



AGENDA

REGULAR CITY COUNCIL MEETING
Tuesday, December 18, 2018 – 7:00 p.m.
City Council Chambers

Meeting Location
El Cerrito City Hall
10890 San Pablo Avenue, El Cerrito

Rochelle Pardue-Okimoto – Mayor

Mayor Pro Tem Greg Lyman
Councilmember Paul Fadelli

Councilmember Janet Abelson
Councilmember Gabriel Quinto

7:00 p.m. ROLL CALL - CONVENE REGULAR CITY COUNCIL MEETING

- 1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE** – *Councilmember Quinto*
- 2. 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.
- 3. 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. The Mayor may reduce the time limit per speaker depending upon the number of speakers. Kindly state your name and city of residence for the record. 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 are taken up at the time the City Council deliberates each action item. Individuals wishing to comment on any closed session scheduled after the regular meeting may do so during this public comment period or after formal announcement of the closed session.

4. ADOPTION OF THE CONSENT CALENDAR

A. Quarterly Investment Report

Receive and file the Quarterly Investment Report for the quarter ending September 30, 2018.

B. Annual Review of Investment Policy

Adopt a Resolution approving the Comprehensive Investment Policy and rescinding Resolution No. 2017-88.

C. Reappointment to Economic Development Committee

Approve the Economic Development Committee's recommendation to reappoint members George Gager and Jean Shrem for terms expiring March 1, 2023

D. Classification Plan Amendment

Adopt a Resolution amending the Classification Plan to revise and retitle the Human Resources Technician class specification to Human Resources Specialist.

E. Co-Sponsorship Application – Kensington Amateur Radio Operators – El Cerrito Ham Operators

Adopt a Resolution recognizing the Kensington Amateur Radio Operators – El Cerrito Ham Operators (KARO-ECHO) as a co-sponsored organization and authorizing the City Manager to grant the use of meeting rooms or clubhouses subject to availability, for the KARO-ECHO's monthly meetings at no charge.

F. Shelter Crisis

Adopt a Resolution declaring a Shelter Crisis in Contra Costa County in order to receive emergency funding support to expand and improve homelessness services for individuals and families across the County.

5. PRESENTATIONS

A. Presentation of Citizens Street Oversight Committee's Annual Reports

Receive a presentation from Chair Matthew Kelly of the Citizens Street Oversight Committee's Annual Reports for FY 2015-16 and FY 2016-17.

6. PUBLIC HEARINGS -

A. Establishment of Transportation Impact Fee Program and Amendment of Master Fee Schedule

Conduct a Public Hearing and upon conclusion, consider taking the following actions related to establishment of a Transportation Impact Fee:

1. Introduce by title, waive any further reading, and adopt first reading of an Ordinance adding Chapter 4.54 – Transportation Impact Fee to the Municipal Code, Title 4 – Revenue and Finance; and

2. Adopt a Resolution adopting a Transportation Impact Fee and amending the Master Fee Schedule to include the new Transportation Impact Fee.

7. POLICY MATTERS

A. Tenant Protection Ordinances and Human Relations Commission Resolution

1. Introduce by title and waive any further reading of the following Ordinances being added to the Municipal Code, Chapter 10:

1. An Ordinance adding Chapter 10.100 - Rent Review Program
2. An Ordinance adding Chapter 10.200 – Minimum Lease Terms
3. An Ordinance adding Chapter 10.300 – Termination of Tenancy
4. An Ordinance adding Chapter 10:400 – Tenant Relocation

2. Receive presentation from Human Relations Commission regarding an HRC Resolution recommending Tenant Protections.

8. CITY COUNCIL LOCAL & REGIONAL LIAISON ASSIGNMENTS

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

A. 2019 City Council Liaison Assignments

Review and approve the 2019 City Council Liaison Assignments.

9. ADJOURN REGULAR CITY COUNCIL MEETING

The next regularly scheduled City Council meeting is Tuesday, January 15, 2019 at 7:00 p.m. in the City Council Chambers, 10890 San Pablo Avenue, El Cerrito.

- Council Meetings can be heard live on FM Radio, KECG – 88.1 and 97.7 FM and viewed live on Cable TV - KCRT- Channel 28 and AT&T Uverse Channel 99. The meetings are rebroadcast on Channel 28 the following Thursday and Monday at 12 noon, except on holidays. Live and On-Demand Webcast of the Council Meetings can be accessed from the City's website <http://www.el-cerrito.org/streamingmedia>. Copies of the agenda bills and other written documentation relating to items of business referred to on the agenda are on file and available for public inspection in the Office of the City Clerk, at the El Cerrito Library and posted on the City's website at www.el-cerrito.org prior to the meeting.
- In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (510) 215-4305. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title I).
- ***The Deadline for agenda items and communications*** is eight days prior to the next meeting by 12 noon, City Clerk's Office, 10890 San Pablo Avenue, El Cerrito, CA. Tel: 215–4305 Fax: 215–4379, email cityclerk@ci.el-cerrito.ca.us
- IF YOU CHALLENGE A DECISION OF THE CITY COUNCIL IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE COUNCIL MEETING. ACTIONS CHALLENGING CITY COUNCIL DECISIONS SHALL BE SUBJECT TO THE TIME LIMITATIONS CONTAINED IN CODE OF CIVIL PROCEDURE SECTION 1094.6.
- The City Council believes that late night meetings deter public participation, can affect the Council's decision-making ability, and can be a burden to staff. City Council Meetings shall be adjourned by 10:30 p.m., unless extended to a specific time determined by a majority of the Council.



AGENDA BILL

Agenda Item No. 4(A)

Date: December 18, 2018
To: El Cerrito City Council
From: Mark R. Rasiah, Finance Director/City Treasurer
Subject: Cash & Investments Report for Quarter Ending September 30, 2018

ACTION REQUESTED

Receive and file the City's Quarterly Investment Report for the Quarter ending September 30, 2018.

BACKGROUND

It is the policy of the City of El Cerrito ("City"), to invest public funds in a manner which provides for safety of principal while providing sufficient liquidity to cover the City's short and long term needs while generating the appropriate yield. All investment activity will conform to the California Government Code, Sections 53601 through 53659.

ANALYSIS

The Quarterly Investment Report for July 1, 2018 to September 30, 2018 shows that the City's investments had a par value of \$2,262,829 as of September 30, 2018. The City continues to have minimal investments that are not required for debt service reserves and to have limited, if any, interest earnings on restricted funds. Of the total amount invested, \$2,076,855 is invested in the pooled funds with the State Treasurer's Local Agency Investment Funds (LAIF) and \$185,975 is held in money market funds. Cash with Mechanics Bank was \$975,119. Total cash and investments were \$3,237,948. Of this amount, \$3,051,974 was available to meet operating expenses for the next six months.

STRATEGIC PLAN CONSIDERATIONS

The purpose of the City's Investment Policy is to provide guidelines for prudent investment of the City's idle funds and ensure policies, procedures and systems represent best practices in financial management (Goal B).

FINANCIAL CONSIDERATIONS

During the quarter interest of approximately \$17,568 was earned and debt service payments for the Recycle Center, City Hall, Equipment and Master Lease and Swim Center Lease payments were made totaling \$746,630.

LEGAL CONSIDERATIONS

The City's investments comply with the "Authorized Investments" section of the Investment Policy.

Reviewed by:



Scott Hanin
City Manager

Attachment:

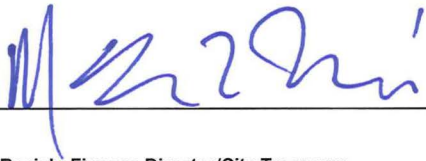
1. Cash & Investment Report for the Quarter ending September 30, 2018.

City of El Cerrito
Quarterly Cash & Investment Report
For the Period Ending September 30, 2018

Attachment 1

FUND	INVESTMENT TYPE	INVESTMENT	TRUSTEE/ BROKER	PAR VALUE	COST	INTEREST OR YIELD	MATURITY DATE	COST/ 100	*MARKET VALUE
Pooled Investments	Pooled Fund	Local Agency Investment Fund(LAIF)	CA State Treasurer	\$2,076,855	\$2,076,855	2.04%	N/A	100.00	\$2,076,855
Swim Center Fund	Blackrock Institutional Money Market	Union Bank/Blackrock Liquidity	Union Bank of CA	\$185,975	\$185,975	0.01%	N/A	100.00	\$185,975
				\$2,262,829	\$2,262,829				\$2,262,829
Cash with Bank (General Checking)	Mechanics Bank	N/A	N/A	\$975,119	\$975,119	N/A	N/A	N/A	\$975,119
Total Cash and Investments				\$3,237,948	\$3,237,948				\$3,237,948

I certify that this report is in compliance with the City of El Cerrito Investment Policy and the California Government Code Section 53646. The balance of the pool's unrestricted investments in combination with anticipated operating cash inflows and the balance in the general checking account, will be used to meet the expenditure requirements for the next six months.



Mark Rasiah, Finance Director/City Treasurer



AGENDA BILL

Agenda Item No. 4(B)

Date: December 18, 2018
To: El Cerrito City Council
From: Mark R. Rasiah, Finance Director/City Treasurer
Subject: Annual Review of Investment Policy

ACTION REQUESTED

Adopt a resolution approving the City's Investment Policy.

BACKGROUND

The investment policy serves as the foundation of a local agency's investment goals and priorities. If the investment policy is carefully researched, effectively drafted, and reviewed regularly to assure that it continues to meet the agency's goals/priorities for its portfolio, it can help protect the assets of the organization. The existence of an approved investment policy demonstrates that the governing body is performing its fiduciary responsibilities, thereby, inspiring trust and confidence among the public that it serves.

It has been the practice of city staff to bring the Investment Policy to the City Council for review and approval annually. Each year the policies are reviewed by city staff and the Financial Advisory Board (FAB). Any recommended changes to these policies are brought to the City Council for review and approval. The Investment Policy was reviewed and discussed by the FAB at their November 13, 2018 meeting; FAB passed a motion to approve the policy without any changes.

The policies were last reviewed by the City Council at its December 21, 2017 council meeting.

ANALYSIS

These policies are intended to provide financial direction to staff and greater assurance to the City Council on the processes and procedures taken to assure financial responsibility of the City. Continuing annual approval of these Financial Policies has been included in these drafts for the purpose of ongoing review and exposure of the policies to the City Council.

It is the policy of the City of El Cerrito ("City"), to invest public funds in a manner which provides for safety of principal while providing sufficient liquidity to cover the City's short and long term needs while generating the appropriate yield. All investment activity will conform to the California Government Code, Sections 53601 through 53659.

There is no fiscal impact of adopting these policies.

STRATEGIC PLAN CONSIDERATIONS

The purpose of the City's Investment Policy is to provide guidelines for prudent investment of the City's idle funds and ensure policies, procedures and systems represent best practices in financial management (Goal B).

FINANCIAL CONSIDERATIONS

Continue to create the potential for increased interest income on investments as well as diversification of the City's investments to provide greater security.

LEGAL CONSIDERATIONS

Annual approval of the Investment Policy by the City Council is not required by California Government Code. However, the policy is being presented for approval following the FAB review in accordance with the City's policy and our intention to allow for transparency in activities pertaining to safeguarding the City's assets.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. City Resolution
Exhibit A – Investment Policy

RESOLUTION NO. 2018-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING THE COMPREHENSIVE INVESTMENT POLICY AND RESCINDING RESOLUTION NO. 2017-88

WHEREAS, the purpose of the Investment Policy is to provide guidelines for operational and strategic decision making related to investment matters; and

WHEREAS, the Investment Policy was last reviewed in November 2017 as a part of the annual review; and

WHEREAS, the Investment Policy has been reviewed by the Financial Advisory Board on November 13, 2018 without any changes being made.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito, that it hereby approves the City of El Cerrito Investment Policy effective December 18, 2018 incorporated by reference and attached hereto as Exhibit A.

I CERTIFY that at a regular meeting on December 18, 2018 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 December XX, 2018.

Sherry Kelly, City Clerk

APPROVED:

Rochelle Padue-Okimoto
Mayor

City of El Cerrito Investment Policy

Approved:

Resolution:

POLICY

It is the policy of the City of El Cerrito ("City"), to invest public funds in a manner which provides for safety of principal while providing sufficient liquidity to cover the City's short and long term needs while generating the appropriate yield. All investment activity will conform to the California Government Code, Sections 53601 through 53659.

In accordance with Section 53646 of the California Government Code, the Treasurer may annually render to the City Council a statement of investment policy and the policy will have been previously reviewed by the Financial Advisory Board.

1.0 SCOPE

This investment policy applies to all financial assets of the City as accounted for in the City of El Cerrito's Comprehensive Annual Financial Report. Policy statements included in this document focus on the City's pooled funds, but will also apply to all other funds under the Treasurer's control unless specifically exempted by statute or ordinance. This policy includes, but is not limited to the following funds:

- General Fund
- Enterprise Funds
- Capital Project Funds
- Debt Service Funds
- Special Revenue Funds
- Internal Service Funds
- Trust and Agency Funds
- Retirement Agency Funds
- Any new funds created by the City Council

This policy specifically exempts any City or bond proceeds in the possession of a trustee or fiscal agent. These bond proceeds shall be invested in accordance with the requirements and restrictions outlined in the bond documents. This policy does not apply to any lending program of the City.

2.0 PRUDENCE

All persons authorized to make investment decisions for the City of El Cerrito are trustees and

therefore fiduciaries subject to the prudent person rule.

The standard of prudence to be used by City of El Cerrito fiduciaries is the "Prudent Investor" Standard found in the California Government Code Section 53600.3.

The fiduciaries are the City Manager, City Treasurer and City Council. Acting within the intent and scope of the Investment Policy and other written procedures, and exercising due diligence, shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported to the City Council in a timely manner and the fiduciaries take appropriate action to control adverse developments.

3.0 OBJECTIVE

The objective of the investment portfolio is to meet the City's short and long-term cash flow needs. To achieve this objective, the portfolio will be structured to provide, in priority order, safety of principal, liquidity and yield.

3.1 Safety: Safety of principal is the foremost objective of the City of El Cerrito in the investment of public funds. All investments of the City shall be undertaken in a manner that ensures the preservation of capital. Each investment transaction shall seek to ensure that capital losses are avoided, whether from issuer default, broker/dealer default, or erosion of market value. The City shall seek to preserve principal by mitigating the two types of risk: credit risk and market risk.

3.2 Credit Risk: Credit risk is the risk of loss due to failure of the issuer to repay an obligation and shall be mitigated by investing in only high-quality credit investments and by diversifying the investment portfolio so that the failure of any one issuer would not unduly jeopardize the City's fiscal status.

3.3 Market Risk: Market risk is the risk of market value fluctuations due to overall changes in the general level of interest rates and shall be mitigated by structuring the portfolio so that securities mature at the same time major expenditures occur,

eliminating the need to sell securities prior to their maturity. The taking of short positions, which is, selling securities the City does not own, is prohibited. It is explicitly recognized herein, however, that in a diversified portfolio, occasional measured losses are inevitable and must be considered within the context of overall investment return.

3.4 Liquidity: The City's investment portfolio will be structured to provide sufficient liquidity to meet the operating requirements of the City of El Cerrito. The City of El Cerrito will attempt to match its investments with anticipated cash flow requirements whenever possible. The maximum maturity of any one security, unless otherwise restricted by the California Government Code, is limited to five years. The portfolio's weighted average maturity shall be limited to three years.

3.5 Yield: State law requires that the objective of return on investment be subordinate to the objectives of safety and liquidity. Employees should also seek the best return on investments while satisfying the concerns of safety and liquidity. Therefore, the Treasurer shall seek to achieve a return on the funds under City control throughout all economic cycles, taking into consideration the City of El Cerrito's investment risk constraints and cash flow requirements.

4.0 DELEGATION OF AUTHORITY

Pursuant to Section 53601 of the California Government Code, the City Council as the legislative body of the City of El Cerrito has primary responsibility for the investment of all funds in the City treasury. As authorized under Section 53607 of the California Government Code, the City Council hereby delegates its authority to invest or reinvest the funds of the City, and to sell or exchange securities so purchased, to the City Treasurer who shall assume full responsibility for all such transactions until such time as this delegation of authority may be revoked by the City Council. In the City Treasurer's absence, the City Manager is authorized to perform any such transactions.

5.0 INVESTMENT PROCEDURES

The City Treasurer may establish written investment policy procedures for the operation of the investment program consistent with this policy. The procedures could include reference to safekeeping, wire transfer agreements, banking service contracts and collateral/depository agreements.

6.0 ETHICS AND CONFLICT OF INTEREST

Elected officials, officers and employees of the City who make investment decisions will refrain from any activity that could conflict with the proper execution of the investment program or which could impair their ability to make impartial investment decisions. Employee actions will be in accordance with this policy, California Government Code Sections 1090 et seq, 87100 et seq., other applicable Government Code Sections or future Council actions.

7.0 AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS

The City of El Cerrito shall transact business only with commercial banks, savings and loans, credit unions, and investment securities broker/dealers. The broker/dealers must be primary dealers regularly reporting to the Federal Reserve Bank of New York or regional broker/dealers that qualify under the Securities and Exchange Commission Rule 15c3-1 (uniform net capital rule). Selection of financial institutions and broker/dealers authorized to do business with the City shall be at the discretion of the fiduciaries. The Treasurer will maintain a list of financial institutions authorized to provide investment services to the City.

All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the Treasurer with audited financial statement from the three most recent years, at least three references from other California Local agencies, a completed Broker/dealer questionnaire and a statement certifying that the institution has reviewed the California Government Code Section 53600 et seq. and the City's Investment Policy. The certification will state that the financial institution or broker/dealer and all investments presented to the Treasurer will be in compliance with the applicable State Code and the City Investment Policy.

The Treasurer shall determine if the Financial Institutions are adequately capitalized, make markets in securities appropriate to the City's needs and are recommended by other local agency portfolio managers.

The Treasurer will conduct an annual review of the financial condition of all qualified institutions. Additionally, their current financial statements are required to be on file.

8.0 AUTHORIZED INVESTMENTS

The City is authorized by California Government Code Section 53600 et seq. to invest in the following types of securities:

United States Treasury Bills, Bonds, and Notes, or those for which the full faith and credit of the United States are pledged for the payment of principal and interest. There is no limitation as to the percentage of the portfolio that can be invested in this category. The maximum term shall be five years.

Obligations issued by United States Government Agencies such as, but not limited to the Federal Farm Credit Bank (FFCB), the Federal Home Loan Bank (FHLB), the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA), the Student Loan Marketing Association (SLMA), the Government National Mortgage Association (GNMA) and the Tennessee Valley Authority (TVA). United States Government Agency securities with call features are also authorized. There is no limitation as to the percentage of the portfolio that can be invested in this category. The maximum term shall be five years.

Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as Banker's Acceptances. Purchases in this category may not exceed 180 days to maturity nor exceed 30% of the cost value of the portfolio.

Commercial Paper of prime quality and ranked P1 by Moody's Investor Services, A1 by Standard and Poor's or F1 by Fitch Financial Services Inc., issued by a corporation organized and operating in the U.S. as a general corporation and having assets in excess of \$500 million and having an "A" or better rating on its long-term debt as provided by Moody's, Standard and Poor's or Fitch. Purchases of eligible commercial paper may not exceed 270 days to maturity. Purchases of commercial paper may not exceed 10 percent of the cost value of the portfolio or represent more than 10 percent of the outstanding paper of an issuing corporation.

Total combined corporate debt (Commercial Paper and Medium-Term Notes) may not exceed 20 percent of the cost value of the portfolio.

Negotiable Certificates of Deposit issued by a nationally or state-chartered bank or a state or federal savings institution or credit union. Securities eligible for purchase in this category shall be rated "A" or better by Moody's, Standard and Poor's or

Fitch. Purchases of Negotiable Certificates of Deposit shall not exceed 30 percent of the cost value of the portfolio nor exceed a five-year term.

Medium Term Notes (MTNs) issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. MTNs eligible for investment in this category must be rated "A" or better by Moody's, Standard and Poor's or Fitch. Investments in this category will be limited to a five-year maximum maturity and may not exceed 10 percent of the cost value of the portfolio.

Total combined corporate debt (Commercial Paper and Medium-Term Notes) may not exceed 20 percent of the cost value of the portfolio.

Shares of beneficial interest issued by diversified management companies that are Money Market Funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940. These funds must either have attained the highest rating/ranking by at least two of the three largest nationally recognized rating services. Investments in this category will not exceed 5 percent of the portfolio.

State Pool – Local Agency Investment Fund (LAIF). This fund was established by the State Treasurer for the benefit of Local agencies under California Government Code Section 16429.1. The City may invest in the LAIF up to the maximum amount permitted by State law. Purchase of investments will take into account the need for liquidity offered by LAIF for operational purposes, as well as the need for portfolio diversification.

Time Certificates of Deposit collateralized in accordance with the California Government Code Sections 53652 and 53653, may be purchased by the City from banks or savings and loan associations or credit unions. Purchases in this category will not exceed 5 years to maturity or 30 percent of the cost value of the portfolio. Purchases in a single institution will not exceed 10 percent of the cost value of the portfolio.

Derivative Securities are those securities that derive their value from another asset or index. Investments in derivative securities will be made using the Prudent Investor Rule and will be limited to federal agency callable issues. Purchases in this

category will not exceed 10% of the cost value of the portfolio.

Prohibited Investments. Investments not described herein are ineligible investments. The City shall not invest any funds in inverse floaters, range notes, or interest only strips that are derived from a pool of mortgages, in accordance with, California Government Code Section 53601.6. With the exception of callable agencies, any security that derives its value from another asset or index is prohibited. In addition, the City shall not invest any funds in any security that could result in zero interest accrual if held to maturity.

9.0 INVESTMENT POOLS/MUTUAL FUNDS

A thorough investigation of any pooled investments or money market mutual fund is required prior to investing City funds. A due diligence review will be performed on all money market mutual funds and pooled investment funds on a continued basis.

As outlined in section 7.0 of this policy, investments in mutual funds are restricted to money market mutual funds and must meet the experience and asset requirements as stated. The fiduciaries will continually monitor the funds to ensure the maintenance of those ratings/requirements.

Reports on the performance of the Pooled Money Investment Account/LAIF can be found on the California State Treasurer's web site as well as the Investment Board report, historical rates/costs and market valuations. These reports shall be reviewed by the Treasurer each month as part of the due diligence review.

10.0 COLLATERALIZATION

California Government Code, Sections 53652 et seq., specifies the types and levels of collateral for public funds on deposit above the FDIC insurance amounts. The collateral requirements apply to both active bank deposits (checking and savings accounts) and inactive bank deposits (non-negotiable certificates of deposit) and must be maintained for all the City's bank deposits

11.0 SAFEKEEPING AND CUSTODY

All securities held by the City of El Cerrito shall be held in safekeeping by a third-party bank trust department acting as agent for the City under the terms of the custody agreement executed by the bank and the City, and shall be evidenced by safekeeping receipts. All securities will be received and delivered using standard delivery-versus-payment (DVP) procedures. Investments in the

State Pool or money market mutual funds are undeliverable and are not subject to delivery or third-party safekeeping.

12.0 DIVERSIFICATION

Except as provided in section 8.0, the City of El Cerrito will diversify its portfolio by investment type, issuer, maturity dates and broker/dealer. Limits for security types are set forth in Section 8.0 of this document.

13.0 INTERNAL CONTROLS

The City Treasurer will maintain a system of internal controls to ensure compliance with investment procedures of the City and Successor Agency of the City of El Cerrito and the California Government Code and these controls will be audited annually by the City's external audit firm.

14.0 REPORTING

The Council may request that the Treasurer render a report to the City Council. The report shall include the type of investment, issuer, maturity date, par and cost/book values of all securities, investments and monies held by the City of El Cerrito. It shall also include the rate of interest, the current market value as of the report date and the source of the valuation. The report shall state compliance of the portfolio with the Investment Policy as well as the California Government Code and it shall state the City's ability to meet its estimated expenditures for the next six months or provide an explanation as to why sufficient money is not available and what actions are being done to correct the deficiency.

15.0 INVESTMENT POLICY REVIEW AND ADOPTION

The City of El Cerrito's investment policy will continue to be reviewed and adopted by the City Council annually, even if not required by California Government Code 53646. Prior to the annual submission to the City Council the Investment Policy will be reviewed by the Financial Advisory Board and the Board's comments will be presented to the City Council for its consideration.

16.0 GLOSSARY

AGENCIES: Federal agency securities and/or Government sponsored enterprises.

BANKERS ACCEPTANCE (BA): A draft or bill or exchange accepted by a bank or trust company. The accepting institution, as well as the issuer, guarantees payment of the bill.

BROKER: A broker brings buyers and sellers together for a commission.

CERTIFICATE OF DEPOSIT (CD): A time deposit with a specific maturity evidenced by a certificate. Time certificates of deposit are collateralized in accordance with the State code. Large-denomination CD's are typically negotiable and non-collateralized.

COLLATERAL: Securities, evidence of deposit or other property which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

DEALER: A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

DELIVERY-VERSUS-PAYMENT: There are two methods of delivery of securities: delivery versus payment and delivery versus receipt. Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt of the securities.

DERIVATIVES: (1) Financial instruments whose return profile is linked to or derived from, the movement of one or more underlying index or security, and may include a leveraging factor, or (2) financial contracts whose value is derived from an underlying index or security (interest rates, foreign exchange rates, equities or commodities).

DIVERSIFICATION: Dividing investment funds among a variety of securities offering independent returns.

FEDERAL CREDIT AGENCIES: Agencies of the Federal government set up to supply credit to various classes of institutions and individuals, e.g., S&L's, small business firms, students, farmers, farm cooperatives, and exporters.

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC): A federal agency that insures bank deposits, currently up to \$250,000 per deposit.

FEDERAL HOME LOAN BANKS (FHLB): Government sponsored wholesale banks (currently 12 regional banks) which lend funds and provide correspondent banking services to member commercial banks, thrift institutions, credit unions

and insurance companies. The mission of the FHLB is to liquefy the housing related assets of its members who must purchase stock in their district Bank.

FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA): FNMA, like GNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

FEDERAL RESERVE SYSTEM: The central bank of the United States created by Congress and consisting of a seven-member Board of Governors in Washington, D.C., 12 regional banks and about 5,700 commercial banks that are members of the system.

FIDUCIARY: An individual in whom another has placed the utmost trust and confidence to manage and protect property or money. The relationship wherein one person has an obligation to act for other's benefit.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae): Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by full faith and credit of the US Government. Ginnie Mae securities are backed by the mortgages, including FHA and VA mortgages. The term "pass-throughs" is often used to describe Ginnie Maes.

ISSUER: A legal entity that has the power to issue and distribute securities. Issuers include corporations, municipalities, foreign and domestic governments and their agencies, and investment trusts.

LIQUIDITY: A liquid asset is one that can be converted easily and rapidly into cash without a

substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

POOLED MONEY INVESTMENT FUND (LAIF): The aggregate of all funds from political subdivisions that are placed in the custody of the County or State Treasurer for investment and reinvestment. The State of California's pool is known as the Local Agency Investment Fund, or LAIF.

MARKET VALUE: The price at which a security is trading and could presumably be purchased or sold.

MATURITY: The date upon which the principal or stated value of an investment becomes due and payable.

MONEY MARKET: The market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

PORTFOLIO: Collection of securities and investments held by an investor.

PRIMARY DEALER: A group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC) registered securities broker-dealers, banks and a few unregulated firms.

PRUDENT PERSON RULE: An investment standard. In some states, the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the custody state. In other states, the trustee may invest in a security if it is one which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

RATE OF RETURN: For fixed-rate securities, it is the coupon or contractual dividend rate divided by the purchase price which is also the current yield.

SAFEKEEPING: A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank's vaults for protection.

SECURITIES & EXCHANGE COMMISSION: Agency created by Congress to protect investors in securities transactions by administering securities legislation.

SEC RULE 15c301: See Uniform Net Capital Rule.

TREASURY BILLS: A non-interest bearing discount security issued by the US Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

TREASURY BONDS: Long-term coupon-bearing US Treasury securities issued as direct obligations of the US Government and having initial maturities of more than 10 years.

TREASURY NOTES: Medium-term coupon-bearing US Treasury securities issued as direct obligations of the US Government and having initial maturities from two to 10 years.

UNIFORM NET CAPITAL RULE: Securities and Exchange Commission requirement that member firms as well as non-member broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15:1; also called *net capital rule* and *net capital ratio*. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

YIELD: The rate of annual income return on an investment, expressed as a percentage: (a) Income Yield is obtained by dividing the current dollar income by the current market price for the security; (b) Net Yield or Yield to Maturity is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.



AGENDA BILL

Agenda Item No. 4(C)

Date: December 18, 2018
To: El Cerrito City Council
From: Jennifer Peat, Management Assistant/EDC Staff Liaison
Melanie Mintz, Community Development Director
Subject: Economic Development Committee Member Reappointment

ACTION REQUESTED

Approve an Economic Development Committee recommendation to reappoint members George Gager and Jean Shrem, for four-year terms expiring March 1, 2023.

BACKGROUND

Jean Shrem is a local attorney and has served on the Economic Development Committee since its formation on November 19, 2013. She was a former member of the City's Economic Development Board. Her first full current term on the EDC expires January 1, 2019.

George Gager is a business professional and executive. He is also an active member of the Arts and Culture Commission. His first term on the committee expires January 1, 2019.

Both Ms. Shrem and Mr. Gager are El Cerrito residents and have demonstrated through their participation in EDC meetings and events that they are committed to keeping with the mission of the Committee and bolstering economic growth in our community.

The Economic Development Committee voted unanimously to recommend reappointment at its regular meeting on October 25, 2018.

If the Council approves this recommendation for reappointment, the number of committee members will be 8 out of a possible membership total of 15, as established by Resolution 2013-66.

Reviewed by:

Scott Hanin
City Manager



AGENDA BILL

Agenda Item No. 4(D)

Date: December 18, 2018
To: El Cerrito City Council
From: Kristen Cunningham, Human Resources Manager
Subject: Amendment to the City Classification Plan

ACTION REQUESTED

Adopt a resolution amending the City's Classification Plan to:

- o Revise and retile the Human Resources Technician class specification to Human Resources Specialist

BACKGROUND

The City's Strategic Plan identifies "Deliver Exemplary Government Services" as a primary goal. The strategies outlined for this goal include recruiting and retaining a talented workforce and maintaining an emphasis on providing excellent customer service.

Human Resources works continuously with Department and Division managers to review class specifications throughout the City to confirm that they are representative of organizational changes and duties performed that have evolved over time.

ANALYSIS

The Human Resources Division is a division of City Management. With the planned retirement of the Human Resources Technician, staff conducted a recruitment that was ultimately unsuccessful. The caliber of applicants did not meet the very high bar that has been set by the City's long-term Human Resources Technician. Following the results of the recruitment, staff reviewed the classification with respect to the duties performed as well as how the classification compares to the function performed in similar public agencies. Based on this review, it was determined that retitling the classification to Human Resources Specialist is more descriptive to the position and is much more commonly used throughout the public and private sector. Revised descriptions of duties are also necessary to bring the classification up to date.

STRATEGIC PLAN CONSIDERATIONS

Amending the City's classification plan will help fulfill City of El Cerrito Strategic Plan Goal A: Delivering Exemplary Public Services and the following objectives:

- Recruit and retain a talented and effective workforce
- Maintain emphasis on providing excellent customer service

FINANCIAL CONSIDERATIONS

There will be no additional costs for the proposed changes to the classification plan.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Resolution
2. Class Specification – Human Resources Technician

RESOLUTION 2018-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO
AMENDING THE CITY CLASSIFICATION PLAN TO REVISE AND RETITLE THE
CLASSIFICATION FOR HUMAN RESOURCES TECHNICIAN TO HUMAN
RESOURCES SPECIALIST

WHEREAS, the City Council of the City of El Cerrito has adopted a
Classification Plan for positions in the City's service; and

WHEREAS, City staff has conducted a study of the Human Resources
Technician position and the nature of duties and responsibilities; and

WHEREAS, City staff recommends retitling the Human Resources
Technician position and reclassifying the class specification for the position; and

WHEREAS, an amendment is required to change the current class
specification for the position.

NOW, THEREFORE, BE IT RESOLVED, that the City Council does hereby
amend the City's Classification Plan to:

- a. Retitle "Human Resources Technician" to "Human Resources
Specialist".
- b. Designate a class specification for the Human Resources Specialist
as specified in Exhibit A to this resolution.

I CERTIFY that at a regular meeting on December 18, 2018, 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 December XX, 2018.

Sherry Kelly, Acting City Clerk

APPROVED:

Rochelle Pardue-Okimoto
Mayor
3087727.1

Formatted: Right

CITY OF EL CERRITO

HUMAN RESOURCES ~~TECHNICIAN~~SPECIALIST

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

Under general supervision, performs a wide variety of specialized administrative and paraprofessional tasks in support of the City's Human Resources Division. A combination of technical, clerical and administrative tasks are performed in the areas of recruitment and, selection, classification, compensation and benefits, labor relations and related functions of the human resources management system. Similar tasks are performed in the processing of workers' compensation and liability claims.

DISTINGUISHING CHARACTERISTICS

Incumbents perform varied, complex and responsible paraprofessional, technical and clerical duties. This classification is distinguished from clerical classifications in that the Human Resources ~~Specialist Technician~~ assists with and contributes to the planning, implementation and ongoing management of programs and initiatives across all Human Resources functions, manages recruitment and selection activities ensuring compliance with equal opportunity and civil service requirements, coordinates citywide employee programs, and performs a variety of paraprofessional work. This is a confidential position.

SUPERVISION RECEIVED AND EXERCISED

General supervision is provided by the Human Resources Manager.
May provide technical and functional supervision to clerical staff, if assigned.

ESSENTIAL FUNCTION STATEMENTS

Essential responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

- Assist with and contribute to the planning, implementation and ongoing management of programs and initiatives across all HR functions.
- Perform a wide variety of specialized clerical, administrative, and office support duties in support of the City's human resources system, functions, and program areas.
- Assist the Human Resources Manager in complex, technical and/or specialized office support work, which requires the exercise of independent judgment, the application of technical skills and a detailed knowledge of the activities and procedures specific to the division.
- Enter human resources/benefit and payroll information into the City's Human Resources Information System (HRIS) as well as benefit providers' information systems.
- Oversee the maintenance of the Human Resources Management Software, including the performance of data entry, software upgrades and additions, data conversion, report creation, and training of staff as necessary.

Formatted: Indent: Left: 0.5", No bullets or

Formatted: Font: (Default) Arial, 11 pt

Formatted: Indent: Left: 0.5", No bullets or

Formatted: Indent: Left: 0.5", No bullets or

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

- Plan, coordinate, and participate in the City's recruitment and selection processes; screen applications for requirements following structured criteria; arrange for the notification of candidates; schedule oral board panelists and candidate interviews; and proctor and administer various portions of examinations.
- ~~Maintain confidential correspondence including applications, test results, affirmative action data, and related information.~~
- Arrange for and schedule pre-employment physicals and/or fingerprinting. Administer the employee onboarding process, including enrolling new employees in City compensation and benefits programs; process employee payroll/human resources changes.
- Serve as the City's liaison to coordinate and plan employee wellness program activities with third party administrators; assist with the planning and coordinating of other employee events.
- Administer the City's Employee Benefits Program; ~~conduct/coordinate benefits open enrollment process annually; respond to employee inquiries regarding benefits.~~
- Maintain automated and manual files and records including employee files, medical files, background files, worker's compensation files, and seasonal/temporary employee files; prepare and place files in archive at off-site storage facility; maintain list of files in off-site storage.
- ~~Provide assistance to Assist~~ applicants, ~~City employees,~~ and the general public by serving as the first point of contact for the Human Resources Division by phone and at the public counter.
- ~~Provide technical assistance to staff on operational issues such as personnel policies and procedures, respond to employee inquiries regarding their employment. Provide assistance to current and former employees regarding City administrative policies and procedures, including requests/queries regarding their employment or benefits;~~ advise and refer complex issues to the Human Resources Manager.
- Conduct compensation surveys and respond to other agencies' request for compensation data, as assigned; gather, analyze and provide information for labor contract negotiations, as requested; implement various aspects of the contracts of bargaining units within the City.
- Provide assistance with workers' compensation and liability complaints and claim processing; maintain related records and communicate with third-party administrators regarding claims activities.
- Provide information that assists in the development of the human resources budget; process invoices for division supplies and services.
- ~~Represent Human Resources Division and coordinate various activities with other departments, outside agencies, and the public in effectively performing daily job functions.~~

Formatted: Font: (Default) Arial, 11 pt

Formatted: Normal, No bullets or numbering

Formatted: Space Before: Auto, After: Auto, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers, Pattern: Clear (White)

Marginal/Non-Essential Functions:

- As needed, may attend labor negotiation sessions.
- As needed, provide information/assistance to Finance Director during annual audit as it relates to human resources functions.
- Related duties as assigned

QUALIFICATIONS

Knowledge of:

- Basic principles and practices of human resources administration including recruitment, selection, compensation, and benefits administration and Workers' Compensation
- Basic familiarity with workers' compensation claims processing.
- Standard business practices and procedures, use of modern office equipment and practices.
- Human resources recordkeeping principles and practices.

Ability to:

- Understand, analyze, interpret, and apply rules, regulations, policies, laws and ordinances; explain necessary information to employees and other departments.
- Develop and implement effective recruitment plans and techniques.
- Gather and analyze data, as directed.
- Establish and maintain effective filing systems and confidential files; maintain accurate and complete records and reports.
- Organize work, set priorities, and meet deadlines; coordinate multiple concurrent projects.
- Maintain confidentiality with regards to employee information.
- Learn and skillfully use various software applications that relate to human resources administration.
- Communicate effectively, both in writing and orally, and present information to individuals and groups.
- Establish and maintain cooperative working relationships.
- Exercise sound judgment within established guidelines.

Experience and Education Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Two years of progressively responsible technical and clerical human resources experience. ~~in a human resources environment.~~

Education:

Equivalent to an Associate of Arts degree with ~~major college-level course work s~~ in human resources, ~~liberal arts, and/or~~ business administration or a related field is required. ~~A Bachelor's degree is desirable.~~

Licenses/Certificates/ Other requirements:

Valid California Class C driver's license

PHYSICAL DEMANDS

Sitting:	Frequently	Lifting:	
Standing:	Occasionally	up to 10 lbs:	Occasionally to Frequently
Walking:	Occasionally to Frequently	11 to 25 lbs:	Occasionally
Bending:	Occasionally	26 to 50 lbs:	Occasionally (binders, boxes of paper)
Crouching:	Occasionally	51 to 75 lbs:	Never
Stooping:	Occasionally	76 to 100 lbs:	Never
Kneeling:	Never	100 + lbs:	Never
Crawling:	Never	Carrying	
Climbing:	Occasionally	up to 10 lbs:	Occasionally to Frequently
Balancing:	Never	11 to 25 lbs:	Occasionally
Running:	Never	26 to 50 lbs:	Occasionally
Twisting:	Occasionally	51 to 75 lbs:	Never
Turning:	Occasionally	76 to 100 lbs:	Never
Jumping:	Never	100 + lbs:	Never

Pushing/Pulling:

up to 10 lbs:	Occasionally
11 to 25 lbs:	Occasionally
26 to 50 lbs:	Never
51 to 75 lbs:	Never
76 to 100 lbs:	Never
100 + lbs:	Never

Grasping – firm:	Occasionally
Finger dexterity:	Frequently
Reaching forward:	Frequently
Reaching overhead:	Occasionally
Pinch grasp:	Occasionally
Grasp – light:	Frequently

Coordination -

		Eye-hand: Frequently	
		Eye-hand-foot: Never	
		Driving: Occasionally	
Talking	-	Face-to-face: Frequently	
		Verbal contact: Frequently	
		Public: Occasionally to Frequently	
Vision	-	Acuity, far: Required	
		Acuity, near: Required	
		Depth perception: Required	
		Field of vision: Required	
		Accommodation: Required	
		Color vision: Required	

PHYSICAL DEMANDS (continued):

Hearing	-	Conversation: Frequently	
		Telephone: Frequently	
		Earplugs: Never	

MENTAL REQUIREMENTS

Abstract variables, Interpret instructions, Problems-standard, Detailed, uninvolved instructions, One or two-step instructions, Reading-simple, Reading-complex, Writing-simple, Writing-complex, Math skills-simple, Math skills-complex, Clerical, Coordination, Analyzing, Compiling, Computing, Copying, Comparing, Negotiating, Instructing, Supervising, Persuading, Speaking-signaling, Serving, Taking instructions-helping, Setting-up, Comprehend/follow instructions, Perform simple-repetitive tasks, Maintain work pace, Relate to other people, Influence other people, Perform varied-complex tasks, Generalizations/evaluations, Responsibility for direction.

WORK ENVIRONMENT

Indoors, Using computer/computer monitor screen, Works around others, Works alone, Works with others.



AGENDA BILL

Agenda Item No. 4(E)

Date: December 18, 2018
To: El Cerrito City Council
From: Christopher Jones, Recreation Director
Subject: Co-Sponsorship Application – Kensington Amateur Radio Operators – El Cerrito Ham Operators

ACTION REQUESTED

Adopt a resolution recognizing the Kensington Amateur Radio Operators – El Cerrito Ham Operators (KARO-ECHO) as a co-sponsored organization and authorizing the City Manager or designee to grant the use of meeting rooms or clubhouses, subject to availability, for the KARO-ECHO's monthly meetings at no charge.

BACKGROUND

The Kensington Amateur Radio Operators – El Cerrito Ham Operators has been existence for several years, in various forms, whose mission is to enhance emergency preparation and communications. KARO-ECHO is a mutual benefit association, comprised of all-volunteer amateur radio (ham) operators providing auxiliary communications for the El Cerrito and Kensington communities. By organizing a robust network of licensed and trained radio amateur residents in El Cerrito and surrounding communities, KARO-ECHO can provide communications support to emergency operators following a major disaster, such as an earthquake, when conventional power and cellular phone networks are compromised.

KARO-ECHO has a history of collaborating with the El Cerrito/Kensington Fire Department and CERT, including radio and antenna placement in fire stations, the El Cerrito Emergency Operations Center (EOC) and the Tassajara and Harding Clubhouses as well as other locations in Kensington. Recently they participated in an emergency training exercise with the Fire Department and CERT that was held in September 2018 at Tassajara Park.

On February 7, 1977 the City Council established a co-sponsorship policy that would assist community non-profit organizations in providing leisure services to El Cerrito residents. The policy provided provisions that would assist community organizations in making public facilities and other services available for the growth and continuation of programs, and to ensure that public facilities are being used for the best welfare of the community.

On October 6, 1980, the City Council amended the co-sponsorship policy on the recommendation of the Park and Recreation Commission. This policy governed the relationship between the City and non-profit organizations in the provision of recreation programs in the community. The policy was adopted to formalize a procedure in which groups would receive the use of public facilities at a reduced cost and provide priority usage of City facilities.

On March 19, 2001, the City Council approved a process to review all requests from community-based organizations, co-sponsored facility use and funding. The process separated out co-sponsorship from asking for funds.

ANALYSIS

The mission and practices of the Kensington Amateur Radio Operators – El Cerrito Ham Operators conform to Administrative Policy/Procedure I A 5 by increasing community involvement and service in El Cerrito. The Network is not a non-profit 501(c)3 organization but the administrative policy allows for the City Council to determine that this organization is an El Cerrito community-based organization and thus eligible for co-sponsorship through to passage of the attached resolution.

The assignment of meeting space will be subject to availability.

STRATEGIC PLAN CONSIDERATIONS

Designating the Kensington Amateur Radio Operators – El Cerrito Ham Operators as a Co-Sponsored group and supporting them with free monthly meeting space will help fulfill the following City of El Cerrito Strategic Plan's goals and identified strategies:

Goal A: Deliver exemplary government services – Develop and strengthen relationships with...community groups.

Goal E: Ensure the public's health and safety – Maintain disaster preparedness programs and ensure emergency response plans are current. - Continue to work with local partners on a coordinated approach to public safety.

FINANCIAL CONSIDERATIONS

Approval of the attached resolution will waive approximately \$40 to \$240 per month in facility use fees that are associated with the use of a classroom or clubhouse. In order to minimize the financial impact to the City, staff will work with KARO-ECHO to use facilities that are not typically rented or house classes during the times of their meetings.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Co-Sponsorship Application
2. Resolution

**CITY OF EL CERRITO
CO-SPONSORSHIP & COMMUNITY BASED**

CO-SPONSORED FACILITY USE AND GRANT APPLICATION

Submit to:
City of El Cerrito
Recreation Department
7007 Moeser Lane
El Cerrito, CA 94530

Deadline:

Please complete the following application using the instructions provided on the last page of this application. You may attach additional pages if necessary.

Name of Applicant: KARO-ECHO (Kensington Amateur Radio Operators - El Cerrito Ham Operators)
Address: https://www.karoecho.net/home
Email: info@karoecho.net
Phone: _____

Contact 1. Name: Hal Graboske, President
Phone: 510-527-0318

Contact 2. Name: Don Simon, Vice President
Phone: 415-454-8593

Federal Tax ID # or Social Security #: Have not yet completed 501c3 process, but in progress

Request: Access to meeting spaces. Most likely, a city club house for monthly membership meetings. Also, occasional access to a Community Center (or Midtown Activity Center) room for training sessions and ham certification classes/exams, all on a non-profit basis.

Eligibility Requirements: Please answer the following questions:

Will you be receiving funding from other sources during the same year that you are requesting funds from the City of El Cerrito?

Yes ☒ No

Are you aware of any other City program providing this service? If so, which one?

No

Program Description / Scope (please use additional pages if necessary)

Describe your program:

KARO-ECHO is a mutual benefit association, comprised of all-volunteer amateur radio (ham) operators providing auxiliary communications for the cities of Kensington and El Cerrito in the event of a disaster. KARO-ECHO works with CERT (Community Emergency Response Teams), but is not an official part of the CERT program. KARO-ECHO has a history of emergency preparedness collaboration with El Cerrito Fire Dept., including radio and antenna placement in the El Cerrito EOC and fire stations, Tassajara and Harding club houses, and agencies in Kensington.

How does or will this program benefit the El Cerrito Community?

By organizing a robust network of licensed and trained radio amateurs resident in El Cerrito and surrounding cities, providing communications support to emergency operations following a major disaster (such as an earthquake), including CERT communication support when conventional power and cellular phone networks are compromised, as well as communications to the El Cerrito and county EOCs and state OES.

% of El Cerrito Residents Served 100%, KARO-ECHO provides auxiliary communication for all 17 CERT areas in El Cerrito and Kensington, including links to other disaster agencies. There are 25 El Cerrito resident members of KARO-ECHO (all licensed ham operators).

Applicant Background:

KARO-ECHO has been in operation in various forms for many years, including long standing emergency communication collaboration with the El Cerrito Fire Dept. Recently, after a reorganization in 2017, there has been a surge of interest and activity. An emergency training exercise was held in Sept. 2018 in coordination with CERT. KARO-ECHO's radio net has 15-20 operators check-in every week.

This applicant is a (n): **Non-Profit** For Profit Local Public Agency

State Public Agency Other _____

Years In Business: 10+, reorganized 2017

Number of Employees: 0

Number of Volunteers: 40+

(Please attach an organization chart, if available.)

Names of Officers and Board Directors:

Name:

Title:

Hal Graboske, KK6NDF

President

Don Simon, NI6A

Vice President

Larry Vanselow, KK6GIO

Treasurer

Jamuel Starkey, KM6HBO

Emergency Coordinator

Experience In Program Area:

KARO-ECHO is comprised of many, volunteer, licensed radio amateurs with varying levels of experience, from those who have worked in emergency environments with the Red Cross and other groups, to newly licensed hams. On-going training and exercises transfer knowledge and build emergency response competency and resilient communications in our community.

Financial Capabilities / Budget:

Current funding sources and levels:

KARO-ECHO is just beginning to collect dues and pursue other fundraising. There is no current funding/budget to speak of, but there is a collection of existing radio equipment assets and donations of time and materials by members.

Previous City funding received or requested in the past three years:

Never directly funded by the city, but co-operative arrangements with the El Cerrito Fire department have mean that some city funds have been spent on emergency communications radio equipment in city facilities that are utilized by KARO-ECHO volunteers, such as antennas on clubhouses (serving CERT zone assembly areas), <\$200/yr

(Please attach a budget for program request including funding schedule.)

Not requesting significant funding beyond modest support coordinated with the ECFD emergency communications preparedness consistent with past activities

Reporting Requirements:

A report on how the funds were spent will be required to be filed with the City annually, or when funds are spent, whichever comes first. Proof of program expenses are required to be held for two years, during which time the City reserves the right to audit the records.

We agree to adhere to the reporting requirements described above.

☒ Yes

☐ No

Certification:

We, the undersigned, do hereby attest that the above information is true and correct to the best of our knowledge.

(Two signatures required)

Harold C. Golosha
Signature
Date 12 Nov 2018

President
Title

Donald L. Smith
Signature
Date 12 NOV 2018

Vice President
Title

RESOLUTION 2018-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING APPROVAL OF CO-SPONSORSHIP STATUS FOR THE KENSINGTON AMATEUR RADIO OPERATORS – EL CERRITO HAM OPERATORS (KARO-ECHO) AND THE WAIVING OF FEES ASSOCIATED WITH THE USE OF A CLASSROOM OR CLUBHOUSE FOR THEIR MONTHLY MEETINGS AND OCCASIONAL TRAININGS

WHEREAS, on March 19, 2001 the City Council approved a process to review all requests from community-based organizations for facility use and funding; and

WHEREAS, the Kensington Amateur Radio Operators – El Cerrito Ham Operators (KARO-ECHO) would like to increase their membership and community participation by hosting their meetings at a public and accessible space; and

WHEREAS, the Kensington Amateur Radio Operators – El Cerrito Ham Operators (KARO-ECHO) would like to use a City classroom or clubhouse for their monthly meetings and occasional trainings; and

WHEREAS, the City provides support for community-based organizations that have made successful applications to the City for co-sponsored facility use or grants; and

WHEREAS, community organizations through their design, improve and enhance the quality of life and safety in El Cerrito; and

WHEREAS, public facilities are to be used to benefit the El Cerrito community.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby recognizes the Kensington Amateur Radio Operators – El Cerrito Ham Operators as a City co-sponsored, community-based organization.

BE IT FURTHER RESOLVED that the City Council approves the Kensington Amateur Radio Operators – El Cerrito Ham Operator's monthly use of a classroom or clubhouse and waives applicable fees for the usage of the facilities.

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

I CERTIFY that at a regular meeting on December 18, 2018 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 December XX, 2018.

Sherry Kelly, City Clerk

APPROVED:

Rochelle Pardue-Okimoto, Mayor



AGENDA BILL

Agenda Item No. 4(F)

Date: December 18, 2018
To: El Cerrito City Council
From: Maya Williams, Assistant to the City Manager
Subject: Resolution No. 85-2018, declaring a shelter crisis pursuant to SB 850 (Chapter-48, Statutes of 2018 and Government Code § 8698.2)

ACTION REQUESTED

Adopt a resolution declaring a shelter crisis in Contra Costa County in order to receive emergency funding support to expand and improve homelessness services for individuals and families across the county.

BACKGROUND/ANALYSIS

The State of California's Homeless Emergency Aid Program (HEAP) is a one-time grant funding source from the state to assist Continuums of Care (CoCs) and large cities in addressing the homelessness crisis. The state requires that all jurisdictions where HEAP funding will be expended on capital projects and rental subsidies/assistance declare a shelter crisis.

The Contra Costa CoC, as represented by the Contra Costa County Health, Housing, and Homeless Services Department (H3), is responsible for applying for funding and determining how funding will be allocated across the Contra Costa CoC. All cities in the County have been asked to adopt a standard resolution to declare a shelter crisis so that the County may receive emergency funding support to expand and improve homelessness services for individuals and families countywide.

Using the County's most recent 2018 point-in-time count data, there are 2,234 people experiencing homelessness throughout the county, and of those counted, 1,607 are unsheltered. The shelter crisis declaration would provide families, including the households in El Cerrito who lost housing, access to HEAP funding.

No homeless shelters have or are expected to be proposed in El Cerrito as a result of this declaration or any other county program since most homelessness services are provided in other areas of the County.

On September 5, 2018, the State's Homeless Coordinating and Financing Council announced the availability of \$500 million in Homeless Emergency Aid Program (HEAP) grant funding. Contra Costa County is expected to submit its application for HEAP funding in December 2018.

Countywide Funding Eligibility

The Contra Costa CoC is eligible to receive \$7,196,770 based on its 2017 point-in-time count total homeless population and its 2017 share of the overall state's homeless population. Based on each region's share of the County's unsheltered population, \$1.36 million would be allocated to West County, \$2.2 million to Central County, and \$2.9 million to East County.

Countywide Funding Uses

The state has indicated that HEAP funding is meant to be flexible, offering communities the opportunity to use this funding to address their specific needs. Potential intervention ideas include, but are not limited to capital improvements, rental assistance, warming centers, and youth-focused programming.

H3, as the applicant, will receive the HEAP award from the state and subcontract out the funds to expand and provide services in areas of need in the County. There is no financial obligation on the part of jurisdictions by declaring a shelter crisis.

As stated earlier, the City of El Cerrito would not receive direct funding for the program, and no programs/shelter facilities are being proposed in the City of El Cerrito.

STRATEGIC PLAN CONSIDERATIONS

This resolution aligns with the following organizational values identified in the City's Strategic Plan: 1) Deliver exemplary government services and 2) Ensure the public's health and safety.

ENVIRONMENTAL CONSIDERATIONS

This proposed action will not result in a project as defined by the California Environmental Quality Act, (CEQA). No further environmental review is needed.

FINANCIAL CONSIDERATIONS

None.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the proposed action and found that legal considerations have been addressed.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Resolution

RESOLUTION 2018-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO DECLARING A SHELTER CRISIS PURSUANT TO SB 850 (CHAPTER 48, STATUTES OF 2018 AND GOVERNMENT CODE § 8698.2)

WHEREAS, California's Governor Edmund G. Brown, Jr. and the members of the California Legislature have recognized the urgent and immediate need for funding at the local level to combat homelessness;

WHEREAS, The Governor and Legislature have provided funding to local governments under the Homeless Emergency Aid Program as part of SB 850 and the 2018-19 Budget Act (Chapter 48, Statutes of 2018);

WHEREAS, The Governor and Legislature require jurisdictions seeking an allocation through the Homeless Emergency Aid Program to declare a Shelter Crisis pursuant to Government Code §8698.2;

WHEREAS, the County of Contra Costa has developed a homelessness plan and undertaken multiple efforts at the local level to combat homelessness;

WHEREAS, the City of El Cerrito finds that 1,607 persons within the County of Contra Costa are homeless and living without shelter;

WHEREAS, the City of El Cerrito finds that the number of homeless is significant and these persons are without the ability to obtain shelter;

WHEREAS, the City of El Cerrito finds that the health and safety of unsheltered persons in the City and County is threatened by a lack of shelter;

WHEREAS, the City of El Cerrito affirms the County's commitment to combatting homelessness and creating or augmenting a continuum of shelter and service options for those living without shelter in our communities.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that that a shelter crisis pursuant to Government Code §8698.2 exists in Contra Costa County and authorizes the City's participation in the Homeless Emergency Aid Program.

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

I CERTIFY that at a regular meeting on December 18, 2018 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 December 18, 2018.

Sherry Kelly, Interim City Clerk

APPROVED:

Rochelle Pardue-Okimoto, Mayor

Date: September 24, 2018
To: El Cerrito City Council
From: Citizens Street Oversight Committee
Subject: Fiscal Year 2015-16 Annual Report to City Council and Citizens of El Cerrito

On this date, the Citizens Street Oversight Committee met to review expenditures of revenue collected pursuant to Chapter 4.60 of the El Cerrito Municipal Code to determine whether such funds were expended for the purposes specified in the current Street Repair and Maintenance Expenditure Plan as approved by the City of El Cerrito City Council. The expenditures reviewed were reported for Fiscal Year 2015-16, and were summarized in the City's Comprehensive Annual Financial Report. Further, the Committee reviewed the Agreed Upon Procedures Report issued by the City's independent auditors, Maze and Associates, which indicated that nothing came to their attention that caused them to believe that the City had failed to comply with the terms, covenants and conditions of the Master Installment Sale Agreement related to the bond issue. The Committee also reviewed a detailed list of vendors to whom the expenditures were made.

By a unanimous vote as indicated below, the Committee found that the expenditures were an appropriate use of the Pothole and Local Street Improvement and Maintenance Transactions and Use Tax as approved by the City of El Cerrito City Council. The Committee is hereby reporting their findings to the City Council and the citizens of the City of El Cerrito pursuant to Section 2.04.320 C of the El Cerrito Municipal Code.

Additionally, the Committee acknowledges and fully supports that City Council, in their resolutions authorizing expenditures of these funds as budget amendments, are confirming that the expenditures are an appropriate use of the Pothole Repair and Local Street Improvement and Maintenance Transactions and Use Tax.

AYES: Chair Kelly and Committee Members Allen, Hill, and Fleming
NOES: None
ABSENT: None

Date: September 24, 2018
To: El Cerrito City Council
From: Citizens Street Oversight Committee
Subject: Fiscal Year 2016-17 Annual Report to City Council and Citizens of El Cerrito

On this date, the Citizens Street Oversight Committee met to review expenditures of revenue collected pursuant to Chapter 4.60 of the El Cerrito Municipal Code to determine whether such funds were expended for the purposes specified in the current Street Repair and Maintenance Expenditure Plan as approved by the City of El Cerrito City Council. The expenditures reviewed were reported for Fiscal Year 2016-17, and were summarized in the City's Comprehensive Annual Financial Report. Further, the Committee reviewed the Agreed Upon Procedures Report issued by the City's independent auditors, Badawi and Associates, which indicated that nothing came to their attention that caused them to believe that the City had failed to comply with the terms, covenants and conditions of the Master Installment Sale Agreement related to the bond issue. The Committee also reviewed a detailed list of vendors to whom the expenditures were made.

By a unanimous vote as indicated below, the Committee found that the expenditures were an appropriate use of the Pothole and Local Street Improvement and Maintenance Transactions and Use Tax as approved by the City of El Cerrito City Council. The Committee is hereby reporting their findings to the City Council and the citizens of the City of El Cerrito pursuant to Section 2.04.320 C of the El Cerrito Municipal Code.

Additionally, the Committee acknowledges and fully supports that City Council, in their resolutions authorizing expenditures of these funds as budget amendments, are confirming that the expenditures are an appropriate use of the Pothole Repair and Local Street Improvement and Maintenance Transactions and Use Tax.

AYES: Chair Kelly and Committee Members Allen, Hill, and Fleming

NOES: None

ABSENT: None



AGENDA BILL

Agenda Item No. 6(A)

Date: December 18, 2018
To: El Cerrito City Council
From: Yvetteh Ortiz, Public Works Director/City Engineer
Melanie Mintz, Community Development Director
Subject: Establishment of City Transportation Impact Fee Program and Amendment of Master Fee Schedule

ACTION REQUESTED

Conduct a public hearing and upon conclusion take the following actions related to establishment of a Transportation Impact Fee:

1. Introduce by title, waive any further reading, and approve an ordinance adding Chapter 4.54 - Transportation Impact Fee to the El Cerrito Municipal Code (ECMC), Title 4 - Revenue and Finance; and
2. Adopt a resolution adopting a Transportation Impact Fee and amending the Master Fee Schedule to include the new Transportation Impact Fee.

BACKGROUND

Development impact fees provide a mechanism for development projects to contribute financially to the cost of improving and expanding the infrastructure and facilities needed to accommodate that development. Impact fees are used by local agencies throughout California and in many other states as one of many funding sources for capital improvement programs. Fees are a one-time, non-recurring revenue source paid at the start of a development project, typically at building permit issuance. The City of El Cerrito (City) currently does not have a local impact fee for transportation improvements. It does, however, collect the West County Subregional Transportation Mitigation Program fee administered by the West Contra Costa County Transportation Advisory Committee (WCCTAC STMP fee) to require new development to pay its share of the costs of regional transportation improvements, including projects in El Cerrito.

General Plan

The City of El Cerrito General Plan, adopted in 1999 and updated on several occasions since then, lays out the future of the City's development through a series of goals, policies, and implementation measures for land use and transportation within the City. City development, growth, infrastructure and environmental management must be consistent with the policies contained in the General Plan. Specifically, the General Plan calls for the City to consider collecting a Transportation Impact Fee from project developers to help fund transportation improvements needed to accommodate traffic generated by the new development in several Policies including: Land Use (LU) 2.4

Fiscal Impacts, Growth Management (GM) 4.1 Local Development Mitigation Program – Transportation, and Public Facilities and Services (PS) 3.2 Fair-Share Cost Allocations.

Master and Specific Plans

The City has undertaken various other planning efforts including adoption of the Ohlone Greenway Master Plan (2009), San Pablo Avenue Specific Plan (2014) and Active Transportation Plan (2016) and the appropriate level of environmental review for these plans. These plans build off the General Plan, and in the case of the Specific Plan, amend the General Plan (Resolution 2014-51) by providing detailed goals, policies, and projects for land use and transportation improvements. The San Pablo Avenue Specific Plan guides the physical environment and character of San Pablo Avenue, supporting the vision to create a vibrant, walkable, sustainable, and transit-oriented corridor, and to attract new development and investment. The Complete Streets component of the Specific Plan looks to match the needs of all travelers to the uses surrounding the street in order to provide safe multimodal travel for all. The Complete Streets component addresses circulation and public investment needs along San Pablo Avenue and adjoining streets to attract new users to San Pablo Avenue while proactively mitigating the impacts of future population growth on mobility in the Specific Plan area.

State Requirements

In California, local agencies may adopt impact fees under authority granted by the Mitigation Fee Act (the Act), AB 1600 contained in Sections 66000 to 66025 of the California Government Code. The key findings required by the Act to adopt or increase an impact fee relate to the following reasonable relationships, or nexus requirement:

- Impact: Reasonable relationship between new development and need for public improvements and facilities.
- Benefit: Reasonable relationship between new development and the use of fee revenue for public improvements and facilities to accommodate that development.
- Proportionality: Reasonable relationship between the amount of the fee and the proportionate cost of public improvements and facilities attributable to new development.

The Act also requires findings regarding (1) the purpose of the fee, and (2) a description of the public improvements and facilities to be funded by the fee.

In 2017, the City engaged Urban Economics along with Fehr and Peers Transportation Consultants to conduct a nexus study for a transportation impact fee for City transportation projects. Development of the nexus study has been primarily funded by a grant from the Metropolitan Transportation Commission Priority Development Area (PDA) Planning Program.

ANALYSIS

Nexus Study

Urban Economics has prepared a Transportation Impact Fee, Public Draft Report (Nexus Study/Attachment 2, Exhibit A) dated December 4, 2018 in conformance with the Mitigation Fee Act. The study process included determining existing and forecast transportation infrastructure demand based on land use growth, inventorying the existing transportation infrastructure, calculating the existing level of investment and maximum justifiable fee, identifying planned transportation improvements, updating costs estimates, and developing a proposed fee schedule by land use category.

Transportation Infrastructure Demand

New development in El Cerrito will create demand for multimodal transportation improvements on the City's transportation network to accommodate travel generated by this development as described by the San Pablo Avenue Specific Plan Program Environmental Impact Report. The Nexus Study uses 2017 as a base year and a planning horizon of 2040 for a citywide development forecast consistent with current regional projections. Nearly all growth within the City is expected to occur within the San Pablo Avenue Specific Plan Area. Transportation improvements include not only managing vehicle impacts, but also encouraging a shift in demand to other transportation modes including transit, biking, and walking. Shifting demand to alternative modes is common in cities like El Cerrito that are largely built out. As vehicle congestion increases improving infrastructure for other modes such as transit, bicycle, and pedestrian is a more cost-effective approach to accommodating increased demand and reducing congestion, and therefore becomes a higher, more strategic, priority. This approach encourages and accommodates increased travel demand and promotes greater mobility by providing more travel options. It also supports the goals of adopted local, regional, and statewide plans including the City's Climate Action Plan (2013), the current regional Plan Bay Area, and the California Sustainable Communities and Climate Protection Act of 2008, which call for multimodal transportation to help achieve the State's greenhouse gas emissions targets.

Citywide Transportation Infrastructure

The Nexus Study presents the City's existing standard for transportation infrastructure based on the existing level of investment in that infrastructure. The analysis included an inventory of the components of the City's existing multimodal transportation network that connect residential neighborhoods, retail and employment centers, and other key destinations across the city. More travel from new development will increase demands on citywide transportation infrastructure. The nexus between new development and the need for citywide transportation infrastructure is based on maintaining the City's existing facility standard as the City grows. The maximum justified Transportation Impact Fee is

based on new development maintaining the level of investment represented by this existing facility standard.

The Nexus Study shows that the City has invested approximately \$33,000 per equivalent dwelling unit (EDU) in its current transportation infrastructure. This amount represents the maximum justified level of investment from new development necessary to maintain the existing facility standard. Because the facility standard is based on citywide transportation infrastructure, the City may use impact fee revenues for any type of improvement to that infrastructure regardless of mode.

Planned Transportation Improvements

The Nexus Study identifies the City's planned transportation improvements, associated costs, and alternative sources of funding besides the Transportation Impact Fee. The list of potential capital improvements eligible for funding with the Transportation Impact Fee is based on prior planning studies completed to support the City's growth and the impact of that growth on the transportation system, as well as to support the City's Climate Action and Active Transportation goals. The focus of these improvements is to connect El Cerrito residents to employment and activity centers and major transit facilities within the City and in neighboring jurisdictions. In particular, these improvements focus on San Pablo Avenue, the City's primary transportation corridor serving all modes. More specifically, the Transportation Impact Fee (TIF) project list is a selection of projects from the following City-Council adopted plans: San Pablo Avenue Specific Plan, Active Transportation Plan and Ohlone Greenway Master Plan.

The overall cost of the TIF project list is estimated at approximately \$31.3 million. To complement Transportation Impact Fee revenues, the City anticipates \$21.8 million in funding from other sources, including \$7.2 million in grants that have already been secured for Del Norte BART station area multimodal improvements, \$7.7 million in other grants and developer contributions through Specific Plan Tier IV projects; and \$7.0 million estimated from an update to the West County Subregional Transportation Mitigation Program fee administered by the West Contra Costa County Transportation Advisory Committee (WCCTAC) as described below.

Accounting for these other funding sources, the Nexus Study identifies \$9.5 million in unfunded costs that would be funded by the Transportation Impact Fee as summarized below.

Transportation Funding	
Total Improvements Cost	\$31,290,000
Programmed Funding (intergovernmental grants)	
Del Norte Station Area improvements (secured):	
MTC/ABAG: One Bay Area (Cycle 2)	\$ 4,840,000
Contra Costa County Transportation Authority: Measure J Transportation for Livable Communities	<u>2,312,000</u>

Subtotal	\$ 7,152,000
Other Intergovernmental Grants	7,700,000
West Contra Costa STMP Fee	<u>6,983,000</u>
Total Alternative Funding	<u>\$21,835,000</u>
Net Unfunded Costs	<u>\$9,455,000</u>

Note: All amounts in 2018 dollars

Transportation Impact Fee Schedule

As noted above, the maximum allowable TIF under the Mitigation Fee Act is \$33,093 per EDU. Legally, the City is not required to set the amount of the TIF at the maximum and may vary the fee by land use category based on development feasibility or other concerns. Accounting for anticipated program funding from other sources, a fee of \$3,322 per EDU is needed to provide the funding required to implement planned improvements as illustrated below.

Transportation Impact Fee			
Land Use	EDU Rate	Cost per EDU	Transportation Impact Fee
Residential Single Family	1.00	\$ 3,322	\$ 3,322 per dwelling unit
Multi-Family	0.70	\$ 3,322	\$ 2,325 per dwelling unit
Nonresidential Commercial	1.35	\$ 3,322	\$ 4.48 per square foot
Hotel/Motel	1.10	3,322	3.65 per square foot
Office	1.16	3,322	3.85 per square foot
Industrial	0.73	3,322	2.43 per square foot

Notes: "EDU" is equivalent dwelling unit, all amounts in 2018 dollars

The fee per EDU includes a two percent (2%) charge for program administration to cover costs associated with the collection, accounting, and reporting of fee revenues and expenditures, and for periodic nexus analysis updates in accordance with the Mitigation Fee Act.

Economic Feasibility Considerations

Given unmet transportation needs in El Cerrito and limited sources of available funding, there is a strong case for setting the new fees as calculated by Urban Economics. City staff also understand that there may be competing economic development objectives. In evaluating the potential fees, City staff looked at data from the West County Subregional Transportation Mitigation Program (STMP) update as discussed below and

the financial feasibility analysis conducted by Keyser Marston Associates (KMA) as part of the City's inclusionary zoning policy development in 2018.

The KMA analysis looked at current residential development economics in El Cerrito and took into account the City's desire to continue to encourage new housing development, given then market is not yet established, while also creating new affordable housing resources. As part of their analysis, KMA estimated development costs including fees for sewer, water, school district, and other impact fees in addition to City permitting fees (Attachment 3). The fees included the Stege Sanitary District's San Pablo Avenue sewer capacity charge (adopted by the Stege Sanitary Board in October 2017), 2005 STMP fee (adopted by El Cerrito City Council in July 2006), and the preliminary estimate of a potential City Transportation Impact Fee. The findings of the financial feasibility analysis suggested that residential development in El Cerrito is generally feasible in the early 2018 market. As indicated in the KMA report, real estate development economics are fluid and are impacted by constantly changing conditions regarding rent potential, construction costs, land costs, and costs of financing. In less than a year or two, conditions will undoubtedly be different, so these financial feasibility conclusions may not hold over a longer-term time horizon. (Note: The Inclusionary Zoning requirements were proposed and adopted in consideration of the overall fee burden.)

West County Subregional Transportation Mitigation Program

The West Contra Costa Transportation Advisory Committee (WCCTAC) is a regional planning agency charged with coordinating and obtaining funding for regional transportation improvement projects in West Contra Costa County. Most recently, beginning in 2017, WCCTAC has undertaken a nexus study update to the STMP including projects and costs. A fee calculation was completed based on approximately \$162 million of project costs eligible to be included in the STMP including several projects in El Cerrito.

The total transportation-related impact fees included in the KMA feasibility analysis in comparison to the current WCCTAAC-Board recommend fees and City's Nexus Study fee are shown below.

Fee Comparison

Land Use Category	Inclusionary Housing Feasibility Analysis (April 2018)			Current Nexus Studies		
	2005 STMP Fee (City FY2018-19 Master Fee Schedule)	El Cerrito TIF Estimate	Total	STMP Recommended 75% of Max (Nov 2018)	Proposed El Cerrito TIF	Total
Single-Family (per unit)	\$2,595	\$4,989	\$7,584	\$5,439	\$3,322	\$8,761
Multi-Family (per unit)	\$1,648	\$3,492	\$5,140	\$2,679	\$2,325	\$5,004

Summary

Since 2017 as part of the development of the San Pablo Avenue Sewer Capacity study and fee development, in coordination with Stege Sanitary District staff, City staff have been informing development applicants regarding the City's transportation impact fee study. Additionally, all entitled projects within the San Pablo Avenue Specific Plan area have been subject to a Condition of Approval requiring that all applicants "pay a fair share of the San Pablo Avenue Specific Plan Complete Streets Improvements as determined by the Public Works Director." The proposed TIF establishes that amount, and for projects pulling building permits before the fee goes into effect, the same fee will be charged to implement the Condition of Approval.

Staff recommends that the City Council set the Transportation Impact Fee Schedule as calculated by Urban Economics so that new development pays its fair share of the transportation improvements needed to accommodate growth in El Cerrito. This will help ensure that sufficient revenue is available to build out the transportation improvements. Setting the fee below this level would result in funding gaps that would need to be covered by other funding sources. Setting fees above this amount is not necessary given other anticipated sources of funding and does not appear to be justified from a development feasibility perspective, especially in light of currently very high construction costs, and could interfere with achieving Council's San Pablo Avenue Specific Plan goals.

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. Establishment of a City Transportation Impact Fee is consistent with the Strategic Plan Goal B - *Achieve long-term financial sustainability* by developing a program to generate funding for transportation infrastructure and facilities to accommodate future development, and ensuring development pays its fair share of transportation improvements.

ENVIRONMENTAL CONSIDERATIONS

The Transportation Impact Fee (TIF) as it relates to development within El Cerrito (City) is not a "project" within the meaning of CEQA because the TIF will be used to acquire funds for capital projects necessary to maintain transportation services within the City, the City currently provides transportation infrastructure within the City and the TIF will be used to maintain acceptable multimodal circulation and access with additional vehicular, bicycle, and/or pedestrian traffic from new development, and no existing deficiencies have been found to exist by the Nexus Study because the TIF is no greater than the City's existing facility standard and level of investment for transportation infrastructure per equivalent dwelling unit as shown in the Nexus Study. As such, establishment of the TIF is exempt from CEQA pursuant to Public Resources Code § 21080(b)(8)(D).

FINANCIAL CONSIDERATIONS

Administrative Guidelines (Attachment 4) will facilitate implementation of the TIF by providing the specific methods for determination of development projects subject to the TIF, calculation and payment of the TIF, annual TIF increases, and periodic reviews and reporting. The Administrative Guidelines will be approved and maintained by the City Manager so that they can be revised on a timely basis to improve administration of the TIF.

The revenues raised by payment of the TIF will need to be placed in a new Transportation Impact Fee Account. Fee revenue and interest generated on account balances can be used for the purposes identified in the Nexus Study, which are primarily funding the projects listed in the Nexus Study but also include a variety of permissible administrative expenses associated with the fee program. The revenues raised will be utilized to leverage additional funding, i.e. to make grant applications from the City more competitive.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the proposed actions, Nexus Study, ordinance and resolution and found that legal considerations have been addressed.

As required by California Government Code §66018(a), the City is required to conduct a public hearing prior to adopting planning, building, and some other new fees or fee increases. Notification of this public hearing was completed in accordance with State law and the El Cerrito Municipal Code. Notice was publicly posted on December 3, 2018, emailed on December 4, 2018 to two individual/entities that have previously request to be notified regarding development fees, and published in the West County Times on December 8 and 13, 2018.

The proposed ordinance would require a second reading and, provided it is approved, would become effective 30 days later.

Development fees would become effective 60 days after City Council approval of the attached resolution.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Ordinance
2. Resolution including Exhibit A - Transportation Impact Fee, Public Draft Report (Nexus Study)
3. Keyser Marston Associates permit and impact fees, April 4, 2018
4. Administrative Guidelines, Public Draft

ORDINANCE NO. 2018-XX

AN ORDINANCE OF THE CITY OF EL CERRITO ADDING CHAPTER 4.54 –
TRANSPORTATION IMPACT FEE TO THE EL CERRITO MUNICIPAL

WHEREAS, the City Council has adopted a General Plan (1999) and the Ohlone Greenway Master Plan (2009), San Pablo Avenue Specific Plan (2014) and Active Transportation Plan (2016) (collectively "Plans"); and conducted the appropriate level of environmental review for these Plans; and

WHEREAS, the General Plan calls for the City to consider collecting a Transportation Impact Fee from developers of new projects to help fund transportation improvements needed to accommodate traffic generated by new development; and

WHEREAS, the Plans provide specific detailed goals, policies, programs and projects for land use and transportation within the City, and show future land uses in the City; and

WHEREAS, in December of 2018, a study was prepared for the City by Urban Economics ("Nexus Study") to analyze new development's fair share of transportation improvement costs; and

WHEREAS, the Plans and Nexus Study set forth the relationship between future development in the city, the needed improvements and facilities, and the estimated costs of those improvements and facilities; and

WHEREAS, the City wishes to adopt the Transportation Impact Fee to better implement the goals contained in the Plans, including establishing fee amounts and the improvements and facilities to be constructed with the Transportation Impact Fee revenue; and

WHEREAS, the Transportation Impact Fee will be used to acquire funds for capital projects necessary to maintain transportation services within the City and to maintain acceptable multimodal circulation and access with additional vehicular, bicycle, and/or pedestrian traffic from new development. No existing deficiencies have been found to exist by the Nexus Study because the Fee is no greater than the City's existing facility standard and level of investment for transportation infrastructure per equivalent dwelling unit as shown in the Nexus Study. As such, the Transportation Impact Fee as it relates to development within the City is not a "project" within the meaning of CEQA (Public Resources Code § 21080(b)(8)(D)).

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. Amendment of the El Cerrito Municipal Code. Chapter 4.54 is added to Title 4 - Revenue and Finance of the El Cerrito Municipal Code to read in full as follows:

Chapter 4.54

TRANSPORTATION IMPACT FEE

Sections:

- 4.54.010 - Purpose.
- 4.54.020 - Transportation Impact Fee established.
- 4.54.030 - Use of fee revenues.
- 4.54.040 - Developer construction of transportation improvements.
- 4.54.050 - Appeals.
- 4.54.060 - Administrative guidelines.

4.54.010 Purpose.

To implement the goals and objectives of the City of El Cerrito's ("City") General Plan and related master and specific plans and to mitigate the impacts caused by future development in the City, certain transportation improvements must be constructed. The City Council has determined that a Transportation Impact Fee is needed to finance these transportation improvements and to pay for each development's fair share of the construction and acquisition costs of the necessary transportation improvements. In establishing the fee described in the following sections, the City Council has found the fee to be consistent with its general plan and related master and specific plans, and pursuant to Government Code Section 65913.2, has considered the effects of the fee with respect to the city's housing needs as established in the housing element of the general plan.

4.54.020 Transportation Impact Fee established.

A. A Transportation Impact Fee ("fee") is established to pay for transportation improvements.

B. The City Council shall, in a Council resolution adopted after a duly noticed public hearing, set forth the amount of the fee, describe the need for the fee, list the types of transportation improvements to be financed, describe the estimated cost of these

improvements, describe the reasonable relationship between the fee and the various types of future development, and set forth time for payment of the fee.

4.54.030 Use of fee revenues.

The revenues raised by payment of the Transportation Impact Fee shall be accounted for in a City capital project fund ("fund"). A separate and special account within the fund shall be used to account for revenues, along with any interest earnings on such account. These moneys shall be used for the following purposes:

A. To pay for design, engineering, environmental review, permits, right-of-way acquisition, utility relocation, project management and construction of the types of transportation improvements designated in the Council resolution and reasonable costs of outside consultant studies related thereto, and associated attorneys' fees, including costs of defense;

B. To reimburse the City for transportation improvements that otherwise would have been eligible for funding with fee revenue and that were constructed by the City with funds, other than gifts or grants, from other sources together with accrued interest;

C. To provide a fee credit and/or reimbursement to developers who have constructed transportation improvements that otherwise would have been eligible for funding with fee revenue where such construction is beyond that which would otherwise be required for approval of the proposed development such as dedications, setbacks, frontage improvements, and/or development-specific transportation mitigation measures which are required by local ordinance, standards, or other practice, and based on actual cost of construction; and/or

D. To pay for and/or reimburse costs of program development and ongoing administration of the Transportation Impact Fee program.

4.54.040 Developer construction of transportation improvements.

If a developer is required, as a condition of approval of a permit, to construct a transportation improvement that has been designated to be financed with transportation impact fees then the developer shall receive a credit against the fee that otherwise would be levied on the development project, and if the cost of the improvement or portion of the improvement as represented in the fee program adjusted for inflation that is the developer's responsibility is greater than the fee obligation for the development project then a reimbursement agreement with the developer shall be offered by the City. The reimbursement amount shall equal the difference between the fee obligation and the actual cost of the improvement that is the developer's responsibility. Reimbursements

shall be paid only when and to the extent that moneys are available in the fund. Credits must be approved by the City Manager.

4.54.050 Appeals.

A developer may appeal the amount of the Fee due in writing to the City Manager with supporting documentation. The City Manager shall consider the appeal and shall make a decision on the appeal. The decision of the City Manager shall be final.

4.54.060. Administrative guidelines.

The City Manager shall approve and maintain administrative guidelines to facilitate implementation of the Transportation Impact Fee.

Section 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance 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 Ordinance. The City Council hereby declares that it would have passed the Ordinance, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of this Ordinance would be subsequently declared invalid or unconstitutional.

Section 4. Effective Date and Publication. This Ordinance shall take effect and be enforced thirty days after the date of its adoption. Prior to the expiration of fifteen days from the passage thereof, the ordinance or a summary thereof shall be posted or published as may be required by law, and thereafter the same shall be in full force and effect.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council on December 18, 2018 and passed by the following vote:

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

ADOPTED AND ORDERED published at a regular meeting of the City Council held on January XX, 2019 and passed by the following vote:

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

APPROVED:

Rochelle Pardue-Okimoto, Mayor

ATTEST:

Sherry Kelly, Acting City Clerk

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on January XX, 2019.

Sherry Kelly, Acting City Clerk

ORDINANCE CERTIFICATION

I, Sherry Kelly, Acting City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. 2018-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 the XX day of December 2018; 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, this XX day of January, 2019.

Sherry Kelly, Acting City Clerk

3087332.1

RESOLUTION NO. 2018-xx

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO ADOPTING A
TRANSPORTATION IMPACT FEE AND AMENDING THE MASTER FEE SCHEDULE**

WHEREAS, the City Council of the City of El Cerrito (City) has added Chapter 4.54 to the El Cerrito Municipal Code which creates and establishes the authority for imposing and charging a Transportation Impact Fee; and

WHEREAS, the City Council has adopted a General Plan (1999) and the Ohlone Greenway Master Plan (2009), San Pablo Avenue Specific Plan (2014) and Active Transportation Plan (2016) (collectively "Plans"); and conducted the appropriate level of environmental review for these Plans; and

WHEREAS, the Plans provide specific detailed goals, policies, programs and projects for land use and transportation within the City, and show future land uses in the City; and

WHEREAS, in December of 2018, a study was prepared for the City by Urban Economics ("Nexus Study") to analyze new development's fair share of transportation improvement costs, which is attached hereto as Exhibit A; and

WHEREAS, the Plans and Nexus Study set forth the relationship between future development in the city, the needed improvements and facilities, and the estimated costs of those improvements and facilities; and

WHEREAS, the Plans and Nexus Study were available for public inspection and review for ten (10) days prior to the public hearing held by the City Council on December 18, 2018 to consider the adoption of a Transportation Impact Fee ("Fee"), as outlined in the Nexus Study; and

WHEREAS, the City wishes to adopt the Transportation Impact Fee to better implement the goals contained in the Plans, including establishing fee amounts and the improvements and facilities to be constructed with the Transportation Impact Fee revenue; and

WHEREAS, the City Council finds as follows:

A. The purpose of the Fee is to finance public improvements and facilities needed to mitigate the transportation-related impacts caused by future development in the City. The public improvements and facilities are listed in Table 9 and further detailed in Table A.1 of the Nexus Study and are hereafter defined and referred to as "Improvements." The Improvements are needed to accommodate new development projected within the City and development within the City will pay its fair and proportional share of such Improvements with the implementation of this Fee.

B. The Fees collected pursuant to this resolution shall be used to finance the Improvements or similar improvements consistent with the allowable use of Fee revenue described in the Nexus Study.

C. After considering the Plans, related environmental documents, and Nexus Study, the record as defined in this Resolution, and all correspondence received and the testimony received at the noticed public hearing held on December 18, 2018 (hereafter the "Record"), the City Council approves and adopts the Nexus Study, and further finds that future development in the City will generate the need for the Improvements and the Improvements are consistent with the Plans.

D. That the Fee will be used to acquire funds for capital projects necessary to maintain transportation services within the city; that the City currently provides transportation infrastructure within the city; that the Fee will be used to maintain acceptable multimodal circulation and access with additional vehicular, bicycle, and/or pedestrian traffic from new development; and that no existing deficiencies have been found to exist by the Nexus Study because the Fee is no greater than the City's existing facility standard and level of investment for transportation infrastructure per equivalent dwelling unit as shown in Tables 8 and 11 of the Nexus Study. As such, the Fee as it relates to development within the City is not a "project" within the meaning of CEQA (Public Resources Code§ 21080(b)(8)(D)).

E. The Record establishes:

1. That there is a reasonable relationship between the need for the Improvements and the type of development for which the Fee is charged because that development will generate increased vehicular, bicycle, and/or pedestrian traffic requiring the enhancement, upgrade, and/or expansion of the City's existing citywide transportation infrastructure to accommodate that increased traffic; and

2. That there is a reasonable relationship between the Fee's use and the type of development for which the Fee is charged because Fee revenue will be used to fund the Improvements, or similar improvements consistent with the allowable use of Fee revenue described in the Nexus Study, that are needed to accommodate development; and

3. That there is a reasonable relationship between the amount of the Fee and the cost of the Improvements or portion thereof attributable to development on which the Fee is imposed because (1) the Fee is no greater than the existing level of investment in the City's citywide transportation infrastructure, and (2) the Fee is calculated based on the number of equivalent dwelling units associated with the development and those equivalent dwelling units reflect the relative demand for transportation improvements among development projects by land use type; and

4. That the cost estimates set forth in the Nexus Study are reasonable cost estimates in 2018 dollars for constructing the Improvements, and the Fees expected to be generated by future development will not exceed total Improvement costs after deducting other reasonably anticipated funding sources including the Subregional Transportation Mitigation Program fee administered by the West Contra Costa County Transportation Advisory Committee; and

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

1. Transportation Impact Fee Titled

This Fee shall be known as the Transportation Impact Fee and all documents will refer to the Fee by this title.

2. Amount of Fee

The amount of the Fee shall be as shown in Table 1, below, and includes a two percent charge for program administration. The program administration charge may be increased to four percent but shall be no greater than the cost incurred by the City to administer the Transportation Impact Fee program.

Table 1: Transportation Impact Fee (2018 dollars)

Land Use	Equivalent Dwelling Unit (EDU) Rate	Cost per EDU	Transportation Impact Fee	
Single Family	1.00	\$3,322	\$3,322	per dwelling unit
Multi-Family	0.70	\$3,322	\$2,325	per dwelling unit
Commercial	1.35	\$3,322	\$4.48	per square foot
Hotel/Motel	1.10	\$3,322	\$3.65	per square foot
Office	1.16	\$3,322	\$3.85	per square foot
Industrial	0.73	\$3,322	\$2.43	per square foot

3. Calculation and Payment

The Fee shall be paid prior to time of building permit issuance. Methods for determination of development projects subject to the Fee, calculation of the Fee on a development project, and payment of the Fee by a development project shall be provided for in the Administrative Guidelines.

4. Use of Fee Revenues

The revenues raised by payment of the Fee shall be placed in the Transportation Impact Fee Account ("Account"). Fee revenues and interest generated on Account balances will be limited to the following purposes:

A. To pay for design, engineering, environmental review, permits, right-of-way acquisition, utility relocation, project management and construction of the types of transportation improvements designated in the Council resolution and Nexus Study, including any alternatives or substitutions listed for a project as described in the plan that identified the project, and reasonable costs of outside consultant studies related thereto;

B. To reimburse the city for transportation improvements that otherwise would have been eligible for funding with fee revenue and that were constructed by the City with funds, other than gifts or grants, from other sources together with accrued interest;

C. To provide a fee credit and/or reimbursement to developers who have constructed transportation improvements that otherwise would have been eligible for funding with fee revenue where such construction is beyond that which would otherwise be required for approval of the proposed development such as dedications, setbacks, frontage improvements, and/or development-specific transportation mitigation measures which are required by local ordinance, standards, or other practice, and based on actual cost of construction; and/or

D. To pay for and/or reimburse costs of program development and ongoing administration of the Transportation Impact Fee program, including but not limited to associated attorneys' fees, including costs of defense of the Fee.

5. Periodic Review

The Fee shall be reviewed periodically as indicated below and further provided for in the Administrative Guidelines:

A. Within 180 days following the end of each fiscal year the City Manager shall make available to the public information regarding the Fee pursuant to Government Code Section 66006.

B. Pursuant to Government Code Section 66002, the City Council shall annually review, based on the current Capital Improvement Program, the approximate location, size, time of availability and estimates of cost for all Improvements to be financed with the Fee.

C. Pursuant to Government Code Section 66001(d) for the fifth fiscal year following the first deposit into the Account, and every five years thereafter, the City shall make certain findings with respect to that portion of the Account remaining unexpended, whether committed or uncommitted.

6. Automatic Increase in Fees

Unless otherwise indicated by an updated Nexus Study of the Fee, beginning July 1, 2019 and each July 1 thereafter, the Fee shall be adjusted based on inflation in the cost of the Improvements as provided for by the Administrative Guidelines.

7. Administrative Guidelines

The City Manager shall approve and maintain Administrative Guidelines to facilitate implementation of the Transportation Impact Fee pursuant to this Resolution.

8. Effective Date

This resolution shall become effective immediately and pursuant to Government Code Sections 66017 and 66019, and the Fee shall be effective sixty (60) days from the effective date of the resolution.

9. Severability

Each component of the Fee and all portions of this resolution are severable. Should any individual component of the Fee or other provision of this resolution be adjudged to be invalid and unenforceable, the remaining provisions shall be and continue to be fully effective, and the Fee shall be fully effective except as to that portion that has been judged to be invalid.

I CERTIFY that at a regular meeting on December 18, 2018, 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 December__, 2018.

Sherry Kelly, Acting City Clerk

APPROVED:

Rochelle Pardue-Okimoto, Mayor

EXHIBIT A
TRANSPORTATION IMPACT FEE REPORT

TRANSPORTATION IMPACT FEE

PUBLIC DRAFT REPORT

Prepared For:

City of El Cerrito

Prepared By:

Robert D. Spencer, Urban Economics

December 4, 2018



with

FEHR & PEERS

TABLE OF CONTENTS

1. Introduction	1
2. Existing and Forecast Transportation Infrastructure Demand	3
Land Use	3
Transportation Demand	5
3. Citywide Transportation Infrastructure.....	10
Inventory of Citywide Transportation Infrastructure.....	10
Facility Standards and Level of Investment	12
4. Planned Transportation Improvements	15
Improvements and Costs	15
Program Funding Sources	16
5. Transportation Impact Fee Schedule	19
Cost per Equivalent Dwelling Unit	19
Fee Schedule.....	19
Use of Fee Revenue	20
Appendix A: Transportation Improvement Costs	22

LIST OF TABLES

Table 1:	Existing and Forecast Development.....	5
Table 2:	Average Weekday Person Trip Rates	7
Table 3:	Trip Generation (<i>average daily person trip ends</i>)	7
Table 4:	Equivalent Dwelling Unit Rates.....	9
Table 5:	Transportation Demand (<i>based on trips converted to equivalent dwelling units</i>)	9
Table 6:	Citywide Transportation Infrastructure	12
Table 7:	Transportation Infrastructure Unit Costs (2018 \$)	13
Table 8:	Existing Facility Standard & Level of Investment	13
Table 9:	Transportation Improvements and Costs	17
Table 10:	Transportation Funding	18
Table 11:	Proposed Fee per Equivalent Dwelling Unit.....	19
Table 12:	Transportation Impact Fee (2018 \$)	20
Table A.1:	Transportation Improvements Cost Detail.....	23

LIST OF FIGURES

Figure 1:	San Pablo Avenue Specific Plan Area.....	4
Figure 2:	Citywide Multimodal Transportation Network.....	11

1. INTRODUCTION

Development impact fees provide a mechanism for new development projects to contribute financially to the one-time cost of improving and expanding the infrastructure and facilities needed to accommodate that development. Impact fees are used by local agencies throughout California and in many other states as one of many funding sources for capital improvement programs. Fees are a one-time, non-recurring revenue source paid at the start of a development project, typically at building permit issuance.

The City of El Cerrito (City) currently does not have an impact fee for transportation improvements to accommodate the impacts of new development. The purpose of this study is to provide the documentation necessary for the City to adopt a transportation impact fee. This study was completed with support from a grant by the Priority Development Area technical assistance program sponsored by the Metropolitan Transportation Commission.

California local agencies may adopt impact fees under authority granted by the Mitigation Fee Act (the Act), contained in Sections 66000 to 66025 of the *California Government Code*. The primary purpose of this report is to substantiate the findings required by the Act for adopting or increasing an impact fee.

The key findings required by the Act to adopt or increase an impact fee and documented by this report relate to the following reasonable relationships:¹

1. **Impact:** Reasonable relationship between new development and need for public facilities. Finding based on maintaining the city's existing level of investment in its citywide transportation system (see Chapter 3).
2. **Benefit:** Reasonable relationship between new development and the use of fee revenue for public facilities to accommodate that development. Finding based on funding required for list of planned improvements to the citywide transportation system identified in adopted long range plans (see Chapter 4).
3. **Proportionality:** Reasonable relationship between the amount of the fee and the proportionate cost of public facilities attributable to new development. Finding based on cost per unit of impact (equivalent dwelling unit) and rates of impact by land use category (see Chapter 5).

¹ *California Government Code*, section 66001(a)(3), 66001(a)(4), and 66001(b).

Together these three key findings define the legally required relationship among the impact of development, the amount of the fee, and the use of fee revenues.

The Act also requires findings regarding (1) the purpose of the fee, and (2) a description of the public facilities to be funded by the fee.² The purpose of the Transportation Impact Fee is to accommodate the impacts of new development by funding the expansion of the City's transportation infrastructure. The types of facilities funded by the fee are described in Chapter 4 and in Appendix A, and in more detail in adopted long range plans.

² *Ibid.*, sections 66001(a)(1) and 66001(a)(2).

2. EXISTING AND FORECAST TRANSPORTATION INFRASTRUCTURE DEMAND

The Transportation Impact Fee will fund multimodal improvements that benefit new development. The amount of the fee is based in part on the demand for transportation infrastructure associated with existing and new development. This study uses 2017 as a base year and a planning horizon of 2040 that is consistent with current regional projections published by the Association of Bay Area Governments.³

Land Use

Existing demand for transportation infrastructure is based on 2017 estimates of residential and nonresidential land uses within the City. Residential land use estimates are based on annual data published by the California Department of Finance. Nonresidential uses are based on employment estimates published by the U.S. Census Bureau converted to building space based on standard employment density factors (building square feet per worker).

Demand for transportation infrastructure from new development is based on a citywide development forecast. Nearly all growth within the City is expected to occur within the San Pablo Avenue Specific Plan Area (Plan Area). The Plan Area began to experience significant levels of new development following adoption of the Specific Plan in 2014 (see **Figure 1** for a map of the Plan Area). Since passage of the Plan over 1,300 residential units and 90,000 square feet of commercial space (including hotel rooms) within the Plan Area have been proposed, approved, are under construction or have been built.

The City developed a growth scenario for the Plan Area to guide determination of needed sewer capacity improvements and for use in a recent nexus study for a sewer capacity charge for the Plan Area.⁴ The growth scenario estimated new residential units, new commercial gross building square feet, and new hotel rooms. The scenario was not able to break out a forecast for office space that is included with the forecast for commercial space. In addition, the scenario is based on:

³ See http://reports.abag.ca.gov/other/Regional_Forecast_for_Plan_Bay_Area_2040_F_030116.pdf.

⁴ Robert D. Spencer, Urban Economics, memorandum to Rex Delizo, P.E., District Manager, Stege Sanitary District and Melanie Mintz, Community Development Director, City of El Cerrito, regarding sewer capacity charge for the San Pablo Avenue Specific Plan Area, October 19, 2017.

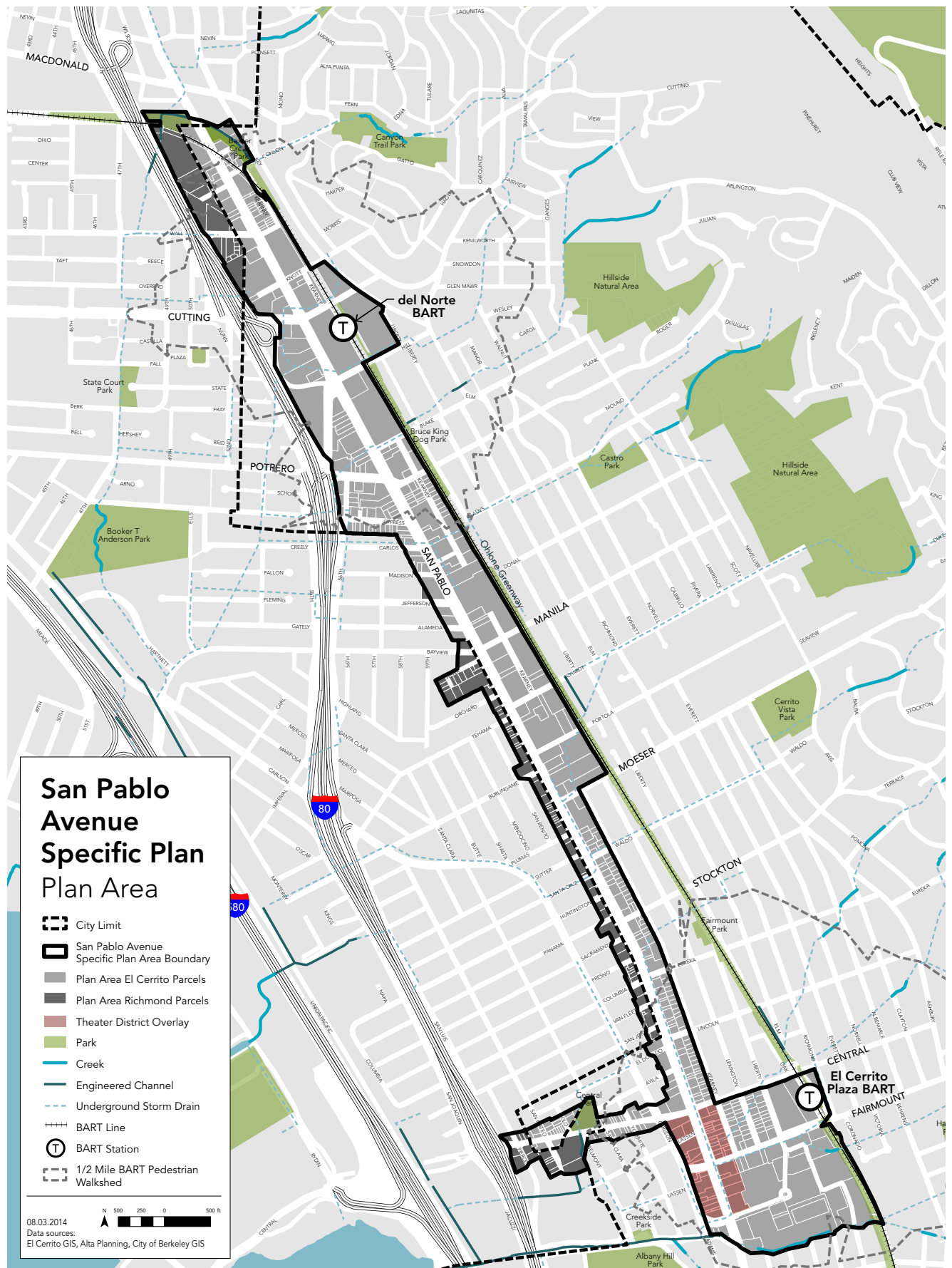


Figure 1. Specific Plan Area

- ♦ The pace of development activity since adoption of the Specific Plan in 2014
- ♦ The capacity of parcels within the Plan Area to accommodate additional growth
- ♦ A 2040 planning horizon.

City staff also provided an estimate of development outside the Plan Area based on historical trends and sites identified in the City's Housing Element of the General Plan. The only development forecast outside the Plan Area is 220 units of single family housing. Estimates for existing and new development within the city are shown in **Table 1**.

Table 1: Existing and Forecast Development

Land Use	Existing 2017	Growth 2017-2040	Total 2040
Residential (<i>dwelling units</i>)			
Single Family	7,490	220	7,710
Multi-Family	3,305	3,241	6,546
Total	10,795	3,461	14,256
Nonresidential (<i>building square feet</i>)			
Commercial ¹	1,173,000	159,000	1,332,000
Hotel/Motel	-	182,000	182,000
Office ¹	585,000	-	585,000
Industrial	217,000	-	217,000
Total	1,975,000	341,000	2,316,000

Notes: "Single family" includes detached units only.

Nonresidential building square feet based on employment estimates and density factors of 400, 325, and 500 square feet per employee for commercial, office, and industrial, respectively. Existing hotel/motel space included in commercial land use category. Growth in hotel/motel space based on 260 new rooms at 700 square feet per room.

¹ Forecast growth for office could not be broken out from commercial so the commercial forecast likely includes some office space, such as around the BART stations.

Sources: California Department of Finance estimates for January 1, 2017; U.S. Census Bureau, "OnTheMap" 2014 estimated employment; Urban Economics (employment density factors); City of El Cerrito.

Transportation Demand

The Transportation Impact Fee is designed to address and manage the impacts of additional multimodal travel demand from new development. Strategies may include not only managing vehicle impacts, but also encouraging a shift in demand to other transportation modes such as transit, biking, and walking. Shifting demand to alternative modes is common in cities like El Cerrito that are largely built out with limited options for increasing roadway capacity to

accommodate additional vehicles and is another means of addressing the impacts of travel demand from new development. This approach also supports the goals of adopted local, regional, and statewide plans that call for multi-modal transportation to help achieve the State's greenhouse gas emissions targets.⁵

This nexus analysis uses person trip generation rates by land use category to reflect variations in multimodal travel demand among land uses. This approach provides a reasonable relationship between the type of development that would pay the fee, the amount of the fee, and the cost of transportation infrastructure needed to accommodate that development.

Trips occur between origins and destinations such as from home to work, or from work to shopping, or from shopping back to home. Trip generation rates by land use category reflect either the origin or destination of a trip (a trip end) and therefore are a reasonable measure of travel demand by land use category, or the desire for mobility by residents and workers to access homes, jobs, shopping, recreation, and other activities. The trip generation rates used in this nexus analysis include all modes: vehicle, transit, bicycle, and pedestrian.

Table 2 shows the average weekday trip generation rates for the land use categories used in the nexus analysis. Some trip ends from new development do not place additional demands on transportation infrastructure. These trip ends are intermediate stops between the origin and final destination that do not cause a change in route (pass-by trips). Table 2 includes an adjustment for the commercial trip rate, the land use category most affected by pass-by trips.

Table 3 shows trip generation estimates based on the forecasts in Table 1 and the trip generation rates in Table 2.

In the nexus analysis each end of a trip is generally weighted equally, assigning the land use on each trip end the same level of impact on transportation infrastructure. The exception to this equal weighting approach is in the commercial land use category. Commercial development is in part dependent on spending from local residents within the city. Consequently, the growth in commercial trip ends generated by local residents is reallocated to residential development because these commercial trip ends would not occur but for that residential development. This reallocation changes the relative demand for transportation infrastructure by land use category from the trip rates shown in Table 2. This approach does not double count trips, but simply reallocates the trip ends associated with some but not all trips that end at a commercial location.

⁵ See the City's Climate Action Plan, the current regional Plan Bay Area, and the California Sustainable Communities and Climate Protection Act of 2008.

Table 2: Average Weekday Person Trip Rates

Land Use	Average Weekday Trip Rate	Primary/Diverted Tripend Share ¹	Primary/Diverted Tripend Rate	ITE Land Use Category (number)
Single Family	9.52	100%	9.52 per dwelling unit	Single Family Homes (210)
Multi-family	6.65	100%	6.65 per dwelling unit	Apartment (220)
Commercial	42.70	66%	28.18 per 1,000 sq. ft.	Shopping Center (820)
Hotel/Motel ²	11.67	100%	11.67 per 1,000 sq. ft.	Hotel (310)
Office	11.03	100%	11.03 per 1,000 sq. ft.	General Office (710)
Industrial	6.97	100%	6.97 per 1,000 sq. ft.	General Light Industrial (310)

¹ Includes tripends related to the origin, final destination, and intermediate stops during a trip. Diverted tripends require a route diversion for an intermediate stop. Excludes pass-by tripends that are intermediate stops that do not require a change in the route between the origin and the final destination.

² Hotel/Motel trip rate based on ITE rate per room and 700 gross building square feet per room.

Sources: Institute for Transportation Engineers (ITE), *Trip Generation Handbook, 3rd Edition*, Table E.9: Pass-By and Non-Pass-By Trips, Weekday PM Peak Period, Land Use Code 820 – Shopping Center; ITE, *Trip Generation Manual* (10th Edition), 2012.

Table 3: Trip Generation (average daily person trip ends)

Land Use	Existing 2017	Growth 2017-2040	Total 2040
Residential			
Single Family	71,300	2,100	73,400
Multi-Family	<u>22,000</u>	<u>21,600</u>	<u>43,600</u>
Subtotal	93,300	23,700	117,000
Nonresidential			
Commercial ¹	33,100	4,500	37,600
Hotel/Motel	-	2,100	2,100
Office ¹	6,500	-	6,500
Industrial	<u>1,500</u>	-	<u>1,500</u>
Subtotal	<u>41,100</u>	<u>6,600</u>	<u>47,700</u>
Total	134,400	30,300	164,700

Note: Existing hotel/motel space included in commercial land use category.

¹ Forecast growth for office could not be broken out from commercial so the commercial forecast likely includes some office space, such as around the BART stations.

Sources: Tables 1 and 2.

The reallocation of trip ends is based on an estimate of the amount of new retail space within the city that would be supported by spending from new residential development within the city. This estimate is based on current data for:

- ♦ Median household income in El Cerrito (\$88,737)⁶
- ♦ Household income share spent locally (10 percent)⁷
- ♦ Average retail sales per square foot (\$375).⁸

Based on these inputs, 59 percent of new commercial development is estimated to be associated with new residential development. For the purposes of this study this factor is reduced to 50 percent to be conservative when estimating the shift in impact from commercial to residential land uses.

Table 4 shows this reallocation using new development trip generation from Table 3 and the new development forecast from Table 1. The results are transportation demand factors expressed as equivalent dwelling units (EDUs). EDUs provide a metric, similar to trip generation rates, adjusted to reflect the reallocation of a share of commercial tripends to residential land uses. EDUs are calculated such that one EDU reflects demand from one single family dwelling (SFD) unit. EDU factors for all other land uses are calculated relative to one SFD unit.

Table 5 shows travel demand from existing and new development revised using the EDU factors in Table 4. Travel demand is estimated to represent 19 percent of total travel demand in 2040. The Transportation Impact Fee would fund enhancements, improvements, and expansion of citywide transportation infrastructure to accommodate this increased travel demand from new development.

⁶ Census Bureau, 2011-2015 American Community Survey 5-Year Estimates for City of El Cerrito.

⁷ Bureau of Labor Statistics, Table 3033: Selected Western Metropolitan Statistical Areas, Average Annual Expenditures and Characteristics, Consumer Expenditure Survey, 2015-2016, for the San Francisco Region.

⁸ Costar, July 27, 2017 (<http://www.costar.com/>).

Table 4: Equivalent Dwelling Unit Rates

Land Use	Tripends (2017- 2040)	Resi- dential Local- Serving ¹	Trip End Redistri- bution	Trip Ends (2017- 2040) (revised)	Growth 2017- 2040	Equivalent Dwelling Units (EDU) ²
Residential						
Single Family	2,100		200	2,300	220	1.00 per dwelling unit
Multi-Family	<u>21,600</u>		<u>2,050</u>	<u>23,650</u>	<u>3,241</u>	0.70 per dwelling unit
Subtotal	23,700		2,250	25,950	3,461	
Nonresidential						
Commercial ³	4,500	50%	(2,250)	2,250	159,000	1.35 per 1,000 sq. ft.
Hotel/Motel	2,100		-	2,100	182,000	1.10 per 1,000 sq. ft.
Office ³	-		-	-	-	1.16 per 1,000 sq. ft.
Industrial	-		-	-	-	0.73 per 1,000 sq. ft.
Subtotal	<u>6,600</u>		(2,250)	<u>4,350</u>	341,000	
Total	30,300		-	30,300		

¹ Share of commercial trip ends associated with local residential development equal to share of new commercial space supported by new residential development. See text for more explanation.

² Based on trip generation rate (revised tripends divided by 2017-2040 development), relative to the single family rate set at 1.0. Because there is no development projected for office and industrial, these EDU rates are equal to the trip rates for these land uses relative to the single family rate shown in Table 2.

³ Forecast growth for office could not be broken out from commercial so the commercial forecast likely includes some office space, such as around the BART stations.

Sources: Urban Economics; Table 1 and 3.

Table 5: Transportation Demand
(based on trips converted to equivalent dwelling units)

Land Use	Existing 2017	Growth 2017-2040	Total 2040
Residential			
Single Family	7,490	220	7,710
Multi-Family	<u>2,314</u>	<u>2,269</u>	<u>4,583</u>
Subtotal	9,804	2,489	12,293
Nonresidential			
Commercial ¹	1,584	215	1,799
Hotel/Motel	-	200	200
Office ¹	678	-	678
Industrial	<u>159</u>	-	<u>159</u>
Subtotal	<u>2,421</u>	<u>415</u>	<u>2,836</u>
Total	12,225	2,904	15,129
Share	81%	19%	100%

Note: Existing hotel/motel space included in commercial land use category.

¹ Forecast growth for office could not be broken out from commercial so the commercial forecast likely includes some office space, such as around the BART stations.

Sources: Table 1 and 4.

3. CITYWIDE TRANSPORTATION INFRASTRUCTURE

This chapter presents the City's existing standard for transportation infrastructure based on the existing level of investment in that infrastructure.

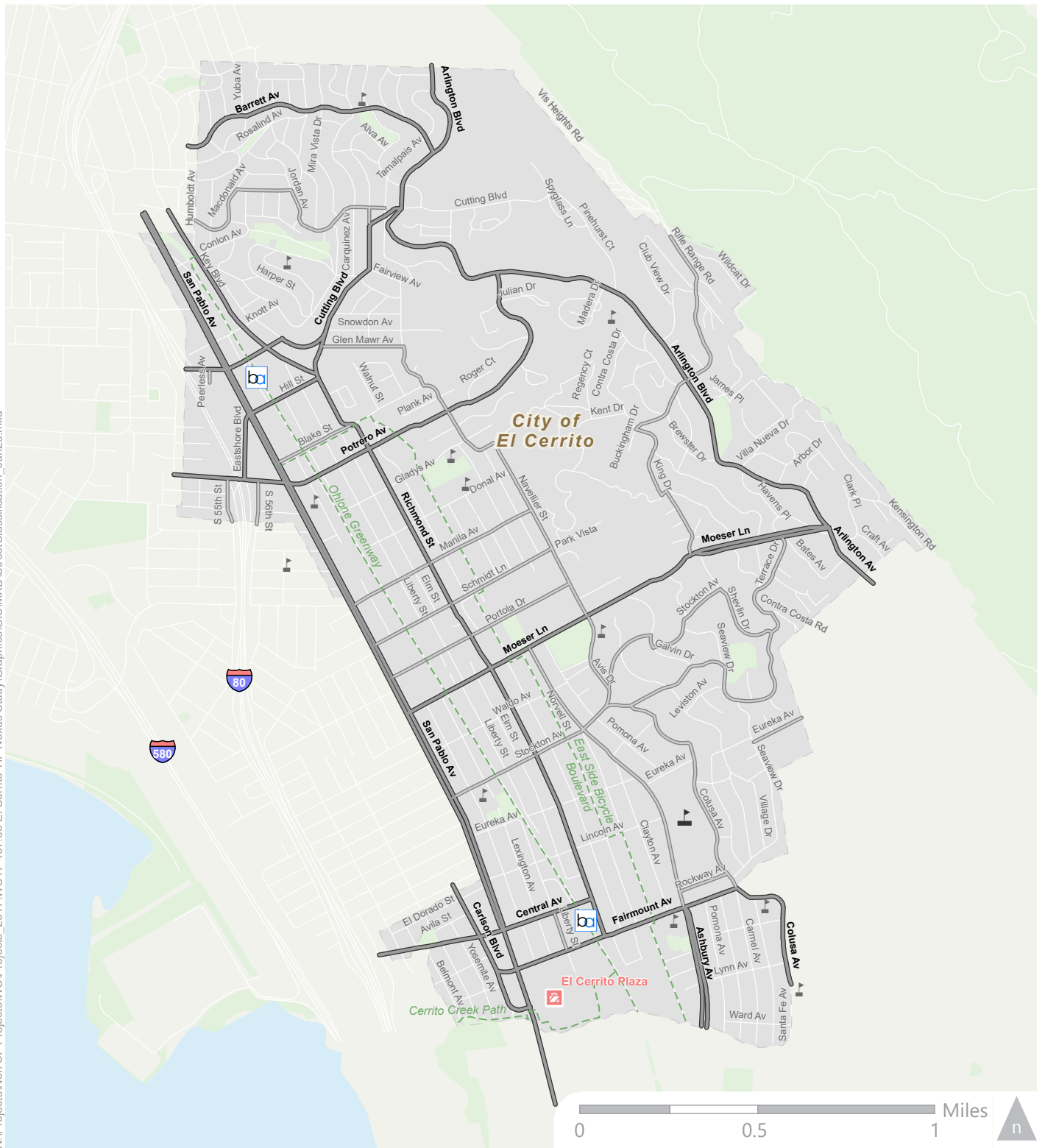
Inventory of Citywide Transportation Infrastructure

The Transportation Impact Fee is a citywide fee with the potential to fund improvements citywide. This approach requires identification of the components of the city's multimodal transportation network that connect residential neighborhoods, retail and employment centers, and other destinations across the city. Streets and other transportation infrastructure that serve a specific neighborhood and do not provide connectivity between areas are excluded from this inventory.

By focusing on citywide connectivity, trips generated by new development regardless of location in the city would use and benefit from improvements to this network. Furthermore, the same development project regardless of location within the city would have a similar impact on this infrastructure. This approach enables fee revenues to fund improvements throughout the city as long as the capital project is part of this citywide transportation network.

City staff and the consultant team identified the network of citywide multimodal transportation infrastructure using Geographic Information System (GIS) data from the City and from other publicly available sources. This network is defined as arterials and collectors that provide connectivity between neighborhoods and activity centers within the City, as well as to neighboring communities and regional transportation infrastructure. This network includes the entire roadway curb-to-curb (vehicle travel lanes, bicycle lanes, and on street parking), as well as adjacent sidewalks, medians, intersection signalization equipment, and off-street paths. The network excludes local streets used primarily for access to one specific neighborhood or development site.

Figure 2 shows a map of the city's existing transportation infrastructure that provides this citywide network. The amounts for each component of the inventory are shown in **Table 6**.



Facility Type

- Arterial
- Collector
- Bicycle Facilities
- Elementary School
- High School



Figure 2
Citywide Multimodal Transportation Network

Table 6: Citywide Transportation Infrastructure

Infrastructure Type	Length (feet)	Average Width (feet)	Inventory Amount	
Roadway	151,591	37	5,563,716	square feet
Sidewalk	151,591	6	894,039	square feet
Curb & gutter	151,591	NA	151,591	linear feet
Median	7,570	15	110,310	square feet
Bicycle path	13,200	10	132,000	square feet
Traffic signal			22	intersections

Sources: Fehr & Peers.

Facility Standards and Level of Investment

More travel from new development will increase demands on citywide transportation infrastructure. The nexus between new development and the need for citywide transportation infrastructure is based on maintaining the City's existing facility standard as the City grows. The existing facility standard is based on the inventories shown in Table 6 expressed per equivalent dwelling unit (EDU) for existing development. The maximum justified Transportation Impact Fee is based on new development maintaining the level of investment represented by this existing facility standard.⁹

Unit costs based on current replacement cost are used to calculate the level of investment. Replacement cost is the current cost of a similar new asset having the nearest equivalent utility as the asset being valued. Unit cost factors used to estimate replacement cost are shown in **Table 7**. These cost factors are based on recent capital project costs in the El Cerrito and nearby cities and were confirmed by City staff.

The existing facility standard for transportation infrastructure is shown in **Table 8** for each of the infrastructure components shown in Table 6. The table also shows the level of investment per EDU based on the unit replacement costs from Table 7 and calculates a total level of investment per EDU.

⁹ "Level of investment" is analogous to "level of service" or "facility standard". All three terms reflect quantitative measures used in development impact fee nexus analysis to demonstrate a reasonable relationship between development and the need for improved or expanded public infrastructure.

Table 7: Transportation Infrastructure Unit Costs (2018 \$)

Infrastructure Type	Construction	Design & Management ¹	Contingency	Total Unit Cost	Units
<i>Formula</i>	<i>a</i>	<i>b</i>	<i>c</i>	$d = a * (1+b) * (1+c)$	
Roadway ²	\$35	40%	20%	\$59	square foot
Sidewalk ³	\$25	40%	20%	\$42	square foot
Curb & gutter	\$65	40%	20%	\$109	linear foot
Median	\$20	40%	20%	\$34	square foot
Bicycle path ⁴	\$25	40%	20%	\$42	square foot
Traffic signal ⁵	\$350,000	40%	20%	\$588,000	intersection

¹ Percent of total cost before contingency. Includes 20% for project design, 15% for construction engineering, and 5% for project management.

² Includes subgrade grading, 18" aggregate base, and 6" asphalt concrete. Does not include: driveways and curb ramps (included in sidewalks), street furniture, street lighting, traffic signals, landscaping, street trees, and storm water facilities.

³ Includes 4" concrete over 4" base plus demolition and root barriers. Includes driveways and curb ramps.

⁴ Includes demolition and root barriers. Assume extensive permitting requirements and limited access.

⁵ Includes intelligent transportation system (ITS) elements and readiness (e.g. signal interconnect system).

Sources: Fehr & Peers.

Table 8: Existing Facility Standard & Level of Investment

Infrastructure Type	Inventory Amount		Equivalent Dwelling Units (EDU)	Existing Facility Standard	Replacement Cost	Existing Level of Investment
	<i>units</i>		<i>EDU</i>	<i>units per EDU</i>	<i>per unit</i>	<i>\$ per EDU</i>
Roadway	5,563,716	square feet	12,225	455.1	\$ 59	\$ 26,851
Sidewalk	894,039	square feet	12,225	73.1	42	3,072
Curb & gutter	151,591	linear feet	12,225	12.4	109	1,352
Median	110,310	square feet	12,225	9.0	34	307
Bicycle path	132,000	square feet	12,225	10.8	42	453
Traffic signal	22	intersections	12,225	1.8	588,000	1,058
Total						\$ 33,093

Note: All dollars in 2018 \$.

Sources: Fehr & Peers, Tables 5, 6, and 7.

Table 8 shows that in sum the City has invested over \$33,000 per EDU in its current transportation infrastructure. This amount represents the maximum justified level of investment from new development necessary to maintain the existing facility standard. Because the facility standard is based on citywide transportation infrastructure, the City may use impact fee revenues for any type of improvement to that infrastructure regardless of mode. See the *Use of*

Fee Revenue section in Chapter 5 for restrictions on the allowable use of fee revenue.

Though most of the City's transportation infrastructure investment to date has been in roadways designed for private vehicles (see Table 6), future investments are likely to shift (see Chapter 4). As mentioned in the prior chapter, in more highly developed cities such as El Cerrito it is generally not economically feasible to widen roadways or intersections to accommodate increased in vehicle trips. As vehicle congestion increases improving infrastructure for other modes such as transit, bicycle, and pedestrian is a more cost-effective approach to accommodating increased demand and reducing congestion, and therefor becomes a higher priority. This strategy encourages and accommodates increased travel demand and promotes greater mobility by providing more travel options. Also, as mentioned previously, this approach supports the goals of adopted local, regional, and statewide plans that call for multi-modal transportation to help achieve the State's greenhouse gas emissions targets.

4. PLANNED TRANSPORTATION IMPROVEMENTS

This chapter describes the City's planned transportation improvements, associated costs, and alternative sources of funding besides the Transportation Impact Fee.

Improvements and Costs

The list of potential capital improvements eligible for funding with the Transportation Impact Fee is based on prior planning studies completed to support the City's growth and the impact of that growth on the transportation system. The focus of these improvements is to connect El Cerrito residents to employment and activity centers and major transit facilities within the City and in neighboring jurisdictions. In particular, these improvements focus on San Pablo Avenue, the City's primary transportation corridor serving all modes.

The Transportation Impact Fee (TIF) project list is a selection of projects from the following: the San Pablo Avenue Specific Plan (SPASP), Active Transportation Plan (ATP) and Ohlone Greenway Master Plan, which were previously adopted by the El Cerrito Council. The SPASP Multi-Modal Capital Improvement Program (MMCIP) report, compiled and further described projects from these three plans, specifically those within a half-mile walk of two key transit nodes, the El Cerrito Plaza and El Cerrito del Norte BART stations. All of the projects in the MMCIP report are included in the TIF project list including automobile, transit, and pedestrian and bicycle improvements on roadways, trails, and paths. In addition, the remaining improvements from the Complete Streets Chapter in the SPASP, those outside the half-mile radius and generally in the Midtown segment of the Plan Area, are included in the TIF project list. Additional projects outside the half-mile radius selected from the ATP are high priority improvements critical to allow bicycle and pedestrian access across the City and to important commercial corridors and transit facilities. Projects include improvements to the Ohlone Greenway and Cerrito Creek Trail, the East Side Bicycle Boulevard, and gap closures/access improvements along important bicycle routes such as Moeser Lane, Stockton Avenue, Ashbury Avenue, and Key Boulevard.

Cost estimates for the project list were drawn from a variety of sources, including recent grant applications, preliminary engineering studies, and the application of unit costs developed through the *Active Transportation Plan*. The unit costs and quantities were evaluated and updated by Fehr & Peers and reviewed by City staff.

Table 9 provides a summary of projects and associated costs. The overall cost of the project list is estimated at \$31.3 million. A detailed cost breakdown of projects and their components is shown in the Appendix A, **Table A.1**.

Program Funding Sources

The City has a track record of winning competitive grants and receiving other funds to support implementation of its transportation improvement plans. To complement Transportation Impact Fee revenues, the City anticipates \$21.8 million in funding from other sources. These sources include:

- ♦ \$7.2 million in grants that have already been secured for the Del Norte BART station area improvements.
- ♦ \$7.7 million in other grants at \$350,000 per year over the planning horizon of 22 years, based on a ten-year history of \$1.6 million annually for local transportation improvements and assuming that only a portion of future grants would be used for projects listed in Table 9.
- ♦ \$7.0 million from the West Contra Costa Subregional Transportation Mitigation Program (STMP) fee administered by the West Contra Costa County Transportation Advisory Committee. Estimate based on 2019 update to the STMP fee that included funding for three projects with project descriptions that overlap with those in Table 9.¹⁰

Table 10 summarizes this anticipated funding. The table identifies \$9.5 million in unfunded costs that could be funded by the Transportation Impact Fee.

¹⁰ These projects include: San Pablo Avenue Complete Streets improvements, Ohlone Greenway improvements, Del Norte Area TOD Infrastructure improvements. The 2019 STMP update also includes El Cerrito BART access improvements but this project does not overlap with projects listed in Table 9.

Table 9: Transportation Improvements and Costs

Document Source / Project Name	Mode	Project Type	Total Cost
SAN PABLO AVENUE SPECIFIC PLAN			
<i>Del Norte Station Area: SPA and Hill St./Eastshore</i>			
San Pablo Ave. and Hill St./ Eastshore	All	Complete Streets	\$ 7,983,000
San Pablo Ave. and Cutting			
<i>Remaining Del Norte TOD Complete Streets Improvements</i>			-
Hill Street: Lexington to Liberty	All	Complete Streets	\$ 435,256
Hill Street: Liberty to Elm			\$ 22,705
<i>Richmond Street Ped. Improvements</i>			
Stockton to Eureka	Ped	Arterial	\$ 991,455
Eureka to Lincoln			\$ 1,107,000
Lincoln to Central			\$ 1,123,400
Central to Fairmount			\$ 1,045,500
<i>El Cerrito Plaza Projects</i>			
San Pablo Ave.	Bike/Ped	Arterial	\$ 284,225
Carlson Blvd Sidewalk Improvements			\$ 736,920
Central Ave. Corridor			\$ 931,566
Fairmount Ave. Improvements, Carlson to Colusa			\$ 529,834
Lincoln Bicycle Boulevard	Bike	Local	\$ 661,932
<i>Midtown San Pablo Ave. Improvements</i>			
Potrero to Lincoln	Bike/Ped	Arterial	\$ 6,493,674
ACTIVE TRANSPORTATION PLAN & OHLONE GREENWAY MASTER PLAN			
<i>Uptown Projects</i>			
Key Boulevard Improvements	Bike/Ped	Collector	\$ 1,514,557
Key Boulevard Sharrows	Bike	Collector	\$ 37,370
<i>Midtown Projects</i>			
Potrero Ave. Improvements	Bike	Arterial	\$ 294,768
Ashbury Ave. Pedestrian Improvements	Ped	Collector/Arterial	\$ 442,152
Moeser Lane Pedestrian Improvements	Ped	Arterial	\$ 478,998
Stockton Ave. Improvements	Ped	Collector	\$ 430,650
<i>Downtown Projects</i>			
Cerrito Creek Trail (BART to Bay) Access Improvements	Bike/Ped	Trail	\$ 1,084,630
<i>Citywide Projects</i>			
Ohlone Greenway Crossing Improvements	Bike/Ped	Trail	\$ 1,884,240
East Side Bicycle Boulevard & Wayfinding	Bike	Collector	\$ 2,772,620
Total			\$31,286,452

Sources: Table A-1.

Table 10: Transportation Funding

Total Improvements Cost		\$31,290,000
Programmed Funding (intergovernmental grants)		
Del Norte Station Area: SPA and Hill St. / Eastshore Project ¹		
MTC/ABAG: One Bay Area (Cycle 2)	\$4,840,000	
Contra Costa County Transportation Authority: Measure J Transportation for Livable Communities	<u>2,312,000</u>	
Subtotal	\$7,152,000	
Other Intergovernmental Grants	7,700,000	
West Contra Costa STMP Fee	<u>6,983,000</u>	
Total Alternative Funding		<u>21,835,000</u>
Net Unfunded Costs		\$ 9,455,000

Notes: All amounts in 2018 \$. See text for assumptions.

¹ Funds already secured.

Sources: City of El Cerrito; Table 9.

5. TRANSPORTATION IMPACT FEE SCHEDULE

This chapter uses the results of the analysis presented in the prior chapters to generate the Transportation Impact Fee schedule.

Cost per Equivalent Dwelling Unit

The fee is based on the cost of development impacts per equivalent dwelling unit (EDU). The maximum justified cost and fee is \$33,093 per EDU based on maintaining the city's existing facility standard and level of investment as shown in Table 8 in Chapter 3. Any fee per EDU may be adopted as long as it is less than the maximum justified amount, and the fee per EDU may vary by land use category.

The City does not need a fee at the maximum justified level based on the cost of planned improvements minus the anticipated program funding presented in Chapter 4. As shown in **Table 11**, a fee of \$3,322 per EDU is needed to provide the funding required to implement planned improvements.

Table 11: Proposed Fee per Equivalent Dwelling Unit

Transportation Impact Fee Funding Needs	\$ 9,455,000
Equivalent Dwelling Units - New (2017-2040)	<u>2,904</u>
Funding per Equivalent Dwelling Unit	\$ 3,256
Program Administration (2% of total)	<u>66</u>
Total Fee per Equivalent Dwelling Unit	\$ 3,322

Notes: All dollars in 2018 \$.

Sources: Tables 5 and 10.

The fee per equivalent dwelling unit in Table 11 includes a two percent charge for program administration to cover costs associated with the collection, accounting, and reporting of fee revenues and expenditures in accordance with the Mitigation Fee Act, and for periodic nexus analysis updates. This charge may be increased to up to four percent but shall be no greater than the cost incurred by the City to administer the Transportation Impact Fee program.

Fee Schedule

Based on the cost per EDU shown in Table 11 that is required to fund planned improvements, the fee schedule by land use category is shown in **Table 12**.

Table 12: Transportation Impact Fee (2018 \$)

Land Use	EDU Rate	Cost per EDU	Transportation Impact Fee	
Residential				
Single Family	1.00	\$ 3,322	\$ 3,322	per dwelling unit
Multi-Family	0.70	\$ 3,322	2,325	per dwelling unit
Nonresidential				
Commercial	1.35	\$ 3,322	\$ 4.48	per square foot
Hotel/Motel	1.10	\$ 3,322	3.65	per square foot
Office	1.16	\$ 3,322	3.85	per square foot
Industrial	0.73	\$ 3,322	2.43	per square foot
Other ¹	TBD	\$ 3,322	TBD	per square foot

Notes: "EDU" is equivalent dwelling unit.

Fee includes a two percent charge for administration of the Transportation Impact Fee program that may be increased to up to four percent but shall be no greater than the cost incurred by the City to administer the program.

¹ Applies to development projects that do not clearly conform to one of the defined residential or non-residential categories and is likely to be applicable only in exceptional cases. In such cases the fee would be based on an estimated trip generation rate adjusted for equivalent dwelling units, and multiplied by the same cost per EDU applied to the other land use categories, as described in the Transportation Impact Fee administrative guidelines.

Sources: Tables 4 and 11.

Use of Fee Revenue

The transportation improvements anticipated to be funded with fee revenue were listed in Table 9 in the Chapter 4. The City may add improvement projects to this list or replace projects on this list, as long as the added project meets all of the criteria listed below to remain consistent with the nexus analysis:

- ♦ **Capital projects only:** Includes design, engineering, environmental review, permits, right-of-way acquisition, utility relocation, project management, and construction of land, buildings, vehicles, furnishings, equipment and all related infrastructure and appurtenances.
- ♦ **Part of the citywide transportation infrastructure:** Capital projects must be part of the citywide transportation infrastructure shown in Figure 2.
- ♦ **Enhancement, upgrade, or expansion only:** Enhancement, upgrade, or expansion of existing transportation infrastructure, and not ongoing maintenance of existing transportation assets. Excludes rehabilitation of existing assets unless the capital project results in a significant enhancement, upgrade, and/or expansion of transportation infrastructure that serves one or more transportation modes (vehicle, transit, bicycle, or pedestrian).

Fee revenue may also be used for the following purposes:

- ♦ **City reimbursement:** Reimbursement to the City for transportation improvements that otherwise would have been eligible for funding with fee revenue and that were constructed by the City with funds, other than gifts or grants, from other sources together with accrued interest.
- ♦ **Developer credit and/or reimbursement:** Fee credit and/or reimbursement to developers who have constructed transportation improvements that otherwise would have been eligible for funding with fee revenue.
- ♦ **Fee program administration:** Implementation costs related to compliance with the Mitigation Fee Act including collecting, accounting, and managing expenditure of fee revenues in accordance with the Act, as well as preparing financial reports and nexus studies required to make any necessary findings and determinations under the Act.

APPENDIX A: TRANSPORTATION IMPROVEMENT COSTS

Detailed estimates for the transportation improvement costs that are summarized in Table 9 are shown in **Table A.1**.

Table A.1: Transportation Improvements Cost Detail

Project Name / Location	Description / Location	Mode	Facility Type	Amount	Unit Cost	Total Cost	Source
SAN PABLO AVENUE SPECIFIC PLAN							
Del Norte Station Area: SPA and Hill St./Eastshore							
San Pablo Ave. and Hill St./ Eastshore	Peerless Ave, SPA North, SPA South, Hill St. restriping	All	Complete Streets			7,983,000	MMCIP ¹
San Pablo Ave. and Cutting	I-80 interchange, SPA North & South, Cutting East. of SPA						
Remaining Del Norte TOD Complete Streets Improvements							
Hill Street: Lexington to Liberty	Curb cut reconfiguration; buffered bike lane west	All	Complete Streets			435,256	MMCIP ²
Hill Street: Liberty to Elm	Buffered bike lane west; remove parking					22,705	
Richmond Street Ped. Improvements							
Stockton to Eureka	Sidewalks; crosswalks; bulbouts	Ped	Arterial			991,455	MMCIP, p. 14
Eureka to Lincoln						1,107,000	
Lincoln to Central						1,123,400	
Central to Fairmount						1,045,500	
El Cerrito Plaza Projects							
San Pablo Ave.	Super sharrows; x-walks; bulbouts; 3 pedestrian hybrid beacons	Bike/ Ped	Arterial				MMCIP, p. 6
Raised Crosswalk				1 lump sum	32,175	32,175	
Bicycle Route				0.6 miles	32,300	19,380	
Curb Extensions				1 lump sum	232,670	232,670	
Subtotal						284,225	
Carlson Blvd Sidewalk Improvements	Sidewalk reconstruction and enhancements, El Cerrito city limits to SPA	Bike/ Ped	Arterial	0.4 miles	1,842,300	736,920	MMCIP; ATP, p.113

Table A.1: Transportation Improvements Cost Detail (continued)

Project Name / Location	Description / Location	Mode	Facility Type	Amount	Unit Cost	Total Cost	Source
Central Ave. Corridor	Sidewalks; x-walks; lighting btw Richmond & Ashbury; bike lanes SPA to Carlson	Bike/ Ped	Arterial				MMCIP; ATP, p. 113
Bicycle Lane				0.08 miles	95,040	7,603	
Crosswalk				1 lump sum	2,813	2,813	
Sidewalk				0.5 miles	1,842,300	921,150	
Subtotal						931,566	
Fairmount Ave. Improvements, Carlson to Colusa	Sharrows; bulbouts; raised x-walks at Richmond & Ashbury; RRFB at Carlson/Fairmount	Bike/ Ped	Arterial				MMCIP; ATP, p. 106
Sidewalk				0.14 miles ³	1,842,300	257,922	
Raised Crosswalk				2 lump sum	32,175	64,350	
Rectangular rapid flashing beacon (RRFB)				1 lump sum	46,875	46,875	
Green-backed Sharrows				0.7 mile	63,360	44,352	
Curb Extension				0.5 crosswalks	232,670	116,335	
Subtotal						529,834	
Lincoln Bicycle Boulevard	Striping & wayfinding between SPA & Ashbury; bike boulevard	Bike	Local				MMCIP; ATP, p. 116
Bicycle Boulevard Wayfinding				0.53 miles	158,400	83,952	
Bicycle Route				0.53 miles	32,300	17,119	
Traffic Calming				0.53 miles	1,058,228	560,861	
Subtotal						661,932	
Midtown San Pablo Ave. Improvements							
Potrero to Lincoln	Cycletracks; x-walks; rectangular rapid flashing beacons. (Concept and costs currently being updated in Safe Routes to Transit evaluation.)	Bike/ Ped	Arterial			6,493,674	ATP ⁴

Table A.1: Transportation Improvements Cost Detail (continued)

Project Name / Location	Description / Location	Mode	Facility Type	Amount	Unit Cost	Total Cost	Source	
ACTIVE TRANSPORTATION PLAN & OHLONE GREENWAY MASTER PLAN								
Uptown Projects								
Key Boulevard Improvements	Ped. improvements at Knott, Cutting, Humboldt, Conlon, Liberty; SW extensions Humbolt to Conlon; Baxter Park Gateway	Bike/ Ped	Collector				ATP, p. 104	
Sidewalk reconstruction & enhancements				0.12	miles ³	1,842,300		221,076
Curb Extension				5	lump sum	232,670		1,163,350
Green-backed Sharrows				0.60	miles	63,360		38,016
Sidewalk extension				0.05	miles ³	1,842,300		92,115
Subtotal						1,514,557		
Key Boulevard Sharrows		Bike	Collector				ATP, p. 115	
Bicycle Route				0.32	miles	32,300		10,336
Wayfinding				0.32	miles	84,480		27,034
Subtotal						37,370		
Midtown Projects								
Potrero Ave. Improvements	Sidewalk reconstruction & enhancements	Bike/Ped	Arterial	0.16	miles ³	1,842,300	294,768	ATP, p. 108
Ashbury Ave. Pedestrian Improvements		Ped	Collector/ Arterial	0.24	miles ³	1,842,300	442,152	ATP, p. 112
Moeser Lane Pedestrian Improvements		Ped	Arterial	0.26	miles ³	1,842,300	478,998	ATP, p. 116
Stockton Ave. Improvements		Bike/Ped	Collector				ATP, p. 117	
Sidewalk				0.22	miles ³	1,842,300		405,306
Green-backed Sharrows				0.40	miles	63,360		25,344
Subtotal						430,650		

Table A.1: Transportation Improvements Cost Detail (continued)

Project Name / Location	Description / Location	Mode	Facility Type	Amount	Unit Cost	Total Cost	Source	
Downtown Projects								
Cerrito Creek Trail (BART to Bay) Access Improvements	Path widening; PHBs at Carlson/San Diego and Carlson/Adams; Lassen x-walk improvements	Bike/ Ped	Trail				ATP, p. 82	
Pedestrian Hybrid Beacon (PHB)				2	lump sum	150,000		300,000
Curb Extension				2.5	crosswalks	232,670		581,675
Path Widening (40% of full path cost)				0.4	miles	507,387		202,955
Subtotal						1,084,630		
Citywide Projects								
Ohlone Greenway Crossing Improvements	Curb extensions at Knott, Potrero, Waldo, Stockton, Lincoln; general imps. at Blake, Manila, Schmidt, Portola; median at Moeser; lighting at Manila, Schmidt, Portola, Knott	Bike/ Ped	Trail				ATP, p. 88	
Lighting				0.13	miles ⁵	3,474,240		451,651
Curb Extension				6	crosswalks	232,670		1,396,020
Crosswalk				13	lump sum	2,813		36,569
Subtotal						1,884,240		
East Side Bicycle Boulevard & Wayfinding	Bike boulevard	Bike	Collector				ATP, p. 100	
Bicycle Route				2.22	miles	32,300		71,706
Traffic Calming				2.22	miles	1,058,228		2,349,266
Bicycle Boulevard Wayfinding				2.22	miles	158,400		351,648
Subtotal						2,772,620		
Total						31,286,452		

Note: "SPA" is San Pablo Avenue.

¹ See CCTA grant application, Del Norte cost estimate, December 2016.

² See MMCIP cost estimates grant application spreadsheet, Tab 2, November 2016; accounts for work to be completed by other parties.

³ Amount represents 20 percent of total length because project only includes "spot" improvements to fix sidewalks, close sidewalks gaps, and install curb ramps. Key Blvd. improvements exclude costs of Key/Elm/Hill intersections and SR2S improvements that are under construction in summer 2017.

⁴ See ATP Cycle 2 grant application.

⁵ Total trail length is 2.63 miles. For lighting, length is five percent of total representing crossing locations. For wayfinding, length only needed at certain locations (one mile total). Costs exclude Fairmount & Central improvements in bidding phase as of Sept. 2017.

Sources: Multimodal Capital Improvement Plan (MMCIP), City of El Cerrito, May 2015; Active Transportation Plan (ATP), City of El Cerrito, April 2016; Fehr & Peers.

TABLE 6
ESTIMATE OF PERMITTING AND IMPACT FEES FOR PROTOTYPES
INCLUSIONARY HOUSING ANALYSIS
CITY OF EL CERRITO, CA

	Townhome	Wood Frame Condominium	Wood Frame Over Podium Apartment	Eight Story Apartment Building
I. Analysis Prototypes				
Product Description	Three stories w/ attached garage.	3-4 stories wood frame.	4-5 stories of wood frame over concrete podium	Eight stories, steel over concrete.
Average Unit Size	1,400 sf	1,000 sf	750 sf	700 sf
Average Number of Bedrooms	3 br	2.5 br	1.4 br	1 br
Average Number of Bathrooms	2 ba	2 ba	1.4 ba	1 ba
II. City Permit Fees				
Sample Projects	1715 Elm 5828 El Dorado	10192 San Pablo Avenue 10290 San Pablo Avenue 10300 San Pablo Avenue	10135 San Pablo Avenue 11600 San Pablo Avenue 10919 San Pablo Avenue Big 5 Sporting Goods	11965 San Pablo Avenue
Average, Estimated City Permitting Fees for Sample Projects	\$8,907 /unit	\$4,466 /unit	\$3,734 /unit	\$2,803 /unit
Source: City of El Cerrito.				
III. West Contra Costa County Unified School District Fees				
Current fee: \$5.02 per square foot	\$7,028 /unit	\$5,020 /unit	\$3,765 /unit	\$3,514 /unit
Source: WCCUSD website.				
IV. Stege Sanitary District Fees				
Connection Fee (all projects)				
Current fee: \$2,159 per unit	\$2,159 /unit	\$2,159 /unit	\$2,159 /unit	\$2,159 /unit
San Pablo Avenue Sewer Capacity Improvement Impact Fee Program				
Estimated number of fixtures*		26	20.6	17
Current fee: \$217.89 per fixture				
San Pablo Avenue Fee	not in Specific Plan Area	\$5,665 /unit	\$4,489 /unit	\$3,704 /unit
*Assumes each unit contains clothes washer, dishwasher, kitchen sink. Assumes each bathroom contains bath and/or shower, toilet and sink.				
Source: Stege Sanitary District website.				

TABLE 6
ESTIMATE OF PERMITTING AND IMPACT FEES FOR PROTOTYPES
INCLUSIONARY HOUSING ANALYSIS
CITY OF EL CERRITO, CA

	Townhome	Wood Frame Condominium	Wood Frame Over Podium Apartment	Eight Story Apartment Building
V. East Bay Municipal Utility District Water Connection Fees				
Water Service Installation Fee Average Project Size Estimated Fee / Unit	\$6,193 /unit	\$6,193 /unit	\$23,892 /project 72 units	\$23,892 /project 146 units
System Capacity Charge Assumes all ownership units are individually metered. Source: EBMUD website.	\$17,530 /unit	\$17,530 /unit	\$332 /unit	\$164 /unit
			\$10,200 /unit	\$10,200 /unit
VI. Other Fees				
S.M.I.P Fee	\$37 /unit	\$42 /unit	\$51 /unit	\$43 /unit
Subregional Transportation Mitigation Program (STMP) Fee	\$2,024 /unit	\$1,708 /unit	\$1,701 /unit	\$1,648 /unit
California Building Standards Fee	\$11 /unit	\$7 /unit	\$7 /unit	\$6 /unit
Art in Public Places Fee	\$2,650 /unit	\$1,794 /unit	\$1,601 /unit	\$1,027 /unit
Specific Plan Maintenance Fee	\$238 /unit	\$227 /unit	\$262 /unit	\$229 /unit
Average fees for sample projects. Source: City of El Cerrito.				
VII. Proposed City Transportation Impact Fee	\$4,989 /unit	\$3,492 /unit	\$3,492 /unit	\$3,492 /unit
Assumes townhomes are considered single family; all other units are multi-family. Source: City of El Cerrito.				
	\$51,765 /unit	\$48,303 /unit	\$31,793 /unit	\$28,989 /unit

CITY OF EL CERRITO

**TRANSPORTATION IMPACT
FEE ADMINISTRATIVE
GUIDELINES**

APPROVED BY CITY MANAGER: [DATE]

TABLE OF CONTENTS

A. Introduction.....	1
B. Development projects.....	1
1. New Construction	1
2. Intensification of Use.....	1
C. Land Use Categories	1
1. Single Family Residential	1
2. Multi-Family Residential	1
3. Commercial.....	2
4. Hotel/Motel	2
5. Office	2
6. Industrial	2
7. Other	2
D. Fee Calculation and Payment	2
1. New Construction	2
2. Intensification of Use.....	2
3. Other Land Use Category	3
E. Fee Payment.....	3
F. Developer Construction of Transportation Improvements	4
G. Appeals For Fee Exemptions, Reductions, and Waivers	4
H. Use of Fee Revenue	4
I. Annual Fee Adjustment	5
J. Annual Report.....	5
K. Five-Year Report	6
Appendix A. Average Weekday Person Trip Generation Rates.....	7
Appendix B: List of Transportation Improvements	8

A. INTRODUCTION

The purpose of these Administrative Guidelines is to assist City staff with implementation of the Transportation Impact Fee (TIF). The documents that these Guidelines are based on and that should be referenced with regards to implementation of these Guidelines include:

- El Cerrito Municipal Code, Chapter 4.54 (based on Ordinance No. [redacted]).
- Resolution No. [redacted] “Adoption of Transportation Impact Fee”, adopted [date].
- Transportation Impact Fee Report (“Nexus Study”), by Urban Economics, December 4, 2018.

B. DEVELOPMENT PROJECTS

The City shall apply the TIF to building permits associated with all Development Projects as defined in this section.

1. New Construction
Includes construction of new building space for either residential or non-residential use(s), including the addition of building space to existing developed property.
2. Intensification of Use
Includes the intensification of use of an existing building, whether vacant or not. An intensification of use occurs when a Development Project would pay a higher fee under the proposed use compared to the existing permitted use based on the current TIF schedule. Accessory dwelling units added within the existing building footprint are not considered an intensification of use and no TIF will be applied.

In the case of the re-use of a vacant building, the building’s current use shall be the use when the building was occupied if the vacancy had occurred **within three years** prior to the date of the building permit application. If the vacancy had occurred greater than three years prior to the date of the building permit application, then the TIF shall be applied as if the project was New Construction.

C. LAND USE CATEGORIES

1. Single Family Residential
Dwelling units that are single family detached units or attached units such as townhomes and excluding Senior Housing.
2. Multi-Family Residential
Dwelling units that are apartments, condominiums, multiplexes, manufactured housing, mobiles homes, or detached accessory units, except Senior Housing. Accessory dwelling units within footprint of an existing dwelling unit are not be required to pay the TIF.

3. Commercial

Neighborhood, community, and thoroughfare commercial districts, including retail and personal service businesses, restaurants, and medical offices. Gas stations are included in the “Other” category because trip generation does not vary with building size.

4. Hotel/Motel

Temporary lodging establishments including hotels, motels, resorts and bed and breakfast establishments.

5. Office

Office facilities where the primary use is not direct service to customers, including branch and head offices, multi-tenant buildings, and business parks.

6. Industrial

Light and heavy industrial uses, including manufacturing, processing, fabrication, and distribution.

7. Other

Applies to Development Projects that do not clearly conform to one of the defined residential or non-residential categories. Residential and non-residential land use categories are defined to be inclusive of nearly any type of Development Project, so the Other category is considered applicable only in exceptional cases.

D. FEE CALCULATION AND PAYMENT1. New Construction

$$\text{TIF} = \frac{\text{TIF per Dwelling Unit or per Square Foot Based on Applicable Land Use Category}}{\text{Land Use Category}} \times \frac{\text{New Dwelling Units or New Square Feet}}{\text{New Square Feet}}$$

For Development Projects with multiple land use categories, the total TIF equals the sum of the TIF applied to each land use category.

2. Intensification of Use

$$\text{TIF} = \left[\frac{\text{TIF per Square Foot or per Dwelling Unit Based on Proposed TIF Land Use Category}}{\text{TIF Land Use Category}} - \frac{\text{TIF per Square Foot or per Dwelling Unit Based on Highest TIF Land Use Category for Existing Permitted Use}}{\text{Use Category for Existing Permitted Use}} \right] \times \text{Additional Square Feet}$$

There is no impact from a Development Project and therefore no TIF if the TIF for the proposed use is less than the fee for the existing permitted use. In this case, there is no TIF refund or credit.

3. Other Land Use Category

$$\text{TIF} = \text{TIF Cost per Equivalent Dwelling Unit (EDU)} \times \text{Primary/Diverted Average Weekday Person Trip (ADT) Rate} \times \text{EDU Adjustment Factor} \times \text{New Dwelling Units or New Square Feet}$$

Where:

- “TIF cost per equivalent dwelling unit (EDU)” is shown in the fee schedule in the Nexus Study and Resolution, as adjusted by the same annual inflation adjustments applied to the TIF for each land use category.
- “Primary/Diverted Average Weekday Person Trip (ADT) Rate” needs to be ascertained from the professional literature, field surveys, or other sources acceptable to City staff. The applicable rate should represent person trips, not vehicle trips. The applicable rate should represent primary and diverted trips and exclude pass-by trips. See **Appendix A** for the ADT and pass-by/diverted rates used in the Nexus Study.
- “Applicable EDU adjustment factor” reflects the adjustment that the Nexus Study makes to convert the ADT rate to a more accurate measure of transportation demand whereby 50 percent of commercial trip ends are assigned to residential land uses because about half of the demand for commercial development is associated with serving residential development (see the Nexus Study for more detail). The applicable EDU adjustment factor is the factor for the standard land use category that most closely resembles the Development Project, as follows:

<u>Land Use Category</u>	<u>EDU Adjustment Factor</u>
Single Family Residential	0.105
Multi-family Residential	0.105
Commercial	0.048
Hotel/Motel	0.094
Office	0.105
Industrial	0.105

E. **FEE PAYMENT**

The TIF shall be paid prior to building permit issuance.

F. DEVELOPER CONSTRUCTION OF TRANSPORTATION IMPROVEMENTS

If a developer is required, as a condition of approval of a permit, to construct a transportation facility that has been designated to be financed with the TIF then the developer shall receive a credit against the TIF that otherwise would be levied on the Development Project.

If the cost of the improvement or portion of the improvement as represented in the fee program adjusted for inflation that is the developer's responsibility is greater than the fee obligation for the Development Project, then a reimbursement agreement with the developer shall be offered by the City. The reimbursement amount shall equal the difference between the fee obligation and the cost of the improvement that is the developer's responsibility. The reimbursement payments shall in some manner reflect annual TIF revenues going forward to avoid committing to reimbursement payments that are in excess of TIF revenues received. The reimbursement agreement may include an interest rate on outstanding reimbursement amounts.

G. APPEALS FOR FEE EXEMPTIONS, REDUCTIONS, AND WAIVERS

No exemption, reduction, or waiver of the TIF for a Development Project is allowed except as permitted by this section. To be granted a fee exemption, reduction, or waiver the Development Project applicant must:

- Appeal the TIF no later than the date of application for the building permit for the Development Project.
- Pay the TIF pursuant to these Administrative Guidelines pending the resolution of the appeal.
- Bear the burden of establishing satisfactory factual proof of the basis for the appeal based on the opinion of a registered traffic engineer.
- Submit full information in support of their appeal as requested by City staff and may not raise additional issues once the application is submitted. City staff may require, at the expense of the Development Project applicant, review of the submitted materials by a third party.

Any TIF exemption, reduction, or waiver must be approved by the City Manager and such decision shall be final.

H. USE OF FEE REVENUE

The revenues raised by payment of the Fee shall be placed in the Transportation Impact Fee Account. Fee revenue and interest generated on Account balances shall be limited to the following purposes:

- **Capital projects:** Includes design, engineering, environmental review, permits, right-of-way acquisition, utility relocation, project management and/or construction of land, buildings, vehicles, furnishings, equipment and all related infrastructure and appurtenances of projects listed in Appendix B, including any

alternatives or substitutions listed for a project as described in the plan that identified the project.

- **Part of the citywide transportation infrastructure:** Capital projects must be part of the citywide transportation infrastructure shown in Appendix B.
- **Enhancement, upgrade, or expansion:** Enhancement, upgrade, or expansion of existing transportation infrastructure, and not ongoing maintenance of existing transportation assets. Excludes rehabilitation of existing assets unless the capital project results in a significant enhancement, upgrade, and/or expansion of transportation infrastructure that serves one or more transportation modes (vehicle, transit, bicycle, or pedestrian).

Fee revenue may also be used for the following purposes:

- **City reimbursement:** Reimbursement to the City for transportation improvements that otherwise would have been eligible for funding with Fee revenue and that were constructed by the City with funds, other than gifts or grants, from other sources together with accrued interest.
- **Developer credit and/or reimbursement:** Fee credit and/or reimbursement to developers who have constructed transportation improvements that otherwise would have been eligible for funding with Fee revenue.
- **Fee program administration:** Implementation costs related to compliance with the Mitigation Fee Act including collecting, accounting, and managing expenditure of fee revenues in accordance with the Act, as well as preparing financial reports and nexus studies required to make any necessary findings and determinations under the Act, as well as associated attorneys' fees, including costs of defending the TIF.

I. ANNUAL FEE ADJUSTMENT

City staff shall calculate an annual fee adjustment based on the annual percentage change in the Engineering News-Record Construction Cost Index for the San Francisco Bay Area for the prior 12-month period. The annual percentage change shall be from February of the prior year to February of the current year. The annual adjustment shall be adopted by City Council and implemented by July 1 of the current year concurrent with adoption of the City's master fee schedule.

J. ANNUAL REPORT

Pursuant to Government Code section 66006(b)(1), within 180 days after the end of each fiscal year, the City Council shall receive a report that includes the following information:

- A brief description of the TIF.
- The amount of the fee (current TIF schedule).
- The beginning and ending balance of the TIF account for the prior fiscal year.
- The amount of the fees collected and the interest earned in the prior fiscal year.

- Information from the City's current Capital Improvement Program (CIP) including:
 - Expenditure of fee revenue on transportation improvements and other program costs in the prior fiscal year.
 - Programming of the ending account balance to specific transportation improvements and the timing of those improvements within the planning horizon of the City's current CIP.
 - Description of any interfund transfers or loans and the rate of interest on any loans made from the TIF account.
- The amount of refunds made pursuant to subdivision (e) of Section 66001 and any allocations pursuant to subdivision (f) of Section 66001.

K. FIVE-YEAR REPORT

After the fifth fiscal year following the first deposit of TIF revenues and every five (5) years thereafter, City staff shall prepare a report for the City Council making certain findings required by Government Code section 66001(d). These findings shall be based on the most recent TIF Nexus Study and the planning horizon for that Nexus Study. City staff shall consider whether to commission an updated Nexus Study based on whether the assumptions in the current Nexus Study are no longer applicable. The findings are:

- Remaining list of transportation improvements anticipated to receive TIF funding.
- The schedule for completion of remaining transportation improvements, if known, and otherwise indicated to occur by the end of the planning horizon.
- The amount and source of funding anticipated to be required to complete remaining transportation improvements by the end of the planning horizon.

Such findings shall be made in connection with annual report described in Section G of these Guidelines.

APPENDIX A. AVERAGE WEEKDAY PERSON TRIP GENERATION RATES

Land Use Category	Unit	Average Weekday Person Trip Rate	Primary/ Diverted Trip Share	Primary/ Diverted Trip Rate
Single-Family Residential	Dwelling Unit	9.52	100%	9.52
Multi-Family Residential	Dwelling Unit	6.65	100%	6.65
Commercial	1,000 Sq. Ft.	42.70	66%	28.18
Hotel/Motel	1,000 Sq. Ft.	11.67	100%	11.67
Office	1,000 Sq. Ft.	11.03	100%	11.03
Industrial	1,000 Sq. Ft.	6.97	100%	6.97

Source: Urban Economics, *Transportation Impact Fee Report*, prepared for City of El Cerrito, December 4, 2018.

APPENDIX B: LIST OF TRANSPORTATION IMPROVEMENTS

Project Name / Location	Description / Location	Mode	Facility Type	Amount	Unit Cost	Total Cost	Source
SAN PABLO AVENUE SPECIFIC PLAN							
Del Norte Station Area: SPA and Hill St./Eastshore							
San Pablo Ave. and Hill St./ Eastshore	Peerless Ave, SPA North, SPA South, Hill St. restriping	All	Complete Streets			7,983,000	MMCIP ¹
San Pablo Ave. and Cutting	I-80 interchange, SPA North & South, Cutting East. of SPA						
Remaining Del Norte TOD Complete Streets Improvements							
Hill Street: Lexington to Liberty	Curb cut reconfiguration; buffered bike lane west	All	Complete Streets			435,256	MMCIP ²
Hill Street: Liberty to Elm	Buffered bike lane west; remove parking					22,705	
Richmond Street Ped. Improvements							
Stockton to Eureka	Sidewalks; crosswalks; bulbouts	Ped	Arterial			991,455	MMCIP, p. 14
Eureka to Lincoln						1,107,000	
Lincoln to Central						1,123,400	
Central to Fairmount						1,045,500	
El Cerrito Plaza Projects							
San Pablo Ave.	Super sharrows; x-walks; bulbouts; 3 pedestrian hybrid beacons	Bike/ Ped	Arterial				MMCIP, p. 6
Raised Crosswalk				1 lump sum	32,175	32,175	
Bicycle Route				0.6 miles	32,300	19,380	
Curb Extensions				1 lump sum	232,670	232,670	
Subtotal						284,225	
Carlson Blvd Sidewalk Improvements	Sidewalk reconstruction and enhancements, El Cerrito city limits to SPA	Bike/ Ped	Arterial	0.4 miles	1,842,300	736,920	MMCIP; ATP, p.113

List of Transportation Improvements (continued)

Project Name / Location	Description / Location	Mode	Facility Type	Amount	Unit Cost	Total Cost	Source
Central Ave. Corridor							
Bicycle Lane	Sidewalks; x-walks; lighting btw Richmond & Ashbury; bike lanes SPA to Carlson	Bike/ Ped	Arterial	0.08 miles	95,040	7,603	MMCIP; ATP, p. 113
Crosswalk				1 lump sum	2,813	2,813	
Sidewalk				0.5 miles	1,842,300	921,150	
Subtotal						931,566	
Fairmount Ave. Improvements, Carlson to Colusa							
Sidewalk	Sharrows; bulbouts; raised x-walks at Richmond & Ashbury; RRFB at Carlson/Fairmount	Bike/ Ped	Arterial	0.14 miles ³	1,842,300	257,922	MMCIP; ATP, p. 106
Raised Crosswalk				2 lump sum	32,175	64,350	
Rectangular rapid flashing beacon (RRFB)				1 lump sum	46,875	46,875	
Green-backed Sharrows				0.7 mile	63,360	44,352	
Curb Extension				0.5 crosswalks	232,670	116,335	
Subtotal						529,834	
Lincoln Bicycle Boulevard							
Bicycle Boulevard Wayfinding	Striping & wayfinding between SPA & Ashbury; bike boulevard	Bike	Local	0.53 miles	158,400	83,952	MMCIP; ATP, p. 116
Bicycle Route				0.53 miles	32,300	17,119	
Traffic Calming				0.53 miles	1,058,228	560,861	
Subtotal						661,932	
Midtown San Pablo Ave. Improvements							
Potrero to Lincoln	Cycletracks; x-walks; rectangular rapid flashing beacons. (Concept and costs currently being updated in Safe Routes to Transit evaluation.)	Bike/ Ped	Arterial			6,493,674	ATP ⁴

List of Transportation Improvements (continued)

Project Name / Location	Description / Location	Mode	Facility Type	Amount	Unit Cost	Total Cost	Source
ACTIVE TRANSPORTATION PLAN & OHLONE GREENWAY MASTER PLAN							
Uptown Projects							
Key Boulevard Improvements	Ped. improvements at Knott, Cutting, Humboldt, Conlon, Liberty; SW extensions Humbolt to Conlon; Baxter Park Gateway	Bike/ Ped	Collector				ATP, p. 104
Sidewalk reconstruction & enhancements				0.12 miles ³	1,842,300	221,076	
Curb Extension				5 lump sum	232,670	1,163,350	
Green-backed Sharrows				0.60 miles	63,360	38,016	
Sidewalk extension				0.05 miles ³	1,842,300	92,115	
Subtotal						1,514,557	
Key Boulevard Sharrows		Bike	Collector				ATP, p. 115
Bicycle Route				0.32 miles	32,300	10,336	
Wayfinding				0.32 miles	84,480	27,034	
Subtotal						37,370	
Midtown Projects							
Potrero Ave. Improvements	Sidewalk reconstruction & enhancements	Bike/Ped	Arterial	0.16 miles ³	1,842,300	294,768	ATP, p. 108
Ashbury Ave. Pedestrian Improvements		Ped	Collector/ Arterial	0.24 miles ³	1,842,300	442,152	ATP, p. 112
Moeser Lane Pedestrian Improvements		Ped	Arterial	0.26 miles ³	1,842,300	478,998	ATP, p. 116
Stockton Ave. Improvements		Bike/Ped	Collector				ATP, p. 117
Sidewalk				0.22 miles ³	1,842,300	405,306	
Green-backed Sharrows				0.40 miles	63,360	25,344	
Subtotal						430,650	

List of Transportation Improvements (continued)

Project Name / Location	Description / Location	Mode	Facility Type	Amount		Unit Cost	Total Cost	Source
Downtown Projects								
Cerrito Creek Trail (BART to Bay) Access Improvements	Path widening; PHBs at Carlson/San Diego and Carlson/Adams; Lassen x-walk improvements	Bike/ Ped	Trail					ATP, p. 82
Pedestrian Hybrid Beacon (PHB)				2	lump sum	150,000	300,000	
Curb Extension				2.5	crosswalks	232,670	581,675	
Path Widening (40% of full path cost)				0.4	miles	507,387	202,955	
Subtotal							1,084,630	
Citywide Projects								
Ohlone Greenway Crossing Improvements	Curb extensions at Knott, Potrero, Waldo, Stockton, Lincoln; general imps. at Blake, Manila, Schmidt, Portola; median at Moeser; lighting at Manila, Schmidt, Portola, Knott	Bike/ Ped	Trail					ATP, p. 88
Lighting				0.13	miles ⁵	3,474,240	451,651	
Curb Extension				6	crosswalks	232,670	1,396,020	
Crosswalk				13	lump sum	2,813	36,569	
Subtotal							1,884,240	
East Side Bicycle Boulevard & Wayfinding	Bike boulevard	Bike	Collector					ATP, p. 100
Bicycle Route				2.22	miles	32,300	71,706	
Traffic Calming				2.22	miles	1,058,228	2,349,266	
Bicycle Boulevard Wayfinding				2.22	miles	158,400	351,648	
Subtotal							2,772,620	
Total							31,286,452	

Note: "SPA" is San Pablo Avenue.

¹ See CCTA grant application, Del Norte cost estimate, December 2016.

² See MMCIP cost estimates grant application spreadsheet, Tab 2, November 2016; accounts for work to be completed by other parties.

³ Amount represents 20 percent of total length because project only includes "spot" improvements to fix sidewalks, close sidewalks gaps, and install curb ramps. Key Blvd. improvements exclude costs of Key/Elm/Hill intersections and SR2S improvements that are under construction in summer 2017.

⁴ See ATP Cycle 2 grant application.

⁵ Total trail length is 2.63 miles. For lighting, length is five percent of total representing crossing locations. For wayfinding, length only needed at certain locations (one mile total). Costs exclude Fairmount & Central improvements in bidding phase as of Sept. 2017.

Sources: Multimodal Capital Improvement Plan (MMCIP), City of El Cerrito, May 2015; Active Transportation Plan (ATP), City of El Cerrito, April 2016; Fehr & Peers.



AGENDA BILL

Agenda Item No. 7(A)

Date: December 18, 2018
To: El Cerrito City Council
From: Aissia Ashoori, Affordable Housing Analyst
Melanie Mintz, Community Development Director
Subject: Tenant Protection Ordinances and Human Relations Commission Resolution

ACTION REQUESTED

1. Introduce by title and waive any further reading of four Ordinances, each adding a Chapter to Title 10 the El Cerrito Municipal Code:
 1. Chapter 10.100: Rent Review Program
 2. Chapter 10.200: Minimum Lease Term
 3. Chapter 10.300: Termination of Tenancy
 4. Chapter 10.400: Tenant Relocation
2. Receive presentation from Human Relations Commission regarding an HRC Resolution recommending Tenant Protections.

BACKGROUND

On August 15 2017, the [*Affordable Housing Strategy*](#) (*Strategy*), was adopted through Resolution 17-61. The *Strategy* identified four policy pillars, with associated strategies, action items and timelines, to achieve the City's affordable housing goals to protect, produce and preserve housing. The proposed Ordinances tonight are strategies identified in *Policy Pillar B: Reduce the Risk of Displacement and Help Stabilize At-Risk Populations*. As a reminder, the four policy pillars include:

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

Additional policy steps taken since the *Strategy* was adopted include the hiring of a dedicated Housing Analyst (January 2018) and adoption of an Inclusionary Zoning Ordinance (June 2018).

On August 21, 2018 staff held a study session with Council to discuss proposed near-term and potential medium-term tenant protection tools and to receive direction and input towards development of the Ordinances before the Council tonight.

Housing in El Cerrito

Affordable housing may be provided in several ways, including 1) through naturally occurring below market rents (e.g. without regulations, based usually on a unit's age, overall supply/demand or tenant/landlord history); 2) through regulation (e.g. tenant protection policies); 3) through subsidy (e.g. Section 8; vouchers) and 4) through deed restriction (either developed by for-profit or non-profit affordable housing developers or through Inclusionary Zoning). Currently, the City has 310 deed restricted units across eight projects, which includes two recently completed and one to be completed in January 2019: 1) Metro 510 (19 BMR units); 2) Resource for Community Development's Ohlone Gardens (56 affordable units); 3) Eden Housing's Hana Gardens, will deliver another 62 units of senior affordable housing. Eden expects to begin moving residents into their new units early January 2019. These units provide housing for households earning extremely-low, very-low, low and moderate-income households as well as special needs populations. Additionally, through implementation of the San Pablo Avenue Specific Plan, another 67 units have been entitled at the Mayfair Block and 10 units are under consideration at the site of the former Taco Bell, together, which will bring the total number of deed restricted units to 387. Below are the 2018 Area Income Limits (AMI) for Contra Costa County and the number of units in El Cerrito with existing or anticipated deed restrictions providing housing for households with specific income levels.

Table 1: BMR Units in El Cerrito by Income Limits

*Household	**Extremely Low (< 30% of AMI)	**Very ***Low (< 50% of AMI)	Low (< 80% of AMI)	Moderate (< 120% of AMI)	Total
1	\$24,400	\$40,700	\$62,750	\$87,700	
2	\$27,900	\$46,500	\$71,700	\$100,250	
3	\$31,400	\$52,300	\$80,650	\$112,750	
4	\$34,850	\$58,100	\$89,600	\$125,300	
Number of Units in El Cerrito	60	284	11	32	387

Notes:

*Households greater than 4 can be viewed www.el-cerrito.org/affordablehousing.

**Hana Gardens occupancy will begin January 2019.

***Includes BRIDGE housing units expected to be completed in 2022.

The Regional Housing Needs Allocation (RHNA) is a state-mandated process for identifying the total number of new housing units (by affordability level) that each jurisdiction must accommodate in its Housing Element. For the 2015-2022 reporting period, El Cerrito is tasked with accommodating 398 new housing units: 100 very-low, 63 low, 69 moderate and 166 above moderate. As of December 1, 2018, the City is on pace to meet its 2015-2022 numbers. The demand for affordable housing continues to grow locally, throughout the State and across the Country.

Table 2: Regional Housing Needs Allocation (RHNA) for 2015-2022, Dec. 1, 2018

	Very Low (0-50% of AMI)	Low (51-80% of AMI)	Moderate (81-120% of AMI)	Above Moderate (over 120% of AMI)	Total
2015-2022 RHNA	100	63	69	166	398
Permitted and/or Built Units	62	6	13	137	218
	38	57	56	29	180
Housing Development					
Proposed	10	13	0	576	599
Entitled	37	30	0	500	567
	47	43	0	1076	1166
Total Permitted, Proposed, Entitled	109	49	13	1213	1384
Remaining Need if Permitted/Built	-9	14	56	-1047	-986

Note: Does not include projects in pre-planning, which will include projects that provide Inclusionary Units

In addition to the deed restricted units, there are approximately 4,000 rentals in El Cerrito which are not subject to City or County imposed deed restrictions, and whose rents are solely established by the leases (i.e. by the market and negotiated by the parties.) The composition of households in El Cerrito are 40% renter occupied and 60% owner-occupied.¹ In forthcoming development (e.g. development without complete applications deemed complete before June 2018), Inclusionary Zoning establishes that 10% of new rental units and 12% of new condominiums will be deed restricted to serve low- and moderate-income households.

Outreach

¹ 2015-2023 El Cerrito Housing Element

During development of the Affordable Housing Strategy, staff convened a Technical Advisory Group, that included other agencies and organizations specializing in displacement and provision of affordable housing. During the development of the Strategy, staff worked with the TAG to identify a set of achievable and balanced policy options and goals. Similarly, during development of the proposed tenant protection (Pillar B) Ordinances, staff endeavored to communicate with renters, property owners and other stakeholders to think through balanced solutions on this very complicated issue. During these dialogues, staff sought to consider and understand the whole suite of commonly used tenant protection tools, including:

- Rent Stabilization/Control
- Tenant/Landlord Mediation: Binding and Non-Binding Programs
- Enhanced Lease Terms
- Extended Noticing Requirements
- Just Cause Eviction and Harassment Protections
- Tenant Relocation Assistance triggered by residential demolition projects

Staff met with stakeholders including: California Apartment Association (CAA), Contra Costa Association of Realtors, East Bay Housing Organization (EBHO), El Cerrito Progressives, Non-Profit Housing (NPH) Association of Northern California and Urban Habitat. And, staff met with the following jurisdictions: Alameda, Albany, Concord, Emeryville, Fremont, Richmond, San Leandro and Union City. Staff also reached out to the City of East Palo Alto, but was unable to connect with a member of their staff.

During preparation of the proposed Ordinances, a community workshop was held on November 8, 2018 to discuss the draft proposals and receive additional input. Property owners/managers, renters and members of the El Cerrito Progressives were all in attendance.

Human Relations Commission

On April 4, 2018 staff attended the Human Relations Commission (HRC) to present the *Strategy* and goals of all four pillars. The Commissioners provided feedback on the Inclusionary Zoning Ordinance and expressed interest in Pillar B. Staff highlighted that tenant protection policies were identified in the *Strategy* as an immediate action item and provided details around the outreach efforts that were underway in preparation for a summer study session at Council. After our August 21st study session, staff met with the HRC during their October 3rd meeting to discuss next steps and timelines for both near and medium-term tenant protection policies. Tonight, Commissioners will present a Resolution on behalf of the Human Relations Commission (*Attachment 7*).

November 2018 Election

As evidence of the importance of housing and affordable housing, during the California midterm elections, there were several housing measures, both regarding rent regulation, and increasing funding for affordable housing, on the ballot throughout the State. Some of those are described below.

- CA Prop 1, Bond to Fund Veteran & Affordable Housing (*Passed, 56%, 44%*): Raises \$4 billion for supportive housing and homeowner assistance program, including \$1.5 billion dedicated to Multifamily Housing Program. ²
- CA Prop 2, Amend Existing Housing Program for Mental Illness (*Passed, 63%, 37%*): Authorizes \$2 billion in previously appropriated funding to created affordable housing for people experiencing chronic homelessness, people with disabilities and people living with mental illness. ³
- CA Proposition 10, Rent Control on Residential Property (*Failed, 59%, 41%*): Repeal the Costa-Hawkins Rental Housing Act and allow cities to enact rent control for multi-family units occupied after February 1, 1995 and to include single-family, condominium, townhomes as well as the removal of vacancy decontrol.
- Cities of Santa Cruz (*Failed, 62%, 38%*), Measure M and National City (51%, 49%), Measure W: Establish rent control and just-cause eviction.

Anti-Gouging Statue and Urgency Ordinance

Anti-Price Gouging, California Penal Code 396, is a statue temporary in nature and generally activated through declaration by the President/Governor during times of emergency as a result of a natural or manmade disaster. It limits increases on consumer goods and services, including rent increases, to no more than 10% for 30-180 days and may be extended. Jurisdictions may adopt local gouging protections that would be triggered by Presidential/Governor declaration. Any violations of this statue are enforceable by civil enforcement. In October 2017, this was activated locally as a result of the Sonoma and Napa County wildfires. And, more recently, in Butte County due to the Camp Fire as well as Los Angeles and Ventura counties as a result of the Woolsey and Hill fires. Moratoriums are generally correlated with rent control or local natural disaster effecting housing supply.

At this time, the staff is not recommending any urgency ordinance or moratorium be implemented locally. A key provision of the proposed ordinances and Pillar B programs is the collection of a strong data set. Staff will report back to Council to determine if the data supports an urgency ordinance and that action is necessary.

² *Non-Profit Housing Association of Northern California*

³ *Non-Profit Housing Association of Northern California*

ANALYSIS

Staff proposes the following Chapters be added to Title 10: Public Peace, Morals and Welfare of the Municipal code.

1. Chapter 10.100: Rent Review Program
2. Chapter 10.200: Minimum Lease Term
3. Chapter 10.300: Termination of Tenancy
4. Chapter 10.400, Tenant Relocation

Rent Review Program (Chapter 10.100)

Overview: The proposed Rent Review Program chapter establishes a 5% annual threshold for landlords issuing rent increases. Rent increases in excess of 5% would be subject to a rent review process initiated only if a tenant chooses to do so. The 5% threshold provides guidance to landlords when issuing rent increases and provides for tenants to dispute any increase that is greater. Participation in the rent review program is mandatory once initiated. The program has three components, including:

1. Notice of Availability for Rent Review
2. Conciliation
3. Mediation

This program facilitates landlord and tenant communication through a neutral third-party trained to negotiate resolution. Conciliation and mediation are handled through a trained third-party service provider.

Step 1 - Notice of Availability for Rent Review:

Under Civil Code Section 827(b) a landlord must provide a tenant with thirty (30) days' notice prior to a rent increase of ten percent (10%) or less and sixty (60) days' notice of a rent increase of greater than ten percent (10%). This provision is in place and will continue.

By adopting this ordinance, landlords will be required additionally to provide tenants with a copy of the City's *Notice of Availability of Rent Review* for any rent increase including those less than 5%. The notice is also required to be provided to tenants when entering a lease agreement. The notice will be prepared by the City and translated in the predominant languages spoken in El Cerrito, as determined by the City Manager or his or her designee. Once the tenant receives the notice, a request for rent review for an increase of greater than 5% must be received in writing from the tenant to both the City (or its program provider) and the landlord within 15 calendar days.

Step 2 - Conciliation:

If the proposed rent increase meets the requirements of the ordinance, and a tenant elects to dispute the increase, the tenant may complete a form to request rent review. The conciliator, a neutral third-party, would then contact the landlord within 5 business days to initiate the conciliation process. The landlord must respond within 10 business days to begin the process. During the conciliation, the conciliator communicates directly with the landlord and directly with the tenant in order to exchange proposals regarding the rent increase. This period cannot exceed ten business days. Conciliation can be waived if an agreement is reached beforehand. If the landlord does not respond, the rent increase is void.

Step 3 - Mediation:

If an agreement is not reached during conciliation, tenants will have 5 business days to request mediation. Mediation must be scheduled no later than 45 calendar days, or sooner, from the date the request is received. Both landlords and tenants will be notified of the date and location at least 10 calendar days prior to the mediation. During the mediation, the mediator facilitates neutral communication between landlord and tenant to exchange proposals and engage in dialogue with the mediator regarding the rent increase. Factors such as past rent increases, family income, the landlord's costs of owning and maintenance of the property, capital improvements and other pertinent information will be considered during this process. The mediator will make a recommendation to both parties upon conclusion.

Participation in the rent review process will not delay the increase. However, both parties may enter into a mutual private agreement to delay the effective date of a rent increase. Failure by either party to participate in any of the above steps will void the increase. Under Civil Code Section 1942.5, it is illegal for a landlord to retaliate against a tenant for lawfully and peaceably exercising his or her legal rights.

Based on the experience of other cities with similar programs, staff believe that the adoption of this ordinance will provide a meaningful disincentive to impose rent increases greater than 5% and provides tenants with an avenue to dispute rent increases. Establishing this program can be managed with minimal staff resources and can be adopted within 60-days. As Council knows, the rent stabilization policy dialogue is complex, with disagreement regarding efficacy. Some argue that establishing a threshold through rent review rather than a fixed amount as rent stabilization programs is not an effective tenant protection tool. Others argue that rent stabilization is not means tested, is cumbersome, and results in unintended consequences (such as deferred maintenance and removal of rentals from the market). Staff feels that in order to comprehensively understand the rent increases occurring in El Cerrito, establishing a rent review ordinance is the first step that will allow staff to collect data, and further develop and/or alter the program once it has been operative for 12-months.

Eden Council for Hope and Opportunity (ECHO) Housing: Through research of how other cities are implementing the proposed rent review program, staff has identified that ECHO housing is one of the only providers of the services the City is looking to procure. In accordance with the City's procurement policies, staff will enter into a Professional Services Agreement with the ECHO Housing for an amount not-to-exceed \$30,000 to implement the program. Direct program costs (staff and outside consultants) will be recoverable through establishment of a \$30/unit fee to landlords. See Financial Considerations for more information.

There are many other cities with similar programs that have been recently put in place and others that have been longstanding. Some of these cities have produced reports that have been reviewed by staff and a list of those are contained in *Attachment 6*.

Table 3: Other Rent Review Programs

	Year Adopted	Year Amended	Fee Charged Per Unit	Number of Units
Albany	2018	N/A	\$15	2,004
Concord	2017	N/A	\$16	8,100
Fremont	1997	2017	\$24	18,000
San Leandro	2001	2016	\$0	13,630
Union City	2017	N/A	\$31.50	6,697

Minimum Lease Terms: (Chapter 10.200)

The Minimum Lease Terms chapter affords tenants the right to lock in their rental rate and lease term for a minimum of 12-months or longer, if desired. Tenants have the option of waiving the minimum term to negotiate a shorter-term or elect to go month to month, but landlords must offer 12-months as an option. Rents cannot be increased, and tenancy cannot be terminated during the lease term (other than as provided for in the lease), providing stability and predictability to the renter. At the end of the lease term, the landlord and tenant may renew the lease at a new rate with the offer of another minimum term. If tenancy is terminated at the end of the lease term, the landlord shall provide the City with a copy of the Termination of Tenancy as required by El Cerrito Municipal Code Chapter 100.300.

Landlords will be required to offer prospective and current tenants minimum lease terms through a *Notice of Tenant's Right to Minimum Lease Term*. The form will be prepared by the City and translated in the predominant languages spoken in El Cerrito, as determined by the City Manager or his or her designee. The manner of delivery must be in writing or electronically, depending on how the rental application and lease are processed. Participation in this program is mandatory.

Currently, staff is not proposing an annual registration fee to landlords for implementation of this ordinance. Since it is complaint based and does not require a third-party service provider, it is anticipated that staff can handle the demand for service. However, staff will monitor time spent administering the entire ordinance, and its sections, over the next year to determine if modifications are needed.

The provisions of this section were developed based upon the various tenant protection models and in consideration with City goals and State law.

Other cities with similar programs include Redwood City (adopted 2018) and Menlo Park (adopted 2016).

Notice of Termination of Tenancy: (Chapter 10.300)

Adoption of this chapter will require landlords to provide the City with a copy of all termination notices within 10 days of delivery to the tenant. This ordinance further allows the City to collect data to quantify the number of tenancies being terminated in El Cerrito and to develop a profile to understand both the volume and some of the reasons for termination. That information may aid in future recommendations of policies beyond those currently being proposed to the City Council. As a reminder, the Rent Review Program is complaint based and does not require a rent registry, as rent control programs often do. Therefore, collecting data through this mechanism, outside of those accessing the rent review program, will inform City staff who can then analyze the information and present Council with the findings. Gathering the best available data will inform ongoing development of our housing policy.

California Civil Code Section 1946.1 – Termination of Tenancy currently requires the following noticing period when terminating tenancy:

- *3-Day Notice:* A landlord must provide a tenant with a 3-day notice to vacate if the tenant has violated their lease terms or engaged in improper conduct that is specified by state law.
- *30-Day Notice:* A landlord must provide a tenant a 30-day notice to vacate if the tenant has lived in the unit for less than one year.
- *60-Day Notice* – A landlord must provide a tenant a 60-day notice to vacate if the tenant has lived in the unit for one year or more.
- *90-Day Notice* – A landlord must provide a tenant a 90-day notice to vacate if the tenant receives subsidized housing.

This ordinance is designed to track and inventory actual displacements. Currently, the City is not proposing a just-cause ordinance as it is opposed by the landlord and real estate community, understood to potentially trigger unintended consequences and is often paired with rent stabilization, for example, to avoid using rent increases as a means to evict. However, just-cause has been identified as a potential medium-term

tenant protection tool and staff will monitor the number of terminations over the next year to determine if an alternative policy is needed.

The provisions of this section were developed based upon the various tenant protection tools utilized in other jurisdictions and in consideration with City goals and State law.

The City is not familiar with any other jurisdictions with an ordinance of this type.

Tenant Relocation: Chapter 10.400

Tenant relocation was identified in the *Strategy* as Strategy 4-2: *Consider enacting an ordinance to regulate the demolition of existing housing units, including requiring tenant relocation assistance.* The proposed Tenant Relocation Assistance Ordinance establishes financial assistance to *eligible residential households* earning less than 120% of Area Median Income (see *Table 1: 2018 Area Median Income Limits for Contra Costa County*) that may be displaced due to remodel, renovation, demolition or repurposing of a property. The chapter is triggered when a planning or building application is submitted to the City for discretionary or ministerial approval of a land use change or improvement of real property that will result in a displacement of a tenant. Eligible households may receive relocation benefits in an amount as much as three months of rent based on Department of Housing and Urban Development's Fair Market Rent (FMR) calculation for Contra Costa County for a similar-sized rental unit with the same number of bedrooms. For FY 2019 the FMR's are as follows: \$1,693 one-bedroom, \$2,109 two-bedroom, \$2,909 three-bedroom and \$3,558 four-bedroom. These figures are subject to change annually and shall be calculated at the time an application is approved by the City with some exceptions to property types. The calculation considers the costs associated with relocation such as first and last month's rent, security deposit and moving costs. However, the ordinance does provide additional compensation to *special circumstance households* an additional one month of rent if one of the eligible household members are:

1. At least one member is 62 years of age or older.
2. At least one member qualifies as disabled as defined by Title 42, United States Code, Section 423 or handicapped as defined by California Health and Safety Code Section 50072.
3. An eligible residential household with one or more minor children (under 18 years of age) who are legally dependent (as determined for federal income tax purposes).
4. An eligible residential household where the tenant has occupied a rental unit for five or more consecutive years.

Adoption of this ordinance will provide financial assistance to households with incomes below 120% AMI should a property owner elect to redevelop existing rental property.

Although relocation payments do not cure displacement, it does alleviate some of the financial burden that is incurred when securing new housing.

Other cities with similar programs include Redwood City and Mountain View.

Implementation Considerations: All Sections

The proposed Ordinances are some of the tools that local government can use to mitigate displacement. Staff aimed to identify and propose tools that could be implemented within current staffing levels, at a reasonable cost and could be helpful in providing additional stability and predictability to renters, while developing a strong local data set to identify if additional policies are warranted in El Cerrito. Some of the next steps that will take place over the next 12-months to identify if additional policies are warranted as described below – see *Other Tools*.

Data Collection

To gather the best available data, staff will track terminations of tenancy, collect rent information and partner with stakeholders (both landlords and tenants) to determine if there are other meaningful and accessible data points/methods. We will utilize our business license renewal process to perform outreach. In consulting with the City Attorney and stakeholders, information will be collected in a non-identifying manner to mitigate concerns from landlords that they would be that disclosing their rents and somehow placed at a competitive disadvantage in the market. Staff will prepare a separate form, in addition to the termination of tenancy notice, to make the data collected less identifying so that it is more likely to be provided. Staff will also interact with landlords who renew their business licenses in-person to encourage participation and also reach out to tenants to gather information about their rents and tenancy. The preliminary data points are listed below and a report to Council will be provided approximately 12-months after adoption of the proposed Ordinances:

- Landlord Information
 - o Number of Units/Properties Owned in El Cerrito
 - o Year Purchased
- Property Information
 - o Year Built
 - o Number of Units
 - o Unit Sizes
 - o Square Footage
 - o Average Amount of Time Vacant
 - o List of Capital Improvement Projects completed in the last 24-months

- Rent History Information
 - o Current Rent
 - o Previous Years' Rents
 - o Explain Increase
 - o Average Lease Term
 - o Average Tenancy
 - o Reason for Vacating

Outreach Campaign

The following marketing activities will be undertaken if the proposed ordinances are adopted:

1. Citywide mailing
2. Three public workshops between January – February specific to these programs
3. Posting on City Social Media Accounts
4. New City webpages with ordinances and program materials
5. Dedicated housing hotline
6. Program forms/materials at City Hall
7. Housing Analyst staffed at City Hall
8. Focus Groups/Roundtables with stakeholders

Other Tools

Other potential medium-term tools that staff is not recommending move forward at this time, but will continue to study and consider moving forward in the future, depending upon the results of data collection are listed below:

1. Rent Stabilization/Rent Control
2. Tenant/Landlord Mediation: Binding
3. Just-Cause and Harassment Protections

STRATEGIC PLAN CONSIDERATIONS

The proposed development fulfills the City's Strategic Plan Goal C: Deepen a sense of place and community identity and specifically the strategy to promote strong neighborhoods.

ENVIRONMENTAL CONSIDERATIONS

This action is exempt from the requirements of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15061 (b)(3). The activity is covered by the general rule which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment.

FINANCIAL CONSIDERATIONS

The entire program that will result from adoption of these ordinances will be primarily implemented by Community Development staff. Staff estimates that the entire program will require approximately 0.5 FTE plus City Attorney costs and support staff time.

The only programs that requires outside assistance at this time, however, will be the Rent Review and Relocations Assistance programs, which entails working with a neutral, third-party service provider. The entire estimated budget for the Rent Review program is \$79,000, with an up to \$30,000 per year of on-call assistance required for the neutral, third-party service provider which will be procured through the City's Procurement Process. A fee to all eligible rentals of \$30/unit will charged to landlords through the business license renewal process. This means that the Rent Review Program will be self-funded through this fee and existing staff. Staff time is already included as part of the existing adopted operating budget which results in no net impact to the General Fund.

The tenant relocation program is triggered once an application is submitted to the City. In these situations, property owners will be required to pay the costs for a third-party service provider to administer tenant relocation assistance determinations. Staff will return to Council to approve both fees.

The Minimum Lease Term and Termination of Tenancy Ordinances will require outreach and staff anticipates announcing these programs concurrently with the Rent Review Ordinance given the overlap. However, ongoing administration of these ordinances will ultimately be absorbed by the City as indirect costs through staff time. Should Council wish to pursue a fee for these programs, staff can report time spent on the programs after 12-months.

LEGAL CONSIDERATIONS

The proposed ordinances and recommended actions have been reviewed by the City Attorney and all legal considerations have been addressed.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Rent Review Program Ordinance
2. Minimum Lease Term Ordinance
3. Termination of Tenancy
4. Tenant Relocation Ordinance
5. Summary of Proposed Tenant Protection Ordinances
6. Resource Sheet: Summary of Tenant Protection Reports
7. Resolution of the Human Relations Commission

ORDINANCE NO. 2018-XX

AN ORDINANCE OF THE CITY OF EL CERRITO AMENDING TITLE 10 OF THE EL CERRITO MUNICIPAL CODE CHAPTER TO ADD CHAPTER 10.100, "RENT REVIEW PROGRAM" RELATED TO THE INCLUSION OF RENT REVIEW FOR RENT INCREASES GREATER THAN 5%.

WHEREAS, the Community Development Department, with direction from the City Council, identifies the City's goals, objectives, policies and action programs that directly address our housing needs;

WHEREAS, housing affordability continues to be a regional issue, especially for the residents of El Cerrito;

WHEREAS, 40% of El Cerrito residents are renters and an essential part of our community;

WHEREAS, according to the El Cerrito Affordable Housing Strategy, one-third of El Cerrito's households are cost-burdened or spend more than 30 percent of their household income for housing;

WHEREAS, the City does not currently have any tenant protection measures in place;

WHEREAS, maintaining diversity and inclusion is critical to our City;

WHEREAS, the 2015-2023 Housing Element identifies Goal H1, Policy H1.1, Conserve and improve El Cerrito's existing housing supply, encourage neighborhood preservation and housing rehabilitation of viable older housing to preserve neighborhood character and, where possible, retain a supply of very low-, low-, and moderate-income units;

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

WHEREAS, "Pillar B. Reduce the Risk of Displacement and Help Stabilize At-Risk Populations," recommends explore tenant protection policies for tenants at risk of displacement;

WHEREAS, the Affordable Housing "Strategy 6-1: Continue to study potential tenant protection options and evaluate the success of existing programs in peer cities";

WHEREAS, during the development of the Affordable Housing Strategy, City staff convened a Technical Advisory Group, that included other agencies and organizations specializing in displacement and affordable housing;

WHEREAS, City staff met with and received input from a variety of stakeholders, including renters and property owners to identify potential tenant protection programs in order to reduce the threat of displacement;

WHEREAS, the City Council convened a study session on August 21, 2018 to discuss the tenant protection tools that could be achieved in the near-term and medium-term;

WHEREAS, the City Council directed staff direction to develop a rent review program;

WHEREAS, staff facilitated a public workshop on November 8, 2018 to discuss the draft rent review program and received input;

WHEREAS, the rent review program will provide tenants and landlords the opportunity to resolve rent increases through non-binding alternative dispute resolution provided by a professional third-party;

WHEREAS, the provisions of the Ordinance were developed based upon the various tenant protection models detailed in the *Affordable Housing Strategy* and in consideration with State law; and

WHEREAS, the City Council finds and determines that the Rent Review Program Ordinance codified in this Chapter is being adopted pursuant to the City's police power authority to protect the public health, safety, and welfare.

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. Amendment of Title 10 of the Municipal Code. Title 10, "Public Peace, Morals and Welfare", of the El Cerrito Municipal Code is hereby is amended to add Chapter 10.100, "Rent Review Program" to read as follows:

Chapter 10.100 – RENT REVIEW PROGRAM

10.100.010 - Findings and Purpose.

A. Findings.

The City Council finds and declares as follows:

1. The City has a substantial government interest in regulating the relationship between landlords and tenants in order to increase certainty, stability, and

fairness with the rental market.

2. The Ordinance codified in this Chapter is being adopted pursuant to the City's police power authority to protect the public health, safety, and welfare.

B. Purpose.

The purpose of this Chapter is to establish a rent review program, set forth regulations for rent increases and formalize the relations between landlords and tenants. By formalizing the relationship between landlords-tenants, it allows both parties the opportunity to resolve rent increases greater than 5% through alternative dispute resolution provided by professional third-party. This Chapter supports the City's housing goals and protects public health, safety, and welfare for the residents of El Cerrito.

10.100.020 – Definitions.

Accessory Dwelling Unit means the definition given for accessory dwelling unit in [Chapter 19 Zoning](#) of the El Cerrito Municipal Code.

Base Rent means the rent paid to the Landlord for occupancy of the Residential Property required to be paid by the Tenant to the Landlord in the month immediately preceding the effective date of the Rent Increase. Base Rent excludes pass through costs and ancillary costs paid separately to the Landlord for parking, storage, utilities, water, garbage or any other similar fee or charge associated with a Residential Property.

Business License means the license required pursuant to El Cerrito Municipal Code [Chapter 4.32 Business License Tax](#).

City means the City of El Cerrito.

City Manager means the City Manager of the City of El Cerrito, or his or her designated representative.

Community Development Director or Director means the director of the Community Development Department of the City of El Cerrito or his or her designee. A designated representative may include City staff and/or a Party or organization contracted by the City to provide the necessary services to implement the procedures contained in this Chapter.

Council means the City Council of the City of El Cerrito.

Landlord means any person, partnership, corporation, or other business entity offering for Rent or lease any Residential Property in the City. "Landlord" shall include the agent or representative of the Landlord, provided that such

agent or representative shall have full authority to answer for the Landlord and enter into binding agreements on the Landlord's behalf.

Mediator means a person who possess experience in mediating Landlord-Tenant cases in general and who has mediation experience with mandatory dispute resolution processes.

Party means a person who participates in the rent review program pursuant to this Chapter or his or her agent or representative.

Rent means a fixed periodic compensation paid by a Tenant at fixed intervals to a Landlord for the possession and use of Residential Property as defined by the rental agreement between the Landlord and Tenant. Rent excludes pass through costs and ancillary costs paid separately to the Landlord for parking, storage, utilities, water, garbage, or any other fee or charge associated with a Residential Property.

Rent Increase means any upward adjustment of the rent from the Base Rent amount.

Residential Property means any housing unit offered for rent or lease in the City. Residential property shall exclude any housing unit that is subject to a recorded regulatory agreement that requires that the housing unit be rented to a Tenant at specified income levels as defined by the regulatory agreement.

Single Family Dwelling Unit means one dwelling unit, attached or detached, located on a single lot as defined in Chapter 19 Zoning of the El Cerrito Municipal Code. This includes manufactured housing but not mobile homes.

Service Reduction means a reduction in the level of benefits, privileges, or facilities related to the Residential Property that have been reduced without a corresponding reduction in rent, including but not limited to repairs, maintenance, painting, light, heat, water, elevator service, laundry facilities and privileges, refuse removal, furnishings, parking and other rights afforded to the Tenant.

Tenant means any person having the legal responsibility for the payment of rent for Residential Property in the City. Tenant shall include the agent or representative of the Tenant, provided that such agent or representative shall have full authority to answer for the Tenant and enter into binding agreements on the Tenant's behalf.

10.100.030 – Effective Date and Applicability

A. Effective Date.

This Chapter shall be effective thirty (30) days from and after the date of its adoption.

B. Applicability.

The provisions of this Chapter shall apply City-wide to any Residential Property.

C. Exemptions.

This Chapter shall not apply to any of the following:

1. A Residential Property with a Certificate of Occupancy issued after January 1, 2015.
2. Single Family Dwelling Unit as defined in Chapter 19 Zoning of the El Cerrito Municipal Code.
3. A room or any other portion of any Residential Property that is occupied by the Landlord or a member of the Landlord's immediate family.
4. An Accessory Dwelling Unit.
5. Housing accommodations in hotels, motels, group housing, supportive housing, transitional housing, general residential care and bed and breakfasts as those terms are defined in El Cerrito Municipal Code Chapter 19 Zoning and, by reference, in the San Pablo Avenue Specific Plan.
6. Any unit in a common-interest development where units are owned by different individuals who share ownership of common areas and facilities.
7. An on-site manager's living unit.
8. Any unit where the tenancy is an express condition of, or express consideration for, employment by a Landlord.
9. Any unit where Rent is controlled or regulated by any government unit, agency, or authority, or subsidized by any government unit, agency or authority.
10. Any units acquired by the City or any other governmental unit, agency or authority, and are intended to be used for public purposes.

10.100.040 - Notice of Availability of Rent Review.

A. Notice of Availability of Rent Review Required.

In addition to the notice of a Rent Increase required by Civil Code Section 827(b), the Landlord shall also provide notice of the availability of the rent review procedure established by this Chapter at the time a rental agreement is entered into and at the time when a Landlord provides notice of any Rent Increase. The notice of availability of rent review required by Section 10.100.040(C) shall be provided by the Landlord at the time when a Landlord provides notice of any Rent Increase in the predominant languages spoken in the City. The City Manager or his or her designee shall determine the predominant languages spoken in the City and shall ensure that copies of the notice of availability of rent review required by Section 10.100.040(C) are made available to Landlords by the City in those languages. Any Rent

Increase accomplished in violation of this Chapter shall be void, and no Landlord may take any action to enforce such an invalid Rent Increase. Any Rent Increase in violation of this Chapter shall operate as a complete defense to an unlawful detainer action based on failure to pay any illegal Rent Increase. Any Tenant required to pay an illegal Rent Increase may recover all illegal Rent Increase amounts paid by the Tenant. If a Landlord fails to properly notice a Tenant pursuant to this Chapter, the Landlord must re-notice the Tenant in accordance with this section prior to demanding or accepting any increase in rent.

B. Contents of Notice.

All notices of the availability of rent review shall be in writing, shall provide the name, address and phone number of the Landlord and shall be personally delivered to the Tenant or mailed to the Tenant at the address of the Tenant's Residential Property. Service by mail shall be presumed complete within five (5) calendar days of mailing. This presumption may be rebutted by the Tenant.

C. Text of Notice.

In addition to all other information provided in the notice of the availability of rent review required by this Chapter, each such notice shall substantively state:

NOTICE: Under Civil Code Section 827(b) a Landlord must provide a Tenant with thirty (30) days' notice prior to a Rent Increase of ten percent (10%) or less and sixty (60) days' notice of a Rent Increase of greater than ten percent (10%). Under Chapter 10.100 of the El Cerrito Municipal Code, a Landlord must, at the same time as a notice of a Rent Increase, provide this notice of the City's rent review procedure, before demanding or accepting any increase in Rent. You are encouraged to contact the owner or manager of your rental unit to discuss the Rent Increase. However, if you have received notice of a Rent Increase that:

1. will increase your Rent more than five percent (5%) above the Base Rent you paid last month; or
2. follows one or more prior Rent Increases within the past year where the combined Rent Increases are more than five percent (5%) than the Base Rent paid prior to the first Rent Increase over the past year,

you may request rent review, which includes conciliation and mediation, of your Rent Increase. Such a request must be submitted in writing within fifteen (15) calendar days of your receiving notice of the Rent Increase or post marked within 15 calendar days of receipt if mailed. You must submit a copy of the notice of Rent Increase at the same time you submit the rent review request. For more information regarding the rent review procedure, please visit the City's website. To request review of your Rent Increase, please contact the City of El Cerrito, Community Development Department or designee, 10890 San Pablo Avenue, El Cerrito, California 94530. Under Civil Code Section 1942.5, it is illegal for a Landlord to retaliate against a Tenant for lawfully and peaceably exercising his or her legal rights.

10.100.050 - Rent Review.

- A. Request for Rent Review. A Tenant may seek rent review when the proposed Rent Increase:
1. raises the Rent to an amount more than 5% than the Base Rent; or
 2. follows a prior Rent Increase or Rent Increases imposed within the previous twelve-month period where the combined Rent Increases are more than 5% than the Base Rent paid prior to the first Rent Increase of the twelve-month period. The Tenant seeking rent review must submit the request in writing to the Community Development Director or designee and the request must be received by the Director, or post marked (if submitted by mail), within fifteen (15) calendar days of the Tenant's receipt of the notice of Rent Increase. The request must include a copy of the Landlord's notice of Rent Increase.
- B. Conciliation and Mediation. The rent review shall consist of conciliation pursuant to Section 10.100.050(D) and, if required, mediation pursuant to Section 10.100.050(E). After determining that a proposed Rent Increase meets the criteria for initiation of rent review set forth in Section 10.100.050(A) above, the Community Development Director or designee shall attempt to contact the Landlord to initiate conciliation procedures pursuant to Section 10.100.500(D)(1) below within five (5) business days.
- C. Impact on Rent Increase. A request for rent review shall not delay the effective date of a Rent Increase. If appropriate, the parties may enter into a mutual private agreement to delay the effective date of a Rent Increase or reach any other agreement to effectively reimburse Rent Increases paid by the Tenant.
- D. Conciliation.
1. Duration of Conciliation. After the Community Development Director or designee contacts the Landlord pursuant to Section 10.100.050(B), the Community Development Director or designee shall provide the Landlord with a copy of the Tenant's rent review request form and the Landlord shall respond to acknowledge the rent review request either orally or in writing within ten (10) business days. Failure of the Landlord to respond to the Director within ten (10) business days, absent a finding of good cause by the Director, shall void the Rent Increase. Good cause for failure to respond shall include, but not be limited to, illness, unanticipated absence from the office, emergency situations, and other similar circumstances. The Director or designee shall attempt conciliation, which may include peer-to-peer counseling, of the Rent Increase for a period not to exceed ten (10) business days following acknowledgement of the rent review request by the Landlord.

2. Participation. The Landlord and Tenant shall participate in conciliation and shall provide relevant information, exchange proposals, reasonably consider proposals by opposite parties and engage in discussion(s) regarding the Rent Increase and issues related to the Rent Increase. One or more Tenants affected by a common Rent Increase may simultaneously participate in the same conciliation proceeding with consent of the Landlord.
3. Failure to Participate. Failure of the Tenant to participate in conciliation of the Rent Increase at issue shall bar the Tenant from seeking mediation pursuant to Section 10.100.050(E) and shall bar the Tenant from seeking any further remedies under this Chapter for the subject Rent Increase. Failure of the Landlord to participate in conciliation shall void the Rent Increase.
4. Agreement During Conciliation. If the parties agree to a resolution during conciliation, they may formalize the agreement in a standard form signed by both parties. The City shall not be a Party to such an agreement, nor shall the City assume any responsibility for enforcement of its terms.
5. Failure to Resolve. If the parties do not resolve the rent dispute during conciliation, the Director shall inform the parties that the conciliation process is concluded and the Tenant shall be entitled to seek mediation, pursuant to Section 10.100.050(E), within five (5) business days. Failure of the Tenant to seek mediation shall bar the Tenant from pursuing any further remedies under this Chapter for the Rent Increase at issue.

E. Mediation.

1. Notice and Date. Upon request for mediation, the mediation shall be scheduled and held before the Mediator within forty-five (45) calendar days of the Director's receipt of the rent review request, or as soon thereafter as the mediation may be scheduled. The Director or designee shall provide the Landlord and the Tenant notice of the mediation date and location at least ten (10) calendar days prior to the mediation. The notice to the Landlord shall encourage him or her to contact the Tenant directly to seek a mutually satisfactory resolution of the rent dispute prior to the mediation.
2. Factors. The Mediator will afford the Landlord and the Tenant an opportunity to explain their respective positions at the mediation of a rent dispute. After hearing from both parties, and taking into consideration such factors as the hardship to the Tenant, the frequency and amount of past history of the Tenant's rent increases, the Landlord's mortgage payments and other costs associated with owning and maintaining the property, the Landlord's interest in

earning a reasonable rate of return, and any other factors that may assist the Mediator in determining a fair resolution to the dispute, the Mediator will make a recommendation to the parties for the resolution of their dispute. One or more Tenants affected by a common Rent Increase may elect to simultaneously participate in the same mediation proceeding with consent of the Landlord.

3. Agreement. If the parties agree to a resolution proposed by the Mediator they may formalize the agreement in a standard form signed by both parties. Neither the City nor the Mediator shall be a Party to such an agreement, nor shall the City or mediator assume any responsibility for enforcement of its terms.
4. Failure to Appear. If the Tenant requesting rent review appears at a mediation, but the Landlord who has been given notice of the mediation as required by Section 10.100.050(E)(1) fails to appear before the Mediator without good cause, the Rent Increase shall be void, and the Landlord may not take any action to enforce such an invalid Rent Increase. Any Rent Increase in violation of this Chapter shall operate as a complete defense to an unlawful detainer action based on failure to pay any invalid Rent Increase. If a Tenant who has been given proper notice of rent review as required by Section 10.100.050(E)(1) fails to appear for the mediation without good cause, or if both the Tenant and Landlord fail to appear without good cause, the Mediator shall dismiss the case and the Tenant will be barred from subsequently challenging such increase pursuant to this chapter. Good cause for failure to appear shall include, but not be limited to, illness, death, vehicle malfunction, and other similar circumstances. If either Party fails to appear for good cause, the mediation shall be rescheduled as soon as reasonably possible.

F. Retaliation.

1. Commencement of eviction proceedings against a Tenant for exercising his or her rights under this Chapter shall be considered a retaliatory eviction. Under Civil Code Section 1942.5, it is illegal for a Landlord to retaliate against a Tenant for lawfully and peaceably exercising his or her legal rights.
2. No Landlord may take any action to effectuate a Rent Increase or cause a Service Reduction resulting in the Tenant involuntarily quitting the premises (constructive eviction) or discriminating against any Tenant or any household members of a Tenant because of the Tenant's use of any remedy provided by this Chapter.

10.100.060 Miscellaneous.

A. Annual Review. The Community Development Director shall annually prepare a report to the Council assessing the effectiveness of the rent review program established under this Chapter and recommending changes as may be appropriate.

B. Property Registration and Fees.

1. A Landlord shall register each Residential Property subject to the provisions of this Chapter within the City. The registration shall be on forms provided by the City and shall include the name and mailing address of the owner or owners of the Residential Property as well as any other information deemed necessary by the City.

2. For the sole purpose of reimbursing the City for reasonable costs of implementing this Chapter, including costs associated with conciliation and mediation, the Landlord of each Residential Property subject to the provision of this Chapter shall pay a fee in an amount to be set by the City for each Residential Property.

B. Business License. All Landlord's shall possess a Business License, as required by El Cerrito Municipal Code [Chapter 4.32.260](#), for any Residential Property subject to the provisions of this Chapter. Failure of the Landlord to possess a Business License at the time of a Rent Increase shall result in the Rent Increase being void.

Section 3. Compliance with the California Environmental Quality Act. Approval of this ordinance is exempt from environmental review under the general rule in California Environmental Quality Act ("CEQA") Guidelines Section 15061(b)(3). The activity is covered by the general rule which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment.

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

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council on December 18, 2018 and passed by the following vote:

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

ADOPTED AND ORDERED published at a regular meeting of the City Council held on January __, 2019 and passed by the following vote:

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

APPROVED:

Rochelle Pardue-Okimoto, Mayor

ATTEST:

Sherry Kelly, Acting City Clerk

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on January ___, 2019.

Sherry Kelly, Acting City Clerk

ORDINANCE CERTIFICATION

I, Sherry Kelly, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. 2018-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 the ___ day of December 2018; 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, this ___ day of January 2019.

Sherry Kelly, Acting City Clerk

ORDINANCE NO. 2018-XX

AN ORDINANCE OF THE CITY OF EL CERRITO AMENDING TITLE 10 OF THE EL CERRITO MUNICIPAL CODE CHAPTER TO ADD CHAPTER 10.200, "MINIMUM LEASE TERM" TO REQUIRE LANDLORDS TO OFFER TENANTS A MINIMUM LEASE TERM OF 12 MONTHS.

WHEREAS, the Community Development Department, with direction from the City Council, identifies the City's goals, objectives, policies and action programs that directly address our housing needs;

WHEREAS, 40% of El Cerrito residents are renters and an essential part of our community;

WHEREAS, maintaining income diversity is important to the City Council and the social fabric of our community;

WHEREAS, the City does not currently have any tenant protection measures in place;

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

WHEREAS, "Pillar B. Reduce the Risk of Displacement and Help Stabilize At-Risk Populations," recommends explore tenant protection policies for tenants at risk of displacement;

WHEREAS, during the development of the Affordable Housing Strategy, City staff convened a Technical Advisory Group, that included other agencies and organizations specializing in displacement and affordable housing;

WHEREAS, City staff met with and received input from a variety of stakeholders, including renters and property owners to identify potential tenant protection programs in order to reduce the threat of displacement;

WHEREAS, the City Council convened a study session on August 21, 2018 to discuss the tenant protection tools that could be achieved in the near-term and medium-term;

WHEREAS, the City Council directed staff to develop a minimum lease term ordinance;

WHEREAS, staff facilitated a public workshop on November 8, 2018 to discuss the draft ordinance and received input;

WHEREAS, the minimum lease term will provide existing and prospective tenants predictability and stability through fixed rents;

WHEREAS, the minimum lease term will provide existing and prospective tenants with the option to decline or negotiate a shorter term;

WHEREAS, the minimum lease term will provide landlords with predictability to minimize vacancy;

WHEREAS, the provisions of this Ordinance were developed in consideration with State law; and

WHEREAS, the City Council finds and determines that the Minimum Lease Terms Ordinance codified in this Chapter is being adopted pursuant to the City's police power authority to protect the public health, safety, and welfare.

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. Amendment of Title 10 of the Municipal Code. Title 10, "Public Peace, Morals and Welfare", of the El Cerrito Municipal Code is hereby is amended to add Chapter 10.200, "Minimum Lease Term" to read as follows:

Chapter 10.200 – MINIMUM LEASE TERMS

10.200.010 - Findings and Purpose.

A. Findings.

The City Council finds and declares as follows:

1. The City has a substantial government interest in regulating the relationship between landlords and tenants in order to increase certainty, stability, and fairness with the rental market.
2. The Ordinance codified in this Chapter is being adopted pursuant to the City's police power authority to protect the public health, safety, and welfare.

B. Purpose

The purpose of this Chapter is to establish a requirement for landlords to offer prospective and current tenants a minimum lease term of 12-months. By providing longer lease terms, tenants will have stability and predictability by establishing rent rates for the duration of the lease. This Chapter supports the City's housing goals and protects public health, safety, and welfare for the residents of El Cerrito.

C. Effective Date.

This Chapter shall be effective thirty (30) days from and after the date of its adoption.

10.200.020 - Definitions

Accessory Dwelling Unit means the definition given for dwellings in [Chapter 19 Zoning](#) of the El Cerrito Municipal Code.

City means the City of El Cerrito.

City Manager means the City Manager of the City of El Cerrito.

Landlord means an owner, lessor or sublessor, or the agent, representative or successor of any of the foregoing persons who receives, or is entitled to receive, rent for the use and occupancy of any Rental Unit or portion thereof.

Rent means a fixed periodic compensation paid by a tenant at fixed intervals to a Landlord for the possession and use of a Rental Unit as defined by the lease between the Landlord and tenant. Rent excludes pass through costs and ancillary costs paid separately to the Landlord for parking, storage, utilities, water, garbage, or any other fee or charge associated with a Rental Unit.

Rental unit means a habitable structure offered for rent and used as a place of permanent or customary and usual abode of a tenant. Rental Units include a building, a group of buildings or a portion of a building used and/or designed as dwellings. A Rental Unit shall not include:

1. A Rental Unit with a Certificate of Occupancy issued after January 1, 2015.
2. Single-family Dwelling Unit as defined in Chapter 19 Zoning of the El Cerrito Municipal Code.
3. A room or any other portion of any Rental Unit that is occupied by the Landlord or a member of the Landlord's immediate family.
4. An Accessory Dwelling Unit.
5. Housing accommodations in hotels, motels, group housing, supportive housing, transitional housing, general residential care and bed and breakfasts as those terms are defined in the El Cerrito Municipal Code Chapter 19 and, by reference, in the San Pablo Avenue Specific Plan.
6. Any Rental Unit in a common-interest development where Rental Units are owned by different individuals who share ownership of common areas and facilities.
7. An on-site manager's Rental Unit.
8. Any Rental Unit where the tenancy is an express condition of, or express consideration for, employment by a Landlord.

9. Any Rental Unit where rent is controlled or regulated by any government unit, agency, or authority, or subsidized by any government unit, agency or authority.

10. Any Rental Unit acquired by the City or any other governmental unit, agency or authority, and are intended to be used for public purposes.

Single Family Dwelling Unit means one dwelling unit, attached or detached, located on a single lot as defined in [Chapter 19 Zoning](#) of the El Cerrito Municipal Code. This includes manufactured housing but not mobile homes.

Tenant means a tenant, subtenant, lessee, sublessee or any other person entitled to use or occupancy of a Rental Unit under a valid lease with the Landlord.

Lease means any form of a valid rental agreement for a Rental Unit, whether written or oral.

10.200.030 Requirement to Offer Minimum Lease Terms

- A. Offer. If a tenant or prospective tenant wishes to enter into a lease for a Rental Unit from a Landlord and the Landlord wishes to enter into a lease for the Rental Unit with the tenant or prospective tenant, the Landlord must offer to the Tenant or prospective Tenant a written lease which has a minimum term of one (1) year. Offers must be made in writing.
- B. Acceptance. If the tenant or prospective tenant accepts the offer of a lease which has a minimum term of one (1) year, this acceptance must be in writing.
- C. Rejection. If the tenant or prospective tenant rejects the offer for a lease which has a minimum term of one (1) year, this rejection must be in writing, and the Landlord and tenant or prospective tenant may then enter into a lease that provides for a rental term of less than one (1) year.
- D. Rent. If the Landlord and tenant enter into a lease which has a minimum term of one (1) year, such lease must set the rent for the Rental Unit at a rate or rates certain and these rates shall not otherwise be modified during the duration of the lease except as provided in the lease.
- E. Renewal of Lease. Upon the expiration of a lease which has a minimum term of one (1) year, if the Landlord and tenant desire to continue the tenancy for the Rental Unit, the Landlord shall offer the tenant a lease in accordance with the procedures of subsections A-D above and the following:
 1. A Landlord shall annually offer a written lease with a minimum term of one (1) year to a tenant who rejected an initial offer of a written lease with a minimum term of one (1) year but who has rented a unit from the Landlord for a period of at least twelve (12) months.

- F. Termination of Lease. Landlords shall comply with El Cerrito Municipal Code 10.300 – Termination of Tenancy when terminating tenancy.
- G. Applicability. This Chapter shall not apply to:
1. A Rental Unit which is rented on or before the effective date of this Chapter, provided that, (A) if the Rental Unit is rented subject to a lease, when the lease in effect for such Rental Unit expires, this Chapter shall then apply; and (B) if the Rental Unit is not subject to a written lease, the Landlord shall offer a written lease to the tenant in accordance with this Chapter, at the time of lease renewal;
 2. A Rental Unit occupied by a tenant who subleases that unit to another tenant for less than one (1) year; or
 3. A Rental Unit that is being removed from the rental market in accordance with El Cerrito Municipal Code 10.400 – Tenant Relocation Assistance.

10.200.040 Notice of Tenant's Right to Minimum Lease Term

- A. Form. Landlords shall provide all tenants with a notice summarizing the rights afforded by this Chapter. The notification shall state:

THE CITY OF EL CERRITO MUNICIPAL CODE PROVIDES YOU WITH THE RIGHT TO MINIMUM LEASE TERMS. LANDLORDS MUST OFFER TENANTS THE OPTION TO ENTER INTO A MINIMUM ONE (1) YEAR WRITTEN LEASE. IT IS THE TENANT'S CHOICE WHETHER TO ENTER INTO SUCH A WRITTEN LEASE WITH A LANDLORD. FURTHER INFORMATION IS AVAILABLE ON THE CITY'S WEBSITE (WWW.EL-CERRITO.ORG).

- B. Language. Landlords shall provide this notification in English and other predominant languages spoken in the City as determined by the City Manager.
- C. Manner. Landlords shall provide this notice to tenants in writing or electronically if the application and/or lease are processed electronically, or both if both methods are utilized.

10.200.050 Tenant Remedies

- A. Injunctive Relief. A tenant may seek injunctive relief on his or her own behalf and on behalf of other affected tenants to enjoin the Landlord's violation of this Chapter.
- B. Remedies are Nonexclusive. Remedies provided in this section are in addition to any other existing legal remedies and are not intended to be exclusive.
- C. Nonwaiver. Any waiver or purported waiver by a tenant of his or her rights under this Chapter prior to the time when such rights may be exercised, except a

rejection of a one-year lease offered in accordance with Section 10.200.030.C, shall be void as contrary to public policy.

10.200.060 Enforcement

In addition to any other remedy allowed by law, any person who violates this Chapter is subject to administrative penalties pursuant to El Cerrito Municipal Code Chapter 1.14 – Administrative Penalties.

Section 3. Compliance with the California Environmental Quality Act. Approval of this ordinance is exempt from environmental review under the general rule in California Environmental Quality Act (“CEQA”) Guidelines Section 15061(b)(3). The activity is covered by the general rule which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment.

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

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council on December 18, 2018 and passed by the following vote:

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

ADOPTED AND ORDERED published at a regular meeting of the City Council held on January __, 2019 and passed by the following vote:

AYES: Councilmembers

NOES: Councilmembers

ABSENT: Councilmembers

ABSTAIN: Councilmembers

APPROVED:

Rochelle Pardue-Okimoto, Mayor

ATTEST:

Sherry Kelly, Acting City Clerk

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on January __, 2019.

Sherry Kelly, Acting City Clerk

ORDINANCE CERTIFICATION

I, Sherry Kelly, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. 2018-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 the __ day of December 2018;

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, this ___ day of January 2019.

Sherry Kelly, Acting City Clerk

ORDINANCE NO. 2018-XX

AN ORDINANCE OF THE CITY OF EL CERRITO AMENDING TITLE 10 OF THE EL CERRITO MUNICIPAL CODE CHAPTER TO ADD CHAPTER 10.300, "TERMINATION OF TENANCY" RELATED TO THE REQUIREMENT THAT LANDLORDS NOTIFY THE CITY WHEN TERMINATING TENANCY.

WHEREAS, the Community Development Department, with direction from the City Council, identifies the City's goals, objectives, policies and action programs that directly address our housing needs;

WHEREAS, 40% of El Cerrito residents are renters and an essential part of our community;

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

WHEREAS, "Pillar B. Reduce the Risk of Displacement and Help Stabilize At-Risk Populations," recommends exploring tenant protection policies for tenants at risk of displacement;

WHEREAS, the City does not currently track terminations of tenancy;

WHEREAS, the City Council convened a study session on August 21, 2018 to discuss the tenant protection tools that could be achieved in the near-term and medium-term;

WHEREAS, the City Council directed staff to analyze displacement through data collection;

WHEREAS, City staff will continue to collaborate with a variety of stakeholders, including renters and property owners, to identify opportunities to collect data;

WHEREAS, City staff will report back to City Council with its findings once data has been collected for a 12-month period; and

WHEREAS, the City Council finds and determines that the Termination of Tenancy Ordinance codified in this Chapter is being adopted pursuant to the City's police power authority to protect the public health, safety, and welfare.

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. Amendment of Title 10 of the Municipal Code. Title 10, "Public Peace, Morals and Welfare", of the El Cerrito Municipal Code is hereby is amended to add Chapter 10.300, "Termination of Tenancy" to read as follows:

Chapter 10.300 – TERMINATION OF TENANCY

10.300.010 - Findings and Purpose

A. Findings.

The City Council finds and declares as follows:

1. The City has a substantial government interest in regulating the relationship between landlords and tenants in order to increase certainty, stability, and fairness with the rental market.
2. The Ordinance codified in this Chapter is being adopted pursuant to the City's police power authority to protect the public health, safety, and welfare.

B. Purpose.

The purpose of this Chapter is to adopt regulations for landlords when terminating tenancy. By notifying the City whenever any tenancy is being terminated, it will allow the City to track and inventory displacement. This data will be prepared in an annual report to the City Council. This Chapter is intended to complement existing State law and protects public health, safety, and welfare for the residents of El Cerrito.

10.300.020 – Definitions

A. **City Notice of Termination** means a written notice to the City that includes all of the components identified in Section 100.300.40.

B. **Landlord** means an owner, lessor, or sublessor who receives or is entitled to receive rent for the use and occupancy of any Rental Unit or portion thereof, and includes any legal entity or other individuals, employees, agents, contractors, and subcontractors that comprise or represent the landlord.

C. **Owner-occupied residence** means a single dwelling unit in which an individual retains no less than a fifty percent ownership interest in the individual unit and resides in that unit as his or her permanent residence no less than ten months of any calendar year.

D. **Rental unit** means any unit in any real property, regardless of zoning status, including the land appurtenant thereto, that is rented or available for rent for residential use or occupancy (regardless of whether the unit is also used for other purposes), together with all housing services connected with use or occupancy of such property, such as common areas and recreational facilities held out for use by the Tenant. A rental unit includes a single-family home.

E. **Tenant** means any renter, tenant, subtenant, lessee, or sublessee of a Rental Unit, or any group of renters, tenants, subtenants, lessees, sublessees of a Rental Unit, or any other person entitled to the use or occupancy of such Rental Unit, or any successor of any of the foregoing.

10.300.030 – Effective Date and Applicability

A. Effective Date.

This Chapter shall be effective thirty (30) days from and after the date of its adoption.

B. Applicability.

The provisions of this Chapter shall apply City-wide to all Rental Units except as exempted per Section 10.300.030.

C. Exemptions.

This Chapter shall not apply to any of the following types of units:

1. A room or any other portion of any residential property that is occupied by the Landlord or a member of the Landlord's immediate family.
2. Accessory dwelling units as defined by El Cerrito Municipal Code Chapter 19 Zoning.
3. Housing accommodations in hotels, motels, group housing, supportive housing, transitional housing, general residential care and bed and breakfasts as those terms are defined in the El Cerrito Municipal Code Chapter 19 and, by reference, in the San Pablo Avenue Specific Plan.
4. Any unit in a common-interest development where units are owned by different individuals who share ownership of common areas and facilities.
5. An on-site manager's living unit.
6. Any unit where the tenancy is an express condition of, or express consideration for, employment by a Landlord.
7. Any unit where rent is controlled or regulated by any government unit, agency, or authority, or subsidized by any government unit, agency or authority.
8. Any unit owned by the City or any other governmental unit, agency or authority, and are intended to be used for public purposes.

10.300.040 - Notice of Termination

In order to terminate a residential tenancy of a Rental Unit or otherwise endeavor to recover possession of a Rental Unit, a Landlord must send the Tenant a notice of termination in accordance with any other notice requirements imposed by local, State or Federal law. Within ten (10) days of delivery of the notice of termination of tenancy to the Tenant, a

Landlord must provide a copy of the City notice of termination in substantially the same form as below to the Community Development Department:

CITY OF EL CERRITO NOTICE OF TERMINATION	
Landlord Information Name: _____ Address: _____ No. of Units Owned in El Cerrito _____	Property Information Date of move-in: _____ Number of Bedrooms: _____ Name of Tenant: _____
Length of Notice ☐ 30 Days ☐ 60 Days ☐ Other: _____ (Specify Days)	Intended Final Date of Occupancy Landlord requests return of unit by: _____ (Day of the Week, Calendar Date/Month/Year)
Was this notice issued as a result of non-payment of rent? ☐ Yes ☐ No	

The City Notice of Termination may be mailed or otherwise delivered to:

City of El Cerrito, Community Development Department
ATTN: Notice of Termination of Residential Tenancy
10890 San Pablo Avenue
El Cerrito, CA 94530

10.300.050 - Enforcement

In addition to any other remedy allowed by law, any person who violates this Chapter is subject to administrative penalties pursuant to El Cerrito Municipal Code Chapter 1.14 – Administrative Penalties.

Section 3. Compliance with the California Environmental Quality Act.
Approval of this ordinance is exempt from environmental review under the general rule in California Environmental Quality Act (“CEQA”) Guidelines Section 15061(b)(3). The activity is covered by the general rule which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment.

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

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council on December 18, 2018 and passed by the following vote:

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

ADOPTED AND ORDERED published at a regular meeting of the City Council held on January __, 2019 and passed by the following vote:

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

APPROVED:

Rochelle Pardue-Okimoto, Mayor

ATTEST:

Sherry Kelly, Acting City Clerk

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on January ___, 2019.

Sherry Kelly, Acting City Clerk

ORDINANCE CERTIFICATION

I, Sherry Kelly, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. 2018-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 the ___ day of December 2018; 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, this ___ day of January 2019.

Sherry Kelly, Acting City Clerk

ORDINANCE NO. 2018-XX

AN ORDINANCE OF THE CITY OF EL CERRITO AMENDING TITLE 10 OF THE EL CERRITO MUNICIPAL CODE CHAPTER TO ADD CHAPTER 10.400, "TENANT RELOCATION ASSISTANCE" RELATED TO TENANT RELOCATION PAYMENTS.

WHEREAS, the Community Development Department, with direction from the City Council, identifies the City's goals, objectives, policies and action programs that directly address our housing needs;

WHEREAS, housing affordability continues to be a regional issue, especially for the residents of El Cerrito;

WHEREAS, 40% of El Cerrito residents are renters and an essential part of our community;

WHEREAS, the City does not currently have any tenant protection measures in place;

WHEREAS, the San Pablo Avenue Specific Plan was adopted in 2014 to encourage new high-density and mixed-use multi-family projects in transit-oriented development;

WHEREAS, the 2015-2023 Housing Element identifies Goal H1, Policy H1.2, Conserve and improve El Cerrito's existing housing supply, discourage the conversion of residential uses to non-residential uses, unless there is a finding of clear public benefit and equivalent housing can be provided for those who would be displaced by the proposed conversion;

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

WHEREAS, "Pillar B. Reduce the Risk of Displacement and Help Stabilize At-Risk Populations," recommends explore tenant protection policies for tenants at risk of displacement;

WHEREAS, the Affordable Housing "Strategy 4-2: Consider enacting an ordinance to regulate the demolition of existing housing units, including requiring tenant relocation assistance";

WHEREAS, during the development of the Affordable Housing Strategy, City staff convened a Technical Advisory Group, that included other agencies and organizations specializing in displacement and affordable housing;

WHEREAS, City staff met with and received input from a variety of stakeholders, including renters and property owners to identify potential tenant protection programs in order to reduce the threat of displacement;

WHEREAS, the City Council convened a study session on August 21, 2018 to discuss the tenant protection tools that could be achieved in the near-term and medium-term;

WHEREAS, the City Council directed staff direction to develop tenant relocation assistance for properties being demolished, renovated, remodeled or repurposed;

WHEREAS, staff facilitated a public workshop on November 8, 2018 to discuss the draft tenant relocation assistance and received input;

WHEREAS, tenant relocation assistance will provide financial compensation for eligible households earning less than 120% of area median income;

WHEREAS, the provisions of the Ordinance were developed based upon the tenant protection models detailed in the *Affordable Housing Strategy* and in consideration with State law; and

WHEREAS, the City Council finds and determines that the Tenant Relocation Assistance Ordinance codified in this Chapter is being adopted pursuant to the City's police power authority to protect the public health, safety, and welfare.

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. Amendment of Title 10 of the Municipal Code. Title 10, "Public Peace, Morals and Welfare", of the El Cerrito Municipal Code is hereby is amended to add Chapter 10.400, "Tenant Relocation Assistance" to read as follows:

Chapter 10.400 – TENANT RELOCATION ASSISTANCE

10.400.010 - Findings and Purpose.

A. Findings.

The City Council finds and declares as follows:

1. The City has a substantial government interest in regulating the relationship between landlords and tenants in order to increase certainty, stability, and fairness with the rental market.
2. The Ordinance codified in this Chapter is being adopted pursuant to the City's police power authority to protect the public health, safety, and welfare.

B. Purpose.

The purpose of this Chapter is to establish tenant relocation assistance as a result of displacement. This intent of this Chapter is to mitigate the impacts of displacement and protect public health, safety, and welfare for the residents of El Cerrito.

C. Effective Date.

This Chapter shall be effective thirty (30) days from and after the date of its adoption.

10.400.020 – Definitions.

A. Accessory Dwelling Unit means the definition given for dwellings in [Chapter 19 Zoning](#) of the El Cerrito Municipal Code.

B. Application means any planning, building and/or demolition Application required to be submitted to the City for discretionary or ministerial approval of a land use change or improvement of real property that will result in a Displacement of a Tenant. An Application deemed complete prior to the effective date of this Chapter is not subject to the requirements of this Chapter.

C. City means the City of El Cerrito.

D. City Manager means the City Manager of the City of El Cerrito, or his or her designated representative.

E. Community Development Director means the director of the Community Development Department of the City El Cerrito or his or her designee. A designee may include staff, and/or a party or organization contracted by the City to provide the necessary services to implement the procedures contained in this Chapter.

F. Displace or Displacement means the required vacating of one (1) or more Rental Units by a Tenant upon notice from the Landlord, including a Tenant or Tenants whose termination of tenancy was issued within twelve months of an Application being submitted to the City, as the result of or to enable any of the following:

1. The Landlord seeks to recover possession to demolish or otherwise remove a Rental Unit from residential rental housing use after having obtained all proper permits from the City, if any such permits are required;
2. The Landlord seeks to recover possession of the Rental Unit to remodel, renovate or rehabilitate the unit resulting in permanent Displacement of a Tenant; or

3. A change of use of Rental Unit from a residential use to a nonresidential use that requires a City approval.

For the purposes of this Chapter, a Displacement does not include an action of a Landlord to vacate a Rental Unit as the result of the following:

1. A Landlord's compliance with an enforcement order of the City's chief Building Official for which the property owner has been ordered to pay relocation expenses pursuant to Health and Safety Code Section 17975, *et seq.*, or any other state or federal law;
2. The Tenant is required to vacate the Rental Unit due solely to damage resulting from an earthquake, fire, flood, natural disaster, civil disturbance, or accident outside the control of the Landlord; or
3. Temporary Displacement from the Rental Unit where the Tenant has been provided with alternative housing on site or nearby provided that such Displacement shall be for a period of no more than one year.
4. Displacement as a result of Landlord occupancy, which shall include and be limited to the Landlord, his or her spouse, Landlord's parent or parents or Landlord's spouse's parent or parents, Landlord's child or children or Landlord's spouse's child or children, and Landlord's or Landlord's spouses grandchildren.

G. Eligible Residential Household means a Tenant subject to Displacement whose annual household income does not exceed one hundred-twenty percent (120) of the area median household income for Contra Costa County as adjusted for household size according to the United States Department of Housing and Urban Development, as may be adjusted from time to time, and whose rental payments to the Landlord remain current through the date of Displacement. An Eligible Residential Household excludes the following:

1. The Tenant: (a) is in the process of being evicted pursuant to the terms of a Lease for failure to pay rent or other breach of the Lease; or (b) has been found guilty of unlawful detainer pursuant to Subdivisions 2, 3, 4 or 5 of Section 1161 of the Code of Civil Procedure as evidenced by a final judgment of a court of competent

jurisdiction; or (c) has entered into a stipulated agreement in an unlawful detainer action which requires vacation of the Rental Unit; or

2. The Tenant received written notice, prior to entering into a Lease to become a Tenant, that an Application to convert the Rental Unit to another use was on file with the City or had already been approved and would result in Displacement.

H. Landlord means an owner, lessor or sublessor of a Rental Unit (including any person, firm, corporation or other entity) offering a Rental Unit for rent or Lease in the City, or the agent, representative or successor of any of the foregoing.

I. Lease means any form of a valid rental agreement for a Rental Unit, whether written or oral.

J. Rental Unit means a habitable structure located on one (1) parcel with two (2) or more dwelling units offered for rent and used as a place of permanent or customary and usual abode of a Tenant. Rental Units include a building, a group of buildings or a portion of a building used and/or designed as dwellings. A Rental Unit shall not include:

1. Single-family Dwelling Unit as defined in Chapter 19 Zoning of the El Cerrito Municipal Code.
2. A room or any other portion of any Rental Unit that is occupied by the Landlord or a member of the Landlord's immediate family.
3. An Accessory Dwelling Unit.
4. Housing accommodations in hotels, motels, group housing, supportive housing, transitional housing, general residential care and bed and breakfasts as those terms are defined in the El Cerrito Municipal Code Chapter 19 and, by reference, in the San Pablo Avenue Specific Plan.
5. Any Rental Unit in a common-interest development where units are owned by different individuals who share ownership of common areas and facilities.
6. An on-site manager's living unit.
7. Any Rental Unit where the tenancy is an express condition of, or express consideration for, employment by a Landlord.
8. Any Rental Units whose rents are controlled or regulated by any government unit, agency, or authority, or whose rent is subsidized by any government unit, agency or authority.
9. Any Rental Units acquired by the City or any other governmental unit, agency or authority, and are intended to be used for public purposes.

- K. Single Family Dwelling Unit** means one dwelling unit, attached or detached, located on a single lot as defined in [Chapter 19 Zoning](#) of the El Cerrito Municipal Code. This includes manufactured housing but not mobile homes.
- L. Special-circumstances households** means an Eligible Residential Household with any of the following characteristics:
1. At least one (1) member is sixty-two (62) years of age or older.
 2. At least one (1) member qualifies as disabled as defined by Title 42, United States Code, Section 423 or handicapped as defined by California Health and Safety Code Section 50072.
 3. An Eligible Residential Household with one (1) or more minor children (under eighteen (18) years of age) who are legally dependent (as determined for federal income tax purposes).
 4. An Eligible Residential Household where the Tenant has occupied a Rental Unit for five (5) or more consecutive years.
- M. Tenant** means a Tenant, subtenant, lessee, sublessee or any other person entitled to occupy a Rental Unit under a Lease with the Landlord.
- N. Third-party agency** means a relocation assistance specialist, agency and/or other third- party agency hired by the City and paid for by the Landlord to assist with the relocation assistance process set forth in this Chapter.

10.400.030 Requirement to Provide Relocation Assistance

No Landlord shall effectuate a Displacement without providing relocation assistance as required by Section 10.400.040.

10.400.040 Relocation Assistance

Landlords shall provide relocation assistance to Eligible Residential Households as a result of Displacement, which shall consist of the following:

1. A full refund of a Tenant's security deposit, except for funds that may be necessary to repair Tenant's damage to the Rental Unit that will be reoccupied prior to undergoing renovation or demolition.
2. A sixty (60) day subscription to a rental agency service.
3. The cash equivalent of three (3) months' rent shall be paid to the Eligible Residential Household. The amount to be paid shall be calculated at the time the Application is approved by the City based on the most recent Department of Housing and Urban Development's Fair Market Rent calculation for Contra Costa County for a similar-sized Rental Unit with the same number of bedrooms.
4. Special-Circumstances Household will be paid one (1) additional month of rent for a maximum of four (4) months' rent.

10.400.050 Relocation Assistance Payments

- A. Third-party processing. The City shall contract with the Third-party Agency to assist with the administration of this Chapter. Landlord shall pay fees for the Third-party Agency and shall deposit sufficient funds with the Third-party Agency and/or City pursuant to the procedures established by the Community Development Director when a Landlord files an Application for the sole purpose of reimbursement of the estimated cost of the relocation assistance services. The Third-party Agency shall provide bilingual assistance, as necessary, and hold an informational meeting with Tenants, respond to questions, verify current household incomes, disperse checks to Eligible Residential Households and provide an accounting of dispersed funds to the Landlord and City.
- B. Payments escrow account. The Landlord shall open an escrow account and deposit relocation assistance required by Section 10.400.040 into the escrow account no later than thirty (30) days after filing an Application. The funds deposited into the escrow account will be used by the Third-party Agency to pay relocation assistance to Eligible Residential Households. The amount of the deposit shall be determined by the Community Development Director or his/her designee and unused funds shall be returned to the Landlord after all relocation assistance has been paid as verified by the Third-party Agency.
- C. Relocation assistance claims. Tenants requesting relocation assistance must provide the necessary information to the Third-party Agency to determine eligibility for relocation assistance. Tenants must file a claim before the date to vacate as stated on the notice of termination in order to be eligible for relocation assistance. After determination of eligibility, half of the relocation assistance shall be paid to the Tenants within fifteen (15) days of the date the claim is submitted to the Third-party Agency and the remaining half shall be paid when the Tenant vacates the Rental Unit.
- D. Payments to Eligible Residential Households. Relocation assistance is paid per Rental Unit, not per Tenant. If multiple Tenants occupy a Rental Unit, relocation assistance shall be paid to the Tenant or Tenants entitled to occupy a Rental Unit under a valid Lease with the Landlord and evenly divided between the multiple Tenants entitled to occupy the Rental Unit. Landlord may deduct from the relocation assistance payable any and all past due rent owed by the Tenant during the twelve months prior to termination of tenancy.
- E. Verification of payment. Prior to issuance of demolition permits, building permits or other City permits that would result in a Displacement, the City must receive verification from the Third-party Agency that all Eligible Residential Households who applied and qualified for relocation assistance have received relocation assistance. This verification shall be submitted in a form acceptable to the City.
- F. Administrative costs. For the sole purpose of reimbursing the City and/or the Third-party Agency for the reasonable costs of administering this Chapter, the

Landlord of each Rental Unit shall pay a fee in an amount to be set by the City based on estimated cost of providing services.

10.400.060 - Tenant Displacement Notices

- A. Notice of intent. No later than thirty (30) days after filing an Application with the City, the Landlord shall notify each Eligible Residential Household that the landlord has filed an Application using the form prepared and made available by the City. The notice of intent shall be sent by regular and certified mail and posted on the door of each Rental Unit. The Landlord must submit evidence of compliance with this section to the City in order for the Application to be deemed complete.
- B. Notice of intent verification. The Landlord shall provide the City with a duplicate copy of the notice of intent form provided to each Eligible Residential Household and a declaration indicating that each notice was sent by regular and certified mail and posted on the door of the Rental Unit.
- C. Notice of Application approval. No later than fifteen (15) days after receiving final approval of an Application (including any appeal period), the Landlord or the Landlord's agent shall notify each Eligible Residential Household that the Application has been approved. The notice shall be sent by regular and certified mail and posted on the door of each Rental Unit.
- C. Notice of termination. Landlord shall provide a written notice of termination to all Tenants subject to Displacement at least ninety (90) days prior to the date a Tenant must vacate.

10.400.070 Landlord Relocation Submittal Requirements

Concurrent with the filing of an Application, the Landlord shall provide the Community Development Director with the address number of each Rental Unit in the rental development, the monthly rents for those units and the names of every member of the Eligible Residential Household who is a signatory on a written Lease for that Rental Unit, the household income as shown on the Lease and the number of household members included on the Lease. Where there is no written Lease, the Landlord shall provide the name of every person the Landlord considers to be a Tenant under an oral Lease or rental agreement.

10.400.080 Alternative Mitigation

- A. All Applications governed by this Chapter shall be required to submit the required information; however, the Landlord may also submit an alternate mitigation strategy that meets the goals of this Chapter. An alternate strategy may include, but shall not be limited to, providing other mitigation and

concessions to Tenants such as permanent relocation of displaced Tenants into similar apartments on-site or nearby, ongoing rent concessions or suitable notice and other elements of mitigation that would serve the goals and purposes of this Chapter. Prior to submitting any alternate mitigation strategy, a Landlord shall discuss the strategy with existing Tenants and make good faith efforts to arrive at an alternate mitigation strategy that is acceptable to existing Tenants. Evidence of an agreement with a Tenant for an alternate mitigation strategy may be submitted to the City for review. With each such alternate mitigation strategy submission, the Landlord shall provide complete information as determined necessary by the Community Development Director.

After an alternate mitigation strategy is submitted, the Landlord shall provide the Tenant with notice of the submission by regular and certified mail and posting on the door of each Rental Unit. Tenants shall have fourteen (14) days from the date notice is posted or mailed, whichever is later, to submit comments on the alternatives to the Community Development Director.

Alternate mitigation proposals shall be approved or denied by the Community Development Director. Within seven days of the decision, the City shall provide notice of the decision to the Landlord and all Tenants. The Landlord or Tenants may appeal any decision of the Community Development Director to the City Manager or designee within fourteen (14) days after notice is provided.

10.400.090 Administrative Regulations

The Community Development Director may, from time to time, promulgate regulations implementing the provisions of this Chapter, violations of which shall be considered a violation of this Chapter.

10.400.100 Mitigation Not Exclusive

Nothing in this Chapter shall be interpreted to interfere with the City's ability and/or obligation to require relocation assistance for displaced Tenants who are not covered by this Chapter.

Section 3. Compliance with the California Environmental Quality Act. Approval of this ordinance is exempt from environmental review under the general rule in California Environmental Quality Act ("CEQA") Guidelines Section 15061(b)(3). The activity is covered by the general rule which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment.

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

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council on December 18, 2018 and passed by the following vote:

AYES: Councilmembers

NOES: Councilmembers

ABSENT: Councilmembers

ABSTAIN: Councilmembers

ADOPTED AND ORDERED published at a regular meeting of the City Council held on January __, 2019 and passed by the following vote:

AYES: Councilmembers

NOES: Councilmembers

ABSENT: Councilmembers

ABSTAIN: Councilmembers

APPROVED:

Rochelle Pardue-Okimoto, Mayor

ATTEST:

Sherry Kelly, Acting City Clerk

IN WITNESS of this action, I sign this document and affix the corporate seal of
the City of El Cerrito on January ___, 2019.

Sherry Kelly, Acting City Clerk

ORDINANCE CERTIFICATION

I, Sherry Kelly, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. 2018-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 the ___ day of December 2018; 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, this
___ day of January 2019.

Sherry Kelly, Acting City Clerk

Attachment 5
Summary of Tenant Protection Ordinances
December 18, 2018

	<i>Rent Review Program</i>	<i>Minimum Lease Term</i>	<i>Termination of Tenancy</i>	<i>Tenant Relocation</i>
<i>Effective Date</i>	30 days after adoption	30 days after adoption	30 days after adoption	30 days after adoption
<i>Applicability</i>	Any residential property with two or more units	Any residential property with two or more units	Any rental unit	Properties with two or more units
<i>Exemptions</i>	1. Properties with a Certificate of Occupancy issued after 1/1/2015 2. Single-family residence 3. Room rentals where the landlord lives on site 4. Accessory Dwelling Unit 5. Hotels, motels, group housing, etc. 6. Condos, townhomes, etc. 7. On-site manger's unit 8. Housing units as condition of employment 9. Rents regulated by any govt. agency 10. Units acquired by govt. agency intended for public purpose	1. Properties with a Certificate of Occupancy issued after 1/1/2015 2. Single-family residence 3. Room rentals where the landlord lives on site 4. Accessory Dwelling Unit 5. Hotels, motels, group housing, etc. 6. Condos, townhomes, etc. 7. On-site manger's unit 8. Housing units as condition of employment 9. Rents regulated by any govt. agency 10. Units acquired by govt. agency intended for public purpose	1. Room rentals where the landlord lives on site 2. Accessory Dwelling Unit 3. Hotels, motels, group housing, etc. 4. Condos, townhomes, etc. 5. On-site manger's unit 6. Housing units as condition of employment 7. Rents regulated by any govt. agency 8. Units acquired by govt. agency intended for public purpose	1. Single-family residence 2. Room rentals where the landlord lives on site 3. Accessory Dwelling Unit 4. Hotels, motels, group housing, etc. 5. Condos, townhomes, etc. 6. On-site manger's unit 7. Housing units as condition of employment 8. Rents regulated by any govt. agency 9. Units acquired by govt. agency intended for public purpose
<i>Threshold/Term</i>	Rent increases greater than 5%	Minimum lease term of 12-months must be offered to current & prospective tenants	Any time a tenancy is terminated, landlords must provide the City with a copy of the notice within 10 days of delivery to the tenant	Triggered when an application is submitted to the City to change land use or improvement of property that will result in displacement
<i>Enforcement</i>	Complaint Based	Complaint Based	Complaint Based	Planning and/or Building Departments
<i>Violations</i>	Rent increases in violation of the ordinance are void	Violators are subject to administrative penalties pursuant to El Cerrito Municipal Code Chapter 1.14	Violators are subject to administrative penalties pursuant to El Cerrito Municipal Code Chapter 1.14	City permits/approvals will not be issued until compliance with the ordinance is met
<i>Participation</i>	Mandatory for landlords & tenants	Mandatory for landlords Tenants have the option to reject minimum term	Mandatory for landlords	Mandatory for landlords
<i>Fee</i>	\$30 per rental unit subject to ordinance due annually	No annual registration	No annual registration	City will establish a cost recovery fee to administer the ordinance
<i>Noticing</i>	<i>Notice of Availability of Rent Review</i> must included with all rent increases	<i>Notice of Tenant's Right to Minimum Lease Term</i> must be accompanied with all offers to rent a unit	<i>Notice of Termination of Tenancy</i>	1. <i>Notice of Intent</i> 2. <i>Notice of Intent Verification</i> 3. <i>Notice of Application Approval</i> 4. <i>Notice of Termination</i>
<i>Processes</i>	1. <i>Notice of Availability of Rent Review</i> 2. Request for Rent Review 3. Notification to Landlord 4. Landlord Acknowledgement 5. Conciliation 6. Mediation Request 7. Medication Notice 8. Mediation	1. Offer 2. Acceptance 3. Rejection 4. Rent 5. Renewal of Lease 6. Termination of Lease	State Law: • <i>3-Day Notice</i> • <i>30-Day Notice</i> • <i>60-Day Notice</i> • <i>90-Day Notice</i>	1. Third-party Processing 2. Payments to Escrow Account 3. Relocation Assistance Claims 4. Payments to Eligible Residential Households 5. Verification of Payment

This table is a summary of the proposed ordinances. Please review each ordinance for actual legal requirements.

ATTACHMENT 6

RESOURCE SHEET: SUMMARY OF TENANT PROTECTION REPORTS

City of Concord, *Report to City Council on the Residential Rent Review Program in Accordance with Ordinance No. 17-7 and Multi-Family Rental Inspection Program; discussion of tenant protections and multi-family rental property ownership concerns; considering further direction from City Council*

<http://www.cityofconcord.org/pdf/citygov/agendas/council/2018/1127/6A.pdf>

City of Fremont, *Rent Review Ordinance, Mid Year Report, January 1, 2018 – June 15, 2018*

<https://fremont.gov/DocumentCenter/View/38476/Rent-Review-Mid-Year-Report>

City of San Leandro, *Annual Rent Review Program Evaluation Report (July 2017 – June 2018)*

<https://www.sanleandro.org/civicax/filebank/blobdload.aspx?blobid=29356>

Haas Institute For Fair & Inclusive Society, *Opening the Door for Rent Control, Policy Brief 2018*

http://haasinstitute.berkeley.edu/sites/default/files/haasinstitute_rentcontrol.pdf

Terner Center For Housing Innovation, *Finding Common Ground on Rent Control, A Terner Center Policy Brief, May 2018*

http://ternercenter.berkeley.edu/uploads/Rent_Control_Paper_053018.pdf

USC Dornsife Program for Environmental and Regional Equity, *Rent Matters: What are the Impacts of Rent Stabilization Measures, October 2018*

https://dornsife.usc.edu/assets/sites/242/docs/Rent_Matters_PERE_Report_Web.pdf

RESOLUTION 2018-XX

**RESOLUTION OF THE HUMAN RELATIONS COMMISSION OF THE CITY OF EL CERRITO
PROVIDING A RECOMMENDATION TO THE EL CERRITO CITY COUNCIL REGARDING
TENANT PROTECTIONS**

WHEREAS, the Human Relations Commission of the City of El Cerrito serves as an advisory body to the El Cerrito City Council; and

WHEREAS, the goal of the Human Relations Commission is to develop positive human relations through education, encouragement of greater respect and understanding among people, equal opportunity rights under the law, and recognition of the racial, ethnic, religious and cultural diversity of the community; and

WHEREAS, in 1989, after having participated in the Contra Costa County Human Relations Commission for over a decade and at the request of a resident task force, the City Council created the City's own Human Relations Commission with such powers and duties the City Council specifies by ordinance, including the intent to educate, initiate, and encourage the community in eliminating all forms of prejudice and discrimination, give voice to the human rights needs of the community of El Cerrito, and advise the City Council on such matters; and

WHEREAS, the Human Relations Commission believes that the topic of tenant protections falls within its purview as the affordability of housing in our City is a measure of human rights, protects vulnerable and underrepresented populations, and affects the demographics and diversity of our community and is in keeping with this history of this Commission, which was originally founded as a result of a need for a more direct voice from the citizens on matters of human rights and equity; and

WHEREAS, it has come to the attention of the Human Relations Commission that tenants living in El Cerrito face significant barriers to making their voices heard at El Cerrito City Council meetings due in part to scheduling logistics, language barriers, and above all, fear of landlord retaliation, this Commission seeks to speak on their behalf through this resolution; and

WHEREAS, the Human Relations Commission considers inadequate the tenant protection tools that the City Council is currently considering as part of the City's adopted Affordable Housing Strategy to fulfill Pillar B of the strategy to Reduce the Risk of Displacement and Help Stabilize At-Risk Populations; and

WHEREAS, the majority of El Cerrito renters spend more than 35% of their household income on rent; and

WHEREAS, research has found that those who spend more than 35% of their household income on rent are twice as likely to be hospitalized for hypertension and twice as likely to be hospitalized for mental illness¹, and are three times as likely to develop mental health issues²; and

WHEREAS, research has found that children of housing insecure families have lower parental involvement in school, have lower rates of attentiveness in school, have lower rates of homework completion³, are more likely to engage in adolescent substance abuse, are more likely to experience teen pregnancy, and are 50% more likely to not graduate high school⁴; and

WHEREAS, research has found that one of the most effective ways to increase public health is to increase housing quality and decrease housing insecurity because of how directly housing insecurity has been found to impact physical and mental health⁵; and

WHEREAS, the City of El Cerrito strives to uphold its stated values of ethics and integrity, fiscal responsibility, inclusiveness and respect for diversity, innovation and creativity, professional excellence, responsiveness, transparency and open communication, and sustainability, the Human Relation Commission sees inadequate response to the current housing crisis as an unacceptable failure to embody these stated values on behalf of its citizens.

NOW THEREFORE, BE IT RESOLVED by the Human Relations Commission of the City of El Cerrito that it recommends to the City Council of the City of El Cerrito that it take the following actions with respect to housing policy:

1. Immediately establish “Just Cause Eviction” policies specifically detailing the only circumstances under which a landlord may evict a tenant; and
2. Immediately establish a temporary measure limiting rent increases to be within a certain percentage to protect tenants from rent gouging, which will be in place pending the adoption of rent control ordinances; and

¹ Swan, R. (2016, Sept. 1). Health problems in Oakland linked to housing crisis. *SF Gate*. Retrieved from: <https://www.sfgate.com/bayarea/article/Housing-crisis-linked-to-public-health-problems-9193855.php>

² Bay Area Regional Health Inequities Initiative (2014). Displacement brief. *BARHII*. Retrieved from: <http://barhii.org/wp-content/uploads/2016/02/BARHII-displacement-brief.pdf>

³ Cunningham, M. & MacDonald, G. (2012). Housing as a platform for improving education outcomes among low-income children. *Urban Institute*. Retrieved from: <https://www.urban.org/sites/default/files/publication/25331/412554-Housing-as-a-Platform-for-Improving-Education-Outcomes-among-Low-Income-Children.PDF>

⁴ Cutts, D., et al. (2011). US housing insecurity and the health of very young children. *American Journal of Public Health*, 101(8). Retrieved from: <https://www.ncbi.nlm.nih.gov/pubmed/21680929>

⁵ Swan, R. (2016, Sept. 1). Health problems in Oakland linked to housing crisis. *SF Gate*. Retrieved from: <https://www.sfgate.com/bayarea/article/Housing-crisis-linked-to-public-health-problems-9193855.php>

3. Immediately establish a permanent citizen board or commission equally represented by citizen renters, landlords, and homeowners to advise the City Council on matters of housing; and
4. Immediately establish a citizen-led task force (separate from the above-described board or commission) specific to the topic of tenant protections to be in existence for the full duration of the time period in which the City Council and City Staff is researching, developing, and implementing the Affordable Housing Strategy, to work alongside the City of El Cerrito to provide a direct and consistent access point for citizen input and advisory on matters of tenants' rights and protections; and
5. The above actions are to be utilized by the City Council as a means of information, education, and advisory regarding the full scope and impact of housing as a basic human right, with data and feedback to be collected and considered by the City Council at six month increments.

2019 CITY COUNCIL LIAISON ASSIGNMENTS

LEGISLATIVE BODY	2018 Appointee	2019 Appointee
Association of Bay Area Governments (ABAG), General Assembly (Delegate - <i>Meets Thursdays in April and October, 8:30 am to 3:30 pm</i>)	Abelson	Pardue-Okimoto
Association of Bay Area Governments (ABAG), General Assembly (<i>Alternate</i>)	Pardue-Okimoto	Abelson
League of California Cities East Bay Division (Delegate – <i>Meets many months on 4th Thurs, 7 pm, var. Cities. Also 3 day Annual League Conference in September</i>)	Quinto	Quinto
League of California Cities East Bay Division (<i>Alternate</i>)	Pardue-Okimoto	Pardue-Okimoto
Contra Costa Mayors’ Conference (Delegate - <i>Meets 1st Thurs, 6:30 pm, var. cities</i>)	Quinto ²	Pardue-Okimoto
Contra Costa County Mayors’ Conference (<i>Alternate</i>)	Pardue-Okimoto (MPT) ³	Lyman
West County Mayors’ & Supervisors’ Assn. (<i>Meets 4th Thurs, 8:00 am, var. cities</i>)	Quinto	Pardue-Okimoto
West County Mayors’ & Supervisors’ Association (<i>Alternate</i>)	Pardue-Okimoto (MPT)	Lyman
Marin Clean Energy Board (Delegate) (<i>Meets 3rd Thursday, 7pm, San Rafael</i>)	Lyman	Lyman
Marin Clean Energy Board (<i>Alternate</i>)	Fadelli	Fadelli
West Contra Costa Transportation Advisory Committee (Delegate) (<i>Generally Meets 4th Fri, 8:00 am, City of San Pablo – Makes appointment to CCTA</i>)	Abelson	Abelson
West Contra Costa Transportation Advisory Committee (<i>Alternate</i>)	Quinto	Fadelli
Contra Costa Transportation Auth. Board Member (<i>appointment made by WCCTAC or Mayors’ Conference – full board meets 3rd Wednesday, 6:00 pm, Walnut Creek</i>)		
East Bay Green Corridor Principal (<i>ideally 2 successive terms</i>)	Quinto	Quinto
Save Alta Bates Subcommittee	Pardue-Okimoto	Pardue-Okimoto
Tom Bates Regional Sports Field JPA (<i>meets qtlly. on 2nd Wed, eve COB/ Albany</i>)	Pardue-Okimoto	Fadelli
Tom Bates Regional Sports Field JPA (<i>Alternate</i>)	Quinto	Lyman
West County Integrated Waste Management Authority (Delegate) (<i>Generally meets 2nd Thurs evening per month, 7:00 pm, City of San Pablo</i>)	Lyman	Lyman
West County Integrated Waste Management Authority (<i>Alternate</i>)	Fadelli	Quinto
Arts & Culture Commission (<i>Meets 4th Mon, 7:00 pm</i>)	Pardue-Okimoto	Abelson
Crime Prevention Committee (<i>Meets 2nd Wed, 7:00 pm</i>)	Abelson	Lyman
Committee on Aging (<i>Meets 3rd Wed, 3:00 pm</i>)	Abelson	Abelson
Design Review Board (<i>Meets 1st Wed, 7:30 pm</i>)	Lyman	Fadelli
Economic Development Committee (<i>Meets 4th Wed, 7:30 pm</i>)	Quinto	Fadelli
Environmental Quality Committee (<i>Meets 2nd Tues, 7:00 pm</i>)	Pardue-Okimoto	Fadelli
Financial Advisory Board (<i>Meets 2nd Tues, 7:00 pm</i>)	Fadelli	Lyman
Human Relations Commission (<i>Meets 1st Wed, 7:00 pm</i>)	Fadelli	Quinto
Park and Recreation Commission (<i>Meets 4th Wed, 7:00 pm</i>)	Abelson	Pardue-Okimoto
Planning Commission (<i>Meets 3rd Wed, 7:30 pm</i>)	Lyman	Quinto
Urban Forest Committee (<i>Meets 2nd Mon, 7:00 pm</i>)	Fadelli	Quinto
Municipal Services Corporation Chair (<i>Established by MSC bylaws</i>)	Quinto	Pardue-Okimoto
Municipal Services Corporation Vice-Chair (<i>Established by MSC bylaws</i>)	Pardue-Okimoto (MPT)	Lyman
Pension Board Chair (<i>Meets same as Council</i>)	Quinto	Pardue-Okimoto
Pension Board (<i>Alternate</i>)	Pardue-Okimoto	Lyman
Successor Agency to the Former Redevelopment Agency Chair (<i>Per bylaws</i>)	Quinto	Pardue-Okimoto
Successor Agency to the Former Redevelopment Agency Vice-Chair (<i>Per bylaws</i>)	Pardue-Okimoto (MPT)	Lyman

Legend: Grey text used to accentuate “Alternate” positions / “(Mayor)” used to indicate position is assigned to current Mayor / “(MPT)” used to indicate position assigned to current Mayor Pro Tem / “TBA” = to be assigned