7 regarding year-end surplus, b) revise section 4.1 regarding the Emergency Disaster Relief Fund.

Contact: Crystal Reams, Finance Director/City Treasurer, Finance Department; Karen Pinkos, City Manager, City Management

Presentation and Discussion: Presenters and staff responded to comments and questions raised by members of the council regarding the Financial Advisory Board recommendation made and member reservations that voted against the recommendation, definition of disaster (natural, manmade, financial, etc.), rational for the reference of "at a minimum" in proposed section 2.7.3, and option for funding more.

Oral Public Comments:

Ira Sharenow - commented on services funded with Measure V revenues, current and past surplus amounts.

Howdy Goudey - spoke regarding investments in prevention and preparedness being equally important to having reserves for events that may occur.

Linda Cain - spoke in support of being prepared for disasters and funding library services during such events.

Moved/Seconded: Mayor Pro Tem Rudnick/Councilmember Quinto
Action: Approved Resolution 2023-65, removing language referring to current cash reserve amount in section 4.2, and updating reference in section 5.1.1. from the Comprehensive Annual Financial Report (CAFR) to Annual Comprehensive Financial Report (ACFR) in Exhibit A to the Resolution. **Ayes:** Councilmember Quinto, Councilmember Fadelli,

Mayor Pro Tem Rudnick, Mayor Motoyama, Councilmember Wysinger **Noes:** None

B. Study Session on General Fund Reserve Balance

Action Proposed: Conduct a study session and provide direction/possible action to staff regarding the allocation of the City's General Fund Reserve Balance.

Contact: Crystal Reams, Finance Director/City Treasurer; Karen Pinkos, City Manager, City Management

Presentation and Discussion: Presenters and staff responded to comments and questions raised by members of the council regarding Section 115 trust investment options, risk of investments, and priority of the EDRF funding with any surplus.

Oral Public Comments:

Farhad - speaking as a resident, not as a FAB member, in favor of the recommendation.

Ira Sharenow - commented on Section 115 returns and risk as compared to Local Agency Investment Fund (LAIF), and in favor of paying down debt directly.

Howdy Goudey - Commented on investment policy restrictions to investments in fossil fuels.

Moved/Seconded: Councilmember Fadelli/Councilmember Wysinger

Action: Directed staff to designate one million dollars from the general fund to fund the initial deposit for the Section 115 Trust.

Ayes: Councilmember Quinto, Councilmember Fadelli, Mayor Pro Tem Rudnick, Mayor Motoyama, Councilmember Wysinger **Noes:** None

Moved/Seconded: Councilmember Quinto/Mayor Pro Tem Rudnick

Action: Directed staff to establish a Section 115 Trust with Public Agency Retirement Services (PARS) **Ayes:** Councilmember Quinto, Councilmember Fadelli, Mayor Pro Tem Rudnick, Mayor Motoyama, Councilmember Wysinger **Noes:** None

Moved/Seconded: Mayor Pro Tem Rudnick/Councilmember Wysinger

Action: Directed staff to designate nine million dollars from the general fund to create and fund an Emergency Disaster Relieve Fund (EDRF) **Ayes:** Councilmember Quinto, Councilmember Fadelli, Mayor Pro Tem Rudnick, Mayor Motoyama, Councilmember Wysinger **Noes:** None

10. CITY COUNCIL LOCAL & REGIONAL LIAISON ASSIGNMENTS *Mayor and City Council communications regarding local and regional liaison assignments, committee reports, and any required reporting under AB 1234 for meetings (as defined by the Brown Act) attended at the public's expense.*

Councilmember Quinto - Reported work with Cal Cities on green hydrogen vendors at the annual conference.

Councilmember Fadelli – reported on Contra Costa Transportation Agency (CCTA) event demonstrating a Presto car at the El Cerrito Plaza farmers market.

Councilmember Wysinger - reported attendance at the National League of Cities Summer conference meeting, expecting appointment as member at large for the Board of the LGBTQ constituency group and to the Federal Advocacy Group for Public Safety.

Mayor Motoyama - reported attendance at Association of Bay Area Governments (ABAG) executive committee and was appointed to the Housing Subcommittee; attended St. Peters pastor appreciation event, spoke on housing at the El Cerrito Democratic club, attended the West County Mayors and Supervisors meeting, National Night Out, East Bay Economic Development Alliance Executive Committee, presented at the Contra Costa Mayors Conference, met with the City Advisory Body Ad Hoc, and met with members of Keep El Cerrito Fire Safe.

11. ADJOURN REGULAR CITY COUNCIL MEETING

The next regularly scheduled City Council meeting is Tuesday, September 19, 2023 at 6:00 p.m.

The regular meeting adjourned at 9:38 PM

Lisa Motoyama, Mayor

This is to certify that the foregoing is a true and correct copy of the minutes of the City Council meeting of August 15, 2023 as approved by the El Cerrito City Council.

Holly M. Charl  ty, MMC, City Clerk

EL CERRITO CITY COUNCIL PROCLAMATION
In Recognition and Acknowledgement of the
55th Anniversary of Eden Housing

WHEREAS, Eden Housing, a recognized leader in the realm of affordable housing solutions, has consistently demonstrated its dedication to addressing the critical need for accessible housing options; and

WHEREAS, beginning 1968 Eden Housing grew out of the need for non-discriminatory affordable housing in Alameda County; and

WHEREAS, Eden Housing's project, Hana Gardens, exemplifies its commitment to creating housing opportunities that are safe, affordable, and inclusive, fostering community engagement and resident well-being; and

WHEREAS, Eden Housing's thoughtful approach to architectural design and development, as evidenced in Hana Gardens, underscores its commitment to fostering environments conducive to resident growth and social cohesion; and

WHEREAS, Eden Housing's collaborative partnerships with local stakeholders, including community organizations and government entities, have been instrumental in delivering housing options that promote economic diversity and social inclusion; and

WHEREAS, Eden Housing's comprehensive vision for Hana Gardens encompasses a range of supportive services and resources, designed to empower residents for success and enhance community cohesion; and

WHEREAS, Eden Housing's commitment to sustainable practices, as reflected in the environmentally-conscious features of Hana Gardens, reinforces its dedication to responsible development and long-term positive impact; and

WHEREAS, Eden Housing manages Hana Garden in El Cerrito, which provides senior housing while honoring the City's Japanese heritage and its influence on the flower industry.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby recognize and commend Eden Housing on the occasion of its 55th anniversary for its contributions to our community, particularly its efforts in advancing affordable housing options and fostering social equity.

Dated: September 19, 2023

Lisa Motoyama, Mayor

EL CERRITO CITY COUNCIL PROCLAMATION
Designating September 15, 2023 – October 15, 2023 as
Hispanic Heritage Month

WHEREAS, each year, the federal government and local governments observe National Hispanic Heritage Month as the period from September 15 to October 15, by recognizing and celebrating the histories, cultures, and contributions of American citizens whose ancestors came from Spain, Mexico, the Caribbean and Central and South America; and

WHEREAS, September 15th is significant as a starting date for Hispanic Heritage month because it is the anniversary of independence for the Latin American countries of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. In addition, Mexico and Chile celebrate their independence on September 16th and September 18th respectively; and

WHEREAS, Hispanics are the largest ethnic group in the State of California and at nearly 17% of the United States population, make up the largest ethnic or race minority group in America; and

WHEREAS, Hispanics have made innumerable contributions to the El Cerrito community, and it is important the City recognize and celebrate the diverse histories and cultures of the Hispanic population.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby proclaim the period of September 15, 2023 – October 15, 2023, as Hispanic Heritage Month in the City of El Cerrito in recognition of the many contributions Hispanics have made both locally and nationally, and to promote greater awareness of the rich history and culture of the Hispanic community.

Dated: September 19, 2023

Lisa Motoyama, Mayor

EL CERRITO CITY COUNCIL PROCLAMATION
September Is Suicide Prevention Awareness Month

WHEREAS, September is known around the United States as “National Suicide Prevention Awareness Month”; and

WHEREAS, most of us are quite aware of suicide. Suicide Prevention Awareness Month is intended to help promote and give attention to the Suicide Prevention services available to us and our community. The goal is to speak openly about the topic of suicide to help erase the stigma surrounding it, and to direct those in need to the appropriate support services; and

WHEREAS, suicide is the 11th leading cause of death in the US, and on average, there are 132 suicides per day; and

WHEREAS, according to the American Foundation for Suicide Prevention, 48,183 Americans died by suicide and an estimated 1.7 million suicide attempts in the year 2021; and

WHEREAS, suicidal thoughts can affect anyone regardless of age, gender, race, orientation, income level, religion, or background; and

WHEREAS, local organizations like the Contra Costa Crisis Center and national organizations like the National Alliance on Mental Illness and the American Foundation for Suicide Prevention are on the front lines of a war that many still refuse to discuss, as suicide and mental illness remain too uncomfortable of a topic to talk about; and

WHEREAS, every member of our community should understand that throughout life’s struggles we all need the occasional reminder that we are all fighting our own battles; and

WHEREAS, the City Council of the City of El Cerrito encourages all residents to take the time to check in with their family, friends, and neighbors on regular basis and to honestly communicate their appreciation for their existence by any gesture they deem appropriate. A simple phone call, message, handshake, or hug can go a long way towards helping someone realize that suicide is not the answer.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby proclaim the month of September 2023 as National Suicide Prevention Awareness Month in the City of El Cerrito.

Dated: September 19, 2023

Lisa Motoyama, Mayor

**EL CERRITO CITY COUNCIL PROCLAMATION
COMMENDING AND CONGRATULATING ASHER KESSLER FOR AN
OUTSTANDING ACCOMPLISHMENT IN THE 16TH WORLD DRAGON BOAT
RACING CHAMPIONSHIPS**

WHEREAS, the sport of dragon boating first originated over 2,500 years ago from the Pearl River Delta region of China. On the fifth day of the fifth month of the Chinese lunar calendar is the Dragon Boat Festival; and

WHEREAS, dragon boating is now popular worldwide for fitness, recreation, and team-building; and

WHEREAS, the East Bay Rough Riders is a high school team with members from El Cerrito High School and other students from around the East Bay; and

WHEREAS, El Cerrito High School math teacher Lawrence Pang founded the Rough Riders in 2014 and coaches the team to compete in local and international dragon boat races; and

WHEREAS, Asher Kessler, who was born and raised in El Cerrito, has been training with the East Bay Rough Riders for the past five years; and

WHEREAS, Asher Kessler is the first paddler from the Rough Riders to tryout and make TEAM USA of the United States Dragon Boat Federation; and

WHEREAS, Asher Kessler represented the U18 TEAM USA, of the United States Dragon Boat Federation at the 16th World Dragon Boat Racing Championships in Thailand on August 7 – 13, 2023; and

WHEREAS, the U18 Team USA dominated their races and Asher Kessler returned home with five gold medals and one silver medal.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby salute Coach Lawrence Pang and congratulate Asher Kessler for his outstanding achievements in the World Dragon Boat Racing Championships and for bringing great honor to his hometown of El Cerrito.

Dated: September 19, 2023

Lisa Motoyama, Mayor



AGENDA BILL

Agenda Item No. 7.F.

Date: September 19, 2023
To: El Cerrito City Council
From: Crystal Reams, Finance Director/City Treasurer, Finance Department
Subject: Monthly Disbursement and Check Register Report for August 2023

ACTION PROPOSED

Receive and file the Monthly Disbursement and Check Register Report for the month of August 2023.

BACKGROUND/ANALYSIS

California Government Code, Title 4. Government of Cities, Division 3, Part 3, Chapter 3, Section 41004 states, "Regularly, at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements, and fund balances. The city treasurer shall file a copy with the legislative body." In addition, the City's Comprehensive Financial Policy, Item 5.1 Accounting Standards indicates the City's accounting and financial reporting systems shall be maintained in conformance with all state and federal laws.

- Month ending August 31, 2023, reflecting 322 Accounts Payable General Warrant Nos. 87023 through 87344, 11 ACH/EFT transactions, and 661 payroll-related checks and EFTs for a grand total of \$6,542,58.73.

STRATEGIC PLAN CONSIDERATIONS

The City's Comprehensive Financial Policy, and the City's Strategic Plan Goal B to achieve long-term financial sustainability, which includes ensuring policies, procedures, and systems represent best practices in financial management, are aligned with requirements referenced in California Government Code, Title 4, Chapter 3, Section 41004.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

There is no fiscal impact associated with acceptance of the Monthly Disbursement and Check Register Report.

LEGAL CONSIDERATIONS

The City Attorney has reviewed this agenda item 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. Monthly Payment Register August 2023

City of El Cerrito
Payment Register
 From Payment Date: 8/1/2023 - To Payment Date: 8/31/2023

Number	Date	Void Reason	Source	Payee Name	Description	Transaction Amount
<u>Accounts Payable Checks</u>						
87023	08/02/2023		Accounts Payable	ALLIANT INSURANCE SERVICES, INC	VEHICLE PROGRAM POLICY RENEWAL FY23-24	\$31,460.00
87024	08/02/2023		Accounts Payable	ASBURY ENVIRONMENTAL SERVICES	USED OIL RECYCLING 7/13/23	\$100.00
87025	08/02/2023		Accounts Payable	AT&T	FIBER LINE FOR DATA 0613-07122023 ACCT 9391060397	\$6,382.68
87026	08/02/2023		Accounts Payable	AVILA PROJECT MANAGEMENT	RICHMOND STREET IMPROVEMENTS FY22-23	\$30,760.00
87027	08/02/2023		Accounts Payable	BAKER TILLY US, LLP	FINANCIAL CONSULTING SUPPORT THROUGH JUNE 30 2023	\$5,156.25
87028	08/02/2023		Accounts Payable	BATTALION ONE FIRE PROTECTION	QUARTERLY FIRE SPRINKLER INSPECTION FY23-24	\$440.00
87029	08/02/2023		Accounts Payable	BAY AREA NEWS GROUP EAST BAY	ADVERTISEMENT FOR DEL NORTE RFP FOR CM, 0501-05312023	\$282.60
87030	08/02/2023		Accounts Payable	BRIGHTVIEW LANDSCAPE SERVICES, INC.	LANDSCAPE MAINTENANCE JUNE 2023 FY22-23	\$11,436.58
87031	08/02/2023		Accounts Payable	CONTRA COSTA COUNTY AUDITOR-CONTROLLER	LAFCO ANNUAL FEE FY23-24	\$7,596.08
87032	08/02/2023		Accounts Payable	CSW-STUBER-STROEH ENGINEERING GROUP INC	DEL NORTE ENGINEERING SERVICES RENDERED THRU JUNE 30 2023	\$7,051.10
87033	08/02/2023		Accounts Payable	Dell Financial Services LLC	Dell FS 5th & last annual payment VXRail,08012023-07312024	\$22,551.53
87034	08/02/2023		Accounts Payable	DICKINSON FLEET SVCS / COX AUTOMOTIVE	VEHICLE PARTS, REGEN R3	\$16,905.34
87035	08/02/2023		Accounts Payable	ENGBERG, GERI	INVOICE#1077 SPLIT 06/12-06/23/2023 IMPROV WK 1	\$3,843.00
87036	08/02/2023		Accounts Payable	FEHR & PEERS	SPASP WCCTAC ACTION PLAN PERIOD 0128-02242023	\$4,942.50
87037	08/02/2023		Accounts Payable	FLOCK SAFETY	FALCON, ADVANCED SEARCH, IMPLEMENTATION FEE	\$121,500.00
87038	08/02/2023		Accounts Payable	FRIEDMAN, NORM	SPORTS CAMP WK 6 2023 7/17-7/21/2023	\$14,333.40
87039	08/02/2023		Accounts Payable	GOVERNMENTJOBS.COM, INC.	GOVERNMENTJOBS.COM SUBSCRIPTION FEE FY23-24	\$34,604.17
87040	08/02/2023		Accounts Payable	GUY, HASSAN, HERCULES HALIHL	RAVENCLIFF CAMP SUPPORT 0726-07302023	\$425.00
87041	08/02/2023		Accounts Payable	HANNA, MICHAEL, JOHN	HANNA BANANA MUSIC CMAP 0710-07142023	\$1,713.60
87042	08/02/2023		Accounts Payable	HdL Coren & Cone	FINANCIAL SERVICES PROPERTY TAX JULY - SEPT 2023	\$2,400.00
87043	08/02/2023		Accounts Payable	HILLYARD	CUSTODIAL SUPPLIES	\$4,487.21
87044	08/02/2023		Accounts Payable	HUNT & SONS, INC.	CITY FUEL	\$16,287.45
87045	08/02/2023		Accounts Payable	IncrediFlix Inc.	INCREADU FLIX WK1 CAMPS FY22-23	\$10,224.62
87046	08/02/2023		Accounts Payable	JOHNSON CONTROLS SECURITY SOLUTIONS	CITY HALL ALARM SERVICE 8/1/23-10/31/23 FY23-24	\$462.02
87047	08/02/2023		Accounts Payable	KNORR SYSTEMS, INC.	CARBONIC SERVICE 05222023	\$6,982.63
87048	08/02/2023		Accounts Payable	LEAF	SOPHOS LICENSING LEASE PAYMENT	\$1,300.43
87049	08/02/2023		Accounts Payable	MITCHELL, BONNIE	CLASS FEE FOR AQUA ZUMBA APRIL TO JUNE 2023	\$345.00
87050	08/02/2023		Accounts Payable	MORTON II YOUTH SPORTS	SKYHAWKS TENNIS CAMPS WK 5	\$3,767.40
87051	08/02/2023		Accounts Payable	MUNICIPAL POOLING AUTHORITY	ANNUAL RENEWALS FY23-24 G/L W/C PREMIUMS	\$2,022,912.50
87052	08/02/2023		Accounts Payable	OFFICE DEPOT	Office Supplies	\$582.97
87053	08/02/2023		Accounts Payable	PACIFIC HEATING AND PIPING	RADIANT HEAT INSPECTION	\$1,250.00
87054	08/02/2023		Accounts Payable	PACIFIC PRINTING	NEWS & VIEWS SPECIAL EDITION MAILING	\$5,525.97
87055	08/02/2023		Accounts Payable	PAPE MACHINERY, INC	GATOR VEHICLE PARTS FILTER CAP	\$52.42
87056	08/02/2023		Accounts Payable	PREMIER GRAPHICS	ECCRU ARTIST GALLERY SPACE POST CARDS	\$199.55
87057	08/02/2023		Accounts Payable	QUINTO, GABRIEL	REIMBURSEMENT FOR MILEAGE 07272023	\$43.49
87058	08/02/2023		Accounts Payable	REYNOLDS STRATEGIES	PUBLIC INFORMATION CONSULTING SERVICES	\$5,000.00
87059	08/02/2023		Accounts Payable	ROADPOST USA, INC.	FD SATELITE PHONES FOR JUNE 2023	\$133.90
87060	08/02/2023		Accounts Payable	ROSTAD*KIKI	ART WITH KIKI WEEK 6 2023	\$918.00
87061	08/02/2023		Accounts Payable	RUBICON ENTERPRISES INC	EXTRA WORK CCC THEATRE SITE CLEAN UP 6/29/23 FY22-23	\$1,188.16

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87062	08/02/2023	Accounts Payable	STERICYCLE, INC.	HAZARDOUS MATERIAL PICKUP 07062023	\$173.65
87063	08/02/2023	Accounts Payable	TWO BROTHERS POOL & SPA, INC	JULY 2023 SERVICE	\$3,600.00
87064	08/02/2023	Accounts Payable	VERIZON WIRELESS	Acct#872073595-00001 0620-07192023	\$4,751.97
87065	08/09/2023	Accounts Payable	ABAG GENERAL ASSEMBLY	ASSOCIATION OF BAY AGREA GOVERNMENT MEMBERSHIP FY2024	\$7,557.00
87066	08/09/2023	Accounts Payable	BADGE FRAME, INC.	PD OPERATION SUPPLIES	\$76.00
87067	08/09/2023	Accounts Payable	CA DEPT OF JUSTICE/ACCOUNTING	PD FINGERPRINTING	\$1,583.00
87068	08/09/2023	Accounts Payable	CONCENTRA MEDICAL CENTERS	MEDICAL EXAM	\$947.00
87069	08/09/2023	Accounts Payable	CONTRA COSTA COUNTY LAW & JUSTICE SYSTEMS	ALL COUNTY CRIMINAL JUSTIC INFO NETWORK ANNUAL COST	\$4,556.52
87070	08/09/2023	Accounts Payable	CORODATA SHREDDING INC.	SHREDDING	\$258.30
87071	08/09/2023	Accounts Payable	CPS HR Consulting	CONSULTING FOR PD RECRUITING	\$4,082.23
87072	08/09/2023	Accounts Payable	DOGFATHER K9 CONNECTIONS	PD K9 BOARDING	\$1,951.00
87073	08/09/2023	Accounts Payable	DON'S TIRE SERVICE, INC.	FLEET SERVICES	\$206.54
87074	08/09/2023	Accounts Payable	FORENSIC SERVICES DIVISION	PD FORENSIC TESTING	\$560.00
87075	08/09/2023	Incorrect Address	GYMPASS US LLC	#N/A	\$279.86
87076	08/09/2023	Accounts Payable	IRON MOUNTAIN	DOCUMENT STORAGE FOR PERIOD AUGUST 2023	\$1,031.09
87077	08/09/2023	Accounts Payable	KNORR SYSTEMS, INC.	CHEMICAL SUPPLIES	\$4,873.05
87078	08/09/2023	Accounts Payable	L.N. CURTIS & SONS	PD UNIFORM SUPPLIES	\$2,950.64
87079	08/09/2023	Accounts Payable	Med-Tech Resource LLC	PD SAFETY SUPPLIES	\$840.02
87080	08/09/2023	Accounts Payable	MICHAELS TRANSPORTATION SVC	EVENTS AND FIELD TRIP	\$9,167.00
87081	08/09/2023	Accounts Payable	Norge Cleaners and Alterations	SERVICE - DRY CLEANING	\$245.25
87082	08/09/2023	Accounts Payable	OFFICE DEPOT	PD OFFICE SUPPLIES	\$281.15
87083	08/09/2023	Accounts Payable	OLIVER'S TOW INC.	FLEET SERVICES	\$115.50
87084	08/09/2023	Accounts Payable	PASTIME HARDWARE	FLEET SERVICES	\$26.33
87085	08/09/2023	Accounts Payable	PROFORCE	PD ECW EQUIPMENT - ASSET	\$7,234.00
87086	08/09/2023	Accounts Payable	ROSTAD*KIKI	INSTRUCTOR PAYMENT	\$1,112.40
87087	08/09/2023	Accounts Payable	SPEED OIL CHANGE	FLEET SERVICES	\$55.20
87088	08/09/2023	Accounts Payable	STERICYCLE, INC.	SHREDDING	\$77.90
87089	08/09/2023	Accounts Payable	THE ED JONES COMPANY	PD UNIFORM SUPPLIES	\$470.83
87090	08/09/2023	Accounts Payable	UNIVERSAL BUILDING SERVICE	JANITORIAL SERVICES	\$1,963.00
87091	08/09/2023	Accounts Payable	WARREN, ELISE	EMPLOYEE EXPENSE REIMBURSEMENT	\$950.00
87092	08/09/2023	Accounts Payable	ERIC , BROWN	CUSTOMER DEPOSIT REFUND	\$23.00
87093	08/09/2023	Accounts Payable	ASCENT ENVIRONMENT, INC.	PROFESSIONAL SERVICES- HOUSING ELEMENT	\$2,599.87
87094	08/09/2023	Accounts Payable	BROWN, KRISTEN	INSTRUCTOR - RECREATION DEPARTMENT	\$105.00
87095	08/09/2023	Accounts Payable	EAST BAY BLUE PRINT & SUPPLY	HP PLOTTER SERVICE AND LEASE	\$422.42
87096	08/09/2023	Accounts Payable	FIRST SERVE PRODUCTIONS INC	TASSAJARA PARK TENNIS COURT RESURFACING	\$31,431.00
87097	08/09/2023	Accounts Payable	FRIEDMAN, NORM	SPORTS CAMP WEEK 7	\$15,394.44
87098	08/09/2023	Accounts Payable	GABRIEL, BARBARA, A.	INSTRUCTOR - RECREATION DEPARTMENT	\$914.40
87099	08/09/2023	Accounts Payable	HONEY BUCKET	CENTRAL PARK SERVICES	\$221.05
87100	08/09/2023	Accounts Payable	JAFFE, SCOT	INSTRUCTOR - RECREATION DEPARTMENT	\$288.00
87101	08/09/2023	Accounts Payable	KI RESEARCH INSTITUTE	INSTRUCTOR - RECREATION DEPARTMENT	\$264.00
87102	08/09/2023	Accounts Payable	KINSEY, KATHRYNE ANN	INSTRUCTOR - RECREATION DEPARTMENT	\$558.00
87103	08/09/2023	Accounts Payable	KNORR SYSTEMS, INC.	CHEMICAL SUPPLIES	\$1,301.49
87104	08/09/2023	Accounts Payable	LACK, CHRIS	INSTRUCTOR - RECREATION DEPARTMENT	\$588.00

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87105	08/09/2023		Accounts Payable	LSA ASSOCIATES, INC.	PROFESSIONAL SERVICES - PLANNING	\$6,777.50
87106	08/09/2023	Check was Lost	Accounts Payable	MAZE & ASSOCIATES	#N/A	\$35,799.50
87107	08/09/2023		Accounts Payable	Microsoft Corporation	MICROSOFT OFFICE 365 LICENSE RENEWAL FY24	\$18,000.00
87108	08/09/2023		Accounts Payable	OFFICE DEPOT	OFFICE SUPPLIES	\$79.83
87109	08/09/2023		Accounts Payable	R3 CONSULTING GROUP	RECYCLING SERVICES	\$2,302.50
87110	08/09/2023		Accounts Payable	SHAHKAR, MEHRAN	INSTRUCTOR - RECREATION DEPARTMENT	\$810.00
87111	08/09/2023		Accounts Payable	STANTEC CONSULTING	PROFESSIONAL SERVICES PLANNING	\$8,868.25
87112	08/09/2023		Accounts Payable	SUPERION, LLC	ETRAKIT CONFIGURATION PUBLIC WORKS	\$8,977.76
87113	08/09/2023		Accounts Payable	UNIVERSAL BUILDING SERVICE	JANITORIAL SERVICES	\$375.00
87114	08/09/2023		Accounts Payable	HASHIMOTO, KENNETH, J.	OT MEALS	\$130.00
87115	08/09/2023		Accounts Payable	HASHIMOTO, KENNETH, J.	LUNCH FOR TRAINING - INTERVIEW & INTERROGATION	\$80.00
87116	08/11/2023		Accounts Payable	CALPERS LONG TERM CARE PROGRAM	PER3 - CALPERS Longterm Care Ins	\$39.66
87117	08/11/2023		Accounts Payable	HEALTH CARE DENTAL TRUST	DEN1 - Dental 1*	\$17,822.56
87118	08/11/2023		Accounts Payable	IAFF LOCAL 1230	DUE4 - UNION LOCAL 1230	\$5,202.38
87119	08/11/2023		Accounts Payable	KAISER FOUNDATION HEALTH PLAN	K1 - Kaiser 1*	\$220,981.96
87120	08/11/2023		Accounts Payable	LEGALSHIELD	LEGL - PRE-PAID LEGAL SRVC	\$182.40
87121	08/11/2023		Accounts Payable	MUNICIPAL POOLING AUTHORITY	LIFE - Supp Life Ins. - Invo#: 920-33212	\$11,970.68
87122	08/11/2023		Accounts Payable	NATIONWIDE TRUST COMPANY, FSB	FHEA - Fire Health Savings Acct	\$17,700.00
87123	08/11/2023		Accounts Payable	SEIU LOCAL 1021	COPE - VOLUNTARY COPE DEDUCTION*	\$1,779.40
87124	08/11/2023		Accounts Payable	SUTTER HEALTH PLUS	SHR - Sutter Health Plus EE Cost*	\$35,579.20
87125	08/11/2023		Accounts Payable	U.S. BANK - INSTITUTIONAL TRUST - W REGION	PAR - PARS - ARS 457*	\$6,413.64
87126	08/14/2023		Accounts Payable	AIR EXCHANGE, INC.	BUILDING MAINTENANCE SERVICES	\$454.17
87127	08/14/2023		Accounts Payable	ALERT-ALL	FD OPERATION SUPPLIES	\$876.50
87128	08/14/2023		Accounts Payable	Amazon Capital Services, Inc.	OFFICE SUPPLIES	\$87.10
87129	08/14/2023		Accounts Payable	ANCHOR ENGINEERING,, INC.	SLURRY SEAL CM MAY 2023	\$24,716.75
87130	08/14/2023		Accounts Payable	BARG COFFIN LEWIS & TRAPP, LLP	LEGAL SERVICES	\$590.00
87131	08/14/2023		Accounts Payable	BARRANCO, LUCIA	4TH OF JULY FESTIVAL PRODUCTION SUPPORT	\$120.00
87132	08/14/2023		Accounts Payable	CINTAS CORPORATION #054 UNIFORMS	UNIFORM SUPPLIES	\$492.45
87133	08/14/2023		Accounts Payable	CONSTABLE, MARIANNE	INSTRUCTOR PAYMENT	\$102.00
87134	08/14/2023		Accounts Payable	FRIEDMAN, NORM	SPORTS CAMP WK 8 2023	\$13,383.90
87135	08/14/2023		Accounts Payable	GARDA CL WEST,INC. - CO 120	CASH PICKUP SERVICES JULY 2023	\$270.54
87136	08/14/2023		Accounts Payable	HONEYWELL INTERNATIONAL, INC.	CITY SATELITE PHONES	\$450.00
87137	08/14/2023		Accounts Payable	HUNT & SONS, INC.	CITY FUEL	\$18,375.43
87138	08/14/2023		Accounts Payable	IncrediFlix Inc.	PROFESSIONAL SERVICES - IncrediFlix Wk 7 2023	\$10,785.53
87139	08/14/2023		Accounts Payable	JAWAD, JENYA, V.	EMPLOYEE EXPENSE REIMBURSEMENT	\$345.16
87140	08/14/2023		Accounts Payable	KAISER PERMANENTE	NEW HIRE PHYSICALS	\$340.00
87141	08/14/2023		Accounts Payable	KENNEDY, GREG, C	INFECTION CONTROL OFFICES DUTIES	\$2,000.00
87142	08/14/2023		Accounts Payable	KOFF & ASSOCIATES, INC.	PROFESSIONAL SERVICES	\$4,250.00
87143	08/14/2023		Accounts Payable	KRISCH & COMPANY AN ACCOUNTANCY CORPORATION	MONTHLY BOOKKEEPING SERVICES JUNE 2023	\$36,151.91
87144	08/14/2023		Accounts Payable	KS STATEBANK	FD VEHICLE GOV OBLIGATION CONTRACT	\$4,907.41
87145	08/14/2023		Accounts Payable	LOCKED IN FIRE AND ENGINEERING, INC.	FIRE PROTECTION ENGINEERING PLAN REVIEW	\$3,600.00
87146	08/14/2023		Accounts Payable	Mason Campbell	EMPLOYEE EXPENSE REIMBURSEMENT	\$425.00
87147	08/14/2023		Accounts Payable	MCGEOY, MICHELE	PICKLEBALL TRAINING	\$1,620.00

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87148	08/14/2023	Accounts Payable	MMANC	MMANC MEMBERSHIP RENEWAL	\$95.00
87149	08/14/2023	Accounts Payable	MUNICIPAL POOLING AUTHORITY	UNMET LIABILITY DEDUCTIBLE - JULY 2023	\$5,254.75
87150	08/14/2023	Accounts Payable	OFFICE DEPOT	OFFICE SUPPLIES	\$132.58
87151	08/14/2023	Accounts Payable	PASTIME HARDWARE	FD OPERATION SUPPLIES	\$5.50
87152	08/14/2023	Accounts Payable	PLAZA AUTO SERVICE INC	FLEET SERVICES	\$988.41
87153	08/14/2023	Accounts Payable	ROADPOST USA, INC.	FD STATELITE PHONES	\$135.91
87154	08/14/2023	Accounts Payable	ROSTAD*KIKI	INSTRUCTOR PAYMENT	\$735.00
87155	08/14/2023	Accounts Payable	SHI - GOVERNMENT SOLUTIONS, INC.	SOFTWARE SUBSCRIPTIONS	\$15,873.70
87156	08/14/2023	Accounts Payable	SSD ALARM	FIRE ALARM JUNE 2023	\$346.80
87157	08/14/2023	Accounts Payable	STAPLES ADVANTAGE	OFFICE SUPPLIES	\$385.97
87158	08/14/2023	Accounts Payable	STERICYCLE, INC.	RECYCLING SERVICES	\$759.51
87159	08/14/2023	Accounts Payable	UNIVERSAL BUILDING SERVICE	BUILDING SUPPLIES	\$5,506.63
87160	08/14/2023	Accounts Payable	BECKMAN, CHASE	Employee Expense Reimbursement - LUNCH	\$217.10
87161	08/14/2023	Accounts Payable	ALVAREZ, NADEEM	EMPLOYEE EXPENSE REIMBURSEMENT	\$70.00
87162	08/14/2023	Accounts Payable	BARG COFFIN LEWIS & TRAPP, LLP	LEGAL SERVICES	\$1,467.00
87163	08/14/2023	Accounts Payable	BERLITZ LANGUAGES, INC.	LANGUAGE FLUENCY TEST	\$450.00
87164	08/14/2023	Accounts Payable	BERTRAND, FOX, ELLIOT, OSMAN & WENZEL	LEGAL SERVICES	\$8,206.25
87165	08/14/2023	Accounts Payable	BROSAS, DONOVAN	EMPLOYEE EXPENSE REIMBURSEMENT	\$60.00
87166	08/14/2023	Accounts Payable	CEJA, VERONICA	EMPLOYEE EXPENSE REIMBURSEMENT	\$30.00
87167	08/14/2023	Accounts Payable	COOPER, PAUL	EMPLOYEE EXPENSE REIMBURSEMENT	\$60.00
87168	08/14/2023	Accounts Payable	EAST BAY BLUE PRINT & SUPPLY	HP COMPUTER SERVICE	\$615.38
87169	08/14/2023	Accounts Payable	ELLIOTT, MARIELLE	EMPLOYEE EXPENSE REIMBURSEMENT	\$140.00
87170	08/14/2023	Accounts Payable	GROUP 4 ARCHITECTURE, RESEARCH & PLANNING INC.	PROFESSIONAL SERVICES JUNE 2023	\$46.87
87171	08/14/2023	Accounts Payable	HASHIMOTO, KENNETH, J.	EMPLOYEE EXPENSE REIMBURSEMENT	\$140.00
87172	08/14/2023	Accounts Payable	Hernandez, Danielle	EMPLOYEE EXPENSE REIMBURSEMENT	\$30.00
87173	08/14/2023	Accounts Payable	HUBBS, SIDNEY	EMPLOYEE EXPENSE REIMBURSEMENT	\$80.00
87174	08/14/2023	Accounts Payable	KARKI, RAVI	EMPLOYEE EXPENSE REIMBURSEMENT	\$90.00
87175	08/14/2023	Accounts Payable	LEONE AARON	EMPLOYEE EXPENSE REIMBURSEMENT	\$50.00
87176	08/14/2023	Accounts Payable	MEYERS NAVE	LEGAL SERVICES MEYERS NAVE JUNE 2023	\$40,667.59
87177	08/14/2023	Accounts Payable	MUNICIPAL POOLING AUTHORITY	DRUG TESTING PROGRAM Q4 FY2023	\$70.44
87178	08/14/2023	Accounts Payable	Olivieri, Michael	EMPLOYEE EXPENSE REIMBURSEMENT	\$60.00
87179	08/14/2023	Accounts Payable	PERALES, EDWARD, J.	EMPLOYEE EXPENSE REIMBURSEMENT	\$140.00
87180	08/14/2023	Accounts Payable	RAMOS-BANALES*ALICIA	EMPLOYEE EXPENSE REIMBURSEMENT	\$50.00
87181	08/14/2023	Accounts Payable	Ringgenberg, Kent	EMPLOYEE EXPENSE REIMBURSEMENT	\$10.00
87182	08/14/2023	Accounts Payable	Rivera, Humberto	EMPLOYEE EXPENSE REIMBURSEMENT	\$140.00
87183	08/14/2023	Accounts Payable	RYDER, GODSON	EMPLOYEE EXPENSE REIMBURSEMENT	\$130.00
87184	08/14/2023	Accounts Payable	TANG, GILBERT	EMPLOYEE EXPENSE REIMBURSEMENT	\$240.00
87185	08/14/2023	Accounts Payable	TRAC, RYAN, L.	EMPLOYEE EXPENSE REIMBURSEMENT	\$100.00
87186	08/14/2023	Accounts Payable	VAZQUEZ-AVALOS, SERGIO	EMPLOYEE EXPENSE REIMBURSEMENT	\$190.00
87187	08/14/2023	Accounts Payable	WHITNEY, JOHN	EMPLOYEE EXPENSE REIMBURSEMENT	\$80.00
87188	08/14/2023	Accounts Payable	ZHAO, ZITIAN	EMPLOYEE EXPENSE REIMBURSEMENT	\$80.00
87189	08/14/2023	Accounts Payable	CHOUDJA, PATRICK	EMPLOYEE EXPENSE REIMBURSEMENT	\$60.00
87190	08/14/2023	Accounts Payable	HABASH, GEORGE	EMPLOYEE EXPENSE REIMBURSEMENT	\$60.00

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87191	08/14/2023	Accounts Payable	KATANSKI, ALEXANDER	EMPLOYEE EXPENSE REIMBURSEMENT	\$10.00
87192	08/14/2023	Accounts Payable	MA, SANG	EMPLOYEE EXPENSE REIMBURSEMENT	\$70.00
87193	08/14/2023	Accounts Payable	MITCHELL, MALIK	EMPLOYEE EXPENSE REIMBURSEMENT	\$110.00
87194	08/14/2023	Accounts Payable	RANDHAWA, ARISHDEEP	EMPLOYEE EXPENSE REIMBURSEMENT	\$50.00
87195	08/14/2023	Accounts Payable	Schaaf & Wheeler, Consulting Civil Engineers Inc.	STORM DRAIN ASSESSMENT	\$8,862.50
87196	08/14/2023	Accounts Payable	Schaaf & Wheeler, Consulting Civil Engineers Inc.	CULVERT EVALUATION SERVICE, SD ASSESSMENT JUNE FY23	\$3,335.00
87197	08/17/2023	Accounts Payable	24 HOUR FITNESS USA, LLC	PD GYM MEMBERSHIP FOR MAY 2023	\$1,663.48
87198	08/17/2023	Accounts Payable	ALEX AUTO DETAIL	FLEET SERVICES	\$1,960.00
87199	08/17/2023	Accounts Payable	APWA	AMERICAN PUBLC WORKS MEMBERSHIP	\$109.74
87200	08/17/2023	Accounts Payable	BADGE FRAME, INC.	OPERATION SUPPLIES	\$164.00
87201	08/17/2023	Accounts Payable	BATTALION ONE FIRE PROTECTION	CITY HALL FIRE INSPECTION	\$440.00
87202	08/17/2023	Accounts Payable	BLACK, MEI-YU	INSTRUCTOR PAYMENT	\$246.00
87203	08/17/2023	Accounts Payable	CI TECHNOLOGIES, INC.	SOFTWARE ANNUAL MAINTENANCE RENEWAL	\$1,910.17
87204	08/17/2023	Accounts Payable	CONTRA COSTA HEALTH SVCS, SENIOR NUTRITION PRG	SENIOR NUTRITION PROGRAM CAFE COST	\$100.00
87205	08/17/2023	Accounts Payable	CORODATA SHREDDING INC.	SHREDDING SERVICE JULY 2023	\$207.43
87206	08/17/2023	Accounts Payable	CRIME SCENE CLEANERS, INC.	CRIME SCENE CLEANING	\$108.00
87207	08/17/2023	Accounts Payable	CRUMP, ALLISON	INSTRUCTOR PAYMENT	\$2,415.60
87208	08/17/2023	Accounts Payable	CUMMINS WEST, INC.	ESS MAINTENANCE	\$3,905.65
87209	08/17/2023	Accounts Payable	DICKINSON FLEET SVCS / COX AUTOMOTIVE	FLEET SERVICES	\$9,086.03
87210	08/17/2023	Accounts Payable	DON'S TIRE SERVICE, INC.	FLEET SERVICES	\$181.58
87211	08/17/2023	Accounts Payable	ENGBERG, GERI	INSTRUCTOR PAYMENT	\$2,167.20
87212	08/17/2023	Accounts Payable	FRIEDMAN, NORM	SPORTS CAMP WEEK 7	\$15,394.44
87213	08/17/2023	Accounts Payable	GARDA CL WEST, INC. - CO 120	CASH PICKUP SERVICES	\$22.95
87214	08/17/2023	Accounts Payable	GATE VIEW PAINTING CO, INC.	COMMUNITY CENTER POOL SLIDE PAINTING	\$1,440.00
87215	08/17/2023	Accounts Payable	GRAUL, BELINDA	GYMNASTICS SUMMER CAMP	\$6,760.00
87216	08/17/2023	Accounts Payable	JADSON SOUZA DE JESUS	INSTRUCTOR PAYMENT	\$2,494.80
87217	08/17/2023	Accounts Payable	JONES, HIROMI	INSTRUCTOR PAYMENT	\$249.00
87218	08/17/2023	Accounts Payable	Kalgold Technologies Inc.	LITTLE MIDDLE SCHOOL SUMMER SESSION	\$7,194.00
87219	08/17/2023	Accounts Payable	L.N. CURTIS & SONS	PISTOL WEAPON LIGHTS	\$1,796.15
87220	08/17/2023	Accounts Payable	MCAVOY, IAN	OFF THE BLOCK STEM SUMMER CAMP	\$5,634.84
87221	08/17/2023	Accounts Payable	PRECISION CONCRETE CUTTING	SIDEWALK SHAVING CONTRACT FY23-24	\$35,000.00
87222	08/17/2023	Accounts Payable	PREMIER GRAPHICS	OFFICE SUPPLIES	\$71.66
87223	08/17/2023	Accounts Payable	RILE, KATHRYN	INSTRUCTOR PAYMENT	\$348.00
87224	08/17/2023	Accounts Payable	Schlanger, April, Adair	INSTRUCTOR PAYMENT	\$4,655.27
87225	08/17/2023	Accounts Payable	Shababo, Tracey , Elise	INSTRUCTOR PAYMENT	\$3,762.00
87226	08/17/2023	Accounts Payable	STATE OF CA DEPT OF JUSTICE	FINGER PRINT SCAN SERVICE FY23-24	\$1,371.00
87227	08/17/2023	Accounts Payable	SYSCO	RESIDENT CAMP FOOD SUPPLIES	\$12,592.38
87228	08/17/2023	Accounts Payable	TRB AND ASSOCIATES, INC.	ONSITE PERMIT TECHNICIAN SERVICES	\$5,720.00
87229	08/17/2023	Accounts Payable	JANICE , WOO	6001- Permit renewal beyond 1 year extension	\$140.00
87230	08/17/2023	Accounts Payable	PAUL, MENKES	6001-Build Permit: Accessory Dwelling Unit Addition	\$1,116.22
87231	08/17/2023	Accounts Payable	SEYED , MOEEL	6001-Change or Assign Address Request	\$454.53
87232	08/17/2023	Accounts Payable	SUPERIOR MECHANICAL SERVICES INC	6004-F.A.U/Floor Furnace	\$176.02
87233	08/17/2023	Accounts Payable	THOMAS , WALSH, JAMES	6001-Build Permit: Accessory Dwelling Unit Addition	\$3,080.48

City of El Cerrito
Payment Register

From Payment Date: 8/1/2023 - To Payment Date: 8/31/2023

87234	08/21/2023	Accounts Payable	Shababo, Tracey , Elise	TEXTILE + MACHINE SEWING CAMPS WKS 2+3 2023	\$7,146.96
87235	08/21/2023	Accounts Payable	BESS TESTLAB INC	Public Work Permit Bond/ Deposit July-2023	\$1,696.00
87236	08/21/2023	Accounts Payable	EVEREST PLUMBING & DRAIN	Public Work Permit Bond/ Deposit July-2023	\$13,603.65
87237	08/21/2023	Accounts Payable	PG&E - OAKLAND OFC	Public Work Permit Bond/ Deposit July-2023	\$15,767.65
87238	08/21/2023	Accounts Payable	SUBTRONIC CORPORATION	Public Work Permit Bond/ Deposit July-2023	\$2,344.00
87239	08/21/2023	Accounts Payable	ALTEN CONSTRUCTION, INC.	Public Work Permit Bond/ Deposit July-2023	\$761.65
87240	08/21/2023	Accounts Payable	EHRET CO PLUMBING & HEATING	Public Work Permit Bond/ Deposit July-2023	\$1,730.00
87241	08/21/2023	Accounts Payable	HD Reliant Mayfair, LLC	Public Work Permit Bond/ Deposit July-2023	\$697.00
87242	08/21/2023	Accounts Payable	HD Reliant Mayfair, LLC	Public Work Permit Bond/ Deposit July-2023	\$1,647.00
87243	08/21/2023	Accounts Payable	HD Reliant Mayfair, LLC	Public Work Permit Bond/ Deposit July-2023	\$697.00
87244	08/21/2023	Accounts Payable	HD Reliant Mayfair, LLC	Public Work Permit Bond/ Deposit July-2023	\$1,647.00
87245	08/21/2023	Accounts Payable	HD Reliant Mayfair, LLC	Public Work Permit Bond/ Deposit July-2023	\$697.00
87246	08/21/2023	Accounts Payable	HD Reliant Mayfair, LLC	Public Work Permit Bond/ Deposit July-2023	\$1,696.00
87247	08/21/2023	Accounts Payable	HD Reliant Mayfair, LLC	Public Work Permit Bond/ Deposit July-2023	\$718.00
87248	08/21/2023	Accounts Payable	HD Reliant Mayfair, LLC	Public Work Permit Bond/ Deposit July-2023	\$1,696.00
87249	08/21/2023	Accounts Payable	HD Reliant Mayfair, LLC	Public Work Permit Bond/ Deposit July-2023	\$718.00
87250	08/21/2023	Accounts Payable	LOTE, FINAU	Public Work Permit Bond/ Deposit July-2023	\$792.00
87251	08/21/2023	Accounts Payable	LOTE, FINAU	Public Work Permit Bond/ Deposit July-2023	\$761.65
87252	08/21/2023	Accounts Payable	Amazon Capital Services, Inc.	OFFICE SUPPLIES	\$178.43
87253	08/21/2023	Accounts Payable	AVILA PROJECT MANAGEMENT	2022 Slurry Seal: Construction phase PM & Design support (incls	\$9,110.00
87254	08/21/2023	Accounts Payable	BLAISDELL'S BUSINESS PRODUCTS	GENERAL OFFICE SUPPLIES	\$495.14
87255	08/21/2023	Accounts Payable	BRIDGE HOUSING	BRIDGE-Mayfair HUD Hope VI Main Street Grant	\$150,000.00
87256	08/21/2023	Accounts Payable	CARROLL, JAMES	PROFESSIONAL SERVICES	\$1,850.00
87257	08/21/2023	Accounts Payable	CRUMP, ALLISON	INSTRUCTOR PAYMENT	\$2,715.00
87258	08/21/2023	Accounts Payable	DELEON, ADALEYD, R	First of Two Payments for Utility Box Artist Adaleyd DeLeon	\$1,250.00
87259	08/21/2023	Accounts Payable	DIG SAFE BOARD	California State Fee for Regulatory Costs FY23-24	\$1,430.12
87260	08/21/2023	Accounts Payable	DON'S TIRE SERVICE, INC.	FLEET SERVICES	\$383.30
87261	08/21/2023	Accounts Payable	GRAND PRIX CAR WASH	FLEET SERVICES	\$37.98
87262	08/21/2023	Accounts Payable	KISTER, SAVIO & REI INC	2022 ADA Modification, Sidewalk and Curb Ramp Project	\$4,130.00
87263	08/21/2023	Accounts Payable	KONG, KRISTEN	First of Two Payments for Utility Box Artist Kristen Kong	\$1,250.00
87264	08/21/2023	Accounts Payable	MAPISTRY	STORM WATER TESTING COMPLIANCE LICENSE	\$4,376.00
87265	08/21/2023	Accounts Payable	MEYERS NAVE	LEGAL SERVICES MEYER NAVE	\$36,331.98
87266	08/21/2023	Accounts Payable	MICHAEL STEADS HILLTOP FORD KIA	FLEET SERVICES	\$299.53
87267	08/21/2023	Accounts Payable	MOTOYAMA, LISA	EMPLOYEE EXPENSE REIMBURSEMENT	\$627.04
87268	08/21/2023	Accounts Payable	OFFICE DEPOT	OFFICE SUPPLIES	\$205.00
87269	08/21/2023	Accounts Payable	ST. FRANCIS ELECTRIC	CREEKSIDE PARK PATHWAY CONSTRUCTION	\$2,700.00
87270	08/21/2023	Accounts Payable	THE ED JONES COMPANY	UNIFORMS SUPPLIES	\$554.24
87271	08/21/2023	Accounts Payable	Tripepi Smith and Associates , Inc	Monthly retainer for communications support	\$5,342.00
87272	08/21/2023	Accounts Payable	VSS INTERNATIONAL, INC.	Contract No. C3027.23 progress payment 2	\$518,545.76
87273	08/21/2023	Accounts Payable	WEST COAST VENDING SERVICES, INC.	CANDY/SNACK MACHINE	\$5,411.58
87274	08/25/2023	Accounts Payable	CALPERS LONG TERM CARE PROGRAM	PER3 - CALPERS Longterm Care Ins	\$39.66
87275	08/25/2023	Accounts Payable	EL CERRITO FIRE DEPT MGMT GRP	MGT1 - FIRE DEPT MGMT GROUP	\$50.00
87276	08/25/2023	Accounts Payable	EL CERRITO PUBLIC SFTY EE MGMT	MGT2 - SAFETY EMPLOYEE MGMT GROUP	\$768.00

City of El Cerrito
Payment Register

From Payment Date: 8/1/2023 - To Payment Date: 8/31/2023

87277	08/25/2023	Accounts Payable	FIRE ASSOCIATION	DUE2 - FIRE ASSN DUES	\$510.00
87278	08/25/2023	Accounts Payable	LIFE INSURANCE OF NORTH AMERICA	ACCD - Accidental Death & Dismembermt	\$69.50
87279	08/25/2023	Accounts Payable	POLICE ASSN.	DUE1 - POLICE ASSN DUES	\$6,111.12
87280	08/25/2023	Accounts Payable	PRO FIREFIGHTERS ASSN DUES	DUE3 - EC PRO FIREFIGHTERS DUES	\$290.00
87281	08/25/2023	Accounts Payable	SEIU LOCAL 1021	COPE - VOLUNTARY COPE DEDUCTION*	\$1,732.44
87282	08/25/2023	Accounts Payable	U.S. BANK - INSTITUTIONAL TRUST - W REGION	PAR - PARS - ARS 457*	\$4,089.69
87283	08/28/2023	Accounts Payable	ALAMEDA COUNTY FIRE DEPARTMENT	Fire Apparatus Repair and Service	\$10,205.35
87284	08/28/2023	Accounts Payable	ALEX AUTO DETAIL	FLEET SERVICES	\$225.00
87285	08/28/2023	Accounts Payable	Amazon Capital Services, Inc.	STAFFING SUPPLIES	\$35.26
87286	08/28/2023	Accounts Payable	BAY ALARM COMPANY	ALARM SERVICES	\$288.15
87287	08/28/2023	Accounts Payable	BERTRAND, FOX, ELLIOT, OSMAN & WENZEL	LEGAL SERVICES	\$3,461.25
87288	08/28/2023	Accounts Payable	CERTIFIED TOWING	FLEET SERVICES	\$412.50
87289	08/28/2023	Accounts Payable	CITY OF FAIRFIELD	RANGE USE FEE	\$2,673.00
87290	08/28/2023	Accounts Payable	CONTRA COSTA COUNTY HEALTH SERVICES DEPT	SART EXAM BILLING	\$1,700.00
87291	08/28/2023	Accounts Payable	DON'S TIRE SERVICE, INC.	FLEET SERVICES	\$186.53
87292	08/28/2023	Accounts Payable	EAST BAY REGIONAL COMMUNICATIONS SYSTEM	ASSETS - EBRCS POLICE RADIO SERVICES	\$75,060.00
87293	08/28/2023	Accounts Payable	FORENSIC SERVICES DIVISION	FORENSIC TESTING	\$115.50
87294	08/28/2023	Accounts Payable	L.N. CURTIS & SONS	UNIFORM SUPPLIES	\$1,309.82
87295	08/28/2023	Accounts Payable	LOCKED IN FIRE AND ENGINEERING, INC.	FIRE PROTECTION ENGINEERING PLAN REVIEW	\$150.00
87296	08/28/2023	Accounts Payable	MERCURIO BROS. PRINTING, INC.	HOTEL SAFETY INSPECTION	\$271.22
87297	08/28/2023	Accounts Payable	MICHAEL STEADS HILLTOP FORD KIA	FLEET SERVICES	\$268.08
87298	08/28/2023	Accounts Payable	MUNICIPAL EMERGENCY SERVICES INC.	FD COMMUNICATION SUPPLIES	\$596.59
87299	08/28/2023	Accounts Payable	NATIONAL TESTING NETWORK, INC.	RECRUTING	\$500.00
87300	08/28/2023	Accounts Payable	OFFICE DEPOT	OFFICE SUPPLIES	\$115.74
87301	08/28/2023	Accounts Payable	ROTARY CLUB OF EL CERRITO	ROTARY CLUB SUBSCRIPTION PAYMENT Q1-FY24	\$225.00
87302	08/28/2023	Accounts Payable	SPEED OIL CHANGE	FLEET SERVICES	\$52.10
87303	08/28/2023	Accounts Payable	TELEFLEX, INC.	MEDICAL SUPPLIES	\$618.88
87304	08/28/2023	Accounts Payable	WESTERN STATE DESIGN INC.	FLEET SERVICES	\$1,305.95
87305	08/28/2023	Accounts Payable	WHITLOCK & WEINBERGER TRANSPORTATION, INC.	TRAFFIC EVALUATION	\$503.75
87306	08/28/2023	Accounts Payable	WYSINGER, CAROLYN	COUNCIL MEMBER EXPENSE REIMBURSEMENT	\$273.42
87307	08/28/2023	Accounts Payable	HERNANDEZ, BRYAN	Employee Expense Reimbursement	\$200.00
87308	08/28/2023	Accounts Payable	Amazon Capital Services, Inc.	OFFICE SUPPLIES	\$189.89
87309	08/28/2023	Accounts Payable	AMERIGAS PROPANE INC	PROPANE FOR RECYCLING	\$388.87
87310	08/28/2023	Accounts Payable	ARMOUR PETROLEUM SVC & EQUIPT	OESD EQUIPMENT SERVICE	\$555.82
87311	08/28/2023	Accounts Payable	ASBURY ENVIRONMENTAL SERVICES	SOLID WASTER SERVICES	\$100.00
87312	08/28/2023	Accounts Payable	ATCO Pest Control	PEST CONTROL SERVICES	\$375.00
87313	08/28/2023	Accounts Payable	Blue Electric	LOCKER ROOM LIGHTS	\$1,235.00
87314	08/28/2023	Accounts Payable	CASCADIA CONSULTING GROUP, INC.	PROFESSIONAL SERVICES	\$12,036.25
87315	08/28/2023	Accounts Payable	CINTAS CORPORATION #054 UNIFORMS	UNIFORMS SUPPLIES	\$551.72
87316	08/28/2023	Accounts Payable	CIVICPLUS, LLC	ORDINANCE SUPPLEMENTATION SUBSCRIPTION	\$1,843.59
87317	08/28/2023	Accounts Payable	COAST COUNTIES PETERBILT	FLEET SERVICES	\$1,884.65
87318	08/28/2023	Accounts Payable	COUNTY OF MARIN	CALSLA ANNUAL MEMBERSHIP	\$945.00
87319	08/28/2023	Accounts Payable	DICKINSON FLEET SVCS / COX AUTOMOTIVE	FLEET SERVICES	\$12,191.22

City of El Cerrito
Payment Register

From Payment Date: 8/1/2023 - To Payment Date: 8/31/2023

87320	08/28/2023	Accounts Payable	EAST BAY SANITARY CO.INC.	MONTHLY POWER SWEEPING JULY 2023	\$8,587.25
87321	08/28/2023	Accounts Payable	EBMUD	Utilities_EBMUD_Period_JUNE-JULY 2023	\$20,148.92
87322	08/28/2023	Accounts Payable	FIRE SAFETY CLEARING	VEG MANAGEMENT REGENCY CT FIRE RD	\$2,700.00
87323	08/28/2023	Accounts Payable	FRIEDMAN, NORM	SPORTS CAMP WEEK 9	\$18,916.50
87324	08/28/2023	Accounts Payable	J & O' s COMMERCIAL TIRE CENTER	FLEET SERVICES	\$3,128.19
87325	08/28/2023	Accounts Payable	Kalgold Technologies Inc.	LITTLE MIDDLE SCHOOL CAMP WK 6	\$7,194.00
87326	08/28/2023	Accounts Payable	KNORR SYSTEMS, INC.	CHEMICAL SUPPLIES	\$1,187.11
87327	08/28/2023	Accounts Payable	KS STATEBANK	2023 CHEVROLET TAHOE SPECIAL SERVICE VEHICLES WITH	\$4,907.41
87328	08/28/2023	Accounts Payable	MORTON II YOUTH SPORTS	SKYHAWKS B-BALL CAMP WK 6	\$5,495.04
87329	08/28/2023	Accounts Payable	MORTON'S URBAN PEST MANAGEMENT	PEST CONTROL SERVICES	\$1,000.00
87330	08/28/2023	Accounts Payable	PASTIME HARDWARE	CV Park Broken Chain Swing	\$226.66
87331	08/28/2023	Accounts Payable	RAMOS, STEPHANIE, R	ZUMBA FITNESS CLASS JULY 2023	\$3,118.50
87332	08/28/2023	Accounts Payable	RINGCENTRAL, INC.	VOIP PHONE SERVICE FOR CITY STAFF	\$3,472.90
87333	08/28/2023	Accounts Payable	ROADSAFE TRAFFIC SYSTEMS, INC.	PARKING SIGNS PURCHASE	\$76.83
87334	08/28/2023	Accounts Payable	RUIZ, JOE	INSTRUCTOR PAYMENT	\$7,507.20
87335	08/28/2023	Accounts Payable	S.P. AUTOMOTIVE	FLEET SERVICES	\$788.31
87336	08/28/2023	Accounts Payable	Shababo, Tracey , Elise	INSTRUCTOR PAYMENT	\$3,524.40
87337	08/28/2023	Accounts Payable	SINGLE CYLINDER REPAIR	Small Equipment Supplies	\$180.81
87338	08/28/2023	Accounts Payable	SSD ALARM	COMMUNITY CENTER ALARM SEPTEMBER 2023	\$173.40
87339	08/28/2023	Accounts Payable	ST. FRANCIS ELECTRIC	TS & SL Maintenance July 2023 Routine	\$7,781.73
87340	08/28/2023	Accounts Payable	TOYOTA MATERIAL HANDLING NC	FORKLIFT LPG COUPLING REPAIR	\$729.31
87341	08/28/2023	Accounts Payable	UNIVERSAL BUILDING SERVICE	Library Janitorial services	\$45.25
87342	08/28/2023	Accounts Payable	MICHAEL , YU	1088- STMP Multi Family Residential	\$2,897.00
87343	08/31/2023	Accounts Payable	MAZE & ASSOCIATES	PROFESSIONAL SERVICES FOR MARCH 2023	\$35,799.50
87344	08/31/2023	Accounts Payable	EL DORADO OWNERS	REFUND	\$5,732.00

TOTAL CHECKS	322 Transactions	\$4,370,545.62
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Accounts Payable - EFTs

2533	08/11/2023	Accounts Payable	EDD - PAYROLL TAX DEPOSIT	CA - CA Tax	\$45,395.95
2534	08/11/2023	Accounts Payable	IRS	FED - Fed Tax*	\$164,359.14
2535	08/11/2023	Accounts Payable	MissionSquare (name chg 03-2021 formerly ICMA)	ICM1 - ICMA-457 #300530 FLAT DOLLAR*	\$58,622.89
2536	08/11/2023	Accounts Payable	P E R S	PE1% - PERS SEIU*	\$189,852.42
2543	08/03/2023	Accounts Payable	KATZ, JUDY	INSTRUCTOR PAYMENT	\$270.00
2548	08/25/2023	Accounts Payable	EDD - PAYROLL TAX DEPOSIT	CA - CA Tax	\$44,251.62
2549	08/25/2023	Accounts Payable	IRS	FED - Fed Tax*	\$161,737.02
2550	08/25/2023	Accounts Payable	MissionSquare (name chg 03-2021 formerly ICMA)	ICM1 - ICMA-457 #300530 FLAT DOLLAR*	\$55,259.74
2551	08/25/2023	Accounts Payable	P E R S	PE CM PEPRA - PERS CM PEPRA*	\$191,161.09
2552	08/14/2023	Accounts Payable	EDD - CA Employment Development Dept	EDD Unemployment Insurance payment	\$2,925.00
2553	08/16/2023	Accounts Payable	CalPERS (CA Public Employees' Retirement System)	CA - CA Tax	

Total EFTs	11 Transactions	\$915,584.87
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ACCOUNTS PAYABLE

Status	Count	Transaction Amount
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City of El Cerrito
Payment Register

From Payment Date: 8/1/2023 - To Payment Date: 8/31/2023

Payments	331	\$5,250,051.13
Voided	2	\$36,079.36
Total	333	\$5,286,130.49

PAYROLL

Status	Count	Transaction Amount
Total Checks	182	\$150,313.47
Total EFTs	479	\$1,106,138.77
Voided	0	\$0.00
Total	661	\$1,256,452.24

<u>GRAND TOTAL</u>	Total	994	\$6,542,582.73
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ORDINANCE NO. 2023-03

AN ORDINANCE OF THE CITY OF EL CERRITO ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF EL CERRITO AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) TO AMEND CURRENT SECTION 20516 (EMPLOYEES SHARING ADDITIONAL COST) AMOUNTS FOR ALL EMPLOYEES IN THE UNITED PROFESSIONAL FIREFIGHTERS' ASSOCIATION (LOCAL 1230)

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

Section 1: Incorporation of Recitals. The City Council finds that the above Recitals are true and correct and are incorporated herein by reference.

Section 2: Approval of Amended Contract. The City Council hereby authorizes an amendment of the Contract between the City Council of the City of El Cerrito and the Board of Administration, California Public Employees' Retirement System, a copy of said amendment being attached hereto, marked "Exhibit", and by such reference made a part hereof as though herein set out in full.

Section 3: Execution by Mayor. The City Council hereby authorizes the Mayor to execute the amendment of the Contract between the City Council of the City of El Cerrito and the Board of Administration, California Employees' Retirement System and to take any other actions necessary to carry out the intent of this ordinance on behalf of the City Council.

Section 4: 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 5: 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 of the City of El Cerrito on August 15, 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 September 19, 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. 2023-03 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 September 19, 2023; and that said Ordinance has been published and/or posted in the manner required by law.

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

Holly M. Charl  ty, City Clerk



AGENDA BILL

Agenda Item No. 7.H.

Date: September 19, 2023
To: El Cerrito City Council
From: Marielle Cuison, Associate Engineer, Public Works Department; Yvetteh Ortiz, Public Works Director/City Engineer
Subject: Safe Streets for All (SS4A) Cooperative Agreement with Contra Costa Transportation Authority for Richmond Street Complete Streets Improvement Project

ACTION PROPOSED

Adopt a resolution approving the Cooperative Agreement between the Contra Costa Transportation Authority (CCTA) and the City of El Cerrito for all phases of project delivery for the Richmond Street Complete Streets Improvement Project consisting of planning, preliminary design and environmental clearance, design including preparation of plans, specifications and estimates (PS&E), right-of-way (ROW) work including utility relocations, and construction, and authorizing the City Manager to execute the agreement in a form approved by the City Attorney.

BACKGROUND

CCTA Grant Application

In Summer 2022, the CCTA led a multi-agency, collaborative effort to submit the “Bicycle and Pedestrian Safety Improvements To Improve Equity Countywide in Contra Costa Project Application” to the U.S. Department of Transportation’s (USDOT’s) Safe Streets and Roads for All (SS4A) Discretionary Grant Program, which supports initiatives that focus on preventing deaths and serious injuries on the nation’s roadways. The application included five projects for various agencies as follows:

- Richmond Street Complete Streets Improvements (in partnership with the City of El Cerrito)
- L Street Pathway to Transit – Bicycle and Pedestrian Improvements (in partnership with the City of Antioch)
- Moraga Road and Canyon Road Complete Streets Improvements (in partnership with the Town of Moraga)
- Antioch Bicycle Garden (in partnership with the City of Antioch and Street Smarts Diablo)
- San Francisco Bay Trail Gap Closure – Martinez Intermodal Station to Crockett (in partnership with the East Bay Regional Park District)

The CCTA selected these five projects through its comprehensive safety planning efforts based on their anticipated impacts on 1) safety, 2) equity engagement and collaboration, 3) effective practice and technology, and 4) climate change adaptation and sustainability with emphasis on areas with a high rate of crashes and located within Equity Priority Community (EPC) and located within historically disadvantaged communities and Priority Development Areas (PDA).

In February 2023, the USDOT announced that the CCTA had been awarded \$28.9 million to deliver projects that make neighborhoods safer to walk and bike in. Nearly three quarters of the grant (\$21.2 million) is earmarked to serve people living in the county's underrepresented communities, funding improvements that connect to, or are located in, these neighborhoods. The projects will expand equitable access to multimodal transportation options, and increase connectivity to affordable housing, job centers, recreation areas, and essential services.

Studies show that between 2008 and 2017, 20% of collisions countywide involved bicyclists or pedestrians, and those collisions account for 40% of the County's deadly crashes. The projects funded by SS4A will create a suite of safety improvements based on Vision Zero and Complete Streets – policies and strategies designed to reduce injuries and fatalities and improve the overall experience on the road for pedestrians and bicyclists.

City Project Description

The Richmond Street Complete Streets Improvement Project, the City's component of the overarching CCTA project, will improve Richmond Street, a minor arterial, to provide safe and accessible pedestrian connections between El Cerrito's residential neighborhoods to the El Cerrito del Norte and Plaza BART Stations, schools, civic and recreational destinations, commercial districts, and the City's San Pablo Avenue Priority Development Area (PDA).

The project will improve access and safety for all modes of travel by rehabilitating the pavement; installing high-visibility crosswalks, safety lighting, and rapid rectangular flashing beacons at uncontrolled crosswalks; installing enhanced traffic signing, green pavement markings, and signs to enhance the existing shared-lane bike facility (which complements the low-stress Ohlone Greenway, just 1-3 blocks West); installing painted tear-drop medians and in-fill streets trees for traffic calming; implementing safety upgrades at the Elm/Key/Hill Streets traffic signal; installing ADA compliant curb ramps; and repairing/replacing non-conforming sidewalk. Upgrades to the vehicle detection to enhance bike detection at the four signalized intersections within the project limits will be completed separately as part of the CCTA's Countywide Smart Signals project, as described in the [City Council August 18, 2023 Agenda Bill](#).

The planning phase is underway including grant administration and coordination with USDOT. The preliminary design and environmental clearance phase is anticipated to begin in January 2024 after execution of all agreements between agencies. The project elements will be refined as the project proceeds through the design phase, including

community outreach and engagement.

The timing of the project has been coordinated with the East Bay Municipal Utility District (EBMUD) Wildcat Pipeline Improvement Project. The EBMUD project started construction in August 2023 and anticipates a two-year construction duration, after which construction of the City's project is planned to begin. City staff have been discussing a pavement restoration agreement with EBMUD as described below.

ANALYSIS

The CCTA will be the lead in all phases of project delivery as required by the USDOT and Federal Highway Administration, the agency administering the grant program. The delivery phases include planning, preliminary engineering and environmental clearance, design and PS&E, ROW work and utility relocations, and construction and services including coordination with federal and local agencies, execution of various project agreements, procurement of required consultants and contractors to complete all phases, oversight of all work, and access to the SS4A funding dedicated to each local agency. Each local agency must contribute the minimum local match funding of 20% required by the SS4A grant for the improvements in its jurisdiction. The proposed agreement delineates the roles, responsibilities, and funding commitments required to implement the Richmond Street Complete Streets Improvement Project.

The preliminary cost estimate for all phases of project delivery is currently \$10,104,010 as summarized below.

Preliminary Cost Estimate	
Activities	Amount
CCTA Planning, Project Management and Procurement	\$348,000
Consultant Services for, Environmental, PS&E, and Right of Way Engineering	\$1,132,000
Construction	\$7,589,010
Construction Support (Including Construction Management, Design Support During Construction & Permit Fees)	\$1,035,000
TOTAL PROJECT COST	\$10,104,010

The SS4A grant amount dedicated to this project is \$8,003,010. The proposed agreement commits the City to pay \$2,101,000 from other non-federal sources for the required match for the federal grant and for costs incurred by the CCTA for project management, and all phases of project delivery including environmental clearance,

PS&E, ROW and construction. The proposed funding plan for the project is shown below.

Proposed Funding	
Funding Source	Amount
SS4A (Federal Funding)	\$8,003,010
Measure J Return to Source	\$100,000
SB1 Local Streets & Roads	\$200,000
Measure A Street Improvements	\$401,000
SB1 Local Partnership Program-Formulaic	\$400,000
Utility Reimbursement/Other Local Funds	\$1,000,000
Total	\$10,104,010

The funding plan is consistent with the City's 5-year Capital Improvement Program, as presented in the Fiscal Year (FY) 2023-24 Adopted Budget and provides the required match from available local and state sources. Measure J Return to Source and SB1 Local Streets & Roads are two of the City's special funds that are used for operations and capital projects. SB1 Local Partnership Program funds in the amount of \$200,000 per year in FY 2023-24 and FY 2024-25 are available to the City on a formulaic basis because the City is a self-help agency (i.e., local sales tax for transportation purposes).

Finally, as part of the City's Encroachment Permit for EBMUD's Wildcat Pipeline Improvement Project, City staff and EBMUD staff have been developing an agreement to coordinate pavement restoration so that, in-lieu of restoring the pavement along their trench section, EBMUD will pay a restoration fee, equivalent to the restoration cost, to the City so that the City can complete a full-width restoration of the pavement along with construction of other improvements planned as part of the Richmond Street Complete Streets Improvement Project (Attachment 3). The agreement with EBMUD is intended to minimize costs and impacts on the community while facilitating comprehensive improvements along an important corridor in El Cerrito.

The proposed agreement with the CCTA requires that the work scope, budget and timelines of deliverables for each project phase to be stipulated in individual task orders. Each task order will define the advanced amount of funds required to be paid by the City for that phase. The advanced amount is necessary to meet the match requirement by the federal grant, reduce project administrative burden, and minimize cashflow impacts on the CCTA. The actual cost of a specific phase may ultimately vary from the current estimates. The CCTA is required to notify the City once it learns that costs will exceed the estimated amount defined and will negotiate increased funding or implement

options to down scope the project to meet available funding while continuing to meet the SS4A requirements. However, under no circumstances is the total combined City contribution to exceed \$2,101,000 without an amendment to this Agreement.

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. Approval of the proposed cooperative agreement is consistent with the following Strategic Plan goals: Develop and rehabilitate public facilities as community focal points by addressing ongoing and deferred maintenance of facilities and infrastructure; and Ensure the public's health and safety by maintaining streets in a state of good repair for all modes of transportation; and Foster environmental sustainability citywide by encouraging alternative modes of transportation to the single occupancy vehicle.

ENVIRONMENTAL CONSIDERATIONS

Under the proposed agreement, the CCTA will prepare all necessary environmental clearance documents under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) and coordinate with the City as the lead agency for the required CEQA and NEPA approvals.

FINANCIAL CONSIDERATIONS

The planning, preliminary design and environmental clearance, and design/PS&E phases will be underway this current FY 2023-24. Budget appropriations in the amount of \$500,000 for the local match required for these phases are included in the FY 2023-24 Adopted Budget and Capital Improvement Program, under the Richmond Street Improvement Project in the Measure J Return to Source Fund, Measure A Street Improvements Fund, and SB1 Local Streets & Roads Fund.

Future fiscal year funding for construction will be included in the corresponding budgets and is subject to Council approval of annual appropriations. As indicated in the proposed agreement, the cost to complete the project is an estimate. If the CCTA determines that the match amount committed to by the City is insufficient, the CCTA will notify and seek approval of the City to provide additional funds or down scope the project.

LEGAL CONSIDERATIONS

The proposed cooperative agreement is in draft final form. The City Attorney has reviewed the agreement and provided comments. Minor revisions are pending. The final agreement will be in substantially the form attached, subject to review and approval by the City Attorney.

Reviewed by:

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

Karen Pinkos, City Manager

Attachments:

1. Resolution
2. Cooperative Agreement
3. EBMUD Letter

RESOLUTION 2023-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING THE COOPERATIVE AGREEMENT BETWEEN THE CONTRA COSTA TRANSPORTATION AUTHORITY (CCTA) AND THE CITY OF EL CERRITO (CITY) FOR THE RICHMOND STREET COMPLETE STREETS IMPROVEMENT PROJECT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT IN A FORM APPROVED BY THE CITY ATTORNEY

WHEREAS, in Summer 2022, the Contra Costa Transportation Authority (CCTA) led a multi-agency, collaborative effort to submit the “Bicycle and Pedestrian Safety Improvements To Improve Equity Countywide in Contra Costa Project Application” to the U.S. Department of Transportation’s (USDOT’s) Safe Streets and Roads for All (SS4A) Discretionary Grant Program; and

WHEREAS, in February 2023, the USDOT announced that the CCTA had been awarded \$28.9 million to deliver five projects that make neighborhoods throughout the county safer to walk and bike in; and

WHEREAS, the Richmond Street Complete Streets Improvement Project, the City’s component of the overarching CCTA project, will improve Richmond Street, a minor arterial, to provide safe and accessible pedestrian connections between El Cerrito’s residential neighborhoods to the El Cerrito del Norte and Plaza BART Stations, schools, civic and recreational destinations, commercial districts, and the City’s San Pablo Avenue Priority Development Area (PDA); and

WHEREAS, the project will improve access and safety for all modes of travel by rehabilitating the pavement; installing high-visibility crosswalks, safety lighting, and rapid rectangular flashing beacons at uncontrolled crosswalks; installing enhanced traffic signing, green pavement markings, and signs to enhance the existing shared-lane bike facility (which complements the low-stress Ohlone Greenway, just 1-3 blocks West); installing painted tear-drop medians and in-fill streets trees for traffic calming; implementing safety upgrades at the Elm/Key/Hill Streets traffic signal; installing ADA compliant curb ramps; and repairing/replacing non-conforming sidewalk; and

WHEREAS, the preliminary cost estimate for the project for all phases of project delivery is currently estimated to be \$10,104,010; and

WHEREAS, the SS4A grant amount dedicated to this project is \$8,003,010, and the proposed agreement commits the City to pay \$2,101,000 from other non-federal sources for the required match for the federal grant and for costs incurred by the CCTA for project management, and all phases of project delivery including environmental clearance, plans, specifications, and estimates (PS&E), right-of-way (ROW) and construction; and

WHEREAS, the funding plan is consistent with the City's 5-year Capital Improvement Program, as presented in the Fiscal Year (FY) 2023-24 Adopted Budget and provides the required match from available local and state sources including \$100,000 from Measure J Return to Source, \$400,000 from SB1 Local Partnership Program-Formulaic, \$200,000 from SB 1 Local Street & Roads funds, \$401,000 in Measure A Street Improvement funds, and \$1,000,000 from Utility Reimbursement/Other Local Funds; and

WHEREAS, the CCTA will be the lead in all phases of project delivery as required by the USDOT and Federal Highway Administration, the agency administering the grant program.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby approves and authorizes the City Manager to execute the Cooperative Agreement between the CCTA for the Richmond Street Complete Streets Improvement Project, which shall be in substantially the form attached hereto as Exhibit A, including any minor amendments and 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 September 19, 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

COOPERATIVE AGREEMENT NO. X

BETWEEN

CONTRA COSTA TRANSPORTATION AUTHORITY

AND

CITY OF EL CERRITO

FOR

**ENVIRONMENTAL CLEARANCE, PLANS, SPECIFICATIONS AND ESTIMATE
(PS&E), RIGHT OF WAY (ROW), AND CONSTRUCTION PHASES FOR RICHMOND
STREET COMPLETE STREET IMPROVEMENT PROJECT**

I. PARTIES

- A. THIS COOPERATIVE AGREEMENT (“Agreement”) effective on [date], is made and entered into by and between the Contra Costa Transportation Authority (AUTHORITY) and the City of El Cerrito (CITY), (AUTHORITY and CITY may be referred to herein as a “Party” and collectively “Parties”).

II. RECITALS

- A. WHEREAS, CITY intends to improve Richmond Street, a minor arterial, to provide safe and accessible pedestrian connections between El Cerrito’s residential neighborhoods to the El Cerrito del Norte and Plaza BART Stations, schools, civic and recreational destinations, commercial districts, and the City’s San Pablo Avenue Priority Development Area (PDA) (PROJECT). A detailed description of the PROJECT is set forth in Attachment A; and
- B. WHEREAS the PROJECT will be designed and constructed using design-bid-build procurement method; and
- C. WHEREAS, the CITY has agreed to contribute funds toward the PROJECT and has allocated \$100,000 from Measure J Return to Source, \$400,000 from SB 1 Local Partnership Program Funds (El Cerrito-Formulaic), \$200,000 from SB 1 Local Streets & Roads funds, \$401,000 in El Cerrito Measure A Street Improvements funds and \$1,000,000 from the CITY’s Utility Reimbursement/ Other Local funds to pay for the required match for the Federal funds and for costs incurred by AUTHORITY for Project Management, and all phases of project delivery including planning (including grant application and coordination with USDOT), completion of all necessary environmental review under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) (collectively Environmental Clearance, preparation of plans, specs and engineering (PS&E), right-of-way (ROW) and Construction of the PROJECT; and

- D. WHEREAS, the AUTHORITY has secured \$8,003,010 in United States Department of Transportation (USDOT) funding from the Safe Streets and Roads for All (SS4A) Discretionary Grant Program for the PROJECT; and
- E. WHEREAS, the Parties consider PROJECT to be a high priority project of mutual interest and are willing to cooperate in the implementation of the PROJECT; and
- F. WHEREAS, the Parties wish to enter into this Agreement to delineate roles, responsibilities, and funding commitments relative to the project development, ROW and construction phases of the PROJECT; and
- G. WHEREAS, the PROJECT is estimated to cost a total of \$10,104,010 as shown in Attachment B; and
- H. WHEREAS, the CITY desires the AUTHORITY to provide project planning, delivery services and program management services for all PROJECT activities including coordination with USDOT on funding requirements and execution of PROJECT agreement(s), procurement of required consultants and contractors to complete all activities described in ATTACHMENT B, oversight of said work, and access SS4A funding in the amount of \$8,003,010 and
- I. WHEREAS, CITY understands it is the sole responsibility of CITY to reimburse 100% of actual AUTHORITY costs associated with the above-listed activities; and
- J. WHEREAS, AUTHORITY will notify the CITY once the AUTHORITY learns that costs will exceed the estimated amount defined in Attachment B. In the event costs exceed the estimated amount defined in Attachment B, Parties will negotiate increased CITY funding or other funding sources, or implement options to down scope the PROJECT to meet available funding while continuing to meet the SS4A requirements, and;
- K. WHEREAS, it is mutually understood that the PROJECT will likely proceed in phases including: (i) project planning, (ii) preliminary design and CEQA/NEPA environmental clearance, (iii) design (PS&E), ROW including utility relocations, and (iv) construction, construction management, and closeout. The work scope, budget and timelines of deliverables for each phase will be stipulated in individual task orders for each phase; The task order will define the advanced amount of funds required from the CITY for the phase being delivered. The advanced amount is necessary to meet the match requirement by the federal grant, reduce PROJECT administrative burden, and minimize cashflow impacts on the AUTHORITY, per ATTACHMENT C.

NOW, THEREFORE, the Parties agree to the following:

III. AUTHORITY RESPONSIBILITIES

AUTHORITY agrees:

- A. To provide planning and program management services for all PROJECT activities including coordination with USDOT on funding requirements and execution of PROJECT agreement(s), procurement of required consultants and contractors to complete all activities described in ATTACHMENT B, and oversight of said work.
- B. To procure the services of consultant teams to prepare and clear the environmental document (CEQA and NEPA), to develop 35%, 65%, 95%, and Final Plans, Specifications, & Estimates (PS&E), and to provide design support during construction, construction management, and closeout.
- C. To coordinate with CITY for CEQA and NEPA approval of the environmental document, as required, and support the CITY as the lead agency for both CEQA and NEPA.
- D. To provide utility coordination services and work with the CITY on required documents, utility relocations and agreements. Should there be ROW or easement acquisition, AUTHORITY will procure a consultant for right-of-way acquisition services. AUTHORITY will seek an amendment to cover the cost of these services.
- E. Left Blank Intentionally
- F. To designate a responsible staff member that will be AUTHORITY'S representative in attending all meetings between the parties or pertaining to the PROJECT, providing and receiving day-to-day communication.
- G. AUTHORITY Executive Director is authorized to act on behalf of AUTHORITY under this Agreement.
- H. To provide CITY an opportunity to review and comment on, and approve the project delivery documents including procurement documents, environmental documents, PS&E (at the various stages of completion), construction bid and construction administration documents, project budget and consultant contracts and costs.
- I. To provide CITY an opportunity to participate in consultant selection for services procured by AUTHORITY.
- J. To provide CITY an opportunity to review and comment on all PROJECT agreements entered into by AUTHORITY and pertaining to CITY.
- K. To include CITY in Project Development Team (PDT) meetings and related communications on PROJECT progress as well as to provide CITY with copies of PDT meeting minutes and action items.
- L. To provide no less than quarterly reports through the duration of the USDOT grant agreement performance period.

- M. Performance of services under these consultant and construction contracts shall be subject to the technical direction of the AUTHORITY's Executive Director, or designee, with input and consultation from CITY.
- N. To facilitate and coordinate obtaining required agreements from USDOT including authorization for expenditure of funds, prior to advertising for professional or construction contracts for PROJECT.
- O. To seek reimbursement from USDOT on work performed on any phase of the PROJECT which will be funded by Federal sources as shown in ATTACHMENT C. The actual cost of a specific phase may ultimately vary from the estimates provided and the final reimbursement amount shall be adjusted based on the Federal funding agreements.
- P. To prepare and submit invoices to CITY for expenditures related to planning activities incurred by AUTHORITY prior to execution of USDOT agreement.
- Q. To prepare and submit a Task Order to CITY, for CITY's review and approval, describing the work scope, budget and timelines of deliverables prior to initiation of Project Development, ROW and Construction phases. The Task Order will define the amount of CITY funding commitment that will be advanced to AUTHORITY for the phase being delivered.
- R. To provide CITY an opportunity to review proposed contract change orders during construction which such approval shall be provided within two working days. Failure to respond within two working days constitutes a waiver of the right to object to the proposed change order.
- S. To establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support AUTHORITY's request for reimbursement, payment vouchers, or invoices which segregate and accumulate costs of project management, Environmental Clearance, PS&E, ROW including utility relocations, construction, construction administration and closeout work elements and produce monthly reports which clearly identify reimbursable costs, matching fund costs, indirect cost allocation, and other allowable expenditures by AUTHORITY.
- T. To prepare a final accounting of expenditures, including a final invoice for the actual Project Management cost (AUTHORITY and Project Management Oversight staff), Environmental Clearance, PS&E, ROW, and construction costs expended for the PROJECT. The final accounting of expenditures and invoice shall be submitted no later than one hundred and twenty (120) calendar days following the completion of work including resolution of any claims and shall be submitted to CITY for concurrence and approval. The invoice shall include a statement that these PROJECT funds were used in conformance with this Agreement and USDOT requirements and for all PROJECT-specific and support activities, as approved by CITY and described herein.
- U. To provide CITY copies of approved contractor invoices and payment vouchers no less than twice annually until PROJECT completion, but not to exceed quarterly.

- V. To cooperate in having a PROJECT-specific audit of all PROJECT expenditures if requested by the CITY. The audit is intended to justify and validate that all funds expended on the PROJECT were used in conformance with this Agreement. The auditor shall be selected by CITY.
- W. To reimburse CITY for costs that are determined by subsequent audit to be unallowable within ninety (90) calendar days of AUTHORITY receiving notice of audit findings, which time shall include an opportunity for AUTHORITY to respond to and/or resolve the finding. Should the finding not be otherwise resolved and AUTHORITY fails to reimburse monies due to CITY within ninety (90) calendar days of audit finding, or within such other period as may be agreed between both Parties hereto, the CITY reserves the right to withhold future payments for the PROJECT due to AUTHORITY from any source under CITY's control.
- X. To procure and maintain insurance coverage (or a program of self-insurance of equivalent character and coverage) of the types and in the amounts identified in ATTACHMENT D and name the CITY as an additional insured for all work performed by AUTHORITY on CITY's behalf. Further, AUTHORITY will ensure that all consultants and subconsultants hired to perform work on the PROJECT name the CITY as an additional insured and procure and maintain insurance coverage of the types and in the amounts identified in ATTACHMENT D.
- Y. To attend City Council, Committee, Commission, and public meetings to present design recommendations, PROJECT updates and other information, as needed provided sufficient notice is given.

IV. CITY RESPONSIBILITIES

CITY agrees:

- A. To jointly enter into utility agreements with Authority and any affected utilities if utility facilities need to be relocated or new service connections are required to facilitate the PROJECT, acknowledging that the PROJECT represents a "proper governmental use" of any public street affected by the PROJECT and thus utilities will be responsible for any relocation required on such street pursuant to the utilities' franchise agreements.
- B. To enter into any required maintenance agreements and prepare, acquire and execute any required easements for PROJECT prior to construction.
- C. To pay an advancement to AUTHORITY for estimated costs for each phase of the PROJECT as specified in CITY approved Task Order(s) submitted by AUTHORITY. The actual cost of a specific phase may ultimately vary from the estimates provided in ATTACHMENT B; however, under no circumstances is the total combined CITY contribution to exceed \$2,101,000 without an amendment to this Agreement.

- D. When conducting an audit of the costs claimed under the provisions of this Agreement, to rely to the maximum extent possible on any prior audit of AUTHORITY performed pursuant to the provisions of State and Federal laws. In the absence of such an audit, work of other auditors will be relied upon to the extent that work is acceptable to CITY when planning on conducting additional audits.
- E. To designate a responsible staff member that will be CITY's representative in attending all meetings between the parties or pertaining to the PROJECT, receiving day-to-day communication and reviewing the PROJECT documents.
- F. To review and provide comments on Environmental Clearance document, PS&E, construction bids, construction management contracts and closeout documents within 30 days, or other durations as mutually agreed between Parties, of receiving the review request from AUTHORITY.
- G. City Manager is authorized to act on behalf of CITY under this Agreement.
- H. Subject to applicable law and funding restrictions, CITY has the ultimate authority to make final decisions on changes to the design and procurement methods.
- I. To formally accept the PROJECT through City Council action following completion.
- J. To facilitate public meetings, meetings with the City Council, Committees, Commissions and the public regarding the PROJECT.
- K. To secure funding and reimburse the AUTHORITY for cost increases on the PROJECT or negotiate with AUTHORITY to reduce the scope if additional funding is not available while continuing to meet the SS4A requirements ..

V. MUTUAL RESPONSIBILITIES

The Parties agree:

A. Performance Period

- a. This Agreement shall go into effect on **(DATE)** (the “Effective Date”). This Agreement shall end 12 months following acceptance of the PROJECT by the CITY and reimbursement of all costs to AUTHORITY, unless extended by written amendment, subject to article H under Section V below.
- B. To abide by all applicable federal, state and local laws and regulations pertaining to the PROJECT as of the Effective Date of this Agreement.
- C. To abide by all Terms and Conditions contained in the Agreement between USDOT and AUTHORITY for the programming and authorization to expend funding from the fiscal year 2022 Safe Streets and Roads for All Grant program. (Attachment E).
- D. In the event AUTHORITY determines cost for any PROJECT phase work may exceed the amounts identified in Attachment B of this Agreement, AUTHORITY shall inform CITY of this determination and thereafter the Parties shall work together in an attempt to agree upon an amendment to either modify the scope of the PROJECT or the amounts identified in this Agreement, or both. Under no circumstances is the total combined CITY contribution to exceed \$2,101,000 without an amendment to this Agreement.
- E. Eligible PROJECT reimbursements shall include only those costs incurred by AUTHORITY for PROJECT-specific work activities that are described in this Agreement.
- F. Neither AUTHORITY nor any officer, director, employee or agent thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by CITY and under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, CITY shall fully defend, indemnify and save harmless AUTHORITY, its officers, directors, employees or agents from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) to the extent occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement.
- G. Neither CITY nor any officer, director, employee or agent thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by AUTHORITY and under or in connection with any work, authority or jurisdiction delegated to AUTHORITY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, AUTHORITY shall fully defend, indemnify and save harmless , its officers, directors, employees or agents from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government

Code Section 810.8) to the extent occurring by reason of anything done or omitted to be done by AUTHORITY under or in connection with any work, authority or jurisdiction delegated to AUTHORITY under this Agreement.

- H. This Agreement shall end 12 months following acceptance of the PROJECT by the CITY and reimbursement of all costs to AUTHORITY, unless extended by written amendment, except that the indemnification provisions shall remain in effect until terminated or modified, in writing, by mutual agreement. Notwithstanding any other provision herein, to the extent consistent with the terms and obligations hereof, any Party may terminate this Agreement at any time, with or without cause, by giving thirty (30) calendar days written notice to all the other Parties. In the event of a termination, the Party terminating this Agreement shall be liable for any costs or other non-cancellable obligations it may have incurred or the non-terminating Party may have incurred for the benefit of the terminating Party under the terms of the Agreement prior to termination.
- I. The Recitals to this Agreement are true and correct and are incorporated into this Agreement.
- J. All signatories hereto warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by executing this Agreement, the Parties hereto are formally bound to this Agreement.
- K. Except on subjects preempted by federal law, this Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue shall be in Contra Costa County. All Parties agree to follow all local, state, and federal laws and ordinances with respect to the performance of this Agreement.
- L. The Parties agree that each Party and any authorized representative, designated in writing to the Parties, and upon reasonable notice, shall have the right during normal business hours to examine all Parties' financial books and records with respect to this Agreement. The Parties agree to retain their books and records for a period of three (3) years from the later of; a) the date on which this Agreement terminates; or b) the date on which such book or record was created.
- M. If any clause or provision of this Agreement is illegal, invalid or unenforceable under applicable present or future laws, then it is the intention of the Parties that the remainder of this Agreement shall not be affected but shall remain in full force and effect.
- N. This Agreement cannot be amended or modified in any way except in writing, signed by all Parties hereto.
- O. Neither this Agreement, nor any of the Parties' rights, obligations, duties, or authority hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party in its sole, and absolute, discretion. Any such attempt of assignment shall be deemed void and of no force and effect.
- P. No waiver of any default shall constitute a waiver of any other default whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or

performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

- Q. In the event of litigation arising from this Agreement, each Party to this Agreement shall bear its own costs, including attorney(s) fees. This paragraph shall not apply to the costs or attorney(s) fees relative to paragraphs D and E of this Section.
- R. This Agreement may be signed in counterparts, each of which shall constitute an original. This Agreement is effective and shall be dated on the date executed by AUTHORITY.
- S. Any notice required, authorized or permitted to be given hereunder or any other communications between the Parties provided for under the terms of this Agreement shall be in writing, unless otherwise provided for herein, and shall be served personally or by reputable courier addressed to the relevant party at the address/email stated below:

If to AUTHORITY: Tim Haile
Executive Director
2999 Oak Road, Suite 100
Walnut Creek, CA 94597
Telephone: 925-256-4735
Email: thaile@ccta.net

If to CITY: Yvetteh Ortiz
Public Works Director/City Engineer
10890 San Pablo Avenue
El Cerrito, CA 94530
(510) 215-4382
Email: yortiz@ci.el-cerrito.ca.us

- T. There are no third-party beneficiaries, and this Agreement is not intended, and shall not be construed to be for the benefit of, or be enforceable by, any other person or entity whatsoever.
- U. This Agreement, with its exhibits, represents the entire understanding of AUTHORITY and CITY as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each Party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

SIGNATURES ON FOLLOWING PAGE:

DRAFT

COOPERATIVE AGREEMENT NO. X
BETWEEN
CONTRA COSTA TRANSPORTATION AUTHORITY
AND CITY OF EL CERRITO

**CONTRA COSTA TRANSPORTATION
AUTHORITY**

CITY OF EL CERRITO

By: _____
Federal Glover
Chair

By: _____
Karen Pinkos
City Manager

Attest: _____
Tarienne Grover
Clerk of the Board

Attest: _____
Holly Charléty
City Clerk

By: _____
Fennemore Wendell
Authority Counsel

By: _____
Sky Woodruff
City Attorney

Date: _____

Date: _____

Attachment A

PROJECT DESCRIPTION & PROPOSED IMPROVEMENTS

The PROJECT will improve Richmond Street, a minor arterial, to provide safe and accessible pedestrian connections between El Cerrito's residential neighborhoods to the El Cerrito del Norte and Plaza BART Stations, schools, civic and recreational destinations, commercial districts, and the City's San Pablo Avenue Priority Development Area (PDA). The PROJECT will improve access and safety for all modes of travel by rehabilitating the pavement; installing high-visibility crosswalks, roadway safety lighting, and rapid rectangular flashing beacons at uncontrolled crosswalks; installing enhanced traffic signing, green pavement markings, and signs to enhance the existing shared-lane bike facility (which complements the low-stress Ohlone Greenway, just 1-3 blocks West); installing painted tear-drop medians and in-fill streets trees for traffic calming; implementing safety upgrades at the Elm/Key/Hill Streets traffic signal; installing ADA compliant curb ramps; and repairing/replacing non-conforming sidewalk. Specific improvements shall be consistent with the attached independent cost estimate.

Note: Upgrades to the vehicle signal loop detection to enhance bike detection at the four signalized intersections within the project limits are proposed as part of the separate countywide CCTA Smart Signals project.

(Independent Cost Estimate is attached as an Exhibit to the Project Description & Proposed Improvements)

Attachment B

PROJECT COST ESTIMATE

ACTIVITIES	AMOUNT
CCTA Planning, Project Management and Procurement	\$ 348,000
Consultant Services for, Environmental, PS&E, and Right of Way Engineering	\$ 1,132,000
CONSTRUCTION	\$7,589,010
CONSTRUCTION SUPPORT <i>(Including Construction Management, Design Support During Construction & Permit Fees)</i>	\$1,035,000
TOTAL PROJECT COST	\$10,104,010

Attachment C

PROJECT FUNDING TABLE

FUNDING SOURCE	AMOUNT
Measure J Return to Source	\$100,000
SB 1Local Partnership Program Funds (El Cerrito-Formulaic)	\$400,000
SB 1 Local Street & Roads	\$200,000
El Cerrito Measure A Street Improvements	\$401,000
Utility Reimbursement/Other Local	\$1,000,000
SS4A (Federal Funding)	\$8,003,010
Total	\$10,104,010

5401597.1

Attachment D

INSURANCE REQUIREMENTS

DRAFT

Attachment E

FHWA/CCTA DRAFT AGREEMENT

DRAFT

Yvetteh Ortiz, Public Works Director
City of El Cerrito
10890 San Pablo Ave
El Cerrito, CA 94530
YOrtiz@ci.el-cerrito.ca.us

via E-mail

Subject: Intent to Enter into Paving Cost Share Agreement for Richmond Street and Elm Street Portion of the Wildcat Pipeline Improvement Project

Dear Ms. Ortiz,

East Bay Municipal Utility District's Wildcat Pipeline Improvement Project (Wildcat Project) is currently in the construction phase. EBMUD intends to enter into a paving cost-share agreement (Agreement) with the City of El Cerrito (City) for a portion of the Wildcat Project, as detailed below.

The Wildcat Project includes trenching in Richmond Street and Elm Street for a length of approximately 8,400 linear feet. The City is planning the "Richmond Street Complete Streets Project" (City Project) within the same Wildcat Project corridor in Richmond Street and Elm Street. The structure of the Agreement is that EBMUD would pay the City for the equivalent cost of its final paving obligation in lieu of constructing the final paving. The City would apply this payment to the City Project so that paving of Richmond Street is completed in one effort by the City.

The City's permit requirement for pavement restoration is the basis of EBMUD's final paving. This requirement is the following: 1) a two-foot wide "tee-cut" beyond the edges of the trench, 2) a tee-cut depth that matches the existing asphalt concrete depth, with a minimum depth of six inches. The Agreement sets a reimbursement rate of \$1.80 per inch depth per square feet of asphalt concrete. The estimated quantity of EBMUD's final paving obligation is approximately 85,600 square feet at 7.5 inches deep. Therefore, EBMUD would pay the City an estimated \$1,155,600 in lieu of constructing final paving in the Richmond Street and Elm Street portion of the Wildcat Project.

Per the City's request, EBMUD is confirming our commitment to enter into the Agreement, which is currently in draft form and being routed for final review by the City. The current estimated timeline has this Agreement going to EBMUD's Board of Directors for approval at the November 14, 2023 EBMUD Board meeting.

We appreciate the continued coordination and collaboration on this essential project. The Agreement will ultimately lessen construction impacts to the residents.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Carlton D. Chan', with a stylized, flowing script.

Carlton D. Chan, PE
Engineering Manager, Pipeline Infrastructure Division
East Bay Municipal Utility District

Cc: Marshall McLeod
Gus Cicala



AGENDA BILL

Agenda Item No. 7.I.

Date: September 19, 2023
To: El Cerrito City Council
From: Jennifer Bright, Management Assistant; Melanie Mintz, Community Development Director, Community Development Department; Yvetteh Ortiz, Public Works Director, Public Works Department; Chase Beckman, Fire Marshal/Battalion Chief, Fire Department
Subject: Authorization of Consulting Services Agreements with Multiple Firms for On-call Building, Planning, Fire and Engineering Consulting Services

ACTION PROPOSED

Adopt a resolution authorizing the City Manager to execute professional services agreements with nine (9) consulting firms to provide on-call professional services for three years, with the option to extend for an additional two years, in a total amount not to exceed \$2,000,000.

BACKGROUND

The Community Development Department's Building Division issues approximately 1,200 building permits annually. This number has remained reasonably steady in both strong and weak economic years and throughout the COVID-19 pandemic. Most of these permits originate and service the City's single-family residential housing stock (minor and major remodels, roof replacements, water heaters, window replacements etc.). A smaller, and more difficult to predict, number are for small or large multifamily projects or commercial tenant improvements. While on-call contracts were originally developed in 2017 (Resolution 2017-24) to efficiently meet the anticipated specialized plan check and inspection need that resulted from the adoption of the San Pablo Avenue Specific Plan, the contracts were also intended to efficiently support the intermittent need for temporary staffing in order to maintain staffing levels and cover for vacancies, illness, etc. Both during the pandemic and since then, due to challenges in the building services industry and the tight labor market, the City has relied heavily on consultants to fill positions especially in the Building Division.

California Government Code requires that jurisdictions provide an expedited streamlined permitting process for small residential rooftop solar energy systems and that permits be issued in as little as 24 hours and not more than 3 days, pursuant to the 2020 California Solar Permitting Guidebook. Since 2015, solar permits issued in El Cerrito have grown nearly 4 times, from 77 permits in FY 2014-15 to 307 in FY 2022-23. The demand for reviewing and issuing the growing number of permits, as well as inspecting the installations, required additional staffing in order to not cause a delay for other projects. On the permit review and issuance side, the City has worked with its on-call consultant, 4LEAF, to handle the solar permitting process from beginning to end offsite to meet the streamlining requirements and not cause a backup in the processing of other permits. The cost of this service is regulated by the State and covered by

application fees. In 2022, Senate Bill 379 was passed with additional requirements pertaining to streamlining and solar permits. SB 379 requires cities to implement an online, automated permitting platform to be able to issue permits in real time for systems no larger than 39.4 kilowatts. Community Development staff are currently researching options for compliance and must have a system in place prior to September 30, 2024.

Resolution 2017-24 authorized the City Manager to execute professional services agreements with ten consulting firms to provide building services for an amount not to exceed \$250,000 per year. Each agreement was authorized to have an initial term of three years with the option to extend for up to two additional years, which was exercised. Based on availability and other factors, the City utilized services from four of the ten consultants, 4LEAF, Inc., TRB + Associates, West Coast Code Consultants, Inc., and CSG Consultants.

On April 5, 2022, the City Council adopted Resolution 2022-20 authorizing the City Manager to execute amendments to contracts for four consultants, extending their contracts for an additional 18 months, with an additional expenditure of \$250,000 for 4LEAF as they had the personnel coverage needed to cover City staff vacancies. This allowed staff to release a new Request for Qualifications (RFQ) to refresh the list of qualified consultant firms to provide necessary on-call consulting services. During the contracted period, the need to utilize these contracts for staffing vacancies and technical services in the Fire and Public Works Departments arose. Because many of these consultants offer services in many disciplines, they were able to meet the changing needs of the City on the existing contracts with Task Orders rather than having to execute new ones, reducing administrative impact on staff.

On March 9, 2023, the City Council adopted Resolution 2023-18 authorizing an amendment to the existing professional services agreement with 4LEAF, Inc. to increase the amount for FY 2022-23 from \$500,000 to \$875,000. This increase allowed 4LEAF to continue to provide the necessary coverage for staffing vacancies including two full-time Permit Technicians and the City Building Official, inspection services, and to assist with plan review services to bring turnaround times current due to permit process delays.

In early 2023, the El Cerrito Fire Prevention Division identified a need to align with best practices specific to fire-related permitting, plan review, and inspection processes. In Spring 2023, the Building Division also undertook a process evaluation to map current workflow. Fire and Community Development staff worked together to identify a comprehensive process that eliminated redundancy and improved timing and delivery to customers. The collaboration between the two departments allowed a clear window to better understand one another's objectives and to develop a unified working relationship, allowing for a more streamlined service delivery to the El Cerrito community.

On July 14, 2023, the Community Development Department released an RFQ for Building, Planning, Fire (Plan Review and Inspection), and Engineering Consulting Services. By the August 4, 2023, submittal deadline, eleven (11) Statements of Qualification (SOQs) were received from consultants with various fields of expertise. Community Development staff then interviewed responding consultant firms to evaluate qualifications.

Although the majority of contracted services have involved the Building Division, the Planning Division has also contracted with consulting firms. The Planning Division released an RFQ for consulting services one year prior to the Building Division's original RFQ, and received authorization by City Council Resolution 2016-23 to enter into contracts with ten firms/individuals with not to exceed amounts of \$75,000. Some of these contracts were also extended by amendment and used for project-specific work. The cost for project-specific CEQA documentation is typically covered by the project applicant. Recently, these contracts have been used to compensate for the City's full-time Senior Planner vacancy. The proposed action integrates the timeline for on-call consultant services by putting all contracts on the same schedule.

Pursuant to Government Code Section 4526, state and local agencies are allowed to select professional firms such as these on the basis of demonstrated competency and professional qualifications versus using only the lowest bidder. That approach is also consistent with the City's procurement policy. Because the anticipated amount of work is variable in scope and the timing of permit submittals is hard to predict, on-call agreements with consultant firms are appropriate to allow for rapid procurement of services. Many cities choose to enter into on-call agreements with multiple firms in order to ensure that specialty services are available and that any one consultant's workload limits will not prevent a city from meeting service delivery goals. For certain projects, a city may ask for proposals from more than one on-call firm to further ensure their compatibility. All task orders implemented through the contracts are contingent upon available budget in the division or department requiring the service.

ANALYSIS

The City entered into contracts with ten firms on April 17, 2017. All selected firms possessed key areas of expertise and demonstrated experience providing building on-call services for municipalities. All firms submitted fee schedules for the various skill levels and specific team members listed in their SOQs along with other cost-related issues such as direct costs and mileage. Due to staff availability and qualifications for tasks at hand, the Department used four of the contracted firms throughout the terms of the original contract and was satisfied with the services provided by all four firms. Those firms consist of:

1. CSG Consultants
2. 4LEAF, Inc.
3. TRB + Associates
4. West Coast Code Consultants, Inc. (WC3)

Table 1 notes the amount of funds spent on each contracted firm and the services provided, spanning FY 2018-19 to current.

Table 1: Consultant Firms by Service and Expenses

Firm	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
CSG - Plan Check Services	\$59,002.90	\$3,352.25	\$9,343.50	\$110,757.40	\$86,663.27
TRB - Plan Check and Inspection Services	\$48,156.64	\$152,044.61	\$242,467.15	\$45,127.31	\$24,328.20
4Leaf - Solar Plan Review (2022-current), Plan Check and Staffing Services	\$268,222.15	\$46,230.81	\$154,678.94	\$690,588.57	\$1,119,734.20
WC3 - Plan Check, Inspection, and Solar Plan Review Services (2021-2022)	\$100,602.74	\$128,506.77	\$167,871.57	\$118,472.31	\$24,317.10

The initial Consulting Services Agreements were crafted as master agreements deferring the specific scope of each task and the cost to be determined on a task order basis. The agreements had an initial term of three years and were extended, as authorized, for two additional years. On April 5, 2022, the City Council then authorized the extension of all four contracts for an additional 18 months, until October 2023, to allow staff to initiate and complete another RFQ process.

Staff released an RFQ on July 14, 2023, requesting SOQs, which were due on August 8, 2023. Staff received 11 responses for on-call Building, Planning, Fire (plan review and inspection), and Engineering consulting services. Firms were invited to respond with qualifications for single or multiple services. Staff conducted interviews of the responding firms and individuals and made the recommendations in Table 2.

Table 2: Recommended Contract Not to Exceed Amounts

Firms	Services	Amount
4Leaf, Inc.*	Solar Plan Review, Building and Planning staffing, Building and Fire Plan Check, Inspection Services	\$750,000
Bureau Veritas	Building and Fire Plan Check and Inspection Services	\$250,000
TRB + Associates	Building Plan Check and Inspection Services	\$250,000
Ninyo & Moore	Engineering Services Only	\$150,000
MIG	Planning Staff and Environmental/CEQA	\$150,000
STANTEC	Planning Staff and Environmental/CEQA	\$150,000
LSA	Environmental/CEQA	\$75,000
David J. Powers & Associates	Environmental/CEQA	\$75,000
INTERWEST	Planning Staff and Environmental/CEQA	\$150,000

* 4LEAF, Inc.: The budget authority with 4LEAF, Inc. was increased over the last two fiscal years to \$500,000 and \$875,000, as the firm has been providing full-time staff in permit technician, inspector and Building Official positions. This is still the case as Community Development staff and the Human Resources Department strategize and work to fill these positions. The recommended contract authority for 4LEAF for the first year of the contract includes staffing, inspection and plan check services, with the addition of fire-related plan check and inspection. No budget adjustments are requested at this time. Midyear adjustments may be needed, dependent upon staffing and permit volume.

Recommendations are based on responses to the RFQ, as well as the outcomes of the interview process. Award amounts are dependent on service and personnel availability. 4LEAF, Inc. presented the most robust response to staffing needs and has been the firm most often able to fill staffing vacancies. Due to current staffing vacancies in the Building Division and the need to augment staff sick leave, the Building Division is currently utilizing the services of 4LEAF more than the other consultants to fulfill functions based on Permit Technician, Building Official and Inspector vacancies. Also to be noted, two of the firms with recommended awards have experience in disaster response and would be able to provide a Damage Inspector Specialist and other support in the case of a major disaster. This type of event is difficult to budget for, but staff believe contracts with these firms to be prudent.

STRATEGIC PLAN CONSIDERATIONS

Completing all necessary reviews and analysis of proposed development projects in a

professional and timely manner is consistent with the Strategic Plan Goal A: Delivering Exemplary Government Services. Augmenting Fire plan review and inspection services to accommodate the increase in necessity aligns with Strategic Plan Goal E: Ensure the Public's Health and Safety.

ENVIRONMENTAL CONSIDERATIONS

This proposed action does not constitute a project as defined by the California Environmental Quality Act (CEQA). No further environmental review is needed to execute contracts.

FINANCIAL CONSIDERATIONS

There are no funds being requested as part of this action. Expenses and associated revenues have been budgeted within the Departments' operating budgets. Any additional budget authority, dependent upon the need for services and/or continued staff vacancies, will be brought to City Council at midyear, or prior, as needed. Costs for Plan Check and Inspection services are covered by fees as established in the Master Fee Schedule.

LEGAL CONSIDERATIONS

The standard Master Agreements and the proposed action have been reviewed and approved by the City Attorney.

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

RESOLUTION 2023-XX

RESOLUTION OF THE CITY COUNCIL OF EL CERRITO AUTHORIZING THE CITY MANAGER TO EXECUTE NINE PROFESSIONAL SERVICES AGREEMENTS WITH MULTIPLE CONSULTANTS TO PROVIDE SERVICES ON AN ON-CALL BASIS IN A TOTAL AMOUNT NOT TO EXCEED \$2,000,000

WHEREAS, the City requires the services of consultant firms to perform various on-call services in multiple Departments and Divisions; and

WHEREAS, it is common for cities to enter into one or more agreements for these services on an as-needed basis; and

WHEREAS, Government Code Section 4526 allows State and local agencies to select professional services firms such as these on the basis of demonstrated competency and professional qualifications, and selection on that basis is consistent with the City's procurement policy; and

WHEREAS, the City issued a Request for Qualifications on July 14, 2023, for on-call building, planning, fire (plan review and inspection), and engineering consulting services; and

WHEREAS, 11 firms or persons responded by the deadline with complete Statements of Qualifications, were interviewed by staff, and it was determined that nine firms have the required qualifications and can provide the specialty services that are anticipated to be needed by the City: and

WHEREAS, if the cost of a series of tasks with any one firm exceeds the contracted amount in one year, staff will bring a contract amendment before the City Council for approval.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that the City Manager is hereby authorized to execute professional services agreements with the nine (9) forementioned consultant firms for a period of three years with an option to extend for an additional two years, in amounts not to exceed as indicated below:

Firm	Services	Amount
4 Leaf, Inc	Solar Plan Review, Staffing, Building and Fire Plan Check, Inspection Services	\$750,000
Bureau Veritas	Building and Fire Plan Check and Inspection Services	\$250,000
TRB+ Associates	Building Plan Check and Inspection Services	\$250,000
Ninyo & Moore	Engineering Services Only	\$150,000
MIG	Planning Staffing and Environmental/CEQA	\$150,000
STANTEC	Planning Staffing and Environmental/CEQA	\$150,000
LSA	Environmental/CEQA	\$75,000
David J. Powers & Associates	Environmental/CEQA	\$75,000
INTERWEST	Planning Staffing and Environmental/CEQA	\$150,000

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

I CERTIFY that at a regular meeting on September 19, 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



AGENDA BILL

Agenda Item No. 7.J.

Date: September 19, 2023
To: El Cerrito City Council
From: Will Provost, Assistant to the City Manager, City Management
Subject: Amendment to Consulting Services Agreement with Baker Tilly to Provide Additional Consulting Services in Fiscal Year 2023-24

ACTION PROPOSED

Adopt a resolution authorizing the City Manager to execute a second amendment to the consulting services agreement with Baker Tilly US, LLP (formerly Management Partners) to provide consulting services to the City in an amount not to exceed \$25,610 in Fiscal Year 2023-24, with the total contract amount not to exceed \$100,000, and extending the term of the agreement to June 30, 2024.

BACKGROUND/ANALYSIS

In Fiscal Year (FY) 2022-23, the City of El Cerrito engaged Management Partners/Baker Tilly to provide financial consulting services, to support a City Council retreat, and to facilitate the City Manager's performance evaluation at a total cost of \$36,400. In addition, the City engaged Management Partners/Baker Tilly to develop a new Strategic Plan for the City at a cost not to exceed \$37,990, bringing the total amount authorized with Management Partners/Baker Tilly to \$74,390 for the Fiscal Year (Resolution 2023-31).

With new staff and vacancies in the City's Finance Department, the City is in need of additional financial consulting services, primarily to support the Department during this transition. Management Partners/Baker Tilly has proposed to continue providing these services in FY 2023-24 in an amount not to exceed \$25,610. The City's primary consultant for this work is Special Advisor Christopher Bigham, CPA, who holds over 30 years of local government experience, having served in roles that include Assistant City Manager, Budget Director, and Finance Manager. His hourly rate had been discounted from the standard Special Advisor rate of \$210 per hour to \$165 per hour in FY 2022-23. For the extended term of the agreement, proposed through June 30, 2024, Mr. Bigham's rate will have a smaller discount, with an hourly rate of \$185, instead of the standard \$210 per hour rate.

With the amended agreement, Management Partners/Baker Tilly will provide on-call financial consulting assistance in the Finance Department for the remainder of the Fiscal Year, providing support to address needs stemming from position vacancies and to support the Finance Director as she continues her transition to the City and providing her with the ability to move more quickly on urgent needs, including the FY 2022-23 audit, that she may identify for the Department.

The City's Administrative Policy regarding procurement including professional services

contracts stipulates that purchases made from a single vendor (either individually or collectively within one fiscal year) over \$45,000 require City Council approval. Although the majority of the work being conducted by Management Partners/Baker Tilly was completed and budgeted for in FY 2022-23, since the Strategic Plan is still under way, City Staff are seeking City Council approval for the additional \$25,610 in consulting services in FY 2023-24.

City staff is therefore recommending that the City Council authorize the City Manager to amend the current agreement with Management Partners/Baker Tilly to include an additional \$25,610 for consulting services in FY 2023-24, for a total contract amount not to exceed \$100,000, while also extending the term to end June 30, 2024.

STRATEGIC PLAN CONSIDERATIONS

This item is consistent with Strategic Plan Goal A: Deliver exemplary government services by increasing capacity in the Finance Department and Goal B: Achieve long-term financial sustainability by ensuring policies, procedures and systems are being implemented in accordance with best practices in financial management.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

The total cost of this amendment is \$25,610 and with the amendment the total contract not to exceed amount will be \$100,000. The approved Fiscal Year 2023-2024 budget for the City Manager's department has sufficient funds to cover the increased cost of the requested amendment.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the proposed action, and the Consulting services agreement amendment will be reviewed by the City Attorney prior to execution.

Reviewed by:

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

Karen Pinkos, City Manager

Attachments:

1. Resolution

RESOLUTION 2023 - XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE CONSULTING SERVICES AGREEMENT BETWEEN THE CITY OF EL CERRITO AND MANAGEMENT PARTNERS / BAKER TILLY TO PROVIDE CONSULTING SERVICES IN AN AMOUNT NOT TO EXCEED \$25,610 IN FISCAL YEAR 2023-24, WITH THE TOTAL CONTRACT AMOUNT NOT TO EXCEED \$100,000, AND EXTENDING THE TERM OF THE AGREEMENT TO JUNE 30, 2024.

WHEREAS, in Fiscal Year (FY) 2022-23, the City of El Cerrito engaged Management Partners / Baker Tilly to provide financial consulting services, to support a City Council retreat, and to provide the City Council with assistance on the City Manager's performance evaluation, at a total cost not to exceed \$36,400; and

WHEREAS, in FY 2022-23, the City also engaged Management Partners / Baker Tilly to develop a new Strategic Plan for the City at a cost of \$37,990, bringing the total not to exceed amount for the Fiscal Year to \$74,390, approved by City Council Resolution 2023-31; and

WHEREAS, with new staff as well as vacancies in the City's Finance Department, the City is in need of additional financial consulting services; and

WHEREAS, Management Partners / Baker Tilly is proposing to continue providing these services in FY 2023-24, at a cost not to exceed \$25,610, making an adjustment only to the hourly rate of Special Advisor Christopher Bigham, who will provide on-call support to the City at a rate of \$185 per hour; and

WHEREAS, the City's Procurement Policy stipulates that purchases made from a single vendor (either individually or collectively within one fiscal year) over \$45,000 require City Council approval; and

WHEREAS, since the Strategic Plan is still in progress, City Staff are seeking City Council approval for the additional \$25,610 in consulting services in FY 2023-24, which will bring the total not to exceed amount to \$100,000.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby authorizes the City Manager to execute an amendment to the consulting services agreement with Management Partners / Baker Tilly to provide consulting services to the City in an amount not to exceed \$25,610 in Fiscal Year 2023-24, with the total contract amount not to exceed \$100,000, and extending the term of the agreement to June 30, 2024.

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

I CERTIFY that at a regular meeting on September 19, 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



AGENDA BILL

Agenda Item No. 7.K.

Date: September 19, 2023
To: El Cerrito City Council
From: Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department
Subject: Safe Routes to Bay Area Rapid Transit District (BART) Funding Agreement for El Cerrito del Norte Transit-Oriented Development Complete Streets Improvement Project

ACTION PROPOSED

Adopt a resolution approving the Safe Routes to BART Funding Agreement (Agreement) between BART and the City of El Cerrito (City) for the El Cerrito del Norte Transit-Oriented Development (TOD) Complete Streets Improvement Project and authorizing the City Manager to execute the Agreement in a form approved by the City Attorney.

BACKGROUND

BART Grant Program

Safe Routes to BART (SR2B) is a grant program sponsored by BART using voter-approved Measure RR Station Access capital funds to help local agencies improve access for BART riders traveling to BART stations by walking and biking. SR2B Cycle 2 was launched in January 2023 with applications. Cycle 2 aimed at awarding grants ranging from \$0.5 million to \$1.5 million. To meet BART's minimum eligibility requirements, a project submission needed to provide design documents completed at a level of 35% or greater, at least 30% in matching funds and proof of authority over right-of-way (ROW) to implement project elements.

As previously reported, due to the unanticipated high inflationary environment in the economy, including the construction industry, City staff have been actively seeking a variety of grants for increased costs for all phases of the Project. Based on the grant requirements, City staff determined the project met the eligibility requirements and was a good candidate to receive a SR2B grant. In early March 2023, City staff submitted a grant application for the Project. In late May 2023, BART informed the City that it had been preliminarily awarded SR2B Cycle 2 grant funding. BART received six applications with a total funding request of \$8.15 million and only two were selected, of which the City's project was one. At the end of July 2023, BART confirmed a grant award of \$812,977 as requested by the City.

Project Description

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 improvements consist of enhanced and new protected crosswalks, new context-sensitive bikeways, bus boarding islands, circulation improvements, and various streetscape enhancements. The project location is in the Uptown district of the Specific Plan area and 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 significant portion of the project is on State Route 123, requiring that the project undergo an extensive California Department of Transportation (Caltrans) project development process, amend various maintenance agreements, and secure a Caltrans Encroachment Permit.

A summary schedule showing the start and end of the major project development phases is provided below.

Project Task	Start	Final
Preliminary Engineering	Summer 2019	Fall 2021
Caltrans Project Approval Document	Fall 2019	Winter 2021/22
Project-Level Environmental Clearance	Winter 2019/20	Winter 2021/22
Detailed Design/Plans, Specifications & Estimates (PS&E)	Winter 2021/22	Summer 2023
Stakeholder Coordination & Public Outreach	Fall 2021	Fall 2022
ROW Certification	Fall 2022	Summer 2023
Federal Authorization to Proceed with Construction	Spring 2023	Summer 2023
Advertisement/Bidding/Award	Fall 2023	Fall 2023
Construction	Winter 2023/2024	Winter 2024/2025

Caltrans recently issued its Encroachment Permit for construction activities, a major milestone for the Project. City staff submitted the preliminary Federal Request to Proceed with Construction in March 2023 and final in early July 2023 and is awaiting approval in order to advertise the Project within the next month.

ANALYSIS

The Agreement provides a procedure and the conditions under which BART will pass through to the City the grant funds, in an amount not to exceed \$812,977. The City is considered the “Agency” under the Agreement. As the Agency, the City is responsible for managing all phases of the Project including environmental clearance, design, construction, and operations. The City is also responsible for providing all additional funding to complete the Project.

The current cost estimate for all phases of project delivery is \$14,894,448 as summarized below.

Current Cost Estimate	
Phase	Amount
Planning/Conceptual Design (PC)	\$1,035,718
Environmental Studies (ENV)	Included in PC Phase
Final Design - PS&E (PSE)	\$1,063,049
Right of Way (ROW)	\$10,000
Construction (CON)	\$11,080,820
Construction Management (CM)	\$1,704,861
Total Project Cost	\$14,894,448

The current funding plan for the Project is shown below.

Funding Plan	
Funding Source	Amount
SR2B Grant	\$812,977
One Bay Area Grant Cycle 2 Federal Grant (OBAG2)	\$4,960,000
Contra Costa Transportation Authority Measure J Transportation for Livable Communities (CCTA TLC)	\$2,312,000
West Contra Costa Transportation Authority Subregional Transportation Mitigation Program	\$1,189,980
State Affordable Housing Sustainable Communities Grant (Mayfair)	\$2,900,800

SB1 Local Partnership Program-Formulaic	\$400,000
Transportation Fund for Clear Air	\$185,000
Various City Funds	
SB1 Local Streets & Roads	\$151,680
Gas Tax	\$15,000
City Transportation Impact Fee (TIF)/Developer Contributions	\$1,371,334
Other – Add TIF, SB1 or Measure A Streets	\$595,677
<i>Subtotal</i>	<i>\$2,133,691</i>
Total Project Funding	\$14,894,448

The funding plan has been developed over many years, beginning when the City successfully applied for the first two grants, the OBAG2 and the CCTA TLC programs, in 2016. Detailed information on the development of the funding plan is provided in the [August 17, 2021 Agenda Bill](#) and the City's 5-year Capital Improvement Program, as presented in the [Fiscal Year \(FY\) 2023-24 Adopted Budget](#).

The project design team has completed a value engineering process and developed additive alternates for the bidding of the Project so that all essential elements of the Project can be constructed using available funding for the Project at the time of contract award. Based on the above cost estimate and funding plan, the SR2B grant would provide the necessary funds to construct the Project without the need to implement the value engineering measures.

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. Approval of the proposed agreement is consistent with the following Strategic Plan goals: Achieve long-term financial sustainability by continuing to pursue and support opportunities for including outside grants; Develop and rehabilitate public facilities as community focal points; Deepen a sense of place and community identity by promoting strong neighborhoods; and 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 in March 2022 and revalidation in August 2023.

FINANCIAL CONSIDERATIONS

A portion of the final design and ROW phases and the full construction phase of the Project are underway this current FY 2023-24. Budget appropriations in the amount of \$12,140,000³ are included in the FY 2023-24 Adopted Budget and Capital Improvement Program (CIP), under the Del Norte Infrastructure Improvements Project, in the Capital Improvement Fund (grants and TIF), SB1 Local Streets & Roads Fund and Measure A Street Improvements Fund. The budget appropriations will need to be updated to reflect the current funding plan shown above to incorporate the SR2B grant, available TIF funds, and design-related expenditures extending into FY 2023-24.

If the previously estimated funding from the TIF Program is not available by the time of award of the construction contract, the CIP identifies additional funds from the SB1 Local Streets and Roads and Measure A Street Improvements to backfill funding for eligible expenses such as sidewalks, curb ramps and paving. City Staff will return to the City Council no later than December 2023 to request the award of the construction contract, confirm the available Project funding available at that time, and request an amendment to the FY 2023-24 Adopted Budget and Capital Improvement Program as appropriate.

LEGAL CONSIDERATIONS

The proposed Agreement is currently in final draft form. The City Attorney has reviewed the Agreement and provided comments. Minor revisions are pending. The final agreement will be in substantially the form attached, subject to review and approval by the City Attorney.

Reviewed by:

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

Karen Pinkos, City Manager

Attachments:

1. Resolution
2. BART Funding Agreement

RESOLUTION 2023-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING THE FUNDING AGREEMENT (AGREEMENT) BETWEEN THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (BART) AND THE CITY OF EL CERRITO (CITY) FOR THE EL CERRITO DEL NORTE TRANSIT-ORIENTED DEVELOPMENT (TOD) COMPLETE STREETS IMPROVEMENT PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT IN A FORM APPROVED BY THE CITY ATTORNEY

WHEREAS, Safe Route to BART (SR2B) is a grant program sponsored by BART using voter-approved Measure RR Station Access capital funds to help local agencies improve access for BART riders traveling to BART stations by walking and biking; and

WHEREAS, the El Cerrito del Norte 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, due to the unanticipated high inflationary environment in the economy, including the construction industry, costs for all phases of the Project have increased; and

WHEREAS, in March 2023, the City submitted a SR2B grant application for the El Cerrito del Norte Transit-Oriented Development (TOD) Complete Streets Improvement Project (Project) and, in July, BART announced that the City had been awarded \$812,777 to construct the Project; and

WHEREAS, the Agreement provides a procedure and the conditions under which BART will pass through to the City the grant funds; and

WHEREAS, under the Agreement, the City is responsible for managing all phases of the Project including environmental clearance, design, construction, and operations and for providing all additional funding to complete the Project; and

WHEREAS, the funding plan for the Project has been developed over many years beginning in 2016 when the City successfully applied for successfully applied for two grants: One Bay Area Grant Program, Cycle 2 (OBAG 2) federal funds in the amount of \$4,840,000 and Contra Costa Transportation Authority (CCTA) Measure J Transportation for Livable Communities Program county sales tax funds in the amount of \$2,312,000; and

WHEREAS, subsequently, the City has secured West Contra Costa Transportation Authority Subregional Transportation Mitigation Program, State Affordable Housing Sustainable Communities Grant (Mayfair), SB1 Local Partnership Program-Formulaic, Transportation Fund for Clear Air, and City Transportation Impact Fee Program funds for the Project; and

WHEREAS, the current cost estimate and funding plan for all phases of project delivery is \$14,894,448 and the SR2B grant is estimated to provide the necessary funds to complete the Project; and

WHEREAS, City staff will return to the City Council to request the award of the construction contract, confirm the available Project funding available at that time, and request any needed amendment to the Fiscal Year 2023-24 Adopted Budget and Capital Improvement Program.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby approves and authorizes the City Manager to execute the Funding Agreement between BART and the City for the Del Norte Transit-Oriented District (TOD) Complete Streets Improvement Project, which shall be in substantially the form attached hereto as Exhibit A, including any minor amendments and 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 September 19, 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

FUNDING AGREEMENT

between

THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

and

City of El Cerrito
in connection with the

El Cerrito del Norte TOD Complete Street Improvements Project

This Grant Agreement (Agreement) is entered into as of the ____ day of _____, 2023, by the San Francisco Bay Area Rapid Transit District (BART) and City of El Cerrito (the “Agency”) in connection with the funding of the El Cerrito del Norte TOD Complete Street Improvements Project in the City of El Cerrito and the construction of multimodal improvements serving the El Cerrito del Norte BART station. El Cerrito del Norte TOD Complete Street Improvements Project will heretofore be known as the Project.

RECITALS

1. The El Cerrito del Norte BART Station located at 6400 Cutting Boulevard, El Cerrito, CA 94530, is owned by BART.
2. El Cerrito del Norte Station is accessed by home-based BART riders who walk, or ride bicycles, representing 25% and 4% of average weekday ridership, respectively. (Source: 2015 BART Station Profile Survey)
3. Safe Routes to BART (SR2B) is a grant program targeting improved active access to BART stations. Grants to local jurisdictions using Measure RR funds will help those partner agencies deliver active access projects for the streets, sidewalks, trails and plazas that serve our riders on their way to and from BART but are not owned by BART.
4. The Project will implement multimodal transportation improvements centered around the El Cerrito del Norte BART Station. The existing facilities are car centric and missing facilities for other modes of transportation. The Agency has been working with Caltrans since 2019. The design is at the 100% stage. The Project is pending final approval from Caltrans and it is anticipated to start construction in the second half of 2024.

5. Agency has jurisdiction (ownership, standing agreement with property owner or project-specific permission with the property owner) over the aspects of transportation at hand in the Project, including right-of-way and maintenance, traffic signals and pedestrian and bicycle infrastructure.
6. Agency is the lead on the Project, and has the necessary expertise, experience, and resources to implement the Project.
7. The Project is more fully described in Exhibit A: *Initial Project Report*, of this Agreement.
8. BART wishes to contribute \$812,977 out of the total cost of the Project through a Measure RR-funded SR2B grant to Agency. Implementation of the Project will make it easier for BART riders to walk and/or bike to and from El Cerrito del Norte BART Station.
9. The purpose of this Agreement is to provide a procedure and set forth the conditions under which BART will pass through to Agency the funds necessary to implement the Project, in an amount not to exceed \$812,977.

AGREEMENT

NOW, THEREFORE, BART and Agency agree as follows:

SECTION 1: Agency OBLIGATIONS

- A. Agency agrees to design and construct the Project as described in Exhibit A of this Agreement.
- B. Agency certifies that all complementary fund sources are committed to the Project.
- C. Agency will not proceed with the Project construction until there has been complete compliance with the requirements of CEQA (Public Resources Code Sections 21000 et seq.) and Agency's environmental quality regulations; specifically, Agency retains the absolute discretion to (1) modify the Project to mitigate significant adverse environmental

impacts; (2) select feasible alternatives which avoid significant adverse impacts of the Project; (3) require the implementation of specific measures to mitigate the significant adverse environmental impacts of the Project; (4) reject the Project if the economic and social benefits of the Project do not outweigh otherwise unavoidable significant adverse environmental impacts; or (5) approve the Project upon a finding that the economic and social benefits of the Project outweigh otherwise unavoidable significant adverse impacts.

- D. Agency agrees to conduct all necessary environmental review for the Project in compliance with the requirements of CEQA (Public Resources Code Sections 21000 et seq.) and [LOCAL AGENCY]'s environmental quality regulations.
- E. Agency agrees that all work that Agency performs, or causes to be performed, shall be done in accordance with all applicable laws, statutes, ordinances, rules, regulations, or requirements of the federal, state, or local government, and any agency thereof, including all applicable procurement rules and regulations, which relate to or in any manner affect the performance of this Agreement and all attachments to this Agreement. Further, for any portion of the Project considered a "public work," Agency agrees to comply with all applicable requirements of the California Business and Professions, Civil, Government, Labor, and Public Contract Codes, including prevailing wage provisions. Agency further agrees that it will comply with all applicable federal and state subrecipient monitoring and reporting requirements.
- F. Throughout the implementation of the Project, Agency agrees to comply with all Grant and Project Implementation requirements and guidance as noted in Exhibit B of this Agreement: *Safe Routes to BART (SR2B) Grant Program: Cycle 2 Guidelines*.
- G. This Project will be funded in part with Measure RR bond funds. Agency agrees to use such funds exclusively for improvement of real property, as restricted by the bond rules. Such funds must be used for The Project as described in Exhibit A of this Agreement.

- H. Agency agrees to provide any additional funding that may be needed to complete the Project beyond the \$812,977 provided by BART as stipulated by the Agency in its grant application submission. Agency acknowledges that if any portion of the Project is not funded by such additional funding, BART is not obligated to provide grant funds to Agency and is not liable to Agency in any way for such funding.
- I. Agency acknowledges that the design and construction of the Project must maintain or improve access for BART's riders, including those with disabilities, both during and after construction of the Project.
- J. Agency must acknowledge Measure RR as a funding source in printed and electronic materials describing the Project, such as project identification construction signage, brochures, handbooks, newsletters, social media, and press releases. Project identification signage will conform to BART's *Project Signage Design Manual, Draft v3*, presented as Exhibit C: *BART Project Signage Design Manual, Draft v3*, of this Agreement.
- K. BART has been involved in the design review process at key milestones. BART reserves the right to review additional Project design changes that may occur during construction and propose modifications to the design of the Project to ensure that it is consistent with the initial project scope set forth in Exhibit A of this Agreement and continues to meet the SR2B program goals.
- L. Subject to the limitations in Paragraph B above, Agency may enter into contract(s) with third parties for the completion of the Work as follows:
- i. Said contract(s) shall be subject to all of the terms, conditions and limitations set forth in this Agreement.
 - ii. Agency shall provide notice to BART of its intent to award these contract(s).
 - iii. BART reserves the right to seek concurrence on the Agency award of any contract funded by this grant program.

- iv. BART's execution of this Agreement and Agency award of any contract shall not relieve Agency of liability to BART for any charges to the grant that are subsequently disallowed or determined by any audit to be unallowable.
 - v. BART reserves the right to review and concur any contract change order or amendment during the life of the Project.
 - vi. BART shall not be subject to any obligations or liabilities by contractors or subcontractors of Agency or any other person not a party to this Agreement in connection with this Work, notwithstanding BART's concurrence in the award of any contracts.
 - vii. Agency agrees that actions by Agency's partner organizations, contractors or subcontractors, or any other party or agency shall not relieve Agency of its obligation to fully comply with this Agreement.
- M. Recipients that have programs designed to encourage and facilitate the participation of small businesses in its contracts shall be required to implement those programs on all contracts funded by the SR2B program. To the extent that a recipient does not have a small business program, it will be required to encourage small business participation on all contracts funded by SR2B funds. The recipient will be responsible for including a report of all awards and payments to small businesses (whether as a Prime or Subcontractor) with each invoice to BART.
- N. Prior to commencement of any Project work, Agency agrees to comply with all insurance requirements provided for in Exhibit B of this Agreement, and to ensure that all of its contractors or third parties performing work are in compliance with such requirements.
- O. Agency agrees to invoice BART quarterly for actual costs incurred in the implementation of the Project.

- i. Prior to submission of invoices, Agency must register as an approved BART vendor and have relevant staff participate in a BART-led project reporting and invoicing meeting.
 - ii. Invoices will describe the service performed, the period covered, and the amount charged, as shown in the sample invoice included in Exhibit D: *Sample Invoice*, of this Agreement.
 - iii. Invoices will include labor detail (if applicable) for direct construction costs and supporting documentation.
 - iv. Agency's invoices to BART pursuant to this Agreement shall segregate costs by activity pursuant to the Initial Project Report in Exhibit A of this Agreement. In addition, each invoice must have sufficient documentation to show SR2B Grant and other funding sources, as initially detailed in Agency's Initial Project Report. All invoices shall be sent electronically in PDF format to BART's Accounts Payable Department at AP_supplier@bart.gov and copy SR2B@bart.gov and ssharp@bart.gov.
 - v. BART will pay Agency invoices within 30 days of receipt of complete invoice.
 - vi. Agency shall submit final invoices for reimbursement within three months following Project construction completion and acceptance by Agency.
- P. Agency agrees to assign a Project Manager to oversee the Project, to see that Project accounts are maintained, and to provide BART with written quarterly progress reports on the Project once agreements are fully executed. The quarterly progress reports to be submitted by the last day of the month following the fiscal year quarter (e.g. quarterly progress report for period July – September should be submitted at the end of October) shall consist of a brief description of the work completed within the quarter, contracting

changes (e.g. change orders/amendments to the SR2B funded scope of work), a list of small business contractors, any outstanding impediments to completing the Project, and anticipated work to be completed in the next quarter, in the project report form included in Exhibit E: *Quarterly Progress Report*, of this Agreement. In addition to the narrative descriptions above, Agency agrees to submit existing condition photos of the Project with Exhibit A of this Agreement, and construction milestones and project completion photos (as applicable) with the subsequent quarterly report form included in Exhibit E: *Quarterly Progress Report* of this Agreement. These Project reports shall be sent to:

Rachel Factor (sr2b@bart.gov and rfactor@bart.gov)

- Q. Agency agrees that BART funds are used only for actual, allowable, necessary and reasonable costs, and that all Work costs, including local match contributions, if any, shall comply with applicable federal, state or local government requirements as well as SR2B Guidelines provided in Exhibit B of this Agreement.
- R. Agency shall allow representatives of BART's auditors access to all records, books, and documents related to costs or performance under this Agreement, beginning with the execution of this Agreement and extending to three years from the date of final closeout of all Work covered by this Agreement. Agency's contractors and subcontractors shall be required to maintain all records related to contract or subcontract costs and performance for three years following final payment under the contract or subcontract, and shall allow BART's representatives to have access to all books, records, and documents relative to all costs and performance under the Agreement for audit and inspection purposes. These terms shall be included in all Agency contracts issued for the Project.
 - i. Agency shall provide, upon request, copies of all source documents required to verify compliance with the requirements of this Agreement, including but not limited to,

approved cost allocation plans, written progress reports, job cost ledgers, and time records.

- ii. Agency shall maintain all records related to the Work and its costs for three years from the date of final closeout of the Project.

S. Subject to the limitations in Paragraph B above, once the Project is completed, Agency agrees to maintain the Project in the manner in which it maintains all facilities and infrastructure under its jurisdiction. Agency will own the improvements constructed as part of the Project and assume all liability for them.

T. Neither BART, nor any director, officer, agent or employee of BART, is responsible for any damages or liability occurring by reason of anything done or omitted to be done by Agency, its officers, agents and employees, under or in connection with this Agreement. It is also understood that Agency or its contractors will fully indemnify, hold harmless and defend in any claim or litigation BART, its directors, officers, agents and employees from any damage or liability occurring by reason of anything done or omitted to be done by Agency, its officers, agents and employees under or in connection with this Agreement, and to pay and satisfy any resulting judgments; except that said indemnity, hold harmless and defense obligations shall not be applicable to any damage or liability occurring due to the negligence or willful misconduct of BART, its directors, officers, agents and employees.

U. BART, its directors, officers, agents and employees shall be explicitly named as beneficiaries of any indemnity benefitting Agency from any Agency consultant or contractor in connection with the Project.

V. Agency shall ensure that its consultants and contractors shall include BART, its directors, officers, agents and employees as additional insureds under all liability insurance policies required by Agency in connection with the Project.

- W. Agency agrees that BART may terminate this Agreement for cause if Agency is in default of any provision of this Agreement and has failed to cure any such default as provided herein. BART shall serve a 30-day written notice of termination on Agency setting forth the manner in which Agency is in default and the manner in which the alleged default may be cured. If Agency does not cure a default within 30 days of the receipt of the notice, or commence to cure within the 30-day period and diligently prosecute the cure to completion to the satisfaction of BART, BART may, in its discretion, terminate this Agreement. If the Agreement is terminated, Agency will reimburse BART all unspent funds transmitted to Agency in accordance with this Agreement prior to termination.
- X. During the performance of this Agreement, the Agency, its contractors, its sub-recipients, and its subcontractors shall not deny this Agreement's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Agency shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Furthermore, Agency shall include the nondiscrimination and compliance provisions of this clause in all agreements with its sub-recipients, contractors, and subcontractors, and shall include a requirement in all agreements with all of same that each of them, in turn, include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts they enter into to perform work under this Agreement.

SECTION 2: BART AGREEMENTS

- A. In accordance with Section 1.I above, BART may assign a Project Manager to review and provide comments on design plans. Should the BART Project Manager have comments, he or she will provide them within 21 calendar days of receipt of said documents from Agency.
- B. BART reserves the right of BART staff and its authorized representatives to conduct construction observation of the project site.
- C. BART agrees to pay an amount not to exceed \$812,977 for the work described in Exhibit A of this Agreement to be performed by Agency.
- D. BART reserves the right to recalculate or proportionately reduce any grant award amount due to Agency for Project scopes that are modified and/or completed under budget or delays, liquidated damages, or non-compliance with provisions of this Agreement

SECTION 3: MUTUAL AGREEMENTS

- A. Neither party shall assign this Agreement, or any part thereof, without prior express written consent of the other, and any attempt thereof shall be void and unenforceable.
- B. All notices required hereunder may be given by personal delivery, U.S. mail, courier service (e.g. Federal Express) or via email (SR2B@bart.gov). Written notices shall be effective upon receipt at the following addresses:

To BART:
Station Planning, Safe Routes to BART program
2150 Webster Street, 8th Floor
Oakland, CA 94612
Attn: [Rachel Factor (sr2B@bart.gov and rfactor@bart.gov)]

To Agency:
City of El Cerrito
Public Works
10890 San Pablo Avenue

El Cerrito, CA 94530
Attn: Yvetteh Ortiz and email yortiz@ci.el-cerrito.ca.us

- C. Nothing in this Agreement is intended to establish the Parties as partners, co-ventures or principal and agent with one another. Neither party may contract or enter into any other agreement in the name of the other.
- D. This Agreement shall be interpreted under and pursuant to the laws of the State of California applicable to contracts to be performed within the State, without reference to conflicts of law principles. This Agreement is made in Oakland, California and any action relating to this Agreement shall be instituted and prosecuted in the courts of the Superior Court of California, County of Alameda.
- E. This Agreement shall be binding upon and inure to the benefit of approved transferees, successors and assigns of each of the Parties to it, except that there shall be no transfer of any interest by any of the Parties to this Agreement except pursuant to the terms of the Agreement.
- F. This Agreement represents the full, complete and entire agreement of the Parties with respect to the subject matter hereof, and supersedes any and all other communications, representations, proposals, understandings or agreements, whether written or oral, between the Parties with respect to such subject matter. This Agreement may not be modified or amended, in whole or in part, except in writing signed by an authorized officer or representative of each of the Parties.

IN WITNESS WHEREOF, the Parties executed this Agreement on or as of the date first written above.

Approved as to form: _____ Sky Woodruff, Agency City Attorney	Agency: By: _____ Name: Karen Pinkos Title: City Manager
Approved as to form: _____ Raymond Pascual, BART Attorney	BART: SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT By: _____ Name: _Robert Powers _____ Title: General Manager _____

EXHIBITS AND APPENDICES

Exhibit A: Initial Project Report

Exhibit B: Safe Routes to BART (SR2B) Grant Program: Cycle 2 Guidelines

Appendix A: Eligibility and Evaluation Criteria

Appendix B: Cost Estimate, Funding Plan, Budget Narrative, and Schedule

Exhibit C: BART Project Signage Design Manual, Draft v3

Exhibit D: Sample Invoice

Exhibit E: Quarterly Progress Report

DRAFT

Safe Routes to BART (SR2B): Initial Project Report (IPR)

Project Name:	<i>El Cerrito del Norte TOD Complete Street Improvements Project.</i>	IPR Date:	<i>August 31, 2023</i>
Project Manager:	<i>Yvetteh Ortiz</i>	Target Station(s):	<i>El Cerrito del Norte</i>
Project Sponsor:	<i>City of El Cerrito</i>	Project #:	<i>57RRR101</i>
Grant Amount:	<i>\$812,977</i>	Project Amount:	<i>Total cost for the Project scope, including SR2B grant money.</i>

Executive Summary

Describe the Project and its benefits in 250 words or less.

This project will implement multimodal transportation improvements to support the El Cerrito del Norte BART Station and transit-oriented development (TOD) along the San Pablo Avenue PDA. The project will improve access, circulation, and safety for pedestrians, bicyclists, transit users, and motorists to directly connect to BART. Project elements consist of enhanced and new protected crosswalks, new context-sensitive bikeways, bus boarding islands, and various streetscape enhancements.

Budget

Budget status as of IPR date

Project sponsor may add additional project phases/activities as needed.

Project Phase	Current Baseline Budget	SR2B Funded Budget	SR2B Cost to Complete
Planning/Conceptual Design (PC)	\$1,035,718	\$0	\$0
Environmental Studies (ENV)	Included in PC Phase	Included in PC Phase	Included in PC Phase
Final Design - PS&E (PSE)	\$1,063,049	\$0	\$0
Right of Way (ROW)	\$10,000	\$0	\$0
Construction (CON)	\$11,080,820	\$715,420	\$715,420
Construction Management (CM)	\$1,704,861	\$97,557	\$97,557
Total	\$14,894,448	\$812,977	\$812,977

Comments on budget status

Project funding sources

Project sponsor may add additional funding sources as needed.

SR2B Grant	\$812,977
CCTA Measure J TLC Grant	\$2,312,000
OBAG 2 Federal Grant	\$4,960,000
WCCTAC STMP	\$1,189,980
State AHSC Grant	\$2,900,800
SB1 LPP-Formulaic	\$400,000
TFCA	\$185,000
Various City Funds	\$2,133,691
Funding Total	\$14,894,448

Comments on funding sources

Project Definition

Project description

Describe the Project and demonstrate how it will result in an operable or usable segment. Include a summary of any prior completed phases and/or future phases or segments associated with the SR2B-funded segment. Attach any graphic information necessary to communicate the scope and intent of the Project.

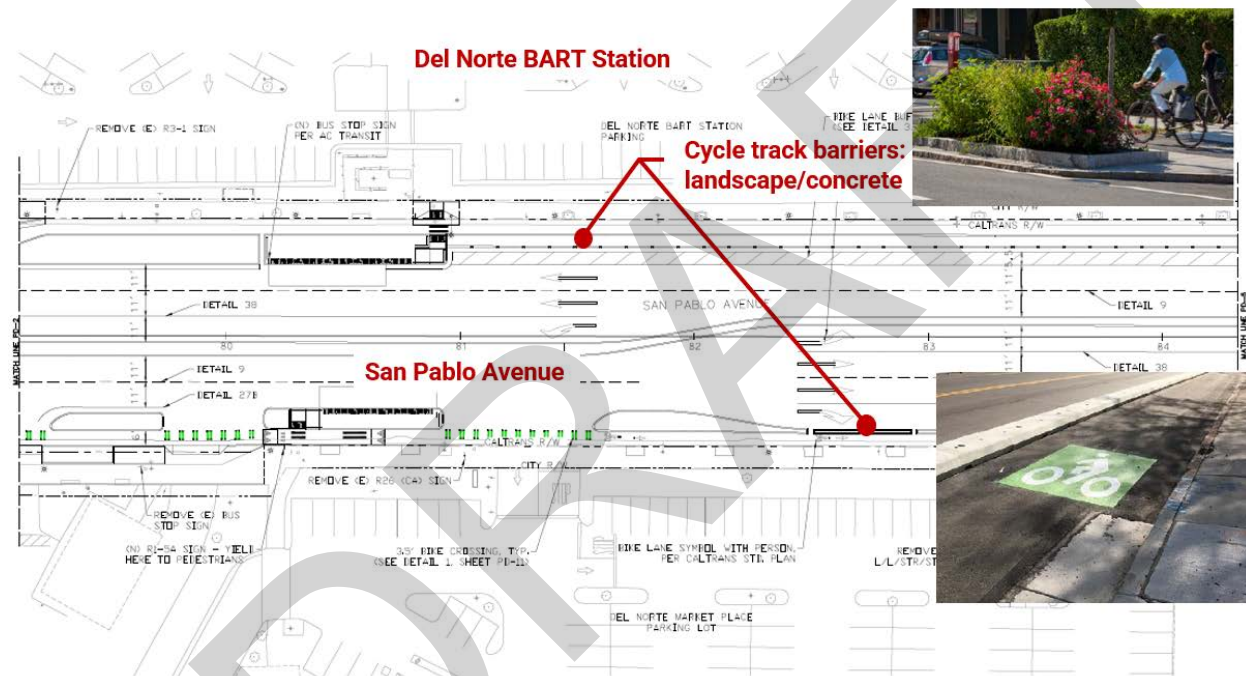
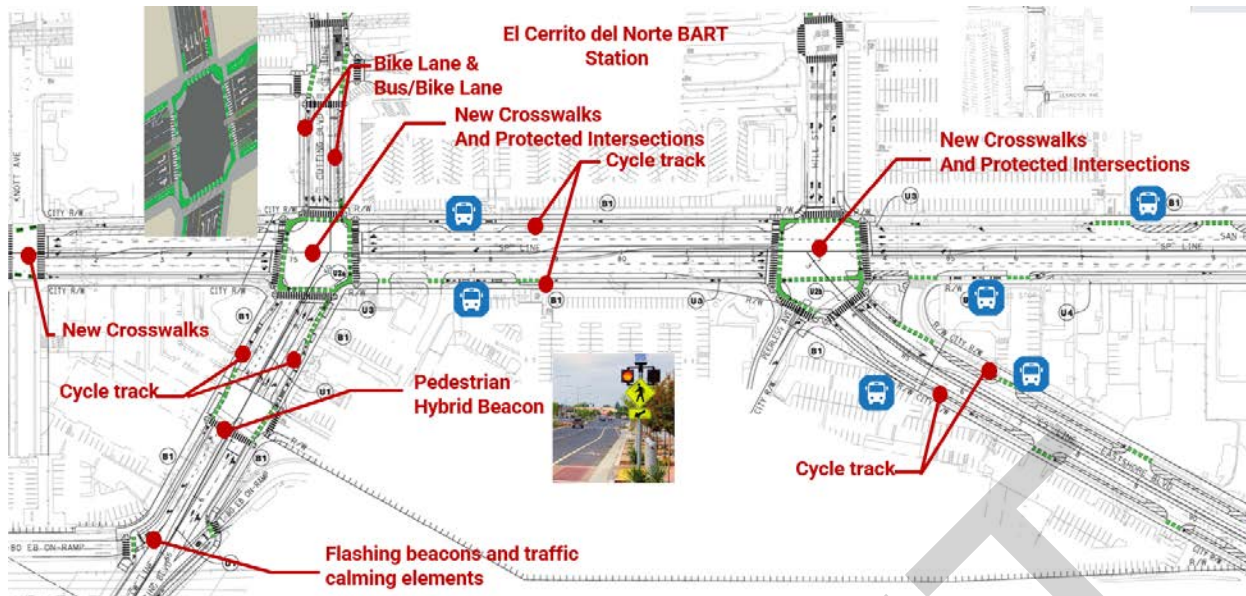
The overall Project will implement multimodal transportation improvements centered around the del Norte BART Station. The existing facilities are car centric and missing facilities for other modes. The Proposed Project will improve access and safety including:

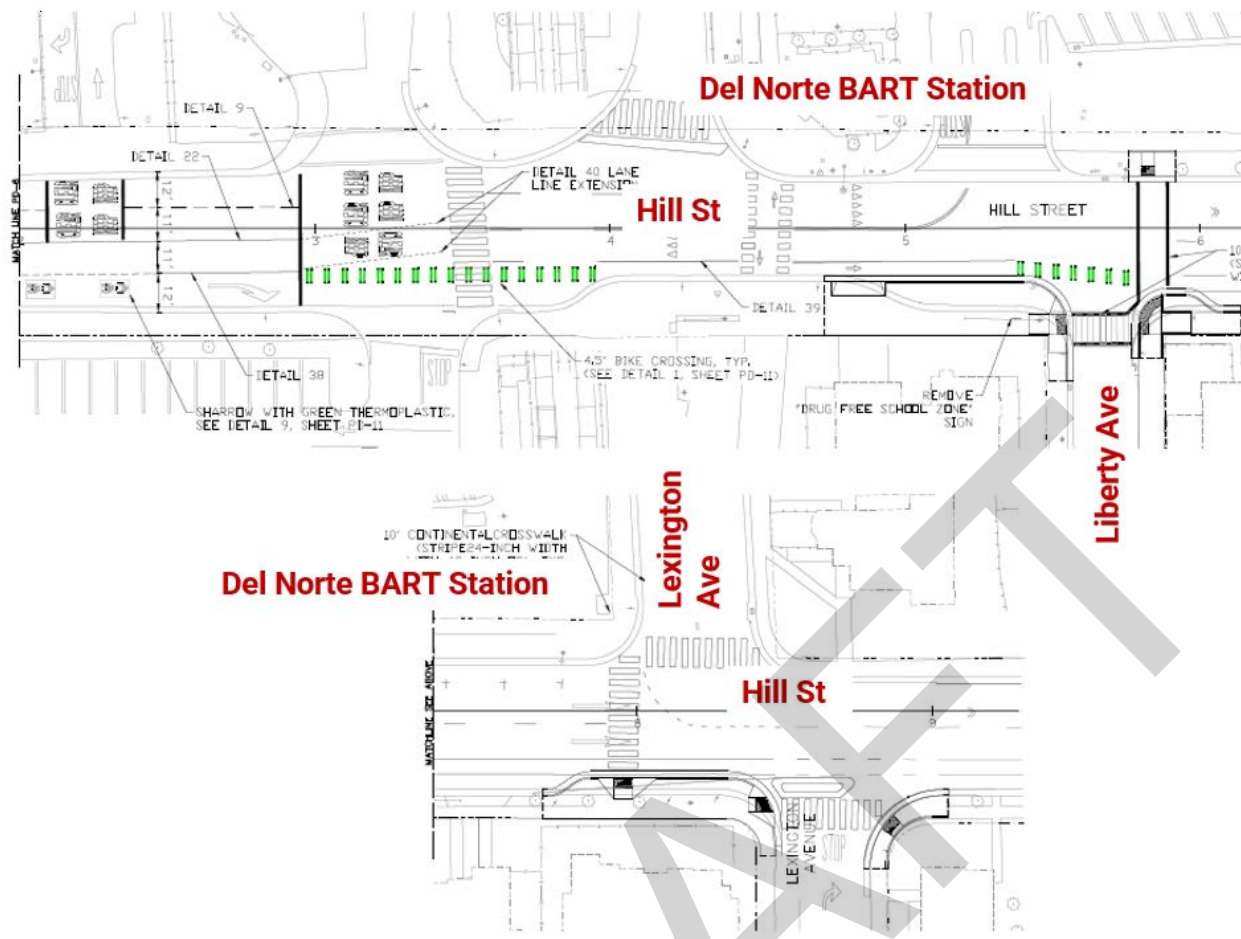
- New protected crosswalks, including completing the crosswalks at the signalized San Pablo intersections at Knott, Cutting, and Hill/Peerless/Eastshore
- A combination of new and enhanced bike facilities on San Pablo Ave, Cutting Bl, Hill St, and Eastshore Bl
- Enhanced signalized intersection treatments for bikes, transit signal priority, and timing optimization on San Pablo Ave intersections at Cutting Bl and Hill St/Eastshore Bl
- Pedestrian hybrid beacons/signals at San Pablo/Wall and Cutting/Peerless
- Sidewalk improvements including curb extensions (bulb-outs) at bus stops and pedestrian crossings on Hill St.
- ADA accessibility upgrades
- Narrowed travel lanes and conversion of one to two-way streets to slow traffic speeds and improve circulation.
- Streetscape improvements - pedestrian lighting, landscaping, signage, benches, and bike racks

The project is intended to create a comfortable environment that balances the needs of all street users, to encourage mode-shift to walking, biking, and taking transit, and to create a sense of place to support the BART Station, TOD, and economic development.

The SR2B Grant will fund the following components of the overall Project:

- Hill Street Improvements: Crosswalk improvements, such as bulb outs and shorter crosswalk length at Liberty and Lexington.
- Cycle Track separation enhancement: better separator methods that will encourage more cyclists to feel more comfortable to bike along the high-volume San Pablo Avenue.





Project definition

Business Objectives	<i>Describe the Project purpose, including the problem being addressed and specific accomplishment to be achieved and resulting benefits, as well as the value of the project to the region or corridor, and an explanation of the Project as a worthy transportation investment.</i> The purpose of the project is to implement multimodal transportation improvements to support the El Cerrito del Norte BART Station and transit-oriented development (TOD) along the San Pablo Avenue PDA.
Scope	<i>Specific elements of the Project to be implemented</i> The SR2B Grant will fund the following components of the overall Project: - Hill Street Improvements: Crosswalk improvements, such as bulb outs and shorter crosswalk length at Liberty and Lexington. - Cycle Track separation enhancement: better separator methods that will encourage more cyclists to feel more comfortable to bike along the high-volume San Pablo Avenue.
Assumptions	<i>What assumptions are being made for the Project to be implemented?</i> The funding is sufficient to implement all elements of the Project. If not value engineering would be required. The goal of value engineer would not be to eliminate any elements but rather using less costly materials.

Dependencies

What needs to be in place for the Project to be implemented?

Caltrans approval

Project photo documentation:

Attach high-quality existing conditions photographs (.jpg, .gif, .png), along with a brief description of each photo, to this report.



Location 1: Intersection of San Pablo Avenue and Cutting Boulevard: This photo shows missing crosswalk along the south side of this intersection and lack of bicycle facilities. This photo also shows the current vehicular circulation that would be improved by the project.

Location 2: This photo shows the need for buses to move out of the travel lane and look for opening to move into the travel lane. The Project will include transit island to allow faster bus loading and unloading in the travel lane. The Project will also provide bike facilities.

Location 3: Showing the lack of bicycle facilities.

Location 4: Intersection of San Pablo Avenue and Hill Street. This photo shows the lack of bicycle facilities.

Location 5: Similar to Location 2.

Location 6: This photo shows the lack of bicycle facilities and a missing crosswalk along the north side of the intersection of San Pablo Avenue and Knott Avenue.



At Hill Street and Liberty Avenue, this intersection will be improved to narrow the street to slow down traffic, add crosswalk, curb reconstructed to reduce crosswalk length and add bike marking to enhance the existing bike facilities.



At Hill St and Lexington Avenue, this intersection will be improved by new pedestrian facilities. The curb ramps will be added/reconstructed. The curb line will be reconstructed to narrow the street. The restricted Hill Street northbound right turn to Lexington Avenue pavement marking will be replaced with fire department mountable island. This will provide an improvement to the Lexington Avenue sidewalk.



Along San Pablo Avenue and Cutting Boulevard (from San Pablo Avenue to the I-680), Class IV bike lanes will be added to these busy roadways. The photo on the left is the existing condition along San Pablo Avenue. The photo on the right is an example of what will be constructed.

Risk Status

Include potential issues that may adversely affect the Project or the ability of the sponsor or implementing agency to carry out the Project, along with measures being taken to mitigate these issues.

Risks	Mitigations
Challenge to environmental document	Address concerns of stakeholders and public early during environmental process.
Paleontological and cultural resource discovery	Perform required site investigation during the PC phase. React quickly upon discovery of paleontological and cultural resources.
Nesting birds	Perform required site investigation during the PC phase. React quickly upon discovery of nesting birds.
Utility relocation delays	Project has coordinated with all utility companies, who are preparing to adjust their infrastructures.
Design standard changes	Monitor current design standards. Obtain commitment from project approval agency to disseminate standard changes at the earliest possible time.
Utility conflicts	Early involvement of utility companies to determine all facilities present. Pothole critical utilities and locations.
Unexpected hazardous materials	Ensure a contingency reserve is in place to handle funding and resources needed during construction.
Unpredictable/high construction bid	Confirm that cost estimates at each project stage present the bid climate as it is understood at the time

Scheduled Milestones / Deliverables

The Project sponsor may add additional milestones / deliverables as needed.

Milestone	Application Schedule	Current Forecast	Actual	Status
Environmental Studies (ENV)	3/25/2022	3/25/2022	3/25/2022	Completed
Final Design - PS&E (PSE)	3/20/2023	9/22/2023	Anticipated	In progress
Advertise Construction	N/A	9/25/2023	Anticipated	Has not started
Award Construction Contract	N/A	11/21/2023	Anticipated	Has not started
Construction Start	7/1/2023	12/15/2024	Anticipated	Has not started
Construction Complete	12/31/2024	5/15/2025	Anticipated	Has not started
Open for Operation	N/A	5/16/2025	Anticipated	Has not started

Comments on scheduled milestones / Deliverables:

The City has been working with Caltrans since 2019 in preliminary engineering efforts that resulted in an approved Cooperative Agreement for PS&E & ROW and Project Study Report-Project Report by Caltrans in May 2022. Since early 2022, the City has been working on the detailed design. The City has been meeting with Caltrans project development team and the design is now at 100% level. The City has entered into maintenance agreements with Caltrans and has obtained the Caltrans Encroachment Permit.

Although the project has been delayed from that shown in the application schedule, it is anticipated that construction would start well ahead of the project delivery timeframe required by the SR2B guidelines. Currently, we are awaiting the Caltrans Authorization to Proceed with Construction related to the federal funding.



AGENDA BILL

Agenda Item No. 7.L.

Date: September 19, 2023
To: El Cerrito City Council
From: Karineh Samkian, Senior Program Manager; Susan Kattchee, Interim Operations and Environmental Services Division Manager; Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department
Subject: Purchase Authorization for Renewable Diesel and Unleaded Gasoline

ACTION PROPOSED

Adopt a resolution authorizing the City Manager to enter into fuel purchase agreements through Santa Clara County's contract bid process for renewable diesel and through the State of California's contract bid process for unleaded gasoline.

BACKGROUND

Across departments, the City of El Cerrito primarily operates vehicles and equipment that use unleaded gasoline and diesel fuel, which is currently procured from vendor Hunt & Sons, Inc. Diesel is used for the Fire Department's trucks and equipment and the Public Works Department's heavy-duty vehicles, equipment, and the curbside recycling collection trucks. Gasoline is used for the Police Department fleet as well as vehicles used by other departments. Aligning with the City's Climate Action Plan (2013) and environmental goals, City staff continue to look for alternative fuel sources, such as biodiesel and renewable diesel, to help lower the Greenhouse Gas (GHG) emissions and environmental impacts of the organization's vehicle fleet.

From approximately 2008 to 2011, the City used biodiesel in all recycling collection trucks. Biodiesel is a renewable fuel that can be produced from vegetable oils, animal fats, or recycled restaurant grease, and contains physical properties that are similar to that of petroleum diesel. However, it is not refined. After some time, it was determined that bacteria in the storage tank (stemming from the biodiesel fuel) was contaminating the fuel storage tank and ultimately causing costly damage to the City's fleet vehicles.

In 2012, renewable diesel was introduced into the California market. Renewable diesel is a refined synthetic diesel fuel made from non-petroleum feedstocks like vegetable oil, animal fats, and waste products. It is chemically identical to petroleum diesel and therefore a better substitute than biodiesel. Renewable diesel has been tested and used by many municipalities with great success. The benefits of renewable diesel are as follows:

- Renewable diesel reduces GHGs with estimates of 65-75% reductions in CO₂ emissions, in addition to reductions in fine particles, nitrogen oxides, hydrocarbons, carbon monoxide, and polyaromatic hydrocarbons as compared to petroleum-based diesel.
- Renewable diesel meets the American Society for Testing and Materials (ASTM)

D975 specifications for petroleum, so it is suitable for diesel engines.

- Renewable diesel is cost competitive with petroleum diesel and biodiesel due to the state's Low Carbon Fuel Standard, which offsets some of the expense.
- The existing diesel tank can be used for renewable diesel, so the conversion does not require having to invest in large scale fueling/charging stations or new vehicles.

Given these benefits, City staff evaluated making the switch to renewable diesel as well as various contracting options for procurement.

ANALYSIS

Renewable Diesel Procurement

Staff evaluated two procurement options for the purchase of renewable diesel. The first was through the competitively bid State of California contract and the second was through piggybacking on Santa Clara County's competitively bid contract as follows:

1. The State of California contract is with Hunt & Sons, Inc. and allows blended renewable diesel with up to 5% biodiesel.
2. The Santa Clara County contract is with Western States Oil, which is a provider of Neste MY Renewable Diesel™ (Neste).

Many renewable diesel brands mix in small quantities of biodiesel and diesel. Given the City's experience with biodiesel, City staff reached out to various jurisdictions that operate large fleets (Contra Costa County, Walnut Creek, Oakland, and BART) and these jurisdictions have encountered no issues with the renewable diesel provided by Western States Oil (Neste), which is an R99 rated renewable diesel (mix 1% diesel but no biodiesel). Additionally, the City's Fire Department conducted their own research and concluded that R99 rated renewable diesel would be acceptable and preferred.

The Santa Clara County contract meets the City's competitive bidding requirements and includes language allowing other entities to utilize the agreement. Proposals were based on price, which included the daily posted per gallon price and the vendors' fees (i.e. freight), and Western States Oil was the lowest bidder. For these reasons, staff is recommending the City piggyback on Santa Clara County's contract to procure renewable diesel. Entering into this contract will help the City reduce its GHG emissions. If approved by the City Council, the City will use the renewable diesel until such time as electric recycling collection trucks and fire trucks are fully developed and infrastructure is in place for charging the vehicles.

Unleaded Gasoline

Staff evaluated two procurement options for the purchase of unleaded gasoline. The first was through the competitively bid State of California contract and the second was through piggybacking on Santa Clara County's competitively bid contract.

Staff recommends the State of California contract for unleaded gasoline since the price was lower than the Santa Clara County contract (per Table 1 in the Financial Considerations section below). State of California proposals were based on price, which included the daily posted per gallon price and the vendors' fees (i.e. freight), and Pinnacle Petroleum Inc. was the lowest bidder.

STRATEGIC PLAN CONSIDERATIONS

Converting from diesel to renewable diesel in the City's fleet is consistent with the following El Cerrito Strategic Plan Goal: Foster Environmental Sustainability Citywide by making municipal operations more environmentally friendly as renewable diesel reduces GHGs.

Changing unleaded gasoline vendors for the City's fleet is consistent with the following El Cerrito Strategic Plan Goal: Achieve Long Term Financial Sustainability by adhering to procurement policies to purchase unleaded gasoline.

ENVIRONMENTAL CONSIDERATIONS

The purchase of fuel for City vehicles and equipment is an ongoing maintenance activity for the City's fleet and equipment. Such a purchase of renewable diesel also has no potential for causing a significant effect on the environment as the use of renewable fuel reduces GHG emissions and aligns with the City's Climate Action Plan goals. Thus, this action is not subject to CEQA as an ongoing maintenance activity and an action that has no possibility of having a significant effect on the environment (CEQA Guidelines Sections 15061, 15301).

FINANCIAL CONSIDERATIONS

The City currently spends approximately \$263,000 a year to procure diesel and unleaded gasoline. Since fuel prices fluctuate daily, staff requested pricing on one day for comparison, which is similar to the process used by the State and Santa Clara County. Table 1 below summarizes the percent increase in costs of the various options considered as compared to the current costs for diesel and unleaded gasoline.

Table 1. Percent Increase as Compared to Current Costs

	State Contract	Santa Clara Contract
Unleaded Gasoline	3.19%	5.39%
Renewable Diesel	2.76%	4.77%

Since fuel prices are variable, it is not possible to determine the exact annual cost implication of this action. However, staff estimates fuel costs will increase by approximately 4% or \$11,000 (average of using the State contract for unleaded gasoline and the Santa Clara County contract for renewable diesel as City usage is about the same).

The Fiscal Year 2023-24 Adopted Budget of \$275,000 across departments accounts for the rising cost of fuel and therefore no additional budget appropriation is required at this time. If fuel prices increase markedly above 4% for a prolonged period of time, City staff will request a budget amendment at a later date.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the proposed action and found that legal considerations have been addressed. Procurement of renewable diesel through piggybacking on Santa Clara County's contract and unleaded gasoline through the State of California contract bid process is consistent with the City's Procurement Policy, which allows for the purchase of equipment through competitively solicited contracts through other public agencies.

Reviewed by:

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

Karen Pinkos, City Manager

Attachments:

1. Resolution
2. Santa Clara County Contract for Renewable Diesel
3. State Contract for Unleaded Gasoline

RESOLUTION 2023 - XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO ENTER INTO FUEL PURCHASE AGREEMENTS THROUGH THE SANTA CLARA COUNTY'S CONTRACT BID PROCESS FOR RENEWABLE DIESEL AND THROUGH THE STATE OF CALIFORNIA'S CONTRACT BID PROCESS FOR UNLEADED GASOLINE

WHEREAS, the City of El Cerrito (City) operates a fleet of vehicles and equipment to provide routine, emergency and other necessary services to the residents and businesses of the City; and

WHEREAS, the City currently uses unleaded gasoline and diesel for the organization's vehicle fleet and other equipment; and

WHEREAS, in an effort to meet the Greenhouse Gas reduction goals outlined in the 2013 Climate Action Plan, the City evaluated making the switch from diesel to renewable diesel; and

WHEREAS, renewable diesel is a refined synthetic diesel fuel made from non-petroleum feedstocks like vegetable oil, animal fats, and waste products; and

WHEREAS, renewable diesel reduces CO₂ emissions by an estimated 65-75% as compared to diesel, meets American Society for Testing and Materials (ASTM) D975 specifications, is cost competitive to petroleum diesel, and the conversion is simple as the existing tanks can be utilized; and

WHEREAS, to maintain the City fleet in good working order, the City requires a R99 rated renewable diesel (mix 1% diesel but not biodiesel); and

WHEREAS, Santa Clara County followed a competitive bid process for the purchase of renewable diesel and the selected vendor is Western States Oil which is a provider of R99 rated renewable diesel; and

WHEREAS, State of California followed a competitive bid process for the purchase of unleaded gasoline and the selected vendor is Pinnacle Petroleum Inc.; and

WHEREAS, the City's Administrative Policy and Procedures for Procurements exempts from competitive bidding procedures the purchase of supplies available through cooperative purchasing arrangements with other governmental agencies that have competitively bid to establish a vendor list; and

WHEREAS, City staff has reviewed the respective procurement process and contracts utilized by the County of Santa Clara and the State to procure renewable diesel and unleaded gasoline, and determined them to be consistent with the City's cooperative purchasing policy referenced above.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito approves and authorizes the City Manager to enter into fuel purchase agreements with the vendors identified in this resolution pursuant to cooperative purchasing procedures utilizing Santa Clara County's procurement agreement for renewable diesel and the State of California's procurement agreement for unleaded gasoline, subject to approval as to form 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 September 19, 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



County of Santa Clara

Office of the County Executive
Procurement Department

150 West Tasman Drive
San Jose, CA 95131-1040
Telephone 408-491-7400 • Fax 408-491-7496

FIRST AMENDMENT TO AGREEMENT CW2239583 BY AND BETWEEN THE COUNTY OF SANTA CLARA AND WESTERN STATES OIL COMPANY

This is the First Amendment to the Agreement between the County of Santa Clara (County) and Western States Oil Company (Contractor) entered into on January 12, 2021 to provide Ultra-Low Sulfur Diesel and Renewable Diesel 4001 to 6000 Gallons and Big Tanks.

This Agreement is amended as follows effective January 12, 2021:

1. Key Provision, **AGREEMENT TITLE**, is revised to read: "Ultra-Low Sulfur Diesel and Renewable Diesel 4001 Gallons and Up and Big Tanks".
2. Key Provision, **TOTAL AGREEMENT VALUE**, is revised to read: "The total not to exceed value of this Agreement is \$5,000,000 which represents an increase of \$ 4,600,000 from the prior not to exceed value of \$400,000.

Contractor understands that this not to exceed value does not represent a commitment by County to Contractor."

3. Replace **Exhibit B, PRODUCT AND PRICE SCHEDULE**, with **Exhibit B-1, PRODUCT AND PRICE SCHEDULE**, attached hereto and incorporated herein by this reference. Exhibit B-1 includes Ultra-Low Sulfur Diesel and Renewable Diesel 6001 Gallons and Up.
4. Replace **Exhibit C, REQUIREMENTS AND SPECIFICATIONS**, with **Exhibit C-1, REQUIREMENTS AND SPECIFICATIONS**, attached hereto and incorporated herein by this reference. Any reference to Ultra-Low Sulfur Diesel and Renewable Diesel 4001 to 6000 Gallons is revised to Ultra-Low Sulfur Diesel and Renewable Diesel 4001 Gallons and Up.

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Board of Supervisors: Mike Wasserman, Cindy Chavez, Otto Lee, Susan Ellenberg, S. Joseph Simitian
County Executive: Jeffrey V. Smith

All other terms and conditions of the Agreement remain in full force and effect. In the event of a conflict between the original Agreement and this Amendment, this Amendment controls.

Prepared and administered by: Samuel Hirsch at (408) 491-7485 or samuel.hirsch@prc.sccgov.org

The Agreement as amended constitutes the entire agreement of the parties concerning the subject matter herein and supersedes all prior oral and written agreements, representations and understandings concerning such subject matter.

By signing below, signatory warrants and represents that he/she executed this Amendment in his/her authorized capacity, that he/she has the authority to bind the entity listed below to contractual obligations and that by his/her signature on this Amendment, the entity on behalf of which he/she acted, executed this Amendment.

COUNTY OF SANTA CLARA

CONTRACTOR

DocuSigned by:
Teresa Cox 1/12/2021
3A5DF4E90991401...
Teresa Cox Date
Sr. Strategic Sourcing Officer
Gene Clark 1/12/2021
0685F892AC71492...
Gene Clark Date
Chief Procurement Officer

DocuSigned by:
Bob Brown
B2C3CD0F2FB84AF...
By: Bob Brown
Print: Bob Brown
Title: Special Project Manager
Date: 1/12/2021

APPROVED AS TO FORM AND LEGALITY

DocuSigned by:
Sara J Ponzio 1/12/2021
78974B9E08974D9...
Sara Ponzio Date
Deputy County Counsel

Attachments:
Exhibit B-1, Product and Price Schedule
Exhibit C-1, Requirements and Specifications

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EXHIBIT B-1**Product and Price Schedule**

The County shall only be charged for goods as included and described in this Exhibit B-1 Product and Price Schedule. Any charges or fees not specifically listed in this Exhibit B-1 shall not be invoiced to the County.

A. PRICING TABLE

#	Product Description	Range of Quantity Ordered	UOM	Fixed Margin off OPIS Daily Contract Average Rack Price
1	Ultra-Low Sulfur Diesel and Renewable Diesel	4001-6000	Gallon	\$-0.0050
2	Ultra-Low Sulfur Diesel and Renewable Diesel	6001 and Above	Gallon	\$-0.0150
3	Ultra-Low Sulfur Diesel and Renewable Diesel Big Tank	10000	Gallon	\$-0.0225

Prices are on a per gallon basis per the increments shown on the table. All prices shall be F.O.B. destination freight prepaid and allowed. All costs incidental to delivery and off-loading of fuel or coordinating fuel pick up are included in the price. Pricing does not include any State of California fees, taxes or the Cap-and-Trade for fuel California Carbon Allowance (CAR) fee that went into effect on January 1, 2015. However, the parties agree that all current California fees and taxes will be included in the final paid price per gallon for fuel purchased under the Agreement. The County and the participating agencies will not be charged for any additional fees for the amount of time it takes the Contractor to offload and transfer fuel to tanks in various locations.

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EXHIBIT C-1
Requirements and Specifications

Contractor shall provide Ultra-Low Sulfur Diesel and Renewable Diesel 4001 Gallons and Up, and Big Tanks to the County of Santa Clara in accordance with the terms and conditions of this Agreement.

The Agreement shall be used as a master agreement against which the ordering department shall issue subordinate purchase documents based on the pricing, terms, and conditions of the agreement. County does not guarantee, whether implied or in writing, to purchase any estimated quantities based on past usage, annual dollar volume, or quantity. No minimum orders are guaranteed.

A. BACKGROUND

The County of Santa Clara's Facilities and Fleet (FAF) requires Ultra-Low Sulfur Diesel and Renewable Diesel for the locations listed in the service locations in table 2.1 below.

B. OBJECTIVES

Contractor must be capable of:

1. Providing Ultra-Low Sulfur Diesel and Renewable Diesel on an as needed basis;
2. Delivering fuel to multiple County locations on an as needed basis;
3. Following all required specifications and delivery requirements throughout the term of the Agreement.
4. Responding to emergency calls; and
5. Providing reports per County requirements.

C. DEFINITIONS

1. CRPO: Contract Release Purchase Order
Abbreviation for Contract Release Purchase Order, which is a County-issued purchase order provided to the Contractor when an order is placed for contracted services and goods.
2. CARB: California Air Resources Board

D. SPECIFICATIONS AND SUPPLIER RESPONSIBILITIES

1. Technical Specifications

1.1 All products shall conform to the State of California specifications including California Air Resources Board (CARB), American Society of Testing & Materials (ASTM), "The California Reformulated Gasoline Regulations" Title 13, California Code of Regulations Sections 2250-2273.5 latest version /sub articles, and all-inclusive amendments.

1.1.1 Regular Unleaded Gasoline

- 1.1.1.1 Minimum Octane Rating of 87 which shall be determined by using the R+M/2 Method
 - 1.1.1.2 Comply with the requirements of American Society of Testing Materials (ASTM) D418151 latest version
 - 1.1.2 CARB Specification ULSD #2
 - 1.1.2.1 All diesel fuel sold for vehicular use in California must meet a 15 ppm maximum sulfur limit (Ultra Low) in addition to meeting all the current low aromatics CARB diesel specifications
 - 1.1.3 CARB Specification ULSD #2 – Red
 - 1.1.3.1 The same specifications as CARB ULSD #2 except for the red dye and dyeing process to donate usage for tax-exempt purposes
 - 1.1.4 “Renewable hydrocarbon diesel” means a diesel fuel that is produced from nonpetroleum renewable resources but is not a mono-alkyl ester and which is registered as a motor vehicle fuel or fuel additive under 40 CFR Part 79.
 - 1.1.4.1 The renewable diesel fuel shall conform to California Code of Regulations (CCR) Title 4, Division 9, Chapter 6, Article 5, Section 4149.
 - 1.1.4.2 The renewable diesel fuel shall also meet the requirements of the California Code of Regulation, Title 13, Division 3, Chapter 5, Article 2, Section 2281 (sulfur content) and Section 2282 (aromatic hydrocarbon). Alternative diesel formulations must be certified by CARB. Evidence of such fact shall be available to the County of Santa Clara if requested.
 - 1.1.4.3 The renewable diesel fuel shall meet the requirements of Low Carbon Fuel Standard (LCFS), Title 17, Division 3, Chapter 1, Subchapter 10, Article 4, Subarticle 7, of California Code of regulations (CCR), Sections 95480 through 95490 (collectively referred to as “LCFS”) applies to any transportation fuel, as defined in section 95481, that is sold, supplied, or offered for sale in California, and to any person who, as a “regulated party” defined in section 95481 and specified in section 95484(a), is responsible for a transportation fuel in calendar year. LCFS regulation became effective on January 12, 2010.
 - 1.1.4.3.1 Note: County of Santa Clara is end user and will not assume the role as a “regulated party.”
 - 1.1.4.4 The carbon intensity of the fuel shall be no more than 50 g CO₂e/MJ as determined by the Low Carbon Fuel Standard (LCFS), Title 17, Division 3, Chapter 1, Subchapter 10, Article 4, Subarticle 7, of California Code of Regulations (CCR), Section 95486.
 - 1.1.4.5 SAVE
 - 1.1.5 Storage Life: Fuel shall not deteriorate in ordinary storage and shall not form excessive gum, resin, or deposits.

2. Service Locations

2.1 Contractor shall service the County's required distribution points/locations as listed in the table below.

#	Location	Address
1	FAF Fleet Management	2265 Junction Ave. San Jose
2	Roads East Yard	1505 Schallenberger Rd. San Jose
3	Roads West Yard	11031 Doyle Rd. San Jose
4	Roads South Yard	13550 Diessner, San Martin
5	Parks Central Yard	995 Hellyer Ave., San Jose
6	Younger Gas Station	90 W. Younger Ave., San Jose
7	James Boys Ranch	19050 Malaguerra Ave., Morgan Hill
8	Joseph D. Grant Ranch	18405 Mt. Hamilton Road., San Jose
9	Uvas Canyon Park	8515 Croy Rd., Morgan Hill
10	Vasona Lake Park	298 Garden Hill Dr., Los Gatos
11	Calero Lake	3201 McKean Rd., San Jose
12	Ed Levin Park	3100 Calaveras Road., Milpitas
13	Mt. Madonna Park	Hecker Pass Hwy, Watsonville
14	Coyote Lake	10840 Coyote Lake Rd. Gilroy
15	Sanborn-Skyline Park	16055 Sanborn Rd., Saratoga
16	Stevens Creek Park	11401 Stevens Canyon Rd., Cupertino
17	Mt. Hamilton San Antonio Valley Yard	47365 San Antonia Valley Road, Livermore

3. Fuel and Fuel Delivery Requirements

3.1 Orders and Locations

3.1.1 Fuel site deliveries will include a combination of filling tanks and direct facility of off-road equipment with specified quantities. No order shall be delivered without an order placed by the responsible County Department.

3.1.2 The County reserves the right to add locations or discontinue service to existing locations without any additional charges or change in the bid price structure. All tanks will be underground unless otherwise stated. All fuel shall be delivered to designated points unless otherwise stated.

3.1.3 The following locations take deliveries by transport:

3.1.3.1 FAF Fleet Management, 2265 Junction Ave. San Jose

3.1.3.2 Roads West Yard, 11031 Doyle Rd. San Jose

3.1.3.3 Roads South Yard 13550 Diessner, San Martin

3.1.3.4 Roads East Yard. 1505 Schallenberger Rd. San Jose

3.1.3.5 Santa Rita Fuel Station, 6175 Madigan Rd. Dublin, CA

3.1.3.6 Santa Rita Fuel Station, 6175 Madigan Rd. Dublin, CA

3.1.3.7 14200 Chapman Road, Leandro, CA 94578

3.2 If delivery vehicle is equipped with metered pumps, these pumps shall be currently certified as to accuracy by the California Department of Agriculture, Division of Weights and Measures.

3.3 If metering is not accomplished from the delivery vehicles at the time of delivery, a highway transportation receipt (H.T.R.), issued at the point where the fuel order was loaded in the delivery vehicle, shall be delivered

to the ordering Department. At minimum the H/T/R. shall show the date fuel loaded, carrier, truck numbers, quantity and type of fuel loaded, and temperature when loaded.

3.4 All deliveries shall be temperature corrected to 60 degrees Fahrenheit.

3.5 All delivery trucks shall comply with the California Environmental Protection Agency Air Resources Board approved certified Phase II Vapor Recovery Equipment Requirements. Proof of compliance will be supplied by the awarded vendor when requested by the County. There are many other smaller Back-up Power Generators that tanks do not need to meet the EVR requirements, but at times the vendor may need to service these locations too.

3.6 Delivery dates and times must be coordinated with the County end user Department. All deliveries shall be made Monday through Friday between the hours of 8:00 a.m. to 5:00 p.m. unless special delivery restrictions or instructions are required by the requested County end- user Department.

3.7 Urgent Deliveries

3.7.1 It shall be expected that vendor shall deliver any urgent fill orders placed by the County and participating agencies within twelve (12) hours of the time order is placed with no additional cost.

3.7.2 Urgent deliveries are not anticipated to occur often and shall be kept to a minimum by the end-user Department placing the order.

3.7.3 There are no minimum requirements for urgent deliveries.

3.7.4 All urgent deliveries shall occur during normal delivery hours of 8:00 a.m. to 5:00 p.m. unless special delivery instructions apply by the requesting Department.

3.8 Emergency Deliveries

3.8.1 During a state of emergency, in which a natural disaster or other type of declared emergency, County of Santa Clara is a first responder to said emergency. As a result, the County and any other participating agencies of this contract, will have a priority status on available fuel.

3.8.2 It shall be expected that vendor shall deliver any emergency fill orders placed by the County and participating agencies within four (4) hours of the time order is placed with no additional cost to the County.

3.8.3 Emergency deliveries are not anticipated to occur often and shall be kept to a minimum by the end-user Department placing the order.

3.8.4 There are no minimum requirements for emergency deliveries.

3.8.5 Emergencies deliveries shall be placed by phone from the ordering department with confirmation by electronic mail or facsimile by the same ordering Department.

3.9 Standing Time – The County will not be charged any additional fees for the time it takes the Contractor to fuel the County's off-road equipment or generator tanks.

3.10 Spillage

3.10.1 The County has a "zero" leakage standards for fuel transfer operations.

- 3.10.2** The Contractor shall provide equipment for and training of truck drivers to minimize the chance of spillage during connection and disconnection of hoses and during the transfer of fuel.
- 3.10.3** The vendor shall ensure that all equipment, tools and procedures used follow all applicable specifications and regulations governing such operations.
- 3.10.4** In the event of leakage or spillage, it shall be the vendor's responsibility to effect immediate containment, cleanup, and disposal and restoration activities in accordance with applicable State of California laws and regulations and subject to County's satisfaction.
- 3.10.5** All material associated with such clean-up shall be removed by the Contractor.
- 3.11** Safety Data Sheet – It is required by law that all hazardous materials must be identified and be accompanied with a "Safety Data Sheet" (SDS) at the delivery site.
- 3.12** Substitutions – Contractor will not be allowed to substitute any product with any other without the consent of the County end-user Department placing the order. If substitute products are delivered without approval, it will be the responsibility of the vendor to collect product at no charge or penalty to the County.

4. Electronic Transactions in Ariba Network

The County has implemented the Santa Clara County Procure-to-Pay Collaborative Commerce (SCC P2P) project in year 2015 to streamline its procurement and payment functions. The County transacts business with its suppliers electronically using the Ariba system, which includes issuing purchase orders to and receiving invoices from its suppliers. In order to do business with the County, Contractor needs to register to establish a relationship with the County on the Ariba Network. The Ariba Network is a cloud-based electronic commerce network that allows buyers and sellers of goods and services to collaborate.

Contractor will not be charged for their relationship and/or any transactions with the County of Santa Clara on the Ariba Network.

Contractor shall provide and maintain an Ariba-compatible catalog of all products within the scope of the contract.

5. Reports

Contractor shall be responsible for processing, discussing, and submitting reports upon request, which shall include, but not be limited to:

- 5.1** Spend Reports – Expenditures against the Agreement, including ability to provide total spend by the County, total spend for contracted services and products, and total spend by date.

- 5.2 Usage Reports – Includes but shall not be limited to the cumulative contract activity and any other analytical information as mutually agreed upon.
- 5.3 Upon request and as mutually agreed upon by County and Contractor, Contractor shall provide additional reports on items that are not contained in the spend or usage reports.

6. Invoicing

- 6.1 Invoices shall be provided to the County end user departments submitting the CRPO. Invoices shall include, but not be limited to the following information:
 - 6.1.1 Fuel site location;
 - 6.1.2 Date and time of transport;
 - 6.1.3 Description(s) of product(s) provided;
 - 6.1.4 Amount of fuel;
 - 6.1.5 Total gallons and dollars by product;
 - 6.1.6 Summary of fuel gallons applicable taxes;
 - 6.1.7 Copy of OPIS Rack Price for the date of order/delivery
 - 6.1.8 Associated CRPO numbers(s); and
 - 6.1.9 Associated Agreement number.
- 6.2 Contractor shall correct any invoices that include incorrect or missing information. Invoices cannot be processed until invoices are correct and approved by County department.
- 6.3 Contractor shall not invoice the County for any fees or charges not specifically listed in the final agreement.
- 6.4 Credit Memos – Contractor shall issue credit memos to the County identifying any amounts due back to the County for incorrect charges (e.g. overcharges, cancellations, non-contracted products, etc.).

E. COUNTY RESPONSIBILITIES

- 1. County shall issue a CRPO to the Contractor for all contracted products to be ordered against this Agreement.
 - 1.1 CRPO issuance may need to be processed upon delivery of products by Contractor. For these instances, County shall issue CRPO's after delivery of products and receipt of invoice.
 - 1.2 County shall not process any invoices for payment until goods are delivered and received.

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County of Santa Clara
Office of the County Executive
Procurement Department
150 West Tasman Drive
San Jose, CA 95134
Telephone 408-491-7400 • Fax 408-491-7496

**AGREEMENT BETWEEN THE COUNTY OF SANTA CLARA AND
WESTERN STATES OIL COMPANY
FOR RENEWABLE RED DYED DIESEL 1501 GALLONS AND UP**

This agreement is entered into by and between the County of Santa Clara (the County) and Western States Oil Company (Contractor or Supplier) (the Agreement), for Renewable Red Dyed Diesel 1501 Gallons and Up.

The effective date of the agreement is January 12, 2021. The parties, intended to be bound, mutually agree as follows:

KEY PROVISIONS

AGREEMENT TITLE:	Renewable Red Dyed Diesel 1501 Gallons and Up
AGREEMENT NUMBER:	CW2239581
INITIAL AWARD DATE:	January 12, 2021
AGREEMENT TERM:	January 12, 2021 through January 11, 2024, unless terminated earlier or otherwise amended with option by County to renew for two additional one-year periods
COMMODITY NAME / CODE:	Bulk Fuel / 405
AUTHORIZED USER:	Facilities and Fleet 2265 Junction Ave San Jose, CA 95131
COUNTY DEPARTMENT CONTACTS:	Dennis Brooks, Fleet Manager Facilities and Fleet (408) 468-8901; dennis.brooks@faf.sccgov.org
SUPPLIER:	Western States Oil Company 1790 South Tenth Street San Jose, CA 95112

Board of Supervisors: Mike Wasserman, Cindy Chavez, Otto Lee, Susan Ellenberg, S. Joseph Simitian
County Executive: Jeffrey V. Smith

SUPPLIER CONTACT: Bob Brown, Special Projects Manager
(408) 351-2328; bbrown@lubeoil.com

SUPPLIER NUMBER: 1011225

PURPOSE: To establish a contract with Western States Oil Company for Renewable Red Dyed Diesel 1501 Gallons and Up.

TAX STATUS: Taxable

PAYMENT TERMS: Net 45

TOTAL AGREEMENT VALUE: **Not to Exceed \$400,000;** *Contractor understands that this Not to Exceed amount does not represent a commitment by County to Contractor.*

COUNTY CONTRACT ADMINISTRATORS: Samuel Hirsch, Buyer II
(408) 491-7485; samuel.hirsch@prc.sccgov.org

Chaz Miyamoto, Buyer I
(408) 491-7468; chaz.miyamoto@prc.sccgov.org

REFERENCES: The following is incorporated and constitutes a material part of the Agreement:

Exhibit A: County of Santa Clara Standard Terms and Conditions for

Exhibit B: Product and Price Schedule

Exhibit C: Requirements and Specifications

Exhibit D: Insurance Requirements (B-2)

Exhibit E: Federally Required Contract Provisions

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By signing below, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity, that he/she has the authority to bind the entity listed below to contractual obligations and that by his/her signature on this Agreement, the entity on behalf of which he/she acted, executed this Agreement.

COUNTY OF SANTA CLARA

DocuSigned by:
Teresa Cox 1/11/2021
Teresa Cox Date
Senior Strategic Sourcing Officer

DS
ek
DocuSigned by:
Cheryl Liu 1/12/2021
Cheryl Liu Date
Director of Procurement

CONTRACTOR

DocuSigned by:
By: Bob Brown
82C3CD0F2FB84AF...

Print: Bob Brown

Title: Special Project Manager

Date: 1/11/2021

APPROVED AS TO FORM AND LEGALITY

DocuSigned by:
Sara J Ponzio
4B974B9E089D4D9...
Sara J. Ponzio
Deputy County Counsel

Date 1/11/2021

EXHIBIT A
COUNTY OF SANTA CLARA STANDARD TERMS AND CONDITIONS

DEFINITIONS

- a. "County Confidential Information" shall include all material, non-public information (including material, non-public County Data) appearing in any form (including, without limitation, written, oral or displayed), that is disclosed, directly or indirectly, through any means of communication by County, its agents or employees, to Contractor, its agents or employees, or any of its affiliates or representatives.
- b. "County Data" shall mean data and information received by Contractor from County. County Data includes any information or data that is transported across a County network, or that resides in a County-owned information system, or on a network or system under the control and management of a contractor for use by County. As between Contractor and County, all County Data shall remain the property of County.
- c. "Deliverables" means goods, services, software, hardware, information technology, telecommunications technology, enhancements, updates, new versions or releases, documentation, and any other items to be delivered pursuant to this Agreement, including any such items furnished incident to the provision of services.
- d. "Documentation" means manuals and other printed materials (including updates and revisions) necessary or useful to the County in its use or maintenance of the Deliverables provided pursuant to this Agreement.
- e. When used in this Agreement, "days" shall refer to calendar days unless stated otherwise.

1. NON-EXCLUSIVE AGREEMENT

The Agreement does not establish an exclusive contract between the County and the Contractor. The County expressly reserves rights to, without limitation, the following: the right to utilize others to provide products, support and services; the right to request proposals from others with or without requesting proposals from the Contractor; and the unrestricted right to bid any such product, support or service.

2. DELIVERABLES

Contractor agrees to provide the County all Deliverables on terms set forth in the Agreement, including all Exhibits that are attached to the Agreement and incorporated, as well as all necessary equipment and resources. However, this Agreement does not provide authority to ship Deliverables. That authority shall be established by contract release purchase orders placed by the County and sent to Contractor throughout the term of the Agreement. Each and every contract release purchase order shall incorporate all terms of this Agreement and this Agreement shall apply to same.

Any additional or different terms or qualifications sent by Contractor, including, without limitation, electronically or in mailings, attached to invoices or with any deliverables shipped, shall not become part of the contract between the parties. County's acceptance of Contractor's offer is expressly made conditional on this statement.

Contractor shall timely provide to the County, all documentation and manuals relevant to the Deliverables to be supplied, at no additional cost. Such documentation shall be delivered either in advance of the delivery of Deliverables or concurrently with the delivery of Deliverables.

Employees and agents of Contractor, shall, while on the premises of the County, comply with all rules and regulations of the premises, including, but not limited to, security requirements. If required, Contractor shall be responsible for installation, training and knowledge transfer activities in relation to the Deliverables being supplied.

All equipment shall be delivered to a County site specified in the contract release purchase order, or if not so specified therein, in the Statement of Work/Specifications.

Contractor holds itself out as an expert in the subject matter of the Agreement. Contractor represents itself as being possessed of greater knowledge and skill in this area than the average person. Accordingly, Contractor is under a duty to exercise a skill greater than that of an ordinary person, and the manner in which performance is rendered will be evaluated in light of the Contractor's superior skill. Contractor shall provide equipment and perform work in a professional manner consistent, at minimum, with industry standards.

Contractor represents that all prices, warranties, benefits and other terms being provided hereunder are fair, reasonable and commensurate with the terms otherwise being offered by Contractor to its current customers ordering comparable Deliverables and services. County does not guarantee any minimum orders.

3. NECESSARY ACTS AND FURTHER ASSURANCES

The Contractor shall at its own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement.

4. COUNTING DAYS

Days are to be counted by excluding the first day and including the last day, unless the last day is a Saturday, a Sunday, or a legal holiday, and then it is to be excluded.

5. PRICING

Unless otherwise stated, prices shall be fixed for the term of the Agreement, including all extensions. If any product listed in this Agreement is discontinued or upgraded prior to delivery, Contractor shall extend the same pricing towards a comparable replacement which is functionally equivalent or an upgraded version.

Exhibit B of the Agreement is the basis for pricing and compensation throughout the term of the Agreement.

Notwithstanding the above, if at any time during the term of the Agreement the Contractor offers special, promotional or reduced pricing when compared with the price paid by the County, County shall benefit from that pricing, and that pricing shall apply to the County at the same time that is offered to other entities. Contractor is required, on an ongoing basis, to inform the County of any such special, promotional or reduced pricing.

6. MODIFICATION

This Agreement or any contract release purchase order may be supplemented, amended, or modified only by the mutual agreement of the parties. No supplement, amendment, or

modification of this Agreement contract release purchase order will be binding on County unless it is in writing and signed by the County's authorized representative.

7. TIME OF THE ESSENCE

Time is of the essence in the delivery of goods by Contractor under this Agreement and any contract release purchase order. If Contractor fails to deliver goods and/or services on time, the Contractor shall be liable for any costs incurred by the County because of Contractor's delay. For instance, County may purchase or obtain the goods and/or services elsewhere and the Contractor shall be liable for the difference between the price in the Agreement and the cost to the County; or County may terminate on grounds of material and Contractor shall be liable for County's damages.

The Contractor shall promptly reimburse the County for the full amount of its liability, or, at County's option, the County may offset such liability from any payment due to the Contractor under any contract with the County.

The rights and remedies of County provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law. The acceptance by County of late or partial performance with or without objection or reservation shall not waive the right to claim damage for such breach nor constitute a waiver of the rights or requirements for the complete and timely performance of any obligation remaining to be performed by the Contractor, or of any other claim, right or remedy of the County.

8. HAZARDOUS SUBSTANCES

If any product being offered, delivered or supplied to the County is listed in the Hazardous Substances List of the Regulations of the Director of Industrial Relations with the California Occupational Safety and Health Standards Board, or if the product presents a physical or health hazard as defined in the California Code of Regulations, General Industry Safety Order, Section 5194 (T8CCR), Hazard Communication, the Contractor must include a Material Safety Data Sheet (MSDS) with delivery, or shipment. Each MSDS must reference the contract/purchase order number, and identify the "Ship To Address". All shipments and containers must comply with the labeling requirements of Title 49, Code of Federal Regulations by identifying the hazardous substance, name and address of manufacturer, and appropriate hazard warning regarding potential physical safety and health hazard.

9. SHIPPING AND RISK OF LOSS

Goods shall be packaged, marked and otherwise prepared by Contractor in suitable containers in accordance with sound commercial practices. Contractor shall include an itemized packing list with each shipment and with each individual box or package shipped to the County. The packing list shall contain, without limitation, the applicable contract release purchase order number.

Unless otherwise specified in writing, all shipments by Contractor to County will be F.O.B. point of destination. Freight or handling charges are not billable unless such charges are referenced on the order. Transportation receipts, if required by contract release purchase order, must accompany invoice. Regardless of F.O.B. point, Contractor agrees to bear all risks of loss, injury, or destruction to goods and materials ordered herein which occur prior to delivery at County's destination; and such loss, injury or destruction shall not release Contractor from any obligation hereunder.

Any shipments returned to the Contractor shall be delivered as F.O.B. shipping point.

10. INSPECTION AND RELATED RIGHTS

All goods and services are subject to inspection, testing, approval and acceptance by the County. Inspection shall be made within 60 days or a reasonable time after delivery, whichever period is longer. If the goods, services, or the tender of delivery fail in any respect to conform to the contract, the County may reject the entire tender, accept the entire tender, or, if the deliverables are commercially divisible, may, at its option, accept any commercial unit or units and reject the rest.

Contractor shall be responsible to reclaim and remove any rejected goods or items at its own expense. Should Contractor fail to reclaim or remove any rejected goods or items within a reasonable time, County shall, at its option dispose of such goods or items and require reimbursement from Contractor for any costs or expenses incurred.

In the event that the Contractor's goods are not accepted by County, the Contractor shall be liable for any costs incurred by the County because of such failure by Contractor. For instance, County may purchase or obtain the goods elsewhere and the Contractor shall be liable for the difference between the price in the Agreement and the cost to the County, and any other costs incurred; or County may terminate for cause on grounds of material breach and Contractor shall be liable for County's damages.

The Contractor shall promptly reimburse the County for the full amount of its liability, or, at County's option, the County may offset such liability from any payment due to the Contractor under any contract with the County.

The rights and remedies of County provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law. The acceptance by County of late or partial performance with or without objection or reservation shall not waive the right to claim damage for such breach nor constitute a waiver of the rights or requirements for the complete and timely performance of any obligation remaining to be performed by the Contractor, or of any other claim, right or remedy of the County.

11. ADJUSTMENT BY COUNTY

The County reserves the right to waive a variation in specification of goods or services supplied by the Contractor. Contractor may request an equitable adjustment of payments to be made by County if County requires a change in the goods or services to be delivered. Any claim by the Contractor for resulting adjustment of payment must be asserted within 30 days from the date of receipt by the Contractor of the notification of change required by County; provided however, that the County's authorized representative decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment made for goods and services supplied by Contractor. Where the cost of property made obsolete or excess as a result of a change is included in the Contractor's claim for adjustment, the County's authorized representative shall have the right to prescribe the manner of disposition of such property. Nothing in this clause shall excuse performance by Contractor.

12. INVOICING

Contractor shall invoice according to Exhibit B of the Agreement. Invoices shall be sent to the County customer or department referenced in the individual contract release purchase order. Invoices for goods or services not specifically listed in the Agreement will not be approved for payment.

Invoices shall include: Contractor's complete name and remit-to address; invoice date, invoice number, and payment term; County contract number; pricing per the Agreement; applicable taxes; and total cost.

Contractor and County shall make reasonable efforts to resolve all invoicing disputes within seven (7) days.

13. PAYMENT

The County's standard payment term shall be Net forty-five (45), unless otherwise agreed to by the parties. Payment shall be due Net forty-five (45) days from the date of receipt and approval of correct and proper invoices.

Payment is deemed to have been made on the date the County mails the warrant or initiates the electronic fund transfer.

14. OTHER PAYMENT PROVISIONS

Notwithstanding anything to the contrary, County shall not make payments prior to receipt of service or goods (i.e. the County will not make "advance payments"). Unless specified in writing in an individual purchase order, the County will not accept partial delivery with respect to any purchase order. Any acceptance of partial delivery shall not waive any of County's rights on an ongoing basis.

Sales tax shall be noted separately on every invoice. Items that are not subject to sales tax shall be clearly identified.

Contractor shall be responsible for payment of all state and federal taxes assessed on the compensation received under this Purchase Order and such payment shall be identified under the Contractor's federal and state identification number(s).

The County does not pay Federal Excise Taxes (F.E.T). The County will furnish an exemption certificate in lieu of paying F.E.T. Federal registration for such transactions is: County #94730482K. Contractor shall not charge County for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose, unless expressly authorized by the County.

15. LATE PAYMENT CHARGES OR FEES

The Contractor acknowledges and agrees that the County will not pay late payment charges.

16. DISALLOWANCE

In the event the Contractor receives payment for goods or services, which payment is later disallowed by the County or state or federal law or regulation, the Contractor shall promptly refund the disallowed amount to the County upon notification. At County's option, the County may offset the amount disallowed from any payment due to the Contractor under any contract with the County.

17. TERMINATION FOR CONVENIENCE

The County may terminate this Agreement or any order at any time for the convenience of the County, specifying the effective date and scope of such termination.

In no event shall the County be liable for costs incurred by the Contractor as a result of the termination or any loss of profits on the resulting order or portion thereof so terminated. In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other materials (collectively referred to as "materials") prepared by Contractor

under this Agreement contract release purchase order shall become the property of the County and shall be promptly delivered to the County. Upon receipt of such materials, County shall pay the Contractor as full compensation for performance, the unit or pro rata price for the then-accepted portion of goods and/or services. If this Agreement is terminated, neither party may nullify obligations, if any, already incurred prior to the date of termination.

Termination for Convenience may be exercised anytime by and at the sole discretion of the County.

18. TERMINATION FOR CAUSE

County may terminate this Agreement or any order, in whole or in part, for cause upon thirty (30) days written notice to Contractor. For purposes of this Agreement, cause includes, but is not limited to, any of the following: (a) material breach of this Agreement or any contract release purchase order by Contractor, (b) violation by Contractor of any applicable laws or regulations; (c) assignment or delegation by Contractor of the rights or duties under this Agreement without the written consent of County or (d) less than perfect tender of delivery or performance by Contractor that is not in strict conformance with terms, conditions, specifications, covenants, representations, warranties or requirements in this Agreement or any order.

In the event County terminates for cause under this provision, the Contractor shall be liable for any costs incurred by the County because of Contractor's default. The Contractor shall promptly reimburse the County for the full amount of its liability, or, at County's option, the County may offset such liability from any payment due to the Contractor under any contract or order with the County.

If, after notice of termination under the provisions of this clause, it is determined for any reason that the Contractor was not in default under this provision of this clause, the County has the option to make its notice of termination pursuant to the Termination for Convenience clause and the rights and obligations of the parties would be in accordance with that provision.

In lieu of terminating immediately upon contractor's default, County may, at its option, provide written notice specifying the cause for termination and allow Contractor ten (10) days (or other specified time period by the County) to cure. If, within ten (10) days (or other specified time) after the County has given the Contractor such notice, Contractor has not cured to the satisfaction of the County, or if the default cannot be reasonably cured within that time period, County may terminate this Agreement at any time thereafter. County shall determine whether Contractor's actions constitute complete or partial cure. In the event of partial cure, County may, at its option, decide whether to (a) give Contractor additional time to cure while retaining the right to immediately terminate at any point thereafter for cause; or (b) terminate immediately for cause. If this Agreement is terminated, neither party may nullify obligations, if any, already incurred prior to the date of termination.

Notwithstanding any of the above, if County determines that any action by Contractor contributes to the curtailment of an essential service or pose an immediate threat to life, health, or property, County may terminate this Agreement effective immediately without penalty or opportunity to cure upon issuing either oral or written notice to the Contractor.

19. TERMINATION FOR BANKRUPTCY

If Contractor is adjudged to be bankrupt or should have a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of Contractor's insolvency, the County may terminate this Agreement immediately without penalty. For the purpose of this Section,

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Between County of Santa Clara and
Western States Oil Company

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bankruptcy shall mean the filing of a voluntary or involuntary petition of bankruptcy or similar relief from creditors; insolvency; the appointment of a trustee or receiver, or any similar occurrence reasonably indicating an imminent inability to perform substantially all the party's duties under this Agreement. If this Agreement is terminated, neither party may nullify obligations, if any, already incurred prior to the date of termination.

20. BUDGETARY CONTINGENCY

Performance and/or payment by the County pursuant to this Agreement is contingent upon the appropriation by the County of sufficient funds for Deliverables covered by this Agreement. If funding is reduced or deleted by the County for services covered by this Agreement, the County may, at its option and without penalty or liability, terminate this Agreement or offer an amendment to this Agreement indicating the reduced amount.

21. DISENTANGLEMENT

Contractor shall cooperate with County and County's other contractors to ensure a smooth transition at the time of termination of this Agreement, regardless of the nature or timing of the termination. Contractor shall cooperate with County's efforts to ensure that there is no interruption of work required under the Agreement and no adverse impact on the supply of goods, provision of County services or the County activities. Contractor shall return to County all County assets or information in Contractor's possession.

For any software programs developed for use under the County's Agreement, Contractor shall provide a nonexclusive, nontransferable, fully-paid, perpetual, irrevocable, royalty-free worldwide license to the County, at no charge to County, to use, copy, and modify, all work or derivatives that would be needed in order to allow County to continue to perform for itself, or obtain from other providers, the services as the same might exist at the time of termination.

County shall be entitled to purchase at net book value those Contractor assets used for the provision of services to or for County, other than those assets expressly identified by the parties as not being subject to this provision. Contractor shall promptly remove from County's premises, or the site of the work being performed by Contractor for County, any Contractor assets that County, or its designee, chooses not to purchase under this provision.

Contractor shall deliver to County or its designee, at County's request, all documentation and data related to County, including, but not limited to, the County Data and client files, held by Contractor, within sixty (60) days of the request, and after return of same, Contractor shall destroy all copies thereof not turned over to County, all at no charge to County.

22. DISPUTES

Except as otherwise provided in this Agreement, any dispute arising under this contract that is not disposed of by agreement shall be decided by the County's authorized representative or designee, who shall furnish the decision to the Contractor in writing. The decision of the County's authorized representative or designee shall be final and conclusive. The Contractor shall proceed diligently with the performance of the contract pending the County's authorized representative or designee's decision. The County's authorized representative or designee shall not be required to decide issues that are legal or beyond his or her scope of expertise.

23. ACCOUNTABILITY

Contractor will be the primary point of contact for the performance of any subcontractors and assume the responsibility of all matters relating to the purchase of goods and/or services under

this Agreement, including payment issues. If such or similar issues arise, the Contractor must take immediate action to correct or resolve the issues.

24. NO ASSIGNMENT, DELEGATION OR SUBCONTRACTING WITHOUT PRIOR WRITTEN CONSENT

Contractor may not assign any of its rights, delegate any of its duties or subcontract any portion of its work or business under this Agreement or any contract release purchase order without the prior written consent of County. No assignment, delegation or subcontracting will release Contractor from any of its obligations or alter any of its obligations to be performed under the Agreement. Any attempted assignment, delegation or subcontracting in violation of this provision is voidable at the option of the County and constitutes material breach by Contractor. As used in this provision, "assignment" and "delegation" means any sale, gift, pledge, hypothecation, encumbrance, or other transfer of all or any portion of the rights, obligations, or liabilities in or arising from this Agreement to any person or entity, whether by operation of law or otherwise, and regardless of the legal form of the transaction in which the attempted transfer occurs.

25. MERGER AND ACQUISITION

The terms of this Agreement will survive an acquisition, merger, divestiture or other transfer of rights involving Contractor. In the event of an acquisition, merger, divestiture or other transfer of rights Contractor must ensure that the acquiring entity or the new entity is legally required to:

- (1) Honor all the terms negotiated in this Agreement and any pre-acquisition or pre-merger Agreement between Contractor and the County, including but not limited to a) established pricing and fees; b) guaranteed product support until the contract term even if a new product is released; and c) no price escalation during the term of the contract.
- (2) If applicable, provide the functionality of the software in a future, separate or renamed product, if the acquiring entity or the new entity reduces or replaces the functionality, or otherwise provide a substantially similar functionality of the current licensed product. The County will not be required to pay any additional license or maintenance fee to an acquiring entity in order to continue with full use, benefit, and functionality of software licensed under this Agreement until expiration or termination.
- (3) Give 30-days written notice to the County following the closing of an acquisition, merger, divestiture or other transfer of right involving Contractor.

26. COMPLIANCE WITH ALL LAWS & REGULATIONS APPLICABLE TO GOODS AND/OR SERVICES PROVIDED

Contractor shall comply with all laws, codes, regulations, rules and orders (collectively, "Regulations") applicable to the goods and/or services to be provided hereunder. Contractor's violation of this provision shall be deemed a material default by Contractor, giving County a right to terminate the contract. Examples of such Regulations include but are not limited to California Occupational Safety and Health Act of 1973, Labor Code §6300 *et seq.* the Fair Packaging and Labeling Act, and the standards and regulations issued there under. Contractor agrees to indemnify and hold harmless the County for any loss, damage, fine, penalty, or any expense whatsoever as a result of Contractor's failure to comply with any Regulation applicable to the goods and/or services to be provided hereunder.

27. FORCE MAJEURE

Neither party shall be liable for failure of performance, nor incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement if such delay or failure is caused by events, occurrences, or causes beyond the reasonable control and without negligence of the parties. Such events, occurrences, or causes

will include acts of God/nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, riots, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, lockout, blockage, embargo, labor dispute, strike, interruption or failure of electricity or telecommunication service ("Force Majeure Event").

Each party, as applicable, shall give the other party notice of its inability to perform and reasonable detail of the cause of the inability. Each party must use best efforts to remedy the situation and remove, as soon as practicable, the cause of its inability to perform or comply.

The party asserting a Force Majeure Event as a cause for non-performance shall have the burden of proving that reasonable steps were taken to minimize delay or damages caused by foreseeable events, that all non-excused obligations were substantially fulfilled, and that the other party was timely notified of the likelihood or actual occurrence which would justify such an assertion, so that other prudent precautions could be contemplated.

The County shall reserve the right to terminate this Agreement and/or any applicable order or contract release purchase order effective immediately, upon written notice, in the event of non-performance by Contractor because of a Force Majeure Event. The County shall reserve the right to extend the agreement and time for performance at its discretion.

28. INDEPENDENT CONTRACTOR

Contractor shall supply all goods and/or perform all services pursuant to this Agreement as an independent contractor and not as an officer, agent, or employee of County. Contractor shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any. Nothing herein shall be considered as creating a partnership or joint venture between the County and Contractor. No person performing any services and/or supplying all goods shall be considered an officer, agent, or employee of County, nor shall any such person be entitled to any benefits available or granted solely to employees of the County.

Contractor is responsible for payment to sub-contractors and must monitor, evaluate, and account for the sub-contractor(s) services and operations.

29. INSURANCE

Contractor shall maintain insurance coverage pursuant to the exhibit setting forth insurance requirements, if such exhibit is attached to the Agreement.

30. DAMAGE AND REPAIR BY CONTRACTOR

Any and all damages to County owned or leased property caused by Contractor's negligence or operations shall be repaired, replaced or reimbursed by Contractor at no charge to the County. Repairs and replacements shall be completed within seventy-two (72) hours of the incident unless the County requests or agrees to an extension or another time frame. The cleanup of all damage related to accidental or intentional release of any/all non-hazardous or hazardous material (e.g. hydraulic fluid, fuel, grease, etc.) from Contractor's vehicles or during performance shall be the responsibility of the Contractor. All materials must be cleaned up in a manner and time acceptable to County (completely and immediately to prevent potential as well as actual environmental damage). Contractor must immediately report each incident to the County's Director of Procurement or designee. Damage observed by Contractor, whether or not resulting from Contractor's operations or negligence shall be promptly reported by Contractor to County. County may, at its option, approve and/or dictate the actions that are in County's best interests.

31. LIENS, CLAIMS, ENCUMBRANCES AND TITLE

The Contractor represents and warrants that all the goods and materials ordered and delivered are free and clear of all liens, claims or encumbrances of any kind. Title to the material and supplies purchased shall pass directly from Contractor to County at the F.O.B. point, subject to the right of County to reject upon inspection.

32. ASSIGNMENT OF CLAYTON ACT, CARTWRIGHT ACT CLAIMS

Contractor hereby assigns to the County all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Contractor for sale to the County pursuant to this Agreement.

33. INDEMNITY

Contractor shall indemnify, defend, and hold harmless the County, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which Contractor contests its obligation to indemnify, defend and/or hold harmless the County under this Agreement and does not prevail in that contest.

34. INTELLECTUAL PROPERTY INDEMNITY

Contractor represents and warrants for the benefit of the County and its users that it is the exclusive owner of all rights, title and interest in the product or services to be supplied.

Contractor shall, at its own expense, indemnify, defend, settle, and hold harmless the County and its employees, agents and assigns against any claim or potential claim that any good, (including software) and/or service, or County's use of any good (including software) and/or service, provided under this Agreement infringes any patent, trademark, copyright or other proprietary rights, including trade secret rights. Contractor shall pay all costs, damages and attorneys' fees that a court or other adjudicatory body awards as a result of any such claim.

35. WARRANTY

Any goods and/or services furnished under this Agreement shall be covered by the most favorable commercial warranties that Contractor gives to any of its customers for the same or substantially similar goods and/or services. Any warranties so provided shall supplement, and shall not limit or reduce, any rights afforded to County by any clause in this Agreement, any applicable Uniform Commercial Code warranties, including, without limitation, Implied Warranty of Merchantability and Implied Warranty of Fitness for a Particular Purpose as well as any other express warranty.

Contractor expressly warrants that all goods supplied shall be new, suitable for the use intended, of the grade and quality specified, free from all defects in design, material and workmanship, in conformance with all samples, drawings, descriptions and specifications furnished by the County, in compliance with all applicable federal, state and local laws and regulations and free of liens, claims and encumbrances. Contractor warrants that all services shall strictly conform to the County's requirements.

Contractor shall immediately replace or repair any good not conforming to any warranty, or provide services to conform to County's requirements. If after notice, Contractor fails to repair or

replace goods, or to provide services to conform to County's requirements, Contractor shall promptly refund to County the full purchase price paid by the County. This remedy is nonexclusive of other remedies and rights that may be exercised by the County. Claims for damages may include direct damages, such as cost to repair, as well as incidental and consequential damages.

During the provision of goods and services, Contractor may not disclaim any warranty, express or implied, and any such disclaimer shall be void. Additionally, the warranties above shall not be deemed to exclude Contractor's standard warranties or other rights and warranties that the County may have or obtain.

36. COOPERATION WITH REVIEW

Contractor shall cooperate with County's periodic review of Contractor's performance.

Contractor shall make itself available onsite to review the progress of the project and Agreement, as requested by the County, upon reasonable advanced notice.

Contractor agrees to extend to the County or his/her designees and/or designated auditor of the County, the right to monitor or otherwise evaluate all work performed and all records, including service records and procedures to assure that the project is achieving its purpose, that all applicable County, State, and Federal regulations are met, and that adequate internal fiscal controls are maintained.

37. AUDIT RIGHTS

Pursuant to California Government Code Section 8546.7, the parties acknowledge and agree that every contract involving the expenditure of public funds in excess of \$10,000 may be subject to audit by the State Auditor.

All payments made under this Agreement shall be subject to an audit at County's option, and shall be adjusted in accordance with said audit. Adjustments that are found necessary as a result of auditing may be made from current billings.

The Contractor shall be responsible for receiving, replying to, and complying with any payment adjustments set forth in any County audits. The Contractor shall pay to County the full amount determined to be due as a result of a County audit. This provision is in addition to other inspection and access rights specified in this Agreement.

38. ACCESS AND RETENTION OF RECORDS AND PROVISION OF REPORTS

Contractor shall maintain financial records adequate to show that County funds paid were used for purposes consistent with the terms of the contract between Contractor and County. Records shall be maintained during the term of the Agreement and for a period of four (4) years from its termination, or until all claims have been resolved, whichever period is longer, unless a longer period is required under any contract or applicable law.

All books, records, reports, and accounts maintained pursuant to the Agreement, or related to the Contractor's activities under the Agreement, shall be open to inspection, examination, and audit by County, federal and state regulatory agencies, and to parties whose Agreements with the County require such access. County shall have the right to obtain copies of any and all of the books and records maintained pursuant to the Agreement, upon the payment of reasonable charges for the copying of such records.

Contractor shall provide annual reports that include, at a minimum, (i) the total contract release purchase order value for the County as a whole and individual County departments, and (ii) the number of orders placed, the breakdown (by customer ID/department and County) of the quantity and dollar amount of each product and/or service ordered per year. Annual reports must be made available no later than 30 days of the contract anniversary date unless otherwise requested.

Contractor shall also provide quarterly reports to the County that show a breakdown by contract release purchase order (i) the order date (ii) ship date (iii) estimated arrival date (iv) actual arrival date (v) list of products, services and maintenance items and (vi) the number and details of problem/service calls and department name that each such call pertains to (including unresolved problems). Quarterly reports must be made available to the County in electronic format, two (2) business days after the end of each quarter unless otherwise requested.

39. ACCESS TO BOOKS AND RECORDS PURSUANT TO THE SOCIAL SECURITY ACT

Access to Books and Records: If and to the extent that, Section 1861 (v) (1) (1) of the Social Security Act (42 U.S.C. Section 1395x (v) (1) (1) is applicable, Contractor shall maintain such records and provide such information to County, to any payor which contracts with County and to applicable state and federal regulatory agencies, and shall permit such entities and agencies, at all reasonable times upon request, to access books, records and other papers relating to the Agreement hereunder, as may be required by applicable federal, state and local laws, regulations and ordinances. Contractor agrees to retain such books, records and information for a period of at least four (4) years from and after the termination of this Agreement. Furthermore, if Contractor carries out any of its duties hereunder, with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period, through a subcontract with a related organization, such subcontract shall contain these same requirements. This provision shall survive the termination of this Agreement regardless of the reason for the termination.

40. COUNTY NO-SMOKING POLICY

Contractor and its employees, agents and subcontractors, shall comply with the County's No Smoking Policy, as set forth in the Board of Supervisors Policy Manual section 3.47 (as amended from time to time), which prohibits smoking: (1) at the Santa Clara Valley Medical Center Campus and all County-owned and operated health facilities, (2) within thirty (30) feet surrounding County-owned buildings and leased buildings where the County is the sole occupant, and (3) in all County vehicles.

41. FOOD AND BEVERAGE STANDARDS

Except in the event of an emergency or medical necessity, the following nutritional standards shall apply to any foods and/or beverages purchased by Contractor with County funds for County-sponsored meetings or events.

If food is to be provided, healthier food options shall be offered. "Healthier food options" include (1) fruits, vegetables, whole grains, and low fat and low calorie foods; (2) minimally processed foods without added sugar and with low sodium; (3) foods prepared using healthy cooking techniques; and (4) foods with less than 0.5 grams of trans fat per serving. Whenever possible, Contractor shall (1) offer seasonal and local produce; (2) serve fruit instead of sugary, high calorie desserts; (3) attempt to accommodate special, dietary and cultural needs; and (4) post nutritional information and/or a list of ingredients for items served. If meals are to be provided, a vegetarian option shall be provided, and the Contractor should consider providing a vegan option. If pre-packaged snack foods are provided, the items shall contain: (1) no more than 35% of calories from fat, unless the snack food items consist solely of nuts or seeds; (2) no more than 10% of calories from saturated fat; (3) zero trans-fat; (4) no more than 35% of total weight from sugar and

caloric sweeteners, except for fruits and vegetables with no added sweeteners or fats; and (5) no more than 360 mg of sodium per serving.

If beverages are to be provided, beverages that meet the County's nutritional criteria are (1) water with no caloric sweeteners; (2) unsweetened coffee or tea, provided that sugar and sugar substitutes may be provided as condiments; (3) unsweetened, unflavored, reduced fat (either nonfat or 1% low fat) dairy milk; (4) plant-derived milk (e.g., soy milk, rice milk, and almond milk) with no more than 130 calories per 8 ounce serving; (5) 100% fruit or vegetable juice (limited to a maximum of 8 ounces per container); and (6) other low-calorie beverages (including tea and/or diet soda) that do not exceed 40 calories per 8 ounce serving. Sugar-sweetened beverages shall not be provided

42. DEBARMENT

Contractor represents and warrants that it, its employees, contractors, subcontractors or agents (collectively "Contractor") are not suspended, debarred, excluded, or ineligible for participation in Medicare, Medi-Cal or any other federal or state funded health care program, if applicable, or from receiving Federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the Federal General Services Administration.

Contractor must within thirty (30) calendar days advise the County if, during the term of this Agreement, Contractor becomes suspended, debarred, excluded or ineligible for participation in Medicare, Medi-Cal or any other federal or state funded health care program, as defined by 42. U.S.C. 1320a-7b (f), or from receiving Federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the Federal General Services Administration. Contractor will indemnify, defend and hold the County harmless for any loss or damage resulting from the conviction, debarment, exclusion or ineligibility of the Contractor.

43. CALIFORNIA PUBLIC RECORDS ACT

The County is a public agency subject to the disclosure requirements of the California Public Records Act ("CPRA"). If Contractor's proprietary information is contained in documents or information submitted to County, and Contractor claims that such information falls within one or more CPRA exemptions, Contractor must clearly mark such information "CONFIDENTIAL AND PROPRIETARY," and identify the specific lines containing the information. In the event of a request for such information, the County will make best efforts to provide notice to Contractor prior to such disclosure. If Contractor contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Santa Clara County before the County is required to respond to the CPRA request. If Contractor fails to obtain such remedy within the time the County is required to respond to the CPRA request, County may disclose the requested information.

Contractor further agrees that it shall defend, indemnify and hold County harmless against any claim, action or litigation (including but not limited to all judgments, costs, fees, and attorney's fees) that may result from denial by County of a CPRA request for information arising from any representation, or any action (or inaction), by the Contractor.

44. CONFLICT OF INTEREST; POLITICAL REFORM ACT DISCLOSURE REQUIREMENT

If applicable, Contractor shall comply with all applicable requirements governing avoidance of impermissible client conflicts; and federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code section 1090 *et seq.*, the California Political Reform Act (California Government Code section 87100 *et seq.*) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California

Code of Regulations section 18700 *et seq.*). Failure to do so constitutes a material breach of this Agreement and is grounds for immediate termination of this Agreement by the County.

In accepting this Agreement, Contractor covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Agreement. Contractor further covenants that, in the performance of this Agreement, it will not use any contractor or employ any person having such an interest. Contractor, including but not limited to contractor's employees, may be subject to the disclosure and disqualification provisions of the California Political Reform Act of 1974 (the "Act"), that (1) requires such persons to disclose economic interests that may foreseeably be materially affected by the work performed under this Agreement, and (2) prohibits such persons from making or participating in making decisions that will foreseeably financially affect such interests.

Contractor, including but not limited to contractor's employees and subcontractors, may be subject to the disclosure and disqualification provisions of the California Political Reform Act of 1974 (the "Act"), that (1) requires such persons to disclose economic interests that may foreseeably be materially affected by the work performed under the Agreement, and (2) prohibits such persons from making or participating in making decisions that will foreseeably financially affect such interests.

If the disclosure provisions of the Act are applicable to any individual providing service under the Agreement, Contractor shall, upon execution of the Agreement, provide the County with the names, description of individual duties to be performed, and email addresses of all individuals, including but not limited to Contractor's employees, agents and subcontractors, that could be substantively involved in "making a governmental decision" or "serving in a staff capacity and in that capacity participating in making governmental decisions or performing duties that would be performed by an individual in a designated position," as part of Contractor's service to the County under the Agreement. Contractor shall ensure that such individuals file Statements of Economic Interests within 30 days of commencing service under the Contract, annually by April 1, and within 30 days of their termination of service under the Contract.

45. SEVERABILITY

Should any part of this Agreement between County and the Contractor or any individual contract release purchase order be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the validity of the remainder of the Agreement or any individual contract release purchase order which shall continue in full force and effect, provided that such remainder can, absent the excised portion, be reasonably interpreted to give the effect to the intentions of the parties.

46. NON-WAIVER

No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement will be effective unless it is in writing and signed by County. No waiver of any breach, failure, right, or remedy will be deemed a waiver of any other breach, failure, right, or remedy, whether similar or not, nor will any waiver constitute a continuing waiver unless the writing signed by the County so specifies.

47. USE OF COUNTY'S NAME FOR COMMERCIAL PURPOSES

Contractor may not use the name of the County or reference any endorsement from the County in any fashion for any purpose, without the prior express written consent of the County as provided by the County's authorized representative, or designee.

48. HEADINGS AND TITLES

The titles and headings in this Agreement are included principally for convenience and do not by themselves affect the construction or interpretation of any provision in this Agreement, nor affect any of the rights or obligations of the parties to this Agreement.

49. HANDWRITTEN OR TYPED WORDS

Handwritten or typed words have no greater weight than printed words in the interpretation or construction of this Agreement.

50. AMBIGUITIES

Any rule of construction to the effect that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

51. ENTIRE AGREEMENT; MERGER

This Agreement and its Exhibits and Attachments (if any) constitute the final, complete and exclusive statement of the terms of the agreement between the parties. It incorporates and supersedes all the agreements, covenants and understandings between the parties concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this Agreement. No prior or contemporaneous agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

52. EXECUTION AND COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which will be considered an original, but all of which together will constitute one and the same instrument. The parties agree that this Agreement, its amendments, and ancillary agreements to be entered into in connection with this Agreement will be considered signed when the signature of a party is delivered a method described herein.

Unless otherwise prohibited by law or County policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term "electronically signed contract" means a contract that is executed by applying an electronic signature using technology approved by the County.

53. NOTICES

All deliveries, notices, requests, demands or other communications provided for or required by this Agreement shall be in writing and shall be deemed to have been given when sent by registered or certified mail, return receipt requested; when sent by overnight carrier; or upon email confirmation to sender of receipt of a facsimile communication which is followed by a mailed hard copy from sender. Notices shall be addressed to the individuals identified in the Key Provisions of the Agreement as the County Contract Administrator and the Supplier Contact. Each party may designate a different person and address by sending written notice to the other party, to be effective no sooner than ten (10) days after the date of the notice.

54. ACCOUNT MANAGER

Contractor must assign an Account Manager to the County upon execution of the Agreement to facilitate the contractual relationship, be fully responsible and accountable for fulfilling the County's requirements. Contractor represents and warrants that such person will ensure that the

County receives adequate pre-sales and post-sales support, problem resolution assistance and required information on a timely basis.

55. SURVIVAL

All representations, warranties, and covenants contained in this Agreement, or in any instrument, certificate, exhibit, or other writing intended by the parties to survive this Agreement, will survive the termination of this Agreement.

56. GOVERNING LAW, JURISDICTION AND VENUE

This Agreement shall be construed and interpreted according to the laws of the State of California, excluding its conflict of law principles. Proper venue for legal actions shall be exclusively vested in state court in the County of Santa Clara. The parties agree that subject matter and personal jurisdiction are proper in state court in the County of Santa Clara and waive all venue objections.

57. THIRD PARTY BENEFICIARIES

This Agreement does not, and is not intended to, confer any rights or remedies upon any person or entity other than the parties

58. AUTHORITY

Each party executing the Agreement on behalf of such entity represents that he or she is duly authorized to execute and deliver this Agreement on the entity's behalf, including, as applicable, the Board of Supervisors, the Board of Directors, or Executive Director. This Agreement shall not be effective or binding unless it is in writing and approved by the County's authorized representative, or authorized designee, as evidenced by their signature as set forth in this Agreement.

59. LIVING WAGE

Unless otherwise exempted or prohibited by law or County policy, Contractors that contract with the County to provide Direct Services, as defined in County of Santa Clara Ordinance Code Division B36 ("Division B36") and Board Policy section 5.5.5.5 ("Living Wage Policy"), and their subcontractors, where the contract value is \$100,000 or more, must comply with Division B36 and the Living Wage Policy and compensate their employees in accordance with Division B36 and the Living Wage Policy. Compliance and compensation for purposes of this provision includes, but is not limited to, components relating to fair compensation, earned sick leave, paid jury duty, fair workweek, worker retention, fair chance hiring, targeted hiring, local hiring, protection from retaliation, and labor peace. If Contractor and/or a subcontractor violate this provision, the Board of Supervisors or its designee may, at its sole discretion, take responsive actions including, but not limited to, the following:

- (1) Suspend, modify, or terminate the Direct Services Contract.
- (2) Require the Contractor and/or Subcontractor to comply with an appropriate remediation plan developed by the County.
- (3) Waive all or part of Division B36 or the Living Wage Policy.

This provision shall not be construed to limit an employee's rights to bring any legal action for violation of the employee's rights under Division B36 or any other applicable law. Further, this provision does not confer any rights upon any person or entity other than the Board of Supervisors or its designee to bring any action seeking the cancellation or suspension of a County contract. By entering into this contract, Contractor certifies that it is currently complying with County Code Division B36 and the County's Living Wage Policy with respect to applicable contracts, and warrants that it will continue to comply with County Code Division B36 and the County's Living Wage Policy with respect to applicable contracts.

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60. CONTRACTING PRINCIPLES

All entities that contract with the County to provide services where the contract value is \$100,000 or more per budget unit per fiscal year and/or as otherwise directed by the Board, shall be fiscally responsible entities and shall treat their employees fairly. To ensure compliance with these contracting principles, all contractors shall: (1) comply with all applicable federal, state and local rules, regulations and laws; (2) maintain financial records, and make those records available upon request; (3) provide to the County copies of any financial audits that have been completed during the term of the Agreement; (4) upon the County's request, provide the County reasonable access, through representatives of the Contractor, to facilities, financial and employee records that are related to the purpose of the Agreement, except where prohibited by federal or state laws, regulations or rules.

61. CONTRACTOR TRAVEL EXPENSES

Contractor shall be solely responsible for any travel fees or out of pocket expenses.

62. INFORMATION SECURITY COMPLIANCE

A. For purposes of this section, the following Definitions will apply:

- (1) "Breach" means unauthorized access to, or use of, County Data or information security networks or systems that compromises confidentiality, integrity, and/or availability those systems or County Data.
- (2) "Independent Penetration Testing," or "pen testing," means the County's practice - by using an independent third party - of testing a computer system, network or web application to find security vulnerabilities that an attacker could exploit
- (3) "Risk Assessment" means the process by which the County's Information Security Office ("ISO") assesses (i) the Contractor's information security program, and related aspects, by identifying, analyzing, and understanding how the Contractor will store, process and transmit County Data; and (ii) the potential impact on the County of any security risks, weaknesses and threats related to safeguarding County assets and County Data. The Risk Assessment usually includes the ISO's evaluation of documentation provided by the Contractor.

B. Contractor shall do all of the following:

- (1) Maintain or improve upon its information security posture at the time of the County's initial Risk Assessment as reasonably determined by the County. Contractor shall provide written notice to the County's Information Security Office ("ISO") of any changes or deficiencies to its information security posture.
- (2) Protect the confidentiality, integrity, availability of the County's data and comply with any information security requirements provided to Contractor by the ISO for the entire term of the Agreement.
- (3) Follow any updated security requirements for the remaining term of the Agreement if the County re-evaluates the Risk Assessment, conducts periodic audits, and/or completes annual Independent Penetration Testing.
- (4) Upon discovering any Breach that could impact the County, whether caused by

Contractor, its officers, employees, contractors or agents or others, the Contractor shall notify the ISO at o365-iso-team@sccconnect.onmicrosoft.com within 24 hours. Contractor shall also comply with all of its other obligations in this Agreement relating to breaches and potential breaches.

63. COUNTY DATA

- (1) Contractor shall not acquire any ownership interest in County Data (including County Confidential Information). As between Contractor and County, all County Confidential Information and/or County Data shall remain the property of the County. Contractor shall not, without County's written permission, use or disclose County Data (including County Confidential Information) other than in the performance of its obligations under this Agreement.
- (2) Contractor shall be responsible for establishing and maintaining an information security program that is designed to ensure the security and confidentiality of County Data, protect against any anticipated threats or hazards to the security or integrity of County Data, and protect against unauthorized access to or use of County Data that could result in substantial harm or inconvenience to County or any end users. Upon termination or expiration of this Agreement, Contractor shall seek and follow County's direction regarding the proper disposition of County Data.
- (3) Contractor shall take appropriate action to address any incident of unauthorized access to County Data, including addressing and/or remedying the issue that resulted in such unauthorized access, and notifying County by phone or in writing within 24 hours of any incident of unauthorized access to County Data, or any other breach in Contractor's security that materially affects County or end users. If the initial notification is by phone, Contractor shall provide a written notice within 5 days of the incident. Contractor shall be responsible for ensuring compliance by its officers, employees, agents, and subcontractors with the confidentiality, privacy, and information security requirements of this Agreement. Should County Confidential Information and/or legally protected County Data be divulged to unauthorized third parties, Contractor shall comply with all applicable federal and state laws and regulations, including but not limited to California Civil Code sections 1798.29 and 1798.82 at Contractor's sole expense. Contractor shall not charge County for any expenses associated with Contractor's compliance with these obligations.
- (4) Contractor shall defend, indemnify and hold County harmless against any claim, liability, loss, injury or damage arising out of, or in connection with, the unauthorized use, access, and/or disclosure of information by Contractor and/or its agents, employees or subcontractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County.

64. ACCESS TO COMPETITIVELY BID AGREEMENTS

Where the contract award is a result of a formal competitive solicitation, Contractor may opt to permit the use of this Agreement by other political subdivisions, municipalities, tax supported agencies and non-profit entities in the United States. Such participating agencies shall make purchases in their own name, make payments directly to the Contractor and shall be liable directly to Contractor holding the County of Santa Clara harmless.

If applicable, Contractor shall be required to maintain a list of cooperative entities using this Agreement. The list shall report dollar volumes spent annually and shall be provided on an annual basis to the County, at the County's request.

65. COMPLIANCE WITH ALL LAWS AND REGULATIONS INCLUDING NONDISCRIMINATION, EQUAL OPPORTUNITY, AND WAGE THEFT PREVENTION

Contractor's violation of this provision shall be deemed a material default by Contractor, giving County a right to terminate the Agreement. Examples of such Regulations include but are not limited to California Occupational Safety and Health Act of 1973, Labor Code §6300 *et seq.* the Fair Packaging and Labeling Act. and the standards and regulations issued there under. Contractor agrees to indemnify and hold harmless the County for any loss, damage, fine, penalty, or any expense whatsoever as a result of Contractor's failure to comply with the act and any standards or regulations issued there under.

- (1) Compliance with All Laws. Contractor shall comply with all applicable Federal, State, and local laws, regulations, rules, and policies (collectively, "Laws"), including but not limited to the non-discrimination, equal opportunity, and wage and hour Laws referenced in the paragraphs below.
- (2) Compliance with Non-Discrimination and Equal Opportunity Laws: Contractor shall comply with all applicable Laws concerning nondiscrimination and equal opportunity in employment and contracting, including but not limited to the following: Santa Clara County's policies for contractors on nondiscrimination and equal opportunity; Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973 (Sections 503 and 504); the Equal Pay Act of 1963; California Fair Employment and Housing Act (Government Code sections 12900 *et seq.*); California Labor Code sections 1101, 1102, and 1197.5; and the Genetic Information Nondiscrimination Act of 2008. In addition to the foregoing, Contractor shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political belief, organizational affiliation, or marital status in the recruitment, selection for training (including but not limited to apprenticeship), hiring, employment, assignment, promotion, layoff, rates of pay or other forms of compensation. Nor shall Contractor discriminate in the provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.
- (3) Compliance with Wage and Hour Laws: Contractor shall comply with all applicable wage and hour Laws, which may include but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and, if applicable, any local Minimum Wage, Prevailing Wage, or Living Wage laws.
- (4) Definitions: For purposes of this Section, the following definitions shall apply. A "Final Judgment, Decision, Determination, or Order" shall mean a judgment, decision, determination, or order (a) which is issued by a court of law, an investigatory government agency authorized by law to enforce an applicable Law, an arbiter, or arbitration panel and (b) for which all appeals have been exhausted or the time period to appeal has expired. For pay equity Laws, relevant investigatory government agencies include the federal Equal Employment Opportunity Commission, the California Division of Labor Standards Enforcement, and the California Department of Fair Employment and Housing. Violation of a pay equity Law shall mean unlawful discrimination in compensation on the basis of an individual's sex, gender, gender identity, gender expression, sexual orientation, race, color, ethnicity, or national origin under Title VII of the Civil Rights Act of 1964 as amended, the

Equal Pay Act of 1963, California Fair Employment and Housing Act, or California Labor Code section 1197.5, as applicable. For wage and hour Laws, relevant investigatory government agencies include the federal Department of Labor, the California Division of Labor Standards Enforcement, and the City of San Jose's Office of Equality Assurance.

- (5) Prior Judgments, Decisions or Orders against Contractor: By signing this Agreement, Contractor affirms that it has disclosed any final judgments, decisions, determinations, or orders that (a) were issued in the five years prior to executing this Agreement by a court or investigatory government agency and (b) found that Contractor violated an applicable wage and hour or pay equity law. Contractor further affirms that it has satisfied and complied with – or has reached agreement with the County regarding the manner in which it will satisfy – any such final judgments, decisions, determinations, or orders.
- (6) Violations of Wage and Hour Laws or Pay Equity Laws During Term of Agreement: If at any time during the term of this Agreement, Contractor receives a Final Judgment, Decision, Determination, or Order rendered against it for violation of an applicable wage and hour Law or pay equity Law, then Contractor shall promptly satisfy and comply with any such Final Judgment, Decision, Determination or Order. Contractor shall inform the Office of the County Executive-Office of Countywide Contracting Management (OCCM) of any relevant Final Judgment, Decision, Determination, or Order against it within 30 days of the Final Judgment, Decision, Determination, or Order becoming final or of learning of the Final Judgment, Decision, Determination, or Order, whichever is later. Contractor shall also provide any documentary evidence of compliance with the Final Judgment, Decision, Determination, or Order within 5 days of satisfying the Final Judgment, Decision, Determination, or Order. Any notice required by this paragraph shall be addressed to the Office of the County Executive-OCCM at 70 W. Hedding Street, East Wing, 11th Floor, San José, CA 95110. Notice provisions in this paragraph are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the Office of the County Executive-OCCM satisfies the notice requirements in this paragraph.
- (7) Access to Records Concerning Compliance with Pay Equity Laws: In addition to and notwithstanding any other provision of this Agreement concerning access to Contractor's records, Contractor shall permit the County and/or its authorized representatives to audit and review records related to compliance with applicable pay equity Laws. Upon the County's request, Contractor shall provide the County with access to any and all facilities and records, including but not limited to financial and employee records, that are related to the purpose of this Section, except where prohibited by federal or state laws, regulations or rules. County's access to such records and facilities shall be permitted at any time during Contractor's normal business hours upon no less than 10 business days' advance notice.
- (8) Pay Equity Notification: Contractor shall (1) directly provide each employee working in California and each person applying for a job in California with a written copy of any applicable pay equity Laws, or (2) electronically disseminate the text of applicable pay equity Laws to each California employee and job applicant, either directly or by posting a copy in conspicuous places available to employees and applicants. Such notification shall occur at least once during the term of this Agreement and, if this Agreement is a multi-year Agreement, at least annually thereafter.
- (9) Material Breach: Failure to comply with any part of this Section shall constitute a material breach of this Agreement. In the event of such a breach, the County may, in its discretion,

exercise any or all remedies available under this Agreement and/or at law. County may, among other things, take any or all of the following actions:

- (i) Suspend or terminate any or all parts of this Agreement.
- (ii) Withhold payment to Contractor until full satisfaction of a Final Judgment, Decision, Determination, or Order.
- (iii) Offer Contractor an opportunity to cure the breach.

- (10) Subcontractors: Contractor shall impose all of the requirements set forth in this Section on any subcontractors permitted to perform work under this Agreement. This includes ensuring that any subcontractor receiving a Final Judgment, Decision, Determination, or Order for violation of an applicable wage and hour Law promptly satisfies and complies with such Final Judgment, Decision, Determination, or Order.

66. LICENSE GRANT

Contractor grants to County a perpetual, non-exclusive, royalty-free, fully paid-up license to use the Software for its business activities, which includes fulfilling its mission of providing services to the public. This includes the right to use licensed software in backup, disaster recovery, and testing environments.

67. CLICK-THROUGH AGREEMENTS AND CONTRACTOR POLICIES

(1) No provisions of any shrink-wrap or any click-through agreement (or other form of "click to accept" agreement) that may routinely accompany any products or services acquired under this Agreement shall apply in place of, or serve to modify any provision of this Agreement, even if a user or authorized officer of County purports to have affirmatively accepted such shrink-wrap or click through provisions. Without limiting the foregoing, no "terms of use," "privacy policy" or other policy on Contractor's website or application (collectively, "Policies") or another website that may routinely accompany any products or services acquired under this Agreement shall apply in place of or serve to modify any provision of this Agreement.

(2) For the avoidance of doubt and without limiting the foregoing, in the event of a conflict between any such shrink-wrap, click-through provisions or Policies (irrespective of the products or services that such provisions attach to) and any term or condition of this Agreement, the relevant term or condition of this Agreement shall govern to the extent of any such conflict. Only the provisions of this Agreement as amended from time to time, and executed by the parties, shall apply to County and or authorized user.

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EXHIBIT B
Product and Price Schedule

The County shall only be charged for goods as included and described in this Exhibit B – Product and Price Schedule. Any charges or fees not specifically listed in this Exhibit B shall not be invoiced to the County.

A. PRICING TABLE

#	Product Description	Range of Quantity Ordered	UOM	Fixed Margin off OPIS Daily Contract Average Rack Price
1	Renewable Red Dyed Diesel	1501-4000	Gallon	+\$0.0575
2	Renewable Red Dyed Diesel	4001-6000	Gallon	+\$0.0075
3	Renewable Red Dyed Diesel	6001 and above	Gallon	-\$0.0225

Prices are on a per gallon basis per the increments shown on the table. All prices shall be F.O.B. destination freight prepaid and allowed. All costs incidental to delivery and off-loading of fuel or coordinating fuel pick up are included in the price. Pricing does not include any State of California fees, taxes or the Cap-and-Trade for fuel California Carbon Allowance (CAR) fee that went into effect on January 1, 2015. However, the parties agree that all current California fees and taxes will be included in the final paid price per gallon for fuel purchased under the Agreement. The County and the participating agencies will not be charged for any additional fees for the amount of time it takes the Contractor to offload and transfer fuel to tanks in various locations.

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EXHIBIT C

Requirements and Specifications

Contractor shall provide Renewable Red Dyed Diesel 1501 Gallons and Up to the County of Santa Clara in accordance with the terms and conditions of this Agreement.

The Agreement shall be used as a master agreement against which the ordering department shall issue subordinate purchase documents based on the pricing, terms, and conditions of the agreement. County does not guarantee, whether implied or in writing, to purchase any estimated quantities based on past usage, annual dollar volume, or quantity. No minimum orders are guaranteed.

A. BACKGROUND

The County of Santa Clara's Facilities and Fleet (FAF) requires Renewable Red Dyed Diesel for the locations listed in the service locations in table 2.1 below.

B. OBJECTIVES

Contractor must be capable of:

1. Providing Renewable Red Dyed Diesel; on an as needed basis.
2. Delivering fuel to multiple County locations on an as needed basis.
3. Following all required specifications and delivery requirements throughout the term of the Agreement.
4. Responding to emergency calls; and
5. Providing reports per County requirements.

C. DEFINITIONS

1. CRPO: Contract Release Purchase Order
Abbreviation for Contract Release Purchase Order, which is a County-issued purchase order provided to the Contractor when an order is placed for contracted services and goods.

D. SPECIFICATIONS AND SUPPLIER RESPONSIBILITIES

1. Technical Specifications

- 1.1 All products shall conform to the State of California specifications including California Air Resources Board (CARB), American Society of Testing & Materials (ASTM), "The California Reformulated Gasoline Regulations" Title 13, California Code of Regulations Sections 2250-2273.5 latest version /sub articles, and all-inclusive amendments.

1.1.1 Regular Unleaded Gasoline

- 1.1.1.1 Minimum Octane Rating of 87 which shall be determined by using the R+M/2 Method.

- 1.1.1.2 Comply with the requirements of American Society of Testing Materials (ASTM) D418151 latest version.
 - 1.1.2 CARB Specification ULSD #2
 - 1.1.2.1 All diesel fuel sold for vehicular use in California must meet a 15-ppm maximum sulfur limit (Ultra Low) in addition to meeting all the current low aromatics CARB diesel specifications
 - 1.1.3 CARB Specification ULSD #2 – Red
 - 1.1.3.1 The same specifications as CARB ULSD #2 except for the red dye and dyeing process to donate usage for tax-exempt purposes.
 - 1.1.4 “Renewable hydrocarbon diesel” means a diesel fuel that is produced from nonpetroleum renewable resources but is not a mono-alkyl ester and which is registered as a motor vehicle fuel or fuel additive under 40 CFR Part 79.
 - 1.1.4.1 The renewable diesel fuel shall conform to California Code of Regulations (CCR) Title 4, Division 9, Chapter 6, Article 5, Section 4149.
 - 1.1.4.2 The renewable diesel fuel shall also meet the requirements of the California Code of Regulation, Title 13, Division 3, Chapter 5, Article 2, Section 2281 (sulfur content) and Section 2282 (aromatic hydrocarbon). Alternative diesel formulations must be certified by CARB. Evidence of such fact shall be available to the County of Santa Clara if requested.
 - 1.1.4.3 The renewable diesel fuel shall meet the requirements of Low Carbon Fuel Standard (LCFS), Title 17, Division 3, Chapter 1, Subchapter 10, Article 4, Subarticle 7, of California Code of regulations (CCR), Sections 95480 through 95490 (collectively referred to as “LCFS”) applies to any transportation fuel, as defined in section 95481, that is sold, supplied, or offered for sale in California, and to any person who, as a “regulated party” defined in section 95481 and specified in section 95484(a), is responsible for a transportation fuel in calendar year. LCFS regulation became effective on January 12, 2010.
 - 1.1.4.3.1 Note: County of Santa Clara is end user and will not assume the role as a “regulated party.”
 - 1.1.4.4 The carbon intensity of the fuel shall be no more than 50 g CO₂e/MJ as determined by the Low Carbon Fuel Standard (LCFS), Title 17, Division 3, Chapter 1, Subchapter 10, Article 4, Subarticle 7, of California Code of Regulations (CCR), Section 95486.
 - 1.1.4.5 SAVE
 - 1.1.5 Storage Life: Fuel shall not deteriorate in ordinary storage and shall not form excessive gum, resin, or deposits.

2. Service Locations

2.1 Contractor shall service the County's required distribution points/locations as listed in the table below.

#	Location	Address
1	FAF Fleet Management	2265 Junction Ave. San Jose
2	Roads East Yard	1505 Schallenberger Rd. San Jose
3	Roads West Yard	11031 Doyle Rd. San Jose
4	Roads South Yard	13550 Diessner, San Martin
5	Parks Central Yard	995 Hellyer Ave., San Jose
6	Younger Gas Station	90 W. Younger Ave., San Jose
7	James Boys Ranch	19050 Malaguerra Ave., Morgan Hill
8	Joseph D. Grant Ranch	18405 Mt. Hamilton Road., San Jose
9	Uvas Canyon Park	8515 Croy Rd., Morgan Hill
10	Vasona Lake Park	298 Garden Hill Dr., Los Gatos
11	Calero Lake	3201 McKean Rd., San Jose
12	Ed Levin Park	3100 Calaveras Road., Milpitas
13	Mt. Madonna Park	Hecker Pass Hwy, Watsonville
14	Coyote Lake	10840 Coyote Lake Rd. Gilroy
15	Sanborn-Skyline Park	16055 Sanborn Rd., Saratoga
16	Stevens Creek Park	11401 Stevens Canyon Rd., Cupertino
17	Mt. Hamilton San Antonio Valley Yard	47365 San Antonia Valley Road, Livermore

3. Fuel and Fuel Delivery Requirements

3.1 Orders and Locations

3.1.1 Fuel site deliveries will include a combination of filling tanks and direct facility of off-road equipment with specified quantities. No order shall be delivered without an order placed by the responsible County Department.

3.1.2 The County reserves the right to add locations or discontinue service to existing locations without any additional charges or change in the bid price structure. All tanks will be underground unless otherwise stated. All fuel shall be delivered to designated points unless otherwise stated.

3.1.3 The following locations take deliveries by transport:

3.1.3.1 FAF Fleet Management, 2265 Junction Ave. San Jose

3.1.3.2 Roads West Yard, 11031 Doyle Rd. San Jose

3.1.3.3 Roads South Yard 13550 Diessner, San Martin

3.1.3.4 Roads East Yard. 1505 Schallenberger Rd. San Jose

3.1.3.5 Santa Rita Fuel Station, 6175 Madigan Rd. Dublin, CA

3.1.3.6 14200 Chapman Road, Leandro, CA 94578

3.2 If delivery vehicle is equipped with metered pumps, these pumps shall be currently certified as to accuracy by the California Department of Agriculture, Division of Weights and Measures.

- 3.3 If metering is not accomplished from the delivery vehicles at the time of delivery, a highway transportation receipt (H.T.R.), issued at the point where the fuel order was loaded in the delivery vehicle, shall be delivered to the ordering Department. At minimum the H/T/R. shall show the date fuel loaded, carrier, truck numbers, quantity and type of fuel loaded, and temperature when loaded.
- 3.4 All deliveries shall be temperature corrected to 60 degrees Fahrenheit.
- 3.5 All delivery trucks shall comply with the California Environmental Protection Agency Air Resources Board approved certified Phase II Vapor Recovery Equipment Requirements. Proof of compliance will be supplied by the awarded vendor when requested by the County. There are many other smaller Back-up Power Generators that tanks do not need to meet the EVR requirements, but at times the vendor may need to service these locations too.
- 3.6 Delivery dates and times must be coordinated with the County end user Department. All deliveries shall be made Monday through Friday between the hours of 8:00 a.m. to 5:00 p.m. unless special delivery restrictions or instructions are required by the requested County end- user Department.
- 3.7 Urgent Deliveries
 - 3.7.1 It shall be expected that vendor shall deliver any urgent fill orders placed by the County and participating agencies within twelve (12) hours of the time order is placed with no additional cost.
 - 3.7.2 Urgent deliveries are not anticipated to occur often and shall be kept to a minimum by the end-user Department placing the order.
 - 3.7.3 There are no minimum requirements for urgent deliveries.
 - 3.7.4 All urgent deliveries shall occur during normal delivery hours of 8:00 a.m. to 5:00 p.m. unless special delivery instructions apply by the requesting Department.
- 3.8 Emergency Deliveries
 - 3.8.1 During a state of emergency, in which a natural disaster or other type of declared emergency, County of Santa Clara is a first responder to said emergency. As a result, the County and any other participating agencies of this contract, will have a priority status on available fuel.
 - 3.8.2 It shall be expected that vendor shall deliver any emergency fill orders placed by the County and participating agencies within four (4) hours of the time order is placed with no additional cost to the County.
 - 3.8.3 Emergency deliveries are not anticipated to occur often and shall be kept to a minimum by the end-user Department placing the order.
 - 3.8.4 There are no minimum requirements for emergency deliveries.
 - 3.8.5 Emergencies deliveries shall be placed by phone from the ordering department with confirmation by electronic mail or facsimile by the same ordering Department.

3.9 Standing Time – The County will not be charged any additional fees for the time it takes the Contractor to fuel the County's off-road equipment or generator tanks.

3.10 Spillage

3.10.1 The County has a "zero" leakage standards for fuel transfer operations.

3.10.2 The Contractor shall provide equipment for and training of truck drivers to minimize the chance of spillage during connection and disconnection of hoses and during the transfer of fuel.

3.10.3 The vendor shall ensure that all equipment, tools and procedures used follow all applicable specifications and regulations governing such operations.

3.10.4 In the event of leakage or spillage, it shall be the vendor's responsibility to effect immediate containment, cleanup, and disposal and restoration activities in accordance with applicable State of California laws and regulations and subject to County's satisfaction.

3.10.5 All material associated with such clean-up shall be removed by the Contractor.

3.11 Safety Data Sheet – It is required by law that all hazardous materials must be identified and be accompanied with a "Safety Data Sheet" (SDS) at the delivery site.

3.12 Substitutions – Contractor will not be allowed to substitute any product with any other without the consent of the County end-user Department placing the order. If substitute products are delivered without approval, it will be the responsibility of the vendor to collect product at no charge or penalty to the County.

4. Electronic Transactions in Ariba Network

The County has implemented the Santa Clara County Procure-to-Pay Collaborative Commerce (SCC P2P) project in year 2015 to streamline its procurement and payment functions. The County transacts business with its suppliers electronically using the Ariba system, which includes issuing purchase orders to and receiving invoices from its suppliers. In order to do business with the County, Contractor needs to register to establish a relationship with the County on the Ariba Network. The Ariba Network is a cloud-based electronic commerce network that allows buyers and sellers of goods and services to collaborate.

Contractor will not be charged for their relationship and/or any transactions with the County of Santa Clara on the Ariba Network.

Contractor shall provide and maintain an Ariba-compatible catalog of all products within the scope of the contract.

5. Reports

Contractor shall be responsible for processing, discussing, and submitting reports upon request, which shall include, but not be limited to:

- 5.1** Spend Reports – Expenditures against the Agreement, including ability to provide total spend by the County, total spend for contracted services and products, and total spend by date.
- 5.2** Usage Reports – Includes but shall not be limited to the cumulative contract activity and any other analytical information as mutually agreed upon.
- 5.3** Upon request and as mutually agreed upon by County and Contractor, Contractor shall provide additional reports on items that are not contained in the spend or usage reports.

6. Invoicing

- 6.1** Invoices shall be provided to the County end user departments submitting the CRPO. Invoices shall include, but not be limited to the following information:
 - 6.1.1** Fuel site location.
 - 6.1.2** Date and time of transport.
 - 6.1.3** Description(s) of product(s) provided.
 - 6.1.4** Amount of fuel.
 - 6.1.5** Total gallons and dollars by product.
 - 6.1.6** Summary of fuel gallons applicable taxes.
 - 6.1.7** Copy of OPIS Rack Price for the date of order/delivery.
 - 6.1.8** Associated CRPO numbers(s); and
 - 6.1.9** Associated Agreement number.
- 6.2** Contractor shall correct any invoices that include incorrect or missing information. Invoices cannot be processed until invoices are correct and approved by County department.
- 6.3** Contractor shall not invoice the County for any fees or charges not specifically listed in the final agreement.
- 6.4** Credit Memos – Contractor shall issue credit memos to the County identifying any amounts due back to the County for incorrect charges (e.g., overcharges, cancellations, non-contracted products, etc.).

E. COUNTY RESPONSIBILITIES

- 1.** County shall issue a CRPO to the Contractor for all contracted products to be ordered against this Agreement.
 - 1.1** CRPO issuance may need to be processed upon delivery of products by Contractor. For these instances, County shall issue CRPO's after delivery of products and receipt of invoice.

1.2 County shall not process any invoices for payment until goods are delivered and received.

EXHIBIT D
Insurance Requirements (B-2)

Indemnity

The Contractor shall indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor contests its obligation to indemnify, defend and/or hold harmless the County under this Agreement and does not prevail in that contest.

Insurance

Without limiting the Contractor's indemnification of the County, the Contractor shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this Agreement, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the Contractor upon request.

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

B. Qualifying Insurers

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.

C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified County insurance requirements without 30 days' prior

written notice of such cancellation or change being delivered to the County of Santa Clara or their designated agent.

D. Insurance Required

- a. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:
 - a. Each occurrence - \$1,000,000
 - b. General aggregate - \$2,000,000
 - c. Products/Completed Operations aggregate - \$2,000,000.
 - d. Personal Injury - \$1,000,000
- b. General liability coverage shall include:
 1. Premises and Operations
 2. Products/Completed.
 3. Personal Injury liability
 4. Severability of interest
3. General liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

Additional Insured Endorsement, which shall read:

"County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insureds."

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy. Public Entities may also be added to the additional insured endorsement as applicable and the contractor shall be notified by the contracting department of these requirements.

4. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles.

- 4a. Aircraft/Watercraft Liability Insurance (Required if Contractor or any of its agents or subcontractors will operate aircraft or watercraft in the scope of the Agreement)

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired aircraft/watercraft.

5. Workers' Compensation and Employer's Liability Insurance

1. Statutory California Workers' Compensation coverage including broad form all-states coverage.
2. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

E. Special Provisions

The following provisions shall apply to this Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.
2. The County acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this Agreement. Any self-insurance shall be approved in writing by the County upon satisfactory evidence of financial capacity. Contractors obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.
3. Should any of the work under this Agreement be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractor may insure subcontractors under its own policies.

4. The County reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.

F. Fidelity Bonds (Required only if contractor will be receiving advanced funds or payments)

Before receiving compensation under this Agreement, Contractor will furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Contractor will notify County immediately, and County may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for this Agreement, at the option of County.

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Exhibit E
COUNTY OF SANTA CLARA FEDERALLY REQUIRED CONTRACT
PROVISIONS

The federally-required contract provisions listed below are made a part of the Contractor's Contract with the County.

The term "Contractor", as used throughout this document shall mean the contractor identified in the Contract as Contractor, Provider, Consultant, or similar term.

The term "Contract" as used throughout this Exhibit shall mean the contract or other agreement, with exhibits, into which this Exhibit is incorporated.

The term "State" as used throughout this document shall mean the State of California and include any of its departments or agencies.

These federally required contract provisions will collectively be referenced as the "FEMA Contract Terms."

The terms and conditions of the Contract and the FEMA Contract Terms should be read to operate in concert, except where directly in conflict. In the event of a conflict between the terms of the Contract and the FEMA Contract Terms, and unless otherwise stated within the terms of this Exhibit, the FEMA Contract Terms shall govern and prevail.

A. No Obligation by the Federal Government

The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the Contract.

B. Access to Records

(1) Upon request, the Contractor agrees to provide the County, State, Federal Emergency Management Agency (FEMA) Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the Contract for the purposes of making audits, examinations, excerpts and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) Upon request, the Contractor agrees to provide the FEMA Administrator or the FEMA Administrator's authorized representatives access to construction or other work sites pertaining to the work being completed under the Contract.

(4) In compliance with the Disaster Recovery Act of 2018, the County of Santa Clara and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

C. Procurement of Recovered Materials

(1) In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are United States Environmental Protection Agency-designated items unless the product cannot be acquired—

- i. Competitively within a timeframe providing for compliance with the Contract performance schedule;
- ii. Meeting Contract performance requirements; or
- iii. At a reasonable price.

(2) Information about this requirement along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

(3) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

D. Department of Homeland Security (DHS) Seal, Logo and Flags.

The Contractor shall not use the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials without specific FEMA approval.

E. Compliance with Federal Law, Regulations, and Executive Orders

This is an acknowledgement that FEMA financial assistance may be used to fund all or a portion of the Contract. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

F. Program Fraud and False or Fraudulent Statements or Related Acts

The Contractor acknowledges that 31 USC Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.

G. Equal Employment Opportunity

If the Contract is for construction work, the provisions of this Section G shall apply. During the performance of this Contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from

extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

H. Clean Air Act and the Federal Water Pollution Control Act

The provisions of this Section H apply to contracts exceeding \$150,000. Clean Air Act

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(2) The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the State, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA. Federal Water Pollution Control Act

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the State, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

I. Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by the Byrd-Anti-Lobbying amendment. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31

U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Required Certification:

APPENDIX A, 44 C.F.R. PART 18- CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

J. Contract Work Hours and Safety Standards Act

The provisions of this Section J apply to contracts over \$100,000 that involve the employment of mechanics and laborers.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

K. Debarment and Suspension

(1) This Contract may be a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of the Contract. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

L. Termination for Cause

If the Contract value exceeds \$10,000, to the extent the Contract does not provide for termination for cause outside of this Exhibit, and in addition to any right to terminate for convenience as described in the Contract, the County may, after providing five days' written notice, terminate the Contract for the Contractor's failure to perform or observe any term, covenant, or condition of the Contract.

M. Remedies

In the event of a breach by the Contractor of any term, covenant, or condition of the Contract, the County shall have the right to pursue all available remedies at law or equity. Except as expressly provided elsewhere in this Contract, each party's rights and remedies under this Contract are cumulative and in addition to, not exclusive of or in substitution for, any rights or remedies otherwise available to that party.

N. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms

If this Contract was awarded in a competitive procurement, Contractor engages subcontractors to perform work under the Contract, and the Contract is for \$10,000 or above, Contractor shall place qualified small and minority businesses and women's business enterprises on solicitation lists used in the procurement; solicit small and minority business and women's business enterprises; divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises; establish delivery

schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises; and use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

O. Subcontracts

To the extent applicable, the Contractor shall include the provisions of this Exhibit in all subcontracts.

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Department of General Services
Procurement Division
707 Third Street, 2nd Floor
West Sacramento, CA 95605-2811

State of California
STATEWIDE CONTRACT
USER INSTRUCTIONS
MANDATORY

ISSUE AND EFFECTIVE DATE: 3/2/2023

CONTRACT NUMBER: 1-23-91-02B

DESCRIPTION: Bulk Fuel – Regular Unleaded
Gasoline, Ethanol (E85), Diesel #2 Ultra
Low Sulfur, and Red Dyed Diesel #2
Ultra Low Sulfur

SUPER DISTRICTS: B – Districts 3 & 4
C – Districts 6 & 10
E – Districts 8 & 9
F – Districts 11 & 12

CONTRACTOR: Pinnacle Petroleum

CONTRACT TERM: 3/2/2023 through 3/1/2026

STATE CONTRACT ADMINISTRATOR: Amanda Lewis
(279) 946-7876

Amanda.Lewis@dgs.ca.gov

The contract user instructions, products, and pricing are included herein. All purchase documents issued under this contract incorporate the contract terms and applicable California General Provisions:

[Non-IT General Provisions \(rev 6/21/2022\)](#)

Cal eProcure link: www.caleprocure.ca.gov

ORDER PLACEMENT INFORMATION

Mailing Address: Pinnacle Petroleum Inc. 16651 Gemini Lane Huntington Beach, Ca. 92647	Fax/Email: Fax: (714) 841-8855 Email: dispatch@pinnaclepetroleum.com	Contact Information: Pinnacle Petroleum Inc. Liz McKinley Phone: (714) 841-8877 Email: lmckinley@pinnaclepetroleum.com
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Contract (Mandatory) 1-23-91-02B
Contract User Instructions

All changes to most recent Supplement are in ***bold red italic***. Additions are enclosed in asterisks; deletions are enclosed in brackets.

SUMMARY OF CHANGES

Supplement Number	Description	Date
N/A	Original Contract Posted	3/2/2023

All other terms and conditions remain the same.

Contract (Mandatory) 1-23-91-02B
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1. SCOPE

The State's contract with Pinnacle Petroleum, Inc. (Contractor) provides Bulk Fuel – Regular Unleaded Gasoline, Ethanol (E85), Diesel #2, and Red Dyed Diesel #2 at contracted pricing to the State of California and local governmental agencies in accordance with the requirements of Contract # 1-23-91-02B. The Contractor shall supply the entire portfolio of products as identified in the contract and will be the primary point of contact for data collection, reporting, and distribution of Bulk Fuel – Regular Unleaded Gasoline, Ethanol (E85), Diesel #2, and Red Dyed Diesel #2 to the State.

The contract term is for three (3) years with an option to extend the contract for two (2) additional one (1) year periods or portion thereof. The terms, conditions, and prices for the contract extension option shall be by mutual agreement between the Contractor and the State. If a mutual agreement cannot be met the contract will expire at the end of the current contract term.

2. CONTRACT USAGE/RULES

A. State Departments

- The use of this contract is mandatory for all State of California departments.
- State departments must adhere to all applicable State laws, regulations, policies, best practices, and purchasing authority requirements, e.g. California Codes, Code of Regulations, State Administrative Manual, Management Memos, and State Contracting Manual Volume 2, as applicable.
- Prior to placing orders against this contract, State departments must have been granted non-IT purchasing authority by the Department of General Services, Procurement Division (DGS-PD) for the use of this statewide contract. State departments that have not been granted purchasing authority by DGS-PD for the use of the State's statewide contracts may contact DGS-PD's Purchasing Authority Management Section by e-mail at pams@dgs.ca.gov.
- State departments must have a Department of General Services (DGS) agency billing code prior to placing orders against this contract. Ordering departments may contact their Purchasing Authority contact or their department's fiscal office to obtain this information.

B. Local Governmental Agencies

- Local governmental agency use of this contract is optional.
- Local government agencies are defined in Public Contract Code Chapter 2, Section 10298 (a) (b) and 10299 (b); this includes the California State Universities (CSU) and University of California (UC) systems, K-12 schools and community colleges empowered to expend public funds for the acquisition of products While the State makes this contract available to local governmental agencies, each local governmental agency should determine whether this contract is consistent with its procurement policies and regulations.

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- Local governmental agencies shall have the same rights and privileges as State departments under the terms of this contract. Any local governmental agencies desiring to participate shall be required to adhere to the same responsibilities as do State departments and have no authority to amend, modify or change any condition of the contract.
- A DGS issued billing code is not required for local governmental agencies to place orders against this contract.

C. Ordering Agencies

Unless otherwise specified within this document, the term “ordering agencies” will refer to all State departments and/or local governmental agencies eligible to utilize this contract. Ordering and/or usage instructions exclusive to State departments or local governmental agencies shall be identified within each section.

3. DGS ADMINISTRATIVE FEES

A. State Departments

The DGS will bill each State department an administrative fee for use of this statewide contract. The administrative fee should NOT be included in the order total, nor remitted before an invoice is received from DGS.

Current fees are available online in the [Price Book & Directory of Services](#) (go to Price Book Download and click on Purchasing under Procurement Division).

B. Local Governmental Agencies

For all local government agency transactions issued against the contract, the Contractor is required to remit the DGS-PD an Incentive Fee of an amount equal to 1.25 percent of the total purchase order amount excluding taxes and freight. This Incentive Fee shall not be included in the local governmental agency's purchase price, nor invoiced or charged to the local governmental agency. All prices quoted to local governmental agencies shall reflect State contract pricing, including any and all applicable discounts, and shall include no other add-on fees.

4. SB/DVBE OFF-RAMP PROVISION

There is no SB/DVBE off ramp associated with this contract.

5. EXEMPT PURCHASES

There are no exempt purchases associated with this contract.

6. PROBLEM RESOLUTION/SUPPLIER PERFORMANCE

Ordering agencies and/or Contractor shall inform the State Contract Administrator of any technical or contractual difficulties encountered during contract performance in a timely

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manner. This includes and is not limited to informal disputes, supplier performance, outstanding deliveries, etc. The ordering agency should include all relevant information and/or documentation (e.g., purchase documents).

7. CONTRACT ITEMS

All available contract line items are listed on Attachment A – Contract Pricing (and Additional/Special Charges information for Super Districts B, C, E, and F.

The State will use the Oil Price Information Service (OPIS) to determine Region Base Market Price (RBMP), the CAR Cost Fee (Cap-At-The-Rack), and the LCFS Cost Fee (Low Carbon Fuel Standard). There are a total of six (6) Super Districts represented by the RBMP, CAR Cost Fee, and LCFS Cost Fee for Unleaded Regular Gasoline, Diesel #2 Ultra Low Sulfur, and Red Dyed Diesel #2 Ultra Low Sulfur. The six (6) Super Districts are identified as Eureka, Sacramento, Fresno, Los Angeles, Barstow, and San Diego.

For the base price of Ethanol (E85) Fuel, the State will use the weekly price quoted in the OPIS Ethanol & Biodiesel Information Services Publication under the Key Renewable Fuels Regional Averages section for product description E-85 Racks, West Coast.

For purposes of this contract, the following racks will be used for the RBMP, CAR Cost Fee, LCFS Cost Fee, and E85 base price for the counties included in Super Districts B, C, E, and F:

Super District	Caltrans District Combined	Market Base OPIS (Unleaded, Diesel #2, Diesel #2 with Red Dye)	Market Base E-85	Counties
B	3 and 4	Sacramento	West Coast	Alameda, Butte, Colusa, Contra Costa, El Dorado, Glenn, Marin, Napa, Nevada, Placer, San Francisco, San Mateo, Santa Clara, Sierra, Solano, Sonoma, Sacramento, Sutter, Yolo, Yuba
C	6 and 10	Fresno	West Coast	Alpine, Amador, Calaveras, Fresno, Kern, Kings, Madera, Mariposa, Merced, Tulare, Alpine, San Joaquin, Stanislaus, Tuolumne
E	8 and 9	Barstow	West Coast	Inyo, Mono, Riverside, San Bernardino,
F	11 and 12	San Diego	West Coast	Imperial, Orange, San Diego

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If an OPIS publication is modified, the State reserves the right to re-establish the base price calculation method or cancel all or part of the contract without prejudice against any party to the contract.

RBMP, CAR Cost Fee, LCFS Cost Fee, and E85 base price will be based on OPIS data and will be posted daily by DGS-PD.

Cost Structure

Contract Composite Price for each fuel type shall be calculated according to the following table:

FUEL TYPE	OPIS INDEX	CONTRACT COMPOSITE PRICE
Unleaded Regular Gasoline	"Time of Delivery" "Rack Average" OPIS GROSS CARFG ETHANOL (10.0%).	RBMP + CAR Cost fee + LCFS Cost fee + Differential = Composite Price
Diesel #2 Ultra Low Sulfur	Daily OPIS Closing Benchmark File OPIS GROSS CARB ULTRA LOW SULFUR DISTILLATE PRICES** RACK AVERAGE.	RBMP + CAR Cost fee + LCFS Cost fee + Differential = Composite Price
Red Dyed Diesel Ultra Low Sulfur	OPIS Closing Benchmark File OPIS GROSS CARB ULTRA LOW SULFUR DISTILLATE PRICES** Rack AVERAGE plus (\$0.01/gal).	RBMP + CAR Cost fee + LCFS Cost fee + Differential + .01 per gallon = Composite Price
Ethanol (E85)	OPIS Ethanol & BioDiesel Information Services Publication under the Key Renewable Fuels Regional Averages section for product description E-85 Racks, West Coast.	RMBP + Differential = Composite Price

Differentials:

All Differential prices quoted shall be:

- Exempt from: Federal Excise Tax
- Exclusive of: State Sales Tax, Local Sales Tax, California Motor Vehicle Fuel Tax, Leaking Underground Storage Tank Tax, Oil Spill Liability Trust Fund Tax, CAR cost fee, LCFS cost fee, AB 32 Fees.

These taxes and fees shall be listed separately on invoices and shall not be a component of the differential price. Any and all charges, levies, and/or fees not listed above shall be a component of the differential price.

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8. PUBLICATION POSTING

The DGS-PD tracks and monitors fuel charges. The DGS-PD will prepare fuel charge documents and email to the Contractors and all end users of the contract daily the RBMP, CAR Cost Fees, and LCFS Cost Fees for all fuels.

The Contractor shall forward a copy of the DGS-PD Daily Fuel Post to all delivery locations that have been invoiced for payment to substantiate the accuracy of the base pricing on the invoice. To request the Daily Fuel Post, complete Attachment D – Fuel Rate Information Request Form and send to:

Amanda.Lewis@dgs.ca.gov or Kao.Yang@dgs.ca.gov

9. SPECIFICATIONS

All products on Attachment A, Contract Pricing, must meet or exceed the specifications in following specification attachment:

Attachment E – State of California Bid Specifications:

- Gasoline, Unleaded Regular, Bid Specification Number 9130-6166A, dated 7/18/2022
- Diesel Fuel, Type 2-D, Bid Specification Number 9130-6166B, dated 7/18/2022
- Ethanol (E85), Bid Specification Number 9130-6166C, dated 7/18/2022

10. CUSTOMER SERVICE

The Contractor will have a customer service unit that is dedicated to this contract. The customer service unit provides office and personnel resources for responding to inquiries, including telephone and email coverage weekdays during the hours of 8:00 a.m. - 5:00 p.m., PT.

The customer service unit shall be staffed with individuals that:

- Are trained in the requirements of this contract
- Have the authority to take administrative action to correct problems that may occur

The Contractor's customer service unit shall respond to all customer inquiries within one (1) business day of initial contact.

Contact	Phone	Email
Liz McKinley	(714) 841-8877	lmckinley@pinnaclepetroleum.com

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11. PURCHASE EXECUTION

A. State Departments

1) Std. 65 Purchase Documents

State departments not transacting in FISCAL must use the Purchasing Authority Purchase Order (Std. 65) for purchase execution. An electronic version of the Std. 65 is available at the [Office of State Publishing web site](#) (select STD Forms).

All Purchasing Authority Purchase Orders (Std. 65) must contain the following:

- Agency Order Number (Purchase Order Number)
- Ordering Agency Name
- Agency Billing Code
- Purchasing Authority Number
- Leveraged Procurement Number (Contract Number)
- Supplier Information (Contact Name, Address, Phone Number, Fax Number, E-mail)
- Line Item number
- Quantity
- Unit of Measure
- Commodity Code Number
- Product Description
- Unit Price
- Extension Price
- Tank Size*
- Tank Fitting Type*

*Attachment B – Delivery Locations may not be the most up to date listing for tank size and tank fitting type. In order to ensure accurate Minimum Order calculation and appropriate equipment at the time of delivery, please list these items on the purchase order.

The Contractor shall not accept incomplete orders from ordering agencies.

2) FISCAL Purchase Documents

State departments transacting in FISCAL will follow the FISCAL procurement and contracting procedures.

3) Blanket Orders

The use of blanket purchase orders against this statewide contract are allowed. Ordering agencies issuing blanket purchase orders must adhere to the following guidelines:

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- a) The order does not cross into different Fiscal Years.
- b) The order is only used for items on the contract.
- c) The order does not exceed the contract period.
- d) All orders placed against the blanket purchase order must be in writing.
- e) When funds are exhausted a new order is issued.
- f) The order is issued only to one contract supplier.

B. Local Governmental Agencies

Local governmental agencies may use their own purchase document for purchase execution. The purchase documents must include the same data elements as listed above (Exception: Purchasing Authority Number and Billing Code which are used by State departments only).

12. MINIMUM ORDER

Minimum delivery quantity shall be 70 percent of tank capacity for below ground tanks and 60 percent of tank capacity for above ground tanks. Orders for less than the minimum order quantity shall be delivered at the contract price plus a "Premium" of not more than ten cents (\$0.10) per gallon delivered. The contract allows for a two percent variance before the less than minimum fee applies. If the ordered amount meets the minimum order requirement but upon delivery the tank will not hold the minimum order quantity, the Contractor may charge the Premium for Less Than Minimum Delivery on the amount delivered.

Deliveries for less than the minimum order quantity required for "TANK TESTING" will not be purchased against the contract.

13. ORDERING PROCEDURE

Ordering agencies are to submit appropriate purchase documents directly to the Contractor via one of the following ordering methods:

- U.S. Mail
- Facsimile
- Email

The Contractor's Order Placement Information is as follows:

ORDER PLACEMENT INFORMATION		
U.S. Mail: Pinnacle Petroleum Inc. 16651 Gemini Lane Huntington Beach, Ca. 92647	Facsimile: (714)841-8855	Email: dispatch@pinnaclepetroleum.com

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When using any of the ordering methods specified above, all State departments must conform to proper State procedures.

14. ORDER ACCEPTANCE

The Contractor shall accept orders from any ordering agency. The Contractor shall not accept purchase documents for this contract that:

- Are incomplete
- Contain non-contract items
- Contain non-contract terms and conditions

The Contractor must not refuse to accept orders from any ordering agency for any other reason without written authorization from the State Contract Administrator.

Contractor has the option to reject orders from CALFIRE during fire season.

15. ORDER RECEIPT ACKNOWLEDGEMENT

The Contractor will provide ordering agencies with an email or facsimile Order Receipt Acknowledgement within two (2) working days of receipt of purchase document. The Order Receipt Acknowledgement shall include the following information:

- Ordering agency name
- Agency order number (purchase order number)
- Purchase order total cost
- Total Quantity of Fuel Ordered in Gallons
- Anticipated delivery date

16. DELIVERY SCHEDULES

Delivery for orders placed against this contract shall be in accordance with the following:

A. Locations

Delivery shall be made to the specified locations listed on Attachment B – Delivery Locations for Super Districts B, C, E, and F. All deliveries made in a tank wagon must be metered. Deliveries are to be made to the location specified on the individual purchase order. Deliveries to remote locations may, by mutual agreement between the receiving location and the Contractor, be delivered on a regularly scheduled “keep full” basis, with no additional charges to the State.

B. Add, Delete or Change Delivery Locations

To add, delete or change delivery location(s), submit Attachment C – Delivery Location Addition/Change Request Form directly to the State Contract Administrator.

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C. Delivery Equipment

Contractor will be required to make deliveries at the time specified in vehicles suitable for each individual location, and for the quantity of fuel ordered. These vehicles shall be equipped as required by applicable laws, rules or regulations with all components, such as connectors and hoses of the proper size, length, etc., necessary to successfully complete delivery. All delivery vehicles and/or trailers must have accurate metering equipment to enable state personnel to verify quantities delivered. It is the responsibility of the Contractor to verify the proper connection and hose before the first delivery.

Contractor shall perform all deliveries to facilities in a safe and professional manor. Contractor's equipment shall be in good working order condition and all personnel shall be trained in safety measures to preclude accidents endangering personnel or property.

Many of the delivery locations are semi-remote and access may only be possible over narrow, winding, unpaved roads. These roads may often limit delivery to trucks without trailers and in some instances smaller than normal trucks may be required. A lack of familiarity with a delivery location will in no way relieve a contractor from their responsibility to fulfill the terms and conditions of the resulting contract.

D. Schedule

Delivery of ordered product shall be completed in full within three (3) working days after receipt of an order (ARO). Since receiving hours for each ordering agency will vary by facility, it will be the Contractor's responsibility to check with each ordering agency for their specific delivery hours before delivery occurs.

The Contractor must notify the ordering agency within twelve (12) hours of scheduled delivery time, if delivery cannot be made within the time frame specified on the Order Receipt Acknowledgement.

The Contractor is requested to make deliveries in Los Angeles County, Orange County, San Bernardino Metropolitan Area, and San Diego Metropolitan Area during off-peak hours. Off-peak hours are Monday through Friday, 10:00 AM to 4:00 PM PT.

E. Security Requirements

Deliveries may be made to locations inside secure grounds that require prior clearances or special entry procedures for delivery drivers.

Security procedures may vary from facility to facility. The Contractor will be responsible for contacting the secure location for security procedures, hours of operation for deliveries and service, dress code, and other rules of delivery.

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Deliveries that are delayed due to drivers not being cleared to enter secure grounds may be cause for contract default.

17. EMERGENCY/EXPEDITED ORDERS AND ADDITIONAL CHARGES

A. **Urgent Deliveries:**

Contractor shall make urgent deliveries during regular working hours for minimum delivery requirements within two (2) working days ARO at NO ADDITIONAL COST to the State or local agencies. Urgent deliveries are not anticipated to occur often and should be kept to a minimum by the ordering State or local agencies.

B. **Emergency Deliveries:** Deliveries requested outside the regular working hours of 8:00 a.m. to 5:00 p.m. and State observed holidays shall be considered an emergency. Orders may be placed by telephone, followed by a purchase order sent to the Contractor by facsimile or US mail. Emergency delivery invoice must accompany the fuel invoice for payment of the emergency delivery fee. The emergency delivery charge shall not exceed \$120.00 per delivery. Emergency Delivery fees are not applicable to late deliveries that occur outside of regular working hours or holidays.

C. **Demurrage Charge:** During normal delivery hours of 8:00 a.m. to 5:00 p.m. the Contractor's truck shall be admitted to the delivery site within five (5) minutes of arrival (excluding security requirements). If the Contractor attempts to deliver fuel to a delivery site and the Contractor's truck is detained beyond the five (5) minute grace period at the delivery site for reasons such as locked gates, unavailable receiving personnel, etc. caused by the ordering agency, the Contractor shall be entitled to Demurrage fee. Demurrage time shall be invoiced separately and supported by appropriate documentation (delivery logs, contact names, etc.). The demurrage time invoice must accompany the fuel invoice for payment of the demurrage fee. The demurrage fee shall not exceed \$2.50 per minute and not exceed \$150.00 per delivery. Charges, if applicable, will be applied to the amount of time the Contractor's truck was detained minus the five (5) minute grace period and not including time for security requirements.

D. **Trip Charge:** During normal delivery hours of 8:00 a.m. to 5:00 p.m., the Contractor's truck, upon arrival, shall be admitted to the delivery site without delay. If the Contractor attempts to deliver fuel to a delivery site and is not admitted to the delivery site for reasons caused by the ordering agency the Contractor shall be paid a trip charge fee. Trip charge time shall be invoiced separately and supported by appropriate documentation (agreed upon delivery time, delivery logs, contact names, etc.). A trip charge fee invoice must accompany the fuel invoice for payment of trip charge fee. The trip charge shall not exceed \$250.00 per delivery.

E. **Standing Time:** The State shall be entitled to standing time for up to one (1) hour at no charge for the purposes of unloading. A maximum charge of \$1.00 per minute shall be assessed for standing time in which the carrier's equipment is detained through no fault of the carrier, in excess of the one free hour. Charged time shall be supported with the appropriate documents. For payment to be processed, the

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standing time billing must accompany, on a separate invoice, the fuel billing. Start time shall begin when the carrier is ready to hook-up to the fuel tank. Each time shall conclude when carrier disconnects or is finished loading fuel into the tank.

- F. Premium for Less Than Minimum Delivery: Minimum delivery quantity shall be 70 percent of tank capacity for below ground tanks and 60 percent of tank capacity for above ground tanks. The contract allows for a 2 percent variance before the fee applies. Deliveries for less than the minimum order quantity shall be delivered at the contract price plus a "PREMIUM" of not more than ten cents (\$0.10) per gallon delivered. For payment to be processed, the Less Than Minimum Delivery Fee billing must accompany, on a separate invoice, the fuel billing. Deliveries for less than the minimum order quantity required for "TANK TESTING" will not be purchased against this contract. If ordered amount meets the minimum delivery requirement, but upon delivery, the tank will not hold the minimum delivery quantity, the Contractor may charge the Premium for Less Than Minimum Delivery on the amount delivered.
- G. Late Delivery (Charged to the Contractor): The parties to this agreement acknowledge that the ordering agency shall incur actual damages should the Contractor fail to deliver the fuel as specified in the contract delivery requirements. Late Delivery charges must be supported by appropriate documentation (delivery logs, contact names, etc.). It is agreed that the Contractor will pay the ordering agency twenty-five (\$0.25) cents per gallon per order for late delivery of fuel, and the ordering agency will make an adjustment to be reflected on the invoice. Normal delivery working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday, except State observed holidays. (The Late Delivery Fee is fixed at \$0.25 per gallon).
- H. Winterization: Winterization shall be available for purchase from the Contractor during the winter months which typically start the month of October through the month of April each contract year (may vary depending on location). The purchase of winterization shall be added to fuel authorized only by State of California Departments and participating local agencies at a maximum cost of five cents (\$0.05) per gallon.

18. FREE ON BOARD (F.O.B.) DESTINATION

All prices are F.O.B. destination; freight prepaid by the Contractor, to the ordering agency's receiving point. Responsibility and liability for loss or damage for all orders will remain with the Contractor until final inspection and acceptance, when all responsibility will pass to the ordering agency, except the responsibility for latent defects, fraud, and the warranty obligations.

19. BILL OF LADING

Contractor shall provide a Bill of Lading (BOL) with each fuel delivery.

Contract (Mandatory) 1-23-91-02B
Contract User Instructions

20. SAFETY DATA SHEET

The Contractor shall provide a Safety Data Sheet for product(s) subject to Title 8 of the California Code of Regulations, Section 5194, Hazard Communication. The Safety Data Sheet is to be prepared and delivered in accordance with this Section.

21. CONTRACT ADMINISTRATION

Both the State and the Contractor have assigned contract administrators as the single points of contact for problem resolution and related contract issues.

Administrator Information	DGS-PD	Pinnacle Petroleum Inc.
Contact Name:	Amanda Lewis	Liz McKinley
Telephone:	(279) 946-7876	(714) 841-8877
Facsimile:	NA	(714)841-8855
Email:	Amanda.Lewis@dgs.ca.gov	lmckinley@pinnaclepetroleum.com
Address:	DGS/Procurement Division Attn: AMANDA LEWIS 707 Third Street, 2 nd Floor, MS 201 West Sacramento, CA 95605	Pinnacle Petroleum Inc. Attn: LIZ MCKINLEY 16651 Gemini Lane Huntington Beach CA 92647

22. RANDOM SAMPLE COMPLIANCE REVIEW

The State has the option of randomly sampling offered products from any order to ensure compliance to contract requirements. Any products failing random sample review will be replaced by the Contractor free of charge and re-evaluated by the State.

The State reserves the right to reject non-compliant fuel. If the test analysis of sampled fuel indicates non-compliance, the Contractor shall be responsible for all costs related to the test analysis, removal, and disposal of non-compliant fuel from affected site storage tanks. Contractor may also be liable for any equipment damaged as a result of non-compliant fuel.

23. PRODUCT RECALL PROCEDURES

The Contractor shall provide product recall notification, regardless of level, in writing to the State Contract Administrator and each ordering agency through the most expedient method possible. The notices, at a minimum, shall include a complete product description and/or identification, contract number, delivery order number and disposition instructions.

The Contractor shall issue replacement of product or credit for any product removed or recalled. Each ordering agency shall have the option of accepting either replacement product or credit in exchange for recalled/removed products.

Contract (Mandatory) 1-23-91-02B
Contract User Instructions

24. INVOICING

Ordering agencies may require separate invoicing, as specified by each ordering agency. Invoices will contain the following information:

- Contractor's name, address, and telephone number
- Contract Number
- Agency Order Number (Purchase Order Number)
- Line-Item Number
- Quantity purchased
- Contract Unit Price and Extension
- State sales and/or use tax
- Prompt payment discounts/cash discounts, if applicable
- Totals for each order

Invoice prices shall be itemized showing the RBMP, CAR Cost fee, LCFS Cost fee, the Differential, and Additional Charges, (region base market price + differential) per gallon, Extension Price, and appropriate taxes and fees.

Invoices and payments shall be for net metered gallons delivered. Contractor must charge the agency for net metered gallons delivered only. Contractor shall provide with invoice a copy of a receipt of gallons delivered. Additionally, a copy of the "Bill of Lading" from the fuel terminal shall accompany all invoices for all deliveries.

The Contractor must obtain prior approval from the DGS contract administrator before adding and/or modifying any new changes to the agency invoice.

State Departments are Federal Excise Tax exempt. DGS-PD will be responsible for furnishing all applicable exception certificates upon request from the Contractor. Local agencies shall be responsible for furnishing their own applicable exception certificates upon request from the contractor.

The State's obligation to make payment pursuant to the contract is subject to availability of appropriated funds. Receipt of a Purchasing Authority Purchase Order (STD. 65) or Purchase Order in FISCAL under this contract is proof of encumbered funds for that order.

25. PAYMENT

A. Terms

Payment terms for this contract are net forty-five (45) days. Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927, et seq. Unless expressly exempted by statute, the Act requires State departments to pay properly submitted, undisputed invoices not more than forty-five (45) days after the date of acceptance of goods, performance of services, or receipt of an undisputed invoice, whichever is later.

Contract (Mandatory) 1-23-91-02B
Contract User Instructions

B. CAL-Card Use

Use of the CAL-Card for payment of invoices is not allowed under this statewide contract.

C. Payee Data Record

Each State department's accounting office must have a copy of the Contractor's Payee Data Record (Std. 204) in order to process payments. State departments should forward a copy of the Std. 204 to their accounting offices. Without the Std. 204, payment may be unnecessarily delayed. State departments should contact the Contractor for copies of the Payee Data Record.

26. CALIFORNIA SELLER'S PERMIT

The California seller permit number for the Contractor is listed below. Ordering Agencies can verify that permits are currently valid at the following website: www.cdtfa.ca.gov. State departments must adhere to the file documentation identified in the State Contracting Manual Volume 2.

Contractor Name	Seller Permit #
Pinnacle Petroleum	99-661168

27. RECYCLED CONTENT

There is no recycled content associated with this contract.

28. SB PARTICIPATION

The Small Business (SB) certification and percentage for the Contractor and subcontractor are listed below. State departments can verify that the certifications are currently valid at the following website: www.caleprocure.ca.gov

Name	Prime or Subcontract or	OSDS Certification #	SB Percent (%)
First Fuel	Subcontractor	2005329	25%

The Contractor will meet the contract SB participation percentages as follows:

State departments must identify subcontractors on individual purchase documents whenever subcontractors are used.

The Contractor has committed to SB participation at total statewide contract levels of 25 percent, respectively.

Contract (Mandatory) 1-23-91-02B
Contract User Instructions

Individual orders may have no applicable participation or may have participation greater than that of the total contract commitment. Ordering agencies must verify the participation amount with the Contractor. The exact participation percentage levels for each purchase order will be determined on an order-by-order basis in cooperation with the Contractor prior to submittal of a Purchasing Authority Purchase Order (STD 65).

The DGS-PD, as the awarding department, has assessed the Contractor and subcontractor certifications and CUF during the solicitation evaluation process. As a result, when executing purchase documents pursuant to this contract it is not necessary for State departments operating under statewide contract purchasing authority to request the completion of a Bidder Declaration document or perform additional CUF analysis. The department should make a notation of this within their procurement file.

Any irregularities or concerns regarding prime or SB/DVBE sub-contractor responsibilities are to be immediately documented and reported to the State Contract Administrator for further investigation. Information provided to the State Contract Administrator includes, but is not limited to:

- Copy of executed purchase document
- Value-added service description
- Work performance issue or concern
- State department contact name, email, and phone number

State departments may request from the Contractor a monthly report providing the SB participation levels on purchase orders.

29. BIDDER DECLARATION/COMMERCIALLY USEFUL FUNCTION (CUF) CERTIFICATIONS

The DGS-PD, as the awarding department, has assessed the Contractor and subcontractor certifications, (i.e. Darfur, Russian Sanctions, SB/DVBE, etc.), Bidder Declaration, and CUF during the solicitation evaluation process. Consequently, when executing purchase documents pursuant to this contract, it is not necessary for State departments operating under statewide contract purchasing authority to request the completion of State required certifications, a Bidder Declaration document, or perform additional CUF analysis. The State department should make a notation of this within their procurement file.

Exception: It is the responsibility of ordering departments to confirm CUF when value-added services are acquired by an ordering department and performed by certified SB/DVBE subcontractors consistent with commitments identified in the table above.

30. ATTACHMENTS

Attachment A – Contract Pricing
Attachment B – Delivery Locations (Super Districts B, C , E, and F)
Attachment C – Delivery Location Addition/Change Request Form
Attachment D – Fuel Rate Information Request Form

Contract (Mandatory) 1-23-91-02B
Contract User Instructions

Attachment E – State of California Bid Specifications:

- Gasoline, Unleaded Regular, Bid Specification Number 9130-6166A, dated 7/18/2022
- Diesel Fuel, Type 2-D, Bid Specification Number 9130-6166B, dated 7/18/2022
- Ethanol (E85), Bid Specification Number 9130-6166C, dated 7/18/2022



AGENDA BILL

Agenda Item No. 8.A.

Date: September 19, 2023
To: El Cerrito City Council
From: Traviss Crumpacker, Fire Prevention Officer; Chase Beckman, Fire Marshal, Fire Department
Subject: Fire Hazard Abatement

ACTION PROPOSED

1) Adopt a resolution declaring weeds, rubbish, litter, or other flammable material on certain real property identified in the resolution constitutes a public nuisance; and 2) Conduct a public hearing and upon conclusion, adopt a resolution overriding objections by property owners and ordering the City Manager or their designee to abate certain public nuisances pursuant to El Cerrito Municipal Code Chapter 16.26.

BACKGROUND

Following the Oakland/Berkeley Hills Fire in October 1991, El Cerrito needed a comprehensive citywide program to reduce hill area fire hazards in the City. The "fire storm" in the Oakland/Berkeley Hills was in fact an urban conflagration, fueled by vegetation among homes and large acreage properties that was driven by seasonally strong dry winds from the east. The fire destroyed over 3,000 dwellings. At the time of the Oakland/Berkeley Hills Fire, El Cerrito faced similar fire hazard conditions in its hill area. The City Council was determined to reduce those fire hazards by all reasonable means.

El Cerrito's comprehensive fire hazard reduction program focused upon reducing fire hazards in four areas: (1) on City property, (2) on property owned by other agencies (3) large landowners and (4) on residential property. The City began a comprehensive planning process to reduce fire hazards on City property, other agencies' properties and large landholders. These property owners were approached about reducing fire hazards on their properties. Prior efforts at fire hazard reduction on private residential property relied on voluntary compliance by the owners. The City Council concluded that stronger measures were necessary to enforce the laws regarding abatement of fire hazards on residential private property.

The Fire Hazard Abatement Program is designed to reduce fire hazards on a large number of private properties during the spring and early summer months. A process of advance notice and hearings for property owners is coupled with a public education program involving the promulgation of standards for vegetation management in residents' yards and vacant lots.

This program seeks to remove weeds, rubbish, litter or other flammable material from private properties where such flammable material endangers the public safety by creating a public nuisance and a fire hazard. Most property owners voluntarily abate

these hazards without Fire Department involvement. However, we anticipate that a small number of owners are content to have the City do the work and place the costs on their tax bill. For over 20 years, the City's annual Fire Hazard Abatement Program has been very successful in reducing fire hazards throughout the hill neighborhoods of El Cerrito. Indeed, this program has become a model program which other fire jurisdictions have borrowed from.

ANALYSIS

Beginning in May of this year, the Fire Department conducted Citywide fire hazard inspections of all properties. The inspections began on May 15, 2023 and have continued due to re-growth and citizen complaints. As a result of the on-going inspections, a list of properties containing public nuisances was generated, which continues to be amended as additional properties are identified. On August 1, 2023, the identified properties determined to be in violation of El Cerrito Municipal Code Chapter 16.26 were notified in writing of the hazards on their property and to abate those hazardous conditions. The El Cerrito Vegetation Management Standards Checklist was included with the notification (Attachments 4, 5, & 6).

Additionally, these property owners were informed in the letter from the Fire Marshal (Attachment 4) of the time, date, and location of the upcoming City Council meeting where their properties would be declared a public nuisance and abatement would be ordered. Property owners were directed to complete the necessary measures to bring their property into compliance prior to the second round of the re-inspection process which began in September and continued through the date of the September 19, 2023 meeting. Only those properties that were not voluntarily abated with the first notice are contained within the Master Abatement List, Exhibit A to the proposed Resolution (List of Properties.)

This public hearing is the next step in the process to eliminate hazards on private properties that were identified as a public nuisance and have not voluntarily abated said violations. In order to achieve full compliance, the City Council is asked to declare the properties to be a public nuisance and direct the City Manager or their designee to abate such public nuisance conditions. Actual City-ordered abatement of fire hazards occurs only after all efforts at providing notice, information, and a public hearing have failed to induce voluntary compliance by the property owner.

The Fire Hazard Abatement process, under the direction of the Fire Department, should proceed according to El Cerrito Municipal Code Chapter 16.26, which specifies the following:

The Fire Department determines that hazards must be abated. Pursuant to these code sections, "hazards" are defined as weeds, rubbish, litter, or other flammable materials which create a fire hazard or are otherwise noxious or dangerous and which exist on specific parcels of property within the City. The Fire Department shall post notice on each property or send notice by mail that the El Cerrito Fire Department has determined the existence of a public nuisance which must be abated and that a hearing will be held

to consider any objections prior to the City Council declaring the properties to be a public nuisance and ordering the City Manager or their designee to perform abatement.

At the September 19, 2023 City Council meeting, the City Council shall first adopt a resolution Declaring that Weeds, Rubbish, Litter, or Other Flammable Material on Certain Real Property Constitutes a Public Nuisance (Attachment 1 and 2). At the same meeting, but after adoption of the first resolution, the City Council shall conduct a public hearing to hear and consider all objections to the declaration of public nuisances or the procedures proposed for abatement of the same. After the hearing, the Council shall adopt a resolution Overriding Objections by Property Owners and Ordering the City Manager or their Designee to Abate Certain Public Nuisances Pursuant to Chapter 16.26 (Attachment 3).

Subsequent to the September 19, 2023 hearing, a second and final notice shall be sent to each property owner prior to abatement (Attachment 7). This notice will order the immediate abatement of nuisance conditions. This notice will clearly state that if nuisance conditions are ignored, the City shall cause abatement and costs for removal will be assessed against the property as a lien and special assessment. It will also indicate that if the conditions are voluntarily abated, the property shall be removed from the process. If the nuisance is not abated between September 20, 2023 and October 15, 2023, prior to the arrival of the hazard abatement crew, the City of El Cerrito shall cause the weeds, rubbish, refuse, and other flammable material to be removed and shall keep an account of the cost of abatement for each parcel of land where such work is performed according to the City Council adopted Fire Department Master Fee Schedule.

At the November 7, 2023 City Council meeting the City Manager or their designee shall submit to the City Council for confirmation an itemized written report showing the cost of abatement work performed. A copy of this report shall be posted for at least ten (10) days prior to its submission to the City Council. Each property owner upon whose property abatement work was performed shall be sent written notice by mail of a hearing by the City Council to consider the cost of abatement work performed on their property. At the City Council Meeting on November 7, 2023, the City Council shall receive and consider the written staff report on abatement actions taken by the City and shall hear any objections from the property owners liable to be assessed for the abatement. The City Council may modify the staff report if deemed appropriate and then confirm the report by motion or resolution.

After City Council confirmation of the report, a certified copy of the report shall be filed with the Contra Costa County auditor who shall add the amount of the assessment to the next regular tax bill levied against the parcel.

STRATEGIC PLAN CONSIDERATIONS

This item is in alignment with Strategic Goal E: Ensure the Public's Health and Safety.

ENVIRONMENTAL CONSIDERATIONS

The Fire Hazard Abatement Program is exempt from California Environmental Quality Act (CEQA) pursuant to Sections 15304 and 15308 of the CEQA Guidelines. Therefore, no further CEQA review is required.

FINANCIAL CONSIDERATIONS

The abatement program will be administered by Fire Department staff with minimum costs expended for printing and mailing. Abatement work will be completed by City maintenance staff or private contract labor as appropriate. Program costs will be recovered through the special assessment and lien process.

LEGAL CONSIDERATIONS

The City Attorney has reviewed and approved the process.

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 (Declaring Public Nuisance)
2. Exhibit A to Resolution (List of Properties)
3. Resolution (Overriding Objections)
4. First Letter from Fire Marshal
5. Abatement Inspection Form
6. Vegetation Management Standards Checklist
7. Second Letter from Fire Marshal

RESOLUTION NO. 2023 - XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO DECLARING THAT WEEDS, RUBBISH, LITTER OR OTHER FLAMMABLE MATERIAL ON CERTAIN REAL PROPERTY CONSTITUTES A PUBLIC NUISANCE

WHEREAS, El Cerrito Municipal Code Chapter 16.26 provides a method by which a local legislative body may abate on private property public nuisance conditions relating to weeds, rubbish, litter or other flammable material that creates a fire hazard, a menace to the public health or which is otherwise noxious or dangerous; and

WHEREAS, the City of El Cerrito Fire Marshal has identified certain real property, by street name, lot and block number, on which the presence of weeds, rubbish, litter or other flammable material creates a fire hazard, a menace to the public health or which is otherwise noxious or dangerous as defined in Chapter 16.26 of the El Cerrito Municipal Code and therefore constitutes a public nuisance; and

WHEREAS, pursuant to El Cerrito Municipal Code Section 16.26.160 and Government Code Section 39560-39588, the City Council shall adopt this resolution declaring that certain real property within the City constitutes a public nuisance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that the properties identified on Exhibit A, attached hereto, are declared to be public nuisances pursuant to El Cerrito Municipal Code Section 16.26.160.

BE IT FURTHER RESOLVED that on this same date of September 19, 2023 at 6:00 P.M. in the City of El Cerrito, the City Council shall hold a hearing at which owners of the real property identified in Exhibit A hereto may object to the designation of their properties as public nuisances and object to the abatement actions proposed by the City.

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

I CERTIFY that at a regular meeting on September 19, 2023 the El Cerrito City Council passed this resolution by the following vote:

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

EXHIBIT A

As of 9/7/23

City of El Cerrito Fire Department
List of Real Property Constituting Public Nuisances

APN	Street Address
505-203-022-7	1220 King Dr.

RESOLUTION NO. 2023 - XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO OVERRIDING OBJECTIONS BY PROPERTY OWNERS AND ORDERING THE CITY MANAGER OR DESIGNEE TO ABATE CERTAIN PUBLIC NUISANCES PURSUANT TO CHAPTER 16.26

WHEREAS, El Cerrito Municipal Code Chapter 16.26 provides a method by which a local legislative body may abate on private property public nuisance conditions relating to weeds, rubbish, litter or other flammable material that creates a fire hazard, a menace to the public health or which is otherwise noxious or dangerous; and

WHEREAS, the City of El Cerrito Fire Marshal has identified certain real property, by street name, lot and block number, on which the presence of weeds, rubbish, litter or other flammable material creates a fire hazard, a menace to the public health or which is otherwise noxious or dangerous as defined in Chapter 16.26 of the El Cerrito Municipal Code and therefore constitutes a public nuisance; and

WHEREAS, on September 19, 2023, pursuant to El Cerrito Municipal Code Section 16.26.160 and Government Code Sections 39560-39588, the City Council adopted Resolution 2023-XX declaring that certain real property within the City constitutes a public nuisance; and

WHEREAS, El Cerrito Municipal Code Chapter 16.26 provides that notice shall be sent to owners of the real property declared a nuisance pursuant to Resolution 2023-XX providing those owners with the following: description of the nuisance; explanation of how the nuisance must be abated; explanation that if the nuisance is not abated; the City shall abate the public nuisance and the cost of abatement shall be assessed against the property as a special assessment; and informing the owners that the City Council shall hold a hearing at a certain date, time, and place at which the owners may present objections to the designation of their properties as public nuisances or to the proposed abatement of the nuisance; and

WHEREAS, during the month of August 2023, the City's Fire Department sent written notice to those property owners describing the weeds, rubbish, refuse, or other flammable material that presented a fire hazard and public nuisance; explaining that the Fire Department had determined a public nuisance that must be removed; informing the owners that if they did not abate by September 5, 2023, the City Council would hold a hearing on September 19, 2023 at which the owners could present objections to the declaration of the nuisance or the proposed abatement measures and further explained the City could abate the nuisance and collect the costs as an assessment on the property; and

WHEREAS, on September 19, 2023, the City Council adopted Resolution 2023-XX confirming the nuisance declarations of the City Fire Department and declaring a public nuisance on certain real property pursuant to Chapter 16.26; and

WHEREAS, El Cerrito Municipal Code Section 16.26.160 and Government Code Sections 39560-39588 provide that after adoption of a resolution declaring a public nuisance and notice to affected property owners of the Council's hearing of objections, the Council may overrule any objections and order the City Manager or their designee to abate the public nuisances.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it overrides any objections by owners of that certain real property on which public nuisances were declared in Exhibit A to Resolution 2023 - __ (adopted on the same date herewith).

BE IT FURTHER RESOLVED that the City Manager and their designee is hereby ordered to abate the public nuisances by having the weeds, rubbish, refuse, dirt, or other fire hazard or noxious or dangerous materials removed.

BE IT FURTHER RESOLVED that pursuant to El Cerrito Municipal Code Section 16.26.160 and Government Code Section 39574, the City Manager or their designee shall keep an account of the cost of abatement for each parcel of land on which work is performed. The City Manager or their designee shall then prepare an itemized written report to be presented to the City Council so that, after the notice and hearing during the City Council meeting of November 7, 2023 these abatement costs can be confirmed as a special assessment against those parcels.

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

I CERTIFY that at a regular meeting on September 19, 2023 the El Cerrito City Council passed this resolution by the following vote:

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



EL CERRITO-KENSINGTON FIRE DEPARTMENT
Fire Prevention Office
10900 San Pablo Avenue, El Cerrito, CA 94530
(510) 215-4457 FAX (510) 232-4917 fpo@ci.el-cerrito.ca.us



August 1, 2023

Parcel Number: XXXX
Property Address: XXXX
Property Owner: XXXX
Property Owner's Address: XXXXX

Dear El Cerrito Property Owner:

With the continued drought conditions the last three years, the community is facing its peak fire danger earlier than normal. To reduce the fire danger on private property and provide greater community safety, the Fire Department has been inspecting properties and checking for fire hazards. Recently your property listed above was found that it **does not comply** with the Vegetation Management Guidelines set forth in the City of El Cerrito Vegetation Management Standards. You are being notified now so that you may, if you have not already done so, take steps to remove those fire hazard conditions found on your property.

Enclosed is a copy of the Fire Hazard Reduction Inspection form specifying those areas that are not in compliance as well as the Fire Hazard Reduction Guidelines and Fire Hazard Reductions Checklist that can assist you in bringing your property into compliance. More information on the Vegetation Management Standards and Guidelines may be found on the City's website at: www.el-cerrito.org under Vegetation Management Standards. Additional information is also available at www.readyforwildfire.org or www.cafiresafecouncil.org as well as many others.

If you have recently completed the work to meet these standards, no further action is required. If not, your property is required to be brought into compliance no later than September 5, 2023. There is no need to contact Fire Department upon completion as we will be re-inspecting all properties. When the Fire Department has cleared your property, you will be removed from our non-compliant list.

On September 19, 2023 at 6:00PM the El Cerrito City Council will hold a public hearing to declare those properties still not in compliance as a public nuisance. Your property is at risk of being declared a public nuisance and subject to further abatement actions. In accordance with the Government Code, you may appear before the Board at this public hearing to dispute this declaration.

If you have not done so already, please take immediate action to remove those fire hazard conditions and we thank you for your cooperation helping us make El Cerrito a more fire safe community.

Sincerely,

Chase Beckman

Chase Beckman
Fire Chief / Fire Marshal



EL CERRITO FIRE DEPARTMENT
KENSINGTON FIRE PROTECTION DISTRICT



10900 San Pablo Avenue, El Cerrito, Ca. 94530 (510)215-4450
Fire Hazard Reduction Inspection

Owner/Tenant Site Address City State Zip Code

Legal Propety Owner Mailing Address City State Zip Code

APN #

YOUR PROPERTY IS NOT IN COMPLIANCE WITH THE FIRE CODE.

YOU MUST COMPLETE THE FOLLOWING REQUIREMENTS:

ZONE 1

Zero to 30 feet from buildings, structures, decks,etc. in all portions within El Cerrito and Kensington

- ☐ 1. Remove all dead plants, grass and weeds.
- ☐ 2. Remove dead or dying leaves and pine needles from your yard, roof and rain gutters.
- ☐ 3. Trees shall be maintained so that no portion is closer than 10 feet from any chimney opening.
- ☐ 4. Trees, shrubs, bushes or other vegetation adjacent to or overhanging any structure shall be maintained free of dead limbs and other combustible matter.
- ☐ 5. On mature trees, limbs should be removed up to 10' above the ground. Smaller trees should be limbed to 1/3 of their height up to 6' above the ground, but in no case less than 18" from the ground.
- ☐ 6. Relocate wood piles to Zone 2 if applicable.
- ☐ 7. Remove or prune flammable plants and shrubs near windows.
- ☐ 8. Remove vegetation and items that could catch fire from around and under decks.
- ☐ 9. Create a minimum 6-foot separation between trees, shrubs or vegetation and combustible materials.
- ☐ 10. Vacant lots in Zone 1 shall be maintained to be 10 feet wide along the property line.

ZONE 2

Thirty to 100 feet from buildings, structures, decks, etc. for all parcels within the Very High Fire Hazard Severity Zone. Zone 1 requirements shall be followed in addition to Zone 2 requirements.

- ☐ 1. Cut or mow weeds and grass to a maximum height of 6 inches.
- ☐ 2. All fire hazardous vegetation except for weeds and grass shall be cleared and maintained to a height no greater than 18 inches above the ground.
- ☐ 3. Vacant lots in Zone 2 shall be maintained to be 30 feet wide along the property line.

COMMENTS:

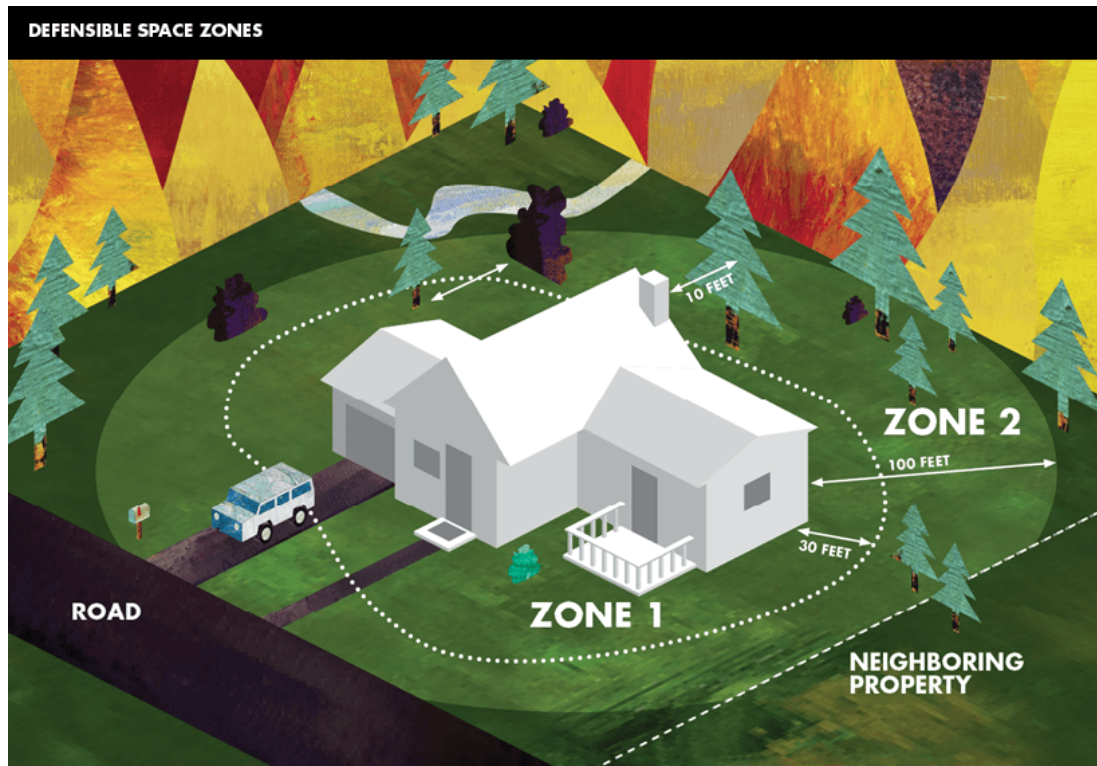
Inspected by

Inspection #

Date

Time

City of El Cerrito Fire Hazard Reduction Guidelines



Zone 1

Zone 1 extends 30 feet from buildings, structures, decks, etc. in all portions within the City of El Cerrito including the designated Very High Fire Hazard Severity (VHFHS) Zones. Vacant lots in Zone 1 shall be maintained to be 10 feet wide along the property line.

- Remove all dead plants, grass and weeds (vegetation).
- Remove dead or dry leaves and pine needles from your yard, roof and rain gutters.
- Trees shall be maintained so that no portion is closer than 10 feet from any chimney opening.
- Trees, shrubs, bushes or other vegetation adjacent to or overhanging any structure shall be maintained free of dead limbs and other combustible matter such as vines and loose papery bark.
- On mature trees, limbs should be removed up to 10' above the ground. Smaller trees should be limbed to 1/3rd of their height up to 6' above the ground, but in no case less than 18 inches from the ground.
- Relocate wood piles to Zone 2 if applicable.
- Remove or prune flammable plants and shrubs near windows.
- Remove vegetation and items that could catch fire from around and under decks.
- Create a minimum 6-foot separation between trees, shrubs or vegetation and combustible materials.

Zone 2

Zone 2 extends from 30 feet to 100 feet out from buildings, structures, decks, etc. in only those areas within the City of El Cerrito designated as the Very High Fire Hazard Severity (VHFHS) Zones. Vacant lots in Zone 2 shall be maintained to be 30 feet wide along the property line. NOTE: All Zone 1 requirements shall be followed in addition to the following Zone 2 requirements:

- Cut or mow weeds and grass shall be cleared to a maximum height of 6 inches.
- All fire hazardous vegetation except for weeds and grass shall be cleared and maintained to a height no greater than 18 inches above the ground.



Fire Hazard Reduction Checklist



Zone 1 Requirements

Definition: Zone 1 extends 30 feet from buildings, structures, decks, etc. in all portions within the City of El Cerrito including the designated Very High Fire Hazard Severity (VHFHS) Zones

- ☐ Remove all dead plants, grass and weeds within 30 feet of buildings, structures, decks, etc.
- ☐ Remove dead or dry leaves and pine needles from your yard, roof and rain gutters
- ☐ Trees shall be maintained so that no portion is closer than 10 feet from any chimney opening
- ☐ Trees, shrubs, bushes or other vegetation adjacent to or overhanging any structure shall be maintained free of dead limbs and other combustible matter such as vines and loose papery bark
- ☐ On mature trees, limbs should be removed up to 10' above the ground. Smaller trees should be limbed to 1/3rd of their height up to 6' above the ground, but in no case less than 18" from the ground
- ☐ Relocate wood piles to Zone 2 if applicable
- ☐ Remove or prune flammable plants and shrubs near windows
- ☐ Remove vegetation and items that could catch fire from around and under decks
- ☐ Create a minimum 6-foot separation between trees, shrubs or vegetation and combustible materials
- ☐ Vacant lots in Zone 1 shall be maintained to be 10 feet wide along the property line

Zone 2 Requirements

Definition: Zone 2 extends from 30 feet to 100 feet out from buildings, structures, decks, etc. in only those areas within the City of El Cerrito designated as the Very High Fire Hazard Severity (VHFHS) Zones. NOTE: All Zone 1 requirements shall be followed in addition to the following Zone 2 requirements

- ☐ Cut or mow weeds and grass shall be cleared to a maximum height of 6 inches
- ☐ All fire hazardous vegetation except for weeds and grass shall be cleared and maintained to a height no greater than 18 inches above the ground
- ☐ Vacant lots in Zone 2 shall be maintained to be 30 feet wide along the property line

To find out if your property is located within the Very High Fire Hazard Severity Zone, go to : <https://egis.fire.ca.gov/FHSZ/> On the upper left hand side, click on the bottom icon for Address Search.



CITY OF EL CERRITO
10900 San Pablo Avenue • El Cerrito • CA • 94530
(510) 215-4457 • FAX (510) 232-4917 • fpo@ci.el-cerrito.ca.us

September 20, 2023

Parcel Number: XXX
Property Address:
Property Owner: XXX
Property Owner's Address:

**NOTICE TO DESTROY WEEDS AND REMOVE
RUBBISH, REFUSE AND OTHER FLAMMABLE MATERIAL**

On **September 19, 2023** the El Cerrito City Council declared that your property in the City of El Cerrito, designated above by address and parcel number, constitutes a public nuisance because of the presence of weeds, rubbish, litter or other flammable material which creates a fire hazard, a menace to the public health, or is otherwise noxious or dangerous.

A previous notice was sent to you informing you of the September 19, 2023 hearing and further informing you of your obligation to remove the weeds, rubbish, refuse and other flammable material from your property. **If you do not immediately abate these nuisance conditions, the City will do so and the costs for removal of the weeds, rubbish, refuse and other flammable material will be assessed against your property as a lien and special assessment.** These removal costs shall then be collected in the time and in the manner of ordinary municipal taxes.

You will not receive any further notices from the City prior to this removal. The City shall perform this removal either through its own staff or through private contract sometime between the dates of **October 15, 2023 to October 25, 2023**. It is impossible to predict what it will cost the City to remove these nuisance conditions from your property. The costs depend on the severity of those conditions. In past years these abatement costs have sometimes exceeded \$8,000 per parcel for those parcels with severe nuisance conditions

The City Council will conduct a public hearing on **November 7, 2023** to confirm the cost of the abatement work performed on your property. The meeting will be held both via teleconference and in the **El Cerrito City Council Chambers at 10890 San Pablo Avenue in El Cerrito at 6:00 p.m.** Please refer to the agenda for meeting information at www.el-cerrito.org/CouncilMeetingMaterials. During this public hearing you will be given the opportunity to voice objections regarding the report and the assessment of the abatement costs for your property. At this hearing you will also be given the opportunity to object, protest and/or present evidence to support your arguments.

If you have any questions, contact the El Cerrito Fire Department at 10900 San Pablo Avenue. The phone number is (510) 215-4457.

Chase Beckman
Chase Beckman
Fire Marshal



AGENDA BILL

Agenda Item No. 8.B.

Date: September 19, 2023
To: El Cerrito City Council
From: Chase Beckman, Fire Marshal, Fire Department; Traviss Crumpacker, Fire Prevention Officer, Fire Department
Subject: Cost Hearing Regarding Fire Hazard Abatement of a Public Nuisance for Properties Identified and pursuant to El Cerrito Municipal Code Chapter 16.26

ACTION PROPOSED

Conduct a public hearing and upon conclusion adopt a resolution confirming the cost of abatement of public nuisance conditions resulting from the presence of weeds, rubbish, litter or other flammable material on private properties designated in Exhibit A to the resolution as authorized by El Cerrito Municipal Code Chapter 16.26.

BACKGROUND

The Fire Department is continuing its fire hazard abatement program. The purpose of this program is to remove weeds, dry grass, stubble, brush, rubbish, litter and other flammable material from private properties where such flammable material endangers public safety by creating a public nuisance and a fire hazard.

In the first round for 2023, notices were initially sent to 74 parcel owners notifying them that hazards existed on their parcels. With support and help from the Fire Department, the vast majority of notified property owners abated the hazards on their parcels. However, six of those properties were not abated by the property owners by the deadline of July 9, 2023 and were further submitted to the City to be declared public nuisances. The property owners identified in the July 18, 2023 Exhibit A as amended were notified that if they did not abate the hazardous conditions on their property, the City would do so. They were given the opportunity at a public hearing to object to the City's plan to abate these conditions. On July 19, 2023, the City then sent the six property owners identified in Exhibit A a second notice, informing them that the City would perform abatement through its own staff or through a private contract. The majority of the six property owners then contacted the Fire Department and either performed the required abatement or entered a work agreement to perform the abatement over a given period of time.

One of those property owners did not voluntarily abate their public nuisance and fire hazard conditions nor contact the Fire Department to agree on a work plan to reduce the hazards on their properties. For this property, the City has followed a statutory procedure to remove hazardous conditions. This procedure is specified in the July 18, 2023 Agenda Bill and Resolutions No. 2023-55 and 2023-56.

On August 18, 2023, a notice was posted in plain view on the remaining property stating

that the City would begin abatement on the property between August 18 and September 5, 2023.

On September 4, 2023, the City performed abatement of the remaining property through a private contractor. This property is presented in Exhibit A.

ANALYSIS

The fire hazard abatement procedure provides ample due process for the affected property owner, well beyond the minimum procedure statutorily required. The most important part of the procedure is that the property owner listed in Exhibit A was given the opportunity to contest whether their property constituted a public nuisance and a fire hazard at a public hearing before the City Council. The property owner did not contest the designation, nor did the property owners voluntarily abate the nuisance conditions. The City Council therefore directed City staff to abate said conditions.

This matter appears before the City Council for the sole purpose of confirming the abatement costs already incurred by the City for the property identified in Exhibit A. At this hearing, the City Council should review the reasonableness of the costs of abatement as specified, and then determine the abatement costs to be assessed. The proposed resolution provides for confirmation of the report of abatement costs, and attached Exhibit B specifies the administrative costs associated with the abatement of the property. Once confirmed by the City Council, the costs of abating the nuisance will be forwarded to the County Auditor no later than August 10, 2024 for assessment of the individual property and a lien will be recorded with the County Recorder.

RECOMMENDATION

Staff recommends that the City Council adopt the proposed resolution as presented at the conclusion of the hearing. Alternatively, the City Council may adopt a resolution with amended costs; or the Council may choose not to adopt the proposed resolution, thereby not confirming the report of the cost of abatement, not forwarding the costs of abatement to the County for collection, and causing the City of El Cerrito to absorb the full cost of abating the hazardous conditions of the subject properties.

STRATEGIC PLAN CONSIDERATIONS

This section is not applicable to this agenda item.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

The abatement work has been completed by contract labor and the City is obligated to pay contractors a total of \$4,000.00 for their work. Administrative costs, totaling \$458.50, have been added, bringing the total abatement cost to \$4,458.50. Total administrative costs may include: (1) Fire Department initial inspection and notice, (2) re-inspection, (3) office work and attendance at City Council hearings, (4) additional

notices, (5) vendor bid inspection, (6) posting of property, (7) writing of inspection/abatement warrants, (8) court appearances for signing and filing of warrants, (9) vendor observation/inspection, and (10) submittal of records/liens to the County. In order for the City to fully recover the direct and indirect costs of \$4,458.50 already incurred for the abatement work performed, the City Council should confirm the staff report on the costs of abatement at this time so that these costs can be forwarded to the County for collection from the property owner.

LEGAL CONSIDERATIONS

The City Attorney has reviewed and approved the process.

Reviewed by:



Karen Pinkos, City Manager

Attachments:

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

RESOLUTION NO. 2023–XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO CONFIRMING THE REPORT OF THE COSTS OF ABATEMENT OF PUBLIC NUISANCE CONDITIONS RESULTING FROM THE PRESENCE OF WEEDS, RUBBISH, LITTER OR OTHER FLAMMABLE MATERIAL ON THE PRIVATE PROPERTY DESIGNATED HEREIN UNDER THE AUTHORITY CONTAINED IN EL CERRITO MUNICIPAL CODE SECTION 16.26

WHEREAS, El Cerrito Municipal Code Section 16.26, et seq. provides a method by which a local legislative body may abate public nuisance conditions on private property relating to weeds, rubbish, litter or other flammable material which creates a fire hazard, a menace to the public health or which is otherwise noxious or dangerous; and

WHEREAS, pursuant to El Cerrito Municipal Code Section 16.26 the El Cerrito City Council declared, through Resolution No. 2023-55, that the properties identified herein in Exhibit A constitute a public nuisance because the presence of weeds, rubbish, litter or other flammable material on the properties created a fire hazard, a menace to the public health, or were otherwise noxious or dangerous; and

WHEREAS, through Resolution No. 2023-56 the City Council directed, under the further authority of El Cerrito Municipal Code Section 16.26, that notice be provided to the owners of the properties identified in Exhibit A informing the owners that if they did not abate the nuisance conditions, that these conditions would be abated by the City, and that upon confirmation, the abatement costs would constitute a lien upon the properties until paid; and

WHEREAS, through Resolution No. 2023-56 the City Council further directed that a public hearing be scheduled at which time the owners of the properties identified in Exhibit A could present objections to the designation of their property as a public nuisance and objections to the abatement of these public nuisance conditions by the City; and

WHEREAS, notice designating the properties identified in Exhibit A a public nuisance and informing the owners of the properties of the right to object to such designation and proposed abatement by the City was provided to the owners of the properties as required by Government Code Sections 39560 through 39588; and

WHEREAS, the owners of the properties identified in Exhibit A did not appear at the July 18, 2023 public hearing to contest the public nuisance designation or to object to the abatement of the public nuisance conditions by the City; and

WHEREAS, at the conclusion of the July 18, 2023 public hearing, the City Council, by Resolution No. 2023-56 and Exhibit A as amended, directed the City Manager or designee to abate those public nuisance conditions as provided for by El Cerrito Municipal Code Section 16.26 and Government Code Section 39560 through 39588; and

WHEREAS, the City Council further directed that the City Manager or designee to keep an account of the cost of abatement for each property on which work was performed and that a report be prepared and presented to the City Council so that, after notice and hearing, these abatement costs could be confirmed as a special assessment against the property; and

WHEREAS, after the adoption of Resolution No. 2023-56 a second notice was mailed to the owners of the properties identified in that resolution again informing the property owners that if they did not abate the public nuisance conditions on the properties, that the City would abate these nuisance conditions and assess the abatement costs against the properties; and

WHEREAS, as required by El Cerrito Municipal Code Section 16.26 the El Cerrito City Council conducted a hearing on September 19, 2023 at which an opportunity was given to voice objections regarding the report and the assessment of the abatement costs for the property identified in Exhibit A of this Resolution. Notice of the hearing was provided to the owner of the property; and

WHEREAS, at the September 19, 2023 hearing, the property owner was given the opportunity to object and protest the report and the abatement costs assessed. The property owner was also given the opportunity to present evidence in support of their argument; and

WHEREAS, such testimony provided at the public hearing included a description of the public nuisance conditions which existed at the property prior to the abatement, a description of the services required to abate those conditions, the cost to the City in abating those conditions and such other matters deemed relevant by the City Council; and

WHEREAS, the City Council does hereby conclude that the abatement costs as contained in Exhibit B, as such costs may have been modified by the City Council after a review of the evidence, are fair and reasonable. This determination is based on the evidence submitted by the property owners, the evidence submitted by City staff, the evidence concerning the nuisance conditions which existed at the property prior to abatement, the evidence concerning the scope of services required to abate those conditions, and such other matters deemed relevant by the City Council.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito does hereby confirm the report of the costs of abatement as contained in Exhibit B of this Resolution.

BE IT FURTHER RESOLVED that the costs of abatement shall be levied as a special assessment against the property and that these costs shall be certified to the Auditor of Contra Costa County so that the costs of abatement shall be collected at the same time and in the same manner as ordinary municipal taxes.

BE IT FURTHER RESOLVED that a certified copy of this Resolution confirming the abatement costs for the property identified in Exhibit A of this Resolution shall be filed with the County Auditor on or before August 10, 2024.

BE IT FURTHER RESOLVED that the City Manager or designee shall take such action as may be necessary to record the abatement costs for the property identified in Exhibit A of this Resolution with the County Recorder as a lien against the properties as provided for in El Cerrito Municipal Code Section 16.26.

I CERTIFY that at a regular meeting on September 19, 2023 the City Council of the City of El Cerrito passed this resolution by the following vote:

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

EXHIBIT A

El Cerrito Fire Protection District List of Real Property Abated

APN	Street Address
505-130-015-9	1550 Regency Court

Exhibit B

**CITY OF EL CERRITO
ADMINISTRATIVE COST WORK SHEET**

1550 Regency Ct. APN#505-130-015-9

5/16/2023 - Initial inspection and notice.....\$00.00
7/10/2023 – Re-inspection\$00.00
7/18/2023- Office work and attend City Council meeting Abatement
Hearing..... 60 min@ 131.00/hr..... \$131.00
7/19/2023 – Second notice..... 15 min @ 131.00/hr.....\$32.75
8/18/2023 – Posting of Property/Obtain Warrant..30 min @131.00/hr.....\$65.50
8/28/2023 - Vendor bid 30 min @ 131.00/hr..... \$65.50
9/4/2023 - Vendor observation/inspection....15 min @ 131.00/hr..... \$32.75
9/19/2023 - Office work and attend City Council Meeting Cost
Hearing..... 30 min @ 131.00/hr..... \$65.50
6/30/2024 - County Record Abatement..... 30 min @ 131.00/hr..... \$65.50

TOTAL ADMINISTRATIVE COST..... 458.50

TOTAL CONTRACTOR’S INVOICE \$4,000.00

TOTAL COST OF ABATEMENT \$4,458.50

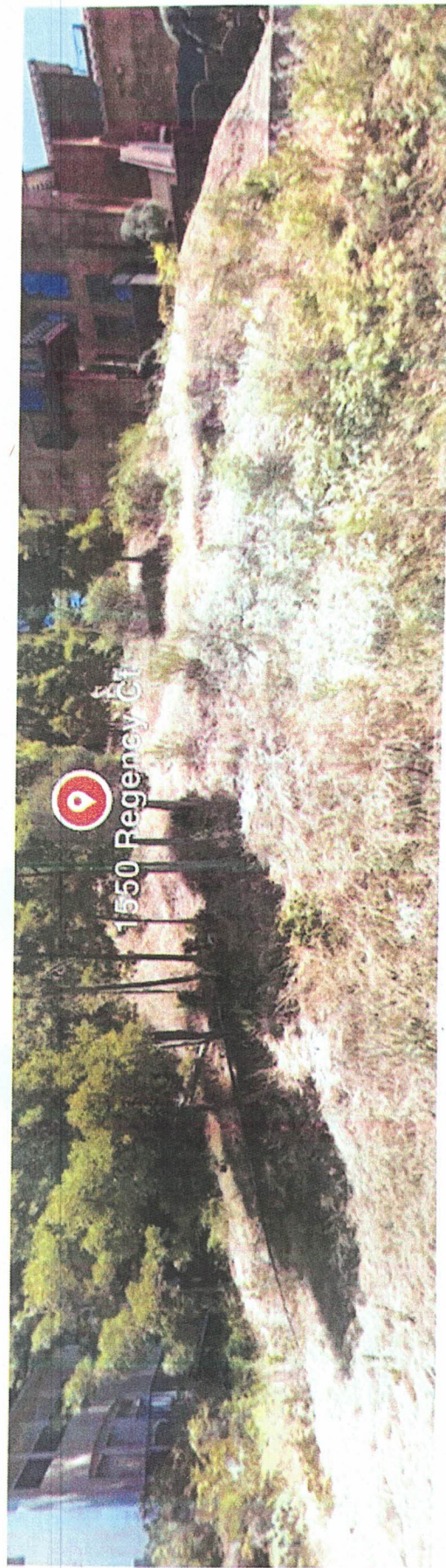
Bay Area Landscapes
15934 Hesperian Blvd.166
San Lorenzo, CA 94580
reed.w81@yahoo.com

INVOICE

BILL TO
El Cerrito Fire Department
10900 San Pablo Avenue
El Cerrito, CA 94530

INVOICE # 2053
DATE 09/06/2023
DUE DATE 09/06/2023
TERMS Due on receipt

DATE	DESCRIPTION	AMOUNT
	August 2023 weed abatement services	4,000.00
August 2023 weed abatement services	BALANCE DUE	\$4,000.00







AGENDA BILL

Agenda Item No. 9.A.

Date: September 19, 2023
To: El Cerrito City Council
From: Crystal Reams, Finance Director/City Treasurer, Finance Department;
Karen Pinkos, City Manager, City Management
Subject: Establishment of the PARS Post-Employment Benefits Trust Program

ACTION PROPOSED

Adopt a Resolution authorizing participation in the PARS Post-Employment Benefits Trust Program to be administered by Public Agency Retirement Services (PARS) and U.S. Bank, appointing the City Manager as the City's Plan Administrator, authorizing the City Manager to execute the documents to implement the Program, and appropriating from fund balance and authorizing the deposit of \$1,000,000 as the initial contribution to the City's trust.

BACKGROUND

About PARS and the Post-Employment Benefits Trust Program

In 2012, the Government Accounting Standards Board ("GASB") issued Statement No. 68, Accounting and Financial Reporting for Pensions. GASB 68 requires that governmental employers that sponsor Defined Benefit plans (i.e., CalPERS) must recognize a Net Pension Liability on their balance sheet, which is the difference between the City's total pension liability (actuarial accrued liability) and actual plan assets. GASB 68 (which replaces the requirements of GASB 27) became effective for fiscal years starting after June 15, 2014.

In 2015, GASB issued Statement No. 75, Accounting and Financial Reporting for Post-employment Benefits Other Than Pensions. GASB 75 requires the City to report costs and obligations for post-employment healthcare and other post-employment benefits ("OPEB") much like the current accounting requirement to report pension obligations. Similar to GASB 68, the City must also report its net OPEB liability (difference between the total OPEB liability and assets accumulated in an irrevocable trust) on its Financial Statements. GASB 75 (which replaces the requirements of GASB 45) became effective for fiscal years beginning after June 15, 2017.

In an effort to help public agencies address and manage their GASB 68 and 75 liabilities, PARS has sought and received approval from the IRS in the form of a Private Letter Ruling on its Post-Employment Benefits Trust Program, also known as a Section 115 Trust (the "Trust"). PARS has assembled leading professionals to provide the City with the necessary services required under one program to pre-fund pension liabilities. This would provide the City with an alternative to CalPERS that will allow for greater local control over assets, investment by a professional fund management team selected and monitored by the City, with contributions and distributions from the Trust determined at the discretion of the City.

The program has been established as a multiple employer trust so that public agencies regardless of size can join the program to receive the necessary economies of scale to keep administrative fees low and avoid any setup costs. To properly offset liabilities, funds must be set aside in an exclusive benefit, irrevocable trust that cannot be accessed by creditors in order to be accounted for as assets to reduce the liabilities on the City's financial statements. The Trust permits the City, under federal and state law, to invest in a more diversified array of investments to maximize investment returns in the long term and reduce the City's liabilities. To date, more than 500 public agencies have adopted programs through PARS.

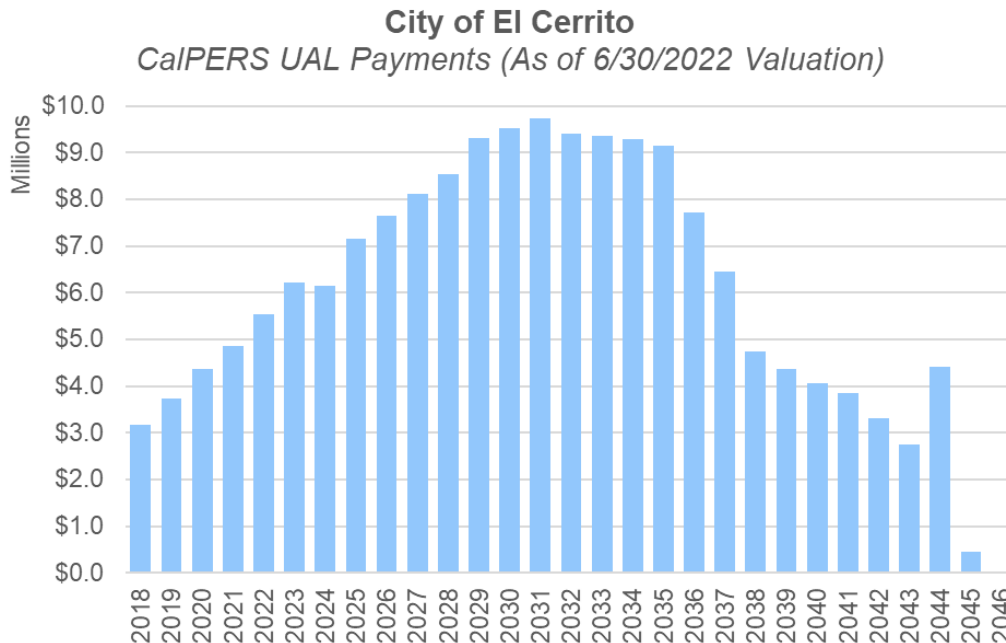
PARS has partnered with U.S. Bank to serve as trustee and its sub-adviser HighMark Capital Management, Inc., to provide investment management services for the program.

ANALYSIS

Pension Liability

The City of El Cerrito, like most cities in California, has an unfunded accrued liability ("UAL") associated with its CalPERS pension plan. A UAL occurs when the current pension plan assets are not projected to be sufficient to pay total pension costs in future years. The City's UAL has fluctuated in the past couple of years, mainly due to CalPERS' annual investment returns. As of June 30, 2021, the City's UAL was \$57.8 million, which was a 22.4% decrease from the City's UAL of \$74.5 million at the end of FY 2019-20. This was due to a very strong investment return of 21.3% in FY 2020-21. However, CalPERS then reported an investment return of -7.5% in FY 2021-22 (revised from preliminary returns of -6.1%), which increased the City's UAL to \$85.0 million. This is shown in the City's latest CalPERS Actuarial Valuation reports, which were recently made available to the City. CalPERS charges the City a 6.8% interest rate on the UAL and requires a repayment schedule that escalates over the next decade.

The City's annual UAL payment increased 96% from \$3.2 million in FY 2017-18 to \$6.2 million in FY 2022-23. The City's UAL payment in FY 2023-24 (\$6.1 million) is slightly lower than last fiscal year, due to the 21.3% investment returns, but then the City's UAL payments are projected to escalate and reach a peak annual payment of \$9.7 million in 2031. This is illustrated in the chart below:



Note that while the City has a pension liability with CalPERS, the City does not have an OPEB liability.

Decision to Pursue the Trust

The City has been interested for some time in setting up the Trust as a strategy to control its pension costs. On June 15, 2021, the City Council passed a motion to direct staff to establish the Trust for pension obligations. Since that time, City staff has conducted research and consulted with its financial advisor, NHA Advisors, to help guide the process of establishing the Trust. Progress was temporarily stalled due to severe staffing issues in the Finance Department; however, in the past few months City staff has worked with the City's Financial Advisory Board to consider pension cost funding as one of the priorities for allocation of any year-end General Fund surplus.

At the August 15, 2023, City Council meeting, the City Council reviewed the allocation of the City's General Fund reserve balance and directed staff to pursue working with PARS to establish and fund the Trust. The City Council approved by motion a deposit of \$1,000,000 from fund balance as the initial deposit into the trust.

Expected Benefits Offered by the PARS Trust

Setting aside funds in the Trust should, over time, allow the City to earn more on its reserves than it otherwise would if those funds were left in the General Fund (which is restricted in investment options due to CA Government Code Section 53601). Other benefits include:

- Ability to "smooth out" higher UAL payments in the future by withdrawing funds from the Trust to supplement payments from the General Fund.
- Investment diversification from CalPERS (CalPERS manages \$158 million of the City's pension assets, as of the 6/30/2022 CalPERS actuarial valuation).

- Investments can be tailored to the City's unique demographics.
- Oversight and control of fund management selection, monitoring of performance and ability to replace fund management based on performance criteria.
- Increased budgetary flexibility (i.e., Trust assets can be accessed any time as long as the assets are used to fund the City's pension obligations and defray reasonable expenses associated therewith).
- Potential for positive rating agency and investor consideration.

Proposed Funding Plan

On August 15, 2023, the City Council reviewed the allocation of the City's General Fund reserve balance and approved a funding policy proposing a \$1,000,000 initial contribution to the Trust. Any additional future deposits to the Trust will be determined at a later date.

Fees

There is no fee to set up the Trust with PARS, but there is an annual Trust fee based on the amount of assets the City has in the Trust. Based on a \$1,000,000 initial deposit into the Trust proposed by the City's funding policy, the total annual fee is \$6,000 (0.60% of \$1,000,000), which is composed of \$2,500 (0.25% of \$1,000,000) for Trust administration services and \$3,500 (0.35% of \$1,000,000) for trustee/investment management services. Annual fees are paid from the Trust assets. A complete list of fees based on asset amount is as follows:

- Trust Administration Fees:
 - 0.25% for assets \$0-10 million
 - 0.20% for assets \$10-15 million
 - 0.15% for assets \$15-50 million
 - 0.10% for assets over \$50 million
- Trustee/Investment Management Fees:
 - 0.35% for assets under \$5 million
 - 0.25% for assets \$5-10 million
 - 0.20% for assets \$10-15 million
 - 0.15% for assets \$15-50 million
 - 0.10% for assets over \$50 million

Next Steps

If the resolution is approved as presented, the City Council adopts the PARS Public Agencies Post-Employment Benefits Trust and authorizes the City Manager to execute the administrative services agreement with PARS and any other legal and administrative documents required to set up the Trust. The resolution also appropriates from fund balance and authorizes the deposit of \$1,000,000 as the initial contribution to the City's Trust. The City Manager will work with PARS, U.S. Bank, and Highmark Capital Management to complete the necessary documents and have the \$1,000,000 initial deposit transferred to the Trust and invested in the desired portfolio. NHA

Advisors will remain available to provide advice to City staff during these next steps.

STRATEGIC PLAN CONSIDERATIONS

This item is consistent with Goal A: Deliver exemplary government services and Goal B: Achieve long-term financial sustainability.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

There is no fee to set up the Trust with PARS, but there is an annual Trust fee based on the amount of assets the City has in the Trust. Based on a \$1,000,000 initial deposit into the Trust proposed by the City's funding policy, the total annual fee is \$6,000 (0.60% of \$1,000,000), which is composed of \$2,500 (0.25% of \$1,000,000) for Trust administration services and \$3,500 (0.35% of \$1,000,000) for trustee/investment management services. Annual fees are paid from the Trust assets.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the proposed action and found that legal considerations have been addressed. The proposed agreement is in draft form; the final agreement will be in substantially the form attached subject to review by the City Attorney.

Reviewed by:

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

Karen Pinkos, City Manager

Attachments:

1. Resolution
2. Draft Agreement for Administrative Services

RESOLUTION NO. 2023-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING THE ADOPTION OF THE PUBLIC AGENCIES POST-EMPLOYMENT BENEFITS TRUST ADMINISTERED BY PUBLIC AGENCY RETIREMENT SERVICES (PARS)

WHEREAS, PARS has made available the PARS Public Agencies Post-Employment Benefits Trust (the "Program") for the purpose of pre-funding pension obligations and/or OPEB obligations; and

WHEREAS, the City of El Cerrito ("City") is eligible to participate in the Program, a tax-exempt trust performing an essential governmental function within the meaning of Section 115 of the Internal Revenue Code, as amended, and the Regulations issued there under, and is a tax-exempt trust under the relevant statutory provisions of the State of California; and

WHEREAS, the City's adoption and operation of the Program has no effect on any current or former employee's entitlement to post-employment benefits; and

WHEREAS, the terms and conditions of post-employment benefit entitlement, if any, are governed by contracts separate from and independent of the Program; and

WHEREAS, the City's funding of the Program does not, and is not intended to, create any new vested right to any benefit nor strengthen any existing vested right; and

WHEREAS, the City reserves the right to make contributions, if any, to the Program.

NOW THEREFORE, BE IT RESOLVED THAT:

1. The City Council hereby adopts the PARS Public Agencies Post-Employment Benefits Trust, effective September 19, 2023; and
2. The City Council hereby appoints the City Manager, or her successor or designee, as the City's Plan Administrator for the Program; and
3. The City's Plan Administrator is hereby authorized to execute the PARS legal and administrative documents on behalf of the City and to take whatever additional actions are necessary to maintain the City's participation in the Program and to maintain compliance of any relevant regulation issued or as may be issued; therefore, authorizing her to take whatever additional actions are required to administer the City's Program.
4. The City Council appropriates from fund balance and authorizes the deposit of \$1,000,000 as the initial contribution to the City's Trust

I CERTIFY that at a regular meeting on September 19, 2023 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

AGREEMENT FOR ADMINISTRATIVE SERVICES

This agreement ("Agreement") is made this ____ day of _____, 2023, between Phase II Systems, a corporation organized and existing under the laws of the State of California, doing business as Public Agency Retirement Services and PARS (hereinafter "PARS") and the [Agency Name] ("Agency").

WHEREAS, the Agency has adopted the PARS Public Agencies Post-Employment Benefits Trust for the purpose of pre-funding pension obligations and/or Other Post-Employment Benefits ("OPEB") obligations ("Plan") and is desirous of retaining PARS as Trust Administrator to the Trust, to provide administrative services.

NOW THEREFORE, the parties agree:

1. **Services.** PARS will provide the services pertaining to the Plan as described in the exhibit attached hereto as "Exhibit 1A" ("Services") in a timely manner, subject to the further provisions of this Agreement.
2. **Fees for Services.** PARS will be compensated for performance of the Services as described in the exhibit attached hereto as "Exhibit 1B".
3. **Payment Terms.** Payment for the Services will be remitted directly from Plan assets unless the Agency chooses to make payment directly to PARS. In the event that the Agency chooses to make payment directly to PARS, it shall be the responsibility of the Agency to remit payment directly to PARS based upon an invoice prepared by PARS and delivered to the Agency. If payment is not received by PARS within thirty (30) days of the invoice delivery date, the balance due shall bear interest at the rate of 1.5% per month. If payment is not received from the Agency within sixty (60) days of the invoice delivery date, payment plus accrued interest will be remitted directly from Plan assets, unless PARS has previously received written communication disputing the subject invoice that is signed by a duly authorized representative of the Agency.
4. **Fees for Services Beyond Scope.** Fees for services beyond those specified in this Agreement will be billed to the Agency at the rates indicated in the PARS' standard fee schedule in effect at the time the services are provided and shall be payable as described in Section 3 of this Agreement. Before any such services are performed, PARS will provide the Agency with a detailed description of the services, terms, and applicable rates for such services. Such services, terms, and applicable rates shall be agreed upon in writing and executed by both parties.
5. **Information Furnished to PARS.** PARS will provide the Services contingent upon the Agency providing PARS the information specified in the exhibit attached hereto as "Exhibit 1C" ("Data"). It shall be the responsibility of the Agency to certify the accuracy, content, and completeness of the Data so that PARS may rely on such information without further audit. It shall further be the responsibility of the Agency to deliver the Data to PARS in such a manner that allows for a reasonable amount of time for the Services to be performed. Unless specified in Exhibit 1A, PARS shall be under no duty to question Data received from the Agency, to compute contributions made to the

Plan, to determine or inquire whether contributions are adequate to meet and discharge liabilities under the Plan, or to determine or inquire whether contributions made to the Plan are in compliance with the Plan or applicable law. In addition, PARS shall not be liable for nonperformance of Services to the extent such nonperformance is caused by or results from erroneous and/or late delivery of Data from the Agency. In the event that the Agency fails to provide Data in a complete, accurate and timely manner and pursuant to the specifications in Exhibit 1C, PARS reserves the right, notwithstanding the further provisions of this Agreement, to terminate this Agreement upon no less than ninety (90) days written notice to the Agency.

6. **Records.** Throughout the duration of this Agreement, and for a period of five (5) years after termination of this Agreement, PARS shall provide duly authorized representatives of Agency access to all records and material relating to calculation of PARS' fees under this Agreement. Such access shall include the right to inspect, audit and reproduce such records and material and to verify reports furnished in compliance with the provisions of this Agreement. All information so obtained shall be accorded confidential treatment as provided under applicable law.
7. **Confidentiality.** Without the Agency's consent, PARS shall not disclose any information relating to the Plan except to duly authorized officials of the Agency, subject to applicable law, and to parties retained by PARS to perform specific services within this Agreement. The Agency shall not disclose any information relating to the Plan to individuals not employed by the Agency without the prior written consent of PARS, except as such disclosures may be required by applicable law.
8. **Independent Contractor.** PARS is and at all times hereunder shall be an independent contractor. As such, neither the Agency nor any of its officers, employees or agents shall have the power to control the conduct of PARS, its officers, employees, or agents, except as specifically set forth and provided for herein. PARS shall pay all wages, salaries, and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation, and similar matters.
9. **Indemnification.** PARS and Agency hereby indemnify each other and hold the other harmless, including their respective officers, directors, and employees, from any claim, loss, demand, liability, or expense, including reasonable attorneys' fees and costs, incurred by the other as a consequence of, to the extent, PARS' or Agency's, as the case may be, negligent acts, errors or omissions with respect to the performance of their respective duties hereunder.
10. **Compliance with Applicable Law.** The Agency shall observe and comply with federal, state, and local laws in effect when this Agreement is executed, or which may come into effect during the term of this Agreement, regarding the administration of the Plan. PARS shall observe and comply with federal, state, and local laws in effect when this Agreement is executed, or which may come into effect during the term of this Agreement, regarding Plan administrative services provided under this Agreement.

11. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. In the event any party institutes legal proceedings to enforce or interpret this Agreement, venue and jurisdiction shall be in any state court of competent jurisdiction.
12. **Force Majeure.** When a party's nonperformance hereunder was beyond the control and not due to the fault of the party not performing, a party shall be excused from performing its obligations under this Agreement during the time and to the extent that its performance is prevented by such cause. Such cause shall include, but not be limited to: any incidence of fire, flood, acts of God or unanticipated communicable disease, acts of terrorism or war commandeering of material, products, plants or facilities by the federal, state or local government, a material act or omission by the other party or any law, ordinance, rule, guidance or recommendation by the federal, state or local government, or any agency thereof, which becomes effective after the date of this Agreement that delays or renders impractical either party's performance under the Agreement.
13. **Ownership of Reports and Documents.** The originals of all letters, documents, reports, and data produced for the purposes of this Agreement shall be delivered to and become the property of the Agency. Copies may be made for PARS but shall not be furnished to others without written authorization from Agency.
14. **Designees.** The Plan Administrator of the Agency, or their designee, shall have the authority to act for and exercise any of the rights of the Agency as set forth in this Agreement, subsequent to and in accordance with the written authority granted by the Governing Body of the Agency, a copy of which writing shall be delivered to PARS. Any officer of PARS, or his or her designees, shall have the authority to act for and exercise any of the rights of PARS as set forth in this Agreement.
15. **Notices.** All notices hereunder and communications regarding the interpretation of the terms of this Agreement, or changes thereto, shall be effected by delivery of the notices in person or by depositing the notices in the U.S. mail, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:
- (A) To PARS: PARS; 4350 Von Karman Avenue, Suite 100, Newport Beach, CA 92660; Attention: President
- (B) To Agency: [Agency]; [Agency Address]; Attention: [Plan Administrator Title]
- Notices shall be deemed given on the date received by the addressee.
16. **Term of Agreement.** This Agreement shall remain in effect for the period beginning _____, 2023 and ending _____, 2026 ("Term"). This Agreement may be terminated at any time by giving thirty (30) days written notice to the other party of the intent to terminate. Absent a thirty (30) day written notice to the other party of the intent to terminate, this Agreement will continue unchanged for successive twelve-month periods following the Term.
17. **Amendment.** This Agreement may not be amended orally, but only by a written instrument executed by the parties hereto.

18. **Entire Agreement.** This Agreement, including exhibits, contains the entire understanding of the parties with respect to the subject matter set forth in this Agreement. In the event a conflict arises between the parties with respect to any term, condition or provision of this Agreement, the remaining terms, conditions, and provisions shall remain in full force and legal effect. No waiver of any term or condition of this Agreement by any party shall be construed by the other as a continuing waiver of such term or condition.
19. **Attorneys Fees.** In the event any action is taken by a party hereto to enforce the terms of this Agreement the prevailing party herein shall be entitled to receive its reasonable attorney's fees.
20. **Counterparts.** This Agreement may be executed in any number of counterparts, and in that event, each counterpart shall be deemed a complete original and be enforceable without reference to any other counterpart.
21. **Headings.** Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.
22. **Effective Date.** This Agreement shall be effective on the date first above written, and also shall be the date the Agreement is executed.

AGENCY:

BY: _____
Plan Administrator Name

TITLE: _____

DATE: _____

PARS:

BY: _____
Tod Hammeras

TITLE: Chief Financial Officer _____

DATE: _____

EXHIBIT 1A
SERVICES

PARS will provide the following services for the [Agency Name] Public Agencies Post-Employment Benefits Trust:

1. Plan Installation Services:

- (A) Meeting with appropriate Agency personnel to discuss plan provisions, implementation timelines, actuarial valuation process, funding strategies, benefit communication strategies, data reporting, and submission requirements for contributions/reimbursements/distributions;
- (B) Providing the necessary analysis and advisory services to finalize these elements of the Plan;
- (C) Providing the documentation needed to establish the Plan to be reviewed and approved by Agency legal counsel. Resulting final Plan documentation must be approved by the Agency prior to the commencement of PARS Plan Administration Services outlined in Exhibit 1A, paragraph 2 below.

2. Plan Administration Services:

- (A) Monitoring the receipt of Plan contributions made by the Agency to the trustee of the PARS Public Agencies Post-Employment Benefits Trust ("Trustee"), based upon information received from the Agency and the Trustee;
- (B) Performing periodic accounting of Plan assets, reimbursements/distributions, and investment activity, based upon information received from the Agency and/or Trustee;
- (C) Coordinating the processing of distribution payments pursuant to authorized direction by the Agency, and the provisions of the Plan, and, to the extent possible, based upon Agency-provided Data;
- (D) Coordinating actions with the Trustee as directed by the Plan Administrator within the scope of this Agreement;
- (E) Preparing and submitting a monthly report of Plan activity to the Agency, unless directed by the Agency otherwise;
- (F) Preparing and submitting an annual report of Plan activity to the Agency;
- (G) Facilitating actuarial valuation updates and funding modifications for compliance with the applicable GASB pronouncements and/or statements, if prefunding OPEB obligations;
- (H) Coordinating periodic audits of the Trust;
- (I) Monitoring Plan and Trust compliance with federal and state laws.

3. PARS is not licensed to provide and does not offer tax, accounting, legal, investment or actuarial advice.

EXHIBIT 1B
FEES FOR SERVICES

PARS will be compensated for performance of Services, as described in Exhibit 1A based upon the following schedule:

An annual asset fee shall be paid from Plan assets based on the following schedule:

<u>For Plan Assets from:</u>			<u>Annual Rate:</u>
\$1	to	\$10,000,000	0.25%
\$10,000,001	to	\$15,000,000	0.20%
\$15,000,001	to	\$50,000,000	0.15%
\$50,000,001	and	above	0.10%

Annual rates are prorated and paid monthly. The annual asset fee shall be calculated by the following formula [Annual rate divided by 12 (months of the year) multiplied by the Plan asset balance at the end of the month]. Trustee and Investment Management Fees are not included.

EXHIBIT 1C
DATA REQUIREMENTS

PARS will provide the Services under this Agreement contingent upon receiving the following information. Agency is solely responsible for ensuring that all information and documentation provided to PARS is true, correct, and authorized:

1. Executed Legal Documents:
 - (A) Certified Resolution
 - (B) Adoption Agreement to the Public Agencies Post-Employment Benefits Trust
 - (C) Trustee Investment Forms
2. Contribution – completed Contribution Transmittal Form signed by the Plan Administrator (or authorized Designee) which contains the following information:
 - (A) Agency name
 - (B) Contribution amount
 - (C) Contribution date
 - (D) Contribution method (Check, ACH, Wire)
3. Distribution – completed Payment Reimbursement/Distribution Form signed by the Plan Administrator (or authorized Designee) which contains the following information:
 - (A) Agency name
 - (B) Payment reimbursement/distribution amount
 - (C) Applicable statement date
 - (D) Copy of applicable premium, claim, statement, warrant, and/or administrative expense evidencing payment
 - (E) Signed certification of reimbursement/distribution from the Plan Administrator (or authorized Designee)
4. Other information pertinent to the Services as reasonably requested by PARS and Actuarial Provider.



AGENDA BILL

Agenda Item No. 9.B.

Date: September 19, 2023
To: El Cerrito City Council
From: Crystal Reams, Finance Director/City Treasurer; Sky Woodruff, City Attorney
Subject: Consideration of a Financial Advisory Board Recommendation to Increase City Council Compensation

ACTION PROPOSED

Introduce by title and waive any further reading of an Ordinance to increase the City Council's compensation from \$441 per month to \$650 per month.

BACKGROUND

Monthly compensation for members of City Council is set by City ordinance. El Cerrito Municipal Code Section 2.04.170 states the following:

Each member of the council shall receive, as salary, the sum of four hundred and forty-one dollars per month, which shall be payable at the same time and in the same manner as the salaries are paid for other officers and employees of the city. Such salary is prescribed exclusive of any reimbursement for expenses incurred in the performance of official duties for the city, or for any amounts contributed by the city for retirement, health and welfare and federal social security benefits.

The current salary of \$441 per month was passed by the City Council on September 16, 1991. According to research by City staff, prior to 1991 the City Council modified its salary at least four times: in 1968, the salary was \$150 per month; in 1973, the salary was modified to \$195 per month; in 1985, the salary was modified to \$350.21 per month; and in 1989 the salary was modified to \$400 per month.

Government Code section 36516 limits city council member compensation for general law cities based on the size of the city's population. For a city the size of El Cerrito, which was previously subject to this law prior to becoming a charter city, the maximum compensation is \$300 but was allowed to be increased by 5% annually since the operative date of the last increase. Under Government Code section 36516.5, any allowable change to the compensation for members of a city council can only go into effect after at least one member of the city council begins a new term.

On January 1, 2024, Senate Bill 329 will go into effect, which will modify this regulation to increase the maximum to \$950 per month. The intent of the bill is to help city councils become more diverse by increasing the allowable compensation to help individuals across a broader span of income levels with the ability to receive sufficient income for serving the public. The new law retains the requirement that a change in compensation can only go into effect after at least one member of the city council begins a new term.

In 2022, the Financial Advisory Board (FAB) included a discussion of City Council Compensation in their workplan, and subsequently created an ad-hoc committee to explore the topic.

ANALYSIS

Compensation for members of a city council is a municipal affair. The limits on city council salaries and procedural provisions of Government Code sections 36516 and 36516.5 apply only to general law cities, not to charter cities. El Cerrito is a charter city. Pursuant to Section 100 of the Charter of the City of El Cerrito, the City Council may adopt ordinances with respect to municipal affairs, subject only to the limits of the Charter, the California Constitution and the United States Constitution. The City Council is not limited by Government Code section 36516.5 as to the operative date of a change in City Council salary. Therefore, the City Council may enact an ordinance that makes an increase in compensation operative prior to at least one member beginning a new term.

The FAB subcommittee of Members Patterson and White reviewed salaries of city councils in comparable cities, and provided information to the FAB at their July 2023 meeting. At their August meeting, the FAB further discussed options for the City Council's compensation and also reviewed Senate Bill 329 as a means of informing their discussion, acknowledging the law's intent to increase diversity in elected office. As a result, the FAB unanimously voted to recommend that the City Council adopt an ordinance that will increase monthly compensation from \$441 per month to \$650 per month. Additionally, the FAB intends to revisit the City Council's compensation again next year and on an ongoing basis.

While the FAB did not recommend a specific effective date for this increase, staff prepared the ordinance to take effect on January 1, 2024 so that the salary increase would be effective at the midpoint of the fiscal year.

Should the City Council decide to consider the recommendation and take action, the Council should hold the first reading of the ordinance by title only. On October 3, 2023, the second reading and adoption of the ordinance would be considered, and would go into effect on January 1, 2024.

STRATEGIC PLAN CONSIDERATIONS

This item is consistent with Goal A: Deliver exemplary government services.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

A monthly increase of \$209 for each of the five members of City Council would increase compensation by a total \$12,540 per fiscal year. If approved, the FY 2023-24 impact

would be \$6,270, which will be requested at the midyear budget update as an amendment to the City Council Budget.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the ordinance and determined it meets all applicable regulations.

Reviewed by:

A handwritten signature in blue ink, appearing to read "Karen Pinkos", is written over a faint rectangular stamp.

Karen Pinkos, City Manager

Attachments:

1. Ordinance
2. FAB City Council Compensation Recommendation

ORDINANCE NO. 2023-

AN ORDINANCE OF THE CITY OF EL CERRITO AMENDING EL CERRITO MUNICIPAL CODE SECTION 2.04.070 MODIFYING THE CITY COUNCIL'S MONTHLY COMPENSATION

WHEREAS, the compensation for City Councilmembers is \$441 per month and has not been increased since 1991; and

WHEREAS, under the current provisions of Government Code section 36516, the base salary for members of a city council for a city with a population the size of El Cerrito's is \$300, The base salary may be increases by five percent for each year since the operative date of the last change. Under Government Code section 36516.5, any change to the salary for members of a city council can only go into effect after at least one member of the city council begins a new term; and

WHEREAS, the State Legislature recent approved and the Governor signed Senate Bill 329 (Dodd, 2023), which will amend Government Code section 36516 effective January 1, 2024. Among other changes, the amendment sets the base salary for members of a city council with a population the size of El Cerrito's at \$950 monthly. The bill states that increases in city council compensation "may help city councils become more diverse because increased compensation can help individuals from across different income levels receive sufficient income from their service to help ensure that they can continue to serve the public and support their families;" and

WHEREAS, city council compensation is a municipal affair. The limits on city council salaries and procedural provisions of Government Code sections 36516 and 36516.5 apply only to general law cities, not to charter cities; and

WHEREAS, El Cerrito is a charter city. Pursuant to Section 100 of the Charter of the City of El Cerrito, the City Council may adopt ordinances with respect to municipal affairs, subject only to the limits of the Charter, the California Constitution and the United States Constitution. The City Council is not limited by Government Code section 36516.5 as to the operative date of a change in City Council salary; and

WHEREAS, the Financial Advisory Board reviewed the compensation of the City Council with comparable cities and determined that the salary should be increased to a sum of \$650 per month.

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

Section 1: Section 2.04.070 is hereby amended to read as follows (additions in underline, deletions in strikethrough):

2.04.170 - Salary—Designated.

Each member of the council shall receive, as salary, the sum of ~~four hundred and forty-one~~ six hundred and fifty dollars per month, which shall be payable at the same time and in the same manner as the salaries are paid for other officers and employees of the city. Such salary is prescribed exclusive of any reimbursement

for expenses incurred in the performance of official duties for the city, or for any amounts contributed by the city for retirement, health and welfare and federal social security benefits.

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. The amendment to the Municipal Code set forth in Section 1 of this Ordinance shall be operative on January 1, 2024. 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 September 19, 2023 and passed by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ADOPTED AND ORDERED published at a regular meeting of the City Council held on October 3, 2023 and passed by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

Lisa Motoyama, Mayor

ATTEST:

Holly M. Charl  ty, City Clerk

ORDINANCE CERTIFICATION

I, Holly M. Charléty, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. 2023-XX 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 October 3, 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. Charléty, City Clerk

Date: September 19, 2023

To: Mayor Lisa Motoyama
Mayor Pro Tem Tessa Rudnick
Councilmember Paul Fadelli
Councilmember Gabe Quinto
Councilmember Carolyn Wysinger

From: Farhad Farahmand, Chair
City of El Cerrito Financial Advisory Board (FAB)

RE: FAB Recommendation – City Council Compensation

The Financial Advisory Board approved the following recommendation at its Regular Meeting on August 22, 2023:

Motion/Second: Member Dick Patterson; Member Kimberly White

Action: The FAB recommends that the City Council adopt an ordinance that will increase their compensation from \$441 per month to \$650 per month.

Ayes: Chair Farhad Farahmand, Member Dick Patterson, Member Kimberly White
Noes: None
Absent: None

Respectfully Submitted,

Farhad Farahmand
Chair, Financial Advisory Board



AGENDA BILL

Agenda Item No. 9.C.

Date: September 19, 2023
To: El Cerrito City Council
From: Holly M. Charl  ty, City Clerk, City Management on behalf of City Council
Ad-hoc Subcommittee of Mayor Lisa Motoyama and Councilmember Paul Fadelli
Subject: Study Session on City Board, Commission, and Committees

ACTION PROPOSED

Conduct a study session on City Boards, Commissions, and Committees (Advisory Bodies), consider recommendations made by the City Council ad-hoc committee and if applicable, provide staff direction.

BACKGROUND

The City of El Cerrito currently has a total of 13 Boards, Commissions, and Committees (Advisory Bodies). Each type of Advisory Body has a different function. Boards and Commissions are directly responsible to the City Council and fill advisory and/or quasi-judicial roles. Commissions are composed of lay citizens while members for boards are selected for their special expertise. Committees sponsored by the City are intended to be working groups and do not fill quasi-judicial roles. The City Council has conducted several reviews of Advisory Body rules and procedures throughout the years. The most recent review was conducted in 2021 which focused on term length and limits, the appointment and removal process, as well as training requirements and compliance.

Over the latter part of 2022 and beginning of 2023, various topics or areas for discussion have been requested by members of the City Council regarding City Advisory Body policies and procedures. At the City Council meeting on March 21, 2023, Mayor Motoyama appointed herself and Councilmember Fadelli to an Advisory Body ad-hoc committee to meet, discuss, and return with recommendations for modifications to existing policy and procedures. The ad-hoc committee met a total of five times and discussed a number of topics. The committee is offering the following for discussion and consideration by the full Council with regards to the areas of communication, modifications to regulations, public safety committee, and youth participation.

ANALYSIS

Communications between City Council and Advisory Bodies

The ad-hoc committee discussed several areas related to communication between appointed members of City Advisory Bodies and members of the City Council. In order to keep the City Council informed of the work and progress of Advisory Bodies and to ensure an avenue for Advisory Bodies to communicate to the City Council, the ad-hoc committee discussed Advisory Body Workplans, Accomplishments and Recommendations. The following recommendations are made by the ad-hoc committee in this area:

- **#1 – Workplan**

Each Advisory Body shall develop a two-year workplan. The workplan shall be developed with the assistance and guidance of the staff liaison to ensure that all areas of the workplan are within the scope of the Advisory Body responsibilities and the City's Strategic Plan. The plan shall be adopted by the Advisory Body and posted on the City's website no later than October 1, of applicable years.

Once adopted, the staff liaison will ensure that the workplan is transmitted to the City Clerk for placement on the next City Council agenda as a "receive and file" consent item. If a member of the City Council wishes to discuss the workplan with the advisory body, including prioritization or modification to the adopted plan, it may be requested at the meeting and will be agendaized as a future discussion item with the advisory body chair. If implemented, half of the Advisory Bodies will implement an initial one-year workplan to stagger over a two-year period.

A workplan template shall be approved by the City Council with the City Clerk authorized to make non-substantive changes without Council approval. It is recommended that the template include the following areas:

- Goal/Objective, proposed activities, resources needed, estimated staff time needed, and timeline for completion (listed by Fiscal Year, in order of priority).
- Ongoing Projects with activities, resources needed, and estimated staff time needed.
- Prior Calendar Year Accomplishments including goal/objective, activities supporting goal and status.

Exceptions: Citizens Streets Oversight Committee, Civil Service Board, Design Review Board, and Planning Commission.

- **#2 – Accomplishments**

Included in the workplan template shall be a section to provide annual accomplishments of the Advisory Body. This portion of the workplan shall be updated annually by March 1st and will cover the accomplishment of the prior calendar year. Once the Advisory Body has generated this content, the staff liaison will ensure that the workplan is transmitted to the City Clerk for placement on the next City Council agenda as a "receive and file" consent item. A presentation on the workplan to the Council may be requested.

Exceptions: Citizens Streets Oversight Committee, Civil Service Board, Design Review Board, and Planning Commission.

- **#3 –Recommendations**

Advisory Bodies may make recommendations related to their adopted workplan, or applicable area(s) of responsibility. When such a recommendation is made, the staff liaison will ensure that it is transmitted to the City Clerk for placement on the next City Council agenda as a “receive and file” consent item. If a member of the City Council wishes to further discuss the recommendation with the advisory body, it may be requested at a council meeting and be agendized as a future discussion item with the advisory body chair.

Staff will include Advisory Body recommendations and comments in the agenda bill and or related materials when applicable to an item presented to the City Council. Recommendations that do not relate to the workplan or area(s) of responsibility will be presented to City Council as written public comment. At any time, the City Council may request a specific recommendation from a specific advisory body at any time.

Modifications to existing Advisory Body regulations

The ad-hoc committee discussed potential new regulations and made the following recommendations in this area:

- **#1 – Service on Multiple Advisory Bodies**

During the application process, priority shall be given to those who are not currently serving on another City Advisory Body and no individual shall not be appointed to serve on more than two advisory bodies at the same time.

- **#2 – Meeting Frequency**

All Advisory Bodies shall try to meet once every two months, but not less than quarterly. Additional Advisory Body meetings can be held if staff are available and membership supports that need. The City Clerk shall provide an annual report of the total meetings held the prior calendar year for all Advisory Bodies. Exceptions: Citizens Streets Oversight Committee will meet as indicated in the municipal code, Civil Service Board will continue to meet as needed, and Design Review Board and Planning Commission will continue to meet monthly.

- **#3 – Pre-Meeting Attendance Requirement**

The pre-meeting requirement implemented in 2021, which requires an individual to attend two of the last three meetings held prior to applying, should be modified to encourage attendance prior to applying – but also require applicants to demonstrate knowledge in the interview of the current work of the Advisory Body.

Public Safety Committee

The ad-hoc committee discussed the request to consider expanding the Crime Prevention Committee's (CPC) jurisdiction and makes the following recommendation:

- **#1 - Determine Consensus**

Determine if there is a consensus by the City Council to expand the CPC jurisdiction to potentially include fire safety, Community Safety and Crime Prevention, and/or emergency response.

Youth Participation

The ad-hoc committee discussed establishing a process by which El Cerrito youth can participate on City Advisory Bodies and the following recommendations are made:

- **#1 – Non-Voting Youth Member**

Any advisory body may choose to recruit participation of a non-voting youth member who shall be a student at El Cerrito High School, or a resident of El Cerrito between the ages of 14-18. In order to participate, the youth member shall obtain written consent of a parent or guardian. Once appointed by an Advisory Body, the participant shall complete the Orientation/Handbook training and Sexual Harassment Prevention training. No other general rules or requirements related to members of advisory bodies shall apply. Participants will be encouraged to evaluate and share their experience with the City Council at the end of their service.

STRATEGIC PLAN CONSIDERATIONS

This action aligns with Strategic Plan Goal A: Deliver Exemplary Government Services by maintaining an emphasis on providing excellent customer service.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

Any modifications to the municipal code would require publication at a cost covered under the City Clerk's approved FY 2023-24 budget.

LEGAL CONSIDERATIONS

This section is not applicable to this agenda item.

Reviewed by:



Karen Pinkos, City Manager

Attachments:

1. Presentation

BOARDS, COMMISSIONS, AND COMMITTEES STUDY SESSION

CITY COUNCIL | SEPTEMBER 2023



STUDY SESSION FOCUS

1. Communications between City Council & Advisory Bodies
2. Modifications to General Regulations
3. Public Safety Committee
4. Youth Participation



Communications between City Council & Advisory Bodies

1. Advisory Body Workplan:

- a) Developed biennially (fiscal year) – ½ for 1 year for 1st to stagger
- b) Staff Liaison assists/guides to ensure within scope of advisory body responsibilities and City's strategic plan
- c) Workplan template shall be adopted by City Council
- d) Plan adopted/posted on Advisory Body page no later than October 1
- e) Once adopted, provided to City Council on consent (receive and file)
 - o City Council may request a future agenda item to further discuss a workplan received



Communications between City Council & Advisory Bodies

2. Annual Accomplishments

- a) Included in workplan template
- b) Updated annual by March 1st covering the prior calendar year
- c) Provided to City Council on consent (receive and file)

Exceptions from Workplan/Accomplishments:

- a) Citizens Streets Oversight Committee (provides annual report under ECMC)
- b) Civil Service Board
- c) Design Review Board
- d) Planning Commission



Communications between City Council & Advisory Bodies

Sample Workplan

FISCAL YEAR (YYYY/YYYY)

Items listed in priority order

Goal or Objective	Proposed Activities	Resources needed	Estimated Staff time needed	Timeline For Completion

FISCAL YEAR (YYYY/YYYY)

Items listed in priority order

Goal or Objective	Proposed Activities	Resources needed	Estimated Staff time needed	Timeline For Completion

ONGOING PROJECTS

Project	Activites	Resources needed	Estimated Staff time needed

PRIOR CALENDAR YEAR ACCOMPLISHMENTS

Updated annually by March 1 and provided to City Council on Consent

Goal/Objective	Activites Supporting Goal	Status

Communications between City Council & Advisory Bodies

2. Advisory Body Recommendations:

- a) Must reference related workplan item(s) or applicable area of responsibility
- b) Submitted to the City Clerk, through the staff liaison
- c) Provided to City Council on consent (receive and file)
 - a) City Council may request a future agenda item to further discuss a recommendation received
- d) If related to a request by city staff will be included in the Agenda Bill or related materials presented to City Council
- e) Recommendations **not** related to a workplan or area of responsibility will be presented to City Council as public comment
- f) City Council can request recommendations from advisory body



Potential Modifications to General Regulations

1. Restrict serving on more than two advisory bodies at the same time
 - a) Priority given to those not currently serving on another body
2. Reduce meeting frequency to once every two months, but not less than quarterly
 - a) Annual report provided to City Council on total number of meetings held
 - b) Some exemptions including Planning and Design Review
3. Revise pre-meeting attendance requirement to **strongly encourage**
 - a) Applicants shall demonstrate knowledge of current work of the advisory body applied for



Public Safety Committee

Determine if there is City Council consensus for staff to research/develop modifications to change the Crime Prevention Committee (CPC) into a Public Safety Committee and include areas such as:

1. Fire Safety
2. Community Safety and Crime Prevention
3. Emergency Response

* CPC currently develops/promotes crime prevention programs, promotes cooperation with local law enforcement and awareness of methods to prevent crime, as well as advises the City Council regarding crime prevention programs.



Youth Participation

1. Advisory Bodies may informally recruit and appoint a non-voting youth member
2. Youth member must be a resident or student in El Cerrito of high school age
3. Parent/Guardian consent to participation
4. Orientation/Handbook Training (includes Code of Conduct) and Sexual Harassment Prevention training required
 - a) No other general rules or requirements apply
5. Encouraged to evaluate and share experience with Council



NEXT STEPS

- Public Comments
- Council Discussion
- Provide Staff Direction
- Return with applicable legislation





SUPPLEMENTAL AGENDA MATERIALS

September 19, 2023

(Revised September 20, 2023)

REGULAR CITY COUNCIL MEETING

PUBLIC COMMENT INDEX

1. Public Comments received

Agenda Item 9A – Establishment of the PARS Post-Employment Benefits Trust Program

1. Presentation



SUPPLEMENTAL AGENDA MATERIALS PUBLIC COMMENT INDEX

REGULAR CITY COUNCIL MEETING

September 19, 2023

(Revised September 20, 2023)

The following Public Comments were **received by 2:00:00 p.m. 9/19/2023**, were provided directly to City Councilmembers in advance of the meeting, and were posted online as supplemental materials at www.el-cerrito.org/CouncilMeetingMaterials

Public Comments – Items Not on the Agenda

1. Robert Hrubes, Chair, Urban Forest Committee on behalf of UFC
2. Robin Mitchell
3. Cathy Bleier
4. Jen Kaczor
5. Cordell Hindler
6. **Buddy Akacić (received at the meeting)**
7. **Act Now to Mitigate the Climate (received at the meeting)**

Agenda Item 8A – Fire Hazard Abatement

1. Gary Prost

Agenda Item 8B – Cost Hearing Regarding Fire Hazard Abatement of a Public Nuisance for Properties Identified and pursuant to El Cerrito Municipal Code Chapter 16.26

1. Gary Prost

Agenda Item 9C – Study Session on City Board, Commission, and Committees

1. Howdy Goudey
2. Robin Mitchell
3. Jim Dolgonas

September 19, 2023

El Cerrito City Council
El Cerrito City Hall
10890 San Pablo Ave
El Cerrito, CA 94530

Mayor Motoyama and City Council Members,

On August 14, 2023, the El Cerrito Urban Forest Committee, with a unanimous vote, endorsed a recommendation to City Council for its support in the development of a donation fund to generate urban forestry funds from private sources to supplement City funding.

The attached El Cerrito Urban Forest Fund Recommendation document was developed by the Grants & Fundraising Ad-Hoc Committee of the El Cerrito Urban Forest Committee.

Action: The Urban Forest Committee approves the El Cerrito Urban Forest Fundraising Recommendation and authorizes Chair Robert Hrubes to submit the recommendation with a letter to the City Council in their September 19 meeting.

Motion / Second: Mitchell / Linhart

Ayes: Four (4) Hrubes, Hughes, Linhart, Mitchell,

Nays: None

Absent: Two (2) Bleier, Kaczor

Please consider acting on this recommendation.

Thank you for your consideration.



Robert Hrubes ✓
Chair, Urban Forest Committee

Public Comment for items not on the agenda
City Council meeting 9/19/2023

Mayor Motoyama, Mayor Pro Tem Rudnick, and Council Members Quinto, Wysinger:

The Urban Forest Committee has developed and voted on a recommendation for the El Cerrito Urban Forest Fund, which is attached.

The Urban Forest Committee would like to have the City Council review our recommendation and hopefully support the re-opening of this fund in order to accept donations from residents and businesses in order to have the funds to improve the health of our urban forest.

Thank you

Robin Mitchell
El Cerrito Resident

Subject: Public Comments on item not on agenda: Urban Forest Fund recommendation

To Mayor Motoyama, Mayor Pro Tem Rudnick, and City Council Members:

Thank you for the opportunity to offer my comments in support of the El Cerrito Urban Forest Committee's recommendations to move forward with implementing the Urban Forest Program Donations account. I have served on the El Cerrito Tree Committee/Urban Forest Committee since 2013 but am speaking as an El Cerrito resident, not on behalf of the Committee.

El Cerrito's Urban Forest Committee's charter includes direction to promote and foster public awareness, education, interest and support for urban forestry efforts. The Urban Forest Program Donations account was established in 2015 to accept donations to support the urban forest program. An unused balance remains in the fund available in the fund. It seems irresponsible and unresponsive NOT to use the existing funds in support urban forestry activities, as intended, but we may also be missing an opportunity to expand these funds and to engage more residents in urban forestry projects.

At our 2023 July 4th festival, informal surveys were offered at both Park and Recreation Committee and Urban Forest Committee tables. In the former, "Urban forest, park trees and landscaping" was rated most important among options for park management. In the Urban Forest table survey, the 3 highest areas of interest among 9 items were: street tree plantings, climate effects/adaptation/wildfire workshop, and tree walks. I would add that foot traffic to the Urban Forest committee table was constant the four hours I attended the table, which was gratifying and encouraging.

Our residents value their trees and the City's forest, are interested in keeping them healthy, and are willing to donate funds to accomplish this. Given increasing climate change issues, tree cover is more important than ever for carbon sequestration, reduction of urban heat island effects, shade mitigation for pedestrians and bicyclists, water filtration for extreme storm events, and beneficial mental health effects (on which the research evidence just keeps growing).

I urge you to review the Urban Forest Committee's recommendation for re-opening the fund so that we can do more to work with residents and interested community groups in protecting and enhancing our urban forest for current and future generations. Thank you for your consideration.

Respectfully,
Cathy Bleier

Public Comment for items not on the agenda
City Council meeting 9/19/2023

Mayor Motoyama, Mayor Pro Tem Rudnick, and Council Members Quinto, Wysinger:

The Urban Forest Committee is seeking to re-open the El Cerrito Urban Forest Fund, as described in the attached document. Opening the fund would enable the receipt of donations from residents and businesses, to finance unfunded urban forest management efforts that have been identified as priorities in City plans.

The El Cerrito 2023 National Community Survey revealed the importance that its residents place on parks and open spaces. The results summary identified more than once that “The City’s natural environment and parks and recreational opportunities are valued by residents, and both areas are a top priority.”

In a survey of 28 residents at the 4th of July festival, conducted from the Park and Recreation Commission table, respondents ranked "Urban forest / park trees and landscaping" as the most important of five options.

As it continues to be a challenge to sufficiently fund urban forest projects identified as priorities by the City, the UFC requests the City Council's support in opening up this existing fund as a new funding stream, to put more resources towards an area prioritized by its residents.

Thank you,
Jen Kaczor

El Cerrito Urban Forest Fund Recommendation

Prepared by the Grants & Fundraising Ad-Hoc Committee of the El Cerrito Urban Forest Committee

Overview

The City of El Cerrito Urban Forest Management Plan (2007) outlines the community, environmental, and economic benefits that a vital urban forest is expected to provide, and establishes these benefits as the standard of performance for the City of El Cerrito's urban forest.

In order to meet this standard, the City's urban forestry effort must provide: intelligent planning and management, community and government commitment, consistent funding, and excellent maintenance.

Within the plan, one of the recommended actions for the Urban Forest Committee is to *Generate urban forestry funds from private sources to supplement City funding.*

Further on in the plan, one of the listed Elements of a Successful Urban Forest is Consistent Funding, and elaborates: *Strong community supporters can bring in supplemental funding through sources such as grants, donations, and local fund-raising efforts in order to fund special projects and to maintain public visibility of urban forestry efforts.*

The *Urban Forest Program Donations* account was established in 2015 to accept donations to support the urban forest program, and it is the Urban Forest Committee's understanding that there is an unused balance available in the fund.

The UFC, and specifically the Grants & Fundraising Ad-hoc Committee, is seeking to re-open the fund in pursuit of donations to support urban forest management efforts that have been identified as priorities for the City, and that are currently without available funding through City sources.

Value for the City and its citizens

El Cerrito is committed to preserving and improving its urban forest. The City has been designated as a Tree City USA by the Arbor Day Foundation, has a full-time environmental programs managers/City arborist, and established an Urban Forest Committee. Due to fiscal constraints within the City's budget, funds are not readily available to fully support projects documented in City plans (such as the Urban Greening Plan and the Urban Forest Management Plan). An El Cerrito Urban Forest Fund would provide a mechanism for residents to contribute towards an improved urban forest.

The 2013 El Cerrito Tree Inventory provided a benefit analysis of the value of public trees, and identified up to 4,000 vacant public planting sites throughout the City:

- El Cerrito's public trees provide annual benefits of \$1.3 million.
- For every \$1 spent on public trees, the residents of El Cerrito receive \$4.28 in benefits
- El Cerrito's public trees are reducing annual electric energy consumption by 797 megawatt hours and annual natural gas consumption by 16,859 therms.
- City trees remove 1.1 tons of pollutants from the air and they reduce annual storm-water runoff volume by 9 million gallons.
- They sequester 551 tons of atmospheric CO2 per year.

Other benefits include:

- Lowered temperatures from shade provided by trees
- Recreational opportunities in parks

Resident and community groups interest in the urban forest

In the 2022 National Community Survey (NCS), about 8 in 10 residents identified both the natural environment and parks and recreation opportunities as an essential or very important area of focus for the community in the next two years, placing them amongst residents' top priorities for the City.

Relevant community groups:

- El Cerrito Trail Trekkers
- Friends of Five Creeks
- Strollers and Rollers

Outreach & communications

The Grants & Fundraising Ad-hoc Committee and the full Urban Forest Committee would seek to inform El Cerrito citizens of the fund through new and available sources, including:

- City publications including the Green Happenings newsletter and the Rec Guide
- Byline, the El Cerrito Chamber of Commerce monthly newsletter
- Community groups (Strollers and Rollers, Friends of Five Creeks, El Cerrito Trail Trekkers)
- Urban Forest Committee mailing list
- Public comment periods during City Council meetings
- Word of mouth

Potential projects to fund

- Updating the City's tree inventory (\$40K expected budget)
- Tree planting and maintenance
- Arbor Day events
- Educational workshops
- Urban forest deferred maintenance in City parks (Identified in Appendix D, Table 2 of the 2019 Parks and Recreation Facilities Master)

Managing the fund

The Public Works Department, through the Urban Forest Program, would manage the fund, spending only on projects identified or added in consultation with the Urban Forest Committee. Staff will communicate and report on projects that have been funded at least once annually through the Urban Forest Committee and available City channels.

In conclusion

In pursuit of the benefits produced from an actively managed and healthy urban forest, and to respond to the priorities of City residents, the Urban Forest Committee's Grants & Fundraising Ad-hoc Committee seeks City support to re-open the tree fund and accept donations from citizens and El Cerrito businesses. This would enable the City to fund projects to improve the health of its urban forest and reduce the number of vacant public planting sites, without being fully reliant on City funds.

From: [Cordell Hindler](#)
To: [City Clerk](#)
Subject: Public Comments
Date: Thursday, September 14, 2023 3:59:02 PM

Hello Mayor Motoyama, Council Members and Staff,

I AM Submitting the Following Comments into the Record:

1. For the October 3rd Agenda, The Council Should Direct Staff to Schedule a Presentation from Koff& Associates in Regarding the Class & Comp Study.
2. Also To Have Danny Wan To Present on the Port of Oakland

Sincerely
Cordell

RECEIVED
AT THE MEETING OF

SEP 19 2023



National Institute Of
Senior Centers

September 2023
CITY OF EL CERRITO
CITY CLERK

Albany Senior Center Celebrates National Senior Center Month

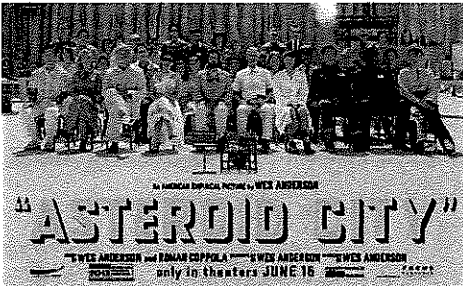
Discover all the fabulous programming that the
center will be highlighting this month



**National Senior
Center Luncheon**



**Concert in the park
"Senior Section"**



**Tuesday Matinee
Movies**



Socials

National Senior Center Luncheon - Friday, September 29, 12:00 - 1:30 pm - \$5 fee

Concert in the Park "Senior Section" - Wednesday, September 20, 5:30 - 8:30 pm at Memorial Park, 1325 Portland Ave

Tuesday Matinee Movies at 1:30 pm; September 5: The Art of Racing in the Rain, September 12: Guillermo del Toro's Pinocchio, September 19: Asteroid City, September 26: Dog Gone - \$1 popcorn donation

Socials - Daily drop-in classes where you can meet new friends, try new things, and have fun!



More Information

Register at Senior Center, 846 Masonic Ave
or call (510) 524-9122

El Cerrito City Council:
Act Now to Mitigate the Climate Emergency!

RECEIVED
AT THE MEETING OF
SEP 19 2023
CITY OF EL CERRITO
CITY CLERK

Since passing its first Climate Action Plan (CAP) in 2010, El Cerrito has made little progress in reducing greenhouse gas emissions. Despite having declared a climate emergency in 2019, the City Council has repeatedly deferred actions that would implement known climate solutions.

In October 2022, a City-engaged consulting firm, hired to recommend plans to implement the CAP, identified “early wins” that the City could accomplish in a short time span. Those “early wins” were identified in January 2023; the City, however, has indicated the earliest it will consider implementing plans is November 2023.

An easy “**early win**” put forward by the El Cerrito Environmental Quality Committee, is to implement an ordinance requiring that **all NEW CONSTRUCTION in El Cerrito, both residential and commercial, be fully electric**. Natural gas is both a major contributor to greenhouse gas (GHG) emissions and a serious health threat inside homes and businesses. This is a measure that over 70 municipalities in California have already enacted, including many in Contra Costa and Alameda County.

With plans for new construction underway right now, **there is no time to waste to establish all-electric new construction in our City.**

We, the undersigned, ask the City Council to immediately direct City staff to prepare a draft ordinance requiring new construction in El Cerrito to be all electric, and to vote to implement such an ordinance by *Nov. 15*, 2023.

We must act now to avert climate disaster!

Name (PLEASE PRINT)	Signature	Home Address	Email (for more info only)
Evelyn Shimada			
Randy Cava			
Christopher A. Maack			
Kathryn Maack			
Emma Maack			
Jane G. Fried			
Sean P. O'Connell			
KEN LONGO			
JEAN TAN			

We, the undersigned, ask the City Council to immediately direct City staff to prepare a draft ordinance requiring new construction in El Cerrito to be all electric, and to vote to implement such an ordinance by Nov. 15, 2023.

We must act now to avert climate disaster!

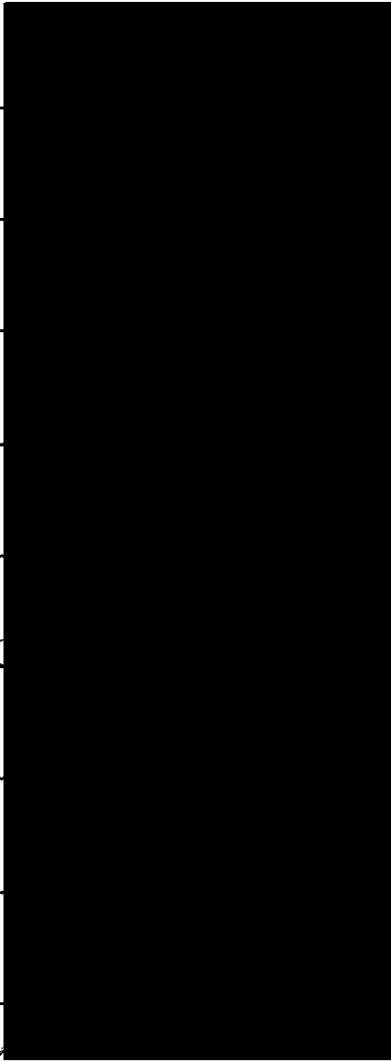
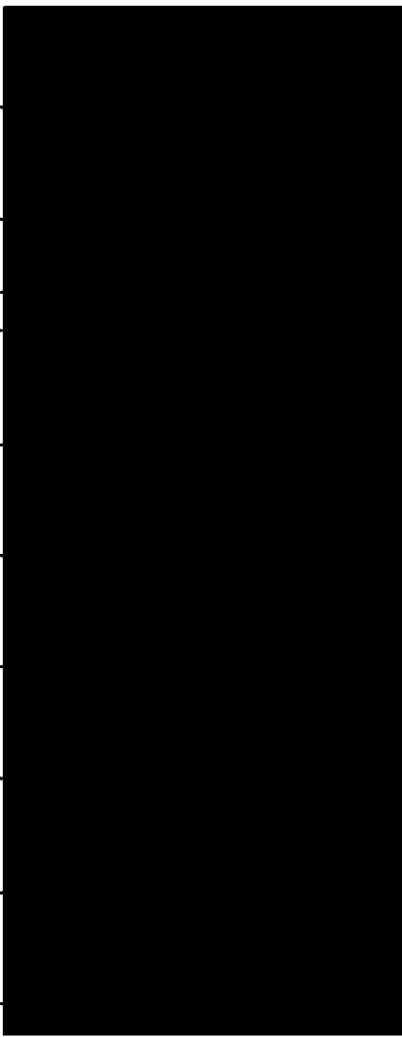
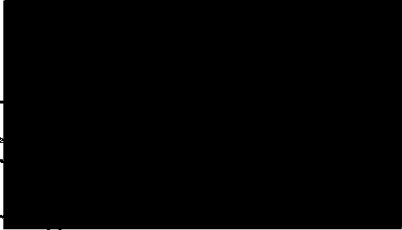
Name (PLEASE PRINT)	Signature	Home Address	Email (for more info only)
Briana Flin			
KIM LAFLIN			
BARBARA HOLLINGER			
Tonya North Decker			
Waynette Duty			
RUSS KING			
RON MARTEL			
DAVID LAIDIG			
GAYLE GREER			

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We must act now to avert climate disaster!

Name (PLEASE PRINT)	Signature	Home Address	Email (for more info only)
Laura de Jesus			
Connie K. Wimble			
Melanie Johnson			
Isaac Mankita			
Alan Sareda			
Edward Mestetzke			
Serena Wang			
James Morgan Signed			
James Shepland			

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We must act now to avert climate disaster!

Name (PLEASE PRINT)	Signature	Home Address	Email (for more info only)
Cheannie Sparks			
RICHARD ROBINSON			
Loyce L Allen			
NPABROS			
Sheldon Jones			
Aileen Tinsley - Jones			
Lisa Schoof			
PETE SKLAP			
Achi Ben Shulim			

newsletter

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We must act now to avert climate disaster!

Name (PLEASE PRINT)	Signature	Home Address	Email (for more info only)
Sarah Rock			
Serafin Colmenares			
Fred Bialy			
STEVE SEGAL			
BILL SATO			
Gary Pokorney			
Chris Markle			
Nick Induni			
Heather Jones			

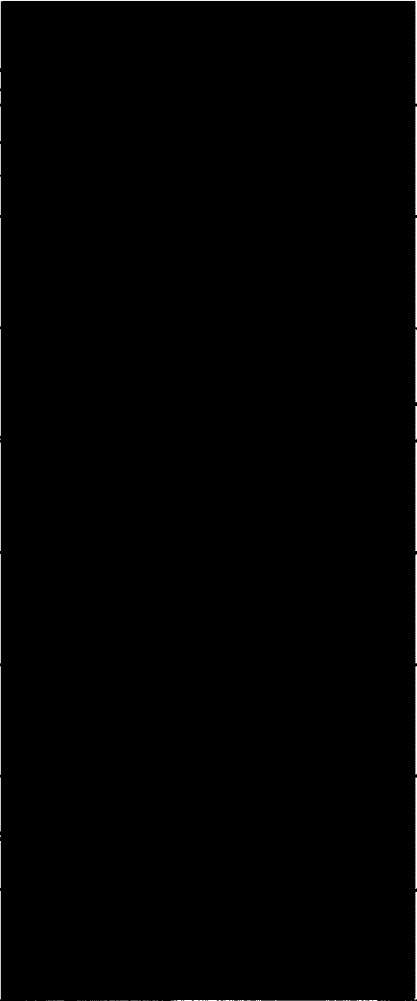
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We must act now to avert climate disaster!

Name (PLEASE PRINT)	Signature	Home Address	Email (for more info only)
MARTI THROSSSELL			
Sherry Drobner			
Rebecca Sutton			
Stephen Egawa			
Sandy Portillo-Robins			
Brandi Camilli			
Luis Lane			
James Wu			
Hebert Wu			

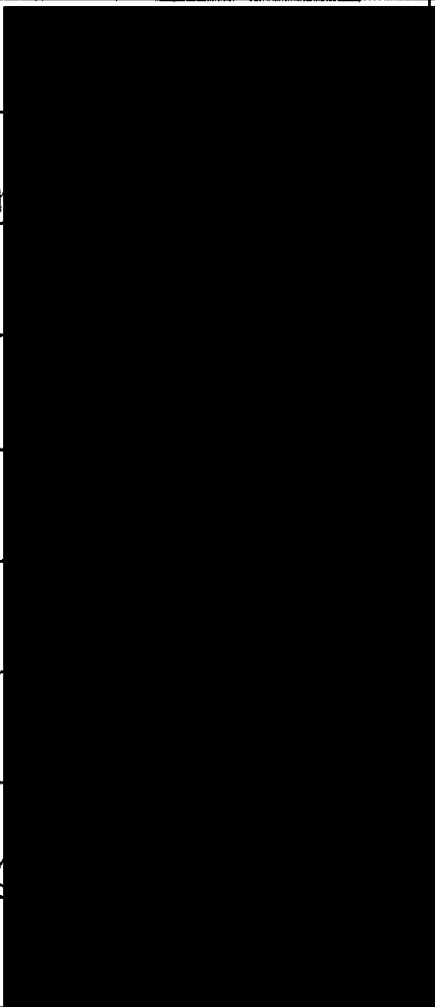
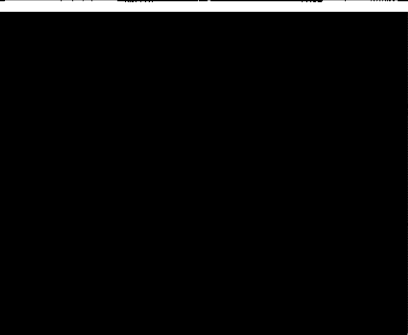
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We must act now to avert climate disaster!

Name (PLEASE PRINT)	Signature	Home Address	Email (for more info only)
Cathy Baca			
Daniel Brenman			
Erica Quest			
Brooke Laurio			
Shanti Mehta			
Joan Alexander			
Mary Westervelt			
Allison Cooper			
Mary Barkay			

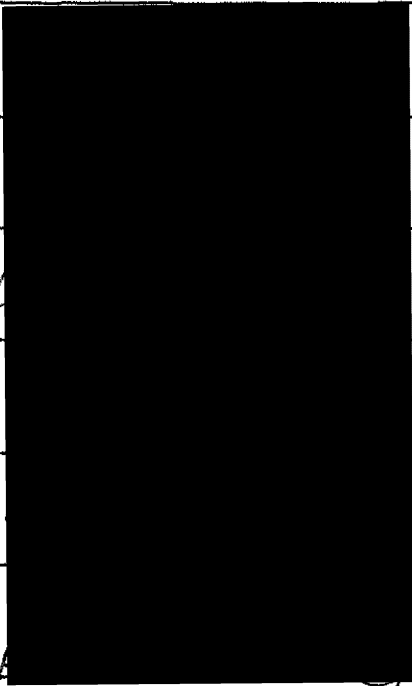
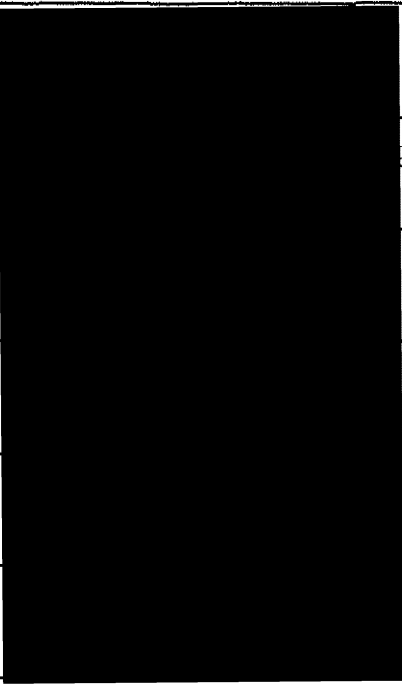
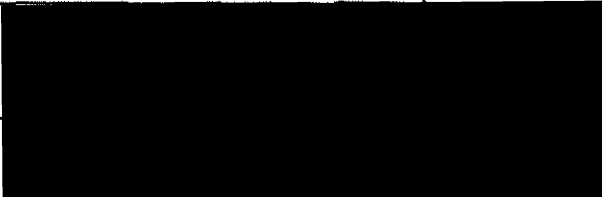
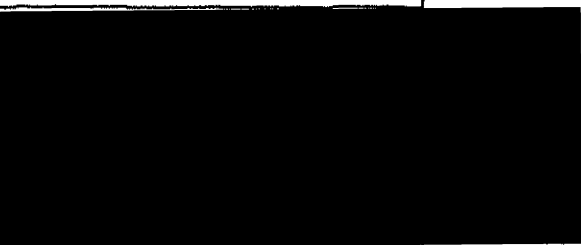
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We must act now to avert climate disaster!

Name (PLEASE PRINT)	Signature	Home Address	Email (for more info only)
Danielle Jerdee			
Noah Ribbeck			
Mike Frappier			
Michael Spight			
Chrystel White			
Kathy Roith			
Elaine Waise Blank			
Peggy Vey			
Robert Naumann			

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We must act now to avert climate disaster!

Name (PLEASE PRINT)	Signature	Home Address	Email (for more info only)
Brendan Garin			
MARJORIE GRAVES			
Melissa Murphy			
Kyndelle Johnson			
Rodney Travis			
Karin Stenberg			

From: [Gary Prost](#)
To: [City Clerk](#)
Subject: Public Comments: Agenda Item 8A and 8B, Fire Hazard Abatement
Date: Tuesday, September 19, 2023 11:39:23 AM

Caution! This message was sent from outside your organization.

Mayor Motoyama and City Council:

I am Gary Prost with Make El Cerrito Fire Safe, a group of concerned neighbors that advocate for fire risk reduction in El Cerrito. I would like to commend both Travis Crumacker, Fire Prevention Officer; and Chase Beckman, Fire Marshal, for their ongoing and valiant efforts to reduce fire risk in our community by inspecting and issuing warnings to residents with overgrown vegetation on their property. They have also taken action to reduce fuel load along emergency evacuation routes (for example, Brewster and Arlington) and have supervised maintenance of the 100-foot fuel break around the Hillside Natural Area.

More needs to be done, and what has been accomplished needs to be maintained, but we recognize that this is an ongoing process and applaud the steps taken so far. This is time and money well spent.

Sincerely,

Gary Prost
[REDACTED], El Cerrito, CA 94530



Virus-free www.avg.com

Sept 19, 2023

City Council
City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530

RE: Comments on agenda item 9C, proposed advisory body policy changes

Dear Mayor Motoyama and Council Members,

While I am the current chair of the Environmental Quality Committee, the following are my personal comments, based on 14 years as an advisory body volunteer, regarding the proposed policy changes for advisory bodies introduced by the Council ad-hoc Subcommittee on Advisory Bodies. For your reference, I have also copied below a letter sent as EQC chair, that was the result of a formal vote of the EQC, already entered into the Council's public record at your January 17th 2023 meeting, because it contains EQC advice to Staff and Council directly relevant to this topic dating back to Oct. 10, 2023, when the EQC first voted unanimously to send a letter raising concerns about communication between advisory bodies, Staff and Council. It is notable and disappointing that there was no mention of this formal communication from an advisory body on this exact topic in the Staff report, even though it likely contributed to the formation of the Council ad-hoc Committee to consider these issues.

First, I want to thank you for your attention to improving the policies for advisory bodies, and, most importantly, improving communication between Advisory Bodies, Staff and Council. While there are positive suggestions put forth by the Council ad hoc Committee, there are also some suggestions that are not the right direction, as well as items that have not been addressed. I hope the Council will continue a more robust discussion of this issue before providing direction to staff to move forward with specific policies. In particular, for an item with significant impact on advisory bodies, what has been the outreach to the advisory bodies themselves during this process? I ask you to consider waiting to give direction to staff until Council Members have attended the meetings of advisory bodies for which they are liaisons, presented the proposed changes, and taken input from advisory body members as a specific agenda item, or as part of the Council update to the meeting.

Here are itemized responses to the specific policy changes suggested by the Council ad hoc Committee:

1. **Workplan** - In my experience on the EQC, an annual workplan process has worked well and a two year workplan may not be frequent enough for timely updates. It also does not give as much of an opportunity for some members to participate in the plan generation when they are on the committee for less than 2 years. If advisory body workplans are completed in October, will they be used to provide input to Staff workplan development?

2. **Accomplishments** - It seems unnecessarily disjointed that the workplan is done in Oct. but the accomplishments section is completed in March. It is more natural to do these together, as we have in the past, because consideration of past accomplishments informs future work. It is also inconsistent to fill in accomplishments annually but the workplan every two years when it is part of the same document. Doing both activities together on an annual basis makes more sense and is more productive. In the past, there have been a number of advisory bodies that did not complete regular workplans and also did not give presentations to Council, but the EQC has been very consistent with the generation of an annual workplan and presentations to Council. It may not be appropriate for every advisory body to make a presentation to Council, but these have been informative presentations for Council, and the public, in the past, and it is the wrong direction to move away from regular advisory body presentations to Council, when we should be bolstering that communication, instead. For instance, after many years of presenting to Council, in recent years EQC is no longer being invited to present to Council. As a member of the public, I always learned a lot by watching some of the other advisory body presentations, like the Arts and Culture Commission, etc. Many of the proposed changes like this leave the impression that Staff and Council are valuing advisory bodies less and less, and providing fewer opportunities for public spotlights and recognition of advisory body work. This policy update should be actively enhancing advisory body communication with Staff and Council, including increasing opportunities to recognize the importance and contributions of volunteer advisory bodies. These sentiments are not forthcoming in all the proposed changes, nor has it been helped by an elapsed year of near silence on the issue, since it was first raised.
3. **Recommendations** - I appreciate the proposed changes on advisory body recommendations to Council. These are positive improvements that are consistent with the recommendations in the EQC's January 17th 2023 letter. While the consent agenda item (or another action item at the will of the Council) is a more appropriate way for the advisory body communication to be received, it is equally important how the Council responds, which is more of a culture/relationship aspect, rather than something that can be codified in a policy. The Council has no obligation to agree with an advisory body recommendation, but the advisory body, and the public, deserve to hear a response of some kind from the Council. Silence and neglect is neither respectful nor helpful. It will be up to Council Members to pull consent communications and make comments, or direct an item to come back, to fulfill any meaningful dialog on the topic raised, and I hope this will become a prevailing practice. Another issue is that this recommendation policy only addresses recommendations to Council. The founding resolution of the EQC, 2008-13 (copied below), states that the EQC is "to serve in advisory capacity to the City Council, staff, other boards, commissions, and committees." The proposals presented do not provide any clarity on the policy of how advisory bodies advise and communicate with staff and other bodies, when they are tasked to do so. This is particularly important because the Jan 17th 2023 communication to Council, copied below, followed the originating EQC communication on this topic to staff (Oct 11, 2022), that was followed with no response to the EQC letter, despite three requests for an update through the staff liaison, other than that "there would be no action taken."

Modifications:

1. **Service on Multiple Advisory Bodies** - Limiting to serving on two advisory bodies at a time seems fine and reasonable.
2. **Meeting Frequency** - It is ok if advisory bodies don't have a scope of work to warrant meeting every month, but the frequency should start with monthly meetings and only work down to every other month, or quarterly, if the work of the body does not warrant meeting more frequently. There has been a recurring impression imposed on Advisory Bodies that they are a burden on staff and that there isn't much capacity to support the work of citizen volunteers. This undermines volunteer morale and undervalues the advisory bodies and the free work they do for the city. In a time that budget has been the dominant focus of the City, it should be recognized and appreciated that the City benefits from the free labor of volunteers doing work that the City would otherwise have to pay for, or that wouldn't get done, or that would end up costing the city much more to address in the future. The return on investment of staff time coordinating volunteers is probably much better than many other tasks they might do, and should be prioritized instead of shed as a burden.
3. **Pre-meeting Attendance Requirement** - This meeting requirement had become too stringent and was a barrier to a welcoming and timely addition of members to Committees. It is highly valuable to have applicants who are familiar with the committee, but I agree with the language relaxing this requirement.

Public Safety Committee

1. I agree with the proposal to broaden the scope of the Crime Prevention committee to become the Public Safety Committee. In particular, the new scope should include emergency/disaster preparedness.

Youth Participation

1. I appreciate and welcome the intention to include youth participation on advisory bodies, as suggested. However, I think it is unnecessary and disrespectful for youth participants to be limited to non-voting members. A youth participant is fully qualified to take part in the votes that take place in a committee like the EQC and we should show them that we value their contributions by allowing them to vote.

Thank you for your time and consideration,



Howdy Goudey
El Cerrito

From Resolution 2008-13:

“NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito hereby establishes an Environmental Quality Committee, with the necessary staff liaison assigned by the City Manager, with the following duties and responsibilities:

- To serve in an advisory capacity to the City Council, staff, other boards, commissions, and committees, and the residents of the City with regard to environmental quality issues within the City of El Cerrito;
- To recommend programs, policies, and ordinances to the City Council and promote the City's environmental quality efforts; and
- Promote and foster public awareness, education, interest and support for environmental quality efforts, foster volunteer opportunities, and educate El Cerrito residents regarding environmental quality and issues relating to environmental impacts.

From my Dec. 8 2022 email communication as EQC chair to EQC staff liaison:

On Nov. 2, prior to our Nov. 8 meeting, I made the following request regarding the memo EQC sent to the city manager at our October meeting: "I'd like to see some timeline commitments offered for follow-up on the issues we raised, so this actually gets attention and action and doesn't just slip into the background."

At the Nov. 8th meeting the only report back was "It was received by the City Manager." Immediately after that meeting I sent: "I was very disappointed by the report on the status of the EQC memo to staff. It is highly disrespectful to an advisory body to not respond to our concerns with at least a plan, next steps and timeline (as I requested a week ago as a minimum response)." To which you responded on Nov. 9: "I passed along the recommendation to the City Manager. I'll circle back again internally and aim to have something to report back by the next meeting."

Following this request for an update through the staff liaison, the staff report back at the December EQC meeting was that there would be no action on our communication, so the EQC was not offered a meaningful response, even though we were communicating about how to best achieve the stated duties of our committee in resolution 2008-13.

1/17/2023

El Cerrito City Council
El Cerrito City Hall
10890 San Pablo Ave.
El Cerrito, CA 94530

Mayor Motoyama and City Council Members,

The following recommendations regarding City advisory body communication with Council and Staff were unanimously approved at our October 2022 meeting and presented to City staff for feedback.

10/11/2022 - Move/Second: Members Weinstein/O'Connor **Action:** Passed a motion to recommend the EQC support the sending of the memo from the EQC Goals Subcommittee to the City Manager. **Ayes:** Goudey, Vekony, Akacic, Miner, Mitchell, Molnar, O'Connor, Tarbet, and Weinstein **Noes:** None **Absent:** Pavel, Spitalnik, and Tsutsui

After waiting two months for a response, The EQC was informed at our December meeting that Staff chose to take no action on the memo we sent, and there would be no response or dialog on the topic.

At our January 10th 2023 meeting, the EQC voted unanimously to send the same document to the Council for your consideration, enclosed below.

Thank you for your consideration,



Howdy Goudey
Chair, Environmental Quality Committee

Report from EQC's Goals Subcommittee on improved communication with City Council, staff, other boards. Oct. 10, 2022

Introduction. The Environmental Quality Committee has been serving the city since the advisory committee was created 14 years ago, with a purpose that includes “to serve in an advisory capacity to the City Council, staff, other boards, commissions and committees.”

In an effort to better utilize the skills of the EQC, which includes many people in environmental professions and academia, and to improve communications between the EQC and other city operations, the EQC makes the following recommendations.

They answer to concerns among members of the EQC, and some members of the public, that some EQC recommendations in the recent past have not been presented to the council in an effective way, and have not elicited response or dialog.

In addition, the EQC's role in advising city staff and other committees has been hindered because there is no effective path for such communications to occur.

The EQC hopes to work with the city manager and/or the manager's designees to develop these ideas in order to boost the EQC's ability to help the city address the ongoing climate crisis and other environmental concerns.

Our recommendations:

How EQC proposals and other ideas are presented. We propose that EQC policy proposals be presented to the City Council and other committees and commissions in the form of written EQC reports that would be prepared by members of the EQC and generally vetted by the EQC's staff liaison.

These would be short of “staff reports,” requiring very little staff time, and would represent the views not of city staff but of the majority of the EQC.

These could come before Council or other committees as agenda items, either on the consent calendar or action items, or could be included within a council packet, for example, as part of a larger matter (for example, Climate Action Plan or San Pablo Specific Plan revisions.)

Currently, the presentation of EQC proposals and other advice to the council and other boards comes through 3-minute public comment, or informally through the EQC liaison. This does not give our proposals the weight they deserve. A distinction needs to be seen between general public comment and a report from an official advisory body.

The EQC should play a role early in the process of developing environmental policies. The EQC could more often serve as a sounding board for public input by hosting public hearings on proposed policies.

This is something the EQC has done periodically, starting with the animal ordinance in 2009, which arose from public comment to the EQC before we hosted hearings and the council passed an ordinance allowing for the keeping of chickens and goats.

But often, environmental policy has come down to the EQC from staff and council after it has been substantially developed, and the EQC can only comment, somewhat after the fact. **It would be good to clarify how the EQC communicates with city staff.** One of our charges is to oversee how city staff actions affect the environment. We are cognizant that city staff is busy and that frequent communication, especially from individual members, would be a problem.

But once a majority of the EQC reaches a conclusion about city operations that affect the environment for good or ill, and when the EQC has developed recommendations, we need a formal way to present them, and when warranted, receive feedback and/or take part in a discussion.

Public Comment for item 9C on the agenda
City Council meeting 9/19/2023

Mayor Motoyama, Mayor Pro Tem Rudnick, and Council Members Quinto, Wysinger:

I am currently a member of the Urban Forest Committee and previously was a member of the Park and Recreation Commission for 2 terms (8 years). My comments below are based on my experiences on both of those advisory committees.

I have the following comments:

Consulting with advisory bodies before recommendations are put in place

I am on the Urban Forest Committee and attend the Environmental Quality Committee meetings, and I don't recall that the City Council ad-hoc committee ever visited those meetings to get feedback from them about the changes being proposed. *I would hope that communication would happen before these new recommendations are put in place, in order to get feedback from the advisory bodies and potentially amend some of the recommendations.*

#1 - Workplan

I think that the current procedure for developing an annual workplan works well, and I would **not** be in favor of a 2 year workplan.

#2 - Accomplishments

I do **not** agree that the accomplishments should be developed at a different time than the workplan. I think the accomplishments should be determined at the same time that the workplan is generated, in order that they both reflect the real state of the activities of the advisory bodies. I don't see any reason to separate the two.

#3 - Recommendations

I think it is appropriate to include advisory body recommendations on the consent calendar. I also think it is appropriate for the City Council to include a method for responding to the recommendations. In the past, when recommendations have been made, generally there is no response, even from the staff liaison at an advisory board meeting. It is important that the advisory body know that the City Council has considered their recommendation and how they will proceed, based on that recommendation.

Modifications to existing Advisory Body regulations

#1 - Service on Multiple Advisory Bodies

I agree that membership on 2 advisory bodies is reasonable.

#2 - Meeting Frequency

I think that advisory bodies should be able to decide the frequency of their meetings. I think many of the advisory bodies should meet monthly, unless their activities do not warrant that frequency. But they **should not be prevented from meeting monthly**. I understand that those meetings are considered a burden to staff, but the members of those committees are volunteering their time and contributing their expertise to issues of importance to the city. I think that commitment should be respected by allowing them to meet as often as monthly.

#3 - Pre-meeting Attendance Requirement

I think it is good for prospective members to understand how the advisory body operates by attending a few meetings, but I agree that the previous requirement was too strict, and am in favor of this new modification.

Public Safety Committee

I agree that expanding the Crime Prevention Committee to include fire safety is a very good suggestion.

Youth Participation

#1 - Non-voting members

I do **not** agree with the idea that youth members are non-voting. I think it is extremely important to include the youth perspective in these advisory bodies and I believe that they should have the same standing as the other members, ie, they should be able to vote. It is disrespectful to not allow them to be voting members, and they are fully capable of understanding the issues and casting a vote. I suspect if you make them non-voting members there will be considerably less interest in being on an advisory body.

Thank you

Robin Mitchell
El Cerrito Resident

From: [Jim Dolgonas](#)
To: [City Clerk](#)
Subject: Public Comments Agenda Item 9C
Date: Tuesday, September 19, 2023 1:20:10 PM

Caution! This message was sent from outside your organization.

This item includes considering possible expansion of the Crime Prevention Committee (CPC) to include fire safety, community safety, crime prevention and/or emergency response. In considering this proposal, I would like to request, as a member of the Crime Prevention Committee, that any expansion not include fire safety nor emergency response at this time. The CPC membership has only with this last meeting been increased to five; a few months ago there were only 3 members, making it difficult to obtain a quorum. As a result, I feel the newly constituted committee is only now beginning to focus on the current charge. To add such a broad area such as Fire Safety in the charge to the committee would not be productive at this time. Perhaps this can be reconsidered in a year or two. And, in the meantime, I would also suggest that emergency response not be added to the scope of the committee either. While there has been discussion over the last several years of the need for emergency response planning and conducting an evacuation drill, these activities can occur via direction to the City manager without need for participation by the CPC.

Please give the CPC a chance to be effective with its current scope before expanding its scope.

Respectfully,
Jim Dolgonas
El Cerrito Resident and CPC Member

CITY OF EL CERRITO

ESTABLISHMENT OF A SECTION 115 TRUST



NHA | ADVISORS
Financial & Policy Strategies.
Delivered.

SEPTEMBER 19, 2023

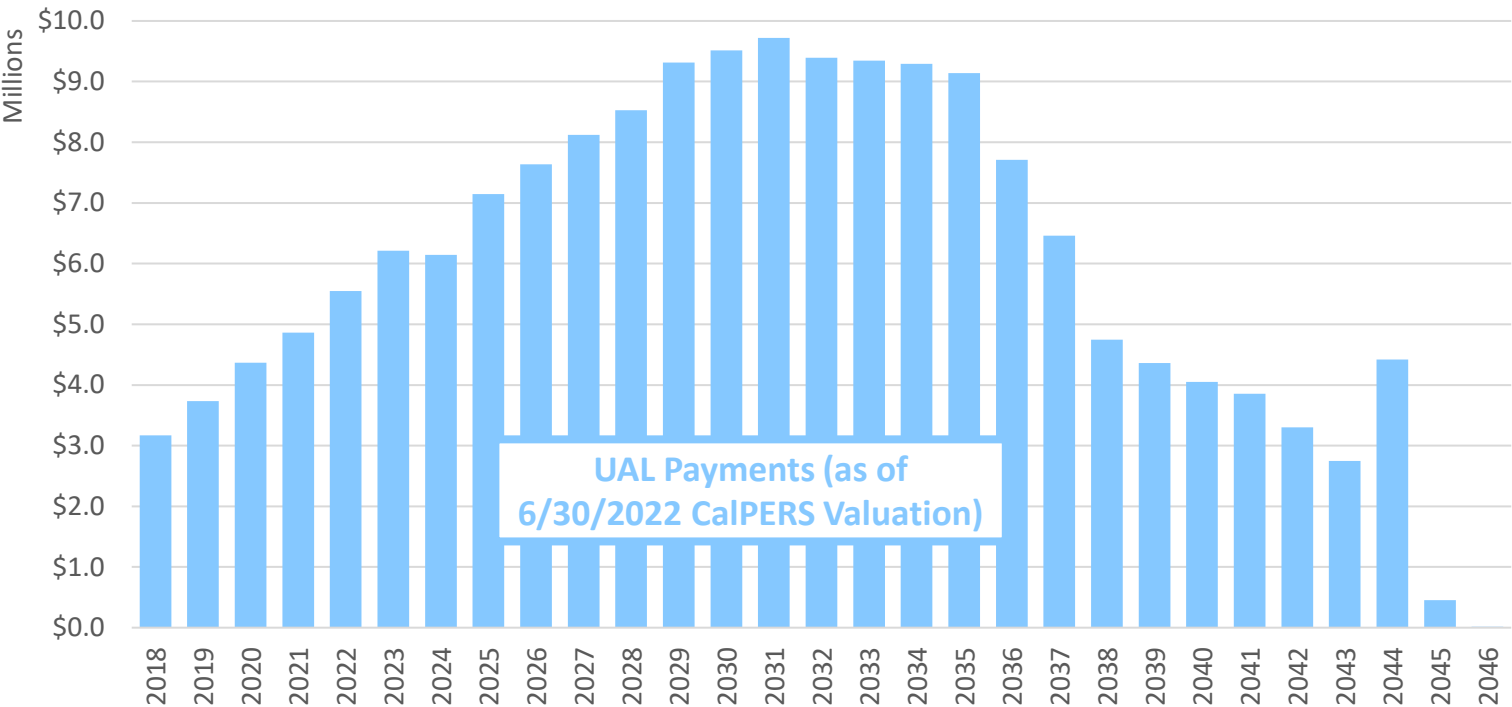
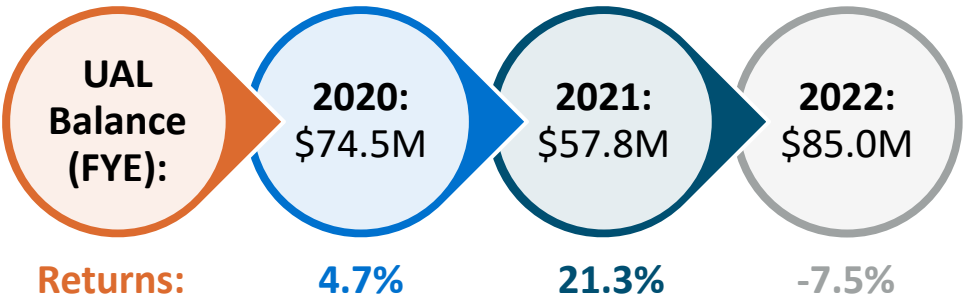
Background

- ▶ The City has been interested in setting up a Section 115 Trust (the “Trust”) as a strategy to manage its pension costs, beginning back in mid-2021, when City Council passed a motion to direct staff to establish the Trust
- ▶ Since then, City staff has conducted research and consulted with its financial advisor, NHA Advisors (“NHA”), to help guide the process of establishing the Trust
- ▶ Progress was temporarily stalled due to severe staffing issues in the Finance Department; however, in the past few months City staff has worked with the City’s Financial Advisory Board (“FAB”) to consider pension cost funding as a priority
- ▶ On August 15, 2023, City Council directed staff to pursue working with Public Agency Retirement Services (“PARS”) to establish and fund the Trust

Recap of the City’s Pension Challenge

Historical and Projected CalPERS Unfunded Accrued Liability (“UAL”)

- ▶ The latest CalPERS actuarial reports show the City’s UAL increasing from \$57.8M to \$85.0M due to CalPERS’ -7.5% investment returns in FY 2021-22
- ▶ Over the last decade, the City’s UAL balance has nearly doubled from \$43M at FYE 2013 to \$85M at FYE 2022
- ▶ CalPERS recently reported preliminary FY 2022-23 investment returns of 5.8%, which could increase the City’s UAL by ~\$1M in next year’s actuarial reports
- ▶ The City’s \$3.2M UAL payment in 2018 increased to \$6.2M in 2023; Projected payments peak at nearly \$10M in 2031.
- ▶ UAL will fluctuate annually moving forward based on future CalPERS investment returns & assumption changes



Managing the Pension Challenge

Benefits of a Section 115 Trust

Ability to “smooth out” higher UAL payments in the future by withdrawing funds from the Trust to supplement payments from the General Fund

Increased Budgetary Flexibility

- Trust assets can be accessed any time as long as the assets are used to fund the City’s pension obligations and pay associated expenses (e.g., normal cost contributions, normal cost or UAL reimbursement, Additional Discretionary Payments (“ADPs”) to CalPERS)

Investment Control, Flexibility, and Diversification

- Offers the potential for assets to earn greater returns than the General Fund, as General Fund investment restrictions do not apply to Trust assets
- City maintains oversight and control of the investment manager and risk tolerance level
- Investments can be tailored to the City’s unique demographics and needs
- Diversification from CalPERS, who already manages \$158 million of the City’s pension assets

Potential for positive rating agency and investor consideration

PARS Section 115 Trust Team

Trust Administrator & Consultant



- Serves as record-keeper, consultant, and central point of contact
- Sub-trust accounting
- Coordinates all agency services
- Monitors plan compliance (IRS/GASB/State Government Code)
- Processes contributions/ disbursements
- Hands-on, dedicated support teams

39	2,000+	1,000+	500+	500K+	\$7.2B
Years of Experience (1984-2023)	Plans under Administration	Public Agency Clients	115 Trust Clients	Plan Participants	Assets under Administration

Trustee



- 5th largest commercial bank and one of the nation's largest trustees for Section 115 trusts
- Safeguard plan assets
- Oversight protection as plan fiduciary
- Custodian of assets

160	\$9.5T
Years of Experience (1863-2023)	Assets under Administration

Investment Manager



- Investment sub-advisor to trustee U.S. Bank
- Investment policy assistance
- Uses open architecture
- Active and passive platform options
- Customized portfolios (with minimum asset level)

104	\$8.7B
Years of Experience (1919-2023)	Assets under Management & Advisement

Section 115 Trust Investment Options and Approach

- ▶ After adoption of the Trust, staff will meet with HighMark’s dedicated investment advisor to discuss the details of how the City’s Trust assets will be invested
- ▶ There are 5 investment portfolios to choose from, as well as the option for active or passive management
- ▶ As the investment strategy and policy for the Trust is formulated, it will be open for review by City Council and FAB
 - ▶ In the meantime, the City can choose to invest the \$1 million initial deposit in a money market fund

1. Input Phase	2. Model Portfolios			3. Dedicated Portfolio Manager
– Target discount rate – Risk tolerance – Investment philosophy – Asset allocation – Timing on use of funds	Strategy	Equity	10-YR Returns*	– Makes recommendation – Fiduciary responsibility – Drafts investment policy – Annual on-site reviews – Cell phone access
	Capital Appreciation	65-85%	7.86%	
	Balanced	50-70%	6.59%	
	Moderate	40-60%	5.80%	
	Moderately Conservative	20-40%	4.14%	
	Conservative	5-20%	2.90%	
	vs. LAIF	0%	1.09%**	

Section 115 Trust Fees

Trust Administration/Consulting Fees*



Plan Set-Up Fee:

None

Ongoing Fees:

0.25%	for assets \$0-10 million
0.20%	for assets \$10-15 million
0.15%	for assets \$15-50 million
0.10%	for assets over \$50 million

Ongoing Fees
(Assumes \$1M in Assets)

\$1,000,000 (assets)

x 0.25% (fee)

\$2,500



Discretionary Trustee/Investment Management Fees**



Plan Set-Up Fee:

None

Ongoing Fees:

0.35%	for assets under \$5 million
0.25%	for assets \$5-10 million
0.20%	for assets \$10-15 million
0.15%	for assets \$15-50 million
0.10%	for assets over \$50 million

\$1,000,000 (assets)

x 0.35% (fee)

\$3,500

Total: \$6,000

*PARS does not receive any compensation from the investments or any commissions, back-end loads, or any other forms of compensation

**Subject to change due to rebalancing, as fees are waived for plan assets in First American Funds (money market).

Next Steps to Implement the Trust

- 1 City Council adopts tonight's resolution authorizing City to join the PARS Section 115 Trust
 - 2 City sends signed copy of resolution to PARS
 - 3 PARS sends set of signature-ready documents to City
 - 4 PARS coordinates meeting with City & HighMark to discuss investment options and select strategy, which will then support development of an investment policy (*Note that this step may take more time than others due to City Council and FAB review; City may choose to invest in a money market fund while investment strategy and policy is being reviewed and finalized*)
 - 5 City signs documents and returns to PARS
 - 6 PARS works with U.S. Bank to establish account
 - 7 City makes contribution once account is ready
- ▶ **After the Trust is implemented, PARS and HighMark continue to conduct annual reviews (unless more frequently desired by the City)**

Action Needed from City Council

1. Adopt the PARS Section 115 Trust, with an initial investment of \$1,000,000
2. Appoint the City Manager, or her successor or designee as the City's Plan Administrator for the Section 115 Trust
3. Authorize the City's Plan Administrator to execute the PARS legal and administrative documents on behalf of the City